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 Monday, 20 February 2023 at 10.23am

(Day 23)

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

Also Present:

Mr Mark Tedeschi KC with Mr Anders Mykkeltvedt for NSW Police

THE COMMISSIONER: Yes, Mr Gray. I thought I would deal 1 2 with some housekeeping matters first. 3 4 Mr Tedeschi, I gather you are aware of the fact that 5 I'm about to hand a judgment down dealing with some 6 outstanding matters I think in relation to proposed witness 7 Mr Morgan, so if I publish those reasons, and then, as 8 I would apprehend it, I will make some orders which will 9 give effect to certain redactions that have taken or will 10 take place. 11 MR TEDESCHI: 12 Thank you. 13 THE COMMISSIONER: 14 Let me deal with that first. I publish 15 my reasons in the matter of Morgan. 16 17 I have a set of short minutes. I take it. 18 Mr Tedeschi, you will have seen the short minutes? 19 MR TEDESCHI: No, I haven't. 20 21 22 THE COMMISSIONER: Has Mr Mykkeltvedt seen the short 23 minutes? 24 25 MR TEDESCHI: My learned junior has seen them but there's 20 pages of annexures. We haven't had a chance to check 26 27 them against the various other documents. 28 29 THE COMMISSIONER: All right. What I will do is I will publish my reasons and then I will come back to the short 30 31 minutes when you have had an opportunity to check the 32 proposed minutes of order, and at some point convenient to all concerned, I will make those orders. 33 34 35 MR TEDESCHI: Thank you. 36 37 THE COMMISSIONER: All right. That's fine, thank you. 38 39 Yes, Mr Gray. 40 Commissioner, in December, in the first part of 41 MR GRAY: 42 this second public hearing, there was a tender bundle which 43 was received into evidence as exhibit 6. I think at that 44 stage it had 10 volumes. Within those 10 were some documents which, at that point, were not themselves 45 However, the position has now been reached, 46 tendered. 47 after various redactions and other matters have been

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attended to, that almost all of those documents in volumes 1 2 1 to 10 which were not previously tendered in December are 3 now tendered, and I understand that you, Commissioner, have 4 a list of those and that my learned friends have that list 5 as well. 6 7 THE COMMISSIONER: Right. 8 9 So they should become part of exhibit 6. MR GRAY: 10 Secondly, there are 24 of those documents, I believe in all. 11 12 Then there are also four additional volumes to be 13 added to exhibit 6, namely, volumes 11 to 14. 14 So I would ask that they be added to exhibit 6, and that our learned 15 friends have those volumes. 16 17 18 There are two exceptions to what I have just said. At 19 tab 230 of, I think, volume 9, there is a statement of Detective Sergeant Steven Page from 25 July 2002. 20 That is 21 the statement of Sergeant Page which was tendered and 22 received into evidence in the Taradale inquests before 23 Deputy State Coroner Milledge in 2003. That statement will 24 be tendered in these proceedings, but not today, or at 25 least not this morning, as certain details of appropriate non-publication orders or redactions are still yet to be 26 27 finalised, but I understand that that is likely to be achieved probably during the course of the day. 28 29 Secondly, in the new volumes 11 to 14, there is 30 31 a document at tab 253 which is a statement of Steven Page 32 of this year, of 16 February 2023, and I don't tender it as 33 yet either because the same applies - namely, any necessary 34 non-publication orders or redaction arrangements are still But again, I understand that that will 35 being finalised. not take long to arrive at finality. 36 37 THE COMMISSIONER: 38 Very well. 39 As I understand it, that means that we are ready 40 MR GRAY: 41 to move to the next witness, who is Mr Michael Willing. 42 43 THE COMMISSIONER: Yes, thank you. 44 45 MR GRAY: I call Mr Willing. 46 47 THE COMMISSIONER: Mr Willing, if you would come forward,

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1 thank you. 2 3 <MICHAEL JOHN WILLING, sworn: [10.28am] 4 5 THE COMMISSIONER: Mr Tedeschi, I think I'm right in 6 saying that we will probably adopt a similar procedure to 7 last time, in other words, a member of the staff will, 8 I believe, assist Mr Willing in terms of availability of 9 hard copy documents so that he won't have to rely entirely 10 upon his own administrative skills or watching it on the So as documents are referred to, we will make sure 11 screen. that a hard copy is placed in front of him. 12 13 MR TEDESCHI: 14 Thank you. 15 THE COMMISSIONER: All right, yes. 16 Thank you, Mr Gray. 17 18 <EXAMINATION BY MR GRAY: 19 Q. Mr Willing, you have made a statement for 20 MR GRAY: the purposes of the Special Commission dated 30 January 21 22 2023? 23 Α. I have. 24 25 Q. And I take it the contents are true and correct? 26 Α. Yes. 27 And there are no changes that you wish to make or 28 Q. 29 additions? 30 Α. No. 31 32 Q. You were Commissioner Homicide, from November 2011 to November 2017, I believe? 33 34 Α. Commander Homicide, yes. 35 Q. I'm sorry, Commander Homicide. Indeed, I believe 36 37 I have seen somewhere that you were the longest serving 38 person in that role? 39 I believe so. The current incumbent might be getting Α. 40 close, but yes. 41 42 Q. Now, your six-year period as Commander Homicide, 43 included many events which are relevant to the issues 44 surrounding gay hate crime, you recall? 45 Α. Yes. 46 47 Q. Without being exhaustive, can I just list a few of

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them now just to set the scene? 1 2 Sure. Α. 3 4 Q. First of all, in June 2012, there was the second 5 inquest into the death of Scott Johnson? 6 Yes. Α. 7 8 Q. Before Deputy State Coroner Carmel Forbes? 9 Α. Yes. 10 And she returned an open finding, in contrast to the 11 Q. finding of suicide that had been made in an initial inquest 12 back in, I think, 1989? 13 Yes. 14 Α. 15 Then secondly, in February 2013, there was a program 16 Q. 17 on ABC television called Australian Story, about Scott 18 Johnson? 19 Α. Yes. 20 And that led, in ways that I will come to, to the 21 Q. 22 initiation of a strike force called Strike Force Macnamir? 23 Α. Yes. 24 25 Then also in 2013, a third event that I will be Q. dealing with, there was a wave of articles in the Sydney 26 27 Morning Herald, some by Paul Sheehan and some by Rick Feneley, about what was said to be a wave of gay hate 28 29 deaths? Yes. 30 Α. 31 32 Q. In the period roughly from the mid 1970s to the 1990s? Yes. 33 Α. 34 You'd recall that. And those articles - and I'm 35 Q. paraphrasing for the sake of summary at the beginning -36 were suggesting that there were as many as 80 such deaths 37 38 in that period? 39 Α. Slightly more, but yes, that's right. 40 In fact, a little more than 80, and they were 41 Q. suggesting that as many as 30 of those might be regarded as 42 43 unsolved? 44 Α. Correct. 45 And then fourthly, in about 2013/2014, there was 46 Q. 47 a lengthy statement by Detective Chief Inspector Pamela

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Young relating to the death of Scott Johnson that was 1 2 prepared? 3 Yes. Α. 4 5 Q. And you were aware of that at the time, I take it? 6 Α. Yes, I was. 7 8 And again, very much summarising, you would agree that Q. 9 her statement suggested that the most likely explanation 10 for Scott Johnson's death was suicide? I think she outlined her reasons or the evidence as 11 Α. she saw it for the hypotheses of suicide, homicide and 12 13 misadventure. 14 15 Q. She did, but she seemed to put forward the view, didn't she - and I will come to this - that, in her 16 17 opinion, the most likely of those was suicide? 18 I think she left the decision to the Coroner and Α. outlined, you know, what it was that she saw as the 19 evidence for each of those three. 20 21 22 Yes, but to answer my question, her opinion, as Q. 23 emerging from that statement, was that suicide was the most 24 likelv? 25 I think that she has put each of those hypotheses to Α. the Coroner and let the Coroner make the decision. 26 So you 27 can read what you can into that statement, but that's my 28 view of what she did. 29 30 THE COMMISSIONER: Mr Willing, you took the view that Q. 31 she, what, equally treated various scenarios as equally 32 open? As the evidence that she saw and presented to the 33 Α. 34 Coroner, yes. 35 I see. And she didn't prefer or express any view, one Q. 36 way or the other, as to which of those scenarios might be 37 38 more likely? 39 Α. Not in my opinion. 40 41 Q. And you've read the statement, have you? Yes. 42 Α. 43 44 MR GRAY: Q. Have you read it in relatively recent 45 times? I've read the redacted version last night, which has 46 Α. 47 part thereof of what she put.

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1 2 Q. I will come back to that in due course. 3 Α. Sure. 4 5 Q. Anyway, the fifth event that I would suggest in your 6 time, among others, was that on 13 April 2015, then State 7 Coroner Barnes decided to hold a third Scott Johnson 8 inquest? 9 Yes, he opened the inquest, yes. Α. 10 Sixthly, on the same night, 13 April 2015, Detective 11 Q. Chief Inspector Pamela Young was interviewed on the ABC 12 13 Lateline program? Yes. 14 Α. 15 And among other things - you would recall this, I take 16 Q. 17 it - she defended the original 1988 Manly police 18 investigation into the death of Scott Johnson as not flawed: remember that? 19 I'm not - I can't recall her using those words but 20 Α. I assume she did, yes. 21 22 23 Q. And in the interview on Lateline, she expressed 24 a clear view, would you agree, that suicide was the most 25 likely explanation? Α. I can't recall the exact words that she used, but 26 27 I take it that yes, she did. 28 29 And, among other things, she accused the Police Q. Minister of having kowtowed to Steve Johnson - that is, the 30 31 brother of Scott Johnson - in agreeing to reinvestigate the 32 death? 33 Α. I recall that, yes. 34 The seventh event, and I acknowledge that this is not 35 Q. exhaustive, I'm simply putting these to you --36 37 Α. Sure. 38 39 -- within a short time after that - that is, within Q. a short time after the Lateline broadcast - State Coroner 40 Barnes directed that Detective Chief Inspector Young be 41 42 removed from the Scott Johnson investigation? 43 Α. Yes. 44 45 And, eighthly, a few months later, in August 2015 Q. Strike Force Parrabell was initiated? 46 47 Α. Yes.

1 2 And you would recall that that strike force was to Q. 3 review the 80-odd or a bit more than 80 cases so as to 4 express a view as to whether they were gay hate related or 5 not? 6 Α. Yes. 7 8 Ninthly, a couple of months after that again, Q. 9 in October 2015, a strike force called Neiwand was set up? 10 Α. Correct. 11 And that one - and we will come to all of these - was 12 Q. 13 to reinvestigate three deaths from Bondi in the 1980s? 14 Α. Correct. 15 Q. One of them in 1985, which was about three years 16 17 before Scott Johnson, and two of them in 1989, which was 18 the year after Scott Johnson? Yes. 19 Α. 20 21 Q. They being three deaths which had been the subject of 22 the Taradale inquest before Deputy State Coroner Milledge 23 in 2003? 24 Α. Yes. 25 Then, tenthly - this is right, isn't it, given what we 26 Q. have just briefly touched on - from the second half of 2015 27 through to the end of 2017, those three strike forces were 28 29 simultaneously under way - that is, Parrabell, from about August 2015; correct? 30 31 Α. Yes. 32 33 Q. And it substantially finished by the end of 2017 and 34 the report was ultimately published in 2018? 35 Α. Yes. 36 Secondly, Macnamir, which was looking at the death of 37 Q. 38 Scott Johnson? 39 Α. Yes, under the control of the Coroner by that point. 40 41 Q. Yes. So it was still going at the same time - that 42 is, from - it started earlier than this but, as at mid 43 2015, it was going along at the same time that Parrabell 44 was going along? Yes. 45 Α. 46 47 Q. And thirdly, Neiwand, from October, was also going

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along from October '15, and it also came to an end at the 1 2 end of 2017? Yes. 3 Α. 4 5 Q. Now, you point out in your statement, paragraphs 41 to 46, that you had a wide range of responsibilities as 6 7 Commander Homicide? 8 Α. Yes, that's correct. 9 10 Q. No doubt that is true? Α. 11 Yes. 12 Nevertheless, however, all of those developments that 13 Q. I have just briefly taken you to did happen between 2012 14 15 and late 2017 - that is, on your watch - didn't they? Α. The - I just - that's technically right. However, 16 17 I left the Homicide Squad physically in around April 2017 18 and didn't return to it. 19 Q. Who replaced you, if that's the word, in that period? 20 21 Α. There was a relieving commander at the time, Detective 22 Acting Superintendent Jason Dickinson, and then he was 23 subsequently replaced by a substantive commander, it was 24 then Detective Superintendent Scott Cook. 25 If you remember, what were the dates? 26 Q. Thank you. You 27 left in April? I left, I think from my research in preparing for 28 Α. 29 this, 11 April in 2017, so I was taken offline by the new Commissioner, Michael Fuller, and asked to prepare for and 30 31 then ultimately implement the recommendations arising from 32 the Lindt Cafe inquest. 33 34 I then was promoted to Assistant Commissioner and Commander of the Counter Terrorism and Special Tactics 35 Command on 1 November 2017 and I was completely tied up 36 with that prior to --37 38 39 But in that period from April to November, first of Q. all, I think you said Superintendent - I may have the rank 40 wrong - Dickinson stepped in as Commander Homicide? 41 42 Α. Yes, that's right. 43 44 Q. When did the next person succeed him as Commander 45 I think you said that was Mr Cook, was it? Homicide. I don't know. Yeah, it was Detective Superintendent 46 Α. 47 Scott Cook, now Assistant Commissioner. It was late 2017.

1	I don't know the exact date.			
2 3 4 5	Q. And was he then appointed permanently to the position? A. Correct. He was.			
5 6 7 8 9 10 11	Q. And is he still in the position? A. No, he was later promoted to Assistant Commissioner in another command, the Prosecutions Command. He is now substantively the Commander of the State Intelligence Command.			
12 13 14 15	Q. I see. And somebody then succeeded him as Commander Homicide? A. Yes, that's right.			
16 17 18	Q. Who was that? A. Detective Superintendent Danny Doherty.			
19 20 21	Q. Is he still in the position? A. He is.			
22 23 24	Q. That happened, when, 2018 or some other time? A. Some time after. I don't know the exact time.			
24 25 26 27 28	Q. All right. At any rate, accepting what you say about you going, as you say, offline in April 2017 A. Yes.			
29 30 31 32	Q allowing for that, you were well aware of all of those events that I've just taken you through briefly during the course of those five or six years? A. I was aware that they were ongoing, yes.			
33 34 35 36 37 38	Q. And indeed, you had responsibility as Commander, at least up to April, for every step taken by Homicide police including the Unsolved Homicide Team? A. Yes.			
39 40 41 42 43	Q. Just before I come to this period of six years or so in some detail, I want to go back to the events of the early 2000s, which is before you became Commander Homicide, of course A. Yes.			
44 45 46 47	Q. Namely, the events that led up to and then the hearing of the Taradale inquests. You obviously are well aware of what the Taradale operation was?			

Α. Yes. 1 2 3 Q. And what the inquests were about? 4 Α. Yes. 5 6 Q. Now, again, in a slightly abbreviated form, you'd 7 accept that in 2001/2002 Detective Sergeant Steven Page was 8 in charge of Operation Taradale? 9 Yes. Α. 10 Q. And Taradale was originally to look at the deaths of 11 Ross Warren and John Russell in 1989, as well as an assault 12 on another man, David McMahon, also in 1989. Are you aware 13 of that? 14 Yes. 15 Α. 16 17 Q. And pausing there, were you aware of these things at 18 the time? I appreciate you weren't Commander Homicide. No, I wasn't, not at the time. 19 Later on I learnt; you Α. 20 know, when the issues that are at question, at hand, came up, I learnt about the Strike Force Taradale and what it 21 22 did later on, some years later. 23 24 Q. "Later on" being when? 25 Α. Years later when I had command of the Homicide Squad. 26 27 Q. Not until 2011 or later? 28 Α. Yes, that would be right. 29 So prior to then, about 2011, you were - I don't mean 30 Q. 31 this discourteously at all --32 Α. No, not at all. 33 34 Q. -- ignorant of the Taradale events? 35 Α. Correct. I was aware that there had been an inquest, but only in general terms amongst, you know, any other 36 inquests as a police officer that you hear about from time 37 to time, but not in detail at all. 38 39 Are you aware at least now that at a late 40 Q. All right. 41 stage in Operation Taradale, when the brief of evidence was 42 otherwise completed and the matter had been for some time 43 under the direction of the Coroner's office, a third death 44 was added, namely, that of a man called Gilles Mattaini? Yes. 45 Α. Yes. 46 47 Q. He had disappeared in September 1985?

1	Α.	Yes.
2		
3		And we will come to this, but you may recall - tell us
4		ou do - that at the heel of the hunt, as it were, in
5		course of the Taradale operation, as a result of the
6		icity, someone came forward from the public to say,
7		1, Mr Mattaini might be someone that should be looked
8		n this context as well". Did you become aware of that?
9	Α.	I - not specifically, no.
10	•	
11	Q.	<b>5 7 7</b>
12		lengthy inquest before Deputy State Coroner Milledge?
13	Α.	Mmm-hmm.
14	0	The beauties accorded many days during the second of
15	Q. 2003'	The hearings occupied many days during the course of
16		
17 18	Α.	Yes.
10	Q.	The Commissioner of Police was represented throughout?
20	A.	Mmm-hmm, yes.
20	Λ.	
22	Q.	By counsel and solicitors?
23	A.	Yes.
24	,,,	
25	Q.	And the final addresses of Counsel Assisting and of
26		sel for the Commissioner of Police were in December
27	2004	
28	Α.	I - yes, I - assume that's right.
29		
30	Q.	You can assume that's right.
31	Α.	Yes.
32		
33	Q.	Thank you. And the findings of Deputy State Coroner
34		edge were handed down in March 2005?
35	Α.	Yes.
36	-	<b>_</b>
37	Q.	Does that accord with your memory?
38	Α.	Yes.
39	•	
40	Q.	Could we go to findings of Deputy State Coroner
41		edge, please. It's in volume 6. If we turn to
42		161 [SCOI.02751.00021_0001], you will see Coroner
43		edge's findings and recommendations?
44 45	Α.	Yes.
45 46	Q.	I take it you have seen these before today?
40 47	Q. A.	I can't recall ever seeing them before.
-T I	/	I can a robart over sooring them berore.

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1 2 Q. You have never seen them before? 3 I don't think I have. Α. 4 5 Q. Right. What I want to take you to in particular at 6 the moment - and I accept what you say - is the concluding 7 parts of her findings. 8 Α. Yes. 9 10 Q. Perhaps go to page 14. 11 Α. Yes. 12 You will see that at the top of the page, the first 13 Q. 14 sentence begins: 15 Many of the Marks Park victims ... 16 17 18 Α. Yes. 19 Just pausing there, I take it you are aware that the 20 Q. focus of the Taradale inquiry and the location of the three 21 22 deaths of Mr Mattaini, Mr Warren and Mr Russell was at or 23 near Marks Park? 24 Α. Yes. 25 Q. Near Bondi? 26 27 Α. Yes. 28 29 Q. You are aware of that? Yes. 30 Α. 31 32 Q. So what Coroner Milledge says there at the top of 33 page 14 is: 34 35 Many of the Marks Park victims that reported to police told of hearing their 36 37 assailants threatening to throw them off the cliff face. 38 39 Do you see that? 40 41 Α. Yes, I do. 42 43 And you can assume, and no doubt you would infer Q. 44 anyway from reading that, that before the Coroner had been evidence from some victims of assault who hadn't been 45 killed and who were thus able to give some evidence? 46 47 Α. Yes.

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1	
2	Q. And then the Coroner goes on in the next sentence:
3	
4	There is no doubt that at the time of
5	Mr Warren's and Mr Mattaini's disappearance
6	and Mr Russell's death that this was
7	a Modus Operandi of some gay hate
8	assailants. This strongly supports the
9	probability that Mr Warren, Mr Mattaini and
10	Mr Russell met their deaths this way.
11	
12	Do you see that?
13	A. Yes, I do.
14	A. 163, 1 d0.
15	Q. Appreciating that, as you say, you haven't actually
15	
	seen this before, nonetheless, were you aware, or did you
17	become aware at some point, that Deputy State Coroner
18	Milledge had expressed views to that effect?
19	A. Yes, I was - I was made aware.
20	
21	Q. And two paragraphs down, her Honour says:
22	
23	I am comfortably satisfied that I can make
24	the finding of "foul play" in relation to
25	Mr Warren and Mr Russell, but I cannot make
26	a finding that Mr Mattaini met his death at
27	the hands of another person or persons.
28	The persons of interest that may have been
29	responsible for the deaths of Mr Warren and
30	Mr Russell would have been far too young at
31	the time of Mr Mattaini's disappearance
32	in August 1985.
33	
34	Do you see that?
35	A. I see it, yes.
36	
37	Q. Now, are you learning that for the first time today or
38	were you generally aware of that?
39	A. Those words, yes.
	A. THOSE WOLUS, YES.
40	A part from the preside words were you aware that the
41	Q. Apart from the precise words, were you aware that she
42	had made remarks to that effect?
43	A. I wasn't aware that she had made remarks to the effect
44	that the person - persons of interest may have been far too
45	young at the time of Mattaini's disappearance.
46	
47	Q. You were not aware of that?

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Α. I accept that. Obviously she made it. 1 No. 2 3 Q. The persons of interest --4 Α. Yep. 5 6 Q. -- that were, for the most part, the subject of a lot 7 of the evidence in Taradale, had been aged at the time -8 that is, in 1989 - perhaps with some exceptions, mainly 9 between about 16 and 18 years of age, if you could just 10 accept that from me? Yes, I accept that. 11 Α. 12 13 Q. Or maybe you know that. Do you know that? 14 Α. I'm aware that there were a number of persons of 15 interest that were investigated, of around about that age, 16 at the time, yes. 17 18 And so four years before that, in 1985, those people, Q. 19 speaking a little generally, would have been only about 12 to 14? 20 21 Α. Much younger, yes. 22 23 Q. And in that context, it's understandable, perhaps -24 you may agree - that Coroner Milledge would say what she 25 has said there? Yes, I understand that. 26 Α. 27 Q. And her Honour goes on in the next paragraph: 28 29 I can however bring in a finding of "death" 30 31 for Mr Mattaini, but where and how he died 32 remains unknown although there is a strong possibility that he died in similar 33 34 circumstances to the other men. 35 Yes. Α. 36 37 38 Q. Again, putting aside the precise words, were you aware 39 that she had made a finding and had made remarks along those lines? 40 Yes, I was aware. 41 Α. 42 43 Then the actual findings are then set out under the Q. 44 heading "Findings"; do you see that? Yes, I do. 45 Α. 46 47 Q. And in the case of Mr Warren - I won't read it all

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1 2	out	- she says:
3		I am satisfied that the deceased was
4		a victim of homicide, perpetrated by person
5		or persons unknown.
6		- J
7	Α.	Yes.
8		
9	Q.	In the case of Mr Russell, she says:
10		
11		The cause of death is multiple injuries
12		sustained when he was thrown from the cliff
13		on to rocks by a person or persons unknown.
14	٨	Yes.
15 16	Α.	res.
10	Q.	And as to Mr Mattaini, the formal finding is:
18	G.	And as to in nattanni, the format finding is.
19		The cause and manner of his death remain
20		undetermined as the evidence before me does
21		not enable me to say.
22		
23	Α.	Yes.
24		
25	Q.	Now again, putting aside if need be the precise words,
26		you aware, and if so from about when, that those were
27		findings of
28	Α.	Yes, I was aware, yes.
29	0	From about when though?
30 31	Q. A.	From about when, though? From around the time that Strike Force Macnamir
32		enced. So during my time as the Commander of Homicide.
33	Comm	cheed. So during my thine as the commander of homererde.
34	Q.	That's, in round figures, around about February 2013?
35	A.	Round about, yes.
36		
37	Q.	Her Honour then sets out some recommendations, you
38	will	see, towards the bottom of that page?
39	Α.	Yes.
40		
41	Q.	Going over to the next page, page 15, the fourth
42		et point from the end is - that is, the fourth-bottom
43	reco	mmendation is:
44		Audit autotandian baminidan unduruntud
45		Audit outstanding homicides and suspected
46 47		deaths to ensure investigations are active
47		and ongoing. Where investigations have

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stalled these matters are to be referred to 1 the State Coroner for his consideration. 2 3 4 Do you see that? 5 Sorry, what point was that again? Α. 6 7 Q. Fourth from the bottom, on page 15. Fourth from the bottom. 8 Α. 9 10 THE COMMISSIONER: It's actually fifth on mine. 11 THE WITNESS: Yes, but I do know the point. 12 13 MR GRAY: That's very interesting, I must say. 14 It is fourth on mine. 15 16 17 THE COMMISSIONER: There are two different prints of the 18 judgment by the looks of it. 19 20 MR GRAY: Q. At any rate, the one beginning "Audit 21 outstanding"? 22 Α. Yes. 23 24 Were you aware of that recommendation, and, if so, Q. when? 25 No, I wasn't but I understand it. 26 Α. 27 Have you ever been aware that some such recommendation 28 Q. 29 was made? Not to my knowledge. Not to my recollection, I 30 Α. 31 should say. 32 We will come to this in a bit more detail later --33 Q. 34 Α. Sure. 35 -- but in about late 2015, as we have already Q. 36 established, Strike Force Neiwand was set up? 37 38 Α. Yes. 39 Q. And it was to look again at these three Bondi deaths? 40 41 Α. Yes. 42 43 And its investigations - that is, Neiwand's Q. 44 investigations - in fact stalled, did they not, at the end? That's my understanding. I wasn't aware of the 45 Α. outcome of Neiwand until I was preparing for this Inquiry. 46 47

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But you are now, though? 1 Q. 2 Α. I am aware, yes. 3 4 And you are aware - and I will come to this in detail, Q. 5 but just speaking generally for the moment --6 Yes. Α. 7 8 Q. -- you are aware, then, that the Neiwand conclusions -9 and I'm paraphrasing - were that each of these three cases 10 should be treated as inactive and not to be revived, as it were, unless and until some new information came in? 11 That's the effect of it, yes. That's what I've read. 12 Α. 13 14 Q. That's another way of saying that the investigations have stalled, isn't it? 15 Yes. 16 Α. 17 18 Q. Well, would this recommendation of Deputy State 19 Coroner Milledge indicate that that should have then been referred to the State Coroner for his consideration? 20 If that recommendation was adopted by NSW Police, the 21 Α. 22 Commissioner at the time, yes. 23 24 Q. Do you know whether those recommendations were 25 adopted? I don't. 26 Α. 27 Does the Commissioner of Police have the prerogative 28 Q. 29 to simply not accept recommendations? Α. Yes. 30 31 32 Q. How would we now establish - we, the Commission, today - whether that recommendation was accepted? 33 34 You would have to make inquiries with the Commissioner Α. of Police and/or the Attorney General's office, because 35 recommendations were the subject of reporting back within 36 six months after being made to the Attorney General's 37 office. 38 39 Q. Thank you. Now, the Taradale investigation and the 40 Taradale inquest and the whole topic of gay hate murders 41 42 were the subject of a great deal of publicity around that 43 time, weren't they? 44 Α. Yes, that's correct, yeah. As in, sorry, Mr Gray, the 45 time of the inquest or the time --46 47 Q. Yes, in the early 2000s?

Yes, and I believe that's how I had a general 1 Α. knowledge that they had taken place, yes. 2 3 4 And when you became Commander Homicide, in November Q. 5 2011, presumably one of the things you did among your many 6 other responsibilities was to familiarise yourself with the 7 Unsolved Homicide Team and get a briefing from them as to 8 what they were up to? 9 Yeah, that's right. Α. 10 Now, among other things, did you make any inquiries as 11 Q. to whether any of these three deaths were then, as 12 13 at November 2011, the subject of any sort of further 14 investigation? 15 Α. No, I didn't. 16 17 Did anyone tell you whether they were or weren't or Q. 18 tell you anything about them? Not to my recollection. 19 Α. 20 When you did take over as Commander Homicide, who was 21 Q. 22 the head of the Unsolved Homicide Team, assuming there is 23 such a person? 24 There were two investigation coordinators that were Α. 25 assigned to the Unsolved Homicide Team. I can go through the structure of the entire squad if you like, but there 26 27 were two, Detective Chief Inspector John Lehmann, and around the same time, Detective Chief Inspector Pamela 28 29 Young was moved into that position. 30 31 Q. And what was the title you gave them? You said 32 they --33 They were investigation coordinators. Α. 34 Coordinators. And then beneath them there were other 35 Q. positions and the whole team? 36 37 Α. Yes, so there were supervisors and investigators. So 38 if it assists the Commission, there were six homicide teams 39 that were active on-call teams, each led by an investigation coordinator at the rank of detective 40 41 inspector or chief inspector. Below that, each of those, 42 were supervisors at the rank of detective sergeant, and 43 then constables. 44 45 The same applied to the Unsolved Homicide Team. However, at the time that I took over homicide, there were 46 also three regional teams of four detectives, each led by 47

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a detective sergeant. Over the course of time I caused 1 2 those teams to be centralised into the Unsolved Homicide 3 Team, about - I can't recall the exact time but it was 4 a couple of years after I took over. 5 Now, speaking from whatever knowledge you 6 Q. Thank you. 7 have subsequently accumulated, and for the moment 8 regardless of when that occurred --9 Α. Yes. 10 -- you are aware, I take it, that in the case of 11 Q. Mr Mattaini, who disappeared in 1985 --12 13 Α. Yes. 14 15 Q. -- his disappearance was brought to the attention of Operation Taradale almost at the end of its activities? 16 17 Α. As you have outlined a short time ago. 18 As I have outlined? 19 Q. Yes. 20 Α. 21 But you are aware of that now, apart from me telling 22 Q. 23 vou? 24 Α. Yes, I am. 25 Detective Page's very long statement for Taradale, 26 Q. 27 which is several hundred pages long and several hundred annexures, is dated 25 July 2002. 28 29 Α. I have never seen it but I'm assuming that's correct. 30 31 Q. Riaht. It deals entirely with matters pertaining to 32 the death of Mr Warren and the death of Mr Russell? 33 Α. I'm assuming that's correct. 34 Q. 35 You can accept that from me. Yes. Α. 36 37 I think you did agree, though, that you were aware 38 Q. 39 that a member of the public, towards the end of Taradale's activities, came forward and raised the matter of 40 41 Mr Mattaini? 42 Α. As you have suggested a short time ago, yes. 43 44 Q. I did. But is that something you only know because 45 I have put it to you? From recollection, yes. 46 Α. 47

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Well, assuming that is right, and I think you will 1 Q. 2 accept in due course that it is right --3 Yes. Α. 4 5 Q. -- there was little opportunity for Taradale to take 6 any investigation very far between August 2002 and the 7 beginning of the hearings in early '03; you would agree? Assuming that's correct, yes, that's right. 8 Α. 9 10 Q. Assuming that's correct. So any investigation by the Unsolved Homicide Team years later, under Neiwand, would 11 have had to almost start from scratch, wouldn't it? 12 13 Α. Accepting what you have said, yes. 14 15 Q. Now, in the briefings that you received from Detective Lehmann and/or Detective Young when you took over as 16 17 Commander Homicide, did they go through with you anything 18 about the cases that they were or weren't investigating? 19 So what occurred was when I took over, I reviewed Α. No. 20 all the existing progress reports relating to the ongoing 21 investigations that were happening at the time, and there 22 were dozens of them, and in terms of follow-up briefings, 23 I can't recall whether or not I spoke to each of the 24 investigation coordinators separately or together or - and 25 got a verbal briefing on particular matters or not. 26 27 Q. Now, appreciating that this may be a tough Okay. 28 question, if you received briefings on all the 29 investigations that were then on foot, I take it you didn't receive a briefing on these three because no such 30 31 investigation was on foot? 32 Α. That's correct. 33 34 Q. All right. Now, moving to another topic for the 35 moment. Α. Do I require this? 36 37 You can give that back. Now, in June 2012, there was 38 Q. 39 the second Scott Johnson inquest? 40 Α. Yes. 41 42 Q. Before Deputy State Coroner Forbes. 43 Α. Yes. 44 45 Q. And you were aware of that at the time? Not specifically but subsequently learnt of it, and 46 Α. 47 I subsequently spoke to her about it.

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1 2 Q. To Coroner Forbes? 3 Α. Yes. 4 5 Q. Now, as we have established earlier, the original 1989 suicide finding was overturned? 6 7 Α. Yes. 8 9 Q. And instead there was an open finding. 10 Α. Yes. 11 12 Q. You recall that. And do you recall that one reason for that, in the Coroner's findings, related to the matters 13 14 that had come to be known about the Bondi deaths by reason 15 of the Taradale exercise? I recall that information had been given to the 16 Α. 17 Coroner on behalf of the Johnson family, which included 18 those details. I don't know the specifics of it because at the time, the Johnson matter wasn't under the purview of 19 the Homicide Squad or the Unsolved Homicide Squad at the 20 21 So hence when you asked me whether I was aware of time. 22 the inquest going on, I wasn't. There were inquests 23 occurring all the time. 24 25 All right. Can I show you the findings of Deputy Q. State Coroner Forbes. I will just have them put in front 26 27 of you, and I have a copy for the Commissioner and copies for my learned friends. They are redacted in the form that 28 29 I'm handing up in ways that I believe conform with other arrangements that have been made with other documents. 30 31 32 MR TEDESCHI: Commissioner, would you pardon me for 33 a moment whilst I consult with Counsel Assisting? 34 THE COMMISSIONER: 35 Certainly. 36 37 MR GRAY: Commissioner, my friend is concerned about the 38 sentence immediately before the first redaction referring 39 to the finding that was made in 1989. The reason for the concern, as I understand it, is that the fact that such 40 41 a finding was made in 1989 might affect a potential juror in the future. 42 43 44 THE COMMISSIONER: But there is no trial fixed at the 45 moment, is there? 46 47 MR TEDESCHI: Yes, there is.

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1 Sorry? There is no trial fixed in 2 THE COMMISSIONER: 3 relation to anything. 4 5 MR TEDESCHI: There is no date fixed for trial. 6 7 THE COMMISSIONER: There is no date fixed for trial, 8 Mr Tedeschi - you correct me if I'm wrong. As a result of 9 the Court of Criminal Appeal's decision, an application -10 as I understand it, and please this is only from my understanding, I may be wrong - an application for special 11 leave has been filed by the Director of Public Prosecutions 12 13 to the High Court of Australia. 14 15 That question will involve a pure question of law as to whether the Court of Criminal Appeal's ruling in 16 17 relation to Justice Wilson's dealing with the application 18 for the accused to withdraw his plea was the appropriate 19 test to be applied or not. 20 21 There is no question at the moment, as I understand 22 it, of any trial being fixed, at least in the very near 23 future (a) until the High Court resolves the question of 24 whether it will or will not grant leave; and then subject 25 to whether or not it grants leave, assuming it refuses leave, then it goes back, as I understand it, for the 26 application of the test articulated by the Court of 27 That would leave open another application 28 Criminal Appeal. 29 for leave to withdraw the plea. 30 31 Alternatively, if the High Court were to grant leave, 32 we all know that the High Court first hasn't fixed even the 33 application for leave and, secondly, if leave is granted, 34 generally speaking, many months follow before an appeal is 35 then listed for hearing, and then, sometimes, many months before a decision is given. So at the moment there are 36 37 legal issues that need to be resolved, many of which are 38 substantial and many of which themselves may be the subject 39 of further appellate process, so it is nowhere near And a jury would be --40 a trial. 41 42 MR TEDESCHI: Commissioner, I agree it is nowhere near 43 a trial. 44 And a jury - excuse me, a jury, in any 45 THE COMMISSIONER: event, any person who would serve on the jury, may well 46 47 remember events of recent times when a plea was entered.

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1 2 The problem is, it's going to be a difficult trial, 3 but I cannot see how an historic finding of the Coroner in 4 1989 will ever intrude into the jury's decision one way or 5 the other. My own view is that it's not a matter of 6 practical reality. 7 8 MR TEDESCHI: It is entirely a matter for you, 9 We bring to your attention the fact that Commissioner. 10 placing on record a finding of a judicial officer of that nature could potentially, if it was available on the 11 internet in the future --12 13 Sure, along with the whole history, 14 THE COMMISSIONER: 15 Mr Tedeschi, of the accused's activity of much more recent This is a matter of history. I accept that. 16 time. But 17 you and I both know that the trial judge, if a trial ever 18 takes place in the near future, will be in total control of the jury and, like it or lump it, the amount of publicity 19 surrounding this particular death is huge. 20 21 22 MR TEDESCHI: It is. 23 24 THE COMMISSIONER: So I'm against That's the problem. 25 Thank you. you. 26 27 MR GRAY: Q. Mr Willing, Coroner Forbes recounted what the finding had been at the 1989 inquest. Do you see that 28 29 in that sentence? Yes. 30 Α. 31 32 Q. And then after the redacted passage, her Honour goes 33 on: 34 35 Since that inquest --36 that is, the 1989 one --37 38 39 further information has come to light about a culture of violence against the gay 40 community in Sydney in the late 1980s. 41 In 42 2005 a police operation named Taradale 43 uncovered that the deaths of three 44 homosexual men in Bondi in 1989 were as 45 a result of them being forced to their deaths from cliffs at a gay beat. 46 47

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1	You	see that's what the sentence says?
2	Α.	That's what she says, yes.
3		
4	Q.	She goes on:
5	-	
6		Mr Johnson was homosexual. It's now known
7		that the North Head of Manly near Blue Fish
8		Point where Mr Johnson's body was found was
9		a gay beat.
10	_	
11	•	ou see that?
12	Α.	Yes, I do see that.
13		
14	Q.	Then she says:
15		
16		As a result of the further information, it
17		was considered appropriate to re-open the
18		Coroner's file and further investigate
19		Mr Johnson's death.
20		
21	Α.	Yes.
22	Λ.	163.
22	Q.	
	Q.	That investigation has not taken the seas
24		That investigation has not taken the case
25		any further. The information about the
26		deaths at Bondi has, however sown a seed of
27		doubt as to the positive finding of
28		suicide.
29		
30	Do y	ou see that?
31	Α.	Yes.
32		
33	Q.	She says:
34		
35		Suicide cannot be presumed.
36		
37	and	so on. And then after the next redacted passage
38		Honour says:
39	nor	nonour suys.
40		In this case, the possibilities that
40 41		Mr Johnson was the victim of a gay hate
42		crime similar to those that occurred in
43		Bondi or that he fell are also available
44		explanations to the circumstances that
45		surrounded his death.
46		
47	Α.	Yes.

1 2 Q. And then she says: 3 4 Accordingly --5 6 she makes her finding and the finding is: 7 8 I find that the evidence adduced of 9 Mr Johnson's death does not enable me to 10 make a finding as to how he fell off the cliff and I make an open finding and refer 11 his file to "Cold Cases" for further 12 13 investigation in accordance with police 14 procedures and protocols. 15 Α. Yes. 16 17 18 Q. At some point did you become aware of these findings 19 of Coroner Forbes? I have never seen the exact 20 Α. In general terms. 21 findings but in general terms, yes, I was aware that this 22 had occurred. 23 Were you aware, then, at least in general terms when 24 Q. 25 you learnt what you did learn, that a reason for her Honour taking a view different from the 1989 Coroner's view was 26 27 the information that had come to light through Taradale about the Bondi deaths? 28 29 Α. Yes. Yes. 30 31 MR GRAY: First of all, I would tender that document, 32 your Honour. 33 34 THE COMMISSIONER: Yes, what exhibit will it be? 35 Now, I'm informed that the next exhibit would be MR GRAY: 36 16; or alternatively, if it were to be added to exhibit 6, 37 it's the next tab within exhibit 6, which would be 317. 38 39 What about I make it tab 317? THE COMMISSIONER: 40 41 MR GRAY: 42 Yes. 43 44 THE COMMISSIONER: That's more convenient than having 45 a separate piece of paper. So I will add that to volume 6 in due course, thank you. 46 47

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MR GRAY: Thank you, Commissioner. 1 2 3 Q. So the upshot then, it seems, from the last sentence 4 on that page, is that the file was referred to what 5 her Honour called "Cold Cases" --Which is the Unsolved Homicide Team. 6 Α. 7 8 Q. That was going to be my guestion. I assumed that's 9 the case? 10 Α. I thought so. 11 What was then to happen was further investigation in 12 Q. accordance with police procedures and protocols, namely, 13 whatever the protocols of the Unsolved Homicide Team were; 14 15 is that right? Α. Yes. 16 17 18 And so the case was going to go, then, to the Unsolved Q. Homicide Team, the two people at the head of which were 19 Mr Lehmann and Ms Young? 20 Yes. 21 Α. 22 23 Q. Now, correct me if I'm wrong, the Unsolved Homicide 24 Team had then some hundreds of cases on its books? 25 Α. About 700. 26 So Mr Johnson's case was going to be added to the 27 Q. queue, as it were? 28 29 Α. To the list; that's correct, yes. 30 31 Q. Now, in your statement - do you still have your statement there? 32 I do. I've got a copy. 33 Α. 34 If you could keep that with you all the time just as 35 Q. a resource --36 37 Sure. Α. 38 39 Q. -- because we'll go back to it now and again? Yes. 40 Α. 41 At paragraph 31, you, having referred to Coroner 42 Q. 43 Forbes's findings that we've just looked at, say that in 44 late 2012 the UHT conducted what you call a prioritised case screening review of the matter, in which it rated the 45 case solvability as zero. 46 47 Α. Yes.

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1 2 Q. When did you become aware of that? 3 I was made aware of that, from recollection, during Α. 4 a telephone call from Detective Acting Superintendent Chris 5 Olen to me when I was on annual leave, that coincided with 6 an approach that the Johnson family had made to the Police 7 Minister at the time, and was seeking to generate publicity 8 around the case. 9 10 Q. Is that the phone call that you're referring to in 11 paragraph 34? That's correct, yes. 12 Α. 13 Okay. 14 Q. So back to 31, who was it, if you can tell us, 15 who conducted the prioritised case screening review? Detective Senior Constable Alicia Taylor, from the 16 Α. 17 records that I have been shown in preparation for this. 18 Would you agree - and we will come to this in a bit 19 Q. more detail as well - that in the light of everything that 20 has transpired since late 2012 --21 22 Α. Yes. 23 24 Q. -- the assessment of zero solvability seems to have 25 been incorrect? On the face of it, yes, however, you need to 26 Α. 27 understand the way - what they're assessing at the time, and that was, you know, the availability in general terms -28 29 and I think I refer to it at some point in my statement, but fresh forensic evidence, whether anything was 30 31 available; whether or not there were, you know, new 32 technologies that could be applied to advance the investigation; whether or not new investigative techniques 33 34 since that, the time of the original investigation, could shed light; it also included things like the identification 35 of persons of interest or relationship breakdown, 36 et cetera, that could be used to advance the case. 37 38 39 Q. Apart from future developments in technology, unknown in 2012, most if not all of those factors could have been 40 41 investigated in 2012, couldn't they? Yes, except, you know, the availability of fresh 42 Α. 43 forensic evidence would be something that would weigh 44 heavily on an assessment, so whether exhibits --45 But how would it become available unless you went out 46 Q. 47 and tried to get it?

If it wasn't available, therefore, it would impact on 1 Α. 2 the assessment rating. 3 4 Q. You mean if they didn't then immediately have it, they 5 would assess it as unsolvable without trying to get it? 6 Well, what is it that you are trying to get I guess is Α. 7 my point, Mr Gray? The assessment is conducted in that 8 aspect on the availability of exhibits and what was there 9 and whether or not fresh forensic testing would adduce more 10 evidence. So the assessment is made on what was available at the time. 11 12 13 Q. Anyway, that apparently was the assessment in late 14 2012, that the case solvability was zero. You tell us in 15 paragraph 31 that you were not involved in that review yourself? 16 17 Α. That's right. 18 19 And so you have told us now that you think you learnt Q. of it during this phone call from Chris Olen a couple of 20 21 months later? 22 Α. Yes, that's my recollection of it. 23 24 Q. Now, the assessment having been that the case Okay. 25 solvability was zero, presumably that meant that the decision of the UHT was not to investigate the matter 26 27 further; is that right? That's right. 28 Α. 29 I wonder if you could be shown volume 14. Do you see 30 Q. 31 that's an email chain --32 Α. At what tab, sir? 33 34 Q. I beg your pardon. Tab 312 [NPL.3000.0014\_0001]? 35 Α. Yes. 36 37 Now, the email chain starts on the bottom of the Q. second page with one from Christopher Olen to a Mr Cotter, 38 39 which is cc-ed to you and to Pamela Young; do you see that? That's right, yes. 40 Α. 41 42 Q. On 7 February 2013? 43 Α. Yes. 44 45 Q. What Mr Olen is recording and talking about - and I won't read it all out but you take what time you need to 46 47 read this again - is the open finding of Coroner Forbes?

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Α. Yes. 1 2 3 Q. The recommendation that that case go back to "Cold Cases"? 4 5 Α. Yes. 6 7 The family's dismay that John's unit had rated the Q. 8 solvability as zero and declined to investigate - do you 9 see that? 10 Α. Mmm-hmm, ves. 11 John is John Lehmann, I take it? 12 Q. 13 Α. John Lehmann, yes. 14 Then he goes on - that is, Mr Olen goes on - about 15 Q. various matters to do with what the family were doing. 16 17 Α. Yes. 18 19 Q. At the bottom of the page he says: 20 21 John Lehmann has participated in an ABC 22 Australian Story to air this Monday night, 23 11 February ... 24 25 Α. Yes. 26 27 Q. He anticipates - next page - that --28 29 ... the story will be critical of the original investigation ... and also 30 31 potentially be critical of John Lehmann and 32 [the] UHT ... 33 34 Α. Yes. 35 And without reading the rest of it in full, he says in Q. 36 the second-last paragraph that you had rung him the 37 previous night about a possible meeting that might be 38 39 arranged the next week with Mr Glick, who was a person assisting the Johnson family, you would recall? 40 41 Α. Yes. 42 43 And then the response to that email from Pamela Young Q. 44 starts at the foot of the first page of this chain - do you 45 see that? Yes, I do, "Morning all"? Yes. 46 Α. 47

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Q. Sorrv? 1 2 It begins "Morning all"? Α. 3 4 Q. It begins "Morning all", yes. And she says: 5 6 7 As I am the one who will actually be 8 dealing with the investigation and family 9 from here in I want to put on the record 10 that the decision not to proceed with 11 further active investigation was based on two reviews conducted by the likes of ... 12 13 14 various people - I assume they are all from the UHT, are they, those three? 15 16 They were people that had worked at the Homicide Squad Α. 17 over the years previously. 18 19 Q. And she says: 20 ... in addition to John Lehmann. 21 22 23 So John Lehmann was involved --24 Α. Yeah. 25 In the review apparently leading to a decision not to 26 Q. 27 have any further investigation; correct? Yes, in light of - I'm assuming in light of that case 28 Α. 29 screening report, yes. 30 31 Q. Now, the response from Chris Olen is what I wanted to 32 ask you about. You are cc-ed on all these emails. That's correct. I was on annual leave at the time, 33 Α. yep, but I do recall. 34 35 Well, what Chris Olen says, after telling Pamela Young Q. 36 that he sensed her frustration and anger, is, in 37 38 particular, in the third paragraph: 39 What are you going to say to the Minister 40 and the family next week after John Lehmann 41 in his soon to be broadcast National and 42 43 (International USA) interview, in which he 44 has indicated 'the case is open and a team 45 is working on it'? 46 47 Do you see that?

Α. Yes, I do. 1 2 3 What are we to take from that? Does that mean that Q. 4 although a decision had actually been made to investigate 5 no further, John Lehmann had said publicly that the case 6 was open and a team was working on it? 7 Α. I take it that that's what he said in that interview. 8 I don't recall it at all. 9 10 Q. So if he did say that in his interview, he wasn't telling the truth, was he? 11 Well, it was up to John - John Lehmann had the 12 Α. 13 authority to open an investigation and do it and conduct 14 inquiries, as the investigation coordinator. I can't 15 recall that occurring, but - and I can't recall him saying that in the interview. I can't recall the interview, to be 16 17 honest. I never saw it. 18 The question is really a simple one. You have agreed, 19 Q. 20 before I put this email to you, that indeed the decision 21 had been made not to investigate further because the 22 solvability was zero? 23 Α. That's right, yes. 24 25 And Pamela Young says, "Well, indeed, there was such Q. a decision not to proceed further, and that was based on, 26 27 among others, John Lehmann"? That's what she says, but I don't know whether that's 28 Α. 29 right or not. 30 31 Q. I thought you agreed a minute ago that John Lehmann 32 was involved in the review that arrived at the "solvability zero"? 33 34 Α. He was the investigation coordinator so he would be well aware of it. 35 36 37 Q. No, involved in the review, I think you agreed? 38 Α. No, the review was conducted by Detective Senior 39 Constable Alicia Taylor, and as --40 41 Q. Quite. And what I put to you was the correctness or 42 otherwise of what Pamela Young said, and you said it was 43 correct --44 Α. Yes. 45 -- namely, that the decision not to proceed with 46 Q. 47 further active investigation was based on two reviews

conducted by the likes of - and I will read the names out 1 2 now - Mick Ashwood, Gary Jubelin and Glen Richardson, in 3 addition to John Lehmann? 4 Α. Yes. 5 6 Q. And I asked you if that was right and you said "Yes". 7 Α. As - you asked me whether or not that's what was in 8 the email. 9 10 Q. No, I didn't ask you that. Well, I've misinterpreted your question, Mr Gray, but 11 Α. that's what's in the email. 12 13 14 Q. So are you saying you don't know whether that is right 15 or not? That those - that there was a review conducted by 16 Α. 17 those people. 18 Q. Yes. 19 I don't know. 20 Α. 21 22 THE COMMISSIONER: Q. Is that because you were on leave 23 again or what --24 No, because that was before I joined the Homicide Α. 25 Squad, if that occurred, if that review was done. I'm certainly aware of the --26 27 MR GRAY: Mr Willing, it was not before you joined 28 Q. 29 the Homicide Squad at all. What, that Mick Ashwood, Gary Jubelin and Glen 30 Α. 31 Richardson had conducted a review? Mick Ashwood was out of 32 the Police Force I think at the time of this email, SO --33 34 Q. Mr Willing, the case came to Unsolved Homicide after June 2012. 35 That's right. Α. 36 37 That's the only time when any investigation - sorry, 38 Q. 39 any review occurred by the UHT? That's my understanding. 40 Α. 41 You were Commander Homicide? 42 Q. 43 Α. That's right. 44 John Lehmann was one of the two heads - I know that's 45 Q. not guite the term --46 Correct, yes. 47 Α.

1 2 Q. -- of UHT? 3 Α. Yes, yes. 4 5 Q. I will put it to you now: do you accept that the decision, which you agree was made, not to investigate 6 7 Scott Johnson's case further because the solvability was 8 zero, was a decision participated in by John Lehmann? 9 It was a decision that he would have taken as the Α. 10 investigation coordinator of the Unsolved Homicide Team after reviewing the case screening record which was 11 completed by Detective Senior Constable Alicia Taylor. 12 13 14 Q. Okay, and the decision was no investigation because 15 zero solvability? Correct. 16 Α. 17 18 But it seems, according to Chris Olen, that what Q. 19 Mr Lehmann said in an interview was that the case was open 20 and his team was working on it; correct? 21 Α. That's - yes, that's what he says in the email. 22 23 Q. And my question is, if he did say that, that was 24 false, wasn't it? 25 Α. That's correct. 26 27 MR GRAY: Thank you. 28 29 THE COMMISSIONER: Is that a convenient point? 30 31 MR GRAY: It is, your Honour. 32 THE COMMISSIONER: 33 I will take a short break now, 34 thank you. 35 SHORT ADJOURNMENT 36 37 38 THE COMMISSIONER: Thank you, Mr Gray. 39 Mr Willing, the folder I think, volume 14, can 40 MR GRAY: come back for the moment. 41 42 43 THE WITNESS: No problem, thank you. 44 45 MR GRAY: Could I just take you now to the phone call Q. with Detective Olen that you talk about in paragraph 34 and 46 47 following in your statement.

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Α. Yes. 1 2 3 So he tells you, among other things, that there is Q. 4 going to be an episode of Australian Story shortly about 5 the Johnson case? 6 Yes. Α. 7 8 Q. And in 35 he expresses concern about how the Homicide 9 Squad might be depicted? 10 Α. Yes. 11 And so he suggests - this is at the top of your 12 Q. page 8 - that perhaps two investigators from the UHT should 13 be allocated to the matter to review the issues raised by 14 the Johnson family? 15 Yes. 16 Α. 17 18 Q. So this is in the light of the upcoming Australian Story program? 19 Α. Yes. 20 21 22 Then in paragraph 36, there is reference to a media Q. 23 event with the Johnson family on 11 February, and later 24 that night, 11 February, the Australian Story episode goes 25 to air? Yes. 26 Α. 27 Now, in 37 you tell us that either that evening, 28 Q. 29 I suppose, or the next day, the 12th, someone tells you 30 that the Police Minister had contacted Steve Johnson and, 31 among other things, that the Police Minister wanted to hold 32 a meeting with the Johnson family? That - I'm not sure of the exact dates of that, 33 Α. Yes. 34 but it was around that time. It might have been a couple of days earlier but I think it was around that time. 35 36 37 It was in the knowledge, though, that the Australian Q. 38 Story either had just happened or was about to happen? 39 Α. Yeah, it was - that's right, yes. 40 41 Q. You said that you were away on leave and so Detective 42 Olen would be there in your place? 43 Α. Yes. 44 45 And then that meeting, you tell us in paragraph 38, Q. did occur? 46 47 Α. Yes.

1 2 And among those present, apart from the Police Q. 3 Minister and the Johnson family and Detective Olen, was 4 Detective Pamela Young? 5 Α. Yes. 6 7 And then in 39, you say "around that time", but I take Q. 8 it it's immediately following these events? 9 Yes, I think it was the next day, I think, Α. 10 thereabouts. 11 12 Within a day or two of the Australian Story program Q. 13 and the meeting, Strike Force Macnamir is then initiated? 14 Α. That's right, correct. 15 16 Q. Now, in paragraph 40 you say, and I want to make sure 17 I understand this, that you were aware and supportive of 18 the proposal to allocate a small number of staff to review the issues. You are there referring to Mr Olen's 19 suggestion up in paragraph 35 that two investigators be 20 21 allocated to review? 22 Α. Yes. 23 24 Then in paragraph 40 you go on to say that while you Q. 25 were aware of that, you say that as to the formal establishment of the strike force, being a different thing, 26 27 you only learnt of that when you returned from leave? Yes, that's right, the mechanics around the 28 Α. 29 establishment of it, yes. 30 31 Q. So you say you did not have any direct involvement in So who did? Who did establish it? 32 its establishment. It would be established by the Unsolved Homicide 33 Α. 34 Investigation Coordinator, which in this occasion is Pamela 35 Young, and endorsed by my - the officer relieving me, which was Chris Olen, and then established formally by the 36 37 Director of the Serious Crime Directorate at the time. It doesn't exist 38 That was the structure at the time. 39 Which would be - I can't recall, my notes from anymore. my notes suggest it was John Kerlatec, who was relieving in 40 41 that position at the time. 42 43 Q. I'm not making a criticism here, but do you have some 44 notes? 45 I've got notes as a result of preparing and reading Α. different material and those sort of things. 46 I'm auite 47 happy if you want to have a look at them.

1 2 Q. I might speak to Mr Tedeschi about that. 3 Α. Sure. 4 5 Q. We might make some arrangements. Anyway, in 6 paragraph 40 you say: 7 8 I did not have any direct involvement in 9 [the establishment of Macnamir]. 10 Α. Yes. 11 12 When you put in the word "direct" there, does that 13 Q. 14 mean you had some involvement in it? 15 Α. No. I wasn't present at the time. 16 17 THE COMMISSIONER: Q. So does that mean that a strike 18 force could be established, as it was seemingly here, 19 without your knowledge or consent? That's correct. That's --20 Α. 21 22 So your imprimatur was entirely unnecessary in terms Q. 23 of the establishment of the strike force? 24 Α. That's right, in relation to this --25 Q. And/or the allocation of resources to it? 26 27 Α. On this occasion because I was away on leave, that's 28 right. 29 When you say "on this occasion" you were away on 30 Q. 31 leave, do these people in your absence or did these people 32 in your absence have the authority to establish the strike force and allocate such resources as they thought was 33 34 necessary? 35 Α. Yes. 36 Q. 37 Okay. 38 Α. Yes. 39 MR GRAY: I wonder if Mr Willing could have volume 1, 40 Q. please. And if you could turn to tab 8? 41 Yes. 42 Α. 43 44 Q. According to the heading, these are the Terms of Reference for Strike Force Macnamir? 45 Α. Yes. 46 47

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If we look at the signature page, the third page, the 1 Q. 2 people that have signed it have signed it in the first few 3 days of April 2013? 4 Α. That's correct, yes. 5 6 Pamela Young is designated as Investigation Q. 7 Supervisor? 8 Α. Yes. 9 10 Q. And Detective Sergeant Penelope Brown is designated Officer in Charge? 11 Α. Yes. 12 13 14 Q. Now, at a later stage which we will come to, but I'm sure you would be aware, Pamela Young, for various reasons, 15 left Macnamir? 16 17 Α. Yes. 18 19 Q. And Penelope Brown stayed in Macnamir throughout? Yes. 20 Α. 21 22 And, in effect - tell me if this is right - stepped up Q. 23 to the role that Pamela Young had been in? 24 She was the officer in charge of it the entire Α. No. 25 When Pamela Young left, the position of time. investigation supervisor was taken out and there was 26 27 advice - that was with concurrence with the Coroner at the time, and assistance and support was provided by another 28 29 investigation supervisor - sorry, investigation coordinator, I should say, Detective Chief Inspector Jason 30 31 Dickinson. 32 33 All right. Thank you. Then if you turn to tab 9, Q. 34 [SCOI.82018] this is an email from the Office of the General Counsel of the NSW Police? 35 Α. Yes. 36 37 And it's informing this Special Commission of the 38 Q. 39 personnel who made up Strike Force Macnamir. Do vou see that towards the bottom of the page on the front page? 40 41 Α. Yes, they are resources that are allocated to the 42 e@gle.i database for the inquiry. 43 44 Q. All right. Well, according to this document at tab 9, 45 Detective Superintendent Jason Dickinson was the investigation supervisor, Pamela Young is said to be the 46 47 original OIC and Penelope Brown OIC, but for the reasons

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1 2	that you have just explained, it sounds like that's not exactly correct?					
3	A. No, that's not right. That's - it's a structure,					
4	a database structure, where titles are given to particular					
5	roles, et cetera. So hence you've got a lot of resources					
6	on there that may not have actively played a part, but they					
7	are available, should they be required, as well.					
8						
9	Q. Accepting what you say, but just going on what is					
10	stated in this email, among those in Strike Force Macnamir,					
11	apart from Pamela Young and Penelope Brown, one of them was					
12	Detective Chief Inspector Stewart Leggat?					
13	A. Yes.					
14						
15	Q. Another one was Detective Sergeant Steven Morgan?					
16	A. Yes.					
17	O Then Detective Contentable Devil Dulle?					
18	Q. Then Detective Senior Constable Paul Rullo? A. Yes.					
19 20	A. Yes.					
20 21	Q. And then towards the bottom, Detective Senior					
22	Constable Michael Chebl?					
23	A. Yes.					
24						
25	Q. In your statement at paragraph 57					
26	A. Yes.					
27						
28	Q you set out individuals whom you describe as being					
29	heavily involved in Macnamir and you list them; do you see					
30	that?					
31	A. Yes.					
32						
33	Q. Paragraph 58?					
34	A. Yes, that's right.					
35						
36	Q. You don't mention Detective Sergeant Morgan in that;					
37	is that because you overlooked him or because					
38	A. No, I think - so those resources can be allocated to					
39 40	an investigation at any time. That could have happened					
40 41	afterwards. From - I'm not sure whether or not Morgan, who had come from the Southern Region Unsolved Homicide Team -					
41	I'm not sure at the time when that was - that that team was					
43	amalgamated into the Homicide Squad Unsolved Homicide Team.					
44	I don't know whether he was even present at the Unsolved					
45	Homicide Team then. He may have been but he may not have					
46	been.					
47						

Those resources are a list covering virtually everyone 1 2 in the Unsolved Homicide Team from my recollection, that 3 are allocated, should they be required to conduct 4 It's not a time - it's not a point in time inquiries. 5 allocation. Those - you know, people can be added and taken off inquiries, you know, throughout the course of the 6 7 conduct of those inquiries and decisions. 8 9 Q. So without being nitpicking about it --I see. 10 Α. Yes. 11 -- in the email at tab 9 --12 Q. 13 Α. Yep. 14 15 Q. -- which says unambiguously, at the bottom of the first page, the strike force comprised the following 16 17 officers - and they're all listed --18 Α. Yes. 19 -- we should understand that as being not entirely 20 Q. accurate and that the real position is as you have just 21 22 described? So that's correct. 23 Α. Yes. So there's a - again, just 24 to try and assist the Commission, the resourcing list can 25 include anyone who may have reason to be involved in the They may not necessarily be, but if I, for 26 strike force. argument's sake, require somebody - I'm an investigator and 27 I require somebody to assist me who may not be formally 28 29 allocated, I might be able to - I might have them allocated to the system so they've got access to the records. 30 It's 31 a database. But from my recollection, those listed in paragraph 58 of my statement were those most heavily 32 involved. 33 34 35 Q. All right. And then when you mention Jason Dickinson as one of those most heavily involved or heavily 36 37 involved --38 Α. Yes. 39 Q. -- was that from the outset or from some later stage? 40 No, that was from when Pamela Young left Strike Force 41 Α. Macnamir. 42 43 44 Q. And then in paragraph 60 you list people that you would regard as not "heavily involved", but as available in 45 the way you have been describing it? 46 47 Yes, that's probably the best way of putting it, sir. Α.

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1 Meanwhile if I can contextualise this 2 Q. 3 chronologically --4 Α. Sure. 5 6 Q. -- we're talking here about February 2013, that this 7 Strike Force Macnamir --8 Α. Was commenced? 9 10 Q. Yes, commencing. Yes. 11 Α. 12 Meanwhile in October 2012, some four months or so 13 Q. earlier, not long after the second Scott Johnson inquest, 14 the UHT had conducted a review, to some extent, of the 15 three Taradale cases; correct? 16 17 Α. Correct, yes, Alicia Taylor, yes. 18 And that's the document prepared by Detective Senior 19 Q. 20 Constable Alicia Taylor --21 Α. Correct, yes. 22 23 Q. -- on 25 October 2012? 24 Α. Yes. 25 Were you aware of that exercise having been done by 26 Q. 27 Alicia Taylor at that time? Α. 28 No. 29 Q. Were you involved in it at all? 30 31 Α. No. 32 Did you see her review - the document which I will 33 Q. 34 come to in a minute - did you see her review at the time? 35 Α. No. 36 37 Q. When did you first see it? Oh, I can't recall when that was. 38 Α. 39 Q. You refer to it in your statement at paragraph 66. 40 41 Α. Yes. 42 43 Q. You say: 44 45 I am aware ... 46 47 that Alicia Taylor did this?

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Α. Yes. 1 2 3 Q. So can you help us with when you became aware of that? 4 I honestly don't know when. It would be part of -Α. 5 subsequent to the formation of Macnamir, from recollection. 6 These reviews were being conducted regularly, and 7 I wouldn't necessarily be informed of their outcome, unless 8 there was a reason for it. 9 10 Q. All right. Could Mr Willing have volume 6, please, and turn to tab 162, [NPL.0013.0001.0001]. 11 Α. Yes. 12 13 I don't want to go on through the considerable detail 14 Q. of this document but we see from the front page that - or, 15 rather. we see from I think almost the back page, the last 16 17 page, that Alicia Taylor seems to have completed this on 18 25 October 2012? Yes. 19 Α. 20 And there is a section below that that says, 21 Q. 22 "Coordinator's certification", which is blank? 23 Α. Yes. 24 25 Q. Who was the coordinator, do you know? That would have been either Detective Chief Inspector 26 Α. 27 John Lehmann or Pamela Young - probably John Lehmann. 28 29 Q. And the words that are there for that person to sign up to include: 30 31 32 I am satisfied that the reviewer has accessed available documentation and agree 33 34 with their recommendations. 35 Yes. Α. 36 37 Now, do you know whether John Lehmann ever in fact 38 Q. 39 signed this or --I don't know. 40 Α. 41 I might at least informally at this stage invite 42 MR GRAY: 43 my learned friend to get some instructions on that and if 44 there is a version of this document which is signed, then 45 it would be appreciated if it could be produced. 46 47 THE COMMISSIONER: Yes. Mr Tedeschi, can I just leave

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that to you to get instructions when you can? 1 2 3 MR TEDESCHI: Certainly. 4 5 THE COMMISSIONER: Thank you. 6 7 As I say, I don't, at least for the moment, MR GRAY: Q. 8 want to take you through all the detail of this. 9 Α. Sure. 10 Q. But it obviously is a review of the three cases, 11 Mr Warren, Mr Russell and Mr Mattaini. On page 8 and 12 following it deals with various people under the heading of 13 "Suspect/s"? 14 Yes. 15 Α. 16 17 On page 13 and following there are summaries of Q. 18 previous investigations in the cases of Warren and Russell? 19 Yes. Α. 20 21 Q. At page 18 there is a section dealing with similar 22 incidents around Marks Park between June 1989 and July 1990? 23 24 Α. Yes. 25 Then on page 19, there is a short section on the 26 Q. 27 Mattaini investigation? Α. Yes. 28 29 And you'll see that on the top of page 20, the second 30 Q. 31 paragraph: 32 33 No initial missing persons report or 34 investigation was made ... 35 At the time, that is, 1985, because of some sort of 36 miscommunication among those involved? 37 That's what it infers, yes. 38 Α. 39 And then on 3 August 2002, somebody did report it by 40 Q. way of a missing persons report? 41 Yes. 42 Α. 43 44 Q. And so the summary of the Mattaini investigation reflecting that does not have much to say about any 45 previous investigation, because there had not been really 46 47 much of an investigation done in those circumstances?

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Yes, as we discussed earlier, yes. 1 Α. 2 3 Q. Quite so. Then from page 20 onwards, there's more 4 material about suspects? 5 Α. Yes. 6 7 Q. You see that? 8 Α. Yes. 9 10 Q. And then on page 23 and following there is a long list of people under the heading "Witnesses"? 11 Α. Yes. 12 13 And that takes us all the way over to page 33, where 14 Q. 15 we get recommendations? Yes. 16 Α. 17 18 Q. And the reviewing officer, being Detective Senior Constable Taylor, expresses the view that: 19 20 21 The investigation into the death of Ross 22 Warren, John Russell and Gilles Mattaini, 23 was meticulously undertaken by an 24 experienced investigator, Detective 25 Sergeant [Steven] Page. 26 Do you see that? 27 Yes. 28 Α. 29 Q. She goes on: 30 31 32 It is apparent in the statement from the officer in charge the investigation team 33 34 was highly motivated and every effort was made to identify the person(s) responsible 35 for the homicides. 36 37 38 Α. Yes, she says that. 39 Q. 40 She says that. In relation to Mattaini she says: 41 In the absence of intelligence, witnesses 42 43 or forensic evidence there has been no 44 further investigative avenues established for Gilles Mattaini. 45 46 47 Α. Yes.

1 2 Q. In the case of two paragraphs down, she says: 3 4 At the time of the reinvestigation of the 5 homicides of Russell and Warren in 2001 --6 7 that being the Taradale work --8 Α. Yes. 9 10 Q. - -11 there were significant links between the 12 suspects and their associates who had been 13 involved in numerous assault and robbery 14 offences in Marks Park, Tamarama and in the 15 Bondi area. 16 17 18 19 Do you see that? Yes. 20 Α. 21 22 She goes on to refer to people she calls the "main Q. 23 suspects"? 24 Α. Yes. 25 Q. And then she says in bold at the bottom of that page: 26 27 It is my recommendation, due to the passage 28 29 of time, separation of alliances and social isolation of the suspects from each other 30 31 there exists an opportunity to engage the 32 persons of interest via an undercover operation in relation to the murder of 33 34 Russell and Warren. 35 Yes. Α. 36 37 That was her recommendation? 38 Q. 39 Α. Yes. 40 41 Q. And she goes on to say: 42 43 In the absence of any other forensic evidence or direct admissions from 44 45 suspects, there can be no advancement towards conviction in the matters of 46 47 Russell, Warren or Mattaini.

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4	
1	De view eee thet?
2	Do you see that?
3	A. Yes.
4	
5	Q. And then after mentioning the fact that there has been
6	no reward yet offered, she says:
7	
8	Consideration of a reward may provide
9	further avenues to generate information in
10	conjunction with an undercover operation.
11	
12	A. Yes.
13	
14	Q. Now, it seems that somebody, probably Detective
15	Lehmann, you think, would have reviewed that document?
16	A. Yes.
17	
18	THE COMMISSIONER: Mr Gray, your microphone has become
19	detached and I can't really hear you. I think you are
20	going to have it reattached.
21	going to have it i outtaoned.
22	MR GRAY: I'm going to have to seek assistance.
23	
23	THE COMMISSIONER: Yes, I know.
25	THE COMPLEX. TCS, I KNOW.
26	MR GRAY: My apologies.
27	In onvit. The approgres.
28	Q. So is this the case, that you simply don't know
29	whether John Lehmann in fact expressed agreement with these
30	recommendations or not?
31	A. I don't. I don't know.
31	A. I don t. I don t know.
33	Q. Now, the front page of this document, the cover page.
33 34	Q. Now, the front page of this document, the cover page, if I can call it that
34 35	A. Yes.
35 36	
	0 on about three or four lines down save "Date
37	Q on about three or four lines down, says, "Date
38 20	created: 15 August 2013"; do you see that?
39 40	A. Sorry, on page 1; is that right, Mr Gray?
	MP CPAY: Would your Honour just pardon ma a second?
41 42	MR GRAY: Would your Honour just pardon me a second?
42	
43	THE COMMISSIONER: Yes.
44	MD CDAV, O I will come beak to that Ma William
45	MR GRAY: Q. I will come back to that, Mr Willing.
46 47	A. Sure.
47	

Because it seems that a document that I have as part 1 Q. 2 of this annexure to your statement doesn't seem to have 3 made the tender bundle, but we will locate it and I will 4 come back to it. 5 Α. Yep, no problem. 6 7 While that's coming, I will just go back to 2013, Q. 8 where we were with Macnamir having just got under way? 9 Α. Yes. 10 Q. In March 2013, there were the articles by Paul Sheehan 11 in the Sydney Morning Herald about the gay hate murders, 12 especially in the Eastern Suburbs - you remember those? 13 I recall the other ones more prominently but yes, I -14 Α. 15 yes, that's correct. 16 17 Q. And in July 2013 there was a series of articles by 18 Rick Fenelev --Yes, I recall those. 19 Α. 20 -- along broadly similar lines? 21 Q. 22 Α. Yes. 23 24 Q. Both of those sets of articles, the Sheehan ones and 25 the Feneley ones, focused on concerns in the gay community about 80 or more gay hate murders in the '80s and '90s in 26 27 particular? Yes. Α. 28 29 And on the further concern that up to 30 of these were 30 Q. 31 or might be thought to be unsolved; correct? 32 Α. Yes. 33 34 Q. And it is fair to say that these articles caused some considerable consternation within the police? 35 Certainly, yes. Certainly around, you know, State 36 Α. 37 Crime Command, which includes Homicide. 38 39 Q. Would you agree that there was a widely held view in the police that the police needed to do something to 40 respond to this negative publicity, from the police 41 42 perspective, flowing from all these articles? 43 Look, on face value, yes, but in terms of what that Α. 44 was, you know, can take a variety of forms. 45 Sure. Well, it was at just this time, seemingly -46 Q. 47 I want to put to you when this document is produced -

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namely, in August 2013, that Mr Lehmann had before him 1 2 Alicia Taylor's October 2012 review of the Taradale cases. 3 I will just see if we're any closer to getting that. 4 Α. Sure. Do I need this volume, Mr Gray? 5 6 Q. You've got there volume 6, is it? 7 Α. I think so. Yes. 8 You will need it, because in a minute --9 Q. 10 Α. Sorry, I'm just trying to create some space for 11 mvself. 12 13 Q. Certainly. In a second we will be adding a document to it. 14 15 Α. Okay. 16 17 MR GRAY: I know this is slightly inconvenient, 18 your Honour, and suboptimal, but would your Honour mind 19 waiting for a minute or two until this document comes? 20 THE COMMISSIONER: Certainly. Do you want me to go off 21 22 the Bench? 23 24 MR GRAY: Well, if your Honour pleases --25 THE COMMISSIONER: Find out whether it is forthcoming - is 26 there anything else you can ask the witness in the 27 meantime? 28 29 Well, it's just another topic then looms, and 30 MR GRAY: I'd like to clear this up before I move on. 31 32 THE COMMISSIONER: No, that's all right. If it's only 33 34 going to be a minute or two. 35 MR GRAY: I hope it's only going to be a minute or two. 36 37 38 THE COMMISSIONER: Mr Tedeschi, no particular pressure, 39 but I'd like to get the orders made at some point. If they could be looked at perhaps during the afternoon so that 40 either late today or perhaps in the morning I can organise 41 the orders in relation to those. 42 43 44 MR TEDESCHI: Yes. 45 THE COMMISSIONER: Then if any outstanding matters need to 46 47 be dealt with, they can be dealt with then.

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1 2 MR TEDESCHI: Certainly by tomorrow. 3 4 THE COMMISSIONER: All right, thank you. I will just go 5 off the Bench for a few minutes until that is organised, 6 thank you. 7 SHORT ADJOURNMENT 8 9 10 MR GRAY: Thank you, Commissioner. The document has been Could I ask Mr Willing to have a look at it and 11 found. could I hand it up to your Honour. 12 13 THE COMMISSIONER: 14 Certainly. 15 If it is convenient, Commissioner, could it be 16 MR GRAY: 17 added as the first page of tab 162 of volume 6. 18 19 THE COMMISSIONER: Certainly. 20 MR GRAY: Now, you've got that in front of you now, 21 Q. 22 Mr Willing? 23 Α. Yes. 24 25 What I wanted to ask you briefly is this: Q. about three or four lines down, it says, "Date created: 15 August 26 2013"? 27 Yes. 28 Α. 29 It says, "Created by Detective Chief Inspector John 30 Q. Lehmann"? 31 32 Α. Yes. 33 34 Q. And "Reviewed by Detective Sergeant Connie Tse"? 35 Α. Yep. 36 37 Q. What does that tell us as you understand it? This is an e@gle.i product record. That tells me that 38 Α. 39 this note or this product record, which is a part of the e@gle.i database system, investigation database system, was 40 created by John Lehmann on that date, 15 August 2013, and 41 reviewed, which means accepted on the system, by Connie 42 43 Tse, who was part of the review team of Unsolved Homicide. 44 Now, can we deduce from that that John Lehmann then 45 Q. has, as coordinator --46 47 Α. Yes.

1 2 -- on the last page, agreed with the recommendations Q. 3 of --What you can deduce from that is that John has 4 Α. No. 5 created the administrative record, which - the review is 6 attached to it. So whether he's signed it or not I don't 7 I'm assuming he did, to assist the Commission, but know. 8 I don't know, until you actually see who signed that 9 record, but - yeah. 10 At any rate, he, John Lehmann, seems to have done 11 Q. something, possibly to read the review and agree with it or 12 possibly not, on 15 August? 13 14 Α. Well, he's entered the - he has administratively 15 entered that document on to the database, which you'll see there the investigation says "Palace." 16 17 18 Q. Yes. 19 Α. Palace was the overarching record system that we used for Unsolved Homicide reviews, the database, basically. 20 21 22 Q. Second question about this cover page, All right. 23 just below halfway there is - see item 102, on the 24 left-hand side, just below halfway? 25 Α. Yes. 26 27 Q. And it says the titles is: 28 29 Review murders of Ross Warren and John Russell (1989). 30 31 32 Α. Yes. 33 34 Q. It doesn't mention Mattaini but it does mention Warren and Russell? 35 Yes. Α. 36 37 38 Q. It says that the date created was 29 June 2011; 39 allocated to Detective Sergeant Peter Costello; due date 31 August 2011; status "Completed". Does that tell us that 40 in 2011, Detective Sergeant Peter Costello had conducted 41 some sort of review? 42 43 So what that suggests, you will see the line Α. No. 44 above it, "Tasks using this item as Background Information"? 45 46 47 Q. Yes.

So that suggests to me that a task had been created, 1 Α. 2 a job, given to Peter Costello, who was part of the review 3 team of Unsolved Homicide, from recollection, to conduct 4 the case screening review at some point in time, the task 5 being created for him to do that in 2011, on 29 June, with a date that it was expected to be done by 31 August of that 6 7 That didn't happen, obviously, it was done by Alicia vear. 8 Taylor later on. 9 10 Q. Oh. I see. Α. 11 Yes. 12 So it's the precursor to the thing that Alicia Taylor 13 Q. did? 14 15 Α. Correct. And the number 102 would be, from my recollection, a sequence of reviews that had to occur or 16 17 had occurred, and they were up to 102 at that point in 18 time. 19 Q. I see. 20 So you would infer that probably Detective 21 Α. Yep. 22 Sergeant Costello, sooner or later, asked Alicia Taylor to 23 do this? 24 Α. I would assume so, yes. 25 That has been added to tab 162. I'll move on. 26 Q. That 27 folder - that has been done. So, where I was getting to, before that little hiatus, was that whatever John Lehmann 28 29 did on 15 August 2013 was a month or so after all these articles by Rick Feneley? 30 Yes. 31 Α. Yes. 32 And something else that happened in about the same 33 Q. 34 time, around August/October 2013, which you may or may not know about and you can tell us, is that Sergeant Steer, of 35 the Bias Crimes Unit, initiated something called Operation 36 37 Parrabell? 38 Α. Yes, yes. 39 Not to be confused with the later Strike Force 40 Q. Parrabell, and Mr Steer's or Sergeant Steer's idea 41 in August/October 2013 was that he would review the 80-odd 42 Are you aware of that? 43 cases. 44 Α. I am from reading the material provided to me to 45 prepare for this. 46 47 Q. But otherwise you hadn't known that?

1	A. No. No.						
2							
3	Q. All right. Now, the Special Commission has heard						
4	evidence that Sergeant Steer and the Bias Crimes Unit						
5	turned out to be not in a position to proceed with that						
6	project due to lack of resources for that unit?						
7	A. Yes.						
8							
9	Q. But a couple of years later, in 2015, renamed Strike						
10	Force Parrabell, such a review process did unfold, as you						
11	know?						
12	A. Yes.						
13							
14	Q. I'll come to that. But back in 2013, and only a month						
15	or so after 15 August when Mr Lehmann at least						
16	administratively did something with Alicia Taylor's						
17	report						
18	A. Yes.						
19							
20	Q Mr Lehmann, Detective Chief Inspector Lehmann,						
21	produced a document called an "Issues Paper", in which he						
22	summarised the 30 cases which were being suggested to be						
23	gay hate and unsolved. Do you remember that?						
24	A. So what date was that, Mr Gray, that he produced it?						
25							
26	Q. 25 September 2013.						
27	A. Oh, September, it's not August. Sorry, I thought you						
28	said August. September, yes, that's right.						
29							
30	Q. If I did say August, let me correct myself. August						
31	was the date when he did something administratively with						
32	this Alicia Taylor review.						
33	A. Correct, yes.						
34							
35	Q. And about a month after that, namely, on 25 September,						
36	he produced his issues paper?						
37	A. Yes.						
38							
39	Q. Which I take it you are familiar with?						
40	A. I am.						
41							
42	Q. And could Mr Willing have tab 2, please. Sorry,						
43	volume 2.						
44							
45	THE COMMISSIONER: Did you say volume 2?						
46							
47	MR GRAY: Volume 2.						

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1 2 If we turn to tab 47 [SCOI.74096], that's the issue Q. 3 paper that Mr Lehmann produced? 4 Α. Yes. 5 6 Q. You have given some evidence about this in your 7 statement? 8 Α. Yes. 9 10 Q. Which basically speaks for itself, which I will come to in part, from about paragraph 18 through to paragraph 29 11 or so. 12 13 Α. Yes. 14 15 Q. Now, can we just have a look at some of what you say there in those paragraphs. In 19 - no, I don't need to ask 16 17 you about 19. In 21 you say you became aware of the Rick 18 Feneley articles? 19 Oh, yes, sorry, in paragraph 21, yes. Α. 20 21 Q. Paragraph 21, yes. In 23 you say that the decision to 22 conduct an assessment of the 30 unsolved matters in Sue 23 Thompson's list was made by Mr Lehmann and Ms Young 24 unilaterally --25 Α. Yes. 26 27 Q. ie, without reference to you, I take it? - -Yeah, that's right. 28 Α. 29 30 You say you weren't involved in that decision, but Q. 31 once you became aware that they had taken it, you were supportive of that assessment being conducted? 32 Α. Yes. 33 34 35 Q. How soon afterwards did you become aware that they were doing that? 36 I can't recall how --37 Α. 38 39 Soon, though, or long afterwards? Q. Yeah, soon after - soon after they decided to --40 Α. 41 42 Q. Then at paragraph 26 - I just wanted to make sure I'm 43 understanding what you're saying there - you say, among 44 other things, that you were concerned that there might be as many as 30, but that possibility troubled you? 45 Α. Yes. Yes, it did. 46 47

1 2 3	Q. Then you say - and I'm looking about six lines down paragraph 26:
3 4 5 6 7 8 9 10 11	If, for example, the review revealed a previously unknown pattern of gay-hate homicides, potentially involving overlapping perpetrators who remained at large, it may well have been appropriate for particular matters to be afforded a higher level of priority or resources
12 13	A. Yes.
14 15 16 17	Q. But such a pattern was not unknown at all at that point, was it? Such a pattern was all too well known? A. By which you're referring to what, Mr Gray?
18 19 20 21 22 23	Q. The pattern of gay hate homicides, using your words, potentially involving overlapping perpetrators who remained at large. Isn't that the very thing that Coroner Milledge had dealt with in the Taradale inquest? A. That was specific to three deaths?
24 25 26 27 28	Q. Yes. A. One of which she couldn't determine whether it was a homicide, Mattaini, but this is in the context of 30 alleged unsolved gay hate homicides.
29 30 31	Q. Sure. A. Outside of that context.
32 33 34 35	Q. True. A. Obviously it included it, but that was what I was - that's what I'm referring to.
36 37 38 39 40 41	Q. Were you aware at the time of the statements that had been made way back in 1990 and 1991 by Sergeant Ingleby and Sergeant McCann about these patterns of overlapping perpetrators? A. No, not - not from recollection.
41 42 43 44 45 46 47	<ul> <li>Q. Are you aware of those now? Have you seen either Sergeant Ingleby's statement from 1990 or the two McCann statements of 1991?</li> <li>A. No, not from recollection. I've been given thousands of documents. I'm not sure whether or not I looked at them or not. I don't think so.</li> </ul>

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1 2 Would it come as a surprise to you to learn today, Q. 3 then, would it, that as early as 1991, Sergeant McCann, and 4 to a lesser extent Sergeant Ingleby, were laying out in 5 some considerable detail, the existence of a pattern of gay hate homicides, potentially involving overlapping 6 7 perpetrators, way beyond just the three Bondi ones? 8 I take that as given - as granted, if that's what you Α. 9 are asserting. 10 No, my question is would that come as a surprise to 11 Q. 12 you that that had been spelt out as long ago as 1990 and 13 1991? 14 Α. That's a difficult question to answer Mr Gray, because 15 I don't know the context behind it, I don't know the evidence behind it, I don't know those analysis. 16 17 18 No, just those statements: would it come as Q. 19 a surprise to you that in statements by those two men, 20 that's what they had done? Gee, that's difficult. I could say no, it's not 21 Α. 22 a surprise, but I don't understand what - you know, what 23 was behind the reasoning. So if they've come to that 24 conclusion, they've come to that conclusion. 25 THE COMMISSIONER: Q. Can I just ask a question? 26 27 Α. Yes. Commissioner. 28 29 What did you mean, or what do you mean in Q. paragraph 26, about an "unknown pattern of gay hate 30 31 homicides"? What precisely were you thinking of, that, 32 what, all 30 cases need to be connected, or that there 33 needed to be perpetrators who might be responsible for 34 five, ten, two, three? All of them. 35 Α. 36 37 Q. Twenty-nine. All of the above, Commissioner. 38 Α. 39 So - well, you've been asked questions about the 40 Q. 41 possibility of the Bondi murders being part of a pattern. 42 That didn't occur to you at the time? 43 Α. No. 44 45 So unless there was a pattern detected, which Q. previously was unknown, these cases, in your view, should 46 47 not have been given any particular priority over the other

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700 in the Unsolved Homicide list; is that right? 1 2 I think that's - I don't particularly exactly agree Α. 3 with that, Commissioner. 4 5 Q. Well, I'm asking you what you mean when you say: 6 7 Considered it important that cases be 8 investigated properly (alongside the other 9 unsolved 700 at the time). 10 11 So am I interpreting what you are saying there, that unless some unique feature were to emerge in relation to the 12 alleged gay hate homicides, they simply would be put back 13 14 in with the other 700? 15 Α. That's correct unless there was something which caused a need immediately to prevent something which was, you 16 17 know, another homicide occurring, if there was an active 18 group doing it and committing murders that we knew of at 19 the time. So it's a difficult question to answer given the other cases that were currently on the database at the time 20 as well. 21 22 23 Q. But most of the other cases, correct me if I'm wrong, 24 or many of the other cases, would not have been subjected 25 to the coronial inquiries that we've been dealing with here, though, surely? 26 27 Many, many were - sorry, subjected to coronial Α. 28 inquiries. 29 THE COMMISSIONER: All right. 30 31 32 MR GRAY: Q. Now, in paragraph 29 you say that - and you've explained this this morning - Detective Young was 33 34 the investigation supervisor for Macnamir by this time, 35 ves. 36 37 Q. And she was also conducting this assessment of the 30 cases with Detective Lehmann --38 39 Α. Yes. 40 Q. -- at the same time? 41 42 Α. Yes. 43 44 Q. You say: 45 I cannot recall being directly involved in 46 47 the communications and/or cooperation

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between others in ... Macnamir and those 1 2 conducting the assessment ... 3 4 ie, Lehmann and Young; is that right? 5 Α. Yes. 6 7 Q. You say: 8 9 however I would expect that there would 10 have been general communication among those involved in ... Macnamir, other members of 11 the UHT and those conducting the 12 13 assessment --14 ie, Young and Lehmann? 15 Yes. 16 Α. 17 18 Q. about these matters. So do you mean by that, among 19 other things, that you expect that the UHT generally, or many people or some people in it, would have been talking 20 to Young and Lehmann about this review of the 30? 21 22 I expected that it would be a topic of conversation Α. 23 amongst a small team, and that those who were inside the 24 Unsolved Homicide Team would have knowledge of it going on. 25 Well, I've asked you this previously, and I will just 26 Q. 27 ask you again in this context: in the Macnamir framework --28 29 Α. Yes. 30 -- Pamela Young's preferred hypothesis was suicide, 31 Q. wasn't it? 32 I think I've answered that. I think she lays out the 33 Α. 34 evidence for the Coroner for all three hypotheses. 35 THE COMMISSIONER: Q. So is it your understanding she 36 had no preferred case theory? 37 38 She thought - no, that's correct. She thought it was Α. 39 undetermined, was - she could not determine. 40 Q. 41 Okay, right. Yes. 42 Α. 43 44 Q. And as far as you perceived her position, she was entirely open minded about any one or more of the two or 45 three case theories? Totally open minded? 46 47 From my observations of her, yes. Α.

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1 2 MR GRAY: Just looking at the assessment of the 30, Q. 3 tab 47 [SCOI.74906.0001] - do you have that? 4 Sorry? Α. 5 6 Q. Tab 47 of volume 2? 7 Α. Yes. 8 9 Mr Lehmann has - it is under his name but you have Q. 10 explained that it's actually the two of them that have done this? 11 Α. Yes. 12 13 14 Q. So they start off identifying the background as being the Feneley articles --15 Yes. 16 Α. 17 18 Q. -- which in turn had been based in part upon information from Sue Thompson? 19 Yes. 20 Α. 21 22 And they say that they obtained from Sue Thompson her Q. 23 list of 80-odd cases? 24 Α. Yes, I think John contacted her. 25 And then they go on to set our their views about the 26 Q. 27 30 that are said to be unsolved? Α. Yes. 28 29 And with several of them - if you see number 3, David 30 Q. Williams; number 7, Peter Sheil, number 10, William Rudney, 31 so called, and number 14, Russell Payne - they weren't able 32 33 to locate any records? 34 Α. That's correct. In the case of Scott Johnson, number 35 12, they say: 36 37 There is no indication --38 39 Last few lines. I will go back a step, last few lines: 40 41 Strike Force Macnamir is nearing finality 42 and a comprehensive report will be 43 submitted by [DCI] Young when it is 44 completed however, at this late stage of the investigation there is no indication 45 that the deceased was subjected to "gay 46 47 hate" motivated violence causing his death

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1	or in any case, that he was murdered.
2 3	A. Yes.
4	
5	Q. Do you still say that Detective Chief Inspector Young
6	had a purely neutral approach to which of the three
7	possibilities there were?
8	A. I do say that. I do say that. And she articulates
9	that in her statement, as far as I can see.
10	
11	Q. We'll have a little bit of a look at that later.
12	
13	THE COMMISSIONER: Q. So notwithstanding this document,
14	your view was that, at the date of it, Ms Young was still
15	entertaining murder as a possible scenario?
16	A. Yes.
17	
18	MR GRAY: Q. Now, when we get to the summary, on the
19	second-last page of this document, they say - the two
20	authors, as we know them to be - that 27 cases were
21	reviewed. It's actually 26, I think, because four cases
22	they said they could find no records; is that right?
23	A. Yes, that's right.
24	
25	Q. And indeed the fourth bullet point tells us that four
26	cases could not be found.
27	A. Yes, that's right.
28	
29	Q. And the authors say:
30	
31	This would suggest
32	the fact that they anyldred find the records
33	the fact that they couldn't find the records
34 35	that these acces were probably not
35 36	that those cases were probably not homicides or suspicious deaths.
30 37	nomiterues of suspicious deaths.
38	A. Yes, they say that, yes.
39	A. Tes, they say that, yes.
40	Q. Do you think that stands up as a matter of logic?
40 41	A. Probably not, given that they
42	At those by not, given that they
43	Q. Not remotely, does it?
44	A. Well - no.
45	
46	Q. No. But would it suggest to you that the authors were
47	keen to play down the likelihood of homicide in relation to

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these 30? 1 2 Well, I - "play down" is a strong term. Α. I would 3 suggest they have made that assumption on the fact that 4 there were no records that they could find - I believe that 5 there were records subsequently found. 6 7 Yes, records have been found subsequently but my Q. 8 question is - mainly by this Commission --9 I think you're inferring - the term "play down" is Α. 10 something I don't agree with. 11 12 Q. They've put forward a frankly ludicrous theory that 13 their failure to find records meant that they probably weren't homicides, haven't they? 14 15 Α. Yes, they have. 16 17 Q. And what would be the point of doing that unless they 18 were trying to play down the number of homicides? Well, the fact that there were no records available, 19 Α. a possible explanation would be that they weren't 20 21 homicides, because generally, homicides have got, you know, 22 large briefs of evidence that are attached to them, you 23 know, they go to the Coroner or the Supreme Court. 24 25 Q. The more --Α. It would be easily found, I guess. 26 27 The more straightforward and obvious possibility is 28 Q. 29 that they just hadn't managed to find the records, wasn't it? 30 31 Α. They hadn't - that's right, they hadn't found the 32 records. 33 34 Q. At any rate, on page 9, the last of the bullet points 35 at the top of the page, the authors say: 36 37 Only 8 cases from the 30 were probable or possible "gay hate" motivated murders ... 38 39 Α. Yes. 40 41 And one of those is not Scott Johnson; correct? 42 Q. 43 Α. That's - that's correct, I think, from recollection. 44 45 They are saying Scott Johnson is not probable or even Q. possible as a gay hate motivated murder, aren't they? 46 47 They are saying that there is no evidence at that Α.

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point in time --1 2 3 Q. No, they are saying 8 cases were probable or possible 4 gay hate motivated murders, and one of those eight is not 5 Scott Johnson? 6 That's correct. Α. 7 8 And they say that the eight "are on file at the Q. 9 Unsolved Homicide Team with consideration for future 10 investigation"? Yes. 11 Α. 12 Now, as at September 2013, was that true in respect of 13 Q. 14 those eight? 15 Α. If you are - I need to have a look at what eight they were, but I'm taking what you're saying on face value as 16 17 true. 18 19 Well, I can take you to the eight if need be. Q. Three of them are the three Bondi ones but I can show you the 20 other five. 21 22 Α. Yes. 23 24 But what does the expression "with consideration for Q. 25 further investigation" mean? That they would be - they're sitting there on the 26 Α. database, which was the Unsolved Homicide database, so 27 which lists, you know, those 700-odd cases, and then those 28 29 cases are subject to review and then decisions are made whether to investigate them or reinvestigate, I should say, 30 31 those matters, based on reviews and those circumstances. 32 33 So it means really that they are simply sitting in the Q. 34 files or the database of the Unsolved Homicides along with the other 700? 35 That's right. Α. 36 37 And sooner or later, when the ball ticks around, the 38 Q. 39 number will come up and that case will come up on to someone's desk? 40 41 Α. It would be reviewed, yes. 42 43 So that's what's meant by "consideration for future Q. 44 investigation"? 45 That's what I take it to mean, yes. Α. 46 47 Q. Now, if we turn to the next tab, 48,

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[NPL.0113.0001.0156], there is an issues paper by yourself. 1 2 Yes. Α. 3 4 Q. Of 10 January 2014? 5 Α. Yes. 6 7 Q. And it attaches the one we've just been looking at from Mr Lehmann and in fact Pamela Young, as you have 8 9 explained? 10 Α. Yes. 11 And so it seems from your handwritten note on the very 12 Q. back of the attached copy of Mr Lehmann's document that you 13 had received his document by 28 September 2013. 14 15 Α. Yes, that's correct, yes. 16 17 Q. And you say, as best I can read it: 18 19 Further discussions with the journalist --20 that's Rick Feneley, I presume? 21 22 That's right, yes. Α. 23 24 Q. - -25 should be considered at an appropriate time 26 27 (in light of the [Strike Force] Macnamir investigation) --28 29 Yes. 30 Α. 31 32 Q. - -33 34 As previously discussed between the --35 Α. Mvself. 36 37 Q. 38 - -39 Commander Homicide and --40 41 42 What's the next bit? 43 "DCoP", so Deputy Commissioner. Α. 44 45 Q. Now, looking at your issues paper, 10 January 2014 --Α. Yes. 46 47

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-- you are producing that because the Department of 1 Q. 2 Premier and Cabinet has asked for --3 Α. Advice. 4 5 Q. -- an update or some advice? 6 Α. Yes. 7 Having received a letter from Alex Greenwich MP? 8 Q. 9 Correct, ves. Α. 10 Who wants to know what's going on with the status of 11 Q. investigations into these gay hate killings? 12 13 Α. Yes. 14 15 Q. And you set those out in the three bullet points in bold? 16 17 Α. Yes. 18 19 Q. Now, in your answer to the question, "What is the current status" and "Is it the view of the police that they 20 can be characterised as gay hate crimes", your answer 21 22 begins by referring to Mr Lehmann's issue paper? 23 Α. Yes. 24 And notes that that itself followed the articles in 25 Q. the Herald, which are the Feneley articles, and then refers 26 27 to the family of Scott Johnson and --Α. Yes. 28 29 Q. -- what they were doing by way of media activity? 30 31 Α. Yes. 32 Then, after referring to the fact that this assessment 33 Q. 34 was done by both Lehmann and Young, you put the position this way, and this is for an issues paper for the 35 Department of Premier and Cabinet: 36 37 The assessment revealed that the suggestion 38 of 30 unsolved "gay hate" related murders 39 was and is gross exaggeration. 40 41 Yes. 42 Α. 43 44 Q. That's the expression that Mr Lehmann and Ms Young used, isn't it? 45 Α. Correct. 46 47

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Q. 1 And you say in your paper: 2 3 A total of only 8 cases of the 30 were 4 assessed as "probable" or "possible" 5 "gay-hate" motivated homicides ... 6 7 Α. Yes. 8 9 So it's clear, isn't it, that you are endorsing the Q. view of Mr Lehmann and Ms Young? 10 Yes. 11 Α. 12 13 Q. Namely, that to say 30 was a gross exaggeration? 14 Α. Yes. 15 Q. And that in fact, of the 30, only 8 were even possible 16 17 or probable gay hate? 18 Yes, at the time, yes. Α. 19 In the last couple of paragraphs of your issues paper, 20 Q. on the third page, under the heading "Death of Scott 21 Johnson", you say that the Unsolved Homicide Team had 22 23 established Strike Force Macnamir in February 2013 24 following intense lobbying by members of the Johnson 25 family? Α. Yes. 26 27 And was that intended to indicate that otherwise it 28 Q. 29 wouldn't have been established? 30 Α. That's correct, yes. 31 32 Q. Indeed, the decision had been made not to investigate 33 it any further at all? 34 Α. That's right, based on the case screening report. 35 Q. Then you say: 36 37 38 Following extensive investigation for 39 almost a year where Strike Force Macnamir investigators, who had been diverted from 40 other unsolved matters, have finalised 41 42 inquiries --43 with one exception --44 45 Α. Yes. 46 47 Q. Well, pausing there, why did you make the point to the

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Department of Premier and Cabinet that Macnamir 1 2 investigators had been diverted from other unsolved 3 matters? 4 Α. Because they were. 5 6 And so what, though? What is that relevant to, in Q. 7 this context? 8 Well, in the context of limited resources that are Α. 9 available to the Unsolved Homicide Team, it was a small 10 team, there were 700 cases, odd cases, I can't recall the exact number, but it was 700-odd cases that, you know, we 11 had to make decisions as to what to investigate and what 12 13 not to investigate. I thought it was a relevant issue at 14 the time, given the pressure on that team and the limited 15 resources they had. 16 17 Q. And does that mean - did you mean by that, then, that 18 if they hadn't been putting these resources into Johnson, 19 they'd have been investigating, for example, Russell and Warren and Mattaini? 20 Oh, not specifically those matters but other 21 Α. 22 homicides, when --23 24 THE COMMISSIONER: Q. Can you name any others that you 25 say were not investigated as a result of the diversion of 26 resources? 27 Α. I would have to, Commissioner, see the database at the time, but there were 700 cases. 28 29 Yes, but, look, the 700 cases were not then, nor are 30 Q. 31 they now, are they, day-to-day, subject to active 32 investigation? No, of course not. 33 Α. 34 Of course not. And the fact of the matter is, most 35 Q. often, unless there's a break through, they simply collect 36 37 dust, don't they? Α. 38 No. They're subject to a review process, or, as 39 Mr Gray says, the wheel turns around until the point where they are reviewed and if there is - again, if there are 40 41 opportunities to test forensic exhibits, if there are 42 opportunities for relationship breakdowns, advances in 43 technology, they may be subject to reinvestigation. 44 45 Q. That's assuming exhibits can be retrieved, isn't it? Α. That's right, yes. 46 47

In the rest of that last paragraph you say, 1 MR GRAY: Q. 2 as your view, that Macnamir investigators have not 3 discovered any evidence at all to confirm that Scott 4 Johnson was the victim of a homicide, let alone a gay-hate 5 murder? 6 That's right. Α. 7 8 And that was your view as well? Q. 9 Yes, at the time, yes. Α. 10 And you say, do you, that even as THE COMMISSIONER: 11 Q. at the date 10 January 2014, you still thought Ms Young's 12 view was that murder was a viable option? 13 14 Α. Yes. I do. 15 Q. Really? 16 17 Α. Yes, I do. 18 19 MR GRAY: Q. In the absence of any evidence? Because there were other inquiries that 20 Α. That's right. 21 were ongoing at the time. I was waiting for the Crime Commission to come back to me with a review of whether or 22 23 not they felt that all avenues of inquiry --24 25 THE COMMISSIONER: Q. I'm not interested in the Crime Commission --26 27 Α. Well --28 29 -- I'm interested in your understanding of Ms Young's Q. view, notwithstanding your view, seemingly quite directly 30 expressed, you nonetheless thought that, notwithstanding 31 32 your view and your appreciation of the lack of evidence, she was still harbouring open as a viable case theory 33 34 murder? 35 Α. Yes. 36 37 THE COMMISSIONER: Thank you. 38 39 MR GRAY: Q. Now, at just about this time - that is, late 2013, early 2014, Pamela Young had completed her very 40 lengthy statement for the Macnamir investigation; correct? 41 Yes. 42 Α. 43 44 Q. You have annexed it to your statement? Α. Yes. 45 46 47 Q. I want to ask you some questions about it.

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1 2	A. Yes.
2 3 4 5 6 7 8 9 10	MR GRAY: Commissioner, the statement as it was attached to Mr Willing's statement was entirely unredacted. However, it seems that there were orders made in the coronial proceedings, the effect of which was that a great deal of it was redacted and should remain so. And so a copy of the document with all those redactions is now available.
11 12 13 14	Q. Do you now already have that, Mr Willing? A. I was shown it - I read it last night but I don't have a physical copy of it.
15 16 17	Q. We can give you a copy now. A. Sure.
18 19	MR GRAY: And does the Commissioner have one?
20 21 22	THE COMMISSIONER: Does this catch you unawares, Mr Tedeschi?
23 24	MR TEDESCHI: We had a version provided to us yesterday.
25 26 27 28 29	MR GRAY: Q. Obviously with the hundreds of pages that are totally redacted, I'm not going to be asking you any questions. A. Sure.
30 31 32 33	Q. But on the front page we see that it has a date 20 November 2013? A. Yes.
33 34 35 36 37 38 39 40 41 42 43 44 45	Q. On the very front page. And on the very back page, the only thing that is not redacted are the signatures and the date of signature, which is 13 July 2014. A. Yes.
	Q. Now without going through with you laboriously which bits are redacted and which bits aren't, roughly 390 pages out of 445 are totally redacted? A. Yes.
	Q. So one can see nothing at all? A. I can see that, yes.
46 47	Q. But I want to ask you a couple of questions about two

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or three of the sections that are only partially redacted? 1 2 Sure. Α. 3 4 And the first section, if you can turn to page 240, Q. 5 which is about halfway through the 445 pages --6 Yes. Α. 7 8 Q. -- in fact, up to, I think, 1606, the entire thing has 9 been redacted with maybe one or two exceptions? 10 Α. Yes. 11 At any rate, starting at 1607, for the next 25 pages 12 Q. or so, what Pamela Young is doing largely is referring to 13 Operation Taradale and how it might relate to Macnamir? 14 Mmm-hmm. 15 Α. 16 17 Q. You would recall that - you have looked at this in the 18 last few days, I think? I looked at it last night. 19 Α. 20 Last night, yes. So, for example, at 1610 she says 21 Q. 22 "Deputy State Coroner Milledge held an inquest in 2005", and she describes the context? 23 24 Α. Yes. 25 And then 1615 and 1616, she devotes two paragraphs to 26 Q. Mr Mattaini? 27 Yes. 28 Α. 29 Q. Or his case, really, I should say? 30 31 Α. Yes. 32 And if you read through 1615, you will see that she 33 Q. 34 gives some emphasis to Mr Mattaini's mother having thought it was possible that her son had suicided? 35 Yes. Α. 36 37 And she does not mention the possibility of homicide 38 Q. 39 at all, does she? That's right. 40 Α. Yes. 41 When we get to 1619, Mr Warren, you can see the 42 Q. 43 summary there in that paragraph and the next couple of 44 paragraphs? Yes. 45 Α. 46 47 MR GRAY: My friend wants this point to be made. I'm

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happy to make it. 1 2 3 Q. What I asked you, and you agreed, about 1615 was that 4 she, Ms Young, didn't mention anything about the 5 possibility of homicide? 6 No, not in that paragraph, no. Α. 7 8 And as my friend perfectly accurately points out, in Q. 9 1616, she does, however, note what Coroner Milledge found? 10 Α. Yes. 11 Which was that there was a strong possibility of 12 Q. homicide? 13 Yes. 14 Α. 15 So I accept that. In 1619 and following, she, Pamela 16 Q. 17 Young, is dealing with Mr Warren? 18 Α. Yes. 19 And although at 1621 again she quotes from Coroner 20 Q. Milledge, she, Pamela Young, notes the suicide possibility 21 22 but makes no mention of the homicide possibility? 23 Α. Which paragraph is that, sorry, Mr Gray? 24 25 Q. 1619. 1619, yes. 26 Α. 27 She talks about him having felt a bit depressed and 28 Q. 29 could have slashed his wrists - so that's a reference to a suicide possibility? 30 31 Α. Yes, of course. 32 But there's no reference to a homicide possibility; 33 Q. 34 correct? That's correct. 35 Α. 36 And then when we get to Russell at 1622 to 1625 --37 Q. 38 Α. Sorry, can I just --39 Q. Yes. 40 41 Α. But she does say in 1621, she again quotes the 42 Coroner's findings which relate directly to homicide. 43 44 Q. Yes, I took you to that at the beginning. I've 45 already taken you to that. Α. For Warren? 46 47

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That's for Warren, yes. And in the case of Russell 1 Q. 2 she does the same thing again, at 1625, she quotes the 3 Coroner's finding? 4 Yes, that's right. Α. 5 6 But in her own narrative, 1622 to 1624, she emphasises Q. 7 the possibility of misadventure, doesn't she? 8 Α. Yes. 9 As being more likely than homicide? 10 Q. 11 12 MR TEDESCHI: I object. Reading the document, she is referring to previous investigations, not stating her own 13 14 view. 15 THE COMMISSIONER: Well, it speaks for itself, I think, in 16 17 one way or the other. 18 19 MR GRAY: Can you answer the question? Q. 20 THE COMMISSIONER: But I will allow the question. 21 22 23 THE WITNESS: Sorry, can you repeat the question? 24 MR GRAY: 25 In her three paragraphs, 1622 to Q. Yes. 1624, she refers to factors, whoever first expressed them, 26 27 that may have --Related to misadventure. 28 Α. 29 Q. -- related to misadventure? 30 31 Α. Yes. 32 But doesn't herself give any attention to the 33 Q. 34 possibility of homicide? 35 Α. No. 36 Apart from quoting Coroner Milledge? 37 Q. 38 Α. Correct. 39 Okay. Then she goes on in the next many paragraphs, 40 Q. which I won't take you to generally speaking, to reported 41 42 assaults on gay men in the area, many of them? Yes. 43 Α. Yes. 44 And then at 1671 she refers to Taradale having, as she 45 Q. puts it, reaffirmed known intelligence that in the late 46 47 '80s and early '90s groups were involved in multiple

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unidentified assault and robbery offences in and around 1 2 Bondi and the city on a broad range of victims? 3 Α. Yes. 4 5 Q. That sounds like the sort of pattern that you refer to 6 in your statement as being previously not known, doesn't 7 it? 8 No, I - that relates to assaults. There is Α. 9 a difference between an assault and a homicide, somebody 10 dving. 11 Q. I see. 12 13 Α. As referenced in the Lehmann/Young report. 14 15 Q. Very good. All right. 1678, she quotes or refers to some of the 2005 coronial findings? 16 17 Α. Yes. 18 19 About Marks Park being a known area for brutal attacks Q. on homosexual males? 20 21 Α. Yes. 22 23 Q. I just wanted to ask you about two things in this 24 paragraph, 1678. Yes. 25 Α. 26 27 Q. In the third --28 29 THE COMMISSIONER: You are fading again, Mr Gray, and it is 1 o'clock, so why don't we tog you up at 2? 30 31 32 MR GRAY: You can tog me up at 2. 33 34 THE COMMISSIONER: All right. I will adjourn until 2 35 o'clock. Thank you. 36 37 LUNCHEON ADJOURNMENT 38 39 MR GRAY: Mr Willing, do you still have Ms Young's Q. statement there? 40 I do. 41 Α. 42 43 If you have paragraph 1679, which is on page 256, Q. 44 Ms Young is there referring to the Mattaini case? Α. Yes. 45 46 47 I just want to ask you a couple of things about this Q.

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paragraph. Firstly, she says the 1989 knowledge of police 1 2 regarding Mattaini's 1985 disappearance was various things? 3 Α. Yes. 4 5 Q. Do you see that? 6 Α. Yes. 7 8 Q. But in fact in 1989, police had no knowledge of 9 Mattaini's disappearance at all, did they? 10 Α. I'm not sure. That's probably correct. 11 Well, there's an abundance of evidence in Taradale and 12 Q. here that Mattaini's disappearance did not come to the 13 attention of the police until 2002. 14 15 Α. Okay. I accept that. 16 17 Q. And so that's a mistake on the part of Pamela Young, 18 it would appear? It would appear that way, yes. 19 Α. 20 21 Q. Having made that mistake, she says that the 22 knowledge - and let's assume she's actually referring to 23 when they did have the knowledge, which is 2002 --24 Α. Yes. 25 -- was that he was a reported missing person with 26 Q. 27 positive evidence of suicidal ideation on two occasions. Do you see that? 28 29 Α. Yes. 30 So she's highlighting the suicide possibility --31 Q. 32 Α. Yes, she is. 33 34 Q. -- with Mr Mattaini? And then two sentences down she 35 says: 36 The 2005 coronial inquest was not able to 37 specify the place of his 38 39 disappearance/presumed death and did not find that it resulted from gay-hate 40 violence in Marks Park. 41 42 43 Do you see that? Α. 44 Yes. I do. 45 Now, if we go down to 1682 - and I took you to this 46 Q. 47 this morning in the Milledge findings, what Coroner

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Milledge did in the case of Mattaini, you will recall, was 1 2 to bring in an open finding? 3 Α. Yes. 4 5 Q. But to say what appears at 1682, not as a finding but 6 as a statement that the Coroner made --7 Α. Yes. 8 9 -- namely, that there was evidence which strongly Q. 10 supported the probability that Mr Mattaini, who we are talking about for the moment --11 Α. Yes. 12 13 14 Q. -- met his death at the hands of gay hate assailants. 15 Do you agree? 16 Yes. That's what she says, yes, there's a Α. 17 probability, yes. 18 19 Q. Now, when Ms Young says in the last sentence in 1679 that the Coroner did not find that Mr Mattaini's death 20 21 resulted from gay hate violence, that perhaps is 22 technically true, in that the finding is one of an open 23 finding? 24 Α. That's right. 25 But it's not exactly fulsome in giving the reader an 26 Q. 27 account of what the Coroner did, is it? Α. Well, I would suggest it is, given that she includes 28 29 the statement by the Coroner at 1682. 30 Q. 31 All right. That's your view. All right. 32 Α. Sure. 33 34 Q. You wouldn't suggest that she was highlighting in 1679 35 the suicide theory rather than the gay hate violence theory? 36 37 She certainly highlights suicide ideation in that Α. 38 paragraph, yes. If you turn over to page 364 of this 39 statement, after a lot more redactions, and starting at paragraph 2447 --40 Yes. 41 Α. 42 43 -- and I know you have told us you looked at this last Q. 44 niaht? That's correct. 45 Α. 46 47 Q. So hopefully I don't need to be very long on this, but

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you will see that she introduces the subject of the July 1 2 2013 Rick Feneley articles. 3 Α. Yes. 4 5 Q. And then at 2452 and 2453, she refers to the suggestion of the 30 unsolved cases? 6 7 Sorry, 2453? Α. 8 9 Q. Yes, and in fact starts a bit before that, but yes. 10 Α. And she - ves. 11 12 Q. And then 2453 she says: 13 14 The following is a summary of the 15 assessment done on [the 30] ... 16 17 Α. Yes. 18 19 Q. And then from 2454, and the names are redacted, she 20 starts with number 1 and it runs through the 30 --21 Α. It goes through the same as the report. 22 23 Q. It is the same 30, isn't it? 24 Α. Yes. 25 As in the Lehmann issue paper and your issue paper, or 26 Q. 27 the Lehmann issue paper which is attached to your issue 28 paper? 29 Α. Yes, correct, yes. 30 31 And then accordingly, unsurprisingly no doubt, at Q. 32 2512, she also repeats - this is on page 373 - the view 33 expressed in that issues paper --34 Α. Yes, she does. 35 -- by herself and Lehmann, namely, that of the 30, 36 Q. only eight were homicide with evidence or indication of gay 37 38 hate? 39 Α. That's correct, yes. 40 41 Q. Then if we turn over to page 431, you will see - and I interrupt myself, Commissioner, to make this next part 42 43 The paragraph numbered 2878 is a heading, which is clear. 44 "The Suicide Hypothesis". 45 THE COMMISSIONER: Yes. 46 47

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There is another heading at 2899, headed "The 1 MR GRAY: Homicide Hypothesis", and Mr Willing has before him, 2 3 I hope, an unredacted set of pages. 4 5 THE WITNESS: No, I don't. I've got the redacted set. 6 7 MR GRAY: No, but there are a few redactions of --Q. 8 Α. Oh, yes, of course. 9 10 Q. -- little bits, but largely the text is readable? 11 Α. That's right, yes. 12 But counsel for the Police has requested that 13 MR GRAY: 14 these pages, paragraphs 2878 to 2921, so about six pages, 15 or six or seven pages, at least for the moment not be shown on the screen for the live streaming audience and not for 16 17 the moment be placed on the Inquiry's website, and at least 18 for the moment, that position is accepted. But I want to ask Mr Willing some questions about the content of those 19 paragraphs nonetheless, and I will do so in a way that 20 21 accommodates --22 23 THE WITNESS: Sure. 24 25 MR GRAY: -- the concern that has been raised. 26 27 MR TEDESCHI: Commissioner, I might just indicate for your benefit that we take the same position about broadcasting 28 29 of these questions as well. You have ruled that there is a potential for trial but it is so far away that it 30 31 wouldn't potentially prejudice but we have concerns. 32 THE COMMISSIONER: 33 I know you have concerns, Mr Tedeschi, 34 but for the reasons I have stated earlier this morning I think at the moment what is extant is a complex legal 35 landscape without a jury trial imminent, and not likely to 36 be fixed in the near future, as I apprehend the position. 37 38 39 MR TEDESCHI: I would like to voice some other concerns. 40 THE COMMISSIONER: I'm sorry? 41 42 43 MR TEDESCHI: I would like to voice some other concerns, 44 Commissioner, but my concern is that by voicing these other 45 concerns I cause the problem that I wish to bring to your attention by voicing those concerns. 46 47

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1 THE COMMISSIONER: Yes.

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MR TEDESCHI: Perhaps I can tell my learned friend first what those concerns are.

6 THE COMMISSIONER: By all means. By all means.

8 Commissioner, I am sorry to make this MR GRAY: 9 suggestion, but it may be appropriate for you to rise for 10 a couple of minutes so that the concern that Mr Tedeschi has just explained to me can be explained to you privately, 11 and then it may be that I can accommodate things in a 12 13 certain way. But it would be best if you understood what 14 was happening, really, rather than be guessing at what is 15 being said to me.

THE COMMISSIONER: All right. I will go off the Bench and
that can be raised. Thank you. I will adjourn shortly.

SHORT ADJOURNMENT.

THE COMMISSIONER: Please sit down.

I should just record that as a result of a discussion which I have just had with Mr Gray SC and Mr Tedeschi KC, I will invite you, Mr Gray, to move to another topic for the short term and then we will revisit, as and when is necessary, other matters in due course. Thank you.

MR GRAY: Q. Mr Willing, two months after your issues
paper of 10 January 2014, namely, in March 2014, you wrote
to the State Coroner, Mr Barnes?
A. That's right.

Q. You deal with that in paragraph 50 of your statement
and you annex the letter?
A. Yes.

Q. Which is I think in the tender bundle at -A. I'm assuming I don't need this Mr Gray for the time
being, anyway?

43 Q. Do you have it there?

44 A. No, no. This particular bundle.

46 Q. Yes, that can go. It is I think volume 11, tab 252C 47 [SCOI.82369.0004\_0001].

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252C? Oh, yes. Yes. 1 Α. 2 3 THE COMMISSIONER: I am sorry, did you say volume 11? 4 5 MR GRAY: Yes. 6 7 THE COMMISSIONER: And the tab? 8 9 MR GRAY: 252C. 10 THE COMMISSIONER: 252C, thank you. 11 Thank you. 12 Q. In that letter after recounting various 13 MR GRAY: 14 matters of history --15 Α. Yes. 16 17 Q. -- what you say on the second page, the third-last 18 paragraph, is that: 19 I am of the view that given particular 20 circumstances surrounding this case coupled 21 22 with the interests and beliefs of the 23 Johnson family, that a further examination 24 of the circumstances surrounding the death 25 of Scott Johnson, in light of the comprehensive investigations conducted by 26 27 the Homicide Squad Unsolved Homicide Team via Strike Force Macnamir, would be in the 28 29 public interest. 30 31 Α. Yes. 32 33 Q. You conclude by saying: 34 Accordingly.... I write to formally request 35 that your office conduct a further 36 examination of the circumstances ... 37 38 39 Et cetera? Yes. 40 Α. 41 Now, in your statement at paragraph 50, you say that 42 Q. 43 the State Coroner granted your request. Do you see that? 44 Α. Yes. 45 Do you mean by that that he granted your request to 46 Q. 47 conduct a further examination?

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Not necessarily an inquest. 1 Α. That's right, yes. Не 2 could have reviewed the matter and decided one way or the 3 other what to do, but --4 5 Q. Yes. So you're not putting forward that letter as 6 a request by you for an inquest? 7 It was for him to conduct an examination of it; Α. No. 8 should he choose to conduct a further inquest, that was 9 a matter for him. 10 Because in fact, as I'm sure you recall, 11 Q. Riaht. between your letter of March 2014 and his ultimate 12 decision - his, Mr Barnes's ultimate decision - to hold 13 14 a third inquest, there were quite a number of intermediate 15 steps, weren't there? Yes, but - could you clarify what they were? 16 Α. 17 18 Yes. Well, among other things, there were written Q. 19 submissions to Mr Barnes? 20 Α. Yes, of course, yes. 21 22 Both from Counsel Assisting and from counsel for the Q. Police? 23 24 Α. Yes. 25 And from counsel for the family, as to various issues, 26 Q. 27 including whether or not a third inquest should actually be held? 28 29 Α. Yes. 30 31 Q. You agree? 32 Α. Yes. 33 34 Q. And on 13 April 2015, there was an oral argument in court before Mr Barnes on those issues? 35 I assume that would be the case. I wasn't present. Α. 36 37 38 Q. And in the submissions that were then put forward on 39 behalf of the Commissioner of Police, the position taken on behalf of the Commissioner was, firstly, that the 40 Commissioner was definitely not making an application for 41 42 a third inquest; do you agree? Yes, I haven't seen the submissions or - but I'm 43 Α. 44 taking what you're saying on face value. 45 Well, pausing there, were you not involved in the 46 Q. 47 conduct of these proceedings, including this question about

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whether or not there would be a third inquest? 1 2 I had some knowledge of it. I had some discussions Α. 3 with counsel in general terms, but that was left to Pam 4 Young and Penelope Brown. 5 6 Q. Sorry, Pam Young? 7 Α. And Penelope Brown. Penny Brown. 8 9 Q. All right. But the submission was made, I'm 10 suggesting to you, in guite unambiguous terms, that the Commissioner of Police was definitely not making an 11 application for a third inquest, and I assume you know that 12 13 to be so? I can't recall that, to be perfectly honest, but 14 Α. I accept that that's the case. 15 16 17 Q. And the submissions for the Commissioner included that 18 it was the Johnson family who were actually making the 19 application for the third inquest. Does that sound right 20 to you? 21 Α. That may have occurred down the track, yes. 22 23 Q. And that the Commissioner's position was that the 24 Commissioner would not oppose that application, but wished 25 to draw to the Coroner's attention a number of factors that might indicate that a third inquest should not be held. 26 Do 27 vou remember that? No, I don't. 28 Α. 29 And one of those factors, I suggest, that was put 30 Q. 31 forward on behalf of the Commissioner, was that having 32 a third Johnson inquest would involve a diversion of UHT resources away from other cases. 33 Do you recall? 34 Α. I don't recall any of those submissions. I wasn't 35 present. 36 37 Do you recall that a second factor that was put Q. forward on behalf of the Commissioner was that all the work 38 39 that Macnamir had done to date indicated that it was unlikely that a third inquest would reach any different 40 41 finding from the second one, ie, an open finding? 42 Α. Right. I accept that. 43 44 Q. Thank you for accepting it, but are you saying --45 Α. I wasn't present. 46 47 THE COMMISSIONER: When you say you were not present, Q.

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does that mean that you weren't privy to what Ms Young was 1 2 instructing counsel on behalf of the police to do? 3 Α. Not in relation to that. 4 5 Q. Well, when you say "not in relation to that", did you involve yourself at all in the position to be adopted 6 7 publicly by the police in relation to the application for 8 a third inquest or did you just take no interest in it at 9 a11? 10 Α. I didn't take no interest in it at all. 11 Well, then, if you didn't take any interest in it, did 12 Q. vou take an interest in it? 13 Of course I did. I wrote to the Coroner in relation 14 Α. 15 to it. 16 17 Q. Of course you did. And as a result of your position 18 at the time, are you suggesting to me that you were not, at the time, intimately aware of what Ms Young was going to 19 put to the court or instruct counsel to put to the court? 20 21 Α. Yes. 22 23 Q. Does that mean you were, at the time, you think, 24 likely intimately aware of what Ms Young was going to 25 instruct counsel publicly to put? No, I wasn't intimately aware of that. 26 Α. 27 And was it something that you had no concern about, 28 Q. 29 something that you had no interest in, something that, in respect of which your authority was not needed? 30 31 No, I had an interest in it. It would - it was Α. 32 something that would involve a range of factors and a range of views. The Commissioner of Police, General Counsel, 33 34 et cetera, were all having input into that position taken by the Commissioner, so --35 36 37 What about your position, though? Was your position Q. irrelevant in the sense that could Ms Young put to counsel 38 39 to take a particular course without consultation with you? She could. 40 Α. 41 And did she? 42 Q. 43 Not from my understanding. I don't - I can't recall. Α. 44 My position was that I thought that the Coroner should conduct a further examination of the matter. 45 46 47 Q. And did you think a third inquest was important?

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Α. Yes, I did. 1 2 3 THE COMMISSIONER: Yes, Mr Gray. 4 5 MR GRAY: Q. Did you know that these submissions were 6 being put by counsel for the Commissioner, including that 7 the Commissioner was not making an application for a third 8 inquest and that, although not opposing the Johnson 9 family's application for one, the Commissioner was 10 concerned about diversion of resources and felt that it was unlikely that any different result would be reached? 11 Did you know that that was what was being put? 12 13 Α. I can't specifically recall that. 14 15 Q. Well, when you say you can't specifically recall, what does that mean? 16 17 Α. I can't remember. I can't remember. 18 19 Q. You don't have any recollection at all? I don't recall. I don't recall. 20 Α. 21 22 At any rate, on 13 April 2015 at the Q. All right. 23 conclusion of the oral argument on that day, the decision 24 of State Coroner Barnes was in fact not to accept 25 submissions to that effect by the Commissioner as to diversion of resources or as to the unlikelihood of 26 27 a different result and, instead, to grant the application for a third inquest; correct? 28 29 Α. Correct. 30 31 Q. Now, I will just jump forward a couple of years to the 32 conclusion of the whole inquest proceedings, the third inquest proceedings, which resulted in findings being 33 34 handed down by Coroner Barnes on 30 November 2017. You follow me? 35 Yes. Α. 36 37 Now, I appreciate that by this time you had ceased to 38 Q. 39 be Commander Homicide? Correct, yes. 40 Α. 41 42 Q. I understand that. But still, I assume you maintained 43 some interest at least professionally in what was 44 happening --45 Α. Yes. 46 47 Q. -- in the third Johnson inquest?

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Α. Yes, but not intimately. 1 2 3 Q. Well, not intimately, but down the scale from 4 intimately, what level of interest? 5 Α. I had a general interest in it, but at the end of the 6 day when you leave a squad like the Homicide Squad, things 7 progress and investigations progress and the like and you 8 don't get yourself involved in them. I had a - you know, 9 a busy Counter Terrorism Command to run which took up the 10 majority of my time and interest. Of course, you know, the outcome of the inquest was of interest to me given the 11 history of the matter and the fact that I had the squad for 12 13 a long period of time. 14 Q. 15 And you had what for --Α. I had command of the Homicide Squad. 16 The squad. 17 18 Ah, the squad, thank you. Now, the final written Q. 19 submissions for the parties were delivered, it seems, in about October 2017. 20 The decision was 30 November. Were 21 you aware of what was being submitted, or the thrust of it, 22 on the part of - on behalf of the Commissioner? 23 Α. No, no, not by that point, given that I was - I had 24 gone, it would be a matter for the current Commander of 25 Homicide. 26 27 Q. So can I suggest to you that at the end of the third inquest - that is, after all the evidence had concluded -28 29 so in about October 2017, counsel for the Commissioner was still making submissions to the Coroner to the effect that 30 31 although none of the three possibilities - suicide, 32 homicide, misadventure - could be positively ruled out --Yes. 33 Α. 34 -- nevertheless, firstly, suicide was the most likely, 35 Q. and, secondly, a homicide finding was simply not open. 36 Did you know that? 37 38 Α. No. 39 Q. And counsel for the Commissioner further submitted 40 41 in October 2017 not only that an open finding should be 42 made, but that thereafter the Coroner should not make any 43 further recommendations in relation to investigating the 44 death of Scott Johnson. Did vou know that? I can't recall that at all. 45 Α. 46 47 Q. So you didn't give instructions to make such

submissions? 1 2 Not from my recollection. I wasn't part of the Α. 3 Homicide Squad, as I said. 4 5 Q. If those submissions were put - namely, the ones I've 6 iust said --7 Α. Yes. 8 9 -- would you - is that something that would surprise Q. 10 vou? 11 MR TEDESCHI: I object. 12 13 THE WITNESS: I'm sorry? 14 15 No, I allow it, Mr Tedeschi. 16 THE COMMISSIONER: I allow 17 it. 18 THE WITNESS: It's difficult to answer because I wasn't 19 privy to the last few months of the investigation that was 20 being conducted, you know, under the guise of the Coroner 21 and on behalf of the Coroner. I would have thought, on 22 23 what I knew at the time, that an open finding would be 24 appropriate. That's my view. 25 MR GRAY: 26 Q. That an open finding? 27 Α. An open finding, yes. 28 29 Q. ie, not a finding involving homicide? Or suicide, or - it would be undetermined. 30 Α. 31 Now, as we know, Coroner Barnes did not 32 Q. All right. 33 make an open finding? 34 Α. That's right, yes. 35 You've seen his written findings, I presume? Q. 36 Yes, I think it was in one of the tender bundles that 37 Α. 38 I was given. 39 I wonder if Mr Willing could have volume 10, 40 Q. Yes. please, and turn to tab 232 [SCOI.11064.00018\_0001] 41 Yes. 42 Α. 43 44 Q. I don't want to take you to all the detail of this 45 either, but just to take you to some matters that his Honour deals with at the end. Do you see 46 47 paragraph 242, page 46?

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Α. Yes, yes. 1 2 3 Q. He refers to three possibilities, which are set out in 4 that paragraph, and you're familiar with what those three 5 possibilities are? 6 Α. Yes. 7 8 Q. Then at 243 through to 247, he deals with the first of 9 those, namely, misadventure? 10 Α. Mmm-hmm. 11 And at 247 he says he thinks that's very unlikely; do 12 Q. 13 you see that? Yes. 14 Α. 15 Then at 248 through to 258, he deals with the second 16 Q. 17 possibility; do you see that? 18 Α. Yes. 19 Q. And at 258 he expresses the view that that second 20 possibility is also very unlikely. 21 22 Α. Yes. 23 24 Q. And at 259 to 270 he talks about the third 25 possibility, and at 270 he concludes that that one is very likely. I'm sorry, I withdraw that. He concludes that 26 27 it's very likely that gay hate crimes were committed at that location. 28 29 Α. Yes. 30 31 Q. And then at 275, you can read what he said 32 there - that is, one --33 Α. Is more likely than the other one. 34 -- is more likely than the other, something that he 35 Q. can readily conclude? 36 Yes. 37 Α. 38 39 At 276 he says he's persuaded to the requisite Q. standard that Scott died as a result of a gay hate attack? 40 41 Α. Yes. 42 And at 285, in the "Findings", the "Manner of death" 43 Q. 44 states: 45 Mr Johnson fell from the cliff top as 46 47 a result of actual or threatened violence

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by unidentified persons who attacked him 1 2 because they perceived him to be 3 homosexual. 4 5 Α. Yes. 6 7 Now, at 284 - I won't read it out but if you can just Q. 8 glance at that for yourself --9 Α. Yes. 10 Q. -- his Honour refers to the fact that there are 11 hundreds of other suspicious deaths awaiting investigation 12 and that there are finite resources? 13 14 Α. Yes. 15 Q. You can see that? 16 17 Α. Yes. 18 19 And he says in the last sentence that he declines to Q. make any recommendation for the further investigation, in 20 effect, leaving it up to the police? 21 22 Α. Yes, that's right. 23 24 Do you have any awareness, just before I go on to Q. 25 something more substantial, as to what the reaction of Strike Force Macnamir members was to those findings? 26 27 Α. Not specifically, but I would have thought they'd be surprised. 28 29 Q. Surprised? 30 31 Α. Yes. 32 Q. 33 Upset? 34 Α. I can't say. I don't know. I was surprised and that's why I say that. 35 36 37 If that volume could come back, and if Mr Willing Q. could briefly have volume 14, please. Could you turn to 38 39 tab 311 [NPL.0115.0002.8325\_0001]. Do you see that's an email chain, starting from Scott Cook at the bottom of the 40 41 page, asking Chris Olen: 42 43 How are the police who did the 44 investigation going? 45 46 Α. Mmm-hmm, yes. 47

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I don't want to take you to all of the response, but 1 Q. 2 do you see that Mr Olen responds that he was there in the 3 court when the findings were read out and along with Penny 4 Brown and Detective Rowena Clancy? 5 Α. Yes. 6 7 Q. And he says, Chris Olen says, among other things: 8 9 ... understandably both girls became pretty 10 upset thereafter. 11 Yes. 12 Α. 13 14 Q. Now, I appreciate you weren't there. 15 Α. Yes. 16 17 Q. And indeed were no longer Commander Homicide -18 I understand those things. But why would a finding, in your experience, of homicide upset police officers on 19 20 a strike force aimed at reinvestigating an unsolved 21 homicide? 22 That's a very difficult question for me to answer Α. 23 other than, you know, Chris Olen makes reference to the 24 fact that both girls were stunned, so I take that to mean 25 surprised, by the outcome. They might be upset, they could have been upset at that particular outcome. 26 I don't know. 27 It's a matter for, you know, for them to answer, but it may have been the fact that the whole lengthy investigation 28 29 over many years was over. But your assertion that they are perhaps upset because of a homicide finding, you know, 30 31 makes sense. 32 33 Q. Well, it looks as though they were upset that the 34 homicide finding was reached as distinct from either an 35 open finding or one of the other two possibilities, doesn't it? 36 Α. 37 That's right. That's the way it looks, yes. 38 39 On could that be because they, and Macnamir generally, Q. were so heavily invested in one of those other alternatives 40 41 that the homicide alternative was unpalatable to them? 42 Α. That could be one hypothesis, yes. However, taking 43 into account that, you know, from April 2015, the 44 investigation had been under the guise and direction of the 45 Coroner itself, I think he was responsible for, you know, the lines of inquiry that were conducted from that time 46 47 So they may have had their own personal views onwards.

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about it, but at the end of the day that was - you know, he 1 2 directed that investigation to that point. 3 4 Q. All right. I'll move on. That volume can come back, 5 volume 14. And if you still have the volume, or have it in volume 10 I think it was, the one that has Coroner Barnes' 6 7 reasons, I'm just taking you back, it's in tab 232 8 [SCOI.11064.000.00018 0001]. Just briefly back to 9 paragraph 284 of the findings on page 51. 10 Α. Yes. 11 As I put to you and you agreed, the Coroner 12 Q. essentially left it to the police to decide what further 13 investigation, if any, should happen? 14 15 Α. Yes, that's correct. 16 17 In fact, we know, don't we, even though you may or may Q. 18 not have been involved, that in 2018 a new strike force was 19 set up --That's right, yes. 20 Α. 21 22 Q. -- Strike Force Welsford --23 Α. Yes. 24 25 Q. -- to investigate the murder of Scott Johnson? 26 Α. Yes. 27 The lead investigator was Detective Chief Inspector 28 Q. 29 Peter Yeomans? Yes. 30 Α. 31 32 Q. That led in 2020 to the arrest of a suspect who was charged? 33 34 Α. Yes. 35 Q. With murder? 36 37 Α. Yes. 38 39 Q. The setting up of Welsford, of course, happened under your successor as Commander Homicide, not under you? 40 41 Α. That's correct, yes. 42 43 Q. And was that under Mr Dickinson or under --44 Α. 2018, that would have been Mr Cook? 45 Q. Cook? 46 47 Α. Yes.

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1 2 As it also happens, back in March 2017 there had also Q. 3 been a new Police Commissioner, Mr Fuller? 4 Α. That's correct. 5 6 Q. He had replaced Mr Scipione in March 2017, Mr Scipione 7 having been Commissioner since 2007? 8 Α. Yes, that's right. 9 10 Q. In setting up Strike Force Welsford and investigating the death of Scott Johnson as a murder, the police were 11 essentially following the path that flowed from the 12 findings of Coroner Barnes, weren't they? 13 Yes, however, that also involved communication between 14 Α. 15 the Johnson family and the new Commissioner as well. 16 17 THE COMMISSIONER: Q. What do you mean by that? 18 So the Johnson family spoke to the new Commissioner Α. about the ongoing investigation and asking for, from my 19 understanding, a further investigation to be conducted or 20 to continue, I should say. 21 22 23 Q. I'm not quite sure of the point you're making, though? 24 The Coroner left it to the police, and I'm - I can't 25 understand the point you are making. So - okay. So, Commissioner, that matter could have 26 Α. 27 sat back in the wheel, as Mr Gray put it, as part of Unsolved Homicide matters, for a considerable period of 28 29 time, but the family of Scott Johnson spoke to the Commissioner and it was given, I guess, an emphasis for 30 31 reinvestigation, and so Mr Yeomans was allocated, separate to the Homicide Squad, to conduct that further 32 33 investigation. 34 You are just stating that as a fact, rather than an 35 Q. implied criticism? 36 That's a fact, yes. 37 Α. 38 39 And that's all you are doing? Q. Yes. 40 Α. 41 THE COMMISSIONER: 42 Thank you. 43 Are you saying that the only reason that 44 MR GRAY: Q. Commander Cook and new Commissioner Fuller went down the 45 path of setting up Strike Force Welsford was because the 46 47 Johnson family put pressure on them?

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I think Mr Fuller gave an undertaking to the family 1 Α. 2 that they would continue the investigation. I think that's 3 what --4 5 Q. No, my question is --6 No, I'm not saying what you have asserted just there. Α. 7 8 Q. Well, what are you saying? 9 That they spoke to him. The Commissioner took a view Α. 10 that the investigation needed to continue, and that is it. 11 THE COMMISSIONER: Q. I still don't understand what it 12 is you are either putting expressly or impliedly. 13 If you are merely stating a narrative, if that's what you are 14 saying, thank you. But are you doing any more than that? 15 No. 16 Α. 17 18 Q. Are you intending to do any more than that? 19 Α. No. 20 MR TEDESCHI: Commissioner, the question previously that 21 22 was asked by Counsel Assisting was, was the decision to set 23 up the strike force, did that follow the decision of 24 Mr Barnes, the Coroner. 25 THE COMMISSIONER: 26 Yes. 27 It was did it flow out of it? THE WITNESS: 28 29 Just wait a minute. I'm sorry, THE COMMISSIONER: 30 31 Mr Tedeschi's --32 THE WITNESS: 33 Sorry. 34 THE COMMISSIONER: 35 Give Mr Tedeschi a go and then you have 36 a go. 37 38 MR TEDESCHI: My perception is that his answers are in 39 relation to that question. 40 THE WITNESS: 41 Yes. 42 43 THE COMMISSIONER: I see, thank you. Yes, Mr Gray. 44 45 MR GRAY: Well, I think the question was that in Q. setting up Strike Force Welsford and investigating the 46 47 death of Scott Johnson as a murder, the police were

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essentially following the path that flowed from the 1 2 findings of the Coroner, namely, the ones that we just 3 looked at, namely, that Scott Johnson had died as a result 4 of gay hate violence? 5 Α. Yes, yes. 6 7 That's what Welsford was set up to do, to investigate Q. 8 that line of inquiry, wasn't it? 9 That's my understanding, yes. Α. 10 And that was done under a new Homicide Commander and 11 Q. a new Police Commissioner, wasn't it? 12 13 Α. Yes. 14 15 Q. Now, would you agree, generally speaking - just generally speaking - that where a Coroner makes a finding, 16 17 the police ordinarily are subsequently bound by that 18 finding, unless somehow or other it's challenged? "Bound"? 19 Α. 20 21 Q. Well, yes, bound. See if you can answer that first and then I'll ask another question. 22 23 24 MR TEDESCHI: Is my friend asking whether they are bound 25 in terms of future investigations or - it's a bit unclear. 26 That's what I don't understand. 27 THE WITNESS: 28 29 THE COMMISSIONER: Perhaps make it a little clearer in terms of what you intend him to address. 30 31 32 MR GRAY: Certainly, Commissioner. 33 34 Q. When a Coroner makes a finding, for example, that a death is a homicide --35 Α. Yes. 36 37 -- are the police at liberty to just proceed as though 38 Q. 39 that finding hasn't been made and treat it as not a homicide? 40 Α. No. 41 42 So in that sense, at least, they're bound? 43 I don't Q. 44 mean any magic by the word "bound". Yes, I know, I know. I just - I understand what 45 Α. you're saying. 46 47

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Q. You're agreeing with me at least in general? 1 2 Yes. I do. Α. 3 4 Q. Now, in Strike Force Neiwand, which we'll come Okay. 5 to a little later, going against a Coroner's finding is 6 exactly what Neiwand did, isn't it? 7 From my reading of the documents I was provided for Α. 8 this Inquiry, yes. 9 10 Q. Well, you knew that to be happening at the time Neiwand was under way, didn't you? 11 No. I didn't. 12 Α. 13 Would it be fair to say that you indeed had in mind 14 Q. that that's what Neiwand would do? 15 16 Α. No. 17 18 Q. So if Neiwand set about trying to undermine and 19 contradict the findings of Coroner Milledge, that wasn't 20 anything to do with you? No, and I reject that. That was not the purpose of 21 Α. 22 Neiwand. 23 24 So you say two things: (a) no such thing happened -Q. 25 that is, no such attempt to contradict or undermine 26 happened? 27 Α. Purposely, no. 28 29 Q. How do you know? As in that wasn't the intent for why Neiwand was 30 Α. 31 established in the first place and what happened after --32 33 Q. On your part, do you mean? 34 Α. Sorry, that's correct, yes. 35 Q. So I will come to this shortly when we get there, are 36 you saying that, so far as your mindset was concerned --37 Yes. 38 Α. 39 -- when Neiwand was set up, it was simply to conduct Q. 40 a genuine, open-ended investigation, let the cards fall 41 42 where they may? 43 Yes, with - yeah, there were a number of persons of Α. 44 interest that had been identified, as we well know. 45 Q. Yes? 46 47 Α. As a result of not just that inquest but the Macnamir

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investigation. It was established to try and identify 1 2 a person or persons who may be responsible for those deaths and bring them to justice, is what it was established for? 3 4 5 Q. Thank you. And when you're saying that, you're saying 6 that that was the reason in your mind that it was 7 established? 8 Yes, yes, that's right. Α. 9 10 Q. We will come back to that, thank you. 11 Α. Okay. 12 13 Q. Now, meanwhile, back on 13 April 2015 --14 Α. Yes. 15 Q. -- Coroner Barnes delivers the findings, the Macnamir 16 17 people are upset, it seems. But be that as it may, that 18 very night, 13 April 2015, there was the ABC Lateline 19 broadcast? Can I just clarify something there, you said, Mr Gray? 20 Α. The findings were on 30 November 2017. You're talking 21 22 about the opening of the inquest? 23 24 Q. I certainly am, thank you very much. I accept that 25 correction. Let me go back a step. You are quite right, 13 April 2015, decision by Coroner Barnes to 26 thank you. 27 hold a third inquest? Yes. Α. 28 29 That very night, 13 April, there is the 30 Q. My apologies. Lateline broadcast? 31 32 Α. Yes. 33 34 Q. And it includes an interview with DCI Pamela Young? Yes, it did. 35 Α. 36 Recorded that very day? 37 Q. I don't know when it was recorded. 38 Α. 39 Now, you knew that Pamela Young was going to be 40 Q. Okay. interviewed for Lateline, didn't you? 41 Α. I knew that she would be - that she would have 42 No. 43 a conversation with a journalist from the ABC, and also 44 another journalist, from The Australian, prior to that, on 45 background only, and I was unaware that that would - that she would actually give a live interview or an interview, I 46 47 should say, that would be televised.

1 2 THE COMMISSIONER: Q. So do I understand it to sav that 3 she didn't tell you that she was going on air that night? 4 Α. No, no. 5 6 Q. And it came as a complete surprise to you --7 Α. I received a telephone call --8 9 Q. Well, if you wouldn't mind me just finishing the 10 question, I'm so sorry. Sorry. 11 Α. 12 It must have come as a complete shock and a surprise 13 Q. when you saw her face on the television, then, did it? 14 Yes, I received a telephone call saving that. "Pam is 15 Α. on Lateline". I turned it on and saw her there. 16 17 18 Well, to answer my question, did it come as a shock Q. 19 and a surprise --Yes, it did. 20 Α. 21 22 Q. -- to see her on the television? 23 Α. Yes, it did. 24 25 Q. (a) she never asked your permission? To go on television like that, no. 26 Α. 27 Yes, correct. And (b) therefore you had no knowledge 28 Q. 29 that she was going on television? Not like that, no. 30 Α. 31 32 Q. When you say "not like that", I'm so sorry, not at a11? 33 34 Α. No, not on - not on television at all. 35 Your belief was that she was to have Q. All right. 36 a conversation or conversations with one or perhaps more 37 38 journalists? 39 Yes, yes. Α. 40 41 Q. But you knew that much? 42 Α. Yes, I did, yes. 43 44 MR GRAY: Q. But when you say "as background" do you mean sort of off the record? 45 46 Α. Yes, yes. 47

So you say it would not be right to suggest that you 1 Q. 2 approved her going on Lateline? 3 No. Α. 4 5 THE COMMISSIONER: Q. Would it be false to suggest that? 6 Yes. Α. 7 8 MR GRAY: Q. And would it be true or false to suggest 9 that you approved her going on Lateline as part of an 10 overall police media strategy? No, not on Lateline. There was a strategy agreed to 11 Α. for her to background two journalists who had interest in 12 the Macnamir investigation, and that was it. And that was 13 agreed to by a number of people. 14 15 16 Q. And did you have discussions with her before she spoke 17 to any journalist in any setting at all, as to the sorts of 18 things she would say, if asked? 19 In general terms, yes. Α. 20 Well, I'm just going to have you shown the transcript 21 Q. 22 of the Lateline program. 23 Α. Do I need this, sir? 24 25 Q. No, you don't, thank you. That can come back. Yes, Mr Grav? 26 Α. 27 I think you told us a minute ago that, however it came 28 Q. 29 about, you in fact saw the Lateline broadcast? Yes, I did, yes. 30 Α. 31 32 THE COMMISSIONER: Q. As a result of a phone call? 33 Α. Yes, that's correct. 34 35 Q. So who rang you? I can't recall. It might have been - I can't recall Α. 36 37 who it was, Commissioner? 38 39 THE COMMISSIONER: All right. 40 MR GRAY: Q. Now, before we get to the part involving 41 Pamela Young, do you see that the first part of the program 42 43 was largely questions and answers between Emma Alberici and Steve Johnson? 44 Α. Yes. 45 46 47 Q. And top of page 2 of this transcript, Steve Johnson is

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1 quoted as saying: 2 3 We think that the police spend a lot more 4 time looking for evidence of suicide than 5 for evidence of violence. 6 7 Do you see that? 8 Α. Yes. 9 10 Q. And you knew that to be their concern? 11 Α. Yes. 12 13 Q. And you see in the passage attributed to him, a bit below halfway on the page, that Steve Johnson's position, 14 as stated, was that the family thought that Pamela Young 15 felt it was important to reaffirm the police's original 16 17 verdict? 18 I see that, yes. Α. 19 20 Q. And then Emma Alberici says: 21 22 26 years after Scott Johnson's death, 23 police remain of the view ... 24 25 et cetera; do you see that? 26 Α. Yes. 27 Now, towards the bottom of page 3 we come to the part 28 Q. 29 of the broadcast that involves Pamela Young? Α. Yes. 30 31 32 Q. And I just want to run through a couple of the things that she says on this program. The first is at the bottom 33 34 of that page, she's asked: 35 Do you accept now that the initial 36 37 investigation into the death of Scott Johnson back in 1988 was flawed? 38 39 And her answer is: 40 41 Not at all. It was to the standard of the 42 43 day. 44 45 Α. Yes. 46 47 Q. Did you agree with that?

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I don't know whether or not it was. I don't know 1 Α. 2 That was certainly a term that Pam - Pamela would enouah. 3 use, "standard of the day", I recall her saying that in 4 relation to the original investigation to me. I don't know the detail, ins and outs, of that forensic, you know, 5 6 detail of what occurred in the first investigation to make 7 an assessment of that. 8 9 Let me just ask you a couple of things about that Q. 10 first investigation? Yes. 11 Α. 12 13 Q. And if the answer is you don't know, then such is life? 14 15 Α. Sure. 16 17 But it has been suggested from material that the Q. 18 Special Commission has seen that the original investigation 19 in 1989 was over within a couple of days. Is that 20 consistent with your understanding? 21 No, I - my understanding was that the initial Α. 22 investigation by general duties police might have taken 23 a couple of days and then Detective Doreen Cruickshank took 24 control of the investigation. 25 And it also appears from material that the Special 26 Q. 27 Commission has that the conclusion of suicide that was reached in 1989 was reached without any contact being made 28 29 with the family at all. Do you understand that to be right? 30 I don't know. 31 Α. 32 33 Q. I won't read it out, but do you see at the bottom of 34 page 3, after the answer "Not at all, it was to the standard of the day" --35 Mmm-hmm. Α. 36 37 38 Q. -- Pamela Young goes on to say: 39 And there's still evidence and 40 information ... 41 42 43 Α. Yes. 44 45 Q. I haven't found anything that completely 46 47 eliminates that as a possibility.

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1 2 Α. Yes. 3 4 Q. 5 In fact we've included some extra 6 information ... 7 8 And I'm paraphrasing, "on that theme" - do you see that? 9 Yes. Α. 10 Q. And then on the bottom of page 5, on that same theme, 11 do you see that she goes into some degree of detail at the 12 last five or six lines on that page about a certain 13 incident? 14 Yes. 15 Α. 16 17 Q. And she compares that certain incident to what 18 happened at North Head? Yes. 19 Α. 20 Q. Going over to the first two lines on page 6 --21 22 Α. Yes. 23 24 Q. -- that seems to be Pamela Young pressing on the 25 Lateline audience the likelihood of a particular analysis, doesn't it? 26 27 Α. It could be, but I think if you - you know, the question that's asked prior to that is around a witness 28 29 and his assertion 30 31 Q. I know, but that's what she nevertheless says. That's 32 what she nevertheless says, though, isn't it? Yes. Α. 33 34 Just for completeness on this, you can see about 35 Q. halfway down page 6, a question from Emma Alberici 36 37 beginning, "Steve Johnson has told us"? Mmm-hmm. 38 Α. 39 40 Q. And you can see Pamela Young's answer? 41 Α. Yes. 42 43 Q. So I am simply drawing your attention to the fact that 44 she also says that, which is consistent with some of the 45 things that you've been saying today? Α. Correct. 46 47

Now, a third thing that Pamela Young said, on 1 Q. 2 a different topic, was in the middle of page 5, just above 3 halfway on page 5, in answer to a question from Emma 4 Alberici about the claim by the Johnson family that there 5 are at least 30 people whose deaths are unsolved, 6 et cetera? 7 Α. Yes. 8 9 You see Pamela Young, in the course of her answer to Q. 10 that says: 11 We --12 13 14 meaning the police --15 have eight from that list that are counted 16 17 as unsolved homicides, which are probable 18 or possible gay hate crimes - that's eight 19 over a number of years. 20 21 Do you see that? 22 Yes, that's correct. Α. 23 24 Q. She is there no doubt referencing the Lehmann/Young 25 issue paper --Yes, I think so. 26 Α. 27 -- and subsequent variations on that. And then on 28 Q. 29 page 6 in the middle of the first long answer by her, beginning, "The fact that our relationship", do you see 30 31 that, just a few lines from the top? 32 Α. Mmm-hmm, yes. 33 34 Q. She asserts that Mr Johnson - that is, Steve Johnson: 35 ... used influence, including I consider 36 influence on the Government to make the 37 death of Scott a priority in my office over 38 39 other jobs that we had. 40 41 Α. Yes, she says that. 42 43 She says that. And Emma Alberici, on page 7, about 10 Q. 44 lines down, picks her up on that, do you see that - that 45 is, returns to that topic? 46 Α. Yes, yes. 47

And she asks - she, Emma Alberici, asks - Pamela Young 1 Q. 2 where does she think this influence of Steve Johnson over the government comes from; do you see that? 3 4 Α. Yes. 5 6 Q. And the answer involves Pamela Young referring to the 7 meeting in the Minister's office, which is obviously 8 a reference to the meeting of 11 February 2013, isn't it? 9 That's right, yes, that's right. Α. 10 11 Q. And Pamela Young says she saw a lot of what she would describe as kowtowing by the Minister and his staff as to 12 13 Steve Johnson? 14 Α. Yes. 15 Q. 16 She says she was amazed and incredulous? 17 Α. Yes. 18 And at the bottom of that page, having developed that 19 Q. theme somewhat more in the rest of that answer, Emma 20 Alberici asks her: 21 22 23 How did Steve Johnson manage a meeting of 24 that sort with the Police Minister? 25 Do you see that? 26 27 Α. Yes, I do. 28 29 Q. Her answer was: 30 31 ... well, to be frank, there was some panic 32 over the Australian Story that came out the 33 night before. 34 Yes. 35 Α. 36 And she goes on. Then, towards the end of that answer 37 Q. 38 on that page, she says: 39 40 ... others were very concerned that that --41 42 meaning the Australian Story --43 44 would be overly critical of the police. 45 So - one of those people apparently was the minister, who rang my commander of the 46 47 homicide squad --

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3 A.	at's you, is it? Yes, it is.
4 5 Q. 6	
7 8 9 10 11	and also rang the Johnson family and arranged the meeting and gave them their strike force, their priority over everyone else's death.
12 A. 13	Yes.
14 Q. 15 is	February 2013 when you've told us you were on leave; is at right?
19 Q. 20 A. 21	But the Minister rang you? No, his Chief of Staff rang me.
22 Q. 23 A. 24	Oh, I see. Not the Minister? No.
25     Q.       26     A.       27     rea       28     an       29     tha       30     tha	And what did the Chief of Staff say to you? He said that, from recollection, that the Minister had ached out to the Johnson family and wanted to conduct meeting and asked whether or not I'd attend. I told him at I was on leave and that Chris Olen was relieving at a time, and so he was going to speak to Olen and get him go along.
33 Q. 34 as	Right. And Ms Young describes what the Minister did giving the Johnson family "their strike force, their iority over everyone else's death". Yes, she uses - yes, she describes it that way.
38     Q.       39     A.       40     est       41     alr       42     to       43     as       44     was	Did you agree with that assessment? Well, the Minister, you know, couldn't tell us to tablish a strike force in that way. I think as we've ready covered, Chris Olen was of the view that we needed allocate a couple of resources to it anyway. So it was a result of that meeting that the Strike Force Macnamir s established.
45 46 Q. 47 she	Ms Young goes on, on the top of the next page, that e thought what the Minister did was absolutely improper?

Α. Yes. 1 2 3 Q. And wrong on every level? 4 Α. Yes. 5 6 Q. Did you agree with that? 7 Α. She does say that, yes. 8 9 Q. No, did you agree with that? 10 Α. I wasn't present at the meeting. I don't think that -I don't think that - from what I - my understanding of what 11 occurred in the meeting, I don't think it was improper. 12 13 14 MR GRAY: I would tender that transcript, your Honour. Perhaps it could become tab 318 of exhibit 6. 15 16 17 THE COMMISSIONER: Yes, all right. 18 19 MR GRAY: I need to ask you this, Mr Willing, before Q. Had Pamela Young openly used 20 I leave the Lateline topic. the term "kowtowing" to describe the Police Minister to you 21 22 in office on many occasions between February 2013 and April 23 2015? 24 Α. She might have used that term talking to me privately 25 once or twice but I can't recall it being discussed in those terms openly in the office. 26 27 Do you agree that on her way to the ABC studio on 28 Q. 13 April --29 Yes. 30 Α. 31 32 Q. -- she telephoned you --33 Α. Yes. 34 Q. 35 -- and - you agree with that? Α. Yes, she did. 36 37 38 Q. What did she say? 39 "I'm about to go and speak to Emma Alberici." I Α. remember where I was. I think I was driving down the M7 at 40 41 the time when she called me. So my understanding was that she was going to go and talk to her, as planned, the way 42 43 that she had the other journalist. 44 45 So do you have any knowledge of her having actually Q. spoken to Emma Alberici in what you might call background 46 47 terms a few days earlier on 10 April?

I - I don't. I don't. Α. 1 2 3 Q. Because on 13 April, she was in fact going to the 4 studio to participate in the interview that went --5 Α. I know that now. 6 7 Q. -- to air, wasn't she? 8 Α. I know that now, yes. 9 10 Q. And didn't she, in that conversation with her on the way to the ABC studio on 13 April, tell you that she was 11 likely to use the word "kowtowing" if she was asked about 12 the Police Minister? 13 I can't recall it. 14 Α. She might have. 15 16 Q. And did you respond with a laugh? 17 Α. Well, it was something that - an expression that 18 I hadn't heard before, but I can't recall whether I did or 19 I might have. not. 20 Q. 21 An expression you hadn't heard before? 22 Α. Yes, that's right. 23 24 Q. I thought you told us that she had used it to you privately several times previously? 25 After that meeting. 26 Α. 27 After the February 2013 meeting? Q. 28 29 Α. Yes. 30 Yes, and before the --31 Q. Sorry, after the - I took that to mean after the 32 Α. 33 interview that she gave on Lateline. 34 35 Q. Are you saying that she had never used the word "kowtowing" in your hearing about the Police Minister until 36 37 after the ABC Lateline interview? That's correct. That's correct. 38 Α. 39 Q. Is that a serious proposition? 40 Yeah, it is, and I thought you meant after the 41 Α. 42 interview that she gave on Lateline. 43 44 THE COMMISSIONER: Q. If she told you that afternoon as 45 you were driving down the M7 --Α. Yes. 46 47

-- that she was going to be interviewed on television, 1 Q. 2 would you have stopped her --3 Α. Yes, absolutely. 4 5 Q. -- or told her not to do it? 6 She was not --Α. 7 8 Q. Would you? 9 Yes, she was not allowed to do that. Α. 10 THE COMMISSIONER: 11 Okav. 12 Now, in any event, Pamela 13 MR GRAY: Q. All right. Young's Lateline interview quickly gave rise to a lot of 14 15 repercussions, didn't it? Yes, it did, yes. 16 Α. 17 18 One of them was another burst of publicity about the Q. 19 Johnson case and gay hate crimes generally? Α. Yes. 20 21 22 Largely, perhaps not entirely but largely, Q. 23 unfavourable to the police? 24 Α. Yes. 25 And another, a second ramification, was a direction 26 Q. 27 from the State Coroner, Mr Barnes, that Pamela Young be removed from the Scott Johnson investigation? 28 29 Α. Yes. 30 31 Q. And that did in fact happen? 32 Α. That did, yes. 33 34 Q. She was replaced by Detective Sergeant Penny Brown? Yes, well, she - Penny Brown took primary carriage of 35 Α. it, yes. 36 37 Now, would it be fair to say that Pamela Young has 38 Q. 39 subsequently regarded you as having hung her out to dry --Yes. 40 Α. 41 42 Q. -- following the Lateline interview? 43 Α. Yes. 44 45 Q. And would you accept that such a view has some force? Α. In what context? 46 47

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Q. Well, that she's got a point? 1 2 No. I --Α. 3 4 Q. Would you accept that? 5 Α. No. My understanding is that Pamela was not and 6 probably isn't happy with me for not publicly defending her 7 after she appeared on Lateline. 8 9 Her view, as I understand it, seems to have been that Q. 10 you had approved her giving this interview and then, when it caused trouble, you ran a mile? 11 The approval was discussion that occurred or 12 Α. a strategy that occurred involving the Deputy Commissioner 13 at the time, the head of police media, myself and others, 14 15 the head of State Crime Command. It was pretty straightforward. 16 17 18 THE COMMISSIONER: Q. But you didn't say to her, 19 I presume, when you seemed to have authorised her to speak 20 to journalists plural --21 Α. Yes. 22 23 Q. -- I take it you didn't say to her, "For goodness 24 sake, Pamela, don't let them quote you"? 25 Α. No, I can't recall that. 26 27 Q. But if what I understand to say is that the interview on the television was a shock and a surprise --28 29 Α. Mmm. 30 31 Q. -- you must have expected, if you gave her authority 32 to speak to one or more journalists that it was likely she 33 would be quoted? 34 Α. Of course, it was on background, that's right. 35 Q. Not just on background; how could you stop any 36 journalist writing a story if you authorised Ms Young to 37 speak to the journalist, unless you told her in advance, 38 39 "You're not permitted to say a word on behalf of Just background them, but you're not going to 40 NSW Police. be quoted and you're not authorised to speak"; did you say 41 42 that to her? 43 I can't recall saying that to her. Α. 44 45 Q. Would you have said that, do you think? It would be something that I would say. 46 Α. These 47 interviews, as well, these background discussions, often

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occurred with police media liaison officers present as 1 2 well. I believe I asked one to be present and Pam denied -3 declined to have one present, as well. 4 5 Q. Sorry, are you suggesting now that you suggested she 6 go with some liaison person --7 Α. Yes. 8 9 Q. -- to the interview? 10 Α. Correct. 11 12 Q. And she rejected that proposition? 13 Α. That's right, yes. 14 Well, why didn't you say "No, you're not going 15 Q. I'm just a bit concerned about this getting out 16 anywhere. 17 of control"? 18 Pamela was a - was an extremely experienced Α. 19 investigator. She dealt with the media many, many, many times throughout her career. It's not unusual for 20 detectives to talk to the media off the record. 21 I had 22 confidence in her ability to handle any media situation. 23 24 So she rejects the idea of someone going Q. All right. from the media liaison staff? 25 Yes. 26 Α. 27 But you thought, and you thought you and she 28 Q. understood, that whatever she was going to say was going to 29 be entirely off the record? 30 31 Α. Correct. 32 THE COMMISSIONER: 33 All right. Thank you. 34 Now, I don't need to pursue this topic any 35 MR GRAY: Q. further, at least for the moment, but I just mention that 36 in your statement you deal with this subject --37 38 Α. Yes. 39 Q. -- briefly, at least, at around about paragraph 53? 40 41 Α. That's right, yes. 42 43 Q. And 54? 44 Α. Yes. 45 Now, I wanted to take you to 55, though, where you 46 Q. 47 say:

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1 2 Once the State Coroner had carriage of the 3 matter --4 5 that's the Scott Johnson matter --6 Yes. Α. 7 Q. 8 - -9 10 and following --11 what you call "the commencement of the inquest" --12 13 Α. Yes. 14 15 Q. -- which I understand, on 13 April 2015, in particular, "Strike Force Macnamir inquiries continued 16 17 under his direction"? 18 Α. Yes. 19 Now, are you saying to the Special Commission that not 20 Q. only is that the case with this particular one, the Scott 21 22 Johnson one, but that that's the position generally, once 23 a Coroner steps in? 24 Opens an inquest. Α. 25 Q. 26 Yes. 27 Α. Generally, yes. 28 29 Q. So once the Coroner decides that a death will be the subject of an inquest, thereafter, the investigation is 30 directed by the Coroner and not the police; is that right? 31 32 Α. Yes, you work for the Coroner. It's in the Act, yes. 33 34 Q. So that would apply, for example, to the Taradale inquest conducted by Deputy State Coroner Milledge, would 35 it? 36 37 Α. During the course of the conduct of the inquest, yes. 38 39 Once the decision had been taken that there would be Q. such an inquest, thereafter, the direction of the 40 investigation is in the hands of the Coroner; is that 41 42 right? 43 Α. Yes. 44 45 Now, moving a little bit past April 2015 and moving on Q. to August 2015 --46 47 Α. Yes.

1 2 -- as you perhaps recall, you may not recall the date, Q. 3 but Strike Force Parrabell was instituted in or 4 around August 2015? 5 Α. Yes. That's my understanding, yes. 6 7 And you were aware of that at the time, I take it? Q. 8 I - I can't recall specifically. I think it started -Α. 9 it started around then but gained momentum later on. I was 10 briefed by Assistant Commissioner - well, Superintendent Crandell at the time, months later. 11 12 13 Q. Just let me unpack that. 14 Α. Yes. 15 Q. You were briefed by Mr Crandell when? 16 17 Α. Months later. 18 Q. 19 Months later than August? 20 Α. Yes, yes. 21 22 But without pinning you down, do you mean some time Q. 23 towards the end of that year or --24 Α. I think it was 2016. 25 Q. You think it was early 2016? 26 27 Α. Yes. 28 29 And his briefing consisted of some summary or outline Q. What did he tell you? 30 of what? 31 Α. I think I've got the date or something here, but -32 that he wanted to conduct a review of the 88 cases or the you know, those cases that had been alluded to in the media 33 34 as being possible gay hate murders. 35 And did he tell you or, whether he personally told you 36 Q. or not, did you understand, that it was going to be a paper 37 38 review? 39 Yes, I understood it was. I recall the meeting I had Α. with him and Chris Olen was present and I think someone 40 else from his office but I'm not sure. 41 He outlined that it 42 would be a paper review and that he wanted to get an 43 academic review conducted as well. 44 45 And just to clarify - my clarification - when Q. Yes. I used the word "paper review" --46 47 Α. Yes.

1 2 Q. -- I mean, and I assume you also understood it this 3 way, that what Parrabell was going to do was not to 4 reinvestigate any of these cases? 5 Α. That's right, yes. 6 7 But to literally review whatever the paper holdings Q. 8 were that the police either had or could gather from the 9 Coroner or whoever? 10 Α. That was my understanding, yes. 11 And to look at what documents were on the file or 12 Q. could be gathered from whatever happened historically --13 14 Α. Yes. 15 Q. -- is that right, back in whenever it was, the 1970s 16 17 or the 1980s, whenever; correct? 18 Α. Yes. 19 And from a review of the paper, form a view as to 20 Q. whether the death in question was gay hate related? 21 22 Yes, that's my understanding. Α. 23 24 Q. And you were aware of that format or methodology from 25 an early stage of Parrabell? 26 Α. Yes, yes. 27 Now, your own view, as we've seen today - I'll go back 28 Q. 29 a step. The Parrabell exercise was going to involve the whole 88, or 86 as it turned out to be? 30 31 Α. Yes, that's my understanding, yes. 32 Which included within it the 30 said to be unsolved? 33 Q. 34 Α. With the exception of the Taradale matters, yes. 35 Q. At that point? 36 37 Α. At that point. 38 39 Q. Although that later changed. Yes, that's right 40 Α. 41 But with that small exception, the 88 included the 30? 42 Q. 43 Α. Yes, yes. 44 45 Q. But with that exception, which I accept. And the Scott Johnson matter, of course. 46 Α. Sorry, my 47 apologies.

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1 2 And the Scott Johnson matter, which by then was under Q. 3 live investigation? 4 Α. Yes. 5 6 Well, I will withdraw that question. The Scott Q. 7 Johnson matter by then, August 2015, was the subject of the 8 coronial --9 Correct. Α. 10 Q. 11 -- inquest proceedings? 12 Α. Yes. 13 14 Q. At least at an early stage? 15 Α. Yes, yes. 16 17 Q. Now, your own view, as we've seen today, was already 18 formed as to the 30, wasn't it? In other words, only eight of the 30 were even possibly or probably gay hate? 19 I accepted what was written in that report. 20 Α. 21 22 Q. Not only accepted but endorsed? 23 Α. Yes. 24 25 Q. So your view was only eight of the 30 are gay hate? That's what I thought, yes. 26 Α. 27 And you knew that that was the view of Mr Lehmann and 28 Q. 29 Ms Young? That's right, yes. 30 Α. 31 32 Q. And you knew that their view, which you also endorsed, was that 30 was a gross exaggeration? 33 34 Α. Yes. 35 Delete? And you knew that, in their view, one of the Q. 36 80 - sorry, start again. You knew that, in their view, 37 which you also endorsed as at January 2014, one of the 38 39 cases in the 30 that was not among the eight was Scott Johnson? 40 41 Α. Only because it was before the Coroner, so --42 43 No, different. I may have expressed the question Q. 44 badlv. 45 Right. Okay. Α. 46 47 Q. Putting the Coroner aside for one moment, the view

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expressed by Mr Lehmann and Ms Young in their issue paper 1 2 was that there were only eight that could --3 Α. Yes. 4 5 Q. -- perhaps even possibly or probably be gay hate, of 6 the unsolved? 7 Α. Yes. 8 9 Q. And Scott Johnson wasn't one of those? 10 Α. That's right. That's what they've --11 Q. That was their view? 12 13 Α. Yes. 14 15 Q. Which you endorsed? At that point in time, there was --16 Α. 17 18 Q. That's right? Yes, that's correct. 19 Α. 20 Now given that that was your view, that of the 30 said 21 Q. 22 to be unsolved, in fact only eight were even possibly or 23 probably gay hate --24 Α. Mmm-hmm. 25 Q. -- did you talk to Mr Crandell about that view that 26 27 vou held? I can't recall talking to him about it at all. 28 Α. 29 Q. You were the Commander Homicide? 30 31 Α. That's right. 32 Wouldn't you have wanted Mr Crandell to know your 33 Q. 34 views and the views of homicide? Yes, but I just can't recall the conversation. 35 Α. 36 It's pretty unlikely that you didn't tell him, isn't 37 Q. it? 38 39 Α. Absolutely, but I can't recall the conversation, so --40 It's in fact highly likely that you did tell him, 41 Q. isn't it? 42 43 I may well have but I just can't recall it, Mr Gray. Α. 44 45 I understand. You don't need to say it again. Q. You've said several times that you can't recall the conversation. 46 47 Α. Yes.

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1 2 But you're agreeing with me that it's highly likely Q. 3 that you would have told him --4 Α. Yes. 5 6 Q. -- your view and the view of Young and Lehmann? 7 Α. I would have told him the outcome of that report, if 8 he didn't know it already. I'm assuming, but again I don't 9 recall it. I'm sorry for repeating it but I don't recall 10 it. 11 What is your understanding as to what use he would 12 Q. make or should have made of receiving that view from you? 13 My understanding was it would be irrelevant; he was 14 Α. 15 going to apply or, you know, Parrabell was going to apply their own criteria to reviewing those matters. 16 17 18 Q. I see. I will come to the criteria in a second. 19 Sure. Α. 20 Q. 21 But just in your statement at paragraph 99 --22 Α. Yes. 23 24 Q. -- do you see in the second sentence you say: 25 I otherwise recall that I was fully 26 27 supportive of the activities of Strike Force Parrabell as I understood them --28 29 Yes. 30 Α. 31 32 Q. - -33 34 which were to construct a structured assessment of [the 88] ... 35 36 37 et cetera? 38 Α. That's right. 39 You were fully supportive of Strike Force Parrabell 40 Q. looking at the 88? 41 Yes. 42 Α. 43 44 Q. Including the 30 with that couple of exceptions that 45 vou mentioned? Yes, sure. 46 Α. 47

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Would that be because you expected Parrabell to arrive 1 Q. 2 at the same conclusion that you and the Unsolved Homicide 3 Team had already arrived at? 4 No, how could I expect that? They were conducting Α. 5 their own independent reviews. There was an academic component to it, which I had no control over or - or 6 7 involvement in. I was supportive of it because I thought 8 it would provide answers to the community, on a topic that 9 had had a lot of media attention and it was quite, you 10 know - it was guite important to the community. So I thought it was a good thing to do. 11 12 Why not simply release Mr Lehmann's issue 13 Q. All right. 14 paper? Who - to Crandell, or Parrabell? 15 Α. 16 17 Q. To the public, to the community? 18 That's an internal paper. That's not something that Α. 19 occurs at all. 20 Why not, though, if it was important that the 21 Q. 22 community know what the police thought? 23 Α. That's something which is not normally - would not 24 normally occur. That was an internal document. 25 So if the strike force counterfactually had arrived at 26 Q. 27 a result significantly different from the Lehmann/Young/Willing view about the 30 --28 29 Α. Yes. 30 31 Q. -- you would be happy for the Parrabell results to be 32 made available to the public? Well, that was the purpose of the review. 33 Α. 34 Q. 35 But not the Lehmann/Young/Willing view? Α. That's right. 36 37 38 Q. Why? 39 Because that was an internal document that was Α. prepared as part of the internal processes inside the 40 Police Force, part of the Strike Force Macnamir 41 42 investigation. Ultimately it appeared before the Coroner, 43 or those outcomes, I should say. 44 45 Well, it wasn't part of Strike Force Macnamir at all. Q. It was - your issues paper was a response to --46 47 Oh, my issues paper, is that the one to Premier and Α.

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Cabinet; is that what you are talking to? 1 2 3 Q. Yes. 4 Α. If that, that wasn't a matter for me to release to the 5 public. 6 7 No, but the contents of it could have been released at Q. 8 any time you chose in another format not being an issues 9 paper, couldn't it? 10 Α. In relation - like a media interview, for argument's sake? 11 12 13 Q. For argument's sake -- -I could have. 14 Α. 15 Q. -- any number of means you could have done that? 16 17 Α. I could have, yes. 18 19 Because, as I say, if counterfactually Parrabell had Q. arrived at quite a different result about the 30 from your 20 21 result --22 Α. Yes. 23 24 When I say "yours", I mean Lehmann/Young/you. the Q. 25 public would have had the Parrabell view of the world but not the very different view of the world in your issue 26 27 paper. How would that assist the public? You are talking about the Premier and Cabinet paper; 28 Α. 29 is that right? 30 Q. 31 The contents of it? 32 Α. The contents of it. 33 34 Q. The assessment of the 30 cases? 35 Α. I don't know how to answer that question, Mr Gray. 36 37 Q. All right. I might come back to that in a bit. Sure. 38 Α. 39 At any rate, surely you said to Mr Crandell, in the 40 Q. course of being fully supportive of Parrabell --41 42 Α. Yep. 43 44 Q. -- that you fully expected him to come up with 45 a number something like eight in respect of the 30? Not at all. I had no idea what the review would come 46 Α. 47 up with.

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1 2 Now, what did you know, either at a relatively early Q. 3 stage, namely, the first few months of 2016 or, indeed, 4 later, about the methodology of Strike Force Parrabell? 5 Α. Not much, other than that they were using a set of 6 indicators that I believe derived from the United States. 7 8 Now, I wanted to ask you about that. Q. Yes. Did vou 9 know that they were particularly using the indicators as 10 embedded in a particular form called a Bias Crimes **Indicators Form?** 11 Α. No. 12 13 14 Q. Did you know that they were using a form at all? No, I didn't know the way that they were conducting 15 Α. the reviews at all. 16 17 18 Well, as you say, the indicators or at least nine out Q. 19 of the 10 of them had been derived from a United States 20 source. That was your understanding? 21 Α. That was my understanding, yes. 22 23 Q. Which, on the evidence this Commission has, is 24 But are you saying that you didn't know about the correct. form or the content of the form itself that the Parrabell 25 officers were using? 26 27 Α. No, no. 28 29 Well, so you weren't aware, then, that the form, which Q. they were using in assessing all these 80-plus cases, 30 contained embedded within it as relevant to whether 31 32 gay-hate bias or the like was involved --Yes. 33 Α. 34 Q. -- the requirement of beyond reasonable doubt? 35 No, I didn't know. Α. 36 37 Well, have you ever seen the form, to this day? 38 Q. 39 I - I might have seen the forms as part of, you know, Α. all the various documents I've been given, but no, I have 40 no recollection of it. 41 42 43 Q. Well, let me - I won't take time on this --44 Α. Sure, show me. 45 Q. But if Mr Willing could just be briefly shown volume 46 47 13. This is just by way of example. Just by way of

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example, Mr Willing. 1 2 Sure. Α. 3 4 I'm not suggesting the contents of this particular Q. form - that is, the answers - have any particular 5 6 significance at least for today. 7 Α. Sure. 8 9 But if you could turn to 265C - sorry, 266C Q. 10 [NPL.0129.0001.0001 0001]. Yes. 11 Α. 12 Now, this is a Bias Crimes Indicators Review Form for 13 Q. 14 a particular deceased person. 15 Α. Yes, yes. 16 17 If you could just - I will take you through it, not Q. 18 because I want you to look at the answers but because 19 I want you to look at the questions. Do you follow? First 20 of all, there is - do you see on the top of the second page there's a heading "1. 21 Differences"? 22 Α. Yes. 23 24 Q. And there's various content filled in. And then if 25 you turn over to the fourth page, at the end of that material dealing with differences --26 27 Α. Yes. 28 29 -- do you see there are then four what are called Q. indicators set out? 30 31 Α. Yes. 32 33 Q. And I will give you a moment to read this. Is it 34 still your best recollection that you have never seen one 35 of these forms before? I think I've seen - these might have been or at least Α. 36 37 some of them might have been provided in the tender bundle that I was given in preparation for this, but yes, prior to 38 39 that, no. 40 Q. 41 All right. Well, see there are four indicators? Yes. 42 Α. 43 44 Q. One being "Bias Crime"? Mmm-hmm. 45 Α. 46 47 Q. The second one "Suspected Bias Crime"; the third one

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"Not Bias Crime" --1 2 Yes. Α. 3 -- and the fourth one, "Insufficient Information"? 4 Q. 5 Α. Mmm-hmm. 6 7 You will see that in the "Bias Crime" one, the Q. criterion, which I won't read out --8 9 Yes. Α. 10 Q. -- includes within it - that is, on the question of 11 whether the incident was wholly or partially motivated by 12 bias - the standard of proof, namely, beyond a reasonable 13 doubt. 14 Do you see that? 15 Α. Yes. 16 17 Q. Now that, of course, as you know, is the criminal 18 standard? 19 Yes, it is, yes. Α. 20 Which, as you also know, is a high standard? 21 Q. 22 Α. Yes, it is. 23 24 Q. Deliberately. And you will see that the second one, 25 "Suspected Bias Crime", has the same feature? Yes. 26 Α. 27 Q. The third one doesn't, the "Not Bias Crime". 28 29 Α. Yes. 30 31 Q. And the fourth one, "Insufficient Information", 32 unsurprisingly, also doesn't have it? Α. Yes. 33 34 35 Q. Now, you can see that in that particular one - as I say, I'm not stressing this one specifically --36 37 Α. Yes. 38 39 -- the answer has been given "No" each time? Q. Yes - well, yes. 40 Α. 41 For those four on that page? 42 Q. 43 Yes, of course. Α. 44 45 You can assume that - see the next page begins "2. Q. Comments, Written Statements, Gestures"? 46 47 Sorry, where was that? Α.

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1 2 It's the fifth page, it has a heading right at the Q. 3 top, "2. Comments, Written Statements, Gestures"? 4 Yes, yes. Α. 5 6 Q. And then the same four indicators set out in the same 7 text? 8 Α. Yes. 9 10 Q. And you can assume that those so-called indicators are set out in that identical text for the whole 10? 11 Α. Yes. 12 13 if the Parrabell 14 Q. Now, what I'm asking you is this: criteria for evidence of bias crime --15 Mmm-hmm. 16 Α. 17 18 Q. -- required that the presence of bias crime be 19 established beyond reasonable doubt, as the form indicates --20 21 Α. Mmm. 22 23 Q. -- that would inevitably mean, especially given that 24 this was only a paper review, that very few cases on 25 a paper review would meet that criteria; do you agree? 26 27 MR TEDESCHI: I object. 28 29 THE COMMISSIONER: What's the objection? 30 31 MR TEDESCHI: Two bases, Commissioner. The first is he 32 has said quite clearly that he was not part of this, he wasn't aware of it until it was provided to him as part of 33 34 the tender bundle. 35 THE COMMISSIONER: Yes. 36 37 38 MR TEDESCHI: So he is being asked his opinion as an 39 expert witness, in effect, and with respect, it's not a matter for a witness like him to give expert evidence 40 about. 41 42 43 Secondly, the question that my friend has asked is 44 misleading because the first two categories refer to bias The first one, of course, requires beyond 45 crime. reasonable doubt; the second one requires that it cannot be 46 47 proved beyond a reasonable doubt. So my learned friend's

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question isn't properly based on the material that's in the 1 2 form. 3 4 THE COMMISSIONER: I'm going to allow it, Mr Tedeschi, 5 because if he's going to answer one way or the other, 6 whatever he's going to say, I may or may not find it 7 But I'm not going to stop him asking or, rather, helpful. 8 answering the question, so I will allow it. 9 10 MR TEDESCHI: If you please. 11 THE COMMISSIONER: 12 Thank you, yes. 13 Commissioner, I will withdraw that question and 14 MR GRAY: 15 ask a question applicable simply to the first criterion, "Bias Crime"? 16 17 18 THE WITNESS: Sure, yes. 19 That requires, on its face, as we've just 20 MR GRAY: Q. read, the Parrabell officer only to say "Yes" if the 21 22 existence of bias crime - sorry, if the existence of 23 a motivation of bias is established beyond reasonable 24 doubt, doesn't it? 25 Α. Yes. 26 27 Now if that was the criterion for evidence of bias 0 crime beyond reasonable doubt that bias was --28 29 Α. Yes. 30 31 Q. -- visible on the paper record, that would inevitably 32 mean that very few cases on a paper review would meet that criterion, wouldn't it? 33 34 Α. Yes. 35 Q. That folder can be returned. The report of Strike 36 Force Parrabell, the actual final report, was eventually 37 38 released in June 2018. You may or may not know that date? 39 Α. Yes, I recall that it was released. 40 41 Q. Of course, as we know, you were no longer Commander 42 Homicide, but presumably you were aware of its release and 43 no doubt had at least some interest in it in? 44 Α. Yes, yes. 45 And in the Parrabell report, do you recall - and I can 46 Q. 47 obviously put it in front of you - the strike force came to

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the view that of the 88, or 86 as it turns out, cases on 1 2 the list, only 23 were unsolved not 30? Do you remember that was their view? 3 4 Was - I don't recall that, but yes, I accept that, Α. 5 yes. 6 7 Just accept that for the moment. Q. 8 Α. Yes. 9 10 Q. So in their view the number that were unsolved as far as they assessed things was 23 rather than 30? 11 Α. Yes. 12 13 14 Q. Again, if you need me to show you the report, of 15 course, that will be done immediately --Sure. 16 Α. 17 18 Q. -- but the Parrabell report said that of the 86, eight were categorised as evidence of bias crime. Eight. 19 20 MR TEDESCHI: 21 I object. 22 23 THE COMMISSIONER: What's the objection? 24 MR TEDESCHI: 25 My friend is referring to the first He should put it fairly and say "beyond 26 category. 27 a reasonable doubt identified as bias crime"? 28 29 THE COMMISSIONER: If that's the complete context then I don't think Mr Gray will have any difficulty with that. 30 31 32 MR GRAY: What I'm putting to the witness, perhaps my friend didn't pick this up, was what the report said. 33 The 34 report made no mention of "beyond reasonable doubt" at all, as Mr Tedeschi knows. 35 36 37 Q. So I will ask the question - in fact, I will put the 38 report in front of you, if I may. 39 THE COMMISSIONER: Which volume is it? 40 41 42 THE WITNESS: Tab 2, Mr Gray? 43 44 MR GRAY: Q. I think so, yes. Thank you. Exhibit 1. 45 tab 2 [SCOI.02632 0001]. Have you ever actually seen the report or had it in your hands before? 46 47 Α. No.

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1 2 Well, I'll just orientate you slightly. The first 46 Q. 3 pages, up to and including page 46, are, in effect, the report of the strike force - that is, of the police? 4 5 Α. Yep. 6 7 And then from 47 to the end, the balance is the Q. 8 academic review? 9 Right. Α. 10 Q. You follow? So I'm, for the moment, asking you about 11 the police section. 12 13 Α. Yes, okay. 14 Pages 1 to 46? 15 Q. Α. Yep. 16 17 18 Q. Now, after some introductory narrative and explanations of one sort or another, we get to page 23, 19 heading "Findings". Do you see that? 20 Yes. 21 Α. 22 23 Q. So they say: 24 25 Of the 88 cases - 63 cases ... were solved; 23 cases ... remain unsolved; 2 cases ... 26 were not reviewed. 27 28 29 I don't need to trouble you today with why two were not 30 reviewed. Mmm-hmm. 31 Α. 32 But at any rate, 23 of the in fact 86, they say, are 33 Q. 34 unsolved. Then on the next page, 24, the report says: 35 Of the 86 cases that were reviewed --36 37 and I'm quoting --38 39 8 cases ... found evidence of bias 40 41 crime ... 42 43 Α. Yes. 44 45 Q. Nineteen were suspected bias crime? Α. Yes. 46 47

And the remainder, which add up to 59 between them, 1 Q. are either no evidence of bias crime or insufficient 2 3 information? 4 Α. Yes. 5 6 Now, that number, eight, is the same as the number Q. 7 arrived at by Mr Lehmann and Ms Young and yourself back in 8 2013, isn't it? 9 What's that - just - that was the same number that Α. 10 Lehmann and Young arrived at, endorsed by me. 11 12 Q. And endorsed by you, yes. 13 Α. Yes. 14 Q. 15 Is that just coincidence, do you think? Α. I think so. 16 17 18 Q. Or does it reflect, do you think, some communications or coordination between Parrabell and the Unsolved Homicide 19 Team? 20 I don't think so at all. 21 Α. 22 23 Q. So if any such coordination occurred, it wasn't 24 anything that you were involved in? That's correct. 25 Α. No. 26 27 Did you, by the way, during this period, by which Q. I mean from late 2015 to let's say April 2017 when you left 28 29 Homicide --Yes. 30 Α. 31 32 Q. -- have discussions with Mr Crandell about what Parrabell was doing, the progress of its work? 33 34 Α. That was - it was done independently of me. I think I recall a couple of meetings that I had with him. 35 One was the first one where he gave me a briefing about what he 36 wanted to do and the academic review. I believe I attended 37 a meeting with Alex Greenwich at Parliament. 38 I don't think 39 that Mr Crandell was with me. He might have met me there at Parliament but I'm fairly confident I did that by myself 40 And then there was a meeting at the 41 with Mr Greenwich. Homicide Squad with Professor Dalton, I think from South 42 43 Australia, who was involved in the review. 44 45 Q. I won't tarry on that. Α. Sure. 46 47

Q. But since you've mentioned it --1 2 Yes. Α. 3 4 -- what was the gist of the meeting you were involved Q. 5 with where Dr Dalton was present? 6 It was an introduction to him. Α. 7 8 Q. Was there anything of substance discussed? 9 Not that I can recall. Α. 10 Q. 11 In your presence? There was a number of people present, yeah. 12 Α. 13 Q. Sorry? 14 15 Α. There was a number of people present at the meeting and it was an introduction. I think Mr Crandell had 16 17 emailed me saying that Dr Dalton or Professor Dalton was in 18 town, did I want to meet him, and I said yes. 19 20 Q. Now, during whatever discussions you had with Mr Crandell in that period, 2015-2017, did you tell him 21 22 about anything about what Macnamir was doing? I might have in general terms, that, you know, the 23 Α. 24 matter was before the Coroner or something like that, but 25 not in relation to detail. That's not something that occurred with any of the homicide matters. 26 They were kept 27 very much in-house. 28 29 And did you tell him anything about what Neiwand was Q. doing? 30 31 Α. Not that I can recall. 32 Q. 33 Now, back to the Parrabell report. 34 Α. Sure. 35 Q. It goes on to say on page 26 that of the 23 cases that 36 it regarded as remaining unsolved, none of them - zero -37 38 were categorised as cases where there was evidence found of 39 bias crime. Do you see that? Yes, I do see it. 40 Α. 41 42 Five were categorised as suspected bias crimes, and Q. 43 the other 18 were either no evidence of bias crime or 44 insufficient information. 45 Α. Yes. 46 47 Q. Now, what I want to suggest to you is that those

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obviously very low numbers --1 2 Α. Yes. 3 4 Q. -- of cases where there was evidence of bias crime 5 found - that is, eight out of 86 in total, and zero out of 6 23 for the unsolved ones - were almost inevitable given 7 the --8 Α. The criteria. 9 10 Q. -- requirement of beyond reasonable doubt in the form, 11 do vou agree? Yes, that makes perfect sense. 12 Α. 13 Were you surprised at the very low numbers that 14 Q. Parrabell came up with in terms of the number of cases 15 where they said there was evidence of bias crime - that is, 16 17 eight out of 86 and zero out of 23? 18 I can't recall those exact numbers but I knew that Α. they came up with a relatively low number of cases that 19 were suspected of being bias related. 20 21 22 Surprised? It's difficult to answer at the time. 23 I mean, I just don't know the way I felt at the time. 24 I might have - I might have been surprised or I might have 25 sort of - because I didn't know the criteria they were using. I didn't know what was occurring. I didn't know 26 27 the impact of the academic review as well. 28 29 All fair points, I hear those. Q. But let me ask you this, though: did it - that is, "it" being these low 30 numbers --31 32 Α. Yes. 33 34 Q. -- actually confirm your own view, long held, which was that the claim of 30 unsolved bias crime cases was 35 a gross exaggeration? 36 It's - laid support for it, yes, certainly. 37 Α. 38 39 Q. It laid support then, as I think you're saying? Α. Yes. 40 41 42 Q. But you accept now --43 44 MR TEDESCHI: I object. 45 THE COMMISSIONER: I don't think Mr Gray has finished the 46 47 question, but what's the objection?

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1 MR TEDESCHI: 2 It was the previous question I'm objecting 3 to, or the line, rather. 4 5 THE COMMISSIONER: Yes. 6 7 MR TEDESCHI: My learned friend is suggesting to the 8 witness or he is asking the witness was he surprised at the 9 low numbers --10 THE COMMISSIONER: Yes. 11 12 -- in view of what he had previously 13 MR TEDESCHI: expressed to be possible exaggeration of 30 out of the 88 14 15 being gay hate crimes or suspected to be gay hate crimes. But an analysis of the report shows that the finding was 16 17 that 27 out of the 88 were either beyond a reasonable doubt 18 gay hate crimes or suspected of being gay hate crimes. So to put to him that the numbers confirmed his exaggerated 19 view is inaccurate. 20 21 22 THE COMMISSIONER: All right. So you say, do you, as 23 I understand you, that 27 were either definitely gay hate 24 related or suspected gay hate related? 25 MR TEDESCHI: Yes. 26 27 THE COMMISSIONER: All right. Mr Gray can take that on 28 29 board. He may or may not agree with that, I don't know. 30 31 MR GRAY: I'm happy to deal with it now so that we can 32 move on. 33 34 THE WITNESS: Sure. 35 MR GRAY: Q. If we go back to page 24. I did put the 36 component numbers to you but my friend wants to add 37 a couple of them together. Page 24? 38 39 Α. Yes. 40 41 Q. So of the 86, says the report, eight found evidence of bias crime, and 19 were categorised as suspected bias 42 43 crime? 44 Α. Yes. 45 And my friend is saying, as I understand it, well, if 46 Q. 47 you add 8 and 19 together, you get 27?

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Α. Yes. 1 2 3 Q. So 27 on that calculus are either actually bias crime 4 or suspected bias crime? 5 Α. Yes. 6 7 And there is no doubting that that's what you get when Q. vou add 8 to 19. 8 I would accept that. 9 I accept that. Α. 10 But in the light of that recognition, is there any 11 Q. answer that you have given in the last 10 minutes that you 12 13 feel needs revision or correction? I would say that those numbers are consistent -14 Α. No. broadly consistent with the findings of the Lehmann report, 15 in terms of less than - roughly a third, I guess. 16 17 18 I don't want to go around this mulberry bush too often Q. 19 but the Lehmann/Young document wasn't looking at the 86; it 20 was only looking at the 30? No, I'm talking about roughly a third of those cases 21 Α. 22 they looked at. 23 24 Q. I will come back to that. But the Lehmann/Young was 25 looking at 30, they said of the 30, no more than eight, possibly or probably gay hate? 26 27 Α. Yes, that's right. 28 29 That's right. And you agreed. This one, looking at -Q. I'll go back a step and I'll do it this way, actually. 30 Α. 31 Sure. 32 Looking at the 23, which is their 33 Q. On page 26. 34 substitute for the 30, do you see - Parrabell's --35 Α. Yes, yes. 36 37 Q. -- revision of 30 down to 23 is unsolved? 38 Α. Yes. 39 Q. 40 Parrabell says zero bias crime, five suspected? 41 Α. Yes. 42 43 Q. Now, that's even lower than eight out of 30, I think. 44 Α. Yes. 45 Q. 46 And did that come as a surprise to you? 47 Α. Again I can't recall what I - I don't know whether

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1744 M J WILLING (Mr Gray)

I've ever been told this detail, to be brutally honest, but 1 2 I - it doesn't surprise me. It's generally what I - what 3 I thought in terms of a rationale, like a comparison in 4 terms of a broad comparison. 5 6 Again, as I say, I don't want to labour this Q. 7 indefinitely, but when you say "generally" it accorded with 8 what you thought, what do you mean by that? 9 Well, roughly a third of the matters that Lehmann and Α. 10 Young looked at, they came up with a conclusion that it was possible or probable gay hate crime, including Mattaini. 11 This accords with roughly that. I mean, bear in mind that 12 four of the - of the 30 that they couldn't find records for 13 at the time - yeah, that's - that's - that's the way 14 15 I rationalise it in my mind. 16 17 Q. We can all do our arithmetic later and analyse that. 18 Α. Sure. 19 Q. But that's your evidence? 20 21 Α. Yes. 22 23 Q. Did you become aware, after the Parrabell report was 24 published, that many in the LGBTIQ community were dismayed 25 by these conclusions that I've just been taking you to? In general terms over time, yes. 26 Α. 27 Q. And again, in general terms --28 29 Α. Yes. 30 -- that dismay was one of the factors that led to the 31 Q. 32 Parliamentary Inquiry in 2018 to 2021, you'd agree? Yes. Α. 33 34 35 Q. The Parliamentary Inquiry as no doubt you know recommended a judicial inquiry of some form? 36 37 Α. Yes. 38 39 And again, summarising somewhat, that has led in the Q. long run to the establishment of this Special Commission. 40 You understand that? 41 42 Α. Yes, of course, yes. 43 44 Q. Now, of course, this Special Commission has particular Terms of Reference by which it is bound - I don't know if 45 you know that? 46 47 Yes. Α.

1 2 And you're aware, then, that the Special Commission Q. 3 has been specifically directed by the Terms of Reference to 4 consider, among other things, the report and findings of 5 Strike Force Parrabell? 6 Α. Yes. 7 Q. 8 And one aspect of the report is the methodology used 9 by the strike force officers? 10 Α. Yes. 11 12 Obviously enough. And another aspect is the Q. methodology used by the academic reviewers? 13 14 Α. Yes. 15 16 Q. Now, I'm just coming to Neiwand and I will use the 17 remaining five minutes, if that's convenient, Commissioner. 18 19 THE COMMISSIONER: Yes, certainly. 20 And then we will need to rise for the day. 21 MR GRAY: 22 23 Q. Now, Neiwand was created in about October 2015? 24 Α. Yes. 25 We have in the bundle, and I can show it to you, of 26 Q. course, if you need reminding, in volume 1, tab 16, an 27 e@gle.i document, actually - perhaps I had better show it 28 29 to you. It is volume 1, which the witness needs. Volume 1, tab 16 [SCOI.76962.00001 0001]? 30 31 Α. Yes. 32 Perhaps you could help us. 33 Q. So it's this document. 34 What do we call a document like this? What's the name for 35 this sort of document? It's a - similar to the last document of this nature, Α. 36 37 it's an administrative record on the e@gle.i system. This is a record of what appears to be Terms of Reference that 38 39 have been accepted on to the system by Lehmann and Penny Brown. 40 41 So I don't understand this to be 42 All right. Q. 43 controversial, but so on 26 October 2015, or at least by 44 then --45 Α. Yes. 46 47 Q. -- Detective Lehmann had been appointed as

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Investigation Supervisor for Neiwand? 1 2 He's accepted that administratively, that's the title Α. 3 that's given to the person that accepts those records on 4 the system as of that date, and then you'll see, I think, 5 they've been modified by Brown on 7 December '15. 6 7 Well, accepted by her on 7 December '15. Last --Q. 8 Α. Sorry, last modified on 26 October. Sorry, yeah, 9 vou're correct. 10 Q. So are you saying, notwithstanding how that 11 Yes. document reads on its face, it doesn't mean that Lehmann 12 13 was the investigation supervisor or --14 Α. I think by virtue of his position as the Investigation Coordinator, he would have had a supervisory role over the 15 I think he was. 16 top of it, yes. 17 18 Q. Just keep that there for the moment. 19 Sure. Α. 20 Q. 21 But just look at your statement at paragraph 74. 22 Α. Yep. That's right. 23 24 Q. You there say that you yourself were not directly 25 involved in the establishment of Neiwand but you endorsed it occurring? 26 27 Α. Yeah; that's correct. 28 29 And you then give a little explanation in 75 as to how Q. strike forces are typically set up? 30 31 Α. Yes, correct. 32 33 MR GRAY: Could, just in the last couple of minutes, 34 Mr Willing be shown volume 14, please. 35 Q. And turn to tab 291 [NPL.0015.0001.0009]. 36 Α. Yep. 37 38 39 This is an issue paper, by the look of it, from Q. Detective Chief Inspector Olen dated 4 May 2016? 40 Yes. 41 Α. 42 43 Q. And under the heading "Background" he says: 44 45 In October 2015, Detective Superintendent Willing requested the Unsolved Homicide 46 47 Team to re-investigate the ...

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1 2 And I'm summarising, Mattaini, Warren and Russell? 3 Α. Yep, that's right. 4 5 Q. Well, is that correct? 6 Yes, I did. I've asked them to establish a strike Α. 7 force and do it, but the mechanics of actually administratively doing it wasn't - I didn't do that. 8 9 10 Q. So when you say in paragraph 74, "I was not directly involved in the establishment of Strike Force Neiwand" --11 Α. Yes. 12 13 Q. -- is that really correct? 14 It's - it is. 15 Α. 16 17 Q. It seems you were the one who made the request that it 18 be set up? I asked that it be set up and that - but there's an 19 Α. administrative process to establish the strike force. 20 That's what I'm referring to. 21 22 23 Q. So you'd say that you asked for it to be set up? 24 Α. Yes. 25 But that did not amount to you being involved in the -26 Q. 27 directly involved in its establishment? The actual resourcing of it and Terms of Reference and 28 Α. 29 all those sorts of things, that's right. 30 Is that a convenient time? 31 MR GRAY: 32 THE COMMISSIONER: Yes, I will adjourn until 10am in the 33 34 morning. Thank you. 35 AT 3.57PM THE SPECIAL COMMISSION OF INQUIRY WAS ADJOURNED 36 37 TO TUESDAY, 21 FEBRUARY 2023 AT 10AM 38 39 40 41 42 43 44 45 46 47

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