

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

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

On Wednesday, 8 May 2013 at 10.07am
(Day 3)

Before Commissioner: Ms Margaret Cunneen SC

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

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

1 THE COMMISSIONER: Ladies and gentlemen, before we
2 commence proceedings this morning, I wish to raise a matter
3 of an unpleasant nature.
4

5 It has been brought to my attention that some members
6 of the public have been expressing opinions about witnesses
7 who might be expected to be giving evidence in these
8 proceedings in the coming days, in an offensive fashion.
9 That is not acceptable conduct and it will not be tolerated
10 in this inquiry.
11

12 As I have often heard said to juries by judges
13 presiding in criminal trials, it is very wrong to prejudge
14 because prejudgment is the basis, of course, of prejudice,
15 and in circumstances where we are still in the process of
16 taking the evidence of the first witness in this inquiry,
17 it is most inappropriate to form views and, from them, to
18 be offensive towards other people.
19

20 I would ask everyone to conduct him or herself with
21 decorum and dignity, and I hope that this matter does not
22 have to be raised again.
23

24 Ms Lonergan.
25

26 MS LONERGAN: Thank you, Commissioner. This morning
27 we are going to interpose Mr Troy Grant, and I call
28 Troy Grant.
29

30 <TROY WAYNE GRANT, sworn: [10.11am]

31
32 <EXAMINATION BY MS LONERGAN:
33

34 MS LONERGAN: Q. Mr Grant, could you state your full
35 name for the record, please?

36 A. My name is Troy Wayne Grant.
37

38 Q. You are the Nationals member of the New South Wales
39 Legislative Assembly for the electoral district of Dubbo?

40 A. That is correct.
41

42 Q. You have held that position since March 2011?

43 A. Since 26 March 2011.
44

45 Q. Prior to entering parliament, you were a constable of
46 police in the NSW Police Force initially?

47 A. That is correct.

1 Q. Joining the force in October 1988?
2 A. Yes.
3
4 Q. Then you progressed through the ranks to become
5 inspector of police?
6 A. That is correct.
7
8 Q. What year did you reach that rank of inspector?
9 A. In 2008.
10
11 Q. You resigned your commission in March 2011 to take up
12 your position in parliament?
13 A. That is correct.
14
15 Q. In March 2013, you were sent a letter from the Crown
16 Solicitor's Office seeking your assistance with the
17 provision of a sworn statement?
18 A. That is correct.
19
20 MS LONERGAN: Could the witness be shown a copy of his
21 statement dated 29 April 2013, together with a letter dated
22 28 March 2013.
23
24 Q. First could you look at the letter dated 28 March
25 2013.
26 A. Yes.
27
28 Q. You see that letter asks you to cover certain things
29 in a statement for the assistance of the Commission?
30 A. That is correct.
31
32 Q. One of the matters you are asked to address your mind
33 to, on page 1, next to (a) is:
34
35 *details of any discussions that you may*
36 *have had with Detective Chief Inspector*
37 *Fox ... in which the phrase "the Catholic*
38 *Mafia" (or similar descriptor) may have*
39 *been used?*
40
41 A. That is correct.
42
43 Q. Are you able to assist the Commission with whether you
44 had, prior to receiving this letter, seen or used that
45 phrase before?
46 A. Not to the best of my knowledge and belief.
47

1 Q. Did you do what was requested by the letter and
2 prepare a statement addressing the matters raised in the
3 letter?

4 A. I did.

5

6 Q. Can you turn now to the statement dated 29 April 2013.
7 Is that statement true and correct, to the best of your
8 knowledge?

9 A. Yes, it is.

10

11 Q. Is that your signature on page 2 of the statement?

12 A. My signature appears at the bottom of both pages.

13

14 MS LONERGAN: I tender that statement and letter,
15 Commissioner.

16

17 THE COMMISSIONER: Thank you, Ms Lonergan. The statement by
18 Mr Grant and the letter to him from the Crown Solicitor's
19 Office will be admitted and marked exhibit 3.

20

21 **EXHIBIT #3 LETTER TO MR GRANT FROM THE CROWN SOLICITOR'S**
22 **OFFICE DATED 28/3/2013 AND STATEMENT OF MR GRANT DATED**
23 **29/4/2013**

24

25 MS LONERGAN: Q. In the course of your policing career,
26 Mr Grant, you carried out investigations into a Father Ryan
27 of the Maitland-Newcastle diocese?

28 A. That's correct. In 1995 I commenced an investigation
29 into Father Vincent Gerard Ryan, concerning allegations
30 of sexual assault, initially upon two victims that, over
31 the course of the inquiry, resulted in charges being laid
32 against 31 victims.

33

34 Q. At the time you carried out those investigations you
35 were stationed at the Northern Region; is that the correct
36 title?

37 A. When I was first given the job of investigating that
38 matter, I was on secondment to the north region Major Crime
39 Squad child protection investigation team. My substantive
40 station was Kurri Kurri within the Cessnock patrol and
41 I was performing A list duties at Cessnock detectives'
42 office immediately before taking up that secondment.

43

44 Q. At that time you were a constable or a senior
45 constable?

46 A. I think I was constable first class and I think a week
47 or two after I arrived at the Major Crime Squad, I became a

1 senior constable.

2

3 Q. At that time did you have a particular person who was
4 your direct report?

5 A. Yes, that was Detective Sergeant Rhonda Mulligan.
6 I was in a team with three other investigators and her.

7

8 Q. Was she the leader of a child protection team at that
9 stage?

10 A. Yes, she was.

11

12 Q. In terms of assistance and/or encouragement in
13 relation to any investigations you were performing into
14 Father Ryan, how would you describe her role?

15 A. She was excellent. She provided me every assistance
16 and guidance that I required. She accompanied me to the
17 final interview that I conducted with Vincent Ryan, when
18 I took him out of Cooma Correctional Centre on a section 43
19 order to interview him for the final time on a series of
20 victim complaints.

21

22 Q. Was there any incident or event where you received an
23 impression that Detective Sergeant Mulligan did not want
24 you to complete investigations or have appropriate time to
25 complete investigations?

26 A. Not at all.

27

28 Q. She was your direct report from July to October or
29 November 1995?

30 A. Yes, around that period. I was on secondment and
31 Detective Chief Superintendent John Ure was the commander
32 of the north region Major Crime Squad. There were two
33 offices for that crime squad, one located at Chatswood and
34 one located here at Newcastle. He was the commander of
35 both offices and had an office in both. My secondment was
36 a three-month secondment period. He arrived, I'm not quite
37 sure, just prior to my arrival or just after my arrival for
38 that secondment, and he was unaware that I was on a
39 secondment. When I made him aware of that fact, he had me
40 transferred into the Major Crime Squad.

41

42 Q. Was that transfer to facilitate the completion of your
43 investigation into Father Ryan?

44 A. Yes, it was.

45

46 Q. How did you find Detective Chief Superintendent Ure in
47 terms or encouragement or otherwise in relation to your

1 investigations of Father Ryan?

2 A. He was fully supportive. I offered in the early part
3 of the investigation, once I realised that this was
4 becoming rather large - I was only 25 at the time, I was a
5 plainclothes senior constable, I offered and was happy for
6 the investigation to be handed to a more experienced or
7 senior detective. He was very strong in his encouragement
8 and asked me to keep going and assigned Detective Senior
9 Sergeant John Mooney as a mentor for the investigation. He
10 was kept constantly updated, and supported me throughout,
11 was extremely strong and he participated in the search
12 warrant execution of the investigation by supervising the
13 search warrant executed on the bishop's premises here in
14 Newcastle.

15
16 Q. Detective Sergeant Mooney started working as your
17 mentor immediately after Detective Sergeant Rhonda
18 Mulligan; is that correct?

19 A. That's correct. I was transferred to the special
20 crime hold-up unit of the Major Crime Squad and allowed to
21 continue the investigation. Detective Senior Sergeant John
22 Mooney was not only my direct report for that unit, that
23 squad, he was also the mentor for the Father Ryan
24 investigation.

25
26 Q. May we take it from the answers you have given to my
27 questions this morning that you had no issues in relation
28 to any of those police officers you have identified,
29 Detective Superintendent Ure, Detective Sergeant Rhonda
30 Mulligan or Detective Sergeant Mooney in terms of their
31 support and/or encouragement in relation to your
32 investigation of the Catholic Church paedophilia matters?

33 A. I have absolutely no issues and I hold them only in
34 the highest regard.

35
36 Q. I am turning now to paragraph 5 of your statement, if
37 you don't mind Mr Grant, just examining a couple of the
38 matters you have raised in there.

39
40 You mention that you believe you had two conversations
41 with Detective Chief Inspector Peter Fox after he took
42 carriage of the Catholic priest investigations matter in
43 the Hunter. Do you have any recollection about the year in
44 which these conversations took place?

45 A. I don't, no. It's been pointed out in the
46 correspondence I received from you that it was potentially
47 in the vicinity of 2002 or 2003, and I have no reason to

1 doubt that that would be accurate.

2

3 Q. Did you take any notes of the conversations you had
4 with him?

5 A. No, I did not.

6

7 Q. Why is that?

8 A. The conversations I had with him was to offer my
9 assistance in regards to lessons learnt out of my
10 investigation with Father Ryan and dealing with individuals
11 within the Catholic Church who played certain roles in
12 relation to making that job difficult and who were the key
13 players still within the Maitland-Newcastle diocese. So
14 I made him fully aware of my viewpoint and opinion on those
15 and warned him in relation to potential dealings he had.
16 I nominated locations and other names of individuals
17 relative to my inquiries that may or may not have been
18 relevant to his investigation. I offered him any support
19 that I could to help him by supply of any copies of
20 evidentiary material that I had in my possession.

21

22 Q. Did Detective Chief Inspector Fox ask you for copies
23 of any paperwork you had at that time?

24 A. No.

25

26 Q. Did you, at any point in that conversation or
27 conversations with Detective Chief Inspector Fox, complain
28 in relation to support or otherwise that you were getting
29 from those who supervised you in your investigations?

30 A. No, I did not, and I had no reason to.

31

32 Q. If you turn to the second page of your statement, you
33 make some observations about limited deals you had with
34 Detective Chief Inspector Fox during your career. You
35 mention that at one stage he was your supervisor at
36 Cessnock detectives' office for a short time. Are you able
37 to assist with what year that was and for how long that
38 period of supervision proceeded?

39 A. It was in 1995. I think I took up the secondment to
40 the Major Crime Squad in July and I believe I commenced my
41 A list training duties at Cessnock detectives just after
42 Christmas, so in the vicinity not exceeding sort of five
43 months, six months.

44

45 Q. You make the observation that your knowledge of
46 Detective Chief Inspector Fox's processes and approach to
47 his work at the time was that, in investigations, he tended

1 to be meticulous in recording matters in his duty book?

2 A. That is correct; he was a meticulous investigator.

3

4 Q. And to some extent, he trained you as to what you
5 should do in terms of recording matters in your duty book?

6 A. Absolutely.

7

8 Q. You then, in paragraph 7, talk about not recalling
9 specifics of your conversations or any reference to a
10 phrase such as "the Catholic Mafia". Do you find that
11 phrase "Catholic Mafia" a colourful phrase that you would
12 have recollected, had you heard it used or used it?

13 A. Yes, I do. It's one that obviously grabs attention.
14 It's something I'm sure I would have remembered ever
15 saying. It's something that nobody that knows me would
16 expect me to say. It's a great phrase. In my current role
17 as a politician, it's a cracker that I could use at any
18 time, had I had the need to use it.

19

20 Q. If you had, in your career as a police officer,
21 encountered obstruction or interference in your activities
22 by any senior police, would you have spoken out about that?

23 A. Absolutely.

24

25 Q. When you say "Absolutely", do you mean in a public
26 forum as opposed to just murmuring with other officers
27 present in your local area command or district?

28 A. No, no, I would have taken it through the complaint
29 management system at the time, had it occurred, and I'm
30 well known within the organisation, I believe, for being
31 forthright and frank and not being afraid to speak up to
32 senior officers or about senior officers. I've got a track
33 record of that in the organisation and I had never any
34 reason to report any type of activity that would even be
35 perceived as being any form of Catholic Mafia or any
36 interference from the police force at any time.

37

38 Q. In paragraph 9 of your statement, you mention that,
39 given you had no hindrance or obstruction from the police
40 force concerning your investigation, you had no reason to
41 discuss that with Detective Chief Inspector Fox. But you
42 also say this.

43

44 *... nor do I recall him disclosing to me*
45 *any hindrance or obstruction regarding his*
46 *investigation from Police.*

47

1 Do you see that?

2 A. That is correct.

3

4 Q. When did you first hear any suggestion from Detective
5 Chief Inspector Fox that he was being hindered or
6 obstructed by police in his pursuit of investigations?

7 A. On his appearance on the ABC program Lateline.

8

9 Q. That's in November 2012?

10 A. I'm not sure when it was.

11

12 Q. Quite recently, though?

13 A. Yes.

14

15 Q. In paragraph 10, you talk about providing a statement
16 to the NSW Police in mid-2011. I just want to get a small
17 amount of background into that matter. Was it the position
18 that you had been quoted in an article which led to some
19 need to clarify the position?

20 A. That is correct.

21

22 Q. If I can have you turn to a volume that will be in the
23 witness box next to you, volume 2 of the bundle of
24 materials. Turn, please, to tab 111 to page 519. Before
25 I take you to that article, can I clarify something in your
26 paragraph 10. In line 4, as part of a sentence commencing
27 in line 3 of paragraph 10, you say the following:

28

29 *I have provided a statement to the NSW*
30 *Police Force in mid-2011 regarding in*
31 *frequent contact.*

32

33 Then you go on. Is that supposed to be "infrequent"?

34 A. Yes, it's a typographical.

35

36 Q. Can you explain what type of contact you are referring
37 to there, in terms of contact between you and
38 Joanne McCarthy?

39 A. Yes, I was contacted by Joanne McCarthy, I can't
40 recall exactly when for the first occasion, but then on
41 multiple occasions in relation to her frustration and
42 knowledge of investigations within the Maitland Catholic
43 diocese. I was often asked for quotes or a commentary in
44 relation to any part of my questions that may relate to the
45 investigations that were occurring in this area. As a
46 result of that conversations, it led me to - she requested
47 of me to contact Detective Sergeant Dave Waddell, who she

1 instructed me was in charge of an investigation at the
2 time, to encourage him to get on with it or for me to
3 provide assistance to him in any way that I may have.
4

5 Q. When you used term "infrequent contact", do you mean
6 now and then, you were contacted by Ms McCarthy?

7 A. Yes, look, I might get a couple of phone calls over a
8 couple of days, then not have any conversation for a number
9 of months.
10

11 Q. If you look at page 519, in the fourth column, next to
12 the second bullet point, there's a statement attributed to
13 you there, to the following effect:
14

15 *The failure of a senior police officer with*
16 *responsibility for the McAlinden matter to*
17 *respond to an offer of help last year from*
18 *the then police officer Troy Grant, who*
19 *investigated Vince Ryan. Mr Grant, a newly*
20 *elected NSW government MP, said this week*
21 *he was "obviously concerned there still*
22 *seems to be issues that have to be fully*
23 *investigated."*
24

25 Was that a comment that was taken somewhat out of context,
26 in terms of your discussions with Ms McCarthy?

27 A. Yes. It's in context with the broader issues and
28 systemic problems of child paedophilia in the Maitland
29 Catholic diocese that I had been an advocate for, for some
30 17 years.
31

32 Q. Was it meant to be a critical comment of an
33 investigation taking place at that time into matters
34 involving Denis McAlinden?

35 A. No, I know nothing about that investigation. I don't
36 know any - I don't have any information to be critical of.
37

38 MS LONERGAN. Those are my questions, Commissioner.
39

40 THE COMMISSIONER: Thank you, Ms Lonergan. Mr Cohen.
41

42 **<EXAMINATION BY MR COHEN:**
43

44 MR COHEN: Q. Mr Grant, you indicated your sworn
45 testimony that you started an as a plainclothes senior
46 constable; is that right?

47 A. Yes.

1
2 Q. You weren't a detective at that time?
3 A. That is correct.
4
5 Q. You were 25?
6 A. That is correct.
7
8 Q. You are an experienced politician now, but in 1995,
9 would you have described yourself as a young man trying to
10 make a mark?
11 A. No. I was a young man trying to do the best job
12 I could.
13
14 Q. Were you careful and precise in your nature?
15 A. I was professional.
16
17 Q. Does that mean you were careful and precise in your
18 nature?
19 A. I'm not quite sure I understand your question.
20
21 Q. It's a very simple question. Can you answer it? Were
22 you careful and precise in your nature? You were 25 in
23 1995. In 1995, as a 25-year-old, were you careful and
24 precise in your nature?
25 A. To a large extent, I believe I may have been.
26
27 Q. Was it your practice to record all matters in writing
28 that were important to you?
29
30 MS LONERGAN: I object, Commissioner. Is this question
31 being asked in relation to policing duties or of a more
32 general nature? Obviously the relevance to this Commission
33 is Mr Grant's policing practices.
34
35 THE COMMISSIONER: Yes, thank you, Ms Lonergan.
36
37 Would you be more precise about the meaning of your
38 question, Mr Cohen?
39
40 MR COHEN: Q. You heard my learned friend. In relation
41 to your policing practices, was it your practice to record
42 all matters of importance?
43 A. In the main, yes.
44
45 Q. When you signed your statement that you have given to
46 the Commissioner today, which has been received as exhibit
47 3 or part of exhibit 3, did you consider the material

1 contained in it carefully before you signed it?
2 A. Yes.
3
4 Q. You say in paragraph 6 that Mr Fox was your supervisor
5 at Cessnock - and you have given oral evidence about that -
6 for six months; is that correct?
7 A. I'm not sure of the exact time period. It was from
8 three to six months, yes.
9
10 Q. But as much as six months is your estimation and your
11 recollection?
12 A. Yes. There are records that would clearly indicate
13 it, that I don't have access to, but yes.
14
15 Q. So it wasn't a fleeting period then?
16 A. No, it was a period between three to six months.
17
18 Q. It was not a period of time that would be such that
19 you would only have limited dealings, surely?
20 A. The limited dealings were that I didn't work side by
21 side with Detective Fox on a large number of
22 investigations. We were tasked and had different jobs that
23 we went out and did, so --
24
25 Q. But you were in the same office together?
26 A. Yes.
27
28 Q. And you were able, by reason of your proximity to him,
29 to understand, as you described, him as being meticulous?
30 A. That is correct.
31
32 Q. You have been a police investigator over a period of
33 time. You have formed habits and methods of observation
34 beyond what the ordinary person in the street would have;
35 is that right?
36 A. I believe so.
37
38 Q. So you were in a good position to observe Detective
39 Chief Inspector Fox and come to a view that he was
40 meticulous; is that right?
41 A. That's correct.
42
43 Q. By "meticulous", do you mean the Commissioner to
44 understand that he was - that is Detective Chief Inspector
45 Fox - somebody who was apt to exhibit painstaking efforts??
46 A. Exactly right. I was quoted in the Sydney Morning
47 Herald, which is a correct quote, saying words to the

1 effect of, "If I was a victim, I would want Inspector Fox
2 as the case officer."
3 Q. Does this mean that he was somebody that you looked up
4 to at the time?
5 A. It's a comment reflecting that I saw how meticulous he
6 was and how passionate about investigations he was and
7 therefore if I was a victim of crime, I would want him
8 investigating that crime.
9
10 Q. Therefore, you saw him to adopt a practice of careful
11 research?
12 A. Absolutely.
13
14 Q. And a conscientious application to the work at hand?
15 A. That's correct.
16
17 Q. And scrupulous attention to detail?
18 A. That is correct.
19
20 Q. I put those propositions to you because those are all
21 definitions of the word "meticulous", aren't they?
22 A. I don't know what the definition of "meticulous" is,
23 but that's my understanding of what it would mean.
24
25 Q. You accept that they are, at the very least, synonyms
26 for "meticulous", don't you?
27 A. I accept your premise, yes.
28
29 Q. In 1995, as a young man of 25, starting out on a
30 policing career, just about to commence such a career as a
31 detective, I take it you were apt, by reason of the view
32 you formed of Detective Chief Inspector Fox, to include him
33 as somebody within whom you could confide; is that right?
34 A. Yes.
35
36 Q. And you did take the opportunity to confide in him,
37 didn't you?
38 A. No, I took the opportunity to offer assistance in
39 relation to my investigation that may have been of
40 assistance to his.
41
42 Q. Indeed; but you also confided in him, didn't you?
43 A. Yes, I did, in relation to members of the Catholic
44 Church within the Maitland-Newcastle diocese.
45
46 Q. You said you don't recall using the term Catholic
47 Mafia; that's your evidence today, isn't it?

1 A. That is correct.
2
3 Q. But that's a recollection, isn't it, casting your mind
4 back to a period when you were 25; is that right? ?
5 A. Yes, but the allegation is that that conversation
6 happened in 2002 or 2003, at which time I was 32 or 33.
7
8 Q. As a man of 32 or 33, it's put to you that you used
9 that term then; is that right?
10 * A. That's what I've heard has been given in evidence
11 here and I have no recollection of ever using that term and
12 I have no reason to have used that term, because I had and
13 saw no interference with my investigation in which to
14 give --
15
16 Q. Let's explore that.
17
18 MS LONERGAN: Commissioner, I object. The witness has to
19 be allowed to finish his answer.
20
21 MR COHEN: Q. I do apologise. Please finish.
22 A. I did finish. I'm not sure how much was heard in the
23 court. I can repeat it, if you like.
24
25 (Answer marked * read)
26
27 THE WITNESS: In which to give that reference.
28
29 MR COHEN: Q. Thank you. I apologise for interrupting.
30 You tell the Commissioner, don't you, that you can't recall
31 the specifics of the conversation? That's what you say in
32 your statement?
33 A. That is correct. It was some time ago.
34
35 Q. But you are now purporting in the witness box to give
36 a very detailed description, aren't you?
37
38 MS LONERGAN: I object. The witness is not and has not
39 purported to give detailed descriptions. All he has done
40 is deny he used a certain phrase. He has, in fact with
41 some care, only referred to certain broad matters, not a
42 detailed description.
43
44 MR COHEN: I take the point.
45
46 THE COMMISSIONER: Thank you, Mr Grant.
47

1 MR COHEN: Q. Let me put it this way, Mr Grant: do you
2 accept that you could be quite mistaken in your
3 recollection?
4 A. No.
5
6 Q. There's no chance or possibility on any basis that you
7 could be mistaken?
8 A. There's always a chance or a possibility of anything.
9 However, all evidence is to the contrary. There was no
10 interference in my investigation, there was no adverse
11 pressure from anyone within the NSW Police Force, borne out
12 by the fact that it was probably the most successful
13 paedophile investigation of priests, and if there was going
14 to be any interference that I didn't know about or happened
15 or allegedly happened, well, it didn't work.
16
17 Q. I thought we were talking about the term "Catholic
18 Mafia". But to the extent we are at cross-purposes, I was
19 referring you to the use of the term "Catholic Mafia". It
20 is entirely possible that you are quite mistaken in your
21 recollection, isn't it?
22 A. No.
23
24 Q. Why not?
25 A. Why not?
26
27 Q. Yes. Why is your recollection completely and
28 unequivocally without doubt?
29 A. Because I had no reason then, and have no reason now
30 or in the future to ever draw that inference or use that
31 terminology.
32
33 Q. The fact that you had a reason to do something is not
34 an answer to my question, sir. It is possible, is it not,
35 you could be entirely mistaken about your recollection of
36 this conversation with Detective Chief Inspector Fox, isn't
37 it?
38 A. I don't believe so.
39
40 Q. But your belief is that - a belief. You don't have a
41 record in writing of this, do you?
42 A. No, I don't.
43
44 Q. There was no contemporaneous record made in 1929 or
45 1939?
46 A. I can't record something that didn't happen.
47

1 Q. Are you saying the conversation didn't occur?
2 A. Sorry?
3 Q. I thought you said you can't recall something that
4 happened. You say that this conversation in 2002 or 2003
5 did not occur?
6 A. No, you are putting it to me that I would have
7 recorded the use of "Catholic Mafia". I said I can't
8 report or record what didn't happen or was said.
9
10 Q. Sorry, we are at cross-purposes. I was asking you if
11 there is no record, and your testimony is there is no
12 record?
13 A. No, there is no record of that conversation or what
14 I believe was a second conversation some years later,
15 because both conversations were inconsequential.
16
17 Q. You have told the Commission that your purpose in
18 discussing with Detective Chief Inspector Fox about your
19 experiences of the Ryan investigation were the purpose for
20 the conversation?
21 A. That's correct.
22
23 Q. That, surely, is not inconsequential
24 A. No, but the outcome is, because there was no
25 correlation between my brief of evidence and obviously the
26 ones he was investigating; therefore it was
27 inconsequential.
28
29 Q. We are not talking about an outcome; we are talking
30 about the conversation at the time. That was not
31 inconsequential, was it? It was of the utmost importance
32 to both of you, wasn't it?
33 A. The conversation at the time was a police officer, who
34 had experience in investigating a type of investigation in
35 an area where a similar investigation was occurring and
36 offering any assistance to assist that officer with that
37 investigation.
38
39 Q. Which could hardly be described as inconsequential,
40 could it?
41 A. Well, the inconsequential bit is that there was
42 nothing in my investigation that related to the
43 investigation undertaken by Detective Fox. That's my
44 reference to "inconsequential".
45
46 Q. The issue discussed between you in this conversation
47 flowed out of the similarities between the Ryan

1 investigation and the Fletcher investigation, didn't it?

2 A. That is correct.

3

4 Q. You informed Detective Chief Inspector Fox that, in
5 your understanding of the investigation, Ryan's crimes and
6 his conduct were, as you understood it, similar to what
7 Detective Chief Inspector Fox had described to you about
8 Fletcher. That's right, isn't it?

9 A. That is correct, and some similarities with locations.

10

11 Q. And you told Detective Chief Inspector Fox that you
12 were extremely upset by the failure of Monsignor Cotter to
13 report Ryan's conduct to police because it permitted many
14 more victims to be abused?

15 A. Absolutely.

16

17 Q. That was your view, wasn't it?

18 A. Absolutely. It's still my view today.

19

20 Q. You then went on to say to Detective Chief Inspector
21 Fox that you had been subject to hindrance in relation to
22 your investigations of the Ryan matter, in that
23 conversation; is that right?

24

25 MS LONERGAN: I object. There needs to be some clarity,
26 given the importance of where the inference was coming
27 from, as to whether the question is being put on the basis
28 of hindrance by police or hindrance by the Catholic Church.

29

30 MR COHEN: I was just getting to that, but I will clarify
31 it.

32

33 THE COMMISSIONER: Thank you, Mr Cohen.

34

35 MR COHEN: Q. You indicated to Detective Chief Inspector
36 Fox that you had suffered hindrance by senior police,
37 didn't you, in this conversation?

38 A. No, I did not.

39

40 Q. It was at that point that you indicated that it was,
41 as you described, the Catholic Mafia that were hindering
42 you?

43 A. That's incorrect.

44

45 Q. This hindrance occurred at the investigation stage of
46 your investigation, or at the early investigation stage of
47 your investigation of Father Ryan, when you were trying to

1 conduct interviews and obtain witness statements. That's
2 what you told Peter Fox, isn't it?

3 A. No, that is incorrect. It's grossly incorrect. My
4 conversations with him were specific to the interference by
5 individuals within the Catholic Newcastle diocese during
6 the course of my investigation, both into initially Ryan
7 and then in relation to the cover-up by Monsignor Patrick
8 Cotter.

9

10 Q. You also told Detective Chief Inspector Fox the
11 hindrance that you identified took the form of having other
12 investigations imposed upon you in an unreasonable way so
13 as to divert your attention from the matter at hand?

14 A. No, that's incorrect.

15

16 Q. That's what you told him, isn't it?

17 A. No.

18

19 Q. When you were investigating the Ryan matter, were you
20 allocated other investigations or tasks that took you away
21 from the Ryan matter for periods of time?

22 A. I was no different to any other member of the
23 Maitland --

24

25 Q. Please answer the question.

26 A. I will if you let me finish.

27

28 Q. When you were investigating the Ryan matter, were you
29 allocated any other tasks that took you away from the Ryan
30 investigation?

31 A. I was allocated cases before Father Ryan's case came
32 to me and after.

33

34 Q. And did they take you away from the Ryan
35 investigation?

36 A. They took my duties as each of the different
37 investigations required. I did not have Father Ryan's
38 investigation as a sole investigation, nor did any other
39 member of the Major Crime Squad have a sole investigation.
40 It is the course of police business that you investigate a
41 large number of matters that proceed at various different
42 stages of the investigation process, as well as court
43 processes or referrals. I had a large number of
44 investigations that I was carrying out at the same time as
45 I did the Father Ryan investigation.

46

47 Q. Were you sent on trips to the north coast of New South

1 Wales or outside of the Hunter to obtain statements or to
2 conduct other functions during those periods, away from the
3 Ryan investigation?

4 A. I was tasked as part of the Major Crime Squad team to
5 participate in other investigations which required me to
6 travel between Wyong and Tweed Heads, which was our region.
7 Predominantly it was in the Coffs Harbour and Taree regions
8 that I was involved in a couple of other investigations
9 away from Newcastle.

10
11 Q. It was in this conversation with Detective Chief
12 Inspector Fox in late 2002 or early 2003 that you indicated
13 that those very activities you just described to the
14 Commissioner were what were being deliberately put in your
15 way as a hindrance, didn't you?

16 A. No.

17
18 Q. You have been active in the media indicating a lack of
19 action by police in investigations made into child sexual
20 abuse by Catholic priests, haven't you?

21 A. No, that's incorrect.

22
23 Q. Well, you have been reported in the Newcastle Herald
24 to that effect, haven't you?

25 A. No. I'll just check. Can you ask the question again?
26 I think you said that I have been reported being critical
27 of police hindrance of Catholic investigations; is that
28 right?

29
30 Q. Yes. That was my first question.

31 A. No.

32
33 Q. You have been reported to that effect in the Newcastle
34 Herald, haven't you?

35 A. Not to my knowledge. I've been extremely critical in
36 relation to Catholic Church's role in relation to various
37 investigations and my knowledge of the Father Ryan and
38 Patrick Cotter incidents has been repeatedly quoted here
39 and in the Sydney media, on the Lateline program, on
40 various news outlets, and I've said the same in the
41 Legislative Assembly chamber.

42
43 Q. You were taken to a news article in the Newcastle
44 Herald which is in volume 2 of the bundle at tab 111, and a
45 particular article is extracted at page 519. Are you
46 saying that those references to police mishandling are
47 misquotes?

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MS LONERGAN: I object. Commissioner, I only took the witness to one paragraph that directly referred to a statement attributed to him. If there's to be questioning about other content in the article, and an attempt to relate that to statements or propositions put in the public domain by this witness, (a) he ought to be given time to read it; and (b) that particular proposition should be identified in the article.

MR COHEN: I take my learned friend's comment.

THE COMMISSIONER: Is it that article?

MR COHEN: Q. It is the same article on page 519, if Mr Grant has it. In fairness to you, why don't you read the article and then tell us when you have done that.

A. Yes.

Q. The second dot point to which you were taken in the article, by my learned friend Ms Lonergan, you say you were misquoted?

A. I'm saying - I answered the question to Ms Lonergan truthfully and honestly - that my comments were taken out of context, because my comments to Joanne McCarthy were on the broader issue Catholic paedophilia in this area and the need to fully investigate those matters. I have no knowledge of which to make a comment or be quoted in this article about the rest of the content of that article.

Q. I will try again. Do you say you were misquoted?

A. No. I'm saying I was taken out of context. That is the evidence I've already given and the evidence is still the same.

Q. So the quotes in the article are correct?

A. Yes.

Q. When you spoke to Detective Chief Inspector Fox in 2002 and 2003, did you tell the Commissioner that you contacted him to make the initial contact?

A. I can't recall. I can't recall if he rang me or I rang him, I don't know.

Q. Isn't it the case that he rang you, looking for your assistance, because he was on his way to the correctional facility to interview Ryan in that facility at the time.

1 Do you remember that?

2 A. That's possibly correct, I can't recall.

3

4 Q. Isn't that the basis upon which this discussion
5 occurred and in which you offered your comments?

6 A. Yes, as --

7

8 Q. Isn't that when you warned him - I'm sorry, had you
9 finished?

10

11 MS LONERGAN: The witness said, "Yes," then he started to
12 say another word.

13

14 THE WITNESS: A. Yes, as I've indicated earlier, I had
15 a conversation. I can't remember who initiated it.
16 I can't remember whether he rang me or I rang him to offer
17 assistance and I warned him in relation to individuals who
18 were in the Maitland-Newcastle diocese that I had
19 experienced difficulties with during the course of my
20 investigation to help him out and offer him, in addition to
21 that, any material I had in my possession that may relate
22 to his investigation. I don't know the specifics of his
23 investigation - to this day I still don't know - or two
24 investigations or however many he's had.

25

26 Q. You say you didn't make a comment about the Catholic
27 Mafia, but is it possible now that because you are an
28 elected representative to the New South Wales parliament
29 that you are shying away from conceding that comment was
30 made because there may be some adverse political
31 consequences for you?

32 A. No. No, quite the opposite. I think that with the
33 ability I have to utilise parliamentary privilege, it would
34 only be in my political interest to use it if it was true.
35 Unfortunately it's not.

36

37 Q. I'm not talking about parliamentary privilege,
38 Mr Grant. I'm talking about you being concerned about
39 being identified with such a comment by your constituents.
40 That's a real possibility for you, isn't it?

41 A. No.

42

43 Q. Indeed, it's a real possibility for you amongst your
44 Coalition colleagues on your side of politics, isn't it?

45 A. Not at all. I called for Cardinal George Pell in the
46 public domain to fall on his sword. I think that's
47 evidence that I'm not afraid or think about the

1 consequences that you are alluding to whatsoever.

2

3 Q. In the conversation you had with Detective Chief
4 Inspector Fox in, let's call it the end of 2002 for the
5 sake of some definition, did you explain in your
6 discussions about members of the Catholic clergy, as you
7 described it in that conversation - did you discuss
8 particular members of the clergy with Detective Chief
9 Inspector Fox?

10 A. Absolutely.

11

12 Q. Who are they?

13

14 MR GYLES: Commissioner, I object. This evidence goes
15 directly to the second hearing. For our part, we weren't
16 provided with a copy of the bundle for this part of the
17 hearing. We have been given Mr Grant's statement for the
18 first time this morning. If Mr Grant is going to give
19 relevant evidence going to communications or conduct,
20 action or inaction on the part of the church in respect of
21 these investigations, that ought happen at stage 2, in my
22 respectful submission.

23

24 THE COMMISSIONER: Yes.

25

26 MR COHEN: Might I be heard?

27

28 MS LONERGAN: Can I accept and adopt and repeat the
29 submission made by Mr Gyles.

30

31 THE COMMISSIONER: Yes, you can be heard, Mr Cohen.

32

33 MR COHEN: Is it the case that Mr Grant will be giving
34 evidence during the second term of reference at all?

35

36 MS LONERGAN: Commissioner, that's a matter to be
37 determined by those assisting you, and appropriate steps
38 will be taken to elicit and distribute evidence relevant to
39 term of reference 2 at the appropriate time.

40

41 THE COMMISSIONER: Thank you, Ms Lonergan.

42

43 MR COHEN: The proposition is a simple one. Clearly
44 Mr Grant has evidence to provide. It seems convenient,
45 because we are here now.

46

47 THE COMMISSIONER: We are not here to deal with issues

1 relevant to term of reference 2, Mr Cohen.

2

3 MR COHEN: I understand that.

4

5 MS LONERGAN: May I add, certain persons have chosen not
6 to be present for term of reference 1 and, in my respectful
7 submission, it would not be appropriate to proceed down the
8 path of taking evidence that would be relevant to term of
9 reference 2 matters.

10

11 THE COMMISSIONER: Thank you, Ms Lonergan. I do not think
12 we should venture too far into term of reference 2 matters,
13

13

14 <EXAMINATION BY MR GYLES:

15

16 MR GYLES: Could I deal with one aspect of the evidence
17 that has been given, and I would like to deal with it now,
18 if I may, given that it may be that we won't see Mr Grant
19 at stage 2 and this evidence is in. It is a short series
20 of questions.

21

22 Q. The first is: it is the case, isn't it, Mr Grant, that
23 you received no communication or approach from anyone
24 within the Catholic Church or associated with it seeking to
25 influence your investigations into the activities of
26 Father Ryan? That's the case, isn't it?

27

A. Written communications, was it?

28

29 Q. You received no communication or approach from anyone
30 within the church or associated with it seeking to
31 influence your investigation into the activities of Father
32 Ryan? That's right, isn't it?

33

A. That's correct.

34

35 Q. You know of no other police officers having been
36 approached by persons within or associated with the church
37 seeking to influence the investigation into the activities
38 of any Catholic priest. That's the case, isn't it?

39

A. Yes. Sorry, Commissioner, may I correct my first
40 answer.

41

42 THE COMMISSIONER: Q. Yes, Mr Grant.

43

A. Sorry, I received no communications. I did have a nun
44 visit my home when I was living down here, during the
45 course of my investigation, my private home.

46

47 MR GYLES: Q. But no one within the police force ever

1 communicated to you, did they, expressly or impliedly, that
2 it would not be in your best interests to fully investigate
3 the matters?

4 A. No.

5

6 Q. The Ryan investigation proceeded in the ordinary
7 course, didn't it?

8 A. Yes.

9

10 Q. You made all appropriate inquiries and set out to
11 obtain evidence sufficient to support a conviction?

12 A. Yes.

13

14 Q. And did so?

15 A. Yes.

16

17 Q. And in your experience of the Ryan investigation, it
18 is accurate to say, isn't it, that there was no group
19 within the NSW Police Force seeking to exercise influence
20 over the manner in which investigations into Catholic
21 priests were being conducted?

22 A. That's absolutely correct.

23

24 Q. And I think what you have told the Commissioner is
25 that if there had been such a group seeking to exert
26 influence over you, then you would have taken steps to
27 speak to your superiors about it, wouldn't you?

28 A. Exactly correct, and in the position I have now,
29 I would be singing from the rafters if that had any truth
30 to it whatsoever.

31

32 Q. Your complaint often expressed goes to the matters
33 which we aren't dealing with in this stage of the inquiry,
34 which go to a failure to come forward. Your complaint is
35 not based upon some proposition of collusion between the
36 church and police, is it?

37 A. No, definitely not. The church on its own.

38

39 MR GYLES: May it please the court.

40

41 THE COMMISSIONER: Thank you, Mr Gyles. Mr Roser?

42

43 MR ROSER: Mr Saidi will ask the questions, Commissioner.

44

45 <EXAMINATION BY MR SAIDI:

46

47 MR SAIDI. Q. Mr Grant, I want to go back to your

1 experience as a detective, if I may. You spent some years
2 in the field of investigating serious crime, is that so?
3 A. That's correct. Just to confirm, I was never a
4 designated detective. I was a plainclothes investigator.
5 Q. Having said that, though, you did carry out
6 investigations on serious indictable matters, did you not?
7 A. That's correct.
8
9 Q. Over a period of some years?
10 A. That's correct.
11
12 Q. The Vincent Ryan investigation was a very significant
13 investigation for the Hunter region at the time, was it
14 not?
15 A. Yes, it was.
16
17 Q. Indeed it was one of the first, if not the very first
18 of the prosecutions against a member the Catholic clergy?
19 A. It was the first in this diocese.
20
21 Q. From that perspective it was one which, as you
22 indicated, grew initially from two informants or
23 complainants to in excess of 30 or so complainants;
24 correct?
25 A. That's right, I charged him with offences against
26 31 victims.
27
28 Q. During the course of that investigation, is it correct
29 to say that you were engaged in the investigation over a
30 period of a couple of years, if not longer?
31 A. That is correct. I commenced the investigation around
32 August 1995 and the investigation into Father Ryan happened
33 over a series of incidents. He received a custodial
34 sentence for a number of matters. I then used the
35 section 43 order to take him out of prison to interview him
36 for the purposes of other allegations, and then he
37 volunteered in that interview a large number of other
38 victims unknown to police which he then faced or was
39 sentenced for the totality of 31 victims at a later date.
40
41 Q. Is it fair to say during the course of that
42 investigation that you obtained links as to further
43 inquiries that could be made, information relating to
44 contacts that could be contacted and who may be helpful?
45 A. That is correct.
46
47 Q. Indeed, during the course of that investigation, is it

1 fair to say that you also became familiar with operative
2 techniques that could be employed when investigating such
3 crimes?
4 A. That is correct.
5
6 Q. You were contacted by Mr Fox to seek your assistance
7 in terms of the knowledge base that you had; is that
8 correct?
9 A. Yes. As I said in my evidence, I can't recall if
10 I rang him to offer or he rang me for help. I don't - if
11 he said he rang me, I accept that.
12
13 Q. Whether it was one way or the other, either way, he
14 called on you for assistance; correct?
15 A. Yes.
16
17 Q. That's fairly normal in police circles, is it not, for
18 one police officer investigating a crime to call on another
19 police officer for assistance?
20 A. Sure, and it makes a lot of sense.
21
22 Q. When you say "sure", and perhaps this is an inelegant
23 way of putting it, but isn't it almost mandatory for a
24 police officer conducting an investigation in which he may
25 have assistance from another police officer who carried out
26 a similar investigation, to call on that other police
27 officer to provide information?
28 A. I'm not sure if the word "mandatory" is appropriate
29 but it would be foolish not to.
30
31 Q. Perhaps "mandatory" is a strong word. Could I use this
32 phraseology: it would be an exercise in great common sense
33 to undertake that course of action?
34 A. I agree.
35
36 Q. That happened on a daily basis in the NSW Police
37 Service, at least during the period when you were working;
38 is that so?
39 A. I can't equivocally comment for every police officer
40 but I imagine it did, yes.
41
42 Q. But in terms of your experience, you were aware that
43 people could call on you for assistance and you in turn
44 knew that you could call on your fellow police officers for
45 assistance?
46 A. That is correct.
47

1 Q. If fellow police officers were carrying out
2 investigations which touched upon a similar investigation
3 which you were carrying out and you called upon them for
4 assistance, you would expect them to cooperate fully, would
5 you not?

6 A. Yes.

7

8 Q. If they had any statements in their possession which
9 could be of assistance to you in your investigation, you
10 would expect them to provide you with such statements or
11 information, would you not?

12 A. Absolutely.

13

14 Q. Indeed, if they had any information, whether they be
15 formal statements or whether they would be sources of
16 contact or whether they would be avenues of further
17 inquiry, you would expect a fellow police officer making
18 contact with you, or vice versa, to provide you with all of
19 the information at their disposal, would you not?

20 A. That is correct.

21

22 Q. In your experience as a police officer, you would
23 frown upon any police officer upon whom you called for
24 assistance hiding information from you that may be relevant
25 to your investigation, would you not?

26 A. I would have, yes.

27

28 Q. Indeed, you would regard that as improper conduct,
29 would you not?

30

31 MR COHEN: I object to that question.

32

33 MR SAIDI: If it offends my friend's sensibilities, I will
34 change it.

35

36 Q. You would regard that behaviour on the part of a
37 police officer, in not providing you with information of
38 assistance, as being less than desirable, would you not?

39 A. I can talk as a sergeant of police. I was trained in
40 relation to internal investigations, and, given that
41 training and experience, yes, I would.

42

43 Q. Indeed, would you regard it as a serious matter, from
44 your experience and from your knowledge of investigations,
45 that when calling upon a police officer, a fellow police
46 officer for assistance, if that police officer deliberately
47 withheld information from you?

1 A. Yes.
2
3 Q. I just want to go on to a couple of other aspects, if
4 I may. In terms of investigations, again on your
5 experience, it is an important matter to maintain the
6 integrity of police investigations, is it not?
7 A. Paramount.
8
9 Q. When you say "paramount", it is absolutely crucial
10 that the integrity of police investigations be maintained,
11 is it not?
12 A. Absolutely.
13
14 Q. In maintaining police investigations, do you see part
15 of it as being that any information which is obtained
16 during the course of a police investigation is not passed
17 on to any person not involved in the investigation?
18 A. Yes.
19
20 Q. Indeed, is it your experience that if any information
21 is passed on - that is information confidential to a police
22 investigation - to a third person, that could jeopardise
23 the effectiveness of the investigation?
24 A. Potentially, yes.
25
26 Q. You have made some reference, only a few answers ago,
27 to being involved in internal complaints in some fashion?
28 A. Yes.
29
30 Q. I am drawing on your experience now as a person
31 involved with internal complaints. In terms of any police
32 officer obtaining --
33
34 MR COHEN: I object to this. This witness is not an
35 expert. This goes nowhere, Commissioner.
36
37 MS LONERGAN: Commissioner, may I suggest the question be
38 completed and the witness pause, so we can hear the full
39 extent of the question.
40
41 MR SAIDI: I will go back, given that objection.
42
43 Q. Your experience with police complaints and dealing
44 with police complaints, internal complaints, can you give
45 us an idea of that?
46 A. I was trained in how to conduct investigations, report
47 the investigations, both through the internal complaint

1 management process of the NSW Police Force and also through
2 to the Ombudsman.

3
4 Q. You also dealt with complaints yourself, did you not?

5 A. I did. One of those led to the arrest of a police
6 officer.

7
8 Q. I want to come back to the question I asked you.
9 Going back on your experience as a person who was involved
10 with the dealing with police complaints, you would regard
11 it as a serious matter, would you not, that any police
12 officer who had any confidential information related to any
13 police investigation passed that information on to a third
14 party?

15
16 MR COHEN: I maintain my objection.

17
18 MR SAIDI: And I press the question.

19
20 THE COMMISSIONER: Mr Cohen, is it a matter of the
21 witness' expertise?

22
23 MR COHEN: Yes, and it is a question of the evidence that
24 might be received, and it has to be evidence on a proper
25 footing. This is rolling up a series of matters, and these
26 are matters which this witness can only give a fleeting
27 impression about, in my submission.

28
29 THE COMMISSIONER: His expertise, in my view, has been
30 established and I will allow the question.

31
32 MR SAIDI: Q. Do you want me to repeat the question?

33 A. Yes, please.

34
35 Q. Going on your experience as a person involved in
36 internal affairs matters or complaints, you would regard it
37 as a serious matter, would you not, if a police officer
38 obtained confidential information relating to an
39 investigation and passed that information on to a third
40 party in any unauthorised manner?

41 A. Yes, I would.

42
43 Q. If a police officer had any concerns in relation to an
44 investigation, is there an organisation, as you understood
45 it, within a region or within the NSW Police system known
46 as the complaints management system?

47 A. Yes, the Professional Standards Command of the NSW

1 Police Force has a complaints management system that refers
2 different categories of complaints to be investigated
3 and/or dealt with differently, whether inside a command,
4 external to a command or more higher serious ones at a
5 higher level.
6

7 Q. Again I am drawing on your experience of your
8 knowledge with the NSW Police Force as it was before you
9 left the service and also your experience with the
10 complaints management system that was maintained. Assuming
11 a police officer had concerns in relation to either
12 corruption or in relation to hindering of an investigation
13 in which he was involved, or matters of that kind, there
14 was a system, was there not, within the NSW Police Force
15 whereby that person could take it to an appropriate person
16 or body to register such a complaint?

17 A. Yes, there is.
18

19 Q. Going back to the period when you were there - I am
20 deliberately keeping it to when you were there, so we don't
21 go outside your knowledge - going back to the period you
22 were there, was it the case also that a police officer, if
23 he had serious concerns about corruption or conduct,
24 whether it be unbecoming, illegal, unlawful or otherwise,
25 if he had any concerns about that, that police officer
26 could make a complaint in anonymous materials, whereby -
27 sorry, the word "anonymous" is not appropriate. He could
28 make a complaint whereby his or her identity could be kept
29 confidential in terms of that complaint being registered
30 and investigated?

31 A. That is correct, both in terms of the NSW Police Force
32 and also the Independent Commission Against Corruption.
33

34 Q. Indeed, if a police officer had concerns about
35 corruption, whether it be by the police officer working
36 next to him, at the desk next door to him, a police officer
37 in the next room to him, a police officer upstairs or
38 downstairs of a higher rank, or indeed the region
39 commander, if a police officer had concerns about the
40 integrity or concerns about corruption of any of those
41 persons, there were avenues available to that police
42 officer to take that matter up, were they not?

43 A. Yes.
44

45 Q. And they include matters, and you have already
46 referred to one - they include bodies such as the Police
47 Integrity Commission, for example?

1 A. Yes.
2
3 Q. The Professional Standards Command within the NSW
4 Police Force?
5 A. Yes.
6
7 Q. A police officer could take it to any superior officer
8 who he trusted and give that information to that superior
9 officer, so the superior officer could then deal with that
10 information; do you agree with that?
11 A. Yes.
12
13 Q. In your situation, when you were dealing with the
14 Father Ryan investigation, you had concerns about - I use a
15 very general term, I use this phrase in a general sense;
16 I don't mean to be derogatory to anyone - you had concerns
17 about confidentiality during the Vincent Ryan
18 investigation, did you not?
19 A. No, I had concerns in relation to the actions of
20 individuals.
21
22 Q. In that situation where you, as an investigating
23 police officer, had concerns about the actions of any
24 individuals and any possibility of any individual
25 influencing the outcome of an investigation, would it be
26 the case that you would ensure, as far as possible, that
27 the integrity of the investigation be maintained?
28 A. Absolutely.
29
30 Q. And that no information of any kind be passed out to a
31 third party?
32 A. Yes.
33
34 Q. The greater the potential that there may be
35 interference with an investigation, the more important it
36 becomes that the integrity of the investigation and
37 confidentiality be maintained? Do you agree with that
38 A. I do.
39
40 Q. One important way of ensuring and maintaining
41 confidentiality is by making sure members of the media do
42 not obtain confidential information. Do you agree with
43 that?
44 A. Yes.
45
46 MR SAIDI: Thank you, Commissioner.
47

1 THE COMMISSIONER: Ms Lonergan, anything arising?

2

3 MS LONERGAN: No, Commissioner.

4

5 THE COMMISSIONER: Is it appropriate that Mr Grant be
6 excused now?

7

8 MS LONERGAN: Yes, Commissioner, it is appropriate that he
9 be excused.

10

11 THE COMMISSIONER: Thank you for your evidence, Mr Grant,
12 you are excused.

13

14 **THE WITNESS WITHDREW**

15

16 MS LONERGAN: Commissioner, can I suggest the following
17 course of action. We take the morning tea adjournment now.
18 Something has arisen in the form of a request from the
19 media for access to the statement of Mr Grant. In my
20 respectful submission, Commissioner, I do not see any
21 problem with that course, but it may be that others at the
22 Bar table wish to be heard on that issue.

23

24 MR SKINNER: I don't, Commissioner.

25

26 MR ROSER: Neither do I, Commissioner.

27

28 THE COMMISSIONER: Mr Gyles?

29

30 MR GYLES: No, Commissioner.

31

32 MS LONERGAN: In that case, I suggest we take the morning
33 tea adjournment now and resume at 11.45.

34

35 **SHORT ADJOURNMENT**

36

37 MS LONERGAN: Commissioner, before recalling Detective
38 Chief Inspector Fox, can I deal with three transcript
39 corrections that were pointed out to me by Mr Cohen.

40

41 The first occurs at page 115, line 19, where it says,
42 "she was more of a complaint than informant"; it should
43 read "complainant".

44

45 THE COMMISSIONER: Yes, that's agreed, isn't it, ladies
46 and gentlemen?

47

1 MR COHEN: Yes, Commissioner.

2

3 MR ROSER: Yes, Commissioner.

4

5 MS LONERGAN: At page 144, at line 36, it should read,
6 "I left in no doubt" - the word "no" is left out.

7

8 Then on page 176, line 2, there is a year which should
9 read "1999". There is an additional 8 in the year.

10

11 THE COMMISSIONER: Thank you. Those changes will be
12 noted. Thank you, Ms Lonergan.

13

14 MS LONERGAN: Thank you. I recall Detective Chief
15 Inspector Fox.

16

17 <PETER RAYMOND FOX, resworn: [11.52am]

18

19 <EXAMINATION BY MS LONERGAN CONTINUING:

20

21 MS LONERGAN: Q. Yesterday, Detective Chief Inspector
22 Fox, I was asking you some questions regarding the meeting
23 on 2 December 2010?

24

25

26 Q. I want to move now to a phone call that you had with
27 Inspector Anthony Townsend --

28

29

30 Q. -- approximately a week after the meeting on 2
31 December.

32

33

34 Q. Can you describe, for those present, what the purpose
35 of your phone call was?

36

37 A. The purpose of my call is that I hadn't been given any
38 explanation why I had been asked to no longer investigate
39 the matter, and I also still had, obviously, a great deal
40 of concerns, as I elaborated on in my evidence yesterday --

41

42 Q. Can I ask you, what was Inspector Townsend's position
43 in terms of your questions about being allowed to be
44 involved in the investigation? Was he operations manager?

45

46

47

48 A. He is the operations manager in the north region
49 office.

50

51

52

53

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58

1 investigation, as you understood it, or not?
2 A. Normally he would have, I would imagine, a significant
3 say to the region commander as to its allocation.
4
5 Q. So you telephoned him to express some displeasure with
6 the decision; is that correct?
7 A. I had. I hadn't really - since I electronically sent
8 him a copy of my report of 25 November, I had no
9 communication back from him or feedback as to his
10 interpretation of that.
11
12 Q. And may I ask, was Inspector Townsend present at the
13 meeting on 2 December?
14 A. He arrived fairly late into that meeting. He
15 certainly wasn't there for the vast majority of it.
16
17 Q. Was he present while you were present?
18 A. Yes.
19
20 Q. Are you able to say now what parts of the meeting he
21 was present for, or not?
22 A. I think, off memory, when I was given a copy of the
23 email I sent to Joanne McCarthy on the night of 2 December,
24 it actually indicates in my record there as to what part he
25 arrived.
26
27 Q. Would you turn to tab 84 in volume 2 and just direct
28 me to that part that confirms the presence of Inspector
29 Townsend.
30 A. Yes, it is on the last page. Sorry, the third page
31 would be better. He's mentioned in the second paragraph.
32
33 Q. Can I direct your attention to page 357, in the second
34 paragraph, third line you comment:
35
36 *Graeme Parker arrived during meeting and*
37 *Tony Townsend towards the end.*
38
39 A. Yes. That was my understanding, and probably a fair
40 indication that I would imagine he - I haven't got it
41 specifically, unfortunately, when he arrived, but I would
42 imagine it wasn't probably very long --
43
44 Q. I'm going to stop you there. Don't imagine when he
45 would have arrived. If you recollect the point at which he
46 arrived, say so, otherwise refer to your more
47 contemporaneous record for assistance.

1 A. I believe he arrived partly through the discussion as
2 outlined in paragraph 2 on page 358.
3
4 Q. You recollect Superintendent Townsend actually making
5 a comment there?
6 A. Inspector Townsend, yes.
7
8 Q. Inspector Townsend then said "She has" in the context
9 of being involved in matters?
10 A. Yes.
11
12 Q. Is there anything else in that email that assists as
13 to involvement by Inspector Townsend in the meeting?
14 A. No. My recollection, he was reasonably mute through
15 the course of the meeting. I think I said in my statement
16 that he played a very minor role.
17
18 Q. So you called him because of his capacity as
19 operations manager?
20 A. Yes.
21
22 Q. By "calling", I mean you made the phone call about a
23 week after this meeting?
24 A. I telephoned him, yes.
25
26 Q. Did you ask him to see if he could arrange to have the
27 decision for the matter, the investigation you were
28 interested in, reviewed?
29 A. Yes.
30
31 Q. What did he say about that request?
32 A. He was quite emphatic that the decision had been made
33 by the region commander, Carlene York, and Max Mitchell,
34 and in short, no correspondence would be entered into.
35
36 Q. Any other matters relevant to the Special Commission
37 of Inquiry that you discussed with Inspector Townsend in
38 that phone call?
39 A. Again I expressed my concern that what I had put in my
40 report to him of 25 November hadn't been taken into
41 consideration. I also raised concerns about - again,
42 reiterating some of the issues I raised at the meeting of
43 2 December, in that I was concerned about the wellbeing of
44 some of the victim witnesses and the rapport I had built up
45 and the handling of them.
46
47 Q. The matter that you wanted reviewed was the decision

1 about your involvement or otherwise being permitted in that
2 investigation?

3 A. Yes, basically, you know, for me not to be involved at
4 all, when I had already had so much involvement with it,
5 and was more than willing and passionate about assisting,
6 yes.

7

8 Q. Do you recollect Inspector Townsend saying to you
9 that, although firm decisions had already been made in
10 relation to the conduct of the investigation, that further
11 assessment could be made after all the relevant material
12 had been reviewed by the strike force?

13 A. I don't recall, no.

14

15 Q. In giving that answer that you don't recall, are you
16 saying that definitely wasn't said or you just don't
17 recollect?

18 A. I don't recollect that, no.

19

20 Q. Could you turn to tab 87, page 370, which appears to
21 commence an email exchange between you and Joanne McCarthy
22 on 10 December 2010, just read to yourself the email from
23 Ms McCarthy that starts halfway down that page, please.

24 A. Okay.

25

26 Q. Let me know when you have finished completing your
27 reading of just that email from Ms McCarthy to you.

28 A. Yes.

29

30 Q. Would you agree with me that that email from
31 Ms McCarthy raises with you a concern regarding how victim
32 [AL] was interviewed at or around about that time? Do you
33 see the third paragraph:

34

35 *[AL] contacted me yesterday very upset.*

36

37 A. Yes. Do you agree with me that it is Ms McCarthy
38 conveying to you that she, Ms McCarthy, had some question
39 mark over the way [AL] was managed by police?

40 A. Spoken to, managed, interviewed, yes.

41

42 Q. At the end of the email, Ms McCarthy says:

43

44 *Can you let me know if there's anything*
45 *I can do at the moment other than what I'm*
46 *doing, which is waiting to strike at the*
47 *right time.*

1
2 A. Yes.
3
4 Q. Are you able to assist the Commission about what you
5 understood Ms McCarthy to mean by that comment?
6 A. [Answer suppressed].
7
8
9
10
11 Q. I'm going to stop you there. I just want to deal with
12 the way you interpreted that.
13 A. That's how I interpreted it, yes.
14
15 Q. Was your receipt of the phone call from [AL]? You
16 don't need to look at the documents. You just volunteered
17 some information about having receiving a phone call.
18 A. Yes, yes, it was.
19
20 Q. It was from [AL]?
21 A. Yes.
22
23 Q. About the same subject matter?
24 A. Yes.
25
26 Q. Now I want you to read your email in response. Take
27 your time, because it does go for nearly two full pages.
28 A. I'm sorry, again it may take a little while if I'm to
29 absorb it.
30
31 Q. No, no, you must be allowed to read it properly and
32 thoroughly.
33 A. Thank you. Yes.
34
35 Q. Was the purpose of you sending this email to assist
36 Ms McCarthy with making a complaint about the officers who
37 had dealt with [AL]?
38 A. My purpose in sending that is probably the very same
39 advice I would have given to anyone coming to me asking me
40 how to complain about the conduct --
41
42 MR McILWAIN: I object, Commissioner. Again, the witness
43 is being unresponsive. In my submission, that question was
44 capable of a "Yes" or "No" answer.
45
46 MS LONERGAN: It was, Commissioner, but as --
47

1 MR McILWAIN: But the witness continues to use that
2 opportunity, as on previous occasions, and it appears he is
3 about to do so again, to give evidence which you,
4 Commissioner, are not able to receive pursuant to section
5 9(3) of the Act. He should be directed not to do it and to
6 cease doing it, Commissioner.

7
8 MR COHEN: Could I be heard, after my learned friend?

9
10 MS LONERGAN: Commissioner, in my respectful submission,
11 the answer that Detective Chief Inspector Fox started to
12 give appeared to be, at least at the beginning, responsive.
13 I would not bind this witness to a "Yes"/"No" response in a
14 question of that nature, unless he deviated into
15 irrelevancy, and he had not yet done so.

16
17 MR COHEN: Commissioner, I rise to address you about a
18 more fundamental question of jurisprudence that matters
19 here. Reference has been made by my friend to section 9(3)
20 of the Act. In my submission, section 9(3) is nothing more
21 than an enabling provision, facultative, directive. What
22 it does, especially now that the Evidence Act is extant in
23 this state, is it imports the Evidence Act.

24
25 In my respectful submission, to put section 9(3) as
26 some sort of extraordinary barrier over which no one can
27 expect to get is, in my respectful submission, nonsense.
28 What must happen, Commissioner, is that you must have
29 regard to the Evidence Act. Indeed that Act allows you to
30 take material in narrative form; it enables you to
31 disregard the rules of evidence as you see fit. There is a
32 mandatory provision in section 9(3) which means you must
33 have regard to those things, but it is not some civil
34 barrier which cannot become impenetrable. That, in my
35 submission, is how it should be read and inform such a
36 motion.

37
38 THE COMMISSIONER: Thank you, Mr Cohen.

39
40 MR McILWAIN: I do not seek to cavil, but my concern is
41 shortly prior to this question, the witness was asked about
42 the interview of a victim. He described the treatment of
43 that witness as "atrocious". My clients have a
44 particular --

45
46 THE COMMISSIONER: I think it was "abysmal".

47

1 MR McILWAINE: Sorry, "abysmal". It would appear, from
2 what I understand, that this witness has no direct
3 knowledge of what took place between particular officers
4 and a particular witness, yet he volunteered that opinion.
5 He has done that - that's just one example of a number of
6 occasions when he has done that. That type of material, in
7 my respectful submission, whatever my friend says about
8 section 9(3), is a clear breach of section 9(3). It is not
9 evidence that would be admissible in civil proceedings,
10 within any way, shape or form.

11
12 The witness continues to give that type of evidence,
13 damaging persons' reputations, and he should be prevented
14 from doing so.

15
16 THE COMMISSIONER: Mr McIlwaine, I will allow the witness
17 to continue to answer the question and I will permit you to
18 cross-examine him on those matters when the time comes.

19
20 MR McILWAINE: With respect, Commissioner, allowing
21 cross-examination does not remedy the harm because the
22 evidence is before the Commission and it is liable to be
23 published, and damage to reputations occurs, and that can't
24 be remedied by cross-examination.

25
26 THE COMMISSIONER: Whose reputation are you submitting to
27 me is in danger of damage at the present time?

28
29 MR McILWAINE: In relation to this, it is --

30
31 THE COMMISSIONER: Perhaps you don't want to add to that,
32 but do you say a particular officer?

33
34 MR McILWAINE: Two particular officers, Commissioner, the
35 officers who interviewed the complainant who is referred
36 to. One of those is my client, one is not. I should not
37 say "interviewed", but dealt with that particular victim.
38 That is my concern, Commissioner.

39
40 THE COMMISSIONER: Mr McIlwaine, we are exploring the
41 reasons for what has been written in this email by the
42 witness and I propose to allow it. Thank you,
43 Mr McIlwaine.

44
45 MS LONERGAN: Q. The question, Detective Chief Inspector
46 Fox, was: was the purpose of you sending this email to
47 advise Ms McCarthy about how to go about complaining about

1 police conduct? Try to confine yourself to that specific
2 question, rather than making a generalised statement, if
3 you could, please.

4 A. Yes.

5
6 Q. You don't have to answer the questions I ask you "Yes"
7 or "No", but when you can, that is most helpful.

8
9 Do you not see that as inappropriate conduct of a
10 senior police officer, to advise a member of the public how
11 to complain about other police officers?

12 A. I would hope that any police officer of any rank would
13 assist anybody that is wishing to make a complaint about
14 the conduct of a police officer on how to go about doing
15 that. I believe that that's actually part of the policy.

16
17 Q. Were you keen to assist in a complaint being made
18 about officers involved in the investigation Strike Force
19 Lantle because you were keen to see that investigation
20 fail?

21 A. Not at all. I was hoping that the victims would be
22 treated with decency and care. I gave the advice not only
23 based on what Ms McCarthy told me in that email, but also
24 based on the telephone call I received from [AL], who, even
25 though I had told her I was no longer allowed to remain in
26 contact with her, she rang me this particular night, she
27 was in tears, she spent half an hour on the phone telling
28 me, and her words were, "Brad Tayler is harassing me. He
29 won't take no for an answer. He's demanding that I come in
30 and give him a statement. I've explained to him that mum's
31 not well and we're going away for Christmas, but he won't
32 take no for an answer." And I continually consoled her
33 while she cried and was extremely distressed over her
34 treatment at his hands.

35
36 Q. Turn your attention to page 369, which is part of the
37 email. In the last paragraph, you make a comment to
38 Ms McCarthy in your email:

39
40 *I feel terrible about that part and not*
41 *being able to look after them - I really*
42 *mean that.*

43
44 A. That's exactly how I felt, and I still feel that way.
45 I feel so sorry for the way they were treated.

46
47 Q. You feel that you treat witnesses and victims of

1 sexual assault crimes better than any other police officer?
2 A. [Answer suppressed].
3
4
5
6
7

8 Q. When you say "what was occurring here," you were not
9 party yourself to these interviews, were you? You weren't
10 present when these interviews took place, were you? That's
11 a "Yes" or "No" question. Were you present when these
12 interviews took place or not?

13 A. No.
14

15 Q. So you were relying on the report of [AL] in relation
16 to how the interview seemed to be conducted, to her?

17 A. I didn't believe she was lying. That's what I was
18 relying on.
19

20 Q. I'm not suggesting for a minute that [AL] was lying.

21 A. Good.
22

23 Q. What I'm suggesting is you were relying on her
24 perception on what was occurring to determine what exactly
25 happened in relation to the interview?

26 A. On that and also the email from Ms McCarthy.
27

28 Q. Ms McCarthy wasn't present for the interview with
29 [AL], to your knowledge, was she?

30 A. Not to my knowledge, no.
31

32 MR McILWAIN: Commissioner, I now make an application for
33 the suppression of that evidence. The basis of the
34 application will be: as I understand the evidence of my
35 client, Mr Tayler, no such conversation at all took place,
36 and in fact I have information that the reference to
37 Mr Tayler is a mistake as to identity.
38

39 MS LONERGAN: Commissioner, I must rise to interrupt my
40 learned friend. There are processes in this Special
41 Commission; that is, evidence is taken from the witness,
42 led by me, and then cross-examination will take place.
43 There is not a time or place for submissions being made
44 from the Bar table in the middle of examination-in-chief,
45 in my respectful submission. Mr McIlwaine can deal with
46 his client's concerns and interests at the appropriate time
47 in cross-examination.

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THE COMMISSIONER: Yes, Mr McIlwaine.

MR McILWAIN: I was making an application for suppression, which needs to be made now, before the material is published. That's the only reason I got to my feet. This is evidence, hearsay evidence, by this witness's own admission, alleging serious matters against my client. My client is going to be called. Other witnesses will be called about conversations with this particular witness. It is unfair in those circumstances, in my submission, to allow that material to be published at this point.

THE COMMISSIONER: Mr McIlwaine, you will have the opportunity to put things right if what you say is correct. Thank you.

MS LONERGAN: Q. Can I direct your attention, Detective Chief Inspector Fox, to page 369. Two paragraphs above what we were just looking at is where the paragraph commences, "They will then either", and then you have 1, 2 and 3 - three options listed there on page 369.
A. Yes.

Q. There you are suggesting to Ms McCarthy what you think is going to happen with the Lantle investigation; correct?
A. I'm throwing up hypothesis, not so much what would happen to it but the ultimate way it would be submitted to the final analysis.

Q. You are throwing up those hypotheses seven days after the matter is, as you see it, taken from you?
A. Yes.

Q. You are, in effect, criticising or prejudging what is going to happen with the investigation, aren't you?
A. Yes.

Q. You are doing that based on your own prejudices and assumptions about what you think is going to happen, rather than actually knowing that these are the three options that will occur?
A. No.

Q. Sorry, I think I asked that question badly. Can you explain your answer, please?

1 A. Yes. I was basing that on all the concerns I had
2 leading up to 2 December, and now also based on the
3 telephone conversation I had with [AL] and the information
4 provided to me by Ms McCarthy, and I was - my concerns,
5 I think, in handing the matter over on 2 December were
6 materialising in the way these victims were being treated,
7 and I based my hypothesis surrounding an assessment of all
8 that information.

9
10 Q. Can you turn to page 370, which is the third page of
11 your email. In the last substantive paragraph you make the
12 following statement:

13
14 *FYI, the COPS can do on-line checks of*
15 *computers. If you retain an email on your*
16 *system they can read it, who sent it, where*
17 *and when, and that sender's computer ID.*
18 *If you print and delete it is a dead end*
19 *for them. Another alternative is to save*
20 *it to a Word file and then to a disk or*
21 *memory stick again deleting the email.*
22 *Don't let the bad guys know.*

23
24 A. Yes.

25
26 Q. I suggest to you that that's you signalling to
27 Ms McCarthy that you want her to delete emails between you
28 and her?

29 A. I didn't want the police force to find them, and
30 that's what I was saying to her, yes.

31
32 Q. So the answer to my question is yes?

33 A. Yes.

34
35 Q. That's because you were behaving in a duplicitous
36 manner in terms of --

37 A. Yes.

38
39 Q. -- in terms of you telling Ms McCarthy what
40 investigations were going on and confidential information
41 about police activity?

42 A. Well, no, the email there centres around me giving her
43 advice on how they should deal with a formal complaint over
44 the way police were conducting themselves. But it was
45 simply the fact that I didn't want the police force to
46 know, because I had been given a direction not to
47 communicate with Ms McCarthy, that I didn't want that in

1 there.

2

3 Q. You wanted Ms McCarthy to assist you in the pursuit of
4 that deception by deleting any emails between you and her?

5 A. Yes.

6

7 Q. I should add, by production of the email I have just
8 shown you and other emails I have shown you and I will take
9 you to, do you agree with me it is evident that Ms McCarthy
10 did not delete emails in such a way that they could not be
11 produced ton this Commission.

12 A. Yes, and as I said in the in-house hearings, I'm glad
13 that she didn't, and that's true.

14

15 Q. If you turn to tab 89, I want you to read that email,
16 which is your email to Ms McCarthy. Just read that to
17 yourself.

18 A. Yes.

19

20 Q. That email sets out the matters you have given some
21 evidence about in relation to a call you received from
22 [AL]?

23 A. Yes.

24

25 Q. Can I suggest to you that, because that email is dated
26 14 December and refers to you having just got a call, the
27 information from the phone call with [AL] didn't come to
28 you until 14 December?

29 A. That appears correct, yes.

30

31 Q. So in relation to your dealing with this email you
32 sent to Ms McCarthy on 10 December, you hadn't yet had a
33 conversation with [AL] yourself; you were relying on
34 Ms McCarthy's report at that time?

35 A. No, I had had a phone call with her. I got the two
36 conversations mixed around. I do apologise for that.

37

38 Q. In the second paragraph you talk about [AL] having
39 told you that she's not ready to give her statement to the
40 police yet, she doesn't feel ready. Do you see that?

41 A. Sorry, not those exact --

42

43 Q. I withdraw that. Let me put it another way.

44

45 Is this email an attempt to encourage Ms McCarthy to
46 further a complaint against the officers who were carrying
47 out the Lantle investigation?

1 A. No.
2
3 Q. What was the purpose of the email?
4 A. It was basically to let Ms McCarthy know that police
5 seemed to be continuing to - on a pursuit of upsetting this
6 particular victim.
7
8 Q. It's the same material, isn't it, that Ms McCarthy had
9 conveyed in the previous email to you about contact --
10 A. I don't know.
11
12 Q. Did you assist [AL] in delaying her interview until
13 after the new year?
14 A. What I told her to do - I think --
15
16 Q. Just have a look behind tab 90, if that assists you.
17 A. That's the same email.
18
19 Q. Behind tab 90 there should be a letter from [AL].
20 Does that assist you in what you were intending to
21 accomplish?
22 A. Yes, it does. What I was simply doing is telling
23 [AL] - she was - as I said earlier, she was in tears, she
24 was distraught, and she was very upset by the way she was
25 being treated by particular officers.
26
27 Q. You have already given that evidence. Could you focus
28 on my question.
29 A. So what I was explaining to her was how to be firm
30 with them. She appeared to be being bullied, and she used
31 the word to me "harassed". I told her, if she sent it in
32 writing, as a formal complaint, to Max Mitchell, saying,
33 "Tell them to back off, tell them to leave me alone and
34 stop doing this, I will come in in the new year after
35 I've got over" - you know, around all these other family
36 issues that she articulated to me, and happily provide her
37 statement then. I said, "Put it in writing and hopefully
38 they'll do that and play by the rules and you can provide
39 the statement then." I was actually trying to assist the
40 investigation, I suppose in a way, in that they were
41 getting this poor woman so offside, I thought she was about
42 to walk out on them. So I was trying to help.
43
44 Q. You encouraged her to make a complaint to Max
45 Mitchell, did you?
46 A. I did. Well, I didn't ask her to make a complaint,
47 I asked her to write a letter to him, basically saying,

1 "Tell them to back off and tell him about the treatment she
2 was being exposed to."
3
4 Q. Max Mitchell was a superintendent at the time, was he?
5 A. Yes.
6
7 Q. A senior officer?
8 A. Yes.
9
10 Q. And the officers who were working on Lantle, to your
11 knowledge, were officers over whom he had a supervisory
12 role?
13 A. Yes.
14
15 Q. Was your conduct designed to deliberately create
16 trouble for the investigators working on Lantle?
17 A. Quite the opposite. It was actually designed to try
18 and assist the inquiry, because, as I said, this woman was
19 on the verge of threatening to just walk away from this and
20 not assist any further whatsoever, and by my intervention,
21 I believe it was the only reason that she eventually came
22 forward and provided further material to the inquiry.
23
24 Q. Could you turn to tab 91, please. It's an email from
25 you to Ms McCarthy, dated 22 December. It's quite long, so
26 I'll let you read that to yourself.
27 A. Yes.
28
29 Q. Detective Chief Inspector Fox, first of all, I want to
30 ask you a question about the second paragraph on the first
31 page of your email. I want to understand the context of
32 the comment you made there. You say, "I also had a long
33 talk to Shaun" - who is Shaun?
34 A. Shaun McLeod.
35
36 Q. "Helen suggested" - is that Helen Keevers?
37 A. It is.
38
39 Q. "The three of us" - is that you, Helen and Shaun?
40 A. Yes.
41
42 Q. "Go to the Ombudsman or PIC"?
43 A. Yes.
44
45 Q. Was that because the three of you formed the view that
46 the investigation wasn't being appropriately dealt with?
47 A. Yes.

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Q. Would you agree with me that that's making trouble for the officers who are trying to investigate the matter or not?

A. I don't think that that is a - that it would have been a proper process if it related to that.

Q. Do you agree with me that it's making trouble for the police to take that step?

A. Yes.

Q. Have a look at the last paragraph on the page, where you talk about a call to Tony Townsend. Was that a call you made on 22 December that you are referring to there or the old call that you have already given evidence about, about a week after 2 December?

A. No, the conversation is different, so it's a different call.

Q. It's an additional conversation?

A. Yes.

Q. You say you sent him a rather pointed email. Are you able to assist with what was in that email and what was pointed out about?

A. I don't recall it. All I can go off is what I said there. As it says there, I have made numerous attempts to have him return my calls, and I've obviously said something that would hopefully grab his attention, but as to what I put in that email, I can't now recall.

Q. On the next page of the email, page 393, you say in the third paragraph about having raised the call with Inspector Townsend:

No one is now investigating the church matter as they were all off sick.

A. Yes.

Q. You were concerned about that?

A. Yes.

Q. You wanted them to consider you to conduct the investigation?

A. Clearly, the three - the entire strike force was now off sick and was not likely to return. I had been

1 passionate about doing this from the start, and I thought,
2 "Okay, surely there's now no argument why I shouldn't be
3 involved in this matter."
4

5 Q. Did you know at that time that a Sergeant Jeff Little
6 had been allocated or was being considered to be allocated
7 that matter? In the third last paragraph on that page, you
8 mention him.

9 A. I didn't know he would be allocated that matter, no.
10

11 Q. Did you think he may be?

12 A. I entertained the possibility that, on past form, if
13 they gave it to another relatively inexperienced officer,
14 I didn't see that that would preclude them doing the same
15 again.
16

17 Q. In the next paragraph, Detective Chief Inspector Fox,
18 in the last sentence, you mention calling "Paul Jacob
19 tomorrow"?

20 A. Yes.
21

22 Q. Paul Jacob is the boss of the Sex Crimes Squad from
23 State Crime Command; have I got that correct?

24 A. He is an inspector there. I don't think he's the
25 boss.
26

27 Q. I'm terribly sorry, I think I've promoted him
28 accidentally.

29 A. I'm sure he would be happy for the money!
30

31 Q. He is a senior officer in the Sex Crimes Squad?

32 A. He is, yes.
33

34 Q. Did you call him the next day, are you able to say?

35 A. I don't know. I wasn't able to locate him. It may
36 have been that he was off for Christmas, bearing in mind it
37 would have been 23 December. I remember calling him, but
38 wasn't able to find him.
39

40 Q. I just want to clarify something you said in evidence
41 on Monday, just to make sure I have understood it properly.
42 It occurs on page 82. You volunteered an answer about your
43 office having been searched when you were on leave in
44 October 2010?

45 A. Yes.
46

47 Q. You mentioned that, in all your years of policing, you

1 had never heard of police going into another officer's
2 office when they were away on leave? I don't want you to
3 comment on that, I'm just getting the context --
4 A. No.
5
6 Q. -- of when you said that?
7 A. No.
8
9 Q. And you used this term, "and turning it upside down
10 trying to find a very sensitive brief like this". I want
11 to ask you a question: are you suggesting when you returned
12 from leave, your office was turned upside down because it
13 had been ransacked?
14 A. No, I've never used the term "ransacked".
15
16 Q. Did your office look any different when you arrived at
17 work, on return from leave, in terms of papers being moved
18 around, drawers being left open, documents being changed
19 location?
20 A. Yes and no.
21
22 Q. You had better explain what you mean by "Yes and no"?
23 A. They were multiple questions of different movements,
24 so that's what I mean by "Yes and no". I did notice that
25 things had been moved around and items in my office were
26 not in the location where I had left them. Certainly not
27 to the extent of tipping desks or drawers upside down on
28 the floor, but it was quite evident that someone had been
29 in there.
30
31 Q. Are you saying you knew that before Mim came to tell
32 that your office had been searched?
33 A. Yes.
34
35 Q. You knew something had happened in your office while
36 you were away?
37 A. I did. It didn't apply to my mind that something
38 sinister had happened. I thought a cleaner may have come
39 in and knocked a few things over or something, but
40 I thought quite innocently of it initially until I was told
41 things later.
42
43 Q. If you look at tab 92, please, that's an email from
44 you to Joanne McCarthy again, dated 24 December 2010.
45 I just want you to focus on the first paragraph, please.
46 A. Yes.
47

1 Q. You say there that the employee had told you:
2
3 *They told her they were looking for any*
4 *statements or documents I might have*
5 *concerning investigations into the Catholic*
6 *Church. She told them it would probably be*
7 *locked in my safe and suggested they wait*
8 *until I get back.*
9
10 A. Yes.
11
12 Q. That's consistent with your recollection?
13 A. Yes.
14
15 Q. But the additional material that employee told you was
16 that they did in fact carry out a physical search of your
17 office?
18 A. Yes.
19
20 Q. Thank you, I just wanted to clarify that position.
21
22 Turn to tab 97, please, and behind that tab is a
23 statement from [AJ]?
24 A. Yes.
25
26 MR SKINNER: I object to that, Commissioner. Behind that
27 tab is an unsigned document.
28
29 THE COMMISSIONER: Yes.
30
31 MS LONERGAN: I will rephrase the question.
32
33 THE COMMISSIONER: Thank you, Ms Lonergan.
34
35 MS LONERGAN: I am not going to ask any questions about
36 the contents of the document that has been redacted to show
37 the name [AJ]. I am going to ask a question about the
38 email associated with it. The document behind it is only
39 there to identify what was forwarded to Ms McCarthy.
40
41 Q. Detective Chief Inspector Fox, the email of 9 April
42 2011 shows, doesn't it, that you forwarded to
43 Joanne McCarthy the document behind that email?
44 A. Yes.
45
46 Q. That document concerns matters confidential to [AJ],
47 does it not?

1 A. Yes.
2
3 Q. And [AJ] expressed a wish to you that that document
4 not be disseminated to anybody?
5 A. Originally, yes. And I think there's an earlier email
6 actually where Joanne McCarthy actually sought my consent
7 to forward it to her, and I declined it because I wasn't
8 prepared to do that, I had already given a copy of it to
9 [AJ].
10
11 Q. That's because [AJ] said she didn't want anybody else
12 to see it?
13 A. At that stage; but later on, by this time, [AJ] had
14 consented to me providing a copy of that to
15 Joanne McCarthy.
16
17 Q. Are you able to say when [AJ] communicated to you that
18 she was happy for you to provide that?
19 A. It wasn't very long. It was around the time that
20 I did so, because Joanne McCarthy, from recollection, she
21 had spoken to [AJ], who - I don't recall it exactly, but
22 they were trying to make some arrangement and then it was
23 easier if I electronically sent a copy, because I already
24 had that on a disk.
25
26 Q. You say [AJ] gave your her consent to provide this
27 statement to Ms McCarthy?
28 A. I wouldn't have done so otherwise. That's why
29 I declined when Ms McCarthy asked me first. That's clear
30 in my email; I said I would not do so without her consent
31 and I only forwarded this after she had given her consent.
32
33 Q. Did you make a note that [AJ] had given her consent to
34 forward the statement to Ms McCarthy?
35 A. No.
36
37 Q. Are you able to say whether the consent came from [AJ]
38 via email or in person or on the phone?
39 A. No, I believe it was a phone call - I think. It may
40 have been an email, I'm not sure.
41
42 Q. If I suggest to you that [AJ] says that she did not
43 ever give you consent to distribute her statement to
44 Ms McCarthy, you would say that's wrong?
45 A. That's wrong definitely. As I said, I made it very
46 clear that I wouldn't do that without her consent and it
47 was only after I obtained it that I did so.

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Q. Turn to tab 111. I am going to take you to page 504. Just to place the document, I'm going to take you through in time and place, this is - I will ask you some questions about it. Turn it up and read it to yourself, then I will ask you some questions about it. It is pages 504 to 509.
A. Yes.

MS LONERGAN: Commissioner, can I propose this course. I am nearing the end of my examination and there are three or four quite long documents I'm going to ask some questions about of Detective Chief Inspector Fox. It may be a better use of time if we take the luncheon adjournment now and resume at 1.45, and I will provide to Detective Chief Inspector Fox's lawyers all the documents I am going to take him to, there are about five or six of them. He can have the opportunity to read them over the luncheon adjournment, and that will move things a little quicker this afternoon and take some pressure off the process of reading documents in the box under pressure.

THE COMMISSIONER: Very well, Ms Lonergan.

MS LONERGAN: I have another application to be made, which Mr Hunt will now address.

MR COHEN: I understand what my learned friend is trying to achieve, but the idea that Detective Chief Inspector Fox has to sacrifice his opportunity for an hour's peace and quiet is a little --

THE COMMISSIONER: Mr Cohen, we will build into the luncheon adjournment sufficient time for Detective Chief Inspector Fox to read the documents at leisure.

MS LONERGAN: Perhaps we could resume at 2.00pm.

THE COMMISSIONER: How long are the documents, Ms Lonergan?

MS LONERGAN: The one that is being read now is six pages. It is a document which Detective Chief Inspector Fox has signed, albeit two years ago. Then there are a couple of emails that are four to five pages long each. In fact, one of them is an email with a series of questions, and it would be no surprise that I am taking the witness to that matter. Then there is an email in response, where

1 Detective Chief Inspector Fox has provided his own answers.
2 Again, that is not a document he has never seen before.
3 I do not want to be ungenerous to Detective Chief Inspector
4 Fox. I thought I suggested 55 minutes and I thought that
5 would be sufficient. But if there is any issue, I would
6 rather start later, and other practitioners can go about
7 attending to other matters while Detective Chief Inspector
8 Fox reads the material.

9
10 MR COHEN: Nobody has yet asked Detective Chief Inspector
11 Fox if that's convenient to him.

12
13 THE COMMISSIONER: I shall do that now, Mr Cohen.

14
15 Q. Sir, if you were permitted an extra 15 minutes of
16 lunchtime, do you feel that you would be able to read the
17 documents that have been briefly described by Ms Lonergan?
18 A. I will endeavour to do so, yes, and I would appreciate
19 a lunch break as well.

20
21 THE COMMISSIONER: That's understandable. I propose that
22 we resume at 2.05.

23
24 Q. If, Detective Chief Inspector Fox, you feel you have
25 not had sufficient time to digest the documents, perhaps
26 you could communicate to Ms Sullivan, who will ask for
27 further time.

28
29 MS LONERGAN: Yes. Commissioner, I would be happy with
30 that course. Commissioner, Mr Hunt has an application to
31 make in respect of non-publication.

32
33 MR HUNT: The application, Commissioner, is that you would
34 revisit the issue of perhaps considering making an interim
35 or a provisional non-publication order. It's the matter
36 that Mr McIlwaine raised on behalf of his client, and there
37 is a person neither represented nor currently present
38 before the inquiry.

39
40 The application is that you would provisionally make a
41 non-publication order in relation to the opinion evidence
42 of this witness in relation to the nature of, broadly,
43 police dealings with [AL], being "disgraceful" and
44 "abysmal" until further order.

45
46 The submission would be that possible matters that
47 might excite you, Commissioner, to reconsider the

1 continuation of that provisional order would include, for
2 instance, cross-examination of this witness by Mr McIlwaine
3 on those issues, evidence being given in due course by
4 either Mr Tayler or Ms Steel on those matters, or indeed
5 further consideration by you, Commissioner, or further
6 argument.

7
8 Really, the position is that, given the slender
9 possible weight to be attributed to that evidence, given
10 the hearsay nature of it, against the possible damage to
11 reputation, the authorities excite that this is an area
12 where it is proper in a commission of inquiry to impose
13 non-publication orders. So, to as it were, preserve the
14 status quo for the current purposes, I am inviting, you
15 Commissioner, to make an order in those terms pending
16 further order.

17
18 THE COMMISSIONER: Thank you, Mr Hunt.

19
20 Mr McIlwaine, I presume that you have nothing further
21 to say about it.

22
23 MR McILWAIN: Most eloquent is all I can say.

24
25 THE COMMISSIONER: In those circumstances, I propose to
26 make a non-publication order with regard to the comments
27 "disgraceful", "abysmal" and anything in that vein in
28 relation to the conduct as it concerned the witness [AL]
29 until further order.

30
31 Does that cover it, Mr McIlwaine?

32
33 MR McILWAIN: Yes, thank you.

34
35 THE COMMISSIONER: I will adjourn until 2.05pm.

36
37 **LUNCHEON ADJOURNMENT**

38
39 **UPON RESUMPTION**

40
41 MS LONERGAN: Detective Chief Inspector Fox, first of all,
42 behind tab 111, I asked you to look at documents that were
43 pages 504 to 509. Can you turn those up, please?

44 A. Yes.

45
46 Q. First of all, those pages have your signature at the
47 bottom of each page?

1 A. Yes.

2

3 Q. Can you outline for the Commission the context in
4 which this document was created and signed by you?

5 A. It was an internal investigation, where I was asked -
6 directed to give answers in relation to two matters. One
7 may not - I do not believe pertains to this Commission.

8

9 The second matter pertained to a text message on my
10 work phone that was from Detective Senior Constable Shaun
11 McLeod, that made reference to "I've spoken to Jo," or
12 something along those lines. I can't recall the full
13 context of it just now.

14

15 Q. That is all right. So it was Jo McCarthy?

16 A. It just said "Jo". I conceded in the interview that
17 Shaun McLeod was - you know, obviously he would have to be
18 here to say who he intended to mean.

19

20 Q. I think we are diverting a little bit. Let's cut to
21 the chase. Was this part of a proceeding in relation to an
22 alleged breach of the directive issued to you on 2 December
23 2010?

24 A. Yes, it was.

25

26 Q. This document that was prepared, was this some sort of
27 question and answer format that was done in an interview
28 setting?

29 A. Yes.

30

31 Q. Are the answers you gave in that document true?

32 A. Some are, some are not.

33

34 Q. Let's start first with the ones that are not true.
35 Can you identify those?

36 A. Question 1 is true.

37

38 Q. No, I have just asked you to identify the ones that
39 aren't true. I trust that will be the shorter part of the
40 exercise.

41 A. Okay. My answer to question 7, reading it again, is
42 probably a bit ambiguous. You know, I haven't lied or
43 tried to mislead. The way I originally read the question
44 is that the direction only related to Joanne McCarthy, in
45 that it didn't relate to other persons outside of that.
46 Obviously it did relate to journalists, but I wasn't trying
47 to mislead by saying that.

1
2 Q. Would you concede also that there was a direction not
3 to speak to witnesses who were part of the investigation
4 that was to be made?
5 A. Everyone was told not to speak to journalists, but the
6 direction not to speak to Ms McCarthy was specifically to
7 me, and that's what I've stated there.
8
9 Q. You can see there was also a direction to all present
10 not to speak to the press.
11 A. They were told not to, yes.
12
13 Q. Would you proceed with the next matter that is not
14 true.
15 A. Sorry, the answer to question 8 is true.
16
17 Q. Yes. I'm only focusing on ones that are not true,
18 Detective Chief Inspector Fox.
19 A. Question 9.
20
21 Q. In what respect is your answer not true?
22 A. It asks me, have I spoken to Joanne McCarthy after the
23 direction was given? I've stated there that I had only
24 spoken to her the once, and I had spoken to her numerous
25 times - you know, in short.
26
27 Q. I understand.
28 A. Question 10.
29
30 Q. Why is that untrue?
31 A. I contacted Joanne McCarthy that night, not a week
32 later.
33
34 Q. What about question 11?
35 A. Question 11 is not true. Question 12 is not true.
36
37 Q. Why did you use the term "absolutely" there, in answer
38 to the question, "Do you" --
39 A. I used that word --
40 Q. Let me read on to the record the question, so it makes
41 sense:
42
43 *Do you believe you have complied with the*
44 *direction given to you by Superintendent*
45 *Mitchell?*
46
47 You answered "absolutely".

1 A. I use that word interchangeably with "yes" a heck of a
2 lot, as people who know me would attest to.

3

4 Q. Were you attempting by giving that answer "Absolutely"
5 to reinforce that you would never breach a direction of
6 this nature?

7 A. Possibly, possibly.

8

9 Q. And that wasn't a truthful position to have put
10 forward?

11 A. True.

12

13 Q. I should note for the record that the materials I am
14 taking you to this afternoon were provided to you to
15 read at 20 to 2, and you were provided with about 35 to 40
16 minutes to complete reading those documents.

17 A. Yes.

18

19 Q. I'm not being at all critical, I'm just noting for the
20 record that an opportunity has been given, and I'll just
21 let you continue identifying any other matters in here that
22 are untrue.

23 A. I just want to read them carefully, because I take it
24 from that you want to hold me to each and every small
25 aspect in each of those answers, and some of them are long
26 answers.

27

28 Q. No, not at all. I'm interested in significant
29 untruths, such as the ones you have just mentioned.

30 A. Okay, if they're quite obvious, but there may be the
31 odd line. I hope I'm not missing it by trying to hurry the
32 process a bit.

33

34 Q. All right. Detective Chief Inspector, can we go about
35 it this way: I don't require you on to look at every
36 nuance of every statement you have made there.

37

38 Can we approach this way: were you trying to give as
39 frank a reflection of the true position as possible when
40 you completed this document?

41 A. Yes. Obviously I was concealing the fact that I was
42 in communication with Joanne McCarthy, and I wasn't
43 prepared to disclose that. That was the primary - that's
44 what I'm primarily looking for when you're saying
45 "untruths"; but generally speaking, the vast majority of it
46 is correct.

47

1 Q. I'll move on now to a document in volume 3, tab 119.
2 That's an email from you to Superintendent John Galton and
3 others?
4 A. Yes.
5
6 Q. I just want to inquire as to the significance of the
7 other people to whom this email is addressed. Ian Mather,
8 who is he?
9 A. Ian Mather works at the region office. I'm guessing,
10 as a result of that, that he may have been filling in for
11 the operations manager at the time, but I'm not certain
12 about that.
13
14 Q. And John Galton, was that Superintendent
15 John Galton?
16 A. It is. By this time he was - I think by then he had
17 been made the full-time commander of Newcastle city.
18
19 Q. Carlene York?
20 A. Is the region commander Northern Region.
21
22 Q. Craig Rae?
23 A. Craig Rae is a superintendent from Lake Macquarie, but
24 I believe at the time he was performing some relieving duty
25 while Carlene York was absent for periods.
26
27 Q. Why did you direct this particular email to all of
28 those persons?
29 A. Because, although sending it back primarily to
30 John Galton, I was having concerns that much of what I had
31 been expressing and saying, I was gaining the perception
32 that not all of this was being conveyed to the region
33 commander fairly and in full.
34
35 Q. What was the purpose of you sending this email, in
36 terms of its content? Were you asking for particular
37 permission or changes to any situation you had existing at
38 the time?
39 A. Yes. I had contact from Detective Sergeant Faber.
40 She was at Lake Macquarie, attached to Charlestown police
41 station. She was assembling a police investigation in
42 relation to a priest [NP] and there were some components
43 that needed, for want of a better term, shoring up, or if
44 I could confirm them. She had attempted to do that through
45 a number of avenues, and I'm only guessing but she would be
46 able to --
47

1 Q. No, don't guess.
2 A. She rang me to assist with a number of contacts I had
3 and also to try to procure a number of photographs for her
4 through witnesses and people I knew.
5
6 Q. Why did you think you needed to ask these people, or
7 any of them to whom this email is directed, for permission
8 to assist Sergeant Faber?
9 A. In short, I had been told by Superintendent Mitchell
10 not to have any further involvement, and considering that
11 these were going to be investigations in relation to a now
12 convicted paedophile priest from the Maitland-Newcastle
13 diocese, I didn't want to encounter any reprisals or action
14 against me for making those inquiries.
15
16 Q. You interpreted the direction given to you by
17 Superintendent Mitchell as requiring that you don't speak
18 to any police officer regarding any investigation into
19 church paedophilia?
20 A. No.
21
22 Q. I'm sorry, I asked that badly. Do you agree with me
23 that that was your interpretation of the direction by
24 Superintendent Mitchell, that you are not to speak to any
25 officer about any church paedophilia investigation?
26 A. No.
27
28 Q. I'm just trying to understand why you thought you
29 needed to get permission to speak to or proceed with
30 providing information to Detective Sergeant Kristi Faber?
31 A. The reason is because obviously I would need to start
32 ringing various people, and some of those had, in the past,
33 been connected with Fletcher and McAlinden and other
34 matters, and I didn't want there to be a perception by any
35 of these police that I was breaching the direction to not
36 investigate - well, to investigate those matters, even
37 though I wasn't, but I perceived that there may have been a
38 belief that that's what I was doing.
39
40 Q. In the third paragraph you say:
41
42 *I spoke to persons (But not Joanne*
43 *McArther) in confidence who are assisting.*
44
45 Is that a reference to Joanne McCarthy?
46 A. Yes, it is.
47

1 Q. Is that an untruth there, that you hadn't spoken to
2 Joanne McCarthy?
3 A. No, that's not what it says. It says, "I spoke to
4 persons" - sorry, "but not Joanne McCarthy in confidence".
5 That's true, yes.
6
7 Q. So you were maintaining the position that you were
8 keeping it confidential to yourself but you had not in fact
9 breached the direction at that point?
10 A. Yes.
11
12 Q. Number 3 at the bottom:
13
14 *Am I yet to be told the reasons for those*
15 *directions.*
16
17 Would you agree with me that you had been told that the
18 reason for the directions were, firstly, that the
19 investigation needed to be kept confidential?
20 A. What I'm asking there is --
21
22 Q. No, I'm asking you a very specific question. Would
23 you agree with me that you had in fact been told that one
24 of the reasons for the direction, in particular the one
25 about not speaking to media or Joanne McCarthy, was to keep
26 the investigation confidential?
27 A. Yes.
28
29 Q. You were told that on 2 December at the meeting?
30 A. Yes.
31
32 Q. Wouldn't you agree with me that you were also told at
33 the meeting of 2 December that the Newcastle Local Area
34 Command was going to be running the investigation?
35 A. That statement was made to me. I didn't consider it a
36 reason, but that statement was made, yes.
37
38 Q. So you don't accept, can we take it from your question
39 that you posed at number 3 there, that they were reasons
40 for the direction?
41 A. No, it was just simply stating the facts. But what
42 I'm alluding to there is I still was unable to understand,
43 with my involvement and my connection with all the - with a
44 number of victims, et cetera, why I had been totally pushed
45 aside, not just from leading it but to having any
46 involvement in it whatsoever.
47

1 Q. Can you look at tab 119A. That appears to be a
2 response provided to you from Superintendent Gralton; do
3 you agree?
4 A. Yes.
5
6 Q. Could you assist with who Gabrielle McDonald or David
7 Swilks are?
8 A. David Swilks was a superintendent then attached to,
9 I believe, Tuggerah Lakes. Again, there seemed to be a lot
10 of people relieving, and again I imagine that he, by this
11 stage --
12
13 Q. I don't want you to imagine. Just tell you what you
14 knew.
15 A. I know that he was doing some relieving at region as -
16 I can't remember the role for Gabrielle McDonald, but I'm
17 unsure at this stage why I've addressed it to her. I can
18 only speculate.
19
20 Q. It appears it was addressed to her by Superintendent
21 Gralton, as opposed to you addressing anything to that
22 person Gabrielle McDonald?
23 A. Yes.
24
25 Q. If you turn to tab 122, that's an email - there might
26 be some debate about what is the correct date of your email
27 to Detective Inspector Graeme Parker and Sergeant Jeffrey
28 Little. It may have been 2 April 2012. Are you able to
29 assist with the date there?
30 A. That appears correct.
31
32 Q. What led to you sending that email to those officers?
33 Did you get a phone call or something came to your
34 attention?
35 A. No, that resulted from the phone contact I had from
36 Sergeant Kristi Faber, and I believe the earlier email that
37 we've discussed, and I believe there's another email that
38 may have predated that. Sorry, what that was is I spoke to
39 Graeme Parker and there were a number of areas that he was
40 trying to clarify, and I pointed out to him, I said, "Mate,
41 haven't you read my report of 25 November?" And he said,
42 "What report?"
43
44 Q. So you forwarded that to him and Sergeant Little
45 because you were worried they hadn't read your report?
46 A. He told me they didn't have my report. I doubted
47 that, and I still doubt that he hadn't seen it, I've got

1 reason to believe that he had. Nevertheless, I thought,
2 "I've still got an electronic copy," and I sent it to him
3 again.
4

5 Q. As I understand your evidence, Detective Parker told
6 you he hadn't seen your report, but did he also say that
7 Sergeant Little hadn't seen the report at that stage, to
8 his knowledge or --

9 A. No, he said he hadn't seen my report.
10

11 Q. "He", as in Parker?

12 A. Yes, I was talking to him specifically. He asked -
13 obviously, he asked for me to send a copy of it to him, so
14 I gathered no one there had a copy, otherwise he would have
15 had a look at his own holdings, I would imagine.
16

17 Q. Do you recall receiving a phone call from Detective
18 Parker and Sergeant Little on their car phone on around
19 about 4 April 2012?

20 A. Yes.
21

22 Q. Do you recall what was discussed in that phone call?

23 A. I think they were either going to or coming from
24 Sydney.
25

26 Q. I'm not asking where they were going or coming from --

27 A. What was discussed.
28

29 Q. -- just what was discussed. I don't need you to refer
30 to any documents. I'm asking about your recollection of
31 the phone call, if you have one.

32 A. I remember them calling me and asking me some
33 questions about it; but again, it was on speaker phone in a
34 car travelling somewhere, I imagine, on the expressway
35 and --
36

37 Q. But you weren't in a car travelling on the expressway
38 somewhere?

39 A. No.
40

41 Q. Where were you?

42 A. I don't know.
43

44 Q. You can't remember?

45 A. I can't remember.
46

47 Q. Can we take it you made no particular note of that

1 phone call, or you may have?
2 A. I may have, I don't recall.
3
4 Q. Are you able to say whether on 4 April 2012 you were
5 at work?
6 A. Yes.
7
8 Q. You were?
9 A. I believe I was, yes.
10
11 Q. Do you have your 2012 duty book any more?
12 A. I don't know. When I left work --
13
14 Q. Don't worry. If you don't know, we will leave it at
15 that.
16
17 You were asked whether you had any information that
18 would assist the matters into which Detective Parker and
19 Sergeant Little were working. First of all, can you answer
20 whether you were asked whether you had anything else?
21 A. They did ask questions surrounding that subject, yes.
22
23 Q. I want to suggest you said words to the effect of:
24
25 *No, I've got nothing more. I didn't do an*
26 *interview with Clarke, I only had an off*
27 *the record chat with him that wasn't*
28 *recorded.*
29
30 Does that accord with your recollection as to one of the
31 things that was said in that conversation?
32 A. In all likelihood, yes.
33
34 Q. If you turn to tab 125A, is that an email from
35 Sergeant Jeffrey Little to you?
36 A. Yes.
37
38 Q. It's copied in to Detective Graeme Parker and
39 Superintendent John Galton?
40 A. Yes.
41
42 Q. Did you have an opportunity to read that over the
43 luncheon adjournment?
44 A. Yes.
45
46 Q. Do you agree with me that the purpose apparently
47 of this email was to raise questions regarding your

1 25 November 2010 report and the material in it?

2 A. Yes.

3

4 Q. Did you carefully consider the questions that were
5 raised in this email?

6 A. At the start I did. I think towards the end it's
7 apparent that I started to get a bit - it wasn't that
8 I wasn't trying to support, but all the communications with
9 him is - seemed very awkward, in that I was providing
10 emails, they were providing back questions, breaking that
11 up. And what I kept reiterating time and time again is,
12 "Come up and sit down and I can take you right through
13 this." You know, it would be like trying to conduct this
14 Commission, I suppose, via telephone link. It just makes
15 things, of course, that much more difficult. [Remainder of
16 answer struck out].

17

18

19

20 MR ROSER: I object to that.

21

22 MS LONERGAN: That last part of the answer should be
23 struck off the record as being not responsive to the
24 question, Commissioner.

25

26 THE COMMISSIONER: Thank you.

27

28 MS LONERGAN: Q. At page 672, as part of that email
29 I have just had you look, appears to be an email from you
30 to Officers Parker and Little and copied to Superintendent
31 Galton?

32 A. Yes.

33

34 Q. That appears to be an email reply by you, where you
35 raise the issue that you don't know "where your matters
36 have gone". Do you see that at the top of page 673?

37 A. Yes. That's a fair comment.

38

39 Q. So is it fair to say that you were trying to tell
40 Detective Parker that you weren't really sure what they had
41 been doing so you didn't know what assistance you could
42 provide?

43 A. Yes.

44

45 Q. I'm going to ask you to turn to tab 125B, and you will
46 be relieved to know we are getting very near to the end
47 much my examination.

1 A. Yes.
2
3 Q. Again, this is a document that I drew to your
4 attention as one you ought to read over the break that we
5 had?
6 A. Yes.
7
8 Q. You did read that document, did you?
9 A. Yes.
10
11 Q. It's an email response by you to questions raised by
12 Detective Sergeant Little?
13 A. Yes.
14
15 Q. Did you do your best to convey all the information
16 that you could in those responses?
17 A. It certainly wasn't all the information. As I said,
18 I would have liked to have sat down with somebody. But
19 bearing in mind this was sent up to me at a time when I was
20 involved in a fairly complex and difficult matter, but
21 I did put some time aside and I tried to address most of
22 those questions as best I could.
23
24 Q. Can you turn to page 676(e). Did you in this document
25 exaggerate information that you had or steps you had taken
26 in relation to investigations into church paedophilia?
27 Just direct your mind to my question before reading the
28 page, if you don't mind.
29 A. Investigations I had into church paedophilia?
30
31 Q. Yes.
32 A. Sorry, if I don't read the page, I can't remember
33 what's on it.
34
35 Q. No, I don't want you to read the page. I want you to
36 ignore the page.
37 A. If I have, not intentionally. I don't know whether
38 I've said it. Bearing in mind I'm not sitting down with -
39 off memory, when I was doing this, I was absolutely pressed
40 with a couple of other issues burning and I've knocked this
41 out quite quickly. I'm not trying to make an excuse, but
42 just trying to set the scene around the circumstances in
43 which it was - you know, they wanted me to get back as soon
44 as possible and I tried to hurry this through.
45
46 Q. Did you deliberately Detective Parker and/or Sergeant
47 Little about steps you had taken in relation to

1 investigation of church paedophilia?

2 A. Definitely not, no.

3

4 Q. Would you agree with me that the statement on
5 page 676(e) to the effect you prepared a brief against
6 Bishop Malone is an exaggeration of the facts?

7 A. Yes, it is, in that what I had actually --

8

9 Q. No, just accept or reject my proposition. Do you
10 accept my proposition that it's an exaggeration of the
11 facts?

12 A. It's part of a brief, not the full one - so yes.

13

14 Q. Let's examine that a little further. I'll just turn
15 to the transcript of Monday. I'm going to read this
16 exchange to you on page 31 of Monday's transcript,
17 commencing at line 13:

18

19 *Q. Can I ask you this: Did you, as part of*
20 *your investigation of Fletcher, formally*
21 *investigate any official of the Catholic*
22 *Church of Maitland-Newcastle diocese at*
23 *that time?*

24 *A. Yes. I contemplated very seriously at*
25 *that stage whether there was sufficient*
26 *evidence to charge Bishop Michael Malone*
27 *with hindering of a police investigation.*

28 *Q. Let's examine that a bit further.*
29 *When I use the term "formally investigate",*
30 *does that mean that you were carrying out a*
31 *formally recognised investigation into*
32 *Bishop Malone or was it more a side effect*
33 *of the Fletcher matter?*

34 *A. It was more of a side effect. I was*
35 *utilising statements from other clergy and*
36 *the victim's mother in that process. At a*
37 *later stage I spoke to a member of the DPP*
38 *and discussed the possibility of whether or*
39 *not we should charge Bishop Malone or other*
40 *alternatives.*

41 *Q. That discussion with the DPP solicitor*
42 *was an informal one?*

43 *A. Yes, it was.*

44 *Q. You didn't at any time, did you, take*
45 *a formal interview from Bishop Malone*
46 *relating to any allegations in relation to*
47 *his conduct specifically.*

1 A. No. He - I know from documents I have
2 seen that he obviously obtained some legal
3 advice at the time, but I did obtain a
4 statement from him where that was
5 canvassed, but he wasn't formally
6 interviewed as such.

7
8 Commissioner, I just want to liaise with Mr Cohen to
9 see whether I need to read out all of the next page of
10 evidence to the witness.

11
12 Commissioner, it might be easier if a copy of the
13 material could be provided to the witness - it is two pages
14 of material - before we get to a particular question which
15 I want to direct him to. Mr Gyles has kindly provided a
16 hard copy for the witness.

17
18 THE COMMISSIONER: Thank you, Mr Gyles.

19
20 MS LONERGAN: Q. Detective Chief Inspector Fox, I was on
21 page 31 at line 42, and I ask you to read from there to
22 page 32, line 32. Just read that to yourself.

23 A. Page 142 to 143?

24
25 Q. No, page 31 to 32.

26
27 MR COHEN: Commissioner, this could go around in circles.
28 I think there be some misapprehension about what the
29 witness should be reading.

30
31 MS LONERGAN: May I approach the witness?

32
33 THE COMMISSIONER: Yes, Ms Lonergan.

34
35 THE WITNESS: Yes, I've read it.

36
37 MS LONERGAN: Q. Then you see the next question, on
38 page 32 line 34 - keep it with you. Have you read down
39 that page 32 line 32?

40 A. Yes, and the next question on line 34.

41
42 Q. The next question is:

43
44 Q. We want to be very clear, at no stage
45 did you prepare a second brief, extracting
46 some of that material from the Fletcher
47 prosecution, to make it into a brief

1 *regarding allegations or exploring*
2 *allegations against Bishop Malone?*
3 A. Yes.
4
5 A. Yes.
6 Q. So you were agreeing with me that you didn't prepare a
7 brief in relation to bishop Malone, did you?
8 A. Yes.
9
10 Q. You're agreeing with me?
11 A. Yes.
12
13 Q. So when you say on page 676(e), paragraph 3, "I did
14 prepare a brief against Bishop Malone," that's not true, is
15 it?
16 A. No. Sorry --
17
18 Q. It's untrue?
19 A. Yes.
20
21 Q. Is it reasonable to state that from the email from
22 Sergeant Little, with the numerous questions that were
23 raised, that it was an attempt to obtain relevant
24 information from you? It might not have been the way you
25 wanted it done --
26 A. Yes, I agree.
27
28 Q. -- but it was still an attempt?
29 A. Yes.
30
31 Q. And, in effect, that process was a form of
32 consultation with you?
33 A. Yes.
34
35 Q. Do you recall having a telephone conversation on
36 12 April with Detective Sergeant Little, where you phoned
37 him and said you were about to send that email that we've
38 just been looking at? Do you remember doing that, phoning
39 him before you sent it?
40 A. I may have. I don't recall.
41
42 Q. You just don't recall the conversation?
43 A. Yes, but I don't dispute that I probably would have.
44
45 Q. I want to suggest to you that you said you were
46 looking at a much bigger picture and that it was apparent
47 that Strike Force Lantle had very strict terms of

1 reference? Do you recall saying that?
2 A. I don't recall it but it's quite likely that I did say
3 something like that.

4
5 Q. And that you offered to be available to sit with him
6 and assist him with his work on Strike Force Lantle?

7 A. Yes, I did.

8
9 Q. And that you wouldn't at that stage reveal what
10 Troy Grant had told you. Do you remember that?

11 A. No, because when Troy Grant made that comment to me,
12 I felt that I should hold that in confidence and he should
13 talk to Troy Grant about that.

14
15 Q. So you would agree that you didn't want to reveal to
16 him or told him you would not reveal to him what Troy Grant
17 had told you?

18 A. Yes.

19
20 Q. You made a comment to the effect that most of the
21 information you have is in the back of your brain?

22 A. Yes.

23
24 Q. Do you recall in April 2012 having a telephone
25 conversation with Detective Sergeant Kristi Faber?

26 A. I know there were some calls around that period
27 between us, yes.

28
29 Q. Do you recall saying to her during one such
30 conversation in April 2012 that her life was in danger from
31 the Catholic Mafia?

32 A. What? No.

33
34 Q. No, you never said that?

35 A. No.

36
37 Q. So do you deny saying her life was in danger from the
38 Catholic Mafia because of her continued investigations with
39 Strike Force Georgiana?

40 A. No. That's bizarre, sorry.

41
42 MS LONERGAN: Those are my questions, Commissioner.

43
44 May I indicate that Mr Skinner has requested whether
45 he could cross-examine first.

46
47 THE COMMISSIONER: Thank you, Ms Lonergan. Yes,

1 Mr Skinner.

2

3 <EXAMINATION BY MR SKINNER:

4

5 MR SKINNER: Q. I'll be brief, Detective Chief Inspector
6 Fox.

7

8 You admitted this morning, if I recall, that you were
9 prejudging much of your investigations? You said that to
10 counsel assisting?

11

12 MR COHEN: I object. That question should be much more
13 narrowly focused.

14

15 MR SKINNER: I don't have a transcript.

16

17 Q. Do you deny you said it?

18 A. I don't understand what --

19

20 MR COHEN: I maintain my objection.

21

22 MS LONERGAN: I support Mr Cohen's objection. It does
23 need to be a little more closely focused, in my submission.

24

25 MR SKINNER: Q. The note I made is that you were willing
26 to concede that you were prejudging the conclusion of much
27 of operation Lantle when you were saying it was a sham?

28 A. No, I don't agree with that proposition in that term,
29 no.

30

31 Q. Why not?

32 A. What I was saying is that much of what Lantle was
33 doing I considered to be a sham, certainly based on some of
34 the evidence I have given here today about the way some of
35 the witnesses/victims were being treated. Again, my
36 consideration of the degree of expertise and experience of
37 some of the investigators and the way it was being handled,
38 and then, you know, staff lacking for varying periods and,
39 you know, apparently very little activity being progressed
40 on it.

41

42 Q. But that was fixed up, was it not? Little came in and
43 tack over from the other officers?

44 A. At one point, yes. At some stage, yes, he did.

45

46 Q. So the staff going off sick, apart from delay, is not
47 really relevant, is it?

1 A. It's relevant when I've got - you know, when you've
2 got some of the victims crying and ringing up other police
3 saying they had been bullied and harassed by some of the
4 detectives on it. I would consider that's something
5 significant.

6
7 Q. The bullying and harassing, as you call it, I think to
8 be fair to you, you're quoting the view [AL] had about
9 it --

10 A. I am indeed and that is totally what I'm basing it on,
11 but I had no reason to think she was lying.

12
13 Q. If I could finish, the bullying and harassing is
14 essentially an opinion about the pressure on her to go and
15 give a statement; correct?

16 A. Yes, yes.

17
18 Q. Why wouldn't Brad Tayler, conducting an investigation
19 in which the wheels had been spinning for quite some time,
20 even on your evidence, press her to come in and give him a
21 statement?

22 A. I'm glad you pointed that out. It makes it clear that
23 detective chief inspectors do get statements. Number 2,
24 you work in with victims. There is a charter of victims'
25 rights, where you give them compassion, care, time. You
26 don't sort of say, "Listen, you get your arse in here
27 tomorrow or else," or words to that effect. If they've got
28 family commitments or whatever else - it's their life.
29 They've been abused and you are treating them like garbage.
30 The police are not what's important here; it's the victims.
31 That's what I had very serious concerns about. They were
32 being treated like garbage.

33
34 Q. The ultimate aim of an investigation, in your mind,
35 was to get some prosecutions going; correct?

36 A. If the evidence supported that, yes, I was certainly
37 very passionate to see that it was investigated thoroughly
38 and properly and to the full scope that it should have
39 been.

40
41 Q. You are an experienced officer, as you said many
42 times, experienced not only in investigating but ultimately
43 all the way through to seeing how trials run, aren't you?

44 A. Sorry, I didn't know I'd said that. But if you're
45 suggesting I am experienced, I would probably agree with
46 that. I've had a couple of years, yes.

47

1 Q. You were, however, taking secret statements; correct?
2 A. What do you mean by "secret"?

3

4 Q. You kept them secret from those you met on 2 December
5 2010 at Waratah, didn't you?

6

7 MR COHEN: I object to that question. That's not the
8 evidence.

9

10 THE WITNESS: No, not at all.

11

12 MR SKINNER: Q. You didn't tell them and you only gave
13 them to them afterwards. I'm speaking about the statements
14 that I think from your evidence and from the material in
15 the brief are from [AK], 29 June 2010; Michael Stanwell,
16 23 July 2010; and the unsigned one, which is the only one
17 I've seen from [AJ], 29 June 2010. They were secret from
18 the other police officers in Newcastle Local Area Command?
19 A. Sorry, I understand what you are saying now that,
20 I hadn't told them - you're saying I hadn't told the police
21 that I had those statements before 2 December?

22

23 Q. Yes.

24 A. Yes, I had.

25

26 Q. Sorry, you're saying you told the police you had
27 those statements in the specific terms that I've put them
28 to you, who they were from and the dates you took them,
29 before 2 December?

30

31 MS LONERGAN: Commissioner --

32

33 THE WITNESS: I don't know.

34

35 MS LONERGAN: Commissioner, I object to that last
36 question. It wasn't a question that was put before and
37 it's being insisted in a way that implies it was.

38

39 In my respectful submission, these are matters outside
40 the mandate of Mr Skinner's client's interest. These seem
41 to be more matters in the purview of the police force, if
42 they wish to pursue this avenue of inquiry. I'm not
43 entirely confident of the relevance of Mr Skinner's
44 client's rights at the moment.

45

46 MR SKINNER: If my friend will give me a little bit of
47 leeway, Commissioner, I have to lay some ground.

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THE COMMISSIONER: I will allow you to lay some ground, Mr Skinner, but please try to be precise.

MR SKINNER: I'll move on.

Q. Were you, as you took those statement, recording your movements and the preliminary telephone calls to those complainants and that sort of thing in a duty book or in any other document that could be accessed?

A. No.

Q. Why not? You'd know that would be standard procedure, wouldn't you?

A. Of course. I have stated many, many times that I didn't want anybody else to know that I was taking those statements at that point of time.

Q. Even someone who might have the misfortune to have to defend someone charged with very serious charges down the track?

A. I don't understand what you're --

Q. You do understand what I mean, don't you?

A. Well, if I did, sir, I would have said, "I understand you," but no, I don't.

Q. Troy Grant said this morning that you were meticulous in your investigation, particularly in recording in your duty book; correct?

A. Yes.

Q. You know that the context in which statements are taken from complainants is extremely important to record and might be useful for somebody to get a fair trial down the track?

A. Components of the statement, did you say?

Q. Complainants, I said.

A. Sorry.

Q. I'm using the term as it is used, as I understand it: a complainant is somebody who is allegedly a victim. Until it is proved they are a victim, they are a complainant. Do you understand that?

A. I do understand it sir, yes, thank you.

1 Q. Certainly Joanne McCarthy is not such a person, is
2 she? When you use the term "complainant" you use it in a
3 different way, don't you?
4 A. No, I don't believe so. I considered Joanne McCarthy
5 a complainant. You can be a complainant on behalf of
6 somebody else. I have dealt with many, many complainants
7 in that capacity over my years.
8
9 Q. You realise, don't you, that in the matter you were
10 investigating, she was and is a potential witness?
11 A. That is Joanne McCarthy?
12
13 Q. Yes.
14 A. I don't know.
15
16 Q. People you say are victims first spoke to her before
17 they first spoke to you. Why would she not be a witness to
18 that? Why wouldn't you get a statement from her?
19 A. I don't know whether that would be required.
20
21 Q. It's totally orthodox, is it not, on every occasion
22 that someone comes to court alleging historical sexual
23 assault that a statement is taken from the very first
24 person or persons they say it to, so you can fix in time
25 when they first came forward?
26 A. From what I understand, [AL] and [AK] first complained
27 to members of the Catholic Church, and at that stage
28 I wasn't prepared to go to them and ask them for statement.
29
30 Q. In 2010, on your own evidence here and as recorded
31 fairly contemporaneously scattered through all sorts of
32 material here, you say you first got involved in this again
33 when you read articles in the Newcastle Herald written by
34 Joanne McCarthy and she contacted you?
35
36 MR COHEN: I object. That's not clearly a narrowly
37 focused question.
38
39 MS LONERGAN: Commissioner, could I be heard in relation
40 to this general line of inquiry.
41
42 THE COMMISSIONER: Yes, Ms Lonergan.
43
44 MS LONERGAN: As I appreciate Mr Skinner's position, he
45 acts for Father Brian Lucas. We are examining at the
46 moment the circumstances in which Detective Chief Inspector
47 Fox was asked to cease investigating certain matters and,

1 in my respectful submission, the questioning at the moment
2 is going away from those matters.

3

4 MR SKINNER: I won't press this. I can shorten this,
5 Commissioner. I will just ask one question, if I may.

6

7 Q. Did you ever take a statement from Joanne McCarthy?

8

A. No.

9

10 Q. The email that you sent, I think from my notes, some
11 time in December anyway, to Joanne McCarthy which had
12 attached to it an unsigned statement from [AJ] --

13

14 MS LONERGAN: That email is dated April 2011 and I will
15 assist Mr Skinner with the tab reference.

16

17 MR SKINNER: I am grateful for that.

18

19 Q. It is 9 April 2011, tab 97 and you were asked
20 questions about the email earlier today. Do you remember
21 that?

22

A. Yes.

23

24 Q. I think, by way of an objection, I clarified the
25 document attached to it was actually unsigned at that time;
26 correct?

27

A. Yes.

28

29 Q. [AJ] is the witness that you have referred to on sever
30 occasions as having taken 28 hours to get a statement from;
31 is that correct? It is [AJ] that you referred to in that
32 regard?

33

34 A. I don't think I have said that, no, on a couple of
35 occasions. I may have said it once, I think. You may have
36 read it more times, I appreciate, but I think it's only
37 been asked once.

37

38 Q. Sorry, when I said "said" I was loosely referring to
39 your evidence here and also your contemporaneous records.

40

A. Yes, I will acknowledge, in that case, yes, that is
41 certainly the situation.

42

43 Q. Did you spend a lot of time getting that statement
44 from her?

45

A. My word I did.

46

47 MS LONERGAN: I object, Commissioner. Again, I cannot

1 see the relevance of this line of inquiry in relation to
2 either Mr Skinner's client or how it assists in relation to
3 obtaining evidence relevant to term of reference 1.

4

5 THE COMMISSIONER: In any event, Mr Skinner, there has
6 been an agreement, hasn't there, that that is the person to
7 whom the witness referred at least once?

8

9 MR SKINNER: Yes.

10

11 Q. Did she sign that statement --

12

13 MR COHEN: I object. This is a very handy line of
14 pre-trial discovery for other purposes but it is nothing to
15 do with this term of reference in the way it is put.

16

17 MS LONERGAN: I support and repeat Mr Cohen's objection.

18

19 THE COMMISSIONER: Yes. Mr Skinner, the document is
20 before you. You know the answer to the question.

21

22 MR SKINNER: I note the time. Those are all the
23 questions, at this point, given the Commissioner's rulings,
24 that I seek to ask.

25

26 THE COMMISSIONER: Mr Roser, Mr Saidi? I am sorry,
27 Mr McIlwaine?

28

29 MR McILWAIN: Commissioner, I have some questions. I am
30 happy for my friend to go first. He may cover territory
31 I would otherwise cover.

32

33 THE COMMISSIONER: Thank you. I apologise for being
34 discourteous.

35

36 <EXAMINATION BY MR ROSER:

37

38 MR ROSER: Q. Sir, you said the people appointed to
39 Lantle were inexperienced. You said that?

40

41 A. Yes.

42

43 Q. Do you classify 69 years in the police force as
44 inexperience?

45

46 MR COHEN: I object.

47

THE WITNESS: I would say he's a very old detective.

1
2 MR ROSER: Q. Very good. I'm glad you're smiling about
3 it. You said that the people attached to Lantle were
4 inexperienced, didn't you?
5
6 MR COHEN: I object. Which people?
7
8 THE COMMISSIONER: Yes, could we be more precise?
9
10 MR ROSER: Q. Steel, Quinn and Tayler.
11 A. What I was specifically referring to when I made
12 that --
13
14 Q. Do you say - just answer the question?
15 A. I was trying to, sir.
16
17 Q. Well, answer it. Do you say --
18
19 MR COHEN: I object. Section 41 of the Evidence Act
20 expressly provides that questions of this type shouldn't be
21 harassing, annoying or unduly oppressive. That's exactly
22 what these are.
23
24 MR ROSER: Also under the Evidence Act, the responsive
25 answers to questions.
26
27 MS LONERGAN: Commissioner, may I be heard on a matter of
28 tone and courtroom decorum.
29
30 THE COMMISSIONER: Yes.
31
32 MS LONERGAN: May I suggest that the tone in which those
33 questions were delivered was vehement and unnecessarily so,
34 in my respectful submission. That would not necessarily
35 communicate to the transcript, but I note for the record
36 the tone was vehement and quite aggressive, in
37 circumstances where it was only the third or fourth
38 question put in cross-examination of this witness.
39
40 MR ROSER: Well, I dispute that.
41
42 MR COHEN: If I might remind the Commission, this is not a
43 murder trial and you are not a jury.
44
45 THE COMMISSIONER: Thank you, Mr Cohen.
46
47 MR ROSER: That's very helpful. I realise that.

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THE COMMISSIONER: Mr Roser, could I ask you please to deliver your questions in a more moderate tone.

MR ROSER: Yes, Commissioner.

Q. Detective Inspector Tayler, how many years experience did he have in 2010?

A. Life experience or experience as a police officer?

Q. As a detective?

A. I don't know.

Q. But you have said he was inexperienced?

A. No.

Q. You gave evidence that you said the people attached to Lantle were inexperienced, didn't you?

MR COHEN: I object. That was not the evidence.

MR ROSER: My submission is it is.

MR COHEN: Then take us to the evidence.

THE COMMISSIONER: I have a note that the evidence was that the degree of experience and expertise of some of the - I have missed some of it. Perhaps you could go through each detective.

MR ROSER: Yes.

Q. Do you say that Detective Inspector Tayler was inexperienced in 2010?

A. I don't know.

Q. Why don't you know?

A. I'm not fully au fait with Inspector Tayler's background. If you would like to tell me what it is, I could probably give you an indication on it. But I'm not au fait with all of Inspector Tayler's background. I haven't seen a copy of his statement. I haven't had a chance to read it.

Q. You were in the police force with him for about 15 years, weren't you?

A. And about 15,000 others, yes.

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MR ROSER: Commissioner, I would ask you to direct the witness to answer the question.

THE COMMISSIONER: You have the answer now, Mr Roser.

Q. But, would you be careful, please, Detective Chief Inspector Fox, simply to answer the question and not to add anything extra.

A. Yes.

MR ROSER: Q. How many years did you know Detective Inspector Tayler in the police force?

A. I didn't know Detective Inspector Tayler very well. I came into contact with him time and again periodically. We were never stationed in the same station, certainly not in the same command, to my knowledge, and I'm not completely familiar with where he was. And that's why I'm - not that I'm being evasive but I don't want to give an unfair answer because I simply don't know.

Q. Is he one of the people that you classified as inexperienced being attached to this strike force?

A. I didn't classify him one way or the other because I don't know.

Q. You said that the people attached to Lantle were inexperienced, didn't you?

A. What I was referring to, I think.

Q. No, did you or did you not?

A. I don't know. If you can take me back to that, I might be able to answer that in context.

Q. Don't you know what you've said in evidence in this Commission?

A. We are at the end of day 3. If anyone here can remember all of it, they are doing much better than me. I've got a pretty good idea, but I'm just after the specifics around that particular area of my answer. You want me to be specific. If I'm going to be fair to you, sir, and give you a very specific answer, if you can give me the specifics surrounding it, I can achieve that. But it's very difficult for me to do, in fairness, if I'm not provided with that.

Q. Who were the inexperienced people attached to Lantle

1 pre the end of December 2010
2 A. I considered Detective Sergeant Steel inexperienced in
3 the area of a lack of recent involvement in any form of
4 criminal investigation so far as being a detective.
5
6 Q. She was an acting inspector pre this investigation,
7 wasn't she?
8 A. I accept that if you're telling me that.
9
10 Q. Well, you re in the police force. You know her,
11 didn't you?
12 A. I was at Raymond Terrace. She wasn't at my station.
13
14 Q. So you didn't know her or her rank?
15 A. If she was acting - people are acting in roles in the
16 police force all the time. I think when we went through
17 those emails, it gave an indication that there is a
18 continual evolvement of people when they are acting into a
19 higher capacity and I don't know what she was doing
20 immediately before she was drafted into Lantle.
21
22 Q. Haven't you just given evidence that she was
23 inexperienced to be a party to this strike force? What do
24 you assess that on?
25 A. What I'm assessing that on is the years since she had
26 been a full-time detective. That is based on, as a
27 detective, it's a very, very different field. I would
28 probably struggle going out there and writing up a breach
29 report for a bald tyre. I don't know much about that.
30 I wouldn't expect that a highway patrol officer or someone
31 in another specialised field within the police force would
32 be able to walk in as a detective and pick up an extremely
33 important, complex and far-reaching investigation into the
34 Catholic Church.
35
36 Q. What was she doing prior to being attached to this
37 particular strike force, do you know?
38 A. I know when she was working at Newcastle when I was
39 there in 2008, I can tell you my contact with her then.
40
41 Q. We are talking about 2010. I thought you said before
42 you didn't work with her?
43 A. No. You asked me about Detective Chief Inspector
44 Brad Tayler, and I told you I did not work with Detective
45 Chief Inspector Brad Tayler. You did not ask me about
46 Detective Steel.
47

1 Q. What was Detective Steel doing pre July 2010?
2 A. I don't know.
3
4 Q. But you have made an assessment that you --
5 A. My understanding --
6
7 Q. Just wait for the question.
8 A. Certainly.
9
10 Q. You said that she was, what, writing out a ticket or
11 something like that?
12
13 MR COHEN: I object to this. That's not the evidence.
14
15 THE COMMISSIONER: Mr Roser, the witness didn't say that
16 Detective Sergeant Steel was writing out a ticket.
17
18 MR ROSER: Q. What do you say she was doing prior to
19 being attached to particular strike force?
20 A. What I was basing it around, to try to make it simple,
21 Sergeant Steel had been, to my knowledge, for many years -
22 and I came into contact with her when I worked at Newcastle
23 in 2008 - she was a general duties uniform sergeant working
24 in the station. On occasion, for a week here and there -
25 and I think in the four months I was at Newcastle - she may
26 have worked up in the acting inspector's role for a week or
27 two, from the best of my memory. It may be the case that
28 you will enlighten me that something similar progressed.
29 But I wasn't aware of her transferring full time into the
30 detectives' office whilst I was at Newcastle, and I don't
31 know, you may be able to tell me that she did so shortly
32 after I left.
33
34 Q. So that's the last dealings you had with her was in
35 2008, was it?
36 A. Yes.
37
38 Q. For a couple of months that she was working with you?
39 A. Yes.
40
41 Q. And you don't know what she was doing between 2008 and
42 near the end of 2010?
43 A. I don't know for certain but I don't - you know - and
44 again, I don't want to be committed to it because it's only
45 police hearsay, but it's still my understanding that she
46 was a uniform officer for quite a considerable period of
47 time.

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Q. You gave some evidence yesterday in relation to this particular officer, didn't you? Do you remember that?

A. I may have. I don't know what you're talking about specifically.

Q. At page 152 - as part of an answer to what my learned friend asked you - at line 20, you said.

... and I'd have thought that there's no way in the world I would have given it to a uniform officer that I've pulled back in from a police truck and said, "Here is this church investigation."

Who were you talking about there?

A. Sergeant Steel.

Q. Where did you get that knowledge from, that she worked as a uniformed officer working in a police truck?

A. I accept I don't know that she was working in a police truck.

Q. You see, that's what you're about, aren't you? You just make it up as you go?

A. I think that the expression I used, sir, was, perhaps a colloquialism. I didn't expect it to be taken literally. I think in the general term of police-speak, if you like, it is that it's simply referred that she was still working predominantly in and attached to the general duties area now, she may have been doing some relief duties or other things. Mind you, I'm not being detrimental, I get along with her. She's a wonderful girl and I've got a lot of respect for her. It's not a personal thing, but if I was sitting in office and saying, "Well, I want my very best investigator, someone with an enormous amount of experience, to take on this very difficult and complex brief," I know I'm going to go to the cream of my office to do it.

Q. You described her yesterday in evidence, when you were asked a question in relation to her experience, that you wouldn't have given it to a uniformed officer. Who are you talking about there?

A. Kirren Steel.

Q. How do you know she was in a uniform when she was

1 pulled in to do this strike force?
2 A. I don't recall, but my understanding is that she had
3 been working --

4
5 Q. Where did you get that understanding from?
6 A. Just the police rumour mill.

7
8 Q. Police rumour?
9 A. You know, I think most police have got a rough idea of
10 what's going on. I'm not trying to be evasive, but I'm not
11 working at Newcastle or Waratah so I'm not oversighting
12 what she's doing on each and every shift but you get a
13 general idea of where people are.

14
15 Q. Who told you she was working in a police truck at that
16 time?
17 A. As I explained, I didn't mean that she was
18 specifically working in a police truck.

19
20 (Interruption in proceedings)

21
22 MR ROSER: It appears that someone in the audience has
23 cause to laugh about something, Commissioner.

24
25 THE COMMISSIONER: There is some laughter in the back of
26 the courtroom which is unhelpful. If I can hear it from up
27 here, it must be very distracting for counsel. Please
28 desist.

29
30 MR ROSER: Thank you, Commissioner.

31
32 Q. You also gave evidence yesterday at page 185 in
33 relation to this particular officer, at line 38:

34
35 *The officers allocated - and again, the*
36 *next detective that was given it after*
37 *Kirren Steel went off sick had been a*
38 *uniformed officer at Raymond Terrace ...*

39
40 Who was that?

41 A. You said Karen Steel. It's Kirren Steel, and the
42 uniformed officer from Raymond Terrace that was given the
43 matter was Sergeant Jeff Little.

44
45 Q. How long did you work with Sergeant Little?

46 A. He was a uniformed officer at Raymond Terrace. Off
47 the top of my head, possibly around a year. It may have

1 been longer or shorter, but something around that time.

2

3 Q. When he was allocated it, he was a detective sergeant?

4 A. He had been just promoted into that role by two days,
5 yes.

6

7 Q. When he was allocated it in December 2010 he was a
8 detective sergeant, wasn't he?

9 A. He had been transferred to Newcastle. I don't know if
10 it had been confirmed on the documentation then. But if
11 you're telling me it is, sir, I accept that.

12

13 Q. When you did the investigation of Fletcher, what rank
14 were you?

15 A. I had been a detective sergeant for nine years.

16

17 Q. You were a detective sergeant, weren't you?

18 A. Sorry?

19

20 Q. You were a detective sergeant, weren't you?

21 A. I had been a detective sergeant for nine years.
22 Sorry, you mustn't have heard.

23

24 Q. You were asked some questions just a minute ago by my
25 learned friend about tab 125B?

26 A. Yes.

27

28 Q. You were asked some questions in relation to the
29 answer at page 676(e), and you were taken to "I did prepare
30 a brief." Do you see that? It's a passage you were taken
31 to half an hour ago?

32 A. I accept it, sir. I'm just trying to find it. That's
33 all.

34

35 Q. Why did you lie there?

36 A. It's not a case of I lied there, sir. A lie is a
37 deliberate intentional effort to deceive someone, and that
38 certainly wasn't the situation. This was an email where,
39 for the sake, I suppose, of trying to be succinct, I've
40 said, "I prepared a brief." I've acknowledged to
41 Ms Lonergan that it was not a brief as such with a covering
42 sheet, et cetera. There were some four or five statements
43 from members of the clergy, there were also a number of
44 statements from civilians that would have doubled from the
45 Fletcher brief to have formed a brief for Malone, had
46 I decided to head down that course. But rather than
47 articulating through that document that I had some eight

1 statements and who and what they were, I've simply used the
2 term "brief", which I acknowledge is not a full brief that
3 we would normally interpret.
4

5 But this was just a simple conversation between two
6 police and it wasn't intended to lie, and it wasn't an
7 attempt to deceive in any way. It was simply a very quick
8 simple way to explain it and I would have articulated it a
9 bit more if he had called back and said, "What do you mean
10 by that?"
11

12 Q. You intentionally put in there, "I did prepare a
13 brief," didn't you?

14 A. Yes.
15

16 Q. And you did it with intent to deceive, didn't you?

17 A. I have answered that, sir. I will repeat: No.
18

19 Q. You wanted Detective Little and Inspector Parker to
20 believe what you put in there, didn't you?
21

22 MR COHEN: I object. Which part?
23

24 MR ROSER: Is my friend is having problems following that,
25 "I did prepare a brief."
26

27 Q. You wanted to tell them - that's Detective Sergeant
28 Little and Inspector Parker - that you had prepared a brief
29 in relation to that particular priest or bishop, didn't
30 you?

31 A. That's what I've said. I hopefully have explained it.
32

33 Q. And you intentionally deceived them, didn't you?

34 A. No. I hope not. I hope that it wasn't taken
35 literally. If I had, I don't know how it would have
36 assisted or not assisted. But certainly if they actually
37 had thought I prepared a full brief and rang up and said,
38 "Listen, could we have that," I would then have, of course,
39 explained, "No, listen, what it consists of Jeff, is the
40 statements of so and so and so and so and so and so.
41 I actually didn't put it together as a completed brief."
42 But they are the documents I was referring to.
43

44 Q. If they came back to you and said, "Where is this
45 particular brief," you would have given them the brief
46 straight away or told them what was in that particular
47 brief that didn't exist? Is that what you are saying?

1 A. Yes, basically, I'm assuming they would have already
2 had that because --

3

4 Q. No, just answer the question. If they came back to
5 you and said, "Can you supply a brief to me that you say
6 you prepared," you would have given it to them without any
7 problems, wouldn't you?

8 A. I would have given them all those statements that I've
9 referred to. I had electronic copies but the hard copies
10 would have been on Maitland file. As I said, it wasn't -
11 you know, we are drawing very fine lines as to the
12 terminology of a brief. Yes, a brief would have had a
13 covering sheet on the front and an indictment and a
14 couple of other formalities, and maybe a formal interview
15 with Michael Malone. I concede it did not include that.
16 I did not intend to mislead. It was simply the case that
17 I had sat down with the DPP, gone through with Hamish
18 Fitzhardinge there, with those statements.

19

20 If I'm referring to that as a brief, I think most
21 people would accept that it's probably - it would have
22 comprised a substantive amount of the documents that would
23 have been in the finalised brief, but it wasn't a completed
24 brief. And I acknowledge that, but it wasn't a case of me
25 deceiving them. I imagine if they thought it was something
26 that was completed, they would have phoned up and said,
27 "Listen, can we have a copy of it this afternoon or
28 tomorrow," and it would have been --

29

30 Q. And you would have given it to them straight away?

31 A. I would have just explained fully what it was and if
32 they needed a copy of those documents, I would have
33 forwarded it to them.

34

35 Q. If you turn up tab 127A, have you read that?

36 A. No.

37

38 Q. Why don't you read it.

39

40 Have you finished reading that?

41 A. Yes, sir.

42

43 Q. You were asked for this particular brief, weren't you?

44

45 MR COHEN: I object.

46

47 THE COMMISSIONER: What is the objection, Mr Cohen?

1
2 MR COHEN: The evidence discloses that that document was
3 not received.
4
5 MS LONERGAN: Commissioner, I agree with Mr Cohen's
6 objection.
7
8 THE COMMISSIONER: Do you see that, Mr Roser?
9
10 MR ROSER: Yes. Thank you, Commissioner.
11
12 Q. Have you seen that document before?
13
14 THE COMMISSIONER: Mr Roser, I believe the witness may be
15 looking at the wrong document. It is page 127A.
16
17 MR ROSER: Q. Page 678B and C.
18 A. No, I was off sick. I believe I was off sick at that
19 time. No, I haven't - I don't recollect that document, no.
20
21 Q. I'm sorry?
22 A. I don't recollect seeing that document.
23
24 Q. Do you have any recollection of ever being asked to
25 produce this particular brief that didn't exist?
26 A. No.
27
28 Q. When you say "I did prepare a brief," what were you
29 trying to say to Detective Sergeant Little?
30
31 MR COHEN: I object. This is the fourth go, Commissioner.
32 This is becoming oppressive, in my respectful submission.
33
34 THE COMMISSIONER: Mr Cohen, we have had that the witness
35 wasn't intending to deceive. I think I will allow Mr Roser
36 to put these questions.
37
38 MR COHEN: May it please the Commissioner.
39
40 THE WITNESS: What I was trying to achieve was just to
41 say in, you know, a very short way - obviously this was a
42 very informal way of advising him. It's via email, so
43 I think the first thing that came to my mind is that this
44 wasn't a sit-down conference or an exchange of information
45 but just a very quick, succinct explanation of what I knew
46 and what I had and I did not go into - I think if I had
47 put everything down, I would still be typing today. But

1 when I said, "It's a brief," it was simply to convey to
2 Jeff Little that he had serious concerns about the conduct
3 of Bishop Michael Malone and a number of other clergy in
4 their conduct surrounding my investigation of Father Jim
5 Fletcher and the forewarning of Father Fletcher that a
6 complainant had been to police and there was an
7 investigation afoot, and who the victim was who had spoken
8 to police.

9
10 Obviously, for that to have happened, caused me great
11 consternation and concern, and I simply wanted to convey to
12 Jeff, "Listen, this is the sort of thing that I've had
13 occur," and I looked quite seriously at whether or not
14 there was enough there to proceed against Bishop Malone,
15 but a decision was decided down the track not to.

16
17 Q. If you turn up tab 91, the second page, page 393, you
18 were taken to this document by my learned friend
19 Ms Lonergan just a while ago. I just take you to the
20 second-last paragraph on that page. This was an email that
21 you sent to Joanne McCarthy on 22 December 2010. Do you
22 remember that?

23 A. Yes.

24
25 Q. At 22.11. You have got a statement there:

26
27 *Nothing was sent to the State Crime Sex*
28 *Crimes Unit. They were not even told about*
29 *it.*

30
31 Do you see that?

32 A. Yes.

33
34 Q. Why are you relaying that information to a journalist
35 who was writing articles about this particular
36 investigation at that time?

37 A. Because by this stage I had formed the view that there
38 were some police that were intent on --

39
40 Q. Can you answer the question.

41
42 MR COHEN: He is answering the question. I object.

43
44 MR ROSER: Q. Why did you send it to a journalist?

45
46 MR COHEN: I object. That was entirely responsive, in my
47 submission.

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THE COMMISSIONER: Yes.

Q. May we have the answer, please.

A. I had by this time formed the belief that some police were intent on not fully investigating this particular matter and were preventing - were failing to notify senior officers and possibly the State Crime Command of the full circumstances of the situation, and I believe that the conduct of those police officers was corrupt, and I was agreeing with Joanne McCarthy in that, in a long trial over some five to six months of seeing the conduct of police, that this again appeared to be another piece that fitted in with that hypothesis.

Q. Why were you telling a journalist who was writing articles about this particular investigation at that time of that information?

A. Because she, like I, I believe - sorry, she had expressed to me the view that she felt the police were trying to not investigate this matter. There had been numerous attempts, from what Ms McCarthy told me, to have an investigation occur as early as April 2010 when she provided all this documentation to them. Detective McLeod had also told me that he was told that it wouldn't be investigated. I was very concerned that factions within the police force were determined for the allegations not to be fully investigated, and it now appeared that the only way for that to have occurred was to drag them there kicking and screaming.

Q. What, through a journalist?

A. Yes.

Q. So, all the training that you've had about the integrity of an investigation, you were willing to sacrifice by giving police information to a journalist to publish it in a newspaper? Is that what you're saying?

A. What I'm saying here --

Q. No, is that what you're saying?

A. What I'm saying, sir, is that I had sent reports - I don't know what information is contained when I say "I sent reports." I did not need to articulate further. But what I was saying, I had sent reports for the State Crime Command to become involved and nothing occurred. I think I've expressed the view earlier that those reports

1 appeared to have gone into the proverbial black hole, and
2 I don't see any information there that is going to harm any
3 investigation by simply saying, "I had asked for an
4 investigation but nothing is happening."
5

6 Q. But what you are saying there is:

7
8 *Nothing was sent to the State Crime Sex*
9 *Crimes Unit. They were not even told about*
10 *it.*
11

12 Where did you get that information? ?

13 A. I think that by this stage, after four or five years,
14 having been the author of those reports, I felt that it was
15 a fair call to say that they hadn't called me in all that
16 time, therefore they probably hadn't seen them.
17

18 Q. We are talking about this particular strike force.
19 You understand that, don't you?

20 A. We are talking about - sorry?
21

22 Q. You are talking about this particular strike force,
23 aren't you:
24

25 *Nothing was sent to the State Crime Sex*
26 *Crimes Unit. They were not even told about*
27 *it.*
28

29 You are talking about Strike Force Lantle?

30 A. I'll just read that paragraph so I can put it in full
31 context.
32

33 Sorry, I'm mistaken. Reading that full paragraph,
34 it's now apparent we are talking about my report of
35 25 November, not my reports of 2006. So in regard to what
36 I'm saying there, is that I was told that State Crime
37 Command would be present at the meeting of 2 December.
38 They weren't.
39

40 Q. I suggest to you that that is a lie. You are lying
41 that you were told that the State Crime unit would be at
42 the meeting on 2 December.

43 A. If Mr Haggett is suggesting otherwise, I would --
44

45 Q. No, no --

46 A. That is a lie.
47

1 Q. I put it to you that you are lying to this Commission
2 in relation to that statement?

3 A. No, no.
4

5 Q. I suggest to you that you are lying on that issue, as
6 you have lied on numerous other issues in this Commission?
7

8 MR COHEN: I have a question, Commissioner, which is a
9 profoundly important one.
10

11 THE COMMISSIONER: Yes, Mr Cohen.
12

13 MR COHEN: Those questions are clearly put on
14 instructions. Those instructions clearly must have come
15 from Mr Haggett, surely, given the way they were framed.
16 Mr Haggett is not available to give evidence in this
17 Commission. It is profoundly unfair in all of this. That
18 must be right.
19

20 THE COMMISSIONER: Mr Roser, are you going to ask the
21 witness who it was who informed him that State Crime
22 Command would be represented at the meeting?
23

24 MR ROSER: I will.
25

26 Q. Who told you that the State Crime Command would be
27 there?

28 A. Superintendent Charles Haggett.
29

30 Q. Where did you get the information nothing was sent
31 to - you are talking about Strike Force Lantle. Look at
32 the paragraph, please:
33

34 *Nothing was sent to the State Crime Sex*
35 *Crimes Unit. They were not even told about*
36 *it.*
37

38 Where did you get that information?

39 A. That's the assumption I have made by the fact that
40 I submitted a report on 25 November, six pages long,
41 detailing numerous clergy over a long period of time
42 sexually abusing probably hundreds of children, and the
43 fact that I would have imagined if State Crime Command had
44 have been told of that, they most certainly would have been
45 at the meeting of 2 December. It was very surprising that
46 they would have no interest in that if they had been shown.
47 This is not an official statement; it is a statement by me

1 to Joanne McCarthy, informally, against the directions of
2 Mr Mitchell. It is not meant to be an official document.
3 But that is the conclusion that I drew from the fact that
4 State Crime Command did not attend that meeting when I was
5 clearly told by Mr Haggett that they would be there and
6 that it would be a meeting where the subject matter would
7 be discussed to see how we addressed those issues.

8
9 Q. So you had no substance, just your assumption, in
10 making that statement to a journalist to publish it in a
11 newspaper?

12 A. There was definitely never an intention, I don't
13 believe - well, not in my intention, and I would be
14 extremely surprised if it would have been in
15 Joanne McCarthy's intention, but she can be asked - to
16 publish that. Yes, we were putting our heads together, if
17 I can put it in that term, because we both shared very deep
18 concerns about what had been going on.

19
20 Q. You see, I put it to you that that statement, that
21 assumption by you is totally false. What do you say about
22 that?

23 A. You may have been in possession of documents or
24 something. But again, it's just surprising that no one
25 appeared at that meeting that particular day, which
26 disappointed me because the meeting was quite hostile and
27 I really was unable to put across - which I felt that if
28 someone was there from State Crime Command, things may have
29 turned out differently.

30
31 Q. So because the State Crime Command wasn't there, you
32 were entitled in your mind to make assumptions that they
33 had not been informed about this particular strike force?
34 Is that what you're saying?

35 A. No.

36
37 Q. Well, what are you saying?

38 A. What I'm saying is that they hadn't been told about
39 all the information that I had been putting together and my
40 suggestion of what should be looked at as a more holistic
41 approach, rather than confining again a very narrow
42 investigation surrounding a small number of priests and one
43 matter. I was able, I believe, to draw links of that
44 conduct to numerous other instances of child sexual abuse
45 by various other clergy, not only in the Hunter but to
46 other areas of the state.

47

1 MR GYLES: I object. This is going well beyond the terms
2 of reference of the inquiry. It is evidence that's of no
3 weight in the sense that we have no direct evidence of any
4 of these things and it's unresponsive to the question, in
5 my respectful submission.
6

7 MR COHEN: Commissioner, the evidence, in my respectful
8 submission, does have relevance, more than tangential
9 relevance, to these terms of reference, because these are,
10 in my respectful submission, matters that in this special
11 circumstance link across the divide between the two terms
12 of reference. They link to common matters, and this
13 witness is giving you, Commissioner, what you need, which
14 is an explanation of that link. There is a link. You
15 yourself, if I may respectfully remind you, said at the
16 opening in February that there was unlikely to be much
17 commonality but there would be circumstances where there
18 was commonality. In my respectful submission, this is just
19 that case and you ought receive this evidence.
20

21 THE COMMISSIONER: The witness has said he believes he was
22 aware of some links between what was going on in
23 Maitland-Newcastle and perhaps some other areas.
24

25 I am prepared to accept that response and leave it at
26 that, Mr Gyles.
27

28 MR COHEN: If the Commissioner pleases.
29

30 MR ROSER: Q. The paragraph that relates to what you are
31 saying there is strictly confined to Strike Force Lantle,
32 isn't it? Isn't it?

33 A. I don't know.
34

35 Q. Well, you wrote it, didn't you?

36 A. Yes.
37

38 Q. And don't you talk about that it was confined to that
39 particular strike force?

40 A. I was not told --
41

42 Q. Answer the question.
43

44 MR COHEN: I object, because it doesn't refer to Strike
45 Force Lantle anywhere on the face of the document in that
46 paragraph.
47

1 THE COMMISSIONER: "The file is then to stop there."
2
3 MR COHEN: That is essentially different, in my respectful
4 submission.
5
6 THE COMMISSIONER: Mr Roser, are you prepared to explore
7 what the file is?
8
9 MR ROSER: Yes.
10
11 Q. Also the next paragraph:
12
13 *That Newcastle is to continue the investigation.*
14
15 What investigation are you talking about there? Is that
16 Lantle, what you had been told about, that Newcastle was
17 investigating on 2 December 2010?
18 A. What I'm saying is that I was never told clearly,
19 certainly not at that time, what the parameters of the
20 investigation were. What I had been asking for was, rather
21 than - as had been occurring across Newcastle for a
22 decade - singular small investigations with --
23
24 MR ROSER: This is not responsive, Commissioner.
25
26 THE COMMISSIONER: No.
27
28 THE WITNESS: Sorry.
29
30 THE COMMISSIONER: Q. Mr Fox, what is the file to which
31 you refer in that paragraph - "My file"?
32 A. Yes. I believe it's the report which I would imagine
33 that once it reached the region office on 25 November,
34 would have been then referred to as a file.
35
36 MR ROSER: Q. It also refers to, in that context of what
37 you are saying there, the statements of [AL], [AK] and
38 [AJ], doesn't it? That's what you're referring to?
39 A. They would have formed a portion of that, yes.
40
41 Q. And that's what you're talking about, that nothing was
42 sent to the State Crime Command sex unit in relation to
43 that particular matter?
44 A. No, what I'm saying is I continued to try to say, "We
45 need to look at a bigger picture," and that's what I'm
46 saying.
47

1 MR ROSER: I object to this. It's not responsive, and
2 this has happened numerous times.
3
4 THE COMMISSIONER: It's not responsive.
5
6 Q. Would you direct yourself, please, Detective Chief
7 Inspector Fox, precisely to Mr Roser's question.
8
9 MR COHEN: Commissioner, it is very late. Is that a
10 convenient time?
11
12 MR ROSER: No, I don't think so.
13
14 MR COHEN: It's not a matter for you, with respect.
15
16 MS LONERGAN: Commissioner, may I make a submission that
17 Mr Roser is in the middle of completing a question, and
18 that question should be completed before we move to other
19 matters.
20
21 THE COMMISSIONER: Yes, that may be done, Mr Cohen.
22
23 Q. Detective Chief Inspector Fox, are you able to sit on
24 until that's done?
25 A. I am, Commissioner.
26
27 MR ROSER: Q. When you say there, and I'll ask it again,
28 when you are talking about the State Crime unit, you are
29 talking about Strike Force Lantle, the documents that you
30 were to hand over and you did hand over on 6 December 2010.
31 That's what it was about, wasn't it?
32 A. No.
33
34 Q. I suggest to you that you didn't know what the State
35 Crime Command had or was investigating at that particular
36 time; correct?
37 A. Yes.
38
39 Q. But you were still prepared to make the assumption
40 that they had no documentation or that anything was sent to
41 them; correct?
42 A. Yes.
43
44 MR ROSER: Is that a convenient time, Commissioner?
45
46 THE COMMISSIONER: Yes, Mr Roser.
47

1 MS LONERGAN: Commissioner, I understand Mr Roser has an
2 application to make in relation to a particular witness
3 being excused from giving evidence at this Special
4 Commission. First of all, could Detective Chief Inspector
5 Fox be excused from the box for the moment.
6

7 THE COMMISSIONER: Yes. You may stand down. Thank you.
8

9 (Page 290 line 9 to page 294 line 44 redacted)
10

11 THE COMMISSIONER: Is there anything before we rise?
12

13 MR SKINNER: Commissioner, may I be excused for the
14 remainder of this session of the terms of reference?
15

16 THE COMMISSIONER: Yes, Mr Skinner. Thank you for your
17 attendance.
18

19 **AT 4.15PM THE COMMISSION WAS ADJOURNED TO**
20 **THURSDAY, 9 MAY 2013 AT 10AM**
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