

Hearing: Operation Mantus

Before the Hon P Johnson SC, Chief Commissioner

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

On Thursday, 6 April 2023 at 10.10am  
(Day 5)

**WITNESS INDEX**

**Stuart James Edge11                      237**

1 THE CHIEF COMMISSIONER: Yes, thank you, Mr Fernandez.

2

3 MR FERNANDEZ: Chief Commissioner, Mr Condon wanted to  
4 announce his appearance.

5

6 MR CONDON: Chief Commissioner, Condon, on behalf of the  
7 Commissioner of Police, Sergeant Edgell and Assistant  
8 Commissioner Crandell.

9

10 THE CHIEF COMMISSIONER: Yes, thank you, Mr Condon.

11

12 MR FERNANDEZ: Can I let the Commission know what's  
13 happening today in terms of witnesses. The first witness  
14 today will be Sergeant Stuart Edgell. He is a lead  
15 educator relating to issues such as custody and will be  
16 giving evidence about people in custody as that is related  
17 to the issues in this investigation.

18

19 The second witness who was going to be called today is  
20 Assistant Commissioner Crandell. He gave evidence up to  
21 a certain point on Tuesday, and then I asked that he be  
22 stood down for further examination today.

23

24 As it has transpired, some issues have arisen which  
25 require the Commission to give further thought to the  
26 additional evidence to be adduced from Assistant  
27 Commissioner Crandell and the role of that additional  
28 evidence in this investigation. For that reason, I do not  
29 propose to adduce any further evidence from Assistant  
30 Commissioner Crandell today and ask that any further  
31 evidence be adduced on another date to be fixed, if that  
32 suits the Commission.

33

34 Chief Commissioner, you did indicate that Assistant  
35 Commissioner Crandell would be coming today and would be  
36 available for questioning, and I understand, Chief  
37 Commissioner, you will consider any applications for  
38 questions of the assistant commissioner today.

39

40 THE CHIEF COMMISSIONER: Yes, on issues so far, although  
41 there is something to be said for the fact that he should  
42 give evidence on one occasion, which would not be today --

43

44 MR FERNANDEZ: That's right.

45

46 THE CHIEF COMMISSIONER: -- on any further issues.

47

1           Is there anyone who wants to make a submission on the  
2 issue as to whether Assistant Commissioner Crandell should  
3 not be excused from attendance today on the basis that  
4 there is expected to be a future day?  
5

6           I can indicate that at the end of the evidence today,  
7 I will be adjourning not to a specific date but to a date  
8 to be fixed so that the Commission can give consideration  
9 to what further oral evidence may be given, and there would  
10 be consultation with legal representatives about a future  
11 date, which may be confined to a single day, but it will be  
12 a date selected after input from the legal representatives.  
13

14           So with that broader explanation, is there any reason  
15 why Assistant Commissioner Crandell can't be excused today?  
16

17 MR WHITE:     Not from me, Chief Commissioner.  
18

19 MR HARROWELL:   Nor me, Commissioner.  
20

21 THE CHIEF COMMISSIONER:   Thank you. It will assist,  
22 I think, if Assistant Commissioner Crandell, whenever he  
23 returns, is in a position to give evidence to finality on  
24 that occasion.  
25

26           So Assistant Commissioner Crandell is not present  
27 right now, and there is no difficulty with a message being  
28 given to him that he is excused today and we will be in  
29 touch about a future date.  
30

31 MR FERNANDEZ:   There is no difficulty with that.  
32

33 THE CHIEF COMMISSIONER:   All right.  
34

35           Yes, Mr Harrowell?  
36

37 MR HARROWELL:   Commissioner, just a minor housekeeping  
38 matter. I did speak to my friend the other day with regard  
39 to whether my client, that's [MTS9], would be excused under  
40 his summons. I think Mr Fernandez asked me to remind him  
41 of that. I'm not sure whether we can deal with that.  
42

43 THE CHIEF COMMISSIONER:   I am proposing to ask a question,  
44 not right now because we have a witness waiting, but as to  
45 whether the witnesses who have been summonsed so far, who  
46 I think are all police officers - whether there is any  
47 reason why they can't be excused from attendance on the

1 existing summons.

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I'm not asking for responses right now, but we will come back to this before we end today. If that did occur, it would allow some certainty for the moment, but it would always be on the basis, of course, that if there was an issue and the Commission considered it necessary, a further summons could issue.

I only say that now, Mr Harrowell, because you have raised the topic, but I would like to get on with the evidence and we'll come back to hear any submissions on that topic which relates not just to your client, but to others, after Sergeant Edgell has given evidence.

MR HARROWELL: Thank you, Commissioner.

MR FERNANDEZ: Before calling Sergeant Edgell, I tender one document, Chief Commissioner. Yesterday, Ms Hopgood gave evidence about the Law Society of New South Wales "Representation Principles for Children's Lawyers", which is now in its fourth addition. I tender that document. The barcode is 8520463 to 8520689.

**EXHIBIT #MTS98 "REPRESENTATION PRINCIPLES FOR CHILDREN'S LAWYERS", FOURTH EDITION, ISSUED ON BEHALF OF THE LAW SOCIETY OF NEW SOUTH WALES, BARCODED 8520463-8520689**

MR FERNANDEZ: I call Sergeant Stuart Edgell.

**<STUART JAMES EDGELL, sworn: [10.13am]**

THE CHIEF COMMISSIONER: I understand that Sergeant Edgell doesn't wish to seek a declaration, Mr Condon; is that your understanding?

MR CONDON: That's correct, Chief Commissioner.

THE CHIEF COMMISSIONER: Thank you. All right.

Yes, Mr Fernandez?

**<EXAMINATION BY MR FERNANDEZ:**

MR FERNANDEZ: Q. Can you please state your name?

A. Stuart James Edgell.

1 Q. Are you a sergeant?

2 A. I am a sergeant of police, yes.

3

4 Q. How long have you been a member of the NSW Police  
5 Force?

6 A. Roughly about 26 years.

7

8 Q. Is your description the lead educator in the custody,  
9 crime prevention training unit?

10 A. That's correct.

11

12 Q. Does that come within the people and capability  
13 command within NSW Police?

14 A. Yes, it does.

15

16 Q. Could I just ask you to clarify this at the very  
17 outset of your evidence. You were here on Tuesday,  
18 Sergeant Edgell, when you heard Assistant Commissioners  
19 Cotter and Crandell give evidence; is that correct?

20 A. Yes, that's correct.

21

22 Q. You are aware that one of the matters being  
23 investigated in this Commission is about custody management  
24 and children in custody?

25 A. Yes.

26

27 Q. Just in terms of the evidence you're able to give, are  
28 you able to give evidence about the content and the  
29 training provided to NSW Police on issues including custody  
30 management?

31 A. Yes.

32

33 Q. During the course of the questions you will be asked,  
34 there will be some suggestions made about what might be  
35 included or reasons why content is not included. Can you  
36 just explain, if those suggestions are made, how does it  
37 actually end up being considered for inclusion in  
38 NSW Police Force training materials? Who does it have to  
39 go to? What's the decision-making process?

40 A. So on some occasions, I will get files down from  
41 senior management, and those files could come from  
42 complaint matters, coronial matters or any matters that  
43 arise where recommendations are that particular pieces of  
44 information may or should be put into training.

45

46 As a result of that, I will develop some sort of  
47 information package. That's then brought back up the line

1 to approve that - whatever is proposed, and then, where  
2 that sits within the training, there's a couple of  
3 different training packages, and so I will make some advice  
4 on where that should sit. But that goes back up to, sort  
5 of, my commander, and they make those sort of  
6 recommendations.

7  
8 Q. In the 20 years that you have been with the NSW Police  
9 Force, what sort of duties have you done?

10 A. So predominantly, general duties, from the first day  
11 that I left the academy. I did do a little bit of youth  
12 liaison officer, just to cover a spot for a short period of  
13 time. I have, whilst I was a senior constable, performed  
14 the role of the custody manager as an acting supervisor,  
15 and then when I got my role as a sergeant, I also performed  
16 some duties as acting inspector whilst I was over at Rose  
17 Bay, and that's really about it. General duties has pretty  
18 much been my career.

19  
20 Q. You have been in your current role for the last four  
21 years; is that right?

22 A. That's correct. Yes.

23  
24 THE CHIEF COMMISSIONER: Q. Could I just ask: when you  
25 have acted as custody manager, has that been in  
26 metropolitan areas or country areas or a mixture of both?

27 A. For me, your Honour, it's been city only.

28  
29 Q. City only?

30 A. Yes.

31  
32 Q. But your experience in the ways that you've outlined  
33 has kept you informed about what happens with custody  
34 managers in regional and country areas too?

35 A. Yes. Yes.

36  
37 MR FERNANDEZ: Q. Part of your responsibilities has  
38 included being a general duties team leader; is that  
39 correct?

40 A. That's correct.

41  
42 Q. Have you also acted as a station sergeant, an internal  
43 supervisor?

44 A. I have.

45  
46 Q. Have you also acted at different times as an external  
47 mobile supervisor?

1 A. I have.  
2  
3 Q. In all of those roles, you have a bit to do with  
4 custody management; is that correct?  
5 A. Yes, that's correct.  
6  
7 Q. In terms of your role, are you one of a number of  
8 educators responsible for training NSW Police?  
9 A. For custody?  
10  
11 Q. Yes, that's right?  
12 A. Yes, I have one person who assists me, Senior  
13 Constable Leanne Smith, and that's the only custody  
14 educators, basically, in the state.  
15  
16 Q. Are there educators on other aspects of policing as  
17 well?  
18 A. Numerous, yes, yes.  
19  
20 Q. In terms of where you conduct your education, is that  
21 at the academy at Goulburn, as well as other places?  
22 A. Yes. So NSW Police Academy at Goulburn, our new  
23 premises at Sydney Olympic Park, and wherever regions  
24 require training. So we have travelled to regional  
25 locations, such as Coffs Harbour, Tweed Heads, Dubbo, Wagga  
26 Wagga, Orange - where training is necessary, where they  
27 require some training.  
28  
29 Q. Who identifies that training being required when you  
30 have travelled outside of Sydney?  
31 A. It is usually the education officer who will identify  
32 that. They may have a shortfall in their officers and  
33 rather than trying to send one or two to Goulburn, which  
34 can be a burden on their rosters and travelling, it would  
35 be beneficial that we travel up to them, where they provide  
36 a large group of officers so that we can try and get  
37 a larger number for that command trained.  
38  
39 Q. When you use the term "education officer", is it the  
40 case that there's a police officer with specific  
41 responsibility for education in each command?  
42 A. That's correct, yeah.  
43  
44 Q. In addition to the education you provide, what is the  
45 role of that education officer in each command?  
46 A. I'm not sure of the exact role, but in consultation  
47 with them, their role - predominantly they look after

1 probationary constables that attest from the academy, they  
2 organise training days, specifically mainly basically for -  
3 it could be for sergeants, sergeants training days, it  
4 could be team training days or whatever they need, and they  
5 organise our new learning management system, putting people  
6 on different types of training, organising their training  
7 needs when they do their training needs analysis, and then  
8 they have consultation with their regional training  
9 coordinators to determine what training needs for their  
10 specific commands are recommended.

11  
12 Q. In terms of to whom you are providing training,  
13 a large part of it relates to police officers in training  
14 and then upon commencement of their duties; is that right?

15 A. That's correct.

16  
17 Q. What about ongoing training? What ongoing training is  
18 provided for police?

19 A. So I identified some time ago that we didn't have  
20 ongoing training. Once they had completed the - what we  
21 call the advance custody course, which is a face-to-face  
22 course, there was no further training. Since that point,  
23 I have developed a training package called the custody  
24 reaccreditation package. That's currently near its  
25 completion of development and it just needs a meeting with  
26 Mr Cotter, the corporate spokesperson, to have a look over  
27 that training, which we've planned in the next couple of  
28 weeks, to hopefully go forth and get that released.

29  
30 Q. Training is available both in person as well as  
31 online; is that right?

32 A. That is correct.

33  
34 Q. What about resources - are there resources such as  
35 standard operating procedures available online for  
36 NSW Police?

37 A. Yes, there's the NSW Police handbook; there's the  
38 person search manual; there's the standard operating  
39 procedures for custody; there's LEPR, both the Act and the  
40 regulations. So there are various documents pertaining to  
41 custody management that police can access through our  
42 online systems.

43  
44 Q. Assuming a situation where a custody manager anywhere  
45 around the state has questions about his or her role or any  
46 issues with it, who would that person contact? Is it you?  
47 Is there any way that they are told who they can contact



1 for assistance?

2 A. In some cases I guess it depends who they go to.  
3 I have received emails whereby someone said, "I've got your  
4 name from somebody because you're the lead educator for  
5 custody". I guess it's just a matter of where they go to  
6 to try and find that advice, and on occasions it will lead  
7 to my phone or my email address.

8

9 Q. Are you also involved in training of superintendents  
10 and above, so police of that rank and above?

11 A. No.

12

13 Q. Do you know what training, if any, is available to  
14 police officers of that rank and above if they've got  
15 questions or issues about anything?

16 A. I'm not aware.

17

18 Q. I've been asking you about custody, but custody covers  
19 a number of things. Can I just define, really, what you  
20 mean when you refer to being the lead trainer in terms of  
21 custody and crime prevention. Arrest - is that something  
22 that you are responsible for training in, the use of  
23 arrest, power of arrest?

24 A. We have, in our training guidance on the power of  
25 arrest through legislation. There are other - there are  
26 a lot of other courses that complement all training, so  
27 there's powers of arrest lectures that we don't have  
28 incorporated into our training specifically, but we have  
29 the LEPPRA guidelines on a PowerPoint presentation, roles of  
30 custody manager, and just briefly, you know, the difference  
31 between a protected suspect, an arrested person, then goes  
32 into 99(b) [sic] reason as to what your justification  
33 reason is to arrest that person and bring back to the  
34 police station.

35

36 Q. Just that area of the power of arrest, for example, is  
37 that something that you take responsibility for, in terms  
38 of training, or does that belong to another aspect of  
39 training?

40 A. Sorry, yeah, that belongs to another aspect.

41

42 Q. To another aspect?

43 A. Yes.

44

45 Q. Do you know what that's called or who - not by name,  
46 but what aspect that belongs to?

47 A. Well, when I first joined my section, there were lead

1 educators for police powers. We don't have them sit with  
2 us anymore, so I can't tell you where they sit now.  
3 I don't know.

4

5 Q. The use of force, is that something within your  
6 responsibility or would that be a lead educator on police  
7 powers?

8 A. That would be a lead educator on that particular  
9 subject.

10

11 Q. Who would be responsible, in terms of the lead  
12 educator, on issues relating to body-worn cameras? Is that  
13 another lead educator's responsibility?

14 A. Yes.

15

16 Q. What about interviewing suspects, is that something  
17 that comes within your area of training?

18 A. We don't have that in our training. Again, there's  
19 other training that complements that, so the organisation  
20 has, that I know of, several courses about interviewing,  
21 and it's something that we - we have only got a very  
22 limited amount of time to get through a lot of training,  
23 because for us, it's not just legislation and policy, it's  
24 all about the assessment, the safe process of a person,  
25 which is really important. So someone else sort of will  
26 deliver that training.

27

28 Q. I will come in detail later to what is available by  
29 way of interviewing vulnerable persons in custody. Is that  
30 something that you have responsibility for in terms of  
31 training or is that under someone else's responsibility?

32 A. We partly look at that. We look at that in our LEPR  
33 part and our policy regarding, well, who is a vulnerable  
34 person, how to identify a vulnerable person and what  
35 resources are available to police to provide - to get or  
36 provide support for that person. Specifically  
37 interviewing, we don't really cover that.

38

39 Q. Do you know if that's covered anywhere else in terms  
40 of education within NSW Police?

41 A. No, I don't.

42

43 Q. I'm going to take you now to the specific training  
44 that's provided to custody managers.

45 A. Yes.

46

47 Q. If a person wants to become a custody manager, what

1 are the requirements?  
2 A. So they will be required to organise with their  
3 education officer the required training to get that  
4 qualification. They will need to complete - we have an  
5 online course called the "Custody Fundamentals". They are  
6 required to complete that before they are placed on to  
7 a waiting list, basically, for our course. Their education  
8 officer or their regional training officer will place that  
9 person on the course.

10  
11 In relation to how they get identified, they could be  
12 identified because they've just received a promotion and my  
13 understanding, it's part of that promotions process to say  
14 that they're willing to undertake the advanced custody  
15 course once they get promoted. Commands will usually send  
16 police officers that may be acting in the role, so they  
17 might be a senior constable who is acting as a supervisor  
18 and need to perform the role of a custody manager, and send  
19 them along to us.

20  
21 In regional areas, you may have one-stripe constables,  
22 so very junior constables, in remote locations, that are  
23 performing that function, so perhaps the commands might  
24 send those people along as well in order to get some sort  
25 of training in custody.

26  
27 Q. These are all preparatory courses that you have  
28 described in terms of the custody awareness package -  
29 that's an online course; is that right?

30 A. That's correct.

31  
32 Q. And then there's the custody fundamentals that you've  
33 also described; is that correct?

34 A. Yes, that's correct.

35  
36 Q. And then is there an advanced custody course which  
37 a police officer who wishes to become a custody manager  
38 must complete?

39 A. Yes.

40  
41 Q. Just in terms of those first two courses, custody  
42 awareness and custody fundamentals, is there any assessment  
43 at each stage after a police officer does that training  
44 online of that person's level of understanding?

45 A. In the custody awareness package, it's only a very  
46 short package, it's about 30 or 40 minutes, the only  
47 assessment is an online component, which our online

1 management system marks, and in the fundamentals, very  
2 similar: there's online questions, there's a case study at  
3 the end of both of those, where police will have to answer  
4 questions as opposed to - for what the information of the  
5 case study is. But the custody fundamentals, one component  
6 is an in-field assessment form, so they will have to go out  
7 and complete a custody shift or some custody hours with  
8 a custody manager, who will have a form and a guidance of  
9 what they need to look for and assess the person, and if  
10 the custody manager believes that the person has taken on  
11 board the training and believes that they're adequate and  
12 can perform the role of basically an assist, then they'll  
13 sign them off on that form, hand the form back.

14  
15 The form is then handed back to the officer. That  
16 officer uploads that form on to the learning management  
17 system. That form then sits in the system where I have  
18 access to and all we really do is process it. So we'll  
19 look at the comments made by the custody manager and  
20 basically process that.

21  
22 Q. I'm going to ask you about the advanced custody  
23 course. Is that a three-day face-to-face course?

24 A. That is correct.

25  
26 Q. And that course is essential for someone who wishes to  
27 become a custody manager? They must complete that course;  
28 is that correct?

29 A. That is correct, in the current environment.

30  
31 Q. How long has that course been present for?

32 A. Sorry?

33  
34 Q. Do you know how long that course has been present for?

35 A. So the three-day course has been present  
36 since November 2020. Prior to that, we had a five-day  
37 course, face-to-face course. That concluded in August  
38 2020. All custody courses have - all our courses have  
39 expiry dates and they all expired in 2020.

40  
41 At that particular point, our organisation were  
42 looking at a new learning management system and custody  
43 just happened to be one of the first courses to be  
44 redesigned, and it was redesigned a few months later and  
45 turned into a three-day package.

46  
47 Q. What about the content - what is actually taught

1 during the advanced custody course?  
2 A. So we've got - day one, session 1, is LEPRa. So  
3 that's - basically what we do is we cut and paste straight  
4 out of legislation and our policy and go through that  
5 process. So incorporated into LEPRa is detention warrants  
6 for a person, vulnerable persons, intoxicated persons,  
7 obviously the protected persons, so that general LEPRa  
8 information.

9

10 Session 2 is called "PIC management", which is person  
11 in custody management. In that package, we talk about WH&S  
12 requirements for the environment they work in. We talk  
13 about the assessment process of a person and their fitness  
14 to be in custody. We talk about - there's a little bit in  
15 there about some strip searching and searching techniques.  
16 And we've got our police MicroLearn, they're short videos  
17 on learning. There's some information there about  
18 positional asphyxia that was made on a MicroLearn about  
19 a death in custody, and we have - we talk about medications  
20 in custody, medical issues, some coronial recommendations  
21 from a matter that I was involved in back in 2018, and the  
22 last component of that first day is a case study, which is  
23 a death in custody that occurred in Maitland. That's  
24 basically day one.

25

26 Q. Just before you go on to day two, you've described one  
27 part of the training as being about an assessment or the  
28 fitness of that person being in custody. What does that  
29 involve?

30 A. It involves us talking about the questionnaire on the  
31 police custody management system. So the custody  
32 management system has various questions to ask a person in  
33 custody - it could be are they taking any tablets, drugs,  
34 insulin or medication? Have they ever been treated for  
35 asthma, heart disease, diabetes, epilepsy? Questions like  
36 are they Aboriginal or Torres Strait Islander? Have they  
37 ever tried to kill themselves, mental health issues -  
38 basically, a whole range of issues so that the custody  
39 manager has some information to be able to properly manage  
40 a person in custody according to their medical needs or  
41 their vulnerabilities, and what requirements for certain -  
42 if they identify as an Aboriginal or Torres Strait  
43 Islander, you know, what do we have to do for that  
44 particular person, support people and, you know, contacting  
45 ALS, those sorts of things.

46

47 Q. Contacting ALS, does that mean contacting ALS in terms

1 of letting them know that someone is in custody and  
2 arranging for a support person to be with the person in  
3 custody?

4 A. That's correct.

5

6 Q. Is any part of the training in terms of the advanced  
7 custody course about giving people in custody, and  
8 particularly children, the opportunity to speak to a  
9 solicitor? Is there any specific training about that?

10 A. Not specific training. All the guidelines around the  
11 responsibilities under LEPR are regarding that the person  
12 should be afforded the opportunity to contact a legal  
13 representative. As I said, there's so much to go into that  
14 most of what we talk about is the legislative requirements,  
15 and we don't go too much into that. That's what the  
16 legislation is required to - for a police officer to do.

17

18 Q. What happens on day two? What's the content covered  
19 on day two of the advanced custody course?

20 A. So day two, we go through the case study from the  
21 previous day. Participants are required to read the  
22 document for the case study, are required to answer some  
23 questions, and we'll go through that in a class situation.  
24 There's various questions about, you know, was the need for  
25 detention appropriate, and there will be a class discussion  
26 about that. There's things like what could have been done  
27 better, what were the positive things - those sorts of  
28 questions. So day two is going through that in the  
29 morning. Day two --

30

31 Q. Just before you go on, that need for detention being  
32 appropriate, what is discussed about that particular  
33 aspect? Are custody managers asked to consider themselves  
34 quite directly: is it necessary for this person to be in  
35 custody?

36 A. Yeah, particularly, and I guess if there's some sort  
37 of dispute with the custody manager and the officer in  
38 charge, our policy says that the custody manager cannot  
39 refuse a custody. However, if there's some sort of  
40 dispute, as we've heard with previous evidence on Tuesday,  
41 that then goes up the line. So the custody manager may  
42 then take that up to the duty officer or the inspector and  
43 have a conversation about, you know, whether that person  
44 should be or shouldn't be detained.

45

46 Q. Is that what custody managers in training are told,  
47 that if there's some disagreement with investigating

1 officers or arresting officers or escorting officers, that  
2 it needs to go to the duty officer, someone usually at the  
3 rank of inspector?

4 A. Yes.

5  
6 Q. Thank you. You were describing day two in terms of  
7 the training. What else is discussed on day 2?

8 A. So on day 2 we have our bail lecture, so some excerpts  
9 from the Bail Act. We then go into a bail COPS  
10 presentation on a PowerPoint, that shows participants how  
11 to complete a bail determination through our COPS  
12 management system. And once they have completed that, the  
13 third part of that is sitting down at a computer and  
14 actually doing a bail determination on the computer. Like  
15 I said, the good thing about that is sometimes we have  
16 experienced custody managers and they will assist us with  
17 other participants completing that role.

18  
19 We also have a session called "Infection Control". So  
20 that's talking about people that may come in that have  
21 infections and how to manage them, what sort of resources  
22 we have in the police station to manage that. Obviously  
23 when COVID was around, we had a lot - you know, our  
24 processes were quite different, and notwithstanding that,  
25 whatever equipment the police need to complete their duties  
26 safely.

27  
28 We have another component called "Corrective  
29 Services". That component is basically just - it used to  
30 be facilitated by superintendents from Corrective Services,  
31 however, of recent times we have just facilitated that,  
32 because of time constraints with their time, and so what's  
33 discussed in that is just very minimal guidelines. There  
34 were some issues with some property matters which are  
35 brought up where some inappropriate property was booked up,  
36 so we discuss that sort of thing, transferring them,  
37 communication they should have with them to get someone who  
38 may be bail refused to be transported.

39  
40 And then the last part of that day is another case  
41 study of another death in custody, police death in custody.  
42 And again, similar to first case study, they read  
43 a document, and then the following day we'll go through  
44 that, completing the same process as the first case study.

45  
46 Q. To what extent does the advanced course cover the  
47 differing situations that a regional area, even a remote

1 area, might have as opposed to a Sydney, Newcastle or  
2 Wollongong area, for example?

3 A. Yes, facilitating the custody, advanced custody  
4 course, is very difficult. As you can imagine, we've got  
5 police from city, police from regional locations, we've got  
6 very junior police, we've got senior police. So when we  
7 cover our content, we're basically covering our  
8 legislation, our legislative requirements.  
9

10 Individual situations, it's really hard to facilitate,  
11 because there are so many different individual situations  
12 in regional areas, the city areas, and same with policing  
13 requirements and staffing issues. So I guess what we say  
14 in the course is that we understand that each individual  
15 sitting there has their own individual perspective on the  
16 way that their custody manager operates, and unfortunately,  
17 we can't deliver our training to each individual person.  
18 So we take that on board.  
19

20 From time to time, we may get a question. If I can't  
21 answer it, we put it in our bank and I will get that  
22 answered at some point and send that answer through to  
23 everybody.  
24

25 Q. Is there a way within the organisation that a custody  
26 manager in one particular area can raise issues or  
27 questions or concerns with training, leaving to one side  
28 their particular commander in that area, so something that  
29 might be more of an issue relevant to other custody  
30 managers as well - is there a mechanism for that to take  
31 place?

32 A. Sorry, I didn't quite understand your question.  
33

34 Q. So generally, the custody manager is always going to  
35 be accountable to the commander of the local area; is that  
36 correct?

37 A. That's correct, yes.  
38

39 Q. And the standard operating procedures make it clear  
40 it's the commander of the local area who has ultimate  
41 responsibility for people in custody; is that right?

42 A. That's right.  
43

44 Q. The custody manager will generally go to the commander  
45 for any issues that might arise - you would expect?

46 A. Yes.  
47



1 Q. What about particular questions or particular issues  
2 that the custody manager might not get the same level of  
3 assistance from the commander from, can they turn to you,  
4 as a lead educator, or someone else, to ask very specific  
5 questions about custody management?

6 A. Yes, they can.

7  
8 Q. How is that communicated? Who can they contact?

9 A. Usually, I just get sent an email, and I'll have  
10 a look at the email and see where they've taken that  
11 information first, and I'll decide how I then proceed with  
12 that. If the custody manager has had some discussions with  
13 their commander, as you are aware, we are a ranked  
14 structure, and, you know, going outside of perhaps what  
15 a commander may make a decision and a disagreement with  
16 then, and then it comes to me, I will have a look at that  
17 and perhaps take it to my commander and see where we need  
18 to go with that through the proper channels.

19  
20 Q. NSW Police is a statewide organisation. Is there  
21 a way that recurring issues that each custody manager might  
22 have can be raised with the organisation so it goes beyond  
23 just the police district or the area command?

24 A. They can raise that, I guess, several ways. During  
25 our course - first and foremost myself. If they know to  
26 contact me, they can contact me. But in a lot of specific  
27 cases, in all commands, each command should have some sort  
28 of spokesperson for custody, and during the course, I tell  
29 them that that is the person they should be going to for  
30 advice and guidance, and I explain who it may be.

31  
32 So it could be a duty officer who's in charge of  
33 systems and processes; it could be one that's in charge  
34 of customer service; or somebody in the command that they,  
35 because they know their command - and if they don't know  
36 who that person is, they can go and speak to the duty  
37 officer to find out who that person is and raise those  
38 concerns with that particular person.

39  
40 Q. I'm going to ask you about specific training on what  
41 should be included in custody management records; do you  
42 understand that? I'm going to ask you what the specific  
43 training is provided during the course on what should be  
44 included.

45  
46 Now, section 131 of LEPR, together with clause 21 of  
47 the regulations, relate to what should be included in a

1 custody management record, and that must form a part of  
2 your materials; is that correct?

3 A. It is correct, yes.

4

5 Q. That sets out a number of very mechanical things, such  
6 as the name of the arresting officer, details of property,  
7 dates, times of transfer and other details. What training  
8 is provided about additional details that should be  
9 included in custody management records?

10 A. The only thing that we say to them verbally is that  
11 their custody management record is their contemporaneous  
12 notes, and that they should be recording, basically, as  
13 much as possible. We don't go into specifics, because  
14 there's so much information. What we say to them is that  
15 their records should be concise and it should contain all  
16 the information about the presentation of that person in a  
17 custody - in custody.

18

19 Q. The custody management record is an electronic  
20 document, it's dealt with electronically for the most part;  
21 is that correct?

22 A. That is correct.

23

24 Q. Is there also scope, though, for physical documents to  
25 be placed on to the custody management records?

26 A. Yes, there is.

27

28 Q. So, for example, a document signed by a support  
29 person, for example, which will have a signature, that can  
30 be placed electronically on to the custody management  
31 records; is that right?

32 A. That is right.

33

34 Q. Similarly, reports or notes that a person might have  
35 with them, they can also be placed on the custody  
36 management record?

37 A. Yes, that is correct. I - sorry.

38

39 Q. You were going to say something else?

40 A. Yes. When we get to the process of uploading  
41 documents, my recommendation and my best practice is that  
42 I say to them that - and from my personal experience - that  
43 I upload every document that the police have, so that, at  
44 a later stage, if the officer in charge needs some sort of  
45 document, whether that be the part 9, the support person's  
46 document, it could be an AVO, it could be a field CAN or  
47 anything like that, they're just readily accessible on the

1 system. That's something that we encourage to make sure  
2 that they upload as many of the documents that the officer  
3 in charge has, so it's there, it's readily available.  
4

5 A lot of our documents get archived or they get put in  
6 files or the officer's files and sometimes their files are  
7 quite hard locate, especially if there are court matters,  
8 and you may get a phone call, as a custody manager, from  
9 a court requesting the part 9, because it's gone missing or  
10 what-not, so that's why we present and say that it's really  
11 important that you upload - you know, that the best  
12 practice is to upload all the documents that the officer  
13 has.  
14

15 Q. Sergeant Edgell, I'm going to have a document placed  
16 up on the screen. It is an exhibit in this investigation.  
17 It's a memorandum from 2004 between NSW Police and Legal  
18 Aid. It's MTS65, please. The barcode is 8543569. I'm  
19 going to ask for it to be put up on the screen. You've  
20 seen this referred to already on Tuesday, but I'll have it  
21 put up on the screen now.  
22

23 If we could go to about a third of the way down the  
24 page, to the Youth Hotline protocol, can you see a numbered  
25 paragraph there, number 10?

26 A. Yes.  
27

28 Q. I'll just read it out.

29 A. Yes.  
30

31 Q.

32 *If the young person exercises their right*  
33 *to silence, the investigating officer*  
34 *should record this in COPS event as*  
35 *"interview declined". The custody manager*  
36 *should also record in the general comments*  
37 *of the custody management record that the*  
38 *young person declined an interview.*  
39

40 Can you see that?

41 A. I can.  
42

43 Q. Is that contained within the content of the advanced  
44 custody course?

45 A. No.  
46

47 Q. Is that contained within the content of the custody

1 fundamentals online course?

2 A. No.

3

4 Q. Is that contained within the content of the custody  
5 awareness package?

6 A. No.

7

8 Q. Before the course of you hearing the evidence on  
9 Tuesday, were you yourself, Sergeant Edgell, aware of that  
10 requirement?

11 A. The - was I aware of that --

12

13 Q. Of the memorandum of understanding?

14 A. I was not aware of that.

15

16 Q. You heard questions asked by myself on Tuesday, you  
17 also heard the Chief Commissioner in discussion with  
18 Assistant Commissioner Cotter, talking about the need for  
19 something to be done really very quickly to remedy that  
20 situation in the form of a state-wide announcement, for  
21 example, so that all police are made aware of that  
22 memorandum of understanding. Can I just ask, do you know  
23 why that's not included as part of the material available  
24 to police?

25 A. The - I can't answer that direct question, but I can  
26 say that the advanced custody course was brought over from  
27 the previous five-day course in its content. In addition,  
28 there was some material that was added in to that, that was  
29 one of the case studies, and a few other things out of  
30 complaints and recommendations. As I said, I wasn't aware  
31 of this memorandum of understanding. Tuesday was the first  
32 time I saw it. I have made several notes about this.  
33 Clearly, out of this, Mr Cotter will make a stance on this  
34 and organisationally there will be a direction.

35

36 From time to time I have meetings with Mr Cotter's  
37 staff, being the corporate sponsor for custody, and I'll  
38 bring up certain things from time to time. If this is the  
39 corporate direction and whatever way they go, I guess that  
40 that - they're conversations that I'll have with myself in  
41 relation to the possibility or the putting of this  
42 information into any training. As I said, I took notes,  
43 so, yeah, I believe that it should be put into our  
44 training.

45

46 Q. What training is currently provided in any of the  
47 courses available, but perhaps particularly in the advanced

1 custody course, about recording a suspect's wishes in terms  
2 of an interview? Is there any training provided about  
3 that?

4 A. No.

5

6 Q. I'm going to ask for another exhibit to be placed up  
7 on the screen. This is exhibit MTS90. I'll give the  
8 barcode. It's 8620261. Could we please zoom in on the  
9 right-hand side, to the top paragraph. You've also seen  
10 this document shown to Assistant Commissioner Cotter on  
11 Tuesday. I'll just read the relevant part - this is from  
12 a circular in 2005. This is to police. It says,  
13 relevantly:

14

15 *... you do not have the power to compel or*  
16 *intimate to the suspect that they must*  
17 *participate in an electronic recorded*  
18 *interview for the purpose of recording*  
19 *their refusal. Record the refusal in your*  
20 *notebook and if appropriate, on the facts*  
21 *sheet.*

22

23 Is this circular, or that specific part that I've just read  
24 out to you, contained as part of the advanced custody  
25 course? Is that part of the content?

26 A. No.

27

28 Q. Is it available elsewhere, in terms of online  
29 resources for NSW Police, to your knowledge?

30 A. A lot of our documents are usually archived somewhere.  
31 Sometimes I've got to dig up bits of information. I have  
32 not seen this circular. Whilst I was around in 2005,  
33 I don't remember reading it or receiving it. As I said,  
34 a lot of documents, I have to dig up. But I'm not aware -  
35 I would have to - of where this sits on our system, if it  
36 does.

37

38 Q. Can I ask you, were you aware of this circular before  
39 it was placed up on the screen to Assistant Commissioner  
40 Cotter on Tuesday?

41 A. No.

42

43 MR FERNANDEZ: Thank you. That can be taken off the  
44 screen.

45

46 Q. You will have heard me speak to Assistant Commissioner  
47 Cotter on Tuesday when I asked him questions about a number

1 of cases that have taken place at all levels of courts in  
2 New South Wales - the Children's Court, the District Court,  
3 the Supreme Court, the Court of Criminal Appeal - where  
4 evidence taken from suspects, and particularly children,  
5 has been excluded, particularly in the circumstance where  
6 the child has been given legal advice and refused to take  
7 part in an interview, but was subsequently interviewed.  
8 You recall those questions being asked on Tuesday?

9 A. Yes.

10  
11 Q. Does that form - that situation - you've talked about  
12 a number of case studies; is that issue addressed in any  
13 way in the advanced custody course?

14 A. No.

15  
16 Q. You've described some case studies. Are any of those  
17 case studies - is there any reflection or relation on cases  
18 that have been considered particularly by the Supreme Court  
19 and the Court of Criminal Appeal about admissions and  
20 whether they have been excluded or not excluded?

21 A. No.

22  
23 THE CHIEF COMMISSIONER: Q. The case studies you have  
24 mentioned, do they largely come out of inquests, deaths in  
25 custody situations? Are they the origin of the case  
26 studies that you've referred to that are in the materials  
27 already?

28 A. Yes.

29  
30 Q. And that's understandable, given the function.

31 A. Yes.

32  
33 THE CHIEF COMMISSIONER: Yes, Mr Fernandez?

34  
35 MR FERNANDEZ: Q. Is there any training provided as part  
36 of the advanced custody course to explain what it is that  
37 solicitors from the Aboriginal Legal Service and Legal Aid  
38 NSW - what it is that they do as part of their role on  
39 their respective hotlines?

40 A. No.

41  
42 Q. Yesterday we had a witness, her name is Ms Hopgood,  
43 she's the acting principal legal officer of the Aboriginal  
44 Legal Service, and she described certain attitudes held by  
45 police about the solicitors, and I'm just going to  
46 generalise by saying the concern she expressed was that  
47 police thought it was always one type of advice, "Don't

1 give evidence", and they, police, may see it as some  
2 impediment on what it was they were doing as part of their  
3 investigation. Is that discussed at all in terms of  
4 training in the advanced custody course?

5 A. No.

6  
7 Q. Sorry, why - I think you've just answered it, but in  
8 terms of explaining why there is the ability for vulnerable  
9 persons, suspects, and particularly children, to have legal  
10 advice - is that discussed at all?

11 A. The only thing we discuss in relation to that is  
12 directly taken from the LEPRA side of it, that a vulnerable  
13 person should be given the opportunity to contact the  
14 Justice Advisory Service.

15  
16 If the custody manager identifies through  
17 questioning - when I say "questioning", I mean custody  
18 assessment questioning, not investigation questioning -  
19 that the person may be vulnerable, or whatever personal  
20 circumstances they're in, whether they're a young person,  
21 whether an Aboriginal or Torres Strait Islander, perhaps  
22 they have cognitive impairment, and basically what the  
23 legislation says that the obligations of police are  
24 required, and that is, yes, to contact either the Justice  
25 Advisory Service or ALS. So it's very - what we do  
26 facilitate is very minimal compared to going right into it.

27  
28 Q. Is there any part of the content of the advanced  
29 custody course that talks about communication between the  
30 custody manager and investigating police, an ongoing  
31 communication?

32 A. Not particularly.

33  
34 Q. Does this come within your area of training or the  
35 custody management course, about the issue of continuation  
36 of custody or discontinuance of arrest or a person being in  
37 custody? Does that form any part of your responsibility  
38 for training?

39 A. Only very, very briefly, and that is that if there's  
40 that discussion between the custody manager and they  
41 believe that the arrest should be discontinued, then it's  
42 a matter that they would discuss with the officer in  
43 charge, and if there was a disagreement, then they would  
44 place that up to the inspector, and that's pretty much it.

45  
46 Q. There are mechanisms within LEPRA for discontinuation  
47 of arrest, for example?

1 A. Yes.

2

3 Q. Does that form part of the material that's used in the  
4 advanced custody course?

5 A. No.

6

7 Q. Is any part of the content of the advanced custody  
8 course about interviewing suspects, and particularly  
9 interviewing children in custody?

10 A. Not particularly. Only the requirements of support  
11 persons and any legislative requirements that police have  
12 to abide by.

13

14 Q. Now, I appreciate the person responsible for  
15 interviewing is not going to be the investigating officer -  
16 he's not going to be the custody manager, unless in very  
17 exceptional circumstances. They're going to be separate  
18 people. I took you to the memorandum from 2004 about  
19 obligations on both investigating police, as well as on  
20 custody managers, to separately note that interviews have  
21 been declined. Is there anything at all covered about that  
22 aspect?

23 A. No.

24

25 Q. Are you aware about the continuing practice of police  
26 putting children in front of a camera for the purpose of  
27 "in fairness putting the allegations to them"? Is that  
28 something you are aware of?

29 A. No.

30

31 Q. Is that something that forms any part of your  
32 responsibility for training?

33 A. No, not - well, not at this stage, we don't have any  
34 of that in our training.

35

36 As I said, corporately, corporately, they may say that  
37 that information may need to exist somewhere. If that then  
38 falls back to my portfolio, then I will work with our  
39 organisation to address that.

40

41 Q. Questioning suspects, is that any part of training in  
42 the advanced custody course, beyond what you've already  
43 described?

44 A. No.

45

46 Q. What training is provided to officers in the advanced  
47 custody course about changes in circumstances of a person



1 in custody? Because circumstances can change for all sorts  
2 of reasons. Is that discussed at all? Is that a part of  
3 the content?

4 A. I guess not particularly, but in general, a custody  
5 manager - we facilitate that a custody manager continually  
6 assesses a person and makes decisions on what is happening  
7 at the time.

8  
9 Q. One of the specific roles of the custody manager is to  
10 find a support person, particularly for Aboriginal people  
11 and for children. That would be correct, wouldn't it?

12 A. They - the officer in charge should be the person that  
13 does that. The custody manager should ensure that it's  
14 done and make a record of that, that it's completed. In  
15 that way, once a custody manager makes the record, that  
16 requirement can be satisfied.

17  
18 Q. If an officer is not doing that, or let's just assume  
19 that there is no investigating officer at the time, so  
20 someone arrives, having been transported into custody but  
21 at that stage there's no investigating officer, that would  
22 be the responsibility of the custody manager, wouldn't it,  
23 to find a support person?

24 A. That may - that task might be transferred to the  
25 escorting police that come to the police station. It would  
26 be a question that the custody manager may ask the  
27 escorting police, perhaps what information was discussed at  
28 the scene, was there any phone calls made at the scene in  
29 relation to finding a support person, and anything that  
30 occurred at the scene in relation to that, to be placed on  
31 the record. So it could be - it could be that the custody  
32 manager may take up that task, or it may be that they may  
33 delegate that task out to the escorting police, if the  
34 officer in charge is still at the location.

35  
36 Q. Let's assume the custody manager is going to take on  
37 that task of finding a support person. Is there any  
38 training provided about who the appropriate support person  
39 should be, in terms of what their relationship might be to  
40 the person in custody or specifically a child? Is there  
41 any training about that?

42 A. Yes, there is.

43  
44 Q. What is that training?

45 A. So again, taking directly from LEPR about support  
46 persons and at what age a young person can choose their own  
47 support person and under the age of 14, the police have to

1 contact their parent or guardian or someone who has custody  
2 of that child, and again, it's very minimal, minimally  
3 discussed, but it's just drawn from, literally, the  
4 legislation.

5  
6 Q. I did foreshadow that I was going to ask you some  
7 specific questions about what is available as part of the  
8 advanced custody course relating to vulnerable persons in  
9 custody. Is there training to police, beyond just managing  
10 the physical health of a person in custody, in terms of  
11 managing their interviewing in custody?

12 A. Not the interviewing, but certainly identifying, as  
13 I said earlier, identifying, showing them the particular  
14 JAS poster that must be up in each police station, and if  
15 it is not up, that they need to contact myself to get that  
16 poster put up

17  
18 Q. What was the word before "poster"?

19 A. Justice Advisory Service. So we encourage that  
20 police, if they feel that the person needs support, they've  
21 identified the person has a cognitive impairment, and that  
22 they need some advice and guidance - they may not even be  
23 sure, they're talking to the person and decide that, "We  
24 need to contact someone." So we strongly advise that they  
25 contact that service.

26  
27 That service was given some funding some time ago to  
28 become 24/7. It never used to be for the police. Now it  
29 is. So we encourage them. And in fact, someone from the  
30 intellectual disability service, which is the overarching  
31 banner of JAS, used to deliver a session on our old course  
32 and we had quite a good rapport with them, and as a result  
33 of that, we strongly recommend to police that if they start  
34 identifying these things, that they should be contacting  
35 that service, because they provide a very good service to  
36 police.

37  
38 Q. It is a fact that Aboriginal people are  
39 over-represented as a proportion of the population in  
40 custody. Is there any specific training provided as part  
41 of the advanced custody course about dealing with  
42 Aboriginal people in custody?

43 A. We have our usual LEPR requirements. We have  
44 a session called "Aboriginal Communities", although that  
45 session is more about some of the cultural things that  
46 police might need to be aware of. They might - we talk  
47 about some of their health, obviously that if someone comes

1 into custody who identifies as an Aboriginal or Torres  
2 Strait Islander, that there are certain, obviously,  
3 requirements that the police will need to do.  
4

5 At the end of that session, there's a video on a death  
6 in custody in Western Australia of an Aboriginal female in  
7 the lock-up there, where she was brought in as an  
8 intoxicated person, there were no offences detected with  
9 her, and we discuss that matter and it's quite visual. You  
10 see her fall heavily. At the end of that, we discuss the  
11 responsibilities of what police officer - and we can  
12 transfer that not just to an Aboriginal or Torres Strait  
13 Islander but to people in general.  
14

15 So that session that we had - that we have for  
16 Aboriginal communities, if I can go back to the course, the  
17 course was built out of the recommendations of the Royal  
18 Commission into Aboriginal Deaths in Custody, and so we've  
19 kept that component of Aboriginal communities in the  
20 course, because it's important that police look at how they  
21 manage a person in custody who is Aboriginal or Torres  
22 Strait Islander.  
23

24 So that particular session only goes for an hour,  
25 which includes the video. So there is - it is only a small  
26 component of, as you can expect, the whole three days.  
27

28 Q. Is there any training about communication,  
29 particularly with Aboriginal people or perhaps even people  
30 with a cognitive impairment? Is there any training about  
31 specific - about communication with people who might find  
32 it difficult?

33 A. I guess if we talk about Aboriginal or Torres Strait  
34 Islander, we have embedded in the training a video from  
35 a doctor who was summoned by the police to have a look at  
36 Aboriginal language and the courts, and she went to a town  
37 in Bowraville and she observed some language.  
38

39 So she brings up four important points in relation to  
40 that, about communicating with Aboriginal people, and just  
41 some cultural awareness that police should have when they  
42 are speaking to people who are Aboriginal or Torres Strait  
43 Islander.  
44

45 In relation to persons with a cognitive impairment, we  
46 don't have specific training in relation to how to  
47 interview them, but certainly that assessment process,

1 whilst speaking to them, you know, forming that opinion  
2 that the person may have a cognitive impairment and going  
3 further and asking the direct question, "Do you have  
4 a cognitive impairment" - I guess the issue with that is  
5 some people get embarrassed about that and won't tell them.  
6

7 And whilst police aren't psychologists, it's still  
8 important they try and canvass to make sure that that  
9 person has - we are giving them appropriate services that  
10 they need.  
11

12 Q. One of the roles of the custody manager is to provide  
13 a suspect, a person in custody, with information about  
14 their legal rights and one of the responsibilities of the  
15 custody manager is to assist that person to exercise those  
16 rights. Is there any training about ensuring that the  
17 information provided is actually understood by the person?

18 A. Absolutely. That is one of my passions, is the  
19 understanding of the part 9, reading the part 9. One  
20 example I give is: if I gave everyone the form now and  
21 went down the street and asked them to read it to any  
22 member of the public on the street, would they understand  
23 it? Probably not.  
24

25 So we all know it is a very complicated document. My  
26 advice is that it is to be read in its entirety; that once  
27 they read each paragraph, that they then ask the person  
28 what their understanding of that is, and if they don't  
29 understand it, what else is going on there? Is it just  
30 that they don't understand it? And if that's the case,  
31 police are to re-articulate that in a more simpler version.  
32 And if that's the case, then that should be noted on the  
33 record, that that process has been completed.  
34

35 Anyone that comes in that is a regular presenter - and  
36 usually they'll say, "Oh, you read it to me last week", or,  
37 you know, "I'm always in custody, I know my rights. Just  
38 give it to me and I'll sign it" - what we are facilitating  
39 is that that is not appropriate. Every single  
40 presentation, you must read it in its entirety, and the  
41 person must understand it.  
42

43 Q. What is the training about how a custody manager  
44 ensures that the person understands it?

45 A. For them to basically say to the custody manager  
46 that - for each paragraph, so they don't forget the  
47 paragraphs, after each paragraph, for that person to tell

1 you back what they understand that paragraph meant. And if  
2 they --

3

4 Q. In that person's own words?

5 A. Yes. Yes. And if the custody manager receives  
6 a response that the person doesn't understand it, again, we  
7 might put it in a simpler wording, or we might be thinking  
8 about other - what else is going on, perhaps they're from  
9 a non-English speaking background, perhaps their  
10 educational level isn't at the point where they understand  
11 it. They could be a vulnerable person with a cognitive  
12 impairment. So all of those things come into place, and as  
13 I said, when I deliver that session, I'm passionate about  
14 that. The person must understand. It's a very complicated  
15 document, and most people in general don't really  
16 understand it.

17

18 THE CHIEF COMMISSIONER: Q. That's the form 31 document,  
19 is it?

20 A. The part 9.

21

22 Q. The summary of part 9 information for detained  
23 persons?

24 A. Yes. So for us it's a P --

25

26 Q. It is 17 paragraphs and an acknowledgment?

27 A. Yes.

28

29 Q. How long ago was this drafted, do you know? Perhaps I  
30 should ask --

31 A. It's been in as long as I can remember. I think my  
32 understanding is that perhaps there's a working party that  
33 might even be looking at that. I'm not sure. I have just  
34 heard that in a workshop that I - is involved with it, that  
35 perhaps someone is looking at that.

36

37 Q. The courts, certainly in recent times, have attempted  
38 to introduce plainer English versions of things like what  
39 courts have to say to people in explaining the decision  
40 whether to plead guilty or not guilty in the Local Court  
41 before they're committed to a superior court, and quite  
42 a bit of effort has gone into making them as short and as  
43 plain English as possible. But one of the problems with  
44 this is there are many components to it and so it has to  
45 cover quite a lot of territory?

46 A. Yes.

47

1 Q. Whether shortening it assists or doesn't is a matter  
2 of judgment, I suppose. But you think it may be that there  
3 is some part of the authorities in this state who are  
4 giving some thought to whether this form can be simplified  
5 in some way?

6 A. Yes. I sit on a working party for support persons,  
7 and there are numerous people that sit on that from  
8 justice, solicitors, police and from the various other  
9 organisations, looking at that it's way too complicated.

10  
11 Out of that support person workshop and program -  
12 I don't know where that will go, but my personal opinion is  
13 I hope it is simplified, because again, it's - for any  
14 person to try and understand that document, it's very  
15 difficult.

16  
17 Q. Is this used for young people as well as adults?  
18 A. Yes.

19  
20 Q. So a 14-year-old may have this document read to them?  
21 A. Yes.

22  
23 Q. Or a 10-year-old for that matter,  
24 a 10-and-a-half-year-old?  
25 A. Yes.

26  
27 MR FERNANDEZ: Q. What assessment is there of police  
28 officers who take part in the advanced custody course? Are  
29 there assignments, written work? What is the assessment?  
30 A. So we have what's called an assignment, which is  
31 a 10-question assignment, at the start of the course. So  
32 they will complete that as we move through LEPR. There  
33 are certain questions, and they will need to provide the  
34 answers from the information of the PowerPoint. That's not  
35 formally assessed with a mark. We'll have a look at that  
36 at the end of it and make sure that they're on the right  
37 track. If they're not, we'll get in contact with them to  
38 redo it.

39  
40 There's the case studies. Again, they're not formally  
41 assessed with a percentage mark, but we'll look at those,  
42 and we discuss it in class, as I said.

43  
44 We look at their responses and if there's anything  
45 glaringly that we might find an issue, we'll get in contact  
46 with them to have a discussion with them.

47

1           There's a form - there's another process about the  
2 custody management system. There's a practical exercise  
3 that they have to move through and complete. So on the  
4 computer they complete in the training custody program,  
5 a fictitious person, and they have to move through  
6 a document. Again, that's not given a percentage or  
7 anything. We'll assess that as we move through the  
8 classroom, and that they're moving through those actions.  
9 But at the end of it, we have a 19-question exam. That is  
10 marked and the pass mark for that is 70 per cent.

11  
12 Q.   Is that in the form of an essay or is it short  
13 questions? Is it done online, on paper?

14 A.   Yes, it's completed on our learning management system  
15 on our computer. So an officer will sit at the computer.  
16 If our computers crash, we have a paper version of it. And  
17 it's mostly marked by our learning management system, and  
18 we'll go through it and mark a few of the answers. But  
19 it's a whole range of different, I guess, examination  
20 techniques, so drag and drop, true and false, short answer,  
21 all those sorts of --

22  
23 Q.   And how much time is allocated to finish that online  
24 exam - to finish that exam paper?

25 A.   So about half an hour.

26  
27 Q.   Are there any people who, after completing the  
28 advanced custody course, are deemed not suitable to go on  
29 to be custody managers?

30 A.   For us, the assessment process is what - we look at  
31 their criteria. If they've passed all the criteria, then  
32 they'll sit on our SAP system as having completed  
33 successfully the advanced custody course.

34  
35           That then - again, you've got your instrument of  
36 appointment in relation to custody managers. That course  
37 will allow the person to sit on the instrument of  
38 appointment for custody managers. However, at the same  
39 time, it's still up to the commander whether he or she  
40 feels that the person's training is adequate, and they'll  
41 make that decision whether that person can sit on that  
42 instrument of appointment. Because we've got previous  
43 training as well, which, when you look at that training,  
44 can still allow the person to sit on the instrument of  
45 appointment.

46  
47           In relation to that again, a commander will look at

1 that officer's training, how long ago they did it, what  
2 training package they completed, and we've had people who  
3 have done previous training, many people, complete the new  
4 course, to update their skills and again - we used to have  
5 a one-day course, and so there's a lot more content in the  
6 three-day course, and a commander may send their people  
7 along to get that refresher, I guess, or to build on their  
8 current training.

9  
10 Q. Are there, after completing the advanced custody  
11 course, other courses available for custody managers?

12 A. Not specifically from my department. Obviously  
13 there's a whole range of courses that complement the whole  
14 process. But as I said, we are developing the  
15 reaccreditation course.

16  
17 Q. Yes. Could you explain that, what the reaccreditation  
18 course is?

19 A. So the reaccreditation course will occur every three  
20 years. A custody manager who sits on the instrument of  
21 appointment - again, we're only making advice that the  
22 course is available. We're putting it back on the  
23 commanders to say that they should ensure that it's  
24 completed.

25  
26 So every three years, whoever sits on the instrument  
27 of appointment must complete it - the commander could ask  
28 anyone to complete that course, if they've completed some  
29 other various custody courses. We don't want - it's not  
30 a course that someone can just pick up from the bottom if  
31 they've done no other custody courses because it  
32 complements it as it going along.

33  
34 The course will be changed. It's not a course like  
35 the other courses we've got which it's there, it sits  
36 there, people will do it, it'll sit there for whatever  
37 amount of time, that then maybe a second version comes  
38 along. This course will change every three years.

39  
40 What will change about it is the content in relation  
41 to what has occurred in the previous three years - anything  
42 out of complaint matters, LECC matters, coronial matters,  
43 or anything that has arisen where we feel that current  
44 custody managers need to gather or get that information, if  
45 that makes sense. Sorry, that will be only an online  
46 course. It won't be a face-to-face course. And that  
47 course will probably take about 30 to 40 minutes to



1 complete

2

3 Q. Up until now, has there been that reaccreditation  
4 necessity?

5 A. There hasn't been a course. However, I did identify  
6 earlier that I believe that there should be some sort of  
7 reaccreditation or further information. My personal  
8 opinion is that once you have completed the advanced  
9 custody course, that should not be the end of your  
10 training.

11

12 Q. What was it that helped you identify that there needed  
13 to be reaccreditation or further information provided?

14 A. I guess because the legislation, policy, there's a lot  
15 of changes, and certainly over periods of time, custody  
16 managers, they're getting it - some of them are getting it  
17 wrong, and my passion is custody, that's why I'm the lead  
18 educator for custody, and I want to instill that it's  
19 really important they keep up their training and that any  
20 issues that have arisen are brought to the surface. And  
21 I guess for a custody manager to be retrained or to be  
22 trained with another process starts the wheel again or  
23 starts them thinking about custody again. Because what  
24 I've found in the past is their knowledge has dropped off  
25 a bit, and I guess with a reaccreditation, we're going to  
26 try and ensure that that is continued throughout their  
27 policing.

28

29 Q. You may or may not know the answer to this, but is  
30 there any information about how long officers remain as  
31 custody managers? It might depend on the area and what  
32 have you, but is it a distinct role or is it a role that's  
33 complementary with other functions that a police officer  
34 might have?

35 A. Yes, certainly it complements other roles. So that  
36 particular person that performs the role, in most cases,  
37 would be a substantive sergeant or, if not, an acting  
38 sergeant. Again, in regional areas, it's different; it  
39 would be junior police. But that role, once they - as  
40 I said, once they get the qualification and they are placed  
41 on to the instrument of appointment for their command, they  
42 will stay there until, like, an assessment by their  
43 commander.

44

45 So every so often - and there's no - I don't know what  
46 the time frame is, but commands must look at their  
47 instrument of appointment. Obviously staff leave, they

1 come into the command, and it needs to be updated  
2 regularly. So a commander should be looking at that and  
3 perhaps even looking at their training history and making  
4 decisions on whether a person should still be placed on  
5 that or whether they need retraining and be sent to our  
6 advanced custody course.

7  
8 MR FERNANDEZ: Chief Commissioner, I wonder if that might  
9 be a suitable time for morning tea.

10  
11 THE CHIEF COMMISSIONER: Q. Just before we do break,  
12 could I just ask you this: it could be said that the role  
13 of custody manager is a very important one in any  
14 functioning police station; is that a fair comment?

15 A. That is a very fair comment, your Honour.

16  
17 Q. Because you've got the investigating police, who may  
18 bring the person in, who have a particular interest, but  
19 under LEPR and the LEPR regulation, the custody manager  
20 has roles which include looking after the interests of the  
21 person in custody?

22 A. That's correct.

23  
24 Q. Is service as a custody manager something which the  
25 police force encourages persons to undertake on the basis  
26 that it's not only important, but something which may  
27 assist them in further promotional opportunities - for  
28 example, sergeants being better equipped for promotion to  
29 inspector?

30 A. I'm not aware of the organisational stance on that.  
31 I'm not aware that if a sergeant is going for an  
32 inspector's role, whether there's a custody component.  
33 Certainly to become a sergeant there's definitely a custody  
34 component to that.

35  
36 Q. Perhaps I could ask you this one, and this may be  
37 difficult to answer, too, but in your experience, is it  
38 a popular position?

39 A. No.

40  
41 Q. Are there streams of applicants to undertake the  
42 course or not?

43 A. Well, there is in terms of promotion, because police  
44 want to get promoted and they need to undertake the course.  
45 But in my years of experience, it's not a popular role,  
46 because it's a very hard role to complete. And again, you  
47 know, you're dealing with a lot of people that come into

1 custody that have a lot of vulnerabilities. It doesn't  
2 have to be a sort of person under the Act as a vulnerable  
3 person, they have vulnerabilities with medical issues, and  
4 police have to assess that and, you know, if you've got  
5 10 or 12 people in custody and it's getting very busy in  
6 there and very loud, there's a lot of processes that the  
7 custody manager has to complete. There's other admin  
8 processes that we don't even teach, that they might have to  
9 send off ERISP tapes and calibrate, you know, breath  
10 analysis machines and all those sorts of things. So  
11 there's a lot - there's a lot of tasks that a custody  
12 manager must complete on any one shift.  
13

14 Q. One other thing we have seen in this investigation,  
15 and without speaking of the particular location of the  
16 police station, but there was a CCTV operating so that what  
17 was happening around the charge desk where the custody  
18 manager was was visible and recorded, visually, at least.  
19 Is that the standard position in police stations in  
20 New South Wales?

21 A. Yes.

22  
23 Q. And is there any audio recording as well, or is that  
24 not done?

25 A. Certainly not. I'm not - from my experience and not  
26 my knowledge either. The custody stations that I have ever  
27 worked at have never had an audio.  
28

29 THE CHIEF COMMISSIONER: I think Mr Condon is rising  
30 possibly to say what Mr Coffey --  
31

32 MR CONDON: Yes, Chief Commissioner, section 7 of the  
33 Surveillance Devices Act would prohibit the audio  
34 recording.  
35

36 THE CHIEF COMMISSIONER: I just asked that question, but  
37 I am conscious Mr Coffey indicated there were issues under  
38 the Surveillance Devices Act. There may be other  
39 complications too, bearing in mind that there is, in some  
40 areas, a passing procession of people coming and going,  
41 some of whom may not be appropriate for audio recording as  
42 well as visual recording. But the short answer is what you  
43 have said.  
44

45 All right. Well, we will take a break. We will  
46 resume at 10 to 12. If you could step down for the moment,  
47 thank you, Sergeant.

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THE WITNESS: Thank you, your Honour.

**SHORT ADJOURNMENT**

THE CHIEF COMMISSIONER: Yes, Mr Fernandez?

MR FERNANDEZ: Q. How many times a year, Sergeant, is the advanced custody course conducted?

A. How many times a year?

Q. How many times a year?

A. It's really depending on the needs of the organisation. We look at running - facilitating roughly around eight courses in Goulburn and eight courses in Sydney Olympic Park, and whatever needs arises around the state.

Q. So each year there are 16 three-day courses on advanced custody for custody managers?

A. Yes.

Q. Roughly, is there an average number of attendees?

A. Perhaps between 20 and 30.

MR FERNANDEZ: That completes my questions.

THE CHIEF COMMISSIONER: Yes, does anyone wish to ask any questions?

MR KERKYASHARIAN: If I may, Chief Commissioner. .

THE CHIEF COMMISSIONER: Yes, Mr Kerkyasharian.

**<EXAMINATION BY MR KERKYASHARIAN:**

MR KERKYASHARIAN: Q. Sergeant, my name is Kerkyasharian. I'm counsel for the young person who unfortunately is the progenitor of this inquiry or investigation. You are no doubt familiar with part 9 of LEPR and that it provides, in effect, a limit for further detention that is effectively a time that is reasonable having regard to all the circumstances?

A. That's correct.

Q. Is there some officer or role that's designated to keep an eye on that question?

1 A. Custody managers.  
2  
3 Q. So the custody managers are required to keep an eye on  
4 that?  
5 A. Yes.  
6  
7 Q. And are they given training about that issue?  
8 A. They are in our course, our advanced custody course,  
9 we give --  
10  
11 Q. If a custody manager comes to the view that, well, the  
12 reasonable time has expired, what happens then?  
13 A. So really, they have two options. They have to look  
14 at charging the person or releasing the person.  
15  
16 Q. It's not the custody manager that charges, though;  
17 it's the officer in charge or some other police officer.  
18 A. That's correct.  
19  
20 Q. So what is the custody manager trained to do? They  
21 go, "This guy's been here long enough"?  
22 A. What we ask of the custody manager is to have a look  
23 at all the circumstances and have a look at their times -  
24 they're the ones that are usually putting the time-outs on,  
25 putting those actions on the custody management system.  
26 They will have a conversation with the officer in charge,  
27 and what we tell them is that they have to closely monitor  
28 that clock and have conversations prior to the expiration  
29 of the time to see where that investigation is going, and,  
30 you know, what are the opportunities that exist in relation  
31 to that.  
32  
33 Q. The purpose of part 9 is to allow for investigation to  
34 occur whilst - to allow for the continued detention whilst  
35 the investigation is occurring. Is there any requirement  
36 that the officer in charge or the person who is, in effect,  
37 going to charge or is dealing with the detainee and the  
38 custody manager communicate about what investigative  
39 procedures are going to occur?  
40 A. Just in relation to an interview or something like  
41 that?  
42  
43 Q. Yes, well, I mean, the obvious example is an  
44 interview, yes.  
45 A. Look, in my experience as well, in most cases, the  
46 custody manager will want to know how they're going to  
47 proceed - are they going to interview the person - because

1 of that effective management of that person in custody and  
2 obviously what processes out of that information that the  
3 custody manager will be required to complete.  
4

5 Q. Is there any training or any rule in place that says  
6 that the people who are - the officer who is investigating  
7 has to tell the custody manager whether they want to do an  
8 interview or whether they want to engage in any other  
9 investigative procedure?

10 A. Not particularly, not concise rules around that. It  
11 might be just a general conversation that they might have.  
12

13 Q. In your experience, does that conversation happen in  
14 every case or most cases?

15 A. Probably in most cases.  
16

17 Q. Can I just change the topic a little bit. The LEPR  
18 regulations have the custody management guidelines in them.  
19 One of those guidelines is that Aboriginal children,  
20 effectively, are not to be put in police cells, unless  
21 there are "exceptional circumstances that make it necessary  
22 for the wellbeing of the child" - that's schedule 2,  
23 clause 15. Are there any facilities in police stations in  
24 lieu of cells where children, Aboriginal children, are  
25 kept?

26 A. A dock could be one of those places; perhaps even an  
27 interview room, in some locations. It really depends on  
28 the layout of the police station. And again, in training,  
29 we can't be specific, because every location is very  
30 different. So it's put before the custody manager about  
31 what options do they have in placing the particular person  
32 in custody.  
33

34 Q. The dock is basically a small cell in the custody  
35 management room?

36 A. If you'd say that, yes, yes.  
37

38 Q. And so is it the case that, in fact, Aboriginal  
39 children are regularly kept in the dock?

40 A. Well, I guess that is a case-by-case basis. Most  
41 people who are brought in to the police station, our policy  
42 says, should be placed in the dock for the first two hours  
43 at least, to have that continual observation. Again, what  
44 we say to custody managers is that their decisions and  
45 their justification for their decision should be based on  
46 their own opinions and what's going on around them, in a  
47 case-by-case basis.

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Q. I think sometimes they leave the dock door open, for example?

A. Absolutely, yes, yes.

Q. Where there's an allegation made by someone who is in detention, who has been arrested and is now in detention, and say they have made an allegation against the arresting police officer or something like that, and the custody manager becomes aware of that, are they given any training on how to deal with that scenario?

A. No.

Q. Is there any sort of understanding or expectation of how they might deal with that scenario?

A. Again, with any of our policy, if a situation arises, possibly taking some details about that, and again, just having a look at that and the information and where does that need to go? Is it in writing? Does it need to go up through the inspector, and so forth.

Q. But other than sort of the normal policies about that, there's nothing specific for custody managers?

A. Not for our course, no.

MR KERKYASHARIAN: Thank you, Chief Commissioner.

THE CHIEF COMMISSIONER: Thank you.

Yes, Mr White?

**<EXAMINATION BY MR WHITE:**

MR WHITE: Q. Just so you're aware, I'm representing one of the investigating police officers in this matter. I just wanted to ask you about your evidence concerning contacting a support person. As I understood your evidence, you said that it's the responsibility of the officer in charge not the custody manager; is that what you said?

A. That's what I said. But it could be in consultation with the custody manager.

Q. I just wanted to refer you to clause 29 of LEPR regulation. What it says is that the custody manager for a detained person or protected suspect who is a vulnerable person must - so it's mandatory - as far as practicable,

1 assist the person in exercising the person's rights under  
2 part 9 of the Act, including any right to make a telephone  
3 call to a legal practitioner, support person or other  
4 person?

5 A. Yes.

6

7 Q. I'm going to suggest to you specifically what that  
8 regulation seems to be saying is that the obligation is on  
9 the custody manager not the officer in charge. Do you  
10 agree with that or not?

11 A. I agree with that.

12

13 Q. So you qualify the evidence you gave before to that  
14 extent; is that the case?

15 A. I guess what I'm saying is that in relation to that  
16 legislation or that policy, that the consultation is still  
17 with the custody manager to ensure that that process is  
18 complete. Who makes that phone call could be either.

19

20 Q. Well, there's a clear obligation on the custody  
21 manager, according to the regulation, you would agree?

22 A. To ensure that that process is complete.

23

24 Q. Yes.

25 A. Yes.

26

27 MR WHITE: Thank you, Chief Commissioner.

28

29 THE CHIEF COMMISSIONER: Yes. Any other questions? All  
30 right. Have you got anything --

31

32 MR FERNANDEZ: I have no further questions, Chief  
33 Commissioner.

34

35 THE CHIEF COMMISSIONER: All right. That completes the  
36 evidence of Sergeant Edgell?

37

38 MR FERNANDEZ: It does.

39

40 THE CHIEF COMMISSIONER: Thank you for your evidence,  
41 Sergeant. You can step down.

42

43 THE WITNESS: Thank you, your Honour.

44

45 <THE WITNESS WITHDREW

46

47 THE CHIEF COMMISSIONER: Yes, Mr Fernandez?



1  
2 MR FERNANDEZ: Chief Commissioner, I tender one additional  
3 document which I have been requested to tender, and happy  
4 to do so. I tender the February 2023 report of the Law  
5 Enforcement Conduct Commission in relation to the use of  
6 force and a review of NSW Police Force use of force  
7 reporting. The barcodes are 8620469 to 8620503.

8  
9 THE CHIEF COMMISSIONER: Yes. Although it may not be  
10 strictly necessary to mark an earlier report of this  
11 Commission as an exhibit in a particular investigation, it  
12 is helpful, I think, to gather together the items which  
13 have been referred to, and so it is appropriate to mark  
14 this report as an exhibit.

15  
16 **EXHIBIT #MTS99 REPORT OF THE LAW ENFORCEMENT CONDUCT**  
17 **COMMISSION ISSUED IN FEBRUARY 2023 ENTITLED "REVIEW OF**  
18 **NSW POLICE FORCE USE OF FORCE REPORTING", BARCODED**  
19 **8620469-8620503**

20  
21 MR FERNANDEZ: Chief Commissioner, that completes the  
22 evidence at this stage of the investigation.

23  
24 THE CHIEF COMMISSIONER: Yes. So the way forward, as the  
25 investigation, of course, continues, is to note that this  
26 concludes this phase of public hearings and there is likely  
27 to be a further hearing, as to which there will be  
28 consultation and notification as to the time.

29  
30 MR FERNANDEZ: Yes, that's correct.

31  
32 THE CHIEF COMMISSIONER: The question of whether witnesses  
33 who have been summonsed so far and not released from their  
34 summons, whether those witnesses can be excused at this  
35 point, what do you submit is appropriate, Mr Fernandez?

36  
37 MR FERNANDEZ: As you indicated at the outset, Chief  
38 Commissioner, there is no difficulty with that. Those  
39 witnesses would all be aware that if there was some further  
40 need for them to give evidence, they would be required and  
41 a further summons issued.

42  
43 THE CHIEF COMMISSIONER: Does anyone wish to make any  
44 submission in respect to that course?

45  
46 MR WHITE: Just in relation to the timing of that, Chief  
47 Commissioner. Just from my clients' perspective - I'm

1 appearing for two persons - the sooner they are aware of  
2 whether they are required, I think the better from their  
3 point of view.

4  
5 THE CHIEF COMMISSIONER: Yes. But I think you are asking  
6 me, in fact, to release your clients and indeed all other  
7 summonsed persons from their existing summons?

8  
9 MR WHITE: Yes.

10  
11 THE CHIEF COMMISSIONER: But if there was to be any  
12 further and another summons, the sooner that is known the  
13 better, that is clearly what you are raising.

14  
15 MR WHITE: Yes.

16  
17 THE CHIEF COMMISSIONER: I understand that. A number of  
18 people have been in a state of suspension for a period.  
19 Does anyone else wish to say anything on this topic?

20  
21 MR KERKYASHARIAN: Chief Commissioner, just in relation to  
22 [MTS2], which is a witness you released for health reasons,  
23 I don't know whether there's any prospect of that witness  
24 returning or whether or not - because I don't know the  
25 reason and it's not appropriate that I do, but I just  
26 wondered if there was some prospect of his return, then it  
27 may be appropriate to continue that subpoena insofar as  
28 it's still on foot.

29  
30 THE CHIEF COMMISSIONER: Do you want to say anything about  
31 that, Mr Fernandez?

32  
33 MR FERNANDEZ: Chief Commissioner, he should be released  
34 from his summons, like the other witnesses. He wasn't able  
35 to appear for reasons that are known to the Commission. If  
36 there is some future need for him to be required to give  
37 evidence, a further summons can be issued.

38  
39 THE CHIEF COMMISSIONER: I think you appear for [MTS2],  
40 Mr Jones?

41  
42 MR JONES: I do, Chief Commissioner. I agree with counsel  
43 assisting's proposal.

44  
45 THE CHIEF COMMISSIONER: Yes. I have given some thought  
46 to this issue. The evidence of that witness, of course,  
47 given in February, certainly covered principal areas. He

1 was, of course, not recalled in the March private  
2 examinations for health reasons. He remains in a situation  
3 where, if he was required, he could be summonsed again.  
4 The expectation would be that that summons could be served  
5 and called on in the usual way, so that there is no  
6 detriment to the investigation if [MTS2] is released from  
7 his present summons.

8  
9 In my view, the appropriate course to take at this  
10 stage is to release him from that summons, but noting his  
11 position is a little different to the other witnesses who  
12 did give evidence at the March sittings. But I am  
13 satisfied that the appropriate course is to release him,  
14 together with all other witnesses who have been summonsed,  
15 with that being done, however, on the clear understanding  
16 that, if the witness is required again, a summons will  
17 issue and the witness will attend, subject to any further  
18 application.

19  
20 I indicate generally that all witnesses who have been  
21 summonsed so far and who remain subject to a summons are  
22 now excused from further attendance, but on the express  
23 understanding that if required again, there will be  
24 a further summons and an attendance required.

25  
26 I understand what you've raised with respect to  
27 [MTS2], and if any issue arises, Mr Kerkyasharian, we can  
28 deal with it in the way that I have outlined.

29  
30 MR KERKYASHARIAN: Yes, thank you, Chief Commissioner.

31  
32 THE CHIEF COMMISSIONER: There are, of course, a number of  
33 aspects which remain under investigation. If this was the  
34 end of a civil or indeed a criminal hearing, the evidence  
35 would be complete and the only question would be  
36 a timetable for submissions, but it's not that type of  
37 proceeding. So I think the appropriate course is to note  
38 the ongoing investigation and the expectation that there  
39 will be a further date. We will seek to identify that date  
40 as soon as reasonably practicable.

41  
42 There are, of course, a number of matters which were  
43 raised during the evidence, including the matter which  
44 Mr Coffey indicated would be considered by the upper  
45 echelons of the NSW Police Force in the near future, as to  
46 which the Commission will be seeking an indication of the  
47 outcome of that, and there are other areas as well which

1 the Commission is considering.

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1 THE CHIEF COMMISSIONER: It is the civilian pseudonym.

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3 MR FERNANDEZ: Yes, that's right.

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5 THE CHIEF COMMISSIONER: I think for more abundant  
6 caution, given that his name has been used, and I am not  
7 being critical of his name being used, I should make  
8 a non-publication order with respect to his name so that  
9 the transcript of today will be edited to have his name  
10 taken out. His name tends to identify a number of things.

11

12 So I give a direction that the name of "[STM4]" not be  
13 published and the transcript of today will have that name  
14 excised, but in its place will be the pseudonym, and I will  
15 just remind myself of what you said in your opening at the  
16 beginning of this week in that respect.

17

18 I don't seem to have my transcript folder immediately  
19 at hand. But it is [MTS4]?

20

21 MR FERNANDEZ: [STM4].

22

23 THE CHIEF COMMISSIONER: STM. That's the distinction,  
24 yes. At the risk of confusing everyone, including myself,  
25 it is [STM4].

26

27 MR FERNANDEZ: Yes, it is

28

29 THE CHIEF COMMISSIONER: In the transcript, the name  
30 should be blocked out but "[STM4]" should be included so we  
31 know who we are talking about.

32

33 MR FERNANDEZ: Chief Commissioner, I tender a transcript  
34 of the record of conversation dated 7 March 2023 between  
35 [STM4] and investigators from the Law Enforcement Conduct  
36 Commission Act Commission. It's at tab 115 of the brief.  
37 The barcode numbers are 8534701 to 8534013.

38

39 MR FERNANDEZ: That should be a confidential exhibit, I'm  
40 sorry.

41

42 THE CHIEF COMMISSIONER: Yes. It is a confidential  
43 exhibit in the previous hearing, but at this stage it is  
44 the sole confidential exhibit since we embarked upon the  
45 public hearing.

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47 MR FERNANDEZ: That's so, Chief Commissioner.

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THE CHIEF COMMISSIONER: So it is exhibit MTS100C and it is a confidential exhibit. But it is in evidence for the purpose identified by Mr White.

**EXHIBIT #MTS100C RECORD OF CONVERSATION BETWEEN COMMISSION INVESTIGATORS AND [STM4] DATED 7 MARCH 2023, BARCODED 8534701-8534013**

MR WHITE: Thank you.

THE CHIEF COMMISSIONER: All right. If there is nothing else, I wish everyone a happy Easter and the Commission will adjourn.

**AT 12.15PM THE COMMISSION WAS ADJOURNED ACCORDINGLY**