

1 and I'll come back on in a few minutes. All right.
2 Thank you.

3
4 <THE WITNESS WITHDREW

5
6 **SHORT ADJOURNMENT**

7
8 THE COMMISSIONER: Yes, Mr Gray.

9
10 MR GRAY: Your Honour, I call Stephen Page.

11
12 THE COMMISSIONER: Thank you. Mr Page, will you take an
13 oath or an affirmation? It is a matter of indifference to
14 me.

15
16 THE WITNESS: Oath, sir.

17
18 <STEPHEN PAGE, sworn: [11.27am]

19
20 THE COMMISSIONER: Thank you. Please sit down.

21
22 Yes, Mr Gray.

23
24 <EXAMINATION BY MR GRAY:

25
26 MR GRAY: Q. Mr Page, you are a former Detective
27 Sergeant of Police?

28 A. That's right.

29
30 Q. And you have made a statement in the Special
31 Commission dated 16 February 2023?

32 A. Yes, I have.

33
34 Q. Do you have that statement with you?

35 A. No, I don't.

36
37 Q. Could Mr Page have his own statement, please. It is
38 at tab 253 of volume 12, [SCOI.82472_0001]. Now, Mr Page,
39 I think there is one correction that you need to make of
40 a minor nature at paragraph 62.

41 A. Sorry, just that tab number again, if I could, please?

42
43 Q. It is tab 253, I'm sorry.

44 A. Thank you. Yes.

45
46 Q. If you could turn to paragraph 62?

47 A. Yes.

1
2 Q. I think there's a correction you need to make there in
3 that the paragraph number referred to in that first line
4 should be 60 rather than 59; is that right?
5 A. That's correct.
6
7 Q. You were the officer in charge of Operation Taradale
8 back in 2001/2002?
9 A. Yes, I was.
10
11 Q. When you embarked upon that operation, what was your
12 approach, in the sense did you approach it with a view that
13 you only had one particular line of inquiry in mind, or did
14 you have an open mind, or how would you describe to the
15 Commissioner what your general approach was?
16 A. The investigation grew as we went along in relation to
17 the deceased that we were looking at, but, you know, my
18 role is to, you know, be objective, gather whatever
19 information is available, put it in a brief of evidence and
20 put it before the Coroner. So no focus on any particular
21 inquiry - any particular line of inquiry.
22
23 Q. As your operation went on, one line of inquiry, among
24 others, was the individuals and groups or gangs who it
25 became clear were known to have been operating in the
26 Bondi, Tamarama, Marks Park area in the late '80s and early
27 '90s?
28 A. Yes.
29
30 Q. That awareness came from various sources, one of which
31 was the work of Detective Sergeant McCann and others back
32 at about that time, in the late '80s, early '90s?
33 A. That's correct.
34
35 Q. And you became aware of those reports or statements
36 by, among others, Sergeant McCann and Sergeant Ingleby?
37 A. Yes.
38
39 Q. And you pursued inquiries relating to that line of
40 possibilities, among others?
41 A. That's right.
42
43 Q. Did you also, in the case of the three deaths or
44 disappearances that you were ultimately looking at in
45 Taradale - namely, the death of Mr Warren [sic] and the
46 disappearances, as they were then known to be, of Mr Warren
47 and Mr Mattaini - did you explore other possibilities

1 besides that of violence from individuals or gangs?
2 A. Absolutely. Had to, you know, keep an open mind and
3 look at other options, so such as, you know, accident,
4 suicide and the like.

5
6 Q. Now, the term "victimology" means approximately what,
7 in your understanding?

8 A. Victimology's a study of the victim and trying to
9 understand, you know, why them and why then. So you're
10 doing a deep dive on them, and hopefully that study will
11 point you towards an offender. You're looking at their
12 associates, their work patterns, their habits, their
13 financial, you know, state of affairs, medical matters as
14 well, and you basically create a category list and you go
15 through that and it helps you build a profile in relation
16 to a person.

17
18 Q. Did Taradale, as you were participating in it and
19 leading it, pursue those lines of inquiry as well?

20 A. Absolutely. So speaking with, you know, family,
21 friends, associates, workmates, partners, to form an
22 opinion in relation to, you know, the deceased.

23
24 Q. Now, you've become aware, I think, around towards the
25 end of last year, of the existence of Strike Force Neiwand?

26 A. That's right.

27
28 Q. Until you were made aware of the existence of that
29 strike force by the Special Commission, did you have any
30 idea that it had existed?

31 A. No idea whatsoever.

32
33 Q. And you've now had the opportunity to read the three
34 Neiwand summaries in respect of Messrs Mattaini, Warren and
35 Russell?

36 A. Yes, I have.

37
38 Q. And you've given some evidence in your statement, at
39 least in summary form, about some aspects of those three
40 summaries?

41 A. That's right.

42
43 Q. Now, one of the accusations made in those three
44 summaries, each of them, in fact, is that Taradale, and
45 thus you yourself, relied on investigation confirmation
46 bias. Do you remember noticing that?

47 A. Yes, I do.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47

Q. And Neiwand described "confirmation bias" as:

The tendency to bolster an hypothesis by seeking consistent evidence while disregarding inconsistent evidence.

Do you remember noticing that that's what Neiwand said confirmation bias was?

A. Yes, I do.

Q. You and Taradale were said in each of these three summaries to have disregarded inconsistent evidence. Did you do that?

A. Absolutely not.

Q. Elsewhere in I think all three of those summaries, but certainly two of them, the Neiwand summaries alleged that Taradale had been guilty of tunnel vision in focusing only on one line of inquiry. What do you say to that?

A. Absolutely false. The Taradale brief of evidence shows examinations in multiple areas including suicide and the like.

Q. I want to ask you some questions about the Mattaini case in particular, and in relation to Mr Mattaini's partner, Mr Musy. How did it come about that Mr Wyszynski and Mr Musy approached the police in about August 2002? What happened, as you understand it?

A. My understanding in relation to that, they approached us after seeing some material in the media in relation to investigations of deaths of gay men around Bondi. I can best describe it as a light bulb moment for them, and Mr Wyszynski reached out to police. I literally turned up at work and there was a note that he'd been in touch and I contacted him.

Q. Now, pausing there, on 25 July 2002, you had completed and signed off on your very long statement in Taradale - you'd recall that?

A. That's right.

Q. Of some 250 or 280 pages, I think?

A. Yes.

Q. With about 280-odd annexures. And that statement related to the cases of Warren and Russell and DM; is that

1 right?

2 A. Yes.

3

4 Q. And it was just not long after that that Mr Wyszynski,
5 and then Mr Musy, came to see the police; is that right?

6 A. That's right.

7

8 Q. You have said that Mr Wyszynski actually came to the
9 police station and left a note with, I assume, a telephone
10 number?

11 A. I believe it was a phone contact with the police
12 service.

13

14 Q. I see.

15 A. I'm not sure who it was that took the call. I can't -
16 I don't recall now. But I certainly had a note when
17 I arrived at work to contact him in relation to the matter.

18

19 Q. And did you then contact him?

20 A. Yes.

21

22 Q. And did he come in?

23 A. Yes.

24

25 Q. Did you take a statement from him?

26 A. Yes.

27

28 Q. And did he tell you that he was coming in because he'd
29 been prompted by what he'd read in the media?

30 A. Yes.

31

32 Q. Among the things he told you, I take it, was that
33 Mr Musy had been Mr Mattaini's partner?

34 A. That was one of the things.

35

36 Q. And were you then given some telephone numbers or
37 other means of contacting Mr Musy?

38 A. I don't recall exactly how I contacted Mr Musy, but
39 I certainly did, and we made arrangements to meet.

40

41 Q. Now, he came in?

42 A. Yes.

43

44 Q. Now, you may or may not remember this: the statement
45 of Mr Musy, which is before the Commission, bears a date
46 3 August. In your own statement to the Milledge inquiry,
47 you refer to having prepared a statement for Mr Musy on

1 14 August. Do you have a recollection now as to which of
2 those dates is likely to be right?

3 A. With the passage of time I'm not sure but I would tend
4 to err towards 3 August. I don't have access to systems
5 but I can check - you know, it could be checked by working
6 out when that statement was uploaded to the e@gle.i
7 program.

8
9 Q. Well, according to the Mattaini summary produced by
10 Neiwand, it was on 1 August that Mr Wyszynski made contact
11 with the police, and is your recollection that you saw
12 Mr Wyszynski and obtained a statement from him and saw
13 Mr Musy and obtained a statement from him shortly after
14 that approach?

15 A. Yes.

16
17 Q. In the case of Mr Musy, when he came in and you took
18 a statement from him, how did that happen physically,
19 logistically? What was the process?

20 A. I met him at - I met Mr Musy at Paddington Police
21 Station. I had an office near the front counter. We both
22 went into that - our work room. I sat down beside him and
23 we had a computer in front of us. He was beside me looking
24 at the computer.

25
26 Q. Do you mean to say that you asked him some questions
27 and then typed his answers or what do you mean?

28 A. My normal process is I don't tend to get bogged down
29 with writing notes or conversations outside of a statement
30 because, you know, you can get lost in translation, you can
31 forget to bring bits in or what have you. It's asking -
32 just engaging with the witness and typing as we go. At
33 prior jobs to this one I used to send telegrams for
34 Australia Post so I can type at pace, so as it's said it's
35 pretty well typed.

36
37 Q. So you were a fast typist?

38 A. Yes.

39
40 Q. And you were sitting down at the computer screen
41 typing as Mr Musy spoke?

42 A. Yes.

43
44 Q. And he was watching what you were typing, as you typed
45 it on the screen?

46 A. I believe so.

47

1 Q. I'm going to take you to the statement, Mr Musy's
2 statement, which is in volume 6, tab 159
3 [SCOI.02744.00381_0001].

4 A. I have that.

5

6 Q. Do you have tab 159?

7 A. Yes, I do.

8

9 Q. As I mentioned, the date at the top of the page is
10 3 August 2002. That's the basis for the question I asked
11 you a little while ago.

12 A. And I note the summary also says the same date.

13

14 Q. Yes, the cover summary at the front. Yes. Now, you
15 have a memory, as you've just been explaining, of Mr Musy
16 coming in and sitting next to you as you typed on the
17 screen. In the third - sorry, in paragraph numbered 5, the
18 second paragraph on page 2, and then paragraph numbered 6,
19 the third paragraph on that page, there are references to
20 two suicide attempts by Mr Mattaini.

21 A. Yes.

22

23 Q. What's your recollection as to how it came about that
24 those two paragraphs were included in the statement?

25 A. It would have been an open-ended question along the
26 lines of, you know, "What can you tell me about any history
27 of self-harm", and they were given to me in that order, and
28 I know they're out of sequence in relation to when they've
29 occurred but that's the order I would have been given it,
30 open-ended - an open-ended question and just typed that
31 statement as we discussed it.

32

33 Q. Did he say anything else to you in relation to suicide
34 or suicidal thoughts on this occasion in the police station
35 as you were typing on the screen, besides what appears in
36 those paragraphs?

37 A. No.

38

39 Q. Did Mr Musy say to you on that occasion anything to
40 the effect that Mr Mattaini had ever said that he preferred
41 death to life?

42 A. No.

43

44 Q. Did Mr Musy say to you on that occasion anything to
45 the effect that Mr Mattaini had ever said that if he were
46 to commit suicide, he would do it in a way that his body
47 would not be found?

1 A. No.
2
3 Q. If Mr Musy had said anything to that effect, would you
4 have included that in your statement?
5 A. Oh, absolutely. Those statements, as far as I'm
6 concerned, are almost show-stoppers. You've got to capture
7 that, and they would have landed in the statement.
8
9 Q. Now, I think you've had occasion to look again, or to
10 look in recent times, at the transcript of what Mr Musy
11 said before Coroner Milledge?
12 A. Yes.
13
14 Q. And you are aware that in his oral evidence, he did
15 refer to Mr Mattaini at a particular point in time having
16 had the outlook of preferring death to life?
17 A. Yes.
18
19 Q. But your evidence is that he had never said any such
20 thing to you?
21 A. At the time of the taking of the statement, no.
22
23 Q. And subsequently?
24 A. No.
25
26 Q. Now, you're aware, aren't you, that the Neiwand
27 summary in relation to Mr Mattaini accuses you of
28 deliberately withholding important evidence from the
29 Coroner?
30 A. Yes.
31
32 Q. Is that true?
33 A. No.
34
35 Q. What do you say about Neiwand not giving you any
36 opportunity to respond to that accusation?
37 A. Look, as a matter of fairness, I should have been
38 given the opportunity to respond. Whether I would have
39 been listened to is another thing.
40
41 Q. Why do you say that?
42 A. I think the report that I read was certainly focused
43 on being absolutely critical against Taradale. I don't
44 think I would have had a voice and I don't think it would
45 have been considered.
46
47 Q. As I've asked you already, there were many other

1 accusations against Taradale and you in these three
2 summaries, including tunnel vision and confirmation bias
3 and various other supposed errors and defects on the part
4 of Taradale and/or yourself?

5 A. Yes.

6

7 Q. You are aware of that? And are you aware that
8 Sergeant Morgan yesterday and in recent days has
9 essentially acknowledged that all or most of the criticisms
10 of you and Taradale by Neiwand were unwarranted?

11 A. Yes.

12

13 Q. In the light of that acknowledgment by Sergeant
14 Morgan, again, do you have a view about your having been
15 given no opportunity to respond?

16 A. Look, I can't say any more than I have on that. I
17 think - I don't think it would have been - would have added
18 value from their end. It would have been disregarded.

19

20 Q. You are aware, I take it, from the evidence before
21 this Commission in recent days, that these summaries have
22 been published - that is, the three Neiwand summaries have
23 been published - within the NSW Police Force to all of
24 those with relevant access to e@gle.i?

25 A. Yes.

26

27 Q. And you are aware that the post operational assessment
28 which contains many of the criticisms of you from the
29 summaries, has been published as high as the Commander
30 Homicide and the Director of Crime Operations and the
31 Commander of State Crime Command?

32 A. Yes.

33

34 Q. What is your view or what do you say about those
35 accusations, now apparently withdrawn, having been
36 published in those various ways and to such high-ranking
37 officers?

38 A. I think my reputation was, you know, absolutely
39 professionally destroyed in those reports.

40

41 Q. And how does that make you feel?

42

43 MR TEDESCHI: I object. Relevance.

44

45 THE COMMISSIONER: I will allow it.

46

47 MR GRAY: Q. You are allowed to answer that question.

1 A. It feels like I wasted a lot of time with Taradale.
2 A lot of the gains that we had along the way were almost
3 for nothing.
4

5 Q. And apart from the impact of this on you, what's your
6 reaction in terms of what it means for the families?

7 A. That was my big concern. I - you know, I've got broad
8 shoulders, I'll cop it. But my main concern was it seemed
9 strategic. I was pushed out of the way so that there could
10 be a free swing at the families - or more the deceased, I
11 should say.
12

13 THE COMMISSIONER: Can I just interrupt, Mr Gray.
14

15 Q. Mr Page, apart from yourself, who were the other
16 police officers assisting you on Taradale?

17 A. Oh, sir, there was probably 12 at various stages.
18

19 Q. Would you be able to name some of them or all of them?

20 A. Graham Nicholas, Brad Dagg. They're the main
21 supporters that I had with Taradale.
22

23 Q. And was the group of 12 with you most of the time or
24 did they come and go?

25 A. Most of the time.
26

27 THE COMMISSIONER: Thank you.
28

29 MR GRAY: Q. Yesterday, Sergeant Morgan gave some
30 evidence particularly about the investigation into
31 John Russell originally, the 1989 investigation. And
32 I think you're aware that, in his view, that 1989
33 investigation, led by Plain Clothes Constable Dunbar was,
34 in Sergeant Morgan's words, "to the standard of the day".
35 Are you aware that he said that?

36 A. Yes.
37

38 Q. What's your own response to that or your own view
39 about that 1989 investigation?

40 A. I've got a different view, and no disrespect to
41 Constable Dunbar, but I think she was very junior, and my
42 experience as a junior detective in the late 1980s is
43 whenever it appeared you had a suspicious death, you would
44 be supported by much more senior police officers. They
45 would take the lead.
46

47 Q. In this instance, the presence of the hairs on the

1 back of Mr Russell's hand immediately alerted, or should
2 have alerted, those investigating the matter to at least
3 the possibility of foul play?

4 A. Yes.

5

6 Q. That's your understanding?

7 A. Yes.

8

9 Q. And are you saying that as soon as that factor was
10 recognised, somebody more senior than Detective Senior
11 Constable, or Detective Constable, rather, Dunbar, should
12 have been brought in, or would have been brought in, in
13 your experience?

14 A. Probably go back one step. I think she was even
15 a plain clothes constable, hadn't even done the detectives
16 course.

17

18 Q. You are quite right. Plain clothes is the
19 appellation, that's right.

20 A. And, yeah, my personal view and my experience is with
21 similar - you know, with suspicious matters, is that a more
22 senior police officer would take the lead role.

23

24 Q. Had that happened, or in any event, what else comes to
25 your mind as steps that should have been taken or could
26 have been taken in 1989 but were not?

27 A. I think the disappearance of Ross Warren was known at
28 the time of the death of John Russell, and shortly after,
29 we had the assault of DM, you know, in reasonable close
30 proximity. There should have been alarm bells that there
31 was a problem with assaults on gay men in that era in that
32 area, and I think also the evidence of Sergeant Ingleby at
33 the Coroner's Court certainly suggested that it was
34 prevalent and well known to police.

35

36 Q. Now, as to the hairs, there was a suggestion yesterday
37 that DNA technology or the use of DNA testing had not come
38 in in New South Wales, at least, as at this time, 1989.
39 What can you tell us in that regard?

40 A. That's true. It wasn't commonly used. Any - I think
41 at that stage, in the early stages, samples had to be flown
42 I think even to the UK to get tested. It was very
43 expensive. But for volume offences, there was other
44 avenues available. So we used to be able to get hair
45 tested and it would - if the - you know, the follicles were
46 attached, you could get blood groups, as an example, of the
47 owner of the hair.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47

Q. Was that something called PGM testing?

A. That was part of the process on those scientists, but that was - they would give you, you know, some data in relation to the characteristics of that hair sample.

Q. And one thing that could be established, if you had the follicles, would be the blood type?

A. Yes.

Q. And that would tell you or it would be likely to tell you whether the hair was from the deceased person or not?

A. Yes.

Q. It's your recollection, is it, that as at this time, 1989, DNA testing had begun to be used elsewhere, for example, in the UK?

A. I - just in my readings I - certainly in the late '80s overseas it was starting to be used.

Q. And was it a development which, in Sydney, it was anticipated would be coming our way some time in the future?

A. I think everyone, you know, certainly in law enforcement, with investigators, we knew it was - we knew it was an emerging technology that was coming, probably similar to us today knowing that AI is just around the corner.

THE COMMISSIONER: Can I just interrupt again, I'm sorry.

Q. Mr Page, something more fundamental. If the hair had been available, first, a direct comparison could have been made between its colour and texture as against that of the deceased; correct?

A. Yes.

Q. And, secondly, it could have been checked to see whether it had come from the deceased's head as part of a laceration?

A. Absolutely.

THE COMMISSIONER: Thank you.

MR GRAY: I have nothing further, Commissioner.

THE COMMISSIONER: Yes, Mr Tedeschi.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47

<EXAMINATION BY MR TEDESCHI:

MR TEDESCHI: Q. Mr Page, you were asked some questions by Counsel Assisting about the disappearance and presumed death of Mr Mattaini.

A. Yes.

Q. I would like to ask you some questions about that. You are aware, I take it, from papers that have been provided to you by those assisting this Inquiry that there was an investigator's note that was created during the course of the Neiwand strike force?

A. Yes.

Q. About a conversation between Mr Musy and Detective Sergeant Chebl?

A. Yes.

Q. Have you had an opportunity to look at that in recent times?

A. In the last weeks, yes, certainly.

MR TEDESCHI: Perhaps if that could be made available to him, tab 167A in volume 6, [SCOI.10389.00042_0001].

THE WITNESS: I have that document in front of me.

MR TEDESCHI: Q. Can I take you to page 4. The last paragraph on that page says this:

Musy stated throughout his relationship with Mattaini he found him to be comfortable with death and would speak openly about dying on his own accord rather than naturally. Musy elaborated on this by saying, following Mattaini's --

and then he talks about his two suicide attempts. If that was in fact what Mr Musy said to Sergeant Chebl, do you accept that it appears to be Musy saying something that happened during the course of his relationship with Mr Mattaini, accepting it at face value?

MR GRAY: I object, your Honour. The document speaks for itself. Mr Page's interpretation of it will not add anything.

1
2 THE COMMISSIONER: That may be, but I'll allow Mr Tedeschi
3 to ask the question, and if it's shown later that it's
4 contextually inappropriate, then no doubt I'll have that
5 pointed out to me. Yes, Mr Tedeschi.
6

7 MR TEDESCHI: Q. If you accept that at face value and
8 accept that that's what Musy said, whether he did or didn't
9 I'm not putting to you, but what I'm suggesting to you is
10 that if you accept that at face value, it would appear,
11 just from this entry, that what Mr Musy has said is that he
12 was speaking about suicide during their relationship?

13 A. That's right.
14

15 Q. That, of course, was different to the material that
16 you had from Mr Musy?

17 A. Yes.
18

19 Q. What you had gleaned from Mr Musy was that any
20 suicidal ideation had occurred well before their
21 relationship?

22 A. That's right.
23

24 Q. But if you accept at face value this as being
25 accurate, it would appear to be some different information
26 about suicidal ideation to what you had?

27 A. That's right.
28

29 Q. Now, if the Neiwand investigators accepted this
30 evidence, it could provide some additional evidence of
31 suicide?

32 A. Yes.
33

34 Q. Supporting suicide?

35 A. Yes.
36

37 Q. At the inquest, do you recall that Mr Musy had given
38 evidence?

39 A. Yes.
40

41 Q. Have you had an opportunity to read his evidence at
42 the inquest in recent times?

43 A. Yes, I have.
44

45 Q. Do you agree that Mr Musy gave evidence that there had
46 been some relationship problems between himself and
47 Mr Mattaini in recent times?

- 1 A. Yes.
2
3 Q. Including their intimate relations?
4 A. Yes.
5
6 Q. Do you accept that there was some evidence from
7 Mr Musy at the inquest that Mr Mattaini was worried to some
8 extent about his visa situation in Australia?
9 A. That's right.
10
11 Q. It is correct, isn't it, that there was no evidence at
12 all about the place and the time of Mr Mattaini's death?
13 A. That's right.
14
15 Q. Mr Mattaini was not a man who was known to go to gay
16 beats?
17 A. Correct.
18
19 Q. Do you agree that the evidence as to his - the very
20 meagre evidence as to his last sighting had him in the
21 northern part of Bondi heading in a northerly direction
22 away from Marks Park?
23 A. Yes.
24
25 Q. Taradale had conducted extensive investigations into
26 a lot of persons of interest?
27 A. That's right.
28
29 Q. I think - correct me if I'm wrong - you had, in fact,
30 monitored or listened to or considered something like
31 17,000 phone calls?
32 A. Yes.
33
34 Q. But none of them had provided any link between gangs
35 or gay hate - members of gay hate gangs to the
36 disappearance of Mr Mattaini?
37 A. None that met a standard for prosecution, no.
38
39 Q. It was clear, wasn't it, from Mr Musy's contact with
40 Taradale, that he had immediately, on being informed about
41 Mr Mattaini's disappearance, concluded that his partner had
42 suicided?
43 A. I don't know whether it was immediately but that was
44 one of the - the conclusion that he came to, that he
45 believed it to be suicide.
46
47 Q. Can I suggest that he told you that he had been so

1 overcome by emotion when he heard about the disappearance
2 that he had basically been under the effect of prescription
3 drugs for some weeks and had not taken part in any
4 inquiries about Mr Mattaini himself but left it to other
5 friends?

6 A. That's right.

7

8 Q. Because he believed that Mr Mattaini must have
9 committed suicide?

10 A. Yes.

11

12 Q. And he believed that Mr Mattaini must have committed
13 suicide from 1985 until 2002 when he had contact with
14 Taradale?

15 A. Yes.

16

17 Q. It would appear as though the other family members, in
18 particular Mr Mattaini's mother, had accepted that he must
19 have committed suicide?

20 A. Yes.

21

22 Q. At the inquest, were you present during the whole of
23 the inquest?

24 A. Most of it, yes.

25

26 Q. The Counsel Assisting was a Mr Lakatos?

27 A. That's right.

28

29 Q. I think he took silk very shortly after this inquiry?

30 A. Yes, he did.

31

32 Q. And then a couple of years later became a District
33 Court judge?

34 A. That's right.

35

36 Q. The police service was represented by Mr Saidi?

37 A. Yes.

38

39 Q. And did you provide ongoing assistance to Mr Saidi
40 during the course of the inquiry?

41 A. Yes.

42

43 Q. Do you recall that at the inquest in relation to
44 Mr Mattaini, the submission that was made by Counsel
45 Assisting was this:

46

47 *The manner and cause of the death of*

1 *Mr Mattaini and Mr Warren remain unknown.*
2 *On the present state of the evidence*
3 *your Honour it is submitted that*
4 *your Honour should bring in an open finding*
5 *in relation to the deaths of Mr Mattaini*
6 *and Mr Warren.*

7
8 A. That's right.

9
10 Q. Do you agree that that submission was a perfectly
11 reasonable submission for Counsel Assisting to make based
12 upon the evidence that was then available?

13 A. Yes.

14
15 Q. Of course, the Coroner came to what might be called
16 a stronger conclusion, that she thought that it was likely
17 that he was --

18
19 THE COMMISSIONER: Well, Mr Tedeschi, that is not
20 accurate. She made a finding and, in the context of the
21 finding, she made some comments - that is a more accurate
22 way of putting the position.

23
24 MR TEDESCHI: It is more accurate.

25
26 THE COMMISSIONER: And you are, I thought, addressing the
27 finding, and the finding, it seems to me, is on all fours
28 with the submission made, wasn't it?

29
30 MR TEDESCHI: I will correct that.

31
32 Q. The finding was that it was an open finding?

33 A. In relation to Mr Mattaini?

34
35 Q. In relation to Mr Mattaini?

36 A. Yes.

37
38 Q. But she found or she noted that he may have been the
39 victim of a gay hate crime like the other two?

40 A. Yes.

41
42 Q. Now, do you agree that, based upon the evidence that
43 was available, that if one accepted the additional material
44 that I've brought to your attention in the investigator's
45 note, that was an important piece of evidence if it was
46 correctly recorded?

47 A. Yes.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47

Q. And it would point more towards suicide than towards gay hate crime or accident?

A. That's right, if it was correctly recorded.

Q. And can I suggest to you that it's based upon an acceptance of that material that it was a rational and acceptable conclusion to conclude that Mr Mattaini may well have taken his own life rather than met with foul play?

A. If that material was accepted, yes.

Q. So is it a situation where different minds may have different opinions about the same evidence?

A. Yes.

Q. And is it quite common in such cases, where there are - particularly where there's no body that is found, so there's a lack of forensic evidence, that different police officers might have different opinions about the likely cause of death?

A. That can happen, yes.

Q. And do you agree that the Mattaini disappearance is one of those cases, where different minds may legitimately have different views?

A. I agree with that.

Q. In relation to Mr Warren, that was also a case where no body was located?

A. Yes.

Q. Therefore there was no crime scene analysis that was done, in any event?

A. That's right.

Q. This was a case where I think a Detective Bowditch conducted the initial investigation?

A. That's right.

Q. And that was the subject of really serious criticism by Coroner Milledge?

A. Yes.

Q. Although there was no body located, Mr Warren's car and his keys had been found in the vicinity of Marks Park?

A. Yes.

1 Q. Which made it probably more likely than not that he
2 had disappeared in the vicinity of Marks Park?

3 A. That was my conclusion.
4

5 Q. At the inquest in relation to Mr Warren, the same
6 submission was made by Counsel Assisting, namely, this:
7

8 *In my submission your Honour, the situation*
9 *so far as the evidence discloses is that*
10 *the manner and cause of the deaths of*
11 *Mr Mattaini and Mr Warren remain unknown.*
12 *As I have said there are real suspicions*
13 *that they met their deaths by foul play and*
14 *by being the subject of gay hate attacks,*
15 *however there is no reliable evidence that*
16 *this conclusion can firmly be drawn.*
17

18
19 That was the submission made by Mr Lakatos?

20 A. Yes.
21

22 Q. In your view, was that a perfectly reasonable and
23 acceptable and logical submission to make based upon the
24 evidence that was then available?

25 A. Perfectly fair submission but I wasn't aligned with
26 the opinion in relation to Warren.
27

28 Q. So you had a different opinion in relation to
29 Mr Warren?

30 A. Yes.
31

32 Q. Different to Counsel Assisting?

33 A. Yes.
34

35 Q. The final concluding submission made by Mr Lakatos
36 was:
37

38 *On the present state of the evidence*
39 *your Honour it is submitted that*
40 *your Honour should bring in an open finding*
41 *in relation to the deaths of Mr Mattaini --*
42

43 A. Yes.
44

45 Q. --
46

47 *and Mr Warren.*

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47

Is it that you held a different opinion at the time?

A. At the time, I believed Warren was a victim of homicide - personally, I - Mr Lakatos was certainly entitled to put forward what he put forward, but my personal view was differing in relation to Warren.

Q. And once again, is it a situation where different minds may legitimately place different emphasis on parts of the evidence and come to different conclusions or different possibilities or probabilities?

A. Yes.

Q. In relation to Mr Warren, were you aware that he had some photographs in his home of two men whom it would appear he was interested in in a romantic sense?

A. Yes.

Q. And that he had been rejected by them?

A. Yes.

Q. Did you also know that he had failed to obtain employment with a major television network?

A. I wasn't aware that he'd failed to obtain employment - that wasn't shared with me along the way. But I knew that he was pursuing employment with a major network.

Q. And are you aware that since Taradale, it's been suggested that he may have been concerned about having been exposed to HIV?

A. I've read that. I don't know that to be true.

Q. If those were accepted as being true, those three aspects, they would be relevant to a consideration of manner and cause of death?

A. I wouldn't suggest the employment aspect would, you know, be a major consideration in relation to, say, a suicide theory. It's possible, but not probable, in my mind, and in relation to HIV, I don't know what his mind set was at that time, so --

Q. But if you accept for the moment that those things were made available to Neiwand, do you accept that they were relevant considerations for the members of Neiwand to take into account in formulating their view?

A. Yes.

1 Q. And do you accept, again, that in relation to those
2 facts and the other facts that were available to Taradale,
3 that minds may legitimately differ?

4 A. Minds can differ but I don't believe the material that
5 I've read was sufficient to sway me away from anything
6 other than murder for Warren.

7
8 Q. But do you accept that other police officers may
9 legitimately have come to a different conclusion and
10 favoured the possibility of death by some other means?

11 A. They may well have.

12
13 Q. And that's just because, in a case like this, where
14 there's no body and there was an inadequate investigation
15 to begin with, it's very hard to come up with any
16 definitive answer at all?

17 A. Yes.

18
19 Q. And the Coroner might have one view, Counsel Assisting
20 might have one view, the police might have another view -
21 some people might focus on some pieces of evidence, other
22 people might think that that's not important?

23 A. That's right.

24
25 Q. You get a lot of differences of opinion in such cases
26 because of the inherent uncertainties in the actual cause
27 of death?

28 A. That's right.

29
30 Q. Going to Mr Russell, this, of course, was a case where
31 the body had been found at the base of the cliff?

32 A. Yes.

33
34 Q. And as you've noted, there was some hair found in the
35 vicinity of his hand. It wasn't clutched in his hand, was
36 it?

37 A. That's right.

38
39 Q. It was actually on top of his hand; is that right?

40 A. Yes.

41
42 Q. Could you tell from the photographs - because that's
43 all you had, the photographs, wasn't it?

44 A. That's right.

45
46 Q. Could you tell from the photographs whether it was
47 adhering to his hand because of any blood, or some other

1 reason, why it was stuck to his hand?

2 A. I couldn't tell, no.

3

4 Q. So you couldn't see any blood in the vicinity of the
5 hairs?

6 A. That's right.

7

8 THE COMMISSIONER: Q. It was the police who took the
9 photographs, was it?

10 A. That's right, sir.

11

12 THE COMMISSIONER: Yes. Thank you, Mr Tedeschi.

13

14 MR TEDESCHI: Q. And of course, the loss of the hairs is
15 inexcusable?

16 A. It is.

17

18 Q. Whether DNA was available or not, as you've said,
19 there were other tests that could have been done at that
20 time, including, as the Commissioner has mentioned,
21 comparing the colour and the appearance and the shape and
22 the texture of the hair with his own hair so that if it was
23 different it would strongly suggest that there was somebody
24 else involved?

25 A. That's right. That could have been done at the scene.

26

27 Q. And I think you made inquiries and found that you
28 could not determine who was responsible for the loss of the
29 hairs; is that right?

30 A. I made inquiries but Sergeant McCann made inquiries
31 a decade before me and he also couldn't locate the hair.

32

33 Q. Were you able to locate who was responsible for the
34 loss of the hair?

35 A. No.

36

37 Q. When the Coroner came to consider the case of Russell,
38 there were two particular facts that were important to her
39 in relation to her findings, as stated in her findings, and
40 do you agree that that was the hair that had been found --

41 A. Yes.

42

43 Q. -- the hairs that had been found? And the position
44 of the body?

45 A. Yes.

46

47 Q. And Dr Cala had given evidence about the position of

1 the body suggesting that, for him, he thought it was more
2 likely that he'd been the victim of an assault rather than
3 a fall?

4 A. That's right.

5

6 Q. There was no consideration at all that Mr Russell may
7 have committed suicide, was there?

8 A. No.

9

10 Q. He was perfectly happy in his life; it was not
11 a consideration?

12 A. I found no evidence of, you know, a suggestion of
13 suicide whatsoever.

14

15 Q. And Counsel Assisting made this submission to the
16 Coroner, and I quote:

17

18 *In my respectful submission the surrounding*
19 *circumstances give rise to significant*
20 *suspicious of foul play, whilst the*
21 *evidence adduced does not permit the*
22 *absolute exclusion of the proposition the*
23 *death was occasioned accidentally. This*
24 *possibility remains slight, the*
25 *preponderance of the evidence being in*
26 *support of a finding that death occurred by*
27 *foul play, and that is the finding I would*
28 *invite your Honour to come to.*

29

30 A. Yes.

31

32 Q. And in the transcript at that point, her Honour
33 immediately added:

34

35 *Indeed, yes, I agree with that.*

36

37 Was that your view at the time?

38 A. That's my recollection.

39

40 Q. Are you aware from the papers that you've been shown
41 that the members of Strike Force Neiwand obtained some
42 fresh evidence in relation to those two pieces of evidence?

43 A. Yes.

44

45 Q. Are you aware that particularly in relation to the
46 blood alcohol reading of .255, that Dr Moynham expressed
47 the view that he did not think that the blood alcohol level

1 would have significantly increased after death?

2 A. Yes.

3

4 Q. Were you aware that Dr Duflou had given evidence to
5 basically say that, in his view, the position of the body
6 did not allow him to differentiate between either
7 accidental fall or a fall assisted by another person?

8 A. He did say that.

9

10 Q. Do you agree that that's a difference in emphasis
11 between Dr Cala and Dr Duflou?

12 A. On that one single point, yes.

13

14 Q. Yes. That Dr Cala says he prefers the view that there
15 was an assault and a fall, whereas Dr Duflou says, in
16 essence, he can't distinguish between a misadventure fall
17 and a fall following from an assault?

18 A. That's right.

19

20 Q. So that there's a difference in emphasis there, do you
21 agree?

22 A. Yes.

23

24 Q. You were aware that there was a senior forensic
25 scientist, Elizabeth Brooks, who was of the view that the
26 hair found on the back of Mr Russell's hand could have come
27 from the deceased's own scalp?

28 A. Yes.

29

30 Q. And are you aware of whether there was a laceration on
31 the scalp of the deceased?

32 A. Yes, we had post-mortem notes.

33

34 Q. So he did have a laceration?

35 A. I - just going back through my recent readings, yeah,
36 I believe so.

37

38 Q. So bearing in mind the evidence from the forensic
39 scientist that the hair could have come from the deceased's
40 own scalp, Dr Moynham's evidence that the deceased likely
41 had that high level of blood alcohol at the time of his
42 death, and the evidence of Dr Duflou, do you agree that,
43 again, minds may differ in terms of the emphasis as to
44 which of those possibilities may have been the likely cause
45 of death?

46 A. I agree that minds may differ but I believe there
47 should have been more to the decision-making in relation to

1 what happened to John Russell. Dr Duflou made a number of
2 other points which tended to corroborate Dr Cala. I think
3 taking that all into account, there might have been
4 a different view.

5

6 Q. All right. In relation to Dr Duflou, his report
7 refers to the hairs?

8 A. Yes.

9

10 Q. He says he thinks it's unlikely it came from himself,
11 but he couldn't exclude that possibility?

12 A. That's right.

13

14 Q. And I think Dr Cala had also given evidence about the
15 jersey which was worn by the deceased which was up around
16 his upper torso?

17 A. Yes.

18

19 Q. And Dr Duflou, in his report, said that that could
20 have been caused either during the fall or at the base of
21 the fall, he was unable to say?

22 A. That's right.

23

24 Q. Bearing all of that in mind, do you accept that minds
25 may differ and that some minds might legitimately prefer
26 the view that it was an accidental fall?

27 A. Minds may differ, but I'm - I have my own opinion in
28 relation to it.

29

30 THE COMMISSIONER: Mr Tedeschi, I'm sorry to do this, but
31 you have not - no criticism necessarily, but if you read
32 Professor Duflou in its entirety on the hairs, you will see
33 that it's a little bit more than "relatively unlikely".
34 Matter for you. I will read, just so that you are assisted
35 by what I'm thinking about --

36

37 MR TEDESCHI: Yes.

38

39 THE COMMISSIONER: He says:

40

41 *Relatively unlikely that it originated from*
42 *the head of the deceased although I don't*
43 *absolutely exclude the possibility given*
44 *the laceration. Taking into account that*
45 *the deceased very likely moved very little*
46 *if at all following the impact with the*
47 *ground, it would follow that it is unlikely*

1 *that the deceased would have been able to*
2 *touch his head with his left arm given the*
3 *position of that arm under his trunk.*
4

5 You have omitted that every time you've referred to
6 Professor Duflou's material. That is, in fact, a stronger
7 view procured by Neiwand than indeed Dr Cala.

8
9 MR TEDESCHI: I accept that, Commissioner.

10
11 Q. Mr Page, you've heard the full account about the hair
12 from Dr Duflou?

13 A. Yes.

14
15 Q. The latter part of what the Commissioner read to you
16 relates to the unlikelihood of the deceased having, in
17 effect, ripped out his own hair at the base of the cliff.
18 Do you acknowledge that there's always a possibility that,
19 at the top of the cliff, as he was falling from whatever
20 cause, it might have resulted in a laceration and him
21 having his own hair in his - the vicinity of his hand?

22 A. Anything is possible but I would consider that
23 unlikely.

24
25 Q. All right. Your preference in relation to Mr Russell
26 is that he was the victim of a homicide?

27 A. Yes.

28
29 Q. That was, I think, the preference of Counsel
30 Assisting?

31 A. Yes.

32
33 Q. It was certainly the preference of Mr Saidi, counsel
34 representing the police?

35 A. Yes.

36
37 Q. And it was certainly the finding by her Honour?

38 A. Yes.

39
40 Q. But you accept that in the light of the additional
41 evidence obtained by those who were in Strike Force
42 Neiwand, that they might have a different view?

43 A. They may have a different view.

44
45 Q. Do you agree that if you approach different people
46 with the same evidence, they might, quite legitimately and
47 professionally, have a different view about the same

1 evidence in relation to this sort of material?

2 A. That can happen, yes.

3

4 MR TEDESCHI: Your Honour, would you pardon me for
5 a moment?

6

7 THE COMMISSIONER: Certainly.

8

9 MR TEDESCHI: Thank you. Nothing further.

10

11 THE COMMISSIONER: Mr Page, that concludes your evidence.
12 I can thank you very much and excuse you from further
13 attendance. Thank you very much.

14

15 THE WITNESS: Thank you, Commissioner.

16

17 <THE WITNESS WITHDREW

18

19 MR GRAY: Commissioner, the next witness would be Dr Derek
20 Dalton.

21

22 THE COMMISSIONER: Okay. I think Dr Dalton is in fact in
23 the hearing room, so if he comes forward and we will get
24 sorted.

25

26 <DEREK DALTON, sworn: [12.26pm]

27

28 THE COMMISSIONER: Please take a seat. A couple of
29 things, Professor, you may not be familiar with the
30 procedure. Mr Gray will ask you some questions. Those
31 assisting him will put hard copies of documents in front of
32 you. They will also come up on the screen. Whatever your
33 preferred method of - they may not always come up on the
34 screen, I should say, but most likely they will. Whatever
35 your preferred method of taking on board the detail, please
36 follow, and thank you.

37

38 Yes, Mr Gray.

39

40 THE WITNESS: The screen will be good. Just a matter of -
41 to get things right, and I respect your deference, I'm not
42 a professor, I'm an associate professor.

43

44 THE COMMISSIONER: I'm so sorry.

45

46 THE WITNESS: And indeed, having left the university
47 I guess I could even be formally addressed just as