



NSW POLICE FORCE

P190B

STATEMENT OF POLICE

In the matter of:	Special Commission of Inquiry into LGBTIQ Hate Crimes
Place:	Sutherland
Date:	8 September 2023

Name:	Craig Middleton	Tel. No:	[REDACTED]
Rank:	Superintendent		
Station/Unit:	Sutherland Shire Police Area Command		

STATES:

1. This statement made by me accurately sets out the evidence that I would be prepared, if necessary, to give in court as a witness. The statement is true to the best of my knowledge and belief, and I make it knowing that, if it is tendered in evidence, I will be liable to prosecution if I have wilfully stated in it anything that I know to be false, or do not believe to be true. In this statement, if there is any information I have obtained from a particular source, I set out the source of that information.
2. I am 55 years of age.
3. I make this statement in respect of a letter I received from the Special Commission of Inquiry into LGBTIQ hate crimes (**Inquiry**) dated 21 August 2023 (**Letter**) enclosing a summons to attend the Inquiry on 18 September 2023. A copy of the Letter is attached as '**Annexure 1**'.
4. The Letter noted that a second public hearing of the Inquiry (**Public Hearing 2**) is examining the ways in which the New South Wales Police Force (**NSWPF**) has approached issues relating to "bias crime" and "hate crime" from 1970 to present, including the investigations conducted by Strike Forces Parrabell, Macnamir and Neiwand. The

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Letter further noted that sections of the submissions of Counsel Assisting the Inquiry (**CA Submissions**) concern 'my involvement in the matters currently being examined by the Inquiry in Public Hearing 2' and listed several hundred paragraphs of those submissions.

5. Other than identifying sections of submissions, the Letter did not ask me to respond to questions. Instead, the Letter identified that the Inquiry had identified that 'it is appropriate for [me] to have an opportunity to file a statement and/or make a submission'.
6. I observe that the Inquiry has referred me to many paragraphs of Counsel Assisting's submissions, and other submissions, and having regard to the limited time provided by the Inquiry to provide a statement, I do not in this statement attempt to respond to every fact or matter referred to by Counsel Assisting the Inquiry. Instead, I focus on the matters that I consider will be of greatest utility to the Inquiry. Accordingly, I make this statement addressing a variety of key matters concerning my involvement in Strike Force Parrabell (**SF Parrabell**).
7. Should the Inquiry consider it wishes to hear from me on a particular matter that I have not covered in this statement, I would be grateful for notification of that fact and the opportunity to make a further statement in response to those matter(s).
8. Unless otherwise stated, I make this statement based on:
 - (a) my review of relevant records held by NSWPF;
 - (b) information known to me; and
 - (c) my experience as a detective.
9. This is the first statement I have made to the Inquiry. The details of my policing history and qualifications are set out in Part A below.
10. My statement takes the following structure:
 - a. **Part A:** provides background on my role and policing experience, qualifications and training;

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- b. **Part B:** provides a brief background on my involvement with the establishment of SF Parrabell;
- c. **Part C:** sets out my involvement with the 'constituent documents' (as described at [842] of CA Submissions) for SF Parrabell;
- d. **Part D:** provides further information on the development of the various versions of the Bias Crime Indicator Forms (**BCIFs**) (as described at [865] to [897] of CA Submissions);
- e. **Part E:** provides information on the process undertaken by SF Parrabell in reviewing cases;
- f. **Part F:** provides further information on the interactions between SF Parrabell and the Flinders Academic Review Team, and the Academic Review; and
- g. **Part G:** comments on the relationship between Strike Force Parrabell and other police.

11. At the time of signing this statement, I have been shown a zipfile of electronic documents marked with electronic document IDs in the format '**NPL.XXXX.XXXX.XXXX**' or '**SCOI.XXXXX**'. Where I refer to a document in this statement, I refer to it by its document ID.

A. ROLE AND POLICING EXPERIENCE / QUALIFICATIONS AND TRAINING

12. I have spent the majority of my career involved in criminal investigation work. Part of that experience involves conducting serious crime including homicide investigations. In addition to my general policing duties, in 2002, I completed the Homicide Investigator Program which is a detective training course with particular focus on homicide investigations.

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13. I joined NSWPF in January 1988, graduating from the Goulburn Academy in March the same year. I commenced duties at the Central Police Station until it was closed sometime in 1990 or 1991 moving to the now City of Sydney Police Station.
14. In 1991, I commenced plain clothes duties in the City of Sydney Detectives. After completing detectives training, I was awarded my detectives designation in 1994.
15. In 1996, I transferred to the Drug Enforcement Agency (**DEA**) where I worked on a Task Force, predominantly investigating high level organised crime involved in drug importations from South East Asia.
16. In around 1997/1998, the DEA was restructured, and I commenced duties at the then Crime Agencies Command, where I worked on various mid and high-level investigations involving organised crime networks involved in drug supply, homicides and other activities.
17. In 1999 I transferred to the Local Area Command (**LAC**) of Kings Cross where I performed criminal investigation duties in the Detectives Office. LAC's have since been renamed Police Area Command (**PAC**).
18. In 2001, I was promoted to Detective Sergeant at the Miranda LAC.
19. In June 2002 I took on the role as Investigations Manager at Miranda LAC. This role involved the management of the Detectives Office and extended to all investigations conducted across the entire LAC. My duties included providing advice and guidance to officers conducting investigations to ensure investigations were conducted in a timely and appropriate manner.
20. In June 2006, I was promoted to Inspector, Duty Officer, at the St George LAC where I remained until 2012.
21. In 2012, I transferred to the Surry Hills LAC as Detective Inspector, Crime Manager. This role involved the management of all criminal investigations within the LAC and I would also lead/direct complex sensitive investigations as required, such as Critical Incident Investigations. I was required to provide advice in formulating and implementing the LAC

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crime strategy including reviewing and evaluating its impact. I oversaw and managed various units including the Crime Prevention Unit, Licencing Unit, Intelligence Unit, Proactive Crime Team and Detectives Office. When required, I provided a criminal investigation consultancy to all personnel within the LAC and monitored the effective operation of the Case Management System. In my capacity as Crime Manager, one of my responsibilities was overseeing all strike forces that were initiated by the Surry Hills Command. (as opposed to strike forces that were owned by Homicide or other teams/departments). As I expand on later in this statement, my responsibilities as Crime Manager included participating in and assisting to oversee SF Parrabell.

22. I held the position of Crime Manager at Surry Hills PAC until January 2019, when I transferred to the Metropolitan Field Operations as Chief Inspector, Staff Officer, to Deputy Commissioner Jeff Loy.
23. In July 2019, I was promoted to Detective Superintendent, Operations Manager, South West Metropolitan Region. The Operations Manager is responsible for providing a strategic approach to operations across the Region and for coordinating the intelligence and planning processes. The role provides a support and advisory role for the Police Commands within the Region and the Region Commander and includes responsibility for the oversight and management of investigative areas such as joint strike forces, search warrant reviews, controlled operations, technical support, child protection and licensing issues across the Region. As Operations Manager, my role was also to initiate and coordinate cross Region and specialist operations to facilitate a strategic approach to a crime issue, such as public place shootings or organised crime activity. I was also responsible for overseeing specialist and proactive policing units and strategies at a Region level, including the direction and management of Region Enforcement Squads, Domestic Violence Unit and Emergency Management.
24. In July 2021, I transferred to the Sutherland Shire Police Area Command, as the Police Area Commander. I remain in this role as at the date of this statement. The Commander is responsible for the management of the Police Area Command (**PAC**) and the overall

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response to local crime and the implementation of crime reduction strategies, as well as overall management of major incidents and emergencies. My role includes the implementation of processes/strategies to combat and drive down crime within the PAC and manage the achievement of community policing objectives. I provide leadership and innovation while also providing overall command and control of all operational and administrative activities. I also encourage policing services within the PAC to engage positively with the local community and play an active role in local community decision-making and represent the PAC, Region and NSWPF on appropriate projects and forums. I manage the implementation of corporate initiatives and priorities within the PAC and are accountable for all financial aspects. I lead my Senior Command Team in the development of business plans and set strategic direction for the PAC and NSWPF.

B. ESTABLISHMENT OF SF PARRABELL

25. I understand that Assistant Commissioner Anthony Crandell (**AC Crandell**) has provided evidence regarding the establishment of SF Parrabell at [36] to [50] in his statement dated 31 October 2022. My recollection of those matters accords with the evidence that AC Crandell has given and I do not intend to repeat that evidence. I provide the following additional information to supplement the evidence of AC Crandell.
26. During my time as then Crime Manager at Surry Hills, in 2015, I was involved in planning discussions with AC Crandell and others regarding the establishment and logistics of SF Parrabell. However, I cannot recall which other individuals were involved in the planning discussions.
27. I remember around that time or prior there was significant media interest, and concerns from the LGBTIQ community, regarding the adequacy of previous NSWPF investigations of suspected gay hate motivated homicides. I was not privy to any engagement AC Crandell had with stakeholders on these issues in his capacity as then Commander, Surry Hills LAC and the Corporate Sponsor for Sexuality, Gender Diversity and Intersex, but I was generally aware of the media interest and LGBTIQ community interest.

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28. From my discussions with AC Crandell, I understood the purpose of SF Parrabell was a genuine and good faith attempt to respond to the concerns I have identified in paragraph 27 above, to demonstrate that NSWPF took these investigations seriously, and, were applying significant resources on these issues and improving investigations of bias crimes and engagement with the LGBTIQ community.
29. I subsequently participated in SF Parrabell from early 2015 until its completion, by overseeing or supervising the Strike Force as part of my role as the Crime Manager, for the reasons I have set out in paragraph 21 above.
30. In my position as Crime Manager, I reported to AC Crandell. As a result, for the purposes of SF Parrabell, I also reported to AC Crandell. Detective Sergeant Paul Grace was appointed as Investigations Manager for SF Parrabell, and I note he held this role in conjunction with his full-time position at Surry Hills LAC. Detective Senior Constable Cameron Bignell was subsequently appointed as Officer in Charge of SF Parrabell and held this position full time. DSC Bignell had completed GLLO training and it was considered important that the Officer In Charge for SF Parrabell should have this background and training. Both officers reported to me.
31. I maintained my other Crime Manager duties while taking on the SF Parrabell work. Given the effluxion of time, I am unable to say now how my time was divided but observe that prior to SF Parrabell I had a full-time role and that my existing duties were not reallocated as a result of my supervision of SF Parrabell. My workload on SF Parrabell varied, and my recollection is that I invested a significant amount of time in the operations of the Strike Force. I recall that I was particularly busy on the Strike Force towards the latter part of its operation, especially when the Flinders Academic Team (which I describe in more detail below) were independently reviewing the work of the Strike Force.

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C. THE CONSTITUENT DOCUMENTS OF SF PARRABELL

32. I refer to the 'constituent documents' as described at [842] of CA Submissions, encompassing the:

- a. Terms of Reference;
- b. Investigation Plan (**SCOI.74385**);
- c. Induction Package (**SCOI.77317**); and
- d. Coordinating Instructions (**SCOI.75071**).

33. I deal with the constituent documents in turn, below.

34. The constituent documents at (b) to (d) overlap in their content. The review conducted by SF Parrabell was a collaborative and iterative process. When the Strike Force commenced, I and other members of the Strike Force were not aware of a precedent for a review of this type. Generally speaking, and as I describe in more detail below, the constituent documents reflect the evolution of the SF and changed to reflect changes in the review methodology.

Terms of Reference

35. I remember seeing a Terms of Reference for SF Parrabell at the time the Strike Force was in progress; however, I cannot recall who authored it. I have not been able to locate a copy of the Terms of Reference for SF Parrabell in the course of preparing this statement.

36. In the ordinary course of events, the Terms of Reference would have been signed off by me as Crime Manager, and by AC Crandell in his position as Commander.

Investigation Plan

37. I did not prepare the Investigation Plan and I do not have a precise recollection of its preparation by others.

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38. I have reviewed a copy of the Investigation Plan in the course of preparing this statement. On the last page, there is a 'signature block' for each of DS Grace and me (each also accompanied by a date), followed by AC Crandell and Detective Superintendent Daniel Doherty.
39. From my review of this document, I think it is probable that DS Grace prepared the document and provided it to me to review. From the date set out in the document, I expect that I reviewed it shortly before or on 3 August 2015. It is likely that, prior to 3 August 2015, I would have spoken to DS Grace about the content of the document, prior to it being provided to me for review.
40. Although AC Crandell and DSupt Doherty's names appear on the Investigation Plan, they would not necessarily have reviewed and approved the document. As the Surry Hills Crime Manager, I had authority to sign off on these documents for the Strike Force.
41. Reviewing the document now, I believe that the purpose of the Investigation Plan was to outline the context for SF Parrabell, its objectives (mission) and the processes to be undertaken for the review – including the use of the BCIF document, resources and the expected timeframe of the Strike Force (as understood at that time). However, I was not involved in the direct briefing of the review team.

Induction Package

42. It is my recollection that prior to April 2016, apart from myself and DS Grace, there were three officers conducting the review – including DSC Bignell and two other investigators. In or around March or April 2016, I made a request to AC Crandell for additional resourcing and additional investigators were subsequently appointed to SF Parrabell.
43. In relation to the Induction Package, I have conducted a search of my emails and identified that DS Grace provided a copy to me via email. I am unaware if the Induction Package was in fact used by the investigation team and do not recall being involved in the initial briefing of the team.

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44. I note that the Induction Package contains an excerpt from a BCIF template. I discuss the content of that version of the BCIF at paragraph 57 below.

Coordinating Instructions

45. I did not prepare the Coordinating Instructions; though having reviewed them for the purpose of this statement, the document is familiar to me.

46. To the best of my recollection, in or around June 2016, the Coordinating Instructions was prepared by DS Grace due to the decision to make material changes to the BCIF (as detailed from paragraph 58 below) and to brief investigators. My recollection is that sometime after June 2016 the SF Parrabell team was expanded to 10-12 investigators pending availability and resourcing provided from other Commands.

47. I would have reviewed and signed off on the Coordinating Instructions before the document was finalised; though I do not have a specific recollection of doing so.

48. I was not involved in the direct briefing of the investigating team. I assume that investigators would have received instructions from DS Grace and/or DSC Bignell on the changes to the BCIF, and a copy of the Coordinating Instructions would have been distributed to the investigating team. It is my understanding that from that time, the Coordinating Instructions would have superseded the Investigation Plan.

D. THE DEVELOPMENT OF THE BIAS CRIME INDICATOR FORMS

49. I refer to the various versions of the BCIFs as described and set out at [865] to [897] of CA Submissions (**Form 1, Form 2, Form 3, Form 4**). I deal with the various versions of the BCIFs in turn, below.

50. I was aware that the ten bias crime indicators were in use by the NSWPF and were utilised by the Bias Crimes Unit and Operation Parrabell. At the commencement of SF Parrabell, these indicators were developed into the BCIF template (as discussed further below).

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51. The BCIFs, as part of the larger review methodology (detailed further below at Part E), were subject to review by senior officers, including myself, and amendments were made during the conduct of SF Parrabell.
52. In my answers below, although I have done my best to recall these matters when preparing this statement, I am not able to say, with precision, which cases, and how many cases were assessed in accordance with Form 1, Form 2, Form 3 or Form 4 at various points in time. Furthermore, I cannot say when cases may have been assessed in accordance with an earlier version of the BCIF and then were subsequently re-assessed with a later version. However, it is my recollection that by the completion of SF Parrabell, all cases were reviewed and assessed against either Form 3 or Form 4.

Form 1 and 2

53. I have reviewed my email of 12 February 2016 (**SCOI.74152**). I cannot now say why it contains categories that are inconsistent to those that are recorded in the Investigation Plan, or why I used the term “gender” instead of “sexuality”. In my opinion the four categories I have used are materially similar to the four categories used in the Form 2, except the interchange of the word “sexuality” for “gender”.
54. To my recollection SF Parrabell did not at any time use the four categories that are included in my email on 12 February 2016 (i.e. no reviews were completed by reference to ‘gender’). Rather, from the time of its establishment, SF Parrabell used the version of the BCIF included in the Investigation Plan (i.e. the version that CA Submissions describe as Form 2).
55. Therefore, I consider that in practice there was no Form 1 (as described in CA Submissions), and – to the best of my recollection – what is described by Counsel Assisting as Form 2 was the first version of the BCIF used by SF Parrabell.

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56. In preparing this statement, I have reviewed some of the SF Parrabell records available to me and observe that of the BCIFs where the 'last modified date' is between December 2015 and January 2016, those BCIFs are consistent with 'Form 2'.
57. The expression of the indicators in the Induction Package is different to Form 2. In particular, the BCIF template recorded at pages 4 to 12 omits of the category "*It appears unlikely that sexuality or other bias was involved in the death*". This appears to be inconsistent with the indicators set out on page 3 of the Induction Package. I am unable to explain why that is the case. To the best of my recollection, no cases were reviewed against only three rather than four categories.

Form 3

58. On or around 28 June 2016, Sgt Steer gave a presentation regarding bias crimes to senior officers of SF Parrabell, including myself, DS Grace and DSC Bignell (**SCOI.77319**).
59. Following Sgt Steer's presentation, and in reliance on that presentation, DS Grace, DSC Bignell and I conferred and came to a decision to update Form 2. I considered that the words "or other bias" in the categories used in Form 2 were vague and broad, and led to confusion amongst investigators because the task of SF Parrabell was to identify evidence of a LGBTIQ hate bias, and not evidence of any other biases. There were also issues with the use of the word 'sexuality' in the categories as it was apparent in many of cases reviewed the sexuality of the victim and offender was unknown or undetermined. Therefore, we came to the decision that the categories presented by Sgt Steer and their accompanying descriptors, as recorded in the email from DSC Bignell (**SCOI.74246**), were more appropriate and adequately aligned to the proper discharge of the objectives of SF Parrabell. Form 3 was subsequently prepared and used from around July/August 2016, and included the categories recorded in the email from DSC Bignell. Form 3 was also incorporated into the Coordinating Instructions.
60. Due to the material amendments made between Form 2 and Form 3, after Form 3 was prepared, cases that had been reviewed in accordance with Form 2 were subsequently

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returned to investigators to re-assess and if necessary, re-review in accordance with Form 3. I was not involved in tasking the investigators to complete these re-assessments.

Form 4

61. On 19 January 2017, I attended a meeting with AC Crandell, DS Grace, DSC Bignell, Sgt Steer and other members of the Bias Crimes Unit. Minutes were recorded for this meeting (SCOI.74429).
62. In that meeting, AC Crandell suggested that two of the four categories in Form 3 be further amended. Namely the title of categories "Bias Crime" and "Not Bias Crime" would be updated to "Evidence of bias crime" and "No evidence of a bias crime", respectively.
63. I believe the suggestion made by AC Crandell was because he considered SF Parrabell investigators, based on their review, would not be able to definitively determine whether a bias crime existed or not because there may be a possibility of new evidence coming to light or a case may be reinvestigated leading to a different finding. I agreed and accepted this suggestion.
64. I have reviewed the minutes of the 19 January 2017 meeting and they are consistent with my recollection.
65. Following this meeting, cases that had already been reviewed, were not re reviewed or re assessed. This is because the changes were limited to the title of the category and did not alter the descriptors of the category. The burden of proof considered and applied remained the same between the forms (i.e. beyond reasonable doubt).
66. However, cases that had previously been reviewed using a Form 3 were, transferred over to the Form 4 template, for consistency across the records. I was not involved in this process and to the best of my recollection it was undertaken by DS Grace and / or DSC Bignell.

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E. THE REVIEW OF CASES BY SF PARRABELL

67. I was not involved in the day-to-day management of the wider investigation team. The day-to-day management was the responsibility of the senior investigators, DS Grace and in particular DSC Bignell as Officer in Charge, and as noted above, they reported to me. The day-to-day management responsibilities by DS Grace and/or DSC Bignell included the allocation of investigators to cases, determining the role each investigator played in the review process and supervising investigators reviewing cases.

68. As part of the review process, myself, DS Grace and DSC Bignell formed a panel that would conduct a final review and assessment of all completed BCIFs. This panel generally met each month. Further:

- (1) These panel meetings commenced from around January 2016.
- (2) In preparation of the panel meeting, I would review any completed BCIF that was to be assessed by the panel. I also reviewed progress reports sent to me by DSC Bignell ahead of the meeting.
- (3) As part of the panel discussions, either DS Grace and/or DSC Bignell would also provide a short progress report including how many cases had been reviewed and their status, balance of cases outstanding, staff resourcing, any issues with document enquiries, any issue from the investigator team which could not be resolved by DS Grace and/or DSC Bignell and any other issues they deemed relevant to discuss
- (4) I do not recall any other personnel attending these monthly meetings besides myself, DS Grace and DSC Bignell. However, these meetings were not exclusive and it was open to investigators from the Strike Force, AC Crandell, the Bias Crime Coordinator and others to attend these monthly panel meetings.

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- (5) There was often robust discussion between panel members regarding the final coding of a case as well as information contained on the BCIF and individual matters.
- (6) If the panel considered that a BCIF required re-assessment, the BCIF would be returned to the investigation team for the matter to be the subject of re-review. This might include, for example, if the panel considered that there was not enough information contained in the BCIF regarding a particular indicator.

69. As Crime Manager, beyond my involvement in the panel meeting, I was responsible for ensuring the Strike Force achieved its' objectives and managing any significant issues which could hinder the review – for example, obtaining adequate resourcing (as I describe in paragraph 42).

F. THE FLINDERS ACADEMIC TEAM

70. I am informed that AC Crandell and Professor Derek Dalton have provided evidence in written statements, and orally in the course of Public Hearing 2, regarding the tender process for an academic review of SF Parrabell. I was not involved with the tender process and appointment of the Flinders Academic Team and otherwise do not recall when I was informed of the academic review.

71. At all relevant times, I considered one of the objectives of the Flinders Academic Team was to independently assess SF Parrabell's review methodology. In doing so, the Flinders Academic Team also considered SF Parrabell's findings. It was a possibility that the Flinders Academic Team might reach different conclusions to SF Parrabell's conclusions. I also considered that having the Flinders Academic Team review SF Parrabell's work was an opportunity to improve both the NSWPF's current and future methodology and/or processes in the identification of bias crimes.

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72. Once the Flinders Academic Team had been appointed, in or around October or November 2016, I was instructed by AC Crandell to provide completed BCIF cases for the academic review on a rolling basis until completion of the SF Parrabell review.
73. At that time, SF Parrabell was only using Form 3 to review and assess cases . I subsequently provided completed Form 3 BCIFs to the Flinders Academic Team in tranches from November 2016 predominately via secure mail.
74. I attended some meetings between the Flinders Academic Team and members of SF Parrabell in relation to the review, although I cannot now recall the dates of those meetings. A purpose of these meetings was to discuss the findings that each respective team had arrived at, and the processes used. I also considered that these meetings provided an opportunity for NSWPF to learn from the Flinders Academic Team and improve the police methodology used in the identification and investigating bias crimes.
75. At the meetings, it was my observation that each team could and did speak freely and openly regarding the review methodology and the findings made.
76. There were differences in views between SF Parrabell and the Flinders Academic Team on some cases. For those cases, the meetings were used to better understand the reasons why each team had determined a different finding and the rationale in which that finding was reached. The meetings were not used to try to change the position adopted by the Flinders Academic Team (to the extent the positions were different).
77. I set out below some of the emails referred to in CA Submissions in the context of the Flinders Academic Review where the particular language I have used has been the subject of comment by others.
78. Document **SCOI.74391** contains an email chain between me and Professor Dalton. It includes an email I sent on 31 October 2016 at 1.50pm. I do not have a specific recollection of sending the email. In the email, among other things, I state '*I am very keen*

Witness:

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 Area Command
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Signature:

[REDACTED]

Craig MIDDLETON
 Superintendent
 Sutherland Shire Police Area
 Command
 8 September 2023

Statement of Superintendent Craig Middleton
In the matter of *Special Commission of Inquiry into
 LGBTIQ Hate Crimes*

to see / read your review and your conclusions. As I said to you in our meeting I would expect a few questions and differences of opinion'.

79. As set out in my email, I was interested to see the output from the academic review. I was conscious that, to my knowledge, NSWPF had not undertaken a review like SF Parrabell before and I was keen to see what processes the academic review would employ that we could perhaps learn from.
80. Another email in the same chain from Professor Dalton to me sent on 12 December 2016 at 1.57pm states in part *'For what it is worth, I have approximately 13 cases that I might classify differently. As Craig alluded to, this was always likely to be the case'.* I responded to that email a short time later, on the same day at 3.42pm. My email stated in part *'I really look forward to seeing the 13 you have selected and comparing it to see if they are the same as the ones that we had some difficulty / discussions with. At some point in the future it would be great to sit down with you again (if possible) and discuss those matter as Im [sic] sure that it would make for some interesting discussions from differing perspectives. I really dont [sic] think we would be too far apart'.*
81. As set out in my email, I was not concerned by the prospect of Professor Dalton coming to a different conclusion to the SF Parrabell conclusions, if those conclusions were at least similar (for example, where the one team was sure bias was involved but the other team considered it fell in the "suspected" category; or where the academics considered the case did not show evidence of bias but SF Parrabell regarded it as falling in the "insufficient information" category). That is what I meant by *'I really don't think we would be too far apart'.* If, however, Professor Dalton had identified (for example) that there was no evidence of bias whereas SF Parrabell had concluded that there was evidence, I was interested to understand the reason for that difference, as it might tend to suggest one party had overlooked (or perhaps overemphasized) one aspect in comparison to the other party.

Witness:

[REDACTED]

Brett Van Akker
 Detective Inspector
 Sutherland Shire Police
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82. I have been shown an email chain **SCOI.74394**. This includes the emails I have set out above. It also includes an email from AC Crandell to me on 12 December 2016 at 5.34pm. AC Crandell's email set out a proposal for the 'way forward', which included a process where by any disagreement between SF Parrabell and the research team would be reviewed by the Bias Crimes Coordinator. It also identified that each party (SF Parrabell and the research team) should be aware of each other's findings for each case, and the reasons for the positions taken.
83. In my reply to AC Crandell, I stated in part that I did not think that the teams would be '*all that far apart*', though I observed that '*now [sic] matter how hard we try and be impartial when it comes to placing matters in categories a lot of it comes down to opinions. That's just the way it works. I expected the differences of opinion would cause different results*'. Again, I was not concerned about differences between the parties: so long as those differences were not completely opposite, for the reasons I have set out at paragraph 81 above. If opposing results were reached in cases (for example, where one team identified a case as a bias crime where the other identified it as showing no evidence of bias) I would be concerned that, for example, one of the teams had overlooked a key piece of information. This would lead to a dialogue to try to understand the reason for the difference, but it would not lead to one team trying to convince the other team that they were wrong and should change their result.
84. I further note that the academic team were receptive to feedback from SF Parrabell and we did provide feedback, including document **SCOI.74543** which contains excerpts of emails between myself, AC Crandell and Jacqueline Braw setting out feedback on the Academic Report.

H. INTERACTION WITH OTHER STRIKE FORCES

85. I do not recall interacting with members of the other strike forces the subject of Public Hearing 2, (Strike Force MacNamir and Strike Force Neiwand) in the course of SF

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Parrabell. To the best of my recollection, those strike forces were under the ownership of Homicide (and therefore, not under my supervision as Crime Manager).

86. To my knowledge, no members of these strike forces sought to influence the results we reached in SF Parrabell.
87. During SF Parrabell, I was not encouraged by any senior NSWPF officers to minimise the incidence of gay-hate homicide.
88. In our review, we did not identify any evidence suggesting that original investigators tried to negate or ignore evidence relating to the sexuality of the victim. In particular, in document **SCOI.74543**, I state on page 4: *"In many of the matters we reviewed from the early years (70's, 80's and even the 90's) the sexual orientation of the victim was not necessarily easily identifiable from the records we examined. In many of these matters, it was clear that in the absence of 'direct' evidence of the victim's sexual orientation, it was 'assumed' that the victim was heterosexual. Despite this fact, in many of the matters the investigators, still explored the homosexual advance defence anyway, This may have been due to a number of factors such as the location of the incident being in a well known 'beat location' or indeed the offender raising it at interview. It shows to me that even in the era where homosexuality was essentially 'not accepted' by main stream society and in fact 'illegal', Investigators still explored these issues in an attempt to mitigate and secure a conviction of the accused."*
89. This email reminds me that my view at the time was that SF Parrabell's review had shown that in many of the cases, the original investigators had been thorough in their investigations and had tested if not attempted to negate the 'homosexual advance defence' used by the accused.
90. The matters in these two paragraphs above do not mean that I positively concluded that there were no cases where the original investigation was coloured by some form of bias, but rather there were no cases where the available documentary material demonstrated the presence of such bias. In a number of cases, I recognised that there appeared to be

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some potential shortcomings in the original investigations (at least assessed by reference to modern standards), but it was not possible to determine what was the cause of those shortcomings.

91. I was also conscious that we were limited to conducting a '*paper review*' of these matters and that there were 'gaps' or missing files in some of those case holdings. In those cases a decision was made not to consider or assume what may be contained in those missing files.

Witness:



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Craig MIDDLETON
Superintendent
Sutherland Shire Police Area
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Special Commission of Inquiry into LGBTIQ hate crimes

21 August 2023

Detective Superintendent Craig Middleton
 c/o Katherine Garaty
 Director, Crime Disruption and Special Inquiries Law
 Office of the General Counsel, NSW Police Force
 Locked Bag 5102
 PARRAMATTA NSW 2124

By email: [REDACTED]

Dear Detective Superintendent Middleton

Special Commission of Inquiry into LGBTIQ hate crimes

I assist the Honourable Justice John Sackar ("Commissioner") in the Special Commission of Inquiry into LGBTIQ hate crimes ("the Inquiry").

I understand that you are represented by the Office of the General Counsel, NSW Police Force ("NSWPF"), in relation to this Inquiry.

The Inquiry

On 13 April 2022, the Governor, by Letters Patent, issued a commission to the Commissioner to inquire into and report on historical LGBTIQ hate crimes. Specifically, the Letters Patent require his Honour to inquire into and report to the Governor and Premier on the following matters:

- A. The manner and cause of death in all cases that remain unsolved from the 88 deaths or suspected deaths of men potentially motivated by gay hate bias that were considered by Strike Force Parrabell; and
- B. The manner and cause of death in all unsolved suspected hate crime deaths in New South Wales that occurred between 1970 and 2010 where:
 - i) The victim was a member of the lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) community; and
 - ii) The death was the subject of a previous investigation by the NSW Police Force.

The Commissioner is required to report on the above matters by 15 December 2023. Furthermore, in conducting the Inquiry, his Honour is directed to have regard to the "findings of previous inquiries and reports", including "the report and findings of Strike Force Parrabell" (see Paragraph C of the Letters Patent).

A copy of the full Letters Patent and additional information about the Inquiry is available on our website: www.specialcommission.nsw.gov.au.

Special Commission of Inquiry into LGBTIQ hate crimes

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Special Commission of Inquiry into LGBTIQ hate crimes

Public Hearing 2

The second public hearing of the Inquiry ("Public Hearing 2") is examining the ways in which the NSWPF has approached issues relating to "bias crime" and "hate crime" from 1970 to present, including the investigations conducted by Strike Forces Parrabell, Macnamir and Neiwand.

Public Hearing 2 has been conducted in several stages of hearings in December 2022, February-March 2023, and April-May 2023.

Public Hearing 2 is listed for two additional weeks of hearing scheduled to commence on Monday, 18 September 2023 ("the September hearing").

Summons to attend and give evidence at Public Hearing 2

Please find **enclosed** a copy of a summons to attend to give evidence ("the summons"), which requires you to give evidence at the September hearing. The September hearing commences at **10:00am on Monday, 18 September 2023**, at the Chief Secretary's Building, Level 2, 121 Macquarie Street, Sydney. This hearing is listed for two weeks.

Further information regarding the precise date/s on which you will be called to give evidence will be provided to Ms Garaty in due course.

Material before the Inquiry

On 7 June 2023, Counsel Assisting the Inquiry filed written submissions in relation to the issues explored in Public Hearing 2.

In particular, I direct you to the following paragraphs, which concern aspects of your involvement in the subject matter being examined in Public Hearing 2:

- paragraphs [783]-[897], [906]-[1078], [1184]-[1191], [1363]-[1409].

I also draw your attention to Exhibit 6 before the Inquiry, which comprises a bundle of material which has been tendered into evidence during the course of Public Hearing 2.

In addition, on 27 June 2023, written submissions were filed on behalf of Sergeant Geoffrey Steer. On 28 June 2023, written submissions were filed on behalf of the Commissioner of Police and Mr Michael Willing. I direct you to the following paragraphs, which concern aspects of your involvement in the subject matter being examined in Public Hearing 2:

- paragraphs [23]-[28], [454]-[533], [538]-[631], [706], [712], [782]-[807] of the written submissions of the Commissioner of Police.

Copies of the parties' written submissions and Exhibit 6 are available on the Inquiry's website: <https://www.specialcommission.nsw.gov.au/hearings/public-hearing-2-commencing-5-december-2022/>.

Opportunity to provide evidence and submissions to the Inquiry

The Commissioner of Police has indicated to the Inquiry that, as a matter of procedural fairness, the individuals named in the written submissions of Counsel Assisting and other interested parties against whom adverse comments may be made or whose evidence is likely to relate to adverse findings should be given an opportunity to file a statement and/or make submissions to the Inquiry.

Accordingly, pursuant to s. 12 of the *Special Commissions of Inquiry Act 1983 (NSW)*, the Inquiry has determined that it is appropriate for you to have the opportunity to file a statement and/or make written submissions as to the issues raised in Public Hearing 2. Should you wish to file a statement, please do so by **4 September 2023** by email to enzo.camporeale@specialcommission.nsw.gov.au. Should you wish to make

Special Commission of Inquiry into LGBTIQ hate crimes

any written submissions, please do so by **5 October 2023** by email to enzo.camporeale@specialcommission.nsw.gov.au.

Please note that irrespective of whether you choose to file a statement and/or submissions, you will be required to attend to give evidence at the September hearing.

Please do not hesitate to contact Enzo Camporeale on 0498 484 133 or at enzo.camporeale@specialcommission.nsw.gov.au if you have any queries in relation to this matter.

Yours faithfully,



Enzo Camporeale
Director, Legal
Solicitor Assisting the Inquiry

Encl. (1)