

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

Before: The Commissioner, The Hon John Sackar QC

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

On Monday, 6 June 2022 at 10am

Counsel Assisting:

Mr Peter Gray SC (Senior Counsel Assisting)  
Ms Christine Melis (Counsel Assisting)  
Ms Kate Lockery (Principal Solicitor)  
Mr James Herrington (Special Counsel)

Also present:

Mr Anders Mykkeltvedt  
(Counsel for Comsr of Police, NSW Police Force)

.6/06/2022

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1 THE COMMISSIONER: In April this year, I was appointed by  
2 Letters Patent under the Special Commissions of Inquiry Act  
3 to inquire into the manner and cause of death of certain  
4 unspecified persons. I am, however, directed by those  
5 Letters Patent, amongst other things, to operate in a way  
6 that avoids prejudice to criminal investigations, any  
7 future or current criminal investigations, and any other  
8 contemporaneous inquiries.  
9

10 Therefore, pursuant to section 14 of the Act, I have  
11 directed that a summons be issued to Detective Chief  
12 Inspector Leggat, as I understand it, the current head of  
13 the Unsolved Homicide Squad, for the purpose of providing  
14 this inquiry with such information as he may be able to  
15 provide, in connection with the current police inquiries  
16 and/or investigations concerning the deaths of relevance  
17 that we are concerned with.  
18

19 Given the nature of the inquiries and the information  
20 likely to be provided, I have also determined and directed  
21 that this inaugural hearing of this Commission of Inquiry  
22 take place, at least in the first instance, pursuant to  
23 section 7(2) of the Act, in private, and any evidence  
24 received by me or documents tendered during the course of  
25 the current proceedings today and tomorrow, if they stray  
26 into tomorrow, shall be and shall remain confidential in  
27 the short-term, at least, subject to any materials that may  
28 arise in due course.  
29

30 Now, Mr Gray, you appear as counsel assisting the  
31 inquiry?  
32

33 MR P GRAY: May it please you, Commissioner, I appear to  
34 assist the Commission with Ms Melis.  
35

36 THE COMMISSIONER: Thank you very much.  
37

38 MR A MYKKELTVEDT: Your Honour, Mykkeltvedt,  
39 M-Y-K-K-E-L-T-V-E-L-D-T. I seek your Honour's leave to  
40 appear on behalf of the Commissioner of Police.  
41

42 THE COMMISSIONER: Yes, certainly. That leave is granted.  
43 Thank you very much.  
44

45 Is the detective chief inspector here?  
46

47 MR MYKKELTVEDT: Yes, your Honour.

1  
2 THE COMMISSIONER: Perhaps if he comes forward and he  
3 takes an oath or affirmation, whatever he chooses, and  
4 consequently, I think what I will do then is simply get his  
5 name, address, rank and so on. Unless there is anything of  
6 a preliminary nature which you would like to ask him,  
7 I will ask Mr Gray to ask him some questions, and of course  
8 you will have an opportunity at the end of that to examine  
9 him further if needs be. Is that a convenient course?  
10  
11 MR MYKKELTVEDT: That's convenient, thank you.  
12  
13 <STEWART JOHN LEGGAT, called: [10.05am]  
14  
15 THE COMMISSIONER: Just give us your full name for the  
16 record.  
17  
18 DCI LEGGAT: Stewart John Leggat, L-E-G-G-A-T.  
19  
20 THE COMMISSIONER: Thank you. And your rank?  
21  
22 DCI LEGGAT: Detective chief inspector, attached to the  
23 Homicide Squad.  
24  
25 THE COMMISSIONER: I talked over the top of you, unsolved  
26 homicides?  
27  
28 DCI LEGGAT: Unsolved.  
29  
30 <STEWART JOHN LEGGAT, sworn: [10.05am]  
31  
32 MR GRAY: At the outset, Commissioner, if it is  
33 convenient, I have in mind to tender five documents.  
34 Detective Chief Inspector Leggat has a folder with him.  
35  
36 THE COMMISSIONER: Mr Gray, the microphones aren't  
37 terrific. Could I just get you, for my benefit, but also  
38 the detective chief inspector's, to speak up a little, or  
39 can we get the microphone adjusted perhaps.  
40  
41 MR GRAY: I think the fault is mine. I think I need to  
42 speak more loudly.  
43  
44 THE COMMISSIONER: I'm not sure about that. I think we  
45 can enhance the volume a little, but let's see how we go.  
46  
47 I should also, while that is being done, indicate that

.6/06/2022

3 S J LEGGAT

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1 what I propose to do, subject again to anyone else's views,  
2 is to maintain court hours, so I will have a break at  
3 11.30. I won't sit, obviously, between 1 and 2 today, and  
4 again tomorrow, if it goes into tomorrow, I would conclude  
5 at 4 in the afternoon.  
6

7 If at any time, detective chief inspector - and I  
8 won't keep calling you by the long title; if I may call  
9 just call you --

10  
11 THE WITNESS: Detective is fine, your Honour.  
12

13 THE COMMISSIONER: If at any time, detective, you want  
14 a break, or anyone needs a break, just let me know, and  
15 I will adjourn. I trust that arrangements have been made  
16 for you and others to have some space somewhere in the  
17 building.  
18

19 MR MYKKELTVEDT: Yes, that's so. I'm grateful for those  
20 arrangements, your Honour.  
21

22 THE COMMISSIONER: If there is anything else you need,  
23 please let me or someone at the Bar table know and we will  
24 accommodate you.  
25

26 MR GRAY: There are five documents, if I may hand them up.  
27 The first is the Letters Patent for this Commission; the  
28 second is the report, the final report, of Strike Force  
29 Parrabell; the third is the case summaries provided by  
30 Strike Force Parrabell, some 88 in all; and the fourth and  
31 fifth are two items of correspondence, a letter, which is  
32 undated but which was in fact sent on 4 May from the Crown  
33 Solicitor's Office to the Office of the General Counsel,  
34 NSW Police Force, and an email of 27 May in response to  
35 that letter. If I may hand those all up.  
36

37 THE COMMISSIONER: Thank you. Now, some of those  
38 documents I can't possibly imagine ought to be  
39 confidential. Clearly the Letters Patent are a matter of  
40 public record. I think Parrabell is as well. I won't do  
41 it now, but perhaps if we just make a decision - I suspect  
42 the correspondence, for the moment, and the case summaries  
43 ought to be confidential exhibits. Otherwise, I think that  
44 the Parrabell and the Terms of Reference and the Letters  
45 Patent can be public.  
46

47 Why don't I leave that for the moment. That can be

1 attended to during the course of the morning. But I think  
2 anything that we receive from NSW Police by way of case  
3 summary should be confidential for the moment, at least,  
4 because I don't think that document ought be a public  
5 document, because it does not currently sit, does it, in  
6 Parrabell's materials?

7

8 MR GRAY: That's right, as it I understand it.

9

10 THE COMMISSIONER: I will return to it later in the day.  
11 I won't hold things up now, but we will mark those  
12 alternatively, open exhibits, as it were, and/or  
13 confidential and we will figure that out later in the  
14 hearing.

15

16 MR GRAY: Thank you.

17

18 <EXAMINATION BY MR GRAY:

19

20 MR GRAY: Q. Detective - if I may address you that way  
21 as well - you are a detective chief inspector and the head  
22 of the Unsolved Homicide Team or unit?

23

24 A. I'm one of the three coordinators at the unsolved  
25 homicide team. There are two other inspectors there as  
26 well. So I'm in charge of the investigative team. One of  
27 the other inspectors is in charge of the investigative team  
28 and the other one is in charge of the review team. So  
29 I come under the command of the superintendents in charge  
30 of the Homicide Squad.

30

31 Q. You have held that position since March 2017?

32

33 A. That's correct.

34

35 Q. The Unsolved Homicide Team, is it "team" or "unit"?

36

37 A. Team, sir.

38

39 Q. The Unsolved Homicide Team is part of the Homicide  
40 Squad?

41

42 A. That's correct.

43

44 Q. And in terms of the structure or hierarchy, tell me if  
45 this is right, perhaps at a reasonably general level:  
46 beneath the Commissioner of Police, there are four deputy  
47 commissioners?

48

49 A. Correct.

50

51 Q. One of whom is Deputy Commissioner Investigations and

1 Counter-Terrorism?  
2 A. Yes.  
3  
4 Q. And then beneath that deputy commissioner sits or sit  
5 five commands, one of which is State Crime Command?  
6 A. That's correct.  
7  
8 Q. And then within or riding down the chart, as it were,  
9 underneath State Crime Command, there are eight squads, one  
10 of which is the Homicide Squad?  
11 A. Yes, sir, that's right.  
12  
13 Q. Is that right?  
14 A. Well, pretty much. I'm not a hundred per cent sure of  
15 the structure of State Crime. I know that we're part of  
16 State Crime.  
17  
18 Q. And the Unsolved Homicide Team is part of the Homicide  
19 Squad?  
20 A. That's correct, sir, yes.  
21  
22 Q. How many detectives, if you know the answer to this,  
23 are there in the Homicide Squad overall?  
24 A. I can't give you a number for the Homicide Squad. I  
25 can give you a number for the unsolved.  
26  
27 Q. Very well. What about for the unsolved?  
28 A. There are 35 detectives in the Unsolved Homicide Team,  
29 four investigative teams, six detective sergeants, a review  
30 team - so that number makes up the configuration of the  
31 Unsolved Homicide Team.  
32  
33 Q. So 35 detectives and six sergeants?  
34 A. Six sergeants and three inspectors.  
35  
36 Q. And you mentioned one review team and two  
37 investigative teams; was that right?  
38 A. What there is is there is - I'm in charge of two  
39 investigative teams, and then there is another inspector in  
40 charge of another two investigative teams and another  
41 inspector is in charge of the Coronial Support Unit plus  
42 the review team.  
43  
44 Q. And the four investigative teams, two plus two, have  
45 how many detectives in them?  
46 A. I think there are seven per team, plus a sergeant in  
47 charge.

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Q. And what does the review team do as distinct from what the investigative teams do?

A. What the review team now does is triage matters. So they just look at what is available for the investigators or for the review process itself. So they also monitor the tracking file, which I think we have provided a copy of - the tracking file is just an Excel spreadsheet, listing all the unsolved matters that we have. So they monitor that.

The review team also have two analysts that look at the intelligence reports that come in on a daily basis. We get around 900 Crime Stoppers reports a year to review. So they assess the intelligence report and determine their credibility and then that's passed on to the coordinators for action.

Q. Thank you. And does that number, currently 35, stay constant or does it vary depending upon whatever projects or tasks are underway?

A. Well, for instance, we've got the Luna Park inquiry at the moment, so six investigators have been taken off to do that.

During Strike Force Reddan, which was the Leonard Warwick matter, I had to put two teams on to respond to the requisitions, our duty of disclosure and also the subpoenas and summonses received from the defence.

Q. So when something like that happens, the numbers available for the team's ordinary work are reduced?

A. Yes.

Q. And in the case of Warwick, that's the Family Court judges' matter?

A. That's correct, yes, it is, yes.

Q. That, I think, was the project or a task which occupied a long time; is that correct?

A. Quite a long time.

Q. Some years?

A. I think the trial went for over a year.

Q. More generally still, detective, if I can ask you this, how does a police officer become a member of the Homicide Squad in the first place?

1 A. Well, there are two parts of it. Usually, they go  
2 through the police station where they receive their  
3 training as a detective, and they have to do a course, an  
4 internal course, which is where you receive a designation.  
5 And then you work for a number of years at a police  
6 station. So you develop the skills, interviewing skills,  
7 statement-taking skills, knowledge in regard to forensics  
8 and the like. And then you have to sit on - there is  
9 a panel, a couple of inspectors. There is a series of  
10 questions that are asked for applicants to homicide. So it  
11 is an application process and we vet the applicants that  
12 are coming to the Homicide Squad.

13  
14 Q. So an applicant would have already been working as  
15 a detective for some years?

16 A. Yes, that's correct.

17  
18 Q. And then would choose --

19 A. Then would choose.

20  
21 Q. -- to apply to become a member of the Homicide Squad?

22 A. Yes, either the Homicide Squad or the unsolved or  
23 both. So they make the application and they will tick  
24 a box, "I would like to go to the Homicide Squad", or  
25 alternatively "I'd like to go to the unsolved" or both.

26  
27 Q. And what training is provided to Homicide Squad  
28 officers as distinct from other police officers or other  
29 detectives?

30 A. There is another internal force course called the  
31 homicide course which is run over about a 10-day period.  
32 So they call in experts, pathologists and they have mock  
33 crime scenes where you assess crime scenes, and then they  
34 have case studies that relate to jobs that police have  
35 done, and they are presented by experienced detectives and  
36 they just - just gives them exposure to homicide itself.  
37 And that's all - that course is available to the wider  
38 detective community, for lack of a better word.

39  
40 Q. If they are interested?

41 A. If they want to do it.

42  
43 Q. So apart from that course that you have just  
44 mentioned, is it really a matter of learning on the job?

45 A. Yes, that's correct, sir, yes.

46  
47 Q. And was the situation any different from what you have



1 just described - if so, in general terms, how was it  
2 different - in earlier times, appreciating our remit is  
3 from 1970 onwards?  
4 A. I can probably only talk from 1985. Certainly  
5 education and training is much better now than it was when  
6 I went through the process itself.  
7  
8 Q. And the education and training, though, consists of  
9 the course that you mentioned?  
10 A. The course - there's also degree courses with Charles  
11 Sturt University, bachelor of policing in investigation,  
12 and the like, which is a correspondence course that is run  
13 over two years, or four years, sorry.  
14  
15 Q. Is that compulsory or voluntary?  
16 A. That's voluntary but a lot of the detectives have done  
17 that.  
18  
19 Q. Is that - it's done by correspondence?  
20 A. By correspondence, yes, sir.  
21  
22 Q. You have been in your position - I thought the head,  
23 but in fact one of three heads - since March 2017?  
24 A. That's correct, sir, yes.  
25  
26 Q. You yourself, according to something that I have been  
27 given, which is very short, have had a career which has  
28 included a long time as a detective; since 1990 you have  
29 been a detective?  
30 A. That's correct, sir, yes.  
31  
32 Q. And you have had experience in various local area  
33 commands and, according to what I have been given, in the  
34 Homicide Squad since 2009?  
35 A. I - yes, and the Fraud Squad. From 2009 to 2013 I was  
36 a detective sergeant at the Homicide Squad, then I was  
37 promoted to a duty officer in the city, which I did for  
38 three years, five months and six days.  
39  
40 Q. That's a very precise recollection. All right,  
41 thank you. Who was your predecessor? Who has been in  
42 charge of the Unsolved Homicide Team, if you know, since it  
43 started in 2004 through to 2017 when you came into the  
44 position?  
45 A. I know a Detective Inspector Jeff Jarratt was there,  
46 in the mid-2000s, Detective Chief Inspector Dennis Bray;  
47 Detective Chief Inspector Pamela Young; Detective Chief

1 Inspector John Lehman; Detective Chief Inspector Chris  
2 Olen. And that's pretty much --

3  
4 Q. And since 2004, has there been the set-up that you  
5 mentioned where there are the three branches?

6 A. No. Initially, the Unsolved Homicide Team was set up  
7 as a recommendation from Mr Abernethy following an inquest  
8 into the disappearance of Gordana Kotevski, up in the Lake  
9 Macquarie area, and they wanted a review role initially, so  
10 unsolved matters were reviewed between then and 2008, and  
11 in 2008 they formed the investigative wing in the Unsolved  
12 Homicide Team, and they had various regions - north region,  
13 west region and south region. That were devolved in 2013,  
14 so it is a centralised investigation unit now, sir.

15  
16 Q. And I think when it was established in 2004, for the  
17 first four years or so, its function was not to investigate  
18 but to conduct reviews only; is that right?

19 A. That's correct, sir, yes.

20  
21 Q. And then in about 2008 the remit of the unit was  
22 expanded to include a capability of reinvestigation?

23 A. Yes, that's right, sir, yes.

24  
25 Q. And I will ask you in a minute - perhaps I will ask  
26 you now: how many files of unsolved homicides do you have  
27 on the books now, today?

28 A. Because we have divided them up into categories, we  
29 had 477 undetected, which is the ones that we've focused  
30 on, and there is also another category, unresolved. They  
31 are matters where they have been acquitted at trial but not  
32 due to mental health or defence, self-defence. Then we've  
33 got undetermined. They are matters referred to us by the  
34 coroner where the cause of death may not be known and it  
35 could be death by misadventure or suicide or possible  
36 homicide.

37  
38 Q. So just unpack that again for me, if you wouldn't  
39 mind. The 477 is what?

40 A. Is just undetected. So that's unsolved matters that  
41 are homicides, that are identified as homicides, that we  
42 haven't - when I say "undetected", the person of interest  
43 may be known but there hasn't been sufficient evidence to  
44 put the matter before the court.

45  
46 Q. And then there are two other categories?

47 A. Three other categories. Unresolved are, as I said,

1 the matters where they have been acquitted at trial or -  
2 but not including, as I said, mental health or  
3 self-defence. Undeterminable are matters, as I said, that  
4 relate to perhaps suicide or death by misadventure or  
5 possibly homicide, but they have been referred to us by the  
6 coroner. The fourth category is solved, and that may be  
7 warrants that have been issued for the arrest of someone  
8 who has skipped the country and the like, sir.

9  
10 Q. So the first category, unsolved or unresolved, is 477,  
11 and putting aside the solved ones for the moment, how many  
12 more are in the --

13 A. Could I just refer to the notes so I can give you an  
14 accurate figure?

15  
16 Q. Certainly, yes, of course. Thank you.

17 A. So in the unsolved category, from 1970 to 2000 - we've  
18 broken them up into years or - there are 361 unsolved.  
19 They're the undetected. Between 2001 and 2014, there's  
20 116. So it's a total of 477 unsolved matters. Unresolved,  
21 there's 94 for the period 1970 to 2000.

22  
23 Q. Sorry, the first category --

24 A. That's called unsolved, but it should be undetected.  
25 Our model is based on the UK, the Met Police model, so --

26  
27 Q. I see;

28 A. They refer to unsolved as undetected. It's confusing,  
29 I know.

30  
31 Q. It is confusing, thank you. So that's undetected 477.  
32 Then we get to unsolved --

33 A. Unresolved.

34  
35 Q. Unresolved, sorry, yes.

36 A. For the period 1970 to 2000 there is 94, and the  
37 period 2001 to 2014, there are 22. So that's a total of  
38 116. For undetermined, for 1970 to 2000, there's 49. And  
39 for 2001 to 2014, there's 16. A total of 65. And for  
40 solved, there's 80 for 1970 to 2000, and 2001 to 2014,  
41 there's 20, and that's a total of 100.

42  
43 We also have another category, not homicide, which is  
44 a matter which was reviewed that has been taken off our  
45 books because it was determined not to be homicide. That's  
46 just one matter. So there's a total of 759 minus the 1, so  
47 758.

1  
2 MR GRAY: Thank you. Commissioner, Mr Mykkeltvedt has  
3 told me that he, or perhaps Detective Chief Inspector  
4 Leggat, has prepared a document which contains much of the  
5 information that I was just asking you about in written,  
6 organised form, and it is a document that can be provided  
7 either now or shortly.  
8  
9 THE COMMISSIONER: I think it would be desirable for us to  
10 get it, and without delaying too much, it might be  
11 desirable that we have a break while Mr Gray has a look at  
12 it, because it might or might not shorten the time that the  
13 detective is here or narrow the compass of questions. So  
14 if it's not inconvenient, it can be handed over. Do you  
15 know if someone could send it to us electronically as well?  
16  
17 MR MYKKELTVEDT: Yes, I was going to propose that that  
18 occur.  
19  
20 THE COMMISSIONER: Why don't you have someone, at their  
21 convenience, send it to us electronically and then a copy  
22 can be provided.  
23  
24 Mr Gray, I'm in your hands to some extent. Do you  
25 want to have a break while you have a look at it to see  
26 how, if at all --  
27  
28 MR GRAY: I suspect it might be useful, even if the break  
29 is only five or 10 minutes.  
30  
31 MR MYKKELTVEDT: I can indicate that the component of the  
32 document is only four or five pages dealing with these  
33 types of matters.  
34  
35 THE COMMISSIONER: When you say "these types of matters",  
36 you mean unsolved homicides?  
37  
38 MR MYKKELTVEDT: The introductory questions of the type  
39 that Mr Gray is asking.  
40  
41 THE COMMISSIONER: That would be tremendously helpful.  
42 I think rather than continuing for the moment, if you would  
43 be kind enough to provide a copy, we can get it multiplied  
44 here, and then if I have a short break for a few moments,  
45 and then, Mr Gray, you might let me know, having looked at  
46 it, where we go from here.  
47

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12 S J LEGGAT (Mr Gray)

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1 MR GRAY: Certainly.

2

3 THE COMMISSIONER: Q. Sorry, can I just, while we are  
4 all poised, ask this, detective: you are aware, I presume,  
5 of, in broad terms, anyway, the two components of the Terms  
6 of Reference - one which obviously directs itself to - I'm  
7 being presumptuous, but I take it you have had a look at  
8 the Terms of Reference?

9 A. I read them the other night, sir, but --

10

11 Q. No, no.

12 A. I have read them.

13

14 Q. The first group that I'm meant to look at is the  
15 manner and cause of death in all cases that remain unsolved  
16 from the 88 deaths which are the schedule to Parrabell.  
17 We've already got some documents from the police which  
18 indicate roughly 24 or 25 of those remain unsolved, the  
19 rest are solved. Of the balance, when we have this break,  
20 I wouldn't mind if you re-familiarised yourself with the  
21 Terms of Reference, because I need to get a handle on, as  
22 does Mr Gray and others, whether or not section B of the  
23 Terms of Reference actually includes the 23 or the 88, and  
24 Mr Gray will, and I hope I'm not stealing his thunder, but  
25 I just need to be quite clear about whether the group that  
26 might be seen as unsolved out of Parrabell, if I can use  
27 that description, are also included in the balance of the  
28 unsolved that we are discussing. We need to sort that out  
29 in due course.

30

31 I will go off the bench for a little while, if that  
32 document can be supplied. And Mr Gray, you might, or  
33 someone might, let me know when you are ready to resume.  
34 I will adjourn. You can sit down and make yourself  
35 comfortable in the meantime, detective, and I'll adjourn.

36

### 37 **SHORT ADJOURNMENT**

38

39 THE COMMISSIONER: Detective, come back into the witness  
40 box, thank you very much.

41

42 MR GRAY: Commissioner, if it is convenient, I will simply  
43 tender the document that has been helpfully provided and  
44 then I will ask the detective a few questions about it.

45

46 THE COMMISSIONER: I will mark it because of its content  
47 as a confidential exhibit. Why don't I just mark that

1 exhibit 1, confidential exhibit 1. We can deal with the  
2 others later in the day. Thank you.

3

4 **CONFIDENTIAL EXHIBIT #1 DOCUMENT PROVIDED BY DETECTIVE**  
5 **CHIEF INSPECTOR LEGGAT**

6

7 MR MYKKELTVEDT: If it is convenient, I can deal with the  
8 other exhibits now, having taken some instructions.

9

10 THE COMMISSIONER: All right. Let's do that, certainly.

11

12 MR MYKKELTVEDT: The Commissioner's position is that there  
13 is no objection to documents - well, in the bundle that  
14 I have, that is, the first document, the Terms of Reference  
15 for the Special Commission of Inquiry. Of course, that  
16 document is perfectly open. There is no objection to that  
17 remaining so. The same is true of the full Parrabell  
18 report, which is the second document in the bundle I have.

19

20 THE COMMISSIONER: Thank you.

21

22 MR MYKKELTVEDT: The third document is the case summaries,  
23 and of course that document contains a range of sensitive  
24 matters, including, for example, the identities of suspects  
25 and the status of investigation, so the Commission would  
26 seek that that remain confidential.

27

28 THE COMMISSIONER: That's document number 3.

29

30 MR MYKKELTVEDT: Yes. The fourth and fifth documents are  
31 items of correspondence, and there is no objection to those  
32 being open exhibits. The only note I would make is that  
33 the document behind tab 5, being an email from  
34 Ms Claudia Pendlebury, includes, among other things,  
35 a mobile telephone number, so I would seek that that be  
36 suppressed.

37

38 THE COMMISSIONER: Rather than let in bits and pieces,  
39 what I will do is I will mark exhibits - you correct me if  
40 I'm wrong - documents 1 and 2 can be open exhibits, as it  
41 were, 1 and 2. Document 3 will be confidential exhibit 2;  
42 document 4 I will mark as confidential exhibit 3, and the  
43 chronology you don't have a problem with except for the  
44 mobile numbers?

45

46 MR MYKKELTVEDT: Sorry, it is the email.

47

1 THE COMMISSIONER: I think I will keep the correspondence  
2 confidential for the moment. So if we make that  
3 confidential exhibit number 4.

4  
5 EXHIBIT #1 TERMS OF REFERENCE FOR THE SPECIAL COMMISSION OF  
6 INQUIRY

7  
8 EXHIBIT #2 STRIKE FORCE PARRABELL REPORT

9  
10 CONFIDENTIAL EXHIBIT #2 CASE SUMMARIES DOCUMENT

11  
12 CONFIDENTIAL EXHIBIT #3 LETTER, UNDATED BUT SENT ON 4 MAY  
13 FROM THE CROWN SOLICITOR'S OFFICE TO THE OFFICE OF THE  
14 GENERAL COUNSEL, NSW POLICE FORCE

15  
16 CONFIDENTIAL EXHIBIT #4 EMAIL DATED 27 MAY 2022 FROM  
17 MS CLAUDIA PENDLEBURY

18  
19 THE COMMISSIONER: Yes, Mr Gray.

20  
21 MR GRAY: Q. Detective, do you have the document in  
22 front of you?

23 A. Yes.

24  
25 Q. Can I ask you a few questions about it. Some of it is  
26 essentially setting out material that we have covered this  
27 morning. At the top of the second page we have the four  
28 categories that you told us about just before the break?

29 A. Yes, sir; that's correct.

30  
31 Q. Then there is a heading "UHT responsibilities", and  
32 there are three bullet points describing cases which will  
33 be monitored, reviewed and reinvestigated in certain  
34 circumstances?

35 A. That's correct.

36  
37 Q. The first one, where there has been an inquest and the  
38 coroner has referred, that's one category.

39  
40 The second one is selected historical murder and  
41 suspicious missing persons cases prior to the formation of  
42 the UHT - that is to say, prior to 2004; correct?

43 A. That's correct, sir, yes.

44  
45 Q. When the word "selected" is used, what does that mean?

46 A. What it means is after a review of the matter itself,  
47 so going through all the brief items, forensic potential

1 and the like, a determination is made as to whether the  
2 matter will be reinvestigated by one of our investigative  
3 teams.

4  
5 Q. I see on the next page there is a heading "Review", as  
6 3, and there is quite a detailed list of steps involved in  
7 the review process; is that right?

8 A. That's correct, sir, yes.

9  
10 Q. You may only be able to do this in a broad-brush way,  
11 but of the numbers that you gave us this morning, which are  
12 indeed set out at the bottom of page 2, 477 unsolved and  
13 various numbers in the other categories, how many have been  
14 reviewed and - that have resulted in a decision to  
15 reinvestigate?

16 A. Well, recently we've had 11 matters that have been  
17 reinvestigated, resulting in - or 13, sorry - 11 -  
18 resulting in charges, and matters before the Supreme Court.  
19 That's since 2019. But a ballpark figure for the rest of  
20 the time frame, I couldn't provide you, sir.

21  
22 Q. There would be some of the 477 - well, I will go back  
23 a step. Would all 477 have been subject of a review?

24 A. No, I have figures - we have 43 outstanding for -  
25 sorry, unsolved, which is the undetected, that's the first  
26 category.

27  
28 Q. 43?

29 A. Outstanding.

30  
31 Q. Which have not been reviewed?

32 A. That haven't been reviewed.

33  
34 Q. Is that because they are relatively recent or not  
35 because of that?

36 A. It is just the time that they take to review.  
37 A review can take three to six months by the time we go  
38 through everything, looking for forensic opportunities and  
39 the like, but, yes, there are 43 outstanding undetected  
40 matters that we haven't reviewed.

41  
42 Q. But again generally, are those 43 unreviewed because  
43 they are relatively recent in the last few years or not  
44 necessarily?

45 A. Not necessarily, no.

46  
47 Q. So 434 have been the subject of a review?



1 A. That's correct, sir, yes.  
2  
3 Q. How many of those have resulted in reinvestigations?  
4 A. I can't give you a ballpark figure. I can - as  
5 I said, we have had 11 strike forces since 2019 that  
6 resulted in 13 individuals being charged.  
7  
8 Q. Eleven strike forces meaning 11 deaths, 11 murders?  
9 A. That's correct, sir, yes.  
10  
11 Q. I will have to come back to that sort of subject  
12 matter a bit in another way.  
13 A. That's all right.  
14  
15 Q. Just looking at this document again - I will come back  
16 to the tracking file, if I may, when I - no, perhaps I will  
17 do it now, I will try to use the document efficiently.  
18 Just go back a step, before I get to the tracking file.  
19 Prior to 2004 when the Unsolved Homicide Team was formed,  
20 what happened with deaths that had not been solved?  
21 A. They may have remained with the case officer, the  
22 original investigator; they may have gone to the coroner,  
23 so there is a good chance that they would have gone to the  
24 Coroner's Court for an inquest. But to my knowledge, there  
25 was - we didn't have the Unsolved Homicide Team in place,  
26 so there was no secondary review of those investigations.  
27  
28 Q. So apart from those that went to a coronial inquiry,  
29 which I guess would be most of them --  
30 A. Yes, sir, the bulk of them go to inquest.  
31  
32 Q. Then the coronial inquiry might result in one of  
33 a number of ways, but it might lead to a prosecution or it  
34 might not?  
35 A. That's correct, yes, sir.  
36  
37 Q. And if it didn't, what happens to the file?  
38 A. Now or prior to 2004?  
39  
40 Q. Prior to 2004, I'm sorry?  
41 A. That's a good question. I don't know.  
42  
43 Q. Who would know?  
44 A. The people that were in charge then, of the particular  
45 cases. They remain open, the cases, so as intelligence  
46 comes in, they would have reviewed that intelligence and  
47 investigated any lines of inquiry that were opened up from

1 that, and that would have been the original investigator.

2

3 Q. In a police station somewhere in --

4 A. Might be in a police station or it might have been the  
5 Homicide Squad or the Robbery Squad.

6

7 Q. And if the case had, as it were, gone cold - and I use  
8 that term loosely for the moment because I realise cold  
9 case is a term of art otherwise, but if a case had reached  
10 that point where no progress was being made and it seemed  
11 to have led to a dead end, physically, what would happen to  
12 the file?

13 A. It would go into archives or it would remain at the  
14 police station. That was the process that was adopted back  
15 then, sir.

16

17 Q. I will come in a minute to when computerised  
18 record-keeping came into prominence, but certainly in the  
19 1970s, at least, and perhaps into the 80s, record-keeping  
20 would have been almost entirely paper?

21 A. That's correct. They would have used running sheets  
22 and the like, and it would have been just archived.

23

24 Q. And "archived" means what, it goes to a warehouse  
25 somewhere?

26 A. It goes to a warehouse - it's a secure warehouse. All  
27 the investigative papers go to that warehouse and they are  
28 all documented, sir.

29

30 Q. Now, before I got this document, I was going to ask  
31 you, as at today, what is the system or procedure within  
32 your team for dealing with the 477, the unsolved or  
33 undetected cases? I see that, in your document, some parts  
34 of the answer to that question are provided. In  
35 particular, I gather from what appears on page 2 under the  
36 heading "UHT Responsibilities", and then what appears on  
37 page 3, that in some cases, perhaps most - perhaps you can  
38 tell us - a review happens and it takes the form of what is  
39 described at the top of page 3? The triage process; is  
40 that right?

41 A. That's the first part of the process, sir. That's  
42 determining whether the matter should be reviewed, and  
43 perhaps I should explain that process.

44

45 Q. Please, yes, do.

46 A. The triage process, our review team attempt to  
47 retrieve all the documentation related to the

1 investigation, so they want to establish that there is  
2 a brief of evidence, original statements from witnesses,  
3 perhaps records of interview from offenders. They also  
4 want to see if the exhibits are available for forensic  
5 opportunities, and that's unfortunately not always the  
6 case. Exhibits may not be available. Then you also have  
7 to consider things such as is the suspect still alive, the  
8 availability of witnesses - are they still alive, and what  
9 information? So if there is limited information, it  
10 doesn't proceed to review.

11

12 Q. It doesn't even proceed to review? The triage --

13 A. The triage is like a summary, like a precis of the  
14 facts, and then they look into various issues, like, as  
15 I said, the availability of witnesses. It's just - it's  
16 the prelude to the review process itself.

17

18 Q. So when you said earlier that there were 43 that  
19 hadn't been reviewed, did that - I understood from when you  
20 were explaining that earlier that indeed all cases would be  
21 reviewed. But in fact that's not --

22 A. Some cases may not be reviewed because there's no  
23 material available. For instance, some of the material  
24 from Parrabell, Strike Force Parrabell, has been placed on  
25 to our tracking file, which is the Excel spreadsheet we use  
26 to monitor the unsolved matters, and there are no  
27 investigative papers for some of that material. So very  
28 hard to review it if you don't have the papers or any  
29 statements or --

30

31 Q. And that would be because they have been lost or what?

32 A. I can't provide an explanation. I assume that - yes,  
33 could have been a myriad of reasons. They could be lost,  
34 they could have been destroyed. I can't - sorry, I can't  
35 offer the exact explanation.

36

37 Q. Who conducts the triage process?

38 A. The review team.

39

40 Q. The same people who would then conduct the review?

41 A. No. So the review is allocated - we wanted to get  
42 through all the reviews recently to - and a review is akin  
43 to a coronial statement, we want a detailed statement of  
44 all the facts, all the evidence, forensic opportunities and  
45 the like. So they are allocated to either unsolved  
46 homicide detectives, more recently we've been allocating  
47 them to experienced detectives in the field, detective

1 sergeants, to conduct the review, so we can go through as  
2 many of them as we can and look for investigative  
3 potential.  
4

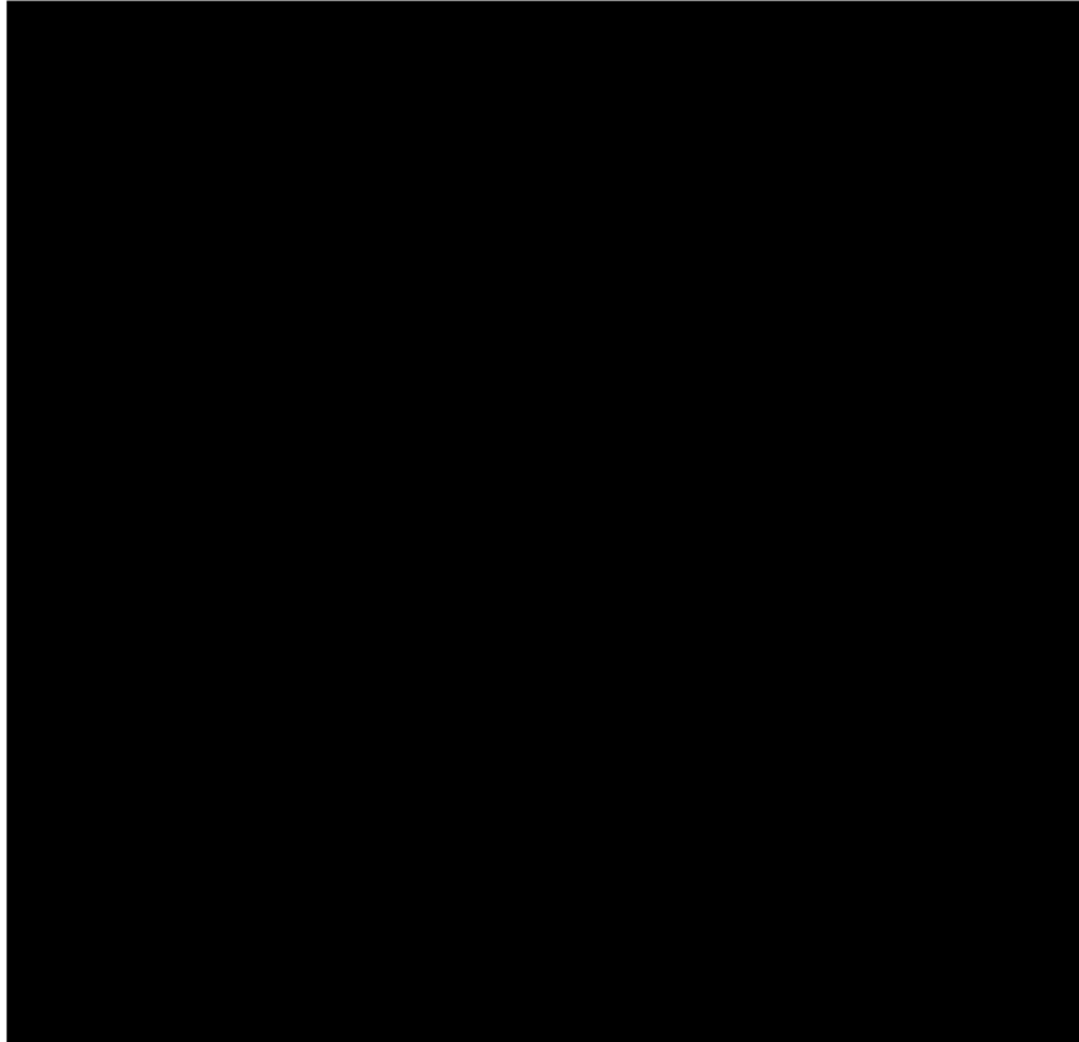
5 Q. Take an example: supposing a case is reviewed early  
6 in the timeline of the Unsolved Homicide Team post 2008,  
7 once reinvestigations were part of the capacity.

8 A. Yes.  
9

10 Q. So a case is reviewed in 2008 and a decision is made,  
11 "Yes, this should be reinvestigated." Such  
12 a reinvestigation then unfolds?

13 A. Now it's prioritised. So we look at - there is a list  
14 of cases and there is a selection process for those cases  
15 based on solvability, public interest and the like. So if  
16 a case scores higher than another case, then that will be  
17 given priority for reinvestigation.  
18

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Q. I see. So overwhelmingly, solvability it is the dominant criteria?

A. For me, yes, solvability is the key factor.

Q. All right. Now, can I just again try to understand how this works, give an example, with something that everyone is familiar with for various reasons, namely, the Scott Johnson case. You would be familiar with the fact that when - after the second inquest in 2012, a Strike Force Macnamir was set up to look at the Scott Johnson case again?

A. That's correct, sir, yes.

Q. And there was some publicity given at the time to the disagreement, to use a neutral word, between the Johnson family's view of how much priority the Scott Johnson investigation should have and the then commander, the then head of the Unsolved Homicide Unit, Detective Inspector Young, in terms of priority. She felt, according to what she said in public, that the Johnson case had been leapfrogged to a higher priority than it otherwise would have had. Do you remember all of that?

A. I do remember that, yes, sir.

Q. I don't want to talk about the Johnson case per se, but I'm just trying to understand the system. If the decision was made, as it apparently was at that time, 2013 or so, to reinvestigate the Johnson case, would this kind

1 of scaling or weighting or prioritising system have  
2 ordinarily applied?

3 A. This is recently implemented. We implemented this  
4 when I started there. We wanted to rejig the whole review  
5 process. So this has only been in place since 2017/2018.  
6 But there would have been a priority process that they  
7 adopted back then.

8  
9 Q. There would have, no doubt.

10 A. Solvability would have been the key factor, sir.

11  
12 Q. No doubt - not "no doubt" - if there were a number of  
13 cases that had been reviewed and that had been determined  
14 that the solvability factor was quite promising and that,  
15 therefore, an investigation was warranted, there still has  
16 to be a prioritising in terms of which one gets done first,  
17 I presume?

18 A. That's correct, sir.

19  
20 Q. How is that done?

21 A. The higher the score, the greater chance that the  
22 matter would be taken on. But also bearing in mind that  
23 the teams would be working on matters as well, so as soon  
24 as a team becomes available after that investigation is  
25 finished, they will move on to another one.

26  
27 Q. All right. Thank you. Once a case comes to the  
28 Unsolved Homicide Unit, is there any remaining role for the  
29 detectives in the police force generally who had previously  
30 been working on the case?

31 A. Yes, sir. They will be consulted. On occasion, they  
32 will be involved in the reinvestigation. But basically, we  
33 take control of the whole matter and reinvestigate it, look  
34 at all the investigative papers that are there on the  
35 holdings - so the statements and records of interview and  
36 what forensic testing was conducted - and we'll basically  
37 look at the review document that has been prepared and then  
38 we'll proceed from there.

39  
40 Q. Now, I understand that in about 2018, something called  
41 the Unsolved Homicide framework was introduced. Is that  
42 a concept you know about?

43 A. When you talk about the unsolved framework, that's in  
44 regard to the review process, is it, sir?

45  
46 Q. I don't know. I wanted to ask you. I've been told  
47 that something called a framework was introduced in 2018 to

1 accommodate the way in which the homicides, the 500 or so  
2 homicides, would be --  
3 A. That's correct, sir. That's the review - the improved  
4 review process that I was describing to you.  
5  
6 Q. Is it in writing? Is this framework a document that  
7 we can see?  
8 A. Yes, there are the standard operating procedures which  
9 introduced the triage document and all the documents - an  
10 instruction sheet for the reviewer plus a sample review  
11 document, forensic examination, exhibit lists and the like.  
12  
13 Q. So what did you call it, the document?  
14 A. Standard operating procedures.  
15  
16 Q. Standard operating procedures - is that a document  
17 that we could be provided with?  
18 A. Yes, sir, of course.  
19  
20 MR GRAY: Thank you. I will make arrangements for that to  
21 be done.  
22  
23 THE COMMISSIONER: All right.  
24  
25 MR GRAY: Q. A note that I have been given, which may or  
26 may not be accurate but you can tell me, is that unsolved  
27 cases are reviewed every six months. Is that correct?  
28 A. No, sir, it's not. Initially, that was the concept  
29 that the then commander came up with, but it is an  
30 impractical proposition, given that the reviews can take  
31 three, four, five months. For instance, Strike Force  
32 Reddan, the Leonard Warwick matter, had 199 archive boxes  
33 to go through. It is just impractical to review matters  
34 every six months.  
35  
36 Q. I'm not surprised to hear that. So realistically,  
37 even though the answer may not be able to be given in one  
38 sentence, how often are the 500 cases reviewed - 477 cases  
39 reviewed?  
40 A. A lot of the cases that we have reviewed recently had  
41 been previously reviewed in that period 2004 to 2008. We  
42 just wanted to have a look at them again and complete, as  
43 I said, the document akin to a coronial statement, and we  
44 wanted to see what improvements in forensics were available  
45 for exhibits that are there and whether they could be sent  
46 off and be retested.  
47

1 Q. So this is an exercise that has been done under your  
2 watch in the last five years?

3 A. Yes, sir.

4

5 Q. And what about between 2008 and 2017?

6 A. They would have been doing the same thing. They would  
7 have been looking at the review documents and seeing if  
8 there were forensic opportunities, a change in  
9 circumstances between perhaps the person of interest and  
10 other witnesses, and present us with opportunities to adopt  
11 covert measures.

12

13 Q. So does that mean that in the last five years, all  
14 cases have had either a first or, indeed, a second review?

15 A. I couldn't say whether they have had a first and/or  
16 second but the numbers I have given you have been reviewed.  
17 Some of the quality of the first reviews was substandard,  
18 and/or was of an excellent standard, so they didn't need  
19 to - it was just a matter of going back over them and  
20 saying, "Yes, that's up to standard and that's good".

21

22 Q. If the review had, as it were, led to a dead end but  
23 was of a good standard, the dead end would remain?

24 A. Pretty much, sir, yes.

25

26 Q. And with such an example, would there then be another  
27 review to be expected some time in the next five years  
28 or --

29 A. There could be. It all depends on what lines of  
30 inquiry, what forensics are available, and the availability  
31 again of witnesses and the like, because we have a forensic  
32 disadvantage with a lot of these matters, taking them to  
33 court, the lapse of time between the events and so on, and  
34 the presentation to the Supreme Court.

35

36 Q. But in terms of an old matter, let's say one from the  
37 1970s or the 1980s, being brought out into the light and  
38 a review team looking at it again, does that happen,  
39 really, only when some new event happens like some call  
40 from Crime Stoppers or somehow something triggers it, or is  
41 it done in some systematic way?

42 A. It could be from something from Crime Stoppers. For  
43 instance, we reviewed the Bronwynne Richardson matter from  
44 1973, which was the sexual assault and murder of a young  
45 girl down in Albury, and we took it to charge and then the  
46 DPP no-billed it, and then we took it to the coroner and  
47 the coroner referred it, or suggested, on the balance of



- 1 probabilities, that the people that we'd nominated as the  
2 murderers were responsible for the murder.  
3
- 4 Q. What prompted that? How did that one from 1973 --  
5 A. That was undertaken by south region, when we had  
6 a south region unsolved team. It was one of the matters  
7 that was long term and obviously the older they are, the  
8 less likely that you're going to have witnesses available,  
9 so we wanted to make sure that we had covered all the  
10 grounds for it.  
11
- 12 Q. But why did that come to be one that was looked at at  
13 all?  
14 A. Because it was on our books, sir. It was just  
15 a matter of selecting that job. And then, "Yes, there are  
16 some opportunities with this and we can give them  
17 a reinvestigation."  
18
- 19 Q. So all cases that are on the books sooner or later do  
20 get looked at in that way?  
21 A. Yes, sir.  
22
- 23 Q. Now, are there investigative tools available to the  
24 Unsolved Homicide Unit that are not ordinarily available to  
25 investigators outside your unit?  
26 A. Some of the methods we adopt, the average detective  
27 probably wouldn't use those methods because they're time -  
28 they're labour intensive, they take quite some time to get  
29 a result with - for instance, an undercover operation may  
30 take [REDACTED] before you get a result. But  
31 forensically, we - look, we are constantly presenting -  
32 anything with an exhibit, we constantly present to Dr Bruce  
33 at DAL or FASS for him --  
34
- 35 Q. At what, sorry?  
36 A. FASS, it's a term --  
37
- 38 Q. F-A-S-S?  
39 A. Yes, sir.  
40
- 41 Q. Remind me what that stands for.  
42 A. I don't know what the acronym stands for, sir.  
43
- 44 Q. Forensic & Analytical Science Services, perhaps?  
45 A. Thank you.  
46
- 47 Q. Anyway, what happens with FASS?

1 A. Sir, we have what we call a major crime review, so we  
2 might have a look at all the exhibits again, developments  
3 in technology. There may be an unidentified profile that's  
4 on one of the exhibits, and we've had some success with  
5 familial DNA recently and at identifying an offender  
6 through familial DNA. Covert measures, telephone  
7 intercepts and surveillance devices.

8  
9 Q. But generally speaking, apart from perhaps more time  
10 available, the resources available to the Unsolved Homicide  
11 Unit are the same as available to the police --

12 A. Pretty much. It's just the costs associated with  
13 a lot of these investigations, maybe the local police  
14 station, it would be beyond.

15  
16 Q. Now, how long does a case stay within the Unsolved  
17 Homicide Unit? Does there come a point of time even within  
18 your unit where it is archived or otherwise removed?

19 A. No. The cases always remain open. When I say "open",  
20 if intelligence comes in on the case, that's assessed.  
21 I think in that document I have referred to Strike  
22 Force Palace, which is on our e@gle.i system, which is  
23 a system for monitoring all major investigations. We  
24 record all intelligence reports that come in, even for the  
25 Wanda Beach murders that occurred back in 1966.

26  
27 Q. I did see Strike Force Palace there somewhere, I just  
28 can't find it for the moment.

29 A. It's on page 3, at the top of the page.

30  
31 Q. And tell us what that is? Strike force --

32 A. Strike Force Palace covers all matters that are on our  
33 tracking file, all intelligence coming in between 1970 and  
34 2000, and then we've got Strike Force Palace 2 that covers  
35 all intelligence from 2001 to the present.

36  
37 Q. So it's a strike force which is --

38 A. Purely for intelligence.

39  
40 Q. Technical or organisational?

41 A. Yes, sir.

42  
43 Q. In its content?

44 A. So we can have a ready reckoner in regard to each -  
45 each homicide or missing person has a category, so all the  
46 intelligence relating to that individual victim goes in  
47 under that category.

1  
2 Q. Now, do the officers in the Unsolved Homicide Unit  
3 themselves undergo any particular specialist training?  
4 A. The homicide course. It's based on experience, too,  
5 sir. Like, have they investigated a homicide before? And  
6 we've got some very experienced detectives there, detective  
7 senior constables, with 25 to 30 years' experience, and  
8 they're obsessed - well, not "obsessed", but that's their  
9 passion.  
10  
11 Q. They apply for the job or they're selected?  
12 A. They apply. Some of them have been there 15 years or  
13 since the inception of the Unsolved Homicide Unit, or have  
14 come from the floor. When I say "the floor", from the  
15 on-floor teams. So where they're - they have a regular  
16 turnover in investigating homicides.  
17  
18 Q. Just some practical questions about the material held.  
19 As we mentioned earlier, back in the 1970s and perhaps well  
20 into the 80s or even later - you can tell us - most of the  
21 files concerning unsolved homicides would have been in  
22 paper form?  
23 A. That's correct, sir, yes.  
24  
25 Q. That is hard copy. Paper records, files, occurrence  
26 pads, all of those things?  
27 A. Running sheets.  
28  
29 Q. And the types of documents would include, I suppose,  
30 notebooks, running sheets, written statements, the P79A  
31 form that goes to the coroner?  
32 A. For homicides, yes, sir.  
33  
34 Q. For homicides I'm talking about, yes. And what other  
35 typical documents would there be?  
36 A. Statements, running sheets, records of interview. We  
37 might have something from the laboratories, whatever they  
38 were called at that time. There's also a - I'm just trying  
39 to think of the term. It's like a precis of the  
40 investigation itself that is included in the file. So some  
41 are more complete than others and sometimes - yes.  
42  
43 Q. Computerised record-keeping began to develop from the  
44 police's point of view in the mid 80s?  
45 A. Probably more in the 90s. In the 80s, they were still  
46 using paper copies. Up into the 90s they were still doing  
47 the duplicate crime reporting. They developed the system

- 1 called TIMS - and I don't know what the acronym stands for.  
2
- 3 Q. T-I-M-S?  
4 A. Yes, T-I-M-S, which was the first attempt at  
5 computerised recording of information.  
6
- 7 Q. And that you think might have been in the 90s?  
8 A. It was definitely in the 1990s and it continued  
9 through until about 2001, when e@gle.i, which is - we're  
10 still using today, it's a very - everything's uploaded on  
11 to e@gle.i, the statements, so they're scanned as a PDF and  
12 placed on to the system. Everything. All of our  
13 investigation notes, the text documents, call charge  
14 records.  
15
- 16 Q. Since 2001?  
17 A. Since 2001.  
18
- 19 Q. And TIMS was the predecessor or precursor to e@gle.i,  
20 probably from the 1990s some time?  
21 A. Probably from the mid 1990s, sir.  
22
- 23 Q. So as you would know, many of the cases that are in  
24 the 88 that Parrabell looked at, and including the 23 that  
25 are treated as unsolved, are from the 80s and early 90s.  
26 So probably anything prior to TIMS is just going to be the  
27 subject of hard copy records?  
28 A. That's correct, sir. Yes.  
29
- 30 Q. In cases like that, say something from 1985 or 1989,  
31 say, that's in hard copy, has that subsequently been put on  
32 to either TIMS or e@gle.i, more recently, or do they still  
33 exist in hard copy form?  
34 A. Still exist in hard copy form. When a matter from the  
35 80s is commenced or reinvestigated, the investigative  
36 papers are uploaded on to e@gle.i by the case officer.  
37
- 38 Q. Inside your unit?  
39 A. Inside our unit. So they will go through a statement,  
40 they will process the information from the statement and  
41 then upload it onto our e@gle.i system.  
42
- 43 Q. In toto?  
44 A. Yes, everything is uploaded.  
45
- 46 Q. There's another computerised system known as COPS?  
47 A. Yes, sir.

1  
2 Q. I appreciate that that has a different function but in  
3 brief could you tell us what COPS does?  
4 A. Well, COPS is the mainframe system used by the police.  
5 So if you report a stealing or a break and enter, I think  
6 it's - I think dot matrix is the system, it's still a very  
7 old system and it's being modified at the moment but it  
8 will record all details of the victim, potential persons of  
9 interest, a narrative in regard to what has happened with  
10 the incident, and then there's associated factors with it  
11 as well. So there will be - there's a number of fields  
12 that are on the system that you have to complete for the  
13 matter to be verified. So it has to be verified by  
14 a senior officer once it's put on.  
15  
16 Q. And what's the interrelationship between COPS and  
17 e@gle.i or previously between COPS and TIMS?  
18 A. I don't think there is an interaction between the two.  
19 We have to interrogate COPS to - so, for instance, if  
20 someone comes up as a potential suspect or a witness, you  
21 have to retrieve the information off COPS and put it up on  
22 to e@gle.i.  
23  
24 Q. So they're two parallel --  
25 A. Yes. One was developed in the early 90s, so it's not  
26 compatible with our e@gle.i, which is the major crime  
27 investigative tool.  
28  
29 Q. But with a murder or a death, a homicide, would there  
30 be both a COPS trail and an e@gle.i trail?  
31 A. Yes, there is. Because even through - right through  
32 to the charging process, when we charge someone with  
33 a criminal offence, that's recorded under COPS with what  
34 they call a H number, and there's a reference. So we put  
35 that information up onto our e@gle.i system as well.  
36  
37 Q. From COPS?  
38 A. From COPS.  
39  
40 Q. So they can talk to each other?  
41 A. No, they can't talk. We do it manually.  
42  
43 Q. And when you say "we" there, that's not just unsolved  
44 homicides?  
45 A. That's across the board. They are improving the  
46 system, they're developing a new system at the moment,  
47 I don't know when that will be up.

1  
2 Q. So turning to the 477, of those 477, do we understand  
3 that any of them prior to about the mid 1990s would have  
4 been only paper, whereas anything post about the mid 1990s  
5 would have been on TIMS and then e@gle.i?  
6 A. That's correct. Provided it was a homicide.  
7  
8 Q. I'm talking about homicides?  
9 A. Major crime investigation, yes.  
10  
11 Q. But subsequently, in respect of any of the 477, even  
12 if they are from the early 1970s period, if they have been  
13 the subject of a review and a reinvestigation, then  
14 everything that was in paper has been put on to e@gle.i?  
15 A. Not for a review. For a reinvestigation. So once the  
16 reinvestigation starts, they start uploading the material  
17 on to e@gle.i.  
18  
19 Q. Now, that brings me, I think, to the tracking file.  
20 It's a kind of electronic or digital index or catalogue, is  
21 it, of --  
22 A. It's an Excel spreadsheet.  
23  
24 Q. -- everything you have?  
25 A. That's correct.  
26  
27 Q. We don't yet have it here at the Commission, but  
28 I take it from what you said earlier that you're happy to  
29 provide it?  
30 A. That's correct. Yes, of course.  
31  
32 Q. What should we ask for, just the tracking file?  
33 A. The tracking file, yes.  
34  
35 Q. How often is it updated?  
36 A. Whenever a matter is referred to us via the coroner,  
37 they will put the details up on to the tracking file. If  
38 a strike force is initiated for any of the matters, the  
39 details of the strike force plus the OIC - the officer in  
40 charge - will be placed on the tracking file.  
41  
42 Q. Are you familiar with the National Homicide Monitoring  
43 Program?  
44 A. Yes and no.  
45  
46 Q. What's the "yes" part?  
47 A. Well, I've heard of it. Sorry, I'm more focused on

1 what we're doing rather than statistical.

2

3 Q. No, fair enough. It's something, though, that's  
4 maintained, I'm sure you know, at the Australian Institute  
5 of Criminology. Do you know that?

6 A. Yes, I did know that.

7

8 Q. It presumably, as far as I can tell from what I have  
9 read, receives information, statistics, from the various  
10 police forces around the country, including NSW Police  
11 Force. And what part of NSW Police Force feeds that  
12 information about homicides to the Australian Institute of  
13 Criminology?

14 A. Each squad within State Crime have an intelligence  
15 unit usually run by an inspector. That information is  
16 compiled by them and disseminated to the section you just  
17 mentioned.

18

19 Q. It seems in some of the literature that we've looked  
20 at that from the mid 1990s perhaps, according to one source  
21 that we have looked at, the data that has been provided  
22 from New South Wales to the National Homicide Monitoring  
23 Program, has included a notation as to possible homosexual  
24 hate-related - are you familiar with whether that is so or  
25 not?

26 A. I'm not familiar with that. I don't - no, sir, I'm  
27 not.

28

29 Q. I gather - tell me if this is right: is it right that  
30 in your systems, including the tracking file, is there any  
31 aspect of it which records the possibility of whether  
32 a death or murder may have been a hate-related crime?

33 A. No, sir.

34

35 Q. So in order to form an assessment as to whether such  
36 a death may have had such a factor applicable to it, one  
37 would need to go to the contents of the file?

38 A. That's correct, sir, yes.

39

40 Q. I will come back to that in a couple of particular  
41 respects.

42

43 MR GRAY: Your Honour, I see the time. I'm guessing the  
44 adjournment we had earlier was sufficient.

45

46 THE COMMISSIONER: I think it is. Do you want a break?

47

1 THE WITNESS: No, I'm fine, sir.

2

3 THE COMMISSIONER: We'll keep going.

4

5 MR GRAY: Q. The second general topic I want to ask you  
6 about, detective, is just methodology that police use  
7 generally, both now and at earlier times, when there's  
8 a death, when there's a homicide. In other words, I will  
9 need to break it down, I think, into what the protocols and  
10 procedures are today on the one hand and what they were at  
11 various times dating back to the beginning of the period  
12 that we're looking at. So, starting with the situation  
13 today, police are informed of a death. It might be  
14 a homicide so the police need to respond. Could you talk  
15 us through what happens?

16 A. Okay. Well, any death, detectives are now called to.  
17 That's a direction from the state coroner, that all deaths  
18 reportable to the coroner have to be attended to by  
19 a detective so they can assess the matter accurately and  
20 make sure everything is done. But for a homicide, speaking  
21 from experience, the main thing is to preserve the crime  
22 scene, to identify witnesses, to have a log of who is  
23 entering and leaving the crime scene, identifying potential  
24 suspects, identifying secondary crime scenes. There may be  
25 a secondary crime scene, so we have the primary and the  
26 secondary. There would also be CCTV canvass and a canvass  
27 of the area for witnesses. Someone may have  
28 seen something - a neighbour; shopkeepers may have CCTV  
29 identifying the last movements of the victims, which is  
30 crucial, and that's done with all the jobs we look at,  
31 looking at the last movements of the victim; associates of  
32 the victim; who could potentially be a person of interest?  
33 So initially when you walk into a situation like that, you  
34 don't know what's happened, so everyone is - you're getting  
35 versions from everyone, too, to commit them to a version.

36

37 Q. So supposing John Citizen finds a dead body and rings  
38 the police?

39 A. Yes.

40

41 Q. The first police to come are likely to be whoever is  
42 nearby, I assume, the closest station?

43 A. The uniformed police are the first police to attend.

44

45 Q. And then what happens next?

46 A. So they will call for assistance. Usually  
47 a supervisor or what they call a duty officer, which is an



1 inspector, will attend the scene, and they will make sure  
2 the crime scene protocols are in place, and when I say  
3 that, that the scene is secured and that we don't have  
4 anyone entering or leaving the scene.

5  
6 Q. This is not necessarily Homicide Squad?

7 A. This is the initial phase. With a homicide,  
8 a homicide can occur anywhere within the state, so there is  
9 a call-out process, the Homicide Squad are called, they may  
10 be the second group of detectives to arrive at the scene.

11  
12 Q. Yes.

13 A. But it's up to the other police to ensure that our  
14 crime scene is pristine.

15  
16 Q. I wanted to ask you about that. It is obviously  
17 important that very careful steps are taken to secure the  
18 area and then to identify whatever physical evidence may be  
19 relevant on site, I take it?

20 A. That's correct, sir, yes.

21  
22 Q. There are other things that are important but that's  
23 certainly one of the most important, I take it?

24 A. That's crucial.

25  
26 Q. Any such physical evidence, presumably, has to be both  
27 kept safely, by some system, and recorded accurately by  
28 some system?

29 A. Photographed where it is or in situ and any swabs or  
30 the like taken. So the specialist crime scene police will  
31 attend the scene. They'll go through the scene,  
32 photographing the body where it was found. They'll also  
33 look for any evidence - cigarette butts, perhaps a murder  
34 weapon, or a fingerprint in blood, there might be smears of  
35 blood, they will look at things like blood spatter, so  
36 they'll have blood pattern analysis. So the crime scene  
37 can be processed over a number of days, it may involve  
38 a number of specialist police attending. On occasion, the  
39 pathologist will also attend. So it's - as I said, the  
40 processing of the crime scene is - it's drilled into  
41 everyone's head that that is the most important thing, to  
42 make sure that we have the best evidence available.

43  
44 Q. You began policing in 1985, so you may not have direct  
45 knowledge of what things were like before 1985 - or was it  
46 '87?

47 A. '85.

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Q. But at least in your time, 1985 onwards, was the process that you have just described essentially the same then or was it different?

A. It was pretty much the same. It was always not to contaminate the crime scene, to ensure only those that were required to enter the crime scene entered the crime scene, and that included senior police. If there was no need for them to attend or enter the scene, it was up to the log-keeper or the guards to prevent them from entering the scene.

Q. And for any given case, who was responsible or should be responsible for this facet of the investigation, that's ensuring that evidence and exhibits are stored and recorded correctly?

A. From the word go, the initial police officer that attends is responsible until the next level of policing arrives, and the next level of policing arrives. But for exhibits, the management of the exhibits, crime scene and also the officer in charge of the investigation will ensure that we have continuity on the exhibits. That's who ultimately are responsible for that process.

Q. So depending on what the exhibit or piece of evidence is, and its size, different approaches might be necessary; is that - in some cases, we hear of pieces of evidence being bagged, if it's small enough, I suppose. And then what happens to the bag?

A. It's sealed and signed by the crime scene officers at the scene and taken back to either the Crime Scene Section, where it will - if it's bloodied, it might be dried and examined. Yes. There is --

Q. And then stored somewhere?

A. It's stored - yes. Usually it is - if it is a crime scene exhibit, they retain the exhibit until the examination is complete, so they will take it to FASS, where a forensic biologist may examine the material to see what exhibits - what DNA can be obtained from the items, if there's an opportunity for blood spatter on the item, say an item of clothing, to be examined by a specialist in that particular field.

Q. Is there a record kept of where the exhibit is going when it is taken to A or B or C for that to be done?

A. Yes, sir. It is - currently we have a system called

1 EFIMS, which is the exhibit management system.

2

3 Q. E-F-I-M-S?

4 A. That's it, yes. So the moment the exhibit arrives it  
5 is entered into the system by whoever has custody of it.  
6 So we can establish the continuity from crime scene to the  
7 police station to the laboratory to the crime scene office.

8

9 Q. Let's take when you began in 1985, although you may  
10 not have been a detective instantly, pre-EFIMS and  
11 pre-computers, what was the system?

12 A. They had an exhibit book system which was a - I'm  
13 pretty sure it was duplicate, where you would make an entry  
14 into the duty book. Sorry, not duty book, exhibit book, an  
15 exhibit book, not a duty book. An entry would be made,  
16 item number, description of the exhibit itself and  
17 movements of the exhibit. So if it was taken to the  
18 laboratories or to a Crime Scene Section or returned, all  
19 those movements were recorded in the exhibit book.

20

21 Q. Was the exhibit book specific to that case or was it  
22 a general --

23 A. No, it's a general exhibit book. There may have been  
24 forensic exhibit books as well, so separate to general  
25 exhibit books, but there might have been a number of  
26 investigations included. So it went in a chronological  
27 date order, time booked in and the like.

28

29 Q. Where would that exhibit book be?

30 A. At the police station.

31

32 Q. At the station?

33 A. Yes, it would be retained at the police station.

34

35 Q. And what happens to such exhibit books over time?

36 A. Well, they should be retained, and the bulk of them  
37 I hope are retained, particularly for our matters because  
38 it is essential for the continuity of --

39

40 Q. Are they retained at the station or somewhere else?

41 A. They might be retained at the State Archives or the  
42 repository out at Emu Plains.

43

44 Q. So jumping forward to today, or the last five years  
45 when you - if you need to look at whatever there is  
46 available for a particular case, it may well be that the  
47 exhibits book would be something you would want to look at?

- 1 A. Definitely, yes.  
2  
3 Q. And you would summon it up from wherever?  
4 A. From our records section. So as we have the archive  
5 boxes for the Commission, we just put a request through to  
6 the records section and they will retrieve the documents or  
7 duty books, if they are available.  
8  
9 Q. Could I just ask you this, the term "strike force" was  
10 one that we see a lot. Is a strike force set up for every  
11 single death or murder or --  
12 A. For every murder, yes.  
13  
14 Q. For every homicide?  
15 A. Every homicide, yes.  
16  
17 Q. A strike force?  
18 A. A strike force will be set up.  
19  
20 Q. In general, what is a strike force?  
21 A. Well, it's - for a homicide, you will have - two  
22 different things. The local area command or the police  
23 station, the local police station, may manage the homicide  
24 itself and the Homicide Squad will provide a 72-hour -  
25 response in the first 72 hours. That might be for not  
26 a simple homicide but, say, a smoking gun homicide would be  
27 the best way of describing it. More complicated matters,  
28 child deaths and the like, are taken on by the Homicide  
29 Squad - and they might - they'll have assistance from the  
30 police station where the offence has occurred and also an  
31 initial response from the region so they can secure as much  
32 evidence as they can - CCTV, the canvassing and witness  
33 statements.  
34  
35 Q. Who sets the strike force up, though, who coordinates  
36 it?  
37 A. What happens is that the - you go on to the e@gle.i  
38 system and you just generate - a strike force is generated.  
39 That's how - when I was at the Homicide Squad last time,  
40 that's how they used to do it. I think now they have to go  
41 through an administrative section within State Crime to get  
42 permission to commence a strike force, but for a homicide,  
43 it's instantaneous.  
44  
45 Q. In that example, take the easy case, if you like, the  
46 smoking gun, the investigating officer first on the scene  
47 just says "Press a button, let there be a strike force"?

1 A. Pretty much. They're given a list of alternate names  
2 that they can call the strike force, and randomly they'll  
3 select a name and then the strike force will kick off.  
4  
5 Q. What is the population of the strike force? Who is in  
6 it?  
7 A. Well, anyone that is assigned to the investigation as  
8 a resource.  
9  
10 Q. So the strike force is set up by this almost --  
11 A. It's a computerised system that sets it up.  
12  
13 Q. -- computer system?  
14 A. Yes.  
15  
16 Q. Who then is in charge of the strike force?  
17 A. It would be the officer in charge - the officer in  
18 charge is in charge. So he will have a supervisor above  
19 him and they'll assign resources to the strike force, which  
20 will - their details will be placed on to e@gle.i and  
21 they'll be assigned roles.  
22  
23 Q. Is the expression "task force" a precursor expression  
24 to "strike force" or is that something different?  
25 A. It might be a precursor but also for multiple murders,  
26 say the gangland murders that are occurring at the moment,  
27 there will be a task force, which is a much bigger concern.  
28  
29 Q. Thank you. I may have asked you this before and  
30 I apologise if I did, but if we have a case that goes to  
31 the coroner for an inquest, and no prosecution results -  
32 either there is an open finding or whatever, but no  
33 criminal prosecution ensues - what happens to the file?  
34 A. For us, if it's referred to us by the coroner, then  
35 we'll wait five years to the change of circumstances  
36 involving some forensics, and the like. But if it's not  
37 referred to us, it will remain with the local police  
38 station.  
39  
40 Q. When you say "we wait for the five years", what was  
41 that a reference to?  
42 A. What it basically - the investigation is finished,  
43 say, something that finishes last year, for us to have the  
44 investigative opportunity we need perhaps changes in  
45 dynamics between parties involved, and to let it go cold a  
46 little bit, so we've got some opportunities, investigative  
47 opportunities.

1  
2 Q. How long has the strike force approach been in play?  
3 A. Since e@gle.i started, and I'm pretty sure when TIMS  
4 was there as well, it was a strike force.  
5  
6 Q. For any homicide - or any --  
7 A. Any major investigation, maybe a major fraud, a series  
8 of robberies.  
9  
10 Q. Including a homicide, though?  
11 A. But homicide, yes.  
12  
13 Q. And in the days including your early days before  
14 e@gle.i, but there nevertheless were strike forces, they  
15 would be set up, would they, by paper means?  
16 A. That's correct, sir, yes.  
17  
18 Q. By the officer in charge?  
19 A. I assume the officer in charge or - I couldn't give  
20 you an accurate answer, but I assume that it would be the  
21 officer in charge that would have set all that up, and they  
22 just have a system of cards for witnesses, running sheets  
23 and the like.  
24  
25 Q. Just for completeness, can I just wrap this up by just  
26 taking you to the Parrabell report which is in that folder  
27 you have under the - it is there somewhere, anyway, it's in  
28 that black folder.  
29 A. Is that under tab 3, sir?  
30  
31 Q. I think so. Tab 2, in fact. That should be the full  
32 Parrabell report. The bit that I wanted to ask you about  
33 is at page 43. You will see there's a heading, "Comparison  
34 of police investigations from the 1970s, 80s and 90s to  
35 2018"?  
36 A. Yes, sir.  
37  
38 Q. Then I won't read it out, obviously, you can see there  
39 are descriptions given of how things were done in each of  
40 those decades over the next couple of pages. First of all,  
41 have you ever looked at this document before?  
42 A. I have only read the material that relates to the 88  
43 matters, so that's what I've gone through.  
44  
45 Q. Could I ask you - I don't want to take too long on  
46 this because you have been very helpfully answering more or  
47 less the same subject matter for the last 20 minutes, but

1 can you just read what's on page 43 where they describe -  
2 there is a description of how things were done in the 1970s  
3 to 80s, and tell us if that accords with your recollection  
4 or there is anything you would add or subtract.  
5 A. That's correct. That is correct. That probably -  
6 that's more detailed in here than I have provided you, but  
7 that's my recollection of what would have been done.  
8  
9 Q. And there is a reference to a job book halfway through  
10 that second-bottom paragraph.  
11 A. Yes, sir.  
12  
13 Q. Is that an expression that you know about?  
14 A. At - we use - on our e@gle.i system we have tasks that  
15 are allocated to individual officers, so a task may be  
16 created by the officer in charge or someone authorised.  
17 That's what the job book would be. Okay, we need to go and  
18 speak to Joe Bloggs, I assign that to Detective James.  
19  
20 Q. So we would have a job book and we would have the  
21 exhibits book that you mentioned, both being books,  
22 literally?  
23 A. That's correct, yes.  
24  
25 Q. Any other books apart - I realise there are notepads  
26 and witness statements, but any other books?  
27 A. Well, there would be notebooks and - I should imagine  
28 there would have been duty books for the individual  
29 detectives, which would just outline their duties for  
30 a particular day, who they had spoken to, what statements  
31 had been obtained.  
32  
33 Q. And would we expect that all of such books would still  
34 be available to be resurrected if they were sought now?  
35 A. I think you'd have to look on an individual basis. So  
36 if you were going through the archive material that we  
37 provided to the Commission, if you identify particular  
38 police officers and say, "I would like that duty book", or  
39 "I would like that notebook", then a request can be put  
40 through to our records section to see if it's available.  
41 Unfortunately, some of those items have been destroyed  
42 and - but.  
43  
44 Q. On the next page, 44, if you would glance over that,  
45 that's directing itself to the 1980s to 1990s.  
46 A. That's the process. Victimology did become very  
47 important at that time.

1  
2 Q. So I'm just asking in this very general way, in your  
3 recollection, is that summary essentially accurate --  
4 A. Yes, sir.  
5  
6 Q. -- for that period?  
7 A. Yes, sir.  
8  
9 Q. Then on the next page, 45, in the last  
10 paragraph before we move on to the 2000s, do you see there  
11 is reference to the formation of task forces becoming  
12 "standard operational procedure"?  
13 A. Sorry, sir, where is that?  
14  
15 Q. The third paragraph on page 45.  
16 A. It is - they are strike forces. That's what we've  
17 always referred to them as, strike forces. This is  
18 correct - terms of reference are the parameters of the  
19 investigation, what we are going to be looking at.  
20  
21 Q. That's what I wanted to ask you about, actually, the  
22 terms of reference. Who creates them?  
23 A. In consultation with the officer in charge, the  
24 supervisor and our operations people on level 9, sign off -  
25 you might also include the local police station, an  
26 investigator from there, sign off on the terms of  
27 reference, which is to investigate the murder of - whoever.  
28  
29 Q. So as you know, several of the cases that we will come  
30 to, the actual cases that we are looking at from Parrabell,  
31 for example, Ross Warren, John Russell, and others in the  
32 mid to late 1980s, there would have been a strike force and  
33 there would have been terms of reference?  
34 A. Back then?  
35  
36 Q. Yes.  
37 A. No.  
38  
39 Q. Because we're looking at 1980s to 1990s here - but  
40 that's not so?  
41 A. With, say, Gilles Mattaini, which is one of the three,  
42 Gilles went missing in 1985 and the matter wasn't recorded  
43 until 2001, so there was no investigation undertaken until  
44 Operation Taradale took the matter on. Ross Warren was  
45 inadequately investigated by Detective Sergeant Bowditch at  
46 the time, so there was no strike force for that.  
47



1 Q. I won't dwell on that too long today but that's one of  
2 the ones I wanted to take as an example. There was no  
3 strike force?

4 A. No strike force, sir, no.

5

6 Q. Should there have been?

7 A. Today? Yes.

8

9 Q. No, then? Then in 1989?

10 A. Look, I really can't comment in regard to what they  
11 were doing in 1989, but today, certainly there would be  
12 a strike force started for the disappearance of - in these  
13 circumstances.

14

15 Q. The point of these questions is not to focus  
16 particularly on Ross Warren's case or any other case for  
17 the moment, although we may need to another time, but I'm  
18 just looking at this page headed "1980s to 1990s", and it  
19 is saying that in that period, formation of task forces or,  
20 let's say, strike forces, became standard operational  
21 procedure, requiring defined terms of reference. Now,  
22 hence my question, whether that should have happened in the  
23 cases that we're talking about in 1989, let's say, Warren  
24 and Russell?

25 A. Applying the standards of today, yes. But back then  
26 I can't comment on why they made a decision to investigate  
27 it in the way they did. And - I can go into the specifics  
28 for it, but I - today it would be a strike force, an  
29 investigation into the disappearance of --

30

31 Q. I won't pursue that for today, although we may need to  
32 ask you again another time, I think. Then there is  
33 a section dealing with the 2000s to the present, and again,  
34 if you could just glance over that and tell us if you think  
35 that, for what it is worth - obviously it is a summary -  
36 you would agree or disagree with that?

37 A. Yes, sir.

38

39 Q. You would agree?

40 A. I agree with that, yes.

41

42 Q. Thank you. Now, separate question but still just to  
43 do with methodology generally: how does the reward system  
44 work in the sense of sometimes rewards are offered to the  
45 public for information and so on? What is the system  
46 there?

47

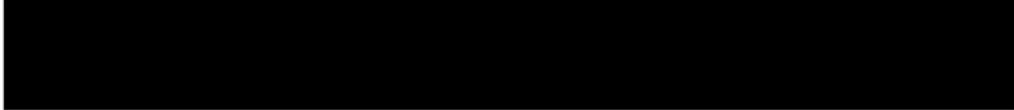
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A lot of the time, it's also because we need information from the public. For instance, Gordana Kotevski has recently had a million dollar reward announcement, and that's to try and get information from the public. The Bowraville murders, also has recently had a million dollars for each, again to get information from the public.

Q. Whose decision is it whether a reward will be offered and if so how much?

A. Well, ultimately it rests with the minister. So it goes all the way up to the minister and it's gazetted and then the reward is announced and there might be a media strategy.



Q. But likely to have been instigated at the investigative level?

A. Yes, or at the request of the family.

Q. I see.

A. Sometimes at the request of the family. The Bowraville murders, at the request of the family.

Q. And if you can answer this, what proportion of cases are subject of a reward offer - I'm talking homicides now?

A. I couldn't provide you an answer, but I know that - we've probably done three for the current jobs that we have had. Strike Force Navala, Strike Force Biltine, Strike Force Mitcham 2, they are the only ones I can think of recently.

Q. Are there any current cases that currently have rewards attached to them?

A. Oh, yes, there's a lot of cases on our tracking file

1 that have maybe a \$250,000 reward, a \$500,000 reward or  
2 a million dollar reward.

3

4 Q. And the public learns of that by what means?

5 A. Through the media, also through our online site for  
6 the police, they will be published there, so people can go  
7 through and say, "Oh, this murder has a \$50,000 or a  
8 \$100,000 reward."

9

10 Q. Now, separate question, two particular types of  
11 investigative material that can be useful obviously are DNA  
12 and fingerprints?

13 A. Yes, sir.

14

15 Q. I think DNA was first used as a tool for criminal  
16 investigation in about the mid 1980s or so; is that right?

17 A. I think there was a mass screening in the United  
18 Kingdom for - I don't know what the offence was, but  
19 I think that's the first use of it. It probably didn't -  
20 it's become more prevalent in the last 20 years, I guess,  
21 because of the improvements in technology.

22

23 Q. In your career, can you remember when it first became  
24 a tool that was commonly used?

25 A. Probably 2000, maybe a little bit prior to the year  
26 2000.

27

28 Q. Now, when DNA or fingerprints, for that matter, are  
29 collected at the crime scene, what's the system for  
30 retaining that material and storing it and recording its  
31 whereabouts?

32 A. It has to be refrigerated. Swabs are taken from the  
33 scene, they're conveyed to FASS where profiles may be  
34 developed from the swabs. As recently as - we had a job  
35 from 1987 where we were able to develop DNA from the  
36 victim, from the scene, from the ligature, and that led to  
37 the conviction of an offender for murder.

38

39 Q. So the --

40 A. It depends on whether the items are retained, though,  
41 sir.

42

43 Q. Whether they are retained?

44 A. Whether they are retained or not.

45

46 Q. Why wouldn't they be?

47 A. Unfortunately, there was exhibit management - they

1 wanted to ensure that exhibits weren't retained for any  
2 longer than they had to be, and in '87, the DNA - we were  
3 just lucky that the samples had been retained and the  
4 exhibits had been retained. It's not always the case, and  
5 unfortunately it leads to the loss of evidence or the  
6 potential loss of evidence.

7  
8 Q. Is that a phenomenon specific to DNA or does that  
9 apply to other types of evidence?

10 A. It applies to DNA, not so much fingerprints but it may  
11 also apply to investigative papers, statements and the  
12 like.

13  
14 Q. Somebody would have made a decision somewhere along  
15 the line that --

16 A. Or they've been lost or they've been put into a cell  
17 at a police station and it has flooded. With the exhibits,  
18 what we have done is sent out files to every police station  
19 for unsolved matters to retrieve all exhibits that relate  
20 to unsolved homicides and store them in a central area so  
21 they're properly maintained. So - and we've had a fair bit  
22 of success with that.

23  
24 Q. Not total, I suppose?

25 A. No, not total.

26  
27 Q. But that's a task which you have set yourselves?

28 A. Yes. It was an exhibit project and that was - yes, it  
29 started before I got there and it was just a matter of  
30 making sure that if we do have exhibits, they're maintained  
31 and preserved correctly.

32  
33 Q. The relevant database I presume - but tell me if I'm  
34 wrong - for probably DNA and fingerprints, would be the  
35 EFIMS database?

36 A. Yes, sir. So if we found exhibits, they would be  
37 uploaded on to the EFIMS system, and transferred from the  
38 recording in the exhibit book that used to be maintained.

39  
40 Q. And before EFIMS was introduced in about 2011, what  
41 was the system?

42 A. Duty - exhibit books, that was the system that was in  
43 place.

44  
45 Q. And for DNA and fingerprints?

46 A. Same thing - oh, fingerprints would be maintained by  
47 the fingerprint section, DNA, by the crime scene officers.

1 I should imagine it was in exhibit books as well.

2

3 Q. If a DNA profile or fingerprint, say, from  
4 a previously unidentified person are later entered into the  
5 EFIMS system - for example, from a recent arrest, say - how  
6 would that information find its way to the officers,  
7 whether in your unit or in the police force generally,  
8 working on the earlier case?

9 A. It depends on whether the profile from the exhibits  
10 from the earlier murder are uploaded on to our system, and  
11 in some cases, they haven't been uploaded, so it's reliant  
12 on those profiles being uploaded and then the profile from  
13 the offender or the recently arrested person being uploaded  
14 as well to match.

15

16 Q. And if they have both been uploaded, the earlier one  
17 has been uploaded --

18 A. We'll be notified.

19

20 Q. Will that, as it were, snap - will the matching be  
21 prominent so that someone will notice it?

22 A. Yes, sir.

23

24 Q. Who does that work?

25 A. I'm not sure. It's magic. No, I don't know, sir.  
26 I'm not 100 per cent sure on the answer, sir, but we are  
27 notified if there is a match-up on a profile.

28

29 Q. Now, turning to Parrabell itself, the Parrabell strike  
30 force, you are obviously aware that it existed and  
31 delivered this report that we have just been looking at  
32 briefly, in June 2018, and as you know, it's looked at  
33 a list of 88 deaths?

34 A. That's right.

35

36 Q. Which had been put together, the list had, by various  
37 people over some years, and the task of Parrabell was to  
38 look at those 88 deaths - agreed?

39 A. Yes, sir.

40

41 Q. Now, did the Unsolved Homicide Team have any  
42 involvement in the work of either Strike Force Parrabell or  
43 Operation Parrabell?

44 A. No, sir. It was prepared by the central met region,  
45 which is Sydney, The Rocks, Surry Hills, Eastern Beaches,  
46 Eastern Suburbs, Sutherland - it was prepared by that  
47 region. So we had deliberately no involvement in it so it

1 could be an impartial review of all those matters.

2

3 Q. And who - I don't mean the names, but what sort of  
4 people - were selected to do it?

5 A. I'm not sure. I know that there was a then  
6 Superintendent Crandell, who had oversight on the Parrabell  
7 review, and there was also an academic part to it as well.  
8 So all matters are reviewed by the investigators assigned  
9 to the Parrabell and then also by the academics as well.

10

11 Q. I appreciate that. What was the reason why your unit  
12 was not utilised?

13 A. I can't provide an answer for that. I wasn't there at  
14 the time, so --

15

16 THE COMMISSIONER: Q. I thought you said a moment ago  
17 that the decision for homicide not to be involved was a  
18 deliberate one?

19 A. It was - well, that was my understanding, that it  
20 was --

21

22 Q. What was your understanding as to why it was  
23 deliberately excluded?

24 A. Sir, they want to be impartial, there was no - so it  
25 was an independent review of each of the matters,  
26 your Honour.

27

28 Q. And did any of the police officers who were involved  
29 in Parrabell, to your understanding, have experience or  
30 background in homicide?

31 A. I'm not sure, sir.

32

33 THE COMMISSIONER: Thank you.

34

35 MR GRAY: Q. Now, I can show you the document which I'm  
36 using to ask these questions, of course, if you need to see  
37 it, but I think we can probably do it without having to  
38 focus on the document.

39 A. That's fine, sir.

40

41 Q. There is reference in the report to the fact that  
42 Strike Force Parrabell was initiated by means of a document  
43 called "Coordinating Instructions", so it set out, in  
44 effect, what the task was for Parrabell to undertake.  
45 I just wanted to see if you agree with this, that what  
46 Parrabell was to do, and what it did do, was to review what  
47 the police had in relation to these 88 deaths and to form

1 a view as to whether there might have been a gay bias  
2 factor. That was essentially the task; is that right?  
3 A. Well, I'm not sure what the task was for Parrabell,  
4 I wasn't involved in it, but, yes, I should imagine that's  
5 what they were looking at, sir.  
6  
7 Q. What I'm getting at is - and again, you may or may not  
8 know this - there are a couple of things that plainly  
9 Parrabell did not do - it wasn't asked to do and it didn't  
10 do - and one of them was Parrabell did not go through all  
11 files held by police, whether in the Unsolved Homicide Unit  
12 or elsewhere, to see if the 88 names that they had been  
13 given were the only homicides between 1976 and 1999 which  
14 might have been gay hate related. That was not their task.  
15 Their task was simply to look at the 88.  
16 A. Well, yes, sir. I mean, I can't provide an accurate  
17 answer in regard to what the parameters of their review  
18 were.  
19  
20 Q. Fair enough, if you don't know, that's fine.  
21 A. I had no involvement in that, sir.  
22  
23 Q. No. Secondly - again, the answer may be similar -  
24 another thing they did not do was to investigate or  
25 reinvestigate any of these cases?  
26 A. That's correct. I know that much.  
27  
28 Q. They simply reviewed them - that is, reviewed the  
29 police material - to see what could be said about them from  
30 an anti-gay or gay hate perspective?  
31 A. Yes, sir.  
32  
33 Q. Now, that brings me to our Terms of Reference - when  
34 I say "our", I mean the Terms of Reference of this  
35 Commission. Can you just turn them up? They are in your  
36 folder, I think the first document, the Letters Patent.  
37 Have you got the page that has the heading "New South  
38 Wales" and "Elizabeth II", et cetera, et cetera?  
39 A. Yes, sir.  
40  
41 Q. You can see that the subject matter that the  
42 Commissioner is authorised to inquire into has two  
43 components - A and B? Do you see that? A beginning --  
44 A. Yes, sir, I see that.  
45  
46 Q. So A is the manner and cause of death in all the cases  
47 that remain unsolved from the 88 looked at by Parrabell.

1 Correct?

2 A. Yes, sir.

3

4 Q. And then B is the manner and cause of death in all  
5 unsolved suspected hate crime deaths in New South Wales  
6 between 1970 and 2010 where the two features set out in (i)  
7 and (ii) were present. Do you see that?

8 A. Yes, sir.

9

10 Q. Now, as to A, Term of Reference A, the "88" referred to  
11 are of course the 88 listed at the front of the Parrabell  
12 report - you are aware of that?

13 A. Yes, sir.

14

15 Q. And the NSW Police Force have provided the Commission  
16 with case summaries of those 88, and I'm going to go  
17 through some of those with you shortly. You have seen that  
18 document, the case summaries document?

19 A. Yes, sir, I have.

20

21 Q. And of those 88, the police have identified 23 as  
22 being in the unsolved category. You are aware of that,  
23 too?

24 A. There are 23 cases that are - that have been listed,  
25 whether they are unsolved or not or whether they are  
26 homicides or not is another question.

27

28 Q. But the 23 that we are talking about have been  
29 referred to your unit?

30 A. Yes, sir.

31

32 Q. And I will go through them with you shortly. Also  
33 I think there is another seven that we have written to you  
34 about to say that we want to ask you a little bit about  
35 those seven as well. But first of all the 23, are they or  
36 are they not among the 477 that we spoke about this  
37 morning?

38 A. Not all of them are on our tracking file. The bulk  
39 would be, though, I think. Because anything that was  
40 referred from Parrabell may have been on there, but --

41

42 Q. You gave us some numbers, and they are in your  
43 document as well, which you provided today, 477 unsolved,  
44 116 unresolved, 65 undetermined and 100 solved - you have  
45 told us those numbers?

46 A. That's correct.

47



1 Q. Where would the 23 be?  
2 A. I probably think it's easier if I go through the 23  
3 with you and explain individually whether they are on the  
4 tracking file or not.  
5  
6 Q. So if they are on the tracking file that means what?  
7 A. That means that - well, they may have been referred to  
8 us by Parrabell and we've just made a note of them on our  
9 tracking file. They may be listed under one of the four  
10 categories that I have provided to you earlier.  
11  
12 Q. But does the tracking file cover all four of your  
13 categories, not just unsolved but also unresolved,  
14 undetermined and solved?  
15 A. Yes, sir, it does.  
16  
17 Q. So the 23 must be there somewhere, presumably?  
18 A. As I said, I'd have to go through each one with you to  
19 provide you with an answer as to whether it is on our  
20 tracking file or not.  
21  
22 Q. All right. We will come to that, thank you. I want  
23 to for the moment, though, just have a look at Term of  
24 Reference B. You can see from the language that, at least  
25 potentially, Term of Reference B could involve a larger  
26 number of gay hate related deaths than the 23 that have  
27 come from Parrabell?  
28 A. Yes, I agree with you, sir.  
29  
30 Q. Now, with that in mind, as you know, the Commission  
31 wrote to the police on 4 May this year seeking various  
32 information, and that's the letter that you will see in  
33 tab 4 of your folder.  
34 A. Yes, sir.  
35  
36 Q. I don't know whether that's a letter you yourself have  
37 seen before?  
38 A. I have seen, yes.  
39  
40 Q. You have seen. You will see on page 1 of the letter,  
41 the first page, the Terms of Reference are identified, and  
42 then on page 2 of the letter, halfway down under the  
43 heading, "Request for information and assistance", the  
44 Commission asked for various items of information, A, B, C  
45 and D. You saw that?  
46 A. Yes, sir.  
47

1 Q. Now, you can see, I'm sure, that requests A, B and C  
2 on that page relate to Term of Reference A - that they  
3 relate to the 88 the subject of Parrabell? You can see  
4 that?

5 A. Yes, sir.

6

7 Q. And then request D you can see, I'm sure, is one which  
8 relates to Term of Reference B, the potentially larger  
9 number of matters between 1970 and 2010 which may come  
10 within Term of Reference B; you can see that?

11 A. Yes, sir, I can.

12

13 Q. On 27 May the Commission received an initial response  
14 by email to that request D, and that's the email at tab 5  
15 of your folder. Now, you have that?

16 A. Yes, sir, I have.

17

18 Q. Were you involved in the preparation of or the work  
19 that was done to give this answer?

20 A. I was aware of it, yes, sir.

21

22 Q. So you can see, passing over the first paragraph, that  
23 the second paragraph begins with, "With regard to  
24 paragraph D of the letter", so it is responding to that  
25 section D that we just looked at?

26 A. Yes, sir.

27

28 Q. And the letter says there were about 4,000 homicides  
29 during the relevant period, which is 1970 to 2010, and  
30 about 500 unsolved homicides. Now, further down the page,  
31 in the next paragraph, there is a reference to those 500 or  
32 so cases. Now, you have given more detailed evidence about  
33 that today and we have the numbers, thank you very much,  
34 that you have given us, but are the 23 from Parrabell among  
35 these 500 or so?

36 A. Again, I would have to go through each one to provide  
37 you with an accurate answer in regard to that, sir.

38

39 THE COMMISSIONER: Q. May I just interrupt? Why is  
40 that? Is it because some of the cases are so cold, if  
41 I may use that description, that they are not really part  
42 of any current thinking from the Unsolved Homicide Squad?  
43 What is it that will exclude any one or more of the 23 from  
44 the 500 or so?

45 A. Well, for instance, number 2, which is David Williams.

46

47 Q. Number 2 - I'm sorry, what are you looking at?

1 A. Sorry, of the 23.  
2  
3 Q. Yes.  
4 A. There is no information, there are no records retained  
5 relating to this death.  
6  
7 Q. Forgive me, Detective, when you say "Williams"(), he's  
8 number 3 on my list?  
9 A. Oh, number 3 on the list. It's number 2 on --  
10  
11 Q. It doesn't matter. So you say he's nowhere to be  
12 found in the 500 or so?  
13 A. That's correct, sir.  
14  
15 Q. There is simply no information?  
16 A. There is no information. So, for instance, that one  
17 won't be on our tracking file. But the next one, Bedser,  
18 which is number 4 on your list, sir, will be on our  
19 tracking file.  
20  
21 Q. And does that mean that in the case of number 3 - and  
22 Mr Gray will ask you about this perhaps now or later - it  
23 goes off or is not included in tracking, if it is incapable  
24 of being tracked in the sense that if the information is  
25 both old and non-existent, then there is nothing you think  
26 currently can be done to monitor it, absent something  
27 falling out of the sky and some revelation occurring just  
28 by luck or coincidence?  
29 A. That's correct, your Honour, yes.  
30  
31 Q. Does that then mean that in the case of Williams, that  
32 will be a hard copy file stored somewhere, whether it's in  
33 Emu Plains or somewhere else, or do we know, for example,  
34 where --  
35 A. There is no - just going off the records here,  
36 Detective Chief Inspector Lehman, in his review, stated  
37 that there were no records that were able to be located for  
38 this particular matter, sir.  
39  
40 Q. So that might be a case - might not be but it might  
41 be - where records previously existed but over the years  
42 have just been lost or misplaced?  
43 A. That's correct, yes, your Honour.  
44  
45 THE COMMISSIONER: Yes, sorry, Mr Gray.  
46  
47 MR GRAY: Q. Are you able to answer this - and

.6/06/2022

51 S J LEGGAT (Mr Gray)

*Transcript produced by Epiq  
Transcript-In-Confidence*

1 I appreciate I have asked you questions in this general  
2 territory earlier: of the 500 or so referred to in this  
3 email, or perhaps what we are talking about from today as  
4 the 477, how many are right now, today, the subject of some  
5 form of active investigation?

6 A. I could get back to you with the information. Just  
7 from my team there's probably about 10 matters that are  
8 active investigations at the moment, before the court. So  
9 in various states - investigation, court preparation or at  
10 trial.

11  
12 Q. Is that out 10 out of the three teams or 10  
13 altogether?

14 A. That's 10 out of the two teams that I run.

15  
16 Q. So a total of 10, then.

17 A. That's from my side of the floor. On the other side  
18 of the floor there's some additional investigations that  
19 are being undertaken and run.

20  
21 Q. Do you know or could you estimate how many there might  
22 be under active investigation in that team, or those two  
23 teams?

24 A. Probably similar - a similar number. Unfortunately,  
25 not all investigations result in an arrest or identifying  
26 sufficient evidence to prosecute someone, so then they  
27 cease.

28  
29 Q. Sure. So about 20, probably - I'm not holding you to  
30 the number, but of that order - are under active  
31 investigation now, out of the 477?

32 A. In various states, yes, sir.

33  
34 Q. The other thing that the email response refers to is  
35 a question of privacy. Do you see in that second  
36 paragraph, beginning, "With regard to paragraph D", it says  
37 in the third line --

38 A. Yes, sir I see that.

39  
40 Q.

41 *... I am instructed that there are no*  
42 *holdings on NSWPF systems which records or*  
43 *indicates an individual as LGBTIQ. Due to*  
44 *privacy policies, the NSWPF have never*  
45 *recorded a person's sexual preference or an*  
46 *indicator for LGBTIQ.*

47

1 You see that?  
2 A. Yes, sir, I see that.  
3  
4 Q. I don't mean to be nitpicking about this, I'm not  
5 fussing about the language, but is that accurate?  
6 A. Yes, sir, it is. Unless it is a factor in the  
7 offence - for instance, Raymond Keam - there wouldn't be  
8 any indication that the person was a member of that  
9 community. More recently, they have put a new filter on to  
10 COPS, which is the management system that is used by  
11 police, that talks about bias related crimes, but those  
12 bias related crimes not only include these ones --  
13  
14 Q. Sorry, I didn't hear what you said. Those bias  
15 related crimes --  
16 A. They may be right-wing extremists, religious  
17 fundamentalists, or bias related crimes.  
18  
19 Q. When you say more recently that's gone on to COPS?  
20 A. I couldn't give you a time frame, but more recently it  
21 has gone on to COPS.  
22  
23 Q. In the last 10 years or --  
24 A. No, no, within the last two or three years.  
25  
26 Q. I see, and prior to that, nothing - no box, as it  
27 were, on COPS, for that sort of information?  
28 A. No, the only detail is "male", "female" - that was  
29 all.  
30  
31 Q. When someone reads that who is not an habitue of the  
32 world that you move in, that would seem surprising; there  
33 may be some cases where a person's sexual orientation might  
34 conceivably relevant to why they were killed?  
35 A. I agree. I agree.  
36  
37 Q. And are we to understand that there is a policy not to  
38 record that?  
39 A. That's my understanding, yes, sir.  
40  
41 Q. Even though it might assist in finding out who  
42 committed the crime?  
43 A. But with a particular crime, that would be included in  
44 the narrative. If it was a bias related crime, an attack  
45 on someone, an assault, a verbal abuse or a murder, those  
46 details would be included in the narrative which would be  
47 disseminated to the detectives or to the homicide

1 investigator.

2

3 Q. And the narrative would be itself where? Where would  
4 the narrative be?

5 A. The narrative - they have what they call an event,  
6 which is the primary recording of all crimes and  
7 occurrences that occur in the state, and the narrative, in  
8 the narrative - if it is a bias related crime, there would  
9 be a narrative in there outlining what has occurred.

10

11 Q. Including, if it was relevant, something to the effect  
12 that gay hate may be a factor here; is that what you mean?

13 A. Yes, sir.

14

15 Q. So that we would find that, if we looked, in some  
16 cases in the narrative?

17 A. For some of the older matters the language might be  
18 crude, on the running sheets and the like, but it would be  
19 there if there was a - if the sexuality was a factor in  
20 their death, it certainly would be there.

21

22 Q. And the narrative would be, in the olden days,  
23 pre-computer, would have been found in the running sheet or  
24 where would it be found?

25 A. For an event, they had a - it was a P number, but it  
26 was a triplicate form where all the details that are now  
27 recorded onto COPS were manually put onto the form with  
28 a typewriter, and then there was a - if you had to put more  
29 information, there was a second form that you put the  
30 information onto.

31

32 Q. But then, since COPS has come into being, that same  
33 information would be on COPS, would it?

34 A. Yes, sir.

35

36 Q. And also on e@gle.i or not?

37 A. If it related to a homicide, the event would be  
38 uploaded on to e@gle.i as a text document. So there are  
39 various categories under e@gle.i, so - or an external  
40 record. So every event that relates or every intelligence  
41 report that relates to the job is uploaded by the case  
42 officer or one of the investigators onto the system, onto  
43 e@gle.i.

44

45 Q. So again, as I say - I do stress, I'm not being  
46 nitpicky about this?

47 A. No, not at all.

- 1  
2 Q. But literally, there would be holdings, namely, the  
3 ones you have just mentioned, on the NSW Police systems,  
4 which would contain such references if they exist?  
5 A. That's - right, but not - not specifically saying,  
6 "A member of the LGBTIQ", that --  
7  
8 Q. No, but saying something which would --  
9 A. There would be something in the narrative.  
10  
11 Q. -- record whatever was relevant in that regard?  
12 A. Yes, particularly if it was relevant to the offence.  
13  
14 Q. The next aspect of this thing that I just wanted to  
15 ask you about is the next paragraph, beginning, "This means  
16 that officers". In fact, just before I leave that, with  
17 the P79A form that's referred to there, that goes to the  
18 coroner?  
19 A. Yes, the report of death to coroner, yes.  
20  
21 Q. As the author of this email points out, that form does  
22 not have a specific indicator for LGBTIQ, and that's quite  
23 correct, it doesn't, we see that, but why doesn't it, in  
24 the sense that obviously in many cases it would be  
25 irrelevant and have no bearing on anything, but there might  
26 be cases where it did. Why is there no such --  
27 A. I can't offer an explanation on the design of the  
28 form. Perhaps it is relevant that that information be  
29 included on the form, particularly where a bias-motivated  
30 crime is linked to the demise of someone.  
31  
32 Q. Moving on to the next paragraph, the author says:  
33  
34 *This means that officers would need to*  
35 *manually review each of those 500 or so*  
36 *cases (hard copy files) for any indication*  
37 *of [that LGBTIQ factor].*  
38  
39 Now, I think we've established, haven't we, from what you  
40 have helped us with this morning, that files post the mid  
41 1990s would not have been hard copy, and even in respect of  
42 those that started life as hard copy, they would now be  
43 electronically available; they are digitised?  
44 A. Yes, material from 2000 should be digitalised, yes,  
45 sir.  
46  
47 Q. So any of the files that we are talking about for the

1 moment, the 88, plus any, indeed, that are on your books of  
2 the 477 unsolved homicides - all of the records, including  
3 any narratives, would be --  
4 A. They could be hard copy or they could be digitalised,  
5 they could be on e@gle.i.  
6  
7 Q. I thought - perhaps I'm wrong. I thought you had said  
8 that eventually, once something has been reviewed and  
9 chosen for an investigation --  
10 A. Once something is undergoing an investigation, then  
11 the material is uploaded on to e@gle.i, but in the review  
12 process it is just left in the archive box until the  
13 investigator takes it on.  
14  
15 Q. So if it is reviewed but not chosen for investigation,  
16 it remains as hard copy?  
17 A. Yes, sir. There is a process at the moment where they  
18 are trying to digitalise all of the material that they have  
19 got, but that's still in its infancy.  
20  
21 THE COMMISSIONER: Q. And you would be able to tell us  
22 which of the 500 have been digitised and which have not?  
23 A. If there is a strike force that has formed for any of  
24 those matters, the material will be in a digital format and  
25 it will --  
26  
27 Q. Whilst you don't currently have it in your head, and  
28 I accept that, it would be information which you could get?  
29 A. On that tracking file, your Honour, is --  
30  
31 Q. It will show on that?  
32 A. It will show which ones have strike forces on them.  
33 So anything with a strike force, it will have a digital --  
34  
35 MR GRAY: Q. As to those, the ones that have been  
36 digitised, are there searches that can be done to attempt  
37 to identify digitally any references there might be to the  
38 kind of thing that we're looking at here, references to  
39 "gay" --  
40 A. Yes, sir, there is. For each strike force there is  
41 a searching capability, and there is also a statement  
42 capability. So, for instance, just one strike force, if  
43 you put in a title, say "homosexual", it will come up with  
44 any material in that strike force that relates to what you  
45 request. So, yes, anything that's digitalised and on  
46 e@gle.i you could get a response for.  
47



1 Q. So in terms of as to those, however many it is that  
2 are digitised, finding any such references would not be  
3 particularly time-consuming?  
4 A. No, it would mean going to individual strike forces,  
5 but if you provided a list, then I could ask an analyst to  
6 have a look at those particular strike forces, and if you  
7 had a number of terms that you wanted searched for, then  
8 they could do that and then they could provide you with the  
9 information.  
10  
11 Q. We will know from the tracking file when we see it how  
12 many are just simply under a genuinely hard copy and there  
13 is no way --  
14 A. You should be able to, and, yes, and then you can also  
15 take out anything that's a child death or --  
16  
17 Q. Sure.  
18 A. -- a domestic-related murder that's not same-sex.  
19  
20 Q. Indeed, thank you. Can I turn, then, to these 23 in  
21 Parrabell.  
22 A. Yes, sir.  
23  
24 Q. If you can look at the case summaries document, and  
25 I know you have provided in the document you provided  
26 today --  
27  
28 THE COMMISSIONER: Mr Gray, I'm just wondering, if it is  
29 going to be accessible, would it be more helpful for  
30 everyone concerned, including the detective, if at the very  
31 time you go through these individual cases you have the  
32 tracking file in your hand as well? Because it may  
33 accommodate the dual purpose of whether the records are  
34 likely or not likely to be digitised and, in some cases, if  
35 it is a child death, then you can strike that out, perhaps.  
36  
37 MR GRAY: To answer your Honour's question, there is no  
38 doubt that would be more efficient.  
39  
40 THE COMMISSIONER: Mr Mykkeltvedt, the tracking document  
41 that has been described, how readily available is it and  
42 how much time would it take for you to get a copy?  
43  
44 MR MYKKELTVEDT: The document can be sent to those  
45 assisting either now or over the lunchtime adjournment.  
46  
47 THE COMMISSIONER: Why don't we do this, if we take the

.6/06/2022

57 S J LEGGAT (Mr Gray)

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1 break now, we will come back at 2, but if that document  
2 could be circulated to those concerned on the Commission's  
3 side and then we resume at 2, I think that would be more  
4 helpful. Then it saves having to get the detective to  
5 double back on some of the issues, we could strike them off  
6 at the same time, potentially.

7  
8 MR MYKKELTVEDT: Yes. I should say that the document will  
9 be somewhat unwieldy. I have not seen it, save for it is  
10 currently on my instructing solicitor's screen, but there  
11 are a very large number of columns. Hopefully, we can  
12 achieve something workable, but it might be difficult.

13  
14 THE COMMISSIONER: Well, if you need more time, the best  
15 thing to do, because we don't have a telephone line here  
16 yet - Mr Herrington is the telephone number to call. If  
17 you don't have his mobile, he will readily give it to you,  
18 or whoever is assisting, and if there is going to be some  
19 delay, just let us know. If it is convenient to do it in  
20 tranches, we will do it that way, but we will work around  
21 you because we are grateful for the information. Obviously  
22 we would like it, but it's only what you can do. So why  
23 don't you update us over lunch.

24  
25 MR MYKKELTVEDT: Your Honour, I can tell you that the  
26 provision of the document is very straightforward, it is  
27 just whether it can be accessed in a form that Mr Gray is  
28 going to be able to usefully take the witness through.

29  
30 THE COMMISSIONER: Well, it's called printing out, isn't  
31 it, and can there not be a copy printed out at your end, if  
32 that's possible?

33  
34 MR MYKKELTVEDT: We'll make some inquiries. It might be  
35 difficult.

36  
37 THE COMMISSIONER: Okay. Hopefully, technology has  
38 progressed such that a copy can be made. If it is only  
39 available electronically, I would like to know why it can't  
40 be printed out, but perhaps it is for security reasons - I  
41 simply don't know.

42  
43 MR MYKKELTVEDT: I think it is simply practically that the  
44 document has some 800 columns or rows, it might be somewhat  
45 unwieldy.

46  
47 THE COMMISSIONER: We can cope with that, it's just if you

1 give us time and work out - why don't you just update us  
2 when you have some instructions about how that can be done.  
3  
4 MR MYKKELTVEDT: Yes, your Honour.  
5  
6 THE COMMISSIONER: Once you tell us what you think can be  
7 done and what can't be done, then we will do what we can to  
8 accommodate.  
9  
10 MR MYKKELTVEDT: Thank you, your Honour.  
11  
12 THE COMMISSIONER: Is that convenient?  
13  
14 MR MYKKELTVEDT: Yes.  
15  
16 THE COMMISSIONER: If we have something, we will resume at  
17 2. If there are complications, though, which present  
18 themselves, we will just keep in touch via Mr Herrington  
19 and yourself or whoever is instructing you and we will just  
20 resume at an appropriate time when we have the document or  
21 access to it.  
22  
23 MR MYKKELTVEDT: Thank you, your Honour.  
24  
25 THE COMMISSIONER: Thank you. I will now adjourn.  
26  
27 **LUNCHEON ADJOURNMENT**  
28  
29 THE COMMISSIONER: Yes, Detective Leggat, do you want to  
30 re-enter the witness box? Thank you.  
31  
32 MR GRAY: Q. Detective, before I turn to the 23  
33 Parrabell files, I just have a couple of supplementary  
34 questions from this morning that I meant to ask you and  
35 didn't. First of all, there was a Bias Crime Unit created  
36 in about 2007. Does it still exist?  
37 A. I don't know, sir. I've never actually heard of it.  
38  
39 Q. In that case, my next question, which was going to be  
40 how does the Unsolved Homicide Unit work with the Bias  
41 Crime Unit, is not one that you could help us with?  
42 A. No, sir, sorry.  
43  
44 Q. Thank you. When your Unsolved Homicide Unit was  
45 created in 2004, presumably there was an audit of some sort  
46 done as to how many unsolved homicides there were. That  
47 must have been necessary for staffing reasons, if not

1 otherwise? Was there some audit done of how many cases  
2 there were that were going to go to the new Unsolved  
3 Homicide Unit?  
4 A. I know they were looking at reviews of unsolved cases  
5 between 1970 and 2000. The exact number, I can't give you,  
6 sir, I'm sorry.  
7  
8 Q. No, but was there some exercise undertaken to try and  
9 work out what was going to be the scale of the exercise for  
10 the new Unsolved Homicide Unit?  
11 A. I don't know, sir. I apologise, I don't know.  
12  
13 Q. Where would we go to inquire as to somebody who would  
14 know? Somebody must have thought about what this new unit  
15 was going to be doing?  
16 A. There'd be a file in regard to the creation of the  
17 Unsolved Homicide Team as a result of a recommendation from  
18 State Coroner Abernethy, but as to when it was generated  
19 and who generated it, I don't know.  
20  
21 Q. You did mention that recommendation from Coroner  
22 Abernethy this morning. Was that arising out of  
23 a particular inquest?  
24 A. It related, from my understanding, to the inquest into  
25 the disappearance and suspected murder of Gordana Kotevski,  
26 up in the Lake Macquarie area, Belmont, Charlestown.  
27  
28 Q. And one of the recommendations made by the coroner was  
29 that a unit like this be set up?  
30 A. To review unsolved matters or matters - yes, that's  
31 correct.  
32  
33 Q. I see. Thirdly, I think you said that all but 43 of  
34 the 477 that we have talked about have had at least one  
35 review?  
36 A. That's correct, sir, yes.  
37  
38 Q. Did such reviews, when they were done, of the 430-odd  
39 cases that have had reviews done, result in a written  
40 record or records of what it was that the review found?  
41 A. Yes, there'd be a review document, either on the  
42 previous system or the current system, yes, sir.  
43  
44 Q. When you say "previous system" and "current system"?  
45 A. Well, the new system that we adopted from 2017 has  
46 a more comprehensive review document than the previous  
47 ones, which --

1  
2 Q. But either way, either under the new more  
3 comprehensive approach or the previous approach, there  
4 would be a document emerging from the review process, as it  
5 were, summarising what had been found in the files that had  
6 been examined?  
7 A. That's correct, sir, yes.  
8  
9 Q. So if we were to ask for all such review documents,  
10 they could be produced?  
11 A. Yes.  
12  
13 Q. Is there something that we should ask for in  
14 particular that we could get the right name?  
15 A. Under the current process, the triage document and  
16 also the review document and the annexure to the review  
17 document, which would record an exhibits schedule and - and  
18 also there's a quality assurance document that goes with it  
19 as well.  
20  
21 Q. Thank you. And in terms of the earlier system?  
22 A. It was just a review document that was signed off by  
23 a coordinator from the Unsolved Homicide Team.  
24  
25 THE COMMISSIONER: Q. Are they documents that, I presume  
26 from what you have said, you know or believe exist?  
27 A. Yes, sir.  
28  
29 Q. And how quickly could they be procured?  
30 A. It would just be a matter of generating them off the  
31 e@gle.i system or copying them, if there's a hard copy.  
32  
33 Q. For example, if I asked for them for tomorrow, would  
34 that be unreasonable? Perhaps I shouldn't ask you, but  
35 I might ask Mr Mykkeltveldt.  
36 A. Yes, we would certainly have to make some inquiries as  
37 to exactly where and how those documents are stored. Some  
38 of them, for example, might be quite old and stored in hard  
39 copy, but we just don't know the answer to that.  
40  
41 Q. Can we do this - there are people behind you in court.  
42 Could some inquiries be made in the course of the  
43 afternoon, because if they can be produced without  
44 difficulty by tomorrow, it would help us enormously,  
45 because it's plain and obvious from my inquiries and from  
46 what we're doing that we're trying not, to put it bluntly,  
47 to tread on the toes of any current investigations or

1 imperil anything that is sensitive, and the more we have -  
2 the more information we have, the better able we are to  
3 collaborate so that we don't go into areas that we  
4 shouldn't be looking into, at least publicly, anyway.

5  
6 MR MYKKELTVEDT: Yes, of course. Can I ask, when we're  
7 talking about the review documents, are we talking about --

8  
9 THE COMMISSIONER: The documents just described by this  
10 witness - that might not be the end of it.

11  
12 Q. Perhaps if I can ask you again, detective, you said  
13 some documents existed a few minutes ago in answer to Mr  
14 Gray. Could you just describe what you had in mind, leave  
15 aside how difficult or easy it is to get them, but the  
16 documents at least you have in mind, so that those  
17 assisting can write down or make a note of what it is you  
18 think exists, anyway?

19 A. Your Honour, they're called a review document. So  
20 it's just a - the more recent ones are akin to a coronial  
21 statement, they're fairly detailed. The earlier ones are  
22 more like a triage --

23  
24 Q. But "review documents" is a pretty general  
25 description?

26 A. That's the title of them, your Honour.

27  
28 Q. But do they purport to review all unsolved crimes, as  
29 you best understand it?

30 A. Not all of them, sir.

31  
32 Q. What's the caveat? What is carved out, as best you  
33 understand it, from whatever is in the review document?

34 A. Sir, I'm sorry, I don't understand your question.

35  
36 Q. Well, what is excluded, if you say it's not all? You  
37 seem to be suggesting there is a review document, and there  
38 may be more than one review document which, over time, has  
39 purported to review unsolved crimes.

40 A. Yes.

41  
42 Q. And there's a current version of that, and when I say  
43 "current", it might be a few years old, I don't know, but  
44 there's an up-to-date version of some sort of that  
45 document?

46 A. Yes, sir.

47

1 Q. You say, however, or at least I understood you to say  
2 a minute ago, that it didn't purport or propose to be  
3 a review of all unsolved?  
4 A. Yes.  
5  
6 Q. And why are they not all in that review? Why are some  
7 excluded from the review? Because they have been solved  
8 or?  
9 A. Solved or that they haven't been reviewed or because  
10 of their character.  
11  
12 Q. Or too old and there's now nothing to see?  
13 A. Yes.  
14  
15 THE COMMISSIONER: That may not give your side sufficient  
16 description.  
17  
18 MR MYKKELTVEDT: I think it gives my side a start as to --  
19  
20 THE COMMISSIONER: Why don't I let Mr Gray speak to you in  
21 a moment so that he can make it clearer what he is asking  
22 for, so that you can then try, as best you can, to give me  
23 an update before the end of this afternoon on these  
24 documents, so that I don't - I'm not meaning to  
25 inconvenience anyone, but I would just like to get a handle  
26 as soon as I can on what I can be looking at without  
27 concern and what I shouldn't be looking at except with  
28 great concern. So that's really what I'm trying to get to  
29 the bottom of.  
30  
31 MR GRAY: Commissioner, may I just ask a question or two  
32 to clarify something in my own mind?  
33  
34 THE COMMISSIONER: Yes, absolutely.  
35  
36 MR GRAY: Q. Detective, I understood from what you said  
37 a few minutes ago - and I may have misunderstood - that  
38 there is a review document for each separate individual  
39 case where it has been reviewed?  
40 A. That's correct, yes.  
41  
42 Q. Rather than one overarching review of everything?  
43 A. That's right.  
44  
45 Q. And that there is such a review document, either in  
46 the new, recent methodology or the earlier methodology, for  
47 about 430 out of 477?

1 A. That's correct, yes, sir.

2

3 Q. So there would be 430-odd such review documents?

4 A. Yes, that's correct.

5

6 Q. Either under the new system or the old?

7 A. Or the earlier system; that's correct, yes.

8

9 MR GRAY: I'll just pause there for a second, your Honour.  
10 I will just have a word to my friend.

11

12 THE COMMISSIONER: Certainly.

13

14 MR GRAY: One supplementary question.

15

16 Q. I'm reminded, and you said this, detective, that in  
17 the newer system, the review document includes, in effect,  
18 a package of documents?

19 A. That's correct, yes.

20

21 Q. You enumerated them and they're in the transcript and  
22 we have a note of that?

23 A. That's correct.

24

25 Q. Whereas in the old system it may just be one document?

26 A. It may just be one document, yes. Can I say, the 23  
27 that you've requested, I've pulled the reviews for the ones  
28 that I can, and there's one or two that I have to get.

29

30 THE COMMISSIONER: That's very helpful. That's what  
31 I want. I want to make sure that we're all on the same  
32 page so that I know and am informed of what we are  
33 currently turning over, because if you have - so I'll tell  
34 you right now what is on my mind. If you have current  
35 investigations - and I mean current as opposed to five or  
36 six years or whatever it might be - I just need you to tell  
37 me where I don't tread, as it were, so that I can make some  
38 decisions about what I do.

39

40 So in terms of current investigations, obviously  
41 including somebody that might be a suspect, that you don't  
42 want or may not want me to sniff around; alternatively,  
43 telephone intercepts that might be current. We'll get to  
44 that in more detail, but I'm anxious to make sure that  
45 I don't travel anywhere inside that box, letter E in the  
46 Terms of Reference. You are here, to large extent, for me  
47 to get a feel for what I can and cannot do, because the



1 last thing we are able to do is to interfere with anything  
2 that's ongoing.

3  
4 THE WITNESS: Thank you, sir.

5  
6 MR GRAY: Q. As to one aspect of what the Commissioner  
7 just mentioned, namely, those that are under active,  
8 current investigation, you have mentioned this morning  
9 I think that in your two teams there are about 10, I'm not  
10 holding you to the exact number.

11 A. Give or take, yes, sir.

12  
13 Q. And in the other two teams you don't know  
14 specifically, but you would hazard a guess that it might be  
15 a similar number?

16 A. A similar number, yes, sir.

17  
18 Q. How soon would it be possible for you to tell us, or  
19 for someone to provide us with the information as to which  
20 are the 20 or so in that category by name so that we make  
21 sure we don't interfere?

22 A. You're referring to the 23 here?

23  
24 THE COMMISSIONER: No.

25  
26 MR GRAY: Q. No, the 20 or so that are under active  
27 investigation.

28 A. Oh, under active investigation.

29  
30 THE COMMISSIONER: Q. Let me ask you the question  
31 directly: are any of the 23 that we're going to talk about  
32 in a minute, those which you would consider under active  
33 investigation?

34 A. There is one that is currently before the Supreme  
35 Court.

36  
37 Q. Is that in the matter of Keam?

38 A. Yes, your Honour.

39  
40 Q. All right. I will come to Keam individually, because  
41 we know - when I say "we know", I think it's - I won't say  
42 it is public knowledge but there is some material about an  
43 extradition which took place in 2021, I've seen somewhere  
44 in the press.

45 A. That's correct.

46  
47 Q. We will deal with Keam independently. But apart from

1 Keam, of the 23 at the moment, none of them, to the best of  
2 your recollection at the moment, are under active  
3 consideration?

4 A. That's correct. Some have been investigated,  
5 your Honour, and have reached a point where we can't  
6 continue with them.

7  
8 THE COMMISSIONER: That doesn't include the others outside  
9 the 23 because there might be others out there, and we will  
10 get to those in due course.

11  
12 Yes, Mr Gray?

13  
14 MR GRAY: Thank you, Commissioner.

15  
16 Q. Picking up on something else that was mentioned this  
17 morning, namely, the capacity to search for certain terms,  
18 like "homosexual" or "gay" or some such across the tracking  
19 file information, I understand from my learned friend that  
20 in some cases that might not be quite as simple as --

21 A. My understanding is, yes, like the upload of the PDF  
22 or the scanned document might - the oldest material may not  
23 be able to be searched, and it's on e@gle.i, on the  
24 e@gle.i --

25  
26 Q. However, recognising that in some cases it may be  
27 easier than others, depending on when they were uploaded  
28 and how it was done and so on, nevertheless, if we were to  
29 provide my learned friend and those assisting him and  
30 yourself, say by tomorrow or even tonight, a list of such  
31 terms that we would like to have the attempt made to  
32 search, that could be done?

33 A. It could be done, yes.

34  
35 Q. And given that's an electronic exercise, would I be  
36 right in assuming that that would not take an unduly long  
37 time?

38 A. It shouldn't take too long. Just looking on the  
39 Palace strike force, which is the intelligence one, but if  
40 there is individual strike forces, it's a matter of  
41 identifying the individual strike forces and going to each  
42 one of those.

43  
44 Q. Yes. Still, we'd be talking days or a week or so  
45 rather than a longer period I assume?

46 A. A week would be a good estimate, sir.

47

1 Q. A week or so, okay, thank you. Just one other thing  
2 emerging from this morning. As to Parrabell, you mentioned  
3 that the Unsolved Homicide Unit was not involved in the  
4 Parrabell exercise?  
5 A. To my knowledge, no.  
6  
7 Q. Am I understanding you correctly: did you say that in  
8 fact as far as you knew there was no involvement of the  
9 Homicide Squad at all?  
10 A. That's my understanding of it, sir.  
11  
12 Q. And you mentioned the reason had to do with possible  
13 conflict. What would be the possible conflict in terms of  
14 the Unsolved Homicide Unit?  
15 A. It's more transparency in that it has an independent  
16 group of people looking at the deaths and making  
17 a determination.  
18  
19 Q. They were, though, not homicide detectives then,  
20 I take it?  
21 A. No, they weren't.  
22  
23 Q. The Parrabell --  
24 A. They weren't homicide detectives but they were  
25 qualified detectives.  
26  
27 Q. Did they, as far as you know, the Parrabell team, ask  
28 any questions of the Unsolved Homicide Unit about any of  
29 these cases?  
30 A. I'm not sure, sir. I'm not sure.  
31  
32 Q. Did they ask for any files or documents from the  
33 Unsolved Homicide Unit?  
34 A. Again I'm not sure, sir.  
35  
36 Q. Just lastly from this morning, going to your document  
37 that you produced this morning, I just want to go over one  
38 aspect of it to make sure I understand what it is telling  
39 us and what you have told us. At the top of page 3 there's  
40 the heading "SF [strike force] Palace"; is that right?  
41 A. Yes, sir, that's right, yes.  
42  
43 Q. I won't read it all out but it says the Unsolved  
44 Homicide Team receives information daily from various  
45 sources, so that's correct? That's just daily life, every  
46 day, something comes in?  
47 A. Yes, every day, one or two intelligence reports or we

1 might get - depending on a media release, you might get  
2 more.

3  
4 Q. Then it says:

5  
6 *Information is assessed and actioned as*  
7 *necessary.*

8  
9 That is by whom?

10 A. Either the intelligence analysts or someone from the  
11 review team, or if it relates to a job that we've got  
12 running at the moment, it will be disseminated to the  
13 officer in charge.

14  
15 Q. Then it says:

16  
17 *If the information is considered*  
18 *significant, the Investigations*  
19 *Coordinator --*

20  
21 which is yourself or your colleague --

22  
23 *is advised, and it is disseminated ...*

24  
25 et cetera?

26 A. That's correct, yes, sir.

27  
28 Q. I understand that. Then the next section is headed  
29 "Triage". What I want to ask you, though, first of all, is  
30 does the triage happen as part of what has just been  
31 described in relation to Palace, or does triage happen at  
32 some other point?

33 A. The triage is a prelude to the review process. So the  
34 review team will just look at the holdings of the  
35 investigation to find out if there's any brief items  
36 available, whether the forensics, the exhibits are  
37 available, the current status of witnesses, whether they're  
38 alive or deceased, and prepare a document for the reviewer  
39 to ultimately prepare the review.

40  
41 Q. And that's when we get to the expression in point 2  
42 under "Triage", "The review package"?

43 A. That's correct, sir, yes.

44  
45 Q. Is that a reference to what we were talking about five  
46 minutes ago in terms of the new arrangements?

47 A. Yes, that's correct, sir.

1  
2 Q. So all of that happens when, for one reason or  
3 another, a review is instigated?  
4 A. The triage process is the lead-up to the review, yes,  
5 and once the triage is finished, the review is started.  
6  
7 Q. Thank you. I need to go back a step. What triggers  
8 the triage process?  
9 A. It's just a matter of going through the tracking file  
10 or - it's just a matter of going through every case and  
11 ensuring the triage is done and then a review is ultimately  
12 done from there.  
13  
14 Q. But is a triage done of every case once a year or --  
15 A. No. It's - no, it's not. It's --  
16  
17 Q. What prompts it to happen, a triage of any given case?  
18 A. What prompts it? It's a - just going through the  
19 tracking file and saying, "Look, we've got to do a triage  
20 on this one. Has it been reviewed? Well, the review has  
21 been done, but it hasn't been done" - "there's new  
22 information that may have come in." It is more just to  
23 ensure that a new review is completed on the matter.  
24  
25 Q. Is it somebody's job to continually look at the  
26 tracking file to see when some case is in the spotlight  
27 where it needs to have a triage?  
28 A. No, what we were doing was just going through the  
29 whole tracking file, triaging as many matters as we could  
30 so we could start reviewing them, and complete reviews for  
31 as many matters as we could, so then we could look at jobs  
32 with potential - potential for our reinvestigation.  
33  
34 Q. But is this like painting the Harbour Bridge, though,  
35 is what I'm getting at?  
36 A. No, no, it's not. It's not --  
37  
38 Q. That you just keep doing it relentlessly?  
39 A. No. It's been going since I've been there, and that's  
40 five years, and it - it takes a little bit of time to do  
41 that because you've got to track down --  
42  
43 Q. So at the time you arrived, a predecessor of yours had  
44 instigated this approach?  
45 A. No. I instigated it.  
46  
47 Q. You instigated it?

.6/06/2022

69 S J LEGGAT (Mr Gray)

*Transcript produced by Epiq  
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1 A. Yes.

2

3 Q. And prior to your arrival, how long had it been since  
4 cases had been being reviewed?

5 A. Some of them hadn't been reviewed since the mid 2000s,  
6 2005, 2006, 2007. So the idea was to have everything  
7 re-reviewed.

8

9 Q. This is under your watch since 2017?

10 A. Well, and the other coordinators from the unsolved,  
11 but it started in 2017.

12

13 Q. And how far, if I can ask this question - I hope it's  
14 a coherent question - along that path are you?

15 A. Well, a fair way along, particularly for the  
16 undetected or unsolved matters. I think --

17

18 Q. So out of 477, how many have had a triage?

19 A. Forty-three are outstanding, so I'd say of the -  
20 there's 43 that perhaps haven't had a triage done and  
21 a review done.

22

23 Q. In those five years?

24 A. In those five years.

25

26 THE COMMISSIONER: Q. And do those 43 fall into the  
27 earlier periods or was there some methodology in choosing  
28 when to triage? I mean, did you take a practical view,  
29 going back, it was unlikely to produce something and look  
30 at something more recent, or was it a random selection?

31 A. We looked at the undetected or the unsolved, as we  
32 call them, but the undetected matters, and I wanted all -  
33 we wanted all those reviewed because they're - to see if  
34 there were any jobs there with forensic potential or the  
35 availability of witnesses. The older the matters, it was  
36 important that they got reviewed as well. I think they  
37 were looking at the - doing the more recent matters, but  
38 then we talked them into doing the older matters.

39

40 MR GRAY: Q. So when we get the - well, we have received  
41 the tracking file, but the tracking file will tell us which  
42 of the 43 have not had a triage, will it?

43 A. It should do, yes, sir.

44

45 Q. One other question I wanted to ask you about the -  
46 probably about the tracking file, but it may extend beyond  
47 the tracking file. You mentioned this morning that there

1 are some among the 477 which, on any realistic view, are  
2 almost certain not to involve any gay bias factor, eg,  
3 a child death, and there would be other examples. Would it  
4 be possible for you or those who assist you to provide to  
5 the Commission a list or provide the information in some  
6 other way as to those of the 477 which, in your assessment,  
7 stating the reason, would appear not to have anything to do  
8 with what we're investigating?  
9 A. Yes, sir. It might take some time, but yes, that  
10 would be possible.

11  
12 Q. We're going to have to look at these things ourselves,  
13 to discharge our obligations, but it would certainly assist  
14 if you could do it first because you are the ones who know  
15 the files.

16  
17 THE COMMISSIONER: Q. How many of the files, very  
18 approximately, do you think are child deaths or children's  
19 deaths?

20 A. It's hard to say. There probably isn't too many but  
21 then they come up, there might be - as an example just  
22 recently one of the strike forces that we've just  
23 completed, the offender had seriously assaulted  
24 a two-year-old child, and we were asked to look at a death  
25 that related to the same offender 10 years ago. So we  
26 picked that up. That wasn't on our tracking file, it was  
27 just --

28  
29 MR GRAY: Q. But if we frame a request to you to carry  
30 out that exercise --

31 A. Yes, sir.

32  
33 Q. -- that's something that can be done?

34 A. Yes, we can.

35  
36 Q. Thank you. Turning now to the 23, you have provided  
37 in your document this morning essentially I gather the same  
38 information that's in the case summaries but with the  
39 additional material in the box at the bottom?

40 A. That's correct.

41  
42 Q. Thank you. If I can go through them and ask you - in  
43 fact, I can do this in bulk because I think you have  
44 essentially told the Commission this already. Of these 23,  
45 with the exception of Keam, none of them is under current  
46 investigation?

47 A. That's right, sir.

1  
2 Q. And none of them, for example, are under any regime of  
3 telephone intercepts or surveillance?  
4 A. I take it back. Kenneth Brennan, which is one of the  
5 matters, we just need to do a little bit more forensic work  
6 on that case. And also David Rose, which is the final one,  
7 I think, from the 23, a review is being done on that, and  
8 it goes before our quality assurance panel to determine  
9 whether we reinvestigate that one.  
10  
11 THE COMMISSIONER: Q. Forgive me, Rose, and what was the  
12 other one you mentioned, Brennan?  
13 A. Yes, Kenneth Brennan.  
14  
15 Q. Rose is dead last. Where is Brennan? I've got it.  
16 A. Number 69, Kenneth Brennan.  
17  
18 Q. No, Number 7?  
19 A. Number 20 on the - Kenneth Brennan.  
20  
21 Q. Oh, Kenneth, sorry.  
22  
23 MR GRAY: There are two Brennans, so it's Kenneth  
24  
25 THE WITNESS: And I think there is "Wendy", or Wayne.  
26 It's number 69, your Honour.  
27  
28 MR GRAY: Q. May I start with - I'll just go through  
29 them chronologically, and as I go through, I'll also go to  
30 the other seven that we wrote to you about?  
31 A. Yes, sir.  
32  
33 Q. So the first one is Mark Stewart or Spanswick. Is it  
34 pronounced Spanswick or "Spannic"?  
35 A. Mark Stewart or Spanswick.  
36  
37 Q. This person's body was found at the bottom of a cliff  
38 near Fairy Bower in 1976. There are one or two others,  
39 including the very next one, Mr Rath, who was also found at  
40 Fairy Bower, and two or three others, I think as you know,  
41 that were found nearby or at least at Manly or not too far  
42 away. When the localities are adjacent, such as in these  
43 few cases, does part of your work involve looking at the  
44 locality as a factor and whether the locality was, for  
45 example, a gay beat?  
46 A. With this particular case and with the following case,  
47 if there was a brief of evidence or there was some



1 documentation, it would be reviewed, and would undergo the  
2 current process, but - so we triage it. My understanding  
3 with this one is that it was investigated back in the day  
4 by the special crime squad, and whether the brief of  
5 evidence is still available is unknown. So yes, look, if  
6 there were a series of deaths and - those two are at North  
7 Head, or Fairy Bower, in the 1970s.

8  
9 Q. Well, hindsight is a wonderful thing, of course, and  
10 we're looking back at it now and we see Fairy Bower, Fairy  
11 Bower, Fairy Bower, and obviously there are connections  
12 that one might make when one is conceptualising what was  
13 going on, but when your unit looks at these cases, does  
14 that form part of the thinking that's engaged in?

15 A. Our unit looks at cases on the basis of available  
16 evidence. If there's no available evidence, it's very  
17 difficult to make an assessment on facts.

18  
19 Q. Sure.

20 A. And those two cases are examples of cases where we  
21 don't have the evidence to make an accurate assessment of  
22 what has occurred.

23  
24 Q. So what is the material, as far as you know, that is  
25 available?

26 A. For number 2, there's no material available according  
27 to --

28  
29 THE COMMISSIONER: Q. No, go back to number 1?

30 A. Number 1 is --

31  
32 Q. Just let me finish. You may not be able to tell us  
33 from what is said there or from your own inquiries - and  
34 there may be nothing now left anywhere - but, for example,  
35 would you be able to tell whether a police officer went to  
36 the Hilton Hotel and made inquiries of the Hilton as to  
37 what name he booked in under, how he proposed to pay his  
38 bill, anything of that sort? I suppose there is nothing  
39 there?

40 A. There's nothing there, your Honour.

41  
42 Q. And the Hilton Hotel wouldn't have any records from  
43 1976, presumably, but from what you have in front of you,  
44 is it fair to say you have no idea what inquiries were made  
45 at the relevant time, but for that someone was able to say  
46 he had been in these various locations, he had been in the  
47 New Zealand Navy, had come to Sydney, he's booked into two

1 hotels, next minute, he's down at the bottom of a cliff?  
2 A. That's the only information we've got - I've got.  
3  
4 MR GRAY: Q. Is that information from the coroner's  
5 report or from something else?  
6 A. That information has come from Parrabell itself.  
7  
8 Q. But where --  
9 A. And the only reason it's on our tracking file is  
10 because it was referred to us by Parrabell.  
11  
12 Q. So you in fact --  
13 A. We have no record of it otherwise.  
14  
15 THE COMMISSIONER: Q. Can I just ask this, then: if  
16 Parrabell, in the course of its inquiry, had asked for  
17 access to any relevant file, would they have come - not to  
18 you, well, they might have, but would they have come to  
19 someone in your command or in some way to you formally and  
20 said, "Can we please have the file marked 'Stewart'"?  
21 A. What they would have done, your Honour, is gone to the  
22 records section, put a request in to the records section  
23 for - and that's, like, with all material that you  
24 requested, we've gone to the records section and given them  
25 a list of names and said, "We want all the archived  
26 material for these matters." If it exists, it will be in  
27 the archives. If it doesn't exist we wouldn't have it.  
28  
29 Q. But as far as you are aware, this one in particular -  
30 and perhaps all of the others or many of the others - are  
31 summaries prepared by Parrabell persons?  
32 A. That's right, yes, your Honour.  
33  
34 MR GRAY: Q. Moving to Mr Rath, he is not one of the 23  
35 but is one of the seven?  
36 A. Right, yes.  
37  
38 Q. What more can you tell us beyond what's in the summary  
39 about this case?  
40 A. There's nothing recorded on our Strike Force Palace,  
41 which is the intelligence tool we use. It's not on our  
42 tracking file either. Other than that, I can't say much  
43 more about it, in that we don't have any records in regard  
44 to it.  
45  
46 Q. So if there are records to be had, we would need to  
47 seek them from the --

1 A. From the archives or from the records section. It's  
2 just a request that that we put through, and I'm sure  
3 that - well, I'm not sure. I'm sure Parrabell would have  
4 requested for the records, or requested the records for  
5 Mr Rath.

6  
7 Q. Then David Williams?

8 A. Reading the Parrabell information, there doesn't  
9 appear to be any record of this death. John Lehman, the  
10 former coordinator, said that there were no records able to  
11 be located. Searches were completed on all dates of birth  
12 misspelling of names and/or correct - they weren't able to  
13 locate anything in regard to that particular matter. And  
14 I think the information has come from Sue Thompson and  
15 a criminologist.

16  
17 THE COMMISSIONER: Q. But if that is right, does that  
18 mean that there were never, ever any police records or,  
19 alternatively, such records that were created in any event  
20 were destroyed or lost and --

21 A. It could mean that. You'd expect that there might be  
22 a P79A with the Coroner's Court, but I understand there  
23 is - they've done extensive searches on COPS. There is -  
24 I can't offer an explanation as to where the records have  
25 gone, your Honour. They could have been destroyed.

26  
27 MR GRAY: Q. Specifically what is The Ryerson Index?  
28 You don't know either?

29 A. No, I don't know. I apologise.

30  
31 Q. And GRR - "extensive searches on various things  
32 including GRR"; do you know what that is?

33 A. That was just cut and paste, but, look, I'm not -  
34 I know the State Archives and the media and COPS have been  
35 searched and, as I said, it's only on our tracking file  
36 because it's a --

37  
38 Q. It might be Government Records Repository, it seems.

39 A. Thank you.

40  
41 Q. So the short point is that in the case of Mr Williams,  
42 your unit essentially has nothing?

43 A. We have nothing on it. We haven't - it hasn't come to  
44 our attention as a potential investigation.

45  
46 Q. Then next is Walter John Bedser.

47

1 THE COMMISSIONER: I'm sorry, can I interrupt there?

2

3 Q. In the case of Williams, we assume, presumably, do we,  
4 that there would be a death certificate?

5 A. There should be a death certificate, with Births  
6 Deaths and Marriages.

7

8 Q. That would give the name of the medical officer who  
9 certified the death, I presume?

10 A. It should. I'm just looking at another death  
11 certificate - maybe, maybe not, your Honour.

12

13 THE COMMISSIONER: All right, thank you.

14

15 MR GRAY: Q. Turning to Mr Bedser --

16 A. That's an undetected matter. That is a homicide.

17 Mr Bedser ran an antique shop out at Parramatta, in an  
18 arcade there. He employed young males at the shop.

19 There's no exhibits that are available, and again, this is  
20 a flaw in our system, that exhibits that related to a lot  
21 of these jobs have gone. It makes it very difficult to  
22 investigate them forensically. For instance, the murder  
23 weapon in this one was located but the current whereabouts  
24 of that weapon are unknown.

25

26 THE COMMISSIONER: Q. And what - do you recall what the  
27 weapon was?

28 A. It was a knife.

29

30 Q. And it's gone missing?

31 A. Mr Bedser was stabbed.

32

33 Q. But it's gone.

34 A. Yes.

35

36 MR GRAY: Q. The review, it seems, was in 2008, which is  
37 14 years ago, obviously. Has there been another one more  
38 recently, since 2017?

39 A. Not that I can see, no. There is a potential for the  
40 review of a fingerprint file again, but potentially this  
41 one could be re-reviewed, and extensive searches made for  
42 the exhibits - more extensive than were done before.

43

44 THE COMMISSIONER: Q. Can I just ask this, though:  
45 there must be in the file, which I presume is hard copy,  
46 potentially - there must be statements that are referred  
47 to, I presume, are there, identifying the witnesses who --

1 A. Yes, there are. There is a review document, the  
2 original review document that was done, that lists the  
3 witnesses, the summary of the event and - the witnesses and  
4 their actual - what they saw. I've got that here.

5  
6 THE COMMISSIONER: I see, all right.

7  
8 MR GRAY: Q. And Richard Slater?

9 A. This is what we call an unresolved matter, in that  
10 someone was charged with the offence. Mr Slater had  
11 a bladder problem, where he had to urinate, unfortunately,  
12 on a regular basis, so he's gone to a public toilet, where  
13 he's been attacked, allegedly by this fellow by the name of  
14 Miller. He was charged with the murder, but it was  
15 no-billed, and Mr Miller died in 1986 from a drug overdose.

16  
17 THE COMMISSIONER: Q. So in a case like that, you would  
18 expect, would you, the investigating officer to have  
19 corroborated the bladder issue by going to the doctor?

20 A. I think the information came from the family, but the  
21 original investigators I don't know how they obtained that  
22 information. But there is no information that Mr Slater  
23 was in fact gay, just perhaps in the wrong place at the  
24 wrong time. The offender was someone who targeted gay  
25 males in a toilet, robbed them, and I believe was gay  
26 himself.

27  
28 Q. And again no idea why it was no-billed?

29 A. No. The DPP don't disclose to us why they elect not  
30 to proceed with a matter.

31  
32 THE COMMISSIONER: All right, thank you.

33  
34 MR GRAY: Q. The next one is Mr Cuthbert, Gerald Leslie  
35 Cuthbert.

36 A. Again with this one, it has been reviewed. I had one  
37 of my staff trying to track down the exhibits, because  
38 there was a reference to the exhibits in the review that  
39 was completed, and we've been in contact with Dr Bruce out  
40 at DAL. So the review was completed in 2005. We've been  
41 in contact with Dr Bruce and he's making some inquiries to  
42 determine whether we can locate the exhibits. This was  
43 quite a vicious attack and if the exhibits are still in  
44 existence, with the improvements in technology, we may  
45 stand a chance forensically with this matter. But again,  
46 it's all dependent on whether the exhibits exist.

47

1 Q. One does notice here that the case just above it,  
2 Mr Giannaris, and the case just below it, Mr Parkes, in  
3 the original list, they were all found apparently bound and  
4 gagged, and the cases of Giannaris and Parkes have been  
5 solved - two people were charged and convicted. I'm just  
6 wondering whether you know whether anyone thought to --  
7 A. In the review document --  
8  
9 Q. -- consider whether they were linked?  
10 A. -- there is a reference to - bear with me a sec.  
11 "Connection to other cases" - you referenced the Parkes  
12 murder?  
13  
14 Q. Yes, Parkes and Giannaris. They were all within about  
15 a month of each other.  
16 A. There is a reference to those investigations in the  
17 review document completed back in 2005. So it's similar to  
18 the murder of Ernest Head it was something that was  
19 considered back in the original investigation and by the  
20 reviewer in 2005, sir. Again, that one could have forensic  
21 potential if we can locate the exhibits.  
22  
23 Q. And I'm sure you have tried, but what is the hard slog  
24 involved in trying to locate the exhibits?  
25 A. Going to the police station initially, then we go to  
26 the metropolitan exhibits centre, which is out at - in the  
27 Inner West somewhere. We make contact with them. Then we  
28 go to the crime scene, and then we go to FASS or the  
29 laboratories to try and track down anything that may be  
30 available, and sometimes it's unfortunate, fingernail  
31 clippings, or the like, aren't available, or the swabs have  
32 gone, and it's just - it's frustrating.  
33  
34 Q. And this being one from 1981, we would be looking at -  
35 we would be talking about an exhibit book?  
36 A. Yes, sir, that's right.  
37  
38 Q. And it would no doubt say something --  
39 A. Hopefully, it does.  
40  
41 Q. -- which turns out not to be able to be verified?  
42 A. Sometimes there'll be a transfer in the exhibit book  
43 that doesn't match up to where the item has gone so we've  
44 got to follow it up.  
45  
46 THE COMMISSIONER: Q. So there's no documentary trail  
47 kept, is there? When an exhibit is taken into custody, as

1 it were, I presume somebody notes in an exhibit book that  
2 there is such a thing as an exhibit, and I presume, brief  
3 though it may be there, is a description "Knife", "Gun",  
4 whatever?  
5 A. That's correct.  
6  
7 Q. And then if someone comes and takes it away for court  
8 purposes, let's say, presumably someone has to sign in and  
9 sign it out.  
10 A. Sign it out, time and date.  
11  
12 Q. But then over time it gets moved around physically and  
13 someone just loses track of it, or something?  
14 A. That's correct, or it could be bagged with something  
15 else, or - it's not perfect, and the system has certainly  
16 improved since the 1980s.  
17  
18 Q. So it's not photographed so that anybody knows what it  
19 looks like, if they're trying to find it again?  
20 A. There may be photographs on the system. Our crime  
21 scene people may have photographs still on file in their  
22 crime scene file, but it's the physical item and its value  
23 as a forensic exhibit that we really - help us with the  
24 case.  
25  
26 MR GRAY: Q. I think you said this morning - correct me  
27 if I'm wrong - that in recent years there has been an  
28 actual step taken to try to --  
29 A. That's correct.  
30  
31 Q. -- bring in all exhibits from wherever they may be for  
32 cases that aren't being investigated, from the station --  
33 A. For all unsolved homicides, we've requested that they  
34 all be back to the central exhibits area.  
35  
36 Q. And you said, I'm paraphrasing, that while that had  
37 been done to some significant extent, you weren't confident  
38 that it was perfectly done?  
39 A. I'm not confident that everything's been returned, no,  
40 I'm not.  
41  
42 Q. And what more could be done to achieve that? It does  
43 seem like a useful exercise?  
44 A. What has basically happened is that reports have gone  
45 out to the commanders of each of the police stations  
46 requesting exhibits be returned, and whether they have  
47 complied with that or not, reminders are sent out to them,

1 and then if the exhibits aren't available or they can't  
2 find the exhibit, that's where the problem starts. And  
3 particularly for some of the older matters, they're just  
4 not available. You may have had an overzealous  
5 superintendent organising the removal and destruction of  
6 exhibits, which maybe back in the day they didn't see the  
7 forensic value of, but now, we certainly do see the  
8 forensic value of.

9  
10 Q. So has the reclaiming process that you have been  
11 engaging in resulted in a sizeable volume of material that  
12 you now have at your premises?

13 A. Not in our premises but in the exhibits centre, yes,  
14 there is a considerable amount of forensic or exhibits that  
15 have been returned. It was also, though, the problem that  
16 some of the forensic exhibits hadn't been stored correctly  
17 or had been mixed with other exhibits, they've got  
18 cross-contamination. But we're doing our best with what  
19 we've got.

20  
21 Q. Just so that I'm clear, in the reclaiming exercise  
22 that has been recently underway, with the results that you  
23 have mentioned, has the reclaiming request - I'm calling it  
24 "reclaiming" - been generic, that is, to such and such  
25 a station, in such and such a suburb, "Please give us all  
26 the exhibits that you have, regardless of what case they  
27 are from, unless you're actually investigating that case  
28 still"?

29 A. Just for homicides, yes, that's right. Just for  
30 homicides, unsolved homicides.

31  
32 Q. But have you said, "We want exhibits to do with case  
33 X, Y and Z"?

34 A. When we start investigating a matter, then we start  
35 looking specifically at - well, the exhibits are at Burwood  
36 police station, for instance, let's get over there, see  
37 where they are, how they're stored, and get them out of  
38 there.

39  
40 Q. The next one is Peter Sheil, 1983. This is the man  
41 whose body was found at the bottom of a cliff at Thompsons  
42 Bay near Coogee, said to have been a known gay beat by the  
43 Parrabell people. The family were under the impression  
44 that the man was heterosexual although suffering from  
45 mental illness. Now, your note says that the Parrabell  
46 review did not locate any police holdings on this matter.  
47 That's right, I take it?



1 A. That's right. And basically we have limited available  
2 information. It's unlikely that it would be undertaken as  
3 an investigation by us, unless a brief of evidence is found  
4 and then we can review it or triage it to see if it is  
5 worthy of review.

6  
7 Q. When your note says that the matter was not referred  
8 to your team by the coroner --

9 A. That's right.

10  
11 Q. -- was there a coroner's inquest?

12 A. It just wasn't referred to us by the coroner. So I'm  
13 not sure whether there was an inquest or not, but we have  
14 the matters - our matters are referred to us by the  
15 coroner. That hasn't been referred - so Mr Sheil's matter  
16 hasn't been referred to us by the coroner and - yes. We  
17 have no investigative papers in regard to it.

18  
19 Q. For a matter to go to the coroner, does it go to the  
20 coroner only via the police, or does it get to a coroner by  
21 other means?

22 A. My understanding is the family can request an inquest  
23 as well, but back in the 1980s, I'm pretty sure that a lot  
24 of matters were dealt with via P79A. I might be wrong, but  
25 if it was a suspected suicide, it's probably been dealt  
26 with without a brief of evidence.

27  
28 Q. So the form would go, the P79A?

29 A. That's completed by the original police that attend  
30 the scene, so they may be uniformed police, and they go to  
31 the scene and they book the body in to the morgue and with  
32 it they take the P79A.

33  
34 Q. And the coroner in such circumstances --

35 A. May have dispensed with an inquest, but without  
36 knowing the specifics of the case.

37  
38 Q. But in this instance, you don't have a coroner's  
39 report?

40 A. I don't, no. And that's based on what I've got from  
41 the Parrabell people.

42  
43 Q. Well, in the Parrabell summary, there is no mention of  
44 a coroner's report either. So --

45 A. But again, if it was something that was requested from  
46 the archives, you would have a definitive answer as to  
47 whether a file existed.

1  
2 Q. And has that been done?  
3 A. Well, it says here, "The review did not locate any  
4 NSW Police holdings on the matter."  
5  
6 Q. Yes, what about the --  
7 A. No, sir, I haven't.  
8  
9 Q. Has a communication been made with the coroner?  
10 That's what I'm wondering?  
11 A. Not that I'm aware of, sir.  
12  
13 Q. All right. And Wayne Brennan, known as "Wendy Wayne",  
14 this is an unsolved --  
15 A. That's an unsolved homicide. Been shot a number of  
16 times with a 45 cal. The casings from the shooting aren't  
17 available, because the offender has taken the casings with  
18 him. All we have are the bullets in the - so for the  
19 purposes of - forensically, I don't believe there's much on  
20 it as well.  
21  
22 Q. So it has been reviewed twice, I see?  
23 A. There is some suggestion that Wendy was involved in  
24 flushing a quantity of heroin down a toilet and there may  
25 have been a hit based on that factor  
26  
27 Q. It does sound to the person coming to it in 2022 as  
28 though it's a killing that has been done by someone who has  
29 done it before?  
30 A. Yes. And there is a review document. The review was  
31 done in 2005. There are some recommendations they make  
32 from the review. But whether those recommendations have  
33 been undertaken or not, I'm not sure.  
34  
35 Q. And then your note says that it's been reviewed also  
36 in 2008 and 2012 by the senior detectives course?  
37 A. That's not so much a review as a group of detectives  
38 are handed all the material. They look at what's available  
39 and then they have to present an assessment to a panel. So  
40 it's not - it is a review but it's not a review like we  
41 would do a review.  
42  
43 Q. What's the purpose of that kind of review?  
44 A. It's a training exercise but it's also a matter of  
45 seeking opinion of different people to see if they can see  
46 any leads that may assist in solving a crime. But again,  
47 it's a shooting and no shell cases have been located at the

.6/06/2022

82 S J LEGGAT (Mr Gray)

*Transcript produced by Epiq  
Transcript-In-Confidence*

1 scene. There is a review document here, your Honour, as  
2 well for that one.

3  
4 Q. Thank you. Then Gilles Mattaini, the man who went  
5 missing in 1985 and was then the subject of or became the  
6 subject of Operation Taradale?

7 A. That's correct. We reinvestigated this matter, the  
8 Gilles Mattaini, the John Russell and the Ross Warren  
9 matters all under Strike Force Neiwand. The strike force  
10 started before I arrived there.

11  
12 Q. Sorry, strike force what?

13 A. Neiwand, N-E-I-W-A-N-D. So we - a lot of - Taradale  
14 focused on a group of youths that were operating in that  
15 Marks Park area, which is near Bondi, that were victimising  
16 or attacking men in that beat area. They ran covert  
17 operations on the targets, but they were unsuccessful in  
18 getting a result.

19  
20 So with Mr Mattaini, he disappeared in 1985, but it  
21 wasn't reported to police until 2000/2001, when Operation  
22 Taradale commenced. We wanted to look at it from the  
23 victimology point of view, in that the previous  
24 investigations hadn't looked at the victim, what his  
25 background was, so we sent a request to the French police  
26 to interview Mr Mattaini's partner, a fellow by the name of  
27 Musy, and he provided us with a detailed account of  
28 Mr Mattaini's mental state and the like. He told police,  
29 the French police, that he had told Detective Sergeant  
30 Page, who was in charge of Taradale, that Gilles had  
31 attempted suicide on a number of occasions, that he'd - he  
32 was - but Sergeant Page said, "No, it's murder." So in  
33 some ways, there was some tunnel vision. I would have  
34 taken a more - a broader approach to it and looked at all  
35 possibilities rather than just focusing on a group.

36  
37 In any case, Mr Mattaini told his partner that if he  
38 disappeared, he would never be found. We got an  
39 oceanographer - sorry, I don't know the exact term for the  
40 specialist - to look at the flow of waters in the area and  
41 if someone fell off or was pushed off or accidentally - or  
42 committed suicide, where the body - and they wouldn't come  
43 back in to the beach. But there's a detailed summary for  
44 that one attached, and I've got it here, so --

45  
46 Q. The review document?

47 A. The review document.

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Q. The review package?

A. It was completed as a result of our investigation into the three matters.

Q. We'll come to the other two in the three, but in the case of Mr Mattaini, as you say, his body was never found, and your conclusion is "No forensic evidence, no identified suspect". Really, there is nothing more that can be done, is there?

A. There is nothing more that can be done unless something comes up, if someone comes forward as a result of an appeal or the like. Unfortunately, if Mr Mattaini's remains are located, his mother is now deceased and was deceased before we sent our inquiries to France, so DNA is problematic. Yes, I - it may be a bias related crime, it may be suicide, it may be death by misadventure, but our inquiries can't determine which one it is.

Q. All right. William Anthony Rooney, who was the man who was found in Crown Lane, Wollongong. A suspect was identified, being a suspect who had, I think this is right, isn't it --

A. He had been attacking males down there, sexually assaulting them.

Q. And had been found guilty of such crimes in some cases?

A. Yes. This matter is still down with the Wollongong detectives. The DPP - they've sent a report through to the DPP to consider charges. The DPP have advised there is insufficient evidence to proceed against Mr Scerri, who is the offender, or sorry --

Q. Is he still in custody, do you know?

A. I'm not sure whether he's still in custody, but I should imagine he should be.

Q. I take it that no other potential suspect --

A. Not that I'm aware.

Q. -- came into view?

A. Not that I'm aware of. And because it's a matter where someone has been charged, and in our view is a good suspect for the murder, it's something that we wouldn't review in the short term. There are other matters that we would probably go to before we went to that one.

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Q. That have greater priority?

A. Yes, sir.

Q. Then there is the matter of Keam, Raymond Frederick Keam.

A. This matter is interesting because it is a bias related crime. It is a crime where our accused now, who stands trial on 1 May next year, orchestrated attacks on what he perceived to be gay males near a public toilet in Alison Park at Randwick. So he would set up bait for the males and then there would be a group of children or young males waiting in the bushes to attack the male and he would come in and attack as well. Mr Sutton, as he was known then, he's now known as Stanley Early, is a convicted paedophile and also identifies as gay. But he's - as I said, the matter is now before the court. He fled after the attack, drove some 20 hours to Bundaberg to meet his brother, who he hadn't seen for years, and then returned suddenly. So - and to his mother, he said, "I was in a fight in the park and the police are after me". It's a circumstantial brief case and I'm hoping that it goes well.

Q. What was the catalyst for these steps that have happened in the last couple of years?

A. With the Raymond Keam matter, the original OIC, Detective Sergeant Kel Parsons, contacted the Unsolved Homicide Team squad and said, "Can you please look at this one. This one's been troubling me for a number of years." So we reviewed it and reinvestigated it.

Q. So in this case, it was just a police officer who had it on his mind?

A. Yes, sir.

Q. Who chose, of his own volition, to ask you to look into it?

A. Stanley Sutton was always a suspect in the matter and as soon as the officer rang we decided to review and reinvestigate. It had to go before the quality assurance panel, but we spent a fair bit of time on it.

Q. This one was, I think I'm right, a case where there was a reward on offer?

A. Yes, that's right, it was. But it was part of a strategy.

1  
2 Q. Was that a reward as part of a relatively recent  
3 strategy?  
4 A. Yes, sir.  
5  
6 Q. Not from long back?  
7 A. No.  
8  
9 Q. And did it play any part in the resolution of the  
10 investigation?  
11 A. Not really, no. No, it didn't.  
12  
13 Q. How often does a reward play a part, speaking  
14 generally?  
15 A. I think with the Samantha Knight matter, there may  
16 have been a reward paid. I don't know what the statistics  
17 are on rewards that have been paid as a result of  
18 information.  
19  
20 Q. Anecdotally, though, in your experience, on the low  
21 side?  
22 A. It's on the low side.  
23  
24 Q. That is, not many?  
25 A. Not many.  
26  
27 Q. All right. So he's in custody now?  
28 A. He's in custody awaiting to stand trial.  
29  
30 Q. The next one is William Allen. This is an unsolved  
31 case. This is Alexandria, where we know that Mr Johnson,  
32 Richard Johnson, was killed a couple of years later -  
33 a couple of years after this one; is that right?  
34 A. I apologise, I don't have that one in my folder.  
35  
36 Q. It's one of the unsolved ones from Parrabell. You  
37 don't have it with you?  
38 A. No.  
39  
40 Q. It's number 11 I think in your document today.  
41 A. What is it in the Parrabell reference?  
42  
43 Q. In Parrabell it's 30.  
44 A. 30? I have it here, thank you. I apologise, I'm at  
45 a bit of a loss for this one. I haven't read any material  
46 on it. I can read material on it, but I haven't - I can't  
47 provide you with an answer on that one.

1  
2 Q. The text that appears in the case summary is  
3 significantly not the same as the text that appears in your  
4 document. Your document is much longer?  
5 A. Is that a reference to the next one, which I think is  
6 Ross Warren?  
7  
8 Q. No, I'm looking at number 30, William Allen. Have you  
9 got this document from this morning available to you?  
10 A. That one page is missing, sir.  
11  
12 Q. Oh, we can give you a copy.  
13 A. Sorry about that.  
14  
15 Q. That's all right. All I'm noticing is that the text  
16 that appears in your document is much longer and largely  
17 different from what's in the case summary from Parrabell.  
18 A. I must have taken this out of the review document to  
19 give a more accurate description of what has occurred in  
20 the matter. It's an unsolved case that's with us at the  
21 moment. We're in the - with that new framework, we were  
22 sending reviews out to police stations so an experienced  
23 detective could look at the matter and review the matter.  
24 This is one of the cases that has taken a little bit of  
25 time to come back. It hasn't actually come back. So  
26 I don't know, until it comes back and we do a quality  
27 assurance on it, whether there's investigative potential  
28 with the matter.  
29  
30 Q. What is your note down the bottom, where it says, "Not  
31 reviewed Triage sent to South Region. Part of backlog  
32 issue"?  
33 A. That's what I mean, the triage and all the  
34 documentation that we require to have a review done has  
35 been sent out to south region so they can conduct the  
36 review, they can pull all the archive material in and  
37 review the matter and complete a review document for us and  
38 forward it back to us so we can assess it. It was just  
39 a matter - we wanted to get as many of these done as we  
40 could and by outsourcing it to police stations we thought  
41 this was a - would be expedient.  
42  
43 Q. I see. So the police station was, in effect, doing  
44 the triage?  
45 A. No, doing the review. And they haven't completed the  
46 review and that's why - we're still waiting for the review  
47 to return to us. We've started requesting them to be

1 returned so that we can do them ourselves.

2

3 Q. I'm a little surprised that the review of the work of  
4 the initial investigators would be, as it were, as you say,  
5 outsourced back to the --

6 A. Back to a police station.

7

8 Q. Back to the same police station?

9 A. We look at the experience of the investigator.

10 There's homicide investigators that are in the police -  
11 well, PACs as they call them, police districts, people that  
12 have been to the Homicide Squad, worked in the Homicide  
13 Squad, and been promoted and gone back to police stations.  
14 So there is that experience out there and we're drawing on  
15 that to assist us with completing the reviews. But that's  
16 an incomplete review at the moment.

17

18 Q. But when it does come in, take as an example of this  
19 way of handling things, that would then stand as the  
20 review; you wouldn't do a separate review?

21 A. No, we'd look at the review to make sure it's up to  
22 standard, make sure that - and look at the recommendations  
23 they make, there'd be some recommendations on the review  
24 document as well suggesting investigative strategies and  
25 the like, and we look at those and assess those to see if  
26 what they're suggesting is viable.

27

28 Q. The next one is number 31, Russell Payne, which is one  
29 of the seven, as I'm referring to them, rather than the 23.  
30 This is the man found in Inverell. It's number 31.

31 A. Okay, that's in the list that you sent me on Friday?

32

33 Q. That's right, yes. Is this one that you can assist us  
34 on this afternoon?

35 A. This morning I had a look at Strike Force Palace and  
36 I looked at the tracking file. It's not recorded on  
37 either - there's no coronial record. My understanding is  
38 that Parrabell mentioned that there were some unusual or  
39 bizarre groin injuries to Mr Payne, so I have no other  
40 information apart from that, sir.

41

42 Q. There seems to have been a post-mortem, and death  
43 certificate, but the material available to you doesn't  
44 include whatever may have happened at the hospital and --

45 A. I don't have any material for this particular matter.  
46 This is one of the matters that Parrabell have suggested is  
47 solved, I think. Yes, "solved". They list the cause of



1 death as septicaemia as a result of an acute --

2

3 Q. The suggestion is that the injuries may have been  
4 self-inflicted. Just reading the nature of the injuries  
5 and how they were inflicted --

6 A. Without having the full brief of evidence and a little  
7 bit of background in regard to Mr Payne, it would be hard  
8 to make an assessment.

9

10 THE COMMISSIONER: Q. Can I just ask you this: in the  
11 case of a homicide in rural New South Wales like Inverell,  
12 what does the local officer do? He or she turns up to the  
13 scene, there's a deceased person. There is no Homicide  
14 Squad in Inverell, I take it?

15 A. We have a 72-hour on call, so every six weeks one of  
16 the teams go on call for seven nights, or seven days, so  
17 they can be sent anywhere in the state and they usually  
18 are. So they provide a 72-hour response. If the job is  
19 significant or is complicated, or is a child death, then  
20 you take the job on and you will remain in that area for  
21 three, four months, coming home occasionally on weekends.

22

23 MR GRAY: Q. So, hypothetically, that's what happened  
24 here?

25 A. With Mr Payne? No. No, with Mr Payne, it's not  
26 recorded as a - the question would have to be asked, was it  
27 considered suspicious at the time, was it considered to be  
28 a homicide, or was it considered to be a misadventure  
29 death? And on that basis, the local police would have - it  
30 may not have even gone to the detectives back in the - at  
31 that time. So it may have just been a P79A that's been put  
32 through to the coroner.

33

34 Q. So our most likely source of information would be the  
35 coroner then?

36 A. That's correct, sir, yes.

37

38 Q. Thank you. Then Samantha Raye - this is one of the  
39 seven, not one of the 23?

40 A. No, she died in a cave, in South Head, apparent drug  
41 overdose. Again, it's not on our Palace and it's not on  
42 our tracking file. I don't have any investigative papers  
43 for it. I don't have the circumstances of how she died or  
44 what led to her drug overdose.

45

46 Q. John Gordon Hughes, which also is one of the seven,  
47 not one of the 23.

1 A. Okay. That's - it was reviewed by Strike Force  
2 Parrabell, obviously, but the review concluded that there  
3 was insufficient information to deem it as a bias crime.  
4 The review indicates that Ian Stuart James died of a drug  
5 overdose. He's the person of interest in regard to this.  
6 So he was the flatmate. Mr Hughes was bound, gagged and he  
7 had his throat slashed, and the suspect appears to have  
8 died in 2002.

9  
10 Q. With that one, you have some information or no  
11 information?

12 A. It's on our Palace and it's also on our tracking file.  
13 There should be information, or there may be information in  
14 the archive, if a request is put through for Mr Hughes.

15  
16 Q. And would it be on the tracking file because of  
17 Parrabell or some other reason?

18 A. I'm not sure. It may be on there - again, I'm not  
19 sure. It could be on the tracking file because it's an  
20 unresolved matter.

21  
22 Q. Do you know - and the tracking file may tell us - if  
23 there has been a review of this matter?

24 A. Not that I'm aware of. And I guess because there's  
25 a person of interest who is now deceased, it wouldn't be  
26 given the priority of something else.

27  
28 Q. Now we come to Ross Warren, who of course was the  
29 subject of Taradale. I think you said that your unit has  
30 investigated these three, Warren, Russell and Mattaini.

31 A. And Gilles Mattaini. Unfortunately the original  
32 investigation undertaken by Detective Sergeant Bowditch of  
33 Paddington police station was poor. In some ways, we are  
34 only as good as the information that's available to us, and  
35 I think there was a criticism at the Coroner's Court during  
36 Taradale, during Detective Sergeant Page's - we looked at  
37 it more on the victimology side of things again because  
38 Taradale had done everything they could with the suspects.  
39 They'd tried covert measures and a few other things.

40  
41 We looked at - none of the victim's associates had  
42 ever been spoken to. So we went and identified them and  
43 spoke to them and got just an account of his life, where  
44 his head space was at, and he was - and partners that had  
45 never been spoken to. Again, this one, the circumstances  
46 are very unusual. It could be a bias related crime or it -  
47 there's nothing to indicate to me - there's a possibility

1 of suicide, but it's remote, and then death by  
2 misadventure, I can't see that either. But as to the  
3 evidence that's available, there's not enough to identify  
4 a potential suspect and we really can't take it any further  
5 than we have at the moment.

6  
7 Q. And we haven't seen the Taradale material yet, but no  
8 doubt we will. It would appear from the coroner's report,  
9 at least, that the Taradale inquiry was certainly pursuing  
10 with some interest a number of people?

11 A. That's right.

12  
13 Q. Who were active in that area at about that time.  
14 A. Yes.

15  
16 Q. And did your investigation involve contact with them  
17 again?

18 A. Our investigation focused - because they had a dead  
19 end with those people, and investigative strategies that  
20 had been disclosed to those people, such as the use of  
21 surveillance devices, had been disclosed to them, so it was  
22 going to be a difficult investigation to refocus on them.  
23 But I wanted to focus on who Ross Warren was, why he would  
24 be at Marks Park. So we looked at former - and it's in the  
25 summary document, why we focused on his victimology, why we  
26 focused on who he was, what he'd done, his movements, who  
27 he'd been in contact with in the period leading up to his  
28 death, and speaking to all those - things that hadn't been  
29 done, that should have been done by Detective Sergeant  
30 Bowditch back in the day.

31  
32 Q. The coroner came to the view that there was not  
33 sufficient material before her for a prosecution to be  
34 launched?

35 A. To refer it to the DPP.

36  
37 Q. Yes. Is that your own assessment as well?  
38 A. Yes, sir. Yes, it is. It's one of those difficult  
39 briefs. No doubt there were youth groups operating in that  
40 area that were preying on gay men. But one interesting  
41 factor, we spoke to one of his partners who used the beat  
42 regularly, and he said that he wasn't aware of attacks on  
43 gay men there. But there had been that murder of that Thai  
44 student in the area around that same time. So that's -  
45 it's a difficult one. But it has been reinvestigated, and  
46 I have the summary document here.

47

1 THE COMMISSIONER: Q. What were some of the inadequacies  
2 of the original investigation? I noticed there was some  
3 DNA found on his driver's licence?  
4 A. And we have had those exhibits retested, without  
5 success. A mixed profile on the driver's licence, not  
6 suitable for the purposes of --  
7  
8 Q. Where was the licence? Was it on him?  
9 A. In the car.  
10  
11 Q. In the car?  
12 A. Yes.  
13  
14 Q. Because he had his keys with him, he had his car keys,  
15 but he left other possessions in the car?  
16 A. I will just double-check on that, your Honour, but  
17 I would be - but, look, it was retested without success.  
18 And we had a number of exhibits re-examined without  
19 success.  
20  
21 MR GRAY: Q. Thank you. Now, Graham Paynter. This was  
22 the one at Tathra Beach on the south coast.  
23 A. Again this is another matter that is on our tracking  
24 file but wasn't referred to us by a coroner; it was  
25 referred to us as a result of the Parrabell inquiry .  
26  
27 Q. You say "Not reviewed"?  
28 A. It hasn't been reviewed. Based on the limited  
29 information, the matter is unlikely to be undertaken as an  
30 investigation by my team.  
31  
32 Q. "Unable to locate investigation documents"?  
33 A. Yes, sir, that's right.  
34  
35 Q. Why would that be? Why would they not be able to be  
36 found?  
37 A. It's - I can't provide an answer on why documents are  
38 missing. It's beyond belief sometimes.  
39  
40 Q. John Russell?  
41 A. John Russell's the third part of the Neiwand inquiry.  
42 We got a number of experts to re-examine this, including  
43 our pathologist. Dr Cala, who was the original pathologist  
44 or, sorry, the pathologist who appeared at the inquest,  
45 formed the view that there may have been a scuffle at the  
46 top of the cliff because of the positioning of the body at  
47 the base. The review document that I have included behind

1 this has some graphic images from the deceased, so  
2 I apologise for that, but we got Dr Duflou to look at the  
3 positioning of the body and the hairs. We also had a hair  
4 expert from Canberra to have a look at the photos. So we  
5 did some work in regard to the forensics. He had a fairly  
6 significant blood alcohol reading at the time, and, look,  
7 it could be a death by misadventure or a bias related  
8 crime, certainly not a suicide.

9  
10 Q. In 2017, forensic pathologist Dr Duflou stated he was  
11 unable to provide an opinion on whether Russell died due to  
12 an accident, suicide or homicide, based on the location of  
13 the body and the injuries, which contrasts with that  
14 provided by Dr Cala. Dr Adine Boehme, biology and  
15 forensics, was unable to provide an opinion in relation to  
16 the origins of the hairs. On his hand there's a number of  
17 strands of hair, and she was unable to provide an opinion.

18  
19 Q. When you say "on his hand", what does that mean?

20 A. On - where the body's been located, there's a number  
21 of strands of hair that are located on the hand. Those  
22 hairs have never been located. So again, there's  
23 a forensic opportunity that's not available to us.  
24 I disagree with Detective Sergeant Page in regard to the  
25 adequacy of the original investigation. The crime scene  
26 was properly managed. We had a crime scene officer attend  
27 and process the scene properly. So - yes.

28  
29 Q. Something's obviously gone wrong with the hairs going  
30 missing, though?

31 A. Again, 1989, and I can't offer an explanation on  
32 exhibits and what they did with the exhibits, and because  
33 maybe it wasn't considered to be a homicide or --

34  
35 THE COMMISSIONER: Q. I presume there was an autopsy,  
36 was there?

37 A. Yes, there was.

38  
39 Q. And was there an examination of the scalp?

40 A. Yes, there was.

41  
42 Q. And what did that show?

43 A. There were significant injuries to the head. Well,  
44 Dr Duflou in his opinion in 2007 stated:

45  
46 *The pattern and distribution of injuries in*  
47 *my opinion do not allow me:*

1                   1, to differentiate between an accidental  
2                   fall and an intentional fall on the part of  
3                   the deceased or a fall assisted in some way  
4                   by one or more persons.

5  
6 I'm just trying to think. Yes, he states:

7  
8                   *It is possible for the lacerations on the*  
9                   *skull, and the fractured skull ...*

10  
11 So it was a fractured skull that caused - led to  
12 Mr Russell's death. But there is that document there,  
13 your Honour, for you to see.

14  
15 MR GRAY: Q. And the original photographs I can see are  
16 on your file. You have copies of the photographs, but are  
17 the original photographs still available?

18 A. They should be, yes. Yes. And I also think that you  
19 have requested those documents.

20  
21 Q. I'm sure we have. Number 37 in Taradale, Andrew  
22 Currie, which is one of the ones we have in the seven. Is  
23 that one that you are able to tell us anything about?

24 A. There's nothing on the tracking file or Palace, but  
25 I actually knew Andrew Currie, when I worked in - when  
26 started off in the police I was at Manly and Andrew was  
27 a prescription medication user. He was constantly walking  
28 around in a daze from the use of prescriptions. He was  
29 found deceased in a - and I actually remember the job  
30 because he was constantly coming under notice - he was  
31 found deceased in a toilet block at North Manly and the  
32 cause of death was an overdose.

33  
34 I don't think there's anything that I'm aware of that  
35 would indicate that he was gay. I might be wrong. But  
36 I know that he was - he was one of those individuals that  
37 you constantly met and constantly talked to, because he was  
38 constantly affected by drugs and he was the bane of his  
39 elderly mother's life.

40  
41 THE COMMISSIONER: Q. And I presume again we will find  
42 somewhere in there a toxicology report?

43 A. Yes. I'm pretty sure you will, your Honour.

44  
45 MR GRAY: Q. Michael Swaczak, number 38.

46  
47 THE COMMISSIONER: Mr Gray, I'm going to have to adjourn

1 at 4.

2

3 Q. Detective, are you able to return tomorrow?

4 A. Yes, your Honour, yes.

5

6 THE COMMISSIONER: All right. Now, I think some of us in  
7 this room have some commitments tomorrow in other courts.  
8 What about I say not before 11.30 tomorrow? If there are  
9 any documents, though, that can be produced overnight, they  
10 would be gratefully received, and if they can be available,  
11 if possible, before 11.30; if not, so be it. But if there  
12 is anything at all we can get, that would be helpful.

13

14 Thank you all very much. I'll adjourn until not  
15 before 11.30.

16

17 **AT 4 09PM THE COMMISSION WAS ADJOURNED TO**  
18 **TUESDAY, 7 JUNE 2022 AT NOT BEFORE 11.30AM**

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