2022 Special Commission of Inquiry into LGBTIQ hate crimes

Before: The Commissioner, The Honourable Justice John Sackar

At Level 2, 121 Macquarie Street, Sydney, New South Wales

On Thursday, 23 February 2023 at 10.00am (Day 26)

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

Also Present:

Mr Mark Tedeschi KC with Mr Anders Mykkeltvedt and Ms Amber Richards for NSW Police

1 2	THE COMMISSIONER: Mr Morgan, if you'd be kind enough to come back, thank you very much.		
3			
4	<pre><steven [10.03am]<="" affirmation:="" former="" morgan,="" on="" pre=""></steven></pre>		
5	<pre><examination by="" continuing:<="" gray="" mr="" pre=""></examination></pre>		
6 7	CEXAMINATION BY THE GRAY CONTINUING.		
	MP CPAY: 0 I was asking you vesterday afternoon		
8	MR GRAY: Q. I was asking you yesterday afternoon, Mr Morgan, about your email of 26 February 2016 in which		
9 10	you said the boss wanted to be able to say that his squad		
11	was further investigating the matter. Do you remember		
12	that?		
13	A. Yes.		
14	π. 165.		
15	Q. In your evidence late yesterday, I asked you a couple		
16	of times if you knew what the reason was for setting up		
17	Neiwand, and you said twice that you didn't know. Do you		
18	remember that?		
19	A. I wasn't present. Decisions for making strike forces		
20	are made by higher level police than me.		
21			
22	Q. Yes. I didn't ask that. I asked if you if knew why		
23	it was set up, yesterday afternoon, and your answer was,		
24	twice, that you didn't know. Do you remember that?		
25	A. Oh, I accept that.		
26	0		
27	Q. Well, at page 1920 of the transcript, line 42, the		
28 29	question was:		
29 30	Q what was the reason for setting up		
31	Neiwand in 2015?		
32	Norwand III 2010.		
33	And your answer was:		
34	, and great amount made		
35	A. I don't actually know why it was set		
36	up at that time.		
37	·		
38	Do you remember saying that?		
39	A. Yes.		
40			
41	Q. And at 1922, at about line 39, the question was:		
42			
43	Q where there had been express		
44	findings that two of them were homicides		
45 46	that is two of the three deaths		
46 47	that is, two of the three deaths A. Yes.		
T /	A. 163.		
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1 2 Q. 3 4 and an expression of a view by a Coroner 5 that the third might well have been - why have a further inquiry 10 years later to 6 check that? 7 8 9 And your answer was: 10 I - I can't answer that. I don't 11 12 know. 13 Yes. 14 Α. 15 16 Indeed, higher up on that page, 1922, line 17, the question was: 17 18 19 ... Is there any reason why it took Q. 20 over 10 years, from 2005 to 2015, for 21 police, if I may say, all of a sudden, to 22 have concerns about coronial findings a decade earlier? 23 24 25 And your answer was. 26 27 I'm not aware of why it was - why 28 Neiwand was actually created. 29 Α. Yes. 30 31 32 But then at page 1924, in the context of this email, 33 when you referred to the boss wanting to be able to say 34 that his squad was further investigating the matter, you said at line 22 on 1924: 35 36 37 There had been conversation, I think from Mr Willing, but certainly I'd had 38 conversation about the fact that that was 39 40 going to happen --41 ie, the Deep Water SBS program --42 Yes. 43 Α. 44 45 Q. 46 and I think it was a case of being 47

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1 2		proactive and wanting to get on the front foot for what were anticipated to be	
3 4		criticisms within those programs.	
5	Α.	Yes.	
7 8	Q.	Then for clarity I put this to you:	
9		Q are you telling us that, as	
0		you understood it, Mr Willing set up	
1		Neiwand because he knew or thought he knew	
2		that SBS was going to have some programs	
3		later in the year that might be critical of	
4		the police about these gay hate cases and	
5		he wanted to be able to say that you were	
6		looking at them again?	
7 8	And v	YOUR answer was:	
9	Allu	your answer was:	
20		A. That's the impression I had, yes.	
21		That e the improverent I had, year	
22	Α.	That's correct.	
23			
24	Q.	So the three times that you said that you didn't know	
25	why I	Neiwand was created, you weren't giving the	
26	Comm ⁻	issioner the full truth, were you?	
27	Α.	I wasn't lying.	
28	0		
29	Q.	What's the answer to my question?	
30	A.	I had a certain impression that I was acting under.	
31 32	Whether that was correct as far as why Neiwand was created I have no idea.		
33	1 Ha	ve no ruea.	
34	Q.	The question was asking you what you knew about why	
35		and was created. I asked you that three times. Three	
36		s you said you didn't know, and then it turned out you	
37		ght you did know?	
38	Α.	I had an impression	
39			
10	Q.	Why didn't you	
11	MD TI	EDECOUT. I abiast to the assertion	
12	MK II	EDESCHI: I object to the question.	
13 14	THE (COMMISSIONER: What's the objection, Mr Tedeschi?	
1 4 15	1111	Solutioning the objection, in redesciti	
16	MR TI	EDESCHI: Your Honour, it's an assumption. It's put	
17		n assumption.	
		,	

1 2 THE COMMISSIONER: What's put as an assumption? 3 4 MR TEDESCHI: That he knew why Neiwand was being set up. 5 THE COMMISSIONER: And he said he didn't. 6 7 8 MR TEDESCHI: Yes, he said --9 10 THE COMMISSIONER: And the question is whether, if he had an impression or an understanding but he didn't have actual 11 knowledge, the contrasting of those two could be said to be 12 in some way or other less than telling the truth. 13 allow that to be explored. 14 15 16 Clearly it is open to me to find, on one view, that he 17 at all times had a recollection of having an impression about why it was set up because he wrote the email. 18 19 distinct knowledge that he believed at the time the boss 20 wanted to get on the front foot. Well, he either forgot 21 about that or, alternatively, he was being less than 22 candid. 23 MR TEDESCHI: With respect, Commissioner, knowing that the 24 25 boss wants to or is anticipating some hostile publicity in the media some months later doesn't necessarily 26 translate --27 28 29 THE COMMISSIONER: Mr Tedeschi, I don't think you're actually focusing on the precise words of the email. 30 31 email talks about the adverse publicity. 32 33 MR TEDESCHI: Yes. 34 THE COMMISSIONER: 35 And wanting to get on the front foot. 36 Yes, it does. 37 MR TEDESCHI: 38 THE COMMISSIONER: Everybody in the place, including this 39 40 gentlemen, knew that three cases they were looking at were 41 at least highly likely to be the subject of the SBS 42 program. 43 44 MR TEDESCHI: Yes. There's no doubt about that. 45

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THE COMMISSIONER:

so thank you.

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All right.

Then I'm going to allow it,

1 MR GRAY: 2 I'll put it again, Mr Morgan. The question Q. 3 I put to you did accommodate the problem that my friend 4 just tried to raise. I'll put it again this way: three 5 times when you were asked if you knew why Neiwand was set up, you said you didn't know; correct? 6 7 Well, two or three times, yes. 8 9 Q. Whereas, in fact, you thought you did know, didn't 10 you? 11 Α. I had an impression. 12 13 Q. You thought you knew the reason, namely, the reason you put in your email? 14 15 Α. That was my impression, certainly. 16 17 Why didn't you say that in answer to any of the first 18 three times I asked you why it had been set up? 19 Because, as I tried to explain, I wasn't present at 20 any senior level meeting where they set the strike force 21 up. 22 The question was, as you know, "Do you know why it was 23 set up", not whether you were there when the decision was 24 made. You answered "No" to the question three times, "Do 25 26 you know why it was set up", but in fact, in your mind, you 27 thought you did know? 28 Which is an impression. There is a difference between 29 impression and knowledge. 30 31 Why didn't you say, "My understanding was the boss 32 wanted to get on the front foot about SBS"? Why hold that 33 back? 34 I wasn't holding that back. That came out quite 35 candidly. But that isn't knowledge, I put to you. 36 Well, you said, actually, that you had no idea why it 37 Q. was set up, didn't you? 38 I had an impression only. 39 40 41 THE COMMISSIONER: Q. Where is the email, Mr Gray? 42 43 MR GRAY: Volume 14, tab 285. [NPL.0115.0004.3512] 44 45 THE COMMISSIONER: Q. Are you saying, Mr Morgan, that 46 you wanted to tell your colleagues what you had detected was your boss's motive in setting up Neiwand? 47

A. Yes, I believe it was - I had a murder trial later that year with those two officers and I believe I was just trying to explain what my current position was as far as work.

Q. Yes, but the explanation you gave was your detection, if I may put it bluntly, of what you understood Mr Willing's motive was in setting up Neiwand?

A. That was my impression, yes.

Q. Well, call it impression or not, that was your belief at the time, wasn't it, as to why he was setting it up?

A. That was my understanding, yes.

Q. Have you got a problem with the word "belief"?

A. Well, as I say, sir, I wasn't present when --

Q. I didn't ask you about being present. Do you understand the difference between belief and knowledge?

A. Well, my understanding - my belief of it - I wasn't sure why. I didn't have it in black and white.

Q. I didn't ask you whether you were certain, Mr Morgan. I simply asked you whether you were telling your colleagues not only that, as you now inform us, you weren't going to be available implicitly to help them in relation to the matter you had been engaged on, but you were then given a priority of Neiwand?

A. Correct.

Q. You then volunteer, in other words, to tell your colleagues a bit more about your belief, and your belief was that it was because Mr Willing wanted to, in effect, say that the matters were under further investigation, and that's what you believed his motive was, whether it was the sole motive doesn't matter, it was one of his motives in setting up Neiwand?

A. That was my belief.

THE COMMISSIONER: Thank you.

MR GRAY: Q. In your statement [SCOI.76962_0001] - do you have that in front of you, still?

A. I don't, but I'm aware of it.

Q. Well, you should have it available to you. Just turn to paragraph 24. In paragraph 24 you say your involvement

in Neiwand didn't commence until 30 June 2016. 1 2 Α. Yes. 3 4 Q. But you've corrected that yesterday to acknowledge that you clearly started at least by February 2016? 5 Correct. 6 Α. 7 8 Q. But in 25 you say: 9 10 I have no particular knowledge or involvement about the reasons for the 11 establishment of Strike Force Neiwand ... 12 13 14 Α. Yes, I was trying to be certain. 15 16 Q. That was somewhat less than frank, wasn't it? 17 I didn't want to go into what my belief was. only prepared to commit to statement things of which I was 18 certain, and I am still not certain as to the reasons for 19 20 Neiwand. 21 22 You were certain enough to tell your colleagues as a fact what the reason was. You didn't say, "It's my 23 belief", or "I've heard", or "It's my impression", you said 24 "This is the reason", didn't you? 25 It was an email to colleagues. It was certainly never 26 meant for production, as you'd understand. 27 28 29 Do you mean you told them something that wasn't true? Α. No. I told them what my impression was. It wasn't 30 31 fact. 32 33 You put it forward as a fact, didn't you, you said, "The Boss wants to be able to say"? 34 35 Look, you could gain that impression from it. 36 THE COMMISSIONER: Mr Morgan, you used the word 37 Q. "apparently", which clearly means it appeared to you that 38 the situation was as follows. Surely that's what you were 39 telling your colleagues? 40 41 Α. Yes. 42 43 All right. And it appeared to you, for that reason, 44 because of things you detected Mr Willing had said, 45 presumably, or someone else had said in his presence, at 46 one or other of the meetings you might have had about 47 Neiwand, surely?

- 1 Α. I don't believe that came direct from Mr Willing. 2
- 3 Well, whether it did or whether it didn't, you 4 attributed these sentiments to him or motives to him because - you agreed with me yesterday that the word "Boss" is a reference to Mr Willing?

Α. Correct.

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So however you gained the impression, put it that way, you detected enough from what you had been told or what you had heard that it was Mr Willing who was motivated to have the inquiry undertaken but by reason of at least the fact that a political hot potato was likely to emerge later in the year?

Yes. Α.

15 16 17

THE COMMISSIONER: All right. Thank you.

18 19

MR GRAY: Q. In paragraph 26 you said, having just said that you had no particular knowledge about the reasons:

20 21 22

23

24

I believe former Deputy Commissioner Michael Willing ... may be able to address the reasons for the establishment of ... Neiwand.

25 26 27

Didn't you? Α. Yes.

28 29 30

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- And can we understand that now, given what you have now been saying, that what you meant by that was Willing wanted to get on the front foot ahead of an SBS program? Is that what you meant by that?
- Well, I don't know what he was likely to say. Α.

34 35 36

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39 40

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No, what did you mean by paragraph 26 when you said "Willing might be able to address the topic"? Did you mean what you've been telling us last night and today, that Willing wanted to be able to say that Unsolved Homicide was doing something at the time the SBS program hit the deck? That was my impression. I don't know that that was factual.

42 43 44

45

Q. That's what you meant by paragraph 26, is it? Well, obviously Mr Willing would know why he set up

46 a strike force.

- 1 Q. Could you answer the question, please. Is that what 2 you meant by paragraph 26?
 - I was saying that it should you should refer that question to Mr Willing because I wasn't sure.
 - Did you mean by paragraph 26, where you said that Willing might be able to address the reason, that, as you understood it, the reason was Willing's reason was to get ahead of the SBS program?
 - No, I don't think that's fair. I didn't know what the true reason for starting the strike force was. impression which may have been wrong.

THE COMMISSIONER: Mr Morgan, at the time you signed Q. this statement presented here, had you forgotten your email of February 2016?

Α. Yes, I had.

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And when did you become aware of it - prior to getting to the witness box, did you?

When it was served on me last week or whenever it was - this week.

THE COMMISSIONER: I see. All right, thank you.

Q. When you were asked about this late yesterday - that is, whether your understanding was that Willing set up Neiwand because he knew or thought he knew that SBS was going to have this program later in the year that might be critical of the police and he wanted to be able to say that you were looking at them - your answer was:

Α. That's the impression I had, yes.

Α. Yes.

And you've used the word "impression" a few times this morning. And I asked you, "Who did you get that impression from? Was it from him telling you that?" and your answer was:

I don't remember whether it came from him directly or whether it came from one of the inspectors.

Correct. Α.

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1 2 Q. Can you expand on that, please? I don't recall having a specific meeting with 3 4 Mr Willing in person over this matter, but certainly at the 5 time. Mr Lehmann was one of our inspectors, he was on the review team, and he did have an oversight of Neiwand, and 6 7 it may well have been in a meeting with him that I gained 8 that impression. 9 10 Q. From him, do you mean? 11 Α. From Mr Lehmann as opposed to Mr Willing direct. 12 13 So your best recollection is that either Mr Willing 14 told you or Mr Lehmann told you; is that right? Yes, it was - it was a senior officer. 15 Α. 16 17 Q. And I take it you had no reason to doubt that? 18 Α. No. 19 20 Q. It's a bit more than an impression, isn't it? 21 Α. It's - it was my impression on - what I acted on at 22 the time. 23 24 One or other of them, as I understand your evidence, 25 Willing or Lehmann, told you that that was the reason; 26 isn't that what you have just said? That's what I just said, but --27 28 29 Right. Well, that's not an impression; that's either Commander Homicide or Detective Chief Inspector Lehmann 30 31 telling you that that was the reason, isn't it? 32 That's the way it appears, yes. 33 34 That's the way it appears from what you've said on Q. your oath in the witness box, isn't it? 35 36 Α. Yes. 37 So is that the truth, apart from how it appears? 38 Q. Well, I'm certainly not here to lie, sir. 39 Α. 41 Q. Good. So is that the truth?

40

It's what I believe to be the truth. Α.

- 44 You believe that Mr Willing or Mr Lehmann told you Q. 45 this?
- 46 I believe somebody told me it, and I believe it was 47 a senior officer.

1 2 I've just been through this but I'll do it again if 3 I have to - and you have identified it as being either 4 Willing or Lehmann? Most likely, yes. 5 Α. 6 On a related note, did Mr Willing, in your presence, 7 ever refer to the work of Taradale and Coroner Milledge's 8 9 findings as being of significance in the Steve Johnson 10 case? Not that I can ever recall. 11 Α. 12 Did Mr Lehmann ever refer to those matters in that 13 Q. way? 14 Not that I recall. 15 Α. 16 17 Did either - well, first of all, did Mr Willing suggest in your presence that if the Taradale work and the 18 findings of Coroner Milledge could be overturned or 19 20 discredited, that would assist the Unsolved Homicide Team 21 in arguing that the Johnson case was suicide and not 22 homicide? No, that certainly never happened. 23 Α. 24 25 Q. Did Mr Lehmann ever say something to that effect? 26 Α. No. 27 28 Ο. Or Chris Olen? 29 Α. No. 30 Pamela Young? 31 Q. 32 Α. No. 33 34 Q. Stewart Leggat? And I should point out, Mr Leggat, I think, took 35 Α. over after Mr Lehmann left. He wasn't there at the start 36 of 2016, I don't think. 37 38 Well, these questions that I'm asking you now are 39 40 not confined to the start of 2016; they're at any time. 41 Α. Yes. 42 43 Did any of these people say something to you to that 44 effect? No. 45 Α. Never. 46

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Q.

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Or Jason Dickinson?

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Α.
1
              No.
2
              When Neiwand was created in October 2015, appreciating
3
4
         that you hadn't come on to it yet --
5
         Α.
              Yes.
6
7
              -- the initial investigation supervisor was
8
         Mr Lehmann?
9
         Α.
              Yes.
10
              And the initial OIC was Penny Brown?
11
         Q.
12
         Α.
              Correct.
13
         Q.
              Who was already, at that point, the OIC for Macnamir?
14
              Oh, I couldn't be certain of that but --
15
         Α.
16
17
              Well. Pamela Young was removed from the Macnamir or
18
         Scott Johnson investigation in about April 2015.
19
              Okay.
         Α.
20
21
         Q.
              And she was in effect succeeded by Penny Brown who, in
22
         effect, stepped up to that --
              That's true. I just wasn't certain of the date.
23
24
25
         Q.
              Right.
                      Now, February 2016, you're appointed to
         Neiwand?
26
27
         Α.
              Apparently, yes.
28
29
         Q.
              Do you have volume 14 there? Is that the volume you
30
         have?
31
         Α.
              Yes.
32
33
              Could you turn to tab 291, please.
34
         [NPL.0115.0001.0009]?
              Yes.
35
         Α.
36
              This is an issue paper dated 4 May 2016. It's signed
37
         by Mr Olen and initialled as supported by Mr Willing.
38
         you see that?
39
40
         Α.
              Yes.
41
42
              It's recounting in the first paragraph that Detective
         Superintendent Willing, in October 2015, had requested the
43
44
         Unsolved Homicide Team to reinvestigate the three Bondi
45
         deaths?
46
         Α.
              Yes.
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And under the heading "Comment", it then says that
1
         Q.
         in October 2015 - that is, at the same time - Detective
2
         Chief Inspector Lehmann of Unsolved Homicide created Strike
3
4
         Force Neiwand to reinvestigate the three deaths.
5
         Α.
              Yes.
6
7
         Q.
              And on this date, 4 May 2016, Mr Olen was saying:
8
9
              ... it is requested that Terms of
10
              Reference ... be created ... [for] Strike
              Force Neiwand ...
11
12
13
         Do you see that?
              I can see that.
14
         Α.
15
16
              Apparently, as at 4 May, Terms of Reference had not
17
         vet been drafted?
18
              It appears not.
         Α.
19
20
              And if we turn over the page in that same document, do
21
         you see there is a heading towards the top "Internal
22
         Request for Strike Force"?
23
         Α.
              Yes.
24
25
              And it's recommended by the squad commander, down at
         the bottom, Mr Willing, dated 5 May - do you see that?
26
              Yes.
27
         Α.
28
29
         Q.
              And the proposed investigation team is listed as being
         Investigation Supervisor, yourself?
30
31
         Α.
              I see that.
32
              OIC, Michael Chebl?
33
         Q.
34
         Α.
              Yes.
35
              Three investigators, namely Messrs Oldfield, Rullo and
36
         Kilani?
37
              Yes.
38
         Α.
39
40
              And one person listed as "Adviser", namely, Penelope
41
         Brown?
              Yes.
         Α.
42
43
44
         Q.
              Total of six?
45
         Α.
              Yes.
46
              And three of those were also on the Macnamir team,
47
         Q.
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- weren't they namely, Chebl, Rullo and Brown? 1 2 Brown definitely was. I'm not sure about the other Α. 3 two. 4 5 Q. You can assume for the sake of --6 Α. Okay. 7 8 -- this morning's exercise that that seems to be the 9 case on the evidence the Commission has. 10 All right. 11 12 Now, in terms of who selected the members of Neiwand, 13 what are you able to say? Well, they were all experienced --14 15 16 Q. No, as to who selected them? 17 Senior management. I don't know exactly who. 18 imagine it would be the inspectors and Mr Willing. 19 20 THE COMMISSIONER: Q. Can I ask you this: prior to your 21 joining the Neiwand team, did you know Mr Lehmann? 22 Yes. 23 24 Q. Over how many years had you known him? 25 Probably since 2008. He was one of the people I reported to from the Southern Region Unsolved team. 26 27 28 You have your statement there, and if so, Q. 29 can you turn to paragraph 49. Α. Yes. 30 31 32 You say there that, although you were not involved in 33 the selection process, your understanding was that staff were selected by Mr Willing, as Commander --34 Yes. 35 Α. 36 37 Q. -- and the senior management team? Α. Yes. 38 40 And you say the senior management team comprised the 41 detective inspectors who were at the time coordinators of the UHT? 42 43 Α. Yes.
- 39

- 45 Q. And that was Mr Lehmann and Pamela Young, wasn't it?
- 46 I've got Mr Olen here in the statement. Α.

- Q. No, the people who the detective chief inspectors who were at the time coordinators of the Unsolved Homicide Team, in late 2015, certainly one of them was Mr Lehmann, wasn't it?
 - A. Yes.

8

9

- Q. I may have been wrong when I suggested to you just now that Pamela Young was one. She may have been gone by then. But Lehmann was one, certainly?
- 10 A. Yes.

11 12

- Q. And was DCI Olen also one of them?
- 13 A. I believe so.

14

- Q. So your understanding, then, is that the selection of the six people for Neiwand was done by Willing, Lehmann and Olen?
 - A. Yes, it would have been.

18 19

- Q. In paragraph 51 you say something about who worked on Neiwand at various stages.
- 22 A. Yes.

23 24

- Q. You nominate Olen as the investigation coordinator in the early stages.
 - A. Yes.

26 27

30 31

25

- Q. Approximately what do you mean by "early stages" there?
 - A. Well, from the time that I first became involved in it, I think Mr Olen was the investigation coordinator, and subsequently Mr Leggat took over that role.

32 33

- Q. I understand. But I'm asking you as best you can, when was that changeover?
 - A. I can't remember when Mr Leggat started 2017 perhaps?

37 38 39

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- Q. You don't list in paragraph 51 in these bullet points Mr Lehmann, even though he was apparently the investigation supervisor for some time. Why is that? Was he involved in Neiwand or not?
- A. I think when I compiled that list I was looking at the e@gle.i staff list and I don't recall whether his name was on it or certainly he was well and truly retired by the time I made this statement.

- Q. Sure. But at the time of Neiwand, October 2015 and certainly from February '16 when you were added to Neiwand, was Mr Lehmann involved? I thought he was.
 - A. He was still at the Unsolved Homicide office and I --
 - Q. Was he involved in Neiwand is my question?
 - A. I don't recall.

THE COMMISSIONER: Q. So he could be someone you would have had meetings with during your Neiwand investigation?

A. I don't remember.

Q. I didn't ask you whether you remember. Is he somebody, given his status and your nominating him in your evidence as someone that you would likely have met with, although you can't recall the detail of any of these meetings, perhaps, but Lehmann is a person who you would likely have met with in 2016 at the very least when you were doing Neiwand?

A. Yes.

THE COMMISSIONER: Thank you.

MR GRAY: Q. The next one you refer to in paragraph 51 is Michael Chebl, and you've got in brackets "resigned"? A. Yes.

Q. When did he resign, and to your knowledge, why?

A. I can't be specific on when he actually resigned, but he left Homicide, the Homicide Squad, on secondment prior to resigning. I can only guess that it might have been 2018, something like that.

- Q. And the reason for his resignation?
- A. I don't actually know. He put in for a job at the police youth clubs and he missed out, and my understanding is he was quite put out by that, but I don't know the exact reason for him leaving.

Q. Then in the rest of those bullet points you identify the ones - that is, yourself, Kilani, Rullo and Oldfield who were listed on this document at tab 491?

A. Yes.

F

- Q. And then you add a few more?
- 46 A. Yes.

- 1 Q. DSC Tierney - what was the level of her involvement?
 - Α. She was an investigator on the strike force.

- Q. For what part of it?
- 5 I don't think she was there at the start. from Fairfield detectives to us. But certainly at some 6 7 stage she was part of Neiwand.

8

9 Q. You can't assist us with approximately for how long? 10 Α. No, I can't. Can't help you.

11 12

13

14

15

- And what about intelligence analyst, Bianca Comina, how long was she involved?
 - She was certainly involved in the earlier part and then my understanding is that Mr Crouch, Craig Crouch, took over from her.

16 17 18

- Q. So they are a kind of two for one, as in --
- 19 Α.

20 21

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- Q. -- one had the position and then the second one had the position?
 - That's my recollection of it.

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And between the two of them, adding them together, how much of the investigation period did they participate in? I would have thought they were there for the whole time.

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- And Clint Nasr, he was a legal consultant. What was his function?
- He was there he was given access to e@gle.i, and a legal consultant is appointed to each strike force, such that if you need legal - operational legal advice - he was a qualified solicitor - we could contact him and run that advice past him.

36 37 38

39

All right. But apart from that function, he wasn't involved in the investigative aspect of the strike force? Certainly not.

- In May 2016, a few months after you 42 Thank you. 43 started at Neiwand, there were two articles in the Sydney 44 Morning Herald, one about Parrabell and one a day or two
- 45 later about Neiwand. Do you remember those?
- 46 I remember various articles. I can't turn my mind to 47 a specific one without seeing it.

1 2 I wonder if Mr Morgan could have volume 8, and turn to Q. tab 221 [SCOI.82030_0001]. 3 4 Α. Yes. 5 Q. That, as I imagine you can readily see, is an article 6 about Parrabell? 7 8 Α. Yes. 9 10 And it's dated 21 May, which was a Saturday. you turn to 222, [SCOI.8208_0001] that's an article on the 11 12 Monday, May 23, 2016 --13 Α. Yes. 14 Now, it says, "Police re-open Sydney gay-hate homicide 15 16 cases" as the headline. 17 Α. Yes. 18 19 I can give you a moment to read it, but as you go, can 20 you tell me, first of all, whether you either read this or 21 knew about this at the time? 22 I believe I did see both - both that and the previous article around that time. 23 24 Now, this one, of the 23rd, although the word 25 26 "Neiwand" is not mentioned, is clearly a reference to what Neiwand was doing; do you agree? 27 28 Α. Yes. 29 30 What's your understanding as to how it was that these 31 two articles came to appear in close succession in May 32 2016? 33 I can only surmise that it is in response to the 34 reward announcement that Mr Willing made. 35 36 Q. That was a year earlier? 37 Α. Oh, in that case, I don't know. 38 One about Parrabell on one day and another one about 39 40 Neiwand, although not named, within 48 hours. Were you 41 aware of any media strategy that was being deployed at the 42 time? 43 Α. As I sit here now, no.

43 A. As I sit here now 44

Q. Mr Willing is either quoted or words are attributed to him in this article as saying - this is in the third column - that the review, plainly Neiwand, was partly

45

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- prompted by information detectives came about while investigating the Manly cliff death of 27-year-old Scott Johnson. Do you see that?
 - A. I do see that.

- Q. Was that correct, to your knowledge? Was it partly prompted by that, to your knowledge?
- A. Not to my knowledge.

8 9

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- 10 Q. That's news to you, is it?
 - A. No, I'm accepting that it's here, but --

111213

14

15 16

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- Q. I can see you are accepting that it's here, but are you saying that you did not know that the Neiwand operation was partly prompted by information that detectives came across while investigating the Manly cliff death of Scott Johnson?
- A. Not that I can remember now, no.

18 19 20

Q. Then Mr Willing is quoted in these terms:

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"Flowing on from the UHT's ongoing investigation into the death of Scott Johnson, the investigations into the deaths of Gilles Mattaini, John Russell, and Ross Warren have been recommenced" ...

26 27 28

A. Yes, I see that.

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- Q. Did you understand that to be what the sequence had been or were you surprised when you read that?
- A. I don't recall being surprised, so it must have been yeah, I don't recall surprise at it.

333435

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- Q. Well, what did you understand had come out of the Scott Johnson inquiry that was relevant to the Neiwand work?
- A. Just that there was talk of gay hate crimes, in a general sense.

40

- Q. I see. Were these articles the subject of discussion at the time among the Neiwand team, either beforehand or after-hand?
- 44 A. I dare say they would have been.

45

Q. Are you aware of any other reference in the media ever to Neiwand or what it was doing?

I don't recall seeing Neiwand by name, but certainly 1 2 from time to time there were accounts in the media about 3 the matters of Warren, Russell and Mattaini. 4 5 Any account in the media that you know of that said that the police were reinvestigating them, apart from this 6 7 one we're looking at? 8 Oh, I don't remember now. 9 10 Could I suggest to you that - well, I will ask you did Neiwand ever issue a media release, during the 11 whole of 2016 or 2017, asking the public for information 12 about any of these three cases? 13 No, I don't remember. 14 Α. 15 16 Q. Don't you? 17 Α. No. 18 19 Q. If you were reinvestigating the three cases, isn't 20 that something that would be pretty elementary? 21 It depends. Sometimes you have reasons to try and 22 keep an investigation quiet. 23 24 Q. And what reasons, if any, did you have on that score in this case? 25 26 I don't remember any. 27 28 Well, if there weren't any, why not ask the public for Q. 29 help? Interesting point but I don't know. 30 Α. 31 32 THE COMMISSIONER: Q. Well, interesting to one side for 33 the moment, you never had a perception, did you, in 34 relation to the Neiwand exercise, that it was prompted by the revelation of new material? 35 36 I don't know what prompted --37 You never, I suggest, had brought to your attention 38 that Neiwand was started because of the revelation of new 39 40 material, did you? 41 Α. No. 42

Α.

MR GRAY:

Q.

Not that I'm aware of.

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To your knowledge, did anyone from Neiwand

to in this article, about what Neiwand was doing?

ever give any media interviews, apart from the one referred

- Q. The eventual results of Neiwand, when you got to the end of the whole thing, were never published outside the police, were they?
 - A. No, I don't think they were.

Q. Just back to something the Commissioner just asked you, and picking up some evidence you gave yesterday, as I recall your evidence yesterday, it was generally to this effect - you may want to clarify it - that ordinarily, the Unsolved Homicide Team would come to the point of looking again at a particular case if some new information came in, eg, through Crime Stoppers or some such?

A. Yes.

- Q. Now, that didn't happen in the case of these three deaths, did it?
 - A. No, I don't think so.

- Q. So that wasn't the reason for reinvestigating the three deaths, new information?
 - A. I don't believe so.

- Q. No. Your understanding, as we've been through and we won't rehash it, was that it was because Mr Willing was concerned about what SBS might be going to do?
 - A. Yes, it was envisaged that there was going to be criticism of the police.

- Q. So would your understanding be that if that intelligence hadn't come into focus, the possibility of an SBS program, these three murders these three deaths, I should say, would not have been reinvestigated at that time?
- A. As far as I'm concerned, yes.

- Q. Now, we saw a minute ago, you may have it still open, that issue paper of Mr Olen, that as at May 2016, there were as yet no Terms of Reference?
- A. Yes.

- Q. And it's also the case that there was as yet at that time no investigation plan?
- A. No. Normally the reference goes before the investigation.

THE COMMISSIONER: Can I just interrupt again? I am sorry to do this.

1 2 Q. Apart from yourself, was it your belief that the other 3 persons who constituted the Neiwand team, if I can use that 4 description, were experienced - by and large were 5 experienced homicide people? Yes. 6 Α. 7 8 And does that follow, therefore, that you and the 9 others were taken off active work that you were engaged in 10 in other homicides to attend to your duties in relation to Strike Force Neiwand? 11 Α. Yes. 12 13 Thank you. And I think you said yesterday and again 14 Q. today, yesterday certainly, that one such matter was 15 a matter that you had some association with the two 16 17 colleagues, Sebastian and somebody else, whom you sent that 18 email to February? Yes. 19 Α. 20 21 Q. So you had to terminate your involvement in that 22 homicide matter? Well, it was before the courts. We had actually 23 24 charged somebody. 25 But you said yesterday you had 12 ongoing homicide 26 27 matters, do I understand it, at or about the time you were 28 reassigned to Neiwand? 29 No, I had - when I was at the Southern Region Unsolved I had 12 cases 30 31 32 Ο. Yes? 33 I can't remember how many had I when I was shifted 34 back to Sydney. 35 36 In any event, you had to be taken off those cases and focused, do you understand it, full time on Neiwand? 37 Pretty well full time, yes. 38 Α. 39 Thank you. 40 THE COMMISSIONER: 41 Now, in volume 14 --42 MR GRAY: Q. 43 44 THE COMMISSIONER: Q. And would it be Mr Willing, 45 ultimately, who would decide how to allocate resources 46 about such a matter, Neiwand? 47 I - it was senior management team. So it was

```
1
         Mr Willing in consultation with the inspectors.
 2
         THE COMMISSIONER:
 3
                              Thank you.
 4
 5
         MR GRAY:
                    Q.
                          Could you turn to tab 306,
         [NPL.3000.0001.0026 _0001], please.
 6
 7
 8
         THE COMMISSIONER:
                              Which volume is that??
 9
         MR GRAY:
10
                    Volume 14.
11
         THE WITNESS:
                         Yes, I have that.
12
13
         MR GRAY:
                    Q.
                          So here is Penny Brown on 1 February 2016,
14
         just a couple of weeks before you joined Neiwand, sending
15
16
         to some people, whom I'll come to in a second,
17
         a spreadsheet of Taradale suspects and victims - do you see
18
         that?
              Okay, yes.
19
         Α.
20
21
         Q.
              She, at that point, was still the OIC of Neiwand,
22
         wasn't she?
23
         Α.
              Yes.
24
25
              The people she's sending it to are Messrs Chebl,
         Rullo, Kilani and Oldfield, who by then were on the Neiwand
26
         strike force; correct?
27
28
              Correct.
         Α.
29
         Q.
              And she was copying it to inspectors Olen and Lehmann?
30
31
              Yes.
         Α.
32
33
         Q.
              And she was blind copying it to Michael Willing.
34
              Yes.
         Α.
35
         Q.
              And she says to all of those people:
36
37
38
              attached is a spreadsheet of the Taradale
39
              suspects and victims.
40
41
         And in the third paragraph she says:
42
43
              ... I'm anticipating that we all get
44
              together next Monday to kick off [Strike
45
              Forcel Neiwand.
46
47
         Do you see that? The third paragraph.
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. 23/02/2023 (26) 1949 S MORGAN (Mr Gray)

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Yes. 1 Α. 2 3 Q. She says: 4 5 I am hoping to finish my statement 6 today ... 7 8 Pausing there, have you ever seen this email before? 9 I don't believe I have. 10 So you perhaps aren't able to assist us with what her 11 statement might have been - was it a statement to do with 12 13 Neiwand or a statement to do with something else such as 14 Macnamir? As I read this, I don't know. 15 Α. 16 And then second or third last paragraph she says: 17 Q. 18 19 I look forward to working with you all and 20 am hoping we will get a positive result for 21 [Strict Force] Neiwand. 22 Yes. 23 Α. 24 25 Q. You don't recall ever seeing this email? 26 Α. No. 27 28 And the attachment is at 306A and it is the spreadsheet that she refers to. 29 I recognise some of those names but I don't 30 31 believe I've actually seen that document before. 32 33 Q. There are, if one counts them up in the left-hand 34 column, 116 names. You don't think you've ever seen this document before? 35 36 Not that particular document. However, I do recognise quite a few of the names. 37 38 Yes. You can see from the spreadsheet, looking at it 39 40 now, that in the left-hand column, there are, as I say, a total of 116 names, being persons of interest and/or 41 associates thereof identified in the course of the Taradale 42 work? 43 44 Α. Yes. 45 46 And they are cross-referenced to some extent to known 47 victims of some of those persons of interest. You can see

1 that in about the fourth column from the right. 2 Α. Yes. 3 4 Q. And in various fields in the spreadsheet there is more 5 or less information in connection with any particular person of interest? 6 7 Α. Yes. 8 9 Q. Never having seen this before but looking at it now, 10 do you know where Penny Brown produced this spreadsheet 11 from? 12 Α. I don't know, but it would appear that it may well I know a number of these persons 13 have come from Taradale. of interest were mentioned in Taradale. 14 15 16 Well, looking at them now, and you'll see some of 17 them - some of the persons of interest are in bold font in 18 the left-hand column? Yes. 19 Α. 20 21 Q. Not all of them but some of them are? 22 Α. 23 24 Among these 116 names were some that were very 25 prominent in the Taradale inquiry and other inquiries; correct? 26 Correct. 27 Α. 28 29 Many of these names, I'm sure you would agree, had been identified as long ago as 1990 or 1991 by the work of 30 police officers such as Sergeant Ingleby and Sergeant 31 32 McCann? 33 Α. Yes. 34 35 Q. And among the names were Sean Cushman? Α. Yes. 36 37 Q. The three males known as the Tamarama Three? 38 39 Α. Correct. 40 41 Q. I'm looking at the spreadsheet now. 42 Α. 43 44 Among the names on the spreadsheet were the eight 45 males known as the Alexandria Eight?

Α.

46

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Yes. I've seen some of those that I recognise, yes.

And it also included numerous other males who were 1 Q. 2 associates of either the Tamarama Three or the Alexandria 3 Eight or both? 4 Α. Yes, and some females. 5 Quite so. I was going to come to those, but, yes, 6 Q. numerous females who were associated with some or all of 7 8 these various males? 9 Α. Yes. 10 And numerous males who were members of various gangs 11 Q. such as the Bondi Boys and the Parkside Killers or PSK? 12 13 Α. Yes. 14 To your knowledge, which, if any of these 116, was 15 16 interviewed by anyone from Neiwand? 17 I can see one. 18 Q. 19 Who is that? 20 Do you actually want me to mention the name in the --Α. 21 22 MR TEDESCHI: I object. 23 24 MR GRAY: Is there a number to the left hand of the -Q. 25 at the far left hand of what you are looking at? Are they 26 numbered? No, they don't appear to be. 27 Α. 28 In that case, in case there's a non-publication 29 problem, which there may be, can you tell us on which 30 31 page you're talking about and --32 Well, there's one that I straightaway see on the first 33 page. 34 35 Q. Okay, where? Where in the --36 About two-thirds of the way down the page, maybe 37 three-quarters. 38 Q. Tell us which box it is up from the bottom? 39 40 Α. Six up from the bottom, in bold. 41

42

- Yes? Q. That's one.
- Α. That's one that I saw straightaway.

44 45 46

43

MR GRAY: Can we just for clarity - I will say this and my friend can tell me if there is a problem with it.

Now, next?

No-one on

1 THE COMMISSIONER: Perhaps I can ask this question.

Thank you.

-- is the person you have nominated - if I go to the

That's sufficient to move on.

I'm not certain about the first name, but 10 down on

Yeah, the tenth from the top. There was certainly

a person by that surname that we spoke to. I'm not certain

That's a person --

certainly we interviewed a person of that surname.

No-one that I can recognise on page 2.

No-one that I can recognise on page 3.

That is my understanding of it, yes.

everyone else has, has a person's name in bold.

Next?

as opposed to persons of interest.

I can't be certain that that is the person but

page 4. Page 5 appears to be victims, from what I gather,

persons of interest, 116 in total, Neiwand interviewed

though, isn't there one person of interest, or have I got

seems to be a charge referred to in the last column, or

that wrong. My last page, if it's the same last page that

- 2
- 3 Q. Mr Morgan --

MR GRAY:

Q.

Q.

Α.

Q.

Α.

Q.

Any others?

the first page.

Yes, sir.

THE COMMISSIONER:

Q.

about the first name.

All right.

All right.

Quite so.

either one or two?

THE COMMISSIONER:

have I got that wrong?

Riaht.

Sorry, 10 did you say?

Α.

- 4
- 5
- 6
- 7
- far right-hand column is the person you have nominated, at 8 least one of the words in that column on the far right is 9 the word "Murder"?
- 10 Α. Yes.
- 11
- 12
- 13
- 14
- 15
- 16 17
- 18

- 19
- 20 21
- 22
- 23

- 24
- 25
- 26 27
- 28
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- 30
- 31
- 32
- 33 34
- 35 36
- 37

- 45
- 38 39 40
- 41 42
- 43 44
- 46 47
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So of the first four pages, which are the

Sorry, can I just ask on the last page,

1 MR GRAY: I think, Commissioner - are you looking at 2 a last page which has seven names, the last one of which is 3 in bold and then another one some lines below? 4 5 THE COMMISSIONER: Yes, I am. That's page 4. 6 7 MR GRAY: I think the witness is calling that the fourth 8 page of persons of interest, and there is another 9 page after that which, as the witness says, is indeed 10 a list of victims. 11 THE COMMISSIONER: 12 Yes, I see. Now I'm right, thank you. 13 My mistake. Thank you very much. 14 Now, apart from interviews, which, if any 15 MR GRAY: Q. 16 of these 116, was the subject of any other means of 17 investigation at all, whether overt or covert, by Neiwand? I can't say. No, that I - as I sit here now I don't 18 19 recall any of the others. 20 21 Q. The answer I suggest to you is zero; do you agree? 22 Α. That's quite likely. 23 24 Q. Shortly we will go through your three Neiwand 25 summaries. 26 Yes. Α. 27 28 One each for Mr Mattaini, Mr Warren and Mr Russell. 29 They were generated at the very end of Neiwand, weren't they - about November/December 2017? 30 31 I think so, yes. Α. 32 33 They contained summaries, or summarised accounts, of 34 what work it was that Neiwand did during the course of 2016 and 2017? 35 36 In relation to each, yes. Α. 37 And it's quite obvious, isn't it, that with only 38 a couple of exceptions - perhaps only one - Neiwand did not 39 40 actually do anything about any of these persons of interest 41 at all? 42 Not these persons of interest. Α. 43 44 Q. You agree? 45 Α. We did have other persons of interest. 46 47 Q. I'll come to that, but these ones you did nothing at S MORGAN (Mr Gray) .23/02/2023 (26) 1954

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1 all?

A. Aside from that one person that I - or two people that I mentioned.

Q. Apart from interviewing the one that you were sure about and perhaps the second?

7 A. Yes.

Q. Indeed, would you accept, and we'll come to this in the summaries, that Neiwand actually made a deliberate decision not to pursue further these persons of interest and instead to focus on other approaches?

A. Yes.

- Q. And one such focus was victimology?
- A. Yes.

- Q. And that involves, in summary, learning more about the victim, mainly from his family and friends?
 - A. And background and the like, yes.

- Q. And another obvious focus of Neiwand from the three summaries was the alternative possibilities of suicide or misadventure?
- A. Yes.

- Q. Would you agree that in all three cases, Neiwand put far more effort into finding evidence that might indicate suicide or misadventure than it did into finding evidence that might indicate homicide?
- A. No, I think we went in with an open mind and the thing of suicide or misadventure developed as we were going through the inquiry.

Q. Whether or not you went into it with an open mind, do you agree that, in fact, as the time passed in 2016 and 2017, Neiwand put far more effort into finding evidence that might indicate suicide or misadventure than it did into finding evidence that might indicate homicide?

A. Ultimately, yes.

- Q. And another obvious focus of Neiwand, I'd suggest from the summaries, was finding fault with Taradale wherever possible?
- A. No, that wasn't something we deliberately set out to do.

1 Q. It's something you in fact did do, though, isn't it, 2 as time went on? There were some criticisms of Taradale. 3 Α. 4 5 Well, you accused Taradale and Detective Sergeant Page of deliberately disregarding evidence? 6 I think it was more objectivity. 7 8 9 Q. Did you accuse him of deliberately disregarding 10 evidence? I never accused him of disregarding evidence, 11 12 personally. 13 14 Do you mean by that that you are distancing yourself Q. from the summaries? 15 16 $I^{\,\prime}\text{m}$ - $I^{\,\prime}\text{m}$ aware that there was some criticism of both 17 Taradale and Detective Sergeant Page individually, but my recollection of it - and I have read through those 18 19 documents quite recently - is that it was along the lines 20 of his objectivity at the time of doing Taradale.

21

THE COMMISSIONER: Q. Let me ask you this: you have read those summaries recently?

24 A. Yes.

2526

Q. In each case of Mattaini, Russell and Warren?

A. Yes.

27 28

- Q. Do you agree with the summaries and the views expressed in there about Mr Page?
- 31 A. For the most part, yes.

32 33

THE COMMISSIONER: Thank you.

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MR GRAY: Q. What does "for the most part "mean?
A. Well, different people use different words. I don't doubt that Mr Page followed a line of investigation that was quite justified in his mind at the time.

38 39

- Q. One of the summaries, the Mattaini summary, accuses him, doesn't it, of deliberately withholding evidence from the Coroner?
- A. I didn't recollect that but I did see Mr Willing giving evidence on Tuesday and I'm aware of what came out from that.

46 47

Q. That's very helpful, thanks very much. But you read

- 1 the summaries recently yourself?
 - A. I've skimmed through them, yes. I've been served with a volume of material.

- THE COMMISSIONER: Q. No, Mr Morgan, please. In your own interest, would you be very careful about your answers. Is the truthful position that you have only skimmed the summaries or is it more accurate to say you have looked at them carefully and possibly more than once?
 - A. I have looked through them more than once but I have also received a huge volume of material.

Q. Mr Morgan, I will say it again. In your interests, would you please answer the question. Is it fair to say that you have only skimmed those summaries, albeit more than once, or is it more accurate to say that you read them more than once and you have carefully looked at them?

A. I've carefully looked at them as much as time provided.

THE COMMISSIONER: Yes, all right, thank you. No doubt you will be asked about them in due course, Mr Morgan.

MR GRAY: Q. You will be, Mr Morgan, but just --

Q. Were you ever shown a draft of the summaries before they were finalised?

Perhaps if I can interrupt again.

A. I don't remember now.

THE COMMISSIONER:

- Q. Is it likely you were, Mr Morgan?
- A. If I was in the office at that particular time, yes.

- Q. Okay. So if you weren't in the office, serendipity would take over and you probably wouldn't have been shown a draft, do you tell me, before it was finalised by Mr Leggat or somebody else?
 - A. If I wasn't there, yes.

- Q. And is it truthful to say that you believe you were not consulted about the language of those drafts, or would that be inaccurate?
 - A. I wasn't consulted about the language of the drafts.

Q. So nobody, including Mr Leggat, ever asked you what you thought about the conclusions he or others were

- 1 reaching; is that the truth?
 - A. No, I I overall I agreed with the conclusion reached.

- Q. Let me just proceed with that for a moment so I can try to get to the truth, Mr Morgan. Was the process involved in drafting these summaries to sit down and have discussions before they were produced or were they just delivered to you in some form or other at some point in time?
- A. The summaries were created by Mr Chebl as the OIC, and I believe that had I been in the office at the particular time, I would have read through them at some stage.

- Q. All right. So the process that was undertaken, as best you can recall, is that you were not invited, do I understand you to say, to participate in any discussion about the conclusions that were being drawn in relation to this strike force in which you had spent a fair bit of time?
- A. I don't specifically take recall having a part of that, but I certainly, had I been there at the time, I would have there would have been discussions amongst the team.

- Q. Of course there would have been discussions. You were one of the central figures in this reinvestigation, weren't you?
- A. Yes.

- Q. And it's clear, isn't it, that from time to time, let alone at the conclusion, your views in all probability were sought?
- A. Yes.

- Q. On different aspects of the matter?
- 37 A. Yes.

THE COMMISSIONER: All right. Thank you.

- MR GRAY: Q. I will come to these summaries, each of them, in some detail, but just at this preliminary stage, didn't the Mattaini summary accuse Mr Page, Detective Sergeant Page, of deliberately withholding evidence from the Coroner?
- 46 A. Yes.

- Q. Is that your view? Do you say that he did? Or is that Mr Chebl's view?
- 3 A. It was Mr Chebl's view, having spoken with Mr Musy.

4 I wasn't a party to that conversation.

5 6

- Q. No, was it your view?
- A. Well, assuming that his conversation with Mr Musy was correctly recorded, yes.

9

- THE COMMISSIONER: Q. So you agreed with Chebl's account, did you?
- A. Well, as I say, I wasn't party to the conversation with Mr Musy, but assuming that that's as it was recorded by Mr Chebl, yes.

15 16

- Q. And you trusted Mr Chebl's judgment on that, did you?
 - A. Well, yes, you do trust your work colleagues.

17 18 19

- Q. But you didn't trust Mr Page, though, did you?
 - A. Well, he wasn't a work colleague.

20 21

22 THE COMMISSIONER: I see.

23 24

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- MR GRAY: Q. Was the object of such a serious attack on Taradale and Sergeant Page to undermine the force of Coroner Milledge's analysis and findings?
- A. Well, obviously the Coroner is going to be influenced by what material is put before them.

28 29 30

- Q. Could you answer the question?
- A. Sorry, could you repeat the question?

31 32 33

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- Q. Was the object of the serious attacks by Neiwand on Taradale and Detective Page to undermine the force of Coroner Milledge's analysis and findings?
 - A. It threw doubt on those findings, yes.

36 37

- 38 Q. Was that its object?
 - A. At what stage?

39 40

- 41 Q. Any stage?
- A. I think ultimately, Strike Force Neiwand had concerns about the Taradale the objectivity of the Taradale investigation, which obviously would influence the findings.
- investigation, which obviously would influence the findings that her Honour came to.

46

THE COMMISSIONER: Q. Mr Morgan, do you appreciate the

gravity of suggesting that a police officer has withheld material which he or she is aware of from a Coroner during the course of an inquest? Α. Yes. Q. You appreciate the gravity of that? Α. I do.

Α. .

8
9 THE COMMISSIONER: Thank you.

MR GRAY: Q. Was the object of making that accusation in the Neiwand summary to undermine the force of Coroner Milledge's findings and analysis?

- A. I'm struggling with that terminology but I can see how the criticisms would reflect the findings that the Coroner came to, if that's what you're asking me.
- Q. No, I'm asking you was that your objective in making those criticisms?
 - A. It wasn't my objective, no.

- Q. Did you make those criticisms, you and Mr Chebl, so as to give support to Macnamir's suicide theory in the Scott Johnson case?
- A. No.

- Q. Just back on the spreadsheet with the 116 persons of interest --
- A. Yes.

Q. -- given the large number, over 100, and the complexities of the actual or possible links between or among some of those people and some of those gangs -- A. Yes.

Q. -- which I take it you would accept - that is, there was at least the possibility of links between one or more of those people and one or more of those gangs?

A. Yes.

- Q. So given the number and the complexities, Strike Force Neiwand, with six or seven people, could never have pursued those persons of interest in any meaningful way without more resource; correct?
 - A. We didn't go down that path. I don't know if it was a matter of resourcing.

- 1 No, the question again - if you could focus on the question: with the numbers you had, which was six plus two 2 3 or three more, as we've just established, you couldn't 4 possibly, in the time you had, have seriously investigated 5 all that might need to be investigated again in 2016/2017 in relation to those 116 people, could you? You would have 6 7 needed more people?
 - Quite likely. Α.

- 10 Q. You never sought more people?
- 11 Α.

12

- 13 And you never did pursue any inquiries in relation to 14 those 116 except possibly one or two?
 - Correct. Α.

15 16

- 17 One of the things you say you had - "you" Neiwand had - was the transcript of the proceedings before Coroner 18 19 Milledge; correct?
 - Α. Yes.

20 21

- 22 And you tell us that in your statement in two places. At paragraph 42 you say that you perused the Taradale 23 e@gle.i investigation and subsequent coronial court 24 transcripts? 25
 - Yes. Α.

26 27 28

- Q. That's correct, is it?
 - Α. That's correct.

29 30

- Did you read the whole of the transcripts before 31 32 Coroner Milledge?
- 33 I believe so. I certainly read the summary of the 34 finding. I believe I read the rest.

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- 36 Well, the summary of her finding is about 14 pages. Q. 37
 - I certainly am familiar with that. Α.

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- The transcript is many hundreds of pages. Did you Q. read it?
- 41 Α. As I sit here, I don't recall doing it, so --

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- Q. You don't recall reading the transcript?
- 43 44 No, but that's not to say I didn't. Α.

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46 You just have no idea, as you sit here today, whether 47 you did or not?

1 A. Correct.

Α.

Yes.

THE COMMISSIONER: Q. It would be absolutely fundamental for you, as one of the senior investigators, surely, to be intimately familiar with the evidence before the Coroner, surely?

- Q. And not only the evidence before the Coroner in the transcript, but all of the various statements and other matters that were before her?
- A. When you say "intimately"?

- Q. I mean at a level of detail that would enable you to make a considered assessment of how thorough Mr Page's work had been before Coroner Milledge and how thorough Coroner Milledge's articulation in her judgment had been?
- A. As I say, sir, as I sit here, I don't recall reading the whole of the transcripts.

Q. Would you agree with me that it would be fundamental to read all of those materials in some considerable detail?

A. Either read them yourself or have somebody on the strike force read them.

 Q. And so do you recall delegating to anyone else to read all this material for you and, what, provide you with summaries, or what?

A. I don't recall that.

- MR GRAY: Q. When you say in paragraph 42 that there was a perusal of the transcripts, you mean, do you, that somebody else might have perused them, although it seems that you perhaps didn't; is that the position?
- A. I recall reading the 14-odd pages of the Coroner's findings myself. As to the other material I can't be certain.

Q. No, I'm trying to bring together your last few answers to see if this is right: that your best recollection is that either somebody else at Neiwand might have read the whole transcript, but you are not sure - is that right? A. Yes.

Q. And your best recollection is that - tell me if this is correct - you yourself probably did not read the whole transcript; or is that not so? A. As you say, it would have been a very - a considerable volume of material, and I don't specifically - sitting down and reading through a whole lot of material like that.

- Q. So when in paragraph 68 you say that on March 2017, transcripts from the 2005 inquest resulting from Taradale were received by Neiwand and that these were also reviewed, what does that mean?
- A. Well, clearly they were reviewed by the Strike Force Neiwand team. Whether that was me personally or not, I'm not able to say.

- Q. When you say that it's "clearly" the case that that happened --
- 15 A. Yes.

- Q. -- that's what seems not to be clear. Do you know whether anyone actually read them?
- A. Somebody would have read them. Somebody did read them.

- 22 Q. Who?
- 23 A. I one of the investigators. If not me, one of the others.

- Q. How do you know that?
- A. As I sit here, I don't remember, but obviously when I made the statement I had something in front of me, I would suggest from e@gle.i, suggesting that.

Q. Would e@gle.i tell you that someone read it or simply that someone had uploaded it on to the system?

A. In the case of putting it on the system, you read through it.

- Q. You assume?
- A. Well, I think it's a fair assumption to make in the circumstances.

- Q. Is it?
- A. Yeah, well --

- Q. So we're now to the point where you are assuming that someone read it because it's been put into the system?

 A. Well, I know that me personally, if I scan something
- on the system, I go through and read it.

- Righto, but you didn't do that yourself in this case? 1 Q. 2
 - Α. I didn't upload all the transcripts, no.

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- Q. So you were assuming that whoever did, should have read it?
- 6 Yes. Α.

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- THE COMMISSIONER: Q. But why would you read it? I don't understand, if you received from the Coroners Court transcript of a hearing in any matter and it is relevant to perhaps an investigation, what would be the point of reading it all, provided you satisfied yourself that it was a transcript from a hearing of relevance and it came from an authentic or reliable source? Do you tell me that before you even would upload it on e@gle.i, someone would be responsible for reading every page of a lengthy hearing, let's say, before it was uploaded?
- Well, there's no sense in putting it in on the system if you're not going to read it.

19 20 21

- Q. I beg your pardon?
- Α. I don't see any sense in uploading something --

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But when you say you don't see any sense, I'm asking you for your evidence, you see? If it is thought that a hearing in a matter is relevant and you receive from a reliable source, let's say the Coroners Court, a transcript of a hearing, do you tell me that, although that might be relevant to an investigation, or thought likely relevant to some future investigation, someone would have to read it from start to finish to decide whether or not it would be uploaded on e@gle.i?

No, in putting it on e@gle.i, it would be read.

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- Well, when you say "it would be read", that's ridiculous, if I may say, Mr Morgan. Does that mean to tell me that if a hearing takes 10 days before a Coroner and 10 days of transcript arrive in somebody's office at NSW Police, it's thought to be relevant, or at least likely relevant to an investigation - do you tell me that prior to it being uploaded on e@gle.i and generally available for those who might need to look at it, someone has to read it from page 1 to page 2052, if that's how many pages there
- were? Α. No, not necessarily prior to being uploaded, but at some stage obviously it would be read.

46 47

Α.

1 Q. Well, it would be read by those who were interested to 2 read it? Yes. 3 Α. 4 Right. But the question of whether it's uploaded has 5 nothing to do, does it, with any more than deciding that it 6 is relevant currently or likely to be relevant to a future 7 8 investigation, provided it comes from a source such as, say, the Coroner? 9 10 Α. Yes. 11 THE COMMISSIONER: 12 Thank you. 13 14 MR GRAY: Q. So is this the real position, that the transcript came in from the Coroner and it was uploaded on 15 16 to e@gle.i so that anyone who needed to read it could read 17 it? 18 Α. Yes. 19 20 And the position is not that the transcript came in from the Coroner and somebody read it in order to determine 21 22 whether it should go on e@gle.i? It's --No. 23 Α. No. 24 25 So the fact is that it came in and it was put on 26 e@qle.i? And was available to all members of Neiwand. 27 Α. Yes. 28 29 And you are now assuming that someone read it after it 30 had been put on e@gle.i? Well, I would have considered it a basic part of the 31 32 investigation. 33 34 THE COMMISSIONER: Q. But not for you, though? It wasn't basic to your function; is that what you tell me? 35 36 I don't recall specifically reading --37 Was it basic to your function, as one of the senior 38 people, to be familiar with precisely what the evidence was 39 40 before the Coroner? 41 Α. Yes. 42 43 Q. Did you do it? 44 Α. I believe that. 45 46 You believe what, that you carefully read the

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transcript when it was accessible on e@gle.i; is that what

1 you are now saying? As I - as I said earlier, I specifically remember the 2 3 14 pages of the Coroner's finding. 4 5 I didn't ask you about the 14 pages. I'm asking you 6 now, is it your best recollection that as a senior person 7 involved in Neiwand, you would have carefully read the 8 transcript before Coroner Milledge? Is the answer to that 9 "Yes" or "No"? 10 I don't remember. 11 12 Q. Sorry? I don't remember, your Honour. 13 Α. 14 You don't remember. I don't expect you do. 15 Q. 16 be your practice, in such circumstances, to have carefully 17 read the transcript? 18 Yes. Α. 19 20 Q. Given your role? 21 Α. Yes. 22 And therefore, as a result of that, do you believe you 23 followed your practice in doing so? 24 25 Α. Yes. 26 Therefore, is it fair to ask you again, do you believe 27 28 that you did read the transcript carefully once it was 29 available to you? I would have. 30 Α. 31 32 THE COMMISSIONER: Thank you. 33 34 Do you know whether Mr Chebl did? Q. He was the officer in charge. I don't know, but 35 I believe he would have. 36 37 Q. You believe he would have? 38 39 Α. Yes. 40 41 Q. Did you ever ask him if he had? I didn't ask him specifically, that I recall. 42 Α. 43 44 When the criticisms were being made in the summary as

Q. When the criticisms were being made in the summary as to what may or may not have been the evidence before the Coroner, did you check the transcript to see whether those accusations stood up?

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1 A. I don't recall.

Q. Did Mr Chebl do so?

4 A

A. I don't know.

MR GRAY: Is that a convenient time?

THE COMMISSIONER: Yes, it is. Thank you. I will adjourn for a morning break.

SHORT ADJOURNMENT

MR TEDESCHI: Commissioner, before we start again, I have a very brief submission that I wish to make to you. I wonder if Sergeant Morgan might remain outside during this submission.

THE COMMISSIONER: Certainly.

(The witness left the hearing room)

MR TEDESCHI: Commissioner, the wish to bring to your attention that, probably without any intention at all, you have, in effect, been rigorously cross-examining Mr Morgan and probably inadvertently exhibiting a degree of hostility and disdain for his answers, including describing his answers as ridiculous.

Commissioner, it's one thing for counsel to cross-examine a witness in this fashion, but we respectfully submit that as Commissioner, we would ask you not to approach a witness in this manner, as it may appear, because of your role, to be intimidatory and potentially oppressive.

We would ask you to maintain a degree of civility with the witness appropriate to your position as the ultimate fact finder, bearing in mind that the risk otherwise is that if the witness feels completely bamboozled, as I perceive at one stage Mr Morgan may have been, that he may end up just agreeing with anything that is put to him, which, of course, is not in anybody's interests. Thank you, Commissioner.

THE COMMISSIONER: Mr Tedeschi, I understand what you say. There are several matters I wish to record, as follows:

First, I'm an investigator, although I will proceed judicially.

As you will know from many reported cases, Mr Tedeschi, judges are not only entitled but sometimes obliged, in the interests of a witness, or indeed their counsel, to indicate, indeed on a tentative basis, their view in relation to an issue or, in some instances, a particular answer to a particular question, especially when the question is posed in a way that makes the answer irregular or in some way the subject of comment.

You've been around long enough to know that judges who speak their minds are the best judges to appear before in one sense, because you know precisely what issues you are meant to deal with.

I will only say one final thing. I note what you have said, thank you. If there is any application in due course that you wish to make, Mr Tedeschi, by all means make it and I will deal with it.

MR TEDESCHI: Commissioner, we're not making any application.

THE COMMISSIONER: Thank you. Well, in that event, I note the intention on your part, appropriately, to protect your client's interest or this witness's interest, but I will proceed in the way that I think I should proceed. I am cognisant of the principles that bind me and I'm cognisant of the issues that I have to look at.

 MR TEDESCHI: Our concerns, Commissioner, are not with the content of any of the questions that you have asked, as opposed to any commentary, like the word "ridiculous", but rather to what may inadvertently be a manner and tone and gestures.

THE COMMISSIONER: Mr Tedeschi, if you are asking me to take a personality bypass, it's not going to happen. So as far as I'm concerned I will ask such questions as I think are appropriate and if the tone of my voice causes you any concern at all, the matter is in your hands, Mr Tedeschi. You either get instructions from the back, from those instructing you. If you think a course needs to be taken, I will deal with it. But I do not, at the moment, have any comment to make in response except to say I will ask such

questions, in such a way, as I think are appropriate. If you think in any way, shape or form, that causes a problem, I am certain, given your experience, you will take such instructions as you think are necessary.

MR TEDESCHI: Thank you, Commissioner.

THE COMMISSIONER: Thank you. Yes, Mr Gray.

(The witness returned to the hearing room)

THE COMMISSIONER: One thing I should say, Mr Tedeschi, that I meant to say, is that on the news feed a few moments ago, there is an indication that in relation to the Scott Johnson matter, Mr White has entered a plea. I gather manslaughter. A sentence is to take place at some later point.

The Inquiry will therefore have to look at some of the redactions that might have occurred previously and that may have some impact, both on documentary materials but other course or courses that the Inquiry may take. You will reasonably expect to be given full notice of any changes in redactions or matters of publication that might flow as a result of our further consideration of issues or, if that reflects itself in some way in relation to witnesses, then again, reasonably, you will expect fair warning.

MR TEDESCHI: Thank you.

THE COMMISSIONER: Yes, Mr Gray.

 MR GRAY: Could Mr Morgan please have placed before him the transcript of the opening address of Counsel Assisting the Coroner in the Taradale inquest, and could a copy be made available to the Commissioner and for my learned friends.

- Q. Now, this is the transcript of the first day of hearing before Coroner Milledge on 31 March 2003. Do you see that?
- A. Yes.

Q. After some preliminaries in the first few pages, we get to page 6, at the bottom of the page, and Mr Lakatos, who was Counsel Assisting, begins his opening address. Have you got that?

- 1 A. Yes, I see that.
- 3 Q. Have you read this before?
- A. As I sit here now, I don't recall having read this before.

- Q. All right. I want to take you to a few of the points that Counsel Assisting made right at the outset of this inquest. Do you see on page 7, after referring to the dates of death or disappearance of the three men between lines 5 and 14 --
- 11 lines 5 a 12 A. Yes.

- Q. -- he says at lines 16 to 25, that they had various things in common, each being gay, each being similar age, each of them had no immediate history of attempted suicide and each was generally in good spirits when last seen alive do you see that?
- A. I see that.

Q. In the next paragraph, 25 to 32 or so, he mentions that in the late 1980s and early 1990s, perhaps to the present day, Marks Park was a known gay beat?

A. Yes.

- Q. He mentions then that the early investigations, such as they were, failed to cast light upon how each man came to disappear or die?
- A. Yes.

 Q. And on page 8, do you see beginning at about line 18, he gives what becomes a reasonably lengthy summary of attacks, some of them fatal, on other gay men at around the same time - do you see that?

A. Yes.

Q. He says at around the same time - that is, 1989/1990 - a number of gay men were attacked and in some cases killed in the inner and Eastern Suburbs of Sydney including Marks Point, which no doubt was meant, Marks Park?

41 A. Yes.

Q. And he lists them, and he lists the deaths of Richard Johnson on 24 January 1990 at Alexandria - do you see that? A. Yes.

Q. And a few lines below that, the second one, being the

1 murder of a Thai national called Mr Rattanajurathaporn at Mackenzies Point at Bondi? 2 Which I believe is also Marks Park. 3 4 5 Which is also basically Marks Park, that's right. Then four or five lines below that at about line 39, the 6 third comparable incident, an assault on [REDACTED] at 7 8 South Bondi on 18 December 1989? 9 Α. I see that. 10 And although it is redacted on the copy that is on the 11 screen, someone was identified by [REDACTED] --12 13 Α. Yes. 14 -- you see that at line 41 - as having been involved 15 16 in that assault? 17 Yes, and I don't recall Mr [REDACTED]'s assault but 18 I do recall the name of the alleged offender. 19 20 And probably, I dare say, the other alleged 21 offender in line 42? 22 Α. Yes. 23 24 Then at about line 43 there is a fourth incident, the Q. assault on somebody else at South Bondi on 21 December 25 1989? 26 27

Α. Correct.

29 And the name of that victim is a name well known to you, I'm sure? 30 31

Yes. Α.

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33 And the fifth incident is the murder of a man called William Allen at Alexandria in December 1988? 34 Yes. 35 Α.

The sixth the murder of Wayne Tonks at Artarmon in May 37 Q. 1990? 38

Yes. Α.

40 41 And down the bottom of the page, the murder of a Mr Keam at Alison Park in Randwick in January 1987? 42 43 Yes, I should point out somebody has been charged with 44 that matter.

46 Quite so. And that's before the courts I believe? Q. 47 Α. Yes, correct.

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1
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         Q.
              That's relatively recently.
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         Α.
              Yes.
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         Q.
              Mr Lakatos says at the top of page 9:
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7
              ... the common links between all of these
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              offences your Worship were that each was
9
              a gay person and each had been assaulted
10
              and/or killed. It appears, if the facts
              are to be accepted, without provocation and
11
              they were vicious, nasty assaults and/or
12
13
              murders.
14
              Yes.
15
         Α.
16
              He goes on then to describe work done in 1991 --
17
         Q.
18
              Yes.
         Α.
19
20
         Q.
               -- back at about the time of all of these attacks
21
         that he has just been talking about, by the Major Crime
22
         Squad South within the Homicide Unit?
              Correct.
23
         Α.
24
25
         Q.
              That included Detective Sergeant McCann, I think?
26
         Α.
              Yes, very much so.
27
28
         Q.
              And various techniques were used, which he talks
29
         about?
              Yes.
30
         Α.
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32
              And at line 45, he says:
         Q.
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34
              The evidence ... gathered showed that in
35
              the late eighties and the early nineties,
36
              a number of groups or gangs of youths
              systematically engaged in the assault and
37
              the robbery of gay men in the Marks Park
38
              and other areas.
39
40
41
         Α.
              Yes.
42
43
         Q.
              And you know that to be so, don't you?
44
              Yes.
         Α.
45
46
              Now, on page 10, at about line 6, Mr Lakatos sketches,
         by way of opening, a few things about the case of
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1 2 3	Mr Ma	attaini. Do you see that? Yes.
4 5 6 7 8 9 10	going look made	He gives in the first three paragraphs an account of seems to have happened in 1985 in terms of his partner g to France, Mr Mattaini going missing, his friends ing for him and seemingly a report never having been to the police, although some of them thought it had apparently it hadn't. You recall all of that? Yes.
12 13	Q.	And then at line 47, Mr Lakatos says this:
14 15 16 17		Mr Mattaini's background is as follows; in his late teens, he attempted suicide
18 19	He de	escribes how that attempt was carried out? Yes.
20 21	Q.	Then a few lines below that:
22 23 24 25 26 27 28		In the late 1970's or early 1980's, he was conscripted into the French Army. Apparently, that was a unhappy time for him, leading to a further suicide attempt for which he was hospitalised.
29 30	Α.	Yes.
31 32 33	Q. Aust	Down at the second-last line, having come to ralia:
34 35 36		Mattaini, overstayed his visa and this, it was said, caused him some distress.
37 38	Α.	Yes.
38 39 40 41 42 43	A. came	As you sit here today, are you learning for the first that Mr Lakatos said all this in opening? Look, I'm aware of all this information. Where it from I'm not sure, but I certainly was aware of all information.
45 46 47	Q. Coroi A.	Were you aware that it was information put before the ner by Mr Lakatos in his opening? No. Not as I sit here.

1 2 Q. You probably should have checked, do you think? 3 No, I'm aware of the information. Whether it was put 4 before the Coroner or not, I wasn't part of Taradale, it 5 wasn't something that concerned me. 6 7 Mr Morgan, your summary in Neiwand said that the Q. 8 Coroner did not consider suicide as a possibility and that 9 that was because Page didn't put certain material before 10 her, didn't you? 11 I see where you're going, yes. 12 13 But what I have just put is correct, isn't it? That's 14 what you said in your summary? Yes. 15 Α. 16 17 But it's pretty clear, isn't it, even from the first 10 minutes of the opening address on day 1, that suicide 18 19 was considered by the Coroner? 20 It would appear so, yes. Α. 21 22 That would make your summary quite wrong, wouldn't it? Q. 23 Α. In that aspect. 24 25 Well, that was - we'll come to it, but that was the 26 central and fundamental aspect of your summary. 27 You're talking about in relation to Mr Mattaini, 28 obviously? 29 30 Q. Yes, I am. It was a significant part of the summary. 31 Α. 32 33 Q. And it's wrong? You can see that already, can't you? 34 I can see that. Α. 35 What's your reaction, realising that that's wrong? 36 Q. I wasn't aware of it. 37 Α. 38 Q. Now that you are, what's your reaction? 39 40 Α. Somewhat shocked. 41 Somewhat shocked? 42 Q. 43 Α. Mmm. 44 45 Q. Line 12 or so, on page 11, Mr Musy Let's go on. 46 noticed the disappearance of Mr Mattaini's headphones, some keys and a bright yellow spray jacket which was missing. 47

1 2 Do you see that? 3 Α. Yes. 4 5 Do you recall that in your summary you recite or refer to a Mr Wyszynski having understood that Mr Mattaini's keys 6 7 were still in the apartment? Do you remember that? 8 I have a vague recollection of it. 9 10 And as I understand it - tell me if this is right -11 the idea that his keys were in the apartment you thought 12 might have been an indicator that he could have suicided -13 that is, leaving the house without his keys? Oh, I don't recall that being a specific part. 14 15 16 Q. Certainly if he left the house with his keys, which is what Mr Lakatos says happened, that would not be an 17 indication of suicide at all, would it? 18 19 I don't think it's an indicator either way. 20 21 Q. I see. Anyway, line 14: 22 Those that knew him --23 24 25 says Mr Lakatos --26 said that in the time leading up to his 27 28 death, Mr Mattaini appeared to be in good spirits and was looking forward to the 29 visit by his friend, Mr Wyszynski. 30 31 32 Α. Yes. 33 Is that your understanding of how things were? 34 35 understand that to be so? I recall there being mention of a calendar and the 36 37 fact that Mr Wyszynski was coming. There was something written on a calendar about that, I think. 38 39 40 Q. Do you remember that those that knew him did indeed 41 say that he appeared to be in good spirits? Not specifically but I accept that. 42 43 44 We'll come to that. Then at line 30, Q. All right. 45 Mr Lakatos says: 46 47 So far as Mr Mattaini's family is

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concerned, it appears that his father didn't want to have anything to do with His mother expressed no surprise about his disappearance and she believed that he had committed suicide.

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Do you see that? Α. Yes.

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So once again, it's abundantly clear that the possibility of suicide was before the Coroner; correct? Α. Yes.

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Q. Now, moving to Mr Warren at line 38, Mr Lakatos gives a summarised account about the Warren case. On page 12 at line 20, he notes that on the night, which evidently was the night that he disappeared, 21 July, his friend, Mr Ellis, noted Mr Warren as being normal in behaviour and in good spirits. Do you see that? Α. Yes.

20 21 22

On page 13, line 7, I think, or 8: Q.

23 24

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Warren's friends and associates believe he did not commit suicide, based upon his personality and on his outlook on life.

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Α. Yes.

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And then in the next few lines there are some factors mentioned - for example, that he had attended - that his financial obligations were up to date and that being an indication, according to Detective Page, that it was unlikely he was contemplating taking his life. Do you see that?

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Α. I see that there.

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So the possibility of suicide, although thought by the detective to be unlikely, was also before the Coroner in the case of Mr Warren?

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Α. Sorry, can you repeat that? 42

43 44

The possibility of suicide, although thought by Detective Page to be unlikely, was before the Coroner? Yes.

45 Α.

46 47

Q. Then at about lines 25 or so and following, there is

1 a reference to the investigation of sorts carried out by 2 Detective Sergeant Bowditch? 3 Α. Yes. 4 I won't take time on the adequacy or inadequacy of 5 what Bowditch did, but on page 14, do you see that among 6 those who were spoken to, back in 1989 even, were Christine 7 8 Jones, one of Mr Warren's work colleagues at WIN 9 Television? 10 Α. Yes. 11 12 She mentioned a person named as Ken, otherwise known as Kingy Marsh? 13 Yes. 14 Α. 15 16 Q. Who was someone that Mr Warren had a relationship 17 with? 18 Yes. Α. 19 20 And a Mr Michael Mathison, both had whom had been 21 interviewed, and that interviewing both of those had led 22 nowhere; do you see that at about line 29? 23 Α. Yes. 24 25 At line 41 there's a reference to Mr [REDACTED]. It's spelt slightly wrongly, but --26 Yes. 27 Α. 28 29 He was somebody who was obviously on the radar from an early time and his account and his relevance was before the 30 Coroner? 31 32 Α. Yes. 33 34 On page 15 at line 5 there's reference to what Mr [REDACTED] had to say, and he had something to say about 35 36 someone called Ferguson, but that inquiries about that established that Mr Ferguson had nothing to do with it 37 because he was overseas? 38 39 Α. Yes. 40 41 Q. And so Mr Lakatos says at line 28: 42 The end result of all of those are that 43 44 they are dead-ends and had led nowhere. 45 46 I see that. Α.

- Then he goes on to Mr Russell, starting at line 33, 1 Q. 2 and among other things, at about line 48 or so, he refers to the fact that the toxicology report indicated a blood 3 4 alcohol reading of 0.255? 5 Α. Yes. 6 So that was before the Coroner? 7 Q. 8 Α. Yes. 9 10 As was evidence by Dr Moynham, which was that the reading of 0.255 might not be entirely reliable because 11 putrefaction of the body could have affected the reading; 12 13 correct? 14 Α. That's what he said, yes. 15 16 Q. That's what the expert pathologist said? 17 Α. Yes. 18 19 Q. That the 0.255 might have been unreliable and he 20 might - and at line 56, Mr Lakatos says: 21 22 If in fact he had that amount of alcohol [in his blood] then he would have been 23 quite affected by alcohol, but no certain 24 conclusions can be drawn. 25 26 27 Α. Yes. 28 29 Q. So you were aware all along in Neiwand that Dr Moynham had said that? 30 Yes. 31 Α. 32 33 At page 16, in Mr Russell's case, in the long 34 paragraph at the top half of the page, Mr Lakatos refers to the fairly disastrous fact that although there were human 35 hairs on Mr Russell's hand near his index finger, as early 36 as July 1990 - that is, seven months after his death - the 37 hairs had been lost by the police? 38 I'm aware of that, yes. 39 Α. 40 41
- Which is, everyone agrees, and I imagine you agree, 42 a pretty terrible state of affairs? 43

Α. Yes.

44 45

Q. That meant that the hairs could never be tested?

46 Α. Correct.

- Q. No-one knows whose DNA might have been on them, and so on, and that position remains the case today?

 A. Yes. Most unfortunate.

 Q. Most unfortunate. At line 46. Mr Russell is said to
 - Q. Most unfortunate. At line 46, Mr Russell is said to have been in good spirits and not depressed. On the next page, 17, line 6, a witness says that when he, Mr Smith, left Mr Russell at about 11 o'clock, he was moderately affected by alcohol?

A. Yes.

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Q. On page 17 at about line 27:

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Constable Dunbar --

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and she was the person who turned out to be the officer in charge; is that right?

A. Yeah, she prepared the first coronial brief.

18 19 20

21

- Q. She was, without any disrespect to her, a very junior officer?
- 22 A. Most certainly.

2324

2526

27

- Q. Anyway, she expressed the opinion that there was no evidence to suggest suicide or suspicious circumstances. She was of the view that Mr Russell fell, possibly due to intoxication.
- 28 A. Correct.

29 30

31 32

33

- Q. Now, in the next paragraph we see that it was Sergeant Ingleby this is around about line 36 who actually noticed the hair adhering to the left hand of the body behind the left index finger?
- 34 A. Yes.

35 36

37

38

- Q. Seemingly, none of the officers who had attended up to that point had noticed that. Do you see that?
- A. I don't know if I can say that but certainly he noticed it, yes.

39 40

- Q. At page 18, the very last line, Mr Lakatos goes on to talk again about the possibility of persons who made a habit of attacking gay men at around that time?
- 44 A. Yes.

45

Q. And he refers to one of them in the third line by name?

Α. 1 Yes. 2 One of those who had been convicted of the murder of 3 4 Richard Johnson. And that person had apparently said that 5 he'd been involved in the pushing of a "poofter", his word, over a cliff? 6 Yes. I see that. 7 Α. 8 9 And then another person is said to have admitted being 10 "we were the Bondi killers"? Yes. 11 12 Q. 13 And that: 14 We pushed somebody back and he just fell 15 off the cliff. He was some newsreader from 16 17 Wollongong. 18 Do you see that? 19 20 Α. Yes. 21 22 And then Mr Lakatos points out at line 21 that: Q. 23 None of the material intercepted or any 24 25 reports gained have specifically identified admissible evidence of persons directly 26 linked either with the disappearances of 27 Mr Mattaini and Mr Warren or the death of 28 29 Mr Russell. 30 Α. Yes. 31 32 33 That was the state of play at the beginning of the Taradale inquest hearings, namely, on this day, and was 34 still the state of play at the end, that there was a lot of 35 material indicating activity of gangs and individuals 36 37 involving violence towards gay people --Α. Yes. 38 39 40 -- but although there was a lot of such material, it 41 couldn't then, in the early 2000s, be tied in an admissible way to anyone in connection with these three deaths? 42 No, correct. 43 Α. 44 45 Now, when we get to page 20, Mr Saidi is asked whether 46 he wants to say anything by way of opening. Do you see

47

that at about line 20?

```
1
         Α.
              Yes.
2
3
              Mr Saidi is or was counsel, on this occasion, for the
4
         Commissioner of Police; correct
5
         Α.
              Yes.
6
7
         Q.
              Mr Saidi says at lines 25 and following:
8
9
              ... whatever systems were in operation back
10
              in 1989, there have been significant
              improvements since then in terms of the way
11
12
              the [police] ... deal with exhibits and
13
              investigations generally ...
14
              Yes, I see that.
15
         Α.
16
17
              That's more or less the extent of Mr Saidi's opening
18
         remarks, as you can see?
19
         Α.
              Okay.
20
21
         Q.
              I will just finish off on this. At page 21, at line
22
         40, Mr Lakatos tenders the seven volumes constituting the
         brief of evidence. Do you see that?
23
         Α.
              Yes.
24
25
26
         Q.
              At line 55 we can see that the entire brief is
         admitted - that is, seven folders, six of them being lever
27
         arch binders?
28
29
         Α.
              Yes.
30
              And the Coroner asks this:
         Q.
31
32
33
              Is there anything in that brief that can't
              be seen? Now that it's an exhibit, if the
34
              press want access to the documents, is
35
              there anything that we need to shield?
36
37
38
         Do you see that?
              Yes.
39
         Α.
40
41
         Q.
              Mr Lakatos says:
42
              your Worship, I'm instructed that there's
43
44
              nothing there which cannot be released, if
45
              required to be released.
46
47
         Do you see that?
```

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```
Yes.
         Α.
1
2
3
              I now want to take you to some of the evidences before
4
         the Coroner - that is, the oral evidence of Detective
5
         Sergeant Page. Now, I'm not sure whether you have got that
         there or we need to give you a second set - we do.
6
7
         Α.
              Okay.
8
9
         THE COMMISSIONER:
                              Mr Gray, do you want to tender this
10
         opening as a separate exhibit or is it somewhere in the
         bundle?
11
12
         MR GRAY:
13
                    No, it isn't, and I do wish to tender it,
14
         please.
15
16
         THE COMMISSIONER:
                              All right. Tell me what it is in due
17
         course.
18
         MR GRAY:
                   Tab 321.
19
20
21
         THE COMMISSIONER:
                              Tab 321 of --
22
                    Exhibit 6, volume 14.
23
         MR GRAY:
24
         THE COMMISSIONER:
25
                              Thank you.
                                          Thank you.
26
27
                          Have you been given another set of
         MR GRAY:
                    Q.
28
         transcript pages?
29
         Α.
              Yes.
30
31
         Q.
              Starting at page 22?
32
         Α.
              Yes.
33
34
              Do you see that towards the bottom of that page,
         Detective Sergeant Page is sworn to give his evidence?
35
         Α.
36
              Yes.
37
              Reference is made at the bottom of that page and the
38
         top of the next page to his having prepared two statements,
39
40
         one of 25 July and one of 28 August.
41
         Α.
              Yes.
42
43
              And the 25 July one ran to 258 pages, I imagine you
44
         know that, do you?
45
         Α.
              Yes.
46
              And it had approximately, without looking it up, 250
47
         Q.
                                        S MORGAN (Mr Gray)
    .23/02/2023 (26)
                                 1982
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Transcript produced by Epiq

- or 300 or some number like that of exhibits, of annexures?
 A. Yes.
- 3
- 4 Q. Did you read that?
- A. I was I was given it in an electronic form two nights ago and I again, I have skimmed it. I haven't read it in detail.
- 8
- 9 Q. I meant when you were in Neiwand.
- 10 A. Oh, I don't recall.

11

- THE COMMISSIONER: Q. But is it the sort of thing you would have read, do you think?
- 14 A. Look, I may have read it personally, I don't know. 15 It's some seven years ago.

16 17

18

19 20 Q. No, I appreciate that. But would it have been your practice in reinvestigating any crime of any sort, where there had been an extensive coronial inquiry, that you would, for example, read at the very least in some detail the evidence of the principal investigating officer?

A. Normally, would, yes.

22 23 24

25

26

27

21

- Q. Well, does that follow, that notwithstanding you can't now recall is it your belief that you would have read Mr Page's materials carefully at the time you were doing Neiwand?
- A. I likely would have.

29 30

THE COMMISSIONER: All right. Thank you.

31

- MR GRAY: Q. Six volumes of it, did you? Six lever arch binders?
- A. No, no. I thought we were talking about the statement. You are talking about the brief now.

36

- Q. I'm talking about the statement which itself is six lever arch binders, including the annexures.
- 39 A. Oh, I wouldn't have looked at every single annexure.

40

- 41 Q. What would you have looked at?
- 42 A. The statement itself, I would imagine.

43

- 44 Q. The 258 pages of it?
- 45 A. Yes, I'd imagine so, yes.

46 47

Q. All right. You can see from what we have just been

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1 through that by this point, on the first morning, Mr Page's 2 statement with its annexures had been received into 3 evidence by the Coroner. 4 Α. I see that. 5 6 Q. So he is now giving some oral evidence in the light of the fact that his written statement is already in evidence. 7 8 Α. Yes. 9 10 So Mr Lakatos is taking him through it, starting from about line 15 or so on page 23. 11 Α. Yes. 12 13 14 I won't trouble you with all of the things that Mr Page was taken to in oral evidence, just a couple. 15 16 At page 27 at about line 50, Detective Page is asked whether he had spoken to Sue Thompson, or Susan Thompson, 17 and had she given him a statement of 31 July, and he says 18 19 "Yes". Do you see that? 20 Yes. Α. 21 22 Then for the next page and a half, two pages, really, Mr Lakatos invites him to agree that various things were 23 24 contained in Ms Thompson's statement about the activities 25 of gay hate bashers at the time? 26 Α. Yes. 27 28 Then at page 30, line 50, Mr Lakatos takes him to the 29 review by Taradale of the Warren case. Do you see that at about line 50 on page 30? 30 Well, specifically, "Reviewed the statement of 31 32 Constable Robinson"? 33 34 Q. Well, he starts with that, but --35 Α. Oh, okay. 36 Q.

37

You then reviewed the original Warren investigation.

39 40 41

38

Do you see that? Line 49? Oh, yes. I do see that.

42 43 44

45

46

47

And then he goes on to put to Mr Page various steps that he, Page, had taken in the course of looking at the Warren case - for example, at line 11, he agrees, Mr Page agrees, that he reviewed the statement of Phillip Rossini, 1 a work colleague?2 A. Yes.

Q. At line 43, he reviewed the statement of Christine Jones, another WIN Television work colleague?
A. Yes.

Q. At page 32, line 51, he agrees with Mr Lakatos that he made some other inquiries revealing that there were deaths and attacks involving other members of the gay community at Marks Park besides Mr Warren, namely, Mr Russell, a person that I will call DM and the Thai national,

Mr Rattanajurathaporn?

A. Yes.

Q. And at page 33, Mr Page is asked, line 5:

Having reviewed this material, you decided to finalise the investigations surrounding the suspected death of Mr Warren with a view to forming an opinion as to whether that death was caused by accident, suicide or homicide.

Do you see that? A. I see that.

Q. And he was - the question went on:

You considered then that the way to proceed was to examine incidents which occurred in the vicinity of Marks Park around that time. As a result ... you reviewed the deaths of [these other people that we have mentioned]?

A. Yes.

Q. And he goes to - starting at about line 16 - the case of Mr Russell. At the bottom of page 34 and the top of page 35, the Coroner asks about the problem with the hairs from Mr Russell's hand and the fact that they had lost them and so they could only be considered from the perspective of a photograph that had been taken?

A. Yes.

Q. At page 35, line 37, there's one witness, who seems to

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have been perhaps the last person who saw Mr Russell? 2 Α. Yes. 3 4 Q. And Mr Smith is the person who was drinking with 5 Mr Russell that night and saw him leave the hotel? I thought it was Mr Redmile. 6 7 8 Q. Who is Mr Smith, then? 9 Α. I don't - there was a Mr Smith, I think, who found 10 Mr Russell's body. 11 12 All right, then. Maybe you're right on that. page 36, line 36, we get reference to Sergeant Ingleby's 13 statement? 14 15 Α. Yes. 16 17 Wherein he noticed the hair adhering to the left hand? 18 Α. Yes. 19 20 And Sergeant Ingleby, line 45, obtained a statement 21 from a Mr Rodney Stinson? 22 Α. Yes. 23 24 At page 37, line 10, we will see that Sergeant Ingleby Q. obtained a statement from Mr DM about the attack on him 25 26 in December 1989? 27 Α. Sorry, what page was that? 28 29 Q. Page 37, line 10? Yes. 30 Α. 31 32 I think that the Mr Smith that you have in mind is the 33 one referred to at page 37 line 49, being Neville Smith? 34 Yes. Α. 35 36 Who found the body. The other man, Mr Peter Smith, I may need to be corrected on this, but I believe is 37 someone who saw him on the night, but you don't recall? 38 I'm pretty certain the fellow who was actually 39 40 drinking at the Bondi hotel was --41 Mr Redmile? 42 Q. 43 Yes, and a Smith doesn't ring a bell with me in that 44 regard. 45

Q. At page 39, just finishing off Mr Lakatos's questioning of Mr Page about the Russell case, there is

46

```
2
         and the blood alcohol content at 0.255?
              Sorry, what line was that?
3
         Α.
4
5
         Q.
              About 5 to 15.
6
         THE COMMISSIONER:
7
                              Page 39?
8
9
         MR GRAY:
                    Page 39.
10
                         Oh, sorry, I missed it. Yes, I see that.
11
         THE WITNESS:
12
13
         MR GRAY:
                    Q.
                          Then he is asked about from line 16 or so
         onwards about the experience of the person that I will call
14
         DM?
15
16
         Α.
              Yes.
17
18
         Q.
              Who was the victim of an assault?
         Α.
              Yes.
19
20
21
         Q.
              In December 1989; correct?
22
              Yes, it was around that time, yes.
         Α.
23
         Q.
              And on page 40, you see at about lines 30 to 40 or
24
25
         so --
26
         Α.
              Yes.
27
28
              -- that Mr DM seems to have identified two persons of
29
         interest --
              Yes.
30
         Α.
31
32
              -- who are set out there. And Mr Lakatos asks Mr Page
33
         at line 36:
34
35
                   So I suppose to summarise it, the
              evidence of [DM] suggests - and it can be
36
              put no higher - that two of his attackers
37
              were --
38
39
40
         the two people that are there named?
41
         Α.
              Yes.
42
43
              And Mr Page says "Yes". Now, on page 42, do you see
44
         starting at about line 7, Detective Page is asked if he
45
         contacted the Information and Intelligence Centre to
46
         retrieve archived documents relating to the two murder
         inquiries of Richard Johnson and Rattanajurathaporn?
47
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                                 1987
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reference at about lines 5 to 15 of the toxicology report

Α. Yes. 1 2 3 And in that activity, Detective Page located two 4 overviews prepared by Detective Sergeant McCann? 5 Α. Yes. 6 7 Now, when did you see those, the reports or In 1991. 8 overviews by McCann? I assume you did see them? 9 I have seen the overviews by Detective Sergeant 10 McCann, yes. 11 Q. 12 And when was that? 13 Α. During Neiwand. 14 Q. 15 During Neiwand? 16 Α. But I couldn't put a date on it. 17 And you're aware, if you just glance through pages 42 18 19 and 43, that included among the contents of the McCann 20 overviews was information about many of these deaths and 21 about the activities of gay bashers at the time. 22 Α. Yes. 23 24 Q. All of which was documented with names of persons of 25 interest by McCann in the early '90s? 26 Correct. Α. 27 28 Q. Including page 43, line 14, one person of interest? 29 Α. 30 31 Q. Admitting throwing a homosexual off the Bondi cliffs. 32 Do you see that? 33 Α. I see that, yes. 34 Now, at page 43, same page, about line 25, do you see 35 36 that Mr Lakatos puts to Detective Page that he, Page, had conducted some further inquiries about two of these persons 37 of interest? 38 Yes. 39 Α. 40 41 Which, contrary to some earlier intelligence, suggested that, in fact, they had not been visited by 42 43 a third person of interest, whereas someone else had 44 thought they had been. Do you see that? At lines 25 to 45 29? 46 I see it but I'm having some trouble understanding it. Α. 47

Well, he says - he's invited to agree, and he does Q. agree, that he conducted further inquiries and prison 2 3 visits to two people? 4 Α. Yes. 5 And he, from those inquiries, established that they 6 Q. had been visited by someone of a certain name? 7 8 Α. Yes. 9 10 Q. But not the person of interest who had the same name? Who had been in the Alexandria Eight. 11 Α. 12 Q. 13 That's right. Yes. I see that now. I don't recall that, yeah. 14 Α. 15 16 So Mr Page, as Mr Lakatos put it to him in the next 17 question, was expressing some doubt about the nexus which 18 Detective McCann had thought might have existed between or 19 among those three; agree? 20 Α. I can see that there, yes. 21 22 At the bottom of page 44, there is a reference to 23 Sergeant McCann having been aware of admissions made by the 24 person whose name appears in at line 56? Yes. 25 Α. 26 27 That's somebody that you eventually, or those on your 28 team, interviewed in Neiwand? 29 Α. Yes. 30 Those inquiries about that person ultimately were what 31 32 might be called a dead end; correct? 33 Well, sufficient to say that we obviously didn't get 34 enough evidence to charge anybody or we would have. 35 36 Q. Mr Page hadn't and neither did you? No. Α. 37 No. 38 Then there is, at page 45, we can see, a lunch break. 39 40 And then about line 43, he is asked by Mr Lakatos questions again about the McCann document of April 1991, which again 41

44 bashers? 45 A. Yes.

42

43

46 47

Q. And then when we get to about page 47 line 40, Mr Page

is an overview of a lot of gay hate events in the early

'90s and links between or among various possible gay

1 is taken to the fact that in his statement, there are 2 extracts of transcripts obtained from listening devices; is 3 that right? 4 Α. Yes. 5 And what then happens, starting at the bottom of 47 6 Q. and up to the top of 48, is that Mr Page is invited to read 7 8 out some sections of his written statement, which he then 9 does for the next few pages. Do you see that? 10 Α. Yes. 11 12 Among others, on page 50, line 25, one person of interest is heard to have said that he bashed six guys in 13 14 one night and made various other claims about other bashing events that he had been involved in? 15 16 Α. 17 18 And on page 51, line 5 or 6, the same person is 19 recorded as saying that he and some others tossed someone 20 off a cliff - line 6. Do you see that? 21 Α. Yes. 22 23 At page 53, Mr Page is asked about a claim made by 24 that same person of interest, looking at line 2, about having pushed someone off a cliff, and the person of 25 interest - this is line 13 - says "It was only small" -26 27 that is, the person was small, and Mr Page goes on to say 28 in his evidence that that person of interest had 29 described - sorry, I beg your pardon, the reference to being "small" is the reference to the cliff being small? 30 31 Α. Yes, that's my reading of it. 32 33 Q. Sorry. Yes, quite so. And Page notes that the person 34 of interest goes on to describe the person who had been

35 36

37

38

pushed off as "a pretty big lad", and Page says:

I believe Warren, at the time of his

39 40 disappearance, to be slight to medium stature.

41 42 A. Yes.

43 44 Q. So Page is scrupulous, you would agree, not to attribute the killing of Warren to the incident being described there?

46 A. Yes.

47

1 Q. On page 55, line 10, Mr Page agrees that he went back and re-interviewed a Mr Ellis. Do you see that, line 10, 2 3 page 55? 4 Α. Yes. 5 Mr Ellis was someone that you interviewed, or your 6 Q. 7 team did. in Neiwand? 8 Α. Yes. 9 10 So Page had done that back in 2001. And Mr Ellis had said, according to Mr Page at line 30, that although Warren 11 did not have mood swings or depression, he wasn't a totally 12 happy person, and Page agrees with that, not totally happy 13 14 living in the Wollongong area? Yes. 15 Α. 16 17 So that was before the Coroner. And then at page the bottom of page 55, the Coroner interrupts, and you'll 18 see if you go from the bottom of 55 over to 56, the Coroner 19 20 is saying, and I paraphrase, that if Mr Lakatos continues 21 in this way, it's all going to take a very long time? 22 Α. Mmm - hmm. 23 24 Q. And there's some discussion about whether somehow it 25 can be made shorter rather than taking Mr Page through his 26 entire statement. Do you see that? 27 Α. Yes. 28 29 Q. And one suggestion is that the statement can just be, as it were, taken as read? 30 31 Tendered, yes. Α. 32 33 Q. And that at line 25 on page 56, what Counsel Assisting 34 says is: 35 36 What's been troubling me your Worship, 37 is ... that what is a convenient way of reviewing material in a way which is 38 accessible by those members of the public 39 40 who are here, without taking the time? 41 42 So that was the concern; do you see that? Yes. 43 Α.

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at line 49:

44 45

46

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And the Coroner says, about 10 or 15 lines below that

1 2		But the document is now part of the exhibit
3 4	that	's the statement:
5 6 7		The document is now part of the exhibit and if anyone wanted to look at it,
8		they can.
10 11	Do y A.	ou see that? Sorry, what line are you looking at?
12 13 14	Q . A .	Line 49. Yes. I see that.
15 16 17 18	Q. page A.	Then on page 57, we can see towards the bottom of the that there's a short adjournment to Yes.
19 20 21 22 23	And	think about how this might be done more quickly. Mr Lakatos says, at line 55, taking a different coach and wrapping things up somewhat:
24 25 26 27 28		Q. In general summary, would it be fair to say that you went back and interviewed all of the witnesses who were interviewed in the earlier investigations and in most cases, obtained fresh statements from them?
29 30 31	He s	ays, "Yes:
32 33 34 35		Q. In addition, you took steps to check [about the exhibits concerning Mr Russell's hair].
36 37 38	He s A.	ays, "Yes"; do you see that? Yes.
39 40	Q.	Page 58 line 12:
11 12 13		Q. You obtained statements from various doctors concerning tidalmovement[s]
14 15	He a A.	igrees he did that? Yes.
46 47	Q.	Line 20, he agrees that he investigated those people
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1 who were thought to be part of the group or groups involved 2 and their associates. 3 Α. Yes. 4 5 And he is invited to agree, and he does agree at line 30, that he identified seven persons of interest, they 6 7 being named there; do you see that, line 30? 8 And then there is an eighth, yes. 9 10 And then there is an eighth, as you say. And then from line 39 onwards, he is asked questions and gives 11 12 a kind of summary of some matters relevant to each of those eight, running through to page - all the way to the top of 13 14 page 61. Yes. 15 Α. 16 17 Now, at page 63, the Coroner asks some questions at 18 the conclusion of Counsel Assisting's questions, and at line 25 she says: 19 20 21 ... it's a very thorough investigation 22 that you've conducted and you're to be commended for the interest that you've 23 24 shown. 25 And at line 33 she asks: 26 27 Do you consider that this is now the end of 28 29 your investigation or are you hoping that there may be other witnesses? There might 30 be others out there ... 31 32 33 And he says: 34 35 I believe that there are people out there that certainly could assist. This is an 36 incident that's occurred coming up to 14 37 38 years ago --39 40 Α. Yes. 41 Q. 42 43 44 and whatever people were doing back then, 45 they may have moved on. They may have 46 turned the corner ... 47

1 Et cetera. Do you see he says that? 2 A. I see that.

Q. That approach still was the case when you were looking at it in 2016, wasn't it? There were people still out there who might know something, and if you pursued them further you might have found out more; correct?

A. Well, my understanding is that that's why the rewards were put out.

Q. Thank you for that. But my question was if you, Neiwand, had pursued some of these persons of interest further, you might have found out more than Page had been able to find out back in the early 2000s; correct?

A. My recollection is that there was, at some stage in Neiwand, a discussion about the various POI - the youth hate gangs or whatever you want to call them, and there was a decision made that with a couple of exceptions, we weren't going to pursue them, and there were reasons for that.

Q. Tell us the reasons.

A. The reasons - well, from my recollection of it and from reading recent material - were that in 2005, her Honour, during her - "glowing" is the only word you can say for it - praise of Steve Page and the Taradale investigations, if I can remember the actual lines, she said that the - she considered the process in concentrating on POIs was appropriate - words to that effect. She also said that it was - "impeccable" was one of the words and there was another word, and she said "he did all that could be done and nothing more could be done", words to that effect.

- Q. What I'm getting at is, he may have done all that could be done in the early 2000s, but it would have been possible for you to have another go during the course of Neiwand, wouldn't it?
- A. Look, it was a possibility and it was considered.

- Q. You decided you just wouldn't do it?
- A. Part of the reason for it, as I say, due to the discussions we had, was that the persons of interest had all become aware, either as a result of the coronial inquest or as a result of the non the unrelated charges, quite a few of these POIs were charged with drug trafficking and the like as a result of this, and therefore

1 the covert deployment capacities, the TIs and LDs, were 2 disclosed to those people. 3 4 Q. Right. 5 Α. Had to be. 6 7 Q. And so? 8 Well, our view was that they were now well aware of 9 capabilities and were unlikely to succeed with such things 10 in the future. 11 THE COMMISSIONER: 12 Q. Do I understand, though, that you had two reasons: one, that you appeared to have accepted 13 14 the Coroner's assessment that everything that could have been done had been done? 15 16 Α. Yes. 17 18 Q. And to that extent, what Page had done was thorough? 19 Α. Certainly. 20 21 Q. And perhaps one of the downsides of having been 22 thorough was that a number of these people were possibly alerted, what, to the possibility of covert activities? 23 24 I put it higher than possibly. I would think that 25 they were all now aware of that capacity. 26 27 Well, that's the risk you take, isn't it, whenever you 28 undertake covert activities? 29 Yes. Once it proceeds to either charges or other judicial proceedings, yes. 30 31 32 MR GRAY: Does it follow that because you thought that Q. 33 they knew that police had covert methods that they could 34 use, you would just give up on them? 35 Α. That we would pursue other lines. 36 37 Q. And you'd give up on that line? Well, Taradale had concentrated on that line. 38 Α. 39 40 Ω. In the early 2000s? 41 Α. And had been unsuccessful. 42 43 Q. In the early 2000s? 44 Α. However, had got evidence of unrelated matters, Yes. 45 some of them quite serious.

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But you took the view that you just wouldn't make any

46

47

Q.

- attempt to do anything at all in relation to these POIs in 2016/17?
 - A. I recall various checks being done on some I did some of the checks on these POIs myself.

- Q. What do you mean by "checks"?
- A. Oh, background checks and the like to see whether they were still getting into trouble, to see where they were residing, that type of thing, background, you know, what their recent criminal histories had been.

- Q. But then you just left it and did nothing?
- A. I don't recall exactly what the decision was, but the decision, my recollection of it, is that it was agreed that we would not pursue those lines of inquiry anymore.

- Q. No, even though plainly Coroner Milledge and plainly Detective Page in 2002 thought that that could well be fruitful in the future?
- A. No, on my --

Q. That is, pursuing the persons of interest, I mean?
A. My understanding of Coroner Milledge's comments were that all that could be done had been done and you couldn't do any further.

THE COMMISSIONER: Q. Yes, but these people didn't cease to be persons of interest, did they?

A. All I can say is that we didn't --

Q. No, I know that, but they didn't cease to be persons of interest. In other words, whatever you did do, you didn't strike them off the list as possibly involved in one or more of the activities that Page was investigating?

A. No, not to my recollection.

THE COMMISSIONER: All right.

- MR GRAY: Q. Just finally before lunch, at page 64, 40 Mr Saidi begins his questions on behalf of the Commissioner 41 of Police.
 - A. At line 8, yes.

Q. Yes. And he asks some questions about process, and then at the bottom of page 64, he invites Mr Page to agree that:

1 2 3 4		there is always the opportunity, should it arrive, that anyone with information can come forward and the matter will be looked at again [by the police]?
5 6 7	Α.	Sorry.
8 9 10	Q. A.	Bottom of page 64, last four or five Yes, yes, I see that.
11 12	Q.	Page 65, he puts to Detective Page at line 40 that:
13 14 15 16 17		there most certainly appear to be days in the past where the police force itself or individual members of the police force may have been less than sympathetic towards persons who could be described as gays.
19 20 21	And A.	Page says "Yes"? Yes.
22 23 24	Q. A.	And you'd agree with that, I presume? I would agree that that sometimes was the case.
25 26 27 28 29 30	a tu atti	And then at the top of 66, Mr Saidi asks Mr Page her he would agree that, in fact, there's been rnaround in attitude - that in other words, the police tude has improved - and Page answers that essentially, he thinks it has, "We've come a long way"? Yes.
32 33 34 35	-	And otherwise Mr Saidi does not question Mr Page in way such as to challenge or dispute anything that Page said; correct? From my reading of it, yes.
36 37 38		RAY: I think I probably should ask is that nvenient time?
39 40 41		COMMISSIONER: Yes, it is. I will resume at clock. Thank you.
12 13 14	LUNC	HEON ADJOURNMENT
+4 45 46		COMMISSIONER: Yes, thank you. Please come back, organ. Take a seat, thank you.

1 Q. Mr Morgan, having been through in the way 2 that we did before lunch the oral evidence of Mr Page before Coroner Milledge --3 4 Α. Yes. 5 Q. -- today, what's your recollection as to whether you'd 6 ever read that before? 7 8 I don't believe I was aware of it - I - there's 9 aspects of it that I was familiar with but I don't know 10 that I had actually seen the transcript itself. 11 No, and when you say "there's aspects of it" that you 12 13 are familiar with, you mean topics that you are familiar with? 14 Most certainly, the POI names and the like. 15 Α. 16 17 But as to whether you had ever actually read his transcript of oral evidence, you are inclined to doubt it? 18 19 I'm in some doubt, yes. 20 21 MR GRAY: I need to tender that transcript of Mr Page's 22 evidence, your Honour. 23 24 THE COMMISSIONER: Yes, all right. 25 It would be, Commissioner, if you received it, 26 MR GRAY: exhibit 6, volume 14, tab 322. 27 28 29 THE COMMISSIONER: All right. Thank you. 30 31 Just to round this off in a sense, could I ask 32 for Mr Morgan to be shown the closing addresses of counsel. 33 34 You see that these closing addresses took place on 23 December 2004? 35 Yes. 36 Α. 37 Which is the year after most of - in fact, I think all 38 of the hearings of evidence took place, which was in 2003. 39 40 Α. Yes. 41 Counsel Assisting goes first, of course. If we look 42 43 at page 2, at about line 20, you see Mr Lakatos begins and

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Α.

are going to cover?

Correct.

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he tells the magistrate, the Coroner, what his submissions

One, the fact of death; two, the date and place of 1 Q. 2 death; three, the manner and cause; fourth, responsibility 3 of any known person; fifth, some observations about the 4 original investigations or the respective investigations; 5 and, sixth, possible recommendations, so those six topics he's going to cover? 6 7

Α. Yes.

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- At line 55 on that page, he embarks upon the first of Q. them, the fact of death. I just wanted to direct you to what he says about Mr Mattaini at line 11 on page 3 namely, that his disappearance in 1985 was not made then. and first appeared to come to light in 2000 - do you see that?
- Yes, I actually thought it was some time after that. Α.

15 16 17

18

Yes, in fact, if I may say so, you are right; it seems to have been about August 2002? Α. Yes.

19 20 21

22

23 24

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Q. We'll come to that. At line 40, as to Mr Mattaini and Mr Warren, he says there's "a bare, theoretical possibility" that they're not deceased, but then he goes on to submit that in all probability they are, since they have been missing for so long, essentially. Yes. Α.

26 27 28

At the top of page 4, talking about Mr Warren and Mr Mattaini at line 2, he says:

29 30 31

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The fact that neither had an immediate or recent history of attempted suicide and each was generally in good spirits when last seen alive.

34 35 36

Do you see that?

I can see he said that, yes.

37 38 39

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- So again the possibility of suicide, at least as a possibility, was again raised in the closing address, as it had been in the opening address - the topic of suicide, at least?
- Α. The topic was raised, yes.

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At lines 10 to 20, he talks about the existence of a high suspicion having regard to the evidence about Marks Park being an area frequented by gay men and an area where

1 2 3 4 5	that conc	e had been a significant number of deaths and assaults, the evidence seems to point to, although no firm lusion could be made, that Mr Mattaini and Mr Warren have come to a similar end. Do you see that? Yes, he made that submission.
6	71.	100, 110 mado chac dasmiroo form
7	Q.	Then at line 24 he moves on to the second of his
8	-	cs, the date and place of death. Do you see that?
9	Α.	Yes.
10		
11	Q.	Then at the bottom of the page, line 56, he moves on
12	to t	he third topic, manner and cause. Do you see that?
13	Α.	Yes.
14		
15 16	Q.	In that connection, he says, last line on that page:
17		manner and cause of the deaths of
18		Mr Mattaini and Mr Warren remain unknown.
19		
20	Α.	Yes.
21		
22	Q.	He says:
23		
24		there are real suspicions that they met
25		their deaths by foul play and by being the
26		subject of gay hate attacks, however there
27		is no reliable evidence that this
28		conclusion can firmly be drawn.
29		
30	Α.	Correct.
31		
32	Q.	Then he specifically says in relation to Mr Mattaini:
33		
34		the evidence suggested that he had had
35		a previous suicide attempt, although this
36		was some time before his disappearance, and
37		was linked to his unhappy time as a soldier
38		conscripted into the French army, and that
39		evidence was given by his friend, Mr Musy,
40		on 1 April at transcript page 48.
41	_	
12	•	ou see he said that?
43	Α.	I see that.
14	•	
45 40	Q.	So again you would accept, would you, that in the
16 17		ing submissions, reference was made by Counsel sting to the possibility of suicide in the case of
17	ASS1	STING TO THE DOSSIDITITY OF SUICIDE IN THE CASE OF

1 Mr Mattaini?

Α.

Α.

2 Only one of the previous suicide attempts is mentioned 3 there, not the two.

4 5

Q. True. But the answer to my question is "Yes", isn't it?

6

7 8

- 9 Q. So the recommendation or the submission of Counsel 10 Assisting at line 14 is that the Coroner should bring in an open finding in relation to both Mr Mattaini and Mr Warren. 11 12
 - Do you see that?

I see that.

Yes.

13

14 15

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- In fact, the Coroner, although she brought in an open finding about Mattaini, actually brought in a finding of homicide in relation to Warren; correct?
- Correct. Α.

18 19 20

21

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Now, in relation to Mr Russell, starting at line 17, Counsel Assisting says, among other things, at about line 25 that:

23 24

25

The possibility of an accidental fall has to be considered, having regard to [the] blood alcohol reading ...

26 27 28

Yes, I see that. Α.

29

Q. At line 29 or 30 or so, he says:

30 31 32

As to how he came to fall the evidence does not enable firm conclusions to be drawn, other than to state that when he fell he was in the company of persons unknown.

35 36 37

38

39 40

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34

The submission that he makes is that that inference can be drawn from the evidence of Sergeant Ingleby, among others, about the fact that there was hair adhering to the left hand of the body?

41

Α. Yes, I see that.

42 43

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46 47

Counsel Assisting suggests that there are two particular matters supporting a conclusion of death by foul play in the case of Mr Warren, the first being the presence of the hairs - this is at about line 38 to 40 --Α. Yes.

1 2 -- and the second being the position of Mr Russell's Q. 3 body? 4 Α. Yes. 5 In connection with the second of those, the position 6 7 of the body, Counsel Assisting refers at line 43 and 8 following to the evidence of Dr Cala? 9 Α. Correct. 10 He continues to refer to the evidence of Dr Cala at 11 Q. the top of page 6, and ultimately invites the Coroner to 12 make a finding of foul play as causing the death of 13 Mr Russell? 14 15 Α. Yes. 16 17 Then he moves on to his fourth topic at line 16, which 18 is the responsibility of any known person. In the course 19 of those submissions, do you see on page 7, at about line 3 20 or 4, he says that Detective Sergeant Page's investigation 21 had included telephone intercepts of more than 17,000 phone 22 calls? I see that. 23 Α. 24 25 Those 17,000 intercepted phone calls were the subject of transcripts, weren't they - you know that? 26 I haven't seen all the transcripts but I assume there 27 28 were transcripts done. 29 Did you read any of the transcripts or listen to any 30 31 of the recordings? 32 I don't believe I listened to any of the recordings 33 but I did see some transcripts. 34 Which were the "some", in the sense of how was 35 Q. 36 a selection made? I don't really remember now, but certainly I have seen 37 conversation attributed to the transcripts. 38 39 40 Q. At line 30 on this page, page 7, Counsel Assisting 41 points out that what should be said concerning the various persons of interest is that Mr Mattaini disappeared 42 43 in September 1985; do you see that?

Α.

Q.

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Yes.

He goes on:

44

45 46

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1 Each of the persons of interest in this 2 case --3 4 meaning this inquest --5 6 were somewhat less than 18 years of age in 1989, therefore whatever view one might 7 8 have about their potential 9 connection ... with the deaths or 10 disappearances of Mr Warren or Mr Russell it seems patently clear none could have 11 been involved in the disappearance of 12 Mr Mattaini in 1985 ... 13 14 15 Do you see that? 16 Yes, I do see that. Α. 17 18 First of all, having got this far through this closing address, do you think you've ever read this before? 19 20 I believe I may have. Α. 21 22 What's the basis for that belief? Q. 23 There are - again, there are things here that are 24 familiar to me. 25 All right. On the topic of Mr Mattaini and 1985, you 26 Q. are aware, aren't you, now - and presumably you were aware 27 28 during Neiwand - that indeed, the persons of interest in 29 the 1989 framework were then aged about 16 to 18, in 1989? Α. Yes. 30 31 32 Q. And thus, in 1985 --33 Α. Twelve to 14. 34 Q. Twelve to 14? 35 Α. Correct. 36 37 And you would agree, I take it, that that makes it 38 fairly unlikely that they were involved in any murderous 39 40 activities in 1985? 41 Α. Somewhat unlikely, yes. 42 43 Q. Not impossible, I suppose? 44 Α. True. 45 46 But fairly unlikely? Q. 47 Α. True.

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1 2 Q. Pausing there, you knew, and this paragraph reaffirms it, that as at the time of the Milledge inquest, there had 3 4 been no attempt by anybody, including Taradale, to explore 5 whether there might have been persons of interest, being other people, in connection with the 1985 disappearance of 6 7 Mr Mattaini: correct? 8 Α. Correct. 9 10 And Neiwand itself made no attempt to explore the possibility of finding persons of interest with respect to 11 1985 and Mr Mattaini; correct? 12 That's correct. 13 Α. 14 On page 8, at line 21, Mr Lakatos, Counsel Assisting, 15 16 comes to his second-last heading, which is the quality of 17 the respective investigations, including those at the time, 18 if any, and those of Taradale. Mmm - hmm. 19 Α. 20 21 Q. You see in the case of the Warren death - I'll go back 22 a step. At line 28, Counsel Assisting reiterates that: 23 24 ... there was no investigation of 25 Mr Mattaini's disappearance because the 26 trail had gone cold ... 27 28 meaning in 2002 --29 and unfortunately not much could be done 30 31 some 15 years or more after the event. 32 33 So he's referring to Taradale there? Yes. And even with Taradale, it was late in the 34 35 piece. 36 Q. Quite so. 37 Α. Yes. 38 39 40 Thank you. Then he moves on to the Warren death and 41 he talks about the obvious inadequacies and shortcomings of what Mr Bowditch did and didn't do. Do you see that --42 I see that. 43 Α. 44 45 -- over to the next page? Then on page 10 at line 19 46 he gets to his last topic, which is recommendations, and one of those, at lines 25 to 30 and a bit longer, concerns 47

```
1
         the very unfortunate failure of the police in 1989 to keep
2
         and not lose the hair.
              He does mention that.
3
         Α.
4
5
              That leads in due course to some recommendations about
         processes for dealing with exhibits and so on?
6
7
         Α.
              Yes.
8
9
         Q.
              He also mentions at line 34, about Mr Russell, that:
10
11
              ... there was no evidence that the
12
              cigarettes and the Coke bottle found near
13
              the deceased were fingerprinted.
14
15
         Do you see that?
              I see that reference.
16
17
              What did Neiwand do about that?
18
         Q.
              Offhand I don't remember but I - the Coke bottle is;
19
         Α.
20
         I don't recollect, but certainly there was a pack of,
         I think, Peter Stuyvesant cigarettes, a soft pack.
21
22
23
         Q.
              And did Neiwand get them fingerprinted?
              I don't remember.
         Α.
24
25
              I'll move over to page 16 because we there have the
26
         beginnings of the submissions of counsel for the police,
27
         Mr Saidi, at about line 25, do you see that?
28
              Yes.
29
         Α.
30
         Q.
              He says at line 31:
31
32
33
              I don't want to traverse the earlier part
34
              of Mr Lakatos's submissions regarding cause
              and manner of death and matters of that
35
              kind.
36
37
              Yes.
38
         Α.
39
40
         Q.
              He says a couple of lines later:
41
              There's no great controversy --
42
43
44
         Then the Coroner asks:
45
46
              You support what he --
47
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1 that is Counsel Assisting --2 3 says, don't you? 4 5 And Mr Saidi says: 6 7 Yes, I do. ... I do, and I can indicate 8 there's no controversy about it. 9 10 Α. I see that. 11 That includes, then, an endorsement of what Counsel 12 Assisting had said in the case of Mattaini as to the 13 unlikelihood of suicide; correct? 14 15 Α. Yes. 16 17 And it includes an endorsement of what Counsel Assisting had said in the case of Mr Russell, that the 18 evidence indicated the probability of homicide? 19 20 I can see that endorsement, yes. 21 22 Now, the rest of Mr Saidi's submissions, All right. for the most part, might I suggest - tell me if you agree -23 involved making the point that although there may have been 24 many shortcomings of the police in these cases in the 25 1980s, things were different now and that problems in terms 26 of systems and procedures had been improved? 27 28 Α. Yes. 29 MR GRAY: I tender that transcript of the closing 30 31 addresses. 32 33 THE COMMISSIONER: Very well. 34 MR GRAY: That would be tab 323 of volume 14. 35 36 37 THE COMMISSIONER: Thank you. 38 Now, just turning to a related topic of 39 Q. 40 investigation plans, did you ever see the investigation 41 plan for Macnamir? I don't believe so. 42 Α. 43 44 Did you ever see the investigation plan for Neiwand? Q. 45 Α. I would have, definitely. 46 47 Q. Could Mr Morgan have volume 1, please, and turn to

tab 18 [SCOI.74880_0001] if you would. It's about a bit less than three pages long. Do you see that?

A. Yes.

Q. The first page and a half consists of a kind of relatively brief summary of the state of play in relation to the three deaths?

A. Yes.

- Q. And then there's a bit over the page under the heading "Strategies/Execution"?
- A. Yes.

- Q. I'll show you the documents that establish this in a minute, but it would appear from the material that I'll show you shortly that this investigation plan did not come into existence until about September or October 2016. Does that sound right to you?
- A. I couldn't give you a date but it certainly wasn't there at the very start.

- Q. And it wasn't there, in fact, until you'd been well under way for the better part of a year. Would you agree with that?
- A. I'm accepting your word on it. I don't recall.

- Q. All right. We'll come to that. Under this heading on the second page, "Strategies/Execution", there is very little, would you agree, to be found there as to what approach or methodology the strike force is actually going to adopt?
- A. You're talking about the four dot points?

- Q. I'm going to start with the four dot points, yes. Certainly the four dot points seem to basically say that you will collate and assemble material that's available elsewhere?
- A. Yes.

- Q. So that's what investigators will do. Then on the last page, the third page, under the heading "Canvassing", it says that there will be a revisit of residents who resided around Marks Park in 1989/1990 --
- A. I see that.

Q. -- and possible follow-up with those persons. Was any such canvassing ever done by Neiwand?

1 2 3 4 5 6 7 8 9	A. aware	Not that I was involved in personally and not that I'm of.
	Q. A.	And none for 1985 either, I take it? Definitely not, I wouldn't have thought.
	Q. it sa	No. And then under the heading "Witness Management", ays:
10 11 12 13		Follow up statements will be required from identified witnesses for clarification and expansion purposes as well as statements from freshly identified witnesses.
15 16 17	Do yo	ou see that? Yes.
18 19 20 21	Α.	Were there any freshly identified witnesses? Well, if you're talking family and the like of some of deceased.
22 23 24 25 26		I'm asking were there any freshly identified esses, and are you saying, "Well, there were some ly members"? Yes.
27 28 29	Q. A.	All right. Apart from family members? I'm not aware of it.
30 31	Q.	Under the heading "Persons of Interest", it says:
32 33 34 35		A detailed list of persons of interests will be developed after an extensive review of all material.
36 37	Α.	Yes, I see that.
38 39 40	Q. A.	That was never done, was it? Not that I recall.
41 42 43 44		Even though, as you've seen this morning, Penny Brown, in February 2016, had provided Neiwand with a lengthy adsheet of 116 names of persons of interest? Apparently, yes.
45 46 47	Q. plan	Would the reason for this rather sparse investigation be, to your knowledge, that Neiwand wasn't going to

```
reinvestigate the deaths in any comprehensive way as
2
         possible homicides but was rather going to look for
3
         alternative explanations, such as suicide or misadventure?
4
              Well, keeping in mind that, as you've pointed out,
5
         this investigation plan wasn't done for some considerable
         months, it may have been done on the basis that that was
6
7
         what we'd arrived at by that stage.
8
9
         Q.
              Do you mean by that that by September or October 2016,
10
         which is the date I'm suggesting to you that this
         investigation plan came into existence, Neiwand had already
11
         decided that it wasn't going to pursue persons of interest?
12
13
              No, as I - we did pursue some persons of interest.
14
              One or, at the most, two of the 116 on Penny Brown's
15
         Q.
16
         list?
17
              No.
                   There were other persons of interest that were
18
         pursued.
19
20
              Yes, but of the 116 on her list you pursued one or, at
         Q.
21
         the most, two?
22
              That I can recall, yes.
         Α.
23
24
              And the other persons of interest are the ones
25
         referred to in the summaries, are they?
26
              Yes.
         Α.
27
28
              Okay, well, we'll come to those. Could Mr Morgan have
29
         volume 6, please. Could you turn to tab 164h.
              Yes, I have that document [SC0I.82502_0001].
30
31
32
              This is one of the progress reports - my friend is
33
         telling me that he doesn't have a hard copy of this, but
34
         I can't help him in that regard.
35
36
         MR TEDESCHI:
                        We have the electronic copy, your Honour.
37
         THE COMMISSIONER:
38
                             I'm sorry, 164h, is it?
39
40
         MR GRAY:
                    Yes.
41
42
         THE COMMISSIONER:
                             We went to it, I thought, yesterday.
43
44
         MR GRAY:
                    We did.
45
46
         THE COMMISSIONER:
                             If you don't have it, we'll see if we
```

can organise it, Mr Tedeschi. It's a document dated

- 1 18 September 2017, I think.
- MR GRAY: Q. It's one of the progress reports, isn't it, Mr Morgan, that Neiwand generated during the course of its work?
 - A. Apparently, it's listed as progress report number 6.
- 8 Q. Yes. As it happens --

THE COMMISSIONER: Q. Sorry, when you say "apparently", just before we start on this, did you get, as far as you can recollect, each of the progress reports when they were generated?

- A. No, sir, and the date that this progress report is like, for the period ending, I actually was, and had been for some months, involved in a murder trial, I wasn't in the office.
- Q. Is the answer to my question, then, you never got any progress reports, or you only got some?

 A. I got some.
 - MR GRAY: Q. Just help us with those dates that you've just mentioned. What are you saying that you were off Neiwand for some period?
 - A. Yes. I had a murder trial which was finalised on 3 October 2017. I believe it ran for six weeks, and I'd also been involved in preparations for that, serving of subpoenas and requisitions and the like, for probably a month before that, before the trial commenced.
 - Q. So did you say early October 2017? Is that what you just said?
 - A. I think the verdict was on 3 October, and for six weeks the trial ran for six weeks, and probably a month before that dealing with --
 - Q. So from about mid-July to early October you weren't doing anything to do with Neiwand; is that --
- 40 A. I don't believe I was in the office very much at all.
- Q. So it was just Chebl running the show, was it?
 A. Well, there may have been somebody else relieving in
 my position but I couldn't tell you who that was.
- Q. So looking at this progress report, which says it is number 6 but it is actually the eighth of them, for the

- period ending 18 September, are you saying that you've 2 never seen this before?
- 3 I may have seen it recently, but back at the time 4 I don't believe I saw it.

7

8 9

10

11

- THE COMMISSIONER: Q. So does that mean that even though you were off doing other things - does it follow that your association with Neiwand was terminated or were you still included in either discussions or materials that may be generated from time to time?
- Well, I whilst I wasn't in the office I wouldn't have had those discussions or been included.

12 13 14

- Q. And so you never got any emails or anything?
- Not that I can recall. Α.

15 16 17

18 19

20

- So in effect, once you were off doing the murder trial, your association for all relevant purposes terminated, came to an end, with Neiwand, in every respect; is that right?
 - Α. Was suspended is probably a better term.

21 22 23

24 25

26

- All right. Well, suspended, but you were off, as it were - off the Neiwand circulation list or communication list or whatever, and you weren't included in any meetings either?
 - Α. During that period, yes.

27 28

> THE COMMISSIONER: All right.

29 30

31 MR GRAY: Q. So then you come back, do you, after about 32 early October, to Neiwand; is that what happened? 33 I believe so, yes.

34

- 35 Q. And were you then full time on Neiwand or not full 36 time? 37
 - Α. I imagine I was full time on Neiwand.

38

Ο. You don't remember? 39

40 Α. I don't remember.

- 42 At any rate, putting aside for the moment precisely where you were, just looking at what this document says -43 44 the one at 164h - I want to take you to - I'll come back to 45 it in another context, but on page 6, there is a box for
- 46 the "Squad Commander's review". Do you see that?
- 47 Α. Yes.

1 2 Q. It is filled in by Detective Acting Superintendent 3 Jason Dickinson? 4 I see that. 5 By that time, as we understand it from some evidence 6 Q. the other day, Mr Dickinson was the Acting Commander 7 8 Homicide? 9 Α. Yes. 10 11 Q. So a very senior person? Α. Yes. 12 13 And he describes the Neiwand exercise - do you see in 14 Q. that box in handwriting - in the following terms: 15 16 17 Cold Case. Evidentiary review. 18 Do you see that? 19 20 Α. I see that. 21 22 That's essentially a correct description of what 23 Neiwand was; do you agree? Well, looking at the evidence and doing a review of 24 25 the evidence. Is that what you're saying? 26 27 Q. It was an evidentiary review? 28 Yes, I can see how it would be called that. Α. 29 And the evidence that you were reviewing was basically 30 the evidence that had been gathered by Taradale? 31 32 To a significant extent, yes. 33 34 Because in the case of Mattaini, there never was any other investigation but Taradale? 35 Not that I recall. Α. 36 37 Well, you know there wasn't, don't you, Mr Morgan? 38 Q. Well, there wasn't really a starting point. 39 Α. 40 41 Mr Morgan, you know, don't you, that Mattaini's disappearance did not come to the notice of the police 42 until 2002? You know that? 43 44 Yes, correct. Α. 45 46 So there never was any investigation of Mattaini 47 except what Taradale was able to do in the very short

period in late 2002; correct? 2 Α. Quite likely, yes. 3 4 Q. Not "quite likely", definitely - you know that, don't 5 vou? Are you trying to --No, I don't know that. 6 Α. 7 8 Q. How do you not know it? What don't you know? 9 Α. There may have been other investigation. I don't - I don't know. 10 11 12 Q. Are you just making this up as you go? 13 Α. No. 14 What makes you think there might have been other 15 16 investigations before the police ever knew of the death or 17 the disappearance? 18 You are talking about by Neiwand. I don't know 19 whether --20 21 Q. No, no. No, I'm not talking about by Neiwand. 22 never had been any investigation into the disappearance or suspected death of Mr Mattaini until late 2002 when 23 24 Taradale did something; isn't that correct? 25 Α. Sorry. We're at cross-purposes. I understand what 26 you're saying now, yes. 27 28 Q. And you agree with it? 29 Α. I do agree. 30 So in the case of Mattaini, the only evidence to be 31 32 reviewed was evidence that Taradale had assembled in the 33 second half of 2002? 34 Yes. Α. 35 36 Right. In the case of Mr Warren, the original investigation in 1989 by Sergeant Bowditch was so 37 inadequate that Coroner Milledge considered it to be 38 disgraceful, wasn't it? 39 Yes. 40 Α. 41 42 And so apart from whatever rather unsatisfactory

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Α.

Taradale work?

Correct.

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things he may have done, the substantive investigation that

was ever carried out into Mr Warren's disappearance was the

- So the evidence that you were reviewing in Neiwand 1 2 about Mr Warren was evidence gathered almost entirely by 3 Taradale? 4 Α. Yes. 5 And in the case of Mr Russell, although the Coroner 6 Q. considered that investigation to be not as bad as the one 7 8 for Mr Warren, she still considered it as far from 9 adequate, didn't she? 10 That was what she commented on, yes. 11 And you would agree with that, wouldn't you? 12 Q. 13 Α. No, I don't necessarily. 14 Don't you? So losing the hairs was nothing much to 15 16 worry about, was it? 17 No, I don't agree with that. That was a very 18 significant flaw. 19 20
 - Q. Well, even by itself, if there was nothing else wrong with it, that would make the investigation far from adequate, wouldn't it?
 - A. No. It made one aspect of the investigation inadequate.
 - Q. Surely you would agree, but tell me if you don't, that the hair on the back of the hand near the index finger would have been a critical piece of evidence to analyse and test?
 - A. Definitely.
 - Q. And it couldn't be done because the police lost it; correct?
- 34 A. Agreed.

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- Q. Doesn't that make the investigation far from adequate?
 A. It doesn't make the entire investigation far from adequate.
- Q. Now, could you just in the same volume, 6, have a look at tab 176.
- 42 A. Yes.
- Q. This is the post operational assessment in respect of Neiwand at the conclusion of Neiwand; correct?

 A. Yes.

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1 Q. Have you ever seen this before? 2 Α. Yes. 3 4 Q. Did you see it in late 2017 when it was apparently 5 composed? I would have. 6 Α. 7 8 Q. You would have? 9 Α. I would have seen it then. I'm certainly familiar with it. 10 11 12 Looking at the substance of it after we get past the preliminary pages, have you got the page that 13 14 starts about six pages in, "Post Operational Assessment", "Strike Force Neiwand"? 15 16 Α. Yes. 17 18 So the first two sections - that is, "Terms of Reference", and "Investigation Summary", which go for about 19 20 another six or seven pages - are under the signature of 21 Mr Chebl, aren't they? 22 Α. Yes. 23 24 Q. So he wrote that, did he? 25 Α. Yes. 26 27 And did you collaborate with him in the writing of it 28 or check and review and endorse what he wrote? 29 I believe I read it at the time and endorsed it. 30 31 Q. 32 Α. Not signed it, but I read through it. 33 34 Okay. And then section 3, "Key Findings", is above the signature of Stewart Leggat? 35 36 Α. Yes. 37 38 Q. Does that mean that he composed that, or only that he 39 signed it? 40 I believe he composed that. 41 In his section, section 3, at the bottom of the 42 page that has the heading "Key Findings", he sets out in 43 44 one sentence what Neiwand focused on, doesn't he? 45 Are you talking about at the very top, straight under

"Key Findings"?

46

1 Q. No, the last sentence on that page. 2 Α. Oh, yes. 3 4 Q. 5 Strike Force Neiwand investigators focused on victimology, associates and the last 6 known movements of the three males. 7 8 9 Α. Yes. 10 And that's an accurate summary of what Neiwand 11 actually did, isn't it? 12 Yes. 13 Α. 14 And it's pretty different from what the investigation 15 16 plan said that Neiwand was to do, isn't it? 17 Α. Yes. 18 19 Q. The investigation plan didn't come into existence, it 20 seems, until September/October 2016? 21 Α. Apparently, yes. 22 So was the decision to not follow the investigation 23 24 plan and instead to focus on victimology, associates and the last known movements of the three males, a decision 25 that was made after September/October 2016? 26 During or after, yes. 27 28 29 Q. Who made it? Α. I don't remember now but it would have been part of 30 discussions. 31 32 33 Q. Was it your idea? 34 Α. I don't remember. 35 Can't help us with who thought you should depart from 36 the investigation plan and instead do what Mr Leggat says 37 vou did? 38 I recall it being talked about in team meetings, but 39 40 as to a particular individual, I don't recall. 41 42 THE COMMISSIONER: Q. So it would be fair to say it was 43 a consensus position? 44 Yes, it would. Α. 45 46 In respect of which you agree? Q. 47 Α. Yes.

1 2 MR GRAY: Q. All right. Now, I'll come back to that in another context but for the moment I just want to run 3 4 through these progress reports with you and they start at 5 164a [SCOI.82054 0001]. Have you got that one there? I won't be a moment, I'm still looking for it. Yes, I 6 have 164a. 7 8 9 It says on the front page that it's for the period 10 ending 12 July 2016? Α. 11 Yes. 12 If we move over to page 6, after there have been some 13 14 summaries of the status of the investigation and how much material you had got and what you had in relation to the 15 16 three different cases, there is then a heading "Future 17 Directions" at the bottom of page 6? 18 Α. Yes. 19 20 What was envisaged then was, "Continue with the uploading Taradale material"; "Complete investigation 21 22 plan", which evidently hadn't been completed at that point; 23 agreed? 24 Α. Agreed. 25 "Complete Victimology", for the three deceased? 26 Q. 27 Α. Yes. 28 29 Q. Create tasks for lines of inquiry? Α. Yes. 30 31 32 And see what the Crime Commission could give you in 33 relation to the holdings that they had? 34 Yes. Α. 35 36 Find an expert specialising in oceanography and 37 meteorology in respect of --Α. Yes. 38 39 40 -- Mr Warren. Find an expert specialising in the 41 effects of alcohol in the human body and neurology in the case of Mr Russell? 42 Yes. 43 Α. 44 45 Q. Continual review of intelligence reports as received 46 and follow-up on the various things listed there in those four bullet points? 47

1 A. Yes.

2

- Q. Now, none of those involves pursuing lines of inquiry associated with persons of interest?
- A. Not at that stage, no.

5 6

4

- Q. And victimology, which involves finding out more about the deceased himself or herself and family, friends,
- associates, work arrangements and so on, is not very likely to tell you much about how somebody met his death at the bottom of a cliff, is it?
 - A. Oh, I don't necessarily agree with that proposition.

12 13 14

15 16

17

- Q. Well, if someone had been thrown off a cliff, he'd been thrown off a cliff, and the family and friends, unless themselves were suspects, are not going to know much about that, are they?
- A. Well, that's my point.

18 19 20

21

22

- Q. What's your point?
- A. That we hadn't totally disregarded the fact that, not family, but it may that associates may have been involved.

232425

- Q. As killers?
 - A. Possibly.

26 27 28

29

- Q. Did any of your inquiries lead to anything in that regard?
- 30 A. We did follow a number of inquiries up.

31

- 32 Q. And?
 - A. Well, obviously we didn't get to the point where anybody could be charged.

34 35

33

- Q. No, and no disrespect, but nor did you get anywhere close to any such result?
 - A. No, but there were suspicions of some associates.

38 39

- Q. Which ultimately you came to the view could be put aside?
 - A. Well, couldn't be pursued any further, yes.

42 43

- Q. And they were only in the case of Mr Warren?
- 45 A. Mr Warren predominantly, yes.

46 47

Q. Well, only, isn't it? Certainly not Mr Mattaini?

1 Α. Yeah, certainly not Mr Mattaini.

a domestic or - type homicide.

Mr Mattaini or Mr Russell?

I don't think so but I'm not certain.

that was the most likely scenario.

Well, I'll ask it again.

relevant to the possibility of suicide?

- 2
- 3 And indeed, not Mr Russell? Q.
- 4 I'm trying to think in relation to Mr Russell, but Α. 5 definitely in relation to Mr Warren.

6 7

8

9

10

And in relation to Mr Warren, the theory was, as I understand it, that maybe somebody might have been motivated to kill him because of some relationship issues? There were various issues along that line that were raised, yes.

would have been a murder but not a gay hate murder?

lines, it would have been more along the lines of

So if you'd found that in the case of Mr Warren, it

Yes, it probably - had it been a homicide, along those

So you pursued avenues of inquiry that, had they been

Like I said, Mr Mattaini definitely not. Mr Russell

But in the case of Mr Mattaini, what you did pursue

Well, in my opinion - and I still maintain that - that

fruitful, would have resulted in a conclusion of domestic homicide rather than gay hate homicide, in the case of

You did not even pursue those in the case of

was avenues that might perhaps lead to a suicide

And the answer to my question is "Yes"?

what you did do was to pursue lines of inquiry that were

And you did not pursue lines of inquiry at all

I don't believe there were any lines of inquiry in

Sorry, can you rephrase the question?

11

- 12
- 13 14
- 15 16
- 17
- 18
- 19 20 21
- 22

Mr Warren?

conclusion?

Yes.

Yes.

Α.

Q.

Α.

Α.

Q.

- 23
- 24
- 25
- 26
- 27
- 28 29
- 30
- 31 32
- 33 34 35
- 36
- 37
- 38 39

40

- 41 42
- 43 44 45

46

47

relation to homicide to pursue.

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In the case of Mattaini,

relevant to the possibility of homicide, did you?

```
1
2
         Q.
              Wasn't a possible line of inquiry that he might have
3
         been thrown off the cliff?
4
              Date-wise, we didn't have - there were no witnesses.
5
         We had nothing to really suggest that.
6
7
              Except that other people had been thrown off the cliff
         Q.
8
         at Marks Park in periods not too far distant in time?
              Well, if you accept that Mr Russell had been thrown
9
10
         off a cliff and the Thai gentleman - they were the only two
         I'm aware of.
11
12
13
         Q.
              Two would be enough to generate the possibility, don't
14
         you think?
              You're talking several years before.
15
         Α.
16
17
              Well, several years before the Warren and Russell
18
         events?
19
         Α.
              Yes.
20
21
         Q.
              So did you take the view that because it was several
22
         years before, the very possibility of death by a gay hate
         assailant was not to be even considered?
23
24
              I wouldn't say wasn't considered, but it wasn't
25
         considered likely.
26
              Well, you did nothing about inquiring along such
27
28
         a line, did you - nothing?
29
         Α.
              Not that I'm aware of.
30
31
         Q.
              Zero; is that right?
32
         Α.
              That I'm aware of.
33
34
              And in the case of Mr Russell, what you devoted your
         attention to overwhelmingly was not homicide and not
35
36
         suicide, but misadventure, wasn't it?
37
         Α.
              Yes.
38
              Again, you didn't really make any inquiries at all
39
         Q.
40
         directed to exploring the possibility of homicide?
41
         Α.
              I don't say we disregarded that possibility.
42
43
         Q.
              Could you answer my question?
44
         Α.
              No.
45
46
              You're agreeing with me?
         Q.
47
         Α.
              I'm agreeing with you.
```

```
1
2
              I'll put it again. You are agreeing with me you
         Q.
3
         didn't pursue any avenues of inquiry in relation to
4
         Mr Russell in connection with the possibility of homicide;
5
         is that right?
              That's my understanding - that's my recollection.
6
         Α.
7
8
         Q.
              So Mattaini, you pursued the suicide possibility?
9
         Α.
              Yes.
10
              With Russell, you pursued the misadventure
11
         Q.
         possibility?
12
13
        Α.
              Correct.
14
              And with Warren, you pursued the possibility of
15
16
         homicide but not a gay hate homicide?
17
              I wouldn't say that we totally discounted the
18
         possibility of homicide.
19
20
         Q.
              Of a gay hate kind?
21
         Α.
              Of a gay hate crime.
22
23
              What did you do to pursue such a possibility?
         Q.
              Oh. I don't remember now. We certainly reviewed the
24
         Α.
         material from Taradale, and they had pursued that line
25
26
         quite significantly.
27
28
         Q.
              In the early 2000s?
29
         Α.
              Mmm.
30
              But you yourselves did nothing extra in 2016/2017 on
31
         Q.
32
         that line?
33
         Α.
              Not that I can now remember, no.
34
              All right. If you turn to the next progress report,
35
         which is at 164b [SCOI.82049 0001], this one is for the
36
         period ending 6 September 2016. Do you see that?
37
         Α.
              Yes.
38
39
40
              And still the investigation plan was not in existence,
41
         and we see that from the box, which on my copy is on the
         top of the second page, where there is an "N" against
42
         "Investigation Plan"; do you see that?
43
44
         Α.
              Yes.
45
46
              Then if we turn over to 164c [SC0I.82053_0001] - in
         fact, before you do that, just keep that volume, but could
47
```

Mr Morgan also have volume 14, please. And turn to 295A 1 2 [NPL.01150003.1501] in volume 14. 3 Α. Yes. 4 5 This is a document under the heading "State Crime Command", it says "Initial Consultation Strike Force 6 Neiwand"; do you see that? 7 8 Α. Yes. 9 10 Q. It's dated 17 August 2016? 11 Α. Yes. 12 And describes the strike force team leader at item 8 13 Q. as Mr Lehmann? 14 15 Α. Yes. 16 17 And was that correct? Was he the strike force team 18 leader of Neiwand as at August 2016? 19 Oh, he must have been, yes. 20 21 Q. Yes, he must. And on the next - the second page, 22 under the heading "Persons of Interest", item 15, do you see the entry is: 23 24 25 None known at this stage. 26 27 Α. Yes. 28 That's obviously wrong, isn't it? 29 It's probably not the ideal answer, yes. It appears 30 Α. to be incorrect. 31 32 33 Well, Penny Brown had put forward 116 persons of 34 interest in February, hadn't she? Well - and many or all of those had come from 35 36 Taradale, yes. 37 But whoever is writing this in August 2016 38 Q. Quite so. says there are no persons of interest known? 39 40 Well, if you look at the next heading it says "Murder 41 (or suicide)"? 42 43 Q. But no persons of interest known. Sure. 44 Α. Yes. I can understand how that's not accurate. 45

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Yes.

Q.

Α.

46

47

2022 S MORGAN (Mr Gray)

It's utterly inaccurate, isn't it?

```
1
2
         Q.
              Does it indicate that whoever was composing this
         document did not have in mind pursuing persons of interest?
3
4
              Well, clearly.
5
              Now, meanwhile - that can be returned - the month
6
         Q.
         after that, in fact, a little bit later, by the end
7
8
         of October, 164c [SC0I.82053_0001] --
9
         Α.
              Yes.
10
              -- according to the box at the top of the second page,
11
         Q.
         the investigation plan had now come into existence -
12
         there's is a "Y" next to "Investigation Plan"?
13
14
              Yes, I see that.
15
16
              On page 5, there's a record of some advice given by,
17
         apparently, Detective Acting Inspector Mathieu Russell. Do
18
         you see that?
              Yes.
19
         Α.
20
21
         Q.
              He, it seems, provided advice to:
22
23
24
              Target POIs with CCRs around recent "gay
              hate" media events and to consider patterns
25
26
              of behaviour and movement.
27
28
         Do you see that?
29
              Yes, I see that.
30
              CCRs are call charge records, aren't they?
31
         Q.
32
         Α.
              They are.
33
34
              And they record the phone numbers of incoming and
         outgoing calls on a particular phone?
35
         Α.
36
              Yes.
37
              So his advice was to target the POIs with CCRs, but
38
         you did not in fact do that, did you?
39
40
              As I sit here, I don't know. I thought there was some
41
         work done with CCRs.
42
              With any of the 116 on Penny Brown's list?
43
         Q.
44
         Α.
              I can't answer that. I don't know.
45
46
              Were you not the officer in charge but the
         investigation supervisor for Neiwand?
47
```

Α. 1 Yes.

2

- But you don't know whether this was done or not? 3 Q.
- 4 Α. As I sit here now, no.

5 6

7 8

9

- Turn over to 164d [SCOI.82050 0001] which is the Q. period ending 23 January 2017. I don't need to spend time on that one. We can move to 164e [SCOI.82048_0001], which is the one for the period ending 23 March 2017.
- Α. Yes.

10 11

- 12 And with this one, there's a comment on page 5 as to 13 Warren, that it was a possible homicide but possibly of 14 a domestic nature involving a former partner rather than the result of gay hate violence? 15 16
 - Α. Yes.

17 18

- Q. And that's signed off by Stewart Leggat.
- Α.

19 20

- 21 Q. Was that a view that you concurred in? Was that your 22 view?
 - Α. I think it was a consensus held at the time, yes.

23 24 25

26

27

28

29

- And why the expression "rather than the result of gay hate gang violence"? How was that being excluded?
 - I think the lines of inquiry that we'd established at that stage were tending that way, that there were suspicions of some of the former associates, former partners.

30 31 32

33

34

35

- But in terms of excluding the possibility of gay hate gang violence, you had taken no steps to inquire one way or the other, had you?
 - No, that's not true. We did conduct inquiries into former associates and partners and the like.

36 37 38

39

- No, as to gay hate gang violence? You did nothing in Q. that direction at all, did you?
 - Α. Not that I remember.

40 41 42

43

- But you did do something in terms of seeing whether it might have been a domestic issue?
- 44 Α. Yes.

45

46 Now, let me take you to 164f [SC0I.82051_0001], which is the one for the period ending 16 May 2017. 47

3 On page 4, under the heading "Gilles Mattaini", do you 4 see the third bullet point? 5 Α. Yes. 6 So a team meeting was held on 10 April, where it was 7 8 decided that as Mattaini's cause of death cannot be 9 determined, there is no evidence of homicide, and that it 10 might be the result of suicide or misadventure? 11 Α. Yes. 12 13 Q. Why was it the case that Mattaini's cause of death 14 could not be determined? Well, I would have thought it was obvious: we didn't 15 16 have Mr Mattaini's remains so cause of death can't be 17 determined. 18 19 Q. You had some material indicating when he'd last been 20 seen and where he'd last been seen? 21 Α. Yes. 22 Q. And by whom he had last been seen? 23 24 Well, yeah, a neighbour, but I still don't know the identity of that person. 25 26 27 Q. Did you make any attempt to find out? 28 Α. Yes. 29 Q. 30 What attempt? Oh, I don't know, but attempts were made to find out. 31 Α. 32 33 Q. Well, do your best. What did you do to try to find 34 out? I didn't do anything personally. 35 Α. 36 37 Well, what do you know about what anyone else might have done? 38 I don't recall now, as I sit here. This is seven 39 40 years ago. 41

45 46 47

42

43

44

Q. To try to find out what happened to Mr Mattaini in

Have you looked at this material again to get ready

Α.

1

Yes.

I can't say

I've looked at some of this material.

I've specifically looked at this document.

for giving evidence this week?

1 1985, difficult though that obviously would have been in 2 2016 --3 Α. Yes. 4 5 Q. -- 2017, you'd have to do more than nothing, wouldn't 6 you? 7 Α. Yes. 8 9 Q. But you didn't do more than nothing? All you did was 10 pursue a suicide line; correct? That was - that was in our mind - in my mind - the 11 12 most likely scenario. That was the direction we pursued. 13 14 So to answer my question, you didn't do anything in relation to pursuing whether it might have been a homicide; 15 16 you just looked at whether it might have been a suicide, 17 isn't that right? 18 It would appear so. 19 20 So in this bullet point, it goes on: Q. 21 22 ... death may be the result of suicide or 23 misadventure. As a result the 24 investigation into Mattaini's death will be 25 inactive so investigators can concentrate on the ... Warren matter ... 26 27 28 Yes, I see that. Α. 29 According to this progress report, nothing more was 30 going to be done about Mattaini's death after 10 April 31 32 2017; is that what we read there in that bullet point? 33 Α. That seems to be the case, yes.

34

35

36

37

- So the investigation, so-called, into Mattaini's death. lasted from some time around the middle of 2016 to 10 April 2017?
- Α. That appears to be what comes from that document, yes.

38 39 40

41

42 43 Q. And in the case of Warren, various activities were being conducted. Mr Rossini, the first bullet point, is a work colleague whom Detective Page had interviewed in Taradale: correct?

I think he had, yes.

44 45 46

47

Contact was going to be made with Ross Warren's mother?

1 A. Yes.

Q. There was a walk-through around Mackenzies Point with a friend or associate of Mr Warren, whose name appears there in the fourth bullet point?

6 A. Yes.

- Q. And you were going to someone was going to travel to New Zealand to speak to a former housemate of another friend of Mr Warren?
 - A. Yes, correct. And that did in fact happen, I believe.

Q. So the contact with the former housemate of the former friend was to pursue the domestic homicide line, was it?

A. Yes.

- Q. And then the next bullet point is creating an association chart of the social circles, namely, the WIN Television staff and some other social groups?
- A. Yes.

- 22 Q. And what was that directed towards?
 - A. Some of those people were what we considered persons of interest in the matter.

- Q. They are the two mentioned in the Wollongong gay group, are they?
- A. I can see two to three names there that I recognise as being people who were inquired into as persons of interest.

- Q. In fact, the one in brackets as being the "Wollongong Gay Group" is in fact one person with two names, isn't it? It's a certain person, "aka" a different name?
- A. No, I don't recognise that as being no, the fellow who had several names is somebody else.

- Q. Well, isn't that what it says, "Wollongong Gay Group (and [so-and-so]) aka"?
- A. Oh, I see, "Alias 1", "Alias" yes, I see that, sorry.

- Q. The second of those names, the one that's "aka", is a name under which Taradale had spoken to him correct already? Taradale had spoken to the person --
- A. Sorry, I don't have the name of the alias here.

Q. Is your material redacted in some way?

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A. It's got "188 Alias 1" "Alias 1" and "aka 188", and I'm not sure what that relates to.

3

5

6

7 8 Q. Don't worry. I won't take up time. I didn't realise you had it in that form. At any rate, under "Russell", "John Russell", it says that a team meeting was held where consideration was given to the possibility of death by misadventure, keeping in mind alcohol reading, or homicide. A. Yes.

9 10 11

12

13 14

15

- Q. As you have agreed earlier, in fact, little or nothing was done to pursue the possibility of homicide and attention was in fact directed to exploring the possibility of misadventure?
 - A. I wouldn't say that categorically but predominantly, yes.

16 17 18

19

20

Q. I'll move over to 164h [SCOI.82052_0001] the period ending 18 September 2017. Now, this is one in the period when you say you were off doing other things?

A. Yes.

212223

24

2526

- Q. But nevertheless, looking at it now, do you see on page 3 under the heading "Gilles Mattaini", that Mr Chebl had completed the summary of the evidence on hand relating to Mattaini?
- A. Yes.

272829

30

31

32

- Q. And under "Warren", in the second bullet point there are various names mentioned. Have you got the names there are or they --
- A. No, it's listed as "alias" again but I think I know the person you're talking about.

33 34

- Q. Anyway, it was established that the person in question never knew Warren?
 - A. Yeah, I think there were mental health issues on that person.

38 39

37

- 40 Q. So that line of possible domestic related inquiry led 41 nowhere?
 - A. Involving that person of interest, yes.

- Q. Yes. And on the fourth page under "Russell", we're told that the summary of evidence in relation to the death of Mr Russell had also been completed?
- 47 A. Yes.

```
2
         Q.
              As at September 2017?
3
         Α.
              Yes.
4
                          Now, just before I come, which I'm about
5
              All right.
         to, to the summaries themselves, a couple of general
6
         questions about them, and they're at - if you turn up in
7
8
         that volume tab 172, volume 14 [sic] [SCOI.74881_0001]?
9
         Α.
              Yes.
10
11
         Q.
              You will have the summary, as I call it, the heading
         is "Overview", in connection with Mr Mattaini?
12
13
         Α.
              Yes.
14
              So this is, you can see if you flick to the end -
15
16
         you'd accept this is the summary document produced at the
17
         conclusion of the entire Neiwand investigation in
         connection with Mr Mattaini?
18
              Yes.
19
         Α.
20
21
         Q.
              You can take it that it's apparent from other evidence
22
         that the date that this was finally, at least, entered into
23
         the system or completed was - I'm just not sure, it's
         either very late December 2017 or it's in January 2018.
24
              Yes, I'm uncertain. There doesn't appear to be a date
25
         Α.
26
         on it.
27
28
         Q.
              It's not dated, as you say?
29
              No. Clearly the date at the top of the page there is
30
         not - that's the date of the disappearance, yep.
31
32
                        Do you have in your tab 172 the cover page,
              Correct.
33
         which is the e@gle.i --
34
         Α.
              No.
35
              -- document? I'll just need to show you that.
36
         you turn to 172A [SCOI.76962.00004_0001], thank you.
37
         is the cover page that I'm talking about according to
38
         that - oh, that's the one for Russell.
39
40
         Α.
              No. no.
41
              Yes, according to that, the title of the document is
42
         "Summary of investigation - Gilles Mattaini"?
43
44
              Yes.
         Α.
45
46
         Q.
              And it says, "Date created, 27 December 2017"?
47
         Α.
              Correct.
```

- Q. Presumably, that's the date it was in fact created by Mr Chebl; is that right?
 - A. Created or finalised, yes.

4 5 6

> 7 8

3

- Q. It's signed not signed, but his name, the name of Mr Chebl, appears at the end of it, at the very bottom of the last page.
- 9 A. Yes.

10

- 11 Q. Tell us how this document was created. Was it created 12 by Chebl by himself or was it created by him in 13 consultation or collaboration with you?
 - A. It was created by Mr Chebl but it would have there would have been some consultation.

15 16 17

18

14

- Q. Well, the document at 172A says it was created by him and reviewed by you.
- A. Yes. I've accepted the product, yes.

19 20 21

22

- Q. What was constituted by your reviewing it? What did you do?
- A. With e@gle.i, a product is submitted and then somebody else reviews it. I've reviewed it and accepted it.

2526

27

28

29

- THE COMMISSIONER: Q. The problem we've got, Mr Morgan, is add some content or give some content to the word "review". Does it mean you read it? Does it mean you skimmed it? Just what does "review" mean?
- A. I've read it.

30 31

- 32 Q. And read it carefully?
 - A. Yes.

333435

THE COMMISSIONER: All right. Thank you.

36 37

38

39

40

- MR GRAY: Q. Did you suggest any changes to it or did you accept it as presented by Chebl?
- A. I don't remember now, but if I've suggested changes, they would and he'd done them, they wouldn't be in this final document.

41 42 43

44

45

- Q. They would, quite so. That's what I'm asking you. Is any part of the final document material that comes from you or has it all been written by Chebl and you've simply said, "Yes, that can go forward"?
- 47 A. I don't remember now whether I recommended changes or

1 not, but I've reviewed it, I read through it and accepted 2 it.

3 4

5

6

7

Q. All right. Now, would you agree - I can do this in detail with each one but you may be able to do it at least for the moment more globally - that each one of the three, these summaries, for Mattaini and Warren and Russell --Α. Yes.

8 9

10 -- addresses the fact that there had been definitive coronial findings by Coroner Milledge back in 2005? 11 Α. Yes. 12

13

14 Q. And recites the fact that as to Warren and Russell, she had returned findings of homicide? 15 16 Α.

17

18 And that as to Mattaini, she had said the death was 19 undetermined, an open finding? 20

Α. Yes.

21 22

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And then as to all three, not as findings but expressions of probability, she'd said that the probability was that all three of them were killed by gay hate assailants?

26 Α. Yes.

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Now, each one of these three Neiwand summaries arrives Q. at conclusions which essentially contradict both the findings of homicide as to Mr Russell and Mr Warren, and the expression of probability about all three; correct? Yes, that's a fair comment.

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Now, taking Russell as an example, which is tab 173 [SCOI.748882_0001], if you look at paragraph 154 of the Russell summary, the last paragraph --Α. Yes.

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-- you see that the last four or five lines beginning, "There are no identified suspects and/or witnesses" - do you see that bit, about four or five lines from the bottom? Α. Yes.

- 44 Those four or five lines, three sentences, appear 45 almost exactly verbatim the same in all three summaries, 46 don't they?
- 47 I would agree with that, yes.

1 2 So in each case, or in the case of Russell and Warren - and we're looking at the Russell one here -3 4 Neiwand concludes: 5 The manner of Russell's death should be 6 reclassified as "undetermined" despite the 7 8 2005 "homicide" findings of the Coroner. 9 10 Do you see that? 11 Α. Yes. 12 And the very same sentence I think literally verbatim 13 is to be found in the Warren summary - do you agree? Oh, 14 well, I'll show it to you. Tab 174 [SC0I.74883_0001]? 15 16 Last page? Α. 17 18 Paragraph 270. Do you see we get again in 19 paragraph 270: 20 21 There are no further lines of inquiry ... 22 There is no forensic evidence, no 23 identified suspect and/or witnesses. 24 25 Have you got this? Yes. 26 Α. 27 28 Q. Page 62, paragraph 270? 29 Α. Yes. 30 31 Q. 32 Warren's disappearance - cause and manner 33 of death remain "undetermined" despite the 2005 "homicide" findings of the Coroner, 34 which list it as homicide. 35 36 Yes. 37 Α. 38 So in the case of those two, you and Chebl say that 39 40 the death, although subject of an express finding of 41 homicide by the Coroner, should be reclassified as "undetermined"? 42 Yes. 43 Α. 44 You go on to say in both cases, and you say the same 45 46 in Mattaini: 47

1 It is recommended that this investigation 2 be listed as inactive and only reactivated 3 if new and compelling evidence becomes 4 available. 5 Α. Yes. 6 7 8 Q. And you say that with all three of them? 9 Α. Yes. 10 Now, when you said that you recommended that the 11 matter be reclassified as "undetermined" despite what the 12 13 Coroner had found, who were you saying it should be reclassified by? Who was to do the reclassification? 14 As far as our internal Unsolved Homicide database. 15 Α. 16 17 And you'd change something on the database from "Homicide" to "Undetermined", do you? 18 19 Well, obviously, you've got different classifications, "Unsolved", "Solved", I think "Unresolved" - there's 20 21 a number of - it has changed over the years, but yes. 22 23 But you'd somehow or other delete a finding of 24 "Homicide" and substitute a finding of "Undetermined", do 25 you? I think from memory they normally put it in brackets 26 Α. 27 next to it, but yes. 28 29 Q. Put what in brackets next to what? You might get something that - I mean, obviously you 30 get ones that are solved, and then there's - then there's, 31 32 you know, "Current", there's "Unresolved" - there's 33 a number of different classifications. 34 35 Q. But if this one apparently - well, what was it classified as prior to your recommendation in late 2017? 36 I gather it would have been as a homicide because 37 that's what the Coroner had ruled. 38 40

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Q. So in your database you simply changed that and said, "It's not a homicide, it's undetermined"?

I don't know if that's been done but that was the suggestion, yes.

43 44 45

Q. Well, that's what you were saying should be done? Α. Yes.

- Q. Was the Coroner told that you had done this or were going to do it?
- 3 A. Not that I'm aware, no.

4 5

- Q. Why not?
- A. Oh, I don't even know if the Coroner was still at the coronial court. I believe that particular Coroner is now a magistrate.

9

- 10 Q. Is that your reason for not telling the Coroner's 11 office that their finding had been overturned inside the 12 police?
 - A. I don't know whether the Coroner's office were informed or not. I certainly didn't inform them.

14 15 16

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- Q. And if they weren't, should they have been, the Coroner's office, or the State Coroner?
- A. I guess on reflection, they should have been, yes.

18 19 20

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- Q. Was Sergeant Page or former Sergeant Page ever informed of the findings of Neiwand, including the criticisms of him?
 - A. Not that I know of.

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Q. Should he have been?

A. I don't know.

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- Q. Well, I'll come back to this very shortly on Mattaini, but in Mattaini, you, in Neiwand in the Neiwand summary asserted that Coroner Milledge had never considered suicide, and that that was because Detective Sergeant Page had withheld evidence from her. Do you remember saying that?
- A. I recall saying that, yes.

34 35 36

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- Q. And you were basing the proposition that he had withheld evidence on things that Mr Musy had said somewhere along the line?
- A. Yes.

39 40

- Q. Well, wouldn't it be an elementary investigative step, where an accusation was made, to check it with the person against whom the accusation is made to see whether it's right?
- 45 A. Generally, yes.

46 47

Q. Why didn't you do that with Mr Page?

I can't answer that. I don't know. 1 Α. 2 3 Would it be because you didn't want to know what Q. 4 Mr Page said? 5 Α. I don't know. 6 7 Q. You were the investigation supervisor? 8 Α. Yes. 9 10 Q. Isn't it obvious that that should have been done? I recall there being some discussion about contacting 11 Mr Page in an early part of the Neiwand investigation, and 12 for whatever reason - and I'm not aware of why now, but for 13 14 whatever reason - it was decided not to do that. 15 16 And by the time you were putting in writing these 17 serious accusations against him in the summary, it didn't 18 occur to you that it might be appropriate to ask him whether those accusations were true? 19 20 I don't know if it didn't occur or it didn't occur to 21 me as a thought or - I don't believe it was done. 22 23 Do you think it was fair to include these heavy 24 criticisms of him without giving him a chance to respond? I can see that can be argued, that it wasn't fair to 25 26 him. 27 28 Q. Well, what's your view on that point? Was it unfair? 29 On face value, it appears to have been unfair not to have told him. 30 31 32 Q. Not to have told him and not to have asked him for his 33 response? 34 Well, clearly one and the same, yes. Α. 35 36 Right. In the Milledge recommendations, which are in 37 this same volume that you've got at tab 161, [SCOI.02751.00021_0001] --38 Yes, I have that document. 39 Α. 40 41 -- the recommendations that she made on the last page include one about four or five from the bottom, 42 43 commencing, "Audit outstanding homicides"; correct? 44 Α. Yes.

.23/02/2023 (26)

She says:

Q.

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2035 S MORGAN (Mr Gray)

1 Where investigations have stalled these 2 matters are to be referred to the State Coroner for his consideration. 3 4 5 Α. Yes. 6 7 Now, at least by the end of Neiwand, these three 8 investigations had stalled, hadn't they, in the sense that 9 you were recommending that they be listed as inactive? 10 Yes. Α. 11 Because nothing more could be done? 12 Q. 13 Α. Yes. 14 15 Do you read her recommendation as requiring that in such a situation, the matter should be referred to the 16 17 State Coroner? 18 Perhaps I'm reading it incorrectly, but my view on that is that you're talking about matters that haven't 19 20 already been to the Coroner, whereas these matters had. 21 22 Q. They had? 23 Α. Yes. 24 25 Q. So you would read it that way? 26 Α. I would read that that way, yes. 27 28 So your position is that it may not have been Q. 29 a requirement under these recommendations, but that probably, on reflection, the Coroner's office should have 30 been told? 31 32 Α. Sorry, you've lost me there. 33 You read the recommendation in the way that you have 34 35 just explained? Α. Yes. 36 37 So you don't regard that as imposing an obligation on 38 you to report back to the Coroner at the end of Neiwand? 39 40 Α. No. 41 But I thought you said earlier that, on 42 reflection, putting aside the recommendation by the 43 44 Coroner - that on reflection, you think the Coroner's office should have been informed of these Neiwand 45 46 conclusions? 47 Oh, possibly, yes.

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- To your knowledge, where did these Neiwand summaries Q. go within the Police Force? Who received them?
- They go up to the obviously our Commander of Homicide and up to the directorate, the Serious Crime Directorate, and ultimately to the Commander of State Crime.

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- Q. We can see when we come to it that that definitely applies to the post operational assessment, but are you saying that that also applies to the summaries?
- Oh, sorry. No, that I would think that the individual case summaries - sorry, I am getting confused. The individual summaries are obviously recorded on e@gle.i and would be available to anybody who had access to that particular e@gle.i investigation, and I would think would just remain within the office. Perhaps up to the Serious Crime Directorate, but generally it's the post operational assessment that is - that goes up to the big boss.

19 20 21

- Q. We've had some evidence as to where the post operational assessment went.
- Α. Mmm.

23 24 25

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- But in the case of the three summaries, as far as you know, they simply are put up on e@gle.i, where they are available to whoever has access?
- Yes, that's my understanding of it. Α.

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- And who does have access, let's say, in the case of these three Neiwand summaries?
- Well, anybody who's on the Neiwand who was on the Neiwand investigation.

33 34 35

- Q. Yes, but wider than that?
 - Α. I would imagine the senior management team.

36 37

- Q. 38 Being the detective inspectors? 39
 - At State Crime. Α.

40

- 41 Q. Oh, State Crime?
- 42 Α. Yes, possibly. I don't actually know.

43

- 44 Could you have volume 14 again, please, if you don't 45 already have it. Could you turn to tab 304,
- 46 [NPL.0115.0002.7430]?
- Yes. 47 Α.

1 2 At the bottom of the first page, this is an email from 3 Stewart Leggat to Jason Dickinson on 9 November 2017? 4 Yes. 5 And up the top, it's being sent on by Stewart Leggat Q. 6 7 to Christopher Olen, but the main one is from Leggat to 8 Dickinson; do you see that? 9 Α. Yes. 10 At the bottom of that page it's talking about Strike 11 Q. Force Neiwand? 12 13 Α. Yes. 14 Over the page, the assertion is made that - in the 15 16 first line - the focus of Detective Sergeant Page's 17 investigation ignored alternate theories including suicide 18 and death by misadventure. Do you see that? 19 Α. Yes, I see that. 20 Now, that's, to your knowledge, just absolutely not 21 Q. 22 correct, is it? He didn't ignore it? He didn't ignore suicide and he didn't ignore death by misadventure? 23 24 He didn't totally ignore it. 25 26 No, so to say that he did is not true, is it? Q. 27 Α. It appears inaccurate. 28 29 In the third paragraph beginning "Detailed summaries" 30 on that second page - do you see that? Yes. 31 Α. 32 33 Q. Mr Leggat says - well, you read it for yourself. 34 a little bit jumbled but he seems to be saying that there had been planned contact with the State Coroner's office to 35 36 consider whether a further inquest should be held in relation to these three? 37 Α. Yes. 38 39 40 But that contact had been postponed pending retirement 41 of the current State Coroner, Mr Barnes, and appointment of 42 his successor? I see that. 43 Α. 44 45 Do you know anything about those topics, about whether 46 it was going to be raised with the Coroner but then wasn't? I don't now recall any such conversation. 47

1 2 Q. So you don't know whether it was proposed to do it and 3 you don't know whether it was decided not to do it? 4 No, but clearly it doesn't appear to have been done. 5 6 Q. Can we go to the Mattaini summary itself, which is at tab 172 [SCOI.74881 0001] of volume 6. 7 8 Α. Yes. 9 10 Can I start by just seeing if you remember the general outline, before I get to the detail of this document. 11 it your recollection that Mr Mattaini had met his partner, 12 13 Mr Musy, in France in about 1978? 14 I believe so, yes. Α. 15 16 And they both later - and at that point Mr Mattaini was about 20, or perhaps even slightly younger? 17 18 Yes. Α. 19 20 And they both came to Australia in about 1983 - first 21 Mr Musy and then some months later Mr Mattaini? 22 I'm pretty sure that's correct, yes. 23 24 Q. Mr Mattaini goes missing on 15 September 1985? Apparently - and I say that because I believe the last 25 26 sighting was by this neighbour, and it's repeated over the 27 years, including in Taradale, and I am yet to see a name 28 for the former neighbour. 29 30 Well, the former neighbour was the person who 31 apparently saw Mr Mattaini on that day? 32 Α. Yes. 33 34 But you know that apart from that aspect, he didn't Q. turn up for work. You know that? 35 36 Α. Yes. 37 38 So he does appear to have gone missing on about 15 September 1985; isn't that right? 39 40 Α. Yes. 41 42 Q. And has never been seen since? 43 Α. No. 44 45 Q. And Mr Musy, the partner, happened to be in France at 46 the time? 47 Α. Correct.

1 2 Q. And he, Mr Musy, thought the disappearance had been 3 reported to police by friends, but it seems that for 4 whatever reason, that didn't happen? 5 Α. Correct. 6 7 So there was no police investigation at the time? 8 Well, there was no report of him going missing at the 9 time. 10 Q. 11 Correct. So there was no investigation? Α. 12 Correct. 13 14 Then in August 2002, after Taradale had been under way Q. for over a year - in fact, a couple of years, in fact -15 16 somebody came forward, one of Mr Mattaini's friends, and 17 reported the disappearance of Mr Mattaini to the police in 18 connection with what Taradale was known to be doing? 19 Α. Yes. 20 21 Q. And that friend was a Mr Wyszynski? 22 Α. Correct. 23 24 Ω. So Mr Mattaini's disappearance was added to the 25 Taradale operation, once that had happened? 26 Yeah, somewhat later in the piece, yeah. 27 28 Q. Somewhat later in the piece, indeed, in August 2002? 29 Α. Yes. 30 Now, Mr Page - sorry, Detective Sergeant Page then -31 32 had already completed his 25 July 2002 statement? 33 Α. Yes. 34 Which, as we know, is 260 pages long or some such, and 35 270 annexures or some such, and that statement and its 36 annexures related to Russell and Warren and DM? 37 Α. Yes. 38 39 40 So Mr Mattaini's disappearance was then added, as you say, rather late in the day? 41 42 Α. Yes. 43 44 And what Detective Sergeant Page then did was to 45 immediately get some initial statements from some witnesses 46 in August 2002, including Mr Musy? Yeah, I do recall Mr Musy giving a statement, yes. 47

1 2 I'm going to ask you about some specific aspects of Q. 3 this Mattaini summary, but as far as you know now, is this 4 right, that the decision by the Coroner to hold an 5 inquest - that is, into the Warren and Russell and DM matters - was made some time either in 2001 or first half 6 7 of 2002? 8 I don't think that the DM matter would have been part 9 of the coronial inquest. 10 Q. 11 Quite so. 12 Α. Because obviously that person was still alive. 13 14 Well, that being so, accepting that perhaps as being right, the decision by the Coroner's office, or the 15 16 Coroner, to conduct the inquest into the deaths of Warren 17 and Mattaini, was evidently made either in 2001 or some time in the first half of 2002? 18 19 Α. Yes. 20 21 Q. And can we go to volume 6, which I think is the one you have --22 Do you want me to hang on to this one too? 23 Α. 24 25 Q. I think that is volume 6, isn't it? 26 Α. Oh, sorry, it is, too, yep. 27 28 Yes, if you go to tab 160 [SC0I.02744.00024_0001], do Q. 29 you see that's the statement of Detective Sergeant Page in 30 connection with Mattaini? 31 Yes, supplementary statement, yes. Α. 32 Well, it is supplementary in the sense that his first 33 34 statement was all about Russell and Warren and DM? Yes. 35 Α.

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And this one is supplementary in the sense that it's now saying something about Mattaini? Α. Yes.

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And it picks up in paragraph numbering the same paragraph numbers from the first statement? So it starts with paragraph 800.

44 Α. Yes.

45

46 So he says at 803 that he obtained a statement from Mr Musy? 47

Yes. Α. 1 2 3 That Musy had met Mattaini in about 1978 in Paris, and 4 that Mattaini had tried to take his life by way of drug overdose while in the army? 5 Yes. 6 Α. 7 And we'll come to Musy's actual statement itself in a 8 9 minute, but at any rate, that's in Page's statement. 10 804 there's reference to Mattaini overstaying his visa causing him some distress? 11 Α. Yes. 12 13 In 806 and 807 there are other aspects of what Musy 14 Q. Then in 808, he refers to having obtained 15 had to say. 16 a statement from Mr Wyszynski, who is the one who had come 17 forward? 18 Α. Yes. 19 20 And thereafter, if you just plan through from 810 and 21 following, what Detective Page does, all in a matter of 22 a week or two in August, is that he checks the COPS 23 database? 24 Yes. Α. 25 Paragraph 810; he checks with Missing Persons, 813 -26 Q. yes? 27 28 Yes. Α. 29 Q. He checks with the Immigration Department, 814? 30 31 Α. Yes. 32 33 Q. And he checks with the Roads and Traffic Authority, 816? 34 Yes. 35 Α. 36 37 Q. He checks with the French Consulate, 817? Α. Correct. 38 39 40 He checks with the RTA and Births, Deaths and 41 Marriages, and establishes that Mr Ottaviani, one of the 42 1985 friends, was already deceased, 818? Yes. 43 Α. 44 45 He, 820, issues a media release asking the public to 46 contact police via Crime Stoppers with any information? 47 Α. Yes.

1 2 And he obtains an intelligence report in connection Q. with some information that a member of the public does 3 produce, and that's at the end of 821? Do you see that? 4 5 Mine seems to skip from 820 to 824, but I can see in 824 there's reference to an intelligence report. 6 some areas that are redacted. 7 8 9 Q. Oh, all right. I won't take time on that. Have you 10 got 825? Yes. 11 Α. 12 13 Q. Detective Sergeant Page's statement concludes with one paragraph which starts off with: 14 15 16 Insofar as early opinions in relation to 17 the factors surrounding the suspected death of Mattaini, I do not believe that homicide 18 can be excluded ... 19 20 21 Do you see that? 22 Α. I see that. 23 He goes on to say in one sentence, or less than one 24 25 sentence, why that is - taking into account certain things. 26 Α. Yes. 27 Q. 28 He then says: 29 I am aware that Mattaini has previously 30 tried to take his own life, however, there 31 32 is a significant passage of time since that 33 era and whatever factors that did exist causing him to be suicidal there is no 34 35 evidence to suggest that those factors still existed. 36 37 Yes. 38 Α. 39 40 Q. Do you see that? 41 Α. I see that. 42 So he's drawing the Coroner's attention to Mr Mattaini 43 44 having previously tried to commit suicide? 45 Α. Yes. 46 He offers the view that: 47 Q.

1 2 Considering these suicide attempts occurred 3 in --4 5 what he calls "his early teens", although that might be 6 slightly out: 7 8 ... the causes may well have been confusion 9 over sexuality and loss of liberty whilst 10 performing national service. 11 Yes. 12 Α. 13 Having done all that work, your understanding is that 14 he asked the Coroner if she's prepared to add the Mattaini 15 16 matter to the inquest that's coming up? 17 I believe so, ves. 18 19 Q. And the Coroner evidently decides to do so and the 20 Mattaini matter is added. 21 Α. Yes. 22 So the extent of investigation by Taradale as to the 23 24 Mattaini matter, as you understand it, is simply what is contained in this seven-page statement of Detective 25 Sergeant Page; correct? 26 Yes, correct. 27 Α. 28 So there had been a vastly longer and wider 29 investigation in the case in relation to Warren and 30 Russell? 31 32 Α. Yes. 33 34 Q. Over a period of a couple of years; correct? 35 Α. Correct. 36 37 But in the case of Mattaini, he had done quite a few things quite quickly in August, and that's all that had 38 been done? 39 40 Α. Yes. 41 Among other things that Taradale had not had any 42 43 opportunity to do was to canvass the location, apropos 44 1985? 45 Α. Which some 17 years or so down the track, it's dubious 46 that there would have been much achieved in doing that. 47

Maybe so, but in any event, Taradale hadn't had the 1 Q. 2 chance to even attempt that? 3 Α. Apparently. 4 5 Or to locate possible witnesses or to identify possible persons of interest in relation to Mattaini in 6 1985? 7 8 Α. Yes. 9 10 We have established, and you have agreed, that the 1989 persons of interest were almost certainly too young in 11 1985 to be relevant? 12 13 Α. Most likely. 14 Now, in your investigation, Neiwand's, you also -15 16 I think you have said this already - did not take any steps 17 at all aimed at trying to find possible 1985 persons of 18 interest? In relation to Mr Mattaini? 19 Α. 20 21 Q. Yes, in 1985, yes. 22 Α. No. 23 Q. And you didn't do any canvassing of the locality? 24 Not - no, I don't believe so. 25 Α. 26 You didn't make any attempt to probe whether youth 27 28 gangs of any kind might have been operating in the area as early as 1985? 29 I can't remember that. 30 Α. 31 32 Well, there's not a word in the summary to suggest 33 that that was ever done, is there? 34 I'd agree with that. Α. 35 And that would suggest that it was never done, 36 37 wouldn't it? Α. Yes. 38 39 40 Now, with that in mind, can we just look at your 41 summary, tab 172 [SCOI.74881_0001] paragraph 55. Have you got paragraph 55? 42 Yes. 43 Α. 44 45 Q. So you say: 46 The investigation conducted under ... 47

1 Taradale did not identify any Person/s of interest that could be linked to the death 2 of Mattaini. 3 4 5 Correct? 6 Α. Correct. 7 8 Now, although that is obviously so, nor had there been 9 any opportunity for them to even attempt to do so; do you 10 agree? No, that's fair comment. 11 Α. 12 Your report - sorry, your summary then goes on: 13 Q. 14 It need be noted the basis of the Operation 15 Taradale investigation focused on members 16 17 of marauding youth gangs ... 18 19 And you say: 20 21 It's fair to say Operation Taradale 22 exhausted all avenues related to members of these youth gangs and their possible 23 involvement in criminal offences in and 24 around Mackenzie's Point. 25 26 But of course that's not remotely correct in connection 27 with 1985, is it? 28 29 Α. No, that appears to be an error. 30 And the next sentence is another - is also an error in 31 Q. respect of Mattaini, where you say: 32 33 34 It should be noted all persons of interest [targeted] by Operation Taradale are aware 35 of covert methods and overt police 36 37 methodology. 38 Now, that may be true about the 1989 people, but it's got 39 40 nothing to do with --41 Α. '85. 42 43 Q. -- '85. has it? 44 Yeah, it's an inaccuracy, yes. Α. 45 46 Q. Then you say: 47

1 2 3		members of these youth gangs
5 4 5 6		pausing there, the 1989 youth gangs, almost certainly use of their age Mmm.
7		
8	Q. A.	had nothing to do with Mattaini? Well, in all likelihood.
0	0	In all librations of the form outcomes in
1 2	Q.	In all likelihood. So all of those few sentences, in
		ection with Mattaini, are just completely misconceived
3	A.	inapplicable, aren't they? Inaccurate is probably a better term.
5 6 7	Q.	Then you say:
8		but based on the investigation carried
9		out underNeiwand no evidence has come to
20		light to draw a nexus between youth gangs
21		and the disappearance and suspected death
		, ,
22		of Mattaini.
23	Don!i	t vou2
24	_	t you?
25	Α.	I can see that, yes.
26	0	Neiward had not conside out any investigation in
27	Q.	Neiwand had not carried out any investigation in
28		ection with youth gangs in relation to Mattaini, had
29	it?	Annanantly not
30	Α.	Apparently not.
31	0	Noll not "oppopantly not", you know it didn't don't
32	_	Well, not "apparently not"; you know it didn't, don't
33	you? A.	I'm not aware of any no
34 35	Α.	I'm not aware of any, no.
	Q.	And you would be aware if there had been ene?
36 37	Q. A.	And you would be aware if there had been one?
	Α.	I would have thought so, yes.
38	0	So there ween't one?
39	Q.	So there wasn't one?
10	Α.	In all likelihood, no.
l1	0	Dights Co to say that there had been an
12	Q.	Righto. So to say that there had been an
13		stigation carried out under Strike Force Neiwand in
14 15		ection to youth gangs and Mr Mattaini was simply false,
15 16		t it?
16 17	Α.	It's an inaccuracy.

Q. And to say that Neiwand had not brought any evidence to light to draw the nexus referred to is again simply not true, because you hadn't even attempted to draw any such nexus nor had you made any investigation of any such topic in relation to Mattaini?

A. That appears to be correct.

- Q. Now, is what has happened in paragraph 55 that you have basically cut and pasted from similar paragraphs in the Warren and Russell summaries and just plonked it in here in the Mattaini summary?
- A. I suspect that is the case, yes.

- Q. Did you notice that on the way through when you read it carefully in reviewing it?
- A. I didn't notice, to be honest.

Q. I want to just take you to what's called the "Key Findings", on the next page, 59, and 60 and 61?
A. Yes.

Q. In 59, you say:

Operation Taradale focused on "gay hate" and relied on investigation confirmation bias --

Pausing there, I'll come to the balance of that sentence in a second, you then give in the next sentence a definition of "Confirmation bias", don't you?

A. Well, you keep saying "you" but it's Michael Chebl that authored this, but I'll take it that that's what is in this report, yes.

Q. Well, I do keep saying "you" because I had understood that you reviewed this and agreed that it was accurate.

A. I've accepted it as being accurate enough, yes.

THE COMMISSIONER: Q. Does that mean, though, that what you said a little earlier - but by all means if you want to reflect upon it - you would have reviewed it in the sense that you would have read it carefully before you accepted it as accurate. Whether changes occurred after you first reviewed it is immaterial. The final version, I accept, is a version, in effect, you take responsibility for?

A. Yes, I take responsibility for it.

1 THE COMMISSIONER: Okay. 2 3 Well, where you say Operation Taradale MR GRAY: Q. 4 "relied on investigation confirmation bias", what do you 5 mean? That in our view, as Neiwand, that Taradale had 6 Α. 7 pursued the gay hate crime aspect almost exclusively, and 8 that they'd concentrated on that line of inquiry and had 9 disregarded other material, contrary to that. I don't know 10 if I've made myself clear or not. 11 12 Q. Well, I think clear enough to go on with for the Where did your knowledge of the concept of 13 14 investigation confirmation bias come from? Oh, it was a definition that came about - I can't 15 16 remember where it actually came from, but it was 17 a definition that we believed was accurate in relation to Strike Force Taradale. 18 19 20 Well, in the definition that you give, you say Q. 21 "Confirmation bias": 22 23 is the tendency to bolster a hypothesis by 24 seeking consistent evidence while 25 disregarding inconsistent evidence. 26 27 Α. Yes. 28 29 What is the inconsistent evidence that you say 30 Taradale disregarded? In relation to Mr Mattaini? 31 Α. 32 For now, yes. 33 Q. 34 Okay, the likelihood, in our opinion, that he'd Α. committed suicide was --35 36 37 Q. No, what is the evidence that he disregarded, which is what you accuse him of? 38 39 Α. Look, I can't answer that now. 40 41 Q. Can't you? 42 Α. No. 43 44 And in the same definition, what is the hypothesis Q. 45 that you say he was seeking to bolster? 46 The view expressed that it was gay hate gangs that were responsible for Mr Mattaini's disappearance or death -47

and/or death. 1 2 Just turn back to tab 160 in that same volume, 3 4 [SCOI.02744.00024_0001] and look again at paragraph 825. 5 Yes. Α. 6 7 Does Mr Page there say positively that he's advancing 8 a theory of gay hate gangs killing Mr Mattaini? 9 He says that homicide - "I do not believe homicide can 10 be excluded". 11 That's right. That's a bit different from advancing 12 13 a hypothesis, isn't it? 14 I believe it could still be construed as advancing 15 a hypothesis. 16 17 Q. And he prefaces that very sentence by saying: 18 19 Insofar as early opinions ... 20 21 Α. Yes, I can see that. 22 And he does that in a context where, as you have 23 24 agreed, he had only just been given this Mattaini matter and had done a lot of things very quickly and was simply 25 26 saying, "I don't believe homicide can be excluded" - that's 27 all he said, isn't it? 28 Yes. Α. 29 And you say that that amounts to him adopting 30 31 a hypothesis of a gay hate murder for Mr Mattaini? 32 Α. Yes. 33 In 60, your paragraph 60, you refer to the 34 I see. Musy statement of 2002 --35 36 Sorry, where are you looking at? 37 Q. 38 Sixty. 39 40 THE COMMISSIONER: Give him the tab again. 41 42 MR GRAY: I'm sorry. It is the summary, which is 172, 43 [SCOI.74881 0001]. My apologies. 44 45 THE COMMISSIONER: Tab 172, Mr Morgan. It is paragraph 60 46 you are being asked to look at, on page 11. 47

THE WITNESS: 1 Yes. 2 3 So in 60 you refer to the Musy statement of MR GRAY: Q. 4 2002, the one that Sergeant Page obtained? 5 Α. Yes. 6 7 You say that the statement outlined two suicide 8 attempts by Mattaini whilst he was in France, and then you 9 say: 10 ... but failed to outline prior suicidal 11 ideation despite Musy raising it with Page. 12 13 Α. Yes. 14 15 16 Now, first of all, would you agree that one very clear 17 indication of a suicidal ideation on the part of someone 18 would be an actual suicide attempt? 19 It's one indication, yes. 20 21 Q. And the statement of Musy refers to not one but two 22 suicide attempts, doesn't it? 23 Two suicidal attempts, yes. 24 25 And each of those are evidence of not only a suicidal attempt but a suicidal ideation, aren't they? 26 27 Α. Yes. 28 29 Now, the accusations in the whole of paragraph 60 seem to be, first of all, that Musy told Page something about 30 suicidal ideation on the part of Mattaini but Page failed 31 32 to include that in the 2002 statement? 33 Α. Yes. 34 And, secondly, that because information about suicidal 35 ideation was not in the Musy 2002 statement, that was a key 36 factor in the Coroner not considering suicide as 37 a possibility in Mattaini's disappearance? 38 Yes. I see that. 39 Α. 40 41 So you are asserting in paragraph 60 - Neiwand is asserting - that Coroner Milledge did not consider suicide 42 43 as a possibility in the case of Mattaini? 44 Well, not as strongly as --Α. 45 46 Q. No, no. No, no. 47

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1 MR TEDESCHI: I object. 2 THE COMMISSIONER: Just wait a minute, Mr Tedeschi, until 3 4 the question is posed. 5 MR GRAY: That's not what I asked you, Mr Morgan. 6 7 8 THE COMMISSIONER: Just put it again, Mr Gray. 9 10 Q. You are asserting, and I'm reading from your document, that the Coroner did not consider suicide as 11 12 a possibility in Mattaini's disappearance, aren't you? 13 That's what it says there, yes. 14 That is what it says, and that is simply wrong, isn't 15 Q. 16 it, to your knowledge? No, we don't believe she considered it as strongly as 17 18 she should have. 19 20 Answer my question, please. Was the possibility of Q. 21 suicide before Coroner Milledge in the Taradale inquests? 22 To a degree. 23 24 Q. Did Coroner Milledge consider suicide as a possibility 25 in the Mattaini disappearance? Well, I assume so. There was some evidence of it 26 before her, but not all the evidence. 27 28 29 Q. And an opening address where the very topic was raised? 30 31 Again, not all of it. Α. 32 33 Q. And a closing address where the very topic was raised? 34 Again, not all of it. Α. 35 36 Did Coroner Milledge consider the possibility of suicide in the case of Mattaini? 37 I'm assuming that Coroner Milledge would have, to some 38 Α. 39 degree. 40 41 Q. So for you to say that she didn't was false, wasn't 42 it? 43 Α. I don't believe that Coroner Milledge had all the 44 information --45 46 Excuse me, could you answer the question. Could you 47 answer the question.

1 2 MR TEDESCHI: I object. 3 4 THE COMMISSIONER: What is the objection, Mr Tedeschi? 5 MR TEDESCHI: 6 Your Honour, it is a question that really 7 calls for an explanation and --8 9 THE COMMISSIONER: No, it doesn't. You can call for the 10 explanation if you think something needs to be clarified. The statement is unequivocal, isn't it - the Coroner not 11 12 considering suicide. Surely Mr Gray is entitled to put, given what I've already seen today, that that is not a true 13 14 statement or not an accurate statement? Surely. 15 16 MR TEDESCHI: It might be that it's not possible to be answered "Yes" or "No" --17 18 THE COMMISSIONER: I think it can be on the basis of what 19 20 I have seen, Mr Tedeschi, and if you can persuade me 21 ultimately or clarify it in a way, then I will of course 22 permit you to do so. But at the moment, it seems to me that question is open, first on the basis of the language 23 24 used in paragraph 60 and, secondly, on the basis of other 25 material I have seen today. I will allow it. 26 27 MR GRAY: Q. For you to assert, as you did in 28 paragraph 60, that the Coroner did not consider suicide as 29 a possibility in Mattaini's disappearance was false, wasn't it? 30 31 Α. Inaccurate. 32 Wrong? 33 Q. 34 Α. Yes. 35 36 She did consider suicide as a possibility in 37 Mattaini's disappearance, didn't she? To a degree. 38 Α. 39 40 It's an extremely serious allegation - well, I will go 41 back a step. Given that she did, it's simply not maintainable to say that a reason for her not doing so was 42 43 something Page did or didn't do? It's illogical, isn't it? 44 Well, it is, but my understanding is that that comes

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Q.

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from - that came from Mr Musy speaking with Mr Chebl.

Yes, I'm going to come to where it comes from.

1 A. Yes.

Q. But I'm asking you for the moment, given that you accept that she did consider suicide, it cannot be right that anything Page did was a factor in her not considering suicide, can it?

A. But she wasn't --

Q. No, no, please: it cannot be right to say that anything Page did was a factor in her not considering suicide, when you accept that, in fact, she did. Do you agree?

MR TEDESCHI: I object. The apparent lack of logic, Commissioner, is that what he is being asked about is that the Coroner did not consider suicide as a possibility. It's not stated there, "The Coroner did not consider suicide at all". It's saying considering suicide as a possibility. My friend's question --

THE COMMISSIONER: Mr Tedeschi, if I may just interrupt, on the basis of what I have seen, I think it is open for that to be put, and what you are putting to me now is a case of emphasis and/or whatever else you might wish to ask Mr Morgan about in due course.

MR TEDESCHI: With respect, my friend putting to him that it is wrong to say the Commissioner [sic] didn't consider suicide at all misstates the effect of that sentence.

THE COMMISSIONER: All right. Mr Gray, you might put it again if you wish, precisely as this man has authored, authorised or otherwise written, and I will allow it on that basis.

 MR GRAY: Q. Given that you accept that the Coroner did consider suicide as a possibility in Mattaini's disappearance, it cannot be right to say, as you have said, that something Page did or didn't do was a factor in her not considering suicide as a possibility, can it?

A. I still maintain that the Coroner wasn't provided with all the relevant information.

THE COMMISSIONER: Q. No, but you are not being asked that. I know you have said that and Mr Tedeschi in due course, or Mr Gray, will ask you what it was that was not put before the Coroner. What you are being asked at the

1 moment is this: in the last few words of this sentence you 2 say a key factor in the Coroner not considering suicide as 3 a possibility in Mattaini's disappearance is because Page 4 didn't put all of the information before her; correct? 5 Α. Correct. 6 7 That's what you are saying. But in fact she did 8 consider suicide as a possibility. 9 Α. Yes. 10 And so, therefore, the blame can't be laid at Page's 11 Q. 12 feet, because, whatever information he did put before her, she did, in fact, consider suicide as a possibility. 13 14 Yes. Α. 15 16 THE COMMISSIONER: All right. 17 18 It's a very serious allegation for you to 19 have made in paragraph 60 that Page deliberately withheld 20 information from the Coroner, isn't it? 21 Α. Yes. 22 23 Q. It amounts to perverting the course of justice, 24 doesn't it? 25 I don't know that it goes that far, but it's - it is a serious allegation, I will agree with that. 26 27 28 Not only attempting to pervert the course of justice, Q. 29 but actually perverting it, according to you - he withheld information that he had and it caused her, you say, not to 30 31 consider something that she should have. That's an 32 allegation of perverting the course of justice, isn't it? 33 Α. It could be construed that way. 34 Well, did you contact Page - and we know the answer is 35 "no" - and ask him what he had to say about such a serious 36 accusation? 37 38 Α. No. 39 40 Q. Why not? 41 Α. I don't know. 42 43 Surely it was essential for you to do so, both as an 44 investigative matter and as a fairness matter? I don't remember.

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Α.

Q.

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What don't you remember?

- A. I'm sure there was some discussion about contacting Mr Page and, for whatever reason, it was decided against, and I don't remember the details now.
- Q. Do you stand by the allegation now that he deliberately withheld information from the Coroner, thereby causing her not to consider something that she should have? Do you stand by that allegation?
 - A. Yes.

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- Q. On what basis?
- A. On the basis of the information from Mr Musy where he says not only did he discuss the two suicide prior suicide attempts but the further material which is not mentioned here about Mr Mattaini feeling more comfortable with death than being alive; the conversation about that he, if he did kill himself, he wanted to make sure his remains weren't found because he didn't want to upset his mother; and, most importantly, the fact that he claims that Mr Page convinced him that it was a homicide rather than a suicide or anything else.
- Q. None of which you checked with Mr Page?
 A. No.
 - MR GRAY: Is that a convenient time?

THE COMMISSIONER: Yes, but I just have one last question.

- Q. In paragraph 60, Mr Morgan, third-last line, you talk about multiple suicide attempts "multiple attempts at suicide".
- 33 A. Yes.

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- Q. Did you have in mind any more than the two that you have mentioned in the second line?
- 37 A. Not I don't believe so, no.

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- Q. All right. So "multiple", I should read that as meaning a reference to the two that were mentioned?
- A. The two that we know about, yes.

43 44 THE COMMISSIONER: All right. Thank you. Yes, I will adjourn until 10 in the morning, thank you.

45

46 AT 4.09PM THE SPECIAL COMMISSION OF INQUIRY WAS ADJOURNED 47 TO FRIDAY, 24 FEBRUARY 2023 AT 10AM

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