

SUBMISSIONS OF PAMELA YOUNG

SPECIAL COMMISSION OF INQUIRY INTO LGBTIQ HATE CRIMES

Submissions on behalf of Ms Pamela Young

Introduction

1. Public Hearing 2 was conducted in several stages: most recently on 21 and 25-29 September 2023 and 3-6 October 2023 for the purposes of taking evidence that had not previously been available to the Inquiry from a number of witnesses including Ms Young, Mr Lehmann, DS Brown and Ms Emma Alberici, as well as further evidence from Mr Willing.
2. This additional hearing has provided an opportunity for the Commission to reconsider Counsel Assisting's (CA) earlier submissions and deal with those made after the earlier hearings in June 2023, by the Commissioner for Police and on behalf of Mr Willing in relation to the operation of SF Macnamir and the appearance of DCI Young on Lateline in 2015.
3. Statements were also received into evidence from John Lehmann,¹ Emma Alberici,² DS Penelope Brown,³ and from Ms Young.⁴ These together provided the Commission with greater and more accurate information than had previously been available to it.
4. As CA has made clear in its supplementary submissions:

87. A key purpose of this Inquiry is to discover the truth in relation to matters which fall within the Terms of Reference. It would be inconsistent with that purpose either for the Commissioner to make findings on the basis of insufficient evidence, or for the Commissioner to decline to make findings if any such insufficiency (if it exists) could be addressed by supplementary evidence.

¹ Exhibit 6 Tab 513.

² Exhibit 6 Tab 524.

³ Exhibit 6 Tabs 519 and 519A.

⁴ Exhibit 6 Tabs 521, 521A and 521B.

88. *For the reasons outlined above, it is submitted there was no such insufficiency as at June 2023.*

89. *However, from a practical perspective, Counsel Assisting have endeavoured to ensure that any of the individuals **referred to in the submissions of the NSWPF or Mr Willing**, who wished to give evidence or to make a submission, would be given every opportunity to do so.*

5. It has also provided an opportunity to Ms Young to give evidence about her investigations and to answer some criticisms that had been raised about her. For that opportunity she is appreciative of the Commission. It is submitted that the Commissioner will have found Ms Young to be an honest and straightforward witness who holds strong, indeed uncompromising, views about the integrity of her previous office and of her role as a DCI in Homicide over a career of some 17 years. It is submitted that she is to be accepted as a witness of truth who has genuinely endeavoured to assist the Inquiry at all times.
6. In June 2023, at the conclusion of the initial evidence taken by the Commission in Public Hearing 2, CA made a series of submissions asserting that some matters relating to the investigations by NSW Police into gay hate crimes and relevantly was critical of the activities of Ms Young in the UHT and in SF Macnamir in the period between February 2013 – mid 2015.
7. Those submissions were in part informed by the limited nature of the evidence that had been adduced during Public Hearing 2 and so were in part unfairly critical of Ms Young. It is clear that this flowed from the failure to have the benefit of the evidence of Ms Young, DS Brown and Ms Alberici among others.
8. As is argued in detail below that any reliance on the earlier evidence of Mr Willing and his submissions is misconceived. His evidence was, as is now noted by CA in their supplementary submissions, at best unreliable and simply cannot be accepted on critical matters. It is submitted that Mr Willing's evidence cannot be relied on unless independently corroborated.

9. The Inquiry had been in possession of Ms Young's evidentiary statement⁵ since August 2022. As the Commission indicated to Ms Young's solicitors, on 29 September 2023, the evidentiary statement was produced to the Inquiry by the NSW Supreme Court in response to summons SC01.
10. Ms Young was not called in the earlier hearing stages of Public Hearing 2 although she had voluntarily attended the earlier hearing of the Commission, volunteered her statement dated 17 April 2023⁶ and made herself known to the Inquiry's staff.
11. Broadly what was asserted in the June submissions of CA was that although an experienced and dedicated investigator Ms Young had approached her task of reviewing the death of Scott Johnson with a closed mind, focused on a belief that he had suicided and that she had acted improperly in publicly criticising the then Minister of Police, Mr Gallacher, suggesting he was succumbing to the influence of the Johnson family and wrongly prioritising the investigation.
12. What CA asserted was:
 - 75 *By April 2014, as appears below, the view of DCI Young and DCI John Lehmann, endorsed by Mr Willing (then, Homicide Commander), was that SF Macnamir had not discovered "any evidence at all" that Scott Johnson was even the victim of a homicide, "let alone a 'gay-hate' murder" (emphasis in original).'*
 - 76 *In July 2014, DCI Young signed a 445-page statement outlining the work done by SF Macnamir (**Young Statement**). DCI Young made reference to three possible hypotheses as to manner of death, namely suicide, homicide and misadventure. However, as Mr Willing conceded in his oral evidence, DCI Young's statement plainly conveyed her view that suicide was "distinctly likely", and that homicide was "distinctly unlikely." ...*
13. These submissions will address those conclusions and demonstrate the error of reasoning into which CA was led.

⁵ Exhibit 6 Tab 512B.

⁶ This is now Exhibit 6 Tab 521B.

14. The recent evidence given by Ms Young provides a context within which these assertions must be understood as well as clarification of Mr Willing's inopportune and inaccurate concession as to the proper understanding of Ms Young's statements.
15. As has been made clear Ms Young regarded suicide not as distinctly **likely** but as distinctly **possible** and her discussions with Ms Alberici confirm that was her view based on the available material in early 2015.⁷ In any event whatever her personal view it is unchallengeable that she performed a detailed, thorough and exhaustive investigation which was in no way biased towards any particular conclusion.⁸
16. Ms Young's first Coronial Statement of 455 pages⁹ analyses and details an exhaustive investigation of the facts and reviews ["puts to the test"] similar investigations and findings, especially Operation Taradale. As she indicates in that Statement at [1612], Coroner Milledge in her Findings of 9 March 2005 had said "*Taradale will provide an excellent source of evidence should other matters come to light*".
17. Those findings were reviewed in SF Macnamir under the heading of East Sydney investigations and Major Crime Squad South (MCSS) investigations as Taradale had gathered those into its own examination.¹⁰
18. CA went on to argue that:

86. *DCI Lehmann and DCI Young then "conducted an assessment of the 30 'unsolved' cases listed by Ms Thompson to determine the veracity of her information".*

⁷ T6266.10-35, T6767.13-25.

⁸ Exhibit 6 Tab 350A states that "On 18 February 2014, correspondence was received from the Commissioner of the NSW Crime Commission which stated that "the Commission considers that investigations have been comprehensive and thorough and has not identified any line of inquiry not already undertaken. The Commission considers that specifically the issues raised by Steve Johnson have been fully explored and resolved to the extent now possible. Similarly, it is considered that there is no scope for the Commission to exercise its statutory powers in a way which would assist the investigation any further."

⁹ Exhibit 6 Tab 252F.

¹⁰ Id at [1609].

87. *Their assessment was set out in an Issue Paper dated 25 September 2013 (**Lehmann/Young Issue Paper**). Although the Issue Paper is over the hand of DCI Lehmann alone, in fact it was prepared by DCI Lehmann jointly with DCI Young. Their conclusion, as stated in the Lehmann/Young Issue Paper, was (emphasis in original):*

Only 8 cases from 30 were probable or possible 'gay hate' motivated murders and these are on file at the Unsolved Homicide Team with consideration for future investigation.

There is no doubt that anti gay hostility, particularly in the 1980's and 1990's resulted in a number of murders and serious crime of violence in NSW. In my opinion, the suggestion of 30 'gay hate' related unsolved murders is a gross exaggeration. Certainly there was no consultation with this command prior to the Sydney Morning / Sunday Herald articles which I suggest is poor, irresponsible journalism bordering on sensationalism.'

88. *Among the 22 cases thus dismissed by DCI Lehmann and DCI Young as not being "probable", or even "possible", gay hate-motivated murders, was the death of Scott Johnson. Four of the 30 cases were not actually reviewed because no records of those four cases had been located.*
- 89 *In his own Issue Paper dated 10 January 2014, then DSI Willing adopted and endorsed the views expressed in the Lehmann/Young Issue Paper of 25 September 2013, including "that the suggestion of 30 unsolved 'gay hate' related murders was and is a gross exaggeration".*

19. Later in the submissions CA returned to this theme and asserted that:

184. *As noted above:*

- a) *in September 2013, DCI Lehmann and DCI Young wrote their Issue Paper in which they asserted inter alia that claims of 30 unsolved gay hate murders were "a gross exaggeration", and that the death of Scott Johnson was not a "probable" or even "possible" gay hate murder;*
- b) *in April 2014, Mr Willing, then Homicide Commander, endorsed those views;*
- c) *in July 2014, DCI Young finalised her 445-page statement for the third Scott Johnson inquest, 225 in which she made clear her view (as leader of SF Macnamir) that in the case of Scott Johnson, suicide was distinctly likely and homicide was distinctly unlikely; and*
- d) *in about August 2015, SF Parrabell was instituted, and in October 2015, SF Neiwand was instituted.*

185 *The outcomes of both those Strike Forces, Parrabell and Neiwand, by 2017-2018, were essentially that many of the deaths which had been publicly described as actual or possible gay hate homicides (including the three the subject of the Taradale Inquest findings) should not be so described or understood..*

20. CA went on to argue that there was a settled approach to the investigation of the matters that was frankly improper -

349 *In that context, certain statements made by DCI Young and Mr Willing in April 2015 point to a **commonality of objectives** between SF Macnamir and SF Neiwand. [emphasis added]*

350 *In DCI Young's interview with Emma Alberici of ABC's Lateline on 10 April 2015, DCI Young was asked "What's changed since the last coronial inquest that would warrant another one?" Her answer included the following:*

We have put to the test some of the findings of Operation Taradale, which was —did identify or reinvestigate some gay-hate crimes in Bondi, and two were found to be possible homicides

...

352. *Given the unwavering view of DCI Young and SF Macnamir that Scott Johnson's death was suicide and not homicide, in particular not gay hate homicide, it is not surprising that SF Macnamir would have sought to cast doubt on ("put to the test") the findings of Coroner Milledge, which had so influenced the second Scott Johnson inquest.*

21. The view there expressed by CA was, it is submitted, clearly coloured by the real dissatisfaction raised by Ms Young about the influence being exerted by the Johnson family on the proper and exhaustive investigative processes being pursued by the UHT and in SF Macnamir by herself and DS Brown:

354. *The attitude of both DCI Young and Mr Willing towards the Johnson family, and their contention that Scott Johnson's death was likely [sic] to have been a gay hate homicide, emerged in clear focus in the course of Mr Willing's evidence on 15 May 2023.*

22. As evidence to Commission makes clear the assertion in the above paragraphs misunderstands Ms Young's use of the expression "put to the test" in relation to SF Taradale. It is an example of the danger in relying on the evidence of Mr Willing.

23. Moreover, both the evidence of Ms Young and the transcripts of her interviews with Ms Alberici as well as her exhaustive analysis of all of the evidence which was available to her in 2015 demonstrates that she employed all available aids in her investigation in SF Macnamir.
24. Ms Young provides evidence about the place of an expression of opinion in an investigative role, noting that such is not inappropriate as long as it does not compromise the integrity of the process.¹¹
25. That evidence is to the following effect:
52. *I included the title "Opinion" at paragraph 2875 in the first of my four coronial statements in this matter and give my opinion on the three 'heads' of possible cause of death, being suicide, homicide, misadventure.*
53. *Two other related examples of this 'opinion' practice are:*
- a. *"opinion" in the coronial statement of (then) Detective Sergeant Doreen Cruickshank dated 7 March 1989, for the first Inquest into the death of Scott Johnson.*
- b. *"Conclusions" in the coronial statement of (then) Detective Sergeant Stephen Page dated 25 July 2002, for the 2005 Inquests into the deaths of Mr John Russell, Mr Ross Warren, and Mr Gilles Mattaini ("Operation Taradale").*
26. As is pointed out later in these submissions the conclusion that there was no evidence that Scott Johnson's death was a gay hate homicide was ultimately found to be correct as the sentencing judgments of Scott White in 2022 demonstrate.

Reliance on Mr Willing

27. CA relied on the evidence of Mr Willing to found his criticism of Ms Young's investigation and of her conclusions:
355. *Mr Willing accepted that it was "very clear" that DCI Young regarded the Johnson family as "opponents" of the NSWPF in relation to the third inquest. He accepted that she had the view*

¹¹ Ex 6 Tab 521 at [52]-[53].

that "one objective of the police. in the third inquest would be to defeat the Johnson family by convincing the Coroner that it was not homicide".

28. This evidence is inconsistent with Ms Young's whole approach to the investigation as well as her statements at the doorstep, her interviews with Ms Alberici and her evidence. Her preferred outcome would seem to have been an open verdict¹², but it is clear she was not at any stage attempting to pre-empt the Coroner. She has never used the word defeat in reference to the Johnson family.

29. CA further submitted

356. *Mr Willing said that for his part he did not see the police objective as being to "defeat" the Johnson family, but he agreed that the relationship was "adversarial".'*

...

378 *However, in his interview with the NSWPF's solicitors, Ashurst, on 24 April 2015, Mr Willing had said:*

I think he [Scott Johnson] has probably gone up there to engage in casual sex and either fallen asleep and fallen over or committed suicide. My theory is that he was enamoured with Alan Turing's story —talking about it and leading up to death.

379 *On being directed to that interview transcript, and asked whether his view as at April 2015 (i.e. misadventure or suicide) had thereafter remained the same or not, Mr Willing stated:*

It did chop and change a bit. You'll see in the next line I mention Alan Turing, as a mathematician, similar sort of circumstances, a homosexual man who was concerned over the style of mathematics that Turing engaged in, and I thought that that was a likely scenario at the time, but it did change. There was another - you know, it was before the Coroner for a considerable period of time after that and I thought ultimately that you couldn't determine one way or the other.

380 *It is submitted that the Young Statement unmistakeably advances the view that suicide was the most likely hypothesis for Scott Johnson's death. As Mr Willing accepted on 15 May 2023,471 what DCI Young does in the 'Opinion' paragraphs is two things:*

¹² See for example the transcript of the 7pm ABC news, Exhibit 6 Tab 362B.

- a. *she identifies factors that might support a homicide hypothesis, and then "refutes or debunks" each of those factors; whereas, by contrast,*
- b. *she identifies factors put forward against the suicide hypothesis, and then "refutes or debunks" each of those factors.*

381 *Mr Willing accepted that DCI Young was plainly saying that the homicide hypothesis was "unlikely to be right", and that the suicide hypothesis was "more likely to be right than the others".*

30. It will be submitted that this evidence of Mr Willing was both disingenuous and mischievous and designed to protect his interests at the expense of those serving under him, in particular Ms Young and Detective Sergeant Brown.
31. It is not consistent with the content of her Coronial Statement or that of DS Brown. Ms Young in her statement stated:¹³

55 *On 14 July 2014 I served by hand on the State Coroner, coronial statement 1 in the death of Scott Johnson.*

56 *Detective Sergeant Brown also submitted coronial statements in the matter.*

57 *My statements are supported by approximately 27,000 pages of information and evidence which formed Strike Force Macnamir coronial brief of evidence. My statements include analysis of over 100 persons of interest, over 65 victims of crime, and reported crimes of violence in Manly and surrounding areas from 1 January 1986 to 31 December 1989 inclusive. They also include police operations on persons of interest and evidence and information on the three heads of 'manner and cause of death' being homicide, suicide, misadventure.*

58 *Relative to the possibility that Scott died because of homicide, there are 1429 paragraphs (approximately 197 pages) of exclusive information and evidence in my statements for the State Coroner.*

59 *Relative to the possibility that Scott died because of suicided, there are 40 paragraphs (approximately 7 pages) of exclusive information and evidence in my statements for the State Coroner.*

¹³ Exhibit 6 Tab 521.

60 *Relative to the possibility that Scott died because of misadventure, there are 5 paragraphs of exclusive information and evidence in my statements for the State Coroner.*

61 *I was unable to identify a person or persons responsible for the death of Scott and I ended statement (1) with, "This concludes the information and evidence that is available to date".*

62 *I understand that the younger brother of Scott White is NP30. NP30 appears in my statement signed 14 July 2015 at 1576-77, 1579, 1606, 2968 and was interviewed by Detective Sergeant Penny Brown. For the record, I created the pseudonyms by direction of the State Coroner following a public interest immunity application by the NSWPF.*

32. In passing it is observed that the evidence of Mr Willing was not distinguished by consistency or accuracy, or on occasions by truth.
33. It is clear that CA was led to advance the above contentions in a context where the evidence of DCI Young and the other investigators directly involved was not available to him or to the Commission. The present hearing has supplied that deficiency in the body of evidence and in our submission means that much of the reasoning adopted by CA in the earlier submissions can no longer be advanced.
34. Relevantly to the interests of Ms Young the following witnesses in addition to herself and Mr Willing gave evidence : - Detective Sergeant (**DS**) Alicia Taylor; former DCI John Lehmann (referred to as Mr Lehmann in these submissions); Emma Alberici; Georgina Wells; and DS Penelope Brown;
35. CA has now filed supplementary submissions in relation to evidence obtained from Ms Young and others in the recent stage of Public Hearing 2 which took place between 21 September and 6 October.
36. To those submissions as well as the primary submissions of CA, Ms Young now responds.

June Submissions by other parties: Commissioner of Police

37. CA's submissions relevantly elicited responses from the Commissioner of Police and from Mr Willing broadly asserting a denial of procedural fairness involved in the

conclusions of counsel assisting and advancing the unavailability of those conclusions on the evidence led in Public Hearing 2.

38. Effectively the thrust of the submissions advanced by CA was perceived by the COP to be directly critical of the conduct of the NSWPF in general and of the Homicide Squad, Commander Willing and DCI Young in particular in the response to the investigations undertaken in relation to gay hate crimes and the death of Scott Johnson.
39. The submissions from the Commissioner of Police asserted *inter alia* that a number of matters bore on the conclusions advanced by CA which indicated that they were misconceived, including especially the effect of the 2023 conviction on the findings of Coroner Barnes in the third inquest, which had questioned DCI Young's Investigation and conclusions.
40. Counsel for the COP submitted that:

188 *While Counsel Assisting submits that "the police objective was to combat, and prevent the acceptance, of the homicide hypothesis" such that an open-minded approach was not adopted (CA, [502]), the possible relevance of the location of Mr Johnson's death at a beat and his sexuality as the motivation for an attack had formed part of police of investigations since at least those conducted by police in connection with the 2012 inquest, given the emphasis placed on it by Deputy State Coroner Forbes. DCI Young's statement setting out the investigations of SF Macnamir detailed a number of lessons coming out of the Taradale Inquest's consideration of beats of possible relevance, before identifying all of the persons charged or suspected of gay-hate offences that were investigated by SF Macnamir. No further lines of inquiry were identified by the NSWCC's review in 2014. It cannot possibly be suggested that the Coroner in the third inquest had closed his mind to a gay hate crime: State Coroner Barnes found Mr Johnson's death was likely to have been motivated by his sexuality. Yet the State Coroner's investigations too did not identify the ultimate perpetrator of Mr Johnson's death.*

189 *The inescapable conclusion following the conviction and sentence of Mr White in 2023 for manslaughter is that the finding reached in the third inquest did not accurately reflect the true series of events leading to Mr Johnson's death. Mr Johnson was not attacked by unidentified persons because they believed him to be a homosexual. There was not more than one person*

involved. There was no connection between his death and the gangs of men or soldiers housed at a nearby army barracks engaging in gay hate crimes in the area.

190 *No criticism can be made either of the NSWPF's investigations of Mr Johnson's death (or of the third inquest) for failing to uncover the identity of Mr White: the evidence that ultimately led to Mr White's conviction was simply not available until Ms White came forward in 2019.*

...

193 *There is no evidence that the NSWCC's assessment in 2014 that no further leads could be pursued was wrong. Similarly, there is no evidence that State Coroner Barnes failed to identify any such leads which may have resulted in the identification of Mr White. Nor is there any evidence that the investigating officers could ever have identified Mr White as the perpetrator if Ms White had not come forward.*

194 *In the Commissioner of Police's submission, there is no evidential basis for any criticism that the NSWPF failed to uncover Mr White's role in Mr Johnson's death.*

41. Taken together the preceding submissions made by the COP amount to a ringing endorsement of both SF Macnamir and of Ms Young's investigation, whatever her views about the influence of the Johnson family and the inappropriate use of the limited resources of the UHT. This is unsurprising in light of the examination of the investigation by and the report of the State Crime Commission.¹⁴

42. The COP contended that the findings proposed by Counsel Assisting were unavailable on the evidence then before the commission:

195. *As noted above, at CA, [501] and [502] of their written submissions, Counsel Assisting contend that two findings should be made in relation to the topic of the so-called 'suicide hypothesis' and the objectivity of SF Macnamir.*

Finding third inquest "unnecessary" and would not result in a different finding from 2012 inquest

196. *At CA, [501], Counsel Assisting urges the following finding to be made:*

¹⁴ Exhibit 6 Tab 350A.

DCI Young and her successors at SF Macnamir (as well as Mr Willing) believed that a third inquest was unnecessary and would not result in any different finding from the open finding by Coroner Forbes in 2012.

197. *It is accepted that a finding is open, in light of the submission referenced at [173] above, that DCI Young considered a third inquest would not result in a different finding from the open finding in the 2012 inquest. However, for the reasons above, the evidence does not permit the broader finding by Counsel Assisting. That is:*

- a) *given DCI Young was not called to give evidence, a finding that she considered a third inquest to be "unnecessary" is unavailable;*
- b) *similarly, in the absence of evidence from DS Brown, a finding that she considered a third inquest to be "unnecessary" and would not result in a different finding from the open finding of the 2012 inquest is unavailable;*
- c) *in respect of Mr Willing, his personal view was that an open finding would have been appropriate,¹⁵⁸but he specifically rejected the proposition that he had direct involvement in the submissions made to State Coroner Barnes at the directions hearing about whether a third inquest should be held,¹⁵⁹and confirmed his view that the Coroner should conduct a further examination of the matter and that a third inquest was important.¹⁶⁹There is no basis to reject Mr Willing's evidence on this point. A finding that he considered a third inquest to be "unnecessary" and would not result in a different finding from the open finding of the 2012 inquest is therefore unavailable; and*
- d) *in the absence of the identification by Counsel Assisting of the "successors" of DCI Young alleged to have held this view, or any evidence substantiating this proposition, a finding in relation to that / those person(s) is equally unavailable.*

43. The evidence now before the Commission demonstrates that Ms Young welcomed the third inquest.

44. CA's finding of a lack of objectivity in relation to the investigation by SF Macnamir was also the subject of criticism by the COP, who argued:

198. *At CA, [502] of their submissions Counsel Assisting submits that a sweeping finding should be made that SF Macnamir did not adopt an open-minded approach to the reinvestigation of Mr Johnson's death. Specifically, Counsel Assisting asserts that (CA, [502]):*

[F]or the whole time from the instigation of SF Macnamir in February 2013 to its conclusion on 30 November 2017, the unchanging and inflexible view held, and propounded, by Strike Force Macnamir was that Scott Johnson's death was a suicide, and that the police objective was to combat, and prevent the acceptance, of the homicide hypothesis

199. *For the reasons explained above, this finding is unavailable. The Commissioner of Police also submits the following:*

- a) *Mr Willing denied sharing any rigid view in relation to the likely cause of death of Mr Johnson and, to the contrary, emphasised that his view changed many times over the years in response to different evidential developments in the case. As set out above, Mr Willing's positive steps of seeking first, the independent and objective view of the NSWCC as to the investigation conducted by SF Macnamir, and secondly, a further examination of the matter by the State Coroner following that investigation, is strong evidence that far from any objective to "combat and prevent the acceptance of the homicide hypothesis", Mr Willing sought a transparent and objective assessment of the evidence.*
- b) *In relation to the period February 2013 to March 2015, while framed vaguely as the position up of "Strike Force Macnamir", this is in reality a grave allegation of impropriety made by Counsel Assisting against DCI Young and the other officers involved in the investigation (particularly, DS Brown). As explained below, to make such a finding without giving DCI Young an opportunity to be heard would constitute a serious denial of procedural fairness and breach of natural justice.*

...

201. *The failure to call DCI Young, DS Brown and "others" alleged to have held the same views or putting them on notice and allowing them to seek to be heard in circumstances where Counsel Assisting advocates for adverse findings to be made against them does not merely mean the Inquiry does not have the benefit of their evidence. Rather, they have been "left in the dark" and deprived of the opportunity to defend themselves or respond in any way to matters of serious criticism before such findings are made. It is for this reason that it is submitted that to make the findings proposed by Counsel Assisting would constitute a breach of procedural fairness and natural justice and those findings are accordingly unavailable to the Inquiry.*

45. The failure of the Commission to have received evidence from the relevant officers and other witnesses directly led to the present hearing.

46. To this point a review of the objective evidence supports the submissions of the Commissioner of Police but for its acceptance of the assertion that Ms Young had a “settled view” that the death of Scott Johnson was suicide. This must be wrong in the light of her unchallenged evidence received at the current hearing.

The "Lateline Issue".

47. The COP drew attention to the time taken considering the appearance by Ms Young on Lateline in 2015 in the absence of evidence from any of the actual participants. That failure has now been remedied and is the subject of submissions hereunder. In her June submissions the COP said:

202. A significant portion of the evidence in Public Hearing 2, comprising approximately 3 hearing days, 300 transcript pages and 52 documents, together with approximately 20 pages of written submissions by Counsel Assisting, was devoted to what has been referred to as the "Lateline Issue".

203 Nevertheless, the Commissioner of Police's ultimate position in relation to the Lateline Issue may be summarised as follows:

- a) DCI Young was authorised by the NSWPF to conduct off-the-record "backgrounding" of two journalists in relation to the Johnson matter.*
- b) In the event State Coroner Barnes made the Young Statement public in the course of the directions hearing on 13 April 2015, further consideration would be given to on-the-record statements being made to the media, for which further approval by a Deputy Commissioner would be required.*
- c) Following the Coroner's determination to hold a further inquest, DCI Young was approved to conduct a "door stop" with journalists outside the Coroner's Court on 13 April 2015, welcoming the inquest.*
- d) There is no evidence DCI Young was approved to conduct an on-the-record televised interview with ABC or any other media outlet, approval which would have had to have been obtained from among others, Deputy Commissioner Kaldas.*
- e) There is no evidence DCI Young not approved, and it cannot be reasonably contended that approval ever would have been given, to make the detailed*

comments she made on Lateline, including to the effect that the Minister was "kowtowing" to the Johnson family.

48. The actual position in relation to Ms Young's appearance is not however so clear cut and it is certain that her appearance was approved and her views known to the NSWPF at the highest level well in advance of her interview with Ms Alberici on either the 10th or 13th April. CA's supplementary submissions accurately identifies the fact that Ms Young was authorised by senior serving police to give the interview with Ms Alberici. While CA does not go so far as to accept that the Police Media unit was aware of the interview it will be submitted below that the evidence to the contrary is unsatisfactory. As CA points out the late recantation by Mr Gordon is unconvincing.

June Submissions by other parties: Mr Willing

49. In addition to the opposition to CA's submissions from the COP, the former DCOP and head of homicide, Mr Willing also complained in substance of a denial of procedural fairness and made further submissions that were both defensive and aggressively asserted misconduct in relation to certain officers who had been serving under his command at the relevant times and on the part of other former members of NSWPF including but not limited to Ms Young.
50. In its supplementary submissions CA notes, at [61]

61 *Among many examples, the following are among the more egregious:*

- a) ...
- b) *Mr Willing has also claimed that Counsel Assisting was alleging "conspiracies" in relation to matters relating to Mr Willing: see for example WS [19], [20]. Again, no such submission was made by Counsel Assisting.*
- c) *It is striking that, while wrongly attributing "conspiracy theories" to Counsel Assisting, Mr Willing himself blatantly asserted that Ms Young, DS Brown and Ms Alberici were involved in a "covert and sophisticated plan", notwithstanding that none of those persons had been afforded, by Mr Willing, any opportunity to*

respond to such allegations. Reference is made to WS [43]-[45], and to the oral submissions on behalf of Mr Willing on 21 June 2023.

...

51. The submissions of Mr Willing must be responded to on behalf of DCI Young. He asserted in submissions that:

- 4 *While it cannot be doubted that Pamela Young conducted a detailed investigation, it was clear that over time she lost all objectivity. It is clear that she came to believe that the Johnson family had received preferential treatment. And, rightly or wrongly, she formed the view that the Johnson family had received that treatment by reason of the family's wealth and connections, which other grieving families did not have.*
- 5 *This loss of objectivity caused Ms Young to devise and execute a strategy to publicly air her grievances. Ms Young knew that she needed an ally, and she chose her offside, Ms Brown, to assist her. Ms Young and Ms Brown then deliberately concealed their plan from everyone at NSW Police, including Mr Willing.*
- 6 *The evidence demonstrates that Ms Young did not disclose prior to 13 April what she had been planning with the ABC. And she had been making those plans for months. Her strategy involved a high-profile program with a hand-picked journalist she trusted. She knew that what she had told Emma Alberici prior to 13 April was explosive. Indeed, she was accusing the Police Minister himself of inappropriate conduct and was accusing the Johnson family of buying access and influence to jump the queue.*
- 7 *Ms Young kept her strategy secret to avoid NSW Police taking steps to stop the interview going to air. She knew that her planned interview required approval from NSW Police, and she knew that NSW Police would never have approved what she wanted to say had she disclosed her intentions. She also knew that a studio interview would have mandated the presence of a media liaison officer (MLO), including for all the meetings in advance of the interview.*
- 8 *Revealing her true intentions would have undermined everything Ms Young sought to achieve. From her perspective, if she was unable to air her grievances publicly the Johnson family would have "won".*
- 9 *The above matters are incontrovertible.*

- 10 *Having regard to those matters, it would be completely illogical for Ms Young to have taken active steps to conceal her intention to do a sit-down studio interview, in breach of police approvals and protocol, for months, and yet disclose the critical event to Mr Willing prior to giving that interview or prior to the interview going to air.*
- 11 *She needed to ensure that no one other than Ms Brown was aware of the studio interview until the program went to air. She knew that any senior officer who knew about the studio interview in advance would have been obliged to inform the NSW Police media unit and that NSW Police would have taken steps to stop the interview being broadcast.*
- 12 *Ultimately, Ms Young succeeded. The interview went to air. Georgina Wells was left 'speechless'. Mr Willing was shocked and angry. And Georgina Wells' reaction as revealed in her interview with Ashurst¹ is an important contemporaneous record of what actually occurred. In fact, Ms Wells told Ashurst that she had expected an interview involving quick grabs or snippets, statements consistent with the media release and did not expect an in studio interview. Quite properly, it has not been suggested that Ms Wells lied in her Ashurst interview.*
- 13 *Yet Counsel Assisting's Submissions (CAS) asks the Commission to disbelieve Mr Willing's direct evidence and to infer that Ms Young was prepared to, and did in fact, reveal her plan to him before the interview went to air, jeopardising a calculated strategy which she had planned and executed for months. This inference cannot be drawn in light of the evidence adduced before this Commission.*
52. In the light of the evidence provided to the Commission in the present hearings these submissions must be seen to be designed to mislead, at least in relation to the Media Strategy. CA has highlighted in its supplement resubmissions the implausibility of any conspiracy between Ms Young and DS Brown and Ms Alberici especially in the context of the evidence in the recent hearings.
53. We respectfully agree with CA's assessment of the honesty and reliability of both DS Brown and Ms Alberici.
54. As is submitted below, the involvement of Lateline, or alternatively the television program Four Corners, was known to Police Media, to Mr Willing and to senior officers up to the level of DCOP Kaldas and probably DCOP Burn. The response to Ms Young's appearance was initially said to be 'relaxed' and as is made clear in the evidence as at no time was she admonished or challenged for appearing without

authorisation. This alone raises questions about the accuracy, at the very least, of the recollections of Mr Willing, of Ms Wells and, by his recent recantation, Mr Gordon.

The further hearing of evidence

55. In response to those criticisms and challenges to the arguments of CA, it appears that the Commission of inquiry obtained an extension to its term and embarked on the present evidence and hearings.

56. CA told the Commission on its resumption of Public Hearing 2 on 21 September:¹⁵

In those same reply submissions of 28 June, the NSW Police Force and Mr Willing also raised another contention, also for the first time, which is the one that has led to today's resumption of Public Hearing 2. That contention was that the Inquiry should have, but had not, obtained evidence from a total of more than 50 other individuals, nearly all of them current or former police officers or staff, and that the evidence of all those people was, so it was said, essential for various reasons. Again, it was asserted that as a consequence various findings or conclusions could not be made.

In some respects, the submissions went so far as to assert that the absence of evidence or submissions from such individuals amounted to a failure of procedural fairness.

The scale of the argument now advanced by the police and to a lesser extent, by Mr Willing, is, on one view very large indeed.

Submissions of Ms Young

57. These submissions address the matters at issue under the broad headings set out hereunder:

The Unsolved Homicide Team [UHT]

58. The unsolved homicide team was established for the investigation of cold cases or historical matters. Ms Young's involvement was:¹⁶

¹⁵ T5770.

¹⁶ Exhibit 6 Tab 521 at [20].

20 *In November or December 2012, I asked Michael Willing if I could go to the Unsolved Homicide Unit (UHT) for a break from on-call. In January 2013 I moved from the Homicide Squad on call teams and commenced in the Homicide Squad UHT. Michael Willing put me in charge of UHT Operations which meant I was responsible for all UHT reinvestigations. UHT reinvestigations. In 2013, I had a metropolitan investigation staff of 22 positions and a regional investigations staff of 12 positions. Positions were routinely vacant. By 2015 the UHT had been restructured into a centralised Sydney agency with an investigation staff of 30 positions. In 2015 recruitment was underway so not all the remodelled positions were filled. At any one time there were more than 30 reinvestigations underway, and at various stages of progress from single officer through to full team operations.*

59. Ms Young worked with DCI Lehmann, who oversaw UHT Review and maintained the *UHT Tracking File of Reported Homicides and Suspicious Missing Persons in NSW*.
60. The system involved reviewing cases chronologically and assessing the quantitative merits of a case for reinvestigation by evaluating the currency of investigation and coronial records, exhibits, civilian witnesses, police witnesses, suspects, and next of kin. The completed *Case Screening Form* was reviewed by a UHT Inspector, who would determine a high, medium, low or negligible solvability rating. The solvability was entered into the *Tracking File* and Eaglei, the NSWPF information management system, under the reference, *Strike Force Palace*. Cases with high and medium solvability ratings were referred to UHT Operations for reinvestigation.
61. It was in this rigorous and methodical context that the Johnson matter came to be assessed, until it was accelerated as noted by Ms Young in her evidence:¹⁷

THE COMMENCEMENT OF STRIKE FORCE MACNAMIR

25 *The first time that I heard about the Scott Johnson case was on 7 February 2013 at 7.56am from an email sent by acting Homicide Squad Commander, Chris Olen, to the line manager Director, State Crime Command (SCC), Chief Superintendent Peter Cotter. The email refers, inter alia, to the recent contact by the office of the Minister for Police and Emergency Services (Ministry) with Michael Willing, the Ministry agreeing to meet the Johnson family/representative*

¹⁷ Exhibit 6 Tab 521 at [25] – [31].

- "next week", a request that Homicide Squad executive attend, and the coverage on ABC Australian Story on 11 February 2013. It concludes that Chris Olen, in consultation with Michael Willing, have decided that UHT investigators will "investigate issues raised by the (Johnson) family." The email is copied to Michael Willing and me. This is part of Exhibit-6-Tab-312-NPL.3000.0016.0014.
- 26 On 7 February 2013 at 12.24pm Chris Olen emails the Executive Assistant to the Commander, SCC and refers to direct interest in the case from the Ministry and Manager Secretariat in the Police Commissioner's office. The email is copied to Michael Willing and the entire SCC executive. Annexed hereto and marked "PY2" is a copy of that email.
- 27 On 7 February 2013 at 9.49am I sent an email to Chris Olen, Michael Willing and Director, Peter Cotter, objecting to the Johnson case being given priority over other unsolved cases. I had by this time read the 16-page letter from the Johnson team that is referred to in the email of 7.56am along with Strike Force Palace records. Annexed hereto and marked "PY3" is a copy of that email.
- 28 On 7 February 2013 at 2.52pm Chris Olen responds to my email telling me the reasons why a review of the latest material from the Johnson team is necessary, terms of the expectations of police minister, and the Johnson team being, inter alia, "well resourced". He misquotes what UHT Coordinator, John Lehmann, will say in Australian Story on 11 February 2013. He copied the email to Michael Willing and Director, Detective Superintendent Peter Cotter. Annexed hereto and marked "PY4" is a copy of that email.
- 29 On 8 February 2013 at 9.51am Chris Olen is informed that the meeting between the Minister and the Johnson team is on 12 February 2013 at 5pm. On 12 February 2013 Chris Olen emails me the address of the meeting, being Office of the Hon. Michael Gallacher (Minister), 1 Farrer Place, Sydney. Annexed hereto and marked "PY5" is a copy of that email.
- 30 On 8 February 2013 at 11.12am, SCC Media Liaison sent an email to Chris Olen, inter alia, telling him that the Johnson team have invited the NSWPF to take part in a media event on 12 February 2013 and that the Minister will meet with them after that event. The SCC executive and the Media Unit and Public Affairs Branch executives are among those copied into the email. At 1.13pm I email my thoughts to Chris Olen, and I receive a reply. Annexed hereto and marked "PY6" is a copy of that email exchange.
- 31 On 11 February 2013 at 12.26pm, the reinvestigation into the death of Scott Johnson was created in the NSWPF information management system, Eaglei, as Strike Force Macnamir by the State Crime Command business unit. It records the purpose is, "To re-investigate the

circumstances of the death of Scott Johnson whose body was found at North Head Manly on the 10th (of) December 1988, with particular reference to information provided by the family of Scott Johnson on 9 January 2013."

62. In 2014/15 the UHT was significantly under resourced, and indeed its very existence was under threat. In opening the September 2023 hearings in this Commission CA observed:¹⁸

One internal police document in recent years estimated that if the Unsolved Homicide Team continued to review cases at its then current rate, it would take 900 years for existing cases to be reviewed.

63. This is not a criticism of the capacity of the investigators, but rather of the resources allocated to the UHT. The following evidence of those limited resources was obtained from Mr Willing and summarised by CA in their June Submissions:

308 *At the time of his appointment, the Homicide Squad consisted of around 100 staff members, divided into six investigation response teams (each led by an Investigation Coordinator of Detective Chief Inspector/Inspector rank), an intelligence team (led by an Inspector), and the UHT (led by two Investigation Coordinators of Detective Chief Inspector/Inspector rank).*

...

310 *Mr Willing's evidence was that, at any given time during his tenure as Commander, these teams had "carriage of between 60-80 active investigations". There were "over 700 unsolved cases on [the] UHT database". He described his role as Commander as being "to lead, manage and oversee the activities of the squad and its members".¹ In relation to particular strike force investigations, his involvement was "to ensure they were adequately resourced, that investigators were adequately supported, and generally reviewing progress of investigations..."*

64. Much criticism can be properly directed at this evidence of Mr Willing. While he recognised that the UHT had significant resourcing limitations his evidence did not address the real limitations under which the Team operated. That evidence was later to be adduced from Mr Lehmann. In summary the UHT had few, albeit skilled,

¹⁸ T5766.

investigators and an enormous case load of matters to evaluate and investigate. In addition it faced the threat of closure from the then Commissioner, Mr Scipione. As well its staff was always subject to recall to immediate duty for current investigations often for periods of months at a time.

65. Even when it enjoyed the luxury of available investigators its work was hampered by the poor record keeping that obtained within the NSWPF and in individual PAC's with regard to the storage and retention of exhibits and forensic materials.
66. The result was that prioritising investigations to those that were assessed to be solvable on the material available to the team was essential to its work and continued existence. It was necessary to assess and scale the work by reference to achievable outcomes.
67. CA formed the view based on the material in June that:

318 Accordingly, it is submitted that Mr Willing's evidence that the 2012 UHT review was correct "at the time", in rating Scott Johnson's case as having zero solvability, should be rejected.

68. With respect to CA that view is clearly wrong in fact as later events established. It was only as late as 2019 that an offender was identified as the killer of Scott Johnson and that occurred in the context of information provided for reward, not as the result of information available at an earlier time.
69. In this regard the evidence of DS Taylor is relevant, but needs to be considered in its context. Her recommendation has been seized upon by CA as suggestive of some impropriety in the operation of the UHT. It is not open to such a construction.
70. The actual events were as follows. On 27 June 2012, Coroner Forbes returned an open finding in the second Scott Johnson inquest, and referred the matter to "Cold Cases". Subsequently the UHT gave the case a "zero solvability" rating which was produced to the Inquiry by the NSWPF in August and September 2023. The rating was arrived at by the examination by senior officers of a "Case Screening Form" completed by then DSC Taylor (first produced to the Inquiry by the NSWPF, undated

and unsigned, on the morning of DS Taylor's oral evidence on 25 September 2023;¹⁹ and a "Review Prioritisation Form" dated 2 November 2012 conducted by Mr Lehmann, DS Richardson, DS Brown and DSC Tse.²⁰

71. The evidence of DS Taylor was that as review officer the screening form was followed with a prioritisation review by more senior officers.
72. In her Case Screening Form, DS Taylor made recommendations that included giving consideration both to a monetary reward, and also to undertaking:

an investigation targeting known persons of interest who have been charged with offences against homosexuals in the Northern Beaches area over the period of Scott Johnson's death which may produce further lines of inquiry and enable covert opportunities to gather information.

73. CA drew attention to the agreement of DS Brown with those recommendations²¹ and in their supplementary submissions stated:

142. *Nevertheless, in the subsequent Review Prioritisation Form, Mr Lehmann and his colleagues (including DS Brown) gave the case "nil priority". The case was scored as 14 out of a possible 60 points. According to the form, a score of 15 or less equated to "nil priority", which term was described on the form as leading to the consequence of "close or suspend case".*

143. *As Mr Lehmann accepted, the structure of the Review Prioritisation Form was such that where there was not already a known suspect, and where there was no physical evidence which might be susceptible to the utilisation of new technology, the scores for both those parts of the form would necessarily be zero (out of a total of a possible 30). In such a case – of which Scott Johnson's was one – it was impossible for the case to achieve a priority ranking higher than 30, and hence the priority for such a case would be unlikely to be better than "low".*

144. *Pausing there, as is now apparent, the categorisation of the case by the UHT in November 2012 was not "zero solvability" but rather, "nil priority". Plainly the two expressions do not have*

¹⁹ Exhibit 6 Tab 399A.

²⁰ Exhibit 6 Tab 399.

²¹ T6478.

an identical meaning. However, the evidence of both Mr Lehmann and Ms Young was to the effect that in practice they were regarded as substantially similar.

145. *As to whether a "nil priority" ranking meant that a case would be "closed or suspended" (as the form indicated), each of Mr Lehmann, DS Brown, and Ms Young gave evidence that "unsolved" cases were never literally "closed". Mr Lehmann said that "closed" was "a poor word choice", and that the reality was that the case "would become an inactive case and probably wouldn't be proactively investigated any time soon". Ms Young said that if a case was categorised as "nil priority", it would be suspended, which she agreed meant that no work would be done on it unless and until a new piece of information was obtained.*

74. The matter properly weighed and absent the importuning and influence of the Johnson family, or "team" had been accurately assessed as having little to no prospect of successful solution. As has been noted above, it was not until a very large reward was offered and not then until 2019 that information was forthcoming that led to a successful prosecution. Neither 'further lines of inquiry' nor 'covert opportunities' were involved in that outcome. The decision and assessment of Mr Lehmann and the UHT were correct.

75. In the context of the time of SF Macnamir and the circumstances of the UHT, Ms Young's evidence correctly set out the position. CA's June submissions noted:

325 *DCI Young replied to DAS Olen's email, saying that she wanted to "put on the record" that "the decision not to proceed with further active investigation was based on two reviews conducted by the likes of Mick Ashwood, Gary Jubelin and Glen Richardson in addition to John Lehmann".' (emphasis added)*

326 *DAS Olen's response included the following:*

What you are going to say to the Minister and the family next week after John Lehmann in his soon to be broadcast National and (International USA) interview in which he has indicated 'the case is open and a team is working on it.'

76. This suggests that DCI Young was right to be concerned about the effect that adverse media attention was having on the work of the UHT and on the reputation of the NSWPF generally.

77. It also reveals the degree to which the COP and the command structure of the NSWPF was aware of the political influence of the Johnson team. This provides a context for the media strategy and the Lateline interview. More importantly it shows the reasoning behind the decision to establish a strike force, SF Macnamir, in anticipation of the ministerial meeting. So far from suggesting Ms Young was in error in her conclusions this email correspondence with Mr Olen confirms that she was correct in her beliefs.

78. CA's June submissions then noted:

327 *Mr Willing was asked about the apparent inconsistency between the message which DCI Lehmann was about to communicate publicly about Scott Johnson's case being "open", and the fact that an internal decision had actually been made not to investigate the death further. Mr Willing said he did not see and could not recall DCI Lehmann's interview on Australian Story; but he accepted that it was "false" for DCI Lehmann to have publicly declared the case was "open" when he had in fact participated in the decision to assign the case zero solvability and not to investigate it further.'*

328 *That evidence was subsequently qualified, when the precise words used by DCI Lehmann on Australian Story were shown to Mr Willing. He then expressed the position this way: that what DCI Lehmann had said on Australian Story (namely, "Certainly we haven't closed the books on this case, it's an open case") was literally not untrue.*

...

552 *Later in 2012, the deaths of Mr Warren, Mr Russell and Mr Mattaini were examined by DSC Alicia Taylor of the UHT. In a document entitled 'Review of an Unsolved Homicide Case Screening Form' prepared by DSC Taylor and dated 25 October 2012, DSC Taylor stated that, "The investigation into the death of Ross Warren, John Russell and Gilles Mattaini was meticulously undertaken by an experienced investigator, Detective Sergeant Page." In that same document, DSC Taylor recommended that an opportunity existed, given the passage of time, to engage persons of interest via an undercover operation in relation to the murders of Mr Russell and Mr Warren.'*

...

617 *In his oral evidence, AC Crandell explained what he meant by "the connection between Parrabell and the Unsolved Homicide Team":*

Well, the Unsolved Homicide Team are responsible for unsolved homicides, so there is a connection between Parrabell and the Unsolved Homicide Team, and so really, in my view, Commander Willing should have been involved in processes of review to understand- particularly in unsolved matters, to understand whether there was any progress or not.

618 *However, AC Crandell was unable to identify any example in which anybody from the UHT was asked about any particular case or the classification of that case by SF Parrabell.'*

79. The 2012 UHT case screening review was the subject of extensive and careful submissions by the COP, detailing much of the material contained in the foregoing submissions, COP submissions included:

91 *Mr Willing was the Commander of the Homicide Squad at NSWPF between November 2011 and April 2017, and gave evidence before the Inquiry over several days.*

92 *Mr Willing confirmed that following the second inquest into the Johnson matter, in late 2012 a prioritised case screening review was conducted by the Unsolved Homicide Team (UHT) in which it rated the "solvability" of the case as zero.*

93 *Such a rating did not mean the case could never and would never be solved. A presently unsolvable case may be solved by an unexpected tip-off, as ultimately occurred in the Johnson matter. But in order to charge someone with murder or manslaughter, police require credible evidence. The Director of Public Prosecutions then needs to be satisfied there are reasonable prospects of conviction.*

a) *such reviews were conducted regularly, as part of the normal business practices of the UHT;*

b) *Mr Willing gave unchallenged evidence that as Commander of the Homicide Squad, the teams for which he had responsibility had carriage of 60-80 active investigations, with over 700 unsolved cases on the UHT database; and*

- c) *Mr Willing's role was that of an overarching supervisor, and involved ensuring adequate resourcing of strike forces, that investigators were adequately supported, and generally reviewing the progress of investigations in accordance with internal reporting processes and protocols.*

80. As has been observed in [74] above the limited resourcing of the UHT was a very relevant consideration for determining which matters were appropriate for reinvestigation, applying equitable principles to case selection as determined only in part by "achievable outcomes". The screening review was designed to assist that process.

81. Mr Willing's actual evidence was to the following effect:²²

The comment about it being on the books as an open case is quite true with Unsolved Homicide matters; they sit there and if something changes – they are never really closed.

...

Yes. All right. So literally it's not untrue?

In the context of that paragraph and what he's saying there around it being an open case, because that's what unsolved homicides are, that's not an untrue statement.

82. CA argued that Mr Willing agreed that if the statement "conveyed the impression" that the UHT were actively working on the case, "that's not right". The COP submitted that such an "impression" represents a strained interpretation of the words spoken by DCI Lehmann and should not be accepted. The evidence from DCI Lehmann now before the Commission confirms the propriety of Mr Willing's answers on this topic at least.

83. The Inquiry has repeatedly been informed that a very substantial number of deaths fall within the purview of the UHT. The years following the UHT's inception were

²² T1753.22-29; T1753.41-44.

necessarily spent reviewing cases and attempting to ascertain where scarce resources could best be deployed.

84. It was in that context that the review described as the 2013 Issue Paper²³ was created.

The 2013 Issue paper

85. In 2013 DCI Lehmann and DCI Young conducted an assessment of 30 'gay hate' related unsolved homicide cases from a list provided by Ms Thompson to determine if any bias motivation existed.²⁴

86. John Lehmann provided the following background in relation to the creation of the Issue Paper:

The report was the culmination of examining documents on file, mainly at the Coroner's Office. Many of these cases were not on file amongst the list of unsolved homicides held at the UHT. This indicated to me that those cases had not been previously investigated by the Homicide Squad or had not been referred to the Homicide Squad for investigation by the Coroner, after Inquest. There is no doubt that these deaths were unnatural or violent but we did not find evidence in those documents on file, that all of the cases were definitely homicides or linked to gay hate crimes. I recall that my report indicated that in about 8 of the 30 cases, I considered those to be 'possible' or 'probable' homicides.²⁵

87. John Lehman gave evidence that the Issue Paper was written by him²⁶ but he assessed the 30 cases with Ms Young.²⁷ This was confirmed by Ms Young who gave evidence that:

I contributed to the commentary on some of the deaths that John Lehmann then constructed into the report you see today. I did not write the report. I did not look over his shoulder. I'm not even sure if I read it once it was finished.²⁸

²³ Exhibit 6 Tab 47.

²⁴ Exhibit 6 Tab 47.

²⁵ Exhibit 6 Tab 513 at [32].

²⁶ T6020.30-35.

²⁷ T6021.42-44.

²⁸ T6657.14-18.

88. It was John Lehmann who wrote in the Issue Paper that 30 gay hate related unsolved murders was a gross exaggeration,²⁹ and it was irresponsible journalism bordering on sensationalism.³⁰ Ms Young gave evidence that she disagreed with the use of the adjective "gross".³¹ Ms Young was never asked whether she agreed with the statement that it was irresponsible journalism bordering on sensationalism.

89. The Issue Paper contains the following summary:

From the list of 30 'Likely NSW Gay Hate Murders' as provided by Ms Thompson the following can be gleaned:

- *27 cases from the list were reviewed.*
- *2 cases were in fact found to be solved*
- *1 case was reviewed in addition after being identified as 'unsolved' (Swaczak) despite not appearing on the original list of 30 unsolved cases.*
- *4 cases (Williams, Shiel, Rudney and Payne) could not be found after searches of police archived records and the records from the Coroner's Court Registry. This would suggest that those cases were probably not homicides or suspicious deaths. Consultation will be made with Ms Thompson to ascertain the origin of her information about these cases.*
- *7 cases were found not to be homicides but rather, the probable cause of death was suicide or misadventure or unknown.*
- *12 cases were homicides without evidence of 'gay hate' bias but rather, other motives existed for example, robbery or domestic type murders.*
- *Only 8 cases from 30 were probable or possible 'gay hate' motivated murders and these are on file at the Unsolved Homicide Team with consideration for future investigation.*

90. In relation to the death of Scott Johnson the Issue Paper records:

Strike Force Macnamir is nearing finality and a comprehensive report will be submitted by Detective Chief Inspector Young when it is completed however, at this late stage of the investigation there is no indication that the deceased was subjected to 'gay hate' motivated violence causing his death or in any case, that he was murdered.

²⁹ T6024.1-4.

³⁰ T6024.6-8.

³¹ T6659.11-22.

91. John Lehmann in his statement stated:

*In the review of the Scott Johnson case by the UHT -- no brief of evidence from prior investigations was found. No physical evidence was found. No witnesses were identified. No suspects were identified. Scientific re-examination of a crime scene was not viable. I was not the only senior detective involved in different reviews of the death of Scott Johnson. Other reviews conducted, resulted in a similar determination to the review I was involved with.*³²

92. Ms Young gave evidence that she wasn't sure why John Lehmann described Strike Force Macnamir as "well advanced" or "nearing completion as we weren't anywhere near finished."³³

93. The Issue Paper was not discussed with other members of the UHT.³⁴ It follows that there is no factual basis for the submission of counsel assisting that: "the strongly expressed views of DCI Lehmann and DCI Young, in the Lehmann/Young Issue Paper of 25 September 2013,⁴⁵¹ endorsed as they were in January 2014 by Mr Willing as overall Homicide Commander, cannot have failed to influence and/or reflect the views of the members of the UHT generally."³⁵

94. John Lehmann gave evidence that the Issue Paper was a genuine reflection of the views he held at the time it was written.³⁶

95. There is no evidence that what is recorded in the Issue Paper was anything other than the genuine views of John Lehmann and Ms Young arising from their review of the material. There is no basis to assert that the views expressed in it were not reasonably based.

96. There is no evidence that either John Lehmann or Ms Young attempted to minimise gay hate crimes.

³² Exhibit 6 Tab 513 at [13].

³³ T6659.5-9.

³⁴ Evidence of Young T6659.35-37.

³⁵ Submissions of counsel assisting at [362(b)].

³⁶ T6105.45-47.

97. This Commission has now investigated 25 of the 30 cases referred to in the Issue Paper. Putting aside the 4 cases where John Lehmann and Ms Young could not locate records (Williams, Shiel, Rudney and Payne) there is only 1 case (Hughes) where counsel assisting disagrees. In other words counsel assisting has found that 9 (rather than 8) of the 25 cases that it has considered were possibly or probably gay hate crimes. The case of Scott Johnson is assigned to the remaining cases. In relation to that case the Supreme Court has in two separate judgments declined to determine that this death was a gay hate crime.³⁷ This is consistent with and confirmatory of the findings of John Lehmann and Ms Young.

98. In that regard it is useful to refer to the following extract from the judgment of Beech-Jones CJ in the Supreme Court proceedings against Scott White:³⁸

18 ... While they were walking, the offender made various comments, including that he had met Dr Johnson at the Brighton Hotel in Manly, that he remembered "comin up' here with him... talking" and that Dr Johnson took his clothes off. The agreed facts note, that at that point, the offender became "emotional".

19 The offender and the witnesses walked until they reached the upper Shelley Headland lookout. The offender nominated that area as the spot where Dr Johnson fell, although he said he was unsure. The offender was recorded telling the witnesses that he was there for hours and that he could not recall whether he was intimate with Dr Johnson. The offender said, "I think we had a fight. That's all I can remember... he fell. I took off. Went home, back down to Manly." The offender demonstrated where he and Dr Johnson were standing at the lookout. The offender said, "I hit him. He hit me. He stumbled back. I went to grab him and he... just stumbled back". The offender said he could not recall what the fight was about. The offender then said, "[I]ike I said, I hit him. He stumbled back, I went to grab and that was it. But I don't know if this was the area or not".

99. There is no factual basis to support the submission of CA that Ms Young and Mr Lehmann had "strong views about the extent of gay hate homicides in the 1970s, 1980s and 1990s (including that the death of Scott Johnson was not a "probable" or even "possible" example) or that such views had been expressed clearly in the

³⁷ *R v White (No 2)* [2022] NSWSC 65 at [75] – [77]; and *R v White* [2023] NSWSC 611 at [30] - [31], [45].

³⁸ *R v White* [2023] NSWSC 611

Lehmann/Young Issue Paper of 25 September 2013.”³⁹ Any opinions that may have been held by Ms Young were evidence based and resulted from her thorough and detailed investigations. No evidence of bias is demonstrated in a careful examination of the death of Scott Johnson in her very long statement.⁴⁰

The Conduct of SF Macnamir

100. CA remains critical of SF Macnamir and of Ms Young, submitting that so far from adopting an unbiased approach, she was committed to the ‘suicide’ theory in her investigation of Scott Johnson’s death. This it is submitted is both wrong and unfair.

101. The source of the criticism appears to be the view taken by CA of the Coronial statement, in particular the opinion offered in the last 15 pages. Ms Young was not directly challenged about that in her evidence, but she dealt with this complaint in her September 2023 Statement to the Inquiry.⁴¹ In that she had said:

50. *It is routine that the lead investigator of a matter in the coronial jurisdiction provide a written statement as part of a brief of evidence for a Coronial Inquest. At the police academy I was taught to include at the end of a coronial statement what I thought had happened, based on the information and evidence obtained during the investigation. When I commenced at the Homicide Squad North West Region in 1995, I followed the practice of my mentor, Detective Sergeant Russell Oxford, and used the heading “Opinion” for this purpose. I have always understood an “opinion” to be one’s belief that is not based on absolute certainty. I have always understood and have seen it in practise where a Coroner will put aside an expressed opinion in part or in whole.*

51. *I included the title “Opinion” at paragraph 2875 in the first of my four coronial statements in this matter and give my opinion on the three ‘heads’ of possible cause of death, being suicide, homicide, misadventure.*

52. *Two other related examples of this ‘opinion’ practice are:*

³⁹ Submissions of counsel assisting at [345], [362].

⁴⁰ Exhibit 6 Tab 252F.

⁴¹ Exhibit 6 Tab 521.

- a. *“opinion” in the coronial statement of (then) Detective Sergeant Doreen Cruickshank dated 7 March 1989, for the first Inquest into the death of Scott Johnson.*
- b. *“Conclusions” in the coronial statement of (then) Detective Sergeant Stephen Page dated 25 July 2002, for the 2005 Inquests into the deaths of Mr John Russell, Mr Ross Warren, and Mr Gilles Mattaini (“Operation Taradale”)*

53 *In statement 1 (Exhibit 6 Tab 252F SCOI.83088), at paragraph 49 to 55 inclusive, I record the commencement of Strike Force Macnamir in abridged terms which included the Minister. I left out details not relevant to my primary responsibility in the statement which is to assist the State Coroner to determine the date, manner, and cause of Scott Johnson’s death.*

102. This remains her unchallenged evidence. It is also consistent with the Coronial statement itself and with her record and reputation as a thorough and independent investigator. That reputation was based on her experience over 17 years as a homicide detective, during which extraordinary service she had responded to approximately 1000 suspicious deaths and was directly responsible for over 300 criminal and coronial investigations.
103. She was as well the author or joint author of NSWPF manuals and course materials relative to major crime investigation, including the Homicide Course and the Detective Training Course and from 1999 to 2010 lectured and assessed the Homicide Course, Detective Education Program, Plain Clothes Investigators Course, and Local Area Command courses, in areas of crime scene preservation, investigation techniques, information management and leadership.
104. In 1992 Ms Young was commended for *“devotion to duty”* for assisting the serial bias crime investigation by the North Shore Murders Task Force for which John Wayne Glover was convicted and in 1997 was chosen to review the suspected bias murder of Mr Trevor Parkin and later of Mr Bernd Lehmann, in 2008.
105. In 1998 Ms Young had been 2IC of the investigations into the serial gay hate murders and mutilations of Frank Arkell and David O’Hearn, for which Mark Valera

was convicted. In 1999 she was the officer in charge of the bias murder of Brendan McGovern for which a youth was convicted.

106. All of these are inconsistent with the suggestion that she was somehow motivated to minimise or had a bias against treating any crime as a gay hate crime per se. the fact is that she exercised clear and highly skilled professional judgment when assessing criminal conduct. That judgement had led to her successfully leading major 'Cold cases' to conviction, including in the years between 2013 and 2015 the 1990 double murder of Mr Michael Chye and Ms Rita Caleo, and the 1980-1985 'Family Court murders' by Leonard Warwick, who was convicted of three murders and four bombings.
107. To suggest that because she was offended by the conduct of the Minister and the influence of the Johnson 'team' she altered the investigatory practices of nearly 2 decades is frankly unfair and offensive. It is also, as has already been addressed, inconsistent with the detail revealed in the Coronial statement.
108. In order to understand SF Macnamir it is necessary to look at the circumstances surrounding its establishment.
109. These have been made clear in the statement of Ms Young provided to the Commission on the 22nd of September 2023.⁴²
110. As early as February 2013 it appears that Mr Willing together with Mr Olen had decided that the UHT was to be directed to investigate issues raised by the Johnson family in relation to the death of Scott Johnson;⁴³ that decision was actioned by email sent by Mr Olen, referring to the direct interest of the Minister for Police, Mr Gallacher, on 7 February 2013.
111. Ms Young informed this Commission that the first time that she became aware of the Scott Johnson case was on 7 February 2013 when at 7.56am she was copied

⁴² Exhibit 6 Tab 521.

⁴³ Exhibit 6 Tab 312.

into an email⁴⁴ from the acting Homicide Squad Commander, Chris Olen, to the line manager Director, State Crime Command (SCC), Chief Superintendent Peter Cotter.

112. The email refers, inter alia, to the recent contact by the office of the Minister for Police and Emergency Services (Ministry) with Michael Willing, the Ministry agreeing to meet the Johnson family/representative “*next week*”, a request that Homicide Squad executive attend, and the coverage on ABC Australian Story on 11 February 2013. It concludes that Chris Olen, in consultation with Michael Willing, have decided that UHT investigators will “*investigate issues raised by the (Johnson) family.*”
113. At that very early stage Ms Young indicated her objection to prioritising the Johnson matter over other unsolved cases in accordance with the protocol which has been referred to above in other words of investigating matters with a higher probability of being solved and where records were available.
114. At this stage the direct interest of the minister is raised with Ms Young and reference is made to the “Johnson team” being well resourced. While it is for the Commission to construe this oblique reference the inference that some pressure or political influence was being brought to bear is inescapable.
115. Ms Young made her position quite clear in an email⁴⁵ which she sent to Mr Owen but was nevertheless informed on 8 February 2013 that she was to take part in a media event on 12 February 2013 and a subsequent ministerial meeting.
116. The day before that ministerial meeting took place state crime command established SF Macnamir to re investigate the circumstances of the death of Scott Johnson with particular reference to information provided by the family on 9 January 2013.
117. Objectively judged there were a number of irregularities associated with the establishment of this SF including ministerial expectation that the investigation be

⁴⁴ Exhibit 6 Tab 312.

⁴⁵ Exhibit 6 Tab 521 annexure PY6.

given priority the reference to information provided by the family and as well the abbreviation of the ordinary time for approval of a government reward for information.

118. In its submissions CA has used this fact to draw conclusions adverse to Ms Young's position. It is submitted that those conclusions are not available on the evidence.

119. What CA in its supplementary submissions contends is:

151 It is now clear from Ms Young's statement of 22 September 2023, and the emails and other documents cited in it, that:

- a. By about 7 February 2013, the NSWPF had come to the view that it needed to "investigate the issues raised by the [Johnson] family" for reasons which included an awareness that Australian Story would be broadcast on the following Monday night (11 February 2013);*
- b. According to Mr Olen, that decision (to investigate) was not because the NSWPF had "capitulated to the 'hype'";*
- c. SF Macnamir was created by the NSWPF, evidently in accordance with that decision, at 12:26pm on 11 February 2013, ie some hours before Australian Story went to air that night; and*
- d. The meeting with Minister Gallacher took place the following day, 12 February 2013, at about 5:00pm*

152 Thus SF Macnamir was created, by the NSWPF, more than 24 hours prior to the meeting involving Minister Gallacher.

153 That sequence of events may have some significance when consideration is given to Ms Young's description of the then-Minister as "kowtowing" to the Johnson family at the meeting. The decision to instigate SF Macnamir had been taken and implemented, by the NSWPF, prior to any meeting between the Minister and the Johnson family. [emphasis added].

120. This submission cannot stand when viewed against Ms Young's detailed evidence of the chronology of the relevant events, which is supported by objective material

and not conjecture. That evidence was that on 7 February 2013 at 12.24pm Chris Olen emailed the Executive Assistant to the Commander, SCC referring to the direct interest in the case that had already been expressed by the Ministry and Managerial Secretariat in the Police Commissioner's office. The email was copied to Michael Willing and the entire SCC executive. The email was annexed to her September statement as "**PY2**".

121. On the same day Ms Young sent an email "**PY3**" to Chris Olen, Michael Willing and Director, Peter Cotter, objecting to the Johnson case being given priority over other unsolved cases. Mr Olen responded to her email advising her that a review of the latest material from the Johnson team was necessary. That was couched in terms of the expectations of police minister, and the Johnson team being, inter alia, "*well resourced*". He copied this responsive email "**PY4**" to Michael Willing and to the Director, Detective Superintendent Peter Cotter.
122. The next event in this series of what might reasonably be seen to be overly sensitive responses by the NSWPF to ministerial pressure, was on 8 February 2013. DS Olen was informed that the meeting between the Minister and the Johnson team was to take place on 12 February 2013 at 5pm. On 12 February 2013 Chris Olen emails me the address of the meeting, being *Office of the Hon. Michael Gallacher (Minister), 1 Farrer Place, Sydney*. Annexed hereto and marked "**PY5**" is a copy of that email.
123. On 8 February 2013 at 11.12am, SCC Media Liaison sent an email to Chris Olen, inter alia, telling him that the Johnson team have invited the NSWPF to take part in a media event on 12 February 2013 and that the Minister will meet with them after that event. The SCC executive and the Media Unit and Public Affairs Branch executives were among those copied into the email. At 1.13pm Ms Young informed the Commander of her response. His reply is included in "**PY6**".
124. It was in that context that on 11 February 2013 at 12.26pm, the reinvestigation into the death of Scott Johnson was created in the NSWPF information management system, Eaglei, as *Strike Force Macnamir* by the State Crime Command business

unit. It records the purpose as, “*To re-investigate the circumstances of the death of Scott Johnson whose body was found at North Head Manly on the 10th (of) December 1988, with particular reference to information provided by the family of Scott Johnson on 9 January 2013.*”

125. While it is correct that the *decision to instigate SF Macnamir had been taken and implemented, by the NSWPF, prior to any meeting between the Minister and the Johnson family*, as CA submits, a consideration of the *whole transaction makes clear that that decision was made in the context of the influence of the Johnson family, in precisely the way Ms Young asserts.

126. Ms Young made a record of the formation of SF Macnamir on 15 February which was uploaded to eaglei and also prepared the initial strike force Macnamir investigation plan and uploaded it to Eaglei.⁴⁶

127. As Ms Young notes at paragraph 42 of her statement:

the net effect of everything since 6 April 2013 was to elevate to a full reinvestigation the death of Scott Johnson over other cases on the tracking file earmarked for re investigation including other bias crime cases UHT staff were reassigned as required.

128. As Ms Young pointed out in her evidence, which is accepted as truthful by CA:

65 *Due to the display I witnessed towards the Johnson team at the meeting on 12 February 2013, in the Homicide Squad office, I took to occasionally referring to the Minister as “kowtowing”, including in the presence of Michael Willing. I was never corrected.*

129. Ms Young acted as directed and with the assistance of DS Brown and other staff commenced a detailed and thorough investigation which resulted in her 445 page statement of July 2014.

130. Ms Young remained in position as the supervisor of SF Macnamir until 25 May 2015 when she was removed in circumstances of which the Commission is aware.

⁴⁶ A copy of that plan is Exhibit 6 Tab 7.

131. Strike Force Macnamir consisted of Ms Young, DS Brown and other members of the UHT who were recorded on the electronic case management system, [e@gle.i](#), as allocated to the Strike Force but who did not work on the investigation full time.⁴⁷

132. This apparent anomaly was explained by Mr Willing in oral evidence, to the effect that the longer list provided to the Inquiry by the OGC was a list from the [e@gle.i](#) database which included "a lot of resources on there that may not have actively played a part, but they are available, should they be required, as well."⁴⁸

133. Mr Willing went on to explain that:

"Those resources are a list covering virtually everyone in the Unsolved Homicide Team from my recollection, that are allocated, should they be required to conduct inquiries... it's not a point in time allocation. Those —you know, people can be added and taken off inquiries, you know, throughout the course of the conduct of those inquiries and decisions

...

the resourcing list can include anyone who may have reason to be involved in the strike force".⁴⁹

134. We agree with the submission made to the Inquiry that Mr Willing's evidence that there were some officers heavily involved in SF Macnamir, and others that were recorded as available resources on the [e@gle.i](#) system if required, is both entirely unsurprising in the context of the management of lengthy and evolving investigations, and consistent with his written statement tendered before the Inquiry. It is also consistent with the evidence of DS Morgan, who said that his name appeared on the list provided by the OGC because he had access to the [e@gle.i](#) system for SF Macnamir, and was a team leader within the UHT at the time, but confirmed he was never an active member of the investigation team. In the circumstances, nothing of note can be drawn from the mere fact that a particular officer was formally identified in the [e@gle.i](#) system as a member of SF Macnamir.

⁴⁷ CA June submissions at [335] - [339].

⁴⁸ T1658.3-7.

⁴⁹ T1659.1-7, 24-26.

The actual investigation

135. CA is critical of the conduct of SF Macnamir and what it has termed the 'suicide theory'.⁵⁰

136. In order to respond to this criticism it is necessary to set out the following extract from CA's supplementary submissions:

155 *Both Ms Young and DS Brown maintained that SF Macnamir, and in particular the Young coronial statement, merely assembled the available evidence in relation to all three possibilities (suicide, homicide or misadventure), rather than favouring the suicide theory or indicating that suicide was more likely. It is again submitted that, as a matter of objective analysis of that statement, that is simply not so. It is submitted that the real position, as Mr Willing acknowledged, was as set out at CAS [374]–[376] and [380]–[381].*

156 Ms Young was asked if she had "any regrets about the stance taken by Macnamir in resisting the Johnson family's attempts to establish that the death was a homicide" (emphasis added). Her answer was revealing (emphasis added):

No regrets. ... SF Macnamir did show that it was not likely to be a marauding gang gay hate crime, which is was what the Johnson campaign mainly focused on.

157 DS Brown gave a similar unprompted answer when asked a similar question. In acknowledging that Scott Johnson did die as result of homicide, DS Brown emphasised that "it's not a gay hate homicide".

158. It is submitted that those answers tend to support the submissions at CAS [354]–[359], as to both Ms Young and Mr Willing wishing to "defeat" the Johnson family by resisting a finding of homicide, particularly one of gay hate homicide.

159. In that regard, Ms Young denied that the language in her text exchanges with Mr Willing on 14 April 2015 (the day after the Lateline broadcast), in which they both emphasised their determination not to "let them [the Johnsons] win", reflected a desire to defeat the Johnsons. It is submitted that her denial is implausible and should be rejected. The submissions at CAS [354]–[359] are reiterated.

⁵⁰ CA June submissions at [336] – [338] and CA supplementary submissions at [154] – [162].

137. In its primary submissions at [502] CA argued that for the period between February 2013 and November 2017 the unchanging and inflexible view held and propounded by SF Macnamir was that Scott Johnson's death was a suicide. In the light of the evidence that has been given by Ms Young, DS Brown, Mr Lehman and the proper analysis of the content of the investigative material it is submitted on behalf of Ms Young that that proposition cannot stand.
138. Moreover, the submissions of CA eliding the 'determination not to let the Johnson family win' and the submission that the UHT was 'resisting a finding of homicide' is neither logical nor consistent with the evidence.
139. It would be less than just to the reputation of Ms Young not to critically re-examine the intense unremitting and improper pressure brought to bear on, and interfering with, her investigation by the Johnson team, both directly and indirectly.
140. The Inquiry's attention has already been drawn to the political influence brought to bear on the activities of the UHT through the office of the Minister of Police and Emergency Services [MPES], the State Crime Command and Police media liaison, above.
141. In addition to those improper pressures, the investigation into the death was impeded at every turn by the conduct of the Johnson family. As Ms Young's statement reveals, from its inception on 6 February 2013 to the conclusion of my role in strike force Macnamir on 25 May 2015 (and beyond), the environment in which the investigation was conducted was extraordinary.
142. The Johnson, team was comprised of Rebecca Johnson (stepsister), Dan Glick (journalist), Sue Thompsen (inaugural Gay and Lesbian Liaison Officer), Stephen Thomsen (academic), Stephen Page (retired Detective Sergeant), Rick Feneley (journalist) and Duncan McNab (retired Detective Sergeant). An examination of the emails, media quotes and conversations over the life of the investigation demonstrates conclusively the Johnson team had direct access to Homicide Commander Willing, State Crime Command Commander Jenkins, Commissioner of

Police Fuller, and Police and Emergency Service Minister Gallacher, and his staffers.

143. Ms Young disclosed to the Inquiry in her September 2023 Statement that more than 17 years in the NSWPF Homicide Squad she had never known a next of kin to be as successful at commanding direct and ongoing support from the NSWPF and the government. Deputy Commissioner Kaldas expressed as much in the text message he sent to DCI Young after she had appeared on Lateline in which he observed,

*“This happened because of the cowardice of Cath Burn, AS (Commissioner of Police Andrew Scipione) and Jenko (Assistant Commissioner Mark Jenkins) not going with u or supporting u as they should have. Gallacher has no morals whatsoever.”*⁵¹

144. Her view was reinforced by the fact that an application for a government reward that the UHT had submitted in November 2012 was expedited and signed by the police minister during the meeting of 12 February 2013. Reward applications routinely take a year from application to approval.
145. Whilst most of SF Macnamir’s contact was with Stephen Johnson, it received correspondence from each of his team during investigations. The Johnson team made many complaints about the conduct of police, including specific complaints about Ms Young, her team and the investigation. They made their complaints in emails (including directly to the police minister), the media, and phone calls.
146. On 6 March 2013, DSgt Brown, DSC Taylor and Ms Young had their first in-person meeting with the Johnson team after the meeting with the police minister. Stephen Johnson and Dan Glick had prepared a lengthy power point presentation but declined to disclose the names of various people they referred to as “sources” whilst at the same time expecting us the “springboard” off those sources into investigating the “suspects” those sources had named. This meeting was recorded in Eaglei. Within a short period of this meeting, Stephen Johnson made his first complaint about Ms Young.

⁵¹ Exhibit 6 Tab 521 at [68].

147. On 1 August 2013 the police minister called a meeting with Michael Willing and the NSW Crime Commission to review strike force Macnamir. No other NSWPF homicide investigation had ever been reviewed by the NSWCC. On 18 February 2014, the NSW Crime Commission recorded, inter alia, its findings that, "*the Commission considers that investigations have been comprehensive and thorough and has not identified any line of inquiry not already undertaken.*"⁵²
148. On 23 August 2013 Mr Willing DCI Young and the Johnson team had a phone meeting in which they complained in detail about Ms Young, and alleged a conspiracy between DCI John Lehmann and the 1988 police.
149. Mr Willing said, "*we feel like pawns in a political game*" and suggested they may want to complain to the Ombudsman. The allegations are referred to in a briefing note by Mr Willing to DCOP Kaldas dated 9 April 2015. "**PY12**" is a copy of a summary of that phone conversation. The briefing note is Exhibit-6-Tab-350A
150. On 4 September 2013 Ms Young received a further email from the Johnson team in which they suggested she perceived them as "*an adversary*". On 5 September 2013 Ms Young responded, attempting to address their various concerns. That email exchange is in no way adversarial, hostile or aggressive. "**PY13**"
151. Ms Young's final direct contact with the Johnson team occurred on 4 October 2013 when they reply to my email informing them of some of our inquiries and letting them know that I am taking annual leave. Stephen Johnson emails me, Michael Willing and the police minister, "*I am not sure why you believe you have any credibility left after your last reprehensible email to me (of 23 August 2013)*" Michael Willing emails DSgt Brown and myself that he will attend to this "*offensive*" email via the Deputy Commissioner of Police. "**PY14**" is a copy of that email exchange. I was never made aware of how this was dealt with or if it was dealt with at all.
152. The Johnson team lodged a complaint with the Ombudsman.

⁵² Exhibit 6 Tab 350A.

153. There was also considerable negative media promoting Stephen Johnson's views and complaints, commencing around 2007. The media noticeably increased from 2013 through 2017. All media misrepresented investigative facts. The content of most of the media could only have been supplied by Stephen Johnson. All the media in which Ms Young was named or was otherwise identified is critical and defamatory. This added to the extraordinary environment and was a dimension that Ms Young had not ever had to deal with before.
154. This continued harassment had the effect of both hindering the investigation and placing Ms Young under unrelenting and unfair pressure to adopt a point of view based on the assertions of the Johnson team, rather than the results of her investigation. In the circumstances it is unsurprising that she would have regarded the Johnson team as an impediment to the success of SSF Macnamir. The effect was to make Ms Young more determined to be thorough and exhaustive and to ensure as the NSWCC found, that her *investigations have been comprehensive and thorough and [it] has not identified any line of inquiry not already undertaken*.
155. No proper basis exists for criticism of the kind advanced by CA.

Taradale put to the test

156. In a further attack on the conduct of SF Macnamir, CA argues in its supplementary submissions at [161]-[162]:

161 Ms Young denied that she wanted to test the proposition that gangs had been involved in gay hate violence (as found by Coroner Milledge). Ms Young's explanation for the language that she used ("put to the test") was that by reviewing Operation Taradale and its methodology in the course of SF Macnamir, she "wanted the body of the work, [she] wanted the facts, the information, the intelligence ... to learn about the gangs operating in Sydney in a coastal area similar to where Scott had been found".

162 It is submitted that that evidence is not persuasive and should not be accepted. What Ms Young and SF Macnamir sought to "put to the test" was indeed – as Ms Young actually said to Ms Alberici – the "findings" of Operation Taradale; that is, that the deaths of Mr Russell and Mr Warren were homicides, by gay-hate assailants...

157. This argument of counsel assisting is not supported by the objective evidence of the investigation or of the coronial statement which Ms Young made to the coroner. In that statement Ms Young undertook a very detailed analysis of strike force Taradale, not from a dismissive or combative perspective but in the very context anticipated by coroner Millage who had said in her findings of the 9th of March 2005 that Taradale "...will provide an excellent source of evidence should other matters come to light"⁵³

158. It is necessary to examine Ms Young's coronial statement⁵⁴ in the context of that comment by the Coroner to understand her reference to "putting Taradale to the test".

159. The persons of interest identified in Taradale are considered and evaluated by name or description in the paragraphs of the coronial statement detailing the investigation, from [1211] to [2354]. In particular the "Taradale" persons of interest are dealt with in detail at the following paragraphs:

1617, 1618, 1626-1652, 1655, 1656 1659-1672, 1697 and 1751.

160. It will be at once recognised by the Commissioner that this is a very detailed list of persons investigated and evaluated, all of whom had or were related to other gay hate motivated offences or had otherwise come under notice of Police.

161. Some at least were interviewed by either Ms Young or by DS brown and it is to be noted that the SF Macnamir interview of offender Davis.⁵⁵

162. In paragraphs 1703 to 1748 Ms young examined and considered the lessons to be learned from Taradale for the purposes of comparison with the death of Scott Johnson.

1703. Lessons from Taradale for comparison to the death of Scott

⁵³ Exhibit 6 Tab 252F at [1612].

⁵⁴ Exhibit 6 Tab 252F.

⁵⁵ Exhibit 6 Tab 252F at [1649-1650] and Exhibit 6 Tab 521 annexure PY8.

1704. *The Taradale inquest findings include, "Beats are a given in any community. Police must be aware of the problems associated with them and the violent criminal behaviours that they attract."*

163. In summary she notes that Taradale identified many generic characteristics of gay hate crimes.

164. It was entirely proper to 'put to the test' the application of any of those to the Johnson matter.

165. Earlier in that statement she had, as expressed at [1674] to [1676], looked at the parallels from a different angle:

1674. Taradale and the Taradale inquest are relied upon heavily by the Johnson family in promoting the case that Scott was murdered and that gay-hate crimes were routinely neglected by police and ignored by the community in the 1980's and 1990's. Correspondence in which these beliefs are apparent are referred to later in this statement. The Johnson family have informed us that they have access to over 3000 pages of Taradale documents. They are not an interested party in that matter and how they came to have the documents is unclear.

1675. Key witnesses in Taradale, Mr Page, Ms Sue Thompson, and Mr Tomsen, are part of what Mr Johnson refers to as his 'investigation team'. They have each produced documents and appeared in media in support of the Johnson family's belief.

1676. Taradale and its purported connection to the death of Scott has fuelled many sensational headlines and media stories. Some inaccuracies, misrepresentations and uninformed criticism has resulted and increased community fear.

1677. It is for these reason that it is relevant to look more fully into aspects of Taradale.

166. Her conclusions as set out in the statement are, it is submitted, compelling:

1683. When Coroner Milledge heard the evidence in 2003 and delivered her findings in 2005 she was critical of the original investigations. The Johnson family and media have drawn a parallel between those criticisms and what they observe as the investigation into the death of Scott. Simply put, there is a belief that if Mr Warren's and Mr Russell's investigations were as poor

as the Coroner described then might this be true of Scott's investigation? Furthermore, are those investigations proof that in the late 1980's there was a systematic failure of police attitude and procedure towards gay-related crimes? To lend some perspective on these comparative concerns, the following information is provided.

1684. Regarding the 1989 investigation into the missing person Mr Ross Warren, the formal destruction of documents and a lack of records pertaining to their destruction were unable to be located for the Taradale Inquest which frustrated the inquest process. The circumstances of Mr Warren disappearance and records available to the court included: the formal missing persons report when Mr Warren's friends reported him missing at Paddington Police; the broadcast of a State-wide police message of the disappearance; the submission of a Crime Information Report to central records for trend analysis; the release to the media of information and a photograph of Mr Warren; the formal recording of property seized by police; the collection of formal statements about Mr Warren's last movements, associations, emotional wellbeing (which included opinion statements by friends that included both a disinclination to suicide ideation and a statement by him that he felt like "slashing his wrists"), relationship problems, and inquiries by police described as "thorough" by inquest counsel of apparently unreliable reports of Mr Warren being alive.

167. That evaluation continued:

1702 Taradale forms the view that Mr Warren was known to attend gay beats for sexual liaisons and it relies in part on Mr Warren's conviction for an act of gross indecency at a gay beat in 1985. The statement concludes, "The relevance of this (conviction) information to this investigation is that Warren attended gay beats for sexual liaison, as opposed to suicidal motives." This is a flawed conclusion as it generalises single purpose usage of gay beat areas which is not reliable or factual. The conclusion is not relied upon by the current investigation.

168. Taken in its proper context this both confirms and explains her comment to Ms Alberici that SF Macnamir had put Taradale to the test.

169. In the result the submissions of CA at [161] to [162] cannot be accepted.

Lateline

170. The Lateline appearance by Ms Young took place in the context of and, as a conscious and deliberate police media response to, the Johnson team's influence and politicisation of SF Macnamir and its persistent attacks on the integrity of the

investigation and on NSW police. So much is clear from the emails agreeing to the media strategy leading up to that appearance. The Media strategy was entirely endorsed by and supported by police media up to the level of the Director, Strath Gordon, at all times until the political unravelling of the appearance which began with the challenging email from Rick Feneley to the office of Commissioner Scipioni in the early afternoon of the day following the broadcast.

171. In its supplementary submissions CA addressed the origins of the media strategy as follows:

165 *Ms Young said that towards the end of 2014 or in early 2015, as the prospect of a third inquest into the death of Scott Johnson loomed, she formed the idea of developing a NSWPF media strategy. She anticipated that the Johnson family would make comments in the media which would be critical of the NSWPF and their investigative efforts on the case, and she wanted NSWPF to be prepared to put 'its side of the story' to the press.*

166 *Ms Young said that her strategy involved her "be[ing] interviewed by talk[ing] to" and "be[ing] asked questions by" the media, on the record. She said that she raised this with Mr Willing at about this time (late 2014/early 2015), and that he had responded by saying that he liked the idea.*

167 *Once she knew Mr Willing was open to the idea, Ms Young discussed the subject with DS Brown.*

168 *Mr Willing agreed that he and Ms Young had had discussions, at that time, around the need to "correct the record" and for "police to have a voice about the extent and thoroughness of the investigations that were being conducted". He did not agree that those initial discussions had included reference to going on the record.*

169 *DS Brown suggested to Ms Young that Ms Alberici (whom DS Brown knew from a series of fundraising events) may be a suitable journalist.*

170 *Ms Young met with Ms Alberici for the first time, with DS Brown, on 30 January 2015.¹²³ Ms Young said that she mentioned the 30 January 2015 meeting with Ms Alberici to Mr Willing after it had occurred, and that she indicated during that conversation that she was "impressed by [Ms Alberici's] enthusiasm to actually do some journalism on the whole matter".*

172. Ms Young's submissions in relation to the Lateline matter are set out below in a table of events and submissions. This is broadly chronological, but portions of the evidence introduced during the hearing and assessed in the table require strict chronology to be departed from for the purposes of clarity of understanding.

Date	Commentary and submissions
12 February 2013	After the confronting and disturbing meeting with the police minister in which she became aware of the extent of the overweening political influence of the Johnson team, Ms Young started describing the police minister as kowtowing, including in the presence of Mr Willing. This continued for the whole period that the media strategy was being devised and settled to the knowledge of many of those in authority in the police service. ⁵⁶
21 October 2014	An unredacted version of coronial statement 1 was sent to the Johnson lawyer in USA at a time when it had not been provided to Ms Young's knowledge to any member of the public. It was also about this time that parts of the unredacted statement began to appear in the Sydney Morning Herald writings of Mr Fenley. These events were disturbing for her as an investigator and suggested that the integrity and security of the investigation including the identity of many of the persons of interest who had been interviewed and who were referred to in the statement had been compromised. In that context it was entirely understandable that she should have, together with senior police including Mr willing, sought to redress to balance by adopting a media strategy that completed with the press and television bombardment being undertaken by the Johnsons which was hostile to police interests and against the interests of a proper investigation. ⁵⁷
30 January 2015	Ms Young and DS Brown have lunch with Ms Alberici. ⁵⁸
17 February 2015	DS Brown placed a double sided redacted copy of Ms Young's statement on Ms Young's desk in a blue manilla envelope. It was this copy that was subsequently provided to Ms Alberici, but the exact date of its provision is unknown. Whilst Ms Alberici has suggested in an internal ABC email that she had the statement for 8 weeks her actual evidence was much less precise. It is likely that she had the statement in late February or early March. In either event it was well after it had been provided to the Johnson team and to lawyers in the USA and it seems to some journalists, although the source of that provision is unclear. ⁵⁹

⁵⁶ Exhibit 6 Tab 521B at [65].

⁵⁷ Exhibit 6 Tab 521 annexure PY15.

⁵⁸ Exhibit 6 Tab 345.

⁵⁹ Exhibit 6 Tab 346 and Ex 6 Tab 519 at [14].

Easter Sunday - 5 April 2015	Ms Alberici does not recall when, but sometime before the Easter long weekend she received Ms Young's statement. She remembers going away with family that weekend and spending the whole weekend reading the report. ⁶⁰
Before 13 April 2015	Ms Alberici recalls that the police media unit was in contact with her – a women. CA suggested Ms Wells but she wasn't 100% sure. The media unit wanted to make sure that Ms Alberici had everything that she needed and were supported and encouraging of Ms Young doing the interview. ⁶¹
Before and after 13 April 2015	Ms Alberici spoke to Mr Willing around this time but no details are provided in her evidence beyond the fact that the conversations concerned the media strategy. ⁶² As CA has noted at [171]-[172] Mr Willing denies this. It is submitted that wherever there is a conflict between the evidence of Mr Willing and the other witnesses in relation to this topic [the Lateline matter] the Inquiry will prefer the evidence of those other witnesses. As CA has submitted Mr Willing has been established to be at best an unreliable witness of the events and at times clearly untruthful in his evidence.
1 April 2015	Mr Willing spoke to Ms Young regarding a proposed media strategy and Mr Willing, Ms Wells and Ms Young met to discuss it. This included briefing ABC and the Australian to counter the SMH media barrage. Mr Willing suggested Laura Knowles, then the presenter of Four Corners a television current affairs program, not unlike Lateline. Neither was conducted on the basis of brief 'grabs' but rather as interview style presentations. Wells agreed with the suggestion, but Ms Young later introduced the idea of using Ms Alberici. That proposal was accepted. Before 8 April Wells tells Willing that Mr Gordon agreed with the media strategy. ⁶³
7 April 2015 2:04pm	In an Email from Georgie Wells (Media supervisor, State Crime Command) to John Kerlatec, Kenneth Finch and copied to Bradley Monk, Michael Willing and Pamela Young the media strategy was summarised. In essence it conveyed that: A statement has been prepared for the Coroner by Det Ch Insp Pamela Young. It totals some 445 pages and, while a non-publication order has been sought by Det Ch Insp Young, it is possible it could be made available to the media for reporting as soon as Monday. The concern is that media, in lieu of not being able to adequately review such a large document in a short time

⁶⁰ T6444.44.

⁶¹ Exhibit 6 Tab 524 Q8.

⁶² Exhibit 6 Tab 524 Q8.

⁶³ Exhibit 6 Tab 382A.

	<p>frame in order to compile a full report, may instead rely on commentary from the Johnson family for any media reporting.</p> <p>As such, we would like to provide a background briefing to the ABC and The Australian prior to Monday so they can take a look at the report and have a chat to police about what's in it. The briefing would be for background information only and off the record. They would also be informed that there is a possibility there may be a non-publication order on the report. We do not intend to approach the SMH as their reporter, Rick Feneley, is <i>biased in his reporting and not willing to consider any information provided to him by police. If and when the statement is made public, we would be happy to go on the record then</i>, plus address any media requests from all media (including Rick Feneley).</p> <p>Additionally, Det Supt Mick Willing intends to advise the Coroner that we will be backgrounding a number of reporters on the statement as a courtesy.</p> <p>I have discussed this strategy with Strath and he supports and approves it from a PAB perspective.⁶⁴</p> <p>This email is entirely consistent with the evidence of Ms Young and of her understanding of the position. It cannot be reconciled with any of the positions adopted in statement or in evidence by Mr Willing, or Ms Wells. Moreover, in the immediate hysterical and critical aftermath of her appearance on Lateline, while her remarks are described as 'inopportune' and she is progressively the subject of criticism, nowhere is Ms Young challenged as having appeared without authorisation. That allegation only arises much later as will be seen.</p>
8 April 2015	<p>Superintendent Kerlatec agrees with the strategy proposed as does DCOP Kaldas and Ms Young and Wells were informed by Willing that Mr Kaldas agreed with the strategy.⁶⁵</p> <p>NB Ms Young's understanding at all times was this approval included a sit-down interview with Lateline⁶⁶ (The extent of approval was Mr Willing, SCC Director, Deputy Commissioner and Police Media Unit.⁶⁷</p>
8 April 2015 10:57am	<p>Ms Alberici sends an email internally within ABC saying she has almost finished reading Pamela's statement. It includes the following:</p>

⁶⁴ Exhibit 6 Tab 347.

⁶⁵ Exhibit 6 Tab 382A.

⁶⁶ Exhibit 6 Tab 512b [113].

⁶⁷ Exhibit 6 Tab 512b [116].

	<p>“Police are still convinced it was a suicide and the report (with a forensic approach to all the evidence collected over 17 years) finds no evidence otherwise.”⁶⁸</p> <p>The email also records that Ms Alberici has a copy of Pamela’s statement, consistently with the Easter provision. The period of 8 weeks is not clear from the evidence – neither is it of any moment.</p>
8 April 2015 3:59pm	<p>Email from Ms Wells to Ms Young copied to Mr Willing, Siobhan McMahon, John Kerlatec, Kenneth Finch and Blake Clifton, the text of which is:</p> <p>Hi Pam,</p> <p>I have spoken to Dan Box and he's very keen to meet with you on Friday. He has agreed to the discussion being off the record and for background purposes only, with any background information used only if/when the statement is made public by the Coroner.⁶⁹</p> <p>This meeting took place in the Homicide Squad rooms at NSW Police HQ – a very open environment. No secrecy was Involved.</p>
10 April 2015 8:54am	<p>Email from Siobhan McMahon to Georgie Wells</p> <p>Georgie,</p> <p>> For info, Pam Young has just called to request that I not sit in on her chat with Dan Box today – re Scott Johnson,</p> <p>> Pam will have another officer with her (Penny Brown), and believes it will be "too much" to have an MLO in there as well. Mick Willing is OK with this course of action.</p> <p>> I've acquiesced, but if you feel strongly that I should be there, please let me know.⁷⁰</p>
10 April 2015 10:11am	<p>Email from Siobhan McMahon to Blake Clifton copied to Strath Gordon and Georgie Wells</p> <p>As you're probably aware, Dan Box from "The Australian" is coming to State Crime today for an off the-record backgrounder with Det Insp Pam Young (Unsolved Homicide) in relation to the Scott Johnson matter. This is ahead of a Coroner's Court directions hearing on Monday to determine whether or not a third inquest into Mr Johnson's death is warranted. Det Insp Young has prepared NSWPF's statement, which I believe is to be presented at Monday's hearing. This statement is the subject of the backgrounder with Dan Box.</p>

⁶⁸ Exhibit 6 Tab 348.

⁶⁹ Exhibit 6 Tab 351.

⁷⁰ Exhibit 6 Tab 353.

	<p>Georgie asked me to sit in on the meeting with Det Insp Young and Mr Box; this is normal MLO protocol, and I had certainly planned to do so when Mr Box arrives at noon today.</p> <p>Det Insp Young has called this morning to request that I not attend the briefing with Mr Box. The reason Det Insp Young has given is that she wants to have a free and frank discussion with Mr Box about the investigation, and this would be hindered by the presence of an MLO. Det Insp Young added her decision is also designed to protect me (or any MLO) from possible repercussions over her comments.</p> <p>While I understand this reasoning, it still puts me in a difficult position. If today's meeting eventually leads to the publication of controversial comments, questions will be asked about why I was not present.</p> <p>The purpose of this email, therefore, is to let you (and Strath and Georgie) know ahead of time that I was asked not to attend.</p> <p>Det Insp Young is quite adamant in her position on this, and I believe there would be no point in me trying to convince her otherwise. If there's a strong feeling in town that an MLO should be present, any further discussion with Det Insp Young would need to come from above my humble rank.⁷¹</p> <p>Much has been made of this decision of Ms Young's, suggesting without actually stating that it involves some sinister motive, but no evidence of anything occurring beyond the detailed briefing that had been agreed. The suggestion that Ms Young's motives were somehow suspect must, if advanced, be rejected. It is to be noted that. No such submission is advanced by CA.</p>
10 April 2015	Pre- interview of Ms Young by Ms Alberici as Ms Young was nervous about giving an interview. ⁷²
11 April 2015 3:16pm	<p>Ms Alberici's internal ABC email</p> <p>I have an exclusive (explosive) interview with the Detective Chief Inspector who led the reinvestigation of the case. She has said (we taped yesterday under embargo) that this family has used their wealth and position to improperly influence the NSW judiciary. Ie letters to Baird Avery Gallaher Clover Moore letters from Ted Kennedy who's Steve's mate & potential Presidential nominee Senator Elizabeth Warren in correspondence with John Berry (openly gay American Ambassador to Oz). Pamela</p>

⁷¹ Exhibit 6 Tab 352.

⁷² Exhibit 6 Tab 342.

	<p>Young is frustrated by the multi millions of dollars likely to be spent on a third coronial inquest (which will be announced Monday) when there is unequivocally no new evidence to uncover. I know this because she (extremely confidentially) gave me a copy of her 500 page report 8 weeks ago & I've read it all. There's much more to the story. Steve J doesn't know that I've also developed a strong relationship with police involved in this matter.⁷³</p> <p>"8 weeks ago" would be 15 February 2015. This suggests that the statement was given to Ms Alberici shortly after DSC Brown copied it and placed it on Ms Young's desk on 17 February 2015 but there is no better evidence of the date of provision of the statement. In any event it was already in the hands of the press and others owing to the activity of the Johnson team, and the evidence establishes that Ms Young's trust in Ms Alberici was not misplaced. No use was made of the statement or its contents until after its release by the coroner.</p>
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173. It was in this context that the events of 13 April 2015 unfolded. It cannot reasonably be suggested that Ms Young had been wrong to understand the email from Ms Wells of 7 April 2015 as endorsing her appearance on Lateline. That email had said in terms: *If and when the statement is made public, we would be happy to go on the record then, plus address any media requests from all media (including Rick Feneley)... I have discussed this strategy with Strath and he supports and approves it from a PAB perspective.*

174. As CA observes at [175] of its supplementary submissions:

Ms Young regarded the terms of that email as confirming what she understood to have already been agreed with Mr Willing, namely that, if on 13 April 2015 the State Coroner did not make a non-publication order over her statement, she was thereupon authorised to give an on the record studio interview to Ms Alberici.

175. CA went on to make the following submissions, with which Ms Young agrees:

180 The 7 April 2015 email expressly notes that the proposed strategy had already been approved by Mr Gordon, the Director of Public Affairs.

⁷³ Exhibit 6 Tab 354.

181 *Mr Willing agreed that the 7 April 2015 email appears to have been sent as a courtesy to Mr Kerlatec and Mr Finch, for the purpose of keeping them informed about the anticipated media engagement. The email does not request that either of the two addressees reply to the email, nor is there any evidence that either of them did so.*

182 *There is no doubt that on Wednesday, 8 April 2015 the strategy was approved by both Mr Kaldas and Mr Kerlatec, in meetings at which Mr Willing was present. The 7 April 2015 email itself seems not to have been specifically the subject of those meetings, at which (according to Mr Willing) the discussions were more general.*

183 *The only real issue, in the end, is precisely what it was that was the subject of such approval.*

184 *The evidence of each of the media personnel (Mr Gordon, Ms Wells and Ms McMahon), and also of Mr Willing, is steadfastly that an on the record studio interview with Lateline was not "approved" by the 7 April 2015 email. As outlined above at [176], according to them, that would have required further steps by way of authorisation.*

184 *However, as Mr Willing acknowledged, the 7 April 2015 email itself contains no such qualification.*

185 *Mr Willing could not recall whether the NSWPF going on the record (if the Young coronial statement was made public) was a part of his discussions with Mr Kerlatec and Mr Kaldas. However, it is submitted that the contents of Mr Kaldas' text message to Ms Young on 14 April 2015, after the Lateline broadcast, is a strong indication that he did not see any problem with Ms Young having given an on the record studio interview without any further authorisation steps.*

176. In those circumstances it was entirely proper and appropriate for Ms Young to undertake the Lateline interview with Ms Alberici as she did – no further authorisation was required and Mr Willing was on notice of the impending interview well before it occurred. His evidence to the contrary is as CA has pointed out in its submissions unacceptable.⁷⁴

177. Moreover as Ms Alberici made clear in her evidence she had had some discussions with police media and in her view it would have been apparent to all those with whom

⁷⁴ CA supplementary submissions at [193].

she was speaking that what was involved was an interview that would be for broadcast given that Lateline was a current affairs television show and an interview for broadcast was necessary if it was to have impact.⁷⁵

178. As well in the same passage of transcript Ms Alberici also gave evidence that she had had discussions with Mr Willing in which she understood he had encouraged Ms Young to do the interview and he had presumably liaised with police media.

179. It is necessary to address the post evidentiary statement made by Mr Strath Gordon on 6 October 2023 where he seeks to distance himself from his earlier approval of the media strategy by saying his reference to a “studio interview” in his notes was recorded in error and that he had not approved a formal studio interview. It is submitted that this late tailoring of evidence to suit the current argument advanced on behalf of the Commissioner of Police does Mr Gordon little credit and is a version of events which should be rejected outright by the inquiry.

180. In summary Ms Young adopts the submission of CA from [219] – [229] that her version of the telephone call between Mr Willing and Ms Young that took place en route to the ABC is correct. The evidence of Mr Willing is inconsistent and inherently improbable as CA has explained. As well, DS Brown, who has been accepted by CA as a reliable and honest witness corroborates Ms Young’s version. It is clear that Mr Willing at least was aware of Ms Young’s likely criticism of the former minister and of the political interference in the investigation. For the reasons detailed above, her very strong views were well known to all in Homicide and above, up to the level of the DCOP.

The Lateline Interview

13 April 2015	Interview with Ms Young by Ms Alberici outside the coroner’s court. On page 3 Ms Young says that police are seeking an open finding. ⁷⁶
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⁷⁵ T6239.36-46.

⁷⁶ Exhibit 6 Tab 343.

13 April 2015 10:34am	Ms Alberici internal ABC email – aiming for Ms Young to come to the studio at 5pm. ⁷⁷
13 April 2015 2:15pm	Email from Ms Wells to Ms Young and Mr Willing I've spoken to Dan Box, and he is unsure yet whether there will be a story in tomorrow's paper, but he is grateful for the backgrounder as he says it has certainly given some perspective to the matter, and that it's not necessarily the big story the Johnsons are pushing. He'll let me know if he's asked to write for tomorrow. ⁷⁸
13 April 2015 4:35pm	Ms Wells provides update that includes that backgrounders were given by Ms Young to Ms Alberici last week. ⁷⁹
13 April 2015	Driving to the ABC studio Ms Young phoned Mr Willing and told him that she was likely to use the word “kowtowing” if she was asked about the police minister. He responded with a laugh. Mr Willing does not deny the conversation and does not suggest that he said to Ms Young: “Don't say it.” ⁸⁰
13 April 2015 5pm	Ms Young records the Lateline interview with Ms Alberici. ⁸¹
13 April 2015 6:18pm	Email from Ms Wells to Kenneth Finch, John Kerlatec, Anthony Cooke copied to Carmie Mennilli, Christopher Craner, Bradley Monk, Strath Gordon, Blake Clifton, Zdenka Vaughan, Siobhan McMahon In addition to the media update re: SF Macnamir, Dct Ch Insp Pam Young spoke to Emma Alberici from ABC Lateline on camera today. The reporter also spoke with Steve Johnson. Both are to appear on tonight's Lateline. ⁸²
13 April 1819	Email from Ms Wells to Rory O'Connor Pam Young is expected to be on Lateline tonight re Scott Johnson. ⁸³
13 April 2015 7pm	ABC news transcript as prepared by SCIO Ms Young says “An open finding is potentially the most appropriate finding but of course that's up to the coroner. It's not impossible that it be - perhaps, go back towards suicide either or misadventure. Any of those things are possible as well.” ⁸⁴

⁷⁷ Exhibit Tab 355.

⁷⁸ Exhibit 6 Tab 358.

⁷⁹ Exhibit 6 Tab 361.

⁸⁰ Exhibit 6 Tab 521B at [120], Brown duty book - Exhibit 6 Tab 519 at [25] and page 12.

⁸¹ Exhibit 6 tab 318 is the transcript.

⁸² Exhibit 6 tab 362.

⁸³ Exhibit 6 Tab 363

⁸⁴ Exhibit 6 Tab 362B.

13 April 2015 (dated 17 April 2015)	<p>Texts between Ms Young, Ms Wells and Mr Willing</p> <p>Mick & Georgie- in case you missed it the ABC news coverage was balanced with a reference to an exclusive tonight on Lateline. I am glad we went with ABC as they go with the journalism not the ratings. Hair & lippy good too- especially on Penny!</p> <p>Thanks Pam, look forward to seeing it. (GW)</p> <p>Ta Pam. I will have to stay up late on a school night too! (MW)⁸⁵</p>
13 April 2015 8:11pm	<p>Text message from Michael Willing to State Coroner Michael Barnes</p> <p>Good Evening Sir, a courtesy text to let you know that in light of the media being pushed by the Johnson family Pam has been interviewed by the ABC and the Australian concerning SF Macnamir. She will most likely be on Lateline tonight (as will family interviews etc). This was something that we discussed up to our Deputy Commissioner and head of [sic] public affairs and we all agreed that we needed to do it for a number of reasons. Our new Minister has also been briefed I am told. It is also felt that now that a decision has been made re a 3rd inquest that I should announce the 3 "bondi death" SF Taradale rewards (maybe next week). I am happy to chat with you re all of this but didn't want to disturb you at home unnecessarily. Regards, Mick.⁸⁶</p>

181. It is clear that at this point, prior to the Lateline interview going to air very senior personnel at both police command and at police media were aware of the impending broadcast. No attempt or even suggestion of an attempt to prevent the broadcast was made by any of those informed of it and no suggestion that the appearance is unauthorised is made. The immediate aftermath of the broadcast was of mixed reactions. There was a flurry of activity which might unkindly, but not unfairly, be regarded as exercises in self-protection from any perceived fallout.

13 April 2014 9pm	Lateline interview goes to air. ⁸⁷
13 April 2015 9:43pm	Mr Yeomans messages Mr Willing

⁸⁵ Exhibit 6 Tab 364.

⁸⁶ Exhibit 6 Tab 366.

⁸⁷ The transcript is Exhibit 6 Tab 318.

	<p>Don't know if your watching but channel 24 is doing a story re north head murder/suicide with Pam Young.</p> <p>Willing response "Watching mate"⁸⁸</p>
13 April 2015 10:41pm	<p>Kenneth Finch (who is copied into all the earlier emails) emails Strath Gordon</p> <p>So - the question is who organised - and approved Pam Young's interview with Emma Alberici? What was purpose of it?⁸⁹</p> <p>This piece of evidence remains unexplored and unexplained. The only conclusion that is to be drawn from it is that it was clearly the view of Mr Finch that it had been authorized and was an enquiry about the preceding media strategy. No response is recorded, however the following morning a discussion is recorded.</p>
14 April 2015 7am	<p>Zdenka Vaughan, from the COP's office, DSI Olen and Ms Wells discuss the proposition that the Young interview was not authorised. This was never conveyed to DCI Young and appears not to have been progressed.⁹⁰</p>
14 April 2015 7:24am	<p>Email from Mr Gordon to Mr Finch and Mr Kerlatec.</p> <p>My understanding is that there were background briefings to be conducted with both Dan Box and the ABCTV. We ruled out briefing SMH as Rick Fennelly was beyond convincing. I can't recall any discussion about an interview with Lateline. I've got a lousy memory but the strategy I discussed with Georgie was about background briefing some key journalists ahead of yesterday's hearing to provide them with some focus on Pam's submission.⁹¹</p>
14 April 2015 7:57am	<p>Email Ms Wells to Mr Gordon and Mr Finch</p> <p>Last Tuesday, Pam Young indicated she would prefer to speak with Emma Alberici on background at ABC rather than Lorna Knowles, and would contact her directly. Mick Willing and I discussed briefly and agreed to that. Due to me then being off sick on the following days I didn't manage to brief up to you so I'll take responsibility for that. I did mention on the phone to Siobhan that Pam was providing a</p>

⁸⁸ Exhibit 6 Tab 366A.

⁸⁹ Exhibit 6 Tab 367.

⁹⁰ Exhibit 6 Tab 382A.

⁹¹ Exhibit 6 Tab 367.

	<p>backgrounder to Emma Alberici but this didn't make it on to the updates last week.</p> <p>In discussing the backgrounders, we had spoken about the ability for Pam to go on the record if the Coroner made the statement public, <i>but would consider any requests on the day</i>. Pam had indicated that ABC Lateline was doing a story, but I was not aware of the actual interview until late yesterday (as per my late addition to the media update).[emphasis added]⁹²</p> <p>This emphasised comment is an addition and has not appeared before. It is simply untrue to suggest that any such requirement was imposed on Ms Young as is suggested.</p>
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182. There was a wide range of responses to the Lateline interview, many of which were positive and even complimentary and as Mr Willing indicated in the morning telephone call with Ms Young, they extended to the Commissioner's office. There was no immediate backlash.

14 April 2015 9:07am	<p>Email from Grant Slade re Lateline</p> <p>I just wanted to pass on my congratulations on an excellent interview last night on Late line. You represented yourself and the organisation in a highly professional, measured and balanced manner. Well done.⁹³</p>
14 April 2015 9:18am	<p>Email Willing to Zdenka Vaughan, copied to Strath Gordon, Kenneth Finch and Georgie Wells</p> <p>Hi Zdenka, It's Georgie using Mick Willing's computer. Please call when you are free. Some lines: - DCI Pam Young did express some personal views during last night's interview, but the majority of points she raised are contained within her statement provided to the Coroner. - Pam is an experienced and talented detective with almost 30 years experience - 16 of those in Homicide. - Pam has led an extensive and methodical two-year investigation into all the circumstances surrounding Scott Johnson's death.</p>

⁹² Exhibit 6 Tab 367.

⁹³ Exhibit 6 Tab 394.

	<p>- During that time, her work has come under intense scrutiny and pressure from outside of the police, including personal attacks on her and other members of her team.</p> <p>- We wrote to the Coroner last year seeking a re-examination of Scott's death. We welcome the third inquest.⁹⁴</p>
14 April 2015 morning	Mick Willing contacted Ms Young at home to tell her that the Commissioner was "fairly relaxed" about the content of the Lateline interview. ⁹⁵

183. It is reasonable to conclude that the mood changed with the email to the Commissioner's office from the [already hostile] Mr Feneley which was sent in the early afternoon of the day after the broadcast. It is a further example of the extraordinary power being exercised by the Johnson interests. We set out the whole of the email as this highlights the degree to which a personal attack was launched on Ms Young.

14 April 2015 12:03pm	<p>Email Rick Feneley to Zdenka Vaughan</p> <p>Hi Zdenka.</p> <p>I understand the Commissioner does not wish to comment on the extraordinary Pam Young interview on Latelin.</p> <p>I was hoping to press this matter. I cannot remember a single case of a serving officer making such an attack on a minister. It raises some serious questions about church and state.</p> <p>Was the Commissioner aware that a DCI was going on air to accuse the now former police minister, Mike Gallacher, of improper conduct?</p> <p>Surely the Commissioner has to own or disown that statement.</p> <p>Otherwise we must assume one of two things; he is fine with the remarks or he is okay with officers launching their own tirades against the executive.</p>
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⁹⁴ Exhibit 6 Tab 368.

⁹⁵ Exhibit 6 Tab 521B at [123].

	<p>The interview was planned and researched. Pam Young clearly knew what she wanted to say and Lateline clearly had a drop on her report well before it was made public by the coroner.</p> <p>The fact Pam won't give me an interview today - and has refused to do so in the past - suggests this was a very media-managed event with sanction from above.</p> <p>On the strength of the Lateline interview, Steve Johnson is demanding she be removed from the case, saying it clearly betrays her impartiality.</p> <p>"Does her view represent the whole of NSWPF or has she gone rogue?" Mr Johnson asks.</p> <p>Mr Gallacher has told the Herald that neither Pam Young, Mick Willing, Nick Kaldas or Mr Scip one had ever raised with him the concerns she aired last night.</p> <p>I want to give the Commissioner an opportunity to endorse or disown the comments against Mr Gallacher, and to respond to Mr Johnson.⁹⁶</p>
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184. This led to a series of responses as the timing of the following series of emails discloses. The public utterances of NSW police differed significantly from the private declarations of support offered to Ms Young.

14 April 2015 5:29am	<p>On 14 April 2015, Mr Michael Noone, the defacto partner of Scott Johnson when he died, sent an email saying,</p> <p>I keep playing the interview with you and giving you each other high fives. You really were fantastic. You spoke directly, clearly, from the heart, and with solid conviction, We're proud of you."</p> <p>Ms Young replied, "So glad you think that. It means a lot to me Michael. Emma says she feels for you genuiness and predicament. She also describes other media as having been too lazy to chase a story that they aren't being spoon</p>
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⁹⁶ Exhibit 6 Tab 369.

	fed. Now I can send you the full redacted reports to you if you would like - just say the word. Kind regards." ⁹⁷
14 April 2015 12:49pm	<p>Email from Michael Willing to Strath Gordon and Zdenka Vaughan, copies to Carmine Mennilli, Kenneth Finch, Wayne Murray, John Kerlatec and Georgie Wells</p> <p>Z and Strath,</p> <p>Below words for consideration. I am happy to own the comment subject to the Commissioner's view.</p> <p>"Detective Chief Inspector Pamela Young is an experienced officer who, along with her team, have worked hard on this case and conducted an outstanding investigation.</p> <p>Perhaps some of her comments (on Lateline) were inopportune in light of the Coroner's decision yesterday to hold a third inquest, a decision that is fully supported by the NSW Police Force.</p> <p>In light of that decision yesterday it would be inappropriate to make further comment."⁹⁸</p>
14 April 2015 12:54pm	<p>Mr Gordon responds:</p> <p>I am fine with that Mick. We need to take the heat out of this thing while recognising the good work of our people. Just a bit of grammar in the first line - should be "has" not "have".⁹⁹</p>
14 April 2015 14:59pm	<p>Email from Ms Wells</p> <p>Commissioner has approved the wording.¹⁰⁰</p>
14 April 2015 around lunchtime	<p>Mick Willing rings Ms Young to say that sentiment had changed. She learned for the first time during that conversation with Mick Willing that NSWPF relies on what he labelled as a Police Media Unit "worm". Apparently, the worm had turned against my appearance on Lateline and the Police Media Unit was advising that a public statement be released similar to "<i>Perhaps the comments of Detective Chief Inspector Young were inopportune</i>". She pleaded with him not to attach his name to that quote. Mick Willing told</p>

⁹⁷ Exhibit 6 Tab 521 at [136] and annexure PY 19.

⁹⁸ Exhibit 6 Tab 370.

⁹⁹ Exhibit 6 Tab 370.

¹⁰⁰ Exhibit 6 Tab 370.

	me that he had been given a direction that the quote be attributed to him. ¹⁰¹
14 April 1:51pm	Email of support re Lateline from Deborah Wallace. ¹⁰²
14 April 2015 3:20pm	<p>Ms Wells emails Rick Feneley (SMH)</p> <p>Hi Rick,</p> <p>This statement can be attributed to Det Supt Mick Willing, Commander of the Homicide Squad:</p> <p>"Detective Chief Inspector Pamela Young is an experienced officer who, along with her team, has worked hard on this case and conducted an outstanding investigation.</p> <p>"Perhaps some of her comments (on Lateline) were inopportune in light of the Coroner's decision yesterday to hold a third inquest, a decision that is fully supported by the NSW Police Force.</p> <p>"In light of that decision yesterday it would be inappropriate to make further comment."¹⁰³</p>
14 April 2015 8:17pm	<p>Email from Ms Wells to Mr Gordon</p> <p>Hi Strath,</p> <p>As requested, please find a brief chronology regarding the Scott Johnson matter. Apologies if my memory is hazy on some things but I was completely bedridden last Wed and Thur:</p> <p>Wed 1/4: Discussion with Det Supt Mick Willing & Det Ch Insp Pam Young about how to manage the media around the directions hearing given we knew the Johnson family had a copy of Pam's statement and were likely to approach media. We agreed on backgrounders with The Australian (Dan Box) and ABC (Lorna Knowles) with the possibility of on record interviews if and when the statement was made public by the Coroner. The idea was to provide them with</p>

¹⁰¹ Exhibit 6 Tab 521B at [124].

¹⁰² Exhibit 6 Tab 398.

¹⁰³ Exhibit 6 Tab 371.

	<p>an understanding of the contents of the statement which is 445 pages.</p> <p>Thu 2/4: I contacted Strath and requested approval of the backgrounder strategy.</p> <p>DCI Young indicated she would prefer to do her backgrounder with Emma Alberici at ABC Lateline rather than Lorna Knowles and that she would contact her directly.(I do not recall when specifically this was advised.</p> <p>Tue 7/4: Det Supt John Kerlatec and Det Supt Willing briefed DCoP Kaldas. I contacted Dan Box to organise his backgrounder.</p> <p>Following this I was off sick but left Siobhan McMahon to finalise the Dan Box backgrounder when she was in the office.</p> <p>Fri 10/4: backgrounder with Dan Box which DCI Young requested no MLO be present. I am unaware when the ABC backgrounder took place.</p> <p>Mon 13/4: directions hearing. Det Supt Willing approved DCI Young to provide a brief statement to media welcoming the Inquest if door stopped. This didn't occur and I issued a media release instead. Any media requests were to be considered but none were received. DCI Young did indicate ABC were doing a story but I was not aware an interview had been conducted until Det Supt Willing was advised by DCI Young about 5pm. No issues of concern were raised at the time.¹⁰⁴</p>
14 April 2015	<p>Ms Young is told by Mr Willing that a Police executive office meeting considered that "<i>potential issues</i>" arising from the Lateline interview were breach of media policy, contempt of court, and defamation of the police minister.¹⁰⁵</p>
14 April 2015	<p>Ms Young received a text message from Mr Finch:</p> <p>Hello Pam. I know you are very upset with the media statement. A request was made to de-personalise it and refer only to support for the good and hard work that had been done. Unfortunately that battle was lost. Don't let this get on top of you. You have a lot of support and that has not</p>

¹⁰⁴ Exhibit 6 Tab 372.

¹⁰⁵ Exhibit 6 Tab 521B at [127].

	diminished. I know you may not want to speak to anyone at the moment, but I'm happy to do so whenever and if you feel like talking. Regards Ken Finch. ¹⁰⁶
15 April 2015 2:52am	<p>Email Ms Young to Mr Kaldas</p> <p>Dear Nick,</p> <p>That's just what I needed to hear! So sorry to have disturbed your holiday.</p> <p>To be honest they have already backed away from me (Mick Willing to CoP) with a public statement that my comments (all of them!) were "inopportune" while in private they tell me they support me.</p> <p>That's not enough anymore with all that has occurred.</p> <p>You can judge for yourself via Lateline the last 2 nights - Steve Johnson & I appeared Monday night & Gallacher appeared Tuesday night.</p> <p>The journalist, Emma Alberici, has done a great job - it's just my own organisation that is weak.</p> <p>I have had an overwhelmingly positive & abundant reaction to the way I answered her questions.</p> <p>What more can my job ask of me before it grows some balls?</p> <p>I know I can deliver objectively what is needed at the (3rd) inquest even if I have expressed a personal view publicly that Gallacher gave the family priority treatment.¹⁰⁷</p>
15 April 2015	<p>Email exchange between Ms Young and Michael Plotecki</p> <p>Thanks Mick. I've had to 'go to the trenches' with the reaction of the executive, so your words are appreciated.</p> <p>Kind regards,</p> <p>Pam</p>

¹⁰⁶ Exhibit 6 Tab 521 annexure PY 17.

¹⁰⁷ Exhibit 6 Tab 395.

	<p>Sent from my iPhone</p> <p>> On 15 Apr 2015, at 10:07, Michael Plotecki > wrote:</p> <p>Pam, Congratulations on the Lateline story - well done, Mick¹⁰⁸</p>
Undated	<p>Text message from Ms Martha Jabour, Executive Officer of the Homicide Victims Support Group,</p> <p>I just wanted you to know that you have my wholehearted support and that of the family members of the HVSG. Your comments are spot on! All victims are equal and so therefore should be treated equal. Thank you for all you have done...", and "Stay strong. I will pull out all our resources to win this battle! Our families deserve equality! Thank you for speaking out!"¹⁰⁹</p>
Undated	<p>Text message from Assistant Commissioner John Laycock, "Great interview on Lateline. Very professional and great strength. Proud of you and what you stood for ... Your comments were professional and spot on. I hope the organisation stands behind you."¹¹⁰</p>
17 April 2015 10:58pm	<p>Text messages were exchanged with DCOP Mr Kaldas</p> <p>Wow-you must be so proud of her. Besides, handbags play a vital role for a successful woman! The Johnson family have written to the CoP asking that I be taken off the case due to a comment I made on Lateline last night (Mon) that the former police minister gave them priority over other victim families. Lateline followed up with Gallacher tonight & he didn't look good. Hope I get forthright support but know how these things go. Safe & happy trip to you both. Pam</p> <p>Pam, you have my support 150%. I will talk to Frank who is doing my job ASAP to shore up support in my absence. Pls let me know how it goes. I regret not being there right now. We're back 1 May. Love your work. Do not back down, you are in the right, you're entitled to support. Pls let me know if they attempt to move you out. This happened because of the cowardice of Cath Burn, AS and Jenko not going with u or supporting u as they should have. Gallacher has no morals whatsoever. Talk soon.¹¹¹</p>

¹⁰⁸ Exhibit 6 Tab 396.

¹⁰⁹ Exhibit 6 Tab 521 at [133].

¹¹⁰ Exhibit 6 Tab 521 at [134].

¹¹¹ Exhibit 6 Tab 393.

17 April 2015 11:02pm	<p>Text message from Sharon Smithes to Ms Young</p> <p>Hi Pam, just wanted to say you nailed it on Lateline last night. You were very forthright and honest in your answers, and certainly no fluffing over the issues.¹¹²</p>
17 April 2015 11:05pm	<p>Text message from Trent Power</p> <p>You were fantastic on lateline last night Pam. Calm, measured and pulled no punches.</p> <p>Very funny. Emma alberici is a fantastic interviewer. No free questions for you but you answered everything strongly and she accepted your answers. Tough political style interview. You could teach the politicians how to answer questions directly.¹¹³</p>
17 April 2015 11:10pm	<p>Text message from Doreen</p> <p>Hi Pam. Phoned your office and as you are having a day off I will contact you later in the week. I watched Lateline Well done I am 100 percent behind you. Very professional and you were most articulate. We should have a coffee soon.</p> <p>I hope you have a great day and that you are not unfairly treated because of your honesty in dealing with this matter. Keep well and enjoy the day. Regards.</p> <p>Doreen¹¹⁴</p>
18 April 2015 7:19am	<p>Email from Insp Hansford to Ms Young</p> <p>I heard you had been on Lateline and I watched the interview this morning on line. You did a great job with the interview - it must have been quite daunting.</p> <p>I hope your Boss is supporting you and that you don't cop any flack from the "Pollies" re your comments about Gallagher.</p> <p>I don't know if I can be of any help or if you need any support - but if there is anything I can do please let me know.</p>

¹¹² Exhibit 6 Tab 390.

¹¹³ Exhibit 6 Tab 392.

¹¹⁴ Exhibit 6 Tab 391.

	<p>Email response from Ms Young includes</p> <p>Thanks for the supportive words & yes, there has been a fine public absence of bosses supporting me (even though it was approved) although they tell me that all support me privately (ie. as long as no one knows so that their ambitions aren't thwarted). So just the routine corporate response I suppose.</p> <p>I've put a lot of thought into it & that program was all part of the longer term goal to have less Johnson-sided reporting leading up to & through the inquest. The family will come at me but I have confidence in my work & my plan for the long haul.¹¹⁵</p>
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185. The political fallout and interference continued in the days following.

21 April 2015	David Shoebridge MP wrote to the Commissioner of Police asking that Ms Young be replaced as OIC. ¹¹⁶
22 April 2015	Mr Willing directed Ms Young and DS Brown not to have any contact with media. ¹¹⁷
22 April 2015	Strath Gordon was interviewed by Ashurst solicitors in relation to the broadcast. In that interview, significantly it is submitted at odds with his most recent statement he indicated prior knowledge of the intended interview, saying that he was not aware of any parameters being given to Pam prior to her appearance (p4) and when asked who conveyed to Pam what she could do (p6) replied "I don't know". ¹¹⁸
24 April 2015	<p>Willing was interviewed by Ashurst. The following exchange is recorded.</p> <p>SD: Would Pam have received media law training? MW: No. I'm the Corporate Spokesperson for Homicide so it's mainly me speaking to the media. Inspectors have authority to speak to media regarding their matters <u>as long as they let me know</u>. Anyone below that needs permission. No one gets media law training.</p>

¹¹⁵ Exhibit 6 Tab 389.

¹¹⁶ Exhibit 6 Tab 373.

¹¹⁷ Exhibit 6 Tab 376.

¹¹⁸ Exhibit 6 tab 381.

SD: Were there any discussions regarding parameters with Pam?

MW: From me no. It was general backgrounding of two journalists.

Next thing I hear I am driving home and she says she did an interview with Emma Alberici that will be on TV tonight. I was driving and thought it meant backgrounding information being used. At most a stand up type interview. I spoke to Georgie and she said 'oh ok, I better let Strath know and put on the media report'. I really didn't think much more of it. I assumed it would be a door stop or just the material from the background made into a story. I thought I better let the Coroner know. My thinking was that he might ask 'why didn't you tell me earlier?' But my response would be we needed to know whether there was an Inquest and whether there was a non-publication order first.

Later that night I texted Coroner telling him there was a story that night involving interviews with Pam, Steve Glick and Steve Johnson, that it had been discussed internally with the Director of Public Affairs to get a more objective story out there.¹¹⁹

At no time did he suggest that media should stop and pull the interview.

186. CA has dealt with this 'evidence' of Mr Willing in the context of his several different versions of the events surrounding the interview and its aftermath. The want of consistency and accuracy in those versions deprives his evidence of these matters of any reliability and his versions, where they conflict with those of DS Brown and/or of Ms Young cannot be accepted. Ms Young as a witness before the Inquiry was thoughtful and careful in her evidence and both her demeanour and readiness to accept the realities and the consequences of her interview should give the Inquiry great confidence in accepting her evidence. She is to be accepted as an accurate and truthful historian.

¹¹⁹ Exhibit 6 Tab 382.

Conclusion

187. In its supplementary submissions, at [82] CA invited the Inquiry to proposed findings or conclusions. Each is to the effect that a group of NSWPF officers of which the then DCI Young was a member, acting in the execution of their duties and on behalf of the NSWPF as a 'strike force', held a collective attitude, and/or sought and/or produced a particular result or consequence.
188. It is submitted that these findings or conclusions are not open in relation to SF Macnamir or to the investigations attitudes or conduct of Ms Young, DS Brown or the Strike Force. As has been argued in detail in the foregoing material, the extent and of the examination of all the material rather leads to the conclusion that no particular result was sought to be produced. However, on the whole of the material available to Ms Young in 2014 it was not open to conclude that the death of Scott Johnson was the result of homicide. A proper consideration of the last 15 pages of her Coronial statement provides a balanced and careful assessment of the evidence that had been able to be collected and as she said at the doorstep interview on 13 April, transcribed at Tab 343, that material meant that the police were seeking an open finding.
189. Despite CA's submission that 'it is not so' fairness and balance dictates that the Commission should accept that as both Ms Young and DS Brown maintained that SF Macnamir, and in particular the Young coronial statement, merely assembled the available evidence in relation to all three possibilities (suicide, homicide or misadventure), rather than favouring the suicide theory or indicating that suicide was more likely.
190. The excursus into the Lateline interview was not relevant to the determination of any issue of bias in relation to the existence of gay hate crimes or their investigation, but cast light on the enormous difficulties placed in the way of proper investigation when private or political influence is permitted to operate as a distraction from the professional work of senior police. To that end it has resulted in the loss to the NSPF and the community of several dedicated experienced and able senior detectives and

has occasioned significant damage to the officers concerned and to the community of NSW. Such conduct is to be deprecated and should properly be the subject of condign criticism. The Inquiry is invited to make such comment as is within its terms of reference to ensure, as Mr Kaldas said in his email of 8 August 2014, to recipients including Mr Willing and AC Jenkins, in which he said (referring to the 12 February 2013 meeting involving Mr Gallacher):

*... I want to monitor what happens next, and ensure that we never go back to the inappropriate behaviour condoned and encouraged by previous minister. Ever.*¹²⁰

Dated: 23 October 2023

Jim Glissan KC
Counsel for Ms Young

Nathan Keats
Solicitor for Ms Young

¹²⁰ Exhibit 6 Tab 521 at annexure PY 11.