



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

**HOUSE OF
REPRESENTATIVES**

STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL
AFFAIRS

Reference: Crime in the community

WEDNESDAY, 20 AUGUST 2003

CANBERRA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

INTERNET

The Proof and Official Hansard transcripts of Senate committee hearings, some House of Representatives committee hearings and some joint committee hearings are available on the Internet. Some House of Representatives committees and some joint committees make available only Official Hansard transcripts.

The Internet address is: **<http://www.aph.gov.au/hansard>**

To search the parliamentary database, go to:
<http://parlinfoweb.aph.gov.au>

HOUSE OF REPRESENTATIVES
STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

Wednesday, 20 August 2003

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

Members in attendance: Mrs Bronwyn Bishop, Mr Cadman, Mr Kerr, Mr McClelland, Mr Murphy, Ms Panopolous, Mr Sciacca, Mr Secker and Dr Washer

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

KENNEDY, Mr Duncan Leonard (Private capacity) 1336
MARTIN, Mr Peter (Private capacity) 1277
RITCHIE, Mr James Andrew (Private capacity) 1316

Committee met at 10.06 a.m.**MARTIN, Mr Peter (Private capacity)**

CHAIR—It is well past nine o'clock, the time set aside for the beginning of this hearing. I apologise to those who have travelled to Canberra for the purpose of giving evidence. We had a whole series of divisions in the parliament this morning which made it impossible for us to begin until now. I now declare open this public hearing of the House of Representatives Standing Committee on Legal and Constitutional Affairs in its inquiry into crime in the community, victims, offenders and fear of crime. Throughout the course of the inquiry, this committee has heard from a number of current and former police officers about their experiences within the New South Wales Police Service. Some serious allegations of mismanagement and corruption have been made. The allegations range from a corrupt staff management culture to paedophile protection and threats made against officers who sought to expose corruption. Today's hearing focuses again on issues of policing, especially in New South Wales. Later this afternoon, the hearing will also explore issues associated with home and business security and levels of crime.

We have previously heard from Peter Martin, whose evidence was cut short due to time constraints. The committee has invited Mr Martin back today to complete his evidence. We will also hear from Mr James Ritchie, who in his submission has made a number of interesting comments about policing models and may be able to provide the committee with some insight into how to tackle what appears to be an endemic problem of corruption.

When we resume after question time at 4 p.m., Mr Duncan Kennedy, a security expert, will appear before the committee. Mr Kennedy will give evidence concerning the pitfalls of home and business security systems and alleging criminal negligence on the part of security businesses and government agencies for not enforcing security industry legislation. Mr Kennedy's submission and supplementary submissions have been previously accepted by the committee on a confidential basis. However, Mr Kennedy has agreed for them to be authorised. I wonder whether I could have someone move that the committee authorise for publication submission No. 133 and supplementary submissions 133.1 and 133.2 from Mr Duncan Kennedy, previously accepted as confidential into the inquiry into crime in the community.

Mr CADMAN—I so move.

CHAIR—Thank you. Mr Martin, you appeared before the committee in February, when we authorised your submission for publication. You have since written to the committee a letter dated 6 May 2003. It is a letter which alleges harassment as a result of your giving evidence, which is a very serious matter and which the committee takes very seriously. I ask you whether or not you would like that letter to be made public and published.

Mr Martin—Yes, I would.

CHAIR—Would somebody move that the letter be published?

Mr CADMAN—So moved.

CHAIR—That is the correspondence to the committee from Mr Martin dated 6 May. It is a while since you appeared before us. Would you like to make an opening statement?

Mr Martin—For the benefit of the committee, I will give a brief summary of what I have actually spoken about before and follow on from there. Shortly after New Year's Eve in the year 2000, there was an allegation made by a probationary constable that I assaulted a prisoner during the course of performing duties on New Year's Eve 2000. As such, there was an extensive investigation into this matter, which cleared me of any wrongdoing. Approximately in the months of March and April 2000, I was contacted by police psychologist Stan O'Brien on behalf of Gary Raymond, inquiring if I felt the need for any counselling for anger management, given the allegation by the probationary constable, to which I replied, 'Certainly not. I have been cleared of an allegation which never occurred. Why would I feel the need to talk to you?'

Around this time, on 31 March, unbeknownst to me at the time, Gary Raymond saw fit to forward an internal memorandum to the then north metropolitan region commander, Graham Morgan. This internal memorandum stated that I was on a work performance program and that I was consulting Stan O'Brien, the police psychologist, on anger management and conflict resolution and diffusing aggressive behaviour. Gary Raymond further stated that this program was to continue for a further three months.

At about this time, my parents' health was starting to fail, so I applied to join the Queensland Police Service so that I could fulfil carer's responsibilities. As I said before, unbeknownst to me, a report was sent in by the north regional command from Gary Raymond about the work performance program which resulted in my application to join the Queensland Police Service being unsuccessful. What followed was many complaints, faxes, letter writing and telephone calls with Gary Raymond to have these lies corrected during which at all times Gary Raymond assured me that he would correct the situation and that it would be his goal to get me to Queensland.

I further followed this up with numerous complaints to the regional commander at the time, Graham Morgan, outlining Raymond's behaviour, which simply fell upon deaf ears, resulting in the all too common modus operandi of buck passing and the revolving door treatment. On 26 October 2000, Gary Raymond did in fact draft a letter, which was addressed to my parents, where he attempted to justify his lies. This letter was subsequently withheld by Graham Morgan, where it remained at north region office until I was able to obtain a copy of this report on 5 January 2001 under the freedom of information section of the police service.

On 13 November 2000, Graham Morgan saw fit to respond to my complaints by way of corresponding directly to the recruitment section of the Queensland Police Service. This was something that I had repeatedly requested not to occur. In this letter, Graham Morgan thought it appropriate to make a blatant attack on my credibility for the use of further lies, thus supporting Raymond's initial lies. I guess a key element to keep in mind here is the fact that it was in fact Graham Morgan's office that forwarded Raymond's memorandum to the Queensland Police Service.

In relation to Morgan's correspondence, I filed complaints with Michael Egan of the Police Integrity Commission, Kevin Kitson of Special Crime and Internal Affairs and Kim Castle of the New South Wales Ombudsman office. In response to these complaints, the assistant

commissioner to the PIC, Tim Sage, simply referred my complaint back to the police service and the very police that I was complaining about. He further suggested that if I was not happy with the way the police were conducting their investigation, I could contact the New South Wales Ombudsman. Assistant Commissioner Tim Sage also stated quite disturbingly in a letter dated 5 December 2000 to me that the commission decided not to investigate my complaint because it did not achieve the priority necessary for the commission to commence an investigation and my complaint did not fall within one of the categories of service police misconduct.

For me, the disturbing part about this is when you consider the fact that the higher the rank achieved by New South Wales police in the service and the more accountable one becomes, Tim Sage's comments are utterly disturbing. It can only be seen as either condoning the lies by senior police or the fact that he has his head buried so deep in the sand that he must be incompetent.

On 18 January 2000, I was approached by Gary Raymond to sign a second work performance program. Raymond this time cited the reasons that I had been heard using inappropriate language in the workplace and that I was locking up too many crooks with the old trifecta of resist, hinder and assault. To my way of thinking, obviously this second work performance program was quite literally a payback and had the hidden agenda of adding some credibility to his initial lies that I was on a work performance program in early 2000.

If you want to dissect Raymond's reasons for a second work performance program, in response to inappropriate language, perhaps he himself should draw up a work performance program for not only himself but about three-quarters of the New South Wales Police Service. In response to high arrest rates involving the old trifecta method, my efforts to educate Raymond that the vast majority of the arrests at the time were a result of backing up other police who required urgent assistance quite literally fell upon deaf ears. Gary Raymond informed me that he was not prepared to analyse each individual arrest and, in so doing, removed my right to reply. I can only imagine Gary Raymond, coming from so many years in police rescue, and the last time he faced a violent drug or alcohol offender. I obviously did not sign this work performance program, which angered Gary Raymond no end to the point that he threatened me with a remedial program if I did not sign.

CHAIR—I will intervene there for a moment before you go on. Basically, you were initially involved at Manly. Is that right?

Mr Martin—That is correct, yes.

CHAIR—We will come back to precisely what happened at Manly. But there was an incident at Manly?

Mr Martin—Yes.

CHAIR—We will just say that. As a result of that, there was an investigation?

Mr Martin—That is correct.

CHAIR—That was noted in your file by Mr Raymond?

Mr Martin—Yes.

CHAIR—You say that in his subsequent investigation of your performance he made a finding which is not sustainable?

Mr Martin—That is correct.

CHAIR—You then applied to be posted. You wanted to go to Queensland and you applied to the Queensland police because of the terminal illness of your father and you wanted to care for him?

Mr Martin—That is correct.

CHAIR—Then unbeknownst to you, Mr Morgan wrote to Inspector Roger Lewis of the police recruiting section of the Queensland Police Service on 13 November 2000 and forwarded to him a copy of the file that had been created by Superintendent Gary Raymond?

Mr Martin—That is correct.

CHAIR—Without your knowledge?

Mr Martin—Yes.

CHAIR—In that letter, and I quote, he says:

This document—

that is, the file—

came to bear the notation—

which is an interesting phrase—

‘Not suitable on the basis of work performance program and aggressive problems. Also complaint history’—

which appears to have been signed by you. It was on the basis of that that Queensland did not accept you into the service?

Mr Martin—That is correct.

CHAIR—How did you then find out that that letter had been written and that file had been sent? Could you remind us of that?

Mr Martin—Through numerous conversations with Inspector Lewis from recruitment in Queensland.

CHAIR—They told you?

Mr Martin—Well, he informed me at length. He said, ‘The reason you’re not going to be successful in this application is because of that report.’

CHAIR—What did you do then?

Mr Martin—I applied to the Queensland freedom of information section and got a copy of the report, after which time I approached Gary Raymond and confronted him with why he would say that I was on a program when I had no knowledge of a work performance program whatsoever, especially given the fact that a work performance program is viewed upon as being a formal contract that the officer concerned has to consent to and sign.

CHAIR—And you never signed such a thing?

Mr Martin—That is correct.

CHAIR—So you are saying that Mr Morgan writing to the Queensland police saying you had been subject to a work performance program was not true because it required your concurrence and you did not give it?

Mr Martin—That is correct. I think the exact words Graham Morgan used were that the fact I was not on the program was a matter of semantics.

CHAIR—I would have thought it is a matter of fact, but there we go.

Mr KERR—If you look at page 23 of the transcript, Inspector Lewis of Queensland puts it on the basis that Constable Martin had been informally counselled. That is the representation that apparently was made; not that there was a formal program but an informal one.

CHAIR—Nonetheless in the letter, Mr Morgan says he was on a work performance program.

Mr KERR—There is obviously some confusion. Plainly Inspector Lewis wrote to Mr Martin.

CHAIR—Was that four-page letter sent to your father?

Mr Martin—The letter sent to Queensland recruitment was also sent to myself with a covering letter explaining what he had done.

CHAIR—The letter to Inspector Lewis states:

Amongst the material this Service has provided the Queensland Police Service is a copy of the internal memorandum dated 31 March 2000 from Superintendent Gary Raymond and the local area commander Manly division to my office regarding Constable Martin. The memorandum states that the constable is at that date on a “Work Performance Program” and consulting a police psychologist on issues of anger management, conflict resolution and diffusing aggressive behaviour.

Were you seeing a psychologist?

Mr Martin—No, I was not.

CHAIR—You never saw a psychologist?

Mr Martin—No.

CHAIR—A letter was written to your father trying to say that that was the case as well?

Mr Martin—Yes, correct.

CHAIR—What did you do as a result of that?

Mr Martin—I went down the normal process of making complaints to people up the command.

CHAIR—Where did you make the initial complaint?

Mr Martin—It would have been to Michael Egan of the police integrity liaison unit.

CHAIR—Michael Egan, the Treasurer, or Michael Egan who is in the police integrity unit?

Mr Martin—The police integrity unit. That was on 14 November 2000. I had made a number of complaints to everybody from the Police Integrity Commission to special crime to Peter Ryan himself. Basically, you get the standard response, which is that it either does not constitute a complaint or it does not fall within their ability to investigate and it gets referred back to the police that you are complaining about.

CHAIR—This is not the first time we have heard this. Basically, we have a situation where we have several bodies established in New South Wales where complaints can be made but each one of those bodies said, ‘No, it’s not our problem. Try somebody else.’

Mr Martin—They are reluctant to take ownership of it. When it comes down to senior management, the legislation in place just does not exist.

CHAIR—So then you did what? Did you apply then to be posted somewhere else?

Mr Martin—In relation to Raymond’s behaviour and harassment, I wrote directly to Chief Superintendent Glenys Lapin of the Internal Witness Support Unit and outlined my fears and concerns. The reply was that I did not fall within the category of needing any—

CHAIR—Perhaps you can tell me the various bodies that you went to. You went first to the police internal complaints?

Mr Martin—Yes. Internal affairs.

CHAIR—Internal complaints. What did they say? They said, ‘Not our problem’?

Mr Martin—They sent a nice little letter saying that the matter had been taken on board. After further correspondence with them, you find out that they have flicked it to somebody else.

CHAIR—So who did they flick it to, in your terms?

Mr Martin—First and foremost, the Police Integrity Commission referred it back to—

CHAIR—No, I want the sequence. Police internal complaints first, then the Police Integrity Commission?

Mr Martin—The Police Integrity Commission first—Michael Egan.

CHAIR—That was first?

Mr Martin—That is correct, yes. Tim Sage responded by saying:

As it is required to do so by section 131 of the Police Service Act, the Commission has referred your complaint to the Police Service and the office of the New South Wales Ombudsman to be dealt with under that legislation.

Mr KERR—I want to clarify that. The complaint was in relation to the documentation on your file?

Mr Martin—That is correct. That is the letters by Graham Morgan as well as ongoing complaints of harassment by Gary Raymond.

Mr KERR—Earlier you mentioned harassment. I am puzzled because nothing that I have heard relates to harassment. It relates to—

Mr Martin—The work performance program. To be approached for a second time on grounds that have no bearing whatsoever and then for a superintendent to become so enraged as to start yelling at me and tell me that if I do not sign he will simply draft up remedial papers and I will have no option but to go on it, in my terms, as a constable, yes, that is harassment. It is a disgrace.

CHAIR—When you refused to go onto the work performance review, you said you were harassed and threatened that if you did not, he would do what?

Mr Martin—He said he would simply draw up remedial program papers, which is far worse than a performance program, and place me on that program without my consent.

CHAIR—Did he have the power to do that?

Mr Martin—They have the power to do anything they want because who challenges them? Who is willing to take them on? You have to bear in mind that this is a constable going up against a superintendent of a local area command, not just a sergeant. These are commissioned officers.

CHAIR—So Tim Sage wrote to you and said it was referred to the Police Ombudsman and police internal affairs?

Mr Martin—That is correct.

CHAIR—What happened then?

Mr Martin—I received a letter on 2 February 2001 from Kim Castle, who is an investigations officer for the New South Wales Ombudsman, stating:

Whilst I understand that you will be disappointed in view of the comprehensive response received from the Police Service, this office has agreed with the Service's recommendation to decline your complaint. We consider that the clarifying letter from Commander Morgan to the Queensland Police Service dated 13 November 2000 adequately reflects the management action taken by the Service with respect to your son.

This letter was addressed to my father, Bruce Martin.

Mr KERR—What happened about your complaint?

Mr Martin—It was declined.

Mr KERR—But didn't you receive correspondence? Why would the letter have been to your father?

Mr Martin—At the time, I was working full time. I was travelling between Queensland and New South Wales to fulfil a carer's responsibility. As a concerned parent, he took it upon himself to initiate correspondence on my behalf.

Mr KERR—Just to clarify, your father filed the complaint, not you?

Mr Martin—He filed it on my behalf.

Mr KERR—I am just trying to clarify. Your father filed your complaint?

Mr Martin—In addition to complaints that I had filed as well, yes.

CHAIR—The PIC referred Mr Martin's complaint to the Police Ombudsman. They said, 'We won't deal with it. We'll send it to the Ombudsman.' In the meantime, Mr Martin has also written to the Police Ombudsman and the Police Ombudsman writes to Mr Martin's father and says, 'We're not going to do anything.'

Mr KERR—I am sure that is true, but if there is an original complaint from Mr Martin himself, it would surprise me if he wasn't also directly communicated to by anybody as to the fate of his complaint.

CHAIR—Did you ever personally receive correspondence from the Police Ombudsman in relation to the complaint?

Mr Martin—Not personally, no.

CHAIR—They only wrote to your father?

Mr Martin—That is correct, yes.

CHAIR—You had a letter from Tim Sage quoting section 131 of what, the Police Act or the Ombudsman's act?

Mr Martin—Just bear with me.

CHAIR—We will come to that in a minute. They forwarded it to the Police Ombudsman and he never replied to you, only to your father?

Mr Martin—That is correct.

CHAIR—What about police internal affairs? What did they do? It was referred to them.

Mr Martin—Police internal affairs declined to investigate it.

CHAIR—They also declined. Did they write to you and tell you that?

Mr Martin—Yes, they did. I am just trying to find that letter now.

CHAIR—That is all right; take your time. So the Police Integrity Commission refused and forwarded it on to the Police Ombudsman, who refused. They also forwarded it to police internal affairs, who also refused?

Mr Martin—That is right.

CHAIR—So we have a total failure of the system. What did you do then?

Mr KERR—Help me a bit, Madam Chair. This all flows back to the original circumstance where a probationary constable made a complaint that was investigated. I was going through the transcript. I think you were asked whether you had ever sighted the end report. You said there were two reports.

Mr Martin—No, I haven't. I have filed an FOI application.

Mr KERR—You indicated, though, your understanding was there was a first draft of the response which was very critical of the probationary constable.

Mr Martin—That is correct, yes.

Mr KERR—It was sent back to be reinvestigated. Both investigations, you understand, cleared you?

Mr Martin—I have confirmation from Gary Raymond, where he referred it to the DPP, and the DPP said that there were no grounds for criminal action against me.

CHAIR—Have we got that in writing somewhere?

Mr Martin—Yes, you do.

CHAIR—That is a letter from?

Mr Martin—The correspondence from the DPP—

Mr KERR—What troubles me here, I suppose, is that a decision that there is no criminal action or something of that kind may still have some critical comments. You have not sighted this document and neither have we. Presumably, assessments are being made about you on the basis of information you have not seen. It seems to be procedurally very difficult from your point of view, but it could explain why people are taking a particular attitude towards you if in that report it says, ‘There’s no evidence to warrant a prosecution but we think that Mr Martin behaved wrongly in these particular ways or something happened that suggests we need to keep an eye on this man.’ I am not suggesting it is in there. I have no idea and you do not have any idea. It is very unfair to put that to you except by way of—

Mr Martin—I think it is. I can assure you that I was cleared comprehensively of any wrongdoing.

CHAIR—The one piece of written evidence concerning the file is the letter that I referred to earlier written by Mr Morgan talking about the file and talking about the work performance program which he said he was on. We know from what he writes at least in part what is in that file, unless he is making it up. But we do not have any evidence to think he has made that bit up.

Mr KERR—Honestly, I do not know. I do not know what was in the initial two reports. The idea that Mr Martin has been set up is a bit inconsistent with the idea that if everyone in the force has got a conspiracy and the two investigations are said to clear him, that seems to be independent and at arm’s length, if that is the case. But I do not understand why all this reference would be to anger management and what have you if there isn’t something in that that then springboards. Not having sighted the documents, something does not ring true in this chronology as to why people would be making assertions about counselling or anger management or what have you.

CHAIR—I think the answer to that was in the earlier evidence.

Mr KERR—It may be. I am sorry; I am trying to read the transcript and catch up because I wasn’t in the earlier—

CHAIR—We will go back and I will ask Mr Martin to detail it. This was the incident on New Year’s Eve when you arrested—

Mr Martin—There was an allegation that I assaulted a prisoner in the van dock area of Manly police station. That was obviously from the probationary constable, but he was not in sight.

CHAIR—Let's just get this right. You were not a probationary constable; you were a constable?

Mr Martin—That is correct, yes.

CHAIR—And it was the probationary constable that made the complaint. And the so-called victim, if my memory serves me well, later said he was not assaulted either?

Mr Martin—That is correct. He said that he was never assaulted. He even came back and apologised for his behaviour.

CHAIR—The situation was we had an original incident where Mr Martin was the arresting constable.

Mr Martin—We were conveying prisoners for beat crews on New Year's Eve. It is a busy area involving large quantities of alcohol being consumed so you have a high arrest rate. But to paint a clearer picture for you, that same probationary constable had made a number of allegations at Manly police station of other police which were never proved. As such, he has since been removed from the police service.

Mr KERR—I do not wish to be provocative here. Presumably if that probationary constable were here, he might be saying exactly the same as you—that there is a culture of self-protection in the police force which means that his complaints were never upheld.

Mr Martin—I would invite him to come in and have his right of reply.

Mr KERR—Without seeing the investigation report, I do not understand where this anger management stuff comes from. You mentioned earlier that you have a higher than normal arrest rate for particular kinds of offences. Would it have stemmed from that? Is there some criticism that was made of you?

Mr Martin—If you allow the evidence to continue, a picture will be painted for you as to what Gary Raymond is like.

CHAIR—Just to get this bit crystallised in our minds, the incident was on New Year's Eve 2000. The incident occurred. Two things occurred. The incident that occurred was that you arrested a particular person and put him in a paddy wagon—

Mr Martin—We were conveying a prisoner for somebody else.

CHAIR—A probationary constable made a complaint that you had assaulted the prisoner. The prisoner himself subsequently said this did not occur?

Mr Martin—That is right.

CHAIR—Nonetheless, as a result of the complaint, Gary Raymond created a file?

Mr Martin—That is correct.

CHAIR—In that file, Mr Morgan, in his letter to the Queensland police, says he was sending a copy of the internal memorandum dated 31 March 2000, which is three months after the incident, from Superintendent Gary Raymond, the local area commander in the Manly division, to his office regarding Constable Martin. The memorandum states that the constable is at that date on a work performance program. Mr Morgan says the memorandum states that you are on a work performance program but you were not?

Mr Martin—That is correct.

CHAIR—And consulting a police psychologist on issues of anger management, and you say you were not?

Mr Martin—I was most certainly not.

CHAIR—And the psychologist was supposed to be for anger management, conflict resolution and diffusing aggressive behaviour, which presumably were the things that you were alleged to have shown against the prisoner, which the prisoner said did not happen?

Mr Martin—That is correct.

CHAIR—If we come back to where we are now, Queensland has said that they will not accept you on this basis. You then try and get the record cleared for your own advancement proposal?

Mr Martin—That is correct.

CHAIR—So we have been through—

Mr KERR—But there are the missing documents—two reports, presumably, of the investigation of this man's allegation about your assault. You have not seen them and we have not seen them.

Mr Martin—It has just been relayed to me what is in those reports.

Mr KERR—You made formal FOI requests?

Mr Martin—Yes. I am still waiting on the determination.

CHAIR—You made that in 2000?

Mr Martin—No. I have just made another recent one. With respect to the first two submissions I made, the freedom of information section did not receive them.

CHAIR—So you have made another one. Nonetheless, supposing we called the prisoner—do we know where the prisoner is?

Mr Martin—No. I would not have a clue.

CHAIR—But you know his name?

Mr Martin—Yes.

CHAIR—We will not disclose it here. If we could find him, he might help us.

Mr Martin—On that note, what I would like to clarify is that if you are cleared comprehensively of assaulting a prisoner, why would you be placed on a performance program? The situation, as I read it, is that you are or you are not on it. That is the main issue.

Mr KERR—I accept that entirely. I am not certain that you were cleared comprehensively until I see those reports. You have not seen them. This is the problem that I face. You are asserting that you were cleared. On its face, something happened through this process that led to Raymond—why would he pick on you? I do not know.

Mr Martin—As I said, if you allow the evidence to continue, you will find out exactly what sort of person Gary Raymond is.

CHAIR—That may be the case, but it is important to get the facts right. Supposing we take Mr Duncan's point and we say we have not seen the two investigations which you say were relayed to you as clearing you. Let's put them aside for a moment. The fact of the matter remains that the letter written to the Queensland police is incorrect in fact. It said you were on a workplace program when you were not and said you were being treated by a psychologist, which you were not. So in two particulars the letter is incorrect and conveying false information to Queensland, upon which they made a decision not to accept you. So leave aside that question altogether. Had there been an assault, it would have been proper for a charge to have been made against you because that is a criminal action.

Mr Martin—That is correct.

CHAIR—It was committed by a policeman. Do we have a letter from the DPP?

Mr Martin—You do.

CHAIR—We do? It is in the transcript?

Mr Martin—It is dated 1 March 2000.

CHAIR—1 March 2000. To my mind, that will close the link. If there had been an investigation and you had been found to have actually committed the assault, then it ought to have gone through to the DPP and the DPP should have proceeded with the prosecution. When we find this letter—

Mr SCIACCA—In the meantime, I will ask a question. I am interested in this probationary constable. You say that he was subsequently found to be making complaints that were fairly frivolous against other police. Do you know that for a fact?

Mr Martin—Yes, I do.

Mr SCIACCA—He has now left the police force?

Mr Martin—He has.

Mr SCIACCA—It was basically on his complaint against you that all this started?

Mr Martin—That is correct.

Mr SCIACCA—Did he end up becoming a police constable?

Mr Martin—No.

Mr SCIACCA—So he was on probation and he never even got to the stage of getting through his probation?

Mr Martin—No.

CHAIR—Did he leave of his own volition?

Mr Martin—That is questionable. I am of the belief that it was put to him it was highly unlikely he would succeed to the level of constable.

CHAIR—This letter is quite important, Con. It is a letter from the office of the Director of Public Prosecutions dated 1 March 2000. It says:

I refer to your correspondence dated 1 December 1999 wherein you requested advice in relation to potential criminal charges against Constable Peter Martin—

that is 1 December 1999—

arising out of an alleged assault upon ... This Office has carefully considered all available material and advises there is insufficient evidence to justify the commencement of any criminal proceedings against Constable Peter Martin on the basis there is no reasonable prospect of conviction.

That is by way of freedom of information.

Mr KERR—If I might say so, it leaves me with three questions. One is that someone has thought it appropriate that there is sufficient material on a prima facie basis, after investigation presumably, to forward that to the DPP. Now the DPP has said, 'Look, there's not a criminal basis for prosecution; that requires proof beyond doubt.' Disciplinary conduct or various findings within a police force would not require that standard of proof. It still leaves open to me why, unless there were findings, any such matter would have been referred to the DPP.

CHAIR—I have a technical matter here. This letter I have just read from and the whole of this file was received by us initially confidentially. Could somebody move that this—

Mr KERR—I move that that document be now received in evidence.

CHAIR—This is an attachment to submission 108. Could I have a motion that we accept it for publication?

Mr KERR—That letter, certainly.

CHAIR—No, this file, which is an attachment.

Mr KERR—But I do not know what is in the file.

CHAIR—Well, we have had it in our possession for some time.

Mr KERR—I am happy.

CHAIR—I can now refer to the letter again.

Mr KERR—The witness may not know, and I suspect he does not because he made FOI requests that have not been successful. Presumably before 1 December 1999, somebody in the police force has, as a result of an investigation, formed a view that there is material sufficient for the DPP to consider whether to charge Mr Martin with a criminal offence. The DPP in the end has said, ‘No there isn’t,’ but that is not consistent with an investigation clearing him entirely. You do not refer to the DPP possible criminal charges against somebody whom the investigation has cleared completely.

Mr SCIACCA—Does the witness know the date that the actual prisoner came forward and apologised and said it was not true?

Mr Martin—It was shortly afterwards. I actually did not see the prisoner. It was relayed to me.

Mr SCIACCA—It was relayed to you by hearsay, effectively?

Mr Martin—Yes.

CHAIR—He apologised to your supervisor?

Mr Martin—Yes.

Mr SCIACCA—It would be interesting to see if that was actually after it had been referred to the DPP. Obviously it was. Otherwise the DPP would—

CHAIR—Mr Martin, I have some confusion about the date of the incident on New Year’s Eve. Which New Year’s Eve was it? That letter was written on 1 December 1999.

Mr Martin—It was the New Year’s Eve of 1999-2000.

CHAIR—Is that 31 December 1999?

Mr Martin—That is right.

CHAIR—But the letter is dated 1 December.

Mr Martin—I noticed that.

Mr KERR—Maybe it is 1 December 2000, just a typo in the office. It is quite possible. Maybe it is 12 months later.

CHAIR—There is another letter here dated 31 March 2000.

Mr Martin—From Gary Raymond.

CHAIR—From Gary Raymond to the commander of north metropolitan. It says:

I have noted these papers and have informed the police directly involved with the result. I have completed the outcome field of the CIS. Constable Martin is on the Work Performance Program and is performing duty satisfactorily as a Field Intelligence Officer Crime Management Unit. He is also consulting Police Psychologist Stan O'Brien on anger management, conflict resolution and diffusing aggressive behaviour. The program will continue for another three months.

Handwritten on the bottom of this is: 'Not suitable on the basis of work performance program and aggressive problems'. That is signed by Mr Lewis, who is—

Mr KERR—The Queensland man.

CHAIR—the Queensland person. You say again that you were never on a work performance program and that you never consulted psychologist Stan O'Brien?

Mr Martin—That is correct.

CHAIR—You have never seen him? That is pretty serious stuff.

Mr Martin—As you will no doubt be aware, there is correspondence dated November 2001 where court and legal services state that I was not at any time on those work programs.

CHAIR—That is in these documents too?

Mr Martin—Yes. It is dated 22 November 2001.

CHAIR—This is a letter written by Mr Michael Holmes. It states:

I represent the Commissioner of Police in New South Wales in an application currently before the Administrative Decisions Tribunal in this State. The proceedings have been brought by a serving member of the New South Wales Police Service, Constable Peter Martin, who seeks amendment by the New South Wales Police Service of (2) documents, which relate to him.

The documents in issue consist of a (1) page internal memorandum dated 31 March 1999 addressed to the Commander, North Region and signed by Superintendent Gary Raymond (Attachment A). The other document is a (2) page report dated 13 November 2000 addressed to you from Commander Graham Morgan of the North Metropolitan Region (Attachment B).

In relation to the information contained in the body of the documents, the New South Wales Police Service makes the following observation:

(I) Constable Martin was not as of the 31st March 2000 or at any other time been the subject of a 'Work Performance Program' as indicated in the memorandum (Attachment A). Any such reference on the face of the memorandum is incorrect and misleading.

(II) Constable Martin had not as of the 31st March 2000 consulted the Police Psychologist in relation to emotional issues, work related or otherwise. Any such reference or implication on the face of the memorandum (Attachment A) is incorrect and misleading.

(III) That as of the 31st March 2000, Constable Martin had not received any counselling or other treatment in relation to anger management, conflict resolution or diffusing aggressive behaviour. Any such reference or implication on the face of the memorandum ... is incorrect and misleading.

(IV) Due to the fact Constable Martin had not been placed on a 'Work Performance Program' in the first instance, any statement or implication appearing on the face of the memorandum (Attachment A) suggesting any formal ongoing remedial program is both incorrect and misleading.

Having regard to points (I) to (IV) above, the letter of Commander Morgan (Attachment B) should now be disregarded insofar as those issues are concerned.

It is the position of the New South Wales Police Service that Constable Martin continues to remain as a valued and proactive member of the Manly/Davidson Local Area Command.

Yours faithfully

Michael N. Holmes

General Manager

What was the result of that? What happened after that letter was written? That makes the statement made by Mr Morgan and Mr Raymond totally false.

Mr Martin—Completely incorrect. Well, they lied, to my way of thinking.

CHAIR—What happened after that letter was written on 22 November 2001?

Mr Martin—I prepared a letter to the previous police minister, Peter Ryan, outlining my concerns about the letter. I received a response from Terry O'Brien. I will read it for you:

Dear Constable Martin,

On behalf of Commissioner Ryan, I am writing to acknowledge receipt of your recent facsimile communication concerning your complaint about two senior officers of the New South Wales Police Service and your request for a transfer to Tweed Heads Local Area Command on compassionate grounds.

In the first instance, given the nature of your claims, this matter has been brought to the notice of Commander, Special Crime and Internal Affairs for consideration. As soon as possible, further advice will be forwarded to you either by that office or, should the matter be reallocated for attention elsewhere within the Police Service, from the commander given responsibility for such action.

CHAIR—There is a step missing there. That letter I just read out was written to Inspector Roger Lewis in Queensland. Did you have any response back from Queensland?

Mr Martin—None that I have here.

CHAIR—Did Mr Holmes give you a copy of the letter that you wrote to Inspector Lewis?

Mr Martin—Yes. The letter from Mr Holmes was to be forwarded to Queensland recruitment and placed on my internal records to correct what had been initially told.

CHAIR—Did you reapply to go to Queensland?

Mr Martin—At that stage, no.

CHAIR—What did you do? You presumably took this letter. Is that the letter in which you then complained about Mr Raymond and Mr Morgan?

Mr Martin—At that stage, my thinking was that my options were better to go for a compassionate transfer to Tweed Heads because there was so much damage done to my reputation with Queensland.

CHAIR—Despite that letter?

Mr Martin—Yes. I applied for a compassionate transfer.

CHAIR—When you applied for the compassionate transfer, what did you put with it?

Mr Martin—I included documentation from specialists, who indicated that I had carer's responsibilities.

CHAIR—You just read out something complaining about two officers. What was that?

Mr Martin—Was that the letter to Peter Ryan?

CHAIR—Yes. That is separate from your application for a compassionate posting?

Mr Martin—That is correct. I initially applied for compassionate transfer during April 2001, but it was rejected within two weeks by the then human resource manager, Inspector Sue Waites, of the north metropolitan region, on these grounds:

Whilst this region is understanding of the constable's situation, I am unable to support the application in relation to the Tweed Head Waters local area command as this location is considered to be desirable.

CHAIR—Is that the same Inspector Waites who sat on the appellate board concerning the promotion of his wife using her maiden name?

Mr Martin—That is correct.

CHAIR—That is the same person?

Mr Martin—Yes.

CHAIR—And he denied you?

Mr Martin—She.

Mr KERR—It was the wife.

Mr Martin—Inspector Sue Waites was the human resource manager at north metropolitan at the time.

CHAIR—Was she then answering to her husband?

Mr Martin—Her husband was, at the time this letter was written, the superintendent at northern beaches, which is Dee Why, but he was soon to be promoted to regional commander after that.

CHAIR—So she denied your application?

Mr Martin—She denied it. She stated that it was a desirable location and that it is police service policy that all vacancies be formally advertised in the *Police Service Weekly*, with the only exception being personnel who have satisfactorily completed tenure at special and remote locations in the western region. She stated:

For this reason, waiting lists of expression of interest are not maintained within the North region. Filling of positions within the Tweed Heads Local Area Command must be done by advertisement in the *Police Service Weekly*. Compassionate circumstances are considered by the selection committee when recommending personnel for lateral transfer.

This was despite the fact that legislation states with transfers that there are a number of locations throughout the state of New South Wales which are identified as desirable. Obviously Tweed Heads is desirable. But with regard to special circumstances transfers, special circumstances will generally apply when they relate to the individual officer or their immediate family, such as

parents, for whom they have carer's responsibilities. It further states that provision can be made for temporary transfers in extreme circumstances.

CHAIR—What are you quoting from there?

Mr Martin—It is legislation with regard to transfers.

CHAIR—What is it? Is it guidelines?

Mr Martin—Yes.

CHAIR—Does it have a title?

Mr Martin—Just clause 7 and clause 6. C7 is listed as desirable locations.

CHAIR—Clause 6 of what?

Mr Martin—I could not tell you. It was just handed to me. It is commissioner's instructions.

CHAIR—I note Mr Fenlon is here and that he has previously given evidence to us.

Mr KERR—I understand that the argument being made is that this is an incorrect interpretation or application of that policy. But if it is the same application that applies, albeit wrongly, you could not complain that you had been picked on. Are you suggesting that this is special in your case? All I am saying is that if they are uniformly applying, albeit wrongly, a common policy to anyone who applies to the northern regions, there is no discrimination against you that could be sheeted home. Are you suggesting that they picked you out specially for punishment because you were now seen as a black sheep?

Mr Martin—That is exactly what I am saying. There is a very distinct relationship, which is quite lengthy and close, between Superintendent Waites, Inspector Sue Waites and Graham Morgan. I have gone up against a regional commander outlining my concerns of untruths. It is not done. It is that simple; it is just not done.

Mr SCIACCA—I came into this late because I was not able to get to the Sydney hearings. But I have read the transcript. I want to see if I can understand this. I do not want to complicate something which is pretty simple. My understanding, as I see it, is that Constable Martin joined the police force in New South Wales. He seemed to be doing very well until he ends up with an incident some time on New Year's Eve in 1999-2000. I remember the particular day well. I take it that as a result of a complaint from a probationary constable, who subsequently we are told never even made it to constable, it set in motion a chain of events which effectively has put us in the position where Constable Martin is before us today. I take it that what the witness is saying to us today is that, as a result of the errors in the way that complaint was handled, the fact that you have complained about it and the fact that you have wanted to, if you like, clear your name has subjected you in recent years to an enormous amount of problems insofar as there have been people that have perhaps not been prepared to accept that there was no substance in those allegations against you on New Year's Eve 1999. You are saying that as a result of all this you have been intimidated—perhaps later on—or placed in a situation where your whole career is

gone. That one instance and the subsequent handling of it by senior officers and the fact that you have complained have put you in the position you are in today. Am I correct in saying that?

Mr Martin—That is exactly correct.

Mr SCIACCA—I will go one step further. You are saying that the record was in fact altered. The prisoner came in and said, ‘No, I apologise.’ The probationary constable never made it to first base. Effectively, they are still into you because you actually had the temerity to complain. What you are saying is that the police service at commander level have been victimising you all this time to the point where it has effectively wrecked your career. Am I right in saying that?

Mr Martin—That is correct.

Mr SCIACCA—Effectively, you are saying to us that if we listen to your evidence further with respect to the sort of people that Gary Raymond et cetera are, we might understand a bit further?

Mr Martin—That is correct.

Mr SCIACCA—With respect to all of our colleagues here, I would be interested in hearing more evidence from him in terms of what treatment he has received. In particular, I am interested in the second letter we received about possible intimidation. It seems like there is a series of conduct here that is quite unsavoury.

CHAIR—We have established the chain of events. Your application for compassionate posting was denied. You wrote to us again on 6 May after appearing before us in February this year. Would you like to move to this evidence that you have given us here.

Mr Martin—On 9 April at 11 a.m., I received a visit from Superintendent Neville Tarleton, who is the commander at the Tweed-Byron local area command. He delivered a letter to me, which was mailed to him from Superintendent Stephen Cullen, who was currently the commander at Manly local area command. The letter which Superintendent Tarleton gave me is a section 173 warning notice, which is non-reviewable. I will read it:

Pursuant to *section 173(1) and Schedule 1, Police Act 1990*, I hereby order that non-reviewable action be taken in consequence of your conduct.

This action is taken in consequence of an investigation referable to *CIS Number 01003731* concerning allegations in relation to your unsatisfactory conduct as detailed below.

Adverse findings were made against you as a result of the aforementioned investigations and may be summarised as follows.

That on 2 October 2001 you acted inappropriately in conducting unauthorised access to the COPS system.

I have decided that it is appropriate to deal with your misconduct by way of issue of a warning notice.

You should clearly understand that continued unsatisfactory conduct and/or performance of duties may result in further management action, which may entail consideration or reviewable action under *section 173(2), Police Act 1990*, or removal under *section 181D, Police Act 1990*.

It is signed by Superintendent S.J. Cullen.

Mr SCIACCA—Can we get some details as to what that is supposed to be. What is COPS? What are you supposed to have done?

Mr Martin—It is a computerised system by which we access details of events, places and times. On 2 October, obviously I accessed the COPS system and I was not able to account for why I did it. I was interviewed in March 2002 in relation to that. I was unable to, at the time, account for why I did the COPS access.

Mr SCIACCA—But you must have accessed it for some reason.

Mr Martin—That is right.

Mr SCIACCA—What is that reason?

Mr Martin—To the best of my knowledge, it was a drug inquiry which I did not complete.

Mr KERR—As a caution, I do not wish to deny anything, but there is a name being mentioned. If we could delete that from the *Hansard*, because the association of that name with the drugs offence is not a good idea.

Mr Martin—That is appropriate.

Mr KERR—I do not know this fellow. It might have been a—

Mr Martin—I agree.

Mr KERR—It could have been anything. I think that name should be stricken or not published in the *Hansard*.

Mr SCIACCA—In any event, from what I see, all he was going to get was a warning. It is a bit like when you are counselling someone and setting them up for an unfair dismissal.

CHAIR—Yes, it is. Because the next one of the issues is a 181D.

Mr Martin—I will clarify a few things about that. I have never had a problem with being able to account for any access to COPS before. It is not a regular occurrence. I am normally of a methodical nature where I do record everything. But we do thousands of these accesses. There are times when you just forget to do it.

Mr SCIACCA—I was about to say that it is hardly an indictable offence.

CHAIR—No. The COPS system is COPS1, as it is now. I understand that they are developing COPS2. But it is meant to be a complete record of every incident that occurs. It is from those stats that the government statistician then writes reports about incidence of crime. Depending on how something is entered into the COPS record, as I understand it, depends on the report that then comes out about the incident of crime. COPS1, as I also understand it, has been found to be somewhat lacking in how efficient and functional it is. They are developing COPS2. Personally, having now been to New York and Los Angeles, I would like to see us use Comstat, which is the Mayor Giuliani software program. But that is for another day.

Mr SCIACCA—I simply make the point that one would hardly think that accessing a database like that would be something really terrible, particularly if one is doing it for the purposes of whatever job they might be—

Mr Martin—I can assure you on that note that I have gained no benefit whatsoever. Obviously the police service thought it was not that serious. If it was serious, I would have been charged.

Mr SCIACCA—They gave you a warning.

Mr Martin—On the evidence of a 173 non-reviewable warning, there are countless police officers that have many times accessed the computer system and not been able to account for why they actually did so. As a result, normally what occurs is informal counselling or, in extreme cases, managerial counselling.

Mr SCIACCA—Let me get this straight. This Superintendent Tarleton turned up at your place?

Mr Martin—In full uniform 50 kilometres over the state border.

Mr SCIACCA—In full uniform. You were at Runaway Bay and he is a New South Wales policeman.

Mr Martin—Yes.

Mr SCIACCA—And he turned up at your place with a notice which was a slap on the wrist because you accessed COPS or something and it was just a warning?

Mr Martin—No, a 173 is not a slap on the wrist.

CHAIR—No. It is serious.

Mr Martin—It is the next stage to dismissal.

Mr SCIACCA—But it was still only a warning. He wasn't delivering a document to you saying you were sacked?

Mr Martin—You have to understand that there are two types of 173 notices: reviewable and non-reviewable. The legislation for non-reviewable states that it is for police officers that have

consistently failed to meet professional standards. It is quite literally the first stage to a dismissal notice. Any following acts of unprofessional behaviour will automatically lead to the issuing of a 181D. My career is finished whether I choose to go for Queensland or remain in New South Wales.

Mr SCIACCA—I think you make the point in your letter that it is still unusual for a superintendent to be delivering a letter like that to you?

Mr Martin—It is highly unusual. It can only be seen as an act to intimidate. That is how I view it, especially given the fact that I am on long-term sick leave as a result of hostilities between myself and my family with the senior management of the New South Wales Police Service. Common sense would come into it. The last thing in the world I would need for any recovery is to have a visit from a high-ranking officer of superintendent status delivering a notice such as this.

Mr SCIACCA—Particularly since you have given evidence to this committee. Is that right?

Mr Martin—That is correct.

Mr SCIACCA—Any reasonable person would view it as intimidatory, I would think.

CHAIR—Indeed.

Mr SCIACCA—I tend to agree with the witness on that.

CHAIR—I do too.

Mr Martin—The fact that Superintendent Tarleton is more than 50 kilometres over the state border in New South Wales uniform acting in an official capacity has to raise issues of legality.

Mr SCIACCA—More than that, did you take it as a subtle message that you were being watched and that they knew what you were doing and that this was the start of what they could do to you? This is a continuation, without putting words in your mouth, of the harassment that you believe you have been subjected to over the last couple of years simply because you had the ‘temerity’, I guess, to object to the way you were being treated?

Mr Martin—Most certainly. I would go one step further and say that it was brought to my attention after I gave evidence that Superintendent Cullen was aware that I was going to give adverse evidence against him.

CHAIR—Has there been any further action since that day?

Mr Martin—No. Having said that, I fully expect, at the conclusion of giving evidence, some time in the near future to receive a 181D.

CHAIR—I might say with the concurrence of my colleagues that this committee has written to the Speaker of the House concerning the receipt of this evidence and considering what action the committee might wish to take.

Mr Martin—I would also like to point out to the committee that, in terms of the legislation surrounding 173 non-reviewable notices, Commissioner Ken Moroney has gone on the record in August last year saying it is to be abolished and that a new system is to be put in its place.

CHAIR—When did he say that?

Mr Martin—In August last year.

CHAIR—But it has not happened yet?

Mr Martin—No, not to my knowledge. To my way of thinking, he is using outdated legislation.

CHAIR—No. If it has not changed, it remains intact.

Mr Sciacca—We have written to the Speaker about this. We would be concerned if somebody who comes and gives evidence to a standing committee of the parliament is then subjected to further harassment. I would think that if that were the case and any of that was to happen to Mr Martin, we should take serious action and make sure that we look at whatever powers we have to call those people before us if we need to. I will be interested to hear what the Speaker has to say. But it does not augur well for the future of these sorts of committees and of the parliament itself if people cannot come to us without fear of any recrimination. That concerns me greatly. I want to place on record that I feel the witness has a lot of guts coming before us and doing this.

CHAIR—Thanks, Mr Sciacca. I am in agreement.

Mr Martin—I will add a few points.

CHAIR—Yes, please.

Mr Martin—It will establish the relationship that Superintendent Cullen and I have in terms of the hostility that exists. On 18 February 2002, Superintendent Cullen was interviewed in relation to my work performance and general wellbeing by an independent psychiatrist as I had taken long-term stress leave.

CHAIR—When was this?

Mr Martin—On 18 February 2002. It was a psychiatrist employed independently by the Government Insurance Office to establish whether my sick leave was credible or not. During this interview, Mr Cullen first explains that there was no formalised compassionate transfer process within the New South Wales Police Service in particular for officers seeking appointment to desirable locations such as Tweed Heads. Cullen goes on to say:

Mr Martin became increasingly angry and frustrated in relation to this and spoke openly with other staff, indicating that he trusted no-one over the rank of inspector.

Mr Cullen stated that Mr Martin wanted both Mr Raymond and the Regional Commander to write a positive report that was strongly supportive of his application ...

That being to Queensland. He continued:

Mr Cullen stated Mr Raymond and the Regional Commander's refusal to do this was taken personally by Mr Martin and he believed that senior management were lying about him.

Mr Cullen reported the new Police Minister was then appointed in approximately November 2001. Mr Cullen stated it was his understanding Mr Martin then elected to go outside the chain of command and approach either the Police Minister or the Police Minister's board in relation to his transfer, which to date had not been supported.

Mr Cullen stated this particular matter was then referred by the Minister's office to Mr Moroney, Deputy Commissioner, New South Wales Police Service, for review and recommendations.

Mr SCIACCA—I noticed that in one of the letters. Did you approach the minister's office in terms of your transfer?

Mr Martin—Yes, I did.

Mr SCIACCA—I notice that the minister directed it, but they did not take any notice of him.

Mr Martin—That is correct.

Mr SCIACCA—I take it that what you are saying to me is that they do not seem to take any notice of the minister's directions in New South Wales, certainly not insofar as you are concerned. What does that lead you to believe—that they must have come up with other information which made the minister change his mind as to whether he should proceed with it?

Mr Martin—That is exactly what happened, yes.

Mr SCIACCA—But you obviously convinced the minister in the first place?

Mr Martin—That is right.

Mr SCIACCA—They do not seem to like you, do they?

CHAIR—It seems to compound. There has been this incident and then retribution.

Mr SCIACCA—It seems to be such a small thing. All of a sudden because he has objected to it—and I guess this is his case—he has been subjected to all sorts of harassment.

CHAIR—The expression I would use is 'made an example of'.

Mr Martin—That is exactly what has happened. It is something that could have been so easily resolved from the initial report by Gary Raymond. If Gary Raymond had written to myself and the Queensland police correcting the lies, I would have had no recourse.

Mr SCIACCA—All you have ever wanted to do is just correct those lies so that you could get on with your career?

Mr Martin—That is correct. The interview continues:

Mr Cullen further reported that Mr Martin was allegedly informed by the Minister's office that his transfer had been approved, and Mr Martin spoke with colleagues in relation to this and how he had beaten the New South Wales Police Service.

Once again, throughout this whole interview process, this Superintendent Cullen is making personal attacks on me trying to discredit me so that I am not even going to be entitled to sick leave benefits. What chance do you stand against these people?

CHAIR—Who actually signed the 173 notice?

Mr Martin—Stephen Cullen.

CHAIR—So the man you are describing as attacking you in the interview actually signed the 173 notice and then personally came and served it on you?

Mr Martin—Stephen Cullen mailed it to Tweed Heads local area command. It was served by the commander.

CHAIR—A local area commander served it on you? A local area commander served the 173.

Mr SCIACCA—That is the point I am making.

Mr Martin—I will clarify that issue also. Larry Cook, a sergeant from the academy, gave evidence before the committee about exactly the same circumstances in that he received a 173 non-reviewable notice but was never told about it. To my way of thinking, that raises the question that it cannot be that important that it needs to be served in person. Surely it could have been mailed to me. Why did Superintendent Cullen feel the need to have this document served on me personally?

Mr SCIACCA—That is the point I was trying to make before. When you said it was very serious, I was trying to not downplay the document itself but to try to get to the point as to why you would need somebody so senior to come and serve it. As a lawyer, we have process servers that go out and serve documents. You do not go and do it yourself. It seems to be quite extraordinary. There has to be a message in that one way or another. I think any reasonable person would suspect that.

Mr Martin—There are a number of issues. I have delivered briefs of evidence to off-duty police many times. In doing so, I show due respect and do it as covertly as possible.

CHAIR—He came in uniform very publicly.

Mr Martin—He came in full police uniform.

CHAIR—In the middle of the day?

Mr Martin—In the middle of the day, at 11 a.m.

Mr SCIACCA—Outside his jurisdiction?

Mr Martin—Outside his state. Is the 173 even lawful?

CHAIR—It was signed by Cullen though, wasn't it?

Mr Martin—It has got to be served on me, though. In any event, I will be writing to the commissioner of Queensland police and outlining my concerns that a superintendent from New South Wales feels it appropriate to conduct official duties more than 50 kilometres over the state border. Whilst there are provisions for special constable duties, to my knowledge, that most certainly does not include travelling more than 50 kilometres over a state border and then acting in an official capacity. I would like to read a bit more of Superintendent Cullen's interview, because I think it is highly appropriate:

Mr Cullen acknowledged Mr Moroney was unprepared to transfer Mr Martin into an overstrength position. Mr Cullen reported that this, however, was apparently not good enough for Mr Martin, who is clearly unhappy with the organisation. Mr Cullen commented Mr Martin's sick leave had historically been poor and, following early 2000, Mr Martin's sick leave had deteriorated further, which had led to him being placed on compulsory sick leave certificates during 2001. Mr Cullen reported that Mr Martin's attitude and conduct had also deteriorated and he had been placed on two performance management programs during the course of 2000.

Obviously Mr Cullen did not read what is on my file and what was corrected in the document from 22 November 2001 which was signed by Michael Holmes.

Mr SCIACCA—So they are still perpetuating that assertion that you were under a performance review when that letter clearly says you were not?

Mr Martin—It just shows that even after going to extenuating lengths to have your name cleared and it is actually cleared, they still use it against you. If my character has not been defamed in this process, I do not know how else you could classify it.

Mr SCIACCA—I take it as a result of these that that is why you are on sick leave? It has just affected you that much. How long have you been on sick leave for?

Mr Martin—Since 6 February 2002.

Mr SCIACCA—So almost 12 months?

Mr Martin—Longer.

Mr SCIACCA—Longer, yes, of course. It is a year and a half.

Mr Martin—It is 17 months. This interview with Cullen was on 18 February 2002. The documentation by Michael Holmes clearing me was dated 22 November 2001. I guess I have to

give some credit to Mr Cullen because he states with the psychiatrist that he was always sympathetic towards my plight and had been more than prepared to provide me with some flexibility as well as leave without pay. I would like to know how I am supposed to survive.

Mr SCIACCA—Tell us a bit more about Mr Raymond. You said before you were going to continue to talk about Mr Raymond in terms of his attitude towards you and some of the things he used to do. What did you mean by that? Continue on in that vein.

Mr Martin—It was just the total two-faced manner in which he would continue to lie to me. He assured me that he was going to fix the problems and that he was going to correct the wrongs and get me to Queensland. That was his goal. But in actual fact, he was doing the exact opposite. I have to wonder whether, given the liability factor, Graham Morgan, the then regional commander, was having a word in his ear and just trying to guide him in that way. As I say, there was a letter dated 26 October 2000 that Raymond prepared. It was sent via the north regional office, but it was withheld by Graham Morgan. In relation to those interviews with the psychiatrist, I have the transcript here from when Robert Waites was being interviewed as well. That is quite interesting.

CHAIR—We have had a number of serving policemen either give evidence or say they wish to give evidence. Whilst you are asserting that this 173 notice and the action that has been taken were done to intimidate you—like my colleague Mr Sciacca, I believe you have been quite courageous in coming before us—do you think it was also meant to warn others not to come before this committee?

Mr Martin—Of course it is. I remember starting in this job and hearing innuendo and rumours that you do not go against senior management if you value having any career. Being the optimist that I was, I refused to believe it until I was confronted with factual evidence of it. The more time you spend there and the more incidents you become aware of, the more cynical you become. I guess in that regard, I am a bit of a thorn in their side. I cannot work for an organisation for which I do not have any respect. Otherwise I would always be asking myself the question, ‘Why didn’t I stand up to it? Why didn’t I address the problems?’

CHAIR—When were you sworn in to the police force?

Mr Martin—I graduated in November 1994.

CHAIR—You have had quite a few years of service.

Mr SCIACCA—Apart from the visit you received from Superintendent Cullen, between the time you gave evidence to this committee and now, have there been any other actions or anything that has happened at all that would lead you to believe that somewhere along the line subtle pressure was being put upon you to desist from what you were doing?

Mr Martin—There has. I will read from the interview with Commander Robert Waites first. On 3 April 2002, my then regional commander, Robert Waites, was interviewed in relation to my sick leave. He stated:

Mr Waites commented he was concerned that to some degree Mr Martin's distress may well be a product of his father's dissatisfaction with what has occurred.

In effect, he is saying I am not entitled to or even capable of having an opinion.

Mr SCIACCA—What was that?

Mr Martin—Mr Waites was responding in relation to complaints that my father had made on my behalf.

Mr SCIACCA—Your father had made complaints too?

Mr Martin—Yes. I repeat:

Mr Waites commented he was concerned that to some degree Mr Martin's distress may well be a product of his father's dissatisfaction ...

As I said regarding Cullen, every step of the way, they utilise every resource to discredit you and make you out to be disgruntled or incompetent.

CHAIR—Until that incident, you had been happy in the service?

Mr Martin—I do not deny that once I realised Raymond had told the lies—

CHAIR—That is after that. Prior to that?

Mr Martin—Yes, absolutely. I saw it as being a lifelong career. Whilst you do not do it for the money—you certainly are not going to get rich in the police service—it just presents you with so many opportunities to work with fantastic people at a grassroots level, at a frontline policing level. It challenges you in every way, shape or form to produce results. I guess there is the fun factor. It is actually good fun knowing you are making a difference and locking up crooks, because you are actually having a positive influence, a positive effect on society.

Mr SCIACCA—Was there anything else at all, apart from what you have just talked about, since you gave evidence to this committee that makes you believe that somewhere along the line you are being intimidated because you have come before this committee? Apart from the service of the notice by a superintendent outside his jurisdiction in full uniform, what else are you aware of? This could be important for us to decide whether we believe there has been any breach of privilege here. If there isn't anything else, that is fine. I am not saying there is not sufficient evidence there already. If there is anything else, it might be of assistance to the committee.

Mr Martin—Prior to February, I received correspondence from Superintendent Cullen. Just bear with me for a second.

Mr SCIACCA—We might move on to something else.

CHAIR—Superintendent Cullen was part of Manly Davidson LAC, was he?

Mr Martin—Prior to Manly, he was at northern beaches, which is Dee Why. He was a duty officer there under the control of Commander Robert Waites. Basically, he was being groomed to come up through the ranks.

CHAIR—Where is he now?

Mr Martin—Superintendent Cullen was appointed the local area commander of Manly by Robert Waites, who was then the regional commander. He took over from Graham Morgan.

CHAIR—Is he still there?

Mr Martin—Superintendent Cullen?

CHAIR—Yes.

Mr Martin—Yes.

Mr SCIACCA—This is the regional commander whose wife was the human resources person—

Mr Martin—That I complained about.

Mr SCIACCA—that you complained about from Tweed.

Mr Martin—Yes. Just in relation to that letter, from my application, I got a letter from Inspector Waites's husband, Robert Waites, saying that the decision to refuse my compassionate transfer was not of her doing. So I asked the question: of whose doing was it?

CHAIR—You have a letter?

Mr Martin—A letter from Robert Waites. I will find it and read it to you.

CHAIR—Do you remember the date?

Mr Martin—It is dated 17 October 2001. This is in response to my appeal. I will read it to you:

Your letter to Inspector Kutman has been referred to my office—

this is addressed to my father—

as your son is attached to this Command. The decision of the Regional Human Resource Manager is not one of her doing. She is simply indicating Police Service policy as it affects your son's application.

Mr SCIACCA—But she made the decision, didn't she?

Mr Martin—Of course she did.

Mr SCIACCA—How can it not be of her doing? I take it he is saying there that she has only interpreted the guidelines correctly. But it is her decision.

Mr Martin—It is. In support of that, I will read from Commander Waites's interview with the psychiatrist:

Mr Waites reported that Mr Martin's compassionate transfer was assessed but found to be lacking in substance. This compassionate transfer was not supported. Mr Waites stated that Mr Martin has taken offence to this and then commenced complaining about his transfer not being supported.

Mr Waites reports Mr Martin then elected to go outside the chain of command—

which is obviously something that angers them—

and raised his issues and concerns with the new Police Minister. Mr Waites reported Mr Martin was not the first police officer working in the northern suburbs to take this tack. Mr Waites reported that another officer from Chatswood Local Area Command had already approached the Minister, who had intervened on his behalf and had facilitated this officer's transfer to a North Coast station. Mr Waites reported including Mr Martin there were now five police officers who had taken this tack in the last few months.

CHAIR—So he is saying there are five policemen from the northern region who had gone to the minister to get their transfers. Did they get them?

Mr Martin—One did, to my knowledge. The interview continues:

Mr Waites stated he was aware Mr Martin had raised his issues and concerns with the Minister and the Minister's staff. Mr Waites acknowledged Mr Schuberg, who had been appointed as an adviser to the new Police Minister, who had a pre-existing conflict with other senior police, has also had some involvement. However, he was unable to comment on the exact nature or breadth of this conduct.

Once again, it does not matter who I go to because you have a regional commander trying to discredit me. He is now trying to paint Geoff Schuberg in a negative light.

Mr SCIACCA—You applied for compassionate leave because your father was terminally ill. Indeed, he passed away on 28 August 2002. All you were trying to do was get up there so you could be close to your father because he was dying, obviously. That is shocking.

CHAIR—We will take a short break.

Proceedings suspended from 11.40 a.m. to 11.47 a.m.

CHAIR—We will resume until 12 o'clock. We will break at 12 until 12.45 p.m. Mr Martin, we will probably be able to finish your evidence in the next 10 minutes. At 12.45 p.m., we will hear from Mr Ritchie. We will sit until 1.45 p.m. If we are able to get through Mr Ritchie's evidence in that time, that will be good. We will then adjourn and come back at four o'clock, when we will be taking evidence from Mr Duncan Kennedy.

We will resume the testimony being given by Mr Martin. I think what we are likely to be looking at is a culture of punishment and to make an example of you. There are two issues for us to be concerned about. One is the nature of your evidence in the general inquiry. The second is the question of your second letter to us and the evidence you have given as to possible intimidation, which certainly on the face of it seems to be something that we have to deal with. What else would you like to say at this stage?

Mr Martin—I would like to continue quoting from the interview by the psychiatrist with Robert Waites. It states:

Mr Waites acknowledged there was subsequently a directive from the Minister's staff to the Commissioner's office directing that Mr Martin be transferred to a North Coast station. Mr Waites reported that at the time Mr Moroney was responsible for senior operational decisions and Moroney has elected to support the transfer.

That was an interview on 3 April.

CHAIR—And you were told that Mr Moroney—

Mr Martin—This was the ongoing interview by the independent psychiatrist in relation to my being granted sick leave. You can see quite clearly that Mr Moroney was in fact given a direction by Mr Costa to transfer me to Tweed Heads. It was on 3 April that Mr Waites acknowledged that fact. Yet on 18 February 2002, Mr Moroney saw fit to draft this letter to me in relation to my transfer:

Firstly, let me correct what may be a misunderstanding on your part in respect of your previous representations. I am not aware of any ministerial directions regarding your application for transfer. Indeed, the day-to-day operations of the New South Wales Police Service are a matter for the Commissioner of Police.

That was on 18 February, yet on 3 April Commander Robert Waites acknowledges the fact that Ken Moroney was given a direction.

Mr SCIACCA—So one letter more or less says, 'I am not aware of any ministerial direction,' and then a couple of months later—

Mr Martin—One month.

Mr SCIACCA—Give me those dates again.

Mr Martin—Two months, sorry. February to April.

CHAIR—Six weeks.

Mr SCIACCA—About six weeks later, he then acknowledges that there was a ministerial direction.

Mr Martin—The regional commander, Robert Waites, acknowledges that Mr Moroney was in fact given a direction.

Mr SCIACCA—I am very interested in how the police would have got around that ministerial direction.

CHAIR—I am too.

Mr SCIACCA—They must have given some reasons to the minister as to why the minister should withdraw that direction. Either that or they did not take any notice of the minister.

CHAIR—That is also possible.

Mr Martin—Just prior to 27 June 2002, I had a conversation with Mr John Ryan, who is the parliamentary secretary to the Leader of the Opposition, Mr Brogden. Mr Ryan indicated to me that he was going to put a question to the police minister, Mr Costa, as to whether he did give a direction to transfer me. Shortly after that time, on my behalf, Mr Ryan contacted the office of Mr Costa. They indicated to him that I was facing a serious criminal investigation which could lead to a 181D. They were the reasons that my transfer could not be processed.

CHAIR—Who gave that information to John Ryan?

Mr Martin—I am not aware of exactly who. But John Ryan indicated to me that he had spoken to the minister's office. They had indicated to him that I was under a criminal investigation that was of a serious nature that could result in a 181D notice being administered to me.

Mr SCIACCA—Obviously somebody—

CHAIR—He was verbed again.

Mr SCIACCA—I accept what you say. If you were to accept as truth what this Ryan person told you, it is obvious that the minister's office has received information from the police that has led the minister to say, 'We don't want to touch this, particularly if this bloke is under some sort of investigation.'

Mr Martin—That would definitely be the way I would interpret it.

Mr SCIACCA—Again, your point is that you are being victimised and they are saying untruths about you.

Mr Martin—As I have said, it keeps coming back to the point that if one person can get through their surrounds and make a difference and continue on, it sends a clear-cut message, 'This is how you do it.' And it is a matter of, 'We can't have that.'

Mr MURPHY—I have a couple of questions for Mr Martin. The first question is: what would you like to see happen with regard to incompetence, mismanagement or corruption in relation to your own case? That is the first question I want to ask. Secondly, I want you to tell the committee what you would like to see as an outcome following your traumatic experience appearing here so that you can move on.

Mr Martin—I would like to see a complete, independent investigation outside the hands of these people within senior management. Whilst ever they have a hand in manipulation, it does not stand a chance.

Mr MURPHY—Who could do that independent investigation, in your view?

Mr Martin—That is the \$64,000 question. I have always been a strong advocate of the fact that you cannot have police investigating police. It just does not work. Inevitably, somewhere along the line you will always have a mate that looks after another mate.

Mr SCIACCA—The problem with that is that we do not have any power to order any of those sorts of things. All we can do is put it as a recommendation.

CHAIR—We can gather from the evidence that has been given that the bodies set there to deal with complaints and injustice to members fail. They do not work.

Mr Martin—Miserably. I would like to raise one point in particular, and that is the matter of Chief Superintendent Bruce Newling, who is now with legal services. It has come to my attention that almost 24 months prior, he was a superintendent at Mount Druitt.

Superintendent Newling saw fit to have a sergeant within his command access the COPS system to look up the boyfriend of his daughter because he did not like him. The results of that COPS access revealed that there was an outstanding brief to be served on him. Bruce Newling then phoned up the prosecutors where the brief was located and asked to view the brief, which was declined on the grounds that it was a conflict of interest. Mr Newling later somehow got hold of that brief. I am unsure what he did with it. As a result, it became an internal affairs complaint. It was investigated and, to my knowledge, it was recommended that charges be laid, yet nothing occurred. The only result in fact was that Mr Newling took stress leave. Upon his return, he was managerially counselled. Soon after that, he was promoted to the rank of chief superintendent. His excuse was that the sergeant in question needed additional experience in and practice on the COPS system and he just so happened to use the very name of the boyfriend who was going out with Bruce Newling's daughter, which is just a remarkable coincidence, in my book.

CHAIR—You are really saying that there is favouritism practised. In your case, you were singled out for attention to teach people a lesson and to teach you a lesson.

Mr Martin—I had one COPS access which I gained nothing from, yet you have a superintendent that enlists a sergeant to make a COPS access which is not only unlawful but a complete and utter conflict of interest, and what happens to him?

Mr SCIACCA—He gets promoted.

Mr Martin—Nothing. He goes one step further and steals the brief.

Mr MURPHY—Getting back quickly to my second question, what outcome do you want personally? For example, do you want to stay in the police force?

Mr Martin—I cannot see how I could. I am fully expecting these people to reinvestigate matters and to have a second finding and say, ‘No, we should have issued a 181D, not a 173.’

Mr MURPHY—Accepting that you do not believe you have a career in the police service, what outcome would you like—just the independent investigation?

Mr Martin—An example needs to be made of these people. There needs to be an investigation with a view to charging them with perverting the course of justice and God knows what else. There are issues of promotions. You cannot look at corruption in terms of getting a \$50 bribe in the street. I have never seen it and I have never even heard of it. It is these senior people that lie, cheat and manipulate their way into gaining rank, and not just subtle rank but rank where you are talking about money like \$40,000, \$50,000 and \$60,000 at a time and then going out on a fat pension

CHAIR—I think you are saying that they will take further vindictive action against you for giving evidence today?

Mr Martin—I have no doubt that when I return home to Queensland shortly there will be another notice served, that being a 181D. If they are that brazen—

CHAIR—There is just one last question I would like to ask and then we will adjourn, as I indicated earlier. There is a letter dated 17 October 2001 written by Commander R.J. Waites to your parents. It says:

Your letter to Inspector Kutman has been referred to my Office as your son is attached to this Command.

This is the letter you referred to earlier where he said his wife, the regional human resource manager—

Mr Martin—Inspector Sue Waites.

CHAIR—The decision was not of her doing because she was simply saying what the policy is. Then there is this extraordinary sentence:

It is not my desire to involve his family in issues that are relative to his employment.

But the whole issue was about compassionate leave to look after your father. That is exactly what it is about.

Mr Martin—Exactly. That has been one of my main issues all along. If I choose my family to represent me in these matters to act on my behalf in a complaint—

CHAIR—But that is not the point. Your family was intimately involved as the reason for your seeking compassionate leave. He goes on to say:

Should he desire to lodge an appeal, he should contact Inspector Waites—

that is, his wife—

or his current commander, Superintendent Rafferty, for instructions on how to submit a report seeking that review.

You have been halfway around the mulberry bush trying to seek reviews.

Mr Martin—There is one more thing I would like to raise about the freedom of information section. Obviously the police appearing before the committee have presented information obtained that way. The FOI section has finally woken up to themselves about the information going out to the point that my latest FOI application received an outrageous bill for me to obtain the documents I needed to defend myself against these people. On 15 July 2003, I received a letter from a team coordinator, Sergeant Jenny Scholz. She stated:

I refer to your request under the Freedom of Information Act, 1989. The request was received by this Unit on 26 May 2003 concerning access to documents held by the New South Wales Police.

In response to your request, inquiries were directed to the following areas.

It lists hours spent with various departments within the police service. The letter continued:

Twenty nine hours and forty five minutes has been spent in processing of the application to this time and I estimate that a further 20 hours will be spent in processing. In pursuant to Section 21 of the Act the payment of \$883.50 is required before a determination may be effected.

Payment is to be made to this Unit by cheque or money order, payable to the Commissioner of Police. I have allowed 21 days for payment. Should you wish to discuss any aspect of this matter, or it causes any special difficulties, please telephone ...

At the rate of \$30 an hour and with a further 21 hours to conclude their time, that is a bill of \$1,483 that I have been lumped with to defend myself against corruption. All of the police that have appeared before this committee who had quite literally volumes of files—hundreds and hundreds of pages—have not been charged one cent over the initial \$30 application fee.

CHAIR—All right. We thank you for the evidence that you have given us today. As I said, it is of grave concern to the committee. We will be looking at what action we may take. To have someone intimidated for giving evidence before a committee of this parliament is just not tolerable.

Mr SCIACCA—I take it that Mr Martin will advise us immediately in the event of him receiving other contacts that he believes may be consequent upon his appearing before us. I take it that you will be doing that?

Mr Martin—Yes, I will. There is one more letter that I would like to refer to. It is imperative that it goes on the record with regard to Stephen Cullen. On 14 March 2002, I received a letter from him in which he stated:

Your sick leave records show that you took the following dates off work and did not provide medical certificates.

CHAIR—I have seen that letter.

Mr Martin—In relation to that, the medical certificates were supplied, but they have somehow gone missing. Stephen Cullen gave me seven days to respond to that letter. I received the letter eight days afterwards. Given the fact that I am residing interstate and that he will not accept any backdated medical certificates, how the hell am I supposed to respond to it?

Mr MURPHY—Did you keep copies of those medical certificates?

Mr Martin—No, because they were originals.

Mr MURPHY—But you did not keep photocopies of them?

Mr Martin—I have never had a problem with it before. The medical certificates were accepted at the time. They have gone missing, miraculously.

CHAIR—In responding to that, nothing happened as a result of that?

Mr Martin—He indicated he was going to deduct money from my wages.

CHAIR—Did he?

Mr Martin—I wrote back and said I would not accept that. I made a further complaint to Brian Reid from special crime and internal affairs about that matter.

Mr MURPHY—Perhaps you could check with your doctors, who would be prepared to certify that they in fact issued a medical certificate for you.

Mr Martin—At the time, I did not have a regular doctor. I was going to the Warringah Mall Medical Centre, which has a high rate of turnover of doctors.

Mr MURPHY—They might have a record on their file.

Mr Martin—The point is that my certificate, at the time of going into work the next day, was accepted. There were no questions raised about it. We are going back two years.

Mr MURPHY—I accept that.

Mr Martin—Two years into my sick leave. If that is not vindictive—

Mr MURPHY—I agree.

Mr Martin—Additionally, he wrote to me and said that my sick leave had expired and that I was required to request special circumstances leave, which was entirely up to him to approve. It has nothing to do with sick leave or Cullen. I am on an approved HOD from the Government Insurance Office.

CHAIR—So it is further harassment.

Mr Martin—Of course it is.

CHAIR—We understand that. We will adjourn now and resume at 12.45 p.m.

Proceedings suspended from 12.10 p.m. to 1.07 p.m.

RITCHIE, Mr James Andrew (Private capacity)

CHAIR—My apologies for being late back. I have just been with some remarkable kids who are eight and 10 and I have heard their stories. We will now resume the meeting of the inquiry into crime in the community and fear of crime. We have received a chart from you, Mr Ritchie. Would somebody move that the committee receive this chart as an exhibit?

Mr SCIACCA—So moved.

CHAIR—Before we adjourned for lunch, Mr Martin read two letters from the New South Wales police. They are letters from Mr Cullen and Ms Scholz. Would somebody move that they be accepted as exhibits as well?

Mr SCIACCA—I move.

CHAIR—Thank you very much. Mr Ritchie, would you like to make an opening statement?

Mr Ritchie—Thank you. Perhaps I will give a bit of background to how I got involved in policing and the contrast between two cultures with which I am reasonably familiar. I began work as an ASIO officer at 17 years of age. I was the youngest recruit ever. I worked with ASIO for 23 years and retired from the organisation aged 40. My background in ASIO was that I was a young man prior to the Hope royal commission and I was a strong internal critic of the intelligence services and what I considered to be their rather out-of-date notions. As a result, I was appointed as director of staff recruitment and director of staff training. I am the only person to have held both those positions in the intelligence service. My job was to recruit and train a new generation of intelligence officers for Australia. I mention that not to boast in any way but simply to demonstrate that I am very familiar with cultural studies in organisations. I have looked at the transformation of the intelligence services in great detail and been given the task of actually implementing effective programs of change, such as educational programs, audit programs and management programs.

I joined the New South Wales Police Service in 1996 in order to effect a similar change in policing. I joined the New South Wales police academy as a lecturer in management studies. It was also during the Wood royal commission. I have indicated in my submission some of the activities that I have engaged in in the New South Wales Police Service. I will not repeat them. I obviously suffered some cultural shock when going from one culture to another. My submission and what I would like to say today is much more about culture than it is about individuals. I heard the previous witness and I have heard other witnesses before this committee. I have seen hundreds of similar cases in the four years that I spent in the police service. We have a systems problem, not just a people problem. It is systems solutions that I think will provide some improvement.

I should also say that in those four years, I and the team that I worked with had a very rare, if perhaps not even a unique, opportunity to look at every level of policing from the police commissioner's office to the very front-line recruit at the academy. We have looked at regional commands and local area commands. We have dealt with traumatised victims of policing. We

have seen very happy police and very effective police. We have travelled extensively throughout the state looking at what works in policing.

I have read also the public submissions to this inquiry. As I have said, I know some of the officers who have made submissions. I would like to go beyond those personalised experiences to try to extract some lessons from policing, not just in New South Wales but worldwide. Therefore, the chart that I have provided I hope will assist in traversing that territory. Perhaps if you are happy for me to go on with this monologue, I could step you through that chart. I have begun with the chart with Peel's famous dictum about policing. Peel, of course, is the father of modern policing. His primary concern was that the police not become an occupying army. That was the prospect. The only model he had to model the London metropolitan police on was an army model. He did not want an army; he wanted police who were close to the people. Therefore, his famous dictum is that the people are the police, the police are the people. A worthy notion it is.

The difficulty, though, is that 175 years later, something has gone awfully wrong with that original proposition that the police are the people and the people are the police. We have two principal problems. One is that police services are monopoly suppliers. They are necessarily monopoly suppliers. Nothing much can be done about monopoly supply. The Auditor-General in New South Wales suggested that the New South Wales Police Service be divided into four divisions in order to get some hybrid vigour. Let us try and have four commissioners. Let us steal one another's good people. But that did not float, and I do not think it is ever going to float, so monopoly supply is a fact that we have to live with.

The second fact that we have to live with is corrupted process. Whether individuals are corrupt or not, the processes of policing are corrupted. The processes that the young man was describing in front of you before me are clearly corrupted processes. We have husbands writing letters exonerating wives. This seems an unusual practice to me. I could give you literally dozens of examples of corrupted process. You have heard many already.

I am trying to depersonalise this. Let us get away from the individuals and look at this process. What are the consequences of monopolies supplying corrupted process? There are two. There is a problem of knowledge formation. That is, the way in which police generate new knowledge becomes a problem, because monopoly supply and corrupted process drive a boss culture. Again, the previous witness was speaking about a boss culture. A boss culture is a culture in which normal professional standards are dropped in order to keep the boss happy. The primary goal of boss culture is to keep the boss happy. This limits the amount of debate, the amount of professional discourse and the amount of professional analysis that can go on whilst we are trying to keep the boss happy.

This has been ingrained in police services the world over for a long time. Hence, another problem is we have poor implementation skills. The police simply do not know how to implement new and sophisticated processes. Keeping the boss happy is an unsophisticated notion. A lot of unsophisticated requirements stem from that. So in order to implement complex cultural change, to set up decent human services that would keep that young man and a lot of others in a healthy state is complex. It is not simple. It is complex. There are not simple answers. I have looked at most of the answers. So poor implementation and poor knowledge formation are a consequence of these two causal factors.

That has effects on the three principal domains of policing that I have listed there. The police have three functions in society. The first is to maintain the peace. The police do that well. I doubt you would have any submission saying that the maintenance of the peace is a difficulty for the police, but it is in fact probably their primary function. That is because a number of changes have caused the police to adapt. I can tell you that the three principal changes were the Paris student riots in August 1968, where young people for the first time attempted to bring down the government of France. The police had a new policing problem on their hands. It was repeated at Kent State University in Ohio in February 1970. You will remember when the National Guard opened fire on anti-Vietnam War demonstrators and killed three or four young people. Middle-class Americans do not like their police service or National Guard shooting their children engaged in lawful demonstrations. In Kent state, it did not look like the people are the police and the police are the people. It looked like the Soviet Union. In fact, that date in February 1970 is considered to be the transforming date in modern policing. The police services got a shock from that process and had to rethink their methodologies. The third factor in maintaining the peace was dealing with soccer hooligans in the United Kingdom. You had large-scale riots on a regular basis, much of it related to racism. The police therefore had to learn skills of crowd management. They get a tick for maintaining the peace.

The second principal area is evidence gathering to put evidence before the courts. Now in some areas, the police are very good at this. In high profile crime, the Australian police services are as good as any in the world at gathering evidence. Of course, the three principal changes in that field have been DNA, forensics and skills such as cognitive interviewing skills, which have taught officers to go about collecting evidence in different ways. So that area is reasonably sound. There is room for improvement. I could give many examples of very poor evidence gathering by the police service that I am familiar with, but I guess that is part of the current equation.

The real problem is the third area, which is to reduce crime. This is not an absolute statement but it is a fairly modern requirement of police services. They have some difficulty dealing with this because it is a consequence largely of heroin. The 1970s expansion of heroin addiction is due to 15 per cent of American servicemen returning to the United States from Vietnam being heroin dependent.

Mr SCIACCA—What per cent?

Mr Ritchie—It was 15 per cent. About 300,000 heroin dependent people returned from Vietnam. This created an altogether different policing problem. It is that policing problem that you have seen evidenced here in any number of the submissions that have been presented. Given this change in the criminological environment, how do you deal with now much, much more complex circumstances when you have a boss culture, which is the antithesis of complexity? It is simplicity. We have run into a practical problem where the police commanders simply do not have the requisite skills to deal with complexity.

When we first introduced independent assessment centres for the New South Wales Police Service and we put the 260 most senior police in New South Wales through quite normal, quite standard professional assessment centres, four of them passed out of 260. So that gives you an example of the magnitude of this problem. Therefore, we need to find solutions of a magnitude to address the problem.

I will not go on much more on this. I need to give you a quick overview of the consequences of this change. The demand now is for police to reduce crime. They cannot prevent crime. Crime prevention is a notion that would suggest there is too great a causal link between police and crime. I think it is not quite like that. But the demand is for safer communities. I have read a number of these submissions. People want more police and they want a safer community.

There have been four responses to that, and they are the four models that I have listed there. Around the world in the last 30 years, these four models have developed as a result of this requirement to reduce crime. On the right-hand side I have indicated the major criticism of the four models, because they are not without their critics. As in any professional discipline, you are going to find people who will make great claims about the models but also critics. Let us look at the four models briefly.

We have the community based policing model. This is known as the Humphrey B. Bear policing model. It is pretty much about hugging. You can probably tell that it is not one that I am particularly attracted to. There is just no rigour about it, which is the difficulty. The best example of community based policing is probably the San Diego police department, which is a successful police department. But they are not Humphrey B. Bears at San Diego. They are pretty hard-headed characters, as they should be—hard-headed and professional. We used to say that we need police commanders who have hard heads and soft hearts and not soft heads and hard hearts, which is some of the evidence that has been presented to you. So community based policing is a bit lacking in rigour. I understand that the New South Wales Police Service, not surprisingly, in my view, now says it is a community based policing model.

CHAIR—It says it is?

Mr Ritchie—It says it is. There is a very simple test, which I will come to in a moment. The second model is the problem oriented policing model. This is Herman Goldstein's model. It is probably the most popular model, the most universally embraced, particularly in America and certainly in a number of jurisdictions in the United Kingdom. The problem with problem oriented policing is this old problem of implementation. I am repeating the problem indicated earlier. The difficulty there is that problem orientation assumes a capacity for sophisticated analysis. Police services do not have a capacity for sophisticated analysis. They have quite good evidence gathering skills, but intelligence is their weak point.

The third model is a rare model. It is the restorative justice policing model. It is primarily found in the Thames Valley in the United Kingdom. It is essentially about targeting young offenders as early as possible and putting the offender in a conference to account to the person they have harmed. This is restorative justice. I know you have received a couple of submissions on restorative justice. I tend to be an advocate of restorative justice, although I think it is probably a bit exaggerated in its overall criminological effects. It is an in-court model. It is a very recent model. It is not well established in policing domains.

The fourth model is the well-heralded zero tolerance policing model, which no-one other than authors of recent books wants to own. Zero tolerance is the New York model of policing. They debate this and they feel uncomfortable about this, but that is the home of zero tolerance. It is where the term comes from.

CHAIR—I have just been there. I find they are quite proud of it.

Mr Ritchie—Yes, they are quite proud of it.

CHAIR—And Los Angeles are just doing it.

Mr Ritchie—I will be interested to see what happens in Los Angeles. Watching Bratton will be fascinating. I will be surprised if he introduces zero tolerance. The reason I will be surprised if he does is that he is likely to have race riots on his hands if he does.

CHAIR—I am interested in your perception of zero tolerance. Having literally been to see Scotland Yard, Commissioner Kelly in New York, Mayor Giuliani, the FBI, the Drug Enforcement Agency and then Los Angeles, I found the importance of what is used in New York is different from what is the popular zero tolerance question. I found—and I would be interested in your comment on it—the most important thing about it is the transparency of the system with the use of Comstat and the daily stats. If there is one thing I have learnt it is this: we collect stats here, but nobody does anything with them. By the time we get them, they are at least 12 months old and pretty useless. Their Comstat meetings are full of rigour. Everyone is informed and nobody but nobody can say, ‘Nobody told me.’

So if we had that system in New South Wales, say, Cabramatta would have been impossible because you would have mapped the crime where it was happening. In New York, they publish it on the Internet so everybody knows. I think the transparency is what makes the difference together with an ability to pay attention to minor crime. In Mayor Giuliani’s book, he begins with the people who are washing the windscreens with a dirty old bit of paper or rag and then kicking your door in or spitting on your windscreen if you do not pay up. When you track those people down and find out who they are, you find they had a criminal record a mile long. In other words, the people who commit the minor crime also commit the major crime. In that case, he said, ‘We asked the police to arrest these squeegee mob people, they said they couldn’t do that.’ He said, ‘In that case, the minute they step off the curb, arrest them for jaywalking. You can get their particulars and then we can trace them.’

To me, that is what the policy means not, as it is portrayed very often, a merciless crackdown on minor infringements. In other words, it is that the people who do the minor crime also do the major crime.

Mr SECKER—We got the same evidence in London with the transport bureau. They found that a per cent of those picked up for infringements had not even paid for their fares. They did not believe in the rule of law. They were able to trace them for other events.

CHAIR—Sorry to interrupt you. Patrick was with me in London.

Mr SECKER—I just found it interesting that in London they did not call it zero tolerance, but I thought a lot of methods they use in Scotland are very similar to my understanding of zero tolerance.

Mr Ritchie—I want to make a distinction between two things, though. You have mentioned a set of admirable arrangements which if they were applied to any policing model would work. In

other words, whatever definition of zero tolerance we want to make it, the three things you have mentioned, if applied to any of the four models, will work. San Diego have done exactly the same thing. The key words that you used were 'rigour', 'the Internet'—so everybody can access it—and 'transparency'. If those three things were in the community based model, I would have no difficulty with it. If they were in the problem oriented policing model, I would have no difficulty with it. If they were in the restorative justice model, I would have no difficulty with it. I would like to make a distinction between the term 'zero tolerance' and those attributes you are talking about.

CHAIR—That is precisely what I just did.

Mr Ritchie—That is what you did, yes, exactly. They are different things. But there is another side to zero tolerance, and that is intolerance. That needs to be taken into consideration by any person who is trying to solve a complex problem. Madam Chair, you mentioned the proposition about small crime leading to larger crime. It is the broken windows theory of James Wilson and George Kelling, both of whom strongly object to the way in which their theoretical premises were employed in New York. They have both walked away from any notion of zero tolerance policing. They are happy with the Internet, they are happy with rigour and they are happy with transparency. So I think the lesson to be learnt is that those three things are what we need.

There is a history of brutality by the New York police department. That cannot be ignored. Los Angeles has a long history of race riots, so as a police commissioner he just needs to be careful about that brutality being transferred to Los Angeles—but he probably does not need my advice.

CHAIR—I had the opportunity of going out both with the New York police into one of their, shall we say, precincts where there are a lot of law and order questions. We were looking for illegal guns on that occasion. They have a very good system in New York, where if you report or give a tip-off to the police on an illegal firearm and that firearm is actually captured, you the informant receive \$1,000 reward. It seems to work well.

Mr Ritchie—Yes.

CHAIR—I will go to the Los Angeles experience. I went out in the helicopter in the most crime prone area we surveyed. In the space of the first three-quarters of an hour, we observed three crimes, including a youth with a gun. It was quite interesting. As we circled in, the policeman on the ground had come in. From the helicopter, we would say to the people on the ground, 'Watch your back. There's a young man on a motorised scooter. He's behind you.' During this flying around and around it, he ultimately turned out to be the youth with the gun. But you don't know whether he was going to shoot or not going to shoot.

I similarly met with a very interesting woman called Sandra Moore who is responsible for serious gang prosecutions. She has 53 lawyers working for her. We went through the various steps of legislation that they have used to help gain convictions and some early intervention problems. The point she made loud and clear is that the big mistake that Los Angeles made was that they did not recognise ethnic gangs early enough. That is a lesson for Sydney.

Mr Ritchie—I have two questions or two propositions to put. Firstly, we did have a Comstat process operating—it was rigorous, and commanders found it particularly galling—under Peter Ryan. We had it. Cabramatta were dragged in there on a regular basis.

CHAIR—No; it was limited reporting. No; it was not transparent. It had five heads and nothing about drugs. It was a joke. Sorry.

Mr Ritchie—That is true. So in other words, Ryan, his minister and his police commanders all believed they had a Comstat process. They all went to New York and they imported it from there.

CHAIR—They did not, actually. COPS1 is nothing like the Comstat software.

Mr Ritchie—No. I am not talking about COPS1. I am talking about the Comstat process.

CHAIR—But it is a software program that they start with to map it. That is what is so important about it.

Mr Ritchie—Yes, they do map it. But with the Comstat process in New South Wales—believe me, I was there when it happened—I was a critic of their lack of rigour whilst I was in the New South Wales Police Service. So we agree. But the Comstat process was fully imported from New York. I can tell you the names of the officers who went there and imported it, if you like.

CHAIR—I think it may have suffered in the interpretation, if I can put it that way.

Mr Ritchie—Yes, exactly. I think it has suffered in the interpretation. The question I would pose is: why?

CHAIR—No transparency.

Mr Ritchie—No rigour—those same reasons. So we have a cultural problem here. San Diego has been successful with community based policing because it has some rigour about it. The question is how we get rigour into the system when the material you have received suggests that there is not much rigour in the system. This is a system after a royal commission. This young man has been brutalised after a royal commission and after the 10 key indicators that Wood said would indicate a healthy police service. The first of them was the way in which we treat our officers. He said, ‘This is the cornerstone. If there is one thing we are going to judge the New South Wales Police Service by in the future, their degree of improvement will be determined by how they treat one another.’ Well, nothing has changed in that regard. So rigour is what is required, but how do we get rigour into the system? That is what the submission is about.

Finally, testing whether there is any rigour in any system and whether there is any transparency is very simple. It is the final point there. It is to look at the tasking mechanisms that any police service uses. Think about your experiences with London and New York. If you look at their tasking mechanism, the helicopter pilot, coordinated with police on the ground, will have a sophisticated tasking mechanism.

CHAIR—Absolutely.

Mr Ritchie—The gang groups will have a sophisticated tasking mechanism. I can assure you that in Australian policing the tasking mechanisms are terrible. They are nonexistent for front-line officers. They are: ‘Officers, go out and keep a good eye out for criminals.’ There is no rigour in the system. There is no intelligence in the system. This is in this third area. It is better in a couple of other areas. But it is not in the general duties officers.

CHAIR—This problem seems to exist in the States, where every little town has its own police force. It might have a policeman, but it still has a commissioner. One of the things that I learned about that seemed very interesting was the COPS system, the community policing, as they called it. When I finally looked at it and understood what it was really about, it was really a method that the federal government used to fund the resourcing of police and standards into those local police departments. They were not allowed to cut anything out of their own budget. If they got this grant, it did give additional police. But they could insist on standards going with it. The commissioner in charge of their academy, who has actually spent some time in Australia, was very much saying that you do need people with a university education heading up senior positions in the police otherwise you cannot get complexity. There are a lot of very interesting things that were being looked at. I met some pretty impressive policemen too.

Mr Ritchie—Exactly. On this subject of the role of the Commonwealth or the federal role in the United States, the variability in standards around various police services has caused the federal government to take a deep interest in how standards will be lifted. Part of that process is an intelligence process. Part of it is an educational process. I will come to the intelligence process in a moment because it is the critical one. The educational process is not of much help, to be honest, because most of the studies on this subject show that there is no correlation between the more sophisticated and university developed the officer and improved performance. There is none because the culture of the police service overrides the educational process.

CHAIR—I am not disagreeing with that. I am talking about the need to give direction from the top. That is finally where it is going to have to come from.

Mr Ritchie—Exactly.

CHAIR—And not to be subsumed by the culture.

Mr Ritchie—The principal way the federal government in the United States have assisted is through intelligence. They commissioned a fascinating report, which you may have heard about and may have seen, written by Professor Larry Sherman of the University of Maryland. It is called *Policing: what works, what doesn't and what's promising*. Sherman and his team reviewed all of the literature on policing worldwide. It is not a particularly well written report, I am afraid to say, but it is a critical report. It has some rigour about it. One of the things in my submission that I suggested that the Commonwealth and Australia could do is to commit funds to research policing effectiveness.

We have institutes of police management. We have institutes of police research. We have institutes of policing. We have all manner of all institutes, but we have no institute of policing effectiveness, and that is what we need. That is one, I would suggest, solution. Sherman has done

some very valuable work. That work needs to be extended and revisited. It needs the rigour and it then needs to be disseminated. So that is one part of the equation.

I have looked up a number of these institutes' web sites. Frankly, if we apply our tests of rigour, Internet and transparency, they do not get very many points, to be candid. In other words, we have a whole lot of people who are doing a whole lot of things that do not make any difference. We need to direct funds to those things that will make a difference. Sherman has given us a clue to that—what works, what does not and what is promising. New South Wales spends quite a lot of money educating its senior officers. I interviewed these officers when they were going back to their commands after having been sent on some very expensive educational experience. They made not an ounce of difference to anything.

CHAIR—Maybe it is old dogs and new tricks.

Mr Ritchie—These were young dogs. The New South Wales Police Service has a lot of young and extremely well-educated people, incidentally. A very high percentage of university graduates are coming through the college. But that is not really the issue. The issue is boss culture, the lack of transparency and the lack of rigour.

CHAIR—Transparency seems to me to be the key. With the Comstat system, they need to not just look at the figures daily but act on them. At the end of the week, you have mapped the crime; there it is. If something isn't done about it, somebody's head is on the line. That does not happen, but that is rigour, I guess.

Mr Ritchie—That is rigour. I will jump to what I would suggest is a second essential, which is how to get rigour into the system. I think we arm the community. You mentioned the Internet and transparency. I speak to a lot of public groups about policing. Those public groups are very interested in obtaining material that allows them to have an informed debate and discussion themselves. They do not have that at the moment. I could give you a number of significant examples. So a second thing the Commonwealth could do would be to afford local communities a template which essentially calls the police to account. This is the sort of citizen involvement in Comstat, if you like. We have a lot of people who are interested in improved policing performance but they do not know the right questions to ask. They have not read Sherman. They need access to an Internet site in which they are told what works and what does not work. They might not agree with the research, but at least they are better informed, at least they can have a debate. At least the commander can say, 'I'm doing this because of A, B or C.'

Mr SCIACCA—I want to interrupt. It is 1.45 p.m. and we have question time at two o'clock. I did discuss this, prior to your coming in, with Mr Ritchie. He is prepared to come back at four o'clock. I know we have another witness. Looking at his evidence, I do not think he will take much more than an hour. I think we have set aside four until six. I am very interested in what he has to say and I have a number of questions. Could we perhaps suspend until four o'clock, if Mr Ritchie is fine?

CHAIR—That is a good suggestion. You could come back?

Mr SECKER—At four o'clock, but I have to leave at five o'clock.

CHAIR—I think the point has been well made by my colleagues. We have to go to question time. We will suspend now until four o'clock and when we resume we will continue to hear from you, Mr Ritchie.

Proceedings suspended from 1.45 p.m. to 4.55 p.m.

CHAIR—We will now resume the hearing of the House of Representatives Standing Committee on Legal and Constitutional Affairs inquiry into crime and the fear of crime. We were partway through hearing from Mr James Ritchie. We will now continue to hear some evidence from him. In the meantime, I would like to note that our next witness, Mr Duncan Kennedy, has arrived. He has been patiently waiting while we have been attending the House for a division. He has come all the way from the south coast. If necessary, we will have to sit longer than the allotted time.

Mr Ritchie—I guess to summarise the evidence that I have given so far, I would like to make a distinction between the situational and the strategic in policing. A lot of the material that I have viewed on the LACA site is situational; it deals with situation after situation after situation, but I think the problem is a strategic problem, as I have indicated earlier.

On reflection from this morning, I realise that if the New South Wales Police Service were sitting here at this microphone, they would be able to wave libraries of policy and academic papers about policing. There are libraries devoted to the study of crime management. But the real issue is how much of that information gets through to the tasking mechanism. That is the clue. The front-line police officers do not read those policy documents and they do not read those academic papers. Therefore, the only means of communication of modern and effective policing to the front line is that tasking mechanism. Where it is absent, we can reasonably assume that the tasking mechanism is ineffectual. I can assure you from a very close and detailed study of the police service in New South Wales for four years that their tasking mechanisms are atrocious.

I will give you a brief example of one of your earlier witnesses, Don Weatherburn's excellent research in New South Wales. He wrote a superb report called *The stolen goods market in New South Wales*. In that report, he identified the principal means for criminals getting rid of stolen goods. If you ask police how stolen goods are distributed, they will almost universally answer, 'Through pawn shops, through markets, through the *Trading Post*,' all of which are incorrect. The principal means of the distribution of stolen goods in New South Wales is through direct barter between the person who stole the goods and his or her heroin supplier. Now that is a finding from Weatherburn and an extremely important piece of intelligence.

CHAIR—What is the date of that paper?

Mr Ritchie—It would be now probably about three years old.

CHAIR—Because the number of heroin users is really quite small.

Mr Ritchie—Yes.

CHAIR—So you are saying that the number of criminals is really quite small?

Mr Ritchie—Yes. The number of highly active criminals is quite small as a proportion. It is the old Pareto principle that 20 per cent of criminals are responsible for 80 per cent of crime. I am just talking about the stolen goods market here.

CHAIR—Let us talk about the stolen goods market in its broader form. I want to take evidence in this committee about a problem that has become manifest in this new area of identity threat and fraud. That is with regard to smart cards to operate for pay television. They are traded in pubs. It has nothing to do with drugs.

Mr Ritchie—No. That is true.

CHAIR—There is an enormous amount of theft of credit cards. Identity fraud is the fastest growing crime across Australia, but it has nothing to do with drugs.

Mr Ritchie—That is true. Therefore, I do not want to go into the subject of identity fraud because I have to admit to the limits of my knowledge. Certainly identity fraud is not an area on which I have any expertise or understanding, to be honest.

Mr SECKER—If the heroin provider is the greatest receiver of stolen goods, where do they sell them?

Mr Ritchie—They sell them through extended family and contacts. That is Weatherburn's research. We could debate its adequacy. I happen to think it is remarkably accurate because we actually planned some operational initiatives as a result of this in Newcastle. The morning after we launched it, we grabbed two armed hold-up merchants on their way to their heroin supplier at seven o'clock in the morning. But I just want to use this as an illustration. We could debate it all day; this is the interesting thing about criminology. But let us just deal with this as a concept. Let us assume that Weatherburn is right, that the principal means of getting rid of stolen goods is direct barter and it is to heroin suppliers. The distribution through pawnbrokers is fifth on the list, which I think it is from memory. If that is the case, the huge amount of effort that goes into monitoring pawn shops is wasted and should be redirected towards putting police between the heroin distributor and the provider of the stolen goods.

CHAIR—What is the amount of heroin you can have and police won't do anything about it? There is a directive that was made.

Mr Ritchie—Heroin?

CHAIR—Yes. They won't do anything about it. This is that problem of the malaise. If the rhetoric of the day, if the culture of the day is, 'It is okay if they are trading a bit of heroin or whatever,' respect for the law breaks down everywhere, which again goes back to what I found in my overseas experience.

Mr Ritchie—That is slightly different to what I am saying. I am saying that police do not follow the evidentiary trail, which is pretty surprising.

CHAIR—I have had stood personally out at Cabramatta and had the drug dealers pointed out to me. I know they are on the street because if you go around the corner, you will see where they

shoot up and leave the little red balloons on the ground with the syringes which the taxpayer pays for and the government gives out. They go and shoot up around the corner. They have been pointed out to me. There were five policemen walking around the streets, but so were the drug dealers.

Mr Ritchie—That is right. And once you take those drug dealers off the street, a whole lot more will just replace them, and that has been the problem.

CHAIR—They will if you do not do anything about it.

Mr Ritchie—They have done a lot about it in Cabramatta. The problem is that they have had these sustained programs, Operation Puccini, was on and off and on and off. Part of the problem is these crackdowns. The police believe in crackdowns.

CHAIR—Pardon my cynicism, but a lot of us think it is for show.

Mr Ritchie—Yes. Some of it is for show and some of it is genuine because they believe in crackdowns. If, as you are suggesting, the nature of the problem is sustained and of a level that it does not reach crackdown point, then it will continue. That is exactly what happens. You do not have to spend much time with detectives to know that they believe in the big bang theory. They do not go in unless there is going to be a big bang. I talk about the place at Mount Druitt that has been distributing drugs for 14 years. When I was interviewed recently for a paper on the central coast, the journalist who was interviewing me had no trouble at all identifying four premises from which heroin is distributed. How can this be?

CHAIR—We had evidence from one former policeman that he was across the road from a drug dealer's establishment. He used to go and make it difficult for the drugs to go in there. He would be present all the time. So the people who were the drug dealers, and they are a family concern, complained about him. His life became miserable. That is why I am very attracted to the transparency that I talked about in New York so that people know what is happening and you cannot hide these things.

Mr Ritchie—Exactly. That brings me to my second strategic point. The police services anywhere, not just in New South Wales, are not going to volunteer for rigour. If they were going to, they would have done so a long time ago. They are not going to volunteer for transparency and they are not going to volunteer for intelligence driven policing. Royal commissions have not got them to volunteer for it. One thing I am quite assured about is that you cannot internally force the take-up of new ideas because they can find 101 ways of getting around internal initiatives. The only thing which will promote rigour and transparency in intelligence is informed and organised community demand. That is what happened in New York. The community demanded improvement.

That is what we need. That is how the Commonwealth can assist. It is informed and organised community demand. I was thinking about it as I drove down from Sydney this morning. What we need, without perhaps all of the features, is an ACCC for policing. We really need a consumer advocacy group for policing. There has been some, I would think, superficial support for this. In New South Wales, for example, the New South Wales Police Service has community

consultative committees, but they do not make an ounce of difference to anything because the problem is not a problem of consultation; the problem is a problem of professional capacity.

CHAIR—We have one up in my electorate. I find it most amusing. It is the local mayors and the state MPs. But because it is a state jurisdiction, as a federal member, I was not invited to be part of it. Presumably, I am not part of the community, but never mind. That is a state directive.

Mr Ritchie—I spoke to David Barr, the independent member for Manly, during the Florida fiasco.

CHAIR—You would not want me to comment on him, would you?

Mr Ritchie—I am going to compare anecdotes. I said, ‘You are the local member. Surely the police account to you.’ He said, ‘The commander comes around’—Gary Raymond by name, who was mentioned here this morning—‘with all these charts. They don’t mean a thing to me.’ So we have this sort of phoney consultative process. That is not going to help at all. What we need is an informed process so that the community can fashion hard questions, such as, ‘Commander, how many heroin distribution points are there in our command and what are you doing about them?’

CHAIR—Correct.

Mr Ritchie—‘Commander, what model of domestic violence management are you employing in your command? Are you employing the Duluth model, which is about conscious raising, or are you employing the Tampa model and the San Diego model, which is about having criminal detectives pursue criminal domestic violence offenders? Which one?’ The truth of the matter is that it is all a bit of a muddle. They do not have a model. So what does a good police service look like at a local level? You cannot even begin to discuss that under the consultative committee process because the people who are on the committee do not have the information.

On page 5 of my submission, I have suggested seven indicators of what a good policing service would look like. These are seven things you can measure. They are listed one through to seven on the top of page 5. I will quickly rehearse them. Firstly, you have to employ an effective business model in order to be effective in anything. You have to employ an effective business model. We have identified four policing models today. Which model is it that we are dealing with?

Secondly, we need a written strategic and evidence based management plan which operates locally. The police will roll out the corporate plan. Look, I do not live in the corporate world. I live in a local community and I want to know what the local community’s plan is for operational policing, not what Mr Ryan or Mr Moroney is going to do about corporate issues. I want problems solved locally and I want the police commander to tell me how he is going to solve them

Thirdly, we need effective multidisciplinary implementation teams at the local level. We do not have that. What we have are squads. We have specialist squads. You read every second day in the newspapers in Sydney that we now have a shortage of detectives. We sure do because it has been designed that way. The fewer the detectives, the greater the promotional opportunities.

So expanding the detective pool runs counter to good community policing. Expanding the skills base runs counter to the interests of the community but it pursues the interests of small groups of police. So that is how they organise themselves.

Fourthly, we need active debate about quality work performance. What does a good job look like and how will we know that we have succeeded? When will we know and when will we as a community be satisfied that our policing resources are deployed the way they should be deployed? We have not even begun that discussion. We have 180 police in this command and they police. I have highway patrol police and detectives—

CHAIR—Isn't it part of the problem, the number of police and the way in which they are sent to particular areas? I am drawing on this experience I had in New York talking with Mayor Giuliani. An example he gave me was that they suddenly saw on their stats that computer theft was going up. They mapped it between two streets in New York. So all the resources were put into that area. What they discovered was that they had a couple of gangs that were going to a particular building, getting in and stripping all the computers out of these buildings, which sent all the figures up. So they went in there and cleaned it up, but all the resources went in there to do it. Somebody's head was on the line. Everybody knew it was happening. When another crime comes up here, everybody moves in there. If it moves next door, they go in after it. It is not having an equal distribution of police all over the place and saying, 'We only react to something.'

Mr Ritchie—But there is a particular problem. I agree with that. But mapping has been around in policing for 20 years.

CHAIR—Yes, but not effectively. I have been going to New York often since 1973. I was there, as I told you, in July. It is a different city.

Mr Ritchie—It is a different city. It is a different city, but there are good reasons. They have 45,000 police.

CHAIR—No, 40,000 and it went down to 36,000 when their debt went up to \$5.6 billion.

Mr Ritchie—They have 40,000 police in the area of greater Wollongong. It does not mean they do not have very considerable problems, but it does mean that it allows you to focus in. I have indicated here that to try to pick a break, enter and steal site for a police officer in New South Wales, the odds are, in the Sydney metropolitan area, 10,000 to one. That is what the odds are and it is very simply determined. Each metropolitan local area command has about 60,000 business and private premises in them. On average, six are broken into per day. Divide 60,000 by six and we have 10,000 to one. So part of the problem of modern policing—remember we were talking this morning about this new concept of reducing crime, and it is a new concept in relative terms—is the heroin prompted criminal in the particular areas I have been looking at. There are other criminal areas that it is fine for you to look at—

CHAIR—Methamphetamine is the growing area.

Mr Ritchie—Well, drug induced anyway. Let us say the drug induced community. Part of the difficulty is they determine geography and time. They have space and time on their side. The

value of the material that I mentioned before from Weatherburn is that it actually tells us where criminals congregate. That is its importance in intelligence terms. It does not mean everything gets planned around that, but it does mean that it is such an important piece of information you cannot ignore it. It tells you that the high-risk criminals will congregate at a particular point of distribution. The second critical thing in that information is that the criminals themselves say that when they go and take the goods to the point of barter, very often they do so when they are in dire need of drugs. So their defences are down. That is the second piece of important intelligence in Weatherburn's work.

Now there are no commands in New South Wales out of 80 that have these two essential pieces of intelligence reflected in their tasking sheets. This is a report that is three years old. So that is the key issue. The key issue is how we get this rigour and how we get this information to frontline police officers, the vast majority of whom are decent, hardworking people who want to make a difference. They are not being aided by this completely incoherent system in which they work. The police services are not going to volunteer to improve rigour and transparency in intelligence. So community consultative committees are almost fraudulent in their design. We have to debate policing professionalism, not just every whim or every idea.

Two things are needed. One is accessible evidence. Whatever the evidence is, let us have that evidence accessible to the public. Let us have communities get access to that information and let us transform some of the money which we now spend on pretty unproductive activity. A lot of it is spent on unproductive activity, and I mean both at the Commonwealth and the state levels. Let us refocus some of that on getting people quality information from the likes of Larry Sherman. Let us get the what-works methodologies, get Giuliani's framework and get whatever Bratton comes up with. Get the best from Britain. The Home Office has done a lot of work on policing effectiveness. It has a lot of criticisms of various models. That is the first thing.

The second thing is we need an accountability mechanism. What is the accountability mechanism? There is none. The New South Wales Police Service is not accountable to anybody. They would argue they are accountable to the minister.

Ms PANOPOULOS—Have they ever been?

Mr Ritchie—Not in the sense that I am talking about. I am talking about accountability to your customer, not to the minister. The minister is not the customer. The minister might be important in the whole proceedings, but the customers are the ones we have to be interested in. So they have never been accountable to local communities. Therefore, we need an accountability mechanism. I suggest that accountability mechanism should be an area that the Commonwealth can assist in in putting together a template for effective policing at the local level. That is, pull all that accessible evidence together. I would want to see an independent agency provide a template which would allow me as a citizen to go along to my local commander and say, 'Commander'—and this deals with the research base and the questions that I posed before—'what model of domestic violence management are we using here in Manly today?'

I notice one of your submissions is from Robin Holder, who has a very good variant of the Duluth model of domestic violence here in Canberra. Why isn't this grabbed by every police service? Why aren't social workers waiting down the street, as they do here in Canberra, so when the call goes out for the cops to go to a domestic violence incident, the call equally goes

out to the social workers, who sit down the street until the cops sort out the immediate problem and ask, 'Do you want counselling?' That fits into one of the models. That is worth looking at, and so are a lot of other options.

Mr SCIACCA—Let me get this straight. You are saying effectively that our state police systems are really not accountable to anyone. Supposedly they are accountable, naturally, to their minister and to the government of each state. I think you were here this morning when we were listening to Constable Martin. We heard of a case where Minister Costa directed the police commissioner to transfer that person to Tweed Heads. They were then able to obviously come up with some sort of excuse as to why he should not. Effectively, Costa's office then decided to retract on the basis of information and intelligence they received from the police department.

Are you suggesting that somewhere along the line—there would certainly be problems involved in terms of state and federal relationships—some sort of independent group be set up that effectively police services throughout the whole country would have to be responsible to or that would set up best practice templates? The police services would follow that rather than just ad hoc now, where they really run their own race, which I guess is quite true. At the moment, every state police department effectively runs their own race.

Mr Ritchie—Correct. That is exactly what I am suggesting—that there be a professional template. As I said this morning, I come from the intelligence world. You would not last two minutes in the counterintelligence world on opinions. You have to do a detailed analysis and you have to do it in writing. The police have a non-writing culture. We have to change that. We have to get commanders to learn how to write, because they cannot.

CHAIR—They have a writing culture to the extent that they keep notebooks, and sometimes pages can disappear.

Mr Ritchie—Yes, they do, which is a backside covering culture.

Mr McCLELLAND—Just on that, there are probably constitutional difficulties in setting up a federal police agency that directs. But you are arguing that there would certainly be a facilitative role that the federal government could play in setting up consultation and the development of best practice.

Mr Ritchie—Definitely not directional. I know police officers well enough to know that you can direct them all you like. There is an old saying in policing that you cannot direct the front line, and it is very true. They will do what they want to do. But what we can do is set up not a directional process and not one interfering with jurisdictions here but rather an educational and evaluative framework in which the community is engaged. The community pressures the police, not another arm of government, not the minister. If we give the information to the community, the community is well armed to then ask the critical questions.

I have spent a lot of time in my life reforming organisations, both in policing and in the intelligence service. We have tried policing saviours, particularly in New South Wales. We have tried royal commissions. We have tried any number of mechanisms, and they do not work. The only thing we have not tried is to actually give not just the public but the local chamber of commerce, the local mayor, the local councillors, the local MPs, federal and state, this template

in which we pose questions. I am not talking about having a civil war with police services here. I am saying is: why not set up a community debate and in that process we fashion questions that are delivered to the community and the community delivers those questions to their police commanders?'

CHAIR—I know Con has questions. In a way, that is what happened in Cabramatta. The citizens got so fed up with it and the behaviour that was being inflicted upon them and the lack of policing, they did rise up and they got some results.

Mr Ritchie—Yes, exactly.

CHAIR—Not enough, but they got some results.

Mr Ritchie—As I say, I speak to a lot of public groups. It is the one thing that makes sense to them. They want an improved performance. They do not know what an improved performance looks like and they do not know how to obtain it. That is not going to create jurisdictional problems. This is an educative process. In other words, as I mentioned this morning, we have an institute of police research, which is federally funded based in Adelaide. It does some reasonably good work. We have an Australian Institute of Police Management at North Head, which the Commonwealth funds considerably. It makes very little difference. We have an Australian Institute of Criminology. I looked up their web site this morning. All they have on their web site on evidence based policing is a single page with a nice diagram.

Mr McCLELLAND—In fairness to them, they have a good database of some successful local community based justice programs that have been run by local government areas. They have them up as examples which other local government areas might follow. For instance, I know in October, because I was recently invited to one, they are going to Toowoomba to consult with the local community to say, 'How does policing work here?' They are trying to evaluate by feedback from that local community. I think the Australian Institute of Criminology, surprisingly to me, having gone down there, is increasingly thinking about local best models in a quite sophisticated way.

Mr Ritchie—They may well be and I may have done them a disservice. As an intelligence officer, my colleagues used to grill the living daylights out of me. I did not just say, 'Look, that's the way it is going to be and we are going to allocate resources to counter-terrorism because Jim Ritchie thinks so.' What we need to do, therefore, is grill the Australian Institute of Criminology and to have them grill all of us to create that debate. The problem is that there is not a debate. It is not an informed debate. If it is a good debate at the moment, how will we make it better? The way we do that is to provide more information and to create a professional atmosphere. I have never seen such an unprofessional or personalised atmosphere as in policing, because everything gets reduced down to whether you are a good bloke or not. We are not interested in whether they are good blokes; we are interested in whether they are good police.

Mr SCIACCA—We had the advantage of listening to Mr Ritchie before question time. We have another witness to see as well, so I guess we will not be too long. There are two things I wanted to quickly say. First of all, you make a point about all police services being a monopoly and not answerable to anyone apart from their ministers, who in most cases would take their departmental advice. It is a fairly operational area where you would have to be a pretty brave

minister to delve into the operational aspects of a particular case. So I take that. There is your idea of somehow setting up some body that would have trust—if you like, it would bring together all these other agencies that are there now, be it institutes of criminology or what they have in Adelaide et cetera—and something with a bit of status that could provide templates and best practice. It could somehow in an educative role say to police services, ‘This is the way you should be running your place.’ It will not be easy to turn them around to do that, but at least if you give them some credibility—as you say, you could involve the public in the debate—then maybe through media pressure et cetera we might be able to get to it.

One thing you said really struck me this morning. You put it in your submission. You said that in New South Wales you actually had some sort of a course there. Most senior officers seeking appointment to superintendent level undertook common assessment centre evaluations. Of the 260, only four passed.

Mr Ritchie—Correct.

Mr SCIACCA—What sort of assessment process did you undertake? Did you have to be a genius or something?

Mr Ritchie—No. It was a standard assessment for executives in any organisation. It was tailor-made for the police service. I do not think there was any inadequacy.

Mr SCIACCA—You did this yourself?

Mr Ritchie—No. The police service did it, and I was one of the assessors. I can assure you that we got the shock of our lives. We had 80 command positions to fill and four passed. This is not so much a reflection on the men and women who went through that assessment centre; let me say that. It is more a reflection on the boss culture in which they had been raised. They have been acculturated to doing what the boss wants, not exercising initiative, not weighing evidence, not debating ideas. On a number of occasions when we gave them practical exercises, such as: ‘Your local member and the minister have asked you to solve this policing problem. What will you do?’ their overwhelming answer was, ‘What does the boss want me to do?’ As I said this morning, it is a systems problem, not so much a problem with individuals.

Mr SCIACCA—It is not confined to New South Wales. It is all over the country.

Mr Ritchie—This is a problem of policing, not the New South Wales Police Service, in fairness to them. I will take up your point, Mr Sciacca. In the provision of the material, there is no point in producing templates for best practice and giving them to the police. That will not make an ounce of difference. It occurs now. In fact, the Auditor-General’s department in New South Wales very conscientiously goes around trying to measure best performance commands. It then puts out its annual report. This would be available to the committee. It might be worthwhile looking at a couple of the Auditor-General’s reports in New South Wales because they do identify best practice.

The question is: why isn’t best practice embraced by ambitious and decent cops? The answer is that the culture is a boss culture—‘I am only going to do what the boss lets me do.’ You saw the consequences of going against the boss culture this morning with that young officer. In

ASIO, you are paid to go against the boss. I was paid to go against the boss and I made a frigging pest of myself with my senior officers, which is why I got to recruit and train a new generation of intelligence officers.

Mr SCIACCA—Mr Ritchie has given a different perspective to all of this and a very general macro view of it rather than have us listen to particular examples of cases of possible corruption and so forth. He has given us something to think about. I for one got a lot out of it, and I want to thank him personally for his appearance.

CHAIR—I agree. It is a very useful framework into which to sit some of the evidence we have heard.

Dr WASHER—I came in a little late. I have had one of those days. I apologise if you have said this. Can you just say yes or no to this: do you feel Australia is coordinating world's best practice information and gathering that to offer to our police services? Have we got some body that actually scans the world information? Let us take an analogy to medicine. I am a doctor. Let us call them a profession instead of a service. They should be professionals, and that is what you are saying; the culture is wrong and we should make them professionals. Is there information getting into Australia of what is happening around the world in terms of best practice in other areas of the world? Are we doing enough local research here in terms of Australia? Are our research agencies coordinating the best way of handling crime for best outcomes and best practice? Are we educating the police in these and keeping them updated? Do we have a means of updating them? In medicine, for example, we have accreditation. In other words, every year, if I do not do certain practices, I do not get vocationally registered and I cannot practise. If I do, I am going to get a big deduction on what I am going to get back from the federal government. I have not performed.

Do we do all these types of things? At the end of the day, if we going to let the community know, I guess it would be best through local government, because it would appear that local government by default is starting to run our police forces anyway. They are certainly making up for where the states are falling short. I am putting a lot of things. Can you comment quickly on them?

Mr Ritchie—I can quickly. Firstly, information is coming in, but it is academic and it is kept to the academics and it does not get to the front line. I went to speak to the policy unit in police headquarters on a number of occasions. I asked them, 'How do you know whether your policy documents hit the target in the local area commands? How do you know whether it is going to hit at Murwillumbah?' They have no idea. They send it out, but they do not know what they do with it. So the problem is information may come in. We actually know quite a lot. If you go to the Goulburn academy, there is a lot of material on policing worldwide and policing practice, but it does not get through to the front line. It does not get through to the front line not because of the lack of effort by academics but because police commanders, those people who had trouble passing the assessment centres, do not honour it. That is problem No. 1. Your profession honours evidence. The police service, strangely enough, are the professional evidence gatherers of our society and they do not honour evidence.

The second question is about research. Are we doing enough research here? No, we are not. The research is disconnected. I looked at the research efforts of the New South Wales Police

Service in 2000. None of the funded research activities of the service in 2000 were in any way remotely associated with the corporate plan of the New South Wales Police Service. It was all personal. It was, 'My mates want to research this; my friends want to research that.' We think criminal profiling is the latest whizzbang thing, so we sent a criminal profiler over to Britain for training. She comes back only to find that her assistant commissioner does not believe in criminal profiling. So they sat her in a room on her own and she did nothing. This is a criticism I would level at most of the research bodies: is this research locked into what we currently know of crime management models? If it is not, then it is probably an indulgence unless you are going to come up with a better model.

Finally, accreditation is a proposition that the royal commission recommended. It went absolutely nowhere, because the most important person in the police service is the boss. Moving away from the situational to the strategic, we need to redirect the police's focus from the boss—not completely ignore the boss—to the customer. That is not what is happening. Accreditation went nowhere.

Finally, in terms of research, I mentioned this morning that Larry Sherman from the University of Maryland did a report for the United States Congress. We could do a similar thing here federally funded. It was federally funded there. The chair pointed out to me the multiplicity; we have 400 or 500 different police services in the United States.

CHAIR—They have 18,000 criminal investigating agencies.

Mr Ritchie—An awful lot and with variable standards. Larry Sherman was commissioned by the United States Congress to research this subject—policing, what works, what does not and what is promising. That report, unfortunately rather poorly written, is still about the best report that is available, and it needs to be updated. It could be updated locally. For a small investment—I mean not small in actual dollars, but small in relative dollars—we could generate a huge improvement in policing in Australia. I will finish on this. We applied some of these principles at Nowra on the New South Wales south coast. I recommend if you have time to look at Nowra.

Mr McCLELLAND—I have heard about that.

Mr Ritchie—We reduced break, enter and steal crimes by 50 years in the year we ran this specific program. Nowra has just won some best practice awards from the Ombudsman's office for Aboriginal community liaison. So there are islands of excellence well worth looking at. Those sorts of people will embrace these sorts of changes most enthusiastically.

CHAIR—Thank you very much, Mr Ritchie. We have enjoyed your presentation very much. As I said, it has provided us with a rather good framework into which a lot of other individual pieces of evidence have been given to us. I thank you. I will now call a very patient Mr Duncan Kennedy.

[5.40 p.m.]

KENNEDY, Mr Duncan Leonard (Private capacity)

CHAIR—Thank you. The committee has previously accepted your submission and supplementary submissions on a confidential basis. With your agreement, we authorised them for publication this morning. Would you like to make an opening statement?

Mr Kennedy—Certainly. Members of the committee, I thank you for inviting me to appear before you today. My concerns that I have put before you reflect on the barrier and the locksmithing sectors of the security industry. I am told that they in turn reflect many of the problems in the electronic sectors of the security industry. My expertise applies only to the New South Wales situation, although I have no doubt those problems will be mirrored in other states. I have put to you that barrier security and locksmithing are amongst the most important sectors of the security industry, yet a very large component of them are installed at a level way below the reasonable expectation of the community. I can show that a considerable amount of our most serious of crimes could have been prevented if only security firms had not abrogated their responsibilities under relevant legislation. That, in turn, would not have happened had the relevant authorities not abrogated their own responsibilities to enforce appropriate legislation.

You are investigating crime in the community. There is, of course, no foreseeable way that crime can be eliminated. The policeman or policewoman actually attending the crime scene in New South Wales—and I say that as opposed to the police hierarchy back at the office—will tell you that the government just cannot provide enough police or resources to prevent crime. So the community in general really has no option but to spend some of their own private money on their own personal security requirements much in the same way as the government itself has to do. Some of those extra security requirements are forced upon us. Employers, for example, are required by laws, such as occupational health and safety, and others are by contract, such as insurance against theft. Personal fears, such as the perceived threat of home invasion or even the kidnapping or the potential for sexual assault against our children, also make us think about added security.

I can demonstrate that bank security managers, for example, have time and time again been seriously misled about the security devices they have had installed. I can show that all sorts of prominent members of our community—members of parliament and judges and magistrates, for example—have been totally unaware of just how easily the so-called security at their offices and homes can be so easily circumvented. Take the letter I received from Richard Jones, member of the Legislative Council here in New South Wales, dated 20 November 2001. He was having installed security window grilles and security doors on his home and yet he had absolutely no knowledge of any security industry legislation which had been in force in New South Wales for more than 14 years. Just how do we ensure that Mr and Mrs Average Honest Citizen get not only value for money but in effect not get false security for the protection of their employees and families? Because they themselves are not criminals, they have no idea what a criminal is capable of. That is why occupational health and safety, fair trading and security industry legislation and the enforcement of it by the authorities is so important.

I can demonstrate that not only have the authorities not enforced those pieces of legislation to a standard that would meet the reasonable expectation of the community but I can show that they have gone out of their way to mislead the public on these issues. Without naming any names, I will summarise the more serious allegations I have made—criminal negligence, fraud, perversion of the course of justice, and conspiracy. As a friend threw in the other day, it probably then follows being an accessory after the fact. Again, without being too specific, I have made those allegations against a New South Wales state government minister, two New South Wales state government director-generals, three New South Wales state government departments and a host of unnamed New South Wales state government public servants.

CHAIR—I do not quite understand that. What are you saying that they did or did not do? What allegations have you made against those people?

Mr Kennedy—I have made allegations of criminal negligence.

CHAIR—In what sense?

Mr Kennedy—Basically, it is deliberately misinforming the public with regard to, for instance, fair trading laws, the description of the products they are buying and their entitlement to licensing. People have bought products that would not meet their reasonable expectation under the legislation.

Mr McCLELLAND—Misinforming the public or failing to inform the public?

Mr Kennedy—Misinforming.

Mr McCLELLAND—I have to say that I did not know this legislation and these standards exist.

CHAIR—I did not either.

Mr SCIACCA—Actually, that was the first question I had written down. Can you explain it to us?

Mr Kennedy—Under New South Wales law, we have an act called the Security Industry Act 1997 and the Security Industry Regulation 1998. I just cannot find it quickly. That act is a rewrite of the former Security Protection Industry Act 1985.

Mr SCIACCA—What does it say? Does it place conditions or place security firms under certain obligations?

Mr Kennedy—Yes. It defines security equipment. For example, it says security equipment means, among other things, any mechanical, electronic, acoustic or any other equipment which is designed or adapted to provide or enhance security or for the protection or watching of any property. Basically, it means that for any person that is selling or installing any product that falls within that definition, the company itself is required to have a master licence issued by the police security industry unit, formerly the police firearms registry. It goes on to say that any person

working for those firms installing those products or selling those products has to have their own individual security industry licence.

Mr SCIACCA—You are saying that in fact there are people in the security industry that do not have those licences?

Mr Kennedy—An awful lot do not.

Mr SCIACCA—You are effectively saying that the state government, through ministers and so forth, are not policing their own act?

Mr Kennedy—I am going further than that. I am saying that the Department of Fair Trading—I have examples to bring to your attention later—are deliberately telling people that they do not believe in this act. They are advising people to get a home building licence. I am saying that, as a result of that, people are buying products that are not up to standard. They are being breached far too easily. They are being assaulted, raped and murdered because of it. I am saying that amounts to criminal negligence.

CHAIR—You are saying that firms are selling DIY alarm systems and so on, which are put in by someone who is not licensed under this act. Is that right?

Mr Kennedy—Yes.

CHAIR—You say the Department of Fair Trading says you can get around the requirements of this act if you have a home builders licence?

Mr Kennedy—That is right.

CHAIR—Is that the case?

Mr Kennedy—That is not the case. I actually appeared at a tribunal hearing where the tribunal person ruled—this is one of the issues I want to raise in a minute—that the person was not licensed to do the work. It was a serious issue. I have a record here. I want to go through that in a little while.

CHAIR—You are saying that they are not installed by someone who is licensed under the act and they have to prove something—I am not quite sure what—to get a licence. If it had been installed by somebody who was licensed, what would be the consequence?

Mr Kennedy—The requirement under the security industry legislation is that all security work will be done to a reasonable standard, which is a standard that meets the reasonable expectation of the community.

CHAIR—What is that?

Mr Kennedy—A white paper was put out when this revised act came into force. We were told that that may very well be the Australian standard, but it may not. The accredited security

industry associations would have to make that assessment for themselves and make a ruling as to what standard would be applied.

Mr SCIACCA—Mr Kennedy, I have read your submission. I am interested in what you have to say. I take it that what you are saying is that a lot of these break and enters and rapes and bashings and all the rest of it would not occur in many instances if the security industry, when selling products, were putting in, for instance, really strong deadlocks instead of something you could kick in pretty easily. For whoever is putting them in, be it landlords or people building new houses, isn't it a question of cost as to whether you bring in super duper, strong, more expensive locks as against cheaper ones? You said there is not really a standard. There might be a standard.

Mr Kennedy—There is an Australian standard.

Mr SCIACCA—Does that Australian standard, for instance, say a lock or a deadlock or whatever should be this good or that bad or cost this much?

Mr Kennedy—It does. I am also claiming in terms of the fair trading legislation that the Australian standards for Australian security screen doors, for example, breach the Fair Trading Act. I state that quite categorically. Again, I have a schedule here of the sorts of problems. I could ask you what your expectation was if you were buying a security door. I have knocked on doors with a *Choice* journalist. Every person said in the first instance that the reason they bought it was for their personal protection inside the home. Yet the Australian standards in the foreword say people should not rely on their security door for protection. They should rely on their timber door with a quality lock. That is just rubbish. People are buying security doors because they are seeing so many timber doors with locks kicked down. A timber door that opens inward is much easier to kick down than a door that opens outwards.

Mr SCIACCA—I am trying to see the bow you are drawing here. I think my colleague Robert McClelland was trying to clarify whether these organisations that you believe are doing the wrong thing are doing it more by omission than commission.

Mr Kennedy—Exactly, yes.

Mr SCIACCA—In other words, you are saying that they are guilty because they are not informing and they are not doing their job. They should be out there informing the public on these things. Is that what you are saying?

Mr Kennedy—I will qualify that. In some cases, it is by omission. In some cases—I have some stories to tell you—I believe it is by direct deception.

Mr SCIACCA—If the test were people not saying something by omission, three-quarters of us would be in jail.

CHAIR—I think the more worrying parts of the submission, for me, relate to the stuff on page 54 of our papers. You talk about electronic security in banks. You talk specifically about the ANZ and NAB branches. You go on to talk about security devices put in recently at Goulburn jail.

Mr Kennedy—That is a separate issue. I think it would be better if we went on to that further down the track, if I may suggest that. Basically, I am talking about a security device. About 10 years ago, the public works department designated it would be a particular security driver. They are now available in the supermarket because fair trading allows them to be mislabelled. I bought one because I thought this may well come up. Basically, with a security device, particularly with security grilles and security doors and locking things et cetera, you have to use screws and things like that. Sometimes you have to be able to take them off again. You do not want people to take them off with commonly available devices. You want something that is reserved for the security industry.

I have here two drivers. They are both identical and both do the same job except one is a security one and one is an anti-tamper one. The Department of Fair Trading has allowed them to become interchangeable. Now the security one is available in the hardware store, yet they are the ones that are being designated for Goulburn jail. I do not know much about stuff going in and out of jail, but if they cannot hide that up there and pass it on to somebody, I would be terribly surprised.

CHAIR—You are saying that they can buy what is effectively an Allen key or something of that nature?

Mr Kennedy—Yes. Do you want me to approach and give you a closer look regarding what I am talking about?

CHAIR—No. I think I know what you are talking about. Goulburn jail worries me, particularly in light of the statements made about a particular inmate in Goulburn jail.

Mr Kennedy—I saw the plans for the extensions on that. Some doors were designated plain doors and some doors were designated security doors. The security doors required those particular fixings. Public works put the plans out. They appear to be totally unaware that the drivers they have specified can be purchased at a Bunnings hardware store.

CHAIR—What concerns me is that there has been a lot of publicity about the determination of a certain group or gang to bust a particular prisoner out of Goulburn jail. I do not know what the escape rate from jail is currently. I have not looked at those figures

Mr Kennedy—I think the other things I have to tell you are far more serious. My mother is living in a house in a retirement village, for example, and she is being misled as to the security she is being provided with.

CHAIR—Is that the stuff when you talk about blocks of units and things?

Mr Kennedy—Can I skip to that? I did have some more things to say in that opening address. I will put that aside.

CHAIR—If you want to finish your opening statement, that is fine.

Mr Kennedy—Perhaps I will make the point that you should look at this. Here is a Department of Fair Trading booklet on retirement village living. It is covered by the Retirement

Villages Regulation 2000 and the Retirement Villages Act 1999. Look at the number of times security gets a mention in there. Anyone building a retirement village has to get a licence with the Department of Fair Trading. Everywhere in there, security and the protection of the people living in the village is mentioned more than any other issue. As far as the Department of Fair Trading is concerned, it is an important issue, and it is. I have a video news item on an 84-year-old woman in a Townsville nursing home who was sexually assaulted after a guy threw a planter box through a security door. I am arguing it was not a security door.

Let me also say this is just symptomatic, I believe, of the whole problem in the security industry. The Department of Fair Trading says that anyone buying a villa has to be given a disclosure statement under the Retirement Villages Act 1999. Clause 8 relates to security and safety. Clause 8(1) says:

Do all residential premises within the village have a security screen door?

The village developer says, 'That is a good idea. I think we should do that for the safety of the people living in the village.' He gets quotes and he does an assessment and makes a decision. He says, 'Yes, we will do that.' He hands these out to people buying the villas.

A guy like me comes along who knows something about this. I have this disclosure statement and I have a look at one of the display villas. I say, 'Hang on a minute. That is not a security door; it is only a flyscreen door.' The village manager will say to me, 'Well, with these doors, we got the material from'—let's call them Smiths Blinds and Security Doors Pty Ltd—'a company with "security doors" in its name.' I say, 'Well, ring them up and ask them what licence they have.' He rings them and they say, 'We are quoting a fair trading home builders licence.' I say, 'That's the wrong licence.' He has to quote a police security industry licence number. They ask him what his police security industry licence number is and suddenly Smith Blinds and Security Doors Pty Ltd says, 'Well, we're not really providing you with security doors. We are only providing you with safety doors.' The village management says, 'Hang on a minute. We have a quotation from you for 1,000 security doors for the village and you have quoted security doors. Your name and your company says you are Smiths Blinds and Security Doors. Now you are telling me they are safety doors. What is the difference?' The supplier says, 'Well, a security screen door has a three-point locking system and a safety door has a one-point locking system but they are much the same.'

Nothing could be further from the truth. It has nothing to do with the number of locks on the door. If you check with the Department of Fair Trading, they will tell you that this man is properly licensed to supply security doors, yet I have a letter from the Minister for Fair Trading, John Watkins, to say it is not; it is a matter for the police department to look after. It is an absolute shambles.

Mr SCIACCA—I can certainly understand where Mr Kennedy is coming from. You are basically saying that the authorities, including the Department of Fair Trading and the police or whatever, are not abiding by their obligations under the security legislation you have mentioned, as a result of which a lot of people are being hurt simply because their barrier security is just inadequate and no-one is really doing anything about it. It is more the fact that they are not policing it. The consequences of their not policing it are so bad and horrific that you are saying people are getting killed?

Mr Kennedy—I am saying they are foreseeable consequences. When you look at the files of my correspondence with the Department of Fair Trading, they are foreseeable consequences. They should have done something about it.

I had a customer—if I may tell this story—who goes away on business a lot. He rang up this firm. It is one of the biggest firms selling security doors, if you go by their advertising, in Sydney. He said, ‘I go away on business a lot. I am very worried about my wife and children. I want some proper security doors.’ They said, ‘Well, we have the best in the business.’ The end result was he bought over \$3,000 worth of security doors and he paid a \$1,500 deposit. I had been chased by a suburban paper to do some advertising. I said, ‘No. It just gets lost amongst the other illegals.’ They invited me to do an editorial comment. I did a bit of a news story about the police security industry licence and about being careful et cetera.

This customer rang me up. He said, ‘What’s this about police licensing for security doors?’ I said, ‘The law says that anyone selling you a security door and installing it has to have a police licence.’ He said, ‘This other mob never mentioned it. Are they any good?’ I said, ‘Well, I know the firm you are talking about. I am not going to comment on their ability, but I’m sure they don’t have a licence. If they have been selling this stuff for 14 years without a licence, you would have to question the value of the security doors.’

He rang back the company anonymously because he thought he might have made a mistake. He said, ‘Look, I go away on business a lot. I want proper security doors to protect my wife and family.’ This firm again confirmed that they were property security doors. He rang up the Department of Fair Trading and argued with a woman who told him this firm was properly licensed et cetera. He demanded to speak to her manager, who came on the phone and said, ‘Technically, you are right. They are supposed to have a police security industry licence, but the Department of Fair Trading does not agree with the legislation and we are advising our customers to get a home building licence.’

He rang up that company and said he wanted his money back because they did not have a licence. The company said, ‘The reason we do not have a security licence is because we do not sell security doors; we only sell flyscreen doors.’ Three months later, that company had a police security industry licence to sell security doors. They were the same doors that three months earlier were only flyscreen doors.

CHAIR—So you are saying that he was given a licence when he ought not to have been?

Mr Kennedy—That is another issue. That was done by the police department. By their own admission, they were not selling proper security doors.

I have another lady who bought \$25,000 worth of security grilles and security doors. Before she bought the doors, she checked with the Department of Fair Trading, who told her that anyone doing the work had to have a Department of Fair Trading home building licence. She went ahead and ordered \$25,000 worth of work. She paid an \$8,000 or \$9,000 deposit. She was not happy with the work and refused to pay. It went before the Fair Trading Tribunal. Before the date of the tribunal, she was so concerned about it that she started making inquiries. She went along to a local locksmith, who referred her to me. I checked the paperwork. The people were not licensed.

We went to the Fair Trading Tribunal. The tribunal person that was making the judgment had never heard, despite the fact that it had been in force at that time for 14 years, of security industry legislation. She put us out the room for 15 or 20 minutes while she read both acts. She brought us back in and said to the other firm, 'Look, you are not licensed to sell security doors and security window grilles,' and ordered that the lady get a full refund on all the money she had paid and that the grilles and doors be removed. She made the point that it had nothing to do with the standard of workmanship, just the fact that the people were not licensed. That was two years ago. If you were a woman ringing the Department of Fair Trading, because nobody knows where else to go, and saying that you had just separated from a violent de facto boyfriend and you were worried about your wellbeing and you were thinking of putting on a security door for your protection, they would tell you that you need a home building licence. That is just not the case.

CHAIR—When you talk about a security door, are you talking about the solid-core door itself or are you talking about the grille-like door that goes over the top of that or both?

Mr Kennedy—It can be a solid-core door. Normally, we plate the door and reinforce the jamb area et cetera if we were upgrading it to a security standard. For the purposes of what I have just been talking about, I am talking about the diamond pattern security screen doors and the heavy wrought iron doors.

Mr SCIACCA—I am not sure about the standard you keep talking about. You say there is a standard under the act.

Mr Kennedy—It is not under the act. There is an Australian standard. The security industry legislation is a cooperative act, I guess you would call it. It is in cooperation with the accredited security industry associations. They started off with four.

Mr SCIACCA—The standard is that industries—

Mr Kennedy—What the industry sets, which may or may not be the Australian standard. They were supposed to make an assessment—

CHAIR—Who set down the Australian standard?

Mr Kennedy—Australian Standards form a committee, and the committee decides on the standards.

CHAIR—Who are Australian Standards?

Mr Kennedy—Most products generally will be required to conform with an Australian standard.

CHAIR—But somebody writes the Australian standard for various things. Who writes the Australian standard for security doors?

Mr Kennedy—Again, I have argued—it might sound like I am raving—that the committee that was established to write the Australian standards, as far as New South Wales legislation is concerned, was improperly informed. It is just a question of people applying—

CHAIR—Presumably, there is an act and it has a regulation making power.

Mr Kennedy—No. They are not mandatory. The Australian standards are not mandatory.

CHAIR—If they are not mandatory, they do not have any real force.

Mr Kennedy—That is exactly right. What I am saying is that under the security industry legislation, the requirement was that the accredited security industry associations had to set a standard. They had the option of adopting the Australian standard or setting an alternative standard.

Mr SCIACCA—Did they do that?

Mr Kennedy—The Australian Security Industry Association did, but my employer at the time—I was on that standards committee representing the Australian Security Industry Association—became concerned at the potential legal liability down the track and insisted that I resign from the committee. Pressure was then put on the Australian Security Industry Association to renege on their previous determination and to adopt the Australian standard.

Mr SCIACCA—What is the standard that they did adopt?

Mr Kennedy—We cannot get it in writing from anybody. If we ring up the Australian Security Industry Association, for example, they will tell you that the standard is the Australian standard. My former employer and I have written at least five times to the Australian Security Industry Association, and they will not provide a written answer as to what the standard is.

CHAIR—We will write to them and ask them.

Mr SCIACCA—We will write to the fair trading department.

CHAIR—We will also write to the industry association. We will write to both.

Mr SCIACCA—I happen to be a lawyer. I am finding your allegations difficult to understand. I understand where you are coming from. In an ideal world, there is no doubt that if you had better barriers and better security, there would be less crime. I have security doors at my place; they were put in at the time I was a minister. I am sure madam chair has the same thing. They are much stronger than the ones you buy down at the store. Mind you, if some bloke wants to come and get you, I do not think that is going to stop them. Equally, it then becomes a question of how secure you want to be. You could become paranoid and put up bars all over the place. Whilst I understand the premise of your argument—and it is a good one; you are saying that if there is better security, there is going to be less crime and fewer people will get hurt, particularly older people—

Mr Kennedy—And, therefore, more police on the street.

Mr SCIACCA—I accept that. The point is that you are saying to me that in fact there is no standard that has been accepted that you can correlate with the security legislation, at least in New South Wales. I do not know if there is any in Queensland, where I come from. How can

you then say that the Department of Fair Trading and police and everybody else are criminally negligent if they are not overseeing a standard which you yourself say is not there? I am being the devil's advocate here, because I understand what you are trying to say and I appreciate it.

CHAIR—In fairness, we should look at the submission as it stands alone rather than looking at the allegations about criminal negligence.

Mr SCIACCA—I understand.

CHAIR—I understand where you are coming from too. I think the more important issue is that we have discovered that there is security legislation, at least in New South Wales.

Mr Kennedy—Which has been in force for 16 years.

CHAIR—Which we did not know.

Mr Kennedy—I am finding that even lawyers are not aware of it.

CHAIR—We are both lawyers too, and we did not know either.

Mr SCIACCA—Is it only in New South Wales?

Mr Kennedy—Western Australia has legislation.

CHAIR—Are you aware of it?

Dr WASHER—Yes.

CHAIR—You are a doctor and you are aware of it.

Dr WASHER—My security guy who looks after me is registered, as you say. He is top-notch. He complains, if I may comment on this, of similar problems in WA. There are a lot of bodgie people doing this who are not accredited and people do not know about accreditation. That is one thing. The second thing is there is no ideal classification regarding what is up to the quality that should be approved or not approved. It is all a bit hazy. It needs cleaning up.

Mr Kennedy—It is hopeless. What I am saying is that people are buying a security door that somebody is telling them is in accordance with the Australian standard. But they are not saying that the Australian standard says, 'Do not rely on a door to that standard for your protection. Rely on your timber door,' which in actual fact is just totally wrong anyway.

CHAIR—So you are saying that the alleged Australian standard is the hard-core door?

Mr Kennedy—Have you seen Crimsafe security screen? It is a lightweight flyscreen. You can see out of it. They advertise it cannot be cut with a knife. That is because that is what is in the Australian standards. The test in the Australian standards is a Stanley knife. I brought one along.

CHAIR—I know what a Stanley knife is. I am not bad with the tools.

Mr Kennedy—That is the test under the Australian standard. But the New South Wales police confiscated 20,000 knives in the last five years, of which probably about 18,000 will cut that screen well within the normal attack force parameters that we are seeing. The police have not confiscated any of these. Why is that not the standard? Nobody is telling the public when they are selling them. Even under fair trading legislation, Reba Meagher recently said that you have to tell the truth, the whole truth and nothing but the truth when it comes to fair trading legislation. I wrote it down. She said by law advertising must not be misleading or deceptive but must clearly explain all qualifications or limitations of the item being promoted. I am saying that if the police have confiscated 20,000 knives of which 18,000 will cut this stuff and they have not confiscated one of those, that is the wrong standard, unless you disclose to the person you are selling the product to that—

CHAIR—It is only tested to a Stanley knife standard. Basically, you are saying that there is a need to have a uniform standard across Australia, which is a known standard.

Mr Kennedy—Basically, the Australian standard was set by, for example, members on the committee who represented window companies who had never seen a break and enter.

CHAIR—That is not a body that has any standing. This is a group of people working in the industry who got together and said, ‘We think this ought to be the standard.’ There has been no government action to establish the standard. Is that true? What about in Western Australia—similar problem?

Dr WASHER—They have a similar problem. Again, they have a group of people like yourselves in Western Australia, who are a group of recognised, acknowledged and certified practising security people who install security. However, yes, basically there is no standard set. You rely on these people and their professionalism to put in stuff that is going to work under best practice.

Mr Kennedy—First of all, the authorities have a duty before they give out a licence to assess whether or not the standard they are working to is appropriate in the circumstances and will not mislead or deceive the people who are buying the product.

CHAIR—What I am trying to distil is that at least in New South Wales and Western Australia we know we have legislation which requires people in the security industry who hold themselves out as supplying security doors, windows and bars to be licensed. There is a requirement. We have established that. That is honoured in the breach, not in the compliance. Secondly, there is an Australian standard which is nebulous and has no government backing. You could say there is a need for an Australian government national standard. If we achieved that, you think that could be quite important if it is backed up with only having people who then sell things that meet the standard being able to advertise them as security. Otherwise it is safety, flyscreens or keeping out the sun. Is that right?

Mr Kennedy—Yes. It is a much wider issue as well. Take locksmithing and locks. My interpretation is that when I buy a lock, it is my expectation that I can only open it with the key that was provided. If I can open it with that, I believe it breaches the fair trading act.

CHAIR—Is there any lock that cannot be opened with that?

Mr Kennedy—This is because the locks have not been fitted properly. Many of them could be opened with this. I can go into some streets in Sydney and get into the homes of probably as many as 50 per cent of the homes in the street just using that because the locks have not been fitted properly.

CHAIR—Are you talking about deadlocks?

Mr Kennedy—Yes, and dead latches in a normal house. Go into any new housing estate or any new development of factory units and I will guarantee with one of those you can get through 50 per cent of the doors.

CHAIR—You are saying it is because they are badly fitted?

Mr Kennedy—Yes.

CHAIR—What does that mean?

Mr Kennedy—A locksmith has to do a four-year apprenticeship. These locks are being fitted by builders who have an exemption under the act. They do not understand how a lock works. With all due respect to a builder, near enough is good enough. When it comes to locks and security doors, near enough is not good enough.

Mr SCIACCA—You are simply suggesting, obviously, that more attention needs to be paid to the question of security. That in itself could save a lot of crime and a lot of bashings and the cases of 84-year-old ladies being raped or sexually molested. I can understand that. You appreciate, of course, that our committee is a federal committee. When we come down with our report, we can only make recommendations where we have power. You are asking us to consider the whole question of the licensing of security and those who pretend or hold out to the public that they are the suppliers of security doors. You are asking us to ensure that there is in fact a standard and that security doors are in fact security doors which accord with what people think they are buying when they buy them. You are saying that security, such as locks and so forth, should only be fitted by people who are licensed to do so, who know what they are doing, rather than home builders.

Mr Kennedy—That is right. But I am going further.

Mr SCIACCA—I am trying to summarise what you are saying.

Mr Kennedy—There should be a check to make sure that they are doing the work right. An awful lot of locksmiths are trying to meet a budget. They have quoted a time frame. A big firm will have existing locks and they want those locks master keyed. I have been there after the locksmith has been out and master keyed and the locksmith has not told the customer; he has done what was asked; he changed the lock as per the request and changed the cylinder to the master key, but has not told the customer that the lock in the first place has not been fitted properly and you can open it with that or that.

Basically, I have a High Court decision that backs up the sort of stuff that I am saying. I put it in one of those letters. I do not know if you have looked it up. It is *Glass v. Rivers Locking*. Basically, the supplier installed a security door exactly as quoted, but the High Court found that the guy had not gone far enough by not putting steel jambs over the timber door framing that the door was locking into. I am saying that Mr and Mrs Honest Citizen have not seen too many break-ins in their life. When they look at a security door, they will say, 'That feels nice and strong.' They have no idea how much damage can be done with one of those, which is concealable up a guy's sleeve.

Mr SCIACCA—Is the High Court case *Glass v. Rivers Locking Systems*?

Mr Kennedy—Yes.

Mr SCIACCA—We have now published Mr Kennedy's submission. It seems to me that the point he wants to make has been pretty well made. He has given us some pretty good examples.

CHAIR—Yes, he has.

Mr SCIACCA—Obviously, in my view, he is setting out in a logical way things that we could do a lot better in terms of trying to limit crime.

CHAIR—I think what he has given us is a way of looking at it from a prevention point of view, which presumably is then going to lessen the impact on policing and free them up to do other things. It has a spin-on effect. There are two things we will certainly do. We will write to Fair Trading and find out what the story is. We will inquire from other states what the position is. We will also try to find out what the position is with regard to the so-called Australian standard. We hear from you loud and clear that it is totally inadequate. We will certainly take this into consideration when we are making recommendations as to what we think.

Mr SCIACCA—We cannot give you any comfort in terms of what you allege.

Mr Kennedy—I have been trying to get this situation looked at for 10 years. Basically, I put in my submission about getting called to Sydney where a girl had been raped. Again, I was arguing about the locking systems. The authorities are so blasé, they do not care. That was the reason I am walking away from this industry.

I will cooperate with anybody. If they come to me and say, 'How do you recommend that that be cleaned up,' I will cooperate for the sake of the victims and the potential victims. But I have given 10 years to cleaning up this industry. I have promised my wife and family that I am walking away from it as of now. I am handing it over to you people to run with it, hopefully. When you look at these files—

CHAIR—I take it they are files of cases where people have suffered injury or damage?

Mr Kennedy—They include the lies from the Department of Fair Trading. I do not resile from saying that. There are lies in here from the Department of Fair Trading. One of the problems I have been faced with is that the Department of Fair Trading keep pointing at me as

being on a bandwagon, yet the NRMA have complained to the Department of Fair Trading. I have a copy of the letter where they have complained to Fair Trading.

CHAIR—You might like to leave some of that stuff with us.

Mr Kennedy—Richard Amery, when he was the opposition fair trading spokesman for Labor, was so concerned that he came out to my factory and I did a presentation. He was so concerned that he raised it in parliament, yet the Department of Fair Trading still say two things: ‘We don’t agree with the security industry legislation. We tell people that they have to have a fair trading licence.’

CHAIR—I have to say it is pretty rich to have a government agency actively telling people not to comply with a law that has been passed by the parliament. I find that a bit rich.

Mr SCIACCA—That is ridiculous. I admire your persistence in doing this for the last 10 years, particularly now that you are walking away from it. I made a comment as an aside to madam chair upon reading some of the letters you have sent to various authorities. We in the political field get a lot of letters—thousands, in fact. We sometimes read them and some of them just go over the top. I think in your zealous frustration, if nothing else, you tend to be fairly open in the letters you send. I must say getting your submission personally, looking at you and judging you from your evidence is a lot better than what it reads. It reads that you are very obsessed with this. I can understand why some of the police and some of the government departments—

Mr Kennedy—It did not start off that way.

Mr SCIACCA—I understand that. I am making the point that I can understand why some of these government departments read that stuff and say, ‘This bloke is off on a bandwagon.’ I want you to know that, certainly in my case and I am sure in the case of the rest of the members of the committee, we do appreciate what you have done. You are doing it for all the right reasons; it is coming from your heart. We will do whatever we can to make some recommendations in terms of the security industry, which is about all we can do. We thank you for coming.

Mr Kennedy—I feel that they dug a hole for themselves a bit and I was not going to back off. We kept getting more and more confrontational.

CHAIR—I can understand you have had a lot of frustration. You obviously have the expertise and the knowledge and it is not being heard because of a failure to act. Certainly we can play a role in highlighting it. With this inquiry that we are doing here, part of its task is to separate fact from fiction. If there has been a perception that people have been thinking, ‘Well, I am making my home secure,’ and they are actually being misled, I think there are all sorts of avenues that can be looked at. Part of our task is to expose that and bring it to people’s attention. I have said we will write to the Department of Fair Trading; we will. We will also follow up this question of the fuzzy standard and what needs to be done.

Mr Kennedy—The Police Security Industry Unit would also be worthwhile.

CHAIR—We will write to them as well.

Mr Kennedy—I have letters as far back as Ted Pickering, prepared by the Attorney-General, saying that anyone doing security doors et cetera had to have a licence under police licensing.

CHAIR—But you are saying nothing has been done to enforce the law?

Mr Kennedy—That is right.

CHAIR—And, worse than that, a government agency is actually advising people how to get around it. That is pretty serious.

Mr SCIACCA—If it were not for people like Mr Kennedy, these sorts of things would never see the light of day. You have to be persistent, otherwise you do not get anywhere, particularly and unfortunately with government departments of whatever nature and whatever political persuasion they might be working under.

CHAIR—With regard to the additional material you have there, do you wish to leave it?

Mr Kennedy—I am quite happy to leave it all here. As far as I am concerned, there is an awful lot of evidence if there is ever an inquiry into it.

CHAIR—In that case, we might accept that bundle as an exhibit.

Mr Kennedy—I would appreciate that.

Mr SCIACCA—I so move. We can send it back after we have finished with it.

CHAIR—We can. We can return exhibits. Thank you, Mr Kennedy.

Mr Kennedy—I know you want to get away. There is one thing that I had forgotten about that I need to bring to your attention. This is a big, heavy lump of steel. A security grille is 50 per cent heavier than this. At the National Australia Bank at Leichhardt, for example, they cut through it behind the teller counters with a Stanley knife. They cut a hole 800 by 800. They came in at five o'clock on a Friday afternoon. The thing I want to say is that these people are intelligent, they are devious and they are criminals. Basically, one would think that a grille 50 per cent heavier than that made of solid steel would provide reasonable protection for the employees under occupational health and safety. The people that made it just did not have the right concept of security grilles. We took this one off and replaced it with a different one.

This grille had been put on the outside of the bank. They came along the night before and cut a hole. They wrapped this tape around the cuts. It is from a hardware store. It matches that. The people doing the inspection in the morning did not see it. They came and—

CHAIR—And cut it with a Stanley knife.

Mr Kennedy—cut an 800 by 800 hole in the grille. When we set standards in this industry, we have to be aware of all these situations.

CHAIR—I am very pleased to tell you that my grilles are inside my windows in my office.

Mr Kennedy—Basically if the grilles had been on the inside, they would not have been able to attack them. They would have had to break the glass. They would have left a mess. They would never have opened the bank.

Mr SCIACCA—Simple things that could be easily avoided. I think we get the message.

CHAIR—I thank you very much, Mr Kennedy. I declare this public hearing closed.

Resolved (on motion by **Dr Washer**):

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

Committee adjourned at 6.34 p.m.