

**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 Tuesday, 13 December 2022 at 10.00am

(Day 16)

**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)
Ms Amber Richards (for NSW Police)
Mr Ken Madden (for Sergeant Steer)**

1 THE COMMISSIONER: Yes.

2

3 MR TEDESCHI: Commissioner, before Sergeant Steer gets
4 into the witness box, I have been asked to read a statement
5 of support for this Inquiry from the Commissioner of Police
6 and her General Counsel, Commissioner, if you would allow
7 me to do so.

8

9 THE COMMISSIONER: Of course.

10

11 MR TEDESCHI: Thank you. Commissioner.

12

13 THE COMMISSIONER: Just wait in the body of the court,
14 Mr Steer, just for a moment or two, thank you.

15

16 MR TEDESCHI: Commissioner, the New South Wales
17 Commissioner of Police and her General Counsel have asked
18 me to convey to you their support for this Inquiry that you
19 are conducting and their ongoing willingness to assist and
20 cooperate with your Inquiry to the greatest extent that
21 they can.

22

23 They would like you to know that every effort has been
24 and will be made to comply as completely and efficiently as
25 possible with any requests for information, assistance or
26 summonses by you.

27

28 They understand the importance of your Inquiry and the
29 significance of your report to the LGBTIQ communities and
30 to the community at large.

31

32 So far as we can make out, this Inquiry is the first
33 of its kind in the world, and it's importance is that it
34 has the potential to reassure the community at large and
35 the LGBTIQ communities in particular that everything that
36 could be done has been done to solve the alarming number of
37 historical bias-hate crimes against LGBTIQ persons.

38

39 It represents a unique opportunity for these
40 intolerable crimes to be examined at the highest level by
41 a person with the status and the independence of a Supreme
42 Court judge.

43

44 Both the Commissioner and her General Counsel have
45 been made aware of the comments that you, Commissioner,
46 made after your legal ruling last Tuesday, 6 December,
47 concerning the extent of your Terms of Reference. It was

1 not anyone's intention to cause any offence to you, and
2 certainly not to place any pressure on your Inquiry.
3

4 Sydney has been given the enormous privilege of
5 hosting the International World Pride event in February
6 next year, in combination with the annual Gay and Lesbian
7 Mardi Gras.
8

9 The combination of your unique Inquiry and the
10 international celebration next year highlights the fact
11 that Australia and its leaders are determined that our
12 country be an accepting and tolerant society and that
13 crimes against any section of society are investigated and
14 prosecuted to the full extent of the law.
15

16 Thank you, Commissioner.
17

18 THE COMMISSIONER: Yes, thank you, Mr Tedeschi. Your
19 comments are noted, thank you very much.
20

21 Mr Steer, would you come back, please, into the
22 witness box.
23

24 <GEOFFREY ROBERT STEER, on former oath: [10.04am]
25

26 <EXAMINATION BY MR TEDESCHI:
27

28 MR TEDESCHI: Q. Sergeant Steer, could I take you,
29 please, to volume 7, tab 188, which was shown to you by
30 Counsel Assisting, that being the Standard Operating
31 Procedures of the Bias Crime Unit, [SCOI.75057]?
32

33 A. Yes.
34

35 Q. Correct me if I'm wrong, but you indicated to this
36 hearing that this was a document prepared by you?
37

38 A. Yes.
39

40 Q. I think you said it was in 2013 or 2014 that you wrote
41 it, but it was only approved in 2015?
42

43 A. Around then, yes.
44

45 Q. And it was the Standard Operating Procedures that were
46 in operation at the time of Strike Force Parrabell?
47

A. Yes.
48

49 Q. And indeed, Operation Parrabell as well?
50

51 A. No, they weren't written when Operation Parrabell was
52

1 run.

2

3 Q. And for how long were these the SOPs of the Bias Crime
4 Unit?

5 A. They were around when I left in 2017. What happened
6 after I left I've got no idea.

7

8 Q. And could you explain to the Commissioner, what is the
9 role, the function, the importance of Standard Operating
10 Procedures - who do they apply to?

11 A. Basically, they apply to police to set out the way
12 things are to be investigated, processes, procedures that
13 are to be done to make sure that they're done
14 systematically across the organisation, and that there is
15 a level of accountability. So if an officer doesn't do
16 something, there's a document to refer him back to say,
17 "This is what you're required to do. You didn't do it."

18

19 Q. So this is not just a document for the Bias Crime
20 Unit; this is a document for all police?

21 A. Yes.

22

23 Q. To give them guidance on how to investigate and report
24 such crimes?

25 A. Yes.

26

27 Q. And so far as you're aware, it was approved in 2015
28 and was still in operation when you left the Bias Crime
29 Unit?

30 A. Yes.

31

32 Q. Could I take you, please, to page 42, which is again
33 some material that Counsel Assisting took you to. You see
34 there under the heading "Classification", there are four
35 categories of bias crime?

36 A. Yes.

37

38 Q. There's "Bias crime", "Suspected Bias Crime", "Bias
39 Incident" and "Not a Bias Crime".

40 A. Yes.

41

42 Q. And you define "Bias Crime", you said, using the
43 criminal standard of proof, that sufficient evidence of
44 proof exists to prove beyond a reasonable doubt
45 the motivation of bias?

46 A. Yes.

47

- 1 Q. "Suspected Bias Crime" is when there is insufficient
2 evidence to prove beyond a reasonable doubt but there are
3 still reasonable grounds to suggest that the incident may
4 have been bias motivated?
5 A. Yes.
6
- 7 Q. The third category is "Bias Incident", which is where
8 there's no criminal offence at all that has been committed
9 but there's an incident that appears to be bias oriented?
10 A. Yes.
11
- 12 Q. And finally, "Not a Bias Crime", is where there is no
13 evidence that the incident was either wholly or partially
14 motivated by bias?
15 A. Yes.
16
- 17 Q. Now, there's no category there for a situation where
18 there's insufficient evidence to determine whether it might
19 be a bias crime or might not be a bias crime, is there?
20 A. In the SOPs, no.
21
- 22 Q. Correct me if I'm wrong, but in the course of your
23 experience as the Bias Crime Coordinator, you came across
24 many situations where, in fact, it was very hard to
25 determine one way or another whether a crime was a bias
26 crime?
27 A. Yes. Yes, we did have that category use.
28
- 29 Q. But in the Standard Operating Procedures, there is no
30 category at all for insufficient information to determine
31 whether or not it's a bias crime, is there?
32 A. No.
33
- 34 Q. So this was approved in 2015 and, it was still in
35 existence in 2018 when you left the Bias Crime Unit?
36 A. 2017 when I left.
37
- 38 Q. Sorry, 2017 when you left the Bias Crime Unit. Hadn't
39 been corrected or altered by you?
40 A. No.
41
- 42 Q. And this is a document that, according to you, was to
43 govern all police throughout the State of New South Wales
44 in relation to the investigation and reporting of bias
45 crime?
46 A. Yes.
47

1 Q. So there's no indication here that would assist
2 a frontline police officer who's faced with a situation
3 where there's evidence either way and there's just
4 insufficient information to decide, is there?

5 A. No, but generally what we would do, we would send it
6 back to that officer and say, "These are other inquiries
7 that can be made." As I said, the role of the Bias Crimes
8 Coordinator was to make the final determination. So the
9 officers didn't actually have to make these decisions; it
10 was my decision on what category it would be classified as.
11 So all we expected from them was to identify, report it,
12 investigate it and then it was left to myself as the Bias
13 Crimes Coordinator to make the final classification.

14
15 Q. Don't you think it would have been preferable to have
16 had a classification in here for "Insufficient
17 Information"?

18 A. As far as I'm aware, going from my knowledge and
19 expertise from around the world, most other jurisdictions
20 don't have that classification, because the standard of the
21 work that their officers are doing don't require that
22 category. Because we were just new to this, this was the
23 ultimate - what the end game, what we wanted, and so
24 "Insufficient Information" wasn't put in there, because it
25 was hoped that with training and development of frontline
26 police, that that wouldn't be an issue for us anymore.

27
28 Q. But don't you agree that for a frontline police
29 officer who has no great experience of bias crimes, who
30 looks at this page to try to assist him or her in a
31 situation where there's insufficient information, and they
32 go through those four categories and they think, "Well,
33 I don't know what to do. It doesn't tell me what to do",
34 does it?

35 A. Once again, those categories were used by myself as
36 the Bias Crimes Coordinator. Frontline police were not
37 required to make that determination as to whether it was
38 a bias crime or whatever. We would give them advice and
39 guidance to get the best evidence that they could get in
40 regards to a suspected bias crime, and then we would make
41 the final determination.

42
43 Q. Don't you agree that there's a very real risk that
44 a frontline police officer with not much experience in bias
45 crimes might look at these categories and think to himself,
46 "Well, I'm not going to report it to the Bias Crimes Unit
47 because it's not one of the categories that they've got in

1 their classification"?

2 A. No, I don't think that was an issue.

3

4 Q. Don't you think it would have been preferable to have
5 had a category there so the police officers in the field
6 would be guided by those classifications and realise that
7 it is a situation where they should report it to you?

8 A. That was in the procedures to begin with, is - they
9 use those 10 indicators. Those indicators were to give
10 them an idea if it was a bias-motivated crime. They were
11 then to flag it as a suspected bias-motivated crime and the
12 unit would then review it and offer assistance. It wasn't
13 up to them to make the determination as to whether it was
14 a bias crime or not.

15

16 Q. I suggest to you that it was potentially misleading
17 not to have that additional category there?

18 A. I disagree.

19

20 Q. Can I take you please, now, to volume 3, tab 64A,
21 [SCOI.77319]. Once again, this is a document that was
22 shown to you by Counsel Assisting?

23 A. Yes.

24

25 Q. I think you said in your evidence that this was
26 a PowerPoint presentation that you were asked to do for
27 Task Force Parrabell?

28 A. For Strike Force Parrabell, yes.

29

30 Q. Sorry, Strike Force Parrabell?

31 A. Yes.

32

33 Q. You presented these as part of your training of the
34 investigators on Strike Force Parrabell to assist them in
35 the task that you knew that they were about to do?

36 A. Well, I wouldn't call it "training". I define
37 "training" as embedding skills. This was passing on
38 information to them; it wasn't training.

39

40 Q. So it was information that you were passing to them to
41 try and assist them in the task that they were about to
42 commence as part of Strike Force Parrabell?

43 A. This presentation was given after they had already
44 commenced their task.

45

46 Q. But you knew that it was specifically designed to give
47 them information for the purposes of Strike Force

1 Parrabell?

2 A. No. It was designed to give them an overview of what
3 the Bias Crimes Unit did.

4

5 Q. You knew that Strike Force Parrabell at that stage was
6 conducting the review?

7 A. Yes.

8

9 Q. And you presented this PowerPoint in the knowledge
10 that that's what that team of officers was engaged in
11 doing?

12 A. Yes.

13

14 Q. And you knew that what they were doing was looking at
15 suspected homicides of LGBTIQ members of the community?

16 A. Yes.

17

18 Q. Could I take you to page 11. You were asked a number
19 of questions by Counsel Assisting about the use of the word
20 "immutable" characteristics, and you said that that was
21 a mistake, to include that word?

22 A. Yes.

23

24 Q. And the reason why it was a mistake is that things
25 like gender identity and sexual orientation are not at all
26 immutable, are they?

27 A. No, that's not what I said. What I said is I normally
28 put that word in the "Notes" section. The reason
29 "immutable" was in there is that that's how we define the
30 protected categories, and although strictly speaking the
31 definition of "immutable" doesn't cover all those
32 categories, the psychological impact of trying to change
33 one's religion or gender or whatever is so heavy that it's
34 rare that people do it.

35

36 Q. Don't you agree that it is inaccurate to use the word
37 "immutable" when you're talking about gender identity and
38 sexual orientation?

39 A. I don't disagree. If you're working off the strict
40 definition, yes. But I was basing my use of that word
41 based on the training I received in the US in regards to
42 how they identified their protected categories and, as
43 I said, we used it in the lower standard that, yes,
44 although you can change certain characteristics, that the
45 psychological impact is greater, and so it is
46 a characteristic which is therefore problematic for people
47 to change.

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Q. It might be problematical for people to change but the word "immutable" means unchangeable, doesn't it?

A. Yes, it does.

Q. The last two categories on page 11, "Victim was engaged in activities promoting his/her group" - that's not applicable to investigation of homicides, is it?

A. Well, it could be, because the person - and remember that these indicators were generic for all of the protected categories just not LGBTIQ. Someone may have been promoting activities of their group, whether it's their religion, whether it's some other factor of their group, some - people could be promoting those activities if they were murdered.

Q. Do you agree it was totally inappropriate for the purpose of what Strike Force Parrabell were engaged in?

A. No. No, I don't, because I - without reviewing all the cases at that stage, I don't know what victims were doing prior to their homicide or their murder.

Q. You are not suggesting that the victims of these homicides were promoting a group when they were murdered, are you?

A. I don't know what activities they were promoting.

Q. The last category:

Incident coincided with a holiday or date of particular significance to the victim or POI's group.

That's completely inapplicable to the task that faced Strike Force Parrabell, wasn't it?

A. No, I disagree with that, because Mardi Gras is celebrated, they could have been attended Mardi Gras at the time they were involved in the incident. So Mardi Gras would fall into that category.

Q. If you go over the page, the next category of differences:

Victim, although not a member of the targeted group, is a member of an advocacy group that supports the victim, or the victim was in company of a member of the

1 *targeted group.*

2

3 That's really looking at political type violence, isn't it?

4 A. Not necessarily.

5

6 Q. But primarily looking at political violence, it's not
7 really applicable to the task that Strike Force Parrabell
8 had, is it?

9 A. Once again, without knowing the details of every
10 homicide case, the victim may have been a family member of
11 someone who was gay and was targeted because of that.
12 I cannot comment.

13

14 Q. Page 15:

15

16 *Objects or items that represent the work of*
17 *an OHG --*

18

19 organised hate group -

20

21 *were left at the scene, eg business cards,*
22 *flyers, burning cross.*

23

24 That's not applicable to the victims of homicides, is it?

25 A. Well, it could be. There's been multiple cases,
26 especially in the US, where business cards and other items
27 from organised hate groups have been left at the scenes of
28 homicides.

29

30 Q. But don't you agree that that's more applicable to a
31 completely different kind of hate/bias crime, not the type
32 that Strike Force Parrabell were looking at?

33 A. Once again, without knowing the details of the case,
34 we don't know who the offenders were. They could have been
35 members of organised hate groups and they could have left
36 material there identifying their involvement with a hate
37 group.

38

39 Q. Do you know of any case of a suspected homicide of an
40 LGBTIQ community member where the perpetrator left
41 a business card or a flyer or a burning cross?

42 A. In Australia or overseas?

43

44 Q. In Australia?

45 A. In Australia, no.

46

47 Q. Not one case?

1 A. Not that I'm aware of, but I'm not aware of every case
2 that's ever happened.

3

4 Q. And yet that was one of the categories that you said
5 that Strike Force Parrabell should be aware of when you
6 were giving this PowerPoint; correct?

7 A. No, because these - as I explained at the beginning,
8 these were generic for the bias crimes indicators.

9

10 Q. They were generic to the point of being totally
11 inapplicable in some respects to the task that Strike Force
12 Parrabell were faced with, weren't they?

13 A. Well, I'd disagree, but that's your opinion.

14

15 Q. Page 18:

16

17 *The victim was perceived to be breaking*
18 *from traditional conventions or working non*
19 *traditional employment.*

20

21 Again, that's a completely different category of hate
22 crime, isn't it?

23 A. No. What we found in regards to people who identify
24 as lesbian is sometimes they do get targeted because
25 they're deemed to be operating outside societal norms.

26

27 Q. That's not applicable to a situation where a homicide
28 has been committed, is it?

29 A. It could be, but once again, not knowing the facts of
30 every case --

31

32 Q. You see, what I'm suggesting to you is that this
33 presentation was a generic presentation about bias crime
34 generally and not directed specifically at the review that
35 was being conducted by Strike Force Parrabell?

36 A. I would say it was compiled for that task. It wasn't
37 a generic presentation that I did. But once again, the
38 purpose of it was to show what the Bias Crimes Unit was
39 doing, not specifically advising Parrabell on how they were
40 to set up things.

41

42 Q. You can return that folder. Can I take you now,
43 please, to some evidence that you gave yesterday,
44 page 1088. You were asked some questions by Counsel
45 Assisting about these Standard Operating Procedures, and
46 you said that they came into force in 2015. You finished
47 your role in 2017. You were asked by Counsel Assisting if

1 you were able to indicate to the Commissioner any idea of
2 the numbers that fell within the different categories,
3 being those four categories in the Standard Operating
4 Procedures. You said this, at line 42:

5
6 *We used to average maybe 120 to 170 events*
7 *a month that were flagged.*

8
9 Now, can I pause there and say was that matters that were
10 flagged by frontline police?

11 A. Yes, those who selected the associated factor.

12
13 Q.

14 *Out of that, I would say roughly I think,*
15 *from memory, we had roughly about*
16 *a 50 per cent failure rate where police*
17 *would misidentify bias crimes.*

18
19 So are you suggesting there that something like 50 per cent
20 of the events that were reported on a monthly basis turned
21 out not to be bias crimes at all?

22 A. Yes.

23
24 Q. Did that cause you to have some concerns about the
25 categories that were in your Standard Operating Procedures?

26 A. No, I had - caused me to have concerns about the
27 training issues within the NSW Police.

28
29 Q. See, I suggest to you that that should have caused you
30 to have some real concerns that maybe there needed to be
31 a refining or a rewriting of those four categories in the
32 Standard Operating Procedures.

33 A. No. Once again, they were used by me as the Bias
34 Crimes Coordinator. They were not for frontline police.
35 The issue is training with police.

36
37 Q. You then go on to say:

38
39 *So what does that drop us down to? About*
40 *60 or 70. Then out of that, insufficient -*
41 *I would say maybe 10 to 15 per cent were*
42 *insufficient information.*

43
44 Now, by that you mean insufficient information to determine
45 whether or not it was a bias or hate crime?

46 A. Either that or insufficient information recorded in
47 the COPS event for us to make a determination.

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Q. Then you went on:

And then - bias crime, because of the high level, were always going to be less than suspected bias crimes, so I would say maybe 20 would be bias crimes and the remainder would be suspected ...

Now, do I take it from that answer that your experience over the time that you were the coordinator was that there were many more that were suspected bias crime than actual bias crime?

A. Yes.

Q. And the reason for that is that the category of actual "Bias Crime" required proof beyond a reasonable doubt that it was actually a bias crime?

A. Yes.

Q. So there was always more that were suspected, and would you agree that there were also a lot more that were in the category of "Insufficient Information"?

A. Than "Bias Crime"?

Q. Than actual "Bias Crime"?

A. Yes.

Q. You gave evidence yesterday that what you thought was the correct approach to the categorisation of bias crime was a two-staged approach?

A. Two-tier model, yes.

Q. A two-tier model. Stage 1 was the frontline police bringing a matter to your attention?

A. Yes.

Q. And stage 2 was the assessment by your unit, which of the four categories it fell into?

A. Yes.

Q. And the reason why you thought that was the best method was that you felt that your unit had the relevant knowledge and expertise to be able to make that assessment?

A. No, the reason we selected that model was because it was international best practice.

1 Q. But did you also think that you had more knowledge and
2 experience than the average frontline officer to make that
3 assessment?

4 A. Yes.

5

6 Q. Now, at page 1100 you gave this evidence, and you were
7 referring to, I think, the Standard Operating Procedures -
8 I'm not sure. You were referring to a document and you
9 were referred to a heading "Bias Crime Indicators", and
10 this was read to you by Counsel Assisting:

11

12 *Each incident will be filtered through the*
13 *current ten bias crimes indicators. The*
14 *purpose of this is to identify potential*
15 *deaths that may have a bias motivation.*
16 *The indicators do not mean that an incident*
17 *was in fact bias motivated, but suggest*
18 *a possibility of a bias motivation.*

19

20 Do you agree that's the correct approach?

21 A. Yes.

22

23 Q. And you then said, further down the page, line 32:

24

25 *So basically look at those 10 indicators,*
26 *use them as our basis for assessment, so we*
27 *look at those categories and gather as much*
28 *information as we could in those areas and*
29 *then give our assessment.*

30

31 That was what you thought was the preferred approach?

32 A. Yes. So basically we're either looking for admissions
33 from the offender or, if we can't find those, we're trying
34 to build a circumstantial case.

35

36 Q. And then you were asked:

37

38 *And you being the lead operative in the*
39 *exercise?*

40

41 And you said, "Yes"?

42 A. Yes, that was for Operation Parrabell.

43

44 Q. I mean, effectively the unit and you were one and the
45 same?

46 A. Well, at that stage I was it, yes.

47

1 Q. And then were you asked this question, line 46:

2
3 *... what is the difference in your mind*
4 *between how you intended to use them and*
5 *how you understand the strike force used*
6 *them?*

7
8 That's the Parrabell strike force, and you said:

9
10 *So ours is a more free-flowing approach.*
11 *It's not in a formalised document. That*
12 *comes later in the assessment where we*
13 *might use those headings and sit there and*
14 *go, "Location". We drill down on them, so*
15 *we would be looking at intelligence for*
16 *those areas, geographic profiling, all that*
17 *sort of stuff.*

18
19 A little while later you said this:

20
21 *The concerns I had with the way that Strike*
22 *Force Parrabell did it is they did it on*
23 *a form. Not a big fan of forms because it*
24 *limits thinking.*

25
26 Then further down the page, line 44:

27
28 *But there was very little to understand how*
29 *they got there, where the way that we would*
30 *do it would be we would reason out what we*
31 *were doing so it was clear, "We've come to*
32 *this determination based on all of this*
33 *information."*

34
35 And then you said that it's not in a form. Sergeant, you,
36 of course, were made aware at some stage of the way in
37 which Strike Force Parrabell conducted itself.

38 A. Yes.

39
40 Q. How they did their assessment of whether or not crimes
41 were bias crimes?

42 A. Yes.

43
44 Q. Or into which category it fell?

45 A. Yes.

46
47 Q. Now, of course, Strike Force Parrabell was subject to

1 an academic review?

2 A. Yes.

3

4 Q. As such, they had to produce written documentation of
5 their rationale to support their classification in relation
6 to each incident reviewed; do you accept that?

7 A. Yes.

8

9 Q. And, of course, there were 13 investigators at one
10 stage on Strike Force Parrabell?

11 A. I don't know what the numbers were.

12

13 Q. If you accept from me that there were 13 of them,
14 using a form was important in order to achieve uniformity
15 and in order to be able to have discussions between
16 different members of the strike force?

17 A. Yes.

18

19 Q. I suggest to you that from what you know about Strike
20 Force Parrabell, the 10-point indicator form was never used
21 as a checklist; that it was a way of documenting and
22 presenting information to support a final classification.
23 What do you say about that?

24 A. I still believe it was used as a checklist.

25

26 Q. Did you know that it was heavily emphasised to all of
27 those involved in Strike Force Parrabell that the form was
28 not a checklist and that the evidence or absence of an
29 indicator did not provide a definitive answer to which
30 classification a crime should be put into? Did you know
31 that?

32 A. I made those comments, so I'm assuming that they were
33 passed on to Parrabell, so yes.

34

35 Q. All right. And did you know that when each form was
36 completed, it was reviewed by Senior Constable Bignell, who
37 was one of the lead investigators?

38 A. No, I don't know how their processes worked.

39

40 Q. Did you know that Senior Constable Bignell would then
41 present the completed forms to Sergeant Middleton and
42 Sergeant Grace at regular meetings each week?

43 A. No, as I said, I didn't - don't know what their
44 processes were.

45

46 Q. Did you know that at those weekly meetings, all of the
47 matters were discussed at great length?

1 A. Once again, I don't know what their processes were.

2

3 Q. Did you know that during those meetings, on many
4 occasions, the classifications were re-determined and
5 sometimes sent back for further information?

6 A. Once again, wasn't involved.

7

8 Q. If those procedures were adopted, do you agree that
9 that's the sort of robust discussion that shows that the
10 forms were not used as a checklist?

11 A. I argue that the forms in the manner they were used
12 were still a checklist because at the end of each indicator
13 they were assigning whether it was a bias crime or not,
14 which is confusing. I've sent examples across to the NYPD
15 Hate Crime Task Force to dip sample my work and they came
16 to the same opinion as myself. The academics agreed that
17 there was evidence it was being used as a checklist. So
18 I would argue that yes, it was used as a checklist, their
19 processes may not have left it at the end as a checklist,
20 but the original use of it was as a checklist.

21

22 Q. I suggest to you that the process that was engaged in,
23 that I've just described to you, which, of course, was
24 followed by further discussions with the academic team from
25 Flinders University and, indeed, further discussion with
26 you, shows that there was a very rigorous and transparent
27 process of assessing each, that does not amount to the use
28 of any checklist?

29 A. I have --

30

31 Q. What do you say to that?

32 A. I have no suggestion that Parrabell wasn't thorough.
33 What I'm saying is the process that they used was not the
34 same as the process that was used by the Bias Crimes Unit,
35 the way that we did it. I saw 12 cases out of the 88, or
36 85 or something, whatever it was, so I can't comment across
37 the board, but the 12 that I saw made me believe that the
38 form was being used as a checklist.

39

40 Q. We'll come to those 12 in a little while. What I want
41 to suggest to you is that what you did when you were
42 assessing whether a crime was a hate crime was to just rely
43 upon your own expertise and thinking on your own to
44 determine whether or not it was a bias crime, without any
45 discussion, and that what Strike Force Parrabell did by
46 engaging in rigorous discussion with many people was a much
47 more authentic and rigorous process than what you were

1 involved in?

2 A. Well, five of the seven years I was by myself so
3 I really had no-one to compare notes with, and the other
4 two years I would speak to the other members of the unit
5 when we were doing it. So no, I don't agree with that.

6

7 Q. Could I take you, please, to page 1108 of the
8 transcript, which I will read to you. Sorry, 1109. Sorry,
9 that's not right. Could I take you to volume 10, tab 248,
10 [SCOI.79391], which again is a document shown to you by
11 Counsel Assisting. Could I take you to page 2, which is an
12 email from you to Professor Derek Dalton in March of 2017.

13 A. Yes.

14

15 Q. You're referring there to your belief that the form
16 should not be used as a checklist?

17 A. Yes.

18

19 Q. You say this, four lines from the bottom of your
20 email:

21

22 *They are purely designed to help police*
23 *identify situations where bias motivation*
24 *may be a factor and to then ask further*
25 *questions to explore it. The frontline*
26 *police do not decide if it's a bias crime,*
27 *that is this units job. All they have to*
28 *do is assess if bias motivation was*
29 *suspected as being either wholly or*
30 *partially involved in the incident and*
31 *supply all available evidence and we make*
32 *the decision.*

33

34 That's a description of your two-stage approach, isn't it?

35 A. Yes.

36

37 Q. I suggest to you that from what you know and what you
38 saw and what you've subsequently learnt, that you're able
39 to say that the process as adopted by Strike Force
40 Parrabell was a very rigorous and genuine process?

41 A. Yes, I wouldn't dispute that.

42

43 Q. Thank you. Sergeant, you have described to us the
44 process whereby you did the 12 dip samples?

45 A. Yes.

46

47 Q. You were asked by Counsel Assisting as to what

1 documentation you had available to you to do that?
2 A. Yes.
3
4 Q. I think you said you had the forms?
5 A. I had the forms and an Excel spreadsheet that was sent
6 to me.
7
8 Q. Did you also have case summaries?
9 A. I had access to the case summaries through the
10 Parrabell strike force, through the e@gle.i.
11
12 Q. Through e@gle.i?
13 A. Yes.
14
15 Q. And did you actually make use of those summaries?
16 A. Yes.
17
18 Q. Were they of use to you --
19 A. Yes.
20
21 Q. -- in some respects. You must have been familiar with
22 some of those cases beforehand?
23 A. Yes. But instead of - as I think Mr Crandell pointed
24 out, instead of reading thousands and thousands of
25 documents, it was a summary, so then I could go through and
26 look for specific evidence that was recorded by Parrabell
27 to justify or assess.
28
29 Q. So that was of considerable assistance to you in
30 coming to your own conclusions?
31 A. Yes.
32
33 Q. Is this the case, that you did not have to go back to
34 the original police file in relation to any of those 12
35 cases?
36 A. Everything that Strike Force Parrabell did was
37 uploaded to e@gle.i, so all the statements, all that, so
38 I just went to e@gle.i to access statements or any other
39 document, crime scene photos or anything like that that
40 I needed to look at.
41
42 Q. Sorry, you did or you didn't?
43 A. I did.
44
45 Q. You did. Did you actually have access to any of the
46 original documents to do your categorisation when you did
47 the dip sample?

1 A. No, not when I did the dip sample, no.
2
3 Q. So what you had regard to were the forms, the
4 spreadsheet you've told us about and the case summaries?
5 A. And the e@gle.i. So all the statements, everything
6 that was in those original documents, was uploaded to
7 e@gle.i, so I had access to that.
8
9 Q. I understand that you had access to it --
10 A. Yes.
11
12 Q. -- but what I'm asking you is whether you actually
13 had regard to - whether you actually went back to the
14 original documents, be they statements or photographs --
15 A. Yes, I did.
16
17 Q. -- or anything?
18 A. Yes, I did. So I'd look at the case summary, identify
19 the main witnesses, et cetera and so forth, crime scene
20 photos, all that, I'd then go into e@gle.i, look at those
21 documents, read statements and then form my opinion from
22 there.
23
24 Q. And then, after that, you had a meeting that was
25 recorded in the form of minutes, where each of those cases
26 were discussed?
27 A. The 12, yes.
28
29 Q. With Strike Force Parrabell?
30 A. Yes.
31
32 Q. Could I take you to those minutes, which is volume 3,
33 tab 83?
34 A. What was the tab, sorry?
35
36 Q. Volume 3, tab 83, [SCOI.74429]. Have you had a chance
37 to read these minutes at any time?
38 A. Yesterday I had a quick look at them when I was led
39 through them.
40
41 Q. When you were in the witness box?
42 A. Yes.
43
44 Q. What I'd like to do is to take you through the 12
45 cases. Firstly, on page 1, it states under the heading "2,
46 "Bias Crime Unit review of 12 cases":
47

1 *Sergeant Steer tabled a summary of 12 cases*
2 *he reviewed and provided his rationale for*
3 *determinations.*

4
5 The first case, number 50, there was agreement between
6 Parrabell and you that it was insufficient information.

7 A. Yes.

8

9 Q. The next case, number 55, the end result from
10 discussion, on the second-last and last line, is that all
11 were agreed to support this position:

12

13 *All agreed to determine this case "Not a*
14 *Bias Crime".*

15

16 So do I take it from that that you agreed to that position?

17 A. No, as I said yesterday, I think this was one of the
18 most contentious cases that we discussed. I made the
19 comment, "We'll agree to disagree", and it was Parrabell's
20 decision as to what the finding would be.

21

22 Q. You had agreed to the position --

23 A. I agreed to what?

24

25 Q. -- that it was not a bias crime?

26 A. Well, I hadn't agreed to that position. I agreed to
27 let Parrabell make their determination because we could not
28 come to agreement.

29

30 Q. The next case, number 57, you had an initial feeling
31 about it, but then you agreed, it says:

32

33 *Sgt Steer agreed. All agreed "Bias Crime".*

34

35 So you were all in agreement on that?

36 A. Once again, I think this was another one where I said,
37 "We'll have to agree to disagree." There was, from memory,
38 information to suggest that there might have about another
39 motivating factor, which might have been disability,
40 because he was on a disability pension at the time. That
41 hadn't been explored. That's why I said "Insufficient
42 Information", because we didn't have information about
43 that, so I think it was another case where we agreed to
44 disagree and, once again, I deferred to Parrabell.

45

46 Q. Do you disagree with the minute as recorded:

47

1 *Sgt Steer Agreed. All agreed "Bias Crime".*

2

3 Do you say that's not accurate

4 A. I wouldn't say that it's not accurate, but it's not
5 how I perceived it. So yes, you could technically say
6 I agreed because I deferred to Parrabell, but it was one of
7 these ones that we agreed to disagree, and I deferred to
8 Parrabell because it was their investigation.

9

10 Q. The next one, number 62, there was agreement?

11 A. Yes.

12

13 Q. Number 63, there was agreement?

14 A. Yes.

15

16 Q. Number 64, on the third line, it said:

17

18 *All agreed with Sgt Steer's rationale.*

19

20 Correct?

21 A. Which case, 64?

22

23 Q. Number 64, third line?

24 A. Yes.

25

26 Q.

27 *All agreed with Sergeant Steer's rationale.*

28

29 A. Yes.

30

31 Q. So once again was there agreement, this time with your
32 position?

33 A. I would say yes, based on what's in there. But once
34 again, how they perceived it, how it was recorded, I can't
35 comment on.

36

37 Q. Next one, 65, there was a suggestion from you, there
38 was some discussion, and then the minutes record that you
39 were happy to leave the determination as "Insufficient
40 Information". Does that accurately state your position at
41 that meeting?

42 A. Oh I can't remember the specific case but yeah,
43 I would say that would be right based on what was recorded
44 there.

45

46 Q. The next case, number 66, there was agreement?

47 A. Yes.

1
2 Q. The next case, 67:
3
4 *... following lengthy discussion all agreed*
5 *to amend this ...*
6
7 Do you agree that that accurately records what happened in
8 the meeting?
9 A. Can I just have a second just to read the rest of that
10 paragraph? Yes. Yes, I would.
11
12 Q. And the second-last line says:
13
14 *All agreed for these reasons ...*
15
16 A. Yes.
17
18 Q. The next case, 68:
19
20 *... all agreed to amend to this*
21 *determination ...*
22
23 Was there apparent agreement on that one as well?
24 A. Yes.
25
26 Q. The next one, 71, there was - the second dot point
27 note about that case says there was a useful discussion on
28 terminology?
29 A. Yes.
30
31 Q. And then there was a discussion about a change of
32 terminology. Right?
33 A. Yes.
34
35 Q. Instead of "No Bias Crime" to "No evidence of bias
36 crime", and instead of "Bias Crime" to "Evidence of bias
37 crime"; correct?
38 A. Yes.
39
40 Q. And then, about six, seven lines further down:
41
42 *All agreed to change ...*
43
44 that case. So there was agreement?
45 A. Yeah, I think I said in my evidence yesterday that
46 I still argued that we should have maintained what the SOPs
47 said in regards to it but I understood their rationale why

1 they wanted to change it and I left it to Parrabell to make
2 that determination.

3

4 Q. Do you agree that the minutes say:

5

6 *All agreed to change [the case].*

7

8 A. Yes.

9

10 Q. The next case, number 72, "All agreed to keep this
11 case" in that category - right?

12 A. Yes.

13

14 Q. So do you agree that, according to these minutes in
15 relation to all 12 of these cases, eventually there was
16 agreement between all the parties concerned about what the
17 categories should be?

18 A. I wouldn't say "agreement". As I said, there were
19 a number where I said, "We'll have to agree to disagree",
20 and I deferred to Parrabell.

21

22 Q. And subject to that, do you concede that there was
23 agreement between --

24 A. Agreement was reached but based on those parameters.

25

26 Q. It was during the course of this meeting, was it not,
27 that then Acting Assistant Commissioner Crandell asked you
28 to write a section of the report?

29 A. I think I remember saying in my evidence yesterday
30 I don't have a recollection of that. I don't dispute
31 that's what happened but I don't have a recollection of
32 that.

33

34 Q. That's what's recorded in the minutes, isn't it?

35 A. Yes. Yeah, I don't dispute what's in the minutes.

36

37 Q. And so clearly, Assistant Commissioner Crandell valued
38 your contribution to this meeting, because he asked you to
39 write a section of the report?

40 A. I don't disagree with that.

41

42 Q. And in particular, what he wanted you to write about
43 was about the change from "Not a Bias Crime" to "No
44 evidence of bias crime", and "Bias Crime" to "Evidence of
45 bias crime". It was that part that he asked to you write
46 a section of the report on?

47 A. I can only go from what the minutes say. As I said,

- 1 I can't remember that conversation, but if that's what's in
2 the minutes, then I'll agree to it.
3
- 4 Q. And I think that he also asked you to participate in a
5 meeting with the Flinders University team?
6 A. I don't know whether he asked me to participate -
7 I did participate in several meetings with them but I can't
8 remember whether it was a request from him or Jackie Braw.
9
- 10 Q. You've seen these minutes --
11 A. Yes.
12
- 13 Q. -- which record that you should participate in the
14 next meeting with Flinders University?
15 A. Yes, but as I said, I --
16
- 17 Q. You don't disagree, do you, that Assistant
18 Commissioner Crandell asked you in this meeting to
19 participate in discussions with the Flinders University
20 team?
21 A. As I said, I can't remember who asked. I remember
22 somebody asking if I would but I can't remember who - who
23 actually made that comment.
24
- 25 Q. And in fact, you did participate in meetings with the
26 Flinders University team?
27 A. Yes, I did.
28
- 29 Q. A number of meetings?
30 A. I remember at least two or three.
31
- 32 Q. And a number of exchanges of emails?
33 A. And phone calls, yes.
34
- 35 Q. And phone calls. So you had, would it be fair to say,
36 extensive contact with the Flinders University team?
37 A. I wouldn't say "extensive", but I had contact with
38 them, yes.
39
- 40 Q. And do you see, there's also an entry that says this
41 in that same paragraph:
42
43 *... it will not be necessary for Sgt Steer*
44 *to review any additional cases ...*
45
46 A. Yes.
47

- 1 Q. Do you remember that being said?
2 A. Yes.
3
4 Q. And do you remember agreeing with it?
5 A. I think by this stage I had no problem with that
6 because of the workload and other work that was going on,
7 but it was contrary to the original agreement that was set
8 up when Parrabell started between the unit and myself.
9
10 Q. I will come to that, but do you agree that --
11 A. Yes. Yes, I do.
12
13 Q. Do you agree that in these minutes there's not
14 a single, solitary mention of any criticism by you of the
15 Bias Crime Indicator Form?
16 A. In the minutes I agree, but I remember making the
17 comment when we started the review.
18
19 Q. I suggest to you that there was no mention at this
20 meeting of any criticism - at this meeting - of any
21 criticism by you of the Bias Crime Indicator Form?
22 A. Once again, as I previously stated, I did mention that
23 I had concerns during the meeting when I started the review
24 of my information.
25
26 Q. I think you also gave evidence yesterday that in 2018
27 you were contacted by someone and asked whether you would
28 write a review of the report?
29 A. Yes.
30
31 Q. Was that before the report came out?
32 A. I don't know when the report came out but it was -
33 Jackie Braw emailed me, asking me if I would review the
34 report, not actually writing in it, just read the report
35 and review it. I then said to her I wasn't in the Hate
36 Crime Unit anymore, referred her to the Hate Crime Unit,
37 and then I then got a response basically saying that if
38 I couldn't do it, then Mr Crandell wasn't going to get the
39 unit to do it.
40
41 Q. So here was a situation where you thought that you had
42 probably more experience than anybody else in the Police
43 Force about hate crimes?
44 A. I would say that I was the organisational expert, yes.
45
46 Q. Even in 2018, after you left the unit, you were still
47 the most knowledgeable, experienced person in that area,

1 you thought?

2 A. I would say so, yes.

3

4 Q. And you were asked to write a review of what was
5 probably the first report in the world investigating the
6 incidence of such hate crimes?

7 A. Yes, I would say so, yes.

8

9 Q. And you declined to do so?

10 A. I didn't decline to do it. I was following protocol.
11 I was a general duties supervisor. There was a unit that
12 was still doing hate crimes. If they said, "Yes, we're
13 happy for him to do it", then I would have done it. But
14 I wasn't stepping outside the protocols of the NSW Police.

15

16 Q. You see, at that stage, I think, Constable Hussein
17 was the --

18 A. I couldn't tell you who it was.

19

20 Q. The person who was in the Hate Crimes Unit at that
21 stage was nowhere near as knowledgeable and experienced as
22 you?

23 A. I would agree but I don't know who was in that role.

24

25 Q. I suggest to you the reason why you didn't write the
26 report was because you were peeved with the Police Force
27 generally?

28 A. No. I never received the review to begin with.
29 I never got a response back to my email where I said - from
30 Jackie, after she said, "Mr Crandell said if you don't do
31 it", I never got a copy of the report, couldn't review it,
32 couldn't do anything. So I never received it to even
33 action anything.

34

35 Q. And that annoyed you?

36 A. No.

37

38 Q. I suggest that you were annoyed or peeved or angry or
39 disappointed that you hadn't been consulted and provided
40 with a copy of the report?

41 A. No.

42

43 Q. You were asked by Counsel Assisting if you had to -
44 I can't remember, actually, whether it was the Commissioner
45 or Counsel Assisting, but if you had to recommend somebody
46 to do an independent review of the Parrabell report, who
47 would you have recommended, and you said Asquith or Mason.

1 Do you recall that?

2 A. Yes.

3

4 Q. Were you aware that both of those persons were asked
5 to tender for the job of conducting the review?

6 A. I believe Nicole mentioned that she did put in, but
7 I didn't know about Professor Mason.

8

9 Q. I suggest to you Mason was unavailable because - I
10 can't remember whether it was a he or she - she just didn't
11 have the time available and indicated that she was
12 unavailable?

13 A. That's all I can go off, but - yeah.

14

15 Q. Could I take you back to volume 7, tab 195, sorry,
16 that's not correct. Could I take you, please, to tab 126,
17 which is in volume 4, [SC0I.74679]. Now, this is the long
18 email that you sent to Assistant Commissioner Crandell on
19 9 June 2018?

20 A. Yes.

21

22 Q. And I would like to just refer you to some of the
23 parts of this email. On that first page, just above the
24 number 1, you say:

25

26 *Further I am aware that there is a belief*
27 *that as a non designated officer I have no*
28 *clue what I was doing.*

29

30 Is that what you thought?

31 A. Yes. I got told that on multiple occasions.

32

33 Q. It was true that you weren't a designated officer?

34 A. It was true I wasn't designated but I was told on
35 a number of occasions by senior officers that because
36 I wasn't a detective I had no idea what I was doing.

37

38 Q. Under number 1:

39

40 *I am the [NSW Police Force] subject matter*
41 *expert, even after leaving.*

42

43 You believed that?

44 A. Yes.

45

46 Q.

47 *I have spent 17 years studying and*

1 *researching hate crimes and hate groups and*
2 *still to this day I am passionate about*
3 *this field ...*

4
5 Is that correct?

6 A. Yes.

7
8 Q. And then over the page, on page 2, top of the page:

9
10 *... at this stage it would be fair to say*
11 *that my knowledge and expertise is the most*
12 *complete in the [NSW Police Force].*

13
14 That was your belief?

15 A. I'm just trying to find that line. If it's in the
16 email, then yes.

17
18 Q. At the top of page 2?

19 A. Yes. I've found it, yes. I agree.

20
21 Q. And at the bottom of page 2:

22
23 *The experts have no understanding of the*
24 *[NSW Police Force] processes, and for you*
25 *to give their ill informed criticisms*
26 *support is disappointing.*

27
28 You genuinely felt that?

29 A. Yes, because they kept referring to it as the FBI
30 model and we never had an FBI model.

31
32 Q. Number 10 on page 3:

33
34 *Finally sir, the BCU was leading ground*
35 *breaking research and response to hate*
36 *crimes. We were the first agency in the*
37 *world to incorporate a threat management*
38 *approach.*

39
40 You believed that?

41 A. Yes, we were.

42
43 Q. Could I take you now, please, to your evidence
44 yesterday, page 1107.

45
46 THE COMMISSIONER: Can I just interrupt you, Mr Tedeschi.
47 I'm sorry.

1
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Q. In paragraph 5 that you just referred to, when you spoke of the experts, can I just clarify: were you referring to the Flinders people or somebody else?

A. I was talking about both Flinders and media commentators who had made some comments in the media around what we did.

THE COMMISSIONER: All right. Thank you. Yes, sorry, Mr Tedeschi, thank you.

MR TEDESCHI: Q. Page 1107, line 2, you said this:

... I had minimal involvement with Parrabell so I don't know how they planned to do it. We gave them the information around the indicators that we use but, yeah, we never got any information about how they planned to use it.

Do you recall saying that?

A. Yes.

Q. You were peeved, weren't you?

A. I wasn't peeved.

Q. That you had been treated in that way?

A. I wasn't peeved about Parrabell. I had no problem with Parrabell. What I had an issue with was, at the end of the day, my work was reviewed based on the way they did their processes and my work was - effectively came under attack for a process that we never used. That's where my anger and frustration came from, not over what Parrabell did. I had no problem with what Parrabell was doing.

Q. Could I take you now to page 1109, line 46:

So at the original meeting that we had in regards to Parrabell, an agreement was made that we would make the final determination.

And I think at one stage Counsel Assisting or the Commissioner asked you who you meant by "we" and you said you, in effect?

A. Well, the unit, but yeah.

Q. But you were the unit?

1 A. Yes.

2

3 Q. And I continue:

4

5 *As Parrabell progressed, we were seeing*
6 *none of - nothing. So that's when we*
7 *started raising concerns, as Parrabell was*
8 *doing more and more cases, the concerns*
9 *I held were workload for me. ... So we*
10 *weren't seeing the cases, there was minimal*
11 *communication between us and the strike*
12 *force, so we didn't know what they were*
13 *doing, how they were doing things, and*
14 *I generally had a concern that they may be*
15 *doing things different to how they're*
16 *supposed to be done, and that might impact*
17 *on the results.*

18

19 Do you remember giving that evidence?

20 A. Yes.

21

22 Q. At the bottom of that page:

23

24 *... under the original agreement, we would*
25 *make the final determination because that*
26 *was our area of expertise.*

27

28 Once again, by "we", do you mean "me"?

29 A. Yes.

30

31 Q.

32 *So Parrabell would do their findings. So*
33 *if we look at it from the process, that*
34 *would be the first responder's*
35 *investigation, then it moves up to the next*
36 *tier and we would look at the case and go,*
37 *"Yes, we agree", or "No, we don't, this is*
38 *what we're going to classify it as."*

39

40 Q. And was it in your mind that your say
41 would be determinative?

42 A. Yes.

43

44 Q. As it were, overruling the strike
45 force's view if necessary.

46 A. As per the SOPs.

47

1 Sergeant, I want to suggest to you that you were very
2 annoyed and peeved that Strike Force Parrabell were making
3 findings about cases without referring to you, under what
4 you thought was an original agreement that you would have
5 the final say?

6 A. Well, it wasn't that - what I thought. There was an
7 agreement, there was an email between my manager and my
8 commander outlining what would happen at that first
9 meeting, outlining that the unit was to make the final
10 determination.

11
12 Q. And you were annoyed that that wasn't followed,
13 weren't you?

14 A. No, I wasn't annoyed in regards to that.

15
16 Q. I suggest to you that you were really, really annoyed,
17 and that's why you sent that lengthy email to Assistant
18 Commissioner Crandell, because you had been building up
19 a deep resentment, because you'd been unfairly - you
20 thought you'd been unfairly treated by the Police Force in
21 that you hadn't been the one to make the final say about
22 whether or not these were bias or hate crimes?

23 A. No. As I said previously, the reason I sent that
24 email was my work was being assessed on what Parrabell did,
25 and it was not what we did. I was being criticised over
26 the work that Parrabell did as it was deemed to be my
27 process, when it wasn't my process. That's where my
28 frustration came from.

29
30 I had no issue with Parrabell. I had no issue with
31 the work they did. I have no doubt that they did great
32 work. What I'm saying is that, at the end of the day, my
33 frustration was my process was being assessed based on
34 Parrabell, and Parrabell didn't do what we did, so how do
35 you assess my work?

36
37 Q. I suggest to you that your frustration was that you
38 hadn't been the one to make the final determination?

39 A. No.

40
41 Q. You then went on to say at line 43:

42
43 *The expectation that I had, and always had,*
44 *and was expressed, was that as the forms*
45 *got completed, that they would be - I would*
46 *be either notified "We've completed this*
47 *one. Go and have a look at it on e@gle.i",*

1 *or they would send us the documents and we*
2 *would look at it, and that never happened.*

3
4 A. That's true.

5
6 Q. I suggest to you that you were very annoyed at that?

7 A. Once again, no, I wasn't.

8
9 Q. In your statement at paragraph 40 you said this
10 [SC0I.82080]:

11
12 *During the time frame that the Strike Force*
13 *Parrabell operated, there was no*
14 *consultation with the Bias Crimes*
15 *Coordinator/Bias Crimes Unit with any of*
16 *the cases. The lack of consultation raised*
17 *serious concerns as the role of the Bias*
18 *Crimes Unit, under the two-tier model, was*
19 *to have the final say as to if incidents*
20 *were hate motivated, due to the expertise*
21 *held within the unit.*

22
23 Does that accurately state your concerns?

24 A. Yes.

25
26 Q. So I want to suggest to you that it was quite clear to
27 you, at some stage, at least, and certainly after doing the
28 dip sample, that the two-tier model had been used within
29 Strike Force Parrabell?

30 A. I would argue it wasn't.

31
32 Q. And I want to suggest to you that what you were upset
33 about was not that the two-tier model hadn't been used, but
34 that the two-tier model did not involve you?

35 A. Once again, no.

36
37 MR TEDESCHI: Could I have a moment, please, Commissioner?

38
39 THE COMMISSIONER: Of course.

40
41 MR TEDESCHI: Q. Could I direct your attention, please,
42 to volume 3, tab 82, [SC0I.74420]?

43 A. It was tab 82?

44
45 Q. Tab 82. Pardon me while I just get my notes. That's
46 an email from Sergeant Middleton to Jacqueline Braw with
47 a copy to a number of people, including yourself --

1 A. Yes.

2

3 Q. -- dated 18 January 2017. Can you see that in that
4 first long paragraph, Sergeant Middleton says this:

5

6 *It has always been the case Geoff and the*
7 *Bias Crime Unit have had complete access to*
8 *the [Strike Force Parrabell] e@gle.i system*
9 *from the commencement of the [strike force]*
10 *I am happy for Geoff (and indeed welcome*
11 *his input) or for that matter any other*
12 *member of the Bias Crime team to access*
13 *e@gle.i and conduct a review of any or all*
14 *of the completed review forms. I have*
15 *always left that up to the Bias Crime Unit*
16 *to decide how best to conduct their review*
17 *and how many of the forms they wish to*
18 *review.*

19

20 Did you see that as being an invitation to you from
21 Sergeant Middleton for you to assist the strike force and
22 provide your expertise to the strike force?

23 A. Not to assist as such, but to do what was agreed, yes.

24

25 Q. And yet, your next involvement with the strike force
26 was not for many months after that, was it?

27 A. No.

28

29 Q. How long was it before you had contact with the strike
30 force after that email?

31 A. It wasn't until we started raising the issues that we
32 weren't seeing the cases. Given that they weren't doing
33 the cases in numerical order, given the amount of work that
34 was going on at the time, I think it was unreasonable to
35 expect that every day I'd log through into e@gle.i, go
36 through hundreds of cases to see which forms they had
37 completed.

38

39 THE COMMISSIONER: Mr Tedeschi, I'm sorry to interrupt
40 you, but you will recall that this is the Wednesday,
41 18 January. When you said a moment ago - and I think you
42 had something else in mind - that his next involvement with
43 the strike force was many months later, but you will recall
44 the meeting the very next day on 19 January 2017. That may
45 or may not qualify as a meeting with the strike force as
46 such, but that was the meeting at which the 12 cases were
47 discussed.

1
2 MR TEDESCHI: Yes, correct.
3
4 THE COMMISSIONER: So I didn't mean to interrupt, but --
5
6 MR TEDESCHI: No, Commissioner, you are quite correct.
7 I should have included that.
8
9 Q. Apart from that meeting the next day, your next
10 involvement was many months later?
11 A. Was the meeting you're talking about when we did the
12 review?
13
14 Q. Yes.
15 A. Yes, I don't think I met with Parrabell again after
16 that.
17
18 Q. So what I want to suggest to you was that here was an
19 invitation from the senior manager of the strike force
20 inviting you to assist in any way that you thought
21 appropriate, inviting you to conduct a review of any of the
22 forms, and you made the decision not to do so?
23 A. I made the decision not to do so because it was
24 impractical at that time to go through the amount of work.
25 If, as was originally agreed, as they completed or batched
26 them, they sent them through, it would be more manageable
27 than expecting me to review 88 cases. As it was, the 12
28 dip samples that I did do happened on overtime and it took
29 me about a month to do it with the amount of work that was
30 required. So yes, he did make that offer, but I don't
31 think it was a reasonable offer.
32
33 Q. I want to suggest to you that the reason why you
34 didn't participate further was because after your
35 experience of that meeting on 18 January, you realised full
36 well that you weren't going to have the last say and you
37 were peeved about that?
38 A. Once again, I was not peeved about it.
39
40 THE COMMISSIONER: You said the 18th, Mr Tedeschi. I know
41 you meant the 19th.
42
43 MR TEDESCHI: Sorry, the 19th.
44
45 THE COMMISSIONER: I understood.
46
47 MR TEDESCHI: That's the cross-examination.

1
2 THE COMMISSIONER: I will just one question - I'm sorry,
3 Mr Gray, you go on.
4
5 MR GRAY: I wonder if I might clarify two small matters.
6
7 THE COMMISSIONER: Yes, by all means and then I'll - there
8 is one question I have for Sergeant Steer, thank you.
9
10 **<EXAMINATION BY MR GRAY:**
11
12 MR GRAY: Q. Sergeant Steer, you said today and also
13 said yesterday that in respect of the 12 cases where you
14 did the dip sample, you were sent an Excel spreadsheet?
15 A. Yes.
16
17 Q. And I think you said yesterday that the Excel
18 spreadsheet that you were sent had some comments on it.
19 Could you just describe that spreadsheet again?
20 A. So basically, it was each indicator across the top of
21 the spreadsheet, with their findings for each indicator.
22
23 Q. For the 12 cases?
24 A. For the 12 cases that I had, that were sent to me.
25
26 Q. Would that have been sent to you in about December,
27 presumably, 2016?
28 A. I would guess, yes, it would have been sent about the
29 same time that I got all the other information.
30
31 MR GRAY: Well, the reason I'm raising it, Commissioner,
32 is that those instructing me do not believe that we have
33 that Excel spreadsheet, and I would invite my learned
34 friend, as soon as convenient, to locate that spreadsheet
35 and provide it to the Commission.
36
37 THE COMMISSIONER: All right. Now, Mr Tedeschi, do I need
38 to issue a summons or --
39
40 MR TEDESCHI: No, certainly not.
41
42 THE COMMISSIONER: All right. Well, then, it's one item.
43
44 MR TEDESCHI: Every effort will be made to locate it.
45
46 THE COMMISSIONER: If reasonably in the near future some
47 indication can be given - it may or may not happen this

1 week I appreciate, but if at some point that can be
2 located, thank you.

3
4 MR GRAY: Thank you.

5
6 Q. The second and related matter, Sergeant Steer, is you
7 also said that you were provided with what my friend called
8 "case summaries" for the 12?

9 A. Yes.

10
11 Q. Could I ask you to look at, and have put in front of
12 you, volume 2, and turn to tab 49, [SC0I.76961]. You will
13 see that that's a bundle of pages, the heading to which is
14 "Strike Force Parrabell Case Summaries". Could you just
15 glance through that document, taking what time you need,
16 and tell the Commissioner whether the documents that you
17 say you received about the 12, that you referred to as
18 "case summaries", were documents of this kind or whether
19 they were some other type of document?

20 A. From memory, they were some other kind. It was - I -
21 one per case. So it was basically a summary of that case
22 and they were sent to me as individual documents, not as
23 one whole document, if that makes sense.

24
25 Q. And they were emailed to you, I suppose, were they?

26 A. Yes.

27
28 MR GRAY: Again, Commissioner, the understanding of those
29 instructing me is that we don't have those documents that
30 have been referred to as the "case summaries" in this
31 context, and again, I would be grateful if they could be
32 provided.

33
34 THE COMMISSIONER: Thank you, all right.

35
36 MR TEDESCHI: That will be done if we can find it.

37
38 THE COMMISSIONER: When it can be done, thank you.

39
40 Q. I just have one question. Paragraph 20 of your
41 statement, Sergeant Steer, [SC0I.82080]. I'll tell you
42 what it is and I will ask you the question, which you won't
43 have perhaps need to look at your paragraph 20 for. It is
44 the paragraph in which you talk about Standard Operating
45 Procedures and you then talk about how they are developed
46 and so on, and then towards the end of that paragraph you
47 say:

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The SOPs were then sent to Corporate and Region Sponsors and individuals within investigative commands for review ... Recommendations from this review were incorporated and in 2014 ... forwarded to the Commissioner's Executive Team for final approval.

10 Could you tell me first, is that, as you best understand
11 it, the protocol that is or was usually undertaken or is
12 undertaken in relation to Standard Operating Procedures?

13 A. Yes, generally they get sent to either relevant
14 commands that have a role in that area, that area of
15 expertise, for their comment to see whether the SOPs are
16 right and meet their processes as well.

17

18 Q. And doing the best you can - if you can't, don't
19 worry - in 2014, do you have any belief or recollection as
20 to who might have comprised the Commissioner's Executive
21 Team?

22 A. I believe it was Commissioner Scipione, Deputy
23 Commissioner Burn, Deputy Commissioner Kaldas and Deputy
24 Commissioner Hudson and their relevant staff officers.

25

26 Q. And their relevant?

27 A. Staff officers.

28

29 THE COMMISSIONER: Thank you. Yes, thank you very much.
30 All right, Sergeant Steer, I can then excuse you from
31 further attendance, thank you.

32

33 <THE WITNESS WITHDREW

34

35 MR GRAY: Commissioner, the next witness is Ms Shobha
36 Sharma, and we could call her now or you may prefer to take
37 the break.

38

39 THE COMMISSIONER: I might take the break now, just for
40 a few moments, before she gets into the witness box. So
41 I'll do that early, slightly earlier, so I'll take the
42 morning adjournment now.

43

44 MR MADDEN: Might I be excused, your Honour?

45

46 THE COMMISSIONER: Yes, of course. Thank you, Mr Madden,
47 for your attendance and yes, you may be excused from

1 further attendance, thank you. I'll adjourn.

2
3 **SHORT ADJOURNMENT**

4
5 MR GRAY: Commissioner I call Shobha Sharma.

6
7 THE COMMISSIONER: Thank you.

8
9 **<SHOBHA SHARMA, affirmed: [11.40am]**

10
11 **<EXAMINATION BY MR GRAY:**

12
13 MR GRAY: Q. Ms Sharma, you have made a statement which
14 has been received in the Special Commission; you understand
15 that?

16 A. Mmm-hmm. Thank you.

17
18 Q. I just want to ask you a few things about some aspects
19 of your statement and a few things about aspects of matters
20 that aren't in your statement.

21 A. Mmm-hmm.

22
23 Q. Firstly, from your statement, you are currently - you
24 describe yourself as an administrative employee and that
25 you are currently on secondment, but your employment status
26 is Manager of the Policy and Programs Team; is that right?

27 A. That's correct.

28
29 Q. Within Crime Prevention Command?

30 A. Mmm-hmm.

31
32 Q. What does the Policy and Programs Team do? What's the
33 ambit of its work?

34 A. So my - I'm basically a policy manager, so there's
35 a number of policy areas of significance to NSW Police
36 Force and the specialists advice for those areas sit within
37 my team. Those areas would be cultural diversity,
38 sexuality, gender diversity, ageing, disability,
39 homelessness, custody corrections, victim support. I think
40 I might have got the lot. So the policy support for the
41 organisation for all of those areas is provided by the
42 senior policy officers that I manage in my team.

43
44 Q. And Programs part of it?

45 A. Yes. So --

46
47 Q. That was policy?

- 1 A. So they provide the advice but they also manage
2 programs from time to time.
3
- 4 Q. Programs related to those policy areas, do you mean?
5 A. Yes.
6
- 7 Q. And programs in the way of education or some other
8 sort of program?
9 A. It could be community engagement; it could be around
10 training and capability building; it could be a government
11 program that police is also a party to.
12
- 13 Q. All right, thank you. You have your statement
14 [SCOI.76960] with you?
15 A. Yes.
16
- 17 Q. At paragraphs 19 and following, you address the topic
18 of "Prejudice Related Crime Data Collection Project", which
19 was a project around the late 1990s, early 2000s?
20 A. Mmm-hmm.
21
- 22 Q. You refer to the COPS system - C-O-P-S - Computerised
23 Operational Police System, and you will recall that the
24 project that I just mentioned was aiming to have police
25 record bias-related crime on the COPS system?
26 A. Yes.
27
- 28 Q. And in paragraph 20 you refer to options that were
29 available back in 1999, I think you are saying --
30 A. Mmm-hmm.
31
- 32 Q. -- as capable of being chosen if the police officer
33 first chose to tick the box for associated factors, and if
34 he or she did so, there would then come up some options,
35 one of which was "Sexual Preference" --
36 A. Yep.
37
- 38 Q. -- is that right? Now, at that point - that is, 1999
39 or thereabouts - that was optional, was it not?
40 A. So in the COPS system I believe there's a number of
41 associated factors that police officers could tick when
42 they were entering information about incidents, and so this
43 was yet another associated factor.
44
- 45 Q. I've just been asked to ask if you could possibly sit
46 a bit closer to the microphone, thank you.
47 A. Mmm-hmm.

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Q. What I'm asking is that that was something that they could do but it was not something that they had to do; it was not compulsory?

A. Yes, I think - I don't think it was compulsory.

Q. Now, a briefing report was written, and it was written by your then superior, Ms Mukerjee. It's an annexure to your statement but you may not have the annexures with your statement. It's at volume 9 of the bundle, which you might need to see, tab 229, [SCOI.76960]. If you turn to tab 229 --

A. Mmm-hmm.

Q. -- this is the report or issue paper that Ms Mukerjee wrote in December 2000 about this Prejudice Related Crime Data Collection Project. I just want to take you to a couple of paragraphs. The first paragraph tells us that the project had a long history, of 10 years or so. It had been trialled at a number of local area commands, notably, Newtown, and a report was prepared on the efficacy of launching such a system state-wide. Do you see that?

A. Mmm-hmm.

Q. And it seems from the next sentence, and the next couple of paragraphs, that the focus, or a main focus, was from the perspective of ethnic affairs; is that fair?

A. Yes.

Q. Paragraph 2 tells us that the Chair of the Ethnic Affairs Commission launched it, and the associated factors, which are attachment A to this document, include one called "Possible Prejudice Related"; do you see that?

A. Yes.

Q. And then if "Possible Prejudice Related" is selected, then another screen appears, and that involves one question, being, "What type of prejudice was involved", and one option, one possible answer for that, is "Sexual Preference"?

A. Yes.

Q. And the other types of prejudice involved are racial/ethnicity, religious, political and other. Now, the third paragraph of the issue paper records that the Commissioner had indicated that reports would be issued at six monthly intervals, and the first one was due in July

1 2000, but I think it's fair to say that, as events
2 transpired, those reports did not come out so quickly or so
3 often; is that right?

4 A. Mmm-hmm.

5

6 Q. If we turn to - well, still in the third paragraph,
7 the issue paper says that the Ethnic Affairs Unit prepared
8 the attached report, which is attachment B?

9 A. Mmm-hmm.

10

11 Q. And if we go to attachment B, it's a progress report
12 on racially/ethnicity-based prejudice motivated events,
13 isn't it?

14 A. That's right.

15

16 Q. And if we see table 1, it's "Number of COPS entries
17 under Racially motivated crime", and the various
18 explanatory notes in italics at the bottom of that
19 page were all about racial prejudice?

20 A. Mmm-hmm.

21

22 Q. And the explanations two pages on are all about racial
23 or ethnicity-based prejudice; do you see that?

24 A. Mmm-hmm.

25

26 Q. At that stage, at least, the prejudice-related data
27 collection project seemed to be focused particularly on
28 ethnic and racial prejudice, would you agree?

29 A. Yes.

30

31 Q. And without much focus at that stage on sexuality or
32 gender or related topics. Is that fair?

33 A. Yes.

34

35 Q. Now, in paragraph 4 of the document itself, the 2000
36 Issues Paper, the paper says that the Corporate Spokesman
37 for Ethnic Affairs presented updates, and that they were
38 based on the attachment B that we just looked at, and then
39 it says:

40

41 *Relevant section/s of the [New South Wales*
42 *Police Service] will be tasked in future to*
43 *prepare more sophisticated, regular and*
44 *integrated reports on all the categories of*
45 *prejudice listed in Attachment A.*

46

47 So that was something that was hoped to happen in the

1 future and what can you tell us about what did happen in
2 that regard?

3 A. So as my statement mentions, I was a bit sideways to
4 this process. When I originally started in the year 2000,
5 I was working closely in the portfolio area of - it was
6 called Ethnic Affairs then; it's called Cultural Diversity
7 now. And so the team itself had a lot to do with
8 supporting the manager with - and supporting the corporate
9 spokesperson for Ethnic Affairs. So we knew about the
10 project, because we collectively prepared briefing notes
11 for him, speaking points, looked at various advice and
12 papers and that, so we were aware that the project was
13 launched.

14
15 The command that we sat in intersected with various
16 communities, so the intention was always there that this
17 prejudice-related - prejudice-related crime project would
18 look at prejudice, what has been tagged by police in
19 relation to those other categories as well, and that
20 reports would be prepared, so that we would look at what's
21 happening with various communities. So that was - that was
22 the end game, although the initial trigger for the project
23 came from prejudice against, you know, racial and religious
24 minorities.

25
26 Q. Yes. And what, in fact, happened - that was the end
27 game. What progress was made towards the end game after
28 2000?

29 A. So I started in January 2000, so when I started I knew
30 that it had just been launched, the end of the previous
31 year. It was the year of the Sydney Olympics, which - any
32 major event affects the deployment of police, so
33 I understood there was a delay in the six-monthly reports
34 that had been promised. They eventually did come out,
35 in November or something like that.

36
37 I don't think that we - because it was the first time
38 our command was doing it, the first crack that the team had
39 at analysing the data, you know, we sent it up, and I don't
40 think the Commissioner was very happy with it. So then
41 another colleague of mine, Inspector Sean Hammond - he
42 might not have been an inspector then - I think he was
43 tasked with doing another take of the report. That might
44 be the report that's annexed here which was a better
45 quality product than what my colleagues, Chitrita and David
46 had done.

47

1 So what eventually happened was that the first report
2 went up in November, and then I believe subsequent reports
3 were to come out. But after that, from the year 2001
4 onwards, my work focus shifted, so I don't think the
5 reports came out as regularly as they should have. That's
6 my recollection of it.

7
8 Q. So your work focus shifted, and are you saying that
9 you yourself personally are not too sure what then happened
10 in terms of --

11 A. Yes.

12
13 Q. -- these anticipated developments?

14 A. Yes. So I'm not sure if we indeed produced those six
15 monthly reports on a regular basis, and they got tabled as
16 they were supposed to be.

17
18 Q. In looking at your own statement in paragraph 21,
19 [SCOI.76960], and you're speaking around about
20 approximately 2000, you say:

21
22 *... I have a vague recollection of*
23 *communications to the field about the use*
24 *of the new screens.*

25
26 Do you see that?

27 A. Yes.

28
29 Q. Now, was there any training that police were given at
30 the time about when and how the police were to use these
31 screens?

32 A. I'm trying to recall. I'm remembering - in those days
33 there used to be Police Weekly. These days it's Police
34 Monthly. I do remember some sort of a feature in the
35 Police Weekly and some communications that went out about
36 the associated factors screens. I can't actually recall
37 any training products at that point. I only remember
38 vaguely some communications going out to the field.

39
40 Q. In that folder that you have there, if you could turn
41 to tab 187 - oh, sorry, it's a different folder. You need
42 volume 7, I'm sorry, [SCOI.76960]?

43 A. 187, yes.

44
45 Q. Yes, tab 187. This is an issue paper that you wrote
46 yourself, and you refer to it in your statement, and you
47 wrote it in some time in 2001?

1 A. Mmm-hmm.

2

3 Q. And the topic is "Establishment of a Hate Crime Unit
4 within the New South Wales Police Service". And do you
5 recall this document?

6 A. (Witness nods).

7

8 Q. Yes. And your paper refers to - and I'm looking about
9 five paragraphs down on the first page:

10

11 *In 1995 alterations were being made to the*
12 *COPS system to allow the recording of*
13 *prejudice related crimes via the associated*
14 *factor field ...*

15

16 A. Mmm-hmm.

17

18 Q. Then in the next paragraph, there's reference to the
19 launch by the Ethnic Affairs Commission of the screens that
20 we were just talking about; correct?

21 A. Yes.

22

23 Q. And then it says:

24

25 *A comprehensive education and information*
26 *strategy was to be coordinated together*
27 *with the finalisation of a training*
28 *package ... This training package has been*
29 *in a developmental phase for a considerable*
30 *period of time ...*

31

32 Did this comprehensive education and information strategy
33 indeed come to be coordinated? Did that happen?

34 A. To tell you the truth, I can't recollect it actually
35 ever coming to fruition.

36

37 Q. Now, this particular paper that you have written here,
38 back in 2001, was considering a proposal that had been
39 submitted by a Dr Heller-Wagner, who was recommending the
40 establishment of a Hate Crime Unit?

41 A. Mmm-hmm.

42

43 Q. And your paper discusses that proposal, and you say
44 under the heading "Comment" on the second page - and
45 I won't read it all, but that, in the second paragraph:

46

47 *The establishment of a special unit, such*

1 *as [he was proposing] is one strategy ...*

2

3 And then you referred to the availability of other possible
4 strategies as well?

5 A. Mmm-hmm.

6

7 Q. And you say in the last paragraph before the
8 recommendation that, in fact, no status reports had been
9 released since October 1999 on the prejudice-related crime
10 data collection system, as it happens, in those two years
11 it seems no such reports had come out?

12 A. Mmm-hmm.

13

14 Q. And your recommendation was, in effect, not to
15 establish a Hate Crime Unit; correct?

16 A. At that point. I thought it was premature.

17

18 Q. At that point. And your recommendation instead was
19 that better data collection and training for police should
20 be the focus?

21 A. Mmm-hmm.

22

23 Q. Now, what was done to recommend - sorry, to implement
24 that recommendation of better data collection and training
25 for police?

26 A. I'm trying to cast my mind back to the year 2001, and
27 I do recall the manager of the team, that being Chitrita,
28 discussing police training. Dr Heller-Wagner was our
29 diversity trainer at the police college. I do remember
30 discussions happening about Liz de Rome's package. As to
31 what happened with the data collection, I'm not sure,
32 because it was - after that point my responsibility was the
33 Ethnic Community Liaison Officer Program and I was
34 completely engrossed in that. So I'm not really sure what
35 happened.

36

37 Q. All right, thank you. And from around about that
38 time, 2001 or a little later, your own work was heavily in
39 the ethnic side of things?

40 A. Yes.

41

42 Q. And then did that apply up until you came to the end
43 of your first employment phase at the police in 2006?

44 A. I would have - I acted in a number of roles other than
45 the Ethnic Community Liaison Officer or Program
46 Coordinator, up until December 2006 when I left. But, yes,
47 that would have been the bulk of my role, yes.

- 1
2 Q. Then you come back to the police again in 2012?
3 A. Yes.
4
5 Q. Into the Operational Programs area; is that right?
6 A. Same command, different name.
7
8 Q. The same command being what?
9 A. So I think when I was there before it was called -
10 it's been called Organisational Policy and Development,
11 Policy and Programs, now it's called Crime Prevention.
12 It's exactly the same command with similar functions but
13 the name has changed over the years numerous times.
14
15 Q. I see. So you've always been in that command?
16 A. Yes.
17
18 Q. And it's the name, or the sub-name, is Operational
19 Programs; is that right?
20 A. Yes.
21
22 Q. In 2012 - and you talk about this at paragraphs 35 and
23 following, [SCOI.76960] - one of the things that happened
24 was that Sergeant Steer again took up the role of Bias
25 Crime Coordinator?
26 A. Mmm-hmm.
27
28 Q. Did you know that he had previously held that role at
29 an earlier time?
30 A. Yes, I was told that.
31
32 Q. And did you know that he had held the role and the
33 role had existed from 2007 to 2009, but had then been
34 disestablished for three years?
35 A. Yes.
36
37 Q. And do you know why that was, why it was
38 disestablished?
39 A. No.
40
41 Q. And in 2012, it seems, with the support of Deputy
42 Commissioner Kaldas, the role was re-established?
43 A. Mmm-hmm.
44
45 Q. You say that you recruited him. What does that mean
46 to say that you recruited him?
47 A. So I was the manager of the team within which bias

1 crime portfolio also sat, along with all those others that
2 I listed. So when I started - I started in June 2012, and
3 then I was told that the position was re-established, was
4 coming to our command and would sit in my team, so I had to
5 recruit for that role, for the role of - recruit a sergeant
6 for that position. So we put expressions of interest out.

7
8 I think, from memory, that there were two applications
9 and Geoff was one of them, and so I assessed both of them
10 and he was clearly the stronger candidate, having done it
11 before and knowing a lot about it, so I saw his expression
12 of interest as worthy, and then the process would have been
13 to discuss with his command, the command where he was
14 coming from, as to releasing him to come and take up this
15 position in our command, within my team, and so that's what
16 is meant by "recruiting him."

17
18 Q. At that point, he was a one-man-band, as it were. He
19 had the Bias Crime Coordinator role --

20 A. Yes.

21
22 Q. -- single handedly --

23 A. Yes.

24
25 Q. -- is that right? And over the course of the next
26 two or three years, one or two or perhaps eventually three
27 others were also brought in?

28 A. Yes.

29
30 Q. And perhaps by osmosis, ultimately referred to as the
31 Bias Crime Unit --

32 A. Yes.

33
34 Q. -- is that right?

35 A. Yes.

36
37 Q. One thing that happened in the course of those few
38 years was that some Standard Operating Procedures were
39 developed?

40 A. Yes.

41
42 Q. And ultimately approved?

43 A. Yes.

44
45 Q. And if you have volume 7 there, which I think you do,
46 if you could turn to 188, [SCOI.75057]?

47 A. Yes.

- 1
2 Q. They are the Standard Operating Procedures, we're
3 told, which were ultimately approved in 2015?
4 A. Yes.
5
6 Q. And you, I take it, were involved in or aware of their
7 development?
8 A. Yes. So I was the manager of the team, and Yasmin
9 Hunter, who was the senior policy officer who supported the
10 bias crimes portfolio part time, because she also did
11 vulnerable communities, Geoff and Yasmin basically drafted
12 the SOP, sent it out for consultation, had it trialled in a
13 number of commands, liaised with legals to make sure that
14 it was legally accurate, and did the whole process of
15 getting it endorsed.
16
17 Q. And were you aware - if we turn to page 14 of the
18 SOPs, there are 10 bias crime indicators listed on those
19 two pages, 14 and 15. Do you see there?
20 A. Yes.
21
22 Q. Were you familiar with the inclusion of those
23 indicators in the proposed SOPs?
24 A. Yes.
25
26 Q. And you had discussions, I presume, with Mr Steer and
27 others about that?
28 A. Yes.
29
30 Q. Now, he has referred to the model as a two-tier model?
31 A. Mmm-hmm.
32
33 Q. Whereby there would be - I'm summarising - the
34 frontline officers or the attending officer would make
35 a note as to whether any of these indicators was present -
36 that was the first tier?
37 A. Mmm-hmm.
38
39 Q. And then the second tier would be for him, as Bias
40 Crime Coordinator, to form a view as to whether the crime
41 was a bias crime or not?
42 A. Mmm.
43
44 Q. Is that your understanding?
45 A. That's right.
46
47 Q. And that is what we see on page 42?

- 1 A. Mmm-hmm.
2
3 Q. At 12.4 --
4 A. Yes.
5
6 Q. -- you see it says:
7
8 *At the completion of the*
9 *investigation ... a classification for the*
10 *incident is to be made in consultation with*
11 *the Crime Coordinator ...*
12
13 ie, Mr Steer. Do you see that, 12.4?
14 A. Yes, yes, I can see that.
15
16 Q. And so the classification, as one or other of "Bias
17 Crime", "Suspected Bias Crime", "Bias Incident" or "Not
18 a Bias Crime", would be made in the end effectively by
19 Mr Steer?
20 A. Mmm-hmm.
21
22 Q. Is that your understanding of the two-tier model that
23 he talks about?
24 A. Yes.
25
26 Q. In 2017, the Bias Crime Unit was the subject of
27 a restructure. I assume you're aware of that?
28 A. Mmm-hmm, yes.
29
30 Q. And at that point, there were four staff in the Bias
31 Crime Unit --
32 A. Mmm-hmm.
33
34 Q. -- led by Sergeant Steer. And the effect of the
35 restructure ultimately was that three of those four staff,
36 including Sergeant Steer, left the unit and were deployed
37 elsewhere.
38 A. Mmm-hmm.
39
40 Q. Is that right?
41 A. Yes.
42
43 Q. And so the unit was left with only one person, who was
44 not somebody formerly senior in the unit; correct?
45 A. Mmm-hmm.
46
47 Q. Why did that happen, to your knowledge?

1 A. The decision to move the unit under the Fixated
2 Persons Unit was the Commissioner's decision at that time,
3 and we were just told that that's what was happening. The
4 command was told that that's what was happening to the
5 unit. So really, it was - the staff in the unit decided
6 that that's not where they wanted to work, so they chose to
7 leave the unit.

8
9 Q. And we've seen from other documents, that I probably
10 don't need to take up time with you with, that in fact for
11 some little time, at least months, maybe a year or two,
12 there was only one or perhaps two people in what replaced
13 the Bias Crime Unit; is that your understanding?

14 A. Do you mean after it went to Fixated Persons?
15

16 Q. Yes, that's right.

17 A. Yes, quite likely, yes.
18

19 Q. Does that suggest to you that, at that point, the
20 importance attributed to hate crimes or bias crimes in the
21 NSW Police had receded in importance?
22

23 MR TEDESCHI: I object.
24

25 THE COMMISSIONER: Why?
26

27 MR TEDESCHI: Commissioner, she's being asked to
28 understand [sic] what she understands to have been in the
29 minds of a number of other people --
30

31 THE COMMISSIONER: That's all right.
32

33 MR TEDESCHI: -- that might have changed from time to
34 time.
35

36 THE COMMISSIONER: That's all right, yes, I understand
37 that, but she is a person who is put forward as having
38 a managerial role in relation to programs. No, I will
39 allow the question, thank you.
40

41 MR TEDESCHI: If the Commissioner pleases.
42

43 THE COMMISSIONER: Would you like that question repeated?
44

45 THE WITNESS: Yes, please.
46

47 THE COMMISSIONER: All right.

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MR GRAY: Q. Did that change, the effect of which was that the Bias Crime Unit was relocated and most of its people moved on, indicate to you that the importance attributed to hate crimes or bias crimes by the police had receded at that time?

A. I would say it was more of a policy shift coming from the Commissioner, that the area of bias crimes no longer belonged in a crime prevention type space, which is what our command was, but belonged more in a counter terrorism command. So it was like a policy shift. I don't know that it necessarily communicated that bias crimes is not important. It was communicating that we're going to treat this subject matter differently by placing it in a different place.

Q. There are numerous different types of bias crimes, of course?

A. Mmm-hmm.

Q. But one of them is bias related to matters of sexuality and gender and the like?

A. Mmm-hmm.

Q. Did you think that moving those kinds of bias crimes, or that moving the unit that dealt with those kinds of bias crimes, under the counter terrorism heading was appropriate?

A. As long as I managed bias crimes, it was a vexed issue as to where this portfolio sat. It was not a neat fit anywhere. It had been in counter terrorism once before, it came to our command, went back to them. But in my view, our command, with all of the policy areas, was not a comfortable fit but was better than others, simply because bias crimes covered the nine protected categories, and our command looked at all of those policy and population groups of those nine protected categories. So my own personal view was it was a better fit in our type of command. But even in our command, there was always tensions with it sitting there.

THE COMMISSIONER: Mr Gray, could I just interrupt for a moment and ask this question:

Q. Ms Sharma, forgive me if I have missed it and I apologise if I have - do I have CV attached to Ms Sharma's material? - would you mind telling me what

1 your background is, is it in science or social sciences or
2 what is it?

3 A. I have a Masters in Social Work and A Masters in
4 Business Management.

5
6 Q. All right. So social work and business management?

7 A. Mmm-hmm.

8
9 Q. And when did you get those degrees?

10 A. Masters in Social Work from India and the business
11 management from Sydney Uni and Uni of New South Wales.

12
13 THE COMMISSIONER: Okay, thank you very much. Thank you.

14
15 MR GRAY: Q. In 2013, Ms Sharma, Sergeant Steer proposed
16 a project which became known as Operation Parrabell.

17 A. Mmm-hmm.

18
19 Q. Do you remember that? And did you support that
20 proposal when he made it?

21 A. I did.

22
23 Q. I wonder if Ms Sharma could have volume 1, please. At
24 tab 10, [SCOI.75072], is the proposal from Sergeant Steer.
25 Do you recall that?

26 A. Yes.

27
28 Q. We see from the bottom two paragraphs on the first
29 page that the catalyst, at least as is recorded there, for
30 the proposal was the significant media coverage about
31 various gay-hate cases that had been prominent in 2013; do
32 you remember that?

33 A. Mmm-hmm.

34
35 Q. Does that record with your recollection, that that was
36 an important stimulus for Mr Steer proposing this work be
37 done?

38 A. Yes.

39
40 Q. Is that right?

41 A. Yes.

42
43 Q. And he goes over on the second page to say that the
44 articles had potential to damage the reputation of the
45 police and that there was a significant risk that if the
46 police failed to undertake a comprehensive investigation
47 and review of the cases from a bias-crime perspective, the

- 1 articles would continue to be published and continue to
2 damage the reputation of the police?
3 A. Mmm-hmm.
4
5 Q. So that was an important factor in your mind and his,
6 I presume?
7 A. Mmm-hmm.
8
9 Q. Now, at tab 12 [SC0I.75056], he prepared a proposed
10 bias crimes investigation agreement. Do you remember that
11 document??
12 A. Yes.
13
14 Q. At the top of page 2, he was proposing that each
15 incident would be filtered through the current 10 bias
16 crimes indicators.
17 A. Mmm-hmm.
18
19 Q. Now, you knew what they were, obviously - they were in
20 the SOPs?
21 A. Yes.
22
23 Q. Did you regard that as an appropriate course to
24 follow, the way he's described it there in those top four
25 lines on the page?
26 A. Yes.
27
28 Q. Did you understand or have a view as to what he meant
29 by each incident being filtered through the indicators?
30 A. I understood - I understood that to mean that the
31 indicators will provide guidance. Each incident will be
32 looked at and matched against all of those to see which of
33 those could possibly have been at play in the incidents.
34
35 Q. Now, what he and I think Sergeant Kenworthy, who was
36 working with him, then did was firstly to do a bias crimes
37 assessment in relation to North Head?
38 A. Yes.
39
40 Q. You would recall that?
41 A. Yes.
42
43 Q. And secondly, they did a comparison bias crimes
44 assessment between North Head and Marks Park.
45 A. Marks Park.
46
47 Q. You would recall that as well?

1 A. Yes.

2

3 Q. But apart from those two discrete tasks, the Operation
4 Parrabell team, is this right, did not, in fact, proceed to
5 do any more, because they didn't have the resources?

6 A. That's correct.

7

8 Q. It was too big a job for one or two people?

9 A. It was too big a job. And Jo was - had an
10 intelligence background and Jo was valuable in - Jo and
11 Geoff would, together, discuss what needed to be done, so
12 when Jo finished up with us, it made it almost impossible
13 to achieve.

14

15 Q. I wonder if Ms Sharma could have volume 2 just
16 briefly. If you turn to tab 52, [SCOI.74083], you've
17 written an issue paper?

18 A. 52. Yep.

19

20 Q. Dated 25 February 2015?

21 A. Yes.

22

23 Q. Prompted, it seems, by a letter from a member of
24 parliament, Mr Greenwich, about police investigation of
25 gay-hate crime. Under the heading "Comment", the second
26 paragraph, you say:

27

28 *Operation Parrabell has currently been put*
29 *on hold due to resourcing issues and*
30 *competing priorities.*

31

32 Correct?

33 A. (Witness nods).

34

35 Q. And you also add that:

36

37 *... given the current global environment,*
38 *the operational focus is on the current*
39 *threats posed by organised hate groups and*
40 *their activities.*

41

42 A. Mmm-hmm.

43

44 Q. The reference to "global environment" and "organised
45 hate groups" is a reference to terrorism and political
46 activism or something else?

47 A. Probably it was Reclaim Australia at that time.

- 1
2 Q. Which was, in effect, race-based or white-Australia
3 based?
4 A. Yes, yes.
5
6 Q. It had nothing to do with LGBTIQ questions; is that
7 right?
8 A. I don't think so. I can't remember exactly.
9
10 Q. At any rate, you talk, down at the bottom, about
11 factors that led to the establishment of Operation
12 Parrabell, and you also refer to the extensive media in
13 2012, and you refer to, in the last paragraph, the fact -
14 well, not the fact, but a concern that a suggestion that
15 Operation Parrabell was not a current priority would
16 receive adverse reactions from the LGBTIQ community and
17 media.
18 A. Mmm-hmm.
19
20 Q. So does that tell us that in 2015, the media view of
21 police work in relation to LGBTIQ crimes, deaths and
22 violence was a significant factor in determining what the
23 police response should be?
24 A. It was a factor, yes, for sure.
25
26 Q. And similarly at 54, tab 54, [SC0I.74081], you've sent
27 an email to Mr Crandell and Jackie Braw attaching a report
28 by the Unsolved Homicide Team, in fact, Detective Lehmann?
29 A. Mmm.
30
31 Q. From 2013, commenting on the 30 deaths said to be
32 unsolved in Sue Thompson's work?
33 A. Mmm-hmm.
34
35 Q. You recall this?
36 A. Yes.
37
38 Q. By the way, who is Jackie Braw?
39 A. So she's one of the senior policy officers in my team.
40 So remember how I said I had a team of senior policy
41 officers, and her portfolio is sexuality, gender diversity
42 and intersex.
43
44 Q. So she's a policy officer?
45 A. Yes.
46
47 Q. And what are her qualifications, if you know?

- 1 A. I can't remember, to tell you the truth, but she's
2 a very experienced senior policy officer in that portfolio
3 area. She's probably been with us over 15 years, something
4 like that.
5
- 6 Q. And she reports to you?
7 A. Yes, yes.
8
- 9 Q. Could Ms Sharma now have volume 3. I'm coming now to
10 Strike Force Parrabell.
11 A. Mmm-hmm.
12
- 13 Q. I imagine you became aware of its impending formation
14 during the course of 2015?
15 A. Mmm-hmm.
16
- 17 Q. Was that by communication between yourself and
18 Mr Crandell?
19 A. Yes.
20
- 21 Q. We've been told that Strike Force Parrabell in fact
22 was under way on and from about 30 August 2015, so making
23 that assumption --
24 A. Mmm-hmm.
25
- 26 Q. -- were you in touch with Mr Crandell earlier than
27 that, before - in the course of the lead-up to it, or only
28 subsequently?
29 A. I would have been, because all of the senior policy
30 officers in my team worked closely with the corporate
31 sponsors for the portfolio, and he was - he was the
32 Corporate Sponsor for Sexuality, Gender Diversity, so, yes,
33 I was in regular conversations with many of the corporate
34 sponsors, so would have been with him as well.
35
- 36 Q. And did he discuss with you, at least in the broad,
37 the idea that what the strike force would be doing would be
38 looking at the 88 cases --
39 A. Mmm-hmm.
40
- 41 Q. -- that had been the subject of the media publicity,
42 not with a view to reinvestigating them, but with a view to
43 reviewing the historical files --
44 A. Mmm-hmm.
45
- 46 Q. -- that were available and forming an opinion as to
47 whether they were bias related or not?

- 1 A. Mmm-hmm.
2
- 3 Q. Was that concept discussed with you?
4 A. Yes. Yes.
5
- 6 Q. What was to be your department's or your section's
7 role in it, the Operational Programs?
8 A. So Mr Crandell was - when we said, "We don't have the
9 resources for it, we can't do Parrabell", as Jo and Geoff,
10 when they started it up, intended to do it, he was not
11 satisfied with that. He wanted to undertake a process so
12 he could put something back to the LGBTI community. He was
13 very passionate about communicating to the community that
14 we are serious about what we're doing. So he said, "I'm
15 going to put resources to it and we're going to undertake
16 this process", and I think that at some point we officially
17 handed over Parrabell to Mr Crandell, so it went from our
18 command to him to run with the strike force, and we were to
19 support it in any way we could, given that, you know, Geoff
20 and Jackie and others were still in my team. So our
21 command was always there to support corporate sponsors when
22 they decided to undertake pieces of work. So it - the
23 responsibility shifted to him taking the lead for it, and
24 we were there as the support command.
25
- 26 Q. We know that in due course the personnel who worked on
27 Strike Force Parrabell were police officers from various
28 local areas in the Metropolitan Region?
29 A. Mmm-hmm.
30
- 31 Q. And the personnel on Strike Force Parrabell did not
32 include Sergeant Steer or anyone from the Bias Crimes Unit?
33 A. Mmm-hmm.
34
- 35 Q. You know that to be so?
36 A. Yes. Yes.
37
- 38 Q. But, nevertheless, it seems that your Operational
39 Programs section contributed to the funding of the project;
40 is that right?
41 A. Not --
42
- 43 Q. The funding of the strike force?
44 A. Not the strike force itself, but to the academic
45 review later on, we did support that part. Not the strike
46 force itself.
47

1 Q. And why was that? How did the funding aspect of
2 things develop?

3 A. Okay. So the corporate sponsors, many of them in the
4 organisation, they - you would have senior police officers
5 that had their day jobs and then they had a corporate
6 sponsor portfolio that the Commissioner gave them, because
7 that was something of significance to us or community.
8 They would undertake various projects or initiatives in
9 their portfolio, and it was always our command that
10 supported them - support by way of policy support, the
11 policy officers; support by way of occasional funding for
12 pieces of work that they wanted to progress in their
13 portfolio. So that's kind of how it worked. We would then
14 allocate funds towards a particular portfolio where the
15 sponsor felt that there was a significant piece of work
16 they wanted to undertake. So that was how the support for
17 the academic review through funding out of the Operational
18 Programs' budget came about.

19
20 Q. Just pardon me one second. When Strike Force
21 Parrabell was being set up, did you see the constituent
22 documents, by which I mean the investigation plan and the
23 coordinating instructions? Were they documents that you
24 were shown or involved in?

25 A. Possibly, I can't recall, but possibly. If you can
26 point me to it I can tell you whether I would have seen it,
27

28 Q. Yes. You need volume 1 for this. If you would turn
29 to tab 14 in volume 1, [SCOI.74385], you'll find something
30 called "Investigation Plan", which we have been told is the
31 investigation plan for Strike Force Parrabell. On the top
32 of page 3, you will see that what's recorded is that
33 investigators would view the files to determine if any bias
34 crime indicators exist, and that in doing that, the
35 incident would be filtered through the attached Bias Crimes
36 Identification Form. Do you see that?

37 A. Mmm-hmm

38

39 Q. Do you recall whether you saw this document or the
40 form at this time?

41 A. I don't think I would have seen this, because it's the
42 investigation plan, and I left that sort of operational
43 area to the officers involved.

44

45 Q. On page 4, the next page, under the heading "Monthly
46 Progress Meeting", it says these meetings will include
47 various people, and that the Bias Crime Coordinator would

1 also be invited to participate --

2 A. Yes.

3

4 Q. -- do you see that? Now, is that something that you
5 knew was then being proposed?

6 A. So when we handed over Parrabell to Mr Crandell, the -
7 what I would have communicated, and in fact did, was always
8 that we do have a set of SOPs, we do have a subject matter
9 expert in the form of Geoff, we do have Jackie, who is also
10 a subject matter expert - not in bias crimes, but
11 sexuality, gender diversity - and so they must be looped in
12 and they must be kept in the loop, and they must have
13 a role to play. So that was always communicated. So it's
14 not unsurprising to note that they would be part of monthly
15 meetings.

16

17 Q. And when you communicated that that was your view,
18 what was his response? Did he accept it or --

19 A. Yes, he was quite open to that.

20

21 Q. Well, then, if we turn to tab 15, [SC0I.75071], we get
22 something called "Coordinating instructions"?

23 A. Mmm-hmm.

24

25 Q. First of all, did you see these, the coordinating
26 instructions?

27 A. Probably, I can't recall, but at some point I might
28 have seen them.

29

30 Q. And embedded in the coordinating instructions,
31 starting at page 4, is a thing called "Bias Crime Indicator
32 Form", which then goes for several pages?

33 A. Mmm-hmm.

34

35 Q. Did you see that or any version of it?

36 A. I have seen it over the course of the strike force,
37 yes.

38

39 Q. But when it was being, as it were, drafted or
40 compiled, were you involved in the compilation of how it
41 was going to be done?

42 A. No, I don't think I would have, no. Look, I can't
43 remember.

44

45 Q. Fine, thank you.

46

47 THE COMMISSIONER: Q. Is it something you thought, or

1 think now, you might have been able to make a contribution
2 to in any way?

3 A. Possibly I would have had Geoff have a look at it to
4 see --

5

6 Q. No, I'm not asking about Geoff, I'm asking about you,
7 I'm asking whether it is a document in respect of which you
8 think you could have made some contribution, or was it
9 outside your area of expertise?

10 A. No, I don't know that I would have had a huge deal to
11 contribute other than to check that it was consistent with
12 our SOPs and our policy position.

13

14 Q. All right. But is that another way of saying that it
15 would have been outside your area of expertise to have been
16 invited to make a comment on a document such as this?

17 A. Yes.

18

19 THE COMMISSIONER: Thank you.

20

21 MR GRAY: Q. Now, I need to show you a document in
22 volume 3.

23

24 THE COMMISSIONER: Q. While I'm interrupting you, can
25 I just ask this question, Ms Sharma. Prior to the year
26 2000, briefly, what was your employment history?

27 A. Prior to joining police, I was the manager of NSW Rape
28 Crisis, and then before that I would have worked as - in
29 the area of domestic violence and women's health centres,
30 yes.

31

32 THE COMMISSIONER: Thank you.

33

34 MR GRAY: Q. Could Ms Sharma have volume 3, please.

35 Ms Sharma, could you turn to tab 63, [SCOI.74237]. This is
36 an email chain in June 2016?

37 A. Mmm-hmm.

38

39 Q. We will start from the back, in the way of email
40 chains.

41 A. Mmm-hmm.

42

43 Q. So at this point, Strike Force Parrabell has been
44 under way for about nine months or so?

45 A. Mmm-hmm.

46

47 Q. And do you see the first in the chain, the last,

1 starting at the bottom of page 2, there's an email from
2 Craig Middleton to Mr Crandell and others, giving an update
3 of where Strike Force Parrabell is up to?

4 A. Yes.

5

6 Q. And he says various things, including, of the 28,
7 various numbers had been assigned to those categories in
8 bold that we see there?

9 A. Mmm-hmm. Mmm-hmm.

10

11 Q. And Mr Crandell then sends that email on to Jackie
12 Braw, do you see that, above that?

13 A. Mmm-hmm, yes.

14

15 Q. The next one in the chain?

16 A. Yes.

17

18 Q. And then that email evidently reaches you, because on
19 the bottom of the front page, there's an email from you
20 to --

21 A. Yes.

22

23 Q. -- Mr Crandell and Ms Braw. Do you see that?

24 A. Yes.

25

26 Q. And what you are saying, on 9 June, is, apart from
27 complimenting the team on their productivity, you say:

28

29 *To ensure that the thinking and reasoning*
30 *used to classify cases as yes, no, likely,*
31 *unlikely are robust, they should be*
32 *discussed with the Bias Crimes Unit.*

33

34 Do you see that?

35 A. (Witness nods).

36

37 Q. And you make a suggestion as to how that might be
38 done, and you say:

39

40 *This is an e essential step in line with*
41 *our agency SOPs for Bias Crimes.*

42

43 A. Mmm-hmm.

44

45 Q. So is it fair to say that you were concerned,
46 consistently with what you said a few minutes ago, that the
47 Bias Crimes Unit, and in particular Sergeant Steer, should

1 be involved in being shown the material and the proposed
2 classifications in order to contribute; is that what you
3 thought should be happening?
4 A. Yes.
5
6 Q. You were making the point that if it hadn't happened
7 yet, it should happen now?
8 A. Mmm-hmm.
9
10 Q. Is that right?
11 A. Mmm-hmm.
12
13 Q. And you went on to say that you were happy to support
14 the project - and I take it from what you said before, this
15 is the academic side of it --
16 A. Yes.
17
18 Q. -- through funding?
19 A. Yes.
20
21 Q. And Mr Crandell says he's happy with - he appreciates
22 the funding commitment?
23 A. Yes.
24
25 Q. And he says that he's happy for Cameron - that's
26 Sergeant Bignell - to share the Parrabell reports with Bias
27 Crimes?
28 A. Yes.
29
30 Q. So that's in June. But in fact, do you recall, it
31 seems that it didn't happen? That is, that the completed
32 forms that the strike force were preparing were not being
33 sent to Geoff Steer or the Bias Crimes Unit after this?
34 A. Yes, I don't think they were.
35
36 Q. And if we turn to tab 76, [SCOI.74377], in that
37 volume, again, it's an email chain, and again, if we start
38 from the back of it, this is now in November, so four
39 months later.
40 A. Mmm-hmm.
41
42 Q. Do you see the first one in the chain, is from you to
43 Craig Middleton cc'ing Mr Crandell and you say:
44
45 *Hi Craig.*
46 *When will you send through the cases that*
47 *the team have worked on for the Bias Crimes*

1 Team to look at?

2

3 A. Yes.

4

5 Q. You say:

6

7 *We had already agreed that the process was*
8 *to have the Bias Crimes Team look at the*
9 *determinations prior to the external*
10 *researcher, but the least we can do at this*
11 *point is get them to look at it*
12 *concurrently.*

13

14 A. Mmm-hmm.

15

16 Q. So was that something that was troubling you, that
17 something that should have happened hadn't happened?

18

19 A. Yes, we'd agreed to a process and I was just reminding
20 the team that's what needed to be done.

20

21 Q. And by this time, the strike force had been under way
22 for well over a year, so you were presumably surprised to
23 find that the Bias Crimes Unit had not been consulted; is
24 that right?

25

26 A. Mmm-hmm.

26

27 Q. And Mr Middleton responds - this is starting at the
28 bottom of the first page --

29

30 A. Yes.

30

31 Q. He says:

32

33 *I was not privy to any agreement to send*
34 *the Bias Crime Unit the review forms prior*
35 *to sending them to Dr Dalton. ... I was*
36 *not informed to forward them to the Bias*
37 *Crime Unit prior to his academic review*
38 *commencing. Honestly*
39 *I don't ... understand the reasoning behind*
40 *why that would be the case.*

41

42 Do you remember this?

43

44 A. Mmm-hmm.

44

45 Q. And you respond saying:

46

47 *When we met with the Parrabell Team on*

1 16 June 2016, we did agree that after the
2 Parrabell team completed its work, the next
3 step would be to send it across to Bias
4 Crimes Team to confirm/discuss the
5 classification made by the team --
6

7 A. Mmm-hmm.

8
9 Q.

10
11 -- as another set of expert eyes on the use
12 of the indicators ...
13

14 Do you remember that?

15 A. Yes.

16
17 Q. And you say as well that that process, just
18 described --

19 A. Yes.

20
21 Q. -- was also included in the request for quotation, and
22 indeed it was, and I'll come to that in a minute. But
23 being reminded of all this now, was the position that you
24 were concerned that this step in the strike force that
25 should have been happening, namely, bringing in the Bias
26 Crime Unit and Sergeant Steer, seemed to have been not
27 followed?

28 A. I think there was a point of tension there.

29
30 Q. And what was the tension, do you think?

31 A. I'm not quite sure. I think Geoff had strong views;
32 the Parrabell team were doing what they were doing and -
33 I don't know that they were deliberately not sending it to
34 him. I think they were getting on with things. But they
35 did need reminding that, "Hey, we haven't seen them yet",
36 so --
37

38 Q. And apart from one exception, which is a dip sample of
39 12 cases which I'll come to --

40 A. Mmm-hmm.

41
42 Q. -- in fact, the cases were never sent to Mr Steer,
43 were they, apart from those 12?
44

45 MR TEDESCHI: Object.

46
47 THE COMMISSIONER: It can be her understanding,

1 Mr Tedeschi. It can't be any more than that.
2
3 MR TEDESCHI: The difficulty is that I think it was the
4 last document that I put to Sergeant Steer, which contained
5 an invitation --
6
7 THE COMMISSIONER: That's a different thing, though. An
8 invitation is different to, on one view, a positive
9 agreement proactively to do so. That's why I'm going to
10 allow it. Your case - and I understand when I say "your
11 case" - your position is that he had access and could have
12 looked at if he'd wanted to, and you'll then say he didn't,
13 because he was peeved. I understand what you're saying.
14
15 MR TEDESCHI: But, Commissioner, it goes a bit further
16 than that. There's that email from Sergeant Middleton to
17 Sergeant Steer inviting --
18
19 THE COMMISSIONER: Until you produce what you've been
20 asked to produce this morning, namely, the emails that
21 actually went to Mr Steer, I don't actually know what it is
22 you gave him. I know that he got 12 case summaries. Are
23 you suggesting he got 88?
24
25 MR TEDESCHI: It was the last email that --
26
27 THE COMMISSIONER: Are you suggesting he got 88 case
28 summaries?
29
30 MR TEDESCHI: What I was suggesting to him --
31
32 THE COMMISSIONER: No, I would like you to answer on
33 instructions, Mr Tedeschi. Is it your case - tell me yes
34 or no, if you happen to know - that he was given the 88
35 case summaries?
36
37 MR TEDESCHI: Our case, Commissioner, is that he had
38 access to all of it.
39
40 THE COMMISSIONER: Thank you. Of course he did. And you
41 make that clear and he accepted he did. But he got 12 case
42 summaries which were given to him specifically for the
43 meeting, seemingly, of 19 January. I take it it is not
44 your case that, proactively, whatever he might have access
45 to, he wasn't given 88 and asked to comment on?
46
47 MR TEDESCHI: With respect, Commissioner, the email speaks

1 for itself. It's an invitation to him to review whichever
2 ones he wants and how many he wants.

3

4 THE COMMISSIONER: All right. I know. I understand where
5 you are coming from.

6

7 MR TEDESCHI: Without specifying --

8

9 THE COMMISSIONER: I understand where you are coming from
10 but I'm going to allow this question, and I think you
11 understand my comments, tentative though they may be --

12

13 MR TEDESCHI: I do.

14

15 THE COMMISSIONER: -- and you will deal with it in due
16 course, thank you.

17

18 Q. I take it, Ms Sharma, you never received any case
19 summaries from anybody, or did you?

20 A. I recall seeing them at some point but Tony was
21 concerned about civilians reading some of the case
22 summaries, which is why he didn't want Jackie to look at
23 them. So I do remember seeing some at some point, but
24 they - I wouldn't expect them to be regularly sent to me.
25 Like, I had no cause to look at them.

26

27 THE COMMISSIONER: All right.

28

29 MR GRAY: Q. All that I want to just focus on and get
30 clear is this short point, looking at your email at the
31 bottom of the second page of this tab, tab 76, you were
32 asking Mr Middleton when will he send through the cases
33 that the team have worked on for the bias crimes team to
34 look at?

35 A. Mmm-hmm.

36

37 Q. So your understanding was that no cases at that point
38 had been sent to the bias crime team to look at?

39 A. Correct, yes, it seems obvious from that.

40

41 Q. Sorry?

42 A. It seems obvious from the question I've asked, yes.

43

44 Q. When you say "cases" there, did you know then that the
45 way the strike force was proceeding was by way of filling
46 out the Bias Crime Indicator Forms, or did you only come to
47 know that later?

1 A. I can't recall, but I - at some point I knew that each
2 case was about 10 or 12 pages, which was the whole form.
3
4 Q. The form?
5 A. Yes.
6
7 Q. In the two columns, with the entries on the right-hand
8 column?
9 A. Yes.
10
11 Q. With the narrative about the case and the views about
12 the different indicators?
13 A. Yes.
14
15 Q. So apart from the 12, the dip sample, which I'll come
16 to, is it your understanding that no such Bias Crime
17 Indicator Forms were ever sent to Mr Steer?
18 A. I don't think so but I'm not a hundred per cent sure,
19 because after this email, every time they sent Derek and co
20 in batches, I think they started copying us in, I think.
21 I can't remember.
22
23 Q. You're not sure?
24 A. Yes.
25
26 Q. Well, if it happened, it would be in - your
27 recollection is, whatever happened, happened in emails; is
28 that right?
29 A. Yes, because he says:
30
31 *I will ensure that as we send them to*
32 *Dr Dalton you will be provided a copy.*
33
34 So I'm thinking that maybe they then started sending it to
35 us by email, but I can't remember.
36
37 Q. You can't remember.
38
39 THE COMMISSIONER: Can I just interrupt again.
40
41 Q. If you can go back to the top of the email at tab 76,
42 where you say, "When we met on 16 June", leaving aside
43 tension and who was meant to do what, your understanding
44 was that there was an express agreement that the Bias
45 Crimes Team would send across, or that, rather, the
46 Parrabell team would send across to bias crimes the work
47 for confirmation or comment or discussion?

1 A. Mmm-hmm.

2

3 Q. It was not just a case, was it, of "It's there, look
4 at it please and comment on it"; it was, rather, the other
5 way around as you've recorded it, is that fair?

6 A. Yes, I think so.

7

8 THE COMMISSIONER: All right, thank you.

9

10 MR GRAY: Q. Just for the sake of closing off this, keep
11 that folder, if you would, but could Ms Sharma also have
12 volume 2, please. If you could just turn briefly to
13 tab 23, please, Ms Sharma, [SCOI.76961].

14 A. Yes.

15

16 Q. This is the request for quotation for the academic
17 review?

18 A. Yes.

19

20 Q. I will come back to that more generally, but just on
21 this point --

22 A. Yes.

23

24 Q. -- on page 5, do you see there is an item 3.3,
25 "Current Situation"?

26 A. Yes.

27

28 Q. It says:

29

30 *Strikeforce Parrabell is currently*
31 *reviewing its 40th case ...*

32

33 This is at about July/August 2016. At the bottom of that
34 page it says:

35

36 *At a recent meeting between the Strikeforce*
37 *Parrabell team and Operational Programs*
38 *staff, a process was agreed to by all to*
39 *facilitate an expedient and effective*
40 *conclusion to the work of the team ...*

41

42 Do you see that?

43 A. Mmm-hmm.

44

45 Q. Number 1 is:

46

47 *Phase 1 completion by the [strike force*

1 *team] - reviewing each case*
2 *utilising ... Bias Crime ... (SOPs),*
3 *particularly [the indicators] ...*
4

5 That was number 1?

6 A. Mmm-hmm.

7

8 Q. And then phase 2 was:

9

10 *Submitting reviewed cases to the Bias Crime*
11 *Unit ... for review, particularly*
12 *determinations (conclusions).*
13

14 A. Mmm-hmm.

15

16 Q. So that's what you were referring to in your email --

17 A. That's right.

18

19 Q. -- when you said that this agreement - that is, that
20 the work of the strike force once completed would be
21 submitted to bias crimes for Steer's view - was part of the
22 request for quotation, as indeed it was?

23 A. Mmm-hmm.

24

25 MR GRAY: All right, that can be put aside.

26

27 THE COMMISSIONER: Q. And I presume it was done that
28 way, was it, so that the academic team had an explicit
29 understanding of the methodology and protocol that had been
30 agreed between various persons in the NSW Police as to how
31 it would collect and distil and discuss the data?

32 A. That's right.

33

34 Q. And did you play any part in the drafting of this
35 request for quotation?

36 A. Sorry, can you repeat that?

37

38 Q. Yes, of course. Did you play any part in the drafting
39 of this request for quotation?

40 A. Yes. So I think Jackie would have drafted it and then
41 the two of us would have refined it and sent it to
42 Mr Crandell.

43

44 THE COMMISSIONER: Thank you.

45

46 MR GRAY: Q. I will come back to that briefly later.
47 For the moment, I just want to come to the dip sample

1 exercise that you recall, I imagine - do you?
2 A. Mmm-hmm.
3
4 Q. If we turn to, in the same bundle that you have
5 there --
6 A. Mmm-hmm.
7
8 Q. -- tab 83, [SC0I.74429], there is the minutes of
9 a meeting, which you don't seem to have been at?
10 A. Mmm-hmm.
11
12 Q. In which, basically, Mr Steer's views about a sample
13 of 12 cases were discussed?
14 A. Mmm-hmm.
15
16 Q. You weren't at the meeting, but do you recall this
17 happening?
18 A. Yes.
19
20 Q. And at tab 84, [SC0I.74430], there are two tables said
21 to reflect what the differences between the strike force
22 and the one hand and Mr Steer on the other had been, and
23 what the upshot of the meeting was?
24 A. Mmm-hmm.
25
26 Q. Did you see either the minutes or that document at
27 about this time?
28 A. Yes, I would have when I came back from leave.
29 I think Juliana might be acting in my role, so she would
30 have been at that meeting. So she would have, when she
31 handed back to me, would have told me this had occurred.
32
33 Q. On the assumption, for this question, that it was only
34 those 12 that Mr Steer was ever actually asked to comment
35 on or give his views on --
36 A. Mmm-hmm.
37
38 Q. -- what do you say about whether the process that had
39 been agreed upon was properly followed?
40 A. Well, we did agree on a process that each case would
41 be sent. That didn't happen. I think that by that time,
42 the workload for Geoff was quite enormous, so even he was
43 quite happy that he wasn't looking at all of them, really,
44 so this was more manageable, to look at at least a dip
45 sample. But that wasn't what was agreed to, but we were
46 okay with it because we had plenty of work to do.
47

1 Q. Right. Okay. Well, let me turn now to the question
2 of the tender process and the selection of Flinders?

3 A. Mmm-hmm.
4

5 Q. Jackie Braw was someone, you have told us, who was in
6 your department and reported to you. What was her role in
7 relation to the Strike Force Parrabell work, that your
8 Operational Programs was involved in?

9 A. Okay. So the strike force itself was under
10 Mr Crandell and the detectives that led it. She was more
11 the project manager for the academic review side of things.
12 So because our command - we wrote the request for quotation
13 and we invited the tenders, we found suitable people to bid
14 and we had to take charge of that process, so she was the
15 project manager for that, so she was the liaison for
16 whoever would be awarded the tender. So her role would be
17 to organise whatever whoever won the tender needed to do
18 what they were supposed to deliver on.
19

20 Q. So her role really, in serious terms, was to do with
21 the academic phase of the strike force rather than the
22 process prior to that?

23 A. More so. In terms of the strike force itself, we
24 always wanted Jackie to look at the language used in any
25 sort of narrative that was coming out, so she could check
26 that the language used was appropriate.
27

28 Q. I see. Okay. Now, you became aware in 2016, I take
29 it, that Mr Crandell was trying to identify a suitable
30 academic reviewer of the strike force's work?

31 A. Yes, from memory, he wrote to Don Weatherburn at
32 BOCSAR. Don might have suggested somebody. I know that
33 Jackie had a coffee with Gail Mason and said, "Are you
34 interested, Gail?" Gail said she was not, or not
35 available, I can't remember.
36

37 It might be Gail that suggested Dalton, because we
38 didn't know of them. So we were asking various people. We
39 knew of Nicole Asquith, because we worked a lot with her.
40 We knew of Gail, so - I think Chris Devery might have
41 suggested Murray.
42

43 Q. Murray Lee?

44 A. Yes. So - that's how we were sort of gathering the
45 names of who we would approach.
46

47 Q. Was Stephen Tomsen one of the names that was mentioned

1 or thought about?

2 A. He might have come up. I don't - I don't recall. But
3 they were all the names that were kind of - that came up
4 from all the people we approached.

5

6 Q. And what was the extent of your familiarity with some
7 of these names, in terms of their work in this field?

8 A. Oh, I definitely knew about - I knew Stephen Tomsen
9 had written and was well known in the field. I knew Gail,
10 I knew Nicole, because I had read stuff they had written
11 over the years. I didn't know about Murray. Jackie knew -
12 Jackie knew more, but I didn't know about Murray's work
13 either.

14

15 THE COMMISSIONER: Q. Of the three people you mentioned
16 that you were aware of, did you regard them as expert in
17 their fields?

18 A. Yes.

19

20 Q. And did you have a high regard for each of them?

21 A. Yes.

22

23 THE COMMISSIONER: Thank you.

24

25 MR GRAY: Q. And when you answered the Commissioner's
26 question just then about the three, which were the three
27 that you had in mind?

28

29 THE COMMISSIONER: Q. You mentioned, I think,
30 Gail Mason --

31 A. Nicole Asquith.

32

33 Q. -- I think you mentioned Nicole Asquith and Stephen
34 Tomsen. They are the ones I had in mind when I asked you
35 that question, so you were (a) familiar with them and their
36 expertise, and you had a high regard for each of them?

37 A. Yes.

38

39 THE COMMISSIONER: Thank you.

40

41 MR GRAY: Q. You became aware, I expect, at some point
42 along the timeline, that Dr Devery was advising that for
43 procurement reasons, three quotes had to be obtained?

44 A. (Witness nods).

45

46 Q. And did you know that by that point, Nicole Asquith
47 had already been approached, had already expressed interest

1 and had already put in a kind of draft proposal?
2 A. I think so, because from the procurement point of
3 view, there are rules around single quotes, like there are
4 certain amounts under which you just go to one person and
5 that's sufficient and it meets the requirements of the
6 Procurement Branch, but depending on the amount, you are
7 required to get three quotes. So it may be that Nicole
8 expressed interest and the amount was - the amount of - was
9 high enough that we had to get three quotes. I'm trying to
10 remember. We would have gone to the Procurement Branch and
11 said, "Tell us what we need to do", and so the steps - I'm
12 trying to recall the steps here. So they would have said,
13 "Use the template, write a request for quote, get approval
14 to seek quotations, find suitable people that you can
15 invite to tender, set up an evaluation or selection
16 committee, have someone who receives all the quotations,
17 and then the evaluation committee assesses them and scores
18 them, and then back to the procurement team and then
19 drafting of a contract, et cetera." So that was kind of
20 the steps they'd gone through with us.

21
22 Q. Yes. I was asking - thank you for that - whether, by
23 the time all of that became something that you realised was
24 going to have to be done --

25 A. Yes.

26
27 Q. -- that in fact Nicole Asquith had already been in
28 touch, had been contacted and had expressed some interest
29 A. Interest.

30
31 Q. -- and had proffered a kind of draft --

32 A. Yes.

33
34 Q. -- project plan?

35 A. Mmm-hmm.

36
37 Q. And then Professor Murray Lee was approached and he
38 expressed some interest in perhaps tendering?

39 A. So once we identified the people then we just,
40 I think, said, "Would you be interested in tendering?"

41
42 Q. Yes. I'm just doing them one at a time?

43 A. Yes.

44
45 Q. So Gail Mason, according to the record, which I don't
46 want to take up all of your time on, had been in touch by
47 this point, and then Murray Lee was approached. And if you

1 have volume 2 there - although I see the time --

2 A. Mmm-hmm.

3

4 Q. -- I need to take you to a few of these emails.

5

6 THE COMMISSIONER: Perhaps you might do it after the
7 break.

8

9 MR GRAY: I can do it after the break.

10

11 THE COMMISSIONER: Q. Before we do break, can I just ask
12 this question: it was entirely a matter for yourself,
13 Mr Crandell, Ms Braw, et cetera, as to who was to be
14 invited?

15 A. Yes.

16

17 Q. And at least prima facie, or on its face, each of the
18 persons you ultimately did invite are those which you
19 thought were suitably qualified and independent?

20 A. Yes.

21

22 THE COMMISSIONER: Thank you. I will take the break now.

23

24 LUNCHEON ADJOURNMENT

25

26 MR TEDESCHI: Commissioner, one thing I forgot to mention
27 this morning, was that on the transcript from yesterday
28 Ms Richards was not mentioned as appearing for the
29 Commissioner, if she could be added, please.

30

31 THE COMMISSIONER: Yes, we will do that, thank you.

32

33 MR GRAY: Q. Ms Sharma, if you could have volume 2,
34 please, could you turn to tab 37, please, [SC0I.74202]
35 again that is an email chain, so if we start from the back,
36 this is Murray Lee of Sydney University writing to Jackie
37 Braw saying that a team consisting of himself and Professor
38 Crofts and Professor Stephen Tomsen might be interested in
39 tendering?

40 A. Mmm-hmm.

41

42 Q. No doubt that came to your notice, in one way or
43 another, that Professor Lee had expressed that interest?

44 A. Mmm-hmm.

45

46 Q. And then Jackie Braw writes back to Murray Lee at the
47 top of that second page, and what I wanted to draw your

1 attention to is that she tells Murray Lee in a brief few
2 lines what the strike force is doing, and then she says:

3
4 *Exactly how this evaluation is completed is*
5 *up to you, but we expect the following to*
6 *be included.*

7
8 And then there are nine bullet points, do you see that?

9 A. Yes.

10
11 Q. And then the first one is:

12
13 *An independent evaluation of [the strike*
14 *force's] review of the ... deaths ...*

15
16 A. Mmm-hmm.

17
18 Q. And then there are eight others?

19 A. Yes.

20
21 Q. I don't need to take you to the balance of that chain.
22 I just wanted to draw your attention to that - they being
23 the nine points that she was saying were likely to
24 be the --

25 A. Requirements.

26
27 Q. -- gist of what the academic review would be doing.

28 A. Yes.

29
30 Q. So he was the second prospective tenderer. Nicole
31 Asquith had already flagged some interest, and now he
32 had --

33 A. Yes.

34
35 Q. -- and you needed a third one, and we'll come to that
36 in a second, but if you just keep that folder there, but
37 briefly, I just need to show you a document in volume 3,
38 and would you turn to tab 67, [SCOI.74279]. So this is now
39 a few months later. That email we just looked at with
40 Murray Lee was April?

41 A. This is July.

42
43 Q. And we're now at July?

44 A. Mmm-hmm.

45
46 Q. Jackie Braw is writing to Shannon Wright, who is
47 a person at ACON?

1 A. Mmm-hmm.

2

3 Q. You probably know that. And she says to Shannon
4 Wright on 18 July:

5

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

8

9 Now, pausing there, putting aside the fact that someone
10 else has written comments in blue, the nine bullet points
11 are the same ones that were in that email from Jackie Braw
12 to Murray Lee that we just looked at?

13 A. Mmm-hmm.

14

15 Q. But Jackie Braw says in the first paragraph:

16

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

23

24 Do you see that? Now, what I wanted to ask you is how did
25 that change come about, to your knowledge - the change
26 whereby the researchers would be involved sooner than had
27 previously been thought and would do the last stage as
28 a collaborative process?

29 A. I can't really remember. Just seems to have evolved
30 in conversations with Mr Crandell. I can't - honestly
31 can't remember when we changed from they'll finish their
32 bit and then the academics will come on.

33

34 Q. Well, there had been - I'm sure you would accept,
35 prior to this point there had been a certain amount of
36 emphasis on the idea that the academic review needed to be
37 independent, and indeed, that was the first bullet point,
38 in fact, still is the first bullet point in what we're
39 looking at?

40 A. Yes, yes.

41

42 Q. But now, this seems to be a change, in fact, Jackie
43 Braw describes it as a change in thinking?

44 A. Mmm-hmm.

45

46 Q. And it involves a different approach, namely,
47 a collaborative approach. Is that something that you were

1 conscious of as a change?

2 A. Yeah, I'm sure we would have talked about why, and why
3 are we going down that path.

4

5 Q. And what's your recollection as to who said what on
6 that topic?

7 A. I can only think it must have come from Mr Crandell.
8 I don't know that we would have suggested a change in
9 process.

10

11 Q. I don't need volume 3 again, so that can be put aside,
12 and if we could just come back to volume 2?

13

A. Yes.

14

15 Q. Turn to tab 42, [SCOI.74273], if you would. This
16 happens to be the very next day, 19 July?

17

A. Yes.

18

19 Q. The one we just looked at was 18 July. This happens
20 to be 19 July and Jackie Braw is telling Chris Devery and
21 copying you and others --

22

A. Yes.

23

24 Q. -- that she, Jackie Braw, had located a potential
25 third party to apply for the tender, namely, Associate
26 Professor Dalton of Flinders University?

27

A. Yep.

28

29 Q. Do you recall - what do you recall about how it was
30 that someone came up with the idea of Dr Dalton?

31

A. Can't recall exactly but I have a vague recollection
32 that Gail might have suggested him, but I'm - I'm not sure,
33 to tell you the truth.

34

35 Q. Did you have any knowledge or awareness of his
36 existence or his expertise at this point?

37

A. Not before he had been suggested by someone.

38

39 Q. All right. Then in this email Jackie Braw says to
40 Chris Devery:

41

42 *Would you read all the documents --*

43

44 the three documents, namely, supply agreement, request for
45 quote and final quote evaluation --

46

47 *and, if you are happy with them, sign [them*

1 *and send them back]*.

2

3 And so on?

4 A. Mmm-hmm.

5

6 Q. So at this point, it seems that those three documents,
7 supply agreement, request for quotation, and evaluation
8 document, were in the course of preparation?

9 A. Mmm-hmm.

10

11 Q. Nearing completion of preparation?

12 A. Mmm-hmm.

13

14 Q. Had you been involved in the drafting or compilation
15 of those documents?

16 A. Yes, I would have been.

17

18 Q. And over what period, approximately, had they been
19 under development?

20 A. Probably most of July, because the evaluation panel
21 met some time in August - could be around 15, 16 August,
22 something like that. So it would have been most of July
23 that we were back and forth with procurement, and then
24 there's a certain period of time that people have to have
25 time to put in their quotations, and we will have met that
26 mandatory time period, and then the evaluation panel would
27 have sat.

28

29 Q. I'm about to come to the actual documents, but do you
30 recall who was in the toing-and-froing in terms of the
31 drafting or contents of these documents?

32 A. I'm fairly certain that Jackie would have drafted the
33 request for quotation using the template that was provided
34 to us, or the two of us could have done it jointly.
35 Generally, how my staff worked is they would work on it and
36 then come to me and then we'd look at a draft together, and
37 then we would have probably sent it off to Mr Crandell as
38 well. I think he would have relied on us to do the
39 majority of the drafting, so I'm guessing that it would be
40 mainly Jackie and I that would have drafted the request for
41 quotation.

42

43 Q. Okay. Well, can I turn to the request for quotation.
44 It's in that same folder at tab 23 [SCOI.76961].

45 A. Mmm-hmm.

46

47 Q. Now, you refer to there having been a template. So

1 the skeleton of the document is standard; is that right?

2 A. Yes, yes.

3

4 Q. In this one, there's a section 3, "Background", on
5 page 5. And that's, by the look of it, bespoke; it's been
6 created for this particular tender?

7 A. Yes, yes.

8

9 Q. Is it consistent with what you've just been saying
10 that you think that Jackie Braw and yourself in some
11 combination drafted this section?

12 A. We would have, yes.

13

14 Q. I wanted to ask you about part of it in particular.
15 You will see on 3.4, on page 6, there is a heading
16 "Challenges"?

17 A. Yes.

18

19 Q. It says:

20

21 *One of the key challenges is locating*
22 *suitable, qualified and independent*
23 *researchers.*

24

25 A. Mmm-hmm.

26

27 Q. The next sentence says:

28

29 *Many researchers in this area are connected*
30 *to the "gay community" and may not be as*
31 *independent as desirable.*

32

33 A. Mmm-hmm.

34

35 Q. What did you mean by that when you wrote that?

36 A. I think that we were thinking - because independence
37 was important to us, I think we were thinking that
38 activists in the community would not bring that degree of
39 independence. So if they had been - if there is an
40 academic connected to the community and is also an
41 activist, that that might pose some challenges. So - yes.
42 That's what we had in mind.

43

44 Q. And just at a general level, why would someone's being
45 connected to the gay community - that person being
46 a researcher - indicate that there might be a lack of
47 independence?

1 A. Look, I think in hindsight, we could have worded that
2 better, but what we had in mind was not to exclude people -
3 in fact, we wanted people that were connected to or
4 understood the gay community, so that was certainly
5 a desirable. But what we had in mind, and how we worded
6 it, is perhaps not the most effective way of having done
7 it.

8
9 Q. So you actually thought that having people connected
10 to the community at one level was a good thing?

11 A. Mmm.

12
13 Q. And presumably that's because they had familiarity
14 with the subject matter?

15 A. Mmm-hmm.

16
17 Q. But some people connected to the community would not
18 be a good thing because they would not be as independent as
19 desirable?

20 A. Yes. If they had a strong background of being an
21 activist, then we felt that that would impact on the
22 independence they would bring or the - yes.

23
24 Q. And who would that have been, in your mind?

25 A. I don't know that we had anyone in mind, but we knew
26 that there are a lot of passionate people within the
27 community, including in academia, so we were just putting
28 it out there as a possible challenge.

29
30 THE COMMISSIONER: Q. But, you see, what I don't
31 understand is this was not a request for tender put in the
32 University Press or put out in the Sydney Morning Herald or
33 in the Australian. This was an invitation to three
34 specific people?

35 A. Mmm-hmm.

36
37 Q. Surely you must have thought, as I think you told me
38 before lunch, each of the people that were invited to
39 tender were suitable, qualified and independent?

40 A. Mmm-hmm.

41
42 Q. So was this a document perhaps drawn before you
43 actually invited people to tender?

44 A. Well, I'd just have to look at the timeline on that,
45 but - obviously it was drafted before we invited people to
46 tender.

47

1 Q. What I'm just trying to understand is it doesn't make
2 sense, if the persons who were going to be invited to
3 tender were people whom you had total control over - in
4 other words, you could choose A, B, C, D, E, F, G,
5 whatever --
6 A. Yes.
7
8 Q. -- you had to have three?
9 A. Yes.
10
11 Q. But surely you must have gone through those persons,
12 between yourself, Ms Braw and others, so that you made sure
13 that the people who tendered ticked the boxes, otherwise
14 what would be the point of telling them to be - to warn
15 them about their own bias? Perhaps I'm putting it rather
16 indistinctly, but this document doesn't make sense, does
17 it, in the context of having chosen the persons that you
18 were going to invite to tender?
19 A. I think that this - this is a template that gives us
20 the headings that we must think through and fill out. So
21 part of the template is to consider all the challenges in
22 this piece of work.
23
24 Q. I understand.
25 A. So it's named as a challenge.
26
27 Q. Yes, I understand it is named as a challenge, but,
28 what - is it - I don't understand the significance of this
29 document in circumstances where the actual choice -
30 I understand it may have some application, although
31 arguably it shouldn't, but I understand that it might have
32 some application if the tender was to the world at large.
33 But this was a tender process to three specific invited
34 tenderers, wasn't it?
35 A. Yes.
36
37 Q. About whom you had, I presume - you tell me if I'm
38 wrong - satisfied yourself in advance were suitable,
39 qualified and independent?
40 A. Yes.
41
42 MR GRAY: Q. Well, at the time this document was being
43 drafted - that is, in July --
44 A. Mmm-hmm.
45
46 Q. -- you certainly knew that two of the three were going
47 to be the Asquith team and the Murray Lee/Stephen Tomsen

1 team?
2 A. Mmm-hmm.
3
4 Q. And it was only fairly late in the piece that you knew
5 that the third one was going to be the Dalton team. Well,
6 when you referred to some researchers - or many, in fact -
7 being connected to the gay community and thus perhaps not
8 as independent as desirable, and you said a few moments ago
9 that you had in mind these researchers who were also
10 activists --
11 A. Mmm.
12
13 Q. -- was either Stephen Tomsen or Nicole Asquith, in
14 your mind, in that category?
15 A. Stephen Tomsen potentially.
16
17 Q. He was, I imagine you would accept, a very prolific
18 publisher in the world of --
19 A. Yes.
20
21 Q. -- hate crime generally, and in particular, gay-hate
22 crime?
23 A. Yes, yes.
24
25 Q. And prolific publisher of articles and indeed books on
26 that --
27 A. Mmm-hmm.
28
29 Q. -- those subjects, and Nicole Asquith was also
30 a widely published --
31 A. Mmm-hmm.
32
33 Q. -- academic author in those fields?
34 A. Mmm-hmm.
35
36 Q. But both of them were also, weren't they, reasonably
37 prominent --
38 A. Mmm-hmm.
39
40 Q. -- in the public eye as putting forward a particular
41 point of view, namely, that there had, indeed, been a lot
42 of gay-hate violence in the 80s and 90s?
43 A. Mmm.
44
45 Q. That there had been up to 80-odd deaths and that up to
46 30 of them were seen as unsolved. I mean, both of them had
47 been associated with those views, hadn't they?

- 1 A. Yep.
- 2
- 3 Q. And so were they two of the people that you had in
4 mind as activist researchers who might not be as
5 independent as desirable?
- 6 A. Look, we invited Murray, and Stephen was on his team,
7 and he - they tendered. So clearly we viewed all of the
8 tenders on the value of what they brought and how they
9 addressed the criteria.
- 10
- 11 Q. What I'm getting at is if your view was - not just
12 yours personally but the view of those involved --
- 13 A. Yes.
- 14
- 15 Q. -- which is yourself, Jackie Braw, Mr Crandell, and
16 I think ultimately Mr Devery - if the view was that
17 activist researchers --
- 18 A. Yes.
- 19
- 20 Q. -- such as Stephen Tomsen and Nicole Asquith, might
21 not be as independent as desirable, and if independence was
22 an important criterion --
- 23 A. Mmm-hmm.
- 24
- 25 Q. -- then those two teams were going to start behind the
26 others on the starting grid, weren't they?
- 27 A. Perhaps, because a way to deal with such things, such
28 as in an interview panel, is you declare if you have
29 a perceived conflict, or a conflict; you declare it and say
30 "This can be managed". So, you know, we would have
31 expected people who tendered to disclose if they had any
32 perceived conflicts or potential conflicts.
- 33
- 34 THE COMMISSIONER: Q. No, but, Ms Sharma, your answers
35 proceed upon the basis that you were inviting the world at
36 large. The three tenderers were hand-picked. So when you
37 say they would have declared their interests, surely, why
38 would you have picked someone if you - unless you were
39 trying to make up the numbers, why would you have picked
40 somebody if you thought they were likely to fall outside
41 the parameters of what you were looking for?
- 42 A. I don't think that, your Honour, we prepared a dossier
43 on each of them. We knew what they knew from what they
44 published, and some who worked with us, so we didn't do any
45 searching beyond that.
- 46
- 47 Q. But you had plenty of intelligence, if I may call it

1 that, within the Police Force, about these people, and did
2 you check with Dr Devery? He was your in-house researcher.
3 Did you speak to him about his knowledge of the Lee group
4 and the Asquith group?

5 A. Well, I think Dr Devery suggested Murray Lee.

6
7 Q. Well, what I'm - that's what I'm getting back to:
8 I don't understand the point of this, if all these people
9 were hand-picked, unless, if I may say so, you were simply
10 making up the numbers so as to satisfy the requirement or
11 procurement process of three tenderers. I don't understand
12 otherwise.

13 A. We were not simply making up the numbers. We were
14 just looking for people --

15
16 Q. Well, the three people that you invited on their face
17 were pretty obviously expert in their fields; right?

18 A. Yes.

19
20 Q. And you knew, well and truly, that people like
21 Professor Lee and Croft and Tomsen on the one hand and
22 Professor Asquith and others were steeped in this hate
23 crime or bias crime area?

24 A. Mmm.

25
26 Q. Especially in relation to the LGBTIQ community?

27 A. Yes.

28
29 Q. So presumably they were on the list because they stood
30 out as experts?

31 A. Yes.

32
33 Q. All right. You didn't have the faintest idea who
34 Dr Dalton was?

35 A. No.

36
37 Q. And you relied upon, you think now on recollection,
38 something that you believe might have come from Gail Mason?

39 A. Yes, I can't say for certain, but --

40
41 THE COMMISSIONER: All right, thank you, yes.

42
43 MR GRAY: Q. In the next line in 3.4 is another sentence
44 which says:

45
46 *Some researchers have had their own*
47 *personal history of negative relationships*

1 *with police.*

2

3 A. Mmm-hmm.

4

5 Q. Who was that a reference to?

6 A. Again, there was not a particular person that we had
7 in mind, but we were conscious that a challenge could be if
8 anyone had had their own personal history with the police
9 that has been negative, then that might have a bearing on
10 how they dealt with their work.

11

12 Q. Yes. But you don't say that it could be a problem if
13 someone had a personal history of negative relationship;
14 you assert that some researchers have in fact had their
15 personal history of negative relationships. Who did you
16 mean? Who were the "some researchers", who had had
17 a personal history of negative relationships?

18 A. I really can't tell you that we had a person in mind,
19 I'm sorry.

20

21 Q. Did you draft those two sentences or did Jackie Braw
22 draft them or you don't remember?

23 A. I can't remember.

24

25 Q. Did Mr Crandell have a role to play in the drafting of
26 this section, 3.4?

27 A. I think he would have relied on us to do the drafting
28 and he would have just looked at it. I don't think that he
29 specifically inserted those lines. I don't think so.
30 I think we did the drafting and he just looked over it.

31

32 Q. Well - so did you show him a draft or some drafts?

33 A. I think we must have. I can't remember exactly, but
34 I think we must have run it past him.

35

36 THE COMMISSIONER: Q. Can I just interrupt again. Can
37 I take you back to the word "connected" if I may. What
38 does "connected" - what was "connected" mean to suggest,
39 a member of, sympathetically disposed towards, written
40 about, friends in? Precisely what - was it meant to cover
41 a multitude of those concepts? Close connection, tenuous
42 connection, indirect connection, transitional? I mean,
43 what was it meant to convey? Written about?

44 A. Close connection, steeped in.

45

46 Q. I'm sorry?

47 A. Close connection and steeped --

- 1
2 Q. Well, why not use the words "close connection"?
3 A. Yes, we could have - in hindsight, your Honour, we
4 could have.
5
6 Q. I take it you weren't intending to be offensive?
7 A. No, of course not.
8
9 Q. But, that said, what does "connected" mean? Does it
10 simply mean that they'd written extensively about or did it
11 mean they were a member of, just being a member of, or -
12 I don't know what was intended. And these hand-picked
13 people that you invite to tender are meant to interpret
14 this document, but I just wonder, you can't assist me much
15 more than what you've just said; is that right?
16 A. Could you just repeat that, I'm --
17
18 Q. Yes, of course. You can't tell me now what was in
19 your mind or Ms Braw's mind, if you or she were the
20 draftspersons of this document, what was intended to be
21 conveyed by the notion of "connection"?
22 A. Not more than what I've said, which is --
23
24 Q. Well, you now say "close connection"?
25 A. Mmm-hmm.
26
27 Q. -- is what you had in mind. "Close connection" in
28 what sense? Written about extensively, member of, both
29 written about extensively and a member of, thought to be
30 a member of, suspected to be a member of? What was it that
31 you had in mind?
32 A. Steeped in, deeply connected, closely connected .
33
34 Q. Steeped in, deeply --
35 A. Closely connected.
36
37 Q. But "connected" in what sense - written about
38 extensively as an academic or written about and a member of
39 or - I don't understand when you say "deeply", or
40 "closely"?
41 A. I - honestly, your Honour, I cannot say more than what
42 was in our minds at the time other than to think if there's
43 an element of activism that would constrain their ability
44 to be independent, then that would be a challenge.
45 That's - that's as much as we thought.
46
47 Q. All right, thank you.

1 A. There was no intention to offend, there was no
2 intention to exclude, and, in hindsight, the language could
3 have been, you know, different. Accepted.
4

5 MR GRAY: Q. Could I just ask you a slight angle to
6 this, but perhaps only a slight angle, to look at tab 35 in
7 that volume, [SC0I.78856]. This is an email six months
8 earlier from Jackie Braw to Nicole Asquith, if you turn to
9 the back page, page 4 of that email chain?

10 A. Four, yes.

11
12 Q. You'll see it is 27 January 2016?

13 A. Yes.

14
15 Q. Jackie Braw is introducing, it seems, Nicole Asquith
16 to the concept of what is likely to be involved in the
17 academic review process?

18 A. Yes.

19
20 Q. And in the second-last paragraph she says:

21
22 *We would prefer someone who is neither*
23 *actively "pro" or "anti-" police which*
24 *kinda rules out a few others you and*
25 *I could probably think of!*

26
27 Do you see that?

28 A. Mmm-hmm.

29
30 Q. Who, if you can assist us, do you think she had in
31 mind there?

32 A. I don't know. You would have to ask Jackie that.
33 I wouldn't know. I mean, I can't - I'd only be guessing.
34 Because Jackie is my subject matter expert, so I'm relying
35 on her to advise me. I manage eight portfolios. This is
36 one of them. So --

37
38 Q. All right. Well, just more generally, then, if we
39 come back to tab 23, [SC0I.76961], the request for
40 quotation, given that the subject in question was gay-hate
41 bias, it was highly likely, wasn't it, that the leading
42 researchers in the field would be in some way or other
43 connected to the gay community; do you agree?

44 A. Yes.

45
46 Q. And that indeed was the case, certainly, with Stephen
47 Tomsen and Nicole Asquith and Angela Dwyer, at least?

1 A. Mmm-hmm.
2
3 Q. And perhaps some of the others as well?
4 A. Mmm-hmm.
5
6 Q. Why would that mean that they might be less
7 independent than desirable?
8 A. Again, I can only say it's being put out there as
9 a challenge. It's not saying everybody, every researcher
10 who is connected to the gay community is necessarily not
11 going to be independent. That's not the intention. If
12 it's come across like that, that's really unfortunate and
13 we should have thought more about crafting that sentence.
14 But that was not the intention.
15
16 Q. Was this document, the request for quotation, shown to
17 ACON, to your knowledge?
18 A. I suspect not but I'm not a hundred per cent sure. We
19 did share - we did have a lot of conversations, but I'm not
20 sure if that happened.
21
22 Q. Well, if it had been - and I'm not suggesting it was -
23 ACON could have been forgiven for thinking that researchers
24 who knew a lot about gay hate and had connections to the
25 LGBTIQ world were not likely to find favour in this
26 process, wouldn't you agree?
27
28 MR TEDESCHI: I object.
29
30 THE COMMISSIONER: I'll allow it.
31
32 THE WITNESS: Possibly.
33
34 MR GRAY: Q. You said "possibly"?
35 A. Possibly.
36
37 Q. Yes. Just on a slightly different point, on the next
38 page, headed, "Terms of Reference" - do you see that?
39 A. Yes.
40
41 Q. There are the bullet points, and there are now 10?
42 A. Mmm-hmm.
43
44 Q. And inserted at the front of them as the first bullet
45 point is:
46
47 *A collaborative approach to working with*

1 *[the police on the strike force].*

2

3 Do you see that?

4 A. Yes.

5

6 Q. Do you have a recollection as to that bullet point
7 being added to the nine and being put at the front of the
8 10?

9 A. Not specifically, but --

10

11 Q. It seems to reflect the change that Jackie Braw's
12 email that we talked about before lunch was addressing?

13 A. Mmm-hmm.

14

15 Q. Now, briefly, if you turn to tab 24, we have the
16 supply agreement?

17 A. Yep.

18

19 THE COMMISSIONER: Q. Sorry, before you go on, I do
20 apologise. Can I take you back to paragraph 3.4. You've
21 got "Many researchers" have that particular issue. "Some"
22 have another issue:

23

24 *Other researchers are concerned about the*
25 *highly political nature of this area.*

26

27 What on earth did you mean by that? Because you
28 distinguish "many", against "some", and then "other
29 researchers are concerned" - who did you have in mind
30 there?

31 A. I'm - I'm not sure. I'm not sure that we had anyone
32 particular in mind.

33

34 Q. But what was the point - this was an internal review
35 being done by the police, but you seemed to regard it as
36 having a political element, did you?

37 A. I'm sorry, I can't shed more light on why specifically
38 we picked on these sentences.

39

40 THE COMMISSIONER: All right, thank you. Thank you.

41

42 MR GRAY: Q. Tab 24, [SCOI.76961], briefly. This is the
43 supply agreement?

44 A. Mmm-hmm.

45

46 Q. Much of it, I gather, tell me if I'm wrong, is in
47 standard or boilerplate form?

1 A. Yes.

2

3 Q. It has a schedule towards the back, page 17 -
4 a schedule which has "Background", and "Terms of
5 Reference", and you can see that they are the same as we've
6 just looked at from the request for quotation?

7 A. Yes.

8

9 Q. And just in terms of who drafted that, your answers
10 previously apply, do they --

11 A. Yes.

12

13 Q. -- that it was some combination of you and Jackie
14 Braw?

15 A. Yes, because the schedule is based on what was in the
16 request for quote, which the two of us would have drafted,
17 yes.

18

19 Q. Now, tab 25, [SCOI.75775], is the tender from the
20 Flinders group

21 A. Mmm-hmm.

22

23 Q. I just have a couple of questions about that. First
24 of all just in terms of timing. Do you see his letter
25 submitting his tender is 28 July?

26 A. Mmm-hmm.

27

28 Q. Now, the request for tender that we've just looked at
29 went out on 22 July. We saw that?

30 A. Mmm-hmm.

31

32 Q. And Ms Braw's email seeking approval for the sending
33 out of the tender was 19 July.

34 A. Mmm-hmm.

35

36 Q. Remember that one? So that if it goes out on the
37 22nd, which it seemingly did, Mr Dalton, Dr Dalton, is
38 responding very quickly, within six days?

39 A. Mmm-hmm.

40

41 Q. Is that simply what happened? Did he simply get it on
42 the 22nd and respond on the 28th, or were there other
43 communications before the 22nd with him?

44 A. I'm not sure. I - we would have not done anything
45 different to what we'd done with the other people. We
46 wouldn't have given more information to one tenderer than
47 we would have another. We would have --

- 1
2 Q. No, but what I'm getting at is in the case of both the
3 Asquith group --
4 A. Yes.
5
6 Q. -- and the Murray Lee group --
7 A. Yep.
8
9 Q. -- they had already, months previously, submitted
10 draft proposals. We've looked at that. I can take you
11 back to that if need be.
12 A. Mmm.
13
14 Q. And so all they would have had to do, when they get
15 the request for quotation, is either simply resubmit what
16 they'd already done or make any modifications to what
17 they'd already done. But Dr Dalton --
18 A. Yes.
19
20 Q. -- it would seem, was getting this from a standing
21 start on the 22nd, and puts in a very lengthy application
22 six days later. I'm just wondering if you had any light to
23 shed on that speed?
24 A. No. We - no. No.
25
26 Q. All right.
27 A. We didn't provide him anything more. It - yeah. We
28 received what we received from each of them.
29
30 Q. All right. Briefly on his application itself, what he
31 does is to attach the supply agreement, which goes for
32 20-odd pages?
33 A. Yes.
34
35 Q. And then we come to his actual application, if you
36 could just turn that up?
37 A. Yes.
38
39 Q. It's got the "Flinders" letterhead on the top right?
40 A. Yes.
41
42 Q. Just a couple of questions. In the first paragraph,
43 when he's addressing five key reasons why his team should
44 get the job --
45 A. Yes.
46
47 Q. -- he talks about himself in the first paragraph, and

1 his experience?
2 A. Yes.
3
4 Q. And he says that he has extensive experience
5 "conducting and publishing research in relation to the
6 policing, homosexuality and public space"?
7 A. Mmm-hmm.
8
9 Q. Do you see that?
10 A. Mmm-hmm.
11
12 Q. So it seems that he's referring to an academic space,
13 namely, "policing, homosexuality and public"?
14 A. Mmm-hmm.
15
16 Q. I'm not quite sure how that is to be read, but, at any
17 rate, that's what he says his experience is.
18 A. Mmm-hmm.
19
20 Q. And he says in particular his research has focused on
21 problematic beat spaces; do you see that?
22 A. Mmm-hmm.
23
24 Q. And there's another sentence about his grasp of
25 complexities of beat spaces?
26 A. Mmm-hmm.
27
28 Q. Then he says:
29
30 *... Dalton does not profess to be expert,*
31 *per se, in "hate crime" ...*
32
33 Do you see that?
34
35 A. Mmm-hmm.
36
37 Q. But he goes on to say that he, Dalton:
38
39 *... nevertheless has an excellent grasp of*
40 *this academic literature --*
41
42 *ie, the hate crime literature --*
43
44 *particularly as it relates to the*
45 *commission and indicators of homophobic*
46 *violence ...*
47

- 1 A. Mmm-hmm.
2
3 Q. So he was disclaiming expertise per se in hate crime.
4 A. Mmm-hmm.
5
6 Q. Agree?
7 A. Mmm-hmm.
8
9 Q. You knew that certainly Asquith and Tomsen did have
10 expertise in hate crime?
11 A. Mmm-hmm.
12
13 Q. As did Murray Lee, as did Angela Dwyer?
14 A. Mmm-hmm.
15
16 Q. Agreed? But Dalton did not. He, on the second page,
17 or the bottom of the first page, really, and going over to
18 the second page, he talks about Professor de Lint's areas
19 of interest, and on the bottom page - bottom of the first
20 page, he says:
21
22 *[de Lint's] areas of interest include*
23 *security and policing, particularly public*
24 *order policing, and ... the governance of*
25 *public safety and security ...*
26
27 Et cetera. You can see that?
28 A. Mmm-hmm.
29
30 Q. So no suggestion that Dr de Lint has any particular
31 experience or expertise in relation to either hate crime or
32 gay hate; correct?
33 A. Yes.
34
35 Q. And then the third team member, Dr Tyson, is said to
36 have experience in intimate partner violence, domestic
37 homicide, filicide in the context of separation and
38 divorce, and family violence and family law reform; do you
39 see that?
40 A. Mmm-hmm.
41
42 Q. So she's not suggested to have any expertise or
43 experience in hate crime or gay hate either; correct?
44 A. Mmm-hmm.
45
46 Q. Do you see that?
47 A. Mmm-hmm.

1
2 Q. And you were aware of that, of course, when you were
3 assessing these three competitors?
4 A. Mmm-hmm.
5
6 Q. On the page 3 under the heading "Independence
7 [a guarantee of objectivity]" --
8 A. Mmm-hmm.
9
10 Q. -- about - well, the first line, he refers to the
11 fact that they are based in South Australia, and suggests
12 that that's an advantage in terms of objectivity?
13 A. Mmm-hmm.
14
15 Q. Did you think it was, the geographical location?
16 A. Yes.
17
18 Q. Because?
19 A. They didn't know anyone in New South Wales, so there
20 could be that element of being at arm's length from
21 whatever happened here. So they could look at it without
22 being a part of it, so to speak.
23
24 Q. Weren't they going to be assessing a methodology of
25 determining whether bias was relevant to the crime?
26 A. Yes.
27
28 Q. In these 80-odd cases?
29 A. Yes.
30
31 Q. So what difference would it make whether they had some
32 awareness of some of the police involved or, indeed, some
33 of the deaths? What difference would it make?
34 A. I don't know. It wouldn't make a great deal, maybe.
35
36 Q. Sorry, it would not?
37 A. It maybe wouldn't make a great deal of difference,
38 but --
39
40 Q. A few lines down, Mr Dalton, Dr Dalton, says:
41
42 *It could be argued that a concomitant*
43 *amount of what one might term baggage might*
44 *be associated with some of the key players,*
45 *[activists, academics, media commentators,*
46 *former police ...] who have so far*
47 *contributed to public commentary.*

- 1
2 When you read that, what did you take that to be
3 a reference to and who did you take that to be a reference
4 to?
5 A. That there would have been people who've written about
6 it, who have their own history with whatever happened, so
7 they would carry some of that.
8
9 Q. And did you think that might apply to any of the
10 people in either of the other two tenders?
11 A. Possibly, but we were going on the face of what people
12 had said in these documents, in response to the criteria
13 that we had set.
14
15 Q. Right. And the third heading, which is on page 3,
16 heading number 3, is "Dedication to genuine cooperation".
17 Do you see there's considerable stress then given - I'll
18 let you read it, but I won't read it all out. There's
19 considerable stress given to the concepts of collaboration,
20 genuine cooperation, fostering of a collaborative spirit,
21 working creatively and collaboratively; do you see that?
22 A. Mmm-hmm.
23
24 Q. And indeed, he says in that fifth line:
25
26 *By working creatively and collaboratively*
27 *(and with a focus on the minutiae), both*
28 *the police and our academic team will craft*
29 *a meticulously well thought through report*
30 *on the work of [the strike force].*
31
32 Do you see that?
33 A. Mmm-hmm.
34
35 Q. So he seems to be expecting that his academic team and
36 the police would together craft the one report. Is that
37 how you would read that?
38 A. There's - there's reference to collaboratively
39 creating something, yes.
40
41 Q. Well, not just creating something, crafting a -
42 singular - meticulously well thought through report?
43 A. Yes.
44
45 Q. So he seems to be anticipating one report?
46 A. Yes.
47

- 1 Q. Jointly created?
2 A. Yes.
3
4 Q. Collaboratively created by the police --
5 A. Yes.
6
7 Q. -- and the academics?
8 A. Yes.
9
10 Q. At the top of the next page, he puts forward as
11 a reason why his team should be chosen that the intimate
12 police knowledge of the cases under review and his team's
13 academic knowledge would coalesce in a manner that would
14 see a very tightly honed report produced.
15 A. Mmm.
16
17 Q. So you agree that he seemed to be proposing a joint
18 collaborative coalescing approach between the academics and
19 the strike force?
20 A. Mmm-hmm.
21
22 Q. You agree?
23 A. Mmm-hmm.
24
25 Q. All right. Now, I think finally, the evaluation
26 process itself, if we turn to tab 22, [SC0I.77324] - this
27 seems to be the formal documentary structure by which the
28 evaluation was carried out.
29 A. Yes.
30
31 Q. And if we turn over to page 8, you and four others
32 signed the declaration adhering to the process?
33 A. Mmm-hmm.
34
35 Q. And on page 10, there's a reference to the six
36 criteria that were going to be measured, and the reference
37 to the fact that there was going to be a weighting process?
38 A. Mmm.
39
40 Q. That's on page 10?
41 A. Yes.
42
43 Q. Right?
44 A. Yes.
45
46 Q. And then on page 13, there is the result, which is
47 that you choose the Flinders team, and the people on the

- 1 committee who do the choosing are yourself, Jackie Braw,
2 Superintendent Crandell and Dr Devery; correct?
3 A. Yes.
4
5 Q. And then two pages on we get the three score sheets
6 for the three tenderers. They're sort of side-on on the
7 page?
8 A. Yes.
9
10 Q. The first one is called "Murray et al", but that's
11 Murray Lee, I think?
12 A. Yes, and team.
13
14 Q. And his team, that's right.
15 A. And his team.
16
17 Q. And he or his team are - given that all of these
18 criteria are out of 5, the maximum score is 5 --
19 A. Mmm-hmm.
20
21 Q. -- his team is marked quite low on the first
22 criterion, only 2.5, as to whether they meet the
23 requirements, and the comment says:
24
25 *Application was threadbare ... The detail*
26 *of the proposal was unclear.*
27
28 What did you have in mind there?
29 A. I haven't read the quotation in a long time, but from
30 memory, it was scant, and it seemed to have a lot of things
31 that we had already said in our request for quotation, and
32 if I recollect, it seemed a bit half-hearted. It wasn't
33 a comprehensive submission like the others were.
34
35 Q. All right. In the second criterion, "Demonstrated
36 capability", the commentary is that the lead researcher is
37 a criminologist - that's Professor Lee, I presume, is it?
38 A. Mmm-hmm.
39
40 Q. And there's a second sentence, which is:
41
42 *Tomsen is most well known researcher in*
43 *this area.*
44
45 A. Mmm-hmm.
46
47 Q. So that was something you were conscious of. And on

1 the second and third criteria, that is, "Demonstrated
2 capability to provide the services", and "Demonstrated
3 experience in supply of similar services", the Murray Lee
4 team gets full marks, 5 and 5, out of 5?

5 A. Mmm-hmm.

6

7 Q. But in the next criterion, "Demonstrate objectivity",
8 they're marked down to a low score, 2 out of 5?

9 A. Mmm-hmm.

10

11 Q. And the reasons given are, firstly:

12

13 *There is an association with --*

14

15 I guess that means "between" --

16

17 *Sydney University and [the police].*

18

19 Do you see that?

20 A. Mmm-hmm.

21

22 Q. And what was that association?

23 A. I can't recall, to tell you the truth. We must have
24 had some other contracts with them.

25

26 Q. And if you had - supposing that was right --

27 A. That wouldn't necessarily penalise them. I think with
28 Tomsen, if I'm not mistaken, Stephen Tomsen and Sue
29 Thompson together put together the list of 88 originally.

30

31 Q. Certainly that was as reported.

32 A. And so that's - that we considered a conflict and
33 I think that's what we were thinking there, that it wasn't
34 declared.

35

36 Q. Is that what you think "undisclosed association" was
37 referring to?

38 A. I think so. I think so, from memory. Dr Devery would
39 know more about our dealings with particular universities
40 and that, so I remember him - I remember him saying
41 something more about the association but I can't remember
42 exactly what it is.

43

44 Q. Well, if the association referred to there was the
45 fact that he's had something to do with the compilation of
46 the list of 88 with Sue Thompson, would that be regarded as
47 something indicating a lack of objectivity?

1 A. Well, there's a clear conflict, if you put that list
2 together and we are now doing a piece of work saying some
3 of the list doesn't stand or shouldn't be there, there is
4 a conflict there, in my mind.

5

6 Q. And that would have been something that you all knew
7 about Stephen Tomsen well before this evaluation process
8 actually happened in August, wouldn't it?

9 A. Yes.

10

11 THE COMMISSIONER: Q. So you wouldn't have invited him
12 to tender if you thought that disentitled him from being
13 considered, surely?

14 A. But he was part of the team that tendered.

15

16 Q. That's not the point. You invited Professor Lee and
17 you knew that Tomsen was part of the team?

18 A. I don't know that we knew that until he tendered.

19

20 Q. Well, you might not have known this, but there's no
21 suggestion that Professor Lee held as a secret that Tomsen
22 was part of his team from the very outset, in draft form.
23 It would not have stopped you writing back and saying,
24 "Look, given Tomsen's association with the list, we think
25 it's inappropriate to consider him as a tenderer", surely?

26 A. We could have, yes.

27

28 MR GRAY: Q. Just on that detail, I did show you this
29 before, but to remind you, at tab 37 --

30

31 THE COMMISSIONER: Q. Sorry, just before you go on, if
32 it had turned out that you said to Devery or whoever, it
33 was, "Look, we've tried our best, we can only find two
34 suitable tenderers because the only other game in town has
35 got Tomsen who has clearly had some hand in the 88", would
36 the procurement process have been able to go ahead just
37 with two if you'd been able to tell somebody you couldn't
38 find a third, or was the whole procurement process to fall
39 over if you couldn't find a third tenderer?

40 A. I'm not sure. We were going on the advice we were
41 given from procurement. So we were following --

42

43 Q. All right, without you thinking this is said
44 disrespectfully, was this the first procurement process you
45 had been involved in?

46 A. No, I had done others before.

47

1 Q. Well, then I ask you the question again. If you'd
2 said to somebody, "We cannot find a third that we think is
3 suitable and independent and qualified" --

4 A. Mmm-hmm.

5
6 Q. -- would you have been able to choose between two?

7 A. Maybe. I'd not been in that situation before, so -
8 maybe.

9

10 MR GRAY: Q. Just on a detail, in tab 37, [SCOI.74202],
11 the first email in that chain, which is at the bottom of
12 the second page, where Murray Lee, back in April, tells
13 Jackie Braw of his team being interested in tendering, do
14 you see he tells her who the team is, namely, himself,
15 Thomas Crofts and Stephen Tomsen?

16 A. Sorry, just repeat that, please. I was busy reading
17 it. I didn't pay attention to what you said.

18

19 Q. Certainly. Murray Lee tells Jackie Braw in this email
20 that the team that he, Murray Lee, was heading, which might
21 be interested in tendering --

22 A. Yes.

23

24 Q. -- consisted of him, Professor Crofts, and Professor
25 Stephen Tomsen?

26 A. Mmm-hmm.

27

28 Q. Correct? So you knew from April, because you get this
29 email chain yourself a bit later in the chain, that Tomsen
30 was part of the Murray Lee team; correct?

31 A. Does he say that there, does he? Does he say who is
32 in his team?

33

34 THE COMMISSIONER: Q. If you go to the bottom of page 2
35 in the chain of emails at tab 37, can you see what - it's
36 in small font, I agree, but --

37 A. Yes, I can see that.

38

39 Q. So it's from Murray Lee

40 A. Yes, I can see that.

41

42 Q. To Ms Braw?

43 A. Yes.

44

45 Q. And he makes it explicit that apart from Professor
46 Crofts, Professor Tomsen --

47 A. Yes.

1
2 Q. -- and what has been put to you is that at least
3 Ms Braw, and shortly perhaps thereafter you, knew --
4 A. Yes.
5
6 Q. -- from about 13 April, that Tomsen was party to the
7 Sydney University tender process?
8 A. Yes, I can see that.
9
10 MR GRAY: Q. So what I'm getting at is, since you knew
11 that --
12 A. Yes.
13
14 Q. -- and since you knew that he had something to do with
15 generating the list of 88 --
16 A. Yes.
17
18 Q. -- and since you regarded that as putting him in what
19 you've called a position of conflict then --
20 A. Yes.
21
22 Q. -- that inevitably meant that the team that included
23 him was going to be marked down in the tender process,
24 didn't it?
25 A. I don't know that it is inevitable. I think we sat
26 there with three proposals and we looked at the weighting
27 and we looked at each criteria. We were pretty --
28
29 THE COMMISSIONER: Q. But I'm sorry, Ms Sharma --
30 A. -- honest with the process we followed.
31
32 Q. Ms Sharma, you said a moment ago, and you may wish to
33 qualify what you said or clarify what you said, but
34 I thought you said a moment ago that Tomsen's association
35 with Sue Thompson in the preparation of the list created
36 a conflict of interest because he had already tentatively
37 otherwise determined to include or to raise the 88 cases as
38 gay-hate related homicides. Now, how was that position
39 going to change, and how could it ever be anything - on the
40 way you've explained it, which I must say is credible,
41 given what you've just said, but how could it ever be on
42 your view other than a conflict from day one?
43 A. They could have said in their tender that, "One member
44 of our team was part of preparing the list of 88 but is
45 still able to do" --
46
47 Q. But you knew that. But, Ms Sharma --

- 1 A. -- "justice to this process".
2
- 3 Q. Ms Sharma, you knew, did you not, along with Ms Braw,
4 that not only was Tomsen very prominent in the field, he
5 was party to the preparation of the 88. Why did you need
6 to have him say to you, "Well, one of the members of our
7 team has prepared the 88 list"? You already knew that.
8 Surely it would have been for you to think - and I asked
9 you a few moments ago did you think each of the persons
10 whose were invited were suitable, qualified and
11 independent, and you said "yes". Now, I accept that you
12 may not have had in mind the 88 at the time you answered
13 that question.
14 A. Mmm-hmm.
15
- 16 Q. I accept that entirely.
17 A. Mmm-hmm.
18
- 19 Q. But upon reflection, there was no way that conflict
20 was going to be capable of being managed, surely? Either
21 Tomsen would have to have left the team - because otherwise
22 he could not - according to your views, which I accept for
23 the moment, he could not have participated in the
24 evaluation process, because he'd already expressed views
25 about cause and effect?
26 A. (Witness nods).
27
- 28 MR GRAY: Q. Was that - you're nodding your head. Were
29 you accepting that what was put to you was right, then?
30 A. So, what you're saying to me is we already --
31
- 32 THE COMMISSIONER: Q. What I'm saying to you is this,
33 that you knew - shortly after 13 April, you and Ms Braw or
34 Ms Braw initially then eventually you --
35 A. Mmm-hmm.
36
- 37 Q. -- that Tomsen was party to the Sydney University
38 tender?
39 A. Mmm-hmm.
40
- 41 Q. You must have known back then that Tomsen had, along
42 with Sue Thompson - or Ms Braw certainly would have known -
43 was party to or had been the person or persons generating
44 the 88, or proliferating it?
45 A. Mmm-hmm.
46
- 47 MR TEDESCHI: I'm sorry to interrupt, Commissioner. With

1 respect, there may be a misunderstanding in the questioning
2 that you, Commissioner, are advancing.
3
4 THE COMMISSIONER: Right.
5
6 MR TEDESCHI: That a conflict of that kind necessarily --
7
8 THE COMMISSIONER: Didn't say "necessarily" --
9
10 MR TEDESCHI: -- prohibits somebody from putting in a
11 tender.
12
13 THE COMMISSIONER: No, no, of course it doesn't,
14 Mr Tedeschi, but what I'm listening to --
15
16 MR TEDESCHI: You are assuming that in the question, that
17 that excluded him from even being considered --
18
19 THE COMMISSIONER: No, I don't think I'm putting it --
20
21 MR TEDESCHI: -- and she hasn't said that that excluded
22 him.
23
24 THE COMMISSIONER: She didn't, but I'm entitled to ask her
25 whether it did, by reason of some of the answers she has
26 already given, which tomorrow morning or this evening when
27 you read the transcript - both of us will come to a similar
28 view or different view, but I propose to ask her about it,
29 because she's the one who raised the list of 88.
30
31 MR TEDESCHI: I also perceive that she's attempting to
32 answer your question, but hasn't been able to.
33
34 THE COMMISSIONER: Thank you, Mr Tedeschi.
35
36 Q. Now, back to you. A few moments ago I think you
37 raised your concern about his participation or association
38 with the list of 88, and that's something, it seems - that
39 is, Tomsen's involvement in the tender process - is
40 something you must have known about from some date in April
41 or May of 2016. At or about the same time as you realised
42 he was party to the Sydney University tender, you also
43 would have recalled, would you not, that he had been party
44 to the preparation, proliferation or dissemination of the
45 list of 88?
46 A. Of?
47

1 Q. The list of 88 homicides?
2 A. Yes, yes.
3
4 THE COMMISSIONER: All right. Thank you. Yes, Mr Gray.
5
6 THE WITNESS: Can I just address something else you said,
7 your Honour, which is that I made the evaluation - it was
8 a committee and we discussed the pros and cons.
9
10 THE COMMISSIONER: Q. I'm not suggesting it wasn't
11 a collaborative effort, not at all.
12 A. It just sounded like I scored and I ruled him out and
13 I --
14
15 Q. No, no, no, I'm not suggesting that at all. And
16 Mr Tedeschi, of course, is raising the point by suggesting
17 that it wouldn't necessarily exclude him, but it would be
18 a very significant factor in your mind, wouldn't it?
19 A. It would be a factor for sure.
20
21 Q. And was it?
22 A. I think it was.
23
24 THE COMMISSIONER: Thank you.
25
26 MR GRAY: Q. Well, looking at that page, the score sheet
27 for the Murray Lee team?
28 A. Mmm-hmm.
29
30 Q. The score for the fourth criterion, "Objectivity", is
31 very low, isn't it, 2 out of 5?
32 A. Could you just tell me the tab again, please?
33
34 Q. Tab 22, [SC0I.77324]. And you have got to turn over
35 to page 15.
36 A. Yes. Yes.
37
38 Q. So just back orienting yourself to where you were, I'm
39 looking at the scoring sheet for the Murray Lee team, the
40 fourth criterion concerning objectivity?
41 A. Mmm-hmm.
42
43 Q. The scoring is very low. It's only 2 out of 5?
44 A. Mmm-hmm.
45
46 Q. So this team's been marked down quite severely on that
47 criterion?

1 A. Mmm-hmm.
2
3 Q. And the one reason, or possibly two reasons - perhaps
4 it is two. One is an association with Sydney University
5 and the police, and you're not sure what that was but you
6 think it may have been some previous work that one or other
7 of them had done with the police; is that right?
8 A. Yes, I can't remember.
9
10 Q. And the second one is that Tomsen has an undisclosed
11 association, and you've said that by that, in your mind, at
12 least, that's a reference to his being involved in the
13 generation of the list of 88; correct?
14 A. It's highly likely. I just have some - I have a vague
15 recollection of Chris Devery saying something in the
16 discussion. I'm casting my mind back to us sitting around
17 the table and discussing all the tenders.
18
19 Q. And as I understood your evidence a little while ago,
20 you used the expression "conflict", ie, that because Tomsen
21 had been involved in generating the 88 list, then
22 necessarily, that put him in a position of conflict in
23 terms of being an applicant for this tender; correct?
24 A. Yes.
25
26 Q. And what I was also putting to you, just to recap
27 where I was, is that you had known since about April that
28 Tomsen was in the Murray Lee team and that that conflict,
29 therefore, was sitting there as an unexploded bomb from the
30 beginning?
31 A. Yes.
32
33 Q. Right. Now, when we turn over to the Asquith score
34 sheet --
35 A. Mmm-hmm.
36
37 Q. -- her team gets full marks on everything except two?
38 A. Mmm-hmm.
39
40 Q. They get a low mark for "value for money", because
41 their quote was for a higher amount of money?
42 A. Mmm-hmm.
43
44 Q. And then they get one mark deducted on the objectivity
45 criterion, apparently because - well, I'm not sure if this
46 is one reason or two reasons. There is reference to
47 Western Sydney doing work for the police. Is that

- 1 a marking down concept for objectivity?
2 A. Possibly. I'd have to read the quote because this
3 would be a summary of our discussions.
4
5 Q. Then there's a second sentence which may be a separate
6 point?
7 A. Mmm-hmm.
8
9 Q.
10 *This association --*
11
12 *whatever it was --*
13
14 *and a potential association/conflict dating*
15 *some years back were declared and dealt*
16 *with ...*
17
18 So as you sit here now, what was the reason for a mark
19 being taken off the Asquith group on the objectivity
20 criterion?
21 A. I'm not able to answer it without looking at the
22 tenders again, because this is from that point in time when
23 we compared all the three, so --
24
25 Q. And who wrote the contents of the comments?
26 A. I would have summarised the contents of the discussion
27 and given it to Jackie to type up.
28
29 Q. Into this "Comments" column?
30 A. Into this table, yes. And I think I remember
31 Mr Crandell being on the phone and Chris and I being in the
32 room and discussing it.
33
34 Q. All right. Now, on the Dalton and co score sheet,
35 they get 5 out of 5 for every criterion?
36 A. Mmm-hmm.
37
38 Q. Do you see that?
39 A. Yes.
40
41 Q. And two of the scores that they - sorry, two of the
42 criteria that they get perfect marks on are numbers 2 and
43 3, "capability to provide the service" and "Demonstrated
44 experience in supply of similar services". Do you see
45 that?
46 A. Yes.
47

1 Q. Now, in fact, all three tenderers were given 5 out of
2 5 on those two criteria.

3 A. Mmm-hmm.

4

5 Q. In effect, all three of them, it would seem, being
6 ranked as equally capable on those two criteria?

7 A. Mmm-hmm.

8

9 Q. Now, would that suggestion that exercise and expertise
10 in hate crime and bias crime were not considered
11 particularly important? And I ask that because, as
12 I showed you before, in the Dalton team's credentials, they
13 didn't have, and didn't claim to have, any expertise in
14 hate crime or bias crime?

15 A. So ask your question again, please?

16

17 Q. Given that they didn't claim to have any expertise in
18 hate crime or bias crime - in fact, disclaimed it - how is
19 it that they were, nevertheless, ranked as 5 out of 5 for
20 criteria 2 and 3?

21 A. I think we would have looked at the cumulative
22 experience they brought in a range of areas, including that
23 one.

24

25 Q. Well, not including that one, is my point - that they
26 excluded that from their claimed expertise. And my
27 question is: does that suggest to you that expertise in
28 hate crime was not regarded by the committee as very
29 important?

30 A. I wouldn't have - I wouldn't say it wasn't regarded
31 as - not very important, but --

32

33 Q. You see the other two, the Murray Lee team and the
34 Asquith team --

35 A. Yes.

36

37 Q. -- certainly did have expertise in hate crime and bias
38 crime; correct?

39 A. Yes.

40

41 Q. The Dalton team didn't even claim to, and yet they're
42 all ranked 5 out of 5, the same. And my suggestion is, or
43 my question is: doesn't that indicate that that factor,
44 expertise in hate crime, was not considered very important?

45 A. I don't think so. I think it was important, but
46 independence was given a lot of weightage, and it was on
47 the basis of how they addressed each of the criteria in

1 their entire tender, and had the other two been equally
2 strong in the way they addressed all of the criteria, then
3 they could have got it. So it wasn't preferencing one over
4 the other, it was really looking at the weightage we gave
5 and the importance we gave and looking at the face of what
6 they responded in their written submissions to us.

7
8 MR GRAY: All right. Those are my questions,
9 Commissioner.

10
11 THE COMMISSIONER: Q. I have just got my last question.
12 I just forget whether you said earlier today, were the
13 tenders decided on the basis of the written applications or
14 were there discussions or interviews between any member of
15 the selection committee and any one or more of the
16 tenderers?

17 A. No interviews. On the basis of the written tender
18 only.

19
20 THE COMMISSIONER: Thank you. Thank you.

21
22 **<EXAMINATION BY MR TEDESCHI:**

23
24 MR TEDESCHI: Q. Ms Sharma, going back to this scoring
25 exercise --

26 A. Yes.

27
28 Q. -- you were asked a number of questions by Counsel
29 Assisting and by the Commissioner about a conflict of
30 interest, and you described the conflict of interest that
31 Professor Tomsen had. You've told the hearing that
32 independence was of particular importance. Why was that?

33 A. I think we were conscious that no matter what we did,
34 there would be criticism, there would be scrutiny, and
35 there might be some appreciation - maybe; we don't know.
36 We - Mr Crandell was always very strong on: this really
37 needs to be an independent voice that's not seen as
38 associated, affiliated, likely to just agree with
39 everything police say; they've got to bring credibility.
40 And so independence, from that point of view, was really,
41 really important to him.

42
43 Q. What you've described as a conflict of interest, both
44 in relation to Professor Tomsen and Ms Asquith, that was
45 the fact that they had previously done work for the
46 NSW Police; is that right?

47 A. Mmm-hmm.

- 1
2 Q. Had they been paid for that work, do you know?
3 A. Nicole might have done paid work. But we were also on
4 very good terms with her, so there was a potential that if
5 she was given the tender - I'm not saying this is the fact
6 of it, I'm saying there could have been a perception that,
7 "Oh, she's on good terms with the police. She's going to
8 do something that's positive", so there could have been
9 a perception like that. I'm not saying that went against
10 giving her - awarding her the tender. The price was also
11 a factor with her quotation.
12
- 13 Q. Did the existence of a conflict of interest of the
14 kind that you have described preclude a person being the
15 successful tenderer?
16 A. Not the existence of the conflict. It would have to
17 be demonstrated how that conflict would get managed.
18
- 19 Q. Were you aware of any other suitably qualified people
20 in New South Wales who did not have such a conflict, who
21 may have been suitable to tender for this job?
22 A. No-one's coming to mind.
23
- 24 Q. Were there any inquiries that were made, can you
25 remember, at the time?
26 A. Well, our three sources of testing who might be
27 interested and appropriate were BOCSAR, which is like the
28 primary research body for government of New South Wales;
29 Dr Chris Devery, who's the manager of the research unit in
30 NSW Police; and Professor Gail Mason, whom we knew was, you
31 know, well known in the field. So they were our three
32 people that we went to for suggestions, and we went with
33 the suggestions they provided.
34
- 35 Q. Would it be fair to say that there was only a very
36 small number of people who had the required expertise that
37 would enable them to do this job?
38 A. Yes.
39
- 40 Q. Now, if you go to the form that you have been asked
41 questions about, which is part of I think tab 22,
42 [SCOI.77324], on that first page - you said that you filled
43 out the wording of the form?
44 A. Yes.
45
- 46 Q. On the first page relating to the Murray and Tomsen
47 team --

1 A. Yes.
2
3 Q. -- in the first row --
4 A. Yes.
5
6 Q. -- you've written "Application was threadbare". Can
7 you recall why you wrote that? Do you remember now?
8 A. From memory, there was not a whole lot of information
9 on what they would do. It was regurgitating to us what we
10 had already provided.
11
12 Q. And in the fifth row, it says:
13
14 *... very little detail describing what*
15 *tasks will take place making it very*
16 *difficult to assess value for money.*
17
18 Do you recall what prompted that?
19 A. Yeah, I don't think - I don't think - and I haven't
20 read the tenders in four or five years, or whatever it
21 might be, I don't think they even went through, "This is
22 the process of what we'd be doing. This is how we'd be
23 doing it." So there was no detail on how they would
24 approach it.
25
26 Q. Ms Sharma, have you done many such exercises like
27 this, assessing tenders?
28 A. I wouldn't say many, but, you know, I've done
29 a handful of them, yes.
30
31 Q. What do you say about the process that was undertaken
32 in this case?
33 A. Yes.
34
35 Q. As to its integrity, as to its veracity, as to the
36 quality of the decision-making by the people who were
37 involved?
38
39 THE COMMISSIONER: Q. Including yourself?
40 A. I, hand on heart and having taken my affirmation, say
41 we did everything with utmost integrity. It was - so in my
42 mind, we had to follow the process that Procurement Branch
43 set. We had to be fair to the people who were tendering.
44 We had to have criteria that people knew about so they were
45 responding to those criteria, that we had put to them was
46 important to us in delivering this work.
47

1 Our panel would consider it, so it wasn't one person's
2 point of view or someone who knew someone who got the job.
3 It was about a fair process, meeting the time frame for
4 tendering, looking at the weightage we'd given, having that
5 robust discussion, and then awarding the contract. So to
6 my mind, we approached it in the same way as we put - as
7 I had done other, where I had given consultants - where we
8 had awarded consultancies in other projects.

9
10 MR TEDESCHI: Q. What do you say to the suggestion that
11 it was a sham process and that two of the three candidates
12 weren't genuinely considered but were put there just so
13 that you could choose the third one and say that you had
14 considered three --

15
16 THE COMMISSIONER: Mr Tedeschi, may I just interrupt and
17 ask, apart from yourself, who suggested a sham?

18
19 MR TEDESCHI: It hasn't explicitly been put, but I --

20
21 THE COMMISSIONER: Then nobody, apart from yourself?

22
23 MR TEDESCHI: It hasn't been put explicitly like that, no.

24
25 THE COMMISSIONER: Thank you. Well, then you proceed.

26
27 MR TEDESCHI: If the Commissioner pleases. I withdraw the
28 question in that case.

29
30 Q. Ms Sharma, could I take you, please, to tab 35,
31 [SCOI.78856], in the same bundle. You were asked a number
32 of questions in relation to this document?

33 A. Mmm-hmm.

34
35 Q. Sorry, that's not the right one. Sorry, tab 25,
36 [SCOI.75775].

37 A. 25? Mmm-hmm.

38
39 Q. No, tab 24 [SCOI.76961].

40 A. Mmm-hmm.

41
42 Q. Sorry, it is tab 23, [SCOI.76961].

43 A. Mmm-hmm.

44
45 Q. Page 6. You were asked some questions by the
46 Commissioner about 3.4?

47 A. Yes.

- 1
2 Q. Have a look at the first line of 3.4. You see it
3 says:
4
5 *One of the key challenges is locating*
6 *suitable, qualified and independent*
7 *researchers.*
8
9 A. Yes.
10
11 Q. So were those challenges addressing not the challenges
12 that the successful tenderer was going to have to face, but
13 the challenges facing the police?
14 A. The project and the police, yes.
15
16 Q. In finding --
17 A. Yes.
18
19 Q. -- suitably qualified researchers?
20 A. That is correct.
21
22 Q. Is that right?
23 A. That is correct.
24
25 Q. And in that regard, you were asked some questions by
26 the Commissioner about this entry:
27
28 *Other researchers are concerned about the*
29 *highly political nature of this area.*
30
31 Was that a concern that some people might not be willing to
32 even tender?
33 A. Yes. Yes.
34
35 Q. Or be interested in doing the job?
36 A. They wouldn't want to touch it because it was so
37 political.
38
39 Q. Because of its political nature?
40 A. Yes.
41
42 Q. Is that what that was about?
43 A. Yes.
44
45 Q. Did any of the researchers that were sent this
46 document express such a concern about the political nature
47 of the exercise?

1 A. I can't recall.
2
3 Q. Can you now recall whether anybody said to you words
4 to this effect, that, "We would have liked to have quoted
5 but it's just too much of a hot potato", or "too
6 political", or --
7 A. Yes, there --
8
9 Q. -- "We're just not prepared to engage with you"?
10 A. Yes, there might have been people that Jackie was
11 getting in touch with that were saying, "Wouldn't go
12 anywhere near that".
13
14 THE COMMISSIONER: Q. Sorry, are you saying that it did
15 happen or you think speculatively it might have?
16 A. It's speculative, your Honour.
17
18 MR TEDESCHI: Q. Could I take you, please, to tab 76?
19 A. Mmm-hmm.
20
21 Q. Which is in --
22 A. It's not in this one.
23
24 Q. -- volume 3, [SC0I.74377]?
25 A. Yes.
26
27 Q. You were asked a number of questions by Counsel
28 Assisting, Mr Gray --
29 A. Yes.
30
31 Q. -- about these emails?
32 A. Yes.
33
34 Q. It was drawn to your attention that, firstly, there is
35 an email from you on the back page?
36 A. Yes.
37
38 Q. We've already agreed that the process was to have the
39 Bias Crime Team look at the determinations; right?
40 A. Yes.
41
42 Q. And then the next one is from Sergeant Middleton back
43 to you:
44
45 *... I am happy to send you the completed*
46 *review forms for your information.*
47

- 1 Right?
2 A. Yes.
3
4 Q. And then from you back to Sergeant Middleton:
5
6 *When we met with the Parrabell Team on*
7 *16 June 2016, we did agree that ... the*
8 *next step would be to send [the forms]*
9 *across to Bias Crimes Team to*
10 *confirm/discuss the classifications.*
11
12 A. Yes.
13
14 Q. Then you say:
15
16 *Thank you for sending them through from*
17 *this point on.*
18
19 A. Yes.
20
21 Q. So you have given evidence about that. Then if we
22 could go to tab 83, which are the minutes of the meeting
23 which occurred on 19 January 2017, [SCOI.74429]?
24 A. Yes.
25
26 Q. You have told the court that you weren't there but
27 that somebody called Juliana Nkrumah represented you there?
28 A. Mmm.
29
30 Q. Did she report to you about that meeting afterwards?
31 A. Yes, she would have.
32
33 Q. And would you have got a copy of these minutes?
34 A. Yes.
35
36 Q. Would you have read through these minutes to find out
37 what happened at the meeting?
38 A. Yes.
39
40 Q. And could I take you to page 3 of these minutes.
41 About the middle of the page, there's a paragraph that
42 begins, "Acting Assistant Commissioner Crandell"?
43 A. Yes.
44
45 Q. Now, three lines down in that paragraph, it says:
46
47 *With this amendment and section, it will*

1 *not be necessary for Sergeant Steer to*
2 *review any additional cases, however he*
3 *should participate in the next meeting with*
4 *Flinders University.*

5
6 Does it appear from that, that despite the fact that there
7 had been an agreement that all of the cases would be sent
8 to Sergeant Steer --

9 A. Mmm-hmm.

10
11 Q. -- that at this meeting it was agreed that he would
12 not be sent any further cases over and above the 12 --

13 A. Mmm-hmm.

14
15 Q. -- that he had been sent, but that instead he would
16 participate in a review of cases with the Flinders
17 University team?

18 A. Mmm-hmm. Yes.

19
20 Q. And did you have any thoughts about that?

21 A. I think, as I mentioned earlier, by that stage we were
22 quite grateful not to have him view them all, because he
23 was so inundated with work anyway, so --

24
25 Q. I think what you said in your evidence earlier was
26 that Sergeant Steer himself was quite pleased that he
27 wasn't going to be sent any more forms; is that right?

28 A. Yes.

29
30 Q. Because of the work commitments that he already had?

31 A. Yes.

32
33 MR TEDESCHI: Yes, thank you.

34
35 THE COMMISSIONER: Can I just ask you this question.

36
37 Q. Do you have volume 2?

38 A. Volume 2?

39
40 Q. Yes.

41 A. This is 3. Yes, your Honour.

42
43 Q. Would you mind turning to tab 37 [SC0I.74202]. Now,
44 I'm not suggesting you were on the email list of this, but
45 if you go to the second page, it's a series of emails, this
46 is an email from Ms Braw to Professor Lee?

47 A. Yes.

1
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Q. And first of all, do you recall becoming aware at some point of this exchange between Ms Braw and Professor Lee? I can't point to an email --

A. I'm not copied in on the email, but.

Q. No, I know you are not, I'm just asking you whether you recall, and perhaps you can't. But it would appear, if you look at the first or second full paragraph:

We don't have any formal specs but following a meeting of a number of ... stakeholders ... the Strikeforce presented their findings so far, and listening to some of the points raised by both Stephen and Nicole ...

That would appear to be a reference to Professor Tomsen and Professor Asquith, wouldn't it?

A. I think that that's reference to a stakeholder meeting that Mr Crandell called at which he --

Q. I'm not saying it isn't. I'm just saying that that would appear to be a reference to Professor Tomsen and Professor Asquith?

A. Yes.

Q. And it seems to be that it goes on. She says that there has to be a discussion of the 88 cases. It was a matter of notoriety, wasn't it, at least in April of 2016, that Professor Tomsen was part of the source of the information about the 88 cases?

A. Yes.

Q. It was an open secret, wasn't it?

A. Perhaps, your Honour. I can't remember when I would have found that out.

THE COMMISSIONER: All right. Thank you. Thank you, Ms Sharma, you may step down and I certainly will excuse you from any further attendance, thank you.

<THE WITNESS WITHDREW

MR GRAY: Commissioner, even though it is 20 past 3, I suspect we probably can complete the next witness today, if I were to call him now.

1
2 THE COMMISSIONER: Well, I think Mr Tedeschi's got a
3 problem tomorrow, but will Mr Kirgiz be your concern or --
4
5 MR TEDESCHI: Commissioner, I think my friend is right
6 that we will finish the next witness today.
7
8 THE COMMISSIONER: I'm not suggesting I wouldn't sit.
9 Okay, all right. I'll work on that basis.
10
11 MR GRAY: The next witness is Sergeant Ismail Kirgiz, and
12 I call him.
13
14 THE COMMISSIONER: Thank you.
15
16 <ISMAIL KIRGIZ, sworn: [3.23pm]
17
18 <EXAMINATION BY MR GRAY:
19
20 MR GRAY: Q. Sergeant Kirgiz, you tell us in your
21 statement that the Engagement and Hate Crimes Unit, which
22 is abbreviated to EHCU, was established in December 2019;
23 correct?
24 A. To the best of my knowledge, yes.
25
26 Q. And that followed - that is, the establishment of the
27 EHCU followed - upon what you call the amalgamation of the
28 former Bias Crimes Unit with what was then called the
29 Engagement Intervention Unit?
30 A. Yes.
31
32 Q. At that point - that is, December '19, when that
33 restructure happened - how many people, that is, staff,
34 were there in what was then the Bias Crimes Unit?
35 A. That was quite a bit before my time, but my
36 understanding was the only person in that portfolio was
37 Acting Sergeant Nathan Corbett.
38
39 Q. Acting Sergeant Corbett?
40 A. Yes. I'm sorry, he left some time in 2018. There
41 were a number of persons who held that portfolio in 2019
42 before I got there. We had our intelligence analyst,
43 Ms Jade Istanbouli, then a Hate Crime Coordinator, I think
44 there were three of them during that period of time, Mr -
45 Sergeant Ray Hussein, Acting Sergeant Mark Dance, and
46 Simon Henry.
47

1 Q. And you mean successively, one after the other?
2 A. Yes, yes.
3
4 Q. So at the whole time - that is, the whole of 2019 -
5 there was one person in the Bias Crimes Unit?
6 A. One person who was there for the whole time, during
7 that time, yes.
8
9 Q. But at any given time, there was only one, is what I'm
10 getting at, in 2019?
11 A. In the coordinator's role?
12
13 Q. Yes.
14 A. Yes.
15
16 Q. Was there anyone else in the Bias Crimes Unit at all
17 besides the coordinator at that time?
18 A. The intelligence analyst.
19
20 Q. And who was that?
21 A. Jade Istanbouli. She is a civilian.
22
23 Q. So a coordinator plus an analyst?
24 A. Analyst yes.
25
26 Q. And the coordinator - the person in the coordinator
27 role changed two or three times?
28 A. Yes.
29
30 Q. Okay. Could Mr Kirgiz please have volume 7, and could
31 you please turn, Mr Kirgiz, to tab 190, [SCOI.77469].
32 A. Yes.
33
34 Q. This is the document called "Bias Crimes Unit
35 Handover" which you annexed to your statement, you will
36 recall?
37 A. Yes.
38
39 Q. And on the first page there's a history of the Bias
40 Crimes Unit from 2006, where the first paragraph begins,
41 down to some time in 2018, which is where the bottom
42 paragraph arrives at.
43 A. Yes.
44
45 Q. In the second-last paragraph on that page, the
46 document that you have annexed says that in January 2018,
47 which followed a period, looking at the previous paragraph,

1 where effectively there was no-one in the Bias Crimes
2 Unit --

3
4 *the vacant team leader position was*
5 *laterally filled by Sergeant Hussein* ...

6
7 Do you see that?

8 A. Yes.

9
10 Q. And at that time, he was the only staff member until
11 the return of Senior Constable Corbett in February 2018;
12 correct? And then the intelligence analyst position was
13 vacant and as at June 2018 it hadn't been filled; is that
14 right?

15 A. Well, that's what the document says, yes. But,
16 I mean, I didn't join the unit until July of 2020, but --

17
18 Q. No, but you've put this document forward, I presume as
19 being an accurate summary, haven't you? You've annexed it
20 to your statement?

21 A. Yes, but on the assumption that it is accurate and in
22 my attempt to assist the Inquiry, yes.

23
24 Q. Sure. But you have no reason --

25 A. But I can't vouch for it - I have no reason to believe
26 that it's not accurate, no.

27
28 Q. No, quite. Assuming that it is accurate, it goes on
29 to say that there was no-one in the intelligence analyst
30 position as at June 2018. You see that?

31 A. Yes.

32
33 Q. And that because of another staffing matter, the Bias
34 Crime Unit effectively reverted back to only one staff
35 member doing the Bias Crime Unit's core duties --

36 A. Yes.

37
38 Q. -- in 2018. Then the last paragraph tells us that
39 because of another staff related factor, from about mid
40 2018, the Bias Crimes Unit would be - would have no-one in
41 it, it says:

42
43 *This will ultimately leave the [Police*
44 *Force] with no Bias Crimes Unit ...*

45
46 Right?

47 A. Yes.

1
2 Q. In your statement, [SC0I.82035], at paragraph 9 - if
3 you have your statement there - you refer to, and you have
4 mentioned this already, three different people, Sergeant
5 Husseini, Sergeant Dance and Sergeant Henry, having been in
6 the role of Hate Crime Coordinator at various times?
7 A. Yes.
8
9 Q. But as you say in the statement, they held that
10 position at various times, and it was not continuous, it
11 seems, from what we've just looked at?
12 A. As I understand it, yes.
13
14 Q. Thank you. Now, you yourself transferred to the EHCU
15 in July 2020?
16 A. Yes.
17
18 Q. And when you arrived there, who else was there in the
19 hate crime part of the amalgamated unit? How many people
20 besides you?
21 A. Just Ms Istanbouli as the intel analyst.
22
23 Q. And then you say in your statement that on
24 transferring to the EHCU in July 2020, you had a three-week
25 induction period?
26 A. Yes.
27
28 Q. Apart from that three-week induction period in July
29 2020, had you ever previously had any training with respect
30 to hate crime?
31 A. Not - not directly in hate crime, no, but --
32
33 Q. Or any --
34 A. -- in my --
35
36 Q. Sorry. Or any experience with respect to hate crime?
37 A. Not directly, no. I guess we --
38
39 Q. What do you mean by "not directly"?
40 A. Well, I didn't have any direct experience with hate
41 crimes, but I would consider that I had extensive
42 experience in skills and subject matters that are
43 peripheral or complementary to investigating hate crime.
44
45 Q. Such as?
46 A. Such as intelligence analysis, I spent a very long
47 time in protection operations, so, I mean, that is one big

1 risk management exercise. It's a big exercise in
2 collaboration with various internal/external agencies,
3 receiving regular intelligence briefings on issue-motivated
4 groups and the like. Yes, I mean, I consider those to be
5 skills that are very advantageous to have in this
6 portfolio, especially now with the benefit of hindsight of
7 having done it for the last two and a half years.

8

9 Q. In fact, you tell us in your statement that for 22
10 years prior to 2020 - that is, since 1998 - you had been
11 performing duties in dignitary protection; is that right?

12 A. Yes.

13

14 Q. In the group called the Protective Security Group?

15 A. Yes. That's one of the arms of the Counter Terrorism
16 and Special Tactics Command.

17

18 Q. But your particular location was in dignitary
19 protection, you say?

20 A. Yes.

21

22 Q. And you had also, over those 20-odd years, pursued
23 some university studies?

24 A. Yes.

25

26 Q. And you had obtained degrees in building construction
27 management and in law?

28 A. Yes.

29

30 Q. Right. Now, as to your current role, you say in your
31 statement that upon completing your three-week induction
32 period in July 2020, you were appointed as the Hate Crime
33 Coordinator in August 2020.

34 A. Yes.

35

36 Q. Is that right? So that role is the team leader for
37 the Hate Crime section of the EHC?

38 A. Yes.

39

40 Q. And there's another team leader for the - whatever the
41 other section is within the EHC?

42 A. The Engagement Unit.

43

44 Q. Thank you.

45 A. The Engagement and Support Unit.

46

47 Q. Remind me what "engagement" means in this context?

1 A. It's engagement with community groups, it's kind of
2 like, I guess, a conduit between the NSW Police Force and
3 various community groups.
4

5 Q. Right. Now, when you obtained that position, the
6 appointment as Hate Crime Coordinator, did you have to
7 apply for that position or was it simply something you
8 could transfer to or how did it come about?

9 A. Because it's - it was contained within the same
10 command, I submitted an expression of interest when
11 I became aware that the position was available, and being
12 an area of interest to myself, I submitted an expression of
13 interest with a view to transferring there, yes.
14

15 Q. And thereupon you were appointed?

16 A. Yes. I - well, I was --
17

18 Q. In other words, there was no competitive processes,
19 that you know of?

20 A. I transferred across as a project officer as part of
21 the Hate Crime Team, and because the coordinator's position
22 was vacant, I occupied that coordinator's position as an
23 acting sergeant, yes.
24

25 Q. Yes. But without having to compete with anyone else?
26 You simply expressed your interest and your interest was
27 noted and were you appointed?

28 A. Yes - well, I mean, other members attached to the
29 Engagement and Hate Crime Unit, say from the engagement
30 side of house, they would at times be given the opportunity
31 to relieve in that position as well, but --
32

33 Q. Okay. In paragraph 10 of your statement, you give us
34 an idea of the structure of the EHCU. I just wanted to
35 make sure I have understood this. At (iv) you identify
36 a position called "Hate Crime Coordinator", and I assume
37 that's your position?

38 A. Yes.
39

40 Q. And then at (v) there's the Engagement Team leader,
41 which is the other strand within the EHCU; is that right?

42 A. Yes.
43

44 Q. So that strand, the engagement team, has the leader
45 plus six officers?

46 A. Yes.
47

1 Q. And your side of it, the Hate Crime side, has yourself
2 plus up to four officers, (a), (b), (c) and (d); is that
3 right?

4 A. There are meant to be four, but at any given time, you
5 only have had three.

6
7 Q. I was going to ask you that. (d) "Intelligence
8 analyst", seems - am I reading this right - you're saying
9 that in fact you haven't had that person in that role for
10 some time?

11 A. Not physically sitting, you know, I guess, in our
12 area, but they assist in the Terrorism and Security
13 Intelligence Unit who work next door on the same floor, and
14 because we receive substantial support from them, one of
15 our members is, in effect, helping them out whilst they're
16 helping us out.

17
18 Q. So when you say there is really only three, is that
19 what you are referring to or --

20 A. Yes.

21
22 Q. And as to the first two, (a) and (b), intelligence
23 coordinator and project coordinator, those are positions,
24 you tell us in paragraph 11, which are externally funded by
25 the Department of Communities and Justice and were
26 implemented after the introduction of hate speech
27 legislation in whatever year that was - that's right?

28 A. In - yes.

29
30 Q. And are those two positions arising out of the
31 introduction of the hate speech legislation positions which
32 are mainly engaged with bias and hate crimes in the fields
33 of race, religion, ethnicity, terrorism, political
34 extremism and so on? Is there an emphasis there?

35 A. Not at all.

36
37 Q. What, are they general, are they, across the board?

38 A. Across the board, yes.

39
40 Q. Thank you. Then above you in this EHCUC, there's the
41 person called "Manager Inspector", that's Detective
42 Superintendent Jason Dickinson, is it, or is that someone
43 else?

44 A. No, that's Inspector Jason Baltov, who is the officer
45 in charge of the Engagement and Hate Crime Unit.

46
47 Q. Right.

1 A. And just to clarify, we sit under the Anti Terrorism
2 and Intelligence Group. That's commanded by Detective
3 Superintendent Jason Dickinson, and that has four sub-teams
4 under him, the Terrorism and Security Intelligence Unit,
5 which has an inspector in charge; the Security
6 Investigations Unit, that's a team of detectives; and the
7 High-Risk Terrorism Offenders Unit, they're the guys who
8 monitor people who are on extended supervision orders,
9 recently released from terms of imprisonment, and they
10 basically insure their compliance; and then there's us, the
11 Engagement and Hate Crime Unit.

12
13 Q. Right. And there's a coordinator, senior sergeant?

14 A. Yes.

15

16 Q. Who is that?

17 A. That's Senior Sergeant Tim Johnson.

18

19 Q. And do you, as it were, report to him or --

20 A. Yes.

21

22 Q. And there's someone else called a Coordinator,
23 Engagement and Support Program. Is that to do with your
24 Hate Crime side of things or is that to do with the
25 Engagement side?

26 A. No, that particular initiative, or the Engagement and
27 Support Program, that's administered by the Department of
28 Communities and Justice, DCJ, and that's a type of
29 diversion and support program for people who are at risk of
30 radicalisation or are displaying some sort of concerning
31 behaviours and pose a risk to the community. That's
32 a voluntary program. But we draw very heavily on that
33 resource when we come across persons of interest that we
34 think might benefit from that type of intervention, and
35 that's managed through DCJ, but that coordinator, that
36 sergeant's position, sits within that team.

37

38 Q. All right. Now, is the volume that you have there
39 volume 7?

40 A. It is indeed, yes.

41

42 Q. Good, thank you. Could you turn to tab 193,
43 [SCOI.82038], please?

44 A. Yes.

45

46 Q. This is the role description for your role, as
47 I understand it?

1 A. Yes.

2

3 Q. Now, on the top of the second page, the primary
4 purpose of the role is said to be this:

5

6 *Team Leader - Engagement and Hate Crime*
7 *Unit will supervise, lead and contribute to*
8 *the effective building/maintaining of*
9 *partnerships with communities who are at*
10 *risk of radicalisation, or are likely to be*
11 *impacted by NSW Police Force use of*
12 *terrorism powers, and communities who may*
13 *be the victims of terrorism or politically*
14 *motivated violence and hate crimes.*

15

16 A. Yes.

17

18 Q. Correct? So there seems to be an emphasis on
19 terrorism, politically motivated violence and
20 radicalisation in your job description; is that right?

21 A. I wouldn't - I guess perhaps it reads that way, but
22 that's not how it works in reality. And it --

23

24 Q. Well, it certainly does read that way to start with,
25 doesn't it?

26 A. It does read that way, but just to clarify, this
27 particular job description, like anyone who sits within the
28 Engagement and Hate Crime Unit, I think of the team
29 leaders, we at various times assist one another, so perhaps
30 it was drafted that broadly to allow for that.

31

32 Q. Well, under the heading "Key Accountabilities", there
33 are seven or eight bullet points. Do you see that --

34 A. Yes.

35

36 Q. -- on that same page? And the first two refer to
37 crime motivated by hate and all aspects of hate crime. But
38 then the last four are all to do with terrorism and
39 politically motivated violence, aren't they?

40 A. Yes.

41

42 Q. Does that suggest that the main focus of the role is
43 indeed terrorism and politically motivated violence?

44 A. No. The main focus is hate crime, and I believe
45 that's why they're listed first.

46

47 Q. Under the heading at the bottom of the next page, "Key

1 knowledge and experience", there's - the first bullet
2 point, refers to hate crime generally, but the second
3 bullet point refers to interpersonal skills and so on, and
4 the third one again refers to terrorism, politically
5 motivated violence and extremist activity, and so on.
6 Again, does that suggest that the focus of the Hate Crime
7 Unit is matters of that kind?

8 A. No.

9

10 THE COMMISSIONER: Q. And can you suggest why it's drawn
11 the way it is, whoever drafted this document, appearing to
12 give emphasis to politically motivated or terrorist
13 activities?

14 A. I'm not sure, your Honour.

15

16 Q. You didn't draft the document, this document, your job
17 description?

18 A. My own - no, I do not.

19

20 Q. Do you know who did?

21 A. I would be assuming, perhaps.

22

23 Q. Are you telling me that it is inaccurate insofar as it
24 purports to describe what you do?

25 A. It - I guess it lists all the different areas of
26 responsibility that attach to a team leader within that
27 unit, but I think it also emphasises for key
28 accountabilities, the first two that are listed relate to
29 hate crime, and that most certainly is the emphasis.

30

31 Q. All right. But where it is specific, it refers to
32 terrorism and matters of that sort?

33 A. Well, that would not be accurate to what I do on
34 a day-to-day basis, no.

35

36 Q. I see. So to that extent, it's an inaccurate
37 description of what you do?

38 A. Well, perhaps so, yes.

39

40 Q. Well, all right - well, it is or it isn't, is it or
41 not? You say perhaps it is. You're reading it. Is it an
42 accurate description of what you do or is it partially
43 inaccurate or wholly inaccurate? Up to you, but tell me
44 what your view is.

45 A. I guess it sets out there that hate crimes is a key
46 accountability.

47

1 Q. Yes.

2 A. And the primary purpose says:

3

4 *... and communities who may be the victim*
5 *of terrorism, politically motivated*
6 *violence or hate crimes.*

7

8 But perhaps it could be worded more accurately.

9

10 THE COMMISSIONER: Okay.

11

12 MR GRAY: Q. In paragraph 13, I'm just moving on to the
13 Bias Crime Indicators Form now, in your statement in
14 paragraph 13, you say that the Bias Crime Indicators Form
15 is not currently in use by frontline police officers, nor
16 the EHCUC; that's correct?

17 A. That's correct, yes.

18

19 Q. And to the best of your knowledge, it was used by
20 Strike Force Parrabell, and you're not aware of if any
21 other units of the Police Force have used it or are still
22 using it. That's what you say there in paragraph 13?

23 A. Yes.

24

25 Q. Now, I take it from that that you are familiar with
26 the Bias Crime Indicator Form that Strike Force Parrabell
27 did use?

28 A. Yes.

29

30 Q. You've seen it in recent times, getting ready for
31 today?

32 A. Yes.

33

34 Q. Now - and I'm just trying to do this quickly, but if
35 it's unfair to you and you need more detail, just let me
36 know - you know that the form was used in Strike Force
37 Parrabell as a method by which the strike force officers
38 considered the historical files that they were reviewing?

39 A. Yes.

40

41 Q. And they wrote down "Yes" or "No" against the various
42 indicators on the right-hand side of the form?

43 A. Yes.

44

45 Q. You are familiar with that state of affairs. Now, at
46 paragraph 14, you say:

47

1 *The tools currently in use by the [police]*
2 *for detecting hate motivations include ...*

3

4 And you list a few on page 5. Do you see that?

5 A. Yes.

6

7 Q. I just want to explore that with you briefly. As to
8 the first of them, the mandatory use of associated factors
9 when completing entries on the COPS system, when did that
10 become mandatory?

11 A. I don't know when, when the actual associated factors
12 became mandatory. I couldn't say. But --

13

14 Q. Are they mandatory now? Are you sure about that?

15 A. Yes, but they were mandatory - they were mandatory
16 when I assumed the role, yes.

17

18 Q. And what document is it that tells you that they are
19 mandatory?

20 A. Just - not so much a document, I guess it would be in
21 the COPS - our Computerised Operating System guidelines,
22 but, for example, if you go to submit an event on the
23 system, you can't submit the event successfully without
24 going to the associated factors.

25

26 Q. Okay, all right. Thank you. Now, at (ii), the second
27 tool that you refer to is the Hate Crime Guidelines, and
28 I'll come back to those in a minute, I just want to ask you
29 a couple of questions about those, but they came into force
30 in April this year; is that right?

31 A. Yes.

32

33 Q. At paragraph 21 of your statement you tell us, quite
34 correctly, that Strike Force Parrabell made some
35 recommendations as part of its final report?

36 A. Yes.

37

38 Q. And I take it you've read the report or at least read
39 the recommendations?

40 A. Certainly the recommendations that apply to us, yes.

41

42 Q. And if you turn to tab 194, [SC0I.82045], in that
43 volume you have there, volume 7 --

44 A. Yes.

45

46 Q. -- this is another document that you have attached to
47 your statement. And it is an issue paper from August

1 2021 --

2 A. Yes.

3

4 Q. -- where Assistant Commissioner Walton, is it? Is
5 that his rank, Assistant Commissioner Walton?

6 A. Yes, that's right.

7

8 Q. Is giving an update on progress in terms of
9 implementing or responding to the recommendations of the
10 Parrabell report?

11 A. Yes.

12

13 Q. And he picks out three recommendation, 3, 4 and 5.
14 Recommendation 3 is that:

15

16 *A revised system applicable to the early*
17 *identification of bias crimes requires*
18 *development with guidance from academic*
19 *resources.*

20

21 A. Yes.

22

23 Q. So that's the first recommendation, that that be done;
24 correct?

25 A. Yes.

26

27 Q. Recommendation 4 is that once that has been done,
28 a training package needs to be developed; correct?

29 A. Yes.

30

31 Q. And then recommendation 5, which is related to the
32 first two, is that a review is required of prompts to
33 operational police when recording crimes on the COPS
34 database, et cetera?

35 A. Yes.

36

37 Q. Now, on the next page of this document, this issues
38 paper, tab 194, in relation to recommendation 3, we're told
39 that COPS enhancements were made to change the "associated
40 factor" classification from "Bias Motivated (Suspected)",
41 on the one hand, to "Hate Crime Involvement", and that that
42 was done in January 2020?

43 A. Yes.

44

45 Q. The second thing is that Charles Sturt University was
46 commissioned in 2018 to conduct research with the agreed
47 aim of developing a model, et cetera?

1 A. Yes.

2

3 Q. The next paragraph tells us that in March 2019 the
4 first phase of that research was completed with
5 a preliminary report headed, "Hate Crime: The development
6 of an assessment tool"?

7 A. Yes.

8

9 Q. And in the middle of that paragraph, it says:

10

11 *In 2020 EHCU took carriage of the next*
12 *phases of the research and are supporting*
13 *and collaborating with CSU.*

14

15 That's Charles Sturt University, yes?

16

17

18 Q. Now, what was the upshot of that? Was a tool arrived
19 at, either with Charles Sturt University's contribution or
20 under the EHCU's own steam? Was there a tool arrived at?

21

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1 Q. And it was a kind of research project and it didn't,
2 you'll agree with me, propound a particular model that
3 ought to be followed; it simply recorded the results of
4 some research - is that right?

5 A. That's right, yes.

6

7 Q. And so recommendation 4 is:

8

9 *Once a suitable system of bias crime*
10 *identification is determined, a training*
11 *package is required ...*

12

13 A. Yes.

14

15 Q. But was a suitable system of bias crime identification
16 determined at all?

17 A. Insofar as a tool, to speak of, in the sense of a tool
18 per se, no, because in the research that was conducted and
19 whilst also collaborating and communicating with Professor
20 Birch, I guess that the tool would have been satisfied
21 through education to actually bring that to the attention
22 of frontline officers and to educate them into awareness.
23 And so we focused our attention on putting as many
24 educational tools in play and make that - in play and
25 making those available to frontline policing and actively
26 marketing them to frontline police.

27

28 Q. Fine. But looking at recommendation 4, what is the
29 suitable system of bias crime identification that has now
30 been determined?

31 A. The education of frontline officers.

32

33 Q. No, the system of bias crime identification - what is
34 it now? What is the system by which your unit identifies
35 bias crime?

36 A. Like as in a two-tier system or a three-tier system?

37

38 Q. Well, I'm looking at recommendation 4, and for that
39 matter recommendation 3, but recommendation 4 in this
40 second page of tab 194 down the bottom?

41 A. Yes.

42

43 Q.

44 *Once a suitable system of bias crime*
45 *identification is determined --*

46

47 there will need to be a training package, it says?

- 1 A. Yes.
- 2
- 3 Q. What is the suitable system of bias crime
4 identification that has been determined?
- 5 A. Well, it is the, I guess, the collection of training
6 packages and educating frontline police officers. So there
7 isn't a tool per se or a system per se, because what
8 emerged when looking at the literature and speaking with
9 some of the academics, Professor Birch in particular, is
10 that there isn't a measure or a tool that you can run over
11 any particular incident, the sure-fire way is to get it
12 into the front of minds of frontline officers.
- 13
- 14 Q. Righto. Well, looking at the document at tab 195,
15 [SC0I.77445], the Hate Crime Guidelines that came into play
16 in April this year --
- 17 A. Yes.
- 18
- 19 Q. -- there's a reference on page 6 to the purpose and
20 scope, titled - heading number 1 at the top of that page,
21 "Purpose & Scope"?
- 22 A. Yes.
- 23
- 24 Q.
25 *The purpose of this document is to provide*
26 *officers an understanding of hate crime,*
27 *how to identify and record hate crime and*
28 *hate incidents and how to support victims*
29 *of hate crime.*
- 30
- 31 So that's the object?
- 32 A. Yes.
- 33
- 34 Q. The context is - and there is reference to the
35 Parrabell report. There are some definitions. And then at
36 page 16 there's a procedure laid out or summarised.
- 37 A. Yes.
- 38
- 39 Q. And the procedure is that the first thing that's to
40 happen is that the investigating officer notes at the crime
41 scene, at the incident, the presence of any hate crime
42 indicators?
- 43 A. Yes.
- 44
- 45 Q. And those record, "indicators so noted are recorded"?
- 46 A. Yes.
- 47

1 Q. The next section of this page, they're entered in
2 COPS, they're entered in the COPS system?
3 A. Correct.
4
5 Q. And the next system is that the incident so noted by
6 reference to the indicators --
7 A. Yes.
8
9 Q. -- is then classified by you, by the EHCU?
10 A. That's right.
11
12 Q. Correct? Now, at the next page, page 17, there's
13 a list of nine hate crime indicators?
14 A. Yes.
15
16 Q. So they're the indicators that the investigating
17 officer is to choose from or note, if any of those are
18 present?
19 A. That's right.
20
21 Q. Now, what I want to get to is this: these procedures
22 on page 16, where did they come from? What was the source
23 of them? Was it Charles Sturt University or was it your
24 own thinking or was it some precedent or what was it?
25 A. Well, by and large, the initial stages, they're no
26 different than police officers taking reports of crime in
27 the first place. What we introduced into that process was
28 to look for hate crime indicators.
29
30 Q. Well, have you had - are you now or were you soon
31 after you started in your present job in July/August 2020
32 familiar with the Standard Operating Procedures for the
33 former Bias Crime Unit?
34 A. Yes, we actually - that was one of the resources
35 I used to bring myself up to speed in that field.
36
37 Q. Yes. Well, just comparing - and I can put them in
38 front of you if you need it --
39 A. Sure.
40
41 Q. -- but I'm presuming you probably know this, looking
42 at page 16 of these current Hate Crime Guidelines, the
43 procedure under your Hate Crime Guidelines and the
44 procedure under the former Standard Operating Procedures of
45 the Bias Crime Unit are very substantially similar, aren't
46 they?
47 A. In some ways yes, but extraordinarily different in the

1 fact that we now have a Hate Incident Review Committee.
2
3 Q. A what, sorry?
4 A. A Hate Incident Review Committee.
5
6 Q. I'll come to that, but in terms of what is on page 16,
7 I'll ask you broadly first and if need be, I will go into
8 the detail --
9 A. Yes.
10
11 Q. -- essentially, that very system, slightly different
12 terminology, was to be found in the Standard Operating
13 Procedures, wasn't it?
14 A. Yes.
15
16 Q. And indeed, looking at page 17 and 18, the same
17 indicators were also found in the Standard Operating
18 Procedures of the Bias Crime Unit, with one exception?
19 A. With one exception, yes.
20
21 Q. And the exception is that there are only nine here in
22 your document?
23 A. Yes.
24
25 Q. And the Bias Crime Standard Operating Procedures had
26 10?
27 A. Yes.
28
29 Q. The first of which was "Differences"; correct?
30 A. Yes, identity and differences, yes.
31
32 Q. And your list doesn't have that one?
33 A. No, it does not.
34
35 Q. Otherwise, perhaps with some slight differences in
36 language, it's basically the same, isn't it?
37 A. Yes. The differences - sorry, sir, the differences we
38 felt were encapsulated into the actual definition of what
39 a hate crime is, so a crime motivated by hate, bias or
40 prejudice based on identity and perceived difference. So
41 that was kind of the starting point of what the definition
42 was, and then with the identity indicators in the previous
43 Bias Crime operations, there was some overlap - for
44 example, the location of the incident or the timing of the
45 incident, any sort of special events or the like that the
46 person with that particular identity was participating in,
47 it was for that reason that we left that one out.

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MR GRAY: Commissioner, I am conscious of the time. I am in the Commissioner's hands. I think my questioning would be finished in about 10 minutes or so.

THE COMMISSIONER: Well, Mr Tedeschi can't be here tomorrow, as I understand it, so I'm prepared to sit on, if that is convenient.

MR TEDESCHI: Thank you.

MR GRAY: Q. Sergeant Kirgiz, what is the status of these Hate Crime Guidelines from April 2022?

A. The status?

Q. Yes. They're called "Guidelines"?

A. Yes.

Q. What's their force or effect?

A. They're available to frontline police officers should they require them and we actively promote the guidelines and the electronic training package to frontline officers.

Q. And how widely have they been disseminated?

A. Disseminated - they're disseminated state-wide when they're first implemented, it's by what we call a "Nemesis message" that goes to every sworn and unsworn officer in the state. And also when the hate crime awareness package went live on the police education system, that was further disseminated.

Q. And when you say "disseminated", do you mean by email or letter or some other technical means?

A. In the first instance by email, is via the email system, and then to actually get these into the hands of frontline officers, we went through a process of identifying the 10 police area commands that had the most incidences of hate crime and we went and presented to them first; and then we looked at the next lot of police area commands that had communities that might be vulnerable and targets of hate crime, so we presented to them; and then we did certain regional areas and we continue to roll out this education package.

Q. In this - in these guidelines on one of the pages that I just took you to, page 16 in particular, and I'll come to page 19, but at page 16, the point where your unit comes

1 in, which is the third item on page 16, the classification
2 of the incident is carried out by you or your unit?

3 A. Myself and the intel coordinator.
4

5 Q. Yes. And we see that as well on page 19 under the
6 heading "Hate Classifications"; do you see that?

7 A. Yes.
8

9 Q. It says:

10
11 *Every report to the police that is flagged*
12 *as hate crime related is reviewed by the*
13 *EHCU and classified using one of the*
14 *following categories.*
15

16 And there are five?

17 A. Yes.
18

19 Q. And it means classified by the EHCU?

20 A. Yes.
21

22 Q. Now, my question is, what is your methodology in
23 carrying out such a classification?

24 A. We --
25

26 Q. How do you determine which of the five options applies
27 to whatever information that you've got from the frontline
28 officer?

29 A. Using the indicators as a - I guess as a point of
30 reference, we look at the incidents and see - and looking
31 at the incident in its totality, arrive at a conclusion.
32

33 Q. How? What's your process of reasoning?

34 A. By grappling with the facts and seeing if any of those
35 indicators exist. That way.
36

37 Q. Well, the frontline officer will have noted that, in
38 the opinion of the officer, indicators 3, 6 and 8 are
39 present, let's say, hypothetically. Then what do you do
40 with that?

41 A. They don't do it that systematically. It - if they
42 flag hate-crime related and then choose the relative
43 protected subcategory, that then appears on our radar, so
44 to speak --
45

46 Q. But I'm sorry to interrupt you, and I don't mean to,
47 but they do that by asking themselves whether any of these

1 indicators are present?

2 A. Correct.

3

4 Q. Don't they? And does the fact that they have come to
5 the view that this or that indicator is present -is that
6 recorded in what you get from them?

7 A. Yes, in the narrative of the event. So they will
8 submit the checklists, location, persons, details and so
9 forth, and then they - part of the record is a narrative,
10 and then they'll outline in the narrative in greater detail
11 exactly what occurred.

12

13 Q. All right. And you personally look at each of these
14 or does it - is it sometimes not you but somebody else in
15 the unit?

16 A. It's pretty much a joint unit. So that the download
17 from the police system via the - it is what we call the
18 EDW, it is the Enterprise Data Warehouse, that's the name
19 of the software, and that then basically pulls and scrapes
20 the data off the systems to then present to us all the
21 incidents and all the information reports that have been
22 submitted that have been tagged as hate-crime related.

23

24 Q. All right. And you, perhaps with the assistance of
25 one of your officers --

26 A. Yes.

27

28 Q. -- form a view as to whether it's hate crime or
29 suspected hate crime or one of the other three
30 possibilities?

31 A. That's right. Yes.

32

33 Q. By simply using your instinct and your nous, or by
34 some other means?

35 A. Well, bearing in mind what the hate crime indicators
36 are, also looking at who the offenders are, what signatures
37 they might have left, either by conduct or otherwise, and
38 to basically take into account all of the circumstances.

39

40 THE COMMISSIONER: Q. Is that any more than saying you
41 formed a view based on your assessment of what you regard
42 to be the relevant factors?

43 A. Yes. But might I say, more often than not, the facts
44 pretty much speak for themselves.

45

46 Q. Well, whether they do or whether they don't, it
47 requires you to take an holistic view of all of the factors

1 that you think are relevant and then come to a conclusion
2 about it?

3 A. Yes. But that's done in the first instance between
4 myself and the intel coordinator, and then if, for
5 example - and this is, I've got to say it's a fairly rare
6 occasion where we might actually require some further
7 context or information to arrive at that conclusion, and
8 it's at that point that then we'll reach out and use all
9 the other resources available to us.

10

11 MR GRAY: Q. Like?

12 A. Like, for example, the terrorism security intel unit -
13 I don't wish to go into the full methodology, but we use
14 their resources to perhaps look into the background or the
15 ideology or the motivation of a suspect, to come to that
16 sort of determination. If we require more information from
17 the victim or perhaps a community group, our engagement
18 officers will assist us and go out and speak with the
19 people from whom we can gather more information.

20

21 Q. Right. In terms of the terrorism intel option that
22 you just mentioned, presumably either rarely or never would
23 that be relevant to an LGBTIQ-related crime?

24 A. It's relevant all the time.

25

26 Q. Why is that?

27 A. If I could just address that, Mr Gray. I think
28 there's this perception that by bringing hate crime under
29 the umbrella of counter terrorism, that somehow, the focus
30 of hate crime was moulded to fit the counter terrorism
31 focus. In my experience, it's actually the other way
32 around. The hate crime focus and portfolio was brought
33 into counter terrorism and the procedures of counter
34 terrorism were changed to accommodate and fully support the
35 hate crime focus.

36

37 So it's actually very advantageous to have at our
38 disposal the full resources and capabilities of the CT
39 command. So it's not a question of - and it's a valid
40 observation, it's not the first time this question has been
41 posed, but it's really advantageous to have that sort of
42 operational capability and support. And it's not
43 a question of "We look at hate crimes but with a counter
44 terrorism focus"; it is quite the contrary. The CT command
45 looks at hate crime with a holistic hate crime focus.

46

47 So by way of example, the charter of the Terrorism and

1 Security Investigations Unit focuses primarily on
2 terrorism, radical groups and the like, but they changed
3 their charter so that their remit also includes all aspects
4 of hate crime. So when I take to them something, for
5 example, if a member of the LGBTIQ community is targeted by
6 a particular hate group or we have incidences of where
7 certain nationalist, racist, violent extremist groups are
8 active, well, the full capability of the TSIU comes into
9 play to paint a picture and gather the information we need.

10
11 Q. Thank you for that. Just back to the more general
12 point before I just ask you a few final questions. The
13 classification that is made by you when you get an incident
14 or a crime come to you as a possible hate crime and you
15 choose one of the five --

16 A. Yes.

17
18 Q. -- you do based on your own reading of whatever you
19 get and your own experience and you come to your own
20 subjective opinion; correct?

21 A. Well, in most circumstances, yes. I mean, bearing in
22 mind that certainly in my experience and what the
23 literature says, hate crimes are message crimes. It's not
24 that often where the offender leaves the victim in any
25 doubt as to why they're being assaulted or why that's done,
26 so --

27
28 Q. Maybe so. I don't want to cut you off, but I'm not
29 asking you about statistics for the moment, but the method
30 is simply that: it's your own attempt as the person in the
31 role of Hate Crime Coordinator to use the information that
32 you get and to simply make a call?

33 A. Yes. Yes.

34
35 Q. Right. Now - and I don't say this with any disrespect
36 at all, sergeant, but your training, at least according to
37 the evidence that we have so far, consisted of a three-week
38 induction package of training in relation to hate crime;
39 correct?

40 A. Well, yes, and doing the job for the last two and a
41 half years.

42
43 Q. Well, doing the job for the last two and a half years,
44 that's right.

45 A. Yes.

46
47 Q. Okay. Now, just a few questions about some matters of

1 data, if you can answer this first one: how much of the
2 work of the hate crime part of the EHCUC - that is, your
3 strand - is directed to hate crime related to LGBTIQ
4 people?

5 A. Insofar as statistically?

6
7 Q. Yes, if you can give us an estimate?

8 A. An estimate? Numbers are typically, of all the
9 reports that come through, somewhere between 15, 16, to
10 20 per cent.

11
12 Q. Of the total?

13 A. Of the total, yes.

14
15 Q. All right. And then if you can also give estimates,
16 what about the proportions directed to, say, race-related
17 bias or hate or religion-related bias or hate or other
18 significant components?

19 A. Around about - race, around, say, the 30 per cent to
20 35 per cent mark; religion, similar, around the 30,
21 35 per cent mark.

22
23 Q. That's getting us up to of 60 or 70 per cent, plus
24 about 15 per cent for LGBTIQ?

25 A. Yes.

26
27 Q. Plus the balance?

28 A. Plus the balance.

29
30 Q. Okay. Second question. At paragraph 21 of your
31 statement, you refer to several different ways in which
32 data about hate crime is now routinely captured and
33 tracked?

34 A. Yes.

35
36 Q. For example, at subparagraph (vi) on page 9 you speak
37 about a master spreadsheet?

38 A. Yes.

39
40 Q. Is that master spreadsheet produced or updated monthly
41 or yearly or on some other regular basis?

42 A. Almost daily.

43
44 Q. I see.

45 A. Yes.

46
47 Q. And so as we speak today, it would be in a form

1 capable of being produced, the master spreadsheet?
2 A. Yes, but I'd be - I'd be reluctant to disclose how
3 we - how we operate and how we - that's very much part of
4 our methodology.

5
6 MR GRAY: All right. Well, might take that up with my
7 learned friend, Commissioner, but I dare say it's something
8 with, whatever suitable redactions or otherwise may be
9 necessary, that the Commission would be interested to see.

10
11 THE COMMISSIONER: Well, perhaps if you can tell me in the
12 first instance - Mr Tedeschi, we will hear what you want to
13 say - the objective you want to achieve, and then both he
14 and the witness can take that on board.

15
16 MR GRAY: The objective largely is to see what this master
17 spreadsheet would tell us about the proportions and about,
18 if indeed it does tell us anything about this, how those
19 Classifications are made.

20
21 THE COMMISSIONER: All right.

22
23 Q. Perhaps in the first instance, the spreadsheet will
24 presumably show numbers association so they could be
25 converted into percentages, that is proportions?

26 A. Yes. We generate our charts --

27
28 Q. Does the spreadsheet though, itself, outline the
29 reasoning process to the allocation of a crime as
30 a politically, racially motivated or otherwise?

31 A. It certainly records it. It records it.

32
33 Q. No, I know it records it. Does it --

34 A. Oh, sorry.

35
36 Q. No, the question I asked you, and that's one of the
37 reasons why we may or may not be interested: does it
38 record the reasoning process as to how it becomes
39 identified for the purpose of the form as racially
40 motivated or not, or politically motivated or not or
41 religiously motivated or not or motivated by LGBTIQ
42 prejudice?

43 A. Not the reasoning process if a summary is quite
44 obvious, but there is a provision for comments on the side,
45 on some of the more, I guess, challenging or controversial
46 matters, of which there aren't very many.

47

1 THE COMMISSIONER. All right. Mr Gray, perhaps you can
2 take it up with Mr Tedeschi. It doesn't seem to me, on its
3 face, that the document is likely to disclose what the
4 witness may be concerned about, but perhaps that can be
5 taken up.

6
7 MR GRAY: It may not reveal something about the
8 delicacy of the --

9
10 THE COMMISSIONER: Q. Clearly, if it's a summary, is it
11 a summary of the factual material which is meant, in
12 effect, to speak for itself as to why it falls into one
13 category or the other?

14 A. Yes.

15
16 THE COMMISSIONER: All right. If it's a summary, then
17 it's one thing. If it doesn't disclose the precise
18 methodology used to distil the summary, then there may or
19 may not be a problem.

20
21 MR GRAY: All right.

22
23 Q. Now, in (vii) on the top of page 10, another way, you
24 say, that these matters are recorded and tracked is by
25 means of quarterly hate crime statistical reports. Are
26 they reports which are derived from the master spreadsheet
27 or are they something else?

28 A. No, from the master spreadsheet.

29
30 Q. And so they are honed down to statistics and
31 proportions and percentages, are they?

32 A. That's right. Like, the spreadsheet is quite large,
33 it captures a lot of different data from which we can then
34 provide statistical graphs and data.

35
36 Q. Right. And again, the quarterly statistical reports
37 for the last little while, the last year or two, if we were
38 to ask for them, they could be produced?

39 A. Yes.

40
41 Q. Thank you. And then I think the last question was in
42 paragraph 16, you say that there's a body called the Hate
43 Incident Review Committee?

44 A. Yes.

45
46 Q. Which is populated by quite senior people?

47 A. That's right.

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Q. You've told us who they are. And it convenes fortnightly, and you say it monitors all hate crimes and hate incidents that have been assessed by the Hate Crime Team?

A. Yes.

Q. Now, are there minutes of those fortnightly meetings of the Hate Incident Review Committee?

A. Yes, detailed minutes.

Q. And again, if we were to ask for those, they could be produced?

A. Yes.

Q. How many, if you know, or at least could you estimate, LGBTIQ hate crimes have been brought to the attention of the Hate Incident Review Committee since it was established in March 2021?

A. I - I couldn't tell you exact details off the top of my head but we could provide those to you fairly quickly. But I would imagine they would be in the approximate proportion of what the statistics say. So each month, we have somewhere between 35 and 50 incidents that are hate-crime related, and 20 per cent of those - not all of them will make it to the Hate Incident Review Committee. Matters where an offender's been charged and after review of the investigation, we're satisfied that there's nothing more for us to do, we then just monitor the court outcomes, but others that require a closer attention, they go before the Hate Incident Review Committee, if there's still an offender outstanding or the investigation is still under way.

MR GRAY: All right. Thank you. Those are my questions.

THE COMMISSIONER: Yes, Mr Tedeschi.

<EXAMINATION BY MR TEDESCHI:

MR TEDESCHI: Q. Sergeant, you were asked some questions about the Hate Crimes Guidelines that have been issued I think this year?

A. Yes.

Q. You were asked about whether they had been disseminated state-wide, and you said that they had, but

1 you also said that there has been some special emphasis in
2 relation to 10 police area commands?

3 A. Yes.

4

5 Q. Could you tell us about that?

6 A. Well, the 10 police area commands that have the
7 highest incidences of hate crime are - the bulk of them are
8 in the Sydney metropolitan area, for example, Surry Hills,
9 Eastern Suburbs - did you want me to run through them all.

10

11 Q. You don't need to tell us all 10 areas, but what have
12 you done in those areas?

13 A. So what we have done is organise with the education
14 and development officer of each of those area commands to
15 go out on the training days of all the officers, frontline
16 officers, and then we place particular emphasis on the
17 training days of the supervisors and with the intention
18 that that will be bear more fruit, because they're the
19 first layer of scrutiny of the frontline officer, and then
20 we basically present a presentation that goes somewhere 40
21 minutes to an hour, and an example of which is in my
22 statement.

23

24 Q. So it's a training and education exercise?

25 A. Yes.

26

27 Q. With supervisors only or with frontline troops?

28 A. With frontline officers mainly but whenever we get an
29 opportunity to have a sergeants' training day,
30 a supervisor's training day, we don't miss it.

31

32 Q. And does it include the Hawkesbury district?

33 A. We haven't gotten there yet.

34

35 Q. Is it the intention of your unit to give that training
36 and education to all police districts when you can?

37 A. Yes. And can I say, Mr Tedeschi, that is already
38 starting to bear some fruit. Ever since we started going
39 live with the guidelines and the training packages, and
40 with the presentations, there has been - and these are just
41 green shoots, so we're quite excited about them, but, you
42 know, we're watching them very carefully. There's been
43 roughly a 34 per cent increase in matters that have been
44 ticked as hate-crime related, and this is before the public
45 education campaign hasn't even gone live yet. So that's
46 really encouraging.

47

1 But the thing that I get the greatest comfort from
2 is - and it's been reported by many community members
3 who've had grievances with the police not taking their
4 reports seriously - so in our guidelines we have - we have
5 hate crimes, we've got a criminal offence that is motivated
6 by hate bias or prejudice, then we have hate incidents.
7 That's our biggest risk, as we identify it, because what
8 has been reported to us in the past is that a member of the
9 public comes forward to report some verbal abuse, the
10 officer looks at the matter and says, "Look, there's really
11 no offence committed there. There's nothing we can do.
12 It's not a police matter", and those people are at times
13 turned away.

14
15 Now, if it's a substantial criminal offence, a COPS
16 event is generated. For matters that don't constitute
17 offences, there's a classification on COPS called
18 "Occurrences only". So what we identified early in the
19 piece in - well, sorry, in late 2020 is that you couldn't
20 actually add "hate-crime related" to occurrences only. So
21 we fixed that in late 2020.

22
23 And then what started happening in 2021 and 2022,
24 occurrences only with hate-crime related as an associated
25 factor started increasing. They increased tenfold in 2021,
26 and then by another 50 per cent in 2022, and what that data
27 says to me is that even when a member of the public comes
28 forward and reports a hate incident, they're not being
29 turned away, or at least there's some green shoots there,
30 which is very encouraging to me and my team.

31
32 Q. And by a hate incident or hate occurrence, do you mean
33 a complaint from a member of the public that doesn't amount
34 to a criminal offence?

35 A. Yes. Verbal abuse, perhaps, but it's not delivered
36 from close enough a proximity to constitute intimidation.
37 But still certainly things that we record, we generate heat
38 maps to know if there's escalating behaviours or emerging
39 behaviours in certain areas, and that gives us a good
40 indication of where to direct our attention.

41
42 Q. And do you see that as reflecting a change in the
43 Police Force or in the community or both?

44 A. Well, certainly in the Police Force, because we
45 haven't gone live with our public awareness campaign, but
46 that's encouraging, to see that that's being recorded.
47 That's not to say that on occasion people aren't turned

1 away or matters don't slip through the cracks, but to see
2 those numbers is really good for us.

3

4 Q. And when do you anticipate the public campaign going
5 live?

6 A. It was meant to go live before the end of this year,
7 but the last heard it may be delayed until January of next
8 year. But our aim is to have it well and truly under way
9 before the World Pride event.

10

11 Q. You were asked some questions about the hate crimes
12 policy that was at tab 195, [SC01.77445], where the
13 criteria are listed. Do you remember being asked those
14 questions?

15 A. Yes.

16

17 Q. You recall you were asked some questions by Mr Gray
18 about the five criteria?

19 A. Yes.

20

21 Q. Have they been the subject of any academic review?

22 A. The criteria themselves?

23

24 Q. Yes.

25 A. What we did is we had our - at our disposal the
26 previous bias crimes SOPs, but --

27

28 THE COMMISSIONER: Q. Would you like to answer the
29 question "Yes" or "No", please? You're not being asked to
30 make a speech. You were asked the question were the
31 criteria subject of academic review?

32 A. I'm sorry, your Honour.

33

34 Q. The first response is "Yes" or "No"?

35 A. Yes.

36

37 Q. Then if you're asked further, then by all means
38 explain it?

39 A. I'm sorry. Yes, they were.

40

41 MR TEDESCHI: Q. When did that take place?

42 A. Prior to these guidelines being put before the
43 Commissioner's executive team, I think this would have been
44 either - late last year. It went to five different
45 academics in three different countries.

46

47 Q. In three different countries?

1 A. Yes.

2

3 Q. And as a result of that review, were these five
4 criteria settled - sorry, nine criteria settled?

5 A. You mean the indicators or the --

6

7 Q. Yes, the indicators, I'm sorry.

8 A. Yes, we didn't get any objections, and in addition to
9 the academics, it went to every section of the Police
10 Force, the region commanders, operational legal advice
11 unit, police prosecutors, corporate sponsors and the like.

12

13 Q. The indicators were approved by the academics?

14 A. Yes.

15

16 MR TEDESCHI: Yes, thank you.

17

18 THE COMMISSIONER: Thank you. Yes, you may step down and
19 you may be excused.

20

21 THE WITNESS: Thank you.

22

23 <THE WITNESS WITHDREW

24

25 THE COMMISSIONER: Mr Tedeschi, we can just have a brief
26 discussion now about future hearings. There won't be any
27 hearings, I think, scheduled for this week after today. We
28 are going to resume in the new year. There are matters
29 that I will deal with otherwise than by way of public
30 hearing, and you may expect, as a result of some of the
31 answers this afternoon and the particular documents you
32 were requested to obtain this morning, there may be some
33 additional summons material that may be required.

34

35 I will be conferring with Counsel Assisting and others
36 and we will certainly be in communication with your side
37 before the end of the year is out as to what next year will
38 look like from our point of view. And if there are
39 any problems then we can arrange the best way of resolving
40 those.

41

42 MR TEDESCHI: I had heard that there was an intention to
43 have further public hearings in February, possibly.

44

45 THE COMMISSIONER: Yes.

46

47 MR TEDESCHI: I don't think there's a date that has been

1 fixed yet.

2

3 THE COMMISSIONER: Not fixed in stone by any means, but as
4 soon as we have worked out our system and regime, we will
5 communicate both to you, your clients, and publicly, what
6 is happening, but your side must assume that from
7 early February, possibly the week of the 6th, hearings will
8 commence again.

9

10 There are some issues potentially to be sorted out in
11 relation to Mr Morgan's statement, but some or many of
12 those issues may evaporate, and we can deal with that if
13 not in correspondence otherwise shortly, I would hope, but
14 possibly early in the new year. When I mean by "early in
15 the new year, in late January is what I have in mind.

16

17 MR TEDESCHI: May it please the Commissioner.

18

19 THE COMMISSIONER: All right. Mr Gray, anything further
20 for the moment?

21

22 MR GRAY: Not today, Commissioner.

23

24 THE COMMISSIONER: I will simply say that I will adjourn
25 the further hearing of this inquiry until early February
26 2023. Thank you.

27

28 **AT 4.29PM THE SPECIAL COMMISSION OF INQUIRY**
29 **WAS ADJOURNED ACCORDINGLY**

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