

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, 28 June 2013 at 9.15am
(Day 15)

Before Commissioner: Ms Margaret Cunneen SC

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

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

1 MS LONERGAN: I call Superintendent John Henry Galton.

2

3 <JOHN HENRY GRALTON, sworn: [9.16am]

4

5 <EXAMINATION BY MS LONERGAN:

6

7 MR SAIDI: Commissioner, could it be noted the same
8 situation applies for this witness.

9

10 THE COMMISSIONER: Yes, thank you, Mr Saidi. That has
11 been noted on the record.

12

13 MS LONERGAN: Q. Your full name is John Henry Galton?

14

15 A. That's correct.

16

17 Q. You prepared a statement with the assistance of your
18 lawyers in February this year, dated 15 February 2013?

19

20 A. I did.

21

22 Q. I'll just hand a copy of that up for you and one for
23 the Commissioner. Could I ask you to have a look at that
24 statement. Bear in mind that there have been some
25 redactions of that statement, including the removal of
26 exhibits C and D related to matters of public interest
27 immunity in relation to other police investigations and
28 potential criminal matters. Excluding the removal of
29 paragraphs relating to exhibit C and D, is that statement
30 and true and correct?

31

32 A. It is.

33

34 Q. Can I draw your attention to one date in paragraph 30,
35 the third last line of that paragraph on page 5 of your
36 statement.

37

38 A. Yes.

39

40 Q. You will see there the date in relation to an
41 investigator's note. You say it is dated 3 December 2010.

42

43 A. It looks like a typo.

44

45 Q. But I'll just draw your attention to page 14 of your
46 statement. Do you see that's a signature bar or ending to
47 the investigator's note and it is dated 3 December 2010?

48

49 A. Correct.

50

51 Q. Just for clarity, you're referring to that date as
52 opposed to the date of the meeting?

53

54 A. I'm referring to the investigator's note.

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Q. The investigator's note date?
A. Yes.

MS LONERGAN: Commissioner, I tender that statement.

**EXHIBIT #42 STATEMENT OF JOHN HENRY GRALTON, DATED
15/2/2013**

MS LONERGAN: Q. You were attested a police officer in June 1988?

A. Correct.

Q. You worked in general duties for your first seven years?

A. That's right.

Q. Most of your work was general duties including some intelligence and plainclothes work?

A. That's right.

Q. You took up a position with the Australian Bureau of Criminal Intelligence in Canberra for a secondment period of three years?

A. It was actually four years.

Q. Four years, thank you. During that time, you gained experience in the collection of intelligence relating to criminal activity?

A. Yes.

Q. And then you actually were promoted or took up a position of research intelligence coordinator for the Hunter region in 1999?

A. That's right.

Q. You did that for a couple of years as well?

A. I did.

Q. You did some human resources management for approximately a year --

A. That's right.

Q. -- again, in the Hunter region? Then in 2002, you took over the role of operations manager for the northern region and worked in that position for five and a half years?

1 A. That's right.
2
3 Q. In 2007, you were promoted local area commander for
4 the Hunter Valley?
5 A. That's right, yes.
6
7 Q. Later, in 2008, you became a commander of the Central
8 Hunter Local Area Command?
9 A. Yes, that's right.
10
11 Q. Are you aware that the matters about which we're here
12 discussing, police decision-making processes, concern
13 mainly 2010 and 2011 and, to an extent, 2012 in terms of
14 your involvement?
15 A. That's right.
16
17 Q. As at December 2010, what was your position in
18 relation to the Hunter area or the Newcastle Local Area
19 Command activities?
20 A. I was the commander of Central Hunter Local Area
21 Command situated at Maitland.
22
23 Q. At the time of the meeting, that a lot of evidence has
24 been heard about in these proceedings took place
25 in December 2010, did you have any particular supervisory
26 role or management role in relation to that investigation
27 and the decisions made about it in and around December
28 2010?
29 A. No, I did not.
30
31 Q. The position is that you found out information about
32 that at a later point in time, which we'll come to?
33 A. That's correct.
34
35 Q. In your statement in paragraph 15, you outline in
36 broad terms the role of the commander and you draw a
37 parallel or a line explaining the relationship of the
38 commander to the level of crime manager. Just in broad
39 terms, could you outline the role of crime manager?
40 A. In very broad terms, the role of the crime manager is
41 to oversight major investigations in a command, to look at
42 the crime prevention strategies for volume crime, in some
43 cases to act as a staff officer to the commander with
44 respect to correspondence and other matters in the running
45 of the local area command.
46
47 Q. You make the point in paragraph 15 that Newcastle

1 Local Area Command has, in fact, two senior officers who
2 split the functions of crime manager. Are you able to say
3 at what time that splitting of that role came into play?
4 A. I don't know the exact date, but it was certainly in
5 play when I arrived at Newcastle on 3 May 2011.
6
7 Q. And you're not able to say how many months or years
8 before that?
9 A. I think it was earlier that year.
10
11 Q. Earlier in 2011?
12 A. I think so, yes.
13
14 Q. The reason for that was what, as you understand it?
15 A. As I understand it, Newcastle is the largest local
16 area command in the state in terms of the number of staff
17 and it is a very complex environment.
18
19 Q. Yes.
20 A. The role of crime manager for one person in that
21 command is significant, so that the role was split into two
22 to divide some of the workload. One side of the house - in
23 fact, Detective Chief Inspector Humphrey - looked after the
24 special operations group, the crime management unit, the
25 proactive strategies to reduce volume crime, among other
26 things; and on the other side of the house, Detective
27 Inspector Parker looked after the oversight of major
28 investigations, detectives and drug unit.
29
30 Q. You understand that was the position in terms of
31 Newcastle Local Area Command from early in 2011?
32 A. Yes.
33
34 Q. In terms of those two officers sharing that role?
35 A. Yes.
36
37 Q. But that wasn't the position prior to early 2011?
38 A. I don't think so.
39
40 Q. In your statement - and it is fine for you to have a
41 look at it - in paragraph 19 you talk about becoming aware
42 of a particular meeting taking place about Strike Force
43 Lantle. Can we take it that that was some time later than
44 when the meeting took place?
45 A. Yes. I became aware of that much later.
46
47 Q. Have a look at paragraph 21 of your statement. My

1 question to you about paragraph 21 is: you mentioned you
2 first became aware of Strike Force Lantle in around May
3 2011. Are you able to say whether you became aware of the
4 meeting on 2 December having taken place at or around the
5 time and the events you're talking about in paragraph 21 of
6 your statement?

7 A. No, to be honest with you, I don't think I was aware
8 of that meeting at that time. I became aware of Strike
9 Force Lantle when I arrived at Newcastle soon after 3 May
10 2011.

11
12 Q. In paragraph 21, you refer to having attended a
13 meeting involving Assistant Commissioner York and the two
14 crime managers you've just referred to as well as Detective
15 Sergeant Little?

16 A. That's right.

17
18 Q. You also outline the fact that the meeting provided an
19 overview about the Lantle investigation and where it was up
20 to?

21 A. Yes.

22
23 Q. Is it fair to say that, up to that time, there had
24 been some negative reports regarding the swiftness or
25 otherwise with which the investigation was proceeding?

26 A. Perhaps there may have been some in the newspapers,
27 yes.

28
29 Q. Yes?

30 A. Yes.

31
32 Q. At that meeting, was anything raised about any issue
33 regarding Detective Chief Inspector Fox being involved or
34 not involved in the investigation?

35 A. I don't think so. The meeting was essentially in
36 regards to the progress of the investigation, where it was
37 up to, were we satisfying the investigation plan, all of
38 those sorts of things.

39
40 Q. As far as you are aware, from that briefing meeting,
41 you understood that the investigation was proceeding and
42 every effort was being made to ensure the investigation was
43 being carried out thoroughly and professionally?

44 A. Absolutely.

45
46 Q. The next matter you raise in your statement is
47 following paragraph 22 where you talk about a memo of

1 Detective Sergeant McKey dated 5 September 2010?

2 A. Yes.

3

4 Q. That's annexure B to your statement. My question to
5 you relates to your involvement in signing off on that
6 document and its provision to Detective Inspector Fox --

7 A. Yes.

8

9 Q. -- as the OIC. Can you just outline for the benefit
10 of those in court what that memo is about and your
11 particular role in allocation of it to Detective Inspector
12 Fox at that time?

13 A. Certainly. It was correspondence received from the
14 Commissioner's office in relation to a possible conspiracy
15 to conceal crime by senior clergy of the Catholic Church.
16 There was information outlined in there that Detective
17 Inspector Fox was aware of and had previously investigated,
18 I believe.

19

20 Q. Yes.

21 A. And there was a suggestion or a recommendation, sorry,
22 that the attached correspondence be forwarded to Central
23 Hunter LAC Detective Inspector Fox. He was no longer at
24 Central Hunter and I forwarded the file to Port Stephens
25 where he currently resided.

26

27 Q. Can we take from your evidence that you relied on the
28 comment on page 1 by the author of the document, Detective
29 Sergeant McKey, that Detective Inspector Fox, as he was at
30 that time, may well know some information that would deal
31 with the particular matter that had been raised?

32 A. That's correct.

33

34 Q. And the matter that had been raised was in the form of
35 a ministerial complaint about whether or not certain things
36 were being investigated, in short?

37 A. Yes, that's right. The actual attachment is not with
38 the document. This is just the file itself.

39

40 Q. All right, but it's your understanding that it is
41 related to matters that touched upon what Lantle ended up
42 investigating?

43 A. Yes.

44

45 Q. And the usual procedure with these sorts of
46 ministerial matters, is there a turnaround time within
47 which a response needs to be received?

1 A. Sometimes in the ministerial itself, it will give a
2 date when it's expected to be returned.
3
4 Q. Yes.
5 A. But there is no specific date or turnaround time that
6 I'm aware of in relation to ministerials.
7
8 Q. In terms of general expectation, is there a turnaround
9 time?
10 A. I would say as soon as possible.
11
12 Q. If the officer --
13 A. Or practicable, sorry.
14
15 Q. As soon as practicable?
16 A. As soon as practicable.
17
18 Q. You annotated this document to the effect:
19
20 *Given this file relates to matters*
21 *specifically referred to Detective*
22 *Inspector Fox as the OIC, I am forwarding*
23 *the file to Port Stephens LAC where he is*
24 *currently attached for attention as*
25 *requested.*
26
27 A. Correct.
28
29 Q. When you used the term "referred to Detective Chief
30 Inspector Fox as the OIC" or - I'm sorry, "relates to
31 matters specifically referred to Detective Chief Inspector
32 Fox as the OIC", were you denoting there that you wanted
33 Detective Chief Inspector Fox to carry out an investigation
34 as the OIC or were you referring to an historical matter?
35 A. I would suggest that that's in relation to the
36 recommendations and comments made in the file that he had
37 previously - if I could just refresh my memory on the file
38 itself.
39
40 Q. Yes.
41 A. Where it states that he was the informant for the
42 charges against that priest --
43
44 *... reported difficulties encountered*
45 *throughout the investigation ...*
46
47 So he was the OIC of that investigation. I wasn't

1 suggesting that he should be the OIC at the future
2 investigation. It is just saying that he may have
3 information that could assist.
4

5 Q. All right. Was it your understanding of the
6 ministerial issue that had been raised that answers to
7 questions were required as opposed to this being an
8 invitation or order or request to carry out a full, fresh
9 investigation?

10 A. I was searching for information that might assist.
11

12 Q. In the usual course, if no response is received to a
13 ministerial request sent in this way within a month, is
14 there any action that would need to be taken by way of
15 follow-up or pursuit of response, or what do you recall?

16 A. It would depend on what was on the original file to
17 say whether there had to be a response. If there was a
18 date required then I suppose there would be an action
19 initiated.
20

21 Q. If a file like this is referred to an officer who is
22 about to go on leave for a month, what is the normal
23 expectation in terms of that officer indicating whether he
24 can and when he can complete the provision of the
25 information requested?

26 A. Up to that - the responsibility of that officer, did
27 you say?
28

29 Q. Yes. Does that particular officer have an obligation
30 to refer to any persons who forwarded the matter to him
31 that he will be unable or she will be unable to do anything
32 on the matter for a month?

33 A. It would depend on the turnaround time provided, but
34 an expectation, a reasonable expectation would be that they
35 would inform perhaps their commander or some other person
36 that was linked in with the file to say that there's going
37 to be some delays.
38

39 Q. At that time, did you know Detective Chief Inspector
40 Fox?

41 A. Did I know him?
42

43 Q. Yes?

44 A. Yes.
45

46 Q. Did you know anything in particular about him in terms
47 of that particular historical investigation that he had

1 done?
2 A. No.
3
4 Q. You made no judgment in terms of his appropriateness
5 or otherwise to carry out other investigative steps?
6 A. No.
7
8 Q. Neither negative judgment nor a positive judgment -
9 you just had no judgment?
10 A. No. I was just forwarding on the file to meet the
11 requirements of the ministerial.
12
13 Q. Did you, at any stage, make any request to anybody in
14 the NSW Police Force to retrieve that ministerial file from
15 Detective Chief Inspector Fox?
16 A. No.
17
18 Q. If you wouldn't mind turning to paragraph 27 of your
19 statement. You there, in that paragraph, set out some
20 information that came to your ear via a senior officer,
21 Detective Inspector Parker, as well as Detective Sergeant
22 Little, regarding the progress of the Lantle investigation
23 as at 15 December 2011?
24 A. Yes.
25
26 Q. Do you recollect the circumstances in which this
27 information came to your knowledge?
28 A. I do. That was around the time when certain
29 investigative processes were occurring that I believe we
30 can't talk about.
31
32 Q. All right. Those investigative processes related to
33 annexure C and D which have been removed from your
34 statement?
35 A. That's right.
36
37 Q. And they've been removed from your statement because
38 they relate to confidential aspects of the investigation of
39 Lantle?
40 A. That's right.
41
42 Q. But are you able to be prompted by looking at those
43 annexures that, on that date, or around the date certain
44 investigation steps were taken, you had a discussion with
45 Detective Inspector Parker and Detective Sergeant Little?
46 A. Yes.
47

1 Q. And they told you certain things regarding the
2 progress of Lantle?
3 A. That's right.
4
5 Q. It included that there was some concern on their part
6 that they hadn't got all the information that they should
7 have from Detective Chief Inspector Fox?
8 A. That's right.
9
10 Q. You say in paragraph 27 that he was suggesting -
11 Detective Chief Inspector Fox was suggesting - that he had
12 information within his possession and knowledge that only
13 he could elicit that was relevant to Lantle?
14 A. That's right, yes.
15
16 Q. Did Detective Inspector Parker and Detective Sergeant
17 Little give you documents that supported that proposition?
18 A. No, there were no documents provided.
19
20 Q. Did they say what the basis of their belief was?
21 A. The basis of their belief?
22
23 Q. Yes.
24 A. The basis - they told me that any attempts that they'd
25 made to retrieve additional information from Detective
26 Chief Inspector Fox that would enhance the investigation or
27 assist the investigation was not forthcoming. They had
28 received some information, but it did nothing to further
29 the investigation or was nothing fresh or new that they
30 didn't already know or have at that point.
31
32 Q. Did they discuss at that time that there had been a
33 meeting in December 2010 at which requests had been made to
34 Detective Chief Inspector Fox to hand over information?
35 A. I'm not sure if I was aware at that time or otherwise.
36
37 Q. Given your rank, was it usual for you to make a
38 particular note about these types of discussions? You
39 don't mention in your paragraph 27 that you did so?
40 A. No. No. I don't run a diary or a duty book. I use
41 file notes on the computer or I will use email systems or
42 documents to track conversations or anything of that
43 nature, but a conversation of that is just a day-to-day
44 conversation that I would not record.
45
46 Q. Did you rely on those officers to pursue any further
47 investigative steps to ensure and to secure any other

1 information they needed to complete the investigation?

2 A. I was satisfied that they were doing everything their
3 power to track down every piece of information that they
4 could possibly find to assist Strike Force Lantle.

5

6 Q. You didn't see a need to formally note it in some sort
7 of memorandum form?

8 A. I don't think I did at that time, no.

9

10 Q. If you had done that at that time, you would have
11 searched out that document and annexed it to your
12 statement?

13 A. Yes.

14

15 Q. A little further down in paragraph 27, I want to
16 clarify the time at which this particular information came
17 into your knowledge. First of all, you talk about
18 15 December and certain things having come to your
19 knowledge. In the later part of paragraph 27, about
20 two-thirds of the way down, you talk about being provided
21 with a general briefing by Detective Inspector Parker and
22 Detective Sergeant Little, that:.

23

24 *... when attempts had been made ... to*
25 *obtain any documentation or information*
26 *from [DCI] Fox, no such documentation or*
27 *fresh information had been provided. I was*
28 *also made aware that some of the*
29 *information that [DCI] Fox asserted he had,*
30 *had been information which was contained*
31 *within "his head" as he had described, and*
32 *had not been documented.*

33

34 I want to suggest to you that information to the effect
35 that DCI Fox had information in his head came to the
36 knowledge of Parker and Little only in April 2012, that
37 particular piece of assessment?

38 A. Sure.

39

40 Q. Would you accept that paragraph 27 of your statement
41 is it actually talking about a number of exchanges with
42 those officers?

43 A. Correct.

44

45 Q. To that extent, the later part of that paragraph may
46 well be referring to conversations you had in April 2012
47 with those officers?

1 A. Yes, or even March, possibly March or earlier than
2 March - somewhere between December and March, or April.
3
4 Q. All right. In March 2012, you say in paragraph 28 of
5 your statement you first became aware of the meeting that
6 had been held on 2 December 2010. Can I ask you this: up
7 to the email you received from DCI Fox, had any officer
8 conveyed to you - other than the material that we've just
9 been going over from Detective Inspector Parker and
10 Detective Sergeant Little, had any officer, any officer at
11 all, conveyed to you a negative opinion regarding DCI Fox
12 having kept back information that might be relevant to
13 Lantle?
14 A. Before March?
15
16 Q. Before the email at the end of March 2012?
17 A. Yes, in and around December.
18
19 Q. All right.
20 A. There had been conversations that he had not provided
21 or was saying that he had other information, but it wasn't
22 forthcoming.
23
24 Q. And that's officers in addition to Detective Inspector
25 Parker and Detective Sergeant Little?
26 A. I don't recall anybody else specifically.
27
28 Q. That was my question. It was related to other
29 officers, not those particular two officers?
30 A. Okay.
31
32 Q. You've got no recollection of anybody else making
33 comments to you to the effect that they suspected that
34 Detective Chief Inspector Fox was keeping information back?
35 A. Possibly Detective Chief Inspector Humphrey, but I'm
36 not sure on that.
37
38 Q. The email that you received from Detective Chief
39 Inspector Fox, which is annexed to your statement at
40 annexure E, were you surprised to receive that as one of
41 the people copied in? I'm sorry, it was actually --
42 A. It was fairly out of the blue.
43
44 Q. It is page 24 of your statement.
45 A. Yes, it was fairly out of the blue and to myself,
46 Senior Sergeant Ian Mather with a CC to Carlene York and
47 Craig Rae. I think Craig Rae may have been relieving as

1 the region commander around that time.

2

3 Q. Ma'am York was the --

4 A. Region commander.

5

6 Q. -- region commander. Who was Ian Mather?

7 A. Ian Mather was the - he is the operations resource
8 coordinator, who sits under the operations manager,
9 possibly relieving as ops manager at that time for northern
10 region, but I couldn't say that to be certain.

11

12 Q. Your role in March 2012 was senior to Superintendent
13 Mitchell, was it, or were you parallel rank?

14 A. Parallel rank. At that time, Superintendent Mitchell
15 was on, I think, on a secondment to Melbourne and I had
16 been brought in to Newcastle.

17

18 Q. So you were filling his --

19 A. So what date was that? It was March 2012.

20

21 Q. You were filling his previous role, in effect?

22 A. Yes. I was seconded from Central Hunter Local Area
23 Command as the commander to Newcastle.

24

25 Q. Did you read this as some sort of complaint, an
26 informal one perhaps, of DCI Fox feeling he was prevented
27 from assisting another officer with her investigations?

28 A. I didn't see it as a complaint under part 8A of the
29 Police Act, but I saw it as an inquiry from Detective Chief
30 Inspector Fox regarding information that he wanted to
31 exchange or a discussion he wanted to have with a Lake
32 Macquarie detective, and I also saw it as him seeking
33 clarification about the matters pertaining to the meeting
34 on 2 December 2010.

35

36 Q. According to paragraph 31 of your statement, you then
37 consulted with Assistant Commissioner York and you also
38 obtained a copy of the investigator's note, and that's
39 annexure A to your statement?

40 A. I did.

41

42 Q. Was that investigator's note available to you through
43 accessing e@gle.i or did you need to actually seek a copy
44 of it from a confidential holding, or how did you get that
45 document?

46 A. It probably would have been accessible to me by
47 e@gle.i, but I asked others to seek - to produce that for

1 me.

2

3 Q. And accessible to you under e@gle.i, even though a
4 highly protected investigation, because of your seniority?

5 A. Because I'm the commander at Newcastle, yes. I didn't
6 check on e@gle.i; I asked others.

7

8 Q. All right. Did you interview anybody who had been
9 present at the meeting to ask them about what had happened
10 at the meeting or did you just rely on the investigator's
11 note?

12 A. I think I spoke to Detective Inspector Parker about
13 the meeting.

14

15 Q. Yes?

16 A. And I spoke to Detective Chief Inspector Humphrey and
17 I understand that he wasn't at the meeting, but he had
18 relieved as the commander and also had been in an
19 exchange with - sorry, when I say "an exchange", there
20 would have been a handover between Superintendent Mitchell
21 and Detective Chief Inspector Humphrey, so he would have
22 had, I would imagine, some knowledge of the meeting
23 occurring.

24

25 Q. In paragraph 33, you make some comments regarding the
26 purposes of your responses to the matters raised in
27 Detective Chief Inspector Fox's emails and we'll come to
28 that document. In particular, in relation to subparagraph
29 (d), you refer to your opinion that it was appropriate to
30 leave in force any instruction or direction so that the
31 investigation isn't compromised, the current investigation?

32 A. That's true.

33

34 Q. Is there any distinction between instruction or
35 direction, in effect, when given by --

36 A. Superintendent Mitchell.

37

38 Q. -- Superintendent Mitchell in the context of a meeting
39 with more junior officers?

40 A. No. I think I said a direction or an instruction
41 because that was how it was informed to me as being that
42 Mr Mitchell had asked for the documents to be handed over.
43 He'd also asked that no-one speak to the media. Now, if
44 that was an instruction or a direction, it's something that
45 people should abide by.

46

47 Q. You appreciate, just looking at page 22 and 23 of your

1 response - I'm sorry, page 22 and 23 of your statement,
2 which includes your response provided to Detective Chief
3 Inspector Fox --

4 A. Yes.

5

6 Q. -- in relation to the question about, "Are all the
7 directions given to me by Mr Mitchell still in force and,
8 if so, for what period?"; you have said, "Yes until lifted
9 the direction remains in place." Do you see that?

10 A. Yes.

11

12 Q. There you hadn't made any distinction that it was an
13 instruction or a direction; you'd just confirmed, hadn't
14 you, that it was a direction and it remained in place?

15 A. Well, Mr Fox's language to me was that he'd been
16 directed.

17

18 Q. Yes.

19 A. I was satisfied that he had been asked for the
20 documents, to not speak with the media. If he wants to
21 accept that as a direction, I was happy --

22

23 Q. My question is that you actually used the term
24 "direction". You don't make any distinctions that softens
25 in any way that it was a direction?

26 A. Yes, okay. I'm happy with that.

27

28 Q. That's because it was in fact a direction and, in the
29 context of the meeting, it was a direction given by a
30 senior officer to a more junior officer that was expected
31 to be followed?

32 A. Yes, I wasn't at the meeting, I make that clear, but
33 it would appear to be - if a junior officer is asked by a
34 senior office to do something, then that is an instruction
35 or a direction or a request and it should be abided by --

36

37 Q. All right.

38 A. -- if it's reasonable.

39

40 Q. Yes. You didn't cavil with the term "direction" based
41 on what you had found out about the meeting because you
42 understood it to be a matter which needed to be followed?

43 A. Absolutely.

44

45 Q. And you expected that that would stay in place until
46 another order from an appropriate senior officer removing
47 that direction?

1 A. That is correct.

2

3 Q. One of the things that Detective Chief Inspector Fox
4 raised in his initial email - just have a look at page 24
5 of your statement. Do you see what Detective Chief
6 Inspector Fox asserts was that the direction or one of the
7 directions from Superintendent Mitchell was, in addition to
8 surrendering all the documentation he had including victim
9 statements.

10

11 *... to cease any involvement in church*
12 *paedophilia investigations or dealing with*
13 *victims.*

14

15 Just focusing on that part, did you make inquiries as to
16 whether a direction to that effect - "cease any involvement
17 in church paedophilia investigations" - was a direction
18 that was in fact made?

19 A. I satisfied myself that the directions given or the
20 instructions given to Mr Fox pertained to the file note or
21 the meeting note and the discussions I had with Detective
22 Chief Inspector Humphrey, that he was to hand over
23 documents and he was to not speak with the media, like
24 everybody else was instructed.

25

26 Q. The difficulty with that, with what you've just
27 stated, is that Detective Chief Inspector Fox also seemed
28 to be under the impression, or at least made the statement
29 in his email to you on 26 March, that he'd also been told
30 to, I'm sorry, directed "to cease any involvement in church
31 paedophilia investigations or dealings with victims." My
32 question is: did you raise that matter, that assertion,
33 with any persons present at the meeting to satisfy yourself
34 whether a direction to that effect had --

35 A. No, I don't think I did.

36

37 Q. All right.

38 A. Because my understanding of the direction or the
39 instruction was not as given by Detective Chief Inspector
40 Fox in this correspondence.

41

42 Q. But you don't say, do you, in your reply, "Well, look,
43 Peter, I understand the direction didn't go that far and
44 you weren't directed to cease any involvement in church
45 paedophilia investigations"?

46 A. No, I didn't because I'd satisfied myself, through
47 discussions with other people, through the file note,

1 through discussions with even AC York. This was done over
2 a couple of days I think, from my response. I had sent my
3 response to Assistant Commissioner York too, to see that
4 she was satisfied with the response, given the
5 circumstances.

6

7 Q. Yes?

8 A. Communication with Detective Chief Inspector Fox at
9 that time was difficult given a number of other matters
10 that were around.

11

12 Q. We don't need to go into that.

13 A. So I kept it short and sweet, to use the vernacular,
14 because I'd satisfied myself that the directions given were
15 in fact appropriate, that they were limited to the couple
16 of things that have been discussed and I did not see a need
17 to go any further.

18

19 Q. On page 23, which contains your response, in the first
20 response that you provide to question number 1, you, in
21 effect, redirect Detective Chief Inspector Fox to Detective
22 Inspector Parker?

23 A. Correct.

24

25 Q. Can we take it from that direction - I'm sorry,
26 "direction" in terms of sending him in that way --

27 A. Re-direction, yes.

28

29 Q. -- that you took the view that it was prudent for any
30 interface about these types of matters to be conducted by
31 the senior officer overseeing Strike Force Lantle so that
32 you did not tread on anybody's turf or say anything
33 inappropriate in relation to the ongoing investigations
34 with that?

35 A. Because Detective Inspector Parker was much better
36 placed than I to provide any information and direct him as
37 to the inquiries that he needed to make with Lake
38 Macquarie, and I trusted Inspector Parker to do his job and
39 to provide any guidance to Detective Chief Inspector Fox,
40 in those circumstances.

41

42 Q. You say that in your email response:

43

44 *He should be in a position to guide you in*
45 *relation to who is best to respond?*

46

47 A. Correct.

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Q. Did you learn from any officer that there had in fact been a direction at the meeting on 2 December to Detective Chief Inspector Fox that he was to cease any involvement in church paedophilia investigations?

A. No, not at all.

Q. So, to that extent, there seems to be a mistaken understanding on the part of Detective Chief Inspector Fox, based on what you know?

A. On what I know, yes.

Q. In point 2, numbered point 2 of Detective Chief Inspector Fox's email, he asks this question.

Are all the directions given to me by Mr Mitchell still in force and if so for what period?

You reply.

Yes, until lifted the direction remains in place.

Do you see that?

A. Yes.

Q. Would you agree with me that your reply to question 2 doesn't apply the correctness of the directions as stated by Detective Chief Inspector Fox in his email to you?

A. I would agree with that, but I did not consider Mr Fox had been directed at any stage to cease any involvement with paedophilia investigations in the Catholic Church. I had satisfied myself that the directions given to Mr Fox or the instructions, or however we would like to term it, were based upon handing over any document to actually assist and progress the strike force and for - no-one that was at that meeting, including Mr Fox, was to speak to the media. It only served to damage any future investigations.

Q. Do you see how Detective Chief Inspector Fox may well have interpreted your response as being a confirmation that he had in fact been directed to cease any involvement in church paedophilia investigations?

A. That's reasonable to say.

Q. That he may have reached that --

1 A. That he may have.
2
3 Q. Did you have any discussion with Detective Chief
4 Inspector Fox yourself other than the email exchange?
5 A. No, I did not.
6
7 Q. On page 7 of your statement, which is paragraph 33(e),
8 you made some mention of an awareness - about halfway down
9 paragraph (e) - that you were aware that Detective Chief
10 Inspector Fox had not provided any such documentation to
11 the Strike Force Lantle investigators. I think I should,
12 in fairness, read the whole of paragraph (e) to you, or you
13 read it to yourself, but it is referring to information
14 that had been requested on a number of occasions that
15 hadn't been provided to the officers working on Lantle?
16 A. Yes.
17
18 Q. And that you thought that you should also, in your
19 email, refer to the fact that if he had any such
20 documentation, he should refer it on?
21 A. Yes.
22
23 Q. And you received a courteous response saying:
24
25 *Mr Gralton, thanks for the response. I'll*
26 *contact Graeme ...*
27
28 A. Yes.
29
30 Q. That's Graeme Parker, I take it?
31 A. Correct.
32
33 Q. You were satisfied that the lines of communication
34 were open and if there was any other information, it would
35 duly be provided?
36 A. Absolutely. From his response, I thought that he took
37 no issue with anything that I had put into the email in
38 response to his clarification of the direction and all of
39 those things. I thought he was satisfied with my response
40 and he would contact Graeme to work out any issues there
41 may have been in relation - and also I took that, having
42 said, "I'm advised you were to provide documents that you
43 had that relate to investigations that were underway at
44 Newcastle. Could you please discuss that when speaking
45 with Detective Inspector Parker", as being very clear that
46 I wanted him to discuss any information that he had that
47 might assist the strike force.

1
2 Q. In paragraph 34 under the heading "April 2012
3 enquiries of Detective Chief Inspector Fox", you discuss
4 having viewed some email exchanges between Detective Chief
5 Inspector Fox and Detective Sergeant Little --
6 A. Yes.
7
8 Q. -- and Detective Inspector Parker.
9 A. Yes.
10
11 Q. You say that you don't think you received those emails
12 at the time of sending, but that you were included into the
13 email chain on 10 April 2012?
14 A. That's right.
15
16 Q. And that email chain you annex as annexure G to your
17 statement?
18 A. Yes.
19
20 Q. As well, annexure F concerns a series of questions
21 that were posed by Detective Sergeant Little to try and
22 clarify the position as to what other information Detective
23 Chief Inspector Fox had?
24 A. Yes.
25
26 Q. You considered that to be an appropriate way to go
27 about ensuring that all relevant matters that Detective
28 Chief Inspector Fox had, had been incorporated into the
29 investigation?
30 A. I thought it was particularly thorough in trying to
31 elicit whatever other information he may have had or had
32 espoused that he had.
33
34 Q. Were you forwarded the email trail by one of your
35 officers or did you end up being copied into it by action
36 taken by Detective Chief Inspector Fox and including you in
37 the CC of those matters which appears on page 48 in an
38 email he forwarded to Graeme Parker and others?
39 A. I see that there that Peter Fox has cc'd - no,
40 Jeff Little has sent it to Peter Fox and cc'd Graeme Parker
41 and John Galton.
42
43 Q. I understand. So you were cc'd in by Detective
44 Sergeant Little, not by Detective Chief Inspector Fox, as
45 you understand?
46 A. I think so.
47

1 Q. The document on page 48?
2 A. As I understand it, yes.
3
4 Q. I see. Do we understand that from the "Jeff Little"
5 above at the top of 48?
6 A. Yes:
7
8 *Church Inquiry*
9 *Jeffrey Little.*
10 *To: Peter Fox ...*
11 *Cc: Graeme Parker, John Galton.*
12
13 Q. I understand. Were you having discussions with
14 Detective Sergeant Little and/or Detective Inspector Parker
15 around about that time as to finalising the Lantle
16 investigation or was it in that context that you were
17 included in these things?
18 A. Yes. Yes. And I think there was a specific
19 discussion we had at the RAAF base Williamtown in relation
20 to the matter still - that they understood he was still
21 suggesting he had information and it wasn't forthcoming,
22 and so they were trying to clarify and elicit whatever they
23 possibly could.
24
25 Q. You've lost me with the RAAF base at Williamtown.
26 A. Sorry. I just recall a discussion I had with both of
27 those gentleman at the RAAF base at Williamtown, at a
28 meeting, and it takes to that time period, sorry.
29
30 Q. That's all right. That's April 2012, on your
31 recollection?
32 A. Yes, yes.
33
34 Q. Again, would you have taken notes of that particular
35 discussion or not?
36 A. No, because I was satisfied it was all being addressed
37 through this correspondence and through e@gle.i. There was
38 no need for me to take notes about that.
39
40 Q. All right. Annexures H and I deal with certain
41 correspondence that was prepared after or in late 2012.
42 I just want to ask you a few questions about that from a
43 human resources and other point of view?
44 A. Sorry, I'll just get that.
45
46 Q. It is page 8 of your statement which deals with it and
47 pages 50, 51 and 52.

1 A. Yes.

2

3 Q. You state in paragraph 36 that you drafted a
4 particular letter, which is annexure H, to be forwarded to
5 Detective Chief Inspector Fox.

6 A. Yes.

7

8 Q. First of all, as you were the commander of --

9 A. Newcastle.

10

11 Q. -- Newcastle --

12 A. Yes.

13

14 Q. -- what's your relationship in terms of supervision or
15 human resources manager vis-a-vis Detective Chief Inspector
16 Fox?

17 A. I'm a senior officer to him, but I had no line
18 command, if you like. He was at Port Stephens.

19

20 Q. So what led you to preparing the letter of 24
21 September 2012 directed to Detective Chief Inspector Fox?

22 A. Okay. It is quite clear in the letter that I say
23 that:

24

25 *On Monday, 17 September 2012, the Newcastle*
26 *Herald newspaper published an article*
27 *alluding to you having explosive*
28 *information concerning child sexual abuse*
29 *by clergy. Specifically, the article*
30 *quoted you as saying."*

31

32 *There is a lot more going on there*
33 *than anyone wants to admit. There is so*
34 *much happening behind the scenes.*

35

36 *... to simply say the police got it in*

37

38 *hand is wrong.*
39 *Early in the 2000s I linked a number*
40 *of paedophile priests. I linked them in*
41 *the Hunter Valley and I called on the*
42 *Police Department to initiate a major*
43 *inquiry. I've continued to make these*
44 *calls of late and nothing has been done.*

45

46 Q. As a senior officer supervising those officers who are
47 carrying out the Lantle investigation, what is the effect
of that kind of statement being made by a serving police
officer in the public arena in terms of an investigation
that's being worked on and or in stages of completion?

1 A. It is incredibly damaging. It asserts that police
2 aren't doing anything in relation to this investigation.
3 In fact, it couldn't be further from the truth.
4

5 Q. You knew that for a fact because you had --

6 A. I was very confident in Mr Parker; Detective Sergeant
7 Little, who I described as a man of integrity, intelligent,
8 hard working, and it's been shown through this Commission
9 that the brief of evidence that he prepared was
10 exceptionally good --
11

12 Q. You took the step of writing to Detective Chief
13 Inspector Fox. Was the purpose of the letter to chide
14 Detective Chief Inspector Fox or was it to determine if
15 there were other pieces of information or evidence that he
16 had that the Police Force didn't have?
17

18 MR COHEN: I object to the question. It is not clear that
19 that letter was ever sent.
20

21 MS LONERGAN: I'm only asking about the purpose --
22

23 THE COMMISSIONER: It was about the purpose of the
24 letter, Mr Cohen.
25

26 MS LONERGAN: I might have said "purpose in the letter".
27

28 THE COMMISSIONER: No, you didn't, Ms Lonergan; you said
29 "purpose of the letter"
30

31 MS LONERGAN: I thought I said "preparing". Did I say
32 "preparing the letter"?
33

34 THE COMMISSIONER: No; you said, "the purpose of the
35 letter".
36

37 MS LONERGAN: The purpose of the letter, and I will
38 clarify whether it was sent or not.
39

40 MR COHEN: Thank you.
41

42 MS LONERGAN: Q. The purpose of preparing the letter,
43 was that to follow through whether Detective Chief
44 Inspector Fox had any information of this nature?
45

46 A. Certainly it was and I say in the letter.
47

Whilst it is acknowledged that what is

1 *reported in the media is not necessarily*
2 *entirely accurate, you will appreciate it*
3 *is critically important that you provide*
4 *any further information so that it can be*
5 *properly assessed.*

6
7 And then I go on to say:

8
9 *Inquiries with Strike Force Lantle*
10 *investigators reveal email correspondence*
11 *took place between you and Detective*
12 *Sergeant Jeff Little during April 2012,*
13 *concerning information you may have that*
14 *would assist Strike Force Lantle or other*
15 *police investigations.*

16
17 Q. Was the letter sent?

18 A. No, the letter was not sent, but I was reliably
19 informed that the content of the letter was read to Mr Fox.

20
21 Q. And who read the content of the letter to Mr Fox?

22 A. Detective Inspector Kerrie Lewis, from our
23 Professional Standards Command.

24
25 Q. Can you explain why the content of the letter was read
26 to him as opposed to the letter being sent to him, without
27 going into detail as to any personal matters behind that?

28 A. Yes. I was informed by Detective Inspector Lewis that
29 Mr Fox had said, "I've given them all of the information
30 that they require."

31
32 Q. I'm going to stop you there. The question is a
33 broader managerial type question.

34 A. Sorry.

35
36 Q. Why is it that the letter wasn't sent as opposed to a
37 telephone conversation?

38 A. Because he was off sick and we were concerned for his
39 welfare and we didn't want to exacerbate any issues with
40 them.

41
42 Q. Police protocol, informal or formal, when an officer
43 is off on sick leave, they are not to receive formal
44 correspondence from the Police Force --

45 A. No.

46
47 Q. Is that the situation?

1 A. No, not necessarily. Given the circumstances in which
2 he was off sick, I believe, and some other matters that we
3 can't discuss in this forum, it was determined the best
4 course of action not to send the letter based on - and then
5 we went with a telephone call through --
6

7 Q. You determined that course of action with your HR
8 background and experience or others did?

9 A. Yes, and also in consult with Assistant Commissioner
10 Carlene York.
11

12 Q. I'm sorry, I did cut you off, but I was trying to
13 clarify for those in court why things were gone about in
14 this way. Moving down to specifics, you say you were told
15 by Detective Inspector Kerrie Lewis that she had a
16 telephone conversation with Detective Chief Inspector Fox?
17

18 A. That's right.
19

20 Q. In annexure I, you have attached an email from
21 Detective Inspector Kerrie Lewis from you?

22 A. I have, yes.
23

24 Q. She states that she had contacted Detective Chief
25 Inspector Fox at your request and explained the content of
26 the letter that you would like to send him via email and he
27 has stated he does not want to receive it?

28 A. Yes.
29

30 Q. She then said Detective Chief Inspector Fox said to
31 her:

32 *You can tell John Gralton that I have*
33 *already provided a vast amount of material*
34 *in the past, they would be aware what that*
35 *is and if they have misplaced or lost it,*
36 *that is their problem.*
37

38 A. Yes.
39

40 Q. Did you take that to be, in effect, a reply to the
41 request for whether there was any further information to be
42 provided?

43 A. I thought it was particularly unhelpful.
44

45 Q. And did you form the view that that meant that
46 Detective Chief Inspector Fox wasn't maintaining a position
47 that he had any other material that had not been provided

1 to the police at that point?

2 A. Yes.

3

4 Q. Why did you see that response as particularly
5 unhelpful?

6 A. If it had been the case that we had lost or misplaced
7 any files - and I'm sure it was not - but if it was the
8 case, I would expect a detective chief inspector of the NSW
9 Police to provide that information and say, "That's
10 terrible if you lost it. Here it is again." But I don't
11 think that was the case. I have nothing to confirm that
12 would be the case. I was confident that Detective Sergeant
13 Little had elicited everything that he possibly could and
14 this was nothing more than somebody asserting that they had
15 information that they didn't.

16

17 Q. Do you know if Detective Inspector Kerrie Lewis read
18 the letter to Detective Chief Inspector Fox in a formal
19 way? Her email doesn't say that she did. It says.

20

21 *I explained the content of the letter ...*

22

23 A. No, but I had a - I had a telephone call, I made a
24 telephone call --

25

26 Q. To whom?

27 A. To Kerrie Lewis.

28

29 Q. Yes?

30 A. And I say to Assistant Commissioner York:

31

32 *I spoke to Inspector Kerrie Lewis ...*

33 *Kerrie indicated Peter Fox was adamant that*
34 *he had provided all that he knew previously*
35 *and he did not want to receive anything*
36 *else from me or anyone else for that*
37 *matter. He added that he did not wish to*
38 *speak or communicate with anyone from*
39 *within the [NSW Police Force] regarding any*
40 *complaint matter either as a subject ...*

41

42 Q. Stop there.

43 A. I won't go there:

44

45 *Kerrie explained the content of the letter*
46 *and told him it was not ... [just] an*
47 *investigative issue (as per details in the*

1 letter). She said that he appeared
2 quite ...

3
4 Q. Don't worry about reading that out.

5 A. Okay.

6
7 Q. You are unable to confirm whether Detective Inspector
8 Kerrie Lewis read the letter out, but your understanding
9 was that she gave him notice of the contents of the letter?

10 A. Yes, and my recollection is that I was fairly firm in
11 saying to Detective Inspector Lewis that he really needed
12 to understand what it was about.

13
14 Q. You interpret the phone call and the note you have
15 made of it that you forwarded to Ma'am York on 24 September
16 that it appears that Detective Chief Inspector Fox
17 understood that it was about providing information and
18 providing all that he knew about the matter?

19 A. Yes.

20
21 Q. I just want to confirm, in terms of your email on
22 30 March 2012 that we were looking at previously, you said
23 you didn't speak to Detective Chief Inspector Fox about the
24 email. Did you take any other steps to disavow Fox as to
25 what appears in his email to perhaps have been a
26 misunderstanding of a direction to the effect that he's not
27 to investigate any matters related to church paedophilia or
28 talk to any victims?

29 A. I don't think I had any other discussions.

30
31 Q. Did you understand that the origin of the email that
32 Detective Chief Inspector Fox sent to you was his assertion
33 that he'd been asked by another officer who was working on
34 a church paedophilia investigation for some information?

35 A. Yes.

36
37 Q. Did you not see that that reinforced the position or
38 perhaps the misunderstanding that Detective Chief Inspector
39 Fox had that he couldn't talk to another officer about
40 church paedophilia and that led to his email?

41 A. I directed - I'm a little bit confused there, I think,
42 but I directed him to Detective Inspector Parker, who was
43 best placed, so that he could share information for the
44 benefit of the strike force. There was no suggestion
45 whatsoever that he couldn't continue to investigate, share
46 information, help progress the investigation.

47

1 MS LONERGAN: Those are my questions.

2

3 MR COHEN: Before I commence could I have a quick
4 discussion with my learned friend? I want to ask her
5 something.

6

7 THE COMMISSIONER: Yes, of course.

8

9 (Mr Cohen and Ms Lonergan confer)

10

11 THE COMMISSIONER: Do you have any questions, Mr Irving?

12

13 MR IRVING: I do, Commissioner, and I'll be very brief.

14

15 MR COHEN: I am happy to yield to Mr Irving.

16

17 <EXAMINATION BY MR IRVING:

18

19 MR IRVING: Q. You're aware Ms McCarthy submitted a
20 complaint to the PIC in April 2011?

21

22 A. Yes.

23

24 Q. And that complaint was resolved on the basis that
25 remedial action had been taken, so there was no need for
26 the complaint to be progressed?

27

28 A. The complaint was declined on the basis that Strike
29 Force Lantle was progressing successfully, as we saw, and
30 was progressing and did not - that the elements of the
31 complaint that she'd made were being addressed.

32

33 Q. I think that your letter - I don't know if you've got
34 a copy of it, but I can provide it to you --

35

36 A. I don't have it here.

37

38 Q. It uses the phrase:

39

40 *Action is currently being taken to remedy*
41 *the subject matter of the complaint.*

42

43 Do you want to see a copy of that?

44

45 A. Sure.

46

47 (Mr Irving and Ms Lonergan confer)

MS LONERGAN: My learned friend Mr Irving has just handed
me a particular letter that he would like to put to this
witness. It comprises exhibit 30. Could exhibit 30 be

1 passed down to Mr Irving and he can turn up that letter.

2

3 MR IRVING: My apologies. I didn't realise it was in that
4 document. (Document shown to witness).

5

6 Q. This is a letter of yours dated 21 June 2011. Could
7 I take you to the second paragraph.

8 A. Yes.

9

10 Q. Your exact words were:

11

12 *Action is currently being taken to remedy*
13 *the subject matter of the complaint.*

14

15 A. Can I just have a quick read, please?

16

17 Q. Certainly.

18 A. I might just take myself to the subject matter of the
19 complaint, if you don't mind.

20

21 MS LONERGAN: Commissioner, I don't wish to interrupt,
22 Mr Irving, but that document, as well as another document
23 that Mr Cohen wishes the Commission to tender, need to be
24 read by Superintendent Galton in an unhurried fashion.
25 Given Mr Cohen has just raised with me that he wants this
26 particular document tendered - it is the description of the
27 crime manager position - I should, as counsel assisting ask
28 him some questions about the document. Can I propose a
29 10-minute break to allow the witness to read those
30 documents.

31

32 THE COMMISSIONER: Yes, of course. Thank you Inspector
33 Galton.

34

35 **SHORT ADJOURNMENT**

36

37 MS LONERGAN: Commissioner, two additional documents have
38 been raised with me, hence the adjournment, to allow the
39 witness to have time to read the documents and also to
40 allow me to consider whether there was a need for me to
41 examine on them.

42

43 Could I note, for the record, that it would be very
44 helpful if parties present at the Bar table could give me a
45 little more notice than 30 seconds about documents they
46 wish to go into evidence and then there can be appropriate
47 arrangements to either lead evidence in relation to them or

1 to tender the documents at the appropriate time.

2

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It may be easier if Mr Irving continues his examination on the complaint document and then, if it suits you, Commissioner, I'll interpose myself after that to ask some questions about the crime manager duty statement.

THE COMMISSIONER: All right. Thank you, Mr Irving.

MR IRVING: Thank you, Commissioner. My apologies.

Q. Superintendent, you've read that document, the letter of 21 June?

A. I have.

Q. You accept it does use the words:

Action is currently being taken to remedy the subject matter of the complaint?

A. That's correct.

Q. You accept, in essence, the subject matter of the complaint was delay?

A. Correct.

Q. Going to the last paragraph of your letter, you make the observation.

Whilst I appreciate that you may be disappointed by this decision, I trust you understand the reason given.

A. Yes.

Q. Do you recall being contacted by Ms McCarthy by telephone after that letter was sent out?

A. I honestly can't remember whether or not I spoke to Ms McCarthy, but I'm aware that contact - she attempted contact and I was provided a message from the then acting crime manager Matthew Moroney. But I cannot recall a conversation I had with her or otherwise.

Q. You cannot comment on the proposition that she said to you:

I'm not disappointed about this complaint.

1 *I just wanted to see Lantle properly*
2 *investigated.*

3
4 Does that refresh your memory at all?

5 A. My recollection is that she told that to Matt Moroney,
6 who told that to me. I could be wrong on that, but the
7 essence of that statement is correct as told to me by
8 another officer.

9
10 MR IRVING: Thank you, Commissioner.

11
12 **<EXAMINATION BY MS LONERGAN:**

13
14 MS LONERGAN: Q. Would you mind looking at tab 183 of
15 the bundle of material in the witness box with you. That's
16 the --

17 A. Yes.

18
19 Q. It is volume 3.

20 A. Thank you.

21
22 Q. Do you have that?

23 A. I do.

24
25 Q. Is that a duty statement of the crime manager for a
26 any local area command?

27 A. No, it is what we refer to as a JSR, an investigation
28 supervisor, which applies to the duties of crime manager,
29 but it could also be used for a detective sergeant level as
30 well.

31
32 Q. Can we take from your answer that the document --

33 A. Sorry, I apologise. On this one, it does say "Chief
34 Inspector" or "Inspector". So perhaps it is not the same
35 duty statement that I just referred to - to a detective
36 sergeant. So it is to chief inspector or inspector.

37
38 Q. It sets out in general terms the duties of a person
39 performing the role of crime manager of a local area
40 command?

41 A. Yes.

42
43 Q. In the NSW Police Force?

44 A. It does.

45
46 Q. You have, in your role, supervised crime managers or
47 been their human resources manager at least? What's your

1 interface in terms of your actual knowledge of how these
2 jobs are executed?

3 A. I had a fair bit to do with crime managers when I was
4 the operations manager for northern region. I interacted
5 with them on a daily basis. I did relieve as the crime
6 manager at Lower Hunter for a period of three months and,
7 as a commander, I have very close contact with my crime
8 managers.

9

10 Q. Just going through the bullet points under the heading
11 "Position overview", which occurs about a third of the way
12 down the page, you see one of the points made is that the
13 job entails a requirement to:

14

15 *Manage all criminal investigations within*
16 *the Local Area Command and across LACs?*

17

18 A. Yes.

19

20 Q. Is the emphasis that you understand to be the
21 requirement of the position that it is a management role as
22 opposed to an active investigative role?

23

24 A. Correct.

25

26 Q. The second bullet point talks about the need to
27 provide key advice in formulating and implementing crime
28 strategy, review and evaluation of its impact. Again, is
29 that a managerial type oversighting role as possessed an
30 actual on-the-ground investigative or strategising role?

31

32 A. Definitely more managerial.

33

34 Q. The third bullet point is obvious:
35 *Manage the Crime Management Unit?*

36

37 A. Correct.

38

39 Q. The fourth bullet point raises this requirement:

40

41 *Lead and direct complex investigations as*
42 *required.*

43

44 As you're aware, this Lantle investigation was a highly
45 protected investigation and, on any analysis, it is a
46 complex and a sensitive investigation; do you agree?

47

A. Yes.

1 Q. Is there any particular distinction made in terms of a
2 crime manager's requirements to be involved in a complex
3 and sensitive investigation, such as, involving critical
4 incidents or matters of that nature?
5 A. You lost me a little bit in that question.
6
7 Q. I'll try again.
8 A. Yes. Thank you.
9
10 Q. "Complex and sensitive investigation" is a description
11 that would fit Lantle - are you with me?
12 A. Yes.
13
14 Q. The fact that these requirements mentions the need to
15 "lead and direct" such investigations, does that entail in
16 that description an aspect of on-the-ground investigation?
17 A. Not necessarily. "Lead and direct", I think, is what
18 Detective Inspector Parker does with Detective Sergeant
19 Little, for example.
20
21 Q. Is it common for a crime manager at any LAC to perform
22 that role you've just outlined Detective Inspector Parker
23 performed for Lantle?
24 A. Is that common, did you say?
25
26 Q. Is that common?
27 A. Yes.
28
29 Q. It is common?
30 A. Yes.
31
32 Q. It is common for a crime manager to carry out the role
33 Detective Inspector Parker carried out for Lantle, is it?
34 A. Yes, that's common.
35
36 Q. The critical incident matters, what does that entail?
37 A. They're matters where usually somebody has been either
38 seriously injured or even killed as a result of a police
39 operation in some way, shape or form. Often crime managers
40 will lead and direct those investigations, but the officer
41 in charge or the lead investigator may sometimes be a
42 detective sergeant. Yes, that's --
43
44 Q. All right. In terms of a particular investigation
45 being allocated to one local area command --
46 A. Yes.
47

1 Q. -- does it commonly occur that an investigation of the
2 type of complexity of Lantle is monitored or managed over
3 two different local area commands; if it is, why, and if it
4 is not, why not?

5 A. No, it is normally - normally it would be contained
6 within the one local area command. It is not - it is
7 unusual, but it would not be unprecedented for a detective
8 inspector to be brought off-line. But that is an unusual
9 occurrence that they would be take away from their
10 day-to-day responsibilities from their local area command
11 leaving that command vulnerable. In the case of Newcastle,
12 we had the fortunate position where we had two crime
13 managers.

14
15 Q. On your understanding, was the fact that there were
16 two crime managers for the Newcastle Local Area Command
17 something that meant that, in this case, Detective
18 Inspector Parker was able to have a more active role in
19 Lantle or are you not able to say whether that was in fact
20 a matter that was relevant?

21 A. I wouldn't say he had a more active role, but he
22 certainly had the capacity to lead and direct, as required,
23 Detective Sergeant Jeff Little.

24
25 Q. Were there any matters in the crime manager job
26 description document that I've just had you read in the
27 adjournment that you think would be of assistance to point
28 out to the Commissioner, in terms of your HR background or
29 any other matters you think would assist the Commissioner?

30 A. Could I just say it is an incredibly complex role to
31 be a crime manager. You have to be across many things, not
32 only the major investigations in the command, but you have
33 to be across crime prevention strategy, consultation with
34 the community. There's a whole range of different duties.
35 At Newcastle, we are lucky that we have two people
36 performing the role due to the complex nature of this
37 command.

38
39 MS LONERGAN: Those are my additional questions,
40 Commissioner, thank you. I tender this document.

41
42 THE COMMISSIONER: Thank you.

43
44 MS LONERGAN: The proper title for it, I think
45 Superintendent Galton, has given it.

46
47 Q. What is the title?

1 A. JSR. It also says - sorry no, it doesn't. It says,
2 "Also refer to JSR5"; I beg your pardon. That's not the
3 case. It is a job stream --
4

5 Q. A job stream description for crime manager. Is that a
6 fitting title?

7 A. Job description. I think you might have referred to
8 it as something like that, anyway, so job description.
9

10 Q. For crime manager?

11 A. For crime manager.
12

13 THE COMMISSIONER: The job description for crime manager
14 will be exhibit 43.
15

16 **EXHIBIT #43 JOB DESCRIPTION FOR CRIME MANAGER**
17

18 THE COMMISSIONER: Mr Cohen?
19

20 MR COHEN: Thank you, Commissioner. I take it Mr Irving
21 has finished. I apologise to Ms Lonergan and to you for
22 causing that.
23

24 THE COMMISSIONER: There is no apology required, Mr Cohen.
25

26 MS LONERGAN: I know there was no discourtesy intended,
27 nor do I suggest that there was.
28

29 MR COHEN: I understand that. It is very useful to have
30 that document exposed in that way for which I'm enormously
31 grateful.
32

33 **<EXAMINATION BY MR COHEN:**
34

35 MR COHEN: Q. I don't have many questions for you,
36 superintendent, which I'm sure will cause a number of
37 people to cheer, but can I ask you to have regard, please
38 to your statement.
39

40 First, let me put this to you: in your evidence that
41 you gave orally this morning, you referred to annexure B,
42 or you were referred to it, but in particular to the
43 provisions of your paragraphs, the burden of them, 22 and
44 24, and speaking about the events that led you to refer on
45 what I'll call the McKey memorandum on. Do you recall that
46 evidence?
47

A. I do.

1
2 Q. I'm, in fairness, trying to set the scene for you.
3 Can I ask you - I'm sorry, this is difficult, because it is
4 a rather small witness box - you have a volume in front of
5 you. I believe it is volume 3; is that right? I would be
6 very grateful if you could close that and return it to its
7 place. I think you have a need for volume 2. When you've
8 got that, would you go to tab 62. Do you have volume 2?
9 My apologies, they're out of order. Tab 62 should be very
10 close to the front, almost the first one, I suspect.
11 A. Yes.
12
13 Q. It is the nature, I'm afraid, in a matter that
14 involves many, many documents like this that there's a
15 certain amount of navigation around them. So that it is
16 fair to you and everybody is, as it were, on the same page,
17 can I ask you to look at your own statement and at the same
18 time - I'm sorry if there is a juggling exercise required.
19 A. That's okay.
20
21 Q. You include as your annexure H, I think it is - I'm
22 sorry, I've lost the reference to it. Excuse me. I'm
23 sorry, it is your annexure B.
24 A. Yes.
25
26 Q. You include what, I suppose, is the initiating
27 document or the cover sheet over the top of the file, what
28 I think has been referred to in other evidence as the
29 green?
30 A. Yes.
31
32 Q. Do you see your annexure B, the one that has your
33 comments on it, which is the McKey memorandum of
34 5 September 2010, has a TRIM number at the very top of it.
35 I'm sorry, you don't have it. I beg your pardon.
36 A. I'm sorry.
37
38 Q. It is annexure B. It is page 15 in the document.
39 A. Thank you.
40
41 Q. You have got it?
42 A. Yes, I do.
43
44 Q. Do you see the document?
45 A. I do.
46
47 Q. That's is it, isn't it?

1 A. Yes.
2
3 Q. Do you see there's a TRIM number at the top?
4 A. Yes.
5
6 Q. And that is D/2010/133845. Are we agreed about that?
7 A. Correct.
8
9 Q. That TRIM number, as I understand matters, corresponds
10 to the handwritten number but with the same effect, on the
11 top of the page, the first page in tab 62, page 244; is
12 that right?
13 A. Yes.
14
15 Q. That first page I'm looking at in that bundle in and
16 behind tab 62 is the ministerial memorandum that, in
17 effect, kicked off the green that you got and dealt with;
18 is that so?
19 A. Correct.
20
21 Q. Just so that it is clear for everybody, there can't be
22 any doubt because the TRIM numbers line up and these two
23 documents, even though they're disembodied across a number
24 of different things like your statement and this bundle,
25 would ultimately have come together under this green; is
26 that right?
27 A. They appear to be, yes.
28
29 Q. Could I ask you to look, please, at the memorandum
30 that's behind tab 62 and over which your countersigned
31 memorandum in the chain of command is directly relevant.
32 It is to the Commissioner's Secretariat. I take it that
33 means to the Commissioner of Police?
34 A. Yes.
35
36 Q. It is from the liaison unit in the minister's office,
37 and I assume that meant, presumably, the Attorney General
38 or the Minister for Justice; is that right? It is likely
39 but I'm not sure. Would you have any idea?
40 A. Possibly Minister for Police, but --
41
42 Q. Minister for Police, did you say?
43 A. Yes, possibly Minister for Police or Minister --
44
45 Q. In any event, it would be the responsible minister, if
46 I can use that phrase?
47 A. Yes.

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Q. With appropriate ministerial oversight of something such as the police --

A. Yes. Well, it says Ministerial Liaison Unit.

Q. That document identifies - it's got a rubber stamp on it 12 August, and it says, "Ministerial correspondence from [BG]." [BG], by the way, is an acronym on the list. It matters not who [BG] is for these purposes -- -

A. Okay.

Q. -- but it was from a person who has now been anonymised in that way. As you can see the document identifies that the minister has received correspondence from [BG]. The observation then is that the matter is forwarded - the minister had referred it to the Commissioner, Commissioner Scipione. Then the minister is forwarding it for information and referral to the relevant command for consideration and appropriate attention.

There is a further observation, or perhaps instruction or suggestion, however you want to characterise it, and apart from noting a copy of the parliamentary secretary's letter is attached, the burden of what I want to put to you is this: the final sentence says:

Please note that the Ministerial Liaison Unit does not require a report in relation to this matter.

Then there is just an observation that the signatory of the letter can be contacted by some external extension for inquiries. I assume that reference is to a telephone number?

A. Yes, that's Eaglenet, 45276, a phone number.

Q. An internal phone system?

A. Yes.

Q. Thank you. That means, doesn't it, that the minister's office wasn't either looking for any specific response or for this to go anywhere. That must mean, I take it, that this document is not something that was, in the scheme of things, red hot urgent. It was referred for action if any action was required; is that right?

A. That's right. It's not unusual to see that comment at the bottom of a ministerial liaison file note.

1
2 Q. It is unusual?
3 A. It is not unusual?
4
5 Q. That presumably pushes it right down the list of
6 priorities, I assume.
7 A. I wouldn't suggest that.
8
9 Q. Pardon me?
10 A. I wouldn't suggest that, but it doesn't demonstrate
11 that it is urgent.
12
13 Q. Accordingly, if somebody like DCI Fox got this on the
14 last day of his period before he was about to go on leave,
15 in the way of - that's badly worded. Let me start again.
16
17 Your green had these documents ultimately attached to
18 it. It came to you from Detective Sergeant McKey, started
19 its journey from Detective Sergeant McKey on 5 September,
20 I think it got to you - this is the document in your
21 statement at page, ultimately, 16 - in terms of the chain
22 of command materials by the look of it, I think I'm right
23 in saying, 9 September?
24 A. I normally deal with correspondence on the day, so --
25
26 Q. Yes. It made its way through the various people in
27 the chain of command, as you can see there. You got it,
28 you forwarded it on. It would appear from the evidence
29 that Detective Chief Inspector Fox, who was the ultimate
30 recipient of this through his commander, got it on
31 16 September of that same month in 2010, and that happened
32 to be the day that he was on his last day of work before he
33 was going away for leave for four weeks.
34
35 I assume, in those circumstances, given the notation
36 on the memorandum and the way that it was forwarded on and
37 there being no notation in the relevant comments from
38 officers such as yourself in the chain of command that, "by
39 the way this is something that requires real urgency", the
40 fact that it sat in his office for a month while he was on
41 leave is not something that could be regarded as a matter
42 for great displeasure in the chain of command, do you
43 think?
44 A. I don't have what commander - it what have been
45 Haggett, I believe at the time. I don't have --
46
47 Q. Yes. I regret that's all we've got.

1 A. Okay. It would depend on what Commander Haggett
2 decided was to occur from that point. This is a document
3 that went through the chain of command. It was sent over
4 there for his attention and Commander Haggett would be the
5 one, then, to determine when and how it would be responded
6 to, I would imagine.

7

8 Q. You are in a cognate position at this stage, and
9 presumably now, but at this stage certainly in 2010, you
10 were in a cognate position --

11 A. What's a "cognate", sorry?

12

13 Q. I am sorry, a directly relevant and related position.
14 He was commander of Port Stephens. You were commander of
15 Lower Hunter?

16 A. Yes, the Central Hunter.

17

18 Q. I beg your pardon. Thank you for that. You were
19 doing much the same job, just in different physical
20 locations in different LACs, but you had the same sorts of
21 interests and a daily slate of responsibilities and matters
22 to discharge; is that right?

23 A. Yes, pretty much so.

24

25 Q. Having regard to that, and I know it is a bit
26 difficult, I take it, given your comments on this, given
27 you were the commander of Lower Hunter, sending this on to
28 Port Stephens, it seems fair to assume that Commander
29 Haggett would observe and respond in much the same fashion
30 as you did?

31 A. I don't know how he would respond. I would expect.

32

33 MR SAIDI: Whatever this witness's opinion may be, the
34 memorandum itself says that the matter is forwarded for
35 referral to the relevant command for consideration and
36 appropriate attention. So it is to Commander Haggett.
37 He's the commander of the relevant command, not this
38 witness.

39

40 MR COHEN: I'm not suggesting otherwise.

41

42 MR SAIDI: This witness's evidence is irrelevant. It is
43 Commander Haggett who makes the determination.

44

45 THE COMMISSIONER: Mr Cohen is just asking Mr Galton
46 about comparisons between the duties, is that right, of
47 commanders?

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MR COHEN: In fairness, so that all are clear and so that, most importantly, you understand, Commissioner, as to my forensic purpose here, Commander Haggett is not available, but Commander Gralton is, and it does not seem to me - I'll clearly be guided by your ruling - to be an impermissible question.

THE COMMISSIONER: I will allow you to ask it, Mr Cohen.

MR COHEN: Q. Given the fact that Commander Haggett is not here to answer directly, having regard to the practice of daily life of a commander in a LAC, it is likely his view, if not directly established, would be similarly conceptually to yours, would it not, in these circumstances?

A. I can't answer that question, but I can tell you what I would expect.

Q. Please. What would you do?

A. I would expect my crime managers to advise me of the nature of a ministerial file like this if they couldn't attend to it for a month or more.

Q. So, if possible, in the circumstances of the exigencies of the day, if that happened, we just don't know, that is to say, there was a discussion between DCI Fox and --

MR SAIDI: I object.

THE WITNESS: How can I answer that question?

MR SAIDI: I object. We do know. We know that DCI Fox did not bring it to the attention of Haggett on his evidence.

MS LONERGAN: Commissioner, that's my reflection of the evidence as well.

THE COMMISSIONER: Thank you.

MR COHEN: I stand corrected. I'm happy not to pick a fight about that.

Q. Do you know in relation to this file as to whether or not you got a response from, at any stage, Commander

1 Haggett about it?
2 A. I wouldn't expect one.
3
4 Q. You were also asked in your evidence about the
5 document that is annexed in your statement - the bundle you
6 can put away now. We're done with that.
7 A. Yes.
8
9 Q. That might give you more room and make it more
10 convenient in the witness box.
11 A. Thank you.
12
13 Q. You were asked about the email request and response
14 that you received from DCI Fox and to which you responded
15 and that's your - I'm sorry, Superintendent Gralton, I do
16 apologise. I've just lost the reference in the back of
17 your --
18 A. I think it is E.
19
20 Q. I beg your pardon?
21 A. I think it is E.
22
23 Q. I'm much indebted to you. You're quite right.
24 Indeed, E has, in substance, two parts. You have a copy of
25 the original email without any commentary, pages 24 and 25?
26 A. Yes.
27
28 Q. And then your responses, 22, 23. Again in the nature
29 of these things, the later in time comes first in that
30 sequence?
31 A. Yes.
32
33 Q. You were asked about this and your understanding?
34 A. Mmm.
35
36 Q. I put it to you, superintendent, you must accept that,
37 to use your phrase, it was - I think you said you kept it
38 "short and sweet". That was your phrase. I don't want to
39 misquote you, but that's what I recall you said about this?
40 A. Yes, I did.
41
42 Q. Quite a simple response. Can I put it to you that in
43 the circumstances of quite a detailed request - and by that
44 I mean what is found at pages 24 and 25 of your statement,
45 the original email, where the introductory statement made
46 in the very beginning identifies submissions that were made
47 by DCI Fox with victims and then goes on to say he was

1 directed.

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*... to surrender all the documentation
I had, including victim statements, cease
any involvement in church paedophile
investigations or dealings with victims.*

I put it to you that your response to that, was simply to say - in response to the ultimate question "Are all directions given by me still in force?", your response, which was in your phrase short and sweet, was:

*Yes until lifted the direction remains in
place.*

There was no other basis for Detective Chief Inspector Fox than thinking everything he said in his email to you was a direction in force; that is to say, he was indeed to cease any involvement in church paedophilia investigations. What else could he think in those circumstances?

MR SAIDI: I object. I didn't take this objection earlier, but in view of these matters being put by Mr Cohen, can I remind the Commission that the evidence given by DCI Fox himself was that he understood the direction was limited to Strike Force Lantle; he understood that he was not directed to cease all other investigations; he was not directed to cease any investigations into church-related paedophilia activities. That's his evidence. However he expresses his email request may be one thing, but to suggest, based on DCI Fox's own evidence, that he never understood that to be the position, is somewhat misleading.

MR COHEN: I certainly would never, never countenance misleading anybody. I genuinely do not recall that being the evidence. If my friend says it is, I would be indebted if he would take us to it.

MR SAIDI: I would be quite happy to do that if it means that the situation be remedied that there be any belief formed by this Commission that DCI Fox was under any misapprehension as to what the instruction, direction, or whatever one wants to call it, was given to him. If my friend wants to leave this topic for the moment I'll give him the exact references.

1 MR COHEN: In the transcript I'm talking about.
2
3 MR SAIDI: In the transcript.
4
5 THE COMMISSIONER: All right. Isn't the fundamental
6 question what Commander Galton meant when he spoke about
7 the direction?
8
9 MR COHEN: Yes, I would --
10
11 THE COMMISSIONER: Because it is very hard to say what the
12 recipient of this response may have understood by it.
13
14 MR COHEN: No, it wasn't what Detective Chief Inspector
15 Fox understood about it, but what the words conveyed to the
16 ordinary reasonable reader. Maybe I should put that
17 question to him.
18
19 THE COMMISSIONER: Very well, Mr Cohen.
20
21 MR COHEN: Q. Anyone, whether it be DCI Fox, the
22 Commissioner or any third party reading this email - that
23 is the response by you to DCI Fox in response to his
24 request to you of 28 March 2012 - could not think otherwise
25 than what was stated in the body of the email was being
26 responded to "Yes, that's all in place; the direction
27 remains in place in respect to all of it"?
28 A. I don't know what other people might think. I have
29 satisfied myself as to what the directions that had been
30 given were. In Mr Fox's response, he said, "Thanks
31 Mr Galton. I'll contact Detective Inspector Parker today
32 about all of the issues." From that, I was satisfied that
33 he was satisfied, on the directions that had been given on
34 that day, which, as Mr Saidi has rightly indicated, were
35 given in evidence by Mr Fox during these proceedings, and
36 I do recall that.
37
38 Q. We'll come back to that because, in fairness, we don't
39 have the transcript and unless and until we have, it is not
40 fair --
41 A. I think it was on day one or day two.
42
43 Q. Pardon?
44 A. I think it was on day one or day two, Mr Cohen.
45
46 Q. That may well be, but that's not what I mean. I meant
47 the detail of the evidence and, in the absence of it,

1 I won't pursue this any further.

2

3 MS LONERGAN: I could assist with one transcript reference
4 and that may well be the one that Mr Saidi is talking
5 about. I think it is just one of a number that deal with
6 the subject matter. It is at page 147 of the transcript on
7 day two, and I'll keep looking for any others that may
8 assist Mr Cohen.

9

10 THE COMMISSIONER: Thank you, Ms Lonergan.

11

12 MR SAIDI: On that, my recollection is that it wasn't said
13 on one occasion, but it was said by Detective Chief
14 Inspector Fox on a number of occasions.

15

16 MS LONERGAN: That's right. That accords with my
17 recollection, Commissioner.

18

19 MR SAIDI: At Mr Cohen's invitation, I refer to pages 144
20 to 145 as well:

21

22 *Q. Did Superintendent Mitchell say to you*
23 *that you were to not investigate anything*
24 *to do with church paedophilia?*

25

A. No.

26

27 *Q. He didn't say, "You are not to talk to*
28 *any other officers in the police force*
29 *about church paedophilia"?*

30

A. No.

31

32 MR COHEN: I'm indebted to my friend. I don't need any
33 further instruction on that. I understand the burden of
34 the evidence. I can't pursue that.

35

36 THE COMMISSIONER: Thank you, Mr Cohen.

37

38 MR COHEN: May I say, Commissioner, I genuinely didn't
39 recall it. Thank you, Commissioner, I have no other
40 questions.

41

42 THE COMMISSIONER: Ms Single, do you have any questions?

43

44 MS SINGLE: No, thank you, Commissioner.

45

46 THE COMMISSIONER: Mr Saidi?

47

48 MR SAIDI: Thank you, Commissioner.

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<EXAMINATION BY MR SAIDI:

MR SAIDI: Q. Do you still have exhibit 30 there in front of you?

A. Exhibit 30? This one?

Q. Yes.

A. Yes.

Q. I just want to take you to the sequence of events in relation to it. On the second page, do you see there an email from Matthew Moroney to yourself at 14.37 on 15 July?

A. I do.

Q. It refers to a photocopy message from Joanne McCarthy?

A. Correct.

Q. While you were out?

A. Yes.

Q. It was in that email, it was indicated to you via Matthew Moroney that apparently Ms McCarthy wanted to relay to you that she was not disappointed in the decision to decline the complaint?

A. That's what it appears from Mr Moroney.

Q. That, of course, was what was passed on to you?

A. Yes.

Q. Would you go to the next email, 15 July 2011, at 15.50?

A. Yes.

Q. Sorry, I misled you. The next one is at 2.52pm "Re phone message from McCarthy." That's where you respond to Mr Moroney; is that so?

A. Yes, that's right.

Q. And then there's a further email where, perhaps somewhat jocularly, Mr Moroney advises you or refers again to being thanked for declining the complaint?

A. That's right.

Q. Is that what you're referring earlier to in your evidence as to how the matter was dealt with?

A. That's right, yes.

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Q. I just want to deal with a couple of other issues with you if I may. The term "Catholic mafia" has raised its head during the course of this Special Commission of Inquiry. Prior to evidence being given prior to the inquiry, evidence of which you are aware, had you heard of that term before?

A. No, I had not.

Q. Whether you were aware of the term before or not, did you have any belief or suspicion one way or the other as to whether or not there was such a group of people within the NSW Police Force who comprised or could be considered to comprise a Catholic mafia?

A. Absolutely not.

Q. Or indeed any interaction between the police and the members of the church?

A. Not at all.

Q. Evidence has been given during the course of this inquiry relating to the leaking of information by a police officer to a member of the media, unbeknown to police officers involved in a strike force conducting the investigation. In terms of your experience as a police officer over the years, do you have a view about the appropriateness or otherwise of such conduct taking place?

A. I think it demonstrates a clear lack of integrity. I think it demonstrates a clear lack of professionalism, and I think it only goes to damage an investigation and affect victims in any such matters.

Q. How and why do you say it affects victims in any such matters?

A. If people are leaking information that served to or can damage an investigation, or if there are details that are getting out and about in the media, certainly potential prosecutions could be affected and victims' privacy.

Q. Another piece of evidence presented during the course of this Special Commission of Inquiry relates to a suggestion by DCI Fox that he was deliberately excluded from the investigation of Strike Force Lantle. From your knowledge of the operation of the strike force, your interaction with the police officers who were involved in it as well as other senior officers, what do you say about that suggestion?

1 A. My information is that Mr Fox was asked repeatedly for
2 information to assist this strike force, to assist the
3 investigation into all of these matters. He gave some
4 information, but he purported quite publicly that he had
5 explosive information to give, and that explosive
6 information has never been forthcoming as far as I'm
7 concerned. The matters that - the information that he has
8 given, Detective Sergeant Little and Detective Inspector
9 Parker have informed me that some of the information was of
10 assistance, but anything more, in 2012 at least, has done
11 nothing to further - no fresh information, nothing to
12 progress the investigation any further than it was already
13 being very, very professionally handled by Detective
14 Sergeant Little.

15
16 Q. At any time during the course of your interaction with
17 the officers involved with Strike Force Lantle - and I'm
18 referring in a general sense but also specifically if I put
19 these names forward - such as Inspector Humphrey and,
20 indeed, any other senior officers, was there any
21 suggestion, whether indeed very slight or indirect, that
22 DCI Fox was being excluded for reasons other than suspected
23 leaking to the media?

24 A. No, that's correct. I was going to say that only to
25 the point where there were suggestions that he was leaking
26 information.

27
28 Q. The strike force elected Detective Sergeant Little as
29 the officer in charge after Kirren Steel went on sick
30 leave. Firstly, what knowledge did you have of Detective
31 Sergeant Little and what can you say about the
32 appropriateness of the selection of him?

33 A. I didn't have a great deal of knowledge of Detective
34 Sergeant Little. I had dealt with him on another matter,
35 but, in relation to that and any dealings that I had with
36 him, I describe Detective Sergeant Little as very
37 professional, an officer of immense integrity and very
38 intelligent and certainly a fantastic selection to lead
39 what has been a very complex, difficult investigation and
40 that he has, as we've heard in evidence at this hearing,
41 provided an exceptional brief of evidence.

42
43 Q. In terms of DCI Fox's, if I can use the term
44 enthusiasm, or lack of enthusiasm, however one describes
45 it, to help the officers attached to Strike Force Lantle,
46 based on your experience and your direct knowledge, what
47 can you say about that?

1 A. I'm now aware of some email correspondence between
2 Detective Chief Inspector Fox and Ms McCarthy where he'd
3 even made a comment that John Galton could go to hell if
4 they've lost or misplaced documents. Not that that was
5 true, regardless, that fact indicates to me he was being
6 particularly unhelpful at that time, and I don't understand
7 his motivation. I think that Detective Chief Inspector
8 Fox, if he had done what he ought do as a crime manager, as
9 a detective inspector of the NSW Police, and shared
10 whatever explosive information that he had or has, that was
11 the only way that this - he could have been helpful in
12 progressing this investigation. That has not been
13 forthcoming, as far as I'm aware.

14
15 Q. I'm going to deliberately lead you through some of
16 this in the next series of questions. You went to a
17 Catholic school when you were young?

18 A. I did.

19
20 Q. In terms of any information that was forthcoming to
21 you as a result of your own knowledge and experiences, did
22 you pass that information on to Detective McLeod at Strike
23 Force Georgiana?

24 A. I did.

25
26 Q. I don't want to restrict you. If you want to
27 elaborate, please feel free.

28 A. I will. I was assaulted by a priest in front of
29 40 students and I provided a statement in regards to that
30 to Detective Senior Constable MacLeod.

31
32 Q. Did you also provide information about other potential
33 victims?

34 A. I did. I gave details of probably five or six other
35 friends of mine who were indecently assaulted - to
36 investigators.

37
38 Q. Let me ask you this general question. What would you
39 say to any suggestion, whether made by DCI Fox or anyone
40 else, that you would be a party to cover-ups in terms of
41 reporting matters?

42 A. It couldn't be further from the truth. It is fanciful
43 and offensive at its highest.

44
45 Q. What would you say to any suggestion that you would be
46 involved in allowing a less than adequate investigation to
47 be carried out?

1 A. Couldn't be further from the truth.
2
3 Q. Do you want to elaborate on that?
4 A. I feel - every time I see a paedophile hit the dock
5 and charged with serious matters in relation to child
6 paedophilia, I celebrate that, and I find any suggestion
7 that any senior police officer in this region would do
8 anything to stop an investigation - I find that abhorrent,
9 both the offences and the suggestion that anything was
10 concealed.
11
12 MR SAIDI: That's the evidence.
13
14 THE COMMISSIONER: Thank you, Mr Saidi. Ms Lonergan?
15
16 MS LONERGAN: No re-examination, thank you, Commissioner.
17
18 THE COMMISSIONER: Q. Commander Gralton, thank you very
19 much for your evidence. You are excused.
20 A. Thank you, Commissioner.
21
22 MS LONERGAN: Commissioner, would that be a convenient
23 time? We have only one remaining witness.
24
25 <THE WITNESS WITHDREW
26
27 SHORT ADJOURNMENT
28
29 MS LONERGAN: I call Kristi Lee Faber, detective sergeant.
30
31 <KRISTI LEE FABER, sworn: [11.43am]
32
33 MR WILLIS: Commissioner, I apologise. Mr Cohen expected
34 that he would be able to go to the bank and be back in
35 time. My client has left the hearing room to see if he
36 could call him.
37
38 THE COMMISSIONER: Thank you, Mr Willis.
39
40 MR SAIDI: I was going to ask Mr Willis how long does it
41 take to wheel a wheelbarrow back.
42
43 Could it be noted with this witness that I take the
44 usual or seek the usual protection.
45
46 THE COMMISSIONER: Thank you, Mr Saidi.
47

1 Mr Willis, did you wish us to wait until Mr Cohen
2 returns?
3
4 MR WILLIS: Could we at least wait until my client returns
5 and he may have some news?
6
7 MS LONERGAN: I'm content with that, Commissioner.
8
9 MR WILLIS: No news, I'm afraid, Commissioner. My
10 client's call went through to Mr Cohen's voicemail. I have
11 no news on that. He wasn't expecting to be long.
12
13 THE COMMISSIONER: All right. Perhaps we'll just twiddle
14 our thumbs for a minute to see if he's on his way through
15 the door.
16
17 Q. I'm very sorry, Detective Sergeant Faber, it must be
18 difficult sitting in the hot seat waiting.
19
20 MR WILLIS: Commissioner, at the risk of losing another
21 body, would you excuse me for a moment? I will see if
22 I can locate him.
23
24 THE COMMISSIONER: Of course, Mr Willis.
25
26 MR WILLIS: Thank you.
27
28 (Mr Willis leaves the hearing room)
29
30 (Mr Cohen and Mr Willis return to the hearing room)
31
32 MR COHEN: I apologise.
33
34 THE COMMISSIONER: No harm done, Mr Cohen.
35
36 MR COHEN: I'm grateful, Commissioner. I'm indebted to
37 you.
38
39 THE COMMISSIONER: Yes, Ms Lonergan.
40
41 MS LONERGAN: Thank you, Commissioner.
42
43 <EXAMINATION BY MS LONERGAN:
44
45 MS LONERGAN: Q. Detective sergeant, is your full name
46 Kristi Lee, L-E-E, Faber?
47 A. Yes, it is.

1
2 Q. You prepared, with the assistance of your lawyers a
3 statement, dated 8 May 2013?
4 A. Yes, that's correct.
5
6 Q. I'll hand a copy up to you for use in the witness box
7 and a copy for the Commissioner.
8 A. Thank you.
9
10 Q. If you wouldn't mind running your eye over it, you
11 will note there are certain redactions within it to protect
12 the names of persons who are the subject of current
13 criminal proceedings. There have also been various
14 redactions regarding matters that were determined to not
15 relevant to the work of the Special Commission of Inquiry.
16 Other than those redactions, is the statement true and
17 correct, to the best of your knowledge?
18 A. Yes, it is.
19
20 Q. Thank you. You're a detective sergeant of police
21 currently serving at the Lake Macquarie Local Area Command?
22 A. That's correct.
23
24 Q. You were attested as a police officer in 1992?
25 A. Yes, that's correct.
26
27 Q. You commenced your general duties shortly after your
28 attestation, moving in 1994 to criminal investigation?
29 A. That's right.
30
31 Q. Did those criminal investigations in the initial few
32 years prior to you being promoted to detective in 1999
33 include investigations of sexual offences against children?
34 A. Yes, they did.
35
36 Q. Is it the position in the NSW Police Force that female
37 police officers and female investigators often have an
38 aspect assigned to them of terms of investigating sexual
39 offences particularly regarding children?
40 A. Yes, that is correct. A lot of people who come in do
41 prefer to speak to female police officers, so it is more
42 likely that we take statements and then we continue the
43 investigation.
44
45 Q. You were promoted to detective in 1999. You shifted
46 to Lake Macquarie Local Area Command in 2001; correct?
47 A. No, no, that was end of March, beginning of April

1 1999, to Lake Macquarie, yes.

2

3 Q. Prior to that, you worked in Sydney - or other places?

4 A. I worked at Maitland for a short time and then, prior
5 to that, I worked at Bankstown and Campsie detectives.

6

7 Q. Your direct line supervisor, if that's the right term,
8 from the time you joined Lake Macquarie, was that Detective
9 Chief Inspector Waddell?

10 A. When I first started there in 1999, it was Detective
11 Chief Inspector Henderson; then it was Detective Chief
12 Inspector Brad Tayler; and then it was Detective Inspector
13 Waddell, primarily. We had a couple of people come in for
14 very short times to relieve, but they're primarily.

15

16 Q. Detective Inspector Waddell, when did he start being
17 your supervisor?

18 A. It was after Georgiana commenced, but it was probably
19 late 2008 or by about August, maybe, September 2008.

20

21 Q. With Detective Inspector Tayler, did he supervise you
22 in the period he was your supervisor in relation to any
23 investigations of sexual abuse on the part of officials of
24 the Catholic Church?

25 A. Yes, he did. He was my direct line supervisor in
26 relation to Strike Force Georgiana.

27

28 Q. I'll just ask you a few questions about him and I'm
29 move back to Detective Inspector Waddell shortly.

30 A. Yes.

31

32 Q. Did you at any time encounter any resistance on the
33 part of Detective Chief Inspector Tayler to properly
34 resource and pursue investigations of suspected sexual
35 abusers from the Catholic Church?

36 A. Absolutely not. He was instrumental in assisting us
37 set up Strike Force Georgiana and without his assistance,
38 we never would have got off the ground.

39

40 Q. Turning now to - is it Detective Inspector Waddell
41 or --

42 A. Detective Inspector Waddell.

43

44 Q. Did you encounter any resistance on his part to
45 properly resourcing and pursuing investigations of
46 officials of the Catholic church, in terms of sexual abuse
47 offences?

1 A. Again, absolutely not. He was instrumental in the
2 large success of Strike Force Georgiana in continuing to
3 resource us and continuing to support myself and all of our
4 investigators both - might I say mentally as well, but
5 supported us through the entire investigation and resourced
6 us through the entire investigation.

7
8 Q. In paragraph 7 of your statement, you refer to an
9 award that you received - most outstanding female
10 investigator - from the Austral media outlet and the
11 Australian Council of Women in Policing?

12 A. Yes, that's the Australasian Council of Women in
13 Policing.

14
15 Q. Was that related to investigations of child sexual
16 abuse type matters or was it a broader award?

17 A. From my understanding, it related primarily to
18 Strike Force Morey, which was an historical sexual assault
19 investigation but also related to a child homicide and an
20 armed robbery.

21
22 Q. So not related to investigation of child sexual abuse
23 regarding officials of the Catholic Church in particular?

24 A. No, not at --

25
26 Q. Strike Force Georgiana commenced in September 2007,
27 and you make that comment in your statement in paragraph 8.
28 Prior to Strike Force Georgiana being officially set up in
29 September 2007, did you take part in any investigations of
30 allegations of paedophile activity by any officials of the
31 Catholic Church?

32 A. The Catholic Church, no.

33
34 Q. But you carried out investigations into other
35 paedophile activities by other persons outside the Catholic
36 Church?

37 A. Other organisations, other religious organisations,
38 other persons.

39
40 Q. Are the terms of reference of Strike Force Georgiana
41 annexed to your statement, annexure A, if you wouldn't mind
42 just turning to those? My copy isn't perfect, but it
43 appears that the date on the second page of that terms of
44 reference document is 18 September 2007. Am I reading that
45 correctly?

46 A. Yes. That's possible, yes.

47

1 Q. But your recollection is it happened to be set up in
2 that formal way in September 2007?
3 A. Yes, that's right. But I wasn't actually on the
4 strike force at that time.
5
6 Q. The terms of reference appear, and I appreciate you
7 weren't a part of the strike force at the time, to be very
8 general to investigate "Not for publication 4", which is
9 the pseudonym the person has, in relation to allegations of
10 child sexual assault?
11 A. That's correct.
12
13 Q. Is it the position that, as the investigations
14 proceeded, there had to be some widening of the scope of
15 the investigation to investigate additional alleged
16 offenders that were related to [NP4]?
17 A. That's correct, yes.
18
19 Q. Did you encounter any resistance in widening the
20 investigation in that way?
21 A. No; on the contrary I had a lot of support from
22 varying LACs.
23
24 Q. It is the position, is it, that on application or on
25 request from serving officers, management can choose to
26 widen investigations without changing the terms of
27 reference?
28 A. Yes, that's correct.
29
30 Q. They can choose to widen the terms of reference and
31 broaden an investigation?
32 A. They can do that too, yes.
33
34 Q. And they can also choose to narrow the investigative
35 parameters if thought to be appropriate?
36 A. Yes. That would come in consultation with myself and
37 a crime manager.
38
39 Q. I was about to come to that. Those decisions are made
40 at a level where there's an assessment of the importance of
41 the matters being pursued?
42 A. Yes, I would put the information to them, what I would
43 want to do and then make the decision whether we would go
44 ahead and investigate.
45
46 Q. You've heard the expression "mission creep" being used
47 by some of the officers who have given evidence before this

1 Special Commission, or you may not have been in court?

2 A. No, I haven't.

3

4 Q. Have you heard that term --

5 A. No.

6

7 Q. -- and do you have any particular understanding of
8 what it means?

9 A. No.

10

11 Q. In terms of your statement you have, under the heading
12 "Resourcing of Strike Force Georgiana", set out and
13 outlined some information in paragraph 16 to paragraph 35
14 of your statement. First of all, can I ask you this: your
15 preparation of the statement where you set out the details
16 in that way, the resourcing of Strike Force Georgiana, was
17 prepared in response to a particular request from the
18 Special Commission of Inquiry?

19 A. Yes, it was.

20

21 Q. In the same way, your setting out of the status
22 briefly of Strike Force Georgiana and its operations was
23 also in direct response to a request from the Special
24 Commission of Inquiry to do so?

25 A. Yes, it was.

26

27 [Transcript suppressed from page 1629, line 27 to line 44]

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44 Q. The second matter I'll draw to your attention in terms
45 of the questions I'll now move into is: for the benefit of
46 those present in court, some of the material in your
47 statement has been redacted because it is relevant to

1 ongoing police investigations, so there have been certain
2 redactions to your statement to protect those ongoing
3 investigations.

4 A. Yes.

5
6 [Transcript suppressed from page 1630 line 6 to line 16]
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18 MS LONERGAN: Q. I'll just ask a few general questions
19 about the part of your statement that deals with the
20 resourcing of Strike Force Georgiana. I've already asked
21 introductory questions in terms of the particular officers
22 who supervised you at different stages.

23 A. Yes.

24

25 Q. In paragraph 17 of your statement you talk about the
26 early stages of the investigation related to Strike Force
27 Georgiana. Was your role at those early stages actively
28 investigating or were you more supervising the progress of
29 investigations of more junior officers?

30 A. No, I was actively investigating, but I was also
31 actively investigating a number of other matters, whereas
32 the officers on it were purely on the strike force.

33

34 Q. At that early stage you refer to in paragraph 17, was
35 the focus on one particular Catholic priest or were there a
36 number that were being looked at at that time or did it
37 develop?

38 A. In the early stages, it developed virtually
39 immediately to others.

40

41 Q. To other Catholic priests?

42 A. Other Catholic priests and other persons.

43

44 Q. And other persons? Did you encounter any resistance
45 from those who supervised you to pursue the lines that
46 involved other Catholic priests?

47 A. No, on the contrary.

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Q. Did you encounter any resistance in relation to pursuing lines of inquiry that were related to lay persons or non-Catholic priests?

A. I have never had any resistance whatsoever.

Q. In paragraph 23, you outline that there were a number of different phases to Strike Force Georgiana. You also set out the investigators who were attached to those investigations. You do so to identify that there was various persons provided to properly resource the investigation.

A. Yes, that's right. When I actually set out the phases, they're not official phases. Strike Force Georgiana is one long-running investigation.

[Transcript suppressed, page 1631, line 17 to 19]

Q. In paragraph 25, you mention that a request for assistance for staff from State Crime Command was submitted and rejected. Do you know why that was rejected?

A. That was in the early phase. That wasn't whilst we were going. That was very, very early and, no, I'm not, that's not at my level.

Q. Have you subsequently obtained assistance, on occasion, from the State Crime Command in parts of Georgiana where it was thought to be appropriate that that assistance be provided?

A. No. The State Crime Command hasn't worked on Georgiana, but I have worked with them many times before.

Q. And staff at the State Crime Command are available for consultation should something come up that you need assistance with, at least on an informal level?

A. Yes, most definitely. I liaise with Detective Inspector Paul Jacob on numerous matters.

Q. In paragraph 26, you talk about there being a process of consultation with the then northern region commander Shearer and others about obtaining further resourcing at one particular stage for Georgiana. Do you see that in paragraph 26?

A. Yes, that's correct.

1 Q. And that led to the securing of another officer?

2 A. Yes, that's correct.

3

4 Q. Can you assist the Commissioner with whether that
5 escalation up was supported by those who supervised you at
6 Lake Macquarie?

7 A. Yes, it was. By that time, by the time I got to
8 meeting with Ma'am Shearer and getting more officers, we
9 had already had support from the Newcastle Local Area
10 Command. They readily supplied us with two investigators
11 to continue to investigate matters that were crossing over
12 our borders.

13

14 Q. I'm going to move to the part of your statement where
15 you have set out some matters regarding Strike Force
16 Georgiana's operations, including a table of de-identified
17 or largely de-identified persons who have been convicted of
18 offences involving paedophilia. Is that a fair summary of
19 the table that appears in paragraph 40?

20 A. These are offenders that have been convicted, have
21 been convicted and are now before the court again, or are
22 primarily before the court for the first time. So there's
23 a mixture in that.

24

25 [Transcript suppressed, page 1632, line 25 to line 30]

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31

32 Q. You may be aware, and let me know if you're not, that
33 there has been an assertion made that there's some
34 resistance to pursuing crimes of concealing of child sexual
35 abuse on the part of some elements in the NSW Police Force.
36 Are you aware that that assertion has been made?

37 A. I am aware of that, and I take that as offensive
38 because police see child sexual assault or the covering up
39 of child sexual assault as an offence akin to murder. It
40 is an offence that we investigate to the fullest and
41 I think we show that here.

42

43 Q. I'm going to move now, in very broad terms, to the
44 involvement of Detective Senior Constable Shaun McLeod.
45 Are you aware that there have been allegations made that
46 Detective Senior Constable Shaun McLeod was shut down by
47 those who supervised him and prevented him from

1 investigating matters regarding child sexual by officials
2 of the Catholic Church and related concealing?

3 A. Look, I'm not fully aware that that was the
4 allegation, but, yes, if you tell me

5

6 Q. Assume that that allegation has been made. You were
7 requested by the staff of the Special Commission of Inquiry
8 to address in your statement matters related to that
9 particular officer?

10 A. Yes, I was.

11

12 Q. You supervised him for a period while he worked at
13 Lake Macquarie Local Area Command; is that right?

14 A. Yes. Detective McLeod came from a different command.
15 When we asked for resources, he came from a different
16 command and came to us. He primarily worked on what
17 I would call phase 1, which ended up with the charging of
18 four offenders.

19

20 Q. Yes?

21 A. From there he then received a transfer after - or
22 after that phase, he managed to get a transfer to the Lake
23 Macquarie office, so he was then within my office.

24

25 Q. I'm just going to go back a little in time to deal
26 with something that you mentioned in paragraph 49 of your
27 statement. There you deal with a contact that you had from
28 Ms McCarthy from the Newcastle Herald on 30 May 2008. Do
29 you see that?

30 A. Yes, I do.

31

32 Q. In that paragraph, you refer to having had information
33 conveyed to you by Ms McCarthy based on information she
34 obtained from Detective Chief Inspector Fox; is that a fair
35 summary of paragraph 49?

36 A. This is a conversation that I had with Ms McCarthy
37 intimating that she had received information, yes.

38

39 Q. Did you make a diary note or a duty book note of that
40 phone conversation with Ms McCarthy at the time?

41 A. Yes, I made an investigator's note in our e@gle.i
42 holdings and I also noted in my duty book for this day.

43

44 Q. I'm going to hand up first a handwritten document
45 which I understand is an extract from your duty book and a
46 copy for the Commissioner. Do you recollect actually
47 making this note or was it just your usual practice to go

1 about notes of this kind in a certain way?
2 A. Look, it would be my usual practice. I doesn't have
3 any recollection of actually writing it.
4

5 Q. Is it your usual practice to make a note at the time
6 an event occurs or very shortly afterwards?

7 A. I would say very shortly afterwards before I finish
8 for the day.
9

10 Q. In here you have noted a conversation with Joanne
11 McCarthy regarding [NP] and, for our purposes I believe it
12 is [NP4], and that she informed you that Lake Macquarie
13 were looking at [NP] and that she had spoken to him about
14 some other persons of interest as well. Were you surprised
15 that Ms McCarthy had that information regarding your
16 investigations?

17 A. I was surprised that she told me she was talking to a
18 police officer, not surprised that she would get the
19 information, but definitely surprised that she was talking
20 to a police officer. At the time we were in very important
21 investigative stage in relation to [NP]. We had some very
22 important covert investigations in place and any sort of
23 leak was just dire to our investigation.
24

25 Q. Can we take it that Detective Chief Inspector Fox did
26 not have a role in those particular investigations?

27 A. Detective Chief Inspector Fox should have had no
28 knowledge or role or - yes, that's correct.
29

30 Q. Is it possible that you're mistaken about the source
31 of the information that Ms McCarthy stated to you in that
32 telephone conversation?

33 A. Absolutely not. I recorded it immediately.
34

35 Q. Did you know Detective Chief Inspector Fox then from
36 the Police Force Association?

37 A. Yes, yes, I did. We worked together.
38

39 Q. Did you tell your supervising officer that this
40 information had been conveyed to you by Ms McCarthy?

41 A. As I said, we were in a very important covert part of
42 the investigation, so I went immediately to Detective Chief
43 Inspector Tayler, because this comes under his
44 responsibility, and I spoke to him about the conversation
45 and, if it was true, the ramifications it could have had
46 and then I left it with him.
47

1 MS LONERGAN: I tender that.

2

3 THE COMMISSIONER: The duty book extract?

4

5 MS LONERGAN: Yes, I tender the duty book extract subject
6 to one further redaction. Could the parties keep it to
7 themselves for the moment until we secure that further
8 redaction and the details that are required to be redacted.

9

10 [Transcript suppressed, page 1635, line 10 to line 12]

11

12

13

14 MS LONERGAN: I'll just ask again that all legal
15 representatives not show the document to their clients or
16 anybody else at the moment pending that redaction being
17 secured.

18

19 THE COMMISSIONER: The extract from the duty book of
20 Detective Sergeant Faber dated 30 May 2008 will be admitted
21 and marked exhibit 44.

22

23 **EXHIBIT #43 EXTRACT FROM THE DUTY BOOK OF DETECTIVE**
24 **SERGEANT FABER DATED 30/5/2008**

25

26 [Transcript suppressed from page 1635, line 26 to line 44]

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THE COMMISSIONER: Ms Lonergan, you haven't tendered

1 Detective Sergeant Faber's statement yet.

2

3 MS LONERGAN: Did I not? I tender Detective Sergeant
4 Faber's statement.

5

6 **EXHIBIT #45 STATEMENT OF DETECTIVE SERGEANT FABER, DATED**
7 **6/5/2013**

8

9 MS LONERGAN: Q. Detective sergeant, if you wouldn't
10 mind turning to the other annexure A to your statement
11 which appears to be a print-out of an entry in the police
12 system.

13 A. Yes.

14

15 Q. This entry appears to be dated 2 May 2008 - I'm sorry,
16 2 June 2008?

17 A. Yes, that's correct.

18

19 Q. Is that a record of the conversation we've just been
20 looking at in your duty book.

21 A. Yes, it is, but also a record of the results of
22 Detective Chief Inspector Tayler's inquiries.

23

24 Q. Thank you. Can we take it that the detective chief
25 inspector conveyed that information to you and that's why
26 you were able to complete that investigator's note in that
27 way?

28 A. Yes, that's correct.

29

30 [Transcript suppressed from page 1636, line 29, to
31 page 1637, line 43]

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MS LONERGAN: Q. I'm moving now to the paragraphs in your statement that deal with cooperation you received from those you dealt with at the Catholic diocese of

1 Maitland-Newcastle. You see that in paragraphs 96, 97, 98
2 and 99 you deal with those matters. First of all, you
3 address assistance provided by Bishop Michael Malone and
4 you state that you found him to be extremely cooperative?

5 A. Yes.

6
7 Q. Can you detail also some other aspects of his
8 assistance and cooperation? Could you articulate for the
9 benefit of those in court your experience of his
10 cooperation with police investigations?

11 A. Yes.

12
13 MS LONERGAN: Commissioner, I'm just minded that we're
14 dealing with term of reference 1. The evidence, may I say,
15 is all positive in terms of the diocese, and Ms Single is
16 present. I didn't see that as committing any violence to
17 our duties to lead some evidence from the witness since she
18 is present and not proposed to be called for term of
19 reference 2. If Ms Single is content for this evidence to
20 be put on now, I'll proceed; if not, we can put it to one
21 side and have the detective sergeant recalled in term of
22 reference 2.

23
24 THE COMMISSIONER: Yes.

25
26 MS SINGLE: Commissioner, my only concern is I don't act
27 for Bishop Malone and this evidence is directly related.
28 I only act for the diocese.

29
30 THE COMMISSIONER: For the diocese, generally.

31
32 MS SINGLE: Yes, that's correct, and that's my only
33 concern in relation to this. I think, for abundant
34 caution, it would be better this evidence is heard in term
35 of reference 2.

36
37 THE COMMISSIONER: While Mr Harben is present?

38
39 MS SINGLE: Yes.

40
41 MS LONERGAN: Commissioner, I do emphasise that the
42 paragraphs I was addressing and all comments from Ms Faber
43 regarding Bishop Malone are overwhelmingly positive, but
44 I don't want to create any difficulty. My only observation
45 is Bishop Malone was head of the diocese at the time and it
46 would provide some balance and some assistance for the
47 detective sergeant to express her views. I'm happy to be

1 guided.

2

3 THE COMMISSIONER: Ms Single, having heard that, are you
4 prepared to relax your stand?

5

6 MS SINGLE: Commissioner, there's no issue in relation to
7 the evidence relating to the diocese being led at the
8 moment. Perhaps if it can be reserved so that if those
9 representing Bishop Malone are of the belief that this
10 witness should be recalled in terms of reference 2, that
11 may be the appropriate course.

12

13 THE COMMISSIONER: Thank you, Ms Single.

14

15 MS LONERGAN: We will make that arrangement. That's a
16 very sensible comment by Ms Single and I adopt that. I'll
17 ensure those who represent Bishop Malone are informed today
18 of the nature of the evidence and we'll recall Detective
19 Sergeant Faber, if we need to do so, if they have any other
20 matters that they want to put to her.

21

22 THE COMMISSIONER: Thank you, Ms Lonergan.

23

24 MS LONERGAN: Q. You were about to outline your
25 experience of the interface you had with Bishop Malone.
26 A. Yes. Obviously, investigating these matters is very
27 difficult, when we're approaching the church and we went to
28 Zimmerman Services and they readily came to us. I'm aware
29 through Zimmerman Services that Bishop Malone told them
30 they were to exchange all information with us, and they did
31 so.

32

33 Bishop Malone also gave us permission, written
34 permission, to search any church or records or anything
35 that we needed. As far as Zimmerman Services are
36 concerned, we've worked very closely with them over the
37 entire five years and they have brought to us numerous
38 complainants and when we get complainants, we contact
39 Maureen O'Hearn from Zimmerman Services, who works
40 tirelessly in relation to counselling and support of our
41 victims in these matters.

42

43 MS LONERGAN: Thank you. That's the examination.

44

45 THE COMMISSIONER: Thank you. Anything arising Ms Single?

46

47 MS SINGLE: Yes, there is. Thank you, Commissioner.

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<EXAMINATION BY MS SINGLE:

MS SINGLE: Q. You've also outlined in your statement your interaction with Ms Keevers, who at the time was head of Zimmerman Services?

A. Yes.

Q. How did you find your interaction with her?

A. She was extremely professional and she supplied us with a vast amount of information that we did not have.

Q. What were your dealings in relation to Mr Sean Tynan?

A. The same. Once he came, he continued to work with Strike Force Georgiana, and when they received a complaint, they contacted me immediately with the details of that person.

Q. You also make mention of your dealings in relation to the two investigators, Michael Elliott and David Muxlow. What have your interactions been with those two gentlemen?

A. Again, they've provided us with information, when we do these matters, full records, whatever we require, you know, I found them to be very professional.

MS SINGLE: Thank you. No further questions, Commissioner.

THE COMMISSIONER: Thank you, Ms Single. Mr Irving?

MR IRVING: Thank you, Commissioner.

<EXAMINATION BY MR IRVING:

MR IRVING: Q. Detective Faber, you've prosecuted a significant number of these types of matters with Georgiana. My client, Ms McCarthy, has reported significantly on those matters as they've progressed through the court system.

A. Yes. I don't read the paper, but --

Q. You are aware, she does that?

A. -- I'm aware that she has reported - yes.

Q. As a consequence of those reports, you would be aware that people, be they further victims or people perhaps with information, have contacted her about matters that she has

1 published in the Herald?

2 A. Oh, most definitely, yes.

3

4 Q. And where those persons have expressed a wish to speak
5 to police, she will either contact police - that is,
6 Ms McCarthy - or she will provide those persons with your
7 details or other officers' details to take the matter
8 further?

9 A. Yes. In the last 12 months since I've known
10 Ms McCarthy, she has supplied or people have come to us
11 round about through the Herald, yes.

12

13 Q. As part of that process, you've become aware that
14 Ms McCarthy does have a substantial, could I call it,
15 database of sources, information, documents, materials
16 relating to paedophilia by priests and brothers associated
17 with the Catholic Church?

18 A. Yes, she does.

19

20 Q. Has that process in terms of people coming to you from
21 the Herald assisted the police?

22 A. Yes, it has.

23

24 Q. Going to the phone call in 2008, that was your first
25 contact with Ms McCarthy?

26 A. Yes. I didn't even know who Ms McCarthy was at the
27 time.

28

29 Q. When you get a call out of the blue and she's asking
30 questions about [NP] and [NP4], it would appear from the
31 documents that this took you by surprise?

32 A. Probably not took me by surprise. We have media call
33 all the time. I wouldn't say it took me by surprise, no.

34

35 Q. At that time, were you aware that [NP4] had already
36 been suspended --

37

38 MS LONERGAN: I object. Commissioner, it is not
39 appropriate, in my respectful submission, to run a survey
40 into police operations and cross-referencing with whether
41 that person was suspended or otherwise from their duties.
42 The evidence of Detective Sergeant Faber was requested in
43 relation to Georgiana to address a very specific assertion
44 that had been made regarding overall reluctance to pursue
45 matters involving prosecution or investigation of officials
46 of the Catholic Church. It is not part of this inquiry's
47 obligations to drill down into those operations any

1 further.

2

3 THE COMMISSIONER: Yes.

4

5 MR IRVING: My submission, Commissioner, is that the
6 evidence from Detective Faber, amongst other things, was
7 that there was a leak to our client, which goes to the
8 relationship between our client and Detective Fox. I wish
9 to explore that period prior to May 2008 which touches upon
10 where the information actually came from, if I can put it
11 that way.

12

13 MS LONERGAN: Can I be heard on that, Commissioner? The
14 relevance of that one paragraph in Detective Sergeant
15 Faber's statement is to address a very specific matter, and
16 that is one incident that she has noted of evidence of
17 leaking by Detective Chief Inspector Fox to a journalist
18 based on the information she had available to her and
19 recorded in the document that I tendered.

20

21 THE COMMISSIONER: Exhibit 44.

22

23 MS LONERGAN: Yes. In my respectful submission,
24 Commissioner, that is the limit of the relevance. Whether
25 Ms McCarthy chose to write a story about it, not write a
26 story about it, is totally irrelevant to this Special
27 Commission.

28

29 MR IRVING: The Commission led evidence from Ms McCarthy
30 about that article presumably because it was relevant.

31

32 THE COMMISSIONER: Yes, but what I'm finding difficult to
33 see the relevance of, Mr Irving, is what happened to
34 particular offenders is not part of this --

35

36 MR IRVING: No, I think the reason I'm addressing those
37 issues is my client's knowledge and where it came from.

38

39 MS LONERGAN: There's no issue about Ms McCarthy's
40 knowledge or where the information came from in terms of
41 her reporting. There are no aspersions to be cast on her
42 even if she did report that information. The leaking issue
43 is relevant to Detective Chief Inspector Fox's activities.
44 It is not relevant to Ms McCarthy's decision to report or
45 not report certain matters and there's no need to go into
46 that for your purposes, Commissioner.

47

1 MR IRVING: I think our evidence, in terms of assisting
2 the Commission, is this circumstance was not a leak --
3
4 MR SAIDI: Could I ask Mr Irving to raise his voice.
5
6 MR IRVING: I'm sorry, our position - and it is for the
7 assistance of the Commission - is that this was not a leak.
8 She has given evidence about where it came from which, as
9 I say, was presumably relevant to the Commission at that
10 time, and I wish to speak to this witness about her
11 knowledge at that time and the reasonableness of
12 Ms McCarthy's conduct, if I can put it that way.
13
14 THE COMMISSIONER: The only thing that Detective Sergeant
15 Faber can say about this phone call is that Ms McCarthy
16 told her that the information came from the source of
17 Detective Chief Inspector Fox, nothing behind that, isn't
18 it?
19
20 MR IRVING: Yes, but --
21
22 THE COMMISSIONER: Is that disputed?
23
24 MR IRVING: The terminology is disputed. I think my
25 client's evidence was she'd rung Detective Chief Inspector
26 Fox, and he'd said, "It is not my matter. Try Lake
27 Macquarie" - and she tried Lake Macquarie. The inference
28 is that she must have known about this matter from Fox.
29 What I wanted to raise was other evidence which indicated
30 where she got it from, or evidence that indicates there was
31 no leaking.
32
33 THE COMMISSIONER: Can you put the evidence that you say
34 would suggest there was no leaking without drilling down,
35 as Ms Lonergan says, into what happened to various
36 offenders in their duties?
37
38 MR IRVING: I can certainly try, Commissioner.
39
40 THE COMMISSIONER: Thank you.
41
42 MR IRVING: Could I just have one moment, Commissioner?
43
44 THE COMMISSIONER: Yes.
45
46 MR IRVING: Q. Detective Faber, you were present in
47 court when Ms McCarthy gave evidence that there was a press

1 release by the diocese at the time she commenced this
2 inquiry?
3 A. Well, which inquiry, though, into which --
4
5 Q. Ringing around to ask questions about [NP] and [NP4]?
6 A. No.
7
8 Q. You weren't aware of that press release?
9 A. No.
10
11 Q. In fact, taking your statement at paragraph 49, as
12 at I think it was May this year, you acknowledge at
13 paragraph 49:
14
15 *I am unaware where she received this*
16 *information.*
17
18 Even this year, you were still unaware of that press
19 release?
20 A. Yes. Look, I had no problem with where they got that
21 information or whatever. That wasn't the problem. It was
22 the problem that [name suppressed] - sorry, that [NP4] was
23 mentioned. That was the problem, yes. It wasn't the
24 problem that she'd rung for that other information.
25
26 Q. That [NP4] was mentioned in the press release?
27 A. In that one?
28
29 Q. Yes.
30 A. I don't know.
31
32 MS LONERGAN: Commissioner, I would like to interrupt
33 Mr Irving to ask for a non-publication order over that name
34 that was just uttered.
35
36 THE COMMISSIONER: Yes.
37
38 [Transcript suppressed from page 1644, line 38 to
39 page 1645, line 6]
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MS LONERGAN: I object to any continuation delving into this detail in relation to this document. It is annexed to the statement.

Could Mr Irving please sit down while I make my objection.

MR IRVING: Sorry, Ms Lonergan; my apologies.

MS LONERGAN: The document we're looking at is annexed to the statement for a very limited purpose. It hasn't been as fully redacted as perhaps it ought to be and that will be attended to. Most importantly, it has been annexed to illustrate only one matter which is of relevance to this Special Commission. It is not proper, not necessary, to go into other details here which are irrelevant to this Special Commission.

THE COMMISSIONER: Mr Irving, I am attracted by Ms Lonergan's submission. You may, on behalf of your client wish to put certain things forward about her, but that's not legally relevant to the terms of reference. The evidence was tendered simply in relation to this phone call and what was said by the client, not the background of it. So I won't permit you to continue on this line.

MR IRVING: Thank you, Commissioner.

Q. Detective Faber, could I put to you that Ms McCarthy rang you in May 2008. She said, "I'm ringing around trying to work out who is investigating - someone is investigating [NP] and [NP4]"?

A. No, that's not correct. She did say, "I'm ringing around" - or something similar; it was just a normal media type inquiry - "and I've been told that you might be in charge of [NP]." So it was more along that line. [NP4] came up later. When I said, "No, we're not talking about anything, I don't know where you've got it from", [NP4] then came up later that she had talked with Detective Chief Inspector Fox about [NP4] and various other priests.

1
2 Q. Could I put to you that she said, "Look, I've spoken
3 to Peter Fox. He couldn't help me, but he suggested
4 I speak to you"?
5 A. Look, I can't recall that. That's possibly - yes,
6 possibly that's how she said it.
7
8 Q. Could I suggest that she, at no stage, suggested that
9 Peter Fox was a source or that he was the source of her
10 information?
11 A. No, no. I did ask her, "Where did you get your
12 source? I'm not speaking to you about it until I know
13 where you're getting your source from", the source of
14 information.
15
16 Q. When you say "source", you mean source of --
17 A. The source of the information.
18
19 Q. -- the information about [NP] --
20 A. [NP].
21
22 Q. Just [NP]?
23 A. Yes.
24
25 Q. Do you accept, having heard her evidence, that the
26 source of her information may well have been the press
27 release by the diocese?
28 A. In relation to [NP]?
29
30 Q. Yes.
31 A. Oh, definitely. It could have come from anywhere for
32 [NP], yes.
33
34 Q. And [NP4]?
35 A. Well, [NP4] came up directly as a result of the
36 conversation that she told me that she speaks to Detective
37 Chief Inspector Fox about [NP4] and other priests. That
38 was the conversation.
39
40 Q. Do you accept that [NP4] was referred to in the press
41 release?
42 A. I don't know.
43
44 MR IRVING: Thank you, Commissioner.
45
46 THE COMMISSIONER: Thank you, Mr Irving. Mr Cohen?
47

1 MR COHEN: Thank you, Commissioner.

2

3 <EXAMINATION BY MR COHEN:

4

5 MR COHEN: Q. Detective Sergeant Faber, you indicated in
6 evidence to Ms Lonergan of senior counsel, and your word
7 was - when you were being asked in relation to paragraph 49
8 of your statement - that Ms McCarthy "intimated" these
9 things. That was your word, wasn't it?

10 A. I don't know. You'd have to read it back to me.

11

12 Q. That was your evidence, wasn't it?

13 A. That Ms McCarthy intimated these things, yes.

14

15 Q. Your assertion that Detective Chief Inspector Fox was
16 a leaker was not founded on any basis in fact. It was
17 simply your wish that it be so, wasn't it?

18 A. Sir, I didn't actually assert that he was a leaker of
19 information. I asserted a conversation between myself and
20 Ms Joanne McCarthy where she mentions Detective Chief
21 Inspector Fox. The possibility that there is a leak from
22 there, yes, but I didn't assert that there was definitely a
23 leak.

24

25 Q. You were just joining up the dots and saying, "He's
26 the guilty party", aren't you?

27 A. No, I'm telling you a conversation that I had.

28

29 Q. The conversation that was had was simply, "I've spoken
30 to Fox. He doesn't know anything about this. He has
31 suggested I ring Lake Macquarie. I'm calling you." That's
32 the long and the short of the conversation, isn't it?

33 A. No, that's not true.

34

35 Q. This file note of yours and your evidence is just
36 fanciful, isn't it?

37 A. No.

38

39 MR SAIDI: I object, Special Commissioner. How can
40 Mr Cohen possibly have instructions to be putting this
41 material to this witness when his client was never a party
42 to that conversation?

43

44 THE COMMISSIONER: Yes, that is a legitimate question,
45 Mr Saidi.

46

47 MS LONERGAN: I agree with Mr Saidi.

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THE COMMISSIONER: It is not a file note. It is an extract from the duty book, Mr Cohen

MR COHEN: I am talking about annexure A.

THE COMMISSIONER: I'm sorry.

MR COHEN: Anyway, I hear what you are saying.

MR COHEN: Q. It is the case, is it not, Detective Sergeant Faber, that you have simply never liked Detective Chief Inspector Fox and this is an opportunity of damaging his reputation, isn't it, that was presented to you?

A. No, sir, that's not true.

Q. Isn't it the case that the description you give about Detective Chief Inspector Fox, which in your statement is at paragraph 44, is most charitably described as icy, if not positively glacial?

A. No, sir. That's pretty accurate, I would say.

Q. I did not asking you whether or not it was accurate. I said that it is best described as being positively icy, isn't it?

A. No, I would not say that, sir. I don't have any - at the time of making this statement, I certainly didn't have any animosity towards your client.

Q. You've never had a reason to dislike Detective Chief Inspector Fox, is that your evidence?

MS LONERGAN: I object. Is this of assistance to you, Commissioner?

THE COMMISSIONER: No. I'm not interested in whether people like people or not.

MS LONERGAN: The proposition has been put that this officer does not like Detective Chief Inspector Fox and she said, "That's not true." That, in my respectful submission, should be the end of it and moving on to matters of substance would be of assistance.

MR COHEN: There is only this difficulty, Commissioner. If there is some historical reason why there is animosity between persons, subsequent conduct can be influenced by

1 that. It is important.
2
3 THE COMMISSIONER: Do you really want to go into that?
4
5 MR COHEN: I just want to establish that there was a
6 period where there was a conflict between them that
7 coloured the future approach.
8
9 MS LONERGAN: Can I be heard on that? How is that
10 relevant to this officer's file note of the conversations
11 that she had with another person, that she has simply
12 recorded in her duty book? That's the evidence,
13 Commissioner. This officer has produced something she
14 wrote in her duty box that someone told her.
15
16 THE COMMISSIONER: Yes.
17
18 MS LONERGAN: She has tried to be accurate, as
19 I understand her evidence.
20
21 THE COMMISSIONER: That's the size of it, Mr Cohen. You
22 couldn't possibly have instructions that the duty book was
23 incorrect, and annexure A to exhibit 45, are you saying
24 that's dependent on some incident that occurred between the
25 witness and Mr Fox at some stage earlier?
26
27 MR COHEN: Q. Would you look at your extract in
28 exhibit 44 from your duty book.
29 A. Can I just look at it, sir, before you ask a question?
30
31 Q. Sure.
32 A. Thank you. Yes?
33
34 Q. You've identified, you say:
35
36 *Informed her police source, "Peter Fox" ...*
37
38 Peter Fox is in inverted commas?
39 A. I'm sorry?
40
41 Q. I am sorry. We're at cross-purposes.
42 A. Yes, we are.
43
44 Q. Do you have a copy of what is exhibit 44, the extract
45 from your duty book?
46 A. I'm sorry, I'm still looking at paragraph 44 in
47 relation to --

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Q. What I was examining initially was paragraph 44, but it happens to be the case that your duty book is now exhibit 44. Do you have it with you?

A. So that's my duty book of 30 May 2008, yes.

Q. Which is now exhibit 44.

A. Mmm-hmm.

Q. Do you see your record:

Speak to Joanne McCarthy Newcastle Tele ...

"Tele", I assume, is just a contraction of "Telegraph", is it?

A. No, that's my lack of knowledge of papers, sir.

Q. Pardon me?

A. That's my lack of knowledge of papers. It should be the Herald.

Q. No, I'm just trying to understand that's a reference to the Newcastle Herald, not to the Telegraph; is that right?

A. That's correct.

Q. Then it says:

Re NP. Informed --

That is you were informed --

her police source --

And then in inverted commas --

"Peter Fox"?

A. Yes.

Q. Why is there a need to put that name in inverted commas?

A. I don't know sir. It is just the way I wrote it up.

Q. If you're just writing a name down, what's the point of doing that? There must be some special purpose of highlighting in that way?

1 A. No, I think it was just significant, sir, that, in the
2 investigation we were in at this stage, there could have
3 been a potential leak and that's why I've probably done it
4 that way.

5

6 Q. I put it to you that you weren't told by Joanne
7 McCarthy that Peter Fox informed her that Lake Macquarie
8 were looking at [NP]. He simply informed her he knew
9 nothing about [NP] and she - McCarthy - ought speak to
10 Lake Macquarie.

11

12 MR SAIDI: This relates to the earlier objection I took,
13 which was made quite clear, that one has difficulty
14 understanding how Mr Cohen can put matters as to what the
15 terms of the conversation were.

16

17 MS LONERGAN: Commissioner, I join in Mr Saidi's objection
18 and note that Mr Irving very properly put a different
19 proposition to the witness and that the question that is
20 relevant has been asked by the relevant legal
21 representative and answered.

22

23 THE COMMISSIONER: Yes, and isn't it the case,
24 Ms Lonergan, that [NP] there should be [NP4] on the fifth -
25 did you make that correction earlier?

26

27 MS LONERGAN: I didn't make the redaction, Commissioner,
28 and that's why I paused and said the matter needed to be
29 reconsidered for redactions. We just need to carefully
30 check that and ensure its accuracy. I reinforce that the
31 relevance of the document is purely the contemporaneous
32 record of the understanding this officer had of the
33 conversation with Ms McCarthy.

34

35 THE COMMISSIONER: Thank you.

36

37 MR COHEN: I think I understand. We're at cross-purposes.
38 I understand the consternation because it may be that that
39 reference is the wrong one. If that's so --

40

41 THE COMMISSIONER: I understood Ms Lonergan to indicate
42 that should be [NP4].

43

44 MR COHEN: I hadn't caught up with that fact; hence, I was
45 on the wrong tram, Commissioner. I'm sorry for that.

46

47 THE COMMISSIONER: Not at all.

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MR COHEN: Just excuse me, please, Commissioner, and detective sergeant. I'm sorry, Commissioner, I'm just double-checking my notes. Commissioner, I have no further questions.

THE COMMISSIONER: Thank you, Mr Cohen. Mr Saidi?

<EXAMINATION BY MR SAIDI:

MR SAIDI: Q. Could I seek to update some of the information you gave in your statement...
[Transcript suppressed from page 1652, line 12, to page 1653, line 42]

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[Transcript suppressed from page 1652, line 12, to page 1653, line 42]

MR SAIDI: Q. There is a term that's been used during this the course of this Special Commission of Inquiry, that term being "Catholic mafia". You have heard that phrase before or not?

1 A. Yes I have.
2
3 Q. When did you hear it for the first time?
4 A. In a conversation with Detective Chief Inspector Fox.
5
6 Q. Was it he or was it you who used that term?
7 A. No, he used that.
8
9 Q. When was that conversation?
10 A. That conversation was on - can I just check my
11 statement to be sure?
12
13 Q. Certainly.
14 A. That conversation was on 10 April 2012, whilst I was
15 down at a trial for [NP].
16
17 Q. If I take you to that time period of 2012, in total,
18 how many conversations did you have with Detective Chief
19 Inspector Fox in that period?
20 A. I would say there was probably three conversations.
21 The first time I rang him, because I'd come across
22 something in relation to Fletcher - sorry, in relation to
23 another priest for the investigation of [NP]. I needed
24 some information on that, so I rang Detective Chief
25 Inspector Fox.
26
27 Q. Was that only to obtain information or --
28 A. It was only to obtain names. Oh, sorry, and a
29 photograph. I did ask for a photograph, if he had one as
30 well. It was a short conversation. He got back to me,
31 very cordial, got back to me and gave me the information,
32 which was good for us. And then I had this conversation
33 with him approximately two weeks later. I was still at the
34 trial and that's when he mentioned "Catholic mafia" to me.
35
36 Q. Was there a further conversation after that or not?
37 A. After that day, no.
38
39 MR SAIDI: That's the examination, Commissioner.
40
41 THE COMMISSIONER: Thank you, Mr Saidi.
42
43 MS LONERGAN: Nothing arising, Commissioner. Could
44 I substitute exhibit 44 for a newly redacted copy of that
45 and ask that those at the Bar table provide back to me the
46 previous iteration of exhibit 44?
47

1 THE COMMISSIONER: Yes.

2

3 Q. Detective Sergeant Faber, I would be interested to
4 know what it was that Detective Chief Inspector Fox said to
5 you in relation to "Catholic mafia" when you had this
6 conversation with him?

7 A. It was a conversation and he told me that my life
8 could be in danger from the Catholic mafia. I made a joke
9 about it, and he just intimated that I had investigated
10 them so thoroughly and that they wouldn't like me and that
11 my life could be in danger. I did make a joke about it,
12 but he asserted that that was the case and at no time -
13 when he was talking about "Catholic mafia", he was actually
14 talking about the Catholic Church and community.

15

16 Q. How were you able to know who he meant by "Catholic
17 mafia"?

18 A. Because we were actually just talking about the
19 Catholic Church. We weren't talking - he was talking about
20 cover-ups within the Catholic Church. He was giving me
21 some information. Then he said that my life would be in
22 danger and I made a joke about not being scared about the
23 priests. Then he said, again, that I had done so much in
24 the Catholic Church that I should take what he said
25 seriously.

26

27 THE COMMISSIONER: Anything arising from that Mr Gyles?

28

29 MR GYLES: I would seek a non-publication order in
30 relation to the matter that fell from you, Commissioner.
31 I'm not saying it is not relevant to the inquiry, but to
32 allow that and to not make a non-publication order would be
33 to give - to what we know to be essentially a baseless
34 allegation on the evidence that has been presented before
35 this inquiry from DCI Fox as to his beliefs - evidentiary
36 support. For this inquiry to be used as a mouthpiece for a
37 scandalous allegation like that, would be against the
38 public interest, in my submission.

39

40 THE COMMISSIONER: When you say what fell from me, you
41 mean --

42

43 MR GYLES: I am sorry, your questioning, Commissioner.

44

45 THE COMMISSIONER: Yes, all right.

46

47 MS LONERGAN: Commissioner, could I clarify, I was

1 discussing something with my instructing solicitor relevant
2 to a number of further redactions that are required of
3 Detective Sergeant Faber's statement. I missed the name or
4 the matter about which you were questioning --

5
6 THE COMMISSIONER: I wished to have clarified what it was
7 that Detective Chief Inspector Fox had said in relation to
8 the expression "Catholic mafia". Detective Sergeant Faber
9 gave me an answer in relation to that, indicating, in
10 short, that Detective Sergeant Faber's life would be in
11 danger from the Catholic mafia, by which she took Mr Fox to
12 have meant people within the Catholic Church or the
13 Catholic Church itself. I'm paraphrasing, as you can
14 imagine.

15
16 MS LONERGAN: Mr Gyles's application is that that detail
17 ought not be published?

18
19 THE COMMISSIONER: That's right.

20
21 MS LONERGAN: May I make a submission in reply to that?

22
23 THE COMMISSIONER: Yes, please.

24
25 MS LONERGAN: I understand Mr Gyles's position but it has
26 been the subject of other evidence in this inquiry that
27 there has been an attribution of that particular statement
28 to another person who denied that had been the position.
29 It is of significance that this particular witness can give
30 evidence providing a different source for that allegation,
31 that is, DCI Fox. If that isn't published, then all that's
32 in the public domain is the previous evidence regarding
33 "Catholic mafia", which is attributed to persons in the
34 police force.

35
36 It seems there's a lacking in balance, if only part of
37 the evidence that has been surveyed is published and other
38 parts of it aren't. Excuse me, I'll just take some further
39 instructions.

40
41 (Ms Lonergan and Ms Sullivan confer)

42
43 MS LONERGAN: I see I've slightly confused things in the
44 way I made that submission. The evidence to date is that
45 there's an attribution of Detective Chief Inspector Fox of
46 that phrase to a former police officer and an attribution
47 to the effect that that former police officer, when he was

1 investigating matters to do with sexual assault,
2 encountered problems from the "Catholic mafia". There's a
3 lack of clarity as to exactly who that was referring to,
4 and the person who was supposed to make that statement has
5 denied he made that statement. There is no non-publication
6 order over that part of the evidence; it has already gone
7 into the public domain.

8
9 The fact that this particular witness can offer some
10 evidence that throws some light on perhaps where that
11 phrase actually came from should be a matter that is the
12 subject of publication.

13
14 THE COMMISSIONER: Yes. There are two aspects, as
15 I understand it, and tell me if you disagree, Mr Gyles, to
16 the evidence which has fallen from the evidence. The first
17 is the assertion that by this witness that Mr Fox meant
18 when he was speaking to her of "the Catholic mafia" was the
19 church rather than the police. Would you say that that is
20 as objectionable for your purposes to actually getting out
21 into the public as the other aspect?

22
23 MR GYLES: Yes, and more so, because there is absolutely
24 no evidence in this inquiry that that was - DCI Fox has
25 told us what he meant by that expression. We've heard that
26 from him in the witness box. The basis of it was, as my
27 learned friend says, a comment that had been made to him by
28 a former policeman.

29
30 MS LONERGAN: Allegedly made, Commissioner.

31
32 MR GYLES: Allegedly made, and he has denied it. That is
33 where the evidence sits. This evidence is of a completely
34 different character. It is of a different understanding
35 that this witness may have had of that expression and, of
36 itself, it is of no probative value. It is --

37
38 THE COMMISSIONER: Mr Gyles, I would have to disagree for
39 my purposes. Whether or not it gets out into the public
40 domain is a different issue, but for my purposes it is of
41 probative value that Detective Sergeant Faber took
42 Detective Chief Inspector Fox to mean that the Catholic
43 mafia existed in the church rather than in the police.

44
45 MR GYLES: When I stood up, I did say I was not saying
46 that this wasn't relevant to your considerations. My
47 concern is this material being published in circumstances

1 where it could be published in a way that has potentially a
2 damaging effect on the church as an institution with no
3 proper foundation, in my respectful submission.
4

5 THE COMMISSIONER: There's that aspect that there's a
6 Catholic mafia within the church. The second aspect, which
7 I would imagine would you consider more damaging, is if
8 someone within it, if it exists, may be a threat to the
9 life of Detective Sergeant Faber.

10
11 MR GYLES: Absolutely. That's even worse.

12
13 THE COMMISSIONER: But you say, do you, you wish both
14 matters not to reach the public domain?

15
16 MR GYLES: Yes, although obviously, Commissioner, you
17 appreciate the second is obviously more important.

18
19 THE COMMISSIONER: Yes. However, of course, the witness
20 has indicated that she took the matter with some degree of
21 levity. She thought that it was not serious or she
22 certainly didn't take it seriously and almost greeted it
23 with some sort of amusement.

24
25 THE WITNESS: A joke.

26
27 THE COMMISSIONER: Q. Is that right?

28 A. Yes, I did joke about it.

29
30 MR GYLES: Yes, but that doesn't necessarily mean that
31 that will be fully reported if the first allegation is
32 raised, so it is a contextual question.

33
34 THE COMMISSIONER: Thank you, Mr Gyles.

35
36 MS LONERGAN: Commissioner, the phrase "Catholic mafia"
37 and any assertions negative or positive associated with it
38 is already in the public domain and has been since May.
39 The fact that Detective Chief Inspector Fox used that term
40 to Detective Sergeant Faber is an important part of not
41 only matters you are looking at, but balanced
42 representation of evidence regarding that important phrase
43 going into the public domain. Otherwise, there will be an
44 unbalanced position where only the assertion and denial of
45 the use of the phrase - DCI Fox versus the evidence from
46 Mr Grant - is in the public domain, but not this further
47 important piece of evidence that DCI Fox actually used this

1 term to this officer which may provide a different view as
2 to the veracity or otherwise of DCI Fox's attributing the
3 phrase to Mr Grant.
4

5 THE COMMISSIONER: What do you say about the public
6 circulation of the idea or suggestion that the Catholic
7 mafia may be a threat to the life of Detective Sergeant
8 Faber?
9

10 MS LONERGAN: It provides an important context to the
11 comment made by DCI Fox and may be the subject - I would
12 expect to be the subject - of submissions regarding the
13 nature of the type of comments made by Detective Chief
14 Inspector Fox of an intemperate nature to do with matters
15 concerning the Catholic Church and assertions to the effect
16 that there is some sort of association in a mafia-type way
17 between the church and the police force, which appears to
18 be part of Detective Chief Inspector Fox's approach to
19 these matters.
20

21 THE COMMISSIONER: Yes. Although if I were to accept the
22 evidence of Detective Sergeant Faber, that was not the way
23 the expression was used by Detective Chief Inspector Fox on
24 that occasion.
25

26 MS LONERGAN: That's true, Commissioner, but it just
27 provides further evidentiary information regarding the
28 significance or otherwise of that phrase and whether it was
29 used in the way asserted by Detective Chief Inspector Fox
30 by Troy Grant.
31

32 THE COMMISSIONER: Yes. Mr Gyles, particularly in view of
33 the way that this comment was received by Detective
34 Sergeant Faber, which I would hope, if there were any
35 reporting of the conversation, would be reported fairly,
36 I am not disposed to grant a non-publication order in
37 relation to that evidence.
38

39 MR GYLES: May it please you, Commissioner.
40

41 MR COHEN: Commissioner, might I rise on this point?
42

43 THE COMMISSIONER: Yes, Mr Cohen.
44

45 MR COHEN: I need to say, quite candidly, that I didn't go
46 to this area with Detective Sergeant Faber by reason of my
47 own error, if I could be very candid about this, I was

1 relying upon my earlier version --

2

3 THE COMMISSIONER: And also, of course, because it only
4 arose when Mr Saidi --

5

6 MR COHEN: Yes, and, in fairness, what I am, in substance
7 doing, is applying for me to have leave to ask further
8 questions on this topic, because, being candid, I miscued.
9 I thought it was something that had to be acted on --

10

11 THE COMMISSIONER: Are you able to do that before we rise
12 for lunch?

13

14 MR COHEN: I think very quickly.

15

16 THE COMMISSIONER: Very well,

17

18 **<EXAMINATION BY MR COHEN:**

19

20 MR COHEN: Q. Detective Sergeant Faber, this
21 conversation that you refer to, did you make a diary note
22 about it?

23 A. I made some notes, yes, just some very quick notes.
24 I was in the middle of a trial speaking to numerous people.

25

26 Q. They're not with you or --

27 A. Yes, they are. They're probably --

28

29 MS LONERGAN: Commissioner, it would be helpful if I could
30 have an opportunity to review those and, in particular, to
31 look at whether any other notes on the page need to be
32 redacted and to lead evidence from this witness regarding
33 the note that she has. I must admit this has not come to
34 my attention or I wasn't at least cognisant of its
35 significance if I had seen it amongst the materials.
36 Perhaps that could be done over the luncheon adjournment
37 because it may take a little time.

38

39 MR COHEN: I'm perfectly happy to step back and allow my
40 learned friend to examine first, Commissioner.

41

42 THE COMMISSIONER: Thank you, Mr Cohen. We will resume at
43 2 o'clock.

44

45 **LUNCHEON ADJOURNMENT**

46

47

1 UPON RESUMPTION:

2

3 <EXAMINATION BY MS LONERGAN:

4

5 MS LONERGAN: Commissioner, I recall Detective Sergeant
6 Faber. There is no need to re-swear the witness at this
7 stage

8

9 Q. Ms Faber, I've stood up to ask some questions
10 regarding a matter that's come to our attention, and it
11 relates to a telephone conversation that you had with
12 Detective Chief Inspector Fox in 2012. Do you recall being
13 asked some questions by Mr Cohen regarding that matter?

14 A. Yes, I do.

15

16 Q. I'm going to hand you the relevant piece of paper.
17 Those are your own papers in the witness box with you?

18 A. That's right.

19

20 Q. Put them to one side, just to make sure we're all
21 working off the same extract and the same material. I'm
22 going to hand up two handwritten pages, one set for you and
23 one for the Commissioner. I'll ask you some questions to
24 place that document in time.

25 A. Yes.

26

27 MS LONERGAN: Can I emphasise for the information of all
28 present at the Bar table, that there is a very large amount
29 of private and personal information on these two pages
30 relevant to parts of ongoing police investigations, but to
31 make sense of the document, we haven't redacted that
32 material out of the document. So this will be tendered as
33 a confidential exhibit when I ask a few more questions
34 about it, Commissioner.

35

36 Q. First of all, Ms Faber, would you turn to the second
37 page of the papers that have just been handed to you.

38 A. The one for 10 April?

39

40 Q. Yes, that's the one. Do you see next to 10-04-12 is
41 D-E-T I-N-S-P Fox?

42 A. Yes, that's correct.

43

44 Q. Are you able to assist with what, without going into
45 the content of the note, what these pages refer to in terms
46 of contact with that particular officer?

47 A. Do you want me to explain the conversation or just

1 what the page is - just what this page is?

2

3 Q. How we should read the pages because you have a date
4 in the middle of the second page. I'm just not sure if
5 we've got them in the right order or how that note works.

6 A. No. The note 10th of the 4th is the second one. The
7 first one, with no date at the top, with "Peter Fox" and
8 then it goes on, "2 people for photos", that relates to
9 Detective Chief Inspector Fox and that's the conversation I
10 had with him, I think it was 26 March, where I'd asked him
11 to supply and he'd given me some information that we were
12 able to use with that; so down to, "We spoke about his
13 matter", because Fletcher - this person had come up in our
14 trial --

15

16 Q. All right. I don't want you to refer to any of the
17 names in that first page of notes.

18 A. Mmm.

19

20 Q. Can we take it that conversation was 26 March 2012?

21 A. I'm fairly certain it was, yes.

22

23 Q. Do you understand the information contained on that
24 page to be intelligence and other information, including
25 contact details of people that Detective Chief Inspector
26 Fox identified as people who may be able to assist you in
27 work on Strike Force Georgiana?

28 A. Yes, that's true.

29

30 Q. Was this note part of a notebook? Where does this
31 note normally live?

32 A. No, it's a notepad. When I'm at trial or at jobs like
33 that, I'm talking to so many people just outside the court,
34 so I'm scribbling on this pad to try to keep a record of
35 who I'm speaking to.

36

37 Q. Does the note of the conversation you had on 26 March
38 go over on to the second page or is that something new?

39 A. No, no, it stops where you see that line. Obviously,
40 there's a whole heaps of names under 1, 2, 3, all the way
41 down. It stops - where I put that little line above it,
42 that's where it stops.

43

44 Q. All those names and phone numbers - and I don't want
45 you to mention any of the names or any of the phone
46 numbers, for obvious reasons - are they part of your
47 conversation with Detective Chief Inspector Fox, or any

1 other conversation with him, or something completely
2 unconnected?

3 A. No, that was my own notes when I was trying to locate
4 witnesses. Obviously, some of those witnesses were given
5 to me by Detective Chief Inspector Fox.
6

7 Q. On the second page of the note you have in front of
8 you, is that anything to do with any conversations with
9 Detective Chief Inspector Fox above the first "10/04/12"?
10 A. No, that's not.
11

12 Q. The part that relates to a conversation with
13 Detective Chief Inspector Fox begins with the second
14 "10/04/12"?
15 A. That's correct, with his name next to it, yes.
16

17 Q. I don't want you to read any of the material, but you
18 commence with the words, "Long conversation re", and don't
19 say the name that occurs after that, and there are other
20 matters that are referred to there, and again I don't want
21 you to refer to any of those. I note for the assistance of
22 those present at the Bar table, it is requested that there
23 be no reference to any of that material. And then there's
24 a dash and the word - what is it?
25 A. "Mafia".
26

27 Q. What's next to it?
28 A. That's four exclamation marks.
29

30 Q. Four exclamation marks. What does that note tell you
31 regarding the matters you've been speaking about in answer
32 to a question by Mr Cohen?
33 A. Basically, that just tells you that I had a
34 conversation with Detective Chief Inspector Fox about a
35 number of persons. That note marked there with the four
36 exclamation marks, I did it because I actually thought it
37 was comical - not comical, but odd maybe and so that's why
38 I did it.
39

40 Q. Only the word "mafia" appears there. There's nothing
41 about "Catholic mafia"
42 A. No.
43

44 Q. You agree with that? Why then do you recollect that
45 what was said was something about "Catholic mafia"?
46 A. Because it was a bizarre conversation. It was a weird
47 thing to say. We were talking about the Catholics and it

1 was the term "Catholic mafia".

2

3 Q. Why didn't you write the term "Catholic mafia"?

4 A. I was writing fast and, as I said, this wasn't a
5 conversation where I'm writing to go into court, not back
6 then. You know, it was just an off-the-cuff - he rang me
7 to see how his witnesses went. You know, it was a very
8 cordial conversation and I just wrote that in there because
9 I thought it was a very bizarre conversation, but it was
10 definitely the term "Catholic mafia".

11

12 MS LONERGAN: Commissioner, could that be tendered as a
13 confidential exhibit?

14

15 THE COMMISSIONER: Yes.

16

17 MS LONERGAN: I think we're up to confidential exhibit T.

18

19 THE COMMISSIONER: Yes. That extract from
20 Detective Sergeant Faber's notes will be admitted and
21 marked confidential exhibit T.

22

23 **CONFIDENTIAL EXHIBIT #T EXTRACT FROM DETECTIVE SERGEANT**
24 **FABER'S NOTES**

25

26 MS LONERGAN: Thank you, Commissioner.

27

28 **<EXAMINATION BY MR COHEN:**

29

30 MR COHEN: Q. Detective Sergeant Faber, I think you
31 understand, I'm sure better than most, the need to tread on
32 eggshells with respect to references in this document.
33 I shall do that and I'm sure those around me will kick me
34 in the shins if I tread across the line. Likewise, if
35 something appears to you that potentially could do the
36 same, please volunteer that immediately.

37 A. Mmm-hmm.

38

39 Q. Having said that, you say in your statement proper,
40 which I hope you've still got with you --

41 A. Would you just give me one moment, please, sir, and
42 I'll go over it?

43

44 Q. Please take your time.

45 A. Yes, I do.

46

47 Q. You make reference to a number of things. For

1 example - and my learned friend Ms Lonergan, as senior
2 counsel, has already taken you to the inconsistency between
3 your statement making reference to the "Catholic mafia" and
4 the fact of the handwritten note just having the word
5 "mafia", but I'll move on beyond that to this proposition:
6 if you, as you've recorded in your statement, particularly
7 in paragraph 58, had been informed as a police officer, a
8 serving officer, in a sensitive role in investigations from
9 day to day and dealing with sensitive matters, by another
10 police officer evidently of senior rank, a commissioned
11 officer, that your life was in danger, it is something you
12 would report, is it not?

13 A. No, sir. He's a senior officer. If he had
14 information that my life was in danger, I think that's
15 something he would report and make it a serious matter.
16

17 Q. No, please answer my question. That's something you
18 would report, isn't it?
19

20 MR SAIDI: She did answer the question, with respect.
21

22 MR COHEN: All right. I'll put it this way.
23

24 Q. That's a proposition that you would immediately report
25 to a senior officer in your command, isn't it?

26 A. No, sir. I didn't take it that what he was saying to
27 me was correct.
28

29 Q. I'm instructed to put to you that the propositions
30 that you've recorded in paragraph 58, from the first
31 sentence down to the words "mid-1990s", did not occur in
32 that way and it was not the case that Detective Chief
33 Inspector Fox ever asserted to you that your life was in
34 danger, did he?

35 A. He most certainly did, sir.
36

37 Q. Had he done so, you would have recorded that in your
38 contemporaneous note on 10 April 2012, would you not?

39 A. No, sir. It was a bizarre conversation and I only
40 noted it because it was a bizarre conversation and, as
41 I said, I made a joke of it, about, you know, old men, bald
42 men, sort of, you know, I wasn't scared of that, and
43 I apologise to all the bald men. I did make a joke of it
44 and he asserted that I should just, you know, take it
45 seriously and I'd done so much work in the Catholic Church,
46 but he didn't give me any actual reason, like, any person
47 who was going to assault me or --

1
2 Q. He didn't give you any reason because he didn't say
3 it, did he?
4 A. He most certainly said it.
5
6 Q. This proposition of your life being in danger was not
7 put to you by him, was it?
8 A. It most certainly was.
9
10 Q. You go on in your statement to indulge in a series of
11 what can only be described as homespun observations about
12 people's psychological state; isn't that right?
13
14 MS LONERGAN: I object.
15
16 THE COMMISSIONER: That's not appropriate, Mr Cohen.
17
18 MS LONERGAN: It is offensive to this witness who was
19 asked by the Commission to make certain relevant
20 observations regarding a particular officer's health and
21 she did so, and to be insulted by being told they are
22 homespun observations is maybe not meant to be pejorative
23 but it is --
24
25 THE COMMISSIONER: It is offensive in many ways, Mr Cohen.
26
27 MR COHEN: [Sentence suppressed].
28 I am talking about my client. As I understand it, there
29 were no requests for any observations about his mental
30 health. Is that right? Can I inquire of that,
31 Commissioner?
32
33 THE COMMISSIONER: I'm sorry, Mr Cohen?
34
35 MR COHEN: Were there any requests made for observations
36 about his --
37
38 MS LONERGAN: I object to the term "homespun", because it
39 is pejorative to this witness's observations as a police
40 officer in her statement. It is that term that I have a
41 problem with.
42
43 THE COMMISSIONER: Will you withdraw that adjective and
44 ask your question again?
45
46 MR COHEN: I will.
47

1 Q. You have no qualifications in psychology, do you,
2 detective?
3 A. No, sir, I don't.
4
5 Q. Nothing at university level of any type?
6 A. No.
7
8 Q. No other qualifications, working from long experience
9 in, for example, counselling with youth groups or such that
10 would give you experience beyond academic qualifications?
11 A. No, sir.
12
13 Q. You're not in a position to express opinions about
14 what you regard as the behaviour of my client,
15 Detective Chief Inspector Fox, are you?
16 A. Well, I would say that I could express an opinion on
17 how I saw his behaviour during that conversation, yes.
18
19 Q. How could you express any opinion of that type when
20 you were talking to him by phone?
21 A. In the manner that he was speaking, sir. In actual
22 fact, by the time I'd finished the conversation, you know,
23 I actually felt sorry for your client.
24
25 Q. The manner in which he was speaking was fairly calm
26 and collected, wasn't it, including providing you all the
27 information that you've recorded?
28 A. No, sir, it wasn't.
29
30 Q. You go on in the various paragraphs in your statement
31 to blacken him, apart from anything else, by association,
32 don't you, comparing him to Detective Senior Constable
33 McLeod, don't you?
34 A. I don't blacken him by association. I don't see
35 Detective Senior Constable McLeod as black. Are you asking
36 me did I think that his behaviour was very similar?
37
38 Q. No, I'm not, in fact. I'm asking you this: in
39 paragraph 60 you indicate a guilt by association,
40 don't you, between, in your mind, DCI Fox and
41 Senior Constable McLeod, don't you?
42 A. No, I don't see a guilt by association.
43
44 Q. All right. Then there can be no basis for the
45 assumption, upon hearsay upon surmise, that constitutes the
46 basis of your evidence in paragraphs 61 and 62, can there?
47 A. No, sir --

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MS LONERGAN: I object, Commissioner. There needs to be some specificity put in there to roll up that sort of proposition to the witness.

MR COHEN: I'll go through it line by line.

MS LONERGAN: May I add that one of the comments is that this officer was of the view there was a friendship between these two officers. Surely that can't be suggested to be some sort of casting of aspersions.

MR COHEN: I'll go through it line by line.

THE COMMISSIONER: Thank you, Mr Cohen.

MR COHEN: Q. In addition to these two incidents - you refer in the first instance as incidents the two incidents to DCI Fox providing you information on the phone; is that right?

A. In addition to the twice that I had contact with him - is that what you're saying?

Q. You say in addition to these two incidents --

A. So the two incidents - the first would be not when I had contact with him, that's when his name was mentioned to me by Ms McCarthy, but the second incident is when I actually for the only time during Georgiana had contact with him, that was in relation to this phone call.

Q. You go on to say in paragraph 60:

Once it was evident that Detective Senior Constable Shaun McLeod had become obsessive with the investigation, and I had to limit his tasks ...

A. I am sorry, sir, where are you going from now?

Q. Look at paragraph 60. Do you have that? I'm sorry, I thought you did. Look at paragraph 60 --

THE COMMISSIONER: You are quoting from the middle of the paragraph, which is right at the end of page 855.

THE WITNESS: Okay, yes. Paragraph 60, I follow you now.

1 THE COMMISSIONER: Page 855.

2

3 MR COHEN: Q. You go on to say:

4

5 *... I believe he began conversing with*
6 *[DCI] Fox.*

7

8 The evidence the Commission should rely upon is your
9 observation that once it was evident to you that Detective
10 Senior Constable McLeod had become obsessive, you had a
11 proper basis to believe there was conversing with DCI Fox;
12 Is that what you say?

13 A. No, that's not correct.

14

15 Q. Isn't that what the words say?

16 A. No, sir. It says that I had a suspicion that he was
17 conversing with DCI Fox.

18

19 Q. You had more than that. You say you believed that, he
20 began conversing, don't you?

21 A. Yes, that's a suspicion. I believe; a suspicion; I'm
22 not saying it's a fact.

23

24 Q. You have no basis for it, do you?

25 A. No, that's not true.

26

27 MR SAIDI: Can I object to the relevance of this? With
28 all due respect to the cross-examiner, what is the
29 relevance in terms of cross-examining this witness about
30 what she has stated in a matter when we know as a fact her
31 suspicions were not merely concrete but occurred?

32

33 MR COHEN: It is the expression of opinion about my
34 client's psychological state that I'm --

35

36 THE COMMISSIONER: So far there's nothing about that, is
37 there?

38

39 MR COHEN: I am working up to it. I've got to say,
40 with respect, there's no other way of doing it. I was
41 accused of rolling things up, so what I have to do it lead
42 up to it.

43

44 MS LONERGAN: Can I add to the objection raised by
45 Mr Saidi? Using the words "had become obsessive" doesn't
46 descend into the area of some sort of psychological or
47 psychiatric diagnosis. Other officers have offered

1 opinions about Detective Chief Inspector Fox being a
2 zealot. There was no objection to that. It seems to be
3 that this word "obsessive" has prompted some kind of
4 particularly fulminant reaction from counsel for Detective
5 Chief Inspector Fox along the lines that there's an effort
6 to make a diagnosis about Detective Chief Inspector Fox.
7 Perhaps that preliminary question could be asked and
8 determine what footing the use of this word was offered on.
9

10 THE COMMISSIONER: It is not even about Detective Chief
11 Inspector Fox, is it? It is about someone else who was
12 obsessive and then the witness formed a belief that
13 Detective Chief Inspector Fox was conversing with the
14 obsessive detective.
15

16 MS LONERGAN: That is certainly the way I read it,
17 Commissioner. I was worried that I was perhaps missing
18 some subtlety that is being seen by Mr Cohen that I'm
19 missing. I did think the word was about the other officer.
20

21 THE COMMISSIONER: Yes.
22

23 MR COHEN: The concern I have is simply the proposition
24 that one followed the other; that is to say, McLeod, it is
25 said, became obsessive and then the consequence is,
26 "I believe he began conversing with DCI Fox."
27

28 THE COMMISSIONER: Yes, but that's not because the other
29 officer was obsessive, necessarily, is it?
30

31 MR COHEN: Commissioner, if you read it that way, then I'm
32 content.
33

34 THE COMMISSIONER: Thank you. Obviously, the belief came
35 from something else, not just that.
36

37 MR COHEN: I will make sure of it. I will go to it
38 directly this way, Commissioner.
39

40 Q. You don't express an opinion, when you use the word
41 "obsessed" or "obsession", that has any foundation or any
42 understanding of a psychological state, do you?

43 A. No, that's my opinion, that they sounded obsessive
44 with an investigation; that's how I would term it. No.
45

46 Q. That's just common parlance in everyday expression.
47 It is not a medical opinion that you resorted to in any way

1 to express the word or use the word "obsessive", is it?

2 A. No.

3

4 Q. It is a term you used?

5 A. It is a term I used.

6

7 Q. In paragraph 62, you express an opinion that, I take
8 it you, you intend the Commissioner to understand to be
9 expressed in respect of both Detective Senior Constable
10 McLeod and Detective Chief Inspector Fox; is that right?

11 A. Did I believe they were both obsessive?

12

13 Q. No.

14 A. No.

15

16 Q. Is it your intention that 62 expresses an opinion in
17 respect of both of them in the same fashion?

18 A. Yes.

19

20 Q. Then I put it to you that you've got no basis
21 whatsoever to express any opinion about any state of the
22 type that you identify in paragraph 62?

23 A. No, that's not true, sir. I've had a conversation -
24 numerous conversations with Detective Senior Constable
25 McLeod, and I've had this conversation where I saw it as
26 very similar in the conversation that I had with Detective
27 Senior Constable McLeod. The one I had with Detective
28 Chief Inspector Fox was very similar to the ones I'd had
29 with Detective Senior Constable McLeod.

30

31 Q. You could not possibly have the basis to form a belief
32 about what you assert to be an obsession by Detective Chief
33 Inspector Fox or any inability by him to investigate
34 anything at all, could you?

35

36 MR SAIDI: I object. The word is not "obsessive", it is
37 "passionate".

38

39 MR COHEN: No, that's not right.

40

41 MR SAIDI: If it's not right, let me read it out.

42

43 MR COHEN: I am looking at paragraph 62. I am quoting
44 from it. It says:

45

46 *I believe this obsession can lead to the*
47 *inability to objectively investigate.*

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That is what I am examining her on. It is a perfectly proper question, in my respectful submission.

MR SAIDI: "... appear to be passionate in terms of their investigations". That's what the previous questions were directed towards.

THE COMMISSIONER: Mr Saidi, the material comes from further in the paragraph. In any event, Mr Cohen, is it not the case that a detective sergeant of police in charge of an investigation should be keeping an eye on unhealthy obsessions or obsessions which might affect a junior detective's ability objectively to investigate a case? Isn't that part of her duties as a detective sergeant with detectives reporting to her?

MR COHEN: That may well be, but I'm not referring to McLeod. I'm referring to the expression of opinion about Fox.

Q. You have no proper basis to express any opinion about Detective Chief Inspector Fox, do you?

A. I had that very lengthy conversation with him which I would consider as obsessive from him, to the point that, you know, I did feel sorry for him and, you know, the assertion of the Catholic mafia, so that's where my opinion is based on merely for him, if you're asking me that. As far as being obsessed with something, this happens on a daily basis, you know, with police - not on a daily basis but it happens a lot, and you have to make sure you're not obsessed with an investigation to objectively investigate it. That's what I'm stating there.

Q. You've never worked with DCI Fox, except for a period of six months 14 years ago?

A. A very short time, yes.

Q. You've got no basis to express that opinion that you just gave to the Commissioner, have you?

A. That conversation - I do have a basis. That conversation I just had, that's the basis of my opinion.

Q. Your opinion is just psycho babble, isn't it?

A. No, sir, it's not.

MR COHEN: Thank you, Commissioner.

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THE COMMISSIONER: Mr Saidi?

MR SAIDI: I may need leave to ask this question but I'll ask it and I'll see if there's a problem with it.

<EXAMINATION BY MR SAIDI:

MR SAIDI: Q. It has been suggested during the course of this inquiry and elsewhere that in terms of police investigations in relation to Catholic related paedophilia and activities such as that, that either they're not taken seriously or there's not a will to undertake those investigations. I call on your experience with Strike Force Georgiana and as a police officer, what do you say about those allegations?

A. Look, I say that's completely and utterly incorrect. As I think I've stated before, sexual abuse or the cover up of child sexual abuse is an offence that we consider akin to murder. It's a hideous crime. They're difficult to investigate, but we don't care who you are. You could come from a religious organisation or you could be the king of the world, we don't really care. If you've committed those crimes then we will investigate you and we'll investigate you to the fullest. To suggest that we wouldn't investigate a religious organisation is just nonsense and insulting to the police that do it every day.

MR SAIDI: Thank you.

MR GYLES: Could I ask a couple of questions in relation to the topic that came up, the "Catholic mafia" topic?

THE COMMISSIONER: Yes.

<EXAMINATION BY MR GYLES:

MR GYLES: Q. Ms Faber, you've referred to the conversation with DCI Fox in which the reference was made to the threat concerning the Catholic mafia. Do you recall that?

A. Yes, I do.

Q. I think you've said it wasn't something that you took seriously?

A. No, it wasn't.

1 Q. One of the words that fell from you in relation to
2 that after lunch was you used the word "comical"?

3 A. Yes.

4

5 Q. Can we take it that it did not affect in any way
6 whatsoever the manner in which you discharged your duties
7 with Strike Force Georgiana then or at any time?

8 A. No, it didn't.

9

10 Q. To the extent that one might infer that the reference
11 was to the church itself rather than a Catholic mafia
12 within the police force, your dealings with the church in
13 your role at Strike Force Georgiana have been inconsistent,
14 haven't they, with some idea that you would be under threat
15 if you didn't do your job properly?

16 A. I am sorry? So you're saying - sorry, could you
17 repeat that, please?

18

19 Q. Yes. To the extent that one might infer that the
20 comment was directed towards the church rather than a
21 Catholic mafia within the police force, your dealings with
22 the church in your role at Strike Force Georgiana have
23 always been cooperative, haven't they?

24 A. No. Can I say, sir, if you ask me about
25 Zimmerman Services, they are cooperative.

26

27 Q. But so far as your work in respect of Strike Force
28 Georgiana, you have operated in a way, haven't you, that
29 you would not be under threat if you did your job properly?

30 A. That's how I operate, yes.

31

32 MR GYLES: I have no further questions. Thank you,
33 Commissioner.

34

35 THE COMMISSIONER: Thank you, Mr Gyles.

36

37 MS LONERGAN: I have nothing in re-examination.

38

39 THE COMMISSIONER: Q. Detective Sergeant Faber, thank
40 you very much for your evidence. You are excused.

41 A. Thank you very much.

42

43 <THE WITNESS WITHDREW

44

45 MR KELL: Commissioner, may I take the opportunity to
46 tender as an exhibit a statutory declaration from Miriam
47 Sybil White? I hand up a tender copy and a copy for you,

1 Commissioner.

2

3 THE COMMISSIONER: Thank you, Mr Kell.

4

5 MR KELL: That is a statutory declaration dated 26 June
6 2013. Miriam White was an administrative officer of the
7 NSW Police who observed to some extent the search being
8 undertaken of the offices of Detective Chief Inspector Fox.
9 It is not proposed to call her to give oral evidence.
10 I understand that the relevant parties also have no
11 objection to the document, when it becomes an exhibit,
12 being made available to the media.

13

14 THE COMMISSIONER: Thank you very much, Mr Kell. That
15 will be admitted and marked exhibit 46.

16

17 **EXHIBIT #46 STATUTORY DECLARATION OF MIRIAM SYBIL WHITE**
18 **DATED 26/6/2013**

19

20 MS LONERGAN: Thank you, Commissioner. There has been a
21 request by the media for access to a copy of the statement
22 of Superintendent John Gralton. I would normally ask that
23 any parties who object to that being released to the media
24 speak to me or any of the team that assists you in the next
25 half an hour or so.

26

27 However, during this week there have been a number of
28 objections raised in relation to annexures to the
29 statements of various police officers, namely, the
30 statement of Detective Sergeant Little, the statement of
31 Detective Chief Inspector Humphrey, the statement of
32 Detective Senior Constable Freney, the statement of
33 Graeme Parker and, in addition, the statement of
34 Superintendent Gralton which was traversed in the evidence
35 today.

36

37 The nature of the objection is not objecting to the
38 material contained within the narrative part of the
39 statements of the police officers, but an objection has
40 been taken to various annexures to those documents and it
41 is the position of those who assist you, Commissioner, that
42 because we are conducting a public inquiry, it is important
43 that part of that inquiry is the appropriate access to
44 members of the media with documents that are tendered
45 during its proceedings.

46

47 We have a role in balancing the countervailing

1 considerations of those whose reputations might be affected
2 by assertions made and, on the other hand, the right for
3 the public to be aware of material that's covered in open
4 court and the reporting of that by the media.
5

6 We considered whether it was possible or appropriate
7 to simply release to the media the text of the statements
8 of those officers without those important annexures which
9 inform the material that the officers have set out in their
10 statements and formed the view that without that material
11 and the annexures, that the facts only tell part of the
12 story.
13

14 An important part of the assessment of matters before
15 you in term of reference 1 are the evaluation and
16 assessments that these officers made at different times of
17 the reliability, veracity or relevance of matters raised by
18 Detective Chief Inspector Fox in various assertions and
19 other material that are annexed to the statements that
20 inform the opinions of those officers.
21

22 In those circumstances, we formed the view that those
23 statements can't be released to the media at the moment.
24 But that further discussions will continue with the
25 representatives of the diocese, who we have been engaged in
26 discussions with off and on during the week, to try to
27 narrow areas of differences of opinion and should matters
28 not be able to be sorted out before next week, at some
29 point during the week there may well be a debate about
30 those matters.
31

32 Another matter that Mr Gyles has raised also on behalf
33 of other persons who are not legally represented today and
34 yesterday in term of reference 1 is that there may be
35 matters they wish to raise, also joining in some objections
36 raised by the diocese. Those deliberations and argument,
37 if necessary, will be postponed until next week. I am just
38 being reminded about something.
39

40 MR ROSER: While my friend is getting some instructions,
41 we have no objections at all that they be released to the
42 media, thank you, Commissioner.
43

44 THE COMMISSIONER: Thank you, Mr Roser.
45

46 MS LONERGAN: Again, we thank the assistance of all those
47 parties at the Bar table with redactions and privacy

1 matters and there are always improvements that can be had
2 to redacting these important documents.

3
4 Can we substitute a further copy of exhibit 44 because
5 it has been pointed out that there's another name in that
6 exhibit that needed to be redacted. I will just hand that
7 up now as a substitute of the exhibit 44 that's currently
8 before you, Commissioner. Again, could we have return of
9 the previous version?

10
11 THE COMMISSIONER: Thank you, Ms Lonergan.

12
13 MS LONERGAN: Mr Kell will be the enforcer in terms of
14 disposal of those documents, so everyone can pass their
15 inappropriately redacted copies to him to appropriately
16 dispose of.

17
18 In terms of the plan for other evidence that needs to
19 be tendered in relation to term of reference 1, it is
20 proposed - and this has been discussed with the legal
21 advisers - that the current tender bundle be looked at with
22 some care before tender and a combined tender bundle
23 relating to term of reference 1 and term of reference 2
24 will be tendered later after the evidence is complete in
25 term of reference 2.

26
27 The other matter to raise is there's a number of
28 statements of other police officers who have not been
29 called to give evidence orally and they will be tendered
30 but need to be put into the form of appropriately sworn
31 testimony. That will be attended to in the next little
32 while. It is proposed that they be tendered some time
33 during next week.

34
35 Commissioner, I have another request from the media
36 for a copy of the statement of Detective Sergeant Faber.
37 Could any parties who have objection to the release of that
38 document let me know prior to 3pm?

39
40 MR ROSER: I can indicate that we don't object.

41
42 THE COMMISSIONER: Yes, I understood that.

43
44 MR GYLES: I can indicate that we don't object either,
45 Commissioner.

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47 THE COMMISSIONER: Thank you, Mr Gyles.

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MS LONERGAN: Thank you very much.

MR COHEN: We have no objection.

MS LONERGAN: Mr Cohen has indicated that his client doesn't object to the release of that document either. We again thank the practitioners and counsel for all the cooperation and assistance that they've provided to those who assist you, Commissioner, and the court and the courteous and cooperative way they have conducted themselves during the proceedings.

THE COMMISSIONER: I too, of course, am most grateful for the cooperation of all counsel and solicitors and that also includes my counsel assisting.

MS LONERGAN: Commissioner, can I add an extra thank you to the transcript reporters who have assisted every day for long hours and also the court staff of the Newcastle Court.

THE COMMISSIONER: I certainly second that. Thank you to the transcription reporters and to the officers.

MS LONERGAN: There is nothing further, unless any other party wishes to raise any other matter.

THE COMMISSIONER: Thank you.

MS LONERGAN: I understand we're adjourning until Monday at 10am for the commencement of the evidence in term of reference 2.

THE COMMISSIONER: Thank you very much, Ms Lonergan.

AT 2.40PM THE COMMISSION WAS ADJOURNED TO MONDAY, 1 JULY 2013 AT 10AM

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