



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

**HOUSE OF  
REPRESENTATIVES**

STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL  
AFFAIRS

**Reference: Crime in the community**

THURSDAY, 20 FEBRUARY 2003

SYDNEY

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

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**HOUSE OF REPRESENTATIVES**  
**STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

**Thursday, 20 February 2003**

**Members:** Mrs Bronwyn Bishop (*Chair*), Mr Murphy (*Deputy Chair*), Ms Julie Bishop, Mr Cadman, Mr Kerr, Mr Melham, Ms Panopoulos, Mr Sciacca, Mr Secker and Dr Washer

**Members in attendance:** Mrs Bishop, Mr Cadman, Mr Kerr, Mr Melham, Mr Secker and Ms Panopoulos

**Terms of reference for the inquiry:**

To inquire into and report on:

The extent and impact of crime and fear of crime within the Australian community and effective measures for the Commonwealth in countering and preventing crime. The Committee's inquiry shall consider but not be limited to:

- a) the types of crimes committed against Australians
- b) perpetrators of crime and motives
- c) fear of crime in the community
- d) the impact of being a victim of crime and fear of crime
- e) strategies to support victims and reduce crime
- f) apprehension rates
- g) effectiveness of sentencing
- h) community safety and policing

**WITNESSES**

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**Subcommittee met at 10.08 a.m.**

**CHAIR**—I declare open this public meeting of the House of Representatives Standing Committee on Legal and Constitutional Affairs inquiry into crime in the community: victims, offenders and fear of crime. Yesterday, the committee heard from former Detective Senior Constable Glen McNamara, who dealt with some serious allegations concerning corruption and a lack of systems to adequately protect whistleblowers. Today, we will hear from four witnesses. The length of the hearing yesterday was quite considerable, with Mr McNamara giving evidence for more than 3½ hours. I hope we will not be as long with other witnesses today. Yesterday, we authorised for publication the submission from Mr McGann, from whom we are going to hear today, and the submission from Mr Fenlon. Is it the wish of the committee that the submissions by Mr Edwin Chadbourne and Mr Peter Martin be authorised for publication? They have given their consent to that publication.

**Mr KERR**—Madam Chair, I simply wish to record a formal objection to the process being used. Materials are being published without a proper opportunity for procedural fairness. I simply record that, because you have a majority of the committee.

**Mr MELHAM**—Madam Chair, I want recorded the fact that I believe that, with the publication of the submissions yesterday and today, you have breached the guidelines of the standing orders of the parliament and the rules delegated to you from the committee to the subcommittee. I want this recorded: Madam Chair, you have the numbers, you have your kangaroo court and you have your Rafferty's rules, but you are in breach of the standing orders.

**CHAIR**—Yesterday, we had running interference. We are not going to tolerate it again this morning.

**Mr MELHAM**—I want it recorded that I do not support the way these submissions are being released in public. I say it is a breach of the standing orders.

**Mr SECKER**—Which ones?

**CHAIR**—There is no breach of the standing orders.

**Mr MELHAM**—As a committee, we have not yet had an opportunity to ask questions of these witnesses. You give us your undertakings that they want them published. They have not yet said anything to us as a committee. Quite frankly, yesterday's evidence demonstrated that Mr McNamara was prepared to give his evidence in a different fashion to that which you asserted—that, indeed, he wanted to do it with cameras rolling or whatever. That is not the case, so I simply record my objection. I believe you have breached the standing orders in the way you have published. That stands for itself.

**Ms PANOPOULOS**—This is too serious for you to grandstand in front of the cameras.

**CHAIR**—There is no breach of the standing orders. You ran interference yesterday, Daryl.

**Mr MELHAM**—This is Rafferty's rules.

**CHAIR**—You went out and did your grandstanding on radio yesterday and made false allegations then.

**Mr MELHAM**—Madam Chair, you are the one that is out there every day seeking publicity, doing press conferences or whatever, and you can be held to account for that.

**Mr SECKER**—She is the chair.

**CHAIR**—We do have a resolution of the committee authorising me to do so.

**Mr MELHAM**—My objection is noted. I believe you have breached the standing orders in the way you have published.

**Mr SECKER**—Which standing orders?

**Mr MELHAM**—You have not given us an opportunity to, in effect—

**Mr SECKER**—That is not a standing order.

**CHAIR**—You have had the opportunity to put your point of view.

**Mr MELHAM**—Thank you, Madam Chair. I have had my objection recorded. You have stacked the committee with your little subcommittee. That is fine.

**CHAIR**—The subcommittee has been set up in accordance with the standing orders of the parliament. The secretariat has asked the two other gentlemen this morning whether they wish their submissions published. They have answered yes.

**Mr MELHAM**—I would like an opportunity to ask questions of these witnesses before we publish their evidence.

**CHAIR**—You have made your point of view clear.

**Mr MELHAM**—And it has been recorded.

**CHAIR**—You have gone to every endeavour you can—

**Mr MELHAM**—As I said, this is a kangaroo court with Rafferty's rules and you seek to, in effect, allow people's reputations to be smeared.

**Mr SECKER**—Rubbish.

**CHAIR**—You have done everything you can to prevent a public hearing being held.

**Ms PANOPOULOS**—That line will get you on TV tonight, Daryl. Don't worry about it.

**Mr MELHAM**—Madam Chair, the public record shows that Mr Kerr and I pointed out that you did not even pass the appropriate resolutions to allow public hearings. I have released to the

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press the letter of Monday to you from Mr Kerr. It is only as a result of Mr Kerr and I on Monday drawing attention to the fact that you had not passed the appropriate resolutions that allow this public hearing to take place.

**Mr SECKER**—You are a hero.

**Mr MELHAM**—Let us get it on the record: the letter is there, the rules of broadcasting are there, and they speak for themselves. I assert that you are still in breach.

**CHAIR**—I ask the secretary to swear in the witness. For the record, the public hearing is properly constituted. Mr Melham has again sought to try and find a means of stopping evidence being given. I do not know what he has to hide.

**Ms PANOPOULOS**—Or who he is protecting.

**CHAIR**—We are proceeding.

**Mr MELHAM**—Madam Chair, we do not seek to hide anything. The letter of Monday speaks for itself—just because you do not know the standing orders.

[10.14 a.m.]

**McGANN, Mr Michael Patrick (Private capacity)**

**CHAIR**—Welcome, Mr McGann.

**Mr McGann**—By way of introduction, I will outline my experience in the police. I joined the police force in 1973 and left in 1991. In my nearly 19-year career with the police force, I spent most of that time as a detective. I had the privilege of serving in the then special breaking squad of the CIB, the regional crime squad south, the homicide squad and divisional stations. When I left the police force in 1991, I worked at the Criminal Justice Commission in Queensland, investigating Italian organised crime, police corruption and local council corruption. I left the CJC in 1993 and joined the National Crime Authority, investigating Italian and Chinese organised crime. I left law enforcement in 1995 and pursued a career in the corporate sector.

As for my evidence before this committee today, I would like to say at the outset how grateful I am for the opportunity to come before you to outline what I and others consider to be extremely serious corruption allegations that strike at the heart of the system of justice and government in this state and have, I believe, contributed to the fear of crime that appears to permeate today's society. Considering that the issues I intend to raise are very complex, it is only possible in the short time available to me in making my opening address to touch on them in the briefest way. I seek your indulgence in allowing me time in this speech to provide you with enough detail to begin to understand what my allegations involve.

The core of my allegations involves the corrupt activities of members of the Wood royal commission, including lawyers and seconded interstate police officers. These activities comprise: the intimidation of witnesses, the fabrication of evidence and the total lack of accountability to anyone or any governing body. Their corrupt actions amounted to an abuse of human rights and were torture as defined in the United Nations Code of Conduct for Law Enforcement Officials. Furthermore, and on the subject of human rights, the Wood royal commission must be made accountable for the possible overdose deaths of heroin addicts at Kings Cross as a result of one of their operations in 1996 and for the double-digit number of suicides that resulted from the commission.

I have come to you today to raise issues that have been hidden away for too long by those with vested interests. I point out that this is the only government body that has been willing to hear these serious allegations of corruption and intimidation that I am raising. One of the problems with this issue is that many of the people who worked at the Wood royal commission have gone on to other similar bodies, notably the Western Australian royal commission and the building industry task force. Others have been elevated to judges. Indeed, one of the investigators who fabricated evidence in our matter, Detective Phillip Stevens of the Queensland police force, is or was working at the Queensland Crime Commission, which, ironically enough, investigates allegations of police and government corruption in Queensland.

The media has made much over the years of the actions of the Wood royal commission in supposedly cleaning up the police force, and the state government has ridden on the back of the

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reform process. This is evidenced by a news report I read in the *Sydney Morning Herald* on 25 July 2002, which stated that the Carr government has applauded itself for implementing nearly all Justice Wood's recommendations. Yet what the public and others do not know is that the Wood royal commission indulged in tactics that were worse than those allegedly used by the so-called corrupt police that they set out to investigate. You may wonder at my use of the word 'corrupt' in describing the tactics of the Wood royal commission. I am merely using the definition of corruption as defined by Justice Wood himself, who stated:

Corruption ... includes participation by a member of the Police Service in ... an incident of which that member, or any other member:

... ..

fabricates or plants evidence; gives false evidence; or applies trickery, excessive force or threats or other improper tactics to procure a confession or conviction; or improperly interferes with or subverts the prosecution process ...

Justice Wood continued:

In each case, the relevant conduct is considered to be corrupt, whether motivated by an expectation of financial or personal benefit or not, and whether successful or not.

Although he refers in this definition to members of the police force, I submit that this would apply equally to the lawyers and other members of the royal commission hierarchy who indulged in these activities and permitted them to prosper under the guise of respectability.

As I continue my narrative, I advise you to keep the definition of corruption in your minds. I will quote very briefly from an opinion piece that was in the *Sydney Morning Herald* on 3 July 2001. It said:

When the corruption fighters themselves are called corrupt, what is the public to believe? When such doubts are raised, to whom can the public turn to remove them?

... ..

It is deeply disturbing to hear credible claims that the commission itself was less than scrupulous in its methods. The commission was supposed to restore integrity to the Police Service and its vital organs, such as Internal Affairs, not compromise it further.

I will now get to some specifics. How, one would ask, did the Wood royal commission fabricate evidence? In my case, they inserted into witness statements entire phrases which were not attributable to that witness. They then forced the witness to sign the statement, on the threat of going to jail themselves. If I may, I will take this opportunity to submit to you corroboration of what I have just said. The first thing I would submit to you is a record of interview between the royal commission investigators and a witness whose code name with the royal commission was YM3, dated 30 May 1996.

**Mr MELHAM**—Madam Chair, at this point I raise the question of whether there is a suppression order on this evidence from the royal commission. I do not want this inquiry being abused by witnesses—

**CHAIR**—We have no intention of allowing it to be abused.

**Mr MELHAM**—I think you should ask this witness whether there is a suppression order on this record of interview.

**CHAIR**—I have every intention of asking that question. He has also deleted the names.

**Mr MELHAM**—Irrespective of whether he has deleted the names—

**CHAIR**—Is there a suppression order on this?

**Mr McGann**—I understand that there was. With our court hearing in 1999-2001, there was a restriction on the identities of these people. I am not aware of what happened after that—whether it has been lifted or not, I do not know. Certainly, as at our court appearance in 1999, there was a restriction on these people's identity, hence I have used the code name YM3.

**Mr MELHAM**—My question, Madam Chair, is: is there a restriction in terms of the evidence?

**CHAIR**—I was putting the question, thank you, Mr Melham. The question I ask of you is: is there a suppression order on the evidence itself or only on the names?

**Mr McGann**—Only on the names.

**CHAIR**—Do you have a second document?

**Mr McGann**—I have. The second document I have is a narrative statement from that same witness, YM3. This statement was made by the royal commission from that transcript you have in front of you. In other words, the first thing that was there was the transcript. From that transcript they then did a narrative statement. I submit that. This statement is dated about a week later—5 June 1996.

**CHAIR**—In this document, the names of two investigators are still in the document, as is the name of a third person. Did the suppression order apply to those people?

**Mr McGann**—To the investigators?

**CHAIR**—It says 'persons present', and then there are three names.

**Mr McGann**—Are you looking at the transcript?

**CHAIR**—The document you have just handed to me.

**Mr McGann**—Certainly not as far as the investigators were concerned—I have no knowledge of any suppression order relating to them.

**CHAIR**—I think at the moment I will receive these but we will not publish them at this stage and we will have a look at them.

**Mr McGann**—This is just designed to facilitate your understanding of what I am trying to say here.

**Mr MELHAM**—Madam Chair, I would request that if you receive them that I and other members of the committee be given access.

**CHAIR**—Of course they will be made available to the other members of the committee. That goes without saying.

**Mr McGann**—The third document I would like to submit to you is—

**Mr MELHAM**—I do not know what the rules are, Madam Chair, given the way that you are running Rafferty's—

**CHAIR**—Yes, you do, Daryl, but you should pay attention and you might learn.

**Mr McGann**—The third document I would like to submit to you is a scanned version of the narrative statement that I have just handed to you. I have compared the transcript, which was the first document that I submitted to you, with the narrative statement. I have outlined in yellow the pieces of this narrative statement that do not appear in the transcript—in other words, the pieces that were fabricated. There is a small portion in blue that is a misrepresentation.

**CHAIR**—Is that something that is referred to as verballing?

**Mr McGann**—It is, as I understand it.

**Mr MELHAM**—You are familiar with verballing, are you?

**Mr McGann**—I have heard it from lawyers in the past when I have gone to court, yes. The blue part of this document is a misrepresentation of what the witness actually said.

**CHAIR**—So that relates to these two documents you have already passed to me?

**Mr McGann**—It does.

**CHAIR**—We will receive those in the same way.

**Mr McGann**—The significance of what I have just handed to you is that that narrative statement was one of four that were put forward to the magistrate to procure summonses to charge us in 1999. That was part of the prosecution's brief. That narrative statement was part of the prosecution's brief that charged myself and my four comrades in 1999. In the case of the statement that I have just produced for you, you will see that 75 per cent was fabricated.

As I just mentioned, that fabricated statement and the other three documents of similar quality from the other witnesses were produced to a local court magistrate in June 1999 by a member of the Police Integrity Commission named Ian Torrance. By producing this evidence to the magistrate it was clearly designed to mislead him. As a result, summonses were issued against the five of us charging us with extremely serious criminal offences that, had we been convicted,

would have seen us receive a substantial custodial sentence. It was only when the full glare of cross-examination was shone onto the evidence of these witnesses some four years after the royal commission that the corrupt tactics of the royal commission investigators became evident. At the end of the committal proceedings at the Downing Centre, which lasted a full 13 days, all charges against us were dismissed by the magistrate and we were free. The magistrate commented at the time on the immunities issued to witnesses and the adaption of original witness statements, which I have already alluded to in the case of YM3, and which I have handed to you today.

Our case is the best example so far of the illegal and corrupt actions of officers of the royal commission. I know that there is a legion of similar stories by police and civilians that can corroborate and expand on my own allegations. Yet, up until now, there has been no agency, no government body—no-one—who has shown the slightest interest in this situation. It should be pointed out that these were not renegade investigators hell-bent on doing their own thing. This was hierarchical, going through to persons who were closest to Justice Wood himself. In one instance, one of my colleagues was contacted at his home late at night by investigator David McGinlay, who was seconded from the South Australian police force. He stated that he was acting on behalf of Mr James Black, counsel assisting Justice Wood. In this instance this colleague of mine was intimidated by McGinlay, who indicated to him that they wanted him to change his evidence to something that would suit their purposes.

Before leaving this point, my overall concern with this whole situation is that the royal commission investigators are totally unaccountable by virtue of an act of parliament—that being the Royal Commission Act 1994. This lack of accountability of people holding such powerful positions makes a mockery of the notion that no-one is above the law in Australia. One cannot help but wonder: do detectives McGinlay and Stevens occupy some special status not available to other citizens or police officers in New South Wales?

This leads me to wonder: why has this happened to me, my other colleagues and other people? My opinion is that I honestly think there was almost a 'slash and burn' mentality in the judiciary and the media at the time of the Wood royal commission. Indeed, it even seems that, in this mentality, the DPP went against their own guidelines in prosecuting us. Not only did they appear to go against their own guidelines; they totally ignored a large amount of available, tested and sworn evidence that supported our version of events. Any review of our evidence will prove that Nicholas Cowdrey's comments to the *Sydney Morning Herald* on 2 July 2001 that the 'officers had initially been charged in the belief that there was a reasonable likelihood of conviction' fly in the face of what really did happen. It seems that intimidation and harassment were well practised by the royal commission. It was no secret that officers of the royal commission would visit witnesses' homes at Christmas time, anniversaries, children's birthdays et cetera to issue summonses to them to appear at the commission. This was done with only one thing in mind.

One police officer, serving a jail sentence at Berrima jail, was visited by officers of the royal commission and was asked to provide information regarding alleged corruption in his area. He informed them that he could not help them. He was then transferred straight to Goulburn jail among murderers, rapists and armed robbers. Given the fact that he was a police officer, this transfer was clearly designed to place him in fear of his life. The case of Clinton Moller, who committed suicide in jail is another one. The case of Detective Ray McDougall of the major crime squad south is another classic case. Allegations of corruption were levelled at this officer

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and, as a result, his telephone was tapped. During these calls the royal commission ascertained that he was having an affair. McDougall was threatened about this, and even his wife was brought to the hearing room in an attempt to further intimidate him and use the affair he was having as leverage. McDougall was fit and healthy but his health declined after this incident and he ended up passing away some time later as a result of motor neurone disease. The criminal who made the original allegations recanted and said that they were not true.

Is it any wonder that at least a dozen people directly connected with the royal commission have committed suicide? It should be pointed out that there was no doubt that the Wood royal commission would have known the effects on witnesses—particularly police witnesses—well before they embarked on this enterprise. In fact, I would submit that they did know and did nothing about it in order to continue their intimidation of witnesses.

It is common knowledge that the Wood Royal Commission studied similar overseas corruption commissions such as the Knapp commission in America and the Molin commission, which were rife with police suicides. Knowing how the royal commission fabricated evidence against me and my comrades makes me think, ‘Were we the only ones that they did it to and, if so, why were we so special? Why did we deserve special treatment?’ My answer is no, we could not have been special; it had to have happened to others as well. I cannot see how they could have singled out five of us for the special treatment. If the Wood Royal Commission fabricated evidence against us, how many of the people who committed suicide did so as a result of fabricated evidence? Just think of it: 12 people committing suicide. If there was a mine disaster involving 12 people, or a train or a plane crash involving 12 people, an immediate royal commission would be called and set up—but not in this case.

People listening to this might say, ‘Does the government know about this? Would the government know about this?’ The state government does indeed know about this matter but continues to do nothing about it in the hope that it will go away. It has been nearly 19 years since the original incident involving the paedophile cat-burglar that we arrested and charged at Sutherland police station, nearly seven years since the royal commission and nearly two years since the charges against us were dismissed. This will not go away and people should understand that. The current minister of police, Mr Costa, was notified well over 12 months ago in considerable detail about the corrupt tactics of the royal commission, the fabrication of evidence, the abuse of human rights and the suicides. The previous minister of police, Mr Whelan, was also notified, as was the Ombudsman and the New South Wales Police. Even the Council for Civil Liberties was notified.

Among the documents that I will be tendering at the conclusion of my address to you is the Code of Conduct for Law Enforcement Officials as passed by the United Nations in 1979, and which I have referred to in my letter to Minister Costa. The significance of this code of conduct is that by conducting itself in the way that it did, the Wood Royal Commission has breached at least four of these articles and has, by the United Nations’ code’s own definition, indulged in torture.

I should point out at the beginning that other persons are able to provide first-hand evidence of what I am about to state. I am putting this forward because it has been kept quiet all these years and exemplifies the unaccountability and corrupt nature of certain aspects of the Wood Royal Commission. A former New South Wales police officer came to me several months ago with a cassette tape of a royal commission operation called Operation Caesar. This cassette tape

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had the operation name together with a reference of 255/96 and was dated 21 July 1996. On the first side of this tape I could hear two male persons talking. One was a Detective Keiren Miller, attached to the royal commission, and the other was an unnamed informant who was being wired up by Miller at the time. This conversation was timed on the tape by Miller at 2.25 a.m. on 21 July 1996.

In making notes of this conversation, I heard Miller say to the informant, 'Peter Kay has to take back the drugs and cut them down. We can't have this as a one-to-one.' He was referring there to the purity of the heroin involved. Miller was also heard to say that, 'We'—that is the royal commission—'do not have the authority to sell drugs where people are OD'ing.' The informant in the matter appears worried and was told by Miller at one stage that for people to die in this fashion—that is, overdosing on heroin—is manslaughter. In listening to this side of the tape there is no reference by Miller to stopping the heroin, just cutting it down. In listening to side two of the tape, you can hear the informant talking to another person, telling that person that the cops—that is the royal commission—said to him not to sell the heroin as it was too strong and that 'we can't have anyone over OD'ing on the stuff'. As stated, this tape was dated 21 July 1996.

In reading other documents, it appears that this operation had been conducted at Kings Cross since at least late June—nearly a four-week period. It seems that this operation concentrated on the Cosmo Café at Kings Cross, with the operation being closed down on 23 July 1996—some two days after the date of the tape that I heard. This would indicate that the cassette tape that I listened to was towards the end of the royal commission operation. The former detective that supplied me with this tape was one of the officers who manned a New South Wales police listening post in 1996 and heard some of the product from this particular operation, that is Operation Caesar. During his time at the listening post, he informs me that at this same time he heard a royal commission informant talking into his body wire saying, 'Mr Wood, Mr Wood, it's too strong; it's killing them.'

The final piece of information that I can provide to you about this incident at Kings Cross in 1996 can be found in the transcripts of two separate—

**Mr KERR**—Can I just interrupt there? We have taken the position previously when matters are plainly hearsay—and this is plainly the case here—that witnesses have been asked to provide us with a basis upon which we ourselves can find some reason for accepting that material.

**CHAIR**—We decided yesterday with regard to evidence that has been given—this is the evidence of this witness—that it can be tested or refuted by others. Mr McGann, I would ask you at this stage: regarding the evidence you are giving here, did you say it could be corroborated?

**Mr McGann**—Yes, it can.

**CHAIR**—Could you repeat the name of the person who can corroborate that?

**Mr McGann**—The detective I have referred to was former Detective Sergeant Ray Lambie.

**CHAIR**—In that case we will make a note, as we did in yesterday's hearings, that we will issue an invitation to Mr Lambie to come before the committee.

**Mr KERR**—Is it Mr Lambie who allegedly said that Mr Wood was the subject of that telephone call?

**CHAIR**—No, there was no phone call to Mr Wood.

**Mr KERR**—As I understood it, the informant said, 'Mr Wood, Mr Wood, it's too strong.'

**CHAIR**—Yes, but it was not to Mr Wood.

**Mr KERR**—Why would you use the words, 'Mr Wood, Mr Wood, it's too strong,' unless you were speaking to Mr Wood?

**Mr McGann**—No, my understanding of the evidence is that the informant was talking into his body wire—he was taped up; he was wired up. He was trying to alert the royal commission to the fact that the heroin that they were given was too strong and was killing the druggies up in Kings Cross.

**CHAIR**—He was not talking to anyone.

**Mr McGann**—He was talking to anybody; he knew that he was wired up. The royal commission had wired him up and he knew that the message was going back to the royal commission.

**Mr MELHAM**—So the basis was that, by saying that onto the transcript, he hoped that Justice Wood would have read that transcript and that was his third party plea to Justice Wood—not a direct conversation to him.

**Mr McGann**—It certainly was a third party—

**CHAIR**—I think it is fair to say right here and now that Mr Justice Wood is a man who enjoys an excellent reputation.

**Mr KERR**—He did until this circumstance—

**CHAIR**—He conducted the commission in a proper way, and I do not think that any of the evidence that we have heard impinges upon Mr Justice Wood himself.

**Mr KERR**—That, Ms Bishop, is the most extraordinarily absurd proposition that I have heard from your mouth throughout these proceedings. This is a direct attack on the conduct and management of the royal commission conducted by Mr Justice Wood—rising, as this witness has said, to the most senior levels.

**Mr MELHAM**—And you have allowed it, Madam Chair, in a public domain with cameras rolling. It is a gross defamation. If the witness said this outside this hearing, he would be taken to the cleaners.

**CHAIR**—Mr McGann, if you wouldn't mind repeating the evidence, I have not heard you say in any of your testimony, as I have understood it, that you are making any allegations against Commissioner Wood.

**Mr McGann**—That is exactly right.

**CHAIR**—Thank you.

**Ms PANOPOULOS**—That is why we have these committees.

**CHAIR**—That is why we have them.

**Ms PANOPOULOS**—So people are not afraid to say what they know is true.

**CHAIR**—Because these witnesses—

**Mr MELHAM**—You give them cowards' castles so they can say anything with impunity—

**CHAIR**—You are the coward here, David.

**Mr SECKER**—You are the biggest abuser of that.

**Mr MELHAM**—You give them a cowards' castle for hearsay evidence—Rafferty's rules, kangaroo court—

**Ms PANOPOULOS**—You do the same thing in parliament, Mr Melham. You would not have the guts to say outside of parliament what you say in it.

**Mr MELHAM**—What I say inside parliament I say outside, Ms Panopoulos, and the record shows that.

**CHAIR**—No, it does not.

**Mr MELHAM**—This witness has not got the guts to go out and say what he is saying here. He is abusing the privilege.

**Mr SECKER**—That is appalling.

**CHAIR**—As the chair, I ask you to withdraw that comment, Mr Melham. You are not here to abuse witnesses.

**Mr MELHAM**—I am not withdrawing any comments. It is a matter for the record.

**Mr SECKER**—You might be called before the Privileges Committee.

**Mr MELHAM**—I am asking—

**CHAIR**—You are not here to abuse witnesses.

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**Mr MELHAM**—I am not abusing the witness; I am stating the facts.

**CHAIR**—You have just abused the witness.

**Mr MELHAM**—No abuse of the witness; I am abusing you.

**Ms PANOPOULOS**—Could I just record my absolute disgust with Mr Melham for abusing witnesses.

**Mr SECKER**—And the chair.

**Ms PANOPOULOS**—These sorts of committee forums provide an opportunity for matters to be discussed that cannot be discussed in other forums. This is total abuse. I would like that recorded.

**CHAIR**—Thank you, Ms Panopoulos. Mr McGann, I ask you to repeat your answer to my question so that even Mr Melham can understand it: nothing that you have to say is a reflection upon Mr Justice Wood, his character or his integrity.

**Mr McGann**—Absolutely.

**CHAIR**—Thank you.

**Mr McGann**—Just to reiterate what I was saying: it was the informant talking into his wire. Even though he said ‘Mr Wood, Mr Wood’, he knew that Justice James Wood would not have been sitting at the end of a microphone or in a listening post, listening to what was going on. He was merely alerting the royal commission and chose to use Justice Wood’s name.

**CHAIR**—Thank you. Would you continue please?

**Mr McGann**—The final piece of information I have concerning this incident at Kings Cross in 1996 can be found in the transcripts of two separate District Court trials. The first one was before Judge Gibson on 17 August 1998 in the matter of Regina v. Peter Kay and Bill Bayeh; the second one was before Judge Viney on 9 December 1999 in the matter of Regina v. Peter and Roula Kay. In the first transcript, His Honour refers to this high-purity heroin as ‘hot heroin’ and to the time frame that I have already mentioned. Judge Gibson, in this transcript, mentions at page 5 that the royal commission acted quickly when it was suggested that there was a danger with the hot heroin. In the second transcript, His Honour makes many references to this heroin operation at Kings Cross and the conduct of the royal commission investigators. These references are highlighted and can be found at pages 7, 8, 11, 14, 15, 16, 17, 20, 21, 23, 26, 27, 28, 29, 30, 32, 33 and 34. His Honour makes the point in this particular transcript at page 26 that:

... it would be at least improper for people in the position of the royal commission investigators and their advisers to permit and encourage that man to continue with his drug dealing. That is what they did.

**CHAIR**—Is that the judge speaking?

**Mr McGann**—Yes, the judge is saying that.

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**CHAIR**—Is that Mr Justice Gibson or Mr Justice Viney?

**Mr McGann**—Mr Justice Viney.

**CHAIR**—And you are reading from the judgment?

**Mr McGann**—Yes, I am.

**CHAIR**—Would you repeat it please?

**Mr McGann**—At page 26 of that judgment—and I will be handing this to you very shortly—Justice Viney stated:

... it would be at least improper for people in the position of the royal commission investigators and their advisers to permit and encourage that man to continue with his drug dealing. That is what they did.

**Mr SECKER**—Who is ‘that man’?

**Mr McGann**—That is the informant, as I understand it. I think he was given the code name of KX15. In concluding my speech to you today, I would like to say that I have read that governments have an essential role in creating a just and equitable society. But, in light of what I have said and produced here today, who is this just and equitable society intended for? Certainly, there was nothing just or equitable about the treatment metered out to many police and their families and to civilians. The tragedy of the whole thing is that no-one in authority really seems to care. Thank you for listening to me. If I may, I would like to hand to you certain documents that go towards supporting what I have had to say today.

**CHAIR**—Thank you. The committee will accept the three documents that I received from you earlier as confidential attachments. Is the document that you are handing to me now already on the public record?

**Mr McGann**—Certain of them are, yes.

**CHAIR**—Perhaps if you hand it to me I will have a look.

**Mr McGann**—The first document is the speech that I have read out to you today.

**Mr MELHAM**—Can I make a request, Madam Chair, that the speech that Mr McGann made today be copied and distributed to members of the committee.

**CHAIR**—I have no problem with that.

**Mr MELHAM**—So, if we are asking questions, we do not verbal Mr McGann.

**Mr McGann**—Certainly I don’t, Mr Melham; I don’t know about you.

**CHAIR**—We will receive your written notes as a supplementary submission. These documents appear to be press clippings and the transcript from the District Court of New South Wales criminal jurisdiction—that is, the judgment.

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**Mr SECKER**—That is on the Web.

**CHAIR**—We will receive those documents as attachments and authorise them for publication, but those other documents are confidential until we check their status. One of the things that is being said about these hearings is that there is in New South Wales a plethora of bodies that have been established where you can make complaints and file material. They include ICAC, the Police Integrity Commission, SCIA—the internal Serious Crime Investigation Agency—and the Ombudsman. You can also send letters to ministers.

I cannot speak about submissions we have received but which have not been published; but, in the ones that are authorised for publication and from people who are coming before us, there are complaints that they have gone through all those routes and it has just been circular. We are hearing that again and again. We heard that somebody went to the Ombudsman. When the Ombudsman heard the other side of the story, he apologised. It does seem that all those agencies have a commonality of using people who are not independent but who are associated with each other. Did you go through all or any of those routes?

**Mr McGann**—It is a very familiar process that you have outlined to me. I can tell you, in very clear detail, exactly the organisations and people that we have spoken to and tried to raise this issue with. You are quite correct in saying that you just go round in circles.

I will start at the beginning. Our committal finished in March 2001, when the matters were dismissed by the magistrate. From that time onwards until this committee, I and another one of my comrades have complained to the South Australian Police Complaints Authority and to the South Australian Police about the actions of Detective David McGinlay. Because McGinlay was attached to the New South Wales Wood royal commission he did not come under the command and control of the South Australian Police Commissioner, so nothing could be complained about there. Similarly with the Queensland authorities in relation to Detective Phillip Stephens, we complained to the CJC, as it was then, and to the Queensland police. Because Stephens was not part of the command and control of the Queensland Police Commissioner—he was in New South Wales—they could not do anything about it.

**CHAIR**—I will stop you there. We heard that there was a deliberate plan of action by the royal commission to ensure that they did use people from outside New South Wales to overcome problems that they foresaw might occur. What would be the motivation for somebody who comes from Queensland or South Australia to act in this way?

**Mr McGann**—To act as far as we were concerned, or to come to the royal commission per se?

**CHAIR**—No. I guess they were seconded or asked for and they were volunteered or whatever. But what would be their motivation in acting as they did against you, as you say they did?

**Mr McGann**—I have been a civilian since 1991, in effect, even though I have been attached to law enforcement bodies, so I do not have any inside information on the way this all went about. But in talking about and analysing the thing and reading the documents that we have, and in working in the multi-disciplinary jurisdictions I have worked in before, it was a multi-million dollar royal commission and they had to show some success. How they would have gone about

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it is that they would have trawled through the files of internal affairs, the state crime commission, the National Crime Authority, the New South Wales Police and the Federal Police and they would have developed a target list of police, both former and serving, who they wanted to concentrate on.

It is a matter of public record, certainly, that one of the gentlemen—one of my comrades—in this particular matter was Brian Harding. Brian was a detective, a very famous and terrific detective, who would have been a great scalp for the royal commission—for anybody. A lot of people have tried before to take action against Brian for various reasons.

**CHAIR**—What sorts of reasons?

**Mr McGann**—Brian was high profile; he worked in the armed hold-up squad. It was more the armed hold-up squad and the CIB—that style of operation—that Brian and me were involved in, as well as many other detectives, of course. It was just a high profile matter. When the royal commission came along they would have seen this particular brief involving the Kareela cat-burglar. They would have seen the names of Brian Harding and John Davidson. John was another high profile detective. They would have lumped me and another two of my colleagues into the one mixing pot. If they could have got the scalps of Brian Harding and John Davidson, that would have meant great kudos for them. It would have justified their royal commission and would have made them look good; whereas many had tried and few had succeeded before.

**Mr KERR**—But it was not their royal commission, was it? It was Mr Justice Wood's royal commission.

**Mr McGann**—That is right. But the Wood royal commission had so-called runs on the board by forwarding the briefs to the DPP. It is my understanding that the royal commission did not actually prosecute people per se.

**CHAIR**—No, it cannot.

**Mr McGann**—The runs on the board would have been right. We forwarded that brief on the Kareela cat-burglar to the DPP; that is our run on the board. What the DPP did with it, and what the Police Integrity Commission did with it, is a matter for them. But we have that run on the board because we had enough evidence to send it to the DPP.

**CHAIR**—You had better explain to us the Kareela cat-burglar incident and why it is so significant to you.

**Mr McGann**—In 1984 I was a detective with the breaking squad at the regional crime squad at Miranda. There was a cat-burglar running around the Kareela and Sutherland areas, breaking into people's homes of a night-time, stealing their property. A major operation was mounted by the local police to arrest this person, and in fact that did happen. It happened in June 1984. The local detectives arrested him and charged him. They charged him with only a few minor offences, but there were more substantial offences that should have been looked at. Together with John Davidson, as members of the breaking squad, we decided to have a look at these other offences. We interviewed him, and he admitted certain things to us. As a result, he was charged with doing about 90 jobs in relation to Kareela and Sutherland break-ins. He went to

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court and was convicted. He received a lengthy custodial sentence. However, during our time with this particular individual, who was YM1 in the royal commission—

**Mr MELHAM**—The cat-burglar was YM1. Is that right?

**Mr McGann**—The cat-burglar was YM1. As I said, this was 19 years ago, and my memory is certainly very fuzzy in relation to this. But at some stage, he barricaded himself in a room at the Sutherland detectives' office. He was sprayed with mace to make him release a table that he was holding behind the door. The trial continued, he got convicted, and that was it as far as we were concerned. Then in 1995, the royal commission decided to pursue this matter. I should point out that, apart from John Davidson and me, there were a lot of other detectives involved in this case—Brian Harding, John Garvey and there was also a gentleman by the name of Steve York. Those people, who I have just named now, were the five who were later charged in 1999 by virtue of the documents that I have produced to you today.

**CHAIR**—What were you charged with?

**Mr McGann**—I was charged with five charges. I faced three charges of perverting the course of justice and two charges of assault.

**CHAIR**—What did the charge of perverting of the course of justice relate to?

**Mr McGann**—In one of the charges of perverting the course of justice, they alleged that I had given false evidence regarding the assault on YM1, and they termed the assault as him being 'maced' in the detectives' office.

**CHAIR**—So the act of the mace being sprayed at the cat-burglar, who had barricaded himself in a room, was brought against all of you as an assault charge, and they alleged that you gave false testimony about the spraying of the mace. Is that the situation?

**Mr McGann**—That is exactly right. Brian, John and Steve York were charged with three charges—two of assault and one of perverting the course of justice. John Davidson and I received an additional two charges, because they alleged that we had fabricated evidence against YM1 with regard to the confession.

**CHAIR**—This incident took place in 1984, and those charges went ahead?

**Mr McGann**—Yes.

**CHAIR**—The case was then brought up in the royal commission. Who would have made the decision to reinvestigate the case?

**Mr McGann**—I cannot give you a name. From my experience with these types of authorities, at the beginning they would have said to themselves, 'Who are we going to look at here; who are our targets?' As I said, they would have gone through the files of internal affairs and the state crime commission to develop their targets, as we did with major criminals. We identified who our targets were, and we concentrated on them. They would have done it the opposite way; they would have looked at who the police were that they were targeting. So who

made that decision, I do not know. Maybe it was their intelligence section or possibly their director of operations—something along those lines.

**CHAIR**—They would have trawled through and then decided?

**Mr McGann**—Yes.

**CHAIR**—When were you charged?

**Mr McGann**—We were charged in June 1999, almost three years to the day of our appearance at the Wood royal commission.

**CHAIR**—You were first called before the royal commission?

**Mr McGann**—That is correct.

**CHAIR**—And you gave your testimony?

**Mr McGann**—Yes.

**CHAIR**—But the DPP adjudged that there was sufficient evidence outside of what was given at the royal commission?

**Mr McGann**—The prosecution brief that was used to charge us in 1999 with those five charges comprised four statements, one being one of the statements that I gave you today on YM3.

**CHAIR**—That is the edited statement?

**Mr McGann**—Yes.

**CHAIR**—You say that is the one that has been changed from the verbal statement that was given to the one that was in fact presented as evidence to the DPP?

**Mr McGann**—The one that you have there with the coloured parts on it was part of the brief that was presented to the DPP, and they prosecuted us on that.

**CHAIR**—But the document with the coloured sections on it is the one which you say contains the evidence that has been doctored?

**Mr McGann**—That is right.

**CHAIR**—Would the DPP have seen that document or would he have seen the one that you say contains the doctored evidence? You gave us two documents—you said one contained the verbal evidence that was given.

**Mr McGann**—Yes.

**CHAIR**—And the other one you said contained the evidence that went forward?

**Mr McGann**—I might try and explain this. The transcript document—the questions and answers document you have in front of you there—came about because, when the royal commission went to interview YM3 at his home, they put a tape recorder in front of him. They had an interview with him via a tape recorder. They took the tape recorder away, and the transcript of that taped interview appears in front of you there. That is the transcript of that verbal conversation the royal commission investigators had with YM3.

**CHAIR**—Yes.

**Mr McGann**—A transcript was then done of it, which you have in front of you there, and then a narrative statement, which you also have, was prepared from that transcript.

**CHAIR**—Correct.

**Mr McGann**—That narrative statement then formed part of the brief of evidence against us.

**CHAIR**—So this is the document that went forward?

**Mr McGann**—That is exactly right.

**CHAIR**—But you say the narrative statement differs from the transcript in the way this document—

**Mr McGann**—Absolutely right.

**CHAIR**—So the DPP would not have seen the original transcript?

**Mr McGann**—Not the transcript, no.

**CHAIR**—It goes before the magistrate in 1999. When were the charges laid? Was that in June 1999?

**Mr McGann**—The charges were laid in June 1999.

**CHAIR**—When did you appear before the magistrate?

**Mr McGann**—I appeared before the magistrate on these charges in June 2000.

**Mr SECKER**—When were they dismissed?

**Mr McGann**—March 2001.

**CHAIR**—And they were summarily dismissed because there was no case to answer; the evidence did not—

**Mr McGann**—Absolutely. The case fell apart.

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**CHAIR**—Did the magistrate make comments at the time?

**Mr McGann**—He did. I have alluded to those comments in my speech today, and he did make comment about the alterations to the statement.

**CHAIR**—So he saw that there was an alteration to the statement. So, in a sense, the DPP was misled by not seeing the original material?

**Mr McGann**—Yes.

**CHAIR**—But when the magistrate saw the original material, he said, ‘There have been wrong things done here: dismissed’?

**Mr McGann**—That is correct.

**Mr KERR**—Can I clarify this? Presumably the original transcript was provided by the royal commission either to you—or your defence counsel—or to the prosecution, otherwise the contrast could not be made?

**Mr McGann**—Exactly.

**Mr KERR**—In the sense of drawing an inference of impropriety with respect to the differences in the documents, it is material to me to know how the transcript came to be in your possession so that those differences could be shown.

**Mr McGann**—I understand. When we were charged as per prosecution procedures, we were supplied with the brief of evidence that was against us. The brief of evidence consisted of just those statements.

**Mr MELHAM**—On what date were you supplied with those documents?

**CHAIR**—That would have been June 1999, presumably?

**Mr McGann**—Some time after June 1999; I cannot give you an exact date, but some time after that.

**CHAIR**—That is the normal course of events, if you recall, Daryl.

**Mr McGann**—All we had to operate on, up until our first hearing day at the Downing Centre, were those statements. As you can appreciate from your experience, we put in subpoenas to the police department, the royal commission, and to anybody at all to get additional evidence. Part of the additional evidence that we got was the transcript. Our 13-day committal was broken up—

**Mr MELHAM**—Was that additional evidence or in the original brief?

**CHAIR**—He just said that he subpoenaed it, Daryl.



**Mr MELHAM**—I know that he subpoenaed it.

**CHAIR**—It was not in the original brief. He had to subpoena it.

**Mr SECKER**—So it would be additional, ipso facto.

**Mr MELHAM**—As a result of this occurring.

**Mr McGann**—It was additional; yes. Our committal went for 13 full hearing days, spread from June 2000, September 2000, March 2001. That was 13 hearing days. Interspersed between those dates of our hearing, I went through every scrap of evidence I could. I compared the original transcript, which had by that stage been supplied to us as a result of our subpoena; it was supplied to us on the first day of our committal in June 2000. I went through it and I just compared it. Basic investigator tools: you just compare the original document to what you have.

**Mr KERR**—I have been there as a defence lawyer too.

**Mr McGann**—I can imagine, Mr Kerr.

**Mr KERR**—Presumably it was subpoenaed from the royal commission. Is that right? It does not really matter, I suppose, but you issued subpoenas presumably against the royal commission, the police—

**Mr McGann**—At the time we issued the subpoenas, the royal commission was not in existence anymore.

**Mr KERR**—So the files had gone to—

**Mr McGann**—The Premier's office, I think, is the custodian of the records.

**CHAIR**—But the point is that it was a royal commission document.

**Mr McGann**—Yes, it was.

**CHAIR**—You are then discharged, or rather the charges are dismissed?

**Mr McGann**—Absolutely, yes.

**CHAIR**—You are cleared. What happened to you then?

**Mr McGann**—We were expected to go our own way and life was supposed to go on.

**CHAIR**—You were by this stage out of the police service, were you?

**Mr McGann**—Yes, I had been out 10 years.

**CHAIR**—So this went on all through—you left in 1991. Why did you leave then?

**Mr McGann**—I had had enough of it, to be honest. I made the statement at the time that it could not have got any worse, and that was in 1991. It got down to a lot of resources and things. I was in the homicide squad at that stage and they were taking people off us for murder inquiries and overtime was always a drama. I thought to myself, ‘Well, if they can’t get worked up about murder, what are they going to get worked up about here?’ I just thought, ‘Either I put up with it and shut up about it or I get out and I do something about it.’ So I decided to get out and do something about it. It was the best move I made. Then I was lucky enough to go to the CJC in Queensland and investigate organised crime and then progressed to the NCA.

**CHAIR**—From the time that you joined the police force, which was—

**Mr McGann**—1973.

**CHAIR**—did you find that things got better, worse; were they the same—what?

**Mr McGann**—It gradually got tighter as far as budgets were concerned, but it was not dramatically bad; things were very tight. Again, as far as budgets and manpower were concerned, they got rid of the CIB in 1987, they got rid of the centralised squads in 1987 and regionalised us and spread us out. So there was no concentrated force to attack anything.

**CHAIR**—In 1987 who got rid of the squads?

**Mr McGann**—Whoever the government was at the time.

**CHAIR**—It was either Neville Wran or Barry Unsworth, presumably.

**Mr McGann**—Something like that, yes. The squads were always getting publicity, good or bad, and I think that there was a lot of media attention as far as the squads were concerned, and the pressure was applied and the squads were broken up. Then we were dispersed. The break-up of the CIB started around about 1983. There was still a centralised CIB in 1983. They then formed the regional crime squad west, which was at Penrith, and then they formed the regional crime squad at Miranda in November 1983. Peter Anderson was the police minister at the time. He opened the regional crime squad at Miranda and I was a serving member down there in the breaking unit. Then in 1987 they fully devolved the CIB and it ended in 1987.

**CHAIR**—Would it surprise you to know that New South Wales leads the field in armed robbery and unarmed robbery by a factor which way exceeds any state that is near to it?

**Mr McGann**—Nothing would surprise me.

**CHAIR**—I use those figures coming from the report on government services to the Productivity Commission, which shows that on an incidents per hundred thousand. Really, from memory, I think—and I will go back to the original theme—but they are way in front of Victoria or other states. The problem is that here in New South Wales crime is escalating. So that is part of why we are having these hearings.

I might add: the other thing is that, across Australia, the concern of fear of crime is at the top of any survey you might ever do, and it does not matter where it is. The second thing is that the

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people do have a good regard for policemen. They know that they are good people trying to do their job, by and large, and they really want them to do it. I think one of the things I am interested in hearing from you is what happened to you, what sort of morale effect, what sort of message does that send to the rest of the good body of policemen and women who want to get on with their job and they do not want to be intimidated and they do not want to have happen to them what happened to you.

**Mr McGann**—I totally understand. I suppose I might just make the obvious point that I come from a different era. They have got rid of all the people of my vintage and my era and they have got a very young police force, which is probably a good thing—I do not know. Consequently there is not a lot of experience there. My understanding in talking to a lot of police nowadays is that they spend their time filling out paperwork. I think the filling out of the paperwork, far more so than in my time, the paperwork—my understanding of the paperwork they fill out now is more since the Wood royal commission as far as accountability is concerned. Your movement sheets: what are you doing today? Write it all down: daily reports, monthly reports, all this sort of stuff. I am probably being very simplistic when I talk about this, but all we wanted to do when I was in the squads and as a detective was just lock crooks up. It was the greatest thing in the world—just locking the crooks up and getting rid of them. But now my understanding of the way the police operate is that they are tied up with paperwork, tied up with red tape and again—and it is no fault of theirs—the experience is not there to be passed on to them, how to go about doing it.

**CHAIR**—We might hear of that from perhaps someone who has been in the force a little more recently than you.

**Mr McGann**—Certainly.

**CHAIR**—I have a few final questions. I would like to ask you specifically about these allegations concerning the selling of heroin of high grade strength to addicts on the street and their subsequent deaths. What was the purpose of this operation?

**Mr McGann**—My understanding of the purpose of the operation was to try to trap allegedly corrupt police at Kings Cross. That is my understanding of this operation. The royal commission again, in my understanding, provided this heroin to drug dealers up there as a means or some method in trying to trap these corrupt police.

**CHAIR**—Where would they get the heroin?

**Mr McGann**—I do not know, I am sorry. It makes you wonder, though.

**CHAIR**—So they would get the heroin, and the allegation is that they sold it.

**Mr McGann**—They onsold it to the addicts, yes.

**CHAIR**—And that is the finding of Mr Justice Viney, that that actually happened?

**Mr McGann**—No. Justice Viney is alluding to that, as is Justice Gibson. They are alluding to what they call the hot heroin incident. Nowhere in those documents that I have given you are

the words of the body-wide informant talking about Mr Wood, 'Mr Wood, it's killing them, it's killing them.' It is not there. You see, this is a very little-known incident at the royal commission. No-one knows about this. It has been hidden away for all these years. Again, I am just a civilian, as you know; I cannot find enough evidence to support to give you a black and white version of actually what happened up there. All I can give you and proffer to you is the evidence I have done today and supply you with the names of certainly people who may be able to assist you on a first-hand level.

**CHAIR**—I think we would be most interested to have those, because that is a very serious thing. What I am trying to establish is the connection between the justices saying 'the hot heroin incident' and the actions of people who are attached to the commission.

**Mr McGann**—Yes. My understanding is that when they are referring to the hot heroin incident in those transcripts there, they are referring to the operation at the Cosmo Cafe in June-July 1996, to which the tape that I have mentioned to you refers and to which the body-wide informant is referring to the heroin killing them. It is all the one operation.

**CHAIR**—You actually heard the tape?

**Mr McGann**—I heard the tape, yes, but not of the body-wired informant, I might point out. But I actually heard the tape that I have given you evidence of today: the one about Operation Caesar, tape 255/96.

**CHAIR**—Just repeat the substance of what was on that tape.

**Mr McGann**—I will read from my notes, if I may. On the first side of this tape I could hear two male persons talking. One was a detective Keiren Miller, attached to the royal commission, and the other was an unnamed informant who was being wired up by Miller at the time. This conversation was timed on the tape by Miller at 2.25 a.m. on 21 July 1996.

In making notes of this conversation, I heard Miller say to the informant, 'Peter Kay has to take back the drugs and cut them down. We can't have this as a one-to-one.' He was referring to the purity of the heroin involved. Miller was also heard to say that, 'We'—that is, the royal commission—'do not have the authority to sell drugs where people are OD'ing.' The informant in the matter appears worried and was told by Miller at one stage that for people to die in this fashion—that is, overdosing on heroin—is manslaughter. In listening to this side of the tape there is no reference by Miller to stopping the heroin, just cutting it down.

I might point out that the tape I listened to was recorded two days before the whole operation finished. The operation finished on 23 July; I was listening to the tape on 21 July. In listening to side two of the tape, you can hear the informant talking to another person, telling that person that the cops—that is the royal commission—said to him not to sell the heroin as it was too strong and that 'we can't have anyone over OD'ing on the stuff'. As stated, this tape was dated 21 July 1996.

In reading other documents, it appears that this operation had been conducted at Kings Cross since at least late June—nearly a four-week period. It seems that this operation concentrated on the Cosmo Café at Kings Cross, with the operation being closed down on 23 July. Again, as I said, this would indicate that that tape I heard was close to the end of it.

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**CHAIR**—So the implication in that tape is that the people involved thought that it was okay to sell heroin as long as it did not result in an OD. If it resulted in an OD then that would be manslaughter—

**Mr McGann**—Yes.

**CHAIR**—but it was quite okay, they thought, to sell the heroin.

**Mr McGann**—That is my interpretation listening to the tape, yes.

**CHAIR**—Does that tape still exist, do you believe?

**Mr McGann**—It does, yes.

**CHAIR**—It is still in existence?

**Mr McGann**—Yes. I heard it at the beginning of January.

**CHAIR**—So it was still in existence in January?

**Mr McGann**—Yes.

**Mr SECKER**—In 2003?

**Mr McGann**—In 2003, yes.

**CHAIR**—We might be able to subpoena that tape ourselves.

**Mr McGann**—You certainly should be able to, yes.

**CHAIR**—We might get all the details in order to do that.

**Mr McGann**—If I may just amend what I just said: it was actually 23 December 2002. I am sorry; I did not mean to mislead you. It was 23 December 2002.

**CHAIR**—It was on 23 December 2002 that you heard that tape.

**Mr McGann**—Yes.

**CHAIR**—Did you hear it in the presence of anybody else?

**Mr McGann**—I heard it in the presence of former Detective Sergeant Ray Lambie.

**CHAIR**—And it is Mr Lambie that we said we will call?

**Mr McGann**—Yes. He was the one who told me he heard the listening post product of the body wire.

**Mr SECKER**—I want to go through a couple of things. You joined the service in 1973 and retired in 1991.

**Mr McGann**—I did.

**Mr SECKER**—In that time, you received the highest police award for bravery—the valour award—as well as the national medal?

**Mr McGann**—Yes.

**Mr SECKER**—Up until that time there had been absolutely no stain upon your character or your judgment as a police officer?

**Mr McGann**—There were just a couple of minor internal affairs instances; just two minor instances.

**Mr SECKER**—You left in 1991 and went to work with the Criminal Justice Commission, investigating Italian organised crime.

**Mr McGann**—That is right.

**Mr SECKER**—Most people would say that would be a fairly dangerous place to go to.

**Mr McGann**—It was okay.

**Mr SECKER**—In late 1993 you took up a position with the National Crime Authority, investigating Chinese and Italian organised crime.

**Mr McGann**—At that stage I was, yes. But I left law enforcement in 1995.

**Mr SECKER**—You are game. You went into the corporate world in 1995.

**Mr McGann**—Yes.

**Mr SECKER**—What effect did these Wood commission hearings have on your employment—and your subsequent charges in 1999?

**Mr McGann**—My employers at the time were very supportive. I was very fortunate in the way it all worked out. I was up-front with them. I told them exactly what was going on. To their eternal credit, my employment did not suffer and life went on. There were no problems at all about that.

**Mr SECKER**—What happened to your four colleagues who were similarly charged? Did they have problems?

**Mr McGann**—Yes, they did. At the time of our committal, one of my comrades, John Garvey, was in charge of a security company. As you know, you need a security licence to operate as either a security consultant or a security officer in New South Wales. John had held a

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security licence for some years. I just cannot recall at the moment, it was either during or shortly before our committal—I think it was shortly before our committal—in June 2000 that John was issued with another summons calling into question his fitness to hold such a licence. They based their question of John’s fitness to hold that licence on the prosecution brief—one of those statements you have there—that was fabricated against us. After we beat it at the committal, that was not pursued. The threat of losing our jobs was just another way to intimidate us, that is all.

**Mr SECKER**—I assume the Kareela cat-burglar is out of jail. Is he still alive? I have no idea.

**Mr McGann**—He is still alive. He gave evidence at our committal in 2000.

**Mr SECKER**—He was convicted in 1984 for 17 years.

**Mr McGann**—That is right.

**Mr SECKER**—How many years did he serve?

**Mr McGann**—It was 17 years on the top—that was the head sentence—and 11 years was the bottom sentence.

**CHAIR**—With parole.

**Mr McGann**—Yes, that is right. So you are looking at something like nine or 10 years.

**Mr SECKER**—Was he out of jail by the time the royal commission came along?

**Mr McGann**—I think so, yes. I believe that to be the case.

**Mr SECKER**—Did he make complaints?

**Mr McGann**—He made an initial complaint back in 1985 when his trial was on about being maced by us. That was one of the internal affairs matters that I just mentioned to you. We were all interviewed at the time and nothing ever came of it, until the royal commission. I do not know whether he went to the royal commission or they went to him.

**Mr SECKER**—It seems strange that the royal commission took such an interest in and had such concern with the word of someone who had been convicted of paedophile activities and lots of cat-burglaries—and only about the ones they could find out about, not the ones that they could not—against someone like yourself, who has a strong repute. So they brought this up. It almost seems as though they were looking for evidence from way back rather than present, ongoing evidence, because they could say that things from way back were someone else’s fault whereas, if it were happening now, they would have to say, ‘We have to fix it up.’

**Mr McGann**—That is right.

**Mr SECKER**—The charges were dismissed in 2001. Was any apology given?

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**Mr McGann**—No, nothing at all.

**Mr SECKER**—The last part I want to cover—and it concerns me as a South Australian—is the matter of McGinlay. How old would he be?

**Mr McGann**—I saw him around the court—the royal commission. He would have been in his mid-30s. He is a detective sergeant.

**Mr SECKER**—Would he be about 40 now?

**Mr McGann**—Yes, probably be about 40 now.

**Mr SECKER**—He has been suspended for allegations of sexual misconduct and procurement of prostitution. You say the action that he was involved in constitutes procurement of prostitution. He obviously has not been charged.

**Mr McGann**—No. The procurement of prostitution and the misconduct offences he is facing now are two separate issues. If I may explain very briefly. The procurement of prostitution that I made a mention of was back when he was a royal commission investigator—and I use that as an illustration of the unaccountability of these people. He was dealing with a witness, Kim Hollingsworth.

**Mr SECKER**—Kim, as in a female?

**Mr McGann**—Yes, that is right. He uprooted her from her home under the witness protection scheme and took her to South Australia—again, as part of the witness protection scheme. They provided her with no money; there was no income coming in at all. She said to him, ‘What can I do about money?’ He then tipped her into work at certain brothels in Adelaide. There was a newspaper article about it in the *Australian*. It made some headlines then.

**Mr SECKER**—This was with Stormy Summers, who has been well known for decades in South Australia?

**Mr McGann**—Yes, that is right. My statement about procurement of prostitution is that, in looking at the South Australian Summary Offences Act, it is still my understanding that the procurement of prostitution is still a criminal offence. McGinlay, as a royal commission investigator, obviously knew that he could act with immunity in relation to anything. He suggested to Hollingsworth, ‘Why don’t you go and work with him?’

**Mr SECKER**—Are you saying that, if you are an officer working for a royal commission, you have automatic indemnity if it is considered you are doing it on behalf of the commission?

**Mr McGann**—I do not know about other royal commissions, but certainly section 37K of the Royal Commission Act 1994—and I have provided you with a copy—spells out the responsibilities and duties of investigators attached to the royal commission at that stage. Subsection 5—I think, from memory—says that you cannot complain about the actions of a royal commission investigator under part 8A of the Police Service Act 1990. To explain that a bit further, part 8A of the Police Service Act says that people can complain about police officers

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to the Ombudsman, to the minister, to PIC, to ICAC—to all these bodies. But what section 37K is saying is that you cannot complain about these royal commission investigators.

**CHAIR**—So, if you try to do it, they say, ‘We’re not allowed to do it pursuant to this act?’

**Mr McGann**—That is right. In fact, I have correspondence from the Police Internal Affairs Branch from October 2001, when we first started trying to complain to these people. It was plainly spelt out there that we cannot investigate it under part 8A of the Police Service Act.

**CHAIR**—I just want to get that absolutely straight. That means that none of those bodies that have been established to hear complaints of the nature you are giving would be allowed to do so because it is precluded by that section of the act that established the royal commission?

**Mr McGann**—That is right.

**CHAIR**—So, in effect, this is the only place you can come.

**Mr McGann**—If I may continue with that, because at the start of your questioning of me you mentioned something about what agencies we have complained to, and then we diverged onto other things. What you said was quite right. We have complained—and I would like to get this on the record because there has been a lot of misinformation put forward in the media about exactly what this committee is about and what our actions are in this. As I mentioned, we have complained to South Australian and Queensland authorities. Brian Harding sent a letter to Police Internal Affairs complaining of a criminal offence, of perverting the course of justice by the royal commission investigators in relation to fabricating evidence against us. You have a copy of that statement in front of you there. So we were reporting a criminal offence—like a handbag being stolen or an armed robbery or something like that. We got an acknowledgment back on that. Then on 11 October Brian received a letter from Sergeant Gentle of the New South Wales police department declining applications to investigate allegations against royal commission investigators, stating that the New South Wales Police are declining to investigate the complaint under part 8A of the New South Wales Police Act, which fits into what I have just said about section 37K of the act.

**CHAIR**—So that acts as an estoppel to any investigations taking place?

**Mr McGann**—It does. But I should point out—and this is what I just do not understand about what is happening behind the scenes with all this—that late last year the police department launched a task force into our allegations, but that has actually been stopped for certain other reasons which I can go into in a moment. But they have actually got a task force. So on the one hand we are being told in October 2001, ‘No, we can’t do anything about it,’ then late last year we are told, ‘Hang on; we are going to do something about it.’ So that is the police department.

**Mr SECKER**—One hand does not know what the other is doing.

**Mr McGann**—Exactly.

**Mr SECKER**—Except you are saying that they have found out, because now they have stopped that?

**Mr McGann**—That is right. In October 2001, Brian Harding sent a letter to the then minister for police, Mr Whelan. Brian's letter to the minister was replied to by Mr Bryce Gaudry, who, as I understand it from the signature on the letter, was the parliamentary secretary to the minister for police. In October 2001, Mr Gaudry said that he had arranged to refer those allegations to ICAC. It is important to keep that in mind. In November 2001, Brian received a letter advising that they were not proposing action dealing with the complaint about royal commission investigators. I can understand that, because they really could not launch an investigation by themselves: you have to go to the police and, when the police do not act, you then go to the Ombudsman. My understanding is that the Ombudsman cannot act on his own.

**Mr SECKER**—Could Justice Wood investigate it?

**Mr McGann**—I do not think so.

**CHAIR**—That is finished anyway.

**Mr SECKER**—I know, but I just wondered whether—

**Mr McGann**—I think it would have been a dramatic conflict of interest. That is my personal thinking on it, anyway.

**Mr SECKER**—Okay. So no-one can investigate it?

**Mr McGann**—I am only talking about 2001 here. Then the minister for police changed and a letter was sent by Brian to the new minister, Mr Costa, referring to the original complaint that he made to Minister Whelan. Brian then sent a letter to the Commonwealth Ombudsman, complaining about the actions of Nigel Hadgkiss, who was the director of operations for the royal commission. He would have been the main person pulling the strings as far as what to investigate and how to investigate it. Also in that letter to the Commonwealth Ombudsman, Brian mentioned two other investigators, Provost and Onley, who I understand were Federal Police officers. They were chief investigators at the royal commission. That complaint later came back, saying that the Commonwealth Ombudsman was not interested in listening to that complaint.

We are now moving to January 2002—we have gone from October-November 2001 to January 2002—when I sent a letter to Minister Costa joining Brian's original complaint to the minister alleging criminal offences against these royal commission investigators and adding the human dimension to this. In that letter that I sent to the minister—I have a copy here if you would like to see it—I talked about issues such as human rights and the code of conduct, which I spoke about before and of which you have a copy, and I joined in on that complaint to the minister. I mentioned the suicides and I mentioned the fabricated evidence to the royal commission. That letter was sent to the minister on 22 January 2002. Brian received a letter in January 2002 from Mr Michael Holmes, who was the solicitor dealing with the police department.

**CHAIR**—Yes, we know Mr Holmes.

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**Mr McGann**—Bear in mind, if I may just remind you of this, that Brian was alleging that a criminal offence happened.

**Mr SECKER**—He was alleging that against you?

**Mr McGann**—No. Brian Harding, one of my comrades, was alleging criminal actions—perverting the course of justice—by the royal commission investigators, in relation to that brief of evidence we have there. The letter that came back from Mr Holmes referred to Brian's allegations as just misconduct. It is a paperchase; you know what it is all about. Brian then sent a letter back saying, 'Hang on, we are not talking about misconduct here; we are trying to report a criminal offence.' But in the January 2002 letter to Brian, Mr Holmes said, 'It is not possible or proper for this service to investigate these persons. The allegations fall within the charter and are the responsibility of ICAC. Your complaint will be referred to that body.' So here we have Bryce Gaudry, who was the parliamentary secretary to the minister for police, saying in October that it was going to ICAC and Mr Holmes in January 2002 saying that he was going to send it to ICAC.

**Mr SECKER**—What did ICAC say?

**Mr McGann**—I will move forward from there. On 24 October 2002, we received information—it was verbal; it was informal information—from a John Pritchard of ICAC who indicated that it was not appropriate for ICAC to investigate our matters. I received a letter from Mr Costa in August 2002 saying that if I had a complaint, I should send it to ICAC or to PIC. The trouble with all that is that, as I understand it, the Police Integrity Commission only investigates police. None of us is alleging that it is just the police or just the investigators themselves who are responsible for this fabrication.

In these multidisciplinary task forces, you cannot scratch yourself without telling your team leader, who is invariably a lawyer. It has to go up the chain of command. These were not renegade detectives or investigators. It had to go up through the chain of command. I do not know how far it went. It certainly would have gone to team leader level, and it would have gone to director of operations level for sure. I have lost my train of thought.

**Mr SECKER**—We have gone through how you cannot get the Queensland, South Australian or New South Wales police force to look at it, and you cannot get ICAC or the Federal Police to look at it.

**CHAIR**—Or the Commonwealth Ombudsman.

**Mr McGann**—I am back in the groove now. I am alleging that it was lawyers and police officers who were the culprits in this thing. So my understanding is: what is the point in going to PIC? Surely, the only body that can investigate the police and other officials tied up with this thing has to be ICAC. But ICAC has already said, 'No, it is not appropriate for us go there.'

**Mr SECKER**—Is this because of AA and 37K?

**Mr McGann**—That is my understanding of it. Then we have the paper war going on. I must acknowledge Paul Lynch's contribution to this. He is the Labor MP for Liverpool. Paul took a great deal of interest in this but could not do anything. A member of the Labor Party could not

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do anything at all. I was amazed at this whole thing. From January 2002, all the letters were bouncing forward from the minister's office, going all over the place. In the middle of last year, Brian, John and Steve York were called to a meeting at police headquarters. Mr Holmes was there, as was Les Trees, who I think is parliamentary secretary to the minister—I am not sure of his position. They had this roundtable conference at police headquarters, with their legal representatives, basically giving Brian, John and Steve York optimism that there would be a favourable result in relation to them. I have nothing to do with all of this, because I am not taking any action against anybody in relation to this. I am not, but they are. So this little meeting was called. At that stage, my gut feeling on it was that they were worried that we were going to go to the media about it. I do not know why they might have thought that, but I think they called that meeting to fend off any dramas and say, 'Look, we've got optimism here, boys. Don't worry about going to the media. We'll help you.' That was my impression of what happened. It has gone along like this. It has just been a paper trail. I have a chronology of events.

**Mr SECKER**—Was this after you were cleared of all charges?

**Mr McGann**—Absolutely. The Police Association did not want to know us, either.

**Mr SECKER**—I find that amazing. You are fully paid up members, and the Police Association do not give you any legal advice or financial help.

**Mr McGann**—It is even worse than that.

**Mr SECKER**—What is the use of being a member of the Police Association if they do not help you?

**Mr McGann**—That is exactly right. I was a fully paid up member until 1996, when John Garvey, Brian Harding and Steve York lost their jobs as a result of this fabricated evidence—they were senior police officers, and they lost their jobs as a result of this—and the Police Association did not want to know us. Once we and this whole matter were dismissed, Brian, John and Steve York tried to get reinstated on the basis of that. One would think that the association would come to the party, but no. Those three are funding their own legal case to be reinstated to the police force. It was all very disappointing.

**Mr SECKER**—That is appalling.

**Mr McGann**—You bet it is. You are given the impression—and this is where this whole deal makes you feel so alone—that you are not only fighting the crooks and the system but you are fighting your own kind. That was the terrible thing about this whole deal. They leave you alone. No-one comes near you. It contributes to the fear of intimidation and, in my opinion, to the suicides.

**Mr SECKER**—Did you say that McGinlay is about 40, give or take a few years?

**Mr McGann**—Yes.

**Mr SECKER**—I am sure we can get his exact age verified. He has been suspended. He must have been suspended for a pretty good reason.

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**Mr McGann**—Yes.

**Mr KERR**—Can I stop you for a minute. This witness has been making allegations that people have been improperly dealt with for reasons which were not valid, and now you are assuming that any conduct is for a good reason. The whole point he is trying to make is to tell us who the snake and who the mongoose is in this. Excuse me, but—

**Mr SECKER**—I accept that, Duncan. What I was leading to was that, if someone is suspended, whether it is for right, wrong, proven or unproven reasons, why would they then go onto a 75 per cent pension?

**Mr McGann**—I do not know. I am not aware of whether that has happened. If it has happened, it is pretty rude.

**Ms PANOPOULOS**—Mr McGann, I will begin by saying that I am very embarrassed and I apologise for the conduct of some of my colleagues, who look at the standing orders to stop the media from reporting this yet ignore the standing orders that bestow protection on witnesses and the evidence they give at these meetings.

**Mr McGann**—That is quite all right.

**Ms PANOPOULOS**—Why do you think the police association abandoned all of you?

**Mr McGann**—They put forward the idea that we were no longer financial members of the association and therefore they could not help us. There were only two ways they could have helped us, one of which was if we were financial members; but to be a financial member you had to be a member of the police force. Once you leave the police force, you could become an associate member and you get your monthly police news and that is about it. But if you are an associate member you cannot then get legal assistance at all, so it did not really matter. The only other way that the police association could have helped us was if they considered it was a matter that would have been of relevance to their members. I have correspondence from them—I have a large degree of correspondence—where they have said that they did not consider that it was a matter that would be of assistance to their members or of information to their members.

**Ms PANOPOULOS**—So in effect where a police officer is suspended from normal duties they cannot get any legal assistance from the association?

**Mr McGann**—I am not sure what the situation with being suspended is because they would still be members of the police force per se. I was out of the police force; I was a civilian. But this matter stemmed from 1984 when I was a fully paid-up member of the New South Wales Police Association and from 1984 to 1991 I was still paying them fees. Brian and John and Steve were paying them up until 1996. I just think it was because of the climate at the time, actually. I think from their point of view we were just considered dinosaurs—relics of the old CIB—and that it was best not to know about us. That is my personal thinking on it.

**Ms PANOPOULOS**—I am interested in relation to your attempts to have this matter looked at by various individuals and bodies in New South Wales. You said in your opening address today that you had written to the current minister, Mr Costa, and that was in January 2002 and that letter was supporting and adding to Brian's correspondence to Mr Costa.

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**Mr McGann**—That is correct.

**Ms PANOPOULOS**—You then also said that you received a letter from Mr Costa in August 2002. Was that the first piece of correspondence you had received from him?

**Mr McGann**—No. I received the usual cursory letters, ‘We’ve received your correspondence and we’ll let you know when’—

**Ms PANOPOULOS**—Do you have copies of the letters that you wrote to Mr Costa and the replies?

**Mr McGann**—Absolutely.

**Ms PANOPOULOS**—May the committee have those?

**Mr McGann**—Certainly. I have a whole volume here, if you would like. I was not expecting that you were going to ask this but by all means—it is an open book. I also have all the newspaper clippings relating to the matter, as well as the correspondence, and there is a lot of it.

**Ms PANOPOULOS**—Could you just refer to your correspondence?

**Mr McGann**—Sure.

**Ms PANOPOULOS**—You sent the letter on 22 January.

**Mr McGann**—Yes.

**Ms PANOPOULOS**—When did you then receive your first correspondence acknowledging that from Mr Costa’s office?

**Mr McGann**—I might, if I may, refer to my chronology, which I have done from all the letters I have sent. I should probably point out that at that same time that I sent the letter to Mr Costa, I was actually dealing a lot with Paul Lynch at Liverpool, who was a very great help to us. So a lot of the correspondence I received went to Mr Lynch as well.

**Ms PANOPOULOS**—I suppose what I am trying to ascertain is, after the letter was sent in January, when you received a substantive piece of correspondence, not a letter just stating ‘Thank you very much, we’ll get back to you very soon.’ When did you receive any substantial response?

**Mr McGann**—One of the things I raised in the letter was the United Nations code of conduct for law enforcement officers. My assertion is the royal commission had breached four of those articles. It defines torture. I received a letter from Paul Lynch from the office of the minister for police on 20 March 2002. ‘Acknowledge your recent correspondence concerning the UN resolution; matters are currently being examined.’ That is March 2002. In March 2002 I sent a letter to Mr Lynch again. ‘Acknowledge your recent correspondence concerning the procedures employed by investigators attached to the royal commission into the New South Wales Police Service; matters are being raised.’ As far as a substantive reply is concerned—

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**Ms PANOPOULOS**—When did you receive a substantive reply from Mr Costa?

**Mr McGann**—There was one in May 2002. It was from Mr Costa and it was addressed to Paul Lynch, who then onforwarded it to me. It refers to the United Nations code of conduct for law enforcement officers and it talks about how the code of conduct—which you have a copy of there—has been embodied in the New South Wales Police code of ethics. So that is the first really substantive thing. I was getting a bit sick and tired of sending letters out and getting no replies and all that sort of thing, so I—

**Ms PANOPOULOS**—To get it clear in my mind: you sent a letter to Mr Costa in January?

**Mr McGann**—Yes.

**Ms PANOPOULOS**—And the first substantive response you received was in May of that year?

**Mr McGann**—Yes, relating to matters that had nothing to do with the royal commission; it was purely a side issue. I had already raised with Paul Lynch the fact that I was getting tired and had asked when we were going to get a reply, and so Paul Lynch, in a letter to Mr Costa in June of 2002, said:

I sent you a letter dated 20 February 2002 concerning Mr McGann and issues raised by him.

Your assistant private secretary acknowledged receipt of my letter on 13 March 2002.

I have received no further response from you to that letter.

Additionally, I understand that Mr McGann had already sent you a letter dated 22 January 2002. One of his colleagues involved in these issues apparently also sent you letters at this time.

Despite a number of phone calls from Mr McGann to your office he has not received a substantive response.

Accordingly, I would be pleased if you could indicate when a substantive response, to either myself or Mr McGann will be provided.

That was in June 2002. The response to that letter came through in August 2002 to Paul Lynch. This is the letter from the Minister for Police dated 23 August 2002, in which he basically says that if I have a complaint I can send it to PIC or ICAC, and that is it.

**Ms PANOPOULOS**—So you found out in August what course of action the Minister for Police recommended.

**Mr McGann**—That is right.

**Ms PANOPOULOS**—I have to say that I find that rather appalling.

**Mr McGann**—If I may just elaborate a little bit on that: I am still confused about this particular letter. The minister was saying to me that I could go to PIC and I could go to ICAC, but in August 2002 we had already been told that the police were looking at setting up a task force in relation to these allegations. So I just do not understand. If that was the case, if that was

all fair dinkum, why not say in the letter, 'Well, hang on, we also have a task force going.' I had already complained to him about reporting a crime, so I just thought it would have been mentioned in the letter, but it was not.

**Ms PANOPOULOS**—You also mentioned that the Council for Civil Liberties was notified. What sort of response did you get from them?

**Mr McGann**—Absolutely nothing, not even an acknowledgment that they received my letters, which I sent by a form of registered mail.

**Ms PANOPOULOS**—Madam Chair, that is rather a surprise. The Council for Civil Liberties, particularly in my state, is always quite ready to jump to defend the rights of non-citizens, particularly when it comes to the current government's federal policies.

**Mr McGann**—I was most surprised about that too. I thought they would have helped, but anyway.

**Mr MELHAM**—Human rights are universal. It is not just within the boundaries of Australia.

**CHAIR**—They seem to be a bit lacking in New South Wales.

**Ms PANOPOULOS**—It is interesting that they abandon their own, Mr Melham.

**Mr KERR**—I think we will put that down to a slip of the tongue.

**Mr MELHAM**—That is right; she is a bit nervous.

**CHAIR**—For heaven's sake, Daryl.

**Ms PANOPOULOS**—No, Mr Melham, I am not nervous at all. Intimidation does not have an effect on me and I am quite grateful during these sorts of occasions that I am a Victorian and I do not reside in New South Wales. So I can thank my birth place for some small mercies. Mr McGann, having written to all these people, how can you explain that no-one has really given you any advice or any assistance?

**Mr McGann**—The only conclusion I can come to is that it is either too hard or they just do not want to know about it and they hope it will go away. That is the only way I can explain this.

**Ms PANOPOULOS**—I find it quite disturbing. Why wouldn't these important organisations and important people, who are part of the New South Wales government and part of the New South Wales community, want to know?

**Mr McGann**—Again, this is only an opinion based on everything that has happened to me. I think the royal commission was a watershed, an important event for this government—even though it was set up by the previous government—and I think a lot of people made reputations out of it. They progressed and became judges and they have gone to other commissions and things like that. There were too many reputations riding on it for it to be pulled apart in the way it is being pulled apart now. That is my thinking on it.



**CHAIR**—Mr McGann, you said that the Wood royal commission was established under the previous government. Was that under the Fahey government?

**Mr McGann**—It was. I think it was in 1994 or 1995.

**CHAIR**—I think I recall that.

**Mr McGann**—Yes, it was. Then Mr Carr was elected in the middle of 1995, I think, and he took it on from there.

**CHAIR**—Yes, that is right.

**Mr KERR**—As to the absence of a simple complaints process—and I am probably abusing my position as a questioner—I make the point that the same difficulty arose when the National Crime Authority was established. Because it was established as a specific organisation outside normal policing, at the time of its establishment nobody thought to put in place a mechanism to deal with complaints against allegations of impropriety of conduct within the NCA. I think it took four or five reports of a parliamentary committee to get to a stage where a mechanism for dealing with such complaints was put in place. I imagine that, when the Fahey government constructed the Wood royal commission framework, equally they did not contemplate the necessity for a complaints mechanism in relation to allegations of misconduct arising out of what was to be a specific royal commission. I understand the difficulties you raise. I have experienced similar instances, which have now been resolved, in relation to the NCA. A number of people were making claims, and I think some claims were obviously unjustified and some were perhaps justified, where people were of the belief that some conduct of an investigator was—

**CHAIR**—Are you saying that by the time the NCA made its transition, it no longer had a prohibition against investigating people in the NCA?

**Mr KERR**—No. There is now a mechanism for enabling persons to make complaints in relation to allegations against—

**CHAIR**—Were you saying that the NCA had a prohibition, like this commission had a prohibition?

**Mr KERR**—Yes.

**CHAIR**—It had a similar clause?

**Mr KERR**—A similar kind of framework.

**CHAIR**—But that was rectified?

**Mr KERR**—That is correct. It has been changed.

**CHAIR**—But it has not been changed here?

**Mr KERR**—No.

**Mr McGann**—If I may make one comment on that—

**Mr KERR**—I do not know what the situation is in New South Wales.

**CHAIR**—But it was changed federally because the need was there.

**Mr KERR**—It was changed after three scathing parliamentary reports by a joint committee and rejection by a number of governments, but eventually it was changed, yes.

**Mr McGann**—The comment I make on that is that the NCA had an oversighting parliamentary committee.

**Mr KERR**—Which had no capacity, though. I do not wish to be a witness in a cause but, when such matters as you are raising were brought before the NCA committee, we always had to write back and say: we have no capacity to investigate the merit or otherwise of your complaint. We regret this and we have recommended to the parliament that they set up some independent process to adjudicate such matters.

**CHAIR**—And that has been done.

**Mr KERR**—That has been done within the last 12 months. All I can say is that, until then—and if I can take you back—complaints against those who were serving as police within the NCA could in fact be dealt with within the jurisdictions. If you were a seconded police officer, you were still subject notionally to the command and control of your home service. Therefore, I am surprised at your comment about South Australia, Queensland and the federal jurisdictions. Maybe this royal commission was set up differently—I do not know. But if you were a seconded police officer, I would have thought that you were still notionally under the command and control of your seconding police force, and that any allegations of misconduct in, say, Victoria, would be capable of being dealt with by the Victorian Police Ombudsman. There is a similar process in South Australia. There are formal processes in those states to deal with complaints, even when officers are seconded outside their jurisdiction.

**Mr McGann**—In section 37, which I have handed to you, there is a provision stating that all seconded officers that came to the Wood royal commission had all the powers of the New South Wales Police officers. I am not a lawyer, so I do not know what interpretation you can put on that. I do not know what the situation was with other seconded officers in the NCA, but that provision is in section 37K. I will read one sentence of a letter, dated 30 April 2001, from the South Australian Police Complaints Authority to me declining action on Detective McGinlay as ‘he was not acting pursuant to South Australian laws or at the direction of the South Australian Police Commissioner’. That is what they told me.

**Mr KERR**—I do not know about that, but I do know that, were they seconded to the NCA, they would have still been subject to those disciplinary proceedings. It may be a matter you wish to follow up. I take you back to the beginning—

**CHAIR**—I think he has followed up a lot over the years.

**Mr KERR**—I take you back to the starting point and the establishment of the royal commission. I do not think you would contend—and if you do, I will be very surprised—that there was no case for the Fahey government to establish the Wood royal commission.

**Mr McGann**—I totally agree with you.

**Mr KERR**—There were long-established and proven instances of corruption within the New South Wales police force. There were allegations dating back to the Askin government of the police being—

**CHAIR**—And including the Wran government—I gave you a fair run yesterday.

**Mr KERR**—I am not trying to be partisan here. I am saying that throughout all governments there were allegations of serious and entrenched corruption in the New South Wales police force. The royal commission was established because of great public pressure. There were suggestions of police being behind certain aspects of organised crime, being involved in bashings and verballings and a whole range of matters. Mr Justice Wood was appointed to head that inquiry. In that framework, it seems that Mr Justice Wood took what most people would think was an appropriate course. You have indicated that he researched other royal commissions into police conduct before establishing his procedures.

**Mr McGann**—Yes.

**Mr KERR**—You mentioned that, in some of those instances, people had committed suicide as a consequence of those investigations.

**Mr McGann**—Yes.

**Mr KERR**—Without meaning to sound brutal about it, if you are involved as a corrupt police officer after a life where you have been an exemplar of the community and where the consequence is perhaps imprisonment, I suppose it is predictable that the exposure of corruption may be a trigger for suicide. The fact that that had occurred in other jurisdictions, harsh though it may be, would not be a reason for not proceeding to rigorously investigate allegations of corruption within the New South Wales Police.

**Mr McGann**—Absolutely right. But there are two points to this whole deal. I have no problem about any inquiry into the New South Wales police force whatsoever; it is the lack of accountability and the processes that they use that is the big problem. They did go through us like a dose of salts, and I have no problems with that. It is the fact that they are unaccountable for what they have done. They can go away and go to other royal commissions. The second thing is about the suicide.

**Mr KERR**—I understand that that is a complaint. But the point you raised was that the suicide issue—

**CHAIR**—Let the witness finish.

**Mr McGann**—The suicide issue is the one that concerns me. Having been a victim of the processes the commission used, I know exactly what the feeling is like. When this happens to you, you have a choice. I have not slept properly since the royal commission in 1996. Prior to that, while I was in the police force, I had been shot at, I had been shot, I had had hydrochloric acid thrown over me and I had gone to murder scenes, and yet I had never lost a night's sleep. But I have not slept well since 1996. As a defender of the laws of New South Wales, when all of a sudden you are a defendant before the courts, your mind tells you, 'No, I am not a defendant, because I have put murderers and rapists and armed robbers in court. I am not a defendant.' But the paperwork says you are. You have a choice—and I made that choice—of either curling up in the corner in a foetal position and sucking your thumb or coming out fighting. The only way I could do it was to come out fighting. A lot of people did not do that. The whole thing got to them, and that is why they ended up throwing themselves off buildings over this. But there was no mechanism in place to deal with this.

**Mr KERR**—However, you would not deny that there were many persons who were named and dealt with as a consequence of the royal commission who were corrupt police and guilty of substantial corruption?

**Mr McGann**—I am looking at the track record of the convictions after the royal commission, and that is all I can base my answer on as far as their guilt or innocence is concerned. Minimal convictions came from the royal commission. I do not know the facts and figures on it, but they are very minimal. I do not know what those statistics are.

**Mr KERR**—Can I stop you there for a moment. I am sure you are aware that different processes have different end objects. A parliamentary committee is not a court of law.

**CHAIR**—Neither is a royal commission.

**Mr KERR**—While a royal commission is constituted in a way which, under law, obliges it to accord natural justice rights to persons—the Mahon decision shows that—it is not a court of law and it reports its findings. It does so on evidence which is often inadmissible in a court of law.

**Mr McGann**—I agree with you.

**Mr KERR**—In this instance, it led to disciplinary actions within the police force, and police were removed from service. Some matters were prosecuted and proceeded with as criminal matters, others were not.

**Mr McGann**—Yes.

**Mr KERR**—But isn't that the nature of a royal commission? Essentially, they are a vehicle used by the executive—

**CHAIR**—As I understand it, Duncan, the point the witness made earlier was that, because of what had happened to him, where evidence had been tampered with in his view, and because of the evidence he has put forward, he feels that he cannot make a judgment about whether it also happened to other people and whether the people who committed suicide had evidence against them tampered with and otherwise may have lived had the evidence not been tampered with. Is that your point, as I understand it?

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**Mr McGann**—That is exactly the point.

**Mr KERR**—I will get back to this point. We have Mr Justice Wood, whom we seem to be in high agreement about, appointed by Mr Fahey as a man of integrity to chair this royal commission. He was supported by successive governments, who then appointed his key staff. In your submissions, you have named as persons of concern a number of those very senior persons, and you have indicated that any misconduct that might have existed could not be simply innocent acts or people on fishing expeditions of their own.

**Mr McGann**—That is right.

**Mr KERR**—But it would have had to have gone right up the chain.

**Mr McGann**—Yes.

**Mr KERR**—You said it would have gone at least to the director of operations level—who was that?

**Mr McGann**—It was Nigel Hadgkiss, who is now with the Federal Police.

**Mr KERR**—Nigel Hadgkiss is now a Federal Police officer. What is Mr Hadgkiss's present role?

**Mr McGann**—As I understand it, he is in charge of the building industry task force.

**Mr KERR**—The federal Minister for Employment and Workplace Relations, Tony Abbott, had the confidence to appoint Mr Hadgkiss as the senior investigator for the royal commission into the building industry?

**Mr McGann**—That is right.

**Mr KERR**—So a coalition government in Canberra has appointed to this commission the man whom you point the finger at as being an instigator of corrupt investigations in the Wood royal commission. And this man was also appointed by a coalition government in New South Wales.

**Mr McGann**—With respect, I do not think Mr Abbott would have known about the allegations that I am raising today, because they have not surfaced before. Possibly, he did not have that information.

**Mr KERR**—When Mr Hadgkiss, a man who you say must have been at least one of the points at which this was all contrived and conceived—it might have gone higher but it must have at least reached him—

**Mr McGann**—I would say so.

**Mr KERR**—When you heard that Mr Hadgkiss had been appointed—

**CHAIR**—Can I just intervene for one minute. I do not want to upset your concentration, but we do have four witnesses to hear today. Each member has had 20 minutes of being able to ask questions, so I am going to say that we are going to finish with this witness at a quarter to one.

**Mr KERR**—I am not happy with that, Madam Chair.

**CHAIR**—That means that you two have the rest of that time to question. If we have to have a resolution about it at that time, we will do so.

**Mr MELHAM**—No, you do not have the power to have a resolution, Madam Chair.

**Mr KERR**—Madam Chair, you have a witness who has named people holding very high office. We have been concerned about procedural justice issues. We are testing this witness's testimony.

**CHAIR**—I am telling you that we have four witnesses to hear from, and you have three-quarters of an hour to go.

**Mr KERR**—We have now identified the fact that the man who was thought to be the linchpin of the impropriety has been appointed by Mr Abbott to head the building royal commission, and that this witness apparently has not communicated that fact to Mr Abbott. I think that we are actually entitled to pursue these matters.

**CHAIR**—Absolutely.

**Mr KERR**—And I do not think that you are entitled to cut us off.

**Mr MELHAM**—And if you take advice from a clerk, Madam Chair, you will find that there are no time limits in relation to witnesses and that you do not have the power, under the resolutions passed by the committee the other night, to gag our questions.

**CHAIR**—I know we would like to have a little filibuster, so we cannot hear the witnesses.

**Mr MELHAM**—It is not a question of filibuster.

**CHAIR**—You tried it yesterday.

**Mr MELHAM**—You are bound by the standing orders.

**CHAIR**—And so are you.

**Mr MELHAM**—You do not have the power to stop Mr Kerr and me asking relevant questions, and I suggest you take advice from the clerk.

**Mr SECKER**—Of course we do.

**Mr MELHAM**—The subcommittee is operating under resolutions passed by the committee. There is no time limit. You are outside the standing orders if you seek to gag us. You wanted a

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public inquiry; you are getting it. This witness is happy to have his evidence tested. Mr Kerr and I are entitled under the standing orders to ask relevant questions without a time limit.

**CHAIR**—What we will do is this—

**Mr MELHAM**—I indicate that you are outside the standing orders. You go and take advice from a clerk.

**CHAIR**—When we reach the time appointed, we will ask Mr Fenlon to return on another day so that we can have an entire day so that you can continue to ask all of the questions that you wish to.

**Mr MELHAM**—Madam Chair, you do not have the power to do that, and I suggest you take advice from the clerk. I have taken advice from the clerk. I suggest you take advice from the secretariat. This witness has made allegations today. We are entitled to test those allegations today.

**CHAIR**—Then get on with it.

**Mr MELHAM**—And there is no time limit. Mr Kerr and I—myself in particular—have been waiting since 10 o'clock. This witness has come here, and you do not have the power to cut off the questioning. Take advice from the clerk. I have taken advice.

**Mr SECKER**—Madam Chair, can I read to the committee advice from the clerk, which says the committees and subcommittees have the powers to 'adjourn from time to time, move from place to place and sit during any sittings' or adjourn at their behest.

**CHAIR**—I have no intention of limiting your ability to question. But I do want to have an orderly hearing.

**Ms PANOPOULOS**—Madam Chair, could I perhaps provide some helpful guidance to our colleagues across the table. Mr McGann has provided evidence relating to specific and particular events surrounding certain allegations. It might be useful, in terms of the time limits that we do have, if they do not go beyond that to matters of which Mr McGann has not claimed to have any knowledge.

**CHAIR**—I am just going to make this quite clear.

**Mr MELHAM**—We are sitting until four.

**CHAIR**—I am speaking! I have no intention of limiting the number of questions that Mr Kerr and Mr Melham may ask. The only thing that is of concern to me is that we have two witnesses—one who has to go to Malaysia and one who has come all the way from Brisbane.

**Mr MELHAM**—We will facilitate that.

**Mr KERR**—The chair knows that well.

**CHAIR**—As a matter of courtesy, if we stop this hearing at a quarter to one and move on to the next witness, we will be able to do that. But I take the point that both Mr Kerr and Mr Melham are entitled to ask as many questions as they wish. If it takes a fortnight, they will have the right to ask their questions. But it would be in order if Mr McGann were able to come back another day so that they can continue with all the questions they wish. I have no intention of wanting to stop your questions at all.

**Mr MELHAM**—Thank you, Madam Chair.

**CHAIR**—But I am concerned for the other witnesses who have come and who have other commitments.

**Mr MELHAM**—Madam Chair, can I say for the record, that is the first time we heard that other witnesses have other limitations. Mr Kerr and I have not been made aware that other witnesses are here from overseas or interstate. I am happy to facilitate those witnesses. Mr Kerr and I have not been given the courtesy of discussions that you have had but we are happy to facilitate.

**CHAIR**—For God's sake. I found out yesterday afternoon that one witness has to go to Malaysia and that another one has come from Brisbane because I had not bothered to inquire to that extent. Goodness me.

**Mr KERR**—Let us proceed. The question I was asking was whether you had taken the opportunity to write to the minister to draw his attention to the fact that, in your belief, the man that he had appointed to be the senior investigator of the building royal commission was a man who had sponsored what you have called 'criminal conduct'.

**Mr McGann**—I had no way of knowing before the appointment that that was going to happen.

**Mr KERR**—Once it was announced, have you done that?

**Mr McGann**—No, I have not.

**Mr KERR**—Why not?

**Mr McGann**—There is no real reason that I can think of. I could not see it being overturned. I thought, 'What good would it do?'

**Mr KERR**—Let me go to some of the other people that you have mentioned before in your submissions. You have mentioned Mr Finnane, Mr Bergin and Mr Bell. What roles did they play in the royal commission?

**Mr McGann**—It is Ms Bell.

**Mr KERR**—Ms Bell, sorry.

**Mr MELHAM**—It is Virginia Bell. She is now a Supreme Court judge.

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**Mr McGann**—They were all either counsel assisting or lawyers acting for the police department. I think Mr Finnane was acting in the interests of the police department.

**Mr KERR**—What positions do they currently hold?

**Mr McGann**—They are all judges, as I understand it.

**Mr KERR**—Were they all party to the conduct that you describe as criminal?

**Mr McGann**—I do not know.

**Mr KERR**—You say that at least Mr Hadgkiss was.

**Mr McGann**—I am saying that Mr Hadgkiss would have been by virtue of his position.

**Mr MELHAM**—What about Ms Bell who is now a Supreme Court judge in New South Wales?

**Mr McGann**—What about her?

**Mr MELHAM**—Do you make any allegations about her in relation to being party to this conduct?

**Mr McGann**—No, I have not made any allegations about that.

**Mr MELHAM**—And Judge Finnane who is a judge now of the District Court of New South Wales.

**Mr McGann**—And I understand a good friend of yours too.

**Mr MELHAM**—It is a matter of public record that he is a good friend of mine and an honourable person and I do not apologise for that. I am asking you now, do you make any allegations against Judge Finnane?

**Mr McGann**—The only allegations I have made against those three people that have been named is the fact that they were part of this organisation. That is all I have said and that, since that organisation has finished, they have then been elevated to judges. That is all I have said.

**Mr MELHAM**—So you accept that Mr Finnane is an honourable person.

**Mr McGann**—I do not know him personally. You are better off saying that than me.

**Mr MELHAM**—I can say it on the record anywhere you want. He is an honourable person and that is my view of him. I have known him for 28 years. He has been in the news lately in terms of a particular sentence. He is not a lenient sentencer, is he?

**Mr McGann**—I do not know.

**Mr MELHAM**—You have not heard of his recent judgment?

**CHAIR**—With respect, I do not think this is pertinent to the line of questioning.

**Mr MELHAM**—It is pertinent because—

**CHAIR**—Mr Kerr is asking the questions.

**Mr MELHAM**—there has been a general slur that is cast.

**CHAIR**—Oh, Daryl!

**Mr KERR**—You see—

**CHAIR**—Can I just clarify the position?

**Mr McGann**—Yes, Madam Chair

**CHAIR**—Have you made any personal allegations against the three persons mentioned?

**Mr McGann**—No, apart from that they were with the organisation. That is all I have said.

**CHAIR**—So you have said that they were with the organisation. You are not saying anything against them individually or collectively.

**Mr McGann**—No.

**Mr KERR**—I take you to paragraph 4 in your submission of 11 November 2002. In there you say:

The political interfering becomes more apparent when you also consider that the NSW Labor government has won elections based in part on the Royal Commission ...

I find that puzzling given that it was an appointment of the former Liberal government. That is on page 65 of the transcript. It continues:

... that the individuals connected with the Commission received judgeships out of it (Finnane, Bergin, Bell etc), that many media representatives made authoritative reputations ... others have continued to prosper ...

And you mentioned Hadgkiss.

**Mr McGann**—That is right.

**Mr KERR**—I would have thought anyone reading that would have inferred—I certainly did—that you were asserting that there was political interference in the management and running of the royal commission in the appointment of it by a Labor government—which was patently not the fact—and that those who have been rewarded by judgeships and by other appointments have been so as a result of their willingness to be complicit in some kind of political advantage to the current government.

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**Mr McGann**—That is your interpretation, Mr Kerr. It could well have been through the service they did with the royal commission, possibly good work. I do not know. All I know is what I have told you today about the actions of the royal commission.

**Mr KERR**—Can I just take you to paragraph—

**Mr SECKER**—Can he finish the answer?

**Mr MELHAM**—He did finish.

**Mr KERR**—I thought the substance was answered but I will yield. Please go on.

**Mr McGann**—No, you can continue.

**Mr KERR**—I was not trying to stop you speaking.

**Mr McGann**—No, it is all right. You continue.

**Mr KERR**—Can I take you to page 37 of your original submission.

**Mr McGann**—I do not think there were 37 pages, were there?

**Mr KERR**—Sorry, I mean page 30.

**Mr MELHAM**—There is some confusion with the numbering of the pages.

**Mr KERR**—My apologies. There is a paragraph right towards the end at the second last page before the table that you supplied us which is the summary of actions and dates. In that you say:

I will leave it to Justice Wood for the final word on this section where he states : “(C)orruption does not emerge suddenly. By its nature it is spawned in stealth and only grows in the climate in which it is comfortable ..... It is capable of being arrested but it is equally capable of regenerating and sometimes in forms and to an extent that it is even more malignant than before.”

You say:

I would submit that the corruption has returned in the form of the Royal Commission investigation and is not only more malignant in its return but also provides an example of gross hypocrisy.

**Mr McGann**—Yes.

**Mr KERR**—That would presumably be Mr Justice Wood’s gross hypocrisy.

**Mr McGann**—No.

**Mr KERR**—Well, whose gross hypocrisy is it?

**Mr McGann**—I am talking in a general sense there. The gross hypocrisy I am talking about is that they are using tactics against so-called corrupt police that are worse than the tactics that the so-called corrupt police are using: that is the hypocrisy I am alluding to.

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**Mr KERR**—You are saying:

... Corruption has returned in the form of the Royal Commission investigation and is not only more malignant in its return but also provides an example of gross hypocrisy.

**Mr McGann**—That is right—in relation to us.

**Mr KERR**—Whose hypocrisy is it?

**Mr McGann**—It is general hypocrisy; as I say, for example, fabricating evidence against us when we are charged with fabricating evidence.

**Mr KERR**—When Mr Justice Wood was appointed he must have been confronted with a very difficult situation because he would not have known who to trust within the New South Wales Police Force.

**Mr McGann**—Certainly.

**CHAIR**—Or anywhere else.

**Mr KERR**—He took certain measures. He took measures to appoint persons who were not part of the New South Wales Police Force so that there could be some distance from what was obviously a factionalised and deeply divided police service at the time. He appointed a chief investigator, Mr Hadgkiss from the Commonwealth police.

**Mr McGann**—Yes.

**Mr KERR**—By the way, it is open for you to make a complaint in relation to Mr Hadgkiss's conduct, presumably now to the Minister for Industrial Relations and to have him take action, is it not?

**Mr McGann**—I have made a complaint already. Brian Harding made a complaint to the Commonwealth Ombudsman and I have joined that complaint in relation to Hadgkiss. The Commonwealth Ombudsman has advised that they are not taking any action.

**Mr KERR**—Who did Justice Wood appoint as head of the investigation, as his counsel assisting?

**Mr McGann**—Do you mean in relation to us?

**Mr KERR**—No, in relation to the commission.

**Mr McGann**—I have no idea.

**Mr KERR**—I think you said it was Mr Black.

**Mr McGann**—Sorry, yes, there was a Mr Black, who was the counsel assisting in relation to our matter. I think there was a Mr Agius, but he had nothing to do with our matter.

**Mr KERR**—And he also appointed a director of operations, Mr Hadgkiss?

**Mr McGann**—That is my understanding, yes.

**Mr KERR**—These were Wood's appointments?

**Mr McGann**—Again, I do not know what the process was in these appointments. I am not privy to that.

**Mr KERR**—No-one else appointed them, did they?

**Mr McGann**—I do not know.

**Mr KERR**—It was a royal commission and the decision to appoint counsel assisting and staff for the commission was one for the commissioner.

**Mr McGann**—But whether it was just rubber-stamped by the commissioner or whether a decision had been made further down the chain, I do not know.

**Mr KERR**—I find it pretty odd that you might infer that Mr Justice Wood, a judge of the Supreme Court of New South Wales, charged with the supremely important task of assessing allegations of corruption, would not himself have appointed a person in whom he had great confidence to be director of operations.

**Mr McGann**—I am not trying to get around your question. All I am trying to say is that, in organisations, decisions such as hiring and firing of personnel are left to other managers. That is all I am saying. Whether Justice Wood rubber-stamped those decisions from managers lower down, I do not know.

**Mr KERR**—Let us go back to your specific instance, where you say that you have been dealt with in a way that is unfair.

**Mr McGann**—It was not only unfair but illegal, in my opinion.

**Mr KERR**—I accept that that is your submission.

**CHAIR**—The charges were dismissed.

**Mr MELHAM**—What does that prove? It does not prove it was illegal.

**Mr KERR**—I do not think that proves a jot as far as the propriety or otherwise of the conduct goes.

**CHAIR**—I think we will have to beg to differ.

**Mr KERR**—Let me take you through it. I would understand it from where you were sitting, as a person the subject of an investigation. Go back to what you said. You said that, when the commission was established, they would have gone through to establish a target list. You

identified yourself as part of that target list, along with a number of your colleagues. Why do you think you were picked as part of that target list?

**CHAIR**—He has already explained that; it was the—

**Mr MELHAM**—Let him answer the question.

**Mr McGann**—I never said at any stage that I was particularly part of a target list. All I was part of a brief. The targets, in my opinion—and I do not know; I am not privy to any of this information—as I said before, were Brian Harding and John Davidson. The other three of us were mere collateral damage.

**Mr KERR**—Why do you think those two were picked as targets.

**Mr McGann**—I have already mentioned that. It was because they were good operational detectives. They were good operational CIB detectives. Through the sheer type of work they were doing—dealing with major criminals—they generated—

**Mr KERR**—You are not putting to me that a record of honourable service, of highest commendation, with no public complaint, would be a reason for the targeting of somebody by the Wood royal commission, are you?

**Mr McGann**—I am not putting anything forward about the target—

**Mr KERR**—You are putting forward to me that two people were targeted, and I am asking you why you think they were targeted.

**CHAIR**—He explained that earlier.

**Mr McGann**—I will preface my remarks by saying this: I am not privy to their decision-making or their processes in this royal commission at all. All I can do is look at the evidence there. So, as I said before, why would they target us? Why out of everybody would they target us five? Brian and John were two of the most experienced detectives ever. They were CIB detectives. They never took a backwards step as far as the crooks were concerned. We were just officers—

**Mr KERR**—Let me be blunt about this. Isn't it true that there was a series of allegations, accurate or otherwise, made in relation to the conduct of the squad that you were involved in—that they bashed people; that they thumped people to get confessions, that people were set up?

**Mr McGann**—I have not heard that one before. What squad are you talking about—the breaking squad?

**Mr KERR**—Yes.

**Mr McGann**—No, I have never heard that one. Where did that come from?

**Mr KERR**—I do not know. I am just asking you why you thought you were targeted. These two people, I thought you said, were targeted because they were excellent police officers. But I would have thought that that is an extraordinary reason to be alleging that an independent commissioner for anticorruption activities would be—

**CHAIR**—I understood you to say that these were high-profile policemen who, if something could be proven against them because they had formed enemies over a period of time, would be seen as big scalps and it would be kudos for the investigators who were acting for the commission. That is what I understood you said.

**Mr KERR**—Let me go back. Why would Mr Hadgkiss, say, or those officers who were responsible for establishing targets, and Mr Justice Wood himself, be looking to set people up? They might make mistakes, but why would they be looking to set people up?

**Mr SECKER**—To get some scalps.

**Mr KERR**—So the suggestion is that Mr Justice Wood—

**Mr SECKER**—No, not Justice Wood.

**Mr KERR**—and his team—the people that he appointed, with his confidence—went about a task of setting people up to get scalps.

**Mr McGann**—I can only talk about our case, Mr Kerr. Our case was—

**Mr KERR**—But you have drawn a lot from your case, haven't you?

**Mr SECKER**—Let him finish.

**Mr McGann**—Our case involved fabricated evidence by members of the Wood royal commission.

**Mr KERR**—Can I take you to those 'fabricated' matters?

**Mr McGann**—Sure.

**Mr KERR**—If I were sitting where you are, I would be feeling pretty damn grumpy, too. There is no way easily to identify a complaints mechanism for the conduct of an investigator in this royal commission. Let me also say that there is now no way to investigate misconduct alleged against a royal commission appointed under the Commonwealth Royal Commissions Act. There is no way to investigate misconduct alleged against a building royal commission or any other state royal commission. These are interrogative facilities set up under the executive power, authorised by parliament. Because they are so exceptional, I do not think people have actually thought to establish appropriate mechanisms for such complaints. It is universal.

**Mr McGann**—Let us hope that maybe something will come out of this.

**Mr KERR**—Let me just say this: a record of interview was taken and filed.

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**Mr McGann**—Sorry: who are you speaking about now?

**Mr KERR**—This is the record of interview which you say was doctored. Am I correct?

**Mr McGann**—The record of interview was a record of a conversation. It was a statement. The narrative statement was—

**Mr KERR**—Let me take you through what I understand to be the facts, and challenge me where I get it wrong, if I do.

**Mr McGann**—Yes.

**Mr KERR**—Somebody, as a result of work being done within the royal commission, interviewed a person who made allegations against you, and that interview was taped.

**Mr McGann**—I will pull you up on that one. Witness YM3, who was the subject of those transcripts and that statement, had not made allegations. He was part of the investigative process. YM1 was the original instigator; he was the paedophile cat-burglar. He was the one who the royal commission kicked off by interviewing. As in the course of any investigation, they have then gone out and got their brief together; they have interviewed their witnesses. YM3 was merely another one of those witnesses; he did not offer any complaint. I say this just to clarify the matter.

**Mr KERR**—He was a witness who they interviewed, and they made a tape of that.

**Mr McGann**—Yes.

**Mr KERR**—That tape was, presumably, recorded, put safely aside, properly filed and transcribed.

**Mr McGann**—Yes. That would be the process, for sure.

**Mr KERR**—Then, to facilitate the production of a prosecutorial brief, various documents were put together, including what was asserted to be a summary, or a proof of evidence that emerged out of that transcript, and that was sent to the DPP.

**Mr McGann**—If I understand you correctly, you are referring to the narrative statement. The narrative statement is able to be tendered to court; it has a jurat at the beginning of it where it says that ‘this statement is true and correct’ et cetera. It is a typical, standardised police statement, and it has come from the transcript of the interview that the royal commission had. It has been transcribed into the form of a narrative statement.

**Mr KERR**—But it does not purport to be a transcript of a record of interview.

**Mr McGann**—No, it is not the transcript of that interview.

**Mr KERR**—It never purported to be that.



**Mr McGann**—No, it has never purported to be that; I never said that.

**Mr KERR**—That is what I was trying to clarify. I have worked on both sides, in prosecution and in defence. I have often come across instances where a summary of what a witness is proposing to say is made up which is not the actual transcript of what was said to the police but, rather, a summation, with a jurat saying, ‘This is what I propose to say.’

**Mr McGann**—I have done that myself to facilitate the crown prosecutor in knowing what the evidence is. But that is a separate document to the one I handed in over there. The one I am talking about is witnessed by the person taking the statement and signed by the person the statement has been taken from.

**Mr KERR**—The witness actually signed that as an account of what testimony he would give?

**Mr McGann**—Yes.

**Mr KERR**—Which leads to two possibilities—one of which is innocent and one of which is corrupt. The innocent one is that there were further discussions, the witness clarified some points and a document was created which consolidates what was an informal interview in the first place and presents it under his signature. There may be differences between that and the original document, but the explanation is entirely innocent. Alternative B—one of course which, in your circumstances, one would understand you holding this view—is that there was a deliberate decision to concoct a story that was contrary to that which was the truth.

**Mr McGann**—Yes.

**Mr KERR**—But no attempt was made to remove from the files—if it were a corrupt process—the materials which would enable you to test this.

**Mr McGann**—That is right.

**Mr KERR**—So, if there were corruption within this system, one would have thought the sort of thing we heard yesterday, where documents were allegedly being destroyed, would have occurred. If one were trying to set you up, one would have wiped the tape, pulled the transcript and just proceeded. You would have been none the wiser. Your subpoena would have been answered.

**Mr McGann**—‘Can’t find the records.’

**Mr KERR**—Can’t find the records and you would be speaking to us from Long Bay at the moment.

**Mr McGann**—Berrima, I would say.

**CHAIR**—People who are corrupt are not always that efficient.

**Mr KERR**—I am making the point that there is an innocent explanation of these events as well as a corrupt possibility.

**CHAIR**—I would wear that explanation if the original document had gone forward to the DPP.

**Mr MELHAM**—It is not a matter for you, Madam Chair. There are other inferences that can be drawn. It is a matter of law that you can only draw an inference if it is the only inference that can be drawn. Mr McGann knows that.

**Mr KERR**—If I were in Mr McGann's shoes, I am pretty certain I would be sitting where he is feeling pretty aggrieved because there is not a complaints mechanism here. I am trying to make the point that this is pretty typical of the way in which royal commissions operate.

**Mr McGann**—I do understand the point you are making; I really do, but may I make one point about what you are saying. You used the words grumpy and aggrieved as far as where I sit at the moment. I really am beyond that. I am not coming here for any revenge. I am not suing anybody. I am just here because, as a member of society, I cannot accept unaccountable behaviour. I am accountable. You people are accountable. I just cannot accept it. Unless there is a certain reason, which in my Aquarian curiosity I do not understand, for which they are not accountable, fine, great, but someone tell me why.

I can understand what you are saying. When I received the subpoenaed documents—and this is only one of four statements; I have not done this for the other three statements yet—I thought to myself: 'Could they have been that stupid to have done it? Could they have been that thick to have actually left original evidence there for it to be traced back?' I do not have an answer to that; maybe they do, but I certainly do not. All I can do is to put it to you that the disparity is 75 per cent of that narrative statement, which was the document—as you know from your practice and Mr Melham would know—that is the prosecution brief to issue the summonses to charges. So I do not understand.

**Mr KERR**—I am just saying that there is the possibility of two explanations. You would accept that; I accept that, and we move on. The next point relates to this issue about the supply of heroin. It is not a matter that I have any knowledge of, so I do not pretend to. I know that under request from the New South Wales state government and, I think, the then Premier Fahey, the Keating government authorised some quite extraordinary powers for wire-taps and telephone interceptions to assist the work of the Wood royal commission. I think, if I am correct, this occurred before the decision arising out of South Australia that said that some aspects of controlled operations would be unlawful—I cannot remember the name of it.

**Mr McGann**—Are you speaking about the controlled operations act where police are regulated in controlled operations by an act of parliament?

**Mr KERR**—I do not know the chronology, but I think—

**Mr McGann**—That act in New South Wales came after the royal commission.

**Mr KERR**—If I am correct, I think this is the chronology.

**CHAIR**—What act came after that?

**Mr KERR**—It was the controlled operations act.

**Mr McGann**—I think it was called the Law Enforcement (Controlled Operations) Act and it came in in 1997.

**Mr KERR**—Can I outline what I understand to be the chronology? I understand that there was a decision arising out of an importation of heroin in South Australia. Mr Melham might remember the case name. It concerned a controlled operation which was held by the High Court to be unlawful.

**Mr MELHAM**—That was Ridgeway.

**Mr KERR**—That is right, Ridgeway's case. It happened during my time as a minister, so it is burnt into my mind.

**Mr MELHAM**—There was some disagreement within the Labor Party as to how we should proceed in response to that judgement.

**Mr SECKER**—I cannot imagine that!

**Mr KERR**—Until the Ridgeway decision, it had been the practice for both Commonwealth and state police to have an authorisation internally, within the police force, for what I would call controlled operations. Controlled operations were essentially stings. They could involve buying or selling heroin with a view to setting up somebody for a later arrest, facilitating the transport of heroin or setting up a place where stolen goods might be sold so that the thieves could be picked up.

**Mr McGann**—Yes, I understand.

**Mr KERR**—All of that was done with no legislative framework; it was done by permission of the police commissioner of the day with written instructions. Ridgeway's case said that if, in the course of this, a law is broken, that evidence may not be admissible. So first the federal parliament passed a controlled operations act and various states passed controlled operation acts. But I think the Wood commission would have been operating before Ridgeway, so the practice would have been that any controlled operation would have been authorised by the person in direct command of those operations. I do not know whether there was a controlled operation to sell hot drugs with a view to get corrupt police; that is an inference. You say you cannot establish that by evidence. You believe that to be the case and others might be able to testify to that.

**Mr McGann**—Certainly. That is right.

**Mr KERR**—If there were such a thing at that time, I assume it would have been authorised in the same way as other controlled operations would have been before legislative frameworks were put in place?

**Mr McGann**—In answer to your question, I do not know.

**Mr KERR**—But you would have done controlled ops, wouldn't you?

**Mr McGann**—No.

**Mr KERR**—You never did them?

**Mr McGann**—No. I locked up murderers, armed robbers and rapists.

**Mr KERR**—I suppose you do not set up controlled operations for murderers, do you?

**Mr McGann**—No, not with a murder you don't.

**Mr KERR**—I have to tell you that the drug squads of every state jurisdiction ran controlled ops. It was not unusual. It was done to set up the big guys so that you would trace the chain up. I am just trying to put it in context: if there were a controlled operation it would not be outside the amazing scope of things that were happening around law enforcement at the time.

**Mr McGann**—I think I understand your question. My reading of Justice Viney's transcript indicates that John Agius, who was one of the counsels assisting Justice Wood, sought advice from the Solicitor-General—but it was not written advice—about this particular operation. That is my understanding of it. You will find that on page 23 of Justice Viney's judgment. It says: 'The advice was not written, said Mr Agius, and the content was not forthcoming, it having been declared by earlier judges to be privileged, or so I assume from reading the transcripts of the evidence of Mr Agius in previous trials.'

**Mr KERR**—If it were before Ridgeway, I would have expected that advice to be, 'Yes, you can lawfully proceed with it.' If it were after Ridgeway, I would say the Solicitor-General gave them bum advice.

**CHAIR**—Was this operation for the purposes of a criminal prosecution or was it for the purposes of the royal commission to expose corrupt police?

**Mr McGann**—It was my understanding that it was there to try to expose corrupt police at Kings Cross.

**CHAIR**—Into the royal commission?

**Mr McGann**—Into the royal commission.

**CHAIR**—So they are not bound by the rules of evidence in the way that a court is, anyway.

**Mr McGann**—No.

**CHAIR**—So the Ridgeway case would not have made a difference either way with regard to the commission?

**Mr McGann**—That is right.

**CHAIR**—Were there in fact dead addicts, who took the strong heroin? Were there dead bodies? Did they die?

**Mr McGann**—I do not know. I have no facts or figures about that all, but I am sure that could be found out through the records of the Coroner's Court.

**CHAIR**—So the evidence that you heard on the tape and the evidence of the person talking into his own wire system showed that they were concerned that people had died or might die?

**Mr McGann**—You hear the informant saying, 'It's killing them. It's killing them.' You can make your own interpretation. My interpretation is yes, they had overdosed up there.

**CHAIR**—Presumably, there must be records if there were overdoses in that precinct.

**Mr McGann**—Certainly.

**Mr KERR**—I have the statistics for the number of opiate overdose deaths between 1998 and 2001, and you would not draw much from these. There does not seem to be any statistical number that you could identify as an increase for that period.

**Mr McGann**—Nothing jumps out at you—is that what you are saying?

**Mr KERR**—In fact the numbers jump greatly after that period. In 1996 there were 244 deaths in New South Wales, in 1998 there were 358 and in 1999 there were 401, so it was actually a fairly low period, historically. But I draw nothing from that.

**CHAIR**—I am sorry, Mr Kerr, were you saying there were no deaths?

**Mr KERR**—No, I am simply saying that I do not draw much from the fact that that was a period where, statistically, there were fewer deaths from heroin overdoses than in later years. I draw no comfort from that. And I am certain that no-one in the responsible position of running a controlled operation would give any comfort to the idea that it is leading to the deaths of innocent people.

**Mr McGann**—The only thing I would say to that is that even one death, if it were occasioned, is too many.

**Mr KERR**—Of course. I do not think anyone would dispute that.

**Mr McGann**—You are talking about Ridgeway. I do not know about Ridgeway at all and I do not know about controlled operations. I am not disputing the fact that they were able to do controlled operations—for sure, that would be par for the course—but I am disputing the logistics of those operations. I am talking about the higher purity of heroin.

**Mr KERR**—I understand. People can make mistakes. I am just over 50 and I have made some pretty dumb ones in my life. Good police will make mistakes, and bad police will make

mistakes. Hopefully bad police get caught as a result of their mistakes and good cops do not get set up because of their mistakes.

**Mr McGann**—Of course—that is right.

**Mr KERR**—But we all make mistakes.

**Mr McGann**—I understand that. I am just creating awareness of this particular issue.

**Mr KERR**—I do not know for certain—and neither can you—that this actually happened. We know that you heard tapes in which people were speaking of these events, and obviously these will be followed through further.

**Mr McGann**—I am hoping so.

**Mr KERR**—I do not think it would be disputed either that there was a pretty serious issue to go after. The allegations that were then current, if I am correct, were that the cops were running the drug trade in the Cross, in New South Wales and in other places—that basically was the word on the street. I know through my own experience that there was deep suspicion within the Australian Federal Police when they had contact with their New South Wales counterparts or some sections of them that, in relation to joint operations where they were chasing large shipments of drugs down the coast of Australia or through New South Wales, they had to be particularly careful with that liaison because otherwise it would go directly back to the people who were running these major operations. So I am pretty aware of the seriousness of these sorts of matters and why, if you were in Commissioner Wood's shoes, you would want to pursue those issues vigorously.

**Mr McGann**—Sure. I do not know anything about what you have said. It may or may not be true. I do not know; I have no evidence about that. All I can say is: all right—this fact exists, this exists here; therefore, they are doing this operation to try to catch corrupt police. That is all I can say. I do not know the strength of their intelligence; I know nothing more about it.

**Mr KERR**—But it is not a bad motive, is it?

**Mr McGann**—To what?

**Mr KERR**—To catch corrupt police.

**Mr McGann**—Of course it is not.

**CHAIR**—Not if it is going to kill people.

**Mr McGann**—That is right.

**Mr KERR**—I have a problem with the generality of your evidence, if I can say that. Your career has not been adversely affected, because of the good fortune of the circumstances of your employment, but if I had been in your shoes I would certainly have had my gut turn over—and you say you have had sleepless nights.

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**Mr McGann**—Sure.

**Mr KERR**—I cannot think of anything more miserable than an allegation of corruption.

**Mr McGann**—Particularly when it is unfounded.

**Mr KERR**—It happened to me once. I litigated and sued as a result of it, and I remember how awful I felt. I had to make statements in the parliament.

**Mr McGann**—But you were lucky that you were able to sue; I have been told that I cannot.

**Mr KERR**—I understand, and I am not trying to diminish your evidence.

**Mr McGann**—I am just making a point.

**Mr KERR**—In fact, I am trying to say that I understand why you are sitting there and making these statements.

**Mr MELHAM**—I do not.

**CHAIR**—Why are we not surprised.

**Mr KERR**—Drawing from a particular circumstance, you have made very sweeping generalisations about the corruption of the royal commission.

**CHAIR**—I think he has made some very particular statements.

**Mr KERR**—You have gone to a series of persons rising right up the chain to at least Hadgkiss, who, if I am correct, was second only to counsel assisting the royal commission.

**Mr McGann**—I do not know what his position was. I do not know where he sat in the hierarchy. I have no idea if there was anyone in front of him.

**Mr KERR**—He was pretty high up.

**Mr McGann**—Okay.

**Mr KERR**—He is a man who the federal government, through Tony Abbott, has now appointed to a role in another royal commission where, if any instance occurred where a person felt they had been dealt with in an improper way, they would equally not have an easily available avenue of complaint because there is not one under that federal legislation. You have made that allegation—it is a pretty damning one—about a person who has been given high responsibility by a federal minister. I cannot understand why you make that large jump from the particular people who may have made a mistake in relation to you—

**CHAIR**—Let the witness answer that.

**Mr McGann**—Yes, that is no problem at all. I said right at the beginning that this is a hierarchical thing. If you recall, I did say that in an organisation like a royal commission or the CJC or the NCA—whatever organisation name you want to put to it—you cannot scratch yourself without letting your team leaders know. My experience with the NCA and the CJC was that your team leaders were usually lawyers, and the chain of command goes up from there.

**Mr KERR**—If it is a hierarchal situation, doesn't the buck stop with Mr Justice Wood?

**CHAIR**—No.

**Mr KERR**—You have just said that it is a pyramid.

**Mr McGann**—It is a hierarchy, like any other organisation.

**Mr KERR**—It is a hierarchy, and at the top of that hierarchy is the man charged with the responsibility of rooting out corruption in New South Wales, Mr Justice Wood. I find it extraordinary to say either that he was so incompetent that he allowed those he had respect for, and to whom he gave carriage of the investigations that he had responsibility for, to act corruptly and malevolently towards those who were innocent or that he himself was participatory in it.

**CHAIR**—That is an outrageous proposition, Duncan.

**Mr KERR**—It must be true!

**CHAIR**—It must not be true at all. If you really think that Mr Justice Wood personally went out and hand-picked Mr McGinlay from South Australia or somebody else any more than you, Duncan Kerr, when you were the Minister for Justice, went out and hand-picked everybody who worked for you, it is a nonsense to say so—and not every decision went through to you either.

**Mr MELHAM**—Why don't you take the witness box, Madam Chair, and give some evidence on this in terms of your experience.

**Mr KERR**—There is only a minute or two to go.

**Mr MELHAM**—She makes comments with only two minutes to go.

**CHAIR**—The long and the short of it is that this works both ways, doesn't it?

**Mr KERR**—I will defer to Mr Melham for a minute, but we may return.

**CHAIR**—Yes, we will.

**Mr MELHAM**—For the record, I have had a conversation with the chair and indicated that I was happy for Mr Kerr to continue. Given the time constraints I did, however, want to make a short statement because there is a number of—

**CHAIR**—In the nature of questions would be good.

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**Mr MELHAM**—In the nature of questions, I told you that I would reserve my questioning until the next day that Mr McGann comes here, but I did want to make a short statement—

**CHAIR**—We will see what it is.

**Mr MELHAM**—in view of what he has said, to put some things in perspective because some names were mentioned. I think the public record of my association with a number of people who have already been mentioned in Mr McGann's submission should be put out now so that people know where I am coming from.

**CHAIR**—I think we know that.

**Mr MELHAM**—I was admitted as a solicitor of the Supreme Court of New South Wales on 13 July 1979.

**CHAIR**—Gee, I was in there in 1967.

**Mr MELHAM**—You can make your own statement; I think it is important for me to make mine. You agreed for me to make this statement; I would appreciate it if you gave me the courtesy of listening.

**CHAIR**—I agreed for you to have participatory time. Now, get on with it.

**Mr MELHAM**—I joined the Legal Aid Commission of New South Wales as a public solicitor in December 1979. I went through to become solicitor in charge of the Legal Aid Commission of New South Wales until I was admitted as a barrister of the Supreme Court of New South Wales on 25 September 1987. I took up appointment as a public defender for the state of New South Wales on 6 October 1987 and resigned that position to contest the federal election. I resigned the position as public defender on 20 February 1990. I was elected to federal parliament on 24 March 1990.

Michael Finnane has been a longstanding personal friend of mine since 1974. He moved my admission as a solicitor of the Supreme Court of New South Wales in 1979, and he moved my admission as a barrister. Virginia Bell, who has been mentioned, served as a public defender with me, and I know her personally and regard her as a friend. I know that she is now a justice of the Supreme Court of New South Wales. In relation to Ms Bergin, I know her because she prosecuted a number of cases, and one in particular when I was the instructing solicitor.

A number of judges have been mentioned. I had contact with people like Judge Court, Judge Viney and the barrister Mr Agius when I was a solicitor in New South Wales practising with the Legal Aid Commission. A number of those people were prosecutors; they were privately briefed. I have nothing but the highest regard for each and every one of them. You should understand that I practised as a solicitor and as a barrister in the District and Supreme Courts in New South Wales. I still have an unrestricted practising certificate.

**CHAIR**—So have I.

**Mr MELHAM**—As far as a number of these people are concerned, and in terms of this different era that Mr McGann has come across, I certainly have not spoken to them about this inquiry, but it may well be possible that, when I was a Legal Aid solicitor or a public defender, we met in the District Court at Parramatta, Liverpool or maybe Campbelltown where I served as a public defender or, indeed, when I practised as a solicitor in the District Court in Sydney. I think it is important to point out that I knew a number of these people personally in that era. I hold them in nothing but the highest esteem. I do think that any inference that can be drawn is a long bow in terms of chain of command. That is where I am coming from.

**Mr McGann**—You mentioned Justice Court. I did not mention Justice Court.

**Mr MELHAM**—No, but he was mentioned yesterday.

**Mr McGann**—I was not aware of that.

**Mr MELHAM**—Judge Court was formerly a public defender in New South Wales. He was not a public defender at the time that I was; he was appointed a District Court judge at the time I was practising full-time in New South Wales.

**CHAIR**—Thank you very much for that. Mr McGann, thank you for the evidence that you have given today.

**Mr KERR**—The chair might wish to write to the minister about Mr Hadgkiss and the evidence that has been provided. I do not join in any condemnation of Mr Hadgkiss.

**Mr MELHAM**—Nor do I.

Resolved (on motion by **Mr Secker**):

That this subcommittee authorises publication, including publication on the parliamentary database, of the proof transcript of the evidence given before it at public hearing this day.

**CHAIR**—As I indicated earlier, if Mr Melham or Mr Kerr have other questions to ask, I am sure Mr McGann would be pleased to come back.

**Mr McGann**—Certainly.

**CHAIR**—We will set aside a separate time for that. As I mentioned, we have two people who have constraints: Dr Chadbourne has to go to Malaysia and Mr Martin has come all the way from Brisbane. As we may only be in this room until four o'clock, the secretariat has asked Mr Fenlon if he would return to the hearing next week in this parliament house. Accordingly, Mr Fenlon, we will make that time for you to come back. I will now call Dr Chadbourne.

**Mr KERR**—Sorry, Madam Chair, I—

**CHAIR**—I am going to call Dr Chadbourne. We will swear him in, then we will take a five-minute break.

**Mr KERR**—Thank you. That was my request.

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**CHAIR**—We will formally call him, bring him forward and swear him in, then we will take that break.

[12.51 p.m.]

**CHADBOURNE, Dr Edwin (Private capacity)**

**CHAIR**—Welcome, Dr Chadbourne.

**Proceedings suspended from 12.51 p.m. to 1.04 p.m.**

**CHAIR**—Dr Chadbourne, we have been through the formalities, so I will now ask you if you would like to make an opening statement. But before I do that, you have supplied the committee with a substantial bundle of documentation. The first item is entitled ‘Documentary evidence in support of submission’. That is the submission you have already made.

**Dr Chadbourne**—That is correct.

**CHAIR**—Because we have not had an opportunity to go through it to see if any of it should be confidential, when you are giving your opening statement would you refer to this sequentially so that we may deal with it in that way.

**Dr Chadbourne**—Yes, Madam Chair. I would be happy to do that.

**CHAIR**—Thank you. Would you like to begin.

**Dr Chadbourne**—Yes. I wish to thank the members of the standing committee for inviting me here today to participate in this inquiry. By way of introduction, I have been a career human resource management executive for the past 30 years. During that time, I held principal human resource management executive positions with Hooker Corporation for four years, Australian Guarantee Corporation for three years, Citibank Australia for five years and NatWest Australia Bank for three years. I was NatWest Market’s Asia-Pacific regional head for five years, based in Hong Kong.

I also worked for the New South Wales Police Service for 2½ years, from 11 September 1999 to 12 February 2002, as Executive Director, Human Resource Services, reporting directly to former commissioner Peter Ryan and being one of five senior executives who formed the commissioner’s executive team. On 12 February 2002 I was removed from executive office in the Police Service without notice and without reason. On 11 June 2002 I joined Raine & Horne and I now hold the position of group general manager with that organisation. My qualifications include a bachelor of science, a master of business administration and a doctor of philosophy in business administration, majoring in human resource management. I am a fellow of the Australian Human Resource Institute and was elected its New South Wales president for three consecutive years, from 1979 to 1981.

As a member of the commissioner’s executive team for 2½ years—up to 12 February 2002—I believe I was uniquely positioned to observe first-hand what was happening behind the scenes in police headquarters at the most senior level during that period. Directly reporting to former commissioner Peter Ryan and having been personally selected by him twice—initially on a 12-month contract, followed by a further three-year contract to 11 December 2003—I enjoyed his

confidence and support up until 10 September 2001, when I gave evidence as a witness in the Police Integrity Commission's Operation Malta public hearing which embarrassed him.

**CHAIR**—Are you going to tell us what evidence that was?

**Dr Chadbourne**—Yes, I am happy to do that at a subsequent period during this hearing. In my submission to the standing committee, I mentioned a number of matters. The first of those matters involves the abuse of power and improper conduct on the part of former assistant commissioner Mal Brammer, who set me up as a sacrificial lamb in the PIC Operation Malta inquiry. On 2 April 2001, approximately five months before I was admitted into the witness box of the Police Integrity Commission inquiry, a meeting was held between Mal Brammer and the police legal team. At that meeting, a legal strategy was developed that would be applied to the Operation Malta hearing.

The pivotal role that Mal Brammer played in that meeting on 2 April 2001 can be seen from the following comments, which were made by various people who attended the meeting. It is my intention now to basically outline what was said at that meeting, as it affected me. Barry Toomey QC said, 'Ever resolved Chadbourne with Commissioner of Police?' Assistant Commissioner Brammer: 'No—a lot of politics with human resources. The big issue is the people issue. Everyone is working against the boss'—that is, the commissioner. Toomey: 'Chadbourne one of them?' Brammer: 'Seems like dizzy Lizzy to me. Boss, you've got to do something about it. Can't keep complainant.' That is me. Toomey: 'We must go for Chadbourne. Into each life some rain must fall. Any reason we can't give Chadbourne a serve?' Superintendent Robert Redfern, one of the police legal team solicitors: 'Need instructions.' Toomey: 'All things pointing at him.' Brammer: 'What you sometimes need is a sacrificial lamb.' Toomey: 'Cop won't string Chadbourne up if two people to blame—Seddon and Chadbourne.' Brammer: 'Chadbourne an innocent abroad.' Toomey: 'It's squarely down to Seddon and human resources.'

**Mr KERR**—There is a transcript of this in your written submission but it seems to omit some of the material you are now reading to us.

**Dr Chadbourne**—My intention is to elaborate on my initial submission.

**CHAIR**—Is what you are reading out part of the full transcript?

**Dr Chadbourne**—There are a few more pieces of this conversation which do not appear in my original submission but, for the sake of completeness, I would like to mention them now.

**CHAIR**—And then you might tell us why they were not in your original submission.

**Dr Chadbourne**—Yes. Brammer: 'Chadbourne an innocent abroad.' Toomey: 'It's squarely down to Seddon and HR.' Brammer: 'That's where we have got to retrieve the boss.' Alison Stenmark, junior counsel: 'When talking maladministration—sinister?' Toomey: 'This area was badly administered. Track it down to Seddon, Homewood and Chadbourne.' The reason I did not put the last exchanges in my original submission was in the interest of conciseness and for no other reason.

**Mr KERR**—This is a verbatim account? I am sorry I was not in the room when you commenced. From what source has this been transcribed?

**Dr Chadbourne**—It is from an impeccable source. This information was released to me by the Police Integrity Commission on 7 December 2001.

**Mr KERR**—As a transcript or as a tape—in what form?

**Dr Chadbourne**—It took the form of information contained in a solicitor's accompanying file, which the Police Integrity Commission had requested to be provided to them by the police legal team. The production of that statement was originally resisted by the police service legal team, quoting various statutes, et cetera. But the Police Integrity Commission gave it due consideration and decided that in the public interest they would still require the police service to submit that solicitor's accompanying file. I have just quoted from an exact—

**Mr KERR**—Just to clarify—and I am not cross-examining you here; I am just trying to identify it—this is a note made by that solicitor? It is his file note that was released to you?

**Dr Chadbourne**—That is right.

**Mr KERR**—It is not a transcript of a tape recording?

**CHAIR**—It is a transcript of a solicitor's file.

**Mr KERR**—It is a typed account of what was presumably a handwritten note made by the solicitor of a conversation at the time?

**Dr Chadbourne**—That is correct. What I am suggesting here is that Mal Brammer conspired with the police legal team to set me up as a sacrificial lamb in the Operation Malta public hearings at PIC. They developed the strategy in April, about five months before I was called as a witness in the Police Integrity Commission hearing. It was when I appeared for five days in the witness box at PIC that the strategy developed by Brammer in concert with the police legal team was actually implemented. When I appeared in the police witness box in September 2001 Assistant Commissioner Brammer, through Mr Clive Steirn, his senior counsel, vigorously set out to implement that strategy which was developed in April—the 'Chadbourne as sacrificial lamb' strategy.

**CHAIR**—What were you to be sacrificed for?

**Dr Chadbourne**—We may get to that later, but it was basically an effort to protect other people who were appearing as witnesses in Operation Malta.

**CHAIR**—This was an investigation into the CMSU?

**Dr Chadbourne**—That is correct.

**CHAIR**—That was brought down only a week ago—

**Dr Chadbourne**—That is right.

**CHAIR**—and in which nobody is found guilty of anything?

**Dr Chadbourne**—That is right, yes.

**Mr SECKER**—What is the CMSU?

**CHAIR**—That was the support unit set up by Commissioner Ryan to oversight the cultural change that was recommended by the Wood royal commission. Would that be a fair description?

**Dr Chadbourne**—That is exactly right. So, through his senior counsel, Mal Brammer set about aggressively proving that I was guilty of maladministration, particularly in relation to wasting public moneys, condoning espionage, professional incompetence and losing objectivity as a result of falling under the influence of some people I was supposedly championing. The evidence of that sweeping statement is contained in the transcripts of PIC hearings on 5, 6, 7 and 10 September 2001. I think that all the transcripts need to be examined to put my comments into proper context, but, if I could refer to a few extracts of the transcript, that will give you an indication of the nature of Mr Steirn's cross-examination of me. Incidentally, it quite clearly shows that, rather than me being considered as a witness, I was not in there as a witness; I was on trial for maladministration.

**CHAIR**—To put that in context: you were part of the executive team in Commissioner Ryan's office?

**Dr Chadbourne**—Yes.

**CHAIR**—And you were responsible for overlooking this new unit?

**Dr Chadbourne**—At one stage the Crime Management Support Unit people did report to me—or at least some of them did—before it was reformed and placed under the Crime area.

**CHAIR**—Another member of the executive team, of which you were a part, was Assistant Commissioner Jarratt, who was then also fired.

**Dr Chadbourne**—He was fired by fax.

**CHAIR**—And didn't he get a payout? Isn't that why they changed the law?

**Dr Chadbourne**—Yes, he got a very substantial payout.

**CHAIR**—Mr Moroney was a member?

**Dr Chadbourne**—Yes.

**CHAIR**—You were a member.

**Dr Chadbourne**—Yes.

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**CHAIR**—Mr Des Mooney was a member.

**Dr Chadbourne**—Yes.

**CHAIR**—And the then executive director, management services?

**Dr Chadbourne**—That was Mooney.

**CHAIR**—Okay. Was that all the executive?

**Dr Chadbourne**—There was another person called Sean Crumlin, who was acting executive director of organisational planning and development—OP&D, it was called. When I appeared in the witness box, Mr Steirn, on behalf of Brammer, subjected me to a very rigorous examination on a booklet entitled ‘Best practice, best person: Integrity in public sector recruitment and selection’. I had never seen that book before, and yet I was examined on it. I was asked to read each section and put it in my own words and asked whether I understood it and whether I supported it. When Mr Steirn gave me that booklet, he said, ‘Can I bring your attention to a document?’ That was an ICAC document dated May of 1999. At the time he presented that booklet to me, Mal Brammer was head of investigations for ICAC. I refer to the transcript dated 5 September 2001, pages 3238-3247. That is part of the evidence that you have there, Madam Chair.

I was then drawn into a line of questioning which, quite transparently, was designed to establish that I was guilty of wasting public moneys as a consequence of not addressing Jim Ritchie’s travelling allowance situation. That is in the PIC transcript dated 5 September 2001, on pages 3250-3255. The line of questioning about my neutral reaction to negative comments about Jim Ritchie made by the then principal of the police academy, Commander Reg Mahoney, was clearly intended to publicly diminish my credibility in terms of objective decision making and the exercise of sound judgment.

As part of Mr Steirn’s tactical approach, it was put to me that, in effect, I had covered up allegations of espionage by failing to adequately brief Commissioner Ryan about allegations that had been made to me about deputy commissioners Moroney and Jarratt. My professional credibility was further attacked on a number of occasions when Mr Steirn addressed me, saying:

Can I also suggest to you that you were seduced by both Mr Seddon and Mr Ritchie and became their champions in all negotiations with the police service? I suggest to you that the reason you did not carry out the very step which you were entrusted to do was because you had lost your objectivity and you became Mr Ritchie’s champion. You see, that is why I am suggesting to you what you call ‘practicalities’ is really your lack of objectivity in dealing with Mr Ritchie.

**CHAIR**—I think it might be helpful for the other members of the committee, who might not be familiar with Malta, to say that the allegations began back in October 2000 when Mr Herring, Mr Lazarus and Chief Inspector Olsen lodged a formal complaint. The complaint stated that there was an undermining of this new unit and that it was not being given the support that it required in order for it to carry out the task that Ryan had given it—that is, to oversee this cultural change. Is that a good description?

**Dr Chadbourne**—Yes.



**CHAIR**—And that, subsequently, there was what you might call a lot of infighting about which—

**Mr KERR**—Where is this from?

**CHAIR**—This is from the report of Malta itself.

**Mr MELHAM**—I have not seen that.

**CHAIR**—It was brought down in the state parliament about a week ago.

**Mr KERR**—It would be useful if it was supplied to us, because you are referring to material which I have not sighted. I know that there was a report called *Operation Malta*.

**CHAIR**—Dr Chadbourne's evidence is all about Malta.

**Mr KERR**—I am not disputing that; it would just be useful.

**CHAIR**—That is why I am putting it into context; it helps people understand what it is. I think that what you are saying to us, Dr Chadbourne, is that you were the fall guy to stop other people being blamed for the failure of the unit and the waste of the money.

**Dr Chadbourne**—That is correct.

**CHAIR**—Then this document came out and, after all these days and 61,000 pages of evidence, nobody was found guilty of doing anything.

**Dr Chadbourne**—That is right. It was a whitewash.

**Mr MELHAM**—What was the whitewash?

**Dr Chadbourne**—The whole investigation was a whitewash.

**CHAIR**—I am sorry to interrupt you, but that was to put it into context.

**Mr KERR**—Can we please go back again? Please understand, I have not seen that report. As I understand it from our first witness, this Operation Malta is the inquiry that Mr Justice Urquhart was charged with responsibility for undertaking. Is that correct?

**Dr Chadbourne**—That is correct.

**Mr KERR**—So, a judge of the New South Wales Supreme Court was actually commissioned—and I do not know whether it was formally or informally—to undertake that task. I do not know what the nature of that commission was.

**Dr Chadbourne**—I don't know either, but he was certainly the presiding—

**CHAIR**—I am sorry to interrupt your statement, Dr Chadbourne. Yesterday I said that Tim Sage had appointed Mr Justice Urquhart and had given him all the powers to conduct the inquiry but not to write the report, and I said it was on the public record. Well, it is—there is the appointment, in the back of the report. It says that the appointment is pursuant to subsection 11(4)(b), which, in fact, sets out the things he may not delegate to Mr Justice Urquhart by making him an assistant commissioner. One of the things that he is not permitted to delegate to him is:

(a) a function of making a report under this Act.

But then it gives an exclusion. It says:

(6) The functions referred to in subsection (5) may be delegated—

that is, the ability to report—

to an Assistant Commissioner (and an Assistant Commissioner only) if the Assistant Commissioner has special legal qualifications.

Well, he is a justice of the court; he is Judge Paul David Urquhart. However, he was not given the power to make the report, which was why I said yesterday that nobody has any idea who wrote this.

**Mr MELHAM**—I do not want us to be at cross-purposes in relation to Judge Urquhart. Again, he is someone who I have had associations with and who has a fine reputation in New South Wales. You do not make any—

**Dr Chadbourne**—No. I think he is a magnificent individual.

**Mr MELHAM**—Absolutely.

**CHAIR**—The point I was making was that he was appointed by Mr Sage to conduct the inquiry but not to write his own report.

**Mr MELHAM**—That is another matter. I just did not want to be at cross-purposes.

**Mr KERR**—I do not think I draw that conclusion from what you have thus far said. Before I put that as a conclusion, I would want to hear how the actual process operated. I think it is equally open to say that Mr Justice Urquhart conducted an inquiry and, whilst it was formally put before the parliament as a document in the form it is tabled, it is the content and summary of Mr Justice Urquhart's conclusions. I do not know whether that—

**CHAIR**—But not as concluded by him.

**Mr KERR**—I do not know whether that is true or otherwise, but I think it would be unlikely that a Supreme Court judge would lend themselves to participate in a farce. If it be so, it is then a matter which presumably—

**CHAIR**—Here it is.

**Mr KERR**—Madam Chair, you are drawing a very strong conclusion about the gullibility of the justice of this court.

**CHAIR**—No, I am just saying what it says.

**Mr KERR**—No. You are drawing a conclusion from something which does not appear, to me, to justify that conclusion, and I do not think an independent observer would make that judgment either. But let us pass on.

**Dr Chadbourne**—After several hours—and I will bring this section to a fairly quick conclusion—of vigorous cross-examination by Mr Steirn on behalf of Mal Brammer, in which Mr Steirn consistently implied that I had carriage of all negotiations regarding the establishment of Jim Ritchie's salary, Mr Steirn abandoned that line of questioning, saying, 'I may well have done you a grave disservice, Dr Chadbourne.' He then disclosed documents which clearly indicated that Commissioner Ryan had personally concluded the negotiations for Jim Ritchie's salary. It is my understanding that former Assistant Commissioner Brammer is now with the Independent Commission Against Corruption as officer in charge of investigations. Given what I know and have been talking about here today, that causes me great concern personally, and I think it should be a matter of serious public concern also.

Moving to the second matter in my written submission, it involves a serious conflict of interest and improper conduct on the part of the police legal team which developed and implemented the 'go for Chadbourne' strategy. On 3 December 2001, the Police Integrity Commission released to me various documents—and those documents are copied in the evidence that I provided earlier—which indicate that the police legal team had acted unethically in relation to my involvement in Operation Malta. Without going into too much detail, the Police Integrity Commission were very concerned about what they saw as a very real possibility that a conflict of interest had occurred involving my police legal team.

If I may, I will quickly refer to some of those matters which caused them concern. The record of a conversation of that meeting in April with Mr Brammer and the police legal team was the basis of their concern. They were concerned that, having been party to setting up a strategy in April 2001 to 'go for Chadbourne', they then implemented that strategy when I appeared in the witness box on 4, 5, 6, 7 and 10 September 2001. The police legal team received from PIC an instruction that they were no longer to represent me and that they were to arrange for me to have independent legal representation, the cost of which was to be borne by the Police Service.

I was then introduced by the police legal team to two separate legal firms, both of which declined to represent me. In the first case, when Mr Paul Cutrone of Spark Helmore heard that I had given evidence that on occasions was not favourable to Commissioner Ryan, he admitted that he thought he had a conflict of interest and could not represent me. Then he said to me, 'But I have a mate—a good barrister—who will not have a conflict of interest. I will arrange for Spark Helmore to introduce you to him. His name is John Galluzzo.' I spent an hour with John Galluzzo and allowed him to read a statement that I had prepared. When John Galluzzo had read that statement, he felt obliged to tell me that he was a former member of the internal police legal team and that before he left the Police Service he recommended the appointment of Robert Redfern, who is still a member of the police legal team as far as I know.

John Galluzzo then proceeded to disqualify himself from representing me on the grounds that he was not sufficiently experienced to accept a brief that had such serious implications. He stated that, on the face of it, it would be hard to establish that a conflict of interest had not occurred. He actually said some other things that were even more sinister. He then said, 'Although this is too big for me, I would love the opportunity of being the junior counsel if this matter goes to PIC. If you like, I will check on the availability of some really high-class QCs who might be able to represent you. I will have to report back to Spark Helmore because they briefed me.' I never heard another word from John Galluzzo or Spark Helmore. At that stage, having been hawked around town seeing various legal people, I felt very vulnerable. I decided that under the circumstances I needed to arrange my own independent legal representation. At that stage the police legal team, having given me an undertaking in writing that they would bear all legal costs, reneged on that written commitment and then proceeded to harass me with a series of hostile letters.

On 8 January 2002 I lodged a detailed statement with the Police Integrity Commission, providing comprehensive evidence of the unethical conduct of the police legal team that I have just been talking about. A copy of that statement is included in the documents I tabled earlier. It is of interest to me that, notwithstanding that a substantial amount of that unethical conduct occurred right under the nose of PIC at the hearings—and it is a matter of public record appearing in the PIC transcripts—and in spite of me lodging that statement with PIC on 8 January 2002, approximately one month before I was summarily sacked from the police service and frogmarched out of police headquarters under police escort, they did not investigate it.

On 30 January, through my legal representatives, I lodged a formal complaint with the Legal Services Commissioner—once again in respect of the unethical conduct of the police legal team. Although more than 12 months have now elapsed since I lodged that complaint with the Legal Services Tribunal, I am still to hear whether they are taking it seriously and whether they are going to do anything about it. It seems to me that it should not take 12 months for the police legal team to come up with their response. They knew about this—they had exactly the same evidence that I had 12 months earlier—and there was no reason for this delay.

On 11 October 2002, approximately nine months after I lodged my complaint with the police legal team, an article appeared on page 52 of the *Australian Financial Review* under the heading 'Too few female silks in NSW'. That article reported:

Only one woman, Alison Stenmark SC, featured on the longer than usual list of 28 silks announced last week.

The article also reported the names of the five-person appointments committee, one of whom was Barry Toomey QC. Barry Toomey and Alison Stenmark were the external members of the police legal team who I believe set me up in PIC.

**Mr MELHAM**—Sorry, who was that?

**Mr KERR**—Barry Toomey.

**Dr Chadbourne**—Barry Toomey QC and Alison Stenmark, who has now been elevated to the rank of silk.

**Mr SECKER**—Was she on the selection committee?

**Dr Chadbourne**—No. Barry Toomey was the QC representing me. I will talk about that in a moment. Alison Stenmark was his junior counsel.

**Mr SECKER**—Okay.

**Mr MELHAM**—They were your counsel and you say they set you up.

**Dr Chadbourne**—They were my counsel and they set me up, yes.

**CHAIR**—Who allocated them to you?

**Dr Chadbourne**—The Police Service, the legal team.

**CHAIR**—The police legal service allocated them to you to be your representatives. Presumably they were paying the bill, were they?

**Dr Chadbourne**—They were paying the bill. That is right.

**Mr SECKER**—But then you got rid of them because you were not happy.

**Dr Chadbourne**—No. Michael Holmes, the head of the police legal team, came and saw me in my office with one of his colleagues, Jeff Tunks. Michael Holmes said, ‘We can no longer represent you.’

**Mr SECKER**—Because of a conflict of interest.

**Dr Chadbourne**—‘PIC thinks there is a conflict of interest.’

**CHAIR**—Because they were saying that their first responsibility was to the commissioner, Mr Ryan.

**Dr Chadbourne**—That is right. Michael Holmes on many occasions said, not only to me but to others, ‘My primary responsibility is to protect the commissioner.’

**CHAIR**—For how long did Mr Toomey and Ms Stenmark act for you?

**Dr Chadbourne**—It is hard to know the precise date. It would have been some time after their meeting in April 2001 that I referred to earlier, and a few days before I went into the witness box at PIC on 4 September.

**CHAIR**—So you are saying that they agreed to set you up prior to them accepting you as a client?

**Dr Chadbourne**—Yes, exactly.

**Mr SECKER**—Was there anything that could have happened between April and September 2001 that suddenly made it a conflict of interest for them? Surely they would have known that

before April, before they were actually appointed to you, rather than five months down the track.

**Dr Chadbourne**—I would assume so, but I do not know that.

**Mr SECKER**—But you are not aware of anything that could have caused a change or a conflict of interest?

**Dr Chadbourne**—No.

**Mr KERR**—I do not want to interrupt, but it is a serious allegation—

**Dr Chadbourne**—It is very serious.

**Mr KERR**—that two barristers, now both senior counsel, conspired against the interest of the client that they were representing. Have you referred this to Mr Steve Mark, who I think has responsibility as Legal Services Commissioner.

**CHAIR**—Have you also referred it to the Bar Association?

**Dr Chadbourne**—Yes. On 30 January 2002, two weeks before I was fired, I lodged through my legal advisers a formal complaint with the Bar Association and the Law Society. That inquiry—presumably it is still proceeding—has been going for more than 12 months. As far as I can see, it seems to be the subject of continual deferrals. I have my views as to why that is.

**Mr KERR**—Again, I do not wish to interrupt—I may be seen to be doing that, but I do not mean to—but, outside the Law Society and the Bar Association, there is the independent office set up to establish complaints against the legal profession, which is headed by Mr Steve Mark. I do not want to go into it in any great depth, but he is a man whom I have had long contact with and considerable respect for. I doubt whether, with great respect to our chair, we will be able to get to the truth or otherwise of such a complex allegation against the reputation of a barrister, although we must obviously inform them of the nature of this complaint. But that opportunity for you also exists.

**Dr Chadbourne**—Are we talking about the New South Wales Legal Services Tribunal?

**Mr KERR**—Yes.

**Dr Chadbourne**—I understand that they have been running some form of inquiry, which has been going since I lodged my complaint with them more than 12 months ago.

**CHAIR**—As I understand it, when complaints are made to the Law Society or the Bar Association they refer it on to the tribunal and they then deal with it.

**Mr KERR**—I am just troubled by it. It is not sub judice, but it is of a nature where, if there is an ongoing complaint—if I was in the shoes of the counsel concerned, I know that this would be an extraordinarily damaging allegation.

**CHAIR**—The reason I think that Dr Chadbourne is so incensed is having been given that solicitor's note. I take it the solicitor's file from which it came was the instructing solicitor's. Was it?

**Dr Chadbourne**—That is correct.

**Mr MELHAM**—But my concern goes to the fact that there are still ongoing matters in relation to what Dr Chadbourne is saying. They have not yet been fully determined and I would not want it to be thought that the public nature of this evidence might have an influence one way or the other.

**Mr SECKER**—It might hurry them up.

**Mr MELHAM**—In relation to the other matters, I know the complaint mechanisms of the witness this morning were all exhausted. I ask you to get some caution in relation to this because we have some live matters in relation to his complaints. There are appropriate professional bodies to deal with Dr Chadbourne's complaint. I do not know whether we can now look after the profession.

**CHAIR**—A number of us have already said that we are members of the profession, and we are not beyond scrutiny and we are not beyond reviewing either.

**Mr MELHAM**—I accept that, but there are live proceedings.

**CHAIR**—I think Dr Chadbourne can complete his statement.

**Mr MELHAM**—I would ask that you direct him, Madam Chair, that, in relation to complaints against his professional advisers at that time, he should restrain from comment.

**Mr KERR**—The damage is done, I think; let us go on. The damage is done. I am glad to know that it is before an independent body established under statute to investigate such complaints.

**Mr MELHAM**—And not yet finalised.

**Mr CADMAN**—But can I challenge that as a non-professional? How long do you give an outfit to come to a decision and how does a person—a member of the public—appeal to anybody to get a result?

**Mr MELHAM**—Well, then, my other objection is that I would argue this is outside the terms of reference of our parliamentary committee.

**CHAIR**—It is not.

**Mr MELHAM**—If the chair is arguing that Dr Chadbourne's evidence is relevant under community safety and policing, I would argue that Dr Chadbourne's evidence is not within the terms of reference of our inquiry. He has complained against—

**Mr CADMAN**—That may be, but that is not what I raised the question about as a non-professional, and you have not given me an answer on that.

**CHAIR**—I do not accept your interpretation, Daryl. Dr Chadbourne can go on with his evidence and we will listen attentively to him.

**Mr MELHAM**—Which term of reference does it come under, Madam Chair? Can you tell me?

**CHAIR**—You can go ahead, Dr Chadbourne.

**Mr MELHAM**—Which term of reference does it come under?

**Dr Chadbourne**—Thank you, Madam Chair. On 4 September 2001—

**Mr MELHAM**—This is a joke!

**Dr Chadbourne**—when I was literally called into the witness box at PIC to give evidence—

**Mr MELHAM**—This is a sick joke.

**Dr Chadbourne**—Judge Urquhart said:

Mr Toomey, do you seek leave to appear for Dr Chadbourne?

Toomey:

I do, thank you Commissioner.

**Mr MELHAM**—I should put on the record, Madam Chair, that I am a member of the New South Wales Bar Association. I currently hold a practising certificate.

**CHAIR**—Good, and I am a member of the Law Society too, Daryl. Let us proceed.

**Mr MELHAM**—That is okay, but let us just put it on the record so that no-one can say that I did not declare that particular interest.

**Dr Chadbourne**—If I may continue then—

**Mr MELHAM**—I believe this is outside our terms of reference and is an absolute abuse of privilege.

**CHAIR**—Please continue, Dr Chadbourne.

**Dr Chadbourne**—Okay. Judge Urquhart then said:

I'll authorise Dr Chadbourne to have legal representation and I note in that regard the appearance of Mr Toomey and Ms Stenmark, instructed as before with other witnesses.



So there was absolutely no doubt whatsoever, right then and there, that Mr Toomey and Ms Stenmark were my formally authorised legal representatives.

**CHAIR**—But you were not paying them.

**Dr Chadbourne**—No, I was not paying them.

**CHAIR**—Okay.

**Dr Chadbourne**—During the five days that I spent in the PIC witness box, apart from formal questioning, nobody spoke to me—with one exception, Paul Akon, and I had a brief conversation when I wished to lodge some further information into evidence. There was Toomey, Stenmark, Michael Holmes, the head of police legal services, Robert Redfern, who was the 2IC, Paul Akon, who was there for the full duration of the Operation Malta process. Not one of them spoke to me. The PIC courtroom is a very small place, and they avoided me, which led me to the conclusion that, for reasons unknown to me, they had abandoned me and they were acting in a way which was totally beyond my understanding.

As the hearing continued, I felt that the questioning I was being subjected to by my own legal counsel was hostile. Time and time again, when Toomey was questioning me—his own client—one of the other QCs, Steven Rushton, continually leapt to his feet objecting. To give you the flavour of the sort of objections that show you what I am talking about:

Mr Rushton: I object. My learned friend's cross-examination—

this is Mr Toomey—

seems to be proceeding on a premise that this witness had a duty to do certain things and did not do them. In my respectful submission you shouldn't allow that in circumstances where Mr Toomey has announced his position as appearing for the witness.

... ..

That can, with respect, only be a challenge to the witness's last answer ...

... ..

I object. In my respectful submission, Commissioner, this can only be an endeavour by Mr Toomey to challenge the positive expressions of opinion about Ritchie and Sedden given during the course of evidence and Mr Toomey shouldn't be given an opportunity to undermine this witness's evidence.

... ..

With respect, you should not allow these sorts of questions to be put by Mr Toomey to his own client.

... ..

My objection is the same I had to Mr Toomey pointing out to the witness that what he was saying was in his statement. It is an endeavour to attack his own client, with respect.

I can go on, but I think you get the gist of it. On another occasion, in respect of testimony I had given to counsel assisting the commission, I answered a question put to me by Terry Budden, and Mr Toomey then said:

I ask that that answer be struck out.

I am his own client, and he is attacking me; there is no doubt about that. As my legal adviser said, 'You were shafted.' Later on, after I had left the witness box, on 2 October 2001, during cross-examination, Mr Toomey put a number of questions to Assistant Commissioner Clive Small concerning some aspects of evidence I had previously given to the commission. Mr Rushton objected to some of those questions as well. He said:

It is inappropriate for Mr Toomey to be challenging the evidence of Dr Chadbourne or seeking to discredit him, having regard to the fact he also appears for him.

... ..

It is attacking his credibility. It is suggesting that he had a duty, and no doubt the evidence will be that he did not do it.

... ..

That can only be a question designed to attack the evidence given by Dr Chadbourne.

Even Judge Urquhart said something at one stage, on 2 October 2001. He objected to Mr Toomey's line of questioning, which implied criticism of me. Judge Urquhart said:

I am mindful of what Mr Rushton says, and no doubt you are as well, Mr Toomey.

Mr Toomey says:

Indeed, Assistant Commissioner.

Then Judge Urquhart says:

I do not want to be in the situation where the response to the question you ask is such that it might cause you some professional concern.

That was what Judge Urquhart said.

**Mr MELHAM**—I repeat that, even with those comments, these matters are before a professional body at the moment. What relevance are they to this committee, inquiring, as it is, under its terms of reference, into community safety and policing?

**Dr Chadbourne**—Simply this: if we are to have a community where corruption and crime is attacked, it has to be led by a police leadership which is also not corrupt. What I am talking about here—

**Mr MELHAM**—So you are linking the police—

**Mr SECKER**—Let him finish.

**CHAIR**—Let him finish!

**Dr Chadbourne**—What I am talking about here is corrupt people in police headquarters. They are still there. They were there when they shafted me, and they are still there. God knows what they are continuing to do!

**Mr MELHAM**—I am interested in the long bow that you draw—

**Mr SECKER**—It is not a long bow.

**CHAIR**—Dr Chadbourne, you do not have to feel intimidated. Just take your time.

**Mr MELHAM**—I did not think I was intimidating him. I am trying to elicit—

**CHAIR**—Take a breath and have a sip of water, and then answer Mr Melham's questions. He may not attack you.

**Mr MELHAM**—I do not seek to attack the witness, Madam Chair. Let us be very clear.

**CHAIR**—Observing people may conclude differently, Mr Melham.

**Mr MELHAM**—That is a matter for people who want to observe these proceedings independently and have not made up their minds. Dr Chadbourne, you make allegations in relation to police hierarchy.

**Dr Chadbourne**—Yes.

**Mr MELHAM**—Put that to one side. In relation to these professional people—Mr Toomey and Ms Stenmark—you have criticisms as to how they represented you.

**Dr Chadbourne**—Yes.

**Mr MELHAM**—Do you have any evidence that there were any direct instructions to them to run dead on you or to shaft you from the police hierarchy?

**Dr Chadbourne**—Yes. In the meeting in April that I referred to in my earlier evidence, Mr Toomey asked, 'Is there any reason we can't give Chadbourne a serve?' Robert Redfern said, 'Need instructions.' There is only one person whom he could have got instructions from.

**Mr MELHAM**—Mr—

**Dr Chadbourne**—Mr Redfern.

**Mr MELHAM**—No, hang on. Who said that?

**Dr Chadbourne**—Mr Toomey asked during that strategy meeting, 'Is there any reason we can't give Chadbourne a serve?' Putting it in context, they were talking about, 'Go for Chadbourne.' I do not want to go back, as I have already mentioned all of that.

**Mr KERR**—We read that.

**CHAIR**—Then you said?

**Dr Chadbourne**—Then Mr Redfern said, ‘Need instructions.’ There is only one person Robert Redfern could have got instructions from, and that was his boss, Michael Holmes.

**Mr MELHAM**—But you have no direct evidence to say that he got those instructions, do you?

**Dr Chadbourne**—No.

**Mr MELHAM**—That is an inference that you draw, isn’t it?

**Dr Chadbourne**—It is.

**Mr MELHAM**—There are other inferences, aren’t there?

**Dr Chadbourne**—I am not aware of them.

**Mr KERR**—It may have been a slip of your tongue, but in this document it has:

Legal 1: “We must go for Chadbourne ...”

**Dr Chadbourne**—Yes.

**Mr KERR**—In your remarks then, you identified ‘Legal 1’ as Toomey.

**Dr Chadbourne**—Correct.

**CHAIR**—That is in the supplementary evidence.

**Mr KERR**—That is Toomey QC? Is that correct?

**Dr Chadbourne**—Correct.

**Mr KERR**—So ‘Legal 1’ is the barrister who subsequently represented you. Is that correct?

**Dr Chadbourne**—That is correct. Madam Chair, in the interests of time, I will move to the next item if I may.

**Mr MELHAM**—Sorry, Dr Chadbourne. Continue.

**Dr Chadbourne**—The third matter involves some clarifying information concerning the circumstances surrounding former Commissioner Ryan’s departure from the NSW Police. It is public knowledge that, on 10 April 2002, former Commissioner Ryan met with Premier Carr and, being well aware of the political damage a fight in the Industrial Relations Court might do,

Carr agreed to the termination of Ryan's employment with a payment of a year's salary. The matter was announced by Carr and Ryan at a joint press conference later that morning.

In the following weeks, controversy raged in the public arena about the appropriateness of Ryan receiving such a payout, particularly in light of confusing accounts about whether he engineered his own termination or was sacked from his position. For the benefit of this, I think the situation would have been much clearer if it was known that, months before all this happened with Ryan's termination, Ryan had spoken to Ian Peters, who at that stage was the director of industrial relations, reporting to me. It would have been better if Ian Peters or someone had brought to the public's attention the fact that Ryan had asked Ian Peters in early January 2002 for advice on research of successful action for a constructive dismissal. So the public should have known that Ryan asked for that information. In the documents I tabled is a copy of a submission to Ryan from Ian Peters, who was at that stage director of industrial relations, setting out all the things that need to be done to establish the existence of a structured dismissal.

**Mr KERR**—Constructive.

**Dr Chadbourne**—Constructive dismissal. All I am simply saying is that this is also a part of the culture within police headquarters of keeping things secret and it is a corrupt culture.

If I may move on to the next matter, I do not want to go into too much detail on this but it involves my wrongful dismissal as Executive Director, Human Resource Services, with the New South Wales Police and PIC's reluctance to investigate my formal complaint relating to the circumstances surrounding my sacking. On 20 February 2002, about two weeks after I was sacked, I lodged a detailed statement with the Police Integrity Commission providing comprehensive details of the circumstances surrounding my removal from executive office. In that statement I provided evidence supporting my allegation that I had been sacked as payback for evidence that I had given as a witness in the Police Integrity Commission Operation Malta hearing which had embarrassed Ryan. A copy of that statement also appears in the documents I have tabled earlier.

**CHAIR**—Dr Chadbourne, I did ask you at some stage if you would tell us what was evidence you gave that you believe embarrassed Mr Ryan.

**Dr Chadbourne**—Let me say that before September 2001 I had a very good relationship with Commissioner Ryan. I had his confidence. At the end of 12 months he approved the payment to me of a bonus of \$50,000. This was unprecedented and still is, I believe, in police history. It was \$50,000 for performance. I was executive director of human resources for two years up to 12 February 2002 and I know of not one other bonus paid for performance in the New South Wales Police. So it was an unprecedented vote of confidence in me and what I had been doing by Peter Ryan. At the end of 12 months Ryan then engaged my services for another three years and gave me a \$25,000 salary increase—a further indication of his total confidence in me. Everything was going perfectly well, and on 19 July 2001 the commissioner approved a further two per cent increase in my salary. So we have here Commissioner Ryan and me having a very professionally solid relationship; all up until I went into the police integrity box and gave evidence which embarrassed him. Let me tell you a little bit about what that entailed.

When I was being cross-examined by Mr Stern, there were a number of hours given to relentless questioning about who approved the salary of \$90,000 for one of the members of the police reformer group, Jim Ritchie. The implications were quite clear, and if you read the PIC statements you can see exactly what I am saying. Mr Stern was endeavouring very vigorously to prove that it was me who signed off on Jim Ritchie's salary of \$90,000 and that by doing so I had exceeded my authority levels and had acted improperly and was guilty of maladministration. On the last day—it was 10 September 2001—Mr Stern came across two documents. These were shown to me on screen in PIC. One document was a memo from Ryan to Mal Brammer—you will find a copy in the evidence there.

In that memo from Ryan to Brammer, who at that stage was head of internal affairs, Ryan said:

I only heard last week that members of the Crime Management Support Unit had been offered employment in a letter signed by someone from Human Resources—

This is the important bit:

I was unaware of this offer, the terms of the offer or the date on which it was made. This matter was never discussed with me, nor did I give any approvals at any time for such an offer.

I had already told the PIC that I had had at least two meetings, around March 2000, at which Ryan and I had discussed Jim Ritchie's salary. So the first memo shown by Stern was the memo from Ryan to Brammer denying all knowledge of it—did not approve it, had no knowledge. I was then shown a memo, dated 22 June 2000, that said that Ritchie's salary was to be \$90,000. It was a letter from Ryan to Ritchie's boss, Ken Sedden, and it was signed off personally by Peter Ryan. I was then asked the question:

Dr Chadbourne, when you look at that memo and that letter from Ryan, it means that Ryan's evidence was false, wasn't it?

I did not want to go there. I tried to water it down by saying that it appears it was incorrect. It was then put to me:

No, that's not right, is it? It's patently false, isn't it?

I said, 'Yes, it is.' That was the beginning of the end. After that, from 10 September 2001 up until my sacking on 12 February 2002, I was subjected to a whole range of strategies that were designed to force me out of the service. You will find a record of all of those in the documents I tabled. I do not really want to go into them all now, but it is quite clear what happened.

As soon as I gave that evidence to PIC on 10 September 2001, I commenced keeping a record on a daily basis of everything that happened, right up until my sacking on 12 February 2002. So the record is there. It was not something I remembered later; these were notes that I took each day on my PC. I guess the police would be able to track back and assure themselves that in fact I did keep those records on a daily basis.

So that is the evidence that embarrassed Ryan. On 20 December, a couple of months before I was sacked, I had a meeting with Ryan. For the first month after I came out of PIC, Ryan would not even talk to me, which was very difficult—we used to have fortnightly meetings, which

were canned. He did not even talk to me for the first month. Then we resumed our fortnightly meetings after that, but they were very difficult situations. It all came to a head on 20 December 2001. At the end of the meeting with Ryan—and one of his members of staff was there taking notes—I asked a standard question, ‘Is there anything else you want me to look after, Commissioner?’ He said, ‘Yes. There is something I want to talk to you about. Your performance in PIC.’ At this stage, Ryan had not even been into the witness box himself. It was totally inappropriate, and I knew that. He said, ‘I am disappointed in your performance. You allowed yourself to be led in a line of questioning that caused me great embarrassment.’ He questioned my loyalty and said, ‘You’re either for me or you’re against me. What it is to be? Yes or no?’ I said, ‘I think I need time to think about that.’ He said, ‘Well, how much time are you talking about?’ I said, ‘This is the last working day before Christmas’—great timing—‘I need to think about that and I need to think about the implications of what being totally loyal to you might require of me.’ He said, ‘How long are you talking about?’ I said, ‘I’ll be back after Christmas—about 7 January—can you wait until then?’ He said, ‘Okay, don’t take too long about it. You know what I did to Jarrett.’ That was intimidating and threatening. That is the conflict that I refer to.

**Mr KERR**—Excuse me, but I am from Tasmania so whilst that sounds intimidating I do not understand the implications of it. I assume that he dismissed Jarrett, is that right?

**CHAIR**—Assistant Commissioner Jarrett was dismissed and he then sued the state government.

**Mr KERR**—Sorry, I just did not know the context, that is all.

**Dr Chadbourne**—So that is what it was about. If I may move on to the next point.

**CHAIR**—Yes.

**Dr Chadbourne**—I will now refer to an example of what happens in police headquarters which persuades me to adopt a view that there is a culture of corruption that pervades the corridors. I will give this example and a couple that will follow to illustrate what I am talking about. The matter involves the squandering of up to \$500,000 of public money on a cynical exercise designed to avoid negative media coverage for the police hierarchy. As context, one outcome of the Wood royal commission was that the police service would be subjected to an annual audit for three consecutive years to check on the progress made in implementing recommendations of the Wood royal commission, with particular focus on appendix 31 of the commission’s final report.

The police integrity commission were given responsibility for the carriage of those audits. They were called QSARP audits. QSARP means Qualitative and Strategic Audit of the Reform Process. At the end of the first year of those audits, the year 2000, the QSARP audit report suggested that very little progress had been made in terms of implementing the royal commission recommendations to revise the culture of the service. The QSARP group recommended that the police service hire another firm of consultants who would help to implement the reforms necessary. Sean Crumlin, who at that stage was the acting executive director of operational programs and development, was given responsibility for driving the QSARP audit process from the police hierarchy point of view. As one who sat around the board

table at level 18 of police headquarters for 2½ years, I was privy to numerous conversations about the QSARP audit reports.

It was sort of a standing joke—and Sean Crumlin was virtually commended on a number of occasions for what can only be described as very much a duplicitous approach to supporting the program. He is a spin doctor of no mean repute and he was at his best. Around June 2001, a special meeting of the commissioner's executive team was convened for the purpose of agreeing the budget for the ensuing year. The general manager of finance, Piyush Bhatt, led the discussion—he did not normally attend CET, or commissioner's executive team, meetings but he did on this occasion—which centred around cutting out approximately \$3 million of over-budgeted expenses. He had written on a whiteboard a number of cost items which were possible targets for reduction. One such item was an amount of \$500,000 which, it transpired during discussions, was allocated to be spent on consultancy fees. That amount was to be spent on retaining external consultants to assist with implementing cultural change initiatives identified by the QSARP team.

I challenged the need for that expenditure on the basis that the money would be wasted because it would be a cynical exercise aimed at placating the QSARP auditors. My objections were overruled by my colleagues on CET, who firmly held the view that even though the money would be wasted—they agreed on that—the expenditure was justified on the basis that it would help in achieving a more positive audit report in the next year and thereby avoid further negative press coverage.

In the latter stages of 2001, I was required to be a member of the selection panel appointed to process the tender applications for the appointment of those external consultants to help drive the reform process. Several leading consultancy firms submitted tenders, but ultimately the successful tenderer was APP Corporation. It tendered the cheapest price. The APP team was clearly out of its depths and demonstrated little ability to effectively perform what was required. As a consequence, the police service achieved its cynical objective, but at the cost of squandering up to \$500,000 of taxpayers' money.

I will conclude my comments by referring to one further example which shows the corrupt processes that take place within police headquarters. I refer to an example of the whitewash strategy for covering up problems at the top level of police headquarters. I refer to investigations which arose from a series of complaints which were made in the latter part of 2000 by about six members of Ryan's executive support team. The complaints ranged across a number of issues, most of which concerned the management style of their team leader. She enjoyed a close personal relationship with Ryan, and it was alleged that she used the power emanating from that relationship to intimidate various members of her team. Some of the complaints contained implied criticisms of Ryan.

Des Mooney, at that stage the executive director of management services, was tasked with conducting a fact-finding investigation into the complaints. There were approximately nine complaints at that stage. However, Des Mooney tendered his resignation from the police service at the beginning of 2001, at which stage only a small part of the fact-finding investigation had been completed. Des then approached me and said that Ryan and he had discussed the unfinished investigation and they had decided that I was the ideal person to complete the investigation as they felt that, given my corporate career background, 'I was commercially astute enough to know 'how to wield a 12-inch wide whitewash brush.' The message to me was

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clear, and the fact that I did not heed it no doubt contributed towards the eventual breakdown in my relationship with Ryan.

Soon after, I received a directive letter from Ryan instructing me to take over the investigation. In that letter, Ryan stated that he had instructed Michael Holmes, head of court and legal services, to make available to me the services of members of court and legal services to assist in conducting the investigation. Two detective inspectors were allocated to me for that purpose. As part of the investigative process, I conducted lengthy interviews with each of the complainants. At that stage, only five felt courageous enough to testify. The interviews, on average, took about three hours. They were recorded on ERISP tape and subsequently transcribed onto hard copy.

Soon after I had completed those five interviews, but prior to preparing my report to the commissioner, I was approached by the then deputy commissioner, Ken Moroney, who requested that I allow him to borrow the transcripts of those interviews on a confidential basis as he had been asked by PIC to undertake discreet inquiries about some extremely sensitive aspects of the investigation. Moroney also mentioned that he was facing a dilemma: on the one hand, as a matter of loyalty he wanted to let Ryan know that he had been asked by PIC to make certain sensitive inquiries; but, on the other hand, he felt gagged by PIC. Moroney also advised me that Superintendent Phil Holder had told him that one of the complainants had confided in him and raised the issue of Ryan's relationship with the team leader. According to Moroney, Holder also felt he was placed in a very difficult situation and had therefore consulted Moroney for advice as to whether or not he should notify PIC of that disclosure. When I interviewed the team leader—

**CHAIR**—Who was the team leader?

**Dr Chadbourne**—I am reluctant to name her. I am happy to do so if you wish, Madam Chair, but in terms of professional propriety and respect I would be happy to provide that person's name in camera.

**CHAIR**—Okay.

**Mr KERR**—Maybe you can do it after the proceedings in a written note, which we can retain in confidence.

**Dr Chadbourne**—Yes. In conclusion, when I interviewed the team leader, she was accompanied by the head of crime agencies, Assistant Commissioner Graham Morgan. He sought to intimidate me during the interview. He was not allowed to do so but he did. Later that day I was advised that, immediately after the interview had ended, the team leader and Morgan had a meeting with Ryan.

After completing the interviews with the complainants, but before interviewing the team leader, I was approached on several occasions by Sean Crumlin, who was certainly one of Ryan's favoured executive directors. Sean insisted that it would be preferable for one of his staff, Superintendent Mark Goodwin, to conduct the interview with the team leader and to finalise the investigation. Sean told me that the team leader would be happier to be interviewed by Goodwin because she knew him better than me. Sean also said that Ryan would approve of

this because he also liked him. At around that time, Goodwin became the father of a son who he named Ryan. I rejected Crumlin's approaches outright.

**Ms PANOPOULOS**—Why was that, Dr Chadbourne?

**Dr Chadbourne**—It was pretty clear to me that I was going to ask some difficult questions and Sean Crumlin, who was a very good friend of the team leader, I think, felt that he could have controlled the interview and awkward questions that I did ask would not have been asked.

**Mr KERR**—Around what date was this?

**Dr Chadbourne**—This was approximately around the middle of 2001.

**Mr KERR**—This is after the testimony was given to PIC?

**Dr Chadbourne**—No, before.

**Mr SECKER**—Between April and September?

**Dr Chadbourne**—Yes, between April and September. When I met with Ryan to present my report, he said that he did not need to see it. He knew what was in it. He then directed me to hand the report to his Chief of Staff, Superintendent Bernie Aust. Subsequently, I wrote to Superintendent Bernie Aust, the Commissioner's Chief of Staff at that time and also his predecessor Superintendent Andrew Scipione, who is now one of the assistant commissioners. I requested both of them to advise me as to what action had been taken to address the recommendations in my report. Their written responses indicated that nothing had been done to address those recommendations.

**Mr SECKER**—Have you got that information there on paper?

**Dr Chadbourne**—Unfortunately, I do not but I can assure you that the Police Integrity Commission do. Tim Sage and Andrew Natrass attended my office even before I had completed my report. They took copies. In fact, they took the whole file—which is too big to take copies of—and they brought it back to me after they had copied it. So PIC have full details of that investigation matter.

**Mr SECKER**—Why haven't you got that information now?

**Dr Chadbourne**—Because I was sacked and frogmarched out.

**Mr SECKER**—You were frogmarched and could not take it.

**Dr Chadbourne**—And I did not have access to it. But a copy of that report would certainly still be in human resources and my successor, who said he never wanted my job, the Director of Industrial Relations Ian Peters would be the right person to talk to.

**Mr SECKER**—Okay.

**Dr Chadbourne**—There would also be copies of the ERISP tapes in a vault somewhere in police headquarters right now. There were three copies. One was kept sealed in the vault. Court and Legal Services would also have copies of those tapes.

**CHAIR**—The five people that you said came forward and you interviewed—and you hoped there would have been more.

**Dr Chadbourne**—Yes.

**CHAIR**—Their evidence related specifically to what?

**Dr Chadbourne**—Their evidence related to a range of issues which really went to the heart of the management style of the team leader. They felt that she was trying to get rid of them. And she did that: only one survived six months later, after she began the process of elimination. The evidence that they gave was really about examples of how she had shouted at them, abused them and used a whole range of inappropriate managerial behaviours.

**CHAIR**—Is this connected with Operation Retz?

**Dr Chadbourne**—Not that I am aware. It might have been, but not that I am aware. That is the end of my evidence. I am happy to answer any questions.

**CHAIR**—If I could continue on that line of questioning, you said that Mr Moroney had asked you for a copy of the interviews—was that of the tapes or the transcripts?

**Dr Chadbourne**—The hard copy transcripts.

**CHAIR**—Did you give those to him?

**Dr Chadbourne**—Yes, I did.

**CHAIR**—How long did he have them?

**Dr Chadbourne**—He said he wanted to borrow them overnight. I allowed him to have them for three days, then I went up and demanded their return.

**Mr SECKER**—And you got them back?

**Dr Chadbourne**—I got them back from his executive officer.

**CHAIR**—Are you at liberty to tell us what your finding was?

**Dr Chadbourne**—There were about a dozen recommendations which addressed managerial practices. I received no evidence from the five people that I interviewed of any serious improper relationship between the team leader and Ryan. Phil Holder, on the other hand, had received a different story. Certainly the investigation that I completed did not indicate that there was any proof that there was any improper relationship between the team leader and Ryan. It was all about management style.

**CHAIR**—Did that inquiry have a name?

**Dr Chadbourne**—I called it ‘that matter’; the ‘that matter’ inquiry.

**CHAIR**—Did you say in your evidence that you took it over?

**Dr Chadbourne**—No, I completed it.

**CHAIR**—Who began it?

**Dr Chadbourne**—Des Mooney, who at that stage was the executive director of management services.

**CHAIR**—Why was it changed to you?

**Dr Chadbourne**—Because Mooney left the service halfway through the inquiry.

**CHAIR**—I would like to ask a question about the finding in the tabled report into Malta. The finding in the report relating to Mr Brammer is pretty harsh. It finds:

The commission considers Brammer to be an affected person because he was subject to the following substantial allegations: that he misused serious Crime Investigation Agency investigative powers to conduct a wide ranging witch-hunt into members of the CMSU—

that is the support unit—

and a personal vendetta against Sedden, that he used malicious and unfounded investigations into individuals as a means of maintaining the old control and punishment mechanisms in order to derail and delay genuine reform.

It then found:

There is no evidence that Brammer was involved in criminal conduct. Pursuant to subsection 97(2)(a) of the act, they are of the opinion that consideration should not be given to the prosecution of Brammer for any criminal offence and, since Brammer ceased to be in employment in July 2002, no further action would arise under the Police Act because he now works for ICAC.

They considered Ryan to be:

... an affected person because he did not comprehend that his deputies were undermining the PLEB—

I do not know what that is. What is that?

**Dr Chadbourne**—It is the philosophy of principle led evidence based processes.

**CHAIR**—Evidence based processes would seem to be a good thing in a police force.

**Dr Chadbourne**—Yes.

**CHAIR**—It continues:

and the CMSU and he displayed a marked lack of insight and gross mismanagement. He directed Ed Chadbourne—

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that is, you—

Mick Tiltman and Christine Nixon to close down the BCU CMSU.

What is the BCU?

**Dr Chadbourne**—Behavioural change unit.

**CHAIR**—And the support unit as well.

**Dr Chadbourne**—Yes; it is the same thing.

**CHAIR**—They say, ‘He gave evidence to the parliamentary budget estimates committee which was technically incorrect but there is no evidence that he was involved in any criminal conduct, so you should not give consideration to a criminal offence and, because he is no longer an employee, you cannot do anything about him anyway.’ There were similar findings about Jarrett and others and, as I said, nobody did anything. What happened to the unit? Does it still exist? Was it closed down?

**Dr Chadbourne**—Before I joined the Police Service, as it was called in those days, Peter Ryan engaged the services of Morgan and Banks, a group of external consultants, to carry out an investigation into the human resource function within the Police Service. It was staffed by 251 people, and my initial job was to get the numbers down from 251 to 80—an unpopular job and a job for which I was paid the \$50,000 performance bonus that I mentioned earlier. On the first day I started, I had a meeting with Ryan. It was one of the very rare occasions when it was just Ryan and me. There was no minder present; it was most unusual. I remember him saying, ‘Welcome aboard. There are a few people who you must not trust.’ He named them—these were very senior people—and said, ‘You must not trust them.’

He said, ‘It is up to you how you implement the recommendations of the Morgan and Banks report, but I tell you what: I want you straightaway to get rid of’—and I cannot remember the exact expression he used; it was not ‘a nest of vipers’ but it was an expression like that. They were the BCU CMSU, or behavioural change unit, group of people. Ryan had apparently had a real problem with them for some time. He had asked Christine Nixon to get rid of them, and she would not; he had asked Mick Tiltman—who was the interim head of human resources before my arrival—to get rid of them, and he had refused; and he told me to get rid of them. I was there to do the job and I took the decision that, if that was what Ryan wanted, I needed to get on and do it.

It was against my better judgment to do it. The more I came to understand what the behavioural change unit was really on about, the more impressed I was. In my view, it reflected the best practice that I had come across—and I had worked in Australia and for years and years in Asia, based in Hong Kong, as I mentioned earlier, so I had seen best human resource practice not just in Australia but overseas as well. The work that the BCU were trying to implement was certainly world class best practice, and my job was to close down the unit. I did it because that is what I was hired to do, but it was not done willingly. I met with the BCU people and told them, ‘Sad but true, it is all over.’ But they were offered an opportunity to join the crime agencies group and they were saved. Later on, of course, they were all sacked by Ryan.

**CHAIR**—So Ryan sacked them in the end?

**Dr Chadbourne**—Yes—well, he never actually sacks anyone; he always gets someone else to do the dirty work. In my case, for example, he gave the job to Ken Moroney. Ryan was in Salt Lake City on some junket. Moroney did not have the guts to do it—excuse the expression, but he did not—so he gave the job to Assistant Commissioner Dave Madden, who could not do it face-to-face on his own; he had to have Superintendent Bernard Aust with him and another superintendent waiting immediately outside, so you had these three high-powered police officers there in case I ran amok. For goodness sake—I am a human resources person; there was nothing I would have done. It was stupid—and then to be frogmarched out of police headquarters! At 2.00 I get out of the lift on the ground floor with my oil painting under one arm and some books under the other, escorted by two big, burly senior police officers, and all the staff are coming back from lunch and waiting to get the lift. I get out of the lift and there they all are, seeing me being escorted off like this. Enough of that—but that is what I am talking about: a corrupt culture and a culture of intimidation and nastiness.

**Mr SECKER**—And one that does not seem to want to change.

**Dr Chadbourne**—I do not know whether it can change. Unless some new initiative is put in place, I do not see the culture in the police service changing at all. I remember maybe eight months ago police minister Michael Costa went on the airwaves saying that the culture in the police service is the most venomous culture he had ever come across, and coming from a person with Michael Costa's unique background that is really saying something.

**Mr MELHAM**—You are not having a go at the New South Wales Right there, are you?

**Dr Chadbourne**—Absolutely not!

**Mr MELHAM**—We might have a unity ticket there!

**Ms PANOPOULOS**—In paragraph 23 of your written submission you mention that you were summoned to a meeting with the police minister, Mr Costa, and that you voiced serious concerns about being set up and being a scapegoat. You stated:

The Minister appeared to ignore my concerns which were forcefully expressed.

Could you please elaborate on that?

**Dr Chadbourne**—Yes. Minister Costa had been in office perhaps three or four weeks at that stage, and he was trying to get his arms around the issues. I was invited to come to this establishment here, where he had offices at that stage, and meet with him. When I went in, I did not quite know what to expect. It was on level 7. I walked into the office and, just as I was walking into his meeting room, he came out of his office and looked up, saw me and obviously knew who I was. And obviously I knew who he was. He is hard not to identify.

**Ms PANOPOULOS**—Quite so.

**Dr Chadbourne**—When I walked in—this is my very first exchange with him—he walked up to me and said, 'Ed Chadbourne?' I replied, 'Yes.' He said, 'I hear that human resources is

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fucked.’ That was the beginning of my first discussion with Michael Costa. I said, ‘I wouldn’t go that far, Minister. There are problems; we are here to talk about them.’ I then spoke about a range of problems, and I gave him a paper which set out a strategy for addressing some major problems.

**Ms PANOPOULOS**—Did he read that paper?

**Dr Chadbourne**—I do not know. Present at the meeting were the director-general of the police ministry, Les Tree, and also Costa’s chief of staff, John Whelan. He basically gave it to them, so I do not know whether or not he read it. I did tell Michael Costa and the other people there as well that I believed I had been sent up as a scapegoat in PIC’s Operation Malta hearings. At that stage, Costa looked at Les Tree, the director-general of the police ministry, and said, ‘Huh?’ Les Tree said, ‘Yes. You know about that.’ So Costa did know about the fact that I had evidence that I had been shafted in PIC.

**Ms PANOPOULOS**—Did he ask you any further questions about that?

**Dr Chadbourne**—No, he did not. I also told him that I was quite aware of, and had been keeping detailed records of, the scheming that Ryan was up to in order to try to force me out of the service. He did not seem to be at all interested in that either. At the end of that, the only comment he made was, ‘I can’t have my police commissioner at loggerheads with one of his senior top people. Something has to be done about it.’

**Ms PANOPOULOS**—Was that referring to you?

**Dr Chadbourne**—I am not sure. At that stage I thought, ‘Thank heavens, he is going to do something about it.’ It appeared he did nothing. Although if you read Ryan’s book, Ryan said that he did do something about it. Ryan claims in his book that it was Costa’s decision that I had to go, and that Ryan begged him—begged him; it is in the book—not to do it because, if he did it, it would look very suspiciously like Ryan was paying me back for the evidence I had given in PIC in September 2001 which had embarrassed him.

**Ms PANOPOULOS**—Just to clarify this in my own mind, you raised these allegations and Mr Costa did not request any further details.

**Dr Chadbourne**—That is exactly the correct situation: he did not request any more details.

**Ms PANOPOULOS**—What impression were you left with?

**Dr Chadbourne**—I started off feeling greatly encouraged when Michael Costa took over the police ministry. It was like a breath of fresh air. He is an action man: a can-do guy. I was impressed and I was not the only one—everyone was impressed. He was terrific. But he did not do much, and he said in my case that he did nothing—unless of course you believe what Ryan’s book says, and that is another matter. The people I had told about this were Ryan and Costa. I had lodged formal complaints with the Police Integrity Commission and with the bar association and the law society. More recently, I have lodged a further complaint against Brammer with the Police Integrity Commission because I assumed at that stage he was seconded to ICAC. Now I realise he is not, he has actually resigned from the police service and

he is a permanent employee, I assume, of ICAC. I have been asked by ICAC for a copy of the statement I gave PIC regarding Brammer and I have complied with that request.

**Ms PANOPOULOS**—Thank you, Dr Chadbourne.

**CHAIR**—When were you requested to provide that to ICAC?

**Dr Chadbourne**—On 2 February this year I was approached by PIC saying would I have any objection if PIC released to the police service a copy of my complaint against the police legal team because they wished to promote somebody and they felt they should have given the police service a copy of my complaint against the members of the police service. I do not know whom it was that they were talking about promoting but I can only assume from the request that it must be someone involved in the complaint against the police service that I lodged. I can only assume that. I have actually complained to so many people about this and no-one will listen.

**Mr KERR**—I will deal first with the issues regarding Mr Toomey and is it Mr Rushton?

**Dr Chadbourne**—Yes, Steven Rushton, QC.

**Mr KERR**—All I would indicate is that, in my understanding, legal counsel that takes instructions to act for a client and then acts contrary to that client's interests is guilty of a grave professional misconduct. You have made those allegations and they are before the appropriate investigating authority, so I do not think it is useful for me to take it further other than to say that, if it were proven to be so, I would imagine that each would face very severe penalties. But those are matters that I think do not go squarely to it. The real question I was asking was how was Toomey involved in a meeting of, in this note, the police legal team? Was he part of that team, in a sense? As I understand it, he is an independent barrister in chambers, not part of the police legal team.

**Dr Chadbourne**—That is right. The police legal team who participated in that legal strategy session in April 2001 were from the police service itself. The important legal services of the police were Paul Akon, who is a police employee and solicitor, Inspector Robert Redfern, a police solicitor, Barry Toomey, QC, an external member of the team and Alison Stenmark, who is a junior counsel. Those people comprise what I call the police legal team. It is a mix of internal legal people and external legal people.

**Mr KERR**—Does he hold a retainer from the commissioner or from the police service? I accept that you have transcribed what is a written note—that is your submission to us—but I would find it odd that a silk is participating in a conference that would normally be between professionals and solicitors who would then instruct counsel to take whatever course.

**Dr Chadbourne**—It confuses me as well. It is compounded by the fact that Mal Brammer also was invited in to join that strategy session meeting. That is when he developed the 'Chadbourne sacrificial lamb strategy' at the same time and in the same room as the police legal team were developing the 'go for Chadbourne strategy'. So these were both developed in the same room.

**Mr KERR**—All I suppose I am drawing on is that in your written submission to us the note you have actually provided says legal 1, legal 1, legal 2 and does not use the names. Did the

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handwritten note have legal 1, legal 1, legal 2 or did it have names? If so, is a copy of the note available that we can look at?

**Dr Chadbourne**—There is. It is part of the documents I have tabled here. But the short answer is that the notes are headed up by the time and the date of the meeting and who was present. Those people are nominated as being present and, as you read through at all, it gives their initials. There are only four or five of them, so there is no risk of confusion that RR represents Robert Redfern, MB represents Mal Brammer et cetera. All their initials are alongside what they said. With Toomey it has BT, with Stenmark it has AS.

**CHAIR**—Where is that document?

**Dr Chadbourne**—It is in your documents there—

**CHAIR**—No, the original.

**Dr Chadbourne**—I assume the original is still with court and legal services in the police department. They provided a copy to PIC and, on 7 December 2001, PIC released a copy to me.

**CHAIR**—What seems to have transpired is that, as they were paying for legal counsel and you were still employed in the police service at that time, it is almost as if the brief has been given to barristers to act for the police service, of which at that time you were a part, because they were paying them. You were not paying?

**Dr Chadbourne**—No, I was not paying.

**CHAIR**—Then you say this strategy took place and that it really got difficult when you got to PIC hearing and counsel said they were appearing for you—on the record they were appearing for you—not for the police service and other witnesses appearing. That seems to be where the difficulty is.

**Mr KERR**—Just to separate these things out, Mr Toomey never appeared before you when you gave the evidence that you say caused the disruption between yourself and Mr Ryan. That was somebody else.

**Dr Chadbourne**—Mr Toomey stood by, as did the rest of the police legal team, and watched my credibility being challenged aggressively and they did nothing to stop it. Nothing.

**Mr KERR**—Excuse me for not understanding, but as I understand it there are two separate procedures that we are actually discussing. One is the procedure where you are asked ultimately about a screen which says, ‘Document A, document B, and what do you make of the apparent discrepancy?’ and you answer. Then there is a subsequent proceeding in which you are represented by Toomey—or are these the same proceedings?

**Dr Chadbourne**—The same proceedings in the Police Integrity Commission and the same meetings months earlier when they developed the strategy or strategies. They seem to have done it jointly.

**Mr KERR**—I misunderstood that. That assists me in understanding your evidence. I suppose when these things are happening sometimes things do not occur to you, but did it ever occur to you or did it seem appropriate to withdraw Mr Toomey's instructions to act for you in those circumstances? It was proceeding for five days and you said it soon became apparent that he was hostile to your interests. You could have actually had counsel of your own choice represent you if you felt that the circumstances were in fact arising?

**Dr Chadbourne**—No, I was very confused by it all. The day before I went into PIC I knew something was really wrong. Paul Akon, one of the police legal team, arranged for me to have a meeting with Toomey, Stenmark and himself in Toomey's headquarters in the MLC building. It was Father's Day—that is why I remember it so well—and the day before I was scheduled to appear in PIC. The meeting was scheduled for 2.30 and I arrived at 2.15. When I arrived Paul Akon said, 'Mr Toomey, Miss Stenmark and I have some private matters to discuss before we allow you to join the conference. I was then escorted to a darkened reception area in the middle of the building—it was too dark to read; I was given nothing—and left there for an hour and a quarter. No-one came near me. My normal practice is after half an hour I leave, but these were my personal legal advisers and I needed them to help me but they just left me there. When I went in an hour and a quarter later there was no apology and no explanation, and that meeting went on until, I think, about 6.40 p.m. on Father's Day. I knew then that something was wrong but I did not know what it was. When I went into PIC the very next day everyone on the police legal team totally ignored me. I had spent about four hours with them the day before so it was hard to forget what I look like. We were almost like ships that pass in the night. I thought, 'What is going on here?' Of course, I realised what was going on as soon as Toomey started getting stuck into me when I was being examined in the witness box by him. Then he stood back and allowed people like Clive Steirn, who was just doing his job and doing it exceptionally well, to really get stuck into me again. He just stood by basically like Saul at the stoning of Stephen.

**Mr KERR**—We are a bit biblical here.

**Dr Chadbourne**—We are a bit. But that is about what it was like. He stood by and watched it happen. He did not throw the stones but stood by and watched it happen.

**Mr KERR**—But you did not withdraw his instructions and seek out the counsel; that is all I am saying. You say Judge Urquhart, who was proceeding, drew his attention on a number of occasions, I think you said, possibly in relation to considerations of his duty. Judges sometimes take it upon themselves to report some matters, if they think there is an impropriety, to either the Bar Council or the Law Society. Are you aware of any such report or conclusion?

**Dr Chadbourne**—No.

**Mr KERR**—I cannot take that any further. It is a matter for the other authorities, but I understand the seriousness of the allegation you are making. I also understand that in these sorts of public proceedings the damage is going to be immense to that gentleman, in terms of the publication of that, and he will be notified. But it is now a public matter and whether it is redressed in his favour or against it, he is pretty scarred forever. I will take you to the start of your submission. There is just one matter of caution. We have authorised the publication of your submission, but its facing page says that it contains personal contact details not for release. I think we have actually authorised it without any limit. Are those contact details still the same and do you wish them to be suppressed?

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**Dr Chadbourne**—Are they my personal contact details?

**Mr KERR**—Yes.

**Dr Chadbourne**—No, everyone knows where I live. I am happy for them to be released.

**Mr KERR**—That is all right. It is just that the facing page says that the submission is confidential and contains personal—

**Mr MELHAM**—That came from the secretary.

**Mr KERR**—I am sorry; it is the secretariat's note. I will move on to the meeting that you had with Mr Costa. It surprises me; if Mr Costa began with the comment you say he made to you, which is the sort of colourful language that I think is sometimes associated with Mr Costa, that you just would not agree. What you said by way of response is, 'I wouldn't go that far; there are some improvements et cetera.' In a way, if I were Mr Costa addressing somebody in your position and spoke so bluntly of my concern and was told by you, 'Look, I wouldn't go that far', I would almost see that as diminishing the concern that you held in relation to the issue. You may not have intended that but certainly—

**Dr Chadbourne**—I certainly did not consider that human resource function of the police service at that time could be described with that expletive. It was not that bad: everything is capable of improvement—everything.

**Mr KERR**—If it was operating the way you have told us today, I think I would probably use that expletive.

**Ms PANOPOULOS**—I am sure you would, Mr Kerr.

**Mr KERR**—If I were Mr Costa listening to that response, I might have said the same. You say, 'Not quite that bad'. I might have seen it in a lesser light. I will not take that further.

You said that your decline from grace occurred after the testimony. Before that you had been rewarded by quite substantial bonuses and by promotions. I suppose being crude about it—and you have described it thus yourself—you went in and did the job that Commissioner Ryan asked you to do, including sacking people you thought were people of integrity and, I suppose, being part of the very problem that you are now asserting existed. You were there not as an innocent bystander; you were the assassin.

**Dr Chadbourne**—Correct. On day three I was called 'the smiling assassin'.

**Mr KERR**—You do not do much of that at the moment.

**Dr Chadbourne**—No.

**Mr KERR**—I am sure you could manage one for us.

**Dr Chadbourne**—Thank you! Yes, I signed on. It was a rough job. Ryan's view was that no-one else he had given the task to really had 'the bottle', if you like, to take it on. He needed a hired gun. I had just returned from Asia and was looking for a job and I signed on to do the job.

**Mr KERR**—But it also becomes plain in your submissions about what you called 'the matter' that there was a degree of considerable distrust between yourself and Commissioner Ryan well before the testimony you gave to the PIC.

**Dr Chadbourne**—There was a level of distrust between pretty well everyone, with one or two notable exceptions. I mean, Ryan, Moroney—keep going. I do not know anyone who had trust in Ryan. To be fair to Ryan, Ryan also trusted nobody.

**Mr KERR**—Ryan had originally been brought in—with the best of intentions, no doubt—as an outsider with none of these links and had got himself into a situation at this stage where he was isolated, where he was trying to get rid of people who he thought were working against him and, well before the PIC instance, there was a degree of distrust between himself and you.

**Dr Chadbourne**—Oh yes.

**Mr KERR**—So it was not the situation that, suddenly, as a result of the PIC hearings, you turned from being a person in a state of grace to a person in a state of disgrace: there was a process of disenchantment that took place over a considerable period of time?

**Dr Chadbourne**—No, I do not see it like that. The fact that I did not trust Ryan and Ryan did not trust me was not unique to me and Ryan; as I said, he trusted nobody, so the fact that I did not trust him did not affect what I would call the reasonable working relationship that I had with him. He was my boss, and I reported to him and I was very happy to do so, but I still did not trust him and he did not trust me.

**Mr KERR**—Again, being simple about it, from an outsider's perspective—I did not follow these events; I come from a different state—by this particular stage in the period of Ryan's commissionership, he was under considerable public pressure. He appeared to be—and, I think, conforming with your description—a man under some siege. You have testified, essentially, that it had come down to 'Either you're for me or you're against me.' That is how you put it.

**Dr Chadbourne**—That is how he put it.

**Mr KERR**—Yes, that is how you put it that he had put it to you.

**Dr Chadbourne**—Yes.

**Mr KERR**—Ultimately, of course, Ryan was removed from the police service and a longstanding member of the police service—an internal appointment—was made as commissioner. Is that right?

**Dr Chadbourne**—That is correct.

**Mr KERR**—The attempt to appoint somebody from outside and to impose that, in a sense, to clean out entrenched corruption that had been shown by the Wood royal commission was not itself a particularly successful outcome, even though it probably was commenced with every best wish and great fanfare.

**Dr Chadbourne**—Yes, that is how I see it.

**Mr KERR**—In relation to your situation, if what you say is true, you were shafted in the dying days of Ryan by a man who, by this stage, had allowed his judgment to come down to ‘are you for me or against me?’

**Dr Chadbourne**—Yes.

**Mr KERR**—The real question in our minds is that, with the demise of Ryan and his passage from the administration of the force and your suggestion that, as you said to Costa, ‘The management system is not that bad; it can be improved’, have you any suggestions to us as to how it could be improved? What are the things that should be done? At the end of the day, we have no control over the outcomes. Depending on what we report, there may be some public judgments that can be made about the wisdom or otherwise of any suggestions we make that the New South Wales government may or may not wish to pick up. One of the things about this inquiry that Mr Melham has raised is the degree to which we actually have jurisdiction. I would be interested, because I have heard so much criticism, in what you would say are sensible recommendations for improving the human relations side of the NSW Police Force.

**Dr Chadbourne**—The only comment I would make on that—it is a huge subject—is that there was actually in place, through the Behavioural Change Unit, a mechanism for trying to address the corrupt culture which pervades the corridors of police headquarters—did then, still does.

**Mr KERR**—That was one of the recommendations directly out of the Wood royal commission. So, in a sense, what you are saying is that we urge those responsible for the administration of policing in New South Wales to re-establish the mechanisms that were recommended by the Wood royal commission. I am being crude and simple about it, but—

**Dr Chadbourne**—That is exactly right. Appendix 31 of the final report of the royal commission is all about addressing the culture—changing it from intimidation and brutality, if you like, to a more modern management style where people are treated as human beings rather than criminals. When I first joined the service, I was most impressed with what Ryan was doing and it was sad to see that in the latter days—obviously, the forces were arraigned against him—he started to collapse and became a recluse almost in his own office. That was very sad to see. I think he started out exceptionally well.

I think one of the things where he went wrong was when I remember him saying, ‘It’s time we put the Wood royal commission behind us. It’s old hat. What we’re interested in doing is driving down crime,’ and we all bought it. The problem with doing that, of course, was that he sacked all of these behavioural change people and discredited them totally, so the forces that could have helped to change the corrupt police headquarter culture were basically blown out the door. They were sacked, and that was sad. I actually played a part in that, to my great regret.

**Mr KERR**—This is just a conversational thing—answer it as you wish—but there is a tension here, because the witness immediately preceding you basically said, ‘Look, what we’re about is driving crime down. We’—

**CHAIR**—Well, he is a policeman.

**Mr KERR**—I am saying that. Also, you get this from the media: ‘We’ve got paperwork, culture change, compliance and the Wood royal commission. Let’s put that behind us; let’s get out there and get those damn criminals: that’s our job.’ You are giving us a very different perspective. You are saying—

**Ms PANOPOULOS**—With all due respect, Madam Chair, my recollection of the previous witness’s evidence is that, when he was a member of the police force, that is what his main tasks were—

**CHAIR**—In 1991.

**Ms PANOPOULOS**—and it was not really—

**Mr KERR**—Yes, but he made the criticism of existing policing that there is too much concern about process. I am just saying there is obviously a tension between those objectives. You have identified that and you have urged us to err—if there is erring—on the side of returning to the kind of framework that Wood recommended in the royal commission.

**CHAIR**—Who do you think was responsible for the undermining of the Behavioural Management Unit?

**Dr Chadbourne**—Ryan was a great supporter of it. We had these things every fortnight called operational crime reviews in the Police Centre. About seven or eight commanders would be invited to come in and be interrogated by Ryan and his team, including me. There were 80-odd people in the audience as well at all those things. On a number of occasions, Ryan actually said, ‘Look, I’m not going to force anyone to use the services of the Crime Management Support Unit, but you’d better be getting crime down—and I want to see a better performance. If you don’t use them, that’s your decision, but you are going to have to answer to me if I don’t see improvement.’ So he was a great supporter.

In my view there is no doubt that there were jealousies between, particularly, Ken Seddon and Jim Ritchie and the two deputy commissioners at that stage, Moroney and Jarrett. It is very much a hierarchically driven organisation, and it would still be the same. In those days Jeff Jarratt was head of field operations, all the regional commanders and the local area commanders under them. If Jeff Jarratt took the view that the Crime Management Support Unit were a mob of jerks, that would cascade down; they would all start saying the same thing. And that is what happened. If Jarrett had said, ‘I agree that these guys are getting some good stuff’—

**Mr KERR**—You should hear the Liberal speeches in favour of the Iraqi war at the moment. Things do cascade down—I understand it.

**Dr Chadbourne**—They do. Of the 14 regional commanders, there may have been one who was supportive. There were a number of local area commanders who were supportive, but a lot were not. It was really the senior echelon, and they were influenced, I think, by the deputy commissioners.

**Mr SECKER**—What about whistleblower protection? There does not seem to be anything in place for the protection of internal whistleblowers. Would you be recommending that?

**Dr Chadbourne**—There is. There is an area, which actually reported to me, called Internal Witnesses.

**Mr SECKER**—It does not seem to work.

**Dr Chadbourne**—They certainly never rang me when I needed them, and I think I would not be the only one in that case. In fact, there was a lot of criticism that they were also heavily influenced by the two deputy commissioners.

**Mr KERR**—Chair, I intend no rudeness but I have other commitments and I must leave. Thank you for your testimony, Dr Chadbourne.

**CHAIR**—Before you go, Mr Kerr. Dr Chadbourne, until we have time to go through the attachments to your submission that you have given us, I think we will receive them as confidential, whether or not we publish them subsequently. The additional documents provided by Dr Chadbourne are accepted as confidential evidence to the inquiry.

I know Mr Cadman has a question he would like to ask. We are going to hear Mr Martin, so I would suggest that after your question we might move to Mr Martin.

**Mr CADMAN**—It is only a matter of clarification, really. I noticed towards the end of your comments you said that Deputy Commissioner Moroney approached you to borrow the transcripts of the interviews you had been doing about people who were generally critical of Peter Ryan.

**Dr Chadbourne**—No—generally critical of the team leader who reported to him.

**Mr CADMAN**—But part of that related to her relationship with Peter Ryan, and therefore it was indirectly critical of Ryan?

**Dr Chadbourne**—Yes.

**Mr CADMAN**—Is that right?

**Dr Chadbourne**—That is right.

**Mr CADMAN**—Two questions flow from understanding that. He said that it was under instruction from PIC that he wanted to borrow those copies. Do you think that was accurate?

**Dr Chadbourne**—I think it was. I think he actually said he had been talking with Tim Sage from PIC.

**Mr CADMAN**—Do you consider that that documentation could have been shown or disclosed to others apart from PIC? Or do you think that, by disclosure to PIC, a number of people, other than Moroney, would have had access to the details?

**Dr Chadbourne**—I would hope not, but I do not know what happened during the three days that he had those documents. I do not know who may have seen them.

**Mr CADMAN**—Do you think this material could have been used internally, or even politically, to shaft Ryan?

**Dr Chadbourne**—I do not know. It could have been.

**Mr CADMAN**—Do you know of circumstances where material like that has ever been used to get rid of or change a difficult person?

**Dr Chadbourne**—Not that I can remember offhand.

**Mr CADMAN**—Whilst you do not know whether that has ever happened, it could well have. You will offer no comment in that regard. You assume that Moroney used it for the purposes for which he indicated to you when he took it. Is it usual for somebody conducting an inquiry to release confidential information before the completion of the inquiry and the establishment of the details of the inquiry?

**Dr Chadbourne**—I do not know. I have never been a public servant before. I certainly knew very little about the police service. I am basically a human resources person. Even having to do the inquiry was unusual. That is why I had two detective investigators—legal people—working with me on it.

**Mr CADMAN**—Did nobody say to you that it would be imprudent to release material before you had come to your conclusions at the end of the inquiry?

**Dr Chadbourne**—No. At that stage, Ken Moroney was one breath away from being commissioner. It was almost the same as talking to the commissioner—he was at that level. The thought that he would use that information improperly, for whatever reason, never occurred to me. Even as I think about it now, I just cannot envisage him doing something like that.

**Mr CADMAN**—Maybe my mind is coloured to some extent by my profession, but you have described circumstances where you have five or six people at a high level in contest, conflict and jealous competition, with strong likes and dislikes flowing backwards and forwards and changing over a period. It seems to me that, at that time, you held material which could have been to the advantage of any one those people.

**Dr Chadbourne**—Yes.



**Mr MELHAM**—I have no questions of this witness. I made some earlier statements which I stand by. I want to make one comment in relation to His Honour Judge Paul Urquhart QC of the District Court. I have no specific recollection of having appeared in front of His Honour or of briefing him, but I am aware of the fine reputation which he enjoys in New South Wales. Based on assessments from colleagues and others, it is my view that he has an outstanding reputation, and I believe he is the author of any report that he claims to have written. He would have written it. He would not have been dictated into signing anything in relation to that. Paul Urquhart's reputation is impeccable in New South Wales. I have had some brief encounters with him, though not in an adversarial sense that I recall. It is my strong view that any report that he has written is his report and his opinions alone.

**CHAIR**—I would have no problem with that statement at all if Mr Sage had in fact given Judge Paul Urquhart the power under the terms of the Police Integrity Commission Act to make a report. He did not give the judge that power. The point I raised was not that he would not stand by any report that he had written, but that Mr Sage, in his appointment of the judge, did not choose to give him the power under the act to make the report. Dr Chadbourne, thank you very much for your patience and for giving your evidence today.

Resolved (on motion by **Ms Panopoulos**):

That this subcommittee authorises publication, including publication on the parliamentary database, of the proof transcript of the evidence given before it by Dr Chadbourne at public hearing this day.

[3.10 p.m.]

**MARTIN, Mr Peter (Private capacity)**

**CHAIR**—Do you have any comments to make on the capacity in which you appear?

**Mr Martin**—I am a serving police officer, but I am on stress leave at the moment. I was last stationed at Manly.

**CHAIR**—We have received a submission from you, which we have authorised for publication. Would you like to make an opening statement? I point out that we are constrained by time.

**Mr Martin**—I will make it brief.

**CHAIR**—If necessary, we can invite you back on another occasion, but I know that you come from Brisbane.

**Mr Martin**—Basically, my situation has been complicated by senior management covering up initial lies, which escalated and continued to escalate to the point where they had no recourse of action but to keep lying to protect themselves. Very briefly, my situation involves untruthful documentation with regard to my work performance and lies that have not only tarnished my reputation but have prevented me from gaining employment in the Queensland Police Service. My efforts to correct these lies initially were all met with a wall of resistance. The more complaints I made, the greater the efforts to discredit me and the greater the buck passing. It became abundantly clear to me that a very strong culture of self-protection existed amongst management which, to my way of thinking, knows no bounds. I have no stronger belief that, under the current system, if you are a police officer who has a complaint and if your allegations relate to management, you are on your own. Further complaints from me to the police minister's office simply resulted in the complaints being referred back to the New South Wales Police Service and the very people that I was complaining about.

**CHAIR**—They were literally investigating themselves?

**Mr Martin**—In a nutshell. After some time and at considerable expense to myself, I eventually managed to have these initial lies overturned by the Administrative Decisions Tribunal. Once I had obtained that documentation I thought, 'Great! I'll go to the PIC with this new information and present it to them. They haven't had this information before, and now they'll conduct an ethical investigation.' Once again, I received the same revolving door treatment. I can honestly say that, given the disgraceful behaviour of the New South Wales Police senior management, I have never been more ashamed or embarrassed to be associated with the New South Wales Police Service. I say this with great regret, given my enthusiasm when I first joined the New South Wales Police Service.

Such is the extent of my regret that I openly discourage anybody that comes to me and inquires about joining the police service from joining. I can honestly tell you that morale

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amongst front line police officers within the New South Wales Police Service is at an all-time low. The overwhelming majority of front line police that I remain in contact with attribute this to a basic lack of trust and respect for senior management. It is my belief that the New South Wales Police management, through the highly skilful use of deception, lies, intimidation, nepotism and duplicity, has created what I deem to be the ultimate boys' club. So extensive, in my mind, are their contacts that they remain untouchable and an extremely protected species.

I can tell you also that no longer do front line police officers consider the New South Wales Police Service to be a rewarding and long-term career path. I say this because many reach a stage where they find themselves looking for a more rewarding career path outside of the New South Wales Police. This is not because of what they experience on the street as a police officer but because of a corrupt police senior management culture that has complete disregard for occupational health and safety issues—specifically, psychological welfare.

I would like now to go through in a methodical manner the process of finding out why I was rejected for the Queensland Police Service. In the new year of 2000 I was working with a probationary constable by the name of Barry Wittingham. The new year is obviously a very busy time, especially at Manly, where you have a high tourist rate. As such, we were basically flat out all night. Our duties on the night were to transport prisoners for other police from the scene of arrest to the police station. On one occasion we picked up a well-known defendant in the area who suffers from ADD, is on heavy medication and mixes this with alcohol—you can imagine the result. To cut a long story short, we transported him to the police station, and the defendant refused to get out of the truck. The defendant was removed, ran, and in the process of trying to escape, ran straight into a brick wall. The probationary constable that I was working with at the time was not in the vicinity and assumed that I had assaulted the defendant. He later made a report outlining what, in his mind, had occurred—that I had assaulted this prisoner.

This allegation was subsequently investigated, and I was cleared of any wrongdoing. The defendant, in fact, actually came back to the police station and apologised for his behaviour shortly after that. This being the case, I thought nothing more of it. It was yet another complaint; you have to wear them—it is part of the job. Unbeknownst to me, my commander at the time, Superintendent Gary Raymond, prepared an internal memorandum to the north region office under the command of Graham Morgan, who is now with Crime Agencies. It reads:

I have noted these papers and I have informed the police directly involved with the result. I have completed the outcome field of the CIS. Constable Martin is on the work performance program and is performing duty satisfactorily. He is also consulting police psychologist Stan O'Brien on anger management, conflict resolution and diffusing aggressive behaviour.

Raymond further states that the program will continue for a further three months.

Early in the year 2000 my parents, who are elderly, started to suffer ill health. Being the only child residing there and able to provide support, I applied to join the Queensland Police Service. That application was subsequently unsuccessful. After much badgering, much letter writing, many faxes, I found out from the then inspector of recruitment that the reason I was rejected from joining the Queensland Police Service was specifically that I was consulting a police psychiatrist and I was on an anger management program. I actually have a copy, which I will hand up to you later if I may, of the internal memorandum which was sent to Queensland recruitment by north region office with Inspector Lewis's hand writing stating that as well, confirming that I am not suitable due to the work performance program. With this information, I

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approached Gary Raymond and spoke quite frankly with him, saying, 'This needs to be fixed because it is not correct.'

**Mr MELHAM**—Sorry to interrupt, but that is the untruthful documentation that you refer to in your submission, on page 1?

**Mr Martin**—That is one, yes. At all times Gary Raymond gave me the impression that he was supportive of my application to Queensland. He was aware of the situation as to why I was applying for employment in Queensland. He assured me that he would do everything in his power to address the incorrect information, which never happened.

**CHAIR**—Who said that they would try and redress it for you?

**Mr Martin**—Gary Raymond. Superintendent Gary Raymond.

**CHAIR**—He said he would actually do something to redress—

**Mr Martin**—He assured me on many occasions. He spoke at length with my father, stating that it was his goal to get me to Queensland so that I could fulfil my duties and carer responsibility. I guess that the thing to keep in mind is that this was early 2000. I have documentation—which leads right up to October—of correspondence where we have requested Gary Raymond to address the situation.

**Mr MELHAM**—In what year?

**Mr Martin**—2000.

**CHAIR**—Was Gary Raymond still in northern command?

**Mr Martin**—In the year 2001 he was removed from his command, primarily due to Operation Florida, which involved detectives at Manly receiving moneys for drugs.

**CHAIR**—But he was not involved in that himself, was he?

**Mr Martin**—No, he was not employed at all.

**CHAIR**—But he was moved from that command, presumably because it had happened under his command.

**Mr Martin**—Correct. I later corresponded with Commander Morgan in relation to Gary Raymond's documentation to Queensland, but never received a reply until some time later.

**CHAIR**—When was Mr Raymond moved from northern command?

**Mr Martin**—It was in October 2001.

**CHAIR**—So then you thought that he was not going to go ahead and do anything?

**Mr Martin**—It just became quite apparent prior to that time that Gary Raymond was not prepared to do anything about the correspondence. It is my belief that to correct it would be to admit that he was telling lies.

**CHAIR**—Because he had sent the original information to Queensland?

**Mr Martin**—He had sent the internal memorandum to his region commander, Graham Morgan, and it was Graham Morgan's office that had furthered the correspondence to Queensland.

**Mr MELHAM**—So it was not Mr Raymond who referred it to Queensland. He had passed it on.

**Mr Martin**—To my way of thinking, Raymond's internal memorandum was a response to the investigation of me, and he labelled to the north region office what he was doing.

**CHAIR**—So it is a case where once something gets written down in the system, it is almost impossible to get rid of it.

**Mr Martin**—Yes, as I am going to establish further. Through the FOI in Queensland, I obtained a copy of that statement, which, I am reliably informed, angered Graham Morgan no end, because obviously there is a liability factor.

**Mr MELHAM**—Sorry to interrupt at this stage, Mr Martin, but I am interested in the basis upon which it came into existence. Have you ever established how Superintendent Gary Raymond came to write that memo? What was the basis upon which he said you were undergoing anger management?

**Mr Martin**—I later found out through information from Commander Robert Waites, via a psychiatrist—it is quite indirect—that that was to be the outcome of the investigation of me assaulting a prisoner.

**Mr MELHAM**—So that was the expected outcome, but it never got to that.

**Mr Martin**—That is correct.

**CHAIR**—In other words, it was written ahead of the investigation being done.

**Mr Martin**—I am not actually sure when the investigation was completed, but I know now that that is basically what they were saying was to be the outcome of the investigation. To explain what a work performance program is, it is a situation where a constable or any police officer is not performing duties to a satisfactory level. As a result, they are requested to enter into a formal work performance management program, which must be agreed to and signed by the person involved in the program.

**Mr MELHAM**—Again, I am sorry to do this; I just think it is appropriate. What triggered the investigation? If that was the outcome, was there actually a complaint made against you?

**Mr CADMAN**—By a probationary officer; is that right?

**Mr Martin**—Yes, that is right: by a probationary constable that I was working with.

**Mr CADMAN**—To close that in: he lodged that report against you—

**Mr Martin**—The probationary constable? Yes.

**Mr CADMAN**—and there was some sort of investigation; is that right?

**Mr Martin**—Quite an extensive investigation, yes.

**Mr CADMAN**—This report was written while that investigation was going on, was it?

**Mr Martin**—The allegation was in early 2000. The memorandum was sent on 31 March.

**Mr CADMAN**—2000?

**Mr Martin**—Yes. I guess what I need to clear up is that the investigation that was conducted was initially rejected and had to be further investigated by other police to ensure that the outcome was truthful.

**Mr CADMAN**—So there was a lot of indecision there.

**Mr MELHAM**—What do you mean by ‘It was initially rejected’? I am a bit unclear.

**Mr Martin**—To my knowledge, it was sent—as all investigations are—via the ombudsman’s office, and the ombudsman was not happy with findings from the investigating officer at the time.

**Mr MELHAM**—So it then had to be reinvestigated.

**Mr Martin**—I think the outcome was that he felt that it was too severe on the person making the complaint.

**Mr MELHAM**—Not in relation to you, but on the person making the complaint.

**Mr Martin**—On the complainant, yes. The complainant was on probation anyway.

**CHAIR**—Did the ombudsman make that decision?

**Mr Martin**—That is what I have been told. I have not seen any paperwork to that effect.

**CHAIR**—To get it clear, the incident occurred, the probationary constable made the complaint, the complaint was investigated and it was very critical of the probationary constable and cleared you?

**Mr Martin**—Yes.

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**CHAIR**—How did it then get to the ombudsman?

**Mr Martin**—To my way of thinking, any complaints that are being investigated must be overseen by the ombudsman.

**Mr MELHAM**—That is the safeguard.

**Mr Martin**—Yes.

**CHAIR**—He thought that the finding of the investigation was too harsh on the probationary constable and said, ‘Do it again.’

**Mr Martin**—Apparently there were quite a number of criticisms levelled at the probationary constable. Again this is hearsay because—

**Mr MELHAM**—You have not seen them.

**Mr Martin**—No, that is correct.

**CHAIR**—But you understand there was a second investigation.

**Mr Martin**—Yes. I felt it necessary to explain why the investigation took so long.

**Mr MELHAM**—I was a bit confused, Mr Martin, but I thought it was important to correct it.

**Mr Martin**—Join the club.

**CHAIR**—The second investigation was conducted and the outcome of the second was—

**Mr Martin**—Was exactly the same.

**CHAIR**—It was still critical of the probationary constable?

**Mr Martin**—Exactly. To my way of thinking, because I have requested a copy of this—

**CHAIR**—But you have not seen it?

**Mr Martin**—To date I still—

**CHAIR**—You should be entitled to it, shouldn’t you?

**Mr MELHAM**—Do they cite privacy? Sorry, Madam Chair.

**Mr Martin**—No, they do not respond to you. When you phone them up, they say that they have lost your application. That is a standard reply with the New South Wales Police freedom of information section.

**CHAIR**—How many times have you applied?

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**Mr Martin**—I would have to go through my diary. It is in the vicinity of six or seven applications in total—not just for this one, but over a course of two years.

**CHAIR**—And they have told you on each occasion that they have lost it?

**Mr Martin**—Their answer is, ‘We did not receive it.’ Further checks with a money order, which I had sent with it, revealed that it had not been cashed.

**Mr MELHAM**—Would you say that is a common—

**Mr Martin**—In my experience, yes. Having spoken to a number of other police who have applied for information from the FOI section, certainly. As a matter of course, Gary Raymond also referred my matter and the investigation to the DPP, which is apparently due process, and the DPP responded on 1 March to Gary Raymond:

This Office has carefully considered all available material and advises there is insufficient evidence to justify the commencement of any criminal proceedings against Constable Peter Martin on the basis there is no reasonable prospect of conviction.

**Mr MELHAM**—What date was that?

**Mr Martin**—That was 1 March.

**Mr MELHAM**—Of?

**Mr Martin**—2000. And the internal memorandum from Gary Raymond to north region was 31 March 2000.

**CHAIR**—You mentioned the words ‘performance program’ but I was not clear who was on the work performance.

**Mr Martin**—That was me.

**CHAIR**—You were?

**Mr Martin**—Yes. I later found out that part of the findings from that investigation was that I was to be placed on this program, which was to be overseen by Gary Raymond.

**CHAIR**—So you went on the work performance program after the complaint and the report?

**Mr Martin**—I was never on the program. That was part of their findings that Gary Raymond neglected to tell me.

**CHAIR**—So you were never on such a program?

**Mr Martin**—No. Stan O’Brien, who is the police psychologist, phoned me up after the inquiry and asked did I feel the need to speak to him. I said, ‘Certainly not. I have been cleared of an allegation which never occurred. Why would I feel the need to talk to you?’ That was the last communication I had with Stan O’Brien.

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**Mr MELHAM**—Have you got a notation as to when that conversation occurred.

**Mr Martin**—I do, but it is in a diary in Queensland.

**Mr MELHAM**—That is okay. You might be able to communicate that later. We just need the dates.

**Mr Martin**—It was early 2000.

**CHAIR**—You have never actually seen either of the reports of the investigation.

**Mr Martin**—No.

**CHAIR**—You have attempted to get them under FOI.

**Mr Martin**—A few times.

**CHAIR**—And you have been told, ‘We have lost it; we didn’t get it.’

**Mr Martin**—Basically they do not respond.

**CHAIR**—But you have seen that note that went to Queensland that you did not pass the work performance program or whatever the policy was?

**Mr Martin**—I should clarify that it was FOI in the Queensland Police Service.

**CHAIR**—I understand you got that, but that is why you think that the report of the investigation must have said that you should go on such a program. You are making that supposition, because you have never seen it.

**Mr Martin**—Absolutely, without a doubt. In a nutshell, because I have complained and raised concerns, it is my belief that Gary Raymond, in consultation with Graham Morgan, concocted this idea that—well, let us just say that was part of the outcome. But what you have to bear in mind is that not only do you have to tell the person, but the person has to agree to it, has to sign a contract. Further to that, a supervising sergeant has to agree to it, and there were none.

**Mr MELHAM**—You have signed no such contract?

**Mr Martin**—I have signed no such contract, and preceding all of these requirements is a channel of numerous, informal counselling which has to be exhausted.

**Mr MELHAM**—You have not undertaken any of that?

**Mr Martin**—I have had no counselling.

**CHAIR**—In other words, as you said in your evidence, the memo that went to the Queensland police is completely false.

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**Mr Martin**—Exactly, and I think therein lies the problem with Gary Raymond and Graham Morgan in identifying the issue of liability.

**CHAIR**—So you feel that if they owned up to it they would be rendered liable to be sued?

**Mr Martin**—Absolutely. The lies from Gary Raymond have been explained to me at length as being the reason for me not gaining employment in the Queensland Police Service.

**CHAIR**—He pretended to go along with you and said, ‘I’ll fix it up,’ but he never did.

**Mr Martin**—That is correct.

**CHAIR**—Where is he now?

**Mr Martin**—The last I heard of Gary Raymond he was stationed at Gordon Police Station on the northern beaches. In what capacity, I do not know. Once again, the New South Wales Police Service looks after its own, with no recourse.

**CHAIR**—What rank was Mr Raymond?

**Mr Martin**—Superintendent, which he has maintained at Gordon Police Station. I might also add that an application through FOI New South Wales rendered a statement from Gary Raymond that was prepared to be sent to me and the Queensland Police Service to correct his initial lies. This statement was subsequently withheld by Commander Graham Morgan.

**Mr CADMAN**—Hang on, what you are saying is that Raymond actually took action to redress the thing you are complaining of, but that was blocked by somebody else?

**Mr Martin**—That is correct.

**Mr CADMAN**—Well, it is not Raymond who is at fault then; it is the person who blocked it.

**CHAIR**—Except that Raymond did it in the first place.

**Mr Martin**—This letter, which was addressed to me, was prepared on 26 October 2000. Without going into too much detail with the letter, it basically states what I told you: that it was part of the findings for me to be put on the program but Gary Raymond simply failed to administer the program. I guess at this point what I would really like to raise is the right to reply. Natural justice, to my way of thinking, overrides everything; if statements are going to be made about somebody in any court, the person is given the opportunity to respond, which never happened.

**CHAIR**—How did you ascertain that Mr Morgan stopped Mr Raymond’s statement going forward?

**Mr Martin**—That was ascertained by my father through phone calls.

**Mr CADMAN**—You have only got that on hearsay.

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**Mr Martin**—Yes.

**Mr CADMAN**—But didn't you say that you had a copy of what Raymond had written to redress it?

**Mr Martin**—Yes, I do.

**CHAIR**—Do we have a copy of that?

**Mr Martin**—No. I can—

**Mr MELHAM**—No, we do not. It is not in the papers.

**CHAIR**—It might be a good idea, if you would not mind, to let us have a copy. We can get a copy made.

**Mr CADMAN**—You seem to be blaming Superintendent Raymond for having written it in the first place, and I can understand why. That caused the trouble; there is no doubt about that. But if that had been subsequently withdrawn, wouldn't that have put you in line for employment in Queensland?

**Mr Martin**—If that had been the case, yes, but unfortunately Graham Morgan saw fit to further correspond with the Queensland Police Service to, I guess, justify Raymond's initial lies.

**Mr MELHAM**—I see. Again, I am sorry to interrupt at this stage but I think it is appropriate. When I asked you some questions earlier about untruthful documentation, you mentioned the first communication as the first untruthful documentation. Are there other untruthful documents, one of which you are now speaking of in relation to Mr Morgan's communication?

**Mr Martin**—Yes, that is correct.

**Mr MELHAM**—So that was also an untruthful document sent to Queensland?

**Mr Martin**—The response from Graham Morgan was to simply justify Gary Raymond's comments.

**Mr CADMAN**—You haven't got a copy of his—

**Mr Martin**—I do, yes.

**Mr MELHAM**—I am just going on your initial submission. I am at a disadvantage, Mr Martin, because I do not want to interrupt the flow of your evidence but I also do not want any distortion.

**Mr Martin**—That is fine.

**CHAIR**—He has given us copies of the correspondence.

**Mr MELHAM**—But I am interested, Madam Chair, in whether he can actually identify for us what he regards as the untruthful documentation.

**CHAIR**—The first one is the letter that he read out. Mr Raymond has written on it, in his handwriting, ‘Not suitable on the basis of work performance program and aggressive problems.’ That is signed by Mr Lewis, is it?

**Mr Martin**—Yes, Inspector Lewis from Queensland recruitment.

**CHAIR**—And that is the denial of his coming on board.

**Mr MELHAM**—I accept that.

**CHAIR**—Then it says—

**Mr MELHAM**—Can we just get marked what the untruthful ones are. There are now obviously two that you say relate to an incident that did not occur. What we have is something that is incorrect poisoning the file, so to speak. So the untruth has been repeated?

**Mr Martin**—Yes, in a nutshell.

**Mr MELHAM**—Isn’t that the case?

**Mr Martin**—Yes.

**Mr CADMAN**—But not only that: when it was endeavoured to have that corrected, it was not corrected. Is that right too?

**Mr MELHAM**—That is another aspect. I am interested in what is untruthful and what is basically misinformation—

**Mr CADMAN**—I understand that.

**Mr MELHAM**—or people innocently going off documentation. There are different levels here, Madam Chair.

**Mr Martin**—I have a copy of a letter from Graham Morgan which he sent to Queensland recruitment. I have highlighted a few areas.

**Mr MELHAM**—Sure.

**Mr Martin**—Firstly, Graham Morgan accuses the Queensland Police Service of acting improperly by allowing the information to be supplied to me. He states:

Without the usual reference to this Service first, the document, with its added notation—

which is in the handwriting of Inspector Lewis—

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was later released to Constable Martin pursuant to an FOI application.

This is a letter to Inspector Lewis clarifying why the initial report was sent to Queensland. I continue:

Additionally in his case however, though he had not been required to enter a formal "Remedial Performance Program", arising from past work-related events. Constable Martin had been informally counselled by his commander, his work performance had been rendered subject to a program of closer scrutiny than would ordinarily be the case and he was on a schedule to regularly meet with his commander to discuss anything arising from the monitoring process.

This never occurred.

**Mr MELHAM**—So that is another untruth.

**Mr Martin**—Exactly. At no stage was I in any regular consultation with Gary Raymond; quite the contrary. I have eight supervising reports from sergeants based at Manly at the time which give a glowing reference.

**Mr MELHAM**—Was the first time that you saw that when it was produced through FOI through Queensland?

**Mr Martin**—That is correct.

**Mr MELHAM**—You did not obtain it through New South Wales.

**Mr Martin**—No, no. This letter was sent to be by the Police Service.

**Mr MELHAM**—Sorry?

**Mr Martin**—This letter is dated 13 November 2000. It is a letter from Graham Morgan—

**Mr MELHAM**—To you.

**Mr Martin**—He sent the letter to Queensland, clarifying why the initial statement was made by Gary Raymond, and he sent a covering letter to me with a copy of the letter to Queensland.

**Mr MELHAM**—He sent a copy of the letter to Queensland.

**Mr Martin**—Yes.

**Mr MELHAM**—So he notified you of what he had sent to Queensland?

**Mr Martin**—Yes, he sent a letter to me stating what he would do, and he enclosed a copy of the letter that he had sent to Queensland recruitment.

**Mr MELHAM**—The problem here, Mr Martin, is that we do not have that documentation, and I do not want the public record at this stage to reflect misconceptions or inaccuracies. In effect, Morgan basically provided to you what he had sent to Queensland?

**Mr Martin**—Yes, that is correct.

**Mr MELHAM**—So it is not a situation, as far as his actions are concerned, where he undertook a course of conduct and did not advise you of that?

**Mr Martin**—I will keep on reading and then you will see why—

**Mr MELHAM**—I am not saying you do not dispute what is in his letter but, in terms of Morgan's conduct—

**Mr Martin**—I do have another copy here, if you would like to see it.

**CHAIR**—I will just get a copy of that letter.

**Mr MELHAM**—I just thought that needed clarification, Madam Chair, because Mr Morgan seems to have provided Mr Martin with his documentation. I think it is a different complaint in relation to the earlier statement of Superintendent Raymond.

**Mr Martin**—I think, when you read it, it will become clearer as to why I am raising it.

**Mr MELHAM**—Okay, I am happy to do that.

**CHAIR**—I have not had time to read the whole letter, but I think the significant part of the letter from Superintendent Gary Raymond to Martin B & V Enterprises is the end, which says:

I support Peter's application for employment is considered as he would bring valuable operational policing experience to the Queensland Police Service.

**Mr CADMAN**—It should be 'if considered'; it would not say 'is considered'.

**CHAIR**—It says 'is' here. I am just reading it as it is.

**Mr CADMAN**—So he endorses his employment?

**CHAIR**—So he endorses his employment to this—

**Mr MELHAM**—But he has got a misstatement in there.

**Mr Martin**—In his letter to Inspector Lewis, Morgan makes the comment:

To take issue with whether or not Constable Martin was formally on a "Work Performance Program" therefore is largely, in practical terms, a matter of semantics ...

To my way of thinking, that is just ludicrous. It is absolutely beyond comprehension to dismiss a formal program—a contract, if you will, which was never signed—as being 'a matter of semantics'. Once again, having made that comment, it has totally removed my right to reply.

**Mr MELHAM**—I am just a bit confused here, Mr Martin. The letter that I have just been handed is a letter from Superintendent Gary Raymond to 'Dear Mr Martin'—that is, your father.

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**Mr Martin**—That is correct.

**CHAIR**—That is the letter I was just reading from; the other one is coming.

**Mr MELHAM**—So the letter is not to you?

**Mr Martin**—Let me clarify that. At this point in time I am working full time and this submission is a very much abbreviated version of the correspondence. If you work full time, you simply do not have the time to deal with the games that the New South Wales police management play.

**Mr MELHAM**—I do not want us to be at cross-purposes. Superintendent Gary Raymond, by letter to your father on 26 October—and I have not read all of the letter because it has just been handed to me—in the last paragraph says:

I support Peter's application for employment.

He considers that it would bring valuable operational police—

**CHAIR**—So he told your father that, but he will not tell the Queensland police that. Is that the bottom line?

**Mr Martin**—That is correct. At not one stage did Gary Raymond supply a supervisor's report to Queensland, which he is obliged to do.

**Mr MELHAM**—But then—let us go to the bottom of page 3, the final paragraph of that letter—he also says:

After that contact, I made a presumption that Peter had been involved in the program with the Police Psychologist however, it's only after reading your letter that I ascertained Peter did not in fact do the skills training by his choice. I contacted the Police Psychologist who told me that he had phoned Peter to offer him a program and that Peter had declined to do a program. This holds no prejudice from me; it was Peter's choice.

I do not want to read the whole of the letter out. To be honest, I do not want to put some of it on the record.

**Mr Martin**—It is a letter which does not make any sense.

**CHAIR**—Except for the last paragraph.

**Mr Martin**—Exactly. He contradicts himself throughout the whole letter.

**CHAIR**—We just have another letter coming; here it comes now.

**Mr MELHAM**—I suppose the summary is that, from your submission—which I have read—you say there is a culture of self-protection among management that exists.

**Mr Martin**—That is correct.

**Mr MELHAM**—I suppose what you are looking for is a transparent, independent process removed from the Police Service—

**Mr Martin**—Absolutely.

**Mr MELHAM**—in relation to complaints—

**Mr Martin**—Yes.

**Mr MELHAM**—so that, if a complaint is made, it is not police investigating police.

**Mr Martin**—As I will show you through the Police Integrity Commission findings, I do not even hold any trust or respect for them.

**Mr MELHAM**—I understand that, but is a summary of what you would submit to us as a committee that the way to remedy the situation is to have independent examinations of complaints removed from—

**Mr Martin**—And therein lies the problem. How do you determine that somebody is independent?

**Mr MELHAM**—There has always been an argument that you should not have police investigating police.

**Mr Martin**—That is correct, and I will—

**CHAIR**—I think I am very much in sympathy with that.

**Mr Martin**—I will agree with it.

**Mr MELHAM**—Mrs Bishop and I are on a unity ticket in relation to that.

**CHAIR**—I think we might also agree with the need for whistleblower protection legislation, do you think?

**Mr MELHAM**—There is no dispute in relation to that. Let us be clear where we are coming from. Mrs Bishop and I do not always disagree on some of these things. I think they transcend the political boundary. I am interested in the other thing that I think comes through in your submission: if something that is inaccurate goes on your record, it can actually poison your record and feed into subsequent misinformation on your record that can be detrimental to your promotions or job applications.

**Mr Martin**—Absolutely. That is entirely correct.

**Mr MELHAM**—I do not want to verbal you here, but would it be your—

**CHAIR**—You will not be allowed to.



**Mr MELHAM**—I do not want to misrepresent it; I am trying to just short-circuit it.

**Mr Martin**—I agree entirely with what you are saying.

**Mr MELHAM**—Would it be your submission to the committee that in effect people should be entitled to have access to their records, especially matters that are adverse, and an opportunity to also correct misinformation on their records?

**Mr Martin**—First and foremost, they should be informed if any action is going to be taken.

**Mr MELHAM**—I am interested in the principles. The trouble I have is in terms of our ability as a parliamentary committee to know the specifics. I am not trained. I do not have a lot of expertise in some of the structures that have been set up. But I actually support the principles of what you are saying in terms of adverse comments on your record, access to them, ability to correct them and being independently assessed. And I think this applies not just to the Police Service but within the public service generally.

**Mr Martin**—Yes.

**Ms PANOPOULOS**—Have you contacted the police union about this particular problem of yours?

**Mr Martin**—Yes. I really do not know where to start with those people. I have received some support, some help.

**Ms PANOPOULOS**—What sort of assistance did you request from them and what sort of support or lack of support did they provide?

**Mr Martin**—Initially, obviously I had to inform them as to what the situation was. I requested that they contact Gary Raymond and others on my behalf and correct the information.

**Ms PANOPOULOS**—Did they do that?

**Mr Martin**—No.

**Ms PANOPOULOS**—Did they provide you with any written documentation of why they did not do that?

**Mr Martin**—No.

**Ms PANOPOULOS**—Did they undertake orally that they would do so?

**Mr Martin**—Yes, they implied that they would be in contact. Whether they were or not is—

**Ms PANOPOULOS**—Did you follow this up?

**Mr Martin**—I did. I later complained to the Police Integrity Commission on a number of occasions from November 2000. I guess my involvement with the police association led to the

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administrative decisions tribunal in planning sessions where they would accompany me to address my concerns as to where and how we were going to correct the information. By that stage, late 2000, it was abundantly clear that neither Gary Raymond nor Graham Morgan had any intention of completely correcting the lies that they had—

**Ms PANOPOULOS**—So when you first contacted the association, orally they undertook to support you, and that support was to speak to Raymond?

**Mr Martin**—Of my understanding—yes.

**Ms PANOPOULOS**—To correct the misinformation on your record?

**Mr Martin**—Yes. I guess, in a nutshell, Gary Raymond did not want to play ball.

**Ms PANOPOULOS**—I am trying to now find out when your next involvement with the association was after that event.

**CHAIR**—Was this about the time that there was an amalgamation or merger of the police association and the association that represented commissioned police officers?

**Mr Martin**—To my knowledge, yes, it would have been very—

**CHAIR**—So there was a lot of politics going on in the police association, wasn't there?

**Mr Martin**—Yes, that is correct.

**CHAIR**—The police association and the commissioned officers association had not been together.

**Mr Martin**—Yes, separate representation.

**CHAIR**—So it was going to be a question of who was going to have control over whom.

**Mr Martin**—Yes.

**CHAIR**—For you as a non-commissioned policeman to be seeking for them to do something to a commissioned policeman may not have sat very comfortably with that amalgamation.

**Mr Martin**—Yes, that is correct. At the risk of naming names, I did receive some support but the support I received was pretty—

**Ms PANOPOULOS**—What form did that support take?

**Mr Martin**—Advice as to how to proceed.

**CHAIR**—Who was the president at this stage?

**Mr Martin**—I really could not tell you. We had had quite a few meetings as to how we would tackle it legally outside the Police Service as well, whether I would need assistance from a solicitor, whether I was eligible. What it came down to was—

**CHAIR**—Quite clearly what he wrote about you is pretty defamatory, isn't it?

**Mr Martin**—Yes. In the corporate world, I am pretty sure there would have been swift action not only to correct it but to reprimand him for doing it.

**Ms PANOPOULOS**—Again, I do not want to put words into your mouth but just clarify it for me: you received assistance from the association in the form of advice with regard to how to proceed legally. Is that right?

**Mr Martin**—Yes.

**Ms PANOPOULOS**—The assistance you requested, for the association to make representations on your behalf—for example, to speak to Raymond—they did not do.

**Mr Martin**—To my knowledge, I am unsure whether they spoke to him or not.

**Ms PANOPOULOS**—Did you receive any written advice?

**Mr Martin**—No written advice. Realistically, at that stage I held little faith that the association were going to be able to come through, even if they wanted to. My advice from my dealings with them was that it was going to be a conflict of interest to push too hard for my benefit.

**CHAIR**—In your evidence you also say—and I am not quite sure of where this is on the time frame—that, having failed with regard to Queensland, you then sought to have a posting to the border town near the Queensland border—

**Mr Martin**—Tweed Heads.

**CHAIR**—So that you could again look after your mum and dad. Was this time frame contemporaneous with this? Was it going on at the same time?

**Mr Martin**—No. It was quite some time away.

**CHAIR**—We might move on to that part of the story so that you can—

**Mr MELHAM**—I am sorry. I have just read Commander Morgan's letter of 13 November. In fairness, it is worth reading it onto the record. He concedes at the bottom of the first page:

At the time the memorandum was written Constable Martin was, like all other members of this Service of his rank, then subject to participation in a formal "Performance Management Scheme" he had entered in 1999.

**CHAIR**—But he was not.

**Mr MELHAM**—No. I am concerned with what he says over the page in the next paragraph:

Additionally in his case however, though he had not been required to enter a formal “Remedial Performance Program”, arising from past work-related events Constable Martin had been informally counselled by his commander, his work performance had been rendered subject to a program of closer scrutiny than would ordinarily be the case and he was on a schedule to regularly meet with his commander to discuss anything arising from that monitoring process.

Then there is a dispute about whether it is a semantic argument. In the final paragraph he says:

Nonetheless, for such weight as you may think it deserves, I do accept that Constable Martin is a very industrious police officer and he currently remains fully qualified to be a police officer, at least so far as this Service is concerned.

I want to clarify whether Mr Martin had been informally counselled. Commander Morgan says in the body of the letter that Constable Martin had, as a matter entirely of his own volition, chosen not to accept certain advice. It is a bit at cross-purposes. I want to be fair to Mr Morgan as well. Whilst he concedes there was no formal counselling, he talks about informal counselling. Then he talks about other matters that I do not wish to put on the record.

**Mr Martin**—The underlying issue is that—

**Mr MELHAM**—Had there been some discussions?

**Mr Martin**—Gary Raymond approached me after I was cleared from the investigation and asked how I felt about it and whether I felt the need to consult a psychiatrist.

**Mr MELHAM**—Could that be the informal discussion that Mr Morgan is talking about?

**Mr Martin**—Anything is possible with Gary—

**Mr MELHAM**—I do not want it to be the way the evidence was coming out earlier—

**Mr Martin**—I can assure you that Gary Raymond was not removed from the command for a—

**Mr MELHAM**—I accept that. But, in terms of Mr Morgan, I wonder whether what has happened here is that there is a notation on the record, people are at cross-purposes and there is a whole range of other things, so people have drawn conclusions.

**CHAIR**—Mr Raymond wrote the first letter.

**Mr MELHAM**—I am not talking about the first letter. I am talking about the second one.

**Mr Martin**—What contradicts it is that, if somebody is cleared of a complaint by an extensive investigation, you do not then punish them.

**Mr MELHAM**—I am not disputing that. I am just going to the body of Mr Morgan’s letter.

**Mr Martin**—But they well know what a work performance program entails. It is very clear and concise.

**Mr MELHAM**—Sure.

**CHAIR**—Was there anything called a remedial performance program?

**Mr Martin**—That is one stage above. Could I talk about that?

**Mr MELHAM**—Commander Morgan says you had not been required to do it.

**Mr Martin**—That is correct.

**CHAIR**—But you said that the performance management scheme is also a formal scheme.

**Mr Martin**—Yes. It is a signed contract.

**CHAIR**—That is the first one; then there is the remedial one?

**Mr Martin**—That is correct.

**CHAIR**—You were on neither?

**Mr Martin**—That is correct.

**CHAIR**—Commander Morgan goes on in his letter to say—and I think he made a good point here:

To take issue with whether or not Constable Martin was formally on a “Work Performance Program” therefore is largely, in practical terms, a matter of semantics.

But it is not, is it? It is a matter of fact. You either were or you were not.

**Mr Martin**—Exactly. Just to take issue with the remedial program, on 18 January 2000 I was again approached by Gary Raymond to sign a work performance agreement.

**CHAIR**—Is this after the event?

**Mr Martin**—Yes.

**Mr MELHAM**—I do not want to be disrespectful to Mr Martin, but I have concluded my questions. I am happy to stay.

**CHAIR**—We will not be much longer, but we will conclude this bit. If you have to go, you have to go. We have a quorum.

**Mr MELHAM**—I do not want to be disrespectful. You have a quorum. I have exhausted all my questions, and I am not unhappy with the direction this is going.

**CHAIR**—I think Mr Martin is making out a case that he needs some help.

**Mr MELHAM**—I hear what he is saying. I apologise, Mr Martin. Normally, I would stay to the end, but I have another commitment I have to go to.

**CHAIR**—He approached you?

**Mr Martin**—On 18 January 2001.

**CHAIR**—That is after he had written his letter?

**Mr Martin**—That is correct.

**CHAIR**—He asked you to sign an agreement to go into a program?

**Mr Martin**—That is correct.

**CHAIR**—It looks a bit like Watergate, doesn't it? They make a blue in the first place; then they cover it up and cover it up.

**Mr Martin**—You would have to have had dealings with Gary Raymond to understand how this, in his mind, would be perfectly legal. As I said, I have strong suspicions that he has had consultation with Graham Morgan; they have realised the liability; and Morgan has basically came down and said, 'Make it happen.' This is the result. Obviously, I refused to sign the agreement.

**CHAIR**—I imagine so.

**Mr Martin**—In a fit of anger, Gary Raymond then threatened me and said that, if I did not sign the agreement, he would simply draft papers and place me on a remedial program without my consent. My reply was, 'If that's how you conduct yourself, go ahead, and I'll take it further.'

**CHAIR**—Did that happen?

**Mr Martin**—No. Shortly after that, I wrote to the Employee Management Branch, expressed my concerns and outlined the situation. They, in turn, contacted Gary Raymond and had many conversations with him. They basically said to him, 'If you proceed with this action, we will not support you.' Without the support of the Employee Management Branch, which was a new section set up to address problems between management and junior police, or police in the rank and file, it was pretty hard. Gary Raymond's demand—or threat—was withdrawn shortly after that without any apology or written confirmation, and I heard no more of it. After many consultations with the Administrative Decisions Tribunal, with the FOI section, informal counselling and planning sessions, Michael Holmes signed off on a letter—which was a surprise—that was to be sent to Queensland recruitment and me and was to be placed on the record, correcting my service file.

**CHAIR**—Michael Holmes finally wrote that letter?

**Mr Martin**—Yes, but this was after many planning sessions and I requested a full hearing where I would produce evidence. So it certainly did not come of their own free will. If I can read it, he says:

I represent the Commissioner of Police in the New South Wales in an application currently before the Administrative Decision Tribunal in this State. The proceedings have been brought by a serving member of the New South Wales Police Service, Constable Peter Martin who seeks amendment by the New South Wales Police Service of (2) documents, which relate to him.

The documents in issue consist of a (1) page internal memorandum dated 31 March 1999 addressed to the Commander, North Region and signed by Superintendent Gary Raymond (Attachment A). The other document is a (2) page report dated 13 November 2000 addressed to you from Commander Graham Morgan of the North Metropolitan Region, (Attachment B).

In relation to the information contained in the body of the documents, the New South Wales Police Service makes the following observation:

(I) Constable Martin was not as of the 31 March 2000, or at any other time been the subject of a ‘Work Performance Program’ as indicated in the memorandum, (attachment A). Any such reference on the face of the memorandum is incorrect and misleading.

(II) Constable Martin had not as of the 31 March 2000 consulted the Police Psychologist in relation to emotional issues, work related or otherwise. Any such reference or implication on the face of the memorandum, (attachment A) is incorrect and misleading.

(III) That as of the 31 March 2000, Constable Martin had not received any counselling or other treatment in relation to anger management, conflict resolution or diffusing aggressive behaviour. Any such reference or implication on the face of the memorandum ... is incorrect and misleading.

(IV) Due to the fact Constable Martin had not been placed on a ‘Work Performance Program’ in the first instance, any statement or implication appearing on the face of the memorandum, (attachment A) suggesting any formal ongoing remedial program is both incorrect and misleading.

It further states:

Having regard to points (I) to (IV) above, the letter of Commander Morgan (attachment B) should now be disregarded insofar as those issues are concerned.

It is the position of the New South Wales Police Service that Constable Martin continues to remain as a valued and proactive member of the Manly/Davidson Local Area Command.

Having that document correcting those lies, I thought that now if I presented this information to the PIC surely they would have to take notice of me. But again, the standard reply is, ‘It’s not open for investigation.’

**CHAIR**—So they refused to investigate.

**Mr Martin**—Yes. I will refer to a letter way before that. I think this sets the tone for the Police Integrity Commission. It is a letter written to me by Tim Sage. Basically it states that any further correspondence with the Police Integrity Commission will be of no benefit to me. This is despite being able to produce information—

**CHAIR**—What did they say?

**Mr Martin**—Prior to the—

**CHAIR**—Prior to your getting that finding?

**Mr Martin**—Yes. I think it is relevant to point out the attitude and the ways of the Police Integrity Commission.

**CHAIR**—You now live in Queensland, and that is why we have juggled the program. You have yet to deal with that part in your submission dealing with when you asked for the posting to Tweed Heads. We are about to be thrown out of this room. Would it be possible for you to return on a different day?

**Mr Martin**—Yes.

**CHAIR**—I know that it is an ask because you are from Queensland.

**Mr Martin**—That is not a problem.

**CHAIR**—We can negotiate that with the secretary. I will not promise which day or when, but it may be that we will have to schedule an additional day of hearings. If we could do that, we might continue there. I do not want to rush you without hearing all the other things that have been heaped on you. I would like to ask one of the committee members to move that we accept the documentation provided by you as evidence to the inquiry. I do not think that has to be on a confidential basis but we will accept it as confidential at this stage until we go through it. If there is there anything in there that you do not want published, you can indicate that to the secretariat. At this stage, we will accept this as confidential additional material to your submission.

I move that the subcommittee authorise the publication of the evidence given before it at the public hearing on this day, including the publication of the electronic parliamentary database of the proof transcript, which covers your evidence. On that understanding, ladies and gentlemen, I will declare closed the meeting of this subcommittee of the House of Representatives Standing Committee on Legal and Constitutional Affairs on the investigation into crime in the community. We will resume on Wednesday of next week. Thank you for your attendance and for your patience, and thank you for giving testimony today.

**Subcommittee adjourned at 4.15 p.m.**