

**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**

Wednesday, 4 October 2023 at 9.30am

(Day 96)

Mr Peter Gray SC	(Senior Counsel Assisting)
Mr James Emmett SC	(Senior Counsel Assisting)
Mr Enzo Camporeale	(Director Legal)
Ms Aleksandra Jez	(Senior Solicitor)

Also Present:

**Mr Mark Tedeschi KC with Mr Anders Mykkeltvedt and
Mr Mathew Short for NSW Police, Detective Acting
Sergeant Cameron Bignell, Detective Sergeant Alicia Taylor
and Ms Georgina Wells
Mr Murugan Thangaraj SC for Mr Michael Willing
Mr Ken Madden for Sergeant Geoffrey Steer
Mr Matthew Hutchings for Mr Stewart Leggat
Mr Darien Nagle for Mr John Lehmann
Ms Linda Barnes for Detective Sergeant Penelope Brown
Mr Jim Glissan KC for Ms Pamela Young
Mr Stephen Russell for Detective Sergeant Paul Rullo
Mr Chris McArdle for Ms Emma Alberici
Mr Peter Wood (Re application in relation to Mr Willing)**

1 THE COMMISSIONER: The application made by Mr Willing to
2 be excused to give further evidence is refused. On the
3 evidence as a whole, I am not satisfied that there exists
4 a reasonable excuse for him not to attend to be asked
5 further questions.
6

7 I therefore direct that he attend this Friday,
8 6 October, at 10am to be asked some further questions, but
9 that examination will complete on or before 1pm on that
10 day.
11

12 I will publish, during the course of today, my
13 detailed reasons for that outcome. They will be the
14 subject of the current non-publication orders. Otherwise,
15 Mr Willing will be here at 10 on Friday. I will now
16 adjourn, thank you.
17

18 SHORT ADJOURNMENT

19

20 THE COMMISSIONER: Yes.
21

22 MR EMMETT: May it please, I appear to assist the
23 Commission.
24

25 THE COMMISSIONER: Thank you. Yes, Mr Tedeschi. Yes,
26 Mr Emmett.
27

28 MR EMMETT: Commissioner, this is a hearing to receive
29 documents recording communications between police officers
30 in the Unsolved Homicide Team and family members or other
31 interested parties in relation to the progress of
32 particular matters through the triage and review process in
33 the Unsolved Homicide Team.
34

35 As we will explain, it is appropriate to place those
36 communications on the public record, together with the
37 stated police position in relation to those communications.
38

39 Before we do that, it is appropriate to set out the
40 context. In October 2022, an issue arose concerning the
41 suggestion that the Inquiry's work was diverting resources
42 from day-to-day operations of the Unsolved Homicide Team.
43 There was subsequently a discussion in open court and in
44 correspondence in relation to that suggestion.
45

46 Recently, as we will explain, the Inquiry became aware
47 that statements had been made to next of kin or other

1 interested parties to similar effect as the statements made
2 in October 2022. That was of grave concern to the Inquiry,
3 and the Inquiry corresponded with the police in order to
4 understand the position.

5
6 You will recall correspondence received from Natalie
7 Marsic, General Counsel of the NSW Police Force, on
8 18 October 2022, stating that it was time intensive to
9 respond to summonses from this Inquiry and that the
10 diversion of resources was impacting the day-to-day
11 operations of the Unsolved Homicide Team, including live
12 investigations and reviews being stalled.

13
14 You will recall subsequent correspondence dated
15 2 December 2022, in which Ms Marsic again indicated that
16 other UHT investigations or reviews had been put on hold
17 while relevant officers assisted in the context of this
18 Inquiry.

19
20 At a hearing on 5 December 2022, after ruling on
21 certain issues, you made a number of observations about
22 this correspondence to Mr Tedeschi, including that it was
23 frankly unacceptable to accuse this Inquiry of interrupting
24 the proper police work in relation to unsolved homicides.
25 You said you were willing to dismiss the allegation as
26 a misguided and misconceived assertion by someone who may
27 well have entirely underestimated the resources that the
28 NSW Police need to perform their tasks. You stressed that
29 it was inappropriate to suggest that this Inquiry in some
30 way or other has interrupted proper police inquiries or
31 proper police resolution of crimes.

32
33 At the beginning of the hearing on 13 December 2022,
34 Mr Tedeschi communicated a number of matters, which he said
35 the Commissioner of Police and her General Counsel had
36 asked him to convey. They included that every effort had
37 been made and would be made to comply as completely and
38 efficiently as possible with any requests for information,
39 assistance or summonses by you; that they understand the
40 importance of your Inquiry and the significance of your
41 report to the LGBTIQ community and to the community at
42 large; and that both the Commissioner and her General
43 Counsel had been made aware of your comments.

44
45 Mr Tedeschi said it was not anyone's intention to
46 cause any offence to you and certainly not to place any
47 pressure on your Inquiry.

1
2 In the first half of 2023, the Inquiry experienced
3 a number of matters where large volumes of documents, which
4 should have been produced in response to summonses last
5 year, were produced late by the NSW Police Force. In an
6 affidavit by Ms Marsic sworn 26 June 2023, Ms Marsic
7 explained that in gathering documents responsive to the
8 initial summons, it was the understanding of the Office of
9 General Counsel team and the Unsolved Homicide Team
10 officers involved that all responsive hard copy records
11 would be identified by engaging with the CRRIM Team, that
12 is, the Corporate Records, Records and Information
13 Management Team.

14
15 We now know this assumption was mistaken. In fact,
16 documents relevant to particular homicides may be stored in
17 a number of different locations and you have received
18 evidence about that on a number of occasions.

19
20 In relation to the documents produced late in June
21 2023, Ms Marsic attributed this to two further errors or
22 oversights by those who were responsible for gathering
23 material for summonses issued by this Inquiry. First,
24 Ms Marsic explained that by April 2023, it became apparent
25 to the teams working on the police response that
26 investigative files may have been centralised and
27 catalogued under other names than the names used to search
28 for the documents last year. As a result, the police
29 revisited earlier summonses. Further searches were
30 conducted between 18 April 2023 and 14 June 2023, which led
31 to further documents being produced to the Inquiry between
32 20 and 26 June 2023.

33
34 Second, Ms Marsic explained that on 1 June 2023,
35 a member of the Unsolved Homicide Team identified boxes of
36 hard copy files in a storage room responsive to summonses
37 which had not previously been reviewed and produced.
38 Responsive documents from the files held in that storage
39 room were produced on 25 June 2023.

40
41 There have been matters in which documents were
42 produced more recently than June 2023. They are being
43 addressed separately in this Inquiry.

44
45 We now know that the problems with record keeping in
46 relation to unsolved homicides in the NSW Police Force was
47 well known to some senior people within the Force, at least

1 after the circulation of Detective Chief Inspector
2 Lehmann's memorandum dated 5 August 2016. Mr Lehmann said:

3
4 *It is the legacies of the poor exhibit and*
5 *record management practices of the past,*
6 *compounded by the passage of time, that*
7 *causes significant problems for the UHT*
8 *today.*

9
10 It appears that these problems were either overlooked,
11 unappreciated or ignored by the persons who prepared the
12 initial police responses to summonses by this Inquiry. It
13 is fair to say that if those involved in gathering
14 documents responsive to the initial summonses were not
15 aware of the legacies of poor record management practices,
16 they should have been so aware.

17
18 That they appear not to have been was regrettable, and
19 it contributed to the time and cost incurred by the police
20 in responding to summonses.

21
22 During her evidence on 13 July 2023, Ms Marsic gave
23 evidence that in October or November 2022, three additional
24 officers were allocated, as dedicated officers, to the
25 Unsolved Homicide Team with a view to addressing resourcing
26 concerns. She also explained that apart from the three who
27 are dedicated to working on this Inquiry, the other 31 or
28 34 officers in the UHT were used on a surge capacity basis
29 as needs required.

30
31 More recently, this Inquiry obtained copies of
32 communications by members of the Unsolved Homicide Team to
33 family members of deceased persons in relation to matters
34 not being considered by this Inquiry. Those communications
35 were obtained after a summons was issued for, among other
36 things, records of communications between members of the
37 UHT and relatives or next of kin of deceased persons which
38 referenced the Inquiry.

39
40 When I tender those documents, I will ask your Honour
41 to make non-publication orders in relation to them to avoid
42 naming the matters in question. However, the substance of
43 the communications are as follows. On 6 April 2023,
44 Detective Inspector Warren informed a family member that
45 commitments to the Inquiry were impacting the review of her
46 matter. The family member was told that their matter had
47 not been forgotten and it was a priority but that the

1 officer had had to direct their attention to this Inquiry
2 which had impacted the time frame of completion of the
3 review.
4

5 In relation to another matter, Detective Inspector
6 Warren had a conversation with a family member on 27 April
7 2023. This family member was informed that the Unsolved
8 Homicide Team had been impacted by this Inquiry since June
9 2022, which was said to have taken away the ability for the
10 Unsolved Homicide Team to investigate consistently that
11 family member's matter or other matters outside the scope
12 of this Inquiry.
13

14 In relation to one matter, Detective Sergeant Hamill
15 on 31 October 2022 wrote to a family member saying that he
16 was working exclusively on that family member's case, which
17 Detective Sergeant Hamill said was his only focus. Many
18 months later, on 10 July 2023, Detective Sergeant Hamill
19 wrote to the family member to inform them of the resource
20 commitment required by Detective Sergeant Hamill and his
21 team over the last six months in connection with this
22 Inquiry. It will be observed that Detective Sergeant
23 Hamill did not appear to think this Inquiry was distracting
24 him or his team until the last six months, that is, the
25 first half of this year.
26

27 On 25 May 2023, Detective Senior Constable Meredith
28 sent a text message to a family member in another matter.
29 Detective Senior Constable Meredith said:
30

31 *Our investigative capacity has been*
32 *significantly reduced these past few months*
33 *attending to urgent summons for a current*
34 *special commission of inquiry into LGBTIQ*
35 *hate crimes and we weren't able to get*
36 *additional staffing to help us with these*
37 *requests".*
38

39 Again, it will be observed that Detective Senior Constable
40 Meredith said the investigative capacity had been reduced
41 these last few months, suggesting that she did not see her
42 work as impacted in the second half of 2022.
43

44 More seriously, Detective Senior Constable Meredith
45 appears to suggest that there was no additional staffing to
46 help with requests from this Inquiry. That is contrary to
47 Ms Marsic's evidence. The Inquiry does not know whether

1 similar communications have been made to family members
2 orally in other matters.

3
4 Such communications raise concerns for this Inquiry.
5 Family members have strong and legitimate interests in the
6 progression of their matters within the Unsolved Homicide
7 Team. Their matters are obviously important, as is
8 recognised by the NSW Police Force and by this Inquiry.
9 Great care is appropriate if communications are made which
10 might create a perception that those family members'
11 matters are being deprioritised. That is serious, because
12 it risks creating a sense of grievance or dissatisfaction.
13 It would be highly regrettable if that grievance or
14 dissatisfaction affected their perception of the work of
15 this Inquiry.

16
17 The statements made by Unsolved Homicide Team members
18 were also concerning because they present only a partial
19 picture and one which could be regarded as misleading by
20 omission. To the extent that it has been resource
21 intensive to respond to summonses by this Inquiry, the
22 evidence indicates that this was due to the state of the
23 NSW Police Force records and to the inadequacy of the
24 Police Force initial response to summonses last year. If
25 members of the public were to be told anything about
26 a connection between this Inquiry's operations and other
27 matters in the Unsolved Homicide Team, this full picture
28 needed to be provided. It may have been more appropriate
29 to say nothing about this Inquiry in communications with
30 family members in connection with other cases.

31
32 A substantial body of evidence before this Inquiry
33 demonstrates that the Unsolved Homicide Team has been
34 experiencing considerable delays in progressing matters and
35 had been prior to the commencement of this Inquiry. The
36 nature and extent of those delays have been canvassed at
37 length in other submissions to this Inquiry.

38
39 On 15 September this year, Mr Camporeale of this
40 Inquiry sent a letter to the NSW Police Force setting out
41 the Inquiry's concerns with these communications to family
42 members in other matters. The Inquiry also expressed
43 concern at the possible implication that you, Commissioner,
44 were not operating in accordance with paragraph (e) of the
45 Terms of Reference, which requires the Inquiry to operate
46 in a way that avoids prejudice to criminal investigations.
47

1 The correspondence also addressed summonses which had
2 been issued in relation to the matters in which these
3 communications were known to have been made. The Police
4 Force resisted production of documents, which the Force
5 contends are outside the scope of this Inquiry.
6

7 Despite refusing to produce records in response to
8 a summons, police this morning provided some information,
9 which may call for an explanation. That will be addressed
10 separately in due course.
11

12 I should say, that information may be a matter for
13 another day.
14

15 On 21 September 2023, Ms Marsic sent a letter in
16 response which, in some respects, was not entirely
17 satisfactory. In response to Mr Camporeale's statement
18 that the Commissioner assumes the statements were
19 unauthorised, Ms Marsic contended that this was not
20 a matter for the Inquiry and did not inform the Inquiry one
21 way or the other, whether the statements were authorised.
22

23 Ms Marsic also suggested that the statements would
24 convey to an objective bystander that the NSW Police Force
25 is supportive of the Inquiry. We submit that Ms Marsic's
26 contentions in this regard should not be accepted,
27 especially given the Police Force has resisted production
28 of documents to enable you to understand the full context.
29 And, of course, if similar statements were made orally, you
30 have no idea of the tone with which such statements were
31 made.
32

33 Nevertheless, Ms Marsic recognised two important
34 matters. First, Ms Marsic stated the Police Force position
35 that paragraph (e) of the Terms of Reference is not
36 directed to ensuring that the Inquiry does not impact upon
37 the resourcing of criminal investigations generally. We
38 submit this position should be accepted. As Ms Marsic
39 stressed, the allocation of police resources is a matter
40 for the Police Force and not one for this Inquiry.
41

42 Second, Ms Marsic acknowledged that the progression of
43 UHT or unsolved homicide matters since the commencement of
44 this Inquiry, including at the present time, are
45 a consequence of the allocation of resources by the
46 NSW Police Force.
47

1 It is important that these acknowledgments be placed
2 on the public record. It should also be acknowledged that
3 Ms Marsic in her letter gave an assurance responsive to
4 a request in the letter of 15 September 2023, that within
5 the next 48 hours, Unsolved Homicide Team officers would be
6 advised that they are not to mention the work they are
7 performing for the Inquiry in the context of communications
8 with families of next of kin related to other Unsolved
9 Homicide Team investigations.

10
11 The NSW Police Force has not yet informed you of what
12 steps were taken to give effect to that assurance. It may
13 be that Mr Tedeschi can address that now or obtain
14 instructions to address it in the near future.

15
16 Separately, the statement by Detective Senior
17 Constable Meredith suggesting that no additional staffing
18 was allocated to the Unsolved Homicide Team to deal with
19 requests by this Inquiry should be addressed and, if
20 necessary, corrected. Ms Marsic's letter of 21 September
21 was silent about that, despite its having been specifically
22 identified as a matter of concern by Mr Camporeale. The
23 NSW Police Force has not yet sought to explain or correct
24 this, but should be given a further opportunity to do so.

25
26 Commissioner, those are our opening remarks.

27
28 THE COMMISSIONER: All right.

29
30 MR EMMETT: I'm now about to tender a bundle. Before
31 I do, agreed non-publication orders have been made in
32 relation to them. Can I hand up a form of that order.

33
34 THE COMMISSIONER: All right.

35
36 MR EMMETT: I'm sorry, Mr Tedeschi has not seen this
37 order.

38
39 THE COMMISSIONER: Mr Tedeschi, do you need a moment to
40 (a) consider it and (b) get some instructions?

41
42 MR TEDESCHI: I'd just like to carefully check this.

43
44 THE COMMISSIONER: All right.

45
46 MR TEDESCHI: Commissioner, my concern is that the table
47 of redactions in paragraph 3 refers only to names and not

1 to any details of any steps that have been taken. It
2 should include, we would respectfully submit, any of the
3 information that has been provided, as I understand it, to
4 the Inquiry in recent days about those steps.

5
6 THE COMMISSIONER: You mean to include a phrase such as
7 "any information concerning any investigation"?

8
9 MR TEDESCHI: Yes.

10
11 THE COMMISSIONER: Or something of that sort?

12
13 MR TEDESCHI: Yes.

14
15 THE COMMISSIONER: Mr Emmett can take that on board.

16
17 MR EMMETT: Your Honour, the difficulty first, can I say,
18 the information provided in recent days is not in the
19 tender bundle. The material that is in the tender bundle,
20 the police have been heard on that and have not before now
21 identified any specific matters that ought to be
22 redacted --

23
24 THE COMMISSIONER: I don't think he is referring to the
25 tender bundle, he is referring to the terms of the order.

26
27 MR EMMETT: I'm sorry.

28
29 THE COMMISSIONER: I'm happy to invite, at some point, him
30 to suggest a qualification to the term of the
31 non-publication order which you can consider. We can deal
32 with other matters in the meantime. I won't make any
33 orders for the moment, except it is clear that none of the
34 information in the tender bundle will be the subject of
35 publication.

36
37 Would you like me to go off the bench for a few
38 minutes to enable you to have that discussion?

39
40 MR TEDESCHI: Yes, just for a couple of minutes,
41 thank you.

42
43 THE COMMISSIONER: All right. I will adjourn shortly.
44 Just let me know when you are ready.

45
46 **SHORT ADJOURNMENT**

47

1 MR EMMETT: Commissioner, can I hand up a version of the
2 order with words added to item 4 of the table of
3 redactions.

4
5 THE COMMISSIONER: Certainly.

6
7 MR EMMETT: That's agreed as sufficient to address the
8 matters in the tender bundle, which is all that I'm seeking
9 to tender.

10
11 THE COMMISSIONER: All right. Yes, thank you.

12
13 MR EMMETT: May it please.

14
15 THE COMMISSIONER: Yes, Mr Tedeschi.

16
17 MR TEDESCHI: Commissioner, could I begin by saying that
18 the very significant and extensive resources that have been
19 applied by the NSW Police Force to respond to this Inquiry
20 with various requests, summonses, witness statements,
21 inquiries, et cetera, highlight the positive approach and
22 the very cooperative support provided by the NSW Police to
23 this Inquiry and the importance that it ascribes to the
24 work that the Inquiry is doing.

25
26 Those resources that have been applied have included
27 over 188 summonses - responding to them; over 200 boxes of
28 evidence produced; over 100,000 documents, both electronic
29 and hard copy; the NSW Police have been involved in one
30 form or another with the production of 45 witness
31 statements; we understand that we're now up to something
32 like 65 hearing days that the Commissioner's been
33 represented; there have been 32 separate suspected
34 homicides where there have been documentary tender bundles
35 which have been considered and submissions made; and,
36 Commissioner, to date, the estimated cost to the NSW Police
37 is \$5.2 million, which we submit again indicates the degree
38 of the Commissioner's support for the important work that
39 this Inquiry is undertaking.

40
41 So far as the matters that were referred to by Counsel
42 Assisting, in which family members were spoken to, we are
43 able to inform you, Commissioner, that, firstly, in
44 relation to each of those matters, there are, in fact,
45 ongoing lines of inquiry, and we understand that you have
46 been provided with some information about that on
47 a confidential basis, for obvious reasons. But we can also

1 confirm that the head of the Homicide Squad, Detective
2 Doherty, has instructed the members of the Unsolved
3 Homicide Team that no further statements of the kind that
4 have concerned this Inquiry are to be made, and that has
5 been stressed as to its importance and as to complying with
6 that direction.

7
8 Commissioner, there was reference made to one of those
9 statements made to family members by a Detective Meredith.
10 My instructions are that Detective Meredith was
11 inadvertently in error in thinking that no additional
12 staffing had taken place and that the assurance that was
13 given to the Inquiry by Ms Marsic is in fact correct about
14 additional resources being allocated to deal, on an ongoing
15 basis, with the inquiries.

16
17 We submit that you, Commissioner, would be satisfied
18 that there will not be any further statement made along the
19 lines of those that have aroused your concerns, and
20 Ms Marsic has indicated that in the most recent letter that
21 she has sent to the Inquiry.

22
23 Is there anything further that I can assist you with?
24

25 THE COMMISSIONER: No, Mr Tedeschi, I'm going to make
26 a few comments, because I think -I accept what you have
27 told me unequivocally, and there is no need for me to say
28 any more about what you have said. I accept what you tell
29 me and I take that to be the view of your client.
30

31 The reason I was concerned, and members of the Inquiry
32 were concerned, is because the remarks that are made
33 clearly have the potential or tendency to denigrate this
34 Inquiry in minds of members of the public, by one of
35 perhaps two possible imputations. The first is that the
36 Inquiry was behaving in some way unreasonably by making too
37 many or multiple requests of the NSW Police and that, as
38 a consequence of that, other members of the public who are
39 grieving about their deceased relatives were, in effect,
40 being told that they were taking, or had to take, for the
41 time being, a back seat in relation to those homicides
42 which this Inquiry is charged to investigate.
43

44 Now, the mere fact that members of the public might
45 have gleaned from whatever the police officer was telling
46 them that their cases had to be deprioritised or moved down
47 the line because of this Inquiry did not confront a very

1 real problem. The real problem is that all of the records,
2 almost without exception, which each and every summons
3 directed or lawfully directed the police to provide, were
4 their own records. They were not asked to do any more than
5 find a record or records that existed in relation to a case
6 A or case B.

7
8 You knew - I don't mean you personally, but the police
9 knew - from day one that there were two categories:
10 category A which had nominated cases, and Category B which
11 was unspecified, and that was always going to be
12 a difficulty on the Inquiry's part and no doubt the
13 police's part when those cases were identified. This has
14 been said before in correspondence, but I have to say it
15 again because the fact of the matter is, much of the cause
16 of the extra resources and additional resources was either
17 the belated or the ultimate realisation that your clients
18 had to look in multiple repositories.

19
20 One of the documents that has been before the Inquiry,
21 in the case of the murder of a judge, the murder of
22 a judge's wife and other people, showed that documents
23 which were crucial to that investigation were unlabelled
24 and in a storeroom somewhere, and were found, according to
25 Mr Lehmann's evidence, by chance many decades after.

26
27 Now, the fact of the matter is that one of the real
28 reasons why extra resources have been needed is because
29 these historic cases are obviously paper-based, almost
30 without exception. We accept all of those things. But to
31 tell people, as has been happening - I accept it won't
32 happen again and I accept that Mr Doherty has intervened -
33 but for it not to have occurred to police officers or for
34 the message not to have been passed down the line that one
35 of the reasons why extra resources had to be diverted, as
36 it were, is because half the time you can't be sure if you
37 look in one place, you will find all of the holdings. And
38 why that is significant is this: it's not just the
39 Inquiry; if the NSW Police Force genuinely wants to
40 reinvestigate a case, it is plain commonsense that it must
41 know where all its holdings are, it must know what exhibits
42 it holds, it must know when it was last tested for DNA, it
43 must know how many other reviews have been taken up.

44
45 I know I am preaching to the converted with you. You
46 would be one of the most experienced senior counsel
47 practising in criminal law in this country, let alone in

1 this State. So the need for the Force to be absolutely on
2 top of their records goes without saying. It's not just
3 this Inquiry. You might say in one sense - and I don't put
4 this in any sense disrespectfully - we have caused the
5 Police Force, in relation to the cases that we are
6 interested in, to actually find out where their holdings
7 are. They can now do genuine reinvestigations. They can
8 now look at exhibits, some of which we have had retested
9 for DNA, to see whether there are opportunities there for
10 prosecution, and you know, as well as anybody else, that
11 it's all very well to have a theoretical plan to
12 reinvestigate, but if you don't know what your holdings
13 are, you don't know where the exhibits are, you may or may
14 not ever be able to prosecute.

15
16 So what I'm concerned about - it's past history now
17 and I will leave it at that - I am concerned that these
18 police officers, either through ignorance or otherwise,
19 were not informed or were not told that much of the
20 resources that were being utilised necessarily were to find
21 their own records, and that's what is really unfortunate,
22 that a half-baked or half-truth story was given to these
23 relatives, I accept in ignorance, perhaps, that somehow or
24 other their relative was not being given priority or the
25 same priority that they might have thought had been given
26 prior to this Inquiry commencing, because of the nature of
27 this Inquiry. That is only half a picture.

28
29 Anyway, I accept what you say this morning. Let's
30 make this the last time you and I need to discuss the
31 issue.

32
33 MR TEDESCHI: Commissioner, all I can say is that we agree
34 and share your frustration at the difficulty in obtaining
35 historical records from 20, 30, 40 years ago, when there
36 was what we now universally recognise was an inadequate
37 storage system where hard copy documents that are critical
38 to investigations have been stored in a variety of places,
39 in a variety of names, and in a way that is not
40 coordinated. Thankfully, there is now an electronic system
41 which should make that situation completely different.

42
43 The Unsolved Homicide Team has struggled for years
44 with the same difficulties that you and your Inquiry have
45 struggled with, of trying to make sure that they have all
46 the documents that are necessary for a reinvestigation, and
47 as you have quite correctly said, how can you know whether

1 to conduct an investigation, let alone doing it, without
2 the knowledge that you have all of the available material?
3 That is why every effort has been made by the NSW Police
4 during the course of this Inquiry to find the documents
5 that you, Commissioner, have requested, because we
6 appreciate the urgency and need for getting those
7 documents. Sometimes, they have been found in the most
8 bizarre places that could never have been logically
9 anticipated, and they have emerged and we have provided
10 them to you as soon as we've got them, albeit much later
11 than when we would have liked to have provided them.
12

13 THE COMMISSIONER: Mr Tedeschi, I accept that
14 unequivocally. The point I'm trying to simply make,
15 though, is this: independently of this Inquiry, it is
16 chilling that the Unsolved Homicide Team has not, in a
17 methodical or dedicated fashion, tidied up their
18 housekeeping prior to this occurring, because they knew, at
19 the very latest from 2016, with that memorandum signed by
20 Mr Lehmann, countersigned by Mr Willing and others - they
21 knew how crucial it was. Now, I do understand resources,
22 but it is fallacious to have detectives sitting around
23 a table devising reinvestigation plans if you don't know
24 which witnesses are alive and dead, which witnesses have
25 been spoken to and how many times, where the exhibits are -
26 for example, if the murder weapon has disappeared and can't
27 be found, then those cases ought to be confronted and the
28 public ought to be told in some way and somehow, candidly,
29 if there are no ways to solve a problem, rather than
30 suggest, if I may say, the mantra, "Unsolved cases are
31 always open for solution". As a theoretical proposition
32 that's true, but if you have no idea what you've got in
33 your kit, you don't know whether you can ever revive some
34 of these cases; you don't know how many DNA opportunities
35 are sitting there waiting to be exploited, and you
36 certainly don't know, for example, if your murder weapon
37 has gone missing - and you would know better than anybody
38 else - and you are light on persons of interest, then there
39 are vital dots that need to be joined.
40

41 I would have thought in any organisation, most
42 importantly the Homicide Squad, who deals with life and
43 death every day of the week, not to be right on top of
44 those documentation issues - all I have done by making
45 lawful requests pursuant to the directive given to me by
46 Executive Government is to highlight the difficulties your
47 client has, in a timely and efficient way, producing its

1 own records.

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Anyway, having heard what you have had to say, I accept it unequivocally. May I just conclude by reminding you and anybody else - we will send out a message through the internet today - that Ms Young will start at 9 in the morning, and we will finish her tomorrow.

I don't know that you were in court this morning, or Mr Hodgetts was here - I have refused Mr Willing's application. He is directed to attend at 10am on Friday. But I have indicated that I will only allocate half a day, in other words, he will be completed between 10 and 1 on Friday.

MR TEDESCHI: Commissioner, I am concerned about your wish to restrict Ms Young to a day, because I anticipate that Mr Gray will probably take a considerable amount of time in chief with her. I think that my questioning of her would probably be about two hours worth and Mr Thangaraj may well be about the same, although I haven't discussed it with him. So it might be that we need to go into the Friday.

THE COMMISSIONER: All right. I hear what you say and I'm not unaware of the realities with her, given how the matter has developed. I will take on board what you have said. I would assume in any event that Mr Thangaraj would take some time, given what has been said. I will, at or about 9 in the morning, or beforehand, if I can, urgently look at whether I can allocate any further time, and if I can, I will let the parties know today.

Look, I won't say any more now, but I'm alive to the problem you raise, and I do understand the difficulties.

MR TEDESCHI: Thank you.

THE COMMISSIONER: All right. I will now adjourn, thank you.

AT 10.45AM THE SPECIAL COMMISSION OF INQUIRY WAS ADJOURNED ACCORDINGLY

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