

**2022 Special Commission of Inquiry
into LGBTIQ hate crimes**

**Before: The Commissioner,
The Honourable Justice John Sackar**

**At Level 2, 121 Macquarie Street,
Sydney, New South Wales**

On Thursday, 29 June 2023 at 10.30am

(Day 70)

Re: Disappearance of Ross Warren

Mr Peter Gray SC	(Senior Counsel Assisting)
Ms Christine Melis	(Counsel Assisting)
Ms Isabella Jiang	(Solicitor)

Also Present:

Mr Mathew Short, with Mr Auhrett Barrie for the NSW Police

1 THE COMMISSIONER: Yes, Mr Gray?

2

3 MR GRAY: Commissioner, this morning is the hearing in
4 relation to the case of Ross Bradley Warren, who died on
5 22 July 1989.

6

7 Counsel is here representing the Commissioner of
8 Police.

9

10 THE COMMISSIONER: Yes, thank you.

11

12 MR SHORT: Short for the Commissioner.

13

14 THE COMMISSIONER: Thank you.

15

16 MR GRAY: Commissioner, Mr Warren was a well-known TV
17 weatherman and newsreader in Wollongong and photographs of
18 him have been widely publicised in the media ever since,
19 and it is appropriate, with respect, that one of those
20 photos be shown on the screen now, as has been done.

21

22 The Inquiry has been in communication with Mr Warren's
23 family over the course of the last year and they are aware
24 of today's proceedings.

25

26 On behalf of the Inquiry, I extend our condolences to
27 all of Mr Warren's surviving family and friends.

28

29 Commissioner, Mr Warren was 25 years old at the time
30 of his disappearance in July 1989. He was living in
31 Wollongong. He was known as a very friendly and
32 good-natured person, with a wicked sense of humour. He
33 worked as a television presenter with WIN4 Television in
34 Wollongong. He was a gay man. His parents and his
35 siblings, a brother and a sister, as well as his employer
36 at WIN Television were aware of his sexuality and accepting
37 of it. He evidently had many friends who were gay. At
38 least some of those friends were aware that he sometimes
39 used the beat at Marks Park that I spoke about yesterday.

40

41 On the evening of Friday, 21 July 1989, Mr Warren read
42 the weather at the conclusion of the 6 o'clock news on WIN
43 Television and then drove from Wollongong to Sydney. He
44 went to the home of a friend of his called Craig Ellis,
45 with whom he was going to stay for the weekend. This was
46 something that he quite often did on weekends.

47

1 At about 10.30 or 11 that night, Friday night, he
2 drove to Oxford Street in Darlington and he met a work
3 colleague called Phillip Rossini. They visited a number of
4 bars and nightclubs along the Oxford Street strip until
5 they parted ways at about 2am on Saturday, 22 July.
6 Mr Rossini saw Mr Warren driving his car on Oxford Street
7 in an easterly direction heading towards Paddington from
8 Darlington. That was the last known sighting of
9 Mr Warren.

10
11 The next morning, or later that morning, 22 July,
12 Mr Ellis realised that Mr Warren had not come home.
13 Mr Ellis and his then partner, a Mr Saucis, commenced to
14 search for him but with no success.

15
16 The next day, Sunday, 23 July, Mr Warren was due to be
17 at work at WIN Television, but he did not turn up.
18 Mr Ellis and Mr Saucis went to Paddington Police on the
19 evening of Sunday, 23 July, and reported Mr Warren missing.
20 Their report was taken by a Constable Robinson.

21
22 Later that night or early the next morning, they
23 themselves went to Marks Park to see whether perhaps
24 Mr Warren was there. They were aware that that was
25 a possibility, for a number of reasons. One is that
26 Mr Warren and Mr Ellis had first met there; and another is
27 that they were aware from conversations that sometimes
28 Mr Warren did use the Marks Park beat.

29
30 So they went to Marks Park and, sure enough, they
31 found Mr Warren's car in a street called Kenneth Street,
32 very close to the park. They reported that to Paddington
33 Police as well. Constable Robinson made some inquiries,
34 both with WIN Television and with Mr Warren's home address,
35 with no positive result. He circulated Mr Warren as
36 a missing person, and his recollection was that he informed
37 detectives of the situation, he being a uniformed officer.

38
39 Then on the same day, Monday, 24 July, Mr Ellis and
40 Mr Saucis went back to Marks Park and they explored, or at
41 least investigated, themselves, the area further, and lower
42 down towards the bottom of the cliff they found Mr Warren's
43 keys. They were at the water's edge near the headland, and
44 they were in what was described as a "rock pocket".

45
46 Mr Ellis's impression was that the keys appeared to
47 have been placed on the ledge in that pocket which had been

1 formed in the rock.

2
3 They went back to the Paddington Police again and they
4 told the police that they had found the keys.

5
6 Constable Robinson went to the location with Mr Ellis.
7 He searched Mr Warren's car and he found his wallet in the
8 glove box. He saw clothes and running shoes in the car and
9 various other personal effects, and he took them back to
10 Paddington Police Station and handed them to the
11 detectives. No photographs of the scene seem ever to have
12 been taken.

13
14 On the same day, 24 July, Monday, a Detective Senior
15 Constable Bouris from another police station, namely Bondi
16 Police Station, created a receipt for the items seized from
17 the car of Mr Warren. How that came to be something that
18 happened at Bondi is not entirely clear, but it seems that
19 DSC Bouris, according to what he told Detective Sergeant
20 Page in 2001 in the course of the Taradale investigation,
21 did attend Kenneth Street, Bondi, did see the car, and was
22 given a set of eight keys. As I say, how that came about
23 with the Bondi Police Station is not entirely clear.

24
25 One of the documents in the tender bundle, at tender
26 bundle 48, is a statement from another police officer from
27 Bondi who says that the keys and other items were duly
28 returned to Mr Warren's mother at some later stage. It's
29 not perhaps entirely clear how much later, but at some
30 later stage they were returned to Mr Warren's parents.

31
32 Now, Mr Warren's body has never been found. His
33 disappearance and suspected death were never reported to
34 the Coroner.

35
36 Two days after the Monday that I've been referring to,
37 namely, on Wednesday, 26 July, there was an article in the
38 Daily Telegraph, and if it is possible, I will ask for that
39 to be placed on screen [SC0I.76851]. It is an article of
40 26 July, 1989. According to that article, which I will
41 quote from - there it is now on the screen - the article,
42 which was on the front page of the Daily Telegraph, headed
43 "Murder fears for TV weather man", began in the first
44 paragraph:

45
46 *Police hold grave fears that a missing*
47 *television weatherman may have been*

1 *murdered.*

2

3 *Ross Warren, who worked for Wollongong's*
4 *WIN, has not been seen since the early*
5 *hours of Saturday.*

6

7 *A police spokesman said it is feared*
8 *Mr Warren may have met with foul play.*

9

10 Now, who the police spokesman was is not stated,
11 however, the officer in charge at Paddington Police, the
12 detective officer in charge, was Detective Sergeant Kenneth
13 Bowditch. On 28 July, two days later, a Friday, Detective
14 Sergeant Bowditch made an entry in his occurrence pad, and
15 if it is possible, I would like that to be brought up on
16 the screen as well. It is in tab 6 of the tender bundle
17 [SC0I.02744.00031].

18

19 If we scroll down a little, we'll see that Detective
20 Bowditch - I want to take you, Commissioner, to a few
21 aspects of this. You'll see that the entry is made,
22 according to the top left-hand column, at 9.50am on the
23 28th, which was a Friday. Mr Warren is described as a
24 "Missing Person". On the right-hand side there's a column
25 which says "Police in charge. Action taken". And the
26 first few lines record, as written:

27

28 *Detective Sergeant Bowditch --*

29

30 who was the OIC, and then several other officers, namely
31 Detective Sharrock and Plain Clothes Constables Ryan and
32 Glascock, together with Constable Robinson in charge.
33 Various other officers are said to have been informed,
34 including Constable Emery of Missing Persons. It's stated
35 that Scientific and Fingerprints were informed and
36 attended, and that the Air Wing and Water Police were
37 utilised. I will come back to those matters.

38

39 Then in the main column there is a narrative account
40 of essentially what Mr Ellis and Mr Saucis had told police,
41 and that takes the first page and the second page. At the
42 bottom of the second page - if we scroll down further,
43 thank you - we see, about half a dozen lines up, reference
44 to Mr Ellis and Mr Saucis, on a ledge near the water 's
45 edge they located a set of keys. What then is recorded is
46 this:

47

1 *Following this both Ellis and Saucis and*
2 *the Police carried out a residential*
3 *canvass of nearby dwellings.*

4
5 That seems to be, as later evidence indicates, not entirely
6 accurate. The next sentence is:

7
8 *The Water Police and Air Wing were called*
9 *in to assist foot police.*

10
11 Later evidence would suggest that that is not entirely
12 accurate either.

13
14 If we then turn over to the next page, you see,
15 Commissioner, a paragraph reading as follows:

16
17 *On the morning of the 26.7.89 an article as*
18 *headlines in the Daily Telegraph that*
19 *investigating Police were of the view that*
20 *Warren had been murdered.*

21
22 That's the article that we just looked at. And Sergeant
23 Bowditch went on:

24
25 *This is not the view of investigating*
26 *Police nor did the story or information*
27 *regarding this emanate from this office.*

28
29 When one scrolls further to the bottom of the next
30 page - if we could do that, please - we get a
31 paragraph beginning, "Investigating Police are of the
32 opinion", where Detective Sergeant Bowditch sets out what
33 he says the view of investigating police actually was,
34 namely:

35
36 *... that the missing person has fallen into*
37 *the ocean in some manner and it is*
38 *anticipated that in the near future his*
39 *body will surface and be recovered. I am*
40 *not able to offer any explanation as to how*
41 *he would have fallen into the water only*
42 *that the area near where the keys were*
43 *located is a treacherous rock formation*
44 *which at the present time is secreting*
45 *a lot of water and moisture from recent*
46 *rains ...*

47

1 et cetera.

2

3

And then at the bottom of that page and just spilling over to the last page, there's a sentence which reads:

4

5

6

Further enquiries are continuing and the appropriate authorities will be notified.

7

8

9 The contention that "further inquiries are continuing" seems also, on the basis of later evidence, to be somewhat less than accurate.

10

11

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13

That occurrence pad entry, as we saw, was dated Friday morning, 28 July. On the evidence, the investigation, to the extent there was an investigation, seems to have finished at that point. The evidence does not indicate any other or further step thereafter.

14

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19

Let me turn to that initial investigation per se. I took you, Commissioner, a moment ago, to the steps which Mr Bowditch - Detective Sergeant Bowditch - claimed to have carried out.

20

21

22

23

24

In the course of Operation Taradale, evidence was gathered by Detective Sergeant Page, which was put before Coroner Milledge, and, in summary, the position on that evidence appears to be this:

25

26

27

28

29

Sergeant Bowditch claimed that he had submitted a brief of evidence to the Coroner in 1990, however, no such brief was received by the Coroners Court.

30

31

32

33

Secondly, he claimed that copies of all documents in relation to Mr Warren's disappearance would also have been sent to the Missing Persons Unit, however, no documents were received by the Missing Persons Unit.

34

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38

Thirdly, he claimed that Detective Sergeant Ryan and Plain Clothes Officers Glascock and Sharrock had assisted in the investigation into Mr Warren's disappearance, however, each of those three officers provided statements to Operation Taradale to the effect that, in fact, they had no involvement in any such investigation.

39

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Fourthly, Detective Bowditch claimed that the Air Wing and Water Police were involved. However, no record from either of those entities supported that claim.

45

46

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1
2 Fifthly, he claimed that he had taken formal
3 statements from Mr Saucis and Mr Ellis and that he had met
4 with them, however, no such statements were located, and
5 both Mr Saucis and Mr Ellis told Detective Sergeant Page
6 that this had not happened.

7
8 Sixthly, he claimed that he obtained Mr Warren's
9 health and dental records and some recent photographs,
10 however, no such documents were found by Operation
11 Taradale.

12
13 In fact, it was Mr Warren's friends, Mr Ellis and
14 Mr Saucis, who took some action once they realised
15 Mr Warren was missing. Having reported him missing on the
16 evening of Sunday, the 23rd, they themselves conducted
17 a search of Marks Park, for the reasons I have mentioned.
18 On that Sunday evening they found his car. They reported
19 that to the police.

20
21 Again it was Mr Ellis and Mr Saucis, not the police,
22 who returned to Marks Park on the morning of 24 July.
23 They, not the police, did a door-knock of houses in the
24 area and spoke with residents. They, in particular
25 Mr Ellis, then walked down the stairs to the rock shelf and
26 then walked down below the rock shelf and saw the set of
27 keys that Mr Ellis recognised as Mr Warren's.

28
29 If it is convenient, I will show or ask to have shown
30 on the screen a map or photograph of the area which was
31 produced in the course of Strike Force Neiwand, and it
32 shows, with the use of red arrows, where these various
33 events happened.

34
35 That's Marks Park that we saw yesterday. The first
36 red arrow, number 1 on the right, shows where the car was
37 found, which was in Kenneth Street.

38
39 The second red arrow shows the path down which
40 Mr Ellis and Mr Saucis walked, which leads down to the
41 actual coastal track itself, which is the one skirting the
42 park.

43
44 Then the fourth arrow indicates where Mr Ellis, in
45 2017 or so, was standing with a Strike Force Neiwand
46 officer, at the top of the rock shelf, or at an elevated
47 part of the rock shelf, pointing to where the keys had been

1 found.

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Then the fifth one shows the spot where the keys were actually found, which was down almost at water level at the bottom of the cliff, just above the waves from Mackenzies Bay.

Now, there is no record, as I said, there is no contemporaneous record, of any steps whatsoever being taken by police after the occurrence pad entry of Detective Sergeant Bowditch on 28 July.

At the Taradale inquest or the Milledge Inquest in 2003, Sergeant Bowditch - former Sergeant Bowditch by then - gave evidence that Mr Warren's case actively continued and it was not closed for another three weeks, until 19 August. However, he was not able to nominate any steps actually taken beyond 28 July.

Mr Warren was reported missing to Paddington Police. Had the matter been investigated by Bondi detectives, it is perhaps possible that when Mr John Russell, another gay man, was found at the base of a cliff at Marks Park only four months later, a connection between the two events may have been made. Instead, the matter remained at Paddington Police with Detective Sergeant Bowditch, who, as we have seen, within a matter of days ceased doing whatever little he may have done and wrote in his occurrence pad:

Investigating Police are of the opinion that the missing person has fallen into the ocean in some manner and it is anticipated that in the near future his body will surface and be recovered.

In other words, for all practical purposes, there was no investigation of the death of Mr Warren as a possible homicide.

The link between the two deaths was not made until a year or two later, when Detective Sergeant McCann, the officer in charge, or OIC, of the investigations into the murders of Richard Johnson at Alexandria in January 1990 and Mr Rattanajurathaporn near Marks Park in July 1990, did document a series of connections between and among other assaults on gay men, both in the Marks Park area and other parts of Sydney, and the Commission has those two reports

1 by Sergeant McCann.

2
3 Coroner Milledge, when she handed down her findings
4 after the inquest in March 2005, described this initial
5 police investigation into the death of Mr Warren in 1989
6 as:

7
8 *... a grossly inadequate and shameful*
9 *investigation. Indeed, to characterise it*
10 *as an "investigation" is to give it a label*
11 *it does not deserve.*

12
13 Now, I turn to Operation Taradale. I won't repeat
14 what I said yesterday in general about it, suffice to say,
15 however, that its origin did relate specifically to
16 Mr Warren's case, and that happened this way, that in May
17 2000, Detective Sergeant Page, who was then at the Rose Bay
18 Local Area Command, received a file in relation to the
19 disappearance, as it then was thought to be, of Mr Warren.
20 That file contained a series of letters from Mr Warren's
21 mother, requesting that inquiries be made so that at least
22 a death certificate could be issued in relation to her
23 missing son. Letter after letter from her had gone
24 unanswered, and eventually, a somewhat neutral response had
25 been sent.

26
27 On becoming aware of these matters, DS Page began to
28 examine documents associated with Mr Warren's
29 disappearance, and he requested resources to investigate
30 the matter. He became aware, in the course of his initial
31 work, of DS McCann's two reports from 1991 and of the
32 possible links between and among various gangs that were
33 operating in the area at the time.

34
35 In the end, Operation Taradale was set up to
36 investigate both the disappearance of Mr Warren and the
37 death of Mr Russell, as well as the assault on Mr David
38 McMahon, which had happened also at Marks Park in December
39 of 1989, only about a month after the death of Mr Russell.

40
41 I spoke yesterday about the extent and scale of
42 Operation Taradale, the 12 police officers involved, the
43 telephone intercepts, the listening devices, the persons of
44 interest located and interviewed, the expert evidence and
45 so on. I won't repeat that.

46
47 At the conclusion of his work, when he - "he",

1 Sergeant Page - prepared his brief of evidence for the
2 Coroner, which included his own very lengthy statement, he
3 summarised his views as follows, and these are set out in
4 our written submissions at paragraph 137.

5
6 He said, firstly, that he noted that Mr Warren had not
7 let his financial affairs lapse, which some people
8 contemplating suicide sometimes do, and he noted that he
9 appeared, according to his friends, to be in good spirits.
10 He said that he believed that Mr Warren was deceased and
11 that it was likely that his body had entered the water
12 surrounding Marks Park. He said he believed it was likely
13 that Mr Warren's keys had been placed where they were
14 found - placed there either by Mr Warren or by somebody who
15 had found them. He said he did not believe Mr Warren
16 attended Marks Park to commit suicide, since he was a gay
17 man attending a known beat and was likely there for
18 a clandestine sexual encounter. He said that taking into
19 account violence known to have been displayed against gay
20 men at Marks Park, he believed it was likely that Mr Warren
21 met his death there as a result of violence. But he said
22 that although the available evidence showed that groups
23 such as the Bondi Boys, the Tamarama Three and the
24 Alexandria Eight were involved in violent offences towards
25 the gay community in the vicinity of Marks Park at around
26 that time, he was not able, on the evidence he had found
27 and gathered, to offer an opinion as to who specifically
28 was responsible for Mr Warren's death.

29
30 He also made some observations about the adequacy of
31 the initial police investigation. They are set out in our
32 paragraph 138. For the most part, I have adverted to all
33 of those myself this morning.

34
35 The first one makes the point about which police
36 station was involved, and DS Page noted that the
37 investigation was retained by a command, namely,
38 Paddington, not responsible for the incident scene. It's
39 plain, at least with hindsight, to see how that could cause
40 information to fall between cracks, and that does plainly
41 seem to have happened.

42
43 He mentions that the diving unit was not utilised to
44 conduct an underwater search. He mentions that crime
45 trends in relation to violence against members of the gay
46 community were not monitored to establish whether it was
47 likely that Mr Warren was the victim of foul play. He

1 expressed the view that it was illogical that the scenario
2 of accidental death was considered likely in the very early
3 stages of the investigation, with foul play almost
4 eliminated. He expressed the view, which, on the evidence
5 we submit is well founded, that other than the primary
6 response controlled by and essentially the work of
7 Constable Robinson, the investigative follow-up was
8 negligible.
9

10 Now, the Taradale work led, as we know, to the
11 Milledge Inquest. If the Milledge findings could be
12 brought up I would be grateful. They are at exhibit 6,
13 tab 161 [SCOI.02751.00021_0001]. Thank you, the actual
14 Milledge findings, if that's possible, because I just want
15 to recall - Commissioner, I know you are aware of this -
16 the summary that the Coroner gave of some of the breadth of
17 the evidence that was available to her. It starts at
18 page 3. I won't read it out, as I appreciate that the
19 Commission has seen this before and others have as well,
20 but the force of the evidence summarised in these pages
21 needs to be borne in mind when considering these cases.
22

23 At the bottom of page 3, or halfway down page 3,
24 her Honour talks about Marks Park being a popular walking
25 track during the day and at night "gay men will 'cruise'
26 the coastal walkway rattling keys or coins as an indication
27 of their availability for personal contact". These are the
28 Coroner's overall summarised extractions of a very large
29 amount of evidence that was before her.
30

31 She says, a couple of paragraphs down, that it was
32 well known to everyone in the community that this was a gay
33 beat, including the police. She records the nub of some of
34 the evidence about the nature of beats and how they
35 operated in New South Wales at the time. There is
36 a heading, "The 'Gay Hate' climate at the time", where she
37 records that the evidence before her included that gay men
38 were more likely to be victims of violence than other male
39 members of the community, that homosexuals in that era were
40 not likely to report crimes of violence against them, both
41 because of shame and embarrassment and because they
42 believed, rightly or wrongly, that police would not respond
43 appropriately to their victimisation. She records the
44 evidence before her, which was that 22 per cent of gay hate
45 homicides between 1989 and 1999 occurred at beats. And
46 I drop down to the next paragraph, beginning "1989/1990":
47

1 ... a number of gay men were attacked and
2 some killed in the inner city and eastern
3 suburbs, all victims of "gay hate"
4 violence. Whilst a number of offenders
5 were arrested, many of the brutal attacks
6 went unsolved.

7
8 Several of them are listed there in some bullet points.
9 The one on 18 December is the assault on Alan Boxsell. The
10 one on 21 December is the assault on David McMahon.
11 Commissioner, in our submissions, we have actually given
12 some references to some other assaults at about the same
13 time also at Marks Park or Bondi in this era as well.

14
15 In the bottom paragraph on that page, she records that
16 the evidence before her established that:

17
18 *During the 1980's and 1990's police were*
19 *aware of a number of gangs of youths that*
20 *were systematically engaged in the assault*
21 *and robbery of gay men in Marks Park and*
22 *other areas.*

23
24 She refers to the evidence about the names that some of
25 them gave themselves and about their view of homosexual men
26 as easy targets, who would be unlikely to come forward and
27 report their attacks, and that the gangs, as a consequence,
28 believed that they were safe.

29
30 As to her findings, you had this before you yesterday,
31 Commissioner, in the case of Mr Warren, the finding was -
32 and this is on page 14 of the same document, if it is
33 convenient to show that:

34
35 *I find that Ross Bradley Warren died in*
36 *Sydney on or about 22 July 1989. Whilst*
37 *the cause and manner of death are unknown,*
38 *I am satisfied that the deceased was*
39 *a victim of homicide perpetrated by person*
40 *or persons unknown.*

41
42 At the top of that page, in addition to the formal
43 findings, she expressed the views about the evidence that
44 I took you to yesterday.

45
46 Now, I move to Strike Force Neiwand. Again, not
47 wishing to repeat at any length what I said yesterday, the

1 Coroner's findings - Coroner Milledge's findings - were
2 in March 2005; Strike Force Neiwand was set up in October
3 2015, 10 and a half years later. In the intervening
4 period, there had been no investigation or reinvestigation
5 of any of these three deaths, including that of Mr Warren,
6 even though, among other things, Detective Senior Constable
7 Taylor of the Unsolved Homicide Team had recommended some
8 such reinvestigation in October 2012.

9
10 Now, again, not wishing to repeat myself unduly, as
11 I submitted yesterday, the Neiwand summaries, including the
12 one relating to Mr Warren, made a number of global
13 criticisms of Operation Taradale applicable, so it was
14 asserted, to the investigations by Taradale of all three of
15 these deaths.

16
17 The first criticism, if I'm now summarising what
18 I said yesterday, was the accusation that it was relying on
19 investigation confirmation bias and seeking only evidence
20 consistent with such a bias while disregarding inconsistent
21 evidence; secondly, it accused Taradale of having been only
22 conducting its investigation with tunnel vision by
23 concentrating only on members of youth gangs and not
24 considering other hypotheses; and thirdly, it claimed that
25 Taradale had not deployed the strategies related to
26 victimology at all.

27
28 As submitted yesterday, at the end of the evidence
29 of Sergeant Morgan this year before you, in February, and
30 the evidence of Mr Willing, it was plain that those three
31 criticisms were now abandoned and it was accepted that
32 they were unjustified and unwarranted and wrong and that,
33 in fact, the investigations by Operation Taradale and
34 Sergeant Page were very thorough and appropriate.

35
36 Now, another concession that was made, specifically
37 about the three cases, and including the case of Mr Warren,
38 was that the focus of Strike Force Neiwand was not to
39 investigate the possibility of homicide at all; it was
40 overwhelmingly on factors pointing towards either suicide
41 or misadventure, and the many concessions that were made to
42 that effect are set out in our written submissions at
43 around paragraph 184. They include the deliberate decision
44 by Neiwand not to pursue any of the known persons of
45 interest and the concession that, in the case of Mr Warren,
46 Strike Force Neiwand did nothing itself to pursue the
47 possibility of gay hate homicide as distinct from domestic

1 homicide, other than to review what Operation Taradale had
2 done.

3
4 As I submitted yesterday in relation to the other two
5 cases, Mr Russell and Mr Mattaini, the conclusion of the
6 Neiwand summaries, including in relation to Mr Warren, was
7 that the 2005 findings of Coroner Milledge should be
8 overturned. The concluding paragraph of the Warren summary
9 at paragraph 270 said:

10
11 *Warren's disappearance - cause and manner*
12 *of death remain "undetermined" despite the*
13 *2005 "homicide" findings of the Coroner,*
14 *which list it as a homicide.*

15
16 I spoke yesterday about the use of the word "despite" in
17 that context.

18
19 DS Morgan accepted in his evidence in February that
20 this contradiction of the coronial findings was made even
21 though Neiwand, in fact, had uncovered nothing of any
22 consequence beyond what was before Coroner Milledge. I'm
23 now looking at our written submissions at around about
24 paragraph 200.

25
26 Mr Willing agreed, in our submissions at 202, that for
27 Neiwand to purport to say, as it did in all of these
28 summaries, that the cause and manner of death "remain
29 'undetermined' despite the 'homicide' findings of the
30 Coroner" was completely without foundation, he said it was
31 "breathtaking" and "extraordinary" for Neiwand to reverse
32 the decision of the Coroner and that he had never seen the
33 like of it before. Our submission that you have,
34 Commissioner, is that Neiwand had no proper basis and no
35 reasonable basis for contradicting the coronial findings of
36 Coroner Milledge in any way.

37
38 Now, I wish to take you, Commissioner, to a couple of
39 particular aspects of the Neiwand summaries in connection
40 with Mr Warren in particular. We point out at 235 - what
41 I would like, if it could be done by those who are so
42 expertly operating the screen, if we could have the Neiwand
43 summary itself for Mr Warren on the screen, I hope that's
44 possible.

45
46 If we go to that summary [SC0I.74883_0001] we will
47 see - when it comes up I will just illustrate this on the

1 screen for you, Commissioner - that the Warren summary, and
2 the Russell summary was the same in this respect. The
3 Warren summary devoted many pages to summarising some of
4 what had been uncovered by the work of Sergeant McCann in
5 the early 1990s, and Sergeant Page in the early 2000s.
6

7 The expression used in the Neiwand summary is that
8 there was a "spate" of violent attacks on gay men in the
9 Bondi/Tamarama area, and many paragraphs of the Neiwand
10 summary were devoted to the activities of various gangs in
11 connection with many of those attacks. Thank you very
12 much.
13

14 If we could scroll to paragraph 62 of this Neiwand
15 summary, it is exhibit 6 in the Commission's Inquiry
16 generally at tab 174, but at any rate, it is now on the
17 screen.
18

19 To illustrate the point, at paragraphs 62 and
20 following, there is, from 62 to 84 - so five or six pages -
21 recounting what paragraph 62 refers to as the "spate of
22 assaults/robberies/murders committed against gay men in the
23 Eastern Suburbs of Sydney around the period of Warren's
24 disappearance". The summary says that this provides the
25 reader with a synopsis into the deaths or assaults
26 identified by Homicide Squad South investigators that
27 occurred in the 1990s.
28

29 I won't go through this in detail but you see,
30 Commissioner, that there is then the murder of
31 Mr Rattanajurathaporn, the murder of William Allen, the
32 death of John Russell - links between and among various
33 gangs thought to have been involved in one or more of those
34 murders and deaths. At paragraph 77 there's an extract
35 from one of Sergeant McCann's two 1991 reports, which
36 specifically make all these links as early as 1991.
37

38 At paragraphs 80 to 84 there's reference to some of
39 the work that Sergeant McCann did in 1990 and 1991, and at
40 paragraph 82, for example, there's a reference to one
41 particular person of interest, who has a pseudonym there,
42 "implicating himself" - himself only, that is - in
43 approximately 70 to 100 gang assaults and robberies on gay
44 men in the Alexandria and Bondi areas.
45

46 Then if we turn over to paragraph 104, or, in fact,
47 102, there's a heading "Operation Taradale", and then over

1 the next 10 or 12 paragraphs, down to about paragraph 112,
2 there's a summary of some of the work that Taradale did,
3 also bringing into focus the activities of these many
4 persons of interest and on gangs and on the evidence of Sue
5 Thompson and the study written by Sue Thompson and Jenny
6 Mouzos in the late '90s in relation to gay hate related
7 homicides.

8
9 Then, finally in this regard, if we turn to 152,
10 there's then listed again a kind of outline of the gangs
11 and persons of interest that Operation Taradale had focused
12 on, including the Alexandria Eight, the group known as PSK
13 or Parkside Killers, the Tamarama Three, the Bondi Boys and
14 others. There's reference to the telephone intercepts in
15 relation to all of those people. So the point being that
16 Strike Force Neiwand was clearly very well aware of the
17 work that had been done in the past to establish abundantly
18 the extent and nature of the violence being perpetrated on
19 gay men in this area at the relevant time.

20
21 At paragraph 266, however, if we could turn to 266,
22 which is in the last couple of pages of the Warren summary,
23 and it is, in fact, under a heading called "Summary", in
24 266, which you have on the screen, the authors of the
25 Neiwand summary say:

26
27 *An interesting detail from several*
28 *witnesses who frequented the Mackenzies*
29 *Point gay beat was that they did not*
30 *witness or encounter violence of any sort.*
31 *They were aware that "gay bashings"*
32 *happened at beats but were not aware that*
33 *they happened at the Mackenzies Point gay*
34 *beat.*

35
36 Two witnesses are then cited for that - a Mr Ellis, and
37 a second witness who has been given the identifier I98.
38 I know, Commissioner, that you are aware who that is, and
39 I dare say my learned friends are as well. The sentence
40 then follows:

41
42 *Based on this information police confirmed*
43 *that attacks on gay men did occur, but may*
44 *not have been as prevalent as portrayed by*
45 *the Operation Taradale investigation or the*
46 *media.*

1 Now, this was a particularly remarkable part of the
2 Warren summary, we submit. First of all, there were not
3 several witnesses; there were two.
4

5 Second of all, as I have been demonstrating a few
6 minutes ago, by contrast, there was a very large mountain
7 of evidence, much of it specifically referred to in the
8 very same Neiwand summary, about the frequency of violent
9 attacks on gay men at and around Marks Park.
10

11 Thirdly, in any event, what each of those two
12 witnesses, Mr Ellis and Mr I98, had actually said was
13 rather different from what this paragraph 266 claims.
14

15 As to Mr Ellis - I won't take the trouble to have this
16 brought up on the screen, it's a short point - his
17 statement of 25 September 2000, which is in evidence before
18 you as exhibit 6, tab 325, was a statement given by him to
19 Operation Taradale, and at paragraph 26 of that statement,
20 he said:

21
22 *I am aware that Marks Park, in the late*
23 *1980s, was the scene of at least one*
24 *assault on a gay man as a result of*
25 *homophobia.*
26

27 That's Mr Ellis.
28

29 As to Mr I98, first of all, if we turn in this same
30 Neiwand summary, if that could be brought up again, to
31 paragraph 201, Mr I98's evidence is summarised. The
32 summary, which was Neiwand's own summary, says, in the
33 third line:

34
35 *I98 did not encounter any violence or gangs*
36 *during his visits to Mackenzies Point. I98*
37 *recalled noticing that if something wasn't*
38 *right, he would see numerous men walking*
39 *away from Marks Park. He interpreted this*
40 *to be "not right to be there." [He] did*
41 *state that he had heard of violence towards*
42 *gay men at beats (which was around the*
43 *1960's and 1970's) and because of this he*
44 *carried nun chucks (ninja weapon). [He*
45 *said] there were two types of people who he*
46 *and others like him feared, they were*
47 *groups of males and Police.*

1
2 So even in the summary itself at paragraph 201,
3 Mr I98's evidence seems to be a little different from the
4 way it's put at 266. But then if we go to what Mr I98's
5 statement actually said, which I hope might be able to be
6 brought up on the screen, it is in the tender bundle for
7 today at tab 90 [SC0I.10390.00118_0001] it's a statement
8 of the man known as I98, given to Strike Force Neiwand
9 in May 2017, and if we turn to paragraph 20, what Mr I98
10 said was, actually, this, if we get to paragraph 20.
11 Thank you:

12
13 *Q. What times of day would there be*
14 *activity at the beat at Marks Park?*

15 *A. Always during the night when it was*
16 *dark ... Mostly it would happen around 1am*
17 *and 2am ...*

18
19 And so on. Question 21:

20
21 *Q. Were you aware of any violence at the*
22 *Marks Park beat?*

23 *A. I had heard of gay bashers in the area*
24 *however I had never witnessed anything.*
25 *I hadn't even witnessed any shouting or*
26 *screaming though I was ready for it.*
27 *I used to carry a small nun chuck weapon*
28 *with me in case I was attacked. I was*
29 *scared of groups who would carry out*
30 *poofter bashings. I never saw it but I was*
31 *aware of the potential.*

32
33 And over the page at question 23, when he was asked, "When
34 you went to the beat what would you take with you", he
35 said:

36
37 *A. I would take my wallet and keys ...*
38 *Sometimes I would hide my wallet in the car*
39 *in case someone tried to rob me. Although*
40 *at the time I was a black belt in karate so*
41 *I wasn't too concerned about my ability to*
42 *fight if someone wanted to fight me*
43 *although I never wanted to fight.*

44
45 So that's what Mr I98 actually said.

46
47 But, more than that, in his evidence before you

1 in February, DS Morgan was taken to these matters. He
2 conceded that paragraph 266 in the Neiwand summary was
3 "totally inaccurate", and "at odds with the evidence of the
4 two witnesses in question". He conceded as well that even
5 if there had been two men who had said that they weren't
6 aware of bashings at Marks Park, which, as we have seen is
7 not actually what these two men did say, that, even then,
8 would not be a sufficient basis for suggesting that attacks
9 on gay men may not have been as prevalent as portrayed by
10 Operation Taradale or the media.

11
12 Commissioner, I would like to remind you of some of
13 the passages in DS Morgan's evidence where this topic was
14 traversed, and if we could bring up that transcript,
15 I would be very grateful. It is the transcript of
16 27 February 2023.

17
18 If we start at around about page 2209, Commissioner,
19 you will see how this unfolded. At 2209 at about line 35,
20 I took Detective Sergeant Morgan to this paragraph, 266.
21 Then at 2210, the next page, having acquainted him or
22 familiarised him with what paragraph 266 said, at line 23
23 I asked him:

24
25 *Q. Now, did you check to see what, first*
26 *of all, Mr Ellis had said at the time of*
27 *Taradale in his statement then?*

28 *A. ... no, I don't believe so.*
29

30 Then I looked with Sergeant Morgan at the Ellis statement,
31 and at 2211, having taken him to that paragraph which
32 I read out a few minutes ago, at line 14 it was suggested
33 to Sergeant Morgan:

34
35 *Q. That seems to be somewhat different*
36 *from what you've put in paragraph 266?*
37

38 And his answer was:

39
40 *A. You keep saying "you" and we've been*
41 *down this track. I accept that it is at*
42 *odds with what is in 266.*
43

44 The second sentence is the one that matters for today's
45 purposes, he accepts that it is at odds. The first
46 sentence, when he says "you keep saying 'you'",
47 Commissioner, you may recall is one of the examples

1 of a number of occasions when Sergeant Morgan seemed to
2 wish to distance himself from authorship of the Neiwand
3 summary and to suggest that it was the work, perhaps only,
4 of DSC Chebl.

5
6 You, Commissioner, then asked him a question about
7 that part, which we see at line 23, and his answer was:

8
9 *A. I accept that I obviously didn't read*
10 *the document carefully enough ...*

11
12 Then on page 2212, the next page, I took him to the
13 statement of Mr I98. I took him to the contrast between
14 paragraph 266 of the Neiwand summary and what Mr I98
15 actually said. At page 2213, I98, of course, is the one
16 who talks about taking nunchucks to the beat in case he got
17 bashed.

18
19 So at line 10 on page 2213, I took him to I98's
20 account of noticing that if something wasn't right, he
21 would see numerous men walking away from Marks Park, and he
22 agreed with the question at line 15:

23
24 *Q. ... it seems clearly enough to be*
25 *telling the reader that what Mr I98 saw at*
26 *Marks Park was sometimes things not being*
27 *right, when he would see numerous men*
28 *walking away?*

29 *A. Yes.*

30 *Q. That's telling the reader, isn't it,*
31 *really, that he was aware that there could*
32 *be trouble from marauders or people*
33 *intending harm to the gay people who were*
34 *meeting there?*

35 *A. Yes, that's my interpretation and in*
36 *addition, he used to personally carry*
37 *a weapon.*

38
39 And we see that that's agreed, nunchucks. Question at line
40 37:

41
42 *Q. That rather indicates that he was*
43 *aware that Marks Park was possibly*
44 *a dangerous place for gay men?*

45 *A. That's certainly the way I read it,*
46 *yes.*

1 Question at line 41:

2
3 Q. ... that being so, when we go to
4 266 --

5
6 that's in the Neiwand summary --

7
8 to put Mr I98 forward as someone who was
9 not aware that bashings happened at
10 Mackenzies Point is not really right?

11 A. It's inaccurate, totally.

12
13 Then at page 2214, or the bottom of 2213, really, there was
14 a summing-up exercise, and I put to him:

15
16 Q. So in that paragraph, 266, there are
17 then a few problems. First of all, it says
18 that there were several ...

19
20 but in fact there were only two, and at line 5 he agrees
21 with that. Then at lines 7 to 17 he agrees that even those
22 two were, in fact, aware of the risk of violence at Marks
23 Park. At lines 19 to 20, in the case of I98 he took
24 weapons there and was clearly aware of things not being
25 right. At line 23, the question is:

26
27 Q. ... even if there were two men who did
28 say they weren't aware of bashings ... that
29 would not be a sufficient basis for
30 confirming [as 266 purports to do] that
31 attacks on gay men may not have been as
32 prevalent as portrayed by Taradale or the
33 media.

34 A. I would agree with that, yes.

35
36 And then finally, he is asked whether he would accept
37 that Neiwand also had available to it, and was aware of,
38 a mountain of evidence going back to the late '80s of many,
39 many, many violent attacks on gay men in the
40 Bondi/Tamarama/Marks Park area. The answer was, "Yes". I
41 put that much of it had been referred to by himself and
42 Mr Chebl in this very summary. Again the answer was "Yes".
43

44 Then at 2215, he was asked about whether he was aware
45 of the reports by Streetwatch and Lesbian and Gay
46 Anti-Violence Project and the Count & Counter Reports. He
47 said:

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A. *Not until I became part of Neiwand.*

Q. *Were you aware then, during the course of Neiwand?*

A. *Yes.*

At line 21:

Q. *And so the statement in paragraph 266 --*

and I won't read it out again --

is not a confirmation that actually stands up, is it?

A. *No, it is totally incorrect.*

Q. *... Was that paragraph included so as to downplay or minimise the extent and frequency of such attacks?*

A. *I don't know why it was put in there. I don't.*

Q. *Well, since you have accepted that it's almost completely incorrect and that the opposite was the truth, why put it in, do you think?*

A. *I don't know.*

Q. *What other reason could there be, given that it is so obviously unsupportable, but to downplay or minimise the extent of gay hate attacks in this area?*

A question objected to by Senior Counsel for the Commissioner of Police.

Ultimately, after some discussion between Counsel and you, Commissioner, the question was again put at the bottom of 2216, and it's a telling answer. The question is, at line 37:

Q. *... what possible reason could there be for it being included - paragraph 266 - given that it is so obviously unsupportable, other than that the reason was to downplay the extent and frequency of the attacks of this kind in this area?*

A. *Yes, I - I can only think that it*

1 was - it is totally wrong, that statement,
2 and I can only think that it suited Senior
3 Constable Chebl's findings on it to put
4 that forward, that he wanted to put that
5 forward as a fact, when clearly it wasn't.
6

7 DS Morgan, in the case of Mr Warren, conceded that
8 Neiwand's work did not shed any further light on what
9 actually happened to Mr Warren and that Neiwand did nothing
10 beyond what was already done in Operation Taradale to
11 pursue the possibility of gay hate homicide.
12

13 In terms of the work that Neiwand did do, directed to
14 whether the theories of suicide or domestic homicide could
15 be supported, he conceded as well, and we've given the
16 reference in the written submissions, that those lines of
17 inquiry, none of those lines of inquiry, as to suicide or
18 domestic homicide, actually led anywhere in the end, and he
19 conceded that the basic upshot in relation to Mr Warren was
20 that the work of Neiwand did not shed any further light on
21 what had happened to Mr Warren in the end.
22

23 Commissioner, I see the time. I am not that far off
24 completing my submissions, but I am in your hands.
25

26 THE COMMISSIONER: I think continue, Mr Gray, thank you.
27

28 MR GRAY: Commissioner, as we've outlined in our written
29 submissions, the Inquiry has taken various steps of its own
30 to attempt to advance the quantum of information available
31 that might assist in elucidating what happened to
32 Mr Warren. Those steps are outlined in our written
33 submissions. They include, of course, getting the coronial
34 file, issuing various summonses to the police, and
35 obtaining various records over a period of many months. It
36 includes speaking to and communicating with FASS, the
37 Forensic and Analytical Science Service, regarding the
38 possibility of further testing of exhibits, including the
39 driver's licence and the library card - these were articles
40 from inside the car.
41

42 FASS's recommendation is that there was little point
43 in any further DNA testing as there had not been
44 significant improvements in this respect since it had been
45 done by Neiwand.
46

47 The Inquiry nailed down the last of a couple of

1 remaining loose ends in relation to fingerprint testing and
2 the details are set out in our written submissions, but the
3 bottom line, if I can speak slightly loosely, is that none
4 of the further fingerprint testing yielded information that
5 was going to be ultimately useful in pursuing any line of
6 inquiry to finality.

7
8 In addition to those matters, the Inquiry sought and
9 obtained reports from two experts, one being forensic
10 pathologist Linda Iles, who was asked to provide a report
11 on the decomposition of bodies in water. That report was
12 also relevant to the case of Mr Mattaini, and we looked at
13 it yesterday, so I will say no more about it today. In one
14 sentence, unfortunately, the position is that there are so
15 many variables, both extrinsic and intrinsic, on that
16 question, what happens to a body in seawater, that it is
17 really not possible, with the paucity of information
18 available in this case, to say with any conviction what may
19 have happened.

20
21 The second expert who was briefed was Professor Robert
22 Brander, a coastal geomorphologist. You will recall,
23 Commissioner, that he was also briefed and did provide
24 a report in the case of Mr Mattaini. Although the events
25 are four years apart, the views of Professor Brander in
26 relation to what may have happened to Mr Warren's body,
27 assuming it went into the water at Marks Park in about
28 late July 1989 are broadly similar to his views in
29 connection with what may have happened to Mr Mattaini's
30 body. The possibilities are many, and certainty is
31 impossible. The details are referred to in our written
32 submissions.

33
34 Commissioner, so far as manner and cause is concerned,
35 the submission that we make, and it's at paragraph 455 of
36 our written submissions, is that the finding made by
37 Coroner Milledge in 2005 is still appropriate. That
38 finding was:

39
40 *Ross Bradley Warren died in Sydney on or*
41 *about 22 July 1989. Whilst the cause and*
42 *manner of death are unknown, I am satisfied*
43 *that the deceased was a victim of homicide*
44 *perpetrated by a person or persons unknown.*

45
46 On the question of bias, our submission is that the
47 evidence in the case of Mr Warren is sufficient to

1 establish that his death was a gay hate crime - that is,
2 a death in which LGBTIQ bias was a factor.

3
4 Matters that inform that conclusion include the
5 location where his keys and car were found, being
6 a well-known gay beat; secondly, the probability that
7 Mr Warren attended Marks Park for the purpose of using the
8 beat on that night; and, thirdly, the abundance of evidence
9 of gay hate assaults in the Bondi/Tamarama area, in
10 particular, Marks Park, at that very time, in the late '80s
11 and early '90s, including, of course, the death of
12 Mr Russell only four months later.

13
14 Our submission is that it is highly probable that
15 Mr Warren met his death at the hands of one or more gay
16 hate assailants.

17
18 Those are our submissions.

19
20 THE COMMISSIONER: Thank you.

21
22 MR SHORT: Commissioner, the Commissioner of Police seeks
23 to reserve her position and rely on written submissions,
24 and otherwise extends condolences to Mr Warren's friends
25 and family.

26
27 THE COMMISSIONER: Thank you. Thank you both. I will now
28 adjourn, thank you.

29
30 **AT 11.45AM THE SPECIAL COMMISSION OF INQUIRY WAS ADJOURNED**
31 **ACCORDINGLY**

'**80s** [2] - 4722:38, 4726:10
 '**90s** [2] - 4717:6, 4726:11
 'cruise' [1] - 4712:25
 'Gay' [1] - 4712:36
 'homicide' [1] - 4715:29
 'undetermined' [1] - 4715:29
 'you' [1] - 4720:46

1

1 [1] - 4708:36
10 [3] - 4714:3, 4717:1, 4721:19
10.30 [1] - 4703:1
10.30am [1] - 4701:24
100 [1] - 4716:43
102 [1] - 4716:47
104 [1] - 4716:46
11 [1] - 4703:1
11.45AM [1] - 4726:30
112 [1] - 4717:1
12 [2] - 4710:42, 4717:1
121 [1] - 4701:20
137 [1] - 4711:4
138 [1] - 4711:32
14 [2] - 4713:32, 4720:32
15 [1] - 4721:22
152 [1] - 4717:9
161 [1] - 4712:13
17 [1] - 4722:21
174 [1] - 4716:16
18 [1] - 4713:9
184 [1] - 4714:43
19 [2] - 4709:17, 4722:23
1960's [1] - 4718:43
1970's [1] - 4718:43
1980's [1] - 4713:18
1980s [1] - 4718:23
1989 [10] - 4702:5, 4702:30, 4702:41, 4704:40, 4710:5, 4710:39, 4712:45, 4713:36, 4725:28, 4725:41
1989/1990 [1] - 4712:46
1990 [4] - 4707:30, 4709:43, 4709:44, 4716:39
1990's [1] - 4713:18
1990s [2] - 4716:5,

4716:27
1991 [4] - 4710:31, 4716:35, 4716:36, 4716:39
1999 [1] - 4712:45
1am [1] - 4719:16

2

2 [1] - 4701:20
20 [3] - 4719:9, 4719:10, 4722:23
200 [1] - 4715:24
2000 [2] - 4710:17, 4718:17
2000s [1] - 4716:5
2001 [1] - 4704:20
2003 [1] - 4709:14
2005 [5] - 4710:4, 4714:2, 4715:7, 4715:13, 4725:37
201 [2] - 4718:31, 4719:2
2012 [1] - 4714:8
2015 [1] - 4714:3
2017 [2] - 4708:45, 4719:9
202 [1] - 4715:26
2022 [1] - 4701:9
2023 [2] - 4701:24, 4720:16
21 [4] - 4702:41, 4713:10, 4719:19, 4723:7
22 [6] - 4702:5, 4703:5, 4703:11, 4712:44, 4713:36, 4725:41
2209 [2] - 4720:18, 4720:19
2210 [1] - 4720:21
2211 [1] - 4720:31
2212 [1] - 4721:12
2213 [3] - 4721:15, 4721:19, 4722:13
2214 [1] - 4722:13
2215 [1] - 4722:44
2216 [1] - 4723:38
23 [6] - 4703:16, 4703:19, 4719:33, 4720:22, 4721:7, 4722:25
235 [1] - 4715:40
23rd [1] - 4708:16
24 [3] - 4703:39, 4704:14, 4708:22
25 [2] - 4702:29, 4718:17
26 [3] - 4704:37, 4704:40, 4718:19

26.7.89 [1] - 4706:17
266 [16] - 4717:21, 4717:24, 4718:13, 4719:4, 4720:2, 4720:20, 4720:22, 4720:36, 4720:42, 4721:14, 4722:4, 4722:16, 4722:30, 4723:10, 4723:42
27 [1] - 4720:16
270 [1] - 4715:9
28 [4] - 4705:13, 4707:14, 4709:11, 4709:18
28th [1] - 4705:23
29 [1] - 4701:24
2am [2] - 4703:5, 4719:17

3

3 [3] - 4712:18, 4712:23
325 [1] - 4718:18
35 [1] - 4720:19
37 [2] - 4721:40, 4723:39

4

41 [1] - 4722:1
455 [1] - 4725:35
48 [1] - 4704:26

5

5 [1] - 4722:20

6

6 [5] - 4702:42, 4705:16, 4712:12, 4716:15, 4718:18
62 [4] - 4716:14, 4716:19, 4716:20, 4716:21

7

7 [1] - 4722:21
70 [2] - 4701:26, 4716:43
77 [1] - 4716:34

8

80 [1] - 4716:38
82 [1] - 4716:40
84 [2] - 4716:20, 4716:38

9

9.50am [1] - 4705:22
90 [1] - 4719:7

A

abandoned [1] - 4714:31
ability [1] - 4719:41
able [4] - 4706:40, 4709:17, 4711:26, 4719:5
abundance [1] - 4726:8
abundantly [1] - 4717:17
accept [3] - 4720:41, 4721:9, 4722:36
accepted [3] - 4714:31, 4715:19, 4723:22
accepting [1] - 4702:36
accepts [1] - 4720:45
accidental [1] - 4712:2
according [4] - 4704:19, 4704:40, 4705:22, 4711:9
account [3] - 4705:39, 4711:19, 4721:20
accurate [3] - 4706:6, 4706:12, 4707:11
accusation [1] - 4714:18
accused [1] - 4714:21
acquainted [1] - 4720:21
action [2] - 4705:25, 4708:14
actively [1] - 4709:15
activities [2] - 4716:10, 4717:3
activity [1] - 4719:14
actual [2] - 4708:41, 4712:13
addition [3] - 4713:42, 4721:36, 4725:8
address [1] - 4703:34
adequacy [1] - 4711:30
adjourn [1] - 4726:28
advance [1] - 4724:30
adverted [1] - 4711:32
affairs [1] - 4711:7
ago [3] - 4707:20, 4718:6, 4720:32
agree [1] - 4722:34
agreed [3] - 4715:26,

4721:22, 4721:39
agrees [2] - 4722:20, 4722:21
air [1] - 4707:45
Air [2] - 4705:36, 4706:8
Alan [1] - 4713:9
Alexandria [4] - 4709:43, 4711:24, 4716:44, 4717:12
Allen [1] - 4716:31
almost [3] - 4709:4, 4712:3, 4723:23
amount [1] - 4712:29
Analytical [1] - 4724:37
answer [5] - 4720:38, 4721:7, 4722:40, 4722:42, 4723:38
Anti [1] - 4722:46
Anti-Violence [1] - 4722:46
anticipated [2] - 4706:38, 4709:32
apart [1] - 4725:25
appeared [2] - 4703:46, 4711:9
applicable [1] - 4714:13
appreciate [1] - 4712:18
appropriate [4] - 4702:19, 4707:7, 4714:34, 4725:37
appropriately [1] - 4712:43
Area [1] - 4710:18
area [13] - 4703:41, 4706:42, 4708:24, 4708:30, 4709:46, 4710:33, 4716:9, 4717:19, 4719:23, 4722:40, 4723:31, 4723:46, 4726:9
areas [2] - 4713:22, 4716:44
arrested [1] - 4713:5
arrow [3] - 4708:36, 4708:39, 4708:44
arrows [1] - 4708:32
article [6] - 4704:37, 4704:39, 4704:40, 4704:41, 4706:17, 4706:22
articles [1] - 4724:39
aspects [2] - 4705:21, 4715:39
assailants [1] - 4726:16
assault [5] - 4710:37,

- 4713:9, 4713:10,
4713:20, 4718:24
assaults [5] - 4709:46,
4713:12, 4716:25,
4716:43, 4726:9
**assaults/robberies/
murders** [1] -
4716:22
asserted [1] - 4714:14
assist [2] - 4706:9,
4724:31
assisted [1] - 4707:39
Assisting [2] -
4701:31, 4701:32
associated [1] -
4710:28
assuming [1] -
4725:27
AT [1] - 4726:30
attacked [2] - 4713:1,
4719:28
attacks [12] - 4713:5,
4713:27, 4716:8,
4716:11, 4717:43,
4718:9, 4720:8,
4722:31, 4722:39,
4723:19, 4723:30,
4723:46
attempt [1] - 4724:30
attend [1] - 4704:21
attended [3] -
4705:36, 4711:16,
4726:7
attending [1] -
4711:17
August [1] - 4709:17
Auhrett [1] - 4701:38
authorities [1] -
4707:7
authors [1] - 4717:24
authorship [1] -
4721:2
availability [1] -
4712:27
available [5] -
4711:22, 4712:17,
4722:37, 4724:30,
4725:18
aware [26] - 4702:23,
4702:36, 4702:38,
4703:24, 4703:27,
4710:27, 4710:30,
4712:15, 4713:19,
4717:16, 4717:31,
4717:32, 4717:38,
4718:22, 4719:21,
4719:31, 4720:6,
4721:31, 4721:43,
4722:9, 4722:22,
4722:24, 4722:28,
4722:37, 4722:44,
4723:3
-
- B**
-
- Barrie** [1] - 4701:38
bars [1] - 4703:4
base [1] - 4709:23
based [1] - 4717:42
bashed [1] - 4721:17
bashers [1] - 4719:23
bashings [5] -
4717:31, 4719:30,
4720:6, 4722:9,
4722:28
basic [1] - 4724:19
basis [5] - 4707:10,
4715:34, 4715:35,
4720:8, 4722:29
Bay [2] - 4709:6,
4710:17
beat [12] - 4702:39,
4703:28, 4711:17,
4712:33, 4717:29,
4717:34, 4719:14,
4719:22, 4719:34,
4721:16, 4726:6,
4726:8
beats [4] - 4712:34,
4712:45, 4717:32,
4718:42
became [2] - 4710:30,
4723:2
becoming [1] -
4710:27
began [2] - 4704:43,
4710:27
beginning [2] -
4706:31, 4712:46
behalf [1] - 4702:26
below [1] - 4708:26
belt [1] - 4719:40
between [9] - 4709:24,
4709:40, 4709:45,
4710:32, 4711:40,
4712:45, 4716:32,
4721:13, 4723:36
beyond [3] - 4709:18,
4715:22, 4724:10
bias [4] - 4714:19,
4714:20, 4725:46,
4726:2
black [1] - 4719:40
bodies [1] - 4725:11
body [7] - 4704:32,
4706:39, 4709:33,
4711:11, 4725:16,
4725:26, 4725:30
Bondi [10] - 4704:15,
4704:18, 4704:21,
4704:23, 4704:27,
4709:21, 4711:23,
4713:13, 4716:44,
4717:13
Bondi/Tamarama [2] -
4716:9, 4726:9
**Bondi/Tamarama/
Marks** [1] - 4722:40
borne [1] - 4712:21
bottom [10] - 4703:42,
4705:42, 4706:29,
4707:3, 4709:5,
4712:23, 4713:15,
4722:13, 4723:37,
4725:3
Bouris [2] - 4704:15,
4704:19
Bowditch [14] -
4705:13, 4705:14,
4705:20, 4705:28,
4706:23, 4706:32,
4707:21, 4707:29,
4707:45, 4709:11,
4709:14, 4709:26
box [1] - 4704:8
Boxsell [1] - 4713:9
Boys [2] - 4711:23,
4717:13
Bradley [3] - 4702:4,
4713:35, 4725:40
Brander [1] - 4725:22
brander [1] - 4725:25
breadth [1] - 4712:16
brehtaking [1] -
4715:31
brief [3] - 4707:30,
4707:31, 4711:1
briefed [2] - 4725:21,
4725:23
bring [1] - 4720:14
bringing [1] - 4717:3
broadly [1] - 4725:28
brother [1] - 4702:35
brought [5] - 4705:15,
4712:12, 4718:16,
4718:30, 4719:6
brutal [1] - 4713:5
bullet [1] - 4713:8
bundle [4] - 4704:25,
4704:26, 4705:16,
4719:6
-
- C**
-
- canvass** [1] - 4706:3
car [11] - 4703:6,
4703:31, 4704:7,
4704:8, 4704:17,
4704:21, 4708:18,
4708:36, 4719:38,
4724:40, 4726:5
card [1] - 4724:39
carefully [1] - 4721:10
carried [3] - 4706:2,
4707:22, 4718:44
carry [3] - 4719:27,
4719:29, 4721:36
case [15] - 4702:4,
4709:15, 4710:16,
4713:31, 4714:37,
4714:45, 4719:28,
4719:39, 4721:16,
4722:23, 4724:7,
4725:12, 4725:18,
4725:24, 4725:47
cases [3] - 4712:21,
4714:37, 4715:5
ceased [1] - 4709:27
cent [1] - 4712:44
certainly [1] - 4721:45
certainty [1] - 4725:30
certificate [1] -
4710:22
cetera [1] - 4707:1
characterise [1] -
4710:9
charge [5] - 4705:11,
4705:12, 4705:25,
4705:32, 4709:42
Chebl [2] - 4721:4,
4722:42
Chebl's [1] - 4724:3
check [1] - 4720:25
Christine [1] -
4701:32
chuck [1] - 4719:27
chucks [1] - 4718:44
circulated [1] -
4703:35
cited [1] - 4717:36
city [1] - 4713:2
claim [1] - 4707:47
claimed [8] - 4707:21,
4707:29, 4707:33,
4707:38, 4707:45,
4708:2, 4708:8,
4714:24
claims [1] - 4718:13
clandestine [1] -
4711:18
clear [3] - 4704:18,
4704:23, 4704:29
clearly [4] - 4717:16,
4721:24, 4722:24,
4724:5
cliff [3] - 4703:42,
4709:5, 4709:23
climate [1] - 4712:36
close [1] - 4703:32
closed [1] - 4709:16
Clothes [2] - 4705:31,
4707:39
clothes [1] - 4704:8
coastal [3] - 4708:41,
4712:26, 4725:22
coins [1] - 4712:26
colleague [1] - 4703:3
column [3] - 4705:22,
4705:24, 4705:39
Command [1] -
4710:18
command [1] -
4711:37
commenced [1] -
4703:13
COMMISSION [1] -
4726:30
Commission [3] -
4701:9, 4709:47,
4712:19
Commission's [1] -
4716:15
Commissioner [29] -
4701:15, 4702:3,
4702:7, 4702:12,
4702:16, 4702:29,
4705:20, 4706:15,
4707:20, 4712:15,
4713:11, 4713:31,
4715:34, 4715:38,
4716:1, 4716:30,
4717:38, 4720:12,
4720:18, 4720:47,
4721:6, 4723:34,
4723:37, 4724:23,
4724:28, 4725:23,
4725:34, 4726:22
COMMISSIONER [6] -
4702:1, 4702:10,
4702:14, 4724:26,
4726:20, 4726:27
commit [1] - 4711:16
committed [1] -
4716:22
communicating [1] -
4724:36
communication [1] -
4702:22
community [4] -
4711:25, 4711:46,
4712:32, 4712:39
completely [2] -
4715:30, 4723:23
completing [1] -
4724:24
conceded [5] -
4720:2, 4720:4,
4724:7, 4724:15,
4724:19
concentrating [1] -

- 4714:23
concerned [2] - 4719:41, 4725:34
concession [2] - 4714:36, 4714:45
concessions [1] - 4714:41
concluding [1] - 4715:8
conclusion [4] - 4702:42, 4710:47, 4715:5, 4726:4
condolences [2] - 4702:26, 4726:24
conduct [1] - 4711:44
conducted [1] - 4708:16
conducting [1] - 4714:22
confirmation [2] - 4714:19, 4723:14
confirmed [1] - 4717:42
confirming [1] - 4722:30
connection [4] - 4709:24, 4715:39, 4716:11, 4725:29
connections [1] - 4709:45
consequence [2] - 4713:27, 4715:22
considered [1] - 4712:2
considering [2] - 4712:21, 4714:24
consistent [1] - 4714:20
Constable [9] - 4703:20, 4703:33, 4704:6, 4704:15, 4705:32, 4705:34, 4712:7, 4714:6, 4724:3
Constables [1] - 4705:31
contact [1] - 4712:27
contained [1] - 4710:20
contemplating [1] - 4711:8
contemporaneous [1] - 4709:9
contention [1] - 4707:9
context [1] - 4715:17
continue [1] - 4724:26
continued [1] - 4709:16
continuing [2] - 4707:6, 4707:9
contradicting [1] - 4715:35
contradiction [1] - 4715:20
contrast [2] - 4718:6, 4721:13
controlled [1] - 4712:6
convenient [2] - 4708:29, 4713:33
conversations [1] - 4703:27
conviction [1] - 4725:18
copies [1] - 4707:33
Coroner [14] - 4704:34, 4707:26, 4707:30, 4710:3, 4711:2, 4712:16, 4714:1, 4715:7, 4715:13, 4715:22, 4715:30, 4715:32, 4715:36, 4725:37
Coroner's [2] - 4712:28, 4714:1
Coroners [1] - 4707:31
coronial [3] - 4715:20, 4715:35, 4724:33
Counsel [4] - 4701:31, 4701:32, 4723:33, 4723:36
counsel [1] - 4702:7
Count [1] - 4722:46
Counter [1] - 4722:46
couple [4] - 4712:31, 4715:38, 4717:22, 4724:47
course [9] - 4702:23, 4704:20, 4707:24, 4708:31, 4710:30, 4721:15, 4723:3, 4724:33, 4726:11
Court [1] - 4707:31
cracks [1] - 4711:40
Craig [1] - 4702:44
created [1] - 4704:16
crime [2] - 4711:44, 4726:1
crimes [2] - 4701:11, 4712:40
criticism [1] - 4714:17
criticisms [2] - 4714:13, 4714:31
-
- D**
-
- Daily** [3] - 4704:38, 4704:42, 4706:18
dangerous [1] - 4721:44
dare [1] - 4717:39
dark [1] - 4719:16
Darlinghurst [2] - 4703:2, 4703:8
dated [1] - 4707:13
David [2] - 4710:37, 4713:10
days [3] - 4704:36, 4705:13, 4709:27
death [18] - 4704:33, 4709:37, 4710:5, 4710:22, 4710:37, 4710:39, 4711:21, 4711:28, 4712:2, 4713:37, 4715:12, 4715:28, 4716:32, 4725:42, 4726:1, 4726:2, 4726:11, 4726:15
deaths [5] - 4709:40, 4714:5, 4714:15, 4716:25, 4716:34
deceased [3] - 4711:10, 4713:38, 4725:43
December [3] - 4710:38, 4713:9, 4713:10
decision [2] - 4714:43, 4715:32
decomposition [1] - 4725:11
deliberate [1] - 4714:43
demonstrating [1] - 4718:5
dental [1] - 4708:9
deployed [1] - 4714:25
described [3] - 4703:44, 4705:23, 4710:4
deserve [1] - 4710:11
despite [3] - 4715:12, 4715:16, 4715:29
detail [2] - 4716:29, 4717:27
details [2] - 4725:2, 4725:31
detective [1] - 4705:12
Detective [19] - 4704:14, 4704:19, 4705:12, 4705:13, 4705:19, 4705:28, 4705:31, 4706:32, 4707:21, 4707:25, 4707:38, 4707:45, 4708:5, 4709:10, 4709:26, 4709:41, 4710:17, 4714:6, 4720:20
detectives [3] - 4703:37, 4704:11, 4709:21
devices [1] - 4710:43
devoted [2] - 4716:3, 4716:10
died [3] - 4702:4, 4713:35, 4725:40
different [3] - 4718:13, 4719:3, 4720:35
directed [1] - 4724:13
direction [1] - 4703:7
Disappearance [1] - 4701:29
disappearance [8] - 4702:30, 4704:33, 4707:34, 4707:40, 4710:19, 4710:29, 4710:36, 4715:11
disappearance" [1] - 4716:24
discussion [1] - 4723:36
displayed [1] - 4711:19
disregarding [1] - 4714:20
distance [1] - 4721:2
distinct [1] - 4714:47
diving [1] - 4711:43
DNA [1] - 4724:43
document [3] - 4709:45, 4713:32, 4721:10
documents [5] - 4704:25, 4707:33, 4707:35, 4708:10, 4710:28
domestic [3] - 4714:47, 4724:14, 4724:18
done [7] - 4702:20, 4709:28, 4715:2, 4715:41, 4717:17, 4724:10, 4724:45
door [1] - 4708:23
door-knock [1] - 4708:23
down [15] - 4703:42, 4705:19, 4705:42, 4708:25, 4708:26, 4708:39, 4708:40, 4709:4, 4710:3, 4712:23, 4712:31, 4712:46, 4717:1, 4720:41, 4724:47
downplay [3] - 4723:18, 4723:29, 4723:45
dozen [1] - 4705:43
driver's [1] - 4724:39
driving [1] - 4703:6
drop [1] - 4712:46
drove [2] - 4702:43, 4703:2
DS [7] - 4710:27, 4710:31, 4711:36, 4715:19, 4720:1, 4720:13, 4724:7
DSC [2] - 4704:19, 4721:4
due [1] - 4703:16
duly [1] - 4704:27
during [5] - 4712:25, 4713:18, 4718:36, 4719:15, 4723:3
dwellings [1] - 4706:3
-
- E**
-
- early** [7] - 4703:22, 4705:4, 4712:2, 4716:5, 4716:36, 4726:11
easterly [1] - 4703:7
eastern [1] - 4713:2
Eastern [1] - 4716:23
easy [1] - 4713:26
edge [2] - 4703:43, 4705:45
effect [2] - 4707:42, 4714:42
effects [1] - 4704:9
Eight [2] - 4711:24, 4717:12
eight [1] - 4704:22
either [4] - 4706:12, 4707:47, 4711:14, 4714:40
elevated [1] - 4708:46
eliminated [1] - 4712:4
Ellis [24] - 4702:44, 4703:12, 4703:13, 4703:18, 4703:26, 4703:39, 4704:6, 4705:40, 4705:44, 4706:1, 4708:3, 4708:5, 4708:13, 4708:21, 4708:25, 4708:27, 4708:40, 4708:44, 4717:36, 4718:12, 4718:15, 4718:27, 4720:26, 4720:30
Ellis's [1] - 4703:46
elucidating [1] - 4724:31

emanate [1] - 4706:27
embarrassment [1] - 4712:41
Emery [1] - 4705:34
employer [1] - 4702:35
encounter [3] - 4711:18, 4717:30, 4718:35
end [4] - 4710:35, 4714:28, 4724:18, 4724:21
ends [1] - 4725:1
engaged [1] - 4713:20
enquiries [1] - 4707:6
entered [1] - 4711:11
entirely [5] - 4704:18, 4704:23, 4704:29, 4706:5, 4706:11
entities [1] - 4707:47
entry [4] - 4705:14, 4705:21, 4707:13, 4709:10
era [2] - 4712:39, 4713:13
essentially [2] - 4705:40, 4712:6
establish [3] - 4711:46, 4717:17, 4726:1
established [1] - 4713:16
et [1] - 4707:1
evening [4] - 4702:41, 4703:19, 4708:16, 4708:18
event [1] - 4718:11
events [3] - 4708:33, 4709:24, 4725:24
eventually [1] - 4710:24
evidence [39] - 4706:5, 4706:11, 4707:10, 4707:14, 4707:16, 4707:24, 4707:27, 4707:30, 4709:15, 4710:44, 4711:1, 4711:22, 4711:26, 4712:4, 4712:17, 4712:20, 4712:29, 4712:34, 4712:37, 4712:44, 4713:16, 4713:24, 4713:43, 4714:19, 4714:21, 4714:28, 4714:30, 4715:19, 4717:4, 4718:7, 4718:17, 4718:31, 4719:3, 4719:47, 4720:3, 4720:13,

4722:38, 4725:47, 4726:8
evidently [1] - 4702:37
examine [1] - 4710:28
example [1] - 4716:40
examples [1] - 4720:47
exercise [1] - 4722:14
exhibit [3] - 4712:12, 4716:15, 4718:18
exhibits [1] - 4724:38
expert [2] - 4710:44, 4725:21
expertly [1] - 4715:42
experts [1] - 4725:9
explanation [1] - 4706:40
explored [1] - 4703:40
expressed [3] - 4712:1, 4712:4, 4713:43
expression [1] - 4716:7
extend [1] - 4702:26
extends [1] - 4726:24
extent [6] - 4707:15, 4710:41, 4717:18, 4723:18, 4723:30, 4723:45
extract [1] - 4716:34
extractions [1] - 4712:28
extraordinary [1] - 4715:31
extrinsic [1] - 4725:15

F

fact [9] - 4707:42, 4708:13, 4714:33, 4715:21, 4716:46, 4717:23, 4722:20, 4722:22, 4724:5
factor [1] - 4726:2
factors [1] - 4714:40
fall [1] - 4711:40
fallen [3] - 4706:36, 4706:41, 4709:31
familiarised [1] - 4720:22
family [3] - 4702:23, 4702:27, 4726:25
far [2] - 4724:23, 4725:34
FASS [1] - 4724:36
FASS's [1] - 4724:42
feared [2] - 4705:7, 4718:46
fears [2] - 4704:43, 4704:46

February [4] - 4714:29, 4715:19, 4720:1, 4720:16
few [5] - 4705:20, 4705:26, 4718:5, 4720:32, 4722:17
fifth [1] - 4709:3
fifthly [1] - 4708:2
fight [3] - 4719:42, 4719:43
file [3] - 4710:18, 4710:20, 4724:34
finality [1] - 4725:6
finally [2] - 4717:9, 4722:36
financial [1] - 4711:7
findings [13] - 4710:3, 4712:11, 4712:14, 4713:30, 4713:43, 4714:1, 4715:7, 4715:13, 4715:20, 4715:29, 4715:35, 4724:3
fingerprint [2] - 4725:1, 4725:4
Fingerprints [1] - 4705:35
finished [1] - 4707:16
first [12] - 4703:26, 4704:43, 4705:26, 4705:41, 4708:35, 4711:35, 4714:17, 4718:2, 4718:29, 4720:25, 4720:45, 4722:17
firstly [1] - 4711:6
five [1] - 4716:20
focus [2] - 4714:38, 4717:3
focused [1] - 4717:11
follow [1] - 4712:7
follow-up [1] - 4712:7
following [2] - 4706:1, 4716:20
follows [3] - 4706:15, 4711:3, 4717:40
foot [1] - 4706:9
force [1] - 4712:20
Force [8] - 4708:31, 4708:45, 4713:46, 4714:2, 4714:38, 4714:46, 4717:16, 4719:8
Forensic [1] - 4724:37
forensic [1] - 4725:9
formal [2] - 4708:2, 4713:42
formation [1] - 4706:43
formed [1] - 4704:1

former [1] - 4709:14
forward [4] - 4713:26, 4722:8, 4724:4, 4724:5
foul [3] - 4705:8, 4711:47, 4712:3
foundation [1] - 4715:30
founded [1] - 4712:5
four [3] - 4709:24, 4725:25, 4726:12
fourth [1] - 4708:44
fourthly [1] - 4707:45
frequency [3] - 4718:8, 4723:19, 4723:45
frequented [1] - 4717:28
Friday [5] - 4702:41, 4703:1, 4705:13, 4705:23, 4707:13
friend [1] - 4702:44
friendly [1] - 4702:31
friends [7] - 4702:27, 4702:37, 4702:38, 4708:13, 4711:9, 4717:39, 4726:24
front [1] - 4704:42
future [2] - 4706:38, 4709:33

4726:6, 4726:9, 4726:15
Gay [1] - 4722:45
general [1] - 4710:14
generally [1] - 4716:16
geomorphologist [1] - 4725:22
given [8] - 4704:22, 4713:11, 4717:37, 4718:18, 4719:8, 4723:28, 4723:43, 4724:15
Glascok [2] - 4705:32, 4707:39
global [1] - 4714:12
glove [1] - 4704:8
good-natured [1] - 4702:32
grateful [2] - 4712:12, 4720:15
grave [1] - 4704:46
Gray [3] - 4701:31, 4702:1, 4724:26
GRAY [3] - 4702:3, 4702:16, 4724:28
grossly [1] - 4710:8
group [1] - 4717:12
groups [3] - 4711:22, 4718:47, 4719:29

G

gang [1] - 4716:43
gangs [9] - 4710:32, 4713:19, 4713:27, 4714:23, 4716:10, 4716:33, 4717:4, 4717:10, 4718:35
gathered [2] - 4707:25, 4711:27
gay [40] - 4702:34, 4702:37, 4709:22, 4709:46, 4711:16, 4711:19, 4711:25, 4711:45, 4712:25, 4712:32, 4712:37, 4712:44, 4713:1, 4713:3, 4713:21, 4714:47, 4716:8, 4716:22, 4716:43, 4717:6, 4717:19, 4717:29, 4717:31, 4717:33, 4717:43, 4718:9, 4718:24, 4718:42, 4719:23, 4720:9, 4721:33, 4721:44, 4722:31, 4722:39, 4723:30, 4724:11, 4726:1,

H

half [2] - 4705:43, 4714:3
halfway [1] - 4712:23
hand [2] - 4705:22, 4705:24
handed [2] - 4704:10, 4710:3
hands [2] - 4724:24, 4726:15
harm [1] - 4721:33
hate [10] - 4701:11, 4712:44, 4713:3, 4714:47, 4717:6, 4723:30, 4724:11, 4726:1, 4726:9, 4726:16
Hate' [1] - 4712:36
headed [1] - 4704:42
heading [4] - 4703:7, 4712:36, 4716:47, 4717:23
headland [1] - 4703:43
headlines [1] - 4706:18
health [1] - 4708:9
heard [2] - 4718:41,

4719:23
hearing [1] - 4702:3
hide [1] - 4719:38
highly [1] - 4726:14
himself [4] - 4716:42,
 4721:2, 4722:41
hindsight [1] -
 4711:39
hold [1] - 4704:46
home [3] - 4702:44,
 4703:12, 4703:34
homicide [11] -
 4709:38, 4713:39,
 4714:39, 4714:47,
 4715:1, 4715:13,
 4715:14, 4724:11,
 4724:14, 4724:18,
 4725:43
Homicide [2] - 4714:7,
 4716:26
homicides [2] -
 4712:45, 4717:7
homophobia [1] -
 4718:25
homosexual [1] -
 4713:25
homosexuals [1] -
 4712:39
Honour [1] - 4712:24
Honourable [1] -
 4701:16
hope [2] - 4715:43,
 4719:5
hours [1] - 4705:5
houses [1] - 4708:23
humour [1] - 4702:32
hypotheses [1] -
 4714:24

I

i98 [2] - 4718:35,
 4718:36
I98 [12] - 4717:37,
 4718:12, 4718:29,
 4719:8, 4719:9,
 4719:45, 4721:13,
 4721:14, 4721:15,
 4721:25, 4722:8,
 4722:23
I98's [4] - 4718:31,
 4719:3, 4719:4,
 4721:19
identified [1] -
 4716:26
identifier [1] - 4717:37
lles [1] - 4725:10
illogical [1] - 4712:1
illustrate [2] -
 4715:47, 4716:19

implicating [1] -
 4716:42
impossible [1] -
 4725:31
impression [1] -
 4703:46
improvements [1] -
 4724:44
inaccurate [2] -
 4720:3, 4722:11
inadequate [1] -
 4710:8
incident [1] - 4711:38
include [3] - 4714:43,
 4724:33, 4726:4
included [4] - 4711:2,
 4712:37, 4723:17,
 4723:42
includes [1] - 4724:36
including [9] -
 4705:34, 4712:33,
 4714:5, 4714:11,
 4714:37, 4715:6,
 4717:12, 4724:38,
 4726:11
inconsistent [1] -
 4714:20
incorrect [2] -
 4723:16, 4723:23
indeed [1] - 4710:9
indicate [1] - 4707:16
indicates [3] - 4706:5,
 4708:44, 4721:42
indication [1] -
 4712:26
inform [1] - 4726:4
information [6] -
 4706:26, 4711:40,
 4717:42, 4724:30,
 4725:4, 4725:17
informed [3] -
 4703:36, 4705:33,
 4705:35
initial [4] - 4707:19,
 4710:4, 4710:30,
 4711:31
inner [1] - 4713:2
inquest [2] - 4709:13,
 4710:4
Inquest [2] - 4709:13,
 4712:11
inquiries [3] -
 4703:33, 4707:9,
 4710:21
INQUIRY [1] - 4726:30
inquiry [3] - 4724:17,
 4725:6
Inquiry [7] - 4701:9,
 4702:22, 4702:26,
 4716:15, 4724:29,

4724:47, 4725:8
inside [1] - 4724:40
instead [1] - 4709:25
intending [1] -
 4721:33
intercepts [2] -
 4710:43, 4717:14
interest [5] - 4710:44,
 4714:45, 4716:41,
 4717:4, 4717:11
interesting [1] -
 4717:27
interpretation [1] -
 4721:35
interpreted [1] -
 4718:39
intervening [1] -
 4714:3
interviewed [1] -
 4710:44
intrinsic [1] - 4725:15
investigate [3] -
 4710:29, 4710:36,
 4714:39
investigated [2] -
 4703:41, 4709:21
investigating [5] -
 4706:19, 4706:25,
 4706:31, 4706:33,
 4709:30
investigation [17] -
 4704:20, 4707:14,
 4707:15, 4707:19,
 4707:40, 4707:43,
 4709:37, 4710:5,
 4710:9, 4710:10,
 4711:31, 4711:37,
 4712:3, 4714:4,
 4714:19, 4714:22,
 4717:45
investigations [3] -
 4709:42, 4714:14,
 4714:33
investigative [1] -
 4712:7
investigators [1] -
 4716:26
involved [5] - 4707:46,
 4710:42, 4711:24,
 4711:36, 4716:33
involvement [1] -
 4707:43
Isabella [1] - 4701:33
issued [1] - 4710:22
issuing [1] - 4724:34
items [2] - 4704:16,
 4704:27
itself [4] - 4708:41,
 4714:46, 4715:43,
 4719:2

J

January [1] - 4709:43
Jenny [1] - 4717:5
Jiang [1] - 4701:33
John [3] - 4701:16,
 4709:22, 4716:32
Johnson [1] - 4709:43
July [20] - 4702:5,
 4702:30, 4702:41,
 4703:5, 4703:11,
 4703:16, 4703:19,
 4703:39, 4704:14,
 4704:37, 4704:40,
 4705:13, 4707:14,
 4708:22, 4709:11,
 4709:18, 4709:44,
 4713:36, 4725:28,
 4725:41
June [1] - 4701:24
Justice [1] - 4701:16

K

karate [1] - 4719:40
keep [2] - 4720:40,
 4720:46
Kenneth [4] - 4703:31,
 4704:21, 4705:12,
 4708:37
keys [14] - 4703:43,
 4703:46, 4704:4,
 4704:22, 4704:27,
 4705:45, 4706:42,
 4708:27, 4708:47,
 4709:3, 4711:13,
 4712:26, 4719:37,
 4726:5
killed [1] - 4713:2
Killers [1] - 4717:13
kind [2] - 4717:10,
 4723:46
knock [1] - 4708:23
known [10] - 4702:16,
 4702:31, 4703:8,
 4711:17, 4711:19,
 4712:32, 4714:44,
 4717:12, 4719:8,
 4726:6

L

label [1] - 4710:10
lapse [1] - 4711:7
large [2] - 4712:28,
 4718:6
last [5] - 4702:23,
 4703:8, 4707:4,
 4717:22, 4724:47
late [5] - 4717:6,

4718:22, 4722:38,
 4725:28, 4726:10
leads [1] - 4708:40
learned [1] - 4717:39
least [5] - 4702:38,
 4703:41, 4710:21,
 4711:39, 4718:23
led [2] - 4712:10,
 4724:18
ledge [2] - 4703:47,
 4705:44
left [1] - 4705:22
left-hand [1] - 4705:22
length [1] - 4713:47
lengthy [1] - 4711:2
Lesbian [1] - 4722:45
less [1] - 4707:11
letter [2] - 4710:23
letters [1] - 4710:20
Level [1] - 4701:20
level [1] - 4709:4
LGBTIQ [2] - 4701:11,
 4726:2
library [1] - 4724:39
licence [1] - 4724:39
light [2] - 4724:8,
 4724:20
likely [8] - 4711:11,
 4711:12, 4711:17,
 4711:20, 4711:47,
 4712:2, 4712:38,
 4712:40
Linda [1] - 4725:10
line [15] - 4718:33,
 4720:19, 4720:22,
 4720:32, 4721:7,
 4721:19, 4721:22,
 4721:39, 4722:1,
 4722:20, 4722:25,
 4723:7, 4723:39,
 4725:3, 4725:5
lines [6] - 4705:26,
 4705:43, 4722:21,
 4722:23, 4724:16,
 4724:17
link [1] - 4709:40
links [3] - 4710:32,
 4716:32, 4716:36
list [1] - 4715:14
listed [2] - 4713:8,
 4717:10
listening [1] - 4710:43
living [1] - 4702:30
Local [1] - 4710:18
located [4] - 4705:45,
 4706:43, 4708:4,
 4710:44
location [2] - 4704:6,
 4726:5
looked [3] - 4706:22,

4720:30, 4725:12
looking [1] - 4715:23
loose [1] - 4725:1
loosely [1] - 4725:3
lower [1] - 4703:41

M

Mackenzies [5] -
 4709:5, 4717:28,
 4717:33, 4718:36,
 4722:10
Macquarie [1] -
 4701:20
main [1] - 4705:39
male [1] - 4712:38
males [1] - 4718:47
man [6] - 4702:34,
 4704:43, 4709:23,
 4711:17, 4718:24,
 4719:8
manner [7] - 4706:37,
 4709:32, 4713:37,
 4715:11, 4715:28,
 4725:34, 4725:42
map [1] - 4708:30
marauders [1] -
 4721:32
March [2] - 4710:4,
 4714:2
Marks [32] - 4702:39,
 4703:23, 4703:28,
 4703:30, 4703:40,
 4708:17, 4708:22,
 4708:35, 4709:23,
 4709:44, 4709:46,
 4710:38, 4711:12,
 4711:16, 4711:20,
 4711:25, 4712:24,
 4713:13, 4713:21,
 4718:9, 4718:22,
 4718:39, 4719:14,
 4719:22, 4720:6,
 4721:21, 4721:26,
 4721:43, 4722:22,
 4725:27, 4726:7,
 4726:10
Mathew [1] - 4701:38
Mattaini [3] - 4715:5,
 4725:12, 4725:24
Mattaini's [1] -
 4725:29
matter [4] - 4709:21,
 4709:25, 4709:27,
 4710:30
matters [6] - 4705:37,
 4710:27, 4720:1,
 4720:44, 4725:8,
 4726:4
McCann [4] - 4709:41,
 4710:1, 4716:4,
 4716:39
McCann's [2] -
 4710:31, 4716:35
McMahon [2] -
 4710:38, 4713:10
media [4] - 4702:18,
 4717:46, 4720:10,
 4722:33
meeting [1] - 4721:34
Melis [1] - 4701:32
members [3] -
 4711:45, 4712:39,
 4714:23
men [24] - 4709:46,
 4711:20, 4712:25,
 4712:37, 4713:1,
 4713:21, 4713:25,
 4716:8, 4716:22,
 4716:44, 4717:19,
 4717:43, 4718:9,
 4718:38, 4718:42,
 4720:5, 4720:7,
 4720:9, 4721:21,
 4721:27, 4721:44,
 4722:27, 4722:31,
 4722:39
mentioned [1] -
 4708:17
mentions [2] -
 4711:43, 4711:44
met [6] - 4703:2,
 4703:26, 4705:8,
 4708:3, 4711:21,
 4726:15
might [2] - 4719:5,
 4724:31
Milledge [10] -
 4707:26, 4709:13,
 4710:3, 4712:11,
 4712:14, 4715:7,
 4715:22, 4715:36,
 4725:37
Milledge's [1] - 4714:1
mind [1] - 4712:21
minimise [2] -
 4723:18, 4723:29
minutes [2] - 4718:6,
 4720:32
misadventure [1] -
 4714:41
Missing [3] - 4705:34,
 4707:35, 4707:36
missing [10] -
 4703:19, 4703:36,
 4704:46, 4705:24,
 4706:36, 4708:15,
 4709:20, 4709:31,
 4710:23
moisture [1] - 4706:45

moment [1] - 4707:20
Monday [3] - 4703:39,
 4704:14, 4704:36
monitored [1] -
 4711:46
month [1] - 4710:39
months [3] - 4709:24,
 4724:35, 4726:12
Morgan [8] - 4714:29,
 4715:19, 4720:1,
 4720:20, 4720:30,
 4720:33, 4721:1,
 4724:7
Morgan's [1] -
 4720:13
morning [8] - 4702:3,
 4703:11, 4703:22,
 4706:17, 4707:14,
 4708:22, 4711:33
most [1] - 4711:32
Mostly [1] - 4719:16
mother [2] - 4704:28,
 4710:21
mountain [2] - 4718:6,
 4722:38
Mouzos [1] - 4717:6
move [1] - 4713:46
murder [3] - 4704:43,
 4716:30, 4716:31
murdered [2] - 4705:1,
 4706:20
murders [2] - 4709:43,
 4716:34

N

nailed [1] - 4724:47
namely [5] - 4704:15,
 4704:37, 4705:30,
 4706:34, 4711:37
names [1] - 4713:24
narrative [1] - 4705:39
nature [2] - 4712:34,
 4717:18
natured [1] - 4702:32
near [6] - 4703:43,
 4705:44, 4706:38,
 4706:42, 4709:33,
 4709:44
nearby [1] - 4706:3
needs [1] - 4712:21
negligible [1] - 4712:8
Neiwand [34] -
 4708:31, 4708:45,
 4713:46, 4714:2,
 4714:11, 4714:38,
 4714:44, 4714:46,
 4715:6, 4715:21,
 4715:27, 4715:31,
 4715:34, 4715:39,
 4715:42, 4716:7,
 4716:9, 4716:14,
 4717:16, 4717:25,
 4718:8, 4718:30,
 4719:8, 4720:2,
 4721:2, 4721:14,
 4722:6, 4722:37,
 4723:2, 4723:4,
 4724:9, 4724:13,
 4724:20, 4724:45
Neiwand's [2] -
 4718:32, 4724:8
neutral [1] - 4710:24
never [6] - 4704:32,
 4704:33, 4715:32,
 4719:24, 4719:30,
 4719:43
New [2] - 4701:21,
 4712:35
news [1] - 4702:42
newsreader [1] -
 4702:17
next [10] - 4703:11,
 4703:16, 4703:22,
 4706:6, 4706:14,
 4706:29, 4712:46,
 4717:1, 4720:21,
 4721:12
night [6] - 4703:1,
 4703:22, 4712:25,
 4719:15, 4726:8
nightclubs [1] -
 4703:4
ninja [1] - 4718:44
nominate [1] -
 4709:17
none [2] - 4724:17,
 4725:3
noted [3] - 4711:6,
 4711:8, 4711:36
nothing [3] - 4714:46,
 4715:21, 4724:9
noticing [2] - 4718:37,
 4721:20
notified [1] - 4707:7
NSW [1] - 4701:38
nub [1] - 4712:33
number [8] - 4703:3,
 4703:25, 4708:36,
 4713:1, 4713:4,
 4713:19, 4714:12,
 4721:1
numerous [3] -
 4718:38, 4721:21,
 4721:27
nun [2] - 4718:44,
 4719:27
nunchucks [2] -
 4721:16, 4721:39

O

o'clock [1] - 4702:42
objected [1] - 4723:33
observations [1] -
 4711:30
obtained [2] - 4708:8,
 4725:9
obtaining [1] -
 4724:35
obviously [3] -
 4721:9, 4723:28,
 4723:43
occasions [1] -
 4721:1
occur [1] - 4717:43
occurred [2] -
 4712:45, 4716:27
occurrence [4] -
 4705:14, 4707:13,
 4709:10, 4709:28
ocean [2] - 4706:37,
 4709:32
October [2] - 4714:2,
 4714:8
odds [3] - 4720:3,
 4720:42, 4720:45
OF [1] - 4726:30
offences [1] - 4711:24
offenders [1] - 4713:4
offer [2] - 4706:40,
 4711:27
office [1] - 4706:27
officer [6] - 4703:37,
 4704:26, 4705:11,
 4705:12, 4708:46,
 4709:42
Officers [1] - 4707:39
officers [4] - 4705:30,
 4705:33, 4707:41,
 4710:42
often [1] - 4702:46
OIC [2] - 4705:30,
 4709:42
old [1] - 4702:29
once [1] - 4708:14
one [20] - 4702:19,
 4703:25, 4704:25,
 4706:29, 4708:41,
 4709:3, 4711:35,
 4713:9, 4713:10,
 4714:12, 4716:33,
 4716:35, 4716:40,
 4718:23, 4720:44,
 4720:47, 4721:15,
 4725:9, 4725:13,
 4726:15
operated [1] - 4712:35
operating [2] -
 4710:33, 4715:42

Operation ^[15] - 4707:24, 4707:42, 4708:10, 4710:13, 4710:35, 4710:42, 4714:13, 4714:33, 4715:1, 4716:47, 4717:11, 4717:45, 4718:19, 4720:10, 4724:10
opinion ^[3] - 4706:32, 4709:30, 4711:27
opposite ^[1] - 4723:24
origin ^[1] - 4710:15
otherwise ^[1] - 4726:24
outline ^[1] - 4717:10
outlined ^[2] - 4724:28, 4724:32
overall ^[1] - 4712:28
overturned ^[1] - 4715:8
overwhelmingly ^[1] - 4714:40
own ^[3] - 4711:2, 4718:32, 4724:29
Oxford ^[3] - 4703:2, 4703:4, 4703:6

P

pad ^[4] - 4705:14, 4707:13, 4709:10, 4709:28
Paddington ^[9] - 4703:7, 4703:18, 4703:32, 4704:3, 4704:10, 4705:11, 4709:20, 4709:25, 4711:38
Page ^[9] - 4704:20, 4707:25, 4708:5, 4710:17, 4710:27, 4711:1, 4711:36, 4714:34, 4716:5
page ^[22] - 4704:42, 4705:41, 4705:42, 4706:14, 4706:30, 4707:3, 4707:4, 4712:18, 4712:23, 4713:15, 4713:32, 4713:42, 4719:33, 4720:18, 4720:21, 4721:12, 4721:15, 4721:19, 4722:13
pages ^[4] - 4712:20, 4716:3, 4716:20, 4717:22
paragraph ^[35] - 4704:44, 4706:15, 4706:31, 4711:4, 4711:32, 4712:46, 4713:15, 4714:43, 4715:8, 4715:9, 4715:24, 4716:14, 4716:21, 4716:34, 4716:40, 4716:46, 4717:1, 4717:21, 4718:13, 4718:19, 4718:31, 4719:2, 4719:9, 4719:10, 4720:2, 4720:20, 4720:22, 4720:31, 4720:36, 4721:14, 4722:16, 4723:10, 4723:17, 4723:42, 4725:35
paragraphs ^[5] - 4712:31, 4716:9, 4716:19, 4716:38, 4717:1
parents ^[2] - 4702:34, 4704:30
park ^[2] - 4703:32, 4708:42
Park ^[33] - 4702:39, 4703:23, 4703:28, 4703:30, 4703:40, 4708:17, 4708:22, 4708:35, 4709:23, 4709:44, 4709:46, 4710:38, 4711:12, 4711:16, 4711:20, 4711:25, 4712:24, 4713:13, 4713:21, 4718:9, 4718:22, 4718:39, 4719:14, 4719:22, 4720:6, 4721:21, 4721:26, 4721:43, 4722:23, 4722:40, 4725:27, 4726:7, 4726:10
Parkside ^[1] - 4717:13
part ^[5] - 4708:47, 4711:32, 4718:1, 4721:7, 4723:2
parted ^[1] - 4703:5
particular ^[5] - 4708:24, 4715:39, 4715:40, 4716:41, 4726:10
particularly ^[1] - 4718:1
partner ^[1] - 4703:13
parts ^[1] - 4709:47
passages ^[1] - 4720:13
past ^[1] - 4717:17
path ^[1] - 4708:39
pathologist ^[1] - 4725:10

paucity ^[1] - 4725:17
people ^[5] - 4711:7, 4717:15, 4718:45, 4721:32, 4721:33
per ^[2] - 4707:19, 4712:44
perhaps ^[4] - 4703:23, 4704:29, 4709:22, 4721:3
period ^[3] - 4714:4, 4716:23, 4724:35
perpetrated ^[3] - 4713:39, 4717:18, 4725:44
person ^[7] - 4702:32, 4703:36, 4706:36, 4709:31, 4713:39, 4716:41, 4725:44
person" ^[1] - 4705:24
personal ^[2] - 4704:9, 4712:27
personally ^[1] - 4721:36
persons ^[6] - 4710:43, 4713:40, 4714:44, 4717:4, 4717:11, 4725:44
Persons ^[3] - 4705:34, 4707:35, 4707:36
Peter ^[1] - 4701:31
Phillip ^[1] - 4703:3
photograph ^[1] - 4708:30
photographs ^[3] - 4702:17, 4704:11, 4708:9
photos ^[1] - 4702:20
place ^[1] - 4721:44
placed ^[4] - 4703:47, 4704:39, 4711:13, 4711:14
plain ^[2] - 4711:39, 4714:30
Plain ^[2] - 4705:31, 4707:39
plainly ^[1] - 4711:40
play ^[3] - 4705:8, 4711:47, 4712:3
pocket ^[1] - 4703:47
pocket" ^[1] - 4703:44
Point ^[4] - 4717:29, 4717:33, 4718:36, 4722:10
point ^[7] - 4707:16, 4711:35, 4715:40, 4716:19, 4717:15, 4718:16, 4724:42
pointing ^[2] - 4708:47, 4714:40
points ^[1] - 4713:8

Police ^[15] - 4701:38, 4702:8, 4703:18, 4704:3, 4704:10, 4704:16, 4704:23, 4705:36, 4706:2, 4706:8, 4709:20, 4709:26, 4709:30, 4723:34, 4726:22
police ^[30] - 4703:33, 4704:4, 4704:15, 4704:26, 4704:46, 4705:7, 4705:10, 4705:11, 4705:25, 4705:40, 4706:9, 4706:19, 4706:26, 4706:31, 4706:33, 4707:46, 4708:19, 4708:21, 4708:23, 4709:10, 4710:5, 4710:42, 4711:31, 4711:35, 4712:33, 4712:42, 4713:18, 4717:42, 4718:47, 4724:34
pofter ^[1] - 4719:30
popular ^[1] - 4712:24
portrayed ^[3] - 4717:44, 4720:9, 4722:32
position ^[3] - 4707:26, 4725:14, 4726:23
positive ^[1] - 4703:35
possibilities ^[1] - 4725:30
possibility ^[5] - 4703:25, 4714:39, 4714:47, 4724:11, 4724:38
possible ^[9] - 4704:38, 4705:15, 4709:22, 4709:37, 4710:32, 4712:14, 4715:44, 4723:41, 4725:17
possibly ^[1] - 4721:43
potential ^[1] - 4719:31
practical ^[1] - 4709:36
prepared ^[1] - 4711:1
present ^[1] - 4706:44
Present ^[1] - 4701:36
presenter ^[1] - 4702:33
prevalent ^[3] - 4717:44, 4720:9, 4722:32
primary ^[1] - 4712:5
probability ^[1] - 4726:6
probable ^[1] - 4726:14
problems ^[1] -

4722:17
proceedings ^[1] - 4702:24
produced ^[1] - 4708:31
Professor ^[2] - 4725:21, 4725:25
Project ^[1] - 4722:46
proper ^[1] - 4715:34
provide ^[2] - 4725:10, 4725:23
provided ^[1] - 4707:41
provides ^[1] - 4716:24
pseudonym ^[1] - 4716:41
PSK ^[1] - 4717:12
publicised ^[1] - 4702:18
purport ^[1] - 4715:27
purports ^[1] - 4722:30
purpose ^[1] - 4726:7
purposes ^[2] - 4709:36, 4720:45
pursue ^[3] - 4714:44, 4714:46, 4724:11
pursuing ^[1] - 4725:5
put ^[11] - 4707:25, 4719:4, 4720:36, 4722:8, 4722:14, 4722:41, 4723:20, 4723:24, 4723:37, 4724:3, 4724:4

Q

quantum ^[1] - 4724:30
question" ^[1] - 4720:4
quite ^[1] - 4702:46
quote ^[1] - 4704:41

R

rains ^[1] - 4706:46
rate ^[1] - 4716:16
rather ^[2] - 4718:13, 4721:42
Rattanajurathaporn ^[2] - 4709:44, 4716:31
rattling ^[1] - 4712:26
Re ^[1] - 4701:29
read ^[6] - 4702:41, 4712:18, 4720:32, 4721:9, 4721:45, 4723:12
reader ^[3] - 4716:25, 4721:25, 4721:30
reading ^[1] - 4706:15
reads ^[1] - 4707:4
ready ^[1] - 4719:26

realised [2] - 4703:12, 4708:14
really [4] - 4721:31, 4722:10, 4722:13, 4725:17
reason [3] - 4723:27, 4723:41, 4723:44
reasonable [1] - 4715:35
reasons [2] - 4703:25, 4708:17
recalled [1] - 4718:37
receipt [1] - 4704:16
received [3] - 4707:31, 4707:36, 4710:18
recent [2] - 4706:45, 4708:9
recognised [1] - 4708:27
recollection [1] - 4703:36
recommendation [1] - 4724:42
recommended [1] - 4714:7
record [4] - 4705:26, 4707:46, 4709:8, 4709:9
recorded [1] - 4705:45
records [6] - 4708:9, 4712:33, 4712:37, 4712:43, 4713:15, 4724:35
recounting [1] - 4716:21
recovered [2] - 4706:39, 4709:34
red [3] - 4708:32, 4708:36, 4708:39
reference [5] - 4705:43, 4716:38, 4716:40, 4717:14, 4724:16
references [1] - 4713:12
referred [3] - 4718:7, 4722:41, 4725:31
referring [1] - 4704:36
refers [2] - 4713:24, 4716:21
regard [1] - 4717:9
regarding [2] - 4706:27, 4724:37
reinvestigation [2] - 4714:4, 4714:8
relate [1] - 4710:15
related [2] - 4714:25, 4717:6
relating [1] - 4714:12
relation [12] - 4702:4, 4707:34, 4710:18, 4710:22, 4711:45, 4715:4, 4715:6, 4717:6, 4717:15, 4724:19, 4725:1, 4725:26
relevant [2] - 4717:19, 4725:12
rely [1] - 4726:23
relying [1] - 4714:18
remain [2] - 4715:12, 4715:28
remained [1] - 4709:25
remaining [1] - 4725:1
remarkable [1] - 4718:1
remind [1] - 4720:12
repeat [4] - 4710:13, 4710:45, 4713:47, 4714:10
report [6] - 4703:20, 4712:40, 4713:27, 4725:10, 4725:11, 4725:24
reported [6] - 4703:19, 4703:32, 4704:33, 4708:15, 4708:18, 4709:20
Reports [1] - 4722:46
reports [5] - 4709:47, 4710:31, 4716:35, 4722:45, 4725:9
representing [1] - 4702:7
requested [1] - 4710:29
requesting [1] - 4710:21
reserve [1] - 4726:23
residential [1] - 4706:2
residents [1] - 4708:24
resources [1] - 4710:29
respect [3] - 4702:19, 4716:2, 4724:44
respond [1] - 4712:42
response [2] - 4710:24, 4712:6
responsible [2] - 4711:28, 4711:38
result [3] - 4703:35, 4711:21, 4718:24
retained [1] - 4711:37
returned [3] - 4704:28, 4704:30, 4708:22
reverse [1] - 4715:31
review [1] - 4715:1
Richard [1] - 4709:43
right-hand [1] - 4705:24
rightly [1] - 4712:42
risk [1] - 4722:22
rob [1] - 4719:39
robberies [1] - 4716:43
robbery [1] - 4713:21
Robert [1] - 4725:21
Robinson [5] - 4703:20, 4703:33, 4704:6, 4705:32, 4712:7
rock [7] - 4703:44, 4704:1, 4706:43, 4708:25, 4708:26, 4708:46, 4708:47
Rose [1] - 4710:17
Ross [5] - 4701:29, 4702:4, 4705:3, 4713:35, 4725:40
Rossini [2] - 4703:3, 4703:6
running [1] - 4704:8
Russell [7] - 4709:22, 4710:37, 4710:39, 4715:5, 4716:2, 4716:32, 4726:12
Ryan [2] - 4705:31, 4707:38

S

Sackar [1] - 4701:16
safe [1] - 4713:28
satisfied [2] - 4713:38, 4725:42
Saturday [2] - 4703:5, 4705:5
Saucis [11] - 4703:13, 4703:18, 4703:40, 4705:40, 4705:44, 4706:1, 4708:3, 4708:5, 4708:14, 4708:21, 4708:40
saw [7] - 4703:6, 4704:8, 4707:13, 4708:26, 4708:35, 4719:30, 4721:25
SC [1] - 4701:31
scale [1] - 4710:41
scared [1] - 4719:29
scenario [1] - 4712:1
scene [3] - 4704:11, 4711:38, 4718:23
Science [1] - 4724:37
Scientific [1] - 4705:35
SCOI.02744.00031 [1] - 4705:17
SCOI.02751.00021_0001 [1] - 4712:13
SCOI.10390.00118_0001 [1] - 4719:7
SCOI.74883_0001 [1] - 4715:46
SCOI.76851 [1] - 4704:39
screaming [1] - 4719:26
screen [12] - 4702:20, 4704:39, 4704:41, 4705:16, 4708:30, 4715:42, 4715:43, 4716:1, 4716:17, 4717:24, 4718:16, 4719:6
scroll [3] - 4705:19, 4705:42, 4716:14
scrolls [1] - 4706:29
se [1] - 4707:19
search [3] - 4703:14, 4708:17, 4711:44
searched [1] - 4704:7
seawater [1] - 4725:16
second [7] - 4705:41, 4705:42, 4708:39, 4717:37, 4718:5, 4720:44, 4725:21
secondly [3] - 4707:33, 4714:21, 4726:6
secreting [1] - 4706:44
see [17] - 4703:23, 4704:21, 4705:19, 4705:21, 4705:43, 4706:14, 4711:39, 4715:47, 4716:29, 4718:38, 4720:19, 4720:25, 4721:7, 4721:21, 4721:27, 4721:39, 4724:23
seeking [1] - 4714:19
seeks [1] - 4726:22
seem [2] - 4704:11, 4711:41
seized [1] - 4704:16
Senior [5] - 4701:31, 4704:14, 4714:6, 4723:33, 4724:2
sense [1] - 4702:32
sent [2] - 4707:35, 4710:25
sentence [6] - 4706:6, 4707:4, 4717:39, 4720:44, 4720:46, 4725:14
September [1] - 4718:17
Sergeant [29] - 4704:19, 4705:12, 4705:14, 4705:28, 4706:22, 4706:32, 4707:21, 4707:25, 4707:29, 4707:38, 4708:5, 4709:11, 4709:14, 4709:26, 4709:41, 4710:1, 4710:17, 4711:1, 4714:29, 4714:34, 4716:4, 4716:5, 4716:35, 4716:39, 4720:20, 4720:30, 4720:33, 4721:1
series [2] - 4709:45, 4710:20
Service [1] - 4724:37
set [9] - 4704:22, 4705:45, 4708:26, 4710:35, 4711:3, 4711:31, 4714:2, 4714:42, 4725:2
sets [1] - 4706:32
several [5] - 4705:30, 4713:8, 4717:27, 4718:3, 4722:18
sexual [1] - 4711:18
sexuality [1] - 4702:36
shame [1] - 4712:41
shameful [1] - 4710:8
Sharrock [2] - 4705:31, 4707:39
shed [2] - 4724:8, 4724:20
shelf [4] - 4708:25, 4708:26, 4708:46, 4708:47
shoes [1] - 4704:8
Short [2] - 4701:38, 4702:12
short [1] - 4718:16
shouting [1] - 4719:25
show [2] - 4708:29, 4713:33
showed [1] - 4711:22
shown [2] - 4702:20, 4708:29
shows [4] - 4708:32, 4708:36, 4708:39, 4709:3
siblings [1] - 4702:35
side [1] - 4705:24
sighting [1] - 4703:8
significant [1] - 4724:44
similar [1] - 4725:28
sister [1] - 4702:35
situation [1] - 4703:37

- six** [1] - 4716:20
sixthly [1] - 4708:8
skirting [1] - 4708:41
slightly [1] - 4725:3
small [1] - 4719:27
Solicitor [1] - 4701:33
someone [3] -
4719:39, 4719:42,
4722:8
sometimes [5] -
4702:38, 4703:27,
4711:8, 4719:38,
4721:26
somewhat [3] -
4707:10, 4710:24,
4720:35
son [1] - 4710:23
sort [1] - 4717:30
sought [1] - 4725:8
south [1] - 4716:26
South [2] - 4701:21,
4712:35
spate [2] - 4716:8,
4716:21
speaking [1] -
4724:36
SPECIAL [1] - 4726:30
SPECIAL [1] - 4701:9
specifically [5] -
4710:15, 4711:27,
4714:36, 4716:36,
4718:7
spilling [1] - 4707:3
spirits [1] - 4711:9
spokesman [2] -
4705:7, 4705:10
spot [1] - 4709:3
Squad [1] - 4716:26
stage [2] - 4704:28,
4704:30
stages [1] - 4712:3
stairs [1] - 4708:25
standing [1] - 4708:45
stands [1] - 4723:14
start [1] - 4720:18
starts [1] - 4712:17
state [1] - 4718:41
statement [12] -
4704:26, 4711:2,
4718:17, 4718:18,
4718:19, 4719:5,
4719:7, 4720:27,
4720:30, 4721:13,
4723:9, 4724:1
statements [3] -
4707:41, 4708:3,
4708:4
Station [3] - 4704:10,
4704:16, 4704:23
station [2] - 4704:15,
4711:36
stay [1] - 4702:45
step [1] - 4707:17
steps [5] - 4707:20,
4709:9, 4709:18,
4724:29, 4724:32
still [1] - 4725:37
story [1] - 4706:26
strategies [1] -
4714:25
street [1] - 4703:31
Street [7] - 4701:20,
4703:2, 4703:4,
4703:6, 4703:31,
4704:21, 4708:37
Streetwatch [1] -
4722:45
Strike [8] - 4708:31,
4708:45, 4713:46,
4714:2, 4714:38,
4714:46, 4717:16,
4719:8
strip [1] - 4703:4
study [1] - 4717:5
submission [4] -
4715:33, 4725:35,
4725:46, 4726:14
submissions [14] -
4711:4, 4713:11,
4714:42, 4715:23,
4715:26, 4724:16,
4724:24, 4724:29,
4724:33, 4725:2,
4725:32, 4725:36,
4726:18, 4726:23
submit [2] - 4712:5,
4718:2
submitted [4] -
4707:29, 4714:11,
4714:28, 4715:4
suburbs [1] - 4713:3
Suburbs [1] - 4716:23
success [1] - 4703:14
Sue [2] - 4717:4,
4717:5
suffice [1] - 4710:14
sufficient [3] - 4720:8,
4722:29, 4725:47
suggest [2] - 4706:11,
4721:3
suggested [1] -
4720:32
suggesting [1] -
4720:8
suicide [5] - 4711:8,
4711:16, 4714:40,
4724:14, 4724:17
suited [1] - 4724:2
summaries [4] -
4714:11, 4715:6,
4715:28, 4715:39
summarised [4] -
4711:3, 4712:20,
4712:28, 4718:31
summarising [2] -
4714:17, 4716:3
summary [27] -
4707:26, 4712:16,
4715:8, 4715:43,
4715:46, 4716:1,
4716:2, 4716:3,
4716:7, 4716:10,
4716:15, 4716:24,
4717:2, 4717:22,
4717:23, 4717:25,
4718:2, 4718:8,
4718:30, 4718:32,
4719:2, 4720:2,
4721:3, 4721:14,
4722:6, 4722:42
summing [1] -
4722:14
summing-up [1] -
4722:14
summonses [1] -
4724:34
Sunday [4] - 4703:16,
4703:19, 4708:16,
4708:18
supported [2] -
4707:47, 4724:15
surface [2] - 4706:39,
4709:34
surrounding [1] -
4711:12
surviving [1] -
4702:27
suspected [1] -
4704:33
Sydney [6] - 4701:21,
4702:43, 4709:47,
4713:36, 4716:23,
4725:40
synopsis [1] - 4716:25
systematically [1] -
4713:20
-
- T**
-
- tab** [5] - 4705:16,
4712:13, 4716:16,
4718:18, 4719:7
taken" [1] - 4705:25
talks [2] - 4712:24,
4721:16
Tamarama [2] -
4711:23, 4717:13
Taradale [24] -
4704:20, 4707:24,
4707:42, 4708:11,
4709:13, 4710:13,
4710:35, 4710:42,
4712:10, 4714:13,
4714:14, 4714:21,
4714:25, 4714:33,
4715:1, 4716:47,
4717:2, 4717:11,
4717:45, 4718:19,
4720:10, 4720:27,
4722:32, 4724:10
targets [1] - 4713:26
Taylor [1] - 4714:7
Team [1] - 4714:7
Telegraph [3] -
4704:38, 4704:42,
4706:18
telephone [2] -
4710:43, 4717:14
television [2] -
4702:33, 4704:47
Television [5] -
4702:33, 4702:36,
4702:43, 4703:17,
4703:34
tender [4] - 4704:25,
4705:16, 4719:6
terms [1] - 4724:13
testing [4] - 4724:38,
4724:43, 4725:1,
4725:4
themselves [4] -
4703:23, 4703:41,
4708:16, 4713:25
theories [1] - 4724:14
thereafter [1] -
4707:17
third [1] - 4718:33
thirdly [4] - 4707:38,
4714:24, 4718:11,
4726:8
Thompson [2] -
4717:5
thorough [1] -
4714:34
Three [2] - 4711:23,
4717:13
three [6] - 4707:41,
4709:16, 4714:5,
4714:14, 4714:30,
4714:37
Thursday [1] -
4701:24
today [2] - 4719:7,
4725:13
today's [2] - 4702:24,
4720:44
together [1] - 4705:32
took [9] - 4704:9,
4707:20, 4708:14,
4713:44, 4720:20,
4721:12, 4721:13,
4722:23
top [3] - 4705:22,
4708:46, 4713:42
topic [1] - 4720:13
totally [4] - 4720:3,
4722:11, 4723:16,
4724:1
towards [5] - 4703:7,
4703:42, 4711:24,
4714:40, 4718:41
track [3] - 4708:41,
4712:25, 4720:41
transcript [2] -
4720:14, 4720:15
traversed [1] -
4720:14
treacherous [1] -
4706:43
trends [1] - 4711:45
tried [1] - 4719:39
trouble [2] - 4718:15,
4721:32
truth [1] - 4723:24
tunnel [1] - 4714:22
turn [9] - 4703:17,
4706:14, 4707:19,
4710:13, 4716:46,
4717:9, 4717:21,
4718:29, 4719:9
TV [2] - 4702:16,
4704:43
two [20] - 4704:36,
4705:13, 4709:24,
4709:40, 4709:41,
4709:47, 4710:31,
4715:4, 4716:35,
4717:36, 4718:3,
4718:11, 4718:45,
4720:4, 4720:5,
4720:7, 4722:20,
4722:22, 4722:27,
4725:9
types [1] - 4718:45
-
- U**
-
- ultimately** [2] -
4723:36, 4725:5
unanswered [1] -
4710:24
uncovered [2] -
4715:21, 4716:4
under [1] - 4717:23
underwater [1] -
4711:44
undetermined [1] -
4715:12
unduly [1] - 4714:10
unfolded [1] - 4720:19

unfortunately [1] - 4725:14
uniformed [1] - 4703:37
Unit [2] - 4707:35, 4707:36
unit [1] - 4711:43
unjustified [1] - 4714:32
unknown [4] - 4713:37, 4713:40, 4725:42, 4725:44
unlikely [1] - 4713:26
Unsolved [1] - 4714:7
unsolved [1] - 4713:6
unsupportable [2] - 4723:29, 4723:44
unwarranted [1] - 4714:32
up [14] - 4703:17, 4705:15, 4705:43, 4710:35, 4712:7, 4712:12, 4714:2, 4715:47, 4718:16, 4718:30, 4719:6, 4720:14, 4722:14, 4723:15
upshot [1] - 4724:19
useful [1] - 4725:5
utilised [2] - 4705:37, 4711:43

V

variables [1] - 4725:15
various [9] - 4704:9, 4705:33, 4708:32, 4710:32, 4716:10, 4716:32, 4724:29, 4724:34, 4724:35
vicinity [1] - 4711:25
victim [3] - 4711:47, 4713:39, 4725:43
victimisation [1] - 4712:43
victimology [1] - 4714:26
victims [2] - 4712:38, 4713:3
view [6] - 4706:19, 4706:25, 4706:33, 4712:1, 4712:4, 4713:25
views [4] - 4711:3, 4713:43, 4725:25, 4725:28
Violence [1] - 4722:46
violence [12] - 4711:19, 4711:21, 4711:45, 4712:38,

4712:40, 4713:4, 4717:18, 4717:30, 4718:35, 4718:41, 4719:21, 4722:22
violent [4] - 4711:24, 4716:8, 4718:8, 4722:39
vision [1] - 4714:22
visited [1] - 4703:3
visits [1] - 4718:36

W

Wales [2] - 4701:21, 4712:35
walked [3] - 4708:25, 4708:26, 4708:40
walking [4] - 4712:24, 4718:38, 4721:21, 4721:28
walkway [1] - 4712:26
wallet [3] - 4704:7, 4719:37, 4719:38
Warren [54] - 4701:29, 4702:4, 4702:16, 4702:29, 4702:41, 4703:6, 4703:9, 4703:12, 4703:16, 4703:19, 4703:24, 4703:26, 4703:28, 4703:35, 4704:17, 4705:3, 4705:8, 4705:23, 4706:20, 4708:15, 4709:20, 4709:37, 4710:5, 4710:19, 4710:36, 4711:6, 4711:10, 4711:14, 4711:15, 4711:20, 4711:47, 4713:31, 4713:35, 4714:5, 4714:12, 4714:37, 4714:45, 4715:6, 4715:8, 4715:40, 4715:43, 4716:1, 4716:3, 4717:22, 4718:2, 4724:7, 4724:9, 4724:19, 4724:21, 4724:32, 4725:40, 4725:47, 4726:7, 4726:15
Warren's [24] - 4702:22, 4702:27, 4703:31, 4703:34, 4703:42, 4704:7, 4704:28, 4704:30, 4704:32, 4707:34, 4707:40, 4708:8, 4708:13, 4708:27, 4709:15, 4710:16,

4710:20, 4710:28, 4711:13, 4711:28, 4715:11, 4716:23, 4725:26, 4726:24
Water [2] - 4705:36, 4706:8
water [8] - 4705:44, 4706:41, 4706:45, 4707:46, 4709:4, 4711:11, 4725:11, 4725:27
water's [1] - 4703:43
waves [1] - 4709:5
ways [1] - 4703:5
weapon [2] - 4719:27, 4721:37
weapon [1] - 4718:44
weapons [1] - 4722:24
weather [2] - 4702:42, 4704:43
weatherman [2] - 4702:17, 4704:47
Wednesday [1] - 4704:37
weekend [1] - 4702:45
weekends [1] - 4702:46
weeks [1] - 4709:16
well-known [2] - 4702:16, 4726:6
whatsoever [1] - 4709:9
whilst [3] - 4713:4, 4713:36, 4725:41
wicked [1] - 4702:32
widely [1] - 4702:18
William [1] - 4716:31
Willing [2] - 4714:30, 4715:26
WIN [5] - 4702:36, 4702:42, 4703:17, 4703:34, 4705:4
WIN4 [1] - 4702:33
Wing [2] - 4705:36, 4706:8
wing [1] - 4707:45
wish [2] - 4715:38, 4721:2
wishing [2] - 4713:47, 4714:10
witness [2] - 4717:30, 4717:37
witnessed [2] - 4719:24, 4719:25
witnesses [5] - 4717:28, 4717:36, 4718:3, 4718:12, 4720:4
Wollongong [4] - 4702:17, 4702:31,

4702:34, 4702:43
Wollongong's [1] - 4705:3
word [1] - 4715:16
words [1] - 4709:36
written [12] - 4705:26, 4711:4, 4714:42, 4715:23, 4717:5, 4724:16, 4724:28, 4724:32, 4725:2, 4725:31, 4725:36, 4726:23
wrongly [1] - 4712:42
wrote [1] - 4709:28

Y

year [3] - 4702:23, 4709:41, 4714:29
years [3] - 4702:29, 4714:3, 4725:25
Yes" [1] - 4722:40
yes" [1] - 4722:42
yesterday [13] - 4702:39, 4708:35, 4710:14, 4710:41, 4713:30, 4713:44, 4713:47, 4714:11, 4714:18, 4714:28, 4715:4, 4715:16, 4725:13
yielded [1] - 4725:4
youth [1] - 4714:23
youths [1] - 4713:19