

Hearing: Operation Almas

Before Ms Anina Johnson, Commissioner

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

On Wednesday, 3 December 2025 at 10am

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1 THE COMMISSIONER: Good morning, everyone. Today marks
2 the start of public examinations being conducted by the Law
3 Enforcement Conduct Commission in Operation Almas.

4
5 Under section 64 of the Law Enforcement Conduct
6 Commission Act, Ms Sullivan, you have been appointed as
7 counsel assisting the Commission?

8
9 MS SULLIVAN: I have, thank you.

10
11 THE COMMISSIONER: I will begin by taking appearances from
12 legal representatives and then I will make some brief
13 opening remarks and then Ms Sullivan will give an opening
14 address. After that we'll have a brief adjournment before
15 the first witness is called. So appearances?

16
17 MR SMARTT: Smartt, S-M-A-R-T-T, for the Commissioner of
18 Police and Mr Cotter and I appear with Mr Falzon from
19 NSW Police Force.

20
21 THE COMMISSIONER: Thank you, Mr Smartt.

22
23 MR WILCOX: May it please the court, my name is Wilcox,
24 I appear for Ms A.

25
26 THE COMMISSIONER: Thank you.

27
28 MS JARDIM: Ms Jardim, I appear for Mr B.

29
30 THE COMMISSIONER: Thank you.

31
32 MR HARRIS: Harris, for Officer C, Commissioner.

33
34 THE COMMISSIONER: Thank you.

35
36 I think Mr Fishpool is here observing from the
37 professional standards command; is that correct?

38
39 CHIEF INSP FISHPOOL: That's correct, Commissioner.

40
41 MR GOLLAN: Gollan. G-O-L-L-A-N. I appear on behalf of
42 three officers to give evidence, as I understand, Cassar,
43 Chapman and Tanner.

44
45 THE COMMISSIONER: Thank you.

46
47 So Operation Almas is an investigation under part 6 of

1 the Law Enforcement Conduct Commission Act and it stems
2 from the tragic death of Lindy Lucena on 3 January 2023 in
3 Ballina. I want to begin this morning by acknowledging the
4 loss experienced by Ms Lucena's family.

5
6 As we consider these events surrounding her death,
7 it's important to remind ourselves of the role of this
8 Commission. It is not to decide who has caused the death
9 of Ms Lucena. Justice Rothman has already convicted
10 Robert Huber of Ms Lucena's manslaughter. It is not to
11 consider the manner and cause of Ms Lucena's death. That's
12 a matter for the coroner.

13
14 The role of this Commission is to consider the police
15 response to a 000 call made on 3 January that a woman was
16 being bashed behind the Salvation Army building in Ballina.
17 So the Commission will explore the actions of the radio
18 room staff, the response of police on the ground, and the
19 decision by police not to declare a critical incident.

20
21 Questions about the police response have also been
22 asked by Ms Lucena's family, by the media and by the
23 Honourable Sue Higginson MLC in a letter written to the
24 Commission in July 2025.

25
26 As we conduct this investigation, the Commission is
27 aware that any investigation which occurs after a tragic
28 event such as this must be careful not to fall into the
29 trap of hindsight bias. What we know now may not have been
30 known to those who were making decisions on the ground at
31 the time.

32
33 Of course, if there is evidence of serious misconduct
34 or agency maladministration, we will deal with that. But
35 our focus in this investigation will be on looking for
36 opportunities for improvement in policing practices so as
37 to foster public confidence in the work and integrity of
38 the NSW Police Force.

39
40 There will be nine witnesses called in this series of
41 examinations and as I have said, the Commission has decided
42 that these examinations should occur in public, having
43 regard to the factors set out in section 63(5) of the Law
44 Enforcement Conduct Commission Act.

45
46 The Commission has also decided that five of those
47 witnesses should be given pseudonyms and they will be known

1 as Ms A, Mr B, and Officers C, D and E. Any witnesses who
2 are referring to other police staff who are subject to
3 a pseudonym should also use those names in their evidence.
4

5 Under section 176 of the Law Enforcement Conduct
6 Commission Act, I have made an order that there is to be no
7 publication of any information or image which will identify
8 those witnesses, and that reminder will be repeated at the
9 beginning of the evidence of any of those witnesses.
10

11 All exhibits will remain confidential unless otherwise
12 specified. And finally, I would remind anyone in the room
13 today that there is to be no filming or recording of the
14 Commission's proceedings. However, the transcript of the
15 evidence will be posted on the Commission's website as soon
16 as we can practically do that, and unless the witness is
17 subject to a pseudonym, a video recording of their evidence
18 should go up on the Commission's website, subject to any
19 difficulties that might occur in relation to the use of
20 pseudonyms.
21

22 I think those are the remarks I wanted to make at the
23 beginning, Ms Sullivan, and I will pass over to you.
24

25 MS SULLIVAN: Thank you, Commissioner.
26

27 Today, as you have indicated, we commence public
28 examinations in relation to Operation Almas. As you have
29 indicated, this is an investigation conducted pursuant to
30 part 6 of the Law Enforcement Conduct Commission Act.
31

32 I will now provide a brief opening statement by way of
33 context for the examinations that will follow over the next
34 four days. My opening will be in the order of around 30
35 minutes.
36

37 The relevant events concerning Ms Lucena's tragic
38 death occur in Richmond police district, which covers some
39 10,870 square kilometres in this state. It is comprised of
40 13 police sectors and provides a response for 15 townships,
41 and there are three main 24-hour police stations, namely,
42 Lismore, Ballina and Casino.
43

44 Now, to set the scene for the relevant night shift on
45 Tuesday, 3 January 2023, it is important to understand
46 something about the resourcing, and it appears to be as
47 follows: in the Ballina sector, we understand there was

1 the mobile supervisor, that's the officer known as
2 Officer C, a station officer, a custody manager and one car
3 crew - that is, A018, Alstonville 18, which was comprised
4 of a senior constable and a probationary constable. So
5 that's some five staff rostered for the Ballina sector.
6

7 In Lismore sector, there was a supervisor, a custody
8 officer, a station officer and two car crews - that is,
9 Lismore 15 and 16 - some seven staff in total.
10

11 In the Casino sector, there was a supervisor,
12 a station officer and one car crew. And then in the Lower
13 Rivers sector there was Coraki and Woodburn, two officers,
14 each in separate vehicles - Woodburn 29 was Officer D and
15 Coraki 122 was a further single alpha unit. Those officers
16 were rostered from 11am to 9pm.
17

18 There was also, for the shift, as is the normal
19 course, a duty officer, a chief inspector rostered from 2pm
20 to 12am - midnight.
21

22 So as you have indicated, Commissioner, there are five
23 witnesses who have the pseudonyms. Those are the two
24 senior communications operators - that is, Ms A and Mr B,
25 who will give evidence today; the two patrolling officers
26 who attended the relevant incident, they are known as
27 Officer C and Officer D, and then the duty officer,
28 Officer E. And for completeness, I note that shift
29 changeover from the day shift to the night shift occurs at
30 around 6pm.
31

32 Coming now to the events of Tuesday, 3 January 2023,
33 at approximately 7pm that evening, the NSW Police Force
34 received a 000 call from a then unknown male informant, who
35 reported "There's a man bashing the hell out of his woman
36 at the back of the Salvation Army in Ballina." That
37 address, the Salvation Army in Ballina, is located between
38 Tamar Street and Holden Lane, and it's a short distance
39 from Ballina police station in the order of some 550
40 metres.
41

42 The call was passed from the Telstra 000 operator to
43 the NSW Police Force PoliceLink telephonist. We will now
44 play that recording, please, that is tab 1C, the initial
45 call.
46

47 (Audio recording played)

1
2 MS SULLIVAN: So the telephonist then calls back the
3 informant. Can we play that call, please, at tab 67.

4
5 (Audio recording played)

6
7 MS SULLIVAN: And then the informant hung up. So at
8 7.03pm, the telephonist who received that call entered that
9 incident into what's known as the PoliceCAD system - that
10 is, the computer assisted dispatch. Given the limited
11 information that had been provided by the informant, there
12 were a further two call-backs to try and obtain further
13 information, but the informant didn't answer, and those
14 call-backs were in accordance with the applicable
15 procedure.

16
17 The information received was classified in the CAD
18 system by the telephonist as a priority 2 concern for
19 welfare incident. And so the CAD incident information was
20 as follows:

21
22 *Behind the Salvation Army building --*

23
24 and the address was given --

25
26 *[male] stated a [female] --*

27
28 abbreviated to M "stated a [female]", abbreviated to FM --

29
30 *being bashed behind the Salvation Army*
31 *[building].*

32
33 Abbreviated to "bldg".

34
35 Now, in terms of incident priority - we see that on
36 the screen.

37
38 In terms of incident priority, a priority 2 job is one
39 that requires an immediate response by police. And the
40 relevant police protocol states:

41
42 *Respond immediately, unless responding to*
43 *a priority 1.*

44
45 That's defined as:

46
47 *Incidents where there is a serious threat*

1 to life or property occurring now requiring
2 an immediate police response - ie, armed
3 robbery, violent domestics, serious
4 assaults, person trapped in a motor vehicle
5 or urgent action is required to apprehend
6 offenders, and such incidents should be
7 preceded with a two-tone alert by the
8 dispatcher.
9

10 The priority to be given to a CAD incident is initially
11 entered by the telephonist who receives the 000 call, as we
12 see here, it was a priority 2, but it can be changed by the
13 dispatchers at police radio.
14

15 The telephonist also assigned the incident type to
16 identify the category of individual incident, and this
17 again can be changed by dispatchers, we understand, and the
18 incident type is important because it can impact upon the
19 nature of the police response.
20

21 Now, in this case the matter was classified as
22 a "concern for welfare" incident, and this is defined as an
23 incident:
24

25 ... where police or a member of the public
26 have concerns for the welfare of a person
27 or animal.
28

29 There is another more specific incident type, that is an
30 assault, and that is defined as:
31

32 Actual or threat of force of any kind
33 without consent against another person.
34

35 And that incident category, as we see, was not used.
36

37 Unsurprisingly, the NSW Police Force radio operations
38 group has very particular dispatch standard operating
39 procedures, or SOPs as they are colloquially known, and
40 they set out the requirements for the timing of initial
41 broadcast and rebroadcasts of information based on the
42 priority of the incident.
43

44 The SOPs in force at the relevant time were dated June
45 2022, and in relation to receipt of a priority 2 CAD
46 incident, the SOPs provide that the initial or the first
47 broadcast should be made, or all reasonable efforts and

1 attempts should be made to broadcast that incident within
2 90 seconds. And then, in terms of subsequent broadcasts,
3 the SOPs require that, for a priority 2 incident, all
4 reasonable effort and attempts be made to rebroadcast
5 priority 2 incidents every 60 seconds.
6

7 If there is no acknowledgment of a priority 2 incident
8 within five minutes from the initial broadcast, the
9 dispatcher is then to ensure that either the duty officer
10 or the supervisor is contacted and a direction sought as to
11 how to proceed. If that does not occur, the SOPs require
12 that the incident is to be brought to the attention of the
13 radio operations group shift coordinator.
14

15 So we know that at 7.10pm - that is, some seven
16 minutes after the call was first entered into CAD - there
17 was the initial broadcast for the incident behind the
18 Salvation Army in Ballina, made over police radio, and that
19 was on channel P. It was preceded by a two-tone beep which
20 was in accordance with the requisite procedure, and we'll
21 now play that first broadcast at 7:10:30, please, that's
22 tab 70.
23

24 (Audio recording played)
25

26 MS SULLIVAN: Thank you.
27

28 No crew acknowledged the broadcast at this time, or
29 indeed for some time thereafter, and it appears that the
30 crews in the Ballina sector were attending to other jobs in
31 the broader area and that included a mental health
32 self-harm incident that had been received at 6.38pm, which
33 was a priority 3 job, but that had tied up, in particular,
34 the crew Alstonville 18, as well as Ballina 14 containing
35 Officer C and Woodburn 29, Officer D, and then at 7.03pm,
36 there was a job broadcast for an accident on the M1 near
37 Newrybar, and that was a priority 3 job that was
38 acknowledged by both Officer C and Officer D shortly after
39 broadcast.
40

41 Now, we know that the Salvation Army incident was next
42 broadcast at 7.24pm by the dispatcher, and we will play
43 that second broadcast - that is, tab 70, at time stamp
44 3:24:30.
45

46 (Audio recording played)
47

1 MS SULLIVAN: Thank you.

2

3 There were the two tones on the audio. They have just
4 been cut out of that clip. But they are there.

5

6 Now, that second broadcast is some 14 minutes after
7 the first broadcast at 7.10pm, and we know that there is
8 a third and final broadcast at 7:34:53, so three broadcasts
9 in total for this priority 2 incident.

10

11 Pausing there, I would simply note that the initial
12 broadcast was not within the 90-second time frame specified
13 within the SOPs for priority 2 incidents; nor were there
14 the rebroadcasts at the frequency of every 60 seconds
15 thereafter until acknowledgment of the job, and relatedly,
16 it does not appear that the matter was escalated to the
17 duty officer, supervisor or shift coordinator after five
18 minutes of no acknowledgment, in accordance with the SOPs.

19

20 However, at 7.46pm, Ballina 14, the mobile supervisor
21 that contains Officer C, asked police radio about the
22 outstanding job in Ballina, and we will play that exchange.
23 That is at 7:46:15. That's tab 70, please. Thank you.

24

25 (Audio recording played)

26

27 MS SULLIVAN: Thank you. Woodburn 29 was an alpha unit,
28 as I've indicated, that contained Officer D.

29

30 Now, records indicate that by 7.55pm, both crew had
31 arrived at Holden Lane, which is the rear of the Salvation
32 Army premises. And just for the purposes of orientation,
33 we'll just display some maps that indicate the location.
34 That's tab 131, please, is it possible to zoom in.
35 Thank you. So that's very zoomed. If we can zoom out,
36 thank you.

37

38 You can see there Holden Lane and it's bordered by
39 Cherry Street and there is Moon Street up on the left.
40 Those are the two intersecting streets, and we can see the
41 number 73 is marked clearly. That is the Salvation Army
42 building. It can be seen that there's a car park, some
43 trees, and that's the location of particular interest.

44

45 If we could perhaps go to tab 42A, just to show some
46 larger pictures of the Salvation Army premises, and that's
47 helpfully marked in red. Perhaps we might zoom in.

1 Thank you.

2

3 I think if we could scroll through to the next photo
4 within that tab, please. Thank you. I think that's
5 sufficient for present purposes.

6

7 Now, shortly after arriving at Holden Lane, there was
8 an exchange between Officer C and the police radio, and
9 we'll now play that exchange. That is tab 70 at time stamp
10 3:54:41. Thank you.

11

12 (Audio recording played)

13

14 MS SULLIVAN: Thank you.

15

16 Pausing there, the name of [REDACTED] was not correct.
17 I just note that for the record, Commissioner.

18

19 Officer C, in marked car Ballina 14, and Officer D, in
20 marked car Woodburn 29, then patrolled Holden Lane slowly,
21 we understand. There was still natural light because it
22 was daylight savings, and at 7:28:25, Officer C provided
23 radio with an update on the incident, and we'll now play
24 that. That's tab 70 at 3:58:25.

25

26 (Audio recording played)

27

28 MS SULLIVAN: Thank you.

29

30 It's apparent from the statements that both Officers C
31 and D provided that neither left their vehicles at any time
32 during the patrol of Holden Lane, and it appears that the
33 total time on scene in response to this priority 2 incident
34 was in the order of some three minutes.

35

36 Thereafter - so by around 7.59pm - both officers had
37 called back on and went about their duties, including
38 attending to other incidents in the sector.

39

40 Now, of note, Officer E, who was the duty officer in
41 the Richmond police district from 2 to 12am, was evidently
42 monitoring police radio and assisting police by responding
43 to incidents, making phone calls, checking in, but by
44 around 7.40pm, Officer E had herself kitted up and entered
45 her vehicle to assist police in the field, given how busy
46 things were at that time, and in that vein, in a handover
47 email that Officer E sent to the incoming duty officer, at

1 12.14am on 4 January, that is about 15 minutes before
2 police are aware of the death of Ms Lucena, Officer E
3 writes in her email this:

4
5 *Poor Officer C got smashed between 6pm and*
6 *10pm. He did a great job down there.*
7 *Lismore also had another run of MH --*

8
9 mental health --

10
11 *jobs.*

12
13 So for broader context, Officer E has noted that
14 around 7.03pm, that's when the incident, the CAD incident,
15 first comes in, she is actively monitoring in the order of
16 12 CAD jobs across the district.

17
18 Now, coming to the events of early Wednesday,
19 4 January 2023. At around 12.30am, some four and a half
20 hours after the initial 000 call, Robert Huber attended
21 Ballina police station to report that he thought his
22 partner had died. Now, as it happens, Officer C, amongst
23 other police, was in the station near the counter when this
24 report was made.

25
26 Officer C recognised Mr Huber, having previously
27 encountered him in connection with domestic violence
28 charges that related to Ms Lucena.

29
30 Specifically, on 27 December 2022, police had attended
31 a caravan park in Ballina in response to reports of
32 Mr Huber assaulting Ms Lucena. He was charged with assault
33 occasioning actual bodily harm and common assault, and
34 those were charges that Officer C had had some involvement
35 with.

36
37 Mr Huber was granted conditional bail and served an
38 apprehended domestic violence order, which included the
39 standard conditions 1(a) to (c), that is not to assault,
40 threaten, harass or intimidate the protected person, who
41 was Ms Lucena, but also condition 4, which was not to
42 approach or be in the company of the protected person at
43 least 12 hours after drinking alcohol or taking illicit
44 drugs.

45
46 Also of note, Mr Huber had a history of domestic
47 violence related charges against Ms Lucena in New South

1 Wales.

2
3 Returning, then, to the events in the early hours of
4 Wednesday morning at Ballina police station, Mr Huber told
5 Officer C that he tried to stop some cars on the way to the
6 police station "because I think my missus is dead".
7 Officer C asked, "Where is she?" And Huber replied, "Near
8 the Salvation Army building". Officer C asked Mr Huber to
9 take police to the scene, and Officer C then travelled
10 alone in his vehicle, Ballina 14, to Holden Lane, whilst
11 two other officers, being the crew of Alstonville 18,
12 accompanied Mr Huber in their own vehicle.
13

14 Now, once in Holden Lane, Huber lead the officers to
15 a gated area on the side of the Salvation Army building and
16 there, tragically, police found Ms Lucena's body in amongst
17 items of clothing, baggage and other bric-a-brac strewn
18 around.
19

20 Now, for context, it is important to show some
21 photographs. Of course, none of these are of a sensitive
22 nature, Commissioner, but could we go to tab 73, thank you.
23 This is image 3. Perhaps we could expand that, please, on
24 the screen, if possible. Thank you. This is a photograph
25 from Holden Lane car park of the Salvation Army premises
26 that shows the obligated area to the left.
27

28 If we can go to image 4, please, this is a further
29 close-up of the gated area to the left of the building, and
30 that is in the nature of a pool fence. It was unlocked at
31 the relevant time. Image 5, please. This is a further
32 close-up. Image 6, there is the unlocked pool fence.
33

34 Image 7, please. Thank you. This shows the other end
35 of that area known as the child's area, where there was
36 soft red foam that can be seen, and so there is a pool
37 fence at either side of that area. Then to image 7 [sic],
38 please, and that shows the clothing, bric-a-brac items
39 strewn in a separate section.
40

41 Can we now go to image 11, please. That's an image
42 that depicts the child's area showing the other end of
43 Holden Lane. And now to image 12, please, and there we see
44 a separate concreted area. The fence at the back is where
45 Tamar Street is, so that's the front of the Salvation Army
46 premises, but it can be seen that there are many items in
47 that area. Image 14, please. Image 15. Thank you. And

1 image 16. Image 16 shows that particular gate on Tamar
2 Street. Image 24, if we could, please - that is image 24,
3 thank you. All right.
4

5 For orientation purpose, we'll also show a CAD diagram
6 of the Salvation Army building. This is tab 90. This was,
7 in fact, annexed to Justice Rothman's decision in the
8 Supreme Court judge-alone trial. This shows the
9 orientation of Ms Lucena's body, if we could expand that,
10 please. Thank you. The red child's area can be seen there
11 with the two pool gates at either side, and then we can see
12 to the left of that the orientation of Ms Lucena's body.
13 Her head is facing in a northerly direction. Thank you,
14 Ms Monitor.
15

16 Now, of course, at the time police attended the
17 incident, it was shortly after 12.30am on 4 January, and it
18 was dark. Mr Huber was with police, and, of course, was
19 placed under arrest soon after Ms Lucena's body was found,
20 for the suspected murder of her.
21

22 As we know, on 7 July this year, Mr Huber was
23 convicted of the manslaughter of Ms Lucena by unlawful and
24 dangerous act in a judge-alone trial before the Honourable
25 Justice Rothman. On 11 September this year, he was
26 sentenced to 12 years imprisonment with a non-parole period
27 of nine years.
28

29 During the trial, there was a significant focus on
30 expert evidence, in particular two forensic pathologists,
31 who had competing views as to the medical cause of death,
32 and there was also some evidence taken as to the putative
33 time of death.
34

35 So in his Honour's decision of *R v Huber* [2025]
36 NSWSC 714, Justice Rothman ultimately made the following
37 finding as to time of death at paragraph 430:
38

39 *While I do not consider that the precise*
40 *time of death is particularly important in*
41 *these proceedings, I do not consider the*
42 *description of Mr Leadbeatter of hearing*
43 *what he thought might have been the*
44 *deceased at 9.30pm reliable. It is likely*
45 *that the deceased died at or about 7.20pm.*
46 *She may well have been deceased when*
47 *Ms Hudson-Moon saw her. But it may be that*

1 *she died just after 9:30pm.*

2
3 Now, those two witnesses that Justice Rothman referred
4 to, Mr Leadbeatter and Ms Hudson-Moon, are of some
5 significance to the chronology so far as it relates to the
6 police attendance.

7
8 Ms Hudson-Moon provided police with a statement on
9 5 January 2023, and the important effect of that was that
10 at 7.20pm she was walking along Tamar Street - that's the
11 front, the front area towards the Salvation Army building -
12 in a westerly direction, and she then heard a distressed
13 male and was able to peer through the slats in that gate -
14 that's at image 24 that we just showed - where she saw
15 a female lying down on some bedding. She assumed the
16 female was asleep, but around this time she also saw a male
17 get up and start walking around, and the obvious inference
18 is that that is Mr Huber.

19
20 This all occurs in that concreted area that was
21 depicted in the photographs that were recently shown on the
22 screen.

23
24 Around two hours later, at 9.30pm, a statement from
25 Mr Leadbeatter that he provided to police on 4 January 2023
26 refers to him attending the rear car park of the Salvation
27 Army premises, that's on Holden Lane, and parking his
28 vehicle. He recalled a woman yelling out to a man that he
29 knew as "Rob", and, in fact, both persons were known to him
30 from interactions at the Salvation Army earlier that day.

31
32 Mr Leadbeatter could see the man, who he knew as Rob,
33 standing down the side of the building. Rob started
34 yelling and swearing and Mr Leadbeatter then left because
35 he feared for his own safety.

36
37 So this evidence provides an indication of the
38 position of Ms Lucena and Mr Huber at the time points 7.20
39 and 9.30pm, of course, prior to Mr Huber attending Ballina
40 police station at 12.30 on 4 January.

41
42 Now, following Mr Huber's arrest for the suspected
43 murder of Ms Lucena, a full-scale NSW Police Force homicide
44 investigation commenced, with a view to collecting all the
45 relevant evidence. However, the circumstances of that
46 initial 000 call to police at 7.03 and the subsequent
47 delayed police response to the priority 2 incident, in the

1 order of some 52 minutes before police were on scene at
2 7.55pm, was evidently a focus for senior police and, in
3 particular, at 3.25am on 4 January 2023, Superintendent
4 Scott Tanner, the Richmond police district commander, sent
5 an email to senior police that included Acting Assistant
6 Commissioner Tracy Chapman, who was then the acting
7 northern region commander. Superintendent Tanner provided
8 details, as then known to him, about that initial
9 attendance of police at 7.55pm.

10
11 Some 12 hours later, at 3.11pm, Superintendent Tanner
12 provided a further update to Acting Assistant Commissioner
13 Chapman and other senior officers, which included a review
14 of the staffing levels and the workload from the previous
15 night, and it's very apparent that Superintendent Tanner
16 had undertaken a number of appropriate investigations to
17 inform himself about the circumstances of the matter,
18 including, apparently, attending the scene at the Salvation
19 Army himself.

20
21 Now, ultimately, the issue of whether or not to
22 declare a critical incident fell to Acting Assistant
23 Commissioner Chapman, who was the acting northern region
24 commander. She will give evidence on Friday. But it's
25 anticipated that her evidence will be to the effect that
26 she did give consideration to the NSW Police Force critical
27 incident guidelines, but ultimately formed the view that
28 the matter did not fall within the criterion of a critical
29 incident.

30
31 Now, after discussions with senior officers, Acting
32 Assistant Commissioner Chapman understood that there would
33 be a domestic violence homicide review, and in that
34 context, she had requested that that review include
35 activities between the 7pm call received by police, right
36 up until the time Mr Huber attended the police station, and
37 in light of that, she formed the view that no further
38 independent review was required.

39
40 Now, in that context, and as this is a public
41 examination, I'll just briefly touch on the nature of
42 a critical incident in terms of how it sits within the
43 legislative schema under the LECC Act.

44
45 So in very short form, a critical incident is defined
46 in the Act as a matter that exhibits the features
47 of a critical incident as set out in section 110.

1
2 And for present purposes, a critical incident has two
3 key aspects. The first is that an incident involves
4 a police officer or other member of the NSW Police Force,
5 that results in the death of, or serious injury to,
6 a person; and, second, and relevantly, the death or serious
7 injury appears to be likely to have resulted from any
8 police operation. And "police operation" is defined to
9 mean any activity engaged in by a police officer whilst
10 exercising the functions of a police officer, other than an
11 activity for the purpose of a search and rescue operation.
12

13 But there is an alternative manner in which a critical
14 incident can be declared, that's under section 111(1)(b),
15 and that's where the Commissioner of Police has other
16 grounds for considering it is in the public interest to
17 declare a critical incident.
18

19 Now, as to this particular category of critical
20 incident, the NSW Police Force critical incident guidelines
21 state the following - and only the following:
22

23 *The Region Commander may also make this*
24 *declaration --*
25

26 that is as to a critical incident --
27

28 *if they have "other grounds" for*
29 *considering it is in the public interest to*
30 *do so. This may include where an incident*
31 *could attract significant attention,*
32 *interest or criticism, and the public*
33 *interest is best serviced by investigating*
34 *the incident as a critical incident.*
35

36 Now, section 113 of the LECC Act provides that the
37 Commissioner of Police is to ensure that the actions of
38 police involved in a critical incident at the time or
39 leading to the critical incident are fully and properly
40 investigated by the NSW Police Force.
41

42 And section 113(2) notes that a critical incident
43 investigation is to include, amongst other matters, the
44 extent to which members complied with relevant policies,
45 practices and procedures of the NSW Police Force; the need,
46 if any, for changes to such policies, practices and
47 procedures; and also any systemic safety or procedural

1 issues arising from the actions of those members.

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1 *satisfied the response was appropriate.*

2
3 And he also noted that the ultimate decision as to whether
4 or not to declare a critical incident was for the region
5 commander, namely, Acting Assistant Commissioner Tracy
6 Chapman.

7
8 And I note that since June 2023, there have been
9 numerous media reports that raise concerns about the
10 delayed response of police to domestic violence 000 calls,
11 certain of which have again highlighted the absence of any
12 critical incident investigation into Ms Lucena's case
13 relative to other domestic violence deaths, including in
14 2024.

15
16 Now, on 31 July this year, the Commission received
17 correspondence from the Honourable Ms Sue Higginson MLC in
18 relation to asserted failings in the police response to the
19 000 call about the bashing of a woman in Ballina on
20 3 January 2023, including in terms of the delayed response
21 to a domestic violence call and on account of the failure
22 to declare a critical incident.

23
24 The Commission considers this correspondence to amount
25 to a formal complaint raising concerns about police
26 misconduct or serious misconduct under the LECC Act, and
27 against that backdrop, I come to the essential scope and
28 purpose of these public examinations, which is as follows,
29 Commissioner:

- 30
31 1. *To investigate the circumstances*
32 *surrounding the NSW Police Force response*
33 *to a 000-call made at 7.03pm on 3 January*
34 *2023 reporting that a woman was being*
35 *bashed behind the Salvation Army building*
36 *in Ballina, including:*
37 *(a) the radio broadcast and dispatch of*
38 *police in relation to the 000 call*
39 *received;*
40 *(b) the response (including timing) of*
41 *NSW Police Force Officers to the radio*
42 *broadcast;*
43 *(c) the actions of NSW Police Force*
44 *Officers on attending the location of the*
45 *alleged assault; and*
46 *(d) the decision by NSW Police Force*
47 *Officers not to declare a critical incident*

1 *in relation to the death of Lindy Lucena,*
2 *and any review of that decision.*

3
4 But the second aspect of the public examinations is
5 to:

6
7 *... consider whether any conduct is (or*
8 *could be) police misconduct, administrative*
9 *officer misconduct, serious misconduct or*
10 *agency maladministration and relatedly --*

11
12 and importantly --

13
14 *to consider whether any systemic issues*
15 *arise that could be areas for agency*
16 *improvement.*

17
18 As you have indicated, Commissioner, these
19 examinations will proceed over the next four-day period
20 from today until Monday, 8 December.

21
22 The proposed order of the public examinations is as
23 follows: today we will have Ms A, a senior communications
24 officer, followed by Mr B, another senior communications
25 officer; finally today we will have Officer D, via AVL.

26
27 Tomorrow, 4 December, there will be Officer C followed
28 by Officer E, the duty officer. Then on Friday, it will be
29 Superintendent Scott Tanner who was the commander and
30 remains the commander of Richmond police district, and then
31 Superintendent Tracy Chapman who was the acting assistant
32 commissioner and northern region commander at the relevant
33 time.

34
35 Finally on Monday, we will have Assistant Commissioner
36 Joseph Cassar followed by Assistant Commissioner Peter
37 Cotter, who is the current commander of the professional
38 standards command.

39
40 Commissioner, unless there are any matters arising
41 from my opening, I'm in a position to call the first
42 witness.

43
44 THE COMMISSIONER: Thank you, Ms Sullivan. No, and I will
45 step briefly off the bench while we arrange that. In fact,
46 it might be a suitable time to take the morning tea break.
47

1 Before I do that, I just wanted to indicate our
2 intention had been to upload the recording of Ms Sullivan's
3 opening and my opening remarks to the Commission's website.
4 If counsel have a difficulty with that approach, you are
5 invited to make that approach now or after the morning tea
6 break. I'm seeing a series of shaking of heads.
7 Excellent. So we'll make that arrangement. Otherwise,
8 witnesses that have been granted a pseudonym will not have
9 their evidence - the video recording of their evidence -
10 uploaded for obvious reasons.

11
12 We will adjourn. We will hear from Ms A when I return
13 to the bench. We will take a 20-minute morning tea break
14 and perhaps I could just remind any other witnesses that
15 are here in court, with the exception of Assistant
16 Commissioner Cotter, who I don't believe is here today, you
17 need to leave the Commission room while Ms A gives her
18 evidence. So people are entitled to return once their
19 evidence is done but not to be here beforehand, and I just
20 invite legal representatives to remind their client of
21 that. We will stand adjourned for 20 minutes.

22
23 **SHORT ADJOURNMENT**

24
25 MS SULLIVAN: Thank you, Commissioner. Before I call the
26 first witness, could I just attend to tendering some public
27 exhibits, please.

28
29 THE COMMISSIONER: Certainly.

30
31 MS SULLIVAN: The first exhibit is a CAD diagram of 73
32 Tamar Street, Ballina. That's the document that was
33 annexed to Justice Rothman's decision. That is barcode
34 8642693. I tender that document.

35
36 THE COMMISSIONER: That will be exhibit 1.

37
38 **EXHIBIT #1 CAD DIAGRAM OF 73 TAMAR STREET, BALLINA,**
39 **BARCODED 8642693**

40
41 MS SULLIVAN: Thank you. The second document is the
42 transcript of the 000 call on 3 January 2023. That is
43 barcode 8634152. I tender that document.

44
45 THE COMMISSIONER: That will be exhibit 2.

1 EXHIBIT #2 TRANSCRIPT OF THE 000 CALL ON 3 JANUARY 2023,
2 BARCODED 8634152
3

4 MS SULLIVAN: Thank you, Commissioner. I now call Ms A to
5 the witness box.
6

7 THE COMMISSIONER: Thank you.
8

9 MS SULLIVAN: She will take an oath.
10

11 <MS A, sworn: [11.18am]
12

13 THE COMMISSIONER: So, Ms A, this is a public examination.
14 There are a couple of procedural matters we need to go
15 through before we start and I will take you through those.
16

17 The first is under section 62 of the Law Enforcement
18 Conduct Commission Act, I do need to announce the general
19 scope and purpose of the examination. You were in the back
20 of the room during counsel assisting's opening, weren't
21 you?
22

23 THE WITNESS: Yes.
24

25 THE COMMISSIONER: In that case, we'll take that as being
26 announced. It's the same as was on your summons.
27

28 THE WITNESS: Yes.
29

30 THE COMMISSIONER: So I think you are aware of that.
31

32 The second issue is that I propose that any exhibits
33 that are entered into, admitted into evidence here, will be
34 confidential, so they will be given a suffix C and access
35 to those exhibits will be limited to counsel assisting,
36 officers of the Commission, Ms A, and any legal
37 representatives from any of the other witnesses who wish to
38 seek access to those.
39

40 I did want to note that I have made a non-publication
41 order in relation to your identity, so you will be known as
42 Ms A, and if any of us slip during the process and
43 accidentally call you by your name, I would invite any
44 members of the Bar table to raise that - it doesn't have to
45 be those by whom you are legally represented - and we will
46 take steps to correct the transcript before it's published,
47 and any members of the media, I remind them that that name

1 is not to be published.

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The other issue was whether Ms A wished to take an objection under section 75 of the Law Enforcement Conduct Commission Act.

MR WILCOX: Yes, she does, Commissioner, in respect of her evidence.

THE COMMISSIONER: And you've had the opportunity to go through that with her, Mr Wilcox?

MR WILCOX: Yes.

THE COMMISSIONER: Ms A, I will make a declaration pursuant to section 75 of the Law Enforcement Conduct Commission Act. It's a very sensible approach that you've taken. It's the approach that almost every witness sitting in that chair takes. There is nothing adverse to you about your decision to take that objection, and any answers that you give or other things given by you will be regarded as having been given on objection.

I know Mr Wilcox has been through it with you but I do need to just cover it again myself to make sure that you are clear about it.

THE WITNESS: Sure.

THE COMMISSIONER: Even though your answers are given on objection, they can still be used against you in certain circumstances, and that includes in proceedings for an offence under the Law Enforcement Conduct Commission Act, so you still need to be very clear about being on oath and giving truthful answers today.

THE WITNESS: Oh, yes.

THE COMMISSIONER: It could be used for this investigation or to allow the Director of Public Prosecutions to provide advice, and it could also be used in evidence against you in disciplinary proceedings under the Government Sector Employment Act or under the police force Act - the Police Act. You are clear?

THE WITNESS: Okay.

1 THE COMMISSIONER: Do you have any questions about how
2 that works?

3
4 THE WITNESS: No.

5
6 THE COMMISSIONER: I will hand over to Ms Sullivan. .

7
8 MS SULLIVAN: Thank you, Commissioner.

9
10 <EXAMINATION BY MS SULLIVAN:

11
12 MS SULLIVAN: Q. Ms A, your name is known to the
13 Commission?

14 A. Yes.

15
16 Q. Can you tell us your current role, please?

17 A. Senior communications officer for the NSW Police
18 Force.

19
20 Q. Are you attached to the Newcastle radio operations
21 group?

22 A. Yes, I am.

23
24 Q. And you have been a communications officer since July
25 2002; is that right?

26 A. Yes, that's correct.

27
28 Q. And a senior communications officer since 2008?

29 A. Yes.

30
31 Q. And you've worked at the Newcastle radio operations
32 group since 2004?

33 A. Yes.

34
35 Q. Over 20 years?

36 A. Yes.

37
38 Q. Thank you. On 24 November this year, you provided
39 a response to the Commission, a section 54 response; do you
40 recall that?

41 A. Yes, yes.

42
43 Q. You've had an opportunity to review that response?

44 A. Yes.

45
46 Q. Is there a correction that you wish to make to that
47 response in relation to paragraph 20, perhaps?

1
2 We might bring that document up and I can show you
3 what I'm referring to. Could we have, please, tab 133,
4 which is Ms A's response, without showing the first page -
5 that is, barcode 8634926 - and go to paragraph 20, please,
6 which is on page barcode 8634929, and I might take the
7 liberty of reading the impugned sentence to you for your
8 consideration.

9
10 THE COMMISSIONER: Q. Can you see it there, Ms A?

11 A. No.

12
13 THE COMMISSIONER: It's not up on our screens. Is it on
14 your screen?

15
16 MS SULLIVAN: No.

17
18 THE WITNESS: There we go.

19
20 THE COMMISSIONER: You have it there, excellent.

21
22 MS SULLIVAN: Q. So it is the last sentence there:

23
24 *The Dispatcher can override the Dispatcher*
25 *but usually only with their permission*
26 *unless in an urgent situation.*

27
28 Should that read:

29
30 *The Dispatch Assist can override the*
31 *Dispatcher ...*

32
33 A. Yes.

34
35 Q. Thank you. So subject to that correction, this
36 response is true and correct, to the best of your
37 knowledge, information and belief?

38 A. Yes.

39
40 MS SULLIVAN: Thank you. Commissioner, I tender tab 133,
41 that is, the document that commences at barcode 8634924
42 through to 8634952.

43
44 THE COMMISSIONER: So that will be exhibit 1C.

45
46 **EXHIBIT #1C MS A'S SECTION 54 REPLY TO THE COMMISSION DATED**
47 **24 NOVEMBER 2025, BARCODED 8634924-8634952**

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MS SULLIVAN: Thank you, Commissioner.

Q. In preparation for giving your evidence today, Ms A, you have had the opportunity to listen to the audio recordings from 3 January, is that right --

A. Yes.

Q. -- the relevant passage? And you've also familiarised yourself with the relevant policies and procedures?

A. Yes.

Q. Thank you. I just want to get some background about the role of a senior communications officer, if I could. Can you just explain to us what is the nature of that job? What are the roles and functions of a senior communications officer?

A. Essentially, our role is as a radio operator, a a dispatcher or dispatch assist. That's our primary role.

Q. Yes.

A. We also do take 000 calls, 000 calls, but our main role within the force is to - is on the radio, radio dispatch and assist.

Q. Right.

A. As a senior communications officer, you're just one level higher than a communications officer, so it's overseeing the other staff members. You're the first person in the chain of command for various things - complaints, assistance, yeah, that sort of thing.

Q. But as a senior communications officer, you could be in the dispatch role?

A. Yes.

Q. Or you could be in the dispatch assist role; is that right?

A. Yes, yes.

Q. And during the course of a shift you might move around those roles --

A. We do --

Q. -- is that accurate?

A. -- for fatigue reasons.

1
2 Q. I see. Are they the two primary roles that, can
3 I call it an SCO --
4 A. Yes.
5
6 Q. -- will undertake?
7 A. Yes.
8
9 Q. Thank you. We might bring up, please, tab 143, which
10 is an extract from what we understand are the VKG SOPs.
11 Can I call them that?
12 A. Yes.
13
14 Q. What would you refer to them as?
15 A. That's pretty much what we say.
16
17 MS SULLIVAN: VKG SOPs. All right. That's tab 143, at
18 barcode ending 016, please. Could we bring that up on
19 screen.
20
21 THE COMMISSIONER: Ms A, could I just invite you to move a
22 little closer to the microphone as well, if you wouldn't
23 mind.
24
25 THE WITNESS: Oh, sure.
26
27 THE COMMISSIONER: Thank you.
28
29 MS SULLIVAN: Q. Now, that is the VKG SOPs outlining the
30 role of a dispatcher - is that right - that you see at
31 barcode ending 016 --
32 A. Yes.
33
34 Q. -- on that page? And is it right that the duties of
35 the dispatcher include effective coordination of incidents
36 ensuring timely police response, and reviewing the current
37 list on a regular basis, also known as "housekeeping",
38 ensuring that acknowledged incidents do not sit in the list
39 for an extended time without action?
40 A. Yes.
41
42 Q. And then also you will see highlighted there:
43
44 *Maintaining a situational awareness of*
45 *incidents, monitoring location and welfare*
46 *of Police units.*
47

1 A. Yes.

2

3 Q. Those are critical roles that the dispatcher
4 undertakes --

5 A. Yes.

6

7 Q. -- is that right? Thank you.

8

9 MS SULLIVAN: Commissioner, I might tender tab 143 at this
10 point because I will be referring to it throughout these
11 examinations. That is a document that commences at barcode
12 8647001 through to 8647104.

13

14 THE COMMISSIONER: That will be exhibit 2C.

15

16 **EXHIBIT #2C EXTRACT FROM THE VKG SOPS, OUTLINING THE ROLE**
17 **OF A DISPATCHER, BARCODED 8647001-8647104**

18

19 MS SULLIVAN: Thank you.

20

21 Q. Have you been working in the dispatch role as a senior
22 communications officer since you started at Newcastle?

23 A. Yes.

24

25 Q. And does the role of a dispatcher, in addition to
26 broadcasting over the radio, include making calls to police
27 in the field or responding to calls from them to do certain
28 things?

29 A. Yes.

30

31 Q. And that can mean that you're focusing on, for
32 example, checks on the COPS system at various points in
33 time?

34 A. Yes.

35

36 Q. Can you explain to us how a dispatcher set-up is? So
37 there's presumably one screen that has the main jobs to be
38 broadcast, is there?

39 A. We sit in front of, essentially, three or four
40 screens.

41

42 Q. Right?

43 A. So the CAD system is spread across the main three
44 screens. We have a map on this screen --

45

46 Q. A map on the right-hand side you are gesturing to?

47 A. The right-hand side, yeah.

1
2 Q. Yes.
3 A. The main screen is the centre screen, where all the
4 job list is and --
5
6 Q. Okay. What's that called, does that have a particular
7 name, that centre screen?
8 A. The job list.
9
10 Q. Job list. It's a job list screen, yes.
11 A. And then on the left-hand screen, can be a job list
12 screen, but when you actually open a specific CAD job, it
13 is listed in full - well, not in full but on that screen.
14
15 Q. So an extended --
16 A. An extended view, yeah.
17
18 Q. If you click on a job, it becomes an extended view; is
19 that right?
20 A. Yes, yes.
21
22 Q. Okay. And so when a job is sent through CAD to
23 dispatch, where does it first pop up? Is it on the job
24 list screen or --
25 A. On the job list screen and it's a little - a little
26 bar with numbers on it.
27
28 Q. And a person needs to click on it to open it to see
29 what it says?
30 A. Yes.
31
32 Q. And we know that there is particular jobs that are
33 priorities. Are they a different colour if, for example,
34 they're a priority 2?
35 A. Yes.
36
37 Q. What colour are those jobs?
38 A. Red. Red on black, with black writing.
39
40 Q. And are other jobs different colours or are they all,
41 for example, grey?
42 A. A priority 3 job is generally blue.
43
44 Q. Yes.
45 A. A priority 2 is a red. And a priority 1, which we
46 classify as a signal 1, is also red, but it comes through
47 a bit differently. We - can I just explain?

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Q. Please. Please do.

A. If the job is sent through as what we call a partial, which generally means it's a fluid job, so things are happening as the call-taker is taking the call, so, for example, I guess an armed robbery, you know, they'll run into the service station, they'll run out, they'll jump in a car, that's fluid.

THE COMMISSIONER: Q. So something that's in progress?

A. So it's in progress and that comes through as a partial and that's red numbers on a black - so it's still a priority 2 but it is on a black background. And we know then that we're going to continue to get prompts. We've got a little prompt bar. So that's an ongoing thing.

But if it's just a job that's sent through as a priority 2, not a partial, it's just that red bar with black writing.

MS SULLIVAN: Q. Thank you. That's a very clear explanation, with respect. A signal 1, are those jobs quite rare?

A. Very.

Q. How often would you get one of those in the course of a year?

A. Oh, in my 23-odd years, I've had two.

Q. Right. So they're very, very rare?

A. Yes.

Q. Thank you. And so when you are sitting at your - as a dispatcher, that is, you are sitting at the three screens, job list screen in front of you, you're in command of a single channel at that point in time; is that right?

A. Sometimes.

Q. Sometimes you might be in command of two channels where the channels have merged --

A. Correct.

Q. -- is that the position? All right. That's not the case - we're not dealing with merged channels in relation to the relevant period, 7 to 8pm, are we?

A. No, no.

1 Q. Okay. We'll come back to that concept of merging
2 channels later. But on the assumption that you're not
3 dealing with a merged channel, you're just, as
4 a dispatcher, dealing with one channel; is that right?
5 A. Correct.
6
7 Q. How many channels at Newcastle radio operation group?
8 A. Six.
9
10 Q. The relevant channel for the far north coast is
11 channel Papa; is that right?
12 A. That's correct, yes.
13
14 Q. Okay. Now, a dispatcher can have a dispatch assist;
15 is that right?
16 A. Yes.
17
18 Q. What is the role of a dispatch assist?
19 A. Essentially as it says, to assist the dispatcher, and
20 at the same time, to take 000 calls.
21
22 Q. And what type of assistance does the dispatch assist
23 provide to the dispatcher?
24 A. Putting checks on jobs, reading through jobs if the
25 dispatcher's busy, making phone calls to other emergency
26 services, council, any number of people, ringing back
27 informants if the SOPs allow. Oh, gosh, so many things.
28 So many things.
29
30 Q. How do you know to undertake that assistance? Does
31 the dispatcher tell you, "Ms A, can you please call X", or
32 how is that allocation of work undertaken?
33 A. You can be asked, you can be sent a service request
34 through the CAD system, but generally, if you're a good
35 dispatch assist and you're proactive, you're listening and
36 you have channel awareness and you'll do it.
37
38 Q. So the person who is the dispatcher will understand
39 that when a call sign rings in and says, "Can I have
40 a check on this POI", there will be an understanding that
41 you, as dispatch assist, would look that up on COPS; is
42 that the type of way in which it would work?
43 A. Yes, yes. The only time that that doesn't happen
44 obviously is if I'm on a phone call on, like - or a 000
45 call, and that generally they will send a service request
46 and then we would just get a list of things that we need to
47 do.

1
2 Q. Where do you sit, as dispatch assist, relative to the
3 dispatcher?
4 A. Next to them.
5
6 Q. You always sit next to them?
7 A. No.
8
9 Q. You might be sitting somewhere else within the
10 Newcastle radio operations group as in another --
11 A. Generally close by.
12
13 Q. Yes.
14 A. If you're a shared offsider, I could be sitting at one
15 of two channels. So may not be sitting next to that
16 dispatcher.
17
18 Q. Okay. Explain to us the concept of a shared offsider
19 if you would.
20 A. So a shared offsider means that I would be a dispatch
21 assist for two dispatchers on two separate channels. So
22 without merging the channels together they'll keep the
23 channels separate but then I'm relied on to look after both
24 dispatchers and both channels.
25
26 Q. All right. How do you manage two channels
27 simultaneously as a shared offsider?
28 A. What's the best way for me to describe it? So my CAD
29 system, I can look at both channels, so I can have the jobs
30 for both channels on CAD.
31
32 Q. Yes.
33 A. But I can only listen to one channel.
34
35 Q. How important is the listening to the channel to --
36 A. Absolutely important.
37
38 Q. -- that role?
39 A. Absolutely.
40
41 Q. Critical?
42 A. Absolutely.
43
44 Q. So you can only be ever listening to one channel as
45 a shared offsider?
46 A. I can manually change it, so if I can hear that
47 something's going on on the other channel, I can change it,

1 but subsequently I stop listening to the channel I was
2 listening to and then start listening to another one.

3

4 Q. How do you know which channel to give priority to?

5 A. I can hear the other dispatcher talking a lot or I can
6 see the jobs on the channel. So if we suddenly get a run
7 of priority 2s or we suddenly just get an influx of jobs
8 I might look and go, "Okay, well, you're doing okay for the
9 minute, I'll just go and listen to the other dispatcher."

10

11 Q. I imagine it takes a lot of cognitive bandwidth to
12 understand that shared offside role; is that fair?

13 A. Yes, yes.

14

15 Q. And whilst you're juggling two channels and listening,
16 moving between listening to one and then listening to the
17 other, there's the capacity for information to be missed;
18 is that fair?

19 A. Absolutely, yes.

20

21 Q. How long has the shared offside role operated, to
22 your knowledge?

23 A. In what respect?

24

25 Q. In Newcastle radio operations group, how long have
26 they had this model of a shared offside?

27 A. Oh, I couldn't tell you.

28

29 Q. Was it there when you started in 2004?

30 A. Oh, no, it's evolved. It probably sort of started to
31 happen when we were able to merge channels together.

32

33 Q. When was that?

34 A. I don't recall.

35

36 Q. Can you give just a broad approximation - are we
37 talking five years, are we talking 10 years, are we
38 talking --

39 A. Maybe 5 to 10.

40

41 Q. Five to 10 years?

42 A. Yes.

43

44 Q. Around that time this role emerged?

45 A. Yes, and we started to be able to - we could take
46 a channel from Sydney or they could take - another radio
47 room could take a channel from us.

1
2 Q. Is there any point where the dispatch assist takes
3 over the dispatcher's channel?
4 A. Very rarely. I would say it would probably happen
5 more often - so as if we're sitting with a probationary
6 communications officer and they're struggling.
7
8 Q. Yes.
9 A. You may jump in and help. But generally speaking, the
10 way we word our positions on the channel is you're dispatch
11 and dispatch assist and the dispatch is known as the
12 driver. We call them the driver because they're
13 essentially in charge of what happens on that channel.
14
15 Q. I see.
16 A. If a channel is very busy and you're only just
17 a dispatch and dispatch assist, quite often we'll split it
18 and we'll say, all right, "Dispatch, if the Richmond cars
19 call, you will respond to them and if the Tweed-Byron car
20 calls, I will respond to them." That doesn't happen very
21 often but that does happen.
22
23 Q. Okay. So in effect, you've got two drivers who have
24 divided up the workload themselves, even though you're
25 technically a dispatch assist?
26 A. Yes.
27
28 Q. As a dispatch assist, you can make broadcasts, of
29 course?
30 A. Yes.
31
32 Q. And is it correct that during that 7 to 8pm audio
33 recording, we do hear you on occasion responding to
34 requests in the field --
35 A. Yes.
36
37 Q. -- and broadcasting information? All right. So we
38 know that you were, in fact, operating in that shared
39 offside role with the two channels, Papa and Oscar, from 7
40 to 7.30 during that shift on 3 January 2023; is that right?
41 A. Yes, yes.
42
43 Q. We've got the audio of channel Papa and we can form
44 a view about the events going on, but do you remember what
45 was going on on channel Oscar for that shift?
46 A. No.
47

1 Q. Appreciating it was almost three years ago?
2 A. I don't recall.
3
4 Q. How good is your memory about the events of
5 3 January - that night shift, 3 January, 2023?
6 A. I don't recall the shift.
7
8 Q. Yes.
9 A. But I do recall the job.
10
11 Q. All right. Can you just explain that to me? Why do
12 you recall the job?
13 A. I don't know. There's some jobs - like, I remember
14 jobs right back from when I started. There's just some
15 jobs that, for whatever reason, stay with you. So I don't
16 know if it's because it was in the media or - but I recall
17 the job.
18
19 Q. Yes.
20 A. But I don't recall the night. You've got to consider
21 over that three-year period I've had thousands and
22 thousands of jobs not dissimilar to the job we're talking
23 about.
24
25 Q. That's certainly understood. That's certainly
26 understood, Ms A. When did you first find out that this
27 particular job had - was connected to the tragic death of
28 Ms Lucena? Do you remember when you first became aware of
29 that?
30 A. That night.
31
32 Q. That night? When it came over after around, sort of
33 12.30?
34 A. Yes.
35
36 Q. Okay, we'll come back to that. Thank you. So we're
37 still dealing with systems and processes. Now, there's
38 a shift supervisor who operates at the Newcastle radio
39 operations group; is that right?
40 A. Yes.
41
42 Q. What's their role?
43 A. To oversee the whole radio room, to oversee the
44 channels. They're the rescue coordinator as well so if
45 there is any rescues, they need to coordinate that. They
46 will often coordinate PolAir if they're required, call out
47 dogs for dog squad. It's massive, their role, yeah.

1
2 Q. Do they have any role in attending to, for example,
3 priority 2 jobs that are very delayed in a police response?

4 A. Yes, and when - they are notified of it via CAD.
5

6 Q. How are they notified, as in what do they get
7 a notification of?

8 A. There's a tab for what we call NS1, which is the
9 Newcastle supervisor, and it's a tab that, on a specific
10 job, you would click on and then it presents itself to
11 their CAD screen at their desk.
12

13 Q. Who would send that notification?

14 A. The dispatcher.
15

16 Q. Have you seen anything to suggest that an NS1 message
17 was sent in connection with the job we're examining?

18 A. Not that I recall, no.
19

20 Q. Okay, all right.
21

22 THE COMMISSIONER: Q. Sorry, can I clarify, Ms A, it's
23 not automatically generated by the CAD system; it's the
24 dispatcher who escalates it?

25 A. Yes.
26

27 THE COMMISSIONER: Thank you.
28

29 MS SULLIVAN: Q. All right. Coming to the VKG SOPs.
30 You, no doubt, have a very deep familiarity with those,
31 you're working with them every day.

32 A. (Witness nods).
33

34 Q. Just in terms of critical parts, we've touched on
35 this, and you heard my opening, but it's right, isn't it,
36 that a dispatcher must maintain situational awareness at
37 all times?

38 A. Yes.
39

40 Q. Not unlike a traffic controller, I imagine?

41 A. Correct.
42

43 Q. And you are well aware of the prioritisation
44 categories, priority 2 requires an immediate response by
45 police?

46 A. Yes.
47

1 Q. Not least because it can involve a serious threat to
2 life?
3 A. Yes.
4
5 Q. Now, once a dispatcher receives a PoliceCAD priority 2
6 job, they have to make an initial assessment; is that
7 right?
8 A. Yes.
9
10 Q. And that includes a consideration as to whether the
11 priority and incident type that have been allocated are
12 appropriate; is that right?
13 A. Yes, correct.
14
15 Q. And the dispatcher can increase the priority?
16 A. Yes.
17
18 Q. And can change the incident?
19 A. In some circumstances, yes.
20
21 Q. What are those circumstances?
22 A. The incident type --
23
24 Q. Yes.
25 A. -- they can change any incident type providing we've
26 got the information that correlates to that type. So, for
27 example, if the job said, "Mr and Mrs Smith are arguing out
28 the front", there's a domestic relationship given in that
29 comment, but if the job came through as a check bona fides
30 or a concern for welfare, then we could change that to
31 a domestic because it's clear that it's Mr and Mrs Smith.
32
33 Q. And is it best practice to ensure that an incident is
34 classified as accurately as possible?
35 A. Yes.
36
37 Q. All right. So you're aware of the concern for welfare
38 incident category for this incident?
39 A. Yes.
40
41 Q. But there's also an assault category, isn't there?
42 A. There is.
43
44 Q. Which do you think is most appropriate?
45 A. For this job?
46
47 Q. Yes.

1 A. Assault.

2

3 Q. Why?

4 A. Because he used the word "bash."

5

6 Q. And in your view, does a concern for welfare have the
7 potential to downgrade the seriousness of that?

8 A. To a certain extent, yes.

9

10 Q. Do you think it would impact, in your experience,
11 whether or not police in the field might respond to it with
12 the same level of urgency?

13 A. Yes.

14

15 Q. Thank you.

16 A. Just as a sideline, too, we also have another ability
17 on the CAD system when the job is developed, to put
18 "Occurring now".

19

20 Q. "Occurring now", that's a status?

21 A. Yes.

22

23 Q. Although that's not necessary when it's obvious from
24 the job itself that it's occurring now?

25 A. Yes.

26

27 Q. And that would be the case in relation to this job,
28 when the informant has reported words to the effect, "male
29 stated female being bashed behind Salvation Army"?

30 A. I believe so, yes.

31

32 Q. That suggests it's occurring now?

33 A. Yes.

34

35 THE COMMISSIONER: Q. Can I ask, Ms A, would it make
36 a difference, do you think, to police listening to these
37 CAD jobs in the field or watching them on their screens if
38 you add in that "occurring now"?

39 A. Yes.

40

41 Q. So the difference between "assault" and "assault
42 occurring now"?

43 A. Yes.

44

45 Q. What would the difference be in your mind?

46 A. Unless it's specified in the narrative of the job, it
47 could have been an assault that occurred 10 minutes ago, an

1 hour ago. If it says it's occurring now, then it's
2 occurring now.

3

4 Q. And that escalates it for police on the ground?

5 A. Yes. And even for us, too, if we've got multiple
6 priority 2 jobs going, we then have to prioritise those
7 priorities, so absolutely that would make a distinction.

8

9 MS SULLIVAN: Q. How do you do that?

10 A. It sort of comes down to job experience and
11 commonsense.

12

13 Q. Do the VKG SOPs provide you any assistance in relation
14 to that prioritisation?

15 A. A little bit.

16

17 Q. Yes? In what way?

18 A. It can also just be having been on the channel for
19 some time. You know, you might even have a job where that
20 address has already popped up a couple of times or - yeah,
21 it - there can just be so many different things that can
22 influence you in the way you prioritise those priorities.

23

24 Q. To what extent should the fact that there's only been
25 one call in relation to a particular job influence that
26 prioritisation?

27 A. Yeah, it changes it up quite considerably, yes.

28

29 Q. Does it? Why?

30 A. Yes.

31

32 Q. Mainly because when that sort of thing normally
33 happens, we would get multiple calls for it, if it was
34 going on. But again, it depends on the location and the
35 time of day and that sort of thing and people around.
36 So --

37

38 Q. But as in this instance, there may only be one call
39 about a very serious priority 2 matter?

40 A. Yes, of course.

41

42 Q. Agreed?

43 A. Of course.

44

45 Q. And so that's a potentially dangerous assumption to
46 work on?

47 A. Yes.

1
2 Q. Do you agree?
3 A. Yes.
4
5 Q. Now, just in terms of - sorry, before we move on from
6 that, is it any role of the dispatch assist to change those
7 matters that we're talking about, priority or incident
8 type, or is that all the dispatcher's mandate?
9 A. It's generally the dispatcher. The dispatcher could
10 ask the dispatch assist to do it for them if they were
11 busy.
12
13 Q. But he's the driver?
14 A. But he's the driver, so essentially yes.
15
16 Q. Or she; he or she is the driver?
17 A. He or she, yes.
18
19 Q. Is it typical that if you had multiple priority 2s
20 coming around the same time, you might prioritise
21 a domestic violence matter?
22 A. Yes.
23
24 Q. Do you think from the information that was provided in
25 relation to this incident, that there was a basis to
26 categorise it as a domestic violence incident?
27 A. It could have been one or the other.
28
29 Q. "One or the other" being?
30 A. Only - an assault or domestic, or essentially you can
31 put multiple job statuses.
32
33 Q. Yes.
34 A. So it could have been domestic assault, only because
35 of the wording when the informant said "Male's bashing his
36 missus", that gives it more of a domestic situation than
37 not.
38
39 Q. Yes, yes. But in fairness to the telephonist, when he
40 spoke to the informant, that wasn't repeated to him
41 directly. That was what he heard from the Telstra
42 operator?
43 A. Yes, yes.
44
45 Q. So given that exchange, do you think an assault is
46 the --
47 A. Yes.

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Q. -- best incident type?
A. Yes.

THE COMMISSIONER: Q. And would you presume, Ms A, that where a man is bashing a woman, that it is necessarily a domestic relationship or - is that an appropriate assumption to make?
A. No, and I think - but I think that is something that I've learnt over time. You know, at - when you go through training, you're basically told, "If it's a man and a woman, it's a domestic", but it's something that's learned over time, that that's not always the case.

Q. That you can't make that assumption?
A. That's right.

THE COMMISSIONER: Thank you.

MS SULLIVAN: Q. So a priority 2 incident, as was canvassed in the opening, is preceded by a two-tone alert before a broadcast to police in the field; that's right?
A. Yes.

Q. That's because of the seriousness of an incident of that type --
A. Yes.

Q. -- to get their attention? Now, in terms of the requirement for the initial broadcast of a priority 2 incident, that should occur within 90 seconds of receipt of the CAD; is that right?
A. When all the stars align, yes.

Q. In your experience, how common is that time frame met for priority 2 incidents?
A. I couldn't tell you. I would have to say most of the time.

Q. Most of the time?
A. (Witness nods).

Q. And then, thereafter, there is a requirement for rebroadcast of a priority 2 every 60 seconds; is that right?
A. Yes, yes.

1 Q. Again, preceded by the two-tone alert --
2 A. Yes.
3
4 Q. -- for police in the field? What happens if the job
5 isn't acknowledged by police within five minutes?
6 A. It should be escalated to the district's supervisor.
7
8 Q. Yes.
9 A. To get them to make a determination or give
10 a direction.
11
12 Q. So how does that escalation occur?
13 A. Generally speaking, they would be called on air, we'd
14 call for the relevant supervisor on air.
15
16 Q. So would that be, in this instance, Ballina 14?
17 A. Yes.
18
19 Q. All right. Or the duty officer?
20 A. Not necessarily, it's usually the supervisor.
21
22 Q. Okay.
23 A. Yes.
24
25 Q. And what would be said?
26 A. We'd just say "Ballina 14, there's an outstanding
27 concern for welfare. It's come through as a priority 2."
28 And name the location. "Do you have a direction?"
29
30 Q. Right, a direction as in, "How are you going to
31 allocate resources"?
32 A. Yeah, "Do you have a car crew?" "Do you want it
33 downgraded?" Yes. So - and then generally speaking,
34 they'll just say, "We're aware of it", or "Give it to
35 another car crew", or something, yeah.
36
37 Q. And if there's no arrangements that are made on the
38 spot, then, is it your obligation to continue to
39 rebroadcast until you know a crew has acknowledged the
40 priority 2?
41 A. Yes. We have to keep broadcasting it.
42
43 Q. In your experience, is it usually the case that that
44 60-second rebroadcast requirement is met?
45 A. Not always.
46
47 Q. Not always. How commonly is it met, in your

1 experience? 50 per cent of the time? Just ballpark
2 figure?
3 A. Oh, it's probably 70 or 80 per cent. But again, it's
4 very dependent on the channel and how busy.
5
6 Q. Yes.
7 A. Yes. I couldn't say specifically, because every
8 single - every single job and every single channel is
9 different at different times of the day.
10
11 Q. If you are unable to get a response from the
12 supervisor, in terms of escalation, what happens after
13 that?
14 A. We'll continue to call it and then maybe he would
15 ask - he or she would ask me to ring the station.
16
17 Q. And speak to the duty officer?
18 A. And speak to - usually you have a mobile supervisor,
19 and you often have an internal supervisor.
20
21 Q. Yes.
22 A. And then speak to the internal supervisor.
23
24 Q. What about the shift supervisor within the radio
25 operations group - do they have a role in assisting you
26 when you're escalating a matter?
27 A. Not often.
28
29 Q. That's rare?
30 A. Rare.
31
32 Q. What role would they take if they were to become
33 involved?
34 A. I think they would just do what we would do and ring
35 the - ring the relevant station.
36
37 Q. Do you have any sense as to what resourcing you have
38 on for a particular shift or is that just outside your
39 mandate?
40 A. For the --
41
42 Q. So, for example --
43 A. For the crews?
44
45 Q. -- the night shift. Yeah, the crews, the crews that
46 are available?
47 A. Oh, no. We, on our CAD system, we have call signs.

1
2 Q. Yes.
3 A. But then that's also based on the car crews logging on
4 to CAD in their vehicles, signing on, and then that is also
5 dependent on whether their CAD works.
6
7 Q. Okay. So the mobile data terminals in the vehicles
8 can display the CAD messages --
9 A. Yes. And we get a --
10
11 Q. -- for officers in the field?
12 A. Yes.
13
14 Q. But sometimes they don't work; is that what you --
15 A. That's correct.
16
17 Q. Do they display a priority 2, to your knowledge - that
18 is, the mobile data terminals that are working, do they
19 display priority 2 in red?
20 A. I believe so.
21
22 Q. Now, the SOPs provide, don't they, that during the
23 times of high demand for air time and availability of
24 police resources, it's not acceptable to contravene
25 broadcasting procedures and allow incidents to sit in the
26 dispatcher's list without action. It's important for
27 dispatchers to take action to facilitate the acknowledgment
28 of outstanding incidents by actively seeking direction from
29 PAC/PD supervisors and duty officers?
30 A. Yes.
31
32 Q. You are aware of that requirement?
33 A. Yes.
34
35 Q. That's what you've just been referring to?
36 A. Yes.
37
38 Q. Before I move to the particular night in question, are
39 there any other matters of procedural policy that you think
40 it would facilitate the Commissioner to understand?
41 A. I just think the standard operating procedures, in
42 their wording, is very specific and doesn't give the
43 opportunity for movement. And I know they need to be black
44 and white, but until you sit on a channel, on a whatever
45 night it is, and have multiple priority 2 jobs coming in
46 plus all your logistical jobs, those SOPs are not human -
47 it's not humanly possible to adhere to them 100 per cent.

1
2 Q. Okay. There is some scope, isn't there, in the
3 formulation for acknowledgment that - "reasonable efforts"?
4 A. Yes.
5
6 Q. So that takes into account, perhaps, that it won't
7 always be possible?
8 A. Yes.
9
10 Q. Do you agree?
11 A. Yes.
12
13 Q. "All reasonable efforts and attempts will be made to
14 broadcast"?
15 A. Yes.
16
17 Q. Those logistical jobs you're referring to, are they
18 the things like calling to follow up matters that call
19 signs have indicated they want to check or on or are they
20 other things?
21 A. They can just be jobs that aren't a priority job. So
22 it could be a break and enter that happened over the
23 weekend; it could be a concern for welfare job, so far as,
24 you know, "We haven't seen Bob for three days and his
25 light's still on." So just the logistical types of jobs
26 compared to those higher priority jobs.
27
28 Q. Thank you. That's helpful to know. Anything else?
29 A. Not that I can think of, no.
30
31 Q. Thank you. All right. Now, we touched on this. You
32 were working through as a dispatch assist and dispatcher
33 throughout the course of that night shift when you started
34 at around 7; is that right?
35 A. I can't recall what time I started that night but our
36 normal shift would start by 7, yes.
37
38 Q. By 7. And we know that night shift for the
39 operational police starts at 6pm, they come on at 6pm?
40 A. Yes.
41
42 Q. Whereas radio operations staff are coming on at 7pm;
43 is that right?
44 A. Yes.
45
46 Q. Is that typically a busy period because you've got
47 a changeover?

1 A. It can be. We've got an hour's leeway so we can
2 actually start our shift from 6 o'clock.
3
4 Q. Yes?
5 A. And it's a first-in, first-out basis.
6
7 Q. Okay.
8 A. So it sort of staggers the start a little bit, which
9 does make it much, much better.
10
11 Q. But that's decided in terms of rosters, is it, as
12 opposed to you just come early for your shift and decide,
13 yourself, to start early, or how --
14 A. No, no, generally speaking we're rostered from 7,
15 unless you've got a late start and start at 10pm, or
16 something like that. But generally for that night shift,
17 you're rostered from 7. But if I want to I can choose to
18 come in at 6 o'clock. I might be the third person in
19 because there might be two other people that choose to come
20 in at 6 as well.
21
22 Q. I see.
23 A. But we have that hour's leeway where we can start to
24 come in and relieve the shift before us.
25
26 Q. Okay. What's the rationale for that as opposed to
27 rostering people to start an hour early?
28 A. I think just to keep - it makes it easier for
29 rosters --
30
31 Q. Yes.
32 A. -- just to roster people that way. Some people like
33 to get out earlier in the morning, some people like to get
34 in earlier at night. People that have kids might want to
35 try and get home. So - but that's not to say that you'll
36 finish at 6 o'clock the next day. As I said, it's a first
37 in, first out. So if the first person doesn't come in the
38 next morning until 7, then do you an extra hour's work.
39
40 Q. All right. Thank you. The radio logbook that gets
41 signed on taking control of a channel; is that right?
42 A. Yes.
43
44 Q. That's not signed by a dispatch assist?
45 A. No.
46
47 Q. All right. And there is an entry in the logbook for

1 you taking over a channel at 8.57 on 3 January.
2 A. Right.
3
4 Q. Does that make sense to you?
5 A. Yes.
6
7 Q. That would have occurred?
8 A. (Witness nods).
9
10 Q. But there's no entry prior to that because you're then
11 in the dispatch assist role?
12 A. Yes.
13
14 Q. And you're in the dispatch assist role from 7 to about
15 9; is that correct?
16 A. Generally speaking, yes.
17
18 Q. Do you have a break during that period at all?
19 A. Not a specific break, but we can get up, providing the
20 channel is okay, to go to the bathroom or get a drink,
21 yeah.
22
23 Q. Are you wearing your headphones when you get up and --
24 A. When we get up?
25
26 Q. Yes.
27 A. No.
28
29 Q. And go to the - No?
30 A. You have to disconnect.
31
32 Q. I see.
33 A. Yeah.
34
35 Q. All right. So we know that you are in the dual
36 offsider role for the first half hour or so of that shift -
37 that's from 7 to 7.30 - and you had channels Papa and Oscar
38 at the same time --
39 A. Yes.
40
41 Q. -- and you can't now recall how busy things were with
42 channel Oscar?
43 A. No.
44
45 Q. Do you recall any conversations at all with the
46 dispatcher, the driver, Mr B, during that initial part of
47 the shift?

1 A. No.
2
3 Q. Certainly not critical of that, Ms A.
4 A. No.
5
6 Q. Now, you've had an opportunity to listen to the
7 recording from 7 to 8pm?
8 A. Yes.
9
10 Q. And you've had an opportunity to listen in particular
11 to that period after the CAD message comes through to the
12 dispatcher and to yourself at 7.03pm?
13 A. Yes.
14
15 Q. And we know that the first broadcast was at 7.10pm.
16 So that's seven minutes after it's come in?
17 A. Yes.
18
19 Q. What we might now do is get your assistance with some
20 decoding the incident log, so that we can understand the
21 entries and the time stamps?
22 A. Okay.
23
24 MS SULLIVAN: Could we please have up on the screen tab 2.
25 We might need to expand that, please. Thank you.
26
27 Q. Can you see that, Ms A?
28 A. I can.
29
30 Q. All right. So this is the CAD incident header, we see
31 there the incident at 7.03, priority 2, "Concern for
32 welfare". This is what - this is, in effect, the message
33 that you will receive as dispatch assist or a dispatcher --
34 A. Yes.
35
36 Q. -- in this form? If we go down to the "Incident
37 Narrative", we see at 9:03:28 there's a user name, and then
38 there's "Recipient LT1 Added"?
39 A. Yes.
40
41 Q. The user, is that the telephonist who received the 000
42 call?
43 A. Yes.
44
45 Q. "LT1 Added" - who is that?
46 A. Lithgow PoliceLink supervisor.
47

1 Q. All right. Is there any significance to that?
2 A. I think that's something that PoliceLink do
3 automatically, is add their supervisor.
4
5 Q. Supervisor. All right. So these are - similarly we
6 see at the same time "Recipient P Added". Is that also
7 a PoliceLink recipient?
8 A. No, that's the system automatically generating it to
9 channel Papa.
10
11 Q. Thank you. Then we see "Recipient TT1 Added" at the
12 same time. What's that?
13 A. That's the Tuggerah PoliceLink supervisor.
14
15 Q. Thank you. "Address Update - Exact Address Location",
16 what does that signify?
17 A. So when they are put - when the 000 operator puts the
18 information into the CAD system, we do what we call
19 "gazzing".
20
21 Q. Gazzing - gazetteering?
22 A. Gazetteering, which is essentially plotting the
23 location we've been provided with on a map.
24
25 Q. Yes.
26 A. And then once that's done, that determines what
27 channel it gets sent to.
28
29 Q. All right. Thank you. Then we see "Forms MLP Call
30 Collection Form2" and there's details there. Is that
31 related to the address aspect that you were talking about?
32 A. No. The call collection is when a 000 call is first
33 presented, it's presented to Telstra. Telstra provides the
34 call-taker with a number, which you would have heard on
35 that recording.
36
37 Q. Yes.
38 A. They then - the 000 operator pulls that number up and
39 it provides them with the call collection information. So
40 if it's a mobile phone that's registered to a person, it
41 will give their details, their name, their registered
42 address for that phone number.
43
44 Q. Thank you. And then we see at 7:03:28, S-Y-S - so
45 that's "system", I assume?
46 A. Yes.
47

1 Q. "Incident Broadcast. Automatic. All Resources
2 broadcast" for the particular CAD incident. What does that
3 indicate?
4 A. So that means that it's sent to our CAD and I believe
5 to the MDTs --
6
7 Q. All right.
8 A. That are on.
9
10 Q. I see. So an officer in the field should have this
11 message pop up, if their MDT is working?
12 A. Yes, I believe so. I'm not very au fait with MDT.
13
14 Q. All right. Thank you. Is there anything significant
15 about the entry at 7:03:31, "SYS successfully sent to
16 Verint"?
17 A. Yeah, that just basically means that the 000
18 call-taker has completed the job and finalised it to send
19 to the channel.
20
21 Q. All right. And so we see at 7:03:39, there's an
22 update from the telephonist "Informant then terminated
23 call".
24 A. Yes.
25
26 Q. So is this an example of a partial CAD where the first
27 bit has been sent in relation to the --
28 A. It's similar to what you would see if it was
29 a partial. Where it says "Call Collection", I don't
30 believe that appears on the CAD if it's a partial; it would
31 say a partial message has been sent.
32
33 Q. Thank you. Then we have at 7:04:06 the telephonist
34 types this in:
35
36 *On call back attempt 1 he stated I've told*
37 *you where it is, I don't want to be*
38 *involved and swear at TZ --*
39
40 is that telephone operator --
41
42 *and hung up?*
43
44 A. 000.
45
46 Q. 000, thank you. All right. And then we see at
47 7:04:07 and 7:04:17 that Tuggerah and Lithgow have viewed

1 the message?
2 A. Yes.
3
4 Q. Then there's a further entry from the telephonist at
5 7:04:18, "On call back 2 and 3 no answer." And then at
6 7:05:03, "Recipient P set to Viewed". Is that you?
7 A. It is.
8
9 Q. Tell us what that indicates to you?
10 A. It means that I have opened the job. But it doesn't
11 necessarily mean I read it.
12
13 Q. Okay.
14 A. As a dispatch assist, I can open a job a couple of
15 different ways. I can click on the prompt up the top,
16 which is a no-no, unless I'm asked to.
17
18 Q. Why is that a no-no?
19 A. Because the dispatcher is in charge of the channel.
20
21 Q. I see.
22 A. And if I open the job it may get lost in the list.
23
24 Q. All right, yes.
25 A. Or I can click - on our first screen in the bottom
26 right-hand corner is a box of updates.
27
28 Q. When you say, "first screen", is that the screen on
29 the right?
30 A. On the left.
31
32 Q. On the left? I thought the - oh, no, the map's on
33 the right?
34 A. Yes, the map's on the right.
35
36 Q. Thank you.
37 A. There's a little box down the bottom that gives us
38 prompts and it can be for updates, it can be for
39 information from other external agencies. That list can be
40 exorbitant. I can accidentally click on a job, by clicking
41 on that, expecting to be looking at an update of a job. So
42 I'd suggest that that's possibly what happened, but I don't
43 know.
44
45 Q. So you may have accidentally clicked this whilst you
46 were looking for other information?
47 A. Yes, yes.

1
2 Q. And what is the significance of doing that in terms of
3 the dispatcher's view?
4 A. It drops off that little red bar that's on the top of
5 his middle - his or her middle screen.
6
7 Q. Yes.
8 A. It disappears.
9
10 Q. And disappears from his screen?
11 A. Yes.
12
13 Q. That sounds undesirable.
14 A. Correct.
15
16 Q. Is there some sort of safeguard or procedure that
17 brings it back up within a certain time period?
18 A. It will sit in the list of jobs.
19
20 Q. Yes.
21 A. But it's just not in that - it's called an unviewed
22 list, so you have an unviewed list, a viewed list,
23 broadcast, acknowledged, you know.
24
25 Q. That's on the job list screen in the middle?
26 A. Yes, in the middle one.
27
28 Q. So the unviewed are the ones at the top and the
29 dispatcher knows that they're the ones that he needs to
30 give priority to?
31 A. Yes.
32
33 Q. Because they haven't been dealt with?
34 A. Yes.
35
36 Q. And this may have dropped into the viewed --
37 A. Broadcast list.
38
39 Q. Into the broadcast list?
40 A. Yes.
41
42 Q. All right. So you think that because we know that
43 it's next broadcast at 7.10 - the first broadcast, rather,
44 the initial broadcast is at 7:10:28; correct?
45 A. Yes.
46
47 Q. Are you saying that you think that that may have

1 happened?

2 A. Yes.

3

4 Q. Because you've accidentally clicked on it?

5 A. Yes.

6

7 Q. All right. Has this issue happened before, to your
8 knowledge?

9 A. All the time.

10

11 Q. Right. Has this been raised with the radio operations
12 group as a problem, to your knowledge?

13 A. I believe so.

14

15 Q. Are you aware of any response by the radio operations
16 group senior executives in relation to this issue?

17 A. No. It's a CAD thing. As far as I understand, it's
18 a CAD thing, and my understanding is that nothing in CAD is
19 being upgraded any longer.

20

21 Q. Nothing in CAD is being upgraded any longer. Can you
22 expand on that?

23 A. I think - I mean, I don't want to be talking out of
24 school but this is just from my understanding.

25

26 Q. This is your understanding, that's clear.

27 A. That our CAD licences ran out a couple of years ago,
28 I think, and we did look at getting a new system and that
29 went pear-shaped.

30

31 Q. Yes.

32 A. So we're still using the CAD system that was
33 introduced back in 2007, which is quite antiquated, and I -
34 my understanding is it costs a lot of money to make those
35 upgrades and changes.

36

37 Q. All right. But to your knowledge, the ROG senior
38 executive are aware of this particular issue that can lead
39 to priority 2 incidents falling out of the unviewed list
40 into the broadcast list and cause delay in that critical
41 initial broadcast phase?

42 A. I believe so.

43

44 Q. Have you ever spoken to anyone within Newcastle ROG
45 expressly about this issue yourself?

46 A. No.

47

1 Q. What's the basis for your belief that it has been
2 raised?

3 A. General talk. Yeah, pretty much. Probably just
4 people talking about it. I mean, the other thing, too, is
5 I suppose we just accept that that's just the CAD system
6 and that's just the way things are, and we just have to
7 deal with it.

8

9 Q. Are you aware of other issues in - that have led to
10 incidents being missed, priority 2 incidents being missed,
11 with a - what can I say - adverse outcome but a result that
12 is undesirable in a particular matter?

13 A. Not specifically but things can happen with the CAD if
14 a car crew acknowledges a job without our knowledge, not
15 verbally acknowledging over the air and just do it on their
16 MDT, and then take themselves off the job - depending on
17 the situation and the type of job, that job can disappear
18 and go to the finish list and we may never even have seen
19 it. So, yes, there's a lot of things that can happen with
20 CAD.

21

22 Q. All right. Are there any redundancy or safety
23 measures built into CAD that bring a priority 2 job to
24 their attention when it hasn't been broadcast in accordance
25 with the initial broadcast requirements - that is, the
26 90 seconds, or the rebroadcast, the 60 seconds?

27 A. There is another box down the side of the broadcast
28 jobs that changes colour to alert you that it needs to be
29 rebroadcast.

30

31 Q. Is that a timer?

32 A. And actually there is a time.

33

34 Q. Yes.

35 A. But it also depends on how lengthy the broadcast list
36 is, the jobs can be - can sit at the bottom underneath.
37 We've only got a, you know, certain amount that we can look
38 at without scrolling, so it can sit below. The dispatcher
39 can set up their screen to prioritise what jobs sit at the
40 top and the bottom, so you can set your screen up based on
41 your priorities, so all the red ones will sit at the top.
42 But then when we're broadcasting, we'll often change that
43 so that it's by police district or PAC. So then if there's
44 any priority 2 jobs, they can then sit down the bottom.

45

46 THE COMMISSIONER: Q. And out of view?

47 A. Yes.

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Q. Is that what you are saying?
A. Yes.

MS SULLIVAN: Q. There's no tonal alerts that are given for priority 2 jobs or anything like that to - by way of reminder?
A. No. The only thing is that red.

Q. Is the red?
A. Yes.

Q. And if that's - if the screen's been structured in a particular way where that's out of view, there is no reminder?
A. Correct.

Q. Are you aware of any risk assessment process that has been undertaken or quality assurance process that has been undertaken in relation to the shared dispatch model?
A. I think it's allegedly done each shift. We're always told that that sort of thing will happen as a last resort, but it really comes down to staff numbers and channel numbers, if we're taking extra channels and that sort of thing. I do believe they look at it but I don't know how closely.

Q. Someone's looking at data like delays in responding to priority 2?
A. Oh, I don't know that they look at it like that, I think they just look at talk time on the air and jobs on the channel.

Q. Okay. What's "talk time on the air", as in they just listen and --
A. So back and forth. So when a car crew talks to us, we respond to them, so it's that back and forth talk. But that talk time can differ to workload. Because there's obviously things going on all the time on the CAD system not necessarily being verbalised.

Q. And, for example, one job can consume a lot of air time?
A. Yes.

Q. And a lot of logistical checking as well?
A. Yes.

1
2 Q. And in fact, we see that in relation to a particular
3 job relating to a Murwillumbah domestic?
4 A. Yes.
5
6 Q. That comes in around 7:10pm?
7 A. Yes.
8
9 Q. And involves you and Mr B undertaking a number of
10 inquiries, making broadcasts, right through to about 7.20?
11 A. Yes.
12
13 Q. In your view, when you're undertaking the dispatch
14 assist role, and you are monitoring two channels
15 simultaneously, do you think you can do that safely?
16 A. No.
17
18 Q. Why?
19 A. Because my sole attention is not on one channel, and
20 things can go on on the other channel that I'm not
21 listening to or privy to, where the dispatcher may need
22 help. And quite often, they don't have time to ask for
23 help. So it's not possible to do it safely, I don't
24 believe.
25
26 Q. Is there also a risk that they might assume, because
27 they know that they've got a dispatch assist, that you're
28 going to deal with things, and if you don't have time to
29 communicate --
30 A. Absolutely.
31
32 Q. -- that's a recipe for disaster, potentially?
33 A. Absolutely. And even with that service requests
34 system, that will gradually get bigger and bigger, I'm
35 receiving service requests from both dispatchers and they
36 aren't prioritised; they just come in as the dispatcher
37 gives it to you. So there is no priority on that. So
38 I may miss a service request down the bottom that, in my
39 view, would be a higher priority than the, "Ring the
40 council because there is a dog loose in the street", if you
41 know what I mean, like --
42
43 Q. I do. How does a dispatcher send to you a service
44 request?
45 A. It's just a function key and they type what they want
46 me to do and it appears on the job and then it also appears
47 on the service request. I then have to open that service

1 request to see what it is they want me to do.

2

3 Q. And we had the incident log up before, just to be
4 clear, for broadcast stamps, is it possible just to enter
5 a single key to - by way of shorthand, to indicate, for
6 example, that there's been a broadcast of an incident or
7 that a crew have acknowledged a job or that a crew are back
8 on scene?

9 A. Yes.

10

11 Q. There is a shortcut on your --

12 A. Yes, we all use syntaxes and shortcuts, yes.

13

14 Q. So that can be done in a second?

15 A. Yes.

16

17 THE COMMISSIONER: Q. Can I just check, Ms A: is it
18 fair to say that actually when the dispatcher is extremely
19 busy, by definition, they have less time to actually type
20 in a service request to you?

21 A. Yes.

22

23 Q. Or to verbally ask you, if you are sitting close by,
24 to jump on and do something?

25 A. Yes.

26

27 Q. So, by definition, at the busiest time when they most
28 need your help, they've got the least capacity --

29 A. Yes.

30

31 Q. -- to get that help?

32 A. Yes.

33

34 MS SULLIVAN: Q. Having listened to that channel from
35 the period 7 to 8pm, do you have a view about, sort of, the
36 busyness of it during that period?

37 A. Yes. It's busy.

38

39 Q. It is busy. On a scale of 1 to 10, can you assess the
40 busyness - 10 being the busiest, 1 being not very busy at
41 all?

42 A. Seven.

43

44 Q. Seven? Okay. There are periods, short periods, of
45 free air time - that's fair?

46 A. Yep, yes.

47

1 Q. And a broadcast for the Salvation Army job would
2 take - a rebroadcast would take in the order of about 14,
3 15 seconds, to read that out?

4 A. Yes.

5

6 Q. All right. And there are some comments that are made
7 by the dispatcher and police in the field that objectively
8 refer to busyness; that's fair?

9 A. Yes.

10

11 Q. On occasion the dispatcher indicates, for example,
12 "Ballina 14 stand by unless it's urgent"?

13 A. Yes.

14

15 Q. The dispatcher says things like, "I'm not sure who's
16 available to pick up this job but"?

17 A. Yes.

18

19 Q. "There's something in the air tonight, Ballina,
20 there's a job at X", those types of remarks?

21 A. Yes, yes.

22

23 Q. But having said that, an important function of the
24 dispatcher and the dispatch assist is to maintain
25 situational awareness in relation to the priority of
26 incidents that you're dealing with?

27 A. Yes.

28

29 Q. And a priority 2 incident will always have priority
30 over a priority 3 incident; is that fair?

31 A. Yeah - yes.

32

33 Q. She says with hesitation. What's the hesitation,
34 Ms A?

35 A. Incoming to the CAD, yes, it takes priority. If it's
36 an existing priority 3 perhaps that the police are off at
37 and a priority 2 comes in, it can also depend on what's
38 happening with the police at that priority 3. Things can
39 escalate. Even though it's a priority 3 job, things can
40 escalate whilst they're on scene, which can then override
41 anything else that's happening on the channel.

42

43 Q. Yes. What about where police are en route to
44 a priority 3 job but they're not there yet, and a priority
45 2 comes in? What, in your experience, is the way in which
46 those matters are prioritised?

47 A. That's the police's call. We just - we give them the

1 information and it's up to them to make the decision as to
2 what they do with that information.

3
4 Q. But if a matter is - a priority 2 is persistently
5 called over the - rebroadcast every 60 seconds, it's more
6 likely to get the attention of police in the field; you
7 agree?

8 A. Yes, and that's the reason for the two beeps preceding
9 that broadcast.

10
11 Q. As well. But whilst police are in the field for
12 a priority 3, in your experience, they're not going to turn
13 around and head off to a priority 2 in the ordinary course?
14 They'll deal with the incident they are at; is that right?

15 A. No, sometimes they will. They'll say - they'll say,
16 "Radio, we'll go to that job. Leave this in our list and
17 we'll come back to it."

18
19 Q. All right.

20 A. That happens regularly.

21
22 Q. That's the call of the mobile - of the supervisor; is
23 that right, as to how to allocate resourcing?

24 A. No, just some - generally the car crew.

25
26 Q. The car crew have the individual discretion?

27 A. Yes.

28
29 Q. Unless directed by the supervisor?

30 A. Yes.

31
32 Q. What about the duty officer? Does he or she ever
33 weigh in about the prioritisation?

34 A. They do, yes.

35
36 Q. Now, coming back to the incident log, if we could,
37 please, that's at tab 2 - do you have that on your screen,
38 Ms A?

39 A. Yes.

40
41 Q. So we know that it's viewed by you at around 7.05.
42 You think that the delay is because it's gone out of the
43 unviewed list into the broadcast screen. It's then
44 broadcast at around 7.10, but it's not then rebroadcast
45 until 7.24pm?

46 A. Yes.

1 Q. Are you able to assist us, based on your recollection
2 and even reconstruction from the records, with what the
3 delay might be in relation to the rebroadcast?
4 A. The workload on the channel is all it can be put down
5 to. The other jobs that they were dealing with at the time
6 on the channel as a whole and not just Ballina, and that
7 would be the - the delay.
8
9 Q. We know that there's a priority 3 job that comes in,
10 it is an accident on the Pacific Highway. Do you recall
11 hearing that job?
12 A. Yes.
13
14 MS SULLIVAN. Could we have tab 8, please - and I'm
15 reminded by the excellent Ms Boxall that I should tender
16 tab 2, thank you, Commissioner. I will just read the
17 barcode, that is 8637192 to 8637194. I tender that.
18
19 THE COMMISSIONER: That will be exhibit 3C.
20
21 **EXHIBIT #3C CAD INCIDENT LOG, BARCODED 8637192-8637194**
22
23 MS SULLIVAN: Thank you.
24
25 Q. We're now at tab 8, thank you. It commences at
26 barcode 8630713. Do you have that on the screen, Ms A?
27 A. I do.
28
29 Q. So that's a priority 3 accident that relates to the
30 Pacific Highway, Broken Head Road, Newrybar, Ballina. Can
31 you decode for us the police speak message there?
32
33 THE COMMISSIONER: Can you see that, Ms A? Can we make it
34 a little bigger for us, please. That's better.
35
36 THE WITNESS: So the information in the incident header.
37
38 MS SULLIVAN: Q. Yes, please, in the incident header.
39 A. So it means that it is a single vehicle into a tree in
40 the service lane near Pacific Highway cross of Broken Head
41 Road in Newrybar. "NPT" is no persons trapped, "NPI" is no
42 persons injured. One vehicle to be towed. No fluids,
43 meaning no oil, fuel or anything on the road. And then the
44 vehicle's described as a Mazda 3 white. "NFI" is no
45 further information.
46
47 THE COMMISSIONER: Q. What does "NKIP" mean?

1 A. Oh, sorry, I didn't see that one there. Unknown - NK
2 is unknown, or not known, intoxication, so whether the
3 driver's drug or alcohol affected.

4
5 THE COMMISSIONER: Thank you.

6
7 MS SULLIVAN: Q. Is there anything significant about
8 this incident being on the Pacific Highway that raises its
9 priority in some way?

10 A. Not specifically. The fact that it's hit a tree is
11 probably more pertinent than the location.

12
13 Q. But it does indicate clearly that no person is
14 injured?

15 A. Yes.

16
17 Q. Or trapped?

18 A. Yes.

19
20 THE COMMISSIONER: Q. Why is the fact that it has hit
21 a tree relevant in your mind?

22 A. Again, that - that's dangerous, even though it says -
23 I mean, we've had jobs where it says that there's no
24 persons trapped and the police have turned up and there's
25 been people trapped. So, yeah, that just in itself is a -
26 a more serious accident than someone running up a gutter.
27 So --

28
29 Q. I see.

30 A. Yeah, yep.

31
32 MS SULLIVAN: Q. But the police decision to respond to
33 that incident at the time, we know that they respond around
34 7.03, and to then not prioritise a priority 2 that comes in
35 at 7.10, the Salvation Army job, that's not a matter for
36 you?

37 A. No.

38
39 Q. Now, is it right that there should have been an
40 escalation of this job by 7.24pm when there had been no
41 acknowledgment to the initial broadcast at 7.10?

42 A. Yes.

43
44 Q. There should have been an escalation by about 7.15,
45 according to the SOPs?

46 A. Yes.

47

1 Q. And we know that there's a further and final broadcast
2 at 7.34pm by Mr B. That's 10 minutes after the previous
3 broadcast?

4 A. Yes.

5

6 Q. Are you able to assist us with the cause of that
7 delay?

8 A. Again, the workload on the channel, and also the
9 underlying impression, I suppose, or just knowing that they
10 don't have the crews. We knew that Alstonville 18 was tied
11 up with a mental health job. The only other crews
12 available are now at Newrybar, which is a decent distance
13 away.

14

15 Q. And by the time Ballina 14 arrives at around 7.21,
16 what was a priority 2 then becomes a - sorry, a priority 3
17 then becomes a priority 2, is that right, there is
18 a two-beeper? Do you recall hearing that?

19 A. No.

20

21 Q. So there is this exchange around 7.21:

22

23 *Ballina 14: It's a 110 zone and they're*
24 *not, literally coming around a blind*
25 *corner, so I need the truck up here*
26 *probably to park back and slow the vehicles*
27 *down if they can. Yeah, actual lanes*
28 *number one lane is partially obstructed.*
29 *Radio: Copy that. So you want Woodburn 29*
30 *red?*

31 *Ballina 14: Yeah, please.*

32

33 So then:

34

35 *Radio: Two beeps: Woodburn 29, if you*
36 *could proceed code red to that accident*
37 *northbound on the Pacific Highway near the*
38 *Broken Head Road overpass. He needs you*
39 *a bit before there, traffic's not slowing*
40 *down on a blind corner.*

41

42 And:

43

44 *Woodburn 29: Yeah, 29 all over it. I'm on*
45 *the highway heading northbound now at*
46 *Knockrow.*

47

1 A. Yes.
2
3 Q. So that two-beeper, was that an upgrade?
4 A. No, it's not upgrading the job.
5
6 Q. No?
7 A. It's our way of getting a car to respond urgent duty.
8
9 Q. I see. So it remains a priority 3?
10 A. So the job itself remains a priority 3 but that
11 particular request from Ballina 14 is an urgent request,
12 which means they would be going lights and sirens.
13
14 Q. Okay. So you're conscious, based on what you've
15 listened to during that hour, that the crews are all tied
16 up with jobs?
17 A. Yes.
18
19 Q. But there's the potential, isn't there, for the
20 supervisor or the duty officer to ask for a recall of
21 staff?
22 A. I don't know.
23
24 Q. Not a matter for you? That's --
25 A. Not a matter for us.
26
27 Q. Okay. Can dispatch prompt the duty officer about
28 that? Have you ever done that, and indicated, you know,
29 "We're really busy and there aren't enough crews. Is there
30 anyone that can be recalled?" Have you ever had
31 a conversation like that?
32 A. Not necessarily with the duty officer. That would go
33 to the supervisor.
34
35 Q. Supervisor?
36 A. Generally speaking, anything like that goes to the
37 supervisor first and foremost.
38
39 Q. On air? That's on --
40 A. Generally on air first, and then if there's no
41 response it would be to the station, if we can get through
42 to the station, too. It's just a phone call. So --
43
44 Q. All right. So there's a resource --
45
46 THE COMMISSIONER: Sorry, Ms Sullivan.
47

1 Q. The supervisor you are talking about there is the
2 mobile supervisor?

3 A. Mobile.

4
5 Q. Of the Richmond --

6 A. Yes.

7
8 Q. -- district at that point, not your supervisor --

9 A. No.

10
11 Q. -- of the VKG room?

12 A. No, no.

13
14 THE COMMISSIONER: Thank you.

15
16 MS SULLIVAN: Q. So there is a resourcing issue, as you
17 perceive it, during that one-hour period in terms of the
18 crews responding to the jobs?

19 A. Yes.

20
21 Q. Was that commonplace or is that commonplace for
22 Richmond police district on the night shift?

23 A. I don't know. I don't know. We're not privy to how
24 many staff they have on or how many car crews they have on
25 at the beginning of a shift. We're not told.

26
27 Q. And you work on different channels across the state;
28 is that right?

29 A. Yes.

30
31 Q. So in terms of the broadcast timing, we know that the
32 job is last broadcast at 7.34?

33 A. Yes.

34
35 Q. Ballina 14 then responds at 7:46:57, that's 12 minutes
36 after the last broadcast. So there should have been
37 a number of rebroadcasts after 7.34 --

38 A. Yes.

39
40 Q. -- in accordance with the SOPs? So Ballina 14's
41 response is 43 minutes after the CAD has first been
42 received at 7.03; it is 36 minutes after the initial
43 broadcast for a priority 2?

44 A. Yes.

45
46 Q. And you have no recollection of discussing this delay
47 with anyone after the shift, even when the outcome is

1 known, that is, that Ms Lucena is deceased?

2 A. No.

3

4 Q. Did anyone - did any investigating officer come to
5 speak to you about the delay at any point - that is, an
6 investigator associated with the strike force connected to
7 Ms Lucena's death?

8 A. No.

9

10 Q. Did anyone from the radio operations group, any
11 executive officer, come and speak to you in relation to the
12 incident?

13 A. No.

14

15 Q. It must have been very distressing for you and for
16 Mr B to find the outcome?

17 A. Yes.

18

19 Q. Were you offered some welfare support?

20 A. Yes.

21

22 Q. Good. So just in terms of the noncompliance - we'll
23 just outline clearly what that is - firstly, it's the delay
24 in not broadcasting the priority 2 job within 90 seconds of
25 first receiving it; agree?

26 A. Yes, yes.

27

28 Q. Secondly, there is the failure to rebroadcast every 60
29 seconds until the incident was acknowledged --

30 A. Yes.

31

32 Q. -- do you agree? And finally, there's the failure to
33 escalate the matter within five minutes after it hadn't
34 been acknowledged in the field?

35 A. Yes.

36

37 Q. Now, just in terms of the systemic issues that the
38 Commissioner should be aware of - because we know that
39 there has been significant noncompliance, if I can put it
40 in those terms - how does this situation come about? What
41 are the systems issues that have led to this situation in
42 your view, Ms A?

43 A. The obvious lack of staff out in the field.

44

45 Q. Yes.

46 A. Having to utilise Ballina 14, who is generally the
47 supervisor to oversee his car crews, having to go and do

1 general duties jobs.

2
3 Q. Yes.

4 A. Then not making himself available or he's not able to
5 make himself available. The lack of staff at our end, in
6 radio.

7
8 Q. Yes.

9 A. And just the - the workload. The workload is
10 exorbitant and it continues to increase. I'm not sure how
11 you fix that. But the shared offside, best case scenario,
12 shouldn't be happening, as well as - I know we don't touch
13 on it but even the merging of channels, in my opinion,
14 should never happen.

15
16 Q. Just explain that for us.

17 A. You've then got two people that would normally look
18 after one channel looking after two. So in my situation,
19 where I was offside for two channels, I was looking after
20 an area from north of Forster right through to the
21 Queensland border, which is a massive area of radio
22 traffic.

23
24 Q. Yes.

25 A. So --

26
27 Q. And that increases risk, does it, to put yourself in
28 that position?

29 A. Absolutely. You miss radio broadcasts, you could
30 miss a - often miss a car crew calling urgent if they're in
31 strife, and just the workload, and again, because your
32 workload's so big on the screen, you can miss jobs, and
33 then there's just the workload in itself can delay you in
34 making those broadcasts.

35
36 Q. Have concerns been raised with senior executives at
37 radio operations group about the merging of channels, to
38 your knowledge?

39 A. Yes, regularly, and it all - right from the get-go,
40 right from when it started.

41
42 Q. That was around five or 10 years ago, is that what
43 you --

44 A. I believe so, yes. I can't pinpoint a time.

45
46 Q. It continues to be raised, to your knowledge?

47 A. I believe it does continue to be raised, but I think

1 we're all a bit like it just falls on deaf ears, and it's
2 not only just for the police in the field, it puts them at
3 risk tenfold, it's also putting us at risk for burnout and
4 for not being able to cope. And that's becoming more
5 evident as time goes on.

6
7 Q. It's a very specialised skill set being a dispatch and
8 dispatch assist; is that fair?

9 A. Yes.

10
11 Q. Is there a shortage of qualified staff?

12 A. Yes. It's a very specific course that they have to
13 do, yes.

14
15 Q. And is there good uptake for people who want to do
16 that role, to your knowledge?

17 A. Yes. But they have to meet the competencies to be
18 able to take on that role.

19
20 Q. Just in terms of that period where you were the shared
21 offsider from 7 to 7.30, do you think the error that you
22 suspect you made at 7.05 in opening the incident - that you
23 were less likely to make that if you were simply dealing
24 with the one channel?

25 A. Yes.

26
27 Q. And if that error hadn't been made, do you think the
28 job would have been broadcast sooner?

29 A. Possibly.

30
31 Q. Why do you say --

32 A. I can't say either way, because the channel was busy
33 and there was other jobs that we were dealing with at the
34 time.

35
36 Q. Okay. Just in terms of the lack of resourcing for
37 dispatchers, what would be the ideal world? How does
38 a dispatcher best discharge their duties in terms of
39 resourcing to avoid incidents like this occurring?

40 A. The best way for us to do our job is to have two
41 people on a channel as a dispatch and dispatch assist for
42 the entire shift, with what I'll call spares or
43 telephonists in the room to then come in and take over when
44 they're on meal or crib breaks. That has changed
45 exorbitantly from when I first started.

46
47 Q. That used to be the system?

1 A. Yes.

2

3 Q. And when did it change?

4 A. I think it first started to change when they stopped
5 employing full-time staff and they started to only employ
6 part-time staff, which then changed our rostering and
7 people would only do six - unless you were an oldie, like
8 me, we stayed on that award and we worked 12-hour shifts on
9 a matrix, but when they pulled in the part-time staff, they
10 would work either staggered shifts or short shifts, so
11 they'd work like 10 till 6 or things like that. So you're
12 having less people on the floor and they did that based on
13 real-time managers but then also they'd look at Tuesday,
14 15 August, three years ago, and go, "Well, it wasn't busy
15 that day so the rostering means that we don't need to have
16 that many staff".

17

18 Q. In your experience, is policing becoming sort of more
19 complex from what you hear over the radio?

20 A. Yes.

21

22 Q. And so there's jobs of greater complexity, for
23 example, mental health jobs?

24 A. Yes.

25

26 Q. More work for police in the field?

27 A. Yes.

28

29 Q. Which equates to more work for radio dispatchers and
30 dispatch assists?

31 A. Yes.

32

33 Q. But less resourcing?

34 A. Yes.

35

36 Q. And that's a problem?

37 A. Yes.

38

39 Q. And that's a reason why you can end up with
40 a priority 2 for a serious assault being missed?

41 A. Yes.

42

43 MS SULLIVAN: Commissioner, can I tender tab 8, please.

44

45 THE COMMISSIONER: Tab 8 will be exhibit 4C.

46

47 **EXHIBIT #4 CAD INCIDENT LOG, BARCODED 8630713-8630716**

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MS SULLIVAN: Q. As just a matter of procedure before I conclude, should an ambulance have been notified in relation to this job?

A. I would say no.

Q. Okay. Why is that?

A. We didn't have a specific location.

Q. Yes.

A. And we didn't have enough details.

Q. You did have a specific location in the sense that it was behind the Salvation Army building that has a very particular address?

A. Yes, but "behind a building" can be very broad.

Q. Yes.

A. And the ambulance are very particular about the information we provide them with. And quite often, they won't attend in that kind of situation unless police are there anyway. It was just a bit ambiguous. Yeah, I wouldn't necessarily have put an ambulance on that.

Q. Do you have any final reflections before I sit down, Ms A?

A. I just think that policing as a whole, in my opinion, and just talking with people that I work with, is that it's starting to be dealt with as a business, as opposed to an emergency service, and that it's - and that's why we're restricted with numbers of staff and I think that for us to keep the police safe out on the road, we need to be at full strength and we're not, we rarely are; and that the rostering needs to reflect the numbers that need to be on the floor.

Q. Is there a lot of burnout in your experience?

A. There's a lot of burnout and high --

Q. Which creates more stress?

A. Yeah, and turnover of staff, yes.

MS SULLIVAN: Thank you very much.

THE WITNESS: Thank you.

THE COMMISSIONER: Q. Ms A, I had one other question.

1 You said at the beginning of your evidence that out of the
2 thousands of jobs you've done in the last three years, you
3 remember this one.

4 A. Yes.

5
6 Q. Is there anything in particular about this one that
7 makes it memorable to you?

8 A. I think just the finding out so much later that she
9 was found deceased.

10

11 Q. That's understandable.

12 A. Yes.

13

14 THE COMMISSIONER: Thank you. We're going to see now if
15 any of the counsel would like to ask you some questions.
16 Mr Wilcox, would you have anything to ask?

17

18 MR WILCOX: If I may just briefly.

19

20 <EXAMINATION BY MR WILCOX:

21

22 MR WILCOX: Q. You were asked some questions by counsel
23 assisting about there being short periods of free air time
24 on the channel. Do you recall that?

25 A. Yes.

26

27 Q. Is that a reliable indicator of how busy the
28 dispatcher and supporter are or not?

29 A. No.

30

31 Q. Why is that?

32 A. Because whilst - I think I mentioned, talk time and
33 the workload on the channel is very, very separate. So
34 whilst there's periods of silence, there can be a lot of
35 things going on on the computer, checking that job,
36 checking other jobs, putting checks on the jobs, and
37 particularly with me being shared over two channels, if I'm
38 busy helping the channel Oscar dispatcher for something,
39 then the dispatcher is then left to his own devices and
40 needs to do all that stuff himself.

41

42 Q. You gave an opinion that you think you might have
43 accidentally clicked on to the incident at 19:05:03
44 creating that entry of "Recipient P set to viewed"; do you
45 recall that?

46 A. Yes.

47

1 Q. Are you able to say why you've come to that conclusion
2 or come to that view?

3 A. That I opened it?

4
5 Q. Yes.

6 A. Because it says so on the CAD.

7
8 Q. But as to why it was an accident in this case?

9 A. Because I don't remember viewing it. I don't remember
10 seeing it. It could very much flick on to my screen and
11 then me click another prompt for another job to come up.

12
13 Q. And is part of your reason that it was an accident
14 that it was the dispatcher's job to click on the incident
15 and not yours in the ordinary case?

16 A. Theoretically, yes. I mean, that's his job to do
17 that. Also, too, if I had opened it and viewed it, reading
18 that it was a priority 2, I would have more than likely
19 have said something to Mr B about the job.

20
21 Q. And so does that mean that if you'd intentionally
22 viewed the job, looking at the time gap between you looking
23 at it and the broadcast going out, you'd expect that to
24 have been shorter as a matter of your usual practice?

25 A. Yes.

26
27 MR WILCOX: Thank you. No further questions,
28 Commissioner.

29
30 THE COMMISSIONER: Thank you. Was there any other counsel
31 that wanted to seek leave to ask any questions?

32
33 MR GOLLAN: Yes, Commissioner, if I may.

34
35 THE COMMISSIONER: Yes, Mr Gollan.

36
37 MR GOLLAN: Just a very short compass of questions.

38
39 THE COMMISSIONER: Well, start and we will see how we go.

40
41 **<EXAMINATION BY MR GOLLAN:**

42
43 MR GOLLAN: Q. The categories 1, 2 and 3 and I think
44 there's also a 4 for admin or something along those lines?

45 A. Yes.

46
47 Q. Initially, once the call comes in, is it you that

1 categorises it as a 1, 2, or 3?

2 A. No.

3

4 Q. Or someone else does that?

5 A. The 000 call-taker.

6

7 Q. So the person who is external to the police makes the
8 determination as to whether it is a 1, 2 or 3; correct?

9 A. They are police employees, but they're at - they can
10 be at an alternate site.

11

12 Q. And as I understood when you answered questions asked
13 of you by counsel assisting, that may change - the
14 categorisation may change. Do I understand that that is in
15 the presence of further information?

16 A. Yes.

17

18 Q. And you've been working on the "switch", as it were,
19 for a long, long time. The percentage of domestic violence
20 and mental health issues, has that increased over that
21 period of time?

22

23 THE COMMISSIONER: Mr Gollan, I'm not really sure that
24 that's assisting me in my investigation on this particular
25 matter, so did you want to move on to your next question?

26

27 MR GOLLAN: I was just going to ask what percentage that
28 would occupy of the general duties.

29

30 THE COMMISSIONER: I understand that, but that's not what
31 we were talking about --

32

33 MS SULLIVAN: Can I just indicate that leave relates to
34 Mr Gollan's particular clients. It is difficult to see how
35 these questions, which are more general, relate to his
36 three clients.

37

38 THE COMMISSIONER: I would invite you to move on,
39 Mr Gollan.

40

41 MR GOLLAN: They are the only questions I had.

42

43 THE COMMISSIONER: Thank you, then.

44

45 Anything further? Is there any reason why Ms A should
46 remain on her summons.

47

1 MS SULLIVAN: There is no reason.

2

3 THE COMMISSIONER: And from my listening to the evidence
4 that Ms A gave, I couldn't hear any breach of any of the
5 non-publication orders that were made.

6

7 MS SULLIVAN: We are unscathed with the first witness.

8

9 THE COMMISSIONER: Excellent, thank you.

10

11 Ms A. Thank you very much for coming to talk to us
12 today.

13

14 THE WITNESS: Thank you.

15

16 THE COMMISSIONER: I just remind you, you are very welcome
17 to seek welfare support, either through the police or
18 through private providers, your own services, if you've got
19 them, or through your own EAP, if attending here today has
20 been difficult, and I appreciate that reflecting on these
21 issues and your role in navigating a very difficult set of
22 circumstances --

23

24 THE WITNESS: Yes.

25

26 THE COMMISSIONER: -- it may have been traumatic, so
27 please don't hesitate to do that if that's appropriate.

28

29 THE WITNESS: Thank you.

30

31 <THE WITNESS WITHDREW

32

33 THE COMMISSIONER: We will adjourn now. Ms A. You are
34 free to go. I think we will take an early lunch break and
35 resume at quarter to 2. Does that suit, Ms Sullivan?

36

37 MS SULLIVAN: Thank you, Commissioner, yes.

38

39 THE COMMISSIONER: Thank you, everyone.

40

41 **LUNCHEON ADJOURNMENT**

42

43 MS SULLIVAN: Thank you, Commissioner. The next witness
44 is Mr B, and I call Mr B.

45

46 THE COMMISSIONER: Mr B, if you would just come up to the
47 witness box for us please.

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MS SULLIVAN: Mr B will take an oath.

THE COMMISSIONER: Thank you.

<MR B, sworn: [1.46pm]

THE COMMISSIONER: Grab a seat.

Ms Sullivan, I'll just take Mr B through some of the preliminary matters.

MS SULLIVAN: Thank you.

THE COMMISSIONER: Mr B, were you present during the opening remarks this morning?

THE WITNESS: Yes, during the opening remarks.

THE COMMISSIONER: Very well. Then I won't go through the scope and purpose of today's examination again. It's the same as that which Ms Sullivan read out as part of her opening, and it is the same as that which was attached to your summons. So you have already had a chance to see that.

Ms Jardim, you act for Mr B. Can you tell me if he wishes to take the objection?

MS JARDIM: He does, your Honour, and I have run through the process with him.

THE COMMISSIONER: Thank you.

That is eminently sensible, Mr B. Almost everyone sitting in that chair takes the objection. There is nothing in that that means that there will be anything adverse drawn from your decision to do that, but what it does mean is I'll make a declaration pursuant to section 75 of the Law Enforcement Conduct Commission Act that all answers and other things given by you will be regarded as having been given on objection.

I'm sure Ms Jardim has been through that with you, but I do want to just run through with you what that means again --

1 THE WITNESS: Sure.

2

3 THE COMMISSIONER: -- so that we are clear.

4

5 THE WITNESS: Yes.

6

7 THE COMMISSIONER: It means that even though your answers
8 have been given on objection, they can still be used
9 against you in certain circumstances, of the most
10 significance is for an offence under the Law Enforcement
11 Conduct Commission Act, so the order that I have made won't
12 protect you if your evidence is untruthful. So you're
13 still obliged to give truthful evidence here today.

14

15 THE WITNESS: Okay.

16

17 THE COMMISSIONER: It can also be used for this
18 Commission's investigation or to allow the DPP to provide
19 us with advice, and it can be used for disciplinary
20 proceedings against you, which would be under the
21 Government Sector Employment Act, if that should become
22 relevant. Okay?

23

24 THE WITNESS: Okay.

25

26 THE COMMISSIONER: Were there any questions that you had
27 about that?

28

29 THE WITNESS: No.

30

31 THE COMMISSIONER: Otherwise, over to you, Ms Sullivan.

32

33 MS SULLIVAN: Thank you.

34

35 <EXAMINATION BY MS SULLIVAN:

36

37 MS SULLIVAN: Is your name known to the Commission?

38

39 A. Yes.

40

41 Q. And for the purposes of these proceedings, you'll be
42 known as Mr B, as you know?

43

44 A. Yes.

45

46 Q. What's your current role?

47

A. Senior communications officer at Newcastle radio
operations room.

1 Q. And, in fact, you've been a communications officer for
2 some 37 years?
3 A. Thirty-four years.
4
5 Q. Thirty-four years?
6 A. I did three years before that with the police as
7 a court process clerk.
8
9 Q. Thank you. And when did you first become
10 a communications officer?
11 A. In 1991.
12
13 Q. And a senior communications officer?
14 A. 2001.
15
16 Q. Have you always been attached to Newcastle radio
17 operations group?
18 A. No. I commenced my communications role within the
19 NSW Police Force in Lismore, or Goonellabah was where the
20 actual centre was.
21
22 Q. Yes.
23 A. But then moved to Newcastle in '96.
24
25 Q. You've been attached to Newcastle since then?
26 A. Yes.
27
28 Q. Thank you. Now, you provided what's known as
29 a section 54 response to assist the Commission dated
30 21 November 2025; do you recall that?
31 A. Yes.
32
33 Q. You have had an opportunity to review that, your
34 response?
35 A. Yes.
36
37 Q. And it's true and correct to the best of your
38 knowledge, information and belief?
39 A. Yes, it is.
40
41 Q. Thank you, Mr B.
42
43 MS SULLIVAN: Commissioner, I tender Mr B's section 54
44 response. That's at tab 88 and that is barcode 8631692 to
45 8631706, for the record.
46
47 THE COMMISSIONER: That will be exhibit 5C.

1
2 **EXHIBIT #5C SECTION 54 RESPONSE TO ASSIST THE COMMISSION**
3 **DATED 21 NOVEMBER 2025, BARCODED 8631692-8631706**
4

5 MS SULLIVAN: Thank you.
6

7 Q. In preparation for giving evidence today, you've had
8 an opportunity to listen to the audio recording, in
9 particular on 3 January, for that one-hour period from 7 to
10 8pm; is that correct?

11 A. Yes, that's correct.
12

13 Q. And you've also familiarised yourself, although
14 perhaps it wasn't necessary, with all the VKG SOPs, the
15 standard operating procedures?

16 A. Yes. Yes, I did.
17

18 Q. Now, just in terms of the role of a senior
19 communications officer, that is a senior, as the name
20 suggests, a senior communications officer who has a sort of
21 supervisory function within radio operations group; is that
22 fair?

23 A. Limited supervision, yes, and other stuff.
24

25 Q. One aspect is ensuring that all team members comply
26 with standard operating procedures?

27 A. Yes.
28

29 Q. Ensuring the correct broadcast procedures are
30 followed?

31 A. Yes.
32

33 Q. Right. And that's a separate designation to being
34 a dispatcher, which is the person who is actually making
35 the calls over police radio; correct?

36 A. Yes, but a senior communications officer does
37 dispatch.
38

39 Q. All right.

40 A. As well.
41

42 Q. As well. Is there a scenario where you're just
43 operating as a senior communications operator and you're
44 not a dispatcher or dispatch assist?

45 A. Then I would - the only other time would be as
46 a telephonist, just taking calls into the centre, which
47 include non-urgent and 000 calls.

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Q. And given your seniority, you also have a role in training and quality assurance; is that right?
A. Yes.

Q. Now, the role of the dispatcher includes - and we'll just pull this up for your reference, although no doubt you're very familiar with it, this is tab 143 at barcode 8647016, please. These are the VKG SOPs from June 2022, which we understand were those that were operative --

THE COMMISSIONER: I don't think that's on anyone's screen yet.

MS SULLIVAN: Q. So these are dated June 2022, just for your background information, these are the ones we understand operated as at January 2023? They'll come up in a --
A. Yes, I believe they would have been the ones.

Q. Thank you. That's version 64, to the extent that means anything.
A. Yes.

Q. Has that come up on your screen now, Mr B?
A. Yes, it has, yes.

Q. That's the role of the dispatcher and you'll see there the duties include:

Broadcast and acknowledge radio transmissions and PoliceCAD incidents, using correct broadcasting procedures.

You see that?
A. Yes.

Q. And:
Effective coordination of incidents ensuring timely police response.

You see that?
A. Yes.

Q. And then:

1 *Reviewing the current list on a regular*
2 *basis (also known as housekeeping) ensuring*
3 *that acknowledged incident do not sit in*
4 *the list for an extended time without*
5 *action.*

6
7 A. Yes.

8
9 Q. Do you see that one?

10 A. Yes.

11
12 Q. And:

13
14 *Maintaining a situational awareness of*
15 *incidents, monitoring location and welfare*
16 *of Police units.*

17
18 Do you see that one?

19 A. Yes.

20
21 Q. It appears that this is a job that requires a lot of
22 cognitive bandwidth, is that fair assessment?

23 A. Yes.

24
25 Q. Not unlike a traffic controller, as I put to Ms A?

26 A. Similar, yes. Well, not to the same extent, I don't
27 know, because I've never been a traffic controller but --

28
29 Q. That's a very fair comment, with respect. But in
30 addition to making voice broadcasts over a particular
31 police channel, a dispatcher might also have to make
32 telephone call, check the COPS system, those types of
33 things?

34 A. Occasionally. We try not to make telephone calls as
35 a dispatcher because your primary role is to take
36 information from the cars on the radio and broadcast
37 information to those cars. So when you're on the phone,
38 that is very difficult to do. So that's why we have
39 a dispatch assist to help you with telephone calls. But
40 yes, going into other systems, checking that, reading jobs.
41 That's correct.

42
43 Q. Do you always work with a dispatch assist or might you
44 sometimes work alone?

45 A. Normally, it would be a dispatch and a dispatch
46 assist.

47

1 Q. Yes.
2 A. Of recent times, it does happen where you don't work -
3 you can work on your own, just due to staffing levels.
4 It's not the ideal situation but that has happened and
5 continues to happen now.
6
7 Q. When did that start happening, just in general terms?
8 Are we talking a couple of years ago or six months or --
9 A. I could not tell you exactly when that happened. It's
10 not in the last six months, it's - some years ago, and
11 I would say pre-COVID, channels could not be split or
12 merged together, and rarely would you sit on your own then.
13 When they got the ability to be able to split and merge
14 channels together, that's when it sort of has started and
15 continues on. It's usually due to staffing issues and it's
16 more that channels are merged together or - rather than
17 split, unfortunately.
18
19 Q. When you say it's "due to staffing", what do you mean?
20 A. A lack of staff.
21
22 Q. What do you understand to be the issue with the lack
23 of staff?
24 A. Sick leave, secondments to other sections, to our
25 training unit, to the quality assurance unit as staff -
26 I believe that during that time there has been a real-time
27 manager, and other positions created.
28
29 Q. Pausing there, when you say "during that time", which
30 time are you referring to?
31 A. Where there's been more merging and sharing of
32 dispatch assists.
33
34 Q. Did you say that happened pre-COVID or during COVID?
35 A. I think it was pre-COVID.
36
37 Q. Pre-COVID?
38 A. Yeah. Where there have been - my understanding was
39 that communications operator positions were dissolved to
40 create these other positions, to manage workload over the
41 state rather than just on a centre.
42
43 Q. Because it's right, isn't it, that in the Newcastle
44 radio operations group, if you're the dispatcher, in the
45 ordinary course you will be in charge of one channel,
46 unless you are dealing with a merged channel; is that
47 right?

1 A. No, not necessarily. Channels are merged together at
2 certain times.
3
4 Q. Yes.
5 A. So you'll get another channel and you'll dispatch for
6 both channels.
7
8 Q. Right. How common is that concept of merging?
9 A. That is quite common. I would say - I couldn't
10 confirm exactly every day of the week but definitely
11 several times a week that happens, generally at quieter
12 times.
13
14 Q. In fact, we can see --
15 A. So through the middle of the night and early morning,
16 that does happen.
17
18 Q. And you helpfully provided a police radio log to your
19 section 54 response, and that indicates the timing of the
20 merging of channels, doesn't it?
21 A. It does. I - yes, it should be written in that book
22 when channels are merged together.
23
24 Q. Yes. And is that a practice - that's a practice that
25 means that a dispatcher is in charge of a larger
26 geographical area; is that right?
27 A. Much larger geographical area and more population and
28 more police resources, yes.
29
30 Q. Is that of concern to you, that practice of merging?
31 A. That concerns me, yes.
32
33 Q. Can you explain that to the Commissioner, please?
34 A. It puts a lot more pressure on the person dispatching
35 and the dispatch assist, to be able to control that area.
36 There's more jobs to look at, there's more police resources
37 to deal with, there's more air traffic. You're basically
38 doubling the air traffic from what you would normally have
39 or expect.
40
41 Q. Does that place greater stress on dispatch and
42 dispatch assist operators?
43 A. I believe it does, yes.
44
45 Q. In your experience in recent times, since that process
46 of merging has started to occur, has that been linked to
47 increased burnout amongst staff?

1 A. I would say yes. I don't really have any figures to
2 back that up, but I know myself that I believe I've -
3 I haven't worked as hard as I have in the last five years.
4 So if I go from, say, COVID onwards, I think that's the
5 hardest I've worked in my career.
6
7 Q. Okay. Which is long?
8 A. Yes.
9
10 Q. Can I ask you, please, Mr B, to move closer to the
11 microphone?
12 A. Sure.
13
14 Q. Perfect. So the recording can pick it up. Thank you.
15 Is it also the case that over that long history, you've
16 seen the nature of police jobs expand in complexity, for
17 example, in terms of mental health matters?
18 A. Mental health, yes, has increased considerably from
19 when I first started, yes.
20
21 Q. And similarly domestic violence?
22 A. Domestic violence, definitely, yes.
23
24 Q. So there's greater complexity to the police jobs that
25 you as a dispatcher, a senior communications officer, need
26 to deal with; is that right?
27 A. Yes.
28
29 Q. The nature of the work is increasing in complexity?
30 A. Yes, I - yeah, I would agree with that, with
31 technology as well.
32
33 Q. What do you mean by that?
34 A. Well, when I first started, mental health and
35 self-harm, there was no such thing as a triangulation of
36 tracking someone's movements to find where they are if they
37 were self-harming.
38
39 Q. Yes.
40 A. So there's constant updates of that now. So, yes,
41 there's more complexity to it.
42
43 Q. So the job that you're doing now is harder than the
44 job that you were doing in the 1990s; is that fair?
45 A. I would say yes, and it is also different.
46
47 Q. Different in terms of --

1 A. When I started, it was pen and paper or - everything
2 was handwritten.
3
4 Q. So it's very different?
5 A. Basically, yes.
6
7 Q. But over the last five to 10 years, is it accurate
8 that it's becoming more challenging?
9 A. More challenging, more workload. Everyone has
10 a mobile phone now, there is just more jobs.
11
12 Q. More jobs?
13 A. Yes.
14
15 Q. And has there been a corresponding increase in
16 resourcing for radio operations at Newcastle?
17 A. No. I would say no. And I don't believe really there
18 has been for police on the street --
19
20 Q. Thank you.
21 A. -- just from my experience.
22
23 Q. So we're now going to go back to the - thank you very
24 much for that overview. We're now going to back into some
25 of the policies and procedures. We had the benefit of
26 Ms A's evidence before you in relation to some of the
27 set-up for a dispatcher, so we understand something about
28 how, as a - please correct me if I've misstated the
29 position, but the dispatcher sits at a console with three
30 screens; is that right?
31 A. Correct.
32
33 Q. And the map is on the right?
34 A. Yes.
35
36 Q. And on the left is another screen that I've now
37 forgotten the name of. What does the left-hand screen do?
38 A. The left screen is like the working screen where the
39 CAD incident opens up so you can see the full incident.
40
41 Q. And the main screen has the list of jobs?
42 A. It has - it's broken up into different sections for
43 jobs that haven't been viewed, viewed, broadcast,
44 acknowledged, on scene, and some other smaller panels that
45 also have information in it.
46
47 Q. And priority 2 jobs are in red. They have

1 a particular colour; is that right?
2 A. That is correct, yeah. When it's unviewed and comes
3 in, there's a big red bar to indicate that it's --
4
5 Q. Sits at the top? I'm sorry.
6 A. It's top left of the screen 2, and then once it has
7 been looked at, it has - the CAD number is in red. So it's
8 a smaller - but it is still in red.
9
10 Q. For example, if it's been looked at by the dispatch
11 assist, where will the job sit on your main screen?
12 A. So when it comes in, and no-one's viewed it, it is the
13 top left of screen 2. If someone views it, whether that be
14 myself or the dispatch assist, it comes up in the top of
15 the screen 2.
16
17 Q. Screen 2. Okay.
18 A. Yes.
19
20 Q. But once it's been viewed, where does it sit?
21 A. In that.
22
23 Q. In that.
24 A. In that position, just as one line. So it has the CAD
25 number and the address and the type of incident that it
26 has.
27
28 Q. And so how do you know what to be broadcasting and
29 when?
30 A. So when the job comes in normally, I would click on
31 the CAD job or the CAD job number in the top of the screen
32 2, and it would open straight up on screen 1, where I can
33 read the details. Once it's viewed by myself until there
34 is some action it's in the top of screen 1 - sorry, it's
35 the top of screen 2.
36
37 Q. Yes.
38 A. And I would then have to click on that CAD job to open
39 it up for screen 1. So I can see the --
40
41 Q. To read it, to read it to broadcast it?
42 A. Yes, to see all the details in that job.
43
44 Q. But as new jobs come in, does it move down the list?
45 A. Yes, but I believe the red still stays at the top
46 because it's a higher priority, like a priority 2 would
47 stay at the top.

1
2 Q. And is there some sort of timer that tells you how
3 long since it's come in in terms of the initial broadcast
4 or the need to give an initial broadcast?
5 A. Yes. There is a time - a time there, I believe, yeah.
6
7 Q. And you're, of course, wearing headphones to listen to
8 what's going on on the channel, that's --
9 A. I have a headset that has one on the ear and this - or
10 the alternate ear does not have an earpiece on it, and then
11 a microphone.
12
13 Q. You've got a dispatch assist either sitting nearby
14 or --
15 A. Yeah, usually on one side of you, yes.
16
17 Q. And we know in this particular case from 7 to 7.30,
18 your dispatch assist, Ms A, was actually operating as
19 a dual offside on two channels?
20 A. Yeah, that's correct. So rather than merging two
21 channels together, they share a dispatch assist.
22
23 Q. Yes. And so she had channel P and channel O at the
24 same time for that half-hour period?
25 A. That's correct.
26
27 Q. And during the course of a shift, you might also
28 operate as a dispatch assist; is that right?
29 A. Yes. So, yeah, we generally alternate to give you
30 a break from being the dispatcher all the time, yes.
31
32 Q. That model of operating two channels as a dispatch
33 assist at the one time, simultaneously managing two
34 channels, do you have a view about whether or not that's an
35 appropriate model?
36 A. I don't think that's ideal. I have done that. You
37 can't listen to - you can only listen to one channel at
38 a time. It makes it very difficult if you have both
39 channels, and then if you need to speak on one channel, you
40 have to turn the other channel off, otherwise it goes over
41 that channel and the dispatcher on that channel might be
42 speaking. So it's definitely not ideal.
43
44 Q. All right. Do you know if concerns about that model
45 have been raised within the radio operations group?
46 A. To what level, I - like, I - I have spoken to
47 supervisors at times to say that it's not working or it's

1 too busy for that.

2
3 Q. Yes.

4 A. Whether it's been escalated or anything official has
5 ever been said, I don't know.

6
7 Q. Is it fair to say that that model, to your mind,
8 creates risk?

9 A. Definitely creates risk.

10
11 Q. What are the risks?

12 A. That something's missed. That it can burn people out,
13 put people under more pressure than they really should be
14 under.

15
16 Q. That time from 7 to 7.30, is that around the time of
17 shift change at the radio operation group?

18 A. Yes. So official start time is 7, but people stagger
19 in anywhere from 6 to 7 --

20
21 Q. Stagger in, as in --

22 A. -- and that just depends on if you want to get in
23 early or you want to get in on time or - there's no set
24 fast rule. Generally, come in when you want as long as you
25 are there and ready to go by 7.

26
27 Q. By 7. Is that typically a busy time, that time in the
28 evening from sort of 7 onwards?

29 A. I would say it is, because mostly police are working
30 12-hour shifts, their changeover is either 6pm or 7pm.

31
32 Q. Yes.

33 A. Jobs that don't get down through the day shift are
34 generally handed back so there's more jobs in the list. If
35 they haven't done them, they'll hand them back. Their
36 crews are changing over, we've got staff changing over.
37 And it's just generally a busy time for jobs happening.

38
39 Q. So turning now to what I'll call the VKG SOPs, if
40 you're happy with that?

41 A. Yes.

42
43 Q. You're deeply familiar with them, I'm sure?

44 A. Yes.

45
46 Q. And we've just canvassed a critical part of your role
47 as a dispatcher is to maintain situational awareness about

1 the jobs that have come in?
2 A. Yes.
3
4 Q. And that includes, of course, prioritisation of the
5 jobs according to the priority they've been allocated,
6 whether a priority 1 through to priority 5?
7 A. Yes.
8
9 Q. Priority 1 we understand is very rare; is that your
10 experience?
11 A. Yes. Very rare.
12
13 Q. How many have you had in your career?
14 A. I couldn't tell you a number that I've had. On a -
15 I would say I wouldn't get a priority 1 once a month. Have
16 I had priority 1s, yes, but probably less than - I can't
17 really say --
18
19 Q. That's all right.
20 A. -- but I would say less than five in a year.
21
22 Q. All right. Thank you, that's helpful. And so then
23 priority 2 are the responses that require an immediate
24 police response. You are nodding? Yes?
25 A. Yes.
26
27 Q. Those are incidents where there's a serious threat to
28 life or property, for example, a serious assault?
29 A. Yes.
30
31 Q. And so on receipt of a priority 2, as with a priority
32 1, the dispatcher has to undertake an initial assessment of
33 the incident --
34 A. Yes.
35
36 Q. -- is that right?
37 A. Yes.
38
39 Q. And that includes assessing the priority, so whether
40 you agree with the priority?
41 A. Yes.
42
43 Q. And also the incident type?
44 A. Yes.
45
46 Q. Was there some hesitation there or --
47 A. There was some hesitation, yes. Generally I wouldn't

1 change an incident type unless it was specifically wrong.
2 But as a matter of best practice, an incident type that's
3 allocated should most accurately reflect the incident; do
4 you agree?
5 A. Yes.
6
7 Q. Now, you're very familiar with the nature of this
8 particular incident which was classified as a concern for
9 welfare?
10 A. Yes.
11
12 Q. But there is also an incident type of assault?
13 A. There is.
14
15 Q. That would have been the more appropriate incident
16 type, I suggest?
17 A. Yes. Being bashed is an assault, yes.
18
19 Q. And it was open to you to change it but --
20 A. I could have changed it, but it would not have changed
21 anything in my response to that job, had it been an assault
22 or a concern for welfare.
23
24 Q. Still a priority 2?
25 A. Still a priority 2.
26
27 Q. And police in the field still hear "Female being
28 bashed"?
29 A. Yes.
30
31 Q. You broadcast that?
32 A. Yes.
33
34 Q. Except - do you accept this - that it may be that
35 a concern for welfare is a more generic label, whereas an
36 assault is more specific; it's quite possible that police
37 in the field may take greater note of an assault than
38 a concern for welfare? That can, for example, relate to,
39 you know, a 92-year-old who hasn't been seen for a week?
40 A. I would agree with that, yes.
41
42 Q. Thank you. Now, a priority 2 incident is preceded by
43 a two-tone alert; that's right?
44 A. Yes.
45
46 Q. And there are certain requirements for the broadcast
47 of priority 2 incidents with the important caveat that all

1 reasonable efforts and attempts should be made to broadcast
2 in accordance with the particular time frame?
3 A. Yes.
4
5 Q. Is that fair?
6 A. That is correct.
7
8 Q. So for the initial broadcast, 90 seconds; is that
9 right?
10 A. Yes.
11
12 Q. That's from receipt of the CAD from PoliceLink
13 telephonist, from it coming in; is that right?
14 A. No, I believe that is from the time that they create
15 that CAD message. Because then once they create it, it
16 comes through to the dispatcher's screen.
17
18 Q. Right.
19 A. And I believe it's 90 seconds from then.
20
21 Q. From that point in time?
22 A. From that time that it's created.
23
24 Q. In your experience, is that time frame generally met?
25 A. Where possible, yes. Yes.
26
27 Q. Are you able to just give us a very broad percentage?
28 Is it sort of 70 or 80 per cent of the time or --
29 A. I couldn't, no. I don't have access to any of that
30 statistics. I'd be guessing.
31
32 Q. Okay. And then there is a requirement for rebroadcast
33 every 60 seconds thereafter for an unacknowledged priority
34 2?
35 A. That's correct, in the SOPs.
36
37 Q. And again, that has the caveat that all reasonable
38 efforts and attempts should be made to rebroadcast?
39 A. Yes.
40
41 Q. And then there's a requirement, isn't there, for an
42 escalation, if there hasn't been a response within five
43 minutes --
44 A. Yes.
45
46 Q. -- to a priority 2? What's that?
47 A. To raise the PAC or PD supervisor or duty officer.

1
2 Q. Or, alternatively, the ROG shift coordinator?
3 A. If they cannot be obtained, yes.
4
5 Q. And how would you ordinarily raise the supervisor or
6 duty officer?
7 A. Either on air, as a dispatcher, or by phone.
8
9 Q. Yes. You might make a phone call?
10 A. Yes. Yeah. Or the dispatch assist would make the
11 phone call; I would --
12
13 Q. But it's very much a matter for the operational police
14 as to how they prioritise their own resources; is that
15 fair?
16 A. Yes.
17
18 Q. It's simply your role to continue to rebroadcast until
19 you have --
20 A. Yes.
21
22 Q. -- the priority 2 acknowledged?
23 A. That's correct.
24
25 Q. Right. Now, there is this requirement in the SOPs -
26 I'll just read it but I'm sure you are familiar with it:
27
28 *During times of high demand for "air time"*
29 *and availability of Police resources, it is*
30 *not acceptable to contravene broadcasting*
31 *procedures and allow incidents to "sit" in*
32 *the Dispatcher's list without action. It*
33 *is important for Dispatchers to take action*
34 *to facilitate the acknowledgment of*
35 *incidents by actively seeking direction*
36 *from PAC/PD Supervisors and Duty Officers.*
37
38 You are aware of that requirement?
39 A. Yes.
40
41 Q. Coming now to the shift on the Tuesday, 3 January
42 2023 --
43
44 THE COMMISSIONER: Ms Sullivan, I might just briefly
45 interject that the SOPs that you've been referring to have
46 already been tendered as exhibit 2C.
47

1 MS SULLIVAN: They have, yes, tab 143, exhibit 2C.

2

3 THE COMMISSIONER: Just so we are clear for the record.
4 Thanks.

5

6 MS SULLIVAN: Q. So this is 3 January 2023. It is
7 almost three years ago and you will have done countless
8 shifts since that time. Given that reality, how is your
9 recollection of this particular shift on that evening?

10 A. Since the recording - that's where I've got the
11 information that I've relied on in my statement. I didn't
12 recall anything really, when the LECC officers first spoke
13 to me, it's only since then that I've accessed the
14 recording and the CAD message.

15

16 Q. When the LECC officers approached you, is that the
17 first time you had been approached in relation to --

18

A. Yes.

19

20 Q. -- this particular incident?

21

A. Yes.

22

23 Q. So no-one from radio operations group approached you
24 about issues with the delay on the night?

25

A. Not that I recall, no.

26

27 Q. Are you likely to recall that?

28

A. Yeah, I would have, yeah.

29

30 Q. Did you find that listening to the audio recording
31 prompted any recollection?

32

33 A. I'm not sure - possibly yes, it did, but I basically
34 just went through the recording and wrote notes from that
35 recording. Yeah, I - I would say that it probably has, but
36 I think I'm mostly getting that from what I listened to.

36

37 Q. Okay. You were working later that evening on 4 - or
38 early in the hours of 4 January --

39

A. Yes.

40

41 Q. -- when the job came through, or the incident came
42 through, in relation to the deceased person at the
43 Salvation Army?

44

A. I - yes, I was working still.

45

46 Q. Were you made aware of that matter at that time?

47

A. I don't know if I was made aware of the matter at that

1 time. I did go back to that channel --

2
3 Q. Yes.

4 A. -- which was then, I believe, merged with another
5 channel, so I would have known about it.

6
7 Q. All right. That would have been most distressing for
8 you, can I suggest?

9 A. Yeah, I - I can't recall exactly how I felt or what
10 I did or said. I just don't recall.

11
12 Q. Okay. Understood. So the particular focus of my
13 questions is in relation to that hour, from 7 to 8pm,
14 accepting what you say about not having an independent
15 recollection. There was a shift supervisor on that night -
16 there would have been?

17 A. Yes.

18
19 Q. And we know from the log, the radio log that you've
20 annexed to your section 54 response, that you sign on at
21 6.50?

22 A. Yes.

23
24 Q. And that's when you're taking over channel P; is that
25 right?

26 A. Yes.

27
28 Q. Channel P is for the far north coast; is that right?

29 A. Yes, covering Richmond and Tweed-Byron police
30 districts.

31
32 Q. So two commands, two areas?

33 A. Two areas, yeah. Tweed Heads to south of Woodburn,
34 and west.

35
36 Q. And we have canvassed - you had Ms A as your dual
37 shared offsider?

38 A. Yes.

39
40 Q. For the first half hour?

41 A. Yes.

42
43 Q. And then she changes to become a dedicated dispatch
44 assist for channel P, your channel?

45 A. Yes, yeah, I believe that's what the map - our map of
46 what we do through the shift indicated, yes.

47

1 Q. Do you know why that decision was made? Can you
2 assist us with why --

3 A. The decision to --

4

5 Q. Make her a dedicated dispatch assist for you so she's
6 no longer a dual or a shared offsider, at 7.30?

7 A. I would suggest, from looking at the map, that there
8 was not enough staff from the 7 till 7.30 period, and then
9 someone came back from a break, a meal break or another
10 break, which allowed that person to then sit on channel
11 Oscar.

12

13 Q. Yes.

14 A. So then she didn't have to look after channel Oscar,
15 she could come back and be the dispatch assist for channel
16 Papa only.

17

18 Q. That is the most likely explanation as opposed to it
19 being because there was an appreciation that you were very
20 busy on channel Papa?

21 A. I can't answer that because that's - the supervisor
22 would have --

23

24 Q. Made that decision?

25 A. Made that decision, yeah. That may well have been the
26 case. I can't be sure.

27

28 Q. All right. Now, you state at paragraph 10 of your
29 response, your section 54 response, that you were unaware
30 of when you first saw the CAD incident in relation --

31 A. Yeah, I can't recall.

32

33 Q. There's nothing in the CAD incident log - and we'll
34 bring it up, that's at tab 2, that is exhibit 3C, please,
35 which should come up in front of you, Mr B. Do you have
36 that in front of you?

37 A. Yes.

38

39 Q. So we know that Ms A has viewed the incident at
40 7:05:03. We see that with the "Recipient P set to Viewed."
41 Do you see that. We might need to scroll to the next
42 page for the operator --

43 A. Yes, I think it's --

44

45 Q. That's barcode ending 193. Do you see there 7:05:03?

46 A. Yes.

47

1 Q. That's Ms A viewing the incident?
2 A. Yes.
3
4 Q. And then the next entry is at 7:10:28, when there's
5 the broadcast?
6 A. Yes.
7
8 Q. And that's by you?
9 A. That's my registered number, yes.
10
11 Q. So we just can't say during that five-minute period
12 when you may have first viewed it?
13 A. No, I don't know. I would have viewed it - if I've
14 broadcast it at 19:10, I would have had to open it up prior
15 to that.
16
17 Q. Yes.
18 A. To read what the job was before I - and assess it
19 before I actually broadcast it. So if - it could have been
20 any time between when Ms A viewed it --
21
22 Q. Yes.
23 A. -- and just prior to 19:10.
24
25 Q. There were a number of other jobs, for example, there
26 was - at 7.01 there was a concern for welfare in the
27 Ballina LGA relating to a gentleman, a mental health issue.
28 Do you recall that?
29 A. Yes.
30
31 Q. That's at Wejuba Gardens?
32 A. Yes.
33
34 Q. Then also at 19:01, there was an accident, a priority
35 3 accident on the Pacific Highway. You recall that
36 incident?
37 A. Yes, I do.
38
39 Q. So those were also jobs that you were managing?
40 A. Yes.
41
42 Q. But this one that came in at 7.03 was a priority 2, so
43 a higher priority than those two jobs?
44 A. Yes, that's correct.
45
46 Q. Are you able to assist us with that delay, that
47 five-minute delay in the receipt of the job - that is, in

1 the viewing by Ms A and your broadcast?
2 A. Yeah. I believe that because Ms A - it would have
3 been sitting in the normal position, but I was obviously
4 busy taking receipt of what a car crew was saying, or
5 looking at another job, and I may not have viewed it. It's
6 only a small section at the top of the left.
7
8 Q. Yes.
9 A. Once she has viewed it, it's gone from there and to
10 the top of the screen, and although it's still in my view,
11 I have not obviously seen it, as I've been doing other
12 things. It was quite busy, from what I heard on the
13 recording.
14
15 Q. So if Ms A hadn't viewed it, is it likely that it
16 would have been broadcast earlier?
17 A. It's possible, yes.
18
19 Q. So we know that - can I actually just get your
20 assistance with the entry in the CAD incident log at
21 19:03:28 - we see there, "Automatic all resources
22 broadcast" for the particular incident job. Is that sort
23 of a push from the system to the mobile data terminals of
24 police in the field?
25 A. That is what I - my understanding, yes.
26
27 Q. It's not actual voice broadcast?
28 A. No, it's not police broadcast, no.
29
30 Q. Do you know if it generates a two-tone alert or
31 anything like that when it's pushed to their MDTs?
32 A. Not that I'm aware of. I believe that it would be
33 different to a priority 3 on their MDT but I - I don't know
34 that for certain. I have not seen that.
35
36 Q. Thank you. Now, we then see that the next broadcast
37 for this incident is at 7.24pm, so that's 14 minutes after
38 the first broadcast?
39 A. Yes.
40
41 Q. That's a significant delay, can I suggest, for
42 a priority 2 matter?
43 A. That is a significant delay, yes.
44
45 Q. But there was a job that came in in relation to
46 a domestic violence incident at Murwillumbah --
47 A. Yes.

1
2 Q. -- that came in at about 7.10pm?
3 A. Yes.
4
5 Q. And that was a job that entailed a lot of conflicting
6 detail, if I can put it in those terms; is that fair?
7 A. Yeah, and I believe it was more than one job - one CAD
8 message --
9
10 Q. Yes.
11 A. -- for the same incident, and it mentioned different
12 locations. So yes, it was a bit of confusion.
13
14 Q. And indeed you indicate that on air, don't you?
15 A. Yes.
16
17 Q. And in fact, the audio suggests that you are dealing
18 with that from about 7.10 to 7.20pm. That incident is
19 consuming a lot of air time; is that fair?
20 A. Yes. So I was trying to read each CAD job. I believe
21 I had a car crew going to that but it was a single officer.
22
23 Q. Yes.
24 A. Which is not ideal for a priority 2 job. So --
25
26 Q. That matter involved a child too?
27 A. Yeah, there was mention of a child being taken,
28 I think, and someone who was bleeding.
29
30 Q. Yes. All right. Just taking you back to another job
31 that came in at around 7.03 - in fact, we'll bring the CAD
32 up to remind you, this is the accident on the Pacific at
33 Newrybar. So that's at tab 8, it's exhibit 4C.
34
35 THE COMMISSIONER: Tab 8?
36
37 MS SULLIVAN: Tab 8.
38
39 Q. This is a priority - do you have that yet, Mr B?
40 A. No, I don't.
41
42 Q. Let me know when it pops up.
43 A. It's there now.
44
45 Q. Great. Thank you. So this is a priority 3 accident
46 on the Pacific Highway, and we've had the benefit of Ms A
47 decoding what's written there in police speak, but we

1 understand, importantly, that no person was trapped, no
2 person was injured. No fluids. The vehicle has hit the
3 tree in a service lane near the above address. Is that the
4 essence of that job?
5 A. That's correct.
6
7 Q. And we can see that Ballina 14's acknowledged that job
8 at 7:03:39, and Woodburn 29 at 7:04:37. Do you see that?
9 A. Yes.
10
11 Q. And that was a job that came in before the Salvation
12 Army job at 7.03?
13 A. Right, yes.
14
15 Q. Which was then viewed by Ms A at 7.05 and then
16 broadcast by you at 7.10?
17 A. Yes.
18
19 Q. Right. That's the chronology. Now, it's not your
20 role, is it, if police have indicated that they are
21 attending a priority 3 job, whilst there is a priority 2
22 job that's not acknowledged, to second-guess that
23 decision-making. Is that fair?
24 A. No, I don't have that authority. It's on the PD, the
25 police district.
26
27 Q. But it is your role to rebroadcast those jobs, the
28 priority 2 job, until it's acknowledged?
29 A. Yes, it is.
30
31 Q. Now, is it fair to say - well, perhaps I'll just ask
32 you - that delay in broadcasting the - there's the 7.10
33 initial broadcast and the subsequent rebroadcast at 7.24.
34 What do you say is the reason for the delay?
35 A. I believe that I was busy with other tasks, recording
36 what police are saying to me, acting on that information.
37
38 Q. There's indications in the audio recording, isn't
39 there, about the - how busy the shift is?
40 A. Yeah, I believe Ballina 14, who is - who I believed
41 was the supervisor --
42
43 Q. Yes.
44 A. -- said, "We've got a bit going on."
45
46 Q. Yes.
47 A. Meaning that it's busy.

1
2 Q. Yes.
3 A. I think he asked me to check something for him so he
4 could work out whether that job needed - I don't fully
5 recall, but if I could check that and give him some
6 information so he could work out whether to attend that.
7
8 Q. I'll just give you this overview to refresh your
9 memory: at 7.03pm you say this, this is in relation to the
10 accident:
11
12 *Yeah --*
13
14 *this is to Ballina 14 --*
15
16 *there must be something in the air there,*
17 *Ballina 14. I've now got an accident.*
18 *Pacific Highway ...*
19
20 That's at 7.03. At 7.34pm you say:
21
22 *I'm not sure who's left to get this one,*
23 *but a fraud at the Murwillumbah Police*
24 *Station.*
25
26 So the "Not sure who's left to get this" is an --
27 A. Yeah, because all the Murwillumbah cars - well, there
28 were cars dragged from other areas to Murwillumbah to
29 assist with that serious domestic, and so I knew there
30 would be no-one left to do the job.
31
32 Q. And then at 7.38pm, Alstonville 18 puts this out on
33 the radio:
34
35 *I know you're busy but is there an ETA for*
36 *the ambo at our location?*
37
38 Can I suggest that that's an indication by that crew that
39 they appreciate that radio is tied up with a lot?
40 A. Yeah, but they want to find out how long an ambulance
41 is going to be so --
42
43 Q. Yes, they need something?
44 A. -- they can get moving on to --
45
46 Q. Yes. And then at 7.40pm we have Richmond 10, who is
47 the duty officer, leaving Lismore to head to Ballina to

1 "help them clean up a couple of those jobs"?
2 A. Yes.
3
4 Q. In your experience, is it rare for the duty officer to
5 get out in the field?
6 A. Yes. It's not unheard of but for that time of the
7 night to have the duty officer and Ballina 14 both out so
8 early, yeah, it was busy.
9
10 Q. And then at 7:42:40 Ballina 14 calls in:
11
12 *Ballina 14, I'll have to get you to stand*
13 *by unless it's urgent.*
14
15 A. Yes.
16
17 Q. What do you say about that message?
18 A. We use that because I'm busy with something else and -
19 but tell them if it's urgent, they can go ahead. But if
20 it's not urgent, can you just wait and so then I can sort
21 out what I'm doing.
22
23 Q. All right.
24 A. I'm not sure what I wanted him to stand by for. I'm
25 not sure what I was doing.
26
27 Q. That's just an indication that you were --
28 A. Yes, so I was --
29
30 Q. -- busy?
31 A. Busy, yes.
32
33 Q. All right. So there is a further broadcast by you at
34 7.34pm, so that's 10 minutes after the previous broadcast
35 at 7.24, but there hasn't been any indication of any
36 escalation, can I suggest?
37 A. I'm not sure what you mean.
38
39 Q. Well, there's no indication of escalation in terms of
40 the requirement that when a job is not acknowledged within
41 that particular time frame, namely, five minutes, that it
42 be escalated with the shift supervisor or the --
43 A. No, I had not escalated with the shift supervisor.
44 I - I think I broadcast it at one stage and Ballina 14 had
45 called and I believed that he had heard the job but
46 I didn't clarify that with him, that he had heard the job.
47

1 Q. All right. And by that response are you indicating
2 that that's something you should have done?
3 A. Yes, in hindsight, yes, I should have said, "I've got
4 a priority 2 job and what do you want me to do with that?"
5 When he didn't acknowledge anything about that job and
6 was - I think he talked about the crash. I took that as
7 the crash was more pressing for him to attend.
8
9 Q. But it's not safe to make assumptions about these
10 things, is it?
11 A. No.
12
13 Q. At paragraph 19 of your response, you say this:
14
15 *There were other priority 2 incidents on*
16 *the channel that had more detailed*
17 *information, which led me to prioritise*
18 *those incidents above the incident in*
19 *question, even though they were all sent to*
20 *my channel as priority 2 incidents.*
21
22 A. Yes.
23
24 Q. Can you just explain what you mean by that?
25 A. The priority 2 jobs at Murwillumbah, there was
26 information about a child being taken, I believe, a person
27 bleeding, initially responded by a single unit police
28 officer. I believe there was a priority 2 job at Casino
29 where someone was armed with a bottle and wanted to walk in
30 front of traffic or in front of a car. There was a cardiac
31 arrest in Lismore --
32
33 Q. Yes.
34 A. -- where the ambulance had said their caller was
35 aggressive.
36
37 Q. Just pausing there, can I indicate, the Casino job
38 that you're referring to comes in at 7.41?
39 A. Yep.
40
41 Q. Okay? So that's after --
42 A. After the three broadcasts, yes.
43
44 Q. After, that's right. And the Lismore cardiac arrest
45 is at 7.44, so again that's after?
46 A. Right. Yes.
47

1 Q. Can I just suggest that the fact that some jobs may
2 have detailed information but others might only have scant
3 information, as in this case --

4 A. Yes.

5

6 Q. -- isn't a safe basis upon which to prioritise,
7 because, for example, as in this case, there may only be
8 one call about a violent assault; that might be all that
9 you get?

10 A. That is correct.

11

12 Q. So you agree with my proposition?

13 A. I do agree with that.

14

15 Q. Now, you, very candidly in your response, noted that
16 there had been noncompliance with the VKG SOPs?

17 A. Yes.

18

19 Q. Can I suggest that the noncompliance is in this
20 respect: firstly, there was the delay in not broadcasting
21 the priority 2 within the 90 seconds, which we have
22 canvassed; would you agree?

23 A. That's correct.

24

25 Q. Secondly, there was the failure to rebroadcast every
26 60 seconds until the incident was acknowledged; do you
27 agree?

28 A. Yeah, I did not follow the SOPs in that regard; that's
29 correct.

30

31 Q. And, third, there was a failure to escalate to within
32 the five-minute period or thereafter; do you agree?

33 A. I agree.

34

35 Q. Now, as I've indicated, you can accept certainly for
36 the part of counsel assisting that I accept that it was
37 a very busy shift, but it is of concern from a systems
38 perspective that an incident, a priority 2 incident,
39 describing a female being bashed, can have that level of
40 significant delay in the police response. Can you help us
41 understand what systems issues are at play here?

42 A. It was removed from where I would normally see that
43 job on initial broadcast, so that I didn't broadcast it
44 straightaway because it wasn't exactly where I would get
45 a priority 2.

46

47 Q. Yes.

1 A. Once I have broadcast it, it goes into the broadcast
2 list with all the other jobs that are set to broadcast.
3 That list - and I cannot recall - can be longer than the
4 panel that's available, so then it has a scroll bar. That
5 may have been scrolled down because I had to find another
6 job and then I don't see the red --
7
8 Q. So it's out of view?
9 A. It's out of view. I don't know if that happened or
10 not. But that is a distinct possibility. It has happened
11 before.
12
13 Q. Yes.
14 A. Ideally, it would be nice if it came back up to be
15 rebroadcast where the new jobs come through.
16
17 Q. Like a pop-up screen or --
18 A. Yeah, something to indicate this hasn't been broadcast
19 in that time.
20
21 Q. Has that suggestion been explored within --
22 A. No, not that I'm aware of and not that I've ever
23 brought up.
24
25 Q. Do you find the current CAD system fit for purpose?
26 A. No. I would say no. Generally, I think there is too
27 many jobs for that purpose now. My understanding, when it
28 came in - I think it came in in 2007.
29
30 Q. Yes.
31 A. It could have been a little bit before or a little bit
32 after.
33
34 Q. Yes.
35 A. And it was a UK-based system that the police bought
36 and it was designed for smaller areas, so not doing - not
37 to have the job volume that we have.
38
39 Q. I see.
40 A. So when it is busy, you can't see every job. You can
41 get all the jobs to come up on that screen but that screen
42 can get full too and you still have a scroll bar. But the
43 priority jobs do tend to stay up there, but once you go
44 into another job to look at it, that's gone.
45
46 Q. Okay.
47 A. I think it's past its use-by date and especially when

1 channels are merged, that's full. You can't even see all
2 the cars that are on scene at different jobs, which is part
3 of our role, is to --

4
5 Q. Welfare?

6 A. -- monitor where those cars are on scene. The prompt
7 box, where you get prompts to say that there's an update to
8 a job or something's changed within the job that you need
9 to click on, it then opens the job and you have to then try
10 and work out what's changed, that prompts box also ends up
11 with a scroll bar when there's a lot of prompts. And that
12 prompt box is - that's probably lower on the list of things
13 to do, but it does have to be done, and that's where the
14 welfare checks for officers on scene are at, come up, as
15 well. So that can get very full and time-consuming to go
16 through and acknowledge all those prompts as well.

17
18 Q. Okay. So is this an accurate statement of your
19 evidence: there's an urgent need for an appropriate system
20 to manage the complexity and volume of the dispatcher's
21 job?

22 A. As a dispatcher, I would say yes, there is. I believe
23 there's one in the works. I was of the understanding that
24 there was going to be one very close to being released but
25 I don't think that's happening as quick as they had
26 anticipated. So we're still using a system that's
27 considerably old, 20 years, pushing close to 20 years old.

28
29 Q. It's very helpful. Are there any other things that
30 come to mind?

31 A. In regard to the --

32
33 Q. Systems issues?

34 A. The systems issues? Not specifically. I mean, it
35 would be nice if there was an area somewhere where just all
36 priority jobs could be that was a lot easier to see.

37
38 Q. And some sort of facility for mapping so that you're
39 not having to Google?

40 A. We do have a map attached to the CAD screen. It is
41 limited on what it will show.

42
43 Q. Yes.

44 A. Sometimes using Google Maps is a better option. It
45 also gives us street view option as well.

46
47 Q. Thank you. That's very helpful. Did any supervisor

1 at radio operations group ever come to you and speak to you
2 about the delay in the response at any point in time that
3 you --

4 A. Not that I recall.

5

6 Q. No. I might have asked you that. There's the
7 capacity to add to an incident the status - so, for
8 example, "Occurring now", that an incident is occurring
9 now?

10 A. Yes.

11

12 Q. That's something that a dispatcher can do; is that
13 right?

14 A. A dispatcher can do that. It would not change that
15 priority. "Occurring now" will make any job a priority 2,
16 I believe.

17

18 Q. Oh, right.

19 A. But the job was already a priority 2. It won't make
20 it higher if it's already a priority 2. But that status
21 could be added.

22

23 Q. Have you done that on occasion?

24 A. Rarely.

25

26 MS SULLIVAN: Thank you very much, Mr B. I have nothing
27 further.

28

29 THE COMMISSIONER: I have a couple of matters, Mr B, and
30 then we'll see if Ms Jardim has any questions for you
31 following from what Ms Sullivan just asked.

32

33 Q. I appreciate what you say, that adding, for example,
34 "occurring now" wouldn't change the priority, but in your
35 experience, would it change the way officers on the ground
36 hearing that job being broadcast - change their priority,
37 so if they have to choose between several priority 2 jobs,
38 as they did on this night, would they change their
39 approach?

40 A. I don't believe so, myself, that would change anything
41 for them.

42

43 Q. To know that it was an assault generally versus an
44 assault occurring now wouldn't alter their decision-making?

45 A. From my recollection of that job, it said that she was
46 being bashed, so that means --

47

1 Q. It should have been apparent.
2 A. -- it's occurring now. So - and I believe that was
3 broadcast out there. So they would have that
4 understanding, that it is occurring now. By adding that
5 status, I don't believe it would change anything.
6
7 Q. And similarly, it was broadcast as Ms Sullivan said,
8 as a concern for welfare?
9 A. Yes.
10
11 Q. Albeit with the descriptor "woman being bashed".
12 Would it have made a difference, do you think, and in your
13 experience, to the officers hearing that job being called
14 out if it had been described as an assault rather than
15 a concern for welfare?
16 A. From me, I don't believe so. I can't really speak for
17 the officers on the street. I --
18
19 Q. Thank you. And I wanted to ask, too, about your -
20 from what you remember or from what you understand to be
21 your decision in terms of not escalating the delay in
22 responding to that job to either the mobile supervisor or
23 to the duty officer, do you think you were influenced by
24 the fact that you knew that Ballina 14 was already out on
25 a job?
26 A. Yes. I --
27
28 Q. And in what way?
29 A. Because they would have heard that broadcast. There's
30 two tones. So my understanding of how police operate if
31 there's two tones, they're - they go, "Oh," stop what
32 they're doing and they listen for that. Whether they're in
33 the station or in a car. That's an attention getter. So
34 they would then listen to the details that were being
35 broadcast. And at one stage, if I recollect correctly,
36 Ballina 14 spoke straight after I'd broadcast that once.
37 I'm not sure which transmission it was, but I think there
38 was a time where he did broadcast straight after and I -
39 I would have thought that he would say something, but he
40 didn't, because he was doing something else or wanted
41 something else.
42
43 Q. So am I right in understanding your evidence, which is
44 that you're presuming that having spoken just after
45 a two-beeper --
46 A. Yes.
47

1 Q. -- he knew it's there, but he's trying to sort
2 something else out first?
3 A. Yes.
4
5 Q. And then he'll come back to it?
6 A. Yes.
7
8 Q. So there didn't seem to be a need from your
9 perspective, perhaps --
10 A. Yes.
11
12 Q. -- to highlight that? He's aware of it?
13 A. Yes. And I - I think I remember from the recording or
14 the transcript, I may have spoken to Richmond 10 on the air
15 before that job came in.
16
17 Q. That's the duty officer?
18 A. The duty officer, sorry, yes.
19
20 Q. Yes.
21 A. The duty officer. I would have to listen to the tape
22 to confirm that again, but - because I think the job that
23 Alstonville was at, the self-harm, there was
24 a triangulation for that job maybe. I'm not a hundred per
25 cent sure. I've got --
26
27 Q. And by the fact that you say you spoke to Richmond
28 10 --
29 A. Mmm-hmm.
30
31 Q. -- do you remember if you spoke to the duty officer
32 about this outstanding --
33 A. No, I --
34
35 Q. -- assault?
36 A. Not that I'm aware of, no.
37
38 Q. But am I right to say you are presuming that Richmond
39 10 would also have been aware of it but was juggling other
40 priorities?
41 A. It is a presumption on my behalf, yes.
42
43 Q. And as Ms Sullivan said, with the benefit of
44 hindsight --
45 A. Yes.
46
47 Q. -- and I acknowledge the importance of being cautious

1 about using hindsight in circumstances such as this --
2 A. Yes.

3

4 Q. -- but with the benefit of hindsight it would have
5 been better to have said that out loud rather than presumed
6 it?

7 A. Yes, most definitely.

8

9 THE COMMISSIONER: Thank you.

10

11 Ms Jardim, do you have any questions by way of
12 re-examination?

13

14 MS JARDIM: Not from me, Commissioner.

15

16 THE COMMISSIONER: Are there any other legal reps that
17 want to ask any questions? Is there any reason for - any
18 need for re-examination?

19

20 MS SULLIVAN: Nothing arising.

21

22 THE COMMISSIONER: Mr B can be excused.

23

24 MS SULLIVAN: Would you contemplate a short break then,
25 Commissioner, so that we can arrange the --

26

27 THE COMMISSIONER: To arrange for the next witness, yes.

28

29 Mr B, thank you very much for coming today. I didn't
30 hear any breaches of the non-publication order so I think
31 we're right for that transcript to go up in due course.

32

33 I appreciate you coming to talk about this.
34 I appreciate the frankness with which you've given evidence
35 and tried to recall the circumstances in which this
36 occurred many years ago, and I would just encourage you,
37 that you're perfectly entitled to go and speak to someone
38 about the process of giving evidence in front of this
39 commission and/or any distress that that might have caused
40 you. That's something that is important to do if you think
41 it would be of use.

42

43 THE WITNESS: Okay, thank you, Commissioner.

44

45 <THE WITNESS WITHDREW

46

47 THE COMMISSIONER: We will adjourn briefly. The next

1 witness will be giving evidence by AVL so we'll just take
2 a break while we make that arrangement. Thank you.

3
4 **SHORT ADJOURNMENT**

5
6 MS SULLIVAN: Thank you for that time, Commissioner. The
7 next witness is Officer D via AVL.

8
9 THE COMMISSIONER: Thank you. Officer D, your identity is
10 being covered by pseudonym order that was made by the
11 Commission yesterday, so everyone should refer to you as
12 "Officer D". If you have the need to refer to your
13 colleague in Ballina 14 during the course of your evidence,
14 if you could try and remember to call him Officer C, that
15 would be useful. If not, we've got a process in place to
16 make sure that things are properly de-identified. So don't
17 get yourself too caught up in it, but that would be the
18 preference.

19
20 What we're going to do now is, firstly, swear you in.
21 The Commission's officer is standing next to the screen
22 where you are situated. He's going to swear you in --

23
24 MS SULLIVAN: He will take an oath.

25
26 THE COMMISSIONER: -- in the usual way, so if you could
27 just listen out for what he's got to say.

28
29 OFFICER D: Yes, Commissioner.

30
31 **<OFFICER D, sworn: [3.04pm]**

32
33 THE COMMISSIONER: Thank you, officer. Now, Mr Chapman,
34 I understand that you act for Officer D?

35
36 MR CHAPMAN: Yes, thank you, Commissioner. I did want to
37 mention my appearance. I act for Officer D, and also he
38 will be taking the objection.

39
40 THE COMMISSIONER: Thank you. And just for the record,
41 I think you've been here for most of today but joined us a
42 little bit after the start of the --

43
44 MR CHAPMAN: Indeed. I think it was quarter past.

45
46 THE COMMISSIONER: Thank you very much.

1 So Officer D, your lawyer has indicated that you want
2 to take the objection to giving evidence and that's a very
3 sensible course of action. It's the course of action that
4 most people take when they come to give evidence here. So
5 I will formally, under section 75 of the Law Enforcement
6 Conduct Commission Act, make a declaration that all answers
7 and other things given by you will be regarded as having
8 been given on objection.

9
10 I'm sure that Mr Chapman has been through this with
11 you, but I just want it to be clear so that you know, even
12 though your evidence has been given on objection, it can
13 still be used against you in certain circumstances, and
14 I'll just outline what they are. So it can be used in
15 proceedings for an offence under the Law Enforcement
16 Conduct Commission Act. You've still been sworn to give
17 evidence and you do need to tell the truth here today.

18
19 Your evidence can be used for this investigation,
20 obviously, or to allow the Director of Public Prosecutions
21 to provide advice to the Commission, and your evidence can
22 also be used against you in disciplinary proceedings,
23 whether that's under section 173 of the Police Act in
24 relation to allegations of misconduct or unsatisfactory
25 performance, or under section 181D of the Police Act, which
26 is for summary removal, or section 183A for revocation of
27 a promotional appointment. So did you have any questions
28 about that that you wanted to ask?

29
30 THE WITNESS: No, your Honour.

31
32 THE COMMISSIONER: And the other matter that I do formally
33 need to go through is a requirement to outline the scope
34 and purpose of the examination. It was outlined by counsel
35 assisting this morning, but you, for obvious reasons,
36 weren't present. It's the same as the scope and purpose
37 that was on your summons, and it is to investigate the
38 circumstances surrounding the NSW Police Force response to
39 a 000 call made at 7.03pm on 3 January 2023 reporting that
40 a woman was being bashed behind the Salvation Army building
41 in Ballina, and the investigation includes the radio
42 broadcast and dispatch of police in relation to the 000
43 call; the response, including the timing of NSW Police
44 Force officers to the radio broadcast, the actions of
45 officers on attending the location of that assault, and the
46 decision by the NSW Police Force not to declare a critical
47 incident in relation to the death of Ms Lucena.

1
2 It will also be to consider whether any conduct is, or
3 could be, police misconduct, administrative officer
4 misconduct, serious misconduct or agency maladministration
5 and, importantly, to consider any systemic issues that
6 could arise for agency improvement.
7

8 Thank you. I think those are the matters I need to
9 attend to.
10

11 MS SULLIVAN: Thank you, Commissioner.
12

13 **<EXAMINATION BY MS SULLIVAN:**
14

15 MS SULLIVAN: Q. Officer D, your name is known to the
16 Commission; correct?

17 A. That's correct.
18

19 Q. What is your current role, sir?

20 A. Senior constable attached to Tweed-Byron highway
21 patrol in the far north of the state.
22

23 Q. Thank you. When did you attest from the academy?

24 A. 16 May 1997.
25

26 Q. Thank you. And relevantly, you were working in
27 general duties at Woodburn from November 2019 to
28 around August 2023; is that right?

29 A. That's correct.
30

31 Q. And that's in the Richmond police district?

32 A. That's also correct.
33

34 Q. Now, on 6 January 2024 [sic], you prepared a statement
35 in connection with the murder of Lindy Lucena; is that
36 right?

37 A. Yes, it is.
38

39 Q. You've had an opportunity to review that statement,
40 Officer D?

41 A. I have.
42

43 Q. Are there any corrections that you wish to make?

44 A. No.
45

46 Q. That statement is accurate to the best of your
47 knowledge, information and belief?

1 A. Yes.

2

3 Q. Thank you.

4

5 MS SULLIVAN: Commissioner, I tender that statement which
6 is at tab 33, that is barcode 8628994 to 8628995.

7

8 THE COMMISSIONER: So that statement will be exhibit 6C.

9

10 **EXHIBIT #6C STATEMENT OF OFFICER D, 6 JANUARY 2023,**
11 **BARCODED 8628994-8628995**

12

13 MS SULLIVAN: Thank you, Commissioner.

14

15 Q. Now, just for completeness, Officer D, you did not
16 give evidence in the Supreme Court trial of Mr Huber?

17 A. No, I did not.

18

19 Q. Thank you. Can I ask you, sitting here now almost
20 three years later, how good is your recollection of events
21 of the night shift of 3 January 2023?

22 A. I would say that they are - the memory I have of that
23 shift in particular would be highlighted around this
24 incident. Other than that, it'd be fairly - I've had
25 hundreds since, so --

26

27 Q. Sure. You had an opportunity to listen to the VKG
28 recording for that evening; is that right?

29 A. No, ma'am. I've read the transcript, though.

30

31 Q. Okay, thank you. And you've seen the CAD incident
32 logs, have you?

33 A. Not recently.

34

35 Q. All right. I would like to take you back there, if
36 I can - that is, the Tuesday, 3 January 2023 - and we know
37 that you were performing duties within Richmond police
38 district from 11am to 9pm; correct?

39 A. That's correct.

40

41 Q. And you were in a marked police vehicle, Woodburn 29;
42 that's right?

43 A. That's correct.

44

45 Q. And that's an alpha unit where you're operating on
46 your own?

47 A. For that shift, yes, it was.

1
2 Q. Did that car have a mobile data terminal, to your
3 recollection?
4 A. I believe it d yes.
5
6 Q. Testing your memory now, do you remember if that
7 mobile data terminal was working on that shift?
8 A. I - I'd have no recollection. Yeah, they were very
9 temperamental, as it was, so it may or it may not. I can't
10 recall.
11
12 Q. On the MDT when a priority 2 job comes in, how does it
13 display on an MDT?
14 A. It's displayed through the CAD system.
15
16 Q. Yes.
17 A. And when there's two main screens that I utilise,
18 being a little bit, shall we say, not technologically savvy
19 as some of the younger officers. Two main screens, there's
20 a screen that jobs come over, all jobs come over, and then
21 they divert to another screen once they are copied or
22 acknowledged by a car crew.
23
24 Q. Okay. Are priority 2 incidents any particular colour?
25 A. They're red.
26
27 Q. Do they come with any particular tone?
28 A. Not on the MDT itself but through the broadcast of the
29 radio network, they come with two beeps, to indicate it's
30 a priority job.
31
32 Q. All right. Thank you. You indicate in your statement
33 at paragraph 3 that during the course of your shift you had
34 to attend Ballina police station to conduct operational
35 duties; that's right?
36 A. Yes, that's correct.
37
38 Q. And you also attended a number of incidents during
39 that evening in the Ballina area; that's right?
40 A. That's correct.
41
42 Q. Ballina 14, who is known as Officer C, was the shift
43 supervisor for the Ballina sector; correct?
44 A. That's correct.
45
46 Q. And Woodburn 29 was one of the crew in that Ballina
47 sector; is that accurate?

1 A. At that time, yes.

2

3 Q. At that time. The other crew was Coraki 122; do you
4 recall that?

5 A. No, that would be Coraki 22.

6

7 Q. I beg your pardon. Thank you.

8 A. I don't recall - there's some confusion with their
9 call sign being CRK22. So it's not uncommon that they're
10 called Coraki 122, but in any case, I don't recall if they
11 were on that shift or not at all.

12

13 Q. So the other crews that were rostered on within the
14 Richmond police district, as we understand, was Lismore,
15 Casino - or Lismore and Casino. Is that pretty standard
16 for the night shift?

17 A. Yes. Yes, it is.

18

19 Q. Just taking you through some of those incidents before
20 we get to the incident relating to the Salvation Army,
21 okay? The first one that we know that you attend is
22 a female self-harm mental health incident. That is a job
23 that came over at 6.38pm. That's a priority 3. And you
24 acknowledge that job together with Alstonville 18. Do you
25 remember that job?

26 A. The transcript that I've got access to commences at
27 18:55, so that would have been prior to my holdings at this
28 stage, but I'd have to rely upon your knowledge of that and
29 agree with it.

30

31 Q. All right. But do you have a recollection of
32 attending that particular job?

33 A. Not off the top of my head. Only in relation to the
34 transcript and the way the job appears to have progressed.

35

36 Q. All right. So we know that by 7.06pm, this is from
37 the CAD incident - I'm very happy to take to you any of
38 this material at any time, Officer D, if you wish me to --

39 A. Thank you.

40

41 Q. -- but by 7.06pm you are clear from that first
42 self-harm job. Do you accept that from me?

43 A. Yes, absolutely.

44

45 Q. And A018 remain on scene with the patient waiting for
46 an ambulance. In fact, they remain there until around
47 8 o'clock, if you accept that?

1 A. Yes, absolutely.

2

3 Q. All right. And then we know that at around 7.01,
4 there's an accident on the Pacific Highway near Newrybar.
5 Do you recall that job?

6 A. Yes.

7

8 Q. So that is a priority 3 job that comes in, and we
9 might, for your assistance just to prompt your
10 recollection, bring that up on the screen. That is tab 8,
11 which is exhibit 4C, please. If we could expand that if
12 possible, so that we can see the text at the top, please.
13 Thank you. So priority 3 accident. That's the incident
14 type.

15 A. Yes.

16

17 Q. I'm going read this in expanded form, as I understand
18 the coding, but please correct me if you have a different
19 view. One vehicle - there is the address, Pacific Highway,
20 Broken Head Road, Newrybar, Ballina. One vehicle has hit
21 a tree in the service lane near above address. Nil
22 person - no person trapped, no patient injured. One
23 vehicle requires towing. No fluids. No known intoxicated
24 person --

25

26 THE COMMISSIONER: I think that's unknown.

27

28 MS SULLIVAN: Not known intoxicated person.

29

30 THE COMMISSIONER: Yes.

31

32 MS SULLIVAN: And then there is a reference to
33 a particular vehicle.

34

35 Q. Anything that requires correction in my decoding,
36 Officer D?

37 A. No. That's spot on.

38

39 Q. Thank you. So that CAD information would have been
40 broadcast over the radio and also available to you on the
41 mobile data terminal, assuming it was working; that's
42 right?

43 A. Yes.

44

45 Q. And that job is broadcast around 7.03. I'll just read
46 for you the transcript to prompt your recollection, but
47 I know that you are aware of it. So radio at 7:03:06 says

1 this:

2

3 *Yeah, there must be something in the air*
4 *there, Ballina 14. I've now got an*
5 *accident. Pacific Highway, across Broken*
6 *Head Road at Newrybar. One vehicle has hit*
7 *a tree in the service lane near that*
8 *location. No-one trapped or injured. The*
9 *vehicle needs to be towed. There is no*
10 *fluids. Unknown if the driver's*
11 *intoxicated. Vehicle described as a*
12 *Mazda 3, white.*
13 *Ballina 14: Yeah, copy that, radio. I'll*
14 *head up and have a quick look at that.*
15 *However I don't have an alcometer. So if*
16 *there is alcohol involved, that will --*

17

18 It says "clarify you", so I think part of that transcript
19 can't be understood:

20

21 *So just the location again please.*
22 *Radio: Pacific Highway, across Broken Head*
23 *Road at Newrybar.*
24 *Ballina 14: Yeah, did they say they're on*
25 *Broken Head Road or the Pacific Highway,*
26 *because that's just an overpass. There's*
27 *no actual entry or exits there.*
28 *Radio: Pacific Highway crosses Broken Head*
29 *Road, the way I'm reading it, they're on*
30 *Pacific Highway near Broken Head Road.*
31 *Ballina 14: Copy that.*

32

33 And then you are broadcast at "3:04:33" is this:

34

35 *Yeah, Woodburn 29 Radio. I can help out 14*
36 *with an alco.*
37 *Radio: Copy, Woodburn 29.*

38

39 So that passage of transcript, does that prompt your memory
40 about why you were attending the incident?

41 A. Yes.

42

43 Q. Can you explain that to us?

44 A. I'm not sure of my location at this stage, where I was
45 when I made that broadcast, but Officer C requested an
46 alcometer, which he, for whatever reason, didn't have
47 access to, and I did have one in my car, so I started to

1 proceed to the accident so we could breath test the driver.

2

3 Q. Okay. Is that an urgent task, the breath testing of
4 a driver, or is that something that can happen
5 subsequently, for example, half an hour or an hour later,
6 if necessary?

7 A. It's - I wouldn't - at this stage, the information
8 that I've got in front of me didn't - it doesn't strike me
9 as an urgent matter.

10

11 Q. Okay.

12 A. But it's certainly something that required a prompt
13 response in relation to the location and the time of day,
14 and the - I mean, intoxicated drivers, they are a priority
15 due to the risk.

16

17 Q. Yes. Also presumably because the alcohol reading can
18 be affected if there's a long delay?

19 A. Well, I mean, that is a consideration but it's
20 secondary to the other considerations I'd already outlined.

21

22 Q. Okay. So you don't recall where you were when that
23 job came in; that's right?

24 A. No, that's correct.

25

26 Q. But you did indicate you would attend with Ballina 14
27 and bring the alcometer. Is it alcometer or "alco-meter"?

28 A. Alcometer.

29

30 Q. Alcometer. All right, thank you. So there is
31 a broadcast at 7.05 by you. I'll just bring this - and you
32 say this:

33

34 *Yeah, Woodburn 29 radio, I'm only a couple*
35 *of minutes to double back to them.*

36

37 This is in connection with - sorry, I'll start earlier just
38 to give you the context. I'm starting at 3.05 - sorry,
39 7:05:06. This is a broadcast from Alstonville 18:

40

41 *We're currently over in East Ballina,*
42 *Brighton Street, across of Hill Street. If*
43 *we can get an ambulance rolling for us,*
44 *mental health assessment.*

45

46 Radio clarifies the address. Alstonville 18 gives the
47 address and then radio says:

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*Copy, and just confirming, this is the POI
from Kmart.*

Alstonville 18 says:

Yes, that's correct, radio.

And then this is your broadcast:

*... Woodburn 29 radio, I'm only a couple of
minutes to double back to them.*

"Them", as we understand it, being Alstonville 18:

*Can you confirm they don't want me there?
More police is just going to inflame it,
and I'll head up to the Prang (?) with 14.*

Do you recall seeing that in the transcript?

A. Yes.

Q. All right. So there was a preparedness by you to double back and attend a different job if necessary, if Alstonville 18 had needed it?

A. Yes, I think that was referring to the job that we spoke about some time - minutes ago --

Q. That's right.

A. Yes, so that job or a follow-up from that job that she'd had been located.

Q. Do you remember if you - how - what code you were proceeding to the accident at Newrybar? Was it a code red or a code blue?

A. Without any indication that I was proceeding code red, I'd naturally assume that I was proceeding code blue.

Q. Do you remember that there's a point at around 7.21pm, you might not recall the precise timing, where, in fact, radio asks you to proceed to code red to the scene?

A. I do remember hearing Officer C make a broadcast on the air and he sounded - he sounded like - I'm trying to think of the word. The way he was speaking it would lead me to believe that the scene was being - he needed my assistance. It was becoming unmanageable or he was at risk.

1
2 Q. I'll assist you with what he says, what I think you're
3 referring to, but tell me if you're thinking of something
4 else. This is at around 7.20. Ballina 14:

5
6 *It's a 110 zone and they're not, literally*
7 *coming around a blind corner, so I need the*
8 *truck up here probably to park back and*
9 *slow the vehicles down if they can. Yeah,*
10 *actual lanes, number one lane is partially*
11 *obstructed.*

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

14 *Ballina 14: Yeah, please.*

15
16 And then there's the two-beeper.

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

23
24 And you say:

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

28
29 Does that prompt your memory.

30 A. Yes.

31
32 Q. So there is a point where you travel code red in
33 response to that message?

34 A. That's correct. I upped the response code at that
35 point.

36
37 Q. And so we know that you're, in fact, on scene by about
38 7.25pm - that is the accident scene.

39 A. Okay.

40
41 Q. All right? That's from the CAD incident log, where
42 you --

43 A. Yes.

44
45 Q. -- you broadcast in that you're there or you otherwise
46 press the button to indicate where you are, that you're on
47 scene?

1 A. I always use the radio log. Yep.

2

3 Q. Thank you. Now, whilst you en route to the accident,
4 at 7.10pm, there's a broadcast in relation to this priority
5 2 Ballina job and it's in these terms. This is at 7:10:30.
6 It's a two-beeper. And the radio dispatcher says this:

7

8 *Ballina car behind the Salvation Army*
9 *building, 73 Tamar Street, cross Moon*
10 *Street. Male stated a female's being*
11 *bashed behind the Salvation Army building.*
12 *Informant then terminated the call. On*
13 *call back attempted, he stated, "I've told*
14 *you where it is. I don't want to be*
15 *involved". Swore at the operator and hung*
16 *up. On second call back, there's no*
17 *answer.*

18

19 Do you have any recollection of that priority 2 job coming
20 in around that time?

21 A. At that stage, no.

22

23 Q. So you were in your car and you would have had the
24 radio on; correct?

25 A. Yeah -yes.

26

27 Q. Do you have any doubt that you would have heard this
28 job?

29 A. Oh, I can't see any reason why I wouldn't have heard
30 it, but at that stage, my priority and allotted task was to
31 the accident.

32

33 Q. All right. Well, we know that at 7.10pm, when this
34 job is broadcast, this is a priority 2 and the accident is
35 a priority 3; that's right?

36 A. As far as I'm aware, yes.

37

38 Q. Okay. And the reason you are attending the accident
39 at Newrybar is because you have the alcometer; that's
40 right?

41 A. Yes.

42

43 Q. That's, in fact, the only reason you're attending,
44 before 7.21 when Ballina 14 puts out the request; that's
45 right?

46 A. I couldn't categorically say that that was the only
47 reason.

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Q. Yes.

A. Having known what that highway's like at that time of day with accidents, it was normally in my - my procedural mindset to attend those with more than one police car, because of the risk.

Q. All right.

A. So I put --

Q. Just pausing there, Officer D, "because of the risk" - can you just explain that?

A. The risk to persons that are in a motor vehicle, in a collision, or shortly after a collision without other emergency services there, is quite high on the Pacific Highway.

Q. Yes.

A. Coupled with the location being on a gradient rise and a corner under Broken Head Road and the time of day, which was light was failing, it was a priority - it should have been - well, if it was a priority 2 response for the accident itself, that wouldn't have been unusual, due to the circumstances and the location. So it's a normal response of mine to always attend an accident with another - with a secondary police car to provide the police that are investigating at the initial scene protection from traffic because they just don't slow down.

Q. All right. So the Pacific Highway is a priority road, isn't it --

A. Yes.

Q. -- in terms of police classification.

A. That's correct.

Q. But did you have a clear understanding in your mind about where the accident was as soon as the broadcast was given?

A. I had a general idea. Having said that, I know the location much better now, so reflecting back on three years ago, I can only speculate as to how the picture in my mind was when the job initially came over, but I knew if I headed north I would sooner or later be at the scene.

Q. All right. So it's hard for you, in effect, to reconstruct what you knew about that location at that time,

1 because you're much more familiar with it now; is that your
2 evidence?
3 A. That's fair. That's fair.
4
5 Q. And what you do say on radio at "03:08:40" is:
6
7 *Yeah Woodburn 29, if you can just get 14 to*
8 *confirm the location when he arrives. I'm*
9 *flying blind a little bit up this end of*
10 *the Command.*
11
12 A. Yes.
13
14 Q. That was because you were a bit unfamiliar with that
15 particular area at that point in time; is that right?
16 A. That would be fair from the transcript, absolutely.
17
18 Q. But just going back to the prioritisation of that
19 incident, it is a priority 3; that's right?
20 A. At this stage, yes.
21
22 Q. Yes, at this stage, thank you.
23 A. Yes.
24
25 Q. It becomes - well, is it at any point upgraded to
26 a priority 2, to your knowledge?
27 A. Not that I'm aware of, no.
28
29 Q. Okay. And so then we know a priority 2 job comes in
30 at 7.10. This is the female being bashed behind the
31 Salvation Army; that's right?
32 A. Yes, that's correct.
33
34 Q. And a priority 2 requires an immediate response by
35 police because of the potential threat to the life of
36 a person; correct?
37 A. Absolutely.
38
39 Q. All right. So can you explain to us your thinking
40 about deciding to attend a priority 3 accident when - on
41 the transcript - and you've explained that it's
42 a significant road and you've explained the concerns in
43 relation to obstruction of traffic, but your transcript,
44 the transcript I've referred to indicates you're attending
45 to go provide the alcometer, and we know that at 7.10
46 there's a priority 2 incident. Can you explain your
47 thinking about why you don't turn around, turn your vehicle

1 around, and attend the priority 2 assault occurring now, in
2 effect?

3 A. The only explanation I can provide to the Commission
4 in relation to that is the - I was under - in essence,
5 I was under direction and guidance at that point for that
6 shift, I was under somebody else's direct control and, in
7 essence, I proceeded to where I was told to go. If that
8 became a priority in the mind of somebody that was
9 controlling the area at the time, with a greater knowledge
10 of the location, the dynamics of the situation or the
11 idiosyncrasies of the CAD as it was broadcast, I would have
12 gone to that job, no problem at all.

13

14 Q. I'm sorry, pausing there, Officer D, you haven't
15 directed to attend that accident, you have volunteered.
16 You say:

17

18 *I can help out 14 with an alco.*

19

20 A. Yes. Well, that's correct.

21

22 Q. So Ballina 14 hasn't asked you to attend the incident.
23 You have, as I've indicated, volunteered to attend;
24 correct?

25 A. I - at which point did I volunteer and which point was
26 I asked to provide an alcometer?

27

28 Q. So let me just go back to the transcript. So at
29 "03:03:06" there's the incident broadcast, I've been
30 through that, and Ballina 14 then says:

31

32 *Yeah, copy that, radio. I'll head up and*
33 *have a quick look at that. However I don't*
34 *have an alcometer, so if there is alcohol*
35 *involved that will clarify you --*

36

37 the transcript must be wrong there:

38

39 *So just the location again please.*

40

41 Radio gives the location. Ballina 14 confirms the location
42 and then you say at "03:04:33":

43

44 *Yeah, Woodburn 29 radio. I can help out 14*
45 *with an alco.*

46

47 A. And that - the part of the transcript that you've just

1 nominated was proceeding after the priority 2 job is
2 broadcast; is that what you're asserting?

3

4 Q. No, so I'm simply reading the transcript to you and
5 trying to understand your thinking. So that's at "3.04"
6 and by that - the point of reading that to you is this:
7 you're not being directed to attend that priority 3
8 accident, are you? You have volunteered to attend with an
9 alcometer?

10 A. If that's what I thought my best purpose was at that
11 point, that's correct.

12

13 Q. Yes. And there's nothing wrong with that. At that
14 point, there wasn't a priority 2 job outstanding, let's be
15 clear about that. You're trying to assist Ballina 14 in
16 the field because he's indicated he doesn't have an
17 alcometer; that's right?

18 A. That's correct.

19

20 Q. But he hasn't directed you is the point - he hasn't
21 directed to you attend that incident?

22 A. The accident at that stage, no.

23

24 Q. All right. And so then at 7.10, that's when the
25 two-beeper at the Salvation Army comes over. Okay?

26 A. Okay.

27

28 Q. Do you accept that?

29 A. Yes.

30

31 Q. And that's where there's reference to the male stating
32 "a female's being bashed behind the Salvation Army
33 building". It's come over as a two-beeper, and I think
34 you accept you would have heard that en route to the
35 priority 3; correct?

36 A. Yes. I - perhaps I would have heard that, yes.

37

38 Q. That's at 7.10. So I'm trying to understand what your
39 thinking is about continuing to a priority 3 accident when
40 you haven't been directed to attend by the mobile
41 supervisor - why wouldn't you go to a priority 2 incident
42 like this?

43 A. Well, I guess it comes down to how close I was to the
44 accident and where I best - where I felt at that stage my
45 attendance was going to be greatest served.

46

47 Q. Yes.

1 A. I - yeah, I think I would have been quite close to
2 that accident at that point. So if - and it is quite often
3 the case that the multiple jobs, and I think this
4 transcript is evidence of that - multiple jobs in multiple
5 parts of the command at the same time.
6

7 Q. Yes.

8 A. And if I am proceeding to a job and I'm almost there,
9 and that is my allocated task for that time, that is what
10 I'll accomplish, if it's within a reasonable amount of
11 time. If I was half an hour away from the accident,
12 I would have turned around, but I think from the way the
13 transcript reads, I was quite close to that accident and
14 knowing the location, and then hearing Officer C on the
15 radio subsequently, that was a priority as well, and that's
16 where I was closer to.
17

18 Q. Thank you. But just exploring that if we can, this
19 job comes in at 7.10; right?

20 A. Okay.
21

22 Q. That is the two-beeper. The two-beeper comes in at
23 7.10, the priority job about the Salvation Army. We know
24 that you're not on scene at the accident site until 7.25.
25 So that's 15 minutes later. Right?

26 A. Okay. I'll accept that.
27

28 Q. So that's driving for a further 15 minutes,
29 notwithstanding that there's a priority 2 job back in
30 Ballina that you could attend instead of a priority 3,
31 isn't that right?

32 A. Well, it comes down to there's - it's a multiple
33 faceted response to the task that I was set at that time.
34 So ordinarily, and I'd even say without exception, or
35 almost all the time, a priority 2 response is required of
36 multiple police not just a single unit officer. That is
37 a standard operating procedure that has been in place for
38 my entire time in the police, and there's been probably a
39 handful of jobs that I've attended to with a priority 2
40 response that I've attended them single unit.
41

42 Q. Yes.

43 A. So with the car crews tied up - and I am trying to get
44 back into my mindset at that moment --
45

46 Q. Yes.

47 A. With the car crews tied up with the other mental

1 health job and waiting for an ambulance, if I'd got to that
2 accident and tied it up with Officer C, we would then have
3 the ability to attend to that job with the appropriate
4 response.

5

6 Q. But do you understand that the corollary of that is
7 that there's limited - there's a limited crew working in
8 the Ballina sector that evening, isn't there?

9 A. Absolutely.

10

11 Q. Yes. So resources are thin on the ground. And you've
12 got two officers attending a priority 3 incident, one
13 primarily to provide the other officer with an alcometer,
14 leaving a priority 2 job with no crew. Do you see how
15 that's of concern on its face?

16 A. On its face and not understanding the intricacies of
17 how the operation works, absolutely.

18

19 Q. Well, isn't an obvious way to manage that for yourself
20 to have turned around as soon as the priority 2 job comes
21 in, doubled back to Ballina and deal with it, and leave
22 Ballina 14 to manage the accident until you've been able to
23 deal with the Salvation Army incident?

24 A. Having an intimate knowledge of Ballina, that probably
25 would have been the case, but I simply didn't. I didn't
26 know where that location was. There was limited
27 information once the job was broadcast, as an update, with
28 only one informant, being uncontactable, and in my - by my
29 estimation, trying to back into my head that night --

30

31 Q. Yes.

32 A. -- it would have been my mindset to collect Officer C
33 and get - return back to Ballina and get to that job. So
34 at that stage, when I was attending the accident, that was
35 my priority.

36

37 Q. Yes.

38 A. I think my belief in my attendance at that scene being
39 an essential component of a successful completion of that
40 incident is highlighted by Officer C getting back on the
41 radio, which was - I'd describe it as unusual for him --

42

43 Q. Yes.

44 A. -- and sounding the way he did, that my response there
45 was that - now required urgent. So that compounded in my
46 mind that my initial estimation of the accident scene and
47 my attendance as a priority was correct.

1
2 Q. All right. But that comes later, doesn't it, at
3 7.21pm? I read you that broadcast. That's at 7.21pm which
4 is 11 minutes after the Salvation Army job comes in at
5 7.10; okay?

6 A. I'd have to - I'd have to agree with that, yeah.
7

8 THE COMMISSIONER: Q. May I ask, Officer D, was another
9 option available to you to at least jump on the radio and
10 say, "There's an assault occurring in Ballina. Ballina 14,
11 do you want me to go to that or do you want me to come and
12 deliver you an alcometer"? Was that something that was
13 available to you at that point?

14 A. Commissioner, yes, I'd have to agree that would be,
15 but once again, as I've indicated, it's relying on -
16 relying on everything that we're discussing at the moment
17 being actual factual the way it occurred on the evening
18 that we're discussing.
19

20 The - my vehicle that I was in, for example, we had
21 lost three different radio channels on the police radio, on
22 the one police radio. I can only assume that I heard that
23 broadcast but at the northern end of the command I was
24 right at the extremity of the radio or the ability of the
25 radio to function correctly. It may have been I didn't -
26 I didn't even hear it or it didn't get broadcast to my
27 vehicle.
28

29 Having said that, I can only assume that it did. If
30 I'm trying - there's a lot of things going on in a police
31 car, especially when you're by yourself, as no doubt you're
32 aware. So I can only assume on face value that the
33 broadcast did reach my vehicle. It may well be it didn't.
34 That problem --
35

36 Q. But the other broadcast - sorry to interrupt you, but
37 the other broadcast must have reached your vehicle because
38 you heard the bit about the - which was on the same
39 channel?

40 A. Yes.
41

42 Q. You heard from that same channel the broadcast about
43 the accident and the need for an alcometer and you
44 responded and said, "I've got one, I'll bring it"?

45 A. Absolutely.
46

47 Q. Right. So shortly after that, within a few minutes,

1 the broadcast comes in that says, "Woman being bashed in
2 Ballina", and at that point, you're several minutes from
3 having responded to the first broadcast about attending
4 with an alcometer.

5 A. That's correct.

6
7 Q. So it's possible, and we're very cautious here about
8 trying to exercise a hindsight bias. It's possible that
9 you didn't hear it because there were a number of other
10 radio calls going on. But you'd certainly heard earlier
11 calls on that channel only minutes earlier?

12 A. Yes, absolutely. But just as a way of explanation,
13 the previous radio operating system, and I'm certainly not
14 an expert, all I can provide you is my experience in the
15 field, was in places, at the extremities of the radio
16 network, very hit and miss.

17
18 Q. So you might have heard one call and not another?

19 A. Might have heard one call, might have heard another.
20 The Pacific Highway at that point, which I would have been
21 travelling on, is undulating and does at points go away
22 from the relay towers and the towns where relays are
23 situated. I am not trying to, in any way, avoid the
24 question. I'm just trying to provide context into what may
25 else have occurred. It was very, very common, especially
26 in my sector, which wasn't Ballina, to have sketchy radio
27 operations throughout the whole sector, and we were very
28 often recording and logging those black spots with the VKG
29 operators.

30
31 THE COMMISSIONER: All right. Thank you.

32
33 MS SULLIVAN: Yes, that was what I was going to ask.

34
35 Q. There were some black spots and known black spots?

36 A. Yes, ma'am.

37
38 Q. But the priority 2 job - sorry to belabour this point,
39 but the priority 2 job came with a very specific address,
40 didn't it, in Ballina?

41 A. From behind the Salvation Army building, yes.

42
43 Q. Well, it's more than that, it's the Salvation Army
44 building, 73 Tamar Street, cross Moon Street.

45 A. Yes. That's correct. That's in the transcript.

46
47 Q. And so that's a specific address that even if you

1 don't have a particular familiarity with Ballina, you could
2 have found: Do you agree?

3 A. Yes. I'd agree with that.

4

5 Q. We just had the dispatcher give evidence, Officer D,
6 and it's clear that because of the things that were going
7 on on the channel, he was unable to comply with the radio
8 operation procedures about the rebroadcast of jobs. The
9 procedures required that a job of this nature be
10 rebroadcast every 60 seconds as a priority 2 job. That
11 didn't happen. And the next broadcast is at 7.24. But is
12 this right: if that job had been broadcast in accordance
13 with the procedures every minute, it is likely that you
14 would have taken a different course?

15 A. I think that is still at best speculative.

16

17 Q. Right.

18 A. I mean, we - yeah, had it have been broadcast every
19 minute, had I have missed the initial broadcast, and that's
20 speculation again, it would have been highly likely that
21 I'd picked up the second or third one if it kept getting
22 broadcast. So - and I certainly wouldn't - I certainly
23 wouldn't be able to say to the Commission that I didn't
24 hear that broadcast. I just can't recall hearing it.

25

26 Q. All right. But if it's broadcast frequently, it's
27 going to be front of mind; correct?

28 A. At that point reading through the transcript, it would
29 have been one of several jobs that would have been priority
30 at that stage.

31

32 Q. Well, it's the only priority 2 job at that time, if
33 I can indicate that to you, Officer D. It is the only --

34 A. In Ballina.

35

36 Q. In Ballina. Well, that's the area that you're
37 responding to?

38 A. That's correct. But we have several commands and
39 stations that we loosely monitor going at once on the
40 radio.

41

42 Q. All right. But you're not concerned with responding
43 to a priority 2 in Casino, are you?

44 A. Not unless directed, no.

45

46 Q. A priority 2 job in Ballina would be of particular
47 concern to you as Woodburn 29?

1
2 MR CHAPMAN: Commissioner, if I could just object, the
3 line of questioning that is being put, with respect, by
4 counsel assisting here proceeds from the premise that it's
5 asking Officer D to assume something which has not been
6 established in the evidence, which is that these repeated
7 calls were made, which is not the case, every minute
8 according to the SOPs, and it's asking to speculate about
9 what he would be doing.

10
11 THE COMMISSIONER: I hadn't understood that to be the
12 question, phrased in that way. I'd understood it to be
13 phrased in, "Had those calls been called out every
14 60 seconds, would you have done something different?"

15
16 MR CHAPMAN: Well, the objection would be, I don't
17 immediately appreciate how asking that hypothesis, which
18 did not occur, is assisting you to determine any matter
19 that's relevant.

20
21 MS SULLIVAN: If I can respond to that, it is relevant to
22 the evidence that we heard this morning. Of course, the
23 dispatcher isn't an operational officer who is in a
24 position to assist the Commission with how frequent
25 broadcasts might be taken in the field - how they might
26 assist. So it's of obvious relevance in that respect.

27
28 THE COMMISSIONER: I'm comfortable that it's relevant to
29 my investigation. This is not a fact-finding expedition
30 about what actually occurred; it encompasses what might
31 have occurred had things proceeded according to the policy.
32 So I'm interested in this officer's experience.

33
34 MR CHAPMAN: May it please.

35
36 MS SULLIVAN: Thank you, Commissioner. As

37
38 Q. Is often the case with objections, I've now completely
39 forgotten my question. But it was to the effect that
40 a priority 2 job would be of concern to you, working in the
41 Ballina sector broadly; do you agree?

42 A. Yes.

43
44 Q. How often did you work in the Ballina local government
45 area around that time, Officer D?

46 A. There were occasions throughout my four years at
47 Woodburn when I was there several times a week; there were

1 times when I was there for an entire shift. There were
2 times when I didn't actually get called up there for two or
3 three weeks at a time.

4
5 Q. Okay.

6 A. It was fairly random.

7
8 Q. All right. But you were broadly familiar with Ballina
9 metro, if I can call it that?

10 A. The metropolitan - the shopping centre or the CBD?

11
12 Q. The CBD, let's call it Ballina CBD.

13 A. Yes, yes. I loosely knew where the licensed premises
14 were, and there were a couple of occasions, obviously, and
15 there was a couple of occasions highlighted in the
16 transcript, where the crew were at a certain park that they
17 all knew and I had no idea where they were. So I had to
18 ask them to basically give me a street or a landmark that
19 I could work off to get to them. So there were still
20 shortcomings in my knowledge of Ballina, but it wasn't my
21 local station.

22
23 Q. Coming to your attendance on scene at the Newrybar
24 incident, we might try and bring up a map and ask you to
25 nominate, if you could, where the incident, the accident,
26 has occurred.

27
28 MS SULLIVAN: So if we could please bring up tab 132 - no,
29 that's not it. Tab 42A I think it is. No, that's not it
30 either. Tab 15A is what I'm looking for.

31
32 Q. Sorry, Officer D, we're just bringing that up.

33 A. No problem.

34
35 Q. Do you see there an image of the Pacific Highway?

36 A. Yes.

37
38 Q. And towards the top of that photo there is the Broken
39 Head overpass; do you see that?

40 A. Yes, I do.

41
42 Q. Are you able to nominate where the accident occurred,
43 using clear descriptive language, given we don't have you
44 in court to use a pen?

45 A. Okay. So where the - and I haven't actually seen this
46 view before, so I can only assume that the overpass at the
47 top of the page is the Broken Head Road overpass --

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Q. Yes.

A. -- but I'll absolutely take your identification of that as fact. Where you see the shadow line over the Pacific Highway --

Q. Yes.

A. -- I would estimate the accident to be very close or south of that line in the northbound lanes.

THE COMMISSIONER: Q. The northbound lane, for those of us with directional challenge, is that on the left or the right-hand side?

A. That's the left-hand side of the divided lanes. You can see two lanes going up towards the top of the page and two lanes down.

Q. Yes.

A. The two lanes going up to the top of the page are the northbound lanes, and I would - my recollection of the accident would be very close to that shadow line that that overpass is making on the freeway, in the northbound lanes.

THE COMMISSIONER: Thank you.

MS SULLIVAN: Q. And there is a curvature of the road around that point; is that right?

A. There's a curvature and an inclination.

Q. And that road --

A. Incline.

Q. Thank you, curvature and inclination. And that road is 110 kilometres an hour?

A. Yes, ma'am.

Q. So that is a tricky position for an accident; fair to say?

A. It's dangerous.

THE CHIEF COMMISSIONER: Shall we mark that as an exhibit, that map?

MS SULLIVAN: I think we should, thank you, Commissioner. That is barcode 8634211.

THE COMMISSIONER: That will be exhibit 7C.

1
2 **EXHIBIT #7C MAP SHOWING PACIFIC HIGHWAY AND BROKEN HEAD**
3 **ROAD OVERPASS, BARCODED 8634211**
4

5 MS SULLIVAN: Q. So once on scene, can you just broadly
6 give us your best recollection about what you did?

7 A. I parked my vehicle some distance behind Officer C's
8 to provide a greater scope of view for oncoming motorists,
9 to try to get them to slow coming on to us. I've then
10 exited my vehicle and proceeded up to the collision scene
11 with Officer C. I believe I handed him the alcometer.
12 I believe a tow truck, if it wasn't there at that stage, it
13 came very shortly after.
14

15 Q. Yes.

16 A. And we had the car put on to the back of a tow truck
17 and cleared and cleared the motorway.
18

19 Q. And do you recall hearing a second broadcast in
20 relation to the Salvation Army job whilst you were on
21 scene, or just before you arrived on scene?

22 A. No.
23

24 Q. Okay. And in fairness to you, that broadcast comes at
25 7:24:30, which is around the time that you arrive on scene
26 at the accident, around 7.25, so is it possible that you
27 might have pulled your car up and gotten out and missed
28 that broadcast?

29 A. That is - that is - that is entirely possible. It's
30 also possible that it didn't transmit to outside of my
31 vehicle on the portable radio I was carrying.
32

33 Q. When you arrived on scene at the accident, were there
34 any members of the public there?

35 A. I recall seeing one or two people with the car that
36 was being towed, talking to Officer C, and later on or at
37 some point the tow truck driver.
38

39 Q. Yes.

40 A. But there was no on-lookers or anything like that.
41

42 Q. Do you recall having any memory of an outstanding
43 priority 2 job whilst you were there?

44 A. No, I can't recall.
45

46 Q. Is this fair, that an accident in that location, at
47 110 kilometres, curvature in the road, inclined, it takes

1 a fair bit of cognitive attention to make sure that you're
2 dealing with that accident scene safely?

3 A. That would be fair, yes.

4
5 Q. We know you're back on by 7.46pm. Do you accept that?

6 A. Yes, ma'am.

7
8 Q. And the radio transcript at this point - I'll just
9 read you the exchange. This is between radio and Ballina
10 14 at 7:46:15:

11
12 *Yeah radio, just letting you know that*
13 *we're back on, Woodburn 29 and I are back*
14 *on from that job on the Pacific Highway.*
15 *Traffic lanes are clear now, that vehicle's*
16 *been moved off the road. Is that job in*
17 *Fawcett Lane, Ballina, still outstanding?*
18 *Radio: I don't know about Fawcett Lane,*
19 *but we've got a Priority 2 behind the*
20 *Salvation Army, 73 Tamar Street cross Moon*
21 *Street. That's outstanding.*

22 *Ballina 14: Yeah, I'm just thinking where*
23 *the Salvation Army is. I think it's the*
24 *place I'm speaking of. Well I'll head*
25 *there and have a look.*

26 *Radio: Okay, code of response and ETA?*

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

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

32 *Woodburn 29: Yes affirmative.*

33 *Radio: Thanks blue and 10.*

34
35 Does that transcript prompt any recollection in your mind
36 about deciding to attend this priority 2 job in Ballina?

37
38 THE COMMISSIONER: We seem to have lost - I'll just
39 double-check.

40
41 Are you there, Officer, did you hear all of that?

42
43 THE WITNESS: I've got you back and I heard right up to
44 the point where you've said radio broadcast "Thanks blue
45 and 10".

46
47 MS SULLIVAN: Q. So does that transcript excerpt that

1 I've just read you prompt your recollection about
2 determining to go to that job with Ballina 14?
3 A. Yes, absolutely. There was - either I was on the
4 radio or Officer C has asked me to possibly attend that
5 with him and I - no problem. Either way, I'm not sure
6 which one it was, but I've attended the job with him.
7
8 Q. All right. Did you have a discussion with him before
9 getting in the car on scene at the accident about going to
10 that job; do you remember?
11 A. No, I don't remember. Not a specific conversation.
12 But it seems - it seems plausible.
13
14 Q. Yes. And do you recall if you followed him back down
15 the Pacific Highway into Ballina?
16 A. That's correct.
17
18 Q. You did?
19 A. Yes.
20
21 Q. You're travelling code blue; that's right?
22 A. It - as per the transcript, yes.
23
24 Q. Why wouldn't you go code red for a priority 2 incident
25 involving the bashing of a female?
26 A. I think the factors that led to my decision or my
27 decision to go code blue would have been, first of all,
28 I was following a senior officer to a job.
29
30 Q. Yes.
31 A. I was under direction at that stage. I - not knowing
32 the area where we were going, I was following Officer C.
33
34 Q. Yes.
35 A. And as highlighted by Officer C, a single call and the
36 time frame elapsed, that would - that would play into my
37 determination to proceed code red or blue and placing the
38 risk that is associated with that style of driving to the
39 job as it stood.
40
41 Q. All right. Just breaking that answer down if we can,
42 what is the significance of there only being one call?
43 A. In the main street of Ballina - and this is a very
44 general, or my perception being very general and not
45 particularly allocated or attributed to this circumstance,
46 but in a densely populated area, which Ballina would be,
47 for an ongoing incident, it's quite often the case that we

1 get multiple calls from multiple informants.

2
3 Q. Yes.

4 A. Which would make me think that the incident being
5 reported either had - is still ongoing or has more
6 fluidity. I think the jobs that we have that are - that
7 are false jobs or jobs that aren't described or aren't as
8 they are described are very - more often than not a single
9 caller, and that would be purely from my experience, and
10 that could have led, in my mind, why a code blue response
11 was appropriate.

12
13 Q. All right. But in the ordinary course would you go
14 code red to a priority 2 job?

15 A. As per the SOPs as I understand them, yes.

16
17 Q. That is the accurate response, a code red to
18 a priority 2?

19 A. Within that time frame, yeah, as it's broadcast, yes.

20
21 Q. What do you mean "within that time frame"?

22 A. Well, the code 2 response or a priority 2 job, when
23 it's broadcast and a crew responds, it's an immediate
24 response. Notwithstanding the lag of time between somebody
25 calling 000 and the job being broadcast, I'm not an expert
26 obviously in that but I'm led to believe it's around two
27 and a half minutes, that is an average sort of reasonable
28 time. Whether that's still accurate I'm not sure. And in
29 that time frame, there's still a sense of urgency and a -
30 I guess, an understanding that the caller that has provided
31 the initial information has some level of accuracy or truth
32 to it.

33
34 As time goes on and no more calls are received, in an
35 area where there would, in all likelihood, be other
36 informants around and be able to see or hear the same
37 auditory or sensory inputs that the original informant did,
38 and given that time frame where there's no further calls,
39 that would lessen my willingness to attend a job like that
40 code red, with the reason --

41
42 Q. Just pausing there, that might be the case in relation
43 to a check bona fides incident, but this is a call where
44 a male has reported a female is being bashed. That
45 information was clear, wasn't it?

46 A. From the transcript, yes.

47

1 Q. And it was classified properly as a priority 2, wasn't
2 it?

3 A. I'm not aware of the guidelines for VKG operators, but
4 that would, absolutely in my mind, qualify as a priority 2.

5

6 Q. And that required an immediate response by police,
7 didn't it?

8 A. Where available, absolutely.

9

10 Q. It's not a safe assumption, is it, that one call - if
11 there's not more than one call an incident might not be
12 genuine, there may not be something serious going on -
13 that's just not a safe assumption because we know what
14 happened in this case; agreed?

15 A. No, I wouldn't agree with that. Unfortunately, in my
16 experience, and thankfully, with respect to the deceased,
17 this is an incident that has occurred that is not
18 a commonplace incident and is not something that occurs on
19 a regular basis. I've attended probably thousands of jobs
20 that have not been as described by an informant, via a 000
21 call. I've attended probably hundreds of jobs where there
22 was a single informant with no further calls, and when the
23 job is attended to, no matter what the category, there
24 isn't any - there's no information or person there to speak
25 to that would - that would substantiate the caller's
26 narrative of the call, coupled with --

27

28 Q. So --

29 A. Sorry?

30

31 Q. Thank you. So is there any guidance to operational
32 police about what can be drawn from the number of calls, as
33 in the police manual or in any police document that you're
34 aware of, or is this just your assumption about the way you
35 should proceed in response to a priority call?

36 A. It's not an assumption; it's based on my experience.
37 I take the responsibility of travelling at speed and above
38 the speed limit and outside of the regular road rules very
39 seriously.

40

41 Q. Yes.

42 A. And with that response, in my mind, that response has
43 to be justified in relation to the totality of the
44 information that I have available to me at the time.

45

46 Q. All right. And so if there had been more than one
47 call, if there'd been a couple of calls about this job, you

1 might have gone code red; is that what you are saying?
2 A. I might have. I don't know. We're speculating once
3 again.
4
5 Q. All right. But the fact that Ballina 14 had gone code
6 blue, and he's your senior officer, that was an indication
7 to you that you should follow suit; is that right?
8 A. I think it'd be - yes, absolutely. We're in a
9 hierarchical organisation and I wasn't at the top of the
10 food chain at that point.
11
12 Q. All right. So do you know where you were -
13 appreciating this is testing your memory - when you
14 acknowledged that job at around 7.47? Do you remember
15 where on the Pacific Highway you would have been?
16 A. When I've responded "Yes affirmative" to the VKG
17 operator?
18
19 Q. Yes.
20 A. I'd say we would have left - left the scene of -
21 because we're obviously both back in our police vehicles.
22
23 Q. Yes.
24 A. So I'd say we were driving either on the Pacific
25 Highway or trying to get off the Pacific Highway and turn
26 around at that point.
27
28 Q. With a view to attending the priority - the
29 outstanding priority 2?
30 A. That's correct.
31
32 Q. And we know that, in fact, Ballina 14 tries to
33 communicate with radio at around 7.42, but the radio
34 operator puts him on standby because of the busyness of the
35 channel at that time. Does that suggest to you that he's
36 sought to engage with radio earlier than 7.46 but been told
37 to stand down while the operator deals with other matters?
38 A. I mean, that would stand to reason. I can't speculate
39 what the VKG operator had going on or Officer C, but that -
40 that would make sense to me.
41
42 Q. Okay. And you were following him, as we've
43 established?
44 A. That's correct.
45
46 Q. Okay. So what route did you take to drive to Holden
47 Lane?

1 A. I have absolutely no idea.
2
3 Q. You would have gone south on the M1?
4 A. I can only assume. I could probably - we would have
5 travelled north until we reached a point with either an
6 overpass or an emergency car - or emergency vehicle turning
7 area, turning lane.
8
9 Q. Yes.
10 A. And we would have turned around and proceeded south
11 and taken the first exit possible.
12
13 Q. Okay. What you say at paragraph 5 of your statement
14 is:
15
16 *I have followed [Senior Constable*
17 *Officer C] off the Pacific Motorway and*
18 *through the Ballina area where we travelled*
19 *along Cherry St.*
20
21 Do you recall that?
22 A. I don't recall it but I would agree with it within my
23 statement.
24
25 Q. Yes. And then you have turned on to Holden Lane.
26 A. That's correct.
27
28 Q. Once in the CBD, you turned on to Holden Lane?
29 A. That's correct.
30
31 MS SULLIVAN: So we'll just bring up a map to orient all
32 of us. This is at tab 132.
33
34 THE COMMISSIONER: I don't think that's right.
35
36 MS SULLIVAN: I beg your pardon. 131, I'm sorry.
37
38 Q. You'll see there that number 73 is circled. That is
39 the Salvation Army premises. Do you see that?
40 A. I'm sorry, it's just loading now.
41
42 Q. Okay. I'm sorry, I'm just looking at the --
43 A. Yeah. So I'm just orientating the map. So the large
44 building in the bottom right-hand corner of the picture is
45 the southern end obviously?
46
47 Q. Yes.

1 A. Yeah, Cherry Street, Holden Lane, okay, yeah.
2
3 Q. That's the council chambers, is it, in the bottom
4 right-hand corner of the screen?
5 A. Oh, I've got no idea. If you - I would accept that,
6 though.
7
8 Q. Okay. All right. And so you went down Cherry Street
9 and turned on to Holden Lane; is that right?
10 A. Yes. That's correct.
11
12 Q. Okay. And what did you do once you turned on to
13 Holden Lane?
14 A. Turned on to Holden Lane behind Officer C. Then
15 I activated alley lights on the police vehicle I was in,
16 which are lights which illuminate the left-hand/right-hand
17 side 90-degree angle on the light bar there --
18
19 Q. Okay.
20 A. -- and I have proceeded slowly. On the map where you
21 can see the first - the first writing of "Holden Lane",
22 there is a house which appears to be Screenworks Australia
23 or nominated as Screenworks Australia.
24
25 Q. Yes.
26 A. I believe I've stopped around the back of that, that
27 house --
28
29 Q. So that seems to be on - just pausing there,
30 Officer D, that seems to be Screenworks Australia. Oh,
31 I see. Do you see Stafford Lawyers in front of that?
32 A. Yes.
33
34 Q. Okay. So have you stopped your vehicle in front of
35 the Stafford Lawyers green area there?
36 A. No. I'm in Holden Lane and I'm - my vehicle is
37 stopped probably on the H-O-L in Holden, between the two
38 sheds, in that backyard of Screenworks Australia.
39
40 Q. I see.
41 A. And I either got out of my car or I drove right up on
42 to the fence of that property and - and searched that rear
43 yard of that house.
44
45 Q. All right. Just explain that to us. Which house are
46 you talking about?
47 A. The house that - if you can see the gallery cafe

1 words?

2

3 Q. Yes, we can.

4 A. The icon?

5

6 Q. Yes.

7 A. It's in the Stafford - in "Stafford Lawyers" word?

8

9 Q. Yes.

10 A. The word "Stafford", that rear yard is the one that
11 I stopped and searched.

12

13 THE COMMISSIONER: Q. That's marked - it's a green
14 colour as opposed to the bitumen colour that's around - is
15 that what you mean?

16 A. That's - yes, the car park which is to the left or to
17 the west of that yard, that green backyard that I had
18 a search through.

19

20 MS SULLIVAN: Q. When you say you searched, how did you
21 search? What did you do?

22 A. Got out and had a - I believe I had a torch out, the
23 light was failing - as in the daylight, not my torch.

24

25 Q. Yes.

26 A. Had a quick scour of that backyard and then continued
27 on to the car park which is next to the - that yard.

28

29 Q. Just pausing there. Do we see that in your statement
30 anywhere, reference to that search?

31 A. Not that I'm aware of.

32

33 Q. And you getting out of your car?

34 A. No, not that I'm aware of.

35

36 Q. No. Are you sure that that happened?

37 A. I remember thinking, with the information that I had
38 at the time, it made more sense to me that somebody - and
39 I didn't know that was a business, I thought that was
40 a house.

41

42 Q. Yes.

43 A. It made more sense to me that somebody would be, if we
44 were to locate somebody, they'd be in a residential
45 building or residential yard, not a - not a business
46 premises, because they were all shut.

47

1 Q. But hadn't you been given a specific address of
2 73 Tamar Street?
3 A. That was on the CAD, but I didn't know where that was.
4
5 Q. But you could find out, couldn't you?
6 A. I could have, but when we headed into Holden Lane,
7 when I was behind Officer C, that's what struck me as my
8 highest probability of locating anybody at that point.
9
10 Q. Right. When you started searching this area in front
11 of Stafford Lawyers, where was Officer C?
12 A. It's at the rear of Stafford Lawyers, and Officer C
13 was either in the car park directly south of my location
14 or one of those car parks directly south of - on the
15 southern side of Holden Lane.
16
17 Q. And do you think he was parked there?
18 A. I couldn't accurately say what he was doing. I was
19 doing my thing. He was doing his.
20
21 Q. And do you now have a clear recollection of getting
22 out of your car and looking at that residential premises in
23 the Stafford Lawyers section of this map?
24 A. I wouldn't say it was a clear recollection. I don't
25 recall exactly where I went to the yard and went, but I do
26 remember focusing my attention on that yard because it made
27 more sense to me that - to be searching a residential
28 premises as opposed to a business premises.
29
30 THE COMMISSIONER: Q. Can I confirm with you, Officer D,
31 given that yard was a focus, do you remember getting out of
32 your car and looking?
33 A. I would have to rely on my practice of getting out and
34 searching yards. I don't search yards from cars, it's
35 impossible. So - but I remember looking behind those two -
36 I remember there being sheds in the backyard and looking
37 behind them. So - which would allude me to recall that
38 I was actually out of the car, if that makes sense.
39
40 MS SULLIVAN: Q. Well, just pausing there, when you
41 prepared your statement on 6 January 2023, you understood
42 that Ms Lucena was deceased; correct?
43 A. Yes, as indicated by the top line of the - "In the
44 matter of."
45
46 Q. And you understood that there was an issue in relation
47 to your attendance and that of Officer D earlier that

1 evening - that is, on 3 January; correct?
2 A. No, I wouldn't say I was aware there was an issue.
3 I was aware that we had attended Holden Lane earlier in the
4 evening.
5
6 Q. All right.
7 A. I didn't understand that there was an issue with it.
8
9 Q. You didn't understand there was an issue in relation
10 to a job that you had attended, a priority 2 job you had
11 attended at Salvation Army premises in Ballina, where
12 a deceased woman was later found?
13 A. I'd need you to extrapolate the fact or - extrapolate
14 what you meant by "issue."
15
16 Q. Okay. There wasn't a concern in your mind that you'd
17 attended this job and not located Ms Lucena in response to
18 the priority 2 incident? That didn't raise a concern for
19 you in your mind?
20 A. A concern in relation to what?
21
22 Q. A concern in relation to the appropriateness of the
23 steps that you took on scene in Holden Lane?
24 A. No, not at that time.
25
26 Q. Not at that time?
27 A. No.
28
29 Q. All right. But you were endeavouring to set out as
30 much detail as possible, weren't you, about the nature of
31 the search that you had undertaken?
32 A. I think what is described in my statement was - was
33 adequate for the information I thought that I would have
34 needed to provide in relation to it, into the search that
35 I did - had conducted.
36
37 When I was informed that the deceased was located in
38 the Salvation Army, I remember thinking I was searching the
39 other side of the laneway, not where the Salvation Army
40 was. So in my mind, it was a - it was a - I'm not going to
41 say a wasted effort but maybe a misguided or a misplaced
42 effort that I - at that time.
43
44 Q. So just to be clear, you searched the area around
45 Stafford Lawyers in Holden Lane but you didn't search the
46 specific address that was provided by VKG; is that right?
47 A. That's correct. I wasn't sure where it was.

1
2 Q. Why weren't you sure where it was when the address had
3 been given over VKG and was available on your MDT?

4 A. If the availability of the MDT was apparent and - and
5 the - I was following Officer C into that laneway. I had
6 never been in that laneway before.
7

8 Q. All right. But do you recall that there was a point
9 in time where Ballina 14 clarified the address on the
10 radio? Why don't I just refresh your memory about that?

11 A. That would be wonderful, thank you.
12

13 Q. At 7:54:41: Ballina 14:
14

15 *Radio: Ballina 14.*

16 *Ballina 14: I'm at the rear of the*
17 *Salvation Army on Tamar Street. It's*
18 *actually going to be Holden Lane, I was*
19 *close. What did the caller exactly say?*
20 *There's no indication whether it's a house*
21 *or on the street.*

22 *Radio: Stand by. Okay, so it just said*
23 *behind the Salvation Army at 73*
24 *Rivers Street. Male stated a female was*
25 *being bashed behind the Salvation Army*
26 *building. The informant then terminated*
27 *the call. On callback he stated, "I've*
28 *told you where it is, I don't want to be*
29 *involved" and swore at the 000 operator and*
30 *hung up. Second callback and third*
31 *callback were not answered.*
32

33 *It goes on:*
34

35 *Ballina 14: Copy, you said River Street,*
36 *so Salvation Army's is on Tamar or River?*

37 *Radio: Oh sorry, the Salvation Army behind*
38 *73 Tamar, cross of Moon.*
39

40 At 7:56:04::
41

42 *Ballina 14: Yeah copy that. That will*
43 *make it Holden Lane and I know where the*
44 *building is so we're just patrolling that*
45 *lane now.*
46

47 Does that refresh your memory about that exchange between

1 Ballina 14 and radio on scene?
2 A. Not particularly, but I'd be - I was at that point
3 guided by Officer C where I should be focusing my efforts,
4 and I - if he was talking to radio, that's - I could have
5 been - at this point could have been out of the car.
6 I don't specifically remember that - that conversation he's
7 had with VKG but I do recall radio saying that they had
8 difficulty or an inability to get on to the original
9 informant again.

10
11 Q. Yes.

12 A. Stated by radio. I'll just refer down to the radio
13 transcript, the transcript of the radio operator:

14
15 *Stand by. Okay, so it just said behind the*
16 *Salvation Army at 73 Rivers Street.*

17
18 That's where we were.

19
20 Q. Well, 73 Tamar Street?

21 A. Tamar Street, sorry, yep.

22
23 Q. That's where you were. So that was the Salvation Army
24 building; correct?

25 A. Yeah, it's - I'm led to believe it's part of that
26 council complex.

27
28 Q. Well, what do you mean by that? Number 73 is on the
29 map. Do you see it's got red numbering? There's the
30 council complex --

31 A. Oh, sorry. Adjacent to. Adjacent to the - next to
32 the council building. Sorry.

33
34 Q. Yes. So have you oriented yourself as to where the
35 Salvation Army building is?

36 A. Yes.

37
38 Q. All right. And is your evidence that you searched,
39 just to be clear - that you searched the area in front of
40 Stafford Lawyers, that residence there, but you did not
41 search the area behind the Salvation Army building at
42 73 Tamar Street?

43 A. No, I did not. I searched the northern side of the
44 lane behind Stafford Lawyers, as an initial entry into the
45 laneway.

46
47 Q. And did you understand that Ballina 14 was going to

1 specifically search that address?
2 A. No, I didn't have a conversation as to how the search
3 was going to be conducted, that I recall. It made sense to
4 me to commence the search on the right-hand side of the
5 lane, as I entered, because that's where I was orientated
6 in the police vehicle. That's where I had greater visual
7 access to.
8
9 Q. When you say "commence the search", what did you do
10 after you looked at that area that we've just canvassed in
11 front of Stafford Lawyers? What did you do next?
12 A. Commenced to search the two car parks that are on the
13 west of that yard, and then further down Holden Lane
14 travelling west.
15
16 Q. Were you in your car or were you walking around?
17 A. No, no, I was in the car at that point. The only
18 point I actually got out of the car, as I recall, was for
19 that rear yard of the residential premises.
20
21 Q. I'm just trying to understand, Officer D, why you
22 would only search one residence, only get out of car and
23 look at one residence that is not the address nominated in
24 the CAD incident and by the VKG, clarified by VKG. Can you
25 explain that to me?
26 A. The same reason all the time, to commence that search
27 from the starting in Holden Lane, so I had done that
28 search, commencing counter-clockwise as I entered the lane.
29 And then the subsequent car parks after it, and then the
30 business premises behind that, or the - travelled down the
31 laneway and other various buildings. At that point, I -
32 yeah, I'm just trying to think.
33
34 Q. Can I ask you this: is it possible you're mistaken
35 about your evidence today and, in fact, what you did was
36 simply patrol Holden Lane, slowly, in your car, with the
37 alley lights activated looking over your shoulder, trying
38 to find anything out of the ordinary?
39 A. And so you would assert that I didn't get out of my
40 car. Is that what you're asserting?
41
42 Q. That's what I'm asserting. Is it possible that
43 that's, in fact, the true position and you have either
44 forgotten that position or you are possibly reconstructing
45 based on your usual practice?
46 A. No, I can - I - I wouldn't say it was a truth of the
47 matter that I didn't get out of the car, categorically.

1 I do remember looking behind those sheds and that's what's
2 triggered - it's basically impossible to look behind those
3 sheds from inside the motor vehicle. If you can see the
4 parked car, the two parked cars at the back of the council
5 building, as a reference point --
6
7 Q. Yes.
8 A. -- the inability to search behind those two sheds from
9 inside a police vehicle whilst you are on that laneway is
10 nigh impossible.
11
12 Q. All right. So do you think that you - and apologies
13 if you have covered this, but you parked your car somewhere
14 in that region, then got out and looked behind those sheds
15 in that green area in front of Stafford Lawyers?
16 A. Yes, I would have stopped - where you can see the back
17 of the Screenworks Australia house --
18
19 Q. Yes.
20 A. -- where the words "Holden Lane" appear.
21
22 Q. Yes.
23 A. I would have parked right on the H-O-L right up
24 alongside that fence.
25
26 Q. Right. And do you recall where Officer C was at that
27 time?
28 A. He was in front of me and to the left.
29
30 Q. Okay. And do you recall whether he got out of his
31 vehicle?
32 A. I don't recall him getting out of the vehicle but
33 I didn't have a - I didn't - obviously, I was - didn't have
34 a constant visual connection with him. So he could have
35 got out of the vehicle. I don't know.
36
37 Q. All right. So we might just now play some CCTV that's
38 taken from the Meals on Wheels premises, which is right
39 next to the Screenworks Australia building.
40 A. Could you go back a screen, sorry, just so I
41 understand where the CCTV is taken from?
42
43 Q. Yes, sure. So there's the Screenworks Australia
44 building that we've just been talking about, and if you
45 move to the left --
46
47 THE COMMISSIONER: We'll just put tab 131 back up so that

1 everyone can see where the CCTV footage is taken from, and
2 then we will play the footage.

3

4 THE COMMISSIONER: So this is footage, I think you said,
5 from Meals on Wheels; is that right Ms Sullivan?

6

7 MS SULLIVAN: So the Meals on Wheels is just directly left
8 of the Screenworks Australia building. It has the car park
9 in front, the grass and the windows on top of the roof or
10 solar panels.

11

12 Q. Do you see that - do you see the premises I'm
13 referring to, Officer D?

14 A. Yes, and that's got the small car park at the rear
15 with no cars in it?

16

17 Q. That's right. It's - and there is The Gallery Cafe
18 and a white box to the right of that?

19 A. Yes.

20

21 Q. Okay. We've got that. All right. So that's the
22 Meals on Wheels premises and we'll just play the footage
23 now. And just to be clear, you're in the sedan; is that
24 the case?

25 A. No, that's incorrect.

26

27 Q. Okay. Which vehicle are you in?

28 A. I'm in - it would be a - a dual cab four-wheel drive
29 with a pod on the back.

30

31 Q. Thank you.

32

33 THE COMMISSIONER: And the footage is at which tab again?

34

35 MS SULLIVAN: So the footage is at tab 34B, thank you,
36 Commissioner.

37

38 (CCTV footage played)

39

40 MS SULLIVAN: Q. Pausing there, if we can, was that your
41 vehicle, Officer D, that we just saw go past?

42 A. I didn't see the vehicle.

43

44 MS SULLIVAN: All right. We'll just go back. I'm sorry.
45 I'm sorry. All right, if we can now play it. Thank you.

46

47 (CCTV footage played)

1
2 THE WITNESS: That's Ballina 14.
3
4 MS SULLIVAN: Q. Ballina 14. Thank you. The time stamp
5 there is 7:55:53.
6 A. And that's my truck with the alley lights on.
7
8 Q. I see, thank you. And then you come off screen. So
9 that was the pace that you were moving through Holden Lane;
10 is that right?
11 A. Oh, it's dictated by the video, if it's playing
12 flawlessly, absolutely.
13
14 Q. And in light of that footage, do you maintain that you
15 got out of the vehicle in that area?
16 A. I remember - I'd have to go back to see the timings,
17 but I remember travelling into Holden Lane --
18
19 Q. Yes.
20 A. -- on the bumper of Ballina 14.
21
22 Q. Yes.
23 A. And as indicated by the video there, there is some
24 distance between us.
25
26 Q. Yes. And so what significance do you place on that?
27 A. Well, I'm asserting that, as shown by the video, that
28 the lead vehicle, which is the sedan, has gone further
29 along the roadway --
30
31 Q. Yes.
32 A. -- than I have in 50 - 40 or 50 metres.
33
34 THE COMMISSIONER: Q. So can I be clear, Officer.
35 You're saying that you entered Holden Lane on the bumper
36 of 14?
37 A. Yes.
38
39 Q. And 14 seems to have continued on. You're both
40 driving on at any rate, at the point at which we see you,
41 which is - perhaps can we have that map up again, 131. So
42 you've come in on Holden Lane from Cherry Street?
43 A. Yes, Commissioner.
44
45 Q. And you've driven past the back of Stafford Lawyers,
46 where you - where the green area with the two small sheds?
47 A. That's - that's the Screenworks Australia premises, on

1 Crane Street. That's the one block. And so I've driven --
2
3 Q. And then you can see that that - one of those sheds
4 actually borders the car park and we just saw it in the
5 footage, in the CCTV footage?
6 A. That's correct.
7
8 Q. Yes. So if you were on the bumper of 14 and then, by
9 the time you'd both passed you're, say, a car's length
10 behind 14, are you telling me that in that - between the
11 time you've come into Cherry Street and when you passed
12 that car park, you've gotten out with your torch and looked
13 around that back garden?
14 A. Well, that's my recollection. I remember looking with
15 my torch through that yard. That's just my recollection of
16 it.
17
18 Q. Okay. Is it possible you are mistaken, Officer,
19 because I'm struggling to see how that marries up with the
20 CCTV footage?
21 A. Oh, absolutely, Commissioner, that is possible, that
22 I have a mis-recollection of it, but I do recall looking
23 through that yard. My - the distance between the police
24 cars over - after entering the laneway is not - I'm not
25 sitting right behind 14, so I've stopped for something
26 and - or paused for something, and that's obvious by the
27 distance between us as I was travelling through. So maybe
28 that's been extrapolated in my memory that I did a more
29 thorough search than I did, but I'd certainly accept that
30 it may not be the case that I did a thorough search as
31 I thought I did in that yard.
32
33 Q. You've certainly got the alley lights on in the way
34 you describe in your statement?
35 A. Yeah.
36
37 Q. So that what kind of search you did wasn't clear
38 enough to include it in your statement that you made two
39 days after the event?
40 A. In relation to the searching of that yard?
41
42 Q. Yes.
43 A. Yes, I didn't - I didn't nominate that in the
44 statement at all.
45
46 THE COMMISSIONER: Thanks, Ms Sullivan.
47

1 MS SULLIVAN: Q. If we can just go to paragraph 6, just
2 to be very clear, what you say is:

3
4 *I have proceeded very slowly along --*

5
6 This is after activating the alley lights:

7
8 *... have proceeded very slowly along the*
9 *alleyway and have commenced a visual search*
10 *of the laneway for a distance. Whilst in*
11 *the laneway I did not see or hear any*
12 *person. Nor did I see any vehicle or*
13 *anything that I believed was out of the*
14 *ordinary at that time. I have stopped my*
15 *vehicle approximately 100 metres along the*
16 *laneway and have stopped my vehicle next to*
17 *Senior Constable [name withheld] and I have*
18 *had a conversation with --*

19
20 I have slipped "with Officer C". Remind any media present
21 about the pseudonym:

22
23 *... had a conversation with Officer C and I*
24 *was then dismissed.*

25
26 That's at paragraph 6. You see that?

27
28 A. Yes.

29
30 Q. And you expressly refer to stopping your vehicle
31 approximately 100 metres along the laneway after the
32 search, don't you?

33 A. After the - 100 metres along the laneway, not after
34 the search.

35
36 Q. But what you say:

37
38 *... have commenced a visual search of the*
39 *laneway for a distance. Whilst in the*
40 *laneway I did not see or hear any person*
41 *... Nor did I see ... anything out of the*
42 *ordinary ...*

43
44 That is what you say. Then you refer to stopping your
45 vehicle approximately 100 metres along the laneway.

46 A. That's correct.
47

1 Q. That's not the position out the front of the
2 Screenworks Australia building, is it? That's not
3 100 metres?
4 A. No, I wouldn't assert that, no and that's not where
5 I spoke to Officer C, no.
6
7 Q. That's much further down the lane, isn't it?
8 A. Well, I wouldn't say it was much further. Much
9 further would be very subjective, but --
10
11 Q. All right. It's further down the lane, isn't it?
12 A. Well, absolutely, and as nominated in my statement,
13 approximately 100 metres, a football field.
14
15 Q. But you've been very specific in your statement about
16 your recollection in relation to where you've stopped your
17 vehicle, you've given us an estimate of the distance,
18 haven't you?
19 A. Yes.
20
21 Q. Because were you doing your very best to give a clear
22 account of the nature of the search that you had
23 undertaken, weren't you?
24 A. Yes, at that point, yes.
25
26 Q. And you didn't refer to getting out of your vehicle
27 and searching the yard of Screenworks Australia in
28 paragraph 6, did you?
29 A. No, that's clear.
30
31 Q. All right. Can I suggest that that did not happen?
32 A. You can suggest that, absolutely.
33
34 Q. And do you accept it?
35 A. It's just not my recollection, I'm sorry. I do
36 acknowledge and understand that CCTV does not do me any
37 favours in relation to my recollection, but I just, for
38 whatever reason, remember going through that yard. I don't
39 know if I've been through it previously or since this
40 incident for something else.
41
42 Q. So, pausing there, you may be conflating that
43 recollection with something else; is that right?
44 A. Well, I may well. I'm searching for an explanation as
45 to why I have that recollection.
46
47 Q. All right. But to be clear, you didn't get out of the

1 vehicle and search the specific premises, the back of the
2 Salvation Army on Holden Lane, did you?

3 A. At Salvation Army, no.

4
5 Q. Why didn't you do that?

6 A. I cannot - I remember having a conversation with
7 Officer C, as is nominated in my statement, paragraph 6.
8 I don't recall the exact content of that conversation. But
9 I do recall, when I left Holden Lane, repositioning
10 a search or recommencing a search for the rest of Holden
11 Lane on my exit of that. And that's my actions as
12 I recall.

13
14 Q. Can I direct you to my question. Why wouldn't you
15 search the address that has been specifically nominated in
16 the incident?

17 A. I wasn't exactly certain where the address - where the
18 address was. And - at that point, and that's the only
19 reason I could - I was - I could explain to that. I was
20 under direction. I didn't have an intimate knowledge of
21 the area and I relied upon other police to - on their
22 knowledge of the area as to the way the search should be
23 conducted.

24
25 Q. I'm sorry to belabour this, but doesn't VKG give you
26 a very clear address?

27 A. As far as - yes, they do.

28
29 Q. Yes. So if you were unclear about which address it
30 was, couldn't you have asked VKG to be clearer?

31 A. I don't know why I'd ask VKG when I was in the
32 presence of Officer C at that point.

33
34 Q. All right. You could ask Officer C about which number
35 is 73, couldn't you?

36 A. I may well have. I don't remember the conversation.

37
38 Q. Well, if he'd pointed out to you which address was
39 73 Tamar Street, you would have known where to search;
40 correct?

41 A. Well, at that stage, the search area was more than
42 half an hour old and it was quite broad.

43
44 Q. All right. So you made an assumption that the
45 incident may have resolved, is that right, because of the
46 time, the delay in attending?

47 A. It could have resolved, it could have moved, it could

1 have - there's a hundred different possibilities at that
2 stage.

3

4 Q. Well, there could have also been an injured woman in a
5 fenced area behind or next to 73 Tamar Street; correct?

6 A. That's plausible, yes.

7

8 Q. Yes. And unless you get out of your vehicle and you
9 search the specific address in VKG, you don't have a good
10 opportunity of finding the woman that's been bashed, do
11 you?

12 A. I think that would be highly subjective on the
13 premises type, the time of day, the type of fencing you
14 talk about, the location of the person that we're looking
15 for. There's a hundred variables in that as well.

16

17 Q. Well, there's not a hundred variables if you get out
18 of your car and you go to 73 Tamar Street and you have
19 a look. There's not variables then, is there; there's just
20 an address?

21 A. Yes.

22

23 Q. Yes.

24 A. That's correct.

25

26 Q. Yes. And if you had gone to that address, can
27 I suggest, you would have seen a pool fence? We can pull
28 up the images. You may well have seen them. Do you want
29 us to --

30 A. I haven't, and I'd appreciate you pulling up the
31 images, that would be great.

32

33 MS SULLIVAN: Okay. We'll do that. Can we go to tab 38,
34 please.

35

36 Q. That's the pool fence, if you accept from me, that
37 leads on to the first section next to the premises?

38 A. I'd accept that.

39

40 Q. All right? That fence was unlocked. If you accept
41 from me, that's just a standard pool fence.

42 A. Certainly.

43

44 MS SULLIVAN: We might now go to tab 73, if we could.
45 These are crime scene photographs. Just go to image 3,
46 please. In fact, we might go back and go to - yeah,
47 image 3. Image 3 will give us an indication. It hasn't

1 come up yet. All right.

2

3 Q. So do you see that, Officer D? That is the car park.
4 It's taken from, in effect, the Holden Lane area. And then
5 we see the pool fence?

6 A. Yeah. Yes.

7

8 MS SULLIVAN: We'll move through to photograph number 5,
9 that's a close-up, if we could, please.

10

11 Q. Do you see that?

12 A. Yes.

13

14 MS SULLIVAN: And then if we can move through to
15 photograph 8, please.

16

17 Q. This is the section next to the Salvation Army
18 building. It's a soft foam area. You can see there's
19 another pool gate at the end there?

20 A. Yes.

21

22 Q. And then if we can go to photograph 11, please, you
23 can see that there's another pool gate that opens on to an
24 area that looks to have a lot of clothing and items strewn
25 around. Do you see that?

26 A. Yes.

27

28 Q. And you're aware that Ms Lucena's body was located in
29 that area?

30 A. I'm not aware, no.

31

32 Q. All right. That is the area in which Ms Lucena's body
33 was located. But if I can give you this information,
34 please, that at 7.20pm, a witness was walking down Tamar
35 Street on - so that's the other side - in a westerly
36 direction towards the Salvation Army and she comes across
37 a male making sounds standing in that area with the
38 clothing; all right? If you accept that at 7.20?

39 A. Yes.

40

41 Q. And there's a further piece of evidence to the effect
42 that at 9.30, a gentleman comes into the Salvation Army car
43 park on Holden Lane and there he encounters a man known as
44 Rob, who he knew from earlier interactions, and he sees Rob
45 standing in that area down the side of the Salvation Army
46 building, yelling and swearing. So that's at 9.30. All
47 right?

1 A. Okay.

2

3 Q. So can I suggest that had you gotten out of the car,
4 gone into the section beside the Salvation Army and made
5 some basic police inquiries, you may well have come across
6 Mr Huber in that area. Do you accept that?

7 A. No, I don't.

8

9 Q. Why not?

10 A. The first photo that you displayed, being the photo
11 that shows the bulk of the car park with the pool fence on
12 the left-hand side --

13

14 Q. Yes.

15 A. -- if we could go back to that.

16

17 Q. Yes, that's photograph 4.

18 A. I believe there was a photo, not that - we don't need
19 to show the photo, but the photo would have been taken
20 further back from that.

21

22 Q. Oh, right, yes, sorry. Photograph 3, perhaps.

23 A. Without - notwithstanding that the right-hand side
24 of the photograph is obscured and it is only a partial
25 photograph, I would assert that that is the rear of
26 73 Tamar Street.

27

28 Q. Yes. Well, that's the Holden Lane aspect, if I can
29 put it that way. Tamar Street is on the other side.

30 A. Perfect. That's correct.

31

32 Q. So, sorry, I'm - what's the significance of this
33 photograph?

34 A. Well, the significance is that that - my perception
35 and my mindset of being the rear of Salvation Army building
36 at 73 Tamar is depicted in that photograph.

37

38 Q. All right. But can I simply suggest to you, it's not
39 good police practice to attend an incident like this and
40 not search the scene?

41

42 MR CHAPMAN: I object to the question. The evidence,
43 going back to the radio recording, Commissioner, that
44 I think is being adverted to by the officer, is that he was
45 asked, or the message was to search behind the premises.
46 Going into what good police practice of searching the scene
47 was, we're talking about a scene which involves a deceased

1 a fair way up, closer, I would suggest, to Tamar Street
2 than to Holden Lane. The evidence being given is that he
3 searched - or the search, had he searched, it would have
4 been in the car park. So I think the proposition being put
5 to him about it being an inadequate or insufficient police
6 practice is unfair.

7
8 MS SULLIVAN: I'm very happy to rephrase it for my friend.

9
10 MR SMARTT: Can I also say something as a matter of
11 general policy. Obviously we are at the heart of the
12 matter and what is being requested is useful but there is
13 an anterior question as to police powers and his capacity
14 to go in there, I won't say more than that, which should be
15 explored before we get into this territory about what he
16 should have done.

17
18 THE COMMISSIONER: That he was entitled to walk into the
19 pool fence or walk on to the car park?

20
21 MR SMARTT: The pool fence and go further.

22
23 MS SULLIVAN: The difficulty with all this - and I accept
24 that it's necessarily speculative, because basic steps
25 weren't taken, would be my submission. But in
26 circumstances where we know that Mr Huber is in attendance,
27 he's in that zone from at least 7.20 to 9.20, we know that
28 Officer C knows Mr Huber, we know that Officer C knows that
29 there is an ADV0 in force for the protection of Ms Lucena,
30 had officers encountered Mr Huber in that area, one must
31 assume that steps would have been taken, and the question
32 of emergency police powers wouldn't arise.

33
34 MR CHAPMAN: These are questions being put to Officer D
35 not to Officer C.

36
37 MS SULLIVAN: No, I was dealing with the objection raised
38 by Mr Smartt, and I indicated in response to your question
39 that I would rephrase what I was putting.

40
41 MR SMARTT: I think the easy way to through this is to ask
42 what a proper search would have been and put that directly
43 so there is no issue about pool fence or not pool fence and
44 then we can go ahead from there.

45
46 THE COMMISSIONER: Do you want to rephrase the line - your
47 approach to the question, Ms Sullivan --

1
2 MS SULLIVAN: I'm happy to --
3
4 THE COMMISSIONER: -- and we will see how we go.
5
6 MS SULLIVAN: I'm happy to reformulate what I was
7 proposing.
8
9 Q. We've established, haven't we, Officer D, that you did
10 not get out of your vehicle and search the Holden Lane
11 section of 73 Tamar Street, did you - the car park area?
12 A. Oh, I accept that.
13
14 Q. All right. And I suggest to you that it was
15 appropriate police practice to get out of your vehicle and
16 search that area, including the side area where we see the
17 pool fence. Do you accept that?
18 A. No.
19
20 Q. All right. And you don't - well, could you see beyond
21 the pool fence from your vehicle?
22 A. As in where the matted area was?
23
24 Q. Could you see beyond the pool fence from your vehicle?
25 A. As in where you nominated previously where the matted
26 area was? Is that what you're talking about?
27
28 Q. That's right, yes.
29 A. So depending on the positioning of the vehicle from
30 inside the vehicle with alley lights on, I may well have
31 been able to see, I'd have to get back into that laneway
32 and in that truck.
33
34 Q. Do you have a sense as to how far the pool fence is
35 from the road?
36 A. It would be a few car spaces from the - depicted by
37 the photographs.
38
39 Q. It's about eight.
40 A. I'd have to accept that, if that's what you assert.
41
42 Q. All right, so --
43
44 MR CHAPMAN: I object. This isn't - sorry, this isn't
45 evidence, what's being put. If we could go to just
46 exhibit 1, maybe, to Justice Rothman's - to the judgment,
47 there's a depiction here which might assist my learned

1 friend. It's being put here - there is an actual metre,
2 a distance figure at the bottom there. I think it was just
3 put to the witness that it was about 8 metres.

4
5 MS SULLIVAN: No, eight car spaces. That's --

6
7 MR CHAPMAN: I'm sorry, I understood it to be --

8
9 THE COMMISSIONER: Eight car spaces, I think.

10
11 MR CHAPMAN: Eight car spaces between Holden Lane and the
12 pool gate.

13
14 THE COMMISSIONER: Would it be helpful to bring one of
15 those - the map up?

16
17 MS SULLIVAN: I think so.

18
19 MR CHAPMAN: I'm just suggesting there's something a
20 little more accurate, perhaps, than a --

21
22 MS SULLIVAN: Thank you. I'm grateful to my learned
23 friend. We can do it in a more precise way that is more
24 appropriate.

25
26 THE COMMISSIONER: We have exhibit 1, which is the CAD
27 diagram. I'm just trying to find the tab number that
28 that's behind. It was exhibit 1, which is the first
29 exhibit that we played this morning in council's opening if
30 that assists.

31
32 MS SULLIVAN: Actually perhaps if we can go - a better
33 image is at tab 42A.

34
35 THE COMMISSIONER: Apologies, monitor. I have given you
36 an incorrect direction. Tab 42A, if you would.

37
38 MS SULLIVAN: Can we scroll through to the next photo,
39 please. Thank you. So that's the Salvation Army building.
40 We can see that there are --

41
42 THE COMMISSIONER: Which one is the Salvation Army?

43
44 MS SULLIVAN: Sorry, the blue roof building in the middle
45 of the photo. You can see down the side of that
46 photograph, Commissioner, on the left-hand side, there's
47 the concreted area, and there's an awning over the red soft

1 foam area separated by the two pool fences.

2

3 THE COMMISSIONER: Yes.

4

5 MS SULLIVAN: In fact, I withdraw what I said about eight.
6 It looks like it's six or maybe seven car spaces on the
7 left-hand side. We can count those. It looks to me to be
8 seven.

9

10 THE COMMISSIONER: I would take that as seven.

11

12 So, Mr Chapman, how many do you make it?

13

14 MR CHAPMAN: Something approximating seven.

15

16 MS SULLIVAN: Seven car spaces.

17

18 MR CHAPMAN: Or a little more than 10 metres using the
19 other reference on exhibit 1.

20

21 MS SULLIVAN: Q. Officer D, do you accept that
22 approximation, that it's in the order of around 10 metres
23 from Holden Lane to the pool fenced area on the side of the
24 Salvation Army building?

25 A. Yes, I'd accept that was somewhere in the realms.

26

27 Q. Can I suggest to you that you could not possibly see
28 into that fenced area from 10 metres in your vehicle.

29 A. For the - down the side of the building?

30

31 Q. Yes.

32 A. I'd have to - yeah, without being on scene and with
33 the light conditions that we had with the car that I had,
34 I'd reluctantly agree with that.

35

36 Q. All right. And a proper search required you to get
37 out of the vehicle and go and look into that area on the
38 side with the pool fence; do you agree?

39 A. No, I don't agree. Unless you can - unless you can
40 advise me further, I think all of the correspondence and
41 all of the transmissions from VKG indicate the rear of the
42 Salvation Army building, which would indicate to me that
43 car park where we drove past. At no stage was - that the
44 side of the building was ever mentioned or nominated.

45

46 Q. Pausing there, it's possible, isn't it, for an
47 incident to be mobile?

1 A. 100 per cent.

2

3 Q. And it's also possible for informants to be imprecise
4 when giving information to 000, isn't it?

5 A. That's correct.

6

7 Q. All right. So I go back to my initial proposition:
8 it was proper police practice to get out of the car and at
9 least search the address that had been - or look through
10 that area, that pool fenced area of the address that had
11 been nominated by VKG?

12 A. No, I disagree. It's just - it's not police practice
13 to walk the entirety around an address that was nominated
14 for a search. And being highly specific in retrospect to
15 a side area of a building that wasn't paid - I'll withdraw
16 that - wasn't searched to a standard or a perceived
17 standard.

18

19 Q. I'm a bit unclear about what that answer means, but is
20 your evidence to the effect that you will only ever search,
21 in relation to a priority 2 incident - you will only ever
22 search the very specific location that has been given to
23 you by VKG and not scope the incident scene to see whether,
24 for example, someone is injured nearby?

25 A. But the time - the time that we got there, which
26 would - I'm sure you would be able to inform me what the
27 time frame was from the time of the initial call.

28

29 Q. 7.55.

30 A. So, which would have been --

31

32 Q. 52 minutes after the call first came in?

33 A. 52 minutes. And as we've already discussed, any
34 incident being highly mobile, the incident could have been
35 anywhere in that lane or anywhere, realistically, in
36 Ballina at that stage, without further information. But
37 the address that we were nominated as was the rear of
38 73 Tamar Street and I believe that's where we commenced -
39 as we drove into Holden Lane, had a look around other
40 places on the way to 73, we drove past and did look at
41 73 Tamar Street in the rear of the premises.
42 Retrospectively look back and say "The side wasn't searched
43 good enough or wasn't searched at all to locate the
44 deceased", I think is - it's a step too far.

45

46 Q. All right. There were the two of you on scene in
47 Holden Lane, weren't there?

1 A. That's correct.

2

3 Q. And it would have taken you all of about 20 seconds to
4 stop that vehicle in the car park and walk over to the pool
5 fence and look; do you agree?

6 A. It would have taken 20 seconds to look over any fence
7 in Holden Lane.

8

9 Q. No, to look at the address that was specifically
10 nominated on the VKG recording.

11 A. I'd have to look --

12

13 MR CHAPMAN: I object. This is unfair. The location was
14 given. The evidence has been given, it has been asked and
15 answered. It was behind the location. He's now being
16 asked to speculate about whether it was reasonable or not
17 to go looking up a side fence. The evidence is very clear
18 that he conducted the search - well, were he to conduct
19 a search on the basis that it was behind the location.
20 That is his evidence. And I think continuing this is,
21 frankly, unfair to this witness --

22

23 THE COMMISSIONER: Ms Sullivan --

24

25 MR CHAPMAN: -- given what he has said.

26

27 THE COMMISSIONER: -- do you have a response?

28

29 MS SULLIVAN: I don't think it's unfair, with respect to
30 my learned friend. It is important for the Commissioner to
31 understand the nature of - or how long it would take him to
32 undertake what I maintain is a very basic search of the
33 specific address that was nominated by VKG, and this
34 officer gave evidence to the effect that an incident can be
35 mobile, and as a base level, it would be my submission that
36 it was appropriate to get out of the car and look down the
37 side fence, at least.

38

39 THE COMMISSIONER: Mr Chapman, this seems to me to be the
40 absolute heart of why we're here doing this investigation,
41 which is to work out what good police practice would have
42 entailed on the incident in question, not with the benefit
43 of hindsight. So we're not suggesting that he ought to
44 have looked down some other alleyway that we didn't - that
45 was not obvious to the officers at the time. We're asking
46 why didn't they get out of the car, or why didn't this
47 officer get out of the car and look at the address that VKG

1 had alerted him to. And it seems to me that, if I am being
2 asked to consider whether there was any misconduct on the
3 part of this officer, then I need to have an answer to that
4 question.

5
6 MR CHAPMAN: Yes. If I could just address briefly on
7 that, Commissioner. The difficulty is we enter into areas
8 where it could be suggested - and might well be suggested -
9 that there was improper conduct on this officer by not
10 looking down this pool fence, in circumstances where his
11 evidence is clear that the instruction that, as he
12 understood it, given at the time, was to look at a specific
13 area, which he has nominated as the car park, full stop.

14
15 THE COMMISSIONER: No. So he understood it to be at the
16 back of the Salvation Army building.

17
18 MR CHAPMAN: Correct.

19
20 THE COMMISSIONER: He's also given evidence that assaults
21 are mobile, that assailants and affrays can move - that
22 seems to be commonsense, to be frank - and that, also, this
23 incident was called some 50 minutes earlier. So it's
24 possible it's moved on but at the very least, I would have
25 thought, the question of whether it would have been good to
26 get out of the car at the place of the initial call is
27 something I would like to hear the answer to.

28
29 MR CHAPMAN: If it please the Commission.

30
31 MS SULLIVAN: I again can't remember my question.

32
33 THE COMMISSIONER: Q. I think the question was: would
34 it have been good policing practice, Officer D, knowing
35 that this was the address that VKG had said was the address
36 where the call came from - would it have been good policing
37 practice to have got out of your car, walked across the car
38 park and looked to see what you could see down the back of
39 that pool fence?

40 A. I don't believe that - taking a step back and looking
41 at the totality of the call, the time frame and the time of
42 year it was, the time of day it was, I think when - my
43 mindset was, at the rear of 73 Tamar Street, I was at that
44 location. And my search and subsequent search of Holden
45 Lane encompassed what I believed to be a starting point,
46 being the rear of 73 Tamar Street, a location which I don't
47 recall ever being at before, and then commencing a search

1 through that, and as evidenced by the CCTV, I had stopped
2 after I entered the lane and commenced the search earlier
3 than 73 Tamar Street, proceeding to 73 Tamar Street,
4 searching the rear of what I believed to be the location
5 advised by VKG, having a conversation with Officer C, and
6 then recommencing a search in the event that the incident
7 was mobile through the entirety of Holden Lane as
8 I travelled with my alley lights on. The positioning -
9 sorry.

10
11 THE COMMISSIONER: I was going to say one more question on
12 that, and then I think, Ms Sullivan, we probably need to
13 move on.

14
15 Q. You gave evidence some time ago that your ordinary
16 practice would have been to have searched behind at least
17 residential buildings, and that's why part of what prompted
18 you to think you'd got out at the Stafford Lawyers'
19 premises was to have a look. So why didn't you undertake
20 a similar search at the address that VKG alerted you to?

21 A. The address of 73 Tamar Street, as I saw and
22 understood at the time, was a business premises. My -
23 I guess you would say my natural inclination at that point,
24 given the totality of the circumstances, time of day and
25 time of the year it was, and most businesses were still
26 closed after the new year's break, and the influx we'd had
27 at that period and do in coastal towns at that period of
28 people travelling, attending licensed premises, walking
29 around town, making noise and that extra workload, it made
30 sense to me that the residential premises, what I thought
31 was a residential premises, which turned out it wasn't,
32 that held more value to me, that people might - if there
33 was going to be people in the laneway, that's where they
34 would be.

35
36 So when I've attended 73 Tamar Street, it looked like
37 a locked-up business to me, a closed business. I didn't
38 think that there was anyone - it was locked. It was
39 a closed business with no signs of forced entry. So no-one
40 had smashed the back window in, for example, or kicked the
41 door in or kicked the gate in, everything appeared locked
42 and secured.

43
44 I was in the position at the rear of 73 Tamar Street
45 where VKG had nominated. I'd commenced a search prior to
46 arriving there. I continued to search after leaving there.
47 And at that stage, I had, in consultation with Officer C,

1 had achieved - or I had satisfied the needs of the - of
2 searching the nominated location, or where it was presented
3 to me, anyway.

4
5 THE COMMISSIONER: Okay. I think I understand your
6 evidence.

7
8 MS SULLIVAN: I'll just ask one final question in relation
9 to that, Commissioner.

10
11 Q. Did you do any canvasses of any of the premises on
12 either side?

13 A. As - on the day or --

14
15 Q. On the day.

16 A. At the time.

17
18 Q. On the day, when you attended in Holden Lane at 7.55
19 on 3 January 2023?

20 A. No. Everything was - there was no-one around. There
21 was - everything was shut when we got there. It was almost
22 8 o'clock at night. There was no signs of life anywhere in
23 that laneway.

24
25 Q. Did you contemplate going around the front on to Tamar
26 Street?

27 A. I may well have on the way out. I don't - I don't
28 recall. I remember being at Holden Lane but I don't recall
29 which way I left Ballina.

30
31 Q. When you and Officer C - when you parked your vehicle
32 around 100 metres down Holden Lane and you had the
33 conversation with Officer C, what was discussed?

34 A. My requirement to - as I recall it, my requirement to
35 remain in Ballina any longer and if there was anything else
36 that I had to attend to prior to me leaving and heading
37 back to my own station and area.

38
39 Q. So those were administrative matters; they weren't in
40 relation to the job?

41 A. They may well have been. I do recall at some point
42 the difficulty raising the original informant and that that
43 had been attempted and had come to no avail. Whether or
44 not I remember that being a conversation on VKG or
45 a conversation I had with Officer C I can't specifically
46 say, but I remember making that attempt to get further
47 information prior to leaving.

1
2 Q. By raising that matter with him, as in whether you
3 should --
4 A. As I said --
5 Q. Whether you should --
6 A. Sorry.
7
8 Q. Whether you should call the informant; is that what
9 you mean?
10 A. It's a loose - I don't remember the exact
11 conversation, but I do remember either hearing VKG saying
12 they couldn't get on to him or having a conversation with
13 Officer C. But I remember in my mind thinking, well, we
14 don't have another call. We can't get on to this informant
15 to say, "They were travelling, they were in a car", any
16 further information that we could get.
17
18 Q. I see, yes.
19 A. Or narrowing down a more specific location as time
20 went on. I do remember having that information at that
21 point prior to leaving.
22
23 Q. All right. I'm coming close to the end of my
24 examination Officer D. I'm sorry that we've been going,
25 it's now 5.08 and you haven't had a break. Is it correct
26 that you first became aware of Ms Lucena's death on the
27 date of preparing your statement - that is, 6 January 2023?
28 A. I couldn't comment on that. I have no - I don't have
29 a specific recollection when I was notified of her death.
30
31 Q. All right. Do you remember any of the detectives from
32 Strike Force Blaikie ever speaking to you about your
33 response to the Salvation Army job, that priority 2?
34 A. I can't recall speaking to any particular detective.
35 Unless you have the ability to nominate somebody that I may
36 have spoken to at one point, I can't - I don't have any
37 specific recollection of speaking to detectives about our
38 attendance there.
39
40 Q. Did anyone raise with you whether or not the matter
41 might become a critical incident?
42 A. I can't recall any conversations I had in relation to
43 that.
44
45 Q. You likely would, though, wouldn't you?
46 A. Would what?
47

1 Q. You would likely recall if someone had raised with you
2 the potential for this matter to become a critical
3 incident; do you agree?

4 A. No.

5

6 Q. No - sorry, you don't agree? You wouldn't remember
7 that?

8 A. No, I don't recall - with respect, I've been involved
9 in multiple critical incidents over my career, in multiple
10 factors and multiple incidents, required all manner of
11 investigations. They no longer hold or pique my interest
12 like they used to.

13

14 Q. So just to be clear, you don't think you would have
15 recalled if that was raised with you?

16 A. If that was raised with me, it may well have been but
17 I don't recall that.

18

19 Q. Now, just in terms of the delay to this particular job
20 you've explained your thinking in relation to responding to
21 the priority 3, instead of a priority 2 job. It seems that
22 the Ballina sector was very short staffed on this
23 particular shift on 3 January. You agree?

24 A. I guess the term "short staffed" is very subjective.

25

26 Q. Yes.

27 A. I'd rely on the - the fact that I was at Ballina when
28 I shouldn't have been, I should have been in my own sector;
29 and that the supervisor was attending jobs with me -
30 I think they speak for themselves.

31

32 Q. It was a busy shift?

33 A. Yes.

34

35 Q. Was that common in your experience doing night shift
36 during the four-year period you were at Woodburn - that
37 level of busyness?

38 A. That's been my experience for the last 15 years.

39

40 Q. Okay. Well, that's what I'm getting at. Do you think
41 there's a resourcing issue in relation to - well, in
42 particular let's talk about Ballina, responding in the
43 Ballina sector?

44 A. I think this question is certainly best left to ranks
45 well above me. I have a very, and one might say, jaded
46 view on that, being an officer that's operated my entire
47 career on the street.

1
2 Q. Yes.
3 A. We can always use extra hands. We can always use an
4 extra car crew. I think it's the case that that's not a -
5 that's not a situation unique to Ballina. I'm in my
6 seventh posting now in my career and it's - I can still see
7 it today.
8
9 Q. It's the same resourcing issues for general duties
10 across the board; is that a fair summation?
11 A. More than fair.
12
13 Q. In fairness to you, is there anything more you would
14 like to tell the Commissioner about any of the matters that
15 we've canvassed or anything further in relation to that
16 systemic issue that you've raised about resourcing?
17 A. No, I think - I think we've covered everything, unless
18 the Commission has something more that they require from
19 me.
20
21 MS SULLIVAN: I have no further questions. I'll just deal
22 with some tendering briefly, if I might, Commissioner.
23
24 THE COMMISSIONER: What we might do - I'm just mindful of
25 the time and the reporters haven't had a break.
26
27 I presume, Mr Chapman, you will have some
28 re-examination?
29
30 MR CHAPMAN: I will.
31
32 THE COMMISSIONER: And others might have some short
33 questions.
34
35 I appreciate the time, but we might just stand up for
36 five minutes and give them a chance to have a short break,
37 and then perhaps we'll deal with the tendering when we
38 return.
39
40 MS SULLIVAN: Thank you, Commissioner.
41
42 THE COMMISSIONER: I was going to promise that we won't
43 sit this late for the rest of the examinations, but don't
44 make promises you're not sure about. We will stand up for
45 five minutes, just to give everyone a short break.
46
47 **SHORT ADJOURNMENT**

1
2 MS SULLIVAN: Commissioner, Mr Chapman has very fairly
3 raised that he has a personal commitment that precludes him
4 from conducting his examination. I'm not sure how long he
5 would need.

6
7 MR CHAPMAN: I would expect 15 minutes. Commissioner,
8 I haven't spoken with Officer D, mainly because I have no
9 ability tomorrow for that purpose. It may be something
10 that I can take offline.

11
12 THE COMMISSIONER: Yes, I had understood that Officer D
13 had been arranged to give his evidence today in order to
14 accommodate his availability. I think we can deal with
15 re-examination at another time. That sounds like the
16 better option. Why don't we take that discussion offline?

17
18 MS SULLIVAN: Yes.

19
20 THE COMMISSIONER: Do you want to tender --

21
22 THE WITNESS: I have got no audio.

23
24 THE COMMISSIONER: We've lost audio. Can you hear us now,
25 Officer D?

26
27 THE WITNESS: I'm back on.

28
29 THE COMMISSIONER: You're back on. We were just saying
30 there's been some timing issues, we've sat later today than
31 we ordinarily would. Some timing issues. So why don't we
32 take those discussions offline.

33
34 Indeed, Ms Sullivan, why don't we prepare a list of
35 exhibits. The exhibits that need to be tendered, we can do
36 that by way of simply handing a note to everyone and deal
37 with it in that way. That's probably a shorter approach
38 than doing it verbally.

39
40 I would simply say, then, Officer D, you remain under
41 your summons. It's really important, as in any legal
42 proceedings, that you don't speak to any other witnesses
43 about the evidence that you've given here today. We'll
44 need to ask you to come back another day just to finish off
45 re-examination, but we will endeavour - it can be done by
46 AVL and we'll make those arrangements with you outside of
47 this hearing. Anyone else can obviously make those

1 arrangements.

2

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47

Can I ask the solicitor for Officer C to remind his client of the importance of not having any contact, and certainly if you could not discuss with your client any of the evidence being given here today, I'm not suggesting that you would, Mr Harris, but I just thought it was --

MR HARRIS: Well, it did cross my mind and --

THE COMMISSIONER: -- better to say it out aloud now than to have any regrets later.

MR HARRIS: It had crossed my mind and I'll make a phone call when we finish today.

THE COMMISSIONER: Thank you. And we've flagged the one small breach of the non-publication order. And I think that's the only issue that needs to be dealt with now before we wrap up; is that right?

MS SULLIVAN: I think that's so.

THE COMMISSIONER: Was there anything else that we need to deal with?

MR CHAPMAN: Commissioner, when is it indicated the re-examination will be on another date? I gather it's not proposed to be tomorrow?

THE COMMISSIONER: I understand your client's got a difficulty tomorrow.

MR CHAPMAN: No, I understand that too.

THE COMMISSIONER: So can we take that discussion offline?

MR CHAPMAN: Certainly.

THE COMMISSIONER: It can be tomorrow, if that suits, but I think you need to probably just check with your client his availability first.

MR CHAPMAN: I will. I will.

THE COMMISSIONER: Thank you. So we'll stand adjourned to tomorrow morning, probably at 10 but maybe a little earlier

1 if that is necessary in order to make the appropriate
2 arrangements for Officer D.

3
4 **<THE WITNESS WITHDREW**

5
6 Ms Boxall will be in touch with you in relation to
7 that. Thank you, everyone.

8
9 **AT 5.23PM THE COMMISSION WAS ADJOURNED ACCORDINGLY**