

ROYAL COMMISSION INTO WHETHER THERE HAS BEEN  
ANY CORRUPT OR CRIMINAL CONDUCT BY WESTERN  
AUSTRALIAN POLICE OFFICERS

COMMISSIONER: G.A. Kennedy AO QC

Held at Perth on the 16th day of September, 2002

Counsel Assisting

Mr K. Pettit SC

Appearances

Mr J.C. Hammond (with him Ms J. Pepe)

Mr A.J. Power

Mr W.M. Bryant

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AT 9.47 AM HEARING COMMENCED:

COMMISSIONER: Yes, Mr Hammond?

MR HAMMOND: Thank you, sir.

DAVID JOHN CAPORN:

CROSS-EXAMINED BY MR HAMMOND (Continuing):

MR HAMMOND: Superintendent Caporn, it is the case that you gave an instruction to Constable Italiano that even if Q2 confessed that he was to be released?---That's not the full extent of the instruction that I gave.

But did you give an instruction along those lines?---I gave the instruction, and again I can't remember my exact words, but the effect of my instructions were that whatever occurred in the interview on that particular day that they were going to interview him, he was to be released and that I would re-assess the evidence. And I'm not so sure that I used the word "released" in fact, but that he wasn't to be charged at that particular time until I had an opportunity to re-assess the evidence.

Constable Italiano, who was a constable at the time, said that what you said was that regardless of whether Q2 confessed or not, "you are to release him and I will reassess the evidence". Do you accept that you gave that direction, as she has - - ?---I don't accept that it was necessarily in those exact words. I think I've given quite clearly what the thrust of my - - what the effect of my instructions were.

But you've just said that regardless of what happened in the interview that you would reassess the evidence?---That he was not to be charged, and that I wanted a hand in reassessing the evidence; yes, I did.

So even if Q2 made a full confession in the interview to the interviewing officers, he was not to be charged. That's your evidence?---As I said on Thursday, quite clearly if he had have sat down and made a full confession then I would suggest that I would have received a call that day about that issue from Inspector Brandham.

But that's not what you said to Constable Italiano, is it? You said regardless of what happened in the interview he was not to be charged?---As I say, I don't recall the exact words.

Are you able to answer that in the affirmative or the negative?---I don't recall the actual<sup>7</sup> words, if you'd just let me answer your question. I don't remember the exact words

that I used, but the substance and effect of my instructions were that, and I've explained the reason why I gave that clearly on Thursday - - were that I wanted a hand in re-assessing the evidence because there were many issues in relation to perceptions about what amounted to a confession and, indeed, as I say, I believed that this case could have gone forward with just some admissions, let alone a confession. But we had to get it right. We had to be professional, thorough, and, at the end of the day, safe to make sure that we were charging him with the correct charges that were sustainable.

MR HAMMOND: The four officers that have made their complaint to the Royal Commission; as you know, they complained that you made a direction that, "Regardless of whether or not Q2 confessed or not, you are to release him, and I will re-assess the evidence." In relation to that, they say they have never had such an instruction before in their time in the police force. What do you say to that?---Well, that amazes me that they've never been into an interview and not had a case significant enough to do some reassessment at the end of it. Particularly when you're working in that particular field, or any field with issues that really, at the end of the day, there are several things that have to be considered so the right charges are laid.

I put it to you that if a suspect comes into an interview and makes a full confession that it would be very rare for a direction to be given that he be released?---But you must take into context - -

No. No. I - - ?---No. No. No. In answering your question, you - - you must - - you cannot work in a vacuum. You must take into context that I'd already been told things like that Q2 had confessed to the mother. Now, I'm sure with your experience, if you look at the statement of Q1's mother, you'll see that that is not a confession. So now we start to move into a field where perceptions weren't correct.

Superintendent, that's not your evidence?---And it would have been very wrong of me - - very wrong of me to hand full carriage back to the team when they obviously didn't agree with my view on that matter.

Superintendent, that, with respect, is not your evidence. What you have told this Commission is that regardless of what happened in the interview you would reassess the evidence?---So what's different in relation to that as to what I've just said?

I'm putting to you that the logical inference to be drawn from that direction is that even if Q2 made a confession he was to be released?---That's a confession in their mind. And - - and

to be released is again a word that I don't believe that I used.

MR HAMMOND: Superintendent Caporn - - ?---I don't believe that I used the word "released".

- - do you agree with that inference, that regard - - ?---No, I don't.

You don't agree that that means that?---No, I don't agree with that inference at all. Because you're taking things out of context. We've already had a lengthy discussion about the views on the diaries and the views on - - and what amounted to corroboration, and the views on the issue concerning the alleged confession. Now, you - - -

WITNESS: - - - the alleged confession. Now, you can't work in a vacuum. You must take those things into consideration because they're very important issues. This is about management and leadership, and that was my role.

MR HAMMOND: The officers say that you provided no qualification to your instruction that Q2 be released whether or not he confessed?---This was a lengthy discussion where I've already gone through my evidence, the number of different aspects of - -

Are you able to answer - -?--- - - this case - -

- - the question? Did you provide any qualification to your statement, that regardless of what happens in the interview, you would reassess the - -?---There was qualification given prior to even making that statement and - -

Oh, so you - -?--- - - again, I refute the words, the exact words that said I've been used, because I don't believe I used the word "released."

But you don't remember what words you used now, do you?---I know the - - I know - - I cannot remember exact words, but I can certainly remember the substance and effect of my instructions. I mean, they are without question - -

Constable Italiano - -?--- - - not what has been portrayed here.

- - has a crystal clear recollection of the words that you used?---Well, I'm not going to argue about what Constable Italiano believes, or her perception is.

I put it to you, then, do you dispute Constable Italiano's clear recollection that you gave the instruction that regardless of whether Q2 confessed or not, "You are to release him and I will reassess the evidence." Do you dispute that?--  
-I dispute many of the perceptions that she's had in this matter.

Do you dispute Constable Italiano's recollection that you said, regardless of whether Q2 confessed or not, "You are to release him - -"?---I question that I used those exact words, yes, because it seems to take, to some extent, the substance and effect of my instructions out of context.

Do you dispute that you said to some of the officers on that team that you would lose your job if Q2 was arrested?---The only one I had a discussion with that about - -

Sorry, can you answer the question?---I will answer, if you let me answer the question, because you said to a "number of officers." The only person that I had that conversation with,

in fact, was Constable Italiano on the 8th of January, and it was in context, as I explained on Thursday, nothing about the issue of what's been suggested. It was all about the fact that if you go and charge people with these serious offences when you haven't got a brief and that you're going to put forward offences that would be nolle prosequi, then it is an extremely serious issue and it would impact on my position. Absolutely it would, and I would say that it should impact on my position, because I wouldn't be doing my job.

MR HAMMOND: Did you say to Constable Italiano that you would lose your job if you proceeded to arrest Q2?---No. I said that - - and again, whether the words be exact or not, I said, "Certainly, I could lose my position if you were to charge people when you didn't have sufficient evidence to charge people with these type of offences" and I still stand by that.

So, again, you dispute Constable Italiano's recollection of what she says you told her?---I dispute the perception of what she says that I told her. The perception in the context of what I told her has certainly been put forward in a different - - than it was.

At the time of this investigation, Superintendent Caporn, you were in charge of the Macro Taskforce?---I was the commander of the Macro Taskforce, yes, I was. I still am.

Which was investigating the Claremont serial killings?---That's right.

And you were also in charge, as superintendent, of four separate areas of crime within the WA Police Service?---Yes, I was. Yes.

That included homicide?---Yes.

The Child Sexual Abuse Unit?---Yes.

And what were the other two areas?---The Sexual Assault Squad, as it was then, and the Missing Persons Investigation Unit.

And you had the time to devote, as you call it, a thorough review of this file and to put all matters on hold while you were investigating the - - well, heading up the Macro Taskforce?---Yes, and as I pointed out, and I think it's important to your question, that as soon as I was appointed as acting superintendent at Personal Crime, I appointed an operations manager, so I elevated a person into a position that would take far more control of the day-to-day issues. I provided over-arching management and leadership in relation to major decisions, but the day-to-day runnings of that particular inquiry were delegated to an operations manager.

MR HAMMOND: You've already said in evidence that this was a very simplistic investigation, haven't you?---No. I said the brief that I reviewed, the brief of evidence, compared to other briefs of evidence that I've reviewed, I found it to be very simplistic. It would be one of the easiest ones that I've reviewed in the last 7 or 8 years.

Why didn't you entrust the matter to Inspector Brandham - - -

MR HAMMOND: - - - to Inspector Brandham?---Because as I pointed out on Thursday, Inspector Brandham - and like anyone else who works directly for me - would have had a hundred things on his plate.

But you had a hundred things on your plate, Superintendent. You were in charge of the Macro Taskforce, investigating the Claremont serial killings, yet you had plenty of time to devote to this?---No, no. Don't take it out of context. Yes, I was a very busy person, but I also knew that I had the knowledge, skills and ability to deal with this in the matter of a couple of days.

Yes, but so did Inspector Brandham, Superintendent?---He may have, but you've got to take the - - the situation. What I - - there was a major reform going on in the Child Abuse Unit. I've already clarified that. He was doing a whole number of things for me. Anyone who works for me directly will tell you that I delegate a hell of a lot to them. This was a situational decision. This was - -

But as to delegate, why didn't you delegate this matter?---This was a situational decision based on what everyone was doing at the time, and I knew that I had a lot of experience in doing this and I knew that I could do it within a couple of days, and I made a decision.

I'm not questioning your abilities, Superintendent. You've told this Commission the extent of your abilities, but you've also told this Commission that this was a simple brief?---It was simplistic review of evidence that I've done, yes.

You've also told this Commission that you were a very busy person - -?---Yes.

- - heading up the state's most important murder investigation - -?---Yes.

- - at the time?---Yes.

And you've also told the Commission that you delegated work very easily. You were very good at delegating?---Yes. I have no problems with that.

Why not delegate a very simple brief to an inspector - -

COMMISSIONER: No, a simplistic brief, I think was the word. It has a very different context.

MR HAMMOND: Sorry, simplistic brief to someone such as Inspector Brandham?---Because it was a situational decision. It was based on what everyone was doing at the time. I set aside the time and I did it myself. And, you know, it's not unusual for me to do that. I will make that decision and I will do it, and I can give you many many other examples of me doing that.

Were you familiar with Operation Cathedral?---Yes. I certainly have some recollection of Cathedral, but I'm - - I'm - - look, I - - I don't have the depth of recollection with me at this particular time.

That was the child sexual abuses - - the Child Sexual Abuse Unit's most important investigation in 1998?---Well, yeah, that may be a judgment call, but go on.

It involved 105 search warrants being executed around 13 countries in the world?---Yes, but - -

Is that correct?---Our part of it certainly wasn't to that extent. I can assure you. Our part of it was a very small part in that international investigation, and that's why I would dispute that that was our most important - -

It involved complicated issues of jurisdiction?---It involved an assistance that we were giving to an external body and I certainly wouldn't put it at the upper end of what we were doing. It was probably the upper end of something that got a bit of publicity but it certainly wasn't a - - what I would consider one of the major issues at the time.

It involved the international media?---Oh, certainly. As I say, media-wise it was - - it was an international event, but our - - our role in that was fairly small.

It involved complicated issues of law, didn't it, for the Child Sexual Abuse Unit?---I wouldn't think so.

You don't think so, or you don't know?---No, I don't think so.

Do you have any knowledge of it?---I have - - as I said to you, I do have some recollection of that particular - - of that particular inquiry and the role that we played in it.

But you never reviewed Operation Cathedral?---No, there was no need to.

There was no need to?---No.

MR HAMMOND: In fact, you took no interest in it at all?---No, that's absolutely wrong. Of course I take interest in any investigation. As I said, the benchmark that I set in my business areas was to advise me of any significant investigations. Now, that was one that I had advice on, albeit that our role was fairly small in the - - in the big picture.

This was a case, Operation Cathedral, where the National Crime Squad hosted a communications centre for law enforcement officers globally and the Child Sexual Abuse Unit in Perth was providing significant assistance to the global investigation.

Do you agree with that?---That would certainly be our media spin on the matter, yes.

That's your media spin on it, is it?---That's right.

Is that a truthful spin, or just the media spin?---No - - well, you know - - I mean, obviously we try to highlight the good work and the assistance that we provided. You know, it was made a lot more of than our role really was. I mean, let's - - let's be honest about this. We weren't coordinating that investigation. We were playing - - -

WITNESS: - - - were playing a - - what I would call a fairly minor support role in relation to investigations in this state.

MR HAMMOND: You call it a minor support role, do you?  
---That's right, in the big picture of that investigation. Important. Important, absolutely.

Have you read all the documents in relation to Operation Cathedral?---I wouldn't have read every document in relation to Cathedral, no.

There's extensive documentation generated by the Child Sexual Abuse Unit?---Probably well could be. Yes. Intelligence reports. I'd say some of it would have been from material that we already had possession of.

Reports coming from all around the world?---Well, this was coordinated by a body that was external to our Police Service who were basically coordinating inquiries all around the world. For them it was a major investigation and we were minor players in it.

Minor players, but the law enforcement authorities from around the world were providing your unit with information as to how people involved in child pornography, child molestation, could be apprehended?---Yes, in context but, I mean, that's their core business.

And that was the core business also of the Child Sexual Abuse Unit?---That's what I'm saying. That's the core business of the unit so you've got to take that into context. If you move that away from the area and say, "This is about that happening" you would say it's a major thing but it's the core business of the unit so that's everyday business and it just happened to be that that was an opportunity to be involved in an international operation.

Inspector Brandham said that he had several discussions, if not a number of discussions, with you regarding Q2?---Well, let me say this: from the time I - -

Is that correct?---From the - - no.

It's not?---Well, yes. Yes.

It is correct?---Can you let me answer your question so I can give you the proper facts? On the 18th of August I was advised - again that memorandum. I had nothing more to do either in verbal or any other issue in relation to this investigation until the 21st of October when - - as I recall, when Mr Brandham approached me with a - - sounding me out on

the game plan by the team. Now, in the interim period between that I was largely on an officer development course for about 6 weeks of that period of time and I had no contact in relation to it, and that's not unusual. I mean, I've been advised that the significant investigation has commenced. It's not unusual for me not to hear about it until it gets to a stage where something significant is going to happen about it.

MR HAMMOND: You never sought to be briefed by the Child Sexual Abuse Unit in relation to Operation Cathedral?  
---I would have been briefed by them in relation to Operation Cathedral. Absolutely, at some stage or another. I mean - -

Do you recall the - - ?--- - - in that period of time I would have been briefed about a number of investigations that were being conducted by the Child Abuse Investigation Unit.

The discussions that you had with Inspector Brandham regarding Q2 - they were instructing Inspector Brandham to oversee the carriage of the file by the officers at the Child Sexual Abuse Unit?---No. No, they were not.

They were not?---No. After my review I gave him specific instructions to overview - - this was after I'd had the meeting on the 10th of November. I gave specific instructions to Mr Brandham to overview the game plan, the operational plan for the interview, and also to be present on the day of the interview. Again, I never gave him any specific instructions in relation to that. It was just having a man of his experience there. No matter what connotation, no matter what path it took, I knew that he would add value.

He's told this Commission that he was to oversee the activities of the Child Sexual Abuse Unit in a non-involved manner. Do you know what that means?---Yes. Absolutely. In the - - the main reason I was sent to the Personal Crime Division was because of the significant issues that existed in the area - this is aside from anything to do with Q2 - and I put him in place down there and, as I said, a bit of water had passed under the bridge before I put him in place down there, to address many of those issues. If you have a look at the review that was done in October 98 of the area, the independent review that we had done, you will see that there is a wide range of significant issues in relation to the backlog of files, the dwindling amount of arrests, the processes that were taking place down there that needed addressing. Now, if you have a look at that particular review you will understand why I had Mr Brandham and had a commissioned officer paying close attention to it - - -

WITNESS: - - - close attention to it. We implemented major reform over the next 12 months in that area.

MR HAMMOND: Why did you give the instruction that Q2 was not to be arrested until you had reviewed the file personally?--- Because I was not confident that the correct judgments were being made. Already judgments had been made that were wrong, and I wanted to make sure that we were professional, that we were thorough and that we were safe, so that when we laid charges against Q2 that they were going to be charges that would be sustainable to the point - -

Do you say that Constable Italiano was making wrong judgments in relation to the matter?---I will certainly say that in relation to the fact that Constable Italiano thought that there was a brief on 12 to 14 charges without Q2 saying anything was an incorrect judgment. Now, I really believe - - I really believe, and I still say to this day, that that is an issue that should have been picked up at a supervisory level, because Constable Italiano was in fact that when she first started that investigation. Over the next 12 months we've changed it so constables who were interviewing officers do not take carriage of the investigation. It is a very - - it has a lot of pitfalls. It's a very dangerous situation and it's not fair on the person who is the interviewing officer. This no longer occurs.

Even after you had reviewed the file you were happy or content that Q2 be brought in for questioning, weren't you?--- Absolutely.

Because you thought there was enough on the file after your review to warrant an interview of Q2?---Oh, absolutely. No question.

And that was notwithstanding your concerns in relation to corroborative material?---Well, the interview's all about gaining corroboration. The interview is all about - - there were a number of things that we could have put to Q2 that would have certainly, if he had have responded to the questions, given us an opportunity to get either admissions and then, you know, given the large extent of it, if he was to confess, well, that's fantastic. But even some admissions would have put us in a position to be able to consider charges against him.

So even if there had been admissions to the investigating officers you wouldn't have necessarily charged?---It would depend on what those admissions were, you see. If he had admitted to certain things, that's when you've got to take into context the issues of statute law, the issues of consent and the issues in relation to the time frame and the age of the - - of Q1 at the time of the events, you see. It's not

just a straightforward matter. You have to look at that and say, "Yes. He's made an admission to that. That admission amounts to this. It's supported by statute law. There are no consent issues. We can prove her age," if that was part of the - - depending on which particular issue he admitted to. You know, they're the things that needed to be done to make sure we got it right. Now, that doesn't mean that we can't go out 2 days later and arrest him. We can do that. Or we might have chosen to summons. Either way you can do that, but either way, when the charges were laid, they would have been sustainable to the point of getting them to court. No one can guarantee convictions but you've got to have them sustainable that you're going to get to court.

MR HAMMOND: Isn't there a real danger in child sexual abuse that if someone confesses and they're released that there could be an impact on the victim?---Let me say this, and it's certainly an issue in this because it was put up by the team.

In my experience I always find that the team on the ground take the most extreme view of that. There were some issues here, but I didn't think that those issues outweighed the fact that we needed to be professional, thorough and safe in laying the right charges. And I did consider that. I mean, that's my job. That's where leadership and management comes into it.

I sometimes have to override decisions made by people on the ground, and that's certainly what I did on that occasion. But as I say, if he had have confessed and Inspector Brandham had have contacted me and said, "Look, Dave, he's just - - he's just told us the whole lot here," well, I could have made a decision that day that we at least charged him with some of the obvious offences and we could have later charged him - - preferred charges in relation to the more difficult analysis offences. I mean - -

So Inspector Brandham - - ?--- - - it's a situational effort.

Inspector Brandham had to come to you, even for approval to arrest someone that may have made a confession?---Because under those circumstances you can't act in a vacuum. The circumstances were there'd been significant issues in relation - - as my review identified that the team were going to arrest a man on 12 to 14 charges, some of which were even statute barred. Okay?

Can you answer the question yes or no? Did Inspector Brandham have to come to you, even if the suspect confessed to child sexual abuse, before he could be arrested?---In this particular circumstance I would have at least expected a phone call in relation to it; absolutely. Given all of the circumstances, not just operating in a vacuum - - -

WITNESS: - - - operating in a vacuum, trying to isolate something that is not true.

MR HAMMOND: Are you able to answer the question? Did Inspector Brandham have to come to you, if the suspect confessed, before he could be arrested?---I've just answered that question.

Your answer is, you would have expected a phone call?---In - - given all the circumstances, in this particular instance, I would have at least, at the minimum, expected a phone call to get some acknowledgment of what occurred in the interview, given all the circumstances of what - -

But couldn't that be left to - -?--- - - had transpired - -

- - Inspector Brandham?---Again, the difference between Inspector Brandham and myself in this case is that I'd reviewed the brief of evidence. It would have probably only taken minor detail for him to provide to me, but I had set a proviso that there be at least some contact.

A brief which you describe as simplistic?---It's simplistic in relevance to other briefs that I've reviewed. Simplistic in relation to the complex briefs that I had previously reviewed and have reviewed since in relation to evidence against - -

And it's also the case, isn't it, that even the interview of Q2 couldn't proceed without your knowledge?---Oh, no, that's not the case at all. I wanted to know basically what the outline plan was, but you know, that was pretty much delegated back to the team, with an oversight by Inspector Brandham.

Inspector Brandham's evidence was, "the interview was postponed until Superintendent Caporn reviewed the file"?---Oh well, that goes without saying. We're talking about two different issues here. They were going to interview him initially on the 2nd of November. Now, on that occasion, if he'd have come in and said nothing, they were going to arrest him and charge him with 12 to 14 offences. Now, that was delayed for 7 days because I wanted to do a review, and we know the history of that. From that point on, what day they done the review was completely up to the team to put together an operational plan, and the only proviso that I had was that I wanted to have a hand in reassessing the evidence to make sure that we got it right.

Was it your view that the officers on the case had lost perspective in their dealing of the matter?---No. I - - my belief is this; one, Constable Italiano had certainly mis-read the brief in respect of saying that there was sufficient evidence to charge initially 12 to 14 offences. Secondly, I really believe that the supervision aspect had not occurred in

respect of more senior officers had taken it on face value that there was corroboration in the diaries and that there was other supporting evidence, ie, the confession on the mum, to -

MR HAMMOND: Did you ever speak to anyone about the lack of supervision?---So - - yes, I did. Most certainly. I'll explain that. So, what I say is this - - is that it should not be taken on face value of the interviewing officer who turned out, in this case, to also be the case officer. As a supervisor in this particular unit, it should have been a thorough examination of the brief. Now, when I had Sergeant Miller, Senior Sergeant Miller and Constable Italiano in to explain my review of the evidence and the second opinion of Ms Vicker, they admitted to me that neither of them had read the diaries thoroughly, that neither of them had done the cross-referencing work that I had done. Now, these are fairly basic things that should have been done prior to proceeding, so I don't know about perspective. What I do know about is that they hadn't done the job to the extent it should have been done at that critical point, and that's not all the blame on Constable Italiano. That's a team effort, and to some point, I'm accountable for that as well. And that's why I put in - - measures in place, and most certainly I counselled Sergeant Miller on two significant occasions in relation to this, and I also dealt with this matter extensively in his performance report, but I do believe there are other issues in relation to that, and they are health issues concerning Sergeant Miller's performance at the time.

Inspector Brandham was there to oversee the Child Sexual Abuse Unit?---Yes.

And you were also there, reassessing evidence, giving directions that interviews not occur and giving directions that arrests not occur until you'd reassessed the evidence. So, there was a lot of, would you not agree, high-level involvement in the case of Q2?---There was a lot of high-level involvement in the Child Abuse Unit at that time. Let's put aside the case of Q2. My fingerprints were all over that unit in relation to the time. Major reform was required and major reform was implemented over the next 12 months. This was not just an isolated case where they had - - I would - - I would tell you right now that out of the four business areas that I had at the time, in that 12 months there was more work done and more high-level work done with the Child Abuse Investigation Unit than any other of the four units. If you go to the last 12 months that I was there when it was the Major Crime, I would suggest there was the less time spent with Child Abuse Investigation Unit because the reforms had been put in place, and it wasn't just about processes; it was also about resources. I was able to achieve an extra seven staff for that area, which was an important part of it. They needed extra resources - - -

WITNESS: - - - needed extra resources.

MR HAMMOND: And more time was being spent on Q2's case than the Macro Taskforce?---That's not true, and I don't know what context you're putting into it, but that is - - well, I won't be disrespectful. Thank you.

You find that question insulting, do you?---Oh, I think it's a ridiculous comment, if you want me to say that. Obviously you do.

I put it to you that it was an exceptional step for you to take to get involved in the file of Q2 when you were heading up the Macro Taskforce?---Absolutely it was not. You've taken that completely out of context. I've already explained that, I think very clearly, and that is not the case. I mean, I'm also the superintendent that's interviewed three suspects in the last 2 years and - - and - - in relation to cases. I guarantee that none of the four officers or other superintendents have ever interviewed suspects in relation to cases. It's just a situational basis where I thought I could add value and I did. But there would also be, I would suggest, none of those officers who would say that their superintendents have ever interviewed suspects, and I've done it on three murder cases in the last 2 years.

So you got involved in the file of Q2 because you thought you could add value?---Absolutely, and I did.

So do you agree with Inspector Brandham's statement, "The officers had lost perspective in relation to the case" - the four officers that have made this complaint to the Royal Commission?---I think I've adequately explained what my position is on that matter.

Are you able to answer that affirmatively or negatively?---Well, you know, I'm - - I'm not quite clear exactly what he said and what he retracted, or whatever. I think I'm quite clear on the fact that I've explained at length what I thought about - - occurred in relation to this brief.

Do you agree with Inspector Brandham that Q2's profile was a concern?---No, it was a consideration. Not a concern. It's a consideration. It's just another aspect, another element, of an investigation that has to be considered. It was going to be a controversial issue and it has to be considered, but that's just all it is. It's a consideration.

Inspector Brandham said in his evidence that his instructions were "No matter what occurred, Q2 was to be released." He was asked:

"Those instructions being to release Q2 - -?---Yes.

"- - no matter what occurred?---That's correct. And to provide feedback to Superintendent Caporn on what had occurred - - what had occurred on that particular day."

MR HAMMOND: Is that correct?---There's many things that Inspector Brandham articulated and many other witnesses articulated about my thoughts that were not exactly correct.

He doesn't say these were your thoughts. He says:

"Those instructions being to release Q2 - -?---Yes.

"- - no matter what occurred?---That's correct."

WITNESS: Well, that's - - that's his recollection of that matter. I've already covered that issue. I mean, he's been bombarded by press and many other issues and plus, you'd only have to look at what an officer has been involved in, or any of us have been involved in, in that time. But I'm the person who gave the instructions. I know what the effect and substance of my instructions were and I've made that quite clear and I stand by those instructions.

MR HAMMOND: He also felt it was your position that the officers couldn't be trusted to carry out your instructions?--  
-I think I've made myself quite clear on that issue.

Do you believe it was Sergeant Miller's position that he was showing resistance to the file being reviewed by the DPP?---At what particular time are you talking about? I mean, I don't think it was Sergeant Miller's position that he had shown resistance to the DPP reviewing the file. There was some initial resistance that was conveyed to me concerning my review of the file. My understanding is that Senior Sergeant Miller was - - was very much happy about having the file reviewed by the DPP and in fact I think he's put that on paper to me.

And you're a friend of Inspector Brandham?---Absolutely.

A close personal friend?---Oh, I wouldn't say close personal friend. I mean, we don't have a lot to do with each other socially - - -

WITNESS: - - - each other socially. I mean, socially we'd probably get together about twice a year, but do I have a close working relationship with this officer? Absolutely. He's a fine officer and he can work on my team or I'd work on his team any day.

MR HAMMOND: And you were briefing the deputy commissioner in relation to the file of Q2?---In perspective. I had spoken to him on probably two occasions about the matter but again put it into perspective. I had a direct reporting relationship into the deputy commissioner because of my role on Macro and we used to also discuss at times, and they're all recorded, Personal Crime issues; and they've all been spoken about in evidence.

And there was a concern by you and the deputy commissioner that his relationship with Q2 would become public?---No. That was never ever discussed between myself and the deputy commissioner.

And that was discussed - - but that issue was discussed between you and Inspector Brandham?---What, about Mr Brennan's  
- -

Mr Brennan's association with Q2?---Becoming public?

Yes?---No. We never discussed that issue.

And no issues regarding media releases were discussed?  
---Certainly there were issues regarding media releases. When Mr Brandham came to me on the 21st of October sounding me out on the game plan that was coming forward from the team there was certainly a number of discussions about that because there was one thought coming from the team that there be a media conference done after Q2 was arrested and I was against that because we don't normally do that in relation to those sort of arrests.

Did you hear the evidence regarding the diary entry of Inspector Brandham of the 23rd of October 1998 where it was said:

"Explain Mr Brennan's interest - professional only."

Did you hear that evidence?---Yes.

And were you present at a meeting where that issue arose?  
---No.

Were you aware that there were concerns in the Child Abuse Unit in relation to the association between the deputy commissioner and Q2?---No. The first time I became aware of

concern was when I was handed that August 25th memorandum, which I was given well into December, and I think you know what my thoughts were on that; and I recorded them the very same day when I received that. I think if I had have known those things it could have made a hell of a difference to us sitting here today having this discussion.

MR HAMMOND: It's your position that Constable Italiano, soon to be promoted to detective, didn't read the diary notes properly?---Oh, absolutely.

Did you instruct her to read them properly?---I didn't instruct her to read them properly but I did question her and Sergeant Miller about it after I had done my review and they admitted to me that they had not read them thoroughly.

You say you read every page of the diary notes?---I did, yes.

And every entry?---Yes.

Were you familiar then with the symbol that Q1 used after sexual contact had occurred with Q2?---I may have been at the time. I'm not now.

You're not now?---No.

It's been in the press?---It may have been in the press. I don't read every press report.

So you cannot recall the symbol that Q1 used after sexual contact with Q2?---No. I can't recall at this time. No.

And you read every page of those notes?---Yes, I did.

Did you have a copy of the file in your office?---When?

At any stage?---No. I had a - - what I obtained when I decided to do a review of the brief. I obtained a full copy of the depositions, medical reports and any other issue that was going to be put up as evidence and I obtained the set of diaries, which was a large volume of diaries. That is what I obtained. So it wasn't the file as such but it was the evidence, the brief of evidence that was going to be put forward, and that was only with me for a couple of days and then it was given to Ms Vicker and then it was later picked up by Mr Brandham and taken back to the Child Abuse Investigation Unit.

And it's your position that you conducted a very deep and extensive review of the file, isn't it?---I conducted a thorough review over a couple of days. That's my - - not of the file, of the brief of evidence.

MR HAMMOND: You never met with the complainant?---No. No, not until the 8th of December.

In your evidence on Thursday last week you say that you weren't prepared to leave the full carriage of this matter to the team that was involved in investigating it. Doesn't that indicate that you had lost confidence in the unit?---No. I think "lost confidence" is too harsh a word - - -

WITNESS: - - - too harsh a word.

MR HAMMOND: What word would you use then?---I would - - exactly as it was. They didn't agree with my assessment or Ms Vicker's assessment on the brief of evidence. I had found significant deficiencies in this particular inquiry as to what they were going to do and what they had done, only concerning the fact that they believed that there was evidence that didn't exist. So as a manager and as a leader it would have been very wrong of me then to just say, "Well, despite all these issues you now have full carriage to go ahead with this." You know, so I put some things in place - checks and balances, so to speak; whatever you wish to call them - to make sure that we did this professionally, that we did it thoroughly and that we were safe in relation to what we were doing.

It's the position of the four police officers that there are many other files in the Child Sexual Abuse Unit that don't have independent corroborative evidence, and they were proceeded with. Is that your understanding?---I know there are some occasions where such briefs are proceeded on, but it has a great deal to do with the situational aspects of the case, and certainly one of the significant issues in relation to Q1's complaint was the time frames in relation to it. But, you know, every case is situational in relation that we deal with, and certainly the time frames impacted on the analysis of Q1's complaint.

Let's get this clear. You do concede that there were other cases at the Child Sexual Abuse Unit at the time without any independent corroborative evidence that proceeded to the preferring of charges?---Don't take this out of context though.

I'm asking you, do you concede - - ?---No. Don't take this out of context.

- - that there were some cases - - ?---It's very important, because it's been reported out of context. The recency is a major aspect of these particular issues.

No. I'll get to that, superintendent?---I think I already said in my - - my evidence that if this had occurred a short period previous, and depending upon all issues like the issues in relation to complainant, and many other issues, and it gets to be a bit hypothetical, but at the end of the day potentially there is in - - with different circumstances.

I'll ask the question again, superintendent?---Yes.

MR HAMMOND: Do you agree that at the Child Sexual Abuse Unit in 1998 there were other cases that did not have independent corroborative evidence?---Well, I don't know that I can actually say yes or no to that, because there are so many other issues to take into context.

So the answer is, you don't know?---No. The answer is it's situational. Every brief must stand alone in relation to that matter.

Are you able to answer that very simple question?---No. Well, I have answered it.

Is that the best you can do?---That's the correct answer, because you're trying to narrow something down to which it shouldn't be narrowed down to. You've also got to remember that that was in the very early stages of my being a part of that unit, which is why some of these officers have the perception of what I should do as a superintendent or not, and comparing me to how other people do business.

Do you also agree that there are other cases of child sexual abuse which have a significant historical element - and by that I mean they occurred many years ago - and that they also lacked independent corroborative evidence, yet they still proceeded with preferring of charges?---I would suggest to you there were a number of cases like that that didn't go forward.

But again, it's situational. Let's - - you know, you can't just draw a line in the sand here. They're all situational. Now, are you talking about cases that were 30 years old, or you're talking about cases that were 5 years old, 10 years old? Remembering I've already spoken about the DPP policy, not to prosecute uncorroborated offences that are more than 20 years old. Now, that's something that they put in place with all their prosecutorial experience. You know, that's - - so, you know, they're the sort of issues that you have to look at.

Well, I'll try and put it more succinctly. The four officers, when they complained to this Royal Commission, said that there were other inquiries being conducted by the unit at the same time - - -

MR HAMMOND: - - - at the same time which involved less corroborative evidence. Do you agree with that?

COMMISSIONER: Well, you are saying there was no corroborate evidence, weren't you?

MR HAMMOND: Sorry, this is another proposition - -?---That's right. I'm saying there's no corroborative evidence, and what I'm saying is this - - is that you, given that statement, but in that statement you've just made, you haven't put a time-frame, you haven't talked about aspects in relation to what did exist in these cases. I mean - -

Well, I'll read the statement in full, superintendent, and - - ?---Can I have a - -

- - ask you whether you agree or disagree:

"We are concerned by the fact that other inquiries conducted by the Child Abuse Unit at the same time involved less corroborative evidence, had the same time frames of disclosure by the complainants, which resulted in the matters proceeding to arrest, charging and successful prosecution in the District Court."

WITNESS: Well, certainly none that I'm aware of.

MR HAMMOND: Did you make inquiries?---No.

They went on to say:

"Of all cases investigated by the Child Abuse Unit, this was the only one - -"

They've left out "one":

"- - this was the only that Mr Caporn and other senior officers became involved."

WITNESS: I arrived there on the 26th of June - - the 22nd of June.

MR HAMMOND: Yes?---I had been in the USA for 3 weeks after that. I was - - in September I was on an ODC. Most of these people, three of the officers, the four officers, probably had me as their superintendent for about 2 to 3 months in total of me being there.

Well, let's not worry about - -?---They are not used to how I do business, and anyone who is used to how I do business knows that I do get involved in cases, if I see the need or if I see that I can add value.

MR HAMMOND: Superintendent, you have not answered the question one jot. Listen to this again:

"Of all cases investigated by the Child Abuse Unit, this was the only that Mr Caporn and other senior officers became involved."

WITNESS: Well, that's actually wrong, if you give it - - that statement like that.

MR HAMMOND: That's wrong?---It's wrong, given like that. Are you narrowing this to a time frame? Are you saying that this is in that two months in 1998 or are you saying this is the whole period that I was superintendent in charge of this area? Because if you're saying that this was the whole period that I was superintendent in charge of this area, well, you're wrong. You've very wrong. But if you want to narrow it down to that 2 months, this probably was the only case that I was involved in at that time. So, you can't just operate in a vacuum. You must be specific in what you're doing.

I wonder if the superintendent can be shown a memorandum that he wrote to Detective Senior Sergeant Miller on the 25th of August?

MR PETTIT: Are you sure about the date?

MR HAMMOND: The 25th of August 1998 - - sorry, I've read from the subject matter. It's actually dated the 14th of December 1998.

MR PETTIT: Yes. That's D1012867.

MR HAMMOND: I think you now have that, superintendent?---Yes, I do. Yeah.

There are four questions asked there?---Yes.

And this is in relation, of course, to the memorandum from Constable Italiano outlining her concerns?---Yes.

Question 3 is:

"Why didn't you advise either myself, Detective Inspector Hawker or Acting Detective Brandham regarding this information."

WITNESS: Yes.

MR HAMMOND: Question 4:

"Why didn't you include the memorandum in the report that you submitted."

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POLICE

And you require your information in the form of a memorandum by close of business by the following day?---Yep.

MR HAMMOND: Do you recall what time Miller received this memorandum from you on the 14th of December?---No, I don't. No.

And you wanted him to respond - - -

MR HAMMOND: - - - him to respond within 24 hours?  
---Absolutely.

Because this issue was of critical importance?---Absolutely.

Because it involved a taint, if you like, on the deputy commissioner?---Not at all. That's not the reason. I'll tell you exactly what the reason was. It was because this significant piece of information had come in which obviously impacted on both Q1 and impacted on Constable Italiano. It had been with Senior Sergeant Miller and Constable Italiano for 3½ months and it was only after the complaint file had been received and he had already given me a report that he decided then - - and in his own words on his report, "I'm obliged to tell you about this." I saw this as a very serious matter and I still believe to this day that if the August 25 memorandum had have been dealt with properly that we may not be here today.

What would be the proper way of dealing with Italiano's August 25 memorandum?---It should have been immediately established and investigated. It should have been dealt with in a transparent manner. It should have been taken forward to the divisional office. It should have been registered with professional standards and it should have been investigated. At the very minimum, (...name suppressed...) should have been interviewed. At the very minimum, the inquiry should have been subject to a proper report and a proper approach in relation to it, so whatever the outcome may be that any concerns by Q1, by Detective Italiano and any other inferences that had been made had been clarified one way or the other.

Did you speak to (...name suppressed...)?---Absolutely not, because by the time that I received this file the matter was already subject to a complaint, a complaint that was going to be going to an external body depending on the decision, the final decision that she made, and I actually included on my memorandum of February 4, which is the time when I've sent my file on to the - - the one that went to the ACC - - exactly why I didn't in December start making inquiries about it, because the matter had gone out of my hands by then, but if I'd have got this file on August 25 it would have absolutely been dealt with in a very transparent way and I believe all this perception and innuendo would have been nipped in the bud. You can see by the questions that I put there the seriousness I saw about Sergeant Miller holding back this memorandum and, in fact, in my report on February 4 - - I informally counselled him and in my report on February 4 I recommended to the professional standards area that on completion of the ACC inquiry that Senior Sergeant Miller be formally counselled in not appropriately dealing with the memorandum given to him by Detective Italiano on August 25.

MR HAMMOND: You never wrote to Senior Sergeant Miller at any time, did you, telling him that the way he had handled this matter was inappropriate?---Never wrote to him?

No. Never sent him a memo?---I've sent him this memo and I've formally counselled him in person on two occasions in relation to this. Informally. Informally. I also spoke to him at length about this issue, and I have the notes from our performance report meeting which was on the very next day, December 15. We had a meeting in relation to his performance report. I still have maintained the notes of that, and this was one of the key issues because it all comes down to judgment and ability to manage ethics, but I want to also say that Sergeant Miller in my opinion was suffering from health issues at the time and this was not his normal - - I don't believe that in the past he would have been operating at the level he was operating during this period.

What's the ethical issue involved?---If you're going to manage ethics you need everything you do to be transparent. To hand this August 25 memorandum back to Detective Italiano and tell her, "Look, it's a" - - I mean, if you go by the report he gave me back on this, "Look, there's nothing in it. Just sit on it and don't tell anyone about it." That's not managing ethics because all of a sudden there's the conspiracy theories growing in her mind and in the mind of the complainant, so you're not managing ethics if you're not making these issues clear to them. That's to say - - I mean, who knows - - and I think we get a fair indication of what was going through Detective Italiano's mind by the evidence that she's given in these proceedings in relation to what one - - words are said and they mean another thing.

The next memorandum you received was one by the close of - - or you actually got it the same day. Detective Senior Sergeant Miller wrote back to you on the same day? ---Yes, he did.

14 December 1998, outlining the circumstances of Constable Italiano's note?---Yes.

And he gives you the reason:

"I was reluctant to proceed into some form of parallel investigation into the deputy commissioner based on third party information."

MR HAMMOND: Did you have any issue with that response?---I did not accept his response at all, and I told him that, and one of the issues that I put down in "performance" was the fact that even after sitting down with Senior Sergeant Miller and explaining the situation to him - even after doing that - he still could not see - - he still believed that he - - he still relied on his view of the matter and it was my personal belief, and my experience, that his view on the matter was totally incorrect, and I stand by that and it was why I said he should be formally counselled in relation to the matter. That's how serious I see the issue. And I'm not saying that now. I recorded that at the time and they're documents that you examined.

But as superintendent, you were happy to leave Miller in charge of the Child Sexual Abuse Unit?---No, I wasn't. Within 6 weeks of this issue, he was removed from that position, and I also reported to health and welfare the issues that I thought he was going through in relation to that, and I also spoke to him directly about that.

So it was this issue that led to his removal and the way he handled it - - sorry, the way he handled it, in your view, that led to his removal - -?---No.

- - from the Child Sexual Abuse Unit?---No. This was one issue. There were many many issues. This was one issue. This was just one element of that. If you look at my performance reports notes, there were a whole number of issues that we spoke about in that and there were - - there was a range of issues. This was just - - this was just one element.

But your evidence is that within 6 weeks of this memorandum - -?---Yes.

- - he was removed from the unit?---Yes, he was.

In relation to his response at issue 3:

"I did not advise yourself, Detective Inspector Hawker or acting Inspector Brandham, for the following reasons: the information was third-hand information that may or may not be true."

WITNESS: Yes, but he's not seeing the forest from the trees there. You know? You don't just look at whether it may or may not be true. The veracity of the complaint is nothing to do with why it should have been investigated. You should not make a decision on the veracity of it. You should make a decision to - - to investigate the matter to make it transparent. So no matter what the veracity - whether it be right, whether it be wrong - the matter is dealt with fully and thoroughly. That way, there can be no misguided perceptions; that way, there can be no conspiracy theory.

MR HAMMOND: I put it to you that Miller gave you a very honest response when he said:

"I did not place the memorandum on the original report to you because the information was third-hand."

WITNESS: Oh, let me make it quite clear - and I hope I haven't come across the wrong way - Senior Sergeant Miller believed that what he was doing was right. I have no doubt about that, and I've already discussed the issues he was facing at the time. I have no doubt that there was no malice in what he did. I have no doubt that there was no corruption in what he did. It was just poor judgment, and I believe that judgment was impacted by other issues which I've already discussed. So I certainly don't believe that there was any malice or - - or any corruption in what Senior Sergeant Miller did or not, dealing with this issue.

MR HAMMOND: Detective Italiano, as she was then, also submitted to you a lengthy memorandum, dated the 8th of January 1999?---Yes. All the memorandums after the 7th of December, bar a couple, were all related to the complaint file, the complaint file in relation to the complaint by Q1 that there'd been some sort of intervention, if I can use that word, in relation to her case, and the 8th of January memorandum was Italiano's report on - - basically start to finish, her involvement in the case.

Through October, November, December of 1988<sup>?</sup> you were very busy on other cases?---I'm always very busy.

But the issue of Q1 and Q2 wasn't your only concern at that time, was it?---Absolutely not.

And the most important matter that we've already canvassed was probably the - - trying to find the culprit for the Claremont serial killing - Claremont murders?---I don't know that it would be fair to say that's the most important issue. It's obviously a very important issue that is being dealt with and I obviously had put in place a significant structure to be able to deal with that and still enable me to deal with the issues of the Personal Crime Division. I mean, that's all about - -

But, Superintendent, you were personally responsible for the Macro Taskforce?---Me personally responsible?

Yes?---I had command of the Macro Taskforce, yes, if you want to put it that way, and I don't have any problems with - - with that.

MR HAMMOND: Did you have any other major investigations on in October, November and December of 1998?---I've got four business areas that all do major investigations. There is no doubt there would have been a number of major investigations.

Some I would have actually played a direct role in, others I would have just simply had - - had knowledge of them.

And if we can now turn to the memorandum prepared by Constable - - or Detective, I think by then, Italiano, and in particular page 3 - - -

MR HAMMOND: - - - in particular page 3?---It's not the one I've got up on my screen at the moment.

MR PETTIT: I'm sorry, I missed that. You want the report from Ms Italiano?

MR HAMMOND: Yes, please. January the 8th.

MR PETTIT: It's D1012857.

MR HAMMOND: Thank you.

(TO WITNESS): One page 3, in the middle of the page, it says:

"The date for the interview was unchanged. On Wednesday, October 28 1998 - -"

Sorry, I don't think you have it in front of you yet?---I haven't got it. Page 3, go on.

Yes:

"- - I was summonsed to Miller's office and advised that Mr Caporn wished to view the file and that no action was to be taken until he reviewed it."

You'd agree that that was correct?---Just point out where it is, so I can read it for myself?

Sorry, it's around about the middle of the page. "The date for the interview is unchanged - -"?---Interview's unchanged, yep. Yes. I certainly agree with that. Well, I certainly agree that that was the effect and substance of my instructions, yes.

And you also agree with:

"I then had to photocopy the entire file for Miller, who then delivered it to Mr Caporn."

WITNESS: That's what's on this paper, but I didn't get the entire file. I got a copy of the depositions and the medical reports. I didn't get a copy of the entire file. But that's obviously what's on this page here, from Detective Italiano.

MR HAMMOND:

"On November 10 1998, after Mr Caporn had reviewed the file, Brandham, Miller, Wibberley and myself had a meeting at Mr Caporn's office."

WITNESS: That is correct.

MR HAMMOND: Would you not agree that that's an inordinate amount of police resources to be involved in a review of someone who hasn't been interviewed or arrested?---No, they weren't involved in the review. That was when I briefed them on my findings. They weren't in any way involved in the review.

I put it a different way; isn't that an inordinate number of people to be involved in the management of this file?--- They're not involved in the management of this file. I'm making them aware of the findings of my review. I knew that my review would not be received well by Senior Sergeant Miller and Detective Italiano, and I wanted my two inspectors - - and at that time, those guys were both my inspectors. I wanted them present so they knew the full details, which would save me explaining it perhaps two or three times.

Then:

"Mr Caporn stated that we did not have enough evidence to charge Q2, as he considered the complainant's diaries were not good evidence, as they could be more damning to the complainant and there was a lack of corroboration for the complainant."

Do you agree that was your position?---No, that's a very narrow view. There's a whole number of - - range of issues that were spoken of. There are some words in there that I believe are not my words, but if you want me to work through it, I'll work through it with you. The complainant's diaries were not good evidence. Well, what I said was certainly the complainant's diaries did not particularise in relation to the offences and I believed that in some cases they were contrary, and they were. Again, no impact on the veracity; it's the emotional state of Q1. There was a lack of corroboration for the complainant in respect of evidence for court, yes, there was. It stated that Evelyn Vicker had reviewed the file. That's correct, and as the file stood, they would not proceed with charging. That is correct.

MR HAMMOND: And then she goes on to say:

"Mr Caporn then said that regardless of whether (...name suppressed...) confessed or not, we were to release him and that he, Mr Caporn, would reassess the evidence."

WITNESS: Well, again, I've already made it quite clear, I don't know that they are my exact words, but I think that I've laboured to point what my substance and effect of my instructions were in that matter.

MR HAMMOND: What I want to put to you in relation to that statement, and indeed, the one that follows, that Inspector

Brandham reiterated what Mr Caporn had said at the meeting, about not charging (...name suppressed...) is that - - sorry, Q2, thank you.

WITNESS: Can I have a look at page 4, please? About what Mr Caporn said about not charging. Now, that's more in line, at that particular time, without me reviewing the - - now, there's nothing in that paragraph that says that Brandham said that I used the word "released."

MR HAMMOND: In relation to what is said in the penultimate paragraph on page 3 - - -

MR HAMMOND: - - - on page 3, you never sought to - - ?---Can I go back, please? Yes. Penultimate. Yes.

My copy's slightly different. I'm looking at the last paragraph of your page 3?---Okay. Yes.

Did you ever respond in writing to Detective Italiano in relation to that statement made by her?---No. Because that's her report, and this is - - and this is where you've been confused a few times. These - - these reports follow up on a very standard procedure in relation to a complaint file. Everyone who's involved in the matter, it's a standard procedure; they report on their version of events from start to finish. This was her report. I had a lengthy discussion with her on the day she handed me this report and we discussed and canvassed a whole number of issues where I tried, as I say, my level best to get Detective Italiano to put her thoughts and feelings on the table. But at the end of the day I wasn't going to send this report back to her because this is a report for the complaint file, and she should do that without interference from me.

Well, the four officers who - - well, the one that heard the instruction and the others than came to learn of what they believed the instruction was, were so incensed by it that they wrote to the Royal Commission, believing it was a corrupt statement by you?---I am really struggling to have a handle on why they had that perception, although, as I say, I do believe that things would have been far different if I could have dealt with the August 25 memorandum as I would have. I would also suggest to you, sir, that up until these proceedings that some of your clients had never seen those memorandums that I'd sent to Miller giving him a rocket in relation to these particular issues, you know, and I think that they're significant issues when you look at the full picture. And if - - and they would have also never seen my report of February 4th. And if you look at all of those issues, if you deal with anything in a vacuum, if you don't have all the information, then you're liable to come up with two and two means twenty-six instead of four. Just as I didn't have all the information, because I was not given that August 25 memorandum.

Your major concern after reading of the, or after learning of the Italiano memorandum dated 25 August 1998, was to ensure that there was no damage to the WA Police Service?---Nothing to do with that. It had nothing to do with that. Absolutely nothing to do with that.

You weren't concerned about the perception that Constable Italiano had?---I was concerned about the perception and I was concerned that it had been allowed to grow for 3½ months before I was told about it. And you think of what she was

thinking when - - after being told by Sergeant Miller and co that they've got a great brief, and then I come along and do my review and say there's no brief. I mean, you see how the snowball effect occurs. And I was operating without that information and should never have been doing so. There would have been extra measures that I would have taken in this matter if I'd have known about that August 25 memorandum to demonstrate that there was no inappropriate behaviour going on here.

MR HAMMOND: But you were briefing the deputy commissioner and, indeed, Assistant Commissioner Atherton, weren't you, in relation to these allegations concerning the association between - - ?---They'd had - - like on many other significant investigations, they'd had a briefing from me. Having said that, if I'd have received the August 25th memorandum things may have taken a different path there as well, because that matter would have been put on the table, that matter would have been subject to an investigation and that may have precluded me from saying anything to the deputy commissioner in relation to the matter until that was investigated one way or another.

Did you quiz the deputy commissioner about his association with Q2?---Not at all.

Not at all?---Not at all.

Did you speak to Assistant Commissioner Atherton about whether there was an association between the deputy commissioner and Q2?---We had a discussion on the day before - - the day before we interviewed Q1 and her husband, and we spoke with them. We certainly would have had some discussion then because of the complaint and the letter and the information that was in the letter from Q1, bearing - - -

WITNESS: - - - in the letter from Q1, bearing in mind, even at that point on the 7th and 8th of December, I still didn't have the August 25 memorandum.

MR HAMMOND: Did you meet with the deputy commissioner in his office when you briefed him?---Which time?

On any occasion, in relation to the file of Q2?---Yes.

You would have seen the photo on the wall, of Q2 and the deputy commissioner?---Up until these proceedings, I have never seen that photograph.

But you were aware of the association, superintendent, that there was a loose - if I can put it that way - association between the deputy commissioner and Q2?---I was aware in no great depth. I had an awareness that there was some bike rides that they used to go in. That is it. And let me tell you, doing the job that I do, there are many, many times when that sort of loose association, like going to the same meeting a person has gone to or whatever, is the case. I mean, in respect to - - you know, I've been to functions where there are lawyers who are representing people who I'm prosecuting. Now, you know, it could be said, well, I shouldn't be going to this function that these lawyers are at, because they're prosecuting someone who I - - they're defending someone who I'm prosecuting. I mean, you can take that any which way but loose. The additional information that's been given a perception by the complainant and the perception by Constable Italiano on the August 25 memorandum does have an impact, and if that had have been dealt with properly, a lot of this might not have occurred.

But, inspector - - sorry, superintendent, you were briefing the very person who was at the centre of the allegation, weren't you, about what was being said about him?---But there was no allegation to me at that stage. That's the point I'm making. I did not have that information. There was no allegation whatsoever against Mr Brennan. If you look at the August 18 memorandum, he's not even mentioned on that. I had some knowledge, through being a person in the Perth society, that he may have gone on bike rides on occasions that Q2 was also involved in. That was the extent of my knowledge. Some of the things that have been said in here in the proceedings, about the issues of the community work and the contact there, at that point in time, I had no knowledge of that whatsoever, so I didn't even have that depth of knowledge.

Your officers at the Child Sexual Abuse Unit, as you can see from the memorandums, and indeed, one you had at the time, were concerned about the possible association between Q2 and the deputy commissioner?---Which was the one I had at the time which told me that? You find the one that I had at the time that told me that?

MR HAMMOND: I'm talking about the memorandum from Constable Italiano?---January 8?

August the 25th, which you received, I believe, on the 10th of December 1998?---So, your point is - ?

Well, you knew on the 10th of December 1998 that Constable Italiano had a concern that there was an association between the deputy commissioner and Q2?---Yes, and I would - - in no way, shape or form was I briefing the deputy commissioner after the 10th of December. I did not tell the deputy commissioner in that period, and in fact, for many years later, about the existence of the August 25 memorandum. When I got that August 25 memorandum, I didn't tell the deputy commissioner about it, because by the time I got it in December, then it was a matter that was going to be investigated by an external body, so I never, even then, had a conversation with the deputy commissioner to tell him that, "Oh, by the way, there's been this memorandum where it's been suggested ABC." Absolutely not.

But if you were briefing the deputy commissioner on the file of Q2, are you telling me that he never once raised - ever - that he had an association with Q2?---No. He never.

He never told you that?---No.

I find that fantastic?---Find it any way you wish.

I find it incredible?---But you've got to remember, the conversations that I had with Mr Brennan about the investigation was probably limited to maybe three at the outside, probably two.

I put it to you, inspector, that you are covering up?---Covering up what?

The fact that you did discuss the association between the deputy commissioner and Q2?---I did not discuss the association between the deputy commissioner and Q2.

And your handling of the file at the Child Sexual Abuse Unit was a whitewash?---I think that the memorandums in place clearly demonstrate that my handling of this matter was open and accountable, and I will stand by that 100 per cent. At no stage did I do anything improper. At no stage did I do anything other than my job extremely thoroughly, and I think - - and thank God they are documented. I think the documents clearly demonstrate that.

MR HAMMOND: It was an exercise, as Senior Sergeant Miller said, in death by memorandum. Wasn't it?---When you look at the investigation file, for an investigation that went as long as it is, there is very minimal memorandums on it, and the majority of the one on the investigation file - - -

WITNESS: - - - the investigation file run between Italiano and Miller. What you're getting confused with, and others have, is the complaint file. Now, in context of the complaint file and the amount of memorandums on that this is a very small complaint file. So you're dealing from a dearth of experience in this matter, Mr Hammond. You know, you have no experience in these matters and I assure you that as a complaint file it's a minimal file for memorandums, and as far as an investigation of this nature goes that spanned, as it turned out, over a period of 12 months or more there's a minimal amount and most of that traffic is between Miller and Italiano.

MR HAMMOND: Notwithstanding my dearth of experience, you haven't answered the question. This was a whitewash by you?--  
-Well, I think that I have answered that adequately.

Do you deny - - ?---What do you see - -

Do you deny that proposition?---What do you base that on, Mr Hammond?

I'm asking you to answer a very simple question. Do you - - ?  
---Absolutely.

- - deny that it was a whitewash?---I did nothing more than my job. There is no whitewash here and I cannot for the life of me see what you can base that on, and I sit here with absolute confidence that anyone, any reasonable thinking person who examines all of the material on this, could not come to this conclusion.

You would agree, wouldn't you, that it's pretty rare for four serving police officers to make allegations of corruption about senior police officers?---Certainly. It's a very unfortunate situation to be in where this happens to yourself, particularly when it's baseless.

Do you agree that it's rare?---Look, I wouldn't really know because I've never been at professional standards. They might get complaints like this all the time - I mean, I don't know - but for four members to go out public like this, yes, certainly in my memory it is rare, and on such a baseless case I would suggest it would be even more rare.

I have no further questions, Mr Commissioner.

COMMISSIONER: Yes. There's just one matter, superintendent. You made a reference in passing to the existence of a complaint on the materials that you looked at for your review. To your recollection, was there any evidence of an early complaint on the part of Q1 in this matter?---No. As I

recall, and again it's on my recollection, there was no evidence of early complaint in relation to the matter.

COMMISSIONER: Yes, thank you. Mr Power?

MR POWER: Thank you, sir.

CROSS-EXAMINED BY MR POWER:

MR POWER: Mr Caporn, you have said that you were away for part of the period of the investigation on an officer development course. When was that?---The entire period of September. I actually didn't arrive back there until about the first week of October, I believe it was.

Do you know if the eastern states based psychologist who was referred to on Thursday and the possible second complainant who Ms Italiano wanted to travel east to speak to were in fact spoken to?---Yes. Both of those matters were cleared up. One of the - - it's on the running sheet. The complainant in relation to the possible second complainant was spoken to by Q1. It's been reported on the running sheet that that person had stated that Q2 had done nothing to her and that was the end of that, and in relation to the New South Wales psychologist there's an entry on the running sheet that she's been spoken to by Detective Italiano and that she remembers Q1; but that's it, and that's the words that were used, and that she destroyed all the documents in relation to that matter.

And this is what set of running sheets?---This is the running sheet kept by the investigation team on the Q1/Q2 file.

And these notes were made in whose handwriting?---It appears to be Detective Italiano's.

We know from your evidence that Mr Miller was counselled on the 10th of November 1998 about allowing this investigation to proceed as far as it had without a proper review of the evidence. As the officer in charge of the Child Abuse Unit at that time, what - - -

MR POWER: - - - at that time, what, in your opinion, should he have done?---You need to be working your whole team, that those sort of checks and balances are in place. The situation was then that Constable Italiano had been appointed as an interviewing officer and really had assumed the role of also being case manager in relation to it. If you're going to let that happen you have to put checks and balances in place to make sure more senior people are thoroughly examining the brief. It's not good enough to just accept that the officer is telling you that these things are in place; you need to check them. Particularly at the critical issues, when the critical issues are there, particularly as it was on the 2nd of November when they were going to arrest Q2, whether he said anything or not. If those checks and balances had have been in place this would have been properly supervised, properly inspected and it would never have got to the stage where they were going to carry out what they were going to carry out.

Now, had you been advised of those concerns raised in the 25 August 1998 memo from Ms Italiano to Mr Miller, at or about that time rather than 3½ months later, what would you have done?---An official investigation file would have been started on that. You had a situation where you had both the complainant, Q1, and Detective Italiano with obviously at least - - at the very least a very strong perception that there would be interference by the deputy commissioner. That needed to be dealt with. (...name suppressed...) and others that were at the meeting needed to be interviewed, and the matter needed to be formally investigated and then everyone advised of the outcome of that in relation to whether there had been established that this could lead to some interference in the investigation. It would also have raised it to the level where then we would have been - - it would have gone from the knowledge that Mr Brennan was involved or had been in bike rides with Mr - - with Q2 to another extent where it was actually suggested by the - - Q1 and suggested by Detective Italiano that there was going to be interference in this investigation.

You've expressed the view that the non-action by Mr Miller in respect of the 25 August 1998 memorandum had an impact on the whole event, as you described it. In what way do you believe that an earlier disclosure of that memorandum could have influenced the perceptions of those who had those concerns?---Well, that matter would have been dealt with at the time, so it would have been dealt with 3 months prior to any of this getting to the point where it was going to be on the point of arrest. And therefore those matters would have been addressed up front and it wouldn't have been a situation where people are being told that there is a good brief in relation to the matter, then all of a sudden the hand comes from down above and, as has been suggested in these proceedings, that, you know, I do a review and all of a sudden I find that there is

no evidence. I mean, what you have there is a growing perception of some sort of conspiracy theory, and then that leads to obviously the things that happened after that as well in relation to the investigation where, at the end of the day, there was no sustainable charges laid against Q2. So my point is this; it should have been dealt with up front at the time.

It should have involved the complainant, it should have involved the people who were suggested to have heard and seen things, it should have involved Detective Italiano. If that had have been thoroughly investigated either by within the area, by the divisional office or, as it probably should have been, given the person who it was aimed at, by the professional standards area, then I think that the complainant would have seen that we were very serious about any such allegation being made about interference in a case.

MR POWER: Mr Commissioner, I don't have much more. May I continue?

COMMISSIONER: Yes. Certainly.

MR POWER: Thank you.

(TO WITNESS): Knowing now of Q1's impression of your second or third telephone call to her - whichever it was - following the meeting that she and her husband had with you and Mr Atherton on the 8th of December, and with the benefit of hindsight, would you have handled that telephone call differently?--Oh, with the benefit of hindsight I would have probably got someone to go and see Q1 rather than dealing with it on the phone. I mean, she's been subject to fairly significant emotional trauma over a number of years now, and in hindsight and hearing Q1 give evidence, and the perception that she had in me trying to achieve a decision, absolutely I would do it differently.

Notwithstanding that, what would or could have been the consequences of your not following up obtaining a decision from Q1 on her written complaint of the 1st of December 1998?--Well, I'd already been - - from the time that I made the telephone contact I'd already been basically waiting a decision in relation to this complaint, which is basically aimed at the deputy commissioner - - -

WITNESS: - - - the deputy commissioner. Far more, could it be seen, and far more innuendo could have been laid, that the matter was being covered up if I didn't get a decision and didn't move it on and as I point out, regardless of what the decision had been, if the decision had been not to go ahead, I still would have sent all those reports and my report to professional standards with a view of Mr Miller being formally counselled for the August 25th memorandum issue and for the - - for the investigation to be filed, because basically my preliminary work has really conducted an investigation.

MR POWER: And finally, given what you have already said in answer to questions from my learned friend Mr Hammond, with the benefit of hindsight, Mr Caporn, do you have any overarching criticisms about the way in which Miss Italiano conducted the investigation, or Mr Miller's supervision of it, other than what you've already said?---No. I think I - - I've pretty much covered it, except to say that the whole issue of how that area was operating, and the structures, the levels of supervision, have all been dealt with down there. There's been major reforms. They've been given additional resources, additional structures have been put in place. The management team has - - a new management team has been put in place and those matters, where interviewing officers, for example, both interview the complainant and then take the role as case manager - - that does not occur now, and neither should it occur. It's not fair on the interviewing officer.

Mr Commissioner, I have nothing further. Thank you.

COMMISSIONER: Yes. Thank you. Yes, Mr Pettit?

MR PETTIT: Just very briefly, thank you, Commissioner.

RE-EXAMINED BY MR PETTIT SC:

MR PETTIT: Superintendent, do you know who it was that decided that Detective Hawes should take up the file in, I think, January of 99?---It was the management team in place at the Child Abuse Investigation Unit. I can't put it down to a particular person, but certainly I had no involvement in that decision.

Were you made aware of the reason for it?---I was aware that Detective Italiano had some time previously achieved a promotion to detective and was being transferred at the end of her leave. So I was aware of that. I was also aware that Detective Ingham had - - was leaving the area. He left around the same time, of his own volition, in relation to something else he wanted to pursue. The only aspect that I might have had input into was that I wanted someone, other than an interviewing officer, conducting the investigation.

MR PETTIT: Was the appointment of Detective Hawes deliberate in the sense that it ensured that the file did not go to any particular person, other person?---No. No. I mean, I had no involvement. That was an issue for the team to sort out in relation to who would get that. That decision would have been made by the management team at the time and that would have been Senior Sergeant Miller, Inspector Brandham and others involved in that decision, not - - not, certainly, myself. And I don't know Detective Hawes. I've had - - probably spoken to her twice in - - in probably the last 5 years.

Thank you, Superintendent. Nothing further, thank you, sir.

COMMISSIONER: Yes. There is just one question that I should have asked before, Superintendent. That's in relation to Detective Italiano. When she moved into another area, would it be common - - would it be usual to allow her to continue with the file, or would that remain in the Child Abuse Unit?-- -With some of the interviewing officers when they go back, if - - the secondments for the interviewing officers is worked on either a 12 month or 2 year basis, depending on what the situation was.

Yes?---If they were going back into an area where they were going to be continually doing those sort of offences, to support that local business area then we may allow that. Where someone is promoted to a detective and goes out of the area it's a situational basis, case by case. But certainly in this case, it would have been - - and it wasn't, but if I had been asked I would have recommended that an investigation of that nature remained within the central area.

Yes. Is there anything that arises out of that, Mr Hammond?

MR HAMMOND: No, thank you, sir. Sir, the only question I have - and it doesn't relate to - - it relates to some earlier questions, is - - I know it's not my role to tender documents but I did want to put to you, maybe through counsel assisting, the Operation Cathedral information.

COMMISSIONER: Yes.

MR HAMMOND: It related to a significant part of the questions that I asked.

COMMISSIONER: Yes. It was really part of the questioning. I think we'd accept that.

MR HAMMOND: Thank you. I only have this copy.

COMMISSIONER: Yes. Well, thank you, Superintendent. You're excused from further attendance under the summons.

WITNESS WITHDREW

COMMISSIONER: Yes, Mr Pettit?

MR PETTIT: Commissioner, we are going to press on without a break this morning, I take it? The reason I ask that is, we have one further witness who should take only a short time and he's gone to some trouble to be here without a summons.

COMMISSIONER: He's here now, is he?

MR PETTIT: He is here now, sir.

COMMISSIONER: Yes.

MR PETTIT: I'd like to bring him in.

COMMISSIONER: Well, I think you can carry on if he's a short witness.

MR PETTIT: I call Paul Lines, please.

COMMISSIONER: Could I have your full name please, Mr Lines?

MR LINES: Paul Alan Lines.

COMMISSIONER: Do you have any conscientious objection to taking an oath on the Bible?

MR LINES: No, I don't.

COMMISSIONER: Thank you.

PAUL ALAN LINES sworn:

COMMISSIONER: Yes. Thank you. Sit down please.

EXAMINED BY MR PETTIT SC:

MR PETTIT: Thank you. Your full name is Paul Alan Lines?---  
Yes.

And you are currently the principal weights and measures officer with the Department of Consumer and Employment Protection?---That's correct.

And I think you've been at the department just this year?---  
Yes, indeed; February this year.

Prior to joining the department, you were an officer of the Anti-Corruption Commission - - -

MR PETTIT: - - - Anti-Corruption Commission?---I was an investigator with the Anti-Corruption Commission, yes.

You began there in December 1998?---That's correct.

And finished in December 2001?---Yes.

While you were with the Anti-Corruption Commission, you had some involvement in a complaint relating to the persons called Q1 and Q2 in these proceedings?---Yes, I did.

I think, at the outset, you had some involvement with an initial complaint by Q1?---That would depend what - - there were two complaints that the ACC looked at in respect of this matter. The initial complaint, no, I had no involvement with. The, what I will refer to as the second complaint, then that's where I became involved at the outset.

And as part of your involvement, you spoke, I think, outside the commission premises to Constable Italiano?---That's right.

Where did that occur, and why?---I can't remember when it occurred, or where it occurred. That would be recorded in the journals that were kept at the ACC, and are still there now. The meeting took place at Cris Italiano's request, in respect of the matter that's before the Commission at the moment.

And in short, there were things she had to tell you and that's why the meeting was called?---Yes, indeed.

Was any other person present at the meeting?---I know that Detective Connoley was with Cris on a number of occasions. I can't remember whether she was there at that time. I believe she was.

You've become aware, I think, that evidence has been given that you said to Ms Italiano that she should watch her back?--  
-Yes.

Do you recall saying that?---I don't recall that specific comment. However, it's certainly something that sounds like something I would say.

And can you help us in why you would have said that to Detective Italiano?---It's not something I said specifically to Detective Italiano. It's something that - - or words to that effect that I would say to people effectively whistle-blowing to what was the ACC, or what is the ACC. At the time there was no effective whistle-blower legislation in WA and it would have been said by way of "Watch your back. You're dealing with high-ranking officers", in the case of Cris Italiano. In the case of people within the Public Service, "Watch your back, you're dealing with people in positions of power".

MR PETTIT: Did you have any information about any specific threat to Ms Italiano's career or person?---Specific threat, no.

Did you have in mind any specific superior officer when you made the observation?---No.

Were you aware of any circumstance which should have caused Ms Italiano to be careful of her welfare?---Not specifically, no.

Because of the position that I held at the ACC, I was aware of circumstances where whistle-blowers had had either their well-being, the jobs, their position threatened, either directly or indirectly.

There's also been some evidence that suggests that someone entertained the possibility that Mr Brennan, Deputy Commissioner Brennan, and Mr Looby, Kevin Looby, approached the ACC. Are you aware of that suggestion?---Approached in what manner?

In order to make some sort of representation to the ACC about the ACC's conduct of this investigation?---I have no knowledge of that at all.

Have you ever told any person - -?---No.

- - that those two officers did attempt to bring pressure to bear on the ACC?---No, and if they had, I would suggest that the ACC, particularly the chairman, Mr O'Connor, would have made that very, very clear. It would certainly have been looked at in a matter stand-alone at the ACC, if that were the case.

And why do you say that?---It's - - the suggestion that two senior officers would approach the ACC, which is a body effectively looking into their conduct - - -

WITNESS: - - - into their conduct, just seems ridiculous.

MR PETTIT: You said earlier that you were aware of other cases in which a whistle blowing officer may have suffered as a result of his or her action?---Yes.

That's, I take it, in matters completely separate from the Q1/Q2 file?---Yes.

What matters did you have in mind?---I'm not sure of the position that I hold here, given the position I held at the ACC. There was certainly a matter that was looked into by the ACC concerning police officers and another that specifically comes to mind in respect of - -

Well, don't give us any names but can you tell us the circumstances?---I'm aware of one operation which was referred to as Eucla. As to the names involved in that, no, but there was suggestion there that pressure had been brought to bear on the complainant by senior officers. There was a separate matter which concerned a mid-manager with the then Ministry of Justice. There was a suggestion that one of the directors then brought pressure to bear and subsequently removed him from that position as a result of complaints made to the ACC.

That second one is a non-police matter, I take it?---It's a non-police matter, yes.

Thank you, Mr Lines.

COMMISSIONER: Yes, Mr Hammond? Do you have any questions?

MR HAMMOND: No questions, sir, but it wouldn't be appropriate for me to question in any event, sir, because I must explain that I have had a solicitor-client relationship with Mr Lines so it would be a breach of that. So I'm in a very difficult position.

COMMISSIONER: Yes.

MR HAMMOND: So maybe if I could speak to counsel assisting.

COMMISSIONER: Yes, very well. Mr Power, do you have any questions?

MR POWER: No questions, thank you, Mr Commissioner.

NO CROSS-EXAMINATION

COMMISSIONER: Yes, thank you, Mr Lines.

WITNESS WITHDREW

MR PETTIT: Commissioner, that's the last of the witnesses for the time being. There remains a couple of matters to resolve so it's appropriate that the matter be adjourned.

In addition to Mr Lines there is one other matter I should draw to the Commission's attention. Detective Sergeant Bill Mansas also approached the Commission officers late last week with a particular concern in respect of a possible inference that the Commission might draw - namely, that the investigation of Q1's complaint was expedited on account of Q2's public profile. Mr Mansas was the officer who decided to investigate promptly and he says that the decision turned on the occupation of Q2 at the time and certainly not on his profile.

Now, that point, Commissioner, is of concern, understandably, to Detective Sergeant Mansas but it is not otherwise relevant to the matters to be inquired into and in the result I undertook to make public Mr Mansas's position.

The next matter that should be aired, Commissioner, is that on the weekend a report, Mr Gary Adshead, has brought to light that Deputy Commissioner Brennan may have been involved in two cycle rides from - - -

MR PETTIT: - - - two cycle rides from Albany to Perth, and further that the photograph which was shown in evidence last week may be a photograph taken in 1997 rather than as we had assumed in nineteen ninety - - in 1997 rather than as we assumed in 1998, and that seems to be correct. We'll pursue the point a little further and the publication to which Mr Adshead referred can be tendered later.

It's, as I say, Commissioner, appropriate, in my submission, to adjourn the hearings at the moment. There is a list of documents which has, as I'd understood it, been made available to my learned friends. That list is very comprehensive. It includes all documents - - just about all documents which have any bearing on the matter, and that's done for completeness. Counsel will be able to request access to any of those documents; that will, of course, be on the same conditions as usually obtained, namely that the documents are not to be released or provided to any other person and are not to be used for any purpose other than the present inquiry.

Lastly, Commissioner, can I suggest - and this has been raised again with my learned friends at the bar table - the - - and this is also in accordance with the Commission's procedural directions, Commissioner. I propose that the following timetable be directed. Firstly, that the written submissions of counsel assisting in the matter be made available to persons who may be adversely affected on or before the 14th of October. I should add that it's my intention to include in those submissions an amended list of documents, amended, that is, to include only those documents which are to be tendered, and that's something my learned friends can comment on or contact us about.

The second direction I propose is that written submissions in reply by other counsel should be lodged with the Commission by the 28th of October and lastly, if required, oral submissions can be made to the Commission on Monday the 4th of November 2002. And again, I would urge my learned friends to raise that with me well prior to the event.

Lastly, Commissioner, the next hearings of the Commission will be the resumption of the hearings into the members of the Armed Robbery Squad in relation to the Supa Valu robbery on the 28th of April 1997. Those hearings will resume on Monday the 23rd of September, and we ask that the hearings of the Commission be adjourned until that date.

COMMISSIONER: Yes. There's one other matter that I think I should raise with you, Mr Hammond, and that's in relation to Q1. You'll recall that I indicated that the Commission was not concerned with - - well, it couldn't be concerned with the determination of the circumstances which existed between Q1 and Q2 - -

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MR HAMMOND: Yes.

COMMISSIONER: - - because that would involve a criminal trial. I was not intending to cut Q1 out of the possibility of - - -

COMMISSIONER: - - - out of the possibility of expressing the fact that she, as she apparently is, strongly denies any assertion of Q2 that there was an affair between herself and Q2.

MR HAMMOND: Yes.

COMMISSIONER: That can either be done by, if she wants to, to give evidence, but it would be sufficient for my purposes if you were to write a letter in, saying that you were authorised by her to inform the Commission that she strongly disputed the evidence of Q2 on that point.

MR HAMMOND: Mr Commissioner, I think she would be very grateful if she could do that.

COMMISSIONER: Yes.

MR HAMMOND: I'm sure that offer will be taken up.

COMMISSIONER: Yes. Very well.

MR HAMMOND: Thank you, sir.

MR PETTIT: Commissioner, I'm grateful that that matter has been raised, because it perhaps does require something by way of explanation from myself.

COMMISSIONER: Yes, very well.

MR PETTIT: I wanted to assure Q1 that that evidence came out and was pursued shortly because it related to the explanation given by Q2 as to why he might have been unsurprised by the police attendance. It had nothing to do, I can assure Q1, with any desire otherwise to intrude into that area.

COMMISSIONER: Yes. Thank you, everyone. We will adjourn now.

AT 11.35 AM HEARING ADJOURNED UNTIL 9.45 AM

MONDAY, 23RD SEPTEMBER 2002