

LECC

Law Enforcement
Conduct Commission

Hearing: Operation Gennaker

Before the Hon M F Adams QC, Chief Commissioner

Held at Level 3, St James Centre,
Elizabeth Street, Sydney

On Tuesday, 3 December 2019 at 10.35am
(Day 2)

WITNESS INDEX

Officer GEN5	107
Officer GEN6	138
Officer GEN7	177
Officer GEN8	207

1 MS DWYER: Your Honour, the first witness this morning is
2 by videolink. She is known by a codename GEN5.

3
4 MR TAYLOR: Commissioner, you have already given me leave
5 to appear on behalf of this witness. I can indicate that
6 she will take an oath for the purpose of giving her
7 evidence and we will be seeking a declaration under
8 section 75 of the.

9
10 THE CHIEF COMMISSIONER: Very well.

11
12 <OFFICER GEN5, sworn: [10.35am]

13
14 MS DWYER: Chief Commissioner, I am anticipating that this
15 witness will also request a section 75 direction.

16
17 THE CHIEF COMMISSIONER: Yes.

18
19 Although I think you have probably been told these
20 things by your own lawyer, there are a couple of things
21 I need to explain to you.

22
23 Firstly, you must answer all questions that you are
24 asked unless I tell you you don't have to. You must hand
25 over anything that you are asked to produce unless I tell
26 you you don't have to. You can object to answering any
27 question and you can object to producing anything, but you
28 nevertheless must answer the question and you must produce
29 the requested thing.

30
31 The effect of your objection is that no action can be
32 taken against you except under the Police Act. Do you
33 understand that?

34
35 THE WITNESS: Yes, sir.

36
37 THE CHIEF COMMISSIONER: I can make a declaration that
38 every answer that you give and anything that you produce is
39 to be taken to have been answered or produced under
40 objection to save you the trouble of objecting each time.
41 I am told by your legal representative that you want me to
42 make that declaration; is that correct?

43
44 THE WITNESS: Yes.

45
46 THE CHIEF COMMISSIONER: Very well. Pursuant to
47 section 75 of the Act, I declare that all the answers given

1 by this witness and anything produced by this witness are
2 to be taken to have been answered or given following on
3 from an objection. Thank you.

4
5 <EXAMINATION BY MS DWYER:

6
7 MS DWYER: Q. Officer, can you see and hear me?

8 A. Yes.

9
10 Q. You understand, do you, that you are known by
11 a codename in these proceedings, as are all the other
12 officers, but your codename is GEN5; do you understand
13 that?

14 A. Yes.

15
16 Q. Can I just check with you, before we start, that you
17 have a list of codenames with you?

18 A. Yes.

19
20 Q. So when I ask you about another officer, for example,
21 "Do you remember this person", or down the bottom there are
22 the names of various young people, "Do you remember that
23 young person", would you mind using their codenames,
24 please?

25 A. Yes.

26
27 Q. You had the rank of constable, I think, in February
28 this year; is that right?

29 A. Yes.

30
31 Q. Is that still your rank?

32 A. Yes.

33
34 Q. When did you attest for the police force?

35 A. On 1 May 2015.

36
37 Q. Were you in general duties in February 2019?

38 A. No.

39
40 Q. Have you performed a role in general duties?

41 A. Yes.

42
43 Q. And have you performed a role with the dog squad, the
44 drug dog squad?

45 A. Not within the dog squad, no.

46
47 Q. On 23 February this year, you were working at the Lost

1 City Music Festival; is that correct?
2 A. Yes.
3
4 Q. What was your role there?
5 A. It was a user-pay high visibility policing, I believe.
6
7 Q. I don't need to ask you where you were based at the
8 time, because we are trying to make sure that your identity
9 is not revealed, but can you tell the Commissioner how it
10 is that you came to work as a user-paid police officer?
11 A. It was advertised and I applied for it as an extra
12 shift.
13
14 Q. Had you done the job as a user-paid police officer at
15 a music festival prior to that time?
16 A. Not as a user-pay, no.
17
18 Q. Had you worked at a music festival, though, as
19 a police officer prior to that time?
20 A. Yes.
21
22 Q. Had you been involved in any working in any music
23 festivals for under-18s?
24 A. Not that I'm aware of prior to this one.
25
26 Q. How many music festivals would you have performed duty
27 at, do you think, before the Lost City Music Festival?
28 A. Maybe five or six.
29
30 Q. And have you done it at music festivals after the Lost
31 City Music Festival?
32 A. I don't believe so.
33
34 Q. What hours were your shift on 23 February this year?
35 A. I don't recall the exact hours.
36
37 Q. Was it basically a day-time shift?
38 A. I think it was afternoon and into the night, from
39 memory.
40
41 Q. Did you attend any briefing before you started?
42 A. Yes.
43
44 Q. When you attended a briefing, do you recall roughly
45 what time that was?
46 A. No.
47

1 Q. Can you please have a look at the schedule of
2 codenames. Are you able to identify anybody on that
3 schedule who did the briefing?
4 A. No, not that I can recall.
5
6 Q. So it's possible that their name is on that list, but
7 you might not recall their name; is that right?
8 A. Yes.
9
10 Q. Were there many other officers who you knew prior to
11 that day?
12 A. I didn't know any.
13
14 Q. That's because you were not from that area as
15 a user-paid officer; is that correct?
16 A. That's right.
17
18 Q. Do you recall now whether or not at the briefing you
19 were told anything about the legal requirements you had
20 when searching under-18s?
21 A. I don't recall.
22
23 THE CHIEF COMMISSIONER: Q. You had received training at
24 the college, I take it, on LEPRAs?
25 A. Yes.
26
27 Q. Is that right?
28 A. Yes.
29
30 Q. And did you understand that there were particular
31 provisions that applied to young people as distinct from
32 adults?
33 A. I'm aware that there are under LEPRAs.
34
35 Q. I understand you are aware now, but were you aware at
36 the time?
37 A. I don't recall, and I've re-looked at LEPRAs recently.
38
39 Q. So, sorry, you have read LEPRAs recently?
40 A. Yes. I don't recall at the time if I was aware.
41
42 Q. I want you to explore your memory a bit. I understand
43 you to be saying, but I don't want to put words into your
44 mouth, right, you must give your own evidence, but
45 I understand you to be saying that when you read LEPRAs
46 recently - I suppose, was it for the purpose of giving
47 evidence?

1 A. Yes.
2
3 Q. When you read it recently and you saw that there were
4 particular provisions relating to young people, did you
5 think to yourself, "I didn't know that before"?
6 A. Yes.
7
8 Q. Before this festival, had you, as part of your duties,
9 been required to conduct any searches of any kind?
10 A. Yes.
11
12 Q. Had you been required to conduct strip searches?
13 A. Yes.
14
15 Q. Can you tell me about how many do you think, in the
16 year before - I know it is just an estimate, perhaps
17 a guess - is your best guess about how many strip searches
18 you conducted?
19 A. Around 10.
20
21 Q. And were they in the police station or in the field?
22 A. In the field.
23
24 Q. And were you with other officers at the time?
25 A. Yes.
26
27 Q. And were they of adults or young persons?
28 A. Adults.
29
30 Q. Following those searches, were any of those adults
31 charged with criminal offences?
32 A. Yes.
33
34 Q. Was it true of all of them or just some of them?
35 A. I would say the majority of them.
36
37 Q. Can you tell us, where were those searches conducted -
38 that is, physically? Did you find a room somewhere? Where
39 did it actually happen?
40 A. In designated rooms at a music festival.
41
42 Q. So these strip searches occurred at a music festival?
43 A. Yes.
44
45 Q. Can you remember which one it was?
46 A. There was a couple. Field Day was one of them.
47

1 Q. Obviously these were only women?
2 A. Yes.
3
4 Q. In relation to those, were you simply present, as it
5 were, as a corroborating witness, or were you the one who
6 had initiated the search and conducted the search?
7 A. I would have been both.
8
9 Q. Are both officers required to make a COPS report about
10 the event or is it only one who mentions that the other
11 officer was present? What was your understanding of the
12 process?
13 A. My understanding, it was a COPS event was created by
14 the searching officer, with mention to the observing.
15
16 Q. At the Lost City festival, did you conduct or were you
17 present at any strip searches, at all?
18 A. I didn't conduct any and I wasn't witness or present
19 to any.
20
21 THE CHIEF COMMISSIONER: Thank you, Ms Dwyer.
22
23 MS DWYER: Q. You were asked some questions earlier
24 about the briefing that you attended. Did you take any
25 notes at that briefing?
26 A. No.
27
28 Q. Were you given any handouts of written material?
29 A. I don't recall if they gave us anything.
30
31 Q. And I asked you whether or not you recall being told
32 anything about stripsearching and you said you don't
33 recall. Were you told anything in particular about how to
34 deal with children or young people?
35 A. Yeah, I don't recall if - they could have, but I don't
36 remember.
37
38 Q. Were you told anything about support persons who might
39 be available to you as a police officer when you were doing
40 searches?
41 A. I don't recall.
42
43 Q. Where were you physically located throughout the
44 festival?
45 A. In the festival area itself --
46
47 Q. Did you go in - I'm sorry, I spoke over the top of

1 you. You said, "in the festival area itself". What else?
2 Did you add to that?
3 A. I was just going to say the main dance area.
4
5 Q. Did you also go into the area where patrons were being
6 searched?
7 A. Yes, I believe so.
8
9 Q. Do you recall that there was a separate area that was
10 designated for searching patrons?
11 A. Yes.
12
13 Q. How did you come to be in that area during the course
14 of the festival?
15 A. I believe it was a stand-down area as well and they
16 had laptops set up for events to be created to.
17
18 Q. What do you mean by "stand-down area"?
19 A. Just, like, to have a break.
20
21 Q. Do you recall going into that area, though, because
22 anybody was being searched?
23 A. No.
24
25 Q. Do you recall going into that area as a stand-down
26 area and seeing patrons being searched?
27 A. In - they had, like, sort of private little rooms, so
28 I could see that there were officers taking people in and
29 out but I didn't actually physically see anyone being
30 searched.
31
32 Q. Do you recall having a conversation with any patrons
33 prior to or after they were searched?
34 A. There was one group that we did stop that were
35 searched but not by myself.
36
37 Q. I see. So you said there was one group "that we did
38 stop" - were you involved with other officers in detaining
39 a group of young people?
40 A. Yes.
41
42 Q. How did that come about?
43
44 THE CHIEF COMMISSIONER: Q. Just before you do that, can
45 you see the name of that officer or those officers on the
46 list that you have?
47 A. Yes.

1
2 Q. Can you just give us their codenames, please?
3 A. I don't recall, because I'm not - yeah, as I said,
4 I didn't know any of them prior to it.
5
6 MS DWYER: Q. I think you said you can see them there,
7 though. Have you been told something about the names of
8 officers you were with?
9 A. I just don't recall who I was working with.
10
11 Q. I think you have some documents in front of you, is
12 that right, in addition to the schedule of codenames?
13 A. Yes.
14
15 Q. Do you have in front of you a field processing form
16 which has the number 85 on it?
17 A. Yes.
18
19 MS DWYER: Chief Commissioner, that is exhibit number 7C.
20
21 Q. So you have a particular field processing form in
22 front of you with your name on the bottom; is that right?
23 A. Oh, yes.
24
25 Q. It has the name of a young person, doesn't it, who has
26 been given the pseudonym of GEN15C, if you can just check
27 your schedule?
28 A. Yes.
29
30 Q. How did you come to be in possession of blank field
31 processing forms?
32 A. I believe, from memory, I was just helping out another
33 officer just writing them up.
34
35 Q. Before I return to your work with the group of other
36 officers, do you recall being told anything at the briefing
37 about a field processing form?
38 A. I don't recall exactly, no.
39
40 Q. Do you recall anything about it?
41 A. No.
42
43 Q. Was that a form that was familiar to you
44 before February 2019?
45 A. No.
46
47 Q. You also have a copy of your notebook in front of

1 you - that is, a photocopy of the entry that you made on
2 23 February 2019 with respect to GEN15C and other young
3 people; is that right?
4 A. Yes.
5
6 MS DWYER: Might I tender a document that appears at
7 tab 37 of the brief of evidence, with the barcode 8456304.
8 It is a copy of the Senior Constable's notebook entry.
9
10 THE CHIEF COMMISSIONER: Yes. What tab?
11
12 MS DWYER: Tab 37. It is four pages beginning 8456304
13 through to 307.
14
15 EXHIBIT #11C NOTEBOOK ENTRIES OF GEN5 BARCODED
16 8456304-8456307
17
18 MS DWYER: Q. Constable, have you compared the field
19 processing form with the name of the young person 15C at
20 the front of it with your handwriting in your notebook from
21 that day?
22 A. I am now, yes.
23
24 Q. Do you agree with me that it is the same handwriting?
25 A. Yes.
26
27 Q. So do you accept that you filled out the field
28 processing form with respect to the young person GEN15C?
29 A. Yes.
30
31 Q. Do you recall filling out any other field processing
32 forms?
33 A. I believe I did.
34
35 Q. With respect to the other field processing forms, did
36 they relate to other young people who were believed to be
37 in a group with GEN15C when they were detained?
38 A. Yes.
39
40 Q. Did you fill out other field processing forms
41 unrelated to that group during the day?
42 A. Not that I can recall.
43
44 Q. On that field processing form, which is exhibit 7C,
45 there are a number of names of arresting/escorting police;
46 do you see that?
47 A. Yes.

1
2 Q. Is it correct that if you compare that to the
3 codenames, there is Officer GEN8?
4 A. Yes.
5
6 Q. Officer GEN2?
7 A. Yes.
8
9 Q. Officer GEN7?
10 A. Yes.
11
12 Q. And yourself, Officer GEN5, all listed as arresting or
13 escorting police for that young person, 15C; correct?
14 A. Yes.
15
16 Q. So can I return to what you were about to tell us
17 earlier: how was it that you became involved in the arrest
18 and escort of 15C?
19 A. I think, from memory, we were flagged down by
20 security.
21
22 Q. When you say "we", are you referring to yourself and
23 that other group of three officers?
24 A. It was - I think at the time it might have been myself
25 and one other, but I don't recall exactly who, and I cannot
26 recall if it was us first or if we were assisting another
27 group of officers first, so like, we were the second.
28
29 Q. But from memory, you recall being flagged down by
30 security?
31 A. Yes.
32
33 Q. Whereabouts were you when you were flagged down by
34 security?
35 A. To - like, just in that main dance area.
36
37 Q. And when you were flagged down, did you attend the
38 area the security officer was?
39 A. Yes.
40
41 THE CHIEF COMMISSIONER: Q. About how far away were
42 you - just a few seconds' walk or --
43 A. Yeah, maybe like 20 or 30 metres.
44
45 MS DWYER: Q. Do you recall what that security officer
46 looked like?
47 A. No.

1
2 Q. What happened after you were flagged down?
3
4 THE CHIEF COMMISSIONER: Q. Sorry, was the security
5 officer wearing any kind of uniform?
6 A. I don't recall.
7
8 MS DWYER: Q. Was it a he or a she, the security
9 officer?
10 A. I believe it was a male.
11
12 Q. How were you flagged down?
13 A. I can't recall if we saw other police going to the
14 area that they were or if they flagged us first - yeah,
15 I don't recall.
16
17 Q. What is your memory of what happened, then?
18 A. They had - the security had stopped a group of males.
19
20 Q. You were flagged down by them, you attended the area
21 where the security officer was, and were you told something
22 by the security officer?
23 A. The security guards believed that they had witnessed
24 a drug deal go on, they were selling drugs.
25
26 Q. It was a single security officer; is that right?
27 A. I can't recall if - it was one that obviously spoke to
28 us, just one spoke to us, but I don't recall if - how many
29 he was with.
30
31 Q. That male security guard believed that he had
32 witnessed a drug deal go on, that they were selling drugs.
33 Did you --
34
35 THE CHIEF COMMISSIONER: Q. Well, did he identify any
36 particular persons as being participants in that deal?
37 A. I don't - yeah, I don't recall exactly.
38
39 MS DWYER: Q. What do you recall him saying to you at
40 that point - that is, the security officer?
41 A. I don't recall if he spoke to me directly or if
42 I heard it from - while he was telling someone else or if
43 another police officer told me. I just remember there
44 being something to do with what appeared to be drugs being
45 sold at the festival.
46
47 Q. Do you recall being told anything about the security -

1 what the security officer did himself, in terms of
2 attempting to purchase a pill?
3 A. I had found that out later on, yeah.
4
5 Q. Do you recall how many young persons the security
6 officer indicated should be taken away?
7 A. No.
8
9 Q. Did the security officer ask you to do something with
10 the young people?
11 A. I don't --
12
13 THE CHIEF COMMISSIONER: Q. Or ask police, whether it
14 was directed to you or not?
15 A. I don't remember.
16
17 MS DWYER: Q. What were police asked to do?
18 A. I don't recall what we were asked to do or if it was
19 just sort of handed over to us.
20
21 Q. What happened then, next?
22 A. I took details for the males in my notebook, and
23 descriptions.
24
25 Q. So did you do that when you were on that dance floor
26 area?
27 A. It was like a gated area on the other side of it.
28
29 Q. So did you and other police officers remove a group of
30 young people from the dance floor area to the gated search
31 area?
32 A. From memory, they were already in the gated area when
33 I got there.
34
35 Q. You were flagged down by security, though is that
36 right?
37 A. I can't recall if they flagged us down or if we saw
38 them flagging other police down and we went as well.
39
40 Q. Do you recall how the young people got from the
41 security officer through to the search area?
42 A. I think they were - sorry, security escorted them in
43 there.
44
45 Q. Do you recall, then, going into the secure area and
46 speaking with the young people?
47 A. Yes.

1
2 Q. Did you speak to more than one young person at that
3 time?
4 A. I would have because I took all their details down.
5
6 Q. In your notebook, which has just been tendered as
7 exhibit 11C, you wrote down the details of 15C, and that
8 included a description of the young person, date of birth,
9 address and phone contact; is that right?
10 A. Yes.
11
12 Q. And you did that for seven young people; is that
13 correct?
14 A. Yes.
15
16 Q. Were you asked to do that or did you take your own
17 initiative to get those details?
18 A. I don't recall.
19
20 Q. Were you working under the supervision of a particular
21 officer?
22 A. No, I don't think so.
23
24 Q. I showed you earlier the field processing form. Did
25 you fill that out after you had taken details in a
26 notebook?
27 A. Yes.
28
29 Q. Did somebody ask you to fill out the field processing
30 form?
31 A. I don't recall.
32
33 Q. When you took the details in the notebook, were all
34 those young people together in the one spot?
35 A. Yes.
36
37 Q. Did you ask them any questions other than the answers
38 that you have recorded in your notebook?
39 A. Not that I can recall.
40
41 Q. Did you ask them any questions specifically about
42 whether they had drugs on them?
43 A. Not that I can recall.
44
45 Q. Were any other officers with you at the time that you
46 asked them their contact details?
47 A. I believe so.

1
2 Q. Did the other officers ask the young people any
3 questions about drugs while you were present?
4 A. I don't recall.
5
6 THE CHIEF COMMISSIONER: Q. Can we just go back a step.
7 You were there as a police officer. You were aware in
8 general terms that a security officer had seen what he
9 believed to be a drug deal; correct?
10 A. Yes.
11
12 Q. And these seven young people, one way or another, were
13 suspected of being involved or knowing something about it;
14 is that correct?
15 A. Yes. Yes.
16
17 Q. And they could have been witnesses or they could have
18 been participants; correct?
19 A. Yes.
20
21 Q. It seems to me that it is obvious that some police
22 officer or other would have asked, "What do you know about
23 any drug deals"; do you agree?
24 A. Yes.
25
26 Q. Did you ask any such question?
27 A. I don't recall if I did or not.
28
29 Q. Well, you are taking their names and addresses, so you
30 are actually in conversation with them; correct?
31 A. Yes.
32
33 Q. And while you are in conversation with them, no other
34 police officers are talking to them; is that correct?
35 A. Yes.
36
37 Q. So it follows that if at that stage there were any
38 questions about whether they knew anything about drugs or
39 they had any drugs, that would have been an opportunity to
40 ask those questions; correct?
41 A. Yes.
42
43 Q. And that was the key question, wasn't it? That's why
44 they were all there?
45 A. I didn't ask the questions, though, because they were
46 sitting sort of in a line, so I was just sort of going one
47 to one and getting their details.

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Q. Right. But they were there because a security officer had said that one or more of them had been involved in a drug deal - as you understood it?

A. Yes.

Q. I can understand that you might remember that you did ask, and I can understand that you might remember not asking. I do find it difficult, however, to understand why you cannot, as you sit there, remember whether you asked one of these young persons whether they had been involved in a drug deal or whether they were carrying any drugs.

The reason that I find it difficult to understand your loss of memory is that this was the very matter that had led to them being where they were, and the very matter that you were noting their names and addresses for. Do you see my point?

A. Yeah.

Q. So I want you to think very carefully, please, and just go back in your mind. Go back to the time you were writing names down. They are apparently cooperating with you; correct?

A. Yes.

Q. Did you ask for ID?

A. Yes.

Q. So they gave you --

A. But they were all --

Q. Sorry, yes?

A. They were all just sitting in a line against the fence and I just was getting their details. So I wasn't asking them questions about it; I was just asking questions about who they were, where they are from, yeah, and writing a description and then moving on to the next person.

Q. So are you saying that your memory now is that you did not ask them any questions about whether they had been involved in drugs in any kind of way; is that right? You were just getting their addresses?

A. I don't recall asking them - I don't recall asking them questions in relation to the drugs.

Q. Well, do you believe you did or didn't? What's the



1 state of your belief?
2 A. I believe I probably didn't.
3
4 Q. Who asked you, or did anyone ask you, to take their
5 names and addresses?
6 A. I don't recall if I was asked or if I just did it
7 myself.
8
9 Q. Why were their names and addresses significant? Why
10 did you ask them for their names and addresses?
11 A. At that stage, it was being reported to us that they -
12 one or more of them - had been selling drugs inside the
13 festival.
14
15 Q. Did you explain to them that they didn't need to give
16 you any name or address or any material or evidence or
17 statement of any kind, that they didn't have to talk to you
18 if they didn't want to?
19 A. No.
20
21 Q. Sorry?
22 A. No.
23
24 Q. So what happened to them after you took their names
25 and addresses?
26 A. I believe they were ejected from the festival.
27
28 MS DWYER: Q. Officer, I think you have a copy with you,
29 do you, of the record of interview that was done by a LECC
30 officer with GEN15C; is that right?
31 A. Let me just find it. Yes, I do.
32
33 Q. Have you read that interview?
34 A. No, I'm only seeing it now.
35
36 MS DWYER: Chief Commissioner might I tender at this stage
37 a record of interview that sits behind tab 8. It begins
38 with the barcode 8453547. It is 53 pages. It ends with
39 the barcode 8453599.
40
41 Q. Constable, I'm going to take you to aspects of this
42 interview.
43
44 EXHIBIT #12C RECORD OF INTERVIEW IN RELATION TO GEN15C,
45 BARCODED 8453547-8453599
46
47 MS DWYER: Q. Could you turn, please, to page 24.

1 A. Yes.

2

3 Q. About a third of the way down the page, it's put by an
4 investigator with the initials AS - I won't use the other
5 initials there - because the young has said this
6 previously:

7

8 So you've said you've waited twenty
9 possibly thirty minutes ...

10

11 And then the young person says:

12

13 I think the police just walked over ...
14 I think they walked around the corner and
15 then like they, they said like ... it
16 wasn't clothes, take off, oh it's empty
17 your pockets ... empty your pockets, put
18 everything on the floor, and then it was
19 shoes and socks.

20

21 Do you recall, when you were talking to that line of young
22 people, that any police officer told them to empty their
23 pockets and take off their shoes and socks?

24 A. I don't recall.

25

26 Q. If you turn over the page --

27

28 THE CHIEF COMMISSIONER: Q. Sorry, are you saying that
29 it might have happened and you have now forgotten it or are
30 you saying that it didn't happen, in your presence?

31 A. It might have happened. It might have happened, in my
32 presence. I don't recall.

33

34 Q. How often have you been interviewing, or present at,
35 seven young people at an area in a festival with police
36 officers commencing a search in your presence? Has that
37 happened a lot?

38 A. No, because I haven't been at a festival with young
39 people prior to this.

40

41 Q. Right. I want you to carefully consider your answer,
42 then, whether or not you remember being present when an
43 officer asked these young people to do what has been put to
44 you, and whether you actually cannot remember that
45 happening one way or another?

46 A. When - yeah, I don't recall it happening in front of
47 me.

1
2 Q. So your memory is - correct me if I am wrong here,
3 because it is important - that this did not happen in your
4 presence?
5 A. Being asked to take their socks and shoes off?
6
7 Q. Yes.
8 A. In my presence?
9
10 Q. Yes.
11 A. I don't recall someone asking them to do that in front
12 of me.
13
14 Q. Are you saying that it might be an error of memory or
15 are you saying that your memory is it did not happen?
16 A. It might be an error of my memory.
17
18 Q. I have already pointed out to you that it's a little
19 difficult to accept that you would not remember such an
20 event, if it occurred, particularly where you had never
21 been in this situation before. You mightn't remember --
22 A. It was 10 months ago, so I don't remember --
23
24 Q. I can readily accept that you might not remember all
25 the details. I can accept that you may not remember the
26 exact words. I can accept that you mightn't recall the
27 police officer who made that request. But I find it
28 extremely difficult to accept that you would not remember
29 one way or another a request being made of seven young
30 people to empty their pockets and take off their shoes.
31 A. I just don't recall hearing that, though.
32
33 Q. Do you recall seeing them emptying their pockets and
34 taking off their shoes?
35 A. Yes.
36
37 THE CHIEF COMMISSIONER: Very well.
38
39 MS DWYER: Q. I'm about to show you in the record of
40 interview where the young person recalls two females and
41 one male officer being around at that time. Do you recall
42 another female with you?
43 A. No.
44
45 Q. You recall another male officer being with you at that
46 time; is that right?
47 A. Yes, yes.

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Q. Do you recall more than one male officer being with you?

A. There were police sort of coming in after. So eventually there were more than us probably, probably multiple males.

Q. I put to you the codenames of the officers who appear on the field processing form. Do you recall any of those three being with you at the time that the young people were taking off their shoes and socks?

A. Not - well, I don't know them, so I know that there were officers with me, but I don't know if it was them or not.

Q. So you don't know whether it was any of those three that were asking the young people to take off their shoes and socks?

A. No, I don't know if it was them three.

Q. At the bottom of page 24 of the interview, the interviewer asks:

And did they ask you to do anything else at that particular point, apart from shoes and socks and turning your pockets out?

And GEN15C says:

Um name, address, phone number I think ... age and date of birth ... they asked for ID.

Does that refresh your memory that around the time that you were asking the young people for their ID and name and address, they were also being asked to remove shoes and socks?

A. I - yeah - I know I was taking their details down and they were emptying - like, they had their pockets emptied out and they also had their hats off and that.

Q. And around the same time, at least one other officer was there asking them to take off their shoes and socks; is that right?

A. I don't know if that happened before I started taking their details down or during or after. I'm not - I don't know.



1
2 THE CHIEF COMMISSIONER: Q. Were there rooms set up to
3 give people privacy for the purpose of searching?
4 A. I believe so.
5
6 Q. But at least at this stage, this all happened in
7 public view?
8 A. No, because it was --
9
10 Q. Do I understand correctly?
11 A. No, it was gated off. It was away from everyone. The
12 only people that were there was police and the security and
13 the kids.
14
15 Q. How was it gated off?
16 A. It was like a Colorbond fence gated area.
17
18 Q. I see. So they were removed from public view?
19 A. Yes.
20
21 THE CHIEF COMMISSIONER: Thank you.
22
23 MS DWYER: Q. Were there other young people within that
24 area who were being investigated separately for offences?
25 A. No. No.
26
27 Q. Do you see, if you could have a look at the field
28 processing form and keep that close to hand, you list there
29 that for 15C the property located was a mobile phone,
30 wallet and cards?
31 A. Yes.
32
33 Q. Were you responsible for seizing any property that was
34 removed from the young people, even temporarily?
35 A. I don't recall.
36
37 Q. Have you got your notebook still handy there?
38 A. Yes.
39
40 Q. Do you see on page 5 of your notebook, above the name
41 of the child 15C - so above "Young person 2", there is
42 a note in relation to young person 1, and it says that \$320
43 cash was found.
44 A. Yes.
45
46 Q. Do you recall that?
47 A. Yes.

1
2 Q. Was that cash removed from that young person?
3 A. Oh, I don't know. I have - not that I know of.
4
5 Q. Were you asked to do anything with respect to the
6 property that you were recording on the young people?
7 A. Their personal belongings? No.
8
9 Q. Yes.
10 A. No.
11
12 THE CHIEF COMMISSIONER: Q. What about the phone?
13 A. Sorry?
14
15 Q. Were you asked to do anything about the phone?
16 A. I don't recall - was this the phone for 15C?
17
18 MS DWYER: Q. The phone for any of those young people?
19 A. Not that I can recall.
20
21 Q. Do you recall asking any of the young people for the
22 PIN code for their phone?
23 A. No.
24
25 Q. Does that mean that you didn't ask the young people
26 for their PIN code?
27 A. I don't recall asking anyone for their PIN code.
28
29 Q. Do you recall looking at any of the messages on the
30 phones of those young people?
31 A. No.
32
33 Q. Do you recall any of the other officers with you doing
34 that?
35 A. No.
36
37 Q. If you have a look at page 25 of the interview again,
38 will see that about three-quarters of the way down the
39 young person is asked whether or not he recalls whether the
40 police officers were male or female around the time that he
41 was producing identification and taking shoes and socks
42 off, and he says:
43
44 ... I think it was two female, one male ...
45 not one hundred percent.
46
47 He goes on to say:

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... I remember there was um like, there was a female cop she was like heaps nice she like, I think she like, she was like oh if it was up to me like I wouldn't, like youse wouldn't be here. 'Cause I think she like, we explained everything to her, 'cause the security wouldn't let you talk.

And he goes on to agree that the female officer is asking a few more questions and he and others were trying to explain. Do you recall, first of all, saying anything like, "If it was up to me, you wouldn't be here"?

A. No.

Q. Is that something that you might say in the course of your work, if you thought that something was unfair on a young person?

A. Yeah, possibly.

Q. Do you recall --

A. I guess --

THE CHIEF COMMISSIONER: Q. Let's just go back to this: did you think that these young people were being unfairly treated?

A. No.

Q. After the shoes and socks were taken off, what happened then?

A. I believe each young person was taken around to a room and searched.

Q. And were you still in that area when they came out after the search?

A. Yes.

Q. Or had you gone about other duties?

A. I believe I was there in the area still because I was staying with the ones that weren't being searched at the time.

MS DWYER: Q. Were they searched one by one, all those young people?

A. To my understanding, yes.

Q. And when they were taken into a room one by one, you



1 understood that they were going to be stripsearched?
2 A. Well, I don't know. I assume.
3
4 Q. Did you assume, at the time, that they were going to
5 be stripsearched, because they were taken into a private
6 area that had been cordoned off?
7 A. Yes.
8
9 Q. And do you recall any discussion between yourself and
10 other officers about them being stripsearched?
11 A. No.
12
13 Q. Did you hear any of the male officers tell the young
14 people that they were going to be stripsearched?
15 A. I don't recall.
16
17 Q. You certainly knew afterwards that they had been
18 stripsearched, didn't you?
19 A. Not - I didn't certainly know. I assumed that that's
20 what was happening, but I - I don't - to the best of my
21 knowledge, it never got discussed.
22
23 Q. You filled out the field processing form after they
24 had been searched in the private area?
25 A. Oh, yeah. Yeah.
26
27 Q. And you circled the type of search as "Strip search";
28 correct?
29 A. Yes, yes.
30
31 Q. So you certainly did know that they had been
32 stripsearched in order to be able to circle that, didn't
33 you?
34 A. Yes.
35
36 Q. How did you know that they had been stripsearched?
37 A. I don't know if I asked - maybe I asked someone that
38 was doing it.
39
40 Q. Would you have asked the young person themselves or
41 asked a police officer?
42 A. Asked a police officer.
43
44 Q. Have you got that field processing form handy, please?
45 A. Yes.
46
47 Q. At the time that you filled out that field processing

1 form, was the young person in front of you?
2 A. No.
3
4 Q. Where were you when you filled it out?
5 A. I was in, like, the, like, processing area -
6
7 Q. Was the young --
8 A. -- that had laptops and that set up.
9
10 Q. What time was it that you filled out that processing
11 form?
12 A. Would have been shortly after we had them stopped.
13
14 Q. And did you rely on any other written documentation in
15 order to fill it out?
16 A. My notebook.
17
18 Q. There's nothing in your notebook, is there, about
19 there being a strip search or the reason for the type of
20 search?
21 A. Not recorded in my notebook, no.
22
23 Q. The only thing your notebook records is identification
24 details; correct?
25 A. Yes.
26
27 Q. So in order to fill out the field processing form, you
28 had to know the type of search, the reason for the type of
29 search and, in fact, the reason for the arrest or the
30 ejection of the young person; correct?
31 A. Yes.
32
33 Q. And you had to know the result of the strip search,
34 didn't you?
35 A. I - yeah, I guess, yeah.
36
37 Q. Because do you see there a box that says "Concealment
38 method, internal, yes or no, or other", and you have
39 circled the box "No"; correct?
40 A. Yes.
41
42 Q. And that's because no drugs were found on this young
43 person; correct?
44 A. Yes.
45
46 Q. So how did you come to know the information as to the
47 reason for the strip search and that no drugs had been

1 found?
2 A. The other officers.
3
4 Q. Looking at the schedule of codenames, are you able to
5 say which other officer or officers told you that
6 information?
7 A. No.
8
9 Q. Why was it that you are filling out the field
10 processing form rather than the officer with the actual
11 knowledge about why the young person was searched?
12 A. Just to assist.
13
14 Q. But you don't have that knowledge yourself, do you?
15 A. I believe I was in their company.
16
17 THE CHIEF COMMISSIONER: Q. Whose company?
18 A. The other officers.
19
20 Q. Well, you weren't in their company when the searches
21 were taking place; correct?
22 A. Yeah, but I was when I was filling them out.
23
24 THE CHIEF COMMISSIONER: I see.
25
26 MS DWYER: Q. So you see the list, don't you, of four
27 officers involved --
28
29 THE CHIEF COMMISSIONER: Q. Can we just go back a step.
30 So you are there, having had nothing to do with that strip
31 search, with the officers who are then present who actually
32 did have the strip search - was there something wrong with
33 their right hands or they couldn't use a pen? Why did you
34 need to fill in this form?
35 A. Because they were doing the event and I was just
36 helping out.
37
38 Q. From your perspective, you saw these young people,
39 I suppose one by one being taken into the place which had
40 been arranged to be available to provide privacy for strip
41 search; am I correct?
42 A. Yes.
43
44 Q. So you could watch who went in and who came out;
45 correct?
46 A. Yes.
47

1 Q. Am I correct in saying only police and, one by one,
2 these young people, went into the tent; correct?
3 A. Yes.
4
5 Q. So it follows that no mother, father, guardian or
6 other independent person went into the tents at the time of
7 any of these searches; correct?
8 A. Not that I can recall, yeah.
9
10 Q. Oh, you would remember, surely, if someone turned up
11 and said, "I've been asked to attend a search"? Come,
12 come, Constable. You would remember that, surely?
13 A. Mmm.
14
15 Q. Would you not?
16 A. I don't recall if there were people that were present
17 for it or not because it was away from where I was standing
18 with them. So I don't know if there was some.
19
20 Q. You told me that you could see who was entering or
21 leaving the tents?
22 A. Yes, I could see them while I was standing with them
23 and they were getting taken around the corner. So
24 I couldn't see around the corner. I don't even know what
25 the room looked like.
26
27 Q. Are you saying that you were not in a position to see
28 whether anyone other than police officers had access to
29 those tents?
30 A. Yes, no, I wasn't. I was just with the males while
31 they got taken and brought back.
32
33 Q. Were you ever asked to locate any person?
34 A. No.
35
36 Q. You are now aware from your reading of LEPRa of the
37 necessity for attendance of a parent, guardian or
38 independent person, aren't you?
39 A. Yes.
40
41 Q. So far as you are aware, were any attempts made to
42 locate such a person for these searches?
43 A. Not that I'm aware of.
44
45 Q. How long did the searches take, about?
46 A. A couple of minutes.
47

1 Q. So they go in, there is a couple of minutes and they
2 come out; correct?
3 A. Yes.
4
5 Q. Did you see the young people as they came out?
6 A. Yes.
7
8 Q. Did they come out alone?
9 A. No. The officers brought them back up.
10
11 Q. And not in the company of any other member of the
12 public; correct?
13 A. Yes.
14
15 Q. It follows, then, when you read LEPRa, that you would
16 have appreciated that the requirement concerning parent,
17 guardian or independent person had not been fulfilled; is
18 that correct?
19 A. Yes.
20
21 Q. What did you do about that?
22 A. Nothing - what, right now?
23
24 Q. Well, when you read LEPRa and you knew that
25 a requirement had not been satisfied, what did you do about
26 it?
27 A. That was only in the last few days, so nothing.
28
29 Q. You thought the Commission would be dealing with that
30 issue; is that right?
31 A. I don't - I don't think I understand the question.
32
33 THE CHIEF COMMISSIONER: Don't worry about it then. Yes,
34 thank you, Dr Dwyer.
35
36 MS DWYER: Q. On 23 February you didn't raise any
37 concerns with any other police officers about the absence
38 of a parent or guardian or independent person, did you?
39 A. No.
40
41 Q. And that's because you didn't understand that LEPRa
42 required that for the strip search of a young person; is
43 that right?
44 A. Yes.
45
46 Q. At page 24 of the young person's interview, he says
47 that after he had been stripsearched - this is about

1 halfway down the page - he and another young person, who
2 I won't name, told the female officer some further
3 information about what had happened outside when they were
4 taken in by the security officer. Do you recall being told
5 any further information by GEN15C after the strip search?

6 A. No.

7

8 Q. You see that halfway down that page the young person
9 says:

10

11 That's all we did. We walked up to each
12 other, shook hands, spoke and he [the
13 security officer] came over straight away.

14

15 Does that refresh your memory at all?

16 A. I'm just trying to find it. Page 24?

17

18 Q. No, page 28, I'm sorry, about halfway down the page.
19 Just take your time. It is a line that begins,
20 three-quarters of the way down:

21

22 That's all we did. We walked up to each
23 other ...

24

25 Do you see that?

26 A. Yes.

27

28 Q. So this is the young person saying that he's talking
29 to the police officer, the female police officer, who was
30 nice to him af, after he was searched, and he's explaining:

31

32 That's all we did. We walked up to each
33 other, shook hands, spoke, and he [the
34 security officer] came over straight away.

35

36 A. Yes.

37

38 Q. Then the LECC officer, with the initials AS says:

39

40 And so what was she saying to you?

41

42 That's the female police officer:

43

44 You mentioned before that she was sort of
45 almost apologetic. Was that how you'd
46 describe it?

47

1 And the young person says:

2

3 Yeah she like, I don't like, it was like
4 she didn't like agree with what was
5 happening or like, yeah.

6

7 And the young person goes on to say in the next few lines:

8

9 Yeah and but like she said, she like oh
10 like, I think she said like oh like it's
11 like not in my hands ... if it was up to me
12 like once ... youse are searched and
13 there's no drugs like I'd be sending you
14 back out there.

15

16 Do you see that in the interview?

17

A. Yes.

18

19 Q. Do you recall saying anything like that to one or more
20 of the young persons.

21

22 If it was up to me, once youse are searched
23 and there's no drugs, I'd be sending you
24 back out there?

25

26 A. I don't recall having that conversation with them.

27

28 Q. Is it something that you might have said, but you
29 don't recall.

30

A. Yeah.

31

32 Q. I think you answered "Yeah"; is that right?

33

A. Yes.

34

35 Q. In the field processing form, if you could have a look
36 at that, Constable, do you see that you have circled the
37 word "ejected" after you have recorded the property
38 located?

39

A. Yes.

40

41 Q. And that indicates, doesn't it, that you found out
42 that that young person, 15C, had been ejected from the
43 festival?

44

A. Yes.

45

46 Q. Even though he had no drugs found on him after the
47 strip search?

1 A. Yes.
2
3 Q. Did you ask your fellow officers any questions about
4 why this young person had to leave, given no drugs were
5 found?
6 A. No.
7
8 Q. Down the bottom of the form it says:
9
10 Police assessor: brief assessment.
11
12 And there's a registration number. I'm not going to read
13 that on to the record, but is that your registration
14 number?
15 A. No.
16
17 Q. Do you see that there are two boxes circled, or two
18 questions with answers circled. The first one is, "Does
19 the person complain of or have you observed any sign of
20 intoxication, pain, injury or illness?" And the word "Yes"
21 is circled.
22 A. Yes.
23
24 Q. Have you circled that?
25 A. I would say so.
26
27 Q. That question goes on to say, "If yes, explain and
28 bring to the attention of the custody manager." But do you
29 agree, there is no explanation on that form?
30 A. Yes.
31
32 Q. So why would you circle that and then not provide an
33 explanation as the form requires you to do?
34 A. I don't know.
35
36 Q. Do you now, as you sit there, recall any signs of
37 intoxication, pain, injury or illness from this young
38 person?
39 A. No. No.
40
41 Q. Do you agree with me that it would be important to
42 record what that is, if you did notice those signs?
43 A. Yes.
44
45 Q. You didn't have the young person in front of you, so
46 you wouldn't have been able to tell whether there was any
47 signs of intoxication, pain, injury or illness, would you?

1 A. No.
2
3 Q. So do you tell the Commissioner that you would have
4 relied on what another officer told you at that stage?
5 A. I was with them for a period of time. I just didn't
6 search, so --
7
8 Q. So is it the case that you could have been relying on
9 your own observations prior to the strip search?
10 A. Yes.
11
12 Q. And so do you know what you were indicating there,
13 whether there --
14 A. No.
15
16 Q. You don't know whether or not you saw intoxication,
17 pain, injury or illness?
18 A. I don't know if I - or if I was just rushing and just
19 didn't read it properly.
20
21 Q. So is it possible that you didn't observe any of those
22 things?
23 A. Yes.
24
25 THE CHIEF COMMISSIONER: Q. Had you noticed one of those
26 things before the search, surely it would have been your
27 responsibility to bring that to the attention of the
28 searching officer?
29 A. Yes.
30
31 Q. And you did not do anything of that kind?
32 A. That I can recall.
33
34 MS DWYER: Q. Were you consulted in the decision as to
35 whether or not any of these young people, 15C or the
36 others, should be ejected from the festival?
37 A. No.
38
39 Q. Did you hear any of the other officers discussing
40 that?
41 A. Not that I can remember.
42
43 Q. Constable, you, I think, gave evidence earlier that
44 you have not been involved in a music festival in the
45 policing capacity since this event; is that right?
46 A. Yes.
47

1 Q. Have you been told of any changes to that field
2 processing form?
3 A. No.
4
5 MS DWYER: I have nothing further, Chief Commissioner.
6
7 THE CHIEF COMMISSIONER: Yes, are there any questions?
8 No. Thank you.
9
10 You are free to go. I have to tell you, though, this
11 is a wide-ranging inquiry. We may need to get your
12 evidence again. Probably we won't, but we will let your
13 lawyer know if we do need to speak with you again. But
14 thank you for your assistance. You are free to go now.
15
16 <THE WITNESS WITHDREW
17
18 MS DWYER: Your Honour, there are two new faces at the Bar
19 table and I don't believe your Honour has had an
20 announcement of appearance.
21
22 THE CHIEF COMMISSIONER: Are there any further
23 appearances?
24
25 MR McGIRR JR: Commissioner, McGirr, for the record,
26 P McGirr Jr.
27
28 THE CHIEF COMMISSIONER: I thought you had got remarkably
29 younger overnight.
30
31 THE CHIEF COMMISSIONER: Very well. Thank you, Mr McGirr.
32 Thank you, Dr Dwyer.
33
34 MS DWYER: Chief Commissioner, I call GEN6.
35
36 MR McGIRR JR: Could I just mention also that Mr Simon
37 Long from my firm is here and he will be filling in for
38 a short time for me while I'm not here.
39
40 THE CHIEF COMMISSIONER: Very well. Thank you, Mr McGirr.
41
42 <OFFICER GEN6, sworn: [11.38am]
43
44 THE CHIEF COMMISSIONER: Thank you. You may be seated,
45 Sergeant.
46
47 THE WITNESS: Thank you, Chief Commissioner.

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MS DAVID: Chief Commissioner, I have been granted leave previously. David, for the record. I seek a section 75 declaration.

THE CHIEF COMMISSIONER: Yes, certainly.

I expect these are matters that have already been raised with you by your legal adviser, but I need to mention them myself.

The first is that you must answer any question that you are asked unless I tell you you don't have to, and you must produce anything you are asked to produce, again, unless I tell you you don't have to. You can object to answering a question or to producing anything, but you must nevertheless answer and must nevertheless produce what you are asked to produce.

The effect of the objection is that action cannot be taken against you in respect of those matters, or the evidence used against you, except for the purposes of any possible proceedings under the Police Act, or for perjury under the Law Enforcement Conduct Commission Act or contempt of the Commission. Do you understand that?

THE WITNESS: Yes, I do.

THE CHIEF COMMISSIONER: Or, although I'm not sure whether this might arise, the matters can be disclosed to the DPP for the purpose of those prosecutions.

Now, to obviate the necessity for you to object to each question or object to each request, I can make a declaration that has the effect of assuming that you have objected to every question and every request. Your lawyer has asked me to make that declaration. Do you wish me to do so?

THE WITNESS: Yes, please.

THE CHIEF COMMISSIONER: Very well. Under section 75 of the Act I declare that all the answers given by this witness and anything he produces are to be taken to have been answered and produced under objection.



1 <EXAMINATION BY MS DWYER:

2

3 MS DWYER: Q. Sir, you understand that for the purposes
4 of this inquiry, you are to be known as GEN6?

5 A. Yes, I do.

6

7 Q. I think in front of you there should be a schedule of
8 codenames; is that right?

9 A. Yes.

10

11 Q. When I or the Chief Commissioner ask you a question in
12 relation to any of your fellow officers or the young people
13 involved, would you mind please trying to use the
14 codenames. You have obtained the rank of sergeant; is that
15 right?

16 A. Yes.

17

18 Q. How long have you been in the police force?

19 A. For 29 years.

20

21 Q. On 23 February this year, you had a role at the Lost
22 City Music Festival; is that correct?

23 A. That is correct.

24

25 Q. What was that role?

26 A. As the drug dog commander.

27

28 Q. What does the drug dog commander do at a music
29 festival?

30 A. Do one of the briefings to all the drug dog support
31 police, which basically covers the logistics of and the
32 operation of what's about to occur. Make sure that when
33 the drug dogs are deployed, there are sufficient police to
34 actually support them, and when people are brought back in
35 through the triaging area or custody area, if there is
36 anything arising from what has been found from a search,
37 that I would sort of point them in the right direction as
38 far as the investigative path or that sort of thing.

39

40 Q. Where are you physically located for the course of the
41 festival?

42 A. Wondering around, but in the police compound.

43

44 Q. Are you within the search area at any stage during the
45 festival?

46 A. Yeah, well, that's - yes.

47

1 Q. I see. So were you primarily located within the
2 separate search area during the festival?
3 A. I would generally, for the bulk of the time, be either
4 in the external, where the corridor is where they would be
5 walking through, and in the police - in the sort of search
6 area, yes.
7
8 Q. Is it part of your role to give any instructions to
9 the officers who were conducting the searches after a drug
10 dog indication?
11 A. Only at the briefing.
12
13 Q. What time did the briefing take place for this
14 festival?
15 A. I couldn't recall specifically.
16
17 Q. Do you recall whether it was in the morning or in the
18 middle --
19 A. It was the afternoon.
20
21 Q. Are you giving that briefing to general duties police
22 as well as user-pays police?
23 A. No, only the support police that are from commands.
24 I don't actually know - they could be from different units,
25 but they are from police area commands, not --
26
27 THE CHIEF COMMISSIONER: Q. Not?
28 A. Sorry, they are just sourced from the different police
29 area commands within the region.
30
31 Q. Right. So the distinction between user-pays police or
32 ordinary police was not one that was important to you; it
33 was just whatever police officers had been designated to
34 support the drug team?
35 A. Yes, that is correct.
36
37 Q. The drug dog team, I'm sorry.
38 A. Yes.
39
40 MS DWYER: Q. Were you there for the entirety of the
41 briefings that were conducted or only for the section where
42 you walked in and did your piece?
43 A. No, I was there for the entirety.
44
45 Q. Just looking at that list of codenames, do you
46 recognise any other officers who were responsible for
47 briefings on that day?

1 A. Yes.
2
3 Q. Can you tell us the codename of those officers or
4 officer?
5 A. GEN1.
6
7 Q. Any others?
8 A. Well, I know GEN2 did a briefing, but that wasn't one
9 that I was privy to.
10
11 Q. I see. Had you worked in the capacity as the drug dog
12 commander at other music festivals prior to this one?
13 A. Yes, I have.
14
15 Q. Had you done any festivals that were under-18s
16 specifically?
17 A. Yes.
18
19 Q. How many approximately - how many music festivals,
20 first of all, and how many under-18s?
21 A. Off the top of my head, I think probably four a year,
22 over nine years.
23
24 Q. Four music festivals a year over nine years?
25 A. Yes.
26
27 Q. And how many, prior to this one, had been under-18
28 festivals?
29 A. Two. There was a couple of mixed ones, though.
30
31 Q. I see, all-ages gigs; is that right?
32 A. Yeah.
33
34 Q. Does your briefing change when you know that young
35 people under the age of 18 are going to be present at the
36 festival or did your briefing change as at February 2019?
37 A. It was mentioned, yes, it would be - that was part of
38 the briefing that I would have given that specifically
39 dealt with the fact that there was young people present.
40
41 THE CHIEF COMMISSIONER: Q. And do you recall what you
42 said?
43 A. Just that - you know, the care, the need for their
44 support people if required when interviewing, and those
45 sort of things.
46
47 MS DWYER: Q. Did you hand out any documentation as part

1 of your briefing?
2 A. No, but I --
3
4 Q. Did you --
5 A. Sorry.
6
7 Q. No, sorry. Please go on.
8 A. I referred to some documentation as part of my
9 briefing.
10
11 Q. Did you refer to a slideshow at all as part of your
12 briefing?
13 A. No.
14
15 Q. I will just ask that you be provided with tab 18.
16 This is information from the NSW Police Force detection dog
17 unit. I will just ask if this formed any part of your
18 briefing.
19 A. No, it didn't.
20
21 Q. You said earlier, then, you referred to some
22 documentation as part of your briefing. What was that
23 documentation?
24 A. It was some briefing notes specific to that operation
25 that the south-west metropolitan region provided.
26
27 Q. Do you have a copy of those briefing notes in court?
28 A. Yes, I do.
29
30 MS DWYER: Chief Commissioner, I call for those briefing
31 notes. I don't think they are in our brief.
32
33 THE CHIEF COMMISSIONER: Thank you, if you wouldn't mind
34 giving them to the court officer.
35
36 MS DWYER: Would you excuse me for a moment, Chief
37 Commissioner, I believe that they form part of another
38 document.
39
40 Chief Commissioner, they form part of what is in the
41 brief of evidence at tab 16, which is already an exhibit -
42 I'll just hand that back to the witness - exhibit 2C.
43 I was just provided by the witness with what amounts to
44 pages 27 and 28 of exhibit 2C already in evidence. The
45 barcode is 8405653 through to 8405654.
46
47 Q. Is that the only documentation that you referred to as

1 part of your briefing related to under-18s?
2 A. Yes. I made some handwritten notes on the version
3 that I used as well.
4
5 Q. I see. I beg your pardon. Was that the version you
6 just handed me?
7 A. Yeah, but I don't have the one that I made the notes
8 on.
9
10 Q. Is it still in existence somewhere?
11 A. No.
12
13 Q. You then provided in the briefing the information that
14 is set out on that two-page document you just provided?
15 A. Yes.
16
17 Q. Is that right?
18 A. That is correct.
19
20 THE CHIEF COMMISSIONER: Q. You mentioned that you added
21 some language around, I think, the care of young people and
22 support persons?
23 A. Yes.
24
25 Q. Can you tell us what you said?
26 A. Not specifically.
27
28 Q. In substance?
29 A. That if the need arose for some support people for
30 interview processes, there would be some SES personnel
31 there.
32
33 Q. And did you tell them how the SES personnel were to be
34 identified or contacted?
35 A. Well, they were - eventually they were brought into
36 the compound by me and they were wearing SES clothing.
37
38 Q. Are you aware whether they were ever called in to any
39 of these searches?
40 A. I think they were, yes.
41
42 Q. Well, there are SES officers, but there are also
43 parents and guardians, who are the first port of call?
44 A. Yes, they are.
45
46 Q. Did you remind the officers of that?
47 A. I think after the conclusion of the briefing, a youth

1 liaison officer actually mentioned that specifically as
2 well, reinforcing that point.

3

4 Q. Do you know the identity of that youth liaison
5 officer?

6 A. No, I do not.

7

8 Q. Do you know the station or --

9 A. No.

10

11 Q. -- source of that officer?

12 A. No, I don't.

13

14 Q. Who would know that? Because he wouldn't have been
15 there - he would have had to have been there officially?

16 A. Well, they - yeah, there was I think. Three or four,
17 by looking at the roster. They were there specifically for
18 that purpose of supplying specialist youth support, but
19 I don't know - I can't remember the one that I spoke to or
20 that actually spoke up.

21

22 THE CHIEF COMMISSIONER: Ms Chapman, would you please make
23 some inquiries about those officers for us?

24

25 MS CHAPMAN: Yes, certainly.

26

27 THE CHIEF COMMISSIONER: Thank you.

28

29 MS DWYER: Q. Do you agree that, in the two-page
30 document that you just handed me, which is pages 27 and 28
31 of exhibit 2C, there is nothing specifically listed there
32 about the legal requirements for a strip search of a child?

33 A. Yes, I agree with that.

34

35 Q. Did you give any specific instructions to officers in
36 your briefing about the legal requirements for the strip
37 search of a child?

38 A. No. I think the only one that did was the youth
39 liaison officer.

40

41 Q. And you were present when the youth liaison officer
42 gave those instructions?

43 A. Yes, I was.

44

45 Q. Was it a male or female youth liaison officer?

46 A. It was a male.

47

1 Q. What did he say?
2 A. Specifically that, yes, if there was a strip search to
3 occur, that a parent or guardian, at best practice, could
4 be contacted, otherwise a support person could be used.
5
6 Q. You have a clear memory of that being said at the
7 time, do you?
8 A. Yes, I do.
9
10 Q. Was that briefing filmed?
11 A. No - oh, not that I'm aware of.
12
13 Q. And did any officers other than you hand out to
14 officers any briefing notes?
15 A. I'm not quite sure whether the region disseminates
16 joining instructions - I know they disseminate joining
17 instructions to each individual participant, but I don't
18 know whether the briefing notes were disseminated to
19 everyone.
20
21 Q. They certainly weren't handed out while you were in
22 the room --
23 A. No.
24
25 Q. -- is that right? You told officers that they had to
26 fill out a processing form; is that correct?
27 A. That is correct.
28
29 Q. That is written on your two-page briefing notes that
30 you just showed?
31 A. Yes.
32
33 Q. Was that field processing form something that you
34 helped develop?
35 A. Not that I recall, no.
36
37 Q. Had you seen the field processing form used for the
38 Good Life festival prior to February 2019?
39 A. Something similar to it, yes.
40
41 Q. And you reviewed it before telling officers that they
42 should be using it in February 2019?
43 A. I knew it was in existence. I don't think there was
44 any need to review it.
45
46 Q. Were you personally aware of the need for a parent,
47 guardian or independent person to be present when the strip

1 search of a child occurred, prior to February 2019?
2 A. Prior to February '19?
3
4 Q. Yes.
5 A. Probably not that specifically.
6
7 Q. I think you said earlier you recalled hearing about
8 that in the briefing; correct?
9 A. It was corrected by one of the - the youth liaison
10 officers.
11
12 Q. What do you mean "corrected" by one of the officers?
13 A. Well, I didn't - I touched on the interviewing process
14 part of it, that the support people were there for that,
15 but I didn't touch on the searching part of it.
16
17 THE CHIEF COMMISSIONER: Q. What did you say about the
18 interviewing process?
19 A. That the SES personnel would be there, if the need
20 arose, as a support person for the interviewing process.
21
22 Q. Right. So not for the search?
23 A. Not for the search, no.
24
25 Q. And are you saying that was corrected?
26 A. Yes, that was corrected.
27
28 Q. Was that your view at the time, that you were unaware
29 that a parent, guardian or independent person was
30 necessarily there at the time of the search?
31 A. No, that wasn't my view.
32
33 Q. But it was corrected?
34 A. Yes.
35
36 Q. So it's now your understanding?
37 A. Yes, it is.
38
39 MS DWYER: Q. And you say it was corrected at the
40 briefing; is that right?
41 A. Yes.
42
43 Q. So when that was corrected, you thought to yourself,
44 "Oh, I didn't realise that"?
45 A. Well, I thought to myself that having known that the
46 SES personnel were organised for the interviewing process,
47 that they probably weren't there as a support person for

1 the searching process.

2

3 THE CHIEF COMMISSIONER: Q. You would readily understand
4 I suppose - it is fairly obvious, really - it is one thing
5 to be present when a kid is being interviewee, it is quite
6 another to be present when they are naked; do you agree?

7 A. Yes.

8

9 Q. And the kinds of person who you might permit to be
10 present at such an occurrence would need to be very
11 carefully considered; do you agree?

12 A. Yes, I do.

13

14 Q. You were unaware, I take it, of any vetting process
15 used to identify whether these particular SES officers were
16 suitable or not?

17 A. No, I'm not.

18

19 Q. Or was it your assumption that being SES volunteers,
20 they were prima facie suitable?

21 A. Yes, that is correct.

22

23 Q. On reflection, that's not enough, is it?

24 A. No.

25

26 MS DWYER: Q. Did you take part in briefing the SES
27 officers about what their role was on the day?

28 A. Yes, I did.

29

30 Q. Was that before you did your briefing for general
31 police?

32 A. No, that was after.

33

34 Q. Was that in the presence, or who was there at that
35 time?

36 A. I myself. Basically I had to - they - they turned up
37 a little bit late, so I had to pick them up from where -
38 I guess walk to where they had parked, where the parking
39 was arranged, and then escort them through the function
40 into the police compound. And that's where, on two
41 occasions, I spoke to both of them.

42

43 THE CHIEF COMMISSIONER: Q. And what was the
44 conversation?

45 A. Basically saying that they were there, as arranged, to
46 perform the role as a support person during an interviewing
47 process, and that - would they mind performing the role, if

1 required, in a searching process?
2
3 Q. Right. I take it from what you said, you didn't
4 exactly tell them this might involve them being present
5 when a young person was stripped naked?
6 A. No, I told them that it would be --
7
8 Q. A search?
9 A. And a strip search, yes, if the need arose.
10
11 Q. Did they seem shocked?
12 A. No - well, both the SES personnel worked in the
13 medical profession.
14
15 Q. I see. But as you understood it - we will ask them,
16 of course - they had not expected to have that as part of
17 their role?
18 A. No, they had not. Not that I'm aware.
19
20 Q. Right, so far as you are aware?
21 A. Yeah.
22
23 MS DWYER: Q. You said you said to them would they be
24 prepared to perform the role as an independent person
25 during a search or a strip search; is that right?
26 A. That is correct.
27
28 Q. So you said it could be a general search, it could be
29 a strip search?
30 A. Well, I said predominant - it would have been for
31 a strip search.
32
33 Q. Did you say that to them or are you thinking that?
34 A. Yes.
35
36 THE CHIEF COMMISSIONER: Q. Because it was your
37 expectation, wasn't it, that any search was likely to be
38 a strip search?
39 A. If the need arose, it would be. That's when they
40 would be required.
41
42 Q. Well, yes, if the need arose, but the fact is, if
43 following a drug dog indication, the other aspects of LEPR
44 were satisfied, it's almost certain that the young person
45 involved would be stripsearched; do you agree?
46 A. Yes. Yes, I do.
47

1 Q. I would just like to come back a bit and ask you: did
2 you discuss with them what their role would be as an
3 independent person being present at a strip search?
4 A. Yes, I did.
5
6 Q. And what did you tell them?
7 A. That they are not to participate in the search, they
8 are only there to ensure the integrity and the welfare of
9 the young person being searched and bring to anybody's
10 attention, similar to my rank or above, if there was any
11 issues with the searching process.
12
13 Q. What did they know about the searching process?
14 A. That - oh, when we got into the compound, I explained
15 where it would be, like, what would happen.
16
17 Q. Right.
18 A. Which was in the ticket booths which were the
19 designated searching pods.
20
21 Q. Let me just remind you of this: section 33(3)
22 requires a strip search of a child, who is at least 10
23 years of age but under 18, to be conducted in the presence
24 of a parent or guardian; or, if that is not acceptable, in
25 the presence of another person who is not a police officer
26 and is capable of representing the interests of the person
27 being searched, and whose presence is acceptable to the
28 person being searched. Right?
29 A. Yes.
30
31 Q. You are aware of that?
32 A. Yes.
33
34 Q. Now, the first issue, then, for a person who is called
35 in, would be, would it not, to ask for themselves whether
36 the person being searched would prefer a guardian or parent
37 to be there; don't you think?
38 A. Yes.
39
40 Q. Did you tell that to the SES officers, to ask that
41 question?
42 A. I think I may have done it the reverse - that they
43 would be required if a parent or guardian didn't want to
44 turn up.
45
46 Q. Yes. But, you see, it's one thing to accept it from
47 a police officer, but they are supposed to be independently

1 caring for the interests of the child; do you agree?
2 A. Yes.
3
4 Q. And, therefore, they had a duty to ask that question;
5 do you agree?
6 A. Yes.
7
8 Q. But you did not tell them that?
9 A. No.
10
11 Q. The next matter is whether they were acceptable to the
12 person being searched; do you agree?
13 A. Yes.
14
15 Q. That's the next matter?
16 A. Yes.
17
18 Q. Did you say to them, "You must ask them whether it's
19 okay with them that you are there to look after their
20 rights"?
21 A. I can't recall asking that question.
22
23 Q. Well, the answer is no, isn't it?
24 A. Yes.
25
26 Q. Yet it should have been asked; correct?
27 A. Yes.
28
29 Q. Let's then look at the mode of search. First of all,
30 a strip search is supposed to only go so far as is strictly
31 necessary; do you agree?
32 A. Yes.
33
34 Q. And it would be necessary for that independent person
35 to ensure that that was so; agreed?
36 A. Yes.
37
38 Q. And to ask any question of the officers in case it was
39 going further than was necessary; correct?
40 A. Yes.
41
42 Q. And one of the questions you might ask for the
43 officer, when the officer said, "Take down your
44 underpants", the independent person might say "Why"? Do
45 you agree?
46 A. Yes.
47

1 Q. And, indeed, unless it was obvious why, that would be
2 a question you would expect an independent person to ask,
3 because that's one of the reasons they are there; yes?
4 A. Yes.
5
6 Q. Because an adult, who might know their rights,
7 although very few people do, might well ask that question
8 of an officer, "Why do you want me to take off my
9 underpants?" Agreed?
10 A. Agreed.
11
12 Q. And the officer then would have to explain why;
13 agreed?
14 A. Yes.
15
16 Q. And, indeed, this is nothing new, because in their
17 COPS entry they should explain why they conducted a strip
18 search and looked at whatever it was they looked at;
19 correct?
20 A. Yes.
21
22 Q. So that's another reason that you need to inform
23 independent people of what they are supposed to be doing;
24 correct?
25 A. Yes.
26
27 Q. Now, I understand one of the reasons they are there as
28 an independent witness, is in the hope that the more gross
29 or disgraceful behaviour that might occur with no witness
30 being present is likely not to happen, as a protection for
31 the young person, because there is an independent person
32 there. That's one of the most important reasons for having
33 an independent person there?
34 A. Yes.
35
36 Q. But there is a great deal more than a search to
37 a search, and to the rights of the young person, than
38 avoiding the more gross interferences with their personal
39 integrity; correct?
40 A. Yes.
41
42 Q. One of the things that you might have to do, for
43 example, is you search their upper body first - you do it
44 in stages. You search their upper body first?
45 A. Correct.
46
47 Q. And then when you finish with that, you get them to

1 put their shirt or T-shirt on before you move to other
2 parts, if you think you need to have other parts, so they
3 are not totally naked; correct?
4 A. Yes.
5
6 Q. So you should be attempting to maintain their dignity
7 so far as it is humanly possible; correct?
8 A. Yes.
9
10 Q. And then one of the things that might be asked is,
11 just generally, the independent person may justifiably ask
12 to have a private conversation with the individual before
13 the search commences, "How are you feeling?" "Have you
14 managed to contact your parent?" "You can have a parent
15 here. Remember, they can wait if it takes some time for
16 your mum or dad to get here" - that kind of conversation is
17 probably a sensible one to have; agreed?
18 A. Yes.
19
20 Q. You didn't say to them anything about having
21 a confidential discussion, did you?
22 A. No.
23
24 Q. On reflection, do you agree with me that the kinds of
25 things that I have raised are matters that should have been
26 raised with these independent persons?
27 A. Yes, I do.
28
29 Q. Were any of those matters raised by the youth liaison
30 officer, if you didn't, to warn at least the searching
31 officers that there were things that they needed to
32 consider?
33 A. I don't think so, no. Not that I'm aware of.
34
35 Q. As you sit there, you don't recall it. And I gather
36 what you are saying is you rather think not; is that fair?
37 We will find out, because we will talk to them. I'm not
38 nailing your feet to the floor, as it were, but so far as
39 you can gather from your recollection?
40 A. Well, I can say at the briefing point, no, that was
41 not addressed. If they sought consultation on that, from
42 one of those youth liaison officers later, I don't know
43 whether it was --
44
45 Q. You don't know about those communications, if any?
46 A. No.
47

1 Q. And then after the search takes place, it wouldn't
2 surprise you if young people were distressed because it's
3 quite a confronting experience; agreed?
4 A. Agreed.
5
6 Q. Especially one where the search involves examining
7 more intimate parts of their anatomy; agreed?
8 A. Yes.
9
10 Q. It's a serious intrusion into personal integrity?
11 A. Yes.
12
13 Q. So there perhaps should be a conversation after the
14 search about how they are feeling?
15 A. Yes, there should.
16
17 Q. Another issue is ejecting kids from the festival.
18 They come from hither and yon; correct?
19 A. Yes.
20
21 Q. Many may have their own transport, if they happen to
22 drive, because they could park somewhere outside and walk
23 into the station [sic]. Many would not. Many would have
24 come just with friends on trains or buses, or their parents
25 dropped them; correct?
26 A. Yes.
27
28 Q. Their parents would expect that that's where they
29 would be, "I dropped him and the arrangement was I was
30 going to pick him up at 10 o'clock", or 11 o'clock, or
31 whenever it is these things finish; agreed?
32 A. Yes.
33
34 Q. Just to eject a kid in the middle of the evening,
35 without asking whether they had arrangements to go home,
36 who they might go home with, how they might safely get
37 home - do you agree with me, that is a distinct breach of
38 the duty of care?
39 A. Yes.
40
41 Q. So that's another matter which, if the independent
42 person doesn't consider, the searching police officer ought
43 to consider, or the ejecting officer ought to consider;
44 agreed?
45 A. Yes.
46
47 Q. Were there any instructions or guidance given in

1 relation to things like that?
2 A. I think I might have actually addressed that in the
3 briefing note.
4
5 Q. Could you just point to the passage?
6 A. It doesn't cover everything specifically, but the last
7 point of page 1.
8
9 Q. Just read it on to the record, would you?
10 A. Yes:
11
12 Duty of care. This is an U18s event. Any
13 patron found to be under the influence of
14 alcohol or drugs should be medically
15 assessed, and a parent/guardian must be
16 contacted to attend and collect their
17 child.
18
19 Q. That's when you know they are impaired, so you can't
20 let them wander around, obviously?
21 A. No.
22
23 Q. It is not quite the kind of thing that I was bringing
24 to your attention; agreed?
25 A. Agreed.
26
27 Q. Following this conversation, do you think that you
28 might reassess what instructions and advice you give when
29 you undertake this task in the future?
30 A. Yes, I do.
31
32 THE CHIEF COMMISSIONER: Thank you, Dr Dwyer.
33
34 MS DWYER: Q. Just in relation to the two-page document
35 that you read from, did you prepare that yourself or were
36 you relying on something someone else prepared?
37 A. The region planning office prepared it.
38
39 Q. Page 2 of that document indicates - I won't read the
40 whole second page, but it goes through various --
41
42 THE CHIEF COMMISSIONER: Ms Chapman, is this
43 a confidential document from the NSW Police point of view?
44
45 MS CHAPMAN: Chief Commissioner I am not sure whether
46 I have the document, because my document that I thought was
47 exhibit 2C is in fact only 10 pages and I heard counsel

1 assisting refer to the fact that it was considerably
2 longer.
3
4 THE CHIEF COMMISSIONER: Do we have a spare copy for
5 Ms Chapman?
6
7 MS DWYER: Yes. It is coming her way.
8
9 THE CHIEF COMMISSIONER: It strikes me as being not
10 particularly informative in the relevant sense.
11
12 MS DWYER: Pages 27 and 28.
13
14 THE CHIEF COMMISSIONER: Q. Sergeant, I will ask you, is
15 there any matter of particular confidence in this document
16 that might be a worry if it were publicly --
17 A. Not that I'm aware of, no.
18
19 THE CHIEF COMMISSIONER: No. I will just ask Ms Chapman.
20
21 MS CHAPMAN: I'm just looking now, Commissioner.
22
23 THE CHIEF COMMISSIONER: Yes, take your time.
24
25 Can we leave it for now? Would you just think about
26 it and we will return to it when the officer has finished
27 his evidence rather than having him sit here.
28
29 MS CHAPMAN: Thank you, Chief Commissioner.
30
31 MS DWYER: Q. You see on page 2, that second
32 page provides for the situation where the young person has
33 been searched and no drugs or alcohol are located; do you
34 agree?
35 A. Yes.
36
37 Q. The second-bottom paragraph is this:
38
39 If you are of the opinion that the person
40 has no drugs on their person, is not drug
41 or alcohol affected, and has possibly had
42 a false indication, you may choose to allow
43 this person to enter the event, once you
44 have justified this decision ...
45
46 But, of course, that implies that police may choose not to
47 allow that person to re-enter the event; correct?

1 A. Yes.
2
3 Q. So that young person can then be ejected in those
4 circumstances?
5 A. Yes.
6
7 Q. And this document doesn't set out any provision for
8 the welfare of a young person in those circumstances, does
9 it?
10
11 MS CHAPMAN: Chief Commissioner, could I just assist by
12 making this point: I'm not sure that this is in relation
13 to an ejection. I think this is about entry in the first
14 instance, which might be slightly different.
15
16 THE CHIEF COMMISSIONER: All right. Well, taking that
17 qualification on board, I think the question still applies.
18 Anyway, it speaks for itself.
19
20 MS DWYER: I reject the objection and I press the
21 question. That page begins, "All persons indicated upon by
22 a drug detection dog but with nil find during a search are
23 to be considered for ejection."
24
25 THE CHIEF COMMISSIONER: Yes, I know, but that might be
26 when first attempting to enter. That's Ms Chapman's point.
27 But it doesn't matter, the point is the same and, frankly,
28 we are just as capable of reading the document as the
29 officer.
30
31 MS DWYER: May it please the Commission. Your Honour, it
32 refers specifically to a search, so in my respectful
33 submission, I would be submitting that it is --
34
35 THE CHIEF COMMISSIONER: I see the point.
36
37 MS DWYER: Q. Sergeant, did you, in the course of your
38 briefing, give any direction about taking contemporaneous
39 notes about the reasons for the search?
40 A. Not specifically, just that notes needed to be taken.
41
42 THE CHIEF COMMISSIONER: Q. I take it it was no part of
43 your function to review the COPS entries made by officers
44 following searches to see whether they were adequate or
45 not?
46 A. No, it wasn't.
47

1 MS DWYER: Q. You have told the Chief Commissioner about
2 providing a briefing to SES officers. Was there any
3 briefing provided to Red Frogs volunteers by yourself?
4 A. No.
5
6 Q. And that's because it wasn't your view that they were
7 going to be used in any way to assist young persons during
8 searches or interviews?
9 A. At that stage, no.
10
11 Q. At any stage during the course of the festival did Red
12 Frogs volunteers come to your attention as being used?
13 A. For interviews, yes.
14
15 Q. For interviews. I see. But not for searches?
16 A. Not that I'm aware of, no.
17
18 Q. Are you aware of how many times a Red Frogs volunteer
19 was used for an interview?
20 A. No.
21
22 Q. How did that come to your attention, that they were,
23 on at least one occasion, used?
24 A. I actually sought one on one occasion because the two
25 SES people were tied up with other interviews.
26
27 Q. And how old was the young person in those
28 circumstances being interviewed?
29 A. I can't remember.
30
31 Q. Did you actively seek out --
32
33 THE CHIEF COMMISSIONER: Q. What about the Red Frogs
34 volunteer?
35 A. I --
36
37 Q. Adult or child?
38 A. Pardon?
39
40 Q. Adult or young person?
41 A. Oh, it was an - well, it was clearly over 18. I don't
42 know how old. A male.
43
44 MS DWYER: Q. Did it come to your attention at any stage
45 during the day that in fact a Red Frogs volunteer had been
46 used as a support person during a strip search?
47 A. No.

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Q. Did you actually physically go and get an SES officer for the purpose of being an independent person during a strip search for a young person?

A. No.

Q. When you were --

THE CHIEF COMMISSIONER: Q. So do I correctly understand that the two SES volunteers were, as it were, stationed in the search area or in that part? So an officer could say, "I'm about to search a young person. Would you mind coming and helping"; is that the way it was done?

A. That is correct, yes. And they weren't - oh, they were actually wearing their drill clothes as opposed to the toned-down polo shirt. They were actually wearing SES operational clothing.

Q. So they were identifiable?

A. Yes.

MS DWYER: Q. Do you recall whether they had any other duties during that day other than being available for police during searching of young people?

THE CHIEF COMMISSIONER: Q. And interviews.

MS DWYER: Q. And interviews?

A. When I was speaking to them, I think they both had come from work. I have an email saying that one was running late because he got tied up at work.

Q. But did they have any other duties during the course of the festival, other than assisting police with interviews or searches?

A. To - as SES people at the festival?

Q. Yes, yes.

A. No.

Q. Did you understand that they were also attending as patrons, so that they would be going out from time to time to enjoy the music?

A. It was an under-18s event.

Q. Yes.

A. They were clearly --

1
2 THE CHIEF COMMISSIONER: Q. Too old?
3 A. Yes. They were clearly identifiable as adults.
4
5 Q. So they wouldn't have been allowed to mingle amongst
6 the crowd for that purpose?
7 A. Not at all. They --
8
9 Q. Do you know what they were tied up doing, then, when
10 you went to look for them for the purpose of assisting in
11 an interview?
12 A. Sitting in the interviewing - sitting at another table
13 in the --
14
15 Q. They were doing an interview?
16 A. Yes.
17
18 Q. During the course of the briefing, when you learnt
19 through the youth liaison officer that in fact an
20 independent person or parent or guardian was required for
21 a strip search, did it occur to you that that information
22 should be recorded somewhere - that is, who the parent,
23 guardian or independent person was?
24 A. Did it occur to me personally?
25
26 Q. Yes.
27 A. Of course it did.
28
29 Q. Well, where did you think that was going to be
30 recorded?
31 A. It would be in each individual officer's notebooks
32 like you do when you are dealing with other young people.
33
34 Q. Why did you assume that?
35 A. Why would I assume that?
36
37 Q. Yes.
38 A. Because that's generally what happens. Well, that's
39 what should happen, that you actually make contemporaneous
40 notes of things that you - actions you have done. Whether
41 they have done that or not is - I have no control over.
42
43 Q. But you would agree that it would be an important part
44 of properly recording that you fulfilled your legal
45 obligations to record that you used a parent, guardian or
46 independent person, and who that person was?
47 A. Of course I do.

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Q. Did you --

THE CHIEF COMMISSIONER: Q. And you probably now know that LEPRAs require, if you don't have such a person - that is, a guardian, parent - you must make, the legislation requires it, a record to be made as to that fact and why. Are you aware of that?

A. Yes, I am.

Q. So it's not only a police process; if it doesn't happen, it has to be recorded --

A. Yes.

Q. -- in accordance with the Act. But, anyway, police procedure is, if you have an interaction where you are exercising powers and there is an identified independent person there for the purpose of seeing that the power is properly exercised, it almost goes without saying, of course, you must note the identity of that individual; is that what you are telling me?

A. Yes.

Q. That's, if I may say so in the vernacular, a no-brainer. Of course, you do?

A. I would say that you have to take those - make those notes.

Q. Which include that information?

A. Of course it does.

MS DWYER: Q. Did you take part in any debrief after 23 February as to what processes worked well during the festival and what didn't?

A. No.

Q. Was it brought to your attention at any time prior to today, or prior to the commencement of this inquiry, that there were 30 strip searches of young people carried out?

THE CHIEF COMMISSIONER: At least.

MS DWYER: Q. At least during the festival?

A. Yes, it was.

Q. How did you find out that information?

A. The region commander told me.



1
2 Q. And did the region commander tell you at some
3 stage soon after the festival?
4
5 THE CHIEF COMMISSIONER: Q. Sorry, in what context did
6 he tell you that?
7 A. We had to have a - at some stage, we had a meeting
8 with the region commander about this specific thing.
9
10 Q. Yes, but why? What prompted the meeting? What was --
11 A. I presume - I don't know. He just - two months ago we
12 had a meeting with him.
13
14 Q. But you're guessing it's because of this impending
15 inquiry?
16 A. Yes.
17
18 MS DWYER: Q. So during --
19
20 THE CHIEF COMMISSIONER: Q. All I'm trying to
21 distinguish is whether this was just an exchange of
22 information as a matter of course, or it was because of
23 some specific reason, and I think you are saying, "No, it
24 wasn't a matter of course that I would have done this, but
25 I happen to have been told this because we had
26 a conversation out of the ordinary course"; is that put
27 correctly?
28 A. Yes.
29
30 MS DWYER: Q. And there was a meeting between yourself
31 and the region commander and other officers; is that right?
32 A. That is correct.
33
34 Q. Were they other senior officers who were involved?
35 A. Yes.
36
37 Q. During the course of that meeting, it was discussed
38 that there were at least 30 strip searches of children; is
39 that right?
40 A. Yes.
41
42 Q. Was, in fact, that the number that was given to you -
43 30?
44 A. I can't recall.
45
46 THE CHIEF COMMISSIONER: Q. But a number was given?
47 A. A number was given, yes.

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MS DWYER: Q. And it was around that figure; is that right?

A. I can't answer. I don't know.

Q. Was it told to you at that meeting that of those 30, or whatever estimate was given, only a small number created a record that a parent, guardian or independent support person had been there?

A. Yes, it was.

Q. So if I told you that the figures that we have are that only five out of the 30 had a record of any parent, guardian or independent support person, that's similar to the information you have been told previously?

A. Yes.

THE CHIEF COMMISSIONER: Q. Was there any discussion about the potential significance of that information?

A. Just that the records are lacking. The recording mechanism is lacking.

MS DWYER: Q. Was it raised as a possibility that, in fact, it wasn't just the recording --

THE CHIEF COMMISSIONER: Q. It is more than that the recording is lacking - what it meant was that officers who had a duty to record those facts didn't fulfil their duty; isn't that what follows?

A. Yes.

MS DWYER: Q. Was it raised as a possibility that it wasn't just the records, but in fact there wasn't a parent, guardian or independent person there for those 25 or so searches?

A. No, I can't recall that.

Q. Did you think to yourself that is a distinct possibility, if there is no record of it, maybe they weren't there?

A. No.

Q. Was the regional commander concerned at all, first of all, that there was no record of an independent person being there, or parent or guardian, in that many cases?

MS CHAPMAN: Chief Commissioner, it might not be obvious

1 whether the chief commander was concerned. He might not
2 have shared that information.
3
4 THE CHIEF COMMISSIONER: Well, the officer is perfectly
5 capable of saying he doesn't know.
6
7 MS CHAPMAN: May it please the Commissioner.
8
9 MS DWYER: Q. Did you it appear to you that the regional
10 commander was concerned by those statistics?
11
12 THE CHIEF COMMISSIONER: Let's not worry about what went
13 on in his head.
14
15 Q. Did he express concern?
16 A. He may have been concerned that, you know, the
17 reporting wasn't done correctly - the recording.
18
19 MR COFFEY: Could I raise a point in relation to this
20 topic. Learned counsel assisting put a proposition to this
21 witness in relation to the number of independent persons
22 that have been recorded, that there are only five events.
23 I just want to clarify, if it is events, I'm not sure that
24 that figure is actually correct. I think the COPS events
25 indicate that there are a number of more independent
26 officers involved in the searches and I would ask that be
27 corrected.
28
29 THE CHIEF COMMISSIONER: Independent persons?
30
31 MR COFFEY: Yes, independent persons involved in searches.
32 There are more than five.
33
34 THE CHIEF COMMISSIONER: Perhaps, during the break, would
35 you bring that to Ms Raice's attention, those other ones,
36 thank you?
37
38 MR COFFEY: Yes, Chief Commissioner.
39
40 THE CHIEF COMMISSIONER: I think we had fairly carefully
41 analysed them, but it is always possible to make a mistake.
42
43 MS DWYER: Q. When you attended that briefing with the
44 regional commander, were you given any documentation?
45 A. Yes.
46
47 Q. Did that documentation set out what the problems had

1 been with the searching?
2 A. Yes.
3
4 Q. Did that documentation include the fact that
5 a particular number did not record that a parent, guardian
6 or independent person had been present?
7 A. I can't remember if the number - the number, I can't
8 remember if it was mentioned.
9
10 THE CHIEF COMMISSIONER: Q. Whose documentation was it?
11 Who had prepared the documentation? Was it the commander
12 or some analyst or - do you recall?
13 A. I think somebody attached to the Office of General
14 Counsel, from memory.
15
16 THE CHIEF COMMISSIONER: Ms Chapman, can we have that
17 documentation, please?
18
19 MS CHAPMAN: I will take some instructions, yes.
20
21 MS DWYER: Q. Was it raised during that --
22
23 THE CHIEF COMMISSIONER: Sorry.
24
25 Q. Was anybody from the Office of General Counsel present
26 at this meeting?
27 A. No.
28
29 Q. I might say, I don't want anyone to be
30 misunderstanding about the propriety of this meeting.
31 I think I know what it was about. The Commission issued
32 a summons requiring certain information and it was
33 understood - although I think it was directed to the
34 Commissioner of Police, I can't now recall - that the
35 officer who provided the information would naturally have
36 to consult with other persons. So you shouldn't assume
37 that there is anything critical implied about this meeting.
38 A. Yes.
39
40 MR COFFEY: It may be only of limited assistance, but
41 I think this information arises out of my former client and
42 the 54 notice that was issued to him requiring the
43 gathering of that information.
44
45 THE CHIEF COMMISSIONER: Yes, that's my suspicion.
46 I mean, there is no need to go into the processes. They
47 are not secret.

1
2 MR COFFEY: No.
3
4 THE CHIEF COMMISSIONER: I just didn't want anyone in the
5 room to think that underlying Dr Dwyer's questions were
6 some assumptions about inappropriate discussions or
7 meetings.
8
9 MR COFFEY: No, rightly. The Commissioner requested
10 information.
11
12 THE CHIEF COMMISSIONER: Yes, exactly. And it is obvious
13 that one officer - it was very wide-ranging, and I think we
14 indicated that we understood that other officers would have
15 to be consulted to provide the information.
16
17 MR COFFEY: Yes, that's so, Commissioner.
18
19 MS DWYER: Q. Do you have the schedule of codenames in
20 front of you there, sergeant?
21 A. Yes.
22
23 Q. Do you see Officer GEN1?
24 A. Yes.
25
26 Q. Was that the regional commander who conducted that
27 briefing?
28 A. No.
29
30 Q. During the course of that briefing, was there any
31 discussion of a change to the field processing form that
32 was used?
33 A. Yes.
34
35 Q. And had there been changes already made at that stage,
36 to the field processing form?
37 A. From what I'm led to believe, yes.
38
39 Q. Was it raised that the field processing form should
40 specifically have a place where you record the name of the
41 parent, guardian or independent person?
42 A. I don't know whether that was mentioned specifically,
43 but I know that GEN2 said that there was actually
44 amendments to the form that would actually allow for
45 a correct recording.
46
47 Q. Is the name of the regional commander who conducted

1 the briefing on that schedule of codenames?
2 A. No.
3
4 Q. Sergeant, in the course of that briefing, was there
5 any issue raised about the possible lack of knowledge by
6 searching police of the LEPR requirements when it came to
7 stripsearching children?
8 A. Yes.
9
10 Q. So some concern was expressed by the general commander
11 about the lack of knowledge of LEPR requirements in those
12 circumstances?
13 A. It was mentioned, yes.
14
15 Q. Was there a proposal to do something about that?
16 A. I think, again, GEN2 had mentioned now they have
17 changed the procedures for the briefings, that things would
18 be addressed specifically per event.
19
20 Q. So there was a mention that the briefings would be
21 amended so as to address that lack of knowledge?
22 A. Yes.
23
24 Q. Anything else?
25 A. Not that I can recall, no.
26
27 THE CHIEF COMMISSIONER: Q. I must confess, though, to
28 some chagrin that it was thought necessary - as it
29 undoubtedly is, by the way, I agree - to have the LEPR
30 details set out in the briefing so that you know that the
31 police who are attending these festivals are aware of the
32 legal obligations. They should already be aware of all
33 this, shouldn't they?
34 A. I agree, yes.
35
36 MS DWYER: Q. Sergeant, did you conduct any searches
37 yourself on that day?
38 A. No.
39
40 Q. And is it your intention to continue in that role as
41 the drug dog commander at other music festivals?
42 A. I no longer hold the position that I was at during
43 that role. I have changed locations.
44
45 Q. Have you changed locations so that you will be
46 involved in music festivals, but --
47 A. No. No, I don't anticipate, in my current role, that

1 I will be involved in a music festival.
2
3 Q. I see. Just finally in relation to the briefing, was
4 it specifically raised that particular young people had, in
5 fact, been searched in the absence of a parent, guardian or
6 independent person?
7 A. At that - which briefing?
8
9 Q. At the briefing with the general commander that you
10 just told us about?
11 A. Yes, it was.
12
13 MS DWYER: Nothing further.
14
15 THE CHIEF COMMISSIONER: Thank you. Are there any
16 questions?
17
18 MS DAVID: Yes, thank you, Chief Commissioner.
19
20 <EXAMINATION BY MS DAVID:
21
22 MS DAVID: Q. Sergeant, you were asked some questions
23 about the SES officers that were involved. How did you
24 first come to learn about the involvement of those SES
25 officers?
26 A. I was copied in to an email from GEN4.
27
28 Q. Do you have copies of those emails with you?
29 A. Yes, I do.
30
31 MS DAVID: Perhaps it may assist to have those put into --
32
33 THE CHIEF COMMISSIONER: Thank you. That's a good idea.
34 We will exhibit them in due course.
35
36 MS DAVID: Thank you, Chief Commissioner.
37
38 Q. Earlier in your evidence you used the phrase
39 "eventually someone brought the SES persons in" - could you
40 just perhaps explain what you meant that occurred on that
41 occasion?
42 A. Sorry?
43
44 Q. You mentioned earlier in your evidence that eventually
45 the SES persons were brought in. When you said
46 "eventually", what happened on that occasion?
47 A. Brought in to --

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Q. Into the custody area?

A. That was only, from when I - when they had telephoned me that they had arrived, I had walked through the venue to go collect them and escort them through, because you had to go basically right through the middle of the venue to get in there. So from one end to the other, and then I --

THE CHIEF COMMISSIONER: Q. So they needed to be brought in?

A. They needed to be escorted through because they were adults in an under-18 function.

MS DAVID: Q. You made some reference also - you were asked some questions about the record-keeping which clearly was not adequate on this occasion. What could you say, from your experience, would assist in ensuring that on the COPS entries and other forms, that the officers completing those properly articulate the reasons for having conducted the search? What would you recommend?

A. My personal opinion is that I think they need to get rid of the self-generating narrative.

Q. What do you mean by that?

A. If you complete a person search event, a narrative with the brief details self-generates and verifies and doesn't go through the quality review process. If you had to type something, which --

THE CHIEF COMMISSIONER: Q. You would have to think about what you are typing is what you are saying?

A. Correct, yes.

MS DAVID: Q. You were asked also some questions, or just in relation to strip searches, just to be clear, did you anticipate that some of these young people would be stripped naked?

A. Not all of them but I would imagine some of them, yes.

Q. When conducting searches, just to be clear, what do you anticipate would be the typical format of conducting a strip search, as such?

A. The search of the clothing, and systematic from the head down.

Q. And would that typically require, or would you agree that that would require, perhaps, removal of some clothing

1 at different times, the mode of removal of the clothing?

2 A. Yes, I do.

3

4 Q. In terms of training as to how to conduct the
5 stripsearching, what has been your own experience and also
6 what you understand is the typical way, method, in which
7 the officers are taught how to conduct the strip search?

8 A. Well, I'm aware that during the weapons training
9 component of our mandatory training, searching is actually
10 addressed during that; and also during - in an operational
11 policing role at a police station, that there would be
12 regular what are called six-minute intensive training
13 presentations done on parades, at least there has been done
14 at the last three locations I have done, that address
15 pertinent subjects that are relevant for our organisation.

16

17 Q. And in terms of any guidelines, what guidelines would
18 you refer to, if you were looking, or that are available,
19 to assist the officers to understand how to conduct the
20 actual search?

21 A. Being an online world at the moment, there are
22 resources that are available whether in the car, on the
23 MDTs, on MobiPols, which is the hand-held devices, or even
24 on the intranet have sufficient - you know, you just Google
25 search it or you do an internet search on what you need or
26 require and it will pop up with a relevant answer.

27

28 Q. Do you have something yourself, though, guidelines
29 that you have referred to? Do you have something with you
30 in relation to what you would refer to?

31 A. Yes, I do.

32

33 Q. Could you please produce that? Could you identify
34 what that document is?

35 A. It is a NSW Police Force Person Search Manual.

36

37 Q. In that, does that set out the particular procedure
38 for searching?

39

40 THE CHIEF COMMISSIONER: It is a new document. It has
41 only been around since June, and it gives very little
42 actual guidance. Indeed, some parts of it are
43 controversial.

44

45 Q. It doesn't actually give a policeman who is about to
46 search someone in the field much help, does it?

47 A. No, it doesn't.

1
2 MS DAVID: Q. Prior to that coming into existence, what
3 was available?
4 A. There would be other manuals, but also the legislation
5 itself.
6
7 Q. Just in terms of when you are in your role as the
8 commander, in the role that you had on that particular
9 occasion, what is your overarching concern at the concerts?
10 A. That no-one dies.
11
12 Q. Why do you say that?
13 A. It just goes - even though it is in the media at the
14 moment, but it has been an issue that, one of our things,
15 apart from being drug dog support, would be to check on the
16 welfare of the patrons, adults and young persons, because
17 it is one of those things. Specifically, it is the only
18 operational activity I actually undertake that I, you know,
19 plan that perhaps - worst case - somebody is going to die,
20 as opposed to other policing sort of reactions.
21
22 THE CHIEF COMMISSIONER: Q. I suppose it is also an
23 overarching responsibility to ensure, to the extent that
24 you are able to, that the law is obeyed?
25 A. Yes.
26
27 THE CHIEF COMMISSIONER: Thank you, Mr Willis.
28
29 <EXAMINATION BY MR WILLIS:
30
31 MR WILLIS: Q. Sergeant, I just wanted to ask you about
32 the Red Frogs personnel. I think you said in your evidence
33 that you actually sought out a Red Frogs volunteer on one
34 occasion yourself; is that right?
35 A. Yes.
36
37 Q. Was that for the purposes of an interview or a search?
38 A. For an interview.
39
40 Q. For an interview?
41 A. Yes.
42
43 Q. I think you did that, as I understand your evidence,
44 because the two SES people were tied up doing something
45 else at the time; is that right?
46 A. That is correct.
47

1 Q. So, so far as you were concerned, then, I take it that
2 the SES personnel, so far as support persons were
3 concerned, were the preferred option, but that it was
4 acceptable to use a Red Frogs volunteer, at least in your
5 case, for the purposes of an interview; is that right?

6 A. Yes.

7
8 Q. Were there Red Frogs volunteers generally in the
9 custody area?

10 A. No, although the Red Frogs' area is right next door to
11 ours.

12
13 THE CHIEF COMMISSIONER: Q. They have a tent or
14 something, I think?

15 A. They had a compound, yes.

16
17 Q. Because they are generally concerned with welfare,
18 aren't they, so that kids who find themselves sick or drunk
19 or drug affected or something like that have somewhere safe
20 to go, and they give advice and help to kids who may be
21 upset or emotional - they have a range of welfare which
22 they try to provide to kids in these festivals; does that
23 fairly describe their role?

24 A. Well, they do adult festivals as well, but they
25 predominantly --

26
27 Q. Quite. But this happened to be a kids' festival?

28 A. This would be predominantly their role, is the welfare
29 of the young people at the festival.

30
31 MR WILLIS: Q. The Red Frogs compound, then, is that
32 where you went to get a person to come and assist?

33 A. Yes.

34
35 Q. Did you see --

36
37 THE CHIEF COMMISSIONER: Q. A fact I understand - but
38 correct me if I am wrong, you may not know about this - but
39 I think I read that organisations such as Red Frogs are not
40 altogether eager to be used to assist in these
41 circumstances, because they perceive that kids or outsiders
42 might see them as assisting the police rather than being
43 truly independent. Are you aware of that or anything like
44 that? That's not to say they won't but there is a degree
45 of reluctance?

46 A. I would agree with that, yes.

47

1 MR WILLIS: Q. Just finally, Sergeant, you said that the
2 SES volunteers arrived late. Do you know whether the use
3 of Red Frogs volunteers in the custody area was related in
4 any way to the late arrival of the SES personnel?
5 A. I'm unaware of that.
6
7 MR WILLIS: Thank you.
8
9 THE CHIEF COMMISSIONER: Ms Chapman, do you have any
10 questions?
11
12 MS CHAPMAN: Only a few, Chief Commissioner.
13
14 <EXAMINATION BY MS CHAPMAN:
15
16 MS CHAPMAN: Q. In relation to the statistics that were
17 discussed with the region commander, can I just ask you if
18 these statistics sound right: at this festival there were
19 125 person searches?
20 A. I don't think I can answer that.
21
22 Q. And I want to suggest to you - tell me if you can
23 recall or not - that there were 31 strip searches. Do you
24 have any recollection of that being the figure discussed?
25 A. No.
26
27 Q. Was it discussed that only 13 of the 31 strip searches
28 were as a result of indications by drug dogs?
29 A. No, I can't.
30
31 Q. And, finally, that there were 64 person searches
32 resulting from drug dog indications? Does that sound right
33 or you just can't remember?
34 A. My role as the drug dog commander there, I'm not privy
35 to the disseminations of the - after the - I don't get
36 copied in to what the end results were. So whatever goes
37 to the other commanders and all that sort of stuff I'm
38 unaware of.
39
40 Q. All right.
41 A. So the numbers that you mentioned I don't think were
42 specifically mentioned there, only just that there was
43 probably some stuff lacking.
44
45 Q. And, finally, are you aware that in relation to all
46 music festivals between 1 January 2019 and September 2019,
47 only 20 per cent of the persons who had a drug dog

1 indication proceeded to a strip search? Do you --
2 A. I'm unaware of that statistic.
3
4 MS CHAPMAN: Thank you.
5
6 MS DWYER: Chief Commissioner, a question arises as
7 a result of the emails that we have been handed.
8
9 THE CHIEF COMMISSIONER: Why don't you ask it.
10
11 MS DWYER: Would it assist if I provided you,
12 Chief Commissioner, with a copy of that?
13
14 THE CHIEF COMMISSIONER: Yes, thank you.
15
16 <EXAMINATION BY MS DWYER:
17
18 MS DWYER: Q. I just want to check that we understand
19 these correctly, Sergeant. Is it the case that you were
20 copied in on an email sent on 15 February 2019 by officer
21 GEN4, if you look at the codenames?
22 A. Yes.
23
24 Q. And that was an email to SES which reads:
25
26 Good morning. Regarding my telephone
27 conversation with [a particular person]
28 this morning, I would like to request for
29 2 - 3 of your finest staff to assist police
30 at the Goodlife under 18s music festival.
31 Their duties would be to act as support
32 people for those under 18 that police need
33 to interview for a criminal offence. Given
34 that they will be under 18, we need to have
35 someone that is not a police officer
36 present when interviewing.
37
38 It goes on to give details. That's an email you were
39 copied into?
40 A. Yes.
41
42 Q. That makes no mention at all of having SES officers
43 there as support persons for a strip search of a child?
44 A. It makes no mention of that whatsoever.
45
46 Q. So you were given the indication, clearly, that the
47 SES were there to support the interviewing of under-18s?

1 A. Yes.
2
3 Q. Because that's what it spelled out in the email?
4 A. Yes.
5
6 Q. Then the reply to that is to confirm that that person
7 from the SES is waiting for two persons to get back to him?
8 A. Yes.
9
10 Q. And he asks the questions of GEN4:
11
12 Do you require them [the SES officers] to
13 have working with children checks? Most of
14 my team do I'm just not 100% sure and will
15 have to ask them.
16
17 You are copied in to that email?
18 A. Yes.
19
20 Q. And the reply back from GEN4 was:
21
22 Many thanks ...
23 If they have those checks, fine, they will
24 be with police officers so it isn't a deal
25 breaker.
26
27 Correct?
28 A. Yes.
29
30 Q.
31 If you can only get 2 that's also okay.
32
33 So that person, GEN4, is of higher rank than yourself; is
34 that right?
35 A. Yes.
36
37 Q. So you were left with the impression that it didn't
38 matter whether or not they had working with children checks
39 at all, from the SES?
40 A. That was my impression, yes.
41
42 Q. According to someone of senior rank to you?
43 A. Yes.
44
45 THE CHIEF COMMISSIONER: But it was only for the purpose
46 of interviews at all events.
47

1 MS DWYER: Yes.
2
3 THE CHIEF COMMISSIONER: Yes. Very well. Those emails
4 will be exhibit 14C.
5
6 MS DWYER: Chief Commissioner I think that was 13C, I'm
7 reminded from my left, just because we were not going to --
8
9 THE CHIEF COMMISSIONER: No, 13C I've assigned to the drug
10 unit operational procedures.
11
12 MS DWYER: May it please the Commission. I have no
13 further questions.
14
15 THE CHIEF COMMISSIONER: Nothing arising out of that?
16
17 MS DWYER: No, thank you, chief.
18
19 THE CHIEF COMMISSIONER: Very well. We will adjourn until
20 2 o'clock.
21
22 EXHIBIT #13C NSW DETECTION DOGS DOG UNIT DOCUMENTS
23 BARCODED 8405693-8405722
24
25 EXHIBIT #14C EMAILS BETWEEN GEN4 AND SES BARCODED
26 7603225-7603228
27
28 <THE WITNESS WITHDREW
29
30 LUNCHEON ADJOURNMENT
31
32 MS DWYER: Just before we start with the next witness,
33 Chief Commissioner, can I clarify something with respect to
34 numbers that is of likely interest to the Commission.
35
36 THE CHIEF COMMISSIONER: Yes.
37
38 MS DWYER: Yesterday I think I put on the record that, to
39 the best of our calculations, there were 30 strip searches,
40 and that was what we were in fact initially informed by the
41 NSW Police were the numbers, and in only five of the
42 records could we see that there was an independent person,
43 parent or guardian.
44
45 I've since been informed that there are in fact
46 31 strip searches, and I believe that Mr Coffey stands by
47 those statistics, and that in six of the 31 searches there

1 is a parent, guardian or independent person present. It is
2 possible that one of those strip searches is a double-up,
3 but, in my respectful submission, the original statistics
4 quoted are pretty similar - 30 and only five or 31 and only
5 six.

6
7 THE CHIEF COMMISSIONER: Very well. Yes. Call your next
8 witness.

9
10 MS GLEESON: May it please the Commission, I seek
11 authorisation to appear for the next witness who
12 I understand to be GEN7. My name's Gleeson.

13
14 THE CHIEF COMMISSIONER: Yes, certainly, Ms Gleeson.

15
16 MS DWYER: I call GEN7.

17
18 <OFFICER GEN7, sworn: [2.09pm]

19
20 THE CHIEF COMMISSIONER: You may be seated, thank you.
21 There are some things I should mention to you at the
22 outset, although no doubt you have already been told them
23 by your legal adviser.

24
25 The first is that you must answer all questions that
26 you are asked unless I tell you you don't have to, and you
27 must produce anything you are asked to produce, again,
28 unless I tell you you don't have to. You may object to
29 giving answers to some questions and you may object to
30 producing something that you have been asked to produce,
31 but you must nevertheless answer and you must nevertheless
32 produce.

33
34 The effect of the objection is that the information
35 that you divulge cannot be used against you in any other
36 proceedings, except proceedings taken against you under the
37 Police Act or proceedings under the Law Enforcement Conduct
38 Commission Act for either perjury or contempt. Do you
39 understand?

40
41 THE WITNESS: I do, Commissioner.

42
43 THE CHIEF COMMISSIONER: I can make a declaration that all
44 your answers are to be taken to have been given under
45 objection and anything which you produce is to be taken to
46 have been produced under objection. Do you wish me to make
47 such a declaration?

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THE WITNESS: Yes, Commissioner, I do.

THE CHIEF COMMISSIONER: Very well. Pursuant to section 75 of the Act, I declare that all the answers given by this witness or anything that he produces is to be taken to be provided under objection.

<EXAMINATION BY MS DWYER:

MS DWYER: Q. Sir, you understand that in these proceedings you are to be known by the codename GEN7?

A. Yes.

Q. I hope that you have a list in front of you there which is a schedule of codenames with other colleagues in the police force who have codenames; do you see that?

A. Yes, I do.

Q. You will see that the bottom three are the names of young people who have also been given codenames?

A. Yes.

Q. Can I ask that you use them when I ask you about another particular person who you may recall?

A. Certainly.

Q. You I think have attained the rank of detective sergeant; is that right?

A. That's correct.

Q. That was your rank as at February 2019?

A. Yes.

Q. On 23 February 2019, is it the case that you had a role to play at the Lost City under-18s music festival?

A. Yes, I did.

Q. What was your role there?

A. I was rostered to work user-charges duties just for crowd control at the music festival.

Q. Did you say "user-charges" duties?

A. User pays, additional to my regular duties, extra money on top of my normal role in the police.

Q. Had you ever performed a role as user pays at a music

1 festival prior to that time?
2 A. Many times, yes.
3
4 Q. How many? More than 10?
5 A. More than 10.
6
7 Q. Had you performed a role at music festivals which
8 required you to search patrons?
9 A. Yes.
10
11 Q. Had you performed that role at a music festival for
12 under-18s prior to --
13 A. No.
14
15 Q. Had you performed the role at a music festival which
16 was an all-ages gig?
17 A. Yes.
18
19 Q. So had you, prior to February 2019, been involved in a
20 general search of a patron under the age of 18?
21 A. Yes.
22
23 Q. And had you been involved in a strip search of
24 a patron under the age of 18?
25 A. Yes.
26
27 Q. On 23 February 2019, you anticipated that it might be
28 the case that you would be involved in a strip search of
29 a child under the age of 18?
30 A. Yes.
31
32 Q. Did you attend a briefing on that day?
33 A. I did.
34
35 Q. Looking down at the schedule of codenames, are you
36 aware who was the officer or officers involved in that
37 briefing?
38 A. It was Officer GEN1 and GEN2.
39
40 Q. Do you recall a briefing given by Officer GEN6?
41 A. No.
42
43 Q. During the course of the briefing by Officer GEN1 or
44 GEN2, did they cover the issue of the LEPRAs requirements
45 when stripsearching children?
46 A. I can't recall the details of the briefing.
47

1 Q. As at February this year, were you familiar --
2
3 THE CHIEF COMMISSIONER: Q. Were you present at any
4 briefing where youth liaison officers gave information
5 about their functions and how to deal with young people?
6 A. I can't recall.
7
8 Q. Are you saying it didn't happen or are you saying you
9 may have a gap in your memory?
10 A. Certainly could have happened, Commissioner. I just
11 can't recall on that specific occasion.
12
13 Q. In relation to the all-ages festivals that you
14 attended before this one, were you ever told or were you
15 ever present at a meeting with youth liaison officers in
16 relation to how to deal with young people?
17 A. Yes, I can recall youth liaison officers being present
18 during a briefing, but not specifically being addressed by
19 the youth liaison officers.
20
21 MS DWYER: Q. As at February 2019, were you familiar
22 with the requirements in LEPRa for strip searches
23 generally?
24 A. Yes.
25
26 Q. And the requirements when you were stripsearching
27 a child specifically?
28 A. Yes.
29
30 Q. Do you recall being told anything during the course of
31 the briefing that was a surprise to you in terms of the
32 LEPRa requirements?
33 A. No.
34
35 Q. Do you say to the Commission that you were well aware
36 of what your obligations were when you were stripsearching
37 children?
38 A. Yes.
39
40 Q. When you were present on 23 February 2019?
41 A. Yes.
42
43 Q. Were you provided with any documentation as part of
44 the briefing?
45 A. I can't specifically recall, but speaking generally,
46 on the other user-pay shifts that I work, there would have
47 been a briefing sheet with basic tasking information, and

1 often those briefing sheets will have some ready reckoner
2 information to do with police powers and such, but
3 generally it will just be who you're working with, what
4 area you are supposed to focus on and what your taskings
5 are. I can't recall specifically for this festival.
6

7 Q. Specifically here you don't recall being given a ready
8 reckoner in relation to police powers, do you?

9 A. I can't recall specifically for this event.
10

11 Q. You were familiar then, were you, with the fact that
12 a strip search of a child required that they first be
13 offered their parent or guardian to be present?

14 A. Yes.
15

16 Q. And if they weren't available, then an independent
17 person had to be present?

18 A. Yes.
19

20 Q. Unless there were exceptional circumstances, which you
21 would have to record --

22 A. Yes, that's right.
23

24 Q. -- the reason for; is that correct?

25 A. Yes.
26

27 Q. Were you referred during the course of the briefing to
28 the use of the field processing form?

29 A. Yes.
30

31 Q. Were you told that on every strip search or other
32 search that was done, the field processing form would have
33 to be completed?

34 A. I was told the form would have to be completed for
35 every interaction, which would include searches and
36 ejections.
37

38 Q. You said a couple of questions ago that you knew that
39 when you were stripsearching a child they had to be in the
40 presence of their parent, guardian or independent person,
41 absent exceptional circumstances?

42 A. Yes.
43

44 Q. You knew that you had to record, then, who the
45 independent person, parent or guardian was who came along -
46 yes?

47 A. Yes.

1
2 Q. Where would you record that? Where did you think you
3 would record it as at February 2019?
4 A. In the first instance, that would have been recorded
5 in a police notebook, and in the case of this festival, it
6 would have also gone on to the form that was filled in.
7
8 Q. That is the field processing form?
9 A. Yes.
10
11 Q. And would it eventually be required to be entered into
12 the COPS event?
13 A. Yes.
14
15 Q. So you clearly understood that, as at 23 February, you
16 would have to record that information in somewhere,
17 including your notebook, the field processing form and the
18 COPS entry; correct?
19 A. Yes. Mmm-hmm.
20
21 Q. Was that spelt out at all during the briefing?
22 A. I can't recall it being spelt out specifically, but
23 I would say to that it's incumbent upon me to know that
24 without having to have it spelt out to me by the people
25 running the briefing.
26
27 Q. On previous occasions when you've been at an all-ages
28 gig and been involved in the strip search of a child, have
29 you had an experience of them not wanting their parent or
30 guardian?
31 A. Sorry, can you just ask again?
32
33 Q. Certainly. You gave evidence earlier that you had
34 been involved in the strip search of a person under the age
35 of 18; correct?
36 A. Yes.
37
38 Q. And that was in the music festival environment?
39 A. No.
40
41 Q. I see. During the course of the briefing, was any
42 mention made as to who was available as an independent
43 person if a child did not want their parent or guardian?
44 A. I can't recall that information.
45
46 Q. Do you recall asking for that information at any stage
47 during the 23 February event?

1 A. No, I didn't ask.
2
3 Q. Do you recall knowing that information at all during
4 the course of the event?
5 A. No.
6
7 Q. Do you recall being involved at all in the search of
8 a person under the age of 18 --
9 A. Yes.
10
11 Q. -- on 23 February? You do?
12 A. Yes.
13
14 Q. And that was a strip search?
15 A. No.
16
17 Q. Do you recall how many young people under the age of
18 18 you searched on 23 February?
19 A. I do, within a range. I recall an incident where
20 I assisted other police. On that occasion I searched -
21 there's two young people that I can remember searching, but
22 there possibly could have been a third.
23
24 Q. If you have a look down at the schedule of codenames,
25 do the names of the two young people appear on there?
26 A. The name of GEN15C is familiar, but only from a COPS
27 event I read since receiving a summons to come here today.
28
29 Q. I see. So you have refreshed your memory from the
30 COPS event?
31 A. Yes, I have.
32
33 Q. Which concerned a group of young people, seven or so
34 young people; is that right?
35 A. That's right - perhaps nine, I think.
36
37 Q. I'll just identify that COPS event.
38 A. If I could just clarify, though, I recognise the name.
39 I'm not certain whether that is one of the young people
40 that I searched or not.
41
42 Q. Certainly. But can I show you first exhibit 8C. I'm
43 showing the witness the document with the barcode 8453420.
44 Do you see there, officer, that there is a POI who is
45 a security officer, and then young persons 1 to 8 are
46 listed?
47 A. Yes.

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Q. In fact, GEN15C is specifically listed there as young person 3, YP3?

A. Yes.

Q. You have read that COPS event; is that right?

A. Yes, I have.

Q. When you read that COPS event, did it refresh your memory as to the incident you had been involved in?

A. I already had a memory of the incident, but the names, yes. One name in particular did refresh my memory about the incident.

Q. Which young person was it, without using the name?

A. That's YP7 from the event.

Q. So, just going back to the music festival itself, where were you stationed for the majority of the festival?

A. I was tasked with patrolling the carnival and food area, which was at the back, away from all of the stages.

Q. Do you recall the hours of your shift?

A. It is in my notebook that you'll have. I believe it was maybe 3pm until 11pm, or something like that.

Q. You said that you were tasked with patrolling a particular area?

A. Yes.

Q. Did you also spend any time in the designated search area for the police?

A. Only a short time when I dealt with two people that were ejected.

Q. Are those two people listed on the COPS entry?

A. No. It is a different incident.

Q. Did you spend any time in the search area as a result of the young persons listed on the COPS entry that you were just shown?

A. No, not in the search area. These young people were dealt with in a separate area of the festival, behind some temporary fencing, a fair way away from the designated searching area.

Q. Were you involved in the general search with respect

1 to any of those young persons listed on the COPS entry?
2 A. Yes, I was.
3
4 Q. Which young persons, just using their YP?
5 A. Certainly YP7, and then one or two others - names
6 I cannot recall.
7
8 Q. Were you involved in the general search of YP3,
9 GEN15C?
10 A. I can't recall.
11
12 Q. So it's possible you were involved?
13 A. It is possible, yes.
14
15 Q. I will refresh your memory shortly from his interview.
16 Were you involved in the strip search of any of those young
17 people listed?
18 A. No, only general search.
19
20 Q. Do you know who was involved - which officers were
21 involved in the strip search of any of those young persons
22 listed?
23 A. No.
24
25 Q. I will take you back to the incident, then. Is it the
26 case that you recall a particular security officer drawing
27 the attention of police to those young people?
28 A. My knowledge of the incident with the security guard
29 is only based on this COPS event and what I was told after
30 the fact. I wasn't involved in that matter at all.
31
32 Q. How did you come to be involved in a general search of
33 YP7 and possibly any of the other young persons listed?
34 A. I was in my tasked area. We had communications, as in
35 radios. I heard - bear with me, sorry. I heard
36 Officer GEN8 call over the radio for either officer GEN1 or
37 GEN2 to come to his location.
38
39 I should also note, of all of the names on this list,
40 the only officer that I knew prior to this day was
41 Officer GEN8. To hear Officer GEN8 calling for GEN1 or
42 GEN2, I remember saying to my offsider that something must
43 have happened that requires a more considerable approach
44 than just whatever two police could deal with on their own.
45
46 Q. Was that because officers GEN1 and GEN2 were of
47 a senior rank, a detective superintendent and an inspector?

1 A. Yes, GEN1 and GEN2 were the bosses. For somebody at
2 the rank of GEN8 to call for the bosses, I knew that there
3 was something happening that I could possibly have assisted
4 with. So --
5
6 Q. And what did you do then?
7 A. I went to where they were.
8
9 Q. Do you recall roughly what time that was?
10 A. It was still daylight, early in the festival, from
11 mid-afternoon into - sorry, afternoon into early evening.
12
13 Q. So some time prior to 5pm, does that accord with your
14 memory?
15 A. From the COPS event in front of me, it was just after
16 5, yes.
17
18 Q. You are looking at the COPS event where the time/date
19 is 5.10pm. That indicates, doesn't it, a time that the
20 COPS event was created, rather than the time the incident
21 happened?
22 A. No. No, the COPS event would have been created - if
23 that day, it would have been much later, or it would have
24 been created days later, possibly. That's when the
25 incident occurred.
26
27 Q. Did you create the COPS event?
28 A. No, I did not.
29
30 Q. So when you proceeded to where they were, I think you
31 said, where was that?
32 A. Between the area that I was tasked in, the carnival
33 area, and the - where there was a smaller stage inside of
34 a marquee, there was a number of, I guess, facility tents
35 as part of the venue that were off limits to the general
36 public. It was all behind an amount of cyclone fencing.
37 There were security guards stationed on a few gate points
38 and we went through into the back and that's where - it was
39 kind of a loading dock area for an adjacent building.
40
41 Q. Was there a general search area created within that
42 particular position?
43 A. Not specifically, but there was - it was quite
44 secluded, the area, and there were a lot of areas where the
45 people could be taken that was well out of sight of
46 everybody.
47

1 Q. So within that --
2
3 THE CHIEF COMMISSIONER: Q. Just one moment. Can we
4 just go back to the COPS entry. You have read it?
5 A. I have.
6
7 Q. It's impossible to tell from the COPS entry which
8 police were involved in any of this activity.
9 A. Commissioner, this --
10
11 Q. Your name is mentioned.
12 A. Yes.
13
14 Q. But that is only in relation to POI9, I think, that
15 is. If you have a look at page 8453422, do you see you
16 have at 23/2/2019, 17:10, and then a reference of someone
17 who lives at Kingsford?
18 A. Yes.
19
20 Q. But no details, other than their address?
21 A. Yes.
22
23 Q. So that has your name?
24 A. No, Commissioner. That's not my name.
25
26 MS DWYER: That's GEN8, Commissioner.
27
28 THE CHIEF COMMISSIONER: I beg your pardon. You are quite
29 right. Yes.
30
31 Q. So if we could just go back, then, looking at this
32 COPS entry does not tell you the police who were involved
33 in these searches, does it?
34 A. It actually does, Commissioner. If you go back to
35 that page that you just directed me to, ending in 22, there
36 is information there - it is a little convoluted, I know,
37 but it says that there was a search conducted, there is the
38 reason, there is additional comments, and then it says "by
39 officer", then there is a registered number and then there
40 is the name of GEN8.
41
42 Q. So that suggests, does it, that all the young persons,
43 listed 1 to 9, were all searched by the same officer?
44 A. Commissioner, that's what it suggests, but I can tell
45 you it's not accurate because I know that I did search two,
46 potentially three of those young persons.
47

1 Q. How would this COPS entry come about?
2 A. Whoever's created it has just inserted the wrong data
3 at the point where --
4
5 Q. No, no, hasn't inserted the wrong data; has inserted
6 no data, except for one name.
7 A. The --
8
9 Q. How many officers were involved?
10 A. In this incident or the entire operation?
11
12 Q. No, no, in this particular incident? How many
13 officers?
14 A. I'm not sure. At least - there were at least five or
15 six police there when I was there.
16
17 Q. And one is mentioned.
18 A. If I can just explain, Commissioner, it's probably
19 that that officer created the event. I can't speak for
20 what that officer did at --
21
22 Q. Well, if he created it, we know perfectly well what he
23 did not do, which was to notify the names of all the
24 persons who conducted these searches. Now, just forgive
25 me, unless I've got something wrong, but is it not
26 record-keeping 101 that where there is a police exercise of
27 a power, the police exercising the power must be identified
28 in the COPS report?
29 A. Correct.
30
31 Q. Correct?
32 A. Yes.
33
34 Q. And you know that from the time you were
35 a probationary constable?
36 A. Correct.
37
38 Q. Do you know personally the officers who were involved
39 in this?
40 A. No. As I stated earlier, only personally do I know
41 Officer GEN8.
42
43 Q. So you can't help us about who the other officers are?
44 A. I cannot. But I can - if I can just clarify, when you
45 create that incident on the system, it defaults to
46 whoever's creating it. That's probably a flaw in the
47 system. Officer GEN8 needed to manually change the name

1 from his own to mine on a couple of those occasions, and he
2 didn't do that, or that hasn't happened.

3

4 Q. I understand that the system could be better, but this
5 is not rocket science. Do you agree with me that this is
6 absolutely fundamental to the maintenance of proper
7 records; do you agree?

8 A. I agree.

9

10 Q. Complaints could be made against searchers, senior
11 officers don't know who performed it; correct?

12 A. Correct.

13

14 Q. So they can't do their management exercise?

15 A. Correct.

16

17 Q. Their responsibilities?

18 A. Mmm-hmm.

19

20 Q. There's an oversight body, namely this, who doesn't
21 know; correct?

22 A. Yes, mmm-hmm.

23

24 Q. A complainant might wish to sue. They don't know.
25 I must say, I just find it baffling. And what is more, as
26 I understand it, COPS records have to be seen by
27 supervising officers, or is this a self-verifying entry?

28 A. I believe it may be self-verifying.

29

30 MS CHAPMAN: Chief Commissioner I am sorry to interrupt.
31 If it is of assistance, I just noticed that exhibit 7C -
32 I appreciate the point you are making, Chief Commissioner,
33 in relation to the COPS event, however, there are four
34 names, together with the police assessor, being perhaps the
35 fifth officer involved, with a number at the bottom of
36 exhibit 7C, being the field processing form.

37

38 THE CHIEF COMMISSIONER: Yes. But we do not know whether
39 they were the searching officers. We know one was, but it
40 doesn't state whether they are the searching officers.
41 That just says they are arresting/escorting police.

42

43 MS CHAPMAN: Yes, it is not clear.

44

45 THE CHIEF COMMISSIONER: Not clear? I'm afraid that is
46 a distinct understatement.

47

1 MR COFFEY: Chief Commissioner, could I just raise
2 something, I don't have a copy of that COPS event and the
3 point very much that your Honour is making there is
4 actually another field that this witness hasn't given
5 evidence about that I'm not sure if the Commission has
6 access to. I wonder if I might be able to have access to
7 the document to see if it is there and point it out?

8
9 MS DWYER: Could I ask my learned friend to provide the
10 entirety of this document?

11
12 MR COFFEY: I don't have that document; I'm just saying
13 that I could probably assist.

14
15 THE CHIEF COMMISSIONER: We were provided this document by
16 police, so, frankly, if it is incomplete - do you know
17 anything about this being incomplete?

18
19 MS CHAPMAN: We're just going to check now.

20
21 My instructing solicitor is just indicating to me that
22 because of the way that the system operates, and there are
23 back fields, it's possible - we don't know whether the
24 entire document has been produced, but may I check?

25
26 MR COFFEY: Chief Commissioner, it appears that the
27 document that I have spoken to your investigator about is
28 a summary version of the document. I have not been
29 involved in what has been produced to the Commission about
30 that. I have indicated there is another field that may or
31 may not have been completed by the officer who created the
32 COPS event. I understand the investigator is going to have
33 a look at that and bring it to me and I can attempt to
34 assist and indicate if it is there.

35
36 THE CHIEF COMMISSIONER: Very well. At all events, it is
37 not this officer's document.

38
39 MS DWYER: Q. I will just ask the officer this: you
40 looked at the COPS event to prepare for your evidence; is
41 that right?

42 A. Yes.

43
44 Q. Did you look at it on the computer or --

45 A. On the computer.

46
47 Q. So you interrogated the entirety of the COPS event; is

1 that right?
2 A. Yes, I did.
3
4 Q. When you looked at that COPS event, did it have any
5 indication as to who the searching officer was as, apart
6 from GEN8, who was listed?
7 A. No. It only has GEN8 listed as the searching officer,
8 and I checked every single incident, because I knew that
9 I had performed at least two of those searches and I wanted
10 to refresh my memory as to which of those searches I had
11 conducted.
12
13 Q. So you read it and you thought, "Well, this is wrong,
14 because I conducted two of those searches"?
15 A. It seems to me that the way the system has been
16 designed is that the police officer exercising the power is
17 assumed to be the one creating the event, but that's not
18 always the case. It defaults to the details of that
19 officer creating the event as being the one exercising the
20 power.
21
22 THE CHIEF COMMISSIONER: Q. But it follows from that,
23 therefore, if that is the system, then you have to have
24 a different event for each search?
25 A. A different incident, yes.
26
27 Q. Because each one is a separate incident, each one is
28 a separate exercise of the power?
29 A. It is the different incident within each event.
30
31 Q. So I can understand that that would then give you the
32 searching officer, although it should also give you the
33 name of any other officer who was present, or if there was
34 any independent witness, the name and identification of any
35 independent witness. But that would be done search by
36 search. But what we have here is a collective search with
37 only one officer being mentioned, who no doubt did do one
38 of the searches, but which one we don't know. Now, you did
39 two of the searches?
40 A. Possibly three, Commissioner.
41
42 Q. Possibly three?
43 A. I can't recall.
44
45 Q. And do I understand you to say they were not
46 strip searches?
47 A. That's correct.

1
2 Q. You were present when the nine young people were, as
3 it were, rounded up, or you were only present when they had
4 already been brought to the area that you have described?
5 A. Yes, that's correct.
6
7 Q. How would you - what's the short name for that area?
8 A. There wasn't really a name. It was just a quiet area
9 away from the public. They had been corralled in that
10 space.
11
12 Q. And what happened there?
13 A. There were police recording details of the young
14 people. They had been sort of roughly separated. There
15 was a number of security guards there.
16
17 Q. Were they standing, sitting?
18 A. Sitting. From memory, they had their property sitting
19 in front of them, phones and wallets and what-not. They
20 were - yes, there was discussions happening between the
21 bosses and GEN8, and I stayed back out of the way just
22 waiting to see if I could be of assistance, and that's when
23 GEN8 asked me if I could help out with searching a couple
24 of these guys and explained the situation to me.
25
26 Q. Where did you take them to to search them?
27 A. A distance of maybe 30 metres away. There was
28 a number of shipping containers from memory, a lot of bins.
29 It was kind of a loading dock area, as I said earlier.
30 There were plenty of sort of secret little nooks and
31 corners that I could take them to.
32
33 Q. And did you do this alone or with another officer?
34 A. I - the young people that I took, I took them one at
35 a time from that big group area. My partner and I took
36 them. My partner was female.
37
38 Q. Would you note here your partner's name, please?
39 A. I can't assist, Commissioner. My partner's name is
40 not on the list.
41
42 Q. And you cannot now recall?
43 A. I can't recall her name, I'm sorry.
44
45 Q. All right. Well, so much for that. By the time you
46 took the two that you have spoken about, had they removed
47 their shoes and socks?

1 A. I can't recall if they had. I know that at some point
2 they did remove their shoes and socks, but if my memory is
3 correct, I - that was probably at my request during their
4 search. But this was --
5
6 Q. But you are not sure whether it happened or had
7 already happened?
8 A. I can't recall, I'm sorry. And this was one at
9 a time, too. I didn't take the two together. They were
10 taken --
11
12 Q. And you took - you conducted a general search?
13 A. Yes.
14
15 Q. Essentially what they call a pat-down search?
16 A. Yes.
17
18 Q. Looked at their pockets?
19 A. Yes. Less a pat-down. I don't recall even putting
20 hands on them. It would have been --
21
22 Q. Just "Open your pockets"?
23 A. -- "Open your pockets", you know. Yeah, just, "What's
24 in your pockets? Take everything out", things like that.
25
26 Q. Did they have mobile phones? Because they would have
27 taken their property with them, I assume?
28 A. I think - yes, they did. They took their property
29 which consisted of wallets, phones.
30
31 Q. Did you examine the phones?
32 A. No. I remember taking ID from their wallets, handing
33 it to my partner so she could record names. For some
34 reason it stuck in my memory that the IDs were all high
35 school identification cards, not proper --
36
37 Q. Licences?
38 A. RMS licences.
39
40 Q. What happened, then, after you had searched them?
41 A. Once they were finished, I just took them back to the
42 collective group and that was the end of my involvement in
43 the matter.
44
45 Q. What, you walked away or --
46 A. Yes.
47

1 Q. So you don't know whether, for example, they were
2 searched again?
3 A. I don't know.
4
5 Q. And you don't know, for example, whether they were
6 stripsearched or not?
7 A. I have no idea. I may have been involved in --
8
9 Q. But I take it it is implicit in what you said that you
10 found no drugs?
11 A. Correct. I may have been involved in walking them out
12 of - upon their ejection, but I can't specifically recall.
13 But I know I'm mentioned as an escorting --
14
15 Q. Presumably you reported to some officer?
16 A. Yes.
17
18 Q. "Yes, I've searched them. Nothing", or something like
19 that?
20 A. Yes.
21
22 Q. Is the name of that officer on that list?
23 A. Yes, Officer GEN8. It was GEN8's operation.
24 Everything goes to GEN8. So I told him what I needed to
25 tell him, and then that was all I had to do.
26
27 Q. You, of course, had to be satisfied yourself that it
28 was appropriate to conduct a search. How did you do that?
29 A. Based upon what GEN8 had told me about the
30 circumstances that brought those young people --
31
32 Q. What had he told you?
33 A. Basically what it says in the COPS event, that there
34 was an incident where a security guard or an employee of
35 the security company had unfortunately taken it upon
36 himself to conduct a purchase of drugs with one of these
37 young people.
38
39 Q. Yes, I understand. But it's one thing to take it from
40 one; it's quite another to finish up searching nine. How
41 were you satisfied - how did you develop a reasonable
42 suspicion that the two persons whom you searched were in
43 some way involved in a drug transaction?
44 A. GEN8 explained to me his observations that all of the
45 young people were in concert, in his opinion, and based on
46 what he told me, I agreed with him.
47

1 Q. What do you mean, in concert, sorry?
2 A. There was --
3
4 Q. What did he tell you, so far as you can now recall?
5 A. I will struggle to recall in great detail what he told
6 me, but there had been a transaction between the security
7 guard and one young person. The security guard had
8 reported to GEN8 that he had witnessed the money from that
9 transaction handed to another young person. Yet another
10 young person then approached the original young person that
11 took the money. That young person handed something to the
12 young person that had taken the money and then that was
13 handed on to the security guard.
14
15 Q. That's not altogether what the COPS report says,
16 because the COPS report quite clearly implicates only two
17 of the group, but assuming there was a third --
18 A. Mmm-hmm.
19
20 Q. -- you didn't know whether your two were one or two of
21 those first three, or six others who had not done anything,
22 so far as anything had been reported, in relation to the
23 transaction, except possibly being witnesses?
24 A. Possibly, yeah. I can't comment at this late stage.
25
26 Q. I'm just finding it difficult to see - I can
27 understand those three that you mentioned, assuming there
28 were three, we don't have to trouble ourselves with that
29 detail. I can understand how that might well lead to
30 a reasonable suspicion, and you are entitled to act on the
31 basis of what the security officer says, I think. But that
32 left six, apparently, although present, apparently not
33 involved?
34 A. Further to what I've just explained as well, once they
35 were corralled in that area, GEN8 also told me that
36 a couple of pills had been discarded on the ground in the
37 vicinity of all of these young people.
38
39 Q. That doesn't tell you very much, does it?
40 A. Well, it told me at the time that one of them
41 discarded some further pills.
42
43 Q. Quite. But that's the real difficulty, isn't it? If
44 you've got one of six, how do you select the one to search?
45 I think you are saying, "Well, you search them all"?
46 A. That's what I'm saying.
47

1 THE COMMISSIONER: Very well. Yes, go on, Ms Dwyer.
2
3 MS DWYER: Q. In relation to the young persons that you
4 searched --
5
6 THE CHIEF COMMISSIONER: Q. However -I'd just like to
7 come back to one other matter - I think it is implicit in
8 what you say that there was certainly not sufficient
9 evidence, so far as you were aware, that would lead you to
10 stripsearch anyone?
11 A. Commissioner, I didn't stripsearch anybody.
12
13 Q. No, I know you didn't, but that's not the question I'm
14 asking.
15 A. Yes.
16
17 Q. What I'm asking you is, from your point of view, there
18 was no basis upon which a strip search could be justified?
19 A. That's correct, and that's why I didn't stripsearch.
20
21 Q. At least of those two that you were talking about?
22 A. Yes.
23
24 Q. You might be able to justify a strip search of the
25 three that you have identified. That's a different
26 question.
27 A. Mmm-hmm.
28
29 Q. But as to the others, merely that they were in the
30 vicinity of two pills found on the ground, that could not
31 justify a strip search; do you agree - without more?
32 A. Without more, I would agree. And that's why I formed
33 that opinion and chose not to stripsearch on the day.
34
35 MS DWYER: Q. In relation to your general search, you
36 had to form a suspicion on reasonable grounds that the
37 person might be in possession of drugs; correct?
38 A. Yes.
39
40 Q. You had to make a record of what the basis was for
41 your reasonable suspicion?
42 A. Yes.
43
44 Q. Where did you do that?
45 A. I didn't make the record.
46
47 Q. Why not?

1 A. My partner made the record.
2
3 Q. Who was - oh, I see.
4 A. And the record was then added to the COPS system.
5
6 Q. So when you say your "partner", your female partner;
7 correct?
8 A. Yes.
9
10 Q. So she was present when you did the pat-down searches
11 of both of these persons?
12 A. She was present in that she was in the vicinity that
13 I was in, but she wasn't within eyesight of me and the
14 young persons.
15
16 Q. How are you aware that she made a record of the
17 search?
18 A. I saw that she was writing in her notebook when
19 I handed her those licences as identification.
20
21 Q. Have you read her notebook to refresh your memory?
22 A. No, I haven't.
23
24 Q. How is it that you recall the names of the young
25 persons that you were involved in searching?
26 A. There is only one name I recall, and I - I don't know
27 if it's --
28
29 Q. That was a name that was familiar to --
30 A. It was familiar to me. I wouldn't want to say much
31 more than that.
32
33 Q. No, okay. The surname was familiar to you, not the
34 first name; is that fair?
35 A. Correct, yeah.
36
37 THE CHIEF COMMISSIONER: Ms Chapman, could you make
38 inquiries, please, about the identification of that
39 additional officer, or is it already known to us? I don't
40 think we do have it.
41
42 MS CHAPMAN: I'm not sure. I will make inquiries.
43
44 THE CHIEF COMMISSIONER: Thank you.
45
46 MS DWYER: Q. I will just show you a copy of this
47 roster. This has a particular barcode number,

1 Commissioner. I'm just getting that for you. Could you
2 just have a look at that. If you take it from me it is
3 a roster of some officers who were involved on
4 23 February - could you run your eye down the surnames and
5 see if there is any that you recall?

6 A. I know it might seem odd, but honestly, I work quite
7 a few of these extra shifts. I always work with different
8 police.

9

10 Q. You don't recall any of those names?

11 A. I just can't recall. I don't work in the same area as
12 these police. I'd never met most of them before

13

14 EXHIBIT #15C ROSTER BARCODED 8457437

15

16 MS DWYER: When we get a barcode number I will give that
17 to you, Chief Commissioner.

18

19 Q. I think you said earlier that in relation to the notes
20 that your female colleague made in her notebook, they made
21 their way into the COPS entry; is that right?

22 A. Well, I assume that they would have been handed on to
23 the officer in charge, being GEN8, or he may have taken
24 those details again himself.

25

26 Q. But you have made that assumption because the details
27 of the young people are recorded; correct?

28 A. Yes.

29

30 Q. But there is no record in the COPS entry as to the
31 basis for your general search of the two persons, is there?

32 A. Yes, there is.

33

34 Q. Whereabouts?

35 A. There is a record for every one of the searches.
36 I can't specify which was my search. But if you look on -
37 starting from barcode 8453422, that is basically
38 a screenshot of how the incident is recorded in the system.

39

40 Q. But that just records the name of GEN8 as the
41 searching officer?

42 A. Yes.

43

44 Q. And the primary reason is given as the "suspected
45 possession of illegal drug"?

46 A. Yes.

47

1 Q. Correct?
2 A. Is that what you asked?
3
4 Q. Yes. And that's just generically repeated for every
5 single one of those young people, isn't it?
6 A. There are other options, but that's the option that
7 the author has chosen for that event.
8
9 Q. That's a drop-down menu, is it?
10 A. Yes.
11
12 Q. So the "suspected possession of illegal drug" doesn't
13 tell you anything about why you suspected the young person
14 to possess the drug, does it?
15 A. Yes, there's additional comments there but there's
16 a limited amount of characters that you can add in, but
17 there has been something added.
18
19 Q. I see. So what is added there, apart from with
20 respect to one young person, who is not GEN15C, what is
21 recorded there is "Suspected possession of illegal drugs.
22 Additional comment: in company of person selling drugs".
23 A. I see, "Drugs purchased by security officer", "Sold
24 drugs", "In company of person selling drugs", and so on,
25 yes. That's what it says.
26
27 Q. That's based on the information you got from GEN8;
28 correct?
29 A. Yes, but that - what's written there is not by my
30 hand. I didn't write any of that. That's just what has
31 gone into that event down the track somewhere.
32
33 Q. Do you anticipate that in your female colleague's
34 notebook there will be any additional comments that provide
35 an explanation for why this specific young person that you
36 searched was searched out of the group?
37 A. I don't know.
38
39 Q. When you had a look at the electronic version of the
40 COPS entries, did you see any reference to a strip search
41 having been conducted?
42 A. Yes.
43
44 Q. That is somewhere within the electronic record; is
45 that right?
46 A. Yes. It's - it looks very much like that page ending
47 22, but there is an extra - it says "Search type", and

1 I think the three options are "General, frisk and strip".
2 Every one says "strip".

3
4 Q. Officer, do you have a print-out of what you looked
5 at?

6 A. I don't.

7
8 Q. You would agree, it's different to the version that is
9 in front of you?

10 A. It is, yes. I've not seen this format before. It
11 looks like it has been sanitised. The copy that I looked
12 at is different to that and it does have more information.

13
14 THE CHIEF COMMISSIONER: What possible reason could there
15 be for providing this Commission with a so-called sanitised
16 COPS report? It doesn't make sense.

17
18 MS CHAPMAN: I'm not sure that's what has occurred, Chief
19 Commissioner. I can get some instructions. I think what
20 has happened is that the screenshot - there has been
21 a screen dump rather than taking some extra steps to - this
22 is what I suspect - print the entire COPS event. I'm not
23 sure why or how that has happened but that appears to be
24 the explanation that it hasn't been --

25
26 THE CHIEF COMMISSIONER: But that may call into question
27 the whole of the entries with which we have been provided.
28 When we ask for a COPS record, Ms Chapman, we expect to
29 have the entire record. You are not personally responsible
30 for this, of course, but I find it baffling.

31
32 I think this must mean that we have to re-interrogate
33 every single COPS entry that we have looked at for the
34 purpose of this investigation, which is not a very
35 satisfactory position to find ourselves in when we are
36 about to question people about entries which they might or
37 might not have made, or as this officer finds out he is not
38 mentioned in.

39
40 MS CHAPMAN: Chief Commissioner, I'm not sure what has
41 been produced in relation to the other COPS events.
42 Whether they are screenshots or whether they are the full
43 document, I just don't know.

44
45 MS DWYER: Your Honour, could I assist in this way.
46 Your Honour's investigator has just printed out a full
47 screenshot of the entire COPS entries. I will tender that.

1 We cannot see in this full print-out any reference to the
2 word "strip". But perhaps --

3
4 THE CHIEF COMMISSIONER: Would you show it to Ms Chapman
5 first.

6
7 MS DWYER: While that is being done, can I indicate that
8 the roster just shown to the witness is at tab 28 with
9 a barcode of 8457437.

10
11 THE CHIEF COMMISSIONER: What tab?

12
13 MS DWYER: Tab 28, Chief Commissioner.

14
15 THE CHIEF COMMISSIONER: Thank you.

16
17 MS DWYER: It is part of that tab, with that particular
18 barcode, 8457437.

19
20 MS CHAPMAN: Chief Commissioner, this is not something
21 that was produced by my instructing solicitor either.
22 I think it has come from a different branch, as it were,
23 and it doesn't appear to be the full COPS event,
24 unfortunately.

25
26 MS DWYER: I'm told that that's a print-out from the COPS
27 system which we have access to.

28
29 MS CHAPMAN: Mr Coffey will explain.

30
31 MR COFFEY: May I assist. The document that the
32 investigator has handed me is what in fact would be printed
33 out of COPS, if one was to access COPS right this moment,
34 as can any ordinary police officer or member of the police
35 force who had access.

36
37 It appears to me that the documents that the
38 Commission has are simply the narratives of the events, but
39 can I caveat that: I'm not briefed with the full amount of
40 documents; I just have some select documents. What I can
41 say is this document is what would be produced by any
42 police officer who had access to the system right now.

43
44 MS DWYER: I call for any documents which Mr Coffey has
45 which provide information as to this being a strip search
46 that was involved or a person search.

47

1 MR COFFEY: I can't produce that.
2
3 MS CHAPMAN: My instructing solicitor has just emailed the
4 full COPS narrative to Ms Raice. That was done about five
5 or six minutes ago, when we realised there was an issue.
6 Mr Coffey is just simply trying to explain the COPS system
7 as an ex police officer to assist me.
8
9 THE CHIEF COMMISSIONER: So are you saying, Ms Chapman,
10 that as you understand it, there are, in the records of the
11 police, two COPS entries concerning this matter, one of
12 which has less information than the other?
13
14 MS CHAPMAN: No. I don't understand that to be the case.
15 My experience is limited, but it has arisen in an
16 intentional tort matter in which I was involved where I had
17 to send an officer to a police station to print something
18 out. What you can see on and print on the screen at that
19 time differs, unless you go into some of what I understand
20 are referred to as the back pages. I note serious nodding
21 from several people who know far more about that than I,
22 Chief Commissioner.
23
24 MR COFFEY: Your Honour, you are presented with an option
25 of "Print everything", or "Print a range of things". On
26 some occasions, you may only require the narrative or you
27 may only require the contact information for the persons or
28 organisations that are attached or within a COPS event.
29 This document that we are speaking about - I apologise,
30 I didn't catch the reference number to it - is a full copy
31 of everything that is contained on a COPS event being
32 printed out.
33
34 THE CHIEF COMMISSIONER: Would you mind showing that to
35 Dr Dwyer.
36
37 MR SAUNDERS: We have that, Chief Commissioner.
38
39 MS DWYER: I will show it to the witness. Could I have
40 that copy, please.
41
42 MR COFFEY: Yes, of course you can.
43
44 THE WITNESS: That's better.
45
46 MS DWYER: Q. Is that familiar to you as to what you
47 have a look at when you go into a COPS system?

1 A. Yes. 8C is only the narratives.
2
3 Q. So when you go through that COPS entry, is there
4 something in that entry that indicates to you that a strip
5 search was conducted on one or more of the young people?
6
7 THE CHIEF COMMISSIONER: Q. Are you able to answer the
8 question?
9 A. Yes, Commissioner.
10
11 Q. And what's the answer?
12 A. It - no, it's not here. This is the most you will
13 ever print from the COPS system. I know if I had
14 a computer that I could log on to the system now, I could
15 show you exactly where it says that there was a strip
16 search conducted. But for reasons known only to the people
17 that created COPS, there's - it doesn't translate into the
18 printed copy.
19
20 MS DWYER: I tender that document, your Honour, so that
21 the evidence makes sense, and I ask that that bundle of
22 documents be given a barcode.
23
24 EXHIBIT #16C FULL PRINT-OUT FROM COPS SYSTEM, BARCODED
25 7603229-7603242
26
27 MS DWYER: Q. I will ask you about another document.
28 This is the field --
29
30 THE CHIEF COMMISSIONER: So before we leave this, does
31 this mean that we have to go back and re-examine all the
32 COPS records which we have analysed for the purposes of
33 this investigation?
34
35 MR SAUNDERS: Not necessarily.
36
37 MS DWYER: Potentially, I think is as high as we can put
38 it, Chief Commissioner.
39
40 THE CHIEF COMMISSIONER: Very well. Yes, go on.
41
42 MS DWYER: Q. Officer, do you have a copy with you of
43 the field processing form in relation to GEN15C?
44 A. No.
45
46 Q. I will ask that you be provided with a copy of it, and
47 it is exhibit 7C, which is tab 8.

1 A. Yes.
2
3 Q. Officer, do you see that that is a document which has
4 a young person's name on the top, that we have given the
5 codename of GEN15C?
6 A. Yes.
7
8 Q. Address details, and the offence he is suspected of
9 committing?
10 A. Yes.
11
12 Q. Under the names of "Arresting/escorting police", there
13 are four names, including yours?
14 A. Yes.
15
16 Q. Is it the case that you were involved in arresting and
17 escorting GEN15C?
18 A. I was not involved in arresting 15C. I wasn't aware
19 that he had been arrested. But I recall I may have been
20 involved in assisting walking 15C and all of the other
21 young people from where they were processed, as in that
22 area in that loading dock, to an exit point and ejected
23 from the venue.
24
25 Q. Do you know the names of any of the other officers
26 there listed?
27 A. I do now. I know the first officer, who is --
28
29 Q. GEN8?
30 A. -- GEN8. And I know who GEN2 is. I know that that's
31 one of the bosses who was there on the day.
32
33 Q. Do you know who GEN5 is, which is the name underneath
34 GEN8?
35 A. I - until this morning I had assumed that that was my
36 partner, but I don't - I now don't think it was. I think
37 that she was working with GEN8 on the day.
38
39 Q. If I can ask you to assume that GEN5 has given
40 evidence that she filled out this field processing form, do
41 you see that the type of search there is indicated as
42 a strip search?
43 A. Yes.
44
45 Q. But she did not conduct that strip search, and she was
46 provided with information to fill out this document. Did
47 you provide her with any information to fill out this

1 document?
2 A. No. No, I didn't.
3
4 Q. And do you recall having any discussion with GEN8 as
5 to information that should go into the COPS entry?
6 A. No.
7
8 Q. Did you know at any time when you were involved with
9 GEN15C or any of the others, that strip searches were to be
10 conducted on the young people?
11 A. No.
12
13 Q. Did you think, when you left the area, that it was
14 possible that strip searches were to be conducted?
15 A. Yes - it was possible.
16
17 Q. But you don't recall any discussion of strip searches
18 being conducted?
19 A. No, no.
20
21 Q. Did you see any SES officers at all in the vicinity
22 when you were there?
23 A. I don't think so. There was SES at the event, but
24 I don't recall seeing them there.
25
26 Q. Did you participate in any briefing that took place
27 soon after this festival?
28 A. Clarify "after".
29
30 Q. At any time after 23 February were you asked to come
31 together in any briefing to discuss the things that were
32 done well at the festival or areas for improvement in terms
33 of policing?
34 A. No. No, that would be highly irregular for a user-pay
35 event.
36
37 Q. Have you ever participated in any sort of post
38 debrief?
39 A. There is often a debrief at the very end of the shift
40 where the operations commander will ask, "Any issues?
41 Anything to raise?" In fact, that's pretty common.
42 I don't remember on this occasion whether there was
43 a debrief, but certainly not days after or any time after.
44 Everybody has their own places to go and work at, and these
45 are just - there wouldn't be a formal debriefing after the
46 day of the shift ever.
47

1 Q. Why not, do you know?
2 A. Because - how can I say - somebody else is paying for
3 the police to be there, for a start. Everybody works
4 everywhere. To bring everybody together would be probably
5 fairly pointless. It would eat into their time doing their
6 normal duties and, to be honest, I don't think people would
7 comply. I don't think anybody would come to a debriefing
8 unless it happened at the time that they were getting paid
9 to be at the shift.
10
11 Q. Do you recall any debrief that took place on
12 23 February in relation to the event?
13 A. I can recall the end of the shift - look, I may be
14 just mixing this up with another shift, but everybody would
15 just come together quickly and get signed off, return any
16 equipment that they had borrowed for the shift and then
17 just be signed off to finish their shift.
18
19 Q. Do you recall any issues being raised about problems
20 with searches?
21 A. No.
22
23 Q. And issues in this incident?
24 A. No.
25
26 MS DWYER: Nothing further, thank you, Chief Commissioner.
27
28 THE CHIEF COMMISSIONER: Are there any questions?
29 Thank you, officer.
30
31 THE WITNESS: Thank you, Commissioner.
32
33 THE CHIEF COMMISSIONER: You are free to go for the
34 present. This is a wide-ranging investigation. We might
35 need to have you back. I doubt it, but it's possible. In
36 which case, we will contact your lawyer.
37
38 THE WITNESS: I understand. Thank you, Chief
39 Commissioner.
40
41 MS GLEESON: Chief Commissioner, may I be excused?
42
43 THE CHIEF COMMISSIONER: By all means.
44
45 <THE WITNESS WITHDREW
46
47 THE CHIEF COMMISSIONER: Yes, Ms Dwyer

1
2 MS DWYER: I call GEN8 as the last witness for today,
3 Chief Commissioner.
4
5 <OFFICER GEN8, affirmed: [3.08pm]
6
7 THE CHIEF COMMISSIONER: You may be seated, thank you,
8 officer.
9
10 MR HALL: Chief Commissioner, I appear on behalf of GEN8.
11 He seeks the declaration under section 75.
12
13 THE CHIEF COMMISSIONER: Very well.
14
15 You probably have already been told this - in fact,
16 I'm sure you already have - but I need to tell you
17 directly.
18
19 Firstly, you must answer any question that you are
20 asked, unless I tell you you don't have to, and you must
21 produce anything you are asked to produce, unless, again,
22 I tell you you don't have to. You might object to giving
23 any answer to any question and you might object to
24 producing anything. However, you must nevertheless answer,
25 and you must nevertheless produce what you have been asked
26 to produce.
27
28 However, in that event, neither your answer nor what
29 you produce can be used against you in any proceedings
30 except proceedings under the Police Act or under the Law
31 Enforcement Conduct Commission Act for perjury or contempt
32 of the Commission. Do you understand?
33
34 THE WITNESS: Yes, thank you, sir.
35
36 THE CHIEF COMMISSIONER: I can make a declaration that
37 obviates the need for you to object to every question or
38 object to any production requests, but it treats all
39 answers and any production as having been made under
40 objection. So do you wish me to make that declaration?
41
42 THE WITNESS: Yes, please, sir.
43
44 THE CHIEF COMMISSIONER: Very well. Under section 75 of
45 the Act, I declare that all answers given by this witness
46 and anything produced by the witness shall be taken to have
47 been given under objection.

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Yes, thank you.

<EXAMINATION BY MS DWYER:

MS DWYER: Q. You understand that you have been given a codename for these proceedings of GEN8?

A. Yes, I do.

Q. In front of you there should be a schedule of codenames for other colleagues in the NSW Police Force and three young people; do you see that?

A. Yes, I do.

Q. Could I ask that you refer to those codenames when you are asked a specific question that involves revealing another name.

A. Thank you.

Q. Might I first just ask you your current rank?

A. I am a detective sergeant.

Q. That was your rank as at February 2019; is that right?

A. That's correct, yes.

Q. You performed a particular role at the Lost City Music Festival, an under-18s gig, earlier this year?

A. I did, yes.

Q. What was your role?

A. I was a user-pay police officer assigned to crowd control. I was working with another officer, GEN5.

Q. When you say you were working with that other officer, does that mean that general searches were conducted by both of you working together?

A. Yes.

Q. And you stayed together in pairs throughout the course of the festival; is that right?

A. Yes. Bearing in mind GEN5 was a female officer and obviously I'm a male officer.

Q. Where were you physically located for most of the festival?

A. We were tasked to patrol around the inside of the festival.

1
2 Q. Do you recall attending a briefing at the beginning of
3 the festival?
4 A. Yes, I did.
5
6 Q. Looking at that schedule of codenames, do you
7 recognise any of the names of officers who gave the
8 briefing?
9 A. From my recollection, GEN1 predominantly gave the
10 briefing.
11
12 Q. At any time during the briefing, do you recall being
13 told anything about the LEPRAs requirements when searching
14 under-18s?
15 A. You mean during the course of that briefing?
16
17 Q. Yes.
18 A. Not that I specifically recall, no.
19
20 Q. Do you recall being told anything specific about strip
21 searches?
22 A. Not that I recall. I'm not saying it wasn't done,
23 I just don't recall that happening.
24
25 Q. Prior to February 2019, had you worked as a police
26 officer at music festivals?
27 A. Yes, I have.
28
29 Q. On how many occasions, do you think?
30 A. Probably somewhere in the vicinity of 10.
31
32 Q. And had any of those music festivals been under-18s
33 events?
34 A. I believe so, yes.
35
36 Q. Had any of them been all-ages gigs so at least
37 under-18s were present?
38 A. I'm not sure of that. I think they are generally over
39 18.
40
41 Q. So generally over 18, but in at least other one event
42 besides February, you had been at an under-18s gig;
43 correct?
44 A. To the best of my recollection.
45
46 Q. And have each of those music festivals involved the
47 use of drug dogs?

1 A. Not all. There was a festival at Byron Bay, I think
2 they had one drug dog there and, as a result, it certainly
3 wasn't used in the capacity that you would see at
4 a festival in Sydney.

5
6 Q. In relation to those other festivals, had you been
7 involved in stripsearching any patrons suspected of
8 carrying drugs?

9 A. Yes.

10
11 Q. Had one or more of those patrons, prior to February,
12 been a child under the age of 18?

13 A. Not that I recall, no.

14
15 Q. As at February 2019, were you familiar with the
16 requirements, when stripsearching, under LEPR?

17 A. Yes.

18
19 Q. You were familiar, as at February 2013 [sic], with the
20 fact that in order to justify a strip search, it had to be
21 necessary for the purposes of the search, and the
22 seriousness and urgency of the circumstances had to make it
23 necessary?

24 A. Yes.

25
26 Q. Did you think, as at February 2019, that if you were
27 going to conduct a strip search, you would have to record
28 the basis for the seriousness and urgency of it?

29 A. Yes, you mean make a record?

30
31 Q. Yes.

32 A. In either a notepad or the COPS event or so - yes,
33 I understand that.

34
35 Q. And you understood it in February 2013 [sic]?

36 A. Yes.

37
38 Q. Did you understand in February 2013 [sic] that if you
39 were going to stripsearch a person under the age of 18, it
40 had to be conducted in the presence of their parent or
41 guardian, or if that wasn't acceptable, an independent
42 person?

43 A. Yes. But there is also an exception under (3A) as
44 well.

45
46 Q. And you understood that general requirement and the
47 exception as at February 2013, did you?

1
2 MS CHAPMAN: Could I assist, Chief Commissioner, the
3 transcript is recording "2013".
4
5 MS DWYER: I beg your pardon. That's my fault.
6
7 Q. As at February 2019, you understood that?
8 A. Yes.
9
10 Q. That was my fault, officer. So as at February 2019,
11 you anticipated that you personally might have to embark on
12 a strip search of somebody under the age of 18 at that
13 festival?
14 A. I wasn't part of the drug dog operation, so probably
15 it'd be more so unlikely. But, yes, certainly all the
16 patrons were under 18, so it was definitely a possibility.
17
18 Q. You say you were fully equipped with the knowledge
19 under LEPRa that would have required you to do so lawfully;
20 is that right?
21 A. I'm a police officer who has been trained in the use
22 of the police powers, so, yes.
23
24 Q. Do you recall receiving any document during the
25 briefing which set out the specific LEPRa requirements when
26 dealing with under-18s who were being searched?
27 A. No, I don't recall that.
28
29 Q. Do you recall being involved at all on 23 February
30 2019 in the general search of a patron under 18?
31 A. Sorry, could you repeat that?
32
33 Q. Certainly. Do you recall being involved in the
34 general search of a patron under the age of 18, on
35 23 February?
36 A. Yes.
37
38 Q. What about a strip search?
39 A. Yes.
40
41 Q. Do you recall how many strip searches of young people
42 you did?
43 A. There was one incident that I was involved with. That
44 incident involved eight young persons. I believe
45 I stripsearched three or possibly four of those young
46 persons.
47

1 Q. I will come to that incident shortly, but during the
2 course of the briefing, do you recall being told about the
3 need to fill in field processing forms for every search?
4 A. I don't independently recall that, but it is a fairly
5 standard thing that we do at festivals.

6
7 Q. Did you carry a notebook with you at the festival?
8 A. Yes, I did.

9
10 Q. Did you make a record with respect to every search
11 that you conducted, general or otherwise, as to the basis
12 for the suspicion, when you searched someone?

13 A. I made a record. It was a general record in my
14 notebook. That record did include the name of one of the
15 young persons I searched. But it was a fairly general
16 record.

17
18 THE CHIEF COMMISSIONER: Q. Why didn't it have the
19 reasons for the search? Why didn't you put it in your
20 notebook?

21 A. The reasons for the search?

22
23 Q. Yes.

24 A. I believe it did, your Honour. The reasons for my
25 search were indicated by the fact that the security officer
26 had purchased prohibited drugs from --

27
28 Q. Yes. Was this in your notebook?
29 A. Yes.

30
31 THE CHIEF COMMISSIONER: Do we have the notebook?

32
33 MS DWYER: Yes, we do. It is behind tab 35. It begins
34 with the barcode 8456296 and ends with 8456302. I tender
35 that photocopy.

36
37 Q. We will show you a copy of that. I take it, officer,
38 that you refreshed your memory from this document prior to
39 giving evidence today?

40 A. I have, yes.

41
42 EXHIBIT #17C DUTY BOOK ENTRIES FOR GEN8 BARCODED
43 8456296-8456298

44
45 MS DWYER: Q. Is it the case that the document you have
46 just been shown includes your NSW Police Force duty book or
47 includes a NSW Police Force duty book that you wrote in?

1 A. It's - sorry, the second document I've been given,
2 yes, is my duty book for that day.
3
4 Q. You have a document with a barcode 8456296. Do you
5 see that?
6 A. Yes.
7
8 Q. Is that a duty book issued to you?
9 A. Yes, it is.
10
11 Q. On the second page it lists actual duty for
12 a particular date?
13 A. Yes, it does.
14
15 Q. Was that the date of the festival?
16 A. No, the date of the entry is recorded as Thursday,
17 21 February. It's common practice that I then list the
18 days that I have as rest days. At the bottom of that page,
19 it indicates I had rest days on Friday, the 22nd, Saturday
20 the 23rd, and Sunday the 24th, which is correct.
21
22 Q. But the festival was 23rd of February 2019, wasn't it?
23 A. Yes.
24
25 Q. And so that was a rest day, but you decided to use
26 that to work as a user-pays officer; correct?
27 A. That's correct. So it's not part of my standard
28 duties, so hence it's not in my duty book.
29
30 Q. Would you then turn, please, to your notebook, which
31 begins with the barcode 8456299.
32 A. Yes.
33
34 Q. Is it correct that you have copied relevant incidents
35 with respect to the strip searches that you referred to
36 earlier?
37 A. Yes, as indicated, it lists the name of one of the
38 young persons I've searched and their details.
39
40 Q. That says "Search. Nil find", and it contains
41 a description and the name of the young person; is that
42 correct?
43 A. That's correct, yes.
44
45 Q. Does that contain the basis for the reasonable
46 suspicion for searching that person?
47 A. Yes. The entry continues on for three pages.

1
2 Q. So the next name that appears there is the name of the
3 security officer; is that right?
4 A. That's correct, yes.
5
6 Q. And that sets out what that security officer told you?
7 A. Yes.
8
9 Q. That:
10
11 The ISEC security plain clothes security
12 issue --
13
14 and you record the detail --
15
16 told me he'd approached male ...
17
18 Could you just continue reading that, please?
19 A.
20 ... told me he'd approached male wearing
21 maroon running shoes and referred him to
22 male wearing grey shirt, black hat.
23
24 Q. Don't say that name, if you wouldn't mind, please.
25 A. Yes.
26
27 Grey shirt -
28
29 Sorry, the copy is - the photocopy is --
30
31 Q. Does it say "Grey shirt handed" --
32 A. Yes:
33
34 Grey shirt handed him pink capsule and he
35 gave him \$20. He then lifted sunglasses
36 above his head to signal to nearby security
37 officers who then approached all Young
38 Persons and led them out, including [that
39 young person] and his partner via a side
40 gate.
41
42 Q. If you could continue, please.
43 A. Yes:
44
45 We saw and followed them out to find [eight
46 young persons] lined up against brick wall
47 and [the security officer] and his partner

1 on the other side against chain fence.
2 I was advised at this point that [the
3 security officer] was an undercover
4 security officer. I led him aside and he
5 advised me of the above. Then reported
6 Forward Commander and an additional crew.
7
8 Q. And there is a particular name there, which I think
9 you will see is Officer GEN7 --
10 A. Yes.
11
12 Q. "To assist with search"?
13 A. Yes:
14
15 ... to assist with search. Briefed --
16
17 Q. GEN2?
18 A. ... GEN2:
19
20 Then continued with searching YPs [young
21 persons]. Another security officer handed
22 me 2 pills which he found on the ground
23 near [a young person].
24
25 Q. Apart from that explanation, is there anywhere else
26 where you recorded, yourself, the reasonable basis for your
27 suspicion that justified searching the young people you
28 mentioned?
29 A. In the COPS event also, it has a little bit more
30 detail in relation to what I was advised by the security
31 officer and the circumstances of the incident, so, yes.
32
33 Q. The COPS entry, which I will take you to shortly,
34 really just reiterates that the security officer saw two
35 particular young people involved in an exchange of a pill;
36 correct?
37 A. Yes.
38
39 Q. And there were other young people in the vicinity;
40 correct?
41 A. It contains a little bit more than that, I would say,
42 to the best of my recollection.
43
44 Q. The Chief Commissioner has a copy of the COPS entry,
45 as you know, with the narratives set out.
46 A. Yes.
47

1 Q. I will just ask that you be provided with a copy of
2 the COPS entry.

3
4 THE CHIEF COMMISSIONER: Why don't you read it out. Read
5 it out.

6
7 MS DWYER: Q. What it says is this:

8
9 POI1 is employed as a Security Officer with
10 ISEC Security. He was tasked to work in
11 plain clothes to conduct covert
12 surveillance of the crowd at the Goodlife
13 U18 Music Festival at the Sydney
14 Showground. He was advised by ISEC
15 Management to engage with the patrons for
16 the purpose of maintaining the safety of
17 the patrons of the event. In the event he
18 detected any criminal acts he was to report
19 such incidents to Police and Uniformed
20 Security Officers as appropriate to the
21 incident detected.

22
23 About 5:10pm on 23/02/2019 POI1 [who was
24 the security officer] was at the back of
25 the crowd at the mainstage when he observed
26 YP1 and YP2 acting suspiciously.

27
28 I pause to note that neither of those young persons is
29 GEN15C:

30
31 [Young person 1] and [young person 2] were
32 standing with [young persons 3 to 8].

33
34 One of those is GEN15C:

35
36 [The security officer] observed YP1 and YP2
37 approaching other patrons who appeared to
38 be unknown to them. He did not see any
39 actual drug transactions, however formed
40 the view that they asking other patrons of
41 the event if they wanted to purchase
42 prohibited drugs. In order to confirm his
43 suspicions POI1 made the decision upon his
44 own initiative to approach them and ask to
45 buy drugs from them. [The security
46 officer] advised other uniformed security
47 officers of his intention and instructed

1 them to observe from a short distance away.
2 [The security officer] then approached YP1
3 and asked him if he had any "gear". [The
4 security officer] [sic] referred POI1 to
5 [young person 2]. POI1 had a brief
6 conversation with [young person 2] and as
7 a result of this conversation [young person
8 2] handed POI1 [the security officer]
9 a pink capsule in exchange for \$20. [The
10 security officer] had used his own money to
11 conduct the transaction. [The security
12 officer] then gave a signal to uniformed
13 security Officers nearby.
14

15 The Uniformed Security Officers approached
16 YP1 and YP2 and requested they come with
17 them, along with YPs 3 to 8. A number of
18 the [young persons] became argumentative
19 with the Security Officers. The security
20 officers then led all the [young persons],
21 including POI1 [the security officer]
22 behind a fence to a secure private area and
23 sat them all down. Police having noticed
24 the security officers escorting the [young
25 persons] behind the fence walked over to
26 assist.
27

28 Police spoke to the Security Officers and
29 were advised of the above facts. Police
30 were subsequently handed the pink capsule
31 that POI1 had purchased. Due to the
32 circumstances of the incident responding
33 Police advised the Police Forward Commander
34 of the event who subsequently attended the
35 scene a short time later.
36

37 Police searched all the [young persons].
38 None of the [young persons] made any
39 comments in relation to drug use,
40 possession or supply. It was noted that
41 several of the [young persons] appeared to
42 be slightly affected by prohibited drugs.
43 [Young person 1] was found to be in
44 possession of \$320 including several \$20
45 notes. [Young person 2] was not in
46 possession of any cash. The Security
47 Officers did not see who [young person 2]

1 handed POI1's money to. Several of the
2 other [young persons] had small quantities
3 of cash including \$20 notes. No drugs were
4 located on any of the [young persons],
5 however, a security officer found 2 x pink
6 capsules on the ground near where [young
7 person 1 and 2] had been sitting on the
8 ground. These 2 pink capsules were the
9 same shape, colour and size to the pink
10 capsule that had been purchased by POI1.

11
12 The evidence of [young person 1] supplying
13 prohibited drugs to POI1 and [young person
14 2] being knowingly concerned in the supply
15 of prohibited drugs to POI1 is inadmissible
16 as there was no Controlled Operation.
17 Hence no charges could be preferred for
18 these offences against [young person 1] and
19 [young person 2].

20
21 In relation to the prohibited drugs that
22 were found on the ground, there is no
23 evidence to establish who had placed the
24 drugs on the ground although it is
25 suspected they had been in the possession
26 of [young person 1] or [young person 2].

27
28 In relation to the POI1 being unlawfully in
29 possession of prohibited drugs, in
30 consultation with the Police Forward
31 Commander and the Police Commander, it was
32 determined it was not in the public
33 interest to formally interview POI1 and/or
34 charge him. POI1 was warned in relation to
35 his actions. The Police Commander has
36 liaised with the Management of ISEC and
37 provided them with the appropriate warning
38 and advice.

39
40 Due to the circumstances, all [young
41 persons] were given a warning by Police.
42 They then had their wristbands seized by
43 security and were escorted from the venue.

44
45 THE CHIEF COMMISSIONER: Q. So that's it. That's as
46 much as you knew; correct?

47 A. No, sir. What security told - what the security

1 officer told me --
2
3 Q. Sorry, are you suggesting - did you mis-make this
4 entry?
5 A. No, I would - no, that's not the case.
6
7 Q. Who made the entry?
8 A. I made the entry.
9
10 Q. And are you suggesting that you left out some
11 significant fact?
12 A. No. That is a summary, sir. I - to what I interpret
13 that, it's a summary, so, therefore --
14
15 Q. I understand it is a summary, but that's not the
16 question I asked you: did you leave out some significant
17 fact?
18 A. I wouldn't say "significant", sir.
19
20 Q. So you left out an insignificant fact?
21 A. No, that's - it's probably a difficult question to
22 answer. I would say the information in that report could
23 be expanded upon by some of the information I received from
24 the security officer.
25
26 Q. What was it?
27 A. Well, the security officer told me, when I took him
28 around the side and spoke to him - he told me that he had
29 been watching them for a short amount of time, or a short
30 period of time. He told me that he had seen two of the
31 young persons approach other patrons of the festival. He
32 told me that after they had approached those other patrons,
33 they would come back to the group and they were in one big
34 group. He told me that he noticed it the first time and
35 thought nothing of it, but then he saw it the second and
36 third time. So from that, sir --
37
38 Q. So from that did you infer that the whole group was
39 somehow involved in the transactions?
40 A. He told me they - yes, that's correct, sir, he told
41 me that --
42
43 Q. So that, in fact, justified, as I understand you,
44 searching the other patrons, aside from P1 and P2?
45 A. Sir, it justified why he took the whole - all of the
46 parties involved to --
47

1 Q. No, no, you have to justify your own powers of search,
2 so you have to have a reasonable suspicion. Do
3 I understand you correctly to be saying that it was those
4 additional facts not mentioned in the COPS report that
5 justified your searching persons other than P1 and P2?
6 A. That was part of the reason, yes, sir.
7
8 Q. I see. So now without that additional fact, you could
9 not possibly have had a reasonable suspicion that they were
10 involved, could you? They were simply in the vicinity?
11 A. I disagree, sir. I would add to that, too, in terms
12 of my experience as a detective, I've been doing
13 a considerable amount of drug work during the course of my
14 career. Based on what the security officer told me and
15 based on my knowledge of how small drug syndicates would
16 operate, and quite commonly they would operate in a means
17 to minimise their chances of being detected, going on from
18 that --
19
20 Q. I see. So on this reasoning, if you saw them
21 involved, well, that means they were involved and therefore
22 they were part of a syndicate; on the other hand, if you
23 didn't see that was involved, you knew that's what
24 syndicates do, so they were still part of a syndicate, so
25 whatever they did, whether they showed you they were
26 involved or they were not involved, they were still part of
27 a syndicate? That's the logic, is it?
28 A. Sir, the security officer explained to me --
29
30 Q. You are making this up as you are going, aren't you?
31 A. No, sir, I'm not.
32
33 Q. Look, these facts, even the mention of the possibility
34 of a syndicate, which is fundamental to your searching of
35 these other persons, is omitted from your notebook and
36 omitted from the COPS report which you filled in; agreed?
37 A. I disagree, sir.
38
39 Q. It is not in the COPS report, is it?
40 A. Sir, it indicates it. The fact that the security
41 officers took all eight young persons, they were of the
42 view they were all involved as well. We didn't even go
43 near them at that point, sir. The facts are that that
44 security guard took --
45
46 Q. But you knew perfectly well --
47 A. -- or those security officers --

1
2 Q. No, you knew perfectly well that it would not have
3 justified your use of a power simply because security
4 officers said, "I think they are involved"?
5 A. Yes, I had to form my own opinion, sir. I agree with
6 that.
7
8 Q. Furthermore, there is nothing in your COPS report that
9 reports the security officer saying, "I think they are all
10 involved"?
11 A. Sir, the COPS - I believe it does. The fact that they
12 have all taken - they have taken the whole group of eight,
13 I would say, it does imply that, and the COPS event is
14 a summary, sir.
15
16 Q. Yes. But what is important, of course, is the
17 information you had and which information was essential to
18 your valid searching, which you omitted.
19 A. Sir, I would probably not put that even in a police
20 statement.
21
22 Q. Well, I'm not going to comment on your general
23 competence. I'm only concerned with your evidence in this
24 case. You relied upon what a security officer told you for
25 the purpose of a strip search of a young person; correct?
26 A. No.
27
28 Q. Sorry, what else did you rely on?
29 A. I relied on the --
30
31 Q. Were their eyes too close together? What else did you
32 rely on?
33 A. I relied on my experience, sir.
34
35 Q. You told me, you had not experienced this because you
36 only saw this group when they were being escorted by the
37 security officer?
38 A. Yes, sir.
39
40 Q. So your experience told you nothing. You didn't see
41 what happened?
42 A. No, I relied on my experience as an investigator, sir.
43 My experience indicates --
44
45 Q. Sorry, can we just unpack this. You relied on your
46 experience as an investigator to tell you what happened
47 when you had not seen it; is that your evidence?

1 A. To an extent, yes.
2
3 THE CHIEF COMMISSIONER: I see. We'll move on, Dr Dwyer.
4
5 MS DWYER: Q. You are aware, are you, that in addition
6 to the COPS entry, there is the field processing form?
7 A. Yes.
8
9 Q. And that was filled out by your colleague, GEN5; is
10 that right?
11 A. Yes.
12
13 Q. Do you have a copy of that in front of you, sir?
14 Otherwise I will give you a copy.
15 A. No, I don't have a copy.
16
17 Q. I will provide you with a copy and just inform you
18 that that's exhibit 7C in these proceedings.
19 A. Thank you.
20
21 Q. Have you read that in preparation for your evidence
22 today?
23 A. I have looked through this form. I can't say I have
24 read it closely.
25
26 Q. Will you accept from me that that is the handwriting
27 of your colleague GEN5 who gave evidence this morning?
28 A. I will accept that, yes.
29
30 Q. Did you assist her in filling out this document?
31 A. From my recollection, we were sitting next to each
32 other. I was typing the COPS event. [NAME SUPPRESSED]
33 came over as some stage as well. He was making notes in
34 his notebook.
35
36 Q. I just note that that is GEN2 and that name is subject
37 to a non-publication order.
38 A. Sorry, I do apologise. And GEN5 was filling out these
39 documents.
40
41 Q. This was after the strip search of this particular
42 young person, who is known as 15C?
43 A. This was when we went back to the command tent,
44 I guess you would say, where we secured the drugs.
45
46 Q. Had all the young persons been evicted or ejected from
47 the event by that time?

1 A. Yes, that's correct.
2
3 Q. So you see that there are names listed as the
4 arresting or escorting police for this young person?
5 A. Yes.
6
7 Q. And your name is listed along with GEN5, GEN2 and
8 GEN7. Does this sheet enable you to confirm that you were
9 in fact the officer who did the strip search of GEN15C?
10 A. No, it doesn't.
11
12 Q. Did you do the strip search for GEN15C?
13 A. I don't know. I may have.
14
15 THE CHIEF COMMISSIONER: Q. You said that you did three
16 or four strip searches?
17 A. That's correct.
18
19 Q. These are all under-18s?
20 A. Yes.
21
22 Q. What steps did you take to ascertain whether they
23 wished to have a parent or guardian present?
24 A. None, sir.
25
26 Q. Why?
27 A. Because I was of the view that delaying the searches
28 of these young persons would result in a loss of evidence
29 or evidence being concealed or destroyed. And that is in
30 fact exactly what happened. We did lose evidence. Drugs
31 were concealed, which resulted in us being unable to --
32
33 Q. Let's just deal with the persons you searched for
34 a moment, please.
35 A. Yes.
36
37 Q. So they are under police surveillance; correct?
38 A. Very limited, sir. There was eight young
39 persons lined up.
40
41 Q. And how many officers?
42 A. Initially, my partner and I. However, I was speaking
43 to the security officer, which I took away, around out of
44 view, so I could speak to him privately. So at one point,
45 certainly for a period of a few minutes, there was only
46 GEN5 who was observing them.
47

1 Q. Yes, but the crucial time is when you decide to do
2 your search. When you decided to do your search, how many
3 officers were there?
4 A. Just GEN5 and myself.
5
6 Q. No, please. Who was there with GEN15C?
7 A. Sir, at the time I formed my view to search these
8 young persons, the only persons - the only police officers
9 present were myself and GEN5.
10
11 Q. When you came to search GEN15C, you had to make
12 a decision whether or not you would ask him whether he
13 wanted his parent or guardian to be present; correct?
14 A. I had to make that decision, yes.
15
16 Q. And he was right in front of you at that point?
17 A. Oh, if he was one of the young persons I searched, if
18 he was --
19
20 Q. Well, let's not worry about who it is. You have one
21 young person in front of you, whom you decide you have
22 a basis for stripsearching; correct?
23 A. Yes.
24
25 Q. And you have to decide whether you are going to ask
26 about their parent, guardian or locate an independent
27 person; correct?
28 A. I have to make that decision, yes.
29
30 Q. You had to make that decision?
31 A. Yes.
32
33 Q. The person is in front of you.
34 A. Yes.
35
36 Q. You are not seriously suggesting, are you, that when
37 he is in front of you, there is a risk that he might
38 destroy evidence?
39 A. Sir, I'd already formed the opinion --
40
41 Q. No, no, please, it doesn't matter whether a week
42 before or an hour before or 10 minutes before, he might
43 have made an effort of concealing evidence. You realise
44 that, don't you?
45 A. Sir, in that circumstance, though --
46
47 Q. Do you realise that?

1 A. I disagree with that, sir. In that circumstance it --
2
3 MR COFFEY: I object, your Honour. With the greatest of
4 respect, your Honour must allow the witness to answer the
5 question.
6
7 THE CHIEF COMMISSIONER: I am asking him to answer the
8 question. Enough Mr Coffey. Sit down, please.
9
10 MR COFFEY: Your Honour, you are continuing to interrupt
11 this witness.
12
13 THE CHIEF COMMISSIONER: No, no, because I insist on an
14 answer to my question, not an answer to the question he
15 wished I had asked. Now, please sit down.
16
17 Q. Sergeant, do you agree that if he had had an earlier
18 opportunity to conceal or destroy drugs, that was
19 immaterial to the time when he was in front of you and you
20 had to make your decision about whether you would contact
21 the parent, guardian or independent person?
22 A. Sir, with great respect, I also had to consider the
23 fact that my partner was standing alone in front of seven
24 other young persons and they - well, it was my belief at
25 that stage that they had drugs as well, and the longer
26 I stayed around the side with this young person, those
27 other young persons may have been concealing or destroying
28 drugs. So the whole incident must be looked at as a whole
29 as opposed to just one individual, each event. There were
30 eight young persons there, sir. There was two police.
31
32 Q. I'm sorry. So you are saying that because there was
33 more than one other person who might conceal or get rid of
34 drugs, you were entitled, in relation to the particular
35 person that you were speaking to, not to ask them about
36 their parent or guardian; is that what you are telling me?
37 A. In the urgency of that scenario and the fear that
38 I had that drugs would be concealed or destroyed, which
39 they were, yes. My answer to that question is yes, sir.
40
41 Q. So you say that subsection (3A) applies where delaying
42 the search is likely to result in evidence being concealed
43 or destroyed by other suspects; is that the way you
44 understand that section?
45 A. And that suspect as well.
46
47 Q. While he is in your presence and in front of you? How

1 was he going to do that?
2 A. Well, time was of the essence right from the word go,
3 sir. As soon as we had walked out there and I had
4 established what had in fact occurred, that these people
5 were acting in concert and they had dealt drugs, time was
6 of the essence. The whole scenario was a matter of
7 urgency, because the longer I left it, the more opportunity
8 they had to think about disposing of drugs - that may have
9 been swallowing their drugs. I didn't want a young person
10 to swallow drugs in front of me in an endeavour to conceal
11 them. How was I then going to confront their parents and
12 tell them that their child had swallowed drugs in my
13 presence and potentially caused some harm?
14

15 Q. So you are saying now, are you, that while he was in
16 front of you, he might have extracted the drugs from
17 wherever they were --

18 A. No. No, I'm not saying that, your Honour.
19

20 Q. -- and swallowed them?

21 A. I'm not saying that, no.
22

23 Q. Well, what are you saying?

24 A. When we first walked out there, we were confronted
25 with the scenario where we had eight young persons sitting
26 down on one wall, opposite to that were two undercover
27 security officers. I was then told that the two undercover
28 security officers were one of ours. I then grabbed one of
29 the undercover security officers and led them away around
30 the corner out of view, out of site, to find out what was
31 going on, because at that point we did not know.
32

33 That undercover security officer then told me that
34 information that I have previously indicated. At that
35 point then, I realised that we had an issue with urgency in
36 relation to conducting the searches of all those young
37 people, because if we didn't do the searches urgently, it
38 gave them more time to think about what they were going to
39 do with the drugs they had on them. In effect, that's
40 exactly what happened, sir. One of those young persons, or
41 maybe possibly two, concealed the drugs that were later
42 found.
43

44 Q. All right. Have you now finished the answer to my
45 question?

46 A. I hope I have, sir.
47

1 Q. Right. All I would ask you to do, to save time -
2 would you please not repeat that answer to a question which
3 does not invite it. When you had this young man in front
4 of you, how was he going to either conceal or consume any
5 drugs that he had on his possession?
6 A. It would be very difficult for him to do that quickly
7 enough.
8
9 Q. Right. Because you could stop him, couldn't you?
10 A. Yes.
11
12 Q. Very well. Now, you have explained why you thought it
13 unnecessary, or undesirable, or you did not need to have
14 either a parent or guardian or an independent person
15 present at the search.
16 A. Yes.
17
18 Q. And you told me you were aware of LEPRAs?
19 A. Yes.
20
21 Q. LEPRAs provides, in such a case, that the police
22 officer must make a record of the reasons for not
23 conducting the search in the presence of a parent or
24 guardian or other person capable of representing the
25 interests of the person being searched. Did you comply
26 with that provision?
27 A. No, I didn't.
28
29 Q. Why?
30 A. It was an error. I can only put it down to it was
31 just a human error --
32
33 Q. I want to put to you another explanation - namely, you
34 simply did not bother with the requirements; what you have
35 told me is a fabrication and at the time you had no such
36 thought that you might need to provide or obtain
37 a guardian, parent or independent person for the purposes
38 of this strip search. That is another explanation for your
39 failing to comply with that provision.
40 A. Sir, I very much disagree with that.
41
42 Q. How long have you been a police officer?
43 A. Twenty-six years.
44
45 Q. How long have you been aware of the position - the
46 requirements of subsection (3A)?
47 A. LEPRAs came out in 2002. We were given a training

1 package back then in relation to the changes, because stop,
2 search and detain powers used to be 357E. They changed
3 over to, I think, section 21. We were given a package back
4 then. We underwent some training. We do undergo the
5 occasional refresher training, which is rare, I would
6 suggest. But that does occasionally happen. So to answer
7 your question, sir, I'm not trying to waste time, I was
8 certainly advised of it back in 2002 when we underwent the
9 transition training.

10

11 Q. And it was known to you on this particular day?

12 A. Yes.

13

14 Q. And you knew that you had not obtained, or even
15 I think enquired about, as I understand your evidence,
16 a parent, guardian or independent person; correct?

17 A. Sir, I made no attempt to contact a parent.

18

19 Q. No, not only that; you didn't ask them, even?

20 A. No, I didn't, sir.

21

22 Q. And that is because you made, as I understand you, an
23 intentional decision that it was not called for for the
24 reasons that you have now recounted?

25 A. I would agree with that, yes.

26

27 Q. So, despite your having made that intentional
28 position, not something that you had overlooked, knowing
29 that you were obliged by law to explain those reasons,
30 having a COPS report which you were filling out, which was
31 the place to put those reasons on the record, you decided
32 not to?

33 A. Yes, and I'm kicking myself for it now, sir.

34

35 Q. Yes, you perhaps might be. But have I correctly
36 understood the position?

37 A. Yes, sir.

38

39 Q. Why did you make the decision not to put it in COPS?

40 A. I - there is - I don't know. I could only indicate it
41 was an omission, sir. I don't know.

42

43 Q. No, no, you might have forgotten about it or you made
44 a decision about it. You told me two answers ago, or you
45 agreed, you had made a decision about it. So, it was not
46 forgotten. Why did you make that decision, despite the
47 specific statutory requirement? This is not a mere matter

1 of police procedure, although you understand, I think, the
2 police procedure would have required you to put it in
3 anyway because it is a relevant fact. But quite apart from
4 police procedure, it was a statutory requirement that you
5 decided you would not obey. Why did you make that
6 decision?

7 A. There is no way I would purposefully disobey something
8 so obvious and something that could so obviously come back
9 and haunt me. It was just an omission.

10
11 Q. What, you forgot about it?

12 A. That's the only thing - yes.

13
14 Q. But you are in the process of actually describing what
15 happened, and this is part of the process - you were
16 remembering what you thought. You had to remember what was
17 the basis for your reasonable suspicion; that it required
18 a strip search and not merely a general search; that the
19 law required you prima facie to obtain either the presence
20 of either a parent or guardian or independent person.

21
22 So you are telling me you go through those processes,
23 you make a decision about those processes, and yet, your
24 COPS account omits vital facts about the implication of the
25 persons whom you searched and omits a matter of statutory
26 requirement. So it's not only one thing, it's at least two
27 crucial matters that are not in your report; correct?

28 A. Definitely in relation to not outlining the
29 circumstances as to why I didn't have a parent, guardian or
30 a person, a support person, present, that's definitely not
31 in there. The only thing I can --

32
33 Q. Sergeant, I think you really need to very carefully
34 think about your evidence. Very carefully.

35 A. Sir, this was a complex matter. We had - this is just
36 not a drug sniffer dog detection. There was an illegal
37 controlled operation. We had eight young persons. We had
38 drugs found on the floor. We had drugs handed to
39 a security guard which he had purchased illegally. This is
40 not a straightforward one. I tried to summarise it as best
41 I could in the COPS event. I think I did a reasonable
42 summary of that. Unfortunately, I've missed that component
43 of it.

44
45 Q. Well, that's the best you can do, then?

46 A. That's the truth, sir.

47

1 Q. Yes. I regret to tell you that I do not believe it
2 for a moment.
3
4 Yes, go on, Dr Dwyer.
5
6 MS DWYER: Q. Officer, in the COPS entry, I think you
7 would agree with me that after the general narrative that
8 I read out on the record, it contains a brief summary under
9 the names of each of the young persons?
10 A. Yes.
11
12 Q. And you are listed as the searching officer for each
13 of the eight young persons?
14 A. Yes.
15
16 Q. But, in fact, you weren't the officer who did the
17 strip search for each of the young persons; is that right?
18 A. That's correct, yes.
19
20 Q. Do you agree that that makes it very difficult, when
21 you go back post the event and try to analyse what
22 happened?
23 A. Yes, I would agree with that.
24
25 Q. Because you can't remember now whether you in fact did
26 the strip - whether one of the three or four people you
27 stripsearched was in fact 15C?
28 A. Yes, I would - yes.
29
30 Q. And there is nothing in fact in your COPS entry which
31 allows you to refresh your memory as to which of the
32 individuals you stripsearched; correct?
33 A. That's correct, yes.
34
35 THE CHIEF COMMISSIONER: Q. You accept the importance of
36 this matter, don't you, Sergeant?
37 A. Yes, I do.
38
39 Q. Is it not of vital importance that the persons who are
40 involved in the exercise of powers, particularly those
41 involving stripsearching of young people, be identified so
42 that your superiors know who has been involved and are able
43 to manage any issues; correct?
44 A. Yes.
45
46 Q. So that the persons themselves can find out who is
47 stripsearching, in case they wish to make some complaint;

1 correct?

2 A. Yes.

3

4 Q. In case this Commission wished to explore the
5 circumstances in which these searches occurred; do you
6 agree?

7 A. Yes.

8

9 Q. So the effect of what you have done is in fact to
10 stymie or prevent an adequate investigation of the
11 circumstances in which these searches occurred; do you
12 agree?

13 A. That wasn't my intention, sir.

14

15 Q. Well, I'm not asking you yet about your intention.
16 I'm asking you for the objective outcome. The objective
17 outcome is this: from reading your COPS report, we don't
18 know what gave rise to the reasonable suspicion. From
19 reading your COPS report, we don't know why you did not
20 obtain a parent, guardian or independent person. And from
21 reading your COPS report, we don't know, first of all, who
22 you actually searched, and we don't know the other officers
23 who searched the others. That's a correct summary,
24 I think, of matters omitted by you; do you agree?

25 A. With the bulk of it, yes, sir.

26

27 Q. Very well. And that means that an investigation by
28 this Commission, quite apart from your Commissioner, is
29 stymied or may be stymied for lack of relevant information.
30 Do you agree that that is the objective consequence of your
31 omissions?

32 A. Yes. Maybe, yes.

33

34 Q. Maybe? How else will I find out the names? Am
35 I going to have to ask every police officer who was
36 rostered that day?

37 A. Sir, there was only four officers that attended that
38 incident, plus GEN2.

39

40 Q. Well, you don't remember who exactly you searched. Is
41 their memory going to be any different?

42 A. Probably not now, sir.

43

44 THE CHIEF COMMISSIONER: Move on.

45

46 MS DWYER: Q. Officer, I think you said that there were
47 only four officers that attended that incident. Do you

1 mean by that they were in attendance when the eight young
2 people were brought in and were subject to both a general
3 and a strip search?
4 A. No. Initially, there was just the two of us. Once
5 I had --
6
7 Q. By "the two of us", I will just clarify, you mean
8 yourself and GEN5?
9 A. Yes, that's correct. Once I had spoken to the
10 undercover security officer and he told me what in fact had
11 occurred, and I realised the position that we were in,
12 I then requested GEN5 to contact GEN2 and alert him to the
13 issues with security conducting an illegal controlled
14 operation.
15
16 Q. Yes.
17 A. And to get some assistance in relation to potential
18 searches of the other young persons because I would
19 obviously not be in a position to do all eight myself in a
20 reasonable time frame.
21
22 Q. We know GEN7 came along because his name is also
23 listed on the field processing form?
24 A. Yes.
25
26 Q. So apart from GEN8, GEN2, GEN5 and GEN7, and you're
27 GEN8, were there any other officers that could possibly
28 have been involved in the strip search of these eight young
29 people?
30 A. The colleague of or the partner of GEN7.
31
32 Q. Do you know the name of that person?
33 A. No, I don't.
34
35 Q. If you have a look at the schedule of codenames, do
36 you recognise the name there - that is, of the partner of
37 GEN7?
38 A. I don't know who his partner was.
39
40 Q. Was his partner a female?
41 A. I don't recall.
42
43 Q. Sorry, your partner was a female; is that right?
44 A. Yes.
45
46 Q. But you don't know whether GEN7's partner was
47 a female?

1 A. I'm not sure.
2
3 Q. But GEN7's partner was in the area; is that right?
4 A. Well, at the festival we were operating - yes.
5
6 Q. And GEN7's partner came behind when those group of
7 eight young people were taken in?
8 A. No. They came after we requested their attendance.
9
10 Q. You have a recollection of having stripsearched three
11 or possibly four of these eight?
12 A. Yes.
13
14 Q. So another male officer must have been involved in the
15 strip search of another four, potentially five, of the
16 young persons; correct?
17 A. Yes.
18
19 Q. Another male officer or officers; correct?
20 A. Yes.
21
22 Q. It flows from what you have already said that we don't
23 know now - there is no way of knowing, as far as you're
24 aware, which of those other officers might have been
25 involved in the strip search of 15C?
26 A. Well, we - no, there only would have been the three of
27 us, potentially. If GEN7's partner was male, potentially
28 three officers; if it was female, obviously just two
29 officers.
30
31 Q. Yes. And so the only possibility then, if you assume
32 that GEN7's partner is female, it could only have been
33 yourself, GEN2 or GEN8 that was involved in the strip
34 search of these eight young people; correct?
35 A. Yes, but I don't believe GEN2 did a strip search -
36 I don't think so.
37
38 Q. So in those circumstances, it has to be yourself or
39 GEN7, assuming that GEN7's partner's female; correct?
40 A. I would agree with that, yes.
41
42 Q. There is a description of what this young person,
43 GEN15C, was wearing, on the field processing form, as "Red
44 shirt, dark shorts, light grey jacket, white runners". We
45 know that that person has brown hair and is slim. Does
46 that assist you in any respect with your memory?
47 A. Unfortunately not.

1
2 Q. Are you aware that a LECC investigator has interviewed
3 GEN15C about his experiences of being stripsearched?
4 A. No. I'm assuming that's the case, but no, I don't
5 know.
6
7 Q. I take it from that answer that you haven't read the
8 interview that was conducted with that young person?
9 A. No.
10
11 Q. I'm going to read to you parts of that interview to
12 see if that in fact refreshes your memory at all. The
13 young person describes being detained by security in a
14 group with a number of young people who he in fact didn't
15 know. He says that he was confronted, after that time,
16 with a number of police officers.
17
18 I will just pause on this issue. He actually says
19 a significant number of security officers, I think eight or
20 10, he says at page 23 of his interview, and then later
21 goes back to six or eight security guards. Did you
22 consider at any stage when you had the eight young people
23 in a line-up, after they were being taken to the separate
24 area, that you could ask security officers to watch them?
25 A. The security officers were watching them.
26
27 Q. I see. So at a time when their initial details were
28 being taken --
29 A. Yes.
30
31 Q. -- there were security officers with their eyes on
32 them; is that right?
33 A. Yeah, and I would probably agree there was a large
34 amount of security officers with us.
35
36 Q. Thinking back in hindsight, learning from this
37 incident, wouldn't that have been a way that you could
38 ensure the young persons didn't destroy the drugs while you
39 got an independent person?
40 A. I did. I did ask that. I did ask for them to watch
41 those young persons and the drugs were still concealed.
42
43 Q. When you say "drugs were concealed", you have come to
44 that conclusion because there were two pills found on the
45 floor near their vicinity; is that right?
46 A. Yes.
47

1 Q. But you only found that out after the strip search; is
2 that correct?
3 A. After - I'm not a hundred per cent on this, but after
4 about the second or third strip search that I conducted,
5 I was advised of that by one of the security officers who
6 handed me the two pills and told me where he had found
7 them.
8
9 Q. But prior to that time, didn't you think to yourself,
10 "If I've got independent security officers here watching
11 these young people, they are not going to be in a position
12 to destroy any drug that they have on them while we wait"?
13 A. Oh, I disagree. It only takes a moment for them to do
14 it. And with the commotion and the activity that was going
15 on and the confusion, they can only take their eyes off
16 them for a second.
17
18 THE CHIEF COMMISSIONER: Q. They were sitting against
19 a fence. What was the commotion and confusion?
20 A. Well, they managed to do it, sir.
21
22 Q. No, what you know is when you were not present - so
23 you don't know how it happened - two pills were found on
24 the ground. You said there was commotion and confusion.
25 I'm asking you what commotion and confusion are we talking
26 about when these young men are all sitting against a fence?
27 A. That would be, I guess, generated by the police and
28 the security officers. Sorry for not explaining that
29 properly.
30
31 Q. Sorry, a guess? I don't understand what you are
32 saying.
33 A. Well, we had - while I'm talking to one of the
34 security officers, we have GEN5 contacting for GEN2 and
35 GEN7 with his partner to attend, so her attention is
36 potentially distracted. You've got security officers -
37 despite the fact I had asked them to watch them, because
38 I was well aware of the fact that my colleague was by
39 herself - they are there milling around talking and
40 bragging about how they have successfully purchased drugs.
41
42 Q. So that's what you meant by "commotion", was it?
43 A. Yes. Their attention is - obviously wasn't sufficient
44 enough to see who had disposed of those drugs.
45
46 Q. Did you notice the SES officers nearby?
47 A. No. I didn't.

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Q. Were you aware that there were SES officers in that area, especially asked to come along in order to be present at interviews or searches?

A. I don't remember that being told to us. As I said, I'm not saying it wasn't. I don't remember that.

MS DWYER: Q. The young person recalls that when he was taken into that area with the seven others, there were two female police officers and one male, he says, to the best of his memory. He goes on to recall someone else who was a head cop, who was older and was wearing some form of hat. Were you wearing a hat at all on that day?

A. I was wearing a baseball cap. The baseball cap, police standard uniform.

Q. He goes on to say this, that he was subjected to a general search - that is, he had to empty his pockets, take his shoes and socks off, and his identification details were taken. Were you the officer who was telling the line-up of eight that they had to take their shoes and socks off?

A. No.

THE CHIEF COMMISSIONER: Q. Who did?

A. I don't know.

MS DWYER: Q. I think you said earlier that you saw the young people, they had their belongings out in front of them, is that right, or do you remember? I don't want to put words in your mouth. Do you recall saying that the young persons had to empty out their possessions and they had them in front of them?

A. I don't remember that. Certainly - definitely not with the first search I conducted, because I had him empty his pockets.

Q. You had that young person empty his pockets?

A. Yes.

Q. I will just read you this from --

THE CHIEF COMMISSIONER: Q. Was there any conversation at all between you and that young person?

A. Yes.

Q. What was the conversation?



1 A. In relation to the first person I searched?
2
3 Q. Yes.
4 A. To the best of my recollection - and I don't remember
5 my exact words, sir - it would have been fairly standard,
6 something in the vicinity of "My name is [NAME
7 SUPPRESSED]".
8
9 THE CHIEF COMMISSIONER: Don't mention your name. That
10 name is not to be published. Yes, go on.
11
12 THE WITNESS: "I'm from Liverpool police station. How are
13 you? Are you okay?" The response was "Yes". "I've been
14 informed that you've been involved in supplying drugs; is
15 that the case?" Their response was negative. I said, "Do
16 you have any drugs on you?" "No". "Okay. I intend to
17 search you; is that okay?" "Yes". "Do any of your friends
18 have any drugs on them?" And the response to that was
19 "No."
20
21 THE CHIEF COMMISSIONER: Q. So, what was the first item?
22 What did you do? How did the search go?
23 A. Well, that was the person that actually handed the
24 pill over to the security officer, and I didn't find
25 anything on him.
26
27 Q. No, no, how did the search proceed, physically?
28 A. Oh, sorry. All the searches I do are very similar,
29 I guess.
30
31 Q. I'm asking you to recall this one, please?
32 A. To the best of my recollection, he was wearing
33 a T-shirt and shorts. I've asked him if he had any sharps
34 on him. His answer was "No". I've then asked him to lift
35 his - pull his pockets out first. That's what I usually
36 do. So he's done that. There was nothing adverse there.
37 I've asked him to lift his T-shirt up, which he's done.
38 I asked him to turn around so I could see his back. So
39 I've checked that. I obviously didn't see anything. Then
40 I've asked him, "Can you pull your pants out for me", and
41 he - the young person - has done that.
42
43 Q. Sorry, you asked him to?
44 A. Pull his pants out for me. The young person has done
45 that. I've then looked down inside his pants. I haven't
46 seen anything adverse, of course. I then asked him, "Can
47 you do the same at the back?" He's turned around and done

1 that. And that was the extent of the search.
2
3 Q. Then what did you say to him?
4 A. I said, "All right, you can go back with the others."
5
6 Q. Why did he have to go anywhere? You had found nothing
7 on him; correct?
8 A. Yes. Well, at that point, I was under the - at that
9 point, I was aware that he had dealt drugs to a security
10 officer.
11
12 Q. So you were going to charge him?
13 A. No. I was aware that under section 138, that evidence
14 would most likely not get in to a juvenile court. It could
15 potentially be argued, but it would be very unlikely to get
16 in. So I was under the impression at that point that the
17 evidence we had against that child --
18
19 Q. So you had no basis for charging him?
20 A. I had evidence, but I had inadmissible evidence.
21
22 Q. Right. So you had no proper legal basis for charging
23 him?
24 A. No, not at that point, no.
25
26 Q. Well, why couldn't he just go home or go anywhere?
27 A. Because he was going to be ejected by security.
28 I also intended to give him a warning in relation to drug
29 dealing.
30
31 Q. But what legal power did you have to tell him where he
32 should go?
33 A. Well, it was the safest place --
34
35 Q. He was not a charged person. He was a free citizen.
36 He had committed no offence, or at least no offence with
37 which he could be charged. Upon what basis - what power
38 did you have to tell him where he could go or not go?
39 A. I don't think I had - at that point, again, I can only
40 indicate that I didn't - I believed we weren't going to
41 charge him, so that would be unlikely, that we would need
42 to retain him for that. However, I did intend to speak to
43 him and give him a warning, which is recorded on the forms,
44 that I dealt with the matter in that way.
45
46 Q. Very well. So now your second search. How did that
47 go?

1 A. Very similar to the first one. Except with the second
2 search, that was young person 1, who had first approached -
3 sorry, the security officer had first approached, and he
4 was the one that had referred the security officer to young
5 person 2. And during the course of that search, I found
6 \$320 cash on him, which included a number of \$20 notes,
7 which therefore, bearing in mind we didn't find any cash on
8 the first search, it certainly implicated young person 2 as
9 being involved potentially in the events of supply
10 prohibited drug and indicated again that it just wasn't one
11 person doing the offence; it was a group.
12

13 Q. Very well. What about person 3?

14 A. Person 3 - the search was conducted in the same
15 manner. All my searches were conducted in the same manner.
16

17 Q. So none of them were ever naked?

18 A. No. Not at all. Young person 3, from my
19 recollection - as I said at the beginning, I'm not sure
20 whether it was three or four people I searched. I know -
21 I do recall one of the other young persons I searched had
22 a small amount of cash on him, including I think a \$20
23 note, which I think is referred to in my COPS event. Young
24 person 4, if I did do a fourth young person, there was
25 nothing adverse found on him.
26

27 MS DWYER: Q. If you look at the COPS entries, that
28 lists a number of young persons as young person 1, 2, 3, 4,
29 et cetera, through to 8, did you search those young persons
30 in the order that you have listed them there?

31 A. It depends on how GEN5 recorded their details. They
32 were all sitting down in a line. I've asked GEN5 to record
33 all their details. Unfortunately, it wasn't recorded in
34 her notebook who - which police officers actually did the
35 search, and I must take responsibility for that. As the
36 senior officer there, I take responsibility for the fact
37 that that wasn't done. So we pulled them out in the line
38 in order, systematically, so we wouldn't miss one. So if
39 GEN5 has recorded their details as per the line, then that
40 would be the order of search.
41

42 Q. I see. You can take it from me that in GEN5's
43 notebook, she has recorded young person 2 as being GEN15C.

44 A. Yes.
45

46 Q. In the COPS entry, she has recorded young person 3 as
47 being 15C. So 15C is recorded as young person 2 in her

1 notebook, young person 3 in the COPS entry.
2 A. My understanding of how that occurred was, because
3 I've taken young person 1 with me to conduct the search of
4 him, at that point I've asked her to start recording all
5 the details of the others. So that's why he's not recorded
6 as young person 1 in her notebook.
7
8 Q. But the fact that GEN15C is within the first three
9 young persons searched --
10 A. Yes.
11
12 Q. -- on either of her lists --
13 A. Yes.
14
15 Q. -- does that help you in determining that you were in
16 fact the searching officer for him?
17 A. I'm not sure what - at what stage GEN7 came. It would
18 be difficult to say yes. I'm not sure.
19
20 Q. You've given evidence that you didn't require any of
21 the three or so young persons, three or if it was four
22 young persons, to remove their shorts at all; is that
23 right?
24 A. That's correct, yes.
25
26 Q. Did you at any stage feel under the underwear of any
27 of the young persons?
28 A. No, definitely not.
29
30 Q. But it's certainly possible, isn't it --
31 A. No.
32
33 Q. -- that if the young persons - sorry, just let me
34 finish my question. I understand why you said no but let
35 me finish. It is possible, isn't it, that any of the young
36 persons were concealing drugs, if they had them on them,
37 within their underwear?
38 A. Yes.
39
40 Q. If you were so concerned that they were concealing
41 drugs, why not conduct a strip search where you asked them
42 to remove their underwear?
43 A. I didn't think it was appropriate. I had them pull
44 their pants out so I could see in to their underwear, to
45 the front section of their underwear. And I was satisfied
46 that was enough. And I did the same at the back.
47

1 Q. I see. So you required them not just to pull their
2 shorts or long pants out --
3 A. Yes.
4
5 Q. -- but you also required them to pull their underwear
6 out at the front?
7 A. Yes.
8
9 Q. So you could look down into their underwear?
10 A. And that for me was keeping in with their privacy and
11 it was sufficient for the purpose of the search.
12
13 Q. You could see the front of their genitalia when you
14 looked in from the front; correct?
15 A. Yes, I could.
16
17 Q. When you walked around the back and asked them to pull
18 the back of their pants out, you meant their overall pants
19 and also their underwear?
20 A. Yes that's correct.
21
22 Q. So you could look down into their butt cheeks;
23 correct?
24 A. Yes.
25
26 Q. And you were looking to see if anything had been
27 secreted within the butt cheeks; correct?
28 A. Yes.
29
30 Q. Were you concerned at all that they might secrete
31 drugs in their testicles?
32 A. That was a possibility, yes. I concede - yes,
33 I concede that.
34
35 Q. But you didn't have a look there; is that right?
36 A. No.
37
38 Q. Are you sure about that?
39 A. Yes.
40
41 Q. Was there any discussion on 23 February about using a
42 bodyworn camera when you were conducting searches?
43 A. I don't have bodyworn camera and I'm not trained in
44 it.
45
46 Q. You didn't have any bodyworn camera on you at the
47 time?

1 A. No.

2

3 Q. Did you conduct each of the searches that you did,
4 three or four young persons, alone?

5 A. Yes.

6

7 Q. Did it occur to you that it might be safer for both
8 you and the other young person to bring another male
9 officer in there with you to be an observer?

10 A. There wasn't another male officer present at that
11 point. The next male officer to come was GEN7, and he came
12 at some stage later.

13

14 Q. Couldn't you have called for back-up to assist in that
15 search?

16 A. I did immediately. That was the first thing I - once
17 I had established what had occurred, as I've indicated
18 previously, when I'd spoken with the security officer in
19 private around the side, the first thing I did when I came
20 back, and that's reflected in my notebook as well, was
21 arrange for GEN5 to contact GEN2 and additional officers to
22 assist.

23

24 Q. And you were requesting more --

25

26 THE CHIEF COMMISSIONER: Q. Yes, but you didn't ask
27 them - correct me if I am wrong here. They were not asked
28 to assist with the searches; they were asked to assist with
29 the situation that had arisen because the security officer
30 had apparently committed an offence?

31 A. Sir, to clarify that perhaps, we had them contacted
32 over the radio to attend the location. Then once they came
33 to the location, I then briefed them in relation to what we
34 had, because the briefing obviously took a couple of
35 minutes and you can't give that sort of information out
36 over the air.

37

38 Q. Did you ask them to assist with the search or did you
39 ask for any officers to further assist with the searches?

40 A. My exact words to GEN5, difficult for me to recall,
41 but, yes, I needed assistance with the search. And that
42 was the urgency related to it. I needed assistance with
43 the search. As I indicated before, there were eight young
44 persons there. I couldn't search them all by myself within
45 a reasonable time frame.

46

47 MS DWYER: Q. But you knew there were significant

1 numbers of police, user-pays and general police, within the
2 body of the festival; correct?
3 A. Yes.
4
5 Q. So there would have been other police officers
6 available to assist you in the strip search, wouldn't
7 there?
8 A. Yes, yes.
9
10 Q. Isn't it preferable for both you and the young person
11 to have another observer there of the search?
12 A. We requested further assistance. I'm not sure what
13 GEN5 requested, but we requested for further assistance and
14 the only officers that came were GEN7 and his partner and
15 then later on GEN2, the forward commander.
16
17 Q. So you didn't wait for any additional officer to come
18 to assist you with the search?
19 A. No. I deemed that it was urgent that we started
20 conducting the searches immediately.
21
22 Q. And prior to --
23
24 THE CHIEF COMMISSIONER: Q. Why? What made it so
25 urgent? Why couldn't you have waited five minutes?
26 A. Because, sir, I was fearful that the evidence would be
27 lost, and I was proven correct.
28
29 Q. No, there were two pills that were found on the
30 ground. The point is that you had numerous people there
31 available to watch, and indeed you could have. So why
32 couldn't you have waited five minutes or so for these
33 searches to have taken place with the additional assistance
34 of other officers?
35 A. Sir, I don't know what other jobs the police - other
36 police were attending to at that time. All I can indicate
37 is that I requested GEN5 to have further police attend our
38 location to assist with the searches.
39
40 THE CHIEF COMMISSIONER: Very well.
41
42 MS DWYER: Q. Had you ever received any training, prior
43 to this event, that you should have another male officer
44 present with you when you are doing strip searches?
45 A. Not to my recollection, no.
46
47 Q. Did you wear gloves at any time when you were

1 conducting the strip searches?
2 A. No, which is why I don't touch them.
3
4 Q. Had you received any training to suggest that you
5 should wear gloves in particular circumstances?
6 A. Yeah, if you've got cuts on your hands, yes,
7 certainly. If you're going to touch someone, yes. It's
8 a good idea, unfortunately, in our current climate, to wear
9 gloves.
10
11 Q. But you didn't have any gloves with you at the time,
12 did you?
13 A. I don't think so.
14
15 Q. Did you reach in at any stage into the underwear of
16 any of the young persons you searched?
17 A. Definitely not.
18
19 Q. What about into the external clothing of any of the
20 young persons - their shorts or pants?
21 A. The only thing I may have done in relation to their
22 shorts, because the side pockets are easy to pull out, but
23 often the cargo pants have pockets at the front or the
24 sides, and they are more difficult to pull out, so I may
25 have grabbed them at the bottom of the pockets.
26
27 Q. Do you have a recollection of doing that or is that
28 based on general experiences that you have had previously?
29 A. No, I don't have any recollection of doing that, but
30 I would like to think if they had cargo shorts on, I would
31 have tested that.
32
33 Q. I just want to take you back to the young person's
34 interview briefly. He says that after the general search
35 that was conducted, the older police officer said something
36 like, "What do youse want to do?", to other officers, and
37 he said, "We'll take them around the corner one by one and
38 stripsearch them, I think." Do you recall saying, at any
39 stage, in the presence of another officer, "We'll take them
40 around the corner one by one and stripsearch them,
41 I think"?
42 A. Not those exact words, but I would agree words to that
43 effect, yes. I had a conversation with - when GEN2
44 arrived, I briefed him in relation to what had occurred and
45 what we had already done. I think by the time GEN2 arrived
46 I had already conducted at least one or two - at least two
47 of the searches, possibly three.

1
2 Q. What this young person says, page 30 of his interview,
3 is that the officers that were already speaking to them
4 took him around the corner, and then there were new
5 officers. He was confronted with two new police officers,
6 and the "higher bloke was there with the hat". And he has
7 previously described that the hat was not a cap. And he's
8 then subjected to a strip search. Do you recall at all,
9 after GEN2 arrived, any additional officers being present
10 within that secured compound?

11 A. No. My recollection is it was only the four police
12 officers - my partner and GEN7's partner - plus forward
13 commander, GEN2, who came at some stage after GEN7.
14

15 Q. So GEN15C says this at page 31: that the area that he
16 was taken to was not really private, because there were
17 police officers walking up and down who he could see
18 walking past. Do you agree that even within the separate
19 secluded areas, that young people were taken to to be
20 searched, you could still see outside?

21 A. No.
22

23 Q. The door was left ajar, wasn't it?

24 A. No. That's not the circumstances. We were outside
25 the chain fence. We were outside the perimeter of the
26 venue.
27

28 Q. Outside the perimeter of the venue but within
29 a separate area that had been cordoned off to conduct strip
30 searches?

31 A. No.
32

33 Q. Were the strip searches conducted out in the open?

34 A. We were outside the venue, around - not near the
35 entrance, around a side area. When I went around - so
36 we've gone out into that section. As indicated, we were
37 basically in a small U-shaped area. There was a brick wall
38 to my right with the gate at my back. The eight young
39 persons were seated down to my right against that brick
40 wall, and the two undercover security officers were sitting
41 down to a chain link fence to my left.
42

43 Q. So if you can accept it from me, the
44 Chief Commissioner has received a response to a section 54
45 notice. I'm reading from tab 14. In the section 54
46 notice, the Chief Commissioner is told that there were pods
47 that were separate locations for searches. There was an

1 internal latch allowing for the pod to be locked from the
2 inside in a way that couldn't be opened from the outside.
3 There was a direction from GEN1 that the door be left ajar,
4 with a support person to stand at the door facing into the
5 pod so as to permit the young person to be searched at the
6 side of the pod. Are you aware of the existence of
7 separate pods that were there for young persons to be
8 searched?

9 A. Yes, at the entrance of the venue, where the drug dog
10 operation was, I believe there were those pods.
11

12 Q. But that was a totally different area to the one where
13 you were searching?

14 A. Yes. I was not in a position to walk eight young
15 persons through the crowd to get to those pods, because the
16 opportunity they would have of dropping any evidence was
17 too high.
18

19 THE CHIEF COMMISSIONER: Q. Then perhaps you might just
20 describe the environment. You said it was U-shaped, had
21 a brick wall along one side where they were sitting, chain
22 fence on the other side where the security guards were
23 sitting. So at the base of the U was a wall of some kind?
24 What was that?

25 A. Yeah, sorry. To our back was - we were on the side
26 fence, I guess you would say, of the venue.
27

28 Q. Okay. So the bottom of the U, if you can use that
29 description, was a wall of some kind?

30 A. That was a chain fence, gate, and that's where the
31 security had led these young persons out. So when we
32 walked - we then followed them out, so that chain link
33 fence, gate, was to our rear.
34

35 Q. Sorry, I'm not understanding this. You have eight, or
36 perhaps nine, young people sitting up against a brick
37 fence. Is that what you are telling me?

38 A. That's when we were confronted with, yes.
39

40 Q. And two officers opposite, right?

41 A. Yes.
42

43 Q. You come up, and you are accompanied by?

44 A. My female partner.
45

46 Q. And any security officers?

47 A. Well, the security officers walked out - the eight to

1 10 security officers, how many there were I'm not exactly
2 sure, all walked out with those young persons, and when we
3 have walked out, they have had --
4
5 Q. Sorry, walked out to where?
6 A. Out through this gate into this U-shaped area.
7
8 Q. So they are in this U-shaped area. So the U-shaped
9 area is bounded by on one side a brick wall, or brick
10 fence?
11 A. Yes.
12
13 Q. On the other side by a chain mail fence?
14 A. Yes.
15
16 Q. And on the base of the U by?
17 A. The gate that was behind us.
18
19 Q. And what was that gate - chain mail again or was it
20 solid?
21 A. From memory, it was, yes, it was a chain mail gate.
22
23 Q. Could members of the public see through the chain mail
24 fence or gate?
25 A. No.
26
27 Q. Because?
28 A. Because there was like a black tarp that was attached
29 to the gate.
30
31 Q. Okay. So you couldn't see --
32 A. And the fence line.
33
34 Q. So you couldn't see - the chain mail was not open; it
35 was covered with material?
36 A. Yes.
37
38 Q. So then where did you take the person that you
39 searched first?
40 A. It's sort of difficult to describe in words, sir, but
41 if you can imagine --
42
43 THE CHIEF COMMISSIONER: All right. Can you give him
44 a piece of paper and ask him to sketch the plan, please.
45
46 MS DWYER: Q. You have been provided with a piece of
47 paper. Might I also provide the witness,

1 Chief Commissioner, with a map that is taken from
2 exhibit 2C. Before you mark on the piece of paper, if the
3 Chief Commissioner consents, does the map at all assist you
4 in identifying the location where the searches took place?
5 And if it doesn't, that's fine, just tell us it doesn't.
6 A. Sorry, I --
7
8 MS DWYER: I've just shown the witness a document with the
9 barcode 8405644, but I'm told it doesn't assist.
10
11 While the witness is doing that, might I tender the
12 document behind tab 14, which the section 54 notice or
13 response, 8405614-8405626. Is that number 18C,
14 Chief Commissioner?
15
16 THE CHIEF COMMISSIONER: No, 18C is the note book.
17
18 EXHIBIT #18C NOTEBOOK ENTRIES FOR GEN8 BARCODED
19 8456299-8456302
20
21 EXHIBIT #19C SECTION 54 NOTICE OR RESPONSE BARCODED
22 8405614-8405626
23
24 MS DWYER: Q. I understand that you have made a drawing
25 there; is that right?
26 A. I have, to the best of my memory.
27
28 THE CHIEF COMMISSIONER: Show it to counsel, please.
29
30 MS DWYER: Q. What does that depict, officer? I think
31 you have written on the drawing "Brick wall" and "Gate"?
32 A. Yes.
33
34 Q. Does it also show on this drawing the separate area
35 where you took the young person to be searched?
36 A. Do you want me to write on there where the festival
37 is - where the inside and outside is? Would that make it
38 easier?
39
40 Q. Yes, please, and would you also mark with an "X" the
41 area where you took the young persons to be searched?
42 A. (Witness marks document).
43
44 MS DWYER: I tender that document.
45
46 THE CHIEF COMMISSIONER: Q. So the search was in the
47 open?

1 A. But there was no-one there, your Honour.
2
3 Q. No, no, no.
4 A. It wasn't clearly in the open, no.
5
6 Q. It was not in a room or a tent or anything of that
7 kind? It was in the open air?
8 A. Yes, the view was obscured, and I would probably use
9 those words, by the buildings, and there was I think
10 a container nearby as well, but, yes, it wasn't in an
11 enclosed room.
12
13 THE CHIEF COMMISSIONER: Very well. That will be
14 exhibit 20C.
15
16 EXHIBIT #20C SKETCH PLAN OF AREA OUTSIDE FESTIVAL GROUNDS
17 WHERE SEARCHES TOOK PLACE BARCODED 7603243
18
19 MS DWYER: Q. Sir, the young person recalls that he was
20 taken behind the bin or a car - he can't remember - and
21 there was "like a white container thingy". I think you
22 just mentioned a container; is that right?
23 A. Yes, there was.
24
25 Q. What he says is, "the female officer was there and
26 then he" - the male officer - "walked a bit down and it was
27 just him and me". Do you recall there being a bin or a car
28 near the container area?
29 A. I don't remember that.
30
31 THE CHIEF COMMISSIONER: Q. So you conducted all your
32 searches, whether three or four, at that point?
33 A. Yes, I did all my searches in the one spot, and the
34 female officer was --
35
36 Q. What about the other officers, where did they do their
37 searches?
38 A. I'm not sure, sir.
39
40 Q. Am I right in saying they didn't do them in the same
41 place you did?
42 A. I don't - no, I don't think so.
43
44 Q. Were those searches proceeding whilst your searches
45 were proceeding or did you do your searches - you obviously
46 had to do your searches sequentially, but while you were
47 doing your searches were the other young people still there

1 or were they themselves being taken somewhere for a search?
2 A. Sir, if it assists, everyone was in that U-shaped
3 area, with the exception of the first few searches that
4 I conducted, so I was by myself with the young person
5 around where I have indicated where the "X" was, and then
6 when our - when GEN5 arrived - sorry, GEN7, he was then
7 conducting searches simultaneously with me at various
8 times.

9
10 Q. Where was he doing those searches?

11 A. That I'm not sure.

12
13 MS DWYER: Q. I will just keep reading from the young
14 person's interview.

15 A. Yes.

16
17 Q. It is at page 33, and I will summarise some of it. He
18 says he was taken into that area, which was an open area
19 near the container, and one male officer conducted the
20 search and he says this: he is asked what was the first
21 thing the officer asked him to do. The young person says:

22
23 ... just ah spread your legs like a normal
24 search, you spread your legs ... and he
25 like patted me down again ...

26
27 Is that something that you might have done?

28 A. I have never said to any search I've conducted,
29 "Spread your legs".

30
31 Q. If the young person had been standing there, is
32 patting him down something that you might have done?

33 A. There was no need to pat them - well, in the searches
34 I conducted, there was no need to pat them down. They were
35 wearing loose-fitting T shirts. You could see that there
36 was nothing underneath the chest area. Once they raised
37 the bottom of their T shirts, the upper-body search was
38 complete, in my view.

39
40 Q. The young person says that after he took his shirt
41 off, he was asked to open up his shorts, or he opened up
42 his shorts and his undies. He then held his penis and the
43 police officer lifted his balls up and checked under there.
44 Is it possible that you did that?

45 A. Definitely not. Absolutely not.

46
47 Q. Did you have a torch with you at that time?

1 A. I don't carry a torch.
2
3 Q. What was the lighting like in that area?
4 A. It was only 5pm and it's February. It was quite fine.
5
6 Q. The young person then says at page 35, in more detail,
7 that he confirms that he had one hand on his penis and one
8 hand holding up his shorts. Do you recall any of the young
9 persons that you searched doing that?
10 A. No.
11
12 Q. He then recalls the police officer putting his hand
13 underneath where the undies bit was. Did you do that?
14 A. Definitely not.
15
16 Q. He recalls the police officer lifting his testicles or
17 moving them out of the way to see if there was anything in
18 the undies. Did you do that?
19 A. Definitely not.
20
21 Q. He then recalls that the police officer walked behind
22 him and moved his hands around in a circular motion, and
23 the young person has indicated the circular motion, to feel
24 the young person's buttocks to see if there were drugs
25 there. Did you do that?
26 A. Definitely not.
27
28 Q. He recalls a police officer running his hands inside
29 his shorts and underwear directly on his skin. Did you do
30 that?
31 A. No.
32
33 Q. So you say if that was done, then that was done by
34 another male officer?
35 A. Either the young person is mistaken or it was done by
36 another police officer.
37
38 Q. You say you did not do that?
39 A. Definitely not.
40
41 Q. Do you see that it puts you in a particularly
42 difficult position --
43 A. Yes.
44
45 Q. -- if there is no other officer there to verify what
46 you did?
47 A. I am aware of that.

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Q. And if there is no other parent, guardian or independent person there when that search is being conducted?

A. I'm well aware of that, yes.

Q. I think you were indicating earlier about what you do in these circumstances when you are conducting a search, and that you ask the young person to pull out the front of their pants and the back of their pants, and you include in that underwear. Is that a fair summary of it?

A. Yes.

Q. Do you ever assist the young person by pulling out their outer clothing?

A. No.

Q. Have you ever done that?

A. No, there's no need to.

Q. Have you ever done that?

A. No.

MS DWYER: Nothing further. Thank you.

THE CHIEF COMMISSIONER: Are there any questions? No. Thank you. You are free to go. But it must be for the moment, because this is an extensive examination of what happened, and it is possible that you may need to be recalled. I think it is unlikely, but I can't release you from your summons at the moment. If we do need you, we will contact your legal adviser. Thank you. You are free to go now.

THE WITNESS: Thank you, sir.

<THE WITNESS WITHDREW

THE CHIEF COMMISSIONER: Very well. I will adjourn.

AT 4.40PM THE COMMISSION WAS ADJOURNED TO WEDNESDAY, 4 DECEMBER 2019

