

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 Thursday, 16 May 2013 at 9.30am
(Day 9)

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 Detective Inspector Paul Jacob and I call Detective
3 Inspector Paul Jacob.
4

5 <PAUL YERVAN JACOB, sworn: [9.30am]
6

7 MS LONERGAN: Commissioner, may I note for the record it
8 is 9.30am, which is the designated start time. However,
9 I cannot see Mr Cohen or his instructing solicitor present
10 in the court. I'm not too sure how to manage this
11 difficulty.
12

13 THE COMMISSIONER: I saw him over the road about an hour
14 ago when I arrived at court.
15

16 MS LONERGAN: I checked the meeting rooms on this floor
17 about five minutes ago and I asked if anyone else had seen
18 him and no-one had.
19

20 THE COMMISSIONER: As Mr Rush has just arrived, perhaps
21 people are starting to come in. If we could start with the
22 formalities and see how we go, Ms Lonergan.
23

24 <EXAMINATION BY MS LONERGAN:
25

26 MS LONERGAN: Q. Detective inspector, first of all,
27 would you please state for the record your full name?
28 A. My full name is Paul Yervan Y-E-R-V-A-N, J-A-C-O-B.
29

30 MR SAIDI: Commissioner, could it be noted the witness
31 seeks protection under section 23.
32

33 THE COMMISSIONER: That is understood. I see Mr Cohen has
34 now arrived, so no harm has been done.
35

36 MR COHEN: I apologise, Commissioner.
37

38 THE COMMISSIONER: No, I apologise, Mr Cohen. We made a
39 bit of a start, but you have not missed anything that you
40 don't already know.
41

42 MS LONERGAN: Q. Detective inspector in consultation
43 with your lawyers, did you prepare a statement dated
44 9 April 2013?
45

46 A. I did, ma'am.
47

47 Q. I show you a copy of that statement and a copy for the

1 Commissioner. Detective inspector, is that statement true
2 and correct?

3 A. It is.

4

5 MS LONERGAN: I tender that statement, Commissioner.

6

7 THE COMMISSIONER: The statement of detective inspector
8 Paul Jacob will be admitted and marked exhibit 17.

9

10 **EXHIBIT #17 STATEMENT OF DETECTIVE INSPECTOR PAUL JACOB**
11 **DATED 9/4/2013**

12

13 MS LONERGAN: Q. Detective inspector, you're currently
14 the manager of the sex crime team at State Crime Command?

15 A. Yes, the Sex Crimes Squad.

16

17 Q. You've been the manager there since 2005?

18 A. I have.

19

20 Q. I want to go a little back in time and go through your
21 training and background and experience. In 1979 you
22 commenced as a probationary constable with the NSW Police
23 Force?

24 A. I did.

25

26 Q. And in 1983 you moved to plain-clothes duties?

27 A. That's right.

28

29 Q. And was there an investigation aspect to your duties
30 from 1983 to the time you became a detective?

31 A. There was.

32

33 Q. Did that include investigating matters related to
34 sexual assault, or was it more general duty?

35 A. It did. General office local area command
36 investigations.

37

38 Q. In 1987 did you become a detective?

39 A. I did.

40

41 Q. And in 1989 you moved to the Homicide Squad and
42 carried out investigations in that squad?

43 A. I did.

44

45 Q. In 2005 you moved to the Sex Crimes Squad having
46 obtained the rank of detective inspector in 2001?

47 A. That's correct.

1
2 Q. And, prior to that, detective sergeant in 1997?
3 A. Yes, ma'am.
4
5 Q. Is it fair to say you've had many years experience in
6 investigation of sexual assaults?
7 A. Yes.
8
9 Q. And associated crimes?
10 A. Major crimes, yes.
11
12 Q. Your statement in paragraph 6 commences with your
13 recollection of your first involvement with Strike Force
14 Lantle, which was to do with a phone call you received from
15 a particular solicitor. I just want to ask you about your
16 recollection, if you have one, regarding some conversations
17 with Detective Inspector David Waddell from the Lake
18 Macquarie Local Area Command. Are you able to assist with
19 any recollection of a telephone conversation with him on
20 29 April 2010?
21 A. No, but I definitely recall speaking to him about this
22 and other matters.
23
24 Q. Do you have any recollection of any specifics of the
25 conversation at all?
26 A. I don't recall whether we spoke about what later
27 became Strike Force Lantle, but I certainly recall speaking
28 to him about the investigation of the Catholic priests in
29 the Hunter region.
30
31 Q. At the time Detective Inspector Waddell's region was
32 working on Strike Force Georgiana?
33 A. As I understand it, yes.
34
35 Q. An aspect of Strike Force Georgiana or an important
36 aspect of it was investigations in relation to Catholic
37 clergy?
38 A. That's correct.
39
40 Q. Is it your evidence that it may have been a
41 conversation in relation to that matter?
42 A. That's my recollection, although I do recall speaking
43 to him after the contact from a solicitor specifically
44 about what became Lantle. I don't recall speaking to him
45 prior to that about what became Lantle.
46
47 Q. If we can have a look at paragraph 6 of your affidavit

1 where you talk about a particular conversation with a
2 solicitor Tony Fuller, a solicitor from South Australia,
3 who contacted you regarding Archbishop Philip Wilson? This
4 is paragraph 6 on page 1 of your statement, detective
5 inspector.

6 A. Yes, that's it. I see that.

7
8 Q. Is it unusual for a solicitor to be contacting you
9 about investigations into somebody who may, in effect, be a
10 person of interest?

11 A. In the absence of an investigation, yes, certainly,
12 and I think what prompted his call was not the fact that a
13 known investigation was occurring, but that media attention
14 had been given to it.

15
16 Q. Did you know Mr Fuller previously?

17 A. No.

18
19 Q. Do you know why he contacted you as opposed to another
20 police officer?

21 A. I suspect because of my role at Sex Crimes. He rang
22 Sex Crimes and I answered his response.

23
24 Q. Annexure A of your statement is an email which
25 seems to have been prompted by that call that you sent to
26 Brad Tayler at Newcastle?

27 A. That's correct.

28
29 Q. And you mention in that email in the last
30 paragraph that you made a few calls to Brad Tayler, in that
31 last paragraph there.

32 A. Yes, I tried to get on to Brad and speak to him
33 personally about it, but we just couldn't connect.

34
35 Q. Did you treat this inquiry with some sort of urgency,
36 or you were just following up in your usual careful
37 fashion?

38 A. Normal business of managing any area, a call came in
39 and I dealt with it.

40
41 Q. And in the paragraph prior to that you talk about a
42 conversation you had with Dave Waddell, that is Detective
43 Inspector Waddell?

44 A. That's correct.

45
46 Q. You say words to this effect:
47

1 *From what I understand from Dave Waddell*
2 *although this inquiry/assessment may*
3 *have to be handled with diplomacy, there is*
4 *no --*

5
6 It looks like the word should be "prospect".

7
8 ... *there is no prospect of any criminal*
9 *investigation outcomes as key persons (ie*
10 *the offender and the decision maker within*
11 *the church) are both deceased.*

12
13 Can you assist the Commissioner with whether it was him
14 that said that about no prospect of any criminal
15 investigation, or you?

16 A. No, that's my assessment and my synopsis of the
17 conversation I had with Mr Waddell - Detective Inspector
18 Waddell - and they are my words.

19
20 Q. Are you able to now recollect --

21
22 THE COMMISSIONER: Ms Lonergan, may I make a correction to
23 your question. When you quoted from that you said "no
24 prospect of criminal investigation"; in fact it would be
25 more correct, would it not, "no prospect of any criminal
26 investigation outcomes"?

27
28 MS LONERGAN: I believe I read it on the record.

29
30 THE COMMISSIONER: You did, but on your last question you
31 omitted it.

32
33 MS LONERGAN: Thank you, Commissioner. I did not mean in
34 any way to mislead. I think it was trying to quickly put a
35 proposition.

36
37 Q. If I may repute the question correctly and fit it in
38 with the answer that you gave, detective inspector, you
39 made the comment to Detective Inspector Waddell that
40 although the inquiry/assessment may have to be handled with
41 diplomacy, there is no prospect of any criminal
42 investigation outcomes as key persons, et cetera, are both
43 deceased?

44 A. This was an email to Detective Inspector Tayler from
45 Newcastle that arose from a conversation that I had
46 combined with Mr Fuller and with Detective Inspector
47 Waddell.

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Q. Sure, and at that point, is it fair to say you had extremely limited information regarding what may be in the ether in terms of a potential criminal investigation?

A. Absolutely - no information at all other than what I had been told verbally and on a brief telephone call - or calls.

Q. With annexure B, which is an email from Brad Tayler to you dated 20 May - it looks like a reply to your previous email, annexure A - information that was conveyed to you at that point by Brad Tayler in the last paragraph mentioned that Brad Tayler had spoken to the solicitor, Tony Fuller, already?

A. That's correct. As I understand the purpose of this email was simply to feed back to me that he had taken care of that issue that I had asked him to make the call about and he was letting me know that was done, which I appreciated.

Q. And that's usual police business in terms of interchange between your department and local area command?

A. I viewed this as a courtesy; in case Mr Fuller rang again, I knew that Detective Inspector Tayler had made contact with him.

Q. In paragraph 13, detective inspector, you refer to a report that was prepared by Inspector Anthony Townsend in July 2010?

A. I do.

Q. In paragraph 13 of your affidavit you talk about your understanding as to how that report was treated within the police system at the time?

A. That's correct.

Q. Can we take it from the text in paragraph 13 of your statement that you didn't have any particular role in terms of it being copied into you at that point in time?

A. I'm quite certain I didn't see the report at the time it was submitted. The Sex Crimes Squad had no role in this matter at all at that point and I simply became aware of it at a later time.

Q. Are you able to assist the Commission with at what point in time you became aware of this particular report and its process through the organisation?

1 A. I believe I became aware of it late 2010 when I was in
2 conference with [Detective X], I believe, and other police
3 at the Newcastle Local Area Command about this matter that
4 later became Strike Force Lantle.

5

6 Q. So between your conversation with Mr Fuller and the
7 email exchange with Brad Tayler and this report in July
8 2010, which you didn't see, did you have any active role at
9 all in terms of the matters that ultimately became Strike
10 Force Lantle?

11 A. No. My involvement came about, I believe, shortly
12 before December 2010 when I had contact from the region -
13 I think it was detective acting chief inspector - I can't
14 recall, I've already said it, but whoever was acting in the
15 role of operations manager informed me of the course to be
16 adopted and suggested and recommended by Assistant
17 Commissioner York. As a result of that, we made certain
18 plans.

19

20 Q. Can I ask you about annexure C to your statement,
21 which is a series of email exchanges between you and
22 Brad Tayler.

23 A. Yes, ma'am.

24

25 Q. If I can get you to turn to page 113 at the bottom of
26 it, which seems to be the first involvement of you in the
27 email exchange.

28 A. Yes, I see that.

29

30 Q. It's from Brad Tayler and it says:

31

32 *Jaco*

33 *I assume you have the file I forwarded re*
34 *Catholic church. Here is more information*
35 *re Archbishop Royal Commission.*

36 *In my opinion this should be handled by SCC*
37 *as it requires investigations by*
38 *specialists --*

39

40 And there is the letter "F" and I think we can assume it
41 says "field".

42

43 Did you have a discussion with Brad Tayler at that
44 point about whether the matter would be coming to you or
45 not or were you just waiting to see what would happen?

46 A. I certainly had a discussion with both Detective
47 Inspector Waddell and Tayler at the time of the initial

1 contact about my draft thoughts on the issue as outlined to
2 me, and I think this email was to let me know from
3 Detective Inspector Tayler that he felt that it was a
4 matter for State Crime Command and he was forwarding this
5 and an attached email from a journalist, Ms McCarthy, to
6 me, and inquiring whether we had received a report from
7 him.

8
9 Q. Can we take it from that exchange of information as
10 well as your email, which is on the preceding page, 112,
11 also dated 2 June, that you had no particular problem with
12 State Crime Command carrying out the investigation should
13 you be asked to do so?

14 A. Exactly right. I mean, we get requests for assistance
15 on a weekly and sometimes daily basis from local area
16 commands around the state. Part of my job at Sex Crimes is
17 to assess those requests for assistance and this email
18 exchange was the normal course of business as far as I was
19 concerned.

20
21 Q. I want to ask you a question about a short email ahead
22 of that on the same page from Brad Tayler to you which
23 states the following:

24
25 *File is with region, who are forwarding to*
26 *CET re a decision on whether we investigate*
27 *these issues ...*

28
29 There is a bit missing there, but it looks like "these
30 issues", and then the next line says:

31
32 *15 years of age.*

33
34 Are you able to assist with, first of all, what CET is?

35 A. CET is the Commissioner's executive team. It
36 comprises of the Commissioner and his senior executive
37 based in Sydney.

38
39 Q. Do you recollect any conversations with Brad Tayler
40 around about that time which indicated to you an
41 unwillingness on the part of Brad Tayler or those who
42 served with him about investigating the matter?

43 A. No.

44
45 Q. Can you assist with the relevance, if there is any, of
46 the observation about the issues being 15 years of age?

47 A. I think that was a reflection, or I took it as a

1 reflection, of the age of the offences that we were looking
2 at.

3

4 Q. Does that mean, of necessity, that the offences would
5 not be investigated?

6 A. Absolutely not. I mean historical sexual assault
7 offences are investigated daily across the State of New
8 South Wales.

9

10 Q. In your experience, does it often take a victim a long
11 time to come forward with complaints about sexual assaults,
12 and by that, I mean many years, more than 10 years and
13 sometimes more than 20?

14 A. Absolutely, and there is no question that the impact
15 of these sort of crimes on people affect the way in which
16 normal society thinks that they may deal with these things,
17 and many times we have victims coming forward many, many,
18 many years later. In fact, I can say from my position at
19 Sex Crimes that, over the last few years, it's encouraging
20 to see how many victims are taking that step and are coming
21 forward and having their matters investigated.

22

23 Q. Including matters from more than 15 years ago?

24 A. Absolutely. As a young detective, I can't recall
25 investigating historical sexual assault, but now they are,
26 and I hate to use this word, commonplace in that there
27 would be many detectives' offices across the state that
28 have to manage and investigate historical sexual assaults.

29

30 Q. On occasion, have you experienced victims of sexual
31 assault being difficult to deal with, in that they can be
32 quite angry and/or voluble?

33 A. No question of that. Different people are affected by
34 issues that are so serious in different ways. It's a
35 matter of trying to manage the needs of individual victims
36 on a subjective basis and deal with them the best you can
37 and using whatever tools you have available.

38

39 Q. The email above the one we've just been looking at is
40 from you to Mr Tayler. You say:

41

42 *Thanks, mate that's a very sensible*
43 *approach. May solve all of the problems.*

44

45 Can you elaborate what you were referring to there in "may
46 solve all of the problems"?

47 A. Certainly. There were some inherent difficulties

1 forecast in the investigation, in that the principal
2 offenders, that is, these people who committed these
3 serious crimes on the children, had died and one of the
4 people responsible for advancing the report outside of the
5 church had died. It left the investigation with some
6 inherent difficulties and it was a comment on that.

7
8 Q. In paragraph 13 of your affidavit you talk about the
9 possibility of a formalising of a request for assistance to
10 State Crime Command occurring at a point where Assistant
11 Commissioner York signs off on a particular document,
12 which, in that case, was the report by Inspector Townsend.
13 Is that the only process involved in engaging assistance
14 from State Crime Command, or is there a more formal process
15 in addition to that?

16 A. There's a more formal process, but the journey to it
17 can be taken on a number of ways. On this occasion, there
18 was an indication by a region commander that the
19 investigation would be managed and dealt with by Newcastle
20 with the assistance of State Crime Command, and that
21 decision from such a significant officer within the NSW
22 Police Force informed many of the actions thereafter.

23
24 Q. We're just accessing a document. We're getting a
25 little crowded at the bar table. Excuse me. On your
26 right-hand side, just above you, there should be three
27 volumes of material and I want you to reach for volume 1 of
28 3, please, and turn to tab 41. You see that is what
29 appears to be a handwritten file note by you to someone
30 called "Rach"?

31 A. That's correct.

32
33 Q. Who is that?

34 A. It's Detective Sergeant Rachel McKey. At that point
35 she was the investigations coordinator at the Sex Crimes
36 Squad, basically my right-hand man/woman.

37
38 Q. Is it usual procedure for you to make file notes of
39 any contact as to potential requests for assistance from
40 any local area command?

41 A. Certainly. We have a system where, if there is no
42 formal notification yet of a particular issue, that I don't
43 want to lose track of in the event that it escalates in
44 some way, I put a copy of whatever it is that I've got, in
45 this case an email, and I put a file note on top of it,
46 I give it to my Detective Sergeant McKey. I've indicated
47 on this form that it is a potential RA, which is request

1 for assistance from Newcastle, and I request her to please
2 retain this in Penske. That is a little bit of an in joke
3 we have at the Sex Crimes Squad. Just to explain because
4 it looks bizarre, it is a play on the Seinfeld episodes
5 about the Penske file. It's just one of those things we
6 termed that I put these matters I don't want to lose track
7 on and they should be retained and secured so they can be
8 accessed at some later point.

9
10 Q. Can you read the text of your note on to the record,
11 please. A little bit is cut off, but you may be able to
12 assist.

13 A. I'll start from the word "Please" ma'am?

14
15 Q. Yes, thank you.

16 A1 It says:

17
18 *Please retain this in Penske, RA coming.*

19
20 I have an arrow:

21
22 *Long story, have dealt with it a few times.*

23
24 Then I have another arrow:

25
26 *Currently RA --*

27
28 That's requests for assistance at region. The word is
29 "seeking" beyond that, "direction from CET", which is
30 underlined, "not to investigate."

31
32 Q. Can you explain why you've used the terminology
33 seeking direction from CET not to investigate? You'd
34 appreciate that some may see that as a formal affirmation
35 that this matter is not to be investigated. Could you
36 explain what you meant by your note?

37 A. I certainly don't want my note at this point in the
38 process to be interpreted as a position that the New South
39 Wales police took. I had not seen the report that was
40 generated from region at that time, but, as I understood
41 it, it was a comprehensive report that was seeking a
42 direction on the value or not of investigating this matter
43 further, and it is my interpretation of that - a
44 handwritten note interpretation of that.

45
46 I should say that subsequent to seeing the report a
47 number of options were displayed in that, including whether

1 or not to proceed, and it's quite a sensible approach to
2 consider all options - options that may be considered by
3 various issues such as liaison with victims, for example.
4

5 If I can take it away from this issue, one of the
6 considerations for the New South Wales police is the
7 management of their resources. If a particular
8 investigation presents difficulties and you have a liaison
9 with the various victims, or those parties affected by the
10 decision-making process, they may enjoin with you in a
11 position that you don't proceed to a full investigation
12 thereby lessening the impact on those involved,
13 particularly the victims and, by extension, benefiting the
14 New South Wales police by not putting scarce resources into
15 an investigation that has inherent difficulties. So it is
16 quite a sensible approach.
17

18 Q. I am going to have you shown a document which is terms
19 of reference that are directed to [Detective X]. It is
20 MFI2.

21 A. Was it in this bundle?
22

23 Q. No, it is not. I'm going to hand you a copy now.
24 This is terms of reference, which we understand from the
25 evidence so far, was the first terms of reference prepared
26 and it is directed to [Detective X]. I believe we can take
27 it that predates the time at which she ceased working
28 within the NSW Police Force, so it was pre mid-December
29 2010. Have you seen that terms of reference document
30 before?

31 A. I definitely would have, and I remember looking at it
32 some time later after the involvement of Detective Sergeant
33 Little.
34

35 Q. So, from that, can we take it that you had no
36 particular role in drafting the contents of the terms of
37 reference?

38 A. No. This is a standard document used by the New South
39 Wales police in major investigations and it affords the
40 command a vehicle to instruct individual officers on what
41 their tasks are and it gives individual officers an idea of
42 what is expected of them.
43

44 MS LONERGAN: Commissioner, although this is an annexure
45 to the statement of Commander York I'll tender MFI2 as an
46 exhibit, if I may.
47

1 THE COMMISSIONER: MFI2 will be admitted and marked
2 exhibit 18.

3

4 **EXHIBIT #18 (FORMERLY MFI2) ORIGINAL TERMS OF REFERENCE**

5

6 MS LONERGAN: Q. While we're talking about terms of
7 reference, detective inspector, if you would not mind
8 turning to - could the witness be shown exhibit 11, which
9 I believe is the later terms of reference.

10 A. I still have MFI2 in front of me.

11

12 Q. Just leave that with you for the moment, if you don't
13 mind, inspector. If you would not mind looking at that
14 terms of reference now document, please.

15 A. Yes, I've seen that.

16

17 Q. First of all, are you able to assist with what time
18 frame this was made formal?

19 A. Again, it's a term of reference generated by the local
20 area command. I don't know when. I suspect I know when
21 because of the timeline, which would put it beyond
22 30 December 2010, and I have seen this document, but
23 I wasn't aware of its creation.

24

25 Q. Are you able to assist the Commission with whether you
26 had any role in consulting or advising about the structure
27 of that terms of reference?

28 A. No.

29

30 Q. You weren't?

31 A. No, I wasn't.

32

33 Q. I wanted to ask you a question about a matter that you
34 deal with in paragraph 37 of your statement and that is the
35 concept of "mission creep". Just before we turn to that,
36 annexure Q to your statement that is referred to in
37 paragraph 37 --

38 A. I have that.

39

40 Q. -- is a memo from you to Detective Sergeant Jeffrey
41 Little dated 13 May 2011. Do you see that?

42 A. I do, ma'am.

43

44 Q. Are you able to assist, detective inspector, as to
45 whether, by that stage, the terms of reference that I've
46 just shown to you were already in place?

47 A. Yes, as I understand it, Detective Sergeant Little was

1 allocated the job in the end of December 2010 and he had
2 commenced a process in concert with his competing demands,
3 to commence the investigative process into Strike Force
4 Lantle.

5
6 Q. So looking at annexure Q to your affidavit doesn't
7 help place with any more precision the operative date of
8 the terms of reference document I've just shown you?

9 A. No, but I made certain suggestions in relation to
10 tightening the terms of reference and focusing the
11 investigation on what had been proffered to the police as
12 the issue, that is, the concealing or misprision of a
13 felony by these particular people under the Newcastle
14 Hunter diocese and focus it on the known victims at that
15 stage.

16
17 Q. For the benefit of those in court who are not familiar
18 necessarily with police process and investigation process,
19 could you give a lay person's outline of what "mission
20 creep" is and why it is an important matter to be borne in
21 mind in structuring investigations?

22 A. Certainly. One of the reasons that we have terms of
23 reference in existence and in play, particularly on major
24 investigations, is for this very reason. Mission creep is
25 simply a concept that affects the way in which
26 investigations are carried out if, during the course of an
27 investigation, other matters fall on to the officer
28 conducting the investigation.

29
30 What mission creep does is it can change the focus of
31 an investigation, it can cause confusion, and refocus and
32 put police in a position where they are really not sure
33 which phase or line of inquiry they should be following
34 upon which job. So what we do is we refocus what the
35 police do. As command and management it's our job to do
36 that. We provide them guidance where they should control
37 and direct their investigations and we do so in a document
38 that we've seen here in its various forms - terms of
39 reference are instructions to the officer to stay focused.

40
41 Having said that, where mission creep comes into play,
42 this should stop it, but that doesn't mean that other
43 material coming to the police involved in that
44 investigation is not managed under the existing business
45 rules that apply at the time. For example, if Detective
46 Sergeant Little, during the course of his inquiry, became
47 aware of a matter that fell outside the terms of reference

1 of Strike Force Lantle, he would know what he must do with
2 that. He would report that to Detective Inspector Parker,
3 his immediate supervisor and that would be managed under
4 business rules. That may mean that it is reallocated to
5 another investigation, or a commander makes a decision
6 that, no, we're going to put that investigation into Lantle
7 and we're going to widen the terms of reference.

8
9 So whilst mission creep is a problem that needs to be
10 managed, it is managed effectively with the use of terms of
11 reference. But by using terms of reference, it does not in
12 any way preclude an officer in charge, particularly an
13 experienced officer in charge such as Detective Sergeant
14 Little, of taking action if he becomes aware of any
15 information outside those terms of reference.

16
17 MS LONERGAN: Those are my questions, Commissioner.

18
19 MR McILWAIN: I have no questions.

20
21 THE COMMISSIONER: Mr Rush, I expect you don't have any
22 questions.

23
24 MR RUSH: Not this morning.

25
26 <EXAMINATION BY MR COHEN:

27
28 MR COHEN: Q. Detective inspector, because it is a
29 convenient spot, might I just go to this question of
30 mission creep. In the way you've described it, you've
31 given the description of process, but it doesn't appear
32 that you've given a definition of the content of the term.
33 What is a proper definition, in your mind, of mission
34 creep - those two words, what do they mean?

35 A. I can give you an example that's been touched on
36 within this Commission.

37
38 Q. We're at cross-purposes. I'm not looking for an
39 example of what you mean. I'm looking for your definition
40 of it. What do you mean by "mission creep"?

41 A. It means becoming unfocused, redefining your
42 investigation, going off on different tracks, following
43 tangents that don't apply to the original investigation
44 that you were directed to undertake.

45
46 Q. Looking at the examples you've just given earlier in
47 the evidence you've given to Ms Lonergan, is there not a

1 real risk in that approach of preferring bureaucratic
2 purity over investigative flexibility?

3 A. I'm having difficulty understanding what you're
4 asking, but I would say the contrary is true. I say it's
5 for the very reason of problems inherent in the past in the
6 way in which organisations in the New South Wales police
7 investigated matters that these have evolved into a
8 business document and a very important one.

9

10 Q. When you say "in the past", are you thinking, for
11 example, of what was phase 1 Lantle before --

12 A. I'm talking about historically in the past where
13 investigations weren't as formally organised, structured or
14 directed, and police did not have guidance in what they
15 should do and how they should do it. This development and
16 evolving of this business rule in the form of terms of
17 reference is a valuable tool, not just for the officer in
18 charge of a particular investigation, but for the command
19 structure above him.

20

21 Now, in the absence of clear direction, the police
22 could be wallowing around being asked to do all sorts of
23 things outside anyone's knowledge and their commander's
24 knowledge. This is a way in which that problem, inherent
25 historically with police, is addressed, and a very good one
26 I say.

27

28 Q. Is that a problem that was besetting the first phase 1
29 of Strike Force Lantle in the period --

30 A. No, sir. I'm talking about --

31

32 Q. Can I finish my question?

33 A. Sorry.

34

35 Q. Is that a problem that was besetting the first phase
36 of Strike Force Lantle up to 31 December 2010?

37 A. When you say "the first phase", what do you mean, sir?

38

39 Q. You understand, I take it, that there was a complete
40 change of personnel in the strike force at the end of
41 calendar 2010?

42 A. Yes.

43

44 Q. So if there was any confusion, I apologise to you, but
45 my intention, so you understand, in referring to the first
46 phase, was, as far as a calendar period, there was a very
47 different complement of people up until the time at the end

1 of calendar 2010 and thereafter. You agree with that?
2 I take it?

3 A. Yes, I do, but it's life. That's what happens in the
4 police.

5

6 Q. I'll come back to my original question. This issue of
7 failing to observe business plan and business management,
8 I think are the phrases you've used, and keeping to the
9 rules is probably a fair way of putting it, is that what
10 beset Lantle in the first phase to the end of calendar
11 2010?

12 A. No.

13

14 Q. Were you aware of some of the difficulties that the
15 investigators were having with regard to obtaining of
16 evidence from witnesses or potential witnesses to these
17 crimes?

18 A. I have heard evidence here and I have been aware prior
19 to the Commission of some difficulties in the management of
20 a victim early in the piece, yes.

21

22 Q. They were profound difficulties, weren't they?

23 A. Your word is "profound"; I would say that's the normal
24 type of issue that has to be managed by criminal
25 investigators on a daily basis across the state.

26

27 Q. I have no argument with you about the proposition that
28 criminal investigators have to manage several issues but
29 there was a profound difficulty, nonetheless, at this time
30 in this investigation, wasn't there?

31 A. If I understand what you mean, I certainly suggest to
32 you that, in the absence of victims, this investigation had
33 difficulty from an enforcement perspective. We needed to
34 secure victims' statements to progress an investigation
35 into conceal serious offence or misprision. In the absence
36 of being able to prove a serious offence or a felony, it
37 makes it difficult to embark on a criminal investigation
38 for all sorts of investigative reasons. So it is an
39 important factor that victims are secured in the
40 investigation.

41

42 Q. Indeed, in answer to Ms Lonergan, about half an hour
43 ago I think it might have been, during the course of your
44 evidence anyway, so I'm not misleading you, you testified
45 to the position that victims can be peculiarly vulnerable
46 and there needs to be careful management of them?

47 A. There's no question of that, but it's a very

1 subjective thing. Different victims are affected by
2 similar types of horrendous history in different ways.
3 They manage it differently and they deal with it
4 differently. It's a very subjective thing.

5
6 Q. For them or the investigator?

7 A. For the victim. Some victims may deal with it by - in
8 other ways by not even reporting it, not wanting to have
9 anything to do with it; they put it into a box and forget
10 about it. I don't say that's healthy and I make no comment
11 about it, but I say this: it's the right of a victim to
12 choose which way they want to manage it. Whereas some
13 victims can go to the other extreme and be extremely
14 affected, and understandably so, by what's happened to
15 them. It's a very subjective thing and it can't be pasted
16 with one top.

17
18 Q. Therefore it must be essential for a competent
19 investigator to recognise those factors, those potentials
20 and deal with and manage them?

21 A. That's the ideal situation, but you don't always
22 achieve your desired outcomes. I've had dealings with
23 victims and witness - take it away just from victims - and
24 witnesses, who go to extraordinary lengths to avoid
25 committing to an investigation for reasons that may be very
26 good and plain to them, but don't make sense to the
27 investigators in the furtherance of whatever investigation
28 it is.

29
30 Q. When you say "don't make sense to the investigators",
31 is it not the case that an investigator with experience of
32 this phenomenon in this way dealing with sex crimes,
33 particularly if they are sex crimes that relate to victims
34 who have been in the very tender years of maturity, an
35 appropriately skilled investigator in those situations
36 would be alive to the matters he was putting, I take it,
37 would be you?

38 A. I misrepresented what I was trying to say. A victim
39 may keep things to themselves and it may be abundantly
40 clear to the victim why they are not proceeding or
41 assisting or assessing, but it may not be so evident to the
42 police.

43
44 Q. I accept that?

45 A. If the police are aware of what's impacting, we have
46 developed and evolved tools over the years to assist in
47 directing and assisting victims of crime to manage the

1 issues that are affecting them irrespective of what they
2 are.

3

4 Q. But my question to you that you just responded to was
5 a little more subtle than that. Allow me to explain.

6 A. I apologise.

7

8 Q. You have not quite grasped what I was getting to,
9 which is this: an appropriately skilled and experienced
10 investigator, allowing for the facts you have just
11 identified in a very careful chronology and explanation,
12 would be presumably quite cautious about not stepping
13 across some unseen but, nonetheless, effective boundary
14 with a victim in those circumstances. Even if they were
15 not aware of the potential of this victim to become
16 distraught, presumably experience would tell such an
17 investigator that there is a need to tread carefully. Is
18 that a fair way of putting it?

19 A. Yes, I would agree, but you have to get to a point
20 with an engagement with a victim where you can make that
21 call. You can't just go, "Well it's come to me." You need
22 to engage with a victim, talk about the issue, try and
23 manage the issue, try and extract from them what it is that
24 the actual problem is so you can address it.

25

26 Q. If you don't engage with the victim at all, if you
27 simply fail as an investigator to meet, to some extent,
28 with the mind of the victim, then merely your effect will
29 be potentially disastrous, won't it, if not deleterious to
30 the investigation?

31 A. Absolutely, but let me say this: putting aside Strike
32 Force Lantle, that happens regularly. There are people
33 that you deal with that you may never connect with. No
34 matter how much effort you put into it, no matter how much
35 resource or directive attention you give to a particular
36 person, issues may be so impacting on them that they don't
37 want to engage. I'm assuming that we're talking about the
38 issue that the evidence was about yesterday --

39

40 Q. Allow me to put another question to you rather than
41 assume. Having regard to the principles you have
42 described, in your very careful fashion --

43

44 MS LONERGAN: Commissioner, could it be noted that
45 Mr Cohen is asking questions extremely quickly and it
46 appears that the court reporter wasn't able to catch the
47 last part of the question.

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THE COMMISSIONER: The equipment is working, but it is just the start of your question.

MR COHEN: I beg your pardon.

Q. Detective inspector, in regard to the way you've characterised those principles very carefully in your previous answer and answers, bringing it back to the circumstances of Lantle particularly, you were contemplating - and let me go directly to what you were contemplating - the circumstances of the complaint by witness [AL], victim [AL], about the conduct of [Detective X], in those circumstances it was clearly the case that the relevant and necessary experience was not in evidence, wasn't it?

A. What makes this particular situation unique and what is a factor unknown to the police who are trying to manage this issue was the relationship this particular victim had with DCI Fox and Ms McCarthy.

MR COHEN: I object to this. This is not responsive to my question. The question was about the investigation.

THE COMMISSIONER: The question was about the victim, Ms [AL].

MS LONERGAN: In my respectful submission, if Mr Cohen wants to go down this path, a witness of these many years experience should be allowed to answer the question.

THE COMMISSIONER: Yes. You have your answer, anyway, Mr Cohen and it is unobjectionable, in my view.

MR COHEN: Q. The issue, though, detective inspector, was the conduct of the investigator, surely?

A. I disagree. You cannot properly assess the conduct of the investigator without the full knowledge of what was happening in the background between DCI Fox and Ms McCarthy. Absent of that detail, how can anyone possibly manage the circumstances that were present with this particular victim?

Q. But you are imputing to these circumstances the effect of anything that DCI Fox had done without knowing that, aren't you?

A. Exactly right. That is the inherent problem. That is

1 the problem, sir, that I'm trying to explain. Absent of
2 that information and the correct information about what's
3 going on in the background, how can an officer be expected
4 to manage the difficulties that you are imposing on a
5 victim who is trying to, I would suggest, give her
6 information but is torn between two areas of doing so?

7

8 Q. But with --

9 A. Sorry, if I could just finish. The primary objective
10 of the New South Wales police is the investigation of
11 reported crimes. To investigate a crime, we have to have
12 that report and secure that statement. Now, you say to me
13 this victim was having difficulty coming to the police and
14 the police were having difficulty engaging with the victim,
15 I agree. What I'm saying to you is this: that it's
16 perfectly understandable, when we don't know the full
17 circumstances of how that victim was being managed across
18 the whole of the issue.

19

20 Q. But you are assuming without knowing, and I put to you
21 that there was no evidence, Detective Chief Inspector Fox
22 had anything to do with this complaint raised by [AL] at
23 this time in November 2010. Isn't that right?

24 A. I thought you were talking to me about the issues that
25 we'd spoken and had come out in this Commission.

26

27 Q. No, with respect, sir, my question initially to you
28 was about the conduct of the investigator, [Detective X],
29 at the time involved, and that was the time of the
30 complaint in November 2010. You then responded saying, as
31 I understood your evidence, that it was the fault of
32 Detective Chief Inspector Fox, amongst others?

33 A. No, I never said that.

34

35 THE COMMISSIONER: No, Mr Cohen.

36

37 THE WITNESS: I apologise for the inarticulate way I
38 appear to be answering the question, but what I'm saying is
39 I don't doubt there are difficulties. There are already
40 difficulties when these poor, damaged people have to talk
41 about such a horrendous part of their lives. There is no
42 question that that is difficult. Add to that mix competing
43 demands of different people outside the knowledge of the
44 people that are investigating, is it any wonder the police
45 had difficulty engaging with this person.

46

47 MR RUSH: I object.

1
2 MR COHEN: Yes, I was about to object as well.
3 MS LONERGAN: Commissioner, I object to this approach of a
4 very broad question being asked about why a particular
5 victim had a bad time in terms of her complaint being taken
6 and when an answer comes back that Mr Cohen doesn't like,
7 he seeks to interfere with the evidence. In my respectful
8 submission --
9
10 MR COHEN: I object.
11
12 MS LONERGAN: May I finish. In my respectful submission,
13 that is an inappropriate way to deal with a witness of this
14 many years experience who is assisting this Commission with
15 that experience and his understanding of how these events
16 occurred in the normal course. He should be permitted to
17 finish his evidence and have it stand.
18
19 MR COHEN: With respect, I didn't interfere with anything.
20 I simply joined in an objection made by Mr Rush. It is an
21 outrage to say I interfered with anything.
22
23 THE COMMISSIONER: Mr Rush hasn't made any objection to
24 anything, although, he was slowly getting to his feet.
25
26 Mr Cohen, you asked a question about difficulties
27 experienced by [Detective X] and of complaints made about
28 her engaging with Ms [AL], with the knowledge that
29 Detective Inspector Jacob has now that Ms [AL] was in
30 communication with Detective Chief Inspector Fox, that's
31 right, isn't it, in 2010?
32
33 MR COHEN: My question was totally the opposite.
34
35 THE COMMISSIONER: And with Ms McCarthy; that's right,
36 isn't it?
37
38 MR COHEN: My last question was totally the opposite of
39 that effect. My last question was about the very
40 proposition about the [AL] complaint had nothing to do with
41 Detective Chief Inspector Fox, with respect.
42
43 THE COMMISSIONER: You can put that --
44
45 MR COHEN: That's what I did put.
46
47 THE COMMISSIONER: -- to the witness and see what he has

1 to say about it, with the benefit of the hindsight that we
2 all have now.

3

4 MR COHEN: I'll put it again. I put it already, but I'll
5 put it again.

6

7 THE COMMISSIONER: I am sorry, Mr Rush?

8

9 MR RUSH: It may be more of an observation now. My
10 objection may well be to the question rather than the
11 response, but my concern is this: the evidence yesterday,
12 as I understood it, was that, apart from some statements
13 being provided by Ms McCarthy to the investigating officer,
14 there is no evidence that my client had any verbal contact
15 with the complainant. Some of the answers to some of the
16 questions seem to be alluding to further communication.

17

18 I think if the questions are going to be asked, they
19 need to be asked in a way that allows the witness to
20 identify what the witness is really saying when he says
21 this conversation was going on, because it is our case that
22 there wasn't.

23

24 THE COMMISSIONER: Mr Rush, does it really matter whether
25 or not there was verbal communication? Please stand.

26

27 MR RUSH: Sorry.

28

29 THE COMMISSIONER: Thank you. We know, don't we, that
30 however it was organised, Ms McCarthy, your client,
31 Ms McCarthy was in possession of a statement by Ms [AL] --

32

33 MR RUSH: Yes.

34

35 THE COMMISSIONER: -- by the time [Detective X] came to be
36 investigating this matter?

37

38 MR RUSH: Yes.

39

40 THE COMMISSIONER: That's a communication, isn't it?

41

42 MR RUSH: Except that it wasn't with [AL], but it was -
43 the document, as I understand it, was provided seven months
44 before by somebody else - no, sorry, it was by her, and
45 then she's provided it to the police, but --

46

47 THE COMMISSIONER: Is your position that Ms McCarthy had

1 never spoken to Ms [AL] by the end of 2010?

2

3 MR RUSH: If the Commission would pardon me for one
4 moment. It's our submission that there is no evidence of
5 that and if this witness --

6

7 THE COMMISSIONER: Is it denied?

8

9 MR RUSH: The problem is I don't have --

10

11 MS LONERGAN: May I assist Mr Rush. His client is present
12 in court and she's gesticulating towards her legal team.

13

14 MR RUSH: To shorten things, might I be permitted to
15 cross-examine after Mr Cohen, despite indicating earlier
16 that I wouldn't, I didn't expect any of this would be
17 raised?

18

19 THE COMMISSIONER: All right. Thank you, Mr Rush. That
20 is a good idea. Thank you. Mr Cohen.

21

22 MR COHEN: Commissioner, I'm still contemplating how
23 I manage this when you put to me in the last exchange
24 something that was the very antithesis of the question
25 I put to the witness. I really don't understand how I can
26 deal with it. I really am bereft of an understanding as to
27 what I can now do.

28

29 THE COMMISSIONER: I'll go back to the question that you
30 asked and the answer that was given by Detective Inspector
31 Jacob.

32

33 MR COHEN: This is the last question and last answer.

34

35 MS LONERGAN: Commissioner, I used the word "interference"
36 when talking about a particular line of approach to the
37 evidence taken by Mr Cohen. I withdraw the word
38 "interference". It certainly was not meant to be a
39 criticism. The words I should have used were "cutting
40 across the witness's evidence", or something to that
41 effect.

42

43 THE COMMISSIONER: Interruption.

44

45 MS LONERGAN: Or "interruption", and I withdraw that.
46 I apologise to Mr Cohen if that caused any offence.

47

1 MR COHEN: I'm grateful to my learned friend for that.

2

3 THE COMMISSIONER: Mr Cohen, it was many questions ago.
4 You said, "Bringing it back to Strike Force Lantle and the
5 victim [AL], it clearly was the case, wasn't it, that the
6 relevant officer didn't have the necessary experience?"

7

8 MR COHEN: But I went on with another question, which was
9 this, and I will repeat it:

10

11 Q. Detective inspector, you made reference to Detective
12 Chief Inspector Fox earlier in your evidence, but you have
13 no basis for asserting that he had anything to do with the
14 complaint by [AL] on 9 November 2010, do you?

15 A. No, just the knowledge that I have gained as a result
16 of my involvement in this case.

17

18 Q. I will repeat my question: you have no basis, do you,
19 for asserting that Detective Chief Inspector Fox had
20 anything to do with the complaint made by [AL] on
21 9 November 2010 - do you?

22

23 MR SAIDI: I object to the question. It's not a proper
24 question. The witness has indicated that he did have a
25 basis - it is the information he gained during the inquiry.

26

27 THE COMMISSIONER: I will allow the answer to stand,
28 Mr Cohen. Please continue.

29

30 MR COHEN: Q. Is it fair to say, having regard to your
31 paragraph 18 in your statement, that the particulars you
32 record, which you identify as at 9 December 2010 --

33 A. May I refer to the statement?

34

35 Q. Surely. I beg your pardon. I thought you were across
36 it. I beg your pardon.

37 A. I have paragraph 18.

38

39 Q. Have you read it again?

40 A. I will do, if you like.

41

42 Q. Please, if you wish to?

43 A. From beginning to end?

44

45 Q. It's a matter for you, sir. I want you to be
46 comfortable when I'm asking the question that you're alive
47 to what I'm referring you?

1 A. From beginning to end, the whole paragraph from
2 beginning to end?

3

4 Q. If it suits you, please do that.

5 A. Yes, I've scanned that.

6

7 Q. Is it fair to say that the particulars you record
8 there, which I take it you mean to identify at about
9 9 December 2010, in relation to the facts that, by this
10 stage, were formally Lantle, are much the same as you found
11 in May of 2010? Is that a fair assessment?

12 A. Well, not really. I had a lot more knowledge in May -
13 my meeting with Detective Sergeant Little and Detective
14 Inspector Parker than I did at this point in the journey.
15 The information I obtained around this December mark was an
16 evolving process that was happening there and then. In
17 the May meeting that I had with Detective Sergeant
18 Little and Detective --

19

20 Q. I do apologise. We're talking about May 2010. It is
21 when you first became aware of the facts. It is not May
22 2011, May 2010. Let me start again because there is
23 clearly a misunderstanding.

24 A. I apologise. So it clarifies in my head, because
25 I don't want to mislead anyone either, the paragraph you've
26 drawn my attention to is the events of 9 December.

27

28 Q. Yes, they are. Let me ask the question so there is a
29 misunderstanding. What I was endeavouring to ask you was
30 this: as at the time, December 2010, 9 December, you're
31 referring to events here, not much had changed in terms of
32 the facts and circumstances as at December 2010 as when you
33 first even became aware of some of the facts and
34 circumstances that were to evolve into Lantle in May 2010.
35 Is that a fair way of putting it - emphasising May 2010?

36 A. The point towards my knowledge, my knowledge, I had a
37 dearth of knowledge on 9 December. The knowledge I was
38 gaining was evolving around the 9th and the 10th when I was
39 in the presence of the officers conducting the
40 investigation. My knowledge developed and evolved to
41 a point as the investigation existed in May 2003 is in
42 stark - sorry, May 2011, is in stark contrast to the dearth
43 of information I had in December 2010.

44

45 Q. I accept that, but what I'm trying to ask you -
46 perhaps we're still at cross-purposes - is in the period
47 from May 2010 to December 2010, as far as you could see,

1 not much had changed on the file; is that a fair comment?
2 A. No, I wouldn't agree with that at all. In fact,
3 Detective Sergeant Little, once allocated the job, did a
4 lot of work in that first few months of 2011, in the
5 back-capturing process, developing e@gl.i, putting together
6 an investigation plan, getting that investigation plan
7 authorised and executed by his command structure. He was
8 doing a lot of this with the competing demands of he was
9 doing otherwise. I think he was involved in the trials of
10 people for armed robbery. In fact I remember now --

11
12 Q. No, just --

13 A. Let me finish here. You've asked me if much had
14 changed. A lot had changed. In fact, Detective Sergeant
15 Little I know was working out of hours to get the core of
16 this investigation back-captured on to the NSW Police Force
17 information management plan for major investigations,
18 management tool, e@gl.i, and he was doing all this whilst
19 doing other things, so a lot had changed. In fact, by the
20 time I went up there --

21
22 Q. I have to stop you now, please --

23 A. Sorry.

24
25 Q. -- because you really haven't responded to my
26 question, which was: between May 2010 and December 2010 -
27 forget about May 2011 or any time after Christmas 2010 - it
28 is the period May 2010 to December 2010, that first eight
29 or nine months?

30 A. I'm sorry, you're asking me back, I apologise. I have
31 no idea.

32
33 Q. Yes. Do you know what I mean now by the period?

34 A. I have no idea what was going on in that period
35 in May. I would be guessing.

36
37 Q. Perhaps now you can focus on this question: from May
38 to December not really much had changed, at least in the
39 way you describe it, on the facts and circumstances that
40 had emerged, to your understanding; is that fair?

41 A. Well, it would be an understanding provided absent of
42 information, so I would be guessing.

43
44 Q. I'm not asking you to do that, merely to say that
45 there was nothing that was leaping up out of the page at
46 you in December 2010 that was absent in May 2010. Is that
47 a fair way of putting it?

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MS LONERGAN: I object. The witness has said that he'd be guessing. It's not helpful to the Commission for him to guess.

MR COHEN: I won't press it.

Q. The situation did not disclose any attributes, as far as you were concerned, I take it, by December 2010, particularly 9 December 2010, that justified the designation "highly protected"; is that right?

A. I disagree.

Q. It's the case, isn't it, that you did not know at that stage the matter was highly protected; is that right?

A. I can't say whether I did or I didn't at that particular point, and I assume you're talking about 9 December?

Q. Yes, or thereabouts.

A. No, I may not have known at that point, but at some time in the future beyond that date, I certainly became aware it was highly protected and strongly supported that position.

Q. What was it - what was the document that you found that identified this designation of "highly protected"?

A. It's the e@gl.i investigation is highly protected.

Q. But what within the investigation created that designation and at what point of time did you become aware of it?

A. As I said, it was beyond 2010 that Christmas period, the December period, I became aware of it. The designation is applied to the investigative management tool, that is e@gl.i. Once that designation "highly protected" is applied to e@gl.i, everything under that investigation, ie, all documents generated by Strike Force Lantle inherit that "highly protected" status, even in the absence of it actually being written on individual documents.

Q. Can you direct the Commission's attention to some event in the e@gl.i system that created this designation that, as you put, then had a retrospect effect - so, the point in time that this occurred and, accordingly, who was it that caused that to occur?

A. No, I can't but there is a potential for that to be

1 done. However, I don't know - to fully answer your inquiry
2 as I understand it, I don't know who effectively designated
3 the case "highly protected" or on what date that occurred,
4 but it was certainly something that was known to me
5 beyond December 2010.
6

7 MR COHEN: Excuse me, Commissioner, I'm just trying to see
8 if I can short circuit the process.
9

10 THE COMMISSIONER: Yes, Mr Cohen.
11

12 MR COHEN: Q. Can I ask you this question, detective
13 inspector: you've identified within your statement that it
14 was not a practice to record ordinarily witness statements
15 electronically by some method, whether it's ERISP or video,
16 but you made an exception in this case. Is that a fair
17 summary of your evidence?

18 A. That's correct. I don't know where it's specifically
19 mentioned in my statement, but I certainly remember it on
20 two levels: one, providing that advice to Detective
21 Sergeant Little and Detective Inspector Parker; and, two,
22 it's a decision going outside my normal course and conduct.
23

24 Q. There's a real risk in doing that, isn't there, in
25 circumstances such as sexual assault evidence?

26 A. The risk had been back-flipped in this particular
27 investigation, in my view, and required, I believe, an
28 accurate recording of the interaction between the
29 investigator and officer in order that any review or
30 comment made about the detail provided by the witness at
31 the time in the interview with the officer could be there
32 for anyone to examine at some later point.
33

34 Now, the reason I did that and recommended that was
35 because of the confusion that had existed in relation to
36 the ongoing investigation of Strike Force Lantle and the
37 media attention it was getting, comments in the media by
38 uninformed parties, that could not possibly know of the
39 efforts of the Newcastle Local Area Command in addressing
40 this investigation. It was critical that any future review
41 that may require to take place be absolutely clear on what
42 conversation, questions and answers were given by these
43 particular people to Detective Sergeant Little, Detective
44 Inspector Parker and his team, and this was an effective
45 way of doing that.
46

47 Q. But that effective way, as you put it, runs the real

1 risk, does it not, of not satisfying the essential
2 jurisdictional facts having to be proved under the criminal
3 procedure investigations - isn't that right?
4 A. Well, I --
5
6 Q. No, isn't that right?
7 A. What you would do --
8
9 Q. Please answer the question "Yes" or "No" - isn't that
10 right?
11 A. If you stopped at a particular point, yes, but what
12 you would do, if there was a requirement to advance it to a
13 next point and you had instructions from the Director of
14 Public Prosecutions "Go and get a statement from victim X
15 or victim Y", you would do that and the ERISP interview
16 would be an annexure to that statement, the detail of
17 which, content of which, would be available for any
18 examining jurisdiction, court or otherwise.
19
20 Q. That's a real risk you were running there, wasn't it?
21 A. Absolutely not. Not is it not only not a risk; it was
22 proper practice in this investigation.
23
24 Q. You assert it to be proper practice?
25 A. I absolutely do.
26
27 Q. How do you prove the jurisdictional facts required
28 were made out in those circumstances?
29
30 MR SAIDI: I object as to the relevance. It may be that
31 the cross-examiner may have a certain view about these
32 matters but, with respect, there is a real issue as to
33 whether or not what's being put to the witness is soundly
34 based in any event.
35
36 THE COMMISSIONER: We have our answer, Mr Saidi.
37
38 Were you asking a further question, Mr Cohen?
39
40 MR COHEN: I think I'll leave it at that, Commissioner.
41
42 Q. Wasn't there a concern, Detective Inspector Jacob, as
43 you described it, in taking these statements and being in a
44 position to demonstrate to the world that things were done
45 properly --
46 A. No, I beg your pardon. It wasn't to demonstrate to
47 the world. It was to demonstrate to any interested

1 parties, ie, in a judicial process or in an inquiry such as
2 this, exactly what transpired between a witness and
3 interviewer.
4

5 Q. That was driven by a concern to protect the reputation
6 of the NSW Police Force, was it not?

7 A. Absolutely not. It was a concern to ensure that, at
8 some point down the track, if this material was examined,
9 it could be done with absolute transparency without there
10 being any confusion about what was said by whom and when.
11

12 Q. Even if there was a risk that that material was not
13 admissible at trial?

14 A. I've seen a lot of material not admissible at trial
15 that's been generated in this investigation. As
16 investigators we work at the pleasure of the Director of
17 Public Prosecutions. If an instructing solicitor or a
18 Crown Prosecutor from the Director of Public Prosecutions
19 says, "Detective, that particular interview you've done in
20 the form of an electronically recorded interview, I would
21 like that in statement form," that's a perfectly acceptable
22 and appropriate way in which to deal with it.
23

24 Q. It's not perfectly acceptable. It's a requirement of
25 the criminal procedure act, isn't it?

26 A. For the admission under the rules, certainly.
27

28 MR COHEN: I have no further questions.
29

30 MR RUSH: I do have a few matters.
31

32 <EXAMINATION BY MR RUSH:
33

34 MR RUSH: Q. Firstly, officer, do you have any
35 first-hand knowledge of the role Joanne McCarthy played in
36 respect of witness [AL]?

37 A. No.
38

39 Q. The only information you have in respect of comments
40 you made earlier in your evidence, is it fair to say that
41 comes from former officer Tayler?

42 A. No.
43

44 Q. Does it include former officer Tayler?

45 A. Yes.
46

47 Q. Were there others?

1 A. Yes.

2

3 Q. Could you assist the Commission by explaining who
4 those others were?

5 A. There was an indication to me in December 2010 about
6 contact between - suspected contact, and I want to be clear
7 on that, contact in a way that a risk had to be managed -
8 DCI Fox and Ms McCarthy.

9

10 Q. My question was who gave you that indication other
11 than Mr Tayler, who we have already established - whether
12 it was that indication or another - had given you some
13 information. Was there anybody else that gave you that --

14 A. A number of police involved in this investigation
15 attaching to the Newcastle Local Area Command and that
16 occurred in my early start, and I seem to remember about
17 9 or 10 December 2010 I became aware of that at Newcastle.

18

19 Q. Can you remember any other officers who --

20 A. Yes, I can.

21

22 Q. Are you able to mention who those officers are?

23 A. Detective Inspector Parker was one of the team. I may
24 be able to get some guidance in relation to records, but it
25 was at least Detective Inspector Parker and probably a
26 couple above him. It was part of a meeting I had, I think
27 on 9 December 2010, and it was raised not as a matter of
28 fact but as a risk that needed to be managed in the
29 investigation.

30

31 Q. I follow. I think you've conceded in your evidence
32 that your knowledge in May 2011 of the constituent facts
33 was in stark contrast to the knowledge you had in November
34 2010.

35 A. Yes, absent - well, no. I really didn't have any
36 knowledge. I don't think you could really rely on my
37 records or my history of this matter prior to me engaging
38 formally in an involvement on 9 or 10 December 2010. Prior
39 to that, I simply had connections on email and in telephone
40 calls on an informal basis with the police from Newcastle.

41

42 Q. I apologise for that. I meant December, I think I
43 said November in my question. Just to be clear, on 9 and
44 10 December 2010 you started to form a much greater
45 knowledge of the matter?

46 A. A better knowledge which evolved into a greater
47 knowledge, to use your term, by May 2011.

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Q. What was your knowledge like in approximately February 2011, would you say?

A. I was certainly aware of the focus of the work being done by Detective Sergeant Little, supported by Detective Inspector Parker and the team, in getting ready and gearing up to investigate this particular matter.

Q. Thank you. Could you turn and have a look at annexure CC of your affidavit?

A. Of my affidavit, sir?

Q. Yes, please. Before you answer this question - I'll ask the question but before answering it, I anticipate there may be an objection which might need to be dealt with, so don't jump in and answer it immediately. In the second-last paragraph, you make a comment in the last sentence of that paragraph:

He's trying to ...

I'm not going to read the rest, but if you would read that to yourself.

A. Yes.

Q. In light of what I think you concede to be a greater knowledge of the matter by the time of this email, can you assist the Commission with what you intended to say by that statement?

A. Exactly what's written. That is the position of this investigation in those early days - no question of that. It was going to be a very difficult matter to progress.

Q. Had you formed a concluded view in those words, that it would be impossible to advance criminally?

A. Absolutely not. This was a communication to a legal assistant, who I was trying to connect with Detective Sergeant Little to give him some legal advice and I was forecasting my view of how things stood at that time.

Q. Again, if you could just hold back before jumping in to answering this question, it might be the subject of objection. Can I suggest to you that your understanding of the Penske file denoted being given a task, not knowing what to do with it but going along with it as if you do?

A. No, no. Are you talking about by me applying the designation of Penske, that it denotes those things? Is

1 that what you're asking? . I absolutely disagree. The
2 Penske file cupboard, a secure cupboard, is almost like an
3 in-house joke at our office. It's a place where very
4 important documents are kept that may be required to be
5 actioned in a different way at a later time, and it's so I
6 don't lose track of any material. There is an abundance of
7 material coming in to the manager's office at the Sex
8 Crimes on a daily basis. This is one of dozens of matters
9 that are dealt with on a daily basis.

10
11 There was nothing out of the ordinary on this at that
12 time from the perspective of the Sex Crimes Squad, and
13 I didn't want to lose track of any history I had with the
14 matter. That's why that was printed up, a memo applied to
15 it and secured in a cupboard which we colloquially and
16 jokingly term the Penske file cupboard.

17
18 Q. I think you agreed in evidence that the reference had
19 a genesis in a Seinfeld episode?

20 A. That's right - quite a funny one.

21
22 MR RUSH: I certainly don't dispute that. I have no
23 further questions.

24
25 THE COMMISSIONER: Mr Saidi?

26
27 <EXAMINATION BY MR SAIDI:

28
29 MR SAIDI: Q. Detective inspector, I think you've been
30 too modest in terms of giving the court the benefit of your
31 experience and qualifications. Can I take you back to some
32 of your experience, if I may, and perhaps overcome some of
33 your modesty. You've been involved in some of the most
34 important criminal investigations in New South Wales in
35 years gone by, is that so?

36 A. Yes, sir.

37
38 Q. How many such investigations, that is, important
39 criminal investigations, do you believe you've been
40 involved in in, say, the last decade?

41 A. It would be hundreds of jobs I've been involved in at
42 various levels. I had seven years at the homicide squad,
43 prior to going to the Sex Crimes Squad where I've occupied
44 that position since 2005. The NSW Police Force designates
45 the crimes investigated by the Sex Crimes Squad as all
46 serious, and there are major crimes dealt with on a daily
47 basis, and since being there in 2005 in connection with the

1 commanders - current commander Detective Superintendent
2 Kerlatec - it's our job to manage the state's response to
3 sexual assault - adult sexual assault and we do so daily.
4

5 Q. Some of the homicide investigations you've been
6 involved in, would it be fair to say they have been
7 investigations and matters which have been widely reported
8 in the media over the years?

9 A. Yes, sir.

10
11 Q. In terms of your experience in the sexual area, again
12 to overcome your modesty, could you give us a bit more
13 information about the experience you have had?

14 A. I really need to clarify that question.

15
16 Q. I'm assuming that is a Seinfeld joke, is it?

17 A. No. So far as the Sex Crimes Squad goes, there have
18 been some significantly major investigations that have
19 occurred over my time there that have received high
20 publicity. Many of them are currently before courts. Some
21 of them are currently before the courts and it would be
22 difficult for me to talk about them at this point. Many
23 involve publicity, many are impacted on by issues such as
24 the media, public pressure, political pressure, internal
25 executive pressure. These are things that you deal with on
26 a daily basis. There was nothing extraordinary about this
27 very important case that later became Strike Force Lantle -
28 nothing that concerned Detective Superintendent Kerlatec or
29 myself in the management of that by the Newcastle Local
30 Area Command. They did what they had to do in the times
31 that were available to them in light of the competing
32 demands across a very busy command.
33

34 This was an historical matter and absolutely
35 important, but I've heard the term used here, it was not
36 urgent. It was a matter that had to be attended to in the
37 fullness of time and there was not one bit of reluctance,
38 in my view, from anyone that I've met along this journey of
39 Strike Force Lantle to aggressively pursue that in the
40 fullness of their competing demands across a very busy
41 command.
42

43 Q. I was dealing with your experience, I'll come back to
44 that, but taking up from that last answer which you
45 provided, in your capacity with the Sex Crimes Squad, you
46 are familiar with investigations that are carried out
47 state-wide; is that correct?

1 A. Correct, sir.

2

3 Q. The extent of the investigations you are familiar with
4 that are carried out state-wide, can you give us a brief
5 overview?

6 A. I'll put this particular investigation in some sort of
7 perspective, if I may. There wouldn't be many detective
8 offices in this state that don't have as part of their
9 workload at least one, possibly more, sexual - historical
10 sexual assault investigations that are being managed by
11 junior detectives or plainclothes constables. Now, all of
12 those matters must be managed across the competing demands
13 of the busy commands that they work in.

14

15 Whilst I've heard some evidence here that there was
16 this unholy delay in the process, I would reject that, and
17 I would say quite strongly that whilst there is a delay and
18 it would be nice to put something on a pedestal and to deal
19 with it in the absence of everything else, that can't be
20 done, and you must manage your workload in consultation
21 with the competing demands.

22

23 These officers walk into their office one day, they
24 could be having a murder, a murder could have occurred, an
25 armed robbery could have occurred, a home invasion, sexual
26 assault that occurred that day, a gang rape. These are the
27 sorts of matters that these officers have to deal with this
28 whilst dealing with this non-urgent, but very important
29 matter. So there's nothing I've seen in our examination -
30 and when I use the word "our" I talk about Superintendent
31 Kerlatec along with me - that gives me any cause for
32 concern about the excellent way the Newcastle Hunter region
33 are managing these types of issues. In fact, it's
34 disturbing to me that there is such an inaccurate message
35 being sent out about the performance of the Hunter and
36 Newcastle region detectives in relation to their
37 investigation of historical sexual assaults. I know of at
38 least 12 to 14 priests and clergy that have been charged by
39 this area with serious sexual assaults upon children.
40 That, in any event, is an outstanding record - far from
41 this area being responsible for not progressing
42 investigations into these type of matters, they are doing
43 so exceptionally well.

44

45 Q. In terms of the investigation and prosecution of sex
46 offenders from your experience and from your knowledge of
47 what is occurring in the Newcastle Local Area Command as

1 compared to the rest of the state, how would you rate
2 Newcastle's dealing with the problem; that is,
3 investigating and prosecuting as compared to the rest of
4 the state?

5 A. I do not know of one matter where a victim has come
6 forward in this area to complain about a sexual assault -
7 historical sexual assault by a priest or a clergy that has
8 not been investigated as far as it possibly can by the
9 police in this region.

10
11 Q. You've heard, given you've been sitting in during the
12 course of these proceedings, the phrase or the terminology
13 of "Catholic mafia".

14 A. Yes, I have.

15
16 Q. Were you familiar with that terminology prior --

17 A. I've not heard of it, ever.

18
19 Q. My question has deliberately been qualified to
20 Catholic mafia as it applies to the NSW Police Force.
21 I want you to keep away from the Catholic Church for the
22 moment. Assuming there is a suggestion that there is a
23 Catholic mafia that somehow operates within the police to
24 protect paedophiles or perpetrators, what would you say
25 about that?

26 A. Absolutely haven't heard of it. If such a thing
27 existed or I suspected it existed, I would take it to an
28 appropriate authority. The speculation out there that
29 there is a group of police adversely affecting the way in
30 which the NSW Police Force attacks this problem is obscene,
31 and if anyone has any information, please provide it to me.
32 I'm sure I will action it. But as far as I am concerned,
33 the New South Wales police attacked this like they attack
34 all jobs, with as much vigour as they possibly can.

35
36 Q. Your invitation for people to report matters to you,
37 are you able to tell us whether on an ongoing basis, the
38 commander of your squad, Detective Superintendent Kerlatec,
39 whether he makes appeals to the public regularly?

40 A. Anyone who chooses to look will see - Detective
41 Superintendent Kerlatec is the corporate spokesperson on
42 adult sexual assault investigations in this state. Adult
43 sexual assault investigations, for the purpose of that,
44 means the historical sexual assaults reported by adults
45 committed upon them when they were children. He has a
46 watching brief across this issue all of the time.
47 Mr Kerlatec, in his regular appearances in the media, as

1 the corporate spokesperson, encourages victims to come
2 forward on every available opportunity.

3

4 You must bear in mind that the New South Wales police
5 can only investigate crimes that are reported to it by
6 victims. It's not fair to suggest that the New South Wales
7 police can just fly in over the top of the Catholic Church
8 and start investigating the Catholic Church absent of
9 victims. We need a victim to build an investigative
10 process upon. An investigative process is then launched
11 which enables the police, subject to a victim's
12 cooperation, to do things like get search warrants, use
13 other strategies and investigative lines that may be able
14 to assist in advancing the investigation.

15

16 MS LONERGAN: Commissioner, we're just straying a little
17 bit from the matter that we need to attend to in this
18 Special Commission.

19

20 THE COMMISSIONER: Thank you, Mr Saidi.

21

22 MR SAIDI: Q. Detective if I can come back to your
23 experience as an investigator, if I may, in terms of
24 complainants and their relationship with investigators -
25 that is, the primary investigator, et cetera - are you able
26 to give us an indication as to what can happen if a
27 particular investigator and/or a particular complainant get
28 too close to each other in terms of their relationship?

29 A. Absolutely, it can adversely affect judicial
30 proceedings, for example. It is imperative that police,
31 whilst supporting victims of crime in every way they
32 possibly can professionally, do so professionally, and
33 there is guidance for police to do that appropriately.

34

35 Any enjoining of the police in an unprofessional
36 relationship or an evolving relationship can cause
37 significant difficulties down the track, not only
38 judicially but, of course, for the course and conduct of
39 the investigation and the focus of the investigation may be
40 skewed due to those competing priorities that the
41 individual relationship has.

42

43 Q. Again in your experience I want you to assume this.
44 I want you to assume that a particular victim or a
45 complainant may be so closely aligned to a particular
46 investigator that a statement is made to the effect of "He
47 or she" - that is the investigator - "is the only person

1 I will give a statement to." Would that cause a concern
2 and, if so, what is the concern?

3 A. The concern is that I would want to know why those
4 statements are being made, but in order to address that,
5 what I would enjoin in the process is an independent
6 counsellor, or encourage that victim to see an independent
7 counsellor to fix that problem. I think it's unhealthy.
8 Whilst it's quite acceptable for victims to feel supported
9 by the police, and we do that constantly across the state,
10 for a victim to say that in the absence of anyone else
11 they're not going to cooperate, causes me concern. And how
12 we'd address that would be to encourage any such victim to
13 independently speak to a professional, an expert
14 counsellor, get some support, and address that focus and
15 that issue.

16

17 Q. In terms of the objectivity of the investigator, given
18 that there may be an understandable sympathy by an
19 investigator towards the position of a victim, what is the
20 likely effect on an investigation if an investigator is
21 perceived to lose objectivity?

22 A. Again, it can skew the investigation and allow the
23 investigator to miss important factors which become
24 critical at a judicial process down the track. It's
25 important when criminal investigations are undertaken that
26 all available information is collected, and I should say
27 relevant information is collected and placed before the
28 court. If an improper relationship - by "improper
29 relationship" I don't mean criminal; I just mean a close
30 relationship - allows the investigative process to become
31 skewed or off track, it would promote a situation where you
32 may miss things that suddenly become a significant issue at
33 a trial and ultimately detract from what it is trying to do
34 for that victim - get justice for them.

35

36 Q. My questions up to now have all been related to a
37 victim's relationships with an investigator. I want to
38 deal with the victim's or complainant's relationship with a
39 member of the media. Based on your experience, what do you
40 see as the dangers that a victim may be closely aligned to
41 a journalist or a member of the media in terms of a police
42 investigation relating to that victim's or complainant's
43 matter?

44 A. I see that as a significant problem.

45

46 MS LONERGAN: I object. The relevance of this in terms of
47 this particular witness's evidence is somewhat lost on me

1 and I can't see that it would necessarily be assisting you.

2

3 MR SAIDI: It relates to what was asked earlier,
4 particularly by Mr Cohen, in terms of the relationship
5 between Joanne McCarthy and indeed the victim [AL] and
6 I want to explore why it was considered to be
7 inappropriate.

8

9 MR COHEN: With respect, I didn't raise it in that
10 fashion. I raised it merely to give context to the fact
11 that what was put about DCI Fox was not on a factual basis.

12

13 MR SAIDI: That's exactly what I want to put to this
14 witness.

15

16 MS LONERGAN: The evidence, as I understood it, was to the
17 effect that material had been provided by a particular
18 media person to police, but it didn't go any further than
19 that.

20

21 THE COMMISSIONER: Perhaps I could restrict it to that.

22

23 Q. Detective Inspector Jacob if you have a view about
24 whether a victim of any case - not this case - is providing
25 some material to a member of the media, does that have any
26 effect on the ultimate investigation and prosecution?

27 A. It can, Commissioner, in that, if I can address it
28 towards not this case but generically to sexual assaults,
29 there is a facility in the law for prior statements to be
30 admitted in evidence where there is a disclosure of the
31 facts of a particular case.

32

33 I have no problem with a person in a journalistic
34 position receiving information from a victim if that's the
35 choice the victim makes, but once that transaction is done,
36 that makes that person, that journalist, a witness in the
37 case, and they must be treated as a witness in the case,
38 and an important witness in the case, because the effect of
39 having different prior inconsistent statements made by a
40 particular victim can be catastrophic on the outcome of an
41 investigation when credibility is at issue, when it is
42 particularly so on historical matters.

43

44 MR SAIDI: Q. Just moving on from there to another step.
45 Again based on your experience and on your knowledge as a
46 person of your investigative experience, what do you say
47 about the prospect of an investigation being jeopardised

1 should an investigating police officer, or indeed any
2 police officer, provide a complainant's statement to a
3 journalist?

4 A. In my opinion, that's unacceptable and should never,
5 ever happen.

6
7 Q. Can you tell us why?

8 A. Again, it is down to the fact that it's improper and
9 against the law as it applies to the New South Wales
10 police. That document generated, whatever it is - a
11 report, a victim statement or whatever - is owned by the
12 NSW Police Force and should not go outside of that
13 organisation without permission, firstly. Secondly, if it
14 involves a victim, then the statement and detail from the
15 victim can and may be out there in the public arena and may
16 affect the security of the investigation, of course, it may
17 affect the impact it has on that victim at some point when
18 they are giving evidence.

19
20 If I was a defence barrister and had information, for
21 example, that the media had a particular victim statement
22 and it was prepared in the process of negotiation or
23 whatever the case may be, that would be huge feeding
24 grounds of cross-examination for me to attack the witness's
25 credibility.

26
27 So, in my view, that damages and puts in danger
28 victims of crime, when we should be doing everything we can
29 to put proper usable secure evidence before courts.

30
31 Q. I want to take you back to the period early December
32 2010, if I may. By that stage, or by the time you got
33 involved - I'm referring now specifically more to
34 9 December 2010 - you became aware of at least some of the
35 material available to Strike Force Lantle; is that so?

36 A. I did, sir.

37
38 Q. What about statements, were you aware of what
39 statements they had in their possession as at that date?

40 A. I was aware there was some material. My greatest
41 knowledge I had of this matter was in and around May 2011,
42 prior to a significant meeting I had with Detective
43 Sergeant Little. In December 2010, whilst I had a bit of a
44 helicopter view of the investigation, I wasn't immersed in
45 the detail.

46
47 Q. But were you aware that the strike force had

1 specifically the statements of [AJ], [AL] and a
2 Mr Stanwell?

3 A. I was.

4
5 Q. In relation to those statements, did you access them
6 for yourself?

7 A. I had seen them, yes. I looked at them in that period
8 prior to May 2011.

9
10 Q. And in terms of those statements which you had and you
11 read for yourself, to your understanding, was there a need
12 for those statements to be re-taken, if I can put it that
13 way?

14
15 MS LONERGAN: I object. Evidence from this witness asked
16 in that fashion is moving towards evaluation of other
17 officers. In my respectful submission, that does not
18 assist you in terms of what we're required to do with term
19 of reference 1, which is to explore the circumstances in
20 which Detective Chief Inspector Fox was asked to cease
21 investigating. This is after the event and a side issue,
22 in my respectful submission.

23
24 MR SAIDI: It's been suggested that Detective Chief
25 Inspector Fox, with his vast experience and knowledge, was
26 told to cease investigating. I understand part of his
27 complaint is that he was kept out of the investigation
28 whilst it operated. Based on what is being asserted by
29 Detective Chief Inspector Fox, I'd like to adduce evidence
30 in terms of the statements that he provided to Strike Force
31 Lantle, and indeed their efficacy in terms of what was
32 provided, and whether or not it would have been
33 appropriate, based on what was provided, for him as an
34 investigator to be brought on board.

35
36 MR COHEN: I object to that course. That provides, under
37 no circumstances, any capacity for my client, and perhaps
38 even the Commission, to evaluate anything. We've not seen
39 anything that is inside Lantle, for good reason. It
40 becomes a one-way bet for the Police Force in those
41 circumstances.

42
43 MS LONERGAN: May I revisit my objection. Having heard
44 Mr Saidi's outline as to the relevance, I withdraw my
45 objection.

46
47 THE COMMISSIONER: I see, Ms Lonergan.

1
2 Mr Cohen, I will allow the question, because it may be
3 that there will be some chance for you to explore the area
4 that you've just touched upon.

5
6 Mr Saidi?

7
8 MR SAIDI: Q. In relation to those statements of [AJ],
9 [AL] and Mr Stanwell that I referred you to, you're aware
10 that statements were provided to the strike force by
11 DCI Fox?

12 A. That's correct.

13
14 Q. In terms of obtaining further statements from any of
15 those witnesses, did that occur?

16 A. Absolutely.

17
18 Q. Can you tell us why that occurred? Were you involved
19 in any decision making for that to occur?

20 A. Not in so much the decision making. Detective
21 Sergeant Little was very capable to make his own
22 assessment, but I was certainly part of that process
23 leading up to the need to do that.

24
25 Q. Why were the further statements taken?

26 A. I think, if we take the first statement of [AJ], it an
27 was extremely long protracted statement, as I understand
28 it, taken over many, many hours, and occupying some
29 27 pages. However, that statement reveals to me, as a
30 policeman, not as a lawyer, a disclosure of one offence of
31 indecent assault. That's a hell of a journey to place a
32 victim in, to spend 20-plus hours to obtain such a detailed
33 and lengthy statement which discloses one offence. What
34 concerned me about the statement itself is that it
35 contained huge swathes of inadmissible evidence and
36 evidence that could never be given in a court of law by the
37 particular witness.

38
39 Whilst I am absolutely empathetic to that poor
40 victim's circumstances and what she went through, and I'm
41 absolutely empathetic to her comments and general
42 observations of the Catholic Church and their management of
43 these issues, they have no place in a criminal
44 investigation brief. They are comments that need to be
45 made outside of a brief and are totally inadmissible.
46 That's just one example.

1 MS LONERGAN: Commissioner - I'm sorry, detective
2 inspector, were you finished your answer?

3
4 THE WITNESS: In relation to that, yes.

5
6 MS LONERGAN: Would this be a convenient time to take the
7 morning tea adjournment. There is a matter I want to raise
8 with Mr Saidi.

9
10 THE COMMISSIONER: Yes, thank you.

11
12 **SHORT ADJOURNMENT**

13
14 MR SAIDI: Q. Detective Jacob, the State Crime Command
15 and the sex crimes unit within that State Crime Command,
16 the charter of the State Crime Command, does an
17 investigation of this kind normally fall within the terms
18 of the charter?

19 A. No, it falls outside the charter.

20
21 Q. Why is that?

22 A. This is a crime of investigation into a conceal
23 serious offence or misprision of a felony. That is not a
24 matter that normally would be undertaken by the State Crime
25 Command. However, having regard to its obvious connection
26 to historical sexual assaults and the potential for the
27 investigation to expand beyond what it had originally been
28 developed as, we became involved as a consultant.

29
30 Q. That was on your recommendation; is that right?

31 A. Yes, sir. On my recommendation, based upon the stated
32 position of Assistant Commissioner York in her report off
33 Mr Townsend's report.

34
35 Q. When you came into the first stage of the
36 investigation - the first stage I'm referring to being in
37 around about December, early December of 2010 - you were
38 aware that there was a witness who was to be interviewed by
39 the Strike Force Lantle investigators?

40 A. Yes, sir. That's in fact why I attended on that
41 particular day at the request of Detective Inspector
42 Parker, in that a witness had been identified and I'm
43 unsure whether there is a pseudonym for that particular
44 witness.

45
46 Q. No, you can take it there is not for the moment. You
47 are referring to a lady with the initials HK?

1 A. Yes, HK, who was cooperating with the police and was
2 being to be interviewed by [Detective X] and I came up to
3 assist in that process and see what unfolded.
4

5 Q. Indeed, you assisted in mapping out an interview plan
6 for that witness?

7 A. Yes.
8

9 Q. At the time, were the expectations that this witness
10 would provide information of a potentially important nature
11 which would advance the investigation?

12 A. Not only for Strike Force Lantle, but the belief was
13 that she may identify not only evidence for Lantle but
14 other evidence that may be used in other prosecutions
15 involving the same area.
16

17 Q. I don't want to go much beyond that other than to ask
18 this: in terms of the information relating to Strike Force
19 Lantle itself, was the quality of the information provided
20 what was expected?

21 A. No, it was not able to be used in Strike Force Lantle,
22 nor to my understanding was any of the material, although
23 very cooperatively forthcoming, able to be used to launch
24 or assist in any other investigation.
25

26 Q. In terms of any of the material which had been
27 provided to Strike Force Lantle by Detective Chief
28 Inspector Fox at the period when you came into it, that
29 is - I'll give it its precise date - 9 December 2010, did
30 any of that material provide a basis for any prosecution to
31 be commenced at that point in time?
32

33 MS LONERGAN: I object. Prior to the morning tea
34 adjournment, I raised the question of how this informed the
35 examination of term of reference 1, which is to do with the
36 circumstances in which Detective Chief Inspector Fox was
37 allegedly asked to cease investigating. This is, with
38 respect, not informing that examination and that issue.
39

40 THE COMMISSIONER: Yes. I think that's true, Mr Saidi.
41

42 MR SAIDI: If you rule that way, Commissioner, I won't
43 press it.
44

45 THE COMMISSIONER: Thank you.
46

47 MR SAIDI: Q. Your coming into Strike Force Lantle, at

1 least in the early period, the chief investigator or the
2 lead role investigator was [Detective X]; is that correct?
3 A. Yes.
4
5 Q. You had dealings with her in that early period?
6 A. Is this [Detective X]?
7
8 Q. I transgressed and I apologise. [Detective X], yes,
9 my apologies.
10 A. Yes, I did.
11
12 Q. Did you form a view in relation to her capabilities
13 and expertise?
14 A. I did.
15
16 Q. What was that view?
17 A. I certainly formed a view that she was not only quite
18 capable and competent but quite willing to undertake the
19 investigation, as I saw her at that stage.
20
21 Q. The other detectives attached to the Strike Force
22 Lantle, at that point in time, that is, December 2010, did
23 you form a view in relation to their expertise and
24 capability?
25 A. Detective Inspector Tayler, yes, I did.
26
27 Q. What was that view?
28 A. An excellent manager of major investigations and
29 investigations of a local area command.
30
31 Q. And Jason Freney, did you come into contact with him?
32 A. Only loosely, but nothing came to me adverse.
33
34 Q. After 29 December or thereabouts of 2010, the lead
35 investigator was Jeff Little?
36 A. Detective Sergeant Jeff Little, yes, sir.
37
38 Q. Did you form a view as to his expertise and
39 capability?
40 A. I developed a view about his expertise and ability,
41 yes, I did, I'm sorry.
42
43 MS LONERGAN: Commissioner, again I object. This is well
44 after the events in which the allegations have been made
45 that Detective Chief Inspector Fox was asked to cease
46 investigating. A evaluative comment about the investigator
47 who ultimately completed the investigation does not assist,

1 in my respectful submission.

2

3 MR SAIDI: The allegation was it was set up to fail and it
4 was a sham.

5

6 THE COMMISSIONER: Ms Lonergan, as it has fallen, we have
7 had a brief appraisal of other personnel, so I will permit
8 Detective Inspector Jacob to answer that question if he
9 can.

10

11 THE WITNESS: My opinion of Detective Sergeant Little is
12 he is outstanding. He is committed to this difficult
13 protracted, complex investigation with a vigour I've not
14 seen before and it's resulted in a brief of investigation
15 which I could hold up against any other that I've seen of
16 this type of nature. In fact I'm so impressed with the
17 work he has done, I'm seeking to use it as an example of
18 the sort of quality that is capable of being done from a
19 detective sergeant in a local area command. It's an
20 amazing brief.

21

22 MR SAIDI: Q. One other officer, Justin Quinn?

23 A. By that I mean Justin Quinn, Detective Sergeant Little
24 was the driving force, supported strongly by Detective
25 Inspector Parker.

26

27 Q. Was there an investigation plan for Strike Force
28 Lantle?

29 A. Yes, there was, sir.

30

31 Q. Did you have an overview of that?

32 A. I saw that investigation plan as it was being
33 developed and after it was submitted by Detective Sergeant
34 Little, yes, I did.

35

36 Q. In terms of the investigation plan, from your
37 perspective, based on your experience and knowledge, was it
38 an adequate investigation plan for the purposes of the
39 strike force?

40 A. Absolutely.

41

42 Q. Why do you say that?

43 A. It identified the background, identified the issues,
44 identified the players. It indicated a course of conduct
45 and how the investigation would be phased and reviewed at
46 the outcome.

47

1 Q. The e@gl.i holdings that were kept on the police
2 computerised system, did you have access to that?

3 A. I did.

4

5 Q. In accessing that, did you have a view as to the
6 maintenance of those records and how the investigation was
7 maintained?

8 A. Meticulously. Every aspect of Detective Sergeant
9 Little's investigation, inquiry, no matter how small, no
10 matter how large, was subjected to record on to the e@gl.i
11 system and that became permanently available to any future
12 investigation.

13

14 Q. As a matter of State Crime Command and with your role
15 in overseeing the investigation or consulting with the
16 investigation, if there appeared to be inadequate
17 resourcing of the investigation or a lack of resourcing of
18 any kind, did you have any power at all within your
19 capacity to bring that to anyone's attention and, if so,
20 who?

21 A. Yes. As I said earlier in my evidence, Detective
22 Superintendent Kerlatec is a corporate spokesperson for
23 adult sexual assault. It's in his interest to be across
24 any issue that is deficient. If a deficiency had arisen or
25 a problem that wasn't part of the normal course of business
26 had arisen, I would have reported to him and he would have
27 taken some restorative action.

28

29 Q. From your perspective in terms of your overseeing or
30 consulting in this investigation, are you able to express
31 an opinion as to whether it was adequately resourced or
32 not?

33

34 MS LONERGAN: Commissioner, I hate to interrupt my learned
35 friend's examination, but, again, I raise an objection in
36 that we're traversing matters well past the circumstances
37 we need to examine.

38

39 THE COMMISSIONER: Yes. Do you have another area to move
40 on to, Mr Saidi?

41

42 MR SAIDI: Yes, I do.

43

44 Q. I want to take you to the report prepared by Detective
45 Chief Inspector Fox of 25 November 2010. Have you seen
46 that report?

47 A. Yes.

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Q. And you digested its contents?
A. Yes.

Q. Again I come back to your role with the State Crime Command as the manager of the Sex Crimes Squad. Such a report, if it were to have been received by you in your role, would it have been adequate in terms of obtaining the assistance of State Crime Command?

MR COHEN: I object. I think I'm joining in the objection of my learned friend Ms Lonergan, at least conceptually. The issue in the term of reference is the impedance of Detective Chief Inspector Fox. Unless these questions are going directly to that topic, some sort of commentary by this witness about how desirable or otherwise it is, is of no utility.

THE COMMISSIONER: It's rather speculative and hypothetical.

MR SAIDI: Commissioner, it has been represented by Detective Chief Inspector Fox that he made calls for the calling of a strike force, a task force, a wider inquiry, and matters of that kind, and that he was hampered. I want to rebut the suggestion that he was hampered in any way in terms of whether it's a provision of that report or any other report, and I make no secret of it. I want to elicit from this witness, based on his experience, what would have happened to such an application by Detective Chief Inspector Fox had it been received by State Crime Command.

MR COHEN: I maintain my objection on the former basis and on the further footing that to the extent that there was to be any consideration of these factors and there was to be any review of whether or not it would go further, that is not something that this witness could express an opinion about. It would never fall to him. If it fell to anybody, it would be the regional commander or possibly the deputy commissioner. This would be entirely speculative by this witness. It doesn't advance any issues that you, Commissioner, have to determine; you have to opine about and no-one else. We're going around in circles and --

MR SAIDI: We are going in a straight line and getting to the heart of the matter. Detective Chief Inspector Fox wants to maintain that he wanted a strike force or wanted a

1 further investigation carried out. This is the man who
2 made the actual recommendation for Strike Force Lantle and
3 this is the man who would have dealt with his report of
4 20 November 2010. If Detective Chief Inspector Fox or
5 Mr Cohen want to maintain a position that Detective Chief
6 Inspector Fox put in an appropriate request or an
7 appropriate recommendation for a strike force or any other
8 assistance to be forthcoming, I would like to meet it
9 through this witness; otherwise, I prefer no submissions at
10 all would be made at the end of the day in relation to the
11 matter.

12
13 THE COMMISSIONER: Mr Saidi, your question is about the
14 report by Detective Chief Inspector Fox dated 25 November
15 2010.

16
17 MR SAIDI: That's correct.

18
19 THE COMMISSIONER: Q. Detective Inspector Jacob, you
20 know that document, do you, sir?

21 A. I've read it recently again. I saw it in the early
22 stages of my involvement in Strike Force Lantle. I was
23 aware of the action taken, in that it was referred to
24 Strike Force Lantle for information and I agree with that.
25 Subsequent to some of the evidence I've heard in this
26 Commission, I revisited it and had another look at it and
27 applied some of the logic I would apply if I had received
28 that at State Crime Command as a request for the pulling
29 together of a diversion of resources of the major
30 investigation. I spoke to my lawyers about that.

31
32 I should say, ma'am, so there's no confusion, that
33 report never made it to State Crime Command to consider.
34 This is something that I have looked at of recent days,
35 scanned over, and my initial thoughts as a result of
36 evidence I've heard at this Commission.

37
38 THE COMMISSIONER: So your question is, Mr Saidi, whether
39 Detective Inspector Jacob would have acted on that if he
40 had received it at that time?

41
42 MR SAIDI: Yes.

43
44 THE COMMISSIONER: I'll allow it.

45
46 THE WITNESS: I would not have recommended it go beyond
47 me. I would have forwarded the document back to Detective

1 Chief Inspector Fox and I would have asked him to revisit
2 the report and put it in a more logical sequential manner.
3 I would have asked him for references. There is a great
4 swathe of material there where interviews are spoken about
5 and people are talked of, but no reference about how that
6 came into the contact of the police or the status of the
7 investigative process of the various issues that arise.
8 I would have sought that type of detail prior to making any
9 sort of decision as to whether to send it from my point up
10 the food chain. It involves a huge diversion of resources,
11 Madam Commissioner, and it's the sort of document that was
12 dearth of detail. It had comments in it that were
13 emotional and non-police related.

14
15 MR SAIDI: Q. Detective, you'll be pleased to know I'm
16 coming to the end of this, but I want to put the general
17 proposition to you and have you respond from your
18 perspective. Given your involvement in the consultancy
19 role with Strike Force Lantle it's been suggested that this
20 strike force was set up to fail.

21 A. I've heard that.

22
23 Q. I now want you to comment, based on your experience,
24 your working with the strike force and your knowledge of
25 what the strike force did in terms of commenting about that
26 allegation.

27 A. I say absolutely not. This was not set up to fail.
28 On the contrary, it was established properly. The
29 appropriate resources were allocated to it. In the
30 unfortunate event that police became sick and were
31 unavailable to the investigation, the investigation was
32 almost immediately redeployed to a highly competent, highly
33 motivated detective sergeant in the form of Jeff Little,
34 strongly supervised by Mr Parker, and those above him. In
35 no way did I see any suggestion whatsoever that this
36 investigation was set up to fail from a police perspective.
37 There may be a failure down the track, but it certainly has
38 to do with the quality of what the police have had to work
39 with, not the way in which they have worked with it.

40
41 Q. And associated with that allegation there was another
42 allegation suggesting that the investigation by Strike
43 Force Lantle was a sham. What do you say about that?

44 A. I absolutely disagree. On the contrary, this is an
45 investigation that was totally supported by the command at
46 the Northern Region, Newcastle area. It generated in
47 excess of 5,000 documents, a 200-plus page report was

1 submitted by Detective Sergeant Little in relation to this
2 matter.

3

4 MS LONERGAN: I'm sorry to cut across the witness again.
5 Again we are traversing past the general material that's
6 helpful to you.

7

8 THE COMMISSIONER: Thank you.

9

10 MR SAIDI: Q. You'd refute any suggestion at all that it
11 was a sham?

12 A. Absolutely. It's offensive and I feel very sorry for
13 the police involved in this who have dedicated huge swathes
14 of their time to get to the bottom of this matter. I know
15 Detective Sergeant Little has not only dedicated time in
16 his normal shift but he works outside of hours, on weekends
17 and evenings, to keep up the time generated on this job.
18 The suggestion that these people have created a sham or
19 have not aggressively pursued this matter is offensive in
20 the extreme and detrimental to the morale of the police in
21 this area.

22

23 MR COHEN: Can I ask that that response be limited under
24 section 136 of the Evidence Act to the opinion of this
25 witness, not the fact?

26

27 THE WITNESS: It is my opinion.

28

29 THE COMMISSIONER: Yes.

30

31 MR SAIDI: I don't know how section 136 applies. I don't
32 have the Evidence Act in front of me, but my immediate
33 reaction is it doesn't apply. It is his opinion. He's an
34 expert and he consulted with it --

35

36 THE COMMISSIONER: Thank you, Mr Saidi.

37

38 <EXAMINATION BY MS LONERGAN:

39

40 MS LONERGAN: Q. Detective, could you turn up
41 paragraph 18 of your statement. I just want to get some
42 context around some evidence you gave regarding the
43 investigative holdings at a particular stage. Paragraph 18
44 deals with events on 9 December 2010 and in that
45 paragraph you make an evaluation of the evidence as it
46 stood at that time?

47

A. Yes, ma'am.

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Q. That was the first time, as I understand your evidence, that you sat down and actually had a look at the holdings as they were regarding Lantle at that stage?

A. I can actually say that I didn't look at the holdings so much as was briefed by members of the team that were up there that day.

Q. I understand. Forgive me for misrepresenting that. You say in your statement:

During the course of my meeting and as recorded within my diary entry the following information was conveyed to me.

A. Yes, ma'am.

Q. Is it fair to say that, at that stage, that is, 9 December 2010, there were only the beginnings of an investigation available to be considered by you?

A. That's correct. This was the early part of the investigation and plans had been put in place and commenced to be executed by [Detective X] and her supervisors and this was the commencement of their process. What interrupted what they were doing in relation to particularly other witnesses was the potential importance of witness HK, and that resulted in Detective Inspector Parker calling me and seeking my attendance at that time to assist in that assessment.

Q. Given your evidence and what's contained in paragraph 18, are you able to express an opinion as to the holdings in relation to that investigation up to 9 December 2010 or not?

A. I couldn't give it at that time, although I know that e@gl.i investigator notes had been completed by [Detective X] and some work had been done, as described, in relation to the gathering of potential witnesses but I couldn't say - in fact, I'm quite certain I didn't go into e@gl.i to look at whet they had recorded therein.

Q. You were asked some questions earlier today about the role of media or reporters in the process of police investigation.

A. Yes.

Q. Would you agree with me that if it's a situation where

1 a media person or a newspaper journalist actually provides
2 material to the police, that engagement can indeed be of
3 assistance to a police investigation?

4 A. Absolutely no question of that.

5
6 Q. Can I suggest to you that in a situation where the
7 material is by way of historical document, then that means
8 it is less likely that the journalist or media
9 representative in question will be an important witness in
10 any criminal proceeding.

11 A. If that's the extent, yes.

12
13 Q. Is it fair to say that maintaining some continuity of
14 investigation personnel is preferable, if at all possible,
15 in dealing with these kinds of sexual assault-related
16 proceedings?

17 A. Absolutely ideally so. However, life goes on and
18 sometimes we have to manage, adapt and overcome issues that
19 arise.

20
21 Q. Just stepping back a little to again that 9 December
22 2010 situation when you first were briefed about what had
23 happened with the beginnings of the Lantle investigation,
24 given that the complaint was received by the NSW Police
25 Force back in April 2010, and the investigation is, in
26 effect, still in its infancy in December 2010, in your
27 opinion and experience, is that an unusual delay in a
28 strike force of this nature getting off the ground?

29 A. No, not when you consider that there had to be an
30 approach made and important decisions made by senior
31 executive personnel on the course of the investigation.
32 It'd be great if we could all jump and do things
33 immediately, but we don't. There are competing demands.
34 This was an assistant commissioner level decision. The
35 assistant commissioner, in this instance, runs a region
36 occupying some 2,000 police, many police stations and many
37 competing issues. I'm sure this is just one important
38 decision that she had to make during that period.

39
40 Q. You were asked some questions by my learned friend
41 Mr Cohen about circumstances surrounding an interview or
42 attempts to interview [AL] in December 2010.

43 A. Yes, ma'am.

44
45 Q. You provided an answer to Mr Cohen along the lines of
46 that information that came to your attention in this
47 inquiry, or by observing this inquiry, shaped your view as

1 to why there were some difficulties with that interviewing
2 process in late 2010. Could you assist the Commission with
3 what that information or observations you obtained is?

4 A. During the course of this inquiry?

5
6 Q. Yes.

7 A. The relationship between DCI Fox and the journalist
8 Ms McCarthy.

9
10 Q. In relation to that, could you confine your answer to
11 this specific question: how did that association affect,
12 as you see it, the problems with the interviewing of [AL]
13 in late 2010?

14 A. It provides a risk that we shouldn't have to worry
15 about.

16
17 Q. So is your evidence directed to concerns regarding
18 that interviewing process leaking to the media as opposed
19 to the way in which the actual interview was able to be
20 conducted?

21 A. Yes.

22
23 Q. One final question: you were asked some questions by
24 Mr Cohen about the need to take care when you interview
25 victims of sexual assault because of the trauma and things
26 that they have been through.

27 A. Yes, ma'am.

28
29 Q. Can I ask you this question: have you experienced
30 difficulties with interviewing victims of sexual assault,
31 despite optimal management?

32 A. Absolutely. There are some times that no matter what
33 you do, no matter what efforts you execute, or how many
34 supporting mechanisms you try and put into place, that some
35 people just have a difficulty. That's not a criticism,
36 that is an observation of some things, sometimes, no matter
37 how ideal you attack an issue, the outcome may not be what
38 we want.

39
40 Q. And by "outcome may not be what we want" the process
41 of interviewing may well not be smooth; is that something
42 you are referring to or --

43 A. Oh, definitely, it's a strain, there's no doubt about
44 that. If we focus on historical sexual assault offences, a
45 lot of them are protracted, difficult, long statements
46 which sometimes have to be done over a number of sessions
47 and there can be problems on that journey, no doubt.

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MS LONERGAN: Those are my questions in re-examination.

THE COMMISSIONER: Is it appropriate that Detective Inspector Jacob be excused?

MS LONERGAN: Yes. I also note that there's been an application by the media for access to Detective Inspector Jacob's statement. If parties at the bar table could indicate to me by the end of the luncheon adjournment whether they consent to that course, please.

THE COMMISSIONER: You are excused. Thank you for your evidence.

THE WITNESS: I have a copy of my statement that you provided me.

MS LONERGAN: Thank you, it can be handed back.

<THE WITNESS WITHDREW

MS LONERGAN: I call Anthony Townsend.

<ANTHONY JOHN TOWNSEND, sworn: [12.11pm]

<EXAMINATION BY MS LONERGAN:

MR SAIDI: Commissioner, this witness will also will be seeking the protection of section 23.

THE COMMISSIONER: That is understood.

MS LONERGAN: Q. Could you state your full name for the record, please?

A. Anthony John Townsend.

Q. You are currently operations manager for Northern Region?

A. That's correct.

Q. And you have been in that position since October 2009?

A. Before that, I started relieving in the position in about July 2009 and I was appointed to that position on 18 October 2009.

1 Q. Inspector, you prepared, with the assistance of your
2 lawyers, a statement dated 15 February 2013.

3 A. That's correct.
4

5 Q. I show you a copy of that statement and a copy for the
6 Commissioner. Is that your statement?

7 A. That's correct.
8

9 Q. Is that statement true and correct?

10 A. To the best of my knowledge.
11

12 MS LONERGAN: I tender that statement.
13

14 THE COMMISSIONER: The statement of Inspector Townsend
15 will be admitted and marked exhibit 19.
16

17 **EXHIBIT #19 STATEMENT OF INSPECTOR ANTHONY TOWNSEND**
18 **DATED 15/2/2013**
19

20 MS LONERGAN: Q. Could you outline briefly the duties of
21 the operations manager?

22 A. It's to overview the Northern Region, which consists
23 of 12 local area commands, which at the southern end
24 commences at Brisbane Water, which is the Gosford area, the
25 southern boundary is the Hawkesbury River, to Tweed/Byron,
26 which is the Queensland border with New South Wales.
27

28 Q. As operations manager do you make certain decisions
29 regarding allocation of investigations to particular local
30 area commands?

31 A. On occasions, that does occur.
32

33 Q. Are you the ultimate decision maker, or is there a
34 more senior officer who makes decisions above you?

35 A. I report to the assistant commissioner in charge of
36 Northern Region. Ultimately any decision made by Northern
37 Region comes with her imprimatur. I would normally be
38 involved in the decision making in terms of the allocation
39 of a strike force where it is a cross-border strike force
40 that would involve more than one local area command, or
41 State Crime Command are involved in a joint strike force
42 with a Northern Region local area command.
43

44 Q. Is part of your role to make recommendations to more
45 senior officers as to what appears to be the best way in
46 which an investigation ought to progress or be managed in
47 terms of local area command allocation?

1 A. Part of my role is to provide advice to the Northern
2 Region commander and to assist local area commands in the
3 allocation of resources to particular strike forces and
4 operations.
5
6 Q. You've been a police officer since 1983?
7 A. That's correct.
8
9 Q. You had a period as a police prosecutor from 1989 to
10 2000?
11 A. 2001.
12
13 Q. And you also obtained qualifications as a legal
14 practitioner?
15 A. That's correct.
16
17 Q. What year did you complete that legal qualification?
18 A. I completed it in 1997 and was admitted in 2000.
19
20 Q. And you were elevated to the rank of sergeant in 1996?
21 A. That's correct.
22
23 Q. In 2001 you became general duties supervisor at
24 Raymond Terrace?
25 A. That's correct.
26
27 Q. Can you outline just briefly what that entailed?
28 A. Managing an operational team in a local area command,
29 performing general duties.
30
31 Q. In 2002 you were appointed acting supervisor and duty
32 officer of the Lower Hunter Local Area Command, is that
33 right, in 2002?
34 A. In 2002 after a period of about two years, give or
35 take, I relieved as a duty other in the Lower Hunter Local
36 Area Command.
37
38 Q. In paragraph 6 of your statement, I just want you to
39 explain a term, if you wouldn't mind. You talk about, in
40 the role as regions operations manager, being responsible
41 for a strategic approach to operations across the region
42 and management of scare resource and major crime. "Scare
43 resources"?
44 A. It's "scarce resources".
45
46 Q. There should be a "c" in there, thank you. Just in
47 terms of the different local area commands that you refer

1 to in paragraph 7 of your statement, is Newcastle City
2 Local Area Command the largest within the region?

3 A. It's not the largest geographically but in terms of
4 staffing, it is.

5
6 Q. As at mid 2010, in your role as operations manager,
7 was it part of your role to be broadly aware of staffing
8 levels at the different local area commands in terms of
9 capacity to undertake new investigations?

10 A. Broadly aware of it. However, staffing was managed by
11 the human resource manager, but I was broadly aware of
12 staffing within each local area command and the operations
13 that they had to complete and various strike forces they
14 had commitments to.

15
16 Q. In your role as operations manager, would you take
17 into account further submissions, if I can call them that,
18 from different local area commands as to capacity to
19 undertake new investigations if those submissions were
20 made?

21 A. I would receive representations on nearly a daily
22 basis about allocation of staffing to various strike forces
23 or operations and continue to do so.

24
25 Q. I want to move to paragraph 13 of your statement and
26 the events of May 2010 when you first became engaged in
27 correspondence about what was ultimately to become Strike
28 Force Lantle. You received or were copied into
29 correspondence from Detective Inspector Waddell directed to
30 Detective Chief Inspector Brad Tayler making some
31 recommendations as to whether the Lake Macquarie Local Area
32 Command ought to have conduct of a particular potential
33 investigation.

34 A. I received a file. I would have received it about
35 29 May. It was dated 25 May at the hand of Detective Chief
36 Inspector Brad Tayler requesting the documents that were
37 contained within the file to be forwarded to the State
38 Crime Command for their investigation.

39
40 Q. Annexure B of your statement is a memo from Brad
41 Tayler, a detective chief inspector at Newcastle City Local
42 Area Command. I ask you to turn that document up, if you
43 would, and there is a comment in that particular memo dated
44 20 May 2010:

45
46 *Newcastle City [Local Area Command] does*
47 *not have the expertise to investigate this*

1 *matter.*

2
3 It goes on to make some comments about significant media
4 exposure and there is a submission made that the file ought
5 to be forwarded to Sex Crimes at the State Crime Command.
6 Do you recall receiving that memo?

7 A. Yes.

8
9 Q. Did you form an opinion at the time about what should
10 happen or was that not part of your role to do so?

11 A. I read the briefing report that was on top of the
12 file, and attached to the file was a report by Detective
13 Inspector Waddell and attached to that report was a number
14 of documents that were in no particular order. I made a
15 decision, at that stage, to read what was in the file so
16 I could make an informed decision about what was the best
17 course of action.

18
19 Q. If you could turn to annexure C, which is a quite
20 lengthy and detailed report by you dated 12 July 2010, was
21 that standard procedure at the time that when a decision
22 needed to be made as to which part of the Police Force
23 should conduct an investigation, that you would, in your
24 role as operations manager, prepare a document of this
25 nature so that others above you could make decisions about
26 allocation?

27 A. Certainly I would comment on reports so the region
28 commander could be informed as to the best course of
29 action. However, it would be unusual for me to go into
30 this detail in one of those reports.

31
32 Q. That leads to my next question. Why in particular was
33 there this amount of detail in relation to this matter?

34 A. I understood it was a sensitive matter that was
35 occupying front-page media attention in Newcastle and
36 I wanted to be in a position - I wanted the region
37 commander to be in a position to make an informed decision
38 about what was the best course of action.

39
40 Q. Was it part of your roam as operations manager to form
41 an opinion yourself about whether the subject matter ought
42 to be investigated?

43 A. On occasions I would form an opinion and make
44 recommendations of that nature, yes.

45
46 Q. Could you turn to the last page of your report, you
47 set out three options as, to your mind, available in terms

1 of progressing this particular matter; is that correct?

2 A. That's correct.

3

4 Q. And they were options that you decided yourself rather
5 than in consultation with any other persons; is that right?

6 A. They were options that I discerned from reading the
7 documentation and researching some of the police holdings
8 that related to the issues that were recorded in the file.

9

10 Q. Is it the position that the commander of Northern
11 Region could form her own view regarding how the matter
12 should be progressed?

13 A. In relation to this particular matter, I felt it more
14 appropriate that the region commander make a decision based
15 upon her particular view rather than a recommendation that
16 I would make to her.

17

18 Q. Is that why you've expressed the options rather than
19 recommended any particular course?

20 A. That's correct.

21

22 Q. And the options, just for those in court who do not
23 have the benefit of your document, that you set out as
24 being ones that the commander could consider or bear in
25 mind were, firstly:

26

27 *Refer the file to an appropriate unit of*
28 *the NSW Police Force for a full*
29 *investigation and then seek legal advice in*
30 *relation to whether there is sufficient*
31 *evidence to institute criminal proceedings*
32 *and if so place the matter before the*
33 *Attorney General for authorisation?*

34

35 A. Yes.

36

37 Q. A second option you mention is:

38

39 *Undertake preliminary enquiries with --*

40

41 Two named persons are then named --

42

43 *to clarify the matters above and then make*
44 *a decision about whether the matters should*
45 *be fully investigated.*

46

47 The third was:

1
2 *Decline to investigate the allegations*
3 *contained in this file.*
4

5 In putting those options forward, did you have any
6 particular reason to consider that option 3 was an option
7 that would be taken, that there would be a decline to
8 investigate?

9 A. I wanted to broadly set out all the possible options,
10 so the region commander could consider all options that
11 I thought could be undertaken in relation to this matter.
12

13 Q. May we take it that numbered point 3 about the option
14 of declining to investigate was not one that you advocated
15 or had any particular vested interest in suggesting was the
16 best option?

17 A. I didn't want to advocate any of the options over and
18 above each other and I didn't personally have a view that
19 that option should be pursued.
20

21 Q. I'm just going to go back and look at paragraph 15 in
22 your statement just to examine a particular comment you
23 make in there regarding you having formed the opinion that
24 it was not beyond the expertise of police officers within
25 the Newcastle City Local Area Command to undertake the
26 investigation. My question is: how did you satisfy
27 yourself of that position?

28 A. I read the file. In my opinion, there were two main
29 documents within the file that were most relevant to any
30 investigation into persons concealing a serious offence.
31 They were affidavits that were made in Hamilton during
32 1995. I was of the view that that being the foundation of
33 any investigation, there was not a high degree of
34 complexity in relation to those two main allegations in
35 investigating and being able to make a decision as to
36 whether or not there was sufficient evidence to embark upon
37 a prosecution.
38

39 Q. Should the investigation be pursued by staff at
40 Newcastle City Local Area Command, did you have any
41 particular knowledge in July 2010 as to their capacity in
42 terms of appropriate officers of an appropriate rank to be
43 available to pursue that investigation?

44 A. They had a number of senior officers that were more
45 than capable of conducting an investigation of that kind.
46

47 Q. Before we turn to annexure D, can I ask this question:

1 there is a comment contained on your 12 July 2010 report by
2 Commander York. Was that comment forwarded back to you
3 after its annotation on that document or that's not the
4 usual course? I see under her comment there is a direction
5 "Commander Newcastle LAC." I want to understand the
6 procedure. Would her decision be conveyed back to you, or
7 would you not have any further involvement at that stage?
8 A. Are you asking me in general or specifically in
9 relation to this matter?

10
11 Q. That is a very good question. It's specifically in
12 relation to this matter.

13 A. From my recollection, and again it is based on my
14 recollection of events that happened in 2010, the file
15 remained on her level bearing in mind she works on the
16 third level, I work on the second level of Newcastle police
17 station, and I don't have any specific recollection of
18 being handed the file back to me.

19
20 Q. In the usual course, would it be handed back to you or
21 not?

22 A. No, not normally.

23
24 Q. Could you have a look at annexure D, please. It
25 appears to be an email from you to Fay Dunn. First of all,
26 can you identify who Fay Dunn is, or was in August 2010?

27 A. She was an inspector of police and her role was the
28 staff officer attached to the Northern Region and the staff
29 officer to Assistant Commissioner York.

30
31 Q. Was it the usual procedure, if you wanted a particular
32 matter drawn to the attention of Assistant Commissioner
33 York, you would do so through her staff officer?

34 A. That's correct. She would manage, as I understand the
35 role, and I performed it for a short time with the previous
36 region commander, the Assistant Commissioner's
37 correspondence.

38
39 Q. There is a number of comments in this particular email
40 we would like the benefit of your assistance with, a bit of
41 expansion. First of all, you talk about discussions with
42 Inspector Dunn, and an email you received from Detective
43 Inspector Waddell. Do you see that in the first paragraph?

44 A. Yes.

45
46 Q. And an indication at least that the matter should be
47 allocated to Newcastle City Local Area Command.

1 A. Yes.

2

3 Q. You are nodding yes. Given the chronology of events,
4 that email predates the annotation by Commander York on
5 your longer report that we've just been looking at, if you
6 flick back just one page?

7 A. Yes.

8

9 Q. So, at that stage, there was some uncertainty as to
10 which local area command would ultimately conduct the
11 investigation?

12 A. As I understand the situation at the time, there were
13 informal discussions not involving myself but with the
14 relieving staff officer, who was Inspector Dunn, as to
15 where the investigation or the follow-up inquiries would be
16 given to, what local area command. I understand informally
17 there was a decision made between Acting Inspector Rae and
18 the region commander that the investigation would go to
19 Lake Macquarie based upon their expertise in dealing with
20 matters pertaining to the Catholic Church principally based
21 on Strike Force Georgiana. I understand that, just using
22 my term, Lake Macquarie got wind of that decision and
23 preemptively their crime manager, Detective Inspector
24 Waddell, sent in an email protesting that decision. He
25 sent it to his commander, Superintendent Craig Rae, but he
26 copied me in to his reply.

27

28 Q. In the next paragraph you seem to deal with, at least
29 to some extent, that exchange of information where you say
30 you had a particular understanding about the file being
31 allocated on that basis. However, you go on to say - and
32 this is a comment with which we would appreciate your
33 assistance:

34

35 *If statements were taken from the primary*
36 *victims --*

37

38 They are named --

39

40 *and some issues clarified (particularly if*
41 *they wanted the matter reported to the*
42 *police when they disclosed the offences to*
43 *the catholic church) it may become self*
44 *evident which the victims would accept that*
45 *there was no basis to pursue the matter.*

46

47 I've just read it as it appears there. Could you explain

1 what you were getting at there?
2 A. That based upon my understanding of 316 of the Crimes
3 Act, and I go back to the principal documents that
4 I discerned made up the file - they were the two
5 affidavits. What wasn't clear within the file was what was
6 the view of those deponents of those two affidavits about
7 reporting the matter to the police at that particular time.
8 I thought that was information that was not contained in
9 the file and would have been critical as to whether or not
10 there was a reasonable prospect of a matter being proven
11 beyond reasonable doubt. That was the basis of making that
12 particular comment in that email.

13
14 Q. So may we take it from your answer that that was a
15 consideration that you were entertaining at the time as
16 opposed to a statement that the matter ought not be
17 pursued. Is that a fair way of looking at your evidence?

18 A. Yes, I thought it was a crucial fact from my reading
19 of the file that needed to be clarified so an informed
20 decision could be made in relation to what ultimately would
21 happen to any investigation that was undertaken.

22
23 Q. And in the same vein, if you would not mind explaining
24 your next comment:

25
26 *Steve Rae indicated he would be prepared to*
27 *assist when the witnesses are debrief --*

28
29 I think he means "debriefed" --

30
31 *which I would fully support.*

32
33 Again what are you getting at there?

34 A. Steve is an experienced prosecutor who provides a lot
35 of support to the local area commands that he supports and
36 he was - from my informal discussions with him, he was
37 making himself available to assist in any process that the
38 LAC would undertake to clarify some of the issues based
39 upon his expertise as a prosecutor, and he's a fairly
40 unique person. He can relate to people in a very
41 supportive - he provides a lot of empathy and
42 understanding. So he indicated that he was prepared to
43 assist and I was just providing that advice to Fay.

44
45 Q. Detective Chief Inspector Fox, was he someone who you
46 had worked with up to this time? We're just looking
47 at August/September 2010. Did you know him professionally?

1 A. I had known him since about 1988, give or take.
2
3 Q. Did you know as at August/September 2010 whether
4 Detective Chief Inspector Fox was conducting any current
5 investigation into matters concerning allegations of
6 concealments of clergy abuse?
7 A. I had no awareness whatsoever.
8
9 Q. If you could look at annexure E to your statement,
10 which is a copy of an email to, amongst other people,
11 yourself from Detective Chief Inspector Fox dated
12 16 September 2010.
13 A. Yes, I've looked at that.
14
15 Q. Did you know about the TRIM file referred to in the
16 second-last paragraph of that email?
17 A. No.
18
19 Q. Did Detective Chief Inspector Fox have any discussions
20 with you about that TRIM file?
21 A. Not to my knowledge. I can't recall any conversations
22 with him in relation to that.
23
24 Q. You weren't in any way his commanding officer at that
25 time in terms of day-to-day management?
26 A. No.
27
28 Q. Did you have any discussions with him after receipt of
29 this email?
30 A. No, not in relation to this email.
31
32 Q. In relation to the TRIM file. As at August/September
33 2010, did you have knowledge of the staffing levels at the
34 Port Stephens Local Area Command in terms of their capacity
35 to undertake new investigations?
36 A. Yes, I had some knowledge.
37
38 Q. Are you able to assist the Commission with a view as
39 to their capacity to undertake a matter such as what became
40 Strike Force Lantle?
41 A. In my view, they did not have the capacity to
42 undertake an investigation of this nature.
43
44 Q. Is that because of inadequate available investigative
45 staff, or something else?
46 A. A combination. They had a smaller detectives' office.
47 However, during the course of 2010 I was required to become

1 involved in two of their strike forces that related to
2 other investigations. One was Strike Force Varberg, which
3 related to a 2002 homicide of a lady in Raymond Terrace.
4 I had to support that operation that commenced around the
5 start of 2010, allocate my unsolved homicide team to Port
6 Stephens, Detective Senior Constable Pat Gleeson, as an
7 experienced investigator, to assist Port Stephens in the
8 management of that particular strike force.

9
10 Q. Can we take it from your knowledge as
11 at August/September 2010 that Port Stephens Local Area
12 Command would not have been an option in terms of
13 allocating this particular investigation that you covered
14 in your July 2010 report?

15 A. Certainly not.

16
17 Q. I am going to move to the meeting on 2 December 2010.
18 You refer to that in paragraph 23 of your statement and you
19 make the point that you weren't at the time performing the
20 role as the region's operations manager and that Detective
21 Inspector Graeme Parker was relieving in your position.
22 Can we take it, therefore, that you had no knowledge of the
23 meeting being convened?

24 A. I had knowledge that there was to be a meeting.

25
26 Q. What's your understanding as to the intention or plan
27 for that meeting and who conveyed that information to you?

28 A. I would be speculating.

29
30 Q. Don't speculate.

31 A. There was a meeting, and I had the background in
32 relation to Detective Chief Inspector Fox's background
33 knowledge of matters that were relevant to the
34 investigation that became Lantle.

35
36 Q. Can I stop you there. Was that information that was
37 conveyed to you prior to 2 December 2010, or subsequent?

38 A. It was in the email he sent on 16 September.

39
40 Q. So you are talking about that as the source of
41 information?

42 A. Yes.

43
44 Q. Was there another source of information that you
45 recollect prior to 2 December?

46 A. In relation to the actual logistic arrangements of
47 being on an operation in relation to power stations and

1 Detective Parker performing my role, we were basically
2 working in the same area.

3
4 Q. So you overheard arrangements?

5 A. Yes. So I was broadly across the discussion that was
6 happening within the office about current operations. That
7 operation in relation to Camp for Climate up at Bayswater
8 and Liddell power stations was going to conclude on
9 5 December.

10
11 Q. You were going to step back in the role then, were
12 you?

13 A. Yes, I was going to step back in. I was going in and
14 out of my office at times. I became aware around
15 29 November, just from memory, that a file landed on my
16 desk from Detective Chief Inspector Fox that broadly called
17 for a wider investigation into matters that involved
18 offences committed by members of the Catholic Church within
19 the Hunter area.

20
21 Q. That's annexure G to your affidavit?

22 A. Yes.

23
24 Q. If you wouldn't mind just turning that up, it's
25 opportune to look at your annotation on that document at
26 this stage if you don't mind. You, as operations manager
27 at Northern Region were, in effect, part of the approval
28 course for that particular report; is that correct? Look
29 at page 436 down the bottom?

30 A. Yes, I commented on the recommendations that were made
31 by Detective Chief Inspector Fox.

32
33 Q. How do you know you received it around about
34 29 November?

35 A. I remember just seeing it in my in-tray, sitting in my
36 office, and I went - I had a glance at it, but I was - so
37 I was broadly aware, oh, there's a file that relates to
38 that matter. I didn't thoroughly read it, because the
39 Operation Anshaus, which was the operation that related
40 to --

41
42 Q. Don't worry about what it related to, but you were
43 distracted --

44 A. To the power stations.

45
46 Q. -- by the other matter, were you?

47 A. That commenced, yes, that started about then, so

1 I just had a quick look at the file and said, "That's
2 something I'm going to have to have a look at it."
3

4 Q. Are you able to say whether any other officers gave
5 you any particular background briefing about what had been
6 happening in relation to any exchanges with Detective Chief
7 Inspector Fox up to 2 December? Don't guess. It's only if
8 you actually have a recollection?

9 A. I'm aware that an email was generated by Detective
10 Chief Inspector Humphrey that related to the email that was
11 initially sent to [Detective X], I think, and I don't
12 specifically recall any specific discussions I've had in
13 relation to that beyond those documented.
14

15 Q. And you had no role in attending the meeting on
16 2 December 2010?

17 A. I was intending to go to the meeting, because it would
18 be relevant to my role as the operations manager beyond my
19 duties with Operation Anshaus. However, I had to brief
20 the region commander about what was happening up at the
21 power stations, bearing in mind that started on 1 December,
22 and I was delayed getting to that meeting.
23

24 Q. Were you told, prior to the meeting, by any other
25 officer as to what comments, requests, directions were to
26 be made to Detective Chief Inspector Fox in that meeting at
27 all?

28 A. Before the meeting, no.
29

30 Q. Did someone report to you after the meeting as to what
31 happened at the meeting?

32 A. I went to the meeting. I got to the meeting - to
33 Waratah police station and Superintendent Haggett and
34 Detective Chief Inspector Fox had left. I was told that -
35 they said, "They have just left."
36

37 Q. You say in paragraph 23 that you were given a short
38 briefing about what had occurred.

39 A. Yes.
40

41 Q. Can you now recollect whether you were advised that
42 any particular directions had been given to Detective Chief
43 Inspector Fox in that meeting?

44 A. I was advised of what - given a summary of what had
45 happened at the meeting. Specifically directions that were
46 made in relation to Detective Chief Inspector Fox, I can't
47 recall any specific information. I certainly recall

1 information in relation to speaking to the media, that a
2 direction was given not to speak to the media. I don't
3 know whether that was specifically in relation to Detective
4 Chief Inspector Fox, or the people that were at the
5 meeting. I'd be speculating.

6
7 Q. Did you have any discussion with Detective Chief
8 Inspector Fox prior to the telephone call that you
9 mentioned in paragraph 24 of your statement?

10 A. No.

11
12 Q. I'm sorry if I've already asked this. Prior to the
13 meeting on 2 December, had you had any discussion with
14 Detective Chief Inspector Fox as to his interest in working
15 on this particular investigation?

16 A. No. I may have spoken to Detective Chief Inspector
17 Fox in relation to my course of duties, but I have no
18 recollection of having a personal conversation with him
19 about his involvement with any investigation involving the
20 Catholic Church.

21
22 Q. In paragraph 24 you provide some information regarding
23 a phone call you received about a week after the meeting on
24 2 December 2010. You are nodding "yes"?

25 A. Yes.

26
27 Q. Were you on leave at the time that you received the
28 call?

29 A. I was working - it was near Christmas and I was taking
30 my daughter Christmas shopping at Westfield Kotara.

31
32 Q. And Detective Chief Inspector Fox phoned you and
33 raised certain matters with you. Can you just outline
34 briefly what it was that he raised with you?

35 A. I've set out what the conversation was in my
36 statement. I never made a note of the conversation.
37 I formed the view that it was an informal approach to me to
38 have the decisions that were made on 2 December reviewed.

39
40 Q. I'm just going to stop you there. From your
41 conversation with Detective Chief Inspector Fox only, what
42 did you understand were the decision or decisions that he
43 wanted reviewed?

44 A. His involvement in any investigation in relation to
45 the allegations that were set out in the file that
46 I originally got that basically related to McAlinden.

47

1 Q. Concealment of sexual assault by McAlinden by the
2 clergy?

3 A. By the clergy, yes.
4

5 Q. Did he say to you anything that gave you the
6 impression that he had been told that he wasn't allowed to
7 investigate those matters at all?

8 A. No, I don't recall anything specific - to that
9 specific issue.
10

11 Q. You say in your statement that you indicated to him
12 that a review of the decisions made thus far would not be
13 appropriate, as firm decisions had already been made in
14 relation to conduct of the investigation. Whose decisions
15 are we talking about there?

16 A. That was a decision by Newcastle City Local Area
17 Command. They had been allocated the investigation. It
18 was their role to investigate those issues.
19

20 Q. Even firm decisions can be reviewed if it's absolutely
21 necessary; would you agree with me?

22 A. Certainly.
23

24 Q. Was there anything that Detective Chief Inspector Fox
25 said to you that made you form a view that the decision
26 ought to be reviewed?

27 A. I certainly was of the view he wanted it reviewed and
28 it was an informal approach to me to go to the region
29 commander to have it reviewed.
30

31 Q. Is there a formal way that such a request for review
32 can be made?

33 A. He could have put it to me in writing and I would have
34 commented on it and given it to the region commander.
35

36 Q. Did you in any way discourage him, to your perception,
37 from pursuing a formal review course?

38 A. I made it clear to him that I didn't think that was
39 appropriate at that particular stage.
40

41 Q. Did Detective Chief Inspector Fox propose to you that
42 the Port Stephens Local Area Command ought to be carrying
43 out the investigation?

44 A. I don't recall that being any part of that discussion.
45

46 Q. Did you consider any practically workable option where
47 Detective Chief Inspector Fox could be included on the

1 staffing of that particular investigation?

2 A. Did I?

3

4 Q. Yes.

5 A. No. I understood that he was providing assistance by
6 giving documentation and I understand that was the level of
7 assistance that he was providing. I considered that
8 appropriate at that particular time and that's what is in
9 line with the note that I made on the report he made on
10 25 November.

11

12 Q. We'll turn to that if you don't mind. Annexure G of
13 your statement is the report from Detective Chief Inspector
14 Fox dated 25 November 2010. If you would not mind turning
15 to the last page of that where you made an annotation, if
16 you would not mind reading on to the record what you've
17 written there as operations manager of Northern Region?

18

19 A. *Newcastle LAC have been allocated to
20 investigate allegations that [name
21 withheld], [name withheld] and others
22 failed to disclose information relating to
23 sexual abuse of [AL] and [AK]. All
24 materials held by DCI Fox should be
25 forwarded to Newcastle City LAC Crime
26 Manager for their information. Assessment
27 as to appropriate resources for the
28 investigation should be made by Newcastle
29 City.*

30

31 MR PERRIGNON: Commissioner, before we proceed, could
32 I ask for a non-publication order in relation to the names
33 of the two clergy in that passage read out?

34

35 THE COMMISSIONER: Yes, that's appropriate.

36

37 MS LONERGAN: Q. You dated that 3 December 2010. At the
38 time you made that annotation, did you have any
39 understanding to the effect that Detective Chief Inspector
40 Fox wished to be involved in that particular investigation,
41 and by that I mean actively involved in pursuit of the
42 investigation tasks.

43 A. At that point I don't think I did. I received his
44 email or had been copied into the email on 16 September and
45 I reviewed the email response from Detective Chief
46 Inspector Humphrey. I didn't have any particular knowledge
47 of what Detective Chief Inspector Fox had, other than what

1 was set out in that report at that particular time.

2
3 Q. Did you have an expectation that Detective Chief
4 Inspector Fox would forward any holdings he had to the
5 officers with the conduct of that particular investigation?
6 A. I had an expectation that he would assist that
7 investigation the best way he could.

8
9 MS LONERGAN: Those are my questions, Commissioner.

10
11 MR COHEN: Might I ask this indulgence: it is 12.55 and
12 the witness has been in the box for a considerable period
13 of time and it is quite warm in the room. Might there be
14 an earlier adjournment? Is that convenient?

15
16 THE COMMISSIONER: May we resume at 1.55?

17
18 MR COHEN: If that is convenient to you, Commissioner.

19
20 THE COMMISSIONER: Yes.

21
22 **LUNCHEON ADJOURNMENT**

23
24 **UPON RESUMPTION:**

25
26 MR COHEN: Thank you for that indulgence. It paid real
27 dividends. I have no questions.

28
29 MR McILWAINE: Just to redress that balance, could I ask
30 one question.

31
32 **<EXAMINATION BY MR McILWAINE:**

33
34 MR McILWAINE: Q. Do you know who [AL] is. There is a
35 list of code names?

36
37 THE COMMISSIONER: There is a list of pseudonyms there?
38 A. Yes, I'm aware it's the name of a person.

39
40 MR McILWAINE: Q. Have you had any direct communication
41 with that person?

42 A. No.

43
44 Q. No correspondence, no phone calls?

45 A. No.

46
47 MR McILWAINE: Nothing further.

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THE COMMISSIONER: Mr Rush?

MR RUSH: I don't have any questions.

THE COMMISSIONER: Mr Saidi?

<EXAMINATION BY MR SAIDI:

MR SAIDI: Q. I just want to deal with a couple of areas with you, if I may. Port Stephens was running an operation before 2010 called Operation Seamist.

A. It started in the early parts of 2010.

Q. Were you aware of the general workings of that operation?

A. Yes.

Q. To your knowledge, did Detective Chief Inspector Fox have any involvement in that operation?

A. He had no involvement.

Q. Was there a reason why?

MS LONERGAN: I object, Commissioner. This cannot assist you. This witness has given some evidence about reasons why he thought that particular local area command was inappropriate and also given some other reasons that inform the circumstances question that we're examining for term of reference 1. In my respectful submission, this type of examination is not going to be of assistance to you.

THE COMMISSIONER: I think it's straying a little outside my interest.

MR SAIDI: Can I tell you what it is that I'm going to?

THE COMMISSIONER: Yes, Mr Saidi.

MR SAIDI: Perhaps you can rule then. As I understand it, one of the major issues in relation to Strike Force Lantle involving Detective Chief Inspector Fox was issues relating to integrity and media contacts. There was a great deal of concern of leakages to the media. What I want to establish through this witness is that that concern in relation to leakages to the media was well-founded; indeed, it wasn't merely this operation where he has been excluded but also a

1 prior operation known as Seamist. It is for that reason.

2

3 MS LONERGAN: Perhaps an appropriate preliminary question
4 would be whether this witness is aware of any known
5 incidence of Detective Chief Inspector Fox leaking
6 confidential police information to the media as a
7 preparatory question and then see where it goes after that.

8

9 MR SAIDI: I'll rephrase it in terms of suspicion - any
10 prior suspicion.

11

12 THE COMMISSIONER: I think the suggestion from senior
13 counsel assisting was whether there were any known
14 instances.

15

16 MS LONERGAN: Known instances to this particular witness,
17 in my respectful submission.

18

19 MR SAIDI: Q. You've just heard what's been discussed.
20 Were there any prior known instances?

21 A. I don't have any direct knowledge myself of any known
22 instances where information was passed on to the media
23 Detective Chief Inspector Fox.

24

25 Q. But in terms of knowledge held by senior police such
26 as yourself, did any of that knowledge come back to you?

27

28 MS LONERGAN: I object.

29

30 THE COMMISSIONER: I don't think it can be taken any
31 further, Mr Saidi.

32

33 MR SAIDI: As the Commissioner pleases.

34

35 Q. Let me deal with this aspect, if I may: what do you
36 say about, in terms of the time factors in dealing with the
37 file when it first came and the preparation of your report;
38 was it done in a timely manner or not?

39 A. It was done in a timely manner. I think you have to
40 understand the nature of Northern Region and the types of
41 incidents that occur within Northern Region. In the period
42 that I had to prepare my report which crossed May, June
43 and July, in May there were 233 major incidents that had to
44 be reported up to the operations managers. In June, there
45 were 194 and in July there were 194. Significant to that
46 was there was a double homicide, late June in Newcastle,
47 that involved an intensive investigation and, on 2 July,

1 there was a shotgun murder in Raymond Terrace, which was
2 Port Stephens Local Area Command. Across that period there
3 were four other homicides among other serious incidents
4 that came into the region. They were urgent matters that
5 required immediate attention.
6

7 In relation to the issues that related to Strike Force
8 Lantle, they were serious matters. However, they were
9 historical in nature and there was no immediate urgency to
10 deal with those matters. Certainly, there are limited
11 resources across the region, I deal with that every day.
12 However, within those resources we have to give priority to
13 the matters that need priority and, in my view, the
14 appropriate priority was given to Strike Force Lantle.
15

16 Q. In December 2010 reference has been made to one
17 conversation with Detective Chief Inspector Fox. That may
18 be the conversation you had when you were with your
19 daughter at the shopping centre?

20 A. Yes.
21

22 Q. Were there any other conversations you had with him in
23 December 2010 that you recall, or not.

24 A. I didn't have any conversation in relation to this
25 matter. I may well have had conversations with him on
26 other issues in my role as operations manager.
27

28 Q. Let me put this to you more specifically: was there a
29 second conversation with him in December 2010 relating to
30 Strike Force Lantle?

31 A. There was one conversation.
32

33 Q. In that one conversation that you referred to, I think
34 you indicated that Detective Chief Inspector Fox was
35 indicating he wanted to take greater involvement in terms
36 of Strike Force Lantle and its operation?

37 A. That's what I understood to be his representations to
38 me.
39

40 Q. In your position as operations manager, could you have
41 made representations to assist him in terms of having
42 greater involvement or not?

43 A. I could have taken his representations to the region
44 commander. I said that a firm decision had been made and
45 I wasn't prepared to take those representations any
46 further.
47

1 Q. Was there any other reason why you weren't prepared to
2 take those representations any further?

3 A. The investigation had been allocated to Newcastle City
4 Local Area Command. The issues that he raised in his
5 report that he sent to me in late November were right
6 across the same issues that particular strike force was to
7 look at.

8

9 MR SAIDI: They are my questions, Commissioner.

10

11 MS LONERGAN: Nothing in re-examination. Could this
12 witness be excused, please.

13

14 <THE WITNESS WITHDREW

15

16 MS LONERGAN: Commissioner, Mr Kell will be taking the
17 next witness and that witness is Justin Quinn.

18

19 THE COMMISSIONER: Thank you, Mr Kell. Is Mr Quinn here?

20

21 MR McILWAIN: I believe he's here. I spoke to him about
22 two or three minutes ago. He's on his way. We weren't
23 expecting things to move so quickly.

24

25 MR KELL: Perhaps we could take a short adjournment.

26

27 THE COMMISSIONER: Yes.

28

29 **SHORT ADJOURNMENT**

30

31 <JUSTIN PATRICK QUINN, sworn: [2.09pm]

32

33 MR McILWAIN: Commissioner, could it be noted my client
34 attends in compliance to section 23(b) of the Act.

35

36 THE COMMISSIONER: Yes, thank you, Mr McIlwaine, that is
37 noted.

38

39 <EXAMINATION BY MR KELL:

40

41 MR KELL: Q. Please state your full name?

42

43 A. It's Justin Patrick Quinn.

44

45 Q. You were former a police officer of the New South
46 Wales police for over 21 years?

47

47

1 Q. In a period from September to December 2010, you held
2 the position of investigations manager at Newcastle City
3 Local Area Command?
4 A. Yes, that's correct.
5
6 Q. And for a time you were relieving up as the acting
7 crime manager?
8 A. Yes.
9
10 Q. We'll come back to the specific details of that. For
11 reasons that do not involve any criticism of you, you have
12 not been able to provide a statement to the Commission.
13 A. That's so.
14
15 Q. But you have, it's correct, isn't it, been provided
16 with some documents from the Crown Solicitor's Office that
17 are documents that were prepared by you?
18 A. Yes, that's so.
19
20 Q. At the time in 2010?
21 A. Yes.
22
23 Q. You've been able to reorientate yourself with events
24 of that time period by reference to those documents?
25 A. Yes, I have.
26
27 Q. You've also had the opportunity to confer with me and
28 provide me with certain information about your background
29 in the last day or so?
30 A. I have, yes.
31
32 Q. Including a meeting at lunchtime today or morning tea,
33 sorry
34 A. Yes, that's so.
35
36 Q. Could I ask you about some details about your
37 background. In 1989 were you attested as a police officer?
38 A. Yes, that's so.
39
40 Q. From 1991 you started to do A-list work in criminal
41 investigations?
42 A. That's so.
43
44 Q. Where were you based at that time?
45 A. At Tweed Heads.
46
47 Q. Could you explain for the Commission what A-list work

1 is?
2 A. A list is like a training ground for budding
3 detectives, if you will, so it involves working in the
4 criminal investigation area under the supervision of more
5 experienced detectives and it involves periods of rotation
6 between general duties and the detectives' offices.
7
8 Q. At a particular point in time in the 1990s did you
9 undertake the IROC course?
10 A. Yes, that's so.
11
12 Q. When was that?
13 A. That was about 1992.
14
15 Q. What is the acronym IROC?
16 A. It stands for initial response officers course. It's
17 basically an entry-level investigation certificate to
18 qualify police to interview child victims of sexual
19 assault.
20
21 Q. In 1993 were you seconded to the child mistreatment
22 unit at Lismore?
23 A. Yes, I was.
24
25 Q. Is that the predecessor of what's now known as JIRT?
26 A. Yes.
27
28 Q. Which is the joint investigative response team?
29 A. Yes, that's so.
30
31 Q. How long were you seconded there?
32 A. Three weeks.
33
34 Q. What sort of work did you do during that time?
35 A. Exclusively child sexual assault work, primarily
36 historical child sexual assault work.
37
38 Q. At about that time in 1993/1994, did you undertake a
39 course in the management of sexual assault investigations?
40 A. Yes, that's so.
41
42 Q. Where was that?
43 A. At New South Wales Police Academy.
44
45 Q. How long was that course?
46 A. I think the course is a week intensive at the academy.
47

1 Q. In 1994 you were designated a detective?
2 A. In 1994 I obtained a full-time investigative spot,
3 which was required - which was one of the things you are
4 required to do before you are able to undertake a
5 detectives course, which I subsequently did in 1995 and was
6 designated detective in 1995.
7
8 Q. Where were you based at that time?
9 A. At Murwillumbah.
10
11 Q. In 1996 did you transfer to Tweed Heads?
12 A. Yes.
13
14 Q. Still working as a detective?
15 A. Yes, that's so.
16
17 Q. You worked as a detective in the 1990s up until about
18 1998?
19 A. That's right.
20
21 Q. You then transferred to Newcastle?
22 A. I did.
23
24 Q. And you commenced appointment as a police prosecute?
25 A. Yes, I did.
26
27 Q. How long did you work as a police prosecute?
28 A. Until midway through 2007. At that stage, I went back
29 into general duties as a general duties supervisor for a
30 period of about nine to 10 months.
31
32 Q. Just pausing there, so you were a police prosecutor
33 for a period of nine years?
34 A. Yes.
35
36 Q. And within that nine-year period as a police
37 prosecutor, did you assume certain senior roles within the
38 police prosecution service?
39 A. Yes, I did. In the year 2000 I was appointed head of
40 court at Newcastle, which meant I was the senior prosecutor
41 for police prosecutions within the Newcastle court complex.
42
43 Q. At that time what was your rank?
44 A. Sergeant.
45
46 Q. Were you appointed a sergeant in 2000?
47 A. Yes. And then in 2003 I was appointed the area

1 prosecutions coordinator for the Hunter cluster. That was
2 a rank of senior sergeant. That involved supervision and
3 management of police prosecutorial services over the area
4 from Muswellbrook in the west, Taree in the north and
5 Belmont in the south.
6
7 Q. You indicated that in 2007 you went to general duties?
8 A. Yes.
9
10 Q. That was at Newcastle?
11 A. Yes, that's so.
12
13 Q. What was your rank at that time?
14 A. Senior sergeant still.
15
16 Q. In July 2008 did you return to a detective's role?
17 A. That's so.
18
19 Q. Where was that?
20 A. At Newcastle City, and the situation there was that
21 the new command had been formally started at that date and
22 the investigations manager --
23
24 Q. Just pausing there, by "new command", are you
25 referring to the merger of the two old local area commands?
26 A. Yes, that's so, Newcastle and Waratah.
27
28 Q. To make almost a super local area command?
29 A. Yes, that's so. And the position of investigations
30 manager, having regard to the size of the local area
31 command, was designated a senior sergeant's position and
32 I was able to take that position up.
33
34 Q. Subject to periods of relieving up in a higher
35 position, which we'll come to, did you hold the position of
36 investigations manager up until effectively December 2010?
37 A. Yes, that's so.
38
39 Q. So two and a half years in that position?
40 A. Yes.
41
42 Q. On 3 December 2010, you went on planned leave?
43 A. Yes.
44
45 Q. Which was just rostered vacation leave?
46 A. Yes, just annual leave.
47

1 Q. At the end of that period, did you come back to work?
2 A. No, I didn't.
3
4 Q. That was for medical reasons?
5 A. That's so.
6
7 Q. At the time that you went on leave, had you intended
8 to come back to work at the end of that two-week leave
9 period?
10 A. Yes, I had.
11
12 Q. Did you subsequently come back on restricted duties in
13 2011?
14 A. Yes, I did. It was approximately around February
15 or March 2011.
16
17 Q. For how long was that?
18 A. It was about a month, give or take a week, and during
19 that period I worked on non-operational duties.
20
21 Q. We'll come to the detail of it, but during the period
22 of time in which you were investigations manager at
23 Newcastle City Local Area Command, did you have some
24 involvement with what is now known as Strike Force Lantle?
25 A. Yes, I did.
26
27 Q. When you came back on restricted duties in 2011, did
28 you have any involvement with Strike Force Lantle?
29 A. No, none at all.
30
31 Q. Was the period of your involvement with Lantle
32 effectively from around late September 2010 until
33 3 December 2010 when you went on leave?
34 A. Yes, that's so.
35
36 Q. I just want you to assume that there has been
37 reference in this Commission to a document that makes
38 reference to your experience. I just want you to comment
39 on the correctness of it.
40 A. Yes.
41
42 Q. Just assume that there is a document from DCI Fox by
43 way of an email, so not a statement, that includes the
44 reference:
45
46 *Justin Quinn has been made investigations*
47 *manager. He has never been a detective or*

1 *investigator. This is the only person I am*
2 *aware of in that position in New South*
3 *Wales that has never been a detective.*

4
5 What do you say about the correctness of that statement
6 having regard to the background and experience that you've
7 relayed today?

8 A. It's totally incorrect.

9
10 Q. It's incorrect in that you'd had a number of years
11 experience as a detective?

12 A. Yes, that's so.

13
14 Q. And as a criminal investigator?

15 A. Yes.

16
17 Q. As at mid 2010?

18 A. That's so.

19
20 Q. You came back on restricted duties in 2011?

21 A. Yes.

22
23 Q. And then subsequently you left the Police Force on
24 medical grounds?

25 A. Yes, that's so. I was officially disengaged in August
26 2011.

27
28 Q. There is no need for this Commission to explore any of
29 the medical conditions of yourself or other officers that
30 I might ask about. In more recent times, have you become
31 legally qualified?

32 A. Yes, I have.

33
34 Q. What's your current position?

35 A. I occupy the position of a solicitor.

36
37 Q. When were you admitted?

38 A. I was admitted in February of this year.

39
40 Q. During the time that you were at Newcastle City Local
41 Area Command in 2010 in about September you held the
42 position of investigations manager?

43 A. Yes.

44
45 Q. I wonder if you could just indicate the general
46 duties, the general role and duties of an investigations
47 manager?

1 A. Yes, sure. It was quite a broad role in that I had
2 responsibilities in relation to the detectives' office.
3 Effectively, I was one of the senior supervisors in the
4 detectives' office, but outside of that I had
5 responsibility for the overall direction of the command's
6 investigations, so that involved, for example, interaction
7 with general duties - well, all police in the command who
8 held investigative cases, as well as overseeing serious
9 investigations such as the one before the Commission.

10
11 Q. In respect of your managerial oversight, as it were,
12 of investigations, at any particular point in time in about
13 mid to late 2010, how many investigations were under your
14 remit, as it were?

15 A. The command had 600 cases in total. That's spread
16 throughout general duties, and that ranges from quite basic
17 investigations through to more serious investigations. Of
18 that, approximately 150 of those cases would have been
19 cases held by criminal investigators within the command, or
20 perhaps even more than that - probably around 200 would be
21 a better assessment of that, and on top of that, we had
22 what we referred to as more complex investigations that
23 were the subject of e@gl.i investigations, and they were
24 investigations where the investigation was recorded on the
25 e@gl.i system - strike force-type roles. There was
26 probably, at any one time, between five and 10 major
27 investigations that the command was attending to. Some of
28 those had been suspended, but they would start and go again
29 as the evidence and our resources allowed.

30
31 Q. Is it the position that, insofar as Strike Force
32 Lantle came within your remit, that was by virtue of it
33 being one of numerous investigations that were part of your
34 responsibilities as investigations manager?

35 A. Yes, that's so.

36
37 Q. To whom did you report at that time?

38 A. Chief Inspector Brad Tayler.

39
40 Q. He held the position of crime manager?

41 A. Yes, that's so.

42
43 Q. Just briefly, what is the difference in terms of
44 responsibility between, on the one hand, a crime manager
45 and, on the other hand, the investigations manager who
46 reports to the crime manager?

47 A. The crime manager takes a more strategic focus. It

1 looks at the overall direction of different - the
2 management of crime in different areas, whereas the
3 investigation manager in the command is more focused
4 specifically on investigations. So the crime manager, for
5 example, has responsibilities in relation to the crime
6 management unit, which is largely a proactive-type area,
7 where most of the investigations that I had responsibility
8 for were largely reactive.

9
10 So to put it in context, the crime manager probably
11 managed around 100 people, and I had responsibility for the
12 detectives, which was a staff of about 30 personnel.

13
14 Q. During the period of time which I've been asking
15 about, which is from about September to December 2010, are
16 you able to say approximately what proportion of your time
17 was absorbed, as it were, by Strike Force Lantle as
18 compared to the other investigations that were under your
19 remit?

20 A. I'd say it would be less than 5 per cent.

21
22 Q. It's the case, is it, that for a period of time in
23 2010 you were acting crime manager?

24 A. Yes.

25
26 Q. Was that when Detective Chief Inspector Tayler was on
27 leave?

28 A. Yes, that's so.

29
30 Q. Are you able to indicate for how long that was, as you
31 understand it?

32 A. My recollection is that it was for a few weeks.
33 I can't be more specific than that, but I know that it
34 definitely centred in the period of October 2010.

35
36 MR KELL: I might just ask if the witness could look at
37 exhibit 13. I'll hand up my copy which has only a tiny bit
38 of marking.

39
40 Q. Accept for the moment, of course, that it's not your
41 document and it's copies of a diary entry of Detective
42 Chief Inspector Tayler. If you look at the entry for
43 23 September 2010, I think it indicates - could you read
44 what the entry says?

45 A. Yes, "Handover Sergeant" - I think it is "Sergeant" or
46 some shortening of that - "Quinn."

47

1 Q. What does the expression "handover" convey?
2 A. It's a process whereby current matters by a person
3 going on leave or going elsewhere pass on to the person
4 relieving that position.
5
6 Q. Does that indicate to you that that appears to be the
7 time at which --
8 A. Yes, I certainly wouldn't cavil with that date.
9 I don't have any better recollection of that.
10
11 Q. Is it consistent with your general recollection that,
12 at about that time, you took over as acting crime manager?
13 A. Yes.
14
15 Q. If you could jump to an entry - again accepting it's
16 not your document - on 25 October 2010?
17 A. Yes, and that says:
18
19 *Handover Quinn.*
20
21 So that's obviously the point in time when I finished
22 relieving in the capacity of crime manager.
23
24 Q. Again, at a general level does that coincide with your
25 general recollection of you providing a handover back to
26 Detective Chief Inspector Tayler about that time?
27 A. Yes. There was a process that regularly occurred over
28 the period of the couple of years that I worked with Brad,
29 so, yes, that process would definitely be within my general
30 recollection.
31
32 Q. Would the handover that's referred to there be a
33 handover of all investigative matters that you had an
34 interest in during the time in which you were acting up?
35 A. Yes, that's so.
36
37 Q. It might include as one of those matters Strike Force
38 Lantle?
39 A. Yes, definitely, it would have.
40
41 Q. But not dedicated only to Strike Force Lantle?
42 A. That's so.
43
44 Q. If that could be handed back. I just want to show you
45 a document. On the tables next to you there should be
46 three folders and one, I think, marked volume 2 of 3.
47 Could you turn to tab 67.

1 A. Yes, I have that.
2
3 Q. I think also, just to be sure, on the table underneath
4 the folder there is a document that is perhaps a blue
5 laminated document?
6 A. I've got the pseudonym list.
7
8 Q. On occasions you may be asked or want to make
9 reference to a particular person that arises. In your case
10 I think there might be one or two?
11 A. Yes.
12
13 Q. If you could use that list?
14 A. Yes, certainly.
15
16 Q. I think in the document to which I'm about to take
17 you, on the second page, if you jump to page 258, I think
18 in the second sentence, there should be reference to [AL]?
19 A. Yes.
20
21 Q. And [AK]?
22 A. Yes.
23
24 Q. Again, if I could ask you if there's any need to refer
25 to particular people just to use those pseudonyms?
26 A. Certainly.
27
28 Q. If I could ask you to identify that document?
29 A. Yes. That's a document that I prepared on 12 October
30 2010. It's a SITREP.
31
32 Q. This is a document at page 258?
33 A. That's so.
34
35 Q. Down the bottom of the document you're identified as
36 Acting Inspector Justin Quinn --
37 A. Yes.
38
39 Q. -- completing officer's signature?
40 A. Yes.
41
42 Q. Would you have signed an original of this?
43 A. No, I don't think I would have, given that, at that
44 stage, the SITREP was to be transferred electronically so
45 the electronic signature of the email system would have
46 been the signature relied on.
47

1 Q. What is the purpose of the SITREP document?
2 A. In simple terms, it's the provision of information up
3 the chain, if you like, and that particular SITREP had been
4 generated as a result of a request Chief Inspector or
5 Acting Superintendent Humphrey and myself received from
6 Inspector Dunn at north region to provide information in
7 relation to Strike Force Lantle.
8
9 Q. When was that request received?
10 A. On that day, on 12 October.
11
12 Q. The situation report has the event number and then,
13 after that, Strike Force Lantle on the top right?
14 A. Yes. Because there was no event on the police COPS
15 system that was the reference that was included on the
16 SITREP.
17
18 Q. Did you have an involvement in what was known as
19 Strike Force Lantle before this stage, as far as you can
20 recall now?
21 A. I had had some - I had knowledge of it, but I hadn't
22 been actively involved in it at that stage.
23
24 Q. In this document you set out some background and a
25 reference to the current position.
26 A. Yes.
27
28 Q. What was the material on which you relied to prepare
29 the SITREP document?
30 A. That was the report that was - that's referred to in
31 the SITREP by Inspector Townsend.
32
33 Q. I might just ask you, for the purposes of
34 identification, if you could look at volume 1, and if you
35 jump to tab 57, which is at page 222.
36 A. Yes, I have that.
37
38 Q. You'll see there is a report of Inspector Townsend
39 dated 12 July 2010?
40 A. Yes.
41
42 Q. Is that the report you had in mind when you referred
43 to having relied on a report of Inspector Townsend?
44 A. Yes, that's so.
45
46 Q. I think you made reference to certain discussions with
47 DCI Tayler leading up to this period?

1 A. Yes.
2
3 Q. And then in the SITREP document itself, there is a
4 vetting officer's signature of Acting Superintendent Wayne
5 Humphrey?
6 A. Yes.
7
8 Q. Do you recall whether you discussed the SITREP report
9 with Acting Superintendent Humphrey at the time?
10 A. I don't have a recollection of it, but I don't doubt
11 that I would have.
12
13 Q. Under the heading "Further proposed action", you
14 indicate:
15
16 *Strike Force Lantle has been commenced. It*
17 *is a proposed that a meeting will be held*
18 *between the acting crime manager --*
19
20 And that was yourself?
21 A. Yes.
22
23 Q. "And [Detective X]? And that's a reference to
24 [Detective X]?"
25 A. That's so.
26
27 Q. Then --
28
29 *on Wednesday 13 October 2010 to determine*
30 *investigative strategies.*
31
32 A. Yes, that's right.
33
34 Q. Do you recall now whether that meeting went ahead?
35 A. It did.
36
37 Q. You also refer to:
38
39 *Other relevant documentation is being*
40 *collected from other commands in respect of*
41 *this matter.*
42
43 A. Yes, that's so.
44
45 Q. Are you able to assist as to what that is a reference
46 to - what particular documentation you had in mind was
47 being collected from other commands?

1 A. Yes, certainly. My recollection is that it was the
2 material that Chief Inspector Fox had possession of.
3
4 Q. Were steps taken to obtain documentation from other
5 commands, to your knowledge?
6 A. I don't have a specific recollection of exactly what
7 inquiries were made. I recall - I have a vague
8 recollection of a conversation I had with Mr Humphrey in
9 relation to documentation being obtained from
10 Superintendent Haggett at Port Stephens command. That was
11 certainly something that I would have been referring to at
12 the time.
13
14 Q. I hand you another document, which is a copy of
15 exhibit 18.
16 A. Yes, I'm familiar with that document.
17
18 Q. That is what is known in evidence as the first terms
19 of reference for Strike Force Lantle?
20 A. That's so.
21
22 Q. Are you able to assist as to whether you had any
23 involvement in the creation of the document?
24 A. I don't have a specific recollection of it, but I'd be
25 almost certain that it was me who drafted those terms of
26 reference.
27
28 Q. What makes you almost certain about that?
29 A. That's based on my usual practice in relation to our
30 strike force activities at Newcastle command. Often I'd be
31 involved in setting up the e@gl.i system, and one of the
32 things that was required to make it an active investigation
33 was the completion of terms of reference on that e@gl.i
34 system.
35
36 Q. Are you able to assist as to when that terms of
37 reference document was created?
38 A. No. I couldn't be specific other than to say it would
39 have been shortly before the time that they were placed on
40 to the e@gl.i system, whatever that was.
41
42 Q. Would that have been during the period in time in
43 which you were acting as crime manager?
44 A. Most likely. I couldn't be certain.
45
46 Q. The terms of reference document makes reference to two
47 personnel who have been assigned to the investigation. One

1 is Detective Senior Constable Jason Freney. Can I ask in
2 respect of the two personnel, were you involved in the
3 decision as to which persons would be assigned to or
4 involved in Strike Force Lantle as at about that
5 time September October 2010?

6 A. Yes, I don't have a specific recollection of having
7 conversations with people about it, but again I'd be almost
8 certain that I would have been involved in it. My advice
9 would have been sought, I'd imagine at least by Chief
10 Inspector Tayler, and possibly the commander even at the
11 time. So, yeah, I would have provided input in relation to
12 both of those staff members.

13
14 Q. When you say "you would have provided", what makes you
15 certain or otherwise as to the statement that you would
16 have provided information at the time?

17 A. One of my responsibilities in the command was the
18 allocation of personnel to different investigations. To do
19 that, obviously I needed to talk with my superiors in
20 relation to the capabilities and the availability, if you
21 like, of the different personnel within the command to
22 undertake investigations.

23
24 Q. In respect of Detective Senior Constable Jason Freney,
25 did you have a view at that time as to the competency or
26 otherwise of Detective Senior Constable Freney?

27 A. Yes, I did. I strongly felt that he was an excellent
28 investigator. In respect of that, he had proven himself on
29 other very serious investigations that the command had
30 undertaken.

31
32 Q. And the other personnel assigned to the investigation
33 at that time was [Detective X]?

34 A. Yes, that's so.

35
36 Q. Did you have a view at that time as to the competency
37 or otherwise of [Detective X]?

38 A. I found - in all my dealings with [Detective X],
39 I found her to be an utter professional. She relieved as a
40 duty officer for a period of years. Whenever I had
41 interactions with her in that role she handled the role
42 professionally and, yeah, I had no reservations whatsoever
43 in relation to her ability.

44
45 Something that is relevant to that consideration was
46 the fact that only a short period before her placement
47 within Strike Force Lantle had she transferred to the

1 command and, at that particular time, when she had
2 transferred into the command - sorry, transferred into an
3 investigative role, obviously at that point in time there
4 were assessments made in relation to her investigative
5 ability at that time and it was found that she was more
6 than suitable to hold that position.

7
8 Q. In terms of the personnel who were involved in Lantle
9 over whom you had some degree of managerial oversight,
10 supervision --

11 A. Yes.

12
13 Q. -- what was the process for reporting back information
14 to you as the manager from those personnel?

15 A. There were different processes. Obviously there was
16 oral communication and that would occur reasonably
17 regularly throughout the period of time that I was involved
18 in the investigation, but more formally there are
19 investigator's notes submitted at various points of the
20 investigation and, as part of my supervision and
21 responsibilities in relation to the e@gl.i system, I would
22 have to review those investigator's notes and consider
23 them.

24
25 Q. From time to time you saw investigative notes from
26 investigators?

27 A. Yes.

28
29 Q. Perhaps if I could just ask you to identify a couple
30 of examples of that. If you go to volume 2 of the tender
31 bundle.

32 A. Yes.

33
34 Q. Could I ask you to go to tab 74, page 277.

35 A. Yes, thank you.

36
37 Q. That's an investigator's note of 25 October 2010.

38 A. Yes.

39
40 Q. Again, without asking you to identify the particular
41 contents of that, is that an example of the type of thing
42 you've got in mind as a note of an investigator that you
43 may have seen or would likely have seen during the period
44 of time?

45 A. Yes, I'm certain I would have.

46
47 MR KELL: Commissioner, for an abundance of caution,

1 I would ask for a non-publication order in respect of the
2 name of [Detective X] and that that officer, at least until
3 further order, be referred to as [Detective X] including in
4 the questions that I've asked.

5

6 THE COMMISSIONER: Thank you, Mr Kell. Yes, I direct that
7 there be no publication of the name of former [Detective X]
8 and she is to be referred to as [Detective X].

9

10 MR KELL: That's at least on an interim basis,
11 Commissioner. That position can be revisited at a later
12 time if necessary.

13

14 Q. Could I ask you, Mr Quinn, to look at tab 68 of that
15 folder.

16

A. Yes.

17

18 Q. Are they diary notes made by you?

19

A. Yes, that's right. It's out of my duty book.

20

21 Q. They indicate particular events relating to Strike
22 Force Lantle in which you had some involvement?

23

A. Yes.

24

25 Q. If we look at the first one at page 259, there's
26 reference to the SITREP that you created?

27

A. Yes, that's so.

28

29 Q. And that accords with your recollection as to when the
30 document was created?

31

A. Yes.

32

33 Q. If you look at page 260 there is a reference to a
34 discussion with [Detective X]?

35

A. Yes.

36

37 Q. If I could ask you to go to page 262, and that's a
38 diary entry of 18 November 2010?

39

A. Yes.

40

41 Q. Does it indicate "Phone call [AL] re-Strike Force
42 Lantle"?

43

A. Yes, it does.

44

45 Q. And then further writing. If I could just hand you a
46 document to look at and I'll just ask you to identify it.

47

A. Yes, I'm familiar with that document.

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Q. Is that an investigator's note that you've prepared?

A. Yes.

Q. That relates to particular communication between the detectives' office and the person known as [AL]?

A. Yes.

Q. And, in particular, a phone call that you had with [AL] at that time?

A. Yes, that's so.

Q. Was one of the matters that you were looking at in terms of Strike Force Lantle particular difficulties that were being experienced for one reason or another in relation to obtaining a statement from the person known as [AL]?

A. Yes, that's so.

Q. Is it an investigator's note that you prepared at the time?

A. Yes. I think I submitted it or prepared it the following day, the investigator's note.

MR KELL: I tender that document, Commissioner.

THE COMMISSIONER: The investigator's note created by this witness, Mr Quinn, on 19 November 2010 headed "Strike Force Lantle" will be admitted and marked exhibit 19.

EXHIBIT #20 INVESTIGATOR'S NOTE CREATED BY MR QUINN, ON 19/11/2010 HEADED "STRIKE FORCE LANTLE"

MR KELL: Q. If I ask you to jump to page 263 of the diary entries, you've got reference there, I think, to "Meeting with Tayler, [Detective X], Joanne McCarthy and Andrew Morrison re Strike Force Lantle"?

A. Yes.

Q. Do you have a recollection as to that meeting?

A. Yes, I do.

Q. Do you have a recollection as to what you understood the purpose of the meeting to be?

A. Yes, I understand it to be an exchange of information whereby Ms McCarthy would give us information that she had in relation to things relevant to our investigation. As

1 far as Andrew Morrison's involvement, I hadn't been aware
2 that he would be attending that meeting until I actually
3 arrived in the room and I think he was there, and - would
4 you like me to explain what happened at the meeting?

5
6 Q. Can you recall whether you obtained particular
7 information at the meeting?

8 A. We didn't obtain any useful information at that
9 meeting.

10
11 Q. Could I ask you to go to page 264 of your diary
12 entries.

13 A. Yes.

14
15 Q. Is that another reference to a discussion that you had
16 with [AL] regarding Strike Force Lantle?

17 A. It is.

18
19 Q. If I could hand up a copy of an investigator's note
20 and a further copy for the Commissioner.

21 A. Yes, that's an investigator's note that I prepared on
22 30 November 2010, as referred to in my duty book.

23
24 Q. And that corresponds with the conversations to which
25 you make reference?

26 A. It does.

27
28 Q. In the second-last paragraph you commence by stating:

29
30 *I advised her that I was about to start*
31 *leave at the end of this week and that*
32 *I would be back on 20 December 2010.*

33
34 A. Yes.

35
36 Q. Your investigator's note is dated 30 November 2010.

37 A. Yes.

38
39 Q. Is that a reference to your going on planned vacation
40 leave, as it were?

41 A. It is.

42
43 Q. Also, does that reflect what you'd indicated before;
44 namely, that it was your intention to return to work from
45 that leave as at that time in late November 2010?

46 A. It does, yes.

47

1 MR KELL: I tender that document.

2

3 THE COMMISSIONER: Mr Quinn's investigator's note of
4 30 November 2010 headed "Strike Force Lantle" will be
5 admitted and marked exhibit 20.

6

7 **EXHIBIT #21 INVESTIGATOR'S NOTE OF MR QUINN DATED**
8 **30/11/2010 HEADED "STRIKE FORCE LANTLE"**

9

10 MR KELL: Q. If I could ask you to jump to page 265 of
11 your diary entries.

12 A. Yes.

13

14 Q. That's an entry for 1 December 2010.

15 A. Yes.

16

17 Q. I want to ask you about a reference that's about four
18 lines down, and tell me is this is right, from the words:

19

20 *Contact Inspector Fox to ascertain whether*
21 *he had mobile number [AK] --*

22 A. Yes.

23

24 Q. It says:

25

26 *Advised he had [AK] STM.*

27

28 What's that a reference to?

29 A. It's my shortening of the word "statement".

30

31 Q.

32

33 *Advised he had [AK] statement (not*
34 *previously supplied) and that a report had*
35 *been forwarded to region.*

36

37 A. Yes, that's so.

38

39 Q. What is that a reference to?

40 A. I don't have a specific recollection of that.
41 I recall having the conversation with Chief Inspector Fox
42 on the phone, but as I sit here today, I don't even have a
43 specific recollection of asking him for that phone number.
44 However, I guess the only other evidence that I can give in
45 relation to that position in relation to that statement is
46 conclusions that I reached by joining other pieces of
47 information together.

1
2 Q. Do you recall whether you had, at that particular
3 time, obtained documents from Detective Chief Inspector Fox
4 or not?
5 A. Yes, we had.
6
7 Q. Do you recall whether those documents included witness
8 statements of particular persons?
9 A. No, they definitely did not.
10
11 Q. Are you able to say now whether you obtained those
12 statements, at least when you were there, that those
13 statements were obtained from Detective Chief Inspector Fox
14 at a later time, or are you not able to assist?
15 A. I don't have a specific recollection of that.
16
17 Q. If I can ask you to go to the next entry, which is
18 page 266. It's a reference to a meeting in relation to
19 Strike Force Lantle's recorded in an investigator's note.
20 A. Yes.
21
22 Q. If I could ask you to jump to tab 85 of volume 2.
23 A. Yes, that's so. I have that.
24
25 Q. Is the reference in your diary entry to the
26 investigator's note the document that begins at page 361?
27 A. It is.
28
29 Q. That was a meeting held at Waratah police station on
30 2 December 2010?
31 A. Yes.
32
33 Q. Do you have a general recollection of that meeting?
34 A. Yes, I do.
35
36 Q. You prepared, did you, the document at page 361 and
37 following?
38 A. I did, in its entirety.
39
40 Q. Are you able to assist as to when you prepared that?
41 A. The next day.
42
43 Q. That accords with the entry on page 365, does it, of
44 3 December 2010?
45 A. Yes, that's so.
46
47 Q. Do you recall before attending the meeting what you

1 understood the purpose of the meeting to be?
2 A. A similar sort of meeting where there was to be an
3 exchange of information and, I guess, a framework
4 established in which the strike force would operate.
5
6 Q. When you refer to "an exchange of information",
7 between whom was that information --
8 A. Initially it was an exchange of information between
9 staff from region, Port Stephens LAC and Newcastle City
10 LAC, and the second part of the meeting was more
11 specifically - and was more operationally focused - a
12 discussion between Newcastle City personnel and Northern
13 Region personnel.
14
15 Q. You've had the chance recently to review the
16 investigator's note again?
17 A. Yes, I have.
18
19 Q. What do you say as to the accuracy of the
20 investigator's notes in tab 85 as it accords with your
21 general recollection of the meeting?
22 A. It completely accords with my recollection. It was a
23 very cordial meeting.
24
25 Q. When you refer to "a cordial meeting", you're
26 referring to the general tone of the meeting?
27 A. Yes, it was.
28
29 Q. So no vehement conversation?
30 A. No, none at all.
31
32 Q. No stand-up shouting?
33 A. No.
34
35 Q. No loud sort of words exchanged?
36 A. No, not at all.
37
38 Q. Did you take notes during the meeting for the purpose
39 of preparing the investigator's note?
40 A. I don't have a specific recollection of taking notes.
41 However, I am absolutely certain that there's no way
42 I would have been able to prepare that investigator's note
43 without taking notes, and I can't recall how exactly it
44 came about, but it had been the expectation that I would
45 submit an investigator's note as to what came out of that
46 meeting and, based on my usual procedures, I guess, I've
47 got no doubt that I would have taken notes.

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Q. Do you recall at all whether you were asked by a particular person to prepare the investigator's note, to take notes?

A. I could well have been, but again I just can't assist with that. I apologise.

Q. That is all right, thank you. If you look at page 360 there's an introductory document to investigator's notes essentially in the folder headed "Case conference 2 December 2010". Do you have that document?

A. I do.

Q. Is that a document that you prepared?

A. Yes.

Q. Is it correct to view that as a document where you summarise what you understood to be the outcomes of that meeting on 2 December 2010?

A. Yes. The particular purpose of that introductory note, in terms of the e@gl.i, is just to give a summary of what's contained in the investigator's note.

Q. Does that document accurately reflect your recollection of what were the outcomes of the meeting on 2 December 2010 in that summarised fashion?

A. Yes, it does.

Q. The first number that you've got down there is:

Detective Chief Inspector Fox to provide all relevant documents pertaining to this investigation.

A. Yes.

Q. Do we read that in terms of the language as being an instruction that was given to Detective Chief Inspector Fox at the meeting, or do you not have a general recollection other than beyond the document --

A. I can't say much further than to say that there was an arrangement whereby Inspector Fox would provide that information. I can't recall it being the result of a direction; but one thing I do clearly remember is the fact that he arrived at the meeting without the material that we had spoken about.

1 Q. And that's a matter that is referred to in your
2 investigator's file note?
3 A. Yes.
4
5 Q. By that, you are referring to the bottom paragraph on
6 page 361 of the document?
7 A. Yes.
8
9 Q. That:
10
11 *Inspector Fox indicated he had compiled all*
12 *relevant documents held by him but had*
13 *mistakenly left them behind.*
14
15 A. That's so.
16
17 Q. You've got a recollection, as you sit there now, about
18 that aspect of the meeting?
19 A. Yes, I recall being very surprised that he would leave
20 them behind.
21
22 Q. Thank you. Can I ask if you have any recollection as
23 to whether the investigator's note you prepared was
24 reviewed or checked by anyone after you prepared it, and,
25 if so, whether any changes were introduced?
26 A. Yes, I don't have a recollection of it being reviewed
27 either in its physical form as a paper document or on the
28 system, but for the document to be accepted on the system,
29 there had to be a level of review of that document.
30
31 Q. Which relates to any investigator's note, does it?
32 A. Yes, that's so.
33
34 Q. When you say "the system", you are referring to an
35 e@gl.i document?
36 A. Yes.
37
38 Q. Do you know when that would have happened?
39 A. No, I couldn't say. I'd be speculating.
40
41 Q. Is it the position that you've got no - tell me if
42 this is not correct - recollection or you've got no belief
43 as to any part of the document that you created having been
44 changed as a process of any review for the e@gl.i purposes?
45 A. It exactly accords with it. Once the document itself
46 is on the e@gl.i system, it's not possible to change that
47 particular paper document.

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Q. I just want to ask you a couple of brief questions about two other officers that went off work on extended sick leave at a particular point in time.

A. Yes.

Q. The officer who I've referred to as [Detective X] went off sick leave, to your knowledge, in about December 2010?

A. Yes.

Q. Do you recall whether that was before or after you had gone on sick leave?

A. I recall her still being there when I went on annual leave, so it had to have been after.

Q. At the time that you were involved in appointing [Detective X] to having a role in Strike Force Lantle, did you have any belief that [Detective X] may go off on extended sick leave at a later period in time in December?

A. None whatsoever - in fact, quite the opposite. Having regard to the fact that she was changing duties, it's common knowledge that a change sometimes is as good as a holiday, so I expected her to arrive refreshed, particularly after having a period of leave.

Q. Could I just ask you to look at tab 88 briefly of volume 2.

A. Yes.

Q. You'll see that's a document from Jodie East at State Crime Command?

A. Yes. I have seen that document before but --

Q. I just want to ask you whether that's a document that had come to you once you had left, as it were?

A. Yes, that's so.

Q. Is it the position that you've seen it recently only because a copy was provided by the Crown Solicitor's Office on the assumption that you, having been copied in on it, that you may have received it at the time?

A. Yes, that's so.

Q. But, as at 13 December 2010, you were on leave?

A. Yes.

Q. And you didn't relieve this document in your working

1 capacity?

2 A. Yes, that's so.

3

4 MR KELL: Thank you, Commissioner.

5

6 THE COMMISSIONER: Mr Rush, did you have any questions?

7

8 MR RUSH: I wonder if it's convenient to the Commission to
9 go after Mr Cohen.

10

11 THE COMMISSIONER: Mr Cohen?

12

13 <EXAMINATION BY MR COHEN:

14

15 MR COHEN: Q. Mr Quinn, if I might take you to the events
16 of 2 December 2010. You've just given evidence about the
17 investigator's note which purports to be a minute, if not
18 anything else --

19 A. Yes.

20

21 Q. I'm sorry. Your evidence a little while ago was that
22 that note can't be amended once it's on the system; is that
23 your evidence?

24 A. Yes, without any record being - appearing on the
25 system.

26

27 Q. Before it happens; yes, I understand that. You
28 accept, won't you, that the e@gl.i entry for the
29 investigator's note did not arise until 3 December?

30 A. That's so.

31

32 Q. That was the day after the meeting at Waratah on
33 2 December?

34 A. Yes.

35

36 Q. Having regard to your evidence about the nature of
37 that minute, it was possible for it to be reviewed and
38 amended and corrected and suffer any other emendation in
39 the period after the meeting but before it went on the
40 system, is it not?

41 A. Anything is possible.

42

43 Q. Isn't that what occurred?

44 A. No.

45

46 Q. Isn't it the case that that investigator's note
47 actually leaves out a great deal of the conversation that

1 arose at that meeting on that day, on 2 December?

2 A. No, not in my recollection.

3

4 MR COHEN: I'm sorry, Commissioner.

5

6 MR KELL: While that's being done, Commissioner, can
7 I indicate that there has been a request by the media that
8 exhibit 19 be released, which is a statement of Inspector
9 Townsend. I ask any parties at the bar table to indicate,
10 if they can by the close of the Commission sitting today,
11 whether they have any objection to that course.

12

13 THE COMMISSIONER: Yes, thank you, Mr Kell.

14

15 MR COHEN: Q. Mr Quinn, when the meeting began,
16 Superintendent Mitchell was the chair of the meeting, was
17 he not?

18 A. He was.

19

20 Q. And he, did he not, having opened the meeting - then
21 Detective Chief Inspector Fox directed to Commander
22 Mitchell, but in general hearing of the meeting and it
23 included you:

24

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

36

37 That was said, wasn't it?

38 A. No, it wasn't.

39

40 Q. Commander Mitchell responded in a visibly angry way:

41

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

47

1 That was said, wasn't it?

2 A. No, that's not my recollection.

3

4 Q. Detective Chief Inspector Fox said:

5

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

16

17 That's what was said, wasn't it?

18 A. No, that's incorrect. The tenor of that meeting --

19

20 Q. I'm not asking you about the tenor, I'm asking about
21 the words. That's what was said, wasn't it?

22 A. No, it wasn't said.

23

24 Q. Then Commander Mitchell went on to say:

25

26 *That's not how we operate. Region had*
27 *decided this will be investigated by*
28 *Newcastle.*

29

30 That was said wasn't it?

31 A. That was most likely partially said, in the fact that
32 region had said that Newcastle City would be investigating
33 it, so that would be correct.

34

35 Q. So it was said, wasn't it?

36 A. Not the entire statement.

37

38 Q. And then as a consequence of those discussions there
39 were further discussions which were as follows, and
40 Commander Mitchell then said:

41

42 *Where are the statements you were told to*
43 *bring down?*

44

45 And Detective Chief Inspector Fox said:

46

47 *I just explained to Brad that they are on*

1 *my desk and I forgot to grab them.*

2

3 That was said, wasn't it?

4 A. There was a conversation about the statements.

5 I can't recall if it was in those exact words, but
6 certainly the question was asked about where the documents
7 were.

8

9 Q. And it is very likely that that was said, wasn't it?

10 A. In those words, it was very likely?

11

12 Q. Yes.

13 A. No.

14

15 Q. Commander Mitchell responded:

16

17 *You are directed to bring them down and*
18 *hand them over to Brad Tayler. He will be*
19 *running this investigation from Newcastle*
20 *with Justin Quinn and [Detective X] is that*
21 *clear?*

22

23 That was said, wasn't it?

24 A. No, it wasn't.

25

26 Q. Then Detective Chief Inspector Fox said:

27

28 *You can't do that to these people. The*
29 *main witness [AJ] refused to speak to any*
30 *police other than me. The only reason she*
31 *came forward to give her statement is that*
32 *I assured her I would remain with this*
33 *investigation. I gave her my word. I am*
34 *not building myself up. If you don't*
35 *believe me you can ring her or Joanne*
36 *McCarthy now. It is a similar situation*
37 *with McAlinden's. It took a lot of*
38 *convincing to get them to come in. You*
39 *can't just pass these people around like*
40 *numbers. They have been through enough.*

41

42 That was said, wasn't it?

43 A. There was nothing remotely like that said.

44

45 Q. Commander Mitchell said:

46

47 *The decision has already been made at*

1 *region. You will give these statements to*
2 *Brad and that's final.*

3
4 That was said, wasn't it?

5 A. I can't recall that being said.

6
7 Q. It's very likely that was said, wasn't it?

8 A. I'd be speculating to say whether or not it would be
9 likely. All I recall is that the outcome of the meeting
10 was an arrangement where Chief Inspector Fox would arrange
11 to bring the documents and my recollection is that that was
12 agreed upon without any specific request needing to be
13 made - that was an offering by Detective Chief Inspector
14 Fox.

15
16 Q. It was a direction, wasn't it?

17 A. No.

18
19 Q. You're very sure about this, are you?

20 A. Certainly. There were no direction of that firmness
21 given at that meeting.

22
23 Q. At that point, Detective Chief Inspector Fox indicated
24 or rather responded to Superintendent Mitchell:

25
26 *Max I know more about how the church*
27 *operates than most. I have been studying*
28 *them for years and most of it is in my*
29 *head. I put together tendency and*
30 *coincidence evidence in the Father Fletcher*
31 *trial that was upheld in the High Court and*
32 *is now cited as a test case. With all*
33 *respect to Brad he's only overlooked these*
34 *sorts of investigations. I've been in the*
35 *middle of them.*

36
37 That was said, wasn't it?

38 A. During the meeting?

39
40 Q. Yes.

41 A. No.

42
43 Q. Then, in that respect there was only the meeting and
44 Detective Chief Inspector Fox departed, didn't he?

45 A. Well, I don't know what other conversations Detective
46 Chief Inspector Fox and Max have had so --

47

1 Q. Please attend to my question. The only thing that
2 occurred after the meeting was that Detective Chief
3 Inspector Fox left the meeting - that's right, isn't it,
4 nothing more than that?

5 A. In what context are you saying --

6

7 Q. In the context that all he did at the end of the
8 meeting was he left, and there was nothing else, was there?

9 A. I don't know what he did after the meeting.

10

11 Q. You saw him leave, did you not?

12 A. Yes, but my evidence was, as you might recall, that
13 I remained in the meeting, in a meeting with staff from
14 Newcastle. I don't know what --

15

16 Q. You saw him leave, didn't you?

17 A. He left the meeting.

18

19 Q. But before he left, he then had this discussion, when
20 Superintendent Mitchell said in response to that last
21 proposition or that last conversation I put to you:

22

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

26

27 Then in response to that Detective Chief Inspector Fox
28 said:

29

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

34

35 That was said, wasn't it?

36 A. That was not said. There was no challenge by
37 Detective Chief Inspector Fox to anything whatsoever that
38 Superintendent Mitchell said at that meeting.

39

40 Q. And then Commander Mitchell said:

41

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

46

47 That was said, wasn't it?

1 A. It was explained that - during the meeting, but not in
2 that context.

3

4 Q. Mr Quinn, that was said, wasn't it?

5

6 MR SAIDI: I object. He answered it. You can't badger a
7 witness in that way. He's already answered. What is
8 happening is the cross-examiner is coming back and trying
9 to, literally, put words in his mouth by way of badgering
10 the witness.

11

12 MR COHEN: I'm asking whether or not the words were said,
13 not the witnesses's impression --

14

15 THE COMMISSIONER: Thank you, Mr Saidi. Mr Cohen, can you
16 at least not talk over the top of the witness.

17

18 MR COHEN: With respect, Commissioner, what I'm seeking is
19 whether the witness agrees whether the words were said or
20 not, not some narrative about what or might not have
21 happened.

22

23 MR McILWAIN: Can I raise a similar objection to my
24 friend. It seems to me the problem is that a specific
25 proposition of words is being put to the witness. The
26 witness is indicating no, that was not said, but attempts
27 to give some version of something that was said, perhaps in
28 a similar vein or not, and he's not being allowed to
29 answer. In my respectful submission, that is a responsive
30 answer to the question.

31

32 MR COHEN: The questions are quite closed-ended, whether
33 that it was said or not. That's the proposition. That is
34 quintessential cross-examination, in my submission.

35

36 THE COMMISSIONER: Isn't the witness entitled to inform
37 you of what was said instead of what you put to him?

38

39 MR COHEN: No, not having regard to the way I'm crafting
40 the questions. In my respectful submission, nothing that
41 I'm putting admits of any ambiguity - either it was said or
42 it was not and the answer is "Yes" or "No".

43

44 MR McILWAIN: Well, can I say this, Commissioner. It's
45 quite proper if a number of words are put to a witness, say
46 10, for example, and the witness's position is five of
47 those words were said, but not the whole phrase, he's

1 entitled to make that response. That seems to be what is
2 occurring.

3

4 MR COHEN: Apart from one occasion when that's occurred,
5 it's either been "Yes" or "No". Apart from that one
6 occasion that I recall, there's been a denial.

7

8 THE COMMISSIONER: I understand that, Mr Cohen. You do
9 speak very quickly. I am very conscious of the
10 consternation of the court reporters when people go any
11 faster than about this speed, so perhaps you could put that
12 last section of dialogue again.

13

14 MR COHEN: I will start from the last passage and
15 following. I'll repeat this so there can be no ambiguity.

16

17 Q. Commander Mitchell said:

18

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

22

23 That was said by Commander Mitchell, wasn't it?

24

A. Those particular words were not said.

25

26 Q. And Detective Chief Inspector Fox responded:

27

28 *I have to call them to let them know what*
29 *is going on. I am not prepared to treat*
30 *them like dirt and just cut them off.*
31 *These people have been hurt enough.*

32

33 Detective Chief Inspector Fox said that, didn't he?

34

A. He did not.

35

36 Q. And then Commander Mitchell said:

37

38 *All right you can ring them to let them*
39 *know that Brad Tayler's team will be*
40 *dealing with them from now on and that's*
41 *it.*

42

43 That's what Commander Mitchell said, didn't he?

44

A. It was not said.

45

46 Q. Commander Mitchell also said:

47

1 *I am formally directing you to stop all*
2 *contact with Joanne McCarthy. Any contact*
3 *from her I am directing you to report it to*
4 *me immediately in writing. Is that*
5 *understood?*

6
7 That was said, wasn't it?

8 A. That was not said.

9
10 Q. Detective Chief Inspector Fox said:

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

14
15
16 And in response Commander Mitchell said:

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

21
22
23 That was said, wasn't it?

24 A. That was not said.

25
26 MR COHEN: If the Commission pleases.

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

29
30 MR RUSH: Q. Mr Quinn, I want to take you back, if I can,
31 to another meeting, this one of 26 November 2010, a meeting
32 attended by Brad Tayler, yourself, [Detective X]. Do you
33 know without saying the name who [Detective X] is?

34 A. Yes.

35
36 Q. And this was together with Joanne McCarthy and a
37 fellow by the name of Andrew Morrison.

38 A. Yes, I recall that.

39
40 Q. You have a recollection of that meeting?

41 A. Yes.

42
43 Q. Without going into the details of what went wrong,
44 there were some difficulties, as I understand it, between
45 [Detective X] and [AL] in terms of obtaining a statement.

46 A. Yes, that's so.

47

1 Q. Can I just ask you a few questions in respect of some
2 propositions about what might have been said at that
3 meeting.

4 A. Yes.

5

6 Q. Can I suggest to you that Brad Tayler had said:

7

8 *I want the names and contacts of all*
9 *witnesses known to you.*

10

11 And he was talking at that time to Joanne McCarthy.

12

13 A. He certainly would have asked her, but I don't think

14

15 Q. Can you remember at all what terms he might have put
16 it?

17

18 A. Well, he would have just asked her - the whole point
19 of the meeting was that there to be an exchange of
20 information, so it would have been a courteous request
21 along those lines.

21

22 Q. Just on that question of the purpose of the meeting,
23 who told you what the purpose of the meeting would be?

24

25 A. Chief Inspector Tayler.

25

26 Q. Joanne McCarthy said:

27

28 *There is a formal complaint from the first*
29 *witness this task force has interviewed.*
30 *I'm not going to put other witnesses at*
31 *risk of being traumatised until the issues*
32 *raised in that complaint have been*
33 *addressed.*

34

35 Do you recall her saying that?

36

37 A. I can recall her saying something along those lines,
38 yes.

38

39 Q. Then Brad Tayler said:

40

41 *We need to get statements from [AL] and*
42 *[AK] or the matter is not going anywhere.*

43

44 A. In not so simple terms, but Brad would have expanded
45 on that and explained, in some terms at least, why we
46 needed those statements as a starting point.

47

1 Q. Mr Morrison had said:

2

3 *Is it possible for the police to get access*
4 *to further church documents?*

5

6 A. Yeah, he may have.

7

8 Q. And Mr Morrison said:

9

10 *In my view, a prosecution is possible and*
11 *clearly more documents are available.*

12

13 Do you remember him saying something along those lines?

14 A. I don't recall that specifically. I remember him
15 saying things were possible that we didn't necessarily
16 agree were possible, but my memory of those are really
17 quite vague.

18

19 Q. Mr Morrison went on to say:

20

21 *You are putting too much reliance on [AL]*
22 *and [AK] and the first contact with this*
23 *strike force has not been encouraging.*

24

25 Do you remember him saying words along those lines?

26 A. Her first contact?

27

28 Q. I think [AL] and [AK]?

29 A. Their first contact with the strike force?

30

31 Q. Yes.

32 A. Yes, he said something along those lines.

33

34 Q. Ms McCarthy then said:

35

36 *I have spoken to about 100 victims of child*
37 *sexual abuse by members of the clergy and*
38 *have not had one complaint. Mitchell tells*
39 *me that [Detective X] did not have*
40 *experience with interviewing sex abuse*
41 *victims. Could we suggest that you not*
42 *contact [AL] again until her complaint has*
43 *been resolved. She is very distressed.*

44

45 Again, I'm interested to know whether that was said, not
46 the truth of what's behind it?

47 A. I can't recall it being said in its entirety, but

1 I certainly remember Ms McCarthy raising the question of
2 whether it would be appropriate to go back to [AL].

3

4 Q. Do you recall Ms McCarthy asking whether she could
5 attend with [AL], essentially in an effort to try and
6 progress the matter?

7 A. Yes.

8

9 Q. And do you recall Mr Morrison noting that that would
10 not be a good idea?

11 A. I can't recall, but I certainly remember that was my
12 impression.

13

14 Q. And that Ms McCarthy accepted that suggestion and did
15 not pursue that issue further?

16 A. Yes. I simply can't recall. I couldn't challenge
17 that proposition.

18

19 MR RUSH: would the Commission pardon me for one moment
20 while I clarify one pseudonym.

21

22 Q. And that Joanne McCarthy suggested Helen Keevers
23 attend with [AL] to try and progress the matter?

24 A. She may well have. I don't have a recollection of
25 that.

26

27 Q. But it might have occurred?

28 A. Yes. I'm not saying it didn't happen. I couldn't say
29 that.

30

31 MR RUSH: would the Commission pardon me just one further
32 moment?

33

34 THE COMMISSIONER: Yes.

35

36 MR RUSH: Thank you, Commissioner.

37

38 THE COMMISSIONER: Mr Saidi?

39

40 <EXAMINATION BY MR SAIDI:

41

42 MR SAIDI: Q. I want to ask you about that meeting, if
43 I may, and put these propositions and ask you for your
44 comment about them: a suggestion that the meeting was less
45 a meeting than an inquisition of what Detective Chief
46 Inspector Fox knew - do you agree or disagree?

47 A. Sorry, it was less than a meeting and then more --

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Q. I'll read the passage out to you and I'll give you more context.

MR KELL: Can I ask my friend to clarify which meeting?

MR SAIDI: The meeting of 2 December.

Q. I'm sorry, I thought that you were focused on that. I apologise: this forum was less a meeting than an inquisition of what Detective Chief Inspector Fox knew and what he had been investigating?

A. No, that's not true at all.

Q. At any time can you tell us was Superintendent Max Mitchell visibly angered, from your observation?

A. Never.

Q. At any time during the course of the meeting did Superintendent Max Mitchell raise his voice towards Detective Chief Inspector Fox?

A. Not at all.

Q. I want to ask you about the entries made on e@gl.i, if I may. You yourself were responsible for the inclusion of some entries on e@gl.i?

A. Yes, that's so.

Q. I'm going to suggest this to you and see if it accords with your recollection, or not. I'm going to suggest that the categorisation of the e@gl.i holdings as "highly protected" was an entry made by yourself on 12 October 2010.

A. Yes.

Q. Are you in a position to agree or disagree? Have I refreshed your memory? What can you tell us?

A. I don't have a specific recollection of giving the strike force that category. However, my vague recollection of my practice at the time was that all investigations that I commenced were marked "highly protected".

Q. When you say they were marked as "highly protected", the time frame we're talking about? I've given you a specific date, but just give me an idea of the time frame when you would have first made an entry which would have been covered by "highly protected" on e@gl.i?

1 A. I first commenced some responsibility for e@gl.i in
2 2008, so in 2008 through 2010 I believe that I made entries
3 or commenced strike forces and marked them "highly
4 protected".

5

6 Q. And Strike Force Lantle specifically?

7 A. Yes. I don't recall - I don't have a specific
8 recollection if I did that for any particular reason, but
9 having regard to the circumstances of the media attention
10 that had attracted to the investigation, that was very
11 likely to be a significant factor in my decision on that
12 particular date.

13

14 MR SAIDI: If you pardon me for one moment, I just want to
15 check a document, if I may, Commissioner.

16

17 THE COMMISSIONER: Yes, Mr Saidi.

18

19 MR SAIDI: Q. I want to take you back to the SITREP
20 report dated 13 October 2010. Reference is made in that
21 report to Detective Chief Inspector Humphrey?

22 A. Yes.

23

24 Q. And the need to obtain documentation either through
25 Charles Haggett or from Detective Chief Inspector Fox
26 direct?

27 A. Yes.

28

29 Q. Do you know whether or not Detective Chief Inspector
30 Humphrey went about the task of obtaining the material, or
31 not?

32 A. I can't recall that material arriving at that
33 particular point in time.

34

35 Q. But you made it aware, the fact that you needed that
36 material through Detective Chief Inspector Humphrey at that
37 time?

38 A. That's so.

39

40 Q. Was that for the purpose of getting him to somehow
41 assist in the obtaining of the material?

42 A. Yes.

43

44 MR SAIDI: Thank you.

45

46 <EXAMINATION BY MR McILWAINE:

47

1 MR McILWAIN: Q. Mr Quinn, just to clarify one matter.
2 Firstly, you became qualified in law in 2008; is that
3 correct?

4 A. Yes, that's so.
5

6 Q. When you became to be involved with [AL] and Strike
7 Force Lantle, you, of course, became aware that there were
8 problems in getting a statement from [AL]?

9 A. Yes.
10

11 Q. And I think ultimately - I'll come back to that in a
12 moment. Your view of the legal situation was that prior to
13 someone being able to be prosecuted for either conceal
14 serious offence or misprision of felony, the original
15 offence had to be established?

16 A. That's right.
17

18 Q. You understood from your legal training and background
19 as a prosecutor that there had been many, many changes over
20 the years in the categorisation of sexual offences and the
21 penalties that are applicable?

22 A. Yes, that's right. It's probably more in sexual
23 assault law than any other areas of our law.
24

25 Q. For that reason, it was critical, in your
26 understanding, that, as far as possible, precise details be
27 obtained as to each particular allegation by [AL] of sexual
28 assaults upon her and when they took place?

29 A. Yes. I thought it would be very foolish to embark on
30 investigations of concealing a serious offence when it
31 wasn't established in evidence that there had, in fact,
32 been a serious offence as defined by the section.
33

34 Q. So it was particularly important in this matter to
35 descend to detail about dates and nature of offences;
36 correct?

37 A. That's so.
38

39 Q. Did you become aware from [Detective X] that [AL] took
40 some objection to this course?

41 A. Yes.
42

43 Q. Then you had some conversations with [AL]?

44 A. Yes.
45

46 Q. Did she express to you the same view: why is it
47 necessary that I go into this detail?

1 A. Yes. Not only did she raise the fact that why was it
2 necessary; she'd actually been told by somebody else that
3 it was in fact not necessary.
4

5 Q. Did she say by whom?

6 A. No. She refused to tell me who that was.
7

8 Q. I suppose that, as an investigator when you are
9 seeking to get statements and information from witnesses,
10 it does not assist you that that person is getting advice
11 from other parties as to what is required for you to prove
12 it or not?

13 A. That's so. It did make it difficult, and I've got no
14 doubts whatsoever from my conversations with her that she
15 had been given unrealistic expectations of what would be
16 required of her as a witness if she was to participate in
17 the investigation.
18

19 Q. Can you just expand on that a bit --

20 A. Certainly.
21

22 Q. Can you recall a specific thing she told you?

23 A. Yes, the fact that she wasn't going to need to tell
24 the investigators the specific details of the assault on
25 her.
26

27 Q. You had a lengthy conversation with her, did you?

28 A. Yes, the conversation on - I had two conversations
29 with her. I had one on 18 November, and that was a more
30 difficult conversation, because, at that particular time,
31 she was still operating with that unrealistic expectation,
32 but I basically just wanted to throw myself out to her as
33 providing a point of contact, if she wished to raise any
34 concerns, and to explain in further detail why it was that
35 [Detective X] needed to embark on that type of inquiry.
36

37 Then it was in the second conversation that I had with
38 her, on 30 November, that we had an excellent conversation,
39 and I think on 30 November when I had that conversation
40 with her, I established a really good rapport with her, and
41 by the end of that conversation it was made - it was
42 apparent to me that a very realistic expectation would be
43 that I continue taking that statement from her and that she
44 would be comfortable with that arrangement.
45

46 In offering her that, I offered her other services
47 such as using a support person. I also suggested to her

1 that the nitty-gritty, if I might use those terms, of that
2 assault could be written by her in her own narrative form
3 before she came in to be interviewed - sorry, to give a
4 statement to the interviewing police officer and that might
5 make the experience easier for her. I discussed with her
6 whether she'd prefer to have a male or female police
7 officer. So by the end of that conversation, there was a
8 firm agreement between me and [AL] that there would be
9 contact on 20 December, and it's unfortunate that
10 circumstances took over and I wasn't able to renew that
11 contact with her.

12
13 Q. Apart from those efforts that you made, correct me if
14 I'm wrong, prior to you speaking to [AL], had you discussed
15 with [Detective X] taking advantage of the fact that a
16 relation that [AL] was a police officer?

17 A. Yes, that's right. I can't recall how [Detective X]
18 had learned that, but she found out that there was a
19 relative of [AL] who was a serving member of the Police
20 Force. So she made contact with that person and explained
21 what we're trying to do to assist [AL] and just to see
22 whether there would be any possibility of that serving
23 police officer and their immediate family assisting in
24 passing on what it is that we're trying to explain to [AL].

25
26 MR McILWAINE: Nothing further, Commissioner.

27
28 MR KELL: Could Mr Quinn be excused, Commissioner?

29
30 THE COMMISSIONER: Yes, thank you for your evidence. You
31 are excused.

32
33 **<THE WITNESS WITHDREW**

34
35 MS LONERGAN: Commissioner, the next proposed witness is
36 Assistant Commissioner Mitchell. Through, certainly no
37 fault of the assistant commissioner, we have proceeded
38 through witnesses a little quicker than expected and he has
39 not had opportunity to collect his dress uniform. I've
40 been requested we adjourn for 10 to 15 minutes to allow
41 that to occur, if that's suitable.

42
43 THE COMMISSIONER: Yes, thank you, Ms Lonergan.

44
45 **SHORT ADJOURNMENT**

46
47 THE COMMISSIONER: Just before we resume, it has come to

1 my attention, Mr and Mrs Fox, that you have received some
2 very happy news today and I could not allow the occasion to
3 pass without congratulating you on the arrival, this
4 afternoon, of your latest grandchild. That's wonderful.

5
6 MS LONERGAN: I call Max Mitchell.

7
8 <MAXWELL MITCHELL, sworn: [3.49pm]

9
10 <EXAMINATION BY MS LONERGAN:

11
12 MR SAIDI: The witness seeks the protection of section 23.

13
14 THE COMMISSIONER: That is understood.

15
16 Q. Thank you for jumping in the witness box a bit
17 unexpectedly early. The Commission appreciates your
18 assistance with that.

19 A. That's fine.

20
21 Q. I want to make sure I am using the correct title. Is
22 assistant commissioner the correct title?

23 A. It is.

24
25 Q. Is your full name Max Mitchell?

26 A. It is.

27
28 Q. You're an assistant commissioner of police and you are
29 presently in the role of commander of the police transport
30 command?

31 A. I am, yes.

32
33 Q. With the assistance of your lawyer, have you prepared
34 a statement in February of this year. I hand you a copy of
35 that document. Assistant commissioner, you signed that
36 document?

37 A. Yes, I did.

38
39 Q. Is that statement true and correct?

40 A. It is.

41
42 MS LONERGAN: I tender that statement, Commissioner.

43
44 THE COMMISSIONER: Thank you. The statement of Assistant
45 Commissioner Max Mitchell will be admitted and marked
46 exhibit 22.

47

1 **EXHIBIT #22 STATEMENT OF ASSISTANT COMMISSIONER MAX**
2 **MITCHELL**

3
4 MS LONERGAN: Q. Assistant commissioner you were
5 attested as a police officer in 1981?

6 A. I was.

7
8 Q. You were promoted to the rank of detective in 1990?

9 A. Yes.

10
11 Q. You became a detective chief inspector in 1998?

12 A. Correct.

13
14 Q. And in 2002 you were appointed superintendent at
15 Tuggerah Lakes Local Area Command?

16 A. Yes, that's right.

17
18 Q. I just want to clarify your rank and position as at
19 certain dates so that we can understand the chain of
20 command when certain key events occurred that I'm going to
21 take you to shortly.

22 A. I understand.

23
24 Q. Your rank and position as at 2 December 2010?

25 A. Superintendent officer in charge or commander
26 Newcastle City Local Area Command.

27
28 Q. In that role of commander at Newcastle City Local Area
29 Command, were you acting or actually in that position?

30 A. No, that was my substantive position on that date.

31
32 Q. Commander at Newcastle City Local Area Command, does
33 that mean you are, in effect, the most senior officer in
34 charge of activities in the Newcastle City Local Area
35 Command?

36 A. That's right.

37
38 Q. Just so that I can understand, as well as others in
39 the court who may not be as au fait with the chains of
40 command within the police, how does that position, on that
41 particular day, interact with the rank and position of
42 Detective Chief Inspector Fox?

43 A. Sorry, can you ask that question again, please?

44
45 Q. Just to understand your role, in particular, on
46 that 2 December meeting, how does your rank and position -
47 that is the commander of Newcastle City Local Area

1 Command - interrelate with the rank and station of
2 Detective Chief Inspector Fox as at that date, as at
3 2 December 2010?

4 A. Probably just to assist and if I understand you
5 correctly, as a superintendent, DCI Fox in our chain of
6 command is a step lower to a superintendent, so I'm the
7 senior officer at that meeting.

8

9 Q. Forgive all these questions, they probably seem very
10 ill-informed and I'm hoping you can assist me understand.
11 As the superintendent and commander at Newcastle City Local
12 Area Command, given at that stage - that is, 2 December
13 2010 - your local area command had been allocated a
14 particular investigation, does that give you any particular
15 authority over Detective Chief Inspector Fox in that
16 particular circumstance that we're looking at?

17 A. Look, just merely by the police regulations, as a
18 superintendent, I have authority - lawful authority over
19 DCI Fox or other inspectors, as long as my instructions,
20 commands, directions and so forth are lawful ones.

21

22 Q. Thank you for that clarification. I'm just going to
23 take you back to May 2010 and the initial phases of the
24 setting up of Strike Force Lantle. Feel free to refer to
25 your statement as I take you through certain events.
26 Before we turn to the statement, I want to ask you this
27 question: prior to May 2010, were any articles in the
28 media regarding investigation of clergy-related incidents
29 drawn to your attention by any officers in your local area
30 command or area?

31 A. Look, I'm not a great one, I must admit, to read
32 everything in newspapers. However, prior to 20 May, I was
33 aware through discussions particularly with DCI Tayler, of
34 a particular interest, I guess, from the media,
35 particularly the Herald, in terms of child abuse by the
36 Catholic Church.

37

38 Q. That's the Catholic Church in the Maitland-Newcastle
39 diocese specifically?

40 A. That's right.

41

42 Q. I am going to ask you to reach for volume 1 of 3 and
43 turn to 28A, please. This is just purely by way of
44 background, if you would not mind looking at that newspaper
45 article behind 28A, which is dated 28 April 2010. Do you
46 see that?

47 A. Yes.

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Q. In the fourth or fifth paragraph of that article, there is mention of a particular comment by Detective Inspector David Waddell from Lake Macquarie to the effect that "if there's an investigation or alleged offence that needs to be pursued, it will be"; do you see that

A. Yes, I do.

Q. Do you recollect having any discussions with Detective Inspector David Waddell about these Catholic Church concealment allegations?

A. I've had no discussion with Detective Inspector Waddell.

Q. Just to understand the chain of command, is it correct that the position is you have no particular supervising role over Detective Inspector Dave Waddell?

A. That's right.

Q. On the other hand, in relation to Detective Chief Inspector Tayler, as at May 2010, you were his direct report, in effect?

A. Correct, yes.

Q. Could you turn to tab 28B, please. I just want to ask you whether you had seen or had this particular article drawn to your attention. It's dated 30 April 2012.

A. Look, I can't say I did. To be honest, I have no recollection of having read in the newspaper or having it drawn to my attention.

Q. I'm going to ask you now - you can close that up for the moment - to turn to paragraph 8 of your statement, please. Just before you do, if you could look at annexure A to your statement, which is a memorandum from Detective Inspector David Waddell to Detective Chief Inspector Brad Tayler. Can we take it from the contents of paragraph 7 of your statement that you weren't shown a copy of that particular memo at that time?

A. That's right.

Q. And was that because you were not in the role of superintendent at that time but Craig Rae was in that position?

A. No, Craig Rae was the superintendent at Lake Macquarie. I would have been the superintendent at Newcastle.

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Q. On the second page of that memo there is a spot for you to have signed and your name is there. Can you assist with why you didn't sign that particular document, or whether you did sign it and we just don't have the copy that you signed?

A. No, I can say that the document you're talking about does not have my signature. I haven't noted that file when coming into Newcastle City LAC.

Q. And that happens now and then in terms of workload --

A. It does. I can only assume it's come into the LAC, the local area command, and has been given directly to DCI Tayler.

Q. Would that be an unusual chain of events, or it happens now and then?

A. Look, now and then. Without referring to my calendar, whether I was absent, whether I was tied up in other meetings - there's a whole range of issues that could have occurred why it's gone directly to Brad Tayler rather than coming through my hand.

Q. Annexure B is a memo by Detective Chief Inspector Tayler to the commander of State Crime Command and you have had a role in commenting on that particular action that Detective Chief Inspector Tayler recommended in that memo. First of all, do you recall having any discussions particularly about the views expressed by Detective Chief Inspector Tayler in that memo?

A. I do. The best recollection that I do have was that Brad Tayler discussed some of the content of the initial file - the initial attachment you asked me about - and basically had some conversation with me along the lines obviously in this report that he felt, and I supported his views, that it should be sent to State Crime Command for consideration.

Q. First, can I ask you whether you were aware at the time of these discussions and this particular memo we're looking at of Brad Tayler that certain initial documents were provided to the police by a journalist?

A. Sorry, could you ask that question again?

Q. Were you aware at the time you had these discussions with Brad Tayler and at the time you looked at this or okayed this particular memo of 20 May 2010 that a certain

1 number of relevant documents were provided, or the attached
2 file referred to, was actually provided by a journalist to
3 the police?

4 A. Not at that particular point in time, no, I didn't.

5
6 Q. You did become aware of that though at some time?

7 A. Yes, I think I was privy to some basic conversation
8 from Detective Tayler.

9
10 Q. Do you recall how much later to this memo that was?

11 A. Look, I don't. I do - I can only suggest that my
12 greatest knowledge of conversations was around the
13 October/November mark, 2010.

14
15 Q. You've agreed with the comment or recommendation of
16 Brad Tayler to the effect that - I might get you to read
17 your notes in respect to your handwriting. Would you read
18 that?

19 A. Not many people can read my writing. I have said - in
20 regards to Brad Tayler's recommendation I have written:

21
22 *Content and recommendation agreed to.*
23 *State crime charter and risk to*
24 *organisation if not investigated*
25 *appropriately.*

26
27 I have then inserted at point 2:

28
29 *Northern Region commander.*

30
31 Q. First of all, what's "state crime charter" that you're
32 referring to there?

33 A. The state crime, the shortest explanation I can
34 provide is that their charter is to investigate serious
35 organised crime, protracted matters. I felt, following the
36 briefing from DCI Tayler, that this matter fell for
37 consideration into that charter, because the likelihood was
38 that it was going to be protracted. It involved high
39 levels of the Catholic Church, as outlined to myself.
40 There was interstate witnesses and, overall, based upon
41 Detective Tayler's advice, I supported his recommendation
42 for consideration by the State Crime Command.

43
44 Q. When you say "risk to organisation if not investigated
45 appropriately", what organisation are you referring to
46 there?

47 A. I'm talking to you about the NSW Police Force.

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Q. What was your concern there in terms of risks to the NSW Police Force?

A. I wanted, and I could see, that this matter needed to be investigated thoroughly, professionally, and basically that was my view and, if it wasn't, it could have jeopardised our reputation as New South Wales police, along with victims and other witnesses who were involved in this matter, or likely to be involved in this matter.

Q. In saying that you wished the matter to be investigated thoroughly and professionally --

A. Yes.

Q. -- may we take it that you are not, in making the recommendation that you did, suggesting that Newcastle City LAC didn't have appropriately qualified staff who could carry out the investigation.

A. No, that's right. Newcastle City command, those police - and we've heard at this Commission - they have my utmost support. They are exceptional police officers and some of them, now retired, I believe is to the detriment of the community of New South Wales. We've lost some fine police officers.

Q. Where Detective Chief Inspector states that Newcastle City LAC does not have the expertise to investigate the matter, again did you read that as a reference to officers at that local area command not being appropriately qualified or experienced to carry out the investigation?

A. I took it along the lines that, you know, Newcastle City Local Area Command is an exceptionally busy command with a lot of serious crime and if Detective Taylor believed that at that particular point in time we didn't have the expertise to investigate this matter, I take on board his concerns and I supported his recommendation.

Q. Could the witness be shown exhibit 18, please, which is what we're calling the first terms of reference for Strike Force Lantle. Just while that is being obtained, would you mind turning to annexure C to your statement, assistant commissioner.

A. Yes.

Q. You see that is an email from Wayne Humphrey to [Detective X]?

A. Yes.

1
2 Q. We're calling the detective [Detective X].
3 A. I understand.
4
5 Q. Copied into a number of other officers, including you?
6 A. Yes.
7
8 Q. I mean no disrespect by the term "officers". I'm just
9 using that term collectively. Are you able to assist as to
10 whether you had any telephone contact or personal
11 discussion with the author of that email regarding the
12 subject matter before you received that email?
13 A. No, I have no recollection of that occurring.
14
15 Q. Just taking it step by step, if you would not mind
16 looking down to the bottom of the page - sorry, we should
17 probably turn over the page - you see there is an initial
18 email from Detective Chief Inspector Fox to [Detective X]
19 dated 16 September 2010. Do you see that?
20 A. Yes.
21
22 Q. That email wasn't directed to you. However, it's been
23 forwarded to you, in effect, with the email of Detective
24 Humphrey?
25 A. That's correct.
26
27 Q. I'm just trying to determine, if you are able, any
28 recollection that you have about any discussions about
29 Detective Chief Inspector Fox carrying out investigations
30 into church-related matters as at September 2010. Did
31 anybody draw anything to your attention regarding that
32 subject matter?
33 A. I have no recollection whatsoever.
34
35 Q. Assistant commissioner, were you aware that a
36 ministerial file had been forwarded to Port Stephens Local
37 Area Command, and specifically Detective Chief Inspector
38 Fox, to comment on particular queries raised regarding
39 concealment of church-related paedophilia?
40 A. Only as a result of this Commission, ma'am.
41
42 Q. There's no particular reason why you would be aware of
43 it at the time it was sent?
44 A. No.
45
46 Q. On receipt of this particular email series from
47 Detective Inspector Humphrey, did you read the email trail,

1 are you able to say?
2 A. The likelihood is, because I have no recollection,
3 I probably didn't. Carbon copied in, if I could - my email
4 system, I deal with hundreds of emails on a daily basis and
5 I don't have the opportunity to read everything that is
6 copied into myself.
7
8 Q. This is quite an important email, though, isn't it, in
9 that it covers potential tensions between local area
10 commands; would you not agree?
11 A. I have no problem with that. That's correct.
12
13 Q. You, up to 18 September 2010, had no particular notice
14 of any particular tensions of this nature prior to
15 18 September?
16 A. No. One of the issues, and without documentation in
17 front of me, I was on leave late August until around 16 or
18 18 September.
19
20 Q. I understand. So you may well have missed this email
21 in the usual track?
22 A. Yes.
23
24 Q. If you would not mind looking at exhibit 18. That
25 should be a terms of reference document. Are you able to
26 assist with whether you had any role in drafting that
27 particular term of reference?
28 A. No, I did not.
29
30 Q. In your role as Commander of the Newcastle City Local
31 Area Command, given it was an investigation that was to be
32 run out of that local area command, is it the usual
33 position that you would sign off on or okay terms of
34 reference for any investigation of this nature, or not
35 necessarily?
36 A. Very, very rarely. In fact, I can probably say in the
37 entirety of my time at Newcastle I never signed off a terms
38 of reference. That specifically was left to DCI Tayler at
39 that particular point in time as the crime manager and the
40 manager responsible for investigations, both volume and
41 serious.
42
43 Q. As at late 2010, may we take it that you were familiar
44 with Detective Chief Inspector Tayler's experience and work
45 methodology and expertise?
46 A. I was.
47

1 Q. You say in your statement that you considered him to
2 be a very experienced police officer. In those
3 circumstances is it reasonable to take it that you
4 considered him able to manage operationally an
5 investigation of this nature?

6 A. That is exactly correct.

7

8 Q. You go on in paragraph 13 of your statement to discuss
9 choices of officer in charge for that particular
10 investigation and you discussed [Detective X] as being the
11 suitable person to carry out the investigation. You say in
12 paragraph 13 the following, and if you would not mind
13 clarifying what you mean:

14

15 *I believed that [Detective X] was a*
16 *suitable, if not the most appropriate,*
17 *person to undertake the task as officer in*
18 *charge of the investigation ...*

19

20 Just stopping there, what do you mean by "if not the most
21 appropriate"? Do you mean she wasn't the most appropriate,
22 or do you mean she may well have been the most appropriate,
23 or something else?

24 A. She was the most appropriate based on her experience,
25 my knowledge of her work and, in particular, and this
26 Commission has heard evidence, [Detective X] was returning
27 from a lengthy period of relief as a duty officer to that
28 of a detective sergeant with a clean slate, as we call it.

29

30 Q. I am going to stop you there, because we'll come to
31 the workload ability. In terms of her personal and
32 professional qualities, how long had you been able to
33 observe [Detective X] yourself?

34 A. When the new command was kicked off or put in place in
35 2008, I think it was shortly after the amalgamation,
36 [Detective X] was placed by myself into a role of duty
37 officer for a considerable length of time - almost up to
38 two years, I take it, if we look at the time frames.
39 During that time I had her relieving not only as a duty
40 officer but at a point in time she had relieved as the
41 crime manager and she had also relieved as the inspector,
42 the professional standards duty officer.

43

44 Q. Did you have an understanding, as at late 2010, as to
45 how many years experience she had as an investigating
46 police officer?

47 A. Not particularly. I knew her background only in terms

1 of that she was a detective, but no great understanding of,
2 I guess, the finer details of what she had been involved in
3 and so forth.

4
5 Q. May we take it from your evidence that you had an
6 opportunity to observe the way she treated people and
7 victims of crime?

8 A. Yes. As a duty officer, can I say this, that on a
9 regular basis that position requires a number of
10 interactions with not only victims, complainants, and the
11 like. You need quite high level skills to try and
12 negotiate with some people due to their anger and other
13 issues that arise and I saw [Detective X] over a lengthy
14 period of time deal with many issues - difficult issues
15 very, very well.

16
17 Q. You make the comment in paragraph 13 over on the next
18 page that you were of the view that [Detective X]'s
19 integrity was beyond reproach. Why is that important in
20 selection of her as the OIC of the particular investigation
21 you were tasking to her?

22 A. I guess in 32 years of policing, in my view, from what
23 I had heard from DCI Tayler, I wanted to ensure that the
24 person who was placed in charge of this investigation was a
25 person of integrity and there could be no suggestion
26 whatsoever that this officer, or any officer in fact, on
27 that investigation would have been involved directly or
28 indirectly with the Catholic Church.

29
30 Q. You gave an answer to the effect that a clean slate
31 was an important aspect of your choosing of [Detective X].
32 It has been suggested to this Commission there is no such
33 thing as an officer having a clean slate and you make the
34 observation in paragraph 13 of your statement that that
35 particular detective was not burdened with the management
36 of a number of other investigations. Can you explain what
37 you mean by a "clean slate"?

38 A. You've given it quite a good shortened version. I was
39 aware that the detectives in Newcastle LAC at that
40 particular point in time were carrying quite large cases
41 involving, you've heard today, the double homicide and
42 other serious investigations. [Detective X] had not or had
43 no criminal investigations delegated to herself at that
44 particular point in time. Therefore, she had a clean
45 slate.

46
47 Q. Can I ask this question: prior to the time

1 [Detective X] went off work on sick leave, did you have any
2 reason to expect that that was going to happen?

3 A. I had none.

4

5 Q. What was your reaction to that officer going off on
6 sick leave?

7 A. I was absolutely shocked.

8

9 Q. I'm going to ask you some questions about two other
10 officers that you mentioned in paragraph 14 of your
11 statement. The first is Detective Senior Constable Freney.

12 A. Yes.

13

14 Q. What did you know about his particular experience and
15 background?

16 A. Detective Freney had actually worked for me at
17 Tuggerah Lakes. I'm not quite sure - at the time I was the
18 crime manager - I was the DCI crime manager at Tuggerah
19 Lakes. Whether he was in the detectives; office at the
20 time, I'm unsure, but certainly I became the commander, the
21 superintendent, at Tuggerah Lakes. During that period
22 I was aware that Detective Freney was working in that
23 office. So that dates back to around 2000, 2002,
24 thereabouts. I know DCI Tayler held him in very high
25 esteem as a very diligent professional police officer, and
26 I've heard the evidence here at the Commission - a little
27 banter between crime managers, but basically Brad stole him
28 from Dave Waddell.

29

30 Q. The fact that he was stolen from Dave Waddell reflects
31 on his desirability, does it?

32 A. Absolutely.

33

34 Q. Detective Senior Sergeant Quinn, at the time he was
35 chosen to work on the strike force, what did you know about
36 him? Just in summary terms, given he's already given
37 evidence today about his own expertise, it's what you knew
38 about him as at December - late 2010?

39 A. I was aware that Justin Quinn was previously a
40 detective, an excellent prosecutor, and in fact it was my
41 decision to offer the position of investigations manager to
42 Justin Quinn for the newly-formed Newcastle Local Area
43 Command. I held Justin in the highest esteem and I think,
44 as this Commission would have found today, he's an
45 extremely professional individual.

46

47 Q. I'm going to move to one other topic before we break

1 for today and that's dealt with in paragraph 17 of your
2 affidavit. You make the statement that in the period
3 leading up to December 2010 you spent some time away from
4 the local area command itself due to other obligations.
5 You state that you became aware that there were some
6 difficulties being encountered by some other officers
7 within the Newcastle City Local Area Command in terms of
8 obtaining relevant material from DCI Fox.

9 A. That's correct.

10
11 Q. My first question is: what were the difficulties you
12 were told about?

13 A. To the best of my recollection, what I can say is that
14 in discussions with Tayler, possibly other senior staff, it
15 may have involved Humphrey but certainly with Tayler, I was
16 aware that Tayler and the investigation team aligned to
17 Lantle were trying to obtain a number of documents from DCI
18 Fox, which weren't forthcoming.

19
20 Q. Were these discussions - first of all, let's just
21 focus on Detective Inspector Tayler - documented by you?

22 A. No, they were not.

23
24 Q. Have you got any time frame as to how long before the
25 meeting on 2 December 2010 information of this nature was
26 conveyed to you by Detective Inspector Tayler?

27 A. My recollection is that it was only a matter of days
28 before, hence the purpose of that meeting on 2 December.

29
30 Q. I'm going to ask you to focus, if you can, on whether
31 you have an actual recollection of information being
32 conveyed to you by Detective Chief Inspector Humphrey. Do
33 you have any specific recollections of discussions with
34 Detective Chief Inspector Humphrey about difficulties
35 obtaining information or documents from DCI Fox?

36 A. Ma'am, he may well have. What I can say, if that is
37 the situation, I can assume that it probably did happen,
38 because Humphrey is a far better record keeper - I don't
39 know how he operates. He would have involved me somewhere
40 in discussion.

41
42 Q. Let's break that down. I think there are a few
43 concepts there. I'm not quite sure I grasp them all.
44 First, you have no particular recollection of discussions
45 with him?

46 A. No, I do not.

47

1 Q. But you know Detective Humphrey well enough to expect
2 that if there were difficulties he would tell you?

3 A. He would.

4

5 Q. Why you specifically?

6 A. Because I was his commander.

7

8 Q. I'm going to flip back to Brad Tayler for the moment.
9 In terms of the difficulties communicated to you by Brad
10 Tayler, may we take it they were only a few days before the
11 meeting?

12 A. Look, I believe to the best of my recollection that's
13 the situation. I can't be sure.

14

15 Q. Are you able to rack your recollection to see if
16 there's anybody else in there you recall telling you prior
17 to the meeting on 2 December that they were having
18 difficulties getting relevant material from DCI Fox?

19 A. Other than Tayler and perhaps Humphrey, unless I've
20 been basically privy to some conversation with
21 [Detective X] with Tayler, that may have happened, but
22 again, it's not something that I recall.

23

24 Q. Do you know anything about Detective Humphrey and
25 Superintendent Haggett searching DCI Fox's office
26 in October 2010 looking for material relating to Catholic
27 Church investigations?

28 A. Look, at the time, I was the acting region commander
29 and in fact I was in Dubbo at a region meeting. I wasn't
30 aware, and I became aware some time much later. I really
31 wasn't privy to that occurring.

32

33 Q. And you became aware much later as in after the
34 2 December 2010 meeting?

35 A. I believe so.

36

37 MS LONERGAN: Commissioner, would that be a convenient
38 time?

39

40 THE COMMISSIONER: Yes, Ms Lonergan.

41

42 MS LONERGAN: There is one other matter I need to deal
43 with, if Assistant Commissioner Mitchell could leave the
44 witness box. There has been an issue raised about a
45 non-publication order which is sought by Mr Perrignon on
46 behalf of various persons, some of whom are associated with
47 the Maitland Newcastle diocese, and a number of whom are

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I am not entirely sure of the basis for the requested order and I would ask Mr Perrignon to articulate that. Before he does so, I also note that it appears from the list of matters raised with me that every one of them has already been the subject of documents that have already been provided to the press.

MR PERRIGNON: That is the first question. If they have already been provided, then we have nothing more to say about it, if my friend tells me that. I'm not sure myself.

THE COMMISSIONER: I regret for your purposes, Mr Perrignon, that I believe they have been provided.

MR PERRIGNON: That's the end of it. Thank you, Commissioner.

THE COMMISSIONER: I'll adjourn until 9.30 tomorrow. Thank you.

**AT 4.25PM THE COMMISSION ADJOURNED TO
FRIDAY, 17 MAY 2013 AT 9.30AM**

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