

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

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

On Tuesday, 14 May 2013 at 9.40am  
(Day 7)

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 MS LONERGAN: Commissioner, this morning we have evidence  
2 from Assistant Commissioner Carlene York. Just before  
3 I call her, I have one matter to raise. There has been a  
4 request by the media for a copy of the statement of  
5 Inspector Matthews. I just raise that for consideration of  
6 the parties, if they could let me those who instruct me  
7 know whether there's any objection to that course by the  
8 end of the morning tea adjournment, please.

9

10 <CARLENE ANNE YORK, sworn: [9.38am]

11

12 <EXAMINATION BY MS LONERGAN:

13

14 MS LONERGAN: Q. Is your full name Carlene Anne York?

15 A. It is.

16

17 Q. You are an Assistant Commissioner of Police presently  
18 attached to the Northern Region of the NSW Police Force?

19 A. Yes.

20

21 MR SAIDI: Could it be noted that this witness also relies  
22 on section 23.

23

24 THE COMMISSIONER: That is duly noted.

25

26 MS LONERGAN: Q. What is the appropriate appellation  
27 for you, is it assistant commissioner?

28 A. Yes.

29

30 Q. Assistant commissioner, in consultation with your  
31 solicitors, you prepared a statement outlining matters  
32 relevant to this Special Commission of Inquiry?

33 A. I did.

34

35 Q. And you completed that and signed it on 15 February  
36 2013.

37 A. Yes.

38

39 Q. I hand you a copy of a statement and one for the  
40 Commissioner. Is that statement true and correct?

41 A. It is.

42

43 MS LONERGAN: I tender that statement, Commissioner.

44

45 THE COMMISSIONER: The statement of Assistant Commissioner  
46 Carlene Anne York will be admitted and marked exhibit 10.

47

1           **EXHIBIT #10 STATEMENT OF ASSISTANT COMMISSIONER CARLENE**  
2           **YORK**

3  
4           MS LONERGAN:   Q.   I'm going to get on to the record some  
5           of your background details for the assistance of those in  
6           court who are not familiar with those details.  You are  
7           currently Assistant Commissioner of Police attached to the  
8           Northern Region and you held that position since February  
9           2010?

10          A.   I was.  I'm now the commander of the human resources  
11          command, which I started approximately a month ago.

12  
13          Q.   Is that still attached to Northern Region?

14          A.   No, I've been transferred out of Northern Region.  
15          I was there for about three years and two months and now in  
16          charge of human resources based in Sydney.

17  
18          Q.   Just to outline your experience as a police officer,  
19          you had three years in general duty starting in 1980?

20          A.   Yes.

21  
22          Q.   You had 12 years working in the prosecution branch?

23          A.   Yes.

24  
25          Q.   And in your years at the prosecution branch, did you  
26          on occasion have involvement in prosecutions of offences  
27          relating to child sexual assault?

28          A.   Yes.

29  
30          Q.   You then had two years in the corporate strategy unit?

31          A.   Yes.

32  
33          Q.   Just briefly outline what that --

34          A.   That was in headquarters working with the  
35          Commissioner's officer and the deputy's office looking at  
36          policies and procedures, implementation of laws, et cetera,  
37          and government policy.

38  
39          Q.   You had two years carrying out research duties with  
40          specialist operations, again just a brief outline?

41          A.   I was staff officer to the Deputy Commissioner and  
42          specialist operations in charge of the specialist areas of  
43          the organisation other than police stations basically.

44  
45          Q.   The role of a staff officer is that like a right-hand  
46          person to a particular senior officer; is that how that  
47          role works?

1 A. It is, yes.  
2  
3 Q. Does a staff officer, on occasion, carry out inquiries  
4 or requests on behalf of that senior officer?  
5 A. Yes.  
6  
7 Q. They do so with the authority of that senior officer?  
8 A. Yes.  
9  
10 Q. In 2003 to 2005 you were the commander of the criminal  
11 identification specialist branch?  
12 A. Yes.  
13  
14 Q. And then you were commander of the forensic services  
15 group from 2005 to 2010?  
16 A. I was.  
17  
18 Q. And you've had the rank of assistant commissioner  
19 since November 2005?  
20 A. Yes.  
21  
22 Q. I'm moving to your knowledge of the circumstances  
23 surrounding the set-up of Strike Force Lantle. First of  
24 all, do you have a recollection at all of asking your staff  
25 officer to contact Detective Chief Inspector Fox or any  
26 officer within your command to ask about whether he or any  
27 officer were carrying out investigations into clergy sexual  
28 abuse or matters relating to that?  
29 A. At what period of time?  
30  
31 Q. March 2010?  
32 A. No.  
33  
34 Q. When you say "No", are you saying that no such  
35 instruction was given by you to pursue any line of inquiry  
36 of that nature, or you just don't recollect?  
37 A. No, I don't recollect. However, in regards to the  
38 establishment of Lantle, that didn't happen until later so  
39 there could have been - we've heard a lot of evidence about  
40 media articles and things like that. There could have been  
41 something there in relation to a media article but I don't  
42 recall asking anyone to do that.  
43  
44 Q. Did you have any personal knowledge to the effect that  
45 Detective Chief Inspector Fox was carrying out any  
46 investigation of his own relating to clergy sexual abuse  
47 prior to June 2010?

1 A. No, I had no knowledge.

2

3 Q. Are you able to assist with when you first became  
4 aware that Detective Chief Inspector Fox had been carrying  
5 out some investigations into those matters putting aside  
6 the earlier prosecution relating to James Fletcher?

7 A. The first I became aware was when I received a report  
8 where Mr Fox was the author asking for the establishment of  
9 the task force - it has been part of the evidence.

10

11 Q. Late November 2010?

12 A. Yes.

13

14 Q. From that answer, can we take it that no officer under  
15 your command reported to you suspicions or ideas that  
16 Detective Chief Inspector Fox was carrying out his own  
17 investigation prior to receiving that report at the end  
18 of November 2010?

19 A. That's correct. No-one told me.

20

21 Q. In paragraph 5 of your statement - please feel free to  
22 turn to it to assist us as we go through the matters that  
23 you have addressed - you mention that a journalist in  
24 Newcastle, Ms McCarthy, had forwarded some documentation to  
25 the Lake Macquarie Local Area Command; do you see that?

26 A. Yes.

27

28 Q. Was that drawn to your attention at the time that  
29 event happened or have you put it in your statement as a  
30 matter of background?

31 A. It was a matter of background. The first that  
32 I became aware was some time after when Inspector Townsend  
33 did the report, but I knew that it related to some  
34 documentation then from Ms McCarthy.

35

36 Q. The report we're talking about is annexure A to your  
37 statement which was dated 12 July 2010?

38 A. That's right.

39

40 Q. Can I ask you this: were you aware by reading local  
41 newspapers that this question of sexual abuse or covering  
42 up of sexual abuse by clergy in the Catholic Church had  
43 been reported?

44 A. I believe I was at that time. There's numerous  
45 articles over a lengthy period of time, but I do  
46 acknowledge that I was aware of some articles relating to  
47 that.

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Q. By "reported", I mean reported in the newspapers as opposed to formal reporting?

A. Through reading it in the newspapers, yes.

Q. You say in your statement that you first became aware of the report of Inspector Townsend after its preparation on 12 July 2010. Can I ask you to turn to annexure A of your statement, which is that report.

A. Yes.

Q. You'll see down the bottom there is a number - some numbering of your statement commencing with page 527. If you could turn to page 545, which is the last page of that report, first of all, you read the report yourself at the time it was drawn to your attention?

A. I did.

Q. As opposed to taking advice from others as to what the report said, you actually read it yourself?

A. I did.

Q. On that page that we're just looking at, there's a heading "Final comment" and three options are set out by Inspector Townsend. Do you see those?

A. Yes.

Q. First is:

*Refer the file to an appropriate unit of the NSW Police Force for a full investigation, and then seek legal advice in relation to whether there is sufficient evidence to institute criminal proceedings and if so place the matter before the Attorney General for authorisation.*

That's one option. The second is:

*Undertake preliminary inquiries with [AL] and [AK] to clarify the matters above and then make a decision about whether the matters should be fully investigated.*

And option 3 is:

*Decline to investigate the allegations*

1           *contained in this file.*

2

3       A.    Yes.

4

5       Q.    I take it, given your rank, you don't have an  
6           obligation to accept any of those particular options, you  
7           can make your own option?

8       A.    That's right.

9

10       Q.    Did you choose one of those options or did you create  
11           your own plan?

12       A.    I created my own.

13

14       Q.    Did you discuss this report with Inspector Townsend  
15           personally as well as reading it yourself or not?

16       A.    I can't remember that I did. I think I just acted on  
17           the file.

18

19       Q.    Your own plan, forgive me for reading it, but for the  
20           benefit of those in court who don't have access to the  
21           document, reads:

22

23           *Initial statements to be taken ...*

24

25       Can you read it for me, please?

26       A.    Yes:

27

28           *Initial statements to be taken to ascertain*  
29           *the extent of the brief to then assess the*  
30           *appropriateness of potential involvement of*  
31           *SCC Commander to identify an appropriately*  
32           *skilled investigator to undertake initial*  
33           *tasks. The files and report provide some*  
34           *comprehensive background. Consideration*  
35           *might be taken in utilising SCC in an*  
36           *advisory capacity to assist if matter is*  
37           *transferred at appropriate time.*

38

39       Q.    First of all, when you say "initial statements to be  
40           taken to ascertain extent of the brief and to then assess  
41           the appropriateness of potential involvement of State Crime  
42           Command", who did you have in mind would do that assessment  
43           that you referred to there?

44       A.    Immediately after those comments where I've signed and  
45           dated it, I put a number 2, which indicates where the file  
46           was to go to, which is the commander of Newcastle Local  
47           Area Command.

1  
2 Q. Who is that? Sorry, I missed the last bit of your  
3 answer.  
4 A. Commander Newcastle Local Area Command.  
5  
6 Q. Who was that then?  
7 A. Mr Mitchell.  
8  
9 Q. So Mr Mitchell was to identify who should undertake  
10 that task?  
11 A. That's right.  
12  
13 Q. You talk about initial tasks. Did you communicate to  
14 Mr Mitchell what you understood those initial tasks to  
15 comprise?  
16 A. Not at that time.  
17  
18 Q. Did you have a discussion with Mr Mitchell regarding  
19 his interpretation of your note there about what initial  
20 tasks should be done?  
21 A. No.  
22  
23 Q. When you say consideration might be taken in utilising  
24 the State Crime Command in an advisory capacity you  
25 expected Mr Mitchell - I'm sorry, Inspector Mitchell to  
26 make decisions about that?  
27 A. Yes, Superintendent Mitchell. Yes, but it needs to be  
28 read as complete statement.  
29  
30 Q. Yes, I don't mean to break it down to try and change  
31 the meaning, just to understand that each of those --  
32 A. It was to be investigated, but certainly my comments  
33 were relaying to Mr Mitchell that there were certain points  
34 he should review and keep continuing the investigation and  
35 see whether or not State Crime Command would get the brief  
36 at a later time, or the investigation, but they should at  
37 least be involved from very early on.  
38  
39 Q. Is it fair to say that, at this stage at least, this  
40 matter was not being treated as a strike force?  
41 A. No, it was not.  
42  
43 Q. It was not?  
44 A. That's right, it was not.  
45  
46 Q. Would you agree with me that using the term "initial  
47 statements" gives some impression that the matter was to be



1 reviewed at first as opposed to investigated, or you  
2 wouldn't agree with that proposition?

3 A. No, not quite. Often if a commander says to do an  
4 investigation, they may not review it at certain times, so  
5 I wanted to make it clear they were to have a look at the  
6 extent of the information that had been provided, continue  
7 on with any investigation, and make certain decisions along  
8 the way that were outlined in that comment.

9

10 Q. Are you able to say whether you were aware at the time  
11 you read this report from Inspector Townsend that Lake  
12 Macquarie had already looked at and made a decision that  
13 they weren't able to carry out the investigation and  
14 therefore forward it to region for further consideration?

15 A. No, I can't recall. I don't think I was aware of  
16 that.

17

18 Q. Do you know whether, in May 2010, the then crime  
19 manager at Newcastle Local Area Command had communicated to  
20 others that he was of the view that that command did not  
21 have the expertise to deal with the matter?

22 A. I became aware of that later.

23

24 Q. In paragraph 8 you talk about having consulted about  
25 the report from Inspector Townsend with your staff officer.  
26 Is that Acting Inspector Rae?

27 A. That's right.

28

29 Q. What's that person's first name?

30 A. Steve.

31

32 Q. Was he somebody with a background in police  
33 prosecutions?

34 A. He was temporarily performing the role of staff  
35 officer - was for about a week or two. He came from the  
36 prosecutions branch, but he had been in Northern Region for  
37 some extended period of time so he had some knowledge of  
38 the workings of the region.

39

40 Q. Did anything that Acting Inspector Rae tell you affect  
41 your decision making regarding how the matter should be  
42 managed?

43 A. Yes, and I think that's included in my statement, but  
44 we had a conversation about it and he was aware of Strike  
45 Force Georgiana and that was information he then provided  
46 to me.

47

1 Q. Was that a factor that operated on your mind as to why  
2 the matter should be allocated to Lake Macquarie Local Area  
3 Command?

4 A. Yes.

5

6 Q. And was that because you felt officers there would  
7 have appropriate experience?

8 A. It was appropriate experience, although Northern  
9 Region is very lucky with its experienced detectives all  
10 across the local area commands, but it was that I didn't  
11 have an in-depth knowledge of the strike force but thought  
12 that they had obviously made investigations, had made some  
13 arrests and therefore had issues that may be of relevance  
14 and experience in that area.

15

16 Q. Just in terms of dates - I'm not being at all critical  
17 but I just want to examine this - Inspector Townsend's  
18 report is dated 12 July 2010 and it appears your annotation  
19 is 1 September 2010.

20 A. Yes.

21

22 Q. Is that standard time frame or turn around time frame  
23 for a recommendation and a report of this complexity?

24 A. They vary. It can take some time to make those  
25 decisions. It could have taken some time to get to me  
26 between when he wrote it, when I looked at it - it could  
27 have been - I can't say that I had it for the whole of that  
28 time. It was a lengthy period, I would accept that, but  
29 that happens.

30

31 Q. In paragraph 9 you refer to the crime manager at Lake  
32 Macquarie Local Area Command putting forward a submission  
33 to reconsider the allocation?

34 A. Yes.

35

36 Q. And that was Inspector Waddell. Do you recall it was  
37 Inspector Waddell?

38 A. Yes.

39

40 Q. Did he discuss that with you, or was it just simply a  
41 matter of a formal memo or were the contents --

42 A. Yes, it was a written document.

43

44 Q. You read the contents of that document?

45 A. Yes, I did.

46

47 Q. And agreed with the matters he had raised as being

1 factors that militated towards sending the matter to  
2 Newcastle Local Area Command?

3 A. Yes, he raised some additional issues, information  
4 I should consider, which I did, and then I sent the matter  
5 back to Newcastle.

6  
7 Q. When you say "additional matters", matters you were  
8 not aware of at the time you made the allocation; is that  
9 right?

10 A. I was certainly aware of staff shortages. That was an  
11 issue that was consistent across all the commands in the  
12 Northern Region, the expertise, the extent of Georgiana,  
13 information like that, where it was useful for me to review  
14 my previous decision.

15  
16 Q. In paragraph 10 you outline the bases for your view.  
17 One of the matters that you refer to is that the offences  
18 were alleged to have occurred in their area; that is,  
19 Newcastle City Local Area Command's area. Can I ask you  
20 whether, in that comment, you are referring to the  
21 concealing offences as opposed to the underlying sexual  
22 offences?

23 A. Yes, I was.

24  
25 Q. How significant a factor is it in terms of allocation  
26 of an investigation, the geographical area of where the  
27 offences occurred?

28 A. It is a significant factor in that you have to ensure  
29 that the command where the offences occurred are in charge  
30 of their own matters within that area. From time to time,  
31 as Georgiana showed, the issues extend. It's inappropriate  
32 then to split investigations between commands, so it was a  
33 factor that I took two account in sending it back to  
34 Newcastle.

35  
36 Q. If you could turn to paragraph 12 of your statement,  
37 please, you commence at that paragraph in saying:

38  
39 *When considering how the investigation was*  
40 *to be conducted. My view was that a Strike*  
41 *Force should be set up as to allow a*  
42 *concentrated effort to be made in terms of*  
43 *the investigation.*

44  
45 You would agree with me that's not what you have said in  
46 the comments you have put on 1 September?

47 A. That's right.

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Q. So when did you form the view that a strike force should be set up?

A. I can't recall. It wasn't long after I made the decision to send it to Newcastle though.

Q. Are you able to say what prompted you to move to the view that a strike force should be set up?

A. The submissions by both Detective Chief Inspector Tayler and also Detective Inspector Waddell in relation to staffing. When it went back to Newcastle, Newcastle at that stage was a very large command but it was also very busy and, from previous experience, sometimes officers get pulled away from primary tasks. This was an important investigation and I thought it should have some committed resources for the investigation.

Q. I understand that's an answer to why you thought a strike force should be set up, but I'm still trying to place it as to time. Can I draw your attention to paragraph 13 where you say:

*On 1 September 2010 I gave approval for the investigation to commence by way of a Strike Force being established.*

Would you agree with me that your comment on annexure A to your affidavit that we've just been looking at and you read on to the record does not say that?

A. I agree.

Q. So why in paragraph 13 have you stated that you gave approval for the investigation to commence by way of a strike force being established?

A. It was my recollection that I did and it was conveyed at some stage, but I didn't make any notes and I can't recall when it exactly was.

Q. To the extent that that sentence states that you gave approval for the commencement of the investigation by way of strike force, that's not right, on 1 September?

A. It doesn't say it there, but I can't recall. It doesn't say it in my comments, but I agree with that.

Q. Just examining in a bit more detail the events that led to your opinion that the matter needed a strike force, are you able to give any more detail as to what additional

1 factors or additional information or events led to a  
2 decision that a strike force should be allocated?

3 A. No. I can't recall - it was - it was an important  
4 issue at the time, but it was in amongst many other things  
5 that I was doing as the region commander. The region does  
6 go from Gosford to Tweed Heads, 12 commands. I didn't make  
7 a note of it and I have no independent recollection. There  
8 may be another document somewhere that might assist me, but  
9 I can't draw your attention to it at this time.

10  
11 Q. Would you mind turning to annexure B to your  
12 statement. You'll see that's the terms of reference for  
13 Strike Force Lantle. I just want to ask you some questions  
14 about that. First of all, is that a document that you are  
15 required to approve in the general course, that is, a term  
16 of reference for a strike force?

17 A. No.

18  
19 Q. In your statement in paragraph 13 you mention that the  
20 terms of reference were established and determined by the  
21 appropriate senior officers within the Newcastle City Local  
22 Area Command "for my approval". Just read paragraph 13 to  
23 yourself, I don't want to be misrepresenting the position,  
24 but my question is: does that mean you approved these  
25 particular terms of reference?

26 A. Yes, I'll have to correct something in my statement  
27 there. As I saw the terms of reference, they were from  
28 when Detective Sergeant Little was in there, so we had a  
29 meeting, I can't remember when it was, that we were updated  
30 once he became involved. That came to my attention and  
31 I was under the impression that that was the terms of  
32 reference I approved. I had never seen those ones before.

33  
34 Q. When you say "I had never seen those ones before",  
35 that's annexure B to your statement?

36 A. Yes.

37  
38 Q. Are you able to assist with why they are annexed to  
39 your statement? Was it just a mistake?

40 A. I just thought they were the terms of reference so  
41 included a copy.

42  
43 Q. I understand. So you do recall being involved in the  
44 setting up and approval of the terms of reference later in  
45 Strike Force Lantle?

46 A. Yes.

47

1 Q. Are you able to assist at all with when the terms of  
2 reference we're looking at became operative?

3 A. No.

4

5 Q. Can you look at the second page of the terms of the  
6 reference, which is page 547, numbered paragraph 4 or  
7 second number paragraph 4 towards the bottom of the page.  
8 There is a date where a first progress report is due and  
9 that's 29 October 2010.

10 A. Yes.

11

12 Q. Are you able to assist with how long after a strike  
13 force terms of reference is set up that the first progress  
14 report is generally due, or is there no rule in relation to  
15 that?

16 A. No, it would be on a case-by-case basis - the  
17 complexity of the investigation and the time that would be  
18 expected to undertake those inquiries and the  
19 investigation.

20

21 Q. Can we take it that, in the usual course, the fact  
22 that this term of reference document refers to a first  
23 progress report being due by 29 October 2010, that there  
24 had been no prior formal reports about the matter, or it's  
25 not that clear-cut?

26 A. Probably not. I look at the date that I signed the  
27 recommendation or the direction that goes to Newcastle on  
28 1 September. It sounds like it was a month. Usually it's  
29 not weekly. It could be weekly if it was that - if the  
30 investigations were to move on quickly, but it's usually a  
31 month or every three months, depending on the complexity,  
32 as I said. So looking at those dates it appears to be a  
33 month that has been set down, but I'm only assuming that  
34 from looking at the documentation.

35

36 Q. That part of paragraph 13 of your statement, I just  
37 want to be clear, where you say, "I agreed to the terms as  
38 suggested", and then you refer to annexing that particular  
39 term of reference we're just looking at, as we are to  
40 understand your evidence, that's incorrect and you hadn't  
41 seen those particular terms of reference.

42 A. Yes. I can't recall seeing those terms of reference.  
43 I know I had a meeting with the investigators. I know  
44 there were some terms of reference placed there. I know  
45 there's been some evidence that there's two terms of  
46 reference and as a result of that I've turned my mind to -  
47 but I can't remember the terms of reference.

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Q. Given the terms of reference that you were referring to there were the second terms of reference, can we thus take it that the last sentence of that paragraph where you refer to investigation plan being reviewed by Detective Inspector Jacob, that you are talking about events that occurred after the second terms of reference were set up?  
A. Yes.

MS LONERGAN: Can I show you or could the witness be shown MFI3, please.

Q. Is that terms of reference for Strike Force Lantle?  
A. It is.

Q. Does it have as the officer in charge Detective Sergeant Jeff Little?  
A. Yes.

Q. Can you just have a quick look at those and advise us as to whether they are the terms of reference that you saw?  
A. I believe they are.

Q. Did you have any part in discussion as to the drafting of the terms, or were they already presented to you as having been prepared?  
A. They were presented to me as having been prepared.

Q. Do you recall who raised with you the reason why they were drafted in this particular fashion?  
A. No. I recall it was a meeting with Detective Sergeant Little and I think Mr Parker and I think with Superintendent Galton, but I can't recall.

Q. Was Detective Inspector Paul Jacob there, do you know?  
A. No.

Q. You know for a fact he was not there as part of that discussion?  
A. He was not there.

Q. Were you made aware that he had had a role in preparing or drafting the terms of reference, these particular ones?  
A. I was.

Q. Did anyone explain to you why there was a particular

1 time period put there - 1985 to 1999 - on the first page of  
2 the document?

3 A. No.

4  
5 Q. Is that unusual when investigating concealing  
6 offences, to confine the period of investigation in that  
7 way?

8 A. No, I would not think that that's unusual. You've got  
9 to have a start and end date. It doesn't mean the  
10 investigation can't enlarge or change at some stage, but  
11 the officers need to understand what they are looking for  
12 and trying to investigate.

13  
14 Q. The fact that there is a time period in there, can we  
15 take it from your answer, does not preclude at a later  
16 point there being further investigation of matters that  
17 have come to the attention of investigating officers whilst  
18 they were looking at this time period?

19 A. Definitely not.

20  
21 Q. That would be normal police conduct and normal police  
22 operations to further pursue matters if criminal offences  
23 came to their attention during a particular investigation?

24 A. Yes.

25  
26 Q. But they would not necessarily be part of Strike Force  
27 Lantle. They could be investigated in another capacity and  
28 under another strike force name or under another  
29 investigation name, if they fell outside?

30 A. All of the above - it could be under Strike Force  
31 Lantle. There would be an opportunity there to review  
32 resources and see whether they continue it or, as I said  
33 before, whether it goes to State Crime Command. It could  
34 still be Lantle, it could be Lantle 2, or it could be a  
35 separate strike force.

36  
37 Q. Those decisions are made progressively as the  
38 investigation continues?

39 A. Yes.

40  
41 MS LONERGAN: Commissioner, I tender MFI3.

42  
43 THE COMMISSIONER: MFI3, the terms of reference of Strike  
44 Force Lantle, which were addressed to Detective Sergeant  
45 Jeff Little will be admitted and marked exhibit 11.

46  
47 **EXHIBIT #11 (DOCUMENT PREVIOUSLY MARKED MFI2) TERMS OF**



1           **REFERENCE OF STRIKE FORCE LANTLE ADDRESSED TO DETECTIVE**  
2           **SERGEANT JEFF LITTLE**

3  
4           MS LONERGAN:    Q.    Just a few more questions about that  
5           document, assistant commissioner.  Would it be consistent  
6           with your recollection that these terms of reference became  
7           operative around about 13 to 15 May 2011?

8           A.    It was certainly some time after September.  It would  
9           have been in the New Year but I can't recall the month.

10  
11          Q.    Are you able to say how and when you became aware that  
12          Detective Inspector Paul Jacob had been asked to become  
13          involved in Strike Force Lantle?

14          A.    At one of - I had two or three briefings in relation  
15          to the progress of Strike Force Lantle and it was at one of  
16          those briefings.

17  
18          Q.    Are you able to recollect who briefed you in relation  
19          to the first progress briefing?

20          A.    At various times I believe Detective --

21  
22          Q.    I'm only asking about the very first one, if you don't  
23          mind?

24          A.    I think - I didn't take any notes of it.  I'd have to  
25          look at the briefing documents if there were any notes or  
26          meetings taken.  I can't recall.  Certainly Detective  
27          Little would have been there and I think Detective  
28          Inspector Parker.  As I said before, I think Superintendent  
29          Gralton, because it was a fairly important matter that  
30          I wanted to be updated on.

31  
32          Q.    Can we take it that you received no briefing from any  
33          officers under your command about Strike Force Lantle prior  
34          to Detective Sergeant Little?

35          A.    I did see some briefings, and have some briefings, in  
36          that the matter had been allocated to some officers that  
37          then went on to sick report and I wanted an update as to  
38          what the plans were going to be once those officers went  
39          off and how we were going to progress the investigation.  
40          So, again, I think that was in the time with Superintendent  
41          Mitchell when he was there prior to Mr Gralton starting,  
42          and having a briefing and update on the course of how the  
43          investigation was going to be done under that strike force.

44  
45          Q.    In relation to those briefings, they were directed at  
46          the need to allocate new staff to progress the  
47          investigation?

1 A. Yes.

2

3 Q. And can I ask this: were you, prior to Detective  
4 Sergeant Little being allocated Strike Force Lantle as the  
5 officer in charge, given any briefings regarding the  
6 progress of investigations; that is, what statements had  
7 been taken, what documents had been collated?

8 A. No, I had not. In fact, the briefing was prior to  
9 Detective Sergeant Little starting. I think he was coming  
10 into the command and I was told that when he was coming in,  
11 he was going to be given the strike force, so there was  
12 again a small delay waiting for him to come into Newcastle  
13 City command.

14

15 Q. Can we take it from answers you've given earlier that  
16 in relation to your consultation or discussions you had  
17 about the terms of reference for Strike Force Lantle,  
18 exhibit 11, that you didn't make any independent notes  
19 yourself as to those discussions, their content --

20 A. No, I did not.

21

22 Q. How can one find out the date at which those terms of  
23 reference, exhibit 11, became operative by consulting any  
24 system in the police department?

25 A. Well, by placing them on a system doesn't mean they  
26 are operative. They were virtually operative from the time  
27 that I said that they were approved - they're operative.  
28 Then there would be some lag, I suppose, before someone put  
29 it on to e@gl.i or on to another case management system  
30 that an investigation may be reported on and I believe this  
31 one was on e@gl.i.

32

33 Q. By "time lag", you certainly wouldn't expect it to  
34 take months for terms of reference of this nature to be  
35 logged into the system in an appropriate fashion - are we  
36 talking about days or what are we talking about?

37 A. I wouldn't expect it to take months but I wouldn't be  
38 surprised if took months sometimes. Sometimes things get  
39 omitted to be put on. I don't know. I have no independent  
40 knowledge of when it was put on the system.

41

42 Q. Is it the usual course with terms of reference  
43 documents for the NSW Police Force for there to be no date  
44 of their operation or commencement entered on the document?

45 A. Interestingly I note both those terms of reference  
46 have no date. I would hope that there was a date, but  
47 there wasn't a date.

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Q. So is that usual course for there not to be a date on terms of reference documents?

A. I can't answer that. I haven't seen enough terms of reference to say what's consistently done.

Q. You have not or you have?

A. No, I haven't.

Q. You said you hoped there would be a date on it. Can we take it from that comment that you would have expected a date on the document or not?

A. Most of our documents that are developed should be dated, but from time to time it slips through and they are not dated.

Q. In paragraph 14 you talk about after the strike force being established that you didn't play an active role in its management or progress from an operational perspective. May we take it that's the normal course given your senior role in the region?

A. Yes. I must say I took more of an interest in this strike force than others. Usually I don't get those independent briefings, but this one I wanted some updates on it.

Q. Was one of the reasons that you wanted updates that the matter had some media comment about it and its progress?

A. That was one of the reasons and also the nature of the type of investigation that it was. It was a serious complaint or a serious number of complaints.

Q. Did you become aware during the progress of 2010 - I've left that question deliberately broad - that there had been a ministerial complaint or ministerial question raised in relation to alleged concealment by Catholic clergy of sexual abuse of children?

A. I can't recall if it was in 2010. I don't - I've seen the document that you're talking about and perhaps I could have another look. I don't think I made any notation.

Q. We may not be talking about the same one, so I think it's best if I get you to have a look at volume 2 of the bundle of material just on your right side there. If you would turn to tab 62, please. Just have a leaf through the couple of pages 244 to 247 that are behind that tab.

1 A. Yes.  
2  
3 Q. Are you able to say whether you've seen that selection  
4 of papers before?  
5 A. I don't think I saw it at the time. I've certainly -  
6 can I just read through it?  
7  
8 Q. Yes, and can I also add that you should also have a  
9 look at papers behind tab 72, which have some annotations  
10 by various officers under your command and they should be  
11 read together. I'll just let you do so.  
12 A. I've seen the documents at 72 in preparation for the  
13 Special Commission - not at the time. I actually don't  
14 think I've seen - what was the other one?  
15  
16 Q. Tab 62, that was the ministerial letter?  
17 A. Yes, I can't recall seeing those at all.  
18  
19 Q. In the normal course, ministerial matters of this  
20 nature have to come to you in terms of your seniority and  
21 role at the northern area command?  
22 A. They would often pass through my office. Normally  
23 they would pass through the office. I don't necessarily  
24 see them until they are on their way back with a response  
25 going back up to the ministerial liaison unit.  
26  
27 Q. There's no particular reason, is there, why you needed  
28 to see this particular matter?  
29 A. No, unless we were giving some advice back and there  
30 doesn't seem to be advice that had gone through my office  
31 there, so - but on the way down, like out to the command,  
32 I wouldn't necessarily see it; just an administrative  
33 officer in my office would identify where it should go and  
34 send it out direct.  
35  
36 Q. Could you look at page 274 which is behind 72, and  
37 that appears to be a one-and-a-bit page report by Detective  
38 Sergeant McKey?  
39 A. Yes.  
40  
41 Q. Firstly looking at the bottom of page 274 where  
42 there's a comment, there is a recommendation within that  
43 comment that the file be forwarded to Detective Inspector  
44 Fox for comment due to his intimate knowledge of the  
45 investigation, et cetera. Do you see that there?  
46 A. Yes.  
47

1 Q. I just want to understand, or those in the court would  
2 be benefited by your experience on this, if you can: are  
3 ministerial matters of varying requirements and requests,  
4 so are they always a request for comment or for  
5 investigation or for - what are the usual situations?

6 A. They usually result from someone writing into the  
7 minister's office or something being raised with the  
8 minister's office through various sources. They want  
9 information so that they can answer the source of that  
10 information, and they often send it out - well, they do  
11 send it out for us to provide that response, the NSW Police  
12 Force. It can be for investigation. It's more about about  
13 for information back so that a course can be decided upon.  
14

15 Q. So if it was determined that the matter that had been  
16 referred needed further investigation, who would make that  
17 decision and how would that be formalised?

18 A. There's no one answer, but I'll try and cover off the  
19 best I can. It would go out for information if there was  
20 some issue identified that should be further investigated.  
21 That would be considered in relation to the advice and you  
22 might start a second file to investigate, but you would  
23 certainly answer the questions that the ministerial unit  
24 wanted in the time frame that they wanted, wherever  
25 possible.  
26

27 Q. And answering the question raised by the minister's  
28 office is the purpose of this type of correspondence?

29 A. On this occasion I believe it was, yes, because - and  
30 I must say in relation to the files that you've had me look  
31 at in 72, it does appear to be asking for an update or for  
32 information.  
33

34 Q. If a decision was to be made that a letter requesting  
35 information raised matters that needed to be further  
36 investigated, at what level of seniority should the  
37 decision be made that that should be the correct course?

38 A. If it was within the ability of the local area  
39 command, the local area commander could do it. If it  
40 needed to be broader or larger, the region commander would  
41 do it and, larger than that, for another command it would  
42 escalate to the Deputy Commissioner.  
43

44 Q. The lowest rank at which this consideration should be  
45 given would be the commander of that region?

46 A. Yes.  
47

1 Q. Not the crime manager of that region?  
2 A. Sorry, commander of the LAC or commander of the  
3 region?  
4  
5 Q. Either of those, but not the crime manager of that  
6 region of his or her own bat?  
7 A. I would think in these cases, where it had been -  
8 there were some historical information, it was complex, it  
9 would be something that a crime manager, if they believed  
10 there should be an investigation, would discuss with their  
11 superintendent, because it affects, once again, resources  
12 and ability to be able to investigate.  
13  
14 Q. In the usual course, would any commencement of any  
15 investigation, be it from a request for comments such as  
16 this or any other source, in the usual course be noted up  
17 in the police system in some way so that others could be  
18 aware that an investigation was under way of those  
19 particular issues?  
20 A. I would expect it would be. Sorry, are you talking  
21 about the information we're trying to gather or a decision  
22 about an investigation?  
23  
24 Q. A decision about investigating?  
25 A. It should be commenced either on the COPS system - if  
26 it approved it would then be case managed through, most  
27 probably, e@gl.i.  
28  
29 Q. Can we take it from your answers that the first time  
30 you became aware of this ministerial matter was in  
31 preparation for this Special Commission of Inquiry?  
32 A. No, on - oh, yes, that's right.  
33  
34 Q. So early this year, or late last year is the time  
35 frame we're looking at?  
36 A. Within weeks of the announcement of the Special  
37 Commission. I can't remember what date that was. As  
38 I said before, I didn't see 62; I only saw 72.  
39  
40 Q. You only saw 72. Did you at any time during 2010 have  
41 your staff officer convey a request to Superintendent  
42 Haggett to search Detective Chief Inspector Fox's office?  
43 A. No.  
44  
45 Q. Did you have any discussions with your staff officer  
46 in which she told you that she had conveyed a request to  
47 search Detective Chief Inspector Fox's office?

1 A. No, but I did become aware at some stage that there  
2 had been a search.  
3  
4 Q. Are you able to assist the Commissioner with why that  
5 search was conducted, based on the information you were  
6 given?  
7 A. Yes. Mr Fox had put in a report - sorry, I was aware  
8 that there was a meeting at a stage later with Mr Mitchell  
9 and Mr Fox.  
10  
11 Q. Sorry to cut across you, to get the dates clear, is  
12 that the meeting on 2 December 2010?  
13 A. That's right. And that followed me getting a report  
14 from Mr Fox in relation to his knowledge and interest that  
15 we referred to earlier in my evidence that I became aware  
16 that he had an interest in these matters.  
17  
18 Q. Yes.  
19 A. I became aware that he did not hand over documents at  
20 that meeting, and I became aware there was a search to try  
21 and locate the relevant material.  
22  
23 Q. Your understanding is that the search conducted of  
24 Detective Chief Inspector Fox's office occurred after the  
25 meeting on 2 December?  
26 A. Yes, I was of that understanding.  
27  
28 Q. Were you aware of a search being conducted on or  
29 around 13 October 2010, so that's about six weeks before  
30 the meeting you've just referred to?  
31 A. No.  
32  
33 Q. If such a search was conducted of Detective Chief  
34 Inspector Fox's office, may we take it that it wasn't at  
35 your request?  
36 A. There was no search at my request.  
37  
38 Q. Who was your staff officer as at October 2010?  
39 A. Inspector Fay Dunn.  
40  
41 Q. In paragraph 17 of your statement you refer to having  
42 received the report of Detective Chief Inspector Fox dated  
43 25 November 2010 and I just want to ask you a few questions  
44 about that. How did that report come to you? Did it just  
45 come through the normal channels in hard copy?  
46 A. Yes.  
47

1 Q. Are you able to say who you discussed the contents  
2 with, if anyone, at the time of its receipt and before you  
3 made annotations on it?

4 A. I don't recall discussing it with anyone.  
5

6 Q. Is the usual course, on receipt of reports of this  
7 nature, that there is a round-table discussion about it  
8 involving you and other officers, or does it vary?

9 A. It varies. If a report speaks for itself, then  
10 I probably wouldn't have a discussion with others. If it  
11 needed some explanation, then I would get some advice from  
12 one of my staff members.  
13

14 Q. In terms of briefings to you of any background matters  
15 in relation to this report, are they normally done orally  
16 or in writing, or again does it vary?

17 A. Orally.  
18

19 Q. And you wouldn't yourself, given your senior rank,  
20 necessarily make memos or briefing notes in your own hand?

21 A. No.  
22

23 Q. You rely on your staff to carry out those matters for  
24 you?

25 A. Yes.  
26

27 Q. If you wouldn't mind turning to page 554, which is  
28 part of annexure C, the last page where there are some  
29 annotations of various officers on the report of Detective  
30 Chief Inspector Fox. First of all, the first annotation  
31 appears to be from Inspector Matthews, who was then acting  
32 commander at Detective Chief Inspector Fox's local area  
33 command?

34 A. Yes.  
35

36 Q. Do you recall whether you had any particular  
37 discussions with Inspector Matthews at that time?

38 A. No, I did not.  
39

40 Q. And in the normal course, you wouldn't necessarily  
41 discuss it with the commanding officer of the author of  
42 the report, would you? I'm not suggesting you should have,  
43 but --

44 A. Not prior to the report, and it would depend. I might  
45 ring the commander if I wanted to know some further  
46 information, but I didn't have any discussions with him on  
47 this occasion.



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Q. If you had, would you write down anything on this particular document about those discussions, or not normally?

A. Sometimes I might, hypothetically - but sometimes I might put in under my signature block that some further information was provided by the commander or make some reference to it but I wouldn't make an independent note usually on something else.

Q. Are you able to assist as to whether you had any discussion with Detective Chief Inspector Fox's usual commanding officer, that is, Superintendent Haggett, about the contents of this report prior to you making your entry on it?

A. Not that I recall. I don't recall any conversation.

Q. At numbered point 3, there is a handwritten annotation under "Commander Northern Region", which is you at the time?

A. Yes.

Q. Would you mind reading on to the record what you have written there?

A. Yes:

*Investigation should continue by Newcastle LAC to ascertain the extent of the allegations. Consideration will be given to additional resources at the appropriate time. To ensure all matters are considered it should be noted the Newcastle investigators are the lead role and are to continue.*

Q. There is your signature?

A. Yes.

Q. Under that is a date. Are you able to assist with the date of that? What is the date there? It looks like a 2, but it looks as though --

A. Yes, I've written over it, I think 3/12/10.

Q. In the normal course you would make your entry after you had the recommendation of Inspector Townsend?

A. Yes.

1 Q. Which appears ahead of your entry?  
2 A. Yes.  
3  
4 Q. His is dated 3 December 2010?  
5 A. Yes.  
6  
7 Q. Are you able to state whether your entry on that  
8 document was made by you not in the presence of, for  
9 example, Inspector Townsend?  
10 A. No, I can't recall.  
11  
12 Q. Is there any requirement that Inspector Townsend and  
13 you put your entries on the document at the same time?  
14 A. No.  
15  
16 Q. I know that seems a stupid question but I'm just  
17 trying to examine events. At the time you put your  
18 signature and comment on that document, are you able to say  
19 whether you had been made aware of a meeting at Waratah  
20 police station on 2 December that is referred to in  
21 annexure D to your statement?  
22 A. I can't say whether it was before or after I wrote  
23 that note on the file.  
24  
25 Q. Are you able to say whether anything had been conveyed  
26 to you by 3 December 2010 when you made that entry on that  
27 document to the effect that Detective Chief Inspector Fox  
28 had documents that he was refusing to hand over?  
29 A. No, I can't recall. I became - as I said before,  
30 I became aware of it, but I'm not sure of the date now.  
31 I can't remember.  
32  
33 Q. The next entry under yours, "Commander Port Stephens  
34 Local Area Command", appears to be an entry by  
35 Superintendent Haggett; is that right?  
36 A. Well, I believe the heading, "Commander Port Stephens  
37 Local Area Command" was done by Inspector Townsend. You'll  
38 see that there are some three typed areas where the file  
39 should go.  
40  
41 Q. Yes.  
42 A. Then looking at the handwriting, it appears that  
43 Inspector Townsend has written 4 and 5 of where it should  
44 it go after I had made my annotation on it.  
45  
46 Q. It appears from the handwriting next to Superintendent  
47 Haggett's signature that he has put: "Noted: I have

1 informed Chief Inspector Fox of this outcome." Do you see  
2 that?

3 A. Yes.

4  
5 Q. Are you able to say whether you discussed with  
6 Superintendent Haggett that he had in fact told Detective  
7 Chief Inspector Fox of what had been decided?

8 A. No. However, when you look at the series of places  
9 that file had gone to, it's information that was relevant  
10 to Newcastle local area command, and I think there's a fair  
11 bit that's unsaid in the chain of command of the  
12 documentation in that it has gone back to Port Stephens,  
13 that is, to tell them what my decision was, and then it was  
14 to travel further on to Newcastle City Local Area Command  
15 so they can take into account the information that Mr Fox  
16 had provided in that report. So that statement of having  
17 informed Chief Inspector Fox by Mr Haggett, I have no  
18 independent knowledge of that, but it's consistent with the  
19 path that that file needed to take.

20  
21 Q. Just so we understand the procedure, the physical  
22 document goes to Port Stephens first, not by way of  
23 copying, but the actual original document. Is that how it  
24 works?

25 A. You can do it both ways, but this one went to Port  
26 Stephens. I must say I don't know whether it was by  
27 facsimile, whether it was through electronic means or  
28 whether the original document went and then travelled back.  
29 I don't know.

30  
31 Q. At point 5 there appears to be an entry by Detective  
32 Chief Inspector Humphrey which seems to be dated 27 January  
33 2011. Are you able to assist with the time lag between  
34 when it was with you and when it's annotated in that way by  
35 Detective Chief Inspector Humphrey?

36 A. No, but as you asked, that document could have gone  
37 across, the initial original one. And I notice  
38 Mr Haggett's signature purports to be made on 23 December,  
39 which is 20 days after I had made mine, and then it  
40 travelled on to Newcastle, I think.

41  
42 Q. In the second part of paragraph 17, which appears on  
43 page 530, you make some comments regarding your opinion as  
44 to the resourcing of Strike Force Lantle. Can we take it  
45 from the evidence that you've given that you didn't have  
46 any particular knowledge of progress of investigations by  
47 that strike force prior to 2 December 2010?

1 A. I'm sorry, which paragraph are you referring to?  
2  
3 Q. It's the second part of your paragraph 17 which  
4 appears on page 530.  
5 A. Yes.  
6  
7 Q. So it goes over the page. Just read the second part  
8 of that paragraph to yourself after the words, "I made this  
9 decision".  
10 A. Right.  
11  
12 Q. First of all, I just want to make sure I understand  
13 the context of your comment. Just flip back to the  
14 beginning of paragraph 17. You seem to place your comment  
15 in paragraph 17 at the time you read and considered the  
16 report by Detective Chief Inspector Fox. Is that the right  
17 way to read that paragraph?  
18 A. Yes. I read his report and was interested in the  
19 further information that he had. That's why I was sending  
20 it to the strike force, but I believed the strike force  
21 would then continue on with that and look at the  
22 information that Mr Fox was to assist with.  
23  
24 Q. But is it fair to say that at that point - let's just  
25 pick 2 December 2010 or 3 December 2010 - you hadn't had  
26 any particular briefing as to what investigations had been  
27 carried out by the Strike Force Lantle staff yet?  
28 A. No, that's true.  
29  
30 Q. In paragraph 18 you talk about having become aware of  
31 a meeting that was held on 2 December 2010.  
32 A. Yes.  
33  
34 Q. Can I ask you when you became aware and who told you  
35 about it first?  
36 A. No, I can't recall. These are issues that were  
37 important, but I wasn't noting about or taking any  
38 particular date interest.  
39  
40 Q. I understand, I understand. I'm just trying to  
41 understand whether the meeting itself was something drawn  
42 to your attention given what appears to have been perhaps  
43 some tension noted in the investigator's note as to who was  
44 going to be investigating what.  
45 A. Right.  
46  
47 Q. But nothing raised specifically with you at the time?

1 A. No. Well, I know that I had a conversation with - and  
2 I think it could have been Superintendent Mitchell, but he  
3 could get in the box and say it wasn't - about that meeting  
4 of 2 December, because it surprised me that Mr Fox's report  
5 was - had useful information there for the investigation,  
6 and then I had heard that the documents weren't handed over  
7 on 2 December and that didn't seem to connect with me that  
8 there had been a very detailed report saying that "I could  
9 help", and then the documents were not produced on  
10 2 December.

11  
12 Q. Are you able to say whether you were subsequently  
13 informed that the documents were produced and handed over,  
14 or you can't say?

15 A. I believe they were, but I found that out at a later  
16 stage again.

17  
18 Q. At a later stage?

19 A. I believe some were and I've heard Mr Fox's evidence  
20 about how they were sent, but I didn't have any greater  
21 independent knowledge than that.

22  
23 Q. In terms of the meeting on 2 December - I know it's  
24 difficult to identify a particular date - you've mentioned  
25 you had a conversation with Mitchell and it was about that  
26 meeting on 2 December 2010?

27 A. Look, as I say, it was either Mr Mitchell or  
28 Mr Humphrey or Mr Parker. Someone from Newcastle Local  
29 Area Command informed me that the documents were not handed  
30 over at the meeting on 2 December.

31  
32 Q. Were you told anything else about the purpose of that  
33 meeting on 2 December?

34 A. No. Well, other than it was a meeting with Mr Fox;  
35 therefore, I presumed it was about Lantle and the  
36 information he had, but it was a presumption on my part.

37  
38 Q. Was your understanding at the time that because the  
39 investigation had been allocated to Newcastle Local Area  
40 Command, there would not be a position for Detective Chief  
41 Inspector Fox to be involved in the ongoing investigation?

42 A. That's true.

43  
44 Q. Just as a practical matter, can you assist the  
45 Commissioner with why it would not have been workable for  
46 Detective Chief Inspector Fox to be part of the  
47 investigation that had by then clearly been allocated to

1 Newcastle?  
2 A. A number of reasons. One is the staffing at the time,  
3 Detective Chief Inspector Fox was the crime manager at Port  
4 Stephens. It's a small command. It's one of the smallest  
5 I have, I think the second smallest. He's an important  
6 senior management team member at that command. Newcastle  
7 was a much larger command and-could resource the strike  
8 force adequately and I believed at that stage that he was  
9 willing to provide assistance by handing over  
10 documentation. He had his daily role to play and I had  
11 given it to Newcastle to set up a strike force. It was not  
12 considered by me at any time to put Detective Chief  
13 Inspector Fox on to the strike force.

14  
15 Q. Had he been put on to that strike force, what  
16 questions or issues would it have raised for the operation  
17 of the Port Stephens local area command?

18 A. It would have raised significant issues. There were  
19 staffing issues there. It's a small detectives' office.  
20 I think they have nine - that's sergeants and constables.  
21 Newcastle had 30. But also as the region commander, I had  
22 to look at the operations of those commands. There are  
23 only three duty officers at Port Stephens compared to seven  
24 at Newcastle. They have a greater capacity, because of the  
25 size of the LAC, to be able to take up large  
26 investigations, and Mr Fox had a role to manage the crime  
27 and be proactive in relation to that responsibility in Port  
28 Stephens.

29  
30 Q. Did you become aware that Detective Chief Inspector  
31 Fox wanted a review of the decision to allocate the matter  
32 to Newcastle?

33 A. No.

34  
35 Q. Did you become aware that Detective Chief Inspector  
36 Fox raised with Inspector Townsend that he was unhappy  
37 about what he saw as being excluded from the investigation  
38 into these matters?

39 A. I never excluded him.

40  
41 Q. No, I'm not suggesting you did, but did you become  
42 aware that Detective Chief Inspector Fox had told Inspector  
43 Townsend that he felt he had been excluded from these  
44 matters and wanted that request reviewed?

45 A. I can only answer it, I'm sorry, in this way:  
46 I became aware he was not happy, but I don't know whether  
47 it was through Inspector Townsend and I don't know if it

1 was --

2

3 Q. Roughly when did you become aware that he was unhappy  
4 about this particular matter?

5 A. I knew that question was going to come - no, I can't  
6 recall.

7

8 Q. During 2011?

9 A. No, I can't recall.

10

11 Q. Prior to the Lateline program in November 2012?

12 A. I would have been aware prior to that program, yes.

13

14 Q. But you are having difficulty in pinpointing the  
15 circumstances?

16 A. Yes.

17

18 Q. Can you look at paragraph 19 of your statement. There  
19 you say that at this meeting - it's a reference to the  
20 2 December meeting - Detective Chief Inspector Fox was  
21 requested to hand over documentation in his possession,  
22 which may have been of assistance to Strike Force Lantle.  
23 Can I ask you what the source of that statement is?

24 A. I would have had a conversation, but I also saw the  
25 minutes at some stage after - prior to me making the  
26 statement, I've seen the minutes of the meeting.

27

28 Q. First of all, "would have had a conversation", is that  
29 a reference to the conversation that you had with Inspector  
30 Mitchell?

31 A. Superintendent Mitchell.

32

33 Q. I'm sorry, Superintendent Mitchell?

34 A. Yes.

35

36 Q. You believe that happened somewhat closer to the  
37 meeting on 2 December 2010 than now at least?

38 A. Yes.

39

40 Q. But you are not able to say in what month of what year  
41 that occurred?

42 A. No.

43

44 Q. And you are relying on the minute which is annexed as  
45 annexure D to your statement, are you - or it's titled  
46 "Investigator's note" - as communicating to you that there  
47 had been a request to hand over documentation, or at least

1 in part you are relying on the minute?  
2 A. That's right. I don't think I saw those until much  
3 later but certainly prior to making my statement.  
4  
5 Q. Can we take it from that first sentence in  
6 paragraph 19 that it was not your understanding at the time  
7 you prepared this statement that there was a direction that  
8 Detective Chief Inspector Fox hand over his documentation?  
9 A. I believe he was directed at the meeting.  
10  
11 Q. Why do you use the term "requested"? There is no  
12 magic in the term; is that --  
13 A. No.  
14  
15 Q. The term "direction" has a particular meaning within  
16 police parlance, doesn't it, in that it can be an offence  
17 not to comply with the direction?  
18 A. It can.  
19  
20 Q. Was it your understanding that the level of the  
21 request conveyed to Detective Chief Inspector Fox about  
22 handing over material in his possession was the level of a  
23 direction?  
24 A. From those minutes, yes.  
25  
26 Q. Then in the next sentence you talk about instructions  
27 being given to the officers present not to supply  
28 information to any media or journalist?  
29 A. Yes.  
30  
31 Q. Again, was it your understanding that that was a  
32 formal direction from Superintendent Mitchell?  
33 A. Yes.  
34  
35 Q. Is there any reason why you used the word  
36 "instruction" rather than "direction" in that paragraph?  
37 A. I think instruction and direction can be - if you are  
38 instructed to do something and directed - yes, there are  
39 ramifications that can come from directions but it can  
40 still be described as an instruction.  
41  
42 Q. Are there ramifications from an instruction that a  
43 police officer can be disciplined for failing to comply  
44 with an instruction?  
45 A. No.  
46  
47 Q. So direction does have a particular --



1 A. It does, yes, in the Police Force.  
2  
3 Q. In paragraph 20 you talk about certain steps you took  
4 once this Special Commission of Inquiry had been announced,  
5 and one of the things that you asked to be carried out was  
6 to search the formal police records including repositories,  
7 the COPS system and e@gl.i to see if there were any records  
8 of investigations being carried out by Detective Chief  
9 Inspector Fox?  
10 A. Yes.  
11  
12 Q. And you were advised there were no relevant records?  
13 A. That's right - of current investigations, that's  
14 right.  
15  
16 Q. Current, as in 2010?  
17 A. Yes.  
18  
19 Q. Or later?  
20 A. At this stage, yes.  
21  
22 Q. And you mention that at some point you became aware  
23 that Detective Chief Inspector Fox may had some involvement  
24 in taking initial statements from alleged victims. Are you  
25 able to say who told you that and when?  
26 A. No, I can't recall.  
27  
28 Q. Can't recall who told you?  
29 A. No.  
30  
31 Q. You say that you are not sure whether it was before or  
32 after the 25 November 2010 report?  
33 A. Yes, that's right.  
34  
35 Q. But are you able to say whether you were not aware of  
36 this until quite recently to today, or you are just not  
37 able to put it in time at all?  
38 A. No, I said it was not prior to the establishment of  
39 Strike Force Lantle, I was not aware of that.  
40  
41 Q. I understand that. But are you able to say whether it  
42 was just in the process of preparing for your statement or  
43 giving evidence at this Special Commission or you are just  
44 not able to say?  
45 A. No, I can't recall. It may have been Detective  
46 Inspector Fox in relation to his media comments. I can't  
47 recall, but I became aware he had said he had taken some

1 statements.

2

3 Q. In paragraph 21 you talk about having become aware  
4 that Detective Chief Inspector Fox - by the statement in  
5 his 25 November 2010 report that he was objective but  
6 passionate to assist with any inquiry or investigation.  
7 Did you read that as any particular request for him to be  
8 given an active role in Strike Force Lantle?

9 A. No. There was nothing in that report that would lead  
10 me to believe that he wanted to be other than assisting in  
11 providing information.

12

13 Q. In paragraph 24 you set out some reasons why it was  
14 not appropriate for Detective Chief Inspector Fox as a  
15 crime manager to become involved in the active tasks of  
16 Strike Force Lantle and you've given some oral evidence  
17 already this morning about those reasons. One of the  
18 reasons that you've given is the difficulty in taking him  
19 offline from his responsibilities associated with his role  
20 as crime manager. The second reason that you've identified  
21 there is that Newcastle City Local Area Command already had  
22 a detective inspector overseeing the investigation. Was  
23 that Detective Tayler?

24 A. Yes - it was the crime manager at Newcastle.

25

26 Q. You'll see in paragraph 24 you refer to the advantage  
27 that Newcastle City Local Area Command had at the time with  
28 greater capacity at the level of detective inspector. Are  
29 you saying there that they had more detective inspectors  
30 available to them in that local area command?

31 A. They have, I think, seven plus a crime manager, so  
32 that's eight compared to Port Stephens with three plus a  
33 crime manager.

34

35 Q. I'm just going to ask you some questions about  
36 annexure G to your statement. This is a series of emails  
37 commencing with one from Detective Chief Inspector Fox  
38 in March 2012. Probably the best spot to start is page 565  
39 and go to page 5, which is the first email from Fox  
40 directed to Superintendent Gralton and an Ian Mather and  
41 copied to you and Craig Rae?

42 A. Yes.

43

44 Q. Are you familiar with the contents of that particular  
45 email?

46 A. Yes.

47

1 Q. Do you know why at the time it was sent to you, it was  
2 sent to you?  
3 A. So that I knew about it, I suppose.  
4  
5 Q. So that you knew about Detective Chief Inspector Fox's  
6 concerns that he has raised in that email?  
7 A. Yes.  
8  
9 Q. Had you spoken to Detective Chief Inspector Fox  
10 yourself prior to 26 March 2012 about any of these matters  
11 that he has raised?  
12 A. No.  
13  
14 Q. And had he approached you in any other context about  
15 these matters?  
16 A. Not that I can recall, no.  
17  
18 Q. At the end of the email, Detective Chief Inspector Fox  
19 mentions three numbered matters. The first is that a  
20 request be allowed to conduct some more inquiries for a  
21 Detective Sergeant Faber. Do you see that?  
22 A. Yes.  
23  
24 Q. The second is whether all the directions given to him  
25 by Mr Mitchell are still in force and, if so, for what  
26 period? Can I ask you about that second question. Did you  
27 make inquiries with Superintendent Mitchell as to what the  
28 directions were at that time?  
29 A. No.  
30  
31 Q. Did you have in mind leaving these questions to be  
32 answered and managed by one of your - what's the right  
33 term - more junior officers?  
34 A. Yes. In fact, I was copied in. There are various  
35 reasons for copying region commanders in, but I don't think  
36 they expect they would actually get involved. I certainly  
37 wasn't going to get involved, as shown by the email I sent  
38 to Mr Gralton that "it can be dealt with at your level."  
39 Yes, he is more junior, but I left it up to the  
40 superintendent who is now the commander of Newcastle Local  
41 Area Command.  
42  
43 Q. In relation to the third numbered point, "Am I yet to  
44 be able to be told the reasons for those directions?", did  
45 you, when you read that email, form any view about that  
46 matter being raised in that way?  
47 A. Well, I took it on face value, firstly, that Mr Fox

1 didn't believe he was told the reasons for the directions  
2 and --

3

4 Q. Sorry, based on what you knew at the time, did you  
5 consider that to be a reasonable or unreasonable question,  
6 or you're not able to offer an opinion on that?

7 A. I think it would be a reasonable question to ask;  
8 whether he's entitled to an answer would have to depend on  
9 a case-by-case basis.

10

11 Q. Can we take it from your answer that you didn't think  
12 it was unreasonable that an officer thought that he had not  
13 been told why certain directions had been given?

14 A. That's right.

15

16 Q. That happens occasionally in police business, that  
17 some officers, even at detective chief inspector level, are  
18 not told why certain decisions are made about certain  
19 matters?

20 A. It happens from time to time, yes.

21

22 Q. Is one of the reasons for that if there is a need to  
23 keep confidential the progress of particular investigations  
24 or issues?

25 A. That is one of the reasons and, also, I note this was  
26 in - being asked in December. There had been a lot of  
27 media coverage. There were concerns about information  
28 getting out to the media, so there may be a number of  
29 reasons why one isn't told about their - why they have been  
30 directed not to do certain things.

31

32 Q. Can we take it from your answers that you didn't  
33 actually make any inquiries with, for example,  
34 Superintendent Mitchell along the lines of, "Did you tell  
35 Chief Inspector Fox the reasons for the decision"?

36 A. No, I didn't.

37

38 Q. On page 65 you reply that you noted you had been  
39 copied in the email and you are leaving it to  
40 Superintendent Gralton to deal with in the first instance?

41 A. Yes.

42

43 Q. At the time you sent that email, did you have in mind  
44 having to become involved at some later point or was that  
45 just a polite way of saying, "I'm not doing anything about  
46 it right now"?

47 A. No, I left it open. There are many matters where

1 I may become involved later and that was one of them.

2

3 Q. Did you, at the time of this email exchange, March  
4 2012 have any knowledge to the effect that there was  
5 trouble brewing about these events involving Detective  
6 Chief Inspector Fox?

7 A. I think I had some indication. I can't remember now  
8 how or why I came to that conclusion. As I said, there  
9 were a number of media reports, requests for responses,  
10 and, you know, I can read in that email that Mr Fox wasn't  
11 happy, so it was obvious trouble was brewing, as you put  
12 it.

13

14 Q. On page 564 you have okayed the response that  
15 Superintendent Gralton was planning to send to Detective  
16 Chief Inspector Fox. Are you able to say whether at that  
17 time you had been given any information to the effect that  
18 Detective Chief Inspector Fox had been directed to cease  
19 investigating church-related concealments?

20 A. Other than the directions - are you talking about the  
21 meeting or - that we referred to before?

22

23 Q. You may not be able to answer this, because it is a  
24 little while ago, but what I'm asking is what you had in  
25 your mind to be the substance of the directions that had  
26 been given to Detective Chief Inspector Fox at the time you  
27 okayed the email response by Superintendent Gralton?

28 A. I'm sorry, could you ask the question again?

29

30 Q. You may not be able to answer it. What I'm trying to  
31 understand is what you had in mind were the directions that  
32 Superintendent Mitchell had given Detective Chief Inspector  
33 Fox about which he is asking to be advised as to whether  
34 they are still in force or not?

35 A. What he had in his mind?

36

37 Q. No, what you had in your mind as to what the  
38 directions were that had been given by Superintendent  
39 Mitchell, I'm sorry?

40 A. No, no, that's okay.

41

42 Q. If you did have in mind?

43 A. At that stage I understood what the directions were.  
44 As I said before, I can't recall when I was told about that  
45 meeting.

46

47 Q. In paragraph 35 of your statement, you make some

1 observations as to why certain procedures are in place in  
2 the NSW Police Force for officers who are undertaking any  
3 investigative processes. Would you mind just giving an  
4 outline for the benefit of those present in court why those  
5 procedures are in place and what they are and their  
6 importance?

7 A. Okay. It's important for an investigator when they  
8 are carrying out an investigation to follow the procedures  
9 of placing it on our systems for a number of reasons. One  
10 is so that we can assess the workload of all individual  
11 officers and the complexity of it and what resources are  
12 there. The crime manager and the commander have to  
13 allocate their finite resources in a appropriate way and  
14 prioritise that, so that's done through having knowledge in  
15 case management of systems, making sure things are done on  
16 time, making sure that they are following up on their  
17 investigations, that those investigations are appropriate,  
18 that they are in line with what the investigation is about,  
19 that the information is available to the management team so  
20 that they can make decisions if needed, and it says there  
21 case management processes to be commenced so it's recorded  
22 appropriately. We keep a track of it. We try and - in an  
23 attempt to ensure that it is being managed appropriately by  
24 more senior officers.

25  
26 It also allows officers or senior officers to offer  
27 assistance when they see things that come up besides when  
28 the investigators see this, and that there is corroboration  
29 and more than one person on the investigations and the  
30 interview is being taken appropriately and placed on the  
31 system.

32  
33 Q. Would you mind turning to annexure E. I just want to  
34 ask you a couple of questions about an email dated  
35 13 October 2010. It's from Acting Commander, at the time,  
36 Wayne Humphrey to Superintendent Haggett and others and one  
37 of the "others" is Fay Dunn. We understand from some  
38 answers you've given this morning that she was your staff  
39 officer.

40 A. Yes.

41  
42 Q. Are you able to say whether you've seen this email of  
43 13 October 2010 at or around the time it was sent?

44 A. No, I didn't see it around that time. I saw it later.

45  
46 Q. In paragraph 2 it raises what appears to be an issue  
47 about Detective Chief Inspector Fox having initiated

1 contact with Detective Sergeant Steel. Do you see that?  
2 A. Yes.  
3  
4 Q. Are you able to say whether anything about that  
5 conduct was raised with you at or around about that time?  
6 A. No, I don't recall it being raised at all.  
7  
8 Q. I'm going to show you a bundle of correspondence that  
9 has been provided by lawyers for the Police Service and one  
10 for the Commissioner. Could you have a look at that series  
11 of correspondence, please.  
12 A. Yes.  
13  
14 Q. Are you able to give some background as to why this  
15 particular ministerial representation occurred in October  
16 2010 --  
17 A. No.  
18  
19 Q. -- why it came to your attention? I see that on the  
20 first page next to numbered point 1, you have made an  
21 entry, "For information, see York", and it is 28 October  
22 2010.  
23 A. Yes.  
24  
25 Q. What do you mean by "for information"?  
26 A. By looking at that and the report that my officer had  
27 done from my region office, it was duplicate correspondence  
28 from an earlier letter that had been responded to already  
29 whilst Mr Mitchell was the acting assistant commissioner  
30 carrying out my role. We then gave an update and we sent  
31 it back along the chain of command for information.  
32  
33 Q. The first page of the document is headed "Issue:  
34 ministerial representations" from a particular person on  
35 behalf of the Australian Lawyers Alliance. Was this  
36 something that occurred while you were not present in the  
37 region and thus it didn't come to your attention at the  
38 time it occurred? Is that what you're saying?  
39 A. Yes, I was absent and Mr Mitchell was doing the region  
40 commander's job, so he responded, in some of that previous  
41 conversation attached at the rear of that documentation and  
42 he was acting as the acting assistant commissioner, acting  
43 commander, Northern Region.  
44  
45 Q. Did you discuss the subject matter that was raised by  
46 this ministerial representation and the documents attached  
47 at about the time it came across your desk and to your

1 attention?

2 A. With who?

3

4 Q. With Superintendent Mitchell?

5 A. No.

6

7 Q. To your knowledge, did the ministerial  
8 representations, occurring as they did, it appears from the  
9 correspondence, in September 2010, have any effect on the  
10 operation of Strike Force Lantle?

11 A. No - in my mind and decisions making, no, it had no  
12 effect.

13

14 MS LONERGAN: I'll have that bundle of documents marked  
15 for identification, please.

16

17 THE COMMISSIONER: That bundle of documents will be MFI4

18

19 **MFI #4 BUNDLE OF CORRESPONDENCE THAT HAS BEEN PROVIDED BY**  
20 **LAWYERS FOR THE POLICE SERVICE**

21

22 MS LONERGAN: Q. Just a couple of minor tidy-up matters  
23 if you don't mind. Could you turn back to annexure G,  
24 please, page 565, which is the beginning of the text of the  
25 email from Detective Chief Inspector Fox to which you were  
26 copied in, in March 2012. Can we take it that you read  
27 that email with some care on receipt, given the subject  
28 matter raised in it?

29 A. Yes.

30

31 Q. Detective Chief Inspector Fox makes this statement:

32

33 *In 2010 I made submissions to investigate*  
34 *paedophile activity by the Catholic Church*  
35 *following past prosecutions and approaches*  
36 *to me by victims through a newspaper*  
37 *reporter Joanne McCarthy.*

38

39 Were you aware, prior to 25 November 2010, about any  
40 submissions made by Detective Chief Inspector Fox  
41 addressing this kind of subject matter?

42 A. Well, I presumed it was the report - the full page  
43 report into the --

44

45 Q. No, I understand that --

46 A. -- task force.

47



1 Q. -- but it prompted me to ask the request whether you  
2 were aware prior to that. Can we take it you weren't?  
3 A. No.

4

5 Q. Then it says:

6

7 *I obtained statements before being aware of*  
8 *inquiries at Newcastle. I contacted*  
9 *investigators there and was then directed*  
10 *by Superintendent Mitchell to surrender all*  
11 *the documentation I had, including victim*  
12 *statements, cease any involvement in church*  
13 *paedophile investigations or dealing with*  
14 *victims.*

15

16 That latter part of the comment "cease any involvement in  
17 church paedophilia investigations or dealing with victims",  
18 did you check with Superintendent Mitchell or anyone else  
19 whether that was an accurate reflection of the direction or  
20 any of the directions given to Detective Chief Inspector  
21 Fox?

22 A. No. I gave it to Mr Galton to investigate further or  
23 to respond to.

24

25 Q. On that same page another matter raised by Detective  
26 Chief Inspector Fox was that he was:

27

28 *... directed to hand over a separate*  
29 *non-related ministerial file sent to me as*  
30 *a result of my past investigations into*  
31 *paedophilia in the Catholic Church.*

32

33 Are you able to say whether at the time you received that  
34 email, you made any inquiries about what he was talking  
35 about there with that non-related ministerial file?

36 A. No, I didn't make any inquiries.

37

38 Q. In the normal course, if a ministerial file is sent to  
39 a particular police officer for information, is it removed  
40 from the officer before they actually complete the task  
41 requested or would that be a very rare event?

42 A. It wouldn't be normal, but it wouldn't be impossible  
43 to accept that that happens.

44

45 Q. What's the usual expectation of turnaround time with  
46 matters like ministerial requests for information?

47 A. Much quicker than we would like - it's usually very

1 urgent and it's specified on the file, so each file you  
2 look at the reply date that has been requested of you and  
3 you try and meet that. It could be a 24-hour turnaround,  
4 it could be a month.

5  
6 Q. If there's no reply date or time noted on the request  
7 for information, what should an officer assume regarding  
8 how quickly he or she should turn the request around?

9 A. You would expect - again, a generalisation - that if  
10 the information was readily available, you would expect  
11 14 to 21 days.

12  
13 Q. And if an officer is about to go on leave for a  
14 four-week period, what's your expectation as to what that  
15 person should do in terms of notifying his or her  
16 commanding officer that they won't be able to complete it  
17 within the ensuing month?

18 A. They should notify the commander and seek to arrange a  
19 date when that officer could comply with it. That would  
20 entail contacting the ministerial liaison unit that sent it  
21 out with the time frame and seeking to negotiate an  
22 extension. If one wasn't granted, then a decision would be  
23 made about, in the extreme, cancelling an officer's leave  
24 or making them work additional hours to fulfil the  
25 investigation or seeking another person that may be able to  
26 answer the questions as well - so try and balance the needs  
27 of the individual officers in responding in terms of leave.  
28 The first thing we try to do is seek an extension to a time  
29 frame.

30  
31 Q. Just a couple of questions about, is it Sergeant Fay  
32 Dunn?

33 A. Inspector.

34  
35 Q. Inspector Fay Dunn, as your staff officer, what were  
36 her duties and her role? As well as being your right-hand  
37 person, what were her duties?

38 A. Her duties are to follow up inquiries that I might  
39 have, to be there where people may want to raise issues  
40 with me or contact me that she would take some role in  
41 seeing what that was about, if there was a meeting  
42 organised, getting papers ready for - information for me to  
43 be prepared for those meetings, assist with the diary,  
44 assist with coming to meetings with me, taking minutes - a  
45 whole variety of expectations in relation to that role.

46  
47 Q. Would she have had authority to make a request to a

1 commander of a local area command to undertake a search for  
2 documents independent of any request by you?

3 A. She could. It wouldn't be the normal course, but she  
4 could.

5

6 Q. As I understand the evidence you've given today, you  
7 did not request a search be conducted of Detective Chief  
8 Inspector Fox's office in October 2010. You are nodding  
9 "Yes". In the normal course, if there was a situation  
10 where a ministerial file had been referred to an officer  
11 who was then on leave for a month, would you request that  
12 officer's commanding officer to go and look for that  
13 ministerial file if it hadn't been acted on within a  
14 three-week period of it being sent to that officer?

15 A. Yes. If we didn't go through the previous course that  
16 I said about extensions, et cetera, if it was still  
17 outstanding, yes, I would expect that file to be obtained.  
18 And then we would try and work out how we could answer it  
19 within the time frames, and that may entail going into  
20 someone's office and looking for that document.

21

22 Q. Would the act of going to an officer's office and  
23 searching through papers contained in it be an unusual  
24 course to adopt?

25 A. I wouldn't think it would be unusual.

26

27 Q. Is there any reason why a commanding officer would not  
28 be permitted to carry out a search of that kind?

29 A. No, I think it's quite appropriate to go and look for  
30 the document if you need it. It's the property of the NSW  
31 Police Force, so if you had to answer that ministerial, you  
32 needed the file.

33

34 Q. Are you able to place in time when you first heard of  
35 concerns that confidential police information regarding  
36 investigations were leaked to the media?

37 A. No, but I had been --

38

39 Q. By police officers?

40 A. But I had been reading the articles and there were a  
41 number of articles that came out over that period of time  
42 that appeared to have information that was confidential,  
43 so - or at least knowledge of the NSW Police Force, and it  
44 was concerning that these articles kept coming out, but  
45 I don't know the time frame, sorry.

46

47 Q. Would it be as early as April 2010, given you mention

1 there that there was some information provided to Joanne  
2 McCarthy at around about that time, or are you not able to  
3 say?

4 A. I'd have to have a look and see the newspaper articles  
5 to see if it was playing on my mind at that stage.  
6

7 Q. Did any of the officers under your command communicate  
8 to you who in their opinion was leaking confidential police  
9 information prior to November 2012.

10 A. I don't know that names were mentioned, but there were  
11 certainly concerns at those briefings that there was  
12 information that they were trying to keep - they wanted to  
13 ensure confidentiality, because the media articles were  
14 constant in relation to the ongoing or the goings on of the  
15 strike force.  
16

17 Q. Did you make any particular inquiries or cause for  
18 inquiries to be made about that leaking of confidential  
19 information when you read any of those articles in the  
20 media?

21 A. No.  
22

23 Q. Just one final tidy up question: in terms of the  
24 decisions that you made based on the report by Inspector  
25 Townsend back in September 2010, are you able to say  
26 whether at the time you considered Port Stephens as an  
27 option to complete that particular investigation and if you  
28 didn't, why not?

29 A. I didn't consider Port Stephens to be an option.  
30 I had no information that Port Stephens had any relevance  
31 to the investigation.  
32

33 Q. What about in terms of resourcing; did you have in  
34 your mind any knowledge or reasons as to why Port Stephens  
35 wouldn't be considered to conduct that investigation from a  
36 resourcing point of view?

37 A. I don't believe that they had the resources to be able  
38 to carry out such a - what could be a complex  
39 investigation, a lengthy investigation that required  
40 resources, and my choices were really only between Lake  
41 Macquarie and Newcastle. They are probably the two largest  
42 local area commands in the region with the best capacity,  
43 even though all local area commands had some staffing  
44 issues at that stage, and it was really a choice between  
45 those two and Port Stephens. Even today I wouldn't have  
46 given it to Port Stephens if I had to look at it.  
47

1 MS LONERGAN: Those are my questions, Commissioner. Would  
2 that be a convenient time?

3

4 THE COMMISSIONER: Yes.

5

6 **SHORT ADJOURNMENT**

7

8 MS LONERGAN: Commissioner, just one matter before  
9 proceeding with cross-examination of Assistant Commissioner  
10 York: a request has been made by the media for a copy of  
11 Assistant Commissioner York's statement. I will ask that  
12 any legal practitioners who have any objection to that  
13 course to advise those assisting you by the end of  
14 lunchtime today, if they do.

15

16 THE COMMISSIONER: Thank you, Ms Lonergan. Mr McIlwaine,  
17 I expect you don't have any questions of this witness?

18

19 MR McILWAIN: I don't.

20

21 **<EXAMINATION BY MR RUSH:**

22

23 MR RUSH: Q. Assistant Commissioner York, you received  
24 what I might call a briefing from Anthony Townsend,  
25 inspector operations manager, Northern Region on 12 July  
26 2010?

27 A. Or thereabouts.

28

29 Q. Or thereabouts, and in respect of that briefing there  
30 was some advice provided concerning comments on factors  
31 favouring an investigation/prosecution and some comment on  
32 factors not favouring an investigation/prosecution.

33 A. Yes.

34

35 Q. Some of the comments on factors favouring an  
36 investigation included that:

37

38 *The concealing of offences relating to*  
39 *child sexual assault is particularly*  
40 *serious when the offences are alleged to*  
41 *have been committed by persons who are in a*  
42 *position of trust. There is a strong*  
43 *public interest that these matters are*  
44 *reported to the police in a timely manner*  
45 *to ensure they are properly and fairly*  
46 *investigated. Delay creates a forensic*  
47 *disadvantage to the investigators. General*

1           deterrence against persons who fail to  
2           report is an important factor. There is  
3           little doubt that there is wide general  
4           public concern about the Catholic Church  
5           covering up allegations of sexual abuse by  
6           priests.

7  
8           A.    Yes.

9  
10          Q.    And they were matters you considered in arriving at  
11          the way in which you thought the matter should be handled  
12          subsequently to receiving this advice?

13          A.    They were.

14  
15          Q.    It went on to say in the comment on factors favouring  
16          investigation:

17  
18                *It was also apparent that some of those*  
19                *involved were well aware and concerned that*  
20                *the matter could be referred to the police.*  
21                *It now appears that the victims would*  
22                *strongly favour and urge an investigation*  
23                *and/or prosecution to occur.*

24  
25          MR SAIDI:    I object to the relevance and I object to how  
26          it could be - aside from the factor that all counsel  
27          appears to be reading on the record that material, which  
28          apparently the media want. I object in terms of the  
29          interest of Joanne McCarthy, in terms of going into this  
30          material, with respect to her, she has limited interest and  
31          she should not be permitted through her counsel to use this  
32          Commission as an opportunity of canvassing all possible  
33          matters. They're matter which should be relevant to her  
34          interest.

35  
36          MS LONERGAN:   Commissioner, can I be heard?

37  
38          THE COMMISSIONER:   Yes, Ms Lonergan.

39  
40          MS LONERGAN:   In support of Mr Saidi's objection, may  
41          I adopt it and repeat it. May I add that the practice note  
42          regarding the conduct of public hearings sets out certain  
43          requirements in terms of questioning of witnesses. One of  
44          those matters is that in determining whether a person has a  
45          sufficient interest to cross-examine a particular witness,  
46          you, Commissioner, can call upon that particular legal  
47          representative to identify the purpose of the proposed

1 cross-examination, set out the issues to be canvassed, and  
2 state whether a contrary affirmative case is to be made in  
3 some particular respect.  
4

5 In my respectful submission, the mandate in relation  
6 to Ms McCarthy's interests is a limited one and the  
7 approach to the questioning so far is outside that  
8 particular relevant mandate.  
9

10 THE COMMISSIONER: What do you say, Mr Rush? The document  
11 speaks for itself surely, doesn't it?  
12

13 MR RUSH: The document does, but it goes to something  
14 I think to put in a subsequent document, a subsequent piece  
15 of advice provided a little less than a year later. The  
16 points I'm particularly concerned about are the seriousness  
17 of the matters and the time in which they be investigated  
18 because of the seriousness and some of the impact that  
19 might have on forensic investigation.  
20

21 Might the Commissioner adopt this approach and permit  
22 it provisionally; if at the end of these two questions the  
23 Commissioner thinks it irrelevant, then it make that  
24 finding.  
25

26 THE COMMISSIONER: All right, Mr Rush, I will permit you  
27 to make your point.  
28

29 MR RUSH: I thank the Commission.  
30

31 Q. In respect of comments on factors not favouring an  
32 investigation, what was noted in the advice that you  
33 received was:  
34

35 *The degree of culpability of the alleged*  
36 *offenders particularly Archbishop Wilson*  
37 *and Bishop Malone ...*  
38

39 That was also the subject of advice that you received from  
40 Mr Townsend?  
41

42 MR SAIDI: I object.  
43

44 THE COMMISSIONER: Thank you, Mr Saidi. I understand the  
45 objection.  
46

47 Mr Rush, can you not just put the point that you are

1 trying to make without reading all of these public  
2 documents on to the record?

3

4 MR RUSH: I've said all I need to say about them. I just  
5 wanted those to be clear in the mind of the assistant  
6 commissioner before I ask the question - if I might be  
7 permitted to ask it.

8

9 THE COMMISSIONER: Please do.

10

11 MR RUSH: Q. You carefully balanced those  
12 considerations, amongst other considerations in that  
13 advice, in arriving at your view that the matter should  
14 proceed to be investigated along the lines of those steps  
15 that are set out on the foot of, I think, page 545?

16

17 MS LONERGAN: I object.

18

19 MR SAIDI: I also object.

20

21 MS LONERGAN: Commissioner, this witness has given  
22 evidence that she in fact read those proposed alternatives  
23 and made her own plan not based on any particular option  
24 provided to her by Inspector Townsend.

25

26 THE COMMISSIONER: That's true.

27

28 MR RUSH: Yes, but what I put was: amongst other  
29 considerations those were two of the considerations - at  
30 least the balancing of those considerations, together with  
31 other considerations, helped form that view was the  
32 question I put, I think.

33

34 MS LONERGAN: I object. I object to this approach with  
35 this particular witness. It's well outside the permissible  
36 mandate of the interests of Ms McCarthy in these  
37 proceedings.

38

39 THE COMMISSIONER: I won't permit it, Mr Rush.

40

41 [Transcript suppressed, per suppression order, from  
42 Page 683 line 41 to Page 687 Line 21]

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**<EXAMINATION BY MR COHEN:**

MR COHEN: Q. Might I say to you, assistant commissioner, if I appear to be ducking and weaving here, I don't mean any disrespect or to distract you, but it's one part of our technological age that is imposing some difficulties. Please forgive me if it's distracting, and I hope it's not.

A. Thank you.

Q. Assistant commissioner, in your evidence you indicated your history in the police force and it's a long and detailed and eminent one. Is it the case, though, with regard to the way your history is described and your experiences in the Police Force, that yours is not a career that's been spent, if I may put it this way, hopefully not in a misleading way, at the coalface but you have been in a head-office type of role. Is that a fair way of characterising it?

A. No, I was a prosecutor for 14 years. I think that's coalface.

Q. That was prosecuting events brought to you through the police prosecution service but not by reason of you being an active investigator; is that right?

1 A. That's right.

2

3 MS LONERGAN: I am sorry to interrupt my learned friend's  
4 cross-examination. I am actually having a great deal of  
5 trouble hearing the end parts of Mr Cohen's questions. I'm  
6 seated almost directly in front of Mr Cohen and it's just  
7 that, at the end of the sentences, his voice, which is  
8 quite soft, drops away to almost nothing. I think that is  
9 the difficulty that may be being encountered by the  
10 transcription staff. If I may ask Mr Cohen to keep his  
11 voice up right to the end of the sentences, that would be  
12 of great assistance.

13

14 MR COHEN: Thank you, Commissioner. I had assumed that  
15 the amplification is adequate. I'm sorry if I have not  
16 been doing what I should be doing. I apologise to you.

17

18 Q. I'm sorry for that distraction, assistant  
19 commissioner. In fairness, I warned you that this --  
20 A. Because of that distraction, could I just add a little  
21 bit to the answer of my question? I've done some  
22 investigations, they were mainly internal police complaints  
23 investigations in some of my roles, but certainly not - my  
24 career hasn't been as a detective - a criminal  
25 investigator.

26

27 Q. Have you been a detective during your career?

28 A. No. I've advised detectives many times on their  
29 briefs, but I have not been a detective.

30

31 Q. That advice was as police prosecutor as opposed to a  
32 supervising office of, say, a group of detectives in a  
33 crime command?

34 A. For a short period, I was in charge of the  
35 confiscation unit in the drug unit of State Crime Command  
36 some years ago.

37

38 Q. How long ago was that?

39 A. It would be 10 or 12 years ago.

40

41 Q. The reason for these questions is to ask this  
42 question: did you consider, given your experience and the  
43 nature of it, that you would have enough inherent  
44 understanding of the day-to-day operations of the  
45 detectives' office to know if what you were being told was  
46 correct or not?

47 A. Yes, I think I would.

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Q. You identify in your paragraph 5 - can I double-check that that is loud enough Commissioner - is that getting to everybody?

THE COMMISSIONER: It might be getting to everybody.

MR COHEN: Touché.

Q. Can you hear me, assistant commissioner?

A. Yes, I can hear you fine.

Q. You identify in your paragraph 5 that Joanne McCarthy forwarded documents to the Lake Macquarie Local Area Command concerning the allocations of child sexual abuse. That's so, isn't it?

A. Yes.

Q. You don't refer expressly to a period of a few months from May 2010 to August 2010 in relation to the chronology of these events. Is there any reason for that?

A. I wasn't involved in steps taken until I had the report from Inspector Townsend.

Q. Did you have any background understanding or an appraisal from somebody of the facts and circumstances that related to that period of time I identified - May to August 2010 - in relation to this matter?

A. Other than Inspector Townsend's report, there was some further information then by Detective Inspector Waddell in relation to his representations for the location it would be at. Other than that, no.

Q. Having regard to your earlier evidence, the period I'm talking about is the period in which a putative Strike Force Lantle was arising but had not yet been proclaimed as such. That's a fair comment, to your understanding?

A. Yes. Based on what I found out since then for preparation for here and also some of the evidence that I've heard or read in the transcripts as to what was happening during that period of time.

Q. A possible Lantle but not an actual Lantle, if I could use that shorthand description?

A. There was a glimmer of a Lantle then.

Q. Excuse me if I have to turn away to obtain documents.

1 Can I ask you, please, to have regard now to volume 1 of  
2 the volumes of documents in the tender bundle. I regret  
3 this will require some navigation around the documents, but  
4 I believe you are familiar with the process. You  
5 understand the volumes have tab numbers and pages behind  
6 the tabs?  
7 A. Yes, I've been taken to some of those tabs already.  
8  
9 Q. Could you go to tab 30A. Do you have volume 1?  
10 A. I do now.  
11  
12 Q. It should be marked on the front volume 1 of 3. There  
13 are three in total. It should say 1 of 3.  
14 A. I presume I've got volume 1. There's one that says 2  
15 of 3 and 3 of 3 and one says volume - there is no volume 1.  
16  
17 Q. I apprehend that is one of the statement volumes.  
18  
19 THE COMMISSIONER: I'm not certain why the other one is no  
20 longer there.  
21  
22 MR COHEN: Nor am I, but if it could be rescued I'd be  
23 very grateful. I apologise.  
24  
25 THE WITNESS: I couldn't find it.  
26  
27 THE COMMISSIONER: If you would like mine for the time  
28 being, assistant commissioner.  
29  
30 MR COHEN: Do you have a copy to follow on?  
31  
32 THE COMMISSIONER: I'll soon have one, thank you.  
33  
34 MR COHEN: Q. I'm very sorry for the confusion, but on  
35 this occasion it's not all my responsibility?  
36 A. I have it now and open at tab 30.  
37  
38 MR COHEN: Q. 30A.  
39 A. 30A, yes.  
40  
41 Q. Do you see that that is a memorandum that is dated  
42 3 May 2010?  
43 A. Yes.  
44  
45 Q. It's a memorandum to Detective Chief Inspector Brad  
46 Tayler?  
47 A. Yes.

1  
2 Q. From Detective Inspector David Waddell?  
3 A. Yes.  
4  
5 Q. Respectively, the crime managers of Newcastle City  
6 Local Area Command and Lake Macquarie Local Area Command.  
7 That's so?  
8 A. Yes.  
9  
10 Q. Have you seen this document before?  
11 A. No.  
12  
13 Q. To be fair to you, did you see this document in about  
14 2010?  
15 A. No, I may have seen it in preparation for today, but  
16 I hadn't seen it then.  
17  
18 Q. So unlikely in 2010?  
19 A. Yes, unlikely.  
20  
21 Q. When is it likely then that you did first set eyes on  
22 the document?  
23 A. In the last six months I would say, like in  
24 preparation for today. I don't know that I saw it then.  
25  
26 Q. Are you sufficiently familiar with the document that  
27 you don't need to read it, or do you need to familiarise  
28 yourself?  
29 A. I've quickly read it.  
30  
31 Q. You are now satisfied that you are sufficiently  
32 familiar with its contents to answer questions?  
33 A. Yes.  
34  
35 Q. Would you agree with me that Detective Inspector  
36 Waddell here is not exhibiting what might be called very  
37 much enthusiasm for the background facts and circumstances  
38 that constituted Lantle sufficiently to want to  
39 investigate. Is that a fair comment?  
40 A. No.  
41  
42 Q. No?  
43 A. I don't know how he could - I don't understand how he  
44 could generate enthusiasm on a two-page document.  
45  
46 Q. I'm sorry, we are at cross purposes.  
47 A. He stated the facts and he sent it across to Detective

1 Chief Inspector Tayler.

2

3 Q. He's not by any means voting to keep the file and keep  
4 it within his command to investigate, is he?

5 A. No. In fact, he is recommending or advising that he's  
6 sending it to Newcastle City Local Area Command.

7

8 Q. That's where it went in the first instance, did it  
9 not?

10 A. It did.

11

12 Q. Before I ask you the next question I had in mind, let  
13 me ask you this as a consequence of your comment. Did this  
14 strike you as facts and circumstances that justified the  
15 designation of highly protected?

16 A. I would not have thought so at that stage, no.

17

18 Q. Does it indicate anything on the face of it that is  
19 extremely sensitive that might lead to wanting to put over  
20 the top of these facts and circumstances such a  
21 designation?

22 A. No, not at that stage.

23

24 Q. Might I ask you now to look at tab 36 in that bundle,  
25 please. Have you seen that document before, an email from  
26 Detective Senior Constable Shaun McLeod to a gentleman  
27 identified as Norman Redgrove?

28 A. No, I haven't seen it before.

29

30 Q. Do you know who Norman Redgrove is, by the way?

31 A. No. Well, I can read his --

32

33 Q. It appears that he is some sort of exhibits officer;  
34 is that a fair comment?

35 A. No, according to this document, if I take it on face  
36 value, he was the brief handling manager at Maitland police  
37 station.

38

39 Q. I beg your pardon. I used a term familiar to me, but  
40 handler of documents and the manager of a file and archive  
41 is that it?

42 A. No. A brief handling manager is someone who an  
43 investigator would go to, to submit their brief to for  
44 quality review before it goes to a court or would have to  
45 go to that officer - may go to them to seek some advice in  
46 relation to the preparation of their brief that they may  
47 not get from their commanding officers, or there may be

1 instructions about court dates. So the brief handling  
2 manager is the connection between the investigator and the  
3 prosecutions branch.  
4

5 Q. You see the reference in the middle of that email to  
6 "he", being Detective Senior Constable McLeod, apologising  
7 for seeking that he obtain the Fletcher records. I take  
8 it, therefore, that one function for a brief handling  
9 manager is some sort of archival process; is that right?

10 A. Could you just refer me to where you are reading that?

11  
12 Q. If you go to page 121 behind tab 36, in the nature of  
13 these, the topmost part of the page is the last email in  
14 time.

15 A. Yes.

16  
17 Q. That is an email as at 13 May, we contend, if I may  
18 briefly, from McLeod to Redgrove; do you see that?

19 A. Yes.

20  
21 Q. You see the second sentence which is also the second  
22 paragraph effectively:

23  
24 *I apologise for seeking that you get the*  
25 *Fletcher records.*  
26

27 That was the reason for my earlier question. Am I correct  
28 in my assumption?

29 A. Yes, he's obviously made a request for the Fletcher  
30 records to Redgrove.  
31

32 Q. Is it likely that this gentleman, the brief handling  
33 manager, Mr Redgrove - I am sorry I don't know his rank -  
34 whatever he is, would be, in effect, the archivist for this  
35 now closed file about Fletcher?

36 A. He's a senior constable, but he also has the ability  
37 to gather information in past prosecutions, past briefs  
38 that may have been filed at the police station. So, yes,  
39 he does have, if you say, an archivist role - certainly he  
40 can be asked to go and get documents from the station or  
41 from whence they are filed from their completion,  
42 et cetera.  
43

44 Q. Could you explain to the Commissioner why it would be  
45 that an officer such as Detective Senior Constable McLeod  
46 would request that Detective Constable Redgrove would print  
47 the email and place a copy inside the Fletcher brief?

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MR SAIDI: I object. How can this witness be asked to speculate on what someone else may have done?

THE COMMISSIONER: It's very difficult for the assistant commissioner to know why a senior constable does something and another senior constable does not.

MR COHEN: I am sorry. Perhaps the question was too elliptical. I was seeking to elicit information not about why one person does in fact - I'm sorry, I thought the question was directed to what the purpose would be for, for printing it out and putting it in the file. That's certainly what I intended. Perhaps I can ask that question, Commissioner?

THE COMMISSIONER: Q. Assistant commissioner, are you able to throw any light on that process?

A. Only if we go back in time from those emails, it was in fact McLeod that said Detective Chief Inspector Fox had spoken to - McLeod had spoken to him and Mr Fox has given his authority "for the release of a copy to myself of this brief of evidence".

MR COHEN: Q. Quite.

A. So one might then think that to have a complete documentation of it, that a copy of this file goes in, because there was a reference to someone giving permission to access a certain file that wasn't their own - that appeared to be not their own.

MR COHEN: Q. In those circumstances one would assume, perhaps wrongly, but my assumption is, and I put it to you that it seems to be the correct one, that what would go in the file is a copy of the authorisation from DCI Fox rather than a copy of this email. Isn't that so?

A. I can only say that it appears the authorisation has been referred to in this. It may not have been a written authorisation. I don't know the circumstances.

Q. You'd expect the authorisation to be on the file as opposed to somebody's assertion of it, would you not, to serve the purpose you were just identifying?

A. No, I think it strengthens Detective McLeod that he has had a conversation with Mr Fox. Mr Fox has given his authority, perhaps verbally or in writing, and the email goes in. So there's a clear record of why Senior Constable



1 Redgrove would go to the file of another officer, the file  
2 not being his own.

3  
4 Q. You would agree then that, having achieved the  
5 location of this email into this file, his last statement  
6 was extraordinarily prescient, wasn't it?

7 A. Whose last statement?

8  
9 Q. Detective Senior Constable McLeod's last statement in  
10 that email, where he says:

11  
12 *I dare suspect that in the future, the*  
13 *Fletcher records may be reviewed by an*  
14 *independent inquiry.*

15  
16 MR SAIDI: I again take the objection in terms of,  
17 firstly, the relevance of this line of cross-examination  
18 and, secondly, this witness being cross-examined in  
19 relation to a document which was produced by someone else,  
20 and the information has come from someone else.

21  
22 THE COMMISSIONER: You can submit ultimately that it was  
23 prescient, Mr Cohen, but the assistant commissioner's view  
24 as to whether or not it was is of no assistance to me.

25  
26 MR COHEN: If the Commissioner pleases.

27  
28 Q. Assistant commissioner, would you agree that as  
29 between, if I may call it, the Waddell memo of 3 May behind  
30 tab 30 and the Waddell memo of 13 May behind tab 36, that  
31 notwithstanding the difference in their ranks, on any view,  
32 there was a difference of opinion?

33 A. That's right, there appears to be a difference of  
34 opinion.

35  
36 Q. Clearly, having regard to the chain of command,  
37 DI Waddell's view would prevail - there's no question about  
38 that, is there?

39 A. In most cases, yes.

40  
41 Q. What would be the case where a detective inspector's  
42 view about this would not prevail?

43 A. I might override him and therefore it's a region  
44 commander, or some other more senior officer may agree with  
45 McLeod or a junior officer. So, in most cases, you're  
46 exactly right; it's the senior officer's decision that  
47 would prevail.

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Q. But if you took what has been described in some of the evidence thus far as a helicopter view, you might come to a different view to DI Waddell if you had all the facts?

MR SAIDI: I object. I object to the relevance, I object to how this purportedly relates to the terms of reference. The terms of reference in T1 relate to Detective Chief Inspector Fox and the circumstances in which he was asked to cease investigating. The emphasis of my submission is on the words "to cease investigating", not on circumstances. If one interprets it on circumstances, one could well ask questions about what colour suit Detective Chief Inspector Fox wore on any particular day or what dress his wife wore on any particular day. The emphasis is on "cease investigating".

These questions do not have an apparent relevance, and before this line of inquiry continues, I'd ask that my friend clearly articulate the relevance of why he's pursuing this line of questioning.

THE COMMISSIONER: Mr Cohen, because you, I think, already have an answer to the question you just asked, I will not permit it to be asked it again. The assistant commissioner has said that she might override a detective inspector's or an inspector's view.

MR COHEN: Very well.

Q. Assistant commissioner, after the file left Newcastle as a consequence of what I call the Waddell representations on 3 May, I think I understand your position correctly, that it went on to Newcastle City LAC; is that so?

A. Yes.

Q. It went to the custody, in the chain of command system, of Detective Chief Inspector Tayler at Newcastle; is that right?

A. Yes. The document I have, I sent it to Superintendent Mitchell. I'm presuming Detective Tayler got it, but I don't know.

Q. Did you ever have cause to check that that was the ultimate fate of the file, if I can call it that?

A. No.

1 Q. You just are assuming a presumption of regularity, are  
2 you, there, that all things worked as they ought?  
3 A. Yes. It would be highly likely that that's where it  
4 ended up.  
5  
6 Q. To assist you, it is the case that that is where the  
7 file next resided? Could I ask you to look behind tab 38A.  
8 A. Yes.  
9  
10 Q. Have you seen that document before, apparently an  
11 internal memorandum of 20 May which was produced by  
12 Detective Chief Inspector Tayler?  
13 A. Yes, I have.  
14  
15 Q. You have seen that before? You understand its  
16 circumstances?  
17 A. No, I've only seen it in the preparation for the  
18 Special Commission. I didn't see it at the time.  
19  
20 Q. Is it your understanding that this document next in  
21 this chronology of events led to the document going back to  
22 the region office for Inspector Townsend to commence, if  
23 I may call it, this review. Is that a fair way of saying  
24 it?  
25 A. I don't know if this document led to that.  
26  
27 Q. Having regard to your investigations subsequent to  
28 these events, but in preparation for the Special  
29 Commission, are you aware of any other background facts and  
30 circumstances that suggest situations otherwise than what  
31 I have just put to you?  
32 A. No, I'm not aware, but I don't know what was in  
33 Detective Chief Inspector Tayler's mind as to whether this  
34 caused him to take certain actions, but it's consistent  
35 with the matters then coming back to Newcastle.  
36  
37 Q. I'm certainly not asking you to try and delve into his  
38 mind, but what I am asking is that this is another step in  
39 the chronological sequence that led the file to go back to  
40 the operations manager of the Northern Region. That's a  
41 fair comment?  
42 A. I'm not trying to be difficult --  
43  
44 Q. No, please tell me what you --  
45 A. -- but if it led to that, I don't know but it's  
46 certainly another document in the chronology before it came  
47 back to Northern Region.

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Q. Is there any other document evocative of any other step that you would expect to see in such a chain of events - if something is missing there is what I'm getting at. Is something missing?

A. There could be other documents, but there were certainly documents by Detective Inspector Tayler for sending that matter back to Newcastle LAC. What he relied on, I don't know.

Q. No, I'm not asking you to delve into that. What other documents could have occurred that you were contemplating receiving from Mr Fox?

MR SAIDI: I object to this question. How could this witness know what other documents could have existed in relation to events in which she played no role?

MR COHEN: No, I am sorry; we are definitely at cross purposes. I am not arguing --

THE COMMISSIONER: Did you say "what other documents could have existed", Mr Cohen?

MR COHEN: I said "documents" and I apologise. I withdraw that. What I was indicating is that the witness just indicated other steps that could impose themselves before the document got back to the region office. I was just testing what those might be.

THE COMMISSIONER: It's a very broad question.

Q. Perhaps one or two examples if you could think of them assistant commissioner.

MR COHEN: Yes, thank you. That is exactly what I was seeking.

THE WITNESS: There could be advice from other people who he might have made inquiries from. There could be documents off systems. I'm unaware of any.

MR COHEN: Q. Your searches haven't thrown any of those up?

A. No.

Q. If they exist, they would be on a system somewhere?

1 A. Not necessarily. It would take someone to put it on a  
2 system. Look, I'm not trying to be difficult. There could  
3 be other documents that would be on systems or in a  
4 person's personal possession that might have led to  
5 Detective Tayler returning the file.  
6  
7 Q. Can I just test that answer. If documents of the type  
8 that you were just referring to in that answer are not on  
9 the system, could they go missing?  
10 A. Yes.  
11  
12 Q. Has that happened in your experience in situations  
13 like this, that documents go missing?  
14 A. Yes.  
15  
16 Q. If we assume that from Detective Chief Inspector  
17 Tayler's desk the file was remitted, he intended that it go  
18 to the SSC; is that so?  
19 A. Yes.  
20  
21 Q. Do you know if it went ever to the SSC?  
22 A. No, I did not send it to the State Crime Commission.  
23  
24 Q. This document and the file came to you in due course?  
25 A. Sorry, maybe we're at cross-purposes. The document  
26 where Detective Chief Inspector Tayler did a report  
27 recommending that it goes to State Crime Command because  
28 they could not do it did not go to State Crime Command,  
29 because I stopped it.  
30  
31 Q. So you received this memorandum, considered it and  
32 declined to act as recommended?  
33 A. Yes.  
34  
35 Q. Why did you do that?  
36 A. Because it hadn't reached a stage where I thought it  
37 was appropriate to send it to State Crime Command.  
38  
39 Q. And that was because it was a matter of no particular  
40 urgency. Is that a fair comment?  
41 A. No.  
42  
43 Q. I'm sorry?  
44 A. No.  
45  
46 Q. Was it a matter that deserved at this point in time  
47 the designation of "highly protected"?

1 A. I wouldn't have - look, knowing or having a broad  
2 understanding of the definition of "highly protected"  
3 I would not have thought it was highly protected -  
4 certainly "in confidence".  
5  
6 Q. And then, having received this document, having  
7 reviewed it at your desk, is that when it went next along  
8 its journey to Inspector Townsend? Is that what occurred  
9 for the purposes of his report of July?  
10 A. Yes.  
11  
12 Q. When do you recall reviewing this document after its  
13 dispatch to you and then sending it on, if you recall at  
14 all?  
15 A. Are you talking about the document attached to 38  
16 still?  
17  
18 Q. I'm talking about this document I just showed you at  
19 tab 38A, that is, the document dated 20 May signed by  
20 Detective Chief Inspector Tayler and in the chain of  
21 command action steps, directed, I think, madam, to you  
22 next?  
23 A. Yes.  
24  
25 Q. Do you remember getting it?  
26 A. Yes.  
27  
28 Q. And do you remember what you did with it next?  
29 A. It would have been - it's my recollection that I got  
30 it with Inspector Townsend's advice.  
31  
32 Q. I beg your pardon? There was a bit of rustling.  
33 I didn't catch that.  
34 A. It's my recollection that I got that with Inspector  
35 Townsend's advice.  
36  
37 Q. That is to say --  
38 A. So someone had diverted it to the operations manager  
39 on my behalf. He then, at whatever time, prepared his  
40 advice that we've spoken about before, and it formed part  
41 of that.  
42  
43 Q. So that we're clear and in fairness to you, by his  
44 "advice", you mean his report dated 12 July 2010 --  
45 A. Yes.  
46  
47 Q. -- of about seven or 10 pages?

1 A. Yes. I don't think I had seen that through the chain  
2 of command, because I haven't made any notation on it of  
3 sending it anywhere or doing anything with it.  
4  
5 Q. But for those purposes, presumably it's not unorthodox  
6 for such an intervention to occur if it seems to be a  
7 relatively minor, or, if I can put it this way, a  
8 procedural matter; is that fair?  
9 A. No, it's exactly the opposite. It would go to the  
10 operations manager so that, when I got it, because it's a  
11 complex and serious matter, that I would expect some advice  
12 to be placed over the top of that report.  
13  
14 Q. Thank you for that explanation. How quickly would you  
15 expect the advice to appear?  
16 A. I would always like it in a timely way.  
17  
18 Q. What do you mean by that, if I may inquire?  
19 A. But, if I could just finish the question --  
20  
21 Q. I am sorry.  
22 A. -- it would depend on the amount of research that they  
23 had to, whether he had to speak to people, whether he had  
24 to get other documents and what was involved in that.  
25 Certainly July is a lengthy time, but not unreasonable in  
26 these circumstances, I wouldn't think.  
27  
28 Q. In the ordinary course, what is timely in your  
29 definition?  
30 A. I would like it within a month, so it's gone --  
31  
32 Q. Without putting too fine a point on it, in the  
33 ordinary course, you would expect a response by the end  
34 of June then, is that fair - maybe even quicker, maybe the  
35 last couple of weeks of June?  
36 A. The end of June, but this is a complex matter so, as  
37 I said, those two months were perhaps not unreasonable  
38 depending on - I know of Inspector Townsend's workload and  
39 know what he does.  
40  
41 Q. You got his report, you considered it, as you have  
42 testified to the Commissioner before, you conceded quite  
43 fairly that some further time elapsed, and that took you --  
44 A. Yes.  
45  
46 Q. -- I think the date is 1 September 2010. Do you wish  
47 to review that --

1 A. No, I accept it from you if that's the date I put on  
2 it. I think it was 1 September.  
3  
4 Q. Yes, that you made your directions on the documents  
5 annexed?  
6 A. Yes.  
7  
8 Q. That's a period all up of, I suppose, five months.  
9 It's a long time. Is it a fair comment, assistant  
10 commissioner, that the course of events to 1 September were  
11 not particularly expeditious?  
12 A. That's true.  
13  
14 Q. Is there any reason other than just pressure of  
15 business for that?  
16 A. I'm not aware if there are. The officers involved in  
17 preparing their documentation may add some more. I'm not  
18 aware.  
19  
20 Q. But you got it when you got it and you dealt with it  
21 when you could. Is that your evidence?  
22 A. Yes. I recall I did retain it for some period of time  
23 whilst I considered what I would do with the file.  
24  
25 Q. So, in doing that, did you retain it with a view at  
26 that time to mull it over, to take further advice? What  
27 exactly was it that motivated you to --  
28 A. To try and find if the command had the resources to do  
29 it. My main delay is to assess where I should send it to.  
30  
31 Q. Is that because the first choice that you've  
32 identified in your evidence earlier today was itself at  
33 that time, in the middle of 2010, that is Newcastle LAC,  
34 itself beset with very difficult staffing problems?  
35 A. Yes. I took over the region in March.  
36  
37 Q. March 2010?  
38 A. The whole region was beset with staffing problems -  
39 had significant resourcing issues. I could say that all  
40 commands had a resourcing problem.  
41  
42 Q. Were those resourcing problems region-wise  
43 particularly acute at Newcastle City?  
44 A. I wouldn't say at that time they were acute.  
45  
46 Q. You recall, I take it, that that staffing question  
47 actually attracted the attention of the print media in



1 Newcastle. That's so, isn't it?  
2 A. Many times it diverted me from doing what I was doing,  
3 those media reports, yes.  
4  
5 Q. Wasn't it the case at one stage that the Newcastle  
6 City complement was down by a factor of 50 per cent?  
7 A. From memory, I think that was after that. That's why  
8 I say it wasn't particularly acute. As far as I'm aware,  
9 it did have more difficulties with resourcing after that  
10 date in September.  
11  
12 Q. By "after that date" you mean exactly what so that  
13 we're not at cross-purposes?  
14 A. I think around the 2011 period it reached its peak of  
15 resourcing problems.  
16  
17 Q. Do you mean the Commissioner should understand that  
18 there was a steady decline in the capacity of Newcastle LAC  
19 to deal with matters on a day-to-day basis?  
20 A. There was certainly a decline. I don't know that it  
21 was steady, but there was certainly a decline.  
22  
23 Q. Was it a dramatic decline?  
24 A. No, it wasn't dramatic.  
25  
26 Q. There was a decline. Whatever the gradient of the  
27 line on the graph, you weren't happy with it?  
28 A. It created problems. I can't say I was unhappy, but  
29 it created issues in relation to my management of the  
30 region.  
31  
32 Q. One of the issues was where to assign this matter, was  
33 it not, that is, the matter identified on the face of  
34 Detective Chief Inspector Tayler's memorandum of 20 May?  
35 A. Yes.  
36  
37 Q. You then were the beneficiary of Inspector Townsend's  
38 report. You departed from his three suggested options. Is  
39 it fair to say that you did not depart from those suggested  
40 options materially?  
41 A. Yes. It was a mixture of a couple of those options,  
42 yes.  
43  
44 Q. A pick and pack, as they say?  
45 A. Yes.  
46  
47 Q. The long and the short of that approach was to keep it

1 within the region, to send it back to, at this point, Lake  
2 Macquarie - that's so, isn't it?  
3 A. Yes.  
4  
5 Q. And then, subject to some further investigations and  
6 further witness statement, in short see what turned up. Is  
7 that a fair way of putting it?  
8 A. No. It was for investigation.  
9  
10 Q. It was for investigation, was it?  
11 A. Yes. I always was intending to have it investigated.  
12 It was about who would investigate it. That was my issue.  
13  
14 Q. So the file was on its way to Lake Macquarie, but was  
15 caught in midstream, wasn't it, if I can mix my metaphors?  
16 A. Yes. I have no independent knowledge of where it  
17 went, but I think it ended up with the operations manager  
18 again.  
19  
20 Q. Is it not the case that Detective Inspector Waddell,  
21 and I think the phrase used yesterday in his evidence was,  
22 moved swiftly, or perhaps with real alacrity, to stop it  
23 getting to him. Is that a fair comment?  
24 A. He moved swiftly, yes.  
25  
26 Q. And his staffing concerns identified by him as his  
27 difficulty were not as acute as those at Newcastle City at  
28 the time, were they?  
29 A. He did not have as many detectives as Newcastle City.  
30 Newcastle City sits at 30, and Lake Macquarie sits at 19.  
31  
32 Q. That's the complement, but they weren't all at their  
33 desks were they?  
34 A. In neither command were they all at their desks.  
35  
36 Q. What was the depreciation of numbers at each place at  
37 the time?  
38 A. I would have to look at it. I don't independently  
39 recall, but both had numbers of officers off on sick  
40 report.  
41  
42 Q. Doing the best you can, what is your recollection of  
43 how badly denuded the complement was?  
44 A. I'm guessing three or four, maybe five at Lake  
45 Macquarie.  
46  
47 Q. And at Newcastle?

1 A. Again, I'd be guessing.  
2  
3 Q. Doing the best you can.  
4 A. Probably around the same - three or four or five.  
5  
6 Q. So to your mind, in this period between 12 July 2010  
7 when you got the report from Inspector Townsend and  
8 1 September when you made your decision and subscribed in  
9 your hand on the face of the report what you wanted done,  
10 the primary preoccupation in making the decision was who  
11 had the better complement of people; is that right?  
12 A. Yes, that's right.  
13  
14 Q. It was a finely balanced choice, wasn't it, between  
15 Lake Macquarie and Newcastle?  
16 A. Yes, that's right.  
17  
18 Q. And the difference between Newcastle and Lake  
19 Macquarie was really the background threat, the hint by DI  
20 Waddell of some more industrial unrest if it went there,  
21 wasn't it?  
22 A. No, because --  
23  
24 MR SAIDI: I object to this line of questioning. Whether  
25 it was finely balanced between Newcastle and Lake  
26 Macquarie, whether or not Lake Macquarie was given it,  
27 whether or not Newcastle was given it is not really  
28 relevant. As one understands the terms of reference, it is  
29 whether or not Port Stephens --  
30  
31 THE COMMISSIONER: Wasn't.  
32  
33 MR SAIDI: Exactly, and more particularly a person at Port  
34 Stephens. We're not here to examine --  
35  
36 THE COMMISSIONER: The relative merits of each of those  
37 local area commands. Yes, Mr Cohen, have you nearly  
38 finished with this?  
39  
40 MR COHEN: I think I understand what you are putting to  
41 me. I can approach it this way.  
42  
43 Q. It was perfectly open to you, wasn't it, assistant  
44 commissioner, to decide that some resources would be  
45 allocated to Port Stephens to allow this matter to be dealt  
46 with in the Port Stephens command by Detective Chief  
47 Inspector Fox, wasn't it?

1 A. It was a choice I could have made.

2

3 Q. And, in the circumstances of your staffing  
4 difficulties, it was a perfectly rational one, wasn't it?

5 A. No, I would never have given it to Port Stephens given  
6 its staffing.

7

8 Q. That was your evidence before, but that is not an  
9 answer to my question. I put it to you that putting  
10 temporary resources into Port Stephens, in the  
11 circumstances of your staffing difficulties throughout the  
12 region, was a perfectly rational choice, wasn't it?

13 A. No.

14

15 MR SAIDI: I object. It's not a question of whether it's  
16 a rational choice. This commander could have put it to any  
17 police station or command within her region at the time.  
18 That's not what the issue is here. The issue is a  
19 different issue entirely. It's not whether Port Stephens  
20 should or could have got it. It's whether or not Detective  
21 Chief Inspector Fox was investigating and he was told to  
22 cease investigating, not whether he should have been given  
23 the investigation.

24

25 THE COMMISSIONER: Thank you, Mr Saidi, I understand that.  
26 I think the assistant commissioner could very shortly  
27 answer the question.

28

29 THE WITNESS: I had no resources anywhere else that  
30 I could have given Port Stephens, because they were all  
31 short, and I made a choice that it happened - the alleged  
32 offences occurred in the Newcastle area, they were better  
33 resourced, and I made the decision to send it back to  
34 Newcastle based on the information given to me by Inspector  
35 Townsend, Detective Chief Inspector Tayler and Detective  
36 Inspector Waddell.

37

38 MR COHEN: Q. Using a neutral term, both of Detective  
39 Inspector Waddell and Detective Chief Inspector Tayler were  
40 reluctant about taking this matter, weren't they?

41 A. I read that into the document. They didn't tell me  
42 that, but I read that into their files.

43

44 Q. It's obvious, isn't it?

45 A. I think it was a difficult matter for them, noting  
46 that they were short in resources, to take on such a  
47 complex investigation and that they were asking me to

1 identify where it should go.

2

3 Q. You had, at the same time, an adequately qualified  
4 crime manager in Detective Chief Inspector Fox in Port  
5 Stephens, who had the added advantage of being enthusiastic  
6 about these matters, didn't you?

7 A. I had no idea he was involved at that stage until he  
8 gave me the report in November, so it wasn't an option that  
9 I was looking at.

10

11 Q. But you said to the Commissioner in your evidence a  
12 little while ago in testifying about these matters that you  
13 had this report from Inspector Townsend from 12 July until  
14 you made the decision on 1 September. That's right?

15 A. No. He wrote it on 12 July. Some time I received it  
16 was my evidence and I made a decision on 1 September and  
17 I did say I did have it for some period, but I don't think  
18 I had it back from the date he wrote it.

19

20 Q. To be fair to you, shall we assume you had it from the  
21 end of July?

22 A. I can't recall.

23

24 Q. Doing the best you can, was it sitting on your desk  
25 for weeks and weeks and weeks worrying you?

26 A. No.

27

28 Q. You said you made some investigations about staff  
29 matters and the ability of various LACs within the region  
30 to cope with such a matter.

31 A. Yes.

32

33 Q. Presumably, you also made some inquiries about  
34 staffing at Port Stephens at the same time?

35 A. No, I did not.

36

37 Q. So you chose between Lake Macquarie and Newcastle, and  
38 no-one else; is that so?

39 A. Yes.

40

41 Q. In the circumstances, on your evidence, of what were  
42 staffing difficulties within the entire region, wasn't that  
43 a touch shortsighted in the approach you took?

44 A. No.

45

46 Q. Well, if you've got competent managers throughout the  
47 region, not just within those two locations, surely you

1 would make it your business to investigate whether or not  
2 they had the capacity, and indeed the enthusiasm, to take  
3 on this task?

4 A. No, I didn't look at Port Stephens at all.

5

6 Q. I repeat my question to you. Wasn't that a  
7 shortsighted approach?

8 A. No.

9

10 Q. In the disposition of this matter up to 1 September  
11 2010 there was not much in the way of urgency being  
12 exhibited about it, was there?

13 A. Detective Inspector Waddell's response was quick.

14

15 Q. His response may have been quick but there was no  
16 urgency being shown about this matter as it got to you?

17 A. No, it was a difficult situation, because the commands  
18 we're talking about - Newcastle and Lake Macquarie - are  
19 very busy and have a lot of crime, high workload per  
20 officer, and this was a matter that needed some  
21 consideration as to where it would go.

22

23 Q. Were you aware that these matters were also given  
24 content by the fact that there were a number of victims of  
25 the crimes of these priests who were petitioning for  
26 assistance in respect of what was to happen? Were you  
27 aware of those facts at the time?

28 A. No, I don't think I was. No.

29

30 Q. It is the case, isn't it - and hindsight is a  
31 wonderful thing - that having regard to their interests,  
32 the rather sedate pace that this matter received final  
33 disposition did not do much justice to their needs, did it?

34

35 MR SAIDI: I object, and I object more particularly to  
36 "sedate pace". This witness hasn't agreed to a sedate  
37 pace. It's only an assertion.

38

39 MR COHEN: I will withdraw the question.

40

41 Q. There was a sedate pace being utilised in disposing of  
42 this matter, wasn't there?

43 A. No.

44

45 Q. I put it to you that that pace, which was on any view  
46 not quick, did not take into account, as it ought to have  
47 done, the interests of victims that had been identified

1 expressly to the region.

2

3 MR SAIDI: I object to the part of the question which says  
4 "on any view it was not quick".

5

6 MR COHEN: Q. It wasn't quick, was it, assistant  
7 commissioner?

8 A. No, it wasn't quick.

9

10 Q. And it didn't take account the interests of victims,  
11 did it?

12 A. It did. That's why, if you look at the advice I was  
13 given by Inspector Townsend, there were actually more  
14 reasons not to proceed than there were to proceed, but  
15 I placed the interests of the victims above all and decided  
16 it would progress to an investigation.

17

18 Q. You didn't do that. You took it to the step of  
19 seeking to gather more information. Isn't that so?

20 A. When I decided to send it to - in answer to your  
21 question, I sought some more information in regards to the  
22 resourcing because I had decided that there was to be an  
23 investigation. It was a question of where it was to go.

24

25 Q. Well, assist the Commissioner with your answer to this  
26 question. On the face of the document that you received  
27 from Inspector Townsend - this is within your statement -  
28 to assist you it is page 545 at the foot of the statement.  
29 It is within annexure A. Where on the face of that  
30 notation that kicked this off on 1 September will the  
31 Commissioner find a reference to an investigation?

32 A. That I asked them to find an appropriately skilled  
33 investigator to take initial statements because that's an  
34 investigation.

35

36 Q. Isn't it just working out whether or not you have  
37 resources even to consider whether or not you can have an  
38 investigation?

39 A. No.

40

41 Q. And by this stage had you been provided with the terms  
42 of reference for the investigation that you had in mind?

43 A. No.

44

45 Q. Can you tell the Commissioner in the absence of terms  
46 a reference and the absence of an investigator, where was  
47 the investigation?

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MR SAIDI: I object. It's not a fair question. All of what is being contained within that document and what is being asked about are events prior to the setting up. This is the very commencement of the process and it is unfair to suggest that this is all part of a final process.

THE COMMISSIONER: Yes. Mr Saidi's objection has force, Mr Cohen.

MR COHEN: Thank you, Commissioner.

Q. I put it to you that nowhere on the face of that document is there an express instruction to establish a strike force and, to use the vernacular, to get on with it, is there?

A. Yes, there is, because I said initial statements to be taken, because at that stage we had had documentation provided to us from Joanne McCarthy; that is, to commence the investigation and start taking statements in relation to what evidence we could gather in relation to the allegations that were made.

Q. If you could go forward to page 546 in your statement, that is a copy of the initial term of reference. Your evidence earlier this morning was that this is in there by error; you hadn't seen that?

A. Yes.

Q. But you accept it exists, don't you?

A. Yes.

Q. And that was the term of reference that, on any view, must have been what you intended to be the platform for the investigation that you say flowed from your direction of 1 September; is that right?

A. Yes. I believe they understood what I said and that commenced this - resulted in the terms of reference.

Q. And you were happy with those?

A. I didn't see them at the time. Whether I was happy doesn't --

Q. Had you seen them at the time, would you be happy with them? Make that assumption that you could see them in 2010 and review them, had you done so, would you be happy with them?



1 A. I believe so, yes.  
2  
3 Q. And would you expect them to be amended so that the  
4 unlimited time period on the face of those instructions in  
5 the term of reference then became limited as to time?  
6 A. That's not inappropriate. I don't know what  
7 information might have been between the drawing up of the  
8 first terms of reference and the drawing up of the second  
9 terms of reference, but putting a date around that, as  
10 I explained earlier, gives the ability for the strike force  
11 to focus in on particular areas. It doesn't limit them to  
12 what they can investigate.  
13  
14 Q. It also means that events are excised from their  
15 review, too, doesn't it?  
16 A. It depends how they came across it and what sort of  
17 information it was.  
18  
19 Q. If an investigator, under the amended terms of  
20 reference for Strike Force Lantle, if I may call them this  
21 I hope clearly, the April or May terms, that instituted  
22 Detective Sergeant Little as the responsible officer - if  
23 he had taken charge of the investigation with the narrowed  
24 terms and then came across more information outside of the  
25 time period, would he not be accused of mission creep?  
26 A. No, he should have a discussion with his supervising  
27 officer as to what they would then do with those terms of  
28 reference or the information they received.  
29  
30 Q. Is a statement then this such a circumstances there  
31 would be mission creep just gobbledegook?  
32 A. I'm not saying there was.  
33  
34 Q. I'm not saying you did, but if it was used in those  
35 circumstances would it just be gobbledegook?  
36  
37 MR SAIDI: I object. Unless there is clarification of  
38 what those circumstances are, it is really nonsensical to  
39 call it gobbledegook --  
40  
41 MR COHEN: I hear what my friend says, Commissioner. I  
42 will put in stages.  
43  
44 Q. You know the history of this term of reference is that  
45 it was narrowed as to time by the amendment, don't you?  
46 A. I've heard that during the course of these  
47 proceedings, yes.

1  
2 Q. You've seen the document, haven't you - the Little  
3 document?  
4 A. Yes.  
5  
6 Q. You know that it was narrowed as to time, don't you?  
7 A. Yes.  
8  
9 Q. Little then, as the officer in charge with a group of  
10 people behind him as the Lantle investigators, has to  
11 identify matters to be investigated. He can't go outside  
12 the time period, can he?  
13 A. Yes, he can.  
14  
15 Q. How can he do that without being accused of being  
16 engaged in mission creep?  
17 A. Regardless of whether it appears to have been mission  
18 creep, he can do it.  
19  
20 Q. Without some concern for some oversight by other  
21 officers asserting what he's doing is improper?  
22 A. He should have concerns to that. He should pay  
23 attention to that and speak to his supervisors.  
24  
25 Q. Does it not mean that if you are going to go outside  
26 the time period you have to seek an amendment to the terms  
27 of reference rather than just to do it informally?  
28 A. I don't think so. When you look at Strike Force  
29 Georgiana they were very limited terms of reference and yet  
30 there's been a large number of people placed before the  
31 courts that don't come strictly within those terms of  
32 reference so the police are able to - it's a guidance. If  
33 you look at these first terms of reference, they could have  
34 gone back to the 1900s. You need to have it somewhere so  
35 you can get a plausible based-on-evidence brief to place  
36 before the court.  
37  
38 Q. Relying on the logic you expounded then, there was  
39 nothing stopping these facts and circumstances that came  
40 under the label or heading of Lantle just going to  
41 Georgiana or Lozano was there?  
42 A. That was the original reason why I sent it to Lake  
43 Macquarie, because of Georgiana.  
44  
45 Q. So your idea was that that was the place to do it  
46 because there was a little collection of expertise and that  
47 was the logical spot to stop?

1 A. I didn't have a lot of knowledge of Georgiana and then  
2 I reviewed my decision once Detective Inspector Waddell put  
3 in some further information.

4  
5 Q. Can I put to you what happened is Detective Inspector  
6 Waddell didn't like the idea of more work as opposed to  
7 there being a good reason to go to Newcastle. Is that a  
8 fair comment?

9 A. No.

10  
11 MR SAIDI: I object. I took an objection in relation to  
12 this area earlier. I thought my objection was upheld.  
13 We're now back to cross-examining on this point. This is  
14 not a choice between Lake Macquarie, Port Stephens or  
15 indeed Newcastle and nor did Mr Waddell have any say, as  
16 the region commander, in who was ultimately to carry out  
17 the investigation.

18  
19 MR COHEN: Detective Inspector Waddell made it his  
20 business to avoid having to take on this task, didn't he?

21  
22 THE COMMISSIONER: He has given evidence of his reasons.

23  
24 MR COHEN: But this senior officer of police can answer  
25 that question, in my respectful submission.

26  
27 THE COMMISSIONER: No, she can't, Mr Cohen, because  
28 Assistant Commissioner York doesn't know whether Detective  
29 Inspector Waddell was simply trying to get out of work, as  
30 I think you put it.

31  
32 MR COHEN: Very well. Is that a convenient time,  
33 Commissioner?

34  
35 THE COMMISSIONER: Yes, very well, Mr Cohen.

36  
37 **LUNCHEON ADJOURNMENT**

38  
39 **UPON RESUMPTION**

40  
41 THE COMMISSIONER: Mr Cohen?

42  
43 MR COHEN: Q. Assistant commissioner, you still have  
44 your statement before you in the witness box, I take it?

45 A. I do.

46  
47 Q. I'll ask you some questions about that in a moment,

1 but allow me to ask you a few questions leading up to where  
2 I wish to take you next. By 1 September 2010, you had made  
3 a series of decisions and issued a directive as to what was  
4 to occur. Did you turn your mind at that stage to the  
5 state of play with the creation of this strike force, or  
6 were there other matters that were pressing and, having  
7 made the decision, you left it to others to get on with it.  
8 Is that a fair way of putting it?

9 A. No, I turned my mind to a strike force, because I did  
10 want particular resources - I was concerned about the  
11 resources as we went through the staffing levels prior to  
12 lunch, and it did need some particular resources put on the  
13 investigation.

14  
15 Q. It was indicated to you that those resources should be  
16 three officers - detective sergeant - before I proceed,  
17 excuse me.

18  
19 Commissioner, I recall the other day there was some  
20 concern about identifying these officers by name. I'm not  
21 sure whether that subsists, but I'm happy to be delicate  
22 with identifying them by name if that's a concern. I just  
23 have a direct recollection of some concern about it and  
24 I want to be sure before I trespass into the --

25  
26 THE COMMISSIONER: Is that the case, Ms Lonergan? Is  
27 there any problem with naming the --

28  
29 MS LONERGAN: Commissioner, there is still a  
30 non-publication order relating to two particular officers  
31 and their positions in relation to giving evidence before  
32 this Commission, so if it could be done elliptically at  
33 this stage.

34  
35 THE COMMISSIONER: Thank you.

36  
37 MR COHEN: Q. Forgive me. We are trying to be delicate  
38 about reputation but, nonetheless, go to the issues. Let  
39 me approach it this way. If I indicate to you that it was  
40 suggested that there should be a detective sergeant leading  
41 Strike Force Lantle, assisted by a detective senior  
42 constable and the oversight role conducted by a detective  
43 chief inspector, you will understand to whom I refer?

44 A. Yes.

45  
46 Q. There's no way of getting that on the transcript, but  
47 would it assist you, and perhaps the Commissioner, so it's

1 clear that you and I are talking about the same things and  
2 she understands from the evidence, would an acceptable way  
3 be you write it down and give that to the Commissioner?  
4 I'm trying to be delicate.

5  
6 THE COMMISSIONER: Mr Cohen, in appendix B of the  
7 witness's statement all the detectives are named, are they  
8 not?

9  
10 MR COHEN: Yes. Thank you, Commissioner.

11  
12 Q. If you have annexure B, that page which is marked,  
13 I think at the foot of your page in your statement, 546 -  
14 are we on the same page?

15 A. Yes.  
16

17 Q. The detective senior constable and the detective  
18 sergeant on that page were the assistant and the leader  
19 respectively?

20 A. Yes.  
21

22 Q. And the detective chief inspector, who was to become  
23 the person responsible for oversight, was the crime manager  
24 I think at Newcastle command; is that right?

25 A. Yes, that's right.  
26

27 MR COHEN: I hope that's delicate enough, Commissioner.  
28

29 Q. But clearly we understand each other, assistant  
30 commissioner, and the Commissioner can follow the evidence.

31 A. I might say, if we could mention the crime manager's  
32 name, that did change as we went through and he gave  
33 evidence yesterday.  
34

35 THE COMMISSIONER: The crime manager was Mr Tayler, of  
36 course, at that stage.  
37

38 THE WITNESS: Yes.  
39

40 MR COHEN: Q. Assistant commissioner, it's useful that  
41 you are looking at that document. Is there anything on the  
42 face of that document - and I invite you to direct my  
43 attention to it because I cannot see it - that says, that  
44 is, on the terms of reference, that this matter should be  
45 highly protected?

46 A. No.  
47

1 Q. There's not? Would you expect it to be there in the  
2 circumstances?  
3 A. If someone had turned their mind to it being highly  
4 protected, you would expect the document to be notated in  
5 such a way.  
6  
7 Q. At the time that this document was drafted and  
8 provided to establish the strike force?  
9 A. Yes.  
10  
11 Q. Is it a fair comment that, having regard to your  
12 evidence earlier today, it's a combination of two things  
13 that creates the strike force - direction by you as the  
14 relevant region commander and this document, which gives it  
15 flesh on the bone, so to speak? Is that a fair way of  
16 putting it; the combination of those two things create it  
17 and give it life?  
18 A. And the decisions by the management team in the  
19 Newcastle Local Area Command. The terms of reference  
20 actually would reflect those management decisions.  
21  
22 Q. But the sequence is you make a decision and give a  
23 direction. It comes into existence. The terms of  
24 reference then give it meaning and form and then the  
25 officers get on with it and start taking initial steps,  
26 even on the first day things have to happen and things  
27 start rolling?  
28 A. Generally that's the course, yes.  
29  
30 Q. I take it from your evidence of a few minutes ago if  
31 somebody, at the time - that is, in the formative period  
32 between you making the direction and these terms of  
33 reference being drafted - had turned their mind, the  
34 designation "highly protected" would have appeared; is that  
35 right?  
36 A. Should have appeared.  
37  
38 Q. It didn't, did it?  
39 A. No.  
40  
41 Q. And it wasn't, was it?  
42 A. Don't know.  
43  
44 Q. If it's not there, it means it's not highly protected,  
45 doesn't it?  
46 A. It will be a document that is not treated as highly  
47 protected, that's right.

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Q. And have an appropriate circulation pattern inside the NSW Police Force's computerised systems and elsewhere; is that right?

A. Appropriate to the level of access under the e@gl.i system, which is restricted to those who have a need to know.

Q. But to put the question to you directly, DCI Fox would not be shut out under those circumstances, would he?

A. Most probably he would because he wouldn't be listed and have access to e@gl.i's holdings under that investigation.

Q. Tell me this, in respect of that sequence of events, is it fair for the Commission to understand that, after this time, after Lantle is beginning to gear up, you then don't have quite as much to do with Lantle as you did in coming to a decision on 1 September?

A. That's correct.

Q. When do you say you came back to an understanding of Lantle and a day-by-day focus that meant you were informed, at least to some extent, about its significance after this date of 1 September?

A. I wasn't informed how it was going day by day. It was more quarterly updates with some written briefings provided, I think it was monthly, to me on most months. Some months I didn't receive it. I might have been away or something like that, but - so there were a number of meetings that we had and I can't recall the next meeting that I had in relation to the update, which was your question - I can't recall when that meeting was.

Q. Having regard to the timing that you were contemplating in your last answer or answers, was the first update around about the end of December 2012, or was it sooner than that?

A. I wouldn't say it was sooner. I would say it was more towards the end.

Q. And you discovered by the end of December 2010, the end of the calendar year, that there was some quite profound staffing difficulties for Lantle, didn't you?

A. Yes.

Q. The people to whom I just referred you a few moments

1 ago, by that time, had, in effect, all gone off duty,  
2 hadn't they?  
3 A. Yes.  
4  
5 Q. Either completely out of the Police Force or were on,  
6 to use the phrase, sick report; is that right?  
7 A. Yes.  
8  
9 Q. That caused you some real headaches about what had to  
10 happen next presumably?  
11 A. It would have caused more headaches for the commander  
12 of Newcastle to find additional officers but it did cause  
13 me to have that briefing.  
14  
15 Q. One of the headaches for the commander of Newcastle  
16 was, presumably, having you peering down over his shoulder  
17 about it?  
18 A. Yes.  
19  
20 Q. I take it this was a matter about which you had quite  
21 some significant concerns?  
22 A. Yes - the whole allegations as well as those staffing  
23 levels, yes.  
24  
25 Q. Do you remember another briefing on this rough  
26 three-monthly cycle in about April 2011?  
27 A. Roughly that period was when we had further  
28 discussions and I referred to earlier that Detective  
29 Sergeant Little's name was mentioned in relation to being  
30 placed on the investigation.  
31  
32 Q. Is a corporeal basis of one of those briefings what is  
33 in annexure F to your statement? You will find that at  
34 page 561. That is the notation at the foot of the page.  
35 A. Yes.  
36  
37 Q. Having regard to that briefing, would you look at  
38 page 562. Do you see the third paragraph on page 562?  
39 A. Yes.  
40  
41 Q. Do you accept the assessment made there by Detective  
42 Chief Inspector Humphrey, the then acting commander of  
43 Newcastle City LAC, that up until the time of Little's  
44 mandate, the holdings in Lantle were frankly abysmally  
45 managed. Would you agree with that?  
46 A. No, they were not words I would have used.  
47



1 Q. Was Detective Chief Inspector Humphrey grandstanding  
2 then?  
3  
4 MR SAIDI: I object.  
5  
6 THE COMMISSIONER: This witness can't say anything about  
7 what Detective Chief Inspector Humphrey was doing.  
8  
9 MR COHEN: Let me approach it this way.  
10  
11 Q. Detective Chief Inspector Humphrey, at this time, was  
12 relieving as the LAC commander. That's so, isn't it?  
13 A. Yes, that's right.  
14  
15 Q. So at that time and for that period, however long it  
16 subsisted in April 2011, he was, if I may use this phrase,  
17 a direct report to you, was he not?  
18 A. Yes, that's right.  
19  
20 Q. Do you recall how long he was relieving in that role?  
21 A. No, but I don't recall Mr - no, I don't recall. It  
22 wouldn't be months, but it would be significant - weeks  
23 perhaps.  
24  
25 Q. Not a day or two?  
26 A. No, not a day or two.  
27  
28 Q. A period of leave for somebody, maybe a month?  
29 A. Leave, or it could have been a change of commanders,  
30 I can't recall.  
31  
32 Q. Between Mitchell and Galton; is that your point?  
33 A. Yes.  
34  
35 Q. You read that documentation?  
36 A. Yes.  
37  
38 Q. When you got it?  
39 A. Yes.  
40  
41 Q. Did you read that first paragraph and say to yourself,  
42 "That cannot be right"?  
43  
44 MR SAIDI: I object to the question.  
45  
46 THE WITNESS: I read the third paragraph --  
47

1 MR SAIDI: I object to the question. There are a number  
2 of aspects in relation to that paragraph and it is unfair  
3 to ask the witness in terms of the paragraph as a whole  
4 that it can't be right.

5

6 MR COHEN: Q. You understood enough of the background of  
7 Lantle to know to what Detective Chief Inspector Humphrey  
8 was referring, presumably. It wasn't a mystery to you, was  
9 it?

10 A. What I assumed he was referring to is the fact that  
11 the officers had been absent from the workplace and that it  
12 had been some time before Detective Sergeant Little was  
13 placed on that investigation.

14

15 Q. With that in mind, did you look at his  
16 characterisation of abysmal management and think "Fair  
17 call"?

18

19 MR SAIDI: I object. The abysmal management relates to  
20 and qualifies the current holdings.

21

22 THE COMMISSIONER: The holdings, yes, not necessarily what  
23 is being done during Strike Force Lantle.

24

25 MR COHEN: Q. The current holdings, did you look at that  
26 phrase "the current holdings" and then the parenthetical  
27 comment, "which frankly were abysmally managed up until  
28 that point" and think, "Yes, that's right"?

29

30 A. I don't recall thinking about it very much at that  
31 stage. It was more - my attention was more drawn to what  
32 were we going to do about it from that point on.

32

33 Q. Presumably that phrase jumped out at you, didn't it?  
34 You didn't just gloss over it?

35

36 A. No, I didn't gloss over it. There were some  
37 explanations as to what was going to be done. There was an  
38 opinion about how it was going to be dealt with and then  
39 there were some answers about where it was going to. That  
40 is what I was more concerned about, was to make sure those  
41 steps were in place or there was a plan to put those steps  
42 in place.

42

43 Q. I take it that opinion never found its way back to any  
44 of the victims who had been petitioning for some answers  
45 what was happening in Lantle; is that right?

46

47 A. Not as far as I'm aware.

1 Q. Had they known about that opinion, it would have been  
2 a just and fair one, wouldn't it?

3

4 MR SAIDI: I object. This is material that came within  
5 confidential documents. Whatever is contained in there is  
6 for the purpose of the police themselves and not for the -  
7 whether one calls them complainants, victims, or otherwise.  
8 It's not fair to ask this witness what they may or may not  
9 have thought. It may be a matter of submissions for you,  
10 but it is not a matter of asking this witness.

11

12 THE COMMISSIONER: That is the case, Mr Cohen.

13

14 MR COHEN: Maybe I'll approach it this way.

15

16 Q. Would a response to the victims in terms of their  
17 request ever lead to this level of candour?

18 A. I wouldn't include a phrase like that in a response to  
19 a victim, no.

20

21 Q. But it is a candid view, is it not?

22 A. No, they're entitled to a view about whether things  
23 are delayed and things like that. I don't know about an  
24 officer's personal view about it would then end up in a  
25 document you would release.

26

27 Q. But he was not a senior detective constable making  
28 that observation; he was a trusted and senior member of  
29 your team?

30 A. That's true.

31

32 Q. Presumably trusted senior members of your team, when  
33 they provide you with opinions, aren't dismissed out of  
34 hand?

35 A. No, I didn't dismiss it out of hand. I just didn't -  
36 it wasn't the issue I was looking for. What I was looking  
37 at in that report is what were they going to do from that  
38 point on?

39

40 Q. Let me ask you this directly: did you agree with that  
41 opinion?

42 A. No, it's not a term I would use or agree with.  
43 I would say that it could have been better managed, but  
44 I would not agree with "abysmally managed".

45

46 Q. Is it the case, assistant commissioner, that the  
47 reason why the designation "highly protected" found its way

1 on to this file, this strike force, sometime in September  
2 or October 2011 is because it was the easiest most  
3 convenient way of trying to keep the matter off the front  
4 page of the Newcastle Herald?

5 A. I'm not aware of why "highly protected" was placed on  
6 it.

7  
8 Q. If this designation were slapped over the top of  
9 Strike Force Lantle, it made it much easier, didn't it, to  
10 manage the media implications of the strike force, isn't  
11 that right?

12  
13 MR SAIDI: I object. The phrase "highly protected" is an  
14 internal phrase for the NSW Police Force. The media do not  
15 have access to either files which are highly protected or  
16 indeed any other files contained within the NSW Police  
17 Force. There seems to be a leap in logic in terms of  
18 putting that proposition to the witness, with respect.

19  
20 MR COHEN: I'll approach it this way.

21  
22 Q. As at 1 September 2010 Lantle was not highly  
23 protected. That much we agree on. I think that's right,  
24 isn't it?

25 A. As far as I know it wasn't. There was nothing on any  
26 documentation that would lead me to believe it was highly  
27 protected.

28  
29 Q. When in time after 1 September 2010 did it attract  
30 this designation?

31 A. I don't know.

32  
33 Q. When was it likely to have been in this period, do you  
34 think?

35 A. I don't know. There's some documents somewhere in all  
36 of this that notate that it's highly protected. That's the  
37 only reason that I knew that there had been a category  
38 placed upon the documents.

39  
40 Q. It's not in your statement; that is to say, documents  
41 you just referred to then, they don't appear in your  
42 statement, do they --

43 A. No.

44  
45 Q. -- that identify the point in time when this label was  
46 attached?

47 A. No. I didn't attach the label. I don't know when

1 anyone attached the label.

2

3 Q. I understand that. You have nothing in your statement  
4 which goes to the point in time when this designation was  
5 affixed?

6 A. That's correct.

7

8 Q. In preparing for the Special Commission and settling  
9 the form of your statement, and I don't ask you to go into  
10 matters of advice you may have received, just simply in  
11 reviewing documents, did you come across anything that  
12 suggested to you a date that the Commissioner may be able  
13 to use - affix a time when this did become highly  
14 protected?

15 A. Not that I recall.

16

17 Q. But you think it exists?

18 A. I seem to recollect there's a document that says  
19 "highly protected" or refers to the strike force as "highly  
20 protected" and that's as far as I can add value.

21

22 Q. Is that the fact that the document bears the label or  
23 is that the fact that you have a recollection of a document  
24 that, to your understanding, leads to the conclusion that,  
25 at this point in time, by virtue of that document, the  
26 label is affixed in a conscious way? Do you see the  
27 distinction I'm putting to you?

28 A. Yes, because the document bears the label.

29

30 Q. Just because there's a label?

31 A. Yes.

32

33 Q. Is that the usual way of converting something that  
34 isn't highly protected to something that is, simply  
35 slapping a printed or a rubber stamp on the top of it?

36 A. At a point when something becomes highly protected  
37 I would expect that notation is placed on the documents, so  
38 once there's something on the document, I would have  
39 thought that there was a decision made by someone that it's  
40 highly protected.

41

42 Q. Very well. Accordingly, employing that logic, the  
43 designation now appearing on a document in a formal,  
44 physical way ought to be able to lead you back, as the  
45 inquiring person, to the point when this switch in  
46 designation occurred. That would be the logical  
47 consequence?

1 A. Prior to that date, there was a decision made.  
2  
3 Q. And there would need to be a decision, wouldn't there?  
4 It wouldn't be the case that, by accident, someone popped a  
5 label on and there it was, that nobody thought of it?  
6 A. There would need to be a decision.  
7  
8 Q. Where would one look for that decision? Where would  
9 the Commissioner look for that decision?  
10 A. I can't assist. I've looked at many, many documents  
11 both relevant and irrelevant. I can't recall where it was,  
12 but there was something in a document somewhere, and I'm  
13 trying to be as honest as I can, and I can't --  
14  
15 Q. Indeed, indeed, you just can't recall the  
16 circumstances?  
17 A. No.  
18  
19 Q. Is it the case this designation appearing in the way  
20 it did might just have been entirely accidental?  
21 A. There's always a chance of that.  
22  
23 Q. It's not a fanciful possibility?  
24 A. It's close to it, but there's always a chance.  
25  
26 Q. Could somebody, for example - use this as a  
27 hypothesis, assume this: could somebody, in the modern era  
28 of cut and paste word processing documents, have copied a  
29 document and used it as a format and not taken the label  
30 off just by accident and left it there?  
31 A. Yes, it's possible - unlikely but possible.  
32  
33 Q. Having proceeded past a certain point that is  
34 difficult to identify, that I take it you think is some  
35 time after 1 September - yes?  
36 A. Yes.  
37  
38 Q. Do you have any feeling for when after 1 September it  
39 was likely that this change in status occurred?  
40 A. No.  
41  
42 Q. But from that point on, the characterisation changed  
43 and it became a much more closely guarded file; is that a  
44 fair way to look at it?  
45 A. I would have expected it to have been a very closely  
46 guarded file from the beginning.  
47

1 Q. What was the utility of putting "highly protected" on  
2 it?

3 A. I didn't do it.  
4

5 Q. If it happens, having regard to the notion that  
6 underpins calling something "highly protected", what is the  
7 point in such circumstances of putting that appellation on  
8 it?

9 A. I would think to restrict access even further.  
10

11 Q. In these circumstances, what is the utility of such a  
12 restriction?

13 A. I don't know why they would have done it --  
14

15 Q. I'm sorry?

16 A. I don't know what the utility - I don't know the  
17 reason why they would have done it or an officer would have  
18 done it.  
19

20 Q. Perhaps to keep prying media eyes away?  
21

22 THE COMMISSIONER: That brings up Mr Saidi's comment. It  
23 doesn't make any difference. It doesn't bind the media or  
24 make it more difficult or less difficult for the media.  
25

26 MR COHEN: Very well, Commissioner.  
27

28 Q. Assistant commissioner, was there any time around  
29 about this period in, if I may call it this way, loosely,  
30 late 2010 - I withdraw that and put it this way: when did  
31 you become consciously aware that there were material  
32 difficulties with the staffing of Strike Force Lantle in  
33 the period after 1 September?

34 A. Probably the New Year - into 2011.  
35

36 Q. And at that time did you then consciously think a  
37 solution may be to send this matter off to State Crime  
38 Command?

39 A. Yes.  
40

41 Q. Was that an option that popped in your mind and you  
42 mulled around?

43 A. No.  
44

45 MR SAIDI: I object. This general area was the subject of  
46 a ruling by yourself earlier, Commissioner, that this  
47 Special Commission is not inquiring as to what the most

1 appropriate means of investigation was. It is an inquiry  
2 as to whether or not Mr Fox was told to cease investigating  
3 and one should not embark upon questioning about whether or  
4 not State Crime Command should have come in on a different  
5 basis other than which it came in upon.  
6

7 THE COMMISSIONER: Yes. Mr Cohen, we know exactly the  
8 involvement of the State Crime Command, how it arose, how  
9 this witness considered it and then the changes and so on.  
10 Is there any question flowing from that?  
11

12 MR COHEN: Having regard to what you just said, I suspect  
13 not.  
14

15 THE COMMISSIONER: Thank you.  
16

17 MR COHEN: Q. You gave evidence this morning, and please  
18 correct me if I'm wrong, that you did look at the report by  
19 Detective Chief Inspector Fox of 25 November 2010. Is that  
20 right, or am I mistaken on that?

21 A. Is that with the writing on it?  
22

23 Q. Yes, quite. In writing on it, you then considered  
24 what was being said in that, I take it, and had regard to  
25 the propositions in it?

26 A. In his report?  
27

28 Q. Yes.

29 A. Yes.  
30

31 Q. You say to the Commissioner, do you, that it was never  
32 an option to include him at that time, having regard to the  
33 fact of the staffing difficulties of Lantle?

34 A. No, it was never an option to include him.  
35

36 Q. You say in the body of your statement, paragraph 14,  
37 that you were not, I think it's a fair characterisation -  
38 you didn't play an active role. Is that the way you put  
39 it?

40 A. Yes.  
41

42 Q. But you were sufficiently active to get briefings from  
43 time to time, weren't you?

44 A. Yes.  
45

46 Q. Would you ordinarily seek briefings from time to time  
47 about something after it was established, or only because



1 there were matters that were catching your attention that  
2 you decided you needed to monitor?  
3 A. Yes. Across the region there's probably 30 to 40  
4 strike forces going at any one time, but this was one that  
5 I wanted to be updated on.  
6  
7 Q. To put it, I hope as fairly as I can to you, evidently  
8 on that you have a full plate each day on matters?  
9 A. I do - I did.  
10  
11 Q. Quite. But in the time that you were the commander of  
12 the region, just with respect to strike forces, 30 ongoing  
13 on average is your evidence?  
14 A. Yes.  
15  
16 Q. Is that right? And presumably you didn't adopt the  
17 easy arithmetic approach of saying, "There are 30 of them  
18 so I'll give some each a portion of my time"? Presumably  
19 some were more directly of concern to you than others; is  
20 that right?  
21 A. Yes, I would get briefings by exception on some of  
22 those, I would hear nothing on some of those, because they  
23 would be managed quite adequately without informing me of  
24 things within the local area command. I could either get  
25 it from the superintendent or from my operations manager,  
26 but this one I sought some briefings in relation to it.  
27  
28 Q. You had briefings from Commander Galton, did you not?  
29 A. Yes.  
30  
31 Q. When he came to the chair?  
32 A. Yes.  
33  
34 Q. You got briefings from Inspector Jacob. That happened  
35 on 4 May 2011, did it not?  
36 A. Yes, I think so.  
37  
38 Q. You even got a briefing from Detective Sergeant  
39 Little?  
40 A. Yes - more than one.  
41  
42 Q. That's unusual, I take it?  
43 A. It is unusual, yes.  
44  
45 MR COHEN: Commissioner, I'm trying to quickly sort  
46 through my mind what I can take the assistant commissioner  
47 most directly to. I'm conscious of the time.

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THE COMMISSIONER: Thank you, Mr Cohen.

MR COHEN: A few minutes now may pay dividends in the long run.

MR HUNT: Senior counsel indicated she wouldn't mind a leg stretch. If that were a convenient time for Mr Cohen, we might be able to accommodate her needs in that regard.

MR COHEN: I'm happy to oblige if that is of convenience to you and the assistant commissioner.

**SHORT ADJOURNMENT**

MR COHEN: Thank you, Commissioner.

Q. Thank you, assistant commissioner for the time. You gave some evidence, and I regret I don't recall whether it was before the morning tea adjournment or in the period before lunch, but I take it you will recall you were asked some questions by Ms Lonergan, senior counsel assisting the Commissioner, about the issue of when you became aware of the search of Detective Chief Inspector Fox's office?

A. Yes.

Q. Your evidence was that you were informed that that search had occurred after the events of 2 December 2010. Who informed you of that?

A. On reflection of that evidence, I can't recall whether it was before or after 2 December they informed me.

Q. Who informed you of that?

A. I think it was at one of the briefings, perhaps the December briefing, that there had been a search of the office.

Q. Who informed you of that?

MR SAIDI: I object to the question. The witness has already answered she can't remember, but she thinks it was at a briefing.

THE COMMISSIONER: I think that's the best we can do, Mr Cohen.

MR COHEN: Q. That briefing is, presumably, a senior

1 management team or a special briefing about Lantle?

2 A. A briefing about Lantle.

3

4 Q. Who was likely to be there?

5 A. Superintendent Mitchell. It could have been the  
6 briefing in early 2011 with Inspector Humphrey and  
7 Mr Little there, I can't recall.

8

9 Q. Doing the best you can - I know it's difficult and  
10 this is not a memory test, but doing the best you can, when  
11 in time would you say you would mostly wish to fix that  
12 event?

13 A. To fix the?

14

15 Q. To fix the event in time, to give some definition to  
16 the Commissioner's understanding.

17 A. I would just be guessing. I can't recall. I did  
18 learn that there had been a search, but I can't recall when  
19 it was.

20

21 Q. From what you've said, it's likely to be in  
22 late December or early January. I know it's doing the best  
23 you can, but is that a fair way of understanding it?

24 A. If someone got in the witness box and they said that  
25 they said it to me earlier, I couldn't argue with them.  
26 I can't recall.

27

28 Q. As to time, having been told the search occurred - let  
29 me put it to you that you were told this after 2 December  
30 in one of those briefings that you've identified, you were  
31 misled, weren't you, about the facts and circumstances?

32 A. No, I wasn't misled because I can't actually recall if  
33 the date was mentioned when the search was made, but  
34 I became aware that there had been a search of Detective  
35 Chief Inspector Fox's office, searching for some  
36 documentation.

37

38 Q. This morning you chose after 2 December. I take it  
39 that means, having regard to what you were thinking this  
40 morning and reflecting now, it's more likely than not that  
41 it was after 2 December, possibly even January 2011?

42 A. No. My mind this morning was on Mr Fox coming to a  
43 meeting without search documentation, but now I can't  
44 recall whether it was that or the ministerial file that was  
45 being searched for. That's why I say, I can't recall the  
46 date the search took place and I can't recall who told me  
47 but I became aware there had been a search of the office.

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Q. Your evidence this morning was, wasn't it, that you became aware - you were taken to the events of 2 December by senior counsel?

A. Yes.

Q. And then asked about the search and you testified this morning --

A. I did.

Q. -- the search was after that event in December, after 2 December.

A. I did.

Q. And that was on some reflection after you sat in the witness box and heard the question, wasn't it?

A. Moments, yes.

Q. I'm sorry?

A. Moment's reflection, yes.

Q. Nonetheless, considering your answer and giving it as honestly as you could?

A. Yes, and some hours later I've reflected some more, and now I can't be sure and I don't want to mislead anyone that it was before or after 2 December.

Q. It wasn't as early as the last week of October 2011, wasn't it?

A. It could have been. I --

Q. I'm sorry, I have misled you. It wasn't as early as the last week of October 2010, was it?

A. Are you talking about the search or when I was informed?

Q. When you were informed?

A. It could have - I can't recall. This is two years ago. I can't recall. It was an issue that came to my attention. I can't recall who told it to me and I can't recall the date.

Q. You gave some evidence this morning about annexure E to your statement. Please go to it to help you refresh your memory on what it is, but it is an email from Detective Chief Inspector Humphrey to a significant distribution list, and that is on the top of that email of

1 13 October. Do you remember that?  
2 A. Yes.  
3  
4 Q. Could you assist the Commissioner in understanding  
5 why, given the content of the email, at least a copied-in  
6 line didn't include Detective Chief Inspector Fox?  
7 A. Sorry, you're asking me why he wasn't included as a  
8 recipient to this email?  
9  
10 Q. What I'm asking you is this so we're clear and so that  
11 we are not at cross-purposes: given the content of this  
12 email, can you suggest any reason why Detective Chief  
13 Inspector Fox himself is not a personal recipient of this  
14 email, given it's electronic nature?  
15 A. No, I don't know.  
16  
17 Q. There's no good reason for him being omitted, is  
18 there, in the circumstances?  
19 A. The reason is they went to his commander to action.  
20  
21 Q. Yes, but in these circumstances given --  
22 A. What circumstances?  
23  
24 Q. The fact of the content of this email and the apparent  
25 seriousness of the matters being raised, it surely made  
26 good sense for Detective Chief Inspector Fox to be a copy  
27 recipient of it, did it not?  
28  
29 MR SAIDI: Again I object. It's a matter for the person  
30 who was involved in the email communication. It's not a  
31 matter for the witness.  
32  
33 THE COMMISSIONER: Yes, Mr Cohen. Assistant Commissioner  
34 York has said they went to his commander. That's it.  
35  
36 MR COHEN: Very well.  
37  
38 Q. You were also asked questions this morning about the  
39 ministerial file, the one that had been sent to Detective  
40 Chief Inspector Fox in September 2010 before he went on  
41 leave?  
42 A. Yes.  
43  
44 Q. Do you happen to know the ultimate disposition of that  
45 ministerial file request?  
46 A. Could I look at the document? I can't recall off the  
47 top of my head.

1  
2 Q. Yes, indeed. Excuse me one moment while I locate it.  
3 It is in volume 2 and learned senior counsel has very  
4 kindly refreshed my memory. It is tab 62 and tab 72.  
5 A. I don't have any independent knowledge, but I note  
6 that there was a report that was forwarded from Port  
7 Stephens to Detective Sergeant Steel and there is no  
8 notation that was on Mr Fox's information.  
9  
10 Q. Which document are you looking at?  
11 A. I'm sorry, 72.  
12  
13 Q. For clarity, this is the memorandum itself dated -  
14 there are two documents. So it's clear are you talking  
15 about the memorandum of 18 October?  
16 A. I am, with Mr Fox as the author of the report. And  
17 I note at the bottom that it has been requested to be  
18 forwarded to Detective Sergeant Steel, and then the second  
19 line was Detective Sergeant Steel. So, you know, I'd only  
20 be surmising that it had gone there. I have no independent  
21 knowledge of where it might be.  
22  
23 Q. What can be done systemically to track it down, if  
24 anything, in your understanding?  
25 A. It has a TRIM number at the top of the correspondence  
26 which is attachment - sorry, a document behind tab 72. The  
27 second document on page 274 has a TRIM number at the top.  
28  
29 Q. That is "D/" --  
30 A. That is records, to track records.  
31  
32 Q. That number is? .  
33 A. D/2010/133845.  
34  
35 MR COHEN: I am sorry, I neglected to check this  
36 Commissioner. Is this a number that should not be  
37 identified and should be anonymised?  
38  
39 THE COMMISSIONER: The TRIM number?  
40  
41 MR COHEN: Yes. It's not going to cause concern?  
42  
43 THE COMMISSIONER: I wouldn't think so, Mr Cohen.  
44  
45 MR COHEN: Q. The number to which you are referring to  
46 is?  
47 A. D/2010/133845. That number should remain with the

1 file as it travels around the organisation and there's a  
2 record management system that you should be able to put  
3 that number on --  
4  
5 Q. It should pop up?  
6 A. -- where it is.  
7  
8 Q. I take it the system should have some sort of imaging  
9 process attaching copies; is that right?  
10 A. Yes. However, I do note on Mr Fox's file he has not  
11 referred to the TRIM number, so whether it was entered in  
12 TRIM to be sent to Detective Sergeant Steel I don't know.  
13  
14 Q. By TRIM, do we mean a system entry rather than some  
15 sort of redaction?  
16 A. Sorry?  
17  
18 Q. The phrase used from time to time is TRIM-ed and  
19 that's shorthand for entering the TRIM system?  
20 A. Sorry about that.  
21  
22 Q. Rather than a redaction document?  
23 A. TRIM-ed means there has been an entry made on the TRIM  
24 system to record its movement.  
25  
26 Q. This presumably generates and allocates a number to a  
27 document or file when it sends it to the TRIM system?  
28 A. Yes, that's right.  
29  
30 Q. Is there some sort of barcoding or similar process  
31 with an optical reader so it is easy --  
32 A. I haven't actually entered the system to do the  
33 records management but at some stations there is barcoding  
34 and others it's data entry and the system - I don't know  
35 whether the operator generates a number or the system does.  
36 You can't enter a number twice. Somewhere it gets  
37 generated a number.  
38  
39 Q. Even allowing for that process, it's possible for the  
40 document to get lost, I take it?  
41 A. I wouldn't say lost. It is possible for the file to  
42 be moved without entering it on to the record management  
43 system. It does rely on individuals making entries into  
44 the records management system to move it.  
45  
46 Q. So if something is moved in that way that you just  
47 described, it's ostensible position may not be its actual

1 position?  
2 A. That's right. For example, this may still be recorded  
3 at Port Stephens, it may have moved from Port Stephens and  
4 it may not have been entered on the system. It doesn't  
5 mean it's still at Port Stephens. It's a not perfect  
6 system.  
7  
8 Q. I accept what you put. Does that mean it would be  
9 difficult if not impossible to track it down?  
10 A. It could be.  
11  
12 Q. Could it be lost deliberately?  
13 A. Anything could be lost deliberately.  
14  
15 MR COHEN: If the Commissioner pleases.  
16  
17 THE COMMISSIONER: Mr Rush?  
18  
19 MR RUSH: As the Commission anticipated, Mr Cohen has  
20 traversed the questions I would have asked.  
21  
22 <EXAMINATION BY MR SAIDI:  
23  
24 MR SAIDI: Q. I want to come back to this concept of  
25 "highly protected" within the police jargon, if I may. You  
26 refer to what is the e@gl.i system in your evidence?  
27 A. I did.  
28  
29 Q. The e@gl.i is used to record evidence obtained during  
30 the investigation; is that so?  
31 A. It is.  
32  
33 Q. Amongst other information. In terms of maintaining  
34 security within the e@gl.i system, are there different  
35 levels of security that can be maintained?  
36 A. There are.  
37  
38 Q. Can you tell us what the different levels of security  
39 are?  
40 A. No, I can't, because I haven't entered it.  
41  
42 Q. If it's "highly protected", however, does that phrase  
43 or does that designation indicate that the information  
44 available on e@gl.i in relation to an investigation is to  
45 be restricted?  
46 A. Sorry, could you just repeat that?  
47



1 Q. When there is a designation of "highly protected" to  
2 an e@gl.i investigation, an investigation recorded on  
3 e@gl.i, does that incorporate the idea that only a limited  
4 number of people can have access to that material?

5 A. Yes, that's right.  
6

7 Q. Are you able to tell us how it is that the restricted  
8 access is given to only a small number of people, that is,  
9 the procedure?

10 A. Yes. It's my understanding the officer in charge of  
11 the investigation can add investigators or involved  
12 officers. They can also restrict it down to who has access  
13 to it and, therefore, anyone not involved or approved by  
14 that person or the commander cannot get access to that  
15 information.  
16

17 Q. Is one of the reasons for that an attempt to maintain  
18 the integrity of an investigation?

19 A. That is the main reason for it, yes.  
20

21 Q. And also the information contained within the police  
22 recording system?

23 A. That's right.  
24

25 Q. Is it also the case, as you understand it, that only  
26 trusted officers, that is, officers whose integrity is  
27 beyond question, are permitted access to any investigation?

28 A. Yes.  
29

30 Q. And confidential holdings within an investigation?

31 A. Yes, that's right.  
32

33 Q. In terms of any suspicion arising that an officer  
34 can't be trusted or, indeed, has what could be described as  
35 unhealthy media links, do you have a view as to whether or  
36 not it is appropriate to exclude that officer from the  
37 e@gl.i holdings?

38 A. They should definitely be excluded.  
39

40 Q. And, at the risk of embarking upon an exercise in  
41 commonsense, can you tell us why it is an officer under  
42 suspicion for having unhealthy media links is excluded?

43 A. Because there's a chance that the confidentiality of  
44 the information within that brief will be breached and  
45 information could be provided to those who do not have a  
46 right to know and the integrity of the brief can be put at  
47 risk and the investigation itself can be hindered or

1 damaged beyond repair.

2

3 Q. In terms of the setting up of Strike Force Lantle,  
4 I think you referred in your evidence earlier today that  
5 there were concerns about there being media links; is that  
6 so?

7 A. That's exactly right.

8

9 Q. Or media leaks?

10 A. Leaks, yes.

11

12 Q. And in terms of the concerns about media leaks which  
13 were suspected, are you able to give the Commissioner an  
14 idea of the extent of the suspicion at least that was being  
15 held?

16 A. Yes. There were concerns by the investigators as to  
17 the source of information that was being published in the  
18 media articles. There was concern that that would hinder  
19 the investigation, in that it places persons of interest on  
20 notice as to what the police are doing and it takes away  
21 one of our main advantages of confidentiality so that we  
22 could get the evidence from all our victims and alleged  
23 witnesses so that we could - so that the police can then  
24 take the person of interest through a record of interview  
25 and put the allegations to them appropriately, or carry out  
26 search warrants, et cetera, in the best effort to get any  
27 evidence that is relevant to that brief.

28

29 Q. At some point during the course of the Strike Force  
30 Lantle investigation, was it made known to you or not that  
31 the suspected source of the leaks was indeed Detective  
32 Chief Inspector Fox?

33

34 MR COHEN: I object. It's not been established that he  
35 even was suspected - and it's suggested he was the source.

36

37 MR SAIDI: I'm asking if it was brought to her attention  
38 that he was suspected.

39

40 THE WITNESS: There was concern brought to my attention  
41 that it was Detective Chief Inspector Fox, yes.

42

43 MR SAIDI: Q. In those circumstances, given that there  
44 had been suspicions that the person leaking to the media  
45 was Detective Chief Inspector Fox, do you have a view as to  
46 whether or not it was appropriate that specifically  
47 Detective Chief Inspector Fox be excluded from having

1 access to the e@gl.i holdings?

2

3 MR COHEN: I object. It's not been established that he  
4 was --

5

6 MR SAIDI: The question isn't predicated on that he was.  
7 It's predicated on the suspicions that it was --

8

9 THE COMMISSIONER: That's right.

10

11 THE WITNESS: It is appropriate that he would be excluded  
12 from having access to that brief or having any part in that  
13 brief.

14

15 MR SAIDI: Q. Why do you say that?

16 A. Because by having conversations about the brief with  
17 Detective Chief Inspector Fox, that again would provide  
18 information that may be leaked to the media that could be  
19 hindering the investigation.

20

21 Q. In terms of any decision made in terms of any  
22 confidential investigation to be carried out in terms of  
23 any decision to be made in terms of the person to be  
24 appointed or to lead the investigation, do you have a view  
25 one way or the other as to the integrity required of such a  
26 person before they are appointed?

27 A. They need to be of the utmost highest integrity to be  
28 appointed to an investigation of this type.

29

30 Q. As the investigation proceeds, do any difficulties  
31 arise that you can tell us about if a mistake has been made  
32 in appointing the wrong person who then appears to have a  
33 lack of integrity in terms of what is required in leading  
34 the investigation?

35 A. Well, the issues that arise are, as I set out, that  
36 there is a real risk to the investigation, to the  
37 protection of the victims or witnesses, to the use of that  
38 information in the media, and I would immediately take them  
39 off the investigation if I knew about it.

40

41 Q. After the meeting in December, and specifically  
42 2 December 2010, are you able to tell us the nature of the  
43 reports which were being communicated back to you by the  
44 officers involved in Strike Force Lantle as to their view  
45 of Detective Chief Inspector Fox's actions in terms of what  
46 was going on with Strike Force Lantle?

47 A. There were concerns that he may have been leaking

1 information to the media, which was of concern to everyone.

2

3 Q. I want to ask you this, and with the benefit of  
4 hindsight if I may. You've been in court for at least some  
5 of the time during the course of this Special Commission?

6 A. I have.

7

8 Q. You've also had access to some of the information in  
9 terms of what's been forthcoming to the Special Commission?

10 A. I have.

11

12 Q. You have familiarised yourself in other aspects of how  
13 Strike Force Lantle operated and the media leaks that  
14 occurred during that period. Is that so?

15 A. Yes.

16

17 Q. I was going to ask you a hindsight question if I may.  
18 With the benefit of hindsight, looking back on the  
19 information you have and what has emerged during the course  
20 of this Commission, are you able to say whether or not  
21 appointing Detective Chief Inspector Fox to any role in the  
22 investigation was an appropriate one or not?

23

24 MR COHEN: I object. That is a question unique --

25

26 MR SAIDI: With respect, this commander was cross-examined  
27 extensively about why she didn't appoint him. We now have  
28 a lot more information in terms of his actions and conduct  
29 and, to put it fairly, the commander who was challenged as  
30 to why she did not appoint him should be given the  
31 opportunity of indicating whether or not, based on the  
32 information available, it was a correct or otherwise  
33 decision.

34

35 MR COHEN: I maintain my objection.

36

37 MR SAIDI: We have heard your objection.

38

39 MR COHEN: Might I be heard?

40

41 THE COMMISSIONER: Yes, Mr Cohen.

42

43 MR COHEN: I need to be direct about this. In my  
44 respectful submission, this is re-examination under the  
45 guise of cross-examination - and I think I made the  
46 submission - this is a case where there shouldn't be any  
47 question of this type, where they are self-serving, having

1 regard to who the party is as to who the question is put.  
2 That's why it is a question for you. You have the evidence  
3 before you pursuant to the term of reference and you must  
4 decide such a question and what a witness in this situation  
5 can think - if it's admissible at all which I most  
6 respectfully doubt - it is nonetheless of little weight  
7 because the opinion that matters is yours. Those are my  
8 submissions.

9  
10 THE COMMISSIONER: Thank you, Mr Cohen. Mr Saidi, I think  
11 that Mr Cohen's objection has some force. We have had the  
12 evidence about the assistant commissioner's information  
13 about leaking and the suspicions that were held, and  
14 I think that that will be sufficient and the parties may  
15 make submissions arising from those at the appropriate  
16 time.

17  
18 MR SAIDI: Q. After the luncheon break, you indicated you  
19 have reflected further in relation to the matter relating  
20 to a search for a ministerial file?

21 A. Yes.

22  
23 Q. Having reflected upon that, can you give us your best  
24 recollection as to when it was you in fact were advised  
25 about the search that took place?

26 A. No, I can't recall.

27  
28 Q. In terms of a search by a commander in relation to any  
29 material held within any subordinate's office or working  
30 area, do you have a view from your position and your  
31 experience as to whether or not the commander is entitled  
32 to go in and search for whatever material he or she may  
33 require at any time?

34 A. The commander is entitled to go in and seek any  
35 material or search for that material in any office under  
36 his command. The only area that would need to be thought  
37 about was a personal locker, but the office, the drawers,  
38 the cupboards - sorry, personal locker, but the office and  
39 the drawers and everywhere else can be searched and a  
40 locker can be searched but there should be some separate  
41 records made about that.

42  
43 Q. I want to come back to the issue of "highly protected"  
44 for a moment, if I may. You were asked some questions  
45 about when it was that the designation of "highly  
46 protected" may have come to be applied to the  
47 investigation. I want to put this date and I want you to

1 assume it. I want you to assume that it was entered on the  
2 e@gl.i system as "highly protected" on 12 October 2010.  
3 Would you assume that for me for the moment?

4 A. Yes.

5  
6 Q. It having been entered on that day, on that  
7 assumption, do you consider it appropriate for it to be  
8 entered as a "highly protected" investigation or not?

9 A. Yes, I see no adverse comment that can be made by  
10 making it "highly protected".

11  
12 Q. Indeed, the extent of protection which is required in  
13 relation to an investigation, to what extent is that a  
14 matter of judgment of the officers involved, that is, those  
15 who are most involved with the investigation?

16 A. It's their decision to make based on the information  
17 that they have to hand at the time.

18  
19 Q. You were asked some questions also by my learned  
20 friend Mr Cohen in relation to your first becoming aware or  
21 your awareness in relation to Detective Chief Inspector Fox  
22 getting involved in the investigation?

23 A. Yes.

24  
25 Q. In terms of your knowledge of Detective Chief  
26 Inspector Fox back in the latter part of 2010, and I ask  
27 this question not in any demeaning sense, but were you  
28 aware that Detective Chief Inspector Fox actually was at  
29 Port Stephens at that time?

30 A. I had met him once, from memory, at an award ceremony  
31 within the first weeks of my becoming a region commander.  
32 He was there as a crime manager. It was at Nelson Bay. I  
33 don't think I had met him, and I certainly didn't know  
34 anything of him at all.

35  
36 Q. Prior to 25 November 2010, are you able to tell us  
37 whether or not there was any reason for you even to  
38 consider any involvement by him in the investigation?

39 A. No. I mean, I would have known he was the crime  
40 manager at Port Stephens, but that file was the first  
41 indication that he had some what appeared to be relevant  
42 information for the investigation. I thought it was -  
43 well, I received it - that it could assist and that's why  
44 I sent it on to the investigation. I had no other  
45 information, independent or otherwise, that he was involved  
46 in any current or past investigation until I received that  
47 report.

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Q. I want to ask you a series of questions, if I may ask you to comment in relation to it. Firstly, in your time as a region commander in the area, had you at any time come into contact with what could be described as members of the Catholic mafia?

A. No. One is - I think it's an emotive term. I don't know of anyone or had any indication or I haven't heard the term in line with my duties as the region commander.

Q. At region command at any time in your period in your tenure as a commander have you come across any situation where it appeared that any police officer was not willing to involve any member of the Catholic clergy or not --

A. No. Other than the information I've been asked about, the reports going from Detective Inspector Waddell and Detective Chief Inspector Tayler in relation to concerns at staffing levels and resourcing, there was no indication that anyone would not want to investigate this, and I would have followed up on that, had I got that indication, and sought a reason why.

Q. You liaised with and met with and were briefed by senior officers involved in Strike Force Lantle; is that correct?

A. I was.

Q. I want to ask you to make a comment about this. It's been suggested that Strike Force Lantle was set up to deliberately fail.

A. I would disagree with that.

Q. Can you tell us why you would disagree with such a suggestion?

A. Well, it was my intention from the very start that the matter should be investigated when I had to turn my mind to the information that had come across my desk. In all my briefings there was never any indication that there was any reticence by anyone to investigate and in fact the briefings that continued on with Detective Sergeant Little showed that every avenue of that investigation, as far as I could see, was being followed up, resulting in what I saw was an excellent quality of a brief that was submitted to the DPP. So I have no hesitation in saying that the investigators, and the team members, fully investigated the matter resulting in the brief going to the DPP.

1 Q. We've heard evidence that in terms of the operation  
2 manager Townsend's report, he, on the one hand, indicated  
3 the reasons why there should be an investigation and, on  
4 the other hand, indicated the reasons why an investigation  
5 may not be warranted.

6 A. Yes.

7

8 Q. Apart from Officer Townsend weighing up and indicating  
9 reasons why it may not be appropriate, can you tell us  
10 whether or not any other officer within your command at any  
11 time indicated that there should not be an investigation in  
12 relation to Roman Catholic-related offences?

13 A. I can't recall anyone telling me, and Inspector  
14 Townsend's advice to me is quite proper, to weigh up the  
15 options for and against a prosecution, and I took those  
16 matters into account and I saw no other inference that  
17 there was any intention to not investigate.

18

19 Q. Perhaps this more general question as well: during  
20 the course of Strike Force Lantle's investigation from late  
21 2010 right through up until the current time, have you, as  
22 the region commander, detected in any way any unwillingness  
23 on the part of any police officer to undertake a proper  
24 investigation?

25 A. No. In fact, I think, having the oversight and  
26 assistance of State Crime Command, an independent command  
27 assisting those investigators investigating, and Inspector  
28 Jacob being a highly recognised specialist in relation to  
29 these types of investigations, confirms my view that there  
30 was never any intention not to investigate and they sought  
31 outside assistance, which then was open to other commands  
32 to see the actions of my investigators and they at all  
33 times were appropriate.

34

35 Q. You are a former police prosecutor I think of 14  
36 years' standing and experience; correct?

37 A. Yes.

38

39 Q. Have you been given some information in relation to  
40 the contents of the Strike Force Lantle brief at least  
41 that's been forwarded to the office of the DPP?

42 A. I have. I had to approve the brief being forwarded  
43 down to our office of general counsel to the DPP. I had a  
44 briefing with Detective Sergeant Little. I had been  
45 updated with some of those briefings on particular areas of  
46 evidence and the way in which he had presented the evidence  
47 using modern electronic means and, yes, I proofread it to



1 go down to the DPP for consideration.

2

3 Q. To what extent were you satisfied with the methodology  
4 employed in the investigation?

5 A. I was at all times impressed by what Detective  
6 Sergeant Little had done. He had, as I say, used new  
7 innovative electronic means to be able to navigate through  
8 the brief. It was very extensive and it's always difficult  
9 for someone reading a brief to locate documents. He had it  
10 tabulated and electronically formed in such a way that one  
11 can manoeuvre through the brief very easily and get to any  
12 relevant evidence or any relevant statement or document  
13 that was referred to. I would say the way in which he has  
14 presented that brief and the contents of it was excellent.

15

16 Q. To what extent, if any, were you satisfied with his  
17 performance in terms of the investigation?

18 A. I think he put in 110 per cent. He worked extremely  
19 hard on it. He showed motivation and enthusiasm to do it.  
20 And he went - from what I can see, he investigated all  
21 avenues, all information and all possibility of evidence  
22 both in Australia and elsewhere.

23

24 Q. From your position as regional commander, to what  
25 extent were you at least satisfied, based on the briefings  
26 given to you and on the material which you yourself - to  
27 what extent were you satisfied the investigation was  
28 properly resourced and investigated?

29 A. I was very satisfied. I've spoken about it numerous  
30 times in cross-examination. When the officers did go on  
31 sick leave, that was a setback for us, but at all times -  
32 which is something you cannot control, and at all times it  
33 was a very - an excellent investigation.

34

35 <EXAMINATION BY MS LONERGAN:

36

37 MS LONERGAN: Q. Assistant commissioner, you were asked  
38 some questions by Mr Saidi regarding it being brought to  
39 your attention that Detective Chief Inspector Fox was a  
40 suspected leaker of police confidential information. Are  
41 you able to say when that was brought to your attention?

42 A. No, but when I did, I sent the information to  
43 Newcastle Local Area Command.

44

45 Q. Are you able to place it at all in terms of whether it  
46 was after the terms of reference for Strike Force Lantle  
47 that you saw, that is, April/May 2011, or before that?

1 A. It may have been before, because there were many  
2 articles, even from earlier, in 2010, prior to setting up  
3 Strike Force Lantle, and so after that date in September,  
4 when I organised for an investigation to commence, it could  
5 have been not long after that. I can't recall.

6  
7 Q. I understand there are a number of articles, but in  
8 terms of placing when you became aware that Detective Chief  
9 Inspector Fox was identified as the person suspected of  
10 leaking information, you are not able to be more specific?

11 A. No.

12  
13 Q. Are you able to say who it was that drew that to your  
14 attention, that it was Detective Chief Inspector Fox who  
15 was suspected of leaking information?

16 A. Detective Chief Inspector Humphrey.

17  
18 Q. You gave some evidence regarding a vague awareness of  
19 there being some newspaper reports addressing how  
20 investigations were going or not going in relation to these  
21 Catholic Church concealment matters. Can I show you an  
22 article from the Newcastle Herald dated 13 October 2010.  
23 There is one for the Commissioner. Are you able to say  
24 whether you saw this article at around the time it was  
25 published; that is, "Questions for police on church  
26 inquiries"?

27 A. I think I became aware a bit later, because I was not  
28 in the region at the time and the commissioner was  
29 performing my role. I don't think I was reading the  
30 Newcastle Herald very much on and off, so I wouldn't think  
31 I read it at the time - or we had some briefing.

32  
33 Q. Are you able to say how much later it was when the  
34 contents of the article, at least in your terms, were  
35 briefed to you? Was it still 2010, for example? Are you  
36 able to say it was before the meeting on 2 December 2010?

37 A. No, I don't know.

38  
39 Q. You don't know?

40 A. No, I would anticipate it was because that would have  
41 generated some requests from the Commissioner's office, of  
42 the media branch.

43  
44 Q. And matters of this nature, such as an assertion that  
45 police were not treating documents relating to certain  
46 matters with the seriousness they deserved, that could be  
47 a matter of concern to the commander of the Northern

1 Region, wouldn't it?

2 A. Yes.

3

4 Q. And it would be of concern to the minister?

5 A. Yes.

6

7 Q. In the last paragraph of that article, I've shown you,  
8 Assistant Commissioner Mitchell is quoted as saying:

9

10 *Newcastle City Local Area Command is*  
11 *conducting an investigation into the*  
12 *allegations surrounding the late Father*  
13 *Denis McAlinden and I have every confidence*  
14 *their investigation will be thorough and*  
15 *professional ...*

16

17 Do you see that there?

18 A. Yes.

19

20 Q. Can we take it the timing of the article is that you  
21 were actually on leave from your duties generally or were  
22 you just not in the Northern Region?

23 A. I would have been on leave or absent, so that  
24 Mr Mitchell was acting - formally acting in the position.

25

26 Q. I'll save some questions about that for the officer in  
27 the position at the time. Just going back to the issue  
28 about the leaking of confidential information, was the  
29 reason you didn't make inquiries regarding the leaking of  
30 confidential information referred to in the articles you  
31 became familiar with because you had an understanding as to  
32 who the source of the leaking information was?

33 A. No, there was - there was a matter that was referred  
34 to Newcastle Local Area Command for investigation in  
35 relation to leaking at some stage. There was a matter  
36 referred to Newcastle Local Area Command in relation to  
37 leaking of information. I left it up to Superintendent  
38 Galton to deal with that.

39

40 Q. Did you become aware that Detective Chief Inspector  
41 Fox was in fact consulted on a number of occasions and  
42 asked to provide information to assist the investigation  
43 that was Strike Force Lantle?

44 A. I was.

45

46 Q. Do you recall being consulted in relation to answering  
47 certain questions that were posed by the Lateline program

1 in November last year?

2 A. Yes.

3

4 Q. And you approved those answers to be given in that  
5 public forum to Lateline?

6 A. I did.

7

8 Q. You were briefed about relevant matters so that you  
9 could satisfy yourself that the published answers were  
10 correct?

11 A. Certainly when you say "briefed", I'll say, yes, I was  
12 briefed, but it was brief.

13

14 Q. You were briefly briefed?

15 A. Yes.

16

17 Q. And you did, however, given the importance of the  
18 matters that were raised, want the information put into the  
19 public domain on behalf of the Police Service to be  
20 accurate?

21 A. Yes.

22

23 Q. I'll show you a copy of the transcript to the Lateline  
24 program. The part that I'm directing your attention to is  
25 the part that addresses the New South Wales - under the  
26 heading "NSW Police Statement" on the second-last page.  
27 You see question 6, which poses this question:

28

29 *Why was Chief Inspector Peter Fox asked to*  
30 *cease investigating the clergy matter and*  
31 *hand over all his evidence to other police.*

32

33 Do you see that?

34 A. Yes.

35

36 Q. Do you see that the answer that is given talks about  
37 Strike Force Lantle being established, doesn't it?

38 A. Yes.

39

40 Q. But it doesn't say, does it, that Chief Inspector  
41 Peter Fox was not asked to cease investigating the clergy  
42 matter. Would you agree with me? Just read that answer  
43 that has been given in that formal response?

44 A. Yes, that's right.

45

46 Q. Are you able to recollect now which officers it was,  
47 who briefed you so that that question could be responded

1 to?  
2 A. It would have been through Superintendent Gralton,  
3 I think, through the commander and through the crime  
4 manager.

5  
6 Q. Who was the crime manager?  
7 A. Mr Humphrey.

8  
9 MS LONERGAN: Commissioner, I tender that transcript.

10  
11 THE COMMISSIONER: Thank you, Ms Lonergan, the transcript  
12 from the Lateline interview of 8 November 2012 together  
13 with the questions answered by Assistant Commissioner York  
14 for Lateline will be admitted and marked exhibit 12

15  
16 **EXHIBIT #12 LATELINE TRANSCRIPT, 8/11/2012, PLUS QUESTIONS**  
17 **ANSWERED BY ASSISTANT COMMISSIONER YORK**

18  
19 MS LONERGAN: Thank you, Commissioner, and might Assistant  
20 Commissioner York be excused?

21  
22 THE COMMISSIONER: Thank you very much for your evidence,  
23 assistant commissioner. You are excused now.  
24 A. Thank you, Commissioner.

25  
26 <THE WITNESS WITHDREW.

27  
28 MS LONERGAN: It has been drawn to my attention,  
29 helpfully by Mr Cohen, that we ought to mark that October  
30 2010 Newcastle Herald article for identification at least  
31 at this stage.

32  
33 THE COMMISSIONER: Thank you. That will be MFI5.

34  
35 **MFI #5 NEWCASTLE HERALD ARTICLE, DATED 13/10/2010**

36  
37 MR HUNT: I recall Mr Tayler. Mr Tayler and I seem to be  
38 confined to the late-late shift, Commissioner

39  
40 <BRAD TAYLER, resworn: [3.30pm] .

41  
42 <EXAMINATION BY MR HUNT:

43  
44 MR HUNT: Q. For the record, your name is Brad Tayler.  
45 You are a former detective inspector of police?  
46 A. Detective chief inspector, actually, but close enough.

47

1 Q. I'm sorry. Yesterday afternoon, you were giving some  
2 evidence-in-chief and were are about to pick that up?

3 A. Yes.  
4

5 Q. Could you keep with you your statement and other  
6 documents you have up there and then would you, Mr Tayler,  
7 acquire again volume 1 of 3. Do you have that?

8 A. Yes.  
9

10 Q. Just turn again, if you would, to tab 25, and you'll  
11 see there some of your diary entries?

12 A. Yes.  
13

14 Q. We established that the page which is page 75 on the  
15 bottom is irrelevant - it won't be part ultimately,  
16 Commissioner, of the tender - but do you see that the next  
17 entry before page 75 is a diary page that relates to  
18 22 November 2010?

19 A. Yes.  
20

21 Q. Would you look at your statement. Do you see that  
22 when you commenced to deal with diary entries at paragraph  
23 13, you'll see that the diary entry that you've summarised  
24 there relates to the telephone call you gave evidence about  
25 yesterday between yourself and a solicitor Tony Fuller from  
26 South Australia on 20 May 2010, do you see that?

27 A. Yes.  
28

29 Q. I just want to show you a bundle of diary entries,  
30 being diary entries from 25 May 2010 to 31 May 2010, 2 June  
31 2010, 27 September 2010, 25 October 2010, and 18 November  
32 2010. I have a copy for the witness, Commissioner, and  
33 I've got a copy for you, which I now seek to tender once  
34 the witness identifies that they are the other diary  
35 entries that he looked at when he was preparing his  
36 statement of 6 May 2013.

37 A. Yes, they are my entries.  
38

39 THE COMMISSIONER: The diary entries of former Detective  
40 Chief Inspector Tayler are admitted and marked exhibit 13.  
41

42 **EXHIBIT #13 DIARY ENTRIES OF FORMER DETECTIVE CHIEF**  
43 **INSPECTOR TAYLER**  
44

45 MR HUNT: Q. Where we concluded your evidence yesterday,  
46 Mr Tayler, was you then taking the Commissioner through the  
47 contents of a number of items that were found at tab 32 and

1 following.

2 A. Yes.

3

4 Q. And you agreed with me yesterday - I just want to  
5 orient you with the spot you were at in your evidence -  
6 that tab 38 related to a call that you had from Paul Jacob  
7 from section crimes, thereafter you had made a phone call  
8 to Mr Fuller and you agreed with Mr Fuller's summary of the  
9 conversation in his email to somebody else behind tab 39  
10 and you agreed with the proposition, when looking at the  
11 short report by you behind tab 38A, that there was some  
12 connection with the telephone call that you had had with  
13 Fuller and realising the extent of some of the matters  
14 caught by this matter in your determination to recommend  
15 that the matter would go to State Crime. Do you remember  
16 that evidence?

17 A. Yes.

18

19 Q. What was your apprehension about what became of the  
20 file after you had sent off your recommendation dated  
21 20 May 2010 that's behind tab 38A?

22 A. What was my apprehension?

23

24 Q. What was your apprehension as to what did you think  
25 had happened to the file?

26 A. I thought the file had gone to State Crime Command, to  
27 the Sex Crimes.

28

29 Q. I want to take you in that regard to a series of  
30 emails that are behind tab 41. To make sense of the  
31 chronological order of that material, could you go first to  
32 the page that has page 149 at the base of the page?

33 A. Yes.

34

35 Q. Do you see that?

36 A. Yes.

37

38 Q. That represents an email to you by Joanne McCarthy  
39 providing some further material in relation to a person who  
40 has the pseudonym [AK]?

41 A. Yes.

42

43 Q. And looking at your statement in paragraph 16 where  
44 you summarise your diary entry of 31 May 2010, you'll see  
45 that you have recorded there that Joanne McCarthy, from the  
46 Newcastle Herald, telephoned you on 31 May 2010 re what  
47 you've summarised as the church issues?

1 A. Yes.  
2  
3 Q. The church issues related to this investigation or the  
4 paperwork in relation to it, to your mind; is that right?  
5 A. Yes.  
6  
7 Q. You say you provided nil comment?  
8 A. Yes.  
9  
10 Q. But that Ms McCarthy informed you that she had another  
11 victim and would forward material about that by email in  
12 summary?  
13 A. Yes.  
14  
15 Q. And then the material that is under cover of  
16 Ms McCarthy's email to you of 1 June seems to be the  
17 material that was referred to in that telephone  
18 conversation?  
19 A. Yes.  
20  
21 Q. And the character of the material was effectively  
22 Ms McCarthy providing more what might be described as  
23 source documentation for you to use in any investigation  
24 moving forward?  
25 A. Yes.  
26  
27 Q. And then I just want you to look at the top of the  
28 page where you have, by email, forwarded Ms McCarthy's  
29 email and that's addressed to Paul Jacob at a certain email  
30 address and the copy there says Jaco, which I understand to  
31 be Paul Jacob's nickname?  
32 A. Yes.  
33  
34 Q. "Jaco, I assume you have the file I forwarded re  
35 Catholic church" - that's a reference to the recommendation  
36 we were discussing a short time ago?  
37 A. Yes.  
38  
39 Q. And:  
40  
41 *Here is more information re [Archbishop*  
42 *Wilson] ...*  
43  
44 And some reference to the Royal Commission:  
45  
46 *In my opinion, this should be handled by*  
47 *SCC ...*



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Meaning State Crime Command?

A. Yes.

Q. :

*... as it requires investigations by  
specialists in the field.*

A. Yes.

Q. Why did you send that material - it might seem a silly question - to Paul Jacob?

A. I thought he had the file.

Q. Turn now forward in the email chain to page 146 on the bottom.

A. Yes.

Q. Do you see at the bottom two-thirds of that page, on 2 of June, in other words, the same day that you had forwarded the material to Paul Jacob at 7.54am, at 12.29pm there is a response that, effectively, in summary you would agree, is Mr Jacob saying that he hadn't yet received the file, but he would assess the material when the file arrived and he'd let you know when the file arrived, in summary?

A. Yes.

Q. In the mid point of page 146, you then respond to him at 14.42 in the afternoon saying:

*File is with Region who are forwarding to  
CET re a decision on whether we investigate  
these issues 15 years of age.*

A. Yes.

Q. Do you have a memory of what happened between Jacob telling you that he hadn't received the file at State Crime Command and what you did to get that piece of information that you are communicating to him in the middle of the file?

A. When he said he didn't have the file, I got someone to look up to see where the file had gone because I had the TRIM number, and I was told the file was still with region, so then I told Jacob, "This is where it is."

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Q. Could you illuminate the Commissioner what is meant by CET and the process that you understood was underway at region at that time?

A. Yes. I think, and I'm not 100 per cent sure, but I think it's the Commissioner's executive team. I'm a bit rusty on all this, but I think Tony was sending a file down or he, Tony Townsend, intended to send a file down as a general issue as to, you know, where these matters go and so forth.

Q. I accept that you can't go into the mind of Mr Jacob and I don't want you to try do that in answering this question, but then if you would not mind going to his almost immediate response to you where he says:

*Thanks, mate, that's a very sensible approach.*

I'm not too concerned about that part. Then he says:

*May solve all the problems.*

Do you know in terms of other dialogue or communication you had with him what "all the problems" referred to?

A. I don't believe so, no.

Q. Were you aware of things that you would consider problems in relation to this matter looking back on it now?

A. Problems with the investigation you mean?

Q. Yes.

A. The issue with the investigation, I suppose, or what we talked about as being possible problems was that a number of the links in the chain were deceased.

Q. So in terms of the primary offenders, as it were?

A. Yes.

Q. Did any of the problems attach to there being interstate personnel or high-ranking church officials or things like that?

A. That was a problem from my point of view, yes.

Q. Why was that a problem?

A. As I said yesterday, I thought the fact that it was such a high-ranking member of the clergy would take it up

1 to a level that it would be best handled by State Crime  
2 Command. That was my understanding it was one of their  
3 charters. That's why I said yesterday that I believed it  
4 could become a highly political issue and it's best, in my  
5 opinion, to be handled by State Crime Command.  
6

7 Q. Am I right in thinking that you were thinking that a  
8 specialist command like State Crime Command ought be  
9 involved because of the sensitivities rather than because  
10 of the challenges of the investigation on the ground  
11 itself?

12 A. Yes. I don't think it was a particularly - well,  
13 I think it's an investigation Newcastle could have handled,  
14 but I could see that there could be problems because of the  
15 position of the particular Archbishop Wilson.  
16

17 Q. In response to those inquiries that you made and then  
18 you communicated to Paul Jacob, would you then look at the  
19 email that is behind tab 40. Bearing in mind that you  
20 communicated with Mr Jacob at 14.42 about where the file  
21 was and that it was to go to CET, do you see there that at  
22 14.41 you forward the same material that Ms McCarthy had  
23 forwarded to you in relation to [AK] and others to  
24 Mr Townsend?

25 A. Yes.  
26

27 Q. You say this:  
28

29 *Additional information from Newcastle*  
30 *Herald journalist as per our conversation.*  
31 *Can you add to file please.*  
32

33 Did you understand that, because of his then current role,  
34 Mr Townsend had some control over the file at region at  
35 that time?

36 A. I think I'd rung him and he had the file.  
37

38 Q. I was going to ask you about that. The fact you said  
39 "as per our conversation", would that suggest that it was  
40 Mr Townsend that you had in fact chased up for the fact  
41 that the file was at region?

42 A. Yes, it's in my statement at paragraph 17.  
43

44 Q. What I'm really trying to do, Mr Tayler, is just link  
45 what you say in your statement, which is already in  
46 evidence, to some of the originating documents. Are you  
47 now able to remember at what stage you understood that the

1 file was coming back to Newcastle City LAC and that you  
2 would need to allocate some investigative resources to it?  
3 A. I think it was the start of September, but I'd have to  
4 see on what day in my file it was returned, but that's my  
5 recollection.

6  
7 Q. I'll come back to some of the particular dates in due  
8 course, but if you accept that one of the items that you  
9 were shown - when you were asked by the Crown Solicitor's  
10 Office to prepare a statement - was an email that you were  
11 copied into addressed to Kirren Steel from DCI Fox and that  
12 was dated 18 September 2010.

13 A. Yes.

14  
15 Q. But the material seems to suggest that Detective  
16 Sergeant Steel hadn't physically started to work on the  
17 investigation at that time. Does that assist you at all in  
18 terms of whether there was some allocation of future  
19 resources to the matter before Steel was physically in a  
20 position to take up investigative work?

21 A. Yes.

22  
23 Q. Which personnel, apart from yourself as crime manager,  
24 would have been involved in September 2010; with any big  
25 investigation or strike force that came into the command or  
26 started in the command, who would be responsible for  
27 working out which personnel should be responsible for a  
28 strike force - yourself as crime manager, and who else in  
29 the chain of command?

30 A. My commander, Superintendent Mitchell, possibly Senior  
31 Sergeant Quinn.

32  
33 Q. Is that because Senior Sergeant Quinn at that time  
34 was, as you described in evidence yesterday, the  
35 investigations manager reporting to you?

36 A. Yes.

37  
38 Q. Is it the situation that the investigations manager  
39 has some more intimate knowledge of which detectives had  
40 what caseload?

41 A. Yes, he would have a better understanding than I would  
42 have had.

43  
44 Q. I led some evidence yesterday just stepping you  
45 through the different ranks that you had had and the  
46 progression that you had made through the force until the  
47 time of your going off. Could you give the Commissioner

1 some idea of the range of investigations that you had been  
2 involved with as a detective before you became crime  
3 manager at Lake Macquarie - not an exhaustive list but some  
4 idea so the Commissioner can assay your professional  
5 experience as a working detective before you became a crime  
6 manager?

7 A. Yes. Every type of investigation there was - sexual  
8 assaults, armed robbery, murder, kidnappings, so forth.

9

10 Q. I think you had particular involvement as a crime  
11 manager with the prosecution of Milton Orkopoulos and you  
12 gave some brief evidence about that?

13 A. Yes, when I was at Lake Macquarie.

14

15 Q. You were awarded some particular commendation in  
16 relation to your service particularly relative to that  
17 investigation. What was that citation?

18 A. In regards to the Orkopoulos matter?

19

20 Q. Yes.

21 A. I got a region commendation, but I also received an  
22 Australian Police Medal in the Australian Day Honours List  
23 in 2011, which I assume was part of that - from part of  
24 that investigation.

25

26 Q. I want you now to tell the Commissioner the thinking  
27 that you had relative to the investigation that ultimately  
28 became Strike Force Lantle - what thinking you employed and  
29 accepting that was in collaboration with your commander -  
30 about the kind of staffing required, both the staffing  
31 level and the kind of resources that ought to be available  
32 initially in relation to this investigation.

33 A. I don't understand what you are asking.

34

35 Q. You had to put people on the job.

36 A. Yes.

37

38 Q. What kind of people were you looking for and what did  
39 you and Mr Mitchell have in mind when you were making those  
40 decisions?

41 A. We would have been looking at the workload at the time  
42 in the detectives' office and who would have been,  
43 I suppose, in a position to do the inquiry and who would  
44 have been at a sufficient rank - I suppose detective  
45 sergeant level would be preferable - to run the  
46 investigation. So we would have had, I assume, discussions  
47 in regards to - we did have discussions in regards to who

1 to allocate to that investigation.

2

3 Q. Ultimately you, in collaboration with Mr Mitchell,  
4 determined to appoint Detective Sergeant Steel?

5 A. Yes.

6

7 Q. To head the investigation?

8 A. That's correct.

9

10 Q. Casting your mind back to when you started at  
11 Newcastle City LAC in 2008 - is that right?

12 A. Yes, middle of 2008.

13

14 Q. Can you say now what role Detective Sergeant Steel was  
15 undertaking when you first arrived at Newcastle City?

16 A. I'm pretty sure that if not all of the time that I was  
17 at Newcastle City, certainly the vast majority, she was  
18 performing the role of acting inspector pretty well the  
19 whole time, from memory, that I was at Newcastle from 2008  
20 onwards - mid 2008 onwards. She was housed predominantly  
21 in the office next door to where I was at Waratah and she  
22 also performed duties relieving me as crime manager in the  
23 time that I was at Newcastle. So I suppose I had close  
24 contact with her and observed her over a lengthy time in a  
25 high position in the Police Service, the Police Force.

26

27 Q. When you came to have somebody selected to act up in  
28 your position while you were on leave, would their level of  
29 experience in terms of detective work and so on be one of  
30 the criteria as to who might act up from an acting  
31 inspector to somebody acting as a crime manager?

32 A. Yes, definitely.

33

34 Q. What sort of things did you have regard to in terms of  
35 Steel's background when you decided she should act up as a  
36 crime manager in your stead?

37 A. That she should relieve in my position?

38

39 Q. Yes.

40 A. My understanding was that Kirren had a lengthy time in  
41 criminal investigations and she was quite capable of  
42 performing my role.

43

44 Q. Was there any particular reason that related to  
45 caseload that you took into account with Mr Mitchell in  
46 selecting Steel for the lead investigator role in relation  
47 to the matter that ultimately became Strike Force Lantle?

1 A. Yes. At the time that we allocated to her, she was  
2 about to go to Newcastle City detectives as a detective  
3 sergeant. She wouldn't have had any, or certainly very  
4 little, if any, cases when she arrived there, so she was in  
5 a position where she had either no other cases at that time  
6 or little amount of cases compared to everybody else in the  
7 detectives' office, so that would have been a major factor  
8 as to why she was given the job.

9

10 Q. Why would that be a major factor?

11 A. Because she would be right to start on it pretty well  
12 straight away.

13

14 Q. Why did you select Senior Constable Freney to work  
15 alongside Steel?

16 A. I've known Detective Freney since my time at Lake  
17 Macquarie. I was probably responsible for bringing him  
18 across to Newcastle and he's a brilliant investigator,  
19 so --

20

21 Q. Did you steal him from DCI Waddell?

22 A. Quite possibly, yes. I had the highest, I suppose,  
23 faith in his ability. I had seen him as a detective and  
24 I rate him extremely highly. My view was that he would be  
25 a great support for Kirren to get back into detectives.

26

27 Q. Would you abandon volume 1 of 3, Mr Tayler, and  
28 acquire volume 2 of 3. Could you turn, please, to tab 66.  
29 Do you see from the header at the top of page 254 that that  
30 is an email from Mr Townsend to you, with Detective Chief  
31 Inspector Humphrey copied in as well? Do you see that?

32 A. Yes.

33

34 Q. At the time that email was sent on 20 September 2010,  
35 was Mr Townsend either operations manager or perhaps even  
36 acting up in another role but at region? Does that make  
37 sense in terms of it being forwarded to you?

38 A. It does, yes.

39

40 Q. At that time you would have been still crime manager  
41 at Newcastle City?

42 A. Yes.

43

44 Q. Do you know why Wayne Humphrey would have been copied  
45 in on that in terms of the different roles?

46 A. I assume he was the acting commander at Newcastle at  
47 the time. That would be my understanding of it.

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Q. Is the character of the document an email to you with some commentary from Mr Townsend, but copying some material forwarded by Joanne McCarthy to Mr Townsend on 17 September 2010?

A. Yes, and then he has forwarded it to me.

Q. Does that helpfully suggest to you that, by that time, you are likely to have had the investigation that ultimately became Strike Force Lantle at least on your desk?

A. Quite possibly, yes.

Q. Broadly, the character of that email that has been provided by Ms McCarthy - if you just look to the tab immediately before, in other words, tab 65, there is another email from Ms McCarthy also forwarded on to you from Mr Townsend - is some further material that Ms McCarthy wanted to draw to attention in relation to some other material that she thought might be of assistance in relation to investigations in relation to the McAlinden matter generally?

A. I believe so, yes.

Q. I want to ask you something about the last paragraph of Mr Townsend's email to you. He says:

*I do not intend to respond to Joanne McCarthy about the information ...*

A. Where is this?

Q. We're back on - jumping around I apologise - behind tab 66, the last paragraph of Mr Townsend's email to you?

A. Yes.

Q. He says:

*I do not intend to respond to Joanne McCarthy about the information and if contacted I will be saying that it has been forwarded to Newcastle City for their information (Not Investigation).*

Did you take that to be an instruction from Mr Townsend that this was not to be investigated?

A. No.



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Q. Did you have any discussions with him around that time that suggested that you should not be investigating this sort of material if it was forwarded to you from region?

A. No.

Q. I now want to take you a couple of tabs earlier again to tab 64. Just review that, if you would - both the first page of it and the second page of it - and then I want to ask you some clarifying questions about it. Does the back page - in other words, the oldest email in the email chain - seem to be an email from Detective Chief Inspector Peter Fox, crime manager Port Stephens LAC to Kirren Steel?

A. Yes.

Q. And in the context suggesting that DCI Fox has become aware from conversations with DCI Waddell and Mr Rae that Steel was about to be allocated a file concerning alleged paedophilia and cover-up within the Catholic Church. Do you see that?

A. Yes.

Q. The context in some of that email was that DCI Fox appears to be saying to Steel that he had been involved with a number of investigations in the late 1990s and 2000s; that he had a number of statements concerning McAlinden; and that he wanted to get together to have a conversation with Detective Sergeant Steel upon his return from leave on 18 October 2010.

A. Yes.

Q. If you turn to the page that represents the next link in the email chain with page 250 on the bottom, do you see there that Detective Sergeant Steel has sent an email to you to Max Mitchell and to Wayne Humphrey? I don't mean any disrespect, I'm just reading the header, which has the names in that way. It says:

*From memory one of you told me to let you know if Peter Fox contacted me in relation to this [matter] ...*

Et cetera. Had you let Detective Sergeant Steel know that she ought to be in touch with you if Peter Fox was in contact with her?

A. I could have, but I don't think I did.

1 Q. Is that likely in the context of this matter to be  
2 something that would have stayed in your memory had you had  
3 that kind of conversation with her before she had even  
4 started to work the file?

5 A. Not really, but I mean I don't remember saying it, but  
6 I could have but then again one of the other guys on the  
7 list there, Superintendent Mitchell or Chief Inspector  
8 Humphrey could have said it as well. I don't recall saying  
9 it to her.

10

11 Q. In any event, the last email in the email chain is a  
12 response from Mr Humphrey to Steel copying you in, and  
13 copying in Mr Mitchell and Mr Townsend?

14 A. Yes.

15

16 Q. And the sum of that email is that Detective Sergeant  
17 Steel was not to be back in touch with DCI Fox until you  
18 and Humphrey had had a discussion about it and an  
19 indication that Humphrey would also want to discuss the  
20 matter with Mr Townsend. Can you now remember, accepting  
21 that it's a while since you've had contact with all the  
22 paperwork, whether you had a discussion with Wayne Humphrey  
23 relative to this concern about Steel having direct  
24 communications with DCI Fox?

25 A. Quite possibly he would - that would be appropriate,  
26 yes.

27

28 Q. Can you remember anything now you can enlighten the  
29 Commissioner about as to the tenor of any of those  
30 conversations - why there would be discussions about  
31 Detective Sergeant Steel having to exercise some caution in  
32 having discussions with DCI Fox?

33 A. I'm not sure if you want me to go there, but --

34

35 Q. Not if it's a matter where you think it's appropriate  
36 to exercise some caution about that response, I won't ask  
37 you.

38 A. Well, it would be my opinion in regards to certain  
39 matters and certain people, I suppose.

40

41 Q. I don't want you to go into some of the areas. Stop  
42 there. Instead we'll go backwards to another email that  
43 I've just missed in going through the chronological survey  
44 and I apologise, Mr Tayler. Could you look at 62C.  
45 I might just have a moment with my friend Mr Cohen while  
46 the witness is turning that up. I'm grateful,  
47 Commissioner.

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(Mr Hunt and Mr Cohen confer)

MR HUNT: Q. Have you turned that one up now?

A. Yes, I've read 62-something-or other.

Q. Yes. In summarising the email chain, that seems to be that personnel at region, including Mr Townsend and then perhaps some involvement with police media liaison, were contemplating putting out some kind of statement in relation to the investigation that you had received back and were about to undertake; correct?

A. Yes.

Q. The text that seems to be here addressed to Mr Mitchell, who was at that time your commander; correct --

A. Yes.

Q. -- is:

*If my guys are running an investigation, why is region and others doing media releases?*

*Why would we EVER state we are conducting an investigation. That is the most stupid response --*

I think a bit of the text is cut off, but --

*[in giving] those involved a heads up.*

Can you just explain that. It is in fairly plain English, as it is, but --

A. I'm quite furious about any prospect of us telling the media or any person that we're about to conduct an investigation. I mean commonsense would dictate and always has that you wouldn't release that sort of stuff and you can see I was furious.

Q. You go on to say:

*Our response from the start has been that NSW Police does not [comment on whether or] not --*

1 I think it probably is --

2

3 *[we're] conducting an investigation. Why*  
4 *would this change?*

5

6 A. Yes.

7

8 Q. Is that on the same basis as the evidence you've just  
9 given?

10 A. Yes, it's very hard to conduct an investigation if  
11 they already know that you are doing it. If you just want  
12 some investigative strategies, you destroy the whole  
13 investigation.

14

15 Q. Then you say this:

16

17 *If this goes out --*

18

19 Which I assume to be the media release?

20

21 A. Yes.

22

23 Q. :

24

25 *I will be recording this.*

26

27 By which I assume it to be the email?

28

29 A. Yes.

30

31 Q. On e@gl.i; is that right?

32

33 A. Yes.

34

35 Q. :

36

37 *And will have some major reservations about*  
38 *this.*

39

40 A. Yes.

41

42 Q. Does recording the email on e@gl.i represent a way of  
43 communicating to the chain of command including to region  
44 that you have some operational concerns about media  
45 releases about your investigation. Is that why you are  
46 saying you put it on e@gl.i?

47

48 A. No, it was to cover myself and my investigators  
49 basically. "If this thing goes pear shaped because someone  
50 is talking to the media, then this is crazy stuff" - that  
51 is what I said.

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Q. It's designed to have documented on e@gl.i the source of the media commentary, as it were?

A. Yes, to document on e@gl.i my concerns as to why we would be telling the media or anyone in the media that we are conducting an investigation. I mean, it's fundamentally ridiculous, in my opinion. That's not just in relation to this matter. It's in relation to just about every investigation you do.

Q. Your sensitivity about media briefings and media involvement was not limited to this particular matter but was a general position in terms of investigations where there wasn't some kind of benefit to be obtained from media interaction; is that right?

A. Yes. This email relates to Strike Force Lantle or what became Strike Force Lantle, but that's my view across all investigations, whether it's Lantle or not, that the investigation comes first. The media, I'm sorry, is unlucky.

Q. As Officer Steel and then Quinn, as her investigations manager, commenced to take some steps in relation to this matter from time to time, there were investigators' notes created. In the normal course they would be placed on e@gl.i for access by the people who were authorised to access records about this particular investigation; is that right?

A. Yes.

Q. I'm not going to take you to them one by one, but did you have occasion to check the investigative steps that Kirren Steel commenced to take in relation to the matter when she started to actually work on the investigation?

A. Yes. I reviewed some of the investigators' notes that were put on it and so forth.

Q. There is a couple of particular notes that I do want to take you to. First of all, you detail some material in your statement about some communications and investigations that Detective Sergeant Steel undertook and they are particularly set out in - I withdraw that. Just go to paragraph 24 of your statement, if you would, Mr Tayler.

A. Yes.

Q. If you go to tab 80.

A. Yes, I haven't seen it since I left, no.

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Q. Would you just read that. When you say you haven't seen it, are you limiting that comment to you haven't seen it relative to preparing to give evidence in these proceedings?

A. Well, I know I haven't seen it since I left the police, but I'm --

Q. Read it and just tell us if you are likely to have seen it back then around the time of its creation.

A. Yes, I've read that.

Q. Looking back now, can you remember from your own memory, first of all, why it was, from your point of view, that you were meeting with Ms McCarthy and Mr Morrison?

A. Well, I don't know about Mr Morrison. I was meeting with Joanne McCarthy because my commander had asked me to do that. My information was or my understanding was she was going to give us some additional information or victims' or witnesses' names. That was my understanding. Morrison, I didn't even know who he was until he turned up the police station.

Q. Did you understand, as the meeting that's detailed in the investigation notes proceeded, that Ms McCarthy had come with a different intention in mind, or wanting to deal with something else as well as providing material?

A. Yes. She obviously had a couple of different objectives from her point of view I think.

Q. I want to ask you first, having read it now, would you say that you read the investigator's note back at the time when it was prepared by Detective Sergeant Steel, or when it was entered by her on to e@gl.i?

A. I don't recall but I would have, because my nature would be that it was an important meeting and again I made sure we got it right and put it on e@gl.i again to cover the investigation.

Q. Is it generally the situation just at meetings that involve either just exclusively police personnel or police personnel and civilian personnel that somebody more junior would take notes of that meeting while you are conducting the meeting if you are the most senior officer there?

A. Could do or we could just type up straight after the meeting - either/or. I'm not sure if anyone took notes or not, but I know that the investigator's note was done. I'm

1 pretty sure it was probably done on the day.

2

3 Q. But you don't have a recollection whether Detective  
4 Sergeant Steel took notes as the meeting was proceeding or  
5 not?

6 A. No, I don't know.

7

8 Q. Is there any way that one can tell, absent looking at  
9 registrations on e@gl.i, when the investigator's note was  
10 prepared on 26 November 2010?

11 A. When on that date?

12

13 Q. Yes. Or only if it's dated and - only if it's timed  
14 in this case, which it's not; is that --

15 A. If it was put on e@gl.i on that day, or whenever it  
16 was put on, there should be a record of when it was put on  
17 the e@gl.i system, yes, that time and date.

18

19 MR HUNT: Part of the purpose of this, Commissioner, is to  
20 have the witness see a chronology by him that was a bit  
21 more contemporaneous about some important issues.

22

23 Q. I want to show you a document. I have a copy that  
24 I propose to tender once you have seen it?

25 A. I have two here, but yes I'm aware of that document.  
26 I have another one here if you want this one back.

27

28 Q. I might give that one back to your lawyer, Mr Tayler.  
29 First of all, just a reminder from yesterday, having regard  
30 to the pseudonym list, you'll see that the item has been  
31 redacted in terms of the complainant?

32 A. Okay. Mine wouldn't be, sorry.

33

34 Q. It's important that you see - perhaps I'll give it  
35 back to you.

36 A. Yes, I see that.

37

38 MR HUNT: I'll tender it and then commence to ask some  
39 questions about it.

40

41 THE COMMISSIONER: The document in relation to the  
42 complaint by [AL] apparently written by this witness,  
43 Mr Brad Tayler, and dated 10 December 2010 will be admitted  
44 and marked exhibit 14.

45

46 **EXHIBIT #14 DOCUMENT IN RELATION TO THE COMPLAINT BY [AL]**  
47 **APPARENTLY WRITTEN BY MR BRAD TAYLER, DATED 10/2/2010**

1  
2 MR HUNT: Q. Would you read to yourself the background  
3 material and then the material that is set out in relation  
4 to the chronology under issue 1.  
5 A. All of issue 1?  
6  
7 Q. If you would, just the chronology down to the next  
8 heading, which is issue 2.  
9 A. Yes, I've read that.  
10  
11 Q. First of all, is the character of this a report by you  
12 as the crime manager in relation to a complaint made by  
13 [AL] in relation to Detective Sergeant Steel?  
14 A. Yes,  
15  
16 Q. The particular focus was [AL]'s concerns that were the  
17 subject of the complaint in relation to her feelings about  
18 Detective Sergeant Steel's interactions with her?  
19 A. Yes.  
20  
21 Q. I don't intend to go to the source documentation, but  
22 does it seem to you, in setting out the chronology on  
23 page 1 and page 2, that you had regard to documents caught  
24 in the police system then available to you in making your  
25 way to set out that chronology?  
26 A. Yes, investigator's notes on e@gl.i.  
27  
28 Q. Looking back now, accepting that your memory is  
29 probably enhanced by reading this material, does it seem to  
30 you to be an accurate chronology of events in terms of  
31 particularly which police personnel had contact with [AL]  
32 from time to time?  
33 A. Yes.  
34  
35 Q. Reading then to yourself from below issue 2, and then  
36 particularly the "Comment" material at the bottom of  
37 page 2, would you just read that and then I'm going to ask  
38 you a couple of questions about that.  
39 A. Yes, I've read that.  
40  
41 Q. You'll see that at the bottom of page 10 you indicate  
42 that you --  
43 A. Bottom of page where?  
44  
45 Q. Sorry, at the bottom of page 2, under "Comment", that  
46 on 9 December 2010 you contacted [AL] in an attempt to  
47 discuss her complaint?



1 A. Yes.  
2  
3 Q. And you made some observations that at that time you  
4 found [AL] to be extremely aggressive and difficult to deal  
5 with.  
6 A. Yes.  
7  
8 Q. Was that a personal attendance or a telephone  
9 attendance?  
10 A. Telephone.  
11  
12 Q. Apart from indirect contact, in the sense that you  
13 might have heard some things by way of representations on  
14 [AL]'s behalf from Joanne McCarthy, was your only actual  
15 content with [AL] the telephone call on 9 December 2010?  
16 A. Yes.  
17  
18 Q. You see that there are notes of various conversations,  
19 either in person or on the telephone with [AL], by  
20 Detective Sergeant Steel commencing on 25 October 2010 and  
21 then four dates in early November 2010?  
22 A. Yes.  
23  
24 Q. And then some contact Detective Sergeant Steel had  
25 with some relatives of [AL]?  
26 A. Yes.  
27  
28 Q. Then Detective Senior Sergeant Quinn had some contact  
29 with [AL] on 18 November 2010. Did you direct Detective  
30 Senior Sergeant Quinn to have that contact?  
31 A. I don't know if I directed him. We would have  
32 discussed it. I assume either I asked him to do it --  
33  
34 Q. I don't necessarily mean direction in terms of a  
35 formal police direction, but did you ask him to do that?  
36 A. Yes, I may have or he may have said, "Look, you know,  
37 there were difficulties", and he may have said, "I'll try  
38 and ring her or contact her."  
39  
40 Q. Would it be unusual that an investigations manager  
41 would become involved with a victim in [AL]'s situation?  
42 A. Unusual, but it does happen from time to time that he  
43 would be involved in investigations.  
44  
45 Q. Was the way that you read it at the time, or thinking  
46 about it in hindsight, Quinn doing that was an attempt to  
47 break some unsatisfactory situation that had arisen in

1 terms of [AL] and Steel communicating one with the other?  
2 A. It certainly was.

3

4 MR HUNT: I tender the document.

5

6 THE COMMISSIONER: You've tendered it.

7

8 MR HUNT: I wasn't sure. I apologise.

9

10 Q. I don't really want to go into the detail of any  
11 relevant medical conditions of any of the people that I'm  
12 about to ask you about. Do you understand?

13 A. Yes.

14

15 Q. First of all, I want you, just in a general fashion,  
16 to survey this first. When you obtained overall  
17 supervision of this particular investigation in,  
18 say, September 2010 as the crime manager, did you know to  
19 yourself that there was some prospect that you might go on  
20 leave?

21 A. On sick leave?

22

23 Q. Extended sick leave at that time?

24 A. It was a consideration, I suppose.

25

26 Q. Is it a consideration that had risen large enough in  
27 your mind that any of your superiors knew that that was a  
28 possibility at that time?

29 A. I suppose "possibility" is probably the correct word  
30 for it, but, yes.

31

32 Q. Just to be clear, I just want to pick out from your  
33 evidence of yesterday that all investigations within the  
34 Newcastle City LAC in, say, September 2010 were under your  
35 umbrella supervision and then below you under the  
36 supervision of the investigations manager.

37 A. Yes.

38

39 Q. Correct?

40 A. Yes.

41

42 Q. In other words, this particular file wasn't put under  
43 your attention particularly. While ever it was a live  
44 investigation at Newcastle City LAC it was going to be  
45 under your purview?

46 A. It was always going to be under me, yes.

47

1 Q. And also under Justin Quinn as the investigations  
2 manager?

3 A. Yes.

4

5 Q. Staying with your health and leave situation for a  
6 moment and then I'm going to deal with this in relation to  
7 two other officers as well, either in terms of the external  
8 advice to you or some internal event - once again I don't  
9 want to go into the details of the medical conditions at  
10 play - when did it become immediately apparent to you that  
11 you were about to apply for extended sick leave?

12 A. Not until probably shortly before I went on sick  
13 leave.

14

15 Q. Are you able to either proportion any responsibility  
16 or relationship to this particular investigation being on  
17 your books as being a moving factor or not for your leave?

18 A. No, it wasn't a moving factor at all.

19

20 Q. Coming to then Senior Sergeant Justin Quinn, did you  
21 know, either as his supervisor, or in an informal way,  
22 in September 2010 that he was somebody who was either  
23 contemplating taking extended sick leave, or from your own  
24 observations wondered whether that was something that might  
25 happen?

26 A. I knew that Justin had some issues, but I wasn't aware  
27 that he was going to go off sick, no.

28

29 Q. When did you first become aware of his intention? Was  
30 he still at work by the time you had commenced your  
31 extended leave, or did he leave in advance of you?

32 A. I think he - it wouldn't be far off the same time, but  
33 I think he went on annual leave, in my understanding, and  
34 I think I had already gone off sick report at that stage,  
35 20 December I think it was. I think he was on annual leave  
36 at that stage.

37

38 Q. I want to come to Kirren Steel. In September 2010,  
39 when apparently a decision was made that she would be  
40 principally responsible for the investigation that became  
41 Strike Force Lantle --

42 A. Yes.

43

44 Q. -- did you know anything about anything that gave you  
45 to understand that she was somebody who was likely to go on  
46 extended sick leave?

47 A. No, I had no idea.

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Q. Did any of your superiors up the line of command say anything to you to put you on notice of them being aware of that possibility?

A. No.

Q. Did Justin Quinn say anything to you, as her direct supervisor, to put you on notice of that?

A. I don't believe so, no.

Q. Did Detective Sergeant Steel say anything to you in September 2010 to give you to understand that that was something that was in her contemplation at that time?

A. No.

Q. Did any of those things - and when I say "any of those things" I mean your own state of knowledge, knowledge from up the line, knowledge from Quinn or knowledge from Steel - up until the time that you went on extended leave on 20 December 2010 did you have any idea that some short time later Steel would go on extended leave?

A. No.

Q. Did she take up with you any issues that she had about the subject matter of this matter, this investigation, in terms of presenting challenges to her in terms of her medical condition?

A. No.

Q. Did she ever approach you or approach you through the representations of Justin Quinn to say that she had some concerns about the level of resourcing?

A. No.

Q. Putting to one side the apparent challenges that arose in terms of communication between [AL] and Steel, was there any other obstacle that Steel took up with you in terms of her ability to move forward with the matter?

A. No.

Q. Had she approached you for any extra personnel over and above Senior Constable Freney?

A. No.

Q. What would the process have been - whether it was Steel or another in terms of the way that you ran things as crime manager - had Steel or some other supervising officer

1 needed more detective power? How would that have been made  
2 known to you and what do you then have to do to --  
3 A. They would just tell me, "This is where we're up to  
4 and we need more resources" because of whatever reason and  
5 then I would assess it based on that whether we did need  
6 more resources. That was a normal function of my role  
7 I suppose over numerous years of running strike forces.

8  
9 MR HUNT: Given it's almost 4.35, I've got one more topic  
10 to go to with this witness, which is broadly the meeting of  
11 2 December 2010, so I propose to do that at 9.30 in the  
12 morning.

13  
14 THE COMMISSIONER: All right, Mr Hunt. I'll adjourn.

15  
16 **AT 4.33PM THE COMMISSION WAS ADJOURNED TO**  
17 **WEDNESDAY, 15 MAY 2013 AT 9.30AM**  
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