

**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 Friday, 10 May 2013 at 9.49am  
(Day 5)

Before Commissioner: Ms Margaret Cunneen SC

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

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

1 THE COMMISSIONER: Ms Lonergan, are we in a position to  
2 interpose Detective Superintendent Kerlatec?

3  
4 MS LONERGAN: Yes, Commissioner. I call John Steven  
5 Kerlatec.

6  
7 <JOHN STEVEN KERLATEC, sworn [9.50am]

8  
9 <EXAMINATION BY MS LONERGAN:

10  
11 MS LONERGAN: Q. You are a detective superintendent in  
12 the NSW Police Force?

13 A. Yes.

14  
15 Q. Your full name is John Steven Kerlatec?

16 A. Yes.

17  
18 Q. You are currently the commander of the Sex Crimes  
19 Squad of the NSW Police Force?

20 A. Yes.

21  
22 MR SAIDI: Commissioner, can I indicate, I will be taking  
23 this witness through. If it could be known that the  
24 witness gives his evidence unwillingly.

25  
26 THE COMMISSIONER: Yes, that is noted. Thank you,  
27 Mr Saidi.

28  
29 MS LONERGAN: Q. Detective Superintendent, you prepared,  
30 with the assistance of your lawyers and, on an unwilling  
31 basis, but in cooperation with the Special Commission of  
32 Inquiry, a statement in April 2013?

33 A. Yes.

34  
35 Q. I show you a copy of that statement, dated 9 April  
36 2013. Is that statement true and correct?

37 A. Yes, it is.

38  
39 MS LONERGAN: I tender that statement, Commissioner.

40  
41 THE COMMISSIONER: The statement of Detective  
42 Superintendent John Steven Kerlatec will be admitted and  
43 marked exhibit 4.

44  
45 **EXHIBIT #4 STATEMENT OF JOHN STEVEN KERLATEC**

46  
47 MS LONERGAN: Q. Detective Superintendent, you were

1 attested as a police officer in 1978?  
2 A. Yes.  
3  
4 Q. And carried out general duties until 1985?  
5 A. That's right.  
6  
7 Q. You then completed a couple of years as a crime  
8 investigator?  
9 A. Yes.  
10  
11 Q. Including some experience in sexual cases?  
12 A. Yes.  
13  
14 Q. In May 2003 you became a superintendent?  
15 A. Yes.  
16  
17 Q. And became the commander of the Sex Crimes Squad at  
18 about the same time, was that?  
19 A. No, that was about 2008; that was in 2008.  
20  
21 Q. Could you outline for those in court what the Sex  
22 Crimes Squad is and its day-to-day work?  
23 A. The Sex Crimes Squad comprises of a number of  
24 investigators, analysts and specialists who lead the NSW  
25 Police response of investigations into adult sexual  
26 assault, child abductions, online predators, internet  
27 predators, manages the Child Protection Register, provides  
28 assistance to local area commands, to other police and  
29 jurisdictions throughout Australia, and works closely with  
30 international law enforcement.  
31  
32 Q. Detective Superintendent, you have a soft voice. If  
33 you wouldn't mind keeping it up.  
34  
35 You said one of the roles is to provide assistance to  
36 local area commands. Can you outline how the process  
37 works, where the local area command needs assistance with  
38 an investigation?  
39 A. There are a number of opportunities. The first one is  
40 through our direct monitoring involvement, we monitor what  
41 occurs overnight through our COPS system. The detection of  
42 a matter will provide the on-call team to contact the  
43 local area command to provide assistance, whether that be  
44 consultancy over the phone or attendance at a crime scene  
45 to assist.  
46  
47 Q. But that's more a one-off piece of assistance, when a

1 particular event arises that needs urgent assistance?

2 A. Yes.

3

4 Q. What other types?

5 A. Other types may include a request from a local area  
6 command for assistance. That may consist of a joint  
7 investigation, led by the local area command, a joint  
8 investigation where the state Sex Crimes Squad will lead  
9 the investigation or provide a consultancy, where we will  
10 provide a member of our staff to assist and oversight  
11 provide ongoing advice.

12

13 Q. Can we ask you about the first option, where an  
14 investigation is led by a local area command. How does  
15 that procedure commence? Is there some sort of formal  
16 application by a local area command who has been allocated  
17 a particular investigation?

18 A. A local area command who may be investigating a matter  
19 can submit a written request to State Crime Command,  
20 outlining their needs, the circumstances of the event and  
21 the reason why they need assistance, and that's adjudicated  
22 and assistance provided on that basis.

23

24 Q. Who makes the decision about what the nature of the  
25 assistance that will be provided and whether or not they  
26 get that assistance?

27 A. Ultimately it is the director of the Serious Crime  
28 Directorate, but that's upon advice from the squad  
29 commander.

30

31 Q. The director of the serious crime investigating area,  
32 was that you at any point, or who was that?

33 A. I have regularly relieved in that position, but my  
34 substantive position is the commander of the Sex Crimes  
35 Squad.

36

37 Q. Would you have a role in deciding what type of  
38 resources and/or advice or assistance will be provided in  
39 relation to sex crimes?

40 A. Yes, I do.

41

42 Q. Was that the position that you held in September to  
43 December 2010?

44 A. Yes.

45

46 Q. In terms of the way in which assistance is provided by  
47 your unit, is it the case that on occasion staff of the Sex

1 Crimes Squad are actually removed from the Sex Crimes Squad  
2 and reallocated to, for example, a local area command in a  
3 region, or does that not occur?

4 A. Yes, it does occur, yes.

5

6 Q. When that kind of assistance is given, do the officers  
7 or officer then go and relocate in the area where the  
8 investigation is being completed, or not necessarily?

9 A. They will work from that particular location. They  
10 won't relocate, as far as permanently move there for some  
11 time, but they will certainly work out of that location.

12

13 Q. If there's a joint investigation, how does that happen  
14 in practice, a joint investigation with the local area  
15 command and the Sex Crimes Squad?

16 A. It can vary. It may be a matter that we can undertake  
17 investigations apart, depending on the geographic  
18 circumstances, and it may be a case that we co-locate it  
19 having all the investigators working out of the one  
20 location, or it may be a matter that we remain in our  
21 office, conducting our office inquiries essentially from  
22 that office and the local area command conduct their  
23 investigations essentially from their location.

24

25 Q. If an investigation is a standard kind of  
26 investigation that is thought to be within the abilities of  
27 a particular local area command, would the Sex Crimes Squad  
28 then provide additional manpower or not?

29 A. Not necessarily, no.

30

31 Q. So it's a case-by-case consideration?

32 A. Yes.

33

34 Q. Do you recall having some discussions with Detective  
35 Inspector Paul Jacob in 2010 regarding investigation into  
36 aspects of allegations of child sexual assault in the  
37 Maitland-Newcastle area?

38 A. Yes.

39

40 Q. If you look at your statement, annexure A, you will  
41 see that's an email from Detective Inspector Jacob to a  
42 Brad Tayler and you.

43 A. Yes.

44

45 Q. Do you recollect whether you had any discussions with  
46 Detective Inspector Jacob before this email about the  
47 subject matter dealt with in the email?

1 A. I recall having some conversations, but the specifics  
2 of that conversation, I can't recall today.

3

4 Q. Do you recall receiving any particular documents or  
5 paperwork related to the matters that are referred to in  
6 this email?

7 A. No, I don't.

8

9 Q. In relation to the email, in the second-last  
10 paragraph, Detective Inspector Jacob mentions a request for  
11 Officer Tayler to contact a certain person about what may  
12 be an investigation taking place at the time, to ask  
13 questions about whether there is investigation taking place  
14 at the time. Do you see that in the second last paragraph?

15 A. Yes.

16

17 Q. Is that a reasonable interpretation of what that seems  
18 to be suggesting?

19 A. Yes.

20

21 Q. Do you remember having any particular discussions with  
22 Detective Inspector Jacob around that time about whether he  
23 in fact made those inquiries, or what the results of those  
24 were?

25 A. No, unfortunately I don't, I don't recall.

26

27 Q. In preparing your statement, did you take the time to  
28 see whether you had any notations or contemporaneous  
29 records about discussions regarding these matters at around  
30 about this that time?

31 A. Yes, I have.

32

33 Q. Were you able to locate anything?

34 A. No.

35

36 Q. Was it your usual practice to take notes of these  
37 kinds of exchanges with Detective Inspector Jacob?

38 A. No.

39

40 Q. Why is that?

41 A. For a matter that our crime squad wasn't  
42 investigating, it would be a matter of more of a general  
43 conversation with Inspector Jacob. The matters that we had  
44 carriage of, I would take detailed notes. It's a matter of  
45 myself being briefed regularly. In regards to this matter,  
46 as I said, it was more a general conversation.

47

1 Q. More a general conversation at this point?

2 A. Yes.

3

4 Q. Can I ask you some questions about Detective Inspector  
5 Paul Jacob. Could you outline, for the benefit of those in  
6 court, your understanding of Detective Inspector Jacob's  
7 experience and abilities as a member of your sex crime  
8 team?

9 A. Certainly. Detective Inspector Jacob, without a  
10 doubt, would be one of the most experienced investigators  
11 in New South Wales and one of the most experienced  
12 investigators in this country. He has undertaken probably  
13 the most complex matters that I've seen, spanning over a  
14 period of 30 years. He's trained on many courses, he's  
15 lectured numerous times, he's presented to different  
16 forums. He's been held in high esteem in various venues  
17 and called upon repeatedly for advice and guidance by  
18 junior and senior officers, because of his experience.

19

20 Q. Given what you just said, was it your position in 2010  
21 to rely upon him in terms of what he was doing and advice  
22 he gave to you as to how matters should be managed?

23 A. Yes, I did.

24

25 Q. Including how requests for assistance should best be  
26 managed?

27 A. Yes.

28

29 Q. Could you look at annexure B to your statement. At  
30 the same time, look at annexure C, which appears to be  
31 related to it. The first two-page document appears to be a  
32 type of report with a recommendation at the end, completed  
33 by an RL McKey, who is noted as a detective sergeant  
34 investigations co-ordinator, and the document is dated  
35 5 December 2010. Could you explain what the purpose of  
36 this particular document is, or was?

37 A. This report prepared by Detective Sergeant Rachel  
38 McKey flows on from annexure C, which is a ministerial  
39 request for information. The assessment, from my reading  
40 of the report, by Sergeant McKey outlines the information  
41 she had and her recommendation that it be forwarded to  
42 Detective Chief Inspector Fox.

43

44 Q. I'm going to move to a more general question. These  
45 types of ministerial matters that form, in this case,  
46 annexure C, how are they generally dealt with in terms of  
47 the Sex Crimes Squad involvement in them?

1 A. We receive numerous ministerial requests. From my  
2 experience, they require an accurate and factual  
3 response --  
4

5 Q. Can I stop you there. Is a ministerial request a  
6 request for information or a request for investigation, or  
7 what is it?

8 A. They differ. It could be for a number of reasons.  
9

10 Q. All right. In this particular case, if you look at  
11 the documents that comprise annexure C, first of all, do  
12 you recall having discussions about this ministerial  
13 request that comprises annexure C to your statement?

14 A. No, I don't.  
15

16 Q. Looking at the documents that comprise annexure C now,  
17 are you able to assist with how you interpreted them or  
18 what you interpreted them to require of the Sex Crimes  
19 Squad?

20 A. It required - my understanding is it required  
21 information as to the status of that particular allegation,  
22 and advice back as to that status.  
23

24 Q. Did you rely on the recommendation made by Detective  
25 Sergeant McKey in terms of how it ought to be managed?

26 A. Yes, I did.  
27

28 Q. On the first page of that report by Detective Sergeant  
29 McKey, under the heading "Comment" is what appears to be a  
30 recommendation in the middle of that paragraph to this  
31 effect:

32  
33 *I recommended that this file be forwarded*  
34 *to Detective Chief Inspector Fox for*  
35 *comment due to his intimate knowledge of*  
36 *the investigation, the hurdles encountered*  
37 *from the clergy possibly consistent with*  
38 *the issues highlighted by [BG].*  
39

40 What does that sentence suggest, in terms of what was to be  
41 required on the forwarding of that matter to Detective  
42 Chief Inspector Fox?

43 A. That Detective Chief Inspector Fox provide a comment  
44 in regards to the status of that situation, in regards to  
45 the ministerial request.  
46

47 Q. Do you read that comment and the recommendation on the



1 following page as a request to carry out an investigation  
2 into the matters raised in the letter by [BG]?

3 A. No.

4

5 Q. You have notated it, number point 2, as the director  
6 of Serious Crime Directorate, an instruction; is that  
7 right?

8 A. Yes.

9

10 Q. Can you read that out for the benefit of those in  
11 court, and given that the handwriting is a little difficult  
12 to read?

13 A. Yes:

14

15 *Forwarded for consideration and attention*  
16 *of Detective Inspector Fox who had*  
17 *involvement in the 2004 investigation into*  
18 *Father Fletcher 7/9/10.*

19

20 Q. 7 September 2010?

21 A. Yes.

22

23 Q. Then Commander Gralton has written something under  
24 you, in terms of the matter proceeding, once it gets to the  
25 Central Hunter Local Area Command; is that the way it  
26 works?

27 A. Yes.

28

29 Q. Then there is at dot point 4, the commander at Port  
30 Stephens?

31 A. Yes.

32

33 Q. And dot point 5 is Detective Chief Inspector Fox?

34 A. That's right.

35

36 Q. Is that the usual way these types of requests are  
37 forwarded out to particular local area command for  
38 attention and response?

39 A. Yes.

40

41 Q. There doesn't seem to be any further direction as to  
42 what - or to whom Detective Chief Inspector Fox should  
43 provide the comment or response. Can you assist with what  
44 would be the usual course that would be expected to be  
45 taken by the officer receiving a request like this, in  
46 terms of getting it back up the line to the minister?

47 A. It's left open, the two handwritten points 4 and 5

1 weren't included on the original report. It's left open to  
2 the person making the recommendations who it should go to  
3 next to comment to make its way back up.  
4

5 Q. Are you able to assist with whether you had an  
6 expectation as to what would happen after this matter went  
7 to Detective Chief Inspector Fox, in terms of it being  
8 reported back up the line, first of all, in terms of how  
9 soon that would happen and, secondly, to whom that ought to  
10 be redirected, once the inquiry had been dealt with?

11 A. With matters of such nature, it's generally a  
12 seven-day turnaround, to provide that comment and response.  
13 Now, it may be the case it could either come back via the  
14 Sex Crimes Squad or if it's time sensitive it could go  
15 straight back to the Commissioner's office for the  
16 information of the minister.  
17

18 Q. In the usual course, would the minister's office chase  
19 up these kinds of requests if they did come back within a  
20 sensible amount of time or a short amount of time or don't  
21 he know?

22 A. The Commissioner's office certainly chases them up,  
23 yes.  
24

25 Q. Do you recollect whether you personally had any  
26 follow-up call from the minister's office about this  
27 particular matter?

28 A. No, I don't recall.  
29

30 Q. Is there any particular police policy regarding  
31 response to ministerial requests?

32 A. There are a number of policies in regard to  
33 ministerial requests, yes.  
34

35 Q. Do they provide any particular guidelines as to how  
36 these ministerial requests ought to be managed, time frame,  
37 matter of that nature?

38 A. It's mainly time frames and through the chain of  
39 command once it's completed. The time frame is seven days,  
40 unless it's specified earlier, and to go back via the  
41 Commissioner's office, through the chain of command via the  
42 Commissioner's office.  
43

44 Q. What would be the normal course if a request like this  
45 was given to a police officer who was about to take a  
46 month's leave? What would be your expectation as to how  
47 that ought to be managed with that kind of unfortunate

1 timing?

2 A. There are a number of opportunities. One is either to  
3 seek an extension for the file, find an alternative officer  
4 who may be able to provide the information, seek the  
5 information verbally from the officer and someone else  
6 prepare the report and forward it on behalf of that  
7 officer.

8

9 Q. Would you expect the commander of the particular local  
10 area command to be aware of that as a potential issue and  
11 therefore make other arrangements, or would you expect the  
12 officer receiving the matter to do it, or what would you  
13 expect to happen?

14 A. It could be one or the other. Whoever - either could  
15 initiate that process.

16

17 Q. There's a handwritten note at the bottom, "cc:  
18 Director, Serious Crimes Directorate" - that's you?

19 A. Yes.

20

21 Q. Do you keep these types of recommendations and  
22 material on a particular file in your office or is it  
23 managed at another location? How are those copies dealt  
24 with?

25 A. All files are kept on a correspondence management  
26 system; all correspondence is record on a correspondence  
27 management system, TRIM, and it's captured and recorded on  
28 there.

29

30 Q. Could you look at annexure D. That seems to be a  
31 recommendation by Detective Inspector Paul Jacob that a  
32 request for assistance from Newcastle Local Area Command be  
33 accepted and that he be allocated a specialist consultant  
34 to the Newcastle Local Area Command Strike Force Lantle.  
35 Do you see that?

36 A. Yes.

37

38 Q. Do you recall whether you had any conversations with  
39 Detective Inspector Jacob between September 2010 and  
40 10 December 2010 regarding Strike Force Lantle? You don't  
41 need to tell me the content of the discussion, just whether  
42 you had them, to start with.

43 A. Yes.

44

45 Q. Whether you have a recollection?

46 A. There were a number of conversations, yes. The  
47 specifics of the conversations I don't recall.

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Q. Do you recall roughly how many? Were there more than 10, one or two?

A. No, I don't recall.

Q. Are you able to assist with whether you had a perception that Strike Force Lantle had commenced investigation prior to this formal request for assistance being accepted by way of this report of 10 December 2010 by Detective Inspector Jacob?

A. Yes. I did believe it had commenced. Yes, I did believe it had commenced.

Q. Are you able to assist with how long before this memo from Detective Inspector Paul Jacob that investigation had commenced, to your knowledge?

A. I can't recall that.

Q. You have annotated that you support Detective Inspector Jacob's recommendation that he be allocated to it as a special consultant and you have made the comment:

*Detective Inspector Jacob is the most appropriate member of this squad to provide consultancy support.*

Is that because of the particular training, background and experience you have referred to?

A. Including that, yes.

Q. There are other reasons?

A. There are. He was the most appropriate, suitable and experienced, but also he was available. His current workload at that time allowed him to take this additional workload on.

Q. Whilst Detective Inspector Jacob completed his consultation on Strike Force Lantle, did he report to you now and then about the progress of the matter?

A. He did.

Q. In relation to those reports, were they formal or informal?

A. They were informal, verbal briefings.

Q. In relation to the particular resources of an investigation, is that something that you rely on the

1 detective inspector who is to be allocated, in terms of  
2 appropriate resourcing, or is that something you involve  
3 yourself in?

4 A. It's a combination of both. I take advice from the  
5 investigator allocated, who is providing the advice, but  
6 also I would have my own value or experience into that as  
7 well.

8

9 Q. In your role as the commander of the Sex Crimes Squad  
10 do you have any say in which local area command ought to  
11 handle the main investigation?

12 A. It's a matter of - each matter is different. It could  
13 be that where the incident primarily occurred would be  
14 where the local area command would investigate the matter.

15

16 Q. If a matter came to your attention where a local area  
17 command had already been allocated the overall  
18 investigation, would it be part of your mandate to  
19 interfere or change the decision and say, "No, I think X  
20 local area command should deal with it," or is that outside  
21 your particular mandate?

22 A. That's outside my mandate.

23

24 Q. So you can provide consultative assistance or plan to  
25 take over the full investigation, but it's not within your  
26 mandate to say, "No, local area command X should do it"?

27 A. That's correct.

28

29 MS LONERGAN: Those are my questions, Commissioner.

30

31 **<EXAMINATION BY MR COHEN:**

32

33 MR COHEN: Q. Detective superintendent, your counsel has  
34 indicated to this Commission that you come here  
35 unwillingly. That's so, isn't it?

36

37 MR SAIDI: I object to that. Commissioner, this cannot be  
38 a matter of relevance.

39

40 THE COMMISSIONER: Yes, I'm with you, Mr Saidi.

41

42 MR COHEN: I'm sorry, I don't follow, Commissioner.

43

44 THE COMMISSIONER: I won't permit you to continue with  
45 this questioning, Mr Cohen.

46

47 MR COHEN: Q. Are you by nature a careful and precise

1 man, detective superintendent?

2

3 MS LONERGAN: I object. Commissioner, this line of  
4 questioning should be related to this man's policing duties  
5 and be kept relevant to the subject matter before the  
6 inquiry.

7

8 THE COMMISSIONER: It has to be, Mr Cohen.

9

10 MR COHEN: It is clearly intended to be, Commissioner,  
11 I can't imagine it would relate to anything else, but if it  
12 is uncertain, I will put it this way.

13

14 Q. In your policing duties, are you a careful and precise  
15 man?

16 A. Yes, as best as I can, yes.

17

18 Q. It is your practice to record, in your police duties,  
19 all matters in writing that are important to the discharge  
20 of such matters?

21 A. Primarily, yes.

22

23 Q. And in doing or in contemplating your statement to the  
24 Commission, did you consider the material in the draft  
25 carefully before you signed it?

26 A. Yes.

27

28 Q. Having read that material in that draft statement,  
29 were you satisfied about its accuracy and truth and  
30 correctness?

31 A. Yes.

32

33 Q. The statement reflects only your words, does it?

34 A. It was prepared with the assistance of my lawyer, yes.

35

36 Q. Does that mean somebody knocked it up, put it down in  
37 front of you and you just adopted its contents?

38 A. No.

39

40 Q. Well, then what do you mean that it was prepared with  
41 assistance?

42 A. Well, I sat down with my lawyer and prepared the  
43 statement.

44

45 Q. So you were asked questions and you gave answers?

46 A. I provided a narrative. I was asked questions and  
47 provided a narrative, which formed the content of the

1 statement.

2

3 Q. So it's your work, your handiwork; is that right?

4 A. With the assistance of my lawyer, yes.

5

6 Q. How much time do you devote to the supervision of the  
7 rosters on a daily basis, would you estimate?

8 A. That's hard to quantify. It depends on the level of  
9 supervision that you're asking.

10

11 Q. If it's somebody like Detective Inspector Jacob, does  
12 he just run his own race, in effect?

13 A. Certainly not run his own race. He consults with me,  
14 I speak with him each day he's on duty, like I do with all  
15 my other senior members of my staff, so I'm aware what they  
16 are doing most days.

17

18 Q. Those discussions presumably focus on serious and  
19 important matters?

20 A. Yes.

21

22 Q. If something is down the chain of importance or  
23 regarded as less urgent a matter, it tends not to be  
24 reviewed by you, I take it, but just managed by him; is  
25 that the long and short of it?

26 A. Yes, I agree with that.

27

28 Q. Has Detective Inspector Jacob, to your understanding,  
29 been attending the daily proceedings of this Commission, to  
30 your understanding?

31

32 MR SAIDI: Commissioner, I object.

33

34 THE COMMISSIONER: This is not going to assist me,  
35 Mr Cohen.

36

37 MR COHEN: Very well.

38

39 Q. Have you been reading the transcript of the daily  
40 proceedings in this Commission?

41 A. No.

42

43 Q. Have you been getting a source of information beyond  
44 the transcript about what's happening from day to day, if  
45 at all?

46 A. I have seen some media coverage of this inquiry.

47

1 Q. Have you had any discussions with anybody else other  
2 than your own observing the media about it?

3 A. Yes.

4

5 Q. What discussions were those?

6 A. I had discussions with my lawyer and the people  
7 representing me here today. I had discussions with  
8 Detective Inspector Jacob about my attendance here today.

9

10 Q. When did you do that; that is, to be fair to you, when  
11 did you speak with Detective Inspector Jacob about  
12 attending here?

13 A. Throughout the week, about scheduling my time frame,  
14 to make sure I was available.

15

16 Q. Has he given you any information about what's been  
17 happening in the proceedings when you were speaking with  
18 him during the week?

19 A. Just timings.

20

21 Q. In your statement, I ask you to direct your attention  
22 first to paragraph 9. Your evidence to the Commission is  
23 that you did not consider Strike Force Lantle to have been  
24 complex.

25 A. Yes.

26

27 Q. That's your evidence?

28 A. Yes.

29

30 MS LONERGAN: I object. The sentence should be read in  
31 full.

32

33 *... I did not consider the investigation*  
34 *itself to have been complex.*

35

36 Not Strike Force Lantle.

37

38 THE COMMISSIONER: Yes, that is correct, Mr Cohen. Would  
39 you put it accurately?

40

41 MR COHEN: I shall.

42

43 Q. In paragraph 9 you identify Strike Force Lantle, you  
44 identify your understanding of your capacity as commander  
45 of the Sex Crimes Squad, you say.

46

47 *... I did not consider the investigation*



1           *itself to have been complex.*

2

3       A.   That's right.

4

5       Q.   Does that mean, and so that it's clear, and so the  
6       Commission understands, that you equate Strike Force Lantle  
7       and the investigation interchangeably? Is that what you  
8       mean, that Strike Force Lantle is the investigation and the  
9       investigation is not complex? What exactly does that mean?

10      A.   What I considered there was in relation to the  
11      investigation to conceal serious offence, it's not a  
12      complex investigation in comparison to other investigations  
13      undertaken by NSW Police. Investigations of serious sexual  
14      assault or any sexual assault is and I separated the two  
15      and considered this matter, in regards to its investigation  
16      plan and its direction on the information provided to me by  
17      Detective Inspector Jacob, was a matter of investigating  
18      conceal serious offence.

19

20      Q.   If you could keep your voice up, it will assist  
21      everybody. I know you have a soft speaking voice.

22      A.   Sorry, I'm losing my voice.

23

24      Q.   In the pantheon of your various levels of seriousness,  
25      this investigation was towards the bottom; is that a fair  
26      comment?

27      A.   I wouldn't say towards the bottom, by no means. What  
28      I'm saying is the investigative skills to investigate an  
29      offence of conceal serious offence is not as difficult as  
30      some other serious matter.

31

32      Q.   And therefore not complex?

33      A.   That's right.

34

35      Q.   And could easily be undertaken by a local area  
36      command?

37      A.   Yes.

38

39      Q.   Was it the case that the genesis of this matter was  
40      attracting very little urgency, isn't that so, in your  
41      understanding?

42

43      MS LONERGAN:   I object. The genesis needs to be defined  
44      in time.

45

46      THE COMMISSIONER:   Yes, I find that a little hard to  
47      understand.

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MR COHEN: Yes, my friend challenges me properly. I will approach it through the documents in the bundle.

Q. This will require a bit of navigation through documents. To your right you have three volumes. Can you fish out volume 1 and open it up to tab 30A. It may be one that is inserted, rather than machine pagination, it may be handwritten. It is a memorandum of 3 May 2010, Tayler to Waddell.

A. Yes.

Q. Have you seen that document before?

A. No, I don't believe I have.

Q. Would it assist you to have a moment or two to read it, to understand its contents?

A. If you're going to ask me questions, yes.

Q. I do want to do that, and I want to be fair to you. Would you please read it now.

A. Yes, I've read that.

Q. Before my learned friend Ms Lonergan properly chided me about taking you directly to the substance of the material, you will see from that document the gist of it is a recording, a communication to Detective Inspector Tayler, I believe, of serious allegations, but he does not exhibit a terribly great urgency about the matter, does he? I mislead you. The document is signed by Detective Inspector Waddell. I said Tayler, I apologise. Detective Inspector Waddell is not exhibiting a great sense of urgency about this matter, is he?

A. I wouldn't read that into it, no.

Q. In fact, it's just another file getting little or no attention, in that sense?

MR SAIDI: Commissioner, I object. Commissioner, my friend is asking this witness to speculate on what is contained within the document. This witness wouldn't know whether or not - what Inspector Waddell would do. These questions should be properly directed towards Inspector Waddell, not this witness.

MR COHEN: I am not doing anything of the sort, Commissioner, I should explain what I'm doing. This

1 gentleman is, on any view, a leading expert in his field  
2 about these matters. He is also a senior commander of the  
3 police force and I imagine he would be in charge of a local  
4 area command if he was not doing his job. He can answer as  
5 to his view about whether or not the conduct --

6  
7 THE COMMISSIONER: All right. Carry on, Mr Cohen.

8  
9 MR COHEN: Q. There was not a lot of urgency being  
10 exhibited, was there?

11 A. Not from the content of this report.

12  
13 Q. Can I take you to tab 36 in the same bundle, a few  
14 pages forward. Would you read the email at tab 36. Have  
15 you seen that email before?

16 A. No, I haven't.

17  
18 Q. If you read the first email, the section on the first  
19 half of the page is the section that matters.

20 A. Right, I've read that.

21  
22 Q. You understand, I believe, and I'm not sure if you  
23 want to check, that Detective Senior Constable McLeod was  
24 in the same command as Detective Inspector Waddell and he  
25 reported to him?

26 A. I don't know the --

27  
28 Q. If I say it to you, you will accept that as a correct  
29 statement?

30 A. I'll accept that if that's what you're telling me.

31  
32 Q. Do you understand from this document that while  
33 Detective Senior Constable McLeod was keen to move on with  
34 these matters, that DI Waddell was shutting him down?

35 A. That's the content of that email, as I read that.

36  
37 Q. You would accept that the material involved - that is,  
38 what we are discussing there as the material identified in  
39 the document at tab 30 that I have taken you to - is a very  
40 serious series of allegations, is it not?

41 A. The allegation of - what's the allegation you are  
42 referring to?

43  
44 Q. If you recall the document behind tab 30 - perhaps go  
45 back to it - the allegations raised by Ms McCarthy,  
46 recorded by DI Waddell, on any view, are very serious  
47 allegations, aren't they?

1 A. The allegations regarding concealing a serious  
2 offence?  
3  
4 Q. Yes.  
5 A. Yes, as I mentioned earlier, yes, they are; they are  
6 serious.  
7  
8 Q. And deserving of serious consideration and  
9 investigation and ought --  
10 A. Yes.  
11  
12 Q. -- not be shut down in this way?  
13  
14 MS LONERGAN: I object. "Not be shut down in this way" is  
15 a very general, almost submission-like point to make.  
16  
17 THE COMMISSIONER: Yes. Perhaps if you just stick to the  
18 first part of the question, Mr Cohen.  
19  
20 MR COHEN: Q. You accepted before that DI Waddell's  
21 conduct, as reflected in McLeod's email, was to stop him  
22 moving at all on this, and you accepted it when I referred  
23 you to that?  
24 A. That's the email you're referring to?  
25  
26 Q. Yes, it is.  
27 A. That's the inference in that email, yes.  
28  
29 Q. There was just not a lot of urgency in that email at  
30 this time, was there, and this is by the middle of May?  
31 A. I can only go based on a few words in on one email, so  
32 it's difficult for me to discuss whether it's urgent or  
33 not, so --  
34  
35 Q. Fixing the time at 13 May - that is the email from  
36 McLeod in tab 36 - there's not a lot of urgency being  
37 exhibited, is there?  
38 A. It doesn't reflect a lot of urgency, no, I agree with  
39 that.  
40  
41 Q. You accept that these facts, I take it, in May 2010  
42 were the putative steps in the formation of Strike Force  
43 Lantle, do you?  
44 A. I probably can't answer that in regards to my  
45 recollection of the amount of data that I had in 2010 when  
46 I made that decision. I hadn't seen these emails or this  
47 other correspondence you referred me to.

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Q. But these emails were addressing the very subject matter that became the strike force that was named Lantle; that's right?

A. Yes.

Q. At this stage, there is not much that looks to be regarded by the system within the NSW Police Force as very sensitive or deserving of the designation "highly protected," is there?

MR SAIDI: Commissioner, I object. This is really misleading. He is asking this witness to make a comment on one email, when this witness has no idea what is happening elsewhere and is not involved in any other decision-making process. It's really unfair to try to direct him by those questions with what is contained in one email and to put those matters to a witness in that form.

THE COMMISSIONER: Yes. Thank you, Mr Saidi.

Mr Cohen, I do agree.

MR COHEN: Very well.

THE COMMISSIONER: This witness was concerned in another area of doing other jobs and --

MR COHEN: Can I make this submission: he was certainly in another area, but in lockstep with the things that were being investigated. The fact that it was a local area command dealing with, or the Sex Crimes Squad, the same matters, it is the same meat and drink of day-to-day policing.

THE COMMISSIONER: Superintendent Kerlatec hadn't seen the --

MR COHEN: No, I'm not asking him to go beyond 13 May. I thought I made that clear, and I apologise to you Commissioner, and to my friend. I said, "Fixing the time at 13 May, there was not a lot of urgency," and that was accepted. My next question was, this situation - let me put the question now, and it can be objected to at the end if that's the case.

Q. Detective superintendent, as at 13 May 2010, these are

1 not facts or circumstances that really justify the  
2 designation highly protected, are they?  
3 A. Highly protected, you're saying, as a classification?  
4  
5 Q. Yes.  
6 A. It's certainly something that I wouldn't encourage to  
7 be made too public, no.  
8  
9 Q. So that the Commission understands and the general  
10 community understands from your evidence, in community  
11 parlance, highly protected equals top secret, doesn't it?  
12 A. No, not necessarily, no.  
13  
14 Q. When does it not equal top secret and when does it  
15 equal top secret? If there's a distinction, let's have it.  
16 A. It may be difficult to articulate. With highly  
17 protected, it can circulate quite widely, but it has  
18 parameters. Top secret is for the higher echelon only to  
19 read.  
20  
21 Q. What comes above highly protected in the police  
22 system?  
23 A. As far as investigation, the exact - I can't recall  
24 right this minute, I'm sorry.  
25  
26 Q. Is there any other category that's even more sensitive  
27 and less likely to be open to anybody's eyes than highly  
28 protected?  
29 A. Less open, did you say?  
30  
31 Q. Yes, to any set of eyes in the system than highly  
32 protected?  
33 A. Yes, top secret does become --  
34  
35 Q. So there is a top secret?  
36 A. Yes, there is, yes.  
37  
38 Q. I take it that might relate to a threat to the life of  
39 some person, particularly if they were a VIP. Is that what  
40 you're talking about, possibly?  
41 A. That would include that, yes.  
42  
43 Q. Highly protected is the next level down --  
44 A. Yes.  
45  
46 Q. But means not to be disseminated widely; is that  
47 right?

1 A. Yes.  
2  
3 Q. A small category of people get in in the first place,  
4 and it is locked out of the system unless first authorised  
5 in; is that right?  
6 A. Yes, that would be the case as well.  
7  
8 Q. At 13 May that wasn't happening on this?  
9 A. I don't know.  
10  
11 Q. It doesn't look like it was?  
12 A. Based on?  
13  
14 Q. On the email of 13 May.  
15 A. Well, there's nothing to suggest to me that there was  
16 highly protected, no.  
17  
18 Q. If you travel back a few tabs to tab 34, you will  
19 see - this is the difficulty of modern technology - it's a  
20 chain of emails. They invariably stack on top of each  
21 other, so that one reads the first in time as the last in  
22 the series. In fairness to you, to enable you to read  
23 these carefully, can I suggest this course: I direct your  
24 attention to the bottom of page 113, and do you see at the  
25 very bottom there's a little header, email from  
26 Joanne McCarthy, 8 May, to what I believe is the system  
27 email address for Detective Senior Constable McLeod. Do  
28 you see that at the foot of the page?  
29 A. Yes.  
30  
31 Q. If you go over to the page of page 114, that's the  
32 body of the email. If you read that first and then come  
33 back to page 113 and read the page, it will make more  
34 sense. Will you be able to do that?  
35 A. Yes.  
36  
37 Q. You know who Joanne McCarthy is now, I take it?  
38 A. Yes.  
39  
40 Q. Did you know who she was at the time?  
41 A. No, I didn't.  
42  
43 Q. But I think you understand also from the earlier  
44 document I took you to, which was behind tab 30A, that as  
45 Detective Inspector Waddell is recording it, he was being  
46 provided information from her about these matters. You  
47 accept, I take it, that at this time, as at 8 May, there's

1 some more information that's being provided by her. You  
2 understand that?

3 A. Yes.

4

5 Q. And it's going through the conduit of her to McLeod,  
6 McLeod on to Waddell; but, nonetheless Waddell on 13 May is  
7 being told just to stop his tracks. So there's a body of  
8 material emerging of quite serious allegations, but - do  
9 you agree with me that by the time of 13 May - going  
10 nowhere fast?

11

12 MS LONERGAN: I object. The question involved a number of  
13 what are, in my respectful submission, in effect  
14 overarching comments, and almost submissions, rather than  
15 just a direct question about the email chain.

16

17 MR COHEN: I was endeavouring to try to bring the  
18 witness's attention back to the documents I had taken him  
19 to. It's a difficult process and one cannot expect the  
20 detective superintendent to keep it in his mind. But we  
21 will do it the long way.

22

23 Q. Detective Superintendent Kerlatec, you have seen the  
24 documents I have taken you to, the initial document which  
25 was DI Waddell's email to DCI Tayler about the  
26 investigation that was happening in early May; do you  
27 remember that?

28 A. Yes.

29

30 Q. You have seen the material attached to the email of  
31 8 May from Ms McCarthy to McLeod and McLeod on to Waddell.

32 A. Yes.

33

34 Q. And my question to you then was that there is a  
35 blockage that's been reached in terms of this material  
36 going any further or anywhere at all at this point in time,  
37 isn't there?

38 A. I'm not sure what you mean by blockage.

39

40 Q. Well, McLeod is being told that he just can't do  
41 anything with it, and he's recorded that in his  
42 communication of 13 May that I referred you to.

43 A. Yes.

44

45 Q. There really is not much appetite in the system for  
46 him to do much about this at all, is there?

47



1 MR SAIDI: Commissioner, I object. This is grossly unfair  
2 not only to this witness but in terms of generally. One  
3 knows, when one reads a brief, that there were things going  
4 on behind the scenes not involving Mr McLeod. To suggest,  
5 based on this limited information, that there was nothing  
6 happening at all is just wrong and misleading. Anyone who  
7 is listening to this evidence, let alone the witness, must  
8 be misled by what's going on.

9

10 THE COMMISSIONER: Thank you, Mr Saidi.

11

12 Mr Cohen, Inspector Waddell had transferred matters on  
13 to Newcastle by then; isn't that right?

14

15 MR COHEN: Thank you. Yes.

16

17 Q. The matters - that is these matters - then went to  
18 Newcastle. You understand that, don't you, or do you?

19 A. I don't recall that, but I'll accept that to be the  
20 case.

21

22 Q. I apologise. I'm assuming that you have an overview  
23 of the chronology of this matter by reason of what you have  
24 done in your statement, but if that's not clear in your  
25 mind, allow me to take you through the steps. Would you  
26 prefer that?

27 A. Yes.

28

29 Q. At tab 38A, do you remember that document - have you  
30 seen that document?

31 A. No, I don't believe I have, no.

32

33 Q. I missed your answer. Did you say you have not seen  
34 it before?

35 A. That's correct, I have not seen that document.

36

37 Q. Do you accept from that that by 20 May, the file  
38 having got to Newcastle Local Area Command, it was then  
39 being - I use this word advisedly - shunted on to State  
40 Crime?

41

42 MR SAIDI: I object.

43

44 THE COMMISSIONER: That's not an appropriate expression,  
45 thank you, Mr Cohen.

46

47 MR COHEN: I will withdraw that.

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Q. The file was being sent on from Newcastle to your command, wasn't it?

A. That's what the report suggests, yes.

Q. But that didn't happen, did it?

A. I don't know.

Q. Isn't it the case that the region office, the Northern Region, intervened and created a report about these matters? Do you know that?

A. I don't know that.

Q. Let me take you to the relevant document. Again in the same bundle, if you could direct your attention to tab 57 - just before you leave that last document: in the same way that you identified or opined about what's exhibited by the original 3 May memorandum from DI Waddell, would you say that there's any greater urgency being exhibited by the 20 May memorandum from DCI Tayler?

MR SAIDI: I object, Commissioner. Commissioner, I come back to my prior objection. This witness is being asked about material in one document, in which he has absolutely no idea, it would appear, as to what is going on elsewhere. It's a grossly unfair question.

MR COHEN: Commissioner, in my submission, one doesn't need to know anything more than what's on the face of the document, having regard to what --

THE COMMISSIONER: Mr Cohen, this document at tab 38A says:

*It is my submission this file should be forwarded to Sex Crimes, State Crime Command for investigation.*

Do you say that unless it says "Urgently" or "this minute" or "instanter" it --

MR COHEN: I am just asking the witness' opinion. Given that he deals with these things day in and day out, I am assuming it is his opinion. I take it you think not.

THE COMMISSIONER: Q. Do you have an opinion about it, Detective Superintendent Kerlatec?

1 A. Regarding the urgency of the matter?  
2  
3 MR COHEN: Q. Does it exhibit any urgency, is what I'm  
4 asking.  
5 A. No, no more than usual.  
6  
7 Q. If you look at tab 57, have you seen that document  
8 before?  
9 A. I don't recall seeing that document.  
10  
11 Q. Have you ever been told of a memorandum by Inspector  
12 Townsend, the operating manager of the Northern Region at  
13 the time, about his report into what ought happen to the  
14 facts and circumstances and matters that had arisen and  
15 that ultimately became Lantle, but which are the matters  
16 that were the focus of the memos I've just taken you to  
17 from DI Waddell and DCI Tayler?  
18  
19 MR SAIDI: Commissioner, I object on the general ground of  
20 relevance. This is material that this witness was not  
21 involved with. It was material that happened in a command  
22 outside this witness's area. Whatever this witness has to  
23 proffer in relation to this document, whether he's read it  
24 or not, can have absolutely no bearing on what you are  
25 considering or in terms of any relevance, and I include in  
26 that phrase relevance, peripheral relevance.  
27  
28 THE COMMISSIONER: Thank you, Mr Saidi.  
29  
30 Mr Cohen, are you seeking to establish whether the  
31 witness has been shown it in preparation for giving  
32 evidence in this inquiry or did you expect that Detective  
33 Superintendent Kerlatec would have seen it around the time  
34 it was written?  
35  
36 MR COHEN: I'm inquiring as to whether or not he has seen  
37 it now, in relation to the preparation of his statement.  
38  
39 Q. Is it a document that is familiar to you?  
40 A. No.  
41  
42 Q. Do you understand the purpose of the document?  
43 A. I haven't read it.  
44  
45 THE COMMISSIONER: Mr Cohen, it is 11 pages long.  
46  
47 MR COHEN: I see. I'm not quite sure how I can do this.

1 Are you ruling this is an irrelevance and I can't pursue  
2 it?  
3  
4 THE COMMISSIONER: What are you going to ask the witness?  
5  
6 MR COHEN: I am trying to set up this --  
7  
8 THE COMMISSIONER: Even if he knows everything that is in  
9 this document, even if he was given time to read it, where  
10 is it going?  
11  
12 MR COHEN: It's going to this very proposition, that again  
13 there is neither urgency or high protection of this matter.  
14 I'm trying to establish the fact that there's a chronology  
15 where nothing happens until September, on a file that, on  
16 one view of it, is regarded as most urgent, highly  
17 sensitive, come September, but all the activities up to  
18 then are not so exhibited, and this witness can give an  
19 opinion about this. It goes to informing you,  
20 Commissioner, about just what the antecedents of the  
21 establishment --  
22  
23 THE COMMISSIONER: Ultimately, Mr Cohen, can't you make a  
24 submission that certain things happened in May and certain  
25 things happened in July --  
26  
27 MR COHEN: I certainly can.  
28  
29 THE COMMISSIONER: -- and that the timing itself suggests  
30 a speed of dealing with the matter.  
31  
32 MR COHEN: I certainly can. I take it you don't feel the  
33 need to have any --  
34  
35 THE COMMISSIONER: No, I don't think this witness's  
36 opinion of whether a document he hasn't seen before shows  
37 any sense of urgency will be of assistance.  
38  
39 MR COHEN: Very well.  
40  
41 Q. You know, I take it, detective superintendent, about  
42 the commencement of Lantle in September 2010?  
43 A. I have some recollection of the matter, yes.  
44  
45 Q. Did you ever see the terms of reference that  
46 established Lantle?  
47 A. No, I don't recall seeing those.

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Q. Would it assist you to see them, given there is a series of matters that you opine on about Detective Jacob's approach to Lantle, to understand what drove it as an operation?

A. Certainly, I will read them.

MR COHEN: I have one difficulty, Commissioner. I was not able to find in the bundles last night when I was trying to do this cross-reference, where the terms of reference for Strike Force Lantle are. I know they are attached to a number of the witness statements, but I'm not sure they have reached the bundle. Can I direct the attention of the witness to the witness statement?

THE COMMISSIONER: They will be with us presently, thanks to Ms Sullivan.

MR COHEN: Q. The place that I find them is annexure D, the statement of Superintendent Galton. I am grateful for the assistance of counsel assisting, I am told they are in tab 149.

We will need now volume 3. The only alternative I can see to getting the documents I would like the witness to peruse is to have regard to the annexure to Commander Galton's statement. Absent that, there is some difficulty.

THE COMMISSIONER: Do you have a copy of that document?

MR COHEN: I have my brief copy, which is what I'm making reference to. It is in the Galton statement, if I may be permitted to refer to it that way. In volume A of the bundle, behind tab 1, will be found the witness statement and the relevant documents I am searching for are annexure B to that statement.

THE COMMISSIONER: Detective Sergeant Little probably knows them off by heart.

MS LONERGAN: Commissioner, it may be the police witnesses could be given a copy of that particular term of reference.

THE COMMISSIONER: Mr Saidi, can you assist with this?

MR SAIDI: Yes, it is annexure B to the statement of

1 Carlene York, which is tab 12.

2

3 THE COMMISSIONER: Thank you, Mr Saidi.

4

5 MR COHEN: Q. Starting with tab 149 of the bundle, do  
6 you see that? If you look at page 743 and 744 - do you  
7 have volume 3?

8 A. I have a copy of something that's been handed to me.

9

10 Q. If you look at the foot of the page that's been handed  
11 to you, what is the printed number at the foot of the  
12 pages?

13 A. 546 to 548.

14

15 MR SAIDI: It is annexure B to Carlene York.

16

17 MR COHEN: I am trying to avoid the dilemma or peril that  
18 the document Superintendent Kerlatec is looking at then  
19 goes into the ether and is unable to be identified.

20

21 THE COMMISSIONER: Do you have a copy of the terms of  
22 reference, Mr Cohen?

23

24 MR COHEN: I have a copy of the first terms of reference -  
25 there are two - at tab 149, pages 743 and 744. What I do  
26 not have, I regret to say, is the second version, the  
27 amended form. That's my dilemma. I'm trying to find both  
28 of them.

29

30 Q. Perhaps while that's being searched for, Detective  
31 Superintendent Kerlatec, you presumably have seen more  
32 strike force terms of reference documents in draft and  
33 final form than most people have hot meals; I assume, you  
34 see them day in and day out?

35 A. I've seen a fair few, yes.

36

37 Q. The form of the terms of reference in the first two  
38 paragraphs under the "Strike force" heading identifies what  
39 is to be done, does it not? That is to say, "investigate  
40 allegations of" and so on. Do you see that paragraph?

41 A. I'm reading that now, yes. Yes.

42

43 Q. Have you seen that term of reference before, or just  
44 know of it, that that is --

45 A. I don't recall seeing this before.

46

47 Q. Would you agree with me that those are very narrow

1 terms of reference?

2

3 MR SAIDI: Commissioner, I object. What is referred to  
4 State Crime Command are terms of reference. It is not for  
5 the State Crime Command to itself broaden the terms of  
6 reference, it is a local area command decision. At the  
7 moment, one fails to see any relevance as to why this  
8 witness is being asked questions in relation to the Strike  
9 Force Lantle terms of reference.

10

11 MR COHEN: I submit that it should be obvious. This  
12 command was providing specialist consultancy. It must have  
13 been doing it on the basis that there was a jurisdictional  
14 fact in the system that had created this strike force -  
15 there it is. I'm asking this gentleman, evidently an  
16 expert, his opinion about whether or not these terms of  
17 reference are narrowly or widely drawn.

18

19 THE COMMISSIONER: How long is a piece of string,  
20 Mr Cohen? It's a relative term, isn't it? Do you wish to  
21 put that they should have included other considerations?

22

23 MR COHEN: Yes, and what I want to ask - and I thought  
24 I had - is that these are very narrowly drawn terms of  
25 reference. That can elicit a response of "Yes" or "No",  
26 surely.

27

28 THE COMMISSIONER: Q. All right. What do you say about  
29 that, Detective Superintendent Kerlatec?

30 A. It's difficult to say that they are narrow or broad.  
31 I don't think I can answer that either way. They do  
32 provide ample scope to investigate, whether it's broad for  
33 some people to understand or accept is a matter of opinion.

34

35 MR COHEN: Q. They are entirely backward-looking as  
36 well, aren't they, the terms of reference?

37 A. What do you mean by that?

38

39 Q. Well, "investigate allegations of offences attached to  
40 the diocese stemming from complaints." This is complaints  
41 that were identified many years prior, not currently.

42

43 MS LONERGAN: I object. The terms of reference don't  
44 actually say when the complaints occurred, so perhaps the  
45 ground work could be laid as to what was known by this  
46 witness about the timing.

47

1 MR COHEN: Q. You heard Ms Lonergan. Do you know the  
2 time frame of the matters, or is this all information known  
3 to Detective Inspector Jacob and not oversightd by you?

4 A. I would definitely agree that Detective Inspector  
5 Jacob had greater knowledge of the time frame. My  
6 recollection is it was in 2000 and 2001, some period in  
7 there.

8  
9 Q. Can I show you a further document which was provided  
10 to me by counsel assisting, which is the amended form of  
11 the terms of reference. In the absence of it being  
12 identified anywhere else in the bundle yet, perhaps it  
13 could be shown to the witness.

14  
15 THE COMMISSIONER: We should mark the first terms of  
16 reference that were shown to the witness MFI2, and the  
17 amended terms of reference MFI3.

18  
19 **MFI #2 FIRST TERMS OF REFERENCE**

20  
21 **MFI #3 AMENDED TERMS OF REFERENCE**

22  
23 MR COHEN: I apologise that this is just occurring, but  
24 I'm afraid, in a big-document case, often something is hard  
25 to find. I am terribly sorry.

26  
27 THE COMMISSIONER: Not at all, Mr Cohen.

28  
29 MR COHEN: Q. Detective Superintendent Kerlatec, do you  
30 have in your hand now what I refer to as the amended form  
31 and the original form of the terms of reference?

32 A. Well, neither were dated so I don't know which  
33 preceded which.

34  
35 Q. Can I indicate to you that the first I showed you  
36 arose in September 2013, and the best understanding I have  
37 is that the amended terms of reference arose in about  
38 December 2010, or perhaps January 2011. That's the  
39 approximate time frame. I'm happy to be corrected if  
40 that's in error, but my understanding is that's the time at  
41 which you can fix these and --

42 A. I accept that, so --

43  
44 Q. I'm not hearing any complaints about that. So on the  
45 footing the first is September 2010 and the second is late  
46 2010 or perhaps early 2011, do you see the second terms of  
47 reference?



1 A. Yes.  
2  
3 Q. Do you see it's been amended by imposing a narrowing  
4 of the time on which it is to investigate?  
5 A. Yes.  
6  
7 Q. Can you offer the Commissioner any view or explanation  
8 as to why there would be a need to narrow the time frame,  
9 having established the strike force in, say, September  
10 2010, to amend it and narrow its reach in late 2010, the  
11 purpose behind that?  
12  
13 MR SAIDI: Commissioner, I object.  
14  
15 THE COMMISSIONER: Mr Cohen, really, how is this witness  
16 going to know the purpose behind it?  
17  
18 MR COHEN: Could there be any purpose, is what I was  
19 endeavouring to elicit?  
20  
21 THE COMMISSIONER: Could he know?  
22  
23 MR SAIDI: I think the question was, "Do you know"?  
24  
25 MR COHEN: I'll withdraw it and put in this way.  
26  
27 Q. Could there be any purpose in narrowing the terms of  
28 reference in this way.  
29  
30 MS LONERGAN: I object. There is no evidence before the  
31 Commission, putting those views on it that it is narrowing  
32 the terms of reference. It is unclear from the first terms  
33 of reference, which is MFI2, what time frame is being  
34 considered then. It may well be an expansion, for all this  
35 officer knows.  
36  
37 MR COHEN: Q. In your experience, is it a practice to  
38 limit the terms of reference to a specific period in this  
39 way, as opposed to allegations that may be received?  
40 A. Terms of reference are structured in such a way to  
41 ensure a thorough investigation is undertaken, providing  
42 parameters. By the inclusion of those dates, I don't know  
43 one way or the other whether that included or expanded the  
44 parameters or narrowed the parameters.  
45  
46 Q. Is it your experience that dates like that are  
47 included?

1 A. Not on every occasion, no.  
2  
3 Q. Is it intended to include them in every case?  
4 A. Again, each case is dealt with on its own merits.  
5  
6 Q. I understand that, but doing the best you can, in your  
7 experience, is it your experience that there needs to be a  
8 limiting time or not?  
9 A. When we are looking at matters such as conceal serious  
10 offence, I'm not sure whether including or omitting the  
11 dates adds to or deletes the focus of the investigation.  
12  
13 Q. Is it something you would choose to do if you were  
14 drafting such terms of reference, to limit the dates?  
15  
16 MR SAIDI: Commissioner, I object.  
17  
18 THE COMMISSIONER: Mr Cohen, it is too hypothetical.  
19  
20 MR COHEN: Very well, Commissioner.  
21  
22 Q. You saw in the evidence-in-chief, when you were lead  
23 through the evidence by my learned friend, the annexure  
24 which is included to your own statement, which is the  
25 document annexure B provided by you, which was authored by  
26 Detective Sergeant McKey. Do you remember that?  
27 A. Yes.  
28  
29 Q. You gave a series of answers to my friend about its  
30 purpose. Can I ask you this: you identified when you were  
31 giving your initial evidence what appeared to be a pecking  
32 order of things, and I want to be sure that I understood  
33 what you meant by that. You initially indicated that there  
34 can be, I think, three categories: a request from an LAC  
35 for assistance from your squad - sorry, a joint  
36 investigation led by an LAC; a joint investigation led by  
37 you; or an LAC investigation led with consultant advice.  
38 Those are the three categories. Have I stated them  
39 correctly?  
40 A. Yes, they are the categories.  
41  
42 Q. And this Strike Force Lantle was the last of those  
43 categories, led by the LAC with consultant advice, and that  
44 was Detective Chief Inspector Jacob?  
45 A. Yes.  
46  
47 Q. Is that the lowest level of pecking order, if I can

1 describe it that way, or the lowest rung on the ladder?  
2 A. I would not rank it as a low, no, by any means.  
3  
4 Q. Sorry?  
5  
6 A. I would not regard that as a low response, by any  
7 means. I would regard it as that was the appropriate level  
8 of response for this particular matter.  
9  
10 Q. Certainly you understood it was the appropriate level,  
11 but the one requiring least active involvement by your  
12 squad?  
13 A. That's right.  
14  
15 Q. Most likely to be conducted locally, as opposed to  
16 higher level specialist intervention or active input, as  
17 opposed to consultancy?  
18 A. One that required less of the expertise provided by  
19 the Sex Crimes Squad.  
20  
21 Q. Less intensive activity; is that right?  
22 A. Yes, I accept that, yes.  
23  
24 Q. You gave some more evidence. You were asked whether  
25 or not there was a third election for comment or response.  
26 You were asked what was the usual course, and you said, it  
27 was left open to the person making recommendations or  
28 comments. That was in respect of your annexure B, you were  
29 referring to that document, and you were contemplating  
30 ultimately comments being made in respect of annexure B by  
31 Detective Chief Inspector Fox; is that so?  
32 A. Are you referring to the signature block on the  
33 footnote of that report?  
34  
35 Q. Yes, and the series of instructions or directions?  
36 A. Yes.  
37  
38 Q. If it was left open to Detective Chief Inspector Fox  
39 to comment, presumably that comment could be for there to  
40 be an investigation; is that right?  
41 A. He could make any comment.  
42  
43 Q. But that's certainly one that would be perfectly  
44 orthodox and acceptable, if he did?  
45 A. Had he chosen to do so, yes.  
46  
47 Q. If he did make it later, would it be unusual that that

1 comment was not had regard to in the scheme of things of  
2 such an investigation as something like Strike Force  
3 Lantle?  
4 A. I'm not sure the --  
5  
6 Q. Let me put it this way. That documents that is  
7 annexure B to your statement, did you ever understand what  
8 its ultimate fate was, what happened to it in the system?  
9 A. No.  
10  
11 Q. Did you ever interrogate the system to understand what  
12 had occurred with it?  
13 A. No, I don't recall I did that.  
14  
15 Q. Is it possible even today to know what, if anything,  
16 happened to it?  
17 A. Yes, I believe there may be opportunities to track  
18 that document down.  
19  
20 Q. It had as its genesis a request from a minister's  
21 office, presumably the Attorney-General?  
22 A. No.  
23  
24 Q. No  
25 A. Sorry, I don't know which.  
26  
27 Q. Sorry, I thought you did. Would you accept from me it  
28 was likely to come from the Attorney-General in that  
29 officer's role as the Minister of Justice.  
30 A. Can I refer back to that exhibit?  
31  
32 Q. Please.  
33 A. Yes.  
34  
35 Q. Are you satisfied that is the case?  
36 A. Yes.  
37  
38 Q. Presumably in your specialist command you more often  
39 than not - you receive many ministerial briefing requests;  
40 is that a fair comment?  
41 A. Yes.  
42  
43 Q. And you have given evidence about how quickly the  
44 turnaround time is for these, and the expectations of  
45 turnaround?  
46 A. Yes.  
47

1 Q. You have said 7 to 10 days in the ordinary course?  
2 A. Yes.  
3  
4 Q. Do you know whether or not this one got the 7 to  
5 10-day turnaround?  
6 A. No, I don't.  
7  
8 Q. Would it be unlikely for it just to sit there  
9 unnoticed and without any follow-up by the minister's  
10 office?  
11 A. It would be unlikely that there wouldn't be any  
12 follow-up by the minister's office or the Commissioner's  
13 office.  
14  
15 Q. So there is no follow-up on this ministerial file that  
16 you can think of or are been aware of? It did become  
17 something of a hot potato that you could not possibly  
18 forget.  
19 A. Well, it is certainly that didn't come to my  
20 attention. Having said that, it's nor my role to chase it  
21 up. There are other mechanisms in place to follow it up.  
22  
23 Q. If it was one that got a lot of attention and became,  
24 as it were, the squeaky wheel that had to be oiled, you  
25 would have known about it, had that situation occurred??  
26 A. What happened to the report afterwards, I don't know.  
27 I deal with many urgent and highly important matters daily,  
28 sadly they all relate to sexual abuse and each and every  
29 one receives the best attention I can give it. Now,  
30 whether one floats to the top more than others, that may  
31 occur, but I certainly don't recall on this occasion.  
32  
33 Q. If there was a record of it of the type that could be  
34 interrogated, it would be on the TRIM system; is that  
35 right?  
36 A. The TRIM system, yes.  
37  
38 Q. That system would show presumably what was the  
39 ultimate fate of this ministerial inquiry if there --  
40 A. Yes. It should be - it should record that, yes.  
41  
42 Q. Would there be any reason why there wouldn't be?  
43 A. I can't think of any. Perhaps if the report wasn't  
44 responded to, but then I suspect there would have been  
45 follow-up. So no, I really can't think of an answer to  
46 that.  
47

1 Q. Should there have been some sort of file disposition?  
2 A. There should have been some resolution to the inquiry.  
3  
4 Q. If there is one, is that a cause for some inquiry or  
5 suspicion?  
6 A. It's a cause for some follow-up inquiry. I wouldn't  
7 say suspicion.  
8  
9 Q. Well, it's an unusual situation?  
10 A. There are circumstances when reports aren't responded  
11 to, but there are certainly methods in place to follow and  
12 to see what's happened to them as well.  
13  
14 Q. A seven-day turnaround, as you indicated in your  
15 evidence a couple of times, when in your understanding was  
16 the first report written and go off to Detective Chief  
17 Inspector Fox?  
18 A. Are you referring to the report by McKey?  
19  
20 Q. Yes, that's annexure B to your statement?  
21 A. I would say the day of or the day after that report  
22 was signed off by - it left State Area Command, on or about  
23 7 September 2010.  
24  
25 Q. It went through the various hands in the chain of  
26 command?  
27 A. From looking at the signature block, yes.  
28  
29 Q. It got to the commander of Central Hunter, who  
30 I understand is Superintendent Galton, on 9 September, so  
31 the progress - is your understanding the same as mine - is  
32 this: the document was written on 5 September, given the  
33 blessing of the immediate superior of Sergeant McKey that  
34 same day, who is Detective Acting Superintendent Haddow?  
35 Is that the right chronology?  
36 A. Yes, it looks like 6 September 2010.  
37  
38 Q. Is that 5 or 6 under Haddow's signature? I read it  
39 as 5. Do you read it differently?  
40  
41 THE COMMISSIONER: Well, 5 or 6. It doesn't make much  
42 difference, does it, Mr Cohen, seeing the one before is 5  
43 and the one after is 7?  
44  
45 MR COHEN: Q. It gets to you on the 7th and you deal with  
46 it?  
47 A. Yes.

1  
2 Q. It goes off presumably to the commander of Central  
3 Hunter?  
4 A. Yes.  
5  
6 Q. He gets it on the 9th?  
7 A. Yes.  
8  
9 Q. How quickly would you expect it to move on from there?  
10 A. Unfortunately I don't know the inner sanctions of how  
11 the machinations of transferring correspondence from that  
12 command might work, so I couldn't tell you.  
13  
14 Q. If and when it got to, as it was intended to go to  
15 Detective Chief Inspector Fox as identified, if this file  
16 was to be retrieved from him, how would that be done  
17 formally in the system? This has been directed to him and  
18 goes to him and he has to give comments on it. If that  
19 could be superseded by some formal step, what is that step  
20 to retrieve this and recall the file from him, having  
21 regard to this chain of command direction?  
22 A. Are you suggesting once the file is completed or  
23 responded to?  
24  
25 Q. No, so that we're very clear, the file goes through  
26 this series of steps, through the chain of command, go gets  
27 to Detective Chief Inspector Fox's desk, he receives it.  
28 If it's intended that that file is then to be retrieved  
29 from his custody and he is not to do anything about it,  
30 what is the formal step, if any, that is required for that  
31 to occur?  
32 A. Well, it's recanted on TRIM and his supervisor or  
33 someone else could physically ask for the file back.  
34  
35 Q. And do it with a direction in writing?  
36 A. Not necessarily. It could be physically, "May I have  
37 that file back, please," for whatever reason, and TRIM is  
38 updated, whatever action is taken from there.  
39  
40 Q. So that step would be on TRIM if it's been taken?  
41 A. That's how I'd do it, yes.  
42  
43 MR COHEN: Thank you, Commissioner.  
44  
45 MR SAIDI: Commissioner, I was going to ask, that I go  
46 after everyone else, since he's my witness.  
47

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

2

3 MR GYLES: I have no questions.

4

5 MR IRVING: No, Commissioner.

6

7 MR McILWAIN: No questions.

8

9 <EXAMINATION BY MR SAIDI:

10

11 MR SAIDI: Q. You have made some reference - and I think  
12 I have interpreted your evidence correctly, but if  
13 I haven't, please correct me - to there might be a  
14 difference between investigating a conceal serious offences  
15 as distinct from investigating a sexual crime itself?

16 A. Yes.

17

18 Q. Do I understand you correctly?

19 A. Yes.

20

21 Q. What do you see as the differences between an  
22 investigation of a conceal offence and what is required for  
23 the investigation of a serious sexual crime offence that is  
24 required?

25

26 MR COHEN: I object, it is on a principle basis, and  
27 perhaps this will elicit a ruling for the rest this  
28 Commission. In my submission, this is in the nature of  
29 essentially re-examination and should be done by  
30 non-leading questions. That being so, if you are with me,  
31 Commissioner, then there should not be cross-examination,  
32 there should not be an opportunity --

33

34 THE COMMISSIONER: Mr Cohen, you asked some questions  
35 about prioritising an offence of concealing serious  
36 offence.

37

38 MR COHEN: Yes, indeed, and if anything is unclear and if  
39 it is truly requiring clarification or elucidation, because  
40 there is lack of clarity, then, in my submission, that is  
41 the quintessence of re-examination. It is not an  
42 opportunity to run through a series of Dorothy Dix  
43 questions and give --

44

45 THE COMMISSIONER: No, I will allow the question and it  
46 does arise from cross-examination.

47



1 MR SAIDI: Q. Do you recall the question? I'll ask it  
2 again. What do you see as the major differences between an  
3 investigation relating to conceal serious offences as  
4 distinct from an investigation into the commission of a  
5 primary sexual serious offence?

6 A. Yes. The investigation into a primary sexual offence  
7 involves obtaining very detailed statement from the victim,  
8 obtaining corroborative evidence of the first complaint,  
9 establishing forensic evidence in regard to that complaint,  
10 looking for witnesses, canvassers, any other evidence that  
11 would assist in identifying the perpetrator and leading to  
12 the prosecution of that perpetrator, in broad terms. There  
13 may be others.

14  
15 The conceal serious offence could be any offence. It  
16 could be a homicide, it could be a large theft, it could  
17 also be a sexual assault, or any other matter. It doesn't  
18 necessarily need to be a sexual offence. The objective of  
19 identifying the serious offence is to identify the  
20 knowledge and what action was taken.

21  
22 The exact details of the sexual offence in this regard  
23 doesn't have a great bearing on the investigation of  
24 conceal serious offence. The fact that the person knew  
25 about the sexual offence is sufficient or they knew about  
26 the homicide or they knew about the large theft is  
27 sufficient to commence an investigation into conceal  
28 serious offence.

29  
30 Q. From what I understand from that answer, when  
31 investigating a conceal serious offence matter what you  
32 need is sufficient information to identify the offence  
33 which is concealed; is that so?

34 A. Yes.

35  
36 MR COHEN: I object on the same basis, Commissioner.

37  
38 THE COMMISSIONER: I will allow it for the time being,  
39 Mr Cohen.

40  
41 MR SAIDI: Q. And on that basis, to what extent does one  
42 need to actually go into the terms of the investigation as  
43 to what constituted the offence which was concealed?

44 A. I would suggest that a victim statement would be a  
45 starting point, solid evidence that an offence had  
46 occurred, and whatever supporting evidence to fill that  
47 definition of serious offence.

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Q. I want you to assume this for the moment: assume that there was a victim statement or multiple victim statements already obtained in relation to the commission of the offence. In your opinion, would it be sufficient for an investigator, in undertaking the investigation of a conceal serious offence, to have that material provided to them?  
A. Yes.

MR COHEN: I maintain my objection, Commissioner.

MR SAIDI: The question is an open-ended one.

THE COMMISSIONER: And it's been answered.

MR SAIDI: Commissioner, since my friend wants to raise it, let me deal with it. Number 1, I asked "To what extent" so I deliberately asked an open-ended question. Secondly, I am not bound to ask non-leading questions. This witness may be my client, but he is not my witness, he is counsel assisting's witness and I am entitled to put any proposition I want to this witness, without interference, whether it be from Mr Cohen or anyone else. It is a question of weight as to how I frame the questions and how he answers the questions, it is not a matter for my friend.

MS LONERGAN: Commissioner, if I can be heard on that, I agree with and repeat Mr Saidi's comments. This witness is a witness of the Commission. He is here giving evidence, in effect, unwillingly, as noted on the record at the beginning of his evidence. He has been asked by those who assist you to direct his mind to certain issues, to assist in providing relevant evidence to you, Commissioner, and he's called by the Commission. In those circumstances Mr Saidi's submission is correct. You can at any time, Commissioner, if you consider the questions to be inappropriate or leading in a way that the answers will not assist you, intervene, but at this stage Mr Saidi's approach is, in my respectful submission, correct.

THE COMMISSIONER: Thank you, Ms Lonergan. Yes, you have asked a question, Mr Saidi.

Q. Superintendent, do you recall the question or would you like to have it again?  
A. I think I answered it.

1 Q. You think you did?

2 A. Yes.

3

4 MR SAIDI: Q. In terms of the expertise required in  
5 investigating a conceal serious offence to the expertise  
6 required in terms of investigating the primary offence of  
7 the commission of a serious sexual offence, are you able to  
8 tell us whether or not there is a difference in terms of  
9 what is required?

10 A. Yes. I regard the investigation of a sexual offence  
11 to require greater skills, experience and understanding,  
12 firstly, of the needs of the victim, the forensic process  
13 and the supporting statements, the requirement for  
14 supporting statements. The investigation to conceal  
15 serious offence is not as complex and requires, I would  
16 suggest, basic investigative skills, with some guidance.

17

18 Q. From what you are saying, then, are you able to  
19 indicate whether or not it would be mandatory or  
20 compulsory, in terms of allocating an investigative officer  
21 to investigate a conceal serious offence, that that officer  
22 has extensive experience in terms of investigating sexual  
23 offences themselves?

24 A. No.

25

26 Q. Can you tell us why you say that?

27 A. Just going back to what I commented before about the  
28 nature of the conceal serious offence, it's to identify  
29 that a serious offence has occurred, regardless of whether  
30 it's a sexual offence, whether it's homicide or large  
31 theft, just the knowledge that that occurred. Then the  
32 investigative effort would be directed towards identifying  
33 knowledge and then what action or inaction took place.

34

35 Q. I want to take you to a different area now, and I want  
36 to take you to the work of the State Crime Command. In  
37 terms of matters coming to the State Crime Command, whether  
38 it be for the State Crime Command to take them over or  
39 whether it be in terms of calls for assistance, or whatever  
40 category one puts it, are you able to say whether or not  
41 the call for assistance in terms of State Crime Command  
42 would be made in relation to matters to be considered of  
43 importance within the local area command or not?

44 A. They are certainly matters of importance to the local  
45 area command, yes.

46

47 Q. In other words, you would not expect to have referred

1 to you matters which are not of great significance from a  
2 criminal investigation point of view?

3 A. Yes.

4

5 Q. The mere fact of a matter being forwarded to your  
6 command, would that indicate to you that the local area  
7 command was looking at the matter seriously in terms of its  
8 investigation?

9 A. Yes.

10

11 Q. And in terms of what resources are to be allocated or  
12 what approach is to be taken, is that a joint decision to  
13 be made between your command and the local area command, or  
14 is it one that's made unilaterally, or can you tell us how  
15 it operates?

16 A. It does vary, but it's generally in consultation with  
17 the local area command, as to the level of response being  
18 sought, and the level of response provided it does vary.

19

20 Q. In this case, what was allocated by way of assistance  
21 was Detective Jacob - I'll leave his rank out - for  
22 assistance?

23 A. That's right.

24

25 Q. And you have given information as to what you  
26 perceived to be his experience and his capabilities as a  
27 detective?

28 A. Yes.

29

30 Q. In terms of his assisting the investigation when  
31 called upon, what would you say to a situation whereby,  
32 whether it be Detective Jacob or any other officer  
33 allocated to a particular investigation, if they were to  
34 form a view, for example, that more assistance were  
35 required or further steps were to be taken, would you  
36 expect that to be reported back to you or to not?

37 A. Most certainly.

38

39 Q. And if resourcing were to be an issue or not, would  
40 you expect that to be reported back to you?

41 A. Yes.

42

43 Q. In terms of assisting with investigations, if indeed a  
44 local area command were to place inadequate resourcing, for  
45 example, to an investigation, and if that were reported  
46 back to you, are you in a position to take action in  
47 relation to that as a commander?

1 A. Yes, I am.  
2  
3 Q. What could you do in relation to a situation such as  
4 that?  
5 A. I would contact the local area commander, discuss my  
6 concerns with that person, raise the potential risk to the  
7 investigation, and I've yet to date not progressed further  
8 resources being allocated to an investigation.  
9  
10 Q. If it be the case that either inexperienced or  
11 inefficient detectives were engaged in an investigation at  
12 the local area command level, that is an investigation  
13 being oversightd by your office, what steps, if any, could  
14 you take as commander upon being made aware of that fact?  
15 A. Similarly I could contact the local area commander, or  
16 I have contacted the local area commander, raised my  
17 concerns and made a recommendation for a more experienced  
18 officer to be assigned to the investigation.  
19  
20 Q. Are you able to say whether or not at any stage  
21 Detective Jacob came back to you and indicated either a  
22 lack of resourcing on the one hand or an inefficient  
23 investigation on the other?  
24 A. No.  
25  
26 Q. Are you able to say whether at any time there were any  
27 concerns expressed in terms of the investigation being  
28 carried out by Strike Force Lantle?  
29 A. No.  
30  
31 Q. At any time did any complaint of any kind come to your  
32 attention in terms of how Strike Force Lantle was  
33 conducted?  
34 A. No, not at all.  
35  
36 Q. You were receiving briefings on, I take it, a regular  
37 basis from Detective Jacob; is that correct?  
38 A. Verbal briefings regularly, yes.  
39  
40 Q. The purpose of those briefings, can you give the  
41 Commission an idea?  
42 A. To just give me a brief overview of how it's  
43 progressing, what Detective Chief Inspector Jacob was  
44 involved in, but that was also in concert with the other  
45 matters that he had responsibility for as well.  
46  
47 Q. I asked you questions about what your view was of the

1 suggestion that the strike force was not operating  
2 efficiently or up to standards. Is there an expectation on  
3 your part, and if so what is it, of an officer allocated to  
4 an investigation, such as Detective Jacob, if there were an  
5 investigation not being carried out efficiently? Would you  
6 expect it to be reported back to you?

7 A. Most certainly.

8  
9 Q. What about in terms of his taking action in relation  
10 to the matter; what are your expectations as a commander?

11 A. My expectations would be that he would be speaking  
12 with either the local area commander himself or the crime  
13 manager of the particular area to raise concerns in regard  
14 to the resourcing or the response to the investigation.

15  
16 Q. In terms of your updates that were provided to you by  
17 Detective Jacob, to what extent if any were you satisfied  
18 as to the progress of the investigation?

19 A. I was satisfied completely with the progress as to how  
20 it was moving on. I was satisfied with the level of  
21 consultation that Inspector Jacob was providing, and from  
22 what I've seen of the investigation, I considered it to be  
23 quite comprehensive.

24  
25 Q. I am going to ask you this and ask you for a comment  
26 in relation to it, in terms of whether it has any substance  
27 or not from your position as a commander involved with the  
28 strike force. There's been a suggestion made that this  
29 strike force was set up to fail from its very inception.  
30 Do you have any comment to make about that as to --

31  
32 MR COHEN: I object.

33  
34 THE COMMISSIONER: I will allow it.

35  
36 MR SAIDI: Q. Do you have any comment to make about  
37 that, from your knowledge of your involvement in the strike  
38 force and from the perspective of State Crime Command, as  
39 to whether or not there were any indications or any facts  
40 in terms of it being bound to fail?

41 A. Certainly not. From everything I saw, everything  
42 I was told, the investigation was progressing very well.  
43 Detective Chief Inspector Jacob was providing professional,  
44 comprehensive advice to those who needed it and  
45 oversighting the investigations to move forward. It  
46 certainly wasn't one to fail; in fact I would say it had a  
47 high probability of succeeding.

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Q. I want you to assume for a moment that a local area command did indeed set up a strike force to fail. I appreciate you may find that a difficult assumption but I want you to assume it. Assume a strike force was set up to fail and assume that State Crime Command came in and assisted in terms of the investigation. From your experience as a commander of the State Crime Command, and from your knowledge of your investigators attached, such as Detective Jacob, are you able to say whether or not any such approach by a local area command would be detected by your command?

MR COHEN: I object. That's a question for you, Commissioner.

MR SAIDI: It's a question for his experience, with respect.

THE COMMISSIONER: It's somewhat hypothetical, I think, as you put it.

MR SAIDI: It's certainly hypothetical, as is the hypothesis put forward by one of the primary witnesses, or rather the unsupported assertions by a witness that the strike force was set up to fail. This witness, with his experience, should be able to meet that proposition.

THE COMMISSIONER: Yes, I will allow it.

THE WITNESS: I believe I would or, through the processes that are in place, should or would detect any effort to undermine the investigation.

MR SAIDI: Q. Now I want to come to the ministerial that you were referred to earlier. You recall that document, of course, and that document is attached to your statement. In terms of the ministerial, you have already given some evidence that you wouldn't expect the ministerial to operate as a request for Detective Chief Inspector Fox to investigate, as it is there - have I understood you correctly?

A. That's correct.

Q. Just assume for the moment, whether it be Detective Chief Inspector Fox or any other person in that position receiving such a ministerial, assume that that person

1 determined to embark upon an investigation of the matter.  
2 What steps would you expect that person to take in terms of  
3 embarking upon the investigation; that is, firstly, would  
4 they be required to make a notation on the ministerial  
5 itself?

6 A. That could be an option, a response to that regard,  
7 that an investigation would commence.  
8

9 Q. In terms of advising the commander or the appropriate  
10 senior officer in the command that they were embarking upon  
11 an investigation in terms of the ministerial, what would  
12 your expectations be?

13 A. Yes, that would be an expectation, that you would  
14 advise your commander.  
15

16 Q. Indeed, in terms of any action taken in relation to  
17 the ministerial, whatever the action may be, to what extent  
18 would you expect a response from the police to have been  
19 being provided to the ministerial, that is a formal  
20 response?

21 A. Well, a response to that ministerial would comprise a  
22 report setting out the knowledge of the question asked, and  
23 that would go through the chain of command, including the  
24 commander.  
25

26 Q. Do you include in that answer that if an officer  
27 determined, as part of the response, to embark upon an  
28 investigation, that would also be recorded officially?

29 A. Yes, it may be included in that report, yes.  
30

31 MR SAIDI: Thank you.  
32

33 THE COMMISSIONER: Ms Lonergan, is there anything arising?  
34

35 MS LONERGAN: No, nothing arising, Commissioner.  
36

37 THE COMMISSIONER: Might Superintendent Kerlatec be  
38 excused?  
39

40 MS LONERGAN: Yes, Commissioner.  
41

42 **<THE WITNESS WITHDREW**  
43

44 MS LONERGAN: Commissioner, given the time taken with  
45 various witnesses to date, it is proposed by those  
46 assisting you that from today the Commission sits from 9.30  
47 to 4.30 daily.



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THE COMMISSIONER: Yes. Does anyone have any major objection to that course?

MS LONERGAN: And that includes next week, Commissioner.

THE COMMISSIONER: Yes, of course.

MS LONERGAN: I have been reminded by Mr Hunt that we will not be sitting until 4.30 today, because of particular arrangements regarding our transcription service.

THE COMMISSIONER: I will adjourn for 20 minutes.

### SHORT ADJOURNMENT

THE COMMISSIONER: Just a matter of housekeeping, ladies and gentlemen: for various reasons to do with the transcription staff, we will be rising at 3.30 this afternoon. Given that that has to be the case, does it cause anyone any great inconvenience if we have only half an hour for lunch today?

As of next week, we will try to stick to the 9.30 to 4.30 timetable, to get things done.

MR COHEN: I have an inquiry that flows from that, which is this: that suggests there might be some significant chance that the evidence of Detective Chief Inspector Fox will flow into Monday. The gentleman will have been in the witness box for five days by then. Is there anything we can do to shorten his evidence today, so that he can have at least the weekend --

THE COMMISSIONER: Let's try to get on with it.

MR COHEN: All right.

THE COMMISSIONER: Before we do, Mr Kell. .

MR KELL: Commissioner, I take the opportunity to tender sworn evidence in the form of a statutory declaration from Andrew Grono. I hand up to the Commission an outline of what that evidence relates to.

THE COMMISSIONER: Thank you, Mr Kell. .

1 MR KELL: It is a statutory declaration dated 2 May 2013.  
2 Mr Grono was formerly a detective senior constable with the  
3 Western Australian police force. He gives evidence that in  
4 2005 he was contacted by Sergeant Mark Watters of the NSW  
5 Police Force, who had a warrant for the arrest of Father  
6 Denis McAlinden. Father McAlinden was thought to be living  
7 in Western Australia. The then Detective Senior Constable  
8 Grono was engaged to assist NSW Police to try to locate  
9 McAlinden. That was in September 2005.

10  
11 Mr Grono made certain inquiries. He then located what  
12 he believed to be an address for McAlinden in Wannarup in  
13 Western Australia. Mr Grono gives evidence that he  
14 attended the address, an elderly male answered the door.  
15 Upon inquiry, he was identified as being Father Denis  
16 McAlinden. Mr Grono said to him that he wanted to speak to  
17 him about a matter to do with the NSW Police and that it  
18 was an arrest warrant, and McAlinden appeared frail and to  
19 be struggling walking, carrying an oxygen bottle.

20  
21 Grono told him about the warrant and the particular  
22 charges regarding child sexual abuse for offences committed  
23 in New South Wales, and Mr Grono's evidence is that  
24 McAlinden said to him words to the effect, "I was  
25 previously charged with child abuse matters and I beat  
26 those charges, so if I'm around long enough I will beat  
27 these charges too." Detective Senior Constable Grono said,  
28 "McAlinden's attitude toward me appeared to be to a  
29 significant extent defiant and dismissive."

30  
31 McAlinden was then asked to clarify what he meant, and  
32 he indicated that he had terminal cancer and only a short  
33 time to live.

34  
35 Detective Grono then made further inquiries with  
36 McAlinden's doctor. Those inquiries indicated that  
37 McAlinden was in fact terminally ill with advanced cancer  
38 and did not have long to live. Detective Grono then  
39 communicated with Sergeant Watters and conveyed the  
40 information regarding McAlinden's state of health, and it  
41 was decided by NSW Police, based upon that medical evidence  
42 that was conveyed, and Detective Grono's observations, not  
43 to execute the warrant in relation to McAlinden, who, in  
44 fact, died a short time later.

45  
46 Detective Grono also indicates that, in his  
47 communications in relation to the McAlinden matter in 2005,

1 all his dealings with NSW Police were with Sergeant  
2 Watters, and, upon inquiry, that he didn't have any  
3 dealings with Detective Chief Inspector Fox at that time.  
4

5 I tender that declaration, Commissioner, and ask that  
6 it be marked as an exhibit.  
7

8 THE COMMISSIONER: Thank you, Mr Kell. The statutory  
9 declaration of former Detective Senior Constable Andrew  
10 Stefan Grono will be admitted and marked exhibit 5.  
11

12 **EXHIBIT #5 STATUTORY DECLARATION OF FORMER DETECTIVE**  
13 **SENIOR CONSTABLE ANDREW STEFAN GRONO**  
14

15 <PETER RAYMOND FOX, resworn: [12.20pm]  
16

17 <EXAMINATION BY MR ROSER CONTINUING:  
18

19 MR ROSER: Q. Mr Fox, yesterday I was taking you  
20 through, I suggest to you, a conversation you had with - or  
21 your dealings with [AJ]. Do you remember that?  
22

23 A. Yes.  
24

25 Q. I suggest to you that you said to her, around about --  
26

27 MR HUNT: I hesitate to interrupt my friend. I indicated  
28 yesterday afternoon, Commissioner, that I would be seeking  
29 a provisional non-publication order at the commencement of  
30 evidence today. I make that application and I will  
31 indicate to Commissioner when I consider that the  
32 non-publication order ought cease, depending on the  
33 evidence that flows.

34 THE COMMISSIONER: Yes. That is to commence now with this  
35 subject matter?  
36

37 MR HUNT: With the current question, yes.  
38

39 [Transcript redacted, per suppression order, from page 452,  
40 line 39 to page 477, line 13]  
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THE COMMISSIONER: Is that a convenient time to rise for a short lunch?

MR ROSER: Yes, thank you.

**LUNCHEON ADJOURNMENT**



1 Q. And you knew what the meeting was about?  
2 A. I did not know --  
3  
4 Q. Did you know what the meeting was about - "Yes" or  
5 "No"?  
6 A. No.  
7  
8 Q. I suggest to you that did and it was in relation to  
9 the material that you were holding, [AJ], [AL] and [AK]?  
10 A. It was in relation - from what I understood, the  
11 meeting was to be about, to discuss investigations into the  
12 Catholic Church, and I was asked to bring along the  
13 statements of [AK], [JK] and Mr Stanwell, and any other  
14 material that I had.  
15  
16 Q. Who is [JK]?  
17  
18 MS LONERGAN: I object.  
19  
20 THE WITNESS: [AJ]. Sorry, my apologies.  
21  
22 MR ROSER: I'm not sure what my friend is objecting to.  
23 I'm just repeating the evidence.  
24  
25 Q. Sorry?  
26 A. I corrected that.  
27  
28 Q. Which statements were you asked to take along?  
29 A. I was asked to take along - he did not specify the  
30 statements, but the statements that I believe he intended  
31 me to take were those of [AK], [AJ] and Mr Mike Stanwell.  
32  
33 Q. That is not correct, is it?  
34 A. And, sorry, I should have added --  
35  
36 Q. That is not correct, is it?  
37 A. Yes, it is, and I probably should have added other  
38 material that related to those that had been provided by  
39 Joanne McCarthy.  
40  
41 Q. How could Commander Haggett ask you to bring along  
42 [AJ] when he didn't even know that you had that statement?  
43 A. Sir, you may not have heard my answer. What I did say  
44 was that, without specifying what statements I was to bring  
45 along, and he didn't specify them by name - I believe I did  
46 say that - is that he asked me to bring along, and  
47 I believe the statements that he intended for me to bring

1 were those.

2

3 Q. First off, you gave evidence that you intended to take  
4 it, and then subsequently you have changed your evidence to  
5 say that you had no intention of taking it; is that  
6 correct? Is that the evidence you have given in this  
7 Commission?

8 A. I'm not sure. I think what I did say, I think I - by  
9 the second statement I corrected it. I did say that  
10 initially I was going to take it, but then I made the  
11 decision to leave it behind, in view of the fact that I was  
12 completely au fait with the contents of those statements.

13

14 Q. I suggest to you - this is page 104, Commissioner,  
15 line 23 - you were asked this question by Ms Lonergan:

16

17 *Q. Did you deliberately fail to take that*  
18 *material --*

19

20 Talking about the statements --

21

22 *to the meeting because you did not want to*  
23 *share the information with those present?*

24

25

26 Is that correct?

27

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1  
2 And you answered "No."  
3 A. That's correct, that's exactly what I was saying.  
4  
5 Q. You attended the meeting, there were a number of  
6 people there?  
7 A. Yes.  
8  
9 Q. And you have identified some of those people?  
10 A. Yes.  
11  
12 Q. You said you didn't know a young person that was  
13 there?  
14 A. Yes.  
15  
16 Q. That was Detective Sergeant Freney, wasn't it?  
17 A. I didn't know who that person was. I don't believe it  
18 was a sergeant.  
19  
20 Q. A senior constable?  
21 A. I don't know the person. I'd never - to my knowledge,  
22 I hadn't encountered them before, and that's why I said it  
23 was a person I didn't know. If I had known who that person  
24 was, and I take your word that's who it was, I would have  
25 stated that. The reason I have stated I didn't know who  
26 that individual was that I didn't know him.  
27  
28 Q. Is that a person who you know had some 15 years  
29 experience or thereabouts?  
30 A. Sir, I've just said I didn't know him, so --  
31  
32 Q. You didn't know him. But you've given evidence that  
33 persons attached to the strike force were inexperienced,  
34 haven't you?  
35 A. At the meeting I was given the name of --  
36  
37 Q. Have you given the evidence that the people who were  
38 appointed to this strike force were inexperienced?  
39 A. I was not told by anybody that the constable --  
40  
41 Q. Have you given that evidence?  
42 A. That the constable I didn't know was attached to it.  
43  
44 Q. Have you given that evidence?  
45 A. Yes.  
46  
47 Q. Fifteen years experience, would you say that's



1           inexperience?  
2           A.    I didn't know that individual, sir, and I was not told  
3           by anybody that he would be taking part in the  
4           investigation, and I don't know him. My assertion in that  
5           respect was specifically in relation to individuals not  
6           people in supervisory or other capacities.  
7  
8           Q.    During the meeting, I suggest to you that notes,  
9           minutes were taken of the meeting? Weren't they?  
10          A.    I have never been shown any minutes or --  
11  
12          Q.    No, that's not the question. Can you just listen to  
13          the question and answer the question. During the meeting,  
14          minutes were taken of the meeting?  
15          A.    I don't believe so, no.  
16  
17          Q.    Haven't you given evidence before that you observed  
18          someone taking minutes of the meeting?  
19          A.    I observed someone on the odd occasion jotting down  
20          the odd thing, but I did not consider that the volume of  
21          or small amount of writing I observed, translated into  
22          minutes. You may enlighten me, sir, as to what it was, but  
23          I certainly did not see any transcription, I've never been  
24          shown a document at the end of it. Those short notes may  
25          have been in that process. It was certainly very minute,  
26          compared to the volume of conversation had at that meeting,  
27          but someone was writing. If you're asking me, did I see  
28          someone writing? Yes.  
29  
30          Q.    The meeting, when you were there, how long did it go  
31          for?  
32          A.    Probably - I think I've got a time frame. I think it  
33          started at about 12.10 and would have went for - certainly  
34          no longer than half an hour, probably 20 minutes to half an  
35          hour.  
36  
37          Q.    Then you left and you left with Commander Haggett?  
38          A.    No, sir, that's not correct. The evidence I've given  
39          is that Commander Haggett had independently travelled down  
40          there that morning. I saw him when I arrived down there,  
41          and I left alone, and he obviously had his own vehicle, and  
42          travelled back of his own accord.  
43  
44          Q.    Did you and him leave the meeting at the same time?  
45          A.    I don't know when Mr Haggett left the meeting.  
46          I certainly - I never left the room with Mr Haggett, no.  
47

1 Q. If you turn up number 85, please, I suggest to you  
2 that at the meeting Detective Sergeant Quinn was taking  
3 minutes of the meeting; is that correct?  
4  
5 MR COHEN: I object. The minutes are internal,  
6 Commissioner.  
7  
8 THE COMMISSIONER: Thank you, Mr Cohen. That is true, but  
9 I gather Mr Roser was asking whether the witness agrees  
10 that the minutes were taken by that particular detective  
11 sergeant.  
12  
13 MR COHEN: In my submission, it matters not whether he  
14 agrees or not. The minutes are the minutes. Where can  
15 this take us?  
16  
17 THE COMMISSIONER: Are we going anywhere, Mr Roser?  
18  
19 MR ROSER: If my friend concedes that the minutes were  
20 taken by --  
21  
22 MR COHEN: I concede nothing more than that the minutes  
23 are the minutes.  
24  
25 MR ROSER: I'll move on Commissioner.  
26  
27 Q. Have you read that document?  
28 A. No, sir, I haven't seen that before. I'll have a read  
29 through it now, if you would like, sir.  
30  
31 Q. While you're reading through it, I suggest to you that  
32 they are a correct notation of what occurred at that  
33 particular meeting?  
34 A. I don't know, sir. I haven't read them.  
35  
36 MR COHEN: I object. There is no way the witness can  
37 know, from the evidence he has given, whether they are  
38 correct or otherwise. They are what they are.  
39  
40 MR ROSER: If my friend listens to the question, it was,  
41 when he was reading through that document - that is the  
42 proposition I'm putting.  
43  
44 THE COMMISSIONER: Do you ask that the witness be given  
45 the time to read through them?  
46  
47 MR ROSER: Yes, thank you, Commissioner.

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THE COMMISSIONER: Q. Please take your time to read through that document, sir.

A. Thank you, Commissioner.

We are talking about page 360, are we, Mr Roser?

Q. Page 361.

A. I don't know whether we're looking at the same document, sir.

Q. Do you have number 85?

A. Tab 85?

Q. Page 361.

A. Page 361, yes.

MR McILWAIN: There are two numbers on the page. It might be confusing.

THE COMMISSIONER: Q. Yes, page 361 is in the middle of the page; page 431 is in the bottom corner.

A. Sorry, if it's still under tab 85, I'm --

Q. I think you have the right one there, sir.

A. Sorry, I was under the apprehension I would be reading the minutes of the meeting. So that's a statement, is it?

Sir, I take it you are only desirous of me reading up to the point on page 363, at which point it states that I left and --

Q. Yes, thank you. Have you finished reading?

A. I have read to that point. I haven't finished reading the whole document.

Q. That's when you left?

A. I left, yes.

Q. I suggest to you that reflects what occurred at this particular meeting on 2 December 2010?

A. Many points in it are correct. A great deal of detail has been omitted. Certainly much of what I had to say is certainly missing, and certainly the direction specifically given to me by Superintendent Mitchell not to speak to Joanne McCarthy is not in those minutes. Had they been presented to me at an earlier time, I would not have signed

1 them as true and correct because there's - even though  
2 generally speaking a lot of it is correct, a vast amount of  
3 what I considered to be very important detail has been  
4 omitted.

5  
6 Q. I suggest to you that that's a correct reflection of  
7 what occurred at the meeting, and the direction which was  
8 given in relation to not talking to the media included  
9 Joanne McCarthy?

10 A. Sir --

11  
12 Q. Is that correct?

13 A. -- in the terms you are putting it to me, no.

14  
15 Q. You gave evidence on Monday of this week that you had  
16 a conversation with Troy Grant and you assert that he was  
17 highly critical of senior police at Newcastle? Do you  
18 remember that evidence?

19 A. I do, sir.

20  
21 Q. That's a total lie, isn't it?

22 A. No.

23  
24 Q. You also said that Troy Grant told you that he had  
25 been hindered in his investigation of Father Ryan. Do you  
26 remember that evidence?

27 A. Yes.

28  
29 Q. That's a lie also?

30 A. No.

31  
32 Q. You also asserted that the police did this  
33 deliberately to him, you assert that from a conversation  
34 you allege you had with Mr Grant?

35 A. From the conversation - sorry, not my assertion, but  
36 from the conversation I had with him, yes.

37  
38 Q. Again, that's a lie?

39 A. No, sir.

40  
41 Q. You also said that he mentioned about a Catholic Mafia  
42 in the police force?

43 A. I'm in no doubt whatsoever about that, sir,  
44 absolutely.

45  
46 Q. And that is an absolute lie, isn't it?

47 A. That's the first time I ever heard that quote, and

1 that is the reason why I recollected it so strongly.

2

3 Q. You've made up that to generate publicity for  
4 yourself, haven't you? ?

5 A. Sir, number 1, I didn't - the first part of your  
6 question, I didn't make it up. Number 2, publicity, I've  
7 got no desire to draw publicity to that. Had he used  
8 another term or had he generalised it differently - I've  
9 heard the evidence of Mr Grant. He and I still maintain a  
10 great deal of respect for each other. I understand it's a  
11 conversation 11 years ago and he's saying that he did not  
12 use that term. I'm saying that he did. I understand that  
13 our views differ, but I can probably understand that after  
14 11 years. But that is the conversation I recollect and  
15 I don't move from it, sir.

16

17 Q. In relation to the investigation of Father Ryan by the  
18 then - what was he, a constable or a senior constable?

19 A. I'm not sure.

20

21 Q. Well, he was a plainclothes police officer, which is  
22 different to a detective, isn't it?

23 A. He had been long term. My understanding was he took  
24 up a position down there where normally he probably would  
25 have progressed through the detective process and been  
26 designated, but because - he may have actually spent a lot  
27 more time there, I think, than what a lot of people who  
28 have been designated as detectives are. It was an unusual  
29 situation.

30

31 Q. When he did the investigation of Father Ryan, he was a  
32 plainclothes officer, wasn't he?

33 A. You are correct, sir. I think that's - I heard the  
34 evidence as well and that's the evidence he gave.

35

36 Q. Which is different to a detective.

37 A. Yes, he simply hasn't done the course, I understand  
38 that sir.

39

40 Q. When this investigation was done, it was one of the  
41 biggest investigations into sexual assaults by the priests  
42 or clergy in New South Wales?

43 A. I think the evidence Troy Grant gave was that it was  
44 the first one in the Hunter. I certainly recall it because  
45 obviously most of the offences were where I was at Cessnock  
46 at the time, literally out the backdoor of the police  
47 station in the church, which is why I recall it. But

1 I think you are correct, it was the first one, and I think  
2 the number of victims indicates that it was significant,  
3 yes.

4

5 Q. It was more than significant; it was a major  
6 investigation, wasn't it?

7 A. As any investigation concerning child paedophilia by  
8 clergy and the covering up of it should be, yes.

9

10 Q. I think you heard the evidence from him that he was  
11 25 years of age when he conducted this investigation?

12 A. I think he conducted it over a number of years. Was  
13 that the age that he commenced investigating it? I do  
14 recall he was stating his age was 25 at one stage, sir.  
15 Yes.

16

17 Q. In your opinion, from the evidence you have given, you  
18 would classify him as an inexperienced officer to conduct  
19 such an operation, wouldn't you?

20 A. My opinion is that, having known Troy Grant and  
21 observed him for a period of time - he had been at Kurri  
22 Kurri. He had spent a lot of time in the anti-theft unit,  
23 which was a precursor to embarking upon a plainclothes  
24 career, and I actually approached him to do this. He spent  
25 six months or thereabouts working with me and then went  
26 down to the regional crime squad. So he was continually  
27 working in criminal investigation and plainclothes work for  
28 a reasonable period of time before undertaking this.

29

30 I would never have sort of walked up to Troy, I think  
31 at the stage when he was working at Kurri Kurri in uniform,  
32 and asked him to walk into my office and the following week  
33 and given him that brief, but that was obviously a decision  
34 for his supervisors at Newcastle.

35

36 Q. And that was a successful prosecution by him?

37 A. I think in the end it was the overwhelming number of  
38 victims, and Father Ryan, as he told me, felt that he had  
39 no alternative other than to plead guilty because the  
40 evidence was overwhelming.

41

42 Q. It was a successful investigation, wasn't it?

43 A. That aspect of it was, yes.

44

45 Q. Your evidence is, I suggest to you, that a 25-year-old  
46 officer would be too inexperienced to do such a major  
47 investigation as this?

1 A. Sir, I have at no stage raised age as a barrier or  
2 part of my considerations in any of the comments I have  
3 made. So I don't see the relevance of the question you're  
4 asking me in that respect, sir.

5  
6 MR ROSER: Thank you, Commissioner.

7  
8 **<EXAMINATION BY MR McILWAINE:**

9  
10 MR McILWAINE: Q. Detective Chief Inspector Fox,  
11 I represent the interests of former Detective Chief  
12 Inspector Tayler and former Detective Senior Sergeant  
13 Quinn.

14  
15 Could you turn to tab 87, page 368. It is in folder  
16 2. You have been asked a number of questions about it. If  
17 you just open that up initially, I want to ask you a few  
18 questions before I take you to that document.

19 A. These are the entries for --

20  
21 Q. It is part of an email from yourself to Ms McCarthy  
22 dated 10 December 2010. Is that the document you have? It  
23 is behind tab 87, numbered page 368.

24 A. Sorry. Yes, I do.

25  
26 Q. Before I ask you specific questions about that, your  
27 position is, is it not, that this investigation Strike  
28 Force Lantle was a sham and was set up to fail; correct?

29 A. Yes, it is.

30  
31 Q. You posit a number of reasons for that. One of those  
32 reasons, you suggest, is that the officers appointed to it  
33 were inappropriate, due to their background and experience;  
34 correct?

35 A. Yes.

36  
37 Q. To be fair, I think you suggest there are other  
38 reasons on which you would base your suggestion that it was  
39 set up to fail, but that's a pretty critical part of it; do  
40 you agree with that?

41 A. It's not all by any means, there's a lot more to it,  
42 but the aspects you're pointing to, I don't apply that, or  
43 course, to all, that wasn't clarified for me, but in  
44 varying degrees, yes.

45  
46 Q. The question to you is that your position is that a  
47 critical part of the fact that it was set up to fail was

1 the nature and experience of the officers appointed to it?  
2  
3 MR COHEN: I object. That's not the evidence.  
4  
5 MR McILWAIN: I am asking. I'm not asking what his  
6 evidence was, Commissioner; I'm asking his view here and  
7 now.  
8  
9 THE COMMISSIONER: Mr McIlwaine can ask him whether he  
10 agrees.  
11  
12 MR McILWAIN: Q. Do you agree that a critical fact that  
13 leads you to the view that Strike Force Lantle was set up  
14 to fail and was a sham was the experience and capacities of  
15 the officers appointed to it - "yes" or "No"?  
16 A. No.  
17  
18 Q. Do you say that the officers appointed to it had the  
19 appropriate experience and capacity?  
20 A. The officers appointed to it, I was aware, and I think  
21 it was confirmed by Superintendent Mitchell only weeks  
22 later, that Detective Chief Inspector Tayler and Senior  
23 Sergeant Quinn were - their going off sick was not  
24 unexpected. I --  
25  
26 Q. Mr Fox, that answer is not responsive to the question.  
27 A. Sorry, that was part of my consideration.  
28  
29 Q. No, that's subsequent. At the time - let's go to  
30 10 December --  
31 A. I was already aware. One of your clients, Mr Tayler,  
32 had personally told me that he was intending to go off  
33 sick. He personally said that to me in my office.  
34  
35 Q. Let's go to your document at page 368. If you turn to  
36 the next page, page 369.  
37 A. Yes, sir.  
38  
39 Q. This is the document - you are providing information  
40 to Ms McCarthy, and it was important, was it not, that it  
41 be accurate and reliable; correct? Well, you weren't -  
42 A. Yes.  
43  
44 Q. You were careful about the information you provided  
45 her?  
46 A. Yes, I was - it's an email that I - it's not like it  
47 was going to the Prime Minister. It's an email that



1 I typed out to someone that I wanted to convey thoughts to.  
2 I haven't proofread it and sort of said every word is  
3 accurate, but generally speaking, yes.  
4

5 Q. My question was: You sought to be careful and  
6 accurate in the information you provided in the email,  
7 didn't you?

8 A. I have, yes, what's in it is fairly accurate, yes.  
9

10 Q. Let's go to the second paragraph on page 369. You say  
11 this:

12  
13 *By the way, I've been doing some research.*  
14 *Steel was a detective at Newcastle from*  
15 *about 2000 to 2003. (Very short CI*  
16 *career). Since then she has been in GDs, &*  
17 *was transferred to CI duties in September*  
18 *this year. Around the time this was*  
19 *allocated to her. Justin Quinn has been*  
20 *made Investigations Manager. He has never*  
21 *been a detective or investigator. This is*  
22 *the only person I am aware of in that*  
23 *position in New South Wales who has never*  
24 *been a detective. Stay with me.*  
25

26 My first question: What was the research that you undertook  
27 that enabled you to make that statement?

28 A. I asked another officer at Raymond Terrace that had  
29 been at Newcastle for a period of time, what he knew about  
30 the background of those individuals, and that's --  
31

32 Q. That's what he told you?

33 A. I didn't know too much about them, as I explained  
34 earlier, but that's what was conveyed.  
35

36 Q. Your research was asking an officer at Raymond  
37 Terrace; correct?

38 A. Yes.  
39

40 Q. That was the sole basis of your research; is that  
41 correct?

42 A. Yes, yes.  
43

44 Q. Who was the officer?

45 A. One of them was Inspector Dave Matthews, and I spoke  
46 to a couple of the detectives, but specifically --  
47

1 Q. Who?  
2 A. Specifically I don't recall now who they were.  
3  
4 Q. So this statement was based on information from  
5 Officer David Matthews and two other officers whose names  
6 you can't remember; correct?  
7 A. Yes, and I should put it in context, in that it  
8 was just --  
9  
10 Q. No, please. Is that correct?  
11 A. Yes.  
12  
13 Q. Turning in relation to Justin Quinn, do you now know  
14 whether or not, as at 10 December 2010, he had ever been an  
15 investigator or detective?  
16 A. I'm gathering from that you're going to tell me that  
17 he was and --  
18  
19 Q. Don't gather anything, Mr Fox. The question  
20 I asked --  
21 A. I don't know.  
22  
23 Q. Mr Fox, the question I asked --  
24 A. I don't know.  
25  
26 Q. You don't know?  
27 A. I don't know.  
28  
29 Q. You have absolutely no idea other than the information  
30 provided to you by Mr Matthew, as to former Detective  
31 Quinn's background - that's the situation isn't it;  
32 correct?  
33 A. No.  
34  
35 Q. What other information do you have about Detective  
36 Quinn's investigative background?  
37 A. I had known Justin Quinn for quite many years as a  
38 prosecutor at Newcastle. I think most police around the  
39 area were aware that he had been a police prosecutor for a  
40 considerable period of time. Now, I'm not suggesting there  
41 that I have a complete and total knowledge, and that wasn't  
42 the purpose of what I was conveying to Ms McCarthy.  
43  
44 Q. I'll just take you up on that. You don't just convey,  
45 "I've been told by another officer certain facts"; you say,  
46 I've done some research?  
47 A. I had done some research, yes.

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Q. She was entitled to assume that that statement you had made to her was something she could rely upon.

MR COHEN: I object. That's a question that should be put to Ms McCarthy.

MR McILWAIN: No, it's not, with respect.

MR COHEN: What she was given to rely upon must be in her knowledge and nobody else's.

MR McILWAIN: I won't press that question, Commissioner.

THE COMMISSIONER: Thank you.

MR McILWAIN: Q. Let me ask you whether you know some things about Detective Quinn. I'm going to put them to you. I am going to suggest that you to Detective Quinn was attested as a police officer in 1989. Do you know whether that's true or not?

A. No.

Q. I am going to suggest to you that in 1990, he undertook an investigator's course; is that known to you?

A. No.

Q. I am going to suggest to you that from 1991 until 1998 he undertook investigative duties in the Tweed region. Did you know that?

A. No, I did not.

Q. Did you know that in 1994 he was designated as a detective?

A. No.

Q. Did you know that?

A. No.

Q. Did you know that he undertook a secondment at the child mistreatment unit at Lismore?

A. No.

Q. And you understand, of course, the child mistreatment unit is a unit that specialise in the investigation of sexual assaults and other offences against children; is that correct?

1 A. Specifically against children, yes, at that time.  
2  
3 Q. And had a specific task, the very difficult task, of  
4 interviewing child sexual assault victims; correct?  
5 A. It is, yes, as I've had to do myself. I understand  
6 that, yes.  
7  
8 Q. And do you know that he undertook the specialist  
9 course at the Goulburn academy in the first response unit  
10 investigating sexual assault - the first response officer  
11 in sexual assaults? Do you know that  
12 A. Is that the one referred to as IROC officers?  
13  
14 Q. Yes.  
15 A. Yes, many police have done that course, yes.  
16  
17 Q. That was not my question.  
18 A. But I didn't know that he'd done it, no.  
19  
20 Q. Did you know that he had also undertaken a course in  
21 the management of sexual assault investigations - another  
22 course in relation to that? Did you know that?  
23 A. No.  
24  
25 Q. Did you know that, because of his particular interest  
26 in that area, he had conducted numerous sexual assault  
27 investigations in the Tweed region from 1991 until 1998?  
28 A. No.  
29  
30 Q. Of course, you did know that he was an experienced  
31 prosecutor?  
32 A. I did know that, sir. That's really the time I got to  
33 know him.  
34  
35 Q. And you know that when he was appointed as  
36 investigations manager at Newcastle, he had been in that  
37 position for some two years prior to December 2010? Did  
38 you know that?  
39 A. Yes.  
40  
41 Q. Having been appointed, I think, in about July 2008?  
42 A. Yes.  
43  
44 Q. Did you know that by 2008 he was legally qualified?  
45 He held a law degree. Did you know that?  
46 A. No, sir, no.  
47

1 Q. Where did you get the information that Detective Quinn  
2 was the only person in New South Wales that had been  
3 appointed to an investigation management position who had  
4 never been a detective?  
5 A. That was the comment that was passed back to some of  
6 my detectives from the detectives at Newcastle, that felt  
7 that it wasn't appropriate for him to move from the  
8 prosecuting branch into that role.  
9  
10 Q. So that information --  
11 A. The police grapevine, yes, absolutely.  
12  
13 Q. That information was information received by you from  
14 one of your detectives who had received it from detectives  
15 at Newcastle?  
16 A. Yes, it was general rumour mill in the police force,  
17 yes.  
18  
19 Q. That's part of your research; is that correct?  
20 A. Yes.  
21  
22 Q. It's not very good research, is it?  
23 A. On what you're saying, yes and no.  
24  
25 Q. What's good about it?  
26 A. Well, the aspect that he had been out of general  
27 criminal investigation for 12 years, I see as problematic.  
28 But, at the end of the day, what I was saying is my  
29 understanding from that meeting that he and Detective Chief  
30 Inspector Brad Tayler were in supervisory roles, they  
31 weren't to be performing investigative roles. You may have  
32 misunderstood my comment, which I was trying to explain, is  
33 my assertion was that the actual investigator,  
34 Kirren Steel, I did not feel that she had - and I don't  
35 want to be unfair to her - I have a lot of time for the  
36 lady, she's a wonderful girl, but to have been moved from  
37 the role only very shortly before she was assigned such a  
38 significant investigation, from uniform into plainclothes,  
39 I had, and still maintain, significant concerns about.  
40  
41 Q. Have you finished, detective? My question was: what  
42 was good about your research?  
43  
44 MR COHEN: I object. That was a perfectly responsive  
45 answer, in my respectful submission.  
46  
47 MR McILWAIN: In my respectful submission it is not,

1 Commissioner. It was rambling character assassination, in  
2 my respectful submission.

3  
4 MR COHEN: But you asked the question, with respect.

5  
6 THE COMMISSIONER: I understood it, Mr McIlwaine, to be  
7 directed to inquire as to what was good about the research  
8 about Detective Senior Sergeant Quinn, was it?

9  
10 MR McILWAIN: Yes, I've only been asking that since we  
11 started.

12  
13 THE WITNESS: And I still maintain what I said in that -  
14 you know, it's not a character assassination. I have a lot  
15 of time for Justin. It's not a case that I dislike the  
16 man, but I did have reservations in that he had been out of  
17 general criminal investigation for quite an extended period  
18 of time. As investigations manager at Newcastle, my  
19 understanding of his role was management of the cases and  
20 predominantly an office role, not actually going out and  
21 getting statements from individuals. Again, I'm not being  
22 critical --

23  
24 Q. May I stop you there.

25 A. I'm not being critical of him.

26  
27 Q. How is it not a character assassination to allege,  
28 without any proper basis, that Detective Quinn was the only  
29 officer ever to be appointed an investigations manager in  
30 the NSW Police without ever having been a detective or  
31 investigator when it was simply not true?

32 A. I concede, sir, that's not true. But in a private  
33 email between Joanne McCarthy and I, which was not intended  
34 to go any further, and certainly not to be a character  
35 assassination of your client --

36  
37 Q. How did you know it wasn't going to go any further,  
38 detective?

39 A. These were just confidential emails between  
40 Joanne McCarthy and I. I think most of us are aware that  
41 before a journalist or anyone else, if that's what you're  
42 alluding to, would publish something of this nature, there  
43 would have to be confirmation of any information on that  
44 base. But I think emails of this nature are exchanged  
45 between people, whether they be in the police force or any  
46 other location, on a regular basis.

1 Q. Can I just stop you there. You say it was a  
2 confidential email. Turn, please, to page 368 and look at  
3 the top, the first page of the email.

4 A. Yes.

5  
6 Q. It found its way to two other people, didn't it?

7  
8 MR COHEN: I object. That's not a fair question, for this  
9 reason --

10  
11 THE COMMISSIONER: That may be misconceived.

12  
13 MR McILWAIN: I withdraw that. I apologise.

14  
15 Q. Did you tell Ms McCarthy that none of the material  
16 that you were providing her was to find its way into any  
17 newspaper article?

18 A. In the conversations that I had with Ms McCarthy over  
19 a period of time, we had a very clear understanding that  
20 the discussions between us were for our own assistance and  
21 I was of that understanding, that the material that we  
22 discussed - unless she, you know, I don't preclude the fact  
23 that she may have come into any of that information from  
24 another source or another method, but what we discussed  
25 between us, and I've got no reason to believe that anything  
26 outside of what you are asserting occurred.

27  
28 Q. Detective Fox, did you tell Ms McCarthy that none of  
29 the material that you provided to her was to find its way  
30 into any newspaper article - "yes" or "no"

31 A. I think in a number of conversations - I don't know  
32 whether, of course, I used those exact words, but along  
33 those lines, yes, and it was agreed upon, yes.

34  
35 Q. What was the conversation where you told her nothing  
36 you told her - none of your emails or the material you  
37 provided her - was to find its way into newspaper articles?  
38 Tell the Commission the words you can recall?

39 A. Sir, it would have occurred over numerous phone calls.  
40 It wasn't just that case that, you know, I sent or had a  
41 single conversation where that was stated and a rule placed  
42 down from that point onwards --

43  
44 Q. Tell us one conversation where you told her that the  
45 material you provided her, in a general sense, not specific  
46 items, in a general sense, was not to find its way into any  
47 newspaper article?

1 A. One of those conversations related to the statement  
2 referred to earlier today from Mr Roser, in that there was  
3 very specific conversations between us that that statement  
4 was not to be used for that purpose in any way, shape or  
5 form. That was one. But I do recall - actually, even  
6 before 2 December, in our conversations, we had discussed,  
7 and Joanne McCarthy had told me that she would tell me of  
8 anything that she was going to publish, and if I had  
9 concerns about it hindering investigations or damaging them  
10 in any way, she gave me an undertaking that she would not  
11 publish those. And, sir, I believe that that undertaking  
12 and that understanding between us carried on right through.  
13

14 Q. Going back to your understanding of the make-up of  
15 task force Lantle as at 10 December 2010, who did you  
16 understand were the officers who had been allocated to be  
17 involved in that?

18 A. The three officers I understood, as is in my affidavit  
19 that I've served on this Commission, were Kirren Steel,  
20 Brad Tayler and Justin Quinn.  
21

22 Q. You have already been asked some questions about Jason  
23 Freney, and I think you described him in your evidence as  
24 the young constable who was present at the meeting at  
25 Waratah police station?

26 A. I think I actually even described him. I thought he  
27 was an intel constable. No one actually said who he was.  
28

29 Q. I think your word was that he was a young constable  
30 who wasn't known to you who was taking some notes?

31 A. That's right.  
32

33 Q. It want to suggest to you that - at the time -  
34 Detective Senior Constable Jason Quinn?

35 A. I don't dispute that that is what you are telling me,  
36 sir  
37

38 Q. I want to suggest to you he allocated to the conduct  
39 of the task force, and you can't dispute that, I take it?

40 A. I accept what you are saying, sir. All I can tell  
41 you is that that was not told to me at that meeting on  
42 2 December. I can only relay what was told to me.  
43  
44

45 Q. Who else apart from - so we've got Steel?

46 A. Steel, Quinn and Tayler.  
47



1 Q. You now accept Detective Senior Constable Jason Freney  
2 was as well?

3 A. Yes. I don't know why they didn't tell me that, but  
4 it was not mentioned at that meeting.

5

6 Q. I want to go through the experience and background of  
7 the officers on that task force. I won't go to Detective  
8 Quinn, because we have already covered that.

9

10 In regard to Detective Chief Inspector Brad Tayler,  
11 were you aware, around December 2010, that he was an  
12 officer who had 20 years of investigative experience as a  
13 detective?

14 A. No.

15

16 Q. Were you aware that he held the Australian police  
17 medal for his services to the community?

18 A. He had the which?

19

20 Q. The APM, the Australian police medal.

21 A. To the community or was that in respect to --

22

23 Q. For policing?

24 A. I thought I read something about the Orkopoulos  
25 investigation.

26

27 Q. No, you are quite correct. It arose, it would appear,  
28 subsequent to his investigation and prosecution with  
29 Detective Faber and others of Orkopoulos?

30 A. I think he was given that some time after I went off  
31 sick. I was aware of that. It was in the newspapers, sir.

32

33 Q. You are aware, as you referred to, that he, together  
34 with Detective Faber, was responsible for the successful  
35 investigation and prosecution - the high profile  
36 prosecution - of Mr Milton Orkopoulos ?

37 A. I don't know what Detective Tayler's role was in that  
38 investigation. I can only say that I was aware that he was  
39 recognised in respect to whatever he did. I don't know  
40 whether he got a statement or interviewed people or signed  
41 a charge, but he obviously had some role, whether it was  
42 administrative or whatever, I don't know.

43

44 Q. You simply don't know, do you, what his experience was  
45 in that matter? That's correct, isn't it?

46 A. Yes, that's what I'm saying, sir, yes, exactly.

47

1 Q. Please don't volunteer, responses like "It may have  
2 been administrative."  
3 A. I --  
4  
5 Q. That's part of your whole process, isn't it, to  
6 dismiss other people's experience and competence, based on  
7 material and information you don't know?  
8 A. Sir, I --  
9  
10 Q. That's the way you operate, isn't it?  
11 A. Sir, I added a lot of things to that and I simply make  
12 the point that I don't know what he was doing and I concede  
13 that.  
14  
15 Q. Just confine your answer; if you don't know what he  
16 was doing, without volunteering matters you don't know.  
17 Thank you.  
18 A. Thank you.  
19  
20 Q. In regard to Detective Jason Freney, I suggest to you  
21 that, as at December 2010, he had been a police officer for  
22 15 years, he had been conducting investigations for six  
23 years, and he had been a designated detective for four  
24 years? You didn't know those facts, did you?  
25 A. Sir, I don't know the officer, I don't know anything  
26 about him, so whatever you're going to tell me about him,  
27 I'll concede that I know nothing of it because I don't know  
28 him at all.  
29  
30 Q. Can you tell the Commission why you didn't research  
31 those sorts of matters before you made the statement to  
32 Ms McCarthy?  
33 A. Because, as I said before, when I was at the meeting  
34 on 2 December the three names told to me were Quinn, Tayler  
35 and Steel. It was not mentioned at any stage that Freney  
36 was on that investigation.  
37  
38 Q. I think you have also become aware, if not before  
39 today, today, that the State Crime Command sex unit was  
40 involved to assist the investigators if they required  
41 assistance. Did you know that before today?  
42 A. Yes, I did, I knew that they were in a consultation  
43 role with the investigation, yes, I did.  
44  
45 Q. When did you first know that?  
46 A. I think when it was - at some stage the following  
47 year, when I - I don't know whether I heard it at work

1 through the grapevine or whether I read something in a  
2 newspaper, halfway through the following year, that they  
3 had come on board.  
4

5 Q. Do you agree that would be an appropriate course of  
6 action for investigators to seek the advice and support of  
7 the specialist unit, to review what they were doing?

8 A. Yes.  
9

10 Q. Highly proper?

11 A. Yes. I would have hoped that they would have taken on  
12 a much greater role, of course, but it was certainly a  
13 role.  
14

15 [Transcript redacted, per suppression order, from page 500,  
16 line 15 to page 502, line 30]  
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MR McILWAIN: Nothing further, Commissioner.

THE COMMISSIONER: Thank you, Mr McIlwaine. Mr Irving?

MR IRVING: No, Commissioner.

THE COMMISSIONER: Ms Lonergan, anything?

MS LONERGAN: I will go last, Commissioner.

THE COMMISSIONER: Mr Gyles?

MR GYLES: Commissioner, I do not propose to ask any questions now. I will keep my powder dry until stage 2.

THE COMMISSIONER: Mr Cohen?

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MR COHEN: I have nothing by way of re-examination, Commissioner.

MS LONERGAN: Commissioner, could we adjourn for five minutes.

THE COMMISSIONER: Yes, certainly.

**SHORT ADJOURNMENT**

MS LONERGAN: Commissioner, there is a further appearance to be noted on the record.

MR RUSH: May it please the Commission. My name is Rush. I am instructed by Ms Irving, who has leave, and I seek leave to appear for Ms McCarthy.

THE COMMISSIONER: Yes, Mr Rush.

**<EXAMINATION BY MS LONERGAN:**

MS LONERGAN: Q. Detective Chief Inspector Fox, just one question. Late yesterday afternoon, Mr Roser was asking you some questions about the way in which you interacted with Ms Smith, leading up to the Lateline program in December 2010.

A. Yes.

Q. Do you recall those questions? In answer to one of the questions from Mr Roser, you said words to the effect of "I held some things back. We didn't want to run with them yet."

A. Yes.

Q. Do you recall giving an answer to that effect?

A. Yes.

THE COMMISSIONER: I think it was, "I didn't want to run with some of it yet. "

MS LONERGAN: Thank you, Commissioner.

Q. "I didn't want to run with some of it yet."

A. Yes.

Q. What were you referring to there that you didn't want

1 to run with yet?

2 A. If I could look at the document, I might be able to  
3 assist. Just off the top of my head at the moment - it  
4 might be the hour of the day, but --

5  
6 MS LONERGAN: I don't think the material actually is in a  
7 document, Commissioner.

8  
9 THE COMMISSIONER: Ms Lonergan, may I ask a question of  
10 the witness?

11  
12 MS LONERGAN: Yes, Commissioner.

13  
14 THE COMMISSIONER: Q, I think it was in the context,  
15 sir, of you thinking it was a good idea to drip feed  
16 information to the public, when you were speaking to  
17 Ms Smith, and you said you didn't want to run with some of  
18 it yet.

19 A. I understand. I'm just thinking, there were a number  
20 of aspects that I didn't want to run with. One of those  
21 was in relation to aspects surrounding the handling of some  
22 matters by the Ombudsman's office, that I won't elaborate  
23 unless you want me to elaborate further on.

24  
25 MS LONERGAN: Q. There is no need to elaborate. If  
26 I can assist you, volume 3, tab 139 seems to be the  
27 relevant statement, page 712. That is in the first  
28 paragraph of an email from you to Ms Smith.

29  
30 The words are underlined in that email, and the order  
31 of words as they appear in this email are:

32  
33 *I really don't want that to run yet.*

34  
35 Do you see that on page 712 in the second-last paragraph?

36 A. I do.

37  
38 Q. What didn't you want to run then? What are you  
39 referring to there? You have mentioned the Ombudsman.

40 A. That was one component that I didn't want to - I know  
41 that there were a number of - sorry, I understand the time,  
42 but could I just peruse that, and I just want to give as  
43 accurate a response as possible, if I can have a read  
44 through that.

45  
46 Part of what I was referring to is on page 715, under  
47 point 8.36. I was desirous of holding back aspects of

1 discussing Cardinal Pell and the upper hierarchy of the  
2 church at that stage.

3

4 Q. What else, just that one, or was there other material?

5 A. No, there may be others.

6

7 The aspects under 8.6, if I'm able to go through that  
8 document, I might be able to assist you even further,  
9 because, under 8.6, I believe that --

10

11 Q. I'm just going to stop you there. Commissioner, would  
12 it be of assistance to you if the witness goes through this  
13 process or not?

14

15 THE COMMISSIONER: Yes.

16

17 Q. Could I ask you, sir, you might have a close look at  
18 page 714. Under the first part in block capitals, it says:

19

20 *Peter Fox named the Assistant Police*  
21 *Commissioner as the person who stood him*  
22 *down to the investigation.*

23

24 It looks as though your response is:

25

26 *This of course ties in with the previous*  
27 *and I'd like to hold this back for now ...*

28

29 A. Yes.

30

31 Q. Does that help you?

32 A. My comments are actually - and I may be able to  
33 highlight them for you, if you like, there was another page  
34 to make it easier, but --

35

36 MS LONERGAN: Q. I think the better course will be just  
37 to identify in short compass what those matters were that  
38 you did not want to run with at that stage.

39 A. If I start from the very first page and just walk  
40 through it.

41

42 Q. Yes, just identify the issues. There's no need to  
43 expand on them.

44 A. Page 713, under 2.02, as it says there, "I have no  
45 problem with this at present." So I have no issue there.  
46 Again --

47

1 Q. I'm going to stop you there. We are only interested  
2 in the ones you didn't want to run with.  
3 A. The okay. The ones I'm alluding to holding back there  
4 is the aspect under 3.23; at the bottom of page 713, the  
5 aspect under 3.31 and flowing down, of course, on the top  
6 of page 714.

7  
8 Q. Yes.

9 A. The aspect under 4.19 on page 714.

10  
11 Q. Yes.

12 A. I've suggested a singular word be substituted under  
13 4.50. I've suggested that the word "super" be substituted  
14 with either "critical" or "significant".

15  
16 The rest of that page is fine. On page 715, the item  
17 under 8.06.

18  
19 Q. Yes.

20 A. The aspect under 8.36 on page 715. And that's it.

21  
22 THE COMMISSIONER: Q. May I ask you this, Detective  
23 Chief Inspector Fox: in relation to the entry on page 713  
24 under 3.23, the question states:

25  
26 *Do you have any concerns that one of the*  
27 *chief investigators in the Maitland*  
28 *Newcastle cases Peter Fox was stood down*  
29 *despite the fact he had been investigating*  
30 *the issue for many, many years?*

31  
32 Was that a question which was meant to be put to  
33 Mr Shoebridge?

34 A. I think it was.

35  
36 Q. And that was something that you didn't wish pursued at  
37 that stage?

38 A. Yes.

39  
40 Q. You answered:

41  
42 *I think this is one the things we need to*  
43 *hold onto. I wouldn't use the term 'stood*  
44 *down'.*

45  
46 A. Yes.

47



1 Q. Why did you want to hold on to that aspect of the  
2 matter for the time being?  
3 A. Because I was - I just felt the way it was being asked  
4 wasn't a clear and proper reflection of it.  
5  
6 Q. Am I to understand from that that you --  
7 A. Not that I'm suggesting that it was the - I just  
8 didn't feel that it accurately reflected the situation  
9 closely enough, and that the person possibly being asked  
10 that question didn't really - wouldn't have been able to  
11 understand that aspect, and I thought it was probably  
12 unfair to ask that individual that question, with what  
13 I was aware of was his degree of knowledge about that  
14 subject matter.  
15  
16 Q. Who was that person?  
17 A. The Upper House MP David Shoebridge.  
18  
19 Q. Why did you not wish the interviewer to use the term  
20 "stood down" in relation to what you say had happened to  
21 you?  
22 A. Because I just didn't like the term. I felt that the  
23 term "removed" or something like that was more appropriate.  
24 But I wasn't arguing with the overall context of what was  
25 being suggested. It was just that I was uncomfortable with  
26 the terminology, and I equally felt that, at that stage, it  
27 would be better off me discussing that later on personally  
28 myself, rather than somebody else coming in on that issue,  
29 that may not have been fully au fait with the circumstances  
30 surrounding it.  
31  
32 Q. You said then:  
33  
34 *We need to get a reaction on the open*  
35 *letter first."*  
36  
37 A. Yes.  
38  
39 Q. That was your letter to the Premier, was it?  
40 A. Indeed, ma'am, yes.  
41  
42 Q. So were you intending to say to Ms Smith that you  
43 preferred to focus on the church rather than what had  
44 happened within the police force in relation to decisions  
45 concerning your investigation?  
46 A. I think at that stage, if - of course, you are asking  
47 what I was trying to convey to Ms Smith, I think that would

1 be a fair comment, yes. I felt that the focus should be on  
2 the church aspect. That was certainly foremost in my mind,  
3 more so than the concerns I had about the handling - even  
4 though they were concerns, and I still feel that they are  
5 justified, the predominant concern was certainly the  
6 conduct of the church.

7  
8 Q. Your intention was, if you were running the ABC, to  
9 "drip feed", as I think was your term, by starting with the  
10 church and, if necessary, later on seeking some answers  
11 from the police force?

12 A. Not - Commissioner, I should say that by this stage,  
13 although the open letter, and I had been assisted in the  
14 open letter to the Premier by the Newcastle Herald by  
15 Joanne McCarthy, it wasn't that I wanted exclusivity for  
16 any particular TV network or printed media. Certainly the  
17 ABC were very obliging and assisting, so far as me being  
18 able to air those grievances. But so far as later on  
19 progression of it, I hadn't made my mind up as to other  
20 methods that I was going to take it along.

21  
22 It may well have been, as eventuated the following  
23 day, there were a number of other networks and printed  
24 media that were wanting to run aspects of the story, and  
25 I had made provisional arrangements with a number of those.  
26 But as events progressed quite quickly, that wasn't  
27 required, as it turned out, because the Premier announced  
28 this commission the following day and the Prime Minister  
29 announced the Royal Commission three days after that.

30  
31 THE COMMISSIONER: All right. Thank you, sir. Anything  
32 arising from that, Ms Lonergan?

33  
34 MS LONERGAN: No, there isn't, Commissioner. Could  
35 Detective Chief Inspector Fox be excused, please.

36  
37 THE COMMISSIONER: Thank you very much for your evidence,  
38 Detective Chief Inspector Fox.

39  
40 THE WITNESS: Thank you, Commissioner.

41  
42 **<THE WITNESS WITHDREW**

43  
44 MS LONERGAN: Commissioner, Mr Kell will take the next  
45 witness, who will be DCI Waddell. However, I understand  
46 there needs to be a short adjournment to allow for some  
47 arrangements to be made for the transcript reporters.

1 THE COMMISSIONER: Yes. I did promise everyone an early  
2 mark, on the instructions I was given earlier. Is it the  
3 case that we can sit for some additional time today?  
4

5 MS LONERGAN: I think that's a matter for you,  
6 Commissioner.  
7

8 THE COMMISSIONER: Has anyone made any arrangements which  
9 are immutable, since I said that we would rise at 3.30.  
10

11 MR ROSER: No, Commissioner.  
12

13 MS LONERGAN: Commissioner, Mr Hunt noted there could be  
14 about a 15-minute changeover with equipment. In those  
15 circumstances, it would mean that Detective Inspector  
16 Waddell would probably only get in 15 minutes of evidence  
17 and then be part heard over the weekend. In those  
18 circumstances, unless anyone has a strong objection, it may  
19 be better to postpone his evidence until Monday.  
20

21 There are various nods around the bar table, so 9.30  
22 on Monday may be suitable.  
23

24 THE COMMISSIONER: Thank you. I will adjourn until 9.30  
25 on Monday.  
26

27 **AT 3.26PM THE COMMISSION ADJOURNED UNTIL**  
28 **MONDAY, 13 MAY 2013 AT 9.30AM**  
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