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Official Committee Hansard

**HOUSE OF
REPRESENTATIVES**

STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL
AFFAIRS

Reference: Crime in the community

FRIDAY, 28 MARCH 2003

SYDNEY

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HOUSE OF REPRESENTATIVES
STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

Friday, 28 March 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 Bronwyn Bishop, Ms Julie Bishop, Mr Cadman and Mr Murphy

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

GODFREY, Mr Allan Frank, Private Capacity 1062

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Subcommittee met at 10.19 a.m.

CHAIR—I declare open this public hearing of the House of Representatives Standing Committee on Legal and Constitutional Affairs inquiry into crime in the community: victims, offenders and fear of crime. I want to begin today by congratulating police officers on the way they dealt with the disgraceful behaviour of anti-war demonstrators on Wednesday. It demonstrated again that ordinary front-line police officers are committed and effective and strive to do their best under difficult circumstances to ensure community safety.

Over four days of public hearings last month, the committee heard that front-line police officers are dedicated to reducing crime and making our streets and suburbs safer, but the job is a difficult one with a hierarchy and management culture that appears to condone or, at the very best, tolerate harassment and victimisation of in particular whistleblowers. All of the current and former officers giving evidence last month had served long periods with the New South Wales Police, many with distinguished records. It would appear that when they made honest complaints or questioned management practices their careers came to an end. Evidence has been given that seems to show that, while charges are readily brought against noncommissioned police officers for inappropriate conduct, there is a different set of rules for senior and management ranks.

Today the committee is continuing its series of public hearings to take further evidence. Like the other former police officers who gave evidence, the two witnesses we will hear from today believe that police cannot make our streets and homes safer while the force continues to be managed in a way where harassment and victimisation are tolerated and appropriate support from the police hierarchy is lacking.

The committee has accepted the submissions from Mr Stephens and Mr Godfrey—the two witnesses who will appear today—on a confidential basis. The committee secretariat has confirmed with both witnesses that they agree to their submissions being published today. Is it the wish of the committee that submission No. 144 from Alan Stephens and submission No. 125 from Allan Godfrey, both previously accepted as confidential submissions to the inquiry, be authorised for publication? All in favour? It is so carried. Also a videotape is to be produced as an exhibit. Is it the wish of the committee that that videotape be accepted as an exhibit to the inquiry and released for publication? There being no objection, it is so ordered.

[10.22 a.m.]

STEPHENS, Mr Alan Raymond (Private capacity)

CHAIR—Welcome, Mr Stephens.

Mr Stephens—Thank you. By way of introduction, I am a retired police officer, having served for 33 years with the New South Wales Police Service. I am here in a civil capacity.

CHAIR—Thank you. We have authorised the publication of your original submission. Would you like to make an opening statement?

Mr Stephens—Firstly, I would like to thank you for reading my submission, for accepting it and for giving me the opportunity to come along here to present myself personally and present the evidence which I have. I will not make a long statement. I only wish to say that, as I say in my report and submission, I am not a vexatious complainant; I am not a whinger or a troublemaker. I have come along here because I have been harassed and victimised and have been the subject of criminal accusations by senior members of the New South Wales Police Service which I am totally innocent of. I am here, as a last resort, after complaining to the Ombudsman and the New South Wales Police Service, and after trying to get information under the Freedom of Information Act through the Police Service and the Sydney Cricket and Sports Ground Trust. Out of sheer desperation, frustration and nowhere else to go, I find myself here today, hoping that, by providing the evidence which supports my claims, maybe something can be done about it.

I have brought along a videotape of an incident at the Sydney Cricket Ground for you to have a look at which clearly shows a member of the public being assaulted by a police officer. It shows a sergeant of police, kneeling nearby, witnessing it. It shows Assistant Commissioner Dick Adams turning up while the assault was taking place. Nothing was done by the sergeant or by Mr Adams in relation to any action against the constable. They both prepared statements for court, not mentioning anything about the assault. It was only under cross-examination that Sergeant Rayment volunteered information about the assault. At the Parramatta District Court, when Mr Adams was called before Her Honour Judge Tupman, he adjusted his statement before giving evidence and admitted to seeing the assault, speaking to the constable and telling him to take his foot off the person's head. However, it was not put in his statement because he maintained that he did not think it was important at the time.

Getting back to the terms of reference of your inquiry, if we are going to reduce crime and prevent fear of crime in the community, we must also in a way prevent crime before it happens. If we do detect crime, we must take appropriate action. Clearly, this tape shows senior police witnessing a criminal act taking place and taking no action whatsoever in relation to it. How can we clear up crime on the streets when we have senior police turning a blind eye to members of their own service committing criminal offences?

CHAIR—Mr Stephens, your name was mentioned by Mr Richard McDonald when evidence was taken on Thursday, 27 February, when he talked about that particular incident and about the existence of a tape. The question was asked whether or not there was any investigation of this

incident. He said there was and that you, Alan Stephens, had made that complaint. So you did make a formal complaint?

Mr Stephens—I mentioned the complaint to Superintendent Hermann when I was interviewed in December 2001. He told me that he was aware that a complaint had also been made by the victim in the matter and that it would be left up to his complaint, as he was the person involved in the actual assault. I still maintain that as a, now former, serving member of the Police Service of 33 years I was also obliged to raise the matter because I had been dragged into the incident by being a personal friend of this former police officer who had been assaulted. So I had raised that matter previously, and I am aware that is also the subject of an investigation now being conducted. However, it is three years since that incident took place.

CHAIR—Three years!

Mr Stephens—The incident took place on 4 February 2000. When I was informed by my superintendent, Superintendent McMahan, at Liverpool that I had been banned from the cricket ground/football stadium for 12 months, I professed my innocence to him on 17 February 2000. I was told, ‘Regardless of that, if you go back to the cricket ground you will be given an infringement notice and you will be ejected from the ground and banned for life.’ I asked who had banned me and he told me it was the police and the cricket ground trust.

However, I have a document with me from the cricket ground trust saying they have no record of me being involved in the incident. I am not banned and, after making my complaints up to this date, apart from the fact that Mr Adams did send me a letter after this matter was raised at this parliamentary inquiry saying that my papers have now been marked that there is no adverse finding in relation to my behaviour on that night, there is no mention of any apology or any action being taken against Superintendent Hodsdon for lying on numerous occasions and saying he saw me on the video. I have seen the whole six hours of tape, from 5 p.m. on Friday, 4 February through till 11 p.m., and I am only on it for a matter of one second, while I was waiting for Mr Gabriel to be released from the police office. I went home at quarter past nine, yet Mr Hodsdon maintained and has given documentary evidence that he saw me at the cricket ground at 10.30 p.m. and that I was the subject of complaints and had behaved improperly and that I stood by and watched Mr Gabriel commit criminal offences and did nothing about it. I can prove I was home in bed at 10.30. I provided my mobile phone bills to Superintendent Hermann, who conducted the investigation.

The only reason Mr Hermann conducted the investigation was that, after lodging my complaint on 1 May 2001, I was forced to write a second letter five months later, to the Ombudsman, as I wanted to know what was happening with my inquiry. I was informed by Josephine Flanagan of the Ombudsman’s office that the delay was because, on the basis of a conflict of interest, every superintendent had declined to do the investigation. So my matter just floated around for five months until Superintendent Hermann apparently decided to take up the challenge and conduct an inquiry. After his inquiry, he recommended that action be taken against Superintendent Hodsdon. However, Mr Adams—and I have his report with me today—said that he believed Mr Hodsdon had only made a simple and honest mistake, and he recommended to the Ombudsman that no further action be taken. I then got a letter from the Ombudsman’s office to that effect—that they agreed with Mr Adams’s suggestion that no action should be taken against Mr Hodsdon because he had made a simple and honest mistake.

CHAIR—Which destroyed your career.

Mr Stephens—I had gone off on sick leave on 27 August 1999 and, as a result of receiving information that action was being taken against me in relation to this matter, I submitted my papers for a medical discharge from the New South Wales Police Force knowing in myself—and I had not applied for any promotion—that my career was finished, along with other reasons as well, and it had been finished some time earlier because of allegations made about the behaviour of senior police.

I have not mentioned it in my submission, but going back to 1991 a fellow sergeant at Campbelltown when I was there made allegations in relation to property going missing from the exhibit room. A complaint was made by him. He was subsequently transferred to Revesby and, because I was the only sergeant who supported him in his allegations, I was transferred to Liverpool. That is what happens when you make complaints about senior police. Out of the 100 complaints he made in relation to that, none was sustained and no further action took place. I have copies of the miscellaneous property items which went missing. A diamond ring worth over \$2,000 went missing. What did the superintendents of the police department do? They got the lady to sign for the ring and gave her \$100 cash. If you make a complaint about that, they push it under the carpet. I got transferred to Liverpool, Sergeant Hillier got transferred to Revesby—end of argument.

CHAIR—In 1991, when this occurred, you would have been a policeman for how long?

Mr Stephens—I joined in 1968, so it would have been 23 years.

CHAIR—And in those 23 years of service had you ever had any trouble? Had there ever been difficulties for you before? Had you a good police record?

Mr Stephens—Yes, when I made sergeant in 1984 I was selected by the then district commander, Superintendent Phil Clugston, to be in charge of the then I District Anti-Theft Squad when it was first formulated. I had a run-in with a sergeant, who was senior to me, about his behaviour when he was off duty and under the influence. I had words to him about it and made a complaint. I made that complaint to a Chief Superintendent Lindsay Gordon, and from that time I knew that my papers had been marked in invisible ink, so to speak—that is a phrase used by serving members—and that any chance of my applying for a promotion was over and done with, because you cannot take on inspectors, superintendents and chief superintendents. You can get constables into trouble, you can get sergeants into trouble, but you have to look after commissioned officers—the old phrase they use is that they are ‘protected fauna’. It is a very embarrassing situation to have commissioned officers coming undone and getting into trouble, whereas sergeants and constables are fair game.

I knew back then what would happen when I made a complaint. I have ample documentation that I went as far as I could under freedom of information, asking for copies of alleged reports, and I was told, ‘That’s the end of it; no further action.’ I have never applied for a promotion, so I do not want anyone to think that I am here as a result of sour grapes complaining because I applied for a promotion and never received it. I was made sergeant in 1984, and I left the job in 2001 as an incremental sergeant. So I was a sergeant for 17 years. These days, people go from senior constable to superintendent. Good luck to them. That is the course of their actions. I

maintain that through speaking up early in the piece, supporting right over wrong—and I still dig my heels in now and say I did the right thing but—

CHAIR—You paid.

Mr Stephens—I have my police pension as a sergeant, so be it. Life goes on.

CHAIR—Before one of my colleagues asks a question, what you said right at the beginning was that you actually received a letter from Assistant Commissioner Adams saying that your papers were now in good order and there was no blemish on your record after it became known you were appearing before this committee. Did you say that or did I misunderstand you?

Mr Stephens—I received the letter on 3 March, I believe.

CHAIR—This year?

Mr Stephens—Yes, this year—only recently. All I am saying is that I received the letter after the matter was made known in this parliamentary hearing.

CHAIR—After your name was mentioned on 27 February?

Mr Stephens—Yes.

Mr CADMAN—Not good. Can I just take you through a few things, because I have never been a policeman and I need to understand the environment that you work in. It could be said that, in a large organisation, if pressure is put on people of lower ranks it should somehow or other sieve out or winnow out the people that may cause problems when they are promoted to higher positions; therefore, there is a reasonable approach in making life fairly tough or allowing complaints against constables and sergeants but not following that same practice in higher ranks. By the time a person reaches commissioned officer rank, they have been through that process, they have been tested, they can handle most circumstances, and their integrity and honesty have been tried and tested—there is nothing against them; therefore, they should be protected. Isn't that the way it really works? The lower ranks are tested, complaints are lodged if they are found wanting and discipline is meted out, but once they become commissioned officers they have been through that process and, therefore, should in fact be able to handle most circumstances and need to be protected.

Mr Stephens—In response to that, I would only say that, having joined in 1968, I have been the subject of numerous complaints. I have been accused by a young lady of sexually assaulting her at Liverpool Police Station. I have been accused of assaulting prisoners to get admissions from them to convict them at court. I have been accused of being involved in money going missing from a police station. I could go on with other examples. Not one of those matters has been sustained against me. I do not know if you are getting at the point that, if I have survived all of those matters and I get to the rank of commissioned officer, my career and my previous record is unblemished and I am fine. If there have not been any convictions against me departmentally, that might be so, but in relation to my complaint now I find that when you make a complaint to police about police it is very difficult to get to the bottom of the matter and have it properly investigated. While ever that is the practice you will never get to the bottom of the matter properly.

Mr CADMAN—So you are saying that, in your experience, no complaint against a commissioned officer made by a fellow policeman is ever properly investigated?

Mr Stephens—I cannot speak of every case.

Mr CADMAN—No, I am talking about in your experience.

Mr Stephens—This is why I am here today—to give my personal experience. I do not particularly want to talk about what anyone else has told me about certain things. I am here to give you hard evidence in relation to my situation, how I have been falsely accused and how I have seen a friend of mine spend five days in court. I have read through the 309 pages of depositions on about 30 occasions, I have analysed the statements prepared by the police, I have read through the transcripts of their evidence given at the lower court, I have read through the transcript of their evidence-in-chief and cross-examination and I have found that many loopholes, mistakes and corrupt practices in it, such as preparing false statements to convict an innocent man. That is what I want to raise and that is what I am prepared to give evidence about here. Running off from what you are saying: yes, I do believe that, while ever police make investigations about police, you will never get to the bottom of the matter and get a satisfactory investigation done.

Mr CADMAN—Does that not mean then that you have to pull in somebody from outside who may not understand policing processes or the discipline that you impose on yourselves as serving officers? Let me use an extreme example: you may get an extreme libertarian or somebody who does not understand service life making decisions on issues that they do not understand if you pull somebody in from outside to look at these matters.

Mr Stephens—If that needs to be done then that needs to be done. After you watch this video today, I am sure you will be able to make up your mind about whether an assault has taken place or not. If you want to see the evidence that I have in relation to how certain statements were made and if you cannot decide then that what was done was a corrupt practice, maybe you could then call upon someone—maybe a solicitor from the DPP—and say, ‘This is what evidence I have. What you think are the proper and legal technicalities for preparing a case against this person for this, that and the other?’

Mr CADMAN—What avenues do you have now? You complain, I would imagine, to your superior officer—is that the normal process?

Mr Stephens—I professed my innocence to Superintendent McMahon. The Ombudsman’s office—

Mr CADMAN—Wait on—McMahon was your immediate superior?

Mr Stephens—Yes, at Liverpool.

Mr CADMAN—So you had been involved in the incident—

Mr Stephens—Allegedly.

Mr CADMAN—Your friend had been involved, allegedly, in the incident out at the cricket ground, you thought things were bad and you complained to your superior officer?

Mr Stephens—No. I went home and at 10.30 p.m. a further incident—

Mr CADMAN—No, I am taking all of your evidence as read. I am looking at the process of complaint—that is all I am looking at.

Mr Stephens—I informed my superior officer, Superintendent McMahon, that I had nothing to do with the incident, I was not the subject of complaints and I was not on the video. I was told, ‘Regardless of that, you are banned from the cricket ground for 12 months. If you go back in there you will get an infringement notice.’

Mr CADMAN—How could he have that information?

Mr Stephens—Because Superintendent Hodsdon on 7 February, the Monday after the incident, sent a written manuscript report to Mr McMahon stating that I was there at 10.30 p.m., I was involved in an incident, I was the subject of complaints and I stood by and watched Mr Gabriel—

Mr CADMAN—So did McMahon then call you to explain your actions or did you pre-empt that by going to him and saying, ‘This is what happened out at the cricket ground’?

Mr Stephens—No, he approached me while I was off duty, informed me of the action that Mr Hodsdon had claimed that he had worked out in conjunction with the Sydney Cricket and Sports Ground Trust. I professed my innocence. He told me, ‘Bad luck.’ Later, after trying to apply through freedom of information to the cricket ground and the New South Wales Police Service and when he realised that he had been conned by Mr Hodsdon, in desperation I sent him a seven-page letter. He sent it off as a complaint about the actions of Mr Hodsdon. It came back via the professional standards manager in town saying that, under all the circumstances, Mr Hodsdon took appropriate action.

Mr CADMAN—So your superior officer in this instance supported your statement. Is that right?

Mr Stephens—Yes. And I have since spoken to him after being told about and reading a report from the Ombudsman that Mr Hodsdon in desperation has now turned around and said, ‘I wasn’t going to send anything in writing, but Mr Superintendent McMahon insisted that I send him something in writing.’ I have spoken to Superintendent McMahon on two occasions in relation to this. He says that is a lie.

Mr CADMAN—As an outside observer, one would think that any statements about this incident would be unknown to your superior officer unless he was informed by somebody outside or by you.

Mr Stephens—Mr McMahon was informed by Superintendent Hodsdon. Mr McMahon took on face value what his brother superintendent had told him as being true and correct: here is a group of guys who have gone out to watch the cricket and played up.

Mr CADMAN—Why didn't you go to your superior officer and say, 'Look, I was out at the cricket ground and this is what occurred; if you hear anything on the grapevine, this is what actually occurred'? Did you think of doing that?

Mr Stephens—It happened on a Friday night. I received an anonymous phone call at home on the Sunday afternoon saying that I was going to be banned from the cricket ground for 12 months. Two other police officers who were with me and who were serving members at the time were also called into the office by Mr McMahon and another boss of another area and informed that they had been banned from the cricket ground for 12 months and that I was next to be informed. I waited until 17 February, which was only 10 days later, when Mr McMahon informed me of the matter. Then I thought, 'I will have my say now and tell him what took place,' thinking that he would say, 'Okay, I will make inquiries about it.' But he thought that what he was told was true and correct—I do not have a problem with Mr McMahon; I have known him many years and I still speak to him—but now he realises that in fact he had made a slight mistake, misjudgment or whatever. The unfortunate thing about it is that the Ombudsman's department states that before an adverse comment can be placed on the service record of a police officer he must be given the opportunity to provide his side of the story in writing and have redress to any allegations that are put to him. None of the three police officers—Senior Constable Nellies, Senior Constable Quigg and me—were given that opportunity. It went straight on our service registers, and for three years we have been trying to clear our names and get to the bottom of the matter.

In relation to Detective Quigg, he put in a submission to Mr McMahon, once again in writing, claiming that he had nothing to do with the incident—he was not there causing trouble; he was not on the video and he was not the subject of complaints. It was sent off to be investigated. Six to nine months later he rang the Ombudsman's office wanting to know what the latest was and how the procedures were going with his investigation. He was told, 'It's all finalised; it's finished.' He said, 'How can it be finalised and finished? No-one's got back to me. I have supplied the police department with a letter from the cricket ground saying I'm not banned. I have supplied them with other written documentation.' To which Christine Burgess from the Ombudsman's office turned around and said, 'Hang on, the file we've got here hasn't got those documents with it.' They were deliberately taken off Detective Quigg's file, were not forwarded to the Ombudsman's office and the matter was written off as Mr Quigg still being there, being a troublemaker and being the subject of complaints—it was still on his record. The Ombudsman's office then sent a letter back saying, 'We have now got a fresh copy of these letters from Mr Quigg. You reinvestigate it.' And, to this day, I do not know what the end result of that is.

So, no matter where you turn and no matter what you do, they come up with feeble excuses and reasons, documents go missing and no-one will get to the bottom of the matter and find out what is going on. I have finally got a letter from Mr Adams saying that, in relation to my behaviour on 4 February at the cricket ground, there is no adverse finding. Yet Mr Hodsdon, who has lied, said I was on the video and said I was the subject of complaints. I asked—and I can give you the letter that I gave Mr McMahon asking—'Who's made the complaint? Where am I on the video? What behaviour did I do? Who ejected me from the ground?' I was also ejected from the ground. I did not even know I was ejected from the ground. I am home in bed at 10.30, yet he says, 'No, he was on the video. I saw him do this. I saw him do that.' But there is nothing from Mr Adams to say, 'We apologise profusely. Further action is being taken against Mr Hodsdon'—nothing. There is no adverse finding. So my name has now been cleared as far as my behaving properly, but my simple question is: how can people lie—not perjury because

nothing was given in evidence—and put in writing in departmental investigations that I did certain things? I say I didn't. The matter now dies a natural death and no action is being taken against Mr Adams's friend, Superintendent Hodsdon.

Mr CADMAN—You are talking about a process of falsifying—

CHAIR—We have just established that Mr Hodsdon's rank was superintendent.

Mr Stephens—Yes.

Mr CADMAN—To carry out this project, you described something which could almost be described as a conspiracy against you—not you in person but a circumstance where the good name of the force needed to be protected, let us say. How many people would have to be involved and know about you and your circumstances to have carried this out? Mr McMahon was misled and he is aware of that situation. Let us leave him to one side. How many people would have been involved in the process that you have described who would have either taken the word of somebody without testing it or supported false claims?

Mr Stephens—Do you want a number or the names?

Mr CADMAN—The names.

Mr Stephens—I believe Assistant Commissioner Richard Adams would be involved, Superintendent Gary Hodsdon, Sergeant John Rayment, Constable Matthew Duggan, Senior Constable Glen Broadhead and Senior Sergeant Battishill. Mr Hodsdon has claimed on a number of occasions in writing in the internal investigation of the matter that he had spoken to members of the Sydney Cricket Ground trust who agreed that I should be banned. I have a letter from the cricket ground trust. I think Mr Hodsdon has used their names to try and save his neck, but I am quite convinced that you will not get Mr Paul Nisbet, the general manager of the cricket ground or Mr Thomas Packer, the operations manager, to come forward and put their necks on the line by saying that they saw me at the cricket ground and I was the subject of complaints. Mr Hodsdon has only used their names to feather his bed and make it look as if he had spoken to the cricket ground trust and they agreed with my course of action. However, I have a letter from Mr Nisbet. I have spoken to Nisbet and Packer on the phone on a number of occasions and they have told me straight out, 'We do not know if the police want to ban you. That is up to them. It is nothing to do with us. We didn't ban you. We know nothing of it. If the police want to ban you from the ground, they can.' That is wrong. Mr Hodsdon has no right in the world to ban me from going to the Sydney Cricket Ground. He has no right to ban me from going shopping at Woolworths. He can ban me from going to a police station or driving a police vehicle when I was in the job, but he cannot turn around to any police officer and say, 'You cannot go to the Sydney Cricket Ground and watch the cricket.'

I was all prepared to go back into that cricket ground but, after having 30-odd years in the police, I was not going to go back in there and test my luck that, if Mr Hodsdon or someone else saw me and said, 'Sergeant Stevens is back here; we'll now turn around and give him the old 181D, the lack of confidence by the commissioner,' there is their out to throw me out because I have disobeyed the direction from Mr Hodsdon.

Mr CADMAN—After three years you missed some wonderful sporting opportunities.

Mr Stephens—I have never been back into the Sydney Cricket Ground to watch a game since. When I was interviewed by Superintendent Hermann about my complaint, that is one of the questions he asked. I said, ‘No, until this matter is cleared up, I am not going back into that cricket ground and allowing myself to be subjected to further harassment and persecution by senior members of the Police Service.’

Ms JULIE BISHOP—Would you be confident to go back now, now that you have received the letter of 3 March?

Mr Stephens—Yes, I would quite welcome to go back in now. But for that period of time I have been offered on numerous occasions from friends the use of a corporate box at sporting events, and I would have loved to have gone back in there. I went there twice that year to watch the first two semifinals, Pakistan v. Australia, and I watched another game with South Africa. But I have not been back there since that day to watch a game of cricket, football or whatever. I love my football. I played for Western Suburbs myself. So I know what sporting is all about, and I have not been back there since.

Mr CADMAN—I have just one question to finish on. It could be said that what happened here was a mate of yours got into trouble and you stuck up for him.

Mr Stephens—If you would like me to, I can briefly go over the circumstances that I set out in my submission and explain what my involvement was.

CHAIR—Perhaps you should.

Mr Stephens—We attended the game and, at approximately 8.15, three of the people—Mr Gabriel, Mr Hibbs and Mr Roby, none of them police officers—decided to go downstairs. I remained upstairs. That left seven out of 10 people still upstairs, including my daughter, who is a serving member of the New South Wales Police Service. Shortly afterwards, I saw Mr Roby appear on a walkway across the Brewongle Stand beckoning me to come down to him. I walked down to him. He informed me that Mr David Gabriel, a former police officer, had been involved in an incident with police and security and that it looked like he had had some sort of a fit, that he was handcuffed and on the ground. He said, ‘Can you come down and see what is going on?’

I walked down the flight of stairs with Mr Roby to a landing, where I saw Mr Gabriel lying on the ground not handcuffed but being attended to by two medical officers. As I got to the concrete landing in the stairwell, Senior Constable Broadhead approached me and said: ‘Sergeant Stephens, I know who you are. If you want a friendly word of advice, don’t get involved.’ I said: ‘I was upstairs watching the cricket. This gentleman here has called me down, saying that Dave has been involved in some of incident and that he was having a fit or something. I know Dave is an asthmatic, so I have come down to make sure that you guys are all right and to see if Dave needs any medical attention or assistance.’ With that, he said, ‘Just stand over there against the wall.’

I stood there with Mr Roby. They treated Mr Gabriel, and I heard a security officer say to the group of police and security officers, ‘I don’t care what happens; I just want him out of the cricket ground.’ I then beckoned Senior Constable Broadhead over to me and said, ‘I’ve just heard one of the security officers say they just want him out of the building, out of the ground.’ I said, ‘If that’s all that is to take place, even though the game is still going, I will take him home,’

I will take him out of the ground and I promise you he will not come back.’ He went away and spoke to the officers. I saw one of the police officers pointing to his arm. Constable Broadhead came back to me and said: ‘No, as they were carrying him down the stairs he has lashed out with his foot and kicked the constable on the arm. He wants him charged with assault.’ I said, ‘That’s fine.’

I stood there. They walked him downstairs to an office. They got his particulars. And that is where on the video I am standing outside for approximately one second—I think it is at five to nine. After Mr Gabriel was released, I said to my friends that were there, ‘It’s been a great night!’ I was a bit peeved off, so to speak. I said, ‘I’m going home. Thanks very much. I’m off,’ and away I went with Mr Roby. We caught the bus down to Central and the train home. I rang my partner, my wife, twice on my mobile phone from Holsworthy railway station for 47 seconds at one minute past 10 and for seven seconds at 14 minutes past 10 at Ingleburn. She picked me up at the Minto railway station at 10.30, dropped Mr Roby home to Raby and I went home to St Andrews. That was my total involvement in the incident.

I have produced my mobile phone bill for Mr Hermann, who investigated my complaint. Regardless of that, I was still there, apparently. He said, ‘We can prove your mobile phone was used at those locations, by getting onto the supplier and running beams across here, there and everywhere or something, working out where it was from, but we can’t prove you made the phone call.’

Getting back to your question, that was my total involvement in that day. I went home and then, lo and behold, I found out later that I am banned from the cricket ground and football stadium for 12 months, I was the subject of complaints, I stood by and watched Mr Gabriel commit further offences at 10.30 p.m. and did nothing about it and, as a result of that behaviour as a serving member of the New South Wales Police Service, I was banned from the cricket ground and football stadium for 12 months!

CHAIR—We are going to see that tape in a moment, but I know Julie Bishop has got some questions she would like to ask, if you have finished. We also want to ask some very specific questions about Assistant Commissioner Adams and his part in the video.

Ms JULIE BISHOP—Mr Stephens, can you explain the charges against Mr Gabriel—some went to the Local Court and others were dealt with in the District Court?

Mr Stephens—Mr Gabriel received a total of 12 charges that evening at the lower court, at Downing Centre, and then it was finalised at Burwood Local Court. Five charges were dismissed by the magistrate, Mr Price, leaving seven charges.

Ms JULIE BISHOP—At the Local Court?

Mr Stephens—At the Local Court at Burwood. Mr Gabriel lodged an appeal and went to Parramatta District Court before Judge Tupman. As a result of that appeal, two charges of assault against police were dismissed and Judge Tupman made the remarks—

Ms JULIE BISHOP—I will come to that. So he was left with five convictions after the District Court appeal?

Mr Stephens—Yes.

Ms JULIE BISHOP—What did the five offences cover?

Mr Stephens—One was an assault on an usher, which was an alleged push; another was an assault on a security guard, once again a push; one was an assault on a police officer—

Ms JULIE BISHOP—Was that the kick in the arm?

Mr Stephens—No, that matter was dismissed at court. There was only one charge of alleged spitting at a police officer through the back of a police truck. There were three charges of spitting at police through the back of a door—two were dismissed and one he is still convicted of. The other two charges were offensive language and resisting police.

Ms JULIE BISHOP—Of those five charges that remain as convictions, how many of them related to the period of time when you were at the ground?

Mr Stephens—None.

Ms JULIE BISHOP—So they were all matters that occurred after—

Mr Stephens—At 10.30 p.m. and onwards.

Ms JULIE BISHOP—After you had left?

Mr Stephens—Yes.

Ms JULIE BISHOP—Can you just summarise, in general terms—and if I need to explore it further I will—what changes in the prosecution case occurred between the hearing at the Local Court and the appeal at the District Court. You have indicated that Assistant Commissioner Adams enhanced, added to, his statement between the two hearings. Were any other changes made to the prosecution brief between the Local Court and the appeal?

Mr Stephens—No, with the appeal no evidence can be changed; you can only address the judge on the evidence that has already been given. Mr Adams had not given evidence at the lower court. However, he had prepared a statement prior to the knowledge of what was on the video.

Ms JULIE BISHOP—So at the Local Court there was no statement proffered by Mr Adams?

Mr Stephens—No.

Ms JULIE BISHOP—How do you know that he had already prepared a statement then?

Mr Stephens—Because it is dated 8 June 2000.

CHAIR—Was that presented?

Mr Stephens—No, it was not presented at the lower court, because Mr Adams did not give evidence. He was tied up with the floods at Lismore—

Ms JULIE BISHOP—But it was presented at the appeal?

Mr Stephens—Yes. A solicitor acting on behalf of Mr Gabriel can seek leave. That was the reason why we went to the appeal court—to seek to have Mr Adams come along and give his evidence.

Ms JULIE BISHOP—So they produced a statement dated 8 June 2000?

Mr Stephens—Yes.

Ms JULIE BISHOP—Then what happened at the appeal in relation to that statement?

Mr Stephens—He is asked by the solicitor of the DPP—

Ms JULIE BISHOP—So he is in the box giving evidence?

Mr Stephens—He is in the box and is asked his name, rank and station. He is asked, ‘Have you prepared a statement in relation to the matter?’ He responds yes. He is asked, ‘In relation to the matter, would you like to add anything that you are now aware of that is not in your statement?’ He responds, ‘Yes, I would like to add that when I attended the Ladies Stand I walked up and saw Sergeant Rayment and Constable Duggan, and the defendant lying on the floor—oh, and I saw that Constable Duggan had his foot on the defendant’s head.’ Then he added—and this is not in his statement—‘I immediately said, “Constable Duggan, take your foot off the defendant’s head.”’

Ms JULIE BISHOP—So that was not in his original statement. Did Mr Gabriel have a lawyer representing him at the appeal?

Mr Stephens—Yes.

Ms JULIE BISHOP—Did the lawyer ask questions in cross-examination of Mr Adams?

Mr Stephens—Yes, he was asked, ‘Mr Adams, that doesn’t appear in your statement—why not?’ He responded, ‘I didn’t think it was important at the time.’

Ms JULIE BISHOP—Was it left there or was he asked more questions?

Mr Stephens—He was asked if he had made inquiries as to why Constable Duggan had his foot on his head. He said no. He just formed the opinion: ‘I saw him. He was totally under control. His hands were handcuffed behind his back and he was lying face down on the ground. There was no need for it, so I told the officer to take his foot off his head.’

Ms JULIE BISHOP—So the 8 June statement was sequential in terms of what Mr Adams had seen? He went through saying, ‘I saw this, I saw that,’ et cetera. Then, when he gives

evidence in the witness box, he adds the bit about the foot on the head and what he did in relation to Mr Duggan.

Mr Stephens—Yes, and when asked the question, ‘Have you seen this video?’ he also admitted, ‘Yes, I saw it about a month ago.’

Ms JULIE BISHOP—Which video was he referring to when he responded to the question, ‘Have you seen this video?’ Was it the one showing the foot on the head?

Mr Stephens—Yes. The Sydney Cricket Ground trust have approximately 50 cameras at all different parts, on bars and buildings, which run all the time. There is an operator in a room, but there is only one tape which actually records. So if an incident happens in the Doug Walters Stand, for example, the monitor operator will push a button which records an incident in the Doug Walters Stand and it goes onto the tape. Even though there are 50 cameras operating, only one at a time goes onto the tape.

Ms JULIE BISHOP—When was the hearing in the Parramatta District Court?

Mr Stephens—13 March 2002.

Ms JULIE BISHOP—So he saw this video some time in January or February 2002 and his statement was some six months earlier, in June?

Mr Stephens—No, it was in June 2000.

Ms JULIE BISHOP—18 months earlier?

Mr Stephens—Yes.

Ms JULIE BISHOP—So his statement was made five or six months after the original incident in February, he made a statement in June and then, 18 months later, he got to see the Sydney Cricket Ground tape and then enhanced his statement in the witness box.

Mr Stephens—For reasons only known to Mr Adams, he volunteered that information. In his original statement he just said that he attended the scene and saw Constable Duggan, Sergeant Rayment and the offender lying on the floor and that he was kicking and doing this and that. Everything was put against Mr Gabriel, and nothing to assist Mr Gabriel was indicated in his statement. I know that when I joined the Police Force you were told that when you go to the scene of a crime you preserve the crime scene and what you see, and then you make a statement according to that and present that evidence to the court. You do not take out this and add in that.

Ms JULIE BISHOP—So all you know, all you have been taught, all you have learned and all your experience as a police officer would be that if you were asked to give a statement of what occurred in an incident like this you would go through it sequentially and it would include an officer with the foot on the head of the offender, even if that were to reflect badly on the officer?

Mr Stephens—You are there to present the facts to the court. As a police officer, you are not deciding whether someone is guilty or innocent. You put the evidence that you see and are aware of before the court and you let the magistrate or judge decide. If Constable Brown sees something that Constable Smith does not see, then Constable Smith cannot put it in. You only put in what you actually hear or see yourself and you let the courts decide where the truth lies in the matter.

Ms JULIE BISHOP—How many other statements were tendered in the Local Court by police officers?

Mr Stephens—Approximately eight or nine.

Ms JULIE BISHOP—And none of them mentioned the foot on the head?

Mr Stephens—The only person that mentioned the foot on the head was Constable Duggan himself. He maintained that the reason he did it—

Ms JULIE BISHOP—He put his foot in it!

Mr Stephens—He put it in his statement and maintained that the reason he did it was that the defendant was arching his back and spitting at him. In the lower court, the magistrate, Mr Price, agreed in his summing up that Constable Duggan took that course of action because Mr Gabriel was arching his back and spitting at him and that that was totally justified. However, I have seen the tape—and you will have the opportunity to see it—

Ms JULIE BISHOP—Presumably Judge Tupman saw it too?

Mr Stephens—The judge at the District Court basically said, ‘I have seen the video. Contrary to what Constable Duggan said, he had no right to put his foot on the defendant’s head. There was no arching of the back and spitting.’

Ms JULIE BISHOP—Did any other police officer give evidence at the District Court and alter their evidence to add a reference to the foot on the head or in any other way?

Mr Stephens—No. Unfortunately, there is no provision to re-call witnesses—

Ms JULIE BISHOP—I appreciate that.

Mr Stephens—No-one else was called to the District Court.

Ms JULIE BISHOP—So how was it that Mr Adams was called?

Mr Stephens—Because he had not given evidence at the Local Court. Everyone else had given their evidence at the Local Court and that had been subject to cross-examination and what-have-you—

Ms JULIE BISHOP—So they were prepared to accept new evidence?

Mr Stephens—The only provision then is for the solicitor to put a submission to the judge as to what was wrong with the Crown case, and for the Crown to put a submission in as to what was wrong with the defence case.

Ms JULIE BISHOP—I understand. You mentioned that Superintendent Hodsdon had put together documentary evidence about a number of specific allegations he had made against you. Do you have a copy of that document?

Mr Stephens—Yes.

Ms JULIE BISHOP—Approximately when did you see that document?

Mr Stephens—Mid-2000. It would have been around March-April in 2000.

Ms JULIE BISHOP—So it is a fairly detailed—and we will have a look at it later—account of allegations against you and others?

Mr Stephens—It is one page with a paragraph that sets out that I was the subject of complaints, had misbehaved and am banned for 12 months.

Ms JULIE BISHOP—How did you get on with Superintendent Hodsdon before that date?

Mr Stephens—I would not have known him if I fell over him—apart from later seeing him on television and realising that he was Superintendent Hodsdon. I would not have known him.

Ms JULIE BISHOP—So he had nothing against you?

Mr Stephens—I had never spoken to the man.

Ms JULIE BISHOP—There was no background of antipathy of between you.?

Mr Stephens—Nothing at all.

Ms JULIE BISHOP—Who actually told you that you were banned from the cricket ground?

Mr Stephens—Superintendent McMahon, who was the Local Area Commander at Liverpool where I was stationed at the time.

Ms JULIE BISHOP—And he had been told by Superintendent Hodsdon?

Mr Stephens—He received a phone call on the Monday morning. Mr Hodsdon told him what had taken place and he then sent a document dated the 7th, which was the Monday.

Ms JULIE BISHOP—And that document included the statement that you had been banned from the cricket ground.

Mr Stephens—Yes.

Ms JULIE BISHOP—Mr Gabriel was a former police officer?

Mr Stephens—Yes.

Ms JULIE BISHOP—Do you know why he left the service?

Mr Stephens—He resigned and, at that stage, went into private business. Even though I knew Mr Gabriel through seeing him play police football, he was not a friend of mine at that time. I knew him, but I doubt whether I had had a drink with him or been out on a social occasion with him. He was actually invited along on this day by another friend of mine; I did not invite him along. He came along, and, since that day, we have become very good friends.

Ms JULIE BISHOP—I am sure.

Mr Stephens—Only for the reason that I have been sitting around at home studying 309 pages of evidence, and all that sort of thing, and talking to him.

Ms JULIE BISHOP—Are you aware of whether Mr Gabriel knew any of the police officers who took part in this incident?

Mr Stephens—Apart from Senior Constable Broadhead—whom I recognised when he spoke to me as a probationary constable at Campbelltown when I worked there in the early 1990s—I would not have known any of the other police officers. I had never struck Mr Adams, Mr Hodsdon or any of them.

Ms JULIE BISHOP—But they knew you were a policeman?

Mr Stephens—Mr Broadhead fronted up to me and said, ‘I know who you are, Sergeant. I know who Dave Gabriel is.’ I looked at him and thought, ‘I know your face, but I do not know who you are.’ It was not until later on when I saw his statement that I realised who he was by name.

Ms JULIE BISHOP—Has it ever come out, in the evidence or otherwise, what actually sparked the original incident with Mr Gabriel? Was he having an asthma attack? Was he drunk? What was it?

Mr Stephens—When the three men—Mr Roby, Mr Gabriel and Mr Hibbs—walked downstairs they were carrying alcohol. You can get full-strength alcohol in the stand but you cannot get it on the concourse. They were walking down and they were stopped by the security and told that they could not take their drinks. So they finished one, put the other one in the garbage bin and walked off. They went around to the memorabilia stall, where you buy hats and all that sort of thing, and were coming back when they were asked for their tickets by the same usher. They said, ‘They are upstairs. We haven’t got our tickets.’ The usher said that if they did not have their tickets they could not go up there.

One of the men said, ‘How can I prove I have got a ticket if I cannot go up there and get it?’ Apparently, on the back of the ticket it says that you must have the ticket with you at all times and produce it on demand. I must admit that, although I think I had my ticket in my pocket that

night, I did not read the back of the ticket. I suppose the obligation is on anybody who goes to a function to read what is on the ticket just as when you park your car somewhere you read what is on the sign.

Ms JULIE BISHOP—So there was an incident about the tickets?

Mr Stephens—Yes. He was told that he could not go up there and he said, ‘I cannot prove where my ticket is unless I go and get it.’ So he went past the usher to go upstairs. The usher called security. He got to level four of the Brewongle Stand when the security guards approached him and told him that he had to go. He said, ‘Okay then, that is fine,’ but he twisted his ankle as he was going up the steps to the top of the landing. The police turned up—there were four police and four or five security guards there. The police said, ‘They want you out for being argumentative and quarrelsome and not having a ticket. You have to go.’ There was no suggestion that he was being arrested at that point in time. Clearly, in the evidence before the court in their statements, he was being ejected from the ground for being argumentative.

The police were standing by and said, ‘Okay, you guys escort him. You can support him.’ So they supported him over their arms while they were taking him out. Then one of the security guards placed a wrist lock on Mr Gabriel and exerted extra pressure on him. I was not there, but Mr Gabriel tells me he was suffering pain. He tried to release his arm a bit. Next thing, the police and everyone joined in. That is when they carried him down the stairs with a headlock on him and all that sort of thing. He was not going to be charged, but after the incident in the stairwell the usher came forward and made a complaint of assault. And he was charged with an assault which took place before he was assisted from the ground. So he was being assisted from the ground not charged, yet later the security usher came along and said, ‘I want him charged with assault.’

Ms JULIE BISHOP—Earlier in your submission you mentioned that Sergeant Rayment had also changed—this is what I understood—his evidence before the court to include the foot incident. Is that correct? So it was not just Mr Adams; it was also Sergeant Rayment.

Mr Stephens—Sergeant Rayment did not have it in his statement, but under cross-examination—

Ms JULIE BISHOP—Which court are we talking about?

Mr Stephens—He gave evidence at the Local Court at the Downing Centre. It was not in his statement, but in cross-examination from the barrister representing Mr Gabriel he admitted seeing the foot on the head and was asked, ‘What led up to that?’ His answer was, ‘I believe the defendant was spitting.’ Even though it was not in his statement, he came forward and said, ‘I believe that he may have been spitting.’ When asked, ‘Who was he spitting at?’ he turned around and said, ‘Maybe it wasn’t so much spitting; it could have been just saliva coming out of his mouth when he was shouting.’

Ms JULIE BISHOP—But he ended up being charged for the spitting incident, although not at that time. Is that not what you said?

Mr Stephens—Yes. That was dismissed.

Ms JULIE BISHOP—The 10.30 p.m. and later events.

Mr Stephens—The magistrate held that that spitting was an assault, but that was thrown out.

Ms JULIE BISHOP—But it did not occur at the nine o'clock incident.

Mr Stephens—That occurred at about 10.30 p.m.

Ms JULIE BISHOP—Or whenever.

Mr Stephens—Yes.

Ms JULIE BISHOP—You also say in relation to the Ombudsman's investigation—perhaps I can put words in your mouth—that you did not receive procedural fairness in the dealings with the Ombudsman.

Mr Stephens—I did not receive proper treatment from the word go. Normally, you would walk up to a constable—and I have done it as a sergeant—and say, 'There's a directive memorandum.' And it would start off, 'I am making inquiries into an alleged assault committed,' and so on. 'You are hereby directed to submit a comprehensive report as to your knowledge of the incident.' So I would sit down at a typewriter and give my side of the event, give it to the inspector or sergeant who is conducting the inquiries and they carry on with their inquiries. That right was not given to me. It was another part of a cover-up by the New South Wales Police Service not to give me the opportunity to have my say in relation to the matter. Yet the Ombudsman's office says I must be given that opportunity before any adverse mark is made on my record. That is the same with Mr Nellies and Mr Quigg. Both of them have it on their record; neither of them were given the opportunity of defending themselves and giving their versions.

CHAIR—We will view the video in a moment. Do you think what happens in this sort of incident is that an overreaction to an incident can occur—and on your description, which is hearsay, of what Mr Gabriel said happened it sounds like an overreaction—and it becomes such an item that people then try to cover it up, and it is layer upon layer of cover-up until you end up in the mess where people want to deny it was excessive, then get found out and then have to correct it? It does not set out to be intentionally done but, once it happens, everybody's idea is to clamp down and get rid of anyone who might have been a witness or can say something different from what we say. Is it that sort of process?

Ms JULIE BISHOP—In the scheme of things, this could have been a fairly straightforward incident.

CHAIR—Indeed.

Mr Stephens—As the barrister representing Mr Gabriel at the lower court in his summing up said, a lot of time, money and everything has been wasted. Even Judge Tupman said that this has taken too much time—a waste of public money—over a stupid incident. Like throwing a handful of snow, it has picked up speed, it has picked up bodies on the way down, it has picked up innocent people. And people—and I will say it right here now—have been forced to tell

further lies to cover up their first lies, all because of an alleged pushing of an usher on the arm or the chest. As Mr Gabriel has said to me, 'If I was going to assault him, I would assault him. I didn't do it, but.' This is only my version of the incident. I have read these statements and transcripts 30-odd times and watched the video dozens of times. I can see the writing on the wall. I can see exactly what has taken place. Someone has had too much pride to turn around and say, 'Just get him off the premises. He's had a couple of drinks too many. That's the end of it.' Mr Ainsworth at the lower court said, 'Sergeant Stephens made the offer. If he had been allowed to take Mr Gabriel home that night, we wouldn't all be here wasting all this taxpayers' money.' I would not have been banned from the Sydney Cricket Ground and Mr Gabriel would not have had to spend five days in court spending thousands of dollars trying to clear his name and defend himself when it boils down to the fact that corrupt police had compiled false statements and had an innocent man convicted of charges.

CHAIR—You say in your statement that you made your lengthy written complaint to the Ombudsman's office but that that complaint was reviewed and forwarded to the Ombudsman by none other than Assistant Commissioner Adams, the very person about whom the complaint was being made.

Mr Stephens—The Wood royal commission, I would have thought, put clear guidelines down as far as integrity goes. One of the statements of values of the New South Wales Police Service says 'places integrity above all'. How can you have a man like Assistant Commissioner Adams, who is personally involved in the arrest of Mr Gabriel and who watches him being assaulted there, have the power and position to turn around and say, 'As long as this complaint about the actions of this, that and the other go, I find that there is nothing in it.' It should be someone totally impartial. Someone who is impartial may want to write it off, but at least they are not leaving themselves hanging out on a branch by using the person who is involved in the matter. Because Mr Hodsdon is such a good friend of Mr Adams, what other action do you expect?

CHAIR—I see—they were friends?

Mr Stephens—I would say so, from what I have heard. He is a superintendent at Surry Hills, whose local area of command is under Mr Adams, the region commander assistant commissioner for the city east—that is one of his patrols. If they do not have coffee once a week—

CHAIR—I do not understand how the Ombudsman can live with the situation whereby the person who is being complained of is the reviewing officer and comes up with the recommendation of no further action. I find that quite extraordinary.

Mr Stephens—After that, I sent another letter to the Ombudsman complaining about the actions of Mr Adams having the final say in my matter. I get one back saying that they do not have a problem with that because I was not there when the incident took place, so Mr Adams has got nothing to do with me. I said, 'Well, if I wasn't there when the incident took place, why was I banned? You cannot have your cake and eat it too.'

CHAIR—Yes. There is something radically wrong with the system.

Ms JULIE BISHOP—This brings me to my last point before we see the film. This sort of incident occurs all the time at sporting grounds around Australia. It is just a common or garden incident. What do we put it down to—that it has now turned into this extraordinarily complicated issue that has occupied so much time and energy? Is it the mentality of the Police Force? Is it that, because Mr Gabriel was a police officer, they had to overreact in a particular way? What is it that generates this fervour about a tiny incident that ought to have just been resolved on the spot by the security officers?

I come from Western Australia. There is a royal commission going on over there. Without crossing any lines, a great deal of evidence is emerging about the way of thinking of police officers when they come to address evidence and in giving evidence in court and the like and what goes on in police stations. No doubt you have followed some of the evidence. Is it a way of thinking? Is it a mentality? Do we have a siege mentality where we have to make sure that everybody is covered—‘Everybody in the Police Service who was at this incident has to be totally covered so there can be no criticism in court or elsewhere of any of us’? Is that it?

Mr Stephens—Once a person is arrested and the decision is made to arrest him and charge him, that is it—you cannot have anyone hanging back. It is one in, all in, sort of thing. These people have to make up the statements to provide the evidence to convict that person.

Ms JULIE BISHOP—But that comes back to Mr Cadman’s point. Does everybody immediately know what they have to do? Is it unspoken—‘We know we have to cover every base so that everybody’s story, whether it is true or not, fits in with everybody else’s’?

Mr Stephens—I can give you another quick example. Mr Jonathan Gray, a security guard, got in the witness box. He had prepared a 7½ page statement saying that Mr Gabriel had done this and done that—‘I heard him say this, I said that, he said that,’ and so on. He was asked under cross-examination, ‘So did you make notes and then prepare your statement?’ ‘Yes.’ ‘Did you tell the police about these notes that you made?’ ‘No.’ ‘Did you show them to the police?’ ‘No.’ ‘What were these reports?’ ‘Oh, that night I did my day book’—that is a blue notebook they are supplied with—‘and the next day I did an incident report.’ ‘And you used what to make your statement?’ ‘Well, it’s not that I actually did it; I sent the second report to the police.’ So first he said that he did not tell the police about it and did not show the police and then in the witness box he says, ‘What I did was I sent the second report to the police, they made up my statement and I went in there 21 days later to sign my statement that they had prepared for me.’

Ms JULIE BISHOP—So they wrote the statement?

CHAIR—They wrote it? It gives a whole new meaning to the word ‘verballed’, doesn’t it?

Mr Stephens—We were not aware of this fact at the lower court, but on appeal Mr Gabriel served about 10 subpoenas, getting everyone’s notebooks, and lo and behold after subpoenaing Mr Gray’s notebook—where allegedly there is ‘I said’, ‘He said’, ‘I saw this’, ‘This happened’ and ‘That happened’—there is one page where it says: ‘Incident 8.30, Ladies Stand. See Dean Leigh and M. Hayward’s notebook for details.’ You try to explain this to me: his statement was started on 3 May by a now Inspector Behrendt and was signed on 21 May—so it took 16 days from when the statement was commenced to when it was finished—and there is no documentation in Mr Gray’s notebook, but he goes into the police station and says, ‘There’s your statement. Sign it.’ He then signs it—

Ms JULIE BISHOP—So they will go to extraordinary lengths—

Mr Stephens—and if that is not a conspiracy to pervert the course of justice—which was one of my complaints, and it is one of Mr Gabriel’s complaints—I believe in Santa Claus and the tooth fairy too.

Ms JULIE BISHOP—But then you have got a security officer who is prepared to swear to a statement like that, even though he had got two lines in his daybook.

Mr Stephens—What are they going to do? Are they going to turn around now and say, ‘Oh, look, it didn’t happen. I’ve perjured myself. As long as I don’t get prosecuted for that, I’ll come good,’ or ‘I won’t do this, that or the other’? On this video we are about to watch, Mr Gabriel is taken into a room. Allegedly—I wasn’t there but Mr Gabriel tells me—his head is banged into a counter by police security unknown to him. Mr Adams is there. However, that is blanked over with footage from the cricket ground on 27 February—23 days later.

Ms JULIE BISHOP—I think we will want to ask you about the film.

CHAIR—I think we might move to the video now. Then we will ask questions about that filmed over part.

A video was then shown—

Mr Stephens—In the video, at this point in time Mr Gabriel is on the floor. He has been handcuffed behind his back. In evidence, the police even admit to lifting him—his whole body weight—by the handcuff chain across to a point here, where he is gently placed on the floor, face down. That is Mr Gabriel lying there with a white shirt on. Constable Duggan is leaning over there. He is standing upright, and that is his left hand. That is him leaning up against a post. Now his hand is back at his front. Sergeant Rayment is kneeling down there. He has just put his knee on the defendant’s back to make sure he is secure on the floor. Mr Duggan is leaning over him.

At this point in time it is alleged that Mr Gabriel is arching his back and spitting at everyone. You can see Mr Gabriel just move his head. Constable Duggan is leaning on the post. He looks over his left shoulder there once, he looks again over his left shoulder and then he looks over his right shoulder and has a good look over his right. Then he has got his right foot—I am sure if Mr Gabriel was arching his back, spitting, these other security guards and everyone would not be standing around having a bit of a powwow—on the head there now.

Mr Adams will walk up the stairs. He is the next person on the left behind that fellow with the green shirt. The foot is still on the head. As you can see, there is not too much action. There is Mr Adams now, walking up. He sees the foot on the head, and it is there for eight seconds before it is removed. Mr Adams, an assistant commissioner of police and, I understand, a former detective sergeant, who has attended numerous crime scenes, has seen offences take place; however, he failed to put that action by Constable Duggan in his statement.

Ms JULIE BISHOP—The foot is still on him.

Mr Stephens—The foot is taken off. I can tell you exactly what time it was taken off. It was there for 32 seconds, I believe, and for eight seconds while Mr Adams was there. Also in evidence, Constable Duggan and another security guard, Dean Leigh, say that when Mr Gabriel is assisted to his feet here shortly it took eight police and security guards to take him down to the match day office. This is evidence in their statements and evidence given in court of how Mr Gabriel was struggling so violently that eight people had to lift him totally off the ground and take him into the match day office. Very shortly, you will see Mr Gabriel lifted to his feet. Just see if you can count the eight police and security guards who are carrying him to the match day office. However, these statements, and evidence, were given before they were aware of the video.

Mr CADMAN—Are the fellows in the yellow shirts security guards?

Mr Stephens—They are security guards. The fellows in the blue shirts are also security guards. I think it might be a rank structure: with different colour shirts you have a bit more power or authority. As you can see, Mr Gabriel is still lying down there, but evidence was given at court that during all this time he abused Mr Adams. Look at Mr Adams now: he is not worried about anyone abusing him. He was lashing out with his feet. He is still causing trouble. There he is—he is back there with a white shirt, head down to one side, not moving, apparently waiting for a police truck to arrive. There is Sergeant Rayment bending over him. He is the informant in all the charges against Mr Gabriel. There is Mr Gabriel's friend and my friend Mr Hibbs—he has just turned up in a white shirt and shorts. There is Mr Gabriel lifting his head off the floor for the first time, rolling over.

Mr CADMAN—Where is the camera?

Mr Stephens—It is filmed from the top of a grandstand right across the other side of the field, so if there is a bit of wind it has a tendency to make it move slightly. I repeat: evidence was given by police and security that Mr Gabriel was kicking so much that eight people had to carry him out of the ground. There we have two police officers, Rayment and Duggan, and Mr Gabriel is walking up the stairs, yet evidence was given that he was physically lifted off the ground and carried up the stairs by eight police and security.

The camera moves around to the back of the Ladies Stand, and this is the defendant, Mr Gabriel, being walked down the steps by the two police officers followed by the security and Mr Adams. As he walks towards the match day office, you will see him disappear into a doorway here. That is Rayment and Duggan escorting him into the doorway, closely followed by a security guard. Now the camera goes outside the match day office trying to find out where Mr Gabriel has gone. There is a camera in the match day office, and at about this time Mr Gabriel claims that he is being assaulted by having his head pushed into a counter in the presence of Mr Adams. Yet, lo and behold, in a second you will find that the camera or the tape goes to that. This goes for one minute two seconds.

Mr CADMAN—What is this gap?

Mr Stephens—If you have a magic wand, I will tell you what has happened.

Mr CADMAN—Has that tape been looked at to see whether it has been tampered with?

Mr Stephens—Just one moment. All of a sudden, now we have the staircase of the Sydney Cricket Ground on 27 February, 23 days later at 7.15 in the morning. That is taped over when Mr Gabriel claims he is being assaulted by police in the presence of Assistant Commissioner Adams. It goes for one minute two seconds. Then all of a sudden, after Mr Gabriel is placed in the rear of a police truck, the video comes back to life again. Mr Gabriel has been removed from the match day office. He has been put in the back of a truck. The padlock has been put on.

Out of the six hours of video tape I have in my possession—I have watched it numerous times—that is the only time the tape flickers. It goes to 27 February, 23 days later, and that is allegedly a copy of the master tape from the Sydney Cricket Ground that was given to Mr Gabriel when he lodged his appeal. We got hold of the whole tape. When Mr Gabriel went to the lower court, he was only given about 24 minutes of that whole tape for his defence and some of the incidents on that tape were not given to him for his benefit when he went to court. It is only when he lodged his appeal that the Parramatta District Court gave him that tape, which is a copy that was presented to the court against him.

CHAIR—So the first tape he got was an edited tape.

Mr Stephens—An edited tape with only about 24 minutes of where he is in the grandstand and the foot was on the head. It comes up to where it flickers and everyone thought that was the end of the tape, but it was only when I got hold of the tape and studied it at great length that I became aware of this. Also—someone may be able to explain this to me—I have another tape here that starts at 5 p.m., which is the first tape. That same footage of 27 February is the beginning of this other tape, bar about six seconds difference. It starts at a different time, but it is exactly the same staircase on 27 February at 7.15 in the morning. Can somebody please explain to me how it can be on the cricket ground tape at 5 p.m. and also at 10.40 p.m., unless a deliberate act was done to cover up where Mr Gabriel was assaulted in the presence of the assistant commissioner of police.

CHAIR—Has anyone asked the cricket ground about this inconsistency?

Mr Stephens—I raised this matter with Superintendent Hermann, who conducted my complaint. He said he had been out there, they cannot explain it—end of argument. I have also spoken to Assistant Commissioner Jeffries, who is conducting the inquiry in relation to Mr Gabriel's complaint. I have indicated this to him. He said that he had been out to see the cricket ground staff. He had followed the situation where they take the tape out, it is put in a steel cabinet and locked up and only three people have access to that key. They cannot explain how it happened. After he told me that, I said, 'Can you also make inquiries as to how it can be on there at 10.40 p.m. and also on at 5 p.m.?' It is blatant, as you can see, that it is a deliberate act. It cannot be on two different tapes—the same stairwell at 7.15 on 27 February—unless it was a deliberate act in an attempt to cover up the assault on Mr Gabriel.

CHAIR—I think we might write to the Sydney Cricket Ground and make some inquiries about the tape. Of course, in accordance with our policy, we will be writing to Assistant Commissioner Adams and inviting him to come and give evidence to this inquiry, as allegations have been made against him. Has anyone who knows about patching and cutting and splicing of tapes looked at that tape? Has anyone looked at it in that critical manner and said, 'This has been spliced'?

Mr Stephens—No. After having no satisfaction, I wrote a letter to Josephine Flanagan at the Ombudsman’s office stating that, if they do not have the resources to have that tape analysed, I have a friend who is in a position to examine it and say what was on there first, what was on there second; what was the original and what has been taped over. I have also mentioned to Commissioner Jeffries that, if this tape were being used as an exhibit in a murder trial, the case of murder would be thrown out against the defendant—

CHAIR—Yes, absolutely.

Mr Stephens—because there has obviously been tampering with the evidence. This is the tape, and evidence has been given by Sergeant Rayment at the court that this is the master tape—there is no other tape. This is the one that records the incidents on 4 February. It was locked away. It was given to Constable Duggan to take to Sergeant Rayment and book up at Surry Hills Police Station. It was then taken down to the police video unit.

Ms JULIE BISHOP—On what dates did all this occur? I am starting to sound like Inspector Clueso!

Mr Stephens—I have a statement here from Constable Duggan; he picked it up in, I think, 11 April 2000.

Ms JULIE BISHOP—So somebody obviously accessed it on 27 February.

Mr Stephens—Someone went down to the cricket ground to have a look at this tape, saw what was on it and thought: ‘Lo and behold, we can’t allow this to come out. We’ve got to do something about it.’ They have grabbed a tape from 27 February, put it in the machine and they have taped it—but they have done it on the first tape. They have realised it is the wrong one and they have taken that out, put the second one in, wound it forward to 10.40, played it again and copied over it with the same footage. And when I say the same footage, there is about six seconds difference: one is 7.15.14 seconds, going through for 28 seconds, and the other one is 7.15.9, for example—I just cannot remember all these figures at the moment. So no-one can say that Mr Gabriel and I have got it and taped at the beginning, because there are two slightly different time frames of six seconds. So someone has dubbed up a tape that has been used to convict a man of charges. If a barrister in a murder trial were to be aware of that with this tape, then that trial—

Ms JULIE BISHOP—It would be a mistrial.

Mr Stephens—I am sure those charges would be thrown out of court because there has been tampering of the evidence. I do not know what satisfaction is going to be taken in the long run by me and Mr Gabriel personally. I do not know what powers you have or what can be done from this particular hearing. All I know is that making complaints to the New South Wales Police and the Ombudsman does not seem to get anyone anywhere. It has been the most frustrating three years I have ever had in my life. Where do you go to try to get the—

Mr CADMAN—Can I just say that when I read your evidence I thought, ‘Why are we wasting our time on such a trivial event?’ But your explanation has opened up a number of serious questions in my mind that need to be answered or investigated, because if so much

effort can be put into falsification, fabrication, of a small event such as this, then it raises questions about the whole system.

Mr Stephens—I get no enjoyment—

Ms JULIE BISHOP—You wonder if this is the mind-set, if this can happen over what should have been an ordinary incident.

CHAIR—Yes.

Mr Stephens—Imagine what would be done if you had broken someone's jaw or what other serious—

Mr CADMAN—My guess is that most of the time it works okay, but it should work that way every time.

CHAIR—If my memory serves me, one of the recommendations of the royal commission was that there had to be a change of culture, a change of ethos—the way people think. As I understand it, that was what was behind setting up the CMSU, leading to what they call 'evidence based policing'—I think that was the term that was used—and yet that whole process seems to have come undone.

Mr Stephens—I am sure we have all heard the term 'police verbal'—

CHAIR—Yes.

Mr Stephens—where you would arrest someone out in the bush or in a car and he says, 'Yeah, I did it,' but when it comes the time to go to court he says, 'I didn't say that to the police. They've verbed me; they've loaded me up.' So now when you interview someone you sit them down in front of a video and audio machine which records your voice and picture. You do not interview people unless you give them the opportunity to have someone with them, what have you. It is all good and proper to interview someone this way, but in the example of this case against Mr Gabriel there is no need to sit him down and interview him because police and witnesses have seen him do this and do that. Out of 12 charges, seven are thrown out, and then when I have produced that video and I can see all these other things, I could go on for hours and hours giving you examples of other evidence that has been contrary to what has happened.

One quick example is the four different versions of how Mr Gabriel was put in the back of the police truck. Mr Rayment says that he stepped up, walked into the back of the truck, turned around and kicked at the door. Mr Duggan says that he walked up, hands handcuffed behind his back and was thrown in on his stomach, face forward on the ground. He was then rolled to one side and with a foot kicked the back door open. Constable Cook, who is driving the truck, said that he walked in, gone over to the right-hand side, sat down on the bench in the back of the truck and then with his foot kicked the door open. Mr Adams said that he walked up, hands handcuffed behind his back and, in compliance with the police standard operating procedures, he was turned around, sat on the floor in the back of the truck and when they have gone to close the door he has kicked out with his feet.

Ms JULIE BISHOP—In that version he must have turned around.

Mr Stephens—He has been turned around by the police and sat down in the back of the truck and when they have gone to close the door he has kicked out. How can four police officers have four different versions of how Mr Gabriel went into the back of the truck, unless something happened. The allegation is that he has kicked the door out and spat at three police. The reason they cannot get that incident correct is that they are all telling porky-pies and they do not know where the truth lies in the matter, and they do not want to know where the truth is. They have given four versions—four different lies—to how he even goes into the back of the truck. That evidence has been given at court, and I can show you the transcripts.

CHAIR—What I find very concerning, too, is what you told us about the security person literally having had his statement written like a script by a story writer.

Mr Stephens—I can give you another example involving a husband and wife, Dean Leigh and Maryanne Leigh—security. The top right-hand page of Dean Leigh's statement says, 'Surry Hills Police Station'. It is dated and witnessed by his wife. Every other statement produced by the police from the Surry Hills Police Station is done—I am not up to date on computers—on a macro where they just go in to get a statement form. It has the heading 'P190' and page 2 is 'P190A'. This Leigh document is obviously falsified. I would say that the statement has been made up on their computer at home or at the Sydney Cricket Ground, because it is not the proper form that the New South Wales Police Service use for a statement. Mr Leigh and his wife, who are security guards and gave evidence, have made this alleged statement at the Surrey Hills Police Station on a bodgie form. That is another matter I have raised.

CHAIR—I must say that what you have told us this morning does give us a great deal of concern. As I said, we will be writing to the Sydney Cricket Ground to see if we can get some light on the question of the video. Did you subsequently take it to an expert to have it looked at?

Mr Stephens—I have only a copy of the master tape. The Parramatta District Court have now given the master tape back to the Sydney Cricket and Sports Ground Trust. We have asked for it to be kept aside, and Mr Hermann was going to get the original and keep it. However, it went back to the Sydney Cricket and Sports Ground Trust, and I think you may have two chances of getting your hands on that tape now.

Ms JULIE BISHOP—Buckley's and none?

Mr Stephens—I have a couple of dollars in my pocket, and I am prepared to put odds of 100 to one that you most probably will not find it.

CHAIR—We will try, nonetheless. And, as I said, we will be inviting Assistant Commissioner Adams to come and give testimony.

Mr Stephens—Could I just say one more thing in closing.

CHAIR—Yes.

Mr Stephens—At the District Court, when Judge Tupman gave her findings, Sergeant Rayment and the DPP solicitor, Mr Fleigner, were present. Without saying that Constable Duggan had assaulted Mr Gabriel, the judge virtually said he was totally unjustified in doing it and that Mr Gabriel was not arching his back and spitting. Sergeant Rayment has done nothing about reporting that fact to his superiors and, in my opinion, after hearing a judge say that a person has been assaulted and there was no justification for the constable doing it, action should have been taken by Rayment and the DPP for charges against Constable Duggan. But it is marvellous how, down the track, you cannot get anyone to do anything about anything when it is involving police, particularly senior police. My humble opinion, for what it is worth, is that action should have been taken there and then against Constable Duggan. Recommendations should have been made to the Commissioner of Police for action against Constable Duggan in relation to that assault.

Ms JULIE BISHOP—So, in fact, no action has been taken against any other officer involved in this, whether it be as a result of what happened at the cricket ground, the preparation of the case or the complaint process? As far as you are aware, no other action has been taken against anybody but you and your colleagues?

Mr Stephens—Yes, that is correct.

CHAIR—You were going to let us have a document that you had in your possession.

Mr Stephens—Could you remind me of what it is?

CHAIR—It was from 7 February.

Mr Stephens—Mr Hodsdon's letter?

CHAIR—Yes.

Mr Stephens—Would you like that now?

CHAIR—Yes, if we could have it now that would be very good. I can see you have done a lot of work, Mr Stephens.

Mr Stephens—As I said, this has been the most frustrating three years of my life.

CHAIR—I understand.

Mr Stephens—It is all in an effort to try and get some satisfaction.

CHAIR—Someone might move that that become an exhibit.

Ms JULIE BISHOP—I so move.

CHAIR—All in favour? Carried. Mr Stephens, we thank you very much for coming to give evidence this morning. We can see your frustration and we have heard on many occasions from

our witnesses that they have come to this inquiry as a last resort, simply because the mechanisms in place for complaints to be fairly and properly heard just do not seem to work.

Mr Stephens—Thank you for having me.

[11.43 a.m.]

GODFREY, Mr Allan Frank, Private Capacity

CHAIR—We have already authorised publication of the submission you gave us this morning. Would you like to make an opening statement to add to what you have given us?

Mr Godfrey—Yes, I would like to make an opening statement. Listening to the evidence given by the last witness, I would like to say that I have got a lot of support for him. I have been through the same traumas that he indicated he has been through. Adding to what I said in the submission, I would like to emphasise a few matters in relation to internal complaints from junior police about senior officers. Officers junior to an officer complained of have great fears about their future, mainly because of intimidation, victimisation, irregularities in evidence and lies being told to protect the brotherhood of senior officers. Junior officers are very reluctant to complain because of the unsatisfactory results, victimisation and intimidation they receive throughout their remaining service. I believe that the main solution to this would be to have an outside body comprising persons other than serving or ex-New South Wales police to do the investigations of internal police complaints.

The next matter is that of a green room at Liverpool Police Station where the illegal sale of alcohol was being conducted for quite some time. It was ironic that the senior officer at the time of the operation of the green room was Clive Small, who is now the police adviser to the Premier—who shows a strong conviction on issues of law and order. Clive Small condoned and participated in this illegal sale of alcohol. I question the ethics of this person who would not hesitate to approve of legal proceedings being instigated against another person for breaches of the Liquor Act or a junior police officer for an alleged minor indiscretion. It is a terribly poor example being set for junior police. Further, it is interesting that the officers that were second and third in command at Liverpool at the time were Allan Tayler and Les Wales. Both these persons have since reached the heights of superintendent—Tayler now being retired—which would indicate that they would not have been prepared to do anything for the worry of affecting their further career. That is all I have to add to the submission.

CHAIR—Mr Godfrey, you were a serving police officer for 24 years.

Mr Godfrey—That is correct.

CHAIR—During your 24 years of service, was this the first time you had encountered this sort of victimisation with respect to yourself?

Mr Godfrey—No. I experienced numerous incidents of victimisation. It was probably towards the end of 1980 that it started. I believe that this was largely to do with my involvement with the Police Association of New South Wales.

CHAIR—What happened with your involvement with the Police Association of New South Wales?

Mr Godfrey—I was a branch official and a delegate, which entailed at times—especially with disputes avoidance procedures that were implemented—taking members' problems to the higher ranks. Most of the higher ranks could not handle genuine complaints being put to them, and they had a dislike for anybody who used these procedures to do that.

CHAIR—So you became a spokesman for complaints of fellow policemen: you would represent their case to the Police Association of New South Wales and ask them to take up their case?

Mr Godfrey—No. The disputes avoidance procedure was one that was implemented whereby the complaint was initially to be taken to the person in authority in that workplace.

CHAIR—So it was a disputes avoidance procedure?

Mr Godfrey—It was called disputes avoidance procedure.

CHAIR—So we have got a dispute but we want to avoid having it?

Mr Godfrey—We wanted to avoid getting to the stage that it had to go to the controlling body of the association or go further in the department. Hopefully, through this procedure, the local branch official could have the problem resolved with the local commander.

CHAIR—So does this mean that, if there is a problem in a station, for instance, the Police Association actually plays a role before it becomes anything official to do with the Police Service itself?

Mr Godfrey—It was a stepping stone. The branch part of the association did not even put the matter to the senior body of the association if it could be sorted out at a local level.

CHAIR—What sort of complaint or issue would be dealt with at that level?

Mr Godfrey—Probably a lot of those would have been safety, equipment and staffing level issues—those sorts of matters.

CHAIR—But not somebody complaining about somebody else—that would go on a different track?

Mr Godfrey—No, a complaint in that respect did not involve the association at that level. It may have later if the person wanted legal assistance to sort the matter out in that way. But it was mainly matters that affected all the members overall.

CHAIR—So you found that, in doing that task, you got into some conflict with some superior officers?

Mr Godfrey—Yes, with one person in particular: Clive Small. He openly stated to me, 'I will let you know that I run this station, not the Police Association or anybody else, so goodbye.' That was basically the answer that you got from a person like Clive Small.

CHAIR—So your relationship with Clive Small deteriorated from the time that you became that delegate and undertook those duties?

Mr Godfrey—I had been in that position at Macquarie Fields and at Liverpool prior to that. But it was when I came back to Liverpool in September 1992 that I had a lot of problems with Clive Small.

CHAIR—Were you still a delegate when you came back to Liverpool?

Mr Godfrey—Not at the time I came back there, no.

CHAIR—What date did you come back to Liverpool?

Mr Godfrey—Just as a sergeant and a supervisor.

CHAIR—And what date was that—what year?

Mr Godfrey—On 3 September 1992.

CHAIR—What were the ‘routine incidents’ that you mention in your submission? You say that you were required to respond to a directive memorandum concerning routine incidents and the way in which you handled them. They were things that occurred on two successive days. Is that right?

Mr Godfrey—They were separate incidents and they occurred on 1 January and 3 January. The first one was in relation to the handling of prisoners’ property by the custody officer. At that time, there were a couple of discrepancies in the handling of that property. It was all computer oriented at that time. What they charged me with was omission of duty, which was a fairly unknown charge. The association had not heard of the charge being used before and neither had any of the solicitors involved in my defence. That charge basically was that I had failed to understand or know the capabilities of my subordinates—in other words, being a supervisor, I did not know the capabilities of, or I did not understand the capabilities of, the custody officer. Judge Sinclair told him at the Police Tribunal that he questioned the credibility of his evidence.

Later, this person, Kevin Strong, confronted me at a club and said, ‘You’re not talking to me?’ I said, ‘I’m not going out of my way to avoid you, but I don’t go out of my way to talk to anybody that deliberately lies about another police officer.’ Evidently, it was held out to him that if he lied against me no action would be taken against him.

CHAIR—You were charged with an omission of duty in relation to the handling of prisoners’ property, but what precisely did they say you did not do that you ought to have done?

Mr Godfrey—That I should have had more control over him; I should have checked everything he did. But to that end it was proven to the judge that a supervisor has got that many duties to perform during his shift that he has not got time to perform everything that is laid down that he has got to do—the time is just not there—and he has got to prioritise what he does; and the judge indicated that the prioritisation of my duties was good. In my evidence at the tribunal, I had all of the other supervisors—or most of them—that had supervised this same

person. They were asked the question, 'Did you have doubts about the capability of Strong?' and they said no. 'Why did it boil down,' the judge said, 'that I should have been the one that had questions about his capabilities?' I even had the patrol commander, Small, down here to be asked that question.

CHAIR—What was the net outcome? What was the problem?

Mr Godfrey—The judge found that—

CHAIR—No, what was the purpose of the charge?

Mr Godfrey—I believe it was Small attempting to have me sacked. In his recommendations after the inquiry was done he referred to me as a cancer to the service and recommended that I be charged and sacked. That was in his recommendations.

CHAIR—And you believe that was because of the work that you did as the delegate for the Police Association?

Mr Godfrey—That is right. I believe that was a big part of it, yes.

CHAIR—Was it related in any way to the illegal sale of alcohol from the green room?

Mr Godfrey—No. That was nothing to do with this. The illegal sale of alcohol was something that has worried me, plagued me and concerned me ever since that time, knowing in particular that this was the example being set for the junior police officers, that this illegal activity was going on in a police station.

CHAIR—When did the green room sales take place? Was it when you came back to Liverpool?

Mr Godfrey—It was going, it was in operation, at the time I came back to Liverpool.

CHAIR—So that is in 1992.

Mr Godfrey—In September 1992.

CHAIR—When you say it was the sale of illegal alcohol, did people actually pay for the beer?

Mr Godfrey—They did. They purchased the alcohol out of a converted Coca-Cola machine.

CHAIR—So a slot machine? So they put the money in—

Mr Godfrey—They put the money in the Coca-Cola machine and they got their choice of what type of alcohol they wanted.

Ms JULIE BISHOP—Presumably, it wasn't Coca-Cola who was coming back to restock it.

Mr Godfrey—No, it was being restocked by personnel at the police station.

CHAIR—Presumably, it is quite illegal to take over the use of Coca-Cola's property, because they maintain the ownership, do they not?

Mr Godfrey—I do not know for sure, but I believe it was an old machine that someone got donated from Coca-Cola that they had written out of their system. But I doubt whether they would have known what it was going to be used for.

CHAIR—So the picture is that you have got a room which was used to store exhibits. Is that right?

Mr Godfrey—The green room itself, where the alcohol was being purchased and consumed, was a room where they kept the old records.

CHAIR—An archive room.

Mr Godfrey—Yes. It was a records room, basically.

CHAIR—So it doubled as a sort of recreation room; did it?

Mr Godfrey—Well, that was not initially the purpose of it. The stock itself, the beer waiting to go into the fridge, was secured in an exhibit cage that held drugs in plant form.

CHAIR—I see. So was that tampering with evidence that was going to be used or was this former evidence?

Mr Godfrey—It actually was not, because the person who was involved in purchasing the alcohol was also the person responsible for that room.

CHAIR—Did you complain to Mr Small about this?

Mr Godfrey—What was the use? I had that many problems with Mr Small as it was, and I was in the position where I believed that those other two senior officers should have done something about it. How many problems are you going to—

CHAIR—Bring on yourself.

Mr Godfrey—bring on yourself? That is exactly right.

CHAIR—I see. So that continued on from 1992 until when?

Mr Godfrey—I do not know when it stopped.

CHAIR—Maybe it is still going on.

Mr Godfrey—No, it is not going on now. I know it was stopped when a new district commander came from Penrith. He had it stopped. This was the bloke responsible for the district, not just the patrol.

CHAIR—When was that, do you think?

Mr Godfrey—That would have been probably late 1993 or early 1994.

CHAIR—You say that you did not complain to Mr Small so this has nothing to do with the charges that were brought against you.

Mr Godfrey—No, the operation of that room had nothing to do with anything brought against me. But a complaint from me would have brought things down on me more heavily. As I said, I believed that these other two people in the higher positions should have done something about it.

CHAIR—So the incidents over which you were charged occurred in 1993?

Mr Godfrey—I have spoken about only one of the incidents. The other two incidents were in relation to a protected drug informant involved in a major drug case. He rang the police station talking about threats on his life. I told him to speak to the case officer on the drug matter in which he was involved because that officer had the full understanding of what was going on. There was a witness protection facility within the Police Service and the case officer could have had the witness protection service give this informant protection. I had one operational motor vehicle working that night. My staff were not trained to handle the situation. I told the informant that I would have the car, if available, patrol the area to show the flag. I rang Green Valley and I also rang Moorebank, adjoining stations, to ask them if they could patrol the area when available.

He then got on to the case officer who was looking after the major drug case that he was involved with. He explained his problem and then the drug officer got back in touch with me. I told him what my situation was, and we had a bit of a heated discussion—him being a sergeant and me being a sergeant. I informed him that this witness protection facility should have been used and that I was not in a position to put a permanent guard on the house because I only had one vehicle working and, again, the officers were not trained. But I said that I would have patrols done. He accepted that. He said that that was fair enough. I recorded that on a telephone message at the station. He accepted all of that, and he gave evidence at the Police Tribunal that I had done all that could have been expected of me as a supervisor.

CHAIR—Did anything happen to the drug informant? Was he okay?

Mr Godfrey—No, nothing happened to the drug informant.

CHAIR—But they wanted you to post a guard as distinct from having patrols?

Mr Godfrey—Basically, that was the easy way out for everybody concerned, but it was just impractical for the situation we had at Liverpool and for my role as a supervisor. I did what I should have done, and that was advise him of the facilities available to him and that witness

protection was available 24 hours a day. Because of that I got two further charges. One was neglect of duty, in that I failed to ensure that police attended and took a report. That was thrown out because the judge said the report was taken by the case officer of the case. The other charge, believe it or not, was misconduct, in that I had a dispute or an argument with the detective sergeant from the drug squad. The judge said that that could be deemed pretty normal—if two people in a role had differing ideas on something, they were bound to have an argument. So all those charges, after a week at the Police Tribunal, were not substantiated. There were a lot of adverse comments made by the judge about the amount of time being wasted down there and that there were other persons who should have been before the court, not me.

CHAIR—What happened to you after that?

Mr Godfrey—After the charges were laid I went off sick.

CHAIR—Was that from stress?

Mr Godfrey—It was, yes. I went off sick mainly because—and I told the police medical officer this—I could not go back and work another day at Liverpool under Clive Small otherwise, whatever my actions might be, I might be forced to regret them later because he might end up laying on his back, basically.

CHAIR—And Clive Small laid the charges, did he?

Mr Godfrey—He recommended that the charges be laid. Then the district superintendent, who was Dennis Gilligan at the time, signed the charge papers.

CHAIR—I see.

Mr Godfrey—So I saw the police medical officer and the police medical officer said, ‘Yes, I understand your case; we’ll get you moved—where do you want to go?’ I said, ‘Moorebank, Macquarie Fields or Green Valley.’ They mucked around for a while. They could have moved me the next day if they had wanted to, but it took them two months to decide that they would find me a slot at Green Valley—that was the district office. From the time I went to Green Valley it was very uncomfortable. I believe that the boss of Green Valley was told to—

CHAIR—Get rid of you?

Mr Godfrey—Just to come down on me all the time. That was the way it was. In the end, I spoke to the boss of Green Valley about a couple of matters that I wanted to talk to him about and he told me to get out of his office and that he was not talking to me. I went off sick and did not return. I got boarded out medically unfit, hurt on duty.

CHAIR—So, basically, you have come to tell us morning that you were victimised because you were doing your job as a delegate to the Police Association?

Mr Godfrey—That was the main reason in that part of my submission. The other part of my submission, which you do not have, was about the lack of support from the Ombudsman and all other parties.

CHAIR—So you actually wrote to the Ombudsman?

Mr Godfrey—I wrote to the Ombudsman.

CHAIR—And you got no support?

Mr Godfrey—Basically, the reply I got from that complaint to the Ombudsman was that they were admin matters. That was what the Ombudsman used to do. The Ombudsman would write back to the police department and say, ‘We’ve had a complaint. What do you have to say about the complaint?’ The Police Service would say, ‘It’s an admin matter.’ So the Ombudsman would say, ‘It’s an admin matter—it’s nothing to do with us.’

CHAIR—It is rather curious, isn’t it, that, whenever you get a complaint, it goes right back to the people about whom you are complaining? They make a judgment and the Ombudsman says, ‘Yes, I accept that.’ It is a bit difficult.

Mr Godfrey—After I had finished at the tribunal, I went back to the Ombudsman’s office personally and I said, ‘I want to speak about that complaint I made that you’ve said is closed. You said it’s an admin matter. Admin matters don’t end up at the Police Tribunal’—

CHAIR—That is right.

Mr Godfrey—‘They haven’t been down there for five days.’ This bloke said, ‘I’ve had a look at the file. The books are closed. Get out of the office.’ That was it, and that is the way I was treated at the Ombudsman’s office. As I said, I also had the opportunity to make a submission about the workings of the Ombudsman’s office in relation to police. I was listed to give evidence but they stopped the inquiry because the royal commission was starting, so that inquiry never got off the ground.

CHAIR—What do you think should happen with regard to the Ombudsman’s functioning?

Mr Godfrey—For one thing, I think there are too many ex-police or police working down there. Again, you are getting complaints about senior officers not going anywhere because, for one thing, the department gets embarrassed if senior officers come under bad light. They have promoted them into those positions.

CHAIR—Mr Cadman, do you have any questions?

Mr CADMAN—No, I think you have covered it very well, Madam Chair.

CHAIR—Mr Godfrey, we are very grateful that you have come this morning, because we are looking at the whole picture of the way in which good policemen can get on about their job and do the things that the community not only expect of them but admire them for doing. One of the things that is a problem in New South Wales is that there is a disproportionate amount of crime to the population. Australia as a whole has a rising crime rate whereas overseas, in the countries with which we like to compare ourselves, there has been a drop in the crime rate—and I am talking about the UK, the United States, Canada, most European countries and even New

Zealand—but it continues to go up here in Australia. In New South Wales there is still a disproportionate amount of crime that is going on. In 1996 you left the service.

Mr Godfrey—That is right.

CHAIR—Prior to that, had the Police Helpline come into force?

Mr Godfrey—It had not, no.

CHAIR—Is that what it is called? It is the line that people are encouraged to ring up.

Mr Godfrey—Initially when that started they used two stations. I think Campbelltown was one that they used as a station situation to trial it. I do not know whether that was just coming in or what, but it was not an overall situation at the time I left the force.

CHAIR—I wanted to know what happens to a complaint that goes through to that line as distinct from a formal complaint about a break and enter or something that goes through to the police station. Does the complaint to the helpline, or whatever that line is called, get registered as a break and enter?

Mr Godfrey—I believe it got registered, but whether it had any action taken or went any further for investigation was another thing.

CHAIR—Mr Murphy has arrived.

Mr MURPHY—I indicated that I would be late for the inquiry this morning. Mr Godfrey, would you like to tell the committee what outcome you would like from the inquiry that we are conducting?

Mr Godfrey—Firstly, I have something to say about this independent body. I would like some pressure to be put on. I realise that this is a federal inquiry and we are dealing with the state—whether the change of the state cabinet today or whenever would mean that there might be a little bit more interest in this sort of thing—but I firmly believe that that inquiry should not comprise any ex-police or current New South Wales police so that there cannot be any sort of pressure put on those people on that body.

The other thing, about which I do not think too much can be done, is that Clive Small seems to be a person that butters up the media and appears to come out as a hero—that he solved the backpacker problem, when in fact he did not do the investigation down there. He was only the person who signed the papers, but he comes up smiling. And, again, in relation to the Cabramatta situation, he is just a person that I believe has something in his head and who will not listen to reasonable argument on any sort of matter. I think he has caused undue problems and stress for a lot of people. I believe the place where he is now—if you have to put him anywhere—may be a good thing, getting him out of the system and putting him in the Premier's office. As I said, he has caused untold stress to a lot of people.

Mr MURPHY—Mr Godfrey, at previous hearings some of your colleagues and former colleagues have expressed reservations about Clive Small. Are you aware of any other more

senior officers who have expressed any opinions to you—I am not talking about hearsay—about Clive Small?

Mr Godfrey—More senior officers?

Mr MURPHY—Yes, more senior than the officers who have given evidence before this inquiry.

Mr Godfrey—No, I have not spoken to other officers that have given evidence here. I know Tim Priest, but I have not spoken to him about it. I do know and I believe, from maybe rumours, that he cut short the backpacker investigation and caused a lot of unrest with investigators that were not happy with the way it was cut short. They believe that there should not have only been the one person charged with it, that there were others involved. That was cut short by Clive Small.

Mr MURPHY—As you mentioned, they are rumours. I mentioned ‘apart from hearsay’. If you had any evidence that you could give to the committee, we would want to know about that.

Mr Godfrey—I have got evidence that he would have complaints about individual police officers transferred to somebody else. Instead of the person complained of being the subject of the complaint, he had the complaint transferred to other sergeants. He appeared to have a dislike for sergeants.

CHAIR—Mr Godfrey, thank you very much for coming this morning. As I said, your evidence will add to the pool of knowledge that we are gathering and the recommendations that we will ultimately be able to make.

Resolved (on motion by **Mr Cadman**, seconded by **Ms Bishop**):

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

Subcommittee adjourned at 12.18 p.m.