

**2022 Special Commission of Inquiry
into LGBTIQ hate crimes**

**Before: The Commissioner,
The Honourable Justice John Sackar**

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

On Friday, 24 February 2023 at 10.00am

(Day 27)

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 THE COMMISSIONER: Yes, Mr Morgan, would you be kind
2 enough to come back, please.
3
4 MR GRAY: While Mr Morgan is coming, Commissioner, might I
5 tender a document which has been produced, I think
6 overnight, and it could become tab 162A in volume 6. It is
7 the Alicia Taylor review of 25 October 2012 --
8
9 THE COMMISSIONER: Yes, okay.
10
11 MR GRAY: -- but the one that in fact does bear the
12 signature and date of Mr Lehmann.
13
14 THE COMMISSIONER: All right.
15
16 Mr Morgan, please sit down, thank you.
17
18 MR GRAY: I tender that.
19
20 THE COMMISSIONER: All right. Thank you.
21
22 <STEVEN MORGAN, on former affirmation: [10.04am]
23
24 <EXAMINATION BY MR GRAY CONTINUING:
25
26 MR GRAY: Q. Could Mr Morgan please have volume 6.
27 Could you turn to tab 159, Mr Morgan
28 [SCOI.02744.00024_0001]?
29 A. Yes.
30
31 Q. That's the statement of Mr Musy bearing a date
32 3 August 2002?
33 A. Correct.
34
35 Q. You have read this, I presume, and did read it during
36 the time of Neiwand?
37 A. I would have, I believe, yes.
38
39 Q. Have you read it again recently?
40 A. No.
41
42 Q. You see in paragraph 3 he says he met Mr Mattaini in
43 1978 in Paris?
44 A. Yes.
45
46 Q. In paragraph 4 he says that he thought Mr Mattaini had
47 been born about 1960, and if that had been right,

- 1 Mr Mattaini would have been about 18 when they met?
2 A. Yes.
3
4 Q. In paragraph 5, he says that Mr Mattaini was
5 conscripted into the army --
6 A. Yes.
7
8 Q. -- about a year later, ie, in about 1979; you agree?
9 A. Yes.
10
11 Q. In paragraph 5, he describes a suicide attempt by
12 Mr Mattaini while he was in national service?
13 A. Yes.
14
15 Q. And in paragraph 6, he describes a previous, earlier
16 suicide attempt, before Mr Mattaini entered military
17 service and when he was even younger?
18 A. Yes.
19
20 Q. In paragraph 7 he says after Mr Mattaini left the army
21 they formed a relationship and began to live together?
22 A. Yes, I see that.
23
24 Q. In paragraph 8, Mr Musy came to Australia in March '83
25 and Mr Mattaini in September '83?
26 A. Yes.
27
28 Q. In paragraph 9, he refers to the expiry of his visa
29 causing Mr Mattaini some distress?
30 A. Correct.
31
32 Q. In paragraph 12, he talks about Mr Mattaini having
33 headphones, being musically inclined, and that he would
34 take long walks from home wearing the headphones; do you
35 see that?
36 A. Yes.
37
38 Q. He says that those walks would include the Ben Buckler
39 headland and the coastal walk from Bondi to Mackenzie's
40 Point. Do you see that?
41 A. I see that.
42
43 Q. Do you know now or remember where Mr Mattaini's and
44 Mr Musy's apartment was?
45 A. I don't recall.
46
47 Q. If I tell you it was in Ramsgate Avenue near the

- 1 corner of Campbell Parade, does that ring a bell?
2 A. Yes, and that's the North Bondi general area.
3
4 Q. It is the North Bondi general area. And Ben Buckler
5 is slightly to the north again?
6 A. Agreed.
7
8 Q. Whereas the walk from Bondi to Mackenzie's Point is to
9 the south?
10 A. Correct.
11
12 Q. In paragraph 13, Mr Musy says that Mr Mattaini would
13 take these walks during daylight hours and early evening,
14 doesn't he?
15 A. Yes.
16
17 Q. You've at all times known that, haven't you - known
18 that Mr Musy said that?
19 A. Whether I remembered it or not, but yes, I'm - I was
20 aware of the fact that he didn't tend to go for walks at
21 night.
22
23 Q. That he what, sorry?
24 A. He didn't tend to go for walks in the evening - at
25 night.
26
27 Q. Paragraph 13 seems to say differently, doesn't it?
28 A. "Early evening", it says.
29
30 Q. Yes, it says "early evening"?
31 A. Yes.
32
33 Q. Well, that would suggest that he did go for walks in
34 the early evening, wouldn't it?
35 A. My understanding was that he was somewhat, for want of
36 a better term, afraid of the dark and he didn't go out
37 after dark.
38
39 Q. Paragraph 13 says Mr Mattaini would take these walks
40 during daylight hours and early evening?
41 A. Early evening, yes.
42
43 Q. Doesn't it?
44 A. Yes.
45
46 Q. You've got no reason to doubt that being so, have you?
47 A. I also saw something about --

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Q. Could you answer my question? Do you have any reason to doubt?

A. I don't doubt what's written there, no.

Q. Thank you. Mr Musy goes on in paragraph 13 that he knows that the walks would be on the coastal walk around Marks Park. Do you see that?

A. I see that.

Q. Then in paragraph 14, he says Mr Mattaini was in good health, and in the next few paragraphs he describes how he himself went to France on a holiday in August 1985 and thus was away when, as it turns out, Mr Mattaini went missing?

A. Yes.

Q. In paragraph 20, he describes how when he came back and went to the apartment, he found Mr Mattaini's wallet, passport, watch and credit card, but he noticed that Mr Mattaini's keys and Walkman were missing; correct?

A. I have some redactions in mine, but it seems to say that "all valuables" were still in place. I don't specifically see it mentioning the key.

Q. We will have to give you a version - I have no idea why that's redacted. I will have to give you a version that is not redacted.

THE COMMISSIONER: Why would there be a redaction about this aspect?

MR GRAY: I am at a loss to understand.

THE COMMISSIONER: It seems to be a mistake because I couldn't possibly see - Mr Tedeschi or somebody might have thought it was necessary but I don't see, with an investigation dealing with a missing person from 1985, whether the keys were or were not in somebody's flat as being so significant to any current or active matters.

Mr Tedeschi, is there any --

MR TEDESCHI: I don't think so.

THE COMMISSIONER: No. All right. Well, let's work on the basis that, as I presently hear what's happening, I don't see any difficulty, unless your side, someone

1 currently with you, has a recollection of why the keys or
2 the location of the keys was thought to be of some
3 significance.

4
5 MR TEDESCHI: I will make some inquiries.

6
7 THE COMMISSIONER: Perhaps you can. Someone is getting
8 instructions.

9
10 MR TEDESCHI: I'm instructed that it doesn't need to be
11 redacted.

12
13 THE COMMISSIONER: It does not?

14
15 MR TEDESCHI: It does not.

16
17 THE COMMISSIONER: All right. There are so many of these
18 redactions, I want to make sure - I'm going to work on the
19 basis that both sides will be alert to any difficulties and
20 if they do arise, please, just let me know, and if you need
21 a moment to get instructions, that's not a problem.

22
23 All right. Does that mean, then, Mr Tedeschi -
24 perhaps if I can just tease it out - that what appears to
25 be redacted on the screen in relation to either paragraphs
26 20 or 21 need no longer be redacted, or is it only one
27 paragraph? Just you tell me.

28
29 MR TEDESCHI: I think, your Honour, my learned friend
30 wants paragraph 20 and I have no objection to him reading
31 out what is under the redaction.

32
33 THE COMMISSIONER: All right.

34
35 Q. Mr Morgan, it's probably redacted in your copy, but if
36 you could just listen carefully to what Mr Gray says to
37 you, and if you need to see an unredacted version of
38 anything, please just say so, and we'll show it to you, but
39 he will read out to you what is in the unredacted, I think,
40 paragraph 20, in a minute.

41 A. Thank you.

42
43 MR GRAY: I'm just learning this for the first time
44 myself, Commissioner. There are redactions in
45 Mr Tedeschi's copy - and I presume in the witness's copy -
46 to paragraphs 8, 11, 20 and 21, and as I understand
47 matters, none of those redactions are necessary. Perhaps

1 I will ask that that be checked.

2

3 THE COMMISSIONER: I think let's do it this way - we don't
4 want to interrupt unduly. Mr Tedeschi, would it make sense
5 if I go off the Bench for a few minutes so that this could
6 be sorted out, because if there are unnecessary redactions,
7 or if there are necessary redactions, can someone just tell
8 me when I come back in, because I'll have a version
9 somewhere myself and I want to make sure ultimately that
10 we're all working from the same document? Most
11 importantly, if Mr Morgan is going to be asked things, he
12 has to, in fairness to him, have before him what everyone
13 has before them.

14

15 Would it be handy if I go off for 5 or 10 minutes?
16 While I'm off, can you just forecast - perhaps you can't do
17 it, but we will have to do it on an ad hoc basis, but if we
18 can sort this statement out to start with. All right.
19 I will go off for a few minutes, thank you.

20

21 **SHORT ADJOURNMENT**

22

23 THE COMMISSIONER: Yes, please, sit down, thank you,
24 Mr Morgan.

25

26 Yes, Mr Gray.

27

28 MR GRAY: Q. Mr Morgan, do you now have in front of you,
29 the Musy statement which is, for paragraphs 20 and 21,
30 unredacted?

31 A. Correct.

32

33 Q. Clear?

34 A. And I have read through those.

35

36 Q. So in paragraph 20, Mr Musy - and I don't know whether
37 that unredacted paragraph 20 and 21 can go on the screen.
38 Oh, here it is now. Paragraph 20, thank you. So in
39 paragraph 20, Mr Musy said that when he got back to the
40 apartment after returning from France, he found
41 Mr Mattaini's wallet, passport, watch and credit card, but
42 he noticed that his keys - Mr Mattaini's keys - and Walkman
43 were missing?

44 A. Yes.

45

46 Q. And you knew that at all times when you were working
47 on the Neiwand case, didn't you?

- 1 A. I would say so, but I don't recall it now.
2
- 3 Q. And he adds - Mr Musy adds:
4
5 *There were no notes indicating suicidal*
6 *intentions. I believe if Gilles did commit*
7 *suicide he would have left behind a note.*
8
- 9 Correct?
10 A. I see that.
11
- 12 Q. He adds in paragraph 21 that he found that another
13 thing missing was Mr Mattaini's bright yellow rubber spray
14 jacket. Correct?
15 A. Yes.
16
- 17 Q. In paragraph 22, he says that while he had been away
18 from Australia - that is, in the few weeks before
19 15 September - he had had conversations with Mr Mattaini,
20 obviously on the phone?
21 A. Yes.
22
- 23 Q. And he said he formed the impression that Gilles was
24 lonely but he was enjoying being on his own and spending
25 money buying things for "our unit"; correct?
26 A. Yes.
27
- 28 Q. And he adds that he knows from credit card bills that
29 he purchased various furniture and decorations for the
30 apartment; correct?
31 A. Yes.
32
- 33 Q. In paragraph 23 he says that he, Mr Musy, on his
34 return, spoke with a man who lived in a unit block nearby
35 that he knew from the beach.
36 A. Yes.
37
- 38 Q. And that that man informed him that on the morning of
39 15 September, he saw Mr Mattaini walking at Bondi.
40 A. Yes.
41
- 42 Q. And that Mr Mattaini looked "aloof".
43 A. Yes.
44
- 45 Q. And then in paragraph 24, he records that he was told
46 by Messrs Hubert and Ottaviani that they had tried to find
47 Mr Mattaini, and he says that he had understood that they

1 had reported him missing to Paddington police, but that he
2 found out subsequently that apparently there had been no
3 such report?

4 A. Yes.

5

6 Q. I took you through yesterday the statement of
7 Detective Sergeant Page in relation to Mattaini; do you
8 remember that?

9 A. Yes.

10

11 Q. Then the third piece of evidence that was before the
12 Coroner about the Mattaini case, as well as the Musy
13 statement - the fourth - I will start that again.

14

15 We've seen already that Detective Page also obtained
16 a statement from Mr Wyszynski; you recall that?

17 A. I do recall that.

18

19 Q. So there was the statement by Mr Wyszynski, there was
20 the statement by Mr Musy that we've just looked at?

21 A. Yes.

22

23 Q. And there was the statement by Mr Page, Detective
24 Page?

25 A. Yes.

26

27 Q. At least, I think there may have been some other
28 statements as well --

29 A. Yes.

30

31 Q. -- from officials who had done searches and so on.
32 And then there was also oral evidence before the Coroner in
33 the witness box from Mr Musy, wasn't there?

34 A. I believe so, yes.

35

36 Q. Have you looked at that lately?

37 A. Not lately.

38

39 Q. Did you ever read it?

40 A. I don't remember.

41

42 Q. Well, if you were going to make statements, as you did
43 in your summary, that certain things were not brought to
44 the attention of the Coroner, you would have needed to
45 check what Mr Musy said, wouldn't you?

46 A. Yes, and I --

47

1 Q. And did you?
2 A. I checked what Mr Musy had said to Detective Chebl
3 in --
4
5 Q. No, you would have needed to check what Mr Musy had
6 said in the witness box so as to know what was before
7 Coroner Milledge, wouldn't you?
8 A. No - well, I - I don't recall checking that.
9
10 THE COMMISSIONER: Q. But, Mr Morgan, you knew that when
11 Mr Musy gave his evidence before Coroner Milledge he was on
12 his oath - or you assumed that, I presume, did you?
13 A. It's an assumption that you make, yes.
14
15 Q. Well, your experience - I imagine this is not the
16 first time you've been in a hearing room of any sort, is
17 it?
18 A. Definitely not.
19
20 Q. And I take it over time you are fully aware of the
21 fact that a witness either takes an oath or an affirmation?
22 A. Yes.
23
24 Q. All right. And are you telling me that you didn't
25 bother, or, in fairness to you, did you rely upon Chebl
26 entirely to tell you what had happened in the coronial
27 inquiry, apart from you skimming or looking, perhaps, at
28 some of the detail?
29 A. Yes.
30
31 Q. And you were satisfied, were you, that Chebl would
32 have been on top of all of the detail?
33 A. It was recorded.
34
35 Q. What was recorded?
36 A. The conversation - when I say "recorded", there was an
37 investigator's note, I believe.
38
39 Q. Of what?
40 A. Of the conversation between --
41
42 Q. Mr Morgan, we're at cross-purposes. Just so that you
43 are on the same page as myself, I'm asking you at the
44 moment - and if I didn't make it clear, I apologise - I'm
45 asking you about the reading of Mr Musy's evidence either
46 on oath or affirmation before the Coroner. Now, is your
47 evidence that you don't recall reading it but you might

1 have and/or that you relied upon Chebl to do an accurate
2 summary or to get on top of it? What is it?

3 A. I - as I sit here now, I don't recall it, but
4 I believe I probably would have.

5

6 Q. All right. And why wouldn't it be of vital
7 importance; if you were going to make your mind up, whether
8 what Musy told Chebl later was right or wrong, why wouldn't
9 be it vital to actually check what Musy had said closer to
10 the point in time when he was describing the events and on
11 either his oath or affirmation?

12 A. I can't answer that. I don't recall why.

13

14 THE COMMISSIONER: All right, Mr Gray.

15

16 MR GRAY: Q. Just so that I'm clear, did you or did you
17 not, at the time of Neiwand, yourself read Mr Musy's
18 transcript of evidence before Coroner Milledge?

19 A. I believe that I would have. That's as close as I can
20 put it.

21

22 Q. So in terms of a recollection of actually doing it,
23 you have none; is that right?

24 A. I have no independent recollection, now, as I sit
25 here.

26

27 Q. Do you think what might have happened is that you
28 assumed Mr Chebl had read it but you yourself didn't?

29 A. No, I would have thought that was unusual. I thought
30 I probably would have read it but I don't recall
31 specifically doing so.

32

33 Q. Do you recall reading any of the transcript before
34 Coroner Milledge?

35 A. I do recall specifically reading the findings and the
36 associated documents there.

37

38 Q. You've said that quite a few times, Mr Morgan. I'm
39 not asking you about the findings. I keep using the word
40 "transcript". You know what a transcript is, don't you?

41 A. I do, but the findings were part of that transcript.

42

43 Q. The findings were published separately and, as
44 a matter of fact, they were not part of the transcript - or
45 you think they were, do you?

46 A. There is a transcript of the findings, I'm sure.

47

1 Q. They're in writing but they weren't read out in court.
2 A. Oh, I'm mistaken there. I thought it was part of the
3 transcript.
4
5 Q. No, it wasn't. So let's focus on the transcript. I'm
6 talking about the transcribed evidence of witnesses in the
7 courtroom. You understand what a transcript is?
8 A. I - yes, I most certainly do.
9
10 Q. And it goes for hundreds of pages?
11 A. Yes.
12
13 Q. Did you read any of the transcript of the evidence
14 given by witnesses?
15 A. I'm sure I read some of it. I can't say that I read
16 it all.
17
18 Q. What are you sure that you read?
19 A. I don't now recall, but I recall reading parts of
20 transcript.
21
22 Q. Do you?
23 A. Yes.
24
25 Q. Are you going to have a stab at what you might have
26 read?
27 A. No, I'm not going to have a stab at it because I'm
28 trying to be certain in my evidence.
29
30 Q. Well, what are you certain about, that you think you
31 would have read something; is that right?
32 A. I believe I would have read --
33
34 Q. Something or other?
35 A. -- at least some of the transcript.
36
37 Q. I see. Well, I'll put it to you directly. When you
38 endorsed, reviewed, agreed with the summary written by
39 Chebl about the Mattaini matter --
40 A. Yes.
41
42 Q. -- had you checked the transcript of what Musy said in
43 court before the Coroner?
44 A. Perhaps.
45
46 Q. Perhaps?
47 A. Yes.

1
2 Q. You have no idea is the real answer, I take it?
3 A. You do rely upon your colleagues.
4
5 Q. What does that mean?
6 A. Well, the fact that Mr Chebl had put something before
7 me, I accepted it as truthful.
8
9 Q. Do you mean that you assumed that he might have
10 checked the transcript?
11 A. I don't know what I assumed, now, as I sit here.
12
13 Q. Well, you gave the answer "Perhaps" a minute ago.
14 I asked you whether you had checked the transcript of what
15 Musy said in court and you said "Perhaps". Does that
16 indicate that, actually, you don't remember whether you did
17 or you didn't?
18 A. I don't remember but I believe that I probably would
19 have.
20
21 Q. Let's have a look at some of what Mr Musy said. Could
22 Mr Morgan have volume 14, please. Just turn to the first
23 tab, tab 280 [SCOI.82371_0001].
24 A. Yes.
25
26 Q. Now, just before I take you through this, you would
27 agree, wouldn't you, that Mr Musy's memory in April 2003,
28 when he gave this evidence about events of the 1970s and up
29 to 1985, would be likely to have been better than his
30 memory of the same things many years later in late 2016 and
31 2017; would you agree with that?
32 A. Yes, I would agree with that.
33
34 Q. And indeed, do you recall that Mr Musy himself made
35 that point to you and Mr Chebl when he was communicating
36 with you in 2016/2017?
37 A. I have never communicated with Mr Musy.
38
39 Q. No, but you've read the accounts of Mr Chebl as to --
40 A. Yes.
41
42 Q. -- what Mr Musy supposedly said to him?
43 A. Yes.
44
45 Q. And did you read the emails that Mr Musy sent to
46 Mr Chebl?
47 A. I don't believe so.

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Q. Oh.

A. But again, I may have.

Q. Might you?

A. I don't recall. It was seven years ago. I don't recall that.

Q. They are in the materials that you have no doubt been given in recent times, but you don't recall noticing them?

A. No. I've been given a huge volume of material, much of it on a phone this big to try and read.

THE COMMISSIONER: Mr Gray, can I just interrupt, I'm sorry to do this. In the copy that I've got at tab 280, the first section of it is shaded. Has that got any significance or not? I just don't know whether that means --

MR GRAY: It's another witness, Commissioner. Mr Musy's evidence starts at the very bottom of page 46.

THE COMMISSIONER: No, I know it does but does that mean, for example, that the top section of the transcript is redacted? Does the shading mean it's redacted?

MR GRAY: It means it's redacted but only because it's another witness.

THE COMMISSIONER: I see, thank you. Likewise there's an address on the next page which I presume would be redacted for obvious reasons.

MR GRAY: That's so.

THE COMMISSIONER: Thank you.

MR GRAY: Q. Do you see his evidence starts at the bottom of page 46?

A. Yes, I see that.

Q. He is sworn, so he is giving evidence on oath. Do you see that?

A. Yes.

Q. He is then taken through his evidence by Counsel Assisting - for example, on page 47, he's taken to first

1 meeting Mr Mattaini in Paris in 1978?

2 A. Yes.

3

4 Q. At about line 50, he is asked whether, before Mr Musy
5 met him, he was conscripted into the French army, and he
6 says, "Yes"?

7 A. Yes.

8

9 Q. He is asked:

10

11 *Q. Did he talk to you about that period of*
12 *his life?*

13

14 ie, the period before he met Mr Musy, and the answer is:

15

16 *A. Yes he has spoken to me about that and*
17 *I knew really very well his state of mind*
18 *through that and before and his personality*
19 *in general ...*

20

21 You saw that?

22 A. Yes.

23

24 Q. At page 48, in the answer beginning at about line 3,
25 he is asked about his state of mind in the period when he
26 was doing the conscription and Mr Musy's evidence is that
27 he was very unhappy in the army. Do you see that?

28 A. Yes.

29

30 Q. And he gives some detail about that.

31 A. Correct.

32

33 Q. He says it was very harsh in the army - extremely
34 harsh, in the army, especially for a personality like his,
35 so he was very unhappy?

36 A. Yes.

37

38 Q. In about line 33, he is asked, "Well, how did he react
39 to his unhappiness with the army", and the answer is:

40

41 *A. Well ... ultimately he had actually*
42 *a suicide attempt which I am not too sure*
43 *if it was to terminate his life or if it*
44 *was to get out of the Army ...*

45

46 Do you see that?

47 A. Yes.

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Q. So you can see that that's a reference to the second two suicide attempts, isn't it?

A. It is.

Q. And Mr Musy is actually offering the opinion that it might not actually have been a suicide attempt; it might have been a device to get out of the army?

A. Yes.

Q. But at any rate, if so, it had the desired effect, because he did get out of the army?

A. Correct.

Q. And then in the next question, beginning at line 42, he is asked:

Q. ... was that the only suicide attempt [that you know about]?

Mr Musy says:

A. No. As I did in my statement state he had a previous suicide attempt when he was younger ... maybe 18 ... or 17 ...

In that one, he says:

He attempted to end his life by taking some pills and slashing his wrist ...

A. Yes.

Q. And his mother found him and he was able to emerge from that and not die?

A. Yes.

Q. Then Mr Lakatos asks him whether the relationship between the two of them commenced about 1978 and lasted until Mr Mattaini went missing in 1985, so about seven years, and he says that's right?

A. Yes.

Q. Then the question is this:

Q. In that period --

1 that is, the entire period that Mr Musy knew him --
2
3 *did he give any indication of the fact that*
4 *he was thinking about suicide,*
5 *contemplating it in any respect or was so*
6 *stressed or sad or depressed that that*
7 *might be something he could do?*

8
9 Do you see that?

10 A. I do see that.

11
12 Q. Have you read that question before, ever?

13 A. I don't remember.

14
15 Q. Well, let's look at the answer. The answer is:

16
17 A. No. ...

18
19 So just to make sure we are following this, Mr Morgan --

20 A. I'm following it --

21
22 Q. The answer "No" is given to the question as to
23 whether, in the whole seven years between 1978 and 1985,
24 Mr Mattaini had given any indication that he was thinking
25 about suicide, contemplating it in any respect, or was in
26 such a state of mind that that might be something he could
27 do, and the answer is "No"; do you see that?

28 A. I see that.

29
30 Q. Indeed, Mr Musy goes on:

31
32 *On the contrary meeting me and being*
33 *involved with me in a love relationship*
34 *actually made him sort of forget about*
35 *these thoughts or his problems he had in*
36 *the past*

37
38 Doesn't he?

39 A. Yes.

40
41 Q. He goes on:

42
43 *He had sort of a kind of frame of mind*
44 *where he was somebody who was more*
45 *attracted to death than life ...*

46
47 Do you see that?

1 A. Yes.

2

3 Q. Now, that's one of the three things that you said
4 yesterday that you relied on in asserting that the Coroner
5 had not received the information she needed. You said that
6 was one of the three things that she wasn't told, didn't
7 you?

8 A. I may have said that, yes.

9

10 Q. Well, you did say that?

11 A. Okay, I accept that I did say that.

12

13 Q. And it's clearly wrong, isn't it?

14 A. Looking at that, yes, yeah.

15

16 THE COMMISSIONER: Q. And if you'd read this transcript
17 at the time and double checked the conclusions, you would
18 never have made that statement, would you? It couldn't be
19 right in suggesting, now that you've seen this, that that
20 was never put before the Coroner, because there it is in
21 black and white?

22 A. Yes, I can see that.

23

24 Q. And it could never be the basis of a criticism could
25 it, ever, levelled at Mr Page, that that item wasn't
26 exposed before the Coroner?

27 A. No, clearly, the Coroner did hear that.

28

29 MR GRAY: Q. So there are two possibilities, Mr Morgan.
30 Either you didn't check the transcript and thus you didn't
31 know that that had been said, or you did check the
32 transcript and thus you did know that it had been said but
33 you still made the accusation against Page. Now, which is
34 it?

35 A. Well, I obviously - I didn't or hadn't checked the
36 transcript at that time.

37

38 THE COMMISSIONER: Q. And it doesn't look like Mr Chebl
39 did either, does it, because he wasn't - you didn't think
40 he was misleading you?

41 A. No.

42

43 Q. So therefore, if we now see this in black and white,
44 it must follow, mustn't it, that if both of you jointly
45 made the conclusion you did, both you and Mr Chebl, on one
46 view, were entirely ignorant of what had been said before
47 the Coroner?

1 A. It would appear so.

2

3 MR GRAY: Q. What does that tell you about the
4 reliability of your accusations in your summary?

5 A. If I can just say again, and I've said this a number
6 of times yesterday --

7

8 Q. No, just answer the question for a start.

9 A. It wasn't my summary. I didn't author it.

10

11 Q. The summary that you endorsed - what does it tell you
12 about the reliability of the summary that you lent your
13 name to?

14 A. There are some serious concerns about the reliability
15 of the summary.

16

17 Q. In the answer that you were about to give before
18 I insisted that you actually answer the question, were you
19 trying to - were you about to distance yourself from
20 Chebl's work, were you?

21 A. No. What I was saying was, in relation to I think
22 every document that you've taken me through, they were
23 authored by Mr Chebl. Yes, I reviewed them and accepted
24 them. They were his work, not mine.

25

26 THE COMMISSIONER: Q. That must mean you relied entirely
27 upon him, without checking any of the relevant details
28 yourself, independently, does it?

29 A. You do rely upon your work colleagues.

30

31 Q. No, please, Mr Morgan, whether you do as a matter of
32 practice - you can say that in a minute - does it mean,
33 though, that you have relied entirely upon Mr Chebl without
34 independently checking some of the fundamental facts
35 yourself?

36 A. Not entirely, but largely, yes.

37

38 MR GRAY: Q. Let's go on to see what else Mr Musy said
39 in this long answer. Having said that he had sort of
40 a kind of frame of mind where he was somebody who was more
41 attracted to death than life, he then went on, didn't he,
42 and he said this:

43

44 *... and meeting me show him life in a*
45 *different way and he had a very fulfilling*
46 *relationship with me and he was commenting*
47 *often that he was really happy and how*

1 *stupid he had been before to sort of want*
2 *to die because there was much more to life*
3 *than what he thought there was.*

4
5 A. Yes, I see that.

6
7 Q. Now, he is spelling out in the clearest possible way,
8 do you agree, that this frame of mind, where he was
9 somebody more attracted to death than life, was a frame of
10 mind that Mr Mattaini had had long in the past, before
11 meeting Mr Musy, but was a frame of mind that he absolutely
12 no longer had at all. That's what he's saying, isn't it?

13 A. That is what he's saying.

14
15 Q. Not only was he saying that he no longer had that
16 frame of mind, he was telling the Coroner that Mr Musy's
17 outlook by the time he was in his relationship with Mr -
18 sorry, Mr Mattaini's outlook by the time he was in his
19 relationship with Mr Musy was to think that he had been
20 very stupid in his youth to have had these thoughts about
21 death; correct?

22 A. Yes.

23
24 Q. Now, that's another thing, is it, that you didn't
25 realise that the Coroner had been told when you wrote or
26 joined in the Neiwand summary?

27 A. Yes.

28
29 Q. Seeing it there in black and white now, does that
30 indicate to you that the accusations you made in the
31 Neiwand summary cannot possibly survive?

32
33 MR TEDESCHI: I object. Which accusations?

34
35 MR GRAY: Q. About Page withholding necessary or
36 important evidence which caused the Coroner not to consider
37 the possibility of suicide?

38
39 THE COMMISSIONER: Mr Morgan, obviously by his reaction
40 and Mr Tedeschi's objection, I think has lost track of what
41 you want him to answer. So in fairness to him, ask it
42 again and then Mr Tedeschi can take an objection or not.

43
44 MR GRAY: Q. We went through this at some length
45 yesterday, that you made the accusations - you and Chebl -
46 that Mr Page had deliberately withheld evidence relating to
47 suicide from the Coroner, and that that had caused her not

1 to consider suicide as a possibility in relation to
2 Mattaini; correct?
3 A. Yes.
4
5 Q. Having now read this morning, just now, the first half
6 of this answer, do you accept that such accusations cannot
7 stand?
8 A. There are concerns about how accurate it is.
9
10 Q. Let's try answering the question now. Do you accept
11 that such accusations cannot stand?
12 A. No, I don't accept that.
13
14 Q. Why not?
15 A. Because of the conversation that Mr Musy had with
16 Chebl in 2016.
17
18 THE COMMISSIONER: Q. At a time when, as you understood
19 it, it was by telephone?
20 A. Yes, it was. I think Mr Musy was in France at the
21 time.
22
23 Q. And a conversation to which you were not privy?
24 A. I was not privy.
25
26 Q. A conversation between someone whose first language,
27 as far as you knew, was not English?
28 A. Yes.
29
30 Q. And a conversation which was neither on oath or
31 affirmation?
32 A. True.
33
34 Q. And at best, maybe from your point of view,
35 a conversation inconsistent with something he may have said
36 in evidence many, many years before - as best, from your
37 point of view?
38 A. Yes.
39
40 Q. An inconsistency which you resolved against Page?
41 A. Yes.
42
43 THE COMMISSIONER: Thank you.
44
45 MR GRAY: Q. Coming back to this answer that Mr Musy
46 gave at the top of page 49, he goes on after the part that
47 I just read to you:

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The coming to Australia was a very sort of big part of this and he was extremely, very very happy to be in Australia and to find a new life living in Bondi by the seaside and all this was exhilarating for him.

Do you see that?

A. I do see that.

Q. Were you conscious of his having said that when you wrote your Neiwand report with Mr Chebl?

A. As I say, I didn't write the report and I don't know if I was aware of this conversation at the time.

Q. Had you been aware of it, would you have expressed the report differently?

A. Quite likely, yes.

Q. Mr Musy goes on in the next sentence:

He was very very happy and he - it just was like a cure for him from his bad faults he had in the past ...

Do you see that?

A. Yes, I do see that.

Q. So again, he is making it clear that the preference for death over life and thoughts of that kind were thoughts that he'd had in the past but no longer had; correct?

A. Yes.

Q. And Mr Musy goes on:

... and anyway, the army event was probably more to get out of the system than actually to end his days because he was in a relationship with me already.

Do you see that?

A. Yes, I see that.

Q. So for the second time, first in the statement and now in the witness box, Mr Musy's giving evidence that he doesn't actually think the second one was a suicide attempt, isn't he?

1 A. Yes.

2

3 Q. Now, you used the word - you and Chebl - "multiple" in
4 your Neiwand summary, didn't you, "multiple suicide
5 attempts"?

6 A. Yes, I do recall that word.

7

8 Q. And you acknowledged to the Commissioner yesterday
9 that although you used the word "multiple", you were only
10 actually referring to the two that are referred to by
11 Mr Musy in his statement and in the oral evidence?

12 A. Yes.

13

14 Q. And although you used the word "multiple", you see
15 that in Musy's opinion, the second one probably was not
16 a suicide attempt at all; correct?

17 A. Well, I see that now, yes.

18

19 Q. Well, he said it in the statement and he said it in
20 the witness box?

21 A. Yes.

22

23 Q. Twice.

24 A. Okay.

25

26 Q. And you didn't only see it now, you saw it then when
27 you read the statement, didn't you?

28 A. Then when I read which --

29

30 Q. You saw it in 2016/2017, when you read Mr Musy's
31 statement?

32 A. Look, I don't recall what I thought then.

33

34 Q. I withdraw that question. I was mistaken. Where he
35 said it before was earlier in the transcript and not in the
36 statement, so I withdraw that question.

37

38 Still on the same page, the question at about line 28,
39 Counsel Assisting raises the topic of the visa having
40 expired. Do you see that?

41 A. Yes.

42

43 Q. And Mr Musy gives an answer about that. By all means
44 take your time to read the whole answer. Then towards the
45 end of the answer at about line 29, Mr Musy says:

46

47 *... he was very happy in Australia but he*

1 *was worried by the fact that his status as*
2 *illegal immigrant, so to speak, was*
3 *preventing him from going to France to*
4 *visit his parents and come back because he*
5 *really wanted to live here.*

6

7 Do you see that?

8 A. Yes, I see that.

9

10 Q. And the question is then asked:

11

12 *Q. Can you tell us how worried he was*
13 *about his immigration status?*

14

15 Do you see that?

16 A. Yes.

17

18 Q. And the answer is given:

19

20 *A. Worried to a point ...*

21

22 And I won't read the rest of it but would you just read the
23 rest of that answer at line 46 to yourself.

24 A. Yes.

25

26 Q. So "worried to a point", and then in the next answer,
27 beginning at line 54, he says:

28

29 *A. So he was thinking of that --*

30

31 the visa problem --

32

33 *but it was worrying him not to be in the*
34 *law, like he was like illegal but I mean it*
35 *was a thought but it was not something*
36 *which was really sort of weighting on him*
37 *constantly not at all.*

38

39 Do you see that?

40 A. I do see that.

41

42 Q. So the topic of the visa was well and truly
43 ventilated, and Mr Musy has acknowledged, well, he was
44 worried about it to a point, but it wasn't something that
45 was "weighing on him constantly at all"; correct?

46 A. Yes.

47

1 Q. Page 50, the answer at line 5, when he is asked to
2 tell the Coroner a bit about Mr Mattaini:

3
4 A. *He was very shy --*

5
6 says Mr Musy:

7
8 *... but very joyful. He was somebody who*
9 *was really enjoying life fully for*
10 *everything like the sun, the light ...*

11
12 And so on:

13
14 *He was a joyful person.*

15
16 Do you see that?

17 A. Yes.

18
19 Q. That doesn't seem to get much of a mention in your
20 Neiwand summary, does it, how joyful and happy he was?

21 A. No, I don't recall it being in the summary.

22
23 Q. No. Then at line 13 he is asked about the habit of
24 taking long walks, and Mr Musy says:

25
26 A. *Yes every day. ... he would never*
27 *walk outside without a Walkman.*

28
29 And so on?

30 A. Yes.

31
32 Q. And at line 27, "What time of the day would he usually
33 walk?":

34
35 A. *It could be any time depending on the*
36 *shift. He could have been working in the*
37 *morning, could have been working in the*
38 *evening.*

39
40 Do you see that, about line 30 or so?

41 A. Oh, yes. Sorry, I was further up the page.

42
43 Q. On the next page, 51, at about line 28, the question
44 is - the topic is now when Mr Musy's away in France at the
45 time that Mr Mattaini shortly thereafter goes missing?

46 A. Yes.

47

1 Q. He is asked:

2

3 Q. *Was there anything in any of the phone*
4 *calls that you had with him when you were*
5 *in France and he was in Australia in August*
6 *'85 and September that caused you to think*
7 *that he wasn't his normal self that he was*
8 *perhaps depressed or stressed or otherwise*
9 *pressured?*

10

11 Do you see that's the question?

12 A. Yes.

13

14 Q. Answer:

15

16 *No I would say no because he was happy that*
17 *I was coming back. He was happy to tell me*
18 *that he had bought this and that ... for*
19 *the flat so it was like ... some kind of*
20 *proud that he had done that even though we*
21 *would have argued about the financial*
22 *repercussions of his spending but he would*
23 *laugh about that and he was very happy of*
24 *me coming back.*

25

26 A. Yes.

27

28 Q. That's pretty clear evidence from Mr Musy about
29 Mr Mattaini's state of mind as at September 1985, isn't it?

30 A. Yes.

31

32 Q. That doesn't get much of a mention in your Neiwand
33 summary either, does it?

34 A. Not that I recall, no.

35

36 Q. No. Then, page 52, we get to Mr Musy coming back to
37 Australia in September 1985, and at line 33 he is asked
38 whether he noticed a number of items missing, and Counsel
39 Assisting says, "His keys were not there, is that so?", and
40 Mr Musy says:

41

42 *A. Yes his keys and the clothes which*
43 *I believe he was wearing at the time ...*

44

45 And he adds that there was a spray jacket missing, there
46 were headphones missing.

47

1 Then again at line 45 he is taken to his statement
2 which, as you saw this morning, included reference to
3 Gilles being lonely but enjoying being on his own and
4 spending money on things for the unit and so on?

5 A. Yes.

6
7 Q. And he is taken to that and his answer is:

8
9 *A. Yes lonely because he was by himself*
10 *but he was just like enjoying sort of -*
11 *because it was winter ... it's quite nice,*
12 *Bondi is very quiet ... it's nice to walk*
13 *around.*

14
15 And so on. That's again evidence of his state of mind in
16 the immediate days before he disappeared; correct?

17 A. Yes.

18
19 Q. Then page 53, he's asked about the visa problem again,
20 and he is reminded that another witness, Mr Hubert, had
21 said that Gilles - and I'm looking at about line 10 now on
22 this page - was feeling very uncomfortable about his
23 situation in that he'd recently become an illegal immigrant
24 because his visa had expired and he felt trapped in that he
25 couldn't leave Australia and come back, and he's asked
26 whether he thought Mr Hubert's assessment was accurate in
27 that respect. Do you see that?

28 A. Yes, I do.

29
30 Q. And the answer is - well, he is asked in fact
31 directly:

32
33 *Q. Was he feeling uncomfortable and*
34 *trapped?*

35
36 And Mr Musy says:

37
38 *A. That would be correct yes. Yes.*

39
40 So that topic, the concern about the visa, was well and
41 truly before the Coroner, wasn't it?

42 A. Agreed.

43
44 Q. Then towards the bottom of the page, from about
45 line 35 onwards, he is asked some questions about whether
46 or not there had been some difficulties in the actual
47 relationship between Mr Musy and Mr Mattaini?

1 A. Yes.

2

3 Q. I won't read these out but you can see them there.
4 I'll let you take your time, but from line 40 and following
5 down to the end of that page.

6 A. Yes.

7

8 Q. And so having acknowledged that there were some
9 difficulties in the relationship --

10 A. I'm somewhat confused on about line 42 it refers to a
11 "Mark". I'm not sure who "Mark" is.

12

13 Q. Marc is Mr Hubert --

14 A. Oh, okay.

15

16 Q. -- who had referred to this possibility of there
17 being problems in the relationship and Mr Musy is
18 acknowledging that yes there were, in the sense that he
19 describes in those 15 lines or so there.

20 A. Yes.

21

22 Q. You agree? But then, I want to take you to the top of
23 the next page, having made that acknowledgment, he says,
24 page 54, line 1:

25

26 *... that was a benefit a worry for both of*
27 *us as well and it was not something which*
28 *was really a big issue because we were very*
29 *very much in love, very deeply in love both*
30 *of us ...*

31

32 And:

33

34 *... so the sexual part was really not too*
35 *much an issue at all because we had really*
36 *an enormous bond ... this is what I missed*
37 *the most after his disappearance that I had*
38 *this absolutely amazing bond with that*
39 *person ...*

40

41 Et cetera. Do you see that?

42 A. Yes, I see that.

43

44 Q. So the evidence that Mr Musy was giving was to
45 acknowledge candidly that there were some issues in the
46 relationship, but to say that really in the scheme of
47 things, they were minor because the relationship overall

1 was so wonderful.

2 A. Yes. I can see that.

3

4 Q. Now, at line 14 on that page, Counsel Assisting gets
5 to the topic of who might have seen Mr Mattaini on the
6 day --

7 A. Yes.

8

9 Q. -- or around about the day that he disappeared.

10 A. Yes.

11

12 Q. So he asks him starting at line 14 did he speak with
13 a man "who lived in a unit block near you?" "Yes". At
14 about line 20:

15

16 Q. *Do you know who that person was?*

17

18 Answer:

19

20 *No. I recall since the interview had with*
21 *Detective Page that his name is*
22 *Terry ... I know physically where he lives*
23 *but I don't know if he's still there or*
24 *not.*

25

26 A. Yes.

27

28 Q. So that's apparently saying that that's something that
29 he's remembered since speaking with Page, it would seem?

30 A. Yes.

31

32 Q. At line 25 he says:

33

34 *... [Terry] told me he had seen him the*
35 *morning of his supposed disappearance*
36 *walking in an aloof state.*

37

38 A. Yes.

39

40 Q. Then it is checked again at the bottom of the page by
41 the question:

42

43 *Q. Did ... Terry tell you whether it was*
44 *in the morning or the afternoon ...*

45

46 And Mr Musy said:

47

1 A. He said, "I think it's the morning,
2 from the best of my recollection ..."

3
4 Then at the top of page 55 Counsel Assisting asks did he -
5 that is, Terry -

6
7 ... say where precisely he saw Gilles
8 walking at Bondi?

9
10 And the answer is given:

11
12 That would have been between my unit at the
13 corner of Ramsgate and Campbell Parade --

14
15 A. Yes.

16
17 Q.
18 -- and his unit, Terry's unit which was
19 like three houses up towards the Bondi
20 Diggers so it would be ... around [100] or
21 200 metres away from our place?

22
23 A. North Bondi, yes.

24
25 Q. So it's clearly he's - would you agree what he's
26 describing is that Terry's place is around the corner to
27 the north in Campbell Parade?

28 A. Yes, I accept that.

29
30 Q. What he appears to be saying, although maybe it's not
31 100 per cent crystal clear, is that that's where Terry saw
32 him?

33 A. Yes, that's my understanding of it.

34
35 Q. So not at Marks Park but somewhere --

36 A. In North Bondi.

37
38 Q. North of Ramsgate Avenue, heading up the hill towards
39 the Bondi golf club?

40 A. Yes.

41
42 Q. A couple more things I want to take you to. On
43 page 56, at line 23, he is asked this:

44
45 Q. Nobody will ever know but what is your
46 belief as to what might have happened to
47 Gilles Mattaini?

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And his answer is:

A. I have no idea. At the time I thought he had committed suicide that's why I actually didn't ever think that he could have been killed, murdered or attacked or anything because as he had two previous attempts I would have thought that - at the time I thought well he did it this time again and he managed to do it and that - from that day onwards he had committed suicide.

Just pausing there, you would agree that he's telling the Coroner that he doesn't actually know, he has no idea what happened, but that at the time, ie, 1985, he assumed that it must have been suicide because nothing else occurred to him as a possibility?

A. Yes.

Q. But then he goes on in the next sentence at line 31:

It's not until we saw some ads and reports about this and that happening that we put - I mean some thoughts together ...

Pausing there, in 2002 and 2001, there was indeed considerable publicity about Operation Taradale, wasn't there? Yes, I believe so.

Q. There was, among other things, a media event where there was a staged reconstruction of the death of John Russell --

A. Yes.

Q. -- by a dummy being thrown over the cliff dressed in similar clothes?

A. Yes, I recall that.

Q. And that attracted considerable publicity?

A. Yes.

Q. And among other things, there were media releases and invitations to the public to contact Crime Stoppers and so on?

A. Yes.

- 1
2 Q. And all of that in the context that the police, in
3 2001 and 2002, were having another look at some 1980s
4 deaths of gay men to see whether they might have been
5 homicides rather than something else?
6 A. Yes.
7
8 Q. That was what was being publicised?
9 A. Yes.
10
11 Q. And what Mr Musy says at line 32 is:
12
13 *It's not until we saw some ads and reports*
14 *about this and that happening that we put -*
15 *I mean some thoughts together ...*
16
17 Now, does that indicate to you that what Mr Musy is there
18 saying is that while he had initially assumed, because he
19 couldn't think of anything else, that it must have been
20 suicide, by the time he had become aware of what he calls
21 "ads and reports" --
22 A. Yes.
23
24 Q. -- which one might surmise was the publicity about
25 Taradale --
26 A. Certainly.
27
28 Q. -- that he put two and two together in his head and
29 thought, "Well, perhaps the disappearance of my friend
30 might be in the same area of consideration as these other
31 deaths"?
32 A. I can see that, yes.
33
34 THE COMMISSIONER: Q. And you understood at the time,
35 didn't you, as far as you now recall, that those ads did
36 not make any reference to Mr Mattaini; they were references
37 to other possible deaths or murders?
38 A. Yes.
39
40 MR GRAY: Q. So it looks as though what has happened,
41 according to what he has said to the Coroner, is that he
42 was jolted into considering the possibility of violence or
43 homicide by the publicity about Taradale?
44 A. Yes, clearly.
45
46 Q. Did you notice that at any time before you joined in
47 the Neiwand summary?

- 1 A. I must admit I hadn't noticed that but it makes sense.
2
- 3 Q. It does make sense, because, among the reasons why it
4 makes sense is that, as you know - and you've said this in
5 the summary - it was Mr Wyszynski, another friend, who came
6 forward to the police in response to the publicity to say,
7 in effect, "Look, this disappearance of Mr Mattaini might
8 belong in the area of what you're looking at"?
9 A. Yes.
10
- 11 Q. And Mr Wyszynski and Mr Musy were friends; correct?
12 A. Yes.
13
- 14 Q. And so it's highly likely, isn't it, that that's what
15 caused Mr Musy to think that maybe it was a violent or
16 homicidal cause of death?
17 A. Yes.
18
- 19 Q. In your experience as a police officer, have you come
20 across many, or indeed any, examples of police officers
21 attempting to influence a witness to say something which is
22 actually not their opinion?
23 A. No.
24
- 25 Q. Never seen it?
26 A. Not that I remember, and I would think I would
27 remember that.
28
- 29 Q. Yes. So if Detective Sergeant Page had done that, it
30 would be totally foreign to your experience, wouldn't it?
31 A. Yes.
32
- 33 Q. And yet that is what you accuse him of doing, don't
34 you?
35 A. And as I have said, that is based upon the
36 conversation between Mr Musy and Detective Chebl.
37
- 38 Q. Maybe. But what about what Mr Musy says here on his
39 oath? Did you check it against that?
40 A. No, I didn't.
41
- 42 Q. Had you checked it against that, you would have surely
43 realised that maybe what he said on oath 13 years earlier
44 was more reliable?
45 A. I understand that.
46
- 47 THE COMMISSIONER: Q. Or that what he said to Mr Chebl

1 13 years later may not be accurate?

2 A. Certainly a consideration.

3

4 Q. On any view, an inconsistency which would arise which
5 you would have been finding it impossible to actually
6 resolve unless you, for example, spoke to Page?

7 A. Fair comment, yes.

8

9 MR GRAY: Q. Just for completeness, but no other reason,
10 I will go on with what he says at the end of the same
11 sentence. After saying that "we" put some thoughts
12 together, he goes on in the same sentence:

13

14 *... but my idea was he had committed*
15 *suicide --*

16

17 So he is clearly, you would agree, referring there - this
18 is at line 34?

19 A. Line 34, yes.

20

21 Q. He's obviously saying, "My idea was", meaning "my idea
22 was back in 1985" that he'd committed suicide?

23

24

25 Q. And he goes on:

26

27 *What puzzled me --*

28

29 ie, after 1985, it must mean, at line 37:

30

31 *What puzzled me is that they never find*
32 *anything at all.*

33

34 And he talks about every time there was a report in the
35 paper about a body being found, he would wonder, and so on.
36 And at line 45 he goes on to say that when bodies were
37 found, like the body of a fisherman or something:

38

39 *... that was reinforcing my thought that he*
40 *had maybe committed suicide by throwing*
41 *himself in the ocean ...*

42

43 Right?

44

45

46 Q. But it's clear, you would agree, in the context of
47 that whole answer, that what he's saying is that that's

1 what he had thought, but once he put two and two together
2 or, sorry, put some thoughts together following the ads and
3 reports, he began to think that, maybe it was different;
4 agreed?

5 A. It's somewhat convoluted but that's certainly
6 a reasonable conclusion to come to.

7

8 Q. Thank you. At about the bottom of page 56, the last
9 question:

10

11 *Q. Do you know of any reason which he may*
12 *have had to want to disappear?*

13

14 Answer:

15

16 *No, no. He - even in spite of the worries*
17 *for his visa, his relationship problems*
18 *with me all this was not sufficient enough*
19 *I believe to turn him into black in a sort*
20 *of state of mind where there was no future*
21 *and everything was bleak and then he would*
22 *just want away from that. I don't think*
23 *so ...*

24

25 Do you agree that's his answer?

26 A. That's his answer.

27

28 Q. And then when it gets to counsel for the police at
29 line 40, after some final questions that establish that he
30 didn't take drugs and he had money in the bank --

31 A. Yes.

32

33 Q. -- Mr Saidi for the police says, "I have no
34 questions"?

35 A. I see that.

36

37 Q. The Coroner then asks a few questions herself. Do you
38 see on page 58, at line 33, she asks:

39

40 *Q. Apart from the McKenzie Point, Marks*
41 *Park area being the common factor in these*
42 *other men that are missing or were found*
43 *dead, if that hadn't been mentioned do you*
44 *still feel to this day that he may have*
45 *committed suicide?*

46

47 Answer:

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A. *Well I had nothing else to think yeah.*

Do you see that?

A. I do see that.

Q. And you would accept that that's altogether consistent with the longer answers that he gave to Counsel Assisting that I've taken you to?

A. Yes.

Q. It's very clear, you would agree, that in the course of Mr Musy's evidence in the witness box, the possibility of suicide was explored and discussed repeatedly and from several different angles; correct?

A. Sorry, seven or several?

Q. Several different angles?

A. Yes.

Q. That volume can be put to one side, and can you have volume 6, please. Turn to tab 172 [SC0I.74881_0001] and go again to paragraph 60, on the last page. Do you see the last sentence:

Page's failure to include all the information about Mattaini's suicidal ideation in Musy's 2002 statement was a key factor in the Coroner not considering suicide as a possibility in Mattaini's disappearance.

A. Yes, I can see that's incorrect.

Q. You can accept - I take it you would accept now that that sentence is completely incorrect in several respects?

A. Yes.

Q. Do you withdraw that accusation?

A. Well, I didn't actually make the accusation, personally.

THE COMMISSIONER: Q. Well, you put your name to it Mr Morgan. Is that not an equivalent to authorising or submitting that, in effect, that should be the proper conclusion?

A. It's not accurate, sir. I'll say that.

1
2 Q. You mean the statement in 60 is not accurate?
3 A. Sorry, no, this - this investigation summary, that is
4 an inaccuracy in it.
5
6 Q. Yes, okay, in the particular respect Mr Gray is asking
7 you about?
8 A. Yes.
9
10 MR GRAY: Q. Could you just turn to tab 161
11 [SC0I.02571.00021_0001] in that same volume. Do you see
12 those are indeed the findings and recommendations of the
13 Coroner? 161?
14 A. Yes, there's quite a few in between, sorry.
15
16 Q. Sure.
17 A. Yes.
18
19 Q. You've said several times that you read these, you
20 read these findings?
21 A. Yes.
22
23 Q. So on page 2, in relation to Mr Mattaini --
24
25 THE COMMISSIONER: Upper right-hand corner, Mr Morgan,
26 I think.
27
28 THE WITNESS: Yes.
29
30 MR GRAY: Q. Do you see there is the name "Gilles
31 Jacques Mattaini" in bold?
32 A. Yes.
33
34 Q. In the paragraph after that the Coroner says:
35
36 *At the time he went missing he had*
37 *overstayed his visa and was concerned about*
38 *his residency.*
39
40 A. Correct.
41
42 Q. So she was well and truly alive to that topic; agreed?
43 A. Yes.
44
45 Q. She says:
46
47 *Whilst he was worried about his future in*

1 *that regard, he was also excited about*
2 *a friend who was soon to visit from France*
3 *and had purchased furnishings to decorate*
4 *his apartment.*

5
6 A. Yes.

7
8 Q. And that is obviously an accurate enough summary of
9 the evidence that we've been looking at; you would agree?
10 And in paragraph 2 below that --

11
12 THE COMMISSIONER: I don't think the witness answered the
13 question.

14
15 MR GRAY: Q. You would agree with that? That's a short
16 but accurate summary of the evidence that we've been
17 looking at about the visa topic?

18 A. Correct.

19
20 Q. A couple of paragraphs below that, she says:

21
22 *Mr Mattaini was known to take long walks*
23 *along the Marks Park walking track. He*
24 *would wear earphones. [The earphones were*
25 *missing] ... as well as a yellow spray*
26 *jacket and his keys.*

27
28 So she was aware of those matters?

29 A. I can see that.

30
31 Q. She says:

32
33 *He was last seen walking on the track at*
34 *Bondi on or about 15 September ...*

35
36 Now, that is essentially an accurate account of what Terry
37 is supposed to have said?

38 A. No, I don't necessarily agree with - I mean, I can see
39 it's written here, but the way that's written "on the
40 track" suggests Marks Park, whereas Terry actually
41 indicated North Bondi.

42
43 Q. No, no, no. It says Bondi, doesn't it?

44 A. On the track at Bondi.

45
46 Q. Yes, at Bondi. Marks Park is not at Bondi, is it?

47 A. No, it's not, it's almost Tamarama.

1
2 Q. That's right. But where Terry apparently saw him, as
3 we just went through, probably was a bit north of Ramsgate
4 Avenue towards the Bondi golf club?
5 A. Yes.
6
7 Q. Probably?
8 A. Yes.
9
10 Q. ie, at Bondi. Maybe the word "track" is not exactly
11 right?
12 A. Yes, that's what - yes.
13
14 Q. But she's, it would seem, picking up the evidence
15 about what Terry apparently saw?
16 A. Yes, I accept that.
17
18 Q. Now, two paragraphs below that - or three - two - she
19 says:
20
21 *Mr Mattaini's father was not close to his*
22 *son and his mother believed it was possible*
23 *that her son had "suicided".*
24
25 And she goes on:
26
27 *There is no evidence before me to support*
28 *the finding of "suicide".*
29
30 Do you see that?
31 A. Yes, I see that.
32
33 Q. She doesn't say, does she, "There is no evidence
34 before me about suicide"?
35 A. No.
36
37 Q. She says, "There's no evidence that would support
38 a finding of suicide", doesn't she?
39 A. Correct.
40
41 Q. Now, is it possible that all you ever read was her
42 findings and not the transcript, and that you wrongly
43 assumed that what she was saying was that she had no
44 evidence of suicide before her?
45 A. I honestly can't remember, but I would have thought
46 that I would have read transcripts during the
47 investigation.

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Q. I want to now go through the Neiwand summary about Mattaini in a little bit more detail from start to finish. Would you turn back to tab 172 [SC0I.74881_0001] start at paragraph 1. The assertion that he was last seen walking along a track around Mackenzies Point is wrong, isn't it?

A. That is incorrect, yes.

THE COMMISSIONER: Q. Where did that come from, do you think?

A. I - that's where I was confused about the track, but - yes, looking at what was actually said at the inquest, that is incorrect.

Q. But I just wonder - any idea where it came from?

A. No, I don't, no.

MR GRAY: Q. In paragraph 4, just have a look at how the first sentence begins, namely:

*In 2002 due to the media attention
Operation Taradale was receiving, a former
partner and friend of Mattaini, Jacques
Musy contacted Police in relation to
Mattaini's disappearance.*

A. Yes, I see that.

Q. Well, that seems to indicate, doesn't it, that what I was putting to you as the likely sequence was correct - namely, that Mr Musy became aware of all the publicity about Taradale --

A. Certainly.

Q. -- that the police were looking at the possibility of gay hate violence around Bondi/Marks Park, and came forward to police to say, well, perhaps that might have been what happened to Mattaini?

A. Yes.

Q. Well, I will come to what you say later in the summary about Detective Page, but you say two or three times - you and Chebl say - that Musy only got the idea of a possible violence or homicide into his head because Page put it there when he spoke to him? That's what you say, isn't it?

A. My understanding of it - and I didn't speak to Mr Musy direct - was that he expressed to Detective Page that he

1 thought it was likely that Mr Mattaini had suicided and
2 Detective Page had persuaded him otherwise.

3

4 Q. Yes, I am going to come to that, and that's about the
5 fifth or sixth time you have said that.

6 A. Mmm.

7

8 Q. But back to my question. What you yourself have
9 written - you and Chebl - in the first couple of lines of
10 paragraph 4, is that Musy contacted police due to the media
11 attention Operation Taradale was receiving; correct?

12 A. Correct.

13

14 Q. That was media attention about gay hate deaths or the
15 possibility of them apropos Mr Warren and Mr Russell?

16 A. Yes.

17

18 Q. So according to your own summary, it was Mr Musy who
19 came forward in that context?

20 A. Yes.

21

22 Q. And the transcript that I took you to, where he said,
23 "after reading some ads and reports we put some thoughts
24 together", is consistent with what appears in paragraph 4,
25 isn't it?

26 A. Correct.

27

28 Q. Namely, that he came to the police, and ultimately to
29 Sergeant Page, with the idea already in his mind that
30 maybe, after all, the explanation for Mattaini's death was
31 not suicide but perhaps something like what had happened to
32 Russell or Warren; correct?

33 A. That's a reasonable conclusion to make, yes.

34

35 Q. But in your summary, notwithstanding what you have
36 actually written yourself, you and Chebl, in paragraph 4,
37 you assert as a fact that it was Page who persuaded Musy
38 that it might have been homicide, and that that was
39 contrary to Musy's own thinking, and you base that, as you
40 keep saying, on Chebl's account of a telephone call, don't
41 you?

42 A. Yes.

43

44 Q. You don't mention in your conclusions in this Neiwand
45 summary, where you say that, that your own paragraph 4 is
46 more or less directly inconsistent with that, do you?

47 A. As far as Mr Musy contacting police initially, yes.

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Q. You are agreeing with me?

A. On that point, yes.

Q. Let's have a look at paragraph 9. Just read through that paragraph 9, if you would, as a supposed summary of the earlier suicide attempts.

A. Yes.

Q. You would agree, I imagine, that that is a somewhat garbled and confused account of the actual sequence?

A. It's not well written.

Q. It's not well written, and it seems to confuse one with the other, in the sense that both suicide attempts are described as occurring by taking a number of tablets and cutting his wrists, whereas in fact only the first of them --

A. Yes.

Q. -- was in that character; the second one was just tablets, wasn't it?

A. Yes, I believe so.

Q. And nor was Mr Mattaini on holiday when he did the second one; he was in the army and not on holiday?

A. Yes.

Q. So that paragraph 9 is, as you say, not well written, but actually rather jumbled and --

A. Incorrect, yes.

Q. -- back to front?

A. Yes.

MR GRAY: I notice the time.

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

SHORT ADJOURNMENT

THE COMMISSIONER: Yes, come back, Mr Morgan.

Mr Gray, there is a matter I need to attend to just immediately after 1 o'clock so I might adjourn a few minutes before 1 today.

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MR GRAY: Certainly, Commissioner. I have two other housekeeping matters, Commissioner. The document that I tendered this morning, which was the document signed by Mr Lehmann, which was the same as Alicia Taylor's document, I said 162A but apparently it should be 162B, just for the record.

THE COMMISSIONER: Right.

MR GRAY: Secondly, I would tender to be added or to be placed in the tender bundle a statement of Jo Kenworthy of 23 February 2023, which would become tab 254 of exhibit 6.

THE COMMISSIONER: Thank you.

MR GRAY: Q. Now, Mr Morgan, you have that summary open still?

A. I do.

Q. Paragraph 12, you say:

Information from associates of Mattaini is that he was under a reasonable amount of stress and anxiety, due to his expiring visa ...

Do you see that?

A. Yes.

Q. You don't mention Mr Musy's evidence that although it was something of an issue, it was not one that was weighing down on him particularly, do you?

A. Well, Mr Musy did acknowledge that he was concerned about that, the visa situation.

Q. He did. But as I took you to, he made a point of saying it was "not something which was really sort of weighting on him constantly not at all". You remember I took you to that this morning?

A. You did.

Q. You don't mention that in the summary, do you?

A. No.

Q. You rather mention it as though it was something that was weighing on him, don't you?

1 A. It was a concern, yes.
2
3 Q. And you mention it that way as something that was
4 a concern of - a real concern, notwithstanding that
5 Mattaini had said it was not something weighing upon him.
6 You just left that out, didn't you?
7 A. I don't know that it was deliberately left out but
8 yeah, I agree it's not there.
9
10 Q. At 17, you record that Mr Wyszynski had said that he
11 had a telephone conversation with Mr Mattaini on
12 15 September, and that Mattaini sounded very happy. Do you
13 see that?
14 A. Yes.
15
16 Q. You don't mention that Mr Musy also gave evidence that
17 he had had several conversations by phone with Mr Mattaini
18 about this time, and that he also said Mr Mattaini was very
19 happy. You leave that out, too, don't you?
20 A. I don't see it there, no.
21
22 Q. Was that deliberately left out?
23 A. No.
24
25 Q. At 22, you talk about what Mr Wyszynski said, and in
26 the last sentence you say:
27
28 *Wyszynski states he received a further*
29 *phone call from Ottaviani informing him*
30 *that he had checked Mattaini's place and*
31 *noted it was intact with his passport and*
32 *house keys present.*
33
34 Don't you?
35 A. Yes.
36
37 Q. So you record the hearsay account of Wyszynski from
38 Ottaviani that Mattaini's keys were in the house?
39 A. When they in fact weren't.
40
41 Q. When they in fact weren't and you had direct evidence
42 from Musy that they were not. Why?
43
44 THE COMMISSIONER: Plus, if I may add, a finding of
45 a Coroner factually to that effect that they were not in
46 the house.
47

1 MR GRAY: Q. Why do you include the incorrect hearsay
2 account of Wyszynski that the keys were there but not
3 include the correct account of Musy's that they weren't
4 there and the Coroner's finding that they weren't there?

5 A. I can only assume that it's an oversight. Like
6 I said, I did not author this document.

7
8 Q. Is the suggested relevance of the keys being present
9 to assist the suicide hypothesis?

10 A. I wouldn't have thought so, not - certainly not
11 intentionally.

12
13 Q. What would be the relevance of the keys being present
14 in an investigation into a death of this kind?

15 A. I can only say from my negotiator's point of view that
16 where a subject who is contemplating suicide, standing on
17 the edge of a cliff or something, where they leave their
18 belongings behind, their keys, their wallet, that type of
19 thing, it is - it heightens the concerns that that person
20 may be serious about jumping, and that's the only thing
21 I can say.

22
23 Q. Well, this is someone not leaving keys at a jumping
24 spot?

25 A. Yes.

26
27 Q. But according to Wyszynski's hearsay account leaving
28 them at home and leaving the house?

29 A. Yes.

30
31 Q. And was the relevance of that thought to be, by you or
32 Chebl, that that might have indicated that he was going to
33 suicide?

34 A. Well, I can't speak for what Mr Chebl thought.

35
36 Q. Well, speak for yourself, then.

37 A. I didn't author this document.

38
39 Q. I know that. What did you think the point was of
40 saying that the keys were still there?

41 A. Just the fact that Mr Ottaviani had told - had said
42 that and --

43
44 THE COMMISSIONER: Q. Surely, Mr Morgan, wasn't it to
45 suggest or infer that Mr Mattaini, if he left his keys
46 behind, one inference might be he wasn't coming home?

47 A. That's one inference one might draw.

1
2 MR GRAY: Q. What other conceivable reason for putting
3 it in a summary of an investigation into a death that you
4 were leaning towards suicide about would there be?
5 A. I don't know.
6
7 Q. None would be the answer, wouldn't it? There's no
8 other reason? It's put in there --
9 A. I don't --
10
11 Q. It's put in there to underpin a suicide hypothesis,
12 isn't it?
13 A. I don't know.
14
15 Q. Whereas you knew that the truth was diametrically the
16 opposite - the keys were not in the house?
17 A. No, that's not the true - had - yes, a closer reading
18 of the transcript would have revealed that, but no, I'm not
19 of the belief that it was deliberate.
20
21 THE COMMISSIONER: Can I just interrupt, and I do
22 apologise again.
23
24 Q. Above paragraph 22, there's a photocopy of what
25 appears to be a diary?
26 A. A calendar, yes.
27
28 Q. A calendar. And was that, as you best understood it,
29 Mr Mattaini's calendar?
30 A. Yes.
31
32 Q. And apart from a dental appointment a day or two
33 before he disappeared, does it appear in his or someone
34 else's writing that he had appointments after the 15th that
35 he was meant to be attending at? I can't read them because
36 it's too small, but did you ever actually look at the
37 calendar to see whether he had anticipated arrangements to
38 be made or that he was meant to meet after the 15th -
39 the September date?
40 A. Yeah, well, it does seem to indicate that on the
41 24th - and I also can't read the writing, but I know that
42 there's a line pointing to it, and it says "Arrival of
43 Musy", and there is something handwritten there?
44
45 Q. Yes, but there's also something on the 22nd,
46 seemingly?
47 A. Yes.

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Q. And there's something on the 19th in a square bracket?

A. Yes.

Q. So what I'm getting at is this: the diary entry is placed in this summary to show that it was believed to be indicating that Mattaini was not working on the particular day he disappears, but it seems no consideration was given, in the context of suicide or not, to whether or not he had anticipated appointments or assignments or social events in his diary, in his handwriting, dates beyond the day he disappeared. That doesn't seem to have been focused on at all?

A. I would agree.

Q. And wouldn't it be relevant, if a keen homicide detective was trying to explore scenarios, to give consideration to whether the person had planned some things in the immediate future after the day upon which he disappears?

A. Yes. It should have received consideration.

Q. Well, nobody has - I'm not commenting on it either way because I can't read what's there, but surely you would accept that it would be a relevant matter and perhaps highly relevant to investigate whether the person who it might be suspected has done away with himself had nonetheless appointments to anticipate in the future? It might be entirely neutral but at least it would give some indication that he was planning for the future, wouldn't it?

A. Yes, I can see that.

THE COMMISSIONER: All right. Thank you.

MR GRAY: Q. Now, when we do get to paragraph 24, where you give an account of, or you refer - you and Chebl - to what Musy said, do you see at the top of page 5, you have written this - you and Chebl -

Musy states in his statement he noticed there was no forced entry into the flat and Mattaini's wallet, passport, watch and credit cards were present.

Correct?

A. Yes.

- 1
2 Q. And then you've said:
3
4 *Musy further stated he noticed a yellow*
5 *coloured spray jacket that Mattaini wore to*
6 *be missing.*
7
8 A. Yes.
9
10 Q. But you don't say that Musy also noticed that the keys
11 were missing, do you?
12 A. No, the keys don't appear to get mentioned.
13
14 Q. Why is that? That's the one thing that you leave out
15 of what Musy had actually said? Why would that be?
16 A. I don't know. I don't know what --
17
18 Q. Could it be - sorry, go on.
19 A. I don't know what Detective Chebl was thinking at the
20 time.
21
22 Q. What were you thinking? Did you notice that the very
23 thing that Musy had stressed was missing, the keys and, for
24 that matter, the Walkman, being both missing, had just been
25 airbrushed out of Mr Chebl's paragraph 24?
26 A. As I sit here now I don't recall noticing.
27
28 Q. Do you think it might have been left out because to
29 include it would have somewhat countered the significance
30 of the keys being present as indicating suicide?
31 A. Well --
32
33 Q. And that somebody who was writing this thought it
34 would be better to leave that out?
35 A. Well, that certainly wasn't my intention at the time.
36
37 Q. In paragraph 27, there is reference to Wyszynski
38 contacting the police about Mattaini's disappearance and
39 the statement in paragraph 27 says that that was due to the
40 media attention that Operation Taradale, investigating the
41 disappearance of Warren and Russell, was receiving and
42 a publication in the Star Observer. Do you see that there?
43 A. Yes, and it refers to Mr Wyszynski, not Mr Musy.
44
45 Q. It does.
46 A. Yes.
47

1 Q. But your own statement says that Musy contacted the
2 police in paragraph 4, doesn't it?
3 A. Yes.
4
5 Q. Your own summary?
6 A. Yeah.
7
8 Q. But this one --
9 A. I can only assume that's an oversight.
10
11 Q. Well, one or other of them is wrong, or,
12 alternatively, they might both be right?
13 A. Or both had contacted the police, correct.
14
15 Q. Quite. Either it was only Musy or only Wyszynski, or
16 perhaps it was both of them?
17 A. Both, yes.
18
19 Q. But either way, one of the things that your own
20 summary notes is that the media attention included
21 a publication in the Star Observer; correct?
22 A. Yes.
23
24 Q. Which is a well-known gay newspaper?
25 A. Yes.
26
27 Q. At 28, we get back to the visa topic, and this is what
28 you and Chebl write:
29
30 *When Police obtained statements from*
31 *friends and associates of Mattaini, each*
32 *stated that he had expressed his concern at*
33 *having overstayed in Australia and the*
34 *status of his residency, this was all due*
35 *to his visa expiring.*
36
37 Now, pausing there, that's accurate enough as far as it
38 goes - people had drawn attention to that?
39 A. Yeah, I think the visa had expired about three weeks
40 before, yeah.
41
42 Q. Yes. But what about the next sentence. You say, you
43 and Chebl:
44
45 *This issue appeared to weigh heavily on*
46 *Mattaini's mind.*
47

1 A. Yes.
2
3 Q. As we've seen, and I have taken you to this a couple
4 of times, that is the direct opposite of what Musy said in
5 the witness box, isn't it?
6 A. Yeah, look, I'm unaware whether other associates may
7 have expressed a different view. I'm not aware.
8
9 Q. My question is: it's the direct opposite of what Musy
10 said on oath in the witness box, isn't it?
11 A. Yes.
12
13 Q. He said it did not weigh heavily on his mind?
14 A. True.
15
16 Q. But you have written, you and Chebl, that it did.
17 Why?
18 A. It's in there. I can't explain why it's in there.
19
20 Q. It's completely wrong, isn't it, according to Musy's
21 sworn evidence?
22 A. Yes.
23
24 Q. Now, in paragraph 37 you and Chebl set out what you
25 say are a number of areas not explored by Taradale. Do you
26 see that?
27 A. Yes.
28
29 Q. You say that there are more than these, you say it's
30 not limited to these, but the three that you nominate are,
31 one, obtaining a DNA sample from Renee Mattaini, the
32 mother?
33 A. Yes.
34
35 Q. Secondly, obtaining Mattaini's medical records and
36 military records?
37 A. Yes.
38
39 Q. And thirdly, further statements from his associates to
40 clarify Mattaini's previous suicide attempts.
41 A. Yes, I see that.
42
43 Q. They are supposed to be areas not explored. Now, can
44 I just go through them. Getting the DNA sample from
45 Mattaini's mother would have been relevant if and when
46 a body was found that you could compare the DNA with?
47 A. Correct.

1
2 Q. But no body had been found or indeed ever was found?
3 A. Not to this day, no.
4
5 Q. Not to this very day. So the not having obtained DNA
6 from Mrs Mattaini in the couple of months that Page had
7 available to him in the second half of 1985 is hardly
8 something that has ultimately caused any effect at all, is
9 it?
10 A. Yes, I would agree with that. At the end of the day,
11 it hasn't affected it.
12
13 Q. Secondly, obtaining his medical records and military
14 records - did you do that in Neiwand?
15 A. I think attempts were made through Interpol to do
16 that, but I don't specifically recall.
17
18 Q. And if they were attempted, those steps, that would
19 have been to pursue the suicide theory, would it?
20 A. I can only imagine, yes.
21
22 Q. And the third one is also to do with suicide, isn't
23 it?
24 A. Yes.
25
26 Q. "Further statements from his associates to clarify
27 his previous suicide attempts". Now, the previous suicide
28 attempts had been some time before 1978 when he was
29 a teenager or perhaps no more than 20?
30 A. Yes.
31
32 Q. In France?
33 A. Yes.
34
35 Q. Which associates were you going to get statements from
36 to clarify, or could Page have got statements from, to
37 clarify that?
38 A. Well, it's not clear there, that's not something --
39
40 Q. There aren't any, are there, in Australia? Is that
41 what you meant, statements from someone in Australia?
42 A. I don't know what was meant by it.
43
44 Q. It appears to be verging on meaningless, doesn't it,
45 when you look at it now? Statements from his associates to
46 clarify his previous suicide attempts in France, when his
47 associates in Australia didn't know him?

1 A. Unless it was to ask them about whether he'd spoken to
2 them - as in he spoke to Mr Musy about it; he may have
3 spoken to others. I don't know.
4

5 THE COMMISSIONER: Q. But if you had the evidence from
6 Musy, and it seems to have been uncontroverted - indeed, it
7 wasn't capable of being controverted - why would you need
8 corroboration of an event or events that he'd told his
9 partner about previously; to check the veracity of Musy's
10 evidence?

11 A. Possibly.
12

13 Q. Why would you want to do that in this respect only?

14 A. I would have thought that where serious consideration
15 was being given to a suicide, you would want to check all
16 those - all those lines.
17

18 Q. What, to make sure that the attempt was real or -
19 I don't quite understand?

20 A. Well, the fact that Mr Musy was overseas when
21 Mr Mattaini disappeared --
22

23 Q. Yes, but Mr - I'm sorry, you go on.

24 A. Whether he may have spoken to other associates.
25

26 Q. But other associates would have either had to have
27 been people, given his age, who either Mr Mattaini was at
28 school with or potentially was in the French army with,
29 wouldn't it?

30 A. No, no, that he may have spoken later with associates
31 in Australia about.
32

33 Q. But what I'm trying to get at, Mr Morgan, is the two
34 previous suicide attempts were not even controverted. His
35 mother had said - she had been spoken to at an earlier
36 point in time and thought suicide was on the cards; Musy
37 gave uncontroverted versions of that, which apparently
38 Mr Page accepted, the Coroner seems to accept and you seem
39 to accept. Why would there be any criticism of anybody,
40 including yourself, for not trying to find out more about
41 those suicide attempts if it weren't to, what, discredit
42 the fact that they occurred or - I don't understand.

43 A. Yeah, I - as I say, I didn't author this and I can't
44 explain.
45

46 THE COMMISSIONER: All right, thank you.
47

1 MR GRAY: Q. All right. Let's go to 41. Here you say
2 that a person called Magali Eyraud of some branch of police
3 in France --

4 A. Yes.

5

6 Q. -- notified you in November 2016 of recent contact
7 with Musy and his willingness to speak, and the summary
8 says that Eyraud stated during her conversation with Musy
9 on 17 November:

10

11 *... Musy advised he was happy to assist*
12 *Police, but was surprised about the Police*
13 *investigation as Mattaini stated to him*
14 *that "he wanted to die and nobody would*
15 *[find] his body".*

16

17 Do you see that?

18

A. Yes.

19

20 Q. And I'll come to this in some detail, and the next
21 sentence says:

22

23 *Musy further stated Mattaini made suicide*
24 *attempts before he went missing.*

25

26 Do you see that?

27

A. Yes.

28

29 Q. Now, that paragraph apparently stems from an email
30 that came from Magali Eyraud to Neiwand; is that right?

31

A. I believe so, yes.

32

33 Q. Did you ever see that email?

34

A. I may have. I don't recall.

35

36 Q. Is it available to you now? It hasn't been produced
37 to the Inquiry.

38

A. I wouldn't --

39

40 Q. Do you have access to it?

41

A. I don't know. This is going back to 2016. I don't
42 know.

43

44 MR GRAY: I raise for my learned friend to perhaps take
45 some instructions on that no such email has been produced.
46 We would have expected that it had been caught by one or
47 other of the summonses, but whether it was or wasn't caught

1 by a summons, we would ask that it be produced.
2
3 THE COMMISSIONER: Yes, Mr Tedeschi, can you shed any
4 light on this?
5
6 MR TEDESCHI: We haven't seen any such email,
7 Commissioner. I can ask those who instruct me to conduct
8 a further search.
9
10 THE COMMISSIONER: Well, something seems to have existed
11 at some point and the impression I have at the moment is,
12 it either can't be found - I presume it seems to have
13 existed - but it obviously can't be found, but if you can
14 get some further instructions about it, and if the answer
15 is you have no record of it or no record can be found, so
16 be it. Thank you.
17
18 MR GRAY: Q. I'm about to come to the investigator's
19 note by Chebl which covers these matters.
20 A. Yes.
21
22 Q. Just picking up the language there, "Musy further
23 stated Mattaini made suicide attempts before he went
24 missing" --
25 A. Yes.
26
27 Q. -- although that is literally right, it seems to be
28 written in a way that would indicate that he made suicide
29 attempts in the period leading up to his going missing,
30 doesn't it? That's how it reads?
31 A. Well, I - you can take it either way. I mean, as you
32 say, it's technically right, but it, in actual fact, was
33 several years since he'd made those suicide attempts.
34
35 Q. It was at least seven, if not eight or nine or 10
36 years before?
37 A. Several years, yes.
38
39 Q. If we go to tab 167 [SCOI.10389.00041_0001] in that
40 volume --
41 A. Yes.
42
43 Q. -- we find, and I hope - does your 167 consist of one
44 page being an e@gle.i cover page type document?
45 A. Yes, it's investigator's note 148.
46
47 Q. It has that file number, yes.

1 A. Yes.
2
3 Q. And attached to it was the investigator's note which
4 appears at tab 167A; correct?
5 A. Yes.
6
7 Q. I'll come to the note itself, but the cover page seems
8 to tell us a few things. It's created by Chebl and
9 reviewed by you?
10 A. Yes.
11
12 Q. The date of the note is 13 December 2016; do you see
13 that?
14 A. Yes.
15
16 Q. What it's talking about is a few things, as it turns
17 out. The brief description is that in the early hours of
18 Thursday, the 8th, between 6.15 and 7.20am, Chebl and Musy
19 had a telephone conversation. You weren't present and
20 didn't hear it?
21 A. No.
22
23 Q. It wasn't transcribed, I take it, or recorded in some
24 way?
25 A. Oh, no, I don't believe so.
26
27 Q. Certainly we should proceed on the assumption that
28 there is no recording of it and no transcript?
29 A. That's a fair enough assumption.
30
31 THE COMMISSIONER: Q. So we don't know precisely what
32 questions were actually asked?
33 A. No. It wouldn't appear so.
34
35 MR GRAY: Q. Two paragraphs below that, this statement
36 appears:
37
38 *The attached investigators note covers ...*
39
40 and a few things are indicated. Firstly, a brief case
41 overview of Mattaini's disappearance?
42
43 A. Yes.
44
45 Q. Secondly, the conversation between Chebl and Musy;
46 and, thirdly, follow-up information provided to Chebl by
47 Musy through emails.

1 A. Correct.
2
3 Q. Now, when we turn to the note itself at 167A --
4 A. Yes.
5
6 Q. -- it's 12 pages long. You can see most of the pages,
7 not quite all of them, have "Page 2" or "Page 3" or
8 whatever at the top, in the little box that says
9 "Investigator's Note"? Do you see the second page, for
10 example, has a box at the top, "Page 2 Investigator's
11 Note"?
12 A. Yes, mine - oh, yes.
13
14 Q. And then if we turn right through to the last page,
15 which is page 12 --
16 A. Yes.
17
18 Q. -- there's the calendar?
19 A. Yes.
20
21 Q. And the box says, "Prepared by" Chebl; "Date"
22 13 December. Do you see that?
23 A. The investigator's note was prepared on 13 December?
24
25 Q. Yes.
26 A. Okay, yes.
27
28 Q. You see that?
29 A. Yes.
30
31 Q. Right. So it's prepared five days after the telephone
32 call on the 8th; correct?
33 A. That appears to be what it says, yes.
34
35 Q. There is an email embedded in this note immediately
36 after page 6?
37 A. Yes.
38
39 Q. As what, in effect, is page 7, because the next
40 page is called page 8. Do you see the one that doesn't
41 have a page number but is immediately after page 6?
42 A. Six, yes.
43
44 Q. The email begins:
45
46 *Hi Michael ...*
47

1 "Yes, I confirm", something about Hubert and so on?

2 A. Yes.

3

4 Q. And if we turn to 167B, we can see that same email as
5 an email in the abstract, repeated, or it appears there
6 again, the same email?

7 A. Yes.

8

9 Q. And that is part of a chain. If we go to the back of
10 the chain at 167B, do you see there's an actual numerical
11 number at the bottom of it, page, 89, which seems to be
12 because it's one of those email chains where everyone
13 repeats what they've said before, so the same email --

14 A. Yes.

15

16 Q. The same emails appear umpteen times.

17 A. So what page am I looking at now?

18

19 Q. The very last one in 167B. It's an email from Chebl
20 to Musy on 28 November?

21 A. Yes, I see that.

22

23 Q. He introduces himself and tells him who he is and --

24 A. So this would appear to be the first email in the
25 chain.

26

27 Q. Exactly.

28 A. Yes.

29

30 Q. It would appear to be, yes. In the main paragraph he
31 says:

32

33 *I was informed by Magali Eyraud that you*
34 *informed her that you believed Gilles was*
35 *likely to have committed suicide as he had*
36 *attempted to do so on a number of occasions*
37 *previously. I'd like to clarify this*
38 *further with you ...*

39

40 et cetera?

41 A. Yes.

42

43 Q. And the question that he goes on to ask after
44 referring to his 2002 statement is:

45

46 *Did you inform Police in 2002 that Gilles*
47 *contemplated suicide leading up to his*

1 *disappearance?*

2

3 Do you see that?

4 A. Yes.

5

6 Q. And a follow-up question in brackets:

7

8 *(How did the Police respond to this*
9 *information of Gilles wanting to commit*
10 *suicide).*

11

12 And then he adds:

13

14 *You stated that Gilles had said if he did*
15 *commit suicide no one would find his body?*

16

17 A. Yes.

18

19 Q. So it's clear enough, you would agree, that what
20 Mr Chebl wanted to talk to Mr Musy about was what he had
21 told the police and how much he had told Page about
22 suicide.

23 A. Yes.

24

25 Q. Rather than what he might have known about suicide
26 generally; his interest was what he had told police, what
27 he had told Page, wasn't it?

28 A. That's how I read it, yes.

29

30 Q. Is that because the object of this exercise was to
31 discredit Page and Taradale?

32 A. I'm not aware of what was going through Mr Chebl's
33 mind at the time.

34

35 THE COMMISSIONER: Q. But wouldn't it have been more
36 relevant on all occasions as to precisely what Mr Musy had
37 said in any statement he'd made and/or the evidence he
38 gave?

39 A. Yes.

40

41 Q. Does it appear to you that this email was written by
42 Mr Chebl perhaps in ignorance of what Mr Musy had given
43 sworn evidence about?

44 A. Perhaps.

45

46 Q. Well, is there any other conclusion, unless he was
47 playing games with Mr Musy and pretending not to know? It

1 was clearly written by someone who seems, on the face of
2 it, hadn't read what Mr Musy had said in his sworn
3 testimony?

4 A. That's the reading I make from it, yes.

5
6 MR GRAY: Q. Have a look at Mr Musy's answer, if you
7 turn back one page to page 87 - it has the same email
8 again, but 86 is obviously Mr Musy's answer. Do you see
9 that? Page 86, on 1 December:

10
11 *Hello Michael,*
12 *I was expecting your email since I spoke to*
13 *Magali.*

14
15 A. Yes.

16
17 Q. He says, yes, he's able to fully cooperate and prefers
18 the phone:

19
20 *I would of course allow you to record our*
21 *conversation(s).*

22
23 But that didn't happen; correct?

24 A. Not to my knowledge.

25
26 Q. And then he says this:

27
28 *I have to admit --*

29
30 he is saying this in December 2016 --

31
32 *that as Gilles disappeared on September*
33 *15th 1985, then interviewed --*

34
35 He seems to be saying, "then I was interviewed" --

36
37 A. Yes.

38
39 Q. --

40
41 *by Detective Steve Page several years*
42 *later; my recollection of the events is*
43 *quite fuzzy.*

44
45 A. I see that.

46
47 Q. Have you ever had your attention drawn to that before

- 1 now?
2 A. I can't say.
3
4 Q. Indeed, if we flip forward a few pages to the one that
5 has page 37 at the bottom of it?
6 A. Sorry, page 37?
7
8 Q. It has 37 at the bottom of it. It follows --
9 A. Yes.
10
11 Q. -- a number of emails setting up times to have the
12 conversation and so on.
13 A. Agreed.
14
15 Q. And then at 37 Chebl says:
16
17 *Attached is your [2002] statement ... see*
18 *if you can remember anything further. I'd*
19 *like to get a further statement from you*
20 *covering the conversations Gilles had with*
21 *you about his thoughts on suicides and his*
22 *previous attempts.*
23
24 Do you see that?
25 A. Yes.
26
27 Q. He, in fact, never did get a statement from Musy, did
28 he?
29 A. I don't believe so, no.
30
31 Q. What he got, apart from what others provided, was his
32 own note of a telephone conversation, being a note that he
33 wrote five days after that conversation; correct?
34 A. Well, he may have finalised it five days after,
35 I don't know when he started writing the notes.
36
37 Q. In the note itself, which is 167A
38 [SCOI.10389.00042_0001] the first page would appear to be
39 what the cover document calls a brief case overview?
40 A. Yes.
41
42 Q. It's a shortish summary of the general situation?
43 A. Agreed.
44
45 Q. Then, from the second page onwards, there appears
46 a note mainly about the conversation between Chebl and Musy
47 on the phone?

- 1 A. Yes.
- 2
- 3 Q. And the first part of that, on the page headed
4 "Page 2", says that Eyraud from France emailed Chebl with
5 information; do you see that?
- 6 A. Yes.
- 7
- 8 Q. And that's the email that you don't recall and which
9 hasn't been produced and which nobody in this room seems to
10 have?
- 11 A. Okay.
- 12
- 13 Q. And then what Chebl does is apparently to paraphrase
14 what was in Eyraud's email. Do you see he says, "Eyraud
15 stated that"?
- 16 A. Yes.
- 17
- 18 Q. So how much of that paragraph accurately quotes or
19 captures what was in Eyraud's email we will never know,
20 I suppose, unless and until the email is produced; correct?
- 21 A. Yes. Fair comment.
- 22
- 23 Q. Then there's a paragraph that says that between
24 28 November and 6 December there was an exchange of emails
25 between Chebl and Musy, and those we do seem to have and
26 they're the ones I showed you at 167B?
- 27 A. Yes.
- 28
- 29 Q. Then in the next paragraph, we get the start of the
30 account by Chebl of the conversation between him and Musy;
31 do you see that? "Between 6.15am", et cetera?
- 32 A. Yes. So an hour and five minutes phone call.
- 33
- 34 Q. So it seems.
- 35 A. Yes.
- 36
- 37 Q. In the second-bottom paragraph beginning "In 1983",
38 Musy seems to have said to Chebl, according to his note of
39 it, that prior to the pair commencing their relationship,
40 Mattaini was unhappy in life, but he believed he became
41 happy once their relationship commenced?
- 42 A. Yes.
- 43
- 44 Q. At the top of page 3, Musy appears to have said that
45 prior to Mattaini's disappearance he was in good spirits
46 and he'd bought things from David Jones?
- 47 A. Yes.

1
2 Q. Now, three paragraphs from the bottom there's
3 reference to him returning to Australia and Ottaviani
4 telling him that he, Ottaviani, had spoken to a neighbour
5 who had seen Gilles walking at Bondi; do you see that?
6 A. Yes, and I notice there is a name in brackets
7 there - oh, no, sorry, I'm - yes.
8
9 Q. Well, he is talking about a man called "Lehman" who
10 helped him with the searches?
11 A. Yes. No, sorry, I thought that was an identifier of
12 the person, the neighbour, but it's not.
13
14 Q. No, it's not.
15 A. Yes I see that.
16
17 Q. You may or may not remember this, but you'll see there
18 that, on that account, if it's accurately recorded by
19 Chebl, Musy has said that it wasn't him that spoke to the
20 neighbour, Terry, but it was Ottaviani; do you see that?
21 A. Yes.
22
23 Q. But you recall, I take it, that later on, Chebl has
24 further communications with Musy and he eventually says,
25 "No, no, it was in fact me, it was I, Musy, who spoke to
26 Terry"; do you remember that?
27 A. Vaguely, yes. I'm not doubting what you say.
28
29 Q. Good. I will take you to it, but it seems, even on
30 that point, Mr Musy's memory was fallible. Do you agree?
31 A. I understand, yes.
32
33 Q. And in the next paragraph, Chebl puts this to him. He
34 says that in the statement, Musy had said that he was the
35 one who had spoken to Terry and Musy said, well, due to the
36 passage of time, he couldn't recall. Later on, as we'll
37 see he eventually came to the view that yes, indeed, it was
38 him.
39 A. Yes.
40
41 Q. So his memory chops and changes on that point?
42 A. There are some concerns, yes.
43
44 Q. Halfway down page 4 we get Chebl asking Musy about
45 Mattaini's history with attempting suicide. We don't know
46 the precise question or the precise answer, but the two
47 incidents that we know about are referred to again. The

- 1 first one involving slashing of the wrists?
2 A. Yes.
3
4 Q. Which is obviously in fact the first one, when he was
5 young?
6 A. Yes.
7
8 Q. And the second one, in the next paragraph, to do with
9 the event when he was in the French army.
10 A. Yes, and the pills, yes.
11
12 Q. Yes. And then the next paragraph says this:
13
14 *Musy stated throughout his relationship*
15 *with Mattaini he found him to be*
16 *comfortable with death and would speak*
17 *openly about dying on his own accord rather*
18 *than naturally.*
19
20 Do you see that?
21 A. Yes.
22
23 Q. Now, that phrase, "throughout his relationship with
24 Mattaini", is very significant, isn't it?
25 A. Yes, I would have thought so.
26
27 Q. And it appears in the summary, which we will come to
28 in a minute?
29 A. Yes.
30
31 Q. It's reproduced in the summary, and in the end, it's
32 reproduced by Leggat in the post operational assessment?
33 A. Yes.
34
35 Q. Namely, the assertion that Musy stated throughout his
36 relationship with Mattaini he found him comfortable with
37 death and would speak openly about dying of his own accord;
38 right?
39 A. Yes.
40
41 Q. Now you know actually that Musy gave sworn evidence
42 directly contrary to that, don't you? You know that from
43 morning?
44 A. I've seen that this morning.
45
46 Q. So either you or Chebl, if you had read the
47 transcript, would have known that if that indeed was what

1 Musy was saying, then it was the opposite of what he had
2 said on his oath; you would have known that if you had read
3 the transcript, wouldn't you?
4 A. I can agree with that, yes.
5
6 Q. But since it was reproduced in the summary and
7 reproduced again in the post operational assessment, would
8 that indicate that you hadn't read the transcript, or would
9 it indicate that you did know what was in the transcript
10 but you put it in your summary anyway?
11 A. Or I'd forgotten what was in the - we had forgotten
12 what was in the transcript.
13
14 Q. To put it in the summary, the phrase, "throughout his
15 relationship with Mattaini", in respect of his being
16 comfortable with death, and so on, given what's in the
17 transcript as you sit here today, is obviously wrong, isn't
18 it?
19 A. Yes.
20
21 Q. And of course, one doesn't know - you don't and no-one
22 else knows in this room - just exactly what words Musy used
23 in this telephone conversation?
24 A. No. Agree.
25
26 Q. So whether that's an accurate kind of paraphrase of
27 something Musy said is unknown to you?
28 A. Correct.
29
30 Q. A couple of lines down, Chebl records Musy as saying
31 that prior to the pair moving to Australia, Mattaini would
32 make comments about taking his own life.
33 A. Yes.
34
35 Q. He spoke of death as being a release for him, and so
36 on. Now, that is a bit closer to what Musy actually said
37 in the transcript, although even then it's not the same, do
38 you agree?
39 A. It's - it's closer, yes.
40
41 Q. It's closer, but what Mr Musy made clear in the
42 transcript was, it wasn't just prior to moving to
43 Australia, it was never since 1978 had he ever said
44 anything of the sort since, wasn't it? That's what he said
45 in the transcript?
46 A. That's what he said in the transcript, yes.
47

1 Q. Then at the top of page 5, Chebl says that he asked
2 Musy about information said to have been provided to Eyraud
3 stating that he wanted to die and nobody would find his
4 body, and Musy is said to have agreed that he had said
5 that, but there is no identification in that paragraph of
6 when Mattaini is supposed to have said that, is there?

7 A. No, it doesn't appear so.

8
9 Q. No. Then in the second paragraph on page 5 we get:

10
11 *Detective Chebl asked Musy if the*
12 *information about Mattaini's comments about*
13 *"dying" was provided to Police in 2002 ...*

14
15 Now, I'll come to the answer in a second, but if that was
16 the question, it was - if that was literally the question,
17 it was somewhat ambiguous, wasn't it?

18 A. Put like that, yes.

19
20 Q. Pretty obviously, Musy did tell Page at least
21 something about suicide, because there's reference to two
22 suicide attempts in the statement?

23 A. Yes, correct.

24
25 Q. And pretty obviously, he told the Coroner - whether or
26 not he had previously also told the police is another
27 matter, but he certainly told the Coroner - not just about
28 the two suicide attempts but about the previous outlook or
29 mind set involving preferring death to life and so on?

30 A. Yes.

31
32 Q. So without knowing what the question was, it's a bit
33 hard to know, but according to Chebl's note, Musy stated in
34 answer to whatever the question was:

35
36 *... "Of course I told ... Page of this, of*
37 *course, in 2002 I said this. I said Gilles*
38 *was comfortable with dying and he would do*
39 *it so his body is not found, but this did*
40 *not happen".*

41
42 Now, none of that's in - well, no, sorry, it is in quotes.
43 But what did you understand him to mean by "but this did
44 not happen"?

45 A. I can't follow it. I'm wondering whether it's
46 a problem with the - like, the English, broken English or
47 something.

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Q. Yes. Well, that's a very frank response, if I may say so. It is very hard to know, you I would suggest to you, just what it is that Musy is saying that he said?

A. Yeah, on the face of it, it doesn't appear to make sense.

Q. Thank you. And then Chebl records:

Musy went on to state despite Mattaini's history with suicide attempts after speaking with Page he was of the opinion Mattaini did not commit suicide was most likely murdered.

A. Yes.

Q. Now, given what you know about what you said in evidence and what you've put in your own summary about how Musy and Wyszynski were responding to publicity about Taradale and articles in the gay press and so on --

A. Mmm.

Q. -- before they ever went to Page, that sentence is one that obviously you would say today would have needed to be fleshed out and checked somewhat to see what exactly he was saying; would you agree?

A. I would have clarified it.

Q. In the paragraph three from the bottom:

Detective Chebl asked Musy what he based this on --

that is, that he thought that they'd never find the body --

Musy stated "because of everything that has happened in Bondi." Musy encouraged [Detective] Chebl to read the book which covers the murders around Marks Park.

Do you see that?

A. When you say - I throw a different interpretation on that.

Q. I haven't put an interpretation on it, yet. I'm just asking if you see what has been written there?

1 A. I see what's written there.

2

3 Q. Now, this is in 2016, and Musy is referring to a book
4 that he seems to have read about the murders around Marks
5 Park.

6 A. Yes.

7

8 Q. Likely to be, although one doesn't know for certain,
9 "Bondi Badlands", published in 2007 by Greg Callaghan. Do
10 you know that book?

11 A. I have seen the book, yes.

12

13 Q. At any rate, Musy seems to have, as part of his
14 recollection of what he knew and where he knew it from,
15 what he'd read in the book about the murders at Marks Park,
16 probably "Bondi Badlands"; you agree?

17 A. Well, possibly "Bondi Badlands", but certainly he
18 appears to be saying he got it from a book.

19

20 Q. Yes. Then in the next paragraph:

21

22 *Detective Chebl inquired again whether Page*
23 *or any other Police were made aware of the*
24 *comments made by Mattaini regarding*
25 *"dying" ...*

26

27 Now again, that is a somewhat ambiguous question as a note
28 of a telephone conversation. Again, one doesn't know what
29 the question actually was; do you agree?

30 A. Agree.

31

32 Q. And what's recorded then is:

33

34 *... Musy reiterated that he had told him in*
35 *2002, but was of the belief it wasn't*
36 *a major issue because from his meeting with*
37 *Page he was of the firm belief Gilles was*
38 *murdered and did not commit suicide.*

39

40 So I take it that sentence is one of the parts of this note
41 of conversation that you have been relying on when you say,
42 "Well, I'm basing what I think on this telephone
43 conversation"?

44 A. Yes.

45

46 Q. But the very next sentence, Musy is supposed to have
47 said:

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"Gilles was too scared, he would be too afraid to stand on the edge of a cliff and jump, I don't believe he did this".

A. Yes.

Q. Do you see that? Now, that's somewhat different, isn't it? That's not based on anything Page may or may not have said. That's Musy's own instinctive understanding of his lover?

A. Yes.

Q. So then we get embedded into the note this last email in the chain, which Chebl seems to have formatted so that the email is on the left, and comparably on the right are a couple of paragraphs from the 2002 statement; do you see that?

A. Yes.

Q. So Musy's email, which is 10 December - I won't take you to every part of it - on the page numbered page 8, which is the second page of the email --

A. Yes.

Q. -- he refers to the person who saw Mr Mattaini on the day, a beach acquaintance living a block away, and do you see he says:

I second my 2002 statement & I want to confirm that I would have spoken from (fresher) memory at the time --

A. Yes.

Q. --

(against from what I can remember now) ...

A. Yes.

Q.

Indeed it is me who spoke to him, I, at the time had handwritten "Terry" next to that article ...

et cetera. So he's now reverting back to what he'd said in

1 2002 as distinct from what he said in that earlier exchange
2 that we looked at namely --

3 A. Yes.

4

5 Q. Now, a couple of paragraphs below, he sends him the
6 page of the calendar, which points out what Mattaini had
7 noted in the calendar including that what was written on
8 the 24th was the word "Kikou" - K-I-K-O-U - which was
9 a nickname for Musy?

10 A. Yes.

11

12 Q. So he was evidently expecting Mr Musy to return and
13 looking forward to it, as we know from Mr Musy's own
14 evidence; agreed?

15 A. Yes.

16

17 Q. Then he says:

18

19 *Finally I can state that.*

20

21 And he gives firstly a description of the first suicide
22 attempt:

23

24 *... prior to meeting me tried to kill*
25 *himself once as a teenager.*

26

27 A. Yes:

28

29 Q.

30

31 *... he was a unhappy youth not at ease in*
32 *this harsh world not accepting the gays.*

33

34 *... his father had rejected him ...*

35

36 Then on page 9, he says:

37

38 *Years later we met.*

39 *Shortly after meeting and starting dating*
40 *Gilles, he was conscripted [into the army].*

41

42 He describes the conditions in the army as being, in a
43 sense, essentially unpleasant, and Musy says that this and
44 harassment from bullies led him again to try to end his
45 life.

46

47 Agreed?

1 A. Agree.

2

3 Q. Then:

4

5 *We happily re-united and went on our*
6 *7 years wonderful loving relationship.*

7

8 He says:

9

10 *Years later discussing these 2 attempts he*
11 *explained to me that life was sometimes --*

12

13 was sometimes --

14

15 *so unbearably difficult to confront, that*
16 *to him, death eventually seemed then*
17 *a relief.*

18

19 Do you see that?

20

A. Yes.

21

22 Q. Do you see the reference to "then"?

23

A. Yes.

24

25 Q. Meaning in the past?

26

A. Perhaps meaning in the past or perhaps again the
27 problem with some kind of broken English or
28 misunderstanding.

29

30 Q. Possibly. But I'll come to another document in a
31 minute which will, I think, enable you to agree that indeed
32 he was talking about the past. And then, according to
33 Mr Musy:

34

35 *So if such daunting times were to fall on*
36 *him he couldn't rule out that he could*
37 *resort to such solution to try to escape.*

38

39 A. Yes, I see that.

40

41 Q. Now, "daunting times" had not fallen on him again, had
42 they, according to all the evidence you had?

43

A. Not from what I have seen today, no.

44

45 Q. No. Mr Musy says:

46

47 *When I objected that he was selfish to*

1 *overlook --*

2

3 in effect the effect that him suiciding would have on his
4 family and himself. Musy said that:

5

6 *... family and friends ...*

7 *would easily carry on with our lives as we*

8 *would not find his body!*

9

10 He said "not to annoy us with his corpse would be the least
11 he could do", and so on. So there's an account there of
12 the committing suicide in a way that you wouldn't find the
13 body. That's certainly referred to.

14 A. Yes.

15

16 Q. But you would agree that it's at least somewhat
17 unclear there as to when that state of mind is being said
18 to have been?

19 A. I don't follow your thinking on that.

20

21 Q. Well, there's no timing in that paragraph as to when
22 he had this --

23 A. No. No, there's no date or approximate date or --

24

25 Q. Or approximate date. There's no indication of when
26 Musy is saying that Mattaini thought like that?

27 A. Yes, and that's an important point.

28

29 Q. Agreed. And I will come in a minute to a document
30 that sheds some light on it. Musy says:

31

32 *However I can honestly state that meeting*

33 *me --*

34

35 and we know that was in 1978 --

36

37 *had changed his life around.*

38 *Me, Australia and our wonderful work*

39 *mates ... turned him into a happy lad.*

40

41 A. Yes.

42

43 Q. Then on the next page he refers to the visa business:

44

45 *The only dark point in that happy life was*

46 *the expiry of his Visitors Visa looming ...*

47

1 That's all he says about that. Then he says:

2

3 *As I was away for a few weeks prior to his*
4 *disappearance, we had many phone calls ...*

5

6 He talks about the shopping:

7

8 *... he couldn't wait for my return; he was*
9 *over-excited at the planned arrival [of*
10 *Wyszynski].*

11

12 Do you agree?

13 A. Yes.

14

15 Q.

16 *So, besides the Visa cloud, there were*
17 *absolutely no reasons for him to want to*
18 *end it all.*

19

20 A. Yes.

21

22 Q. He says that after his disappearance he had Valium and
23 so on, and he assumed that his friends had done everything
24 that could be done. And then he says:

25

26 *... had he committed suicide!*

27

28 and he goes on:

29

30 *As of course it never crossed my mind*
31 *then --*

32

33 that is 1985 --

34

35 *that anything else could in fact have*
36 *happened.*

37

38 A. Yes.

39

40 Q. In other words, you would infer, the only thing he
41 could have even imagined in 1985 in the absence of anything
42 else was suicide, because at that time he had no notion in
43 his head that something like murder might have even been
44 possible?

45 A. Yes, I - that's the reading I get from it, yes.

46

47 Q. Okay. Now, that email and the note that I went

1 through by Chebl of the phone call --
2 A. Yes.
3
4 Q. -- are the two main things that you and Chebl had from
5 Musy. I know there are a couple more which I'll come to,
6 but they're the two main things that you had when looking
7 at this question of what Musy's views about police were -
8 about suicide were?
9 A. Yes. Yes.
10
11 Q. Now, back to the summary.
12
13 MR GRAY: I've just been reminded, Commissioner, it's
14 about 10 to 1.
15
16 THE COMMISSIONER: Yes, another couple of minutes. Will
17 you finish this topic in a few minutes, or not?
18
19 MR GRAY: I can finish a part of the topic in a minute or
20 two.
21
22 THE COMMISSIONER: I'm in your hands.
23
24 MR GRAY: Q. Just back at 41?
25 A. Sorry, you've lost me there, sir.
26
27 Q. Tab 172 [SC01.47881_0001]?
28 A. Oh. Yes.
29
30 Q. Paragraph 41. That's where you and Chebl have
31 referred to the communication from Eyraud, and you've
32 picked up her language, or his language - I'm not sure
33 whether Magali is male or female.
34 A. Yes.
35
36 Q. Saying:
37
38 *... Mattaini made suicide attempts before*
39 *he went missing ...*
40
41 That's where that has come from, apparently?
42 A. Yes.
43
44 Q. Or at least it's come from Chebl's account of what the
45 email said?
46 A. Yes.
47

1 MR GRAY: I'll pause there. That's convenient,
2 Commissioner.

3
4 THE COMMISSIONER: All right. Yes, I will adjourn until
5 2. Thank you.

6
7 **LUNCHEON ADJOURNMENT**

8
9 THE COMMISSIONER: Thank you, Mr Morgan, please sit down.

10
11 Yes, Mr Gray.

12
13 MR GRAY: Q. Mr Morgan, I'd been taking you through -
14 I took you through the investigation note --

15 A. Yes.

16
17 Q. -- which was mainly Mr Chebl's note of his
18 conversation with Mr Musy?

19 A. Yes.

20
21 Q. Although it covered some other topics as well, but it
22 was mainly about that. Then I want to just now come back
23 to the actual summary itself so we can see where those
24 parts of the investigation note find a place in the
25 summary. So if you turn to the summary at tab 172
26 [SCOI.74881_0001] --

27 A. Yes.

28
29 Q. -- and if we go to paragraph 43 first of all, I had
30 taken you up to 41, and then at paragraph 42, I should say,
31 you refer to this phone call between Chebl and Musy. Do
32 you see paragraph 42?

33 A. I do.

34
35 Q. That's the one that's the subject of the
36 investigator's note?

37 A. Correct.

38
39 Q. In 43, you mention something thought to be of
40 significance from this telephone conversation, and you
41 mention about Musy's remarks about Mattaini going on walks?

42 A. Yes.

43
44 Q. And you say in the last paragraph - when I say "you",
45 you and Chebl say:

46
47 *Musy highlighted the fact that Mattaini*

1 *would not go out at night.*

2

3 A. Correct.

4

5 Q. --

6

7 *or ever attend a gay beat.*

8

9 Just focusing on "not go out at night", you'll recall
10 I took you to this yesterday, that in his statement, Musy
11 actually said that Mattaini did go out in the early
12 evening; you recall that?

13 A. Yes, the distinction I make is after dark. "Early
14 evening" isn't definitely after dark, whereas to me,
15 "night" is after dark.

16

17 Q. Okay. Well, I won't linger on that one. At 45
18 there's a reference to the two suicide attempts. Then when
19 we get to 46 and 47 in particular, if you would just read
20 those to yourself now, what I want to suggest to you is
21 that it's pretty clear that 46 and 47 basically come from
22 the investigator's note, in some cases, the same language,
23 in fact.

24 A. Yes, they come from the same investigator's note.
25 I accept that.

26

27 Q. And there are numerous footnotes down the bottom of
28 the page which all say "IN-148", which is the
29 investigator's note; correct?

30 A. Correct.

31

32 Q. And the footnotes refer to the follow-up information,
33 which in part is from the telephone call and in part is
34 from an email; correct?

35 A. Yes, and there's also reference to Mr Musy's
36 statement.

37

38 Q. Yes. Now, in paragraph 46, in the middle of that
39 paragraph, you will see that you and Chebl have picked up
40 the phrase that Musy stated "throughout his relationship
41 with Mattaini", he found him to be comfortable with death,
42 et cetera; do you see that?

43 A. Yes.

44

45 Q. And as we went through this morning, you accept now,
46 having seen the transcript, that that is not right?

47 A. Well, it appears it was earlier in the relationship.

1
2 Q. Well, not "it appears"; he made it crystal clear in
3 the transcript that it was only earlier in the
4 relationship? I took you to that in detail this morning.
5 A. Yes.
6
7 Q. I'll do it again if you need it, but --
8 A. No, no, we don't need to go through it again.
9
10 Q. I don't think so. And in 47 you are again, I think
11 you have accepted this, basically picking up what's in the
12 investigator's note, and the same is true of 48, you would
13 agree?
14 A. Yes.
15
16 Q. And 49. It comes from somewhere or other in the
17 investigator's note - either in the note of the phone call
18 or from the email?
19 A. Yes.
20
21 Q. Now, we have established this morning that you weren't
22 present when this conversation on the phone happened, and
23 that you'd seen no transcript of it and heard no recording
24 of it, so we're all just dependent on what Mr Chebl wrote
25 down, one or as many as five days later?
26 A. Well, I wouldn't agree with that.
27
28 Q. Why not?
29 A. Well, I'm unaware - I would imagine that Mr Chebl made
30 notes as he was doing the phone call. That's certainly how
31 I would do it, and then transcribed them into the
32 investigator's note subsequently.
33
34 Q. Well, whether he did that or not, all that any of us
35 have now is his typed note; correct?
36 A. Well, that's all I have in front of me at the moment,
37 yes.
38
39 Q. You can assume that it's all that anyone else in this
40 room has, too.
41 A. Yes.
42
43 Q. So that without a transcript of the telephone
44 conversation or an audio recording of it, all any of us in
45 this room can do is rely on or use his note, the typed --
46 A. The investigator's note.
47

1 Q. The typed note?
2 A. Correct.
3
4 Q. Which he produced some time either on the 13th, which
5 is the date stated on it, or at a date - he started it no
6 earlier than the 9th, according to the cover page.
7 A. Well, obviously he can't have started it before the
8 phone call, so yes.
9
10 Q. He can't. But the phone call was on the 8th, just so
11 you're oriented, but the cover sheet of the note says the
12 document wasn't even started until the 9th?
13 A. Okay.
14
15 Q. And it starts with - and the expression is - "A brief
16 case overview"?
17 A. Sorry, what was that?
18
19 Q. "A brief case overview" -- -
20 A. Yes.
21
22 Q. -- which is basically the first page. We went
23 through that this morning?
24 A. Yes.
25
26 Q. So one possibility - none of us can be sure - one
27 possibility is that he might have written that on the first
28 day, the 9th, the brief case overview, and written the rest
29 of it at some time between the 9th and the 13th?
30 A. Perhaps.
31
32 Q. At the end of yesterday, in the witness box, you
33 listed three factors that you relied on as the basis for
34 standing by the allegation in the summary that Detective
35 Sergeant Page deliberately withheld information from
36 Coroner Milledge; do you remember that?
37 A. Yes.
38
39 Q. The three factors were, and I'm looking at transcript
40 page 2056, lines 12 to 21, first, information from Musy
41 about Mattaini feeling more comfortable with death than
42 being alive?
43 A. Yes.
44
45 Q. Second, a conversation about if he did kill himself,
46 he wanted to make sure his remains weren't found?
47 A. Yeah, because it would upset his mother, yes.

1
2 Q. And thirdly, you said, most importantly, the fact that
3 he claims that Mr Page convinced him that it was a homicide
4 rather than a suicide or anything else?
5 A. Yes.
6
7 Q. They were the three things you relied upon as how you
8 could continue to maintain this allegation that Detective
9 Page deliberately withheld evidence from the Coroner. Is
10 that right?
11 A. Yeah, that's what I said, but conversely, the claim
12 that he had persuaded Mr Musy that it was a homicide rather
13 than a suicide.
14
15 Q. Yes, that's the third one - that's the third --
16 A. Yes.
17
18 Q. -- point that you raised.
19 A. Yes, okay.
20
21 Q. Now, I want to take you through them. As to the first
22 one, that the Coroner did not have before her material
23 about Mattaini feeling more comfortable with death than
24 being alive, as I've been through with you this morning --
25 A. Yes.
26
27 Q. -- that was expressly stated by Mr Musy in the witness
28 box, wasn't it?
29 A. Yes.
30
31 Q. And, further, Mr Musy made it crystal clear in the
32 witness box that Mr Mattaini had had that outlook, about
33 preferring death to life, in the past, when he was young,
34 prior to meeting Mr Musy; correct?
35 A. That's my recollection of it, yes.
36
37 Q. And that Mr Mattaini had never had any such outlook
38 subsequently after meeting Mr Musy. He said that in the
39 witness box too?
40 A. Correct.
41
42 Q. Indeed, he said in the witness box that Mr Mattaini's
43 thoughts after meeting Mr Musy were actually to reflect on
44 how stupid he had once been in his young days when he had
45 had such an outlook?
46 A. I recall those words.
47

- 1 Q. Right. So you would accept, I take it, then, that
2 that first basis for standing by your accusation to do with
3 Mr Page deliberately withholding evidence cannot be
4 maintained?
- 5 A. It appears not to be able to be maintained.
6
- 7 Q. So do you withdraw it?
- 8 A. Well, it's not for me to withdraw.
9
- 10 Q. Well, it is. I'm asking you whether you withdraw it?
- 11 A. I didn't make the accusation.
12
- 13 Q. You did yesterday in the witness box.
- 14 A. No.
15
- 16 Q. No, come on, Mr Morgan, this is not a joke. You may
17 smile. It's not a joke.
- 18 A. It's certainly not a joke but --
19
- 20 Q. Excuse me, I'll ask the question now. You said
21 yesterday that you still stood by the accusation that he
22 had withheld evidence from the Coroner deliberately, and
23 one reason that you gave for it was this reason. You now
24 accept that that reason was not maintainable. Do you
25 withdraw it?
- 26 A. Okay. I withdraw it.
27
- 28 Q. Thank you. As to your second reason, or your second
29 basis, namely, the conversation about if he killed himself,
30 he would make sure his remains weren't found so as not to
31 upset the mother --
- 32 A. Yes.
33
- 34 Q. -- as to that topic, Chebl's note, the investigator's
35 note, contains assertions to the effect - and we went
36 through them this morning - that according to Mr Musy,
37 speaking to Chebl, Mr Musy had said something to that
38 effect to Page about that detail back in 2002. That's what
39 the investigator's note appears to say?
- 40 A. Yes.
41
- 42 Q. As discussed already, you don't know if Mr Chebl's
43 note is entirely accurate or not?
- 44 A. No, I don't.
45
- 46 Q. Neither of you asked Mr Page if Mr Musy had actually
47 said any such thing to him?

1 A. No, and I actually gave some thought to that, last
2 evening, and - because I know I said to you I thought we
3 had a meeting as to whether Mr Page would be approached,
4 and I'm - I seem to have an impression that due to the
5 circumstances in which Mr Page left the police, that may
6 have been why he wasn't approached.

7
8 Q. And what difference would that make?

9 A. Well, I - my understanding, and I may well be wrong,
10 your Honour, but my understanding is that he went off sick,
11 and generally speaking, when police go off sick, we don't
12 normally contact them, because it - if they've got
13 a condition, particularly a mental health condition, it can
14 make things worse. I don't know for a fact but that seems
15 to be a recollection, that that may have been why we did
16 not contact Mr Page. Because normally I would have.

17
18 Q. So now, at the heel of the hunt, after two days in the
19 witness box, never having said this before, you try to
20 raise the suggestion of some mental health issue about
21 Mr Page and then try to base not giving him the chance to
22 respond on that; is that your position?

23 A. It's - it would explain why we didn't contact.
24 Normally I do contact previous OICs of a matter. It is
25 part of what I normally do. But if people have gone off
26 sick, particularly with, you know, some kind of PTSD or any
27 of those kind of afflictions, the general advice is that we
28 don't contact them.

29
30 Q. And to your knowledge, did that apply to Mr Page?

31 A. I can't be certain but it would certainly explain the
32 circumstances.

33
34 Q. When you say you can't be certain, do you have any
35 idea at all?

36 A. No.

37
38 Q. So for you to say this in the witness box now as
39 though it's the reason is pure speculation on your part?

40 A. No, I didn't say it as the reason. I said it may
41 explain why we didn't go down that track, because it
42 would - it's unusual that you wouldn't go down that track
43 of speaking to a previous OIC.

44
45 Q. Oh. Does that mean that if it hadn't been for what
46 you are speculating about, his having speculatively gone
47 off sick for any reason, you would have asked him?

1 A. Sorry, what was that?
2
3 Q. You would have asked him, unless there was the
4 obstacle of his having gone off sick?
5 A. Well, that would certainly explain it in my mind.
6 I was giving quite a lot of thought to it last night.
7
8 Q. At any rate, at the moment - I may come back to that -
9 whatever the reason was, neither of you asked Mr Page for
10 his response as to whether or not Mr Musy had ever said
11 such a thing to him?
12 A. No.
13
14 Q. And in any event, as you know, Mr Musy did give
15 evidence in the witness box, didn't he?
16 A. He did.
17
18 Q. And he was asked numerous questions, and I went
19 through them all with you this morning?
20 A. Yes.
21
22 Q. Relating to suicide in one way or another?
23 A. Yes.
24
25 Q. He was asked numerous questions about Mr Mattaini's
26 thoughts and ideas about suicide at various times?
27 A. Yes.
28
29 Q. If Mr Musy had wanted to refer to the particular
30 concept of Mr Mattaini's body not being found, he was
31 perfectly free to do so, wasn't he - in the box?
32
33 MR TEDESCHI: I object.
34
35 THE COMMISSIONER: Why?
36
37 MR TEDESCHI: It's speculative.
38
39 THE COMMISSIONER: Well, there's a lot of speculation in
40 this matter. I will allow it.
41
42 MR GRAY: Q. Mr Musy could have referred to that point
43 if he'd wanted to in the box, couldn't he?
44 A. He could have.
45
46 Q. I will take you to the answer in a minute, as to what
47 the question was and what the answer was, but anyway, you

1 agree that he could have?
2 A. Yes.
3
4 Q. And in fact, he did not?
5 A. Apparently not.
6
7 Q. Well, you read the transcript this morning. You know
8 he did not?
9 A. Yeah, it's not in the transcript, I agree.
10
11 Q. So he didn't say it in the witness box, did he?
12 A. No.
13
14 Q. But what he did say in the witness box is what he said
15 in particular in the long answer at page 49 that I took you
16 to this morning. I'll take you to it again. You remember
17 the long one?
18 A. Yes.
19
20 Q. That's what he apparently regarded as important when
21 answering the question he was asked about Mr Mattaini's
22 mental outlook - you agree?
23 A. That's what he said.
24
25 Q. Right. Could Mr Morgan have that transcript again,
26 please. It's in volume 14, tab 280 [SCOI.82371_0001]?
27 A. Yes, I have that document.
28
29 Q. Page 48, the question at the bottom of the page,
30 line 58, introducing the fact that the relationship went
31 from 1978 to 1985 - do you see that?
32 A. Yes.
33
34 Q. Then the question to which the long answer was given
35 is this:
36
37 Q. *In that period --*
38
39 *the whole seven-year period --*
40
41 *did he give any indication --*
42
43 *any indication:*
44
45 *... that he was thinking about suicide,*
46 *contemplating it in any respect or was so*
47 *stressed or sad or depressed that that*

1 *might be something he could do?*

2

3 That's the question.

4 A. Yes.

5

6 Q. And I won't go through the whole answer again, but --

7 A. But he says "No".

8

9 Q. -- after saying "No", he then goes on for 16 or 17
10 lines developing why he says "No", referring to the fact
11 that at some long-ago point he had been more attracted to
12 death than life, and so on - he gives all of that evidence,
13 doesn't he?

14 A. He does.

15

16 Q. And if he had wanted to say something about the body
17 not being found, if Mr Musy thought that was relevant to
18 a question about did he give any indication at all, he
19 could have, couldn't he?

20 A. Yes.

21

22 Q. But he didn't.

23 A. No.

24

25 Q. But he did say all the things that are set out there
26 in that answer at page 49, line 4 to line 21, and he said
27 all of the things at page 51, line 28 to 39, that I took
28 you to this morning?

29 A. Yes.

30

31 Q. And he said all of the things on page 56 and the top
32 of page 57 that I took you to this morning?

33 A. Yes.

34

35 Q. Now, what Mr Musy chose to say in the witness box and
36 what he chose not to say had nothing to do with Sergeant
37 Page, did it?

38 A. No.

39

40 Q. As to the third reason that you gave, or the third
41 basis, which was - you said most importantly, the fact that
42 Musy claims that Page convinced him it was a homicide
43 rather than suicide or anything else --

44 A. Yes.

45

46 Q. -- that's your third basis for standing by the
47 allegation that Page deliberately withheld information from

1 the Coroner?
2 A. Yes.
3
4 Q. You base this, as I think you have said several times,
5 on what Musy seems to have said, or might have said, in his
6 communication with Chebl, his telephone conversation?
7 A. Yes.
8
9 Q. And Chebl in his note of that conversation probably,
10 although it's slightly ambiguous, but probably, records
11 Musy as saying that Page had persuaded him it was homicide
12 and not suicide?
13 A. Yes.
14
15 Q. Again, you never asked Page if, in fact, that was
16 correct?
17 A. Well, as I explained --
18
19 Q. The answer is no, though, isn't it?
20 A. No.
21
22 Q. You've given the reason, but --
23 A. Yes.
24
25 Q. -- the fact is you never did?
26 A. No.
27
28 Q. But, as well as that, first of all, I put this to you,
29 Mr Morgan: from all the matters that I took you to this
30 morning in the transcript and in your own summary, it's
31 obviously very likely that, in fact, Mr Morgan - sorry,
32 Mr Musy and/or Mr Wyszynski had already formed the view
33 that it might be homicide before they ever went to Page?
34 I went through that with you this morning?
35 A. Yes.
36
37 Q. And you accepted that that was so?
38 A. They may have.
39
40 Q. They may have. And indeed, your own summary would
41 indicate that they probably did, because that's what you
42 say in the summary at paragraph 4, isn't it?
43 A. Okay.
44
45 Q. And, secondly, even if it had been Mr Page who had put
46 the idea of homicide into Mr Musy's head, that would have
47 made no difference to whether or not evidence relating to

1 suicide was before the Coroner, would it?

2 A. No, it wouldn't have affected the evidence about
3 suicide.

4

5 Q. No. So would you agree that, on reflection today, the
6 first basis that you put forward as justifying your
7 standing by the allegation against Page is not
8 maintainable? You have accepted that?

9 A. I accept that.

10

11 Q. The third basis is not maintainable as a basis for
12 alleging that Page withheld evidence?

13 A. The third basis being the business about him
14 suggesting that it was homicide?

15

16 Q. Yes.

17 A. I'm not going to say that I don't agree with that.

18

19 Q. What conceivable relevance to whether Page withheld
20 evidence does it make - or, rather, is there, regardless of
21 whether it was Page who put that idea in Musy's head or the
22 publicity that did so? How does that make a difference to
23 whether evidence was before the Coroner?

24 A. Well, at the end of the day, it may not have, but how
25 are we to know? It's hypothetical.

26

27 Q. I don't know that it is hypothetical. What difference
28 could it possibly make? If Musy had arrived at the view
29 subsequently, whether by reading publicity in the paper and
30 on television or because he got it from something Page
31 said - how does that make any difference to what evidence
32 was before the Coroner about suicide?

33 A. I - I can't be certain.

34

35 THE COMMISSIONER: Q. When you say you can't be certain,
36 though, Mr Morgan, it's plain, isn't it from the transcript
37 you've been taken to that Mr Musy was at pains to answer
38 all questions in relation to suicide and did so seemingly
39 comprehensively?

40 A. Yes, I see that in the transcript.

41

42 Q. And so what difference does it make if Page even had
43 had this conversation and part of the idea of homicide had
44 come in via Page as opposed to "Bondi Badlands" or some
45 other book that Mr Musy had read? Mr Musy appears
46 uninfluenced because when asked the question, he was
47 forthcoming, both in relation to the two suicide attempts,

1 the circumstances in which they had occurred, when the
2 suicidal ideation had manifested itself and so on. So how
3 could you possibly suggest Mr Page's conduct somehow or
4 other prevented the Coroner from considering suicide?
5 A. Put like that, I understand where you're - what you're
6 saying.
7
8 Q. It's an untenable proposition, isn't it, really?
9 A. Yes.
10
11 MR GRAY: Q. Right. So you would accept that the first
12 and the third of your bases that you gave yesterday are
13 untenable and simply fall away; correct?
14 A. On the face of it, yes.
15
16 Q. So that leaves the second, which is the concept of,
17 "If suicide, do it in a way that the body's not found".
18 That's the second basis that you put forward?
19 A. To save the mother's anguish, yes.
20
21 Q. As to that one, you didn't check with Page, number
22 one?
23 A. No.
24
25 Q. Number two, it's not entirely clear, even you agree,
26 exactly what may have been said as between Chebl and Musy?
27 A. Well, it's recorded by Chebl. That's all I can go
28 off. I wasn't part of the conversation.
29
30 Q. Yes. And given that the record is only a note made at
31 least a day, and perhaps quite a few days, after the
32 conversation, and given that the point was never put to
33 Page, so you don't know his response, that second basis
34 that you nominated last night cannot possibly be a proper
35 basis for maintaining the very serious allegation of
36 withholding evidence that you've made in the summary, can
37 it?
38 A. I can see there are problems with it.
39
40 Q. Do you accept what I'm putting to you? It cannot
41 possibly sustain, by itself, and it's now the only one left
42 standing, the serious allegation that you made of
43 deliberately withholding evidence so as to prevent the
44 Coroner considering suicide as a possibility?
45 A. I accept that it didn't result in the Coroner not
46 hearing about the possible suicide.
47

1 Q. And it's not a basis for alleging that Page
2 deliberately withheld evidence from her? It's not a proper
3 basis, given the problems with it?
4 A. I'm struggling with the concept somewhat.
5
6 Q. What are you struggling with?
7 A. The fact that if Detective Sergeant Page had
8 influenced Mr --
9
10 Q. No, no, we're not talking about that. We're talking
11 about the second one, which is the body not being found
12 one. That's what we're dealing with now. The first and
13 third I've covered with you. The second one is the body
14 not being found topic, and I'm putting to you - and
15 I thought you had agreed - that there is at least a level
16 of uncertainty as to exactly what Chebl and Musy said,
17 because we don't have a proper record, we've only got
18 a note made some time later, that's the first thing; and,
19 secondly, you never asked Page for his response, so you
20 don't know whether the accusation is right or not.
21 A. Well, I'm trusting of what Detective Chebl said in -
22 recorded in the conversation with Mr Musy.
23
24 Q. Let's assume that's so. That, however, leaves unclear
25 whether Mr Musy was accurately remembering it when he said
26 whatever he did say to Chebl, doesn't it?
27 A. That's true.
28
29 Q. And you never asked Page --
30 A. No.
31
32 Q. -- whether it was correct that that thing had been
33 said to him?
34 A. No.
35
36 Q. So since you don't actually know whether Musy's
37 recollection on this point is right, as recorded by Chebl,
38 that point, body not being found point, cannot sustain by
39 itself as a proper basis the allegation against Page of
40 withholding evidence from the Coroner, can it?
41 A. In relation to the suicide you're saying?
42
43 Q. Yes, in relation to suicide.
44 A. I accept what you're saying.
45
46 Q. That being so, all three of your bases nominated
47 yesterday for standing by that very serious allegation

1 against Mr Page you now have resiled from. I'm not
2 criticising that, but that's what you have done this
3 afternoon; correct?

4 A. Yes.

5

6 Q. Now, nevertheless, you put that sensational allegation
7 against Page - you and Chebl - into writing, giving him no
8 chance to respond, and you left those damaging allegations
9 sitting on a police file ever after, didn't you?

10 A. Well, I didn't as - as we've discussed, but yes, it's
11 on the file.

12

13 Q. And you knew that in the case of the summaries,
14 including this Mattaini summary, it was going to be
15 available on e@gle.i to whoever it was who had access?

16 A. Well, only to those that had access, yes.

17

18 Q. And you knew that when the shorter version found its
19 way into the post operational assessment, that document,
20 the post operational assessment, would go all the way to
21 the top, by which I mean to the Commander Homicide, to the
22 Director of Crime Operations and to the Commander of State
23 Crime Command, didn't you?

24 A. Yes.

25

26 Q. And you knew that every time somebody read it,
27 including those three high-ranking officers and including
28 anyone who looked at it on e@gle.i, Page's reputation would
29 suffer; correct?

30 A. Well, I didn't - as I say, I didn't author it and;
31 secondly, it certainly wasn't done with that intention.

32

33 Q. I'll ask the question again. In fact, I'll go back
34 a step. You've now said many times that you didn't author
35 it, but you've also conceded many times that you reviewed
36 it and endorsed it?

37 A. Yes.

38

39 Q. So do you accept that you joined in the dissemination
40 of that document?

41 A. By way of accepting it, yes.

42

43 Q. And by way of sending it, in the case of the summaries
44 to e@gle.i, and in the case of the post operational
45 assessment, to the three high ranking officers that I've
46 mentioned?

47 A. Yes.

- 1
2 Q. And do you agree that that was very unfair to Page?
3 A. I can see that it appears to have been unfair to him,
4 yes.
5
6 Q. And you would agree that whether it was your intention
7 or not, inevitably, given the seriousness of the
8 allegation, every time someone read it, his reputation
9 would suffer?
10 A. Possibly.
11
12 Q. Possibly? An accusation of deliberately withholding
13 evidence from a Coroner?
14 A. I --
15
16 Q. It's very damaging, isn't it, Mr Morgan, surely?
17 A. I can see how it could be.
18
19 Q. Well, as I put to you yesterday, I think, it's
20 effectively an accusation of perverting the course of
21 justice?
22 A. That was your terminology for it.
23
24 Q. Yes, it was.
25 A. I don't see it that high.
26
27 Q. Because the accusation was that he deliberately
28 withheld evidence and that, as a consequence, the Coroner
29 was not alerted to something that she needed to be alerted
30 to, and that her findings were infected by that lack of
31 evidence. That was the accusation, wasn't it?
32 A. Yes.
33
34 Q. Well, that amounts to an accusation - and they are my
35 words - of perverting the course of justice, doesn't it?
36 A. Well, I don't accept that, but --
37
38 Q. At any rate, whether you accept that terminology or
39 not, it's an accusation of not putting evidence before
40 Coroner Milledge that she should have had?
41 A. Yes.
42
43 Q. And you never told Coroner Milledge that this was your
44 finding?
45 A. No.
46
47 Q. And surely you needed to: didn't she need to know

1 that, on your account, she'd been the victim of the
2 deliberate withholding of evidence by police?
3 A. Well, it was many years subsequent.
4
5 Q. And so? Isn't that a serious enough allegation that
6 the Coroner surely deserved to be told, in case she wanted
7 to re-open the matter or do something about it?
8 A. Yeah, I - I have no answer to that.
9
10 Q. I'll come back to this point in a second, but just to
11 complete the picture of what you actually had, you and
12 Chebl, when you wrote this summary --
13 A. You keep saying "when you wrote" it. I did not write
14 it. I accept that I reviewed it and accepted it, but I did
15 not write it.
16
17 THE COMMISSIONER: Q. We have to accept, don't we,
18 Mr Morgan - or should I accept - that before you accepted
19 it, you would have carefully read it?
20 A. I read it. I don't know how carefully I would have
21 read it.
22
23 Q. I see. So is it possible you just skim-read it?
24 A. I would have thought more than that but there is a lot
25 of material that one reads.
26
27 Q. Mr Morgan, the gravity of these allegations were
28 obvious to you, weren't they, even if you just cursorily
29 looked at the last few paragraphs?
30 A. Putting my mind to it, now, as I sit here, yes.
31
32 THE COMMISSIONER: All right. Okay.
33
34 MR GRAY: Q. So what was available to Chebl and to you
35 at the time he wrote and you endorsed the summary was,
36 among other things, the Musy statement itself of August
37 2002?
38 A. It would have been, yes.
39
40 Q. The Musy oral evidence transcript from April 2003?
41 A. I'm assuming it would have been, yes.
42
43 Q. No, no, you're not assuming. You've told us on your
44 oath that you had it --
45 A. Okay.
46
47 Q. -- aren't you? You've said that on your oath. You're

1 not going to go back on that now, are you?
2 A. No, no, I'm not trying to go back on it.
3
4 Q. No. So you had the statement and you had the
5 transcript of Musy's oral evidence?
6 A. Yes.
7
8 Q. And you had Musy's email of 10 December 2016, which
9 I went through with you before lunch?
10 A. Yes.
11
12 Q. Which is embedded within the investigator's note?
13 A. Yes.
14
15 Q. And then on top of that - well, before I go, that
16 email that we went through before lunch was obviously, in
17 some respects at least, inconsistent with things that Musy
18 had said in his oral evidence in the witness box, wasn't
19 it?
20 A. There were inconsistencies, yes.
21
22 Q. Now, as well as those matters, you also had, finally -
23 I think finally - very late in the piece, in late 2017 just
24 before this summary was written and reviewed, another
25 document containing another version of Mr Musy's story. Do
26 you remember that?
27 A. Please remind me.
28
29 Q. Yes. Turn to tab 170 [SC0I.10397.00006_0001].
30 A. It's not in this folder.
31
32 Q. I'm sorry, volume 6 you need. This is the document,
33 according to the summary, that arrived from France on
34 about, I think, 19 December 2017, in French.
35 A. Yes.
36
37 Q. Somebody - tell us who it was if you know - arranged
38 for it to be translated from French to English by using
39 Google Translate?
40 A. Yes.
41
42 Q. Who did that? Who arranged for that method to be
43 used?
44 A. I think it may have been Chev1 but I can't be certain.
45
46 Q. I'm assuming, but I may be assuming wrongly, that
47 neither you nor Chev1 spoke French?

1 A. No.
2
3 Q. I'm correct in that?
4 A. I certainly didn't and I don't believe that he did.
5
6 Q. So the statement comes in from France and it's
7 translated by a Google program. I want to take you through
8 it. Do you see it has a heading down the bottom of the
9 first page, "Free audition"?
10 A. Yes.
11
12 Q. Now, whether this is something that somebody wrote,
13 Mr Musy or someone else, or whether it's a transcribed
14 account of something that he said on tape is not apparent,
15 but in any event, it has Musy saying, among other things,
16 that, at the bottom of the page, in 1976 or 1977, he met
17 Mattaini?
18 A. Yes.
19
20 Q. And then moving over to the next page, about halfway
21 down, do you see the one sentence just below halfway:
22
23 *I joined my friends --*
24
25 this is after he comes back from France in 1985 --
26
27 *... Gilles had disappeared with the keys of*
28 *the apartment.*
29
30 A. Yes.
31
32 Q. So you're told that again, and yet it's still left out
33 in your summary at every point. Agreed?
34 A. Agreed.
35
36 Q. Then he gives an account of the suicides. He says he
37 remembers that Gilles had a difficult time in the military
38 service and made a suicide attempt.
39 A. Yes.
40
41 Q. And this seems to be a little bit jumbled, you might
42 agree?
43 A. Yes.
44
45 Q. But he says at that time Gilles was 15 or 16 years
46 old, which seems to be - it would look like he's reversing
47 the two?

1 A. Yes.
2
3 Q. He would have been probably 15 or 16 at the time of
4 the first one?
5 A. Yes.
6
7 Q. And more like 20 or 19 at the time of the second one?
8 A. Yes, I would have thought.
9
10 Q. And then he says in the middle of that paragraph, or
11 just below the middle:
12
13 *One day while chatting he had told me in*
14 *these terms (if one day it goes bad,*
15 *I commit suicide because it will be an*
16 *issue for me and that we will not find my*
17 *body to bother the survivors).*
18
19 Do you see that?
20 A. Yes.
21
22 Q. Now, the translation seems to be a little bit clunky?
23 A. Agreed.
24
25 Q. But nevertheless the topic is raised. And so he says,
26 "One day while chatting". So the question arises
27 immediately, when was this one day?
28 A. Yes.
29
30 Q. Now, we get the answer to that, I suggest, at the top
31 of the next page, where the document suddenly turns from
32 being a kind of uninterrupted narrative to a question and
33 answer type format. Do you see that?
34 A. Yes.
35
36 Q. And the question is:
37
38 *Did Gilles Mattaini comment on wanting to*
39 *die and no-one found his body?*
40
41 Answer:
42
43 *It was in France before going to Australia.*
44 *It was before 1983 ...*
45
46 Do you see that?
47 A. Yes.

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Q. So when on the previous page in that paragraph I took you to about two-thirds of the way down he said, "One day while chatting he had told me in these terms", about not finding the body, it's clear from the answer at the top of the next page that that conversation happened before they ever came to Australia, isn't it?

A. I accept that.

Q. And the next question is:

If this had happened several times --

And pausing there, he didn't say it had happened several times, but anyway, the question is:

If this had happened several times, can you remember when and where you were when [plural] these conversations took place ...

And he gives an answer which refers only to one conversation, do you see that?

We were in the apartment we occupied in Paris --

A. Yes.

Q. --

I wanted to know why Gilles had a suicide attempt while he was at his mother's house several years before. He told me --

what happened at his mother's house.

Then, a second time, as we were travelling, he had made another suicide attempt while he was a military contingent absorbing medicine.

Again another maybe not entirely accurate translation?

A. Yes, I understand.

Q.

I specify that the first suicide attempt dates from before our meeting.

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A. Yes.

Q.

The second, in the army --

again the translation seems to have gone a bit haywire here --

was no longer an attempt to alert him to being exempted.

It's hard to know what was really said, but we saw that, a couple of times in other communications, Musy had said that he thought that the second one in the army may not have actually been a suicide attempt but might have been just a device to get himself out of the army?

A. Yes, I accept that.

Q. It may be, although I would accept it's not entirely clear, it may be that that's what he is attempting to say here?

A. Understand.

Q. And he says:

At that time, it was really a fragile Gilles --

ie, at the time of the army event; agreed?

A. Yes.

Q. So one conversation, in France, long before they came to Australia. Next question:

Did Gilles Mattaini go to commit suicide?

Answer:

Not at all. He only told me --

and we've established from the previous answers when that was --

He only told me that if one day he had to commit suicide, his body would never be found ...

1
2 Do you see that? So do you accept that it's clear, as
3 clear as one can tell from this translation --
4 A. Yes.
5
6 Q. -- that what he's saying is Mattaini said that once,
7 he said it while they were still in Paris, and he said that
8 it applied if one day he had to commit suicide.
9 A. Yes.
10
11 Q. Pausing there, you knew, as you were reading this,
12 that in the witness box, Musy had said that never, ever,
13 after 1978 had Mattaini ever indicated anything of
14 a suicidal nature at all. We went through that this
15 morning?
16 A. Which is inconsistent with this.
17
18 Q. How? What's the inconsistency you're thinking of?
19 A. Well, this talks about - you just mentioned 1976,
20 I thought, and this is some time before 1983, he
21 says - well, '76, '83, there's six years difference.
22
23 Q. Well, the conversation, obviously, to be
24 a conversation between Musy and Mattaini, had to have
25 happened after they had met?
26 A. Obviously.
27
28 Q. That much is obvious.
29 A. Yeah.
30
31 Q. In every other thing we've seen he has said they met
32 in 1978?
33 A. I'm sorry, '78.
34
35 Q. In this one, he says '76, '77, that's true, but once
36 again, that seems to be an indication of lack of certainty
37 about dates?
38 A. Yeah.
39
40 Q. So they're having the conversation, a single
41 conversation, admittedly after they'd met, obviously --
42 A. Obviously.
43
44 Q. -- but early in the days after they'd met, it would
45 seem, from the whole of what appears on this page? Do you
46 agree?
47 A. That's the way it appears to read, yes.

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Q. Then, next question:

How did the conversation take place?

The answer:

Very naturally. But without argument, without previous pressure. We approached this subject very naturally in relation to the suicide attempt he had made when he was young at his mother's bath.

Do you see that?

A. Yes.

Q. That's the time frame that he's applying this whole topic to, isn't it?

A. Yes.

Q. Next question:

How many times did Gilles Mattaini plan to commit suicide?

The answer:

[He] had made two suicide attempts. However, with me he had become someone happy to live. His new life in Australia suited him fully. He was very happy.

You saw all that?

A. Yes.

Q. You didn't mention that at all in the summary, or Chebl didn't, and you endorsed a version that didn't mention it; correct?

A. Yes.

Q. Then next sentence:

Throughout this period --

ie, the whole time he has known him --

he has never shown any suicidal intent.

1 *These two attempts were made in France and*
2 *being younger.*

3
4 So he's saying it again, isn't he, in terms of
5 distinguishing time frames that these things apply to?

6 A. Yes.

7
8 Q. Now again, you had that, and Chebl had it, before you
9 wrote this summary, but you simply, or Chebl didn't and
10 neither did you, take account of it and build it into your
11 narrative, nor did you take account of it in your key
12 findings when you made these accusations against Detective
13 Sergeant Page; correct?

14 A. Correct.

15
16 Q. Now, let's go back to the summary, which is at tab 172
17 [SC0I.74881_0001], I think. At paragraph 51, there's
18 a reference to this correspondence having been received,
19 the French document that I've just taken you to?

20 A. Yes.

21
22 Q. And in paragraph 52 there's an account of what that
23 statement had in it. The account given is:

24
25 *Musy states his knowledge of Mattaini's*
26 *suicide attempts and the conversations he*
27 *had with Mattaini about his intentions to*
28 *take his own life.*

29
30 Do you see that?

31 A. Yes.

32
33 Q. No mention of the fact that this single conversation -
34 not plural - had taken place years before in France? No
35 mention of that?

36 A. No.

37
38 Q. No mention that what Mr Mattaini had been describing,
39 even back then, years before in France, was what his state
40 of mind had been at an even earlier time, before meeting
41 Mr Musy? No mention of that either, is there?

42 A. No.

43
44 Q. No mention of Mr Musy emphasising, as we've seen
45 yesterday and today that he had done several times before,
46 that since meeting Mr Musy, Mr Mattaini had become very
47 happy and had never again shown any suicidal intent - no

1 mention of that either, is there?
2 A. No.
3
4 Q. Do you think that language in paragraph 52 is a fair
5 way, or was a fair way, to summarise that further statement
6 of Mr Musy that came from France?
7 A. Well, it does say here that Musy stated, "Personally,
8 I believed a lot in suicide", and then it goes on.
9
10 Q. So my question is: based on the four or five
11 questions that I've just asked you and you accepted, do you
12 think the way it's put in paragraph 52 --
13 A. It isn't reflected.
14
15 Q. -- "Musy states his knowledge of Mattaini's suicide
16 attempts and the conversations he had with Mattaini about
17 his intentions to take his own life" - do you think that's
18 a fair way to summarise the whole of what's in that
19 statement?
20 A. No, it's not reflected here.
21
22 Q. No. It's totally unfair, as a summary of what's in
23 that statement, given what I've just been asking you about,
24 isn't it?
25 A. That part of it, yes.
26
27 Q. And totally unfair to Detective Sergeant Page once
28 again, would you agree?
29 A. No, I don't agree.
30
31 Q. I won't go over that same ground again. Let me take
32 you to the summary, the heading "Summary" on page 10, above
33 paragraph 53. Do you see that?
34 A. Yes.
35
36 Q. Do you see paragraph 53, and there's a heading
37 "Summary" above it? Now, at paragraph 54 of the summary,
38 written by Chebl and endorsed by you, it contains an
39 extract from Sergeant Page's statement before the Coroner
40 in August 2002; correct?
41 A. Yes.
42
43 Q. And you do quote I think all of it, or certainly most
44 of it, and it's prefaced - that is, Sergeant Page's
45 evidence - with the phrase, "Insofar as early opinions",
46 isn't it?
47 A. Yes.

1
2 Q. And with that preface, he says:
3
4 *... I do not believe that homicide can be*
5 *excluded ...*
6
7 A. I see that.
8
9 Q. He refers to his awareness that Mattaini has
10 previously tried to take his own life - he refers to that?
11 A. Yes.
12
13 Q. And he adds:
14
15 *... however, there is a significant passage*
16 *of time since that era ...*
17
18 Now, pausing there, that is correct, isn't it; there was
19 a significant passage of time since the era where he had
20 tried to take his own life?
21 A. Yes, some years.
22
23 Q. Well, at least seven?
24 A. Yes.
25
26 Q. In fact, more than seven. And he adds, Page adds:
27
28 *... and whatever factors that did exist*
29 *causing him to be suicidal there is no*
30 *evidence to suggest that those factors*
31 *still existed.*
32
33 Pausing there, that's also accurate on all the material
34 you've now looked at in the last day or two, isn't it?
35 A. Other than the concern he had and albeit some
36 restricted concern about the visa situation.
37
38 Q. No, let's just read that again:
39
40 *... whatever factors that did exist causing*
41 *him to be suicidal --*
42
43 ie, prior to 1978 --
44
45 *there is no evidence to suggest that those*
46 *factors still existed.*
47

1 And Page in saying that is quite correct, on the evidence
2 you have seen, isn't he?

3 A. "those factors" - yes.

4

5 Q. And then Page offers a view, "considering these
6 suicide attempts occurred in his early teens", which is,
7 I accept, probably not really accurate. He was a bit older
8 than early teens, he was probably mid teens and then late
9 teens early 20s?

10 A. Yes.

11

12 Q. Page says:

13

14 *... the causes may well have been confusion*
15 *over sexuality and loss of liberty whilst*
16 *performing national service.*

17

18 A. Yes, he says that.

19

20 Q. That opinion may be right or it may be wrong, but it's
21 hardly somebody pushing one hypothesis of homicide, is it,
22 when all he says is, "I do not believe that homicide can be
23 excluded"?

24 A. Well, he's suggesting that suicide may be able to be
25 excluded.

26

27 Q. He is suggesting that the suicide factors that had
28 influenced him at the time he tried suicide no longer
29 existed, and on all the evidence you have seen, that is
30 correct - according to Musy?

31 A. According to Musy, yes.

32

33 Q. Now, look at paragraph 55. I did take you to this at
34 the start of your evidence. Just read it over again, but
35 I want to put to you that, essentially, that paragraph is
36 almost all wrong for the reasons I went through with you
37 earlier, in that it purports to apply to 1985 things that
38 only actually apply to 1989?

39 A. Yes. I accept that.

40

41 Q. So that whole paragraph is basically misconceived in
42 connection with Mattaini; do you agree?

43 A. I do agree.

44

45 Q. Thank you. Now, when we get to the "Key Findings" -
46 I've asked you questions about paragraph 59 and supposed
47 confirmation bias and so on --

- 1 A. Yes.
2
- 3 Q. And I'll come back to paragraph 60 again - the
4 accusation is that the statement failed to outline prior
5 suicidal ideation. Now, without going over the whole thing
6 again, you've agreed that one very clear indicator of
7 suicidal ideation is an attempt at suicide?
8 A. Yes.
9
- 10 Q. That's obvious?
11 A. Quite clearly, yeah.
12
- 13 Q. Quite clearly. And the statement and his oral
14 evidence both certainly referred to that directly; correct?
15 A. Yes.
16
- 17 Q. And we know, as I've been putting to you probably at
18 too much length, that in his oral evidence, Mr Musy did
19 expressly refer to Mr Mattaini's having had in his youth an
20 outlook that death was preferable to life; correct? He
21 said that in the witness box?
22 A. Yes, he did say that.
23
- 24 Q. And also said squarely in the witness box that while
25 he had had that view when he was young, he definitely had
26 not had it since meeting Mr Musy?
27 A. Yes.
28
- 29 Q. And Mr Musy did not say to the Coroner in the witness
30 box anything about Mr Mattaini saying something to do with
31 not finding the body, even though he had every opportunity
32 to do so; correct?
33 A. Correct.
34
- 35 Q. So of course, in terms of what evidence was before the
36 Coroner, looking at your paragraph 60, it was obviously
37 essential to have regard both to Mr Musy's written
38 statement and to Mr Musy's oral evidence, wasn't it?
39 A. Agree.
40
- 41 Q. But in paragraph 60, you make no mention of the oral
42 evidence at all, do you?
43 A. No.
44
- 45 Q. Indeed, you make no mention of Mr Musy's oral evidence
46 on his oath anywhere in this summary, do you?
47 A. Not that I've found, no.

1
2 Q. Instead, you assert, notwithstanding what he actually
3 said in the witness box, in paragraph 60, two things:
4 firstly, that the Coroner did not consider suicide as
5 a possibility in Mattaini's disappearance?
6 A. Yes.
7
8 Q. And you've accepted that that's simply wrong?
9 A. Yes.
10
11 Q. And, secondly, you assert that her failure to consider
12 suicide, which itself was no such failure because she did
13 consider suicide, came about because of Page withholding
14 evidence from her, and you've now accepted that you have no
15 basis for saying that either, haven't you?
16 A. Yes.
17
18 Q. These accusations against Sergeant Page in
19 paragraph 60 should never have been made, should they?
20 A. Well, as I say, there still remains the phone call as
21 it is recorded by Mr Chebl.
22
23 Q. In the light of the answers you've just given to me,
24 these accusations should never have been put in this
25 document, should they?
26 A. As I say, there is the information as recorded in that
27 running sheet. Are we to just ignore that and pretend it
28 doesn't exist?
29
30 Q. Mr Morgan, I'm not going to go and do it all again.
31 I have been painstakingly putting to you all the factors
32 that you had, as well as what was in what you call the
33 running sheet?
34 A. Yes.
35
36 Q. Which lead to the conclusion, which you have accepted,
37 that the running sheet of itself was not a proper basis for
38 making these accusations. You have accepted that, haven't
39 you?
40 A. No, I've - still have concerns about what is in the
41 running sheet.
42
43 Q. Do you withdraw the accusation that the Coroner did
44 not consider suicide as a possibility in relation to
45 Mattaini?
46 A. Yes, it was certainly mentioned to her and she was
47 aware of it.

1
2 Q. Do you withdraw the accusation that she actually did
3 fail to consider suicide as a possibility because Page
4 withheld something from her?
5 A. No.
6
7 Q. Even though she did consider suicide, you don't
8 withdraw the accusation --
9 A. Oh, sorry, yes.
10
11 Q. So you do withdraw it?
12 A. She did - she did consider suicide, yes.
13
14 Q. And therefore, the accusation that she failed to do so
15 because of something Page withheld cannot be sustained, can
16 it?
17 A. Yes, I can see the logic of that, yes.
18
19 Q. Right. Do you think you owe Mr Page an apology for
20 making these serious allegations against him and
21 disseminating them in the way that they were?
22 A. No, because I still have the evidence of the phone
23 call.
24
25 Q. All right, Mr Morgan. Turn to tab 176 please. This
26 is the post operational assessment.
27 A. Yes.
28
29 Q. I've asked you one or two questions about this before?
30 A. Yes.
31
32 Q. We went through how the first seven or eight pages are
33 over the signature of Chebl, and then the last two or three
34 pages are over the signature of Leggat?
35 A. Yes.
36
37 Q. In the part that Chebl has written, the eighth page -
38 unfortunately they're not numbered but --
39 A. Yes.
40
41 Q. -- just above the subheading which introduces Ross
42 Bradley Warren --
43 A. Yes.
44
45 Q. -- the long paragraph beginning "Mattaini's first
46 suicide attempt" - did you find that?
47 A. Yes.

1
2 Q. Down about eight or nine lines through it, there
3 appears again the statement that originally emanated from
4 France and then was picked up in Mr Chebl's investigation
5 note, namely:

6
7 *Musy stated throughout his relationship*
8 *with Mattaini he found him to be*
9 *comfortable with death ...*

10
11 et cetera?

12 A. Yes.

13
14 Q. And that's the one that you've agreed is plainly
15 inconsistent with what Musy said in the witness box?

16 A. Agreed.

17
18 Q. And yet there it is again in the post operational
19 assessment going up the chain to the Commander Homicide and
20 above?

21 A. Yes.

22
23 Q. False though it was.

24 A. Well, it doesn't appear to have the basis that
25 obviously they thought it had, yes.

26
27 Q. No. And similarly about four lines from the bottom of
28 that paragraph:

29
30 *Despite Mattaini's suicide attempt history,*
31 *Detective Sergeant Page convinced Musy that*
32 *Mattaini was most likely murdered.*

33
34 A. Yes.

35
36 Q. You've accepted, I think, that either that's wrong or
37 at least it's not clear?

38 A. No, well, that was your submission. That was what you
39 put --

40
41 Q. No, I put it to you and you agreed that the at least
42 as likely reason for Mr Musy getting the idea in his head
43 that it might have been murder was the publicity about
44 Taradale. You've accepted that?

45 A. Yes, I did accept that that publicity - yes.

46
47 Q. In section 3, over the signature of Detective

1 Inspector Leggat, in respect of Mattaini --
2 A. Yes.
3
4 Q. -- do you see there are just two paragraphs under the
5 "Mattaini" sort of subheading?
6 A. Yes.
7
8 Q. And the longer one, I think literally, I may be wrong,
9 reproduces material from the summary?
10 A. Agreed.
11
12 Q. So to the extent that what was in the summary in those
13 respects has problems, they are the same problems that this
14 had?
15 A. They're repeated.
16
17 Q. They're repeated. Do you agree, having been through
18 all of this - and I appreciate this has taken a while to go
19 through all this Mattaini material --
20 A. Yes.
21
22 Q. -- and after all that we've been through, question and
23 answer, yesterday and today about Mattaini and Mattaini's
24 summary, would you agree with this, that really, all the
25 efforts of Neiwand in connection with Mattaini were
26 directed to exploring the suicide hypothesis?
27 A. I don't know if I'd say "all" but predominantly.
28
29 Q. What is something you did that wasn't related to the
30 suicide hypothesis?
31 A. I can't think of anything right at the moment.
32 I don't want to commit to saying "all" in case there's
33 something else I'm unaware of, as I sit here.
34
35 Q. Fair enough. You agree, then, that the focus is
36 overwhelmingly on suicide?
37 A. Yes.
38
39 Q. You'd agree that there appears to be, on the face of
40 the summary, no attempt to explore anything to do with the
41 homicide hypothesis?
42 A. Yes.
43
44 Q. No canvassing of residents?
45 A. Not that I'm aware of, no.
46
47 Q. No attempt to explore whether anti-gay violence or

1 gang violence was occurring around this area in 1985 just
2 as it was some years later?

3 A. No.

4

5 Q. Even though you had an abundance of evidence about
6 such violence definitely occurring within a few years
7 later?

8 A. When you say "an abundance", you're talking about
9 within the Sydney area?

10

11 Q. No, around the Bondi, Tamara, Marks Park area, as we
12 will see when we get to your Russell and Warren summaries,
13 you had mountains of evidence of violence against gay
14 people in that area in the late '80s, early '90s?

15 A. There were a number of such occurrences, yes.

16

17 Q. Not just a number, dozens if not hundreds, that you
18 knew about and that police had recorded?

19 A. No, I'd dispute that. There weren't hundreds.

20

21 Q. Okay. We'll come to it, then. What I want to suggest
22 to you is that given that your focus in the Mattaini matter
23 was overwhelmingly on one hypothesis, namely, suicide, that
24 is a classic example of the very confirmation bias of which
25 you accused Taradale, isn't it?

26 A. It certainly could be interpreted as such.

27

28 Q. The only work that Neiwand did, or almost the only
29 work that Neiwand did, was to seek evidence that bolstered
30 the suicide hypothesis or was consistent with the suicide
31 hypothesis?

32 A. Yes. I'm unaware of there being evidence towards
33 either misadventure or homicide.

34

35 Q. Well, if there was any, you didn't look for it, did
36 you?

37 A. Well, I don't recall seeing any.

38

39 Q. And you disregarded evidence that was inconsistent
40 with suicide, didn't you?

41 A. I don't think there was any evidence inconsistent with
42 suicide, in relation to Mr Mattaini.

43

44 Q. What about, one, the absence of a suicide note.
45 That's inconsistent with suicide, isn't it?

46 A. No, it's not. A lot of people suicide without leaving
47 a note.

1
2 Q. Of course they do, but the absence of a note is
3 a piece of evidence pointing away from suicide - not
4 conclusively but pointing away?
5 A. No, I wouldn't agree with that.
6
7 Q. What about the keys being missing, indicating that he
8 had the keys with him, indicating that he intended to come
9 back? That was evidence inconsistent with suicide, wasn't
10 it?
11 A. No, not necessarily.
12
13 Q. And you left that out altogether, even though it kept
14 being pointed out in document after document that you had.
15 You even went to the extent, or Chebl did, of recounting
16 part of a statement as to what was or wasn't in the
17 apartment and leaving out the bit about the keys?
18 A. Yeah, I don't believe that was done deliberately.
19
20 Q. But it was disregarded even if not done deliberately,
21 wasn't it?
22 A. I agree it wasn't mentioned, yes.
23
24 Q. You've mentioned Mr Wyszynski having given evidence
25 that Mattaini was in good spirits in the summary - that's
26 mentioned?
27 A. Yes.
28
29 Q. But what's not mentioned is all the other people who
30 also said he was in good spirits. You disregarded that,
31 didn't you?
32 A. Well, I couldn't see it there.
33
34 Q. And you disregarded Mr Musy, of all people, who
35 stressed over and over and over that he was in good
36 spirits - you just left that out altogether, didn't you?
37 A. I can't see it there.
38
39 Q. You left it out, or Chebl did, and you endorsed it.
40 That's disregarding evidence inconsistent with suicide,
41 isn't it?
42 A. Oh, I certainly don't believe it was intentionally
43 done.
44
45 Q. And you deliberately, I suggest, left out - you and
46 Chebl - references to the repeated evidence from Mr Musy
47 that any suicidal ideation on the part of Mattaini was long

1 ago and that his state of mind between 1978 and 1985 was
2 completely different. You disregarded, or at least
3 underplayed, downplayed, very significantly, that evidence?
4 A. Well again, it's not written in there.
5
6 Q. No. Doesn't that indicate the very kind of
7 confirmation bias and tunnel vision that you accused Page
8 of?
9 A. I can see how that allegation can be made, yes.
10
11 Q. Turn to tab 173, please - sorry, tab 174
12 [SC0I.74883_0001]. This is your summary in connection with
13 Mr Warren.
14 A. Yes.
15
16 Q. Now, this is much longer, it's 60-odd pages as against
17 11 pages.
18 A. Yes.
19
20 Q. You may be relieved to know I don't plan to take
21 anything like as long on this one as I did with the
22 Mattaini one, but I do need to take you to parts of it.
23 A. I understand.
24
25 Q. Now on the first page, we have "Overview", and then on
26 the bottom of page 1, there's a longish section heading
27 "Background", which covers employment history and various
28 things, and then over on page 7 we get a heading "Original
29 Investigation", which talks about the efforts, if they can
30 be called that, of Mr Bowditch?
31 A. Yes.
32
33 Q. And the various people who were involved in one way or
34 another in 1989, including Mr Ellis and Mr Saucis and so
35 on, and this takes us all the way over to paragraph 61 on
36 page 15. So that's dealing with the Bowditch era?
37 A. Yes.
38
39 Q. Then from 62 onwards, and I just want to draw your
40 attention to some of this, there's a very substantial
41 summarised account of an investigation carried out by the
42 Homicide Squad South in around about 1990/1991?
43 A. Yes.
44
45 Q. Paragraph 62 starts off by saying that the summary
46 into the death of Warren:
47

1 ... cannot be complete without highlighting
2 the spate of assaults/robberies/murders
3 committed against gay men in the Eastern
4 Suburbs of Sydney around the period of
5 Warren's disappearance.
6

7 Correct?

8 A. Yes, I see that.
9

10 Q. "Spate" is your word, as in Chebl's word and yours,
11 it's not somebody else's word. It's you and Chebl?

12 A. It indicates a significant number.
13

14 Q. It does, doesn't it? The basis for that, which
15 I don't challenge for a second, starts off with the murder
16 of Mr Rattanajurathaporn?

17 A. Yes.
18

19 Q. In paragraph 64, the three people arrested, charged
20 and convicted are mentioned?

21 A. Yes.
22

23 Q. The Tamarama Three, they were?

24 A. Yes.
25

26 Q. Then paragraph 66 is the murder of Richard Johnson in
27 Alexandria?

28 A. Yes, just noting that Alexandria is some distance from
29 Bondi and South Bondi Marks Park.
30

31 Q. Quite so, and I'll come back to that. But there were
32 eight offenders who were all charged and convicted of
33 either manslaughter or murder --

34 A. Yes.
35

36 Q. -- the Alexandria Eight; is that right?

37 A. Correct.
38

39 Q. And in paragraph 69, you note - you and Chebl note -
40 that Homicide Squad investigators at that time, early 1990,
41 considered that the suspects involved in the
42 Rattanajurathaporn murder and the suspects involved in the
43 murder of Johnson at Alexandria were possible suspects in
44 the death of Mr Russell and the disappearance of Mr Warren?

45 A. Yes.
46

47 Q. And that was detailed, as indeed it was, as you say in

1 your summary, by former Detective Sergeant McCann in
2 his August 1991 report?

3 A. Yes.

4

5 Q. I'll take you to that briefly, but you would recall,
6 I'm sure --

7 A. I'm familiar with the report, yes.

8

9 Q. -- that in McCann's two reports, one in April and one
10 in August 1991, he went to some considerable laborious
11 lengths to draw connections between and among some of these
12 various gangs or groups?

13 A. He did.

14

15 Q. And some overlap between the ones clearly responsible
16 for some events in Alexandria and elsewhere, and with
17 events in Bondi and nearby?

18 A. Yes.

19

20 Q. And you were aware of all that work of McCann when you
21 were writing these summaries, you and Chebl, weren't you?

22 A. Yes.

23

24 Q. At paragraph 70 there's a short reference to the
25 murder of Mr Allen, also in Alexandria?

26 A. Yes.

27

28 Q. Then in 72 and following, there's a short reference to
29 the death of Mr Russell, which, of course, has its own
30 separate summary, and there's reference in 74 to the view
31 of Sergeant McCann that Russell's death and the
32 circumstances surrounding his demise are disturbing, to say
33 the least:

34

35 *It is also noted that other serious*
36 *assaults were committed in the same area*
37 *about the same time.*

38

39 A. Yes.

40

41 Q. So that was a point that Sergeant McCann was making as
42 long ago as 1991?

43 A. Yes.

44

45 Q. It certainly wasn't a concern that Mr Page dreamt up
46 on his own in 2001?

47 A. No.

- 1
2 Q. In paragraph 77 under the heading "Other crimes
3 against Gay men", there's another extract from Sergeant
4 McCann's 1991 document.
5 A. Yes.
6
7 Q. And it records in the first paragraph the attack on
8 a person, who I'll call "DM" --
9 A. Yes.
10
11 Q. -- on 21 December 1989, which was just one month after
12 Mr Russell's body was found?
13 A. Yes.
14
15 Q. And reference to one of the assailants of DM saying:
16
17 *"I'm gonna throw you over the side" and*
18 *commenced to drag him to the cliff edge but*
19 *DM escaped.*
20
21 A. Yes.
22
23 Q. This is Sergeant McCann's account of this?
24 A. Yes.
25
26 Q. It's not an account that anyone's ever challenged, is
27 it?
28 A. No, I don't believe so.
29
30 Q. It's not something that is sort of hypothetical or
31 likely; it's an attack on DM that everyone, including you,
32 accept certainly did happen?
33 A. Yes.
34
35 Q. Then at paragraph 80 and following there's a reference
36 to some of the work that Sergeant McCann did back in 1991
37 in terms of covertly obtaining intelligence about some of
38 these people?
39 A. Yes.
40
41 Q. And one of them, paragraph 82, according to Sergeant
42 McCann, implicated himself in approximately 70 to 100 gang
43 assaults and robberies on gay men in the Alexandria and
44 Bondi areas, in particular the coastal walk at Tamarama?
45 A. I see that and I either had forgotten or wasn't aware
46 of that, yes.
47

1 Q. So --
2 A. Significant numbers.
3
4 Q. -- significant numbers. We're talking - of course, he
5 doesn't precisely delineate which ones were Bondi and which
6 ones were somewhere else --
7 A. Yes.
8
9 Q. -- but it's clear that it's dozens because he says in
10 particular the coastal walk at Tamarama?
11 A. Yes.
12
13 Q. And that's just one. That's just that offender
14 implicating himself. That's just one of them implicating
15 himself in dozens of assaults on gay men?
16 A. Mmm-hmm.
17
18 Q. Correct?
19 A. Correct.
20
21 Q. Paragraph 85, there's reference to the fact that there
22 was a bit of publicity about this one, because Mr Warren
23 was a reasonably well-known person because of his
24 television work in Wollongong?
25 A. Yes.
26
27 Q. In 88 and following there is reference to inquiries
28 made back in 1990 about a person who is redacted, but the
29 person named in the fourth line?
30 A. Sorry?
31
32 Q. The person named in the fourth line. His name is
33 redacted on the screen, but obviously there was work done
34 in 1990 in relation to that person?
35 A. Okay.
36
37 Q. And the following paragraphs follow that through all
38 the way through to 92.
39 A. Oh, yeah, I'm aware of the person, yeah.
40
41 Q. And then at 93 - just pausing there, that person, the
42 person who's the subject of 88 through to 92, was the
43 subject of investigation by Taradale in the early 2000s?
44 A. Yes.
45
46 Q. And the same applies to the person the subject of
47 paragraphs 93 through to 96, named in the second line of

1 '93 - that person was also the subject of work by Taradale?
2 A. Yes.
3
4 Q. And at 97, there's a person whose name has been
5 blacked out as well, but I'm guessing that you would know
6 who that is, and that you would also know that Taradale did
7 considerable work with him, took a statement from him, and
8 so on?
9 A. Yes, I - offhand I can't think who that was, but yes.
10
11 Q. We'll just have the name put in front of you.
12 A. Yes.
13
14 MR TEDESCHI: Can I suggest that that shouldn't remain on
15 the screen?
16
17 THE COMMISSIONER: Why not?
18
19 MR TEDESCHI: There is a name of a suspect there, who had
20 nothing to do with --
21
22 THE COMMISSIONER: Where is the suspect, I'm sorry?
23
24 MR TEDESCHI: His name is mentioned in 98.
25
26 MR GRAY: I don't know that he is a suspect, but I'm not
27 resisting what has been said.
28
29 MR TEDESCHI: Not a suspect, he is a person of interest.
30
31 THE COMMISSIONER: He was not a person of interest at all
32 as I understand it. He was a person who, as I best read
33 the materials, Mr Tedeschi, was spoken to, I think if not
34 by persons back at the relevant time, again by this
35 witness - I'm not quite sure - about background. I don't
36 think there's any question --
37
38 MR TEDESCHI: It contains accusations about that person
39 that were obviously not sustained.
40
41 THE COMMISSIONER: No, I don't see him as being a person
42 of interest nor was he a suspect. He was a person who gave
43 some evidence, I thought, about a domestic arrangement with
44 the deceased and that was one of the issues being explored
45 by Taradale. It was one of the issues explored by
46 Mr Morgan, as to whether or not domestic conflict was at
47 the centre of or could be a reason for this person's

1 suicide. I don't read it the way you do.
2
3 MR TEDESCHI: Would you look at paragraph 97 in the middle
4 to the latter part - it's entirely a matter for you,
5 Commissioner, but we would suggest that --
6
7 THE COMMISSIONER: Is it a matter about which you have
8 previously taken objection?
9
10 MR TEDESCHI: No, it is not, but it hasn't been redacted.
11 I'm just concerned about that person's reputation.
12
13 THE COMMISSIONER: All right. It's a bit late now,
14 Mr Tedeschi. If you haven't previously taken an objection,
15 it is a bit late. I will see what Mr Gray has to say.
16
17 MR GRAY: Sorry, I beg your pardon, Commissioner?
18
19 THE COMMISSIONER: Mr Tedeschi has a problem with it. He
20 says whatever he says, you have heard him. He also fairly
21 concedes that it's not a matter about which, seemingly,
22 prior objection was taken.
23
24 MR GRAY: Whether or not it was subject of prior
25 objection, I'm also not certain personally, but this man
26 turned out to be out of the country at the time and was
27 totally eliminated as having anything to do with anything.
28
29 THE COMMISSIONER: So Mr Tedeschi, it is true that he is
30 mentioned here, but in the full context - I now recall,
31 thank you - it was mentioned that he was eliminated, it may
32 even be in following paragraphs we're about to read, that
33 it was discovered he was out of the country at the relevant
34 time and so he was exonerated, as it were, or removed, so
35 a paragraph or two below this, I think it makes it clear.
36
37 MR TEDESCHI: Yes, it does.
38
39 THE COMMISSIONER: All right. Thank you very much.
40
41 MR GRAY: Q. So, Mr Morgan, the person at the second
42 line of paragraph 97, you've been shown --
43 A. Yes.
44
45 Q. -- the name of that person and --
46
47 THE COMMISSIONER: Sorry to interrupt. Mr Tedeschi, if

1 you go to the bottom of paragraph 98.
2
3 MR TEDESCHI: I can see it.
4
5 THE COMMISSIONER: Yes, thank you.
6
7 MR TEDESCHI: I was just a bit concerned because there is
8 a list of people nominated as persons of interest or
9 suspects, and then there's his name in the same context.
10
11 THE COMMISSIONER: Yes, I understand the reason,
12 thank you.
13
14 MR GRAY: Q. You've seen from the piece of paper that
15 was given to you who the person is in the second line of
16 97?
17 A. Yes.
18
19 Q. And you agree that that person not only was the
20 subject of inquiries back in 1994, but he was also the
21 subject of inquiries and work done by Taradale and later
22 again by Neiwand?
23 A. Correct.
24
25 Q. At paragraph 101, there's another reference to the
26 work of Sergeant McCann back in 1991?
27 A. Yes.
28
29 Q. Which, in the second paragraph, the second italicised
30 paragraph, referred to one of the Alexandria Eight --
31 A. Yes.
32
33 Q. -- having talked about frequent bashings of
34 homosexuals in Bondi, Centennial and Moore Park areas?
35 A. Yes.
36
37 Q. And down the bottom again a reference to that same
38 person having admitted to being involved in approximately
39 70 to 100 gang assaults and robberies on homosexual men in
40 those three areas?
41 A. Yes. I don't know if that's the same person who was
42 mentioned earlier saying as that, yes
43
44 Q. I think you can accept that it is the same person.
45 I'm not suggesting that's another 70 to 100, it's the same
46 lot.
47 A. Yes.

1
2 Q. But then in the next line, another person also one of
3 the Alexandria Eight, implicates himself in another 15 --
4 A. Yes.
5
6 Q. -- correct? Then, starting at 102, there's an
7 account through to 176 of the Taradale operation?
8 A. Sorry, 102 to --
9
10 Q. 102 to 176?
11 A. Okay, yes.
12
13 Q. All of that's about what Taradale did?
14 A. Yes.
15
16 Q. I don't want to take too much time on this, but you
17 will see at 103 there is reference to Mr Warren's mother
18 having written a series of letters to the police --
19 A. Yes.
20
21 Q. -- between 1998 and 2000?
22 A. Yes, I see that.
23
24 Q. Now, the assertion is made in 103 that Mrs Warren was
25 urging for her son's disappearance to be the subject of
26 a coronial inquest.
27 A. Yes. That's my recollection of it.
28
29 Q. But that's not what her letters were about, is it?
30 A. I thought they were actually asking - she was actually
31 asking for a death certificate.
32
33 Q. You are essentially correct.
34 A. Yes.
35
36 Q. She wasn't asking for an inquest, she was asking for
37 someone to answer her letters so that she could get some
38 confirmation that her son was indeed deceased?
39 A. Yes.
40
41 Q. She wasn't actually asking for an inquest?
42 A. No, but obviously at that stage he was considered
43 a missing person, so there was no death certificate.
44
45 Q. That was the problem?
46 A. Yes.
47

1 Q. Now, you see that paragraph 103. It says there:

2

3 *Her request was supported and the case*
4 *reopened.*

5

6 Do you see that?

7 A. Yes.

8

9 Q. Now, as you've pointed out many times, you didn't
10 write this, Mr Chebl wrote it, but to your knowledge, is
11 that actually an accurate account of what happened - she
12 requested an inquest, her request was supported and the
13 case reopened?

14 A. No, my recollection of it is that she wrote requesting
15 a certificate of death and there were various, I think,
16 letters back and forth.

17

18 Q. I don't know about back and forth. There were letters
19 from her, not too much --

20 A. Yes, I thought there were some replies from police..

21

22 Q. Eventually there was a reply, but this same paragraph,
23 with one notable exception, appears in the Russell summary,
24 which we find at tab 173 [SCOI.74882_0001]. Would you turn
25 to 173 for the moment and just have a look at paragraph 67?

26 A. Yes, I'm looking at 173.

27

28 Q. Now, can you see that it's exactly the same as 103 in
29 the Warren summary, with one exception, that there's an
30 additional sentence in the middle of paragraph 67.

31 A. No, sorry, I'm looking at - I'm still in - with
32 Mr Warren, and that's not 173. What tab are you looking
33 at?

34

35 Q. Hang on, we're at cross-purposes. 103, in Mr Warren's
36 one --

37 A. Yes.

38

39 Q. -- is the reference to Mrs Warren and her letters?

40 A. Yes.

41

42 Q. In the Russell one, which is tab 173 --

43 A. Ah --

44

45 THE COMMISSIONER: And when you go there, Mr Morgan, go to
46 page 19, or paragraph 67.

47

1 THE WITNESS: Yes, that's clearly - that's clearly - it's
2 irrelevant to Mr Russell's death, yes, I accept that.

3
4 MR GRAY: Q. Maybe, perhaps so. But what I wanted to
5 just direct your attention to is that the paragraph is
6 identical, with one exception, that in the Russell
7 paragraph, paragraph 67, in the third line, there is
8 a sentence which does not appear in the Warren paragraph,
9 103, and that sentence is:

10
11 *The catalyst for this case being reopened*
12 *was as a result of her relentless letter*
13 *writing.*

14
15 A. Yes, I see that.

16
17 Q. Now, what did you or Mr Chebl have in mind when you
18 used the word "relentless"?

19 A. Well, I - like I said, I didn't author this document,
20 and you've only just brought my attention to it.

21
22 Q. I see. I'll show you the letters. They were letters
23 of a mother --

24 A. Yes

25
26 Q. -- desperately trying to get some help and getting no
27 answer --

28 A. Yes.

29
30 Q. -- weren't they? She wrote letter after letter after
31 letter --

32 A. Yes.

33
34 Q. -- enclosing copies of her earlier letters and
35 saying, "Will somebody please answer me"?

36 A. Yes.

37
38 Q. She was saying, "My son has been disappeared, missing,
39 for X years, and can someone please help me get to a kind
40 of conclusion?" That's what she was asking?

41 A. Yes, that's the gist of it.

42
43 Q. And no-one - and for a year or two years, letter after
44 letter went unanswered?

45 A. She got no replies.

46
47 Q. She got no replies for a long time until eventually

1 someone did reply?
2 A. Okay.
3
4 Q. Does that come back to you?
5 A. I remember the - Mrs Warren writing - Kay Warren
6 writing letters. The rest of it, no, I can't say that it
7 comes back to me, but --
8
9 Q. Okay. Now, Mr Chebl chooses to call that
10 "relentless"?
11 A. "Relentless", yes. That's a bit harsh.
12
13 Q. That's a bit harsh, you would agree immediately?
14 A. I do agree.
15
16 Q. Now, back to Mr Warren at tab 174 [SC0I.74883_0001]
17 A. Yes.
18
19 Q. Moving on from Mrs Warren's letters - the point
20 essentially is that it was because Sergeant Page eventually
21 happened upon Mrs Warren's letters, that he then started to
22 dig around and came to the view in the end that there
23 needed to be a proper investigation of both the Warren
24 disappearance and the Russell death. That's what
25 ultimately happened.
26 A. Well, ultimately it was given to him to investigate
27 was my understanding, but yes.
28
29 Q. Because he came across the Warren letters. Are you
30 aware of that - Mrs Warren 's letters?
31 A. Yes.
32
33 Q. So rather than?
34 A. Sorry, what paragraph are you referring to?
35
36 Q. Paragraph 103 in the Warren matter, the Warren
37 summary.
38 A. Yes.
39
40 Q. Rather than Mrs Warren asking for an inquest and her
41 request being supported, what actually happened was that
42 she asked for help in getting a death certificate, letter
43 after letter went unanswered --
44 A. Mmm.
45
46 Q. -- and ultimately, some years later, Mr Page happened
47 to be going through the file and saw that Mrs Warren's

1 letters had been unanswered for such a long time, and that
2 set him on the path of realising that maybe there was
3 something here that needed to be looked at. Are you aware
4 of that?

5 A. I'm aware of it slightly differently, but - yes.

6
7 Q. So it wasn't a case of her request being supported; it
8 was a case of Sergeant Page realising that something had
9 not been handled very well here and thinking that something
10 should be done about it. That's what actually happened,
11 isn't it?

12 A. No, I don't agree with that.

13
14 Q. What do you say happened?

15 A. There were - my understanding of it is that when
16 Sergeant Page was first made aware of it, he sent a report,
17 I think first of all to Paddington, to try and get it
18 investigated, and they said, "It's not our area", and sent
19 it back.

20
21 He then sent a report to Missing Persons and they sent
22 it back, and I think there was a third report, and it came
23 back. And at that point my understanding is that Warwick
24 Brown, who was the Chief of Detectives at Paddington at the
25 time, then directed that it would be done by Paddington,
26 and at that stage, Mr Page decided that he would take it on
27 because of the - obviously the convoluted and complex
28 investigation. He didn't want to give it to a junior
29 officer.

30
31 Q. Thank you for all of that detail, but the gist of
32 that, not taking issue with it for the moment, is that it
33 was because of Page's initiative or energy that eventually
34 the result was that there was an investigation.

35 A. Yes, he ended up with it, yes.

36
37 Q. Now, in terms of the Neiwand summary concerning
38 Warren, at 115 there is reference to what the original
39 officer in charge, Bowditch, had said. Do you see that?

40 A. Yes. I've got that.

41
42 Q. At 116 there is quite a lengthy extract from
43 a statement of Bowditch which begins - the summary by
44 Neiwand begins:

45
46 *Interestingly Bowditch stated the*
47 *following ...*

1
2 Do you see that?
3 A. Yes.
4
5 Q. And this is the same Bowditch whose investigation was
6 labelled by the Coroner as, I think, shameful and
7 disgraceful?
8 A. Yes.
9
10 Q. And you'll recall that whereas Bowditch claimed that
11 he had done all kinds of things by way of investigating and
12 claimed that others had investigated with him --
13 A. Yes.
14
15 Q. -- none of those claims could ever be substantiated?
16 A. I agree.
17
18 Q. And that the people whom he claimed had worked on it
19 all said either, "Well, I was on leave, I wasn't there at
20 the time", or "No, I've never heard of this."
21 A. Yes.
22
23 Q. So it rather looked at though quite a bit of what
24 Mr Bowditch was saying was just not true, didn't it?
25 A. I agree.
26
27 Q. And yet that's the man, Bowditch, that Chebl, endorsed
28 by you, chooses to highlight as the giver of an interesting
29 opinion.
30 A. I think he's just quoting him there as the original
31 OIC. I don't think he's putting any potential huge
32 significance on it.
33
34 Q. Well, he says "Interestingly", and then what he quotes
35 is Bowditch saying - before I go on to this, you'll recall
36 that Bowditch's so-called investigation from go to whoa
37 lasted four days?
38 A. It was certainly less than a week, yes.
39
40 Q. So not what you might call thorough?
41 A. No.
42
43 Q. And Bowditch is quoted as saying, after his four days,
44 in which no-one else seems to have done anything despite
45 the fact that he says they did --
46 A. Yes.
47

1 Q. --

2

3 *There is nothing to suggest that Ross*
4 *Warren's disappearance was the result of*
5 *foul play ...*

6

7 A. Mmm.

8

9 Q. Now, that opinion, from someone as discredited as he
10 became in the Milledge inquest, and someone who really
11 seems to have done practically no investigation, is
12 worthless, isn't it?

13 A. Well, it's - you would have to decide the value of it,
14 and obviously I wouldn't attach a great deal of value to
15 it.

16

17 Q. No. But the author of this document quotes 20-odd
18 lines of it, and underlines, and the underlining is
19 Neiwand's, not Bowditch's:

20

21 *There is a distinct possibility that Ross*
22 *Warren may have slipped on the rock ledge*
23 *overlooking McKenzie's Bay.*

24

25 A. I see that as being a factual thing that he's simply
26 saying that that was what Mr Bowditch decided. I don't see
27 that he's saying that that's obviously what happened.

28

29 Q. Except that he has underlined it as though it's an
30 important thing to bear in mind?

31 A. Well, that was - that was Bowditch's --

32

33 Q. It was Bowditch 's, but Chebl has underlined it?

34 A. Yeah, but that was what - possibly just to, in amongst
35 all that group of writing, to show that that's what
36 Bowditch considered had happened.

37

38 Q. From 117 onwards, there's reference to Taradale
39 contacting witnesses, and the general criticism, without
40 going through all of this detail, by Chebl in these
41 paragraphs, endorsed by you, is that although some of these
42 associates, work colleagues and social associates, were
43 spoken to, they weren't all, and those that were spoken to,
44 according to Chebl, weren't asked every question that they
45 perhaps could have been asked. That's the gist of the
46 criticism?

47 A. Yes, and I am familiar with some or most of those

1 names.
2
3 Q. So the person named in paragraph 123 is someone that
4 Taradale obtained a statement from?
5 A. Yes.
6
7 Q. And the same with 128, that person?
8 A. Yes.
9
10 Q. And 131, and 133?
11 A. Yes.
12
13 Q. And 136, there's Taradale revisiting the line of
14 inquiry relating to the person --
15 A. We've discussed that one, yes.
16
17 Q. -- that Mr Tedeschi raised?
18 A. Yes.
19
20 Q. And that again is established to go nowhere?
21 A. Yes.
22
23 Q. And the person named at 140 was the subject of or made
24 a statement in the Taradale inquiry?
25 A. Yes.
26
27 Q. And at 141, Taradale conducted video walk-throughs
28 with the two people mentioned there?
29 A. Yes.
30
31 Q. Neiwand, in the end, conducted a walk-through with the
32 first of those two people?
33 A. Yes.
34
35 Q. But not the second; is that right?
36 A. Yes.
37
38 Q. Now, as to the second, the one that Neiwand did not
39 conduct a walk-through with, what Neiwand says in
40 paragraph 141, bottom of the page, 32, is:
41
42 *As previously mentioned, Operation Taradale*
43 *investigators held a strong reliance on the*
44 *version of events [DM] provided Police.*
45
46 Do you see that?
47 A. Yes.

1
2 Q.
3
4 *As such, investigators --*
5
6 that is Neiwand - sorry, that is Taradale --
7
8 *utilised the incident involving --*
9
10 A. Yes, that person.
11
12 Q. -- that person --
13
14 *not as a possible hypothesis, but more of*
15 *a likely occurrence, which resulted in*
16 *Warren's disappearance.*
17
18 Do you see that?
19 A. Yes, it's somewhat jumbled.
20
21 Q. It is somewhat jumbled, but, doing the best one can
22 with the jumble, the criticism being made by Neiwand of
23 Taradale seems to be that they regarded the DM incident --
24 A. Yes.
25
26 Q. -- as being likely, rather than only a possible
27 hypothesis?
28 A. Yes, I find that a bit hard to follow.
29
30 Q. Which is incredible, isn't it? I mean, obviously the
31 DM incident happened, and no-one has ever disputed it,
32 including yourself?
33 A. Yes.
34
35 Q. He was attacked?
36 A. Yes.
37
38 Q. He gave lengthy evidence at the Milledge inquest about
39 what happened and --
40 A. Yes.
41
42 Q. -- how he only barely escaped with his life, and
43 Mr Saidi, for the Commissioner of Police, accepted him
44 without challenging one full stop or comma of that account;
45 you will recall that?
46 A. Yes.
47

1 Q. So the idea that Mr DM's account of his being
2 assaulted as a gay man on the Bondi walkway not far from
3 Marks Park is not a possible hypothesis; it's an utterly
4 established fact, isn't it?

5 A. Yes, I would agree with that.
6

7 Q. And yet the criticism seems to be - or is, not "seems
8 to be" - the criticism of Neiwand is that Taradale was
9 wrong to assume that it had happened; they should have only
10 treated it as a hypothesis?

11
12 MR TEDESCHI: I object. I think my friend has
13 misunderstood the sentence.

14
15 THE COMMISSIONER: Oh, okay.
16

17 MR TEDESCHI: It is not referring to any doubts about --
18

19 THE COMMISSIONER: Just before you start, hang on, I might
20 ask Mr Morgan to step outside just in case what you are
21 about to say might affect his view, because he jointly
22 authored this, apparently, if that's all right with you.
23 Would you just step outside for a moment, please,
24 Mr Morgan, thank you.
25

26 (The witness withdrew from the hearing room)
27

28 MR TEDESCHI: Commissioner, I think the question seems to
29 pose a theory that the police treated Mr DM's attack as
30 a possible hypothesis.
31

32 What the sentence is clearly saying is that the
33 possible hypothesis, as opposed to a likely occurrence, is
34 that something similar happened to Mr Warren. I think my
35 friend has misinterpreted the sentence.
36

37 THE COMMISSIONER: It's not entirely clear from that
38 context. I see how that's an alternative interpretation.
39

40 MR GRAY: Commissioner, I'm content to move on, because
41 the fact that the interpretation that I'm putting, in my
42 submission, becomes crystal clear a little later, but I'm
43 happy to move on.
44

45 THE COMMISSIONER: All right. Okay. In that event, what
46 I will do is I will allow it for the moment and Mr Tedeschi
47 can pick it up.

1
2 Catherine, can you just bring Mr Morgan back through,
3 thank you.
4

5 (The witness returned to the hearing room)
6

7 THE COMMISSIONER: Thank you, Mr Morgan.
8

9 Yes, Mr Gray.
10

11 MR GRAY: Q. Mr Morgan, appreciating, as you pointed
12 out, that this sentence at the top of page 33 is somewhat
13 jumbled, or appears to be, as you read it, does it seem to
14 be the case that Neiwand is saying that Taradale should not
15 have treated DM's assault as having been likely to have
16 occurred, but should have only regarded it as a possible
17 hypothesis?

18 A. That's the way it appears to read, yes.
19

20 Q. And if that is the way that it's meant to read, and
21 I accept it is slightly unclear --

22 A. Disjointed, yes.
23

24 Q. -- that would be silly, wouldn't it, given that --

25 A. Yes, I would agree.
26

27 Q. Now, in 146 and following is a reference to Taradale
28 getting a report from an expert on coastal geomorphology
29 about tides and what might have happened to a body, and so
30 on?

31 A. Yes.
32

33 Q. And then at 150 there is something similar about
34 rainfall and weather?

35 A. Yes.
36

37 Q. And then from 152 onwards there is now, again - well,
38 perhaps I shouldn't say "again", there is now, in this
39 summary, reference to some of the work that Taradale did in
40 connection with the youth gangs, to use the shorthand
41 expression?

42 A. Yes.
43

44 Q. And the point is made at 152 that it was not an
45 original hypothesis formed by Taradale, and that it was
46 a continuation of the investigation conducted by former
47 Detective Sergeant McCann; and that's obviously right?

1 A. Correct.
2
3 Q. And detail is given of some of these many groups - the
4 Alexandria Eight, the group PSK or Parkside Killers?
5 A. Yes.
6
7 Q. The Tamarama Three, PTK or the Bondi Boys, and lists
8 of all these people are set out, and then at 159 and
9 following there is reference to various covert techniques
10 that were used to try to find out more about all these
11 people in these gangs?
12 A. Yes.
13
14 Q. Then at 171 and following - I should say, there is
15 a heading above 165, "Investigative red herrings", and
16 there - there are two headings that I must say I can't read
17 myself, one above 166 and one above 168, but the people
18 referred to in those paragraphs, 166 through to 170, it
19 seems to be accepted by all concerned, including Neiwand,
20 were people who, in the end, it became clear were not
21 suspects?
22 A. Well, were persons of interest, but investigations
23 appeared to clear them, yes.
24
25 Q. Well, Taradale's investigations appeared to clear them
26 and so did Neiwand's?
27 A. Yes, agreed.
28
29 Q. Agreed. Now, then there is a reference in 171 to
30 fingerprints of Warren, and there is a reference to the
31 coronial inquest at 174, and then at 177 we get to what
32 Neiwand did.
33 A. Yes.
34
35 Q. Now again, at 179 - in fact, just on 178, the
36 investigation by Bowditch is said to have been lacking.
37 A. Mmm-hmm.
38
39 Q. Six reasons for that, or six areas, are listed.
40 A. Yes.
41
42 Q. One of them is not - I withdraw that, I'm sorry.
43 I will move on. 179 --
44 A. Yes.
45
46 Q. -- there are set out what are said to be the
47 deficiencies with Taradale, and the first one is tunnel

1 vision again?
2 A. Yes.
3
4 Q. And the suggestion is that they focused only on
5 members of youth gangs. You know that that's not actually
6 so, don't you? They focused significantly on youth gangs?
7 A. Yes.
8
9 Q. But you couldn't say "only", could you?
10 A. "Only" is probably a stretch.
11
12 Q. (b) is, coming back to what I was saying earlier, as
13 a deficiency, "strong reliance on DM's version and
14 identification". That's a deficiency, apparently. Why
15 would that be a deficiency?
16 A. My recollection of it is that DM identified a known
17 person --
18
19 Q. He did.
20 A. -- and then, for whatever reason, failed to pursue the
21 matter, like --
22
23 Q. He did.
24 A. -- withdrew his cooperation with police or whatever.
25
26 Q. Well, he declined to - you are right, he declined to
27 pursue proceedings, to use a neutral word, against that
28 person?
29 A. Yes, and I can only imagine that, because of that,
30 he's saying, they relied strongly on DM and then DM, for
31 whatever reason, failed to follow through with the inquiry,
32 and so they should have - I don't know about totally
33 disregard it, but they should have put less emphasis on
34 what he had to say. That's just my view on it.
35
36 Q. Well, your view may be right; we don't know,
37 I suppose. But one pretty obvious possibility why someone
38 in DM's position might not want to pursue criminal
39 proceedings against the person he identified would be fear,
40 wouldn't it?
41 A. Possibly, yes.
42
43 Q. If you have just been attacked in the brutal way that
44 he was --
45 A. Yes.
46
47 Q. -- and he knew the person, because you remember he

1 gave --
2 A. He gave a name, yes.
3
4 Q. He gave a name and he said that he would see that
5 person around and about in the area where he worked?
6 A. Yes, that's correct.
7
8 Q. So if he was the person who had been brutally
9 assaulted by that person and was the person who then had
10 the police go after him for a crime --
11 A. Yes.
12
13 Q. -- he might, understandably, be a bit hesitant about
14 doing so?
15 A. Yes, understand.
16
17 Q. But to repeat what you had accepted earlier -
18 thank you - you, and so far as I know, Neiwand, have never
19 actually doubted that his account accurately reflected what
20 happened, ie, a group of people did attack him?
21 A. Yes.
22
23 Q. Now, (c) is, as a deficiency, that very little was
24 done to learn more about Warren?
25 A. Yes.
26
27 Q. That again, wouldn't you agree, is something of an
28 overstatement, something of an exaggeration? Obviously
29 quite a bit was done to learn about Warren, including
30 speaking to the WIN Television people and speaking to
31 various associates like the one whose name has been
32 referred to several times who found the keys, and so on?
33 A. Yes.
34
35 Q. So to say that very little was done is an
36 exaggeration, isn't it?
37 A. It would appear to be, yes.
38
39 Q. There is a criticism of strategies implemented about
40 covert methods, and there is a criticism of disclosing
41 police methodology to witnesses and persons of interest,
42 through the inquest. What is the problem with doing that
43 at an inquest in your view?
44 A. Well, only that you are putting them on notice and
45 making them aware of capabilities and basically negating or
46 reducing the effectiveness of such measures down the track,
47 if they were to be deployed again.

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Q. Right. But realistically --

A. Sometimes it can't be avoided.

Q. That's one point I wanted to ask you. Obviously, sometimes it can't be avoided, and in this instance, when they are trying to lay before the Coroner everything they had that might assist the Coroner to make a finding, that's one of those occasions when it's a necessary evil, isn't it?

A. Yeah, whether that's a relation to not seeking orders or anything like that, I don't know.

MR GRAY: I see the time, Commissioner.

THE COMMISSIONER: I will adjourn until 10am Monday, thank you.

MR TEDESCHI: I'm sorry, could I just ask your Honour to wait for one moment.

MR GRAY: My friend has asked - actually, I said to my friend earlier today that if I was not finished with Mr Morgan today, in the interests of moving things along as much as we can, I would not object to his speaking to Mr Morgan over the weekend, and I make that plain on the record.

THE COMMISSIONER: Yes, okay, that's fine.

MR GRAY: I understand from Mr Tedeschi that - well, I had better let him say what his expectation is as to what might happen on Monday.

MR TEDESCHI: I would like to arrange to see this man on Monday morning. I wonder, Commissioner, if you would start perhaps at 10.30 on Monday.

THE COMMISSIONER: Yes, certainly. That's no problem. All right. I will adjourn until 10.30 on Monday, thank you.

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