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LECC

Low Enforcement
Conduct Commission

Transcript of Proceedings

Hearing: Operation Cusco

Before the Hon M F Adams, Chief Commissioner

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

On Wednesday, 11 September 2019 at 10am
(Day 2)

WITNESS INDEX

OFFICER 13	80
OFFICER 14	107
OFFICER 15	136



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3 THE CHIEF COMMISSIONER: Are there any matters to attend
4 to before we commence?
5

6 MS SAUNDERS: Yes, Commissioner. There is
7 a non-disclosure direction that was issued yesterday
8 afternoon, I believe, which I can provide a copy of.
9

10 THE CHIEF COMMISSIONER: Thank you. Yes, very well. Yes.
11 I return that to you.
12

13 MS SAUNDERS: Yes. As a result of that, today's witnesses
14 will be officers 13, 14 and 15.
15

16 THE CHIEF COMMISSIONER: Right. Officer 13, would you
17 come forward, please? By the way, I received the training
18 material, thank you very much.
19

20 MR HUTCHINGS: Thank you, Commissioner.
21

22 THE CHIEF COMMISSIONER: In due course, we will make it
23 part of the records and exhibit it.
24

25 MR HUTCHINGS: Thank you, Commissioner.
26

27 <OFFICER 13, sworn: [10.30am]
28

29 THE CHIEF COMMISSIONER: You may sit down, officer.
30

31 This is a public examination pursuant to section 63 of
32 the Law Enforcement Conduct Commission Act 2016. I have
33 appointed Ms Lucy Saunders of counsel to assist the
34 Commission in relation to the examination. I have already
35 given leave to various persons to appear. That leave is
36 continued. However, who appears for officer 13?
37

38 MR RAJ: I do, Commissioner.
39

40 THE CHIEF COMMISSIONER: Thank you, Mr Raj. I give you
41 leave.
42

43 You have almost certainly, officer - I expect that you
44 have already been told these things by Mr Raj, but I need
45 to formally tell you as well. Firstly, you must answer all
46 questions that you are asked unless I tell you not to, and
47 you must produce anything you are asked to produce, again,



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1 unless I tell you not to. You can take objection, either
2 to answering a question or to producing a document, but you
3 must, nevertheless, answer the question and produce the
4 document. The effect of the objection is to give you
5 certain protections in relation to the use of that
6 material.

7
8 Now, where you make an objection, the evidence cannot
9 be used, except for disciplinary purposes. It can't be
10 used for any other purpose. Mr Raj has explained that to
11 you, I expect?

12
13 THE WITNESS: Yes, he has.

14
15 THE CHIEF COMMISSIONER: I can make a declaration that has
16 the effect of making an objection to all your answers and
17 saves you from making an objection on each occasion.
18 I take it that that's what you would like me to do?

19
20 THE WITNESS: Yes, thank you.

21
22 THE CHIEF COMMISSIONER: I make a declaration pursuant to
23 section 75 that all answers and other things given by this
24 witness will be regarded as having been given on objection
25 by the witness.

26
27 Yes, thank you Ms Saunders.

28
29 **<EXAMINATION BY MS SAUNDERS:**

30
31 MS SAUNDERS: Thank you Commissioner.

32
33 Q. Officer, when did you join the police force?

34 A. December 1999.

35
36 Q. What is your current rank?

37 A. Senior Constable.

38
39 Q. How long have you been a senior constable?

40 A. It would be nearly 20 years in December this year.

41
42 Q. Which command are you based in?

43 A. Newcastle city.

44
45 Q. How long have you been at Newcastle?

46 A. 10 years.

47



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- 1 Q. So were you there in 2014?
2 A. Yes, I was.
3
4 Q. You are a general duties officer; is that right?
5 A. Yes, I am.
6
7 Q. Can you explain what that kind of work involves?
8 A. First response. So anyone that rings 000, that's who
9 we go out to see. Most of the time it is domestics and
10 deceased, things like that.
11
12 Q. What shifts do you work?
13 A. 12-hour shifts.
14
15 Q. Are you on the four-on, five-off, roster?
16 A. Generally. It does vary.
17
18 Q. Are those rotating day and night shifts?
19 A. Generally, yes.
20
21 Q. Is that the same shift pattern you were working in
22 2014?
23 A. Yes.
24
25 Q. Just to make sure we're on the same page, so in a
26 four-day block, you would work two day shifts, two night
27 shifts?
28 A. More than likely. We also have afternoon shifts in
29 there as well sometimes.
30
31 Q. What is the start time for a night shift?
32 A. 6pm.
33
34 Q. And the afternoon shift?
35 A. 3pm.
36
37 Q. Both finish at 3am and 6am respectively?
38 A. That's correct.
39
40 Q. Over a shift, how are you tasked your duties? How are
41 you told what to do?
42 A. Generally, it's just through, like, our dispatch
43 system, so we call it CAD. And we just pick up jobs
44 through that. Then obviously with bail checks, that's just
45 determined through a supervisor, they allocate.
46
47 Q. Tell me a bit about that, how do they allocate the



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1 bail checks?

2 A. So depends on the supervisor and depends on the
3 instance. Back in 2014, so it could be a case of you might
4 just be given one piece of paper with a bunch of names on
5 it and they just tell you to pick people at random, and
6 then other cases they will actually tell you which ones
7 they want you to do.

8

9 THE CHIEF COMMISSIONER: Q. Who is the person who would
10 tell you - if there wasn't a piece of paper, who was the
11 person who would direct you as to a bail check?

12 A. No-one.

13

14 Q. I thought you said they would just tell you which ones
15 they wanted you to do?

16 A. They would hand you a piece of paper, and sometimes on
17 that piece of paper they might have an asterisk or they
18 might have it highlighted for the ones they want you to do.
19 Other times, it might be blank and they will just tell you
20 to pick names at random on that sheet.

21

22 Q. Right. So one way or another, all the bail checks
23 would be on that sheet. Those that you were directed to do
24 would be highlighted in some way, and the others you would
25 do if you had time; is that right?

26 A. No.

27

28 Q. What would you do with the others, then?

29 A. We would either be given ones we would be tasked with,
30 which would be --

31

32 Q. So those are where you are expected to actually do
33 these bail checks during your shift?

34 A. Yes, yes. And then we weren't expected to do any
35 others. Or we might be handed one with just a blank sheet
36 and we are just asked to do those, whichever ones we wanted
37 to do, when they wouldn't be marked.

38

39 Q. Sorry. When you say "blank sheet", do you mean no
40 names at all, or names but not highlighted?

41 A. Not highlighted or, say, asterisks.

42

43 Q. So the names and addresses would be there?

44 A. Everything else is there, like normal, but they are
45 just not marked for which ones to do. They will select the
46 cars and decide which ones they would like you to do. This
47 is back in 2014. Things have changed now, but that's what



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1 it was like back then.
2
3 Q. We will deal with 2014 first, and then --
4 A. That's good.
5
6 Q. But just so I can follow the system, you would always
7 get a number of names - sorry, sometimes you would only get
8 a couple of names or so?
9 A. Yes.
10
11 Q. Which would be marked, and you were expected to do
12 them during your shift?
13 A. That's right.
14
15 Q. Obviously, if it's a curfew check, you have to have
16 the hours of the curfew, because it is not much point going
17 at some time outside the curfew?
18 A. So all the bail sheets would have their - the person's
19 name, their C9 number, their charge number, their home
20 address, and curfew conditions. So the time it starts,
21 time it finishes, any other conditions. So they might say,
22 as an example, be allowed to leave the house with a certain
23 person, be it mum, girlfriend --
24
25 Q. Sometimes - often they are permitted to leave the
26 house in someone's company?
27 A. That's correct. Sometimes. Not in all cases, but
28 sometimes.
29
30 Q. Quite.
31 A. Yes.
32
33 Q. So let's then go back a step. Where it was
34 indicated - that is, highlighted or asterisks - so that you
35 were being directed to do that or those checks during your
36 shift, it was up to you to decide what time?
37 A. Yes.
38
39 Q. And it was expected, as I gathered from something you
40 said, that you and the others - there may be three cars on
41 a shift?
42 A. Usually two. During a night we had two night shift
43 cars and one afternoon shift car.
44
45 Q. Let say it is a night shift, so there are two cars,
46 and you decide between you which checks you would do?
47 A. Not necessarily.



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1
2 Q. Well, otherwise, you might be doubling up?
3 A. You might be.
4
5 Q. Not a problem, I take it?
6 A. No.
7
8 Q. Wasn't regarded as a problem?
9 A. No. Usually, though, if the supervisor had done the
10 asterisk, then that would negate any problems because they
11 wouldn't double them up, if they marked them.
12
13 Q. They would give a different one to each car?
14 A. That's correct.
15
16 Q. And you would expect them not to be duplicated?
17 A. That's correct.
18
19 Q. In relation to the ones that weren't marked, the names
20 that weren't marked, what was the point of giving you that
21 information?
22 A. I'm sorry, I don't understand.
23
24 Q. Sorry. I understood you to say that on the sheet of
25 paper relating to bail checks --
26 A. Yes.
27
28 Q. -- you got a number of names, some of which were
29 marked and some of which were not; is that right?
30 A. That's right.
31
32 Q. What did you do in relation to those not marked? Did
33 you ignore them or --
34 A. Yes.
35
36 Q. Right. Okay. So that meant you didn't have to do the
37 bail checks and you didn't?
38 A. That's right.
39
40 Q. Is that right?
41 A. That's right.
42
43 Q. Just back one person - who was the person who gave you
44 that sheet of paper or gave the crew that sheet of paper?
45 A. So it would depend. There is two sergeants on at
46 Waratah and we would be designated - one of those sergeants
47 would allocate the bail checks.



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- 1
2 Q. And the sergeant's role is of shift supervisor?
3 A. That's correct.
4
5 Q. Have you ever been a shift supervisor or is that just
6 a sergeant's role?
7 A. That's just a sergeant's role but sometimes I have
8 relieved.
9
10 Q. When you relieve, presumably, a shift supervisor, you
11 would have done that in relation to bail checks?
12 A. Yes.
13
14 Q. Who gave you the information as to who ought to be
15 checked on?
16 A. Basically the --
17
18 Q. Or was it your decision?
19 A. Oh, the intelligence would obviously do up a package
20 of who - everybody in our district or LAC that would be on
21 bail. There would be - because we have got two stations,
22 Newcastle and Waratah, so all the Newcastle side would do
23 their bail checks, we wouldn't touch those, and at Waratah,
24 we would then allocate certain car crews to do those.
25
26 Q. But who did that - that allocation was just the
27 responsibility of the shift supervisor?
28 A. Yes, that's correct.
29
30 Q. Now, who decided which ones were the priorities, which
31 ones should be - was that the shift supervisor or was that
32 intelligence?
33 A. No, that was a shift supervisor.
34
35 Q. So as shift supervisor, you got a list of names and
36 you decided which ones should be checked on?
37 A. Yes. Basically we try and make sure that everyone was
38 sort of divvied up, so that each one was checked once each
39 night.
40
41 MS SAUNDERS: Q. So still in 2014, when you were working
42 night shift, how frequently would you be assigned bail
43 checks?
44 A. Nearly every shift, I would say.
45
46 Q. How frequently was the curfew bail list unmarked?
47 Sorry, I will take a step back. You were discussing with



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1 the Commissioner two types of sheets?
2 A. Yes.
3
4 Q. One that had specific checks allocated to you and one
5 that just had the list of names for you to pick from?
6 A. Yes.
7
8 Q. How often would it be the second, the list without
9 marking?
10 A. Not sure. I'd say it's more - if I can recall
11 probably most of the time it would be marked, than
12 unmarked, but again, the percentage I'm not too sure.
13
14 Q. How were you trained in conducting bail checks?
15 A. We weren't.
16
17 Q. How did you learn how to do one?
18 A. Follow our nose, I guess.
19
20 Q. What did you understand at the time, in 2014, the
21 purpose of bail checks to be?
22 A. Just to make sure that the person on the bail curfew
23 list is abiding by the conditions and are at home.
24
25 Q. Why did you need to do that, as a police officer?
26 A. Basically to make sure that not only is that person
27 abiding by the bail conditions but there is usually
28 a reason why they are on curfew bail. Most of the time
29 they are a high-risk offender, so they are doing break and
30 enters or things like that, just to make sure they are not
31 doing those activities.
32
33 Q. What did you understand gave you, as a police officer,
34 the power to conduct a bail check?
35 A. Our - I guess our power would just be a case of trying
36 to, yes, ensure that person is abiding by their conditions.
37
38 Q. What did you understand gave you the power to enter
39 someone's property?
40 A. Common law.
41
42 Q. What do you mean by that?
43 A. Every person has the right to use common law to knock
44 on a front door.
45
46 THE CHIEF COMMISSIONER: Q. Sorry, that's your present
47 understanding?



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1 A. Yes.

2

3 Q. Have you learnt anything about that matter since 2014,
4 or was that knowledge that you had in 2014?

5 A. That would be knowledge I had in 2014.

6

7 MS SAUNDERS: Q. Have you done any recent training on
8 bail checks?

9 A. Just an online, quick module.

10

11 Q. Did that change your understanding about your
12 entitlement to enter property?

13 A. Not really, no.

14

15 Q. So when you say a common law right to knock on
16 someone's door, are there any limits to that, just to your
17 understanding?

18 A. No.

19

20 Q. And can you do it at any time of day or night?

21 A. Yes, I believe so.

22

23 Q. Can you do it if they withdraw their permission for
24 you to come in?

25 A. I'm not sure on that one. I haven't come across one
26 of those.

27

28 THE CHIEF COMMISSIONER: Q. Well, let me give you
29 a scenario. You go to the front door at 2 o'clock in the
30 morning, you knock on the door, someone comes to the door,
31 identifies himself. "What are you here for?" You say, "I'm
32 here to do a bail check". And they say, "Get off my
33 property and don't come back", let's suppose that happened.

34 A. Mmm-hmm.

35

36 Q. Do you think you would be entitled to come back?

37 A. I suppose the question would be how long that consent
38 is withdrawn for.

39

40 Q. Right. But I suppose the commonsense thing is it's
41 withdrawn for as long as until they tell you it's not
42 withdrawn, wouldn't that be it? They say, "Don't come
43 back", it doesn't mean don't come back until 5 o'clock in
44 the morning or don't come back until Wednesday, 23 December
45 2035. They just say, "Don't come back". That's
46 unconditional. Don't you think its ordinary English
47 meaning would be that you wouldn't come back?



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1 A. Would that be entitled to every police officer or just
2 myself?

3
4 Q. Well, for a start to you. Don't you think? Or not?
5 I'm just asking you what is your opinion? Do you think --

6 A. My opinion --

7
8 Q. -- when you were told that, do you think,
9 nevertheless, you would be entitled to go back the
10 following night?

11 A. I would think so.

12
13 THE CHIEF COMMISSIONER: I see.

14
15 MS SAUNDERS: Q. How recently did you do that online
16 module?

17 A. I think it was about a week or two ago.

18
19 Q. How long did it take you?

20 A. Five minutes.

21
22 Q. Just returning to 2014 - I will come back to the
23 situation now in a moment - we talked earlier about the
24 purpose of bail checks, it is monitoring, as you said,
25 high-risk offenders. What would be the consequence, in
26 2014, if you attended a property and you couldn't determine
27 whether the person was there?

28 A. No consequence.

29
30 Q. Would you describe bail checks as important?

31 A. No.

32
33 THE CHIEF COMMISSIONER: Q. Well, sorry, when you say -
34 "consequence" is a little ambiguous here. You would
35 certainly report that you had conducted a bail check with
36 nothing happening? That would be reported?

37 A. Yes.

38
39 Q. On COPS or where would you --

40 A. Yes, on COPS. So it would be --

41
42 Q. So in that sense there would be a consequence because
43 you would record it?

44 A. Because we have three ways of recording it. So it is
45 bail complied with, bail not complied with or undetermined.
46 If you can't raise anyone it is just undetermined. They
47 could be at home asleep.



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MS SAUNDERS: Q. Would you try and raise them?

A. Yes.

Q. So would you - can you describe the process - sorry, I will take a step back. Was there a particular time at night that you would conduct bail checks in 2014?

A. Depending on when the jobs permit.

Q. So it could be quite early in the morning?

A. Yes, I try not to do them probably any later than 3am.

Q. Would it be relatively common that you would turn up to a house with all the lights out, people would be asleep inside?

A. Absolutely.

Q. What would you do in those circumstances?

A. I would - I usually try and start off with a light, very light knock, and work my way up, and I try not to knock more than probably five times.

Q. So the first knock is a relatively light one?

A. Yes.

Q. What's the next step as you work your way up?

A. Just a gradual increasing of the sound of the knock.

Q. Up to five times?

A. Five times probably the maximum amount of times I would knock on a door, yeah.

THE CHIEF COMMISSIONER: Q. After five times, they either don't want to come --

A. That's right.

Q. -- or they are too sleepy to care and there is not much use doing any more?

A. I usually try and stay for about two minutes probably at the most without timing it. Sometimes I try and wait about 30 seconds in between knocks because sometimes you can have one knock and you can hear foot steps, you can hear somebody coming so I won't knock again. I will know they are on the way to the door. And again, you don't know whether somebody inside has got small children or other family members or - try not to wake as many people as you can.



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1
2 MS SAUNDERS: Q. Sometimes you do know that there are
3 other people living in the house though, don't you?
4 A. Sometimes. It depends if you go to the house, how
5 often you go to the house and how many people come to the
6 door, yes.
7
8 THE CHIEF COMMISSIONER: Q. It would be the case,
9 I suppose, that over a couple of months it wouldn't be
10 surprising if you turned up to do bail checks on the same
11 house maybe three or four times?
12 A. That's correct, yeah. Yeah.
13
14 MS SAUNDERS: Q. As well as knocking on the door, would
15 you use any other tactics to try to raise people?
16 A. No.
17
18 Q. Have you ever knocked on a window?
19 A. No.
20
21 Q. What about using your torch to shine through and see
22 what's happening?
23 A. No.
24
25 Q. Car headlights?
26 A. No.
27
28 Q. Have you ever seen any of those things done?
29 A. No.
30
31 Q. You mentioned earlier that the system for tasking bail
32 checks is a bit different now. What has changed?
33 A. So generally, back in 2014, we have like a plain
34 clothes unit. That unit and our unit, being general
35 duties, wouldn't talk to each other, so they could do their
36 taskings and we would do ours.
37
38 THE CHIEF COMMISSIONER: Q. And you wouldn't know what
39 they were doing and they don't know what you are doing?
40 A. That's correct, yes. And that's now changed and
41 basically I think our bail checks are being reduced. Back
42 then we might have been doing, say, as many as possibly
43 five a night. Now we're probably being tasked to two
44 a night.
45
46 MS SAUNDERS: Q. Are you still being tasked with that
47 smaller number of bail checks but are you still doing bail



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1 checks most night shifts?
2 A. I couldn't tell you the last time I did a bail check.
3

4 THE CHIEF COMMISSIONER: Q. I might have misunderstood
5 you. Are you saying that the general duties officers are
6 doing fewer bail checks because the slack has been taken up
7 by the plain clothes officers?

8 A. I think they just want to make sure that the plain
9 clothes officers and ourselves are being tasked more
10 appropriately, so I don't know which way it's gone as far
11 as are they taking up more of the slack or whether it is
12 just a case of there has just been fewer bail checks done.
13

14 MS SAUNDERS: Q. You are not sure either way?

15 A. Either way I'm not sure. I just do what I'm tasked to
16 do.
17

18 Q. When was the last time you remember being tasked to do
19 a bail check?

20 A. Monday night.
21

22 Q. And what time did you do it?

23 A. I didn't do any. We didn't get time to permit.
24

25 Q. When is the last time you remember being tasked with
26 a bail check and actually doing it, having time?

27 A. I'm sorry, I can't recall.
28

29 THE CHIEF COMMISSIONER: Q. Would it have occurred in
30 the last month?

31 A. No, no.
32

33 MS SAUNDERS: Q. This year?

34 A. This year, yes. Just it would be prior to June. So
35 I'm not sure, some time before June.
36

37 Q. And have you changed the way you conduct bail checks
38 in any way since 2014 - how you actually turn up and do
39 them, I mean?

40 A. No.
41

42 Q. Has anyone told you to?

43 A. No, apart from the online package of course, but
44 again, I don't think I did anything any differently.
45

46 Q. What did you take away from the online package? What
47 did you learn from that?



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- 1 A. Basically, you can't go into the yard, you can only go
2 straight to the front door and you can't go, say, shining
3 your torch inside the house, things like that.
4
- 5 Q. That's stuff that you personally weren't doing anyway?
6 A. No.
7
- 8 Q. I want to ask you about some specific bail checks you
9 conducted in 2014.
10 A. Sure.
11
- 12 Q. If I can show the witness document barcode number
13 8440975, which is behind tab 13. It will come up on the
14 screen in a moment. If we can just scroll down slightly
15 for a moment, do you see there, officer, at the bottom
16 section of the page, the person identified under "Person of
17 interest"? Don't say the name aloud.
18 A. Yes.
19
- 20 Q. We're referring to that person here as CU1. So when
21 I say that, that's who I'm talking about?
22 A. Sure.
23
- 24 Q. Can we scroll back up. Do you recognise this
25 document? You might not have seen it before?
26 A. Yes.
27
- 28 Q. Do you know what it is?
29 A. It is a COPS event, yes.
30
- 31 Q. Created by you, a bail check you did on 15 May?
32 A. Yes.
33
- 34 Q. Take a moment just to read the text and refresh your
35 memory of the event?
36 A. Mmm-hmm.
37
- 38 Q. Have you read it?
39 A. Yes.
40
- 41 Q. Do you remember this bail check?
42 A. Oh, not particularly.
43
- 44 Q. Do you have any recollection of CU1?
45 A. Vaguely, yes.
46
- 47 Q. Was he particularly known to you in the area?



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1 A. No.
2
3 Q. Why would you have performed this bail check?
4 A. Again, it would have been on a list of many, and -
5 yeah, one of those ones we do at - yeah, during the course
6 of our shift.
7
8 Q. You have attended at 1.15 in the morning; is that an
9 unusual time for you to attend?
10 A. No, that's about probably right.
11
12 Q. When you say there, the person "presented himself to
13 the door upon the request", what does that mean? What is
14 the request?
15 A. I, yeah, knock on the door and they come to the door.
16
17 Q. Could it be that you were asking someone else if he
18 was there?
19 A. Could have.
20
21 THE CHIEF COMMISSIONER: Q. Or is this just the common
22 phrase you use when they come to the door?
23 A. Yes, this is just a common phrase I use. I think
24 sometimes he might have even popped his head out of the
25 window right above the door, but rather than just saying,
26 you know - I just kept it simple.
27
28 MS SAUNDERS: Q. So that's the standard text you use to
29 record a bail?
30 A. Yes.
31
32 Q. If something unusual had happened would you have made
33 a note on the file?
34 A. Possibly, or I might - may just remember it, but
35 I don't recall anything.
36
37 THE CHIEF COMMISSIONER: Q. For example, if there was
38 a threat or something like that, you would note that?
39 A. If nothing else I would at least make a note mentally
40 but I don't recall anything ever unusual --
41
42 Q. No, but the point of a COPS entry is to give
43 information also to other police, is it not?
44 A. True.
45
46 Q. So it would be important to other police who may be
47 doing a bail check, if there was a threat --



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1 A. Correct.
2
3 Q. -- that they should be aware of it?
4 A. Yes, I've never had a threat while doing a bail check.
5
6 Q. I understand that. I'm just asking you, as a matter
7 of practice, would you, if there had been a threat, would
8 that be something you would make a COPS entry about or not?
9 A. Quite possibly, or I may mention it to a supervisor
10 and see whether it's worthwhile. It depends on the threat,
11 I guess.
12
13 Q. But you would raise it one way or another?
14 A. Absolutely.
15
16 MS SAUNDERS: I tender the document, Commissioner.
17
18 **EXHIBIT #9 CONFIDENTIAL EXHIBIT, BARCODED 8440975**
19
20 MS SAUNDERS: Q. Could I take the witness to 8440978,
21 behind tab 14, please. Again, let me know when you are
22 ready. Just take a moment to read it?
23 A. Yes.
24
25 Q. This is another COPS entry; is that right?
26 A. That's right.
27
28 Q. It records another bail compliance check you have
29 performed on CU1?
30 A. Yes.
31
32 Q. You went at 11.25, on 15 May; is that right?
33 A. Yes.
34
35 Q. So it's the same day as the previous check.
36 A. Yes --
37
38 THE CHIEF COMMISSIONER: Q. The previous check was
39 1.15am on the 15th, and this check is 23.25 on the 15th?
40 A. So - yes.
41
42 MS SAUNDERS: Q. It is the same calendar day but for you
43 it is a different shift; is that right?
44 A. That's right.
45
46 Q. Is that unusual at all, that you would go back twice
47 in a row?



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1 A. No.
2
3 Q. Did you have - do you recall this check?
4 A. No.
5
6 Q. Do you recall having any reason to suspect that CU1
7 might not be complying with his bail conditions?
8 A. No.
9
10 Q. Does that matter? Have you ever been told that you
11 need to have that suspicion before you do a bail check?
12 A. No.
13
14 MS SAUNDERS: I tender the document, Commissioner.
15
16 **EXHIBIT #10 CONFIDENTIAL EXHIBIT, BARCODED 8440978**
17
18 MS SAUNDERS: If I can now show the witness 8440945 behind
19 tab 3.
20
21 Q. Just let me know when you are ready?
22 A. Yes.
23
24 Q. You would agree this is another COPS record showing
25 another bail compliance check you have performed on CU1?
26 A. Yes.
27
28 Q. This is on 2 June 2014.
29 A. Yes.
30
31 Q. Do you have any recollection of this bail check?
32 A. No.
33
34 Q. It is at 2am in the morning; is that unusual at all?
35 A. No.
36
37 Q. Is it likely that you would have had to try to wake
38 the inhabitants up?
39 A. Possibly.
40
41 Q. We see here again it is the same text, "The person of
42 interest presented himself to the door upon the request of
43 police" and, as such, bail was complied with. I possibly
44 should have asked this earlier: what do you mean by "bail
45 was complied with"?
46 A. They were home.
47



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1 Q. You are not suggesting that his bail requires him to
2 present himself to you, just that he needs to be home?

3 A. We need to sight him, yes.

4
5 Q. So if you turn up, he has to come to the door - sorry,
6 don't answer that. When you arrive at the house, is he
7 required, by his bail, to attend at the front door?

8 A. We are required to sight him.

9

10 THE CHIEF COMMISSIONER: Q. You are at cross-purposes,
11 I think. He has no legal obligation to show himself to
12 you; you agree with that?

13 A. Yes.

14

15 Q. Unless it's a condition of the bail?

16 A. Unless it is a condition, yes.

17

18 Q. Sometimes bail conditions do require someone to
19 respond?

20 A. Yes, and I think since about 2014 it's nearly always
21 in writing now that they request to present at the door.
22 But back in 2014, yeah, no.

23

24 Q. The point being made is, I suppose, if he doesn't
25 present, you don't know whether he is complying with his
26 curfew condition or not?

27 A. That's correct.

28

29 MS SAUNDERS: Q. That last answer you just gave, since
30 2014 it's nearly always in writing that they request to
31 present at the door --

32 A. Yes.

33

34 Q. -- what do you mean by that?

35 A. As part of their bail conditions.

36

37 MS SAUNDERS: I tender the document, Commissioner.

38

39 **EXHIBIT #11 CONFIDENTIAL EXHIBIT, BARCODED 8440945**

40

41 THE CHIEF COMMISSIONER: Q. In those cases, and in many
42 of those cases, the conditions are that there is a phone
43 number, you call the phone number and the person is
44 required, then, to present themselves at the door on police
45 request. That means the police never have to actually
46 enter on to the premises?

47 A. Yeah, I've never seen a condition like that.



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Q. You have never seen those conditions?

A. I have seen other people that say "Look, could you please ring", other people might go - look, their son might be in the back shed, "Can you just go there instead of waking up mum and all the kids inside the house and just go down to the back to the back shed".

Q. But you have never seen a bail condition that says that police are - which gives a phone number, the police can go to the premises and you can call the number and ask the person to present themselves at the front door?

A. That's correct. I've never seen a bail condition like that.

MS SAUNDERS: Q. The bail lists that you were given in 2014 at the start of your shift, would they, to your knowledge, list everyone in the area that was on curfew bail?

A. It did, yes, absolutely.

THE CHIEF COMMISSIONER: Q. As you recall it, was it a handwritten document or a print-out?

A. A print-out.

Q. Are they still being used?

A. The print-outs, yes.

MS SAUNDERS: Q. Are you aware of the NSW Police Force Codes of Practice?

THE CHIEF COMMISSIONER: Mr Hutchings, would you please arrange to have, say, those print-outs for the last week printed out and provided to the Commission?

MR HUTCHINGS: For the Newcastle Waratah command?

THE CHIEF COMMISSIONER: Yes, just so that we have an example - I am not concerned with the 2014 ones, but say the last week, as just a convenient period.

MR HUTCHINGS: I will endeavour to do so.

THE CHIEF COMMISSIONER: Thank you.

MS SAUNDERS: Q. Are you aware of NSW Police Force Codes of Practice, officer?



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1 A. Yes, I am aware.
2
3 Q. Are you specifically trained in them?
4 A. I think I remember reading that back in the academy in
5 1999. I don't think I've read it since.
6
7 Q. You haven't been directed to read any of them, have
8 you since?
9 A. No.
10
11 Q. Have you ever read the Code of Practice for CRIME
12 (Custody, Rights, Investigation, Management and Evidence)?
13 A. If I did, that was a long time ago.
14
15 THE CHIEF COMMISSIONER: Q. But you are aware that such
16 a document --
17 A. Yes, sir.
18
19 Q. -- exists?
20 A. Yes, sir.
21
22 MS SAUNDERS: Q. Could I just show the witness the
23 document behind tab 76, barcode 8449433. That might not
24 have made its way into your brief yet, Commissioner. Does
25 this document look at all familiar, officer?
26 A. Not yet.
27
28 Q. If we can scroll to the second page, so this is - you
29 can see there last updated April 2015, publication February
30 1998. Is this the kind of thing you might have read in the
31 academy?
32 A. You I'd say so, yes, absolutely.
33
34 THE CHIEF COMMISSIONER: Mr Hutchings, there would be no
35 reasonable for this to be a confidential exhibit, would
36 there?
37
38 MS SAUNDERS: I believe it is publicly available,
39 Commissioner.
40
41 THE CHIEF COMMISSIONER: Counsel assisting says that she
42 understands this is publicly available at all events.
43
44 MR HUTCHINGS: It is my suspicion that that is correct.
45 I'm not certain. Might I just take that on advice?
46
47 THE CHIEF COMMISSIONER: Yes, just confirm it, please,



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thank you.

MS SAUNDERS: Yes, I could well be wrong.

Q. Could we scroll to the last page of that document. Just read through that and let me know when you need it scrolled down and then when you have finished.

A. Yes, I've finished reading that.

Q. What do you understand from having read that, about your right to go into a person's house?

A. Well, you've basically got no right unless there is an imminent breach of the peace, you have a warrant.

Q. Does this change your understanding at all of bail compliance checks?

A. Not really, no. Because --

Q. Why not?

A. Again, most of the time, they always come to the front door, so you are not entering their property, apart from to walk to the front door.

Q. So you take "premises" to mean the actual house?

A. That's correct.

MS SAUNDERS: I tender the document, Commissioner.

**EXHIBIT #12 EXTRACT OF CODE OF PRACTICE FOR CRIME (CUSTODY, RIGHTS, INVESTIGATION, MANAGEMENT AND EVIDENCE)
BARCODED 8449433**

MS SAUNDERS: I should note for the record that is an extract of the code of practice.

THE CHIEF COMMISSIONER: Right.

MS SAUNDERS: Thank you. I have nothing further.

THE CHIEF COMMISSIONER: Do you have any questions, Mr Raj?

MR RAJ: No, I don't, Commissioner.

THE CHIEF COMMISSIONER: Ms Goodhand, do you have any questions?



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1 MS GOODHAND: Yes, thank you, Commissioner.
2

3 **<EXAMINATION BY MS GOODHAND:**
4

5 MS GOODHAND: Q. Officer, you gave some evidence about
6 what's included on the curfew list that you provided on
7 shift?

8 A. Mmm-hmm.
9

10 Q. You said they had the curfew conditions. What type of
11 conditions would that include?

12 A. It could include, like, if the person is allowed to
13 leave with, say, mum or their girlfriend, that type of
14 thing. Any relevant conditions.
15

16 Q. And would that include something like an enforcement
17 condition?

18 A. I'm not sure. I've never seen one listed on a bail
19 check.
20

21 Q. Can you just say that again?

22 A. I have never seen one of those listed on a bail check.
23

24 Q. Are you aware of what an enforcement condition is?

25 A. No.
26

27 Q. Have you heard of a condition, an enforcement
28 condition, for example, in relation to an offender that
29 might not be allowed to drink, for example, so an
30 enforcement condition permitting police to be able to
31 breathalyse the offender?

32 A. No. I've - yeah.
33

34 Q. So you wouldn't have heard of an enforcement condition
35 in relation to permitting police to attend a property to
36 conduct a bail curfew check?

37 A. No.
38

39 Q. In that recent training that you participated in a
40 week ago, that had nothing in relation to enforcement
41 conditions or police powers in that regard?

42 A. No, I don't believe so.
43

44 Q. On those occasions that you have been taken to that
45 you created a COPS event in relation to the curfew
46 checks --

47 A. Yes.



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Q. -- there were two occasions where you are the only officer on the COPS event. Can we take it from that that you would have been the only officer that attended on that occasion?

A. Yes.

Q. When you attend someone's house at night and you are by yourself, would it be usual practice for you to radio to VKG to let them know what you are doing at the premises?

A. No.

Q. Even where you are by yourself?

A. Yes.

Q. And when you conduct a bail curfew check before you enter the information on the COPS event system, would you record in your police notebook the details of attending the property and the time?

A. No.

Q. And in respect of each of those bail curfew checks that you have had your attention drawn to in respect of CU1, do you have any recollection of those specific bail checks?

A. No.

Q. Do you have any specific recollection of those bail checks concerning CU1?

A. No.

Q. And so you have already said that you are not aware of what an enforcement condition is, so is it correct to say that you wouldn't be aware if CU1 had enforcement conditions in respect of his bail at those times?

A. No.

Q. And in relation to the sergeants, the shift supervisor sergeants allocating duties when you go to work, in relation to bail curfew checks in 2014, is it possible - and it may not be possible - to identify any particular sergeant that would highlight and put asterisks on the curfew checklist?

A. Yeah, not sure.

Q. And how many sergeants were there in 2014 at Waratah station?



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1 A. So Waratah would have - we've got five teams, and we
2 have two sergeants. So that's 10 sergeants. And then you
3 have also got --
4

5 THE CHIEF COMMISSIONER: Q. Are you saying that you
6 don't recall the names of the sergeants as they were in
7 2014, or are you able to name them?

8 A. I could probably have a guess.
9

10 Q. Do your best.

11 A. It would just depend on who's on - which sergeants
12 were on shift.
13

14 Q. Naturally, but we're not talking on any particular
15 occasion. You have two sergeants, one way or another they
16 are always doing the work. What are their names?

17 A. I would say probably Sergeant **Officer 18**
18

19 Q. **Officer 18** ?

20 A. That's correct.
21

22 Q. And Sergeant?

23 A. **Officer 19** .
24

25 Q. **Officer 19** . And occasionally, people acting as
26 sergeant?

27 A. Yes, and sometimes you can be off-team and you could
28 work with, say, the team before, or the team after. So at
29 that time I was on team D, and occasionally you could work
30 with team C or say team E, and so you would have another
31 two sergeants there. And again, you could also have
32 relievers.
33

34 Q. But those are two sergeants whose names you recall?

35 A. Yes.
36

37 MS GOODHAND: Thank you, Commissioner. Those are my
38 questions.
39

40 THE CHIEF COMMISSIONER: I think - you might move down to
41 the front where you have a microphone, it would make it
42 easier for the transcript. There is no reason why - there
43 is plenty of room there for your team.
44

45 MS GOODHAND: Thank you.
46

47 THE CHIEF COMMISSIONER: Ms Saunders, I just wonder, did



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1 you wish to ask some questions about the email of
2 21 August?

3
4 MS SAUNDERS: Not of this witness, your Honour.

5
6 THE CHIEF COMMISSIONER: Very well. Yes, all right,
7 thank you. You are free to go. I would be surprised if
8 you might be needed further, but it depends, really, how
9 evidence unfolds. We might need to get you back.

10
11 THE WITNESS: I'm here for as long as you need me today,
12 sir.

13
14 THE CHIEF COMMISSIONER: It's unlikely I think, and we
15 will talk to your lawyer about it and he can contact you.
16 Although this is a public hearing, you are not to discuss
17 your evidence with any person. Do you understand that?

18
19 THE WITNESS: I do, sir.

20
21 THE CHIEF COMMISSIONER: Thank you.

22
23 <THE WITNESS WITHDREW

24
25 THE CHIEF COMMISSIONER: Thank you, Mr Raj. You are
26 excused.

27
28 Ms Goodhand, just taking up an assumption contained in
29 your questioning relating to enforcement conditions, I must
30 tell you that my prima facie view is that no enforcement
31 condition could affect the proprietary rights of a third
32 person.

33
34 MS GOODHAND: Thank you.

35
36 THE CHIEF COMMISSIONER: The Bail Act doesn't suggest it,
37 and that would be an interference with fundamental common
38 law rights which could only occur with language of
39 undoubted clarity.

40
41 Whether an enforcement order, on the assumption that
42 the person bailed was also the occupier, is another
43 question - namely, agreeing to the condition is an implicit
44 agreement to the way in which the condition might be
45 enforced, is another question not altogether to be simply
46 answered. But where, here, you have two persons, the mere
47 imposition and acceptance, because the bail condition has



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1 to be accepted by the person being bailed, of an
2 enforcement condition that, for example, stated how the
3 curfew was to be checked, could not affect the proprietary
4 rights of the joint occupier. But rights to exclude
5 persons as between joint occupiers and a third person is
6 not altogether without its complexities. We don't have to
7 consider it in this case, but I will, in due course, be
8 seeking assistance from the Commissioner of Police as to
9 the possible significance of an enforcement order. As
10 I say, my present view is it could not interfere with third
11 parties' rights.

12
13 So, for example, let's assume a child is granted bail
14 on a curfew condition, which frequently occurs, of course.
15 That could not possibly interfere with the rights of the
16 parents. That might be adjusted legislatively or it might
17 need to be adjusted by getting the parents, if they were so
18 minded, to consent to bail checks as part of the bail
19 process. And, of course, if that consent weren't
20 forthcoming, well, the magistrate or the judge might
21 consider whether or not bail should be granted, because if
22 you can't check on a curfew, it makes it difficult. And
23 one would expect, then, that if you were seeking bail and
24 prepared to consent to a curfew, you would expect consent
25 to the necessary conditions of checking that curfew.

26
27 In either event, I'm not sure that an enforcement
28 order carries the matter any further. I think that it
29 might have been a bulb occasion for some policy-maker in
30 the department but I don't think it carries the matter
31 further. There are wide powers in relation to conditions
32 of bail, so I don't think there is much point in exploring
33 it, frankly.

34
35 MS GOODHAND: Thank you, Commissioner.

36
37 THE CHIEF COMMISSIONER: Certainly in this case there are
38 no enforcement conditions anyway. And I think it's clear
39 that mere consenting to curfew would not usually carry
40 a legal implication that police are entitled to enter your
41 premises to check it. That's, however, a question of fact,
42 isn't it, not a question of law, I think.

43
44 MS GOODHAND: Thank you, Commissioner.

45
46 THE CHIEF COMMISSIONER: I will be seeking some assistance
47 from you in due course about that matter, Mr Hutchings.



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MR HUTCHINGS: Yes, Commissioner.

THE CHIEF COMMISSIONER: I think what I say about third parties' rights is just conventional law. But it does mean that police, in seeking conditions, need to be more, as it were, intentional about the way in which conditions might be drawn in order to deal with that issue. It is very often that persons who are bailed, just in the nature of the beast, as it were, will not have property rights of any kind. They are often staying with relatives or friends or parents, so third parties, who are not going to be bound by the condition. So I think that the issue needs to be looked at so that police prosecutors are given assistance about the kinds of conditions or the kinds of implicit issues that need to be addressed in conditions - it is much better to address them beforehand than after, obviously.

MR HUTCHINGS: I understand.

THE CHIEF COMMISSIONER: Out of this, I'm hoping the Commission will be able to make some recommendations about those matters, because they are not fundamentally very complicated. Factual circumstances may --

MR HUTCHINGS: Yes, may complicate the position of conditions.

THE CHIEF COMMISSIONER: But the legal issues are not really complicated. But it would be, I'm hoping, as always out of an investigation, to get a positive outcome that helps the administration of justice and police to do their job in a lawful and compliant way. So in due course, I will be seeking assistance from you about those matters.

MR HUTCHINGS: I understand. Could I raise the question of exhibit 12. That is a document that is no longer promulgated by the Commissioner, so a document by that title is no longer produced. The copy that is exhibit 12 was revised in 2015, so it doesn't appear to be directly referable to the events of 2014. I don't know what the prior revision was.

THE CHIEF COMMISSIONER: But that's not a reason for not exhibiting it, though, for what it is worth.

MR HUTCHINGS: It isn't. Further to that, when it was



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1 a current document of the Commissioner, it was publicly
2 available.

3
4 THE CHIEF COMMISSIONER: All right. Thank you. So that
5 is not a confidential exhibit, then.

6
7 All right. Let's have the next witness.

8
9 <OFFICER 14, sworn: [11.20am]

10
11 THE CHIEF COMMISSIONER: We will refer to you as Officer
12 14, or Witness 14. Do you understand that?

13
14 THE WITNESS: I do.

15
16 MS SAUNDERS: Officer 14 does not have representation,
17 Commissioner.

18
19 THE CHIEF COMMISSIONER: You don't wish to be represented?

20
21 THE WITNESS: No, I feel confident, I'm right. Yep.

22
23 THE CHIEF COMMISSIONER: There are some things, then, I do
24 need to tell you, although you probably know them, and that
25 is you must answer all questions that you are asked, unless
26 I tell you not to.

27
28 THE WITNESS: Yes.

29
30 THE CHIEF COMMISSIONER: You are to produce anything you
31 are asked to produce unless again I tell you not to.

32
33 THE WITNESS: Yes.

34
35 THE CHIEF COMMISSIONER: You can object to answering
36 a question or to producing any material. You nevertheless
37 must answer the question, despite the objection, and
38 produce the material, despite the objection. But the
39 effect of your objection is that what you produce or what
40 you say cannot be used against you in any other
41 proceedings, except disciplinary proceedings, if they show
42 some misconduct or other.

43
44 THE WITNESS: Yes.

45
46 THE CHIEF COMMISSIONER: Now, to avoid the necessity for
47 you to object to every question or object to producing



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1 anything, I can make a declaration which has the effect
2 that everything you say and do is to be taken to have been
3 said and done under objection, and I expect you would like
4 me to make such a declaration.

5
6 THE WITNESS: I would, thank you.

7
8 THE CHIEF COMMISSIONER: Yes, very well. I make
9 a declaration pursuant to section 75 that all answers and
10 other things given by this witness will be regarded as
11 having been given on objection by the witness. Yes,
12 thank you, Ms Saunders.

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

15
16 MS SAUNDERS: Q. Officer, when did you join the police
17 force?

18 A. 5 April 1988.

19
20 Q. What is your current rank?

21 A. Leading Senior Constable.

22
23 Q. And what was your rank in 2014?

24 A. Leading senior constable.

25
26 Q. How long have you been a leading senior constable?

27 A. About 15 years.

28
29 Q. What command are you based in at the moment?

30 A. Newcastle City PD Police District.

31
32 Q. What was your command in 2014?

33 A. It was the same command, just under a different name
34 at that stage, Newcastle LAC it was called.

35
36 Q. You are a general duties officer?

37 A. Correct.

38
39 Q. What does your day-to-day work involve?

40 A. General duties. All calls for assistance, accidents,
41 domestics, around proactive duties as well. During the
42 night, it may entail searches of persons in known crime
43 areas and bail checks.

44
45 Q. So bail checks are a form of proactive duty; is that
46 right?

47 A. They are.



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1
2 Q. How are you tasked with bail checks? Sorry, I will
3 start again. How, in 2014, were you tasked with bail
4 checks?

5 A. Generally, how it would be is the supervisor would
6 download the current persons that were on curfew bails, and
7 go through them and certain ones out of those would be
8 allocated to each of the truck crews to perform during the
9 evening. My method was I usually tried to get there at
10 a reasonable time, like before midnight, to conduct the
11 bail check, so it wasn't too much of an imposition on the
12 person.

13
14 Q. Were you always able to achieve that?

15 A. Possibly not always, but I don't conduct them at
16 unrealistic hours, like after, say, 2am in the morning.
17 Just out - that's my own personal method. But --

18
19 Q. You weren't told that you had a time limit of any
20 kind, were you?

21 A. No.

22
23 Q. Why is that a unrealistic hour?

24 A. Well, I just think from a personal sort of opinion,
25 you go and knock on and disturb people at that time of
26 morning, possibly - I just do it, myself, before midnight.

27
28 Q. So the bail checks, they did involve disturbing
29 people?

30 A. Well, you are waking - well, maybe not waking, at that
31 time of night they are probably still awake. But you try
32 and do it in such a manner that you don't disturb other
33 persons, like neighbours or other members of the household.
34 Like I knock once, if no-one answers, then I leave. And we
35 have a classification where you can put it as unable to
36 determine.

37
38 Q. We will come back to that. But what did you
39 understand, in 2014, the purpose of bail checks to be?

40 A. To keep a check on known high-risk offenders in the
41 area.

42
43 Q. What do you mean by "high-risk offenders"?

44 A. Well, they have been - they have had some reason that
45 a curfew has been placed on them, so we are enforcing that
46 curfew. Just checking to see that they are actually
47 complying with it.



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Q. Some of these questions are going to sound obvious, but just answer in your own words?

A. Yes.

Q. Why is it important to do that? Why do you need to do that as a police officer?

A. Well, once - as I said, to keep a check on the offenders, to see that they are abiding by their bail conditions which have been set down, most times, by the court. Usually that's where curfew would be imposed. But on other occasions could have been from police bail as well. But - that's the whole reason for it.

Q. What did you understand gave you, as a police officer, the power to conduct a bail check?

A. Well, it's - I understood it to be a general - I'm not au fait with an actual bit of legislation that says - that empowers me to do it.

Q. Just your understanding?

A. Just a part of my duties to check that the curfews are being complied with.

THE CHIEF COMMISSIONER: Q. These are all done at the direction of the shift supervisor?

A. Correct.

Q. He gave you an order and you believed you were obliged to obey it?

A. Correct.

Q. If his order wasn't right, that's his problem, not yours?

A. Well, I - if I didn't agree with the direction I'm being given --

Q. No, quite. But you would do it unless you had some good reason for not doing it?

A. Correct.

Q. And you would assume --

A. I believed it to be a lawful direction.

Q. -- he would be acting within his powers?

A. Yes.



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- 1 Q. That would be your starting assumption?
2 A. Correct.
3
4 MS SAUNDERS: Q. You mentioned earlier not wanting to
5 disturb other people in the house or neighbours. How could
6 a bail check disturb neighbours?
7 A. Well, if it was done in such a manner, like, that you
8 made sufficient noise to disturb other people.
9
10 Q. What kind of manner would that be?
11 A. Well, banging on the door loud, calling out for them,
12 that sort of thing.
13
14 Q. Walking around the property, perhaps?
15 A. Well, depends on the amount of noise or commotion you
16 cause by walking around the property.
17
18 Q. What about shining lights?
19 A. Well, once again, that would come down to where you
20 shone the light, I suppose. Like it is night, so we have
21 to use torches at times.
22
23 Q. So where would you shine lights when you were --
24 A. Where I was walking so I didn't trip on things.
25
26 Q. But would you shine a light into the building to see
27 if anyone was there?
28 A. On occasion, you would arrive at a premises and you
29 would see curtains or something come open from the front
30 window, and you may at that point shine it towards the
31 window and recognise the head that is there?
32
33 Q. So without warning you would just shine a light into
34 someone's window?
35 A. No, no, not without warning. As I said, if it was
36 indicated someone was there, like, hearing the window
37 either open, curtains come aside, or someone call out, so
38 then I would shine the torch, recognise the face and that
39 would be sufficient for a bail check.
40
41 Q. That might be after you had knocked the first time?
42 A. No, sometimes it's before you get out of the police
43 vehicle.
44
45 THE CHIEF COMMISSIONER: Q. They would hear the car
46 coming?
47 A. Yes.



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1
2 MS SAUNDERS: Q. It could be you knock, you hear
3 something, you shine a torch?
4 A. Correct.
5
6 Q. It is going to depend on the circumstances?
7 A. Exactly.
8
9 Q. Because you do want to put a bit of effort into
10 finding out whether they are there or not, don't you?
11 A. Yes, but it has to be reasonable as well. Like you
12 try to do it in such a manner that you don't disturb other
13 persons. I'm not going to stand there and bang bang bang
14 on the door until someone comes out, like. You would
15 probably - with those sort of situations, you would record
16 it as the undetermined, you are unable to tell whether the
17 person is home or not.
18
19 Q. You have talked a lot about your personal approach?
20 A. Yes.
21
22 Q. I want to be clear, I'm not asking you to name anyone.
23 Are you aware of different approaches taken?
24 A. Yes.
25
26 Q. Some people might go in the very early hours of the
27 morning?
28 A. I've seen it, but --
29
30 Q. You have seen it. You have seen people making more
31 noise than you personally would?
32 A. No, because I'm not there when they conduct the bail
33 checks.
34
35 Q. Have you ever been - so do you conduct bail checks
36 alone?
37 A. No.
38
39 Q. You usually have at least one other person with you?
40 A. Yes.
41
42 Q. Perhaps not in 2014, but when you were a more junior
43 constable, you wouldn't have been the person leading the
44 bail check?
45 A. Well, the atmosphere was a lot different. We actually
46 didn't really perform that many bail checks back, like, say
47 10 years ago or more. It wasn't a thing that was really



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1 done that much at that stage.
2
3 Q. When did that change?
4 A. Oh, as I said, probably within the last 10 years or
5 so, like, it's become more of a crime-fighting - a crime
6 prevention strategy, just to keep a check on your local
7 offenders.
8
9 Q. So were you trained in how to conduct a bail check?
10 I may have asked that already but I can't remember the
11 answer?
12 A. No, you didn't. No specific training for it, no.
13 I believe there is training there now.
14
15 Q. We will come to that in a sec. Just at the time, how
16 did you know what to do when you were first tasked with
17 a bail check?
18 A. I tend to use a lot of commonsense, like, when I --
19
20 THE CHIEF COMMISSIONER: Q. It's not exactly
21 complicated?
22 A. No, exactly.
23
24 MS SAUNDERS: Q. Go and see if they are there?
25 A. Exactly. And do it in a fair manner.
26
27 Q. Wake them up if necessary?
28 A. Well, once again, as I said, like --
29
30 Q. If you can?
31 A. If they are asleep and they hear me knock, yes, it is
32 waking them up.
33
34 Q. How frequently would you attend a house with people
35 other than the bailee, the person on bail, I should say?
36 Sorry, how often would you attend --
37 A. As a ratio, sort of thing?
38
39 Q. Yes, just how frequently would there be other people
40 in the property?
41 A. Would there be other people in the property?
42
43 Q. Yes.
44 A. Quite often.
45
46 Q. Children?
47 A. Yes.



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Q. Did this change the way that you would perform a bail check?

A. Well, that's why I come back to my own methodology of trying to get there at a reasonable time.

THE CHIEF COMMISSIONER: Q. I suppose, given the nature of it and the fact that bail can continue for quite some time, that it would be quite often the case that you would be making repeat visits to a place?

A. Correct.

Q. And so you would get to know, really, how long it took them to come to the door, that kind of thing?

A. Yes.

Q. Sometimes it would be opened by a wife or a mother or a friend?

A. They would even give me instructions, like, "Can you just come to the side door or the shed down the back where I'm living, instead of disturbing people in the house?" I'd say, "Yeah, no worries at all." We would do it quietly.

Q. You would just get to know what you might expect at particular places because you would be there repeatedly over maybe a three or four or even longer month period?

A. Period. Correct.

Q. Is that right?

A. Correct.

MS SAUNDERS: Q. Did you ever have any hostile reactions?

A. Generally no. Like, they realise why you are there. Like, you get some people who come out and they are disgruntled and unhappy, but we are only there to perform that quick check, see that they are there. So I won't get involved in any sort of verballing.

THE CHIEF COMMISSIONER: Q. You don't get engaged?

A. No, there is no point to it. "I'm really here, mate, to see that you are in compliance with your bail. See you later?"

MS SAUNDERS: Q. Did anyone ever tell you not to come back?



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1 A. It's possibly been said to me, but whilst they had the
2 bail curfews on, at that point, like, it's still part of my
3 duty to check that they are complying with it.
4

5 Q. Just hypothetically, say you attended a bail check on
6 Monday at a particular property and someone there had told
7 you not to come back, if you had been tasked the next day
8 to conduct another bail check, would you have done it?

9 A. Well, I would probably bring it up, the fact that he
10 said not to come back, but it becomes a legal area where -
11 because he's no longer consenting for me to be there,
12 I suppose, like, whether --
13

14 Q. Was that your understanding in 2014?

15 A. My understanding was, well, I'm still empowered to be
16 there to check - to conduct the bail check.
17

18 Q. Has that understanding changed recently?

19 A. Not that I'm au fait with at this stage, no.
20

21 Q. That's still your current understanding?

22 A. I believe there's been things, like, the bail has been
23 altered, like, in courts.
24

25 Q. Don't worry about that. Just in that hypothetical, is
26 your current understanding still the same?

27 A. That's right.
28

29 THE CHIEF COMMISSIONER: Q. Of your powers, have you
30 received any training that led you to change your
31 understanding of the extent of your powers?

32 A. We're receiving training now. There is training
33 coming in, yes. I haven't actually completed it myself at
34 this point.
35

36 Q. You have or have not?

37 A. Have not.
38

39 Q. You understand it's there to be done?

40 A. Yes.
41

42 MS SAUNDERS: Q. That might be why you are hesitating to
43 answer, because you think your understanding may change
44 when you do this training?

45 A. Quite possibly.
46

47 Q. You haven't done it yet, you couldn't say. When you



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1 say your "powers", you mean your powers to go and knock on
2 someone's door?

3 A. Just general power, yes, as a police officer.
4

5 Q. What's the source of that power?

6 A. Well, just the general power, like, it's a role
7 I perform in line with my duties as a police officer.
8

9 Q. Does a particular piece of legislation give you that
10 power, to your understanding?

11 A. I think I said that earlier, that --
12

13 Q. I'm not asking what the legislation is, just whether
14 you think it's that or some --
15

16 THE CHIEF COMMISSIONER: I think we can explore his
17 knowledge, Mr Hutchings, it is not asking a legal question.
18

19 MR HUTCHINGS: No, I don't object on that question. The
20 point I wish to raise is there might be a disjunct in the
21 understanding of this witness about the power of a police
22 officer to do something that they are directed to lawfully
23 by a senior officer, and the power to enter premises, and
24 the powers being used interchangeably to describe two
25 different types of events.
26

27 THE CHIEF COMMISSIONER: I'm not sure that it matters all
28 that much. We can clarify it in due course.
29

30 MR HUTCHINGS: Thank you.
31

32 THE CHIEF COMMISSIONER: Yes, go on. I think probably we
33 have explored this as much as it can be.
34

35 MS SAUNDERS: Yes. There is just one thing arising from
36 Mr Hutchings questions.
37

38 Q. The phrase "enter premises", what does that mean to
39 you?

40 A. Well, it would be upon the - enter upon the property.
41

42 THE CHIEF COMMISSIONER: Q. Right. So going through the
43 front gate?

44 A. Yes.
45

46 Q. Would be entering premises?

47 A. Yes.



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MS SAUNDERS: Q. Could I show the witness barcode 8445959, which is behind tab 53, please. I'm about to start asking you about specific bail checks you performed in 2014, officer?

A. Okay.

Q. A document will come up on the screen for you shortly.

THE CHIEF COMMISSIONER: Sorry, what tab is it?

MS SAUNDERS: 53. I may have got the barcode number wrong, 8445959, it should be. We may need to take a brief adjournment, Commissioner. There is a difficulty - oh, no, we have it now. There is a document that I will need to have re-barcoded, Commissioner, if we could have maybe 15 minutes.

THE CHIEF COMMISSIONER: Oh, yes. We will take a morning adjournment. I think what we will do is we will finish this and the next witness I should have thought well before lunch, but if it goes over lunch, let's just get them over for the day. Do you agree?

MR HUTCHINGS: Yes.

THE CHIEF COMMISSIONER: 15 minutes?

MS SAUNDERS: Thank you.

THE CHIEF COMMISSIONER: That will give you time for a cup of tea.

THE WITNESS: Thank you.

SHORT ADJOURNMENT

THE CHIEF COMMISSIONER: Yes, thank you.

MS SAUNDERS: Thank you, Commissioner.

Q. If I could show the witness the document that is now behind tab 53.

A. Can you just enlarge it a bit? I forgot my glasses.

Q. Of course.



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1 THE CHIEF COMMISSIONER: Q. Is that a bit better?
2 A. Yes, that's fine.
3
4 MS SAUNDERS: Q. I'm going to ask you some questions,
5 officer, about some particular bail checks you carried out
6 in 2014. You do see the name of the relevant person on the
7 screen there. Don't say it aloud. We're referring to that
8 person in this hearing as CU1. So when I say that, that's
9 who I am talking about.
10 A. Right.
11
12 Q. Does that make sense?
13 A. Yes.
14
15 Q. Do you recognise this document?
16 A. Can I just ask you, can you enlarge it a bit?
17 I actually forgot to bring my glasses down. Sorry.
18
19 THE CHIEF COMMISSIONER: Q. Is that all right?
20 A. Yes.
21
22 MS SAUNDERS: Q. Just take a moment to read it and let
23 me know when you are ready.
24 A. Yeah.
25
26 Q. So this records a bail compliance check you conducted
27 on CU1 on Friday, 16 May; is that right?
28 A. Yes.
29
30 Q. Do you remember conducting this check?
31 A. Not specifically, no.
32
33 Q. Do you remember - do you have any general
34 recollections?
35 A. General recollection, yes.
36
37 Q. What are they - what is it, I should say?
38 A. To - I can recall the premises and all that sort of
39 thing and having been there during the hours of the night.
40
41 Q. Do you recall how you - we're going to go through each
42 of the checks you conducted, but what's your general
43 recollection of what happened, what you did?
44 A. Generally, it - I recall going to the door on occasion
45 and knocking. On others, where he was - stayed in that
46 upstairs bedroom, and you would get there and sometimes
47 he'd - the curtain would be open, you would be able to see



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1 because the light was sort of - a dim light was on in the
2 room. He pulled it aside. At that point, we come back to
3 where the torch may have got shone into - up towards him.
4 So I was satisfied he was there so then we would leave.
5

6 Q. You would say a curtain would be pulled aside. Would
7 that be when your car pulled up?

8 A. Yes.
9

10 Q. So just on 16 May, you attended at 23.09, which is --
11

12 THE CHIEF COMMISSIONER: Q. Do you remember the house?

13 A. Yes.
14

15 Q. About how far was the front gate from the front door?

16 A. There was no front gate. It's - there's no front
17 fence. It's two concrete strips as a driveway just going
18 up to the house, probably set, I'd say, about 10 to 15
19 metres back off the front, where the fence would be, but
20 there was no front fence.
21

22 MS SAUNDERS: Q. So how close to the door would you park
23 the car?

24 A. We would park on the street. So you would have from
25 the premises, 10 to 15 metres to the front building - fence
26 alignment, then another three metres, or whatever, to the
27 kerb.
28

29 Q. Just returning to the document, at 11.09 - you say
30 there you found CU1 present; is that likely to indicate
31 that this is one of the occasions when you knocked on the
32 door?

33 A. As I said, I can't tell you specifically.
34

35 Q. But based on what you have written there?

36 A. Found him present in compliance with his bail
37 undertaking. I'm just saying he was there. I didn't
38 say --
39

40 THE CHIEF COMMISSIONER: Q. So this might have been at
41 the front door, or it might have been you have seen him at
42 the upstairs window?

43 A. Correct.
44

45 Q. So far as you can recall, they were the only two ways
46 in which you found out whether he was there or not?

47 A. Yes.



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Q. As you recall it?

A. Yes.

Q. Do you recall anyone else being present in the house, either on this occasion or generally?

A. No. I - I didn't actually see anyone. But I was aware he had a partner there.

Q. How were you aware of that?

A. I was actually involved in another matter with the person, a domestic situation, and I was aware that he had a partner that lived with him. I didn't specifically see her at the bail checks, though.

Q. Why would you have conducted this bail check?

A. Why would I have?

Q. Yes.

A. Once again, to ensure that he was complying with --

Q. Sorry, it is a simpler question than that. Not the purpose of conducting it, but would you have done it because you were told to?

A. Correct.

MS SAUNDERS: I tender the document, Commissioner.

EXHIBIT #13 CONFIDENTIAL EXHIBIT, BARCODED 8445959

THE WITNESS: I would probably reiterate on that, like I said generally we're issued with bail checks. There was the rare occasion where it might be just, "Can you get the bail checks done". So I wasn't specifically tasked to do that one by a supervisor but I went ahead and done it because we've got access to the bail list as well.

MS SAUNDERS: Q. So you would be working through the full list?

A. No, no, I would do certain ones on certain nights, but - yeah.

Q. What do you mean by that?

A. There may be 10 or 12 on the list but you only get time to do three or four or five, and they actually might be en route to other jobs, because you are actually in that area working, you would conduct the bail check possibly



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1 between the jobs.

2

3 Q. Sure. Without having it specifically allocated to
4 your crew?

5 A. Yes. Oh - yes.

6

7 Q. Would you check whether it had been allocated to
8 a different crew before you did that?

9 A. Well, you would generally be aware whether the
10 specific - there had been specifically allocated two car
11 crews on that evening, because there might be reasons, like
12 the supervisor's been tied up in something else, so you
13 would use your initiative and just know that they needed -
14 like you had to try and do so many.

15

16 Q. But would you specifically check?

17 A. Not --

18

19 THE CHIEF COMMISSIONER: Q. No, you are being asked
20 a different question.

21 A. Yes.

22

23 Q. The question really is: you might make that choice,
24 but how do you avoid doubling up what another crew might
25 decide to do with the same list? So did you tick-tack with
26 them about where you were going or what happened just
27 happened?

28 A. Usually, with the way that I do it, I create what's
29 called a job on our computer - like on our MDT in the car,
30 so that would come up as a job that I've got on my list to
31 attend.

32

33 Q. And the other crew could see that?

34 A. And I can see their's as well. So if I seen an
35 address that someone else is attending, I'd probably steer
36 away from it.

37

38 Q. And you would expect them to do the same with yours?

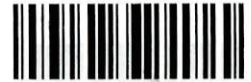
39 A. I would.

40

41 MS SAUNDERS: Q. You said you would probably steer away
42 from it, would there be circumstances where someone might
43 be checked twice in one night?

44 A. Well, as you said, like, if we weren't au fait with
45 the checks that another crew were doing, it is
46 a possibility that that may occur. That's correct.

47



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1 Q. Does that strike you as a problem?

2 A. Well, they - they are on bail to remain at the
3 premises, so I don't know whether you would want to instill
4 that sort of belief with the person, that once they have
5 been checked once, they are right for the rest of the
6 night, go and do what you like.

7
8 Q. Sure. So it could be a good thing that they are
9 checked multiple times?

10 A. Well, it might come back to the specifics of that
11 bailee - that person and the reason they are on bail. If
12 you know that they are an active break and enter offender,
13 okay, you might check them two or three times, just to make
14 sure they are not out, especially if you are aware that
15 something's happening in that area.

16
17 Q. Could I take the witness to the document behind
18 tab 54, it is 8445962.

19
20 THE CHIEF COMMISSIONER: Q. I take it - correct me if
21 I'm wrong - you actually are, to some degree, familiar with
22 this individual?

23 A. Now?

24
25 Q. Well, in 2014, you would know something about him - or
26 not?

27 A. No, not particularly. I just knew he was one of the
28 persons on our bail list.

29
30 Q. Going back to this, there were some who were well
31 known as --

32 A. Correct.

33
34 Q. -- troublemakers?

35 A. Correct.

36
37 Q. You would be more intentional about --

38 A. Targeting.

39
40 Q. -- targeting them?

41 A. Yes.

42
43 Q. Was this person such a person, so far as you knew?

44 A. No. I don't believe so.

45
46 MS SAUNDERS: Q. With those persons that you would be
47 more intentional about targeting, would that be because of



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1 their prior history and the fact that they were on bail?

2 A. And my knowledge of the person, yes.

3

4 Q. Would there be anything else that would give - any
5 other thing they would have to do to be targeted or just
6 that?

7 A. Well, you would be aware of the activity that's going
8 on in certain areas, certain times of the night. So you
9 may - that may give cause to go and check on our known
10 offenders.

11

12 THE CHIEF COMMISSIONER: Q. And police on a shift are
13 talking to each other about --

14 A. Correct.

15

16 Q. -- the business of the night and the situation and so
17 on?

18 A. Yes.

19

20 Q. So there is a lot of sharing of knowledge, I would
21 assume, in that situation; is that right?

22 A. Correct.

23

24 Q. And including about known perpetrators who are in your
25 area who you need to keep an eye out for; is that fair?

26 A. Exactly.

27

28 MS SAUNDERS: Q. The document in front of you, if we
29 could just scroll down a little further. So this is
30 another bail compliance check on CU1, 24 May; is that
31 correct?

32 A. Correct.

33

34 Q. Again, do you have any specific recollection of this
35 particular check?

36 A. No, I don't.

37

38 Q. This one has happened at 11.37?

39 A. Yes.

40

41 Q. That is, as you discussed earlier, a fairly normal
42 time for you to arrive?

43 A. Well, I don't see an issue with the time. No, I --

44

45 Q. Sorry, I'm not asking - that's a different question.
46 That's around the usual time that you would be performing
47 these checks?



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1 A. That's when I generally try and do them, yes.
2
3 MS SAUNDERS: I tender the document, Commissioner.
4
5 **EXHIBIT #14 CONFIDENTIAL EXHIBIT, BARCODED 8445962**
6
7 MS SAUNDERS: Q. Can I take the witness now to the
8 document behind tab 5, which is 8440951.
9
10 THE CHIEF COMMISSIONER: Q. It is implicit, I think, but
11 I should ask you explicitly, that if you got no response,
12 your own practice would not be to walk around to a side
13 window and knock on a window or look in a window or
14 anything of that kind? If you got no response, from your
15 point of view - at the front door - that would be the end
16 of it?
17 A. That's correct.
18
19 MS SAUNDERS: Q. Can we scroll down in this document a
20 little. You see there, officer, that there are two names
21 listed, yours and another police officer?
22 A. Yes.
23
24 Q. Both are listed as police in charge. What does that
25 indicate?
26 A. Well, because we are the two officers that attended
27 that location at that time.
28
29 Q. So you are not supervising the senior constable? It's
30 just that you are both --
31 A. Well, I'm witnessing what she's doing, if she did
32 something that I didn't agree with, I would certainly pull
33 her up.
34
35 Q. And this is - you have the text in front of you - this
36 is another bail check you have conducted on CU1 on 3 June
37 2014 at 9.08pm?
38 A. Correct. What did you say, 9.08?
39
40 Q. It's possibly I've got the 24-hour time wrong.
41
42 THE CHIEF COMMISSIONER: Are we looking at the same one,
43 8440945?
44
45 MS SAUNDERS: No, 0951.
46
47 THE CHIEF COMMISSIONER: Sorry, I'm looking at the wrong



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1 one. Yes, I have it.
2
3 MS SAUNDERS: Q. There are two numbers here. I think
4 you might be looking at 22.03 in date time created?
5 A. Yes.
6
7 Q. If you look at the text?
8 A. 23.08. Yes, someone else's - like what would have
9 happened there is a - that narrative, just looking at the
10 document, I was just trying to work out whether there was
11 another narrative added by someone else. It may be
12 a possibility that - the first one --
13
14 Q. Sorry, can you --
15
16 MR HUTCHINGS: I think the confusion arises from the use
17 of the phrase 9.08, rather than - it is the hours, 9.08 is
18 am.
19
20 MS SAUNDERS: Q. Can you just read out the text that is
21 in front of you?
22 A. I can't actually recall, but looking at that, it's
23 a possibility that maybe I've gone there twice.
24
25 THE CHIEF COMMISSIONER: Q. No, I don't think that's
26 what it suggests. If you have a look, you created the
27 event at, more or less, 10pm?
28 A. Yes.
29
30 Q. And it refers to, more or less, 9pm - at 21.08, on the
31 3rd, you attended?
32 A. Yes.
33
34 Q. That's 10 past 9?
35 A. The event was created when I came back in from being
36 out the road, correct.
37
38 Q. Quite.
39
40 MS SAUNDERS: Q. No-one's suggesting you went twice
41 here, but that's what would have happened - you would have
42 later recorded the event; is that right?
43 A. Yes.
44
45 Q. So this is, you agree, recording a bail compliance
46 check conducted at 9.08pm on 3 June at CU1's property?
47 A. Yes.



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1
2 Q. You see there in the text you have described, slightly
3 different to the previous ones, you say "sighting the
4 person of interest"?
5 A. Yes, that's actually not created by me, that text.
6 When you look at it, it's created by Officer 16.
7
8 Q. You agree you were there?
9 A. Yes.
10
11 Q. When it says "sighting", is that more likely to be one
12 of the occasions where the curtain was pulled back and you
13 looked up with your torch?
14 A. I can't say, sorry. I don't recall. It may have been
15 sighted at the front door.
16
17 Q. Were you aware when you conducted this bail compliance
18 check that CU1 had been checked at 12.54am that morning?
19 A. Not specifically aware, but --
20
21 Q. Is it likely that you would be aware of the check
22 conducted by the previous shift?
23 A. Not the previous shift, no.
24
25 Q. Would it matter?
26 A. Unless I had done it myself.
27
28 Q. Would it be unusual for people to be checked one day
29 after the other?
30 A. Well, it doesn't get checked at our level, it gets
31 checked at the intelligence level, like --
32
33 Q. You don't know?
34 A. -- that collate the - no.
35
36 Q. So were you also aware that - were you later made
37 aware that someone conducted another bail compliance check
38 at 9.30pm that night?
39 A. At 9 --
40
41 THE CHIEF COMMISSIONER: Q. So only 20 minutes after
42 you?
43 A. Someone else went there?
44
45 Q. Yes. Were you aware that someone else had done that
46 check?
47 A. Not to my knowledge, no, I don't recall being aware of



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1 it.

2

3 Q. It must have been, obviously, if it wasn't you, the
4 other car on the shift?

5 A. Possibly, yeah.

6

7 MS SAUNDERS: Q. Is that a particularly unusual thing to
8 happen?

9 A. Well, it's a possibility because at that stage,
10 unfortunately, the - there was another section called,
11 like, the target action group, who also used to go out
12 doing bail compliance checks, okay, and at that point
13 I wasn't - I'm not aware that there was that much
14 discussion between us in general duties and our
15 supervisors, and the activities that they were performing
16 for the evening, because they had their own supervisors to
17 go out and conduct bail checks and that sort of thing as
18 well.

19

20 THE CHIEF COMMISSIONER: Q. The target action group, is
21 that part of the structure of STMP or a different
22 structure?

23 A. No, it would be part of that structure, like --

24

25 Q. It is STMP, because they do have targets?

26 A. Yes.

27

28 Q. So do you know whether CU1 was on an STMP list?

29 A. No, I don't. I'm not aware.

30

31 Q. If he were placed on a list, would that - would you
32 know about that or you might not know about it?

33 A. We get intelligence briefings, okay, via email, and it
34 might be up to half a dozen persons that are specifically
35 mentioned to try and ensure that you get these ones, if you
36 get to them, obviously.

37

38 Q. Yes, in other words, keep an eye on them?

39 A. Yes.

40

41 Q. Because --

42 A. They are known to be active in the area.

43

44 Q. They are known to be active, yes, right. But as
45 happens, as you sit there now, you don't know whether he
46 was on a list or not?

47 A. I don't recall whether he was on that list. He may



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have been.

MS SAUNDERS: I tender the document, Commissioner.

EXHIBIT #15 CONFIDENTIAL EXHIBIT, BARCODED 8440951

MR HUTCHINGS: Is that a suitable time to seek an anonymising order in relation to the senior constable identified by this witness, who I presume will become Officer 16?

THE CHIEF COMMISSIONER: Yes, thank you.

MS SAUNDERS: Q. Could I take the witness now to the document behind tab 7, 8440957, and if it can be enlarged as much as possible.

A. Thanks. Sorry.

Q. That's all right. You take your time. I am happy to read the text to you, if that helps, as well. You are able to read that, officer?

A. Yes.

Q. So this is a record of another bail compliance check on CU1 conducted on 12 June 2014?

A. Yes.

Q. At 11.11pm?

A. Yes.

Q. Do you have any specific recollection of this check?

A. Not specific recollection of it. But that would be accurate.

MS SAUNDERS: I tender the document, Commissioner.

EXHIBIT #16 CONFIDENTIAL EXHIBIT, BARCODED 8440957

MS SAUNDERS: Q. Can I show the witness the document behind tab 21, 8445650. Don't worry about the part on the right-hand side, but can you read the text there, sir?

A. Sorry, just at the moment, if you enlarge it a bit for us.

Q. Yes, if we can blow up the left-hand side, please. Can we scroll up fractionally. The date on the letter is 13 June 2014?



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1 A. Yes.
2
3 Q. Scroll down again. Take a moment to read it and let
4 me know when you are ready.
5 A. Okay.
6
7 Q. Have you ever seen this document before?
8 A. I do have a faint recollection of it, I think, yes.
9
10 Q. You see there that --
11
12 THE CHIEF COMMISSIONER: Q. Can you recall - I know this
13 was probably --
14 A. Not specifically. We may have got an email or
15 something sent out.
16
17 Q. About the subject matter?
18 A. About the subject matter, yes.
19
20 MS SAUNDERS: Q. So from this letter, you see that CU1
21 has withdrawn any implied consent for the police to enter.
22 If you had seen this at the time, and you were tasked to do
23 a bail compliance check on CU1, would, in your view, you
24 still have had the power to do it?
25 A. Well, I would have thought possibly - looking at that
26 letter as it stands, I would still have power to conduct
27 bail check, as it's not an order that has been made by the
28 court or something, an authority.
29
30 MS SAUNDERS: That has already been tendered, I think.
31 Can I show the witness the document behind tab 8, 8440960.
32
33 Q. So this is a record of another bail compliance check
34 you have conducted on CU1 on 3 August 2014; is that right?
35 A. Correct.
36
37 Q. You have attended at 23.59pm, 11.59pm, on Saturday,
38 2 August?
39 A. Correct.
40
41 Q. It is the same - it fits within that general
42 recollection of these checks; is that right?
43 A. It does.
44
45 Q. Why would you have conducted this check?
46 A. Same reason as I conducted them earlier. Like
47 I can't actually say at what time I became aware of that



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1 document, though, like it was dated then but --

2

3 Q. Just focus on the question. We will get to that. But
4 would you have done this check on your own initiative?

5 A. It would come back to earlier answers where I have
6 said generally I had been tasked to go, but I have - there
7 may have been that occasion where I may have used my own
8 initiative and done it in the course of other duties.

9

10 Q. But when you say using your own initiative, it would
11 have been you would have the bail list given to you?

12 A. Yes.

13

14 Q. And you would use your initiative by checking someone
15 whose name hadn't been specifically assigned to you?

16 A. Yes.

17

18 Q. Would you perform a bail check on someone who you knew
19 was on bail but wasn't on that list?

20 A. But wasn't on that list?

21

22 Q. Yes.

23 A. I don't believe I would - no, no. It would have been
24 tasked to me or something. It would have been on the list.

25

26 MS SAUNDERS: I tender the document, Commissioner.

27

28 **EXHIBIT #17 CONFIDENTIAL EXHIBIT, BARCODED 8440960**

29

30 MS SAUNDERS: Q. Can I show the witness the document
31 behind tab 73, barcode 8449316. If we can scroll down to
32 the second page of that document, just stopping there, can
33 you see the "to" line there, officer?

34 A. The "to" line?

35

36 Q. Yes, the line where it says "from" and underneath it
37 "to"?

38 A. Yes.

39

40 Q. Is that an email?

41 A. That's when it's sent out LAC wide, yes.

42

43 Q. That's being sent to the whole command; correct?

44 A. Yes.

45

46 Q. That's on 21 August 2014. Can we scroll down a
47 little. Just take a moment to read that and refresh your



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1 memory.
2 A. Okay.
3
4 Q. Is that the email you were referring to earlier?
5 A. I'd have received that definitely.
6
7 Q. But you mentioned earlier that you thought you might
8 have received an email about the subject matter of that
9 earlier document I showed you. Is that this email?
10 A. Most likely it is, yes.
11
12 Q. Have you ever seen other emails like this talking
13 about people having withdrawn consent?
14 A. No.
15
16 Q. You will see the email discusses a reasonable
17 suspicion. Just as your understanding, leave the document
18 to one side, what does it take for you to form a reasonable
19 suspicion?
20 A. Well, I come back to say if there was an offence that
21 occurred in that general sort of area where the person came
22 from, and there was a description that was put on that was
23 very specific and - with the knowledge that I have of what
24 the person looked like, it may be a possibility on those
25 occasions. But I'm not, to my mind, aware that an occasion
26 like that actually presented itself.
27
28 Q. In respect of CU1, you mean?
29 A. In respect of CU1. I don't know if this shows the
30 date that I may have - that I actually read it. It's got
31 the date it was sent.
32
33 Q. That's all right. Just focus on the questions I'm
34 asking you.
35 A. Yes.
36
37 Q. When was the last time you were tasked to perform
38 a bail check?
39 A. Sunday night.
40
41 Q. How did that happen? How were you tasked?
42 A. Sergeant said, "These are" - like as I said, it's done
43 differently now. They are prioritised and was just given
44 a sheet with two persons marked off on it, and also they
45 are highlighted.
46
47 Q. So those two persons are the ones that you are to do?



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1 A. Yes.
2
3 Q. If you have spare time, is it still appropriate for
4 you to check on the others?
5 A. No, not if they are specifically tasked - you wouldn't
6 go and check on the others.
7
8 Q. Do you still have their names?
9 A. From Sunday night?
10
11 Q. No, sorry, the list still contains everyone's name?
12 A. I would have knowledge, because, like you'd do --
13
14 Q. Just focus on the question. The list you were given
15 on Sunday night, that named everyone who was on curfew bail
16 in the area; is that right?
17 A. Well, it's generated by our intelligence section,
18 okay, so it doesn't - it's not an automated list of
19 everyone that's on bail. It's who is listed on it by our
20 intelligence section. I'm not aware if they list everyone
21 that's on curfew bail.
22
23 Q. Certainly. The list had roughly how many names on the
24 list?
25 A. In total, possibly 10.
26
27 Q. And two of those were assigned to you?
28 A. Yes.
29
30 Q. But you still had all the information about the other
31 eight?
32 A. Yes.
33
34 Q. The training that you are aware of, why haven't you
35 completed it yet?
36 A. Sorry?
37
38 Q. We discussed earlier the online training about bail
39 checks, that you know that is out there but that you
40 haven't done yet, why haven't you done it yet?
41 A. Well, it's just a - if it is - like a list is
42 generated of outstanding training issues. I try and keep
43 on top of the things as they come out and address them.
44 I actually haven't seen that one. I've just been
45 speaking - like I did ask about it, made inquiries, as to
46 where it is so as I can do it now that I'm aware of it.
47



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1 Q. Because --
2 A. I don't believe it's mandatory.
3
4 Q. So nobody's directed you to do it?
5 A. Not that I've been - that I can bring to mind at this
6 stage. I can't recall an email or anything directing me to
7 undertake it. But, as I said, there's a list of modules
8 there that we can do.
9
10 Q. Is it fair to say that the reason that you made some
11 inquiries and have become aware that that module is there
12 is because you were directed to appear at this inquiry?
13 A. Yes.
14
15 MS SAUNDERS: Thank you. I have nothing further for the
16 witness, Commissioner.
17
18 THE CHIEF COMMISSIONER: Any questions?
19
20 MS GOODHAND: Just one question.
21
22 **<EXAMINATION BY MS GOODHAND:**
23
24 MS GOODHAND: Q. Could exhibit 16 be brought up on the
25 screen, please. It is for 11 June 2014.
26
27 MS SAUNDERS: That is barcode 8440957.
28
29 MS GOODHAND: Sorry, that's fine.
30 Q. Can you see that on your screen, officer?
31 A. Yes.
32
33 Q. Do you see halfway down the page where it says
34 "Actioning mobile"?
35 A. Yes.
36
37 Q. In CC34. Can you just explain what that means?
38 A. That's the call sign of the vehicle that we are on.
39
40 Q. So does that indicate that that entry would have been
41 entered from the vehicle rather than, say, at the police
42 station?
43 A. The ability - actually, I will just read the
44 narrative, because I do mine a certain way all the time.
45 Just make sure that it was me that conducted this one,
46 which it was. And, no, that would have been done back at
47 the station because I don't do them on the vehicle. It is



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1 a lot easier to do them once you are back at the station.

2

3 Q. So should that actioning mobile appear on each of the
4 COPS events, then?

5 A. Only if I've created - only if I've created the --

6

7 THE CHIEF COMMISSIONER: Q. On a COPS entry that you
8 have created, you would put in your vehicle number?

9 A. That would come up because I've entered a job on to
10 our CAD system, okay, that I intend to conduct a bail check
11 there, and what that does then is when I have completed it,
12 okay, that generates a time that I was there. So then,
13 when I come back in, I complete the COPS entry in relation
14 to it and I refer back to it for the time that I was
15 actually on premises. So if I created it from the vehicle,
16 it would come up with that actioning mobile number.

17

18 MS GOODHAND: Q. If you didn't create it from the
19 vehicle and just created it at the police station, we
20 wouldn't see that on the COPS event?

21 A. That's pretty much right, yes.

22

23 Q. By doing that, by creating it from the vehicle and
24 recording the time, then it becomes unnecessary to make
25 a police notebook entry?

26 A. Well, I believe that to be a contemporaneous note or
27 record of what occurred, yes. So I wouldn't have made
28 a notebook entry.

29

30 MS GOODHAND: Thank you, Commissioner.

31

32 THE CHIEF COMMISSIONER: Q. Was it your habit to do it
33 from the vehicle or --

34 A. To create from the vehicle?

35

36 Q. Yes.

37 A. Only when I wasn't driving.

38

39 Q. When you were driving you wouldn't?

40 A. If I was the driver, obviously, being the senior
41 person on the vehicle, most times --

42

43 Q. The is other officer would do that?

44 A. Most times I would ask the other officer, "They are
45 our bail checks we've been assigned for the night, can you
46 create jobs for those", and then we would come back to the
47 police station and they would come up.



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Q. And fill in the COPS report?

A. Entry, complete it.

<EXAMINATION BY MS SAUNDERS:

MS SAUNDERS: Q. One thing arising from that, Commissioner.

Q. When you say "Those are our bail checks, can you create jobs for those", would that be before or after you conducted them?

A. It would be before.

Q. Once those jobs are created, can they be seen on the system by other people?

A. No. Once they are written off.

MS SAUNDERS: Thank you. Nothing further.

MR HUTCHINGS: I have no questions.

THE CHIEF COMMISSIONER: Q. Perhaps I misunderstand. When the intention to carry out those checks is put into the computer from the car --

A. Yes.

Q. -- does the other vehicle have vision of that or not?

A. They don't have direct vision of it. You would have to specifically go and look for it by going into another screen on the mobile data terminal in the vehicle, which is called, like, "Other committed", and you can look through all the jobs that the other vehicles have got on their list. You only actually see the jobs that you have actually acknowledged, yourself, or that have been broadcast that no-one else has acknowledged as yet. So you wouldn't generally be aware that someone else has created that unless you went into that "Other committed" screen.

MS SAUNDERS: Q. Sorry, one further thing arising from that. When you say jobs that you have acknowledged yourself, does that describe a process where someone else creates the job and you essentially accept it as the car that is going to do it?

A. That's correct.

Q. Is that done with bail checks?



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1 A. Some teams - on some teams, I believe it was. But on
2 my team, it was generally we would create it ourself in the
3 vehicle.

4
5 Q. With the jobs that are created externally, though, if
6 one car accepts it, you can see that?

7 A. Yes. Oh, only if you go to that "Other committed"
8 screen. I can see it while no-one has actually
9 acknowledged it.

10
11 THE CHIEF COMMISSIONER: Q. So once they have accepted
12 it, as it were, it gets removed from your screen?

13 A. Correct.

14
15 Q. You are not seeing it then?
16 A. That's right.

17
18 MS SAUNDERS: Thank you, Commissioner. Nothing further.
19

20 THE CHIEF COMMISSIONER: Nothing arising out of that?
21 Thank you, officer. You are free to go.

22
23 THE WITNESS: Thank you.

24
25 THE CHIEF COMMISSIONER: It's possible we might call you
26 back in case something develops. I think it's unlikely,
27 but we will have to wait and see. But although this is
28 a public hearing, you are not to discuss your evidence with
29 any person.

30
31 THE WITNESS: Okay.

32
33 THE CHIEF COMMISSIONER: Thank you.

34
35 THE WITNESS: Thank you very much.

36
37 <THE WITNESS WITHDREW

38
39 MS SAUNDERS: We're ready for officer 15, I think.

40
41 <OFFICER 15, sworn: [12.45pm]

42
43 THE CHIEF COMMISSIONER: You may be seated, officer. Is
44 there an application for leave to represent the witness?

45
46 MR JONES: There is, Commissioner, Jones. I seek leave to
47 represent the witness.



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THE CHIEF COMMISSIONER: Mr Jones, certainly. Mr Jones has probably explained to you some matters which I'm obliged to let you know, so you will just have to be a bit patient.

THE WITNESS: Yes.

THE CHIEF COMMISSIONER: First of all, you are obliged to answer any questions that you are asked and produce anything that you are asked to produce, unless I tell you that you don't have to. You can object to answering a question or producing something, even when you do so, you must, nevertheless, answer the question, or produce the document - whatever it is. But the effect of the objection is that your answer or what you produce cannot be used against you in any other proceedings, except disciplinary proceedings that might be taken against you, or action that might be taken against you by the Commissioner of Police. Do you understand?

THE WITNESS: Yes, I do, thanks.

THE CHIEF COMMISSIONER: Now, rather than objecting to every question, I can make a declaration that all your answers are to be taken as being given under objection, and I take it you would like me to make that declaration?

THE WITNESS: Yes, thank you, Commissioner.

THE CHIEF COMMISSIONER: I declare under section 75 of the Act that all the answers given or anything produced by the witness is to be taken to be answered or produced under objection.

Thank you. Yes, Ms Saunders.

<EXAMINATION BY MS SAUNDERS:

MS SAUNDERS: Q. Are you a currently serving police officer?

A. Yes, I am.

Q. I understand you have recently returned to work. If you do need a break at any point during the proceedings, just let us know. That's not a difficulty.

A. Thank you.



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Q. When did you join the police?

A. Probably about 12 years ago.

Q. What is your current rank?

A. Constable.

Q. What was your rank in 2014?

A. Would have been senior constable.

Q. At what command are you currently at?

A. Newcastle city command.

Q. And in 2014?

A. At the same command, Newcastle city.

Q. You are a general duties officer; is that right?

A. That's correct.

Q. Can you explain what a day in the life of a general duties officer is?

A. Generally, it would be responding to jobs that are called over the radio, that would be generated through 000 calls or calls to the police station, and then when we had time, we would try and do some proactive work as well to help prevent crime.

Q. Does that include bail checks?

A. That certainly does.

Q. How were you tasked with the bail checks?

THE CHIEF COMMISSIONER: Q. Just before that, you would be aware, I think, that there are monthly strategic meetings at which the regional commander would get his inspectors and other officers together to look at how the command was moving in that month - how many searches have been conducted, how many move-ons have been done, how many arrests, all those kinds of things, to give him a picture of activity. Is that right? You are aware of that?

A. Yes.

Q. Have you actually been part of those meetings or are they inspectors and above?

A. I'm not sure who actually attends, but I've never attended one.



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1 Q. But you are aware generally that they take place?
2 A. Yes.
3
4 Q. Also in relation to a number of police, what you might
5 call routine matters, or routine actions, there are key
6 performance indicators; are you aware of that?
7 A. I'm not quite sure what you mean by that.
8
9 Q. Well, there is an expectation, in a particular
10 command, that there will be so many personal searches, so
11 many vehicle searches, for example, and checks are made to
12 see if those indicators are not met, why they might not be
13 met. There may be very good reasons why they are not met,
14 but they are simply a measure of performance. Are you
15 aware of those management figures?
16 A. I am aware that some reports come out that show
17 current results compared to past results. I've never been
18 directly asked in relation to those results or anything,
19 and to be honest, I'm usually too busy to take much time to
20 look at them.
21
22 Q. So you do as much work as you can anyway and the rest
23 has to look after itself; is that pretty well --
24 A. I don't mean - well, I just go and try and do the best
25 job I can.
26
27 Q. Right, I understand that. So whether or not there are
28 key performance indicators in relation to your work, you
29 simply do the work to which you are assigned as best you
30 can?
31 A. Yes. I've never been pulled over for my lack of work.
32
33 THE CHIEF COMMISSIONER: Thank you, Ms Saunders.
34
35 MS SAUNDERS: Thank you, Commissioner.
36
37 Q. What shift pattern do you work?
38 A. Currently or back then?
39
40 Q. If it is different, in 2014 first?
41 A. In 2014, I would have been two days, two nights and
42 then roughly four or five days off.
43
44 Q. Returning to the bail compliance checks, would you be
45 performing those on the night shifts?
46 A. That's correct.
47



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1 Q. How frequently on your two night shifts - sorry, how
2 frequently, when you were on night shift, would you be
3 tasked with performing bail checks in 2014?
4 A. Every night.
5
6 Q. How were you tasked?
7 A. Ideally, we would be given a list and the sergeant
8 would - or the supervisor would mark out whom we were to do
9 checks on that night, if we could get to them.
10
11 Q. Ideally. And what actually happened?
12 A. That happened more often than not, I would say, but
13 sometimes you'd turn up at work and everybody's busy and
14 the sergeants supervising are down in custody area and so
15 forth, and - I knew myself there was an expectation for
16 them to be done, so if I didn't get a chance to get any
17 allocated to me, I would just go and do some myself.
18
19 THE CHIEF COMMISSIONER: Q. How would you get the
20 information to know who were the individuals who needed to
21 be checked on?
22 A. We have a list, a file that we all have access to,
23 that has what is called a bail list. So everybody who was
24 currently on bail.
25
26 Q. You can access bail list from your computer?
27 A. Yes.
28
29 Q. If you hadn't got instructions for some reason or
30 other, the supervising sergeant's too busy, you knew that
31 they needed to be done and you would get the bail list
32 downloaded, yourself?
33 A. Yes, that's correct.
34
35 Q. Now, there might be how many on that bail list, maybe
36 10, 12, something like that?
37 A. I'd say more like 50.
38
39 Q. So you're obviously not going to check all of them?
40 A. No.
41
42 Q. You can't even check most of them. The best you can
43 do is probably two or three or maybe four?
44 A. I used to try and do four a night.
45
46 Q. So how would you select them - close your eyes and put
47 a pin in the list?



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1 A. No, we would have --

2

3 Q. You don't have to take that question seriously. What

4 I'm really asking you is, is it random or did you have some

5 process?

6 A. I wasn't aware of myself having any particular targets

7 at the time. Unless I knew there was someone in the area

8 at the time that myself had heard had been suspected of

9 being involved in things, then I would probably try and go

10 to that house. But otherwise, it would be more like, you

11 know, "We've got to go to a job here at Elermore Vale.

12 Once we have finished that job, there is a gentleman here

13 on bail in Elermore Vale, we will go and knock on his

14 door."

15

16 Q. So it would be where you would do it, more or less,

17 because you were in that area for other work? Is that --

18 A. Yes. For an example, yes.

19

20 Q. There is at least two, perhaps three, cars on in a

21 night shift?

22 A. Generally, yes.

23

24 Q. Would you tell them what jobs - what bail checks you

25 were doing? Or would you just do yours and what they did

26 was a matter for them?

27 A. I would just do mine.

28

29 Q. So that meant, if, as it happened, they had the same

30 ideas as you, they might be turning up as well, that shift?

31 A. At the same --

32

33 Q. For that bail check. That could happen?

34 A. Yes, that could happen.

35

36 MS SAUNDERS: Q. Are you aware of occasions where it did

37 happen?

38 A. I am aware of one of the bail checks in regards to --

39

40 Q. Sure. It is a general question at the moment, but we

41 will come to that.

42 A. Yes. Sorry, yes.

43

44 Q. How frequently would that come up, that someone would

45 be checked more than once a night?

46 A. Oh, I'm not sure. We didn't discuss it. It was

47 a routine thing to do a bail check. You would just come



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1 back and put it on the computer and it wasn't something you
2 really discussed. But occasionally, I mean, there might be
3 a time when we have driven in the street and someone's
4 driving out and we go, "Oh, you have just been there so we
5 won't go there", type of thing, so it wouldn't surprise me.
6

7 THE CHIEF COMMISSIONER: Q. Sometimes you would go to
8 the house and they would say "Hey, you lot were here an
9 hour ago. Why are you back?

10 A. That's correct.
11

12 MS SAUNDERS: Q. That would happen from time to time?

13 A. Occasionally, yes.
14

15 Q. When you say you are tasked with it every night, it is
16 really just a routine thing, night shift does bail checks?

17 A. Yes.
18

19 Q. More often than not you would be given a specific list
20 with it allocated, but if you weren't given that, it was
21 still part of your general duties; is that fair?

22 A. I would say it would be expected of us.
23

24 Q. How were you - what training did you receive in bail
25 before 2014?

26 A. No official training that I'm aware of.
27

28 Q. What about unofficial training?

29 A. The only unofficial training I could have would be to
30 watch other officers perform a bail check and see how they
31 did it.
32

33 Q. You have probably already answered by describing it as
34 part of proactive policing, but what is the point of bail
35 checks, why do you do them?

36 A. It is a strategy to target high-risk offenders.
37

38 Q. A high-risk offender is someone who is on curfew bail?

39 A. Not always.
40

41 Q. What is a high-risk offender?

42 A. A person who is more likely to be out and about
43 committing crime than someone who is not.
44

45 Q. So if I understand your last answer correctly, I think
46 it's that not all high-risk offenders are on curfew bail;
47 is that what you mean?



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1 A. Well, I would imagine that there's - depending on the
2 offence. So if a person had done a fraud, and continues to
3 do frauds, they still might be a high-risk offender in
4 frauds, but they wouldn't necessarily be on curfew bail
5 because the curfew wouldn't stop them from doing a fraud.
6

7 Q. I see. But is it the case - is it your understanding
8 that everyone who is on curfew bail is a high-risk
9 offender?

10 A. That would be my understanding.
11

12 THE CHIEF COMMISSIONER: Q. Or at least it would be your
13 working assumption?

14 A. Yes.
15

16 MS SAUNDERS: Q. When you perform a bail compliance
17 check, in a very basic way, what are you trying to do?

18 A. I'm trying to confirm that that person is home during
19 the hours that they are meant to be home.
20

21 Q. How do you do it?

22 A. We would arrive at the premises, we would get out of
23 the car, we would walk up to the front door, knock on the
24 door. Hopefully, that person would come to the door. And
25 then we would advise them why we were there and then we
26 would leave.
27

28 Q. You would be doing this at different hours of the
29 night?

30 A. Yes.
31

32 Q. Sometimes either quite late or very early in the
33 morning?

34 A. Yes.
35

36 Q. It would be relatively common that you would need to
37 try to wake people up?

38 A. I wouldn't say common. A lot of them knew to expect
39 us, so they would be up. But, yes, on occasions we have
40 had to wake people up.
41

42 Q. If you turned up to a house and all the lights were
43 off, would you just knock and go or would you make an
44 effort to wake people up to check that they were there?

45 A. We would knock a few times, but I'm not going to wake
46 the whole neighbourhood up.
47



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- 1 Q. Would you ever walk around the property?
2 A. Not unless we were directed to. So some bail
3 offenders would give us instructions to say, "Come around
4 to the back door and I will come to the back door", and so
5 forth, but otherwise, no.
6
7 Q. What if you were - you would have a torch with you; is
8 that right?
9 A. Yes.
10
11 Q. Obviously you needed it to see where you were going?
12 A. That's correct.
13
14 Q. Would you ever use it to look in a window to see if
15 anyone was there?
16 A. I have, but generally because the person's at the
17 window.
18
19 Q. Sure. You can see a silhouette and you --
20 A. You see movement and so shine the torch at the window
21 to see what the movement was. That's probably an
22 instinctive thing to do.
23
24 Q. When we say "torches", how strong are they?
25 A. I suppose to be a police issued torch they would have
26 to be fairly strong.
27
28 Q. Would you ever knock on a window to see if you could
29 wake someone up?
30 A. I can't recall knocking on a window, no.
31
32 Q. What about - you would pull up in - you are in a car,
33 obviously, when you are arriving?
34 A. Mmm.
35
36 THE CHIEF COMMISSIONER: Q. Sorry, can we just go back
37 to that and be a little more precise. Are you saying that
38 you might have done so and have forgotten about it or are
39 you saying that you rather think you would not do that?
40 A. It wouldn't be a general practice of me to knock on
41 a window.
42
43 MS SAUNDERS: Q. Are you aware of other officers doing
44 that? Have you ever seen it happen?
45 A. Not that I can recall, no.
46
47 Q. Does it sound like something totally out of the



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1 ordinary to you?

2 A. Well, I mean, I don't see why we wouldn't just knock
3 on the front door.

4
5 THE CHIEF COMMISSIONER: Q. If that wasn't good enough,
6 a window's unlikely to help?

7 A. Well, I mean, the - if the person's not going to come
8 to the front door, I don't see why you would knock on their
9 window.

10
11 MS SAUNDERS: Q. What about - you pull up in a car, late
12 at night, your headlights are on; is that right?

13 A. Yes.

14
15 Q. Has that alone ever attracted the attention of someone
16 on curfew bail?

17 A. There's people that have opened the door to us as
18 we're walking up the driveway, so - I don't know if it's
19 the noise of the car or it's the dead of the night or
20 headlights, or whatever.

21
22 Q. Would you direct the headlights towards the house from
23 time to time?

24 A. I don't pull into driveways. It might be to another
25 house if it happens to face that way, but not towards the
26 house.

27
28 Q. I want to ask you some questions now about two
29 particular bail checks that you performed in 2014. If
30 I can show the witness the document behind tab 56.
31 8445968. It will pop up on the screen in a second. If we
32 can scroll down slightly. Just take a moment to read that
33 and refresh your memory. This is a record of a - one
34 thing, before I start. Do you see the person identified as
35 the person of interest there? Don't say the name aloud.
36 We're referring to him here in the hearing as CU1. When
37 I say that, that's who I'm talking about.

38 A. Okay.

39
40 Q. So this is a record of a bail check you performed on
41 CU1 on 31 May 2014; is that right?

42 A. Yes.

43
44 Q. You have attended at 10.30pm. Is that an unusual time
45 to attend?

46 A. 10.20.

47



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1 Q. 10.20, yes.
2 A. No.
3
4 Q. Why would you have performed this bail compliance
5 check?
6 A. Because it was part of our duties to perform bail
7 compliance checks.
8
9 Q. Because it was on the list; is that fair?
10 A. Yes.
11
12 Q. Do you have a recollection of this particular check?
13 A. Not this particular check, no.
14
15 Q. Do you have any recollection of performing bail
16 compliance checks on CU1?
17 A. Yes, I do.
18
19 Q. What do you remember?
20 A. I remember where his house was and I remember how to
21 get to his front door.
22
23 Q. Can you describe that for us?
24 A. His house was a two-storey, Housing Commission,
25 townhouse, I suppose you would call it. It didn't have
26 a front fence. It just had steps up to the front door.
27
28 Q. Do you remember how you performed compliance checks at
29 that address?
30 A. I remember - yes - some bail checks there, yes.
31
32 Q. What happened, describe them?
33 A. Well, occasionally, sometimes, I would have to knock
34 at the door and he would open the door; other times, as we
35 would walk up the footpath, he would look out the window
36 and I would shine the torch at his face and he would wave
37 at me and I would wave at him and then I would leave.
38
39 THE CHIEF COMMISSIONER: Q. The window - which window?
40 A. Upstairs window, I remember.
41
42 MS SAUNDERS: I tender the document, Commissioner.
43
44 **EXHIBIT #18 CONFIDENTIAL EXHIBIT, BARCODED 8445968**
45
46 MS SAUNDERS: Q. Were you aware of any other people
47 living in the property?



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1 A. No, I had no idea who else lived there.
2
3 Q. If I can take the witness now to a document barcoded
4 8440966 - I am terribly sorry, I actually mean the document
5 behind tab 21, which is 8445650. Don't worry about the
6 part on the left under "Faxed call report" - sorry, the
7 letter on the left-hand side. Just take a moment to read
8 that. If you need it magnified, let me know.
9 A. Yes. I've read that.
10
11 Q. Have you ever seen this letter before?
12 A. No.
13
14 Q. Were you ever advised that CU1 had withdrawn consent
15 for police to enter his property?
16 A. On 21 August 2014, we received email advice that CU1
17 had withdrawn his common law right for us to enter his
18 property and we were directed not to do any further bail
19 checks until that had been sorted out.
20
21 Q. Have you seen that email again recently?
22 A. Yes.
23
24 Q. You maybe referred to it while you were preparing for
25 today?
26 A. Yes.
27
28 Q. Were there any other documents you looked at?
29 A. Yes.
30
31 Q. What were they?
32 A. I looked at several emails from our commander in
33 relation to the expectation to do bail checks. I looked at
34 a civil claim notice that I had received in 2017 in
35 relation to this matter. I looked at our blueprint.
36
37 Q. What's that?
38 A. Which is our strategy that was current at the time
39 for - I don't know what you would - the blueprint for the
40 police station, kind of like how they - how we can kind
41 of - I just - I suppose I will just have to say a strategy
42 on how we were meant to operate.
43
44 Q. Do you still have access to all those documents?
45 A. Yes.
46
47 MS SAUNDERS: I call for the documents, Commissioner.



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1
2 THE CHIEF COMMISSIONER: Where are they?
3
4 THE WITNESS: They are all in the meeting room.
5
6 THE CHIEF COMMISSIONER: Are they obviously in a file or
7 something? Can I just send the officer to go and get them?
8
9 THE WITNESS: In my bag.
10
11 THE CHIEF COMMISSIONER: Would you go and bring the bag?
12 That's all right. You can go, officer, would you mind
13 going and getting the bag. Perhaps we might go on in the
14 meantime.
15
16 Q. How did you get those documents, by the way? Did you
17 ask for them or were you given them?
18 A. There was one document I asked for, which was what
19 bail checks I had conducted overall, during that time
20 period, that CU1 was on bail. But the rest I just looked
21 up myself.
22
23 MS SAUNDERS: Q. Who did you ask for that --
24 A. The intelligence officer.
25
26 Q. At Newcastle at the moment?
27 A. Yes.
28
29 Q. What's their name?
30 A. Sorry?
31
32 Q. What's their name?
33 A. Officer 17.
34
35 THE CHIEF COMMISSIONER: Q. Did you tell him that you
36 needed it because you were giving evidence in the
37 Commission?
38 A. Yes, but that was before I was actually subpoenaed.
39 I was not aware that I was --
40
41 Q. You were simply told that you were about to be served
42 with a notice?
43 A. Yes.
44
45 MS SAUNDERS: I think there will need to be
46 a non-disclosure order made about that name as well, which
47 would make them Officer 17.



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Q. In 2014, what was your understanding of what entitled you to perform a bail check?

THE CHIEF COMMISSIONER: Q. Sorry, before we go to that, you have refreshed your memory by looking at the email?

A. Yes.

Q. When you saw that email, did you recall that you had got it in 2015?

A. 2014.

Q. Sorry, 2014?

A. Yes. Because it was a topic of conversation because it was very unusual.

MS SAUNDERS: Q. Do you recall seeing CU1's name on the bail list after that email was sent around, after 21 August 2014?

A. I couldn't tell you. I can't say I - no, I don't remember.

Q. When you say it was a topic of discussion, what kind of things were people saying?

A. "What's the point of having bail checks if they can just stop them?" I don't know, it was just brought up, I suppose, the whole topic of bail checks in general. You know, they get conditions on them because obviously they have done something wrong, and they can easily stop us, you know, enforcing those conditions.

THE CHIEF COMMISSIONER: Q. Well, not entirely, if you see them out in the street you can do so?

A. Yes, that's right.

Q. So far as you recall, did you yourself conduct a bail check on that person, on CU1, after that email?

A. No, definitely not.

MS SAUNDERS: Q. Was it news to you, the idea that someone could withdraw consent for you to perform a bail check?

A. Yes.

Q. Could I take the witness now to tab 11, 8440966. Is it on your screen?

A. No.



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Q. Sorry, it will come in a moment. So I think you have seen this document recently?

A. Yes.

Q. This is a record of a bail compliance check you performed on 18 August at 11am - should that read 11pm?

A. Yes, it should. That's a typo.

Q. Do you recall anything specifically about this bail check?

A. No, I don't.

Q. Why would you have performed it?

A. As part of my duties to perform bail checks during the evening.

Q. Essentially, he would have been - CU1's name would have been on the list?

A. Yes.

Q. More likely than not that you would have been specifically tasked to perform this check?

A. I can't say yes or no, but more likely than not.

MS SAUNDERS: I tender the document, Commissioner.

EXHIBIT #19 CONFIDENTIAL EXHIBIT, BARCODED 8440966

MS SAUNDERS: Q. Can I show the witness the document behind tab 73. If we can scroll to the second page of that. Thank you. This is the email I think you were talking about earlier, officer; is that right?

A. This is one of the emails - oh, that one, the 21st, yes. Yes.

Q. What is your understanding of what gives you the right to enter someone's property, to knock on the door?

A. I believe everybody has a common law right to enter someone's property for lawful purpose, to go to their front door.

Q. Does that have any limits on it?

A. If the person asks you to leave, then you must leave.

Q. And any time of day or night?

A. Not that I'm aware of.



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1
2 Q. Have you done any recent training on bail?
3 A. An email, I believe, a little three-minute video, has
4 been issued to us recently, which I have watched.
5
6 Q. Is that the same thing as an online learning module?
7 A. Yes, but I don't think - it's not mandatory, though,
8 it's just more like a refresher type, a little thing that
9 they send out.
10
11 Q. You watched that recently?
12 A. Yes.
13
14 Q. Was that in part because you knew you were coming to
15 this inquiry?
16 A. Yes.
17
18 Q. Nobody's directed to you do that?
19 A. No.
20
21 Q. What we just discussed, your understanding of your
22 right to enter premises, that was consistent with that
23 video?
24 A. Yes.
25
26 Q. What else did you learn from that video?
27 A. That it's not appropriate to shine lights in windows,
28 to walk around into the backyard or to look into the house
29 through windows.
30
31 MS SAUNDERS: Thank you. I have nothing further,
32 Commissioner.
33
34 THE CHIEF COMMISSIONER: Q. So far as you were
35 concerned, was that new information or was that your own
36 view about it anyway?
37 A. I would have thought it was manners not to do those
38 sort of things.
39
40 Q. So courtesy would prevent you from doing it anyway.
41 A. Yes.
42
43 Q. Quite apart from any legal implications?
44 A. Yes, apart from legal implications but, as I said,
45 there were times when the people we were doing checks on
46 would ask us to do those things.
47



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1 Q. Quite.
2 A. Because it suited them.
3
4 Q. But then you had permission, obviously?
5 A. Yes.
6
7 MS SAUNDERS: Q. In an answer, you have just said that
8 it was manners not to do those things. With some
9 particular high-risk offenders would you maybe - would
10 there be justification to perhaps treat them more rudely?
11 A. Well, they were all high-risk offenders, so - I don't
12 think so.
13
14 MS SAUNDERS: Thank you. Thank you, Commissioner.
15
16 THE CHIEF COMMISSIONER: Ms Goodhand, any questions?
17
18 MS SAUNDERS: Oh, sorry, the documents.
19
20 THE CHIEF COMMISSIONER: Yes. Can we have the documents
21 that you referred to? If you want these back, we can
22 provide them to your solicitor if you like?
23 A. No, I'm fine.
24
25 Q. You can get them again if you need to.
26 A. So --
27
28 MS SAUNDERS: Q. If you provide them to the court
29 officer?
30 A. So this is the paperwork in relation to the civil
31 claim. That's my copies of my bail checks and emails in
32 relation to bail checks, and that's my bail checks which
33 I asked to be created.
34
35 MR HUTCHINGS: Commissioner, might I seek access to those
36 documents in due course?
37
38 THE CHIEF COMMISSIONER: Yes, everyone can have access to
39 those documents in due course.
40
41 MS SAUNDERS: Could I just have --
42
43 THE CHIEF COMMISSIONER: None of them are particularly
44 confidential, are they?
45
46 THE WITNESS: I'm not sure where we stand on private
47 emails from the command, but --



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THE CHIEF COMMISSIONER: Q. But from your point of view?
A. From my point of view, no. But from a legal point of view, I don't know.

THE CHIEF COMMISSIONER: For the time being, they are just limited to the lawyers.

MR HUTCHINGS: Thank you, Commissioner.

THE CHIEF COMMISSIONER: Have you got some more there?

THE WITNESS: These are just newspaper reports about this inquiry and so forth.

THE CHIEF COMMISSIONER: Very well. Thank you. We will deal with those in due course. Thank you. You are free to go. It's unlikely that we will call you back, but it's not impossible. It rather depends how the hearings, the investigation, develops. Sorry, you wanted to ask something?

MS GOODHAND: Sorry, Commissioner, just in relation to those documents. There was one question but it may be answered on an inspection of those documents.

THE CHIEF COMMISSIONER: What's your question, anyway.

MS GOODHAND: Just in relation to specifically expectations and was that ever specifically discussed, what the expectation was of this officer.

THE CHIEF COMMISSIONER: Expectations about what?

MS GOODHAND: To conduct --

THE CHIEF COMMISSIONER: Why don't you formulate the question?

MS GOODHAND: Yes, Commissioner. There may be additional questions.

THE CHIEF COMMISSIONER: That's all right.

<EXAMINATION BY MS GOODHAND:

MS GOODHAND: Q. In relation to that expectation, are



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you able to elaborate, was there ever any discussion directly with you as to what the expectation was to complete bail curfew checks?

A. Not directly with me as a one-on-one conversation, no.

THE CHIEF COMMISSIONER: Q. Indirectly?

A. Our sergeant would just say "Make sure you get your bail checks done" or else, you know, the commander has a go at us at the next meeting.

MS GOODHAND: Q. Was that a particular supervisor or all supervisors at that time in 2014?

A. Oh, I couldn't really - it was just a - I mean, we got emails, we were just expected to do them. So multiple supervisors would just say, "If you can just try and do your bail checks during the night".

THE CHIEF COMMISSIONER: Q. It's just a matter of saying "Perform your duties", really?

A. Yes.

Q. Nothing more than do what you are told to do?

A. They would specifically say, "Try and do your bail checks during the evening".

MS GOODHAND: Q. So it wasn't the case that there was one supervisor that was more proactive than the other in terms of bail check compliance?

A. Not that I can recall.

MS GOODHAND: Thank you.

MR HUTCHINGS: No questions, thank you, Commissioner.

MR JONES: No questions.

<EXAMINATION BY MS SAUNDERS:

MS SAUNDERS: One or two questions, Commissioner.

Q. The bundle of 14 emails that you have provided - the ones that are just general discussions of bail compliance - I should say I'm doing this in an effort to avoid having to recall the witness - you have read those recently?

A. I have scanned through, the word bail compliance - I have read that part, the bail compliance part.



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1 Q. And very helpfully highlighted it. That reflects your
2 understanding of what the attitude towards bail compliance
3 checks in the command at the time was?
4 A. Yes.
5
6 Q. The tone of these emails?
7 A. Yes.
8
9 Q. In addition to the bail check you performed, the two
10 bail checks I've taken you to, there was a further bail
11 check on 11 June 2014; is that right?
12 A. Mmm-hmm.
13
14 Q. Do you have a specific recollection of that bail
15 check?
16 A. No.
17
18 Q. You have read the COPS record of that check?
19 A. Yes.
20
21 Q. And it is an accurate reflection?
22 A. Yes.
23
24 MS SAUNDERS: I will tender that in due course.
25
26 THE CHIEF COMMISSIONER: Q. Can I just ask, you have
27 been away for a while and you have just come back to duty,
28 have you?
29 A. I'm still - I'm working at the police station. I'm
30 not back to full duties, though.
31
32 Q. So since you have come back, you haven't done any bail
33 checks?
34 A. No, my last bail checks would have been in January.
35
36 Q. Of this year?
37 A. Yes.
38
39 Q. Was there anything different about those checks and
40 the practice surrounding them to what was the case in 2014?
41 A. There doesn't seem to be so much pressure on having
42 a large quantity of bail checks done. It was more focused
43 on the quality of the checks, as in the people that we're
44 checking are now people that we have been given information
45 are more likely to be out and about.
46
47 Q. So it's more focused?



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1 A. Yes.

2

3 Q. And how do you know that? Is it just because the
4 numbers have reduced or this has been general discussion in
5 the command about these checks?

6 A. There is still the general list with your 50-odd
7 people who are on bail, but then there is another list
8 which is what they call the high priority bail checks. So
9 it's asked if we could at least try and do that high
10 priority bail checks. We can - nothing is stopping us from
11 doing any more bail checks, but we have been really busy at
12 work so it's really hard just to get the priority ones done
13 as well.

14

15 Q. And, in part, is that because of your expanding other
16 duties or is it your impression that it's because bail
17 checks are just lower priority generally?

18 A. I think just with the new commander, there's just been
19 a new manner of thinking, as to how we do proactive
20 policing.

21

22 THE CHIEF COMMISSIONER: Thank you. Anything arising?

23

24 MS SAUNDERS: No, Commissioner.

25

26 THE CHIEF COMMISSIONER: Thank you, yes, again. You are
27 free to go. It is unlikely we will need to call you back,
28 but we might. It rather depends how the investigation is
29 going. Please remember, although this is a public hearing,
30 you are not to discuss your evidence with any person.

31

32 THE WITNESS: Thank you, Commissioner.

33

34 THE CHIEF COMMISSIONER: Thank you. You are free to go.
35 I will adjourn.

36

37 <THE WITNESS WITHDREW

38

39 THE CHIEF COMMISSIONER: Thank you, you are free to go,
40 Mr Jones.

41

42 MR JONES: Thank you, Commissioner.

43

44 THE CHIEF COMMISSIONER: Obviously, Mr Hutchings, there
45 will be further officers, higher up than the operational
46 officers. We will seek to identify them and - so there
47 will be further hearings in due course. Because of other



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work that the Commission has, I'm afraid I can't predict when that will be. Obviously we will attempt to do it sooner rather than later.

MR HUTCHINGS: I understand. Thank you, Commissioner.

THE CHIEF COMMISSIONER: Thank you.

AT 1.23PM THE COMMISSION WAS ADJOURNED ACCORDINGLY



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CERTIFICATE OF AUTHENTICITY

I, Sally Ann Hicks of Epiq, hereby certify that on
Wednesday, 11 September 2019, I transcribed the evidence
of:

"Officer 13" from page 80, line 27 to page 104, line 23.

"Officer 14" from page 107, line 9, to page 136, line 37

"Officer 15" from page 136, line 41, to page 156, line 36.

Signed *[Handwritten Signature]*

Dated. *11/9/2019*