

**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, 7 July 2023 at 10.00am

(Day 75)

Re: Death of Robert Malcolm

Ms Christine Melis	(Counsel Assisting)
Ms Kate Lockery	(Principal Solicitor)
Ms Penelope Smith	(Solicitor)

Re: Investigative practices and procedures:

Mr James Emmett	(Counsel Assisting)
Ms Rebecca McEwen	(Counsel Assisting)
Ms Kate Lockery	(Principal Solicitor)
Ms Aleksandra Jez	(Solicitor)
Ms Penelope Smith	(Solicitor)
Mr Michael Tanazefi	(Solicitor)

Also Present:

**Mr Mathew Short with Mr Patrick Hodgetts for NSW Police
(Re: Malcolm)**

**Mr Anders Mykkeltvedt for the NSW Police
(Re: Investigative practices and procedures)**

1 THE COMMISSIONER: Yes.
2
3 MS C MELIS: Commissioner, I appear to assist you in this
4 hearing.
5
6 THE COMMISSIONER: Thank you.
7
8 MR M SHORT: Commissioner, Short, for the Commissioner of
9 Police.
10
11 THE COMMISSIONER: Thank you, Mr Short.
12
13 MS MELIS: Commissioner, this is public hearing number 14
14 of the Special Commission of Inquiry. These submissions
15 address the death of Robert Hart Malcolm. Mr Malcolm's
16 death was one of the cases reviewed by Strike Force
17 Parrabell.
18
19 There are two volumes of material in this matter,
20 Commissioner. I hand up now a copy of those materials,
21 together with some short minutes in relation to orders that
22 the parties seek to be made pursuant to section 8 of the
23 Special Commissions of Inquiry Act.
24
25 Travelling also with that bundle is a copy of Counsel
26 Assisting's written submissions dated 6 July 2023.
27
28 THE COMMISSIONER: Thank you. They are agreed, are they,
29 Mr Short?
30
31 MR SHORT: Yes, they are, Commissioner.
32
33 THE COMMISSIONER: Thank you.
34
35 MS MELIS: I understand, Commissioner, that the two
36 volumes of material will be exhibit number 56.
37
38 **EXHIBIT #56 TWO VOLUMES OF MATERIAL FOR PUBLIC HEARING**
39 **NUMBER 14 RE THE DEATH OF ROBERT HART MALCOLM**
40
41 MS MELIS: I formally adopt and rely on the submissions
42 handed up.
43
44 THE COMMISSIONER: Thank you. I have made those orders,
45 thank you.
46
47 MS MELIS: May it please the Inquiry.

1
2 If a photo of Mr Malcolm could please be put up on the
3 screen? Commissioner, this is a photo of Robert Malcolm
4 with his mum, Edith. Mr Malcolm was a respected,
5 well-liked and intelligent man. He was the son of Edith
6 Malcolm and Robert Senior Malcolm, both of whom are
7 deceased. He had a younger brother, Graham Malcolm, and
8 a younger sister, Lynette Elias.

9
10 I start today by acknowledging Lyn and Graham, who are
11 here in person today, Commissioner, in the gallery of the
12 court. I also acknowledge all of Mr Malcolm's family and
13 friends who may be watching on the live stream.

14
15 Commissioner, the Malcolm family have prepared
16 a family statement honouring the life of Robert, and I now
17 invite Ms Elias to come into the witness box and read that
18 statement.

19
20 THE COMMISSIONER: Certainly.

21
22 MS ELIAS: Robert was a kind, caring and intelligent
23 person. He had many talents and interests. From an early
24 age, Robert was an avid reader and a gifted musician. He
25 was a star of several musicals at his local high school.
26 Robert was a talented singer and a virtuoso on the
27 recorder. He was very good at public speaking and
28 debating. In fact, when he met up with his aunt Bernice in
29 Scotland while travelling, her husband Stanley gave Robert
30 the nickname of "The Orator".

31
32 After secondary school, Robert attended the University
33 of Sydney from 1969, where he embarked on an Arts degree,
34 studying economics, modern history and geography.

35
36 Robert was a member of the Sydney University Musical
37 Society and participated in musical performances as a tenor
38 in the chorus. He was also the SUMS treasurer during that
39 time. Robert worked at the GPO for the Australian Postal
40 Service and appeared to enjoy his time there very much.

41
42 He loved train travel, and in 1978 Robert travelled on
43 the Trans-Siberian Railway with a friend, exploring much of
44 Asia and Europe.

45
46 Robert was always polite, gentle and generous with his
47 time and possessions. He was well loved by many who knew

1 him.

2
3 The loss of Robert has impacted sadly on all of our
4 family. We miss our Robert terribly. Our parents, Bob and
5 Edith, were deeply saddened by the death of their
6 first-born son. Their lives would have been so much
7 happier and healthier if Robert had not been violently
8 attacked.

9
10 While Robert never fathered children of his own, he
11 would have delighted in being an uncle to his four
12 wonderful nieces. Robert died in 1992 before he could ever
13 know of or spend time with any of his nieces. Robert would
14 have enjoyed talking with them and sharing in their
15 company. His nieces could have benefited from Robert's
16 interest and advice on all matters, particularly music,
17 literature and history.

18
19 When our parents' health deteriorated as they aged,
20 Robert may have made a valuable contribution to their care
21 and wellbeing. Perhaps they could have avoided living
22 their final years in a nursing home.

23
24 THE COMMISSIONER: Thank you.

25
26 MS MELIS: Thank you, too, Ms Elias for that statement.

27
28 Commissioner, I formally tender that statement, and
29 I understand that will be exhibit number 57.

30
31 **EXHIBIT #57 FAMILY STATEMENT RE THE DEATH OF ROBERT HART**
32 **MALCOLM**

33
34 MS MELIS: On behalf of the Inquiry, I extend my sincere
35 condolences to all of Mr Malcolm's family and friends and
36 thank them again for sharing those words about Robert.

37
38 If that photograph could now please be taken down.

39
40 Mr Malcolm was 41 years old at the time of his death
41 and lived in Jannali with his parents. He worked in a
42 clerical position in the staff pay section of the General
43 Post Office at Martin Place, Sydney. On the afternoon and
44 evening of 10 January 1992, he was drinking at the Menzies
45 Hotel with colleagues and was last seen by friends at
46 around 8.15pm.
47

1 In the early hours of Saturday, 11 January 1992,
2 Mr Malcolm was found unconscious in an abandoned and
3 derelict house on Holden Street in Redfern.

4
5 He had suffered serious head injuries, which were
6 likely the result of being assaulted with objects including
7 a piece of timber and a broken brick. He was found with
8 his underpants down around his knees and his trousers
9 around his ankles. He died of those head injuries at the
10 Royal Prince Alfred Hospital on 29 January 1992.

11
12 Three persons of interest were identified and charged
13 in relation to Mr Malcolm's death. They were Anthony
14 Stanley Hookey, Kirk Anthony Phillips and Richard John
15 Green.

16
17 Mr Phillips and Mr Green are deceased.

18
19 Each person of interest was discharged at the
20 committal hearing, which was held on 3 and 4 August 1992.
21 I will come to the evidence in relation to each person
22 shortly.

23
24 As previously submitted by Senior Counsel Assisting
25 the Inquiry, the Inquiry's investigation of Mr Malcolm's
26 death and Counsel Assisting's submission in relation to his
27 case to you today, Commissioner, were affected by the late
28 production of material by police. As late as 5 June 2023,
29 the Inquiry received over 1,500 pages of material,
30 including a large volume of running sheets not previously
31 provided to the Inquiry, which related to the initial
32 police investigation into Mr Malcolm's assault and death.
33 These documents ought to have been produced to the Inquiry
34 back in May last year when they were first summonsed.

35
36 The documents threw up a number of witnesses whose
37 names the Inquiry was not previously aware of, and the
38 Inquiry has endeavoured to follow up with these witnesses
39 and any potential leads in the intervening period.

40
41 On 21 June 2023, the Inquiry received a further
42 1,827 documents, which the police indicated were produced
43 pursuant to the summons issued in May last year. The
44 Inquiry set to work reviewing all documents and reconciling
45 the information with information it already had.

46
47 Commissioner, Inquiry staff continued to receive

1 further production in this matter by police as recently as
2 5.53pm on Wednesday of this week, 5 July. Fortunately,
3 a review of this material did not warrant any further delay
4 to today's proceedings.

5
6 We do hope, however, that the Inquiry has now received
7 the entire holdings of NSW Police in relation to
8 Mr Malcolm's case, and it is on this understanding that we
9 present this case to you today.

10
11 I now turn to events preceding Mr Malcolm's death.

12
13 Mr Malcolm's friends and colleagues described him as
14 quiet, likeable and a happy-go-lucky guy but that he
15 appeared to have a problem with drinking. One colleague,
16 Richard Teaken, said that his nickname at work was "Alcy
17 Malcy".

18
19 Two people who knew him said that as a result of being
20 robbed of his watch and wallet two to three years prior to
21 his death, Mr Malcolm did not carry a wallet, usually just
22 some cash and an ATM card. Mr Malcolm's father confirmed
23 that missing from his son's property at home after he was
24 assaulted was his licence and Mastercard keycard.

25
26 Richard Teaken also stated to police that Mr Malcolm
27 was sympathetic and naive with Aboriginal people and added
28 that he was likely to go anywhere if offered a drink.

29
30 On 10 January 1992, between 1pm and 3pm, Mr Malcolm
31 attended the King George Tavern with colleagues to
32 celebrate a fellow colleague's retirement. From 4.30pm to
33 around 8pm, he was drinking with friends at the Menzies
34 Hotel. First he went to the Terrace Bar at the Menzies
35 Hotel. Sharon Stephens, a bar attendant there, said to
36 police that he left really drunk at around 8pm.

37
38 Mr Malcolm then drank in the Punt and Pint Bar of the
39 Menzies Hotel with friends John Baxter and George
40 O'Donnall. At the time Mr O'Donnall left, which was about
41 8.15pm, Mr Malcolm was "pretty intoxicated". He was
42 unsteady, his speech was slurred and his eyes were glazy
43 and bloodshot. At one point, Mr Malcolm asked
44 Mr O'Donnall, "Have you got \$50 on you I can borrow?", and
45 Mr O'Donnall responded, "I could give you a hundred, Bob."
46 However, Mr O'Donnall did not end up giving Mr Malcolm any
47 money.

1
2 Between 8.30pm and 9pm, four witnesses say they saw
3 one of the persons of interest, Anthony Hookey, walking
4 down Eveleigh Street in Redfern with a white man.
5 Mr Hookey was well known to all four witnesses, each of
6 whom lived in or around the Redfern area. Mr Hookey was
7 also known by the name "Beaver". The sightings of the four
8 witnesses are detailed in our written submissions at
9 paragraphs 123 to 129. The identification evidence given
10 by at least three of the witnesses appears consistent with
11 them identifying Mr Malcolm as being with Mr Hookey between
12 8.30 and 9pm, or otherwise a white man who looked very much
13 like him. All three witnesses observed the white man to be
14 drunk, unsteady and staggering.
15

16 The fourth witness, a Ms Sharon Murphy, said that she
17 saw Mr Hookey and a man walking down Eveleigh Street
18 between 8.30 and 9.30pm. She said they were both drunk and
19 staggering and carrying a carton of beer. Ms Murphy then
20 called out to Mr Hookey for a dollar, and he told the man
21 to give her a dollar. Ms Murphy stated that the man then
22 opened a black wallet and gave her a gold coin, and she saw
23 that he had a lot of money in 100 and 20 dollar notes and
24 thought to herself, "He's going to get bashed and they'll
25 take the money off him." Mr Hookey and the man then turned
26 left into Lawson Street.
27

28 Ms Murphy was later interviewed by police and stated
29 that she saw Mr Malcolm lying in the abandoned house and
30 spoke to her cousin about it. She stated that she had seen
31 the man on the previous night.
32

33 It is noted that Ms Murphy's identification may not be
34 reliable, for the following reasons: firstly, Mr Malcolm,
35 by all accounts, did not carry a wallet; secondly,
36 Ms Murphy stated that the man had blood on his shirt, on
37 the left shoulder, when walking down the street on the
38 Friday night, which does not match with the accounts of the
39 other three witnesses; thirdly, Ms Murphy identified
40 Mr Malcolm as the man she later saw lying in Holden Street,
41 however, none of the other witnesses who found Mr Malcolm
42 referred to her presence that morning; fourthly, if
43 Ms Murphy did see Mr Malcolm on the morning of 11 January,
44 his face would have been injured and covered in blood; and,
45 finally, the timing given by Ms Murphy would mean that
46 Mr Malcolm was asking Mr O'Donnall to borrow money at
47 around 8pm to 8.30pm but then flush with cash at around

1 8.30 to 9pm.
2

3 Ms Murphy's evidence becomes important in the later
4 part of this narrative, Commissioner, and I will return to
5 her evidence.
6

7 There are limited sightings of Mr Malcolm from this
8 point on, with the exception of one witness, whom I will
9 refer to as "NP243", who spoke to police on 11 January
10 1992, saying that he was part of the group who found
11 Mr Malcolm. This witness said that he had seen Mr Malcolm
12 in the Redfern area at approximately 11.30pm on 10 January.
13 He did not provide a statement and, when followed up by
14 police, did not live at the address given.
15

16 The existence of this witness was only revealed in the
17 tranche of documents received by the Inquiry on 6 June
18 2023. After various attempts to contact this witness, he
19 has declined to assist the Inquiry.
20

21 At about 2am on 11 January 1992, Mr Malcolm was found
22 in the derelict house on Holden Street, Redfern. I will
23 now show some photographs of that derelict house. These
24 photographs are at tab 20 of the tender bundle,
25 [SC0I.83955_0001].
26

27 Photo 1 here, Commissioner, you can see, is a front
28 view of the house.
29

30 If we can turn over to photo 3, please, this is a rear
31 view of the house.
32

33 If we also could now turn to photograph 4, this is the
34 inside on the ground floor of the derelict house. It can
35 be seen that it looks like it's been partly torn down.
36

37 Photograph 7, please. Here we can see a beer bottle
38 that was found inside the house and was later taken as an
39 exhibit.
40

41 Photograph 9, please. This is a shoe and some other
42 rubbish found inside the house. The shoes that were found
43 were also taken as exhibits.
44

45 And perhaps just one more photo, please, the next
46 photo. That is all the photos, thank you.
47

1 These photos indicate, Commissioner, that this house
2 was possibly used as a place to meet and drink. Mr Malcolm
3 was found by young adults and children working or staying
4 at what was known as "The Factory", next to the derelict
5 house on Holden Street. It was also known as the
6 Aboriginal Christian Youth Organisation. It was a place
7 where young people slept, ate and hung out and where the
8 Phillips family appeared to work - that is, the family of
9 one of the persons of interest, Kirk Phillips.

10
11 A group of 14- to 15-year-old children stated that
12 they heard sounds from inside the abandoned house at around
13 2am and then went to investigate. They saw Mr Malcolm
14 through a hole in the wall. He was lying on his back and
15 bleeding heavily from his face. The younger children then
16 fetched an older group, which included Kirk Phillips. Kirk
17 Phillips then went to Redfern railway station to call an
18 ambulance, and another person went back to The Factory to
19 use the phone there to call an ambulance.

20
21 It appears that at some point between when the younger
22 boys discovered Mr Malcolm and the arrival of the
23 ambulance, Jason Phillips, the younger brother of Kirk
24 Phillips, went into the house. Jason stated that
25 Mr Malcolm was choking on the blood coming out of his mouth
26 and down his face, and so he turned him on his side and
27 propped him up with a stick to help him breathe.

28
29 Another witness, Richard Gilmore, then saw that
30 Mr Malcolm was unconscious and propped up with a stick, so
31 he removed the stick and put Mr Malcolm on his side.

32
33 In his second statement to police, Richard Green said
34 that he was at The Factory when a young man came in and
35 told them, "Some bloke's just been brought from
36 Kings Cross, bashed and rolled." It is unclear how the
37 young man obtained that information or, if invented by
38 Mr Green, how he obtained that information without some
39 involvement in the assault.

40
41 The witness whom I have mentioned as NP243, in his
42 discussions with police, said he had gone into the building
43 to meet some friends and that everyone knew he was in there
44 but didn't know he'd been extremely beaten.

45
46 These statements indicate that the abandoned house was
47 possibly being used as a meeting place, which accords with

1 the rubbish found, including the beer bottles. The
2 statements also show that there was some awareness that
3 Mr Malcolm had been "rolled" - that is, robbed - although
4 those who found him appeared shocked at the extent of his
5 injuries.
6

7 At approximately 2.17am on 11 January, paramedics
8 arrived at the Holden Street address. One of the
9 paramedics observed that Mr Malcolm's underpants were
10 around his knees, and his grey pants were folded in half
11 and placed across his buttocks. It is unclear who folded
12 Mr Malcolm's pants, as the young people who discovered him
13 only mentioned that his pants were down, not that they were
14 folded.
15

16 At this time, Mr Malcolm did not have any
17 identification or valuables on him. He was conveyed by
18 ambulance to Royal Prince Alfred Hospital. A number of
19 injuries were clinically evident on examination, including
20 complex fractures of the base of the skull and right facial
21 bones, damage to the right eye, a deep laceration of the
22 right cheek, broken and/or missing front upper teeth, and
23 bleeding from the nose and right ear.
24

25 At 7.30pm on 29 January 1992, Mr Malcolm was
26 pronounced deceased.
27

28 I now turn to the persons of interest. Firstly,
29 Mr Hookey. On 11 January 1992, information was received by
30 police through Dave Bell, the Aboriginal liaison officer to
31 the Redfern Police Station. The information was that
32 Beaver Hookey was seen chasing a male Caucasian north in
33 Eveleigh Street about 2am on 11 January.
34

35 At around 12.30pm on 11 January, Mr Hookey was located
36 in Redfern and attended the police station. He later
37 provided a further statement on 13 January and participated
38 in an electronically recorded interview on 30 April, prior
39 to being charged with murder that day.
40

41 On 22 January 1992, it appears that an unidentified
42 person provided further information to the Aboriginal
43 liaison officer that Kirk Phillips and Richard Green could
44 be involved in the incident.
45

46 Mr Phillips and Mr Green were part of the group that
47 had found Mr Malcolm and provided statements on 11 January.

1 Mr Phillips participated in an electronically recorded
2 interview on 6 May 1992, prior to being charged with murder
3 that day, and Mr Green provided a further statement on
4 4 March 1992, being later charged on 12 June with accessory
5 after the fact to murder.
6

7 In his statement to police on 13 January, Mr Hookey
8 provided an overview of his movements on 10 and 11 January.
9 Counsel Assisting's written submissions detail Mr Hookey's
10 alleged movements in great detail at paragraphs 150 to 169.
11

12 It is sufficient to observe the following: Mr Hookey
13 puts himself at the Black Theatre in Redfern at around 6.55
14 on 10 January. At around 7.45, he is at the Clifton Hotel
15 in Redfern. At closing time, which is unspecified, he says
16 he left that hotel with his ex-girlfriend, Dianne
17 McGuinness, and her cousin, Tracy McGuinness, and they
18 walked up Regent Street towards the Westpac bank. There he
19 saw a number of girls and they took a taxi together to
20 Kings Cross.
21

22 After arriving at The Cross, he separated from the
23 women and went to the Mansions Hotel. In the early hours
24 of 11 January, he ran into Dianne McGuinness again, and
25 they walked around the streets until it started to become
26 light. At dawn, he said that he and Ms McGuinness took the
27 train from Kings Cross to Central Station and then went to
28 the Subway Hotel.
29

30 When spoken to by police on 11 January, Mr Hookey
31 provided a different timeline of events from Kings Cross to
32 Central. He said he stayed at the Mansions Hotel until
33 around 3.30am and then went to the Subway Hotel, Surry
34 Hills, and there is no mention of wandering around the
35 Kings Cross area with Dianne McGuinness. It is not until
36 his statement on 13 January that Ms McGuinness is
37 mentioned.
38

39 Another witness, James Smith, said that Mr Hookey had
40 come into some money as at 10 and 11 January. Shortly
41 after 2am on 11 January, at the Mansions Hotel, Mr Smith
42 says Mr Hookey kept flashing all this money he had, mostly
43 \$20 notes. During this time, Mr Hookey paid for two or
44 three rounds of drinks, including beer and spirits, for the
45 five or six people in the group. Mr Hookey told Mr Smith
46 words to the effect of, "I just rolled someone", or "I did
47 a roll."

1
2 Mr Smith's recollection of the event is not consistent
3 with the account of his partner, Ms Honeysett, who stated
4 that she was with Mr Smith and her friend Donna Morgan at
5 the Mansions Hotel that morning but did not recall seeing
6 Mr Hookey.

7
8 Mr Hookey denied making the statements to Mr Smith and
9 denied giving him any money. He also denied buying drinks
10 for other people at the Mansions Hotel and said that his
11 aunt and her friend bought him a beer.

12
13 Mr Smith went on to say that he was at the Subway
14 Hotel from around 5am and Mr Hookey was again shouting
15 drinks for the group there.

16
17 Overall, Mr Hookey's account is largely corroborated
18 by witness statements up until around midnight at the
19 Clifton Hotel and then again from around 8am at the Subway
20 Hotel. However, the hours between around midnight to 8am,
21 when Mr Hookey says he was in Kings Cross, are largely
22 uncorroborated.

23
24 The only person who puts him at the Mansions Hotel is
25 James Smith, who says he was spending up big. There was
26 some doubt over his evidence, however, at the committal
27 hearing, which I will come to.

28
29 There are also a number of people mentioned by
30 Mr Hookey who may have been able to corroborate his
31 movements during this period but who were not interviewed
32 by police, nor did they give statements to police.
33 Therefore, those elements of his story cannot be verified.

34
35 On 6 May 1992, Mr Phillips said the following to
36 police, implicating Mr Hookey in Mr Malcolm's death. If
37 I could now please show the electronic record of interview
38 with Mr Kirk Phillips of 6 May 1992,
39 [SC0I.10290.00014_0001]. It is at tab 69 of the tender
40 bundle, Commissioner. If I could please go to page 10.
41 Question 93, the officer asks Mr Phillips:

42
43 *Q. Do you have any information whatsoever*
44 *in relation to any person that made an*
45 *assault of this gentleman on that night?*

46 *A. No, to be honest you know, I'm being*
47 *truthful, the only thing that I know, what*

1 *I heard was - I heard something happened*
2 *and Beaver had something to do with it.*
3 *That's what I heard.*

4
5 *Q. Where did you get that information*
6 *from?*

7 *A. Just on the street.*
8

9 I now turn to the movements of Mr Kirk Phillips.
10 Mr Phillips provided the following account for his
11 movements on the night of 10 and 11 January 1992. From
12 about 4 or 5pm to around midnight, he was at the Clifton
13 Hotel playing snooker with a few people. He left the
14 Clifton Hotel at around midnight and stayed out the front
15 for about 15 minutes. He then went to a little park at the
16 top of Eveleigh Street, where the housing company is
17 located, and continued drinking there for approximately
18 two hours. At around 2am, he went down to The Factory on
19 Holden Street and went inside to sleep, after which
20 Mr Malcolm was discovered.
21

22 Mr Phillips denied seeing Mr Hookey or Mr Green on
23 10 or 11 January. However, if Mr Phillips was playing
24 snooker at the Clifton and Mr Hookey was there, as he says
25 he was, it seems unlikely that they could avoid seeing each
26 other there.
27

28 Mr Phillips also denied speaking to any white person
29 on the night.
30

31 I now turn to the movements of Richard Green. Richard
32 Green stated that he went to bed at 6.30pm on 10 January at
33 The Factory and was asleep for seven and a half hours until
34 he was woken up by some noise at about 1.50am, following
35 which Mr Malcolm's body was discovered. Mr Green said he
36 had never seen Mr Malcolm before.
37

38 When speaking with Detective Constable Starr on 9 June
39 1992, Mr Green gave two conflicting accounts regarding
40 seeing Mr Phillips at the scene of Mr Malcolm's murder.
41

42 I now show that piece of dialogue. It is in the first
43 statement of Detective Constable Michael Starr, dated
44 9 June 1992. It is at tab 14 of the tender bundle,
45 [SC0I.10939.00092_0001]. If we could please go to
46 paragraph 6. There, the constable deposes:
47

1 *En route to the police station I said to*
2 *Green, "Where are you living?" He said,*
3 *"With my missus ... I helped you blokes out*
4 *over that assault." I, said "Which*
5 *assault?" He said "Doesn't matter. I've*
6 *had people put guns to my head, 'cause*
7 *I saw Kirk do it, the bloke was a rock*
8 *spider. Hang on, I couldn't see Kirk do*
9 *it, 'cause I wasn't there." I said,*
10 *"I believe you are talking about the death*
11 *of Robert Malcolm. You are not obliged to*
12 *say anything further about that matter*
13 *unless you wish to do so, but whatever you*
14 *say I will record and it may later used as*
15 *evidence. Do you understand that?" He*
16 *said, "Mate, yeah. I mean I organised the*
17 *ambulance." I said, "What assault are you*
18 *referring to?" He said, "The one in*
19 *Eveleigh Street. The dead bloke they*
20 *locked two blokes up for."*

21
22 Sharon Murphy, whom I have mentioned before, stated
23 that she caught a train to her aunt's house on Eveleigh
24 Street on 11 January and saw police standing on the corner
25 of Eveleigh and Holden Streets. She saw her cousin and
26 asked him what happened and then walked down to the crime
27 scene and saw a man lying half in and half out the door,
28 who looked like he had been bashed, with blood on his head,
29 hair and clothes.

30
31 Ms Murphy walked back to her aunt's house and saw Kirk
32 Phillips and Richard Green standing there. She
33 participated in the following conversation, which is
34 important to note. It can be found in Ms Murphy's first
35 statement, dated 25 February 1992, at tab 44 of the brief,
36 [SC0I.83025_0001], and if we can please go to paragraph 4.
37 She says halfway through the paragraph:

38
39 *I heard Kirk say to Richard, "He should*
40 *have been dead. We didn't do the job*
41 *properly." I said to Kirk, "What are you*
42 *taking about?" Kirk said, "That man*
43 *Robert." He inclined his head towards the*
44 *house where the man was laying. Then Kirk*
45 *said, "Let's go before the coppers grab*
46 *us." Then Kirk and Richard walked up*
47 *Eveleigh Street away from the house where*

1 *the man was laying.*

2

3 Mr Phillips denied seeing Mr Green in the street and having
4 the above conversation.

5

6 Later that night, on 11 January, Ms Murphy went to
7 another person's house on Eveleigh Street. Richard Green
8 was there. At around 8.30, Mr Green turned to Ms Murphy
9 and the following conversation occurred. It is at
10 paragraph 7 of this same statement. Halfway through the
11 paragraph, she says:

12

13 *He kept saying to me, "You're next."
14 I said, "What do you mean?" He said, "Like
15 what happened to that man last night."
16 I said to him, "I'll get someone to bash
17 you if you touch me." He kept saying, "Be
18 careful." Then I got up and walked out and
19 he sang out, "Sharon, come back."*

20

21 Following some further argument, Mr Green told Ms Murphy
22 that, "There's a man down there, there's a man there who's
23 going to kill you. Come for a walk."

24

25 On 12 January, Ms Murphy was standing in Eveleigh
26 Street across the road from Holden Street and reported that
27 Kirk Phillips and Richard Green were outside the abandoned
28 house. Ms Murphy says she heard Mr Phillips say to
29 Mr Green, "See, we didn't do the job properly. He should
30 have been dead." Ms Murphy reported then telling another
31 witness, who I will refer to as "I312", what she heard, but
32 this conversation is not referenced in I312's statement.

33

34 Ms Murphy failed to appear at the committal hearing on
35 3 August 1992. At 6pm of that night, Ms Murphy saw
36 Mr Green on Darlinghurst Road in Kings Cross. She stated
37 that he spat at her and said, "You fuckin' dog. You should
38 have been at court. You give up."

39

40 Ms Murphy was not the only witness to link Mr Phillips
41 and Mr Green to Mr Malcolm's murder. At around 11am on
42 11 January, another witness, who I will refer to as "I376",
43 was at the Black Theatre in Cope Street, drinking beer.
44 This witness indicated that Mr Phillips and Mr Green said,
45 "We did it. We killed him." The witness thought it was
46 possible they were big-noting themselves. Mr Phillips
47 denied saying what the witness described.

1
2 In addition to hearing Mr Hookey admit to rolling
3 someone, Mr Smith further stated that he had spoken to
4 Richard Green on a number of occasions since 11 January,
5 and Mr Green had been "carrying on real strange" and saying
6 things like, "They're going to get me", and, "Watch me
7 back."

8
9 On 30 April 1992, Mr Hookey was interviewed and
10 subsequently charged with murder. When arrested, Mr Hookey
11 asked Detective Sergeant Gary Phillips, "Can't you make it
12 manslaughter?", and further told Sergeant John Martlew the
13 following - if I could please go to the statement of
14 Sergeant Martlew of 1 May 1992 at tab 10, paragraph 9,
15 [SCOI.10939.00021]. Halfway through or quarter of the way
16 down into that paragraph, Commissioner, the following
17 exchange occurs:

18
19 *I could get this down to Manslaughter,*
20 *I saw it happen but I can't say. I said,*
21 *"Look, I want you to realise that you are*
22 *not obliged to say any more about this*
23 *matter, but if you do tell me anything more*
24 *I will record what you say and it may later*
25 *be given in evidence. Do you understand*
26 *that?" He said, "Yeah, I can't dob them in*
27 *but my family will give them a bashing."*
28 *I said, "If you are prepared to give me*
29 *a further statement about what you know*
30 *I can submit a report about your charge but*
31 *I am not in a position to make any promises*
32 *you must clearly understand that." He*
33 *said, "I was there, I walked away, when*
34 *I came back they was bashing him with a bat*
35 *or a brick or something, he was crying out*
36 *and screaming I saw the blood then they ran*
37 *away." I said, "Was the man alive when you*
38 *were standing there?" He said, "Yeah.*
39 *I tried to move him onto the street, then*
40 *I ran away."*

41
42 As mentioned, on 6 May 1992, Mr Phillips was
43 interviewed and charged with murder.

44
45 On 12 June 1992, Mr Green was charged with accessory
46 after the fact to murder. When he was charged, he
47 responded, "Bloody murder. It was an assault", and later

1 remarked, "If Kirk has done this to me, he's a fucking
2 dog."

3
4 The committal hearing was held between 3 and 4 August
5 1992. As mentioned, all three accused were discharged on
6 the last day of the hearing. Despite the Inquiry's best
7 efforts, it has been unable to uncover the transcript of
8 the committal proceedings in this matter or the audio tapes
9 in order to better understand the basis for which all three
10 accused were discharged.

11
12 The Inquiry did, however, locate the DPP solicitor who
13 ran the case for the prosecution, Mr Mark Kelly. He was
14 able to shed some light on the proceedings. Mr Kelly told
15 the Inquiry that Ms Murphy was the key witness at the
16 committal. Her evidence, if true, linked all three accused
17 to the murder of Mr Malcolm. At the hearing, however, she
18 failed to give the magistrate the evidence to link the
19 accused with Mr Malcolm's death.

20
21 One document that we do have from the committal
22 proceedings is the master tape history sheets. I would
23 like to show one aspect of those sheets. It is at tab 95
24 of the tender bundle [SCOI.11290.00077] and it is the
25 master tape history sheet for 4 August 1992. We can see
26 there, Commissioner, the name of Sharon Lee Murphy, the
27 witness, and against her evidence, in the right-hand
28 column, we can see where she has been examined, including
29 the number of objections that are recorded against her name
30 with the letters "OBJ". There are a number of objections
31 that can be observed.

32
33 Mr Kelly made the same observation when reviewing
34 these documents. This tends to suggest that much of
35 Ms Murphy's evidence was objected to by those representing
36 the accused.

37
38 It is also possible that Ms Murphy perceived the words
39 of Richard Green on the evening of 3 August as a threat and
40 then, when giving evidence on 4 August, did not swear to
41 the overheard statements implicating Mr Green and
42 Mr Phillips out of fear of reprisals.

43
44 Reviewing his contemporaneous notes from the committal
45 hearing on 3 August, Mr Kelly also said that Mr Smith was
46 no longer sure about the day on which Mr Hookey said to him
47 that he had rolled someone. This further weakened the case

1 against Mr Hookey.
2

3 Mr Malcolm's sister, Lyn, has told the Inquiry in
4 a statement dated 21 June 2023, at tab 122
5 [SCOI.84073_0001] that she attended the committal hearing
6 with her parents. At this time, the family had not seen
7 any of the evidence and no-one explained the process to
8 them, which was upsetting and confusing for Mr Malcolm's
9 parents.

10
11 The family were not given a copy of the brief of
12 evidence until after the hearing and only after Lyn asked
13 police for further information.

14
15 She gave that information to her father. She
16 remembers that her father said, "It was very hard to get
17 information about Robert's murder", and that police had
18 told him that no-one in the community was talking to
19 police.

20
21 The Eveleigh Street community was described at the
22 time as a closely knit community. In a media release by
23 police dated 10 February 1992, which can be found at tab 87
24 [NPL.0174.0001.0001.0158], police appealed to the Eveleigh
25 Street community's strong sense of family unit.

26
27 On 28 January, the police noted that the community
28 expressed concern over the incident and a desire to catch
29 the person responsible. However, an undated report by the
30 Homicide Unit states that investigating police have "met
31 with a wall of silence and have received little or no
32 assistance from the Aboriginal community" and that a number
33 of persons interviewed had "given fictitious addresses,
34 thereby posing issues for follow-up or taking statements".
35 This indicates, it is submitted, a poor relationship
36 between the officers at Redfern Police Station and the
37 Redfern community at that time.

38
39 Police collected a number of exhibits from the crime
40 scene, including beer bottles, some of which we saw in the
41 photos, a pair of black male shoes, which we also saw in
42 the photos, two bloodstained buttons, a swab of blood from
43 the verandah, a broken brick with bloodstaining, multiple
44 pieces of bloodstained timber from the courtyard, and
45 a Daily Mirror newspaper dated 10 January 1992.

46
47 Further exhibits were also collected at the hospital,

1 including Mr Malcolm's grey trousers, belt, a pair of
2 underwear, a torn, bloodstained singlet, and a sexual
3 assault investigation kit, which I will refer to as the
4 "SAIK".
5

6 The SAIK, the broken brick with bloodstaining, the
7 broken pieces of timber with bloodstaining, the swab of
8 blood from the verandah, a red jumper apparently belonging
9 to Mr Hookey, the grey trousers and a portion of the white
10 singlet were forensically tested in 1992. Human blood was
11 detected on each exhibit except for the SAIK and the red
12 jumper. The analysis showed that the blood detected came
13 from the same blood group. The Inquiry had this analysis
14 reviewed by FASS. Essentially, the blood from the items
15 was consistent with Mr Malcolm's blood type.
16

17 DNA testing was not carried out during the initial
18 police investigation on the human blood as detected on the
19 exhibits. Fingerprints were recovered from three of the
20 exhibits collected. These fingerprints were submitted for
21 analysis and cross-referenced against the prints of
22 Mr Hookey, Mr Phillips and Mr Green and a number of the
23 witnesses who were present at the Holden Street location,
24 but no matches were identified.
25

26 Mr Green also stated that after the police left
27 Holden Street at around 1pm or 2pm, he saw a three-foot
28 long piece of wood, as round as a baseball bat, at the
29 Holden Street address, with blood and hair all over it. If
30 this is true, it does not appear that this piece of wood,
31 which may have been a weapon used in the assault on
32 Mr Malcolm, was collected or tested.
33

34 The Inquiry issued a further summons to police seeking
35 the 14 exhibits collected in the original investigation.
36 Police advised that 11 of the 14 exhibits had been
37 destroyed, and the three remaining exhibits had samples
38 stored with FASS.
39

40 It is not clear why the exhibits were destroyed,
41 especially as no DNA testing has ever been carried out on
42 them.
43

44 FASS confirmed that the three remaining crime scene
45 samples were in storage - namely, the swab of blood from
46 the verandah, the sample from the pair of grey trousers,
47 and a sample from the bloodstained singlet. The Inquiry

1 requested that FASS conduct DNA testing of these
2 exhibit samples. The DNA profile recovered from all three
3 matched the profile of Mr Malcolm.
4

5 FASS also provided a statement regarding the nature of
6 the forensic analysis which could now have been conducted
7 in relation to the destroyed exhibits, had they been
8 retained. This statement is at tab 119 of the tender
9 bundle [SC0I.83957].
10

11 FASS observed that there have been enormous advances
12 in DNA testing since 1992 and that for some exhibits with
13 insufficient DNA testing in 1992, including the
14 bloodstained brick, DNA testing in 2023 would be possible.
15 FASS also raised possibilities of testing the exhibits for
16 skin cells - for example, on the bloodstained brick and
17 timber; also for saliva - for example, on the beer bottles.
18 While Mr Malcolm's underwear were not tested, FASS states
19 that in 2023, these exhibits could be tested for blood,
20 semen, saliva or hair.
21

22 If police had taken the steps for the careful
23 retention of these critical exhibits, further lines of
24 inquiry and investigation may have been open to this
25 Inquiry, which now it simply cannot take.
26

27 The Inquiry also requested that the NSW Police
28 Forensic Evidence & Technical Services Command conduct
29 further fingerprint examinations regarding the unidentified
30 fingerprints found specifically on a Tooheys Draught beer
31 bottle found at the scene. A match was made. The person
32 named was Percy Alexander Strong. At the time the match
33 was made, the Inquiry had no information before it
34 mentioning Mr Strong in connection with the police
35 investigation. The Inquiry has ascertained that Mr Strong
36 died on 11 July 2021.
37

38 In the third tranche of over 1,800 documents produced
39 to the Inquiry on 21 June of this year, we ascertained that
40 in fact, as at 11 January 1992, Mr Strong lived in
41 Eveleigh Street in Redfern and spoke to police during the
42 initial canvass of the streets surrounding the crime scene.
43 Police recorded in the canvass form that Mr Strong didn't
44 see or hear anything. Mr Strong does not appear to be
45 interviewed further, nor is he mentioned by other witnesses
46 as a person connected to the investigation. Mr Strong's
47 home was approximately 50 metres from the abandoned home on

1 Holden Street.

2

3

4 While fingerprint testing was conducted on the
5 exhibits during the initial police investigation, no match
6 was identified until the further testing requested by the
7 Inquiry this year. If a match had been identified earlier
8 and prior to Mr Strong's death, a line of inquiry may have
9 been open to police to interview Mr Strong about his
10 knowledge of the abandoned house on Holden Street and
11 whether he had witnessed any assaults or robberies at that
12 location.

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There are indeed a number of investigative steps that could have been taken in this case that were not. As I have mentioned, no steps have ever been taken by police to arrange DNA testing to see if any matches were made to Mr Hookey, Mr Phillips or Mr Green.

DNA testing may also have revealed other suspects. The running sheets show that one person was arrested by police at around 6.10am on 11 January 1992 with blood on his shirt, which he said was ketchup. Further inquiries in relation to this person, such as testing the blood on his shirt, were not taken. The inclusion of this information in relation to this person in the running sheets indicates that police thought there may have been a connection to Mr Malcolm's death. Again, what further inquiries police made or how this person was excluded is unknown.

Police did not take the steps of contacting or obtaining statements from a number of witnesses whose evidence may have been important, but in particular Dianne McGuinness, who was supposedly with Mr Hookey during the early hours of 11 January. A full list of the persons this Inquiry has identified as not having been spoken to appears at paragraph 107 of our submissions. At least 15 people have been identified.

Efforts should have been made by police to contact all relevant witnesses, especially those mentioned in Mr Hookey's statements as people who could vouch for his whereabouts. Accepting that some witnesses may have given fictitious addresses, one would expect that the investigative file would contain certain records of attempts to contact them. These attempts are not evidenced in the material before the Inquiry.

1 The Inquiry took steps, including through interagency
2 corporation, to attempt to find Dianne McGuinness.
3 However, no-one matching Ms McGuinness's details was able
4 to be located.

5
6 The Inquiry also conferenced with Richard Yannakis,
7 one of the original officers in charge. Mr Yannakis had no
8 recollection as to whether NSW Police made contact with
9 Dianne McGuinness.

10
11 This week, Commissioner, you have been hearing
12 evidence from certain police witnesses in respect to the
13 investigative practices of police. In evidence given by
14 Detective Inspector Nigel Warren on Wednesday, he accepted
15 that there are no records of any attempts by police to
16 prove or disprove Mr Hookey's alibi. He agreed this would
17 be an important step in the police investigation. He
18 conceded that if this Inquiry were to find that there was
19 no attempt made to explore that alibi, that would be
20 a significant oversight in the investigation. On all the
21 evidence available, Commissioner, we submit that those
22 findings would be appropriate in this case.

23
24 Lastly, the theory of investigating police was that
25 Mr Malcolm was robbed by Mr Hookey as a result of
26 displaying cash, being intoxicated and easily led. A key
27 element of that theory was that Mr Malcolm had money with
28 him. The evidence of Mr Malcolm's family and friends was
29 that he did not carry a wallet, as a precaution against
30 robbery, and carried only his licence and keycard. There
31 is also the evidence that he asked to borrow \$50 on the
32 night of 10 January.

33
34 If this is true, Mr Malcolm would have needed to make
35 an ATM withdrawal at some time in the evening of 10 January
36 in order to be the cash-laden victim that Ms Murphy
37 described. It does not appear that police took any steps
38 to verify if there was a cash withdrawal from Mr Malcolm's
39 account, despite having the details and ordering a freeze
40 on the account on 13 January 1992, after speaking with
41 Mr Malcolm's father and identifying his missing valuables.

42
43 I now turn to our submissions as to bias.

44
45 Commissioner, on the available evidence, it is not
46 possible to say whether Mr Malcolm was gay or otherwise
47 a member of the queer community. Lynette Elias,

1 Mr Malcolm's sister, says in her statement that whilst
2 Mr Malcolm had a lot of interest from girls, they never
3 knew him to have a girlfriend. However, there were no
4 indications that Mr Malcolm was gay.

5
6 Mr Malcolm's colleagues provided statements to police
7 around their knowledge of his relationships. The
8 statements indicate that police must have been alive to the
9 possibility that LGBTIQ bias may have been a factor in his
10 death.

11
12 Richard Teaken stated that, "During the whole time
13 that I knew Bob, I never suspected him of being
14 a homosexual. I never knew of any regular girlfriends,
15 although he had female acquaintances."

16
17 Another friend, Peter Pickett, said, "I did not know
18 Mr Malcolm as a person who was inclined to pursue women and
19 that he instead gained pleasure from having a drink with
20 friends."

21
22 Mr Malcolm was found with his underpants down around
23 his knees and his trousers around his ankles. However, the
24 post-mortem examination did not identify any factors or
25 injuries indicative of sexual activity or assault.

26
27 Before being charged, Richard Green referred to
28 Mr Malcolm as a "rock spider", a slang term for
29 a paedophile. When questioned about why he said this,
30 Mr Green said, "'Cause that's what people were saying,
31 everyone, the whole community." It is possible, although
32 speculative, that Mr Malcolm was attacked because of
33 a perceived sexual preference for young men or boys.

34
35 Strike Force Parrabell concluded that there was no
36 evidence of a bias crime.

37
38 Forensic psychiatrist Dr Danny Sullivan provided
39 a report to this Inquiry. It is at tab 114 [SC01.83435].
40 He notes the statement that Mr Malcolm was a "rock spider"
41 and that this may have been an inference from Mr Malcolm's
42 behaviour or single status in his 40s. Alternatively, it
43 may have been a post hoc rationalisation to justify his
44 assault.

45
46 In Dr Sullivan's view, if Mr Malcolm was thought to be
47 a paedophile and this was conflated with homosexuality,

1 this may have been one element of why he was selected for
2 an attack. However, Dr Sullivan stated that other factors
3 rendered Mr Malcolm vulnerable to attack, including his
4 intoxication, possible display of money, and being in area
5 of town in which he may have been at risk of being robbed.
6

7 If Mr Hookey, Mr Phillips and Mr Green perpetrated the
8 attack on Mr Malcolm, Dr Sullivan is of the view that
9 robbery was the driver of the assault rather than a bias
10 motivation and that later describing Mr Malcolm as a "rock
11 spider" may have been to depersonalise Mr Malcolm.
12

13 Dr Sullivan also states that Mr Malcolm being found
14 with his pants and underwear down may be due to a number of
15 possibilities - that he was urinating when attacked, that
16 his clothes were removed after the attack, or he was
17 engaged in sexual activity at the time. It is possible
18 that the removal of his clothes was intended to humiliate,
19 but Dr Sullivan did not think this was obvious or clear.
20 He opines that the result of the sexual assault samples may
21 have been relevant. However, as noted, those samples have
22 now been destroyed.
23

24 It is submitted that if the Inquiry was to accept that
25 Mr Hookey, Mr Phillips and Mr Green were the persons
26 responsible for Mr Malcolm's death, then the likelihood is
27 that the crime was motivated by financial gain.
28

29 It is relevant that Mr Green referred to Mr Malcolm as
30 a "rock spider", but it would not provide a sufficient
31 basis on its own for a positive conclusion that the crime
32 was motivated by bias.
33

34 As mentioned, there are also a number of possible
35 explanations for Mr Malcolm's pants being down. These
36 isolated pieces of evidence raise grounds for suspicion
37 that the crime may have been in part motivated by bias, but
38 they do not provide a sufficient basis on their own to make
39 a finding to that effect on the balance of probabilities.
40

41 Commissioner, I now turn to the conclusions that can
42 be drawn on the evidence and my submissions on manner and
43 cause of death.
44

45 It is clear that Mr Malcolm's death was a homicide and
46 his injuries were the result of a violent assault on
47 a person made vulnerable by intoxication. Mr Malcolm was

1 seen in the Menzies bar up until around 8.30pm and then
2 possibly recognised on Eveleigh Street between around 8.30
3 and 9. He was then discovered at the abandoned house at
4 2am on 11 January. It is submitted, therefore, that he was
5 likely to have been assaulted between 9pm on 10 January and
6 2am on 11 January.

7
8 The following evidence links the persons of interest
9 to Mr Malcolm's death. First, Mr Malcolm may have been in
10 the company of Anthony Hookey at around 8.30 to 9 o'clock
11 on the 10th. Mr Malcolm may have been chased by Mr Hookey
12 down Eveleigh Street. According to James Smith, Mr Hookey
13 came into money on the night of 10 and 11 January and told
14 Mr Smith that he had rolled someone.

15
16 According to Sharon Murphy and another witness, I376,
17 Kirk Phillips and Richard Green made various admissions and
18 statements indicating guilt. And, finally, when charged on
19 30 April, Mr Hookey indicated that he had been present
20 during the attack on Mr Malcolm.

21
22 However, the evidence in its totality was insufficient
23 to convince Magistrate Hand of a prima facie case at the
24 committal hearing. It appears that Mr Smith wavered in his
25 memory of the event during cross-examination on 3 August
26 and that Ms Murphy's oral evidence occurred immediately
27 prior to Magistrate Hand finding that there was no case to
28 answer.

29
30 No stronger evidence linking the persons of interest
31 to the crime has been uncovered by police since the
32 committal hearing, nor in the course of the Inquiry.

33
34 While the Inquiry is making findings to a different
35 standard of proof, even on the balance of probabilities it
36 is submitted that the Inquiry would not make any positive
37 findings as to the involvement of any of the persons of
38 interest on the available evidence.

39
40 On 29 January 1992, Mr Malcolm's death was reported to
41 the Coroner. On 1 June 1992, as a result of persons being
42 charged with indictable offences, the inquest was
43 terminated under the Coroners Act.

44
45 According to the file as produced by the Coroners
46 Court to this Inquiry, it appears that no formal findings
47 in relation to the identity and time and place of death

1 were recorded in respect of Mr Malcolm.
2

3 It is submitted now that an appropriate finding as to
4 manner and cause of death would be that Mr Malcolm died on
5 29 January 1992 at Royal Prince Alfred Hospital as a result
6 of sequelae of head injuries inflicted during the night of
7 10 January or early hours of 11 January 1992 at
8 Holden Street, Redfern by person or persons unknown.
9

10 Commissioner, those are my submissions, and I conclude
11 by once again thanking the family for the engagement they
12 have had with the Inquiry, and I again express my
13 condolences for their loss.
14

15 THE COMMISSIONER: Thank you.
16

17 MR SHORT: Commissioner, the Commissioner of Police seeks
18 to reserve her position with a view to relying on written
19 submissions and also seeks to extend her condolences to
20 Mr Malcolm's family, including those present today.
21

22 THE COMMISSIONER: Right, thank you. All right. I will
23 reserve my views on this matter for my report. I will now
24 adjourn, thank you.
25

26 **SHORT ADJOURNMENT**
27

28 THE COMMISSIONER: Yes, Mr Emmett.
29

30 MR EMMETT: If it is convenient to the Commission, we are
31 ready to resume the evidence of Detective Chief Inspector
32 Laidlaw.
33

34 THE COMMISSIONER: Yes, all right.
35

36 <DAVID LAIDLAW, on former oath: [12.02pm]
37

38 <EXAMINATION BY MR EMMETT CONTINUING:
39

40 MR EMMETT: Commissioner, I tender the Daily Telegraph
41 article.
42

43 THE COMMISSIONER: All right. Thank you.
44

45 **EXHIBIT #55 DAILY TELEGRAPH ARTICLE**
46

47 MR EMMETT: Q. Mr Laidlaw, I asked you some questions

1 about the memorandum prepared by Detective Chief Inspector
2 Lehmann in August 2016. Do you remember those questions?

3 A. Yes, I do.

4

5 Q. That memorandum related to a number of problems with
6 exhibits and documentary records in relation to unsolved
7 homicides?

8 A. Yes, that's correct.

9

10 Q. The Commissioner received evidence yesterday from
11 Superintendent Doherty that Mr Doherty said that he,
12 Mr Doherty, wouldn't say those problems existed for a large
13 number of unsolved homicides, although he said the number
14 of cases affected by the problems was not known. Now, from
15 your knowledge, are you able to say whether it's a large
16 number of cases that are affected or likely to be affected
17 by these problems?

18 A. It is unknown because we've got to go through all the
19 matters that we do have to identify if there are exhibits
20 associated. We're talking forensic exhibits in this case,
21 so --

22

23 Q. Well, if you --

24 A. That's probably a valid answer as opposed to I can't
25 say - quantify it.

26

27 Q. I'm not asking you to rule on the validity of
28 Mr Doherty's answer. I'm asking you from your knowledge.

29 A. That's what I'm saying, from my knowledge.

30

31 Q. From your knowledge, 572 matters have been triaged, so
32 the majority, certainly not all. There are a number that
33 haven't been triaged?

34 A. Yes.

35

36 Q. But 572 have been triaged?

37 A. Yes.

38

39 Q. From your knowledge in relation to the triage of those
40 matters, are you able to assist the Commissioner, is it
41 a large number of cases or not?

42 A. I can't say, no.

43

44 Q. Might be?

45 A. I can't say.

46

47 Q. Well --

1 A. I can't - I don't want to mislead the Commission by
2 giving a number that I don't know.

3

4 Q. Can you exclude the possibility that it's a large
5 number of cases?

6 A. I can't exclude it, no.

7

8 THE COMMISSIONER: Q. And it follows, does it, that you
9 have absolutely no idea as to the dimension of the likely
10 problem or possible problems?

11 A. That's correct, sir.

12

13 THE COMMISSIONER: Thank you.

14

15 MR EMMETT: Q. The Commissioner also received evidence
16 from Superintendent Doherty that it wasn't a common issue
17 that they were having to talk about all the time. Now, in
18 your team, is it a common issue that you're having to talk
19 about all the time?

20 A. It's a discussion that's had in relation to when you
21 go through the triages, where these exhibits are - have
22 been maintained or retained. It is a discussion, yeah.
23 With every triage that we do, we have to seek out where
24 these exhibits are.

25

26 Q. So the problems identified in the memorandum, you
27 would say, in relation to the work you do, it is a common
28 issue that you are having to talk about all the time?

29 A. Yes, it's part of the triage process. So it comes up
30 in every triage document that we undertake to complete.

31

32 Q. And are you finding these problems in every triage
33 document?

34 A. There's some. I couldn't give you a number. There
35 certainly are some.

36

37 Q. There are some problems in every triage document?

38 A. No, not every triage, no.

39

40 Q. You gave evidence yesterday in relation to the
41 19 cases where the triage document has been sitting on your
42 desk for 12 months. Do you remember that evidence?

43 A. Yes, yes.

44

45 Q. You told the Commissioner that a reason why you had
46 not reviewed or assessed those triage documents is because
47 your time has been taken up dealing - finding documents

1 sought by the Commissioner. Do you remember that evidence?
2 A. No, not my time. I've been engaged in other matters
3 outside of the Commission, which has taken up the majority
4 of my time, yes.

5
6 Q. What is it that has prevented you over the last
7 12 months from looking at those documents that have been
8 waiting for your review? Well, I won't use the word
9 "review". What is it that has prevented you from looking
10 at those 19 triage documents that have been waiting for you
11 to assess them to decide whether the matter can proceed to
12 review or not?

13 A. There's - the work that I've undertaken during this
14 time, plus the fact that, as I mentioned, the backlog of
15 reviews that we have and the backlog of triages that we
16 have. I didn't deem it that I needed to focus on that,
17 because I was focusing on other things.

18
19 Q. Do you mean by "backlog of triages" that 12 months
20 ago, there were more than the 19, and it's the 19 that you
21 haven't got to?

22 A. No, we've gone through quite a few since this 2018
23 process.

24
25 Q. So 12 months ago, there were 19 triage documents on
26 your desk ready for review; is that right?

27 A. Yeah.

28
29 Q. Is that your evidence?
30 A. Yes, yeah.

31
32 Q. More than 19 or 19?
33 A. No, no, there's 19.

34
35 Q. You haven't looked at those 19 in the last 12 months?
36 A. No, I haven't, no.

37
38 THE COMMISSIONER: Q. And nobody else has?
39 A. No, because what the process is, your Honour, is that
40 the people attached to the review team complete the triage
41 document. I then go through it and vet it to ensure that
42 the information is correct when I check on my systems. It
43 then goes before our review panel so that it then gets
44 disseminated out for a review. And currently we don't have
45 the people to do those reviews because, as I mentioned
46 before, the quality of people - we need the right
47 investigators to look at these reviews.

1
2 THE COMMISSIONER: Okay.
3
4 MR EMMETT: Q. The 19 triage documents that you needed
5 to vet --
6 A. Yes.
7
8 Q. -- what was it, if anything, that prevented you from
9 vetting them in the last 12 months?
10 A. My priority in relation to another investigation that
11 I'm undertaking.
12
13 Q. So there was nothing that was preventing you from
14 vetting --
15 A. No, I just said it, that it's my - I had to
16 prioritise. So I had to - I'm doing another investigation
17 apart from looking after the review team, so --
18
19 Q. And - I'm sorry, finish what you were saying?
20 A. No, no, I've finished.
21
22 Q. And that investigation has rendered you unable to look
23 at those 19 documents; is that correct?
24 A. Yes.
25
26 THE COMMISSIONER: Q. That investigation is a matter
27 entirely aside from this Inquiry?
28 A. That's so, your Honour, yes.
29
30 MR EMMETT: Q. Is it the case that - did you mention to
31 any of your superiors earlier than yesterday that there
32 were 19 triage documents that you were not reviewing
33 because you were prioritising other things?
34 A. No, I didn't, no.
35
36 Q. So the first time any of your superiors would have
37 learned that there were 19 triage documents that you had
38 not looked at for 12 months was yesterday?
39 A. Yes, that would be correct.
40
41 Q. Have you at any point sought further - and I think
42 your evidence yesterday was that you haven't raised with
43 any of your superiors the need for more resources in
44 relation to this, in relation to the review of unsolved
45 homicides?
46 A. No, I haven't, no. Not myself, no.
47

1 Q. Well, when you say not yourself, are you aware of --
2 A. No, I haven't. No, I haven't.

3
4 Q. Are you aware of other people having raised lack of
5 resources?

6 A. There were - I believe that there were files forwarded
7 in relation to the expansion of the Homicide Squad in
8 whole, which could facilitate more personnel to the
9 Unsolved Homicide Team.

10
11 Q. And when was that?

12 A. I can't recall now. It would be within the last
13 perhaps two to three years.

14
15 Q. Where did those documents - well, was that raised in
16 writing?

17 A. I believe - yes, yes, yes.

18
19 Q. By whom?

20 A. It would have been by the Commander of the squad.
21 I think it was prior to Detective Superintendent Doherty.

22
23 Q. If it was prior to Superintendent Doherty, Doherty
24 joined - became the Commander in December 2019. So should
25 we assume it was before December 2019?

26 A. Yes, it would be, yes.

27
28 Q. Are you aware of any steps being taken in response to
29 the matter being raised?

30 A. No.

31
32 Q. To your knowledge, were no steps taken?

33 A. I don't know.

34
35 Q. Some steps may have been taken?

36 A. I don't know.

37
38 Q. As the investigation coordinator in relation to the
39 review team, if steps were taken, they would come to your
40 attention, wouldn't they?

41 A. They could do. We could be asked about it. But
42 I didn't pursue it because it's not in my realm of the
43 command to do that.

44
45 Q. I'm sorry, what's not in your realm of the command?

46 A. Well, to seek out - it was a matter of I knew that the
47 files were forwarded, but I don't know the result, the

1 outcome of it, so I can't --
2
3 Q. When you say you knew that - I'm sorry.
4 A. I don't want to mislead the Commission by saying
5 something I don't know.
6
7 Q. When you say you knew that the files were forwarded,
8 what were the files that were forwarded and to whom were
9 they forwarded?
10 A. Oh, they would have been forwarded up to the
11 executive, the Commissioner's executive team.
12
13 Q. When you say "the files", what do you mean by "the
14 files"?
15 A. It's where the request - a file to request more
16 personnel.
17
18 Q. I see. So when you say "the files", you mean
19 a document saying, "We need more personnel"?
20 A. Yes, yeah.
21
22 Q. Did you see that document?
23 A. No, no.
24
25 Q. Somebody told you, did they, that they had asked for
26 more personnel?
27 A. Sorry?
28
29 Q. Somebody told you, did they, that they'd prepared
30 a file --
31 A. No, no. Did I see that document then or now?
32
33 Q. Yes, then.
34 A. No, I didn't see it then, no.
35
36 Q. Well, when did you learn about this request?
37 A. I knew about it, but it was nothing that, I suppose -
38 I knew about it happening because of the situation of where
39 staff were required and it was to - I suppose, in essence,
40 it would have been maybe two or three years ago I may have
41 heard about it, but because nothing eventuated, I didn't
42 follow it up.
43
44 Q. Did you say anything to communicate to your superiors
45 that the need for more resources was consistent with your
46 own experience as investigation coordinator of the review
47 team?

- 1 A. No, I didn't, no.
2
3 Q. You didn't mention that?
4 A. No.
5
6 Q. Do you have the aide-memoire that we were talking
7 about yesterday? It's been labelled "Exhibit 54", although
8 your copy might not have it. That's the three-page
9 document, [SCOI.84314_0001].
10 A. Yes, I still have that, yes. Yes.
11
12 Q. The document, on the second page, records that
13 96 cases have been reviewed more than once?
14 A. I don't see that 96.
15
16 Q. I'm sorry --
17 A. Oh, sorry, I do, "more than once", yes.
18
19 Q. It's there in parentheses.
20 A. Yes. Sorry.
21
22 Q. Ninety-six have been reviewed more than once, and
23 a small number, according to the words in italics
24 underneath, have been reviewed three or four times?
25 A. Yes, 403, I think it says there.
26
27 Q. Are you able to assist the Commissioner with who
28 decided which cases should get a second review?
29 A. What had occurred was the number of secondary reviews,
30 it would have been upon review of the initial review, and
31 with the elapse of time, to identify whether there were new
32 investigative opportunities to further conduct a review and
33 possibly look for an investigative strategy.
34
35 Q. So there are 96 in which that has occurred?
36 A. Yes.
37
38 Q. How were those 96 identified, are you able to assist
39 the Commissioner?
40 A. It would have been - I think it was in - 2018, we
41 worked back from 2014 backwards, and then when we ran out
42 of - I would say when we got to a certain scope, we then
43 decided to do the further reviews on matters that had been
44 reviewed.
45
46 Q. What do you mean by you "got to a certain scope"?
47 A. We got down to about 2010, I think, from memory.

1 I can't - I can't advise the Commissioner the exact date.
2 But then we then had a look at matters that needed - that
3 had been reviewed to see whether there was any forensic
4 purpose to review those matters.

5
6 Q. When you say you got down to about 2010, do you mean
7 you reviewed the cases from 2014 to 2010?

8 A. I think so. I can't recall now.

9
10 Q. So during that period, you didn't review any cases
11 between 1970 and 2010?

12 A. Not - say that again, sorry?

13
14 Q. During that period, were you and your team focused
15 solely on the cases between 2014 and 2010 as you worked
16 backwards through that - over that period?

17 A. Backwards, yes, yes.

18
19 Q. So during that period - and we'll come to how long it
20 was in a moment - during that period, you say you and your
21 team did not look at any cases between 1970 and 2009 at
22 least?

23 A. Quite possibly, yes.

24
25 Q. Well, was your --

26 A. That's what I said, I can't give a date. I don't
27 recall the date we went back to.

28
29 Q. Okay. But during that time, your whole team was
30 looking at those cases during that period from 2014 back to
31 some date in the --

32 A. No, during that time, we were ensuring that the
33 triages were being completed so that those reviews could
34 then go out to police area commands and other commands,
35 police districts, so that those reviews could be
36 undertaken.

37
38 Q. Well, the triage documents weren't - there are still
39 213 documents, cases, that have not been triaged, 125 of
40 which there's no good reason for them not to have been
41 triaged; that's right, isn't it?

42 A. We just haven't had the time to do them, yes.

43
44 Q. So having worked through the cases from 2014 back to
45 some date, maybe 2010, 2009, you can't recall --

46 A. I can't recall, no.

47

1 Q. -- having done that, your team, have I understood
2 correctly, then turned to ask themselves what cases which
3 had already been reviewed once might be ripe for a fresh
4 review?

5 A. That's correct, yes.

6
7 Q. And how did they conduct that analysis?

8 A. Just by going through, seeing where the matter was, to
9 identify first if it was undetected. If it was undetected,
10 they took the priority of matters. So those matters were
11 looked at in relation to whether there was anything from
12 the initial review that we could establish, that there
13 could be a possibility with - as I said, it could be
14 changes in witnesses or the suspects, it could be forensic
15 technology that could have been advanced. They're the ones
16 that we looked at.

17
18 Q. But that only happened in 96 cases?

19 A. Sorry?

20
21 Q. That only happened in respect of 96 cases?

22 A. Yes, it would have been.

23
24 Q. Or fewer than 96 cases?

25 A. Well - yes, it would have been, yeah, yeah.

26
27 Q. And how were those fewer than 96 cases selected among
28 the larger number that had been reviewed?

29 A. Like I said, it was a matter of going through those
30 initial - some had been previously reviewed, which is the
31 case screening document that occurred, from 2004 through to
32 2008. Those case screening documents - sorry, through to
33 2018, I apologise. They were case screening documents
34 which - in effect, they were reviews. So we looked back at
35 those documents to identify if there was any exhibits
36 available, if the people were still alive, both witnesses
37 and possible suspects, and that's how we would prioritise
38 doing a further review.

39
40 Q. So you looked at all - according to this table, there
41 were a little over 400, at least not including the undated
42 ones - there were a little over 400 which were reviewed or
43 screened between 2004 and 2017?

44 A. Yes.

45
46 Q. You looked at all 400 of those, did you?

47 A. Between when, sorry?

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Q. If you look at the table --

A. No, we didn't look at all of them, no.

Q. Well, how did you select the 96, or fewer than 96, that were lucky enough to have a second review?

A. Okay, first we looked at the undetected ones, and they were the ones we were focusing on moving backwards again, once again going back through, to see that matters that hadn't been - that had been reviewed, to identify whether there was any opportunity to conduct a further review.

Q. And so of the cases, a little over 400, which had been screened between 2004 and 2017, you looked at all of those that were recorded as "Undetected", did you?

A. Not looked at all of them, no.

Q. How did you select the ones you looked at?

A. Going backwards and identifying where they were, where the position was in the initial review that was conducted.

Q. You had 400 initial screenings in front of you from the period 2004 to 2017?

A. Yes.

Q. A bit more than 400?

A. Yes.

Q. You didn't look at all of them?

A. No, no.

Q. How did you identify - did you just pick them at random?

A. No, it was identified - well, you'd have a look at our tracking file to see what was listed on the tracking file. That would give you some sort of reference as to where matters were and whether there was exhibits available. Then we would go to the case screening that had been conducted, which is a review, and then identify that there was a possibility or there wasn't a possibility to put that forward as another review.

Q. And who picked --

THE COMMISSIONER: Q. How did you determine there wasn't a possibility? How did you make that --

A. Well, if there was no exhibits, it would get a lower

1 priority.

2

3 Q. But when you say "no exhibits", you were relying, were
4 you, on what to inform you one way or the other whether or
5 not there were exhibits - what were you relying upon?

6 A. We were relying on that case monitoring document.

7

8 Q. And the accuracy of that?

9 A. That's correct, Commissioner, yes.

10

11 MR EMMETT: Q. In selecting them, each individual team
12 member would select particular cases that they thought
13 might be worth reviewing?

14 A. Yes.

15

16 Q. And there was no system to identifying which ones they
17 were; it was a matter for each individual --

18 A. The initial picking of was, "Have a look at these" and
19 have a - you would get 10 and have a look and see what
20 information is contained within those, so you could then
21 identify which would probably be the best opportunity to
22 have another review conducted.

23

24 Q. And when one says you would get 10, so, what, they
25 would get 10?

26 A. It would be random.

27

28 Q. So each team member would receive 10 randomly selected
29 case screening documents?

30 A. Yes, screening backwards, yes, yes. That was the
31 purpose of --

32

33 Q. When you say "screening backwards", each team member -
34 correct me if I have misunderstood - would receive 10
35 randomly selected case screening documents and ask to look
36 at those documents and identify which of those might be
37 ripe for a second review?

38 A. Yes.

39

40 Q. And during that process, you were only looking, were
41 you, at the documents that had been the subject of
42 a screening document?

43 A. Yes.

44

45 Q. So that process excluded all of the documents that had
46 never been screened as at that date?

47 A. Yes, that's correct.

1
2 Q. Could I ask, do members of your team deal with the
3 Engagement and Hate Crimes Unit?
4 A. Not personally that I know of, no.
5
6 Q. They never have occasion to?
7 A. Not that I know - I can't say yes or no to the
8 Commissioner.
9
10 Q. Pardon me for a moment.
11 A. You're right.
12
13 Q. When you say you can't say personally, you're the
14 investigation coordinator?
15 A. Yes, yes.
16
17 Q. Isn't it your - is it your responsibility to
18 understand, among other things, where the members of the
19 review team - the scope of their work and the extent to
20 which it involves dealings with other units, such as the
21 Engagement and Hate Crimes Unit?
22 A. Yes, yes.
23
24 Q. So if you know nothing about it, may we assume that
25 there is no - any interaction is rare and not of a kind
26 that would come to your attention as their supervisor?
27 A. Well, I wouldn't say "rare". Because of - the Hate
28 Crimes Unit is an intelligence-based unit, is my belief, is
29 that our intel personnel that's attached to the Unsolved
30 Homicide may engage with them to see whether there's
31 information there that can assist our reviews.
32
33 Q. I thought you said a moment ago that in your role as
34 the investigation coordinator, it was your responsibility
35 to know the extent of - and forgive me if I misunderstood
36 your evidence - the extent to which members of the review
37 team had dealings with the Engagement and Hate Crimes Unit?
38 A. Yes, I - it is - I couldn't - I couldn't say that they
39 would come to me to say, "We've spoken to that unit."
40
41 Q. Have you ever spoken with them about that unit being
42 a resource available to them?
43 A. No.
44
45 Q. And you have never been told about any occasion on
46 which they have consulted with that unit?
47 A. No, no.

1
2 Q. Have you ever seen any document, such as a triage
3 document, a screening document, any document recording
4 a consultation between a member of the review team and the
5 Engagement and --
6 A. That possibly wouldn't be recorded on any of the
7 triage documents.
8
9 Q. Have you seen any document --
10 A. No.
11
12 Q. -- recording any communication between the Engagement
13 and Hate Crimes Unit and a member of the review team?
14 A. No.
15
16 Q. We finished yesterday, the last matter I asked you
17 about yesterday was the case of Richard Slater. Do you
18 remember my asking you about the death of Mr Slater?
19 A. Yes.
20
21 Q. He died on 22 December 1980?
22 A. Yes.
23
24 Q. And there's no record of any screening or review or
25 triage of Mr Slater at any time on the tracking file. Do
26 you understand?
27 A. Yes.
28
29 Q. It would be fair to infer that that case has never
30 been screened, reviewed or triaged?
31 A. Yes.
32
33 Q. I want you to assume that that was clearly a death
34 following an assault. Do you understand?
35 A. Sorry?
36
37 Q. I want you to assume that Mr Slater died following an
38 assault.
39 A. Yes.
40
41 Q. Clearly a homicide. Do you understand?
42 A. Yes.
43
44 Q. A person was charged, but the prosecution was
45 no-billed in 1983. Do you understand?
46 A. Yes.
47

1 Q. So there was no double jeopardy issue in relation
2 to --
3 A. No.
4
5 Q. -- further prosecutions?
6 A. Yes.
7
8 Q. And the matter, as much as any matter in which there
9 had been no previous prosecution, was one in which
10 reinvestigation might lead to further lines of inquiry or
11 breakthroughs?
12 A. Yes.
13
14 Q. The tracking file lists the case as "Unresolved"?
15 A. Yes.
16
17 Q. Now, I understood your evidence to be that a matter is
18 listed as "Unresolved" if charges are brought or somebody
19 is acquitted?
20 A. Yes, that's correct.
21
22 Q. A matter - is it correct that a matter should not be
23 listed as "Unresolved" if charges are brought but then are
24 no-billed?
25 A. I suppose that's a terminology used within our
26 tracking - within that scope of what is unresolved. It
27 could be - and I don't know the reasoning why the matter
28 was no-billed, nor when the matters are withdrawn, whether
29 there's just not enough evidence to convict the person who
30 we say has committed the crime.
31
32 Q. If that's a reason, that would be a good - that would
33 be a case that would be ripe for review as part of your
34 review team, wouldn't it, to consider whether there was
35 more evidence?
36 A. To consider, but one would hope that all the evidence
37 that was obtained would have been before the judicial
38 process as it was.
39
40 Q. Well, you're dealing with unsolved homicides?
41 A. Yes.
42
43 Q. When you look at unsolved homicides alongside all of
44 the homicides that come to the attention of the police,
45 there is a greater chance, isn't there, that the homicides
46 that go unsolved are the homicides in which something was
47 overlooked or a particular investigative step wasn't taken?

- 1 A. No.
2
- 3 Q. Well, I'm not saying that that's the case in relation
4 to all unsolved homicides, but it's --
5 A. There could be some, yes.
6
- 7 Q. It's a matter of commonsense, isn't it, that the
8 unsolved homicides are more likely to have matters
9 overlooked or investigative steps not taken than the solved
10 homicides?
11 A. Yes, that's correct, if --
12
- 13 Q. On the whole and on average, not universally?
14 A. But you're putting it in a broad-brush sense and --
15
- 16 Q. Undoubtedly, in a broad-brush sense --
17 A. Yeah.
18
- 19 Q. Not true universally, but on the whole and on average,
20 you would agree with that?
21 A. I wouldn't say so on average, I wouldn't say that. It
22 would occur.
23
- 24 Q. Do I take it from that answer, that's not something
25 that you or your team have in mind when you review cases?
26 A. Of course we have that in mind.
27
- 28 Q. You do have that in mind?
29 A. Yes, as to whether anything has been overlooked.
30 That's part of the process of triaging and reviewing, to
31 see whether there were investigative strategies that
32 weren't undertaken or were undertaken and not - not been
33 able to resolve the actual matter that the person should be
34 charged.
35
- 36 Q. So that is something that your team is mindful of when
37 screening, triaging or reviewing cases?
38 A. Yes, yes.
39
- 40 Q. And that's a reason why a case, even if it's been -
41 even if it was no-billed in 1983, there may nevertheless be
42 material that your team might be expected to identify?
43 A. That's correct, there could be. It's not to say these
44 matters won't get triaged and reviewed. They're just not
45 given the priority because of that.
46
- 47 Q. Indeed, can I understand - and when you say it won't

1 be given the priority, are cases that are listed as
2 "Unresolved" - are they even lower down the list of
3 priority than "Undetermined"?

4 A. No, no, no. It would be - before, everything used to
5 be "Unsolved", and in 2018, using the English model, we
6 changed that to those "Undetected" and - and we changed
7 that formula, that they weren't "Unsolved"; they were
8 either "Unresolved" or "Undetected".

9

10 Q. Three categories you have referred to in your
11 statement are "Undetected", "Undetermined" and
12 "Unresolved"?

13 A. Yes.

14

15 Q. Are the cases that are listed as "Unresolved" - are
16 they lower down the priority than both "Undetected" and
17 "Undetermined"?

18 A. No, they would be the same as - they would be - those
19 two categories, the top category would be "Undetected".
20 The other two categories would be a lower category to look
21 at.

22

23 Q. And the "Undetected", that is, the top category,
24 I think, that's the category with, as at the date of your
25 statement, 440-odd cases in it?

26 A. Yes.

27

28 Q. I think you agreed it could take 20 years to review?

29 A. It could do, yes.

30

31 Q. And the "Undetected" and "Unresolved" matters, another
32 200 or 300 cases?

33 A. Yes.

34

35 Q. So will it be, what, 40 to 50 years, on your current
36 track, to review them all?

37 A. No, because some of those matters may - they would be
38 looked at by way of a triage first to see whether there is
39 anything, and then it would be determined then as to
40 whether it should go to review or not.

41

42 Q. Well, when will someone get around to triaging them?

43 A. I don't know.

44

45 Q. Are you taking the same approach to prioritisation for
46 triaging documents as you are for reviewing them - that is,
47 deal with all the "Undetected" ones before turning to the

1 "Undetermined" ones?

2 A. Yes, the "Undetected" ones are our priority at this
3 stage, and it could be during that phase of "Undetected"
4 that we identify that we haven't got the evidence
5 available, nor can we obtain the evidence available, so
6 therefore then we would then have resolved back to the next
7 level.

8

9 Q. Well, I'm just trying to work out, if a case is
10 listed, as Mr Slater's is, as "Unresolved", I'm just trying
11 to - on the basis that it was no-billed even though there
12 was no acquittal, I'm just trying to understand when there
13 is any prospect of its being looked at by your team?

14 A. There is a prospect, yes.

15

16 Q. When?

17 A. I don't know. I can't say.

18

19 Q. It could be 30 or 40 years away?

20 A. I can't say.

21

22 Q. It could be that long on your current --

23 A. I can't say.

24

25 Q. On your current trajectory, it could be that long; is
26 that right?

27 A. On your trajectory, it is, but not mine.

28

29 Q. It's not my trajectory.

30 A. I don't know. I can't advise the Commission when it
31 will be looked at.

32

33 THE COMMISSIONER: Q. Am I missing something or do
34 I detect that the police as an institution don't rate
35 unsolved homicide too highly in terms of priorities?

36 A. Sorry, sir?

37

38 Q. Unsolved homicide too highly in terms of priorities,
39 that it is one of numerous priorities that have to be dealt
40 with? Obviously day-to-day policing is a substantial --

41 A. Yes.

42

43 Q. -- commitment on the part of the police, but do I get
44 the - do I detect that unsolved homicides are really not
45 given all that much priority within the Police Force?

46 A. No, I would beg to differ there, in that the whole
47 idea of setting up the Unsolved Homicide Team was to look

1 at those matters, therefore giving them the appropriate
2 priority.

3

4 Q. But it would seem to me, if I may say so, that one of
5 the primary considerations with old cases or unsolved cases
6 is to take an immediate stocktake or audit of what you've
7 got?

8 A. I agree, sir. I agree, sir.

9

10 Q. Because if you start off from the proposition that the
11 exhibits have been lost or if important witnesses are
12 dead --

13 A. Yes.

14

15 Q. -- and there are forensic opportunities which haven't
16 been exploited historically but might now be exploited,
17 isn't it something which a special - some sort of special
18 audit and funding or resource allocation urgently needs to
19 occur, so that you can draw a line in the sand and at least
20 come to your own views as to where best to allocate your
21 resources in relation to the unsolved cases?

22 A. I agree, sir.

23

24 THE COMMISSIONER: All right.

25

26 MR EMMETT: Q. Can I ask this: in relation to unsolved
27 cases, it has been your experience that in some cases there
28 are exhibits that may be readily accessible to the police,
29 cases where police do know where they are; it's just that
30 they - on looking at the case, it emerges that they weren't
31 tested for fingerprints or DNA as part of the original
32 investigation?

33 A. That could have occurred, yes.

34

35 Q. And there are cases in which exhibits may be readily
36 accessible but were not carefully examined as part of the
37 original investigation?

38 A. That could be the case, yes, or --

39

40 Q. An example - I'm sorry.

41 A. -- carefully examined, could be further technology.

42

43 Q. We will come to further technology in a moment, but
44 one example that this Inquiry received evidence about is
45 Crispen Dye, where it appeared that pockets of clothing
46 were examined for the first time in February 2023 and
47 additional material was identified. Are you aware of that?

- 1 A. Yes, I'm aware, yes.
2
- 3 Q. Again, that's a forensic opportunity that was readily
4 accessible?
5 A. Exactly, yes.
6
- 7 Q. There are other cases where exhibits were gathered and
8 are still - cases where the Police Force does know where
9 the exhibits are, and where they were gathered before
10 technology such as DNA was available, and they might be
11 amenable to analysis under technology that has arisen since
12 the exhibit was gathered?
13 A. Yes.
14
- 15 Q. And there are other cases in which DNA or fingerprints
16 were gathered but they didn't match anything on the
17 database at the time because the database was smaller?
18 A. That's correct, yes.
19
- 20 Q. And the database, both for fingerprints and DNA, has
21 grown over the years?
22 A. Yes, that's correct.
23
- 24 Q. People get arrested and their fingerprints are taken?
25 A. Yes. And DNA taken.
26
- 27 Q. The DNA database has been steadily growing?
28 A. Yes.
29
- 30 Q. And continues to. And so is it the case that there
31 could be a number of exhibits currently held, and among the
32 cases where you do know where the exhibits are, where there
33 are clear and readily accessible forensic opportunities
34 that may be conducted and that may lead to a breakthrough?
35 A. Yes, that's right.
36
- 37 Q. But you will only know about those if you get around
38 to screening, triaging or reviewing those cases?
39 A. That's correct, yes.
40
- 41 Q. And there may be many cases where there's been a paper
42 screening, but nobody's got around to conducting those
43 simple forensic tests or exploring those readily available
44 forensic opportunities?
45 A. Yes, there could be, yes.
46
- 47 Q. There could be dozens of cases in that category,

1 couldn't there?
2 A. There could be, yes.
3
4 Q. Maybe even hundreds?
5 A. There could be, yes.
6
7 Q. Three more deaths that are not listed as having been
8 reviewed in 2004 to 2008, although there may be a reason
9 for it that I'm about to come to, are each of Gilles
10 Mattaini, Ross Warren and John Russell?
11 A. Yes.
12
13 Q. Those three cases are not recorded as being reviewed
14 in the period 2004 to 2008?
15 A. Yes.
16
17 Q. At that time, they were the subject of - well, sorry,
18 at that time, they had been the subject of Operation
19 Taradale during the period 2000 to 2003?
20 A. Yes.
21
22 Q. Were you aware of that?
23 A. Yes.
24
25 Q. And are you aware that there was a coronial inquiry in
26 2003 to 2005?
27 A. Yes.
28
29 Q. And are you aware that those matters were then
30 reviewed in August 2013, according to the tracking file?
31 A. Yes.
32
33 Q. And after that, Strike Force Neiwand took place?
34 A. That's correct, yes.
35
36 Q. Were you involved in Strike Force Neiwand?
37 A. No.
38
39 Q. Did you have any knowledge of it at the time?
40 A. No.
41
42 Q. Strike Force Neiwand concluded in January 2018. Are
43 you aware of that?
44 A. Yes.
45
46 Q. Are you aware that the outcome of Strike Force Neiwand
47 was that even though the Coroner had found likely homicide

1 in relation to two of the deaths, John Russell and Ross
2 Warren, they were reclassified as "Undetermined"? Are you
3 aware that that was the outcome of Strike Force Neiwand?
4 A. No, no.
5
6 Q. You weren't aware?
7 A. Oh, sorry, I was aware of the strike force, yes.
8
9 Q. Were you aware that that was one of the outcomes of
10 Strike Force Neiwand?
11 A. Yes.
12
13 Q. Am I right that your evidence is that the purpose of
14 that classification is to determine priority?
15 A. Sorry?
16
17 Q. The purpose of that classification, "Undetected" or
18 "Undetermined" or another --
19 A. Yes.
20
21 Q. -- is to determine priority?
22 A. Yes, yes.
23
24 Q. And unless something new comes to light, all the
25 "Undetected" matters will be reviewed before coming to an
26 "Undetermined" matter; is that right?
27 A. That's correct, unless new information becomes
28 available.
29
30 Q. Unless new information becomes available. And the
31 "Undetected matters", the review of the "Undetected"
32 matters, could easily take more than 20 years?
33 A. Could do, yes.
34
35 Q. So the consequence of the reclassification of those
36 two cases was that they would be deprioritised and may not
37 be looked at for more than 20 years?
38 A. Could be, yes.
39
40 Q. Am I correct, that's the consequence of that
41 reclassification?
42 A. That could be a consequence, yes.
43
44 Q. Are you able to assist the Commissioner with whether
45 the Commissioner should assume that those involved in that
46 strike force knew that that would be the consequence?
47 A. No. No.

- 1
2 Q. You don't know whether they would know?
3 A. No, I don't know, no.
4
5 Q. Do you know what involvement members of the Unsolved
6 Homicide Team at the time had in that strike force?
7 A. In Neiwand? Only the two - two officers that were
8 conducting the review, was Sergeant Morgan, Detective
9 Sergeant Morgan, Detective Senior Constable Chebl, from my
10 knowledge of it.
11
12 Q. Are you able to assist the Commissioner with what
13 knowledge those officers had as to the consequence of these
14 classifications?
15 A. No, I don't - I can't --
16
17 Q. You just don't know one way or the other?
18 A. I can't, no.
19
20 Q. Another matter which was, according to the tracking
21 file, neither reviewed nor screened nor triaged, was the
22 matter of Mr Walker, who died on 22 July 1992. Are you
23 familiar with that case?
24 A. No, I'm not, no.
25
26 Q. That's a case that is listed as "Unresolved" - that's
27 a case where there was a person of interest and there was
28 a homosexual advance defence that was run. Does that jog
29 your memory in relation to the case?
30 A. That doesn't, no.
31
32 Q. Consistent with that - is that sufficient information
33 for you to explain why that case was categorised as
34 "Unresolved"?
35 A. That information you have given me, no.
36
37 Q. That's not enough?
38 A. No.
39
40 Q. You would need to know that the person was --
41 A. I would have to, yes.
42
43 Q. -- charged or acquitted?
44 A. Yes.
45
46 Q. And if no charges were brought, that wouldn't be
47 enough to categorise the case as "Unresolved"?

1 A. No. No.

2

3 Q. If you assume it was obviously a homicide, it should
4 have been on the list of unsolved homicides, or it should
5 have been on the tracking file from 2004?

6 A. Yes.

7

8 Q. And it should have been the subject of the initial
9 review between 2004 and 2008?

10 A. Yes.

11

12 Q. Can I ask this: there are five cases that the
13 Commissioner is looking at that are not on the tracking
14 file at all. They are the cases of Andrew Currie,
15 Paul Rath, Russell Payne, Samantha Raye and Blair Wark. Do
16 you understand that?

17 A. Yes.

18

19 Q. Now, all five were the subject of a coronial
20 dispensation or a finding of a non-suspicious death?

21 A. Right.

22

23 Q. Okay?

24 A. Mmm.

25

26 Q. But some of those findings were from the 1970s and the
27 1980s, and are you aware that this Inquiry has received
28 evidence, including in several cases evidence that may have
29 been available at the time of the original investigation,
30 indicating reasons to regard those deaths as potentially
31 suspicious?

32 A. No.

33

34 Q. You are not aware of that?

35 A. No.

36

37 Q. I want you to take it from me that the Inquiry has
38 received evidence of that kind.

39 A. Yes.

40

41 Q. In cases like that, what scope is there for cases like
42 that to come to the attention of the Unsolved Homicide Team
43 and be added to the tracking file?

44 A. I don't understand that question.

45

46 Q. Well, I'm just trying to understand, if it hadn't been
47 for the reports and research that led to this coronial

1 inquiry - I am sorry, this Commission of Inquiry --
2 A. This hearing.
3
4 Q. -- those cases would never have come to the attention
5 of Unsolved Homicides?
6 A. No, they wouldn't have.
7
8 Q. And is there any scope for coronial findings to be
9 reconsidered or for people - any process by which coronial
10 findings made in the 1970s or 1980s might be reviewed by
11 reference to concerns as to inadequate investigations?
12 A. Well, I've made - because within my role within the
13 coronial liaison, I've made reference to the Registrar at
14 the State Coroners Court a while - quite some time ago, in
15 relation to all matters that have been referred where
16 recommendations weren't made because they weren't specific.
17 That's what I - in my statement, where I say that there
18 were times when the Coroners would only assume - I would
19 say would assume that the matter would come to the Homicide
20 Squad, and where they didn't, be referred to the UHT; where
21 a specific recommendation was made only when either the
22 death or the missing person, had that suspicion that it was
23 or possibly was a homicide. So try to go back-capture some
24 of those matters that you are talking about now.
25
26 Q. That was an inquiry you made?
27 A. Yes, that's quite - it would have been perhaps two
28 years ago.
29
30 Q. And what was the outcome of that inquiry?
31 A. I haven't received any data because they are going
32 back into their archives to locate those files.
33
34 Q. Have you followed up on that request?
35 A. No, I'm expecting the registrar, who I have a good
36 working relationship with, to notify me when that is
37 available.
38
39 Q. Thank you, Detective Chief Inspector.
40
41 MR EMMETT: Would that be a convenient time, Commissioner?
42
43 THE COMMISSIONER: Yes, I will adjourn until 2, thank you.
44
45 **LUNCHEON ADJOURNMENT**
46
47 THE COMMISSIONER: Thank you. Yes.

1
2 MR EMMETT: Q. Chief Inspector, do you have in front of
3 you, among other things, volume 11 of 11 that we started
4 looking at yesterday afternoon?
5 A. Yes, I do.
6
7 Q. Do you want to put to one side the other material you
8 have, and can I ask you to open that at tab 21
9 [SCOI.02914_0001]?
10 A. Yes.
11
12 Q. My first question is, what's this document, this
13 "State Crime Command Investigation Plan"? Are you familiar
14 with this document?
15 A. Yes.
16
17 Q. What is it?
18 A. When a strike force is created, a strike force being
19 the name of an investigation, there is a fluid document
20 which is called the investigation plan. It identifies the
21 information there is, obviously what the mission is and
22 what strategies are proposed to undertake. Normal
23 procedure is that once certain aspects of an investigation,
24 as per that plan, have been completed, then they will
25 refurbish that plan to - upon identification of further
26 strategies, et cetera.
27
28 Q. And if you turn three pages further on - if you go
29 from the numbers in the top right-hand corner, it's _0004 -
30 there is a document titled "Review of an Unsolved Homicide
31 Case Screening Form"?
32 A. Yes.
33
34 Q. Is this an example of one of the screening forms
35 during the period 2004 to 2017?
36 A. Yes, that's correct.
37
38 Q. If you turn to pages 18 to 19, there's no signature at
39 the bottom of that page or over the page on the top - nor
40 date on the top of page _0019, nor a signature for the
41 coordinator's certification. Do you see that?
42 A. That's correct, yes.
43
44 Q. What's the status, to your knowledge, of a case
45 screening form if it has not been signed by a reviewer or
46 a coordinator?
47 A. I don't - I take into account that the review has been

1 completed and it could be an oversight on behalf of. They
2 may have conducted a review by way of Word document and
3 then it hasn't been signed. So I would say a mere
4 oversight. It's not - it doesn't negate what's in that
5 screening review.
6

7 Q. The Commissioner has received a number of these forms
8 that are unsigned and undated.

9 A. Yes.

10

11 Q. Does the Commission have any way of knowing whether,
12 where it is unsigned or undated, it was in fact completed?

13 A. I don't know.

14

15 Q. You don't know?

16 A. No.

17

18 Q. It may be that these forms are incomplete forms?

19 A. I would say not, if they're on our system, they
20 wouldn't be, which I assume is where you retrieved them
21 from.

22

23 Q. This screening form, which is in relation to Mr Walter
24 Bedser, if you turn to page - if you go from the numbers in
25 the top right, it's 0017. It's page 14 of the internal
26 document.

27 A. 0007 or 17?

28

29 Q. 0017.

30 A. Sorry. Yes.

31

32 Q. There is a recommendation there, it says:

33

34 *The syndicate has determined that this case*
35 *should not initially be reopened as such.*

36

37 And then it identifies certain matters, phases that are
38 followed, following which finalisation may be reached?

39 A. Yes.

40

41 Q. Is that language that you are familiar with?

42 A. It is, yes.

43

44 Q. What does it mean?

45 A. Well, one would say that the phases he's listed below
46 that, if they're completed, then that matter can be
47 finalised as a complete review.

1
2 Q. And what does it mean - so what does it mean to say
3 the matter is finalised?
4 A. Finalised as in a decision could be made as to whether
5 to reinvestigate or not.
6
7 Q. And the document doesn't give any guidance as to what
8 that decision might be?
9 A. No, it doesn't, no.
10
11 Q. I want you to assume - we are told that the date of
12 this document is 10 May 2005.
13 A. Yes.
14
15 Q. From your knowledge of procedures at that time, what
16 would happen next in relation to this document? At what
17 point would a decision be made as to review or
18 reinvestigation?
19 A. Well, one would think that this - the phase 1 that
20 they've identified was a complete forensic review of all
21 material available, that once that was undertaken and the
22 results thereof, then the decision would be made as to
23 whether to conduct a full investigation or not.
24
25 Q. So should the Commissioner understand that this
26 document recommends that a full forensic review take place?
27 A. Yes.
28
29 Q. And would you expect to find among the police records
30 a record as to that review, if it took place?
31 A. Yes.
32
33 Q. We will come to a couple of documents shortly. Could
34 I ask you to turn back to page 0008.
35 A. Yes.
36
37 Q. Do you see there there is a table "Exhibits Located"?
38 A. Yes.
39
40 Q. There is an entry there that says "Knife", and it says
41 "To DAL on 10/12/1980". Do you see that?
42 A. Yes.
43
44 Q. The Commissioner has received evidence that the knife
45 has been lost since it went to DAL - I'm sorry, the
46 evidence is since it came back from DAL, it was lost. Do
47 you understand?

- 1 A. I accept that, yes.
- 2
- 3 Q. Are you familiar with this case at all?
- 4 A. No, I'm not.
- 5
- 6 Q. If you assume that matter, is that a matter that ought
- 7 to have been identified in this document - that is, that
- 8 you can't find the knife?
- 9 A. Yes, it should be, if it can't be located. However,
- 10 if it was located, then those other - the forensic strategy
- 11 could be undertaken. So whether the author of this
- 12 document has identified that these are the exhibits, that
- 13 author may not have known these exhibits - you're saying it
- 14 went missing. He may not have known. I don't know.
- 15
- 16 THE COMMISSIONER: Q. Well, when the document says, back
- 17 at 0017, "Locate all exhibits" --
- 18 A. Yes.
- 19
- 20 Q. -- it's rather intending to be a future exercise, by
- 21 the sound of it?
- 22 A. It does, sir, yes.
- 23
- 24 Q. So, in other words, someone is saying, "Well, we'd
- 25 better find out where all the exhibits are, and if we find
- 26 all the exhibits, certain things may follow"?
- 27 A. Yes, correct.
- 28
- 29 Q. So in other words, this document was certainly
- 30 prepared, as Counsel Assisting has just put, if the knife
- 31 had disappeared and was not available, whoever prepared
- 32 this document proceeded upon whatever they did in the
- 33 absence of knowing that it had already been misplaced or
- 34 disappeared?
- 35 A. That's quite possible, yes.
- 36
- 37 MR EMMETT: Q. There is evidence that this document was
- 38 part of the detectives course. Do you understand what it
- 39 means to say that a document is part of the detectives
- 40 course?
- 41 A. I can only assume that with the Detectives Education
- 42 Program as it was then, I believe, it would have been
- 43 a review to be undertaken by those course participants as
- 44 a part of their criteria for the curriculum relating to
- 45 homicide matters.
- 46
- 47 Q. If you turn to page 20 of the document, 0020 --

1 A. Yes.
2
3 Q. -- you will see there is a reference to "assessment
4 criteria" by reference to cases, including this one?
5 A. Yes.
6
7 Q. Is it possible that this document that we've been
8 looking at is no more than - well, is a document prepared
9 by someone as part of training rather than a document
10 prepared by somebody conducting a serious review?
11 A. No, to me - it is part of training and development,
12 there's no doubt about that. However, the reviews were
13 undertaken under management, strict supervision of these
14 detective sergeants at the detectives training course, who
15 were quite experienced, I have no doubt. I know the
16 signature - I know that person there on that block there,
17 and one would think that the idea is to have them - the
18 review is a desktop review, as we call it. They don't go
19 out to seek information or to investigate. It's just
20 merely a desktop review.
21
22 Q. Can I ask you to turn - it is later in time but
23 earlier in the folder - back to tab 20 [SCOI.02913_0001].
24 A. Yes.
25
26 Q. That's a similar form from - if you turn - well, you
27 have written there, it appears to say 2008.
28 A. Sorry, where was that?
29
30 Q. I'm sorry. Again, if you turn to page _0019, you will
31 see it has not been signed or dated?
32 A. Yes.
33
34 Q. Again --
35 A. Sorry, 00?
36
37 Q. -- can the Commissioner draw any inference about
38 whether this form was in fact completed?
39 A. Yes, that's correct, yes.
40
41 Q. I'm sorry, yes, he can draw an inference?
42 A. One - yes, it was completed, but --
43
44 THE COMMISSIONER: Q. Yes, but can I ask you this
45 question: were they play-acting exercises or were they
46 intended to have practical significance?
47 A. They were intended to have practical significance.

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Q. So they weren't just sort of theoretical play-acting?

A. No, no.

MR EMMETT: Q. And the same goes for both the 2005 document and this document?

A. If it was before - under the same course.

Q. I want you to take it from me that this document is said to have been dated in 2008.

A. Was it undertaken by the Detectives Education Program?

Q. Well, could you tell us? Looking at the document, is there anything on the face of the document that enables you to know that one way or the other?

A. No, there isn't, no.

THE COMMISSIONER: Q. What about the top of the page at 0001, "You have been selected to undertake a review of an unsolved homicide"?

A. That's the same on all of those.

Q. Is it?

A. Yes, it is.

Q. Yes. So, in other words, it's really just, what, some random selection of people?

A. That's correct, yes.

Q. For the purposes - and I'm not being disrespectful --

A. No.

Q. -- not a play-acting exercise?

A. No.

Q. It's meant to be a real-time and a real attempt to come to terms with what may or may not need to be done?

A. That's correct.

Q. All right, thank you.

A. The theory behind that, sir, is the fresh-eye approach Unsolved use.

THE COMMISSIONER: Yes, I understand. Thank you.

MR EMMETT: Q. If there's nothing in this document or in any other material that has been produced to indicate that

1 this 2008 review was part of the detectives course, should
2 the Commissioner proceed on the basis that it was a review
3 by somebody within the Unsolved Homicide Team or that he
4 just doesn't know?
5 A. He just doesn't know.
6
7 Q. Can I ask you, in this document, if you turn to
8 page 0018, in the recommendation, first --
9 A. Yes.
10
11 Q. -- there are recommendations that actions should take
12 place?
13 A. Yes.
14
15 Q. According to the ordinary course of events, to your
16 knowledge, when - if this document is dated 2008, when
17 would you expect those actions to be taken?
18 A. At a reasonable time shortly thereafter.
19
20 Q. And what does that mean?
21 A. Well, upon receiving the review, then it should be
22 taken.
23
24 Q. By whom?
25 A. By whoever has been assigned the matter.
26
27 Q. By somebody within the Unsolved Homicide Team?
28 A. No, because at that stage, if this is a 2008 document,
29 there was no investigative function within the Unsolved
30 Homicide Team, so this would have been undertaken by
31 somebody outside that agency.
32
33 Q. Someone would have received this document, if it were
34 completed, some time shortly after it was completed; is
35 that your evidence?
36 A. Yes, I - that should be the case.
37
38 Q. And that person, what, would be attached to the area
39 command where the original investigation was?
40 A. We try not to do that, but I don't know what the ambit
41 was back in 2008/2009.
42
43 Q. When you say the person who received it, wherever they
44 were, ought to have taken the actions identified within
45 a reasonable time, what's a reasonable time?
46 A. As soon as possible. I can't give you --
47

1 Q. Are you talking weeks, months, years?
2 A. No, I can't give you that time frame.
3
4 Q. You can't assist the Commissioner --
5 A. No.
6
7 Q. -- at all with what a reasonable time is?
8 A. No. You've got competing factors involved in relation
9 to the status of other investigations they're undertaking
10 and where they're at. So it's all to be into consideration
11 when undertaking these duties.
12
13 THE COMMISSIONER: Q. Can I ask you this: it's really
14 the horse and the cart analogy. Why would all this time be
15 spent providing all of this insight into a theoretical
16 series of possibilities if you don't even know, when you
17 start, that you have all the holdings, including the
18 exhibits and fingerprints? It just seems to me to be cart
19 and horse material. Wouldn't a sensible course be, given
20 your now knowledge corporate-wise of how difficult it has
21 been to produce and to find where things are --
22 A. Yes.
23
24 Q. -- wouldn't it smack of entire commonsense that if you
25 say, "Well, let's look at the case of Bedser" --
26 A. Yes.
27
28 Q. -- "Okay, X or Y, X and Y, would you please go and
29 find out all of our holdings, where are they, where might
30 be they be, what they comprise of?", because if you
31 discovered, say, if it be true, that in that exercise the
32 knife, the murder weapon, has gone missing --
33 A. Yes.
34
35 Q. -- that would presumably have an impact --
36 A. Significant, yes.
37
38 Q. -- on what you could do?
39 A. Yes.
40
41 Q. And, indeed, what you might do?
42 A. That's correct.
43
44 Q. Now, wouldn't that be a better use of time and
45 resources than getting someone to sit down and review all
46 of this and write out very nice theoretical scenarios, all
47 of the witnesses, all of the people, before you actually

1 work out where the exhibits are, because a number of these
2 documents are predicated upon an absence of knowledge of
3 the current existence of holdings, but more importantly the
4 exhibits, and more importantly things like fingerprints,
5 murder weapons, whatever?
6 A. Yes, I agree.
7
8 THE COMMISSIONER: Okay, all right.
9
10 MR EMMETT: Q. Could I ask you to turn to page 0017 in
11 the document.
12 A. Yes.
13
14 Q. You will see there the first full paragraph, it says:
15
16 *The senior Detective course also reviewed*
17 *this matter ...*
18
19 A. Yes.
20
21 Q. And then there's a paragraph. At the end of that
22 paragraph, the last two sentences say:
23
24 *It is unclear whether all running sheets*
25 *are truly available as they finish abruptly*
26 *in January 1981.*
27
28 Do you see that?
29 A. Yes.
30
31 Q. Mr Bedser died in December 1980. Do you understand
32 that?
33 A. Yes.
34
35 Q. Was it a reasonable inference that the running sheets
36 had been lost?
37 A. That could be an inference, when they're saying
38 they're truly available.
39
40 Q. The reviewer - I appreciate the reviewer wasn't you,
41 but from your knowledge of the procedures, it should have
42 been obvious to the reviewer that they didn't have complete
43 information?
44 A. Yes.
45
46 Q. When we turn to the next page, _0018, in the last
47 paragraph --

- 1 A. Yes.
- 2
- 3 Q. -- it says:
- 4
- 5 *There are no exhibits available for*
- 6 *retesting ...*
- 7
- 8 By this stage, they had identified that the knife was
- 9 missing?
- 10 A. Yes.
- 11
- 12 Q. Then it says:
- 13
- 14 *It appears that some paperwork may be*
- 15 *missing and the inquest material cannot be*
- 16 *located.*
- 17
- 18 A. Yes.
- 19
- 20 Q. It nevertheless says:
- 21
- 22 *... however it is the reviewers opinion*
- 23 *that a thorough investigation pursuing all*
- 24 *lines of inquiry was conducted at the time.*
- 25
- 26 A. Yes.
- 27
- 28 Q. How could a reviewer form the view that a thorough
- 29 investigation had been conducted if there were running
- 30 sheets that stopped abruptly a month after the
- 31 investigation commenced and they didn't have the inquest
- 32 material?
- 33 A. They can't.
- 34
- 35 Q. So that statement is wrong?
- 36 A. Well, I won't say they don't have the inquest
- 37 material. What I'm thinking there is the coronial file.
- 38 Because on occasions that we do attempt to gather material
- 39 that we may not have on file at our organisation, we go to
- 40 the Coroners Court and request, and the Coroner's file may
- 41 not be available. So that part alone may not contribute to
- 42 the fact that they don't have all the documents.
- 43
- 44 Q. But the abrupt end of the running sheets --
- 45 A. Sorry?
- 46
- 47 Q. The fact that the running sheets ended abruptly in

1 January 1981 --
2 A. Yes, yes, yes.
3
4 Q. That would tend to indicate it?
5 A. Yes.
6
7 Q. A reviewer, to your knowledge, couldn't properly
8 conclude that it was a thorough investigation pursuing all
9 lines of inquiry if those documents were missing?
10 A. That's correct, yeah.
11
12 Q. If a case screening form uses language like, "This
13 appears to have been a thorough investigation pursuing all
14 lines of inquiry", does that affect the likelihood of the
15 case being picked up and reviewed again in the future?
16 A. It could, yes.
17
18 Q. A statement like that may make this case less likely
19 to be reviewed in the future?
20 A. It could, yes.
21
22 Q. It was incumbent on the people preparing this document
23 to take great care before making statements like that?
24 A. That's correct, yes.
25
26 Q. And if there wasn't a basis for it, it shouldn't have
27 been recorded in this screening form?
28 A. I agree, yes.
29
30 THE COMMISSIONER: I'm sorry to interrupt you again.
31
32 Q. Can I take you to 0005?
33 A. Sorry, sir?
34
35 Q. 0005, with the underscore. It's under the heading
36 "Exhibits".
37 A. 0005, is that --
38
39 Q. It is paragraph 7 heading "Exhibits". The upper
40 right-hand corner, 0005.
41 A. Is that item 20 - 19, sir?
42
43 Q. Forgive me, you're absolutely right. It's in tab 20
44 [SCOI.02913_0001].
45 A. Tab 20?
46
47 Q. Tab 20.

- 1 A. Sorry, I was looking from the beginning of the
2 document, sir. Yes, "Exhibits".
3
- 4 Q. Have you got it?
5 A. Yes.
6
- 7 Q. It says:
8
9 *The original Exhibit Book is obviously the*
10 *best place to begin ... many homicide*
11 *exhibits however were never entered into*
12 *the Station exhibit books as they were*
13 *recovered from crime scenes ...*
14
- 15 It goes on and on. I mean, that's part of the problem that
16 was well known within Unsolved Homicide, I presume?
17 A. Yes.
18
- 19 THE COMMISSIONER: All right. Thank you.
20
- 21 MR EMMETT: Q. May we infer from this, it was well known
22 in 2008?
23 A. Yes, I'd say so, yes.
24
- 25 Q. Can I ask you to turn next to tab 26
26 [SCOI.10286.00008_0001]. That's a case screening form in
27 relation to William Dutfield. Do you see that?
28 A. Yes.
29
- 30 Q. He died on 19 November 1991.
31 A. Yes.
32
- 33 Q. If you turn to page 0016, there's a recommendation
34 that a reinvestigation is warranted?
35 A. Yes.
36
- 37 Q. And the date there is 2 May 2005?
38 A. Yes.
39
- 40 Q. The reinvestigation identifies a number of lines of
41 inquiry?
42 A. Yes.
43
- 44 Q. If a recommendation like that is made, would you
45 expect a reinvestigation to be commenced in relation to
46 Mr Bedser --
47 A. Mr Dutfield.

1
2 Q. I'm sorry, Mr Dutfield.
3 A. Yes, I would.
4
5 Q. Within a reasonable time after 2 May 2005?
6 A. That's correct, yes.
7
8 Q. And at this stage, that should have been conducted by
9 an investigative team that is not part of the Unsolved
10 Homicides review team?
11 A. That's correct, yes.
12
13 Q. And should the Commissioner assume you're unable to
14 assist with what length of time a reasonable time is?
15 A. No, no.
16
17 Q. Now, I want you to assume that by February 2007, the
18 first step - and we'll come to the document in relation to
19 this in a moment, but the first step had been taken, that
20 is, there were examinations of the cigarette butts and the
21 tissue paper. Do you understand that?
22 A. Yes, yes.
23
24 Q. But that there's no evidence of the other matters of
25 re-examination being taken?
26 A. Right - as in the sticky-tape dispenser?
27
28 Q. As in items 2, 3, 4, 5, 6, 7, 8.
29 A. Okay, yes.
30
31 Q. Do you understand?
32 A. Yes.
33
34 Q. There was a review offered at a later stage. Do you
35 understand?
36 A. Sorry?
37
38 Q. There was a review offered - I'm just looking at
39 item 9 - at a later stage?
40 A. Item 9 is about a media appeal.
41
42 Q. Media appeal and offer of reward?
43 A. Yes.
44
45 Q. That's what I mean. Can I ask you to turn next to
46 tab 27 [SC01.1006.00036_0001].
47 A. Yes.

1
2 Q. That's a document titled "Additional Information Case
3 Screening Form".
4 A. Mmm-hmm.
5
6 Q. What's an Additional Information Case Screening Form?
7 A. That would have been a - I don't know when that would
8 have been created, if I can - so created some two years
9 later.
10
11 Q. Yes.
12 A. So it would be any additional information that may
13 have come in to the Unsolved Homicide - the review team at
14 that stage.
15
16 Q. Are you familiar with these forms titled "Additional
17 Information Case Screening Form"?
18 A. Yes.
19
20 Q. And when are they used?
21 A. Sorry?
22
23 Q. Did I understand your evidence correctly, these forms
24 are used when new information comes to the Unsolved
25 Homicide Team?
26 A. Yes, that was at that time.
27
28 Q. If you turn to page 0002?
29 A. Yes.
30
31 Q. It refers to a report being received from DAL, as
32 I foreshadowed - in relation to the testing I mentioned?
33 A. Yes.
34
35 Q. And it refers there to obtaining a profile from
36 a named person. Do you see that? It's the third
37 paragraph. I'm not going to read the name.
38 A. Yes.
39
40 Q. But do you see it refers to --
41 A. Yes.
42
43 Q. -- a named person?
44 A. Yes.
45
46 Q. Now, this was dated 1 March 2007. Do you see that
47 over the page?

1 A. The 8th of - sorry? Sorry, the 8th of --
2
3 Q. Well, the first date is 8 February, and the second
4 date is the 1st --
5 A. Oh, sorry, that's when it was certified, sorry.
6
7 Q. So this is an example of one that has in fact been
8 signed?
9 A. Yes. Well, at that stage, Detective Senior Constable
10 Henderson was a part of the review team that I know of -
11 that I know, and Nicole Passé-de Silva was also a member of
12 that team.
13
14 Q. In the period between May 2005 and March 2007, the
15 person named there died?
16 A. Yes.
17
18 Q. Are you aware - are you familiar with that case?
19 A. I will accept that. I don't know, but I will accept
20 that, yes.
21
22 Q. Had a DNA sample been obtained from that person as
23 suggested at item 5 in May 2005 --
24 A. Yes.
25
26 Q. -- had that been acted upon promptly, it may have been
27 possible to obtain that DNA sample?
28 A. Yes.
29
30 Q. Are you able to assist with an explanation for that
31 delay leading to the inability to obtain that sample?
32 A. No, I'm not.
33
34 Q. Is that the sort of delay you would expect --
35 A. No, it isn't a delay I would expect.
36
37 Q. Taking two years, on any view, is outside a reasonable
38 time; is that right?
39 A. Yes, yes.
40
41 Q. On any view, these investigations ought to have taken
42 place much closer to May 2005?
43 A. Yes.
44
45 Q. Can I ask you to turn next to tab 29
46 [SCOI.03268_0001]?
47 A. If I could just go back to - if I could, back to that

1 additional form. The receipt of that information was on
2 8 February 2007. So I don't know that that person, the
3 named person there, was identified in the original.
4 I don't know.
5
6 Q. Turn back to tab 26 [SCOI.10286.0008_0001]?
7 A. Yes. Just when I noticed the date, that was all, sir.
8
9 Q. Turn back to tab 26?
10 A. Yes.
11
12 Q. Page 0016?
13 A. Yes.
14
15 Q. We looked at the various items, steps that were not
16 taken.
17 A. Yes.
18
19 Q. And you see item 5?
20 A. Yes. Thank you. Then I - I appreciate what you're
21 saying.
22
23 Q. Looking at these documents, there is no doubt in your
24 mind, is there, that there was a recommendation in May
25 2005 --
26 A. I didn't read that previously, but I accept what you
27 put, yes.
28
29 Q. There's no doubt in your mind that there was
30 a recommendation to do that in May 2005?
31 A. Yes, yes.
32
33 Q. That required action within a reasonable time?
34 A. Yes, yes.
35
36 Q. A reasonable time - well, it was a matter of weeks or
37 months?
38 A. Yes.
39
40 Q. And had that been actioned within a reasonable time,
41 the person named there would have been alive at the time?
42 A. Yes.
43
44 Q. On the assumption that I have given you as to the date
45 of his death?
46 A. Yes, yes. Just something in the date I picked up,
47 sir.

1
2 Q. Indeed, the document - the additional information form
3 doesn't even appear to appreciate that the person has died?
4 A. No, no.
5
6 Q. Can I ask you to turn to tab 29 [SC0I.03268_0001].
7 This is a case screening form in relation to Crispen Dye.
8 Do you see that?
9 A. Yes.
10
11 Q. He was assaulted on 23 December 1993 and died two days
12 later.
13 A. Yes.
14
15 Q. If you turn to page 0017?
16 A. Yes.
17
18 Q. This document has a reviewer's certification. There's
19 no signature, but there's a name. Do you see that?
20 A. Yes.
21
22 Q. And there's no signature, name or date for the
23 coordinator's certification?
24 A. That's correct.
25
26 Q. Is the Commissioner - what can the Commissioner infer
27 as to whether this document was in fact completed and
28 whether it was reviewed by the coordinator?
29 A. I can't say, because the mere fact it wasn't signed
30 doesn't mean it wasn't done.
31
32 Q. A number of recommendations are made. Do you see
33 that?
34 A. Yes.
35
36 Q. Again, proper police procedures at the time required
37 those actions to be taken within a reasonable time?
38 A. Yes.
39
40 Q. I want you to assume that none of those steps were
41 taken, save that, the third bullet point, a reward was
42 reissued in 2014. Do you understand that?
43 A. Yes, yes.
44
45 Q. About nine years later?
46 A. Yes.
47

1 Q. Is that consistent with the proper police practice
2 that you have told the Commissioner about?

3 A. No.

4

5 Q. Those actions should have been taken much earlier?

6 A. Yes.

7

8 Q. Was there any procedure by which anyone within the
9 Unsolved Homicide Team or anyone anywhere followed up with
10 whoever was responsible for implementing these
11 recommendations to find out whether they were implemented?

12 A. That's unknown to me.

13

14 Q. You just don't know one way or the other?

15 A. No. I wasn't there at the time, so I don't know their
16 practices.

17

18 Q. Could I ask you to turn next to tab 30
19 [SCOI.03267_0001].

20 A. Yes.

21

22 Q. This relates to the same person, Crispin Dye, and it's
23 an "Annexure A Triage Form"?

24 A. Yes.

25

26 Q. That's the form that's been in place since I think you
27 said - was it around 2018?

28 A. Yes.

29

30 Q. Was it 2018 or a little bit earlier or you don't know?

31 A. It was 2018 when the new format of addressing the
32 large number of unsolved matters that we had - to resource
33 those reviews out to experienced police officers.

34

35 Q. Could I ask you to turn to page 0011. There is
36 a recommendation that the matter proceed to review?

37 A. Yes.

38

39 Q. I want you to assume there is no record of any review
40 being undertaken.

41 A. I would say not, no.

42

43 Q. I beg your pardon?

44 A. I would say not, no.

45

46 Q. When you say you would say not, do you mean it doesn't
47 surprise you that no review was done?

1 A. No, you're saying to me - your question was, sorry?
2
3 Q. I said I want you to assume that no review was
4 undertaken following this triage form, or at least the
5 Commissioner has received no evidence --
6 A. I'm unaware.
7
8 Q. You're unaware?
9 A. Of this particular matter.
10
11 Q. If the matter had proceeded to a review, you would
12 expect to see that in the tracking file?
13 A. Yes.
14
15 Q. And you would expect that there would be a record of
16 the review?
17 A. You would expect to have a review document.
18
19 Q. Now, the recommendation that it proceed to review was
20 on 16 November 2019. Do you see that?
21 A. Yes.
22
23 Q. Should the Commissioner infer that, despite that
24 recommendation, no step was taken in relation to this
25 matter after 16 November 2019?
26 A. Yes, that could be the case. It may not have been
27 put - I don't know if a review was conducted on this
28 particular matter, but if it's not on the tracking file,
29 then I can assume it wasn't. However, there may be items
30 on the tracking file that aren't - the detail isn't input
31 accordingly.
32
33 Q. And it doesn't - does it surprise or trouble you that
34 it's now several years after 16 November 2019 and no action
35 is recorded?
36 A. Yes.
37
38 Q. That's not consistent with proper police practices?
39 A. No.
40
41 Q. Can you offer any explanation for why there's no
42 record of any step being taken?
43 A. No, I cannot.
44
45 Q. Can I ask you to turn to tab 31 [NPL.0100.0015.0001].
46 This is again a case screening form. This relates to Scott
47 Miller --

1 A. Yes.
2
3 Q. -- who died on 2 March 1997?
4 A. Yes.
5
6 Q. Would you turn to page 0011. It is signed and dated
7 by the reviewer?
8 A. Yes.
9
10 Q. 21 April 2004?
11 A. Yes.
12
13 Q. There's no coordinator's certification?
14 A. No.
15
16 Q. Proper procedure required that coordinator's
17 certification?
18 A. Should have been.
19
20 Q. You're not aware of any reason why the signature
21 wasn't affixed?
22 A. No. No.
23
24 Q. But you tell the Commissioner it may nevertheless have
25 been completed and - I'm sorry, the coordinator may
26 nevertheless have certified this document?
27 A. Yes, it may have been certified.
28
29 Q. But should the Commissioner proceed on the basis that
30 that's likely or that he just doesn't know one way or the
31 other?
32 A. Likely, very likely.
33
34 Q. And why should the Commissioner proceed on that basis?
35 A. Firstly, I know who the reviewer is, and I would
36 ascertain that he would have put it up for the coordinator
37 and it just - an oversight is what I would assume.
38
39 Q. What's the basis for that assumption?
40 A. Because I know who the investigator is that did the
41 review, and it may not - just may not have been signed.
42
43 Q. Why is the fact that you know who the investigator
44 is - how does that assist you --
45 A. His experience in relation to having conducted
46 a thorough review.
47

1 Q. Well, how does that assist you in understanding
2 whether the coordinator certified the document?
3 A. I can only assume, I said before.
4
5 Q. On what basis?
6 A. I don't have an answer.
7
8 Q. I want you to assume that the tracking file indicates
9 that a triage has been performed in relation to this
10 document, although the tracking file doesn't indicate the
11 date. Do you understand?
12 A. Yes.
13
14 Q. No such document has been produced to the Commission?
15 A. The triage document?
16
17 Q. No triage document has been produced in relation to
18 this - in relation to Mr Miller. Do you understand?
19 A. Okay, yes.
20
21 Q. If a triage had occurred, if the entry in the tracking
22 file is correct, there ought to be a record of it?
23 A. Yes.
24
25 Q. Have you had occasion to look for the - look for any
26 records in relation to Scott Miller?
27 A. No, I haven't, no.
28
29 Q. Are you able to assist the Commissioner one way or the
30 other as to whether such a triage form exists?
31 A. I'm not able at this present stage.
32
33 Q. Can I ask you to turn next to tab 32
34 [SCOI.03416_0001]?
35 A. Yes.
36
37 Q. That's a screening form in relation to a person
38 recorded in this form by the name David Rose?
39 A. Yes.
40
41 Q. I want you to assume that the deceased person is
42 Samantha Rose, who was a transgender woman. Do you
43 understand that assumption?
44 A. Yes, yes.
45
46 Q. Have you had occasion to look at this case before?
47 A. No.

- 1
2 Q. You don't know anything about the facts of it?
3 A. No.
4
5 Q. She died on 20 December 1997?
6 A. Yes.
7
8 Q. Can I ask you to turn to page 0018?
9 A. Yes.
10
11 Q. There are a number of recommendations made?
12 A. Yes.
13
14 Q. Would you turn to page 0020?
15 A. Yes.
16
17 Q. Again, there's a reviewer's certification, a name but
18 no signature, and a date, 6 May 2004?
19 A. Yes.
20
21 Q. Again, there's no certification name or date for the
22 coordinator?
23 A. That's correct.
24
25 Q. Is the Commissioner able to draw any inference as to
26 whether or not the coordinator actually reviewed this
27 document?
28 A. No.
29
30 Q. Going back to the recommendations, if these
31 recommendations - well, if this document was provided by
32 the Unsolved Homicide Team to somebody else, those
33 recommendations should have been implemented?
34 A. Yes.
35
36 Q. And they should have been implemented within
37 a reasonable time?
38 A. Yes.
39
40 Q. There is a reference again to a person of interest
41 whose name appears on the --
42 A. Yes.
43
44 Q. -- in the third, fourth and fifth bullet points?
45 A. Yes.
46
47 Q. I want you to assume that that person died in 2006.

- 1 A. Yes.
2
3 Q. Again, had those recommendations been taken earlier,
4 or implemented within a reasonable time, those steps, it is
5 to be expected, would have been taken while that person was
6 still alive?
7 A. That's correct, yes.
8
9 Q. Was that a failure of police procedures?
10 A. Yes.
11
12 Q. The recording of Ms Rose under the name that I showed
13 you and mislabeling Ms Rose's gender - in 2004, are you
14 able to assist the Commissioner, did officers receive
15 training or education in respectful ways to refer to
16 members of the trans community?
17 A. No, I'm unable to --
18
19 Q. You just don't know?
20 A. No, I don't know. I don't recall.
21
22 Q. Have you ever received such training?
23 A. No.
24
25 Q. Have you received any guidance in relation to that
26 matter, professionally?
27 A. Not specifically, no.
28
29 Q. Have you undertaken a computer module that is, we
30 understand, available in the Police Force in relation to
31 LGBTIQ awareness?
32 A. Yes.
33
34 Q. When did you undertake that?
35 A. I can't recall now, sorry.
36
37 Q. Recently, a long time ago?
38 A. No, I - I don't know.
39
40 Q. Can I ask you to turn next to tab 34
41 [SC0I.03415_0001]?
42 A. Yes.
43
44 Q. That's a triage form in relation to Ms Rose?
45 A. Yes.
46
47 Q. If you turn to page 0008, you will see it's dated May

1 2019?
2 A. Yes.
3
4 Q. By 2019, would it be fair to assume that officers,
5 including the officer named as having completed this triage
6 form --
7 A. Yes.
8
9 Q. -- had undergone training in relation to cultural
10 awareness in respect of the LGBTIQ community?
11 A. Yes.
12
13 Q. Definitely or possibly or you just - you don't know?
14 A. Possibly.
15
16 Q. Are you able to assist the Commissioner with whether
17 that training included information about respectful ways to
18 refer to members who were or might be members of the trans
19 community?
20 A. It would have, yes.
21
22 Q. Would you --
23 A. If I can make an assumption, and it is only an
24 assumption, that the recorded name given with the initial
25 review was utilised across the board so that there would be
26 no - admittedly, there should have been an alias or another
27 name, but it wasn't recorded that way.
28
29 Q. Can I ask you to turn next to tab 33
30 [SCOI.02713_0001]? I should ask this - no, turn to tab 33.
31 A. Yes.
32
33 Q. This is a review in relation to Ms Rose's case?
34 A. Yes.
35
36 Q. If you turn to page 0064, it's dated 30 September
37 2021?
38 A. Yes.
39
40 Q. That's quite a lengthy evidence summary?
41 A. Yes.
42
43 Q. It looks not altogether dissimilar to the degree of
44 information one might see, for example, in a coronial
45 inquest OIC's statement?
46 A. Yes.
47

- 1 Q. Is the intention to mirror that?
2 A. No, no.
3
4 Q. On page 1, the author of this document - I want to
5 draw your attention to the last two sentences, or in
6 particular the second-last sentence of the introduction on
7 "Background". Do you see that?
8 A. Yes.
9
10 Q. You would agree that that language is not considered
11 an acceptable or respectful way to describe a member of the
12 trans community?
13 A. Which - are you saying on page 1, sir?
14
15 Q. Page 1, "Background".
16 A. Yes.
17
18 Q. Where it says:
19
20 *He was a cross-dresser, wore make-up and*
21 *commenced treatment for a sex change.*
22
23 A. Oh, sorry, I thought you meant down the bottom, sorry.
24
25 Q. I'm terribly sorry.
26 A. I apologise.
27
28 Q. Is the training that you received - did you learn from
29 that that that would not be a respectful way to refer to
30 a member of the trans community?
31 A. That's correct.
32
33 Q. You did receive that training?
34 A. Yes.
35
36 Q. And would it be fair to infer that the officer who
37 completed this report received that training, too?
38 A. Yes, yes.
39
40 Q. This entry can't be explained by reference to a - that
41 language cannot be explained by reference to a desire to
42 ensure consistency of names, can it?
43 A. No.
44
45 Q. Can you offer any good reason for --
46 A. No, I cannot, nor valid reason.
47

1 Q. Can I ask you to turn next to tab 37
2 [SCOI.02706_0001]?

3
4 THE COMMISSIONER: Q. Before you do that, could I ask
5 you to go to 0064 in this same tab?
6 A. Yes, sir.

7
8 Q. Now, this was a homicide?
9 A. Yes.

10
11 Q. Is there any particular reason why the person who
12 prepared this document is said to be a detective sergeant
13 in the Financial Crime Squad?
14 A. Yes - is there a reason?
15
16 Q. Yes.
17 A. Because what happened when the - the new process was
18 undertaken in 2018, there were - it was identified --
19
20 Q. You got people outside Unsolved Homicide?
21 A. Outside.
22
23 Q. And that could be anybody in any squad?
24 A. That's correct. It actually went to the other squads
25 as a matter of having experienced officers there.
26
27 THE COMMISSIONER: Understood. Understood, thank you.
28
29 THE WITNESS: 37, sir?
30
31 MR EMMETT: Q. 37, yes.
32 A. Yes.
33
34 Q. The first page is a summary page, and if you turn to
35 the second page, you'll see again a case screening form?
36 A. Yes.
37
38 Q. If you turn to page 0012, you will see this form
39 includes no signature but a name and date for both the
40 reviewer and the coordinator?
41 A. Yes.
42
43 Q. But you tell the Commissioner - so this form, at
44 least, it appears - well, can the Commissioner infer that
45 this form was reviewed by both the reviewer and the
46 coordinator?
47 A. Yes.

1
2 Q. Prepared by the reviewer?
3 A. Yes.
4
5 Q. And reviewed or assessed by the coordinator?
6 A. Yes, assessed, yes. Mr Jarratt was the person that
7 set up the Unsolved Homicide Team in 2004.
8
9 Q. Can I ask you to turn to page 0005?
10 A. Yes.
11
12 Q. It says - do you see in the top entry, it says:
13
14 *Further examination: Projectiles removed*
15 *from victim's body at Post Mortem are still*
16 *on hand ...*
17
18 Do you see that?
19 A. Yes.
20
21 Q. Now, I want you to assume that the evidence before the
22 Commissioner is that there were no projectiles recovered
23 post-mortem because there were entry and exit wounds. Do
24 you understand that?
25 A. Yes.
26
27 Q. And the evidence before the Commissioner is that the
28 fired bullets, if they were ever taken into custody, could
29 not be located. Do you understand that?
30 A. That's correct.
31
32 Q. On that assumption, that appears to be just plain
33 wrong, doesn't it?
34 A. That's right, yes.
35
36 Q. I appreciate it's not your document, but if that is an
37 error, are you able to assist the Commissioner with how
38 often errors like that --
39 A. Oh, no.
40
41 Q. Do you observe them - or how often do you have
42 occasion to review these screening forms?
43 A. Not often at all, not these, these screening forms,
44 no.
45
46 Q. You can't assist the Commissioner with how prevalent
47 errors like that are?

1 A. No.
2
3 Q. But this is an important detail?
4 A. Of course, yes.
5
6 Q. You wouldn't expect a competent reviewer to make
7 a mistake of that significance?
8 A. Sorry?
9
10 Q. It's an important detail, it's a significant matter;
11 do you agree?
12 A. Mmm.
13
14 Q. You would not expect a competent reviewer preparing
15 this screening form to make that mistake; is that right?
16 A. Yes, yes.
17
18 Q. Again, going to page 0010, it was recommended that the
19 investigation be reopened?
20 A. Yes.
21
22 Q. Again, you tell the Commissioner the expectation was
23 on the - assuming that made it back to someone outside the
24 Unsolved Homicide Team, that person who received it should
25 have commenced the reinvestigation within a reasonable
26 time?
27 A. Yes.
28
29 Q. And if there is no evidence of such a reinvestigation
30 being commenced, that would be a failure of proper police
31 procedure at the time?
32 A. Yes.
33
34 Q. Can I ask you to turn to tab 37A [NPL.0131.0017.0258]?
35 A. Yes.
36
37 Q. Now, this document, I want you to assume, is not
38 dated, but the information we have received, or the
39 Commission has received, from the Police Force is that it
40 is from 2018. Do you understand?
41 A. I would hazard a guess that it wouldn't be from 2018,
42 because it's an old-style document, wouldn't be, unless it
43 was --
44
45 Q. I'm sorry, did I say 2018?
46 A. Yes.
47

1 Q. I'm terribly sorry. I meant to say 2008.
2 I apologise, Chief Inspector. I want you to assume 2008.
3 A. Yes, yes.
4
5 Q. That review on page 0009 recommends that the
6 investigation is reopened?
7 A. Yes.
8
9 Q. So if we assume this document was dated 2008, by 2008
10 or 2009, or by 2008, there had been two recommendations to
11 reopen this investigation?
12 A. Yes.
13
14 Q. If it wasn't, if the investigation wasn't reopened,
15 can you offer an explanation?
16 A. No, I cannot.
17
18 Q. Again, would that be a failure of proper police
19 practice at the time?
20 A. Yes.
21
22 Q. Can I ask you to turn next to tab 38
23 [SCOI.38971_0001]?
24 A. Yes.
25
26 Q. That's a triage form in relation to a missing person
27 named Peter Baumann. Do you see that?
28 A. Yes, yes.
29
30 Q. Again, if you turn to page 0007, this document appears
31 to be unsigned and undated?
32 A. Unnamed as well.
33
34 Q. I'm sorry?
35 A. Unnamed as well.
36
37 Q. Unnamed, unsigned, undated?
38 A. Yes.
39
40 Q. And, indeed, quite a few of the boxes are empty?
41 A. Yes.
42
43 Q. If you turn to page 0003?
44 A. Yes.
45
46 Q. There is a reference to a post-mortem result?
47 A. Yes.

1
2 Q. I want you to assume that the evidence indicates that
3 Mr Baumann has disappeared and his body has never been
4 recovered?
5 A. Yes.
6
7 Q. Are you familiar with the Baumann case?
8 A. I am in relation to reading this error.
9
10 Q. You say "this error". That's an obvious error in the
11 document, isn't it?
12 A. Obviously an error.
13
14 Q. Have you seen that error before?
15 A. No, no.
16
17 Q. Is that the sort of error that ought to be picked up
18 by the vetting process?
19 A. It should be. It should be picked up under the
20 reviewer when the reviewer reads it, and myself in vetting
21 it.
22
23 Q. Can the Commissioner draw any inference about whether
24 this triage form was in fact completed?
25 A. No. I would say it wasn't completed.
26
27 THE COMMISSIONER: Q. Is that partly because, if you go
28 to 0006, as an example --
29 A. Yes.
30
31 Q. -- the yes/no option is still left open?
32 A. That's correct, and a lot of the - a lot of those
33 options are still open, so --
34
35 THE COMMISSIONER: Yes.
36
37 MR EMMETT: Q. Can I ask you to turn to tab 39
38 [SCOI.62861_0001]?
39 A. Yes.
40
41 Q. This is a case screening form in relation to Mr Barry
42 Jones --
43 A. Yes.
44
45 Q. -- who died on 26 September 1976?
46 A. Yes.
47

1 Q. The document is unsigned, unnamed and undated. You
2 will see that at page 0011?

3 A. And 0012, yes.
4

5 Q. And there is a lot of information in the document, but
6 there is nothing in the recommendation?

7 A. No.
8

9 Q. Can the Commissioner draw any inference about whether
10 this document was in fact completed and reviewed?

11 A. No, to me, it wasn't completed, because a quick scan
12 of the document there, you have fingerprints and then
13 there's question marks behind it, which is indicative of,
14 one would think, we've got to identify whether they're - if
15 I can just find that page for you, page 0008, partway down.
16 So, to me, that is indicative of something that the
17 reviewer would seek to clarify.
18

19 Q. The Commissioner should infer, should he, then, that
20 a screening of Mr Jones's case was never completed - or,
21 I'm sorry, was not completed in this document?

22 A. That's correct.
23

24 Q. And if this document is the only record of a screening
25 in respect of Mr Jones, the Commissioner should infer that
26 there has never been a completed screening review or triage
27 in relation to Mr Jones?

28 A. I would suggest that.
29

30 Q. It also suggests, doesn't it, that that's the case,
31 even though this case was clearly on, if I can put it this
32 way, the radar of the Unsolved Homicide Team?

33 A. Yes.
34

35 Q. And so, according to proper police practices, should
36 have been reviewed, assuming it was on the tracking file at
37 the time, between 2004 and 2008?

38 A. Yes.
39

40 Q. We've identified a number of cases in which there are
41 reviews or screenings or triages that identify lines of
42 inquiry where those lines of inquiry then either are not
43 implemented or are not implemented for a decade or more?

44 A. That's correct.
45

46 Q. Is that a common occurrence?

47 A. I can only say I hope not.

1
2 Q. Do you know one way or the other?
3 A. No, I don't.
4
5 Q. If material emerges from this Inquiry in relation to
6 some of the matters that the Commissioner is looking at --
7 A. Yes.
8
9 Q. -- that supports further lines of investigation in
10 relation to some of the deaths that this Commission is
11 looking at --
12 A. Yes.
13
14 Q. -- how should the Commissioner expect those matters to
15 be dealt with under the current Standard Operating
16 Procedures of the Unsolved Homicide Team?
17 A. With the - the Unsolved Homicide Team is to assess any
18 information, and if new information is being gleaned as
19 a result of this Commission, then we are to assess it and
20 then act upon that.
21
22 Q. And how would the Commission know how long it will
23 take to get to looking at any given case?
24 A. I could only undertake that it will be done as soon as
25 possible.
26
27 Q. My question is --
28 A. If there's new and fresh information that is unknown
29 to the Unsolved Homicide Team.
30
31 Q. Would you pardon me for a moment. Can I just ask, in
32 relation to a number of the forms that we have looked at,
33 where particular cells or where particular parts of the
34 form are incomplete or unpopulated --
35 A. Yes.
36
37 Q. -- should we assume that in relation to those forms,
38 the form is incomplete and may never have been - the
39 relevant form may never have been completed?
40 A. Yes.
41
42 Q. Or is it possible - or is it equally - let me ask
43 that: is the inference that the Commissioner should draw
44 that if cells in these forms are empty, that's a sign that
45 the relevant form was never actually completed?
46 A. That's correct, yes.
47

1 Q. Now, coming back to - what can the Commissioner
2 conclude about what will happen in relation to any cases in
3 which he identifies lines of inquiry for further
4 investigation?
5 A. That those lines of inquiry will be looked at and
6 assessed by the Unsolved Homicide Team.
7
8 Q. Within what time frame?
9 A. As soon as possible.
10
11 Q. Are you able to assist the Commissioner any further in
12 relation to that?
13 A. No.
14
15 Q. How will that question - well, how will that interact
16 with whether the matter has been failed at a triage before
17 or decided - whether there is an extant decision that it
18 not be - proceed from triage to review?
19 A. I don't understand the question.
20
21 Q. If the Commissioner has looked at a case where there
22 has been a triage --
23 A. Yes.
24
25 Q. -- no review --
26 A. Yes.
27
28 Q. -- can the Commissioner draw any inference about when
29 the Unsolved Homicide Team may take action in relation to
30 matters he looks at?
31 A. To do those reviews, complete them, you mean, or to
32 complete the triage?
33
34 Q. To take some step.
35 A. Sorry?
36
37 Q. To take some step.
38 A. Upon the result of what the Commissioner has
39 identified, then we would look at it, certainly, to assess
40 it.
41
42 Q. And what if the matters are matters that are currently
43 categorised as "Undetermined" or "Unresolved"?
44 A. It would still get looked at. As mentioned in our
45 procedures, if any new information comes aboard in relation
46 to any unsolved matters, we will review it.
47

1 MR EMMETT: Thank you, Chief Inspector. Commissioner,
2 those are our questions.

3
4 THE COMMISSIONER: Right. Yes, Mr Mykkeltvedt?

5
6 MR MYKKELTVEDT: Might I have five minutes with him just
7 to address a couple of things?

8
9 THE COMMISSIONER: Yes, of course. I will adjourn for
10 five minutes. Thank you.

11
12 **SHORT ADJOURNMENT**

13
14 MR MYKKELTVEDT: Thank you for that time, Commissioner.

15
16 THE COMMISSIONER: Yes.

17
18 **<EXAMINATION BY MR MYKKELTVEDT:**

19
20 MR MYKKELTVEDT: Q. Detective Chief Inspector, are you
21 able to say how many officers there are in the Unsolved
22 Homicide Team?

23 A. There's 38.

24
25 Q. And are you able to say how many officers there are in
26 the Homicide Team or Squad as a whole?

27 A. 109.

28
29 Q. So approximately one-third, perhaps even a little bit
30 more, of the officers in the Homicide Squad generally fall
31 within the Unsolved Homicide Team?

32 A. Yes, that's correct.

33
34 Q. You were asked a number of questions yesterday in
35 relation to the fact that the latest matter recorded in the
36 Unsolved Homicide Team's tracking file dates to 17 August
37 2016?

38 A. Yes.

39
40 Q. Do you recall that?

41 A. Yes.

42
43 Q. Can I ask you whether that date is a date referable to
44 the date of the relevant incident or to the date that that
45 matter was added to the Unsolved Homicide Team's tracking
46 file?

47 A. The date of the incident.

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Q. So it wouldn't be correct, for example, to think that there hasn't been any matters added to the tracking file in the last seven years?

A. No, they're being added constantly.

Q. You have given some evidence in relation to your contact with the Coroners Court?

A. Yes.

Q. In particular with the Registrar of the Coroners Court?

A. Yes.

Q. Is it the case that you're in regular contact with the Registrar of the Coroners Court?

A. Yes, and also with the State Coroner and Deputy State Coroners.

Q. And what form does that contact take?

A. As part of my role as Coronial Liaison Officer, I would meet with them regularly in relation to any matters that they can see are an issue for any of the police officers, such as pending inquests or the like, and also for recommendations on how to word certain recommendations that would - which is akin to the stuff that - sorry, the investigations that get sent to us upon inquest findings and also my involvement in the Coronial - New South Wales Coronial Services Committee, which is a broad committee of Justice, Health and the Police.

Q. And as part of that contact, have you entered into any arrangements, formally or informally, in relation to the process by which a matter transitions from the Homicide Squad to the Coroners Court and back to the Unsolved Homicide Squad?

A. Yes, I have, with several - with the Deputy State Coroner and also with the State Coroner and former State Coroners where it was identified that matters of missing persons, whether they be suspicious or otherwise, were being referred to the Unsolved Homicide Team when it was apparent that there wasn't any suspicion in relation to homicide being involved in that disappearance. It was reflective that a family at inquest would get a finding that it would be referred to the Homicide Squad, they would think that their loved one had died as a result of a homicide, when they in fact hadn't; it was more apparent

1 from the evidence given that they had died from
2 misadventure and/or suicide or --

3
4 Q. In addition to that, is there a process whereby once
5 the Homicide Squad decides that an investigation is not
6 able to be further advanced, the matter is referred to the
7 Coroner?

8 A. Yes. It has been identified that there are matters
9 that have never been before the coronial jurisdiction and
10 they're matters that should be taken to that jurisdiction.
11 How many, I don't know, I couldn't give you, but that's the
12 process that should be occurring.

13
14 Q. So the process that you have arranged with the
15 Coroners Court is that once a matter is concluded or the
16 investigations into a matter effectively hit a brick
17 wall --

18 A. Yes.

19
20 Q. -- it is referred to the Coroners Court?

21 A. Yes, provided it's suspicious.

22
23 Q. And then subsequent to the Coroner's review, the
24 matter is referred back to Unsolved Homicide?

25 A. Yes, that's correct.

26
27 Q. And it's at that juncture that the matter falls
28 within, effectively, the jurisdiction of the Unsolved
29 Homicide Team?

30 A. Yes, yes, we as a - the review team, we own that
31 investigation then.

32
33 Q. Now, I think you gave some evidence yesterday in
34 relation to the fact that reviews are not, as a matter of
35 course, immediately conducted in respect of matters that
36 have been referred by the Coroners Court?

37 A. Yes, that's correct.

38
39 Q. Can you explain to the Commissioner why that is?

40 A. The rationale behind that is that all relevant
41 information that has been obtained during the investigation
42 will be placed before the Coroner, whether it be a full
43 coronial inquest or an "OIC only" inquest, where it would
44 be deemed that all investigative strategies have been
45 undertaken, and it's only upon when - we have a time frame
46 of [REDACTED], is how we assess it. However, if there's
47 information coming to us prior to that [REDACTED], we look

1 at it - we assess the information first, sorry, and then
2 consider whether we should reinvestigate or reopen the
3 investigation.

4
5 Q. During the course of the time the matter is before the
6 Coroner, the matter is effectively subject to the direction
7 of the Coroner in connection with, for example,
8 investigative steps; is that right?

9 A. That's correct. Under the Act, we are the
10 investigators on behalf of the Coroner.

11
12 Q. Why have you chosen [REDACTED] as a time period?

13 A. I didn't choose it, but it's just an assumption from
14 previous that [REDACTED] would be a line in the sand, so to
15 speak, for want of a better word, that nothing fresh has
16 come forward. We still review it if we can, if we find
17 that there's - like if there's new information come
18 available or new technology.

19
20 Q. So if you find that new information is uncovered in
21 some way, for example, in response to a reward
22 announcement --

23 A. Yes.

24
25 Q. -- a review will be conducted?

26 A. Yes.

27
28 Q. And similarly if there is some technological
29 development that is perceived to be relevant to
30 a particular case?

31 A. That's correct, yes.

32
33 Q. The period of [REDACTED] is something that --

34 A. Yes.

35
36 Q. -- there may not be any particular science to?

37 A. No, no.

38
39 Q. The Inquiry has heard some evidence in relation to,
40 for example, the importance of relationship shifting - I've
41 just been told that the time period that I've been asking
42 you questions about is something that should be subject
43 to a - well, is subject to a non-publication order and that
44 some steps have been taken.

45 A. My apologies.

46
47 MR MYKKELTVEDT: I'm grateful to my friends.

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Q. I might leave that time period alone.

A. Yes.

Q. Do you have your statement in front of you [NPL.9000.0019.0001]?

A. Yes, I have a copy, yes.

Q. Can I just ask you to turn up paragraph 77?

A. Yes.

Q. You were asked some questions yesterday arising out of the apparent disconnect between the number in that paragraph, that being 829 matters listed in the UHT tracking file --

A. Yes.

Q. -- and the number that appears in what is exhibit 54, suggesting 790. You might not know the answer to this, but I'm just going to ask you whether it's possible that the number that you have put in paragraph 77 reflects not the period between 1970 and 2010 but rather the total number of the matters that appear in the tracking file?

A. That's correct. It's an error on my behalf, that I downloaded and acquired the numbers at that - at the time that I made the statement.

Q. So you didn't make that calculation by reference to the document that had been produced to the Inquiry?

A. No.

Q. But rather by the document as it exists in the NSW Police Force system?

A. That's correct, yes.

MR MYKKELTVEDT: Commissioner, I'm quite sensibly reminded that there are people, for example, in the courtroom who may not be privy to the precise terms of the orders that have been made, and because of that, I would seek that there be a non-publication order expressly made in connection with the time period that I have previously --

THE COMMISSIONER: Yes, I think that's appropriate. So for those in the courtroom who are not part of the Commission staff, I will make an order that any time frame that was mentioned, let's say in the last half hour, not be published or republished outside this room or even within

1 this room.
2
3 MR MYKKELTVEDT: I'm grateful, Commissioner.
4
5 THE COMMISSIONER: Thank you.
6
7 MR MYKKELTVEDT: Q. You gave some evidence yesterday
8 that a process was in train in relation to the development
9 of the Homicide Investigation Monitoring System?
10 A. Yes.
11
12 Q. That is intended to be a database that is designed to
13 capture and monitor information in respect of all
14 homicides?
15 A. All homicides, yes.
16
17 Q. Both unsolved --
18 A. No, all homicides. As soon as a homicide has been
19 identified, it is recorded on that database.
20
21 Q. The process of setting that up, as it were, is
22 transpiring in two phases?
23 A. Yes.
24
25 Q. Is it right that the first --
26 A. There are probably more than two phases, but I would
27 say two phases at this stage.
28
29 Q. So the first phase is a back-capturing phase?
30 A. That's correct, yes.
31
32 Q. And that's ongoing?
33 A. Yes.
34
35 Q. And then subsequently there will be a back-capturing
36 phase in relation to the unsolved homicides?
37 A. Yes, it'll be where it's identified that - matters
38 that are homicide related that are unsolved will be
39 identified.
40
41 Q. So step 1 is the matters that fall within the broader
42 Homicide Squad?
43 A. Yes.
44
45 Q. Which of course mostly are unsolved at the moment?
46 A. Yes, yes, yes.
47

1 Q. But they have not yet been referred to the Unsolved
2 Homicide Squad?

3 A. That's correct, yes.
4

5 Q. And that second stage will relate to the UHT
6 matters --

7 A. Yes.
8

9 Q. -- ie, those within the tracking file?

10 A. Yes, yes.
11

12 Q. I understand that the intention of that system is
13 effectively to improve the monitoring and prioritisation of
14 UHT matters generally?

15 A. Yes.
16

17 Q. And also to aid in relation to decision-making as
18 concerns reinvestigations?

19 A. Yes, that's correct, yes.
20

21 Q. Are you able to indicate how it's considered that that
22 will occur?

23 A. I think it's - I don't - I haven't got a full concept
24 of the technical side of the system because it's only in
25 its infancy, but it's to identify that the appropriate data
26 is placed into that database that would enable us to make
27 the decision as to whether the status of an exhibit is -
28 and/or any information that comes in that can be input into
29 the system that would - would produce a red flag, "This is
30 something new. This is something we should consider." It
31 doesn't mean it has to happen, but it's a consideration to
32 act upon it.
33

34 Q. And acknowledging that you have indicated that the
35 system is in its infancy --

36 A. Yes.
37

38 Q. -- and that also you're not necessarily au fait with
39 all of the intricacies of the system?

40 A. That's correct, yes.
41

42 Q. Would you expect that a system of that type might have
43 some impact in a positive sense on the likelihood that
44 difficulties of the type that his Honour has been taken
45 through by Senior Counsel Assisting today might arise in
46 the future?

47 A. Yes, we hope so, yes.

1
2 Q. Why do you say that?
3
4 THE COMMISSIONER: Q. Could I interrupt and ask, is it
5 software which is currently available or has it been - has
6 the functionality been written, the algorithm been written,
7 or is it existing software which will be adjusted? Do you
8 have any idea?
9 A. I think its functionality is being --
10
11 Q. But is it a new piece of software or is it simply
12 adapting the current system to new demands?
13 A. No, it's new software.
14
15 Q. New software?
16 A. Yes.
17
18 Q. And has it been rolled out?
19 A. No, it hasn't. We're still collecting that data.
20
21 THE COMMISSIONER: Okay. All right, go on. Yes,
22 Mr Mykkeltvedt.
23
24 THE WITNESS: There are certain phases to it,
25 Commissioner.
26
27 THE COMMISSIONER: I understand about software and
28 I understand about rolling it out. Anyway, thank you.
29
30 Yes, you go on.
31
32 MR MYKKELTVEDT: Q. And you yourself aren't responsible
33 for overseeing that process?
34 A. No, no.
35
36 Q. You were asked a number of questions in relation to
37 the triage forms that have not been completed --
38 A. Mmm-hmm.
39
40 Q. -- and your responsibilities and workload.
41 A. Yes.
42
43 Q. Is it the case that since 2019 you have been the
44 officer in charge of the investigation into the death of
45 William Tyrrell?
46 A. That's correct, yes.
47

1 Q. Can I ask you to explain to the Inquiry what the kinds
2 of demands on your time have been in connection with that
3 matter?

4 A. Since January 2019 I assumed control as the
5 Investigation Supervisor of Strike Force Rosann, whereby --

6
7 THE COMMISSIONER: Can you just stop for a moment.

8
9 Are you certain you want to air this, Mr Mykkeltvedt,
10 frankly, given the current environment?

11
12 MR MYKKELTVEDT: Yes, Commissioner. I would ask him not
13 to go into the specific details - for example, the
14 investigative steps. Certainly the information that
15 I anticipate that he is going to give is well and truly in
16 the public domain.

17
18 THE COMMISSIONER: Well, if I may say so, it's at the risk
19 of your client in the current environment, which I am
20 vaguely aware of, but you take the course you want to take.

21
22 MR MYKKELTVEDT: Yes.

23
24 Q. I simply want to ask, has that been an investigation
25 that has taken a lot of your time?

26 A. A significant amount of my time.

27
28 Q. And you have also been engaged in an investigation
29 into the Luna Park Ghost Train since 2021; is that right?

30 A. The coronial review in relation to that matter.

31
32 Q. And was that investigation or review conducted in
33 response to a specific request by the State Coroner?

34 A. That's correct, yes.

35
36 Q. Can you provide some information to the Commission in
37 relation to the demands on your time that were associated
38 with that investigation?

39 A. It was not as significant as the other matter.
40 However, there was - there have been occasions where it has
41 taken up quite a deal of my time to ensure matters are
42 before her Honour so she can make a decision as to matters
43 that may arise for any other inquest to be held.

44
45 Q. You have given some evidence in relation to the fact
46 that you have not completed a review of the 19 triage forms
47 that have been, effectively, sitting on your desk?

1 A. Yes, yes.

2

3 Q. Is there any reason you have not, for example,
4 back-filled to have someone else conduct those reviews for
5 you?

6 A. No, there's no reason - there's no reason I can give.
7 The fact that it's my job, that I should be doing it and
8 I haven't had the time to do it. The other members of the
9 review team are engaged in the triages and the review
10 process.

11

12 Q. In your observation, are the members of those teams
13 all busy or not?

14 A. Yes, extremely busy.

15

16 MR MYKKELTVEDT: Nothing further, Commissioner.

17

18 THE COMMISSIONER: Anything arising?

19

20 MR EMMETT: Nothing arising, Commissioner.

21

22 THE COMMISSIONER: All right. Mr Laidlaw, thank you very
23 much for your assistance over the last few days.

24

25 **<THE WITNESS WITHDREW**

26

27 THE COMMISSIONER: I will adjourn to a time and place next
28 week. I won't say what it is now; I'm not quite sure about
29 arrangements. I will adjourn. Thank you.

30

31 **AT 3.32PM THE SPECIAL COMMISSION OF INQUIRY WAS ADJOURNED**
32 **ACCORDINGLY**

33

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