

**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, 8 December 2022 at 2.00pm**

**(Day 13)**

**Mr Peter Gray SC (Senior Counsel Assisting)  
Ms Christine Melis (Counsel Assisting)  
Mr William de Mars (Counsel Assisting)  
Ms Kathleen Heath (Counsel Assisting)  
Ms Gráinne Marsden (Counsel Assisting)  
Ms Meg O'Brien (Counsel Assisting)  
Ms Claire Palmer (Counsel Assisting)  
Mr Enzo Camporeale (Director Legal)  
Ms Kate Lockery (Principal Solicitor)**

**Also Present:**

**Mr Mark Tedeschi KC (for NSW Police)  
Mr Anders Mykkeltvedt (for NSW Police)  
Mr Ken Madden (for Sergeant Steer)**

1 THE COMMISSIONER: Yes, Mr Crandell, would you be kind  
2 enough to come back into the witness box, thank you.

3  
4 <ANTHONY CRANDELL, on former affirmation: [2.00pm]

5  
6 <EXAMINATION BY MR GRAY CONTINUING:

7  
8 MR GRAY: Q. Good afternoon, Mr Crandell.

9 A. Good afternoon, Mr Gray.

10  
11 Q. Could you, once again, have put before you volume 1.  
12 And turn to tab 15 again, which is the coordinating  
13 instructions [SCOI.75071]?

14 A. Yes.

15  
16 Q. On page 4, at the close of play yesterday, I went  
17 through with you four findings as set out on the top of  
18 page 4?

19 A. Yes.

20  
21 Q. And the language that was used. Now, reminding  
22 yourself of the last 20 minutes or so of yesterday --

23 A. Yes.

24  
25 Q. -- would you accept that imposing the requirement of  
26 beyond reasonable doubt in relation to whatever material  
27 might have survived in the old files, in at least the first  
28 two of those findings, would increase the likelihood that  
29 the review process might underestimate the presence of bias  
30 in the cases?

31 A. Look, I don't believe so. That certainly was not my  
32 intention.

33  
34 Q. Accepting for the moment that it wasn't your  
35 intention --

36 A. Yes.

37  
38 Q. -- and putting that to one side, but --

39 A. No, I don't --

40  
41 Q. -- introducing that high standard, criminal standard,  
42 in a situation where the documentary material was likely to  
43 be incomplete or not very large, wouldn't that mean that  
44 the risk of underestimating bias was increased?

45 A. Look, I don't believe so. The purpose in putting that  
46 standard in there was because criminal investigators will  
47 understand the standard of proof, they are taught that,

1 they are trained in standards of proof, and that would be  
2 an indicator as to what they should be looking at in order  
3 to get to the first or second category. So I don't think -  
4 I don't think that would necessarily underestimate whether  
5 gay-hate bias was wholly or partially a motivating factor  
6 for that person's death.

7  
8 Q. Well, I'll put it perhaps a slightly different way.  
9 If the question that they were to be asked, let's say, on  
10 finding 1, which is called "Bias Crime" there, was actually  
11 the question referred to in the final report, namely, is  
12 there evidence of bias crime --

13 A. Yes.

14  
15 Q. -- that might lead to one answer. But if the question  
16 is this one, "Is there sufficient evidence capable of  
17 proving something beyond a reasonable doubt", that might  
18 lead to a different answer, mightn't it?

19 A. Yes, but I think in the fullness of time that that  
20 gets teased out. So whilst that might be an initial  
21 inquiry as to whether there is material or evidence of  
22 a bias crime, I think as you move through, then the  
23 different classifications become more clear.

24  
25 Q. All right. I'll move on to the next paragraph on that  
26 page, below the four findings. Do you see the  
27 paragraph beginning "At the conclusion"?

28 A. Yes.

29  
30 Q. What the coordinating instructions say there is that  
31 at the conclusion of each case review, an overall  
32 conclusion will be made - et cetera. I won't read it all  
33 out.

34 A. Yes, yes.

35  
36 Q. At the end of that paragraph, this sentence appears:

37  
38 *All conclusions in relation to the role of*  
39 *bias are made on the balance of*  
40 *probabilities.*

41  
42 Do you see that?

43 A. Yes, I do.

44  
45 Q. You, I am sure, have an understanding of what that  
46 standard of proof --

47 A. Yes.

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Q. -- is referring to; it's the civil standard?

A. Yes.

Q. And it is, putting it simply, a lower standard or a lower hurdle than the criminal standard of beyond reasonable doubt?

A. Yes.

Q. Was any guidance given to the Parrabell officers as to what that different standard of proof meant?

A. I can't tell you that.

Q. And why was a different standard of proof introduced at this conclusion stage?

A. My interpretation would be that we want the officers to have a look at the breadth of material, a large breadth of material, not necessarily rule anything out before it's ruled in, and then come to a view on that. So the --

Q. Sorry, go on.

A. Sorry. The classifications, in terms of the bias crime categories, would then be made once all that material was considered. So I guess what I - I guess what I'm saying there is I didn't necessarily want to lose anything on the basis of, well, is that evidence, is it not? So I'd be more inclusion - it would be more of an inclusive statement than anything.

Q. What did you think would be the effect of having the balance of probability standard, a lower hurdle, at the end, if the higher hurdle had been a necessary or compulsory part of the process at an earlier stage?

A. Yes, but what I'm saying is that that higher standard is for the purposes of classification.

Q. Yes.

A. The lower standard is for the purposes of gathering the evidence or the material that may well lead to that classification. That's the way I'm reading that.

Q. Sorry, for the purpose of gathering the evidence, did you say?

A. For the purpose of gathering information that would indicate whether or not it should go into one of those classifications. I think that they would want them to consider a broad range of documentation rather than exclude

1 it and say, "Well, that doesn't prove anything beyond  
2 reasonable doubt, therefore I won't look at it." It would  
3 make more sense for me if the investigators looked at  
4 a broad range of materials and then made a decision on  
5 where that should be classified after the review processes  
6 are conducted.

7  
8 Q. So what was the object of the first part of the  
9 process that did include "beyond reasonable doubt"?

10 A. Well, no, that's the classification part of it. So  
11 they need to have that classified into whether or not it's  
12 a "Bias Crime", whether or not it's "Suspected Bias", "Not  
13 a Bias Crime", or "Insufficient Evidence". In order to do  
14 that, there was guidance provided based on the beyond  
15 reasonable doubt state of proof. But for them to gather  
16 information obviously I would not want them to exclude  
17 material because it didn't reach a certain standard.  
18 I want them to have a look at as much material as possible.

19  
20 Q. But aren't you, with respect, putting the cart before  
21 the horse? This is telling us that the balance of  
22 probabilities standard would come at the end, not at the  
23 beginning?

24 A. I can see how you might think that in terms of the  
25 structure of the document.

26  
27 Q. Well, not just the structure of the document; it says  
28 that that's what will happen at the conclusion of the case  
29 review, not --

30  
31 THE COMMISSIONER: Q. So what would happen if an officer  
32 thought there was insufficient information, so it is not  
33 a bias crime; how would the balance of probabilities then  
34 come into it?

35 A. I think the - well, to my way of reading that, the  
36 officer would come to an opinion.

37  
38 Q. Yes.

39 A. And that would then be a discussion held that would  
40 then determine whether or not that information would go  
41 into a certain category or not, your Honour?

42  
43 Q. What I'm having trouble with is this: if you set out  
44 a structure like this, what were the criteria, then, that  
45 would govern the conclusion or the discussion leading to  
46 the conclusion one way or the other on the balance of  
47 probabilities? Where is the guidance for the person doing

1 this at the end of having collected the information? Where  
2 is the guidance as to what criteria were to be invoked for  
3 the purpose of the balance of probabilities discussion?

4 A. I believe that would have been covered by the --

5

6 Q. Well, when you say you believe - look, Mr Crandell, am  
7 I getting the impression that you were so far above the  
8 detail of this that you really didn't have a hands-on role  
9 in precisely how the officers filled out the forms and were  
10 monitored in the course of their exercise?

11 A. The officers were monitored by senior --

12

13 Q. I would like you to answer my question. You keep -  
14 this is not the first time you have used the term  
15 "believe". I accept that you are giving me the best  
16 information you can. By your use of the term "believe",  
17 does that mean you are signalling to me that you don't have  
18 any personal or direct recollection of what occurred or you  
19 don't have any or did not have any involvement in how, in  
20 fact, these discussions, the balance of probabilities  
21 conclusion, was arrived at?

22 A. The only - the only - involvement that I had was when  
23 we would have monthly meetings that I would go to.

24

25 Q. Yes, okay, okay,

26 A. I was not involved in the induction of officers and  
27 I was not involved in the day-to-day determinations of  
28 these matters.

29

30 Q. Okay. And who was the person who gave the officers,  
31 if they needed it, day-to-day guidance, assistance,  
32 dialogue - who was that person?

33 A. They are the three officers that I've indicated.

34

35 Q. All right. One or other of the three?

36 A. Yes.

37

38 Q. Okay.

39 A. Yes, that's my understanding, your Honour.

40

41 THE COMMISSIONER: Thank you. I'm sorry, Mr Gray.

42

43 MR GRAY: Not at all.

44

45 Q. So you didn't, among other things, do any of the  
46 actual reviewing yourself of any case?

47 A. No.

1  
2 Q. Or complete any of the forms yourself?  
3 A. No.  
4  
5 Q. So you went to the monthly meetings?  
6 A. Yes - not every monthly meeting. I think I've said  
7 that earlier in evidence.  
8  
9 Q. Okay. Some monthly meetings?  
10 A. Yes.  
11  
12 Q. And they were attended by yourself, the three lead  
13 officers that you've mentioned and others --  
14 A. Yes.  
15  
16 Q. -- or just you and those three?  
17 A. No, I think it would have been other officers as well,  
18 as in the investigators.  
19  
20 Q. All of them or some of them?  
21 A. The ones that were working on the cases that were to  
22 be reviewed.  
23  
24 Q. All right. And apart from attending some of those  
25 monthly meetings - and I don't say this critically either -  
26 you had no other actual involvement in the process?  
27 A. No.  
28  
29 Q. Now, a different but related point to the one we were  
30 just looking at about standard of proof - these four  
31 possible findings that are set out on page 4 --  
32 A. Yes.  
33  
34 Q. -- and the precise language attributable to each of  
35 the four --  
36 A. Yes.  
37  
38 Q. -- they didn't come from the US Massachusetts  
39 document, did they - that terminology on the top of page 4?  
40 A. I'm uncertain because I'm not familiar with that  
41 document.  
42  
43 Q. All right. Well, make the assumption, if you will -  
44 and if Mr Tedeschi thinks differently in due course he can  
45 say so, but for my purposes rather than laboriously take  
46 you to the American document --  
47 A. Yes.

1  
2 Q. -- assume that those four findings and that language  
3 don't come from the American document.  
4 A. If you tell me that, Mr Gray, I'm happy to accept  
5 that.  
6  
7 Q. Right. Indeed, according to the footnote at the  
8 bottom of page 4 --  
9 A. Yes.  
10  
11 Q. -- it says the findings are sourced from the Bias  
12 Crime Unit?  
13 A. Yes.  
14  
15 Q. Now, what I want to do briefly is just try to identify  
16 what that means?  
17 A. Yes.  
18  
19 Q. First of all could you be shown in volume 7, tab 188,  
20 [SCOI.75057]?  
21 A. Yes. I think you showed me this yesterday - no - yes.  
22  
23 Q. So these are the Standard Operating Procedures for the  
24 Bias Crimes Unit as at 2015. Do you know that to be so  
25 or --  
26 A. I don't.  
27  
28 Q. -- something you don't know?  
29 A. The only thing that concerns me is that there's no  
30 corporate sponsor message in the document and no  
31 Commissioner's message. I don't know whether that signals  
32 a draft or whether it's a final document. I can't tell  
33 you.  
34  
35 Q. Well, it's what we've been provided with. If there's  
36 some later version that has some content on those pages, no  
37 doubt it can be produced, but that's what we have, so I'll  
38 have to proceed on the assumption that this is --  
39 A. Can I ask if it's a 2015 document?  
40  
41 Q. Yes, so we are told, it's a 2015 document.  
42 A. I understood them to have been published in 2015.  
43  
44 Q. Are you now or were you then familiar with these  
45 Standard Operating Procedures of the Bias Crimes Unit?  
46 A. I was familiar at the time and I've had a look at some  
47 of the materials, yes.



- 1  
2 Q. I just want to show you a couple of parts of them. If  
3 you turn to page 15 - sorry, 13 --  
4 A. Sorry, did you say page 13?  
5  
6 Q. Page 13 of this document. And there is a heading in  
7 the middle of the page "Responding to an Incident - Role  
8 and Responsibilities."?  
9 A. Yes.  
10  
11 Q. I don't need to go through all of it with you but the  
12 introductory sentence says:  
13  
14 *Current SOPs [meaning Standard Operating*  
15 *Procedures] and procedures are to be*  
16 *practised as any other crime scene when*  
17 *responding to an incident.*  
18  
19 A. Yes.  
20  
21 Q. So the SOPs, if I may call them that, are addressing  
22 a situation where a crime has just occurred and police are  
23 attending and they are about to begin investigating - is  
24 that --  
25 A. Yes.  
26  
27 Q. Then on page 14, there's a heading "Identification of  
28 a Bias Crime"?  
29 A. Yes.  
30  
31 Q. And at that point - ie, immediately after the crime  
32 has occurred --  
33 A. Yes.  
34  
35 Q. -- the attending police are urged to consider if one  
36 or more of the following bias crime indicators are present?  
37 A. Yes.  
38  
39 Q. Agreed?  
40 A. Yes, I do.  
41  
42 Q. Then they are lettered (a) to (j), rather than 1 to  
43 10, but there are 10 of them, as you can see?  
44 A. Yes, I can.  
45  
46 Q. And the first one is racial, ethnic, gender, religious  
47 and cultural differences, et cetera?

1 A. Yes.  
2  
3 Q. It's clear enough that they are either identical to or  
4 pretty similar to the indicators as ultimately appeared in  
5 the BCI form?  
6 A. Yes.  
7  
8 Q. Now, there's a note in red on page 15 --  
9 A. Yes.  
10  
11 Q. -- which I won't read all of but spell out that the  
12 indicators are a guide only and not a legal certainty,  
13 et cetera?  
14 A. Yes, yes.  
15  
16 Q. Then on page 15, which is the page where the red is --  
17 A. Yes.  
18  
19 Q. -- there's a heading "Suspicion of a Bias Crime", and  
20 what is to be done if the incident is suspected of being  
21 wholly or partially motivated by bias - namely,  
22 investigated "as a bias crime/incident"?  
23 A. Yes.  
24  
25 Q. Agreed?  
26 A. Yes.  
27  
28 Q. And then the last - I should say that those two terms,  
29 "suspected" - rather, "bias crime", I should say, and "bias  
30 incident", are defined earlier in the document?  
31 A. Yes. Yes, they are.  
32  
33 Q. And if I can lastly take you just to page 42, there is  
34 a heading "12.4 Classification"?  
35 A. Yes.  
36  
37 Q. Which is dealing with what should happen at the  
38 completion of an investigation. And it says that incidents  
39 are to be classified under one of four headings, which are  
40 then set out.  
41 A. Yes.  
42  
43 Q. You can see, I dare say immediately, that although  
44 with some similarities, these four are not in the same  
45 terminology as the four that find a place in the  
46 coordinating instructions or the bias crimes form?  
47 A. Yes, with some similarities.

1  
2 Q. There's some similarities, yes. But apart from some  
3 similarities, the third one, "Bias Incident" --  
4 A. Yes.  
5  
6 Q. -- is not in your Bias Crime Indicator Form at all?  
7 A. No.  
8  
9 Q. Unsurprisingly.  
10 A. Unsurprisingly. I wouldn't expect it to be.  
11  
12 Q. That's right. And conversely, the one that is in the  
13 bias crime form, namely "Insufficient Information" --  
14 A. Yes.  
15  
16 Q. -- is not on this page?  
17 A. That's correct.  
18  
19 Q. That folder could be returned, and could you now have  
20 volume 3, please. And if you would turn to tab 64A,  
21 [SCOI.77319], you'll see it's like a PowerPoint type  
22 presentation?  
23 A. Yes.  
24  
25 Q. We understand this to be a presentation by Sergeant  
26 Steer in June 2016. If you turn - the pages are numbered  
27 in small letters on the top right?  
28 A. Yes.  
29  
30 Q. If you turn to page 10, you'll see there's a section  
31 that begins "Bias Crime Indicators"?  
32 A. Yes.  
33  
34 Q. And there are some preliminary remarks about them  
35 being only a guide, and so forth, and then they are set  
36 out, and number 1 is "Differences", and you will see the  
37 words "Immutable characteristic differences" there?  
38 A. Sorry, can you - I'm on number 10.  
39  
40 Q. The first line - are you on page 11?  
41 A. No, I'm on page 10.  
42  
43 Q. Sorry, if you turn to page 11, I beg your pardon.  
44 A. Yes.  
45  
46 Q. You can see the heading "Bias Crimes Indicators", and  
47 the first one being "Differences"?

1 A. Yes.  
2  
3 Q. The first sub-point, or what turns out later to be  
4 a prompt, is "Immutable characteristic differences",  
5 et cetera.  
6 A. Yes.  
7  
8 Q. I'll come back to that language shortly --  
9 A. Yes.  
10  
11 Q. -- but meanwhile, I just wanted to show you, if you  
12 flick through quickly, that from that page, 11, through to  
13 23, there are 10 indicators?  
14 A. Yes.  
15  
16 Q. And there are then five classifications on page 25.  
17 A. Yes.  
18  
19 Q. Well, Mr Tedeschi seems to have a different  
20 page numbering. I'm looking at a page which on mine is 25,  
21 and has the word - the one that's on the screen, in fact?  
22 A. Yes.  
23  
24 Q. Is that what you have?  
25 A. Yes, it is.  
26  
27 Q. So there are five classifications there, on that page?  
28 A. Yes.  
29  
30 Q. And the first - sorry, four of those five are the four  
31 classifications that finished up going in the coordinating  
32 instructions?  
33 A. Yes.  
34  
35 Q. And the one that didn't was "Bias Incident"?  
36 A. Yes, that's correct.  
37  
38 Q. Then if you turn back one tab in the volume to tab 64,  
39 [SCOI.74246], it's an email chain, and if we start at the  
40 back of it, being the first in the chain, at the bottom of  
41 the second page --  
42 A. Yes.  
43  
44 Q. It's Mr Bignell to Geoffrey Steer on 28 June asking  
45 for "some additional information on the bias crime  
46 classifications you covered in your presentation"?  
47 A. Yes.

- 1  
2 Q. Do you see that?  
3 A. Yes.  
4  
5 Q. So Mr Steer writes back at the foot of the first page,  
6 and extending over to the second page:  
7  
8 *The presentation is attached.*  
9  
10 Which is the one I just showed you?  
11 A. Yes.  
12  
13 Q.  
14 *Re: Classifications the definitions are*  
15 *below.*  
16  
17 And there we find the five definitions which indeed are in  
18 the language that is in the coordinating instructions.  
19 A. Yes.  
20  
21 Q. Now, that's in June 2016.  
22 A. Yes.  
23  
24 Q. Detective Bignell then sends - forwards that email on  
25 to Craig Middleton?  
26 A. Yes.  
27  
28 Q. And he says that the strike force proposes to use four  
29 of the five classifications?  
30 A. Yes, that's true.  
31  
32 Q. And he attaches a copy of the presentation.  
33 A. Yes.  
34  
35 Q. Now, as I say, those four definitions, if I can use  
36 that term, set out in Mr Steer's email - "Bias Crime",  
37 "Suspected Bias Crime", "Bias Incident", "Not Bias Crime",  
38 and "Insufficient Information" - so those five, minus  
39 one --  
40 A. Yes.  
41  
42 Q. -- are the four that finished up in the coordinating  
43 instructions; agree?  
44 A. Yes, I agree.  
45  
46 Q. So could I suggest to you, for your agreement or not,  
47 that what the documents we've been looking at show about

1 the evolution of the coordinating instructions and the Bias  
2 Crime Indicator Form goes like this: first of all, by some  
3 time prior to 30 August 2015, the investigation plan was in  
4 existence?  
5 A. Yes.  
6  
7 Q. We went through this yesterday?  
8 A. We did.  
9  
10 Q. I think you can put that volume 3 away, just to  
11 de-clutter you, but if you have your volume 1 there, to the  
12 extent necessary, the investigation plan is at tab 14.  
13 [SCOI.74385]?  
14 A. Yes.  
15  
16 Q. I won't rehash what we've already done --  
17 A. Thank you.  
18  
19 Q. -- but the four findings that appear on page 3 down  
20 the bottom are the ones we talked about yesterday - that  
21 is, "There is evidence", "It appears likely", et cetera?  
22 A. Yes.  
23  
24 Q. And there is obviously no reference in those  
25 formulations to beyond reasonable doubt or those other  
26 matters?  
27 A. Yes.  
28  
29 Q. So that's at some time as at or shortly before  
30 30 August 2015. Then, secondly, there is the induction  
31 package, which I regret to say is not in that volume, but  
32 if we need it - and perhaps we should show you; it is in  
33 volume 2. Keep volume 1 with you, but volume 2, the last  
34 tab, 59, [SCOI.77317], is the induction package, and we  
35 know from the date that it was in existence at least  
36 by April 2016.  
37 A. Yes.  
38  
39 Q. And it has the language at the bottom of page 3 the  
40 same as the investigation plan?  
41 A. Yes, it does.  
42  
43 Q. "There is evidence", "It appears likely", et cetera?  
44 A. Yes.  
45  
46 Q. And it has in it also, the induction package, the  
47 document there called "Bias Crimes Indicator Form",

1 starting on page 4 --  
2 A. Yes.  
3  
4 Q. -- in which three of those four make an appearance,  
5 although the fourth doesn't, under the heading  
6 "Indicators"?  
7 A. Sorry, three - sorry, I don't know what you're  
8 referring to.  
9  
10 Q. Okay. The four, at the bottom of page 3 - the four  
11 findings are --  
12 A. Yes.  
13  
14 Q. "There is evidence" that sexuality or other bias was  
15 involved ?  
16 A. Yes.  
17  
18 Q. Two, "It appears likely" that it was involved?  
19 A. Yes.  
20  
21 Q. Three, "It appears unlikely" that it was involved?  
22 A. Yes.  
23  
24 Q. And four, "There is no evidence". Now, three of those  
25 four - that is, "There is evidence", "It appears likely",  
26 and "There is no evidence" - are in the form on page 4,  
27 down the bottom under the heading "Indicators"?  
28 A. Oh, yes, sorry, yes.  
29  
30 Q. But the fourth, "It appears unlikely", is not there.  
31 A. No. It says "No evidence."  
32  
33 Q. Well --  
34 A. Sorry, I know what you're saying, yes.  
35  
36 Q. On page 3 there are four options?  
37 A. Yes, it's left out, "appears unlikely", yes.  
38 I understand.  
39  
40 Q. And one of them is left out in the form?  
41 A. Yes.  
42  
43 Q. Okay. So that's as at April 2016.  
44 A. Well - sorry, on what basis do you say that? Is that  
45 as at the published date of this document?  
46  
47 Q. On the first page there's a date that says

1 published April 2016?  
2 A. Yes. I just didn't want it to be related to the  
3 reference to Sergeant Steer delivering the PowerPoint,  
4 because it was in play prior to that.  
5  
6 Q. No, I'm going to come to that. That's why I'm  
7 trawling through the chronology. First, number 1, the  
8 investigation plan as at August 2015?  
9 A. Yes.  
10  
11 Q. Number 2, this package, which was in play at least by,  
12 if not before, April 2016?  
13 A. Yes.  
14  
15 Q. Then number 3 - and I'm afraid volume 2 can come back  
16 but you'll now need volume 3. And if you go in volume 3 to  
17 tab 63, [SCOI.74237]?  
18 A. Yes.  
19  
20 Q. Again, it's an email chain, and so I need you to go to  
21 the back of the document, or the second page of the  
22 document?  
23 A. Yes.  
24  
25 Q. You'll see that halfway down the second page we have  
26 an email from Craig Middleton to yourself and others?  
27 A. Yes.  
28  
29 Q. With an update on the progress of Parrabell?  
30 A. Yes.  
31  
32 Q. And he's telling you how many of the cases had been  
33 reviewed by that date?  
34 A. Yes.  
35  
36 Q. And he then says, see about six lines down, he says  
37 that there had been 28 finalised and he says:  
38  
39 *Of those 28 the following has been*  
40 *determined: ...*  
41  
42 Do you see that?  
43 A. Yes, I can.  
44  
45 Q. He gives numbers as against four different  
46 classifications.  
47 A. Yes.



1  
2 Q. And you can see that the four classifications that he  
3 is using are the four that we've been looking at so far --  
4 A. Yes.  
5  
6 Q. "There is evidence", "It appears unlikely", "It  
7 appears likely", et cetera?  
8 A. "It appears unlikely", yes.  
9  
10 Q. So it seems that up to that point, 9 June 2016, those  
11 were the indicators or findings that the officers were  
12 working with?  
13 A. Yes.  
14  
15 Q. Right. Then, if you turn to the next page, next tab,  
16 rather, tab 64, [SCOI.74246], we find Mr Bignell's email  
17 a couple of weeks later, in late June 2016, to  
18 Mr Middleton --  
19 A. Yes.  
20  
21 Q. -- saying that they were now going to make  
22 a change --  
23 A. Yes.  
24  
25 Q. -- namely, they're going to adopt Mr Steer's - well,  
26 four of Mr Steer's five classifications. You agree?  
27 A. Yes.  
28  
29 Q. This email chain didn't include you, but were you told  
30 by Mr Bignell or Mr Middleton that these changes were being  
31 made?  
32 A. I would think so.  
33  
34 Q. So it seems that from 29 June 2016, the indicators  
35 being used changed from being the four that had been used  
36 to that point to Mr Steer's four out of five?  
37 A. It would seem so.  
38  
39 Q. Which included beyond reasonable doubt, et cetera?  
40 A. Yes.  
41  
42 Q. And so it's those versions, from Mr Steer's email,  
43 that appear in the coordinating instructions and in the  
44 Bias Crime Indicator Form that's embedded in the  
45 coordinating instructions?  
46 A. Yes.  
47

1 Q. Now, that suggests, doesn't it, that both the  
2 coordinating instructions and the Bias Crime Indicator Form  
3 which formed part of those instructions did not exist in  
4 that form until late June 2016?

5 A. Yeah, I - I agree. I think it would have been an  
6 evolutionary process.

7  
8 Q. Which in turn suggests, doesn't it, that the Parrabell  
9 officers were working on one set of available findings or  
10 indicators up to June 2016, and on a different set  
11 after June 2016?

12 A. Potentially, yes.

13  
14 Q. But then one more change in January 2017 - if we turn  
15 to tab 83 in that volume, [SCOI.74429] - this is the  
16 meeting we looked at yesterday about another topic?

17 A. Yes.

18  
19 Q. It's a meeting on 19 January 2017?

20 A. Yes.

21  
22 Q. It involves, among other things, this dip sample and  
23 Mr Steer?

24 A. Yes.

25  
26 Q. I've been over that. But I wanted to direct your  
27 attention to the third page, which comes - which is at  
28 a point after various cases had been discussed?

29 A. Yes.

30  
31 Q. The second bullet point says:

32  
33 *At this point a useful discussion on*  
34 *terminology followed.*

35  
36 A. Yes.

37  
38 Q. Do you see that?

39 A. Yes.

40  
41 Q. I won't read it all out. The next bullet point says  
42 that you:

43  
44 *... suggested a change in category from*  
45 *"not bias crime" --*

46  
47 which is in the coordinating instructions the third of the

1 four --  
2  
3 to "no evidence of bias crime".  
4  
5 A. Yes.  
6  
7 Q. Do you remember that?  
8 A. Yes, I do.  
9  
10 Q. And the next bullet point tells us that everyone  
11 agreed to, in fact, two changes - namely, "Not Bias Crime"  
12 would be changed to "No evidence of a bias crime"?  
13 A. Yes.  
14  
15 Q. And "Bias Crime" would be changed to "Evidence of  
16 a bias crime"?  
17 A. Yes.  
18  
19 Q. Which, in a partial sense, is a reversion to what the  
20 state of play had been in the first place under the  
21 investigation plan?  
22 A. Yes.  
23  
24 Q. Now, although that agreement to make that change is  
25 recorded there, there doesn't seem to have been any change  
26 to the text in the findings or indicators after the  
27 heading, if you know what I mean. When I say "heading", if  
28 you look at tab 15 of volume 1, [SCOI.75071], the  
29 coordinating instructions?  
30 A. Yes.  
31  
32 Q. The change that you're suggesting, or the change that  
33 is agreed on this occasion --  
34 A. Yes.  
35  
36 Q. -- if we're looking at page 4 of the coordinating  
37 instructions --  
38 A. Yes.  
39  
40 Q. -- is in the case of "Bias Crime", the item, or the  
41 finding, would no longer be called "Bias Crime", it would  
42 be called "Evidence of bias crime"; agreed?  
43 A. Sorry, can I just review that?  
44  
45 Q. Sure, yes.  
46 A. Yes, that's right.  
47

- 1 Q. And the third one, "Not a Bias Crime" would be changed  
2 to "No evidence of a bias crime"?
- 3 A. Yes.
- 4
- 5 Q. So if I may use the term, not quite accurately,  
6 "heading" for the word "Bias Crime", the heading was being  
7 changed but the language following the heading was not  
8 being changed?
- 9 A. Yes.
- 10
- 11 Q. Correct?
- 12 A. Yes, because it already refers to "evidence."
- 13
- 14 Q. Now, while I'm on those minutes, by the way, at  
15 tab 83, [SC01.74429] - the minutes of that meeting - could  
16 I just direct your attention to a slightly different topic,  
17 to the bullet point below the words in bold where the  
18 changes are noted - tab 83?
- 19 A. Yes, yes.
- 20
- 21 Q. See about in the middle of the page it says "All  
22 agreed to change ... " and the changes are in in bold?
- 23 A. Yes.
- 24
- 25 Q. I'm looking in the paragraph after that. It says:  
26  
27 *[Acting Assistant] Commissioner Crandell*  
28 *asked [Sergeant] Steer to write a section*  
29 *for the report on this issue ...*  
30
- 31 Et cetera?
- 32 A. Yes.
- 33
- 34 Q. Now, first of all, did Sergeant Steer finish up  
35 writing part of the Parrabell report?
- 36 A. I don't believe so.
- 37
- 38 Q. Then the next sentence says:  
39  
40 *With this amendment and section, it will*  
41 *not be necessary for [Sergeant] Steer to*  
42 *review any additional cases ...*  
43
- 44 Do you see that?
- 45 A. No, sorry, could you just take me to that?
- 46
- 47 Q. In that same bullet point beginning, "[Acting

1 Assistant] Commissioner Crandell"?  
2 A. Yes, I see that.  
3  
4 Q. The next part of the sentence is:  
5  
6 *... it will not be necessary for [Sergeant]*  
7 *Steer to review any additional cases ...*  
8  
9 Do you see that?  
10 A. Yes. Yes, I do.  
11  
12 Q. And you accept, I think - we more or less covered this  
13 yesterday - that apart from a dip sample of 12, he, in  
14 fact, wasn't asked to and didn't review any other of the  
15 88?  
16 A. I don't believe so. I think I said if you could -  
17 that he would know better than what I do, but in terms of  
18 the methodology, he was involved in that.  
19  
20 Q. And the third thing that you said, according to this  
21 note, is:  
22  
23 *... however he [Steer] should participate*  
24 *in the next meeting with Flinders*  
25 *University.*  
26  
27 A. Yes.  
28  
29 Q. Do you know if that happened or not?  
30 A. Yes, I do.  
31  
32 Q. And it did?  
33 A. And it did.  
34  
35 Q. And did it?  
36 A. Yes.  
37  
38 Q. All right. Now, back --  
39 A. Sorry, that's my belief, that it did. I'm thinking  
40 now - I know Sergeant Steer was overseas at different times  
41 and he had other things going on, and I know that he - that  
42 he left or he was not performing that function at some  
43 stage in 2017, in the first half of 2017.  
44  
45 Q. All right.  
46 A. So that's my belief.  
47

1 Q. Now, if you've still got tab 15, [SC01.75071], open --  
2 A. Yes.  
3  
4 Q. -- of the coordinating instructions, I want to ask you  
5 a few questions about the form itself.  
6 A. Yes.  
7  
8 Q. The structure of it we have covered sufficiently but  
9 I just want to ask you about a few specifics in the form  
10 itself. So the first indicator is called, in the form,  
11 "Differences".  
12 A. Yes.  
13  
14 Q. And then there are six prompts.  
15 A. Yes.  
16  
17 Q. And the first prompt is put in these terms:  
18  
19 *Immutable characteristic differences*  
20 *between victim and POI's sexual*  
21 *orientation.*  
22  
23 A. Yes.  
24  
25 Q. Did you have then, or do you have now, an  
26 understanding of the word "immutable"?  
27 A. Well, I understand that the word would mean that there  
28 are significant, unequivocal --  
29  
30 Q. Significant and unequivocal?  
31 A. Or unequivocal - unequivocal.  
32  
33 Q. Well, doesn't it mean unchangeable or changeless?  
34 A. Yeah, I'd say that's another synonym.  
35  
36 Q. Well, it's a different meaning, isn't it, rather than  
37 "significant". Immutable means not able to mutate, if you  
38 like. It means can't change; changeless, doesn't it?  
39 A. If you say so.  
40  
41 Q. But you don't know?  
42 A. Well, I've said what I thought it was.  
43  
44 Q. You thought it just meant significant?  
45 A. No, I didn't say "significant". I said "significant"  
46 or - and I can't remember the other word I used.  
47

1 Q. I can't hear you, sorry  
2 A. I said "significant" or - and I can't remember the  
3 other word that I used. Perhaps I could check  
4  
5 THE COMMISSIONER: Q. Mr Crandell, I have noticed today  
6 your voice is dropping a little bit.  
7 A. I'm sorry, Commissioner.  
8  
9 Q. No, no, if you can just remember to keep your voice up  
10 a little, I'm just finding it sometimes a little difficult  
11 to hear you.  
12 A. Thank you, Commissioner, I will.  
13  
14 MR GRAY: Q. You did use a second word, I --  
15 A. Yes, can I - if I could just check what that word was?  
16 I should know.  
17  
18 Q. I agree that you did use a second word.  
19  
20 THE COURT REPORTER: "Unequivocal"  
21  
22 THE WITNESS: Unequivocal, unequivocal, thank you.  
23  
24 MR GRAY: Q. Significant or unequivocal?  
25 A. Unequivocal, to my mind, would be immutable, which  
26 would be close to no change.  
27  
28 Q. Did, to your knowledge, any of the other members of  
29 Strike Force Parrabell have an understanding, expressed in  
30 your presence, as to what "immutable" meant?  
31 A. No.  
32  
33 Q. Was the topic ever discussed as to what "immutable"  
34 meant?  
35 A. I can't give that evidence.  
36  
37 Q. In your presence?  
38 A. Not in my presence.  
39  
40 Q. Do you know where the word "immutable" came from in  
41 terms of finding its way into the form?  
42 A. I thought it came from the Standard Operating  
43 Procedures.  
44  
45 Q. If I may short-circuit things --  
46 A. Yes.  
47

1 Q. -- I was going to take you back to those documents,  
2 but the short point is that it's not in the United States  
3 document - you accept that from me?  
4 A. Yes.  
5  
6 Q. It's not in the Standard Operating Procedures of 2015,  
7 which I showed you?  
8 A. Yes.  
9  
10 Q. But it is in Sergeant Steer's presentation of June  
11 2016?  
12 A. Right.  
13  
14 Q. Which again I can take you to that again, but accept  
15 from me --  
16 A. No, no, I accept - I accept what you say.  
17  
18 Q. -- that's where it is.  
19 A. Yes.  
20  
21 Q. Now, from what we've been provided with, that appears  
22 to be the first time the word "immutable" makes its  
23 appearance?  
24 A. Right.  
25  
26 Q. Are you aware of it making an appearance any earlier?  
27 A. No, no.  
28  
29 Q. Well, that would - that makes it June 2016, in terms  
30 of the Strike Force Parrabell knowing anything about the  
31 appropriateness of the word "immutable" going into it?  
32 A. Potentially.  
33  
34 Q. Well, definitely, if that's the first time that it  
35 crosses the bows of Strike Force Parrabell - yes?  
36 A. Yes.  
37  
38 Q. Now, would you accept, given your experience and your  
39 corporate sponsor role, that on matters related to  
40 sexuality and gender identity, one of the things we've all  
41 come to appreciate better in recent decades is that those  
42 matters are not immutable; they're not unchangeable. There  
43 is a degree of fluidity, there's a range?  
44 A. Oh, I would disagree with that as a general  
45 proposition, because if you spoke to a community member,  
46 there are gender fluid community members in the LGBTIQ  
47 community, and that would be appropriate for them, but



1 there's sexual orientation that is derived at birth, and  
2 sexual orientation stays with you for life, so I would not  
3 agree with that statement.

4

5 Q. And gender?

6 A. Gender --

7

8 THE COMMISSIONER: Q. I'm sorry, when you say "sexual  
9 orientation" - there's only one or two? What are you  
10 talking about? You're either one or the other; is that  
11 what you're inferring?

12 A. No, I'm not.

13

14 Q. I don't quite understand what you're talking about?

15 A. No, I'm not, Commissioner. What I'm saying is that  
16 the LGBTIQ community consists of a large number of  
17 different sexual orientations.

18

19 Q. Yes.

20 A. That may well be gender fluid, which means that you  
21 don't have any - necessarily any sexual preference.

22

23 Q. Yes.

24 A. Or it may well be that you are born gay, and that  
25 stays with you and that orientation stays with you for the  
26 rest of your life. So there are different community  
27 members that have different characteristics in my - as  
28 I understand it, being that corporate sponsor.

29

30 THE COMMISSIONER: All right.

31

32 MR GRAY: Q. Not to cavil with you, but you're really  
33 making those statements in relation to sexual orientation,  
34 aren't you?

35 A. Well, yes, sexual orientation and gender diversity,  
36 yes.

37

38 Q. But gender diversity immediately, as an expression,  
39 recognises that there's a range, doesn't it?

40 A. Yes.

41

42 Q. So to describe as a prompt for differences that the  
43 characteristic differences are "immutable" is immediately  
44 a disconnect, isn't it, with that realisation?

45 A. Well, sorry, Mr Gray, they're talking about - as  
46 I understand it - the differences between the perpetrator  
47 and the victim, in terms of gender identity or sexual

1 orientation. So I think that the prompt is to say is there  
2 something different that's clearly different between the  
3 sexual or gender orientation - gender or sexual orientation  
4 of that victim as opposed to that perpetrator? That's the  
5 prompt, as I understand it.

6  
7 Q. Okay. And in fairness to you, I should remind you and  
8 myself that the first prompt does, in terms specifically,  
9 refer to sexual orientation rather than - it doesn't  
10 include the word "gender", for example?

11 A. Well - yes.

12  
13 Q. In case that makes any difference to what you are  
14 saying.

15 A. Well, to my mind, no, because we're looking at  
16 differences in sexual orientation which may motivate  
17 hate-related crime.

18  
19 Q. Were, to your knowledge, the Parrabell officers given  
20 any guidance as to what the word "immutable" meant, in that  
21 prompt?

22 A. No, not in my presence. I have given that evidence.

23  
24 Q. So they were to apply their own understanding of that  
25 concept - "immutable characteristic differences" - when  
26 they were answering "Yes" or "No" for the indicators on  
27 page 5 as to a finding about such differences; is that  
28 right?

29 A. Yes, I think the sentence stands for itself.

30  
31 Q. Now, the second question about the form - or a series  
32 of questions, really, but apropos the topic of unsolved  
33 deaths as distinct from solved deaths?

34 A. Yes.

35  
36 Q. Your strike force was looking at both solved and  
37 unsolved cases?

38 A. Yes, we did.

39  
40 Q. And with solved cases, of course, one basically knows  
41 who the perpetrator was?

42 A. Yes.

43  
44 Q. Or nearly always, if not always?

45 A. Yes. Yes. Sorry, I'm trying to speak up.

46  
47 Q. Pardon?

1 A. I'm trying to speak up. I apologise.  
2  
3 Q. Thank you. But with unsolved cases, that is unsolved  
4 deaths, one does not know who the perpetrator was?  
5 A. Yes, subject to the two characteristics that  
6 I indicated yesterday.  
7  
8 Q. Yes, subject to the two matters you mentioned  
9 yesterday, which were acquittal on the basis of  
10 self-defence and a second one --  
11 A. No bill or some other process that went through.  
12  
13 Q. That's right. But with those two qualifications,  
14 which I accept --  
15 A. Yes.  
16  
17 Q. -- with an unsolved case, one doesn't know who the  
18 perpetrator was?  
19 A. Yes. So, just to be clear on that, the Unsolved  
20 Homicide Team have a standard, which is applied to those  
21 cases, and we adopted those standards, as I understand.  
22  
23 Q. And obviously with an unsolved death, one can't get  
24 any assistance from the victim?  
25 A. Yes.  
26  
27 Q. And indeed, in many of the unsolved deaths - perhaps  
28 most of them - there are no witnesses?  
29 A. Yeah, not necessarily.  
30  
31 Q. No, not necessarily, quite, but in many cases?  
32 A. But there were occasions where there were no  
33 witnesses. I can think of some cases now.  
34  
35 Q. But in any event, would you agree that several of the  
36 indicators in the form - and many of the prompts under the  
37 indicators - are really inapplicable or unknowable in the  
38 case of unsolved deaths?  
39 A. Well, yeah, the - absolutely. They may not know  
40 whether or not that particular characteristic adds to an  
41 indicator of motivation. I accept that.  
42  
43 Q. No. So I won't labour the point, but if we look at  
44 even the first one, the first prompt under the heading  
45 "Differences", if one doesn't know the POI, one draws  
46 a blank on that prompt?  
47 A. Yes.

1  
2 Q. In the case of an unsolved murder?  
3 A. Yes. So that indicator would not be something that  
4 you could take into account.  
5  
6 Q. And perhaps without trawling through all of them in  
7 too much detail, you would accept that there would be many  
8 in the form where that applies?  
9 A. Yes, I do.  
10  
11 Q. And, slightly different from the "unsolved" point, but  
12 would you also accept that the form, in the sense that it  
13 picks up the indicators and the prompts from the source  
14 that it did --  
15 A. Yes.  
16  
17 Q. -- includes indicators and prompts many of which are  
18 directed, on their face, more to other types of bias crime  
19 than anti-LGBTIQ bias crimes?  
20 A. Yes, they could be applied to others, certainly.  
21  
22 Q. So when we get burning crosses and the like, we're  
23 looking at race-based crimes, probably, and several of the  
24 others - which I expect you would agree - are pretty  
25 clearly, just looking at the words, directed at ethnic bias  
26 or race bias or religious bias and the like?  
27 A. I'm not certain of that. Can you direct me to  
28 something, if you --  
29  
30 Q. Certainly. I'll take you to a few of them, then.  
31 I'll start from the beginning. If one looks at the second  
32 indicator at the bottom of page 5 --  
33 A. Yes.  
34  
35 Q. -- "Comments, Written Statements, Gestures" --  
36 A. Yes.  
37  
38 Q. -- unless there were written statements, then  
39 comments and gestures would be a blank if one doesn't know  
40 who the perpetrator is?  
41 A. No, no.  
42  
43 Q. If there are no witnesses?  
44 A. Well, if there's no witnesses, for sure, unless  
45 nothing was written down at the time, but I still think  
46 it's valid to put that as an indicator of gay-hate bias. It  
47 may be applicable somewhere else, but I think that was your

1 point.  
2  
3 Q. Whether that's right or not, written statements are  
4 one thing, but if one doesn't know who the perpetrator was  
5 and there are no witnesses, then there won't be any  
6 comments or gestures that can be used?  
7 A. Exactly. That then won't be an indicator.  
8  
9 Q. And the same applies to the next two prompts which are  
10 to do with comments and gestures, that will just be  
11 inapplicable in such a case?  
12 A. As in drawings and markings or - well, drawings and  
13 markings would be applicable, I presume.  
14  
15 Q. No, the next two prompts at the top of page 6,  
16 comments and gestures and again gestures --  
17 A. Yes, without witnesses.  
18  
19 Q. If nobody saw the gestures, if there were any, then  
20 that's the end of that?  
21 A. Yes.  
22  
23 THE COMMISSIONER: Q. And the third point, "victims may  
24 not be aware", seems to be entirely inapposite, doesn't it,  
25 because every one of these victims you were looking at were  
26 dead, so the issue would not arise at all, would it? It  
27 would only arise in the case of a person who might be  
28 perhaps assaulted --  
29 A. Yes.  
30  
31 Q. -- but it couldn't arise in the case of a death?  
32 A. No, unless a person survived, exactly.  
33  
34 Q. I'm sorry?  
35 A. Unless a person survived, Commissioner, that --  
36  
37 Q. No, but you weren't looking at survivors, were you?  
38 A. No, but if there was a survivor at the scene of the  
39 death.  
40  
41 Q. I see. So a witness?  
42 A. Yes.  
43  
44 Q. And how would the witness know what the victim's state  
45 of awareness was?  
46 A. Well, I can think of a case now --  
47

1 Q. Well, before you give me an example, the words are  
2 "victims may not be aware of the significance of the  
3 gestures"?  
4 A. Yes.  
5  
6 Q. Well, how would that arise as a fact, that somebody  
7 present with the victim would be able to express a view  
8 that the victim may not have been aware of the gesture?  
9 A. Well, if that victim was a witness, then that - they  
10 might be able to relay what was said but they may not be  
11 aware that what was said was bias related or hate related.  
12  
13 THE COMMISSIONER: Yes, all right. Okay.  
14  
15 MR GRAY: Q. Well, take number 4, indicator 4 on page 7,  
16 "Organised Hate Groups"?  
17 A. Yes.  
18  
19 Q. That has a kind of meaning in police work, doesn't it,  
20 "organised hate group"?  
21 A. Yes.  
22  
23 Q. What does it mean?  
24 A. Well, the Ku Klux Klan, for example. There's a number  
25 that Sergeant Steer would have been looking at during his  
26 time that were operating in and around not only New South  
27 Wales but Australia, and certainly given the LGBTIQ hate  
28 overseas, it's not unreasonable to think that there could  
29 be groups here in Australia that harbour that bias.  
30  
31 Q. Well, the first prompt under that indicator is  
32 "Objects or items that represent the work of an [organised  
33 hate group]", "eg, business cards", which doesn't seem very  
34 likely, but --  
35 A. Yes.  
36  
37 Q. -- is that something that might - that an organised  
38 hate group might leave, their business card?  
39 A. Well, they may well leave a sign that indicates --  
40  
41 Q. No, but a business card?  
42 A. Well, I don't think a business card is likely, but --  
43  
44 Q. Or a flyer - is that terribly likely in the case of  
45 someone who is murdering an LGBTIQ person?  
46 A. If they wanted to make it known that that was the  
47 case, yes.

1  
2 Q. And a burning cross?  
3 A. Well, that's Ku Klux Klan, I imagine, but if you saw  
4 a burning cross there somewhere, that would indicate to me  
5 that it may well be something to do with the Ku Klux Klan.  
6  
7 Q. Which doesn't have much to do with an anti-LGBTIQ  
8 bias, does it?  
9 A. No. No, I don't think so, but I don't know what -  
10 whether there's symbols or other things that an organised  
11 hate group might do. I don't think they're particularly  
12 logical groups.  
13  
14 Q. No, but if this was a form that was being given to  
15 reviewers who were considering whether there was or wasn't  
16 an anti-gay bias --  
17 A. Yes.  
18  
19 Q. -- why would you give as an example a burning cross?  
20 A. Well, as I say, it was a prompt. That's an example of  
21 what another group would use in that situation. So it was  
22 an example.  
23  
24 Q. Take indicator 6 on page 9, "Victim/Witness  
25 Perception". Do you see that?  
26 A. Yes.  
27  
28 Q. Obviously useless in the case of a death, so far as  
29 the victim is concerned?  
30 A. I disagree with that wholeheartedly.  
31  
32 Q. Pardon?  
33 A. I disagree with that wholeheartedly.  
34  
35 Q. In the case of the victim, I said.  
36 A. Victim or witness, it says.  
37  
38 Q. I said in the case of the victim it's useless, isn't  
39 it?  
40 A. Well, it says witnesses, not victim.  
41  
42 Q. No, but the indicator is "Victim/Witness Perception"?  
43 A. Yes.  
44  
45 Q. In the case of a victim, being dead, that is  
46 inapplicable, isn't it?  
47 A. Well, as I said, if there was a - there may well have

1           been another victim at the scene that was potentially  
2           a target that did survive.  
3  
4           Q.    Oh, I see.  
5           A.    So you would classify that person as a victim, and  
6           I think that would be all encompassing.  
7  
8           Q.    Okay.  So in that case - and I am not saying this  
9           critically either, but you are merging victim and witness  
10           into the same thing, in that example?  
11           A.    Well, it could be a victim it could be a witness,  
12           yeah, and it goes on down - the prompt is "Witnesses."  
13  
14           Q.    Okay.  In number 7, "Motive of Offender/s", the first  
15           and fourth prompts will be useless if one doesn't have  
16           a POI; agreed?  
17           A.    Yes.  
18  
19           Q.    And the third one means --  
20           A.    Mind you, that doesn't exclude suspects.  It may well  
21           be that you have a suspect that has those attributes.  
22  
23           Q.    Does POI have a meaning different from suspect?  
24           A.    Person of interest?  
25  
26           Q.    Yes.  
27           A.    It could be a suspect.  
28  
29           Q.    But is there a difference between person of interest  
30           and suspect?  
31           A.    I think person of interest may well be a lower level  
32           than an actual suspect, but - I would think that a person  
33           of interest to an investigation would be somebody of  
34           interest to the investigation team as to whether or not  
35           they were involved in the crime.  
36  
37           Q.    Aren't the reviewers being expected to assess these  
38           differences - sorry, these indicators by the standard of  
39           beyond reasonable doubt?  
40           A.    Well, they're looking at all information to see --  
41  
42           Q.    No, what's the answer to that question?  
43           A.    Yeah, but that's a - that's an assessment after the  
44           gathering of the evidence or the material.  
45  
46           Q.    No?  
47           A.    That's not something that should be applied when



1 you're looking at a prompt as to whether or not gay-hate  
2 bias is involved.  
3  
4 Q. All right, okay. I think I've covered that territory  
5 enough. I think you've said what you want to say about  
6 that.  
7  
8 THE COMMISSIONER: Q. By the way, Mr Crandell, did you  
9 understand that each of the questions were to be given  
10 equal weight?  
11 A. No, I don't think so, Commissioner. I think --  
12  
13 Q. Well, were they to be given different weights?  
14 A. I think they would have to be weighed to determine  
15 whether or not there was an applicability of --  
16  
17 Q. I'm sorry, just explain to me how this would work,  
18 then. I don't see anywhere in any of the documents so far  
19 referred to that there was a weighting process. So where  
20 would the person filling out the form be guided as to the  
21 weighting process? It would be - really, would the  
22 weighting process just derive from a collaborative  
23 discussion between one or more persons at the end as to  
24 what was or was not a consensus as to how you rate the case  
25 as a whole?  
26 A. Yes, I believe so. There was no weighting scale,  
27 Commissioner.  
28  
29 Q. All right. So - okay. So they just sit - one or more  
30 person would sit down and either severally or jointly  
31 answer the prompts or respond to the prompts, then there'd  
32 be --  
33 A. If they were able.  
34  
35 Q. I'm sorry?  
36 A. Sorry, Commissioner, I apologise, if they were able  
37 to.  
38  
39 Q. Then there'd be a discussion amongst one or more  
40 persons, and then more senior people would be involved?  
41 A. Yes.  
42  
43 Q. And so the exercise in the end was a collaborative  
44 process whereby consensus would be arrived at for the  
45 purposes of the ultimate classification?  
46 A. Yes, sir.  
47

1 MR GRAY: Q. Just on that weighting point --

2 A. Yes.

3

4 Q. -- you mentioned that concept a few times yesterday,  
5 and I was going to ask you about that too, just for  
6 clarification. At page 704, you said, in the context of  
7 saying - you were making the point that you were conscious  
8 that every indicator could be present and yet there wasn't  
9 a bias crime, or no indicators might be present and yet it  
10 could be a bias crime?

11 A. Yes.

12

13 Q. So in that context you then said:

14

15 *So to me, that spoke volumes about the*  
16 *document and about weight and how you would*  
17 *weight different characteristics on that*  
18 *form.*

19

20 A. Yes.

21

22 Q. And then, I'll just give you the three times when you  
23 said something about this. At page 706 you said:

24

25 *I understood the bias crime investigation*  
26 *tool because I understood that that's how*  
27 *I was going to be able to show that all of*  
28 *those factors had been considered and then*  
29 *how those factors were weighed to*  
30 *ultimately determine an intention or*  
31 *motivation of the offender.*

32

33 A. Yes.

34

35 Q. And then, in a third pass at this topic, at 742, you  
36 said - this was in the context of identifying gay-hate bias  
37 being a difficult task on which different minds -  
38 reasonable minds might differ, I'm paraphrasing --

39 A. Yes, no, I agree.

40

41 Q. But you then said in terms of Mr Steer, you said:

42

43 *So for Geoff or anybody in operational*  
44 *programs to have a different view, that*  
45 *would not be surprising to me --*

46

47 A. Yes.

- 1  
2 Q.  
3 *because there were so many factors, and*  
4 *then there was a weighting that had to be*  
5 *involved.*  
6
- 7 A. Yes.  
8
- 9 Q. So, picking that up, what is the weighting process  
10 that had to be carried out?  
11 A. Well, I think - I think dependent on the material  
12 that's gathered, there needs to be weight given to the  
13 different factors to arrive at an ultimate decision on  
14 whether there was gay-hate bias motivation.  
15
- 16 Q. And weighting according to what parameters or scale?  
17 A. Well, they're indicators, and so it depends on the  
18 subjective circumstances of the material that's being  
19 gathered.  
20
- 21 Q. But how was an - I'll start again. How was an  
22 officer, one of the officers, having assembled their "Yes",  
23 "No", answers in the right-hand column, to do some  
24 weighting of that, according to what standard?  
25 A. Well, that's the collaborative process that the  
26 Commissioner was talking about. They would come together  
27 and they would discuss the different factors that they've  
28 found and then determine how that should all come together  
29 to indicate whether or not there was a gay-hate bias.  
30
- 31 Q. So does that mean it would - the weighting process  
32 would operate differently, depending on the case?  
33 A. Well, it depends on the evidence that was able to be  
34 gathered, because as you have said, there may be cases  
35 where there isn't evidence of indicators. So it would be  
36 based on that coming forward. But I think there would have  
37 been some consistency on the basis that you had at least  
38 two, potentially three, senior investigators that were  
39 looking at each of those cases as they came through.  
40
- 41 Q. But the scale or mechanism by which this weighting  
42 exercise would be carried out --  
43 A. Yes.  
44
- 45 Q. -- would be just inside those three senior men's  
46 heads, would it?  
47 A. Well, they would have to consider the information

1 that's put before them and -- -  
2  
3 Q. In their own minds?  
4 A. Well, I don't - there wasn't a weighting scale, I can  
5 assure you of that --  
6  
7 Q. No, I dare say there wasn't.  
8 A. -- because I don't actually know how I would do that.  
9  
10 Q. No. That's why I'm asking how did you do it? How was  
11 this weighting done?  
12 A. Well, that's how it was done, it was a collaborative  
13 process.  
14  
15 Q. Just by chatting?  
16 A. Well, not just by chatting. They're talking about  
17 material that they've gathered to then show whether or not  
18 there was bias motivation.  
19  
20 THE COMMISSIONER: Q. Yes, but doesn't that turn  
21 inevitably on the participants' personal views about how  
22 much significance or emphasis ought to be placed on one  
23 factor as opposed to another?  
24 A. Yes, and that's why I wanted it to go through to those  
25 three senior officers.  
26  
27 Q. Well, then how would you - I understand that, but in  
28 terms of trying to replicate the process, it would be  
29 impossible, wouldn't it, because in each and every case  
30 you'd have to say the form was looked at, yes and no was  
31 answered, then there was a collaboration, at the end of it  
32 a decision or a conclusion, but there would be no way of  
33 picking, at the conclusion, apart from interrogating those  
34 people who participated in the ultimate discussion, to work  
35 out either their precise methodology, the indicators that  
36 they found more relevant or should be given more emphasis  
37 than others?  
38 A. I agree, Commissioner.  
39  
40 Q. In other words, the process - don't agree if you don't  
41 agree with me - at that level is entirely opaque? There's  
42 no way of penetrating it. And unless you sat down and  
43 interrogated the person or persons who had collaborated for  
44 the purposes of the conclusion and said, "Well, okay, let's  
45 look at this case, you say there's no evidence. Why did  
46 you come to that view?"  
47 A. Yes.

1  
2 Q. So the only way you'd be able to do it is to say,  
3 "Well, we answered the form this way", or "Detective  
4 somebody answered the form this way"?  
5 A. Yes.  
6  
7 Q. "There was an initial discussion between that person  
8 and Mr Middleton or Mr Chebl" - not Chebl, Bignell or  
9 somebody --  
10 A. Yes.  
11  
12 Q. -- "and then there was a more considered position, and  
13 then we arrived at, ultimately" - there were different  
14 views - "but ultimately we decided or it was decided on  
15 this or that"?  
16 A. Yes, what should --  
17  
18 Q. Well, the only way you would ever know what led to  
19 that conclusion, and in order to understand the reasoning  
20 process, would be to be able to interrogate the officer or  
21 officers who participated in the ultimate collaboration for  
22 the purposes of coming to the conclusion?  
23 A. Yes, or by reference to the documentation.  
24  
25 Q. Well, how could you do it by reference to the  
26 documentation, because they weren't keeping minutes, were  
27 they, of their collaborations, and it's simply the dynamic  
28 of a conversation, isn't it, between people who bring to  
29 the table potentially different levels of experience and,  
30 more to the point, different viewpoints as to which factors  
31 ought to have greater emphasis in any particular case?  
32 A. Yes.  
33  
34 THE COMMISSIONER: All right. Thank you.  
35  
36 MR GRAY: Q. Now, are you aware of email communications  
37 between Mr Steer and the Flinders academics on the topic of  
38 weighting?  
39 A. You showed me some documents yesterday, but I don't  
40 think the email was to me, I think that was to - between  
41 Derek Dalton.  
42  
43 Q. No, it wasn't to you.  
44 A. Yes.  
45  
46 Q. That's why I'm asking whether you were aware of it?  
47 A. No, not - no, not until I read it.

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Q. Not until you were shown?

A. Yes.

Q. All right. Could I, however, show it to you again. It's at volume 10, tab 248, [SCOI.79391]. Again, it's an email chain and one needs to start from the back, at the bottom of the second page. This is Dr Dalton to Mr Steer?

A. Yes.

Q. On 28 February 2017?

A. Yes.

Q. He says that at a meeting "we held" on Friday, 24 February, with you and others:

*... it became apparent that we needed to know much more about --*

what he calls the "FBI 10 point instrument used by the police".

A. Yes.

Q. I'll come back to that. But Dr Dalton then says two paragraphs below, "we", meaning the academics":

*... fully appreciate that the instrument is just used as a "tick sheet" or guide to identifying a range of BIAS crimes ... but we really need to know if you have any data ...*

et cetera. I'll come back to the data point in a minute. But what Dr Dalton is saying it seems, apparently saying, is that he realised the instrument was used as a tick sheet, at least that's what it says?

A. That's what he says, yes.

Q. So Mr Steer responds to that on the top of the page. He starts off by saying, rather baldly:

*To make it clear the indicators ARE NOT a definitive check list or tick sheet as you put it.*

And he then goes on to explain further his view of how the indicators are meant to work?

1 A. Yes.

2

3 Q. And we've largely covered that?

4 A. Yes, yes.

5

6 Q. But then about halfway down that paragraph, or  
7 slightly below half, after the words in bold where he  
8 stresses that if they are used as a checklist they do not  
9 work --

10 A. Yes.

11

12 Q. -- Mr Steer says:

13

14 *There is no weighting given to the*  
15 *indicators ...*

16

17 He goes on to say "you don't add them up and if you get  
18 a certain number it is a bias crimes". So he says there's  
19 no weighting. And Dr Dalton then responds to that on the  
20 first page, in the first main paragraph, he begins by  
21 saying that he does appreciate, he now says, that the  
22 indicators are not a definitive checklist or tick sheet, he  
23 adds, though:

24

25 *Mind you, the detectives did somewhat*  
26 *[partially] use them in this way as*  
27 *a tool ...*

28

29 A. Yes.

30

31 Q. He says he understands that Mr Steer had some  
32 reservations about what the Parrabell detectives did. But  
33 in the paragraph two below that, Dr Dalton says:

34

35 *When you say ... "there is no weighting*  
36 *given to the indicators, so you don't add*  
37 *them up and if you get a certain number it*  
38 *is a bias crimes" - we (as a team of*  
39 *researchers) also accept that 100% as well.*

40

41 A. Yes.

42

43 Q. Now, putting aside the adding-them-up point, which is  
44 a kind of gloss, they both seem to be saying, don't they,  
45 that there isn't a weighting factor to be added in to the  
46 process, and yet you're saying that there was one?

47 A. Well, I'm saying that I think that there needed to be

1 discussion around those points and that if different  
2 weightings would - were applicable, then they would apply.  
3 That's my evidence.  
4

5 Q. Did you tell Flinders, or to your knowledge did anyone  
6 else tell Flinders, that this weighting exercise, as you've  
7 described it this afternoon, was happening?  
8

9 MR TEDESCHI: I object. It seems that my learned friend  
10 is at cross-purposes with the witness. The witness has  
11 explained that what he means by weighing exercise is that,  
12 in each individual case, those that were participating in  
13 the discussions would go through and decide on a weighting  
14 of the relevant factors.  
15

16 THE COMMISSIONER: Yes.  
17

18 MR TEDESCHI: He has said on a number of occasions there  
19 was no fixed weighting scale for all of the items.  
20

21 THE COMMISSIONER: Yes.  
22

23 MR TEDESCHI: My friend's next question, or last question,  
24 seems to imply that there is a fixed weighting scale --  
25

26 THE COMMISSIONER: No, I don't think so, I don't think he  
27 is saying that at all. I think he is asking Mr Crandell  
28 whether the explanation Mr Crandell gave both to me a few  
29 moments ago about the collaborative effort undertaken was  
30 explained to Flinders, namely, that they went through and  
31 answered "yes" or "no" to those matters to which they  
32 thought "yes" or "no" was an answer, then they got together  
33 and chatted about it and came to a view. Now, that's what  
34 I think --  
35

36 MR TEDESCHI: No objection to that, so long as that's made  
37 clear to the witness.  
38

39 THE COMMISSIONER: I'm sure that's what - all right,  
40 thank you.  
41

42 Well, you have noted Mr Tedeschi's concern, so perhaps  
43 you can accommodate that, Mr Gray.  
44

45 MR GRAY: Yes. The question certainly was intended to  
46 accommodate precisely that, but I'll put it again.  
47



1 Q. Did you tell the Flinders academics, or to your  
2 knowledge did anyone else tell them, that a weighting  
3 process was actually engaged in, namely, the weighting  
4 process that you have described this afternoon?

5 A. Well, as I say, there was no formal weighting process.  
6 There was no - there was nothing to say, "This is how we're  
7 going to weight each of those up."  
8

9 THE COMMISSIONER: Q. No, Mr Crandell, nobody is  
10 suggesting that you've said that. What Mr Gray is putting  
11 to you is, you explained to me a few minutes ago that the  
12 forms would be answered by one or more persons in the first  
13 instance, then there would be a senior supervision of that  
14 analysis. As a result of that, there would be further  
15 collaboration, both between, perhaps, a senior person, one  
16 of the three mentioned, and the police officer, one of the  
17 13, let's say. What Mr Gray is asking is whether that  
18 particular process, that way in which you've described it  
19 now on a number of occasions, was explained either by you  
20 or, to your knowledge, anyone else, to Flinders, that  
21 that's the way in which the police were going about their  
22 ultimate classification of a particular case?

23 A. Yes, I believe so.  
24

25 THE COMMISSIONER: All right.  
26

27 MR GRAY: Q. You think it was?

28 A. Yes, I do.  
29

30 Q. By you or by someone else?

31 A. More likely from the senior investigators. Whether  
32 that be Craig Middleton --  
33

34 Q. In your presence?

35 A. I can't give that evidence. I don't remember.  
36 Because I met with them as well, with the researchers and  
37 our people, when - certainly when Derek Dalton came to  
38 Sydney on a number of occasions.  
39

40 Q. So you don't think you told them?

41 A. I don't believe so.  
42

43 Q. And nobody in your presence told them?

44 A. No - well, I can't give that evidence, I don't recall.  
45

46 Q. Well, you can give that evidence, did anybody in your  
47 presence tell them that?

1 A. I don't recall.

2

3 Q. Now, you know, don't you - this is moving to  
4 a slightly different point, although perhaps related - that  
5 the Flinders academics themselves in due course developed  
6 reservations about the appropriateness of the Bias Crime  
7 Indicator Form, didn't they?

8 A. Yes.

9

10 Q. And there's a footnote in their final report,  
11 footnote 20, that expresses that reservation? I'm sure you  
12 are familiar with it?

13 A. Yes, I am.

14

15 Q. Indeed, the way it's expressed, which we can have put  
16 it front of you if you like, but I'm sure you have read it  
17 and it's quite short, is at page 68, as follows, referring  
18 to the form - is that exhibit 1? Thank you. It's  
19 exhibit 1, tab 2, [SCOI.02632], page 68.

20 A. Yes.

21

22 Q. And the footnote, 20, appears - that is, in the text -  
23 about a third of the way down the page, towards the end of  
24 that first long paragraph --

25 A. Yes.

26

27 Q. -- where they're talking about the indicators. The  
28 footnote says:

29

30 *Whilst the [police] placed great faith in*  
31 *this instrument --*

32

33 ie, the form --

34 A. Yes.

35

36 Q. -- the form?

37 A. Yes.

38

39 Q.

40 *... the academic team were surprised to*  
41 *discover that scarcely any academic*  
42 *literature exists that has evaluated or*  
43 *critiqued this instrument. Indeed, our*  
44 *search efforts could not even locate one*  
45 *academic article. Nor could the [police]*  
46 *supply such an article when requested to do*  
47 *so. In the face of an apparent dearth of*

1           *such literature, the academic team are*  
2           *reluctant to endorse these indicators. The*  
3           *academic team are not decreeing that they*  
4           *are wholly deficient and needing to be*  
5           *dropped, but we would have liked to garner*  
6           *independent evidence that they are indeed*  
7           *"best practice" for law enforcement. We*  
8           *note here --*

9  
10          they go on to say --

11  
12           *that with few choices available (the UK*  
13           *model is over-inclusive because it pivots*  
14           *on victim perceptions), the [police] worked*  
15           *with this instrument despite empirical*  
16           *evidence for its efficacy.*

17  
18          A.    Yes.

19  
20          Q.    And it does look as though the word "no" has been  
21                omitted from the last bit. It looks as though they meant  
22                "despite no empirical evidence for its efficacy"; that  
23                seems to be the sense of it, do you agree?

24          A.    Yes. Yes, I would.

25  
26          Q.    Just before I get on to that and just while I'm here,  
27                do you see there's a footnote 21 as well?

28          A.    Yes.

29  
30          Q.    Where they say:

31  
32           *The descriptive meaning and nuances of*  
33           *these 10 Indicators will be critiqued in a*  
34           *subsequent section of the report ...*

35  
36          To your knowledge, is there any such critique later in the  
37                report of the 10 --

38          A.    I don't remember seeing it.

39  
40          Q.    No, I don't, myself, find them anywhere. You're no  
41                better informed? Okay, fine. Back to the footnote 20.  
42                That's what appears in their final report, which is halfway  
43                through 2017?

44          A.    Yes.

45  
46          Q.    But in that email that I showed you in another context  
47                a minute ago in volume 3, tab 91, [SCOI.74458], they were

1 asking, you may recall, Sergeant Steer if he could tell  
2 them if there was any academic or other backing for the  
3 form; do you remember that?  
4 A. Yes, I do remember that.  
5  
6 Q. Tab 91, I think it is. Oh, it's not 91.  
7 A. I have it at 91, from Derek Dalton to Geoff Steer.  
8  
9 Q. That's right, 91. So he says to Steer:  
10  
11 *... we need to know ... more about the FBI*  
12 *10 point instrument ...*  
13  
14 A. Yes.  
15  
16 Q. And, "Do you have any data or research findings", and  
17 so on?  
18 A. Yes.  
19  
20 Q. And Sergeant Steer wrote back, as you may recall,  
21 saying, "No, I don't have any of those, because it's only  
22 used as a guide"?  
23 A. As an indicator.  
24  
25 Q. As an indicator?  
26 A. Yes.  
27  
28 Q. So the answer is, "No, I don't have any"?  
29 A. Yes.  
30  
31 Q. Now, the email at tab 91 refers to a meeting on  
32 Friday, 24 February, where you were present?  
33 A. Yes.  
34  
35 Q. Where they, evidently, raised some sort of concerns  
36 about this instrument?  
37 A. Yes.  
38  
39 Q. Now, what did they say?  
40 A. I think exactly that - my recollection was that they  
41 wanted - they wanted an indication of some sort of  
42 empirical evidence as to the use of the tool.  
43  
44 Q. Did they say why they wanted it or why they felt they  
45 needed something like that?  
46 A. Well, my impression was so that they could, from an  
47 academic perspective, see whether or not there was validity

1 in the tool, looking at other jurisdictional use.

2

3 Q. Did they say anything to the effect that, absent such  
4 academic backing or similar, they had reservations about  
5 whether it was viable or effective?

6 A. I don't think so, and the reason I say that is because  
7 I think they were - their first port of call may well have  
8 been Sergeant Steer to find out whether he could point them  
9 in that direction and then they would do some sort of  
10 academic research to discover that.

11

12 Q. So did they raise any of the sorts of questions that  
13 I've been raising with you about the form?

14 A. I was well aware that they wanted to get research data  
15 on the bias crime indicators. I was aware of that, yes.

16

17 Q. No, I'm asking did they raise any of the sort of  
18 questions that I've been raising with you, such as the  
19 ultimately subjective nature of the process?

20 A. No, I - well, I don't remember them raising anything  
21 like that. There was a number of meetings with certainly  
22 Derek Dalton and Willem de Lint.

23

24 Q. Did they raise anything about what they later called  
25 in their report the essentially intuitive nature of what  
26 was being done by the Parrabell officers?

27 A. Oh, I'm uncertain. Perhaps. Derek Dalton was very  
28 forthright with his thoughts.

29

30 Q. Well, whatever it was that they did say in February,  
31 was that the first time that they flagged or raised any  
32 such concerns about the form?

33 A. I'm unsure. I believe so, based on the document.

34

35 Q. Well, what did you say when they did raise these  
36 concerns?

37 A. Well, they were still doing the reviews, so I was  
38 comfortable with the forms on the basis that they were  
39 consistent with our policy at the time and they were  
40 consistent with what Sergeant Steer had provided, the  
41 information that he had provided. So I was, but they  
42 wanted to have a look at a more broader perspective in  
43 terms of the research arena.

44

45 Q. Did it cause you to reflect at all as to whether the  
46 form might not be fit for purpose?

47 A. Well - yes, I would say so, and I came to the view

1 that it was on the basis that we were looking for  
2 indicators; they weren't necessarily definitive but they  
3 certainly were indicators as to whether or not a bias crime  
4 motivation was or was not present.

5  
6 Q. Even in the context of a historical paper review with  
7 variable quality and quantity of paper?

8 A. Sorry, I don't understand the question.

9  
10 Q. Well, did you come to the view that yes, indeed, the  
11 form was fit for purpose, even though the purpose was  
12 attempting to ascribe a motive to a crime many years  
13 earlier based only on the old paper? You thought that the  
14 form was adequate to do that?

15 A. I did on the basis that it was as an indicator, and  
16 I guess I was looking for a systematic approach to make  
17 sure that the detectives were thinking along those lines of  
18 indicators.

19  
20 Q. When Mr Steer replied to Dr Dalton saying, "No,  
21 I don't have any academic articles or data or the like" --

22 A. Yes.

23  
24 Q. -- did the fact that he said that, that that was the  
25 substance of his reply, come to your notice?

26 A. I believe it would have. At that time, though, I'm  
27 uncertain, but at some stage it would have.

28  
29 Q. Righto. Well, when it did, and given that the  
30 academics had that concern for good or bad reason, did you  
31 come to think at that point, "Well, maybe this form may not  
32 be as good as I'd thought it was"?

33 A. No, not necessarily, because I thought to myself,  
34 well, there's not an academic review of this particular  
35 document or the indicators that are contained within it,  
36 but that doesn't necessarily mean that the document's not  
37 right, and it could have been a timing issue in terms of  
38 the indicators that were brought in from the United States  
39 by Sergeant Steer and then were replicated in our policy.

40  
41 Q. Now, later during the course of 2017, at least one -  
42 perhaps it was only one - draft of the Flinders report came  
43 to you; you recall that?

44 A. I don't recall it, but it would have, yes.

45  
46 Q. Well - and you provided feedback, quite detailed  
47 feedback?

1 A. Okay.

2

3 Q. In an email. Perhaps I'd better show you that. It's  
4 in volume 4.

5

6 THE COMMISSIONER: Q. Before you go to that, can I just  
7 ask this, Mr Crandell. When the matter was raised with  
8 you, what attempts, if any, did you or to your knowledge or  
9 belief the other three senior people undertake to determine  
10 whether the form had ever been used before in an exercise  
11 such as the one you were doing?

12 A. I don't believe there was any inquiry in that regard,  
13 Commissioner.

14

15 Q. I can't hear you, I'm so sorry?

16 A. Sorry, I don't believe there was any inquiry in that  
17 regard.

18

19 Q. Wouldn't it have been relevant, leaving aside academic  
20 literature, to work out whether this form had ever been  
21 used to do the kind of study you were doing?

22 A. Well, I wouldn't think that the form itself would ever  
23 have been used, because we compiled the form. But it was  
24 drawn from indicators that had been used in the United  
25 States.

26

27 Q. I understand that, but the form hadn't been used in  
28 the United States, had it --

29 A. No.

30

31 Q. -- as far as you were aware, to do what you were  
32 doing?

33 A. No; that's correct.

34

35 Q. So, therefore, do I take it that you - do I understand  
36 you to say that you believed - whether you made inquiries  
37 or not to one side, you believed the form had not  
38 previously been used in the way you were using it?

39 A. Yes.

40

41 Q. Did that cause you any concern about the reliability  
42 of the outcome of your study?

43 A. No.

44

45 THE COMMISSIONER: Thank you.

46

47 MR GRAY: Q. Do you have volume 4? If you turn to

1 tab 105, [SC0I.77578] --  
2 A. Yes.  
3  
4 Q. -- this is a draft of the academics' section of the  
5 report?  
6 A. Yes.  
7  
8 Q. And it has a date at the top of it, 30 June - very top  
9 of the front page, in the pale blue writing?  
10 A. Oh, sorry. Yes, I see it, yes.  
11  
12 Q. If we go to page 10, you may recognise that the form  
13 or the shape of that writing - it's an earlier version of  
14 the part of the report where footnote 20 later comes in?  
15 A. Yes.  
16  
17 Q. But as we can see here, footnote 20 is not - or the  
18 equivalent is not there?  
19 A. Yes.  
20  
21 Q. The one that is now footnote 9, about how the  
22 10 indicators were going to be critiqued subsequently, is  
23 there, but at this point there's no footnote equivalent to  
24 the later footnote 20?  
25 A. No.  
26  
27 Q. Okay. And you provide, as I say, quite significant -  
28 well, quite detailed feedback to that on tab 106,  
29 [SC0I.74518], which I don't need to take you to, but you  
30 make various comments and suggestions about things that the  
31 academics might consider if they're doing another draft?  
32 A. Yes.  
33  
34 Q. Now, when you got the final Flinders report, and you  
35 no doubt read it, when it came in later in the year --  
36 A. Yes.  
37  
38 Q. -- and you saw that it did have footnote 20, the one  
39 that I read out earlier --  
40 A. Yes, yes, yes.  
41  
42 Q. -- referring to their reservations about the form --  
43 A. Yes, yes.  
44  
45 Q. -- and although you had been at the meeting  
46 in February when they had asked the question, did the terms  
47 of their footnote 20, where they, if I may say so,



1 distanced themselves from the form to some extent, come as  
2 a surprise to you?

3 A. Well, no, because I had seen the footnote, but to my  
4 mind, the research - the academic review was there for that  
5 purpose. So anything that they brought, I was happy to  
6 take on board. I couldn't rectify the fact that there was  
7 no earlier research done in relation to the form.  
8 I couldn't do anything about that. But I still believed  
9 that the bias crime indicators that we had been looking  
10 were valid.

11  
12 Q. So the final report, including, in particular,  
13 footnote 20, didn't cause you to reflect that perhaps your  
14 methodology was compromised?

15 A. No. I thought our methodology was sound and, you  
16 know, the comment that it hadn't been researched or  
17 validated before was something that I couldn't do anything  
18 about.

19  
20 THE COMMISSIONER: Q. Yes, but it meant the academics  
21 were telling you, unequivocally, that they couldn't anoint  
22 your methodology, weren't they?

23 A. Yes. Yes, it did, because --

24  
25 Q. Well, that's one of the last things you would have  
26 wanted, wasn't it? I mean, the academics who you bring in  
27 to check what you're doing and have a look at it say, "No,  
28 what you are doing is not the way to go about it"; that's  
29 the essence of what they were saying, wasn't it?

30 A. No, I thought the essence of what they were saying,  
31 Commissioner, was that they couldn't find research to  
32 validate the document; they didn't say "That's not how you  
33 should go about it."

34  
35 Q. But, Mr Crandell, let's not mince words. You know  
36 that they invented their own methodology for the very  
37 reason that they couldn't anoint and accommodate yours?

38 A. They did. You're right, they did.

39  
40 Q. But the reason, as you always understood it, is that  
41 they could not anoint your methodology because they  
42 couldn't find any support for it?

43 A. That's right. That's exactly right. They couldn't  
44 find support.

45  
46 MR GRAY: Q. I do need to, that being so, ask you again:  
47 why did you say in the final report of the strike force,

1 your part of the report, on page 22:

2  
3 *Whilst different findings and*  
4 *classifications were made, each team*  
5 *understood and endorsed the systemic*  
6 *approach of the other.*

7  
8 A. Yes, I think I answered that last time, but I'm happy  
9 to answer it again. I was referring to conversations that  
10 I had had with Derek Dalton in particular, and my  
11 recollection of those conversations were that he understood  
12 our thinking process and understood our methodology.  
13 I don't think that went to an endorsement - clearly, given  
14 his later report - but that was the reason that that was  
15 included in the document.

16  
17 THE COMMISSIONER: Q. So on that basis, the word  
18 "endorsement" is quite inaccurate, isn't it?

19 A. Well, it is, Commissioner. It's inaccurate, but the  
20 Parrabell report, in its entirety also includes the  
21 Flinders report, which actually says that, so I don't  
22 believe that --

23  
24 Q. No, no, it's quite inaccurate, isn't it, Mr Crandell,  
25 to have said that Flinders endorsed your approach?

26 A. Yes.

27  
28 MR GRAY: Q. I'll turn to a different topic,  
29 Mr Crandell. By 30 August 2015 when you were embarking  
30 upon your strike force work --

31 A. Yes.

32  
33 Q. -- you were aware, I take it, that ACON was embarking  
34 on its own review of the same 80-odd deaths?

35 A. Yes.

36  
37 Q. And you were aware, I take it, also, that ACON had  
38 been prompted to do that, in particular, by the statements  
39 made by DCI Pamela Young on Lateline in April 2015?

40 A. Oh, I don't know what the motivations were for ACON.  
41 I think their primary motivation was to raise awareness,  
42 and I was very supportive of that.

43  
44 Q. At any rate, at some stage in 2015, is this right, you  
45 told ACON that the police were going to carry out the  
46 Parrabell exercise?

47 A. Yes.

1  
2 Q. And there was the first stakeholders meeting on  
3 1 December 2015?  
4 A. Yes.  
5  
6 Q. You have mentioned that before, and there are minutes  
7 of that in the materials. And it's clear, you I'm sure  
8 would accept, including from documents that we have been  
9 given which are in volume 5, that there was at least some  
10 ongoing communication between the strike force, including  
11 yourself --  
12 A. Yes.  
13  
14 Q. -- and ACON, during 2016 and 2017?  
15 A. Yes.  
16  
17 Q. And at least in part about the fact that the two  
18 reports were both being prepared in tandem, as it were?  
19 A. Yes.  
20  
21 Q. And I think you have said yesterday, essentially, that  
22 there were one or two other stakeholder meetings, apart  
23 from the first one --  
24 A. Yes.  
25  
26 Q. -- at which the topic of Parrabell was at least  
27 referred to?  
28 A. Yes.  
29  
30 Q. But probably only that handful of three or so  
31 meetings, because, for the reasons you have explained, the  
32 idea of monthly meetings didn't proceed?  
33 A. Yes - oh, sorry, were they monthly meetings or  
34 quarterly meetings? I think the community consultation was  
35 quarterly.  
36  
37 Q. If that's right, then so be it. At any rate, there  
38 were two or three such meetings but not more?  
39 A. Correct.  
40  
41 Q. Now, could I ask you this: ACON, as far as I can see,  
42 does not seem to have been provided with the coordinating  
43 instructions for Parrabell. Would that be right?  
44 A. That would be right.  
45  
46 Q. That would be right?  
47 A. That would be right, yes.

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Q. And ACON was not provided with the BCI form?

A. I believe not.

Q. Was there a reason for not showing ACON what your methodology was?

A. Not necessarily. I was eager to engage them, because they'd done a significant amount of work and probably from a different perspective, with - and also with not as much access to the records as what NSW Police would have, but going into police methodology and going into our processes, I did not share that with them.

Q. Well, the form, the BCI form that we've been through so often --

A. Yes.

Q. -- doesn't really reveal anything about police methodologies, does it, apart from Parrabell methodology?

A. Well, Parrabell methodology, yes.

Q. But isn't the Parrabell methodology likely to have been something of acute interest to ACON? I mean, how were the police going about this review, they might have wondered. Wouldn't it have been a natural thing to tell them?

A. Yeah - well, it may have been - that may have been told to them but I didn't provide them the documentation.

Q. Well, did --

A. Sorry, from my recollection, I didn't provide them the documentation, unless you can point me to a document.

Q. No, there's a dearth of any such document, which is why I am asking.

A. Okay.

Q. Well, to your knowledge, did the strike force ever actually seek the views of ACON or any other LGBTIQ organisation or representative, as to the appropriateness of the methodology that the strike force was adopting?

A. It's hard for me to answer that simply because we engaged a great number and not all necessarily at once, so there were meetings with ACON that were separate to the other community meetings.

Q. But in the case of any of them, did you tell them,

1 either by showing them the form or by talking them through  
2 and explaining the form, how were you going about it?  
3 A. I doubt it. I doubt that I would have done that.  
4  
5 Q. Did you tell them that you were using 10 indicators  
6 and various prompts?  
7 A. I don't think so.  
8  
9 Q. On reflection, do you think it would have been a good  
10 thing to do that?  
11 A. I - yeah, I could have done that, I guess.  
12  
13 Q. They might have had some useful perspectives, perhaps,  
14 on what things they might regard as indicators of gay-hate  
15 bias, mightn't they?  
16 A. Well, that's what the ACON report was about and that's  
17 why we were --  
18  
19 Q. No, but I'm asking you about your report. For your  
20 purposes, might not they have been able to bring a useful  
21 perspective, from your point of view, as to what things  
22 might be useful indicators of gay-hate bias?  
23 A. Look, I know you don't want me to talk about the Truth  
24 and Justice Report, but that report --  
25  
26 Q. I don't know why you would say that, but okay.  
27 A. Well, because you seem to have an aversion to me  
28 talking about any documentation that I've seen. The  
29 document that was in that Truth and Justice Report outlines  
30 a number of scenarios that were possibilities that were  
31 raised by ACON, and a review of that report was conducted  
32 not only by the academics but also by us. So to me there  
33 was a great deal of material in there that wasn't terribly  
34 helpful from an investigative perspective, nevertheless, it  
35 gave us some appreciation of thoughts from the ACON and  
36 thoughts from the - that particular part of the community.  
37  
38 Q. It may be that either we are both or you are at  
39 cross-purposes with me at the moment. The answer you just  
40 gave, I think - correct me if I am wrong - was to make the  
41 point that there was material in the ACON report --  
42 A. Yes.  
43  
44 Q. -- that enabled you to glean information and draw  
45 conclusions once you got the ACON report?  
46 A. I don't think it was terribly influential in terms of  
47 the investigation undertaken by Strike Force Parrabell.

1           There was a great deal of material that we referred to --  
2  
3           Q.     Righto, but --  
4           A.     -- and that we looked at, but I don't think it was  
5           terribly influential.  
6  
7           Q.     And your point is what, when you say that?  
8           A.     Well, I think that ACON was at a distinct disadvantage  
9           on the basis that they were sourcing open-source documents  
10           only, whereas police could conduct a more thorough review  
11           on the basis of access to documentation.  
12  
13           Q.     Sure.  
14           A.     So --  
15  
16           Q.     But my questions were directed to a different concept.  
17           A.     Okay. I've misunderstood your question then, Mr Gray,  
18           I apologise.  
19  
20           Q.     No apology needed but I suspect there has been a  
21           "ships passing in the night" here. What I was asking you  
22           was not about what was or wasn't in the ACON report or how  
23           they went about their exercise, not having the police  
24           resources, obviously, but rather I was asking you: apropos  
25           what you were doing, apropos what Strike Force Parrabell  
26           was doing, using the indicators and the form to assess old  
27           files with a view to answering particular questions - those  
28           indicators being indicators of presence or absence of  
29           gay-hate bias --  
30           A.     Yes.  
31  
32           Q.     -- wouldn't ACON have been likely to offer you some  
33           insights as to whether they were the best indicators or the  
34           only indicators or whether there might have been others and  
35           so on?  
36           A.     Perhaps they could have.  
37  
38           Q.     Did that occur to you?  
39           A.     No. It did not.  
40  
41           Q.     All right. Now, the work of the academic review  
42           ultimately took more than a year from late 2016 to the  
43           early part of 2018?  
44           A.     Yes.  
45  
46           Q.     Over that period, as the form of the academic report  
47           began to take shape and as your own strike force's

1 classifications were firming up, there was some discussion,  
2 wasn't there, including emails, between you and ACON in  
3 relation to exchanging drafts of your respective reports?  
4 A. Yes.  
5  
6 Q. And on 2 February 2018, ACON did provide you with  
7 a draft of their report?  
8 A. Yes.  
9  
10 Q. And you wrote back to them in due course and asked  
11 ACON to make a number of changes to their report?  
12 A. Yes.  
13  
14 Q. You remember that?  
15 A. Yes.  
16  
17 Q. And ACON, indeed, did make quite a few of the changes,  
18 or changes similar to the ones that you had suggested?  
19 A. Yes.  
20  
21 Q. But in the end, you did not provide ACON with any  
22 draft of the Parrabell report, did you?  
23 A. I don't believe so. I think --  
24  
25 Q. No?  
26 A. I think - I think Parrabell report was released  
27 publicly a month after the Truth and Justice Report.  
28  
29 Q. That's certainly so. You, in fact, didn't provide  
30 ACON with the final Parrabell report prior to its public  
31 release?  
32 A. I'm not sure about that.  
33  
34 Q. Well, if we could - could I suggest to you that ACON  
35 learned of the imminent release of the Parrabell report  
36 from a journalist.  
37 A. Yeah, look, I have a recollection of notifying Nick  
38 Parkhill about that. I don't know whether there are some  
39 documents that you may have that might --  
40  
41 Q. I'll show you what documents we have --  
42 A. Yeah, I'm just surprised with that because I have  
43 a very good working relationship with Nick and I --  
44  
45 Q. Volume 5 - sorry.  
46 A. Sorry. And I - I'd be - I certainly would not want to  
47 be disrespectful to Nick or ACON.

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THE COMMISSIONER: Q. No, but the fact of it is that you agreed - have you not so far - that you may have given - subject to being refreshed in your recollection, you might have given him a final draft at some point --

A. Yes.

Q. -- prior to its publication more widely, but it's clear that you didn't give him any drafts of Parrabell?

A. I don't believe so, your Honour - Commissioner.

THE COMMISSIONER: Okay, thank you.

MR GRAY: Q. If you turn to --

THE COMMISSIONER: Q. And I'm sorry, it was always your intention, wasn't it, to make Parrabell and whatever else you got from the academics publicly available anyway, wasn't it?

A. Yes, sir.

MR GRAY: Q. If you turn to tab 149, [SCOI.77730], in that volume --

A. Yes.

Q. -- an email chain between you and Mr Parkhill, starting from the back - I should perhaps take you to tab 147 [SCOI.77748], where on 2 February, ACON provides you with their draft report. Do you see that? Tab 147?

A. Yes. Yes, I do.

Q. And at 149, [SCOI.77730], starting from the back of the email chain, Mr Parkhill writes to you on 23 February, wondering how you were going in terms of providing feedback on their draft report. And you write back saying, "The delay is my fault", and you'd look over it that coming weekend?

A. Yes.

Q. And you say:

*We are still a way off publicising our findings including those of the academic review, so please do not be concerned about our timing etc because I will make sure you have plenty of time for amendments before we look at circulating or engaging a media*



1           *strategy.*

2

3       A.    Yes.

4

5       Q.    "Media strategy", referring to the launch or  
6       publication of your report?

7       A.    Yes.

8

9       Q.    And he writes back:

10

11           *Thanks so much for incredible support ...*  
12           *for Mardi Gras.*

13

14       and he says:

15

16           *Sorry to harp on this, ... but I was*  
17           *wondering if you have had a chance to*  
18           *review the draft report?*

19

20       Of 6 March.

21       A.    Yes.

22

23       Q.    Then, on that same day, if we go to the front page,  
24       you then do provide feedback, in a lengthy email of  
25       a couple of pages?

26       A.    Yes.

27

28       Q.    And without going to the detail of it, your comments  
29       are polite and courteous but quite critical, aren't they?

30       A.    Yes.

31

32       Q.    They are quite stern?

33       A.    Yes, I - yes. But I - but I wanted to be respectful.

34

35       Q.    Pardon?

36       A.    I wanted to be respectful with my comments, which is  
37       why --

38

39       Q.    Certainly. But while being respectful, you were  
40       pretty clear that you thought ACON needed to change in  
41       various ways?

42       A.    Yes.

43

44       Q.    So then at 151, [SCOI.77735], Mr Parkhill writes back  
45       on 17 May attaching a further revised copy, which seems to  
46       be a second - there seems to be an earlier revised copy,  
47       because in the third paragraph he says:

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*We have made some slight changes to the report since I last emailed you the previous version.*

The net result is that he - I think you'll agree he did make quite a few of the changes --

A. Yes.

Q. -- perhaps most of them, that you wanted?

A. No, he did.

Q. You say, 20 May:

*I still don't have permission from the Commissioner to release the Strike Force Parrabell report --*

A. Yes.

Q.

*-- although I am hoping we can get word through soon. Once I have that advice I can determine what will and will not be released; and then look at getting documentation to the printers etc.*

And then you say:

*I will let you know once we have a release date confirmed which should give you some lead in time.*

A. Yes.

Q. And at tab 152, [SCOI.77791], Mr Parkhill writes on 22 May, a couple of days later, and he tells you that they're planning to release their ACON report "this coming Monday", that they had given an embargoed copy to certain news media, and it would be ready to go for broader distribution on the Monday morning?

A. Yes.

Q. So he tells you all that?

A. Yes.

Q. And in the next one, 153, [SCOI.77728], a month later,

1 22 June, he writes to you and says:

2  
3 *Tony, I just received a call from*  
4 *a journalist ... who mentioned that*  
5 *Operation Parrabell report may be released*  
6 *next week, and if we would have any*  
7 *comments ...*

8  
9 *I was just wondering if this was the case,*  
10 *and if so, would it be possible to see an*  
11 *embargoed copy beforehand?*

12  
13 Do you see that?

14 A. Yes, I do, yes.

15  
16 Q. So it would appear that by that point, 22 June, all  
17 the arrangements had been made for the release of the  
18 Parrabell report, to the extent that the journalist was  
19 aware that it was coming?

20 A. Yes.

21  
22 Q. But that ACON hadn't been told?

23 A. Yes.

24  
25 Q. And you wrote back saying:

26  
27 *Yes we are releasing the Parrabell report*  
28 *and academic review next Wednesday. I just*  
29 *checked with my office and can confirm that*  
30 *a copy ... is in the mail ...*

31  
32 Was there a reason for doing it that way, rather than --

33 A. Getting his feedback.

34  
35 Q. -- repaying the courtesy that he had shown you of  
36 giving him a copy in advance?

37 A. Look, there was a couple of things that I was worried  
38 about. Probably the - and I'm thinking about the  
39 Commissioner's endorsement. That would be true. I would  
40 have had to have got the Commissioner's endorsement to say  
41 "Yes, you can release that." So I would have been  
42 concerned about that. But I can't explain why I didn't  
43 seek out his advice. Perhaps I didn't think it was  
44 necessary at the time. But I certainly - certainly would  
45 always have wanted him to have the report prior to release.  
46 Well, in actual fact, I suppose, I indicate that there,  
47 that it's in the mail.

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THE COMMISSIONER: Q. Mr Crandell, if the timing of providing the report to Mr Parkhill was the subject of you being authorised to do so and not being able to do so until you felt you had the Commissioner's say-so --

A. Yes.

Q. -- was there any problem in being frank about that with Mr Parkhill and just telling him, "Well, I'd like to give it to you, but as you may appreciate, I'm not the Commissioner, and in circumstances such as this, you should appreciate that I can't release it until I get the say-so"? Would there be anything wrong with being entirely frank?

A. No. I thought I said that.

Q. Where did you say that?

A. Didn't I - isn't that in the document that you showed me? I thought I said that I was awaiting the Commissioner's endorsement.

MR GRAY: Q. At one point there was a reference to you saying you were waiting on the Commissioner's endorsement or some such - that is so.

A. Yes.

THE COMMISSIONER: Q. Let me just ask you this: from your point of view, do you believe at all times you had led him to understand that you would need the Commissioner's consent to give him any version of the report, draft or otherwise?

A. Yes.

THE COMMISSIONER: All right.

THE WITNESS: So I wasn't trying to be disrespectful or beat around the bush with Mr Parkhill, I can assure you.

MR TEDESCHI: Tab 151, [SCOI.77735], your Honour.

THE COMMISSIONER: Thank you.

MR GRAY: Q. Turning to the academic review and processes relating to it, the strike force work starts on or after 30 August 2015?

A. Yes.

Q. That work of obtaining all the historical files and

1 reviewing them in the way that we have been talking about  
2 was nearing completion, although not complete, by the end  
3 of 2016?

4 A. Yes.

5  
6 Q. You agree?

7 A. Well, we had Taradale matters to go after that.

8  
9 Q. As it turned out, there were the three Taradale  
10 matters added to your to do list in the first part of 2017?

11 A. Yes.

12  
13 Q. But with that exception and perhaps one or two other  
14 exceptions it was close to the finish line by the end of  
15 2016?

16 A. Yes.

17  
18 Q. But meanwhile, at some point during the course of that  
19 work - is this right - you came to the view that it would  
20 be desirable to obtain a review by academics of the  
21 methodology that the strike force had used?

22 A. Yes, I did.

23  
24 Q. So just to clarify for my purposes, that wasn't  
25 something that you had in your mind from the outset; it was  
26 an idea that developed as you went along?

27 A. I'm not sure when that idea came into my mind, but it  
28 was - I desperately wanted it reviewed because I wanted an  
29 independent view, and I was conscious at the time that the  
30 police investigation may not be accepted by the LGBTIQ  
31 community on the basis of police reviewing police  
32 information. So that's why I wanted the academic reviewers  
33 to come in to give that some objectivity. I can't say that  
34 that was exactly the same time that I thought Parrabell was  
35 appropriate, but I don't think it would have been  
36 a terribly long period of time after that.

37  
38 Q. Well, you say something about this in your statement,  
39 which you would need volume 1 for - oh, you have got the  
40 statement?

41 A. Yes.

42  
43 Q. At paragraph 70 [SC0I.76961]?

44 A. Yes.

45  
46 Q. I just want to go through, in the time we have got  
47 this afternoon, just the way you put it in this paragraph,

1 in paragraph 70. You say:

2  
3 *During Strike Force Parrabell --*

4  
5 So probably at some point after it had started, at least?

6 A. Yes.

7  
8 Q. You say --

9  
10 *it became apparent to me that in order to*  
11 *ensure transparency of the methodology*  
12 *employed by [the strike force] and ensure*  
13 *that its results were credible, a full*  
14 *independent academic analysis of the*  
15 *methodology and results ... should be*  
16 *conducted.*

17  
18 A. Yes.

19  
20 Q. When you say that one reason for getting the academic  
21 review was "to ensure transparency of the methodology  
22 employed by" the strike force, what did you mean there?

23 A. I think to give - it was more about - I was thinking  
24 about it from a community perspective more than anything.  
25 To give the community some level of comfort that we had  
26 looked at bias crime indicators and that we hadn't simply  
27 gone about our business in other than a systemic way. So  
28 I wanted to gather some credibility for that outside of the  
29 NSW Police Force.

30  
31 Q. Well, you say in the second sentence:

32  
33 *The purpose of the academic review was also*  
34 *to provide an independent account*  
35 *of ... Parrabell's systemic validity ...*

36  
37 Do you see that?

38 A. Yes.

39  
40 Q. And I will just pick up the rest of that sentence in a  
41 minute, but in the next sentence you say:

42  
43 *By systemic validity, I mean the system*  
44 *investigators used to determine whether or*  
45 *not a crime was bias or gay hate related;*  
46 *using the [BCI form] and following the*  
47 *procedures ... in [the documentation].*

1  
2 Now, pausing there, the academics' view of the systemic  
3 validity was that it didn't pass muster, wasn't it?  
4 A. Well --  
5  
6 Q. The system was the form, and they said they couldn't  
7 endorse the form?  
8 A. They couldn't endorse it, yes.  
9  
10 Q. Well, if that was the purpose of the academic review  
11 and you got the outcome, which was that they couldn't  
12 endorse the system - and I appreciate that the Commissioner  
13 has essentially asked you, more or less, this question  
14 earlier --  
15 A. Yes.  
16  
17 Q. -- but did it not occur to you then that maybe the  
18 whole exercise had been misguided?  
19 A. Well, I still believed that the bias crime indicators  
20 were valid and I thought that the processes were  
21 appropriate.  
22  
23 THE COMMISSIONER: Q. But you were locked in,  
24 Mr Crandell, weren't you, because you had stated publicly,  
25 being your perception, that a response was necessary - you  
26 had stated publicly much earlier in the piece that you were  
27 doing this?  
28 A. Yes.  
29  
30 Q. You had police officers posing as being examples of  
31 the investigators who were assembled?  
32 A. Yes.  
33  
34 Q. And, to put not too fine a point on it, you were at a  
35 point of no return, weren't you? How could you possibly  
36 back out of the exercise?  
37 A. Yes.  
38  
39 Q. You had to go through it --  
40 A. Yes.  
41  
42 Q. -- warts and all?  
43 A. Yes.  
44  
45 Q. And that was your choice, wasn't it?  
46 A. Yes, it was - by the time the researchers had  
47 conducted their review, it was late in the piece.

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Q. Well, okay, but the problem is that - anyway, I will let you go.

MR GRAY: Q. The other matter that you say in this paragraph that you - or couple of other matters - that you hoped that the academic review might assist with were, this is in about the fifth line:

*... where possible, identify evidence of poor or biased police investigations ...*

Do you see that?

A. Yes, I do.

Q. And in the same point, I think, is what appears in the last sentence of that paragraph, you wanted them to:

*... determine whether investigative malfeasance was present if possible ...*

That seems to be the same topic, I think.

A. Yes. Yes, it is.

Q. And that's the topic which, for the reasons you have already given, in the end really wasn't able to be pursued?

A. Yes.

Q. Then back in that middle part of the paragraph, you said that another hope that you had for the academic review was that it would:

*... guide future policing strategies of community engagement ...*

A. Yes.

Q. Did the academic review actually contribute in that regard?

A. No, I don't believe so. There were recommendations out of Operation Parrabell, but I don't think the academics had anything to do with that.

Q. No, and the last one in that paragraph - sorry, in that sentence, is:

*... and develop a more suitable bias crime*



1                   *identification process.*

2

3                   Now, we know that there is no such more suitable bias crime  
4                   identification proffered in the Flinders report; correct?

5                   A.    Yes.  Oh - yes.

6

7                   Q.    I will come to it in a minute, but later on, after  
8                   Parrabell, steps were taken to go down the path of  
9                   ascertaining whether there might be a better way to do it?

10                  A.    Yes, yes.

11

12                  Q.    But not by way of Flinders?

13                  A.    No, no.  I made those inquiries with another  
14                  university.

15

16                  Q.    Just finishing off with 71 before we adjourn, just  
17                  because - to set up what you were aiming to do --

18                  A.    Yes.

19

20                  Q.    In 71, you say:

21

22                                 *... it was critical that an impartial*  
23                                 *analysis took place ...*

24

25                  and you have said that in various other statements and  
26                  emails as well, so that's always been part of your  
27                  thinking.  And you were:

28

29                                 *... cognisant of avoiding a "check box"*  
30                                 *exercise ...*

31

32                  What did you mean by that, in that context, about the  
33                  academics?

34                  A.    I think I'm referring to the bias crimes indicator  
35                  tool, that I didn't want it to be a check box scenario,  
36                  that it had to be an indicator or a guide.

37

38                  THE COMMISSIONER:  Q.    Is that a reference to the "tick  
39                  box" that has been referred to in the emails, or something  
40                  else?

41

42                  MR GRAY:  Q.    Well, I think that you are suggesting that  
43                  it might be a reference to that?

44                  A.    It may be.

45

46                  Q.    I don't want to tarry on this because it is not  
47                  a major point, but it does look as though, when you said

1 you were cognisant of avoiding a check box exercise, you  
2 meant in connection with the academic review, you didn't  
3 want that to be a check box review. That's how it seems to  
4 read. But maybe it's just an unfortunate bit of language.  
5 A. It seems that I'm talking about the academic review.  
6  
7 Q. It does, doesn't it. So what did you mean?  
8 A. It does, so --  
9  
10 Q. That's my point.  
11 A. I'm not sure what I mean by that, in terms of the  
12 "check box". I'm presuming the thoroughness of their  
13 inquiries, perhaps, not --  
14  
15 THE COMMISSIONER: Q. Well did you have in mind an  
16 entirely arm's-length process?  
17 A. Sorry, Commissioner?  
18  
19 Q. Did you have in mind an entirely arm's-length process?  
20 A. No, I didn't think completely arm's length, because  
21 I wanted to discuss things with them.  
22  
23 Q. Why? Why?  
24 A. Well, because they could provide insights along the  
25 way, was my thought process, and that may or may not be  
26 helpful to --  
27  
28 Q. But thought process - what, to improve your  
29 methodologies, or what?  
30 A. Yes, to improve my methodologies but also to see what  
31 methodology they came up with ultimately.  
32  
33 Q. Okay. I'm just, then, a bit confused. The academic  
34 team, then, you never envisaged, did you, therefore, would  
35 take an entirely arm's-length, objective approach; you  
36 always intended some collaborative approach with them, did  
37 you?  
38 A. No, no, that's - that's not right. So --  
39  
40 Q. Well, apart from you explaining to them, obviously,  
41 what you were doing --  
42 A. Yes.  
43  
44 Q. -- and presumably having some understanding - and you  
45 were entitled to, I suppose, have an understanding of what  
46 they were doing --  
47 A. Yes.

1  
2 Q. -- is that what you really mean? Or do you mean that  
3 you wanted to pick up any hints they might have as to ways  
4 in which you might re-approach or reclassify?  
5 A. Yes.  
6  
7 Q. I'm not quite sure what you are saying?  
8 A. No, no, that's correct, Commissioner.  
9  
10 Q. Okay. Okay.  
11 A. But obviously I was interested in objectivity from  
12 them. I certainly did not want them --  
13  
14 Q. Well, if I may say so, not just "interested in"; this  
15 was something that you needed to portray to the  
16 community --  
17 A. Yes.  
18  
19 Q. -- was achieved?  
20 A. Yes.  
21  
22 Q. Not just attempted, surely?  
23 A. Yes. Yeah, absolutely.  
24  
25 THE COMMISSIONER: Is that a convenient time, Mr Gray?  
26  
27 MR GRAY: It is.  
28  
29 THE COMMISSIONER: I will adjourn until 10 in the morning,  
30 thank you.  
31  
32 **AT 3.59PM THE SPECIAL COMMISSION OF INQUIRY WAS ADJOURNED**  
33 **TO FRIDAY, 9 DECEMBER 2022 AT 10AM**  
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