

Hearing: Operation Almas

Before Ms Anina Johnson, Commissioner

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

On Thursday, 4 December 2025 at 10.05am
(Day 2)

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1 THE COMMISSIONER: Good morning, everyone. I think we
2 were going to begin by tendering some exhibits today.
3

4 MS SULLIVAN: If it is convenient, Commissioner, I will
5 attend to those housekeeping matters in relation to the
6 exhibits.
7

8 THE COMMISSIONER: Thank you.
9

10 MS SULLIVAN: Might I tender in order of the exhibits that
11 were referred to yesterday, tab 131, which is barcode
12 8631000 - that's the aerial photo of Holden Lane.
13

14 THE COMMISSIONER: That will be exhibit 8C.
15

16 **EXHIBIT #8C AERIAL PHOTO OF HOLDEN LANE, BARCODED 863100**
17

18 MS SULLIVAN: And then tab 34B, which is the Meals on
19 Wheels CCTV footage, that is barcode 8623992.
20

21 THE COMMISSIONER: That will be exhibit 9C.
22

23 **EXHIBIT #9C MEALS ON WHEELS CCTV FOOTAGE, BARCODED 8623992**
24

25 MS SULLIVAN: Thank you. The next item is select crime
26 scene photos at tab 38. The barcode reference is 8634205
27 to 8634209.
28

29 THE COMMISSIONER: We only showed - sorry, that's tab 38
30 that you are talking about, wasn't it?
31

32 MS SULLIVAN: That's tab 38. I flicked between the two.
33

34 THE COMMISSIONER: That will be exhibit 10C.
35

36 MS SULLIVAN: Thank you.
37

38 **EXHIBIT #10C SELECT CRIME SCENE PHOTOS, BARCODED**
39 **8634205-8634209**
40

41 MS SULLIVAN: Then we went to some further crime scene
42 photos from tab 73, and that's barcode reference 8641001 to
43 8641284. I didn't refer to all of those photographs,
44 Commissioner. I'm not sure if you wish me to identify the
45 specific images.
46

47 THE COMMISSIONER: I think, given that there is a large

1 number of images under that tab, my records are that we
2 had image 3, which is 8641022; image 5, barcode 8641024;
3 image 8, barcode 8641027; and image 11 barcode 8641030. So
4 I would prefer to just --

5
6 MS SULLIVAN: I think we may have also gone to image 24.
7

8 THE COMMISSIONER: Image 24, and the barcode for that?
9

10 MS SULLIVAN: Just one moment. That is 8641043,
11 Commissioner.

12 THE COMMISSIONER: So that - I think we can tender those
13 as a bundle, and that bundle will be exhibit 11C.

14 MS SULLIVAN: Thank you, Commissioner.

15
16 EXHIBIT #11C: FURTHER CRIME SCENE PHOTOS TAKEN FROM TAB 73,
17 BEING IMAGE 3, BARCODED 8641022; IMAGE 5, BARCODED 8641024;
18 IMAGE 8, BARCODED 8641027; IMAGE 11 BARCODE 8641030; AND
19 IMAGE 24, BARCODED 8641043

20 MS SULLIVAN: Then tab 42A, which is the RPAS still images
21 of the Salvation Army building, in fact, it is a collection
22 of three photographs, 8634217 to 86341219.

23 THE COMMISSIONER: Is that a confidential exhibit still?

24 MS SULLIVAN: There is no reason why it needs to be. It
25 could be a public exhibit if you were so minded,
26 Commissioner, given the innocuous nature of those photos.

27 THE COMMISSIONER: I'm comfortable.

28 MS SULLIVAN: They are Commission photographs, they are
29 not photographs that were taken --

30 THE COMMISSIONER: Why don't we make that, the bundle of
31 photographs from tab 42A, public exhibit 3.

32
33 EXHIBIT #3 RPAS STILL IMAGES OF THE SALVATION ARMY
34 BUILDING, BARCODED 8634217-86341219

35 MS SULLIVAN: Thank you, Commissioner.

36 Mr Chapman, you are here, I can't see your client at
37 the moment online. And I can't hear you either. I can see

1 the sound coming - just hold on a minute, Mr Chapman. Can
2 you try again, Mr Chapman? In having stopped the echo,
3 we've also stopped your voice altogether.
4

5 Am I right, Ms Sullivan, and those assisting, that
6 Officer D should have joined using the same link?
7

8 MS SULLIVAN: Officer D should be online. I'm content if
9 it assists, Commissioner, to step out and speak to
10 Mr Chapman on the phone.
11

12 THE COMMISSIONER: Yes. Thanks, Mr Chapman.
13

14 MS SULLIVAN: If you excuse me, Commissioner, I might call
15 Mr Chapman to find out the status of his client.
16

17 THE COMMISSIONER: Mr Chapman, before you step out to call
18 Ms Sullivan, could you just double-check, there is a mute
19 button on the top of my screen. Could you say something
20 again for us?
21

22 (Mr Chapman speaks - sound muted)
23

24 (Ms Sullivan leaves the hearing room)
25

26 MR HARRIS: Commissioner, it may or may not assist, but
27 Officer C is in the precincts.
28

29 THE COMMISSIONER: Thank you, Mr Harris. I appreciate
30 that.
31

32 (Ms Sullivan returns to the hearing room)
33

34 MS SULLIVAN: Commissioner, we're just making arrangements
35 for Officer D to be sent the updated link.
36

37 MR CHAPMAN: Commissioner, do you hear me now?
38

39 THE COMMISSIONER: I can hear you loud and clear,
40 Mr Chapman.
41

42 MR CHAPMAN: Wonderful, thank you.
43

44 THE COMMISSIONER: I understand your client's being sent
45 the link for today and then we should be right to go ahead.
46

47 MR CHAPMAN: Yes, thank you, Commissioner.

1
2 MS SULLIVAN: Ms Boxall made a very pragmatic suggestion
3 in the interim. Perhaps if Mr Chapman could forward the
4 link to his client as well, just in the interests of
5 expediency, because it wasn't her who sent that link. So
6 she is making those arrangements but you might get there
7 first. Thank you.

8
9 THE COMMISSIONER: While we're waiting for that to come
10 through, I might just remind those watching in the room
11 from the public gallery that there will inevitably be some
12 exhibits displayed on screen and that were displayed on
13 screen yesterday, as the technology doesn't allow us to do
14 an AVL link and not have those displayed up on the screen,
15 but those exhibits remain confidential unless otherwise
16 marked, and I'd ask you to respect that in the way in which
17 you deal with any material that you hear here today.

18
19 We have Officer D. We have Mr Chapman. We are ready
20 to go.

21
22 <OFFICER D, on former oath: [10.10am]

23
24 THE COMMISSIONER: Officer D, can you just check and let
25 us know if you can hear us and see us?

25
26 THE WITNESS: Yes, good morning, Commissioner. I can hear
27 you loud and clearly.

27
28 THE COMMISSIONER: Thank you, and you are under your oath
29 given yesterday.

30
31 Mr Chapman?

32
33 MR CHAPMAN: Thank you, Commissioner, and can I also just
34 confirm Officer D's responses are on the basis of the
35 objection that he elected yesterday as well.

36
37 THE COMMISSIONER: Absolutely.

38
39 MR CHAPMAN: Thank you, Commissioner.

40
41 <EXAMINATION BY MR CHAPMAN:

42
43 MR CHAPMAN: Q. Officer D, can you see and hear me?
44 A. Yes, sir.

1 Q. Thank you. So Officer D, you recall being asked some
2 questions by counsel assisting in relation to your heading
3 to the accident site on the highway. Do you recall that?
4 A. Yes.

5 Q. And you moved to that site on the highway, is it the
6 case, because of a request made by Ballina 14 over the VKG
7 for an alcometer; is that correct?
8 A. Yes, as I recall, yes.

9 Q. And is it the case that you initially proceeded code
10 blue?
11 A. That's correct.

12 Q. Though, at some point in the travel, likely only a few
13 minutes from the accident location, that was upgraded to
14 a code red?
15 A. That's correct.

16 Q. And it was upgraded to code red in circumstances where
17 you'd been informed by VKG that Ballina 14 needed
18 assistance quickly because his location was becoming risky;
19 is that right?
20 A. That's correct.

21 Q. And I think it was your evidence that it was risky due
22 to failing light and the location of the accident being
23 busy highway; is that right?
24 A. That was my understanding, yes.

25 Q. And is it the case, Officer D, that based on your
26 years of experience including as a highway patrol officer,
27 that you were conscious of the risks faced by Ballina 14
28 and those involved in the crash?
29 A. That's correct.

30 Q. And that was the risk of being hit by passing traffic;
31 is that right?
32 A. Yes.

33 Q. Now, you were also asked about the broadcast of the
34 Salvation Army job; do you recall that?
35 A. Yes.

36 Q. Now, without the benefit of the transcript, I have it
37 as your evidence that you don't have an actual recollection
38 of the first broadcast; is that right?
39

1 A. That's correct.

2
3 Q. And you explained that you don't have a recollection,
4 because, on the way to Ballina 14's location, you may have
5 fallen out of radio contact in that area; is that correct?

6 A. That's correct.

7
8 Q. Because there's some black spots in that area; is that
9 fair to say?

10 A. At the time, yes.

11
12 Q. And your evidence also is that the computer device,
13 whose name I forget so forgive me for that, but the
14 computer device that --

15 THE COMMISSIONER: MDT.

16 MR CHAPMAN: Thank you very much, Commissioner.

17
18 Q. Your evidence is that the MDT, which displays jobs in
19 the car, may not have been working, if it was in your car
20 at all; is that your evidence?

21 A. That's correct.

22
23 Q. And in any event, it is your experience that
24 technology is often temperamental; is that right?

25 A. At that location, yes.

26
27 Q. Is it temperamental as a device or just at that
28 location?

29 A. It's been my experience that the temperamental nature
30 of the device was subject to locations, so city, metro,
31 they'd operate quite flawlessly. As the telecommunication
32 towers and reception devices became more sparse outside of
33 the metropolitan area, so did their ability to connect
34 reliably.

35
36 Q. So just with a view with this Commission looking to
37 improvements, is your evidence that that technology in
38 particular in outside of metro areas could be improved?

39 A. There have been some improvements since the date that
40 we're discussing. The radio network has been upgraded
41 significantly, and I - I'm operating under a different set
42 of operational conditions now, so the equipment's different
43 to what I would have had at present if I had remained in
44 general duties. So I can only comment on the equipment
45 that I've got at the moment.

1
2 Q. But your general understanding is that it's been
3 improved since the time that we're talking about?

4 A. That's correct.

5
6 Q. And just going back to that time and the car that you
7 were in, Woodburn 29 - well, just going back to that time,
8 could you put a sort of ballpark figure in percentage terms
9 of how often the MDT would not be working because of these
10 connectivity issues?

11 A. Yeah, I mean, it got to the stage where, some days,
12 you wouldn't even bother logging on because we had jobs
13 outstanding and the time that was consumed trying to get it
14 going was not best use of time at that - at that stage. So
15 we'd simply drive off and just use the radio as our form of
16 communication without the MDT at all.

17
18 Q. So just while we're on this topic, when you refer to
19 your using a different system, is that because you're in
20 the highway patrol command?

21 A. Now presently, yes.

22
23 Q. And you'd suggest, would you, that your MDT equivalent
24 operates or it has better functionality than the general
25 duties MDT; is that right?

26 A. I'd - I'd say they're maintained a lot more
27 fastidiously. We rely very heavily on them. If there's an
28 error or a discrepancy with one of the systems that we
29 can't fix remotely with the radio technicians, the car is
30 taken immediately to a radio technician hub, which is two
31 hours from us. With my experience with general duties,
32 that just simply never occurred. There was never time and
33 never the availability of staff to take cars to radio tech
34 hubs so if they were broken or malfunctioning, they'd
35 remain that way for some time.

36
37 Q. But in principle, you don't see a reason why a highway
38 patrol equipped MDT should be of any higher standard than
39 a general duties one; is that right?

40 A. I'd say the equipment is the same generally, but I'd
41 be speaking rather broadly.

42
43 Q. Right. But I guess your overall point, and correct me
44 if I'm wrong, is that there's certainly significant room
45 for improvement with the general duties MDTs?

46 A. Yes.

1 Q. With respect to connectivity?

2 A. Yes. With my experience leading up to leaving general
3 duties almost three years ago, that would be the case.

5 Q. Thank you. Now, you are aware, aren't you, that
6 priority is to be given to a priority 2 job over a 3 job;
7 correct?

8 A. Yes.

10 Q. Now, just sitting here now, had you - if your evidence
11 is you had actually heard that priority 2 broadcast, is it
12 fair to say that you would have given priority to that job?

13 A. That's fair to say.

15 Q. Though we know that it's your evidence that you did
16 not turn around, as I think it was suggested, with respect,
17 by counsel assisting, because you had no actual
18 recollection of hearing that first broadcast; is that
19 right?

20 A. That's correct.

22 Q. As for the second broadcast, I think you accept that
23 you may have been - that it may have been right about the
24 time when you arrived at the accident location; is that
25 your evidence?

26 A. Yeah, thereabouts, yes.

28 Q. And your evidence, I think, was that you may not have
29 heard a second broadcast, as you were, I think the evidence
30 was, getting out of the car or there may have been an issue
31 with the location or your hand-held radio; is that right?

32 A. That's correct.

34 Q. So you don't have a specific recollection of the
35 second broadcast either?

36 A. No, not a specific recollection, no.

38 Q. And this issue with possibly missing a broadcast
39 because you're getting out of the car or you're
40 transitioning in some way can occur from time to time; is
41 that right?

42 A. Yes, due to the time - the amount of time of getting
43 in and out of the car.

45 Q. Thank you. Just to the next topic, I'm going to ask
46 you some questions about your evidence about heading to the
47 Salvation Army location. Now, your evidence was that you

1 were heading to the Salvation Army location, Holden Lane,
2 code blue; is that right?

3 A. That's correct.

4

5 Q. And you were travelling behind Ballina 14; correct?

6 A. Correct.

7

8 Q. And that was in part because you say you didn't know
9 the location specifically that you were heading to; is that
10 right?

11 A. Yes.

12

13 Q. And you didn't know the location specifically because
14 that day you were assisting as Woodburn 29 and it was not
15 your usual patch, if I could use that expression?

16 A. That's accurate.

17

18 Q. And Officer D, is it reasonable to assume that if the
19 supervisor was moving to the location in Holden Lane code
20 red, and not code blue, you would have done the same?

21 A. That's correct.

22

23 Q. Though as he was moving code blue, you did the same?

24 A. Correct.

25

26 Q. Now, would it be, in your lengthy experience, unusual
27 for two police officers, effectively in convoy, to be
28 travelling under different codes?

29 A. Highly unusual.

30

31 Q. Thank you. I just want to - my last topic is we're at
32 the location, so I'll just some ask you some questions
33 about that. This is the Salvation Army, Holden Lane. So
34 you were next asked some questions by counsel assisting
35 about the search you and Ballina 14 conducted at Holden
36 Lane; do you recall that?

37 A. Yes.

38

39 Q. And your evidence was that you moved into Holden Lane
40 in - I use the term, "convoy" but behind Ballina 14?

41 A. That's correct.

42

43 Q. And you said, didn't you, that you had a recollection
44 first of searching the grass area at the rear of I think it
45 was the Screenworks business?

46 A. Yes. That's correct.

1 MR CHAPMAN: Can I just ask the Commission to pull up
2 tab 148, please.
3

4 THE COMMISSIONER: If we can have tab 148 put up on the
5 screen, thank you.
6

7 Can you see that, Mr Chapman and Officer D?
8

9 THE WITNESS: Yes, Commissioner.
10

11 MR CHAPMAN: I can, Commissioner, thank you.
12

13 Q. Officer D, do you recognise that as, first of all,
14 Holden Lane, which is on the tarmac there?
15 A. Yes.
16

17 Q. And do you see, is that grass area the grass area that
18 you referenced as being at the rear of the Screenworks
19 business?
20 A. Yes, sir.
21

22 Q. And do you see that there's a fence there, Officer D,
23 which wasn't, I think, depicted in the exhibit 3
24 photographs?
25 A. Yes. I'd describe it as a white picket fence.
26

27 Q. Now, does the existence of that fence or just the
28 depiction of the area assist you at all to recall whether
29 you searched that area that night?
30 A. I recall - I have been in that backyard. I recall
31 being in that backyard.
32

33 Q. Right, but --
34 A. The --
35

36 Q. I'm sorry, continue.
37 A. I accept, completely with the CCTV, that it was highly
38 improbable, upon reflection, and not mentioning it also in
39 my statement, that I - that that was done, that being
40 a contemporaneous record made soon after the event. I have
41 relied more heavily upon that than my recollection three
42 years later but in that - in any case, I, at some stage,
43 have been in that yard. I remember being in that backyard.
44

45 Q. Right. So your evidence is - and I think this was put
46 to you - that you've conflated your search of that area
47 with another occasion?

1 A. I'd say that was highly probably.

2
3 Q. Now, counsel assisting suggested to you at one point
4 that you ought to have searched the precise address at the
5 Salvation Army shop. Do you recall that?

6 A. Yes.

7
8 Q. And it was also suggested, and I think you accepted,
9 that the nature of this particular call was that it may
10 have been a mobile incident?

11 A. That was possible, yes.

12
13 Q. And by "mobile", we're talking about an incident which
14 may have been one where it was moving from the location as
15 first described; is that right?

16 A. Yes.

17
18 Q. And being a - and that - and so you understood it to
19 be a mobile incident when you commenced the search; is that
20 right?

21 A. Given the totality of the information I had at the
22 time, that was the highest probability in my mind.

23
24 Q. So you were drawing on your experience of the
25 description of the incident as a concern for welfare,
26 bashing a woman, as possibly being a mobile event or likely
27 being a mobile event?

28 A. Yes.

29
30 Q. Right. And being mobile, is that why you and Ballina
31 14 conducted a search which commenced at the start of
32 Holden Lane and then continued its length?

33 A. I can't comment on what Officer C's mindset was
34 entering that lane, but that was my mindset. I didn't know
35 the specific location we were going to, so once we were in
36 Holden Lane, and I saw Officer C turn into it, that's where
37 my mind commenced- commenced my search, basically.

38
39 Q. And that's because the individuals in a mobile concern
40 for welfare may have moved from the initial location in the
41 report, in your experience?

42 A. That's correct.

43
44 Q. Now, you were taken to a number of photos of the rear
45 of the Salvation Army shop on Holden Lane; do you recall
46 that?

47 A. Yes, sir.

1
2 MR CHAPMAN: I think they are exhibit 3. I'm not asking
3 for those to be pulled up. But can I ask for the
4 Commission to please pull up tab 149. Right. Thank you.
5

6 Q. Officer D, do you recognise that to be the rear of the
7 Salvation Army shop at Holden Lane, on Holden Lane?
8 A. From the photographs I've seen in the last 24 hours,
9 yes.
10

11 Q. Is it your evidence that you were travelling at slow
12 speed in your vehicle with Ballina 14 in his vehicle along
13 Holden Lane?
14 A. I was travelling alone along Holden Lane, that's
15 depicted on the right-hand side of the photograph, just
16 below.
17

18 Q. Right. Yes, you were in separate vehicles, though you
19 were --
20 A. Yes.
21

22 Q. -- as I've described it, in convoy at slow speed going
23 down Holden Lane; correct?
24 A. Yes.
25

26 Q. And that involved you passing at slow speed the rear
27 of the Salvation Army shop as depicted in this photograph?
28 A. That's correct.
29

30 Q. And you say, as you said in your statement at the
31 time, that you saw nothing and - you, effectively, saw
32 nothing and saw nobody; is that correct?
33 A. That's correct.
34

35 Q. And when you say you saw nobody and saw nothing, that
36 included behind - specifically behind the Salvation Army
37 shop?
38 A. That's correct.
39

40 Q. And do you agree that the focus of your attention was
41 on the behind or the area behind the Salvation Army shop
42 because that was precisely the location that VKG had
43 identified as the location of the assault; you agree with
44 that?
45 A. That's - yes, I would.
46

47 Q. Now, I just want you to assume, if you could, that the

1 call from VKG had been a concern for welfare, woman being
2 bashed, in and around the Salvation Army shop; do you
3 understand that?

4 A. Yes.

5 Q. Now, if that was the information that you'd been
6 provided by VKG, do you expect that you would have changed
7 your approach to that search at all and, if so, how?

8 A. I would expect that I would have changed my approach
9 to the search. "In and around" is a broader, in my mind,
10 is a broader spectrum of search area as opposed to
11 a specific area being the rear of the building or the rear
12 of a location.

13 Q. So it's possible, on that hypothesis, that that may
14 have involved going up to, for example, the pool gate and
15 looking in?

16 A. It may well have.

17 Q. It might also have involved going around to the front
18 of the location on Tamar Street and having a look?

19 A. I - yeah, I can only assume, yes.

20 Q. But you and Ballina 14 didn't do so because you were
21 responding on a busy night, to specific information from
22 VKG; is that right?

23 MS SULLIVAN: Your Honour, at this point I object to the
24 leading nature of the questions. It would be of greater
25 assistance to your Honour if this evidence came from the
26 witness without my friend leading about his thinking.

27 THE COMMISSIONER: Mr Chapman, can you frame the questions
28 in a way that invites an answer from your client rather
29 than suggesting an answer to him.

30 MR CHAPMAN: Sure, Commissioner.

31 Q. Officer D, why was it that you didn't go around, for
32 example, the front of Tamar Street to have a look?

33 A. I have no recollection of being at the front of Tamar
34 Street. Having said that, I can't categorically deny that
35 I didn't go around the front of Tamar Street. Once I left
36 Holden Lane, I can't recall which way I headed back to
37 Woodburn. I may well have doubled back and gone up Tamar
38 Street. I just simply can't remember which route I took
39 out, out of Ballina

1
2 Q. So you were - so this is at the end, I don't have the
3 map on me, but at the end of Holden Lane, you may have
4 turned either left or turned right; you don't have
5 a recollection of that?

6 A. I most certainly would have turned left. There was
7 absolutely no reason for me to turn right. Left was south.
8 That's the direction of my home station and that's where
9 I was proceeding to. It also was the route to double back
10 on to Tamar Street. It - yeah, simply makes no sense for
11 me to turn right.

12
13 Without a photo of the intersection --
14

15 THE COMMISSIONER: Would that be helpful, to put up
16 a photo of the intersection? I think we have --
17

18 MS SULLIVAN: I think that's 42A, Commissioner, that is
19 exhibit --
20

21 THE WITNESS: Commissioner, the intersection I'm referring
22 to in my mind is the intersection of Holden Lane and
23 I believe it's River Street, and I believe it may be
24 blocked in that location at that time to right-hand turn
25 traffic and it was only left-hand turn available due to
26 a large concrete island, albeit there have been some
27 significant roadworks in the last 18 months on River Street
28 and they've erected traffic lights and that may have
29 changed since but at that time I do believe there was
30 a left-turn only at the end of Holden Lane on to River
31 Street.
32

33 THE COMMISSIONER: Q. Your evidence in any event,
34 Officer D, is that you turned left, because that was in the
35 direction of your home station and you would have proceeded
36 in that direction and you can't remember, at the moment,
37 whether you went down Tamar Lane or some other route?

38 A. That's correct, Commissioner.
39

40 THE COMMISSIONER: I think we can probably move ahead,
41 Mr Chapman.
42

43 MR CHAPMAN: Yes, thank you, Commissioner. Those are my
44 questions.
45

46 Can I just seek to tender those two photographs that
47 I referred Officer D to?

1
2 THE COMMISSIONER: Yes. So tab 148 - and I might just get
3 someone's assistance with the barcode number for that.
4

5 MS SULLIVAN: Tab 148 is barcode 8607977.
6

7 THE COMMISSIONER: That will be exhibit 12C.
8

9 **EXHIBIT #12C PHOTOGRAPH SHOWN TO OFFICER D, BARCODED**
10 **8607977**

11 MS SULLIVAN: I'm sorry, Commissioner - and 149 is
12 8607976.
13

14 THE COMMISSIONER: And that will be exhibit 13C.
15

16 **EXHIBIT #13C PHOTOGRAPH OF THE REAR OF THE SALVATION ARMY**
17 **PREMISES ON HOLDEN LANE, BARCODED 8607976**

18 MR CHAPMAN: May it please the Commission.
19

20 THE COMMISSIONER: Thank you, Mr Chapman. Was there
21 anyone else that wanted to ask questions of this witness?
22

23 MR GOLLAN: Yes, I do, Commissioner. Just a few
24 questions.
25

26 THE COMMISSIONER: Certainly.
27

28 **<EXAMINATION BY MR GOLLAN:**
29

30 MR GOLLAN: Q. Officer D, can you hear me?
31 A. Yes, sir.
32

33 THE CHIEF COMMISSIONER: Can you hear Mr Gollan?
34

35 THE WITNESS: Yes, sir - yes, ma'am.
36

37 MR GOLLAN: Q. This was on 3 January at about 8pm or
38 thereabouts. Do you have any recollection of whether or
39 not the car park that we can see on the photo that is on
40 the screen had any cars parked in it?
41

42 A. I couldn't accurately remember if there was any cars
43 parked in there or not. I generally remember from Holden
44 Lane there being - there wasn't many cars at all in Holden
45 Lane, everything was pretty much empty. Specifically in
46 relation to that car park, I couldn't accurately say
47

1 whether there were any cars there or not.
2

3 MR GOLLAN: If the Commission please.
4

5 THE COMMISSIONER: Anything arising, Ms Sullivan?
6

7 MS SULLIVAN: Just briefly, Commissioner.
8

9 **<EXAMINATION BY MS SULLIVAN:**
10

11 MS SULLIVAN: Q. Officer D, you see on the photograph
12 on the screen that there is a sort of square cream box; do
13 you see that?
14 A. Yes, ma'am.
15

16 Q. I'm not sure what that item is, perhaps it's a bin or
17 it holds bins. In any event, that's an item - would you
18 care, you might be better at estimating the size of that
19 item, relative to my estimate?
20

21 A. I'd estimate that to be somewhere in the vicinity of
22 2 metres long and possibly a metre, a metre and a quarter
23 wide.
24

25 Q. All right. So that is an obstruction to your view,
26 depending on the angle that you're in the car driving past;
27 do you agree?
28

29 A. As a total drive past or at any one given time?
30

31 Q. Well, at any one given time, that's an obstruction to
32 a clear view of the car park, isn't it?
33

34 A. If I was stopped, yes.
35

36 Q. Do you recall looking behind that bin structure?
37

38 A. Not independently of anything else I searched that
39 night, no.
40

41 Q. All right. And you're unable to say whether there
42 were any cars parked in the car park; that's right?
43

44 A. That's correct.
45

46 Q. So if there were cars parked in the car park, that
47 would also have obstructed your vision as to whether or not
48 a person may have, for example, lain injured in the car
49 park?
50

51 A. At a static point, absolutely.
52

53 Q. Well, at any point. A car would have obstructed your
54

1 vision as you were driving past, wouldn't it?

2 A. Not in a totality of the drive past. At a static
3 point, say, for example, this photo, if we focus on that,
4 there are several - I'd say the majority of the car park is
5 obstructed by vehicles and that structure that we've
6 nominated. Because I was moving and had the alley lights
7 on, the entirety of the cars would have been searched as
8 I drove past and been visible.

9
10 Q. Well, that's an assumption by you. I'm just going to
11 simply put this proposition: to be thorough in your check
12 of that car park, you would have needed to have moved
13 behind, looked around, any car or any bin structure; do you
14 accept that or not?

15 A. I don't know how many cars, if any, were in the car
16 park.

17
18 Q. As a general proposition, it's put as a general
19 proposition, Officer.

20 A. As a general proposition, there may be some
21 difficulties seeing around vehicles, but from a moving
22 vehicle, elevated position I was in with alley lights on,
23 I would be comfortable and confident of searching around
24 cars from the vehicle.

25
26 Q. Far from best practice, Officer D?

27 A. Best practice being?

28
29 Q. Getting out of your vehicle, walking around the car
30 park

31 A. It's highly dependent on a multitude of variable
32 factors.

33
34 THE COMMISSIONER: I think we might move on. Ms Sullivan.

35
36 MS SULLIVAN: I will, thank you, and --

37
38 THE COMMISSIONER: Can I just note for the record that the
39 photo that everyone is referring to in this part of the
40 re-examination is exhibit 13C.

41
42 MS SULLIVAN: Thank you. Thank you, Commissioner.

43
44 Q. Finally, Officer D, there's no mention, is there, in
45 your statement at paragraph 6 where you set out in detail
46 the nature of the search that you took around Holden Lane -
47 there's no mention of also making observations about Tamar

1 Street, is there, driving past Tamar Street?

2 A. That's correct.

3
4 Q. So it's likely that you weren't making observations,
5 if you did drive past?

6 A. If I did drive past Tamar Street or the assertion is
7 if I did drive past Tamar Street I didn't make any mental
8 or visual inspection of the Salvation Army building from
9 the front?

10
11 Q. That's right. Because if you had done that, you would
12 have put it in your statement?

13 A. If I had driven left down Tamar Street, that would
14 have been the purpose I was in that position in Tamar
15 Street, alone.

16
17 Q. But had you done that, you would have put that search
18 in your statement, I suggest?

19 A. May well have, yes.

20
21 Q. That would be the proper course, wouldn't it?

22 A. It'd be a course. I just can't recall whether or not
23 I did drive down Tamar Street or not. Relying on my
24 statement, and not having it highlighted in that statement,
25 I'd be leaning towards I didn't. But I can't categorically
26 deny it.

27
28 MS SULLIVAN: Thank you. Nothing further, Commissioner.
29 Actually, I'm sorry, there is one final matter.

30
31 Q. Did you have a discussion, Officer D, at any point
32 with Superintendent Tanner about your attendance at the
33 Salvation Army premises, Holden Lane, your patrol? Did you
34 speak to him about it?

35 A. I have no recollection of any conversations with
36 Superintendent Tanner about the incident.

37
38 Q. So you may have had a conversation but you can't now
39 recall it?

40 A. That's true.

41
42 MS SULLIVAN: I'm not sure I can take that any further.
43 Thank you.

44
45 THE COMMISSIONER: Mr Gollan, is there anything arising
46 from that from your point of view?

47

1 MR GOLLAN: No.

2

3 THE COMMISSIONER: Thank you.

4

5 Officer D is free to be released from his summons?

6

7 MS SULLIVAN: It may be prudent that Officer D is not

8 released until we've heard from Officer C, just in case

9 there are some matters that need to be put, Commissioner.

10

11 THE COMMISSIONER: Mmm-hmm. That's sensible.

12

13 All right, Officer D, you will remain on your summons

14 for the time being until we hear from Officer C, and we

15 will be in touch with you through Mr Chapman to let you

16 know if you'll be needed to come back again, in which case,

17 we'll make arrangements for another AVL, or whether you'll

18 be released. So, Mr Chapman, we will be in touch with you

19 in relation to that in due course.

20

21 THE WITNESS: Thank you, Commissioner.

22

23 THE COMMISSIONER: Thank you.

24

25 Thank you, Mr Chapman, for your assistance today.

26 I presume you're not available for the balance of today's

27 hearing?

28

29 MR CHAPMAN: Quite. Yes, that's correct, thank you, if

30 I may be excused.

31

32 THE COMMISSIONER: You may. Thank you. Thank you both.

33

34 THE WITNESS: Thank you, Commissioner.

35

36 <THE WITNESS WITHDREW

37

38 MS SULLIVAN: Thank you, Commissioner. We're now in a

39 position to call Officer C.

40

41 MR HARRIS: Commissioner, Officer C is in the waiting room

42 just on the other side of the foyer. Would you like me to

43 get him?

44

45 THE COMMISSIONER: Thank you, that would be helpful.

46

47 MR HARRIS: Oh, someone will assist. Thank you very much.

1
2 THE COMMISSIONER: I might indicate to those waiting that
3 the transcripts from yesterday are now up on the
4 Commission's website, if they are of interest or
5 assistance.

6
7 MR HARRIS: Officer C, Commissioner.

8
9 THE COMMISSIONER: Thank you.

10
11 MR HARRIS: Commissioner, could I just advise that
12 Officer C is seeking a declaration pursuant to section 75?

13
14 THE COMMISSIONER: Thank you.

15
16 Take a seat, Officer. I will arrange for you to be
17 formally sworn in in a moment. We'll just begin, perhaps,
18 by going through the process of taking an objection.
19 I note that Officer C is in the witness box.

20
21 <OFFICER C, called: [10.50am]

22
23 THE COMMISSIONER: And I understand that you would like to
24 seek an objection in this matter?

25
26 OFFICER C: Yes, Commissioner.

27
28 THE COMMISSIONER: As I have said to other witnesses
29 before, that's a very sensible approach. It's an approach
30 that most people sitting in that box take and there's no
31 adverse conclusions on my part by the fact that you've
32 taken that approach.

33
34 I do formally make a declaration under section 75 of
35 the Law Enforcement Conduct Commission Act that all answers
36 and other things given by you will be regarded as having
37 been given on objection by you.

38
39 OFFICER C: Thank you.

40
41 THE COMMISSIONER: We'll wait for you to be sworn in and
42 then we'll deal with a few other matters.

43
44 <OFFICER C, sworn: [10.52am]

45
46 THE COMMISSIONER: In relation to that objection, I'm sure
47 that you've been through this with Mr Harris, but I just

1 wanted to be clear with you about the scope of that for the
2 protections that are available to you.
3

4 So your evidence can't be used against you, except in
5 certain circumstances, and they include proceedings for an
6 offence under the Law Enforcement Conduct Commission Act,
7 so you still need to be truthful on your evidence. Any
8 evidence you give today can be used obviously for our
9 investigation currently unfolding, and also to allow the
10 Director of Public Prosecutions to provide advice, if that
11 should become necessary, and it can be used against you in
12 disciplinary proceedings under the Police Act, whether
13 that's section 173 in relation to allegations of
14 misconduct, section 181D for summary removal, or section
15 183A for revocation of promotional appointment.
16

17 THE WITNESS: I understand, thank you.
18

19 THE COMMISSIONER: Thank you.
20

21 **<EXAMINATION BY MS SULLIVAN:**
22

23 MS SULLIVAN: Q. Sir, is your name known to the
24 Commission?
25

26 A. Yes, it is.
27

28 Q. And what's your current rank?
29 A. My current rank is senior constable.
30

31 Q. You attested in 1988?
32 A. That's correct.
33

34 Q. Where were you currently attached?
35 A. I'm currently attached to Richmond PD, Lismore police
station.
36

37 Q. In fact, you've been in the Richmond police district
38 since about 2005; is that right?
39 A. Actually, the majority of my service. I started in
40 Richmond and I went to - came here to Eastern Beaches then
41 I went back to Richmond.
42

43 Q. Primarily in general duties?
44 A. All of my service, except the last two years, have
45 been general duties.
46

47 Q. So on 4 January 2024 [sic], after the death of

1 Ms Lucena was discovered, you prepared a statement.
2 A. Yes.

4 Q. Do you recall doing that?

5 A. That's correct, I did.

7 Q. Do you remember when you prepared that statement on
8 the 4th, whether it was in the morning or the afternoon,
9 night shift?

10 A. To the best of my recollection, it was the very next
11 shift. I finished at 6.30 the morning of this - well, that
12 incident, I went home and then I was on night shift again
13 the next night. I am fairly confident it was that next
14 night.

16 Q. Have you had an opportunity to review the statement?

17 A. I have looked at it, yes.

19 Q. Any correction that you would like to draw to our
20 attention in relation to it?

21 A. No, that's my statement.

23 MS SULLIVAN: Commissioner, that's at tab 3. I would like
24 to tender the statement, please.

26 Q. I should ask: that's true to the best of your
27 knowledge, information and belief, Officer?

28 A. Yes, it is.

30 MS SULLIVAN: Thank you I tender tab C.

32 THE COMMISSIONER: That will be exhibit 14C.

34 MS SULLIVAN: Thank you. I should indicate the barcode
35 reference is 8634134 to 8634147.

37 **EXHIBIT #14C STATEMENT OF OFFICER C, DATED 3 JANUARY 2023,
38 BARCODED 8634134-8634147**

40 MS SULLIVAN: Q. You also gave evidence, Officer C, in
41 the Supreme Court trial of Mr Huber; is that correct?

42 A. That's correct.

44 Q. You have had an opportunity to review that evidence?

45 A. Yes, I have.

47 MS SULLIVAN: Commissioner, for completeness, I will also

1 tender Officer C's evidence. That's at tab 83, which is
2 barcode reference 8642032 to 8642040.

3
4 THE COMMISSIONER: That will be exhibit 15C.

5
6 MS SULLIVAN: Thank you.

7
8 **EXHIBIT #15C TRANSCRIPT OF EVIDENCE OF OFFICER C, DATED**
9 **20 JUNE 2025, BARCODED 8642032 TO 8642040**

10
11 MS SULLIVAN: Q. So we appreciate we're asking you about
12 events that are now almost three years old, from 3 and
13 4 January 2023. How good is your recollection, as you're
14 sitting here now?

15 A. I do - I would say that I'd have a reasonable
16 recollection of the events, looking at my statement,
17 reviewing those documents that I've been given access to,
18 it's reminded me of bits and pieces, but I wouldn't be
19 prepared to sit here and say that I have a clear
20 recollection of everything that happened.

21
22 Q. Okay. And we will come to this, but it was a pretty
23 busy shift?

24 A. It was.

25
26 Q. Yes. All right. So taking you back to that shift on
27 3 January, that's a Tuesday, 3 January, you start - you're
28 on the night shift and you start about 6pm; is that right?
29 A. That's correct.

30
31 Q. And the night shift goes through until 6.30am?

32 A. Yes, that's correct.

33
34 Q. And what was your role on that shift?

35 A. On that shift, I was the shift supervisor.

36
37 Q. Okay. What's the role of the shift supervisor?

38 A. It encompasses various things but basically to oversee
39 the staff on the shift, to allocate duties. In a small
40 station like that, it also encompasses the role of custody
41 officer if a person comes into custody, and then there's
42 the administrative components of it, just checking events,
43 reports, just maintaining the smoothness of the running of
44 the shift, basically. Just overseeing such things as jobs
45 and trying to get cars or ensuring cars attend and then if
46 they do, when they do attend, that everything's done
47 correctly and properly and recorded as such.

1
2 Q. Were you what's known as a mobile supervisor?
3 A. That's probably not a term I would use for the station
4 at - of Ballina. It's more of a term that I would link
5 back to my days in Sydney where you have multiple
6 supervisors.

7
8 Q. Okay.

9 A. In remote locations, well, not remote, but locations,
10 rural locations, like Ballina, you only have the one
11 supervisor. When you can, yes, you go out and act mobile,
12 but a lot of your time --

13
14 Q. Or when you have to?

15 A. If you have to, yeah, and really, to back up and
16 assist the cars - in the car, but that can be an impact
17 upon certain things, though.

18
19 Q. Is it your role, in effect, though, to prioritise the
20 allocation of police resources within the Ballina sector?

21 A. That's correct, yes, I would say that's correct.

22
23 Q. And are there occasions where you might be so
24 flat-stick that you need to call on your Lismore sector
25 counterparts to help?

26 A. I would suggest that happens most days, yes.

27
28 Q. Most days, so you --

29 A. Not necessarily Lismore but outstations, the minor
30 stations as well.

31
32 Q. So we understand the resourcing on this particular
33 night, and don't necessarily expect you to have an
34 encyclopaedic recall of this but I will try and refresh
35 your memory and you tell me if you think this accords with
36 your recall. We understand in Ballina there's you as
37 the supervisor. There's a station officer?

38 A. Correct.

39
40 Q. A custody manager?

41 A. Not correct.

42
43 Q. Not correct, no custody manager?

44 A. No.

45
46 THE COMMISSIONER: Q. You are the custody manager --

47 A. Yeah.

1
2 Q. -- Officer C; is that right?
3 A. I don't know whether it assists, but Ballina station
4 staffing numbers are generally four officers a shift.
5
6 MS SULLIVAN: Q. Only four officers in --
7 A. Only four officers, the station officer --
8
9 Q. Including the station --
10 A. -- the supervisor and two on the car crew. That's
11 generally. The exclusion to that would be Friday and
12 Saturday nights where there's an additional car. Even
13 today, Ballina station does not have a designated custody
14 officer.
15
16 Q. All right. So was that car crew Alstonville 18?
17 A. We were - they were using that call sign in that
18 vehicle. I don't know why we were using that vehicle, all
19 this time past, but that was the Ballina car crew using the
20 Alstonville call sign.
21
22 Q. So the station officer could be in the station on your
23 own if you were out in the field?
24 A. That happens quite regularly, yes.
25
26 Q. Then in the Casino sector, there's a supervisor,
27 there's a station officer and one car crew?
28 A. Same as Ballina, yes.
29
30 Q. Same as Ballina. And then in the Lower Rivers sector
31 you've got Coraki 22 and Woodburn 29, those two officers
32 working as alpha units?
33 A. Generally, yes.
34
35 Q. Then in Lismore, they've got the supervisor, the
36 custody officer, station officer and two car crews,
37 Lismore 15 and 16?
38 A. That's the basic - that's the minimum staffing, yes.
39
40 Q. That's minimum. Okay. So that's in accordance with
41 what's called the first response agreement; is that right?
42 A. Yes, that's correct.
43
44 Q. What's that agreement?
45 A. I guess my way of describing that is an agreement
46 between the Commissioner of Police and the association that
47 covers, in this case, the Richmond PD, an undertaking by

1 him, or the Commissioner - not necessarily "him" - the
2 Commissioner, that these will be the minimum numbers to
3 staff shifts in those stations that have first response
4 agreement. Not every station has a first response
5 agreement with the Commissioner.

6
7 Q. Okay. And did you understand that this staffing
8 accorded with that?

9 A. To my knowledge, that is the agreement we have and it
10 still is, yes.

11
12 Q. Thank you. So who are you reporting to on that shift?
13 Is that - we haven't talked about this, but there's the
14 duty officer, Officer E?

15 A. Correct.

16
17 Q. Is that who you're reporting to?

18 A. That's who I'm reporting to, yes.

19
20 Q. You were, in your role as the supervisor, in a marked
21 car, Ballina 14?

22 A. Yes.

23
24 Q. Is it right that you might do just admin if there's -
25 if it's not a busy shift, you might just be at Ballina
26 police station, but if it's a busy shift you're out in the
27 car helping; is that a fair assessment?

28 A. Yes, that's correct. I mean, even if it's a quiet
29 shift there's generally administrative, you know, jobs
30 still to be undertaken left over from the shifts
31 previously. Not everything gets done all the time.

32
33 Q. We have been able to ascertain the movements of most
34 of the staff rostered on for that particular shift but it
35 is not clear to us what the movements of Coraki 22 were.
36 I don't want you to name that officer. You may be able to
37 cast your mind back and recall those movements. But are
38 you able to assist us?

39 A. No. I can't at the moment. My honest answer to that
40 is I don't know I - that there was a Coraki vehicle on that
41 evening. I know there was a Woodburn vehicle. I don't
42 know about Coraki or Evans Head. I'm only assuming - no.
43 No, that's my answer. I mean, I was going to say that
44 I don't recall any radio transmissions, any chatter, having
45 any communications with the officers from Coraki or Evans
46 Head, so I'm assuming that they weren't on.

47

1 Q. And I should have covered this at the outset, you have
2 had an opportunity to listen to the VKG and review the
3 transcript?

4 A. I have reviewed the transcript. A link was supplied
5 for the audio. I wasn't able to access it.

6 Q. Is that something you would like to do? In fairness
7 to you, we don't want you to be disadvantaged.

8 A. No, I'm satisfied with what - what I read in the
9 transcript deals with what I remember of the incident.
10 I've got no dispute that that's not accurate.

11 Q. Okay, all right, thank you. So now we're going to go
12 through some of the incidents that you were attending on
13 that particular shift and we know that the first incident
14 is the self-harm matter that comes in at 6.38pm, and that's
15 a female about to self-harm. Do you recall that job?

16 A. I do recall the job, yes.

17 Q. And that actually involved a number of crew out
18 searching for that female. That was a priority 3 job. Do
19 you recall that?

20 A. Yeah; that's correct.

21 Q. And you were one of those officers who assisted with
22 that search?

23 A. Yes.

24 Q. As did Woodburn 29?

25 A. I believe Woodburn 29 was on his way to assist with
26 that search. And then Alstonville 18 was out searching.

27 Q. Okay. And so fortunately, that young female was found
28 fairly promptly?

29 A. Yes.

30 Q. That's shortly after 7 o'clock?

31 A. I - I believe so. I can't be certain about the time,
32 but --

33 Q. We know - I can take you to the CAD incident log and,
34 please, I'll put these timings to you but if you would like
35 to see any document, please just let me know and we can
36 pull it up on the screen, I'm just trying to do that in the
37 interests of efficiency. But the incident, the CAD
38 incident for that indicates that you were clear of that job
39 by 7.06pm?

1 A. I would accept that, yes.

2
3 Q. And Alstonville 18 remained on scene awaiting the
4 ambulance?

5 A. That's correct.

6
7 Q. So that's one crew taken out whilst they're waiting
8 for --

9 A. Yes.

10
11 Q. -- that mental health job to be resolved.

12 A. That's correct.

13
14 Q. All right. Now, we know that there is a Wejuba
15 Gardens concern for welfare job that comes in. Do you
16 recall that?

17 A. I have a recollection of that and I remember reading
18 about it and, yes, I do - yes, that job did exist.

19
20 Q. What's your recollection about that job?

21 A. Oh, that it was a call received via VKG - I think it
22 came from the ambulance - saying that this person had
23 contacted them saying he needed to go to hospital or it may
24 have been directly to police, and I asked VKG to do some
25 checks on whether that person was known to us and it may
26 have been a job suitable for the ambulance to attend
27 without us initially.

28
29 Q. Exactly. So I'll just read you from the transcript,
30 that's precisely what you have said:

31
32 *Ballina 14: Have you done you know any*
33 *checks on that fellow? I was going to say*
34 *if he's not known to us adversely. perhaps*
35 *we could just let the ambulance know.*
36 *We've got a little bit going on at the*
37 *moment and they're all of a similar nature*
38 *in calls, the type of calls.*

39
40 And radio says:

41
42 *Yeah, doing checks now.*

43
44 A. That's correct.

45
46 Q. So that's indicative of you juggling the other
47 self-harm job?

1 A. That's correct.

2

3 Q. And two priority 3s at the same time?

4 A. Yes.

5

6 Q. All right. So it's already started off as a busy
7 shift, we take it.

8 A. Well, Ballina can be like that in summertime. It's -
9 it starts busy and then quietens down as the night wears
10 on.

11

12 Q. In your experience during summer, the month of
13 January, what's the time frame for the busyness ordinarily
14 for night shift?

15 A. It seems to be that crossover period, you know,
16 mid-afternoon to 9pm, 10pm, things always - well, not
17 always, it can be hectic and then as it gets later into the
18 evening and then earlier into the morning, it slows down.

19

20 Q. So the next job that comes up is the accident on the
21 Pacific - that comes in at 7.01?

22 A. Yes.

23

24 Q. And we know that you've acknowledged that job by
25 7.03pm. Do you recall that?

26 A. Yes, I do.

27

28 Q. I'll just read you the broadcast, just to prompt your
29 recollection about the nature of the job. Radio says, at
30 7:03:06 - this is just after you put the broadcast on about
31 "got a little big going on". Radio says:

32

33 *Yeah, there must be something in the air
34 there, Ballina 14. I've now got an
35 accident, Pacific Highway, across Broken
36 Head Road at Newrybar. One vehicle has hit
37 a tree in that service lane near that
38 location. No-one trapped or injured. The
39 vehicle needs to be towed. There is no
40 fluids. Unknown if the driver's
41 intoxicated.*

42

43 There is a description of the vehicle and you say:

44

45 *Yeah, copy that, radio. I'll head up and
46 have a quick look at that however I don't
47 have an alcometer, so if there is alcohol*

involved, [will clarify].

Something on the transcript that I can't quite understand:

So just the location again, please.

Radio: Pacific Highway across Broken Head Road at Newrybar.

Ballina 14: Yeah, did they say they're on Broken Head Road or the Pacific Highway, because that's just an overpass. There's no actual entry or exits there.

Radio: Pacific Highway crosses Broken Head Road, the way I'm reading it, they're on Pacific Highway near Broken Head Road.

Ballina 14: Copy that.

Woodburn 29 [7:04:33] Yeah Woodburn 29
radio. I can help out 14 with an alco.

Radio: Copy, Woodburn 29.

You recall that exchange?

A. I do. Yes, I do.

Q. So that was a priority 3 job that was actually on a priority road, a major road?

A. Yeah, it's a - it is 110 zone right through there.

Q. And so you head directly to that job after you've acknowledged it, one assumes?

A. Well, from where I was, after the previous mental health job that resolved itself with Alstonville 18 locating the child or the person --

Q. Yes.

A. -- I just continued on towards Lennox Head. I was on a road that was basically leading me to where that accident was anyway.

Q. Okay. What is that road called?

A. Well, I think it - when the job was originally called I was on the coast road at Lennox - oh, well, it's between Lennox and Ballina, North Ballina, and then it continued on to Byron Bay Road and then Ross Lane and up to the highway.

Q. And were you travelling code blue or code red?

A. No, I - my recollection is I - it's not in the transcript, but my recollection was that I upgraded from blue to red to get there as quick as I could, and that

1 was - it would have been lights and sirens.
2

3 Q. Why?

4 A. Because it was a - well, my concern was that it was an
5 accident. There - I was led - well, my recollection was
6 that there may have been impede - impede to traffic or at
7 least a vehicle was partially obstructing the road or lane.
8 It's a 110 zone and I just wanted to make sure that I got
9 there quickly and - well, to eliminate the chances of an
10 accident, really.

11
12 Q. Have you had experiences with other accidents on that
13 Pacific Highway stretch of road?

14 A. In my length of service and time of service and at
15 Ballina, I've spent over 17 years at Ballina, I've been
16 to - I could not give you a count in numbers but I've been
17 to many accidents, including fatalities, on the Pacific
18 Highway.

19
20 Q. So it's a known area that can be prone to accidents --
21 A. So in my --

22
23 Q. -- and high risk?

24 A. Yes, it's a - it's a modern road, it's dual-laned, but
25 I think the speed's a big thing and I've been - like
26 I said, I've been to many accidents, including fatalities, on
27 that road, and many of them you look at, you go, "How did
28 that happen?"

29
30 Q. So your best recollection, correct me if I'm wrong, is
31 that you upgraded to code red?

32 A. I think when I - my recollection was when the job was
33 called, I proceeded code red. Generally we would tell the
34 radio we're proceeding code red but there's nothing in that
35 transcript that makes me think that I did that or at least
36 told them that I did it but I believe I was code red.

37
38 Q. But you should ordinarily call that in if you are code
39 red?

40 A. They generally ask us whether you're proceeding code
41 red or blue. It's up to the police officer to decide how
42 they're going to respond generally.

43
44 Q. Does it tell you anything about what code you
45 proceeded that we know you're on scene by 7.21pm?

46 A. Sorry?
47

1 Q. Does it tell you anything about the manner in which
2 you proceeded, whether you went code red --
3 A. Oh, okay.

4
5 Q. -- that we know you're on scene at the accident by
6 7.21pm? So you've acknowledged the job --
7 A. Yes.

8
9 Q. -- at 7.03 and you are on scene 17, 18 minutes later.
10 A. Actually, what that tells me is I may not have
11 attended code red, to be quite honest with you. I think
12 that time frame would be indicative of going code blue and
13 complying with the speed limits.

14
15 Q. Okay. Because it is about 17, 18Ks to that area from
16 Ballina?

17 A. Yeah, and the majority of that would be 80 then you've
18 got the 110 zone, so it actually may indicate that I was
19 code blue rather than code red.

20
21 Q. Okay, thank you.

22 A. And that could be consistent with the fact that
23 there's nothing in the transcript to indicate I was going
24 code red.

25
26 Q. Would that be your ordinary practice to call if you
27 were going code red?

28 A. Generally, yes.

29
30 Q. Yes. All right. So we know you're travelling to this
31 accident and at 7.10pm, there's the Salvation Army job that
32 comes over as a priority 2 code?

33 A. Yes.

34
35 Q. I'll just read that to you. No doubt you've read this
36 in the transcript. This is at 7:10:30:

37
38 Two beeps. Ballina car behind the
39 Salvation Army building. 73 Tamar Street,
40 cross Moon Street. Male stated a female's
41 being bashed behind the Salvation Army
42 building. Informant then terminated the
43 call. On call back attempted, he stated,
44 "I've told you where it is. I don't want
45 to be involved." Swore at the operator and
46 hung up. On second call back, there's no
47 answer.

1
2 So that's what radio broadcast, that priority 2 job. Do
3 you have any recall of hearing that en route to the
4 priority 3 accident?

5 A. Yes, I do.

6
7 Q. All right. Thank you. When you hear that job, you
8 know you've got Woodburn 29 also attending with the
9 alcometer to the accident --

10 A. Yes.

11
12 Q. -- that's right? So there's the two of you heading to
13 that scene. What was your plan in relation to responding
14 to this priority 2 incident?

15 A. I don't - there was no plan at that stage. I believe
16 when I heard it I would have been assessing or thinking
17 about both jobs now and how I was going to respond. But
18 I - I can't sit here and honestly say to you that
19 I formulated a plan.

20
21 Q. Yes.

22 A. I know I made the decision ultimately to continue on
23 to the accident because I thought it still took priority at
24 that stage.

25
26 Q. The accident took priority over a priority 2 where
27 a female's being bashed?

28 A. Yes.

29
30 Q. Can you explain that to us?

31 A. Only because I - in my mind, I would have weighed up
32 the seriousness of both jobs. I believe that when I heard
33 that broadcast, I was somewhere near - on the back of
34 Lennox Head, on the Lennox - yeah, the Lennox bypass, which
35 put me closer to - in location to the accident than
36 returning to Ballina. And like I said, my concern was that
37 potentially, a collision at 110 kilometres an hour could
38 result in fatalities. I would have - I would have
39 considered what VKG had said about the nature of the call,
40 a female being bashed, them trying to recontact the
41 informant to get additional information, the response or
42 the manner in which the informant responded. And I - and
43 at that point, I guess I - well, not "I guess"; I made the
44 decision to continue to the accident as the priority.

45
46 Q. And please understand that it's accepted that your
47 assessment was genuine in terms of your concern about the

1 risk.

2 A. Yes.

3
4 Q. That's accepted from my part, at least. But just
5 really want to understand why a priority 3 can be
6 prioritised over what, according to the police procedure,
7 requires an immediate response because there's a serious
8 risk to the safety of a person. So again - you agree with
9 that, priority 2?

10 A. Maybe I have a different understanding of the priority
11 ratings. To me, I - I know that I would have interpreted,
12 because of the way - well, the content of the message, the
13 broadcast, occurring now, an assault, that automatically
14 categorised it as a category 2 or a priority 2.

15
16 Q. Yes.

17 A. I'm not aware, even after this length of time, that
18 priority 2s in the eyes of the Police Service are meant
19 to - you're meant to drop jobs of a lesser priority to
20 respond to the priority 2. That's not something I've
21 ever - I recall ever being instructed or told or being part
22 of a training package.

23
24 Q. Okay. So I'll just read to you from the incident
25 priority, as we understand it, perhaps we can pull up
26 tab 11 as well so Officer C can see, but a priority 2 is an
27 immediate response, and the remarks are:

28
29 *Responding immediately, unless responding*
30 *to a Priority 1. Incidents where there is*
31 *a serious threat to life or property*
32 *occurring now, requiring an immediate*
33 *Police response, ie, armed robbery, violent*
34 *domestics, serious assaults ...*

35
36 and it goes on:

37
38 *Note: These incidents should be preceded*
39 *with a "2 tone alert" by the dispatcher.*

40
41 If you see the next category, 3 is a non-urgent response:

42
43 *Respond as soon as possible where there is*
44 *not Priority 1 or 2 matters outstanding ...*

45
46 A. Yes, I can see what - that document. That's not
47 a document I've ever seen previously. I'm actually

wondering whether that's a document that's - well, generally provided to VKG operators and how they categorise things. As a general duties officer putting jobs on, taking phone calls and generally classifying the jobs as a - with a priority code, it's not a document I've ever seen before.

Q. So you didn't --

A. I'm unaware of the content of that document.

Q. Okay. You didn't that have understanding of a priority 2?

A. No, I didn't, no.

Q. What did you understand a priority 2 job to be?

A. Well, yes, definitely a job that's of some sort of urgent nature. Many jobs other than assaults are categorised as priority 2s as well.

Q. Yes.

A. And - yeah, like I said, I - I'm unaware of this document that says that that should be responded to before jobs of a lesser priority, basically.

Q. Right. Thank you.

MS SULLIVAN: I will just tender that document, Commissioner, whilst I think of it. Tab 11, barcode 8607800.

THE COMMISSIONER: So that will be exhibit 16C.

MS SULLIVAN: Thank you.

EXHIBIT #16C NSWPF POLICECAD INCIDENT PRIORITY, BARCODED
8607800

MS SULLIVAN: Q. But a priority 2 incident, by definition, is a higher priority than a priority 3?

A. I accept that, yes.

Q. But would you - accepting that you're a very experienced officer, would you sometimes make those judgments that a priority 3 is, in fact, more - of more urgency than a priority 2 that's come over?

A. Well, I was just thinking of how to raise with you that, in my mind, I would have actually upgraded the

1 priority 3 to a priority 2 based on what - what I'd decided
2 or decisions I'd made or triaged.

4 Q. But you understood, didn't you, that the accident on
5 the Pacific was in the service lane?

6 A. Yes, yes, I did. The service lane is clearly
7 mentioned but I also recall that they said there was
8 a partial obstruction.

10 Q. No person was injured?

11 A. Yeah, I heard that, distinctly.

13 Q. No person was trapped?

14 A. I heard that, yes.

16 Q. All right. So relative to an accident where there
17 might be a risk to someone that is immediate because of the
18 nature of the accident, that's not the information that was
19 conveyed in relation to this accident at that time?

20 A. Not to the persons in the car, yes.

22 Q. Have you attended motor vehicle accidents where the
23 information conveyed by VKG hasn't accorded with what you
24 find on scene?

25 A. Yes. Lots. That's not only with accidents either;
26 that's with all jobs.

28 Q. It's often the case, whilst we're on that, that the
29 informant can give information that is imprecise?

30 A. Certainly.

32 Q. So you need to have a high index of suspicion around
33 descriptions in relation to things?

34 A. Yes, that's correct. I would agree with that.

36 MS SULLIVAN: Commissioner, is it an appropriate time for
37 a short morning tea?

39 THE COMMISSIONER: That sounds sensible. We'll take
40 a 20-minute break and be back at 11.40.

42 MS SULLIVAN: Thank you.

44 **SHORT ADJOURNMENT**

46 MS SULLIVAN: Thank you, Commissioner. Could we perhaps
47 bring up tab 8, please, which is exhibit 4C, thank you.

1 This is the incident log for the car accident.
2

3 Q. Do you have that in front of you?
4 A. Yes, I do.

5
6 Q. So you see the narrative there and I think I also read
7 out to you the transcript or at least you've had an
8 opportunity to familiar yourself with the transcript about
9 the incident, but there's no reference there to partial
10 obstruction of the road, do you agree?

11 A. Yes, I - it may - okay, my response to that was there
12 was when I got there so maybe I'm mixing the two.

13
14 Q. I understand.
15 A. I'm mixing up my recollection.

16
17 Q. But certainly --
18 A. I don't dispute that it doesn't say that on there.

19
20 Q. But certainly in your experience, you've made that
21 very clear, that's a risky scenario, by virtue of that -
22 the nature of that road?

23 A. Yes.

24
25 Q. All right, thank you.
26 A. Any obstruction is a risk.

27
28 Q. Yes. So we know that the Salvation Army job comes in
29 at 7.10 and you're en route to a priority 3 incident that
30 in your mind is of high risk; is that fair?

31 A. That's correct, yes.

32
33 Q. Woodburn 29 is coming with the alcometer; that's
34 right?

35 A. Yes, that's correct.

36
37 Q. Was it open to you, then, to send him to the
38 priority 2 job when it comes in?

39 A. Yes, it certainly was.

40
41 Q. Why wouldn't you do that?

42 A. With the benefit of reflection, hindsight, I - that
43 would have been a rational and smart thing to do but
44 I didn't do that. Why I didn't do that, I don't know.

45
46 Q. We might have to pause this, I'm sorry.

47

1 THE COMMISSIONER: Is there a problem with the audio?
2 All good?

3
4 MS SULLIVAN: Q. Sorry, Officer D, please continue your
5 answer. I think you were saying "with the benefit of
6 hindsight"?

7 A. That is a course of action that I certainly could have
8 chosen to do. Why I didn't not do that, I don't have an
9 answer.

10
11 Q. Thank you. Was it also open to ask about highway
12 patrol attending? Was that an option?

13 A. It certainly was an option to ask, but I - based on my
14 experience, when things get busy, if they're available,
15 I usually jump on to things. By that I mean they respond
16 to the jobs, they let us know that they're there, they let
17 us know that they can assist. The fact that I'd heard
18 nothing, I would suggest in the back of mind told - my
19 mind, told me that there wasn't any - any working.

20
21 Q. That's fair. But you don't know if you don't ask?

22 A. That's true.

23
24 Q. What about calling the duty officer to say, "We're
25 a bit strapped. Can you go out" - that is, Officer E? Is
26 that also an option?

27 A. It would be an option, yes. I - you know, having said
28 that, duty officers generally monitor the radios and
29 sometimes they could make those decisions or make - you
30 know, take that course of action without us having to ask.
31 I was conscious that the duty officer, there was a duty
32 officer on shift. Mmm.

33
34 But having said that, too, in times or in terms of the
35 length of time that had passed, it was only short, as,
36 generally speaking, as the greater the length of time
37 passes, that's when we start looking at other options. At
38 this stage, only a short period of time had passed. So it
39 wasn't something I suspect that I was even thinking about
40 at that moment in time.

41
42 Q. Okay. But Alstonville 18 is caught up with the
43 self-harm matter?

44 A. Yes.

45
46 Q. Woodburn 29 has got the alcometer and he is coming to
47 the accident with you. Who's going to pick it up?

1 A. I don't know. It may have been a case that I was
2 still waiting to see whether anyone responded, if there was
3 additional cars. Like, I mean, occasionally there are
4 other units, such as proactive crime unit, plainclothes
5 that are working, sometimes Ds will jump on things. At
6 that time of the day, though, I wouldn't expect that
7 detectives wouldn't have been working, actually; generally
8 they work 8 to 4. But proactive crime units - but yes, the
9 longer the time would have elapsed, the more obvious it
10 would have been to me that other sources - or I'd have to
11 consider other options, basically.

12

13 Q. Could you call on to radio and say, "We're tied up.
14 Is there a Lismore crew"?

15 A. Of course I could, yes. On reflection, in hindsight,
16 maybe I could have done that quicker, earlier, but
17 I didn't.

18

19 Q. All right. Thank you. We know that by 7.21 you're on
20 scene. We've heard the audio and it's very clear that at
21 that point in time you're concerned, if I could put it in
22 those terms.

23 A. Yes, my recollections were that even after I'd parked
24 the vehicle, the police vehicle, the fully marked police
25 vehicle, lights flashing, there was obstruction to the
26 number 1 lane. It was quite obvious to me that even my
27 police vehicle was at risk. I'd actually parked it in such
28 a fashion that it was - it was like a barrier between the
29 traffic flow and the crashed vehicle which was obstructing
30 the lane, and the cars coming around - it was a - you know,
31 I guess I'd refer to it as a "blind corner". It wasn't,
32 you know, like, a 90 degree turn but it was certainly cars
33 were coming around there at 110. At the last moment
34 they're veering to the right to clear the mess that was in
35 front of them.

36

37 Q. I'll get you to mark on a photo where it was in a
38 second, but was there anyone there on your arrival or who
39 was there when you arrived on scene?

40 A. The occupants of the car.

41

42 Q. How many occupants?

43 A. I - I would only be guessing now but it was more than
44 one. I think there may have been two or three.

45

46 Q. Okay. Just them and you?

47 A. I have a vague recollection there was another vehicle

1 parked further up the road, so there may have been
2 motorists, other motorists there as well, but I can't be
3 honest, with the time that's passed.

4
5 MS SULLIVAN: We will draw up on the screen tab 15A,
6 please. That's exhibit 7C.

7
8 Q. We will try to print a copy, so we'll get you to mark
9 in the old-fashioned way, unless you're in a position to
10 describe with precision where you think the accident scene
11 was, Officer C.

12
13 THE COMMISSIONER: Q. While that is being done,
14 Officer C, can I ask, do you - at this time of year, this
15 was January, 3 January?

16 A. Yes.

17
18 Q. Does that mean that in that area around Ballina, there
19 is an increased number of motorists who aren't familiar
20 with the area, who'd be driving on that highway and
21 wouldn't be aware of the kind of twists and turns of it?

22 A. I can't definitively say that but I would not disagree
23 with that statement. It's holiday period. We do have -
24 Ballina is definitely a seasonal town and a lot of people
25 do come there for Christmas/January holidays and
26 the Pacific - it's the Pacific Highway. It's the M1 just
27 travelling between Brisbane and Sydney. There would be
28 many motorists using that road that wouldn't be familiar
29 with it, I would imagine.

30
31 THE COMMISSIONER: Okay.

32
33 MS SULLIVAN: That's a good question and I could give
34 anecdotal evidence about being one of those drivers with
35 poor understanding.

36
37 THE COMMISSIONER: Maybe we won't ask you to give evidence
38 from the Bar table, Ms Sullivan.

39
40 MS SULLIVAN: Q. Does that stretch of road look familiar
41 to you, Officer C?

42 A. Not on this - no, not on this angle, no, it doesn't.
43 I mean, I'm used to seeing it at ground level.

44
45 Q. Yes, that's fair. The overpass up the top there, we
46 understand that's the Broken --

47 A. I would say that's Broken Head Road. Yes, it's

1 definitely a raised overpass crossing the M1.
2

3 Q. All right. We might hand you a copy of that exhibit,
4 exhibit 7C. If you could mark your best recollection of
5 where the incident occurred? If that pen isn't
6 sufficient we can --

7 A. No, it's sufficient. I have marked it with a - well,
8 a relatively small "X". It's very close to the overpass on
9 this marking, on this diagram.

10 Q. We might give you a green permanent marker.

11 A. I've marked that with a dot.

12 Q. Thank you.

13 MR GOLLAN: Commissioner, I don't mean to interrupt my
14 learned friend but could we have a look so we can
15 understand the context?

16 THE COMMISSIONER: Of course. I think we're getting
17 there, Mr Gollan.

18 Then when counsel have had an opportunity, I might
19 have a look.

20 MS SULLIVAN: I will seek to tender that document,
21 Commissioner, once you've had an opportunity to have a
22 look.

23 THE COMMISSIONER: I think this needs to be a separate
24 exhibit.

25 MS SULLIVAN: Indeed.

26 THE COMMISSIONER: We have a couple to tender. Do you
27 want to do them all at the end, Ms Sullivan?

28 MS SULLIVAN: I'm very content with that, thank you.

29 Q. So I'm just going to read the transcript from when
30 you're on scene, to put you back there.

31 A. Yes.

32 Q. This is a transmission at 7.21pm. This is:

33 Radio: Ballina 14.

34 Ballina 14: Yeah radio, I found that

1 *accident, he's on the Pacific motorway*
2 *northbound lanes, right at Bangalow Road,*
3 *I mean Broken Head Road overpass.*

4 *Radio: Yeah, copy that. Situation with*
5 *traffic?*

6 *Ballina 14: It's a 110 zone and they're*
7 *not, literally coming around a blind*
8 *corner, so I need the truck up here*
9 *probably to park back and slow the vehicles*
10 *down if they can. Yeah, actual lanes,*
11 *number one lane is partially obstructed.*

12 *Radio: Copy that. So you want Woodburn 29*
13 *red?*

14 *Ballina 14: Yeah, please.*

15
16 There are the two beeps:

17
18 *Radio: Woodburn 29, if you could proceed*
19 *code red to that accident northbound on the*
20 *Pacific Highway near the Broken Head Road*
21 *overpass. He needs you a bit before there.*
22 *Traffic's not slowing down on a blind*
23 *corner.*

24 *Woodburn 29: Yeah, 29 all over it. I'm on*
25 *the highway heading northbound now*
26 *at Knockrow.*

27 *Radio: Copy. Murwillumbah 18 ...*

28
29 And that's unrelated.

30 A. Yes.

31
32 Q. So we've canvassed this, but you were concerned at
33 that point in time about the partial obstruction on the
34 road?

35 A. Yes, and the speed of oncoming traffic and the
36 potential for a collision, yes.

37
38 Q. And in fact, you set that out in clear terms in your
39 statement. At paragraph 8, you've explained that, do you
40 recall?

41 A. I do believe that's in my statement, yes.

42
43 Q. And what you say is:

44 *As the accident --*

45
46 this is paragraph 8 of your statement which is tab 3,

1 exhibit 14C:

2
3 *As the accident was on the freeway in a*
4 *110 kilometre per hour zone I continued to*
5 *this scene. Within moments of my arrival*
6 *at the accident scene it was quickly*
7 *established that a significant danger was*
8 *posed to both those present at the scene as*
9 *well as other motorists due to the speed*
10 *limit of the zone, location and visibility*
11 *issues by being on a blind corner as well*
12 *as partial obstruction to one of the two*
13 *north bound traffic lanes. For these*
14 *reasons I requested further assistance from*
15 *the only other available vehicle who was at*
16 *the time in the Ballina area Woodburn 29 as*
17 *a matter of urgency.*

18
19 All right?

20 A. Yes.

21
22 Q. So we know that Woodburn 29 arrives at around 7.25pm.

23 A. Yes.

24
25 Q. Does that accord with your recollection that he came
26 shortly after you put that out?

27 A. Yeah, he did, yes, yes.

28
29 Q. We also know that the Salvation Army two-beeper job is
30 broadcast again at 7.24pm. Do you have any recollection,
31 whilst were you on scene, dealing with the accident, of
32 hearing the Salvation Army job rebroadcast at 7.24pm?

33 A. No, I don't have any recollection, and I - that would
34 not be unusual I don't think, either. The fact that when
35 you're out of the car, you're relying on your portable
36 radio, I'm standing on the side of the Pacific Highway M1,
37 traffic whizzing past, so I don't - I don't recall hearing
38 that second broadcast.

39
40 THE COMMISSIONER: Q. Can I clarify, Officer, by that
41 you mean you're focused on not getting hit by a car at 110
42 kilometres an hour and there's calls coming over the radio
43 but you're not really --

44 A. Yeah.

45
46 Q. You're not really listening intently to what those
47 calls are, is that - have I understood you correctly?

1 A. Yes, my proposal primary focus definitely would have
2 been the highway and making sure I don't get hit by a car.
3 That would have been my main, you know, focus, yes.
4

5 Q. Yes.

6 A. And the portable radio - but basically, I'm also
7 saying that the sound of moving vehicles would have
8 impacted on what I was hearing.
9

10 Q. Obscured the noise, the sound?

11 A. Yeah.
12

13 Q. Okay.

14 A. Our radios don't have earpieces, so basically - and
15 depending - I can't recall now, I've got a habit of not
16 wearing my radio in the same spot: sometimes I put it on
17 my vest, sometimes on my belt. If it was on my belt, it
18 would be even - it would have been even worse, whereas if
19 it's on my vest it's closer to my ears, obviously.
20

21 THE COMMISSIONER: Okay.
22

23 MS SULLIVAN: Q. Are there black spots in that
24 particular area, in your experience?

25 A. My honest answer to that would be no. Many years ago
26 there was but radio generally is okay, in my opinion now.
27 There is - even under the - well, the system that was in
28 use in 2023, there were black spots in the East Ballina
29 area, but I don't recall ever having or encountering radio
30 issues up the M1.
31

32 Q. Thank you. So further context for you in terms of not
33 hearing that transmission. This is an exchange, I'll read
34 the 7.24 two-beeper and then we know that you come on
35 seconds later. So at 7:24:30, radio broadcast this:
36

37 *Two beeps. Still standing by for a Ballina*
38 *car for this concern for welfare behind the*
39 *Salvation Army. 73 Tamar Street cross of*
40 *Moon Street Ballina. Male stated a female*
41 *being bashed by the Salvation Army*
42 *building.*

43 And then 18 seconds later you come on:
44

45 *Ballina 14.*

46 *Radio: Ballina 14.*

1 *Ballina 14: --*

2 this is you --

3 *If you can get Wardell, the Woodburn*
4 *vehicle, to set up where my vehicle is and*
5 *just manage traffic, we've had to block the*
6 *number one lane northbound block.*

7 *Radio: Yeah, sorry, Fourteen, can you just*
8 *go with that again? You want Woodburn*
9 *14 er 29, sorry, to block lane one?*

10 *Ballina 14: Yeah, Woodburn 29 sets up*
11 *where my vehicle is and maintain traffic.*
12 *We'll try to get it over to the number two*
13 *lane northbound. We had to block number*
14 *one lane northbound.*

15 *Radio: Copy that, we'll move that ...*

16 *Woodburn 29: Copy that, all over it. Off*
17 *with him now.*

18 So it's very fair of you to say you had your hands full, in
19 effect, dealing with that situation almost precisely the
20 same time as that transmission relating to the Salvation
21 Army job.

22 A. Well, I would probably agree with your submission
23 there. It seems to me like my attention was definitely
24 focused on the accident.

25 Q. Okay. All right. So we know that you're then clear
26 from that scene by 7.46 but we also know that at 7:42:40
27 you have attempted to contact radio with this transmission:

28 *Ballina 14: Ballina 14.*

29 *Radio: Ballina 14, I'll have to get you to*
30 *stand by unless it's urgent.*

31 And at that point in time, radio's dealing with
32 a priority 2 for a Casino matter involving a 15-year-old?

33 A. Yes.

34 Q. So was that you at 7.42 calling off from the accident
35 scene and travelling back towards Ballina, having in mind
36 that you needed to attend the P2 job?

37 A. No, I don't believe so, because later on I recall
38 calling back on and asking whether that job was outstanding
39 or whether there were jobs outstanding.

40

1 Q. So you didn't know the status of that job at that
2 time?

3 A. No, I don't think so.

5 Q. All right. But do you recall if, when you called in
6 to radio, you were on your way back to Ballina or do you
7 recall whether you were stationary in the car?

8 A. That call then? That particular call?

10 Q. The 7.42 call when you're trying to communicate with
11 radio and you're told to stand by unless it's urgent?

12 A. No, I've got no recollection about why I made that
13 radio call. I could have been trying to organise something
14 in relation to it - I don't know. I certainly - I don't
15 believe I was calling back on and I certainly wasn't
16 travelling to back to Ballina because I know I called back
17 on later on.

19 Q. In fact, we have that call at 7.46, which I'll come
20 to. But do you remember having a discussion with duty
21 Officer E before you called back on at 7.46?

22 A. No, I don't.

24 Q. You don't remember having any discussion with her
25 prior to attending the Salvation Army job?

26 A. No, I don't.

28 Q. Okay. Coming to the 7.46 exchange between you and
29 radio, so this is you, at 7.46:15:

31 Radio: *Ballina 14 go ahead.*

33 You say:

35 *Yeah radio, just letting you know that
36 we're back on, Woodburn 29 and I are back
37 on from that job on the Pacific Highway.
38 Traffic lanes are clear now, that vehicle's
39 been moved off the road. Is that job in
40 Fawcett Lane, Ballina, still outstanding?*

42 Radio says:

44 *I don't know about Fawcett Lane, but we've
45 got a Priority 2 behind the Salvation Army,
46 73 Tamar Street cross Moon Street. That's
47 outstanding.*

1 *Ballina 14: Yeah, I'm just thinking where*
2 *the Salvation Army is. I think it's the*
3 *place I'm speaking of. Well, I'll head*
4 *there and have a look.*

5 *Radio: Okay. Code of response and ETA?*

6 *Ballina 14: Well radio, we've only had the*
7 *one call, if so, then I'll be blue and*
8 *probably 10 minutes.*

9 *Radio: Blue and 10 it is. Woodburn 29 are*
10 *you going to go as well?*

11 *Woodburn 29: Yes affirmative.*

12 *Radio: Thanks blue and 10.*

13
14 Do you recall that exchange?

15 A. Yes, yes.

16
17 Q. I should have asked you, was your MDT operating that
18 day, do you recall?

19 A. I can recall. Yes, it - Ballina 14 does not have an
20 MDT. Not all police vehicles have MDTs.

21
22 Q. Okay. Would you almost always use Ballina 14 in your
23 supervisor role?

24 A. Yeah - that's - I mean, the cars are allocated call
25 signs and that normally denotes the role and Ballina 14 is
26 always the supervisor's vehicle.

27
28 Q. Thank you. We've heard some evidence about how the
29 MDTs would often not work for general duties officers. Was
30 that something that you were aware of?

31 A. Yes, from my - yes, when my frequent use of MDTs,
32 they're a bit of a hit and miss thing. I think that's got
33 to do with age and the technology that we use, in fact,
34 I think we use hand-me-down stuff from the highway patrol.

35
36 Q. Right. Because we're very interested in systemic
37 issues and is that something that has been resolved, the
38 issues with the MDT, to your understanding?

39 A. I - I don't have a definitive answer for that.

40 I don't remember the last time I used an MDT. I guess it's
41 my - when I joined the Police Service, I rely on radio and
42 I actually - I - I'm not a big fan of MDTs, because if all
43 vehicles - like in this case, Ballina 14, doesn't have an
44 MDT. If the car crew doesn't use the radio to call off you
45 don't know where they are. If they call for urgent
46 assistance, if you don't know where they are, then you
47 don't know where to respond to. I firmly believe in still

1 using the radio even to this day to call on and off at all
2 jobs, all locations that I'm at so that people know where
3 I am.

4
5 Q. That's understood.

6
7 THE COMMISSIONER: Q. Can I clarify, Officer, were you
8 always using the same car - you use the same call sign if
9 you're supervisor but do you use the same vehicle?

10 A. If that - yes, the only time you wouldn't use the
11 vehicle allocated for that role is if it's mechanically not
12 working or there's an issue of some sort.

13
14 Q. So the supervisor's vehicle in Ballina doesn't have an
15 MDT in it?

16 A. No, it doesn't.

17
18 THE COMMISSIONER: Thanks.

19
20 MS SULLIVAN: Q. Just for completeness before we
21 completely leave the accident scene, do you recall which
22 tow truck was used for that scene or is there a particular
23 one that police always use or --

24 A. Well, if it was - if it was a contract tow and the
25 police arranged it, we would have used our contract tow.
26 But if we attended a scene like that and it's going to be
27 owner to pay, if the owner's already organised their own
28 tow, we just let them go ahead and organise it. If it
29 was - if they're organising it and it's going to take too
30 along then we just say, "No, it's a police tow."

31
32 Q. Now, do you recall where you were when you
33 acknowledged the Salvation Army job at around 7.46pm?

34 A. I believe I was in the car and actually heading back
35 towards Ballina.

36
37 Q. On the Pacific Highway?

38 A. On the Pacific Highway.

39
40 Q. Southbound?

41 A. Yes.

42
43 Q. And that's about a 17-minute drive; is that fair?

44 A. I think that would be fair, yes.

45
46 Q. And you decided to go code blue?

47 A. Correct.

1
2 Q. For a priority 2 job?
3 A. Correct.
4

5 Q. Can you explain your thinking there?

6 A. My rationale there was due to the length of time that
7 had passed, only the one call being received, the fact that
8 I knew it wasn't going to take very long to get back there
9 anyway, because the majority of that trip's going to be in
10 a 110 zone, so I could legally do 110. And, yeah, to
11 respond urgent duty or code red, you can be putting
12 yourself at risk if you - at risk, your heightened risk of
13 an accident, of course, or maybe even having an accident
14 with somebody else, like you hitting someone as opposed to
15 you just scratching the car.

16 Q. But just in terms of the one-call aspect?

17 A. Yes.
18

19 Q. It might be the case, mightn't it, that police only
20 receive one call about a serious assault?

21 A. I would not disagree with that, yes. That's certainly
22 the case.

23 Q. And the ongoing delay can actually mean that someone's
24 lying injured, dying?

25 A. Oh, upon reflection, benefit of hindsight, yes, it
26 could definitely mean that, and I don't dispute that.
27 I accept that. That is correct.

28 Q. It's just not a safe assumption, is it, that one call
29 means that an incident can be downgraded priority-wise?

30 A. Not a safe assumption? I can see that - your logic
31 there and it's not a statement I would disagree with. But
32 on reflection, this incident, I triaged it and I believed
33 at that time it didn't warrant me urgently responding.

34 Q. Okay. Thank you for that candid answer. It wasn't
35 a check bona fides, was it? It was a concern for welfare?

36 A. I'm not - I think it came - I believe it's - it was
37 recorded as a concern for welfare rather than an assault
38 occurring or domestic, yes.

39 Q. Do you think in your mind that if it had been
40 broadcast as an assault occurring now, that that might have
41 changed your mindset?

42 A. I don't think so, because the narrative - the context

1 of the CAD message did mention a bashing. So to me, that's
2 an assault. They may have called it as a concern for
3 welfare but I would have been processing it as an assault.
4

5 Q. Okay. And we know - we had some very candid evidence
6 from the radio operators yesterday in relation to
7 non-compliance with SOPs about rebroadcasting priority 2s;
8 in fact, there's a requirement for those to be broadcast
9 every 60 seconds. Radio was very busy, so we know that it
10 was actually only broadcast three times during the relevant
11 period. If that had been broadcast more times, do you
12 think that you would have acted differently in any respect?

13 A. My honest answer to that is I only - I only recall it
14 being called that once, and then the second time, which is
15 when I was heading back or when I asked about whether it's
16 still - was still an outstanding job or whether I asked
17 whether that job was still outstanding, the in-between
18 calling and if there had have been additional calls,
19 I can't guarantee, just because of what I was doing, that
20 I would have heard those calls.

21 Q. Yes. All right. What about if it had been
22 rebroadcast from 7.10 right through to your attendance at
23 7.21?

24 A. Whether it would have changed my response?

25 Q. Whether you would have been prompted to organise
26 someone to attend what is, in effect, an assault occurring
27 now - a female being bashed at a particular address?

28 A. I don't know that it would have actually changed my
29 thinking.

30 Q. Yes.

31 A. Because they're just going to be relaying the same
32 information that I've already heard. In my opinion, or
33 view, the fact that they call it more times is probably not
34 going to change the content of the reported job.

35 Q. That's fair. But it does continue to bring it to your
36 attention?

37 A. It does, yes. It certainly would bring it to my
38 attention.

39 Q. To the point that you might be prompted to actually
40 take some of the steps that we talked about, for example,
41 asking if highway patrol could attend the accident?

42 A. Yeah. 7.10 to 7.21 was the time that you mentioned;

1 is that correct?

2

3 Q. Yes, that's correct.

4 A. Yeah, so that's what, 11 minutes, and, sorry, I wasn't
5 privy to what was said yesterday but I don't know the
6 frequency at which radio's meant to --

7

8 Q. Sixty seconds. Every 60 seconds a priority 2 should
9 be --

10 A. Well, I guess, yeah, I would have - if they were
11 calling it every 60 seconds, I would have tried to do
12 something to stop them from calling it.

13

14 Q. Right. Thank you.

15

16 THE COMMISSIONER: Q. Can I ask, Officer, does that mean
17 that in your experience, priority 2s are not usually called
18 every 60 seconds?

19 A. Yes. I --

20

21 Q. So that would be unusual, for you to hear a priority 2
22 VKG job called every 60 seconds?

23 A. Honestly, yes. I don't think I've ever heard --

24

25 Q. Honestly is what we're asking for.

26 A. I don't think I have ever heard any job called every
27 60 seconds for a prolonged period of time.

28

29 THE COMMISSIONER: Okay. Thanks.

30

31 MS SULLIVAN: Q. So I'm now taking you to the point
32 where you've acknowledged the job, you are en route,
33 southbound on the Pacific, to attend this address, 73 Tamar
34 Street --

35 A. Yes.

36

37 Q. -- the back of the Salvation Army. Do you recall
38 speaking to any officers on the way back? For example, did
39 you call Woodburn 29 to have a telephone conversation with
40 him or any other officer?

41 A. No, I don't think I did.

42

43 Q. Did you have any sense that this job may have had
44 a domestic component to it or there simply wasn't enough
45 information?

46 A. To be - every job that would be called where
47 potentially it's male/female, I would automatically assume

1 that there's probably going to be a domestic component to
2 it. That's my honest answer to that question.

4 Q. So does that mean when the a job came over at 7.10,
5 you would likely have assumed that this has a domestic
6 aspect?

7 A. I can't sit here and say that I did assume that but
8 it's not unreasonable that I probably would have thought
9 that.

10 Q. All right. Can I ask you now to take up the narrative
11 from when you arrive. We know your route, you turn on to
12 Cherry Street and then right on to Holden Lane travelling
13 east to west; is that right?

14 A. Yes, that's - that would be correct, yes.

15 Q. We might assist you with a map, to at least assist me.
16 Tab 131, please, which is exhibit 8C. Does that orient
17 you?

18 A. Yes, I'm familiar with that and I recognise that, yes.

19 Q. You were broadly familiar with the Salvation Army
20 building; is that right?

21 A. I knew where it was. It's a building that
22 I'd probably see every workday when I was working at
23 Ballina. I worked at Ballina for 17 years.

24 Q. Did you know that that was an area where
25 flood-affected people would sometimes go in the aftermath
26 of the Lismore floods?

27 A. No, I did not know that.

28 Q. Okay. All right. Can I ask you to take up the
29 narrative about what happened once you turned on to Holden
30 Lane?

31 A. Well, I turned on to Holden Lane and I was basically
32 heading in a westerly direction. I knew that - well, the
33 council's on the corner and I knew that there was a car
34 park beside it and then the Salvation Army building. So
35 basically I slowly - I slowed the police vehicle to,
36 I would suggest, almost probably walking pace.

37 Q. Yes.

38 A. And then I proceeded very slowly along Holden Lane in
39 a westerly direction.

40 Now, based on the content of that message, I - my

attention was basically drawn to the car park areas and Holden Lane itself.

Q. Pausing there. "The message", you're talking about the VKG communication?

A. The VKG communication, yes. So I was basically looking or scanning basically the car parks at Holden Lane as I slowly made my way west.

Q. Okay.

A. When I reached the point where I was almost on the car park itself for the Salvation Army building on my left, I come to a momentary stop, I looked at the car park, the back of the building, I looked along Holden Lane, I looked to my right, I saw nothing. I saw - when I say, "I saw nothing", I saw no-one, no person. The car park was empty. I could see the entirety of the car park. I could see the back of the building. I could see the fence to the left of the building. Paused there momentarily and then I started to move west at walking pace, again in the car, just doing that, basically, till I got to the end of the lane or got to the end of Holden Lane around Moon Street.

Q. And that's the entirety of what you did?

A. Yes.

Q. You didn't double back and check again?

A. No.

Q. All right.

A. But I do know that there was Woodburn 29 or the vehicle Woodburn 29 was behind me and I imagine that he was doing the same thing.

Q. The same thing?

A. Mmm.

Q. Was he behind you the whole time?

A. He was certainly behind me in Holden Lane, yes.

Q. How far behind?

A. Oh, I - he was in my mirror, I could see him.

Q. You could see he

A. Yes.

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Q. Did

Q. Did he stop at any point?

1 A. He would have stopped when I stopped otherwise he
2 would have run into me. I mean, I was - it was only
3 a momentary pause, so he certainly wasn't right up my
4 backside, so to speak

5

6 Q. Out the front of the Salvation Army car park was when
7 he stopped; is that right?

8 A. Oh, I think so. Well, he - I was going slow.

9

10 Q. Yes.

11 A. He was behind me.

12

13 Q. Yes.

14 A. I stopped. I must admit I didn't look in the mirror
15 to see whether he'd stopped but, you know, he certainly
16 didn't run into me.

17

18 Q. Yes.

19 A. So, if anything, he was either travelling slower or at
20 least the same pace I was travelling.

21

22 Q. Did you at any point get out of your vehicle?

23 A. No, I did not.

24

25 Q. Can I suggest that you should have done that?

26 A. On reflection and with the benefit of hindsight, yes,
27 I agree that maybe I should have got out of the vehicle.
28 But purely my attention, or where I thought the job was,
29 Holden Lane roadway, or the car park, I - nothing in that -
30 what I took in from that CAD job gave me the impression
31 I should be searching behind a fence down the side of the
32 Salvation Army building.

33

34 Q. You couldn't see beyond the fence, could you?

35 A. No, I couldn't see beyond the fence. I - it looked
36 like a fence.

37

38 Q. Yes.

39 A. Yeah, I couldn't see beyond that.

40

41 Q. It was about 8, 9 metres away, maybe 10 metres?

42 A. No, I'd say it was further than that.

43

44 Q. Further?

45 A. Because even on that map there, like, I'd say that you
46 could fit at least six cars side by side between the back
47 of that building and Holden Lane.

1

2 Q. But I think you gave evidence earlier to the effect
3 that an informant can be imprecise about the language they
4 use when they're describing an incident; do you agree?

5 A. Yes, they can.

6

7 Q. And an incident can itself be mobile?

8 A. Yes.

9

10 Q. It can move?

11 A. Yes.

12

13 Q. And given those circumstances, you'd accept that
14 appropriate policing necessitated that you get out of the
15 car, have a look around that area; do you agree?

16 A. No, I - I don't agree.

17

18 Q. Yes.

19 A. Like I said, my - what I took to be the job, and where
20 it was, formed in my mind how I should react or, you know,
21 make inquiries to ensure that there wasn't an incident
22 there. And I looked in those locations. Nothing that was
23 said made me think that I needed to get out of the car,
24 check to see whether there was a gate in that fence or
25 whether I could climb over it or whether I - I didn't even
26 know what it was behind that fence. I know the roof line
27 extended down. Yeah, so I don't think - the answer to your
28 question is I don't think that there was - that
29 procedurally, there was something that I didn't do that
30 I should have done, if that makes sense.

31

32 Q. Well, on one level it does and on one level I'm
33 struggling to reconcile it with your earlier evidence where
34 you accepted that there may be imprecision about a VKG
35 report that's come in from a member of the public --

36 A. Oh, yes.

37

38 Q. -- who says, "A female's being bashed behind the
39 Salvation Army building". And please correct me if I'm
40 wrong, but you're saying, "Well, I looked in that area
41 behind the Salvation Army building, and that's all I was
42 required to do"; is that right?

43 A. That's correct. And I do accept, and you are correct,
44 and I do believe that, yes, quite often informants don't
45 give us exact or correct information.

46

47 Q. Yes.

1 A. But also, I mean, what's to say that I shouldn't have
2 been looking over the fences to the residential properties
3 on my right? I mean, to argue or to put to me that just
4 because the informant may have given incorrect information,
5 I still can't see that, you know, it led me any closer to
6 look where I should have looked.

7
8 Q. Okay.

9 A. I, in - with hindsight, and the benefit of hindsight
10 and, you know, I probably - I wish I'd looked over that
11 fence.

12
13 Q. Yes.

14 A. But I didn't.

15
16 Q. No. We understand that. And we accept that you're
17 genuine in your evidence and thank you for being very clear
18 about that. But what I'm suggesting is that you had
19 a specific address, right, 73 Tamar Street, the Salvation
20 Army. You were given a specific --

21 A. Yes, but that's not where I took that to - I took the
22 job to be the rear of Salvation Army, and that, to me, was
23 the car park and Holden Lane.

24
25 Q. All right. But my point is a different one. You were
26 given a particular address, weren't you?

27 A. Yes.

28
29 Q. All right. And there's a car park, that's a space
30 that was open and you could see, on your evidence?

31 A. Correct.

32
33 Q. And then there's a section very close to that car park
34 that has a fence area, and you could see the fence; that's
35 right?

36 A. Yes, yes.

37
38 Q. But you couldn't see beyond the fence?

39 A. Yes.

40
41 Q. So you didn't know what was there?

42 A. Correct.

43
44 Q. So it wasn't appropriate to simply drive past and
45 assume that that was okay. That's what I'm putting to you:
46 that proper policing meant you should have parked your
47 vehicle there and had a look at least down the side where

1 the gate was.

2 A. I - I would disagree with that. I -

3 I'm sorry, but I think in my mind, I wish - benefit of
4 hindsight, I wish I'd stopped. I wish I'd gone and looked
5 over that fence. But at the time, and even today, nothing
6 was said that made me think I needed to look over that
7 fence. And to say "proper policing", I would disagree with
8 that, too.

9
10 Q. But doesn't your experience tell you that you're not
11 necessarily going to get an accurate location behind --

12 A. It certainly does.

13
14 Q. So why wouldn't you, then, get out of your car - it's
15 going to take a couple of seconds, there's two of you - and
16 have a look down the side? Why wouldn't you do that?

17 A. I don't mean to be disrespectful or sound
18 argumentative, but what would - on the same logic, why
19 wouldn't I look over the fences on my right? I looked
20 where I thought the job was.

21
22 Q. Because you'd been given a specific address?

23 A. The specific address, in my mind, was Holden Lane or
24 the car park at the rear of, and that's where I looked.

25
26 Q. It's a specific premises, isn't it, the Salvation Army
27 building?

28 A. It is, yes.

29
30 Q. Did you contemplate going around the front to have
31 a look?

32 A. No. Oh, there was other things at play as well.
33 I know from my experience that Holden Lane and Winton Lane,
34 which runs east-west parallel to, between, you know, say
35 Ballina Street - River Street, Winton Lane, Tamar Street,
36 Holden Lane, Holden Lane and Winton Lane are just
37 thoroughfares. We - over many years that has been many
38 jobs that have been called as being in those lanes. You
39 attend and there is nothing there. It's just people
40 transiting through those lanes.

41
42 I am fairly confident that would have been a thought
43 that I had in the back of my mind as well, that, yes, the
44 most - there could well have been a legitimate incident
45 occurring and, in hindsight, there clearly was --

46
47 Q. Yes.

1 A. -- but it could have been persons transiting through.
2 Nothing told me or nothing in my experience had made me
3 think that I needed to check the exterior of that building.
4

5 You have put to me that flood refugees have previously
6 used that building. I'm not aware of that. I have never
7 seen anyone at that building outside of business hours. To
8 be honest, I don't think I have ever seen anyone there in
9 business hours. I have never had cause to go into that
10 building, I have never attended that building for a job in
11 my service in Ballina, to my knowledge.
12

13 Q. What about canvassing residents nearby, asking whether
14 they had heard anything, knocking on doors?

15 A. Yes, that would be something that we would do if -
16 yes, if - if I'd detected something, there'd been a crime -
17 well, I know there was a crime, in hindsight, with the
18 benefit of hindsight, but a canvass would certainly happen
19 if something had been detected, especially a serious event.
20 But in this case --

21 Q. Well, can I suggest that the bashing of a female is
22 a serious event?

23 A. It is. No, I'm not taking away from that. I don't
24 mean to sound disrespectful, and that's not what I'm trying
25 to do.
26

27 Q. No, I understand.

28 A. I'm just putting to you that, yes, not all jobs - with
29 the luxury of time you would probably go knock on the door
30 of all neighbours for every single job. I guess, or
31 I believe, that based on the fact that there was the one
32 call, the caller was not cooperative, the length of time
33 that had passed, my - not assumption, but the forming of
34 the opinion as to actually where this job was taking place
35 in my mind based on what the CAD message or the radio VKG
36 broadcast, I attended and I patrolled what I thought was
37 where the job was. I saw nothing, located nothing. So in
38 my mind, that certainly would not warrant, then, me going
39 knocking to doors to say, "Did you hear something in the
40 back lanes?"
41

42 Q. Right. Were you able to see whether there was any
43 CCTV at the rear of the Salvation Army?

44 A. I didn't look. I can't answer that right now.
45 I don't know. I don't know whether there is CCTV or there
46 is not CCTV.
47

1
2 Q. That's the point, though, isn't it: that if you'd
3 parked the vehicle, walked into the car park, you could
4 have seen if there was CCTV, you could have had a look down
5 the lane. That's all of about a minute, can I suggest?

6 A. Oh, I don't disagree with you. I mean, like I said,
7 to be honest, in - what's happened has - I've certainly had
8 time to reflect on what's happened and I've certainly had
9 time to reflect on what part I've played in what's
10 happened, and I've reflected on the fact that if - things
11 could have been vastly different if I'd actually done what
12 you have just said. But unfortunately, on the night
13 I didn't do that and, for the reasons that I've stated,
14 and - well, this is where we are now.

15
16 Q. All right. So do I take it from that answer that if
17 you got a job along those lines again, and if there was
18 a nominated premises that said something like "Behind
19 premises A", you would do things differently, is that what
20 you are saying?

21 A. I would not disagree with that statement. I would say
22 it's fair assumption that I probably would reconsider or
23 have a more - what's the word? - I'd probably treat it
24 differently, yes. I would take additional steps or at
25 least consider whether it would be appropriate for me to
26 take additional steps, get out, walk around, go stick my
27 head over a fence.

28
29 Q. All right. Do you recall seeing your - are you all
30 right, do you need a break?

31 A. Yeah, no, I'm fine. Yeah.

32
33 Q. Do you recall seeing Woodburn 29 get out of his
34 vehicle at any point?

35 A. No, I don't. I did not recall seeing him get out of
36 a vehicle.

37
38 Q. Do you think that that happened?

39 A. I - I don't know. I would only be guessing.

40
41 MS SULLIVAN: Just excuse me for one moment.

42
43 THE CHIEF COMMISSIONER: Q. Officer C, I might ask,
44 while we're having a little break: along Holden Lane, is
45 it a business or a residential area or a mix of both? Can
46 you tell us a bit about the kinds of buildings or premises
47 that are there in that bit of Holden Lane, just that square

1 between Cherry Street and Moon Street?

2 A. Well, between Cherry Street and Moon Street, towards
3 the bottom of the screen is Tamar Street. All of those are
4 businesses along Tamar Street and they all back on to
5 Holden Lane.

6
7 Q. Yes.

8 A. So Holden Lane is basically the rear access to all
9 those commercial premises.

10
11 Q. Yes.

12 A. On the right-hand side of Holden Lane are backyards
13 and units and - the majority, I would suggest, are
14 residential.

15
16 Q. Okay. Right. So it's sort of half - a mix of both,
17 then, in the --

18 A. Yes, yes, correct. Basically between Crane Street and
19 Tamar Street is a mix of, I'd say looking at that, probably
20 fifty-fifty split, business and residential.

21
22 THE COMMISSIONER: Thank you.

23
24 MS SULLIVAN: Q. I will just, for the record, note that
25 you call in at - that is, VKG - at 7.54 and you say this:

26
27 *Ballina 14.*

28 *Radio: Ballina 14.*

29 *Ballina 14: I'm at the rear of Salvation*
30 *Army on Tamar Street. It's actually going*
31 *to be Holden Lane. I was close. What did*
32 *the caller say exactly? There's no*
33 *indication whether it's a house or on the*
34 *street.*

35
36 And then radio gives you the information. And then you
37 say, "Copy. You said River" Perhaps I have read that to
38 you, but that was appropriate, can I suggest - that was an
39 appropriate step by you to try and confirm the information
40 that was available; that was good police practice?

41 A. Thank you.

42
43 Q. You can accept that, if you like?

44 A. Yes, I will accept that bit of praise, thank you.

45
46 Q. All right. Now, we know from your statement you refer
47 to you and Woodburn 29 having a discussion, where you park

1 together at the end of Holden Lane; is that right?
2 A. That's correct.
3

4 Q. And have a discussion?
5 A. Yes.
6

7 Q. What was discussed at that time?
8 A. I can't recall the full extent of the conversation but
9 I know we talked about, "Well, what do you think?" You
10 know, we - I can't actually tell you what the full extent
11 of the conversation was but we would have just been,
12 I guess - I don't know - just talking about the job. I -
13 you know, I'd like to sit here and say we talked about
14 whether, you know, we could have done anything more.
15 I don't - I don't recall what that conversation was.
16

17 Q. That was a short conversation; is that fair?
18 A. Oh, yeah, it was only very short.
19

20 Q. All right. So after that, you then - well, in fact,
21 you broadcast a transmission by way of update to radio.
22 That's right? You recall that?
23 A. Yes.
24

25 Q. You give them the update, in effect, that there was
26 only the one call, residents would have seen something in
27 this area, and that's, in effect, the end of that job; is
28 that fair?
29 A. That's - yes, that's fair.
30

31 Q. And so then what did you do after that?
32 A. I don't know what I actually did exactly after that.
33 I've got no idea.
34

35 Q. You can't recall?
36 A. Yeah.
37

38 Q. You knew Mr Huber?
39 A. I - yes, I did know him, not well, but as somebody
40 that I had had a recent interaction with, and from that
41 interaction I knew his name and I knew what he looked like.
42

43 Q. And there were domestic violence charges that you were
44 involved in approving the laying of, if I can put it in
45 those terms --
46 A. Yeah.
47

1 Q. -- accepting?

2 A. That's correct. He was arrested for assault and
3 I made a - yeah, he was charged.

4 Q. Yes.

5 A. Granted conditional bail and released.

6 Q. And there was an ADV0 for the protection of Ms Lucena?
7 A. Yes, there certainly was, yes, yes.

8 Q. So there is evidence to the effect that Mr Huber was
9 in that side area - you might be familiar with this - in
10 that side area at 7.20pm. He was seen by a witness in that
11 side gated area.

12 A. My honest answer to - well, my answer to that is the
13 only reason I know that is because of what's happened.

14 Q. Yes.

15 A. But I certainly wasn't aware of, outside of these
16 proceedings, yeah.

17 Q. No, I understand that. I'm simply sort of setting the
18 scene so you are aware of that.

19 A. Yes.

20 Q. There is also evidence to the effect that he was again
21 seen at around 9.30pm in that same area. So if you could
22 just accept that from me --

23 A. I accept that, yes.

24 Q. -- as the proposition. So had you seen him in that
25 side gated area, knowing what you know about his background
26 in terms of the DV charges and the ADV0, are you able to
27 say what steps you would have taken?

28 A. If I'd seen him there, I certainly would have stopped
29 and "propped" him, because I - well, it's a business, first
30 of all, at a minimum. "What are you doing here?"
31 Especially if he was inside a fence, but even if he was
32 outside the fence I probably, knowing who he was --

33 Q. You would have had a high index of suspicion about
34 seeing him?

35 A. Yes, yes, I would.

36 Q. Would you have had any compunction about opening the
37 pool fence that separates that area?

1 THE COMMISSIONER: It's unlocked, Officer C. I will give
2 you that.

3
4 MS SULLIVAN: Q. That is an important detail.

5 A. If I'd seen him, yes, I probably - yes, I certainly
6 would have - I agree with that statement.

7
8 Q. As in you would have entered?

9 A. I would have had a look and I would have entered, yes,
10 but - if he was detected there.

11
12 Q. No question about your power to do that. Is that
13 fair?

14 A. Yes. Not in my mind, no.

15
16 Q. Do you recall an exchange between you and
17 Richmond 10 - that's the duty officer - about the
18 outstanding job at Wollongbar? Perhaps I will just pull
19 that transcript up so that I can read it to you directly.
20 But in effect, there was one outstanding job in Ballina at
21 that time, that's the domestic at Wollongbar?

22 A. Wollongbar, yes, I remember it.

23
24 Q. Wollongbar, thank you. That's a priority 3 job?

25 A. Yes.

26
27 Q. And Richmond 10 had offered to come and assist with
28 that?

29 A. Yes.

30
31 Q. Is that right?

32 A. Oh, I accept that, if - I haven't - I don't have a
33 full recollection of what the CAD message says.

34
35 Q. But that was the next job that you had in the queue in
36 Ballina?

37 A. I think it was the one - it was an outstanding job,
38 mmm.

39
40 Q. I will just read you that exchange:

41
42 Richmond 10: Any other cars --

43
44 sorry, this is radio, one beep:

45
46 Richmond 10, any other cars proceeding to
47 [a particular address] or High Street near

the ABC.

It goes on:

Richmond 10: Copy that. Thank you. Can you just raise Ballina 14 and ask if they want a hand down there.

Radio: Ballina 14.

Ballina 14: Yeah Ballina 14, I don't think so, we've only got that one outstanding job at the moment now, the one at Wollongbar, is that right?

Radio: Yep, just the domestic at Wollongbar.

Ballina 14: Copy that, and that's through a third party, so that can wait for a while.

Radio: Copy that, Richmond 10, no I think they're right.

*Richmond 10: Ten, copy that, thank you,
I was trying to get there.*

So there wasn't a time pressure on you at that particular time you were in Holden Lane, that's right?

A. No.

Q. Because you have just refused the assistance of Richmond 10?

A. No. Yeah, there was no time pressure, no

Q. Thank you. In fairness to you, there is an email from the duty officer sent at 12.14am on 4 January, where she's handing over to the incoming duty officer, and what she says is this:

Poor Officer C at Ballina got smashed between 6 and 10pm. He did a great job down there. Lismore also had another run of mental health jobs.

So that's what she said about the shift. Do you agree with that characterisation of being "smashed", or is that fairly standard for a shift?

A. No, it's not fairly standard. We were busy that shift, and it was - a lot of it was - seemed to be mental health.

1 Q. Yes.

2 A. It's - I think it was a fair characterisation of the
3 shift. I appreciate her comments about me doing a great
4 job, despite the fact that we are all here.

5 Q. In terms of busyness, just so we can get a sense of
6 sort of the resourcing issues that may or may not exist,
7 how would you rate that shift out of 10 - 10 being the most
8 busy?

9 A. I would - it would certainly be rated high. It
10 wouldn't be a 10.

11 Q. No?

12 A. I only say that because I've worked shifts where
13 you've had cars from Casino covering Lismore, Lismore
14 covering Nimbin, Ballina down Lower Rivers, you know,
15 Lismore in Ballina. It's the nature of the beast,
16 unfortunately.

17 Q. Are there - you are still there? You are still in
18 Richmond police district?

19 A. Yes, I am. I still work in Richmond police district,
20 not as general duties anymore but I still work in Richmond
21 police district.

22 Q. To your understanding are there sort of ongoing
23 resourcing issues for general duties?

24 A. I - I can't comment on numbers because I don't know
25 what authorised numbers and strengths are, but it certainly
26 seems to me there's shifts where you are chasing - the GD
27 police, general duties police, are constantly chasing their
28 tails.

29 Q. Thank you. I'm coming towards the end of my
30 examination, but we know that Mr Huber comes into the
31 police station on 4 January at about 12.45 and reports that
32 he, in effect, he says his missus is dead. You were at the
33 counter at that time; is that right?

34 A. Yes, I was putting some documents together and that
35 was the largest space I could find so I was standing at the
36 front counter.

37 Q. Okay. And at that point did you make a connection
38 with the job that you had attended earlier that night?

39 A. No.

40 Q. No?

1 A. Well, I didn't, not initially. But once he started
2 talking, I did.
3

4 Q. Yes. And what happened after that?

5 A. From when he came in or from when I made the
6 connection?
7

8 Q. When you made the connection, what did you do then?
9

10 A. Well, when I made the connection, he had made that
11 comment about his missus perhaps being dead and then he
12 mentioned - I can't remember, sorry, I can't recall whether
13 he said council chambers or Salvation Army. In my mind,
14 immediately then I made a connection that it probably was
15 something that's happened down there and - and he's
involved in it.
16

17 Q. And so then you took the supervisor's vehicle and
18 attended the scene?

19 A. Yes.
20

21 Q. And Alstonville 18 went in a car with him?

22 A. Correct.
23

24 Q. And what happened once you got on scene?

25 A. Well, I reached the scene a little bit before them.
26 I was in - when I say "a little bit", only moments.
27 Because I didn't know exactly where I was looking, I just
28 put the alleyway lights or the spotlights on on the roof
29 bar of the car and did my best looking until I actually
30 noticed a police truck appear. Then I think it became
31 stationary and then they have all got out and then the
32 police were following him and basically he's led them to
33 that pool fence or - that pool fence at the Salvation Army
34 building.
35

36 Q. Okay. And I think you say in your statement at
37 paragraph 20:

38 *Almost immediately upon entering I saw
39 lying on the ground, face up on her back
40 was a female.*

42 A. Entered that first gate, there was a short area to
43 cover, there is a second fence. Opened that. I - there
44 was just stuff scattered all over the ground and amongst
45 that stuff I could make out the shape or form of a person.
46 It was pretty dark but we did have torches, and it was
47

1 a female, yes.
2

3 Q. That was before she had been pointed out by Mr Huber;
4 is that right?

5 A. I don't think he actually - I don't think it was - he
6 ever actually pointed her out to us. It was obvious.
7

8 Q. Okay.

9 A. This all happened - fractions of a second, but, you
10 know, any person looking in there could see the rubbish or
11 the clothing and items scattered. But you could also quite
12 clearly see that there was a person there.
13

14 Q. So you then arranged for other police to attend,
15 ambulance, all those types of things?

16 A. Yes.
17

18 Q. And set up the crime scene perimeter?

19 A. Correct.
20

21 Q. And do you recall - and we know that you are at the
22 crime scene until around 3.40; is that right?

23 A. Yes, because - well, whatever was going on behind, in
24 the background, Mr Huber was - remained or went in - was
25 arrested and remained in the custody of the arresting
26 police and taken back to the station, and there was no-one
27 left to guard the crime scene, so that was me.
28

29 Q. Do you recall having a conversation at any time that
30 morning with Officer E, the duty officer, about what had
31 happened in relation to attending earlier that night, the
32 Salvation Army, that is?

33 A. I can't recall any specific conversation but I'm sure
34 I would have - we would have had a discussion, yes.
35

36 Q. Yes. Do you recall her mentioning to you any
37 potential that this could become a critical incident?

38 A. No. The first - to be honest, I know this is all
39 about honesty.
40

41 Q. Please be honest.

42 A. Yeah, no, no, I don't mean to say - to make that sound
43 like I'm not being - I'm trying to be dishonest. But the
44 first I become aware that there was even a consideration of
45 this being a critical incident was when I was relieved at
46 3.40am and someone said to me in passing, "Oh, they're not
47 treating it as a critical incident." At no point up to

1 that time, point in time, had it occurred to me that it may
2 have been considered as a critical incident. Of all the
3 police that had come and gone, no-one had said anything.
4

5 Q. Who was the officer you spoke with at 3.40 when you
6 were leaving?

7 A. Well, it was initially the station officer, throughout
8 the shift. He was sent down to do the crime scene guard
9 because someone had come down from Lismore and I think took
10 over his duties and that was --

11 Q. He raised that with you?

12 A. Yes, in passing. He mentioned, "They're not being
13 treated as a critical incident", and that surprised me,
14 actually, that was the first I had heard that it was even
15 being considered as one.

16 Q. Because you didn't think that it was?

17 A. Well, no. I didn't. I mean, I - obviously I'm not an
18 inspector or a - I don't know the full ins and outs of
19 how - what classifies as a critical incident. I know what
20 sort of incidents are generally treated as a critical
21 incident. I know why this may - in hindsight I know why
22 this may have been considered or looked at or even talked
23 about as a critical incident, but I wasn't part or involved
24 in any of that decision-making.

25 Q. Okay. So the station officer told you that, but did
26 you have any discussion with any other senior officers
27 about the critical incident?

28 A. No.

29 Q. No?

30 A. No.

31 Q. No-one had a discussion with you?

32 A. Not about - about the job, but - about what had
33 happened there but not about the possibility that it was
34 a critical incident or likely to be.

35 Q. So you were never given a precautionary direction
36 that you shouldn't speak to other officers, for example,
37 Officer D?

38 A. No.

39 Q. Just as a precautionary step. No? Did any commander,
40 for example, Superintendent Tanner, attend the scene?

1 A. He was - Superintendent Tanner was the first police
2 officer to attend that scene.

3
4 Q. Do you remember what time, approximately? It's
5 probably in the crime scene log.

6 A. Well, I know it's in - I'm pretty sure it's in my
7 notes but I don't, off the top of my head, remember what
8 time, no.

9
10 Q. In your notes? No, that's fair enough.

11 A. But it was within a short time of basically everyone
12 becoming aware of the type of incident because I recall
13 actually being surprised about how quickly he had arrived.

14
15 Q. And did you have a conversation with him about
16 attending earlier that day?

17 A. I - I can't recall actually having a conversation but
18 I don't think it would be unreasonable that I did. I'm
19 sure I did.

20
21 Q. Sure you would have?

22 A. Yes.

23
24 Q. So it follows you can't remember the content of what
25 you would have said?

26 A. I would have talked - no, I can't remember the exact
27 content, but I know that I would have talked about the fact
28 that I had patrolled or attended a job, there was
29 a reported job earlier in the night at that location.

30
31 Q. Did anyone from Strike Force Blaikie, which was
32 convened to investigate Ms Lucena's death - did anyone from
33 Strike Force Blaikie, detectives, come and speak to you
34 about your attendance that night?

35 A. I spoke to numerous detectives. I don't know who
36 actually was in the strike force that you're referring to.

37
38 Q. Okay.

39 A. So they may have. I don't know.

40
41 Q. You can't recall?

42 A. Well, I spoke to numerous detectives. I mean, it was
43 detectives that asked me to do my statement straightaway.
44 But I've got no --

45
46 Q. All right. So you did your statement on the 4th
47 of January?

1 A. Yeah.

2
3 Q. We're trying to get to the bottom of the timing of
4 that.

5 A. Yeah, I think it was the night after, yeah.

6
7 Q. But after you'd done that statement on the 4th did
8 anyone after that point speak to you about your attendance,
9 exactly what you'd done, what the nature of the patrol you
10 had undertaken was, those types of matters?

11 A. No, I don't think so.

12
13 Q. No? So you think that the engagement with detectives
14 was on 4 January around the preparation of your statement?

15 A. I think - yes, I think the only real interactions that
16 I had with the detectives specifically about this incident
17 was at the night of the incident, on the night of the
18 incident. I can't - I - I don't know whether they were
19 part of the strike force, but I'm fairly confident I had
20 a conversation with a Detective Sergeant Smith, Michael
21 Smith.

22
23 Q. Yes. Was he the crime manager?

24 A. No. He was the senior detective. He was the officer
25 in charge of the detectives at Ballina.

26
27 Q. Yes.

28 A. I think he was in the station when I commenced my
29 follow-on shift and that's when I was asked to do the
30 statement and it may have even been him that asked me to do
31 the statement that night, if I could.

32
33 Q. But that's the best of your recollection around --

34 A. Yeah, I don't - I don't recall any out - conversations
35 outside of that.

36
37 Q. Did anyone raise any concerns with you after you gave
38 evidence in the Supreme Court - that is, in relation to the
39 nature of the patrol that you undertook on 3 January?

40 A. I think it's fair to say that no-one's ever raised
41 concerns about that patrol with me.

42
43 Q. Okay, thank you. I just want to give you the
44 opportunity to tell the Commissioner - because we're very
45 concerned about the systemic issues that may arise from the
46 circumstances - are there things that you would like to
47 tell the Commissioner about in terms of systems issues,

1 areas for improvement, matters of that nature?

2 A. Well, as a lowly constable, there are certainly plenty
3 of things that I could say but, I mean, these all revolve
4 around, you know, more staff. But I don't think they're
5 the sorts of things that - I think these are decisions made
6 by the government. But, you know, it would be great to
7 obviously have more staff.

8
9 Q. Yes.

10 A. In relation to other things that, you know, like VKG
11 and all the rest of it, no, I - you know, like, I've learnt
12 stuff today obviously in these proceedings that I wasn't
13 aware of, like, about, you know, what you're talking about
14 in relation to how often schedule - I mean, priority 2 jobs
15 should be called. But no, I mean, other than with the
16 benefit of hindsight, I wish things had not happened the
17 way that they did happen and I wish, you know, yet again,
18 with the benefit of hindsight, maybe if I'd made, you
19 know - how do I put it? Expanded my search or got out,
20 looked over that fence, walked around the building, we may
21 not be here. But unfortunately, that's with the benefit of
22 hindsight. What's happened's happened and my condolences
23 for the family of the deceased person. But in relation to
24 systemic issues, no, there's nothing that I'm really
25 comfortable to sit here and say that I would like to see
26 changed because it's a bit of out of my scope,
27 unfortunately. Even with 35 years in the job I think it's
28 a bit out of my scope.

29
30 MS SULLIVAN: Thank you.

31
32 THE WITNESS: Thank you.

33
34 THE COMMISSIONER: Q. I had one additional question to
35 take you back again to that VKG job which was broadcast as
36 "a man is bashing a woman", to paraphrase. So is it fair
37 to say that that was at the next level from, say, two
38 people having an argument or loud voices or voices raised?
39 It sounds - is it fair to say that that kind of broadcast
40 reflects a physical assault?

41 A. Yes.

42
43 Q. It suggests there was a problem?

44 A. Yes, the word "bashed" definitely said to me it's an
45 assault.

46
47 Q. It is a physical assault?

1 A. It may have gone on as a check bona fides but in my
2 mind I was processing it as an assault.

3
4 Q. And because it's - I think it was a concern for
5 welfare, rather than a check bona fides, rather than
6 assault?

7 A. Yes.

8
9 Q. Would that have impacted the way in which you
10 perceived the possibility that the person - that this - the
11 two people involved might still be in the vicinity or would
12 have moved on? That wasn't very well phrased so let me try
13 again. The fact that there was a physical assault
14 occurring, does that make it more or less likely that the
15 two people would have remained in Holden Lane, or does it
16 not make any difference at all?

17 A. I - it probably - because I thought it was occurring
18 in Winton Lane, I - it would not be unreasonable, in my
19 mind, to think that, as I discussed, that it was - could
20 have been potentially persons transiting through that lane.
21 If the job had been at a residential address, in my mind,
22 then I'm sure that they would have remained. But because,
23 in my mind, I'd taken it to be in the lane, I think that
24 did go a ways to me forming the belief or opinion that it
25 could have been persons transiting through the lane.

26
27 Q. So there might have, in your mind, been some kind of
28 physical assault occurring but then they've carried on?

29 A. Moved on, yes, correct. They've moved - they've
30 continued. It's - in 35 years of policing, it's not
31 uncommon that people, males and females, couples, will be
32 involved in a physical assault and it doesn't stay in one
33 spot. I mean, you know, other than i like, I'm talking
34 about outside of residences, of course. It's not uncommon
35 to receive calls about people fighting in the street moving
36 in this direction.

37
38 THE COMMISSIONER: Okay, thank you.

39
40 Mr Harris, do you have any questions that you want to
41 ask?

42
43 MR HARRIS: Commissioner, thank you. I won't be long.

44
45 <EXAMINATION BY MR HARRIS:

46
47 MR HARRIS: Q. You just referred in your answer to the

1 Commissioner there to Winton Lane, in your mind?

2 A. Holden Lane.

4 Q. You meant Holden Lane?

5 A. Yes, they're two lanes that we commonly get called.

7 Q. And, in fact, I think maybe during the radio calls at
8 one stage you might have referred to --

9 A. Yeah, it would appear that I've got an issue
10 recognising Holden Lane.

12 Q. I think your evidence is that having a mobile data
13 terminal in the vehicle or not wouldn't have been
14 a significant factor in you attending to this incident?

15 A. No, it wouldn't.

17 Q. And it is the case, isn't it, that when you felt that
18 the Newrybar M1 traffic incident was satisfactorily
19 resolved, you called back in straightaway?

20 A. Yes, I did, yes.

22 Q. And would it be true that it was in the back of your
23 mind that this priority 2 job was still live and
24 unattended?

25 A. My recollection was I inquired as to see if there was
26 still outstanding, so yes, it was in the - definitely still
27 in the back of my mind.

29 Q. When you arrived on Holden Lane, and you told us
30 you're very, very familiar with the existence of the
31 Salvation Army premises, but were you aware that it was
32 possibly to go into what I'll call an annex on the side?

33 A. No, I'm not familiar with - I knew the building
34 existed because I'd see it. I've seen it, you know,
35 probably a million times, but I'm not familiar with the
36 actual layout. To me that looked like a fence. It's only
37 now that, you know, after this incident, I'm aware that
38 there's a gate in that fence and that you can access an
39 area that I didn't know existed.

41 Q. And is it safe to say from your evidence and your
42 statement, you saw no person whatsoever in the entirety of
43 Holden Lane, other than, I suppose, Woodburn 29?

44 A. That's correct.

46 Q. In the radio broadcast transcript - it's right at the
47 end, Commissioner, "BLN14" - this is at 7.58, and it's

1 after you've scanned or patrolled Holden Lane:

2
3 *Back on the air from Holden Lane, nothing*
4 *sighted. There is numerous residents --*

5
6 I'm just clarifying that.

7
8 *... numerous residents here ...*
9

10 That doesn't refer to people, that's residential premises,
11 is it?

12 A. Yeah, that's obviously the - whoever transcribed it,
13 I was actually - there is numerous residences, as in
14 buildings.

15 Q. No, I'm just clarifying it was - in terms of
16 persons --

17 A. Yeah, I saw no-one.

18 Q. -- deserted?

19 A. Yes.

20 Q. At the end of what I'll call this annex area with the
21 gate or the fence on Tamar Street, were you aware of any
22 access to the annex from that end of the - from Tamar
23 Street into this, I'm calling it an annex area?

24 A. Yes - I think at the time I can honestly say I wasn't
25 aware. But I do know now that there's an aluminium slatted
26 fence or gates there. I'm not sure whether it's gates or
27 a fence. But there is an aluminium slatted something
28 there.

29 Q. So to clarify, it wasn't until Mr Huber led you there
30 that you realised that the fence, in fact, had a gate in
31 it?

32 A. Well, yeah. I - it wasn't until that night and
33 Mr Huber led us there that I was even conscious or aware
34 that there was, for lack of a better way of describing it,
35 a courtyard or an area beside that building that people
36 could access.

37 MR HARRIS: Commissioner, thank you.

38 THE COMMISSIONER: Thank you. Anything from any other
39 people at the Bar table? Anything arising?

40 MS SULLIVAN: Nothing arising, Commissioner, except some

1 housekeeping.
2

3 THE COMMISSIONER: I might just flag for people's comment,
4 my recollection of the photographs that we were shown of
5 the laneway beside the Salvation Army building is that
6 there was a wooden fence at the time, at least, at one
7 end - there's a pool fence at one end and there's a wooden
8 fence at the other, which is not to say it may not be
9 aluminium now, Officer, but I just wanted to see if there's
10 anything that anyone wanted to say anything about that.
11

12 MR HARRIS: I'm indebted, Commissioner, because it seemed
13 to be in one photograph we saw today, you could almost see
14 daylight at the other end, as if there were no fence at
15 all, and I wasn't sure of the time or date those photos
16 were taken. But it was clear that, in another image,
17 I thought it was a solid timber fence.
18

19 THE COMMISSIONER: I don't know --
20

21 MS SULLIVAN: Could I just assist with an actual photo and
22 also a close-up?
23

24 THE COMMISSIONER: That sounds like a good idea, just so
25 that we deal with it now rather than speculating later
26 about what the fence looked like at the time, which is the
27 only relevance.
28

29 MS SULLIVAN: Are we talking about the fence on Tamar
30 Street?
31

32 THE COMMISSIONER: We are.
33

34 MS SULLIVAN: So if we go to tab 73, photographs 24 and 25
35 provide us with a very clear image.
36

37 THE WITNESS: It may be a case, Commissioner, that my
38 memory's tainted by the fact that I remained there for
39 a period of time after this event, too, so I may have
40 seen --
41

42 THE COMMISSIONER: It may have changed, Officer, and
43 I just wanted to be - make sure that we're clear about -
44 so we'll just make sure that there is nothing that's
45 sensitive that is being shown.
46

47 MS SULLIVAN: They come later, those photographs, but 24

1 and 25, we are safe.

2
3 THE COMMISSIONER: There we go.

4
5 MS SULLIVAN: That's the fence. But there is - at 25 is
6 a close-up of the wooden slats.

7
8 THE COMMISSIONER: Yes. Okay. Thank you. Have they been
9 tendered?

10
11 MS SULLIVAN: Twenty-four has, 25 hasn't. If you're
12 content for me to tender that, whilst they're there,
13 perhaps add to the bundle at exhibit 11C, and the barcode
14 is 8641044.

15
16 THE COMMISSIONER: That's at number 25?

17
18 MS SULLIVAN: Tab 73, photograph 25.

19
20 THE COMMISSIONER: That can be added to the bundle at
21 exhibit 11C.

22
23 **EXHIBIT #11C ADDITION OF PHOTOGRAPH 25 BARCODED 8641044**

24
25 THE COMMISSIONER: I might release Officer C and then
26 we'll deal with the administrative matters before lunch.
27 Was there anything else? Free to go from his summons?

28
29 MS SULLIVAN: Free to go.

30
31 THE COMMISSIONER: Thank you very much, Officer C, for
32 coming. I really appreciate your evidence and the frank
33 way in which you gave it, including your reflections on
34 what you would have done differently.

35
36 I appreciate that this has been difficult, and I would
37 certainly encourage you to take the opportunity to speak to
38 someone if you feel you need support from the experience of
39 having given evidence today.

40
41 THE WITNESS: Thank you.

42
43 THE COMMISSIONER: Thank you.

44
45 <THE WITNESS WITHDREW

46
47 THE COMMISSIONER: We'll just deal with the last bit of

1 tendering from today.

2
3 MS SULLIVAN: Yes. So if I could tender the marked map of
4 the accident scene, that's a marked copy of exhibit - of
5 tab 15A that was marked by Officer C.

6
7 THE COMMISSIONER: So the marked copy will become
8 exhibit 17C.

9
10 **EXHIBIT #17C MARKED COPY OF A MAP OF THE ACCIDENT SCENE**

11
12 MS SULLIVAN: Thank you. And then exhibit 131, if I could
13 have that as a public exhibit, if you are content with that
14 course, Commissioner. That's the aerial photograph of
15 Holden Lane.

16
17 THE COMMISSIONER: I think - sorry, exhibit 131 - sorry,
18 tab 131, which is the public - so the photo of Holden Lane.

19
20 MS SULLIVAN: That's exhibit 8C and we can have that as
21 public, if you are content with that course.

22
23 THE COMMISSIONER: So that can be - public exhibit 4, so
24 non-confidential exhibit 4.

25
26 **EXHIBIT #4 AERIAL PHOTOGRAPH OF HOLDEN LANE, BARCODED**
27 **8631000**

28
29 MS SULLIVAN: Those are the only matters.

30
31 THE COMMISSIONER: Any other matters? All right. We will
32 return at 2 o'clock and we will have Officer E.

33
34 MS SULLIVAN: Thank you, Commissioner.

35
36 THE COMMISSIONER: Thank you.

37
38 **LUNCHEON ADJOURNMENT**

39
40 THE COMMISSIONER: Yes, Ms Sullivan.

41
42 MS SULLIVAN: Thank you, Commissioner. I call Officer E.

43
44 THE COMMISSIONER: Officer E, do you want to come up to
45 the witness box and we'll swear you in and then we'll deal
46 with any formalities.

1 <OFFICER E, sworn:

[2.02pm]

2
3 THE COMMISSIONER: Thank you. Have a seat.

4
5 Mr Bolster --

6
7 MR BOLSTER: Yes, Commissioner, I appear for Officer E.
8 Officer E does - will give her evidence under objection.

9
10 THE COMMISSIONER: Thank you. We'll deal with that
11 objection now.

12
13 So just for the sake of everyone in the hearing room,
14 Officer E is covered by the pseudonym orders that the
15 Commission has made. If there are any slip-ups during the
16 course of her evidence and we accidentally refer to her by
17 name rather than pseudonym, can someone please alert the
18 Commission to that. Anyone can take that course.

19
20 And before I deal with the declaration, Officer E, I'm
21 not sure if Mr Bolster has spoken to you about it, but
22 we've got pseudonyms for a couple of the other officers
23 that you might have had contact with on the night, Officer
24 C and Officer D. If you can try and remember that, if
25 you're asked, but again, if you slip in the course of your
26 evidence, we've got ways of correcting that.

27
28 THE WITNESS: Thank you, Commissioner.

29
30 THE COMMISSIONER: Thank you. So dealing, then, with the
31 question of an objection, I do make a declaration pursuant
32 to section 75 of the Law Enforcement Conduct Commission Act
33 that all answers and other things given by this witness
34 will be regarded as having been given on objection.

35
36 And then, Officer E, I'm sure Mr Bolster has been
37 through this with you but I need to go through it with you
38 again. What that means is that although your answers are
39 given on objection, they can still be used against you in
40 certain circumstances. The first example is if your
41 evidence is untruthful, and therefore it amounts to an
42 offence under the Law Enforcement Conduct Commission Act.
43 It can be used for this investigation or for the DPP to
44 provide us with advice, and it can also be used against you
45 in disciplinary proceedings under the Police Act, if it
46 should come to that - and this is a standard warning I give
47 to everyone - and that's in relation to section 173 of the

1 Police Act for allegations of misconduct or unsatisfactory
2 performance; section 181D of the Police Act for summary
3 removal; or section 183A for revocation of a promotional
4 appointment.

5
6 Did you have any questions about how that declaration
7 works?

8
9 THE WITNESS: No.

10
11 THE COMMISSIONER: Thank you.

12
13 The other formality that I will go through is to set
14 out the scope and purpose of the examination, although
15 I understand that you might have watched the opening given
16 by counsel assisting.

17
18 THE WITNESS: I did.

19
20 THE COMMISSIONER: You have? Then counsel assisting has
21 been through the scope and purpose. I won't repeat it
22 again unless you'd like me to.

23
24 THE WITNESS: No, that's all right. Thank you.

25
26 THE COMMISSIONER: It is the same as was on your summons.

27
28 THE WITNESS: Yes.

29
30 THE COMMISSIONER: I think those are the formalities.

31
32 **<EXAMINATION BY MS SULLIVAN:**

33
34 MS SULLIVAN: Q. Officer E, your name is known to the
35 Commission?

36 A. Yes.

37
38 Q. Your current rank, please?

39 A. Chief inspector of police.

40
41 Q. Which station are you connected to or attached to?
42 A. So I'm attached to Richmond police district and I'm
43 the officer in charge of Lismore.

44
45 Q. Thank you. Just very briefly in terms of your
46 background, when did you attest?

47 A. August 1996.

1
2 Q. And you have been - you were an inspector with
3 Richmond local area command, as it then was, from November
4 2014 to September 2019; is that about right?
5 A. That's correct.

6
7 Q. And then a chief inspector and duty officer in
8 Richmond LAC or police district from around September 2019
9 to present day?
10 A. That's correct.

11
12 Q. Thank you. You've got some papers in front of you
13 there. Can I just confirm what you have, just so we
14 understand?

15 A. Yes. Absolutely. So these are the documents that
16 were under my section 55 notice to produce.

17
18 Q. Okay, great.

19 A. Yes.

20
21 Q. So you've got a copy of your section 54 notice, where
22 you provided the information --
23 A. Yes.

24
25 Q. And the section --

26 A. Correct, and the statements, that's correct

27
28 Q. Thank you very much. All right. So that section 54
29 response that you provided, that was dated 25 November.
30 You've had an opportunity to review that, I'm sure?

31 A. Yes.

32
33 Q. And are there any corrections that you wish to make?

34 A. No.

35
36 Q. True and correct response to the best of your
37 knowledge, information and belief?

38 A. Yes, that's correct.

39
40 Q. Thank you.

41
42 MS SULLIVAN: Commissioner, I tender that response, which
43 is at tab 137, and the barcode reference for the record, is
44 8636776 to 8636875.

45
46 THE COMMISSIONER: So that's exhibit 18C.

1 EXHIBIT #18C RESPONSE OF OFFICER E TO A SECTION 54 NOTICE
2 AND A SECTION 55 NOTICE, BARCODED 8636776-8636875

3
4 MS SULLIVAN: Thank you.

5
6 Q. Officer E, in preparation for today have you had an
7 opportunity to listen to the VKG audio and review the
8 transcript?

9 A. I haven't listened to the audio but I have reviewed
10 the transcript.

11
12 Q. And you're satisfied that has given you the
13 opportunity to refresh your memory about that particular
14 shift on 3 January 2023?

15 A. Yes.

16
17 Q. Thank you. Because we do appreciate that we're
18 pressing the extent of your memory by taking you back
19 almost three years now. As you sit there today, how good
20 is your memory of that shift - that is, the shift on
21 3 January that goes into the early morning of 4 January
22 2023?

23 A. I think it's quite good.

24
25 Q. On that date, that's 3 January, you were rostered on
26 as the duty officer from 2pm until midnight; is that
27 correct?

28 A. That's correct.

29
30 Q. And you were working in your office at Lismore police
31 station for the commencement of that shift; is that right?

32 A. That's correct.

33
34 Q. What's the role of the duty officer, just in general
35 terms, so we understand?

36 A. So you are responsible for the entire PD, so you've
37 got 15 stations that make up - and you have the three
38 24-hour police stations. The role is to check that you've
39 got rosters filled and to monitor jobs as they go along.

40
41 Q. The three police stations, which ones - the 24-hour
42 ones, which are they?

43 A. So you have Lismore police station, 24 hours; you have
44 Ballina police station; and you have Casino police station.

45
46 Q. And I think in my opening I've covered some of the
47 resourcing for those three police stations. I think

1 I should be corrected in that I had identified five staff
2 working at Ballina because I'd included a custody manager
3 but, in fact, there's not a custody manager at Ballina,
4 there's only a custody manager at Lismore?

5 A. That's correct.

6
7 Q. Is that right?

8 A. That's correct.

9
10 Q. So that's the four staff for Ballina?

11 A. Yes.

12
13 Q. Thank you. And so is it right that Richmond police
14 district covers 13 policing sectors?

15 A. That's correct, yes.

16
17 Q. What's a sector? Can you define a sector for us?

18 A. So I can. So you - probably a good example of
19 a sector is Lismore is a sector, Ballina is a sector,
20 Casino is a sector. Then you have something like Lower
21 Rivers that is a sector, however, it has Evans Head,
22 Woodburn around Coraki, so it can make up several townships
23 in that particular sector.

24
25 Q. And the various sectors have supervisors allocated to
26 them, for example, for the night shift; is that right?

27 A. The three 24-hour stations do, yes.

28
29 Q. So for this particular shift on 3 January, that's
30 Tuesday, 3 January, you've got three supervisors; is that
31 right?

32 A. That's correct.

33
34 Q. Without naming those officers, we've got a supervisor
35 at Ballina, a supervisor at Lismore, and who's the third
36 supervisor? Is that Casino?

37 A. That's correct, at Casino.

38
39 Q. As the duty officer, is it your practice to commonly
40 leave the office or would you only do that if it's
41 a particularly busy shift?

42 A. Dependent on workload and dependent on the jobs that
43 come in. Obviously, you have ancillary things that you
44 need to do, but if it's a busy shift and there's complex
45 jobs, then you will leave the sector that you're in.

46
47 Q. And is it the case that you might allocate - or

1 Lismore crews might be allocated to assist Ballina, if
2 they're understaffed for a particular shift? Does that
3 happen often?

4 A. Not particularly often. Lismore generally will stay
5 in Lismore. Yes. And it would only be in exigent
6 circumstances that you would redeploy from Lismore to
7 Ballina.

8
9 Q. It's about a half-hour drive?

10 A. That's correct.

11
12 Q. Okay. What's your practice when you're in Lismore
13 police station as duty officer in terms of the radio? How
14 do you stay across what's happening on the radio?

15 A. So there's a radio - so my office is just off the
16 muster room. So there's a radio in the muster room that
17 you can hear. There's also a radio console in the muster
18 room but there's also a radio in my office itself.

19
20 Q. Okay. And do you have sort of a dashboard where you
21 can monitor jobs on your screen as the duty officer?

22 A. Absolutely. That's our CAD system.

23
24 Q. The CAD system?

25 A. That's right.

26
27 Q. So you've helpfully annexed a screenshot to your
28 section 54 response, and so this is at barcode 8636856.
29 It's entitled "PD jobs", between 6.33 to 8 o'clock on
30 3 January 2023. Do you know the document I'm referring to?

31 A. I do.

32
33 Q. Can you describe to us - and we'll bring that up on
34 the screen if we could --

35
36 THE COMMISSIONER: What was the tab number?

37
38 MS SULLIVAN: The tab is 137 and it's barcode ending 856.

39
40 THE COMMISSIONER: If we could just scroll through to 856.

41
42 MS SULLIVAN: Q. Do you have that, Officer E?

43 A. I do.

44
45 Q. Can you describe to us what we see here?

46 A. So this is a - this would be our CAD dashboard.

1 Q. Yes.
2 A. So that is what's - so that's actually just a straight
3 snip from the CAD dashboard posted into a Word document.
4 So this is what you can see at any point in time when you
5 look to see what jobs that you've got outstanding.
6
7 Q. So for a P2 job, priority 2 job, does that come up in
8 the same colour scheme or is there any way to signify that
9 that's a P2 as opposed to a P3?
10 A. Other than the fact that it has the priority there
11 listed, sort of, like, the third column along --
12
13 Q. Yes.
14 A. -- I don't know. That's a good question.
15
16 Q. Not to your --
17 A. No, not that I'm aware of. Because that's certainly
18 a snapshot from CAD.
19
20 Q. Okay. And so we see that the job at 1901, the Pacific
21 Highway job, is blue?
22 A. Yes.
23
24 Q. What does that signify?
25 A. That just signifies that I would have had my mouse
26 over it when I took the screen snapshot. Apologies.
27
28 Q. Thank you. No, not at all, thank you for clarifying
29 it. So this is the screen you use, like a dashboard, to
30 keep with up with jobs as well as listening to the radio;
31 is that right?
32 A. That's correct.
33
34 Q. And you can click on those jobs, can you, and open
35 them up?
36 A. That's correct, and then they come up, just the jobs
37 themselves.
38
39 Q. So just in terms of a priority 2 job, what's your
40 understanding about what that requires in relation to the
41 police response?
42 A. So that requires a priority response. And it can mean
43 threats to life or property.
44
45 Q. So does that require an immediate response to your
46 understanding?
47 A. Yes, and that would be what we call a code red, where

1 you would go code red, which is lights and sirens.
2

3 Q. Code red lights and sirens to all priority 2 jobs?

4 A. Not necessarily all priority 2 jobs, that would depend
5 on the job. You'd make an assessment about whether or not
6 you went lights and sirens, but generally yes you would.

7 Q. Generally. And what about a priority 3 job, what does
8 that signify in terms of the police response?

9 A. So that's a call for service that you would attend. It
10 doesn't necessarily signify that it needs to be urgent.

11 Q. Yes, okay. Just because we've heard some evidence
12 about this particular document this morning, I'll show it
13 to you as well. If we could please bring up tab 11, which
14 is exhibit 16C. This is the NSW Police Force PoliceCAD
15 incident priority categorisation that radio operations are
16 using.

17 A. Yes.

18 Q. I'm just keen to understand whether you have the same
19 understanding of those priority categories. You see
20 there 2, priority 2, requires an immediate response:

21 *Responding immediately, unless responding
22 to a Priority 1. Incidents where there is
23 a serious threat to life or property
24 occurring ...*

25 It goes on and refers to, as you will see, serious
26 assaults.

27 *Note: These incidents should be preceded
28 with a "2 tone" alert by the dispatcher.*

29 Q. Were you familiar with that requirement?

30 A. Yes.

31 Q. And then the priority 3 is the non-urgent response -
32 that is, to respond as soon as possible when there's not
33 a priority 1 or 2 matter outstanding. Is that consistent
34 with your understanding?

35 A. Yes. That's correct.

36 Q. To your knowledge, are general duties police taught
37 about this specific categorisation that's applied by the
38 radio operations group on VKG?

1 A. I'm just looking when this was published, so 2018. So
2 it's something that I'm certainly aware of, but when you go
3 to the academy you may not necessarily be shown this
4 specific document.

5 Q. Okay. But you think the general duties police have an
6 understanding as to the general nature of a priority 2 and
7 a priority 3 in those terms; is that fair?

8 A. I think the best way to describe it is if you hear two
9 tones on the radio, that you know that it's a priority
10 response.

11 Q. Okay. Thank you. All right. Now, when you start
12 your shift as a duty officer, you receive a verbal handover
13 from the officer that you've taken over from; is that
14 right?

15 A. That's correct.

16 Q. And you then commence your own log about what's
17 happening in that shift; is that consistent with your - the
18 information you set out in your section 54?

19 A. Yes, that's correct.

20 Q. Because you know that you're going to prepare
21 a detailed handover for the incoming duty officer yourself?

22 A. That's correct.

23 Q. And we see an example of that, for 3 January, that's
24 annexed to your statement. You know the document that I'm
25 referring to?

26 A. I do.

27 MS SULLIVAN: That is the document which is tab 137, at
28 barcode ending 863, if we can pull that up.

29 THE COMMISSIONER: Tab 137 ending in 863.

30 MS SULLIVAN: Q. Just whilst that document is being
31 brought up, do you enter this detail as it happens? So,
32 for example, if there's a particular event, you've entered
33 something at 7pm, I don't need you to read that entry out,
34 but are you entering that sort of real time into this
35 document or do you compile it towards the end of the shift
36 or how does it work?

37 A. No. Generally speaking you'll do it as you go along,
38 yeah. Otherwise you can't remember the detail when you get
39 to the end of the shift.

1
2 Q. Fair enough. Do you also do contemporaneous notes in
3 your notebook as you're going during the shift or does it
4 depend on the shift and you might then fill it out
5 afterwards if there's been something significant that has
6 happened, for example?

7 A. Yep, depends on the shift. But certainly my primary
8 go-to would be the log, which is what you have up on the
9 screen.

10
11 Q. Yes. Okay. And if we scroll to the next page, if we
12 could, in fact, 865, we see an email from you sent to the
13 incoming duty officer, we assume, at 12.14am. This is just
14 as you're about to finish up your shift, I assume, on
15 4 January?

16 A. That's correct.

17 Q. And what it reads is:

18
19
20 *Poor Officer C at Ballina got smashed*
21 *between 6pm and 10pm. He did a great job*
22 *down there. Lismore had another run of*
23 *mental health jobs.*

24
25 So that's you signing off telling the incoming duty officer
26 about what's happened and that it's been busy during this
27 particular shift, providing that information for him or her
28 to take over?

29 A. That's correct. That actually goes to the whole of
30 the senior leadership team. So it goes to the commander
31 and all the duty officers.

32
33 Q. And we know that this is sent before Ms Lucena is
34 found on scene at the Salvation Army. That hasn't happened
35 by the time you sent this?

36 A. That's correct.

37
38 Q. Just for completeness, you note in this log in
39 relation to speaking to Officer C:

40
41 Spoken to. FRPA met. Nil issues.

42
43 Can I just ask you what you meant by that?

44 A. So it's my practice at the beginning of the shift that
45 I will contact each of the supervisors at Ballina, Casino
46 and Lismore. When I say "Nil issues", that can mean nil
47 WHS issues, no issues with the cars. "FRPA" is the first

1 response policing agreement, which means that we have
2 enough staff on shift.

4 Q. Just tell us a little bit about that agreement, if you
5 would. How does that agreement work?

6 A. So the first response policing agreement is an
7 agreement, a contract as such, between the organisation and
8 the NSW Police association. It's derived from CAD data,
9 which is the data that we were looking at on the screen,
10 and it dictates how many cars and how many staff you need
11 to have available on any shift.

13 Q. Is it updated every year to take into account sort of
14 changing workloads or --

15 A. Not necessarily. But then you certainly have seasonal
16 factors that affect - bearing in mind that this was
17 in January.

19 Q. Is that a busy time for Ballina?

20 A. Yes.

22 Q. And so is there an uplift to staff because of that?

23 A. There can be, yes.

25 Q. Do you know if there was on this particular night -
26 that is, uplift to the crew of four?

27 A. No, so the four is the standard first response
28 agreement.

30 Q. Okay. And just in terms of that four, we've got the
31 supervisor, Ballina 14?

32 A. Mmm-hmm.

34 Q. We've got Alstonville 18, two crew in that car?

35 A. That's correct.

37 Q. And then we've got the station officer on his own at
38 Ballina?

39 A. That's correct.

41 Q. That's not many police to respond to incidents in the
42 Ballina sector, can I suggest?

43 A. Well, that's the first response agreement that they
44 have and so - yep.

46 Q. Yes. Okay. All right, I want to take you now to some
47 of the particular jobs that came in during that night. You

1 very helpfully set out the incident, the CAD incident
2 reports for each of the jobs that you've referred to. So
3 we'll just go through some of those.
4

5 Now, the first job of significance - because you
6 appreciate the relevant period is really from 7 to 8pm that
7 we're particularly concerned to examine, but we know that
8 there is that job that comes in at 6.38. That's the
9 concern for welfare, a priority 3 job, and that was a job
10 that you had some involvement with in terms of even trying
11 to locate the female yourself by making calls; is that
12 right?

13 A. That's correct.
14

15 Q. And you kept in communications with the informant
16 yourself?
17 A. That's correct.
18

19 Q. And by about 7.07pm, the female's been located and
20 you've advised the informant of that?
21 A. That's correct.
22

23 Q. We know that there's a job that comes in at 7.01.
24 This is a concern for welfare at Wejuba Gardens. Do you
25 know that job?
26 A. I do.
27

28 Q. No police were assigned to that job at the time?
29 A. That's correct.
30

31 Q. They were caught up with the concern for welfare that
32 had come in earlier; is that right?
33 A. That's correct.
34

35 Q. Because that's Ballina 14, Alstonville 18, and was
36 there another - and Woodburn 29 also attended that job?
37 A. That's correct.
38

39 Q. And then the next job that comes in is the accident on
40 the Pacific Highway. That's a priority 3. Are you
41 familiar with that job?
42 A. I am familiar with that job. That was actually
43 upgraded from a priority 3.
44

45 Q. When you say it was "upgraded", when was it upgraded?
46 A. So it was upgraded by Ballina 14 while he was on
47 scene, where he requested Woodburn 29 respond code red.

1
2 Q. Okay.
3 A. So that upgrades it to an urgent response.
4

5 Q. Okay. So that happens at around, I think, 7.21.
6 That's when he puts the call over VKG and asks for
7 Woodburn; does that accord with your recollection broadly?
8 A. Yes.
9

10 Q. So that becomes a priority 2, does it, at that point,
11 or is it just an upgrade in response time required?
12 A. I don't believe the CAD job was upgraded to priority
13 2, but it's certainly something that's broadcast that
14 I hear for them to go code red.
15

16 Q. I see. Thank you. But from that incident description
17 for that accident on the Pacific, it indicates that there's
18 a vehicle that that has hit a tree in the service lane at
19 the particular location, but no person is trapped and no
20 person is injured; that's right?
21 A. That's correct.
22

23 Q. And then at 7.03, the Salvation Army job comes in on
24 CAD but it's not then broadcast, we know, until 7.10. It's
25 a priority 2 job.
26 A. That's correct.
27

28 Q. Do you recall hearing about that job when you were at
29 Lismore?
30 A. I do recall hearing that job. And I do recall hearing
31 it rebroadcast. But I can't definitively say if it was the
32 first time that I heard it broadcast or the second time
33 that I heard it broadcast, but I do distinctly remember
34 it - hearing it being broadcast twice.
35

36 Q. Okay. Do you remember where you were when you heard
37 it? Were you sitting at your desk or somewhere else or --
38 A. I was at my desk at the time.
39

40 Q. Okay. But you don't recall if that was the first or
41 the second time; is that --
42 A. No, what I do recall is when I look at my log, and
43 I note that I would have made this at the time, that I was
44 speaking to the father of the --
45

46 Q. The female.
47 A. The concern for welfare.

1
2 Q. Yes.

3 A. Because I've got some details in that log about what
4 had happened previously to that young person.

5
6 Q. Yes.

7 A. And so I would have recorded that at the time.

8
9 Q. Okay. Can I just understand that. So are you talking
10 about the log, the detailed log that you prepared that we
11 went to earlier, that's at 863 of tab 137, exhibit 18C? So
12 you've made an entry there at 7pm about that female?

13 A. That's correct.

14
15 Q. And I'm sorry, I didn't quite understand what you were
16 saying about - you've made that entry around 7pm?

17 A. I believe I would have been on the phone at that time
18 and typing it as I went.

19
20 Q. Okay. I see. So you're at your computer doing that
21 and that's how you know that you would have heard the 7.10
22 broadcast?

23 A. That's correct.

24
25 Q. And at that time, you would have understood that
26 Ballina 14 and Woodburn 29 were attending the accident on
27 the Pacific Highway?

28 A. That's correct, and I would have checked CAD to see
29 where the car crews are, because I can see on CAD where my
30 car crews are at any one time.

31
32 Q. So can you take us through your understanding about
33 how this priority 2 job was going to be responded to when
34 you've got Alstonville 18 waiting for the ambulance in
35 relation to the priority 3 job concerning the female, and
36 you've got Woodburn 29 and Ballina 14 en route on the
37 Pacific Highway to this accident? How was this job going
38 to be dealt with, to your mind?

39 A. So to my mind, and I don't know the exact time, but
40 I recall speaking to the Lismore supervisor, because this
41 is going to be one of those situations where I will look at
42 deploying staff from Lismore to Ballina, because we're
43 a priority job. I asked him to check the roster for me.
44 I have a text message in there where he's replied to tell
45 me how many staff I had on down there, and then I got in
46 the car and I began to respond to Ballina because they had
47 more than just the - well, they had the one priority job

1 but other jobs as well backing up.
2

3 Q. You get in the car, we know, at about 7.40, because
4 you put that over the radio.

5 A. Yes.

6
7 Q. So what's the plan prior to 7.40?

8 A. At that point, I have car crews at Lismore off at
9 other jobs themselves, and Casino was a long way to deploy
10 to Ballina.

11
12 Q. Yes.

13 A. I also would have looked out - whether I had lock-up
14 keepers to recall, but I didn't have lock-up keepers that I
15 could recall.

16
17 Q. What's a lock-up keeper? The custody manager; is
18 that --

19 A. No, no, so a lock-up keeper is they live next to the
20 police station and so I have a position at Wardell but
21 there was nobody filling that position, so that was vacant.
22 I have two positions at Alstonville. One of the officers
23 was on restricted duties, so he can't be recalled, and the
24 other position was vacant. So they're reasonably expected
25 to be available if those positions are filled, to be
26 recalled to urgent jobs.

27
28 Q. So do you remember making those inquiries trying to
29 work out who was going to respond?

30 A. Yeah, absolutely.

31
32 Q. Were you aware that Woodburn 29 was going to assist
33 Ballina 14 because he was bringing the alcometer?

34 A. That's correct.

35
36 Q. Was it possible for him to be told, "Well, stand down
37 and attend the priority 2"; that's right?

38 A. No, because Woodburn - Ballina 14 had asked him to
39 upgrade because it was on a blind corner.

40
41 Q. That happens at 7.21.

42 A. Yes.

43
44 Q. So I'm talking about when the job comes in at 7.10.
45 Was it possible for him at that point - that is, Woodburn
46 29 - to be directed to attend the priority 2?

47 A. Look, I believe that I was on the phone at that time

1 [REDACTED] So as I said, I'm
2 not sure that I heard it at 7.10. Perhaps I heard it the
3 second time that it was broadcast, because it's broadcast
4 more than once.

5 Q. Yes.

6 A. So if I don't hear it at 7.10 because I'm on the
7 phone, perhaps I hear it in the next broadcast and then
8 I hear it repeated.

9 10 Q. Okay. But you could also see it on the screen,
11 couldn't you, on your dash?

12 A. I wouldn't be looking at the screen if I'm on the
13 phone [REDACTED] and I'm typing the log at
14 the same time.

15 16 Q. Okay. We have your text messages, don't we, about the
17 timing of that?

18 A. Yes.

19 20 Q. So if you go to - I'm sorry, I'm just referring to the
21 barcodes, which may not be of assistance to you, but we're
22 starting at 860 of tab 137. Have you got that in front of
23 you there?

24 A. I do. I do.

25 26 Q. So we see that there's some exchanges in relation to
27 that incident, and I really only need to take you to the
28 third of those text messages. You see at 7.07pm and 7.08,
29 you have texted the informant [REDACTED]

30 31 A. Yes.

32 33 Q. Was there a phone call after that?

34 A. Yes.

35 36 Q. Do you recall how long that phone call was,
37 approximately?

38 A. No, I don't, but I recall it wouldn't have been
39 a short phone call, and the reason for that being that he's
40 disclosed to me - [NON-PUBLICATION ORDER MADE].

41 42 Q. Okay. Yes, no, we understood that. We're just trying
43 to be sensitive about the details. But that was the reason
44 why you needed to call him as well?

45 A. Exactly right.

46 47

1 Q. And there were some welfare concerns in relation to
2 that?

3 A. Yes. So I can't imagine that was a three-minute phone
4 call.

5 Q. All right. So you may well have been distracted by
6 that incident at the time the priority 2 comes in?

7 A. That's correct.

8 Q. So then when it comes in at - again, we know it's
9 broadcast at 7.24pm. That's the rebroadcast, the first
10 rebroadcast. You certainly heard it on that occasion; is
11 that right?

12 A. Yes.

13 Q. And is that the point when you started to make the
14 inquiries about other rostering options?

15 A. Yes.

16 Q. And is that the point when you spoke to, in
17 particular, the supervisor at Lismore?

18 A. Yes.

19 Q. And do you recall how long that conversation was?

20 A. Oh, no.

21 Q. What can you tell us about that conversation?

22 A. I've obviously asked him to check the roster to see
23 how many I have down at Ballina, because he's responded to
24 me with that.

25 Q. Yes.

26 A. And then I've said to him, "We may need to deploy
27 Lismore crews, once they're back on, down to there."

28 Q. Yes.

29 A. And that's when I kit up.

30 Q. Some of the Lismore crews were dealing with P4
31 matters, weren't they?

32 A. Yes.

33 Q. And a P4 matter is a - what is a P4 matter?

34 A. So a P4 matter is a follow-up, but it's my belief
35 that those P4 matters, they were chasing up domestic
36 matters, where they call off and say that they're going to
37 a job to follow up and - but one of those was a domestic

1 matter that they were following up.
2

3 THE COMMISSIONER: Q. Do you mean a domestic violence
4 matter?

5 A. That's correct.

6 MS SULLIVAN: Q. Why are they called a P4 then, if
7 they're a domestic matter of some significance?

8 A. Well, because they're not responding to a domestic
9 violence offence, they're responding to follow it up. So
10 they've taken their reports and they're following it up
11 with either a witness, the offender, the victim.

12 Q. They might be serving an AV0, for example. Would that
13 be --

14 A. They could be.

15 Q. Would that be a P4?

16 A. Yes.

17 Q. A type of P4?

18 A. Yes.

19 Q. So you have a text exchange with the officer at
20 Lismore, the supervisor. And we've got a copy of that.
21 This is barcode 789. Can we pull that up on the screen,
22 please.

23 THE COMMISSIONER: 789?

24 MS SULLIVAN: Of tab 137, I'm sorry. We're in the same
25 document, that's exhibit 18C.

26 THE COMMISSIONER: And the barcode was?

27 MS SULLIVAN: It was 789, ending in 789.

28 Q. Has that come up for you, officer?

29 A. It has.

30 Q. All right. So this is an exchange between you and the
31 Lismore supervisor, and you see that the time of that is
32 7.42 and he says:

33 *Sorry. I was actually looking at the wrong
34 date. They have 4 on plus Lower Rivers.
35 Do you want me to send a truck down?*

1
2 You say:

3
4 Nah all good. I think they are about to
5 have two car crews available.

6
7 Then another priority 2 comes in. Do you think that that
8 conversation with the Lismore supervisor was closer to the
9 time of his text message rather than 7.24 when the second
10 broadcast for the priority 2 comes in?

11 A. Sorry, can you repeat the question?

12 Q. Well, I'm sorry, it was a long and involved question.
13 So the text message comes in at 7.42. You see that?

14 A. Yes.

15 Q. Do you think that the conversation that you had with
16 the Lismore supervisor might have been closer to the time
17 he responds - that is, 7.42 - rather than closer to the
18 time of the rebroadcast of the priority 2 at 7.24?

19 A. I know that I had definitely left the station by that
20 stage. So I'm unsure.

21 Q. So just so we can understand, we certainly understand
22 that you've had the conversation with the informant in
23 relation to the priority 3 mental health job, and that's
24 not a short conversation. But then you do hear the
25 priority 2 at 7.24pm. What's happening between 7.24 and
26 when you get in the car at around 7.40, which we know from
27 the VKG?

28 A. So we've got other jobs that are occurring. So
29 there's about 15 jobs in total that are across - happening,
30 and when I look at the timeline of it, I've got jobs
31 happening at Casino, which is a storm and tempest, so
32 that's at Woodenbong.

33 Q. Yes.

34 A. I've got another job, another job of a storm and
35 tempest which is out at Woodenbong again.

36 Q. So the storm and tempest is a telephone line down?

37 A. That's correct.

38 Q. Right. That's a priority 3?

39 A. Yes.

40 Q. So I'm managing that because I have a very junior

1 sergeant at Casino. That means I have to redeploy to
2 Casino, which takes several hours, to go to Woodenbong. So
3 I'm managing that. I'm then managing another job that also
4 was a priority 3 out at - at Woodenbong, which involved the
5 same storm and tempest. And then - I'm just looking what
6 time this came in - I've then got a job that's a priority 2
7 also at [REDACTED] Casino, that comes in. That's
8 about --
9

10 Q. That's at 7.41?

11 A. Yeah, that's right, yeah. So in between having
12 a phone conversation with the father --

13 Q. Yes.

14 A. -- then I go and put my gun belt on, kit up, get into
15 the police car, speak to the sergeant as I leave to say
16 we're going need to send somebody there. At some points
17 I have a conversation with Officer --

18 Q. C?

19 A. -- C, thank you. Officer C, in terms of going, "How
20 are you going with that job which is on the highway?" And
21 I believe it's at that point that he says to me, "We're
22 about to come back on". And that's when I say, "No, it's
23 all good, I think they're about to have two car crews
24 available."

25 Q. I was going to ask you about that conversation. So
26 how long was that conversation?

27 A. With?

28 Q. With Officer C.

29 A. That would have been very short.

30 Q. Okay.

31 A. Yes.

32 Q. Because you were conscious that a priority 2 had been
33 outstanding for over half an hour?

34 A. Yeah, yeah, where I was going, "What are we going to
35 do with this job", yeah.

36 Q. Okay. And on its face - so on it's face, it's
37 a serious job, a female being bashed?

38 A. On its face it's a serious job. The unfortunate thing
39 is there was only one phone call.

1 Q. Tell us about that.

2 A. There was only one phone call.

3

4 Q. What does that mean?

5 A. It would be normally that if we had - you would
6 normally have, if it's in a public area, you would normally
7 have multiple phone calls.

8

9 Q. When you say "if it's in a public area", what do you
10 mean?

11 A. Well, it's come - it's come in from behind the
12 Salvation Army.

13

14 Q. Yes.

15 A. So I know where the Salvation Army is. So that's
16 a relatively public place. There's houses that are behind
17 there. You would normally have more than one phone call
18 for a job like that.

19

20 Q. Right. But that's an assumption, isn't it, about how
21 many phone calls you might get for a job?

22 A. I think that's an assumption that we make with many of
23 our jobs that we go to in terms of how many calls we get to
24 them.

25

26 Q. All right. But can I suggest it's not a safe
27 assumption, and this is a case in point as to why it's not
28 a safe assumption, because you might only get one call in
29 relation to a serious incident; you might only get one
30 chance.

31 A. Oh --

32

33 Q. You agree?

34 A. You may. You may.

35

36 Q. This was the only priority 2 that came in during the
37 period - this was the only priority 2 job that came in
38 during the period 16:38 to 7.41, when you then get one -
39 another priority 2 and a further one a minute later; is
40 that right?

41 A. That's correct.

42

43 Q. So looking at it now, this was a job that should
44 have received greater priority than being attended to
45 some 35 minutes after the broadcast?

46 A. I think with the resources that we had and the amount
47 of jobs that we had that were coming in, we did the very

1 best that we could.
2

3 Q. Is there anything that you would like to tell the
4 Commissioner about resourcing, whilst we're on that point?
5 Because this is an opportunity to look at systemic issues
6 and it's very evident that the police who were responding
7 to this incident, amongst others, are dedicated officers
8 and they're doing their best. So this is an opportunity to
9 tell the Commissioner about any concerns you might have as
10 a very experienced duty officer in relation to resourcing?

11 A. I think that January is a - can be a busier time.

12 I think with policing, it's one of those things where
13 you're correct about making assumptions, because an
14 assumption would be that on a Tuesday night it would not be
15 busy. But this was an exceptionally busy shift.

16 Q. Is there a need for, in your experience, a greater
17 uplift during that summer period than the four officers
18 that, I understand, were in accordance with the police
19 response agreement, but do you think there's a need for
20 more officers during that period?

21 A. I think that's one of those tricky things because
22 I was very mindful of the fact that we had really exhausted
23 a lot of our resources because we had just come out of new
24 years eve and new year's day. So a number of officers had
25 worked, including myself, new year's eve and new year's
26 day.

27 So it's one of those precarious things when you're in
28 that duty officer role that you're triaging things as they
29 come in and trying to prioritise things and though you
30 don't like to make assumptions, it's one of those things
31 where you need to work out where do I pull the resources
32 from, to attend in a timely fashion.

33 Q. All right. Do you ever get the station officer to go
34 and attend a job if it's close by or is that just
35 completely out of --

36 A. No. You wouldn't. Not in a 24-hour police station
37 because the public know that that will always be manned.
38 Yes.

39 Q. So no options there?

40 A. No.

41 Q. Was it an option for highway patrol to be called to
42 attend the accident?

1 A. No, because there was no highway patrol rostered.
2

3 THE COMMISSIONER: Q. How do you know there was no
4 highway patrol rostered?

5 A. Because I check. When I come on my shift, every
6 shift, I always check what resources I've got. So aside
7 from my resources, which is Ballina, Casino, Lismore and,
8 on this occasion, Lower Rivers, I also check what highway
9 patrol I have rostered, I check what rescue I have
10 rostered, I check what detectives I have rostered, crime
11 prevention unit. So I check the whole complement so I have
12 a really good idea of who I have sitting where
13

14 MS SULLIVAN: Q. Is it possible to sometimes get the
15 Tweed-Byron highway patrol to come and attend a job in your
16 police district?

17 A. You could. That would be unusual but you could.
18

19 Q. Were there any other options for resourcing in terms
20 of attending that P2, beyond the Ballina sector?

21 A. No.
22

23 Q. What about Coraki 22? It seems that that officer was
24 on.
25 A. That's correct.
26

27 Q. Could they have been asked to attend?

28 A. So she was down at a stolen motor vehicle/domestic job
29 herself. And that was for the whole period that she was -
30 and she was an alpha unit. So I'm also monitoring -
31 because she's an alpha unit, that is not ideal that they
32 would go to a domestic. So I'm monitoring that as well at
33 the same time.
34

35 Q. When you say not that she would go to a domestic, why
36 did you understand this was a domestic?

37 A. So it's come across as a stolen motor vehicle but it
38 has an associated factor of domestic violence.
39

40 Q. I'm sorry, we're at cross-purposes. So she's at
41 a domestic, is that what you're saying - a stolen vehicle
42 incident?

43 A. Slash with an associated factor that it has a domestic
44 violence because they're in a domestic relationship.
45

46 Q. I see.
47 A. Yes.

1
2 Q. What time period was she there?
3 A. So her job comes in, it looks like here, at about
4 6.25. And then she doesn't call back on until about 7.55.
5 So she's there for quite some time.

6
7 THE COMMISSIONER: Q. And she's there on her own you
8 were saying?

9 A. That's correct.

10
11 Q. Which is not the preferable --

12 A. No.

13
14 Q. -- course?

15 A. No.

16
17 Q. Because of risks to officer safety?

18 A. Yeah, so we have a single unit policing policy, and so
19 generally, you would not go to something that has - and it
20 doesn't have to just be a domestic, but generally after the
21 hours of darkness, even though it's daylight saving, it's
22 nor preferable that you would go, because obviously there's
23 heightened emotions.

24
25 MS SULLIVAN: Q. Did you understand the priority 2 to be
26 a domestic incident - that is, the female being bashed, did
27 that convey to you that it was a domestic incident?

28 A. No, my understanding is it was a - it was a concern
29 for welfare.

30
31 Q. Yes. It could also have been classified as an assault
32 because it was clearly --

33 A. Yes.

34
35 Q. -- referring to an assault? But you wouldn't take -
36 just from that level of information, you wouldn't assume
37 that's a domestic?

38 A. No, I'm mindful that it's near the Ballina CBD so it
39 could be an alcohol-related assault generating out of
40 a pub, yeah.

41
42 Q. Have you annexed to your section 54 response the
43 incident that relates to Coraki 22's attendance, and if so,
44 could you --

45 A. No, I actually don't believe that I have and I don't
46 believe that I've got it in my documents here either.

47

1 Q. All right. We might ask you to provide a copy of
2 that, just for completeness --

3 A. Yes.

4 Q. -- when you have a --

5 A. Yes.

6 Q. Thank you very much. All right.

7
8
9
10 THE COMMISSIONER: I might, while we're talking about
11 that, formally issue an order under section 69(2) of the
12 Law Enforcement Conduct Commission Act requiring you to
13 produce that document.

14
15 THE WITNESS: Oh, yes.

16
17 THE COMMISSIONER: That's just to cover off on any issues.
18 When you get back to your office is fine.

19
20 MS SULLIVAN: Q. So can we take things up from when you
21 broadcast on to VKG that you're kitting up to go out. Do
22 you recall that point in time?

23 A. I do recall the point in time. I'm just looking at
24 the transcript so I can identify exactly when it was.

25
26 Q. It was about 7.40.

27 A. Yes. Yes.

28
29 Q. And what you say, this is at 7:40:54:

30
31 *Yeah radio, I'm just leaving Lismore, I'm*
32 *going to head down to Ballina and help them*
33 *clean up a couple of those jobs. I'll jump*
34 *on here when I'm down there and see what's*
35 *outstanding.*

36
37 Does that --

38 A. That's correct.

39
40 Q. -- prompt your recall?

41 A. Yes.

42
43 Q. And one of those jobs was the P2 in Ballina?

44 A. Yes.

45
46 Q. Was there another job that was outstanding in Ballina,
47 to your knowledge?

1 A. I'd have to look at the timeline but I believe that
2 perhaps the - I'm trying to think whether or not the
3 ambulance had called off us attending the job in - I'm
4 trying to think what street it was. It was something
5 Gardens.

6
7 Q. Wejuba Gardens?

8 A. Wejuba Gardens.

9
10 Q. Okay.

11 A. And then at some point another job had come in at
12 Wollongbar that was also a domestic.

13
14 Q. Yes. That had actually come in much earlier at 7.10?

15 A. Yes.

16
17 Q. And that subsumes a lot of radio time through to about
18 7.20. There's some complexity in relation to the address,
19 changing details. Does that prompt your recollection about
20 that job?

21 A. Yes, yes.

22
23 Q. Were you proposing to attend code red or blue to
24 Ballina when you were driving from Lismore?

25 A. So I was - I was responding code blue at that point.

26
27 Q. What was the thinking behind that?

28 A. I had already spoken to Officer C, who had said that
29 he was coming back on from the M1 and that they'd be
30 attending. But there's more than one job down there.

31
32 Q. So you get in the car and then almost immediately
33 there's a priority 2 that comes in in relation to the job,
34 the concern for welfare at Casino. That's the 15-year-old?

35 A. That's correct.

36
37 Q. Was that a job that you would ever attend?

38 A. The Casino job, I would let that car crew get there,
39 because they're going to be closer. So I would certainly
40 be monitoring it to make an assessment about whether or not
41 I needed to go.

42
43 Q. All right. Then there's another P2 at 7.42 that you
44 do propose to attend directly. That's the job at
45 Goonellabah [REDACTED]?

46 A. Yeah, that's correct.

47

1 Q. Did you go to that job?
2 A. I did.
3
4 Q. And how long were you at that job for?
5 A. Only for a short amount of time, minutes.
6
7 Q. There were other officers who were also attending that
8 job?
9 A. There were. I was the first off at the scene.
10
11 Q. And then what happened?
12 A. And then I believe it was Lismore 16 arrived.
13
14 Q. And so then you formed the view that you can move on
15 from that scene. What's your intention at that point?
16 A. To continue to Ballina.
17
18 Q. And what did you do then?
19 A. Then I continued to head towards Ballina and then
20 I believe there was another job where they called for
21 rescue.
22
23 Q. Yes.
24 A. Where, once again, I'm quite close to where that is.
25 So I swing past there to see exactly what they need rescue
26 for because it's going to be a recall.
27
28 Q. Yes.
29 A. They don't need rescue. And so then I believe I get
30 back on the air then and then ask 14 do they need me to
31 come down, to continue to go to Ballina?
32
33 Q. Okay, you need to assess whether a rescue call out is
34 appropriate; is that right?
35 A. Yes.
36
37 Q. It needs to come from the duty officer?
38 A. Yes, yes.
39
40 Q. So then we know that, at the transcript at 7:51:15,
41 you've called on and radio says:
42
43 *Richmond 10.*
44
45 And you say:
46
47 *Radio, myself and that Lismore car are back*

1 *on. I've got one half of Lismore 15*
2 *driving the ambulance and I've spoken to*
3 *14. They're calling off and I'm going to*
4 *Ballina.*

5
6 Radio says:

7
8 *Copy. Lismore 14 did you copy that?*

9
10 They do. And then it goes on. One beep:

11
12 *And just for any other Lismore cars,*
13 *possibly Lismore 15, if you are headed to*
14 *Cassia Crescent, no further cars are*
15 *required there. Richmond 10's back on.*

16
17 So you're back on by 7.51?

18 A. That's correct.

19
20 Q. Then you head to the job you have referred to in
21 relation to whether rescue were required and then the next
22 significant matter, can I suggest, is that Ballina 14 has
23 called on around 7.55, on scene at Holden Lane at the
24 Salvation Army. Do you recall hearing that?

25 A. I do.

26
27 Q. What do you recall hearing about that job?

28 A. I remember him saying that he was there, so in my mind
29 it's like, okay, I've got a car crew there. I recall
30 shortly after that, Woodburn 29 was also there. Because
31 they were both alphas. And then I recall a short time
32 later that 14 called back on.

33
34 Q. Can you recall this exchange at around 7.55, you say:

35
36 *Copy that, thank you. Can you just raise*
37 *Ballina 14 and ask if they want a hand down*
38 *there?*

39 *Radio: Ballina 14.*

40
41 Ballina 14 says:

42
43 *Yeah Ballina 14, I don't think so, we've*
44 *only got that one outstanding job at the*
45 *moment now, the one at Wollongbar, is that*
46 *right?*

47 *Radio: Yep, just the domestic at*

Wollongbar.

Ballina 14: Copy that, and that's through a third party, so that can wait for a while.

Radio: Copy that, Richmond 10, no, I think they're right.

And then, Richmond 10:

Ten, copy that, thank you, I was trying to get there.

Recall that?

A. I do, I do.

Q. But you never got there because you were waylaid trying to attend to other jobs?

A. That's correct.

Q. Now, you're aware now, I take it, of the evidence from Officer C and Officer D to the effect that they attended that job at around 7.55pm, they were off scene by about 7.58, 7.59pm, and they had patrolled the back of Holden Lane but they had not exited the vehicle at any point. Are you aware of that evidence?

A. Evidence that they've given?

Q. Well, are you aware of, for example, statements that they gave to that effect?

A. No.

Q. You weren't aware of that?

A. No.

Q. You never saw statements from Officer C or Officer D?

A. No.

Q. Okay. Have you ever been made aware of the nature of the search that they undertook in Holden Lane?

A. Only from these proceedings. But in terms of the evidence that they've provided in these proceedings no

Q No I know I understand that

Q. No,
A. Yes

Q. Thank you. If you accept from me that the evidence is to the effect that neither officer alighted from the

1 vehicle to conduct a search of the premises, would that
2 accord with your expectations, as a senior police officer,
3 about how a job like that should be attended to?

4
5 MR GOLLAN: I object, your Honour.
6

7 THE COMMISSIONER: On what basis?

8
9 MR GOLLAN: On the basis that it's an unfair question. It
10 can only be answered by the people who are there who can
11 absorb and assimilate all of the factual matters that are there
12 before them, whether it be light, whether there be cars,
13 whether it be that there are many people in the space. It
14 is unfair on this witness to be asked the question in the
15 context of not having all of those other surrounding
16 circumstances.

17
18 MS SULLIVAN: I'm very content to rephrase. Rather than
19 have to grapple with that objection, I'm very content to
20 rephrase.

21
22 Q. So the VKG message, you're well familiar with, in
23 relation to that priority 2 job?

24 A. Mmm-hmm, yes.

25
26 Q. What would be your expectations around the attendance
27 of officers in Holden Lane for a job like that?

28 A. So I would expect that they would attend, that they
29 would examine the area, whether that be from the vehicle or
30 on foot, and that then they call back on and provide me
31 with the information, because I'm not there.

32
33 Q. Can you break down for us your view about whether that
34 be from the vehicle or on foot? It doesn't make
35 a difference to you?

36 A. It depends on what the view is, because it was
37 a fairly general location, that it was behind the Salvation
38 Army.

39
40 Q. Yes.

41 A. And so if they're satisfied - there is an element of
42 trust with being a duty officer.

43
44 Q. Yes.

45 A. That if they're satisfied that they can see clearly
46 what they need to see and they're satisfied, then I'm
47 satisfied, unless there's something glaringly that jumps

1 out where I go "One minute."

2
3 Q. Okay. So as an experienced officer, you well
4 understand that informants may tell 000 things that aren't
5 very precise in their language?

6 A. At times, yes.

7
8 Q. So one can't necessarily rely upon a description given
9 in relation to a venue? If someone says "behind" or
10 "around" or "next to", one needs to be - have a high index
11 of suspicion about whether or not that descriptor is
12 accurate; is that fair?

13 A. That would be fair.

14
15 Q. And if you're two officers who are off on a scene,
16 that gives you two sets of eyes and a level of protection,
17 you've got someone there for back-up?

18 A. Yes.

19
20 Q. And if you attend a scene and you're told that
21 a person has been bashed behind a very specific location,
22 that is, the Salvation Army building, can I suggest the
23 diligent approach is, for one officer to park the vehicle,
24 get out of the vehicle and walk that back area and scope
25 it, conduct a visual inspection in that back area; that
26 would be the diligent approach to a job like that?

27 A. I think that is dependent on the officer who attends
28 the job.

29
30 Q. Explain that to me.

31 A. Well, I think that that's on their observations on the
32 ground, in terms of what they can see, in terms of the rear
33 of the location.

34
35 Q. Well, if they saw a gated fence area that was
36 10 metres, some 8 to 10 metres away, would you have an
37 expectation that the officer would walk up to the gate and
38 see what they can see?

39 A. No, because I think that's within the boundaries of
40 the Salvation Army. In hindsight, yes, you would. But at
41 the time, we've got that it's behind the Salvation Army,
42 and I was satisfied, I had two very experienced police
43 officers that I trust implicitly.

44
45 Q. Yes.

46 A. That they both went to the scene and they were
47 satisfied that they had viewed the scene.

1
2 Q. There's no question that they were satisfied that
3 they'd viewed the scene. But what I'm asking about is your
4 expectation, as a very experienced senior officer, about
5 what an inspection of that scene might entail.
6

7 And so you would be satisfied, even satisfied today,
8 would you, in relation to an inspection that includes -
9 that entails solely officers driving past a scene in their
10 car, alley lights on, walking pace, but not getting out of
11 the vehicle at any point to examine the surrounds of that
12 building? For example, to get out and see whether there is
13 CCTV? For example, to look down the side to see what you
14 can see through a gated fence area? You would be
15 satisfied, would you, if you understood that that was the
16 nature of the search that they were - that they had
17 undertaken?

18 A. I think provided that there's no obstacles, so you can
19 clearly see the rear of the location, and so you don't have
20 foliage, you don't have cars there.
21

22 Q. "Foliage", do you mean trees?
23 A. Yeah, trees and bushes.
24

25 Q. Yes.
26 A. If you can clearly see the rear of the building and
27 you're driving past and there are two of you, I think that
28 that's reasonable.
29

30 Q. We might just show you a photo of the scene and you
31 can --
32 A. Yes.
33

34 Q. -- assist us with your thinking even further. Can we
35 go, please, to the image at tab 42A. Before we go there,
36 are you familiar with the rear of this - of the Salvation
37 Army building?
38 A. Not completely, no.
39

40 Q. When you say "Not completely", you've been there
41 before?
42 A. Not for a job, no.
43

44 Q. But you went there for this job in the early hours of
45 the morning?
46 A. I went to the front.
47

1 Q. To the front?

2 A. Yes.

3

4 Q. You never went to the rear?

5 A. No.

6

7 Q. Could I just ask you to move the mic back towards you.

8 Thank you. It's finely calibrated. We should shortly have

9 tab 42A, which is exhibit 3, up on the screen. Do you see

10 in the middle of the photograph there, a green roof

11 structure?

12 A. Yes.

13

14 Q. Is that familiar to you as the Salvation Army

15 building, that area?

16 A. Only because you've pointed it out that that's the

17 Salvation Army, sorry.

18

19 Q. All right. So if we go to the next photograph,

20 please. Accept from me that that's the Salvation Army

21 building, and you see the lane near the tree is Holden

22 Lane?

23 A. Yes, yes.

24

25 Q. And we can even go one photograph further, just to

26 demonstrate a structure that's there. Do you see that

27 there's a - it's like a concrete cream structure there?

28 A. Yes, yes.

29

30 Q. So that is the premises. Do you see there's a bush on

31 the perimeter there?

32 A. Yes.

33

34 Q. There's a tree?

35 A. Yes.

36

37 Q. There's that concrete structure I've pointed out to

38 you. There is evidence from one officer to the effect that

39 there was - there were no cars; there's evidence from

40 another officer who is unclear about that.

41 A. Mmm-hmm.

42

43 Q. Would you assume those circumstances. It's daylight

44 savings, so there's still natural light, but one officer

45 had his alley lights on.

46 A. Right.

47

1 Q. And they're moving at - in their vehicles at a slow
2 pace, described as a walking pace?

3 A. Okay.

5 Q. Now, in those circumstances, can I - and if you can
6 also assume, please, that there's a gated area. You can
7 see there's a concreted area to the left of that building
8 in the second photograph?

9 A. Yes, yes.

10 Q. And we can show you images of the fencing at the front
11 section there, but if you can assume that the officers
12 could not see beyond that fence, and that fence is some
13 8 to 10 metres away from Holden Lane. If you assume those
14 circumstances, does it accord with your expectation of
15 those officers that they would not alight from the vehicles
16 and inspect that scene in responding to that priority 2
17 job?

18 A. Look, I don't know what evidence they've given in
19 terms of where they've driven.

22 Q. If you assume they've driven along Holden Lane and
23 parked momentarily outside, on Holden Lane outside the
24 Salvation Army premises, and that you might recall that one
25 of the broadcasts from Ballina 14 is to the effect that
26 he's parked out the front there.

28 THE COMMISSIONER: At the back, perhaps.

30 MS SULLIVAN: At the back. I beg your pardon, thank you.

32 THE WITNESS: I think you can see fairly clearly into -
33 into that area at the back.

35 MS SULLIVAN: Q. That area at the back being the car
36 park?

37 A. Yes, yep.

39 Q. All right. So you wouldn't have an expectation that
40 those officers get out of the car and walk around, for
41 example, to the fence? And we can show you a photo of the
42 fence. Perhaps we might do that just for completeness. We
43 might go to tab 73, and we'll show you some images of
44 what's been described as the pool fencing. So if we can go
45 to photograph 3, please, of tab 73, which is barcode
46 8641022. Have you got that in front of you, Officer E?

47 A. Yes.

1
2 Q. So that's the fenced section. There's a further
3 photograph at photographs 4 and 5, if we scroll through.
4 That fence was unlocked.

5 A. Right, yes.

6
7 Q. So if you accept that it's not possible, of course, to
8 see into that fenced area from the road - that's the
9 evidence, and that stands to reason, it's some 10 metres
10 away - would you have an expectation that officers might
11 get out of the vehicle and have a look down that side?

12 A. No, because I think you're then within the boundaries
13 of the - I believe that you've looked at the back. That
14 you've had a look. You're then starting to look down the
15 side of the Salvation Army. And then my question is, then
16 you get out of the car and then you walk two houses, do you
17 walk four houses, do you walk six houses, do you walk the
18 whole block?

19
20 Q. Well, can I suggest you start with the address you've
21 been given and you go from there.

22 A. Which I think they've done, to the rear of the
23 Salvation Army.

24
25 Q. All right. So you can rely, can you, as an officer,
26 on the description given by the informant, without having,
27 as I referred to it before, that high index of suspicion
28 about whether you need to scope the premises a bit more
29 closely?

30 A. I'm satisfied that they're satisfied. They're my
31 sergeants, who were down there, and I'm satisfied that they
32 had - they had scoped the back of the premises and they
33 were satisfied there was nobody in the - at the rear of the
34 Salvation Army.

35
36 Q. I'm not suggesting that you weren't satisfied that
37 they had done a good job. That's not what I'm suggesting.
38 I'm asking you now, what would be your expectation? As you
39 sit here now, about operational police responding to a job.
40 Would you have an expectation that they would get out of
41 their vehicle and scope a scene like that by walking around
42 a car park and looking down an area that they can't see?

43 A. I think, with the information that we had at hand, I'm
44 satisfied with what they undertook.

45
46 Q. My question is a different one. I'm asking you now
47 about what your expectation would be now. If this incident

1 occurs right now, what would be your expectation in
2 relation to attending police?

3
4 MR GOLLAN: I object.

5
6 THE COMMISSIONER: No, I'd like to hear the answer to the
7 question, thanks, Mr Gollan.

8
9 MR GOLLAN: Well, with great respect, Commissioner, could
10 I be heard on this, because this has been asked of a number
11 of police officers, and there is an omission as to a very
12 significant fact.

13
14 THE COMMISSIONER: Which is?

15
16 MR GOLLAN: What are you looking for? If you're looking
17 for a package, you might go down the side.

18
19 MS SULLIVAN: With respect, you're looking for a woman who
20 may have been bashed.

21
22 THE COMMISSIONER: I think that --

23
24 MR GOLLAN: The question needs to be put in the context of
25 what it was that was being looked for.

26
27 MS SULLIVAN: I think this very senior officer well
28 understands what is being looked for in the context of this
29 job. It's not a package. It's a female who has been
30 bashed.

31
32 THE COMMISSIONER: In response to the VKG message.

33
34 Q. Would you answer the question?

35 A. I think I would be concerned if anybody was bashed.
36 They don't need to be female. So anybody --

37
38 MS SULLIVAN: Q. Sure.

39 A. -- anybody who was bashed.

40
41 Q. Sure. I'm just referring to the terms of the VKG
42 incident.

43 A. So I would be concerned for anybody that we had
44 information was bashed. The difficulty that we were faced
45 with was that, yes, we had one phone call. The difficulty
46 was that the informant was not willing to participate with
47 us.

1
2 Q. I understand what you're saying but I'm asking
3 a different question now about your expectation today in
4 relation to attending a job like this. What would your
5 expectation be today for operational police who are
6 attending a job in the same terms as that VKG - I can read
7 it to you so my friends clearly understand:

8
9 *Male stated a female being bashed behind*
10 *Salvation Army building.*

11
12 Would it be your expectation today, as a senior officer,
13 duty officer, that officers would get out of their vehicle
14 and scope that area by walking around, including looking
15 down that gated area?

16 A. No. My expectation would be that they would search so
17 that they're satisfied, so that then, in terms, I'm
18 satisfied, that there's nobody laying behind the Salvation
19 Army.

20
21 Q. All right. And does that entail, to your mind, them
22 getting out of their vehicles to walk around so they can
23 see into an area that is next to the car park?

24 A. That's not behind the Salvation Army. So no.

25
26 Q. So you are, as operational police, entitled to rely
27 very specifically on the details that the informant has
28 given you; is that your evidence?

29 A. Yes.

30
31 Q. Notwithstanding that, as I understood you had
32 conceded, that can be imprecise information that an
33 informant gives? They're not talking in police terms; they
34 can be loose with their language?

35 A. They can.

36
37 Q. That's why, can I suggest, an operational police
38 officer in this circumstance, would need to get out of the
39 vehicle and have a proper look around, including down the
40 side alley, including to see whether there was CCTV, for
41 example. Blood in the car park, for example?

42 A. I think it would - that is very difficult. Every job
43 is different. So I think that each officer has to be
44 satisfied that they've explored it to the level that
45 they're satisfied that there's not somebody who is laying
46 there. CCTV can come later, if you need it. Do you know
47 what I mean? We may well the next day, in the briefing,

1 go, "Well, we've got some information here. Let's see if
2 there's CCTV."

3
4 Q. Well, you can also canvass, can't you? You can
5 canvass residents either side to try and find out whether
6 or not anyone's heard anything?

7 A. You certainly could canvass. Yes, you could.

8
9 Q. That didn't happen in this case. Would that be your
10 expectation, that there would be canvassing in relation to
11 a priority 2 job like this?

12 A. Once again, no, because of the number of priority jobs
13 that we have every shift.

14
15 Q. Well, this was the only priority 2 job, as we've
16 established, that came in between 6.38pm, right up until
17 7.41pm. This is the only priority 2.

18 A. But there's other customers who have expectations that
19 we'll attend to their reports of crime. It's a priority
20 job. I concede that.

21
22 Q. Well, it's a priority job in relation to a female
23 being bashed. And there aren't other priority 2 jobs
24 during that one-hour period. We've established that.

25 A. And I think we've established that there's probably no
26 clear rules in the police about how far you - about what
27 you do with one phone call, how far you canvass, how far
28 you get out of the police car and how far you walk.
29 There's a lot of discretion there in terms that the person
30 themselves who attends has to be satisfied.

31
32 Q. Do you think that there are any lessons that we should
33 learn from this particular incident, including from your
34 perspective as a senior duty officer?

35 A. I think that if we - if we did say that we're going
36 to - the phone calls that we get that are priority jobs
37 where we have one phone call and that we have this type of
38 incident and if we were to say that we're going to canvass,
39 in terms of canvassing other residents who are there and
40 we're going to get out and we're going to search, it
41 becomes very difficult because unless it's prescriptive
42 about, "You will get out on every occasion, you will
43 canvass the full block, you will canvass for CCTV", it
44 becomes very, very difficult, because every location is
45 different.

46
47 THE COMMISSIONER: Q. Can I ask, Officer E, the other

1 aspect of someone being assaulted is that frequently there
2 are some verbal cues, aren't there, you know, noises that
3 come with that, either the person that's suffered the
4 assault or maybe the assaulter or both?

5 A. Yes, yes.

7 Q. So if you're driving past in your vehicle, is it -
8 would that impact on your ability to hear any sounds of
9 distress or sounds of argument, do you think?

10 A. Well, it could. That's a good point, that it could.

12 Q. So if you're out of the vehicle, you might have
13 a better chance of hearing whether there's whimpering,
14 yelling --

15 A. That's correct.

17 Q. -- et cetera, et cetera. Knowing that you don't
18 know --

19 A. That's right.

21 Q. -- at any point what this job is --

22 A. Yes.

24 Q. -- or even where those two people might be now,
25 whether they're still in Holden Lane at all or whether
26 they've moved on --

27 A. Yes.

29 Q. -- or whether someone's sitting in the corner nursing
30 an injury of some kind?

31 A. And you're correct, that if you stopped the vehicle
32 and got out, you would hear --

34 Q. More clearly?

35 A. More clearly than over the noise of an engine. That's
36 correct.

38 Q. Because in the vehicle (a) you've got the sound, the
39 blocking of the vehicle, but also, there's also radio noise
40 coming out --

41 A. That's correct --

43 Q. -- from the police radio and things?

44 A. -- and the engine noise and - yes, yeah.

46 MS SULLIVAN: Q. Getting out of a vehicle, walking
47 around, looking down the side, looking for any blood,

1 looking to see if there's CCTV, that could all be done in a
2 matter of minutes; agree?

3 A. Depends on how big the scene is.

5 THE COMMISSIONER: Q. Take the scene that we've got.

6 A. Oh, the scene that we've got? Yes, yep.

8 MS SULLIVAN: Q. I think I had asked you about any
9 lessons that we can take from this particular incident but
10 I'm not sure that I really got an answer to that question.
11 Is there anything in relation to any lessons that we can
12 take from this tragic scenario, do you think?

13 A. I will say that it is a tragic scenario, and I will
14 say it's a scenario that unfortunately we're all faced with
15 and the whole of society is faced with far too often.

17 Q. All right. So we might come to the point in time
18 after Ms Lucena is - do you need a moment, Officer?

19 A. No, no, I'm all good.

21 Q. After Ms Lucena is found deceased in that location,
22 that gated area next to the Salvation Army building, and
23 your section 54 response at questions 4 and 5 deals with
24 the circumstances in which you were notified of Ms Lucena's
25 death and suspected murder. And you've set out the timing
26 of that in your contemporaneous notes. It seems that you
27 were notified of that matter at about 12.50am by the
28 custody manager at Lismore; is that right?

29 A. That's correct.

31 Q. Do you recall what she told you?

32 A. That - oh, words to the effect that we'd just had
33 somebody come into the station and there'd been a DV
34 murder.

36 Q. And you then had a conversation with Officer C; is
37 that right?

38 A. That's correct.

40 Q. That's at around 12.56pm?

41 A. That's correct.

43 Q. What was the content of that conversation?

44 A. Which was because he was at the - at the police
45 station, he said, "The fellow's come in and it relates to
46 the job at the Salvation Army."

1 Q. I see. He was still at the police station at that
2 time?

3 A. Oh, I believe so, or he might have - may have been at
4 the scene but he was certainly at Ballina.

5
6 Q. Okay. And there was discussion about it relating to
7 the Salvation Army job?

8 A. That's correct.

9
10 Q. Do you recall exactly what was said, to the best of
11 your memory?

12 A. That the fellow had walked into the station and
13 virtually confessed that he'd bashed his partner and that
14 he thought that she was deceased.

15
16 Q. And the connection had been made between that being
17 the earlier job?

18 A. I made that connection, yes.

19
20 Q. And did you then ask Officer C about what searching
21 he'd undertaken in response though that priority 2
22 response?

23 A. No.

24
25 Q. No?

26 A. No.

27
28 Q. Did you form a view at that point in time about
29 whether this could be a critical incident?

30 A. Yes.

31
32 Q. What view did you form?

33 A. I formed that it possibly could be.

34
35 Q. Why?

36 A. Because it's a death and resulting from a police
37 operation.

38
39 Q. Did you convey that view to Officer C?

40 A. I can't recall, in that conversation, whether or not
41 I did. I do know I had another conversation with staff
42 from Ballina, as I was driving from home up to Ballina,
43 where I then spoke to them about, "Look, don't isolate
44 yourselves but don't speak about it because it could
45 potentially be a critical incident", yes.

46
47 Q. Do you remember who you had that conversation with?

1 A. No. I would think it was probably the station
2 officer, because I asked them to pass it on.
3

4 Q. And so then you attend the scene yourself?
5 A. That's correct.
6

7 Q. And at some time, in fact, at around 1.02, you speak
8 to commander Scott Tanner; is that right?
9 A. That's correct.
10

11 Q. What was the content of that conversation?
12 A. Where I told him we'd had a DV homicide.
13

14 Q. Yes.
15 A. And he said, "Okay", and I said, "Look, there's some
16 complexities around it. We had a call for service and it
17 took us some time to get to the job."
18

19 Q. And what was his response?
20 A. He asked why it took some time to get to the jobs and
21 I explained the other jobs that we had going.
22

23 Q. And then what happened?
24 A. And then I - I attended the scene. Made sure that we
25 had a crime scene that was appropriate and it was large
26 enough.
27

28 Q. Yes.
29 A. And then, not long after that, Mr Tanner arrived on
30 scene himself and then I went back to Ballina police
31 station.
32

33 Q. Right. And can you recall a discussion with
34 Superintendent Tanner about the workload for that
35 particular shift later that morning?
36 A. Oh, we would have had a discussion about what the
37 workload - yes, we would have, yep.
38

39 Q. I'd like to show you a copy of a sit rep report,
40 please. This is at tab 56. This is barcode reference
41 8634210. Is this a document that you're familiar with,
42 Officer E?
43 A. Yes, but not intimately familiar. I'm just checking
44 who --

45 Q. So it's been prepared by the officer on the left-hand
46 side?
47

1 A. Yes, yes.

2

3 Q. And then you have - it says "Vetter: Rank & Name"?

4 A. Yes, yes.

5

6 Q. And that's you?

7 A. Yes.

8

9 Q. What does the "Vetter: Rank & Name" signify?

10 A. That means that I've read over it.

11

12 Q. And affirmed the accuracy?

13 A. Yes.

14

15 Q. So this document is prepared at 6.53 on 4 January. Do

16 you see under the heading "Current position":

17

18 *Homicide on call [REDACTED]*

19 *updated. Crime scene examinations.*

20

21 Et cetera.

22

23 A. Yes.

24

25 Q.

26 *Initial investigations have identified that*

27 *a call was made by an anonymous person to*

28 *000 at 7.03 on 3 January 2023 --*

29

30 the CAD message is referenced --

31

32 *reporting a female being assaulted near the*

33 *Salvation Army. Police were delayed in*

34 *their response by other Priority 2*

35 *incidents occurring in the area at the*

36 *time.*

37

38 Can I suggest to you that's inaccurate, and it's inaccurate

39 in this respect: that that was the only priority 2 job

40 that was occurring at the time the Salvation Army job came

41 in at 7.03, because, as we've established, there's no

42 priority jobs between 6.38pm until 7.41pm, other than this

43 job.

44 A. I'm just going to refer --

45

46 Q. Yes, please do.

47 A. -- back to when - what time the car crew called off at

1 the job on the M1.
2

3 Q. 7.21pm is when Officer C calls off and requests the
4 upgrade, in the sense that Woodburn 29 should come code
5 red.

6 A. Right. And he'd been at the self-harm.
7

8 Q. A priority 3 job, yes.

9 A. So bearing in mind that the VKG operators assign the
10 priorities --

11 Q. Yes.

12 A. -- we can upgrade them. We can also downgrade them.
13 It wouldn't be unusual for them to ring me and ask to
14 upgrade or downgrade a job. I would consider that that
15 mental health job that the car crew were tied up with,
16 Alstonville 18, that they were tied up with until 8pm,
17 I would actually - that should be a priority 2 job.
18

19 Q. All right.

20 A. That's somebody who is - it's attempting to self-harm.
21

22 Q. Well, that job had resolved, hadn't it, by 7.07pm?

23 A. It hadn't resolved because we had to wait for the
24 ambulance. We can't just let them go.
25

26 Q. Right, but police are on scene waiting for the
27 ambulance. Woodburn 29 and Ballina 14 have left to attend
28 the accident on the Pacific; that's right?

29 A. Yes, yes.

30 Q. That's a priority 3 job?

31 A. I think that should be a priority 1 job as well.
32

33 Q. A priority --

34 A. A priority 2, not a priority 1.
35

36 Q. We need to go by the official police records, don't
37 we, surely?

38 A. We do. However, I have to risk assess on the ground
39 that an accident on the M1, the busiest highway on the
40 north coast, that came over as a vehicle into a tree --
41

42 Q. Okay. Well, you could have made that correction to
43 this, I suggest, to indicate "priority 3 jobs (which, in my
44 opinion, were of higher priority", to accurately reflect
45 the official police documentation?
46

1 A. I agree. With the sit rep, yes.

2

3 Q. Because otherwise, on its face, it's misleading?

4 A. Okay.

5

6 Q. Do you see that it goes on:

7

8 *At 7.55pm police patrolled the area but*
were unable to locate anyone.

9

10 And at that point in time, you didn't understand the nature
11 of the patrol that had been undertaken by Officer C and
12 Officer D; is that right?

13 A. That's correct.

14

15 Q. And then:

16

17 *Attempts were made to contact the original*
informant but no-one answered the phone.

18

19 Is that a reference to the attempts by the telephonist at
20 7.03 to contact the original informant?

21 A. That's correct.

22

23 Q. Do you see how, read in context, that could be read to
24 suggest that the police on scene attempted to contact the
25 informant?

26 A. In hindsight, yes.

27

28 Q. And then it goes on to refer to two witnesses hearing
29 Ms Lucena yelling at Huber at 9.30pm, suggesting she was
30 likely alive at the time police patrolled the area.

31 A. Yes.

32

33 Q. And that's a matter that would have been of
34 significance in terms of consideration as to the critical
35 incident aspect; do you agree?

36 A. So this is written on 4/1, when I've come back into
37 work.

38

39 Q. Yes.

40 A. So I'm not privy to the investigations that have taken
41 place.

42

43 Q. Right.

44 A. I am the vetting officer.

1 Q. Yes.

2 A. But I'm not privy to the investigations that the -
3 that the - that Michael Smith has made.

4 Q. Yes.

5 A. So I'm dependent on the detective sergeant, because
6 that's a detective sergeant.

7 Q. Yes.

8 A. I think he was the acting crime manager at the time.
9 I'm dependent on him saying to me that that evidence that
10 he has investigated, as a detective, that is correct. So
11 I'm vetting it based on that.

12 Q. All right.

13 A. So - so I'm not aware of the complexities --

14 Q. The intricacies of the investigation?

15 A. Exactly right.

16 Q. But some details you were aware of?

17 A. But I can see that with the "priority 2 incidents",
18 that they're not - yes.

19 MS SULLIVAN. Thank you. Can we go now, please, to
20 tab 61.

21 I'm sorry, I'm reminded by Ms Boxall, could I please
22 tender tab 56, barcode 8634210.

23 THE COMMISSIONER: Tab 56, I think will be exhibit 19C.

24 **EXHIBIT #19C SITUATION REPORT DATED 4 JANUARY 2023,
25 BARCODED 8634210**

26 MS SULLIVAN: Q. Just for completeness, did you follow
27 up whether the officers had complied with your direction
28 not to speak to each other about the incident when you were
29 concerned it might be called a critical incident?

30 A. Yes, because I was back at Ballina.

31 Q. Okay. So they did comply?

32 A. Yes.

33 Q. Thank you.

34 THE COMMISSIONER: Q. So I'm clear about the time frame

1 of that, Officer E, was that - that would have been the
2 early hours of the morning of 4 January; is that the time
3 frame you're thinking of?

4 A. So I was actually at home when they rang me.

5

6 Q. Yes.

7 A. So then I'm travelling back up, that's half an hour to
8 Ballina. In the car on the way, I've made the phone call
9 to Ballina station and said to them, "Don't isolate but
10 don't discuss it because it could potentially be a critical
11 incident."

12 A. Yes.

13

14 Q. And then Ms Sullivan just asked you if you followed up
15 to see if that had actually happened. When did you do
16 that?

17 A. So then after I've checked the crime scene is taped
18 off and everything is there, then I go back to Ballina
19 station and then I'm mindful where people are sitting in
20 the station.

21

22 Q. I see.

23 A. And they're not sitting in a nook.

24

25 Q. Having a chat?

26 A. Having a conversation about it.

27

28 Q. Okay. So it was at that same - within the same window
29 of a couple of hours?

30 A. Oh, yes, absolutely, yeah.

31

32 THE COMMISSIONER: Thank you.

33

34 MS SULLIVAN: Q. Then we'll go to tab 62, please -
35 sorry, I gave the wrong reference. It's barcode 8628963.
36 This is an email from Superintendent Tanner to Assistant
37 Commissioner Chapman. It's not authored by you but you are
38 copied in, Officer E. Has that come up for you?

39 A. It has, yes.

40

41 Q. Great. You see there a summary of the incident?

42 A. Yes.

43

44 Q. I assume that you provided Superintendent Tanner with
45 some details in relation to this information - this email,
46 did you?

47 A. Some of the information here but not necessarily all

1 of it.

2

3 Q. Okay.

4 A. Yes.

5

6 Q. Are you able to identify which bits you would have

7 provided him with?

8 A. So if we start at the top --

9

10 Q. Yes.

11 A. -- the address, he would have gotten off our COPS

12 system and the priors and the bail, and the AVO, he would

13 have sourced that himself. And the victim's details he

14 would have sourced.

15

16 Q. Yes.

17 A. Let me go into the background, when he talks about the

18 26/12 --

19

20 Q. All of that is from COPS, likely?

21 A. Yes, all of that's - I'm just trying to - yes. I

22 imagine that when we talk about the incident on that 3/1,

23 he would have obtained that from the CAD job, because he

24 identifies the name of the informant. Look, I don't know

25 if that directly comes from me, but police at the time

26 were tied up with a schedule and an MVA on the M1. That's

27 certainly in line with the information that I've given.

28 The job acknowledged, that would have come directly from

29 the CAD job.

30

31 Q. Yes.

32 A. And then the last couple of paragraphs, he directly -

33 because he went to the scene. So where he's spoken about

34 the location, that's going to be based on his observations.

35 And the last one, that he was arrested and in custody, and

36 the injuries to his hands, I wasn't aware of that.

37

38 Q. And the rest --

39 A. And the rest is - yes.

40

41 Q. Okay. No, that's of assistance, thank you very much.

42 Did he speak to you before he sent this email or ask you to

43 have a look at it or --

44 A. He wouldn't have asked me to have a look at it, but

45 we'd certainly spoken prior to him sending the email.

46

47 Q. All right. For completeness, that email is sent at

1 3.25am on 4 January. So he'd been to the scene by that
2 stage himself --

3 A. That's correct.

4
5 Q. -- as he has referenced? The next email that
6 Superintendent Tanner sends by way of update is at tab 57.
7

8 MS SULLIVAN: Sorry, we'll tender, thank you, tab 62.
9

10 THE COMMISSIONER: That will be exhibit 20C.
11

12 **EXHIBIT #20C EMAIL FROM SUPERINTENDENT TANNER, ON 4 JANUARY**
13 **2023 AT 3.25AM, BARCODED 8628963-8628966**

14
15 MS SULLIVAN: Thank you, Commissioner.
16

17 Q. So this is - I'm now at tab 57, barcode 8628965. This
18 is an email that is sent by Superintendent Tanner at
19 3.11pm, but it's forwarded to you, Officer E, at 7.44pm.
20 So after the event.

21
22 THE COMMISSIONER: We'll just get that up.
23

24 MS SULLIVAN: Thank you.
25

26 THE COMMISSIONER: Tab 57, just start at the beginning.
27

28 THE WITNESS: Yes, that's where he's forwarded it to
29 myself and [REDACTED].
30

31 MS SULLIVAN: Q. So that was, in effect, for your
32 information?

33 A. Yes.
34

35 Q. But you see there there's a review that Superintendent
36 Tanner has conducted where he says halfway down the page:
37

38 *Review. I have reviewed the staffing level
39 and workload from last night. The
40 following is a breakdown of available
41 vehicles and staff.*

42
43 Was that based on his own review or had he discussed that,
44 the content that's set out there, with you?

45 A. No. That would be based on his - so he was on day
46 shift on the 4th, and I - I was still at work. I was still
47 at work maybe at 5 o'clock in the morning so I'd worked

1 a full shift. So I had to have a 10-hour break, so we
2 hadn't spoken during the day when he sent this.
3

4 Q. Did any of the detectives from Strike Force Blaikie,
5 which is the strike force convened to investigate the
6 murder of Ms Lucena, did any of those officers speak to you
7 about the resourcing or the response to the initial P2 call
8 out at any point?
9 A. No, not at all.

10 Q. After you had very prudently given the indication that
11 officers should not speak about this as a potential
12 critical incident --
13 A. Yes.

14 Q. -- did any senior officer seek your view further about
15 that aspect?
16 A. No.

17 THE COMMISSIONER: Q. Did you mention that possibility
18 to Superintendent Tanner when you were talking to him,
19 Officer E?

20 A. We would have, because I know that I advised him that
21 I'd given the staff at Ballina a direction, in the event
22 that it may be a critical incident, which is not unusual.
23 I'll treat everything - if there's a death or something,
24 I will treat it potentially as it is a critical incident,
25 and then provide all the information for full transparency
26 to go up the chain.

27 THE COMMISSIONER: Thank you.

28 MS SULLIVAN: Q. Do you mean when there's a death
29 connected to a police operation?

30 A. That's correct, yeah

31 Q. Just one - maybe my penultimate question: just from
32 a policing perspective, when you're processing an arrested
33 offender, what checks, if any, are done to confirm the
34 existence of interstate warrants?

35 A. Of all the questions that you've asked me, it's the
36 last one - can I --

37 Q. I hadn't necessarily expected to ask it myself, can
38 I say, but --

39 A. Can I tell you that it's been many, many years since
40 I've arrested somebody.

1
2 Q. Okay. If you are unable to assist, that's fine.
3 A. So we would do a COPS check. Obviously, that's going
4 to be in New South Wales.
5

6 Q. Yes.
7 A. If they had a history that was in a different state -
8 we have another system that now has a different name, that
9 I can't recall, where we can look to see if they've got
10 warrants in different states. But it has been some time
11 since I have used that. I apologise.
12

13 Q. Not at all. Do you have any final remarks that you
14 would like to tell the Commissioner about? I have
15 certainly finished the questions that I had, but I did want
16 to give you the opportunity to take the floor.
17 A. I'm not sure if Ms Lucena has any family here today,
18 but I would certainly like to say that it's very tragic,
19 what happened to Ms Lucena, and it's tragic for anybody to
20 lose a family member, particularly to domestic violence.
21

22 I think in the 30 years that I have been in the
23 police, there have been a lot of - there's been a lot of
24 progress in terms of how we respond to domestic violence
25 and how we respond to victims, and hopefully, that they do
26 feel supported. And certainly in this case, it was - it
27 was not the case that the job was ignored because she was
28 a potential victim of domestic violence. I really strongly
29 reject that. That's not the case at all.
30

31 Q. It wasn't known that she was a subject of domestic
32 violence from the VKG report?
33 A. No, no. Look, and I think that if there's
34 improvements that can be made to save other people, I think
35 that that's important.
36

37 MS SULLIVAN: Thank you very much, Officer E.
38

39 THE COMMISSIONER: Thank you. We're going to see if there
40 are other questions, but I think, Ms Sullivan, have we
41 tendered tab 57?
42

43 MS SULLIVAN: I'm sorry, tab 57. I'll read the barcode
44 out. That will be --
45

46 THE COMMISSIONER: 8628965 to 8628966, and that would be
47 exhibit 20C.

1
2 Mr Bolster, do you have questions that you want to
3 ask?
4

5 MR BOLSTER: No, thank you, Commissioner.
6

7 THE COMMISSIONER: Are there any other legal
8 representatives that want to ask any questions? Thank you.
9

10 Can Officer E be released?
11

12 MS SULLIVAN: She can be, thank you.
13

14 THE COMMISSIONER: Thank you very much for coming and
15 thank you, too, for the frank and thoughtful way in which
16 you gave your evidence today.
17

18 It's always difficult, I think, to reflect back on
19 these matters and think what might we have done
20 differently, and even if you're confident that at the time
21 you did the absolute best you could, everyone always wishes
22 for a different outcome.
23

24 THE WITNESS: Thank you.
25

26 THE COMMISSIONER: Thank you for that. You are welcome to
27 step down from the box.
28

29 **<THE WITNESS WITHDREW**
30

31 THE COMMISSIONER: I do want to just deal with some
32 non-publication order issues.
33

34 So I want to remind everyone that although there's
35 been exhibits coming up from time to time on the screen,
36 unless expressly said so, those exhibits are confidential
37 and are subject to a non-publication order under
38 section 176 of the Law Enforcement Conduct Commission Act.
39

40 But, more particularly, at about 2.30 there was
41 a reference to one of the self-harm incidents being
42 connected [Non-publication order made]. That information
43 and any information that might identify that connection is
44 subject to a non-publication order.
45

46 We'll make sure that that commentary is redacted out
47 of the transcript. If any members of the media have got

1 questions about what they can or can't report on, you're
2 welcome to contact our media officer, but I do formally
3 make a non-publication order in relation to any information
4 in relation to that.

5
6 Was there anything else on that, Ms Sullivan?

7
8 MS SULLIVAN: No, thank you, Commissioner.

9
10 THE COMMISSIONER: I note, too, that there were a couple
11 of other officers' names who've been mentioned. They are
12 not necessarily aware that today's proceedings are on, and
13 unless it's essential to the relaying of the story, I think
14 the Commission would probably appreciate that those
15 officers aren't necessarily flagged in any reporting.

16
17 I think those are all the matters for today.

18
19 MS SULLIVAN: Those are the matters. Thank you,
20 Commissioner.

21
22 THE COMMISSIONER: So tomorrow morning we will be back
23 here at 10, and we will have Superintendent Tanner.

24
25 MS SULLIVAN: Superintendent Tanner followed by
26 Superintendent Chapman.

27
28 THE COMMISSIONER: This Commission stands adjourned.
29 Thank you.

30
31 **AT 3.37PM THE COMMISSION WAS ADJOURNED ACCORDINGLY**

32
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