

Commission of Inquiry into Police Conduct
Hearing held on 24 May 2004, commenced at 10.03 a.m.

Commissioners
Hon Justice Bruce Robertson and Dame Margaret Bazley

Counsel assisting the Commission
Ms Mary Scholtens QC and Mr K Raftery

Counsel appearing for the New Zealand Police
Ms Kristy McDonald QC and Mr David Boldt

Counsel appearing for the Police Complaints Authority
Mr John Upton QC

Counsel appearing for the Police Association
Ms Susan Hughes and Mr S Feltham

For the Police Managers' Guild
Mr E Cooper and Mr P Mears

Commission Staff:
Ms R Boyack
Ms J Harris - Registrar

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PRELIMINARY MATTERS

HON JUSTICE ROBERTSON: Welcome back. The purpose of today's hearing is for us to be able to receive initial evidence with regard to the processes and instructions which have been in place within the New Zealand Police during the time in respect of which we have a particular interest, and my anticipation is that I will simply invite, in a moment, Ms McDonald to lead evidence in that regard.

Ms Scholtens, is there any preliminary matter about which you have concern or which you wish to raise?

MS SCHOLTENS: No, Sir.

HON JUSTICE ROBERTSON: Ms McDonald, that's what you are expecting to be doing?

MS McDONALD: It is, Sir, yes.

HON JUSTICE ROBERTSON: Mr Upton, any issue you wish to raise at this stage?

MR UPTON: No, not at the moment, thank you Sir.

HON JUSTICE ROBERTSON: Ms Hughes?

MS HUGHES: No, Sir.

HON JUSTICE ROBERTSON: Does anyone else have any matter they wish to raise? We will deal with that and then have a look at where things are going thereafter.

MS McDONALD: I formally call Superintendent David Trappitt, who is seated already, Sir, in the witness seat.

HON JUSTICE ROBERTSON: We will just have him sworn and then hand him over to you.

DAVID EDWARD TRAPPITT - SWORN

EXAMINED BY MS MCDONALD QC

MS McDONALD: Just before I invite Superintendent Trappitt to commence reading his brief, Sir, can I indicate to you both that it's intended to produce through Superintendent Trappitt eight volumes of policy and procedure documents. Superintendent Trappitt will be able to produce that material and place it in context. It is hoped that the Commissioner will be able or permitted to call evidence later in this Inquiry to explain in a little more detail the nature of those documents and how they may have been implemented.

Superintendent Trappitt has a Brief of Evidence which has been circulated and I trust it is satisfactory for him to read that brief and refer to the documents as he goes through?

HON JUSTICE ROBERTSON: Yes, I don't have any problem with his reading, notwithstanding what I've said generally about briefs prepared by other people, but in the circumstances I think it's appropriate.

I hear what you say, Ms McDonald, about your perhaps having an application to call evidence to explain documents, I hear that. I don't want necessarily it to have been thought I have acceded to that. I do actually believe that documents normally speak for themselves. If someone wants to tell me about where processes haven't been followed, that's fine but I don't actually need someone to come along and tell me what the documents might have meant. I think Dame Margaret and I will be capable of reading what the plain words say.

MS McDONALD: Sir, certainly. Perhaps that's an issue we could revisit should the need arise.

HON JUSTICE ROBERTSON: If the need arises, thank you.

MS McDONALD: Are you happy for me to be seated?

HON JUSTICE ROBERTSON: Yes, please do.

MS McDONALD:

Q. Superintendent, if you could start reading your brief, please, from the top of page 2.

(Witness reads Brief of Evidence from the top of page 2 as follows:)

"My full name is David Edward Trappitt ... that illustrate the national structures." (End penultimate paragraph, page 4)

MS McDONALD: Can I just indicate how the document numbering system works. In the left-hand column of the brief is a red number, that is the Summation number. That won't be of much assistance to anybody today, that's the computerised number.

On the right-hand side looking at the Brief of Evidence, the first number refers to the current volumes, the white ones that you have, which is volume 1, tab 1, and the number in brackets. Out of an abundance of caution, we have included that because that's the old number of the previously disclosed documents, just in case anyone had marked those up. So, that number in brackets would refer to folder 6, tab 1, but the volumes we're looking at today are volume 1, tab 1.

Q. Superintendent, if you could turn that up, please, and just identify that document and follow that process as you go through your brief.

HON JUSTICE ROBERTSON: We don't think we have the coloured version, Ms McDonald.

MS McDONALD: Oh, I have distinct advantage in that case.

HON JUSTICE ROBERTSON: Obviously.

HON JUSTICE ROBERTSON: Thank you, Mr Trappitt.

(Witness continues to read brief of evidence from last paragraph, page 4, as follows:)

"All employees of the Police are ... personally available to each officer." (Middle page 5)

MS McDONALD:

Q. Superintendent, just looking at the document at volume 1, tab 2, under the heading "Manuals", there are three manuals of best practice referred to there. Is in fact. The position there are five volumes of best practice in total?

A. Yes, that's correct. There's two additional manuals, one for traffic duties and one for human resource issues policy.

Q. Thank you. Carry on please.

(Witness continues to read Brief of Evidence from middle page 5 as follows:)

"By notice published in the Police Gazette ...
Victims Rights Act 2002."
(End penultimate paragraph, page 10)

Q. We're moving into volume 3 now.

A. Right.

Q. Tab 2 and tab 3 of volume 3 are the documents you were just referring to, weren't they?

A. That's correct, tab 1 and tab 2.

(Witness continues to read Brief of Evidence from last paragraph, page 10, as follows:)

"In the early 1990's, in response ... (SAAM) record book." (End first paragraph, page 12)

And that record is volume 3, tab 13.

Q. I will just take you to that document and get you to confirm, if you could please, Superintendent, that the names have been removed from that book referred to as "SAAM", is that right?

A. That's correct. Under tab 13, the names of complainants and officers have been removed, otherwise the record is as intact as recovered.

Q. So, where there are spaces in any of the other columns, that's just as the record appears?

A. That's correct.

Q. It's not because anything has been deleted?

A. No.

Q. Thank you. Carry on please.

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(Witness continues to read Brief of Evidence from second paragraph, page 12, as follows:)

"On 19 July 1982, the then Commissioner ... when a warning might be appropriate." (Middle page 12)

A. The Police Complaints Authority -

HON JUSTICE ROBERTSON: Just before you go there, the document under 3.13, are you able to assist with how many years that practice was maintained? Was it only the one period which is marked there, all in the year February-November 1983?

A. I'm unsure of the length of time, Your Honour. That's something we could find further information on and come back.

HON JUSTICE ROBERTSON: Thank you. Yes, thank you.

MS McDONALD:

Q. I think you were at 3.19.

A. Yes.

(Witness continues to read Brief of Evidence from penultimate paragraph, page 12, as follows:)

"The Police Complaints Authority Act took effect ... to the Police Act." (End first paragraph, page 19)

HON JUSTICE ROBERTSON: We will take an adjournment at that point. But just let me be clear, there is not, and never has been, a Code of Conduct for sworn Police Officers?

A. That's correct, Sir.

HON JUSTICE ROBERTSON: All right. We will adjourn for 15 minutes.

Hearing adjourned from 11.13 a.m. until 11.32 a.m.

MS McDONALD:

Q. You were up to Human Resources.

A. Human Resources.

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(Witness continues to read Brief of Evidence from second paragraph, page 19, as follows:)

"General Instruction A65 issued in ... Tasman District Training Co-ordinator." (Middle page 21)

HON JUSTICE ROBERTSON: These Tasman documents, are they typical of what existed, or was there some particular sensitivity in that area?

A. I am unaware of any issue that caused the documentation to be produced, and I am also unaware of other material that may be in existence.

HON JUSTICE ROBERTSON: Thank you.

A. Tab 7.1 is the Tasman District Training material.

(Witness continues to read Brief of Evidence from middle page 21 as follows:)

"Since 1993, a National Women's Consultative Committee ... on 7 April 2000 in 'Ten One'".
(End penultimate paragraph, page 23)

Q. Do you now formally produce volumes 1-8?

A. I now formally produce volumes 1-8 as exhibits for the Commission.

REGISTRAR: They will be exhibits POL001-008 inclusive.

Volumes 1-8 produced and marked as Exhibits POL001-008

MS McDONALD: Can I just inquire whether the Brief of Evidence should be signed?

HON JUSTICE ROBERTSON: It doesn't need to be.

MS McDONALD: Thank you, Sir. Just remain there, Superintendent, and answer any questions please.

HIS HON JUSTICE ROBERTSON: Ms Scholtens?

MS SCHOLTENS: I wonder if it would be appropriate for Mr Upton and Ms Hughes, perhaps if they had any questions to go ahead.

HON JUSTICE ROBERTSON: I was going to give you two goes but to save time, Mr Upton?

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MR UPTON: I have no questions of this witness, thank you, Sir.

MS HUGHES: Similarly, Sir.

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DAVID EDWARD TRAPPITT

CROSS-EXAMINED BY MS SCHOLTENS QC

Q. Superintendent Trappitt, can I ask first a question relating to the bottom of page 3 of your brief where you've indicated that in 1979 there were 16 Districts as part of the structure of the Police; had that been the case for a number of years, or was there some sort of restructuring in 1979?

A. No, that had been the case for some years.

Q. Do you know how long that structure had been in place?

A. No, I'm sorry. It was the structure in place when I joined in 1975. I'm not sure what -

Q. Thank you. I'm sure we can find that out somewhere else.

Would you please turn to page 5, the document at 1.2 of your folder of exhibits which sets out the hierarchy, the chart of the hierarchy.

I first just want to confirm with you, you referred in your evidence relating to non-sworn members of the Police to the Public Service Manual having had some application during the 80s. Did that manual have any, or the Public Service Code of Conduct, have any application to sworn members of the Police over the past 25 years?

A. The Public Service Guidelines were used as a benchmark for the establishment of Police policies and practice.

Q. But they weren't directly applicable to the sworn Police?

A. That's my understanding, yes.

Q. You've mentioned in your evidence in the paragraph beneath the heading "Sources of Police Policies and Procedures" Regulation 5 of the 1992 Regulations, and that provided that members were bound to obey and be guided by Police General Instructions. Presumably, there was earlier versions that said the same thing of Police Regulations?

A. That's correct.

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Q. And "bound to obey and be guided by", those seem two different things. Were the Police bound to obey, or was it just a guideline?

A. That's a level of detail I haven't thought about. I've considered they were the same, the same commentary, one to add to the other.

Q. Okay. In the same paragraph, you've said the manuals - printed manuals were personally available to each officer, was that the case throughout the period we're concerned about from 1979?

A. The manuals were personally available through to when they were switched to the Manuals Best Practice and then they were brought on line to the Police intranet.

Q. Was there any significant time lapse between general instructions being made and them finding their way into

the manual, do you know?

A. The question is possibly between when policy was developed and put in the Gazette and then formally printed as an update for the General Instructions Manual held by the staff.

Q. Okay.

A. There would be a delay of some months.

Q. Of some months?

A. Yes.

Q. So, sworn members of the Police may not have the information contained in general instructions until some months after?

A. No, it's published in the Police Gazette.

Q. Right.

A. And that is given to all members.

Q. Right. But not in their manuals? Their manuals may be out of date?

A. That's correct. A manual reprint is issued periodically and the updates are given to all staff, and they're

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required to go through their hard copy general instructions and put the updates within.

Q. Right. And what about since these manuals have been on line, is there still a significant delay before the manuals reflect the published policy or instructions?

A. No. Now it's a fairly immediate process. When the Commissioner promulgates the general instructions, they are updated on the intranet and published in the Police magazine Ten One which is issued to all staff, and both events can happen simultaneously.

Q. Right. Those online manuals, do all sworn members of the Police have ready access to computers so that they can look up what's in the manuals?

- A. Yes, I understand there is in excess of 3,000 workstations around the country and every Police Station and staff can access the manuals through those workstations.
- Q. Thank you. Page 6 of your brief refers to the Manuals of Best Practice. Still looking at 1.2, the hierarchy of policy, the manuals, I take it, being at the bottom of that hierarchy are not considered binding on Police? Best practice is not binding practice?
- A. Yes, they are. In a later part of my evidence I referred to a General Instruction that gave the manuals the same effect as a General Instruction.
- Q. Sorry to test your memory but do you remember when that General Instruction was made?
- A. No, I'm not sure of the timing. If I could take time to refer back through the brief, I might be able to find the date.
- Q. Please do. (Short pause while witness refers to brief).
- A. General Instruction P075 under tab 8.4 was published in July 2002, provided that all members should comply with the instructions laid down in the manual of best practice. Number tab 8.5 was an earlier version of this Instruction and was issued in 1979.
- Q. So, in fact, from 1979 the policy had the status of guidelines?

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- A. The manuals had the status of Instructions, General Instructions.
- Q. Thank you. Page 8 of your brief, if I could ask you to look at folder 2, tab 4, which is the current Manual of Best Practice Peer Review Policy. You refer to certain inquiries being subject to peer review. My quick reading of that document doesn't indicate which sorts of inquiries might be the subject of peer review; is that so?
- A. In my reading of it, I come to the same conclusion too.

Q. So, would it largely be a matter for the discretion of whoever is asked to, or in a position to, indicate a peer review, which is on page 3 of the document: "The Deputy Commissioner: Operations; the District Manager; or the Officer in Charge of the Investigation"?

A. Yes, rather than trying to generate a list of exactly what would be or could be subjected to review, leave it open-ended so that matters that are particularly complex or serious could be subjected to this process.

Q. It is a matter of discretion to initiate a peer review?

A. Yes.

Q. And then you refer in the brief to a recommendation in the manual that a senior investigator from outside the district in which the crime was committed should head reviews.

So, given the status of the manual, would one expect that to occur where there is a peer review?

A. Where there is a peer review, yes.

Q. One would expect that it would be an investigator from outside the particular district?

A. Yes. A common occurrence within our current structure is for one of the three Detective Superintendents stationed in the country to be cast with such a review.

Q. The same folder, tab 2.5, you refer to the specific policy to govern complaints of sexual assault against adults prepared in the late 1990s. I take it from your evidence that this is the first such specific policy?

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A. It's the documentation that I - it's the first such policy I've seen in the documentation presented to me to give in evidence.

Q. Is it fair to say from your evidence that talks, for example, at the foot of page 9 about criticisms in 1978 from the Committee of Women, is it fair to say that there was an increasing awareness of a need for sensitivity in dealing with issues of sexual offending over that period 1978 to perhaps the mid 90s, late 90s?

A. That's certainly the impression I get from reading the documentation that has been produced.

Q. Just while you have that folder open, tab 2.13 you've described as a draft policy prepared in 2001, was that never implemented?

A. I haven't been yet provided with any other documentation that indicates whether that was promulgated or not.

Q. It would be useful to know whether that was, in fact, promulgated, if somebody could find that out.

MS McDONALD: That's one of the matters I indicated earlier that there may need to be evidence subsequently to talk about the implementation of some of these matters if this witness is not in the position to answer the questions, Sir, and we can provide that information subsequently.

MS SCHOLTENS: Thank you.

Q. Just a quick question about document 2.21, the Solicitor-General's Prosecution Guidelines published in 1992. Were these the first guidelines, are you aware?

A. I believe they were.

Q. 2.25, this is the 1982 document that you refer to at the top of page 10 of your brief, a memorandum to all District Commanders in response to a report on rape investigations that was published. It appears from paragraph 1 of that document that at this stage it was considered Police investigative procedures were adequate when dealing with rape inquiries?

A. That's my reading of the paragraph too.

Q. So, in fact, there were no particular steps in relation to policies, procedures or instructions in response at

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that early stage of the late 70s/early 80s to the information coming through?

A. I haven't received other documentation that indicates what flowed from this circular.

Q. So, you can't really tell us whether that's the position or not?

A. That's correct.

Q. Can I take you to page 11 of your brief and a document in volume 3, document 3.8. Do you have that?

A. Yes.

Q. This document refers in paragraph 3 to the fact that members of the Police, where offences are alleged, are to be treated no differently from the general public but there is a reference then to where the alleged offence is both a breach of Police Regulations as well as a criminal offence.

In paragraph 4 it notes that certain offences should be referred to National Headquarters before charges are laid. Is this circular document, in effect, a statement of Police policy as at 4 March 1980?

A. In regards to that issue, yes, it is.

Q. And there is some distinction between offences which breach Police Regulations and other offences?

A. I think it's - from my reading, it's attempting to give some clarity as to what those distinctions might be and trying to bring in some consistency in the decision-making as to how those inquiries would be proceeded with.

Q. In 3.9 we have a Police General Instruction in 1980. The second page of that document, instruction D129, just above that it says: "Cancel General Instruction D129 and substitute". So, can we assume from that, that prior to 1980 there was an earlier version of D129 in existence which has been replaced?

A. Correct. When you see references, it doesn't necessarily mean that it's on the same topic. Sometimes General Instructions promulgated can use the same number but be on a different topic area.

Q. This is the 1980 version of the Instruction and then,

just to follow through, for example, we see it was amended in 1981 and that's at tab 10 of the same folder, or is that added to it? That's additional, is it?

Sorry, at document tab 10, the page headed 57, it says, the third tick down, "Cancel General Instruction D129"?

A. That's correct.

Q. So, tab 10 stands in place of and amends D129?

A. That's correct. I have attempted to put them in chronological order.

Q. Right. So, we needn't be confused that it's now J80 etc.?

A. No, sometimes completely different numbers can be used in the updates.

Q. Right, thank you. At tab 3.11, a circular in 1981, appears the - I take it you can't help us as to what, in fact, prompted this circular?

A. No, I can't, I'm sorry.

Q. The circular clarifies the policy for when a warning should be given to a complainant?

A. Yes, it does.

Q. So, that becomes the binding policy on officers?

A. At that time.

Q. At that time?

A. Yes.

Q. Document 3.15 refers to a central register of complaints against Police. This appears to be the first document to refer to a central register to be held at Police National Headquarters; is that your understanding?

A. That's my understanding, correct.

- Q. Prior to this time, complaints were referred to District Commanders?
- A. And a decentralised system would have been maintained in each district.
- Q. Thank you. Document 3.18, can you help us with the status of that document?
- A. No, I'm sorry, I can't.
- Q. 3.21, the 1991 General Instructions, the second bullet point on your page 13 of your brief refers to instruction P284(1)(j), which is where there's a complaint of a significant nature, or some other serious matter, every endeavour should be made to appoint an investigating officer from outside the section or unit to which the member complained of belongs?
- A. That's correct.
- Q. And I just note to that Instruction 282, paragraph 3, which is three pages earlier, states, and this is in earlier versions as well: "A complainant shall not be referred to another station, except where the member complained of is the only person readily available".
- Is it fair to say that the effect of those two Instructions is that there's an endeavour to deal with complaints within the particular Police Station but outside the section or unit of the person complained of?
- A. I would have regarded them - I wouldn't have bound them so tightly as that. Subsection (3) under 281 is an effort not to fob off complainants to other stations or to other staff at other times. It's to deal with it promptly at the time, as distinct from the duty of the District Commander under General Instruction P284 chart, which is about selecting the most appropriate people to conduct the Inquiry.
- Q. So, a complaint can be dealt with - it's envisaged a complaint would be dealt with by the person who fronts up to deal with whoever comes and walks into the station?
- A. No.
- Q. At the first point?

- A. No, not at all. It can quite often be the Senior Sergeant on duty at a large station at the time who will take a complaint, and if it related to an incident in another district, then they would forward the file through to that District Commander for appropriate action, who would then institute the requirements under General Instruction 284.
- Q. Looking at that instruction 284(1)(j), the endeavour is to appoint investigating officers outside the section or unit but not necessarily outside the particular Police Station?
- A. It would depend on the size of the Police Station, the nature of the complaint. There would be a lot of variables in there.
- Q. Right. 3.22, I take it - can you help us as to what prompted this document?
- A. No, I can't.
- Q. 3.24, your brief at the foot of page 30 refers to this 1995 document containing internal whistle blower protection procedures. Are you aware whether this was the first time such procedures were implemented?
- A. It hasn't been brought up in any of the prior documentation. This is the first time it has been raised in the documentation I have been provided to present today.
- Q. Okay, thanks. 3.25 is an example of an Eastern District Order. Do you know whether each district would have had its own order?
- A. It's unlikely but this is what I've been given to present today. There may be other material that could be made available to the Commission if it was anxious to receive it in respect of these types of district or sub area orders.
- Q. There's no requirement for districts to have their own orders in place?
- A. No, there isn't.
- Q. And is that a matter for the discretion of the District Commander?

A. District Commander or Sub Area Commander or Station Commander.

Q. Thank you. In volume 4, tab 16, Integrity Reporting, this appears to be a new Instruction that hasn't previously appeared; is that your reading of the documents?

A. Sorry, what was the reference again?

Q. Tab 16.

A. I am unaware of any antecedents to that General Instruction.

Q. Are you able to help us as to what prompted this Instruction?

A. No, I'm not.

Q. Tab 29 of volume 4, the Central District Training Material, would it be likely that we would find other districts had similar training material?

A. Yes, from my own experience, I believe other districts carried out similar training.

Q. Document 4.42-43, a draft Code of Conduct for sworn members, your evidence at the foot of page 18 and top of page 19 indicates the draft awaits legislation currently before Parliament. Are you saying that an amendment is necessary before the Code of Conduct can be implemented?

A. I am not sure of the exact technical details of the amendment before the house with respect to the Code of Conduct.

Q. Would that be your understanding though, that it requires legislation?

A. It's my understanding, yes.

MS McDONALD: With respect, I think that's a leading question. I am not sure the Superintendent can answer it and, again, this will be a matter that I would like very much to put evidence before the Commission at a later point.

HON JUSTICE ROBERTSON: I think he's made it clear he doesn't know, he's trying to be helpful. I don't think we're going to hold him or anyone else bound by his perfectly

professional answer, but thank you for your assurance that we're going to get it elsewhere, Ms McDonald.

MS SCHOLTENS:

Q. Do you know what stage this legislation is at, Superintendent?

A. I believe it was interrupted in its second reading towards the end of 2001 and there's still three or four speakers left on that second reading to go.

Q. Right. So, it's been interrupted for three years.

Volume 5, tab 9, this is the Sexual Harassment Policy adopted by the State Services Commission and distributed in 1982 to District Commanders and to the Police College?

A. That's my reading, yes.

Q. But at this stage, there was no formal policy that followed on from that for some time, was there?

A. That's correct.

Q. Presumably, it wasn't seen as an issue requiring attention at that stage?

A. I think the memorandum 10 December 1982 actually indicates that under paragraph 2.

Q. The first implementation of a policy was in 1996, 5.21; is that right - 5.22, sorry.

A. There was previous policy in 1990 under tab 5.10 under Personal Grievance where sexual harassment was mentioned there as well.

Q. Right. So, apart from 5.10, nothing until 1996, 5.22?

A. Correct. So, we have 1990 and then we would have more specific policy in 1996, from my reading of the documentation.

MS SCHOLTENS: Thank you, Superintendent. I have nothing further.

HON JUSTICE ROBERTSON: Ms McDonald?

MS McDONALD: Nothing Sir

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DAVID EDWARD TRAPPITT

QUESTIONED BY COMMISSIONERS

DAME MARGARET BAZLEY: Throughout your documents but specifically in 2.9 you refer to training programmes?

A. Yes, Ma'am.

DAME MARGARET BAZLEY: It's not clear whether those training programmes were attended by every frontline person. So that, the one referred to in 2.12, Training Material Provided to Communication Centre Staff, for example, is there any way of knowing that every staff member had that training, or any other training programme such as that? I am not specifically concerned just about that one programme.

A. The human resource information system that was in use through the later part of that decade and into the 1990s did have a system of capturing who was attending what courses. I am not sure if we can go back into it, because we've upgraded it through two different systems since then, and find that information but if the Commissioners are anxious to receive it we can certainly do some research back and see who attended what courses.

DAME MARGARET BAZLEY: I am not so concerned to know who attended but to know if there was any way of knowing that everyone got training on changes of policy.

A. Right. It would depend on the policy that was being promoted. Some aspects of new policy there is significant training that's delivered to all staff. Other matters, if it's a minor policy issue, there might be no training at all and it's distributed to the staff just via way of notification through the Ten One magazine and the intranet.

DAME MARGARET BAZLEY: This is also an issue in 1.2 where, for example, Regulation 5, "All members of the Police are

bound to obey and be guided by those Instructions".
Again, how does anyone know that every Policeman has that knowledge?

- A. The General Instructions are given personally to every member in a copy form prior to being put on the intranet in the current environment or historically through the

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80s through their hard copy manual, the updates to the hard copy manual. So, there was a two step process. There was the receipt of the Police Gazette or, in modern days, the general one, and then in the 80s there was the manual update received for their hard copy General Instruction folders, or in today's environment it goes into the intranet the electronic database.

DAME MARGARET BAZLEY: But is there any way of knowing in any of those processes that every frontline person has actually read those instructions?

- A. No, there's not.

DAME MARGARET BAZLEY: So, that -

- A. So, there's a - I'm sorry.

DAME MARGARET BAZLEY: No, you carry on.

- A. What we do have in some critical areas is an internal review process where some key points are monthly and quarterly checked off to make sure staff are obeying procedures and, if not, then remedial action is taken, but that's the general level rather than a specific level of each individual member.

DAME MARGARET BAZLEY: What does that checking off entail, or the review entail?

- A. If I use a worked example. So, the dealing of prisoners' property is a key area to make sure that the Instructions are being complied with, as is the dealing with lost or found property and exhibits to making sure that's been dealt with properly according to the Instructions.

So, there is a formal process and those instances of going and checking to make sure that all of the property in the property room is there that should be there

according to the property records, and if there is not, that is formally reported through the supervisory processes and changes are implemented to correct any deficiencies in that area.

DAME MARGARET BAZLEY: Does every system like that apply to, say, a Constable who is working on night duty to know that he knows a specific policy that he may have to obey?

A. No, that's coming back to the original question. Apart from the original handing out of the policy into the

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Constable's pigeon hole, there is no specific follow-up in general to that Constable, to that individual member.

DAME MARGARET BAZLEY: In the same area, is there any way of knowing that a complaint that is lodged by a member of the public does carry through to headquarters? I am probably not making it very clear, but it doesn't - if a member of the public comes in and makes a complaint, what checks are in place to ensure that complaint does go through, first of all to the District Commander and then to headquarters?

A. So, it's sort of like we don't know what we don't know type -

DAME MARGARET BAZLEY: Yes. How do you know that they all go through?

A. Within each district there is now Complaints Investigation Managers and when the complaints are taken at the station, or if it's a reasonably serious one it would come through to the Complaints Manager, they then ensure the process is complied with according to the General Instructions.

DAME MARGARET BAZLEY: Is there any way that the complaints can be removed or disregarded in that early phase?

A. I guess a person coming in, we would be talking about an environment where they would come in, make a complaint, and then if the file doesn't progress beyond the person who took the complaint, apart from the complainant coming back and seeing a different person and wondering what happened to the original complaint, there would be -

DAME MARGARET BAZLEY: I think the only other issue that I wondered about, and it may be in these documents because I haven't had the time to go through them in detail, but is it laid down anywhere where the dividing line is between what is acceptable for policemen to do in terms of sexual behaviour between what is acceptable and what is against the rule?

A. No.

DAME MARGARET BAZLEY: Thank you.

HON JUSTICE ROBERTSON: I'm not sure whether I - I don't think I have a question for you, Mr Trappitt, but probably a request more to Ms McDonald, but it is the area which is

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covered in your documents 3.8 probably through to about 4.20.

This is the setting up of the system for monitoring and recording complaints, and what the Commission clearly needs is evidence of how that was responded to. What steps were taken to maintain these registers.

The documentation provides an extraordinarily detailed and sophisticated system, and what we need to know is year by year because there is the period through until 89 but the obligation to maintain registers even when the PCA came into existence does not appear to have disappeared, and what we need to know is what steps were taken to fulfil those requirements. If the registers exist, we obviously need to see them and if they don't exist, we need to know why they don't exist and why the material is not available.

So that, I think, is the major area which at this stage - and I'm not being critical of anybody, I am simply signalling that that period, for a period of 20 odd years, is what we need to know about, either by seeing what is there or by hearing why it is not there.

MS McDONALD: That really is the area which Ms Scholtens has formalised a request in terms of a request under Section 4C of the Act, and work is being done on that at the moment to try and compile that material for you.

HON JUSTICE ROBERTSON: Thank you. I have no other questions.

Does anybody have any questions arising out of anything which has been raised by Dame Margaret or myself? (No questions). Thank you, Mr Trappitt, and can I simply say thank you, it's an extraordinarily comprehensive document. I notice somewhere you didn't want to accept full responsibility but if I'm handing out the praise, you can decide whether it's yours or otherwise pass it on to whoever deserves it, but it's a very useful set of documents for us and we're grateful for that.

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DISCUSSION AS TO PROCEDURE

HON JUSTICE ROBERTSON: Do counsel have any other evidentiary material which they wish to be presenting at this stage?
Ms Scholtens?

MS SCHOLTENS: Not at this stage, Sir.

HON JUSTICE ROBERTSON: Ms McDonald?

MS McDONALD: Not at this stage, Sir.

HON JUSTICE ROBERTSON: Mr Upton?

MR UPTON: No thank you, Sir.

HON JUSTICE ROBERTSON: Ms Hughes?

MS HUGHES: No, Sir.

HON JUSTICE ROBERTSON: Since the last time we met, we of course have had an amendment to the PCA Act. Necessarily there was a time lag as a result of the processes in connection with that amendment and, of course, we have now had the opportunity for everybody from their own perspective to have a better idea of what is entailed in the work of the Commission.

I have concluded that the appropriate course of

action, inasmuch as we now have received all the material that we can at the moment, is for the Commission to meet with counsel for the parties so that we can more accurately assess what needs to be done and in what order and in what timeframes. So, I am proposing that we will hold a Chambers session of the Commission tomorrow at 10.00 a.m., and following that and after whatever time Dame Margaret and I require for consideration, we will issue a formal notification as to subsequent dates of hearing.

I think it is fair to say at this stage that, as best I can understand matters at the moment, some of the early dates in June for the hearing of evidence appear to be unlikely to be capable of being met, but that is merely my assessment at this stage and I will, as I say, as soon as possible after tomorrow when we have had an opportunity in Chambers to discuss issues with all

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counsel for parties, issue a new indication of when we will again sit in public session and hear evidence.

I don't think anyone should see this as a matter about which they should in any way be surprised. We have consistently said that when we are hearing evidence it is, in our judgment, essential that we should hear all evidence relating to any incident at the one time, and it would be quite inappropriate, it would be misleading and would have the real potential for injustice if we were to hear one aspect of an incident and then there was a lengthy delay for whatever reason until we heard other aspects about the same incident. And so, it is how together we manage those requirements so that the public investigation of what is required is undertaken but at the same time the rights of individuals and the responsibilities of everybody who has an interest are given proper and appropriate consideration.

So, that is why I am simply saying at this stage I think, unless I get some large surprises tomorrow, that the June dates are unlikely to be capable of being used and what we will do is try to sort through, in light of the amendment and its implications, in light of other things which are happening at the same time, and the needs of meshing the total processes which are required when we will next be sensibly able to have a public hearing.

It goes without saying that in accordance with absolutely standard procedure, the Chambers hearing tomorrow will not be open to the public but a ruling will be issued at the earliest opportunity after that, and that I will say now will be at least by the end of this week.

We will adjourn then to meet -

MR UPTON: Your Honour, two things. Firstly, presumably tomorrow's Chambers hearing will be at 10 o'clock?

HON JUSTICE ROBERTSON: 10 o'clock and in this space.

MR UPTON: The other thing was there was a suggestion of a possible Chambers hearing this afternoon, I take it that that's now gone, so that there is no further business as far as counsel are concerned today?

HON JUSTICE ROBERTSON: As much as I can tell you, Mr Upton, is there is no further hearing of the Commission until

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10 o'clock tomorrow. I've been a Judge long enough to know that I can't control what counsel do all the time but no hearings involving the Commission.

MR UPTON: Thank you, Sir.

HON JUSTICE ROBERTSON: We will adjourn until 10.00 tomorrow and then we will indicate when we will meet the public thereafter.

Hearing adjourned at 12.50 p.m.