

REPORT TO PARLIAMENT

OPERATION OSLO

June 2001

REPORT TO PARLIAMENT OPERATION OSLO
JUNE 2001

ISBN 1 74003 116 4
© Police Integrity Commission 2001

The Hon Meredith Burgmann MLC
President
Legislative Council
Parliament House
SYDNEY NSW 2000

The Hon John Murray MP
Speaker
Legislative Assembly
Parliament House
SYDNEY NSW 2000

Dear Madam President and Mr Speaker

In accordance with section 96(2) of the *Police Integrity Commission Act 1996*, the Commission hereby furnishes to you a Report regarding Operation Oslo, being a Report in relation to a matter as to which the Commission has conducted a public hearing.

I draw your attention to section 103(2) of the Act, pursuant to which I recommend that this Report be made public forthwith.

Yours faithfully

Judge P D Urquhart QC
Commissioner

June 2001

LEVEL 3 111 ELIZABETH STREET GPO BOX 3880 SYDNEY NSW 2001 AUSTRALIA
TELEPHONE [61 2] 9321 6700 FACSIMILE [61 2] 9321 6799 FREECALL 1 800 657 079

TABLE OF CONTENTS

1. INTRODUCTION 1

BACKGROUND 1

SCOPE AND PURPOSE OF THE HEARING 1

THIS REPORT 2

2. THE COMMISSION'S APPROACH 3

ROLE AND FUNCTIONS OF THE COMMISSION 3

POLICE MISCONDUCT 3

INVESTIGATIONS 4

REPORTS TO PARLIAMENT 4

When may the Commission Submit a Report to Parliament regarding an Investigation? 4

Components of a Report to Parliament on an Investigation 5

The Commission's Approach to the Assessment of Information and Evidence 5

Recommendations and Opinions that Consideration be Given to the Prosecution of a Person for a Criminal or Disciplinary Offence 6

Statements regarding 'Affected Persons' 6

Recommendations and Opinions regarding Disciplinary Action against Police 7

Other Types of Recommendations and Opinions 8

3. EVIDENCE IN RELATION TO PAYMENTS TO POLICE OFFICERS 9

THE NCA TAPES 9

Evidence of Kostas Kontorinakis 9

Evidence of Witness X 13

Evidence of Detective Sergeant Kenneth Desmond 16

Assessment 22

PAYMENTS TO ROGER ROGERSON 23

Evidence of Roger Rogerson 23

Evidence of Allan Chrara 27

Evidence of Kostas Kontorinakis 30

Assessment 32

4. EVIDENCE OF LINKS BETWEEN ROGER ROGERSON AND SERVING POLICE OFFICERS – LEAK BY ICAC SECONDEE 33
EVIDENCE OF ROGER ROGERSON 33
EVIDENCE OF ANNE MELOCCO 42
EVIDENCE OF RAYMOND JOHNSON 46
EVIDENCE OF LAURENCE BURGESS 50
EVIDENCE OF KENNETH WELDON 51
EVIDENCE OF SENIOR CONSTABLE STEPHEN WILLIAMS 52
ASSESSMENT 58

5. EVIDENCE REGARDING OTHER AFFECTED PERSONS 61
EVIDENCE OF SENIOR SERGEANT KEVIN VERDON 61
Assessment 63
EVIDENCE OF SERGEANT OWEN ROGERSON 63
EVIDENCE OF DETECTIVE SERGEANT PAUL EDWARD TUXFORD 66
Assessment 67

6. EVIDENCE OF OTHER MATTERS INVOLVING ROGER ROGERSON AND HIS ASSOCIATES..... 69
THE AUSTRAL MATTER 69
Assessment 73
WESTERN SUBURBS MEDICAL CENTRE 73
Assessment 75
DISCUSSIONS OF DRUG CULTIVATION 76

7. AFFECTED PERSONS..... 79
KENNETH JOHN DESMOND 80
KOSTAS KONTORINAKIS 81
SENIOR CONSTABLE STEPHEN WILLIAMS 81
ROGER ROGERSON 81
ANNE MELOCCO 82
RAYMOND JOHNSON 83
DETECTIVE SERGEANT PAUL EDWARD TUXFORD 84
SENIOR SERGEANT KEVIN VERDON 85
SERGEANT OWEN ROGERSON 85
KENNETH WELDON 86
BORIS LINK 86

APPENDIX A 87
NEW SOUTH WALES CRIME COMMISSION ACT 1985 87
POLICE INTEGRITY COMMISSION ACT 1996 87

EXECUTIVE SUMMARY

Between 20 April 1999 and 22 June 1999, the Police Integrity Commission ('the Commission') held public hearings in relation to an investigation code-named Operation Oslo. Those hearings were preceded by a covert investigation, which commenced in June 1997, in which evidence and information were collected by the Commission pursuant to its statutory functions.

The general scope and purpose of the hearings announced on 20 April 1999 was:

> to identify current and former members of the New South Wales Police Service who are or were involved in improper and/or illegal conduct with Kostas Kontorinakis or any of his current or former associates.

On 25 May 1999, Commissioner P D Urquhart QC announced that in addition to the general scope and purpose announced on 20 April of that year, the scope and purpose of the hearings would be:

> to investigate whether Roger Rogerson has knowledge of any police misconduct and to investigate whether there has been any police misconduct by any member of the New South Wales Police Service associated with Roger Rogerson or any of his associates and, if so, the nature and extent thereof.

The two individuals referred to by name in the general scope and purpose announcements were Kostas Kontorinakis and Roger Rogerson. Mr Kontorinakis, in his evidence to the Commission, described his occupation as a self-employed entrepreneur who had been involved 'on and off' in the sex industry (although he said he had not been involved in prostitution or massage parlours). Roger Rogerson is a former NSW police officer who was dismissed from the Service on 11 April 1986. Roger Rogerson was convicted in 1990 of conspiring to pervert the course of justice and was sentenced to an eight year (minimum six year) prison term. On 16 December 1992 the Court of Criminal Appeal dismissed an appeal against his conviction and re-sentenced him to a total term of four years and three months imprisonment (comprising a minimum term of three years), dating from 16 December 1992.

KEY AREAS OF EVIDENCE

Operation Oslo ranged over a number of discrete areas. A summary of the key areas of evidence obtained during the course of the investigation, together with the Commission's assessment of that evidence, is outlined below.

THE NATIONAL CRIME AUTHORITY TAPES

Material obtained by the Commission during the course of its investigations included the National Crime Authority Operation Sugar telephone intercept and listening device tapes of 1991 (referred to in this Report as 'the NCA tapes'). A number of the NCA tapes allegedly featured Kostas Kontorinakis, Branco Balic and others apparently

discussing with associates the payment of money to police officers for protection of illegal activities.

In three of the NCA taped conversations, Detective Sergeant Kenneth Desmond was allegedly mentioned in the context of receiving money in exchange for the protection of illegal activities.

The Commission is not of the opinion that consideration should be given to the prosecution of any of the persons allegedly receiving or paying corrupt payments.

PAYMENTS TO ROGER ROGERSON

Evidence obtained by the Commission indicates that for a period of two years ending in 1998, Mr Kontorinakis paid Roger Rogerson $500 a week through an associate, Allan Chrara. Mr Kontorinakis, during the relevant period, had an interest in the Eros Cinema, which he said provided private 'peep' shows.

The purpose of those payments cannot be established on the available evidence.

LINKS BETWEEN ROGER ROGERSON AND SERVING POLICE

In 1998, covertly recorded conversations between Roger Rogerson and others indicated that corrupt activity may be occurring at Liverpool City Council ('the Council'). Information was disseminated to the Independent Commission Against Corruption ('ICAC') which resulted in that Commission investigating the conduct of Sam Masri, the former Purchasing Officer of the Council. The ICAC made findings of corrupt conduct in relation to Sam Masri and a number of contractors to the Council, including Roger Rogerson.

Further covertly recorded conversations revealed that Roger Rogerson was 'tipped off' by a friend that he had been detected on telephone intercepts holding conversations with Sam Masri. Senior Constable Stephen Williams, then seconded to the ICAC, admitted to the Commission that he had divulged information to a former police officer, Laurence Burgess. The evidence was that Laurence Burgess passed the information to Raymond Johnson and requested that he convey the leaked information to Roger Rogerson.

SERGEANT OWEN ROGERSON

Recorded conversations suggested that Sergeant Owen Rogerson, Roger Rogerson's brother, disclosed information to Roger Rogerson from a police intelligence report in relation to an association between Roger Rogerson and Arthur Loveday. In Commission hearings, Sergeant Owen Rogerson admitted discussing the report and explained that with the benefit of hindsight, he should not have mentioned it.

THE AUSTRAL MATTER

Evidence obtained during the investigation was suggestive of a conspiracy between Roger Rogerson, Raymond Johnson and Kenneth Weldon to carry out an offence of break, enter and steal on a property at Austral. The explanations given to the Commission by those involved lacked credibility, however the admissible material was incapable of supporting an inference that there was a concluded agreement to carry out an offence of break, enter and steal. Accordingly, the Commission is not of the opinion that the NSW Director of Public Prosecutions ('the DPP') should give consideration to the laying of criminal charges.

WESTERN SUBURBS MEDICAL CENTRE

Evidence obtained during the investigation indicated that Roger Rogerson, Raymond Johnson and Kenneth Weldon conducted what appeared to be unlawful observations of a particular western suburbs medical centre or a person associated with it. Insufficient evidence concerning the precise objective of these men leads the Commission to form the opinion that the DPP should not give consideration to the laying of criminal charges.

DRUG CULTIVATION

Further evidence revealed discussions about cultivation and distribution of marijuana during the period 4 June 1998 to 19 January 1999 between Roger Rogerson, Kenneth Weldon, Boris Link and another man. The admissible evidence, however, does not warrant consideration by the DPP of any drug conspiracy charges.

DETECTIVE SERGEANT PAUL TUXFORD

Detective Sergeant Paul Tuxford appeared before the Commission on 16 June 1999. In his evidence, he denied that he had arranged for a journalist to interview Allan Chrara in relation to a story which was damaging to the NSW Police Service ('the Police Service') and/or Commander Brammer, then of the Internal Affairs Command of the Police Service.

The Commission considers that the relevant material should be referred to the Commissioner of Police for consideration of reviewable or non-reviewable action.

SENIOR SERGEANT KEVIN VERDON

Senior Sergeant Kevin Verdon appeared as a witness before the Oslo hearings on 16 June 1999. On 29 April 1999, Senior Sergeant Verdon had met with a group of people including Roger Rogerson for a number of hours at the Cabramatta Leagues Club. In his appearance before the Commission, Senior Sergeant Verdon initially indicated he did not see the harm in the contact he had had with Roger Rogerson, even though he was aware Roger Rogerson had been convicted of offences which he believed to be related to corrupt acts. On further consideration, Senior Sergeant Verdon agreed

there was some merit in making notes of incidents where there was a potential conflict of interest.

The Commission considers an officer with Senior Sergeant Verdon's considerable experience should have been conscious of the potential for his conduct to reflect poorly upon his own professionalism and the Police Service as a whole. The Commission considers it appropriate for the Commissioner of Police to give consideration as to whether non-reviewable action should be taken against Senior Sergeant Verdon.

OPINIONS AS TO CONSIDERATION BEING GIVEN TO CRIMINAL PROSECUTIONS AND OTHER ACTION

After examination of the evidence before it, the Commission formed the opinion that consideration should be given to the prosecution of the following persons for specified criminal offences and/or other action:

- Roger Rogerson
  - Tampering with evidence (section 317 of the *Crimes Act 1900*); or
  - Destroying a document or thing knowing it may be required in connection with an investigation (section 88 of the *Independent Commission Against Corruption Act 1988*); and
  - Knowingly giving evidence that is false or misleading in a material particular (section 107 of the *Police Integrity Commission Act 1996*).
- Anne Melocco
  - Tampering with evidence (section 317 of the *Crimes Act 1900*); or
  - Destroying a document or thing knowing it may be required in connection with an investigation (section 88 of the *Independent Commission Against Corruption Act 1988*); and
  - Knowingly giving evidence that is false or misleading in a material particular (section 107 of the *Police Integrity Commission Act 1996*).
- Raymond Johnson
  - Knowingly giving evidence that is false or misleading in a material particular (section 107 of the *Police Integrity Commission Act 1996*).

- Detective Sergeant Paul Tuxford

  – Consideration by the Commissioner of Police to the taking of reviewable or non-reviewable action within the meaning of section 173 of the *Police Service Act 1990*.

- Senior Sergeant Kevin Verdon

  – Consideration by the Commissioner of Police to the taking of a non-reviewable action within the meaning of section 173 of the *Police Service Act 1990*.

IMPLICATIONS AND COROLLARIES

In addition to expressing opinions in relation to affected persons, the Commission seeks to identify from its investigations issues that may have broader implications for the Police Service and its members.

In this regard, the actions of two police officers are noteworthy.

Senior Constable Stephen Williams admitted in his evidence to the Commission that he had divulged information to a former police officer. As noted above, the evidence indicates that the former officer then passed the information to another former officer and requested it be passed to Roger Rogerson. The Commission considers this disclosure of information by Williams was deliberate.

The Commission needs to emphasise that the harm caused by police officers leaking information can be significant and far-reaching. Amongst other things, investigations are compromised and certain individuals can, in effect, be afforded a degree of immunity from scrutiny by law enforcement agencies either on an ongoing basis or in relation to discrete investigations. Furthermore it can put the safety of police officers in jeopardy.

The other police officer, Senior Sergeant Verdon, met with a group of people including Roger Rogerson, for a number of hours one evening in April 1999. The evidence heard by the Commission in relation to Senior Sergeant Verdon reinforces the need for officers to be aware of the potential risks that can arise from their personal associations. These risks present themselves in terms of conflicts of interest and perceived conflicts of interest. As a minimum, records need to be kept of the circumstances and nature of contact with persons with criminal records or those known to be under investigation for criminal offences. It also seems prudent that an officer notify their supervisor when they have had personal contact of this nature.

1. INTRODUCTION

BACKGROUND

1.1 Between 20 April 1999 and 22 June 1999, the Police Integrity Commission ('the Commission') held public hearings in relation to an investigation code-named Operation Oslo. Those hearings were preceded by a covert investigation, which commenced in June 1997, in which evidence and information was collected by the Commission pursuant to its statutory functions.

SCOPE AND PURPOSE OF THE HEARING

1.2 The public hearings for Operation Oslo were conducted between 20 April 1999 and 22 June 1999. At the commencement of public hearings Commissioner P D Urquhart made the following announcement in relation to their general scope and purpose:

> Pursuant to section 32(3) of the Act, I announce that the general scope and purpose of this hearing is as follows:
>
> to identify current and former members of the New South Wales Police Service who are or were involved in improper and/or illegal conduct with Kostas Kontorinakis or any of his current or former associates.

1.3 On 25 May 1999, Commissioner P D Urquhart announced the following additional general scope and purpose of the public hearings:

> In addition to the general scope and purpose of the hearing that I announced on 20 April of this year, I now announce that there is an additional scope and purpose of this public hearing and it is as follows:
>
> to investigate whether Roger Rogerson has knowledge of any police misconduct and to investigate whether there has been any police misconduct by any member of the New South Wales Police Service associated with Roger Rogerson or any of his associates and, if so, the nature and extent thereof.

1.4 The two individuals referred to by name in the general scope and purpose announcements were Kostas Kontorinakis and Roger Rogerson. Mr Kontorinakis, in his evidence to the Commission, described his occupation as a self-employed entrepreneur who had been involved 'on and off' in the sex industry (although he said he had not been involved in prostitution or massage parlours). Roger Rogerson is a former NSW police officer who was dismissed from the Service on 11 April 1986. Roger Rogerson was convicted in 1990 of conspiring to pervert the course of justice and was sentenced to an eight year (minimum six year) prison term. On 16 December 1992 the Court of Criminal Appeal dismissed an appeal against his conviction and re-sentenced him to a

total term of four years and three months imprisonment (comprising a minimum term of three years), dating from 16 December 1992.

THIS REPORT

1.5 This Report is prepared and furnished to Parliament pursuant to sections 96 and 97 of the *Police Integrity Commission Act 1996* ('the Act') and includes:

- a chapter outlining the Commission's approach;
- a summary of the evidence heard during the course of the public hearings; and
- statements with regard to a number of persons who are 'affected persons' within the meaning of the Act (sub-section 97(3)).

2. THE COMMISSION'S APPROACH

ROLE AND FUNCTIONS OF THE COMMISSION

2.1 The Commission was established under the Act on the recommendation of the Royal Commission into the NSW Police Service ('the Royal Commission'). The principal functions of the Commission, set out in section 13 of the Act, are:

(a) to prevent serious police misconduct and other police misconduct;

(b) to detect or investigate, or manage other agencies in the detection or investigation of, serious police misconduct;

(c) to detect or investigate, or oversee other agencies in the detection or investigation of, other police misconduct, as it thinks fit;

(d) to receive and assess all matters not completed by the Police Royal Commission, to treat any investigations or assessments of the Police Royal Commission as its own, to initiate or continue the investigation of any such matters where appropriate, and otherwise to deal with those matters under this Act, and to deal with records of the Police Royal Commission as provided by this Act.

2.2 As far as practicable, the Commission is required to turn its attention principally to serious police misconduct (sub-section 13(2)).

POLICE MISCONDUCT

2.3 The expressions 'police misconduct' and 'serious police misconduct' are not specifically defined by the Act. They nevertheless include the following types of conduct (see sub-section 5(2)):

(a) police corruption,

(b) the commission of a criminal offence by a police officer,

(b1) misconduct in respect of which the Commissioner of Police may take action under Part 9 of the *Police Service Act 1990*,

(c) corrupt conduct within the meaning of the *Independent Commission Against Corruption Act 1988* involving a police officer,

(d) any other matters about which a complaint can be made under the *Police Service Act 1990*.

2.4 It follows that 'police misconduct' may encompass not only serious criminal activity such as perverting the course of justice but also minor disciplinary breaches by police, the sanction for which may, for example, be nothing more than additional training and development.

INVESTIGATIONS

2.5 In matters where the Commission determines to carry out an investigation (whether or not in the nature of a preliminary investigation), it has a wide range of powers at its disposal in order to acquire information. For example, the Commission may:

- require public officials and public authorities to produce statements of information (section 25);
- require any person (whether or not a public official or public authority) to produce documents or other things (section 26);
- enter public premises (section 29);
- obtain search warrants (section 45);
- obtain warrants under the *Telecommunications (Interception) Act 1979*;
- obtain warrants under the *Listening Devices Act 1984* (section 50 of the Act); and
- require persons to attend and give evidence before a hearing of the Commission, either in public or in private (section 38).

REPORTS TO PARLIAMENT

WHEN MAY THE COMMISSION SUBMIT A REPORT TO PARLIAMENT REGARDING AN INVESTIGATION?

2.6 The Commission must prepare a Report to Parliament where it has conducted a public hearing for the purpose of an investigation (sub-section 96(2)). The Report must be in respect of the matter to which the public hearing related, but not necessarily other matters forming part of the investigation. The Commission may also prepare a Report to Parliament in relation to any other matter that has been, or is, the subject of an investigation (sub-section 96(1)). A Report to Parliament must be furnished to the Presiding Officer of each House of Parliament as soon as possible after the Commission has concluded its involvement in the matter, unless it is considered desirable, in the public interest, for the making of the Report to be deferred (sub-sections 96(4) and (5)).

COMPONENTS OF A REPORT TO PARLIAMENT ON AN INVESTIGATION

2.7 A Report to Parliament in relation to an investigation will generally contain a number of components. First, it will assess the relevant evidence (sub-section 16(1)(a)). Based upon this assessment, the Commission may form opinions as to whether police misconduct or other misconduct has or may have occurred, is or may be occurring, is or may be about to occur, or is likely to occur (sub-section 16(1)(a)). These opinions in turn help to inform whether any recommendations should be made or opinions expressed as to whether consideration should or should not be given to the prosecution of persons (including police officers) for criminal or disciplinary offences and, in the case of police officers, certain other forms of disciplinary action (sub-section 16(1)(b), sub-section 97(2)).

THE COMMISSION'S APPROACH TO THE ASSESSMENT OF INFORMATION AND EVIDENCE

2.8 In relation to the power and obligations of the Commission to express an opinion as to whether a person has engaged in police misconduct or other misconduct, it is important to bear in mind that the Commission is an investigative agency; it is not a court or tribunal in the sense that it may determine whether a person has committed a criminal or disciplinary offence. Accordingly, the Commission may not make a finding or form an opinion that a specified person is guilty of or has committed, is committing or is about to commit a criminal or disciplinary offence (sub-section 16(2)(a)). The Act deems permissible opinions concerning police misconduct or other misconduct not to be findings or opinions that the person is guilty of or has committed, or is committing or is about to commit a criminal offence (sub-section 16(3)). That said, the Commission recognises, bearing in mind that the definition of police misconduct may include conduct that amounts to criminal and disciplinary offences, such an opinion may in some circumstances take on the appearance of a finding of a court or tribunal. The Commission's approach is, as far as possible, to avoid the expression of opinions that may be characterised as findings by a court.

2.9 The standard of proof applied by the Commission to the formation of an opinion as to whether a person has engaged in police misconduct or other misconduct is the balance of probabilities. Such an opinion will be reached having regard to the principles in *Briginshaw v Briginshaw* (1938) 60 CLR 336, that is, the more serious the matters under consideration, the more stringent will be the requisite degree of satisfaction.

RECOMMENDATIONS AND OPINIONS THAT CONSIDERATION BE GIVEN TO THE PROSECUTION OF A PERSON FOR A CRIMINAL OR DISCIPLINARY OFFENCE

2.10 If, in the Commission's opinion, the available evidence is sufficient to establish a prima facie case in respect of a criminal or disciplinary offence then, except in one very limited circumstance discussed below, it is the Commission's approach to recommend or opine that consideration should be given to the prosecution of a person for a specified criminal or disciplinary offence.[1] Such a recommendation will be made to the relevant prosecutorial authority, for example, the NSW Director of Public Prosecutions ('the DPP'). The Commission will not have regard to discretionary considerations, such as whether there is a reasonable prospect of conviction or public policy consideration, when deciding whether to make such a recommendation. This and other discretionary considerations are appropriately matters for the relevant prosecutorial authority. That said, the Commission may make findings or express opinions as to the veracity of evidence received from individual witnesses.

2.11 The only circumstance in which the Commission may, in the exercise of its discretion, decline to recommend that consideration be given to the prosecution of a person, despite the existence of a prima facie case, is in the rare case where it is considered that to do so is likely to be counterproductive to the Commission's pursuit of its principal statutory functions.

STATEMENTS REGARDING 'AFFECTED PERSONS'

2.12 Where substantial allegations are made against a person in the course of or in connection with an investigation in respect of which the Commission intends to Report to Parliament, the Report to Parliament must include a statement as to whether or not in all the circumstances the Commission is of the opinion that consideration should be given to prosecution of the person for a specified criminal or disciplinary offence and, if the person is a police officer, whether consideration should be given to:

- the taking of action (including the making of an order under section 181D of the *Police Service Act 1990*) against the police officer with a view to dismissing, dispensing with the services or otherwise terminating the services of the police officer (sub-section 97(2)(c)); and

- the taking of 'reviewable action' within the meaning of section 173 of the *Police Service Act 1990* against the police officer (sub-section 97(2)(d)).

---

[1] The power of the Commissioner of Police to refer a departmental charge against a police officer for hearing by the Police Tribunal was repealed on 8 March 1999. Since that date, the powers and obligations of the Commissioner to recommend or state whether consideration should be given to the prosecution of a person for a specified '*disciplinary offence'* (sub-sections 16(1)(b), 97(2)(b)) has no effective application to police officers. This is so even for police misconduct that occurred before this date.

RECOMMENDATIONS AND OPINIONS REGARDING DISCIPLINARY ACTION AGAINST POLICE

2.13 'Reviewable action' within the meaning of section 173 of the *Police Service Act 1990* refers to forms of disciplinary action that would ordinarily apply to more serious breaches of discipline. The available forms of reviewable action are:

- a reduction in a police officer's rank or grade;
- a reduction in the police officer's seniority;
- a deferral of the police officer's salary increment; and
- any other action (other than dismissal or the imposition of a fine) that the Commissioner of Police considers appropriate.

Owing to the seriousness of these forms of disciplinary action, a police officer may appeal the imposition of any of these penalties to the Industrial Relations Commission of New South Wales.

2.14 In addition to the requirement to include in a Report to Parliament a statement of the Commission's opinions regarding those against whom substantial allegations have been made, the Commission has a discretion to recommend that consideration be given to other disciplinary action. This includes 'non-reviewable action' within the meaning of section 173 of the *Police Service Act 1990*. Non-reviewable action is disciplinary action available against police officers for less serious breaches of discipline. There is no avenue of appeal to the Industrial Relations Commission against the imposition of a form of non-reviewable action. The available forms of non-reviewable action are:

- coaching;
- mentoring;
- training and development;
- increased professional, administrative or educational supervision;
- counselling;
- reprimand;
- warning;
- retraining;

- personal development;
- performance enhancement agreements;
- non-disciplinary transfer;
- change of shift (but only if the change results in no financial loss and is imposed for a limited period and is subject to review);
- restricted duties; and
- recording of adverse findings.

OTHER TYPES OF RECOMMENDATIONS AND OPINIONS

2.15 If the Commission considers it appropriate in the circumstances, a Report to Parliament may also include recommendations for the taking of other action. Such recommendations may, for example, relate to the need for law reform or for changes to policies and procedures affecting the way in which police or other persons carry out their respective duties and responsibilities.

3. EVIDENCE IN RELATION TO PAYMENTS TO POLICE OFFICERS

THE NCA TAPES

3.1 Material obtained by the Commission included the National Crime Authority Operation Sugar telephone intercept and listening device tapes of 1991 (referred to in this Report as 'the NCA tapes'). A number of the NCA tapes featured Kostas Kontorinakis apparently discussing with associates the payment of money to police officers for protection of illegal activities

EVIDENCE OF KOSTAS KONTORINAKIS

3.2 On 20 April 1999 Kostas Kontorinakis (also known as 'Con' Kontorinakis) gave evidence to the Commission. Mr Kontorinakis gave evidence under objection in accordance with section 41 of the Act. He described his occupation as a self-employed entrepreneur who had been involved in the sex industry 'on and off'.[2] Mr Kontorinakis said that he had not been involved in either prostitution or massage parlours.

3.3 Kostas Kontorinakis gave evidence that he used to own the property in which the Eros Cinema, described by him as an establishment that provided private 'peep shows', was located and that he subsequently sold the property but retained the lease. He said he was a shareholder, director and secretary of Eros Cinema Pty Ltd, the company that used to run the Eros Cinema, from August 1986 until September 1998.[3] Although somewhat unsure, he added that he ceased active involvement in the company around about 1990, 1991 or 1992.[4] He said his wife was the sole director of the company, Busskaye Pty Ltd, which held the current lease of the Eros Cinema.[5] Mr Kontorinakis said his involvement in the Eros Cinema was as a consultant.[6] He said he was also a consultant at Lady Jane and Tudor Court; the latter establishment provides escort services.

3.4 Kostas Kontorinakis was questioned by Counsel Assisting the Commission concerning his knowledge of payments made to police officers:[7]

> Q. Certainly. Were you making payments to police officers?
> A. I don't recall making any payments to police officers.

---

2 PIC Transcript K Kontorinakis 20 April 1999 p 8.
3 PIC Transcript K Kontorinakis 20 April 1999 p 21.
4 PIC Transcript K Kontorinakis 20 April 1999 p 21.
5 PIC Transcript K Kontorinakis 20 April 1999 p 22.
6 PIC Transcript K Kontorinakis 20 April 1999 p 22.
7 PIC Transcript K Kontorinakis 20 April 1999 p 15.

3.5 His evidence in relation to a police officer, Detective Sergeant Kenneth Desmond was as follows:[8]

> Q. Did you know a Ken Desmond in 1991?
> A. Yes, sir, I do.
>
> Q. In what capacity?
> A. He used to be a policeman in Kings Cross, I think, in Darlinghurst, Rose Bay, somewhere. He used to be – he was in the police force.
>
> Q. Well, did you ever know he was in the vice squad?
> A. He probably was.
>
> Q. You didn't know that though?
> A. I probably knew then, but I don't remember now. We're talking again 10 years ago.

3.6 Exhibits tendered in Operation Oslo included conversations recorded pursuant to telecommunication interception and listening device warrants made by the National Crime Authority in 1991 during Operation Sugar (the NCA tapes). The conversations concerned the payment of money to police officers.

3.7 It was suggested to Kostas Kontorinakis that it was his voice on a number of the NCA tapes. In one conversation a male informed 'Branko' of a visit from the then Vice Squad and an offer made to the police officers of a 'good cup of coffee next door'.[9] In a second conversation the same male explained to 'Branko' that there was a dispute between the police in Kings Cross and in the City because the 'ones in the Cross are collecting all the cup [sic] of coffee' and later in the same conversation he said 'the coppers were getting a big cup of coffee'.[10]

3.8 When questioned concerning the content of this conversation Kostas Kontorinakis said he did not recall using the expression 'coppers getting a big cup of coffee'[11] and did not recognise the voices as Branko Balic's or his own. He said:[12]

> A. Well, I don't say it's not my voice. I said it doesn't sound like my voice.

8 PIC Transcript K Kontorinakis 20 April 1999 p 28.
9 Exhibit 131.
10 Exhibit 132.
11 PIC Transcript K Kontorinakis 20 April 1999 p 33.
12 PIC Transcript K Kontorinakis 20 April 1999 p 32.

3.9 When questioned about his recollection of the conversation Mr Kontorinakis stated in his evidence that he was bragging and lying:[13]

> A. I remember we were in the club there when we were bragging to each other, lying to each other, telling fibs to each other there, just to big-note ourselves.

3.10 Kostas Kontorinakis was questioned about his association with Detective Sergeant Desmond:[14]

> Q. Was he [Kenneth Desmond] a friend of yours?
> A. I don't recall Mr Desmond to be a friend of mine. I know the gentleman through the police force.
>
> Q. Did you socialise with him?
> A. Socialise, what do you mean?
>
> Q. Did you have a drink with him, a drink of water or a drink of beer or something like that?
> A. I probably did.

3.11 Although Kostas Kontorinakis said that he probably socialised with Detective Sergeant Desmond he also maintained that he could not recall. Neither could he recall whether he had any knowledge of Detective Sergeant Desmond receiving any corrupt moneys.[15] It is noted that on 20 April 1999, Mr Game SC, the legal representative for Kostas Kontorinakis, presented a medical certificate to the Commission which stated that Mr Kontorinakis was suffering from stress.[16]

3.12 In a further conversation from the NCA tapes played to the hearing on 20 April 1999 one male was heard describing to another how he had made payments to 'Ken Desmond'. He also related information regarding the promotion of 'Ken Desmond' to Sergeant and his imminent relocation from the Vice Squad to the Fraud Squad.[17] Kostas Kontorinakis was examined by Counsel Assisting the Commission regarding the voices and the content of this tape.[18]

> Q. Mr Kontorinakis, you don't deny that one of those voices is yours, do you?
> A. Well, sir, like I said to you before, I don't know if this is my voice. It could be some of my voice, but it's not said there. Everything that has been set out, that never take place, so –

---

13 PIC Transcript K Kontorinakis 20 April 1999 p 32.

14 PIC Transcript K Kontorinakis 20 April 1999 pp 35-36.

15 PIC Transcript K Kontorinakis 20 April 1999 p 36.

16 PIC Transcript K Kontorinakis 20 April 1999 p 10.

17 Exhibit 133.

18 PIC Transcript K Kontorinakis 20 April 1999 pp 36-37.

> Q. So to your knowledge did Mr Desmond go from the vice squad to the fraud squad?
> A. I'm just guessing, I just say this particular time then, if that was my voice.
>
> Q. If it was your voice, it was a lucky guess, was it.
> A. I probably hear it or something to that standard.

3.13 A further NCA tape, recorded in 1991, was played containing, in part, the following discussion during which the participants refer to each other as 'Branko'and 'Con':[19]

> C: Oh Kenny's the best. Kenny Desmond is the best. Very good. And between us there will be a great loss for us if he's gone from there, like you know, now because he's gunna go from the Vice Squad.
> B: Mm.
> C: He's very, very help er he help us very much all this time.
> B: Yeah, yeah, you got someone there who can help?
> C: Oh, oh yeah, yeah, number two, number three, number four are all full on, so there's no problems there.

3.14 The conversation referred to police in the Vice Squad who were 'sweet' and one male was heard to say: [20]

> All right, okay. Anyway I, I, I give Desmond his coffee money, you know, coffee money, three thousand, I fix that up already.

3.15 Kostas Kontorinakis gave evidence to the Commission that he did not recognise the voices on this tape and he did not recall the conversation or know what may have been the intention of the expression 'coffee money'.[21]

3.16 A further tape-recorded conversation was played which included a person identified as Branko Balic discussing with another male arrangements regarding payments to 'coppers' in relation to a business.[22] Cabramatta premises were discussed and Kostas Kontorinakis once again gave evidence that he was lying and bragging. On this occasion, however, he acknowledged that it was his voice:[23]

> Q. Did you promise to pay the police 5,000 in the first month in relation to some venture at Cabramatta in 1991?
> A. I was bragging amongst friends and promising – I would never have any club in Cabramatta, I'd never have any club there. We were lying and bragging and showing off to everyone there.

---

19 Exhibit 134.
20 Exhibit 134.
21 PIC Transcript K Kontorinakis 20 April 1999 pp 38-40.
22 Exhibit 135.
23 PIC Transcript K Kontorinakis 20 April 1999 p 43.

Q. That was you lying and bragging, was it?
A. Of course.

3.17 Kostas Kontorinakis also gave evidence that he knew the person, referred to in this Report as Witness X.[24] He said he had probably attended the same club as Witness X but could not recall whether he had conversations with Witness X concerning payments to police officers.

EVIDENCE OF WITNESS X

3.18 Witness X gave evidence to the Commission under objection in accordance with section 41 of the Act. He adopted the contents of a record of interview between himself and Detective Sergeant Southam of the Internal Affairs Command on 17 February 1999, the audio tape of which was played during the hearing.[25]

3.19 During the interview Witness X said that he was introduced to a police officer named Kenneth Desmond by Bill Bayeh, whom Bill Bayeh had said might be able to help him in relation to ongoing court proceedings to have his brothel business closed down as a disorderly house.

3.20 The disorderly house proceedings had been initiated in 1988.[26] When Witness X was served with a summons by a sergeant of police, whose name he could not recall, he had asked why the action was being taken. The police officer had allegedly said:[27]

> Because the kitty was empty my friend. The kitty was empty, that's why you're getting this.

3.21 Witness X said that he first met with Detective Sergeant Desmond in 1991 and on that occasion had given him money. Though Detective Sergeant Desmond had asked for $7,000, Witness X had given him only $3,000, which was all he could afford at the time.[28] Detective Sergeant Desmond promised to help Witness X with his court case. Witness X had doubts about Detective Sergeant Desmond's ability to help but felt there was nothing else he could do.[29]

3.22 When discussing the disorderly house proceedings Detective Sergeant Desmond had allegedly said to Witness X:[30]

> We know that, you know, we know that, you know, and … if you've been good and listen, play the game, I'm sure this will not happen.

---

24 PIC Transcript K Kontorinakis 20 April 1999 pp 30-31.
25 See Exhibit 175 for the transcript of the interview.
26 Exhibit 175 p 10.
27 Exhibit 175 p 12.
28 Exhibit 175 p 15.
29 Exhibit 175 p 9.
30 Exhibit 175 p 11.

3.23 Witness X's evidence was that Detective Sergeant Desmond had asked for a further $1,200 per month after the first payment,[31] and that within another two weeks he had paid the police officer a further $1,600.[32] He had met with Detective Sergeant Desmond on two other occasions and given him additional amounts, before deciding that he was wasting his money.[33]

3.24 During questioning of Kostas Kontorinakis on 20 April 1999 the audiotapes of two recorded conversations that had been captured on 26 April 1991 were admitted into evidence.[34] In the first of those recordings Witness X was heard to discuss his payments to 'Ken Desmond'. At one point during the conversation he was heard to say: [35]

> So I I'll keep paying Desmond the three thousand dollars but talk to him … I fix him forty-two hun, altogether I give him forty-six hundred dollars already.

3.25 An aspect of Witness X's cross examination by Mr McIlwaine, the legal representative for Detective Sergeant Desmond, focussed on his evidence that his contact with police had started in 1991 and that this was evidence he apparently did not give during his appearance before the Royal Commission in 1996.[36] Witness X said that the Royal Commission had only questioned him concerning 'the drugs with Billy Bayeh'[37] and that he could not 'directly recall' being asked a 'general question about whether [he] had any other knowledge about police misconduct'.[38]

3.26 Mr McIlwaine made written submissions in relation to Witness X's Royal Commission evidence and its impact on his credibility as a witness before the Commission.

3.27 Reference was made to the question 'Did you see anything of police corruption?' that had been put to Witness X in the Royal Commission hearing.[39] It was submitted that Witness X's response made no mention of the 'Desmond incident.' In the Commission's opinion, however, the submission misconceives the circumstances in which the particular question was asked. It was put in relation to his attendance at illegal gaming premises. Witness X had answered to the effect that he had noticed persons coming and going from the gaming premises, who he took to be police officers.[40]

---

31 Exhibit 175 p 16.

32 Exhibit 175 p 6.

33 Exhibit 175 p 23.

34 Exhibits 3 and 4; PIC Transcript K Kontorinakis 20 April 1999 pp 37-40.

35 Exhibit 133.

36 PIC Transcript Witness X 21 April 1999 pp 76-77.

37 PIC Transcript Witness X 21 April 1999 p 77.

38 PIC Transcript Witness X 21 April 1999 p 77.

39 Exhibit 173.

40 Exhibit 173.

3.28 The next passage from the transcript of Witness X's evidence before the Royal Commission referred to by Mr McIlwaine was: [41]

> Q. Have you had any approaches from police wanting to be paid money in connection with your brothel businesses?
> A. My establishment?
>
> Q. Yes.
> A. Not directly, but they close me up for three and a half years because I refused to pay protection.
>
> Q. How did that come about? How were you asked to pay protection and how did you refuse?
> A. I never actually paid directly but I paid for the people who gave me the premises to run the business…

3.29 This series of questions occurred immediately after Witness X had agreed that he maintained brothel establishments of his own at the time, that is in 1996. The first part of his response appears to have concerned his then present situation. Witness X then went on to explain that previously he had been closed down as a result of not directly paying protection money. His evidence was that he had been paying those from whom he rented the premises an amount in addition to rent to cover police protection. He said: [42]

> … the money that I paid those people were supposed to look after everything, but unfortunately they doublecrossed me and one day I just got a court order to go for Disorderly House Act and the police officers who gave me the summons – I said – "What's happened?" He say "Well" – I don't remember their name but this is what they tell me – "Because money has not come to us". But I say, "I look after the people who supposed to look after you …"

3.30 Witness X's reference to the disorderly house action and what was said by the police officer who served the summons is largely consistent with his evidence before the Commission as to events in 1988.

3.31 The next question referred to in submissions on behalf of Mr Desmond was: [43]

> Q. During this time, did you yourself have contact with corrupt police?
> A. No, I don't. They refuse to let me know anybody.

3.32 Again, in the Commission's opinion the submission that in Witness X's answers no mention was made of the alleged Desmond incident misconceives the point in time to which the witness's attention was being directed. The reference to 'during this time' focussed on the period prior to the initiation of the disorderly

---

41 Exhibit 173.

42 Exhibit 173.

43 Exhibit 173.

house action, during which the witness had said he was indirectly paying money for police protection.

3.33 Witness X's evidence before the Commission was that he first met and commenced making direct payments to Detective Sergeant Desmond only in 1991. At that time the disorderly house proceedings had been on foot for several years. Moreover the payments were not in return for what might be described as 'protection'. They were allegedly made in exchange for Mr Desmond's promise to assist Witness X in relation to the disorderly house proceedings.

3.34 Placed in their proper temporal context there would appear to be no real or apparent inconsistency between Witness X's assertions to the Royal Commission about his lack of direct involvement with corrupt police prior to 1988, and his claims before the Commission of having met with and commenced making direct payments to Detective Sergeant Desmond in 1991.

EVIDENCE OF DETECTIVE SERGEANT KENNETH DESMOND

3.35 Detective Sergeant Desmond gave evidence to the Commission under objection in accordance with section 41 of the Act. Detective Sergeant Desmond's evidence was that he had joined the NSW Police Service ('the Police Service') on 1 July 1974 and was initially assigned to Darlinghurst Police Station for a period of three to four years.[45] He had been designated a Detective in or about January 1981 and subsequently made a Senior Constable on 1 July 1983 and a Sergeant in November 1990.[46] He was transferred to the then Vice Squad on 1 June 1986 where he remained until moving to the Fraud Squad in mid 1991.[47]

3.36 Detective Sergeant Desmond was unable to offer an explanation as to why certain criminals would be discussing paying him money.[48] He was questioned concerning his knowledge of Witness X:[49]

> Q. Did you know [Witness X]?
> A. Sir, I looked at him today on the monitor and I'm not in a position to say whether I knew him or didn't. What I'd like to do, which I can't do at the moment, is reflect back on reference material to say whether I did at any time speak to him. That reference material was in an intelligence cell at the vice squad at that time.

---

44 PIC Transcript Witness X 21 April 1999 pp 66-67.
45 PIC Transcript K J Desmond 21 April 1999 p 110.
46 PIC Transcript K J Desmond 21 April 1999 p 111.
47 PIC Transcript K J Desmond 21 April 1999 p 111-112.
48 PIC Transcript K J Desmond 21 April 1999 pp 112-113.
49 PIC Transcript K J Desmond 21 April 1999 p 113.

Q. All right. Do you have access to that material?
A. Sir, I've got no idea where it would be.

Q. Would you like the opportunity ultimately to have a look for that?
A. I would not even know where to start, with the changes through the system. I'd have no idea whatsoever even where to start …

3.37 Detective Sergeant Desmond denied that he had ever offered to 'fix any matter up' for Witness X. He suggested that police had little opportunity to be corrupt in relation to disorderly house matters, as once such an establishment was identified the matter went from the Police Service to the Crown Solicitor's Office to be dealt with in appropriate court proceedings. However, he accepted the proposition put by Counsel Assisting that corrupt police could misinform people about disorderly house procedures for their own purposes.[50]

3.38 Detective Sergeant Desmond denied that he had met with Witness X in early 1991 and demanded $7,000 from him, or that Witness X had given him $3,000 on that occasion. Though he maintained Witness X didn't 'ring a bell' with him, he said that that didn't mean he might not have gone to places where Witness X was present.[51] The following further allegations were put to Detective Sergeant Desmond:[52]

Q. Let me put these allegations to you and you can deny them if you wish. I'm suggesting to you that an arrangement was made for this Mr X to pay $1200 a month?
A. No

Q. All right. And within a couple of weeks at the same location this Mr X gave you another $1600?
A. No. Mr X … never gave me any money.

Q. And a third meeting took place some time later at a coffee shop in Oxford Street. Do you know a place called the Stone Wall gay bar?
A. No, I don't, to be honest with you.

3.39 Detective Sergeant Desmond denied ever having attended arranged coffee shop meetings with massage parlour proprietors, but said there might have been occasions during night work on Darlinghurst Road when he encountered such persons in a coffee shop, and had sat down and had a cup of coffee with them.[53] He denied two further allegations that Witness X had given him money during meetings in the Oxford Street coffee shop.

50 PIC Transcript K J Desmond 21 April 1999 p 121.
51 PIC Transcript K J Desmond 21 April 1999 pp 121-122.
52 PIC Transcript K J Desmond 21 April 1999 p 122.
53 PIC Transcript K J Desmond 21 April 1999 p 122.

3.40 An intercepted telephone call from a brothel owner to the then Vice Squad at 3.03 pm on 24 February 1991 was played to the hearing. The telephone was answered 'Police Service, can I help you?' The caller then said 'Good afternoon, can I have the Vice Squad thank you.' The following exchange then occurred: [54]

Ken: Good afternoon the Vice Squad
Caller: Is Ken there?
Ken: Yeah speaking
Caller: Jeez you're a hard man to find mate
Ken: - laughs – Yeah
Caller: Yeah
Ken: How you going?
Caller: Not bad mate
Ken: Not bad
Caller: Well where are you now?
Ken: At work
Caller: Huh
Ken: At work
Caller: When will you be free?
Ken: Ar tomorrow, is that alright?

3.41 The conversation continued and arrangements were made to meet the following afternoon in a coffee shop in York Street where the caller had previously 'seen' 'Ken': [55]

Caller: Tomorrow yeah yeah you know what time mate?
Ken: Ar
Caller: Afternoon
Ken: Yeah
Caller: Three o'clock
Ken: Yeah
Caller: You know where where [sic] the coffee shop last time you seen me
Ken: Yeah where – stutters – that was in
Caller: York Street
Ken : Which Street?
Caller: York
Ken: York Street three o'clock
Caller: Yeah you know you remember that place
Ken: Yeah what – stutters – what's the next cross street there what's the name from
Caller: Um let me think, Market Street
Ken: I'll find it anyway
Caller: Yeah yeah you know my officer number if you've got any change
Ken: Yeah yeah
Caller: Alright mate thanks mate
Ken: Yeah
Caller: Bye.

54 Exhibit 104.
55 Exhibit 104.

3.42 Detective Sergeant Desmond was examined by Counsel Assisting the Commission in relation to the conversation:[56]

Q. How many Kens were there working at the vice squad?
A. Two.

Q. But, detective, that was you speaking to [the caller], wasn't it?
A. Well, I can't identify the voice, no.

Q. That was you?
A. I don't know.

Q. Did you meet [the caller] in a coffee shop in York Street?
A. Well, looking at that conversation, I may have, yes.

Q. Do you have any recollection about that?
A. Again, it's that long ago, I have no recollection of it.

Q. Why would you be meeting [the caller] at a coffee shop in York Street?
A. Again, I can't recall if it was me that it was meeting him, I can't recall, if I was meeting him, I can't recall.

Q. That's something you never did, wasn't it?
A. I said I couldn't recall ever meeting anyone, I said.

Q. And I think you said that you didn't consider that was something that was prudent to do?
A. No, no. It was something that was out of the ordinary, for sure.

Q. But would you agree that whoever the Ken was that spoke to [the caller] on that occasion appeared to be on friendly terms with —
A. As I said, I was on friendly terms with everybody up there.

Q. Do you stutter from time to time or not?
A. No. I don't believe so.

Q. Do you think if you listened to the tape again —
A. I don't think it would make any —

Q. Would you like to listen to it again just to see if you can –
A. As I said, I can't identify the voice.

Q. You might be able to, if you give it another go.

[56] PIC Transcript K J Desmond 21 April 1999 pp 123-124.

3.43 The tape of the conversation was then played a second time. Detective Sergeant Desmond again said that he did not know if it was his voice. If it was 'there might have been some reason why I went and seen [the caller]'.[57] The Detective was then stood down.

3.44 On 10 June 1999 Detective Sergeant Desmond was recalled to the witness box to resume his evidence. The transcript of an audio-taped interview with Kenneth Tight, the other 'Ken' at the vice squad at the time of the 24 February 1991 telephone call, was tendered. In the interview Mr Tight said that it was not his voice on the recording, though he did not recognise it as that of Detective Sergeant Desmond.[58]

3.45 Detective Sergeant Desmond was questioned further in relation to the recording. He maintained that he was not sure whether the voice was his. He said the person speaking on the recording had a stutter, and that he did not believe he stuttered.[59] He was not able to say whether the voice sounded more like his than Mr Tight's:[60]

> Q. Does it sound more like you than Ken Tight?
> A. Again, I'm in a position – I still am not positive whether it was Ken or myself. Ken – as you said, Ken Tight said it wasn't his voice. I don't know whether it was my voice or not, but, as I said to you before, if it is, so be it.

3.46 Detective Sergeant Desmond agreed that he knew the caller.[61] Counsel Assisting suggested the recorded conversation seemed 'friendly'. Detective Sergeant Desmond said that he conducted his discussions in a non-dogmatic and nice way:[62]

> I think my approach to people is quite friendly, yes.

3.47 He agreed that the person 'Ken' did not need much encouragement to attend the meeting that the caller was requesting, having agreed to meet him the next day.[63] When asked if that would have been an unusual event for him, Detective Sergeant Desmond suggested the caller might have been a 'community source', that is someone who was providing information to the police. Counsel Assisting

---

57 PIC Transcript K J Desmond 21 April 1999 p 124.
58 Exhibit 102.
59 PIC Transcript K J Desmond 10 June 1999 p 454.
60 PIC Transcript K J Desmond 10 June 1999 p 455.
61 PIC Transcript K J Desmond 10 June 1999 p 455.
62 PIC Transcript K J Desmond 10 June 1999 p 455.
63 PIC Transcript K J Desmond 10 June 1999 p 457.

asked whether he had any recollection of the caller 'being a community source in or about February 1991':[64]

> A. Well, to the best of my recollection that was me. He must have been giving me information or intelligence at that particular time.
>
> Q. Do you think it was you now?
> A. If it was –
>
> Q. But do you think it was?
> A. In all possibility, it could be. As I say, it appears that Ken Tight says it's not his voice. I'm not sure it's 100 per cent my voice because I can't pick it from it, but if it is my voice – and, as I said before, so be it – I spoke to [the caller]. Whether I went to that coffee shop on that particular occasion or not, I don't know, if that's the case of me being on the tape. But if it is, I don't know whether I went to that coffee shop that day or not either.

3.48 Detective Sergeant Desmond's evidence before the Commission on 21 April 1999 was that he recollected the caller might have been a brothel owner. He said that he 'would imagine [he] spoke with him through [his] work'.[65] Detective Sergeant Desmond denied that the caller was a person who had access to him as a police officer.[66] Apart from one occasion when he and other police officers happened to be at the same restaurant as the caller, Detective Sergeant Desmond's evidence was that the caller was not a person whom he would, in Counsel Assisting's words, 'go off and meet in covert places'.[67]

3.49 This prior evidence was put to Detective Sergeant Desmond on 10 June 1999, in relation to his assertion that if it was his voice on the tape he must have been meeting the caller at the coffee shop as a community source. Counsel Assisting asked:[68]

> Q. Just to get it abundantly clear, it is your recollection now, isn't it that [the caller] was your community source in 1991?
> A. He wasn't my community source.

---

64 PIC Transcript K J Desmond 10 June 1999 pp 458-459.
65 PIC Transcript K J Desmond 21 April 1999 p 117.
66 PIC Transcript K J Desmond 21 April 1999 p 118.
67 PIC Transcript K J Desmond 21 April 1999 p 118.
68 PIC Transcript K J Desmond 10 June 1999 pp 460-461.

ASSESSMENT

3.50 Mr McIlwaine submitted on behalf of Detective Sergeant Desmond that 'he gave clear and unequivocal evidence denying ever receiving money from Mr X' and that no aspect of his evidence was in any way contradicted other than by Witness X, who it was submitted lacked credibility. It was also maintained that had Detective Sergeant Desmond been questioned concerning these matters eight years earlier, he may have had an alibi or access to police files to assist refute the allegations.[69]

3.51 Counsel Assisting, while conceding there were difficulties with Witness X's credibility, submitted that on the totality of his evidence the allegations of having made payments to Detective Sergeant Desmond appeared credible, particularly bearing in mind there was no suggestion that in 1991 he had any reason to suspect that his conversations were being recorded.

3.52 The Commission has already expressed the view that there was no real or apparent inconsistency between Witness X's evidence before the Royal Commission and his claims before the Commission of having made corrupt payments to Detective Sergeant Desmond in 1991. The existence of factors which broadly impact upon the credibility of Witness X must be acknowledged. Some of these factors, such as the distance in time of the alleged events, arise as of course. Others, such as his admitted use of cocaine over the years (including his admission to the Royal Commission that he was addicted to the drug in 1991[70]) and his general character, are peculiar to the witness. Absent independent corroboration of the allegations (and the Commission considers the recordings not to be such corroboration) the Commission does not assess the evidence as sufficient to warrant consideration of criminal charges.

3.53 In relation to the allegations of having attended arranged coffee shop meetings with a massage parlour proprietor, submissions on behalf of Detective Sergeant Desmond maintained that no safe voice comparison could be made between Detective Sergeant Desmond's evidence before the Commission and the person 'Ken's' telephone discussion on 24 February 1991. He referred to the statement of Mr Ken Tight who, although saying it was not his voice, did not recognise it as that of Detective Sergeant Desmond, who was well known to him at the time.

---

69 Exhibit 169.

70 Exhibit 173.

3.54 Counsel Assisting submitted 'the voices sound[ed] identical and a stammer was discernible on the tape as it was in Sergeant Desmond's evidence',[71] and that the only other 'Ken' in the Vice Squad at the time had been eliminated as a possible source of the voice. In the Commission's opinion this submission represents the better view, having regard also to the shift in Mr Desmond's position after Mr Tight was eliminated as the recipient of the call. Mr Desmond was prepared at that point to concede that 'to the best of my recollection that was me … in all possibility, it could be'.[72] To lend legitimacy to the arrangements to meet with the caller and to avoid any contradiction with his earlier evidence that the person was not someone who had access to him as a police officer or who he would meet in covert places, Detective Sergeant Desmond then suggested that the caller was a community source. When pressed he withdrew the suggestion.

3.55 Detective Sergeant Desmond was discharged from the Police Service on medical grounds on 10 August 2000.

PAYMENTS TO ROGER ROGERSON

3.56 The Commission's investigation revealed that for a period of approximately two years, ending in 1998, Allan Chrara paid the former NSW police officer Roger Rogerson $500 a week. It was suspected that the money was being paid by Kostas Kontorinakis, through his associate Allan Chrara, for protection of illegal activities.

EVIDENCE OF ROGER ROGERSON

3.57 Roger Rogerson gave evidence to the Commission concerning his relationship with Kostas Kontorinakis. Mr Rogerson gave evidence to the Commission under objection in accordance with section 41 of the Act. He said that from time to time he saw Kostas Kontorinakis, however he denied he was an associate. He also said he believed Kostas Kontorinakis was involved with strip clubs but maintained he had never known him to be involved in prostitution.[73]

---

71 Exhibit 155.

72 PIC Transcript K J Desmond 10 June 1999 pp 458-459.

73 PIC Transcript R C Rogerson 21 April 1999 p 89.

3.58 Roger Rogerson gave evidence that he could not recall having a number of meetings with Kostas Kontorinakis. He could not recall meeting with him on 4 December 1998 or outside a hotel in Sydney on 11 December 1998. His evidence was that he 'could have been going past there and ran into him.'[74] He admitted that he met Kostas Kontorinakis on 16 December 1998 and had lunch with him but denied having had any business dealings with him.[75]

3.59 Roger Rogerson was shown photographs of meetings involving himself and Kostas Kontorinakis taken on 22 January 1999 and 30 January 1999. He maintained that these were incidental and denied recognising the locations portrayed in the photographs.[76] He could not recall meeting Kostas Kontorinakis on George Street on 10 February 1999.[77]

3.60 Roger Rogerson was then questioned concerning a financial relationship he may have had with Kostas Kontorinakis:[78]

> Q. Perhaps I'll show you this tape. I won't do that, thank you. Did you have any financial transactions with Mr Kontorinakis in 1998 or 1999, any financial transactions at all?
> A. In '98 or '99, not with him personally, no.
>
> Q. Were you ever involved in looking after his business interests in any way in '98 or '99?
> A. No. Well, no, hang on, just a moment. Please qualify that question. It's a pretty broad question.

3.61 Roger Rogerson then admitted to meeting nearly weekly, with an associate of Kostas Kontorinakis, Allan Chrara, from June 1998 to around December 1998.[79] He said they usually met at Allan Chrara's home or a nearby hotel on a Thursday or Friday. He was questioned concerning the exchange of money at these meetings:[80]

> Q. Wasn't it the fact that he [Allan Chrara] was paying you $500 a week from Con, from Kostas Kontorinakis; isn't that the reality?
> A. No.
>
> Q. All right. Is it the reality that he was paying you or handing over to you $500 a week?
> A. It was a repayment of a loan.

74 PIC Transcript R C Rogerson 21 April 1999 p 90.
75 PIC Transcript R C Rogerson 21 April 1999 pp 90-91.
76 PIC Transcript R C Rogerson 21 April 1999 pp 91-92.
77 PIC Transcript R C Rogerson 21 April 1999 pp 92-93.
78 PIC Transcript R C Rogerson 21 April 1999 p 93.
79 PIC Transcript R C Rogerson 21 April 1999 p 94.
80 PIC Transcript R C Rogerson 21 April 1999 p 96.

3.62 Roger Rogerson then explained to the Commission that Allan Chrara had brokered a loan in order to undertake urgent repairs on the Eros Cinema and gave the following evidence:[81]

> Q. When was this loan brokered?
> A. I don't know. I thought it would have been earlier than that. I'm quite – I don't have a recollection that Con Kontorinakis was not – hadn't been released from prison.
>
> Q. Right. But wasn't it the fact that Chrara was looking after Kontorinakis's affairs while he was in gaol; isn't that the way it went?
> A. Well, Alan [sic] explained to me that he was actually in charge of his affairs, running the show, that he was the manager, and that he was responsible to make sure that these repairs were carried out so that the – so that these repairs had to comply about council requirements, otherwise the premises would have been closed down.

3.63 Roger Rogerson added that he believed Allan Chrara was in charge of the Eros Cinema while Kostas Kontorinakis was in gaol and also that Allan Chrara may have had an interest in the premises.[82] He gave evidence concerning the amount of the loan and said that Allan Chrara originally asked for $50,000 and eventually raised $40,000.[83] He elaborated:[84]

> A. … So I then made some inquiries. I introduced Alan [sic] to another friend of mine and I think he was able to eventually lend him 20,000. I was able to, over some weeks, raise 10,000, but I borrowed another 10,000 off another associate of mine and Alan [sic] was very thankful. …

3.64 When questioned on 21 April 1999 concerning repayment of the loan, Roger Rogerson said he did not record the loan repayments but left this task to Allan Chrara. He said he was not sure when the loan was repaid. He thought the interest rate was 10 per cent but said he was not really concerned about interest:[85]

> Q. All right. So it's some time while Con [Kostas Kontorinakis] was in gaol. Did you keep any records as to the repayment of the loan from Chrara?
> A. No. Alan [sic] had a record. Alan [sic] showed me some documents he had there and he used to write it down every time it was paid. I trusted Alan [sic] in regard to those records.
>
> Q. Well, has the loan been repaid now?
> A. Yes.

---

81 PIC Transcript R C Rogerson 21 April 1999 p 96.

82 PIC Transcript R C Rogerson 21 April 1999 pp 96-97.

83 PIC Transcript R C Rogerson 21 April 1999 pp 97-100.

84 PIC Transcript R C Rogerson 21 April 1999 p 98.

85 PIC Transcript R C Rogerson 21 April 1999 p 100.

Q. When was it repaid?
A. Oh, I can't be sure of dates, but, I mean, it went on week after week, sometimes a bit – a fortnight went by.

Q. What was the interest rate?
A. I think it was 10 per cent.

Q. What, do you say you had —
A. We actually - I don't think we worried much about the interest. Alan [sic] was appreciative of what we'd done, or what I'd done, and I think it just might have run on a bit with Alan [sic] making payments. But he had all the records.

3.65 Roger Rogerson said that he was unsure how long the repayments had continued but indicated it may have been for twelve or eighteen months. He confirmed the loan had been repaid by 1998.[86] He also gave evidence that Allan Chrara was clearing $1,400 a week as the manager of the Eros Cinema. He was questioned concerning the relationship between Allan Chrara and Mr Kontorinakis and his own relationship with Kostas Kontorinakis:[87]

Q. He [Allan Chrara] had a very close relationship with Mr Kontorinakis; is that right?
A. I don't think that's the case now.

Q. No, they had a falling out, didn't they?
A. I believe so.

Q. The fact is that before the falling out you used to see Chrara once a week and collect money, and after the falling out you had regular contact with Mr Kontorinakis himself, didn't you?
A. Not at all. That short period of time there, I've been trying to think over the luncheon break, I think Con Kontorinakis was whingeing about it. I think there was some conversation about Alan [sic] ripping him off or doing all sorts of things to try to hurt his business, this type of thing. I hadn't seen the bloke – I haven't seen Alan [sic] for quite some time. That was their business. I wasn't involved at all, not at all.

3.66 A video taken on 6 November 1998 was shown to the Commission's hearing. The video showed an exchange occurring between Allan Chrara and Roger Rogerson. Roger Rogerson was questioned concerning his actions:[88]

Q. Right. That was you meeting Mr Chrara about 5.15pm on 6 November 1998, a Friday?
A. Well, what time?

86 PIC Transcript R C Rogerson 21 April 1999 p 106.
87 PIC Transcript R C Rogerson 21 April 1999 p 106.
88 PIC Transcript R C Rogerson 21 April 1999 p 102.

Q. About 5.15pm; sorry, 3.15pm?
A. I don't know; it could have been.

Q. Did you see some exchange take place on that video?
A. Yes.

Q. Do you know what that was or not?
A. I think that was the money – that was some of the money that Alan [sic] owed on the horse float.

Q. On the horse float?
A. Yep.

Q. So that wasn't anything to do with the repayment of a loan?
A. That had long gone.

3.67 Roger Rogerson's evidence was that the only record in relation to repairing Allan Chrara's horse float would be the account paid by Roger Rogerson's company to a steel supplier.[89]

EVIDENCE OF ALLAN CHRARA

3.68 Allan Chrara gave evidence to the Commission under objection in accordance with section 41 of the Act. Allan Chrara gave evidence that he had known Kostas Kontorinakis for about 15 years and Roger Rogerson for about 35 years.[90] He maintained that Kostas Kontorinakis was the sole owner of the Eros Cinema. He said that Kostas Kontorinakis had formerly had a partnership with Michael Nasser and together they had owned the building in which the Eros Cinema was located.[91]

3.69 Allan Chrara said he was involved in the Eros Cinema while Kostas Kontorinakis was in gaol. His role had been to arrange for contractors to provide quotes and carry out work in compliance with a court order.[92]

3.70 Allan Chrara said that Jaron Fraser was involved in running the Eros Cinema, and paid Kostas Kontorinakis a certain amount of money every week.[93] He explained that this was not payment for rent but for the lease of the business[94] and had begun while Kostas Kontorinakis was in gaol. Allan Chrara said it was not a written agreement.[95]

---

89 PIC Transcript R C Rogerson 21 April 1999 p 103.
90 PIC Transcript A Chrara 26 May 1999 p 180.
91 PIC Transcript A Chrara 26 May 1999 p 181.
92 PIC Transcript A Chrara 1 June 1999 p 360.
93 PIC Transcript A Chrara 1 June 1999 pp 360-361.
94 PIC Transcript A Chrara 26 May 1999 pp 186-187.
95 PIC Transcript A Chrara 1 June 1999 p 362.

3.71 Allan Chrara's evidence was that Kostas Kontorinakis was released from gaol about Christmas time 1998.[96] He said it was Kostas Kontorinakis who supervised activities at the Eros Cinema:[97]

> He hires and fires and Mr Fraser's there. That's correct ... Mr Kontorinakis supervises if anything goes wrong. He's in there every day and supervising.

3.72 Allan Chrara said he had worked as an inquiry agent for Kostas Kontorinakis in addition to arranging and supervising building renovations at the Eros Cinema.[98] He said that the payments of $500 a week he made for Kostas Kontorinakis were repayments of money he had borrowed from Roger Rogerson. He explained that the money related to a joint partnership between Roger Rogerson and Trevor Saul who had collectively loaned Kostas Kontorinakis $40,000.[99] He gave further evidence on 26 May 1999 concerning the repayments:[100]

> A. … About four or five weeks after he came out of gaol, he [Kontorinakis] started giving me money for Mr Rogerson and for Mr Trevor Saul and also gave me the money to pay the rent every Thursday. …
>
> Q. That continued until when?
> A. Until about, oh, seven weeks before Christmas.
>
> Q. Last year?
> A. Yes, just last year, yes. …

3.73 He also said that:[101]

> he [Kontorinakis] asked me to see Roger and ask Roger for the money and tell him there'll be a good cup of coffee for him. … and later on again Kontorinakis rang Roger and thanked him for lending the money and told him there'll be a good cup of coffee for him.

3.74 He was questioned about the amount and number of repayments made:[102]

> Q. According to your evidence, for about two years Roger Rogerson was getting back 500 a week?
> A. That's correct.
>
> Q. Rather generous interest there?
> A. Pardon?

---

96 PIC Transcript A Chrara 1 June 1999 p 362.
97 PIC Transcript A Chrara 1 June 1999 p 363.
98 PIC Transcript A Chrara 26 May 1999 pp 181-182.
99 PIC Transcript A Chrara 26 May 1999 p 183.
100 PIC Transcript A Chrara 26 May 1999 pp 182-183.
101 PIC Transcript A Chrara 26 May 1999 pp 183-184.
102 PIC Transcript A Chrara 26 May 1999 p 184.

Q. Rather generous interest there?
A. Well, that's what happened.

Q. Was there an arrangement about interest, apart from the 5,000 you've spoken about?
A. Not as far as I know.

Q. Who kept the records for this interesting transaction?
A. There was no record kept. When Mr Kontorinakis gave me the money to pay it, he gave me the money on a weekly basis. I just went and paid it. There was never any record. …

3.75 On 1 June 1999 Allan Chrara gave further evidence concerning the amount of money repaid to Roger Rogerson:[103]

Q. Sure, but their original loan was how much each, what, 20,000 each?
A. 20,000 each and they were supposed to get an extra 5,000 each on top of that.

Q. Right. But in Mr Rogerson's case he'd been paid back 500 a week for a couple of years. Why wasn't the loan well and truly paid back –
A. I don't know.

Q. – at the end of 1998?
A. I don't know. That was just an arrangement between Kontorinakis and –

Q. So there was still a lump sum to collect from Kontorinakis even at the end of 1998, was there?
A. That's correct, yes.

Q. And a lump sum in the order of 50,000?
A. That's correct.

Q. It doesn't seem to add up, does it, in terms of a loan of 20,000, at all; you can't reconcile it, can you?
A. No, it doesn't. It's been paid over and over again. But that's the arrangements between the two of them and when they were together, I mean, I don't know what happens.

3.76 Allan Chrara also explained that he had a 'falling out' with Mr Kontorinakis over activities at the Eros Cinema. He said that alcohol and drugs were sold on the premises, prostitution occurred and that some of the girls were belted and had money deducted for not working.[104]

[103] PIC Transcript A Chrara 1 June 1999 pp 357-358.
[104] PIC Transcript A Chrara 26 May 1999 pp 185-186.

3.77 Allan Chrara also gave evidence that he paid Roger Rogerson for repairs to his horse float. He maintained these repairs had cost him more than expected, finally amounting to about $8,700.[105]

EVIDENCE OF KOSTAS KONTORINAKIS

3.78 Kostas Kontorinakis was questioned about the business of the Eros Cinema. He denied that the rooms were set up for prostitution and stated that rooms were available for 'peep' shows or 'private strip shows'. Mr Kontorinakis stated that he had no financial interest in the business and was not involved in the running of the business and that he only collected the rent. He was questioned about whether he had kept money in a safe or some other place at the Eros Cinema:[106]

> Q. Did you ever keep money at the Eros in a safe or some place in 1999?
> A: I probably did from time to time. I probably did. I probably did, yeah, what's wrong with that. Did I say anything wrong?
>
> Q. You weren't involved in the business at the Eros, were you?
> A. Of course not.

3.79 He maintained that the only money he obtained from the Eros Cinema was his rent money:[107]

> Q. Well, where did the money come from?
> A. What do you mean, where did the money come from?
>
> Q. Well, did you have money at the Eros?
> A. Sir, I'm going to collect my rent from there once a week.
>
> Q. Apart from the rent?
> A. Yeah, that's all.
>
> Q. Just the rent? You had no safe there?
> A. There is one or two safes there, I believe. It's got nothing to do with me. I don't hold the safes. I've got no access to the safes.
>
> Q. You had no money in those safes in 1999 at all, did you; is that right. You never kept your money in those safes in 1999 at the Eros; is that what you say?
> A. I don't recall. I probably get the rent and that's all, keep it here and I come back and pick it up later on and things like that. I don't recall having any money there.

[105] PIC Transcript A Chrara 26 May 1999 p 187.

[106] PIC Transcript K Kontorinakis 20 April 1999 pp 52-53.

[107] PIC Transcript K Kontorinakis 20 April 1999 p 53.

3.80 Kostas Kontorinakis also gave evidence on 11 June 1999. He maintained that the only money he gave to Allan Chrara was to pay the bills for work he was supervising.[108] He was questioned further about the money he gave to Allan Chrara:[109]

> Q. I think you said that you were paying Mr Chrara $1,500 a week for some reason?
> A. Yes, sir.
>
> Q. And it would appear that Mr Chrara denies that he ever received anything like that amount of money from you?
> A. I don't know why he denied that, sir.
>
> Q. So you disagree with what he says about that?
> A. Well, he doesn't admit it or he doesn't say he – sorry, I didn't get the full story.
>
> Q. Certainly, Mr Chrara says he wasn't receiving $1,500 a week from you in relation to the building or wages or anything of that nature?
> A. Well, sir, I was paying him $1,500 a week.
>
> Q. Isn't it the fact that some of the money you were giving to Mr Chrara was to be paid over to Roger Rogerson; isn't that true?
> A. Out of the $1,500, sir?
>
> Q. Or any money that you gave to Mr Chrara. I'm suggesting that whatever it was, $500 of it was to be paid to Mr Rogerson?
> A. Sir, I give Mr Chrara lot of money because he borrowed money when I was in gaol to fix the place up and he borrowed a lot of money from a lot of different people.
>
> Q. And I'm suggesting that you well knew that $500 a week was coming out of your money to go to Mr Rogerson via Mr Chrara. You were giving Rogerson $500 a week and you were using Mr Chrara as the go-between; that's right, isn't it?
> A. Sir, I probably did give money; I don't recall right now. Right now I don't recall, but I didn't use Mr Chrara as a go-between. Mr Chrara was consultancy and it was his job to find the money to fix the place up and things like that, so I don't know if I used him as a go-between, or whatever.
>
> Q. But Chrara had told you, hadn't he, that money was being paid to Mr Rogerson?
> A. He probably did, sir, after I came out – he probably did after I came out from the gaol, but when I was in gaol, I don't recall sir, he tell me that.

[108] PIC Transcript K Kontorinakis 11 June 1999 p 475.

[109] PIC Transcript K Kontorinakis 11 June 1999 pp 475-476.

3.81 Kostas Kontorinakis would neither confirm nor deny that he paid Roger Rogerson $500 a week, through Allan Chrara, but said Allan Chrara was paying a lot of money to different people because he borrowed money to carry out the repairs to the Eros Cinema and it was possible that Allan Chrara was paying Roger Rogerson.[110]

3.82 He denied any allegation that the Eros Cinema was supplying alcohol without a liquor licence. His explanation for requesting liquor from Jaron Fraser at the Eros Cinema was that his other premises, from time to time, required additional supplies of liquor and that he knew the Eros Cinema was in the vicinity of a number of liquor outlets.[111] Kostas Kontorinakis denied that he was paying protection money to police in 1997 and 1998.[112]

ASSESSMENT

3.83 In submissions made on behalf of Kostas Kontorinakis and Roger Rogerson it was argued that the evidence of Allan Chrara was unreliable.[113] Counsel Assisting the Commission expressed the view that the evidence given in hearings by Kostas Kontorinakis and Roger Rogerson appeared evasive and obstructive and that they regularly resorted to a defective memory.[114] Counsel Assisting also expressed the view in his submissions that the evidence of Allan Chrara should be preferred in respect of payments to Roger Rogerson but added that it did not follow that the payments could be explained by way of a loan.[115]

3.84 The Commission prefers the submissions of Counsel Assisting and is of the opinion that Allan Chrara was a conduit in the payment of money from Kostas Kontorinakis to Roger Rogerson. However, in the absence of evidence to the contrary it is not possible to say that the payments were for police protection or any other corrupt purpose.

---

110 PIC Transcript K Kontorinakis 11 June 1999 p 476.

111 PIC Transcript K Kontorinakis 11 June 1999 pp 482 and 498-499.

112 PIC Transcript K Kontorinakis 11 June 1999 p 500.

113 Exhibits 156 and 160.

114 Exhibit 155.

115 Exhibit 155.

4. EVIDENCE OF LINKS BETWEEN ROGER ROGERSON AND SERVING POLICE OFFICERS – LEAK BY ICAC SECONDEE

4.1 During the Commission's investigation covertly recorded conversations between Roger Rogerson and others indicated that certain tenderers for work at Liverpool City Council were paying Sam Masri, the then Purchasing Officer, a commission of 10 per cent of the tender to ensure that they were the successful tenderer.

4.2 Corrupt conduct not involving a former or current police officer does not fall within this Commission's jurisdiction and therefore the relevant documents were disseminated to the NSW Independent Commission Against Corruption ('the ICAC') to enable that Commission to investigate whether or not Sam Masri, or others, at Liverpool City Council were engaging in corrupt conduct.

4.3 Following the dissemination of the relevant material to the ICAC covertly recorded conversations between Raymond Johnson and Roger Rogerson revealed that confidential information regarding the ICAC and this Commission's investigation had been disclosed by a police officer seconded to the ICAC. The unauthorised disclosure of confidential information by a currently serving police officer invoked this Commission's jurisdiction.

EVIDENCE OF ROGER ROGERSON

4.4 Roger Rogerson gave evidence to the Commission on 25 May 1999 concerning his knowledge of the ICAC's interest in the tendering procedures at Liverpool City Council ('the Council'). He said he first became aware of the matter some weeks beforehand when Sam Masri had informed him that officers from the ICAC had visited him.[116] He said that Sam Masri had telephoned him and wanted the name of a barrister and told him that ICAC officers were in attendance at his home.[117]

4.5 Council Assisting the Commission sought clarification concerning when Roger Rogerson became aware of the ICAC's interest in the Council and whether he had knowledge that a Council employee was receiving a benefit from specific tenderers:[118]

> Q. We're talking about one conversation where you provided the name of a legal representative?
> A. No, it was prior to that, no.

[116] PIC Transcript R C Rogerson 25 May 1999 pp 164-165.
[117] PIC Transcript R C Rogerson 25 May 1999 p 165.
[118] PIC Transcript R C Rogerson 25 May 1999 pp 165-166.

Q. Prior to that. How long prior?
A. I don't now. Maybe a week or maybe two weeks. It could have been even three weeks. I don't know.

Q. Whenever it was, was that the first time you became aware that ICAC had an interest in the council?
A. It didn't worry me, but, I mean, I think that would have been it, yeah. I can't think of any other reason why I would know.

Q. Were you aware of any irregularities involving the council at that time?
A. No.

Q. Were you ever aware that a council employee was getting some sort of a kickback or a secret commission from certain tenderers or a tenderer?
A. No.

4.6 He was questioned specifically about whether he was aware that Sam Masri was receiving a secret commission:[119]

Q. Wasn't it the fact that you were well aware that an employee of the council, namely Sam Masri, was getting a kickback in relation to the tenders to the council?
A. Sam Masri has never at any time asked me for a kickback, to use that expression, and I certainly don't know of any other contractors who paid him money – not personally, not personally.

4.7 Roger Rogerson was questioned concerning his business dealings with the Council. He gave evidence that he had two main companies through which he transacted council business called Re-Con Holdings Pty Limited and Aramco Building Services.[120] His evidence was that Aramco was a company operated by Ron Mokdassi in which he (Roger Rogerson) had invested money.

4.8 He was questioned further by Counsel Assisting the Commission concerning Aramco, specifically his knowledge of the company's liquidation and his awareness that the company had been made a preferred tenderer for the Council:[121]

Q. It's the fact, isn't it, that you were collecting money – cheques from the council made out to Aramco at a time after Aramco had gone into liquidation, which was about 24 November 1998?
A. I didn't know that at the time, I don't think.

[119] PIC Transcript R C Rogerson 25 May 1999 p 170.
[120] PIC Transcript R C Rogerson 25 May 1999 p 166.
[121] PIC Transcript R C Rogerson 25 May 1999 p 167.

Q. You didn't know that Aramco had gone into liquidation?
A. I didn't know until sometime later, I'm sure.

Q. Didn't someone tell you that, like Mr Mokdassi?
A. No. No, he – I rang him. Someone had mentioned it, but I rang him and he said it had all been sorted out, that he was getting things back on its feet again and for us to keep doing what we were doing, and I'll say what we were doing, mainly it was Ken Weldon doing work for the council.

Q. I think the fact is, isn't it, that Aramco was made a preferred tenderer –
A. Not Aramco, no.

Q. Okay. Right.
A. Aramco was never a preferred tenderer at all.

Q. Perhaps you could just have a look at this for me, please, 5472240. So that's a letter - have you had a look at that?
A. I don't - I don't recollect seeing that, actually, before. I don't -

Q. My point being that Aramco seems to be made a preferred supplier after it had gone into liquidation?
A. Well, I don't - I don't recollect seeing that letter before.

4.9 The letter dated 30 November 1998, referred to in the above transcript, was on the Council letterhead and was addressed 'To Whom It May Concern' and signed by 'S Masri, Purchasing Manager.'[122] The contents of the letter confirmed that Aramco Building Services was a preferred supplier to the Council, it listed tasks undertaken by Aramco for the Council and stated that the value of this work was $75,000. The letter also stated that further work in excess of $1,000,000 was required and that Aramco was expected to be successful in tendering for a substantial part of that budget.[123]

4.10 Roger Rogerson was questioned as to whether he had ever paid or was aware of any secret commission being paid or offered to any employee of the Council:[124]

Q. Were you paying any secret commission to any employee of Liverpool council
A. No, I've never paid anyone anything.

Q. Were you aware of any secret commission being paid or offered to any employee of the Liverpool council
A. No.

[122] Exhibit 29.
[123] Exhibit 29.
[124] PIC Transcript R C Rogerson 25 May 1999 pp 169-171.

4.11 He also gave evidence that he was not tipped-off by someone that there was information from a police officer that the ICAC was interested in the tendering process at the Council:[125]

> Q. Well, isn't this what happened, you were tipped off by somebody and you were told that there was information from a police officer that ICAC had an interest in the tendering process at the council?
> A. No, that's definitely not the case.

4.12 Roger Rogerson gave further evidence:[126]

> Q. Didn't an ex-police officer tell you about some information that allegedly came from a police officer seconded to the ICAC?
> A. An ex-police officer? I don't think so.
>
> Q. Well, you'd remember that, wouldn't you, if someone said a police officer at the ICAC seconded to the ICAC I should emphasise, has some information about you and Liverpool Council and Sam, you'd remember that, wouldn't you?
> A. I really don't recall.

4.13 He was questioned about whether he had heard reference to Sam Masri as 'Mister ten per cent'. Roger Rogerson replied 'No, I've never heard that'.[127]

4.14 He was also questioned about whether he had requested his partner, Anne Melocco to delete company records from their computer.[128]

> Q. Did you tell Anne Melocco to delete information from the computer? Did you get her to do it, or attempt to do it?
> A. I don't recollect asking her to do that. As I said, there was nothing – there was nothing to hide, really, nothing at all.

4.15 He was then questioned further concerning his knowledge of the ICAC's interest in the Council:[129]

> Q. Do you know Laurie Burgess?
> A. Do I know Laurie Burgess? Yes.
>
> Q. Did you ever receive any information that allegedly came via Laurie Burgess in relation to the council or the ICAC?
> A. I don't recollect that happening.

---

125 PIC Transcript R C Rogerson 25 May 1999 p 171.
126 PIC Transcript R C Rogerson 25 May 1999 pp 171-172.
127 PIC Transcript R C Rogerson 25 May 1999 p 173.
128 PIC Transcript R C Rogerson 25 May 1999 p 173.
129 PIC Transcript R C Rogerson 25 May 1999 pp 173-174.

Q. Were you told that Laurie had a mate working on secondment at the ICAC in March 1999?
A. I don't recollect that being told to me.

Q. Right. Did Ray Johnson tell you that?
A. I don't think so.

Q. Did Ray Johnson come to your home on 19 March 1999?
A. I wouldn't have a clue.

Q. Did he tell you that Laurie's got a mate seconded to the ICAC?
A. I don't recollect that conversation taking place.

Q. You were told, weren't you, that there was information available that an agency had you saying something to Sam on the phone?
A. I beg your pardon.

Q. You were told by Johnson that an agency, such as the ICAC or the PIC, had information that you were talking to Sam on the phone?
A. I don't recollect that, no.

Q. Is there something affecting your memory at the moment?
A. That's about as good as it normally gets.

Q. If you had a tip-off from some secondee of the ICAC, you'd remember that, wouldn't you, if you got a tip-off and then it affected you directly, you'd remember that, wouldn't you?
A. It wouldn't mean anything to me, because I wasn't doing anything wrong. I wasn't doing anything illegal or improper.

4.16 A number of tape-recorded conversations were then played in the hearing room. In a conversation of 19 March 1999, Raymond Johnson was recorded conveying information concerning an ICAC investigation to Roger Rogerson which he claimed to have heard from Laurence Burgess. Raymond Johnson was heard to say 'They've got Roger saying something to Sam on the phone …'[130] and adding that 'Laurie just said you better let Roger know.' Raymond Johnson and Roger Rogerson were then heard discussing Sam Masri and particular areas in which he may get into trouble such as bribery and secret commissions as a public official and a local government employee. Raymond Johnson then added 'But he did say the thing's gonna blow wide open out there …' The two men then discussed an ICAC and Police Integrity Commission taskforce.[131]

[130] Exhibit 93.
[131] Exhibit 93.

4.17 In a tape-recorded conversation of 20 March 1999, Roger Rogerson was recorded speaking with Ms Melocco:[132]

RR = Roger Rogerson
AM = Anne Melocco
(ui) = Unintelligible

RR: Absolutely, absolutely. I think Sam's got some dramas.
AM: Mm, oh, over corruption scandals?
RR: Yep.
AM: Aha.
RR: And Ray, Ray popped in yesterday afternoon.
AM: Mm.
RR: He apparently um Laurie Burgess rang him.
AM: Mm.
RR: So they went over, over everything so Laurie, Laurie's got a mate who works at Internal Affairs. Now, now this is how Ray tells me.
AM: Mm.
RR: Anyhow ah they've got an inquiry, not Internal Affairs, um at the ah, at ICAC …
AM: Mm.
RR: You know on secondment there. Anyhow ICAC are having a big investigation into corruption at Liverpool Council.
AM: Really?
RR: It's all gonna blow up with Sam and allegedly they've got Sam talkin' to me on the phone and, and asking me about money that he was owed or sumpin', and that'd be the money that we owe him, his 10%. Well he didn't get the 10% anyway. And ah, you know, Laurie said, "Oh, you know, let Roger know that, that they're onto him" ha, ha. I said, "Well, they're not onto me". See (ui) that work with the Council.

4.18 In a tape-recorded conversation of 22 March 1999, Roger Rogerson conveyed further information to Ms Melocco.[133]

RR: So I want you to get that computer up - can you pull that stuff out of the computer?
AM: The um -
RR: All those quotes - all those double quotes. Like you know from bloody Ally - ah Alliance Constructions and all that - the whole lot.
AM: The quotes?
RR: You know where we did those extra quotes, you know like - you know we sort of did one dearer than - had Alliance you know and bloody where we competed with ourselves and put extra quotes in and we got Dyldam and -

[132] Exhibit 94.
[133] Exhibit 95.

AM: Oh yeah.

RR: Remember that Dyldam Alliance - that's all.

AM: Would've only done that once (ui)

RR: Couple I think. Can you - can you get 'em out of the computer?

AM: Yeah, if they're there.

RR: Right, well (ui). Oh, there must've been a few (ui).

AM: I only saved anything that you told me to save. If you didn't want -

RR: Okay, no well -

AM: Competitive ones saved, I didn't save them.

RR: Well, I didn't ask you to save those ones did I? No, no (ui) make sure the computers are cle - clean. Everything to do with - just kick the whole lot out anything to do with Re-Con, the whole lot (ui) gone.

AM: All the invoices and everything?

RR: Yes, everything.

AM: (ui) get rid of that.

RR: … He's a lovely bloke, Laurie. He really is, no it's, it's nothing more than - this young bloke heard my name mentioned talking to Sam or something about a phone call from Sam and I'm quite sure that they've decided to get the, the Police Integrity Commission - they would say that I'm so fuckin corrupt and conniving -

AM: Yeah.

RR: And I still had my tentacles in through the police force -

AM: Yeah.

RR: So they had to get some poor (ui) body, like the PIC you know, you know to say well fuckin shit, fuck. Remove all that shit out of that computer.

AM: I've got a lot of it on disc, like on one of those - I backed up, I don't -

RR: But where is it?

AM: In here.

RR: Okay well [RR LOWERS HIS VOICE] from now on hide it (ui). Yeah, that's all right, yeah. As long as they can't (ui) It doesn't matter (ui)

…

RR: Yeah, it can all go, bugger it (ui).

AM: I'll just get a disc and I'll put everything on the disc and then I'll take the disc to work.

RR: Just keep doin' it - (ui)

AM: Mm.

4.19 After these tape-recorded conversations were played in the Commission's hearing, Roger Rogerson gave evidence that he had not paid Sam Masri money. He said he had talked to him about paying money but added that was nothing to do with the Council.[134]

4.20 He said he knew the former police officer, Laurence Burgess who now works at a hotel. He also said that he occasionally visited the hotel, however, strongly denied the proposition put to him by Counsel Assisting that he had a network of ex-police officers who could obtain information for him even from places such as the ICAC. He also denied the proposition that current serving police officers passed information to him.[135]

4.21 Roger Rogerson gave further evidence to the Commission on 26 May 1999. He said that he recalled paying Sam Masri money but explained he had repaid a loan of $3,000 to Sam Masri on behalf of Kenneth Weldon.[136]

4.22 His evidence on this occasion was that he had no independent recollection or evidence concerning secret commissions paid to Sam Masri.[137]

4.23 He was also examined concerning the value of work he had undertaken for the Council at the end of 1998:[138]

> Q. Between say September 1998 and December 1998, did it amount to $56,480?
> A. I think a fair bit of that was the Whitlam Centre, which operated separately.
>
> Q. That was 12,055?
> A. Was that on top of that?
>
> Q. Sorry, 44,425 from the council?
> A. That would be right, yeah.
>
> Q. And 12,055 re the Whitlam Centre, which was owned by the council?
> A. Yeah, I think it sort of operated from a different —
>
> Q. I think the cheques came from a different source, but it was owned by the council?
> A. Yeah, sure.

134 PIC Transcript R C Rogerson 25 May 1999 p 176.
135 PIC Transcript R C Rogerson 25 May 1999 pp 176-177.
136 PIC Transcript R C Rogerson 26 May 1999 p 196.
137 PIC Transcript R C Rogerson 26 May 1999 pp 196-203.
138 PIC Transcript R C Rogerson 26 May 1999 p 206.

> Q. Isn't it the fact that you also were paying Sam from time to time 10 per cent commission for your jobs?
> A. I really don't remember giving Sam any money other than the 3,000 for his dog float.

4.24 Several other tape-recorded conversations supported the proposition that Roger Rogerson knew Sam Masri received commissions on work carried out for the Council. In a conversation recorded on 29 January 1999, Roger Rogerson was heard telephoning a man called 'Bill' and giving him the name and telephone numbers for Sam Masri, whom he described as the purchasing officer for the Council. He described the organisation of councils in the area and recommended he speak to Sam Masri in relation to some work. He also warned him there would be a bit of a kickback:[139]

> … - they all sort of pool their resources in regard to this sort of thing you know. That's right or whatever they do you know. But see how you go mate and ah no he's a live wire and ah I sort of you know said look I said you know if it all comes to fruition and ah and Bill can do a bit of business there I said ah you know there will be a little bit of a kickback. … He's not you know, he's not a hungry bugger, he's just a - get it all going first mate then you can meet him and ah work something out with him.

4.25 In a conversation recorded on 12 March 1999 Roger Rogerson was heard speaking with Ms Melocco and describing a corrupt culture:[140]

> That's how their culture is, you know wine and dine. Like Sam, Sam expects it. He doesn't think it's corrupt, it goes with the job.

4.26 In a conversation recorded on 25 December 1998, Roger Rogerson and Ms Melocco described their 'friend Sam' to unidentified persons. Roger Rogerson said that Sam worked for the Council and received a 'back hander' of 10 per cent.[141] In a further tape-recorded conversation Roger Rogerson was heard giving instructions about 10 per cent and 'putting money aside for a drink for "Sam"'.[142] Roger Rogerson was questioned about this:[143]

> Q. It didn't worry you, the fact that you were putting money aside for secret commissions?
> A. I don't think we did. You might be able to clear it up with the transcript, but I think the tape says we were starting to do it, or we should start doing it or something, but I don't think there was ever any money put aside.

---

139 Exhibit 41.

140 Exhibit 43.

141 Exhibit 145.

142 PIC Transcript R C Rogerson 26 May 1999 p 212.

143 PIC Transcript R C Rogerson 26 May 1999 p 212.

4.27 He was then questioned concerning the amount of money Sam Masri would have received:[144]

> Q. And you have done about 56,000 worth of work for the council, including the Whitlam Centre?
> A. Yes, absolutely.
>
> Q. And that would be 5,600 for Sam?
> A. That was 5,600 that Sam never got, I can assure you.
>
> Q. That was the arrangement, to give Sam the 5,600?
> A. Maybe Sam would have liked to have got 5,600, but I can assure you he didn't get it.
>
> Q. He was promised it, wasn't he?
> A. I don't really think so. I mean –
>
> Q. Who would know if you don't know?
> A. Well, I just don't recollect. It was sort of – we were sort of mates and that was it. I think he was happy to see us doing a bit of work and earning a dollar.

EVIDENCE OF ANNE MELOCCO

4.28 Roger Rogerson's partner, Anne Melocco, gave evidence to the Commission on 25 May 1999. Ms Melocco gave evidence to the Commission under objection in accordance with section 41 of the Act. Ms Melocco gave evidence concerning her knowledge of business dealings between Roger Rogerson and the Council and whether she was aware of the publicity surrounding the ICAC's hearing concerning the Council. Ms Melocco said she had read newspaper reports and knew the people involved, in particular Mrs Masri:[145]

> Q. Prior to reading it in the paper, did you have any knowledge about the alleged corruption involving the council?
> A. The only thing I knew was their house was raided and his wife told me, she was very upset.
>
> Q. Right. When did you come by that knowledge?
> A. That was over the weekend.
>
> Q. Prior to the weekend, did you have any knowledge?
> A. I think Mr Masri rang Roger in front of police to get a solicitor's name, and that's –
>
> Q. Right. Was that some time about 14 May, in that time frame?
> A. Yes, about May, I think...

---

144 PIC Transcript R C Rogerson 26 May 1999 p 213.

145 PIC Transcript A L Melocco 25 May 1999 p 137.

Q. I'm sorry. He told you later that he'd been asked to –
A. Yes.

Q. – provide a phone number, is that the way it worked?
A. Mmm-hmm.

Q. Prior to that particular occasion, did you have any knowledge about the ICAC interest in the tendering process of the Liverpool Council?
A. No.

Q. Did you have any knowledge about any irregularities at the Liverpool Council in relation to the tendering process?
A. No.

Q. Did you have any knowledge about anybody getting secret commissions in relation to the tendering process?
A. No.

Q. Nothing about that at all?
A. No.

4.29 Ms Melocco gave evidence that she did not think Roger Rogerson had any contracts or business dealings with the Council:[146]

Q. Right. So you don't really know if he personally had any contracts or business dealings with Liverpool Council?
A. I don't think there was ever any contracts.

Q. Right. Did you know he was putting in tenders, or was he putting in tenders to Liverpool Council?
A. I don't think so. I don't know.

Q. You don't know about that?
A. No.

Q. You know nothing about that?
A. No, not tenders, no.

Q. Anything at all?
A. Well, he did maintenance work.

Q. Right. And did he do maintenance work through a particular person for the council?
A. No, I don't think so. I think each section of the council has their own person that, you know, looks after the work.

Q. And he had no connections there as far as you knew; is that so?
A. Yeah.

[146] PIC Transcript A L Melocco 25 May 1999 p 139.

Q. Did you keep any of the records for his business?
A. No. I did a bit of typing, but I didn't keep any.

Q. Right. On a typewriter?
A. No, on a computer.

4.30 Ms Melocco's evidence was that Roger Rogerson used a 'couple of companies' to tender for the Council work including Re-Con Holdings Pty Limited. Ms Melocco was questioned about whether Roger Rogerson used Re-Con Scaffolding Pty Limited, Aramco Australia Pty Limited or Dyldam Demolitions Pty Limited to tender for the Council work.[147] Ms Melocco responded that she did not know or did not think these companies were used.[148]

4.31 Ms Melocco was questioned concerning the destruction of computerised records in relation to these companies:[149]

Q. Within the last three months, have you ever destroyed any of the records in relation to Mr Rogerson's tendering with Liverpool Council?
A. No.

Q. No?
A. No.

Q. Has anybody requested you to destroy any of the records?
A. No.

Q. Have you done anything to a computer in an attempt to remove records in relation to the tendering process with Liverpool Council?
A. No.

Q. From the computer; you haven't done that?
A. No.

Q. Have you been requested to do that?
A. No.

4.32 Ms Melocco also gave evidence concerning her knowledge of secret commissions in relation to tendering for work at the Council:[150]

Q. Do you have any knowledge of any employee of Liverpool Council receiving a secret commission in relation to the tendering for work at Liverpool Council?
A. No, I don't.

147 PIC Transcript A L Melocco 25 May 1999 pp 140-141.
148 PIC Transcript A L Melocco 25 May 1999 pp 140-141.
149 PIC Transcript A L Melocco 25 May 1999 p 142.
150 PIC Transcript A L Melocco 25 May 1999 p 144.

Q. Not a kickback or a —
A. No.

4.33 Ms Melocco denied any knowledge of Roger Rogerson, or companies associated with him, receiving preferential treatment in their dealings with the Council:[151]

Q. Do you know of any preferential treatment that Aramco Australia Pty Limited or Mr Rogerson were getting from Liverpool Council?
A. No, I don't , no. They wouldn't try to –

Q. Via Sam?
A. No.

Q. Or any employer [sic] of the council?
A. No. I think they dealt with a range of different people.

Q. Right. So they didn't particularly deal with Sam Masri?
A. I don't believe so.

4.34 In her evidence before the Commission on 27 May 1999 Ms Melocco admitted that she had made an error in her earlier evidence. Ms Melocco said that rather than saying she did not remove information from the computer she should have said she did not recall removing information from the computer.[152] Ms Melocco admitted that she had taken information from the computer at home, placed it onto a disc and taken it to work.[153]

4.35 Ms Melocco was questioned about whether she had made an error when she said she had no knowledge of any employee of the Council receiving a secret commission in relation to tendering for work at the Council. Ms Melocco denied having any direct knowledge of secret commissions.

4.36 Ms Melocco was then reminded of a tape-recorded conversation of 20 March 1999 in which she and Roger Rogerson discussed 'Ken' and his requests to Sam Masri for assistance. In this conversation Roger Rogerson told Ms Melocco that Sam Masri was referred to as 'Mr 10 per cent':[154]

AM: Mm. I don't think Sam would go to him for help…
RR: No.
AM: No matter how bad it was. It wouldn't matter what, whether Sam um, Ken covered him or not. I mean he's in so much shit that …
RR: That's right, oh yeah.
AM: What Ken might say …
RR: Nah.

---

151 PIC Transcript A L Melocco 25 May 1999 p 149.
152 PIC Transcript A L Melocco 27 May 1999 p219.
153 PIC Transcript A L Melocco 27 May 1999 pp219-220.
154 Exhibit 94.

AM: Won't make any difference.
RR: No.
AM: E-especially if they've been gettin' paid by cheque for bribery. Christ, everything's …
RR: Well he hasn't been gettin' cash.
AM: Well I wonder what they put on the butts.
RR: Well that's right.
AM: Ha, ha, "bribery"? I mean Jesus, he's in so deep, plus he openly used to bloody skite about it virtually.
RR: Mr 10%.
AM: Who was that? Who was Mr 10%?
RR: Eh?
AM: Who was Mr 10%?
RR: Sam. He used to say …
AM: Wasn't there somebody else called that?
RR: Oh there's been a few no doubt.
AM: Oh, is there?
RR: But Sam used to say, "I want 10%, that's it" and he'd demand.
AM: Yeah, yeah. He was … I mean it had to happen had to happen because sooner or later … he's lucky he's got this far.

4.37 Ms Melocco's evidence to the Commission on 27 May 1999 was that the information passed on to her by Roger Rogerson was merely a rumour and was not backed up by evidence.[155]

EVIDENCE OF RAYMOND JOHNSON

4.38 Raymond Johnson gave evidence to the Commission under objection in accordance with section 41 of the Act. He gave evidence on 25 May 1999 that he was a former police officer, having been medically discharged from the Police Service in 1987. He said that he continued to associate with ex-NSW police officers.[156] Raymond Johnson's evidence was that although he once had a good memory, this was no longer the case due to the effects of medication.[157]

4.39 He also gave evidence that he had no knowledge of the ICAC's interest in the tendering process at the Council:[158]

Q. Do you have any knowledge of the ICAC interest in the tendering process at Liverpool Council? Do you have any knowledge about that?
A. I've heard that there is an inquiry going at the moment, yes.

Q. When did you hear that?
A. Just last week or so. I can't be specific, but some time during the last week.

[155] PIC Transcript A L Melocco 27 May 1999 pp 220-222.
[156] PIC Transcript R R Johnson 25 May 1999 p 129.
[157] PIC Transcript R R Johnson 25 May 1999 p 135.
[158] PIC Transcript R R Johnson 25 May 1999 p 129.

Q. Prior to about the last week, did you have any information at all about that matter?
A. No.

Q. You haven't spoken about that matter to anybody?
A. No.

4.40 He was questioned as to whether he had ever either directly or indirectly come into possession of information from any member of the Police Service and he replied that he had not.[159]

4.41 In his further evidence before the Commission on 27 May 1999 Mr Johnson admitted that part of his earlier evidence was not true:[160]

Q. On the last occasion you were here, on 25 May this year, you said that prior to about last week, about the last week, you had no information about the ICAC interest in the tendering process at Liverpool Council, and you said you'd spoken to nobody about it; is that right?
A. To my recollection, that's right.

Q. That's what you said last time?
A. Yes, that's right.

Q. That's not true, is it?
A. No.

Q. No, all right. Why did you say that last time?
A. Because that was my belief at that time.

Q. What's changed your belief?
A. Just being here at these hearings and reading a document yesterday.

Q. Right. And has your memory come back, been refreshed to some extent at this stage?
A. To some extent, yes.

Q. Do you have any explanation as to how you could forget something like that?
A. Yes.

Q. Well, what's that?
A. It didn't concern me, really.

[159] PIC Transcript R R Johnson 25 May 1999 p 134.
[160] PIC Transcript R R Johnson 27 May 1999 p 234.

4.42 He said that the matter was nothing to do with him and was a rumour he had heard. He then disclosed the source of the information he had received:[161]

> Q. But it concerned you at the time to an extent that made you go over and tell Mr Rogerson and pass the information on to him?
> A. It was a rumour I'd heard, yes.
>
> Q. And where did you hear it from?
> A. It was a hotel, actually.
>
> Q. What, the Bangor tavern?
> A. That's right.
>
> Q. And who told you?
> A. I think Laurie Burgess was there that day.
>
> Q. Who told you?
> A. He told me.
>
> Q. Right. And who was present when he told you?
> A. I think he was by himself.

4.43 He added:[162]

> … I can't be sure of the exact date, but it was one of – it was very soon, anyway - very close to the time that I'd gone to Roger's house and told him what I'd heard, yes.

4.44 He agreed that his purpose in visiting Roger Rogerson on that particular occasion was to communicate the information he had heard and to warn him.[163]

4.45 Raymond Johnson denied that he had prior knowledge that Sam Masri was receiving corrupt payments and also denied that he knew, prior to visiting Roger Rogerson, that Laurence Burgess had a 'mate' seconded to the ICAC.[164] His evidence to the Commission was that Laurence Burgess had told him that he had overheard a group of people in the hotel discussing the Council, that Roger Rogerson's name was mentioned and that they also mentioned the ICAC.[165]

4.46 Counsel Assisting the Commission then examined him concerning the discrepancies between his version of events to Roger Rogerson in the tape-

---

161 PIC Transcript R R Johnson 27 May 1999 p 235.
162 PIC Transcript R R Johnson 27 May 1999 pp 235-236.
163 PIC Transcript R R Johnson 27 May 1999 p 237.
164 PIC Transcript R R Johnson 27 May 1999 p 240.
165 PIC Transcript R R Johnson 27 May 1999 p 241.

recorded conversation of 19 March 1999[166] and his evidence before the Commission on 27 May 1999:[167]

> Q. Right. Why did you say to Mr Rogerson, "That's, what the bloke from the ICAC told Laurie"? Why would you say that to Rogerson?
> A. Because he tends not to listen to all these allegations and rumours, and because Masri had told me about six months before that there was an ongoing investigation at the Liverpool Council, and coupled with what Laurie had told me, I probably embellished it a little bit so that he'd take heed, or listen to me a bit closer.
>
> Q. So nobody had told you there was someone from the ICAC. You embellished it you made up this phantom person from the ICAC to make it more dramatic for Mr Rogerson so he'd take notice of it; is that what you're saying?
> A. Probably.

4.47 He was questioned further concerning the apparent conflict. On this occasion Raymond Johnson said that he may have been told that Laurence Burgess had overheard a group of men discussing the matter at the Bangor Tavern:[168]

> Q. Right, and you didn't make any inquiry about them?
> A. Why would I?
>
> Q. Well, wouldn't you like to know where this information about the ICAC was really coming from?
> A. I can't remember. All I know – I'm sure, and I'm really not sure –
>
> Q. You're not sure?
> A. I'm not sure.
>
> Q. Are you sure you're not sure?
> A. I'm not sure exactly what was said.
>
> Q. Right.
> A. I think he said there was a group of men and he overheard a certain conversation.
>
> Q. Well, when you went to Rogerson, why didn't you say to him, "Laurie told me there was a group of men and he overheard a certain conversation"?
> A. Well, in retrospect, I suppose I should have. I don't know why I said that – probably under the influence of alcohol or something else.

4.48 After further consideration Raymond Johnson gave evidence that he could be mistaken concerning his recollection. He told the Commission he thought

---

166 Exhibit 93.

167 PIC Transcript R R Johnson 27 May 1999 pp 241-242.

168 PIC Transcript R R Johnson 27 May 1999 pp 243-245.

Laurence Burgess had said there was a group of men at the hotel, that he was only going on his memory and that he could be mistaken.[169] Raymond Johnson also said there was a rumour that Sam Masri was commonly known as 'Mr 10 per cent' in the Liverpool area however he did not know why he had this nickname.[170]

EVIDENCE OF LAURENCE BURGESS

4.49 Laurence Burgess gave evidence to the Commission under objection in accordance with section 41 of the Act. A former police officer, he gave evidence that he was in partnership at the Bangor Tavern with the licensee of the hotel, Terry Swift.[171] Laurence Burgess said he knew both Raymond Johnson and Kenneth Weldon who were associates of Roger Rogerson. His evidence was that he had served as a police officer with Roger Rogerson in 1980.

4.50 Laurence Burgess was questioned concerning his knowledge of the police officer, Senior Constable Stephen Williams. He gave evidence that he knew him, although he did not know that Senior Constable Williams was working for the ICAC at that time.[172]

4.51 Laurence Burgess described a visit by Senior Constable Williams to his home on a Friday when he was getting ready for work. He told the Commission that Senior Constable Williams had indicated he would like to 'get together' socially and had informed Laurence Burgess that he and another police officer had left the Police Service and now owned and ran a security business in the western suburbs of Sydney.[173]

4.52 Laurence Burgess' evidence was that as Senior Constable Williams was leaving, he passed on some information: [174]

> And that's when he mentioned something about Roger Rogerson and something that he's popping his head up or putting his head in someone else's business. I forget the exact wording of it. I said, "All right, mate' well I'd better go and we'll work something out later in relation to the social".

4.53 Laurence Burgess also gave evidence that whilst working at the Bangor Tavern a couple of weeks prior to Senior Constable Williams' visit, he had overheard

169 PIC Transcript R R Johnson 27 May 1999 p 256.
170 PIC Transcript R R Johnson 27 May 1999 pp 248-249.
171 PIC Transcript L J Burgess 1 June 1999 p 364.
172 PIC Transcript L J Burgess 1 June 1999 pp 365-367.
173 PIC Transcript L J Burgess 1 June 1999 p 368.
174 PIC Transcript L J Burgess 1 June 1999 p 368.

a conversation in which Roger Rogerson's name was mentioned. He told the Commission:[175]

> It's then that I took an interest in the conversation and the conversation, without recalling exactly what was said, was words to the effect of that the ICAC was or had or was going to go through the Liverpool Council, I think it was, like a dose of salts, or something like that, and that Rogerson was gone, or "this is it for him", or something, words to that effect. I just thought to myself, "Struth, what's up here with him now?"

4.54 He said that the conversation involved six to eight people he had never seen before or since that occasion. He was examined concerning his actions following this incident and responded that after reflecting on the information he had conveyed it to Raymond Johnson at the Bangor Tavern.[176]

4.55 His evidence was that Raymond Johnson had not visited the Bangor Tavern for about 12 months before these events occurred and his visit on this particular occasion was a coincidence:[177]

> Q. But this is the fact, that after coming by the information from Williams, you lost no time in conveying it to Rogerson through Johnson?
> A. As I said, I was a most surprised person when Ray Johnson walked into the hotel.
>
> Q. That was a coincidence, wasn't it?
> A. Yes, most definitely.

4.56 He also said he had told Raymond Johnson about his discussion with Senior Constable Williams within about an hour of it occurring.[178]

4.57 Mr Burgess rejected the proposition that the story about the group of men in the Bangor Tavern was fabricated by him and Raymond Johnson.[179]

EVIDENCE OF KENNETH WELDON

4.58 Kenneth Weldon gave evidence to the Commission on 10 June 1999. Mr Weldon gave evidence under objection in accordance with section 41 of the Act. He said he had recently discussed evidence in relation to the Council with Roger Rogerson.[180] He said he had heard that Sam Masri was accepting bribes.[181]

---

175 PIC Transcript L J Burgess 1 June 1999 p 370.
176 PIC Transcript L J Burgess 1 June 1999 p 373.
177 PIC Transcript L J Burgess 1 June 1999 p 385.
178 PIC Transcript L J Burgess 1 June 1999 p 375.
179 PIC Transcript L J Burgess 1 June 1999 p 385.
180 PIC Transcript K W Weldon 10 June 1999 p 425.
181 PIC Transcript K W Weldon 10 June 1999 p 426.

4.59 He also agreed that he and Roger Rogerson had discussed putting money aside for Sam Masri but added that he believed that the plan was not acted on. He explained that they were all friends, that his relationship with Sam Masri went a fair way back and that he had done a lot of favours for Sam Masri over the years. His evidence was that Sam Masri had approached them about doing work for the Council.[182]

EVIDENCE OF SENIOR CONSTABLE STEPHEN WILLIAMS

4.60 Senior Constable Stephen Williams gave evidence to the Commission on 27 May 1999 under objection in accordance with section 41 of the Act. Williams gave evidence that his secondment to the ICAC had recently been terminated. He said he had commenced training as a police officer in September 1989 and had been made a Senior Constable in early 1995.[183]

4.61 His evidence was that he had acquired information concerning the ICAC investigation of a council when he overheard a conversation between two or three investigators standing in a doorway.[184] He said:[185]

> I heard the fact that Rogerson had been picked up on a telephone intercept.

4.62 He said that he knew the investigation was in relation to a council but could not recall whether that fact was mentioned.[186] He then gave evidence that he had disclosed the information:[187]

> Q. How long after coming by this information did you pass that on to somebody? You did pass that on to somebody, didn't you?
> A. Yes, I did.
>
> Q. How long after was that?
> A. A number of weeks.
>
> Q. About two?
> A. Oh, I'm not really sure, but it wasn't straightaway. I would think a couple of weeks later.
>
> Q. Who did you pass that on to?
> A. Mr Laurie Burgess.

182 PIC Transcript K W Weldon 10 June 1999 pp 427-428.
183 PIC Transcript S G Williams 27 May 1999 pp 262-263.
184 PIC Transcript S G Williams 27 May 1999 p 269.
185 PIC Transcript S G Williams 27 May 1999 p 271.
186 PIC Transcript S G Williams 27 May 1999 p 271.
187 PIC Transcript S G Williams 27 May 1999 p 273.

4.63 He said that he knew that Laurence Burgess had worked in the Police Service at the same time as Roger Rogerson and that they knew each other but was not aware of the extent of their relationship.[188] He also said that he had worked in the same office as Laurence Burgess for about a year. He acknowledged that he knew that Laurence Burgess had been the subject of a criminal investigation:[189]

> Q. Do you know anything about the circumstances under which he left the force?
> A. I know that he had been subject of one investigation.
>
> Q. What's that?
> A. It was referred to as the Melbourne jewellery heist job.
>
> Q. Is that the one where his credit card was used to hire the car?
> A. Yeah, I believe so.
>
> Q. That must have made you very suspicious about him, did it?
> A. Well, I didn't know what the outcome of it was and I was pretty sure that he hadn't been charged, so I didn't know what the situation was with it. It's nothing I asked of him.

4.64 On the subject of Senior Constable Williams visiting Laurence Burgess' home, he did not recall how many times that he had visited Laurence Burgess' home but added that it was not a common occurrence.[190] In his evidence before the ICAC on 14 May 1999 he placed the visit as occurring on a Friday or a Monday some eight weeks earlier.[191]

4.65 In evidence before the Commission he said that during his visit to Laurence Burgess' home, Burgess had asked him whether he had heard of 'his' matter and that this was the first occasion the subject had been raised between them. He also said that he told Laurence Burgess that the ICAC would not hear that matter but that the Commission was responsible for former and serving police officers.[192] His evidence was that this part of the conversation occurred outside the house:[193]

> Q … What precisely did you say to Mr Burgess?
> A. After he'd spoken to me about inquiring as to whether I'd heard anything about his own investigation, I quipped something along the lines if he keeps his nose clean, that problem, it will never come to the surface. And I said, "It's probably better than some other mates that can't keep out of trouble".

---

188 PIC Transcript S G Williams 27 May 1999 p 274.
189 PIC Transcript S G Williams 27 May 1999 p 278.
190 PIC Transcript S G Williams 27 May 1999 p 279.
191 Exhibit 92.
192 PIC Transcript S G Williams 27 May 1999 p 281.
193 PIC Transcript S G Williams 27 May 1999 pp 282-283.

Q. What you actually said, wasn't it, was, "Which is a lot better than some of your other mates"?
A. That could have been the case.

Q. That's what you told the ICAC, isn't it?
A. Well, I've also said that I was unable to recall word for word…

4.66 When giving evidence to the ICAC, Senior Constable Williams admitted that he had mentioned Roger Rogerson's name and gave evidence concerning his disclosure to Laurence Burgess:[194]

Q. What did he say to that?
A. Ah, he then questioned me as to what I meant by that.

Q. And what did you say?
A. That some people couldn't help themselves and couldn't change their ways.

Q. Did he then say something?
A. No, I think I continued.

Q. And what did you say?
A. Roger keeps popping his head into other people's lines.

4.67 He explained his intention to the Commission:[195]

Q. Well did you say it because you believe that he had been picked up on someone else's phone line not his own?
A. No, no I mean other people's as in not the Commission's [ICAC's] line.

Q. You mean some other investigative body's intercept, is that what you mean?
A. Yes.

4.68 He also told the ICAC that he knew it was not the ICAC who was targeting Roger Rogerson and had assumed it was the Commission.[196]

4.69 He told this Commission that although he mentioned a council he could not recall whether he identified Liverpool Council to Laurence Burgess.[197] He strongly denied that he visited Laurence Burgess with the intention of tipping-off Roger Rogerson or leaking information.[198]

194 Exhibit 92.
195 Exhibit 92.
196 Exhibit 92.
197 PIC Transcript S G Williams 27 May 1999 p 287.
198 PIC Transcript S G Williams 27 May 1999 p 284.

4.70 Senior Constable Williams could not explain his motive for divulging the information.[199] He said that once he realised what he had done he failed to report the incident because he recognised that he had made a grave mistake.[200]

4.71 Counsel Assisting the Commission examined Senior Constable Williams further concerning the extent of the information he divulged and in particular why the recipients of the leaked information may have more information than Senior Constable Williams admitted divulging. He said he did not know any more than he told Laurence Burgess and could not explain why this may be the case. He gave the following evidence:[201]

> Q. They have the information about Sam, Liverpool Council?
> A. Well, I didn't know anything about what their job was about.
>
> Q. And you don't know how they got that?
> A. My understanding, they've engaged in corrupt conduct with this Sam person, so one would think that they would put two and two together themselves. I can only assume that.

4.72 Counsel Assisting the Commission suggested to Senior Constable Williams that he was not being frank concerning the circumstances in which he obtained the information or the amount of information he disclosed. Senior Constable Williams denied those allegations.[202]

4.73 Senior Constable Williams gave further evidence to the Commission on 22 June 1999. He agreed that he had visited the Bangor Tavern in March around the time he divulged the information concerning the ICAC's interest in the Council,[203] however he said that he was not at the Bangor Tavern on Friday 19 March at around 3.40pm to 3.45pm.[204] This version differed with that given by Laurence Burgess.

4.74 Counsel Assisting the Commission questioned Senior Constable Williams concerning the possibility that the receipt of the information and his visit to Laurence Burgess' home were related:[205]

> Q. You see, what appears to be interesting Mr Williams, is this, that it seems to be coincidental in the extreme that of all the people you would happen upon in an endeavour to kill some time it was a person that was associated with Roger Rogerson; that seems to be coincidental, bearing in mind that this was hot on the acquisition

199 PIC Transcript S G Williams 27 May 1999 p 285.
200 Exhibit 92.
201 PIC Transcript S G Williams 27 May 1999 p 299.
202 PIC Transcript S G Williams 27 May 1999 p 303.
203 PIC Transcript S G Williams 22 June 1999 p 550.
204 PIC Transcript S G Williams 22 June 1999 p 550.
205 PIC Transcript S G Williams 22 June 1999 p 551.

of some sensitive information by you at ICAC involving Rogerson. What do you say about that?

A. I can't say anything. I don't know.

Q. It looks very odd, doesn't it?

A. Well, the way you make it sound, yes.

Q. Well, you're a very experienced investigator. Looking at it, do you say it looks odd, objectively at least?

A. It could look odd, yes.

Q. The fact is, you told me last time, you were a very infrequent visitor to Mr Burgess's home, weren't you?

A. Yes.

4.75 Counsel for the Police Service, Ms Stenmark also examined Senior Constable Williams concerning the apparent coincidence between his visit to Laurence Burgess' house and his unauthorised disclosure of information concerning Roger Rogerson.[206]

4.76 Senior Constable Williams was then questioned by Counsel Assisting the Commission regarding his conversation with Laurence Burgess:[207]

Q. Right. Did you tell Burgess that you left the Police Service?

A. No.

Q. He knew you were working for ICAC, didn't he, on secondment?

A. Yes.

Q. See, apparently – this is a comment, but apparently Mr Burgess thinks that he could be complicit in the culpability for the leak matter if he knows you're an ICAC secondee, I'm suggesting. Mr Burgess says that you told him you and Jackson were managing some security business; that's nonsense, isn't it?

A. Yes.

4.77 Senior Constable Williams agrees that he had mentioned Mr Jackson's name to Laurence Burgess when he visited him but denied the suggestion that he had divulged other confidential information.[208] He also said that he had no knowledge of whether the ICAC's investigation into the Council was an ongoing matter at the time he divulged the information.[209]

---

206 PIC Transcript S G Williams 22 June 1999 p 572.

207 PIC Transcript S G Williams 22 June 1999 pp 561-562.

208 PIC Transcript S G Williams 22 June 1999 p 563.

209 PIC Transcript S G Williams 22 June 1999 p 563.

4.78 Senior Constable Williams said he was aware that he had contravened the secrecy provisions of the *Independent Commission Against Corruption Act 1988* read to him by Ms Stenmark.[210] He also agreed that he had breached the Police Service *Code of Conduct and Ethics* which states:[211]

> You must not access, use or disclose any official information without proper authorisation or lawful reason.

4.79 Despite the questions surrounding the integrity of ex-police officers Roger Rogerson and Laurence Burgess it was apparent that Senior Constable Williams had held some regard for Roger Rogerson and still held some regard for Laurence Burgess. Senior Constable Williams gave the following evidence to the ICAC on 14 May 1999 concerning these former police:[212]

> Q. Was he [Rogerson] a person that you in your early days admired?
> A. I would say yes, that is before I was aware of any sort of underworld connections or whatever.
>
> Q. Was Burgess a man that you had admired?
> A. Yes…
>
> Q. Were you giving him [Burgess] this information so that he would owe you a favour?
> A. No.
>
> Q. Did you like him?
> A. Yes.
>
> Q. Did you want to please him?
> A. I'm a grown man. I shouldn't be doing that sort of thing to please people. I don't think I did it to please him – to be sociable maybe. I don't know.
>
> Q. To be a mate, is that right?
> A. Perhaps, yes…
>
> Q. And it would be right, would it not, whatever the technical details underlying his departure from the Police Force may have been, that he would be described as a disgraced ex-police officer.
> A. Um, yeah, I don't know that he was seen as a disgace [sic] ex-police officer in the Police. He was always well-liked.
>
> Q. Well so was Rogerson.
> A. Yeah, he was one that was put up on a pedestal early in my career sort of thing, but I don't know whether he was well-liked or not.

---

210 PIC Transcript S G Williams 22 June 1999 pp 574-575.

211 PIC Transcript S G Williams 22 June 1999 p 575.

212 Exhibit 92.

Q. But the public perception of him certainly was, would you not agree, a disgraced ex-policeman.
A. Of Rogerson?

Q. No, of Burgess.
A. Um, well I didn't share that.

Q. You may not have shared that view, but that was a view that was commonly held outside selected police, was it not?
A. Um, I didn't think that – I didn't see that to be the case

Q. Did you think he'd been done wrong in being required to leave the Police Service under a cloud as it were?
A. Well I didn't know enough about him and I never enquired.

ASSESSMENT

4.80 Counsel Assisting submitted that the only reasonable inference available on the evidence as to the unauthorised disclosure of information by Senior Constable Williams was that it was deliberate.[213]

4.81 In submissions on behalf of Senior Constable Williams it was argued that the disclosure was an oblique one and that the inference that it was deliberate was unsupported by the evidence.[214] It was argued that the disclosure was an honest mistake and that there was no evidence that Senior Constable Williams knew Roger Rogerson. It was also argued that there was no evidence that Senior Constable Williams deliberately obtained and disclosed the information to Laurence Burgess.[215]

4.82 Senior Constable Williams gave evidence that he had worked with Laurence Burgess and was aware that Burgess had a friendship with Roger Rogerson. It is apparent that the disclosure of information by Senior Constable Williams was under circumstances in which he had deliberately sought the company of Laurence Burgess at his home.[216] He gave evidence that he had only been to Laurence Burgess' home on three or four occasions in the past five years. Further, that Laurence Burgess had never been to his house and that he did not possess his telephone number. He also gave evidence that following a series of coincidences, which included him leaving work early, finding his wife and child asleep when he arrived home, leaving home to ensure he did not disturb them, visiting a friend who was not at home, he then visited Laurence Burgess at his home and there, for reasons unknown to him, informed Laurence Burgess of the details of an investigation involving this Commission and the ICAC.

213 Exhibit 155.
214 Exhibit 157.
215 Exhibit 157.
216 Exhibit 155.

4.83 Having regard to the accuracy and extent of the information conveyed by Raymond Johnson to Roger Rogerson during a covertly recorded conversation[217] the Commission prefers the submissions of Counsel Assisting and is of the opinion that the disclosure by Williams was deliberate.

4.84 Senior Constable Williams was fully aware of his obligation not to disclose information he received in the course of his secondment to the ICAC. Apart from the obligation imposed on all police officers under the Police Service *Code of Conduct and Ethics* Senior Constable Williams was also aware that he was bound by the secrecy provisions of section 111 of the *Independent Commission Against Corruption Act 1988*.[218]

4.85 The apparent disregard Senior Constable Williams had for the consequences of divulging confidential information, which included the possibility of a prosecution under the *Independent Commission Against Corruption Act 1988* or dismissal from the Police Service, indicates that some disgraced former police officers may be held in esteem and retain sufficient control over some current police officers so as to have their illegal activities protected from police, or other, intervention. This was also an issue that was identified during the Royal Commission. As Justice Wood found when examining corruption in the Police Service, '… strong ties were established that enabled police so minded to maintain a degree of influence within the Service after leaving it which was used to foster corrupt relationships with criminals, and to gain access to confidential information'.[219] The Commission is concerned that 'strong ties' developed whilst in the Police Service may lead to former police officers retaining some influence over current police officers in order to access confidential information or provide some degree of protection in relation to illegal activities. While the incident identified in Operation Oslo can not be said to be indicative of the Police Service as a whole, it is noteworthy nonetheless that this issue has been identified by both the Royal Commission and the Police Integrity Commission.

4.86 The Commission did not assess the admissible evidence to be sufficient to warrant an opinion or recommendation that consideration should be given to the prosecution of Senior Constable Williams for an offence against section 111 of the *Independent Commission Against Corruption Act 1988*.

---

[217] Exhibit 125.

[218] PIC Transcript S G Williams 27 May 1999 p 283.

[219] Royal Commission into the NSW Police Service, *Final Report Volume I: Corruption*, May 1997, p 65.

4.87 Laurence Burgess's evidence as to what he had been told by Senior Constable Williams,[220] while admissible in any prosecution of Senior Constable Williams, was of insufficient clarity and detail to establish on its face that it was information obtained by Senior Constable Williams in the course of his ICAC duties. The tape recorded conversation between Roger Rogerson and Raymond Johnson on 19 March 1999, during which Raymond Johnson was heard to pass information on to Roger Rogerson concerning the ICAC investigation and at one point state; 'That's, what the bloke from the ICAC told Laurie',[221] contained greater clarity and provided, by inference, a nexus between Senior Constable Williams' position with the ICAC and the imparting of information in contravention of his duty of secrecy. In the Commission's assessment, however, that material was at its highest second-hand hearsay and inadmissible as evidence against Senior Constable Williams in any criminal prosecution. Division 2 of Part 3.2 of the *Evidence Act 1995* provides certain exceptions to the non-admissibility of hearsay evidence in the case of 'first-hand' hearsay. For evidence to qualify as 'first-hand' hearsay, the relevant witness must have knowledge of the asserted fact based on something they either saw, heard or otherwise perceived, other than a previous representation made by another person about the fact.[222] In the case of Raymond Johnson the knowledge of the alleged leak implicit in his conversation with Roger Rogerson depended entirely upon previous representations attributed to 'Laurie'.

4.88 Senior Constable William's admissions before the Commission did not constitute admissible evidence by virtue of the evidence having been given under objection pursuant to section 41 of the *Police Integrity Commission Act 1996*. Evidence given under objection by Senior Constable Williams before the Independent Commission Against Corruption on 14 May 1999[223] may arguably have been admissible, depending upon the construction of section 37 of the *Independent Commission Against Corruption Act 1988*. In the Commission's view the evidence was not admissible.

4.89 The Commission disseminated the relevant information to the Police Service on 31 May 1999, so that consideration could be given by the Commissioner of Police as to whether action under section 181D of the *Police Service Act 1990* should be taken against Senior Constable Williams. Senior Constable Williams resigned from the Police Service on 25 July 2000.

---

220 PIC Transcript L J Burgess 1 June 1999 p 368.

221 Exhibit 93.

222 Section 62(2) *Evidence Act 1995*.

223 Exhibit 92

5. EVIDENCE REGARDING OTHER AFFECTED PERSONS

EVIDENCE OF SENIOR SERGEANT KEVIN VERDON

5.1 Senior Sergeant Verdon gave evidence to the Commission on 16 June 1999. He did not give evidence under objection in accordance with section 41 of the Act. Senior Sergeant Verdon gave evidence that he had been a police officer for 33 years and was initially stationed at Darlinghurst. At the time he gave evidence he was stationed at the Rosehill Local Area Command.[224]

5.2 He said he knew Roger Rogerson and had met him on approximately three occasions. He said he was not aware that Roger Rogerson had given evidence before the Commission on 21 April 1999, however, he was aware of publicity concerning Roger Rogerson at around that time.[225]

5.3 Senior Sergeant Verdon's evidence was that he knew that Roger Rogerson had been convicted of offences which he believed related to 'corrupt acts within the Police Service'.[226]

5.4 He said he did not associate with Roger Rogerson but had met with him on Thursday, 29 April 1999, at the Cabramatta Leagues Club:[227]

> Q. Did you go into the club on this particular night – Thursday, 29 April 1999?
> A. Yes.
>
> Q. Were you in the company of Roger Rogerson?
> A. He was there, yes, sir.
>
> Q. Were you having a beer with him?
> A. Yes, sir…
>
> Q. Well, of all the people in New South Wales to have a beer with, if you are a serving police officer, why would you have a beer with Roger Rogerson?
> A. Well, I didn't have a beer with Roger Rogerson, sir. I mean, if I can explain the situation.

[224] PIC Transcript K P Verdon 16 June 1999 pp 522-523 and 529-530.
[225] PIC Transcript K P Verdon 16 June 1999 pp 522-523.
[226] PIC Transcript K P Verdon 16 June 1999 p 532.
[227] PIC Transcript K P Verdon 16 June 1999 p 524.

5.5 He then described the circumstances of the meeting as an incidental rather than pre-arranged event and maintained that he did not consider that it presented a problem for either himself or the Police Service:[228]

> Q. But do you see that you have any role in being a model for other officers?
> A. I believe so.
>
> Q. Right. Do you think you are performing that role by being in the company of Roger Rogerson for a couple of hours?
> A. I don't think I done it any harm, no.
>
> Q. You don't?
> A. No.
>
> Q. Maybe that's the problem?
> A. I don't see that as a problem. That's a perception rather than –

5.6 The solicitor appearing for the Police Service, Mr Anthony Spajic suggested to Senior Sergeant Verdon that if an outsider or a young police officer had seen him in the company of Roger Rogerson that evening they may have cast some suspicious connotation upon his association with Roger Rogerson.[229] Mr Spajic suggested that had Senior Sergeant Verdon reported the incident the following day suspicion attached to his association with Roger Rogerson may have been alleviated.[230] Senior Sergeant Verdon maintained that he was not compromised and claimed he was not keeping company with Roger Rogerson.[231]

5.7 The Commissioner then examined Senior Sergeant Verdon concerning the action he would have taken if he had ventured into the Club and had seen one of his junior constables in the Club with Roger Rogerson and others for a number of hours.[232]

5.8 Senior Sergeant Verdon maintained he would have called the junior officer aside to discuss the matter, however, he did not believe he would have made a note of the incident. He said he would have relied on his memory and judgement.[233] He was examined further:[234]

> Q. What about if, down the track, it turns out that the group of people were overheard by way of some listening device or some other means to be conspiring to do something illegal?
> A. Including the constable?

---

228 PIC Transcript K P Verdon 16 June 1999 pp 528-529.
229 PIC Transcript K P Verdon 16 June 1999 p 531.
230 PIC Transcript K P Verdon 16 June 1999 p 531
231 PIC Transcript K P Verdon 16 June 1999 p 532.
232 PIC Transcript K P Verdon 16 June 1999 p 533.
233 PIC Transcript K P Verdon 16 June 1999 pp 534-535.
234 PIC Transcript K P Verdon 16 June 1999 pp 535-536.

Q. He was privy to it?
A. Right, yes.

Q. Would you not have then looked back and said to yourself, "I should have made a note"?
A. But, again, I'd rely on my own knowledge.

5.9 Following further consideration of the matter, Senior Sergeant Verdon agreed that there was some merit in making a record of such incidents.[235]

5.10 After having a number of hypothetical situations put to him Senior Sergeant Verdon conceded that there was merit in recording accidental meetings which may cause his integrity to be questioned.

ASSESSMENT

5.11 As previously stated, Mr Rogerson is a former police officer who has a criminal conviction for conspiring to pervert the course of justice. An aspect of the *NSW Police Service Code of Conduct and Ethics* concerns private conduct by members of the Service that brings, or has the potential to bring, discredit to the Police Service.

5.12 Despite Senior Sergeant Verdon's evidence that he did not consider his fraternisation with Mr Rogerson to have been 'a problem', the Commission considers an officer with his considerable experience should have been conscious of the potential for his conduct to not only reflect poorly upon his own professionalism and the Police Service as a whole, but to set a bad example for junior officers to follow.

5.13 The Commission considers the evidence to be sufficient to warrant consideration by the Commissioner of Police as to whether non-reviewable action should be taken against Senior Sergent Verdon.

EVIDENCE OF SERGEANT OWEN ROGERSON

5.14 In a covertly recorded conversation between Roger Rogerson and Raymond Johnson, Roger Rogerson informed Raymond Johnson of a police information report marked 'top secret' which ended up with a senior police officer. The conversation suggested that confidential information concerning an association between Roger Rogerson and Arthur Loveday had been provided to Roger Rogerson by his brother Sergeant Owen Rogerson.

[235] PIC Transcript K P Verdon 16 June 1999 p 537.

5.15 On 28 May 1999, Roger Rogerson gave evidence that Arthur Loveday had provided him with information concerning confidential police intelligence in relation to his association with Arthur Loveday. He was examined concerning the source of this information:[236]

> Q. But isn't it the fact that the information actually came from your brother Owen and, because of your embarrassment, you don't want to implicate Owen in anything? I'm not suggesting Owen has done anything, but I'm saying that you are being protective of Owen and that's why you don't want to say that the information actually came from Owen?
> A. I honestly – I don't think it came from Owen. I mean, I really – I mean, I read in the Herald yesterday the article by Greg Bearup that Arthur Loveday – I've employed him on the odd occasion. I said it over and over again on oath, and the last time it was at the Flannery inquest. It might have been somewhere else, I don't know. But I've never ever employed Arthur Loveday for one day in any business I have been involved in, and yet it still comes along. It's like a perennial – written up.

5.16 He then gave evidence that his brother, Sergeant Owen Rogerson, never discussed his work with him:[237]

> Q. Wasn't your brother doing some work in relation to a big bikie group around about this time – doing some work for the Commissioner [of Police]?
> A. My brother never discusses with me what he does. I don't ask him.
>
> Q. All right. So, just for the last time, I'm suggesting that this information has come from a police officer; you say what?
> A. It hasn't come from a police officer. I mean, I don't know any police officer, other than my brother. I don't see much of him and I would never compromise him …

5.17 On 1 June 1999 Sergeant Owen Rogerson gave evidence to the Commission that he was a police officer attached to the Licensing Agency of the Police Service.[238] Sergeant Owen Rogerson gave evidence under objection in accordance with section 41 of the Act. He said he had worked in licensing for the last eighteen or nineteen years and knew several people associated with his brother including Kenneth Weldon and Laurence Burgess.[239] He added that he did not associate with his brother's associates.[240]

---

236 PIC Transcript R C Rogerson 28 May 1999 p 313.

237 PIC Transcript R C Rogerson 28 May 1999 pp 315-316.

238 PIC Transcript O J Rogerson 1 June 1999 p 340.

239 PIC Transcript O J Rogerson 1 June 1999 pp 340-341.

240 PIC Transcript O J Rogerson 1 June 1999 p 344.

5.18 Sergeant Owen Rogerson was questioned concerning confidential police information he may have passed on to his brother regarding his brother's relationship with Arthur Loveday:[241]

> Q. Was there an occasion in or about August 1998 when you had a discussion with Roger Rogerson regarding his alleged association with Arthur Loveday?
> A. I'm not sure of the time, but, yes, I did mention – I did have a conversation with him.

5.19 Sergeant Owen Rogerson said he was involved in an investigation and questioned by a senior police officer about particular information concerning his brother. His evidence was that he was embarrassed regarding his brother's involvement. He described a discussion he had with his brother concerning the matter:[242]

> … So at some later date – I can't remember when – it came up and I actually, as probably more a curiosity for myself, I asked him. I said along the lines – I can't remember what I said, but I wanted really to find out was he associating with him. It wasn't something that I believed that I was relaying information to him. I believe – I wanted to find out for myself. And that's – so he more or less indicated that he went to his wedding. He didn't seem shocked. I was probably more shocked than him.

5.20 Sergeant Owen Rogerson maintained that he gave only scant information to his brother on this matter, that it was not his practice to divulge information and that this was the only occasion he had revealed information to his brother from an intelligence report.[243]

5.21 Ms Stenmark, Counsel for the Police Service, examined Sergeant Owen Rogerson further concerning his disclosure. Sergeant Owen Rogerson reiterated that he would not normally put himself in a position of compromise in relation to his brother. Ms Stenmark suggested that with the benefit of hindsight he may exercise more caution in the future.[244]

5.22 Counsel Assisting submitted that other minor matters were raised, but not resolved, regarding Sergeant Owen Rogerson's access to the Police Service computers and if considered necessary they could be pursued by the Commissioner of Police. The Commission agrees with Counsel Assisting.

---

241 PIC Transcript O J Rogerson 1 June 1999 p 341.

242 PIC Transcript O J Rogerson 1 June 1999 p 343.

243 PIC Transcript O J Rogerson 1 June 1999 pp 343 and 353.

244 PIC Transcript O J Rogerson 1 June 1999 p 355.

EVIDENCE OF DETECTIVE SERGEANT PAUL EDWARD TUXFORD

5.23 On 16 June 1999, Detective Sergeant Tuxford gave evidence to the Commission.[245] Detective Sergeant Tuxford gave evidence under objection in accordance with section 41 of the Act. He denied that he had made arrangements for the release of information to newspapers which could impact adversely on Commander Brammer.[246] He gave evidence concerning his contact with journalists and Allan Chrara:[247]

> Q. Didn't you arrange for anybody to be interviewed by a journalist in relation to any of your grievances?
> A. No. I do know journalists, but, no, I have not.
>
> Q. Didn't you arrange for Mr Chrara to be interviewed by a journalist?
> A. I informed a journalist that he could possibly speak to him. I didn't know what he spoke to him about.

5.24 A tape-recorded telephone conversation was played to the Commission. Detective Sergeant Tuxford admitted that a voice on the tape sounded like his. He then gave evidence that he had arranged for Allan Chrara to be interviewed by the journalist however, he said he thought the purpose of the interview was to discuss facets of organised crime.[248] He then told the Commission that he could not remember if he arranged the meeting with a view to the publication of a story damaging to either Commander Brammer or the Police Service.[249] He said he had merely pointed the journalist in the right direction to obtain information:[250]

> I didn't know what it was about. It may assist him in any of his stories.

5.25 When questioned concerning whether he had a grievance against the Police Service, Detective Sergeant Tuxford maintained that his actions resulted from the audit of Task Force Bax on 24 October 1997.[251] He denied he had informed Allan Chrara about his grievances in relation to the Internal Affairs Command of the Police Service and subsequently arranged for Allan Chrara to meet with the journalist.[252]

---

245 PIC Transcript P E Tuxford 16 June 1999 p 503.
246 PIC Transcript P E Tuxford 16 June 1999 p 514.
247 PIC Transcript P E Tuxford 16 June 1999 p 514.
248 PIC Transcript P E Tuxford 16 June 1999 p 515.
249 PIC Transcript P E Tuxford 16 June 1999 p 515.
250 PIC Transcript P E Tuxford 16 June 1999 p 517.
251 PIC Transcript P E Tuxford 16 June 1999 p 517.
252 PIC Transcript P E Tuxford 16 June 1999 p 521.

ASSESSMENT

5.26 The Commission considers the evidence to warrant consideration by the Commissioner of Police as to whether reviewable or non-reviewable action should be taken against Detective Sergeant Tuxford.

6. EVIDENCE OF OTHER MATTERS INVOLVING ROGER ROGERSON AND HIS ASSOCIATES

THE AUSTRAL MATTER

6.1 Evidence before the Commission included a body of material which related to an apparent conspiracy between Roger Rogerson, Raymond Johnson and Kenneth Weldon to carry out the offence of break, enter and steal on a property at Austral, in western Sydney. The material suggested that the plan was conceived and agreed at some time between April 1998 and August 1998, and thereafter at some point abandoned.

6.2 On 5 April 1998, a house at Austral was the subject of a robbery of the 'home invasion' style, by an unknown number of men. The men inflicted serious injuries upon one of the occupants of the house in an unsuccessful attempt to discover the location of a safe.

6.3 On 19 August 1998, Roger Rogerson, Raymond Johnson and Kenneth Weldon were recorded in conversation whilst in Roger Rogerson's car, apparently surveilling the same premises. The recorded conversations contained a number of references to a plan to carry out a break and enter with a view to obtaining the contents of the safe which had not been detected in the earlier robbery.

6.4 Further surveillance was carried out by Raymond Johnson and Kenneth Weldon after that date, and telephone contact was made to the household, apparently in an attempt to confirm that the house was vacant on a regular morning of the week.

6.5 On 25 May 1999 Raymond Johnson gave evidence that he had no recollection of visiting Austral on 28 October 1998 or 29 October 1998.[253] He was questioned concerning his knowledge of a particular family who resided in Austral.[254] His evidence was that he did not know the family, had no reason to know them and was not aware that a 'home invasion' style robbery had occurred at the property.[255] He was then questioned about observations he had carried out at that family's premises at Austral:[256]

> Q. Were you ever involved in making observations of any premises or property at Austral in or about October 1998?
> A. I can't recall it. I just can't recall October 1998, anything to do with Austral. I could have been out there, but I can't recall it.

[253] PIC Transcript R R Johnson 25 May 1999 p 130.
[254] PIC Transcript R R Johnson 25 May 1999 p 131.
[255] PIC Transcript R R Johnson 25 May 1999 pp 130-131.
[256] PIC Transcript R R Johnson 25 May 1999 p 131.

6.6 He was questioned further concerning surveillance of the premises:[257]

> Q. Isn't it the fact that you went to Austral on 29 October 1998 and you were making observations of the premises and you rang the [family name] household from a public telephone and then you reported back by telephone to Ken Weldon, who was in a motor vehicle?
> A. I can't recall it, I'm sorry, I can't.

6.7 Mr Johnson was recalled to give evidence on 27 May 1999. On this occasion a conversation covertly recorded on 19 August 1998 was played in which three males were heard discussing a property:[258]

> RJ = Raymond Johnson
> RR = Roger Rogerson
> KW = Kenneth Weldon
> (ui) = Unintelligible
>
> RJ: I'll show you, drive around here. There's the house straight in front of us. Believe it or not. See how he's put the fence up.
> RR: Yeah.
> KW: Hmm.
> RJ: See that little toilet looking thing?
> KW: Yeah.
> RJ: The little shed, his little out shed? In there.
> RR: (ui).[unintelligible]
> RJ: Yeah. That little shed.
> RR: With the little, with the tiles on it?
> RJ: Yeah. That's why they never find it the last time. They went in oh, it was 3, 4 months ago or something. But they went out at night, a whole gang of them.

6.8 The three then discussed activities on a neighbour's property, a dog which could present problems for them and which day of the week the occupant took his wife to the hospital for treatment.[259]

6.9 After hearing the covertly recorded conversation Raymond Johnson maintained that he could not recall being near the premises:[260]

> Q. Right. And from your knowledge as a police officer, as an ex-police, is this a classic case of somebody casing the joint?
> A. It appears that we were taking observations, going on that. For what reason, I don't know, but if you read that or heard it, you'd have to assume that we were taking observations on some premises out there.

---

257 PIC Transcript R R Johnson 25 May 1999 p 132. An order prohibiting the publication of the family name was made on 27 May 1999.

258 Exhibit 60.

259 Exhibit 60.

260 PIC Transcript R R Johnson 27 May 1999 pp 254-255.

Q. Yes. And you'd have to assume, wouldn't you, that you had some sensitivity about being detected out there?
A. I can't recall about it. I don't know if I was sensitive about that or not. It's all hazy. I can hardly recall any of that conversation at all.

Q. Did you have any reason to get an old ute to make it look like a work thing for example?
A. No.

Q. Did you have any information that a woman who resided at the premises, whoever she was, needed treatment on Thursdays; did you have that type of information?
A. Well, going on that, you'd have to assume I did, but I just can't recall it. I can't recall that conversation at all.

Q. Did you have any reason to be concerned about observations of neighbours?
A. I can't recall it. As I say, my father would have only died a few weeks before this was supposed to have occurred. I probably didn't know what day it was.

Q. Were you planning to do something illegal in relation to those premises?
A. I don't know what we were doing there, if we were there at all. Look, I just can't recall it.

6.10 Roger Rogerson gave evidence to the Commission on 25 May 1999 that he did not think he had been to the Austral property in 1998 and said he was not certain where Austral was.[261] On 28 May 1999 he gave the following evidence:[262]

A. When you mentioned Austral to me, it had no meaning at all. I'm not quite certain where Austral is, I haven't checked, but I thought it was somewhere down the south coast, if you're talking about an area I took to be Hoxton Park, we could possible be talking about the same thing.

6.11 He then elaborated:[263]

A. I know that Ray Johnson spoke to me. He said he had some information about some property, some stolen property, and it seemed a little bit fanciful. He thought that there could be some stolen gold bars.

He had been to see a private investigator and asked him to check whether there was – see whether there was a reward. I think he mentioned they may have been the gold bars that were stolen from Mr Kerry Packer.

---

261 PIC Transcript R C Rogerson 25 May 1999 pp 163-164.
262 PIC Transcript R C Rogerson 28 May 1999 p 306.
263 PIC Transcript R C Rogerson 28 May 1999 pp 306-307.

6.12 When questioned concerning his role he said he only ever went there once and it was planned that he was to open a safe or container:[264]

> ... Now, I think there was some talk also about these – he talked about some sort of a safe or some sort of a container that was in a little shed or something, and "If we're going to recover these stolen gold bars, we might need your expertise because you know a bit about safes and locks" et cetera, that type of thing.

6.13 Roger Rogerson said his colleagues would have liked him to do it but added that it did not happen. He also said there was no agreement to carry out the plan.[265]

6.14 Kenneth Weldon gave evidence on 10 June 1999 concerning the visit to Austral. He conceded that he had spoken with Roger Rogerson recently and that he thought they had 'touched on' the Austral matter. He gave the following evidence:[266]

> Q. I suppose your version is the same as Roger's in relation to the Packer's gold story; is that right?
> A. That's what we initially thought, yeah.
>
> Q. Have you changed your mind about that?
> A. No.
>
> Q. Tell me how that came about, the Packer's gold story?
> A. Well, from memory, Ray got told, or somebody told Ray that there was some stolen gold out at this property – I thought actually it was at Hoxton Park; I didn't think it was Austral.
>
> Q. That's a coincidence, because that's what Mr Rogerson also thought it was?
> A. That's what I thought it was. I do a bit of work out there. I thought it was Hoxton Park.

6.15 Kenneth Weldon was questioned by Counsel Assisting about how they were going to collect the reward for the gold bars:[267]

> Q. All right. Was it the proposal that some of these gold bars would go missing; was that discussed?
> A. It could have been.
>
> Q. Well, what do you remember about that?
> A. I don't really remember.

---

264 PIC Transcript R C Rogerson 28 May 1999 p 308.
265 PIC Transcript R C Rogerson 28 May 1999 p 309.
266 PIC Transcript K W Weldon 10 June 1999 p 418.
267 PIC Transcript K W Weldon 10 June 1999 p 421.

Q. Well, how do you know you were going to collect the reward; do you remember that?
A. I remember that, but you just asked me another question and I can't remember whether we discussed a couple of bars would go missing. Possibly we did.

6.16 Mr Weldon admitted that he had 'cased' the Austral property on two occasions:[268]

Q. How many times have you cased a place in your life?
A. I believe once.

Q. You believe at Austral –
A. Or twice.

Q. Sorry twice?
A. Twice I believe, yeah.

Q. In relation to Austral?
A. In relation to Austral.

ASSESSMENT

6.17 Counsel Assisting the Commission submitted that the explanations provided by Rogerson, Johnson and Weldon lacked credibility. The Commission agrees with this submission but considers the admissible evidence is incapable of establishing that there was a concluded agreement to commit larceny. Accordingly, the Commission has not expressed an opinion that the Director of Public Prosecutions consider the laying of criminal charges against Rogerson, Johnson and Weldon in respect of this matter.

WESTERN SUBURBS MEDICAL CENTRE[269]

6.18 It was alleged in evidence that Roger Rogerson, Raymond Johnson and Kenneth Weldon were keeping a close watch on a medical centre and a person working at the medical centre.

6.19 Kenneth Weldon gave evidence that he had no financial interest in the medical centre, had not received any treatment at the medical centre and did not know the medical practitioners at the medical centre. Mr Weldon gave evidence that in 1998 he had possibly visited the suburb in which the medical centre was

[268] PIC Transcript K W Weldon 10 June 1999 p 435.

[269] The name of the suburb in which the medical centre is located and the name of the medical practitioner have been suppressed.

located in order to undertake some insulation work.[270] He resiled from this position stating that he could not remember:[271]

Q. Did you have any business at [suburb name] in July 1998?
A. Not as far as I can remember, no.

Q. Did you have any reason to go there and make observations of anybody?
A. Not as far as I can remember.

Q. Do you have any recollection of making any observations of a woman in [suburb name] in July 1998?
A. No, not to my memory, no.

Q. Did you have any information about anybody having money in July 1998, in this context of having an interest in [suburb name]?
A. Not to my memory.

Q. Did you have any reason to be talking about number plates in July 1998, in the context of [suburb name]?
A. Not as far as I can remember.

Q. Did you have any reason to be discussing motorists, drivers and car routes in relation to [suburb name] in or about July 1998?
A. I didn't actually understand what you asked then.

Q. Sorry. Did you have any reason to be discussing car routes or drivers in July 1998?
A. Not from memory, no.

Q. Did you have any interest in security re [suburb name] or security cameras, in 1998?
A. Not to my knowledge.

Q. Did anybody discuss in your presence in July 1998 the necessity for doctors to be careful because they might have been rolled for drugs, or something of that nature? No?
A. Did I discuss it?

Q. No, did anybody discuss that in your presence, the fact that doctors need to be careful because they can be rolled for drugs?
A. Not as far as I can remember, no.

[270] PIC Transcript K W Weldon 10 June 1999 p 430.
[271] PIC Transcript K W Weldon 10 June 1999 p 434.

6.20 Counsel Assisting the Commission then suggested to Kenneth Weldon that in July 1998 he was with his associates, Roger Rogerson and Raymond Johnson, observing a medical centre in the western suburbs and that they had an interest in money. Ken Weldon said he could not recall and gave further evidence:[272]

> Q. In relation to insulation, did you ever install insulation at night?
> A. No.
>
> Q. Okay. Did you have any reason to go to [suburb name] in the night-time, say about 8.40 at night?
> A. Look, I can't remember.

6.21 A tape-recorded conversation was then played to the Commission in which Kenneth Weldon, Roger Rogerson and Raymond Johnson discussed surveillance in relation to a particular western suburbs medical centre. Kenneth Weldon said he had no memory of the conversation and admitted to having a poor memory.[273] He could not recall observing the medical centre on 30 July 1998, 4 August 1998 or the 12 August 1998.[274]

6.22 A videotape was played to the hearing which showed Kenneth Weldon walking down the road near the medical centre on 12 August 1998. Although his evidence was that it looked like him he also said that he had no clue regarding his activities on that occasion.[275]

ASSESSMENT

6.23 Counsel Assisting the Commission noted that there is some obscurity as to the precise objective of the three men and that a conclusion that there was an agreement to commit a particular crime requires an element of speculation. Accordingly the Commission has not recommended that the Director of Public Prosecutions consider the laying of criminal charges against Weldon, Johnson and Rogerson in relation to the western suburbs medical centre.

---

272 PIC Transcript K W Weldon 10 June 1999 pp 435 and 440.
273 PIC Transcript K W Weldon 10 June 1999 p 442.
274 PIC Transcript K W Weldon 10 June 1999 p 448.
275 PIC Transcript K W Weldon 10 June 1999 p 449.

DISCUSSIONS OF DRUG CULTIVATION

6.24 Roger Rogerson was questioned by Counsel Assisting on 25 May 1999 concerning whether he had discussed cultivating marijuana with Ken Weldon and others:[276]

> Q. Were you involved in any illegal activities that would have been assisted by having some information from the police?
> A. No.
>
> Q. What about cultivating marijuana?
> A. Never.
>
> Q. Did you discuss cultivating marijuana with Mr Weldon in 1998?
> A. Oh, I don't know. I don't remember.

6.25 He was examined concerning whether he had discussed cultivating marijuana with Boris Link [Katic] and replied he did not recall.[277] Roger Rogerson then gave evidence that he, Ken Weldon and Boris Katic had visited Peats Ridge on 19 January 1999 and had examined a property with a large shed. He explained that the visit was made to consider plans for growing vegetables, although he could not recall who was going to grow the vegetables.[278]

6.26 On 28 May 1999 he gave further evidence concerning the group's plans:[279]

> A. Well, I mean, marijuana might have got a mention. I think it might have been a bit of wishful thinking …

6.27 He added that according to his friend there was a market for cabbages.[280] Roger Rogerson agreed that one of his accomplices on that occasion had a conviction for growing marijuana or conspiring to grow marijuana.[281] He said that they may have discussed the matter on more than one occasion and continued to maintain that it was probably 'wishful thinking.'[282]

---

[276] PIC Transcript R C Rogerson 25 May 1999 p 162.
[277] PIC Transcript R C Rogerson 25 May 1999 p 162
[278] PIC Transcript R C Rogerson 25 May 1999 p 162.
[279] PIC Transcript R C Rogerson 28 May 1999 p 316.
[280] PIC Transcript R C Rogerson 28 May 1999 p 317.
[281] PIC Transcript R C Rogerson 28 May 1999 p 317.
[282] PIC Transcript R C Rogerson 28 May 1999 p 318.

6.28 In hearings on 28 May 1998 tape recorded conversations were played in which Roger Rogerson was heard discussing with Ken Weldon the market for marijuana and the distribution of marijuana.[283] Roger Rogerson then said that in giving his earlier evidence he did not remember these discussions.[284] On this occasion he maintained that they were interested in growing both cabbages and marijuana:[285]

> Q. You all went up there together, one guy had cabbages on his mind, everyone else was seeing little marijuana plants?
> A. No, I think cabbages and marijuana together.

6.29 Ken Weldon also gave evidence that he had discussed illegal activity with Roger Rogerson such as drugs. He said they had discussed growing and distributing marijuana. He confirmed that the group had also discussed growing cabbages at Peats Ridge but added there was no firm agreement concerning any of these matters.[286] He said he had also held discussions with Roger Rogerson in the last couple of weeks concerning the visit to Peats Ridge and related evidence.[287]

---

283 Exhibit 68; PIC Transcript R C Rogerson 28 May 1999 pp 324-325.

284 PIC Transcript R C Rogerson 28 May 1999 p 325.

285 PIC Transcript R C Rogerson 28 May 1999 p 327.

286 PIC Transcript K W Weldon 10 June 1999 pp 414 and 416.

287 PIC Transcript K W Weldon 10 June 1999 pp 414 and 418.

7. AFFECTED PERSONS

7.1 A person against whom, in the Commission's opinion, substantial allegations have been made in the course of, or in connection with, an investigation, is an 'affected person' for the purposes of a Report to Parliament by the Commission.[288]

7.2 Section 97(2) of the Act requires the Commission to include in a Report to Parliament in respect of each 'affected person' a statement as to:

> … whether or not in all the circumstances the Commission is of the opinion that consideration should be given to the following:
>
> (a) the prosecution of a person for a specified criminal offence,
>
> (b) the taking of action against the person for a specified disciplinary offence,
>
> (c) the taking of action (including the making of an order under section 181D of the *Police Service Act, 1990*) against the person as a police officer on specified grounds, with a view to dismissing, dispensing with the services or otherwise terminating the services of the police officer,
>
> (d) the taking of reviewable action within the meaning of section 173 of the *Police Service Act, 1990* against the person as a police officer.

7.3 In discharging its functions under section 97(2), the Commission is mindful of the provisions of section 40 of the Act, which provides that answers made and documents and other things produced on objection by a witness at a hearing before the Commission are not admissible against the witness in a subsequent criminal or civil proceeding, except for an offence against the Act.[289] However, such material is available to the Commissioner of Police in considering whether to make an order pursuant to sections 173 or 181D of the *Police Service Act 1990*. Such material is also available in proceedings under Division 1A or 1C of Part 9 of the *Police Service Act 1990* and any disciplinary proceedings.[290]

---

[288] Section 97(3) of the Act.

[289] Sections 40(3) and (4) of the Act.

[290] Section 40(3) of the Act.

7.4 The Commission is of the opinion that each of the following is an 'affected person':

- Kenneth John Desmond;
- Kostas Kontorinakis;
- Senior Constable Stephen Williams;
- Roger Rogerson;
- Anne Melocco;
- Sergeant Owen Rogerson;
- Raymond Johnson;
- Detective Sergeant Paul Edward Tuxford;
- Senior Sergeant Kevin Patrick Verdon;
- Kenneth Weldon; and
- Boris Link.

KENNETH JOHN DESMOND

7.5 The Commission regards Detective Sergeant Kenneth John Desmond, as he was at the time of the Commission's hearings, to be an 'affected person' because he is the subject of a substantial allegation that he received corrupt payments as a police officer.

7.6 In respect of sub-section 97(2)(a), the Commission states that it is **not** of the opinion that consideration should be given by the the DPP to the prosecution of Mr Ken Desmond.

7.7 In respect of sub-sections 97(2)(b), (c) and (d), in view of the fact that Mr Ken Desmond is no longer a police officer, the Commission states that it is **not** of the opinion that consideration should be given to the taking of action against him for a specified disciplinary offence, the taking of action against him as a police officer with a view to dismissing, dispensing with the services or otherwise terminating his services, or the taking of reviewable action against him within the meaning of section 173 of the *Police Service Act 1990*.

KOSTAS KONTORINAKIS

7.8 The Commission considers Kostas Kontorinakis to be an affected person because he is the subject of substantial allegations that he made corrupt payments to police officers.

7.9 In respect of sub-section 97(2)(a), the Commission is **not** of the opinion that consideration should be given by the DPP to the prosecution of Mr Kostas Kontorinakis.

7.10 The Commission notes the unavailability of any relevant action for a specified disciplinary offence against Kostas Kontorinakis and accordingly is **not** of the opinion that consideration should be given to any such action.

SENIOR CONSTABLE STEPHEN WILLIAMS

7.11 The Commission considers Senior Constable Williams, as he was at the time of the Commission's hearings, to be an affected person because he is the subject of substantial allegations that he unlawfully disclosed confidential information.

7.12 In respect of sub-section 97(2)(a), the Commission states that it is **not** of the opinion that the DPP should give consideration to the prosecution of former Senior Constable Williams.

7.13 Mr Stephen Williams resigned from the Police Service in July 2000. In respect of sub-sections 97(2)(b), (c) and (d), in view of the fact that Mr Williams is no longer a police officer, the Commission states that it is **not** of the opinion that consideration should be given to the taking of action against him for a specified disciplinary offence, the taking of action against him as a police officer with a view to dismissing, dispensing with the services or otherwise terminating his services, or the taking of reviewable action against him within the meaning of section 173 of the *Police Service Act 1990*.

ROGER ROGERSON

7.14 The Commission considers Roger Rogerson to be an affected person because he is the subject of the following substantial allegations:

(a) that he caused the destruction of electronically recorded documents knowing they might be required in connection with an ICAC investigation concerning Liverpool Council;

(b) that he conspired with Raymond Johnson and Kenneth Weldon to break and enter a property at Austral with the intention of committing larceny;

(c) that in the company of the above persons he conducted what appeared to be unlawful observations of a particular Western Suburbs medical centre or a person associated with it; and

(d) that he conspired with Kenneth Weldon, Boris Link and another person to cultivate marijuana.

7.15 Pursuant to sub-section 97(2)(a) the Commission is of the opinion that the DPP should give consideration to the prosecution of Roger Rogerson for the following offences:

(a) tampering with evidence contrary to section 317 of the *Crimes Act 1900*; or

(b) destroying a document or thing contrary to section 88 of the *Independent Commission Against Corruption Act 1988*; and

(c) giving false evidence contrary to section 107 of the *Police Integrity Commission Act 1996*.

7.16 In relation to the allegation that Roger Rogerson conspired with Raymond Johnson and Kenneth Weldon to break and enter a property at Austral with the intention of committing larceny, having considered all the evidence, the submissions of Counsel Assisting and Roger Rogerson's legal representative, the Commission is **not** of the opinion that consideration should be given to the prosecution of Roger Rogerson for a specified criminal offence pursuant to sub-section 97(2)(a).

7.17 In relation to the allegation that Roger Rogerson conspired with Kenneth Weldon, Boris Link and another person to cultivate marijuana the Commission is **not** of the opinion that consideration should be given to the prosecution of Roger Rogerson for a specified criminal offence pursuant to sub-section 97(2)(a).

7.18 Noting the unavailability of any relevant action, pursuant to sub-section 97(b) the Commission is **not** of the opinion that consideration should be given to the taking of action against Roger Rogerson for a specified disciplinary action.

ANNE MELOCCO

7.19 The Commission considers Anne Melocco to be an affected person because she is the subject of a substantial allegation that she destroyed documents knowing they might be required in connection with an ICAC investigation.

7.20 Pursuant to section 97(2)(a) the Commission is of the opinion that consideration should be given by the DPP to the prosecution of Anne Melocco for the following offences:

(a) tampering with evidence contrary to section 317 of the *Crimes Act 1900*; or

(b) destroying a document or thing contrary to section 88 of the *Independent Commission Against Corruption Act 1988*; and

(c) giving false evidence contrary to section 107 of the *Police Integrity Commission Act 1996*.

7.21 Noting the unavailability of any relevant action, pursuant to sub-section 97(b) the Commission is **not** of the opinion that consideration should be given to the taking of action against Anne Melocco for a specified disciplinary action.

RAYMOND JOHNSON

7.22 The Commission considers Raymond Johnson to be an affected person because he is the subject of the following substantial allegations:

(a) that he divulged confidential information to Roger Rogerson concerning an ICAC investigation into Liverpool Council;

(b) that in the company of Roger Rogerson and Kenneth Weldon he conducted what appeared to be unlawful observations of a particular western suburbs medical centre or a person associated with it; and

(c) that he conspired with Roger Rogerson and Kenneth Weldon to break and enter a property at Austral with the intention of committing larceny.

7.23 Pursuant to section 97(2)(a) of the Act, the Commission is of the opinion that the DPP should consider prosecution of Raymond Johnson for an offence pursuant to section 107 of the *Police Integrity Commission Act 1996*.

7.24 In relation to the allegation that Raymond Johnson, in the company of Roger Rogerson and Kenneth Weldon, conducted what appeared to be unlawful observations of a particular western suburbs medical centre or a person associated with it, the Commission is **not** of the opinion that consideration should be given to the prosecution of Raymond Johnson for a specified criminal offence pursuant to sub-section 97(2)(a).

7.25 In relation to the allegation that Raymond Johnson conspired with Roger Rogerson and Kenneth Weldon to break and enter a property at Austral with the intention of committing larceny, having considered all the evidence, the submissions of Counsel Assisting and Raymond Johnson's legal representative, the Commission is **not** of the opinion that consideration should be given to the prosecution of Raymond Johnson for a specified criminal offence pursuant to sub-section 97(2)(a).

7.26 In respect of sub-sections 97(2)(b), (c) and (d), in view of the fact that Raymond Johnson is no longer a police officer, the Commission is **not** of the opinion that consideration should be given to the taking of action against Raymond Johnson for a specified disciplinary offence, the taking of action against him as a police officer with a view to dismissing, dispensing with the services or otherwise terminating his services, or the taking of reviewable action against him within the meaning of section 173 of the *Police Service Act 1990*.

DETECTIVE SERGEANT PAUL EDWARD TUXFORD

7.27 The Commission considers Detective Sergeant Paul Tuxford to be an affected person because he is the subject of a substantial allegation that in January 1999 he arranged for a journalist to meet with Allan Chrara with a view to the publication of a story damaging to the NSW Police Service and/or the Commander of Internal Affairs.

7.28 Pursuant to sub-section 97(2)(a) the Commission is **not** of the opinion that consideration should be given to the prosecution of Detective Sergeant Paul Edward Tuxford for a specified criminal offence.

7.29 Noting the unavailability of any relevant action, pursuant to sub-section 97(b) the Commission is **not** of the opinion that consideration should be given to the taking of action against Detective Sergeant Paul Edward Tuxford for a specified disciplinary offence.

7.30 Pursuant to section 97(c) the Commission is **not** of the opinion that consideration should be given to the taking of action under section 181D of the *Police Service Act 1990*.

7.31 The Commission is of the opinion that the Commissioner of Police should, at his discretion, give consideration to the taking of reviewable or non-reviewable action against Detective Sergeant Paul Edward Tuxford within the meaning of section 173 of the *Police Service Act 1990*.

SENIOR SERGEANT KEVIN VERDON

7.32 The Commission considers Senior Sergeant Kevin Verdon to be an affected person because he is the subject of a substantial allegation that he conducted himself in a way that had the potential to bring discredit to the NSW Police Service. That is, he drank at a Leagues Club for a number of hours on 29 April 1999 with a group of persons that included Roger Rogerson, a former police officer with a criminal conviction for conspiring to pervert the course of justice.

7.33 Noting the inapplicability of any such action, pursuant to the requirements of sub-section 97(2)(a) the Commission is **not** of the opinion that consideration should be given to the prosecution of Senior Sergeant Kevin Verdon for a specified criminal offence.

7.34 Noting the unavailability of any such action, pursuant to sub-section 97(b) the Commission is **not** of the opinion that consideration should be given to the taking of action against Senior Sergeant Kevin Verdon for a specified disciplinary offence.

7.35 Pursuant to section 97(c) the Commission is **not** of the opinion that consideration should be given to the taking of action under section 181D of the *Police Service Act 1990*.

7.36 The Commission is of the opinion that the Commissioner of Police should give consideration to the taking of non-reviewable action against Senior Sergeant Kevin Verdon within the meaning of section 173 of the *Police Service Act 1990*.

SERGEANT OWEN ROGERSON

7.37 The Commission regards Sergeant Owen Rogerson to be an affected person because during evidence he admitted to having discussed with Roger Rogerson, his brother, a police intelligence report which alleged an association between Roger Rogerson and Arthur Loveday.

7.38 In respect of sub-section 97(2)(a), the Commission is **not** of the opinion that consideration should be given by the DPP to the prosecution of Sergeant Owen Rogerson for a criminal offence.

7.39 Pursuant to sub-sections 97(2)(b), (c) and (d), the Commission is **not** of the opinion that consideration should be given to the taking of action against Sergeant Owen Rogerson for a disciplinary offence or by the Commissioner of Police pursuant to his powers under sections 173 and 181D of the *Police Service Act 1990*.

KENNETH WELDON

7.40 The Commission considers Kenneth Weldon to be an affected person because he is the subject of the following substantial allegations:

(a) that he conspired with Roger Rogerson and Raymond Johnson to break and enter a property at Austral with the intention of committing larceny;

(b) that in the company of the above persons he conducted what appeared to be unlawful observations of a particular western suburbs medical centre or a person associated with it; and

(c) that he conspired with Roger Rogerson, Boris Link and another person to cultivate marijuana.

7.41 Having considered all the evidence, the submissions of Counsel Assisting and Kenneth Weldon's legal representative, the Commission is **not** of the opinion that consideration should be given to the prosecution of Kenneth Weldon for a specified criminal offence pursuant to sub-section 97(2)(a).

7.42 Noting the availability of any relevant action, pursuant to sub-section 97(b) the Commission is **not** of the opinion that consideration should be given to the taking of action against Kenneth Weldon for a specified disciplinary action.

BORIS LINK

7.43 The Commission considers Boris Link to be an affected person because he is the subject of a substantial allegation that he conspired with Roger Rogerson, Kenneth Weldon and another person to cultivate marijuana. In the Commission's assessment, however, the admissible evidence is insufficient to warrant criminal charges.

7.44 Pursuant to sub-section 97(2)(a) the Commission is not of the opinion that consideration should be given to the prosecution of Boris Link for a specified criminal offence.

7.45 Noting the unavailability of any relevant action, pursuant to sub-section 97(b) the Commission is not of the opinion that consideration should be given to the taking of action against Boris Link for a specified disciplinary offence.

APPENDIX A

NEW SOUTH WALES CRIME COMMISSION ACT 1985

29. Secrecy

(1) This section applies to:

(a) a member of the Commission, and

(b) a member of the staff of the Commission, and

(c) a member of a police task force assisting the Commission in accordance with an arrangement under section 27A, and

(d) a person to whom information is given either by the Commission or by a person referred to in paragraph (a), (b) or (c) on the understanding that the information is confidential.

(2) A person to whom this section applies who, either directly or indirectly, except for the purposes of this Act or otherwise in connection with the exercise of the person's functions under this Act, and either while the person is or after the person ceases to be a person to whom this section applies:

(a) makes a record of any information, or

(b) divulges or communicates to any person any information, being information acquired by the person by reason of, or in the course of, the exercise of functions under this Act, is guilty of an offence punishable, on conviction, by a fine not exceeding 50 penalty units or imprisonment for a period not exceeding one year, or both.

POLICE INTEGRITY COMMISSION ACT 1996

56. Secrecy (cf ICAC Act s 111; RC (PS) Act s 30)

(1) This section applies to:

(a) a person who is or was an officer of the Commission, and

(b) a person who is or was an officer of the Inspector, and

(c) a person who is or was a legal practitioner appointed to assist the Commission or who is or was a person who assists, or performs services for or on behalf of, such a legal practitioner in the exercise of the legal practitioner's functions as counsel to the Commission, and

(d) a person or body referred to in section 15 (6), 18 (4), 77 (5) or 83 (6), and

(e) an authorised person referred to in section 18A.

(2) A person to whom this section applies must not, directly or indirectly, except for the purposes of this Act or otherwise in connection with the exercise of the person's functions under this Act:

(a) make a record of any information, or

(b) divulge or communicate to any person any information, being information acquired by the person by reason of, or in the course of, the exercise of the person's functions under this Act.

Maximum penalty: 50 penalty units or imprisonment for 12 months, or both.


POLICE INTEGRITY
COMMISSION