

LECC

Law Enforcement
Conduct Commission

Hearing: Operation Gennaker

Before the Hon M F Adams QC, Chief Commissioner

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

On Thursday, 5 December 2019 at 2.05pm
(Day 4)

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1 THE CHIEF COMMISSIONER: Yes.

2

3 MS DWYER: Chief Commissioner, there are three witnesses
4 today, as your Honour is aware. The first witness is given
5 the codename GEN18. I call GEN18.

6

7 <GEN18, affirmed: [2.07pm]

8

9 THE CHIEF COMMISSIONER: Would you please be seated. Are
10 you legally represented?

11

12 THE WITNESS: Yes, I am.

13

14 MR T JONES: Chief Commissioner, my name is Jones. I seek
15 leave to appear for the witness [NAME SUPPRESSED].

16

17 THE CHIEF COMMISSIONER: Thank you. Leave is granted.
18 That name is not to be reported. All witnesses are
19 referred to by a codename in order to preserve privacy.

20

21 Although no doubt you have been told these things,
22 there are things I need to tell you. Firstly, you must
23 answer all the questions that you are asked unless I tell
24 you you don't have to, and you must produce anything you
25 are asked to produce, again unless I tell you you don't
26 have to. You can object to answering a question or to
27 producing anything, but you must nevertheless answer and
28 you must nevertheless produce what you have been asked to
29 produce.

30

31 The effect of your objection is that neither your
32 answer or what you produce can be used against you in any
33 other proceedings. As I gather, it is most unlikely that
34 that will happen, but that's the legal position. However,
35 if you do either lie or do something that is in contempt of
36 the Commission, your evidence can be used in that respect.

37

38 Now, I can make a declaration that all your answers
39 will be taken as having been given under objection and
40 anything you produce is to be taken as having been produced
41 under objection, to save you the bother of doing it on each
42 occasion. I take it you would like me to make that
43 declaration?

44

45 THE WITNESS: Yes, please.

46

47 THE CHIEF COMMISSIONER: Very well. Pursuant to

1 section 75 of the Act, I declare that all the answers given
2 by this witness and anything produced by this witness is to
3 be taken to have been provided under objection.
4

5 Yes, thank you, Ms Dwyer.
6

7 <EXAMINATION BY MS DWYER:
8

9 MS DWYER: Q. Sir, do you understand that in this
10 inquiry you are to be known as the codename GEN18?

11 A. I am now, yes.
12

13 Q. And you have looked down at a schedule of codenames,
14 I take it?

15 A. Yes.
16

17 Q. You will see there the names of a number of police
18 officers and there are in fact the names of various young
19 people also on that list. When I ask you a question,
20 I will direct you to a particular codename and I will ask
21 you to use that codename back if you recall. In
22 particular, if you can just take a moment now to have
23 a look at GEN4, I think you recognise that person's name.
24 A. Yes.
25

26 Q. So I will ask you some questions and refer to the
27 codename GEN4. First, can I ask you, is it correct that
28 you are a unit commander at the SES?

29 A. Yes.
30

31 Q. Is that your full-time paid employment, or is that
32 a voluntary role?

33 A. I'm a volunteer.
34

35 Q. So you have full-time employment elsewhere and I don't
36 need to ask you what that is. Then you work as a volunteer
37 within the SES; correct?

38 A. Yes.
39

40 Q. What does the role of a unit commander involve?

41 A. I'm responsible for the training, coordination and
42 welfare of the members within the Parramatta unit.
43

44 Q. How long have you, firstly, been volunteering with the
45 SES?

46 A. Eleven years.
47

1 Q. How long have you performed that role as a unit
2 commander?
3 A. It would be about four years.
4
5 Q. What does the training for an SES officer involve?
6 A. Depending on a very large number of circumstances,
7 depending on what that volunteer would like to do, there
8 are 40-plus courses that they could be put through.
9
10 Q. Is there a standard basic course that must be
11 completed by everybody first?
12 A. There is no set requirement, but most people make
13 their way through such courses as first-aid.
14
15 Q. And is there no set requirement in part because people
16 come to that role with a range of different life skills, in
17 any event?
18 A. Sorry, can you repeat that.
19
20 Q. I'll withdraw that. Are you saying that it is not
21 a requirement for SES officers to do basic first-aid, for
22 example?
23 A. There is no set requirement.
24
25 Q. Because there might be a role for SES officers that
26 does not involve basic first-aid; is that right?
27 A. Correct.
28
29 Q. But there are 40-plus courses, and is it the case that
30 some of those courses are a prerequisite before you can
31 perform some roles within the SES?
32 A. Yes.
33
34 Q. Is it mandatory to have a working with children check
35 in order to be a volunteer at the SES?
36 A. No.
37
38 Q. Is it mandatory when you are performing some roles
39 within the SES to have that check?
40 A. I'm not sure.
41
42 Q. So many people who are volunteers within the SES won't
43 have a working with children check; is that your
44 understanding?
45 A. Correct.
46
47 THE CHIEF COMMISSIONER: Q. Of course, if they, in their

1 ordinary working life - they may be, say, a teacher or
2 someone like that - may happen to have such a check, but
3 that is not a requirement of the SES; is that correct?
4 A. That's correct.

5
6 MS DWYER: Q. As a unit commander, do you keep a record
7 of the training that your various volunteers have done?
8 A. Yes.

9
10 Q. And do you also keep a record as to whether or not
11 they have a working with children check?
12 A. Yes.

13
14 Q. And would you keep a --

15
16 THE CHIEF COMMISSIONER: Q. About how many, in February
17 this year - about how many people were in your unit?
18 A. 150.

19
20 Q. Most males? Most females? Half and half? What kind
21 of --
22 A. Close to half and half.

23
24 Q. The age range?
25 A. Anything from 16 through to 70.

26
27 Q. So a very diverse group of people?
28 A. Yes.

29
30 MS DWYER: Q. Are you able to tell the Commission how
31 many of those 150 would have had a working with children
32 check or have been likely to?
33 A. Not off the top of my head, no.

34
35 Q. I'm going to show you an exhibit which has the
36 number 14C. This is an email communication between
37 yourself and GEN4 on the list of codenames.

38
39 If you have a look at that exhibit, please, sir, you
40 will see, first of all, an email that was sent to you on
41 15 February 2019 from GEN4. Do you see that?

42 A. Yes.

43
44 Q. Could you just refresh your memory from that, please.
45 I'm sorry, I have asked you a question that was slightly
46 incorrect. This was an email exchange between GEN4 and
47 somebody else within the SES; is that right?

1 A. I don't believe so.
2
3 Q. Do you recognise the name at all, if you have a look
4 through the email, as to who GEN4 was sending the email to?
5 A. Can you please confirm which you're referring to?
6
7 Q. I'm looking at the email first of all that is dated
8 15 February 2019.
9 A. There are two emails that have that date, but --
10
11 Q. I see. I'm looking at the one that starts "Good
12 morning" and ends with the name of GEN4?
13 A. Yes.
14
15 Q. That email reads:
16
17 Good morning,
18 Regarding my telephone conversation with
19 [you] earlier this morning, I would like
20 to request for 2 - 3 of your finest
21 staff to assist please at the Goodlife
22 under 18s music festival.
23
24 Their duties would be to act as support
25 people for those under 18 that police need
26 to interview for a criminal offence. Given
27 that they will be under 18, we need to have
28 someone that is not a police officer
29 present when interviewing.
30
31 And it goes on to list dates and times and other details;
32 do you see that?
33 A. Yes.
34
35 Q. Is it the case that on the morning of 15 February 2019
36 you had a conversation with GEN4?
37 A. Yes.
38
39 Q. Did you know GEN4 prior to that phone conversation?
40 A. I don't believe so, no.
41
42 Q. How is it that GEN4 came to have that conversation
43 with you?
44 A. I'm not sure where he would have got my direct details
45 from.
46
47 Q. But he contacted you; correct?

1 A. Yes.
2
3 Q. What was the substance of that conversation?
4 A. It was in regards to the assistance that was detailed.
5
6 Q. So the way in which it is set out in the email, is
7 that an accurate representation of what GEN4 was asking you
8 to assist with from the SES?
9 A. Yes.
10
11 Q. So you were specifically asked to provide two or three
12 of your reputable staff to assist police at the under-18s
13 festival, with regard to being a support person for persons
14 under the age of 18 being interviewed for a criminal
15 offence; correct?
16 A. Yes.
17
18 Q. Had you ever had a request similar to that prior to
19 that day?
20 A. Not the Parramatta unit, no.
21
22 Q. Were you aware that the SES had ever been asked
23 previously to provide independent support persons to assist
24 police when they were interviewing under-18s?
25 A. Not at the time, no.
26
27 Q. Was there any mention, during that phone conversation
28 with GEN4, about SES staff acting as a support for when
29 young people were being stripsearched?
30 A. I do not believe so, no.
31
32 THE CHIEF COMMISSIONER: Q. It strikes me as being
33 a very different exercise. It is one thing to sit in on an
34 interview with police; it is another thing to be present
35 where a child may be stripped naked.
36 A. I agree, yes.
37
38 Q. I can understand an SES officer being happy to help
39 with an interview, but not happy to be present when a child
40 is being stripped naked.
41 A. Correct.
42
43 Q. And I take it when you made inquiries of volunteers -
44 which I assume is what you did - you said, "I've got this
45 request. Who can help?" ; is that right?
46 A. The request was not sent to all members.
47

1 Q. Right. But you sent it to a number of members, of
2 course?
3 A. Yes.
4
5 Q. And you informed them what you had been informed of,
6 as I understand it?
7 A. Correct.
8
9 Q. Namely, this was to be present at interviews?
10 A. Yes.
11
12 Q. Is that right?
13 A. That's correct.
14
15 Q. Because that's what you understood was going to
16 happen?
17 A. Correct.
18
19 MS DWYER: Q. You see, hopefully, in the bundle that is
20 exhibit 14C a reply from yourself, which is timed 11.17,
21 and it copies in a number of other persons from the
22 NSW Police, and you say "Thanks" to GEN4:
23
24 I have had confirmation from one member
25 already, he is available to assist from
26 5pm.
27
28 You say that you are waiting on another two to get back to
29 you; do you see that?
30 A. Yes.
31
32 Q. You then say:
33
34 Do you require them to have working with
35 children checks? Most of my team do I'm
36 just not 100% sure and will have to ask
37 them.
38
39 A. Yes.
40
41 Q. So is it the case, then, that you didn't have ready
42 access to any sort of computer records which could show
43 you which of your 150 members had working with children
44 checks?
45 A. Not from those, no.
46
47 Q. But you would identify the volunteers first and then

1 check with them whether they had that requirement
2 A. Yes.
3
4 Q. You received a response from GEN4; correct?
5 A. Yes.
6
7 Q. It is at 11.19am. It says:
8
9 Many thanks,
10 If they have those checks fine, they will
11 be with police officers so it isn't
12 a deal-breaker.
13
14 If you can only get 2, that's also okay.
15 Many thanks.
16
17 A. Yes.
18
19 Q. And at that stage you still are of the belief that
20 what is required is SES officers to assist as an
21 independent person when interviewing young people; correct?
22 A. Yes.
23
24 Q. Was there any further exchange between you and GEN4
25 with regard - by email - with regard to the duties that
26 would be carried out by SES officers?
27 A. No.
28
29 Q. Was there any further discussion by phone or any other
30 means as to what those duties would involve?
31 A. The no.
32
33 Q. Was there further discussion in terms of the logistics
34 about who would be provided and at what time?
35 A. Not beyond that email - not beyond the original email,
36 what time we would be required to appear.
37
38 Q. So there's a further email that's part of that bundle
39 on 23 February from yourself where you indicate that two
40 particular persons - and I should say, both of those
41 persons are giving evidence today.
42
43 .. will be with you tonight. Both [of
44 them] are coming from their day jobs, as
45 close to 4pm as possible. [One of them]
46 might be a little bit late but will do his
47 best.

1 A. Correct.
2
3 Q. Were you ever provided with any printouts about what
4 the festival would involve or what the duties of SES would
5 involve?
6 A. No.
7
8 THE CHIEF COMMISSIONER: Q. You knew that they were
9 required to - or they were being asked to help at
10 interviews, and it was implied, and I think you would have
11 understood, that's because of some legal obligation where
12 police were interviewing young people, that they had to
13 have some independent witness there?
14 A. Correct.
15
16 Q. But aside from being there watching what was
17 happening, you did not yourself know, I take it, what the
18 relevant legal issues might be in relation to interviewing
19 kids?
20 A. No, I didn't know, and I didn't go and research what
21 that may be.
22
23 Q. And the police didn't offer you any information?
24 A. No.
25
26 Q. And is that because you just assumed they were going
27 to be there watching what was happening and not
28 participating in any way?
29 A. Correct.
30
31 MS DWYER: Q. I take it from those answers, sir, that
32 you yourself have never been involved as a support
33 person --
34 A. No.
35
36 Q. -- with police? And did you speak to anybody within
37 the SES, either supervisors or others, about what that role
38 involved?
39 A. No.
40
41 Q. On that festival day --
42
43 THE CHIEF COMMISSIONER: Q. Can I just go back a step.
44 A. Yes.
45
46 Q. You were contacted by GEN4. Was this totally out of
47 the blue? Were you unprepared or had you heard of SES

1 officers assisting police in various ways?
2 A. The SES provides a large amount of assistance on
3 a very large number of topics for the police.
4
5 Q. Were you aware that this was one of them or this was
6 something new for you?
7 A. This was something new.
8
9 MS DWYER: Q. On 23 February, were you rostered on in
10 any way to assist for the SES?
11 A. I'm always rostered on.
12
13 Q. So you're on call at all times; is that correct?
14 A. Yes.
15
16 Q. Did you attend the music festival yourself?
17 A. No, I didn't.
18
19 Q. Did you receive any phone call on 23 February about
20 the persons that you'd sent?
21 A. I don't believe so.
22
23 Q. So there was a briefing on that day - if you could
24 take that from me. Did you receive any information on
25 23 February about the briefing that took place?
26 A. When the teams came back, we did a debrief but we
27 didn't go into the details of the briefing.
28
29 Q. I will ask you about that shortly. So at any stage on
30 23 February, prior to the briefing, were you informed by
31 police that the roles of the SES had changed in any way?
32 A. No.
33
34 Q. Were you ever told, during 23 February, by police that
35 police wanted your SES officers as independent persons
36 during strip searches?
37 A. No.
38
39 Q. Did you ever provide police with any further
40 information about whether or not the persons, the SES
41 officers sent had working with children checks?
42 A. Up to what date.
43
44 Q. At any time prior to 23 February?
45 A. Prior, no.
46
47 Q. At any stage after?

1 A. Yes.
2
3 Q. At what time, at what point?
4 A. Late September.
5
6 Q. Was that because you were contacted by police to ask
7 in late September whether or not those persons had working
8 with children checks?
9 A. Yes.
10
11 Q. Do those persons have working with children checks?
12 A. Yes.
13
14 Q. They have them as a result of the jobs that they do;
15 is that right?
16 A. I'm not sure where they obtained them. It may have
17 been through SES or personal life.
18
19 Q. Were you contacted by GEN4 at that time to ask you
20 that information?
21 A. I don't believe it was GEN4, but I don't recall the
22 name of the person.
23
24 Q. It was someone from the NSW Police; is that right?
25 A. Yes.
26
27 Q. You referred earlier to the briefing that took place
28 after the festival. That was on 23 February; is that
29 right?
30 A. The night of the 23rd, yes.
31
32 Q. You attended, along with the two SES officers who had
33 been there; is that right?
34 A. Yes.
35
36 Q. Did anybody else attend?
37 A. I don't believe so.
38
39 Q. Is there always a briefing, some sort of briefing,
40 between yourself and SES officers when they've gone out to
41 a job?
42 A. No.
43
44 Q. How did that briefing come about?
45 A. I was interested to know what work was performed so
46 I met them after to find out.
47

1 Q. What were you told?
2 A. That there had been searches involved, that that was
3 not expected, and we just detailed what that involved and
4 how that handled and were there any follow-ups that we
5 needed to do with the volunteers.
6
7 Q. When you were told that there were searches involved,
8 were you specifically told there were strip searches?
9 A. I don't believe so but it may have been implied.
10
11 Q. There were two officers that were sent, a male and
12 a female officer; is that right?
13 A. Yes.
14
15 Q. Were you told which of those officers was involved in
16 a search?
17 A. Both were.
18
19 Q. I see. And did they tell you how many numbers they
20 were involved in?
21 A. I don't believe we dived into the numbers.
22
23 Q. Did you have any expectation that the SES officers
24 would take notes of what took place during the festival?
25 A. No. Our normal interactions with police, the burden
26 is on police to document where required.
27
28 Q. Is it customary to have any debrief with police when
29 you've been involved in an operation with them?
30 A. On large coordinated events, yes, but it's not
31 a formal requirement.
32
33 Q. And was there any sort of debrief with police in
34 relation to your involvement with this festival?
35 A. Not from myself, no.
36
37 Q. Are you aware of any debrief at all between SES and
38 police after this music festival?
39 A. Not that I'm aware of.
40
41 Q. When your officers told you that they had been
42 involved in a search, did they tell you what they'd done?
43 A. Yes.
44
45 Q. What?
46 A. That they were present in the room during the
47 searches.

1
2 Q. And at that stage, did you think to yourself that that
3 involved strip searches?
4 A. Yes.
5
6 Q. Were you concerned at all that their role had changed?
7 A. I wasn't concerned for the members that I had sent,
8 given their professional experiences, that what they had
9 seen would cause problems, and I was asking if they were
10 going to require further peer support from what they had
11 seen.
12
13 Q. Have you ever expressed any concern to GEN4 or anyone
14 else from the NSW Police Force that the description you got
15 of what the officers would be doing was different to what
16 they were actually required to do on the day?
17 A. No, I have not.
18
19 Q. Are you concerned about that?
20 A. Given the current environment, I am becoming
21 concerned, but it has always been under the guidance of
22 police that there is a requirement for it to happen and,
23 given my knowledge of the people that I sent, if there was
24 a legal requirement for it to happen, I would want it to be
25 those people that I sent.
26
27 Q. Sure. And no doubt the SES is anxious to assist
28 police wherever they can; correct?
29 A. Yes.
30
31 Q. But it is important, isn't it, to get accurate
32 information about what your SES officers are being required
33 to do, so that you can send the right people to that job?
34 A. Definitely.
35
36 Q. Wouldn't you also want to make sure that they were
37 prepared properly to do that job?
38 A. Yes.
39
40 Q. And also that they were willing to do that job, before
41 they got there?
42 A. Correct.
43
44 Q. Because otherwise, might they not feel some pressure,
45 when they got there, to continue in the role, given that
46 the police wouldn't have had any other SES officers
47 available at short notice?

1 A. Correct.
2
3 Q. Have you been asked since 23 February to send any SES
4 officers to a music festival to assist?
5 A. Yes.
6
7 Q. On how many occasions?
8 A. One other occasion.
9
10 Q. And when was that?
11 A. Last weekend.
12
13 Q. Did you send SES officers to that festival last
14 weekend?
15 A. Yes.
16
17 Q. How many SES officers?
18 A. Three.
19
20 Q. Were they a mixture of male and female?
21 A. Yes.
22
23 Q. Did that involve liaising with GEN4 for that festival?
24 A. I don't recall the name of the officer that asked.
25
26 Q. I see. When you liaised with that officer, were you
27 given any instructions that time about what your SES
28 officers were to be doing?
29 A. I don't recall.
30
31 Q. Did you have an understanding with respect to the
32 music festival last weekend that they might be independent
33 persons at strip searches?
34 A. Yes.
35
36 Q. Did you then express that to the SES officers that you
37 sent?
38 A. I sent the same officers.
39
40 Q. So you assumed that they had that understanding?
41 A. Yes.
42
43 Q. Had they received any further direction from the
44 police or the SES, those officers, as to what being an
45 independent person for a strip search involved?
46 A. No.
47

1 Q. Was the music festival where they attended an all-ages
2 or under-ages festival?
3 A. All ages.
4
5 Q. All ages. So it would be anticipated that they might
6 be an independent person for a strip search of somebody
7 under the age of 18?
8 A. Correct.
9
10 Q. I think you said earlier that you are not aware of
11 what the legal requirements are for a support person in
12 those circumstances?
13 A. Correct.
14
15 Q. That's not a criticism, but nobody has ever informed
16 you what they are; is that right?
17 A. No.
18
19 Q. I take it, then, that you have never made any inquiry
20 as to what they are?
21 A. No.
22
23 Q. In relation to the third officer that you - I think
24 you said you sent three officers?
25 A. Yes.
26
27 Q. Two of them were the ones that attended the Good Life
28 Music Festival?
29 A. Correct.
30
31 Q. Was there a third officer who had not yet attended
32 a music festival?
33 A. Yes.
34
35 Q. Was that person given any specific instruction about
36 what the role might involve?
37 A. That person was aware.
38
39 Q. So did you tell that person that they might be
40 a support person in a strip search?
41 A. Yes.
42
43 Q. Did that person have a working with children check,
44 are you aware?
45 A. Yes.
46
47 Q. After that most recent festival, was there a debrief?

1 A. The team that attended did not stay at the event long
2 enough to do anything. They were withdrawn.
3
4 Q. They were withdrawn?
5 A. They were withdrawn before the event officially
6 started.
7
8 Q. Why was that?
9 A. There were concerns from my superiors.
10
11 Q. I see. What were those concerns?
12 A. Legal ramifications.
13
14 THE CHIEF COMMISSIONER: Q. Can I just tell you this -
15 I assume that you didn't know this, and I think we'll find
16 out that the other officers didn't know this - the
17 legislation requires that a strip search of a child - that
18 is, someone between the ages of 10 and 18 - must be
19 conducted in the presence of the parent or guardian, or, if
20 that is not acceptable to the person - some kids don't want
21 their parents to know, of course - in the presence of
22 another person who is not a police officer, that could be
23 an SES officer, volunteer, and who is capable of
24 representing the interests of the person being searched.
25 Now, that means, I think, they would have to know what are
26 the legal rights of the person being searched and be able
27 to raise those rights if they think the rights are being
28 interfered with. Do you understand that?
29 A. Yes.
30
31 Q. I think I'm right in saying that most SES officers
32 would not know the legal issues that are raised in a strip
33 search of a young person.
34 A. When dealing with police officers of this level,
35 I have never thought to question their understanding.
36
37 Q. Of course not, and present at an interview is an
38 altogether different thing. We're talking about a highly
39 invasive procedure on a young person. So the first
40 requirement is that, first of all, they have to be capable
41 of representing the interests of the person being searched,
42 which means they've got to know something about the legal
43 issues that arise in a search. I take it SES provides no
44 training in that respect?
45 A. No.
46
47 Q. Your expectation would be that the SES people that you

1 sent wouldn't know that?
2 A. No.
3
4 Q. Because you just didn't think it was an issue and,
5 anyway, you weren't sending them to attend a strip search?
6 A. Correct.
7
8 Q. You were just sending them to attend an interview;
9 correct?
10 A. Correct.
11
12 Q. The next thing is their presence has to be acceptable
13 to the person. That would require at least, I think, first
14 of all, the SES officer saying to the young person, "Well,
15 wouldn't you like to have your mum or your dad here", for
16 example, just to check whether or not they would prefer
17 a parent.
18
19 And then the question is, and then the issue is, that
20 it has to be acceptable to that person. Well, how are they
21 going to satisfy themselves that they are acceptable to the
22 person? Obviously you would have to have some kind of
23 conversation, and that would have to mention some
24 subjects - I don't need to go there now - but it would
25 require more, I think, than a police officer saying, "This
26 is the SES person. He's going to be here to watch while we
27 search", wouldn't it? And you're unaware of these
28 requirements?
29 A. Correct.
30
31 Q. And, as it happened - I hope I'm not using a loaded
32 term - your people were ambushed when they got there,
33 because they were not expecting strip searches and suddenly
34 they were expected to be present at strip searches as well.
35 So no chance for preparation?
36 A. Correct.
37
38 Q. It is a bit disappointing, don't you think, that,
39 firstly, the police did not inform you of what was really
40 required and, secondly, let you know something about what
41 the SES officers were expected to be able to do?
42 A. Correct.
43
44 Q. I mean, I can imagine quite a lot of people would say,
45 "Sorry, I don't really want to be present at a strip
46 search, and I certainly don't want to be present having to
47 take the side of some person as to their legal rights when

1 I don't know anything about their legal rights or not."
2 I think you would have to have a fairly risk-happy
3 personality to want to be placed in a position like that.
4 A. There would also have been a level of trust between my
5 SES officers and the police that the police would not put
6 them in a position that would lead to further issues.
7
8 Q. Right. But, of course, it wasn't for the police to
9 ensure that they were an acceptable person; it wasn't
10 a question that they were acceptable to the police, the
11 question was whether they were acceptable to the young
12 person. Obviously that has to be done person by person.
13 So these were complications of which you were unaware.
14 A. Correct.
15
16 Q. And, indeed, until I've explained them to you now, you
17 were still unaware; correct?
18 A. Correct.
19
20 Q. Do I correctly understand now - do you understand now
21 the SES is, at least at present, not happy about its
22 officers being used in this way?
23 A. Correct.
24
25 THE CHIEF COMMISSIONER: Yes, go on, Ms Dwyer.
26
27 MS DWYER: Chief Commissioner, you anticipated my
28 questions about the legislation.
29
30 Q. Do you understand, then, that - is there any
31 memorandum of understanding or further plan for
32 a discussion between the SES and the police as to the
33 future?
34 A. I have recently found an existing MOU between the two
35 services that exists and may be reviewed, given recent
36 events.
37
38 Q. What is the title of that MOU?
39 A. MOU between police and SES, I don't remember the exact
40 title.
41
42 Q. So it's just a general MOU?
43 A. It's a broad MOU.
44
45 Q. What does that cover, are you aware?
46 A. Interactions between police and SES and what each
47 party will do.

1
2 Q. How would --
3
4 THE CHIEF COMMISSIONER: Q. So it is a much wider
5 document than this particular case?
6 A. Yes.
7
8 Q. Would you have it immediately available to you on
9 computer if you were to go back to your office? Would it
10 be easy for you to get access to it?
11 A. No.
12
13 THE CHIEF COMMISSIONER: Ms Chapman, would you be so good
14 as to provide it to Ms Raice?
15
16 MS CHAPMAN: I will make inquiries, Chief Commissioner.
17
18 THE CHIEF COMMISSIONER: Thank you.
19
20 Does anybody want to ask any more questions?
21
22 MS DWYER: Nothing further.
23
24 THE CHIEF COMMISSIONER: Thank you very much. You are
25 free to go. But also it is a public hearing. You have two
26 of your volunteers here. If you wish to hear their
27 evidence you are perfectly welcome to sit in the back of
28 the court.
29
30 THE WITNESS: Thank you.
31
32 <THE WITNESS WITHDREW
33
34 MS DWYER: I call GEN17.
35
36 MS K LLEWELLYN: May it please the Commission, I seek
37 authorisation to appear for GEN16, the following witness.
38 My name is Llewellyn. I also seek authorisation for my
39 colleague, Azzopardi.
40
41 THE CHIEF COMMISSIONER: Certainly. That leave is
42 granted.
43
44 MR PATTERSON: Chief Commissioner, my name is Patterson.
45 I seek your leave to represent GEN17. He will take an oath
46 and asks for the declaration.
47

1 THE CHIEF COMMISSIONER: Certainly. I think we are
2 dealing with GEN16 first. I'm not certain. Are we?
3
4 MS DWYER: It's GEN17 first, Chief Commissioner.
5
6 THE CHIEF COMMISSIONER: All right.
7
8 <GEN17 sworn: [2.40pm]
9
10 THE CHIEF COMMISSIONER: Please sit down.
11
12 THE WITNESS: Thank you.
13
14 THE CHIEF COMMISSIONER: I note that you are represented
15 by a solicitor, and I am sure that solicitor has told you
16 the things that I'm about to tell you, but there are some
17 things I need to tell you myself.
18
19 THE WITNESS: Okay.
20
21 THE CHIEF COMMISSIONER: First of all, you must answer
22 every question that you are asked, unless I tell you you
23 don't have to.
24
25 THE WITNESS: Okay.
26
27 THE CHIEF COMMISSIONER: You must produce anything that
28 you're asked to produce, again, unless I tell you you don't
29 have to.
30
31 THE WITNESS: Okay.
32
33 THE CHIEF COMMISSIONER: You may object to answering
34 a question, and you may object to producing anything, but
35 you must nevertheless answer and you must nevertheless
36 produce.
37
38 The effect of your objection is that nothing that you
39 say or produce can be used against you in any proceedings,
40 except proceedings under the Law Enforcement Conduct
41 Commission Act for perjury or contempt.
42
43 THE WITNESS: I understand.
44
45 THE CHIEF COMMISSIONER: I can make a declaration that
46 avoids the necessity for you to object to each question or
47 object to each request, and I take it you would like me to

1 make such a declaration? The answer is "Yes".

2

3 THE WITNESS: Yes.

4

5 THE CHIEF COMMISSIONER: I make a declaration pursuant to
6 section 75 that all answers and other things given by this
7 witness will be regarded as having been given on objection
8 by the witness.

9

10 Thank you, Dr Dwyer.

11

12 <EXAMINATION BY MS DWYER:

13

14 MS DWYER: Q. Sir, you understand that in this inquiry
15 you are to be known as GEN17, that codename?

16 A. I do now.

17

18 Q. In front of you I think there's a schedule of
19 codenames with other fellow SES officers - do you see that?

20 A. Yes, that's correct.

21

22 Q. And a number of police officers are also listed there.
23 Sir, you have a role currently as a volunteer within the
24 SES; is that right?

25 A. Correct.

26

27 Q. What is your title as volunteer? Is there any
28 specific category that you have within the SES?

29 A. I'm a team leader.

30

31 Q. How long have you had a role within the SES?

32 A. Ten years last month.

33

34 Q. How long have you been a team leader?

35 A. Probably for the last five years, minimum.

36

37 Q. And what does that role entail?

38 A. I direct a team of up to four people on jobs as deemed
39 appropriate through our local controller. I take
40 responsibility for their safety, wellbeing and the
41 completion of the task, whether that be as a senior role or
42 driving the truck or instructing the other members of my
43 team on their duties to perform in a task.

44

45 THE CHIEF COMMISSIONER: Q. By and large, what tasks do
46 you perform? I assume every team has, to a degree, its
47 particular area of interest or capacity. By and large,

1 what does your team do?
2 A. Well, we base our teams on their skill sets. So if
3 there is roof damage, then obviously we need to have
4 someone who is qualified to get on a roof, which
5 necessitates a number of years of training. If they are
6 using a chain saw, they have to be chain-saw qualified.
7 Most of the team members would have had to have done
8 first-aid as a prerequisite. There's a fairly rigid
9 structure involved.
10
11 Q. So your team helps with those sorts of emergencies?
12 A. Correct.
13
14 MS DWYER: Q. Sir, that's a voluntary position, as team
15 leader; is that right?
16 A. Yes, that's correct.
17
18 Q. You have paid employment elsewhere; is that right?
19 A. I do.
20
21 Q. What line of work do you do. We don't need to ask
22 where you work, but what sort of job?
23 A. I'm a patient transport officer for an independent
24 hospital and I'm also a wardsperson at a public hospital,
25 as a casual. So my permanent role is patient transport,
26 full-time.
27
28 Q. Do you have a working with children check?
29 A. Yes, I do.
30
31 Q. Have you got that because of your professional roles
32 elsewhere outside the SES?
33 A. Yes, but both: I have volunteers working with
34 children and for paid employment.
35
36 Q. On 23 February this year, you were asked to perform
37 a role for the SES at a music festival for under-18s; is
38 that right?
39 A. That's right, yes.
40
41 Q. What were you told that your role would be on that
42 day --
43
44 THE CHIEF COMMISSIONER: Q. First of all, who asked
45 you, if their name is on the list?
46 A. GEN18, [NAME SUPPRESSED].
47

1 MS DWYER: Q. What did he ask you to do?
2 A. He approached me to see if I prepared to act as
3 a support person as a volunteer at a music festival.
4
5 Q. Was there any further information about what that
6 would involve?
7 A. Before we got to the venue, only inasmuch as I believe
8 acting as a support person/guardian for the police
9 interviewing minors or kids at the festival.
10
11 THE CHIEF COMMISSIONER: Q. Had you performed that role
12 before?
13 A. No.
14
15 MS DWYER: Q. Was that information, that you would be
16 a support person or guardian for police interviewing
17 minors, given to you by GEN18 or by somebody else?
18 A. I would suggest it was somebody else that gave it to
19 [NAME SUPPRESSED] but then on-forwarded it to me. So from
20 the police to [NAME SUPPRESSED], I think that was the
21 chain, like chain of command.
22
23 THE CHIEF COMMISSIONER: Q. Try not to use his name.
24 A. Sorry, okay.
25
26 Q. Many witnesses are happy and they don't mind giving
27 their names, but the Commission has generally taken the
28 view that, unless there are good reasons, people's privacy
29 should be protected. We just have an absolute rule about
30 it. So if you wouldn't mind using the code.
31 A. The code? Okay.
32
33 MS DWYER: Q. So you got some information prior to or
34 close to 23 February that it would involve being a support
35 person in an interview?
36 A. Yes.
37
38 Q. When you got to the festival, did you go to any
39 briefing where police were at?
40 A. Yes. We were escorted in to the police area and, on
41 arrival, I had to make a phone call to the officer in
42 charge.
43
44 Q. Does the name of that officer in charge who you made
45 a phone call to appear on the codename list?
46 A. I can't recall any of those names.
47

1 Q. When you made that phone call --
2
3 THE CHIEF COMMISSIONER: Q. Are you saying that you
4 think it was someone else or you just don't know?
5 A. I don't know.
6
7 MS DWYER: Q. When you made that phone call, were you
8 given any specific information about your role?
9 A. No. Someone came out and greeted myself and escorted
10 us into the arena.
11
12 THE CHIEF COMMISSIONER: Q. You were with one other
13 officer?
14 A. Correct.
15
16 Q. A female?
17 A. GEN16.
18
19 THE CHIEF COMMISSIONER: Thank you.
20
21 MS DWYER: Q. You were escorted then where, sorry?
22 Which area?
23 A. Into the police compound.
24
25 Q. And after you got into the police compound, were any
26 further instructions given to you about what your role
27 would be on that day?
28 A. Yes.
29
30 Q. By whom? And again if you can look at the list and
31 see if you recognise their name there at all?
32 A. I can't - I don't recognise the names, but it was
33 a senior police person present at the venue.
34
35 Q. And is it possible that their name is on the list and
36 you don't recall?
37 A. It's possible.
38
39 Q. What information were you given?
40 A. Apart from the fact that we were there as a support
41 person, that would we object to witnessing searches.
42
43 Q. When you were asked about searches, were there any
44 details given about what type of searches?
45 A. No.
46
47 Q. Did you assume that that meant searches when persons

1 were detained after drug detections or possible drug
2 detections?
3 A. Yes.
4
5 Q. Did you anticipate that that might involve strip
6 searches?
7 A. Not initially. Not until the first one.
8
9 THE CHIEF COMMISSIONER: Q. I bet that was a bit of
10 a shock?
11 A. Yes, at the time, yes.
12
13 Q. You weren't expecting it?
14 A. I was not.
15
16 Q. That was what I meant.
17 A. I was not expecting it.
18
19 MS DWYER: Q. You said "the first one" - how many strip
20 searches did you witness?
21 A. Approximately six. I can't be exactly sure, but
22 around that figure.
23
24 Q. Before you witnessed the first strip search, were you
25 given any instructions about what the role of an
26 independent person in those circumstances involved?
27 A. Yes, with the kids that were introduced, I was
28 introduced as a support person to be there on their behalf.
29
30 Q. So is that the extent of the information that was
31 given, about what that role entailed?
32 A. At the time, yes.
33
34 Q. So the first time that you were asked to perform that
35 role, was that information given to the young person in
36 your presence - that is, "Here's Joe Bloggs. This person
37 is here to act as your support person"?
38 A. Yes, I was introduced as a volunteer from the SES and
39 I was there as their support person if they required it.
40
41 Q. At that time, were you asked to go and speak with the
42 young person away from police?
43 A. No.
44
45 Q. So at any time did you speak to the young person in
46 the absence of or out of earshot from police?
47 A. No.

1
2 THE CHIEF COMMISSIONER: Q. Can I just give you a bit
3 more information. One of the reasons for the support
4 person, as you rightly say, was to be there on behalf of
5 the child, to look after the child's interests.
6 A. Yes.
7
8 Q. Well, the child had certain legal rights in that
9 situation, aside from what you might guess to be so as
10 a layperson.
11 A. Mmm.
12
13 Q. Do I correctly understand you knew none of what their
14 actual legal rights were?
15 A. That would be correct.
16
17 Q. Obviously, they ought not to be bashed or that kind of
18 thing?
19 A. No.
20
21 Q. And you wouldn't allow that to happen?
22 A. No.
23
24 Q. Or abuse or - obviously you would stop that straight
25 away?
26 A. Yes.
27
28 Q. But their legal rights went further than that --
29 A. Mmm.
30
31 Q. -- but you were not aware of those?
32 A. I was not.
33
34 Q. You see, one of the legal rights they had was they had
35 to be given the opportunity for their parent or guardian to
36 be present, and an independent person was secondary.
37 A. Yes.
38
39 Q. So one of the things, had you known it, which would be
40 part of your responsibility, would be to say to them,
41 "Listen, would you prefer to have your mum or dad here?
42 Can you give me a number? Can I call them?" So you cover
43 that?
44 A. Mmm-hmm
45
46 Q. Now, you might assume the police had done that, but
47 the police are not there to look after the interests of the

1 child, that's your job, or the independent person's job.
2 Do you see what I mean?
3 A. Yes.
4
5 Q. The next thing is if they don't want to have their
6 parent or guardian there - and you can understand it,
7 sometimes kids don't want their parents to know what they
8 have been up to.
9 A. Yes, that did happen, actually.
10
11 Q. Yes, I'm sure. But then, the independent person must
12 be someone acceptable to the young person. It's not enough
13 that you're acceptable to the police; you have to be
14 acceptable to the young person.
15 A. Yes.
16
17 Q. Now, that means, obviously, some kind of conversation
18 that gives the young person a means of knowing whether or
19 not you're acceptable to them; do you understand that?
20 A. I understand that.
21
22 Q. None of this was explained to you, as I hear what
23 you're telling me?
24 A. Not to me personally from the police, but the police
25 at the time of the search explained to the child, or the
26 kid, that I was a volunteer and acting in an independent
27 way.
28
29 Q. I understand that.
30 A. Yes.
31
32 Q. But that's only part of the requirement.
33 A. Yes.
34
35 Q. Let me tell you something else about strip searches.
36 In order to have a valid, lawful strip search, the police
37 must have a reasonable suspicion that there is, in this
38 case, the possession of drugs that would justify a strip
39 search; right?
40 A. Mmm.
41
42 Q. Now, obviously, the police might well have that
43 suspicion, but before it's lawful, that has to be
44 established.
45 A. Yes.
46
47 Q. And an independent person would, I think, have to make

1 sure, at the very beginning, that a strip search was
2 lawful, because you are there to look after the child, and
3 if it is unlawful, it shouldn't take place; correct?
4 A. Correct.
5
6 Q. But you were not given any information about what
7 might make a lawful strip search?
8 A. No.
9
10 Q. Nor were you given any information about the kinds of
11 things that could be done in a strip search - namely, the
12 way a strip search needs to be conducted?
13 A. Yes.
14
15 Q. Your assumption was, absent any obvious oppression or
16 abuse or violence, your understanding would be that the
17 police would do it in accordance with their police
18 regulations?
19 A. Yes, I assumed that.
20
21 Q. But you didn't know what those regulations were, so
22 you were very much in a position of trusting that the
23 police officers would do the right thing?
24 A. Correct.
25
26 Q. And the difficulty with that is, if you're
27 representing the interests of the child, that's
28 inconsistent with trusting what the police are doing,
29 because you are there, as it were, as an invigilator;
30 you're there to check on what they are doing - do you
31 understand?
32 A. Yes.
33
34 Q. So the role is quite a complicated and difficult one.
35 A. I agree.
36
37 Q. If a police officer had explained to you before you
38 agreed to take part in the search what these requirements
39 were, do you think you might have said, "I'm sorry, you've
40 got to get someone else", or do you think you still would
41 have done it?
42 A. Personally, I think I would have done it, because
43 I think the vetting process through GEN18 was done
44 reasonably well, as best as we could establish, because
45 I was asked whether I had a working with children check,
46 because of the nature of my role in my private life, my
47 full-time position, my years of experience all counted

1 towards me being a suitable person to perform --
2
3 Q. There's no question that you were morally and
4 ethically suitable.
5 A. Yes.
6
7 Q. The question is legally appropriate, which is an
8 altogether different question.
9 A. Well, yes, I - legally, I - probably not.
10
11 Q. Well, what you would have to say to them is "I'm
12 sorry, I don't know" --
13 A. My best intention.
14
15 Q. Yes, "I don't know anything about these rules"?
16 A. I don't know anything about those rules.
17
18 Q. And as I understand your position, you would have
19 taken the view, "Well, better me than no-one"?
20 A. That's correct.
21
22 Q. And "At least I can make sure nothing bad happens"?
23 A. When it was explained what the search involved at the
24 concert, yes, that if it wasn't for us being there, then
25 there was no-one else available, so I personally thought
26 I was --
27
28 Q. You were doing what you could to help?
29 A. Correct.
30
31 MS DWYER: Q. If you did agree to perform that role and
32 you were told that it involved various legislative
33 requirements, you would want to know exactly what they were
34 beforehand, wouldn't you?
35 A. Yes.
36
37 Q. You would want to see them set out and have a copy of
38 them with you so that you could clearly understand them?
39 A. In hindsight, yes.
40
41 Q. Were you ever told by anybody that, in fact, by being
42 present during a search, it might mean that you would have
43 to go to court at a subsequent date?
44 A. No.
45
46 Q. Is that something that would cause you to want to have
47 a clear understanding of what your legal obligations were

1 if you were subsequently having to justify your actions in
2 court?
3 A. Absolutely.
4
5 Q. Were you --
6
7 THE CHIEF COMMISSIONER: Q. You said that you attended
8 six searches?
9 A. Around that figure.
10
11 Q. And they were all strip searches?
12 A. I can't recall whether they were all strip searches.
13 They were all searched, but to varying degrees.
14
15 Q. So was, in any of them, the young person stripped
16 naked?
17 A. Yes, one in particular, that I remember clearly.
18
19 Q. You can remember clearly?
20 A. Yes.
21
22 Q. Was that one where drugs were found?
23 A. Yes.
24
25 Q. Can you recall where the drugs were found?
26 A. I can.
27
28 Q. Where were they found?
29 A. In a condom and they were secreted in his back
30 passage, which he removed.
31
32 Q. He volunteered them?
33 A. Yes.
34
35 Q. Sort of at the beginning, I think there was probably
36 an exchange like, "Are you carrying anything", "Yes"?
37 A. Correct.
38
39 Q. And produced the drugs?
40 A. Correct.
41
42 Q. Then I assume - or you would assume the search
43 continued just to see if there was anything else concealed?
44 A. Once he produced the condom and had put it on the
45 table, the police that I was witness to at that stage said,
46 "Fine, you can get dressed", and we went to an interview
47 after that, because he'd actually produced what they were

1 suspicious that he had.
2
3 Q. So that conversation occurred when he was already
4 naked, that exchange? Or he volunteered when he was naked?
5 A. He volunteered when he was naked. Well, he was - he
6 actually told the police before he was naked where they
7 were, and they wanted him to strip off and remove the
8 condom, and then once that was on the table, "Right, you
9 can get dressed".
10
11 Q. Then was he subsequently interviewed by police?
12 A. Yes.
13
14 Q. Were you present at that interview?
15 A. I was.
16
17 Q. He admitted to carrying those drugs?
18 A. Yes.
19
20 Q. Was there any other, can you remember, young person
21 who was stripped completely naked in your presence?
22 A. One other that I would probably distinctly remember,
23 but the others are a bit vaguer, but it was for a very
24 short period of time.
25
26 MS DWYER: Q. What were the circumstances of that
27 particular interaction - that is, did that young person
28 have any drugs on them?
29
30 THE CHIEF COMMISSIONER: Q. The one where you have
31 a clear recollection.
32 A. They had a tablet or some substance, yes.
33
34 MS DWYER: Q. Did they remove that tablet willingly?
35 A. Yes. Yes.
36
37 Q. Were there two officers present in the strip searches
38 that you were present for?
39 A. Yes, for all of them.
40
41 Q. I will just show you a photograph which is taken
42 from --
43
44 THE CHIEF COMMISSIONER: Q. Could I just come back to
45 that one where there was a pill - how was it produced, or
46 was it discovered? Can you recall how it came to light?
47 A. It wasn't secreted on their - in an orifice; it was in

1 their personal possessions.
2
3 MS DWYER: Q. On that occasion, once it was produced
4 from the personal possessions, was the young person
5 stripsearched?
6 A. No. It stopped at that point and then we - the young
7 person was asked to get dressed and then proceed out of the
8 booth to a table where the interview took place.
9
10 Q. With that particular young person, was the young
11 person fully naked at any one point in time?
12 A. I can't recall if they were fully naked.
13
14 Q. And what about for the young --
15 A. But partially --
16
17 Q. Sorry.
18 A. Partially. The gentleman with the condom was fully
19 naked. That one I do recall because that was probably the
20 most significant --
21
22 THE CHIEF COMMISSIONER: Q. It's easy to understand why
23 you would recall it.
24 A. Yes.
25
26 MS DWYER: Q. I am going to show you a photograph which
27 has the barcode 8405723. It's a photograph of a particular
28 mental pod or shed, which is circular in nature. Do you
29 recognise that?
30 A. Yes, I do.
31
32 Q. Is that the searching pod that you were inside in any
33 one of those searches?
34 A. Yes, it was very similar to that.
35
36 Q. So for each of the six or so searches that you recall,
37 were they conducted inside that pod?
38 A. Yes.
39
40 THE CHIEF COMMISSIONER: Q. Was the door open or closed,
41 do you remember?
42 A. Closed.
43
44 Q. For a young person to be stripsearched, to whatever
45 degree, is obviously a fairly gross interference with their
46 personal space, as it were; do you agree?
47 A. Yes.

1
2 Q. And to have three adult males there at the same time
3 in a closed room within a short space of them is not likely
4 to reduce anxiety?
5 A. Not likely, no. No, it would be --
6
7 Q. You would expect it to increase anxiety?
8 A. Yes.
9
10 Q. You, however, were not in charge of anything?
11 A. No.
12
13 Q. So you were there more or less passively?
14 A. Correct.
15
16 Q. Did you attempt to communicate with the young people
17 to say, "Listen, it's not going to be long", or, "Don't
18 worry, you'll be okay", or did you feel you should just
19 stay out of that and just let the police do their job?
20 A. For the physical search, it was just let the police do
21 their job, and I had more interaction once we sat down at
22 the table, once they were dressed.
23
24 MS DWYER: Q. On either of the occasions that you have
25 just told the Chief Commissioner about, where you recall
26 a strip search, do you recall the police asking questions
27 of the young persons while they were being searched?
28 A. Yes.
29
30 Q. Questions about what drugs they had on them, for
31 example?
32 A. Yes.
33
34 Q. And where they might have got the drugs from?
35 A. That was probably a question at the interview
36 afterwards. They were more concerned with where they had -
37 were they in possession of drugs before the search or
38 during the search.
39
40 Q. Do you recall on either of those two occasions
41 a police officer taking notes?
42 A. They --
43
44 THE CHIEF COMMISSIONER: Q. Whilst the search was going
45 on?
46 A. No, not whilst the search was going on.
47

1 MS DWYER: Q. Did you have an expectation that, where
2 you were the independent person, a police officer would be
3 taking a note of you being there?

4 A. During the actual search, no.

5
6 Q. Or at some stage soon after, so that there would be
7 a record of your involvement?

8 A. There was definitely a record. Every interview
9 I signed personally, and I was asked to sign based on the
10 fact that it was a true and accurate representation -
11 record of the conversation. I signed it with my name, SES
12 Parramatta and the date.

13
14 THE CHIEF COMMISSIONER: Q. So were you present at
15 searches where nothing was found?

16 A. I don't believe so - I don't - I can't recall a
17 hundred per cent, but I believe most of the - I don't
18 believe any of the people that were searched were let back
19 into the concert. So the assumption being that they had
20 been caught with something on them and they were given a -
21 there was a ban notice. The police had a book for a ban
22 notice and they were actually escorted out of the building.

23
24 Q. We have been told that a number of kids were ejected
25 where nothing was found, so it doesn't follow from ejection
26 that something had been found. I am just testing your
27 memory a bit. If you can't say, you can't say. Don't
28 guess, but were you at - I suppose the test would be there:
29 if they found drugs, I think they would almost invariably
30 follow it with an interview, however brief?

31 A. Yes.

32
33 Q. So, as you recall it, did you attend an interview in
34 relation to each of the persons who you were present at
35 when they were searched?

36 A. I believe so, yes.

37
38 Q. So I think we can infer from that that something was
39 found, because there was something to interview them about?

40 A. That's right, yes.

41
42 MS DWYER: Q. Have you ever been shown any record with
43 respect to any of the searches that you undertook?

44 A. No.

45
46 MS DWYER: Chief Commissioner, I tender documents which
47 appear behind tab 11 of the brief of evidence. They begin

1 at barcode 8453401 and they end at barcode 8453443. They
2 are the COPS entries with respect to each of the strip
3 searches that took place as far as we have had them
4 confirmed to be strip searches.

5
6 Can I indicate that 8453402 and 8453403 is the only
7 one record there where this witness is nominated as
8 a support person.

9
10 THE CHIEF COMMISSIONER: That's not a criticism of you,
11 that's a criticism of the record-keeping.

12
13 EXHIBIT #31C COPS ENTRIES WITH RESPECT TO EACH OF THE STRIP
14 SEARCHES THAT TOOK PLACE BARCODED 8453401-8453443

15
16 MS DWYER: Q. After 23 February, is it the case that you
17 were asked on a further occasion, recently, to act as
18 a support person again?

19 A. Yes.

20
21 Q. That is with respect to a music festival, was it last
22 weekend?

23 A. That's correct.

24
25 Q. Prior to that time, did you receive any more
26 instruction as to what that role entailed - that is, being
27 a support person during a strip search?

28 A. Yes. There was an email sent that I got a copy of,
29 stating to the effect that it would be a similar role to
30 what I performed at the under-18s concert in February.

31
32 THE CHIEF COMMISSIONER: Q. But giving you no more
33 information about what your duties, as it were, would
34 entail?

35 A. It specifically mentioned searching, not
36 stripsearching.

37
38 Q. And being present?

39 A. And being present.

40
41 MS DWYER: Q. But no further indication or no indication
42 as to what your legal obligations were, for example?

43 A. No.

44
45 Q. And no further indication as to what the rights of the
46 child were, who was being stripped and being searched?

47 A. No, only that it was an over-18s event, which was

1 different than the first one.
2
3 Q. I see. But no indication as to the rights of the
4 person that was being searched; correct?
5 A. No.
6
7 Q. And then is it the case that you attended that
8 festival?
9 A. Yes.
10
11 Q. And then, prior to it commencing, you were, in fact,
12 withdrawn from the festival; is that correct?
13 A. That's correct, yes.
14
15 Q. Are you aware of any update with respect to the SES
16 being involved as support persons for patrons at music
17 festivals in the future?
18 A. No, but I have my suspicions it won't happen again.
19 The.
20
21 MS DWYER: Nothing further, thank you, Chief Commissioner.
22
23 THE CHIEF COMMISSIONER: Well, frankly, it's too hard.
24 I think that's the reality of it. Anyway, we'll wait and
25 see. Thank you, you are free to go.
26
27 THE WITNESS: All right. Thank you.
28
29 THE CHIEF COMMISSIONER: If you wish to stay to hear the
30 evidence of your companion on that day, you are certainly
31 free to do so, but you are free to leave is you wish.
32
33 THE WITNESS: Thank you very much.
34
35 THE CHIEF COMMISSIONER: The community also, if I may say
36 so on its behalf, thanks you for your commitment to helping
37 the community in the way that you do, and all members of
38 the SES.
39
40 THE WITNESS: Thank you.
41
42 <THE WITNESS WITHDREW
43
44 MS DWYER: I call GEN16.
45
46
47

1 <GEN16, affirmed: [3.10pm]

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THE CHIEF COMMISSIONER: Please be seated.

I must confess that I overlooked the possibility that someone at the Bar table might have wished to ask any questions. The witness has actually not left the court. Is there anyone that has any questions or would like to ask any questions? I assumed that there weren't any. Thank you.

Thank you for coming. I have no doubt you have been advised of the things that I'm about to tell you, but I need to tell you myself.

You must answer all questions that you are asked unless I say you don't have to, and you must produce anything that you are asked to produce unless I say you don't have to.

You can object to answering questions or producing anything, but even if you do object you must nevertheless answer the question, and you must nevertheless produce what you are asked to produce.

The effect of your objection, however, is that your answer cannot be used in any other proceedings against you, except proceedings under the Law Enforcement Conduct Commission Act for perjury or for contempt.

Now, I can make a declaration that all your answers are to be taken to having been given under objection, and anything produced is to be taken to have been produced under objection, to save you the trouble of objecting each time. Do you wish me to make such a declaration? The answer is "Yes".

THE WITNESS: Yes.

THE CHIEF COMMISSIONER: I make a declaration pursuant to section 75 that all answers and other things given by this witness will be regarded as having been given on objection by the witness.

<EXAMINATION BY MS DWYER:

MS DWYER: Q. Ma'am, do you understand that within this



1 inquiry you are to be referred to by the codename GEN16?
2 A. Mmm-hmm.
3
4 Q. In front of you there is a list of codenames for other
5 people. I might ask you, for example, a question that
6 involves an answer about your colleagues from the SES. If
7 I could just ask you to use their codenames, please.
8
9 First of all, how long have you been volunteering with
10 the SES for?
11 A. Four years in February.
12
13 Q. And do you have a specific title within the SES?
14 A. Volunteer.
15
16 Q. Is it the case that you have paid employment
17 elsewhere?
18 A. I do.
19
20 Q. What is the nature of that work?
21 A. I am a medical receptionist.
22
23 Q. What training did you do when you started with the
24 SES, if any? Was there a basic course that you had to do?
25 A. So we did the fundamentals course, so, like, you apply
26 to SES and then they do - they put on the courses for you.
27
28 Q. Did the fundamentals course involve basic first-aid,
29 for example?
30 A. There's another course for first-aid, senior
31 first-aid, yes.
32
33 Q. The Chief Commissioner has already heard that there
34 are a number of different training modules that you can do
35 within the SES; correct?
36 A. Yes.
37
38 Q. Do you have a working with children check?
39 A. I do.
40
41 Q. Have you got a volunteer working with children check
42 or have you got a working with children check through your
43 normal course of employment?
44 A. It's volunteer and paid.
45
46 Q. You attended a music festival on 23 February this year
47 for under-18s; is that right?

1 A. Correct.
2
3 Q. And have you ever attended a music festival in your
4 capacity as an SES volunteer prior to that time?
5 A. No.
6
7 Q. Who asked you to attend the music festival?
8
9 THE CHIEF COMMISSIONER: Q. Use the --
10 A. Yes, and thank you for that reminder. So GEN18.
11
12 MS DWYER: Q. When GEN18 asked you to attend the music
13 festival, what was the request? What did he say?
14 A. I believe it was that the police are attending the
15 festival and that they have requested for support people
16 and have asked for a couple of volunteers from SES to
17 attend.
18
19 Q. And was there any further information about what being
20 a support person involved?
21 A. The basic understanding I had was that we were going
22 there to support people or underage persons that have been
23 caught with drugs and that they need to have a third person
24 with them - because they're under age, they can't be
25 interviewed by themselves, they need to have a third
26 person.
27
28 THE CHIEF COMMISSIONER: Q. So your job was to be there
29 as a witness when they were being interviewed?
30 A. Yes.
31
32 MS DWYER: Q. Had you ever performed that role as an
33 interview support person for a young person prior to that
34 time?
35 A. No.
36
37 Q. Were you informed at all about what the legal rights
38 of the young person were in that environment?
39 A. I believe it was just - from memory, that it was just
40 that underage persons cannot be interviewed without
41 a parent or guardian present.
42
43 Q. Without a parent or guardian, what was the role of
44 that support person, then?
45 A. To act as that third party.
46
47 Q. To act as a parent or guardian, in those

1 circumstances; is that right?
2 A. I don't believe so, just to be a neutral, unbiased
3 person.
4
5 Q. And no further instruction than that?
6 A. No.
7
8 Q. When you arrived at the festival, did you attend any
9 briefing where police spoke about that role?
10 A. It was an informal conversation. So as
11 I was talking - I can't remember who I was talking to, but
12 they were looking at the floor, how everything was set up,
13 and, "This is where you will be today. If anyone gets
14 caught with drug charges, they will be interviewed here in
15 plain sight, and then if there happens to be a female who
16 needs to be searched and there is no female police officer,
17 we may ask you to attend for that person's comfort or what
18 have you".
19
20 Q. When you say "comfort or what have you", doing the
21 best that you can - I appreciate it was some months ago -
22 do you recall whether you were told anything about what
23 your role would be in a search?
24 A. I can't recall exactly what they said.
25
26 Q. But it was to the effect that you would be required
27 only if a female officer couldn't perform that role?
28 A. I believe so.
29
30 Q. Were you told that that might involve the strip search
31 of a child?
32 A. I don't recall the word "strip search" being used.
33
34 Q. Did you envisage at that stage, not having done the
35 job before, that it might involve a strip search?
36 A. I didn't picture that, no.
37
38 Q. At that time, it must have occurred to you that that
39 role, of being there when a search was taking place, was
40 different to the one that you had been asked to do about
41 accompanying a young person when they were being
42 interviewed?
43 A. Sorry, can you repeat that?
44
45 Q. Did it dawn on you at that stage that that was
46 a different role to just being in with a child when they
47 were being interviewed?

1 A. I'm not sure.
2
3 Q. So when the police used the term "search", you were
4 not concerned about your role with a young person who was
5 searched?
6 A. So I could see that there were booths, but I wasn't -
7 I'm not sure, sorry.
8
9 Q. I will just ask you this question --
10
11 THE CHIEF COMMISSIONER: Q. No, but you were told that
12 you might need to be present at a search?
13 A. Yes.
14
15 Q. In your own mind, what did you think the search would
16 involve?
17 A. Like, searching pockets, things like that. I didn't
18 picture in my head --
19
20 Q. So a sort of pat-down search?
21 A. Yes.
22
23 Q. It didn't occur to you that people might be stripped
24 naked in your presence?
25 A. No, that didn't occur to me.
26
27 MS DWYER: Q. Were you in fact present for any strip
28 searches?
29 A. No.
30
31 Q. Of any young people?
32 A. No.
33
34 Q. During the course of the day, were you located in the
35 area surrounding the pods where young people were searched?
36 A. Yes.
37
38 Q. And were you present for any interviews of young
39 persons?
40 A. Yes, in the general area with all the tables.
41
42 Q. Did you become aware that your colleague, GEN17, was
43 present for some stripsearching of young people?
44 A. I was not aware.
45
46 Q. So is it the case that you have subsequently become
47 aware of that after 23 February?

1 A. Yes.
2
3 THE CHIEF COMMISSIONER: I think that probably exhausts
4 the subject.
5
6 MS DWYER: Just excuse me one moment.
7
8 Q. Have you been asked since that date to appear at any
9 music festival to perform the role of a support person?
10 A. Yes.
11
12 Q. And was that in relation to the music festival that
13 was held last weekend?
14 A. Yes.
15
16 Q. And you attended that music festival?
17 A. Yes.
18
19 Q. And you were subsequently withdrawn from the festival
20 before it started; correct?
21 A. It had started. We were there for an hour and then we
22 were asked to leave.
23
24 Q. Did you act as a support person for any strip
25 searches - for any patrons in that hour?
26 A. No.
27
28 THE CHIEF COMMISSIONER: Q. Sorry, asked to leave by
29 whom?
30 A. I received a text message from GEN18 that we would be
31 asked to leave, and then the female officer in charge of
32 that event came up --
33
34 Q. Police officer?
35 A. Yes.
36
37 Q. Right, came over to you and said?
38 A. Said that someone in SES, in the chain of command, has
39 called her to ask us - or to leave the premises.
40
41 THE CHIEF COMMISSIONER: Thank you. You are free to go.
42 Thank you very much for your help.
43
44 THE WITNESS: Okay, thank you.
45
46 THE CHIEF COMMISSIONER: While you are there, though, may
47 I, on behalf of the community, thank you for your service

1 with the SES. It is extremely important and very helpful
2 to people who are in need. So thank you for volunteering.

3
4 THE WITNESS: Thank you.

5
6 <THE WITNESS WITHDREW

7
8 THE CHIEF COMMISSIONER: Again, I assumed there were no
9 questions.

10
11 That completes our present witness list and hearings.
12 We will be having hearings in the new year. You will be
13 informed of the dates. They are likely to focus on the
14 psychological issues raised by stripsearching of young
15 persons, but you will be given notice of the evidence which
16 is proposed to be led and the hearing dates. I expect it
17 will be in late January, early February. Because of the
18 time of year, to collect this evidence will take some time.

19
20 MS DWYER: Chief Commissioner, might I put a few things on
21 the record? I'm asked to do some housekeeping.

22
23 Exhibit 5C should be barcode 84577375. Exhibit 28C
24 should be the barcodes 8441233-8441236 and 8441289-8441290.

25
26 THE CHIEF COMMISSIONER: Thank you.

27
28 MS CHAPMAN: Chief Commissioner, may I hand up
29 a one-page document which is the person search statistics
30 from this festival. They are the numbers that I asked one
31 of the officers about and he wasn't quite sure, but these
32 are from the statistician.

33
34 EXHIBIT #32C PERSON SEARCH STATISTICS FROM THE LOST CITY
35 MUSIC FESTIVAL BARCODED 8456521

36
37 MS DWYER: Can I just clarify that they are the statistics
38 extracted from the NSW Police Force computer operational
39 policing system - COPS - on 3 December 2019. So they are
40 the statistics according to the records.

41
42 MS CHAPMAN: Yes.

43
44 THE CHIEF COMMISSIONER: Thank you. Very well. I will
45 adjourn and the compliments of the season to all.

46
47 AT 3.23PM THE COMMISSION WAS ADJOURNED ACCORDINGLY