

**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 Friday, 9 December 2022 at 10.00am

(Day 14)

**Mr Peter Gray SC (Senior Counsel Assisting)
Ms Meg O'Brien (Counsel Assisting)
Ms Claire Palmer (Counsel Assisting)
Mr Enzo Camporeale (Director Legal)
Ms Caitlin Healey-Nash (Senior Solicitor)**

Also Present:

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

1 <ANTHONY CRANDELL, on former affirmation: [10.00am]

2

3 <EXAMINATION BY MR GRAY CONTINUING:

4

5 MR GRAY: Q. Morning, Mr Crandell.

6 A. Morning, Mr Gray.

7

8 Q. Before I go back to the academic review topic which
9 I had just begun late yesterday, there is one other matter
10 I wanted to raise with you about the strike force itself.

11 A. Yes.

12

13 Q. It's a small point but it is this: in May 2016, after
14 the Parrabell work had been under way for more than six
15 months, at any rate --

16 A. Yes.

17

18 Q. -- there was an article in the Sydney Morning Herald
19 about what Parrabell was doing, with a photo of seven of
20 the officers. I don't know if you remember that article?

21 A. I don't have an independent recollection but I knew
22 there was some media in relation to that.

23

24 Q. I might just ask you to be shown volume 8. It is
25 tab 221 [SCOI.82030].

26 A. Yes.

27

28 Q. The heading is "Police to review 88 possible gay-hate
29 deaths" and then after some paragraphs dealing with one
30 particular case there's a photo of seven of Parrabell
31 officers?

32 A. Yes.

33

34 Q. Including, among others, Mr Middleton and Mr Bignell?

35 A. Yes.

36

37 Q. If we turn over to the fourth page in the folder --

38 A. Yes.

39

40 Q. -- at the top, there's a paragraph in the Herald
41 article saying:

42

43 *Whether there was a gay-hate motive*
44 *involved is a question a NSW Police task*
45 *force is seeking to answer with a review*
46 *into 88 deaths ...*

47

1 Do you see that?

2 A. Yes.

3

4 Q. And elsewhere in the article - for example, on the
5 fifth page, one more page - just below halfway, you will
6 see that the Herald says:

7

8 *The Surry Hills review will use 10*
9 *bias-indicators from the FBI over next two*
10 *months to assess whether the 88 cases are*
11 *gay hate crimes.*

12

13 A. Yes.

14

15 Q. And it says:

16

17 *The process will focus on the motive ...*

18

19 Et cetera?

20 A. Yes.

21

22 Q. And that fresh information would be sent to Unsolved
23 Homicide for investigation?

24 A. Yes.

25

26 Q. All of which is essentially accurate.

27 A. Yes.

28

29 Q. What I was interested in was that near the top of
30 page 4, you are quoted - do you see in the third
31 paragraph --

32 A. Yes.

33

34 Q. -- what you are quoted as saying is:

35

36 *The true beauty of Parrabell is it is an*
37 *open and honest and transparent*
38 *investigation ...*

39

40 And I was just wondering why you used that word
41 "investigation", when, as we know and as you have
42 explained, it wasn't an investigation of the crimes but
43 a review of the crimes with the objective that you've
44 explained?

45 A. Yes, so in order to conduct the review, I believe
46 there needs to be investigation. I don't think that's
47 inaccurate.

1
2 Q. Sorry, I didn't hear you?
3 A. Sorry, I don't think that's inaccurate. I think that
4 in order to - in order to review the crimes, there required
5 investigation.
6
7 Q. Meaning, I gather from what you said yesterday,
8 investigation of the old files --
9 A. Of the records available, yes.
10
11 Q. -- in order to come to a view as to whether there was
12 bias?
13 A. Yes.
14
15 Q. You don't think that --
16
17 MR TEDESCHI: Two paragraphs further up it uses the term
18 "review".
19
20 MR GRAY: As I have already taken the witness to.
21
22 Q. So you don't think that using the word "investigation"
23 would have conveyed to the reader of the paper, of the
24 Herald, that actually the cases were being investigated?
25 A. No. No. "Reinvestigated", do you mean?
26
27 Q. Or reinvestigated, either?
28 A. No. No, I don't. That - well, that was not my
29 intention. I didn't want to mislead anybody.
30
31 Q. Right. One other thing. When you provided your
32 statement in this Commission, one of the annexures was the
33 qualifications and service history of the various officers
34 who were part of Parrabell; you may recall that?
35 A. In - when I was creating my statement, did you say?
36
37 Q. In this hearing?
38 A. Yes.
39
40 Q. There were various annexures --
41 A. Yes.
42
43 Q. -- and one of them was the qualifications and service
44 history of the Parrabell officers?
45 A. Yes.
46
47 Q. And it's not in the tender bundle because of

1 confidentiality concerns that were expressed by the police,
2 but, as I understand it, many of the officers, although not
3 quite all of them, had experience in what was called
4 criminal investigation?

5 A. Yes.

6

7 Q. But none seem to have had any experience in homicide;
8 is that your understanding?

9 A. As in attached to homicide or doing homicide
10 investigations?

11

12 Q. Either.

13 A. No, I - gee, I would be surprised if Craig Middleton
14 didn't have something to do with homicide investigation,
15 and I would say the same about Detective Sergeant Paul
16 Grace, who is now Inspector Paul Grace.

17

18 Q. Otherwise, though, the balance of them - as far as one
19 can tell from the records, they didn't have, but you may
20 know differently?

21 A. No, well, I would also say Cameron Bignell would have
22 had some experience in homicide as well, on the basis that
23 I was aware of certain homicides within Surry Hills at the
24 time that he may well have been involved in would not
25 surprise me.

26

27 Q. Wouldn't surprise you?

28 A. No.

29

30 Q. All right. And as to the others, the other 10 in
31 total?

32 A. Oh, look, I would be guessing in relation to many of
33 them, but I know that there were some very experienced
34 detectives amongst them and I would say just through the
35 course of their career, it would be surprising for them not
36 to have been involved in a homicide investigation.

37

38 Q. That having been said, experience in homicide was not
39 a criterion for their being chosen for this role?

40 A. No.

41

42 Q. Now, coming back to the academic review, you have
43 placed some emphasis in your statement and yesterday and in
44 various other places on the importance in your mind of the
45 academic review being independent?

46 A. Yes.

47

1 Q. Now, there would be, I would suggest, at least two
2 aspects to that - you may agree or not. One would be the
3 process of selection of the academic team, and the second
4 would be the nature and extent of the dealings between the
5 academic team and the Parrabell officers?
6 A. Yes.
7
8 Q. Would you accept that?
9 A. Yes.
10
11 Q. I want to just explore both of those, the first
12 being the process of selection of the academics. I wonder
13 if you could have volume 2, please, and if you turn to
14 tab 33, [SCOI.74119], this is an email chain between you
15 and Don Weatherburn of the NSW Bureau of Crime Statistics?
16 A. Yes.
17
18 Q. And starting from the bottom, the first email, which
19 is yours, you were asking Dr Weatherburn, in effect,
20 whether he would have interest in basically being the
21 academic reviewer --
22 A. Yes.
23
24 Q. -- to paraphrase?
25 A. Yes.
26
27 Q. And you tell him a bit about it in that first email,
28 of 22 June 2015. He responds to the effect that he's not
29 sure that he is the one who would be able to help you.
30 A. Yes.
31
32 Q. Do you see in the middle of the page?
33 A. Yes, yes.
34
35 Q. And you ask him, in your next email, of 25 June,
36 whether he is able to suggest anyone else?
37 A. Sorry, what was the last part of that?
38
39 Q. Whether he is able to suggest someone else?
40 A. Yes. Yes, I do.
41
42 Q. Other than him?
43 A. Yes.
44
45 Q. And he then, on the first page now, suggests Professor
46 Gail Mason?
47 A. Yes.

1
2 Q. Of Sydney University and Dr Andrew McGrath of Charles
3 Sturt?
4 A. Yes.
5
6 Q. So it seems as though that's the beginnings of your
7 search for some reviewing possibilities?
8 A. Yes.
9
10 Q. And then at the next tab 34, [SC0I.74148], there's an
11 email from Jackie Braw to you of six months later,
12 25 January 2016, where she advises you that she had asked
13 Gail Mason but Gail Mason was not able to assist?
14 A. Yes.
15
16 Q. And Jackie Braw raises another possibility, namely,
17 Nicole Asquith. Do you see that?
18 A. Yes. Yes, I can.
19
20 Q. And Jackie Braw says perhaps she could be considered,
21 she has experience, and she seems objective enough.
22 A. Yes.
23
24 Q. And you respond that you think it's worth speaking
25 with Nicole and that you just want someone that brings
26 independence. So that seems to be the next step --
27 A. Yes.
28
29 Q. -- into 2016, now?
30 A. Yes.
31
32 Q. And then the next tab, 35, [SC0I.78856], another email
33 chain, and starting from the back, there is an email from
34 Jackie Braw to Nicole Asquith and Angela Dwyer. Do you see
35 that? The second-last page of the tab?
36 A. Yes, I can, yes.
37
38 Q. And it is 27 January 2016?
39 A. Yes.
40
41 Q. And Jackie Braw is acquainting Nicole Asquith and
42 Angela Dwyer with the general idea of what Strike Force
43 Parrabell was going to try to do?
44 A. Yes.
45
46 Q. I should say, Angela Dwyer was another academic whose
47 name was known to you, I dare say?

1 A. Yes, yes.

2

3 Q. She was at the University of Tasmania?

4 A. Yes.

5

6 Q. Nicole Asquith at this time I think was at the
7 University of Western Sydney or Western Sydney University?

8 A. Yes.

9

10 Q. And Jackie Braw says - gives Nicole Asquith a short
11 summary of what Parrabell was going to involve and then she
12 says at the bottom of her email, do you see this:

13

14 *We would prefer someone who is neither*
15 *actively "pro" or anti-" police ... which*
16 *kinda rules out a few others you and*
17 *I could probably think of!*

18

19 Did you know who she was referring to there?

20 A. Not really. I don't - I don't know. We had contact
21 with academics in my role, but, I mean, there's so many
22 different views in the LGBTIQ community, and certainly in
23 academic - in the academic land I'm not sure who she might
24 be referring to.

25

26 Q. Well, I'll come back to that topic in a second, but
27 just while I'm on this email chain, going forward, Nicole
28 Asquith responds on 27 January 2016. She says:

29

30 *Thank you for the invitation to review the*
31 *work of ... Strike Force Parrabell.*

32

33 She says that she and Angela Dwyer would like to submit
34 a quote, et cetera?

35 A. Yes.

36

37 Q. Then, skipping over a couple of emails which seem to
38 be about just administrative matters, the last one, on the
39 front page, from Nicole Asquith on 11 February 2016
40 consists of Nicole Asquith providing what she calls a draft
41 contract brief for her proposed work on Parrabell, and
42 indicating that it would need to be finalised once there
43 was some further information from the police as to what
44 exactly was needed?

45 A. Yes.

46

47 Q. Now, just on the question of who might not be wanted,

1 could you also be provided with - keep that volume, but if
2 you could be given volume 3 as well. Now, if you could
3 turn to tab 93, [SC0I.74459], I'm sorry.

4 A. Yes.

5
6 Q. This is an email that we've looked at in another
7 context, and I'm looking at the bottom, the one at the foot
8 of the page from Craig Middleton to you of March 2017,
9 beginning, "Hi Boss"; do you see that?

10 A. Yes, I do, yes.

11
12 Q. I've asked you some questions about some other aspects
13 of that, but on the top of the second page at point - well,
14 perhaps I should start at the bottom of the first page.
15 Mr Middleton is saying to you:

16
17 *... I am just worried that we have come so*
18 *far with Parrabell and done a thorough*
19 *job ... I am wary of cutting corners ... -*
20 *particularly as they --*

21
22 Meaning the Taradale cases --

23
24 *are the most controversial and probably*
25 *subject to the most media scrutiny.*

26
27 Do you see that?

28 A. Yes.

29
30 Q. He says:

31
32 *... it would be remiss of us now to cut*
33 *short the review process ...*

34
35 Then at the top of the next page he says in the third line:

36
37 *To me I think the media [and] cohorts*
38 *(Page, Tomsen, Thompson) etc could use this*
39 *to damage and tarnish the good work by*
40 *Parrabell and open us up (and you) to some*
41 *unwanted criticism ...*

42
43 Et cetera, do you see that?

44 A. Yes, I do.

45
46 Q. Now, it seems that Mr Middleton regarded Page - who
47 would have been Detective Stephen Page; correct?

1 A. Yes.
2
3 Q. And Tomsen, who is Professor Stephen Tomsen --
4 A. Yes.
5
6 Q. -- and Thompson, who is Sue Thompson --
7 A. Sue Thompson, I'm presuming, yes.
8
9 Q. -- as cohorts of the media and as people regarded as
10 out to damage the police?
11 A. Yes.
12
13 Q. You agree?
14 A. He - he says that, yes.
15
16 Q. He does say that. And was that, to your knowledge,
17 a widely held view within the police about those three
18 people?
19 A. Look, I certainly didn't take that view, no.
20
21 Q. No, but was it a widely held view, to your knowledge?
22 A. I don't believe so.
23
24 Q. So Mr Middleton held that view --
25 A. Yes.
26
27 Q. -- evidently? And others?
28 A. I imagine maybe others. I don't know about those
29 particular three people, perhaps.
30
31 Q. Then that one can be put away but could you just have
32 a look briefly at volume 4. Just before I take you to this
33 next document, you knew who Professor Stephen Tomsen was,
34 I'm sure?
35 A. Yes. He's well known in - for his research into
36 gay-hate crimes, in the gay community, especially.
37
38 Q. Yes, he's a professor at Western Sydney?
39 A. Yes.
40
41 Q. And as you say, well known for his research in the
42 hate crime field?
43 A. And extensively referenced, I might add, in the review
44 from Flinders.
45
46 Q. Yes, quite so. If we could just turn to tab 129,
47 [SCOI.74374], in this volume?

1 A. Yes.
2
3 Q. Now, I point out immediately, this is some time
4 later - when you turn it up, 129?
5 A. Yes.
6
7 Q. So this is October 2018, which is after the review has
8 been completed and published. So the time frame is
9 different?
10 A. Yes.
11
12 Q. But I'm just focusing on what the attitudes seem to
13 be. This is Dr Dalton writing to Inspector Middleton
14 about - commenting on an update that Mr Middleton had given
15 him about the Taradale cases. In the fourth paragraph,
16 Dr Dalton says:
17
18 *PS: I have a full draft of my Encountering*
19 *Nazi Tourism sites book so happy about*
20 *that!*
21
22 I'm sorry? I'm sorry, Mr Gray, I'm a little bit lost. Can
23 you tell me where --
24
25 Q. We're at 129, top of the page, fourth paragraph down,
26 beginning with "PS"?
27 A. I'm sorry. I'm right. I'm with you now.
28
29 Q. You have it now?
30 A. Yes, thank you.
31
32 Q. So he refers to his forthcoming book about
33 Encountering Nazi Tourism?
34 A. Yes.
35
36 Q. And then he says:
37
38 *... (and in the response to - The Empire*
39 *Strikes Back [bad mouthing by Tomsen --*
40
41 *evidently Stephen Tomsen, do you agree?*
42 A. He spells it the same way, so I'm presuming, yes.
43
44 Q. --
45
46 *and his crew of imbecilic devotees] ...*
47

1 Do you see that?
2 A. Yes, I do.
3
4 Q. So that appears to indicate that Dr Dalton had a view
5 of Stephen Tomsen which was not high and regarded somebody
6 who agreed with Stephen Tomsen as imbecilic; would you
7 agree?
8 A. Yes - I just don't know, in the context of what he's
9 talking about in relation to the criticism of Stephen
10 Tomsen.
11
12 Q. No, but there may be some contexts that I don't know
13 about and don't need to ask you about, but whatever the
14 context, he's describing people who share the views of
15 Tomsen as "imbecilic", isn't he?
16 A. Well, he's saying "bad mouthing by Tomsen and his crew
17 of imbecilic devotees".
18
19 Q. Yes.
20 A. But I don't know whether that bad mouthing is in a
21 general sense or if it relates to a specific submission
22 that he may have had, like a research article or something.
23 I don't know. I know that in the academic world there is
24 a lot of critique of other people's work.
25
26 Q. No doubt. But whatever his objection was to whatever
27 Tomsen may have said relevant to something --
28 A. Yes.
29
30 Q. -- he, Dalton, was describing those who shared
31 Tomsen's views as imbecilic, wasn't he?
32 A. About that issue, yes.
33
34 Q. And you would infer, wouldn't you, that the writer of
35 this email, namely, Dalton, was expecting that the
36 recipient, namely, Mr Middleton, had the same view?
37 A. I don't know that.
38
39 Q. You don't know it from the page, but that's a fairly
40 safe inference, isn't it?
41
42 MR TEDESCHI: I object.
43
44 THE COMMISSIONER: I allow it.
45
46 THE WITNESS: I can't comment. I don't know.
47

1 MR GRAY: Q. Well, do you know if there was a view in
2 the ranks of the police - and I'm speaking earlier than of
3 the date of this, which is 2018, but back in the 2015 era -
4 that Tomsen's views were unpalatable or views that the
5 police didn't like?

6 A. No, I don't - I don't believe so, not to my knowledge.

7
8 Q. Or views that were imbecilic?

9 A. No, I - I would disagree with that on the basis that -
10 well, from my perspective, I suppose, because on the basis
11 that Stephen Tomsen actually came to our community meeting
12 on 1 December and provided valuable feedback and input. So
13 I would disagree with that.

14
15 THE COMMISSIONER: Q. I don't think it's being suggested
16 you held that view. I think it's being put it's pretty
17 clear that it was Dalton's view as at this date?

18 A. I think it was Dalton's view in relation to whatever
19 he was talking about, but generally speaking I would say
20 no, Commissioner, because - just evidenced by the heavy
21 referencing that was undertaken in the final report --

22
23 Q. That doesn't necessarily mean that Dalton approved of
24 the references, but that he couldn't ignore them
25 academically. Tomsen was a prolific writer in the field?

26 A. Yes, he is.

27
28 Q. You could hardly write about gay hate without
29 referring to one or more of Professor Tomsen's articles.
30 He had been writing for 35 years on the topic?

31 A. Okay.

32
33 Q. And Dalton referred to them, no doubt, because they
34 existed as a fact?

35 A. Yep. Yep.

36
37 MR GRAY: Q. Just while we are on that email, moving
38 away partially, perhaps, from Tomsen - although partially
39 not - he says, Dalton says:

40
41 *... Willem and I are quietly about to*
42 *submit a journal article that accuses these*
43 *players --*

44
45 evidently Stephen Tomsen and others --

46
47 *of fuelling a moral panic about homicides*

1 *that is not supported by evidence.*

2

3 Do you see that?

4 A. Yes, I do.

5

6 Q. Now, you yourself, as we discussed a couple of days
7 ago, have used the term "moral panic" in the Parrabell
8 report and elsewhere --

9 A. Yes.

10

11 Q. -- in a genuine and forthright way to describe the
12 alarm that was felt in the gay community about the violence
13 to which they were being exposed; correct?

14 A. Yes, yes.

15

16 Q. So, in your view, I take it, there was indeed a moral
17 panic and it was a justified one?

18 A. I think in the times, absolutely.

19

20 Q. And yet it seems that Dr Dalton was telling
21 Mr Middleton that the view that there was a moral panic,
22 a view espoused by Stephen Tomsen and others, was going to
23 be debunked, he hoped, in an article that he, Dalton, was
24 about to write. You agree that that's what he was saying?

25 A. Yes.

26

27 Q. Did Dr Dalton ever express to you the view that
28 Stephen Tomsen's views about a moral panic were wrong and
29 to be debunked?

30 A. No.

31

32 Q. Did you have that view yourself?

33 A. That --

34

35 Q. That Stephen Tomsen's perspective that the extent of
36 the violence against LGBTIQ people in the 70s, 80s and 90s
37 caused or amounted to a moral panic?

38 A. That his views were --

39

40 Q. Did you have that view that he, thinking that, was
41 wrong or to be debunked?

42 A. No.

43

44 Q. Were you aware that Dr Dalton had that view?

45 A. No.

46

47 Q. Were you aware of Dr Dalton's views generally as to

1 whether the occurrence and frequency and extent of violence
2 against LGBTIQ people in the 70s, 80s and 90s was that it
3 was exaggerated?

4 A. No.

5
6 Q. Now, that folder can go away, thank you. What's your
7 view, even today, about Dr Dalton using the language that
8 we just looked at about a senior professor eminent in the
9 field? What 's your view of the appropriateness of that?

10 A. Well, I'm not sure. I mean, I expect that people in
11 the world of academia would have differing views and I also
12 think that they would be very passionate about those views
13 given they spend a significant period of time of their life
14 researching particular topics. I don't think the language
15 is necessarily appropriate but I do acknowledge that that's
16 an email between two people and not necessarily to the
17 world at large.

18
19 Q. Of course. But there it is, and it seems to reveal
20 something about Dr Dalton's view of things, doesn't it?

21 A. Look, I wasn't aware that that was his view. I think
22 my impression is that he conducted his duties objectively,
23 and I was satisfied of that.

24
25 Q. Well, the email suggests that Dr Dalton intended to
26 use the concept of moral panic in order to attack
27 Stephen Tomsen as having spuriously created a moral panic
28 where no such panic was necessary? Isn't that what he's --

29 A. I'm not - is he talking about the same time frame,
30 though, Mr Gray? I'm not sure. Is he --

31
32 Q. We'd better go back to it, I suppose. I had better
33 put it in front of you.

34 A. If I could have a look.

35
36 Q. Volume 4?

37 A. Thank you. Sorry, what was that tab again?

38
39 Q. Tab 129, [SC0I.74734]. So he's telling Detective
40 Middleton that he's about to publish something about the
41 views of Tomsen, and he says that he's going to do that in
42 response to bad mouthing by Tomsen, in which context he
43 uses the analogy "The Empire Strikes Back"?

44 A. Right.

45
46 Q. Do you see that?

47 A. Yes, I do.

1
2 Q. So he says that having regard to what he calls "bad
3 mouthing" by Tomsen, what he, Dalton, is going to do with
4 Dr de Lint is that they're quietly going to submit
5 a journal article that accuses these players - ie, Tomsen -
6 of fuelling a moral panic about homicides that is not
7 supported by evidence.
8
9 MR TEDESCHI: Your Honour, I rise to object to the line of
10 questioning. Commissioner, I haven't looked at any
11 publication by Professor Tomsen about Nazi tourism.
12
13 THE COMMISSIONER: It is not by Professor Tomsen at all --
14
15 MR TEDESCHI: And I haven't looked --
16
17 THE COMMISSIONER: No, no, let me just correct your
18 misunderstanding. The word "my" before the words
19 "Encountering Nazi Tourism" is a reference - I took it to
20 be a book written by Dr Dalton. He's referring
21 Mr Middleton to his forthcoming publication called
22 "Encountering Nazi Tourism".
23
24 He then goes on to talk about what he's going to say
25 with Professor de Lint in some proposed article about,
26 seemingly, Mr Tomsen. I don't see that being a problem.
27 Dr Dalton is going to be here at some point and I have
28 little doubt that he will be asked about his views.
29
30 MR TEDESCHI: It appears to be a reference to a dispute
31 between Dr Dalton and Professor Tomsen.
32
33 THE COMMISSIONER: It may be.
34
35 MR TEDESCHI: Concerning a completely different topic.
36
37 THE COMMISSIONER: No, how could it be completely
38 different? He's talking about fuelling a moral panic about
39 homicides. I dare say it's a reference not to homicides in
40 general but to homicides in the context of gay-hate
41 related, I would have thought. Anyway, I'm not going to
42 allow it, Mr Tedeschi, thank you.
43
44 MR GRAY: Q. I'm not sure what the last question was but
45 I'll just come at it again this way --
46 A. Yes.
47

1 Q. -- he is telling - that is Dr Dalton is telling -
2 Detective Middleton that he, Dalton, and his colleague,
3 Dr de Lint, are going to submit a journal article accusing
4 Tomsen and others of fuelling a moral panic about homicides
5 that is not supported by evidence; agreed?

6 A. Yes.

7
8 Q. That's what he says. So he wants, it seems, and
9 intends, to attack Tomsen as having spuriously created
10 a moral panic where no such panic was necessary. Do you
11 agree that's what he's saying?

12 A. Yes, yes.

13
14 Q. Now, as I've understood you in the last few days, that
15 was absolutely not your view; correct?

16 A. Yes.

17
18 Q. You thought there was a real moral panic for genuine,
19 legitimate reasons?

20 A. Yes.

21
22 Q. Does it trouble you to find that the independent
23 reviewer had that approach to things?

24 A. No, it doesn't trouble me on the basis that I think
25 these disputes occur quite often in the academic world, but
26 as I said, I believe that Derek Dalton approached his task
27 with objectivity. And I don't know when he formed that
28 view, either.

29
30 Q. Sorry?

31 A. I don't know when he formed that view, either. That
32 may well have been - I mean this, as you indicated
33 earlier - this is on 24 October, which is well after the
34 Parrabell review report by Flinders has been submitted.

35
36 THE COMMISSIONER: Q. But Mr Crandell, it's clearly, on
37 the face of it, open to the suggestion that it's talking
38 about historic homicides, isn't it? It's not talking about
39 homicides committed in 2018, or do you read it that way?

40 A. No. No, I'm not saying that, Commissioner. I'm
41 saying that I don't --

42
43 Q. It's after the event, true, but he seems to be
44 talking, on the face of the words in that email, about
45 historic homicides?

46 A. Yes. I don't know when he came to that view,
47 Commissioner, is all I'm saying.

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THE COMMISSIONER: Okay, thank you.

MR GRAY: Q. I will move on from that topic for the moment, although it will recur. If we could go back to volume 2, and go to tab 36, [SCOI.74172] --

A. Yes.

Q. -- and start with the first email in the chain which is on the back, the third page. It is an email from you to Chris --

A. Devery.

Q. -- Devery. So we are back in February 2016, in the very early days or relatively early days of the strike force?

A. Yes.

Q. And you are informing Mr Devery of some general outline facts about what Parrabell is doing?

A. Yes.

Q. And you refer in particular to the publicity surrounding the 88 cases, in the second paragraph, and you say that that publicity impacts negatively upon the police within the LGB --

A. Sorry, could you say that paragraph again? Is that four - five?

Q. Yes, it's strictly the fourth, counting, "I hope you are well". Do you see, "The publicity impacts negatively upon the NSWPF"?

A. Sorry.

Q. It is the fourth paragraph.

THE COMMISSIONER: Q. Are you on page 3? If you look to the top right-hand corner, you should be on page 3.

A. Yes, I am, Commissioner, thank you.

Sorry, Mr Gray, could you start that paragraph again, where you --

MR GRAY: Q. It's just a one-and-a-half-line paragraph beginning, "The publicity impacts negatively"?

A. Oh, sorry, yes, yes, "The publicity impacts negatively", yes.

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Q. You go on to say:

To counter these allegations --

and obviously to counter the effect of the publicity --

A. Yes.

Q. -- you've activated Strike Force Parrabell in order to do the things that you say you're going to do.

A. Yes.

Q. And you tell Mr Devery in the next paragraph that your intention is ultimately to publish?

A. Yes.

Q. And, having invited academic review, to introduce a degree of independence - do you see that?

A. Yes.

Q. On that topic in that context of independence, you then say:

In essence, although there is some way to go investigatively --

A. Yes.

Q. --

there is clear contrary evidence to earlier published research by Sue Thompson and Stephen Tomsen ... that assert prevalence of gay-hate crimes ...

Do you see that?

A. Yes, I do.

Q. Now, that indicates, doesn't it, that your view already was, in February 2016, that the views or research championed by Stephen Tomsen were wrong?

A. For that particular article there was evidence to suggest that.

Q. The research by Stephen Tomsen to which you're referring, I think, unless I'm corrected --

A. Yes.

1
2 Q. -- was research and I think several articles to the
3 effect that there had been certain substantial numbers, not
4 quoting 88, I don't think by that point --
5 A. Yes.
6
7 Q. -- but in the 50s, of deaths which were gay-hate
8 related, a substantial number of which were unsolved. You
9 agree that he had published to that effect?
10 A. Yes, yes.
11
12 Q. And you were saying --
13 A. Sorry. Sorry, could I just correct that? I believe
14 that I'm referring to an article that was published by
15 Stephen Tomsen and Sue Thompson, I think in about 2002,
16 which related to a number of gay-hate motivated homicides.
17 I believe that's what I'm referring to.
18
19 Q. The documents will speak for themselves --
20 A. Sure.
21
22 Q. -- but I suggest, respectfully, that there isn't such
23 an article published by the two of them in the Australian
24 Institute of Criminology in 2002?
25 A. Oh, okay.
26
27 Q. There are articles by Sue Thompson?
28 A. Yes.
29
30 Q. There are articles by Stephen Tomsen. Some of them
31 date from around about that period --
32 A. Okay.
33
34 Q. -- but there's not one article of the kind that you
35 just suggested, as I understand it?
36 A. Okay. Sorry, I've put the two together and perhaps
37 that's incorrect.
38
39 Q. I think so. But the point is that the - my point, at
40 least, that I am asking you about --
41 A. Yes.
42
43 Q. -- is that what Stephen Tomsen was associated with,
44 accurately, and in your mind, was academic publications
45 asserting that there had been large numbers of gay-hate
46 deaths and that significant numbers of them were unsolved?
47 A. Yes.

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Q. Agreed?

A. Yes. Sorry, not necessarily unsolved but in relation to the gay-bias motivation. Whether they were solved or unsolved I think that was the general thrust of what they were asserting.

Q. Perhaps three thrusts, really: that there had been significant numbers of gay-hate murders or significant numbers of murders which at least seemingly, or definitely, were gay-hate related?

A. Yes.

Q. And that a troubling proportion of them were unsolved?

A. Yes. Yes, I would say so.

Q. Yes. And what you are saying here in your email to Mr Devery --

A. Yes.

Q. -- is that you were aware that there was clear contrary evidence to that - that is, evidence contrary to that view?

A. Yes. Albeit qualified to say that there's some way to go investigatively, but on a - at this very point in time, there was evidence to show that it wasn't actually going to be 88 gay-hate motivated homicides.

Q. Right.

A. Yes.

Q. Now, given that email, in the context of the other emails that I have taken you to that have some reference to Stephen Tomsen --

A. Yes.

Q. -- it's pretty clear, isn't it, that Stephen Tomsen, or any tender involving him, was pretty unlikely to be chosen as the preferred tenderer?

A. Look, I wouldn't have ruled him out, simply because of his prevalence in the area. He was - he has a wonderful reputation in the LGBTIQ community as a researcher. So I doubt that I would have ruled him out. And in fact, I think as we progressed, I realised that I had to go through certain procurement requirements.

Q. Yes.

1 A. And I understand you'll get to that, but at this stage
2 I wasn't really turning my mind to the procurement
3 requirements and I think that's my conversation with
4 Chris Devery as to how I go about that.

5
6 Q. What I, I suppose, need to put to you about this
7 paragraph is this: you're telling Mr Devery that you need
8 to introduce some independence --

9 A. Yes.

10
11 Q. -- by way of the academic review?

12 A. Yes.

13
14 Q. And you're saying that the preliminary view, although
15 there's some way to go, that you were arriving at was that
16 Tomsen's view was wrong?

17 A. Well, in some of the - in some of the cases, because
18 obviously we hadn't been right through the 88 at that
19 stage, but in some of the cases, that's right. But bearing
20 in mind, he wouldn't have had access to the material that
21 I did, so it's hard for me to be critical of him in that
22 respect.

23
24 Q. You're telling Mr Devery that there was clear contrary
25 evidence to Tomsen's research asserting prevalence of
26 gay-hate crimes?

27 A. Yes.

28
29 Q. And in the context of - you were saying that in the
30 context of needing somebody independent?

31 A. Yes.

32
33 Q. And it follows, doesn't it, almost inexorably, that
34 you've had the view that Tomsen's view was not independent,
35 because it was contrary to the police view?

36 A. Oh, no. No, I don't - I don't agree with that.

37
38 Q. Well - anyway, you say that:

39
40 *Essentially we have approached academics*
41 *known to us because of their presentations*
42 *on LGBTI issues at [a] recent ...*
43 *Conference ...*

44
45 A. Yes.

46
47 Q. And you mention Dr Asquith and Dr Dwyer, and you ask

1 Mr Devery advice on how this then has to be done
2 administratively, in effect; is that right?
3 A. Yes, so what processes did I need to go through,
4 because I - I didn't turn my mind to the amount of - that
5 it was going to be, in terms of procurement. So - over
6 \$30,000, there's processes that I need to follow but
7 I didn't understand that at the time.
8
9 Q. What comes back from Mr Devery - and I'm just
10 summarising it - is that you need to get three quotes?
11 A. Yes. Yes, he did.
12
13 Q. This is on the front page of the chain. He tells you,
14 because of the procurement guidelines, you're going to need
15 to get three quotes. Do you see about halfway down his
16 email at the lower part of that page?
17 A. Yes.
18
19 Q. Or, in fact, the second paragraph, "At least three
20 quotes need to be sought"?
21 A. Yes.
22
23 Q. He then suggests if you need another quote, then ...
24 Professor Murray Lee at the Sydney University Institute of
25 Criminology was someone to think about.
26 A. Yes.
27
28 Q. If you turn to tab 37 --
29
30 THE COMMISSIONER: Just before you go there.
31
32 Q. Can I just ask you about, back on page 3 of tab 36 --
33 A. Yes.
34
35 Q. -- are you not, in fact, saying there that you were
36 eager - before you found out about the procurement
37 process - to engage Drs Asquith and Dwyer, or do I misread
38 what you've said in the penultimate paragraph?
39 A. In the next paragraph?
40
41 Q. Yes:
42
43 *Obviously I'm eager to engage these*
44 *people ...*
45
46 "These people" is a reference to Asquith and Dwyer, isn't
47 it?

1 A. Yes - yes.

2

3 Q. Because, if I may suggest to you, you've rejected
4 Tomsen, because of his position and because you were of the
5 view that there was clear contrary evidence to what he was
6 publishing; you were aware of Drs Asquith and Dwyer and it
7 would seem to suggest, by inference, that having rejected
8 Tomsen, that's why you said you were eager to engage
9 Asquith and Dwyer. Have I read that correctly or wrongly?

10 A. No, I disagree with that, Commissioner.

11

12 Q. You do?

13 A. Yes, I do.

14

15 Q. So "these people" is a reference to, what, academics
16 at large?

17 A. I'm not certain as to what I meant by "these people",
18 but it seems to me that I was talking about --

19

20 Q. Well, in context, though - read it again. I mean, if
21 you'd like to read it, it's your email, you composed it?

22 A. Yes.

23

24 Q. In context, it would read, on one view, that Tomsen
25 was to be put aside because of your view that a view that
26 (he had espoused was contrary to evidence, and then you
27 talk about Asquith and Dwyer and "Obviously I am eager to
28 engage these people". Now, is that a reference to Asquith
29 and Dwyer or does it mean, in general terms, academics?

30 A. Well, I would say academics.

31

32 Q. I see.

33 A. Because I can assure you that I did not discount
34 Stephen Tomsen at that point in time.

35

36 THE COMMISSIONER: All right.

37

38 MR GRAY: Q. So, moving to 37, [SC01.74202], and
39 starting at the bottom of the chain, at the bottom of the
40 second page, Murray Lee responds to what must have been
41 contact from Jackie Braw in this email of Murray Lee on
42 13 April --

43 A. Yes.

44

45 Q. -- cc'ing Stephen Tomsen and Thomas Crofts, and Murray
46 Lee, Professor Murray Lee, says that a team of himself,
47 Professor Crofts and Professor Tomsen may be interested in

1 tendering. Do you see that?

2 A. Yes. Yes, I do.

3

4 Q. Now, again, I suggest to you, it is fair to say,
5 realistically, isn't it, that if Stephen Tomsen was going
6 to be in the team, then Professor Lee's team were not very
7 likely to get the job?

8 A. No, I disagree with that completely.

9

10 Q. Okay. Jackie Braw then responds, in the upper part of
11 that page, telling Professor Lee something about what is
12 involved. She says she has asked the strike force team
13 leader for a brief summary of what they're doing "which
14 will complement the points below". Do you see that?

15 A. Yes I do.

16

17 Q. She says:

18

19 *We don't have formal specs but following*
20 *a meeting of a number of key stakeholders*
21 *at which the Strikeforce presented their*
22 *findings so far ...*

23

24 Pausing there, that would be the meeting of December 2015,
25 I imagine?

26 A. I imagine so.

27

28 Q. She says:

29

30 *... and listening to some of the points*
31 *raised by both Stephen and Nicole --*

32

33 meaning Stephen Tomsen, I guess, and Nicole Asquith --

34 A. Asquith.

35

36 Q.

37 *Supt Crandell felt it would be valuable to*
38 *seek an independent qualified "assessment"*
39 *or evaluation ... of the*
40 *Strikeforce's approach ...*

41

42 Do you see that?

43 A. Yes.

44

45 Q. Then she says:

46

47 *... we expect the following to be*

1 *included: ...*

2

3 And she has nine bullet points?

4 A. Yes.

5

6 Q. The first of which is:

7

8 . *An independent evaluation of Strikeforce*
9 *Parrabell's ... review of the identified 88*
10 *deaths ...*

11

12 A. Yes.

13

14 Q. He, in due course, does submit a draft proposal, which
15 I'll come to. In fact, I won't delay on this, but it's at
16 tab 38, [SC0I.74207], at the top of the second page,
17 there's Professor Lee's email of 5 May, saying, "Please
18 find attached a draft proposal".

19 A. Yes. Yes, I see that.

20

21 Q. And then in the middle of the front page of that
22 chain, he says:

23

24 *Please find attached a new version of the*
25 *proposal with minor amendments.*

26

27 So that's in May 2016?

28 A. Yes.

29

30 Q. So at this point you have two prospective tenderers -
31 namely, the Asquith/Dwyer team and the Lee/Crofts/Tomsen
32 team?

33 A. Yes.

34

35 Q. But you need a third one?

36 A. Yes.

37

38 Q. Now, before you locate that third one, have a look at
39 tab 67 - sorry, in volume 3 - [SC0I.74279]. If you turn to
40 tab 67 in volume 3 --

41 A. Yes.

42

43 Q. -- and go to the second page of the chain, we find an
44 email from Jackie Braw to Shannon Wright of ACON?

45 A. Yes.

46

47 Q. And Jackie Braw tells Shannon Wright:

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Below are the dot points we have sent out regarding the tender.

The nine dot points are there underneath. Do you see that?

A. Yes. Yes, I do.

Q. With some commentary in blue from ACON, which eventuates on the front page of the chain. Do you understand?

A. The blue is from ACON.

Q. The blue is from ACON, because if we flick forward to the first page of the chain --

A. Oh, yes.

Q. -- Shannon Wright said, "I have added some comments in blue"?

A. Yes.

Q. Down the bottom of that page?

A. Yes, that's right.

Q. Back to the Jackie Braw email, so she tells Shannon Wright, "These are the nine bullet points", the same ones that we just looked at that were sent to Murray Lee?

A. Yes.

Q. But in the opening paragraph, what Jackie Braw says to Shannon Wright in July is this:

We have changed our thinking a little and now want the researcher/s to be involved prior to completing the Parrabell review and conduct the last stage as a collaborative process if that makes sense.

Do you see that?

A. Yes. Yes, I do.

Q. Now, when did that change come about and why?

A. Well, I suppose it may well have been after the meeting that we had subsequent to the Professor Lee email.

Q. What meeting is that?

A. We would have had a procurement meeting.

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Q. Right.

A. So I'm just not sure when that procurement meeting was.

Q. Right.

A. But - yeah, so we - what I was looking for was some learnings that I could gather from the researchers on the way through, and I didn't necessarily want to finish Parrabell and then start with the researchers. I thought it more valuable to bring those researchers in a little bit earlier.

Q. I'm not focusing so much on bringing them in earlier; I'm focusing on the change to a collaborative approach?

A. Yes. So - well, I don't - I don't necessarily know what Jackie means by "collaborative", but my view is that we can collaborate and discuss different cases and different outcomes, but I still wanted them to provide objectivity in relation to their findings. So I didn't want to come up with exactly the same findings unless that was the case. So I wanted to be transparent from that perspective.

Q. Doesn't "collaborative" suggest something a bit different from independent?

A. Well, yes, it does, but it's not - that's not my word, but - but I wanted discussions with - I didn't want them to simply go about their business and not have anything to do with the investigation team along the way, because we could probably learn from them in terms of what they found and any systematic processes that they may have come up with. In fact, they did come up with.

Q. If your overriding concern, though, was that the whole point of having the academic review was to be independent and thus give comfort, if that's the word, to the community that the police weren't just investigating themselves --

A. Yes.

Q. -- then you would want them to be literally independent, wouldn't you? You would want them to be hands-off, arm's-length?

A. I want them to be objective, but I don't see that that bars them from speaking to any member of the Parrabell team. In fact, I encouraged that.

1 Q. All right. Well, keeping that in mind - that's
2 Monday, 18 July, where Jackie Braw tells ACON that you had
3 changed - she says "we have changed", which I assume is
4 Strike Force Parrabell had changed, "our thinking a little
5 and now want the researchers to conduct the last stage as
6 a collaborative process", if we then go to volume 2 again,
7 which you may still have there, perhaps, and turn to
8 tab 42, [SCOI.74273] --

9

10 THE COMMISSIONER: Q. By the way, Mr Crandell, when you
11 got that chain of emails, although you don't remember now,
12 I assume, you would have read the chain; is that fair?

13 A. The chain in the bundle?

14

15 Q. The chain of emails that you have just been taken to
16 at tab 67, wasn't it?

17 A. Yes, probably.

18

19 Q. Well, when you say "probably" --

20 A. Well, I didn't read all the material.

21

22 Q. I'm sorry?

23 A. I didn't read all of the material, Commissioner,
24 I didn't have time.

25

26 Q. No, no, no. But if - you would have surely been
27 concerned at the time about what Jackie Braw was telling
28 ACON, to make sure that the messaging was as you wanted,
29 wouldn't you?

30 A. No, I wasn't concerned about - I don't remember being
31 concerned about anything that Jackie said to ACON.

32

33 Q. No, I didn't ask you whether you were concerned, I'm
34 trying to ask you, though - you say you didn't read all the
35 material all the time, I understand that.

36 A. No.

37

38 Q. But you surely would have looked, wouldn't you, to see
39 whether or not Jackie Braw was saying something to ACON
40 which was inconsistent with your views of the matter?

41 A. I would think so.

42

43 Q. And if you noticed anything that you thought was
44 inconsistent with your views, I presume you would have
45 corrected it?

46 A. Yes.

47

1 THE COMMISSIONER: All right.
2
3 MR GRAY: Q. Just picking up on that, because I'm going
4 to come to this in a moment, the word that I focused on, as
5 you know, was "collaborative" --
6 A. Yes.
7
8 Q. -- where Jackie Braw had said there had been a change
9 and now what was wanted was a collaborative process?
10 A. In the last stage, in the last stage, yes.
11
12 Q. Conduct the last stage as a collaborative process?
13 A. Yes.
14
15 Q. The last stage being the academic process?
16 A. Yes.
17
18 Q. And you said "that's not my word" - collaborative?
19 A. No, well, in this email, Jackie uses "collaborative".
20 That's fine.
21
22 Q. No, but when you said, "That's not my word" was that
23 intended to distance yourself from that word?
24 A. No, it's intended to say that's Jackie's typing, not
25 mine.
26
27 Q. Okay. And what's the relevance of that?
28 A. Sorry?
29
30 Q. What's the relevance of that?
31 A. Well, you're asking --
32
33 Q. Are you suggesting she's got it wrong in some way?
34 A. No. I thought you were asking me to interpret that
35 word, which was Jackie's word, that she had used.
36
37 Q. She used it - and you said, accurately enough, "that's
38 her word" - and my question is directed to: do you
39 distance yourself from that word? Do you say it's wrong in
40 some way?
41 A. No. No, not necessarily.
42
43 Q. And the Commissioner's question was directed to
44 whether you had, yourself, seen that word in the chain when
45 the chain reached you?
46 A. I don't remember that.
47

1 Q. You don't remember. Okay. Well, looking at volume 2,
2 tab 42, [SCOI.74273], the very next day, 19 July, Jackie
3 Braw tells various people, including yourself, that she,
4 Jackie Braw, apparently had finally located a potential
5 third party to apply - namely, Associate Professor Derek
6 Dalton; do you see that?

7 A. Mmm-hmm.

8

9 Q. And at tab 43, [SCOI.74286], three days later,
10 Jackie Braw emails to you, but bcc - that is, blind copied
11 - to Nicole Asquith, Murray Lee and Derek Dalton, and also
12 a fourth person who I think was an administrative person in
13 one of those universities - two documents, namely, the
14 request for tender and the supply agreement. Do you see
15 that?

16 A. Yes.

17

18 Q. So once the third tenderer, or the third prospective
19 academic contender was identified, the request for tender
20 and supply agreement were sent out very quickly.

21 A. Yes.

22

23 Q. Now, the request for tender we find in the same volume
24 at tab 23, [SCOI.76961]?

25 A. Yes.

26

27 Q. Starting at page 5, there is a section called
28 "Background"; do you see that?

29 A. Yes.

30

31 Q. In the second paragraph, what is stated is that
32 something called Strike Force Parrabell - although, as we
33 know, it was perhaps more accurately referred to as
34 Operation Parrabell - was initiated in 2013 and an initial
35 report was completed on the North Head beat in October
36 2013. Do you see that?

37 A. Yes, I do.

38

39 Q. And according to this background document, that no
40 further work was conducted, by Operation Parrabell, that
41 is, until you relocated the strike force to Surry Hills?

42 A. Yes.

43

44 Q. Which is, as we know, in 2015?

45 A. Yes.

46

47 Q. Under the heading "Current Situation" down the

1 bottom - and we are now at late July 2016 - the
2 "Background" document says:

3
4 *Strikeforce Parrabell is currently*
5 *reviewing its 40th case and is expected to*
6 *complete all cases by 15 August ...*

7
8 Do you see that?

9 A. Yes, I do.

10
11 Q. That, as it turns out, was optimistic, but that
12 needn't detain us. Then on the top of the next page, one
13 of the things - I should go to the bottom of the previous
14 page, sorry. It says at the bottom of the previous page:

15
16 *At a recent meeting between the Strikeforce*
17 *Parrabell team and Operational Programs*
18 *staff, a process was agreed ...*

19
20 Number 1 was phase 1 completion by the strike force team of
21 reviewing the cases?

22 A. Yes.

23
24 Q. And then number 2 was submitting reviewed cases to the
25 Bias Crime Unit for review, particularly determinations.
26 Do you see that?

27 A. Yes, I do.

28
29 Q. As we know from yesterday, with the exception of the
30 12 dip sample cases, that was not done; correct?

31 A. Yes.

32
33 Q. And then under the heading "Challenges", this appears:

34
35 *One of the key challenges is locating*
36 *suitable, qualified and independent*
37 *researchers.*

38
39 The next sentence says this:

40
41 *Many researchers in this area are connected*
42 *to the "gay community" and may not be as*
43 *independent as desirable.*

44
45 Who was that referring to?

46 A. I don't know, researchers in general, I would think.

47

1 Q. Did you have a part in drafting this request for
2 tender or request for quotation?
3 A. I don't believe so.
4
5 Q. Pardon?
6 A. I don't believe so.
7
8 Q. Well, what does "connected to the 'gay community'"
9 mean as you understand it?
10 A. Well, they may be part of it, they may have devoted
11 some time to researching gay and lesbian issues. There's
12 many, many researchers that fit into that category.
13
14 Q. And why would that make them not as independent as
15 desirable?
16 A. I don't know.
17
18 Q. Stephen Tomsen was connected to the gay community in
19 that sense, wasn't he?
20 A. So were many other researchers, not just
21 Stephen Tomsen.
22
23 THE COMMISSIONER: Q. Was the person drafting this
24 document suggesting that a person who may be connected to
25 the gay community could not be objective?
26 A. No, I don't believe so.
27
28 Q. Well, then, why on earth would you put this in the
29 document?
30 A. Well, I don't know, Commissioner.
31
32 Q. When you say you don't know --
33 A. No.
34
35 Q. -- you are the person, in a sense, as the senior
36 person supervising the tender - in one sense, at least -
37 why on earth would you say something like this and how
38 would you exclude, by the way, somebody who was homophobic?
39 A. Well, Commissioner, I didn't draft the document, and
40 to say that I would read --
41
42 Q. Do you stand by it or not? Do you stand by it or not?
43 A. I'll stand by the document, yes.
44
45 Q. Sure. Well, then, I ask you the question again: did
46 you think, looking at it now - well, perhaps I should ask
47 you, in fairness, is this the first time you've actually

1 looked at this document?
2 A. I can't remember if I reviewed the document or not.
3
4 Q. Unlikely you would not have reviewed it, though, isn't
5 it?
6 A. Probably.
7
8 Q. And if you looked at those words, all I'm simply
9 asking you, were you suggesting, or were the police
10 suggesting, that someone from the gay community, although
11 experienced in the very field you were looking at, could
12 not be objective?
13 A. I don't think so, no.
14
15 Q. Okay. And how did you go about excluding someone who
16 was homophobic, then, on the basis of this language?
17 A. I don't know how we would show a homophobic
18 researcher.
19
20 Q. Well, it may be views they express, but if you are in
21 fact saying some researchers have their own personal
22 history of negative relationships and those connected to
23 the gay community may not be as independent, I ask you
24 again, does that mean to say that you, or whoever drafted
25 this, had ventured the thought that someone connected to
26 the gay community could not be objective?
27 A. No.
28
29 THE COMMISSIONER: All right.
30
31 MR GRAY: Q. As to the sentence, "Some researchers have
32 had their own personal history of negative relationships
33 with police", who was that a reference to?
34 A. I have no idea.
35
36 Q. Did you ask someone what it meant when this document
37 was put before you?
38 A. I don't remember.
39
40 Q. Did you care?
41 A. I beg your pardon?
42
43 Q. Did you care what it meant?
44 A. Well, I don't remember reading it at the time so
45 I can't tell you whether I cared or not.
46
47 Q. Isn't it saying, in effect, no gay researchers are

1 likely to get this job?
2 A. No. That's completely inappropriate.
3
4 THE COMMISSIONER: Q. Why would there be, then, a need
5 to give such a warning?
6 A. Commissioner, I don't know why that warning was given,
7 but I can assure you I would not be excluding gay people
8 from a gay-hate related crime review.
9
10 Q. Well, for obvious reasons --
11 A. Yes.
12
13 Q. -- but did you review this language before the
14 document went out, do you recall?
15 A. I don't recall, Commissioner. I don't recall.
16
17 Q. Who is the most likely person who would have been
18 responsible for its drafting?
19 A. Perhaps Shobha Sharma or Jackie Braw, given Jackie's
20 emails. I don't recall.
21
22 THE COMMISSIONER: All right.
23
24 MR GRAY: Q. Well, there were only three competitors to
25 whom this request for quotation was going, weren't there?
26 A. Correct.
27
28 Q. One of them was a team comprising Nicole Asquith and
29 Angela Dwyer?
30 A. Yes.
31
32 Q. Nicole Asquith was certainly connected to the gay
33 community, wasn't she?
34 A. Yes, as was Angela Dwyer.
35
36 Q. Did that indicate, then, that they may not be as
37 independent as desirable?
38 A. No, to my mind.
39
40 Q. In the Murray Lee/Crofts/Tomsen tender --
41 A. Yes.
42
43 Q. -- Stephen Tomsen was, at least in this sense,
44 connected to the gay community, wasn't he?
45 A. Yes, and I think Murray Lee probably is as well.
46
47 Q. Well, isn't that something of a tip-off that those two

1 teams were starting some way behind the eight ball?

2 A. No.

3

4 THE COMMISSIONER: Q. What's the point of this warning,
5 Mr Crandell? What's the point of saying this?

6 A. Well, I presume that this is a pro forma document and
7 that the person who --

8

9 Q. So, sorry, just interrupting you, this is a form
10 typically used by the police, you say?

11 A. I believe so. And challenges and time frames would be
12 part of that pro forma, and --

13

14 Q. No, no, I understand the document might have a section
15 "Challenges". Are you suggesting, though, that 3.4 in
16 those terms is a pro forma document?

17 A. The heading "Challenge", "Challenges"?

18

19 Q. No, I didn't ask you about that. I distinguished
20 challenges. I accept that in such documents, challenges
21 may well be stated. But the form of words, 3.4, would
22 appear, would they not, to have been deliberately drafted
23 for this tender?

24 A. Yes.

25

26 Q. What was the point of the warning, then?

27 A. I have no idea. I didn't draft the document.

28

29 Q. I understand that.

30 A. And I don't know what the warning is now.

31

32 Q. As you sit there now as the former commanding officer
33 of this study, so called, you have no idea why those words
34 were in the form that they were in?

35 A. I don't know why those form of words were chosen
36 because I did not draft the document.

37

38 THE COMMISSIONER: All right. Thank you.

39

40 MR GRAY: Q. Looking at it now, are you concerned that
41 it seems to send a rather unfortunate message?

42 A. I don't think it sends an unfortunate message.
43 I think it indicates challenges that may or may not exist.
44 That's not exclusionary, in my view.

45

46 Q. The challenge identified is that whereas independence
47 is important, researchers connected to the gay community

1 may not be independent? That's the challenge?
2 A. May not be as independent as desirable are the words.
3
4 Q. Yes. That's the challenge?
5 A. But if that's the challenge, then so be it.
6
7 Q. But why is it a challenge? Why would people connected
8 to the gay community not be as independent as desirable?
9 A. Well, I don't know.
10
11 THE COMMISSIONER: Q. Well, can you think of that for
12 a moment. Is it saying that a member of the gay community
13 could not be trusted to be objective?
14 A. No.
15
16 Q. Really?
17 A. No. Absolutely not. I reject that.
18
19 MR GRAY: Q. When you say you reject it, do you mean,
20 I take it, that sitting here now and thinking about it for
21 the first time, you're not prepared to say that that's what
22 it meant, because you hadn't thought about it previously;
23 is that what you are saying?
24 A. I can assure you that members of the gay community as
25 researchers or academics would not ever have been excluded
26 from tendering for this particular process.
27
28 Q. (a) that wasn't my question --
29 A. Well, that's my answer.
30
31 Q. -- which I'll come back to - well, it's not an answer
32 to my question, with respect. But, second of all, the fact
33 that they weren't excluded from tendering, which is
34 obviously true, because Nicole Asquith tendered and the Lee
35 group tendered, doesn't answer my question, which was, in
36 terms of who is going to be chosen, doesn't this rather
37 indicate that researchers connected to the gay community
38 would be marked down as not being as independent as
39 desirable?
40 A. Absolutely not.
41
42 Q. Why doesn't it mean that?
43 A. I'll tell you why it doesn't mean that.
44
45 Q. No, look at the document. Look at the words of it and
46 tell me why it doesn't mean that?
47 A. Yes, I'll tell you why it doesn't mean that, and

1 that's because there's a connection to the gay community
2 from the Flinders University team.

3

4 Q. Namely?

5 A. Namely Derek Dalton and Willem de Lint. They've
6 written many research articles in relation to the gay
7 community. So why would that be exclusionary on that
8 basis?

9

10 Q. So, sorry, you're saying because they have written
11 articles about some gay-related topics, that means they're
12 connected to the gay community?

13 A. Yes. They have an interest and a connection with the
14 gay community, I would absolutely agree with that.

15

16 Q. Well, who were the - what is meant by the concept of
17 "some researchers connected to the gay community might not
18 be as independent as desirable"?

19 A. I don't know. I've been asked the question a number
20 of times now. I don't know.

21

22 Q. It's a mystery to you?

23 A. I didn't draft the document and I --

24

25 Q. It's a mystery to you; is that right, as you sit here?

26 A. I don't know, is my answer.

27

28 THE COMMISSIONER: Q. Well, I would ask you again, as
29 counsel has: when you say you don't know, and I accept
30 that you didn't draft the document, but you can't give an
31 explanation, or can you, as to why such a statement would
32 be put in?

33 A. No.

34

35 Q. I mean, surely you were looking for people qualified?

36 A. Yes.

37

38 Q. And you were looking for people who were
39 knowledgeable?

40 A. Yes.

41

42 Q. And steeped in the history of the gay community and
43 the research in the field?

44 A. Yes.

45

46 Q. Well, it's a rather strange statement if the very
47 people connected to the gay community would be the people -

1 on one view, at least as well qualified as anybody else,
2 perhaps more so - to indicate that they may not be as
3 independent by reason only of their connection?

4 A. That may be the case.

5
6 THE COMMISSIONER: All right.

7
8 MR GRAY: Q. Just turn to the next page, headed "Terms
9 of Reference", and 4.1, "Services required". Do you see
10 that?

11 A. Yes, I do.

12
13 Q. What we have now is 10 bullet points rather than 9.
14 Do you see that?

15 A. Yes.

16
17 Q. And bullet point number 1, which has been added to the
18 list that we saw previously, is:

19
20 *A collaborative approach to working with*
21 *[police] on Strikeforce Parrabell.*

22
23 Do you agree?

24 A. Yes.

25
26 Q. This is your word by this time, I take it, as the
27 commander of the strike force?

28 A. Why is it my word.

29
30 Q. Aren't you the commander of the strike force?

31 A. I've already told you I haven't drafted the document.

32
33 Q. Do you distance yourself from the document?

34 A. No, I don't.

35
36 Q. Well, do you take responsibility for the word?

37 A. I suppose I do.

38
39 Q. You suppose?

40 A. Yeah. Even though I didn't draft the document, if you
41 wish for me to take responsibility for that as a commander
42 of the operation or the strike force, then I will.

43
44 Q. Good. Okay. Have a look at 6.1, "Response Summary",
45 which says what the response should include. Do you see
46 that?

47 A. Yes.

- 1
2 Q. And the second-last bullet point is:
3
4 *Willingness and capacity to closely liaise*
5 *with Operational Programs, Strikeforce*
6 *Parrabell Team and the Corporate Sponsor,*
7 *Sexuality & Gender Diversity...*
8
9 Did you know that that was something that was required?
10 A. No. But - no, I - as I say, I don't recall the
11 document.
12
13 Q. Was this request for quotation shown to ACON?
14 A. I don't know.
15
16 Q. Turn to tab 24, [SCOI.76961], which is the supply
17 agreement, or the proposed supply agreement, this is
18 a schedule to the supply agreement starting at page 17.
19 You will see it's headed "Background", and it has sections
20 1.1 to 1.5, including 1.4, "Challenges"?
21 A. Yes.
22
23 Q. Which I suggest is in the same terms as what was in
24 the request for quotation? Were you aware of this? Did
25 you see this document?
26 A. No.
27
28 Q. The proposed contract?
29 A. No.
30
31 Q. And you see that the Terms of Reference on page 19,
32 under 2.1, "Services Required", again have as the first
33 bullet point:
34
35 *A collaborative approach to working with*
36 *[the police] on [the strike force]?*
37
38 A. Yes.
39
40 Q. Now, at tab 25, [SCOI.75775], is the response from
41 Flinders. You see a letter from Dr Dalton of 28 July?
42 A. Yes.
43
44 Q. And he says in the first paragraph:
45
46 *Thank you for asking me to submit a tender.*
47

1 Do you see that?

2 A. Yes. Yes, I do.

3

4 Q. He understands, we see from the first line of his
5 letter, that what he's submitting is a formal proposal to
6 conduct a collaborative review of the strike force?

7 A. Yes.

8

9 Q. Now, his response, then, is quite a detailed tender
10 document, which is attached, which he is sending on
11 28 July, having been sent the request for quotation on
12 22 July. It's a very quick turnaround. Were there any
13 communications with Dr Dalton between the 22nd and the 28th
14 that you know of?

15 A. Not that I know of.

16

17 Q. Or between the 19th and the 22nd, the 19th being the
18 date that Jackie Braw says she has identified Dr Dalton as
19 a possible --

20 A. Not to my knowledge. There may have been, but not to
21 my knowledge.

22

23 Q. Let's have a look at Dr Dalton's application itself,
24 and for that we need to turn over a few pages, because what
25 he attaches in the first place is the supply agreement, so
26 you need to turn through 20 pages of that, and then you
27 come to the actual tender proposal.

28 A. Yes.

29

30 Q. Have you found that?

31 A. Yes.

32

33 Q. Now, he says there are five key reasons why his team
34 should be entrusted with the task.

35 A. Yes.

36

37 Q. Number 1 is "Excellent Research Expertise", and he,
38 first of all, turns to his own credentials, saying that he
39 has extensive experience in relation to the "policing,
40 homosexuality and public space." Do you see that?

41 A. Yes.

42

43 Q. He does say, half a dozen lines down from that, that
44 he does not profess to be an expert, per se, in hate crime.
45 Agreed?

46 A. I'm sorry, I can't just see that.

47

- 1 Q. About six or seven lines lower in that first
2 paragraph, "Dalton does not profess" --
3 A. Oh, well, yes, "does not profess" --
4
- 5 Q. -- "to be an expert per se in 'hate crime'?"
6 A. "Per se", yes.
7
- 8 Q. But he says that he, nonetheless, has an excellent
9 grasp of the academic literature, et cetera.
10 A. Yes.
11
- 12 Q. Lower down that page, about five lines from the
13 bottom, in bold, Dr Dalton stresses that he has extensive
14 experience communicating with police officers and fostering
15 mutual respect, trust and cooperation with a view to
16 securing positive outcomes.
17 A. Yes.
18
- 19 Q. That seems to be directed to the topic of
20 collaboration. You would agree?
21 A. Yes.
22
- 23 Q. Not so much to the topic of independence, would you
24 say?
25 A. Probably.
26
- 27 Q. On the second page he then - this is a paragraph
28 dealing with Professor de Lint. It starts at the bottom of
29 the first page and runs over to the second page --
30 A. Yes.
31
- 32 Q. -- and in the last sentence of that passage about
33 Dr de Lint, the application says that:
34
35 *His expertise --*
36
37 *that's de Lint's --*
38
39 *... in policing culture and practices will*
40 *be crucial to the thorough approach our*
41 *team will take to this collaboration.*
42
- 43 A. Yes.
44
- 45 Q. On the third page there is a heading "Independence
46 [a guarantee of objectivity]". Do you see that?
47 A. No.

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Q. Top of the third page.

A. Yes.

Q. The first point that is raised under that heading is that this team is based in South Australia, and thus, not in New South Wales?

A. Yes.

Q. And it is suggested that this is advantageous, because the era in question was a somewhat fractious and divisive one in police LGBTIQ community relations.

A. Yes.

Q. Did you agree with that, that simply geographical separation was an advantage?

A. I think to his point of independence, it was - it was a point made.

Q. It's a point made, but did you agree with it, that somehow being in another state contributed to being more independent or objective?

A. Yes, I would think so.

Q. Why?

A. Because there's a geographical separation. Obviously no relationships with any police or any connection to anything, really.

THE COMMISSIONER: Q. Including the gay community in New South Wales?

A. Yes, not necessarily the gay community at large but the gay community in New South Wales, yes.

MR GRAY: Q. Indeed, Dr Dalton, or the application that he is submitting, goes on about six lines down:

It could be argued that a concomitant amount of what one might term baggage might be associated with some of the key players [activists, academics, media commentators, former police, etc] who have so far contributed to public commentary.

Do you see that?

A. Yes.

1 Q. First of all, under the heading "activists", both
2 Nicole Asquith and Stephen Tomsen would be found, would
3 they not?
4 A. As activists?
5
6 Q. Yes.
7 A. I don't know that I'd put them in that category.
8
9 Q. Wasn't Dr Asquith the head of the Australian Hate
10 Crime Network?
11 A. I don't know.
12
13 Q. You don't know?
14 A. No.
15
16 Q. Well, the second suggested set of people who might
17 come under the heading "baggage" are some academics?
18 A. Yes.
19
20 Q. Would that be a reference, do you think, to Dr Asquith
21 and/or Dr Stephen Tomsen?
22 A. I don't think it's a reference to anyone in
23 particular.
24
25 Q. Well, it's the key players who have so far contributed
26 to public commentary. That would certainly include Stephen
27 Tomsen and Sue Thompson, wouldn't it?
28 A. Well, I don't know. I don't know what he means by
29 "key players" to public commentary. I don't know that he's
30 talking about individual --
31
32 THE COMMISSIONER: Q. Sorry, Mr Crandell, in fairness
33 again to you, did you read this carefully when --
34 A. I would have read this document, Commissioner,
35 certainly, because I was involved in the assessment process
36 which I assume we're coming to.
37
38 THE COMMISSIONER: Thank you.
39
40 MR GRAY: Q. You see, the request for quotation, which
41 we went to, made the point, as we have discussed, "Many
42 researchers in this area are connected to the 'gay
43 community' and may not be as independent as desirable",
44 didn't it?
45 A. Yes.
46
47 Q. And it would appear that Dr Dalton is picking up on

- 1 that suggestion and addressing it head on in this sentence,
2 doesn't it?
- 3 A. Potentially.
- 4
- 5 Q. He goes on a few lines lower down in that paragraph:
6
7 *However, our team has the requisite*
8 *objectivity ...*
9
- 10 A. Yes.
- 11
- 12 Q. And:
13
14 *... (afforded by physical distance --*
15
16 *the geographical point --*
17
18 *and lack of involvement in the events under*
19 *review) ...*
20
- 21 So the objectivity is said to be, one, not from New South
22 Wales; and, two, not someone who has been involved in
23 commentary or research and the like in New South Wales
24 about these matters previously.
- 25 A. Yes.
- 26
- 27 Q. Did that persuade you, when you sat on the assessment
28 committee, that those two factors were persuasive?
- 29 A. Objectivity, I was looking for objectivity.
- 30
- 31 Q. Yes.
- 32 A. Whether or not those particular factors swayed me or
33 not, I can't recall.
- 34
- 35 Q. You can't recall?
- 36 A. No. But objectivity was important.
- 37
- 38 Q. Pardon?
- 39 A. But objectivity was important.
- 40
- 41 Q. The third topic that Dr Dalton says is a reason why
42 they should be chosen is headed, "Dedication to genuine
43 cooperation". Do you see that? On page 3, in the middle
44 of the page, there's a heading, "Dedication to genuine
45 cooperation"?
- 46 A. Yes, I do, sorry.
- 47

1 Q. Dr Dalton puts it this way in the second sentence:

2
3 *Clear lines of communication are vital to*
4 *the success of this collaboration.*
5 *Fostering transparency and genuine*
6 *cooperation between both parties [police*
7 *and academics] will foster a collaborative*
8 *spirit that will provide clarity of*
9 *purpose.*

10
11 Do you see that?

12 A. Yes.

13
14 Q. He goes on:

15
16 *By working creatively and*
17 *collaboratively ... both the police and our*
18 *academic team will craft a meticulously*
19 *well thought [out] report ...*

20
21 Do you see that?

22 A. Yes.

23
24 Q. Pausing there, that doesn't seem to be describing what
25 would be called an independent report, does it?

26 A. I think there has to be some level of collaboration.
27 I think there has to be.

28
29 Q. The whole focus of this application seems to be not
30 just some level of collaboration but that collaboration
31 would be at the heart of it. That's what he seems to be
32 saying?

33 A. Oh, no, I don't agree with that, because he goes to -
34 at lengths in the paragraph prior to talk about
35 objectivity. So I disagree with that.

36
37 Q. In that same paragraph under the heading
38 "iii. Dedication to genuine cooperation", but at the top of
39 the next page, largely in bold, he says:

40
41 *The intimate police knowledge (of the cases*
42 *under review) and our academic knowledge*
43 *will coalesce in a manner that sees a very*
44 *tightly honed report produced that both*
45 *parties will be proud to carry their mark*
46 *of authorship.*

1 And do you say that that suggests independence, this
2 coalescing?
3 A. I suggest that there is still objectivity that's
4 capable and I think that we absolutely needed to discuss
5 matters and collaborate, if you like, to get to that point.
6
7 Q. The whole focus of what he has been writing in the
8 last dozen lines is on collaboration coalescing of the two,
9 isn't it?
10 A. Yes.
11
12 Q. Not anything to do with doing it separately or
13 independently?
14 A. Yes.
15
16 Q. Under the heading, "iv. A meticulously thought out
17 approach to the brief provided", do you see the item
18 numbered iv?
19
20 *Derek to provide detailed feedback on*
21 *[Strike Force Parrabell] to allow client to*
22 *improve working understanding of review and*
23 *hone quality and scope of [Strike Force*
24 *Parrabell] this will be a two-way*
25 *process ...*
26
27 Do you see that?
28 A. Yes.
29
30 Q. So he is saying, is he - is this right - that he would
31 provide feedback which would feed in to the actual work of
32 the strike force itself in doing its review?
33 A. No. I think he's saying to improve an understanding
34 of the review.
35
36 Q. And to hone --
37 A. And to hone --
38
39 Q. -- quality and scope of the review?
40 A. Well, that - yes.
41
42 Q. Doesn't that suggest that feedback from the academics,
43 in his approach, was going to be part of the actual work of
44 the strike force?
45 A. No, I don't think so.
46
47 THE COMMISSIONER: Q. Mr Crandell --

1 A. This is --
2
3 Q. Sorry, no, please go on.
4 A. Sorry. This is well prior to them commencing, too, by
5 the way, this is a tender proposal. They were --
6
7 MR GRAY: Q. Which you accepted?
8 A. Well, yes. But that doesn't mean that that's going to
9 be exactly how we conduct our business. This is a proposal
10 from an academic team.
11
12 Q. Which you accepted?
13 A. This is not - yes, but I'm not going to sit there and
14 say, "Well, this is how you are going to operate" and hold
15 them to those eight or nine or 12 or 13 points. Obviously
16 there would be a discussion about how we're going to go
17 about that business.
18
19 THE COMMISSIONER: Q. Yes, but there was nothing in this
20 proposal which turned you off Drs Dalton and de Lint,
21 though, was there?
22 A. No.
23
24 Q. Indeed, at the top of the page - that is, the top of
25 page 4 of 7 - on the face of what he has written there, he
26 seems to have anticipated only one report; would you agree?
27 A. Yes.
28
29 THE COMMISSIONER: Okay.
30
31 Is that a convenient time, Mr Gray?
32
33 MR GRAY: Certainly, your Honour.
34
35 THE COMMISSIONER: I will take a short break, thank you.
36
37 **SHORT ADJOURNMENT**
38
39 THE COMMISSIONER: Thank you, Mr Crandell.
40
41 MR GRAY: Q. Mr Crandell, just picking up on the
42 question that the Commissioner asked before the
43 adjournment, if you still have that page open, of the
44 application, page 4 of 7 --
45 A. Yes.
46
47 Q. At number 5 on that page, the application says:

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Derek (and team) to write first draft of report in close collaboration with police as draft takes [place].

Do you see that?

A. Yes.

Q. First of all, as you understood it - this is what I think you said just before the break - it was envisaged at this point that there would just be one report?

A. No.

Q. I see. I thought that's what you said to the Commissioner.

THE COMMISSIONER: No, no. He didn't say that.

THE WITNESS: No.

THE COMMISSIONER: What I put to Mr Crandell was that at the top of that page, it would appear that Dr Dalton was proceeding upon the basis there would be one report.

MR GRAY: Yes.

Q. And you agreed with that, I think?

A. I believe so, from the nature of the document.

Q. Okay.

A. That was his belief. But --

Q. My mistake.

A. But it was never in my mind to be one.

Q. So number 5 is another example of, you would say, him having that impression or that expectation?

A. Not necessarily.

Q. Well, what does 5 mean?

A. It doesn't say --

Q. What does 5 mean to you?

A. Well, "write a first draft of report". That to me is an independent report but, as has been pointed out by his Honour --

1 Q. "In close collaboration with police" - it would be
2 independent but in close collaboration?
3 A. Yes. Well, yeah, it's an independent review and it
4 requires collaboration with the police.
5
6 Q. No, the writing of the report, he says, would be done
7 in close collaboration with the police?
8 A. Yes. That doesn't presume a single report, though.
9
10 Q. It doesn't look very independent, is my question.
11 A. It needs to be objective, independent review. There
12 will need to be collaboration with police along that
13 journey, is my view.
14
15 Q. "Close collaboration with the police"?
16 A. That's what he says in his --
17
18 Q. In the writing of the report is what he's saying here?
19 A. Yes, and that's what he's saying in his application.
20
21 Q. Well, didn't that in fact happen? Wasn't there close
22 collaboration between Flinders people and the police in the
23 writing of the Flinders report?
24 A. There was collaboration, yes.
25
26 Q. Well, let's go next to the valuation process, which is
27 at tab 22, [SCOI.77324].
28 A. Yeah.
29
30 Q. We see on the cover page that the invited vendors are
31 the three groups that we know of, the Asquith group, the
32 Lee group and the Dalton group?
33 A. Yes.
34
35 Q. And then after some explanatory material we find on
36 page 7 that the Quotation Evaluation Committee are
37 yourself, Shobha Sharma and Dr Chris Devery?
38 A. I'm sorry, what page are you on?
39
40 Q. Page 7.
41 A. Yes, that's correct.
42
43 Q. And on page 8, it seems that Jackie Braw is also an
44 evaluation member as well as being the quotation manager;
45 is that correct?
46 A. Yes, seems to be the case.
47

1 Q. And on page 9, again, there are four names, Braw,
2 Sharma, Crandell and Devery?

3 A. Yes.

4

5 Q. On page 10, there is a table which has some columns,
6 one of which is "Weighting"?

7 A. Yes.

8

9 Q. Which was the statistical or mathematical way in which
10 the tenders were going to be assessed?

11 A. Yes.

12

13 Q. Then on page 13, we get the result, "Preferred
14 vendor", the Flinders team, and signed by each of yourself,
15 Ms Braw, Ms Sharma and Dr Devery?

16 A. Yes.

17

18 Q. And the reason for selection is said to be this RFQ
19 was amongst the most comprehensive and detailed, provided
20 very good value for money and provided the highest level of
21 assurance of objectivity in completing the project?

22 A. Yes.

23

24 Q. If we just have a look at the three sets of scores, on
25 the page which is numbered in the top right in small
26 numbering, a number ending in 15, do you see the analysis
27 for the Murray et al team?

28 A. Yes.

29

30 Q. And so there are six criteria down the left-hand
31 column?

32 A. Yes.

33

34 Q. And the weighting is shown, and the third column is
35 a raw score for each of those criteria?

36 A. Yes.

37

38 Q. And the fourth column is a weighted score for those
39 criteria, and the fifth column is some comments. So the
40 Murray team, which included Tomsen, the Sydney University
41 team, was given 5 out of 5 for the second criterion and
42 third criterion, which involved capability and experience;
43 correct?

44 A. Yes.

45

46 Q. And 5 out of 5 for the last one, which is to do with
47 security clearance?

- 1 A. Yes.
2
3 Q. But is marked down, noticeably, in two categories.
4 The first one is the first criterion, as to whether the
5 proposed solution meets the requirements of the quotation?
6 A. Yes.
7
8 Q. The Lee/Tomsen/Crofts application is only given 2.5
9 out of 5 for that. Do you see that?
10 A. Sorry, the first one?
11
12 Q. Yes.
13 A. Yes.
14
15 Q. And:
16
17 *Application was threadbare ... The detail*
18 *of the proposal was unclear.*
19
20 They are also marked down more heavily on the fourth
21 criterion which was to do with objectivity; do you see
22 that?
23 A. Yes.
24
25 Q. The comment for that is:
26
27 *There is an association with Sydney*
28 *University and [the police].*
29
30 What's that a reference to?
31 A. I can't tell you, but there's an association with
32 police and University of Sydney, I suppose.
33
34 Q. Weren't you one of the people who made this decision
35 on this basis?
36 A. I was one of the people that was involved in the
37 assessment, yes.
38
39 Q. What does it mean to say:
40
41 *There is an association with Sydney*
42 *University and [the police]?*
43
44 A. Exactly that.
45
46 Q. Could you expand? What's the association?
47 A. Well, I presume the association with Stephen Tomsen

1 and Murray Lee, that there would be some association with
2 the Police Force.

3
4 Q. And how is that something that marks them down?

5 A. Well, whether that impacts on objectivity or not,
6 I guess, because the criteria is "Demonstrated objectivity
7 to ensure independent evaluation".

8
9 Q. Well, my question is: what was the association
10 between Sydney University and the police that indicated
11 some problem with objectivity?

12 A. Well, I don't recall what the actual --

13
14 THE COMMISSIONER: Q. It goes on, Mr Crandell:

15
16 *One of the team - Tomsen - has an*
17 *undisclosed association.*

18
19 Is that a different one to the one that is said to be
20 between the university and the team?

21 A. I don't know.

22
23 MR GRAY: Q. What was the undisclosed association?

24 A. I don't know.

25
26 Q.

27 *There is no evidence --*

28
29 in the Tomsen team's application --

30
31 *... declaring and dealing with this*
32 *association.*

33
34 What was it?

35 A. I don't know.

36
37 Q. They've been marked down very heavily to 2 out of 5 in
38 an item that has a 20 per cent weighting. That's a pretty
39 important part of the marking. You've no idea what it
40 relates to?

41 A. Well, it's all important parts of the marking, in
42 fairness. I mean, the weighting above that was 30 per cent
43 and he got 5 out of 5.

44
45 Q. Looking at the one that I'm asking you about --

46 A. Yes.

47

1 Q. -- it's 2 out of 5 for this one for associations but
2 you can't tell us anything about what that might have been
3 a reference to?
4 A. I don't remember what that was.
5
6 THE COMMISSIONER: Q. Who completed this form for you to
7 sign?
8 A. Either Shobha Sharma or Jackie Braw.
9
10 Q. But can we assume, though, that the comments in the
11 "Comment" column represent the joint views of the selection
12 panel?
13 A. I would suspect so.
14
15 Q. But at the moment, you have no idea what the
16 association, disclosed or undisclosed, was and why it had
17 a negative impact on that portion of the score?
18 A. No. That's correct.
19
20 MR GRAY: Q. So we would have to ask somebody else on
21 the panel?
22 A. Yeah, I imagine so.
23
24 Q. In the second criterion, "Demonstrated capability",
25 the comment is:
26
27 *Lead researcher is a criminologist ...*
28
29 Is that a reference to Professor Lee?
30 A. I'm sorry, where are you, sorry?
31
32 Q. Second criterion, comment on the right-hand side?
33 A. "Capability", yes.
34
35 Q.
36 *Lead researcher is a criminologist ...*
37
38 Is that a reference to Professor Lee?
39 A. I don't - I don't know. Whoever the lead researcher
40 is, I would imagine.
41
42 Q. You now don't know who that was?
43 A. No, well, if you point me to it in the documents I
44 could probably identify that lead researcher for you.
45
46 Q. My questions are directed to what you now remember,
47 and the answer seems to be not much?

1 A. I don't - I don't remember this document.
2
3 Q. Then the comment is also made:
4
5 *Tomsen is [the] most well known researcher*
6 *in this area.*
7
8 Is that something that you know or agree with?
9 A. I would agree with it. That's why they got maximum
10 marks.
11
12 Q. As did all the others, as it turns out?
13 A. Well, if you're telling me that, okay.
14
15 Q. All right. Well, that's the marking of the Murray/Lee
16 group, referred to as "Murray et al". So each criterion
17 being worth 5 points, if we added them up just unweighted,
18 they're a score out of 30, so they only get 23.5 out of 30
19 because they fare very badly on criterion 1 and 4 in
20 particular and they're also marked down a little bit on
21 value for money?
22 A. Okay.
23
24 Q. Then we go to the next page, the Asquith tender. They
25 get a perfect score of 5 out of 5 on criteria 1, 2, 3 and
26 6. Do you see that?
27 A. 1, 2, 3 and 6, yes.
28
29 Q. They're marked down slightly on the objectivity
30 point - and I want to ask you about that. The first
31 comment on that topic is:
32
33 *One University - Western Sydney - does work*
34 *for [the police].*
35
36 A. Yes.
37
38 Q.
39 *This association and a potential*
40 *association/conflict dating some years back*
41 *were declared and dealt with in the*
42 *application.*
43
44 Do you have any recollection now of what that's referring
45 to?
46 A. No, I don't.
47

1 Q. And separating the two sentences, does the first
2 sentence, that one university does work for the police, in
3 your mind amount to a factor that would involve marking
4 them down?
5 A. I would think so - potentially.
6
7 Q. You see, initially, you had in mind that
8 Nicole Asquith would be the very person who would be
9 suitable to do this, didn't you?
10 A. Yes.
11
12 Q. Precisely because she had - she was one of those
13 people who had made presentations, and so on, to the
14 police?
15 A. Yes.
16
17 Q. And did your thinking change in that regard?
18 A. I don't think my thinking would have changed. I would
19 have tried to be as objective as I possibly could, in the
20 process.
21
22 Q. Well, now, it turns out that having done work for the
23 NSW Police is a negative factor, apparently, because it
24 involves marking them down?
25 A. Well, I wanted objectivity, is what I was after.
26 I was keen to get objectivity --
27
28 Q. What's the answer to my --
29 A. -- so I would not want to select somebody that was
30 necessarily very, very close to the police or - I would
31 want to see objectivity. That would have been in my mind.
32
33 Q. And was she very, very close to the police?
34 A. Well, I knew of her in - as the Corporate Sponsor for
35 Sexuality and Gender Diversity and I knew of her
36 university. So I mean, I wouldn't want a suggestion that
37 I had hand-picked reviewers at all. I wouldn't want that
38 suggestion. I wanted objectivity and I believe that's what
39 I got.
40
41 THE COMMISSIONER: Q. But most importantly, though, you
42 would want the requisite expertise in the area, wouldn't
43 you? If it was to be a truly academic exercise, wouldn't
44 you be looking for the best qualified person?
45 A. Yes, the best qualified person with objectivity, and
46 demonstrated objectivity.
47

1 Q. Well, I'm assuming that most academic researchers have
2 objectivity. That's why they're perhaps in research. It
3 doesn't necessarily follow, I accept. But wouldn't the
4 most significant factor be the level of their experience in
5 the particular area of motivation that you were concerned
6 about?

7 A. No, I think that's a factor. I don't think it's the
8 most significant factor necessarily.

9

10 Q. Okay. So you - okay, all right.

11

12 MR GRAY: Q. On Asquith, did you, and do you, regard her
13 as actually objective, even though she'd given
14 presentations to the police?

15 A. I think she would be seen as objective. I don't see
16 why not. But there was an association with her and her
17 university, there is no doubt about that.

18

19 Q. I understand, hence my question. Apart from the fact
20 that she and her university had had some dealings with the
21 police over the years by way of presentations and so on, is
22 there any other factor about Nicole Asquith or her
23 colleague that in any way, in your mind, indicate a lack of
24 objectivity?

25 A. No.

26

27 Q. And we find that the area where the Asquith tender was
28 marked down more significantly was in the value for money
29 criterion because it was more expensive than the others?

30 A. Mmm-hmm.

31

32 Q. Is that right?

33 A. Yes.

34

35 Q. Then we get to the third one, which is the Dalton et
36 al scoring, and they turn out to get 5 out of 5, perfect
37 score, for every single criterion?

38 A. Yes.

39

40 Q. Insofar as objectivity is concerned, the comment is
41 that they're from outside New South Wales - do you see
42 that?

43 A. Yes.

44

45 Q. And:

46

47 *... demonstrates the most objectivity of*

1 *all ...*

2

3 How did they do that, demonstrate the most objectivity?

4 A. Well, they have no contact with the communities of
5 LGBTIQ of New South Wales.

6

7 THE COMMISSIONER: Q. I'm sorry, they did --

8 A. They have no connection with the communities of LGBTIQ
9 people in New South Wales.

10

11 Q. And you saw a lack of contact with the community as
12 being a distinct advantage, did you?

13 A. I saw it as being - as increasing their objectivity.

14

15 Q. Why?

16 A. Because there was no connection at all with the
17 community. There was no influence, there was no --

18

19 Q. Bit what would connection - what would connection do
20 with their objectivity if they were highly qualified
21 academically otherwise? Wouldn't it enhance your ability
22 to say that you had been second-guessed, as it were, by
23 a highly expert team who knew what they were talking about?

24 A. It may well have been, Commissioner. I - to my mind,
25 I tried to assess each application independently and
26 objectively. That was my goal. I wasn't trying to be
27 influenced by any particular application, necessarily.
28 I wanted to get a complete objective and, as it turns out
29 also, collaborative review.

30

31 Q. All right.

32 A. And I believe that's what I got.

33

34 MR GRAY: Q. Now, every tenderer, as we have seen, every
35 single one, was assessed as 5 out of 5 for criterion 2 and
36 3 - that is, capability to provide services and experience
37 in doing so?

38 A. Yes.

39

40 Q. Would that suggest that experience and expertise in
41 hate crime and bias crime was not considered particularly
42 important?

43 A. No, I don't think so.

44

45 Q. Because there was a clear discrepancy in the area of
46 experience, wasn't there, relevant hate crime and bias
47 crime experience? That is to say, Asquith and Tomsen both

1 had a very large amount of experience and credentials in
2 that field, whereas Dr Dalton very fairly acknowledged in
3 his application that he did not?
4 A. Well, no, he said he wasn't an expert in that field.
5 That didn't necessarily mean that he didn't have experience
6 in that field, so I would disagree with that.
7
8 Q. All right. I'll go back to what he said, then. His
9 words were --
10 A. Can I go do that document?
11
12 Q. Sure. Tab 25, [SCOI.75775], halfway down the page -
13 you need to find the proposal. It's after the 20 pages?
14 A. Yes, page --
15
16 Q. And then it's page 1.
17
18 THE COMMISSIONER: Or alternatively, up in the upper
19 right-hand corner, it's 0025.
20
21 THE WITNESS: Thank you.
22
23 MR GRAY: Q. Have you got it?
24 A. Yes.
25
26 Q. So it's the bit we looked at before in the last few
27 lines of the first paragraph:
28
29 *Dalton does not profess to be expert per se*
30 *in "hate crime" ...*
31
32 A. Yes.
33
34 Q. Pausing there - I'll come to the rest of the sentence
35 but pausing there, Tomsen and Asquith manifestly were
36 expert per se in hate crime, weren't they?
37 A. Well, I don't know that I would classify them as
38 experts. I don't know that.
39
40 Q. Really?
41 A. Well, what's the classification? I don't know.
42
43 THE COMMISSIONER: Q. I presume you invited them to
44 tender on the basis they had experience in the area,
45 though?
46 A. They had experience in the area. I don't know if
47 I would say expertise, necessarily.

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Q. Really? Professor Tomsen had written about this for years and years, hadn't he?

A. Well, yes.

Q. That's just experience, is it, writing, as opposed to academic research in the area?

A. Well, I don't know what the definition of expertise is, your Honour, but --

Q. Well, I presume you invited both Professor Lee and his group and Professor Asquith and her group because of - I'm sorry, I shouldn't put words into your mouth. You only invited them because of their experience not because of their expertise; you draw a distinction, do you?

A. Oh, not necessarily. I'm just saying I don't know whether or not I can say expertise. They may well be experts in their area. I was happy to invite them to tender, obviously.

Q. Well, I'm sure you were happy for them to tender, but do you really seriously suggest, given the fact that you wanted expert, objective determination, that you did not invite either Professors Asquith or Tomsen because of their expertise?

A. No, I'm not suggesting that.

THE COMMISSIONER: Right. Okay.

MR GRAY: Q. In the table of the evaluation panel that we looked at a moment ago, the comment in respect of the Murray/Lee team was:

Tomsen is most well known researcher in this area.

Doesn't that suggest he was something of an expert in the field?

A. I don't want to get caught up on a term. Expert, fine. Experience, fine.

Q. Well, I do want you to get caught up on a term. Wasn't Tomsen an expert in the field --

A. As - yeah, okay.

Q. -- surely to goodness?

A. Okay.

1
2 Q. Why are you resisting this?
3 A. Because I - because I'm thinking of the definition of
4 an expert is all I'm saying. I don't know --
5
6 THE COMMISSIONER: Q. And you tell me what you --
7 A. Well, I don't know. I'm saying that there would be
8 a definition of an expert. I don't know whether Tomsen
9 fits into that category.
10
11 Q. Mr Crandell, are you seriously suggesting that you
12 don't have any idea in your own mind what an expert might
13 be?
14 A. I think he has expertise, your Honour.
15
16 Q. You think he has expertise?
17 A. Yes, yes. Given his experience, yes.
18
19 MR GRAY: Q. The contrast I'm drawing for you, which you
20 are resisting, and may continue to resist --
21
22 MR TEDESCHI: I object.
23
24 MR GRAY: Q. -- is that while Dalton said in his
25 application up-front that he, Dalton, does not profess to
26 be expert per se in hate crime, I'm suggesting to you that
27 you knew full well that Tomsen and, indeed, Asquith, were
28 expert in hate crime. Now, do you accept that or do you
29 dispute it?
30 A. No, I dispute it.
31
32 Q. On what ground?
33 A. Well, you haven't read all of Professor Dalton's
34 application, so --
35
36 Q. I'm coming to that.
37 A. You've stopped me --
38
39 Q. Please. Please, Mr Crandell, just wait. I'm asking
40 you about "expert in hate crime". That's the question.
41 I'll come to the balance of the sentence in a minute as
42 I said I would. Now, back to the question. Dalton says,
43 "I'm not an expert in hate crime"?
44 A. "Expert per se".
45
46 Q. Per se in hate crime?
47 A. In hate crime, is what he says.

1
2 Q. And didn't you know that, by contrast, Tomsen and
3 Asquith were expert in hate crime?
4 A. I don't believe that it's that cut and dried.
5
6 Q. What is the reason why you won't accept that Tomsen
7 and Asquith were expert in hate crime?
8 A. Because of the rest of the sentence that you haven't
9 come to.
10
11 Q. I'm asking about Tomsen and Asquith.
12 A. Yes.
13
14 Q. Why are they not expert in hate crime?
15 A. I'm not saying they're not expert. I've just been
16 through that. I'm not saying they're not experts.
17
18 Q. Excuse me, wait, wait, wait, wait, wait. Do you say
19 they are expert in hate crime?
20 A. Yes.
21
22 Q. Thank you. And Dalton was not, per se?
23 A. No, I'm not - no, you need to read the rest of that
24 sentence in order --
25
26 Q. I'm coming to that, Dalton was not per se --
27 A. No, I'm not prepared to say that he - he's not per se
28 an expert in hate crime, but he, nonetheless --
29
30 Q. And I'm coming to the rest of the sentence, but
31 pausing there, that's a distinction, isn't it, between the
32 two?
33 A. Yes.
34
35 Q. And yet you gave them, all three of them, 5 out of 5
36 on that topic?
37 A. Yes.
38
39 Q. Why?
40 A. I can't tell you. I don't remember the document and
41 I don't remember the discussion.
42
43 Q. Is it because you didn't regard expertise in hate
44 crime as a significant factor?
45 A. No, it's because I was thinking about experience in
46 the field of hate crime and I believe that Professor Dalton
47 and his team had sufficient experience.

1
2 THE COMMISSIONER: Q. Now, experience, he goes on -
3 Mr Gray will ask you about - his experience would appear to
4 be, in this field, awareness of academic literature,
5 wouldn't it?
6 A. Well, Commissioner, in his opening sentence - second
7 opening sentence, he says he has extensive experience
8 conducting and publishing research in relation to the
9 policing, homosexuality and public space.
10
11 Q. Yes, and that's not hate crime, is it?
12 A. Well, no, technically, no.
13
14 Q. Well, when you say "technically", Mr Crandell, it's
15 Professor Dalton, isn't it, who, no doubt out of a desire
16 to be candid, was telling you that he did not profess -
17 although he had experience with policing and things of that
18 sort, he wanted to be candid, so it seems, to tell you that
19 he was not an expert per se in hate crime, but nonetheless,
20 he, and by implication the others, had an excellent grasp
21 of the literature?
22 A. Yes.
23
24 Q. Much of which, you knew, had been written at least by
25 Professor Tomsen?
26 A. Yes.
27
28 THE COMMISSIONER: Okay.
29
30 MR GRAY: Q. So what's the experience that you're saying
31 that Dalton had, apart from familiarity with the
32 literature?
33 A. Well, what he has written in his application,
34 particularly where he says, "particularly as it relates to
35 the commission and indicators of homophobic violence (bias
36 crime)".
37
38 Q. Where are you reading from? Are you reading from --
39 A. I'm reading from the second part of the sentence.
40
41 Q. Yes, but about the literature, he has a grasp of the
42 literature?
43 A. Of academic literature, that's right.
44
45 Q. What's the experience that he has apart from grasp of
46 the literature?
47 A. Well, I don't know.

1
2 Q. He doesn't --
3 A. That's --
4
5 Q. He doesn't say that he has any, does he?
6 A. No, he goes on to say what he has done in that field.
7
8 Q. Well, he doesn't go on to say --
9 A. He doesn't?
10
11 Q. Well, I withdraw that. So you're referring to the
12 fact that 10 or 12 years earlier he had given a one-hour
13 lecture?
14
15 MR TEDESCHI: I object. The paragraph contains details.
16 To isolate it to one of them is unfair.
17
18 MR GRAY: One at a time.
19
20 Q. Is that what you are referring to?
21 A. No. I'm referring to the entire paragraph that he
22 writes.
23
24 Q. So a one-hour lecture in 2004 - yeah? Is that right?
25 A. Yes.
26
27 Q. That's the first one?
28 A. Yes.
29
30 Q. A keynote address in 2006 headed, "International
31 perspectives on community building between police and the
32 GLBTI community"?
33 A. Yes.
34
35 Q. And that for three years from 2004 to 2007, he
36 attended monthly meetings of the GLBTIQ South Australian
37 Police Focus Group?
38 A. Yes.
39
40 Q. Right. So that's what you're referring to as
41 experience in hate crime, is it?
42 A. Yes.
43
44 Q. I see. So the question --
45 A. As well as what he said in the first paragraph.
46
47 Q. "Policing, homosexuality and public space"?

1 A. No, "extensive" - yes, "extensive experience
2 conducting and publishing research in relation to policing,
3 homosexuality and public space. Now --

4
5 THE COMMISSIONER: Q. And you know what he - I am so
6 sorry, you go on.

7 A. He continues and says:

8
9 *In particular ... research [published in*
10 *leading national and International*
11 *journals] ... primarily focused on*
12 *problematic "Beat" spaces where men*
13 *congregate to organise or engage in sex.*

14
15 And then he continues on.

16
17 MR GRAY: Q. He does continue on.

18 A. And goes on and on and on.

19
20 Q. And he mentions nothing anywhere in all of that about
21 hate crime, does he?

22 A. Yes, he does. Well, he talks about bias crime. So
23 "bias", "hate", I think that's synonymous. So, yes, he
24 does.

25
26 Q. Well, are you now referring to the last words of the
27 paragraph in square brackets?

28 A. Yes.

29
30 Q. Where he's talking about his familiarity with the
31 literature?

32 A. Yes.

33
34 Q. All right.

35 A. And everything that he does in relation to that on the
36 way to that conclusion.

37
38 Q. All right, Mr Crandell. We've been around that bush
39 enough, I think I'll move on. Now, the executed supply
40 agreement we find at tab 31 [SCOI.77325]. I don't need to
41 take you to it, but it's dated 5 October 2016. It's in the
42 same form as the unsigned one we saw earlier, I take it.

43 A. Sorry, 5 October 2016, did you say?

44
45 Q. Yes.

46 A. Yes.

47

1 Q. I don't need to take you to these unless you want to
2 say something about them, but there were two later
3 variations, as I understand it, one to extend the time?
4 A. Yes.
5
6 Q. And one to refer to a slight increase in the payment?
7 A. In costs, yes.
8
9 Q. Now, let me move now to the review itself in the
10 framework of whether it was independent on the one hand or
11 collaborative on the other hand, and just show you a few of
12 the emails that passed among various people over the period
13 of that review. We need volume 3 for this. If you could
14 turn to tab 73, [SC0I.74366], please?
15 A. Yes.
16
17 Q. Now, the contract that we just looked at had been
18 signed on or executed on 5 October 2016. So here we are
19 two weeks later, 19 October 2016; do you see that?
20 A. Yes.
21
22 Q. What this email is about is a proposed meeting on the
23 coming Friday, namely, the 21st.
24 A. Yes.
25
26 Q. You're not in the email, of course, but do you recall
27 that there was indeed a meeting on 20 and 21 October when
28 Dr Dalton came to Sydney?
29 A. Yes.
30
31 Q. If we turn to 74, [SC0I.78710], there is a kind of
32 notification of the fact of the meeting, if I can call it
33 that?
34 A. Yes.
35
36 Q. The proposed agenda, or rough agenda, is set out by
37 Jackie Braw for 21 October, and it involves Dr Dalton
38 meeting with you and then perhaps a meeting of a larger
39 group at 10 o'clock, then a presentation by the strike
40 force of their methodology and results to date, and then
41 some informal time with the strike force team to discuss
42 results, et cetera.
43 A. Yes.
44
45 Q. Now, that meeting did occur, or that visit did occur?
46 A. I believe so.
47

1 Q. Pardon?
2 A. I believe so, yes.
3
4 Q. Do you have a memory of it?
5 A. Oh, a vague memory, yes, that I would have definitely
6 spoken to him when he first started.
7
8 Q. There don't seem to be, as far as what's been produced
9 to us, any minutes or notes or record of this meeting. Are
10 you aware of why that might be so?
11 A. No, I don't. I don't know.
12
13 Q. Would you expect there to have been --
14 A. Normally, if Jackie --
15
16 Q. -- minutes?
17 A. Yes. Normally if Jackie arranges a meeting there's
18 minutes taken.
19
20 Q. He seems to have been in Sydney, I think, from what
21 I have seen, on at least one full day and possibly two full
22 days, and he seems to have had meetings, as we saw in that
23 previous document, at least on one of those days?
24 A. Yes.
25
26 Q. But there are no notes or minutes of that meeting that
27 have been produced. But you can't shed any light on that?
28 A. No. I don't know. It would have been an initial
29 meeting to work out how to proceed.
30
31 Q. Can I move you over, then, to tab 79, [SCOI.74394],
32 which is another email chain which is about two weeks later
33 in early November 2016?
34 A. Yes.
35
36 Q. I should start you from the back so you get the
37 context. The very last one in the chain, which is on the
38 page numbered 5, is Dr Dalton to Mr Middleton, saying that
39 he had been unwell and saying that he would be happy to
40 start receiving the documents.
41 A. Yes.
42
43 Q. Mr Middleton replies in the middle of page 5 saying
44 that he's going to start sending him some completed
45 indicator forms shortly.
46 A. Yes.
47

- 1 Q. Then there are a couple more emails along that theme.
2 Then the ones that I wanted to come to were the one
3 starting at the bottom of page 2 which is now a month
4 later, it's now December 2016. Do you see from Derek
5 Dalton to Craig Middleton, 12 December 2016?
6 A. "Dear Craig and Paul"?
7
8 Q. The bottom of page 2?
9 A. Yes.
10
11 Q. He says that he has read all 70 cases - this is in the
12 third sentence?
13 A. Yes.
14
15 Q. And then at the top of page 3, he says:
16
17 *For what it is worth, I have approximately*
18 *13 cases that I might classify differently.*
19 *... this was always likely to be the case.*
20
21 But then he says:
22
23 *This morning --*
24
25 that is 12 December --
26
27 *Willem --*
28
29 that is de Lint --
30
31 *and I had a fruitful discussion with*
32 *Jackie, [you], Shobha [Sharma] and Geoff*
33 *Steer this morning for one hour (as*
34 *instigated by [the] police).*
35
36 Do you have a recollection of what that --
37 A. I'm sorry, could you just point me to that? Is that
38 on page 2?
39
40 Q. It starts - the email starts on the bottom of
41 page 2 --
42 A. And it goes over.
43
44 Q. And the passage that I read from starts at the top of
45 page 3, referring to a fruitful discussion involving
46 yourself and others.
47 A. Sorry, is that - is that in addition to the original

1 meeting that we've had?
2
3 Q. Well, this is what I'm coming to. It may not have
4 been a meeting in person. That's one of the things I'm not
5 sure about.
6 A. I doubt that it was in person, only because of the
7 distance factor.
8
9 Q. He says they had a "fruitful discussion" with you for
10 an hour?
11 A. Yes.
12
13 Q. Do you recall this?
14 A. I don't.
15
16 Q. Do you have any idea what it was about?
17 A. Oh, well, I'll - I would say the review, but when it's
18 got - is this with Jackie, me, Shobha and Geoff Steer?
19
20 Q. Yes.
21 A. Yes, so it would have something to do with --
22
23 Q. There is another document, which someone will remind
24 me what tab it is, which suggests that Mr Steer gave
25 a presentation to somebody on that day, 12 December. Does
26 that ring a bell with you? Do you recall a meeting in
27 which Dalton was present when Sergeant Steer gave
28 a presentation?
29 A. No - do you recall who Sergeant Steer gave the
30 presentation to? Was that to other - another group or to
31 myself?
32
33 Q. That's what I'm asking you.
34 A. Oh, I - I don't have an independent recollection, no.
35
36 Q. You don't recall?
37 A. No, I'm sorry.
38
39 Q. All right. What I wanted to just go to, then, is the
40 email that starts at the bottom of page 1 from you to
41 Mr Middleton --
42 A. Yes.
43
44 Q. -- of the same day, 12 December. Do you see that?
45 A. Yes.
46
47 Q. You're running past Mr Middleton a proposal, before

1 sending it to the academics. Do you see that?
2 A. Yes.
3
4 Q. And the proposal is what then follows, which includes
5 six numbered points?
6 A. Yes.
7
8 Q. What you were proposing was that the position of the
9 Parrabell investigators regarding the cases reviews had
10 been indicated, number 2:
11
12 *The Bias Crimes Coordinator --*
13
14 Mr Steer --
15
16 *has also conducted a review of specific*
17 *cases which require further discussion ...*
18
19 Is that a reference to what is later referred to as the
20 "dip sample"?
21 A. Yes. I believe so. But that - sorry, I'm just
22 looking at the date on that. That's 2016.
23
24 Q. December 2016?
25 A. So I would say so.
26
27 Q. Then number 3 is:
28
29 *Any position taken on any case by the*
30 *[police] will be subject to further*
31 *discussions with the research team.*
32
33 A. Yes.
34
35 Q. That would indicate, wouldn't it, that the police were
36 inviting the academics to give them their own views on what
37 the police should say?
38 A. Oh, I think it was more a case of having discussion so
39 that the research team understood why we had come to the
40 positions that we did.
41
42 Q. Well, it says "subject to". It will be a position of
43 the police but it will be subject to what the research team
44 contributes.
45 A. No, subject to further discussions with the research
46 team.
47

1 Q. Quite.

2 A. Yes.

3

4 Q. So the position of the police would be subject to
5 discussions with the academics?

6 A. No, no, no.

7

8 Q. Isn't that what it says?

9 A. No. I'm saying that the position taken on any case
10 will be subject to further discussions --

11

12 Q. With the research team?

13 A. -- the way I read that - yeah. So we've taken
14 a position on the case and we're going to have discussions
15 with Parrabell - with the research team.

16

17 Q. And why would you do that?

18 A. So that they understood our methodology and the way
19 that we went about our process, and why we arrived at the
20 decisions that we did, the findings that --

21

22 THE COMMISSIONER: Q. So as to - sorry, please go on.

23 A. Sorry, I was going to say the findings that we made,
24 your Honour.

25

26 Q. And this was to explore, wasn't it, your agreements,
27 or disagreements?

28 A. Yes.

29

30 Q. And was it in order to try to persuade the academic
31 team that the position you had come to was the correct one?

32 A. No.

33

34 Q. Right?

35 A. No, because the --

36

37 Q. Why didn't you just leave them alone to do their own
38 thoughts in their own time without any discussion? Why was
39 it necessary for you to explain your reasoning process?
40 What was the relevance of your reasoning process to the
41 objective academic team?

42 A. Because I wanted to explain to them how we came to
43 those findings.

44

45 Q. Yes.

46 A. And I wanted to learn from them, because they may have
47 well - and in fact they did - come up with a different way

1 of assessing bias crime.

2

3 Q. Well, that's because they didn't think your form was
4 any good. But what I'm really trying to understand,
5 though, is what was the point of you telling them your
6 reasoning process unless it was to persuade them that you
7 had got it right?

8 A. No. No, it wasn't to persuade them. It was to learn
9 from them.

10

11 Q. Okay.

12 A. Because they may well have come up with something that
13 we had missed or we had --

14

15 Q. I see.

16 A. -- had a different view on.

17

18 Q. I see. So it was a possibility that one of your
19 experienced, hand-picked investigators might have missed
20 something that an academic from South Australia might be
21 able to see?

22 A. Yes.

23

24 THE COMMISSIONER: I see. Thank you.

25

26 MR GRAY: Q. Just before I come back to that, so that
27 I don't forget this, so the reference to a contribution by
28 Mr Steer on 12 December that I flagged a few minutes ago --
29 A. Yes.

30

31 Q. -- comes from a document which I would just like you
32 to see, if you could. It is in volume 10, tab 246,
33 [SCOI.79856]?

34 A. Yes.

35

36 Q. Now, that's Dr Dalton to Mr Steer, Sergeant Steer, on
37 the day that I was talking about, 12 December?

38 A. Yes.

39

40 Q. He says:

41

42 *It was really good to have your*
43 *contribution today.*

44

45 Et cetera, and I've been through this with you on another
46 topic?

47 A. Yes.

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Q. But I suppose my question is: do you recall being, yourself, present at some either meeting or telephone hook-up on 12 December, where Dr Dalton was getting a contribution from Mr Steer?

A. I don't. I don't remember.

Q. You don't remember?

A. I don't.

Q. All right. Back to where we were in tab 79, [SCOI.74394], and back on the bottom of the page there are the six numbered points that you were proposing. Number 3 is, as we established:

Any position taken on any case by the [police] will be subject to further discussions with the research team.

A. Yes.

Q. And then number 4 is:

The Bias Crimes Coordinator --

that is, Mr Steer --

will review specific cases where agreement cannot be reached between [the] investigators and the Research Team to enhance further discussion around appropriate classifications.

Do you see that?

A. Yes, I do.

Q. So it seems that an objective was that agreement be reached between the investigators and the research team if possible; is that right?

A. Well, yes, about the classifications, yes.

Q. Right. And why was that an objective, if they were to be independent?

A. So - because in terms of the methodology and the review system that we chose, there may have been other aspects that we might have missed or whatever, and I thought it was important for us to discuss those, to see

1 if we could learn from that.

2

3 Q. Not just learn, but reach agreement, was the
4 objective, apparently?

5 A. Well, I don't necessarily - I don't think that my
6 objective was to reach agreement, because if that was the
7 case, I would want to have had identical reports and
8 identical outcomes and that was never ever in my mind.

9

10 THE COMMISSIONER: Q. No, if you wanted to approach it,
11 another way of looking at it might have been, as I think
12 I have suggested before, that you provided your completed
13 forms to the academics, if they had any questions about how
14 the form was completed and so on, you would then just leave
15 them alone to come to their own views, wouldn't you, if you
16 wanted an entirely arm's-length objective result?

17 A. If I wanted it just by paper review only,
18 Commissioner, yes.

19

20 Q. If you wanted - I'm sorry?

21 A. If I wanted the paper review only --

22

23 Q. Well, that's what you were doing

24 A. -- and no input --

25

26 Q. That's what you were doing, a paper review.

27 A. Yes.

28

29 Q. All they were going to be doing was, likewise, on your
30 paper?

31 A. Yes, but they didn't have to do that; they could
32 discuss matters with the investigation team.

33

34 Q. Of course they could, but one thing was clear, though,
35 they weren't investigators and they were, as you intended,
36 going to be entirely reliant upon the views expressed in
37 the forms that had been filled out?

38 A. Yes, that's correct.

39

40 Q. Well, they never looked at any original documents
41 themselves?

42 A. Not - well, I don't - I can't say never. I don't know
43 if they saw any original documents.

44

45 Q. Well, it wasn't the intention that they go over
46 everything your officers had gone over?

47 A. No. No, it was not.

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MR GRAY: Q. What I want to suggest to you, Mr Crandell, is that if you take 3 and 4 together, 3 being "any position on any case by the police will be subject to further discussions with the research team" --

A. Yes.

Q. -- and then adding to that 4, "The Bias Crimes Coordinator will review specific cases where agreement can't be reached between the investigators and the research team" --

A. Yes.

Q. -- what is, it would seem, being said is that the position taken by the police would be considered by the academics; the academics would say whether they agreed with it or not; and the object would be that agreement would then be reached?

A. No.

Q. Isn't that what this --

A. No.

Q. Isn't that what 3 and 4 say?

A. No. I - that was not in my mind, to have a complete agreement between us and the researchers.

Q. Right.

THE COMMISSIONER: Q. Was it in your mind to minimise disagreement?

A. No. It was in my mind to learn as much as I could about classifications of bias crimes so that I could then improve the way that we do that in the NSW Police Force moving forward.

Q. No, I'm sorry, that might ever been in your head, but I thought one of the objectives was to provide an independent academic review of your methodology and process?

A. Yes.

Q. All right. Well, then - okay - as opposed to learning from them; it wasn't really a learning curve from your point of view. You had experienced investigators, you have told me a number of times. And what were you thinking you might learn from these academics from South Australia?

1 A. I'm not - I thought I might learn a different
2 methodology for identifying bias crime.
3
4 Q. Well, they told you yours --
5 A. That's what I thought.
6
7 Q. They told you yours, in the end, was a surprise to
8 them that you had actually used it?
9 A. That was in the final report, yes.
10
11 Q. Yes, of course. But the point about it is part of
12 your process was not just to have an academic review but to
13 learn whether or not you had done the right thing by way of
14 the choice of methodology?
15 A. Yes.
16
17 THE COMMISSIONER: Okay, thank you.
18
19 MR GRAY: Q. Just focusing on number 4 by itself, what
20 you were proposing seems to be that where agreement had not
21 been reached between the police and the researchers,
22 Mr Steer would be brought in to be a kind of referee?
23 A. So --
24
25 Q. Is that right?
26 A. Yes --
27
28 Q. Is that what was being said there?
29 A. Yes. Can I explain?
30
31 Q. Certainly.
32 A. So the academic reviewers would come up with
33 a classification. The Strike Force Parrabell team would
34 also come up with a classification. Where there was
35 disagreement in terms of those classifications, then
36 I thought it appropriate for Geoff Steer to have a look at
37 that and see what aspects might be valuable to us.
38
39 Q. And did that ever --
40 A. That's what I mean by that
41
42 Q. Sorry.
43 A. Sorry, yes.
44
45 Q. Did that ever happen, is my question.
46 A. Well, yes, I believe it did, because there was
47 a meeting - and I can't remember the date --

1
2 Q. The dip sample?
3 A. Yes.
4
5 Q. Well, that was 12 cases, certainly?
6 A. Yes.
7
8 Q. But apart from the dip sample meeting, this process of
9 refereeing didn't otherwise happen, did it?
10 A. No, but these are just the cases where there's
11 a difference of outcome, a difference of finding.
12
13 Q. And I think as we - well, the document will speak for
14 itself. There is a document, we looked at it yesterday,
15 which on its face records the upshot of that meeting, the
16 dip sample meeting.
17 A. Yes. Yes.
18
19 Q. All right. Well, that's number 4. Number 5 is:
20
21 *The Research Team will bring their position*
22 *on all cases to a meeting between [the*
23 *Parrabell police] and [Mr Steer] for*
24 *further discussion prior to final positions*
25 *being taken.*
26
27 A. Yes.
28
29 Q. Does that again suggest that the ideal, or what was
30 being striven for, was consensus?
31 A. No. What I'm saying there is that - to find out what
32 final positions are so that we could then understand how
33 they were arrived at.
34
35 THE COMMISSIONER: Can I just ask this question: if these
36 people were, in your mind, the most experienced and expert
37 in the field, why wouldn't you have just trusted them to
38 come to their own views quite independently of anything
39 your side had to say?
40 A. Because they are in a different field to
41 investigations and I don't think --
42
43 Q. But why did you pick them as the most expert and
44 experienced if you didn't want them to independently review
45 what you had done?
46 A. Well, I did want them to do that.
47

1 Q. But why did they need discussion from you? You were
2 going to show them your completed forms, you were going to
3 tell them in each case what the conclusion was?
4 A. Yes.
5
6 Q. So if these were people who were as expert and as
7 experienced as you say you believed they were, why wouldn't
8 you have just trusted them to say, "Well, thank you very
9 much. We don't agree with your views. These are our
10 views", and leave it with that?
11 A. Well, because I wanted to understand how they came to
12 their views and I wanted the investigators to understand
13 that also.
14
15 Q. Sure. Sure.
16 A. So that was the context --
17
18 Q. But your investigators had explained their position,
19 hadn't they, or was - they had filled out the forms and
20 said, "I think there is insufficient" or "sufficient", and
21 so on?
22 A. Yes. But - yes.
23
24 Q. Yes. At any rate, that wasn't the process you had in
25 mind, obviously?
26 A. No, I --
27
28 Q. No, okay.
29 A. No, I wanted the discussion to occur.
30
31 MR GRAY: Q. Well, let's look at Mr Middleton's reply,
32 which is the one above on the same page, tab 79, and he
33 says to you:
34
35 *... I am happy with the below proposal.*
36 *I don't think that we will be that far*
37 *apart from the academic review.*
38
39 A. Sorry, can you just - can you just show me which one
40 that is? Is that on 0001?
41
42 Q. Yes, it is, in the middle of the page, "As discussed"?
43 A. "In" - oh, yes. "In reality", yes.
44
45 Q. I will go through it again.
46 A. Thank you.
47

1 Q. He says:
2
3 *I am happy with the below proposal.*
4
5 A. Yes.
6
7 Q. He says:
8
9 *I don't think that we will be that far*
10 *apart from the academic review.*
11
12 Do you see that?
13 A. Yes.
14
15 Q. Then he says:
16
17 *I am sure that once we sit down and discuss*
18 *with Derek those matters can be resolved*
19 *through discussion.*
20
21 It looks like he's aiming at agreement and consensus with
22 Derek, doesn't it?
23 A. Yeah, no, I - it wasn't agreement. We never wanted
24 agreement on all the cases.
25
26 Q. Well, what does, "those matters can be resolved" mean?
27 A. I would say the process that was taken as to how
28 they've come to that finding. Because if you've got
29 completely different findings, you want to know how they
30 arrived at that one as opposed to the way we arrived at
31 ours. That's what I'm saying.
32
33 Q. Could I suggest to you that's not a very likely
34 reading of those couple of sentences?
35 A. Oh, you --
36
37 Q. He says:
38
39 *I don't think ... we will be that far apart*
40 *from the academic review.*
41
42 A. Yes.
43
44 Q. And:
45
46 *I am sure that once we sit down and discuss*
47 *with Derek those matters --*

- 1
2 ie the ones where we have some difference --
3
4 *can be resolved ...*
5
6 Isn't that suggesting that he is going to try and agree
7 with Derek?
8 A. No.
9
10 Q. Or Derek's going to try and agree with him?
11 A. That was never the intention.
12
13 Q. Then he says:
14
15 *I gather from below if for some reason we*
16 *can't reach agreement --*
17
18 which he seems to anticipate is unlikely --
19
20 *then the disputed matters will be reviewed*
21 *by [Mr Steer] to adjudicate/resolve?*
22
23 A. Yes.
24
25 Q. Doesn't that also suggest that what everyone was
26 aiming at was consensus?
27 A. No, it does not, because Geoff Steer is not going to
28 influence an academic review team as to whether or not they
29 need to classify something as bias related or hate related
30 or not.
31
32 Q. So what was the point of bringing in Mr Steer to - as
33 a sort of referee?
34 A. Well, so that we as an organisation could adopt a view
35 and adopt an outcome and a finding.
36
37 Q. So that you as an organisation could adopt a view?
38 A. A view of an outcome or a finding. So --
39
40 Q. Let me just unpack that, back to number 4 down the
41 bottom of the page. What Steer was going to be brought in
42 to do was to review specific cases where there was not
43 agreement between Parrabell and the academics.
44 A. Yes.
45
46 Q. So what was he - he would then say, "Well, I think one
47 side or the other is right", or what would he do?

1 A. So if Parrabell comes to a view and has a finding for
2 a particular case, and the academic reviewers come to
3 a finding on a particular case, and those findings are
4 different, then we were to have a discussion as to whether
5 our way of thinking was correct and we were going to stand
6 with that or whether we would review what we did and come
7 up with a different finding. That's what that was about.
8 It wasn't about saying, "You need to agree with us", or
9 anything, and clearly that's not the case with the outcome
10 report.

11

12 Q. And what was Mr Steer's role as referee to be?

13 A. So if there was two different - divergent findings,
14 Geoff Steer would come in and have a look at the processes
15 that were involved on both sides and then come to a view on
16 what we should adopt as an organisation.

17

18 Q. And you would then adopt what Mr Steer said?

19 A. Not necessarily because that would then be
20 a discussion between Mr Steer and the Parrabell
21 investigators, I would have thought.

22

23 Q. All right, if that's what you say. Mr Middleton says,
24 as I have drawn to your attention, in the second line of
25 his email, that:

26

27 *... if for some reason we can't reach*
28 *agreement --*

29

30 that is, the police and the academics - Mr Steer would
31 "adjudicate/resolve". That's a little different from what
32 you just said, isn't it?

33 A. Well, he's - yeah, and he's got a question mark
34 against that, so I'm not sure whether he's asking that or
35 whether he's stating that.

36

37 Q. Well, if he was asking it, look at your email at the
38 top:

39

40 *Thanks Middo, I agree on all matters.*

41

42 A. Yes.

43

44 Q. Sounds like you did agree with that approach?

45 A. Yes. Well, as I say, if it - when you say
46 "adjudicate/resolve", that doesn't necessarily --

47

1 Q. Well, no, no, I don't say it; Mr Middleton said it?

2 A. No, no. Yes, I understand. But I'm not saying that's
3 adjudicate/resolve the matter collectively. I'm saying
4 that that's where we need to decide what position we will
5 take. That's the way I read that.

6

7 Q. Well, it says that Mr Steer will adjudicate and
8 resolve?

9 A. Yes.

10

11 THE COMMISSIONER: Q. Why did you agree that he would
12 adjudicate and, if needs be, resolve?

13 A. Well, I think that - well, he had - obviously he had
14 his position as the Bias Crimes Coordinator and we would
15 want - where we couldn't - where we saw two completely
16 different outcomes, which is the case in a lot of these,
17 I would want the views of somebody in Bias Crime to be able
18 to say, "Listen, I think this is" - "there is weight to
19 this" or "You should take into account another aspect."

20

21 Q. Well, does that mean that you agreed that if there was
22 an impasse, Mr Steer's position would effectively determine
23 it by resolution?

24 A. Well, I don't - I don't think that we would - he would
25 determine the position. I think it would be a discussion
26 between him and the Parrabell investigators.

27

28 Q. Why did you agree with the term "resolve"?
29 "Adjudicate" clearly means a similar thing, in a way, but
30 why did you agree unequivocally, so it seems, with the word
31 "resolve"?

32 A. I don't - I don't remember, your Honour. I can't help
33 there.

34

35 Q. Could it be that you didn't carefully look at the
36 email or what Mr Middleton was saying, or could that not be
37 so? You would carefully have looked at this, surely?

38 A. I would - your Honour, I would be happy - I would have
39 been happy to have the review and the involvement of the
40 Bias Crimes Coordinator. Whether he - whether I have
41 picked up that he is in an adjudication or a resolution
42 position, I don't know.

43

44 THE COMMISSIONER: Okay.

45

46 MR GRAY: Q. Well, Mr Middleton then raises a query in
47 his second paragraph. He says:

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*However as you mentioned this morning the
Bias Crime Coordinator --*

that's Mr Steer --

also has an opinion as to some matters.

A. Yes.

Q.

*I am happy to meet with him to discuss
those ...*

He says:

*I am sure that those issues can also be
resolved.*

That is issues between Parrabell on the one hand and
Mr Steer on the other.

A. Yes.

Q. I think that's what he is saying?

A. Yes.

Q. Then he says:

*However if they cannot, who shall
adjudicate on those? My proposal is that
it should be you ...*

A. Mmm.

Q. And you say up above, "I agree on all matters". So
did you adjudicate on any disagreements between Steer and
the Parrabell team?

A. I don't remember. I don't remember making that.
I know that there was discussions between the parties,
definitely Sergeant Steer and the Parrabell - senior
Parrabell investigators. I don't think it was an
adjudication from me. It may well have been a consensus,
after discussion. I just can't recall.

Q. Mr Middleton goes on:

In reality I don't think that we will be

1 *all that far apart between the 3 teams --*

2

3 by which he means Parrabell, Bias Crimes and academic, and
4 he says:

5

6 *... and the majority if not all of those*
7 *discrepancies can be resolved easily.*

8

9 Do you see that? And as I have noted --

10 A. Yes.

11

12 Q. -- your response to this was:

13

14 *I agree on all matters.*

15

16 A. Yes.

17

18 Q. So doesn't that suggest that Mr Middleton has in mind
19 that all three - Parrabell, Bias Crimes and academics -
20 will come to a consensus view?

21 A. No, that was never the case. We never, ever expected
22 a consensus view, and that's demonstrated in the documents
23 that were produced.

24

25 Q. "The majority if not all of any discrepancies" among
26 the three can be resolved easily. That doesn't suggest an
27 aim for consensus to you?

28 A. Look, I - no. All I know is that we weren't looking
29 for consensus on all outcomes. There was a consensus on
30 our side, in terms of the police, but we certainly did not
31 seek for the academic reviewers to adopt what we were
32 saying.

33

34 Q. Well, let's read on. Mr Middleton says:

35

36 *After all, no matter how hard we try and be*
37 *impartial when it comes to placing matters*
38 *in categories a lot of it comes down to*
39 *opinions.*

40

41 A. Yes.

42

43 Q.

44 *That's just the way it works. I expected*
45 *that differences of opinion would cause*
46 *different results. But I have faith that*
47 *a round table discussion can resolve all if*

1 *not most of those opinions to provide one*
2 *consistent set of results.*

3
4 Doesn't that look like the aim is consensus?

5 A. It does.

6
7 Q. And that's because --

8 A. But it wasn't.

9
10 Q. -- it was, isn't it?

11 A. No, no chance.

12
13 Q. And you said up above:

14 *I agree on all matters.*

15
16
17 A. Yes, I understand that. But that was never in my
18 mind.

19
20 THE COMMISSIONER: Q. I am sorry, how can you possibly
21 say that, Mr Crandell, that it was never in your mind, when
22 I must assume a person of your experience and seniority
23 would have read carefully what, if I may say so,
24 Mr Middleton, seemingly a trusted colleague, was putting to
25 you in some considerable detail, thinking about one
26 alternative and the other, and you give him the benefit,
27 I assume, of carefully considering his views and indicating
28 that you agree on all matters.

29 A. Yes. I understand what it looks like, your Honour,
30 but what I'm saying to you --

31
32 Q. Well, I'm sorry, what do you mean, you understand what
33 it looks like?

34 A. I understand it looks like there is a collaboration,
35 your Honour, is what I'm saying.

36
37 Q. No, no, you are jumping ahead of it, if I may say so.
38 It looks like and is, isn't it, you agreeing with
39 Mr Middleton's suggested approach?

40 A. Yes. That's what it looks like.

41
42 Q. Well, when you - well, I'm sorry. You say, it "looks
43 like" that?

44 A. Yes.

45
46 Q. Now, does that mean the appearance is identical to the
47 reality, that you were agreeing with his approach?

1 A. I've agreed with the approach in the document but it
2 was never my intention to have a joint set of outcomes.
3
4 Q. All right. But did you agree with his approach in
5 reality? You agreed with what he was putting to you?
6 A. Yes.
7
8 Q. And that involved his prognostication of what the
9 ultimate aim was?
10 A. Yes.
11
12 THE COMMISSIONER: Thank you.
13
14 MR GRAY: Q. Can we turn to tab 80, [SCOI.84401], and
15 starting from the back, what we have on the next day,
16 13 December - I'm sorry, the same day, 13 December - as
17 Mr Middleton's reply, you then do send that proposal that
18 you had run past him to the academics. Do you see that?
19 A. Sorry, the proposal?
20
21 Q. Yes, with the six points. Remember in your email to
22 Mr Middleton --
23 A. Sorry. Sorry, I'm looking at the wrong page.
24
25 Q. -- you said, "I just wanted to run this proposal past
26 you before sending it to the academics"?
27 A. Yes.
28
29 Q. And you did run it past him and he responded in the
30 way we've just been talking about?
31 A. Yes.
32
33 Q. And then, evidently, you did send it to the
34 academics --
35 A. Yes.
36
37 Q. -- as planned?
38 A. Yes.
39
40 Q. Then Dr Dalton responds on the first page of that, and
41 he says to you:
42
43 *Many thanks for our constructive discussion*
44 *yesterday (pity the technology failed) ...*
45
46 So that would tell us, on a minor matter, that it wasn't in
47 person, it was by phone or something else?

1 A. Yes.

2

3 Q. He says:

4

5 *... [thank you] ... for sending out these*
6 *very clear guidelines.*

7

8 Being the ones we've just been going through. And Dalton
9 says:

10

11 *I think they augur well for a smoother*
12 *process of consultation and collaboration.*

13

14 Do you see that?

15 A. Yes.

16

17 Q. So he seems to understand them as a description of
18 a process of collaboration, doesn't he?

19 A. Yes.

20

21 Q. He adds that he really admires the way you,
22 Mr Crandell:

23

24 *... arbitrate so well between the various*
25 *parties ... and offer a voice of reason*
26 *when any hint of disharmony emerges.*

27

28 Do you see that?

29 A. Yes, I do.

30

31 Q. That sounds rather collaborative as well, doesn't it?

32 A. Oh, he's offering an observation. I don't know
33 whether that's collaboration or not, but - okay.

34

35 THE COMMISSIONER: Q. Well, there is certainly a degree
36 of flattery in there?

37 A. Yeah, he's - yeah, and I don't, that's fine.

38

39 MR GRAY: Q. You respond to that saying:

40

41 *Hi Derek*

42

43 *[Thanks] for your words of encouragement.*
44 *As long as we can maintain focus on our*
45 *desired outcome I think we will do well.*

46

47 Now, pausing there, can I suggest that the desired outcome,

1 as I have been putting in the last 20 minutes or so, was,
2 if at all possible, consensus?

3 A. No.

4

5 Q. And he says - sorry, you say:

6

7 *Having said that I expect some robust*
8 *discussion which will require a referee*
9 *between --*

10

11 Not Parrabell and Dalton, but Parrabell and Steer. Do you
12 see that?

13 A. Yes.

14

15 Q. He doesn't seem to be expecting robust discussion
16 between Parrabell and - you don't seem to be expecting
17 robust discussion between Parrabell and Dalton but, rather,
18 between Parrabell and Steer; correct?

19 A. Yes.

20

21 Q. Turn to tab 88, [SC0I.74447]?

22 A. Yes.

23

24 Q. We had better start from the back to give you the
25 context. The first one in this chain, which is now
26 a couple of months later - those last ones were
27 in December, this is now February. Dalton writes to
28 Middleton saying that he has organised to send
29 a preliminary coding to Middleton, he says at the bottom of
30 that page:

31

32 *I think we agree on 57 and disagree on 21.*

33

34 Do you see that?

35 A. Yes.

36

37 Q. He says over the page that they - the Flinders people
38 as a team - had three or four that they couldn't agree on
39 themselves but they were trying to reach internal
40 agreement.

41 A. Yes, yes, I can see that, yes.

42

43 Q. And then he says that for some cases they have broken
44 the "insufficient information" category, which was
45 a Parrabell category, into three subcategories, namely,
46 "revenge", "homosexual advance" and "animosity to
47 paedophilia", and he explains why he was doing that.

1 I think you say in your statement that you yourself had
2 some reservations about this approach to the paedophilia
3 aspect of the topic?

4 A. Yes, I did.

5

6 Q. What were those reservations?

7 A. I just - from my perspective, I didn't want to
8 conflate homosexuality with paedophilia and I felt that if
9 a perpetrator believed that all gay men were homosexual -
10 sorry, were paedophile, then it was still gay hate, from my
11 perspective.

12

13 Q. In your mind?

14 A. In my mind, yes.

15

16 Q. And was the concern, or an aspect of the concern you
17 had here, that the way the academics or Dalton were going
18 about it was, to some greater or lesser extent, in conflict
19 with that idea?

20 A. Yes, yes. I think so. I mean, I understand why they
21 did the separation but I - for the purposes of Parrabell,
22 I didn't want to make that separation

23

24 Q. Now, Mr Middleton responds a couple of days later, on
25 13 February. It starts on the very bottom of the first
26 page but then it is a long email, mainly on the second
27 page?

28 A. Yes.

29

30 Q. Now, I won't ask you to go through all of it, but
31 what he is largely doing - and take whatever time you need
32 to read all of this --

33 A. Yes.

34

35 Q. -- but the thrust of this, if I may put it, of what he
36 is saying, is that he is reminding Dr Dalton that what the
37 Parrabell people were doing was tied to the paper - in
38 other words, if the information was in the papers they were
39 looking at, then they relied on it and used it?

40 A. Yes.

41

42 Q. But if something wasn't in the papers, well, then,
43 even though they might have thought in their own minds that
44 something else might have been a factor, if it wasn't
45 recorded in the paper then they didn't take it into
46 account?

47 A. Yes.

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Q. That's the drift of what he is saying, generally?

A. Yes.

Q. But at the end of it, at the end of that long email, you see in the second-bottom paragraph, he --

A. Sorry?

Q. We're on the top of page 3?

A. Yes.

Q. And the second paragraph on that page --

A. Yes.

Q. The last sentence of that paragraph. He says:

That's not to say that in some matters we may have had "suspicions" about other factors, however in the absence of that evidence (including missing files) we made a determination based solely on what we had in front of us.

A. Yes.

Q. So he's kind of summarising what he has been saying.

A. Yes.

Q. What I'm looking at is the last sentence, the last paragraph:

I am really looking forward to meeting with you ... to discuss. I really don't think we are [too] far apart in [a lot] of our views and I am still hopeful that they can be easily resolved.

Once again I suggest that it is clear that Mr Middleton was aiming at consensus?

A. Oh, look, I don't believe so. You could ask him, I guess, but it was never my view that we would get - we would even get consensus. The processes were so difficult to arrive at conclusions in any event.

Q. Let's look at Dr Dalton's response, which is on the front page. "Dear Craig":

1 *Many thanks for your long and considered*
2 *email.*

3
4 Et cetera, do you see that?

5 A. Yes, I do.

6

7 Q. Moving to the third paragraph, or fourth, actually,
8 "Willem and I"; do you see that?

9 A. Yes, I do.

10

11 Q.

12 *Willem and I are trying to produce an*
13 *instrument that will help us better justify*
14 *OUR codings in the face of yours. It's*
15 *tricky, because in a sense we had to "buy*
16 *into" aspects of the NSW police coding to*
17 *evaluate your findings. The obvious danger*
18 *is that if one doesn't augment or*
19 *supplement your system - one might just*
20 *reproduce your findings. I hope this makes*
21 *sense. It might when we meet in person.*
22 *That's part of the tension at play (and is*
23 *ultimately resolvable I hope.)*

24

25 Do you see that?

26 A. Yes, I do.

27

28 Q. That looks like Dr Dalton also is aiming at consensus,
29 "resolvable"?

30 A. I don't believe that was ever in his mind. I mean,
31 obviously you can ask him, but I don't think that that was
32 ever an expectation of him and I don't think that was in
33 his mind.

34

35 THE COMMISSIONER: Q. But the desired outcome, given the
36 impetus for the whole exercise - the desired outcome or the
37 ideal certainly was to present to the world at large that
38 you had undertaken a methodology and an analysis, and that
39 that had been independently verified by a group of
40 academics?

41 A. Yes.

42

43 Q. That was the ideal outcome, wasn't it?

44 A. Yes.

45

46 Q. And so that's - all right, thank you.

47

1 MR GRAY: Now, I see the time, Commissioner.

2

3 THE COMMISSIONER: Yes. I will adjourn until 2,
4 thank you.

5

6 **LUNCHEON ADJOURNMENT**

7

8 THE COMMISSIONER: Yes, Mr Crandell, if you would come
9 back, thank you. Yes, Mr Gray.

10

11 MR GRAY: Q. Could we turn to volume 4, please --

12 A. Sorry?

13

14 Q. Volume 4.

15 A. Oh.

16

17 Q. And if we could go to tab 108, [SCOI.74538]?

18 A. Yes.

19

20 Q. Again, it's a chain, so just to orient you, this is in
21 the middle of 2017, around about July.

22 A. Yes.

23

24 Q. And the academic team are about to send you, and
25 I think do send you, a draft of their report?

26 A. Yes.

27

28 Q. And the first email starts at the bottom of page 3 of
29 this chain.

30 A. From Derek Dalton?

31

32 Q. From Derek Dalton?

33 A. Yes.

34

35 Q. That's right, to you, on 29 June --

36 A. Yes.

37

38 Q. -- 2017. And without reading it all, the gist of it
39 is that he is sending you the draft, or a draft - you see
40 on about the fourth or fifth paragraph on page 4?

41 A. Yes, in the revised timeline?

42

43 Q. Well, in the fourth paragraph, he says that it has
44 been a long time coming but it gives them great pleasure to
45 present their draft report. This is on page 4, four
46 paragraphs down?

47 A. Yes, I see that, thank you.

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Q. And then he makes various comments about some aspects of what's in the draft, which I don't need to go through?

A. Yes, yes.

Q. And you respond - he invites you to respond and you do respond on the first page, page 1 of this chain --

A. Yes.

Q. -- a few days later, making, you know, 10 fairly detailed comments about his draft.

A. Yes.

Q. Now, what I just wanted to draw to your attention was something in his email when he sends you the draft, and it is on page 6.

A. Yes.

Q. The first main paragraph, after the bits that are in bold --

A. Yes.

Q. He says:

We have diligently tried to strike a fair balance in composing this report.

He says:

Sometimes (well, very rarely actually) we have had to criticise [NSW Police] but, more often than not, our sense is that we have taken pains to defend aspects of the review --

ie, the Parrabell review.

A. Yes.

Q. He says:

However, it bears emphasising that some inherent criticism (all of it levelled at police from a past era) will ensure our report is taken seriously by the public of NSW.

- 1 Do you see that?
2 A. Yes.
3
4 Q. Does that indicate to you that he saw his role as
5 assisting the police from a PR point of view?
6 A. I'm not sure. I don't - I don't know why he would put
7 that in there. I wasn't aware that he was necessarily
8 going to criticise the police, to be honest, but inevitably
9 with the different outcomes, that's inevitable, I suppose.
10 I don't know why he's indicated that in there, though.
11
12 Q. And could I just ask you to turn to 115, [SC0I.74570]
13 in, that volume?
14 A. Yes.
15
16 Q. This is the one two months later, on 30 August, where
17 he actually presents the final report?
18 A. Yes.
19
20 Q. 115?
21 A. Yes.
22
23 Q. And in the third paragraph, he says:
24
25 *We imagine you will read this final report*
26 *with a view to spot anything that you*
27 *aren't entirely happy with.*
28
29 A. Yes.
30
31 Q. And in the paragraph after that, he says:
32
33 *It was ... a delicate balance, but if you*
34 *are aggrieved by any content (we hope you*
35 *aren't) --*
36
37 A. Yes.
38
39 Q. --
40
41 *you must feel free to say so and we can*
42 *discuss the possibility of modifying the*
43 *text.*
44
45 A. Yes.
46
47 Q. Now, does that strike you as the approach of someone

- 1 whose intention was to be entirely independent?
2 A. Look, I think it was a - for my perspective he wanted
3 to get particularly the language right, and I know that
4 there had been email correspondence between himself and
5 Jackie Braw for that purpose, given Jackie Braw's
6 connection to the LGBTIQ community. So when I read that,
7 I have that in my mind. I think it would be - he was
8 encouraging us to speak up if we thought that there was
9 some inconsistency or something that needed to be changed
10 that we were deeply unhappy about, rather than just saying,
11 "Oh, well", and just accepting whatever, so - that's my
12 interpretation of that.
13
- 14 Q. Well, can I ask you this in a general sense in the
15 light of what we've been talking about today. Given all
16 the documents we've been through today, would you now agree
17 that rather than being an independent review of the work of
18 the strike force, the Flinders review was in fact
19 a collaborative exercise?
20 A. No, I wouldn't agree with that statement.
21
- 22 Q. Would you agree that it was a search for consensus if
23 at all possible?
24 A. No.
25
- 26 Q. Can I suggest to you that Flinders and the police
27 collaborated, given the documents we've looked at today, on
28 the ultimate production of both the strike force's case
29 classifications and the Flinders review of those
30 classifications; do you agree with that?
31 A. To - in essence there was collaboration to determine
32 differences in findings and reasoning for those. But
33 I don't - I don't say that that collaboration turned into
34 a joint effort at a production of both reports.
35
- 36 Q. Apologies for the preliminary questions, because we've
37 been over this, but just to confirm, the academic team were
38 provided with the completed forms in respect of the 86 or
39 so cases?
40 A. Yes.
41
- 42 Q. They were not provided with the historical files and
43 documents, the holdings --
44 A. No.
45
- 46 Q. -- that the police looked at?
47 A. No, there were too many of them.

1
2 Q. What I want to ask you is this: if the academic
3 review was really to be able to assess the adequacy and the
4 rigour of the work of the Parrabell officers, the only way
5 that could really be done would have been for the academics
6 to look at the material - all of it - that the police
7 officers had looked at, and then form a view as to whether
8 the police methodology had been effective?
9

10 MR TEDESCHI: I object.

11
12 THE COMMISSIONER: Why?
13

14 MR TEDESCHI: Your Honour, the Assistant Commissioner
15 hasn't said that that was the only document. There has
16 been no reference made to the case summaries, whether they
17 were provided.
18

19 THE COMMISSIONER: Well, Mr Gray has taken on board what
20 you have had to say, but it does seem to me that it is
21 a fair question.
22

23 MR TEDESCHI: He has only referred to the one type of
24 document, the completed forms.
25

26 THE COMMISSIONER: Yes, I understand.
27

28 MR TEDESCHI: He hasn't referred to the case summaries.
29

30 THE COMMISSIONER: Okay. Mr Gray will, having heard that
31 objection, cater for it, I'm assuming.
32

33 Mr Gray, it seems fair that if you want to close off
34 options, or not, take Mr Tedeschi's point as you will.
35

36 MR GRAY: Happy to do that, Commissioner.
37

38 Q. You've heard that exchange, Mr Crandell?

39 A. Yes.
40

41 Q. You know, and the Commissioner is aware, that there
42 are in existence a set of documents called "case
43 summaries"?

44 A. Yes.
45

46 Q. And they were generated, were they, just by the police
47 or by the police in conjunction with the academics?

1 A. I believe it was just from the police.
2
3 Q. And were the academics provided with those case
4 summaries?
5 A. I believe so.
6
7 Q. At what --
8 A. I believe so, yes.
9
10 Q. At what point along the continuum?
11 A. Oh, I don't remember. I don't know. I - I would say
12 towards the end of the Parrabell investigation, simply
13 because it was a complete document. But I - but I don't
14 know whether there was incomplete documents that were sent
15 to them as well. I can't tell you.
16
17 Q. Well, you've seen --
18 A. Sorry, when I say - sorry, Mr Gray. When I say
19 "incomplete documents", I mean incomplete as to the
20 totality of the cases looked at, not necessarily incomplete
21 in terms of the content of the cases included.
22
23 Q. Well, you've seen, I presume, either all or some of
24 these case summaries?
25 A. Yes, I have, yes.
26
27 Q. And they are, aren't they, speaking in the broad, as
28 the name would suggest, summaries?
29 A. Yes.
30
31 Q. And they are - is this fair - drawn from the contents
32 of the completed BCI forms?
33 A. Yeah, they'd be drawn from the material that has been
34 reviewed, and I guess factual circumstances that we could -
35 we could put together.
36
37 Q. All I'm getting at is, as far as you know, there's no
38 new or additional material in them, the summaries, over and
39 above what's in the completed BCI forms?
40
41 MR TEDESCHI: I object.
42
43 THE COMMISSIONER: Why?
44
45 MR TEDESCHI: Completed - the summaries contain the same
46 material as the BCI forms? With respect, my learned friend
47 has misconceived that.

1
2 THE COMMISSIONER: No, I'm not quite sure.
3
4 MR TEDESCHI: I don't understand, from my review, that the
5 BCI forms contain summaries of the underlying documents
6 from the case files.
7
8 THE COMMISSIONER: Well, I think, if I may say so, that's
9 not my impression.
10
11 MR TEDESCHI: Perhaps that could be clarified.
12
13 THE COMMISSIONER: Why don't we clarify that.
14
15 Q. Mr Crandell, leaving the case summaries to one side,
16 and if you can't answer the question, by all means, say so,
17 but in almost all of the forms filled out by the officers,
18 in answer to one or more of the questions, there are
19 narratives often set out as an explanation, either in
20 direct answer to the question or at least what the police
21 officer might have perceived was necessary as a prelude to
22 answering yes or no. And without, as I said, wishing to
23 suggest that you can answer in respect of every one of the
24 86, it was commonly the case, was it not, in those forms,
25 either at the beginning of the form or during one or other
26 of the answers, that a narrative about the circumstances in
27 which the deceased was discovered, et cetera, et cetera,
28 was usually set out in part or in whole during the course
29 of that form?
30 A. Yes.
31
32 Q. And is it the case that the case summaries, in part at
33 least, might have been prepared by reference first to the
34 completed narratives in part of the forms, together with
35 the police officer's analysis of the boxes of source
36 documents?
37 A. Yes.
38
39 THE COMMISSIONER: All right. Thank you.
40
41 MR GRAY: Let me put my question slightly differently,
42 then. I'm happy to accommodate that.
43
44 Q. So the academics received the completed forms in
45 respect of the 86 or so cases?
46 A. Yes.
47

1 Q. And they received the set of case summaries about the
2 same cases?

3 A. I understand so, yes.
4

5 Q. And the case summaries, speaking generally, is this
6 right, are generally half a page or a page long?

7 A. Yes.
8

9 Q. Now, what I want to put to you again is that if the
10 academic review was really to be able to assess the
11 adequacy and rigour of the work of the officers, the work
12 as reflected in the completed forms and, indeed, if need
13 be, in the case summaries, the only way that could be
14 done - I'm asking you - would have been for the academics
15 to actually look at all the material that the police
16 officers had had and see if they agree that the methodology
17 had been suitable?

18 A. No, I don't agree with that.
19

20 THE COMMISSIONER: Q. Otherwise, the academics were
21 entirely dependent, weren't they, upon what the police
22 officers - and I put that generally because it may have
23 been one or more - believed the facts disclosed from the
24 source materials?

25 A. Yes.
26

27 MR GRAY: Q. Now, I will come shortly to your engagement
28 of Dr Birch of Charles Sturt --

29 A. Yes.
30

31 Q. -- about the search for another tool or another means
32 of working with bias crime indicators?

33 A. Yes.
34

35 Q. But quite early in the piece - that is, just a couple
36 of months after the Parrabell report was published
37 in August 2018 - you were in touch with Dr Birch?

38 A. Yes.
39

40 Q. Could you be given tab 5, please - sorry, volume 5,
41 and turn to tab 135, [SC0I.74721], please.

42 A. Yes.
43

44 Q. The chain starts with an email from Michael Kennedy of
45 Western Sydney to various people, including you and
46 including Dr Birch; and Dr Birch then replies to that group
47 of addressees; and then eventually we come to an email from

1 you, halfway down page 5 of the chain. Do you see the one
2 from you beginning "Hi, Phil", down towards the bottom?
3 A. Yes, yes, I do.
4
5 Q. You tell him the Parrabell report is available on the
6 website?
7 A. Yes.
8
9 Q. And you refer to having 86 case summaries as well.
10 A. Yes.
11
12 Q. He then responds, Dr Birch does, about a month later,
13 on 7 August - this is on page 4 about halfway down, do you
14 see that - "Hello, everyone"?
15 A. Yes, I do.
16
17 Q. He says:
18
19 *I have been through the report and [I]*
20 *thought I would share some thoughts with*
21 *you.*
22
23 In his first point he offers the view that both the police
24 report and Flinders report as stand alone were good, but he
25 goes on to suggest that comparison between them was
26 problematic or wrong?
27 A. Right.
28
29 Q. Do you see that?
30 A. Yes - where he says both reports use two different
31 analytical frameworks, is that what you --
32
33 Q. Well, he says:
34
35 *... the problem lies with the fact [that]*
36 *they are two stand-alone reports that have*
37 *been brought together and compared.*
38
39 A. Yes.
40
41 Q.
42 *[The two] reports use two different*
43 *analytical frameworks --*
44
45 A. Yes.
46
47 Q. --

- 1
2 *albeit on the same "dataset" but as to be*
3 *expected [two] different analytical*
4 *frameworks have garnered two different*
5 *findings. Comparing the two ... [was]*
6 *problematic ...*
7
8 A. Yes.
9
10 Q. That's his view, that's the opinion he offers?
11 A. Yes.
12
13 Q. But then on number 2 he says this:
14
15 *Based on the terms of reference it would*
16 *seem that what's missing here is external*
17 *validity ... That being an external*
18 *assessor/researcher to [Strike Force*
19 *Parrabell] who would/should have conducted*
20 *the same approach [Strike Force Parrabell]*
21 *used to assessing the homicides see if they*
22 *[came] up with the same results - this*
23 *would have been a more fruitful exercise in*
24 *tenders of a comparison.*
25
26 Do you see that?
27 A. Yes.
28
29 Q. Now, that's what I'm putting to you. Don't you agree
30 that that's right - that for the academics to come up with
31 something useful in terms of assessing the strike force's
32 methodology, they would have needed to have seen what the
33 strike force saw?
34 A. Well, they did see what the strike force did.
35
36 Q. No, so we're not at cross --
37 A. Could you repeat the question, because clearly I'm not
38 answering it as you want me to.
39
40 Q. No, please, please, please, please. So we're not at
41 cross-purposes, by that I mean they would have needed to
42 have seen the entirety of what the strike force saw, which
43 is what Mr Birch is saying, isn't he, and do you agree?
44 A. Yes, he's saying that they should have conducted
45 exactly the same review as what Strike Force Parrabell did,
46 but --
47

1 Q. And he says that would have been more fruitful in
2 terms of comparison?
3 A. Well, that's his opinion. That's his opinion.
4
5 Q. And I'm asking you, do you agree?
6 A. No, I do not.
7
8 Q. What I want to suggest to you is that, in the end,
9 both the classifications made by the strike force officers
10 and the views of the academics as to the appropriateness of
11 those classifications amounted to little more than
12 subjective expressions of opinion? What do you say?
13 A. They were expressions of opinion, I have no doubt
14 about that, and they were --
15
16 Q. And were subjective?
17 A. There was subjectivity in it. Absolutely. I've
18 agreed with that in the past.
19
20 Q. Okay. Let me turn to the topic of trying to come up
21 with a replacement or a successor to the bias crime
22 indicators. I will start with the article that we looked
23 at this morning in 2018 - I showed it to you in another
24 context, you know the one with the picture of the seven
25 Parrabell police officers?
26 A. Yes.
27
28 Q. And the report of the fact that Parrabell was engaging
29 on this review exercise?
30 A. Yes.
31
32 Q. And I took you to the fact that you had used the word
33 "investigation" - do you remember that?
34 A. Yes, I do.
35
36 Q. So I'm not going back to that topic, but in that same
37 article - and I can show it to you if you need to see it -
38 you were quoted as saying that the bias assessment tools
39 currently in use by the police should be replaced, as they
40 were not practical for every day police officers on the
41 front line?
42 A. Yes.
43
44 Q. Do you remember saying that?
45 A. Yes.
46
47 Q. Or something like that. And indeed, in the Parrabell

- 1 report, as published in June 2018, you did make such
2 a recommendation. I see I've made a mistake in what I have
3 just put to you, I am sorry. It's a different article.
4 I'd better get that right. The article that I'm referring
5 to is not the one I showed you this morning.
- 6 A. Okay.
- 7
- 8 Q. I'm sorry.
- 9 A. That's all right.
- 10
- 11 Q. It's an article in 2018.
- 12 A. Okay.
- 13
- 14 Q. In The Australian, and it's in tab 8?
- 15 A. Sorry, you said tab?
- 16
- 17 Q. It is volume 8, tab 225 [SC01.82032]. The date of the
18 article is 28 May 2018?,
- 19 A. Yes.
- 20
- 21 Q. Which is about a month before the Parrabell report was
22 actually published?
- 23 A. Yes.
- 24
- 25 Q. And attributed to you on the top of the second page is
26 that you confirmed that Strike Force Parrabell would
27 recommend a better assessment tool for bias crimes?
- 28 A. Yes.
- 29
- 30 Q. And then, just below halfway on the page, you are
31 quoted as saying:
- 32
- 33 *Our current bias assessment tools are not*
34 *practical for everyday police officers on*
35 *the frontline.*
- 36
- 37 A. Yes.
- 38
- 39 Q. And attributed to you is the proposition that a new
40 system would ensure bias motivation was considered in every
41 investigation?
- 42 A. Yes.
- 43
- 44 Q. Now, a couple of things about that.
- 45 A. Yes.
- 46
- 47 Q. Just pausing there, at that point - that is, May

- 1 2018 - it was not compulsory in the COPS systems or other
2 systems for bias motivation to be considered; is that
3 right? It was available but not compulsory?
4 A. Yes.
5
6 Q. Now, indeed, in the Parrabell report - which is where
7 I thought I had got to a moment ago - there was
8 a recommendation, and we've looked at it before --
9 A. Yes.
10
11 Q. -- that some different approach be pursued?
12 A. Yes.
13
14 Q. And I'll find the recommendation itself. I don't have
15 it in front of you --
16 A. No, no, that's fine.
17
18 Q. I'm sure you'll remember it.
19 A. Yes.
20
21 Q. The recommendation, on page 39 of the Parrabell report
22 [SCOI.02632], is:
23
24 *A revised system applicable to the early*
25 *identification of bias crime requires*
26 *developmental guidance from academic*
27 *resources. The current system with 10 bias*
28 *crime indicators requires greater rigour*
29 *and is not user friendly for operational*
30 *police.*
31
32 And it goes on to say more than that.
33 A. Yes.
34
35 Q. Now, there are two matters I want to take you to about
36 that. The first is Sergeant Steer's response to that,
37 which we have looked at in another context the other day?
38 A. Yes.
39
40 Q. And we find that in volume 4, tab 126, [SCOI.74679].
41 A. Yes.
42
43 Q. So he's writing this on 9 June about comments of yours
44 in The Australian newspaper?
45 A. Yes.
46
47 Q. And about 10 lines down, on the first paragraph, he

1 says:

2
3 *I have read the article published in the*
4 *Australian and I am saddened by the*
5 *comments made. The concerns that I have*
6 *relate to the statements attributed to you*
7 *where you are quoted as stating, "Our*
8 *current bias assessment tools are not*
9 *practical for everyday police officers on*
10 *the frontline." I believe this statement*
11 *is ill informed.*

12
13 A. Yes.

14
15 Q. And he develops that point through the email?

16 A. Yes, he does.

17

18 Q. In the fourth paragraph, or the paragraph numbered 4
19 on the second page --

20 A. Yes.

21

22 Q. -- he says the 10 indicators - he stresses that the
23 10 indicators are not a checklist and never have been?

24 A. Oh, sorry. Sorry, are you saying page 4 that is
25 numbered?

26

27 Q. No, paragraph numbered 4. On page 2, about halfway
28 through that paragraph, speaking about the 10 indicators,
29 he says they are not a checklist, they have never been
30 a checklist?

31 A. That's correct, yes.

32

33 Q. Then paragraph numbered 9 on the next page, he says,
34 you see, in the last couple of lines of that paragraph, you
35 were told - that is, you, Mr Crandell, were told - on
36 multiple occasions that the indicators were not a checklist
37 and that Parrabell used them incorrectly. Now, the first
38 question is: were you told that on multiple occasions, by
39 him or anyone else?

40 A. No, I don't believe so.

41

42 Q. Were you told on any occasion by him?

43 A. That they were being used incorrectly?

44

45 Q. Yes.

46 A. No.

47

1 Q. In the same paragraph, numbered 9, do you see he says:
2
3 *I ... hope you recall the conversations*
4 *that I had with you --*
5
6 this is halfway through paragraph 9 --
7 A. Yes.
8
9 Q. --
10
11 *that you recall changing the definition so*
12 *that it fitted with the investigation*
13 *outcomes ...*
14
15 A. I don't remember that.
16
17 Q. Well, I'll have to ask him, because - to see what he
18 was talking about.
19 A. Yes, I understand.
20
21 Q. But is it possible that he was talking about the
22 change that you did recommend towards the end of the
23 process from "Not a Bias Crime", to "No evidence of bias
24 crime"?
25 A. No, I didn't - I - oh, I thought he was talking about
26 the definition of "Bias crime", but I could - I could be
27 wrong.
28
29 Q. Well, when he said this in his email, that he hoped
30 you remembered changing the definition so that it fitted
31 with the investigation outcomes, what did you understand
32 him to be referring to?
33 A. I honestly don't remember. I don't know. I can't
34 remember the conversation that we had and I don't know what
35 he means.
36
37 Q. He says in the next part of that sentence that
38 Parrabell "cut out the organisational experts from the
39 process", presumably meaning the Bias Crimes Unit and
40 himself?
41 A. Yes.
42
43 Q. And we've essentially been over that, so you would say
44 you disagree with that?
45 A. No, I disagree with that, because I know that Sergeant
46 Steer was involved in the start and I know that he was - he
47 helped us review in the end, and - he helped us review in

1 the end, and I thought as an adviser, that was probably an
2 appropriate position for him to hold.
3
4 Q. All right. Now, the second aspect of this
5 recommendation that I want to ask you about is what you did
6 in furthering that recommendation, and the first thing you
7 did, I think, tell me if this is right, was to engage
8 Dr Birch --
9 A. Yes.
10
11 Q. -- of Charles Sturt?
12 A. Yes.
13
14 Q. And he was engaged, initially at least, to advise on
15 an appropriate model of bias crime identification?
16 A. For frontline police, yes.
17
18 Q. That email that I took you to a minute ago involving
19 a chain including Dr Birch - I'd better take you to it
20 again so you can see it. It's in volume 5, tab 135,
21 [SCOI.74721].
22 A. Yes.
23
24 Q. Can we just look at the one on page 4, first. This is
25 the one from Philip Birch to you of 7 August 2018?
26 A. Yes.
27
28 Q. I just wanted to mention something that I should have
29 mentioned when I was here before. His paragraph 5, at the
30 bottom of that page, refers to the leap to and link to
31 paedophiles, and he's speaking there about the Flinders
32 report; do you see that?
33 A. Yes, I do.
34
35 Q. He thought, he tells you, that leap and that link was
36 strange, bizarre, unwarranted and not justified. And he
37 goes on to give some short reasons as to why he thinks
38 that?
39 A. Yes.
40
41 Q. And did that essentially correspond to your own view?
42 A. No.
43
44 Q. What was the difference between his view and your view
45 on this paedophile topic?
46 A. So I didn't - I felt that it wasn't necessary for the
47 separation of the animus. The Flinders team did. My

1 thought was that they wanted to be more accurate as to what
2 actually had motivated the crime, the homicide, rather than
3 simply saying "gay hate". That was my understanding. But
4 I don't think - I don't - I didn't think that it was
5 necessarily unwarranted. I just thought it was a different
6 way of doing it. I just thought it was a different way of
7 doing it, that's all.

8
9 Q. You responded to this, at any rate, on page 3, and I'm
10 coming to the question of the search for a different type
11 of approach.

12 A. Yes.

13
14 Q. What you say to him on 20 August 2018, in the second
15 paragraph, is:

16
17 *From a purely policing perspective, I would*
18 *like to develop a simplified bias crime*
19 *indicator for operational police ...*

20
21 Et cetera. Do you see that?

22 A. Yes.

23
24 Q. So the initial task that he was asked to grapple with
25 was that task - namely, come up with a simplified indicator
26 for operational police to use, rather than the 10-point
27 indicator system that was being used at that point?

28 A. Yes.

29
30 Q. Now, he delivered - he, Dr Birch delivered -
31 a preliminary report on that very question?

32 A. Yes.

33
34 Q. Which is at tab 137, [SC0I.74803], the title of his
35 report is:

36
37 *Hate crime: The development of an*
38 *assessment tool for criminal justice*
39 *practitioners - a Preliminary Research*
40 *Report?*

41
42 A. Yes.

43
44 Q. And in the summary on page 2, about four lines down,
45 he says:

46
47 *This report, along with a forthcoming*

1 *systematic review, is the first step in*
2 *examining components of Hate Crime in order*
3 *to develop a Hate Crime Assessment ... tool*
4 *for use amongst criminal justice*
5 *practitioners, in particular frontline*
6 *police officers.*

7

8 A. Yes.

9

10 Q. So the next thing that happened, seemingly, at 138,
11 [SC0I.74803], just a month or so later in the course of a
12 series of emails - you say on the first page, the one
13 beginning "Hi Dr Phil" --

14 A. Yes.

15

16 Q.

17 *I am very interested in continuing this*
18 *important work and can provide*
19 *organisational support given*
20 *a recommendation to review the bias crimes*
21 *assessment process/tool was accepted by the*
22 *Commissioner as an outcome of ... Parrabell*

23

24 A. Yes.

25

26 Q. Fine. Then 139, [SC0I.77364], is Dr Birch to you,
27 actually a month earlier - sorry, about nine days earlier.
28 He is talking about the next stage, which was going to be
29 a Delphi study?

30 A. Yes. Is this on page 4?

31

32 Q. No, this is now in tab 139.

33 A. Yes, but --

34

35 Q. On the front page, four paragraphs down:

36

37 *What this Delphi study would do is canvass*
38 *the consensus amongst rank and*
39 *file ... Police officers.*

40

41 Et cetera?

42 A. Oh, yes, yes.

43

44 Q. So that seems to have happened, and then at 140,
45 tab 140, [SC0I.82042], there is a second report from
46 Dr Birch in February of this year, which is called
47 "Developing consensus amongst ... (NSW) Police Officers ...

1 for addressing Hate Crime" ?

2 A. Yes.

3

4 Q. But there doesn't seem to be a tool - there's no
5 suggested alternative tool or a suggested alternative list
6 of indicators; do you agree?

7 A. I haven't seen this document.

8

9 Q. You haven't seen it?

10 A. No.

11

12 Q. Well, if the objective was to have him come up with an
13 alternative to the 10-point indicator system that was then
14 being used, as far as the documents that we have been
15 provided with would indicate, he's never done that, and
16 I am just wondering what you know about what became of that
17 project?

18 A. So I handed over the sponsorship of sexuality and
19 gender diversity in about 2019, and when I handed that
20 over, part of my handover involved a briefing of the
21 Commander of Counter Terrorism and Special Tactics Command,
22 as well as the engagement and - Bias Crimes Unit. I handed
23 over the brief that I had given to Dr Birch for them to
24 pursue.

25

26 Q. And when was that? What year?

27 A. I believe 2019.

28

29 Q. And correct me if this is wrong. Are you saying that,
30 really, you don't know what has happened in that regard
31 since?

32 A. No - well, only outcomes in policy, but it would be
33 good for me to explain what I was thinking, if that's
34 acceptable.

35

36 Q. Please.

37 A. So I know that Sergeant Steer took great exception to
38 what I was saying, but what I was after was trying to
39 identify bias in criminal actions earlier from cops on the
40 front line. My view was that police on the front line were
41 unlikely to sit down and go through 10 bias crime
42 indicators, and we found significant difficulty with that.

43

44 So what I was trying to do is come to a view, or come
45 to some system that could allow them to identify bias early
46 and then - then refer it to somewhere else for a review to
47 be undertaken. Now, whether that review included the 10

1 bias crime indicators - I was quite comfortable with that.
2 But that takes time and I don't think police on the front
3 line have the time to do that.

4
5 So that's all I was saying. I understand that that
6 looks like I'm being disrespectful to Sergeant Steer and
7 his research, but that wasn't the case.

8
9 THE COMMISSIONER: Q. I'm sorry, I don't quite
10 understand when you say people won't have time to do it.
11 Motive in any crime will ultimately, if there is one, be an
12 important factor, if not the least at a sentence stage and
13 certainly in the course of running of a trial?

14 A. Yes.

15
16 Q. Why does it have to be done so rapidly? Surely, if
17 a person is murdered, the most obvious thing is to find out
18 who did it?

19 A. Yes.

20
21 Q. Other factors which might then be investigated down
22 the track may well point to motive?

23 A. Yes.

24
25 Q. I don't quite understand what you're suggesting when
26 you say officers don't have - frontline police officers
27 don't have the time. Why would that be a time issue if, as
28 I say, the scene is thoroughly investigated with forensic
29 and other things? If there is a person of interest and
30 that person of interest becomes a suspect who then is
31 arrested, then motive can be determined at a later point,
32 can't it?

33 A. Yes.

34
35 Q. I'm just wondering what is the timing issue and why --

36 A. So, Commissioner --

37
38 Q. Sorry, forgive me, and why would it be essential for
39 that issue to be addressed up-front?

40 A. So I'm not just talking about major crimes,
41 Commissioner, I'm talking about all of them. So
42 I basically was saying that if I could get some key
43 questions that the police could ask themselves at the point
44 of an offence being committed and then did not say to them,
45 "Now, in order for you to get to that you've got to go
46 through these 10 bias crime indicators" and I think -
47 Commissioner, I think that that's sort of the way that the

1 Engagement and Hate Crimes Unit have moved, albeit not
2 entirely to that position.

3

4 Q. Did it not occur to you, though, that the problem may
5 not be capable of that level of simplification?

6 A. Absolutely. It may not be. I was just doing my best.

7

8 MR GRAY: Q. Do you know if a replacement for the
9 10-point bias indicator list has in fact been arrived at?

10 A. I can only tell you what I've observed in policy now,
11 and I do believe that policy is still related on the bias
12 crime indicators. I'm not sure if all of them, but there
13 is definitely bias crime indicators that are consistent
14 with the bias crime indicators that Strike Force Parrabell
15 used.

16

17 Q. Yes. Well, I'll just show you some documents on that
18 trajectory, but in the broad I'll be suggesting to you that
19 is the case --

20

21 A. Right.

22

23 Q. -- that is, the current documents don't seem to be
24 terribly different from the --

25

26 A. No.

27

28 Q. -- 10-point list that Parrabell was using?

29

30 A. Yes.

31

32 Q. And does that mean that no replacement or no different
33 approach has been arrived at?

34

35 A. So I don't think the approach has been different in
36 terms of the documentation or the points that Sergeant
37 Steer brought in, but I think there is a difference in
38 process at the moment where police are asked to identify
39 and flag whether or not they believed the - the crime or
40 the incident is bias related, in terms of a crime or an
41 incident, and then it goes for review. That then gets
42 disseminated to the Engagement and Hate Crime Unit for
43 a review, and I presume they conduct, then, a more thorough
44 review as to whether or not it is or it isn't to make sure
45 our records are appropriate and accurate --

46

47 Q. Well, I won't --

48

49 A. -- as possible.

50

51 Q. -- take too long with this with you because it sounds
52 like you're not really responsible for the documentation

53

1 anymore --
2 A. No.
3
4 Q. -- to the extent that you were in your previous
5 corporate sponsor role, if at all?
6 A. No, I wasn't.
7
8 Q. But at any rate, can I show you volume 7, tab 195,
9 [SC0I.77445]. These are called "Hate Crime Guidelines"?
10 A. Yes.
11
12 Q. And we can see on the third page - the second
13 page after the cover page - that they've got a publication
14 date of 13 April 2022 - this year?
15 A. Yes.
16
17 Q. Have you seen these?
18 A. I've seen them through our organisation.
19
20 Q. Well, on page 14 - perhaps I should in fact take you
21 to page 6 first, just to get the context. You can see the
22 heading "Context" on page 6?
23 A. Yes, yes I do.
24
25 Q. And the third paragraph under that says that the
26 Parrabell report made a number of recommendations,
27 et cetera?
28 A. Yes.
29
30 Q. And there are some definitions then given, including
31 of "bias" and "hate" and "hate crime", and so on, lower
32 down on that page?
33 A. Yes, I do, yes.
34
35 Q. And then if we turn over - sorry, on page 7, there's
36 a list of various hate categories.
37 A. Sorry, sorry, Mr Gray, can I just ask, so in relation
38 to the definitions, you're not saying that they came from
39 Parrabell? No? Just --
40
41 Q. I'm just observing that they're there in this
42 document, that's all.
43 A. Okay, thank you.
44
45 Q. Anyway, I think we established earlier that there were
46 no definitions in Parrabell?
47 A. No, so - no, the context, though, was that the

1 paragraph in relation to Parrabell sort of stops at that.
2
3 Q. Well, Parrabell made a number of recommendations?
4 A. Yes.
5
6 Q. And this is an update of what's happened since the
7 recommendations, evidently?
8 A. Yes.
9
10 Q. At any rate, if we move over to page 14, the heading
11 is, at 4.4, "Recording and Reporting"?
12 A. Yes.
13
14 Q. And it says that once an incident has been flagged as
15 "Hate Crime Related", it will be assessed by the EHCU -
16 that's the Engagement and Hate Crime Unit? So that's what
17 you were referring to a minute ago?
18 A. Yes, it is, yes.
19
20 Q. And then at page 17 and 18, there are a list of what's
21 called "Hate Crime Indicators"?
22 A. Yes.
23
24 Q. And they're not numbered, but we can count them and
25 see that there are nine of them.
26 A. Yes.
27
28 Q. And although they're not identically worded, they
29 seem, if you have a look at them, to be substantially
30 similar to nine of the 10 in the ones that you were using?
31 A. Yes.
32
33 Q. And the one that seems not to be there that was in the
34 one that you were using is the "Differences" indicator.
35 A. Yes.
36
37 Q. Do you know anything about how it was that this set of
38 indicators came to be developed and find a place in the
39 2022 document?
40 A. No. No, other than the clear relationship with the
41 previous bias crime indicators.
42
43 Q. Now, at 5.3 on page 18, that is headed "COPS Reporting
44 of Hate Crimes/Incidents", and it says that "Hate Crime
45 Related" should be ticked in certain boxes?
46 A. Yes.
47

1 Q. As at April 2022, was that, to your knowledge,
2 mandatory or optional, that that be done?
3 A. No - well, it wouldn't be mandatory, I don't think.
4 I don't think it's mandatory because I don't think that
5 every crime would be a bias crime.
6
7 Q. Well, no, was it mandatory to make such an entry if
8 the attending officer thought it might be a bias crime?
9 A. Yes.
10
11 Q. Rather than optional?
12 A. Yes, if they thought it was bias related, they ought
13 to flag that, yes.
14
15 Q. And in terms of your concern about the 10 points
16 being - I'm paraphrasing - unrealistically lengthy or
17 complicated for somebody at the front line to actually
18 grapple with on the spot --
19 A. Yes.
20
21 Q. -- nothing much seems to have changed, it would seem?
22 A. No, but I think the process of what they do is changed
23 on the basis that they tick that box to say, "I think it's
24 bias crime related", or "hate crime related", and then that
25 gets disseminated through to the Engagement and Hate Crimes
26 Unit, who can then do a more thorough examination.
27
28 Q. Yes, but they tick the box on the basis of having
29 formed a view about the nine indicators?
30 A. Oh, well, they tick it --
31
32 Q. Otherwise, how would they know to tick the box?
33 A. Well, for example, they might see one thing that
34 indicates to them that it may well be bias crime or hate
35 crime, and so then they - that automatically ticks the box.
36 They don't have to then go through each of the other nine
37 indicators, they simply move on. So I kind of think from
38 a policing perspective, that's a better outcome.
39
40 Q. Well, let's go back to page 16, then, 5.1, "Procedure
41 Overview" - do you see that?
42 A. Yes, I do.
43
44 Q.
45 *Every officer must keep an open mind,*
46 *acknowledging that any incident could have*
47 *hate as a motivating factor.*

1
2 A. Yes.
3
4 Q. And so what is, without reading it all out - what
5 seems to be being set down is that for any incident, the
6 investigating officer should note hate crime indicators and
7 that all indicators should be recorded. Do you see that -
8 the second bullet point?
9 A. Where appropriate, yes.
10
11 Q. The first and second bullet points?
12 A. Yes.
13
14 Q. Including victim statements, where appropriate?
15 A. Yes.
16
17 Q. So for any incident, the investigating officer is,
18 according to this document, to note any hate crime
19 indicators and to record all such indicators as noted?
20 A. Yeah, any indicators that are apparent to them, yes.
21
22 Q. And all I'm getting at is that doesn't seem to
23 indicate much of a change in terms of what's expected of
24 the officer on the spot?
25 A. Look, I think - I think it's more of an awareness
26 thing and I think it is a - so if I - if they know that
27 there's going to be a more thorough review, then they're
28 more likely to be able to identify. I think before, the
29 onus was entirely on the frontline officer. That's my
30 understanding. It may or may not be correct.
31
32 Q. The officer in charge of the Engagement and Hate Crime
33 Unit, at the moment, it seems, is Sergeant Ismail Kirgiz;
34 are you aware of that?
35 A. I think that's - I think - yes, because I saw it in
36 the bundle but I wouldn't have known that normally.
37
38 Q. And it seems that there are, as I read his statement,
39 an EHU Coordinator, who is a senior sergeant; there is an
40 Engagement and Support Program Coordinator, who is
41 a sergeant; and then there is Sergeant Kirgiz, who is the
42 Hate Crime Coordinator?
43 A. Yes.
44
45 Q. And then there seem to be four, or possibly five, it
46 might be, officers under him?
47 A. Yes.

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Q. In various roles?

A. Yes.

Q. His background, until 2020, seems to have been not in connection with hate crime or anything to do with it; it seems to be other aspects of policing. I don't know if you know that?

A. I don't know that.

Q. What I'm getting at is if the person to whom all these notifications are going is Sergeant Kirgiz, who has only come into the hate crime world two years ago, is that likely to be a very effective method or more effective method than what you had before?

A. I think so. I'm not making any comment on his expertise. I don't know. But it seems to me that there has been more resources put into that area, and you indicated that there were other team members there, so I think that's a much more appropriate structure.

Q. All right. And then if you would just turn to 197, [SCOI.82034], in that bundle, that is called "Hate Crime Awareness" and it seems that that's a training package now available through the EHCUC, I gather from Mr Kirgiz's statement. Have you seen that before?

A. No, I haven't.

Q. And do you now know anything about the training programs in hate crime awareness and the like that are currently available and run by the EHCUC or is that something that we need to ask someone else?

A. No. No, I think you'd get a more accurate answer from others. I know that they cover bias and the Gay and Lesbian Liaison Officer course, only because I was the sponsor, but what they actually do, I couldn't tell you.

MR GRAY: All right. Those are my questions for Mr Crandell, your Honour.

THE COMMISSIONER: Q. There was just one thing I want to ask, Mr Crandell. Did Dr Dalton at any time during his retainer ever say to you that he wished in fact he knew more about hate crime than in fact he did?

A. No.

THE COMMISSIONER: Thank you. Yes,

1
2 Mr Tedeschi? Now, would you tell me what you want to
3 do, and let's see if we can't achieve it. I know there is
4 only an hour to go today.

5
6 MR TEDESCHI: I would like to have an opportunity of
7 consulting with --

8
9 THE COMMISSIONER: That might shorten things, if you have
10 a transcript and have that ability. I have no difficulty
11 with that. It has been a long week for everybody, most
12 significantly, Mr Crandell. So if you would like to take
13 that time and, what, resume on Monday morning?

14
15 MR TEDESCHI: Yes, please.

16
17 THE COMMISSIONER: All right. Mr Gray, any difficulty
18 with that course?

19
20 MR GRAY: No, Commissioner.

21
22 THE COMMISSIONER: All right. Mr Crandell, thank you.

23
24 What I will do, then, is I will adjourn the matter
25 until Monday morning. I am not entirely sure whether I can
26 start a little earlier on Monday. I'm just not certain.
27 Would it help you or not help you with your week if
28 I started at 9.30? If it doesn't make any difference and
29 it gives you more time --

30
31 MR TEDESCHI: It doesn't make any difference,
32 Commissioner. In fact, it probably assists if we start at
33 10 because I will use this afternoon and the weekend to go
34 over the transcript --

35
36 THE COMMISSIONER: Okay.

37
38 MR TEDESCHI: -- and Monday morning I will be able to see
39 the Assistant Commissioner.

40
41 THE COMMISSIONER: That's perfectly fine. Thank you.
42 What I will do, then, is adjourn the hearing of the Special
43 Commission to 10am next Monday morning. Thank you.

44
45 **AT 2.53PM THE SPECIAL COMMISSION OF INQUIRY WAS ADJOURNED**
46 **TO MONDAY, 12 DECEMBER 2022 AT 10AM**
47

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