

**REPORT OF PROCEEDINGS BEFORE**

**GENERAL PURPOSE STANDING COMMITTEE No. 3**

**REVIEW OF CABRAMATTA POLICE INQUIRY**

¾¾¾

**At Sydney on Tuesday, 13 August 2002**

¾¾¾

**The Committee met at 10.00 a.m.**

¾¾¾

**PRESENT**

The Hon. Helen Sham-Ho (Chair)

The Hon. John Hatzistergos  
The Hon. John Jobling  
The Hon. Greg Pearce  
The Hon. Peter Primrose  
Ms Lee Rhiannon  
The Hon. Ian West

**CHAIR:** I would like to welcome all of you to this hearing of General Purpose Standing Committee No.3. During evidence given by former Cabramatta detective Tim Priest at the Committee's last hearing on 7 June allegations were made about a conspiracy to undermine the Police Minister and the Police Commissioner. Public figures in the media and police service were named and the evidence was subsequently widely reported in metropolitan newspapers. The purpose of the evidence today is consequently very narrow. It is to respond to the allegations made during the evidence of Mr Priest on 7 June. The Committee wants to hear the specifics of these allegations addressed. The Committee does not wish to have its proceedings used for ongoing personal attacks.

The Committee has been concerned to provide procedural fairness to persons reflected on by providing reasonable opportunity to have access to evidence and to respond to it in writing and/or by appearing before the Committee. I wish to remind all concerned, however, that while the person reflected on has a right to be notified of the evidence and to make a written response, there is no automatic right of audience before the Committee of the matter.

At the end of its hearing on 7 June the Committee therefore decided to wait until a transcript of the hearing has been made before determining its response to the issue of adverse mention, particularly so as to be able to identify all persons who had been adversely named. The Committee resolved that Mike Carlton of 2UE, Assistant Commissioner Clive Small, former Commissioner Peter Ryan, Mrs Adrienne Ryan, Dr David Dixon of the University of New South Wales, Ms Morag Ramsay of the ABC Four Corners program and Neil Mercer of the Sydney Morning Herald were considered to have been adversely mentioned.

The Committee wrote to each of these persons, giving them the opportunity to respond in writing to the specific criticisms or allegations made in Mr Priest's evidence, and offered the opportunity to appear at a short hearing. The Committee has received written responses from Dr David Dixon, Neil Mercer and Adrienne and Peter Ryan denying the allegations. Mr Carlton and Mr Small have requested a public appearance before the Committee and the Committee has agreed to their request. They are here today.

As I previously noted, the purpose of the evidence today is to respond to allegations previously made. I will immediately rule out of order evidence which appears to go beyond addressing the original adverse mention, particularly if it is not significant to the inquiry's terms of reference.. I repeat, the Committee does not wish to have its proceedings used to provide a forum for ongoing personal attacks. Parliamentary privilege, which applies to parliamentary proceedings including Committee hearings, does not exist so as to enable witnesses or Members of Parliament to defame other persons with impunity. Parliamentary privilege, including freedom of speech, exists solely to enable the Parliament to effectively discharge its functions. To quote from Erskine May:

It is only as a means to the effective discharge of the collective functions of the house that the individual privileges are enjoyed by members.

The New Zealand Court Of Appeal has recently stated that:

This body of law (parliamentary privilege) is not intended to confer personal benefits on a privileged group but...is intended to facilitate the workings of our most important constitutional institution.

These comments are even more pertinent to witnesses before committees who are participants in parliamentary proceedings only to the extent that they are assisting the members discharge their duties. I will strictly apply the test of relevance to all evidence to be heard today and I will not permit these proceedings to be abused. I therefore ask witnesses, however aggrieved they feel, to confine their evidence to rebuttal. I also ask my fellow members to ensure that their questions only relates to the reflections made on 7 June.

There is an additional comment I need to make in regard to Mr Small's evidence. In addition to the evidence of Mr Priest there were also comments of an adverse nature made in evidence given by Dr Richard Basham on 7 June. They were originally made in camera. With the consent of Dr Basham, the Committee has subsequently resolved to publish this evidence. Mr Small is permitted to address the specific claims made in this evidence; however, as I have already noted, I will not permit this evidence to extend beyond this into general comments as to, for instance, the credibility of Dr Basham to speak on policing matters. Mr Small has also been asked by the Committee to clarify earlier comments he has made about Operation Portville, and this will be included in his evidence today.

Finally, it would seem unavoidable to once again raise the issue of the young man named "James". As the Committee has said repeatedly, the Cabramatta Policing report made no use whatsoever of the information

provided by "James". Let me make this very clear: " James " and the conduct of the police investigation of " James " are irrelevant to the subject of this follow up review. Speaking for myself , I am not convinced that the ongoing media publicity surrounding " James " is in his best interests and I am concerned as Chair that some people are attempting to use this Committee as a vehicle for keeping him in the spotlight.

**MICHAEL JAMES CARLTON**, Journalist, Radio 2UE, Pacific Highway, Greenwich, affirmed and examined:

**CHAIR:** Are you conversant with the terms of reference of this inquiry?

**Mr CARLTON:** Yes, I am.

**CHAIR:** I will just remind the witness that we are looking into two things: what has changed with policing in the Cabramatta area since March 2001, including police community relations, and what changes are still required in relation to policing in the Cabramatta area? Today specifically we are listening to your rebuttal of the adverse mention. If you should consider at any stage during the evidence that in the public interest further evidence or documents you may wish to present should be heard or seen only by the Committee, the Committee will consider your request. However, you should be aware that the Committee or the House may decide at a later stage to publish this evidence.

Mr Carlton, you are appearing today because you have been advised by the Committee of an adverse reflection and you have sought a hearing before the Committee to respond to that reflection?

**Mr CARLTON:** I thank you and honourable members for the opportunity to appear before this Committee today so that I may reply to the malicious and defamatory lies told about me and others by the failed former detective sergeant Timothy Priest. Madam, when Priest appeared before you earlier this year the record shows that you very properly explained to him that the business of this Committee was—and I use your words here—to focus its attention on improvements in Cabramatta in the past 12 months and what changes, if any, are still required in relation to policing in the Cabramatta area. Your words. But in fact Priest cast them aside. He seized upon this forum, under privilege, to fling about a slew of allegations so bizarre, so viciously personal and so reeking of paranoia that they call into question his mental stability.

His core fantasy seems to be that there is some evil conspiracy afoot, and I quote him here, "to destabilise and destroy" both Michael Costa, the Police Minister, and Ken Moroney, the Police Commissioner. Not only them, in this rampant fantasy Priest would have us believe the conspiracy goes much further. He also claims there is, and again I quote him, "a bitter and divisive campaign" against himself and his friend Dr Richard Basham, the self-styled Asian crime expert and anthropologist from Sydney University, or, as I like to think of them, as two cartoon crime fighters, Batman and Robin: the Batman and Robin of Cabramatta.

Priest produced for you no evidence of a campaign; no evidence of this conspiracy; not a shred, nothing. He merely tosses the allegation into the air, utterly unsupported by any fact whatsoever. It is then, as you conceded, reported quite widely by the media. I suggest to you, Madam Chair and honourable members, that that was the notorious tactic of the late and unlamented Senator Joe McCarthy of the United States with his infamous witch hunt for communists in the 1950s: You invent the lie, you spread the smear, you talk of guilt by association; you throw all this about with an air of righteous indignation and, as always, there will be people fool enough to fall for it. Some of the mud sticks. Many people enjoy a conspiracy theory, not least those media drama queens who make more than a comfortable living from them and who, it seems, are eager to encourage Priest and his mate Basham in these fantasies when it suits their political and personal agendas. And just as McCarthy had his supposed list of communists in the State Department, his Reds under the beds, so Priest has his list of those engaged in this imaginary conspiracy to do him in—him and the Minister and the Commissioner of course. Such an ego Mr Priest. And those on his list are all in it together, he thinks, hand in glove, walking as one to overthrow duly constituted authority.

Who is on the list? Who have I conspired with? Priest claims for one that I am plotting with Professor David Dixon and his wife, Dr Lisa Maher, two respected academics from the University of New South Wales, although Priest describes Professor Dixon in his customary offensive manner as a curious, obscure academic from Wales. There is his first error: Professor Dixon is not from Wales; he is not Welsh. Now that is a trivial mistake, I suppose, but typical. It gives a pretty fair idea of the slipshod, error-strewn manner in which this failed ex-detective sergeant goes about smearing reputations. Rather more to the point, far from plotting with them, I have never met them. I

have interviewed Professor Dixon twice by telephone; I have never spoken with Dr Maher. I would not recognise them in the flesh.

Who else is on this plot with me? Dr Don Weatherburn, the world regarded head of the New South Wales Crime Statistics Bureau who has also incurred Priest's wrath for some reason. Again, I have interviewed Dr Weatherburn occasionally but to the best of my knowledge I have never met him either. I would not know if he is in the room. So it is not much of a conspiracy so far, is it?

Others named were Chris Masters, the *Four Corners* reporter whose distinguished work on police corruption led to the cleansing of the Queensland police force. Yes, I do know him and have for years. We do not conspire; we drink together occasionally. Then there is the *Four Corners* producer, Morag Ramsay, insultingly referred to by Priest as my girlfriend—"Carlton's girlfriend". Note the gross, disparaging sexism in that remark, Madam Chair. Ms Ramsay is, indeed, my partner and Priest's snide insinuation is that somehow I managed to exercise a Svengali-like influence over her and thereby control over Mr Masters and *Four Corners* itself. No fact, no proof, just the absurd allegation—Senator McCarthy's guilt by association all over again: they know each other so therefore they must.

Others to arouse Priest's paranoia are Neil Mercer, a reporter on the *Sydney Morning Herald* whom I respect, but I cannot remember the last time we talked let alone plotted. I do not think though, from reading his work, that he would be counted as a warm friend and supporter of former Commissioner Peter Ryan and Mrs Ryan, who Priest believes are responsible for this campaign, along with Assistant Commissioner Clive Small. That, Madam Chair, is where we start to ascend the heights of the ludicrous in all this farrago. To put it bluntly, as almost everyone except Priest seems to understand, the Ryans and Clive Small do not exactly get on. I would not say that they were enemies but they are not friends. Priest's notion that the three of them have put their heads together to direct this campaign, in his words, is beyond the absurd; it calls into question his very sanity.

It is true that I know the Ryans. I like them, I am friendly with them and I do not resile from that. That is all there is to it. No conspiracy, no campaign. Mr Ryan has moved on. He is in Athens working on the Olympic Games. He is not here, plotting at the centre of some vast spider web. Priest has told you other lies about me that I must rebut, and I thank you again for this opportunity. He told you that I have read his service history, his internal affairs file. I have not. I had not seen it and I have not read it. I have spoken to some of his Cabramatta colleagues, though, who agree he is one of the laziest, most incompetent detectives in that patrol area and they find it now laughable that he should posture as some sort of global expert on policing, as he so enjoys doing. I believe, too, that Priest was under internal affairs investigation for misconduct, a point that former Commissioner Ryan makes in his recent biography.

**CHAIR:** Order! I remind you, Mr Carlton, that your rebuttal is going very well but will you please not adversely reflect on anybody else or Mr Priest.

**Mr CARLTON:** I am not adversely reflecting on anyone else at all, Madam Chair. I am talking about Timothy Priest.

**CHAIR:** You can continue with your rebuttal but in your rebuttal you adversely mentioned Priest as well.

**Mr CARLTON:** He has rather adversely mentioned me. I would have thought there was a certain tit for tat here.

**The Hon. GREG PEARCE:** He did not call into question your sanity nor did he call into question your laziness.

**Mr CARLTON:** My clear impression is this, though, Mr Pearce.

**The Hon. GREG PEARCE:** I think the Chair is ruling you are not to do that.

**CHAIR:** It is not tit for tat here. It is just to rebut what Priest has said. I do not want you to adversely and materially reflect on Priest, such as when you said the other police called him lazy or whatever.

**Mr CARLTON:** With respect, Madam Chair—

**The Hon. GREG PEARCE:** Unless you want to give evidence the way you suggested he should have, by perhaps naming the other police that you are quoting and giving details of the conversations and giving evidence that you suggest he should have given substantiating your comments.

**Mr CARLTON:** I merely say that I have spoken to other police who regard him as incompetent.

**The Hon. GREG PEARCE:** So you are not prepared to substantiate those comments?

**Mr CARLTON:** I would rather not. They were made in confidence.

**CHAIR:** I do not want you to either because then we have attacks on this person and that person, and it goes on and on. I just want to caution you to be more careful.

**The Hon. GREG PEARCE:** So you are prepared to take the same course of making unsubstantiated allegations as you are complaining about.

**Mr CARLTON:** Not at all.

**The Hon. GREG PEARCE:** You said you are not prepared to substantiate it.

**Mr CARLTON:** I am talking of truth. I am speaking the truth.

**The Hon. JOHN HATZISTERGOS:** Just go on and then we can ask questions.

**Mr CARLTON:** I believe, too, that Priest was under internal affairs investigation for misconduct, a point that former Commissioner Ryan makes in his recent biography. Ryan says in the book that he did not publicly reveal this investigation, though, for fear it would be seen as a cover-up tactic. I suggest, Madam Chair and honourable members, that this is very significant. Ryan is saying that Priest drummed up his complaints about policing in Cabramatta to divert attention from his own troubles and that Priest launched these attacks on various people, I assume myself included, again to divert attention from his own troubles. Certainly it was successful. I understand that at one stage Ryan believed there were grounds to charge Priest with conspiracy to pervert the course of justice but Ryan reluctantly decided this would be regarded only as an attempt to place improper pressure on a witness before this Committee.

**The Hon. JOHN JOBLING:** Point of order: I express some concern that a third party is being quoted. Again the statement is being made, which may or may not be true—I am not arguing the veracity of the statement—but the witness, by way of rebuttal, is using a third party at arms-length to sustain a rebuttal argument. I think some care must be used in this regard and I ask you to look at that.

**CHAIR:** I think Mr Jobling's point of order is correct. I caution Mr Carlton that he should not use a third person or at any point adversely reflect on another person.

**Mr CARLTON:** I would suggest that these issues go to the very heart of Priest's credibility. He is a man who has appeared before this Committee and has been given great credibility, before this Parliament and in some of the more gullible sections of the media. I would believe I am entitled, as part of my rebuttal, to question his veracity.

**CHAIR:** I do not think the Committee is here to debate the credibility of Priest. You may just want to establish your own rebuttal.

**Mr CARLTON:** I do that by questioning his credibility, Madam Chair.

**CHAIR:** You were mentioning what Mr Ryan had said.

**Mr CARLTON:** A moment ago I was asked not to mention people who told me these facts and when I do mention them you say you would rather I did not.

**CHAIR:** The Committee would rather you not because we do not want someone else to come and further rebut what you say.

**Mr CARLTON:** It might be entertaining, Madam Chair.

**CHAIR:** The Committee is not here to entertain people but to undertake the very serious business of looking into Cabramatta policing.

**Mr CARLTON:** I think that is what we are touching on here. In yet another lie about me Priest claims that I have an intimate knowledge of a document that has become known as the James report. Again, that is wrong. I have not seen the James report, although its contents have been outlined before this Committee. We all know of James, though. He was that unfortunate young man, an Anglo-Celtic Australian but supposedly the member of an Asian gang, dragged around the media by Priest and Basham to support their lurid claims that teenage heroin gangs were shooting and murdering each other in the school playgrounds in the Cabramatta area.

Now apparently the James report gives the lie to this and I would hope it might be released so we could see that, because as Assistant Commissioner Small told you in evidence, and I quote from evidence here: "The James' allegations were promoted publicly and aggressively and the community is entitled to an equally public response. The release of the documents will not impact on any operational issues but will correct injustices done to schools, teachers, students, families and friends and the community of Cabramatta generally." I would agree with that. As a journalist I have had several senior teachers from the Cabramatta-Fairfield area express to me their hurt and anger and that of their school communities at the baseless allegations about them that Priest, Basham and the media were pushing through young James. A great wrong was done to them: schools, teachers, students, families smeared to suit the Batman and Robin agenda.

I assume that the James report has not been released because the truth might embarrass a few people, not only Priest and Basham, who so cynically manipulated and excluded James for their own purposes and, of course, the media drama queens who are only too willing to jump on the James bandwagon to suit their agendas, but I expect that Clive Small would be able to enlighten you more on the direction and I take it no further. But I respectfully suggest, Madam Chair and honourable members, that your Committee should urge the release of the James report in the interests of the people of Cabramatta whom you are here to serve.

Perhaps the whole thing could be better aired before the Police Integrity Commission. Priest has, after all, alleged that Assistant Commissioner Small is directing me and others in this sinister campaign to destroy his Minister and his Commissioner. That is a very serious allegation; that Commander Small is using me, a member of the media, and others, to unseat his commissioner. I reject that utterly. Commander Small is one of the State's most distinguished detectives with a proud record—the man who brought Ivan Milat to justice and yet Priest accuses him of disloyalty and even treachery. It is a very grave charge, akin to mutiny.

If Priest believes that to be true, that Small is directing me in this mutiny against his duly constituted superior officers, where is Priest's evidence again before this Committee? Perhaps he should lay it before you; perhaps he should lay it before the integrity commission because it reflects very gravely on Assistant Commissioner Small. I would say that Priest has a duty to produce this evidence. Let him produce it.

I conclude by saying that I have no part in any campaign; I know of no campaign to destroy either Minister Costa or Commissioner Moroney. The idea is absurd. I am not one of those media tarts who believes that he can make or break a Cabinet Minister with shrill parrot cries of outrage and a stamp of the foot. As for Commissioner Moroney, I hold him in high regard. In particular, I much admired his generous speech of thanks and good wishes that he gave at the farewell dinner for Commissioner Ryan. He would hardly have done so, I suggest, if he thought the Ryans were fermenting a plot to destroy him.

When the commissioner dropped into my office at 2UE for a chat a few weeks ago I assured him most solemnly that I was not plotting against him. He did not seem scared; he did not watch the shoulder blade. We both had a good laugh about the absurdity of the idea and, I might add, about the absurdity of Tim Priest. Why Mr Priest has tossed up this nonsense I can only speculate. Perhaps he needs to cover his tracks to divert attention from the painful truth that his so-called whistleblowing has been slowly but surely exposed as hysterical exaggeration to divert attention from his own personal and professional troubles in the Police Service. I suggest to you that from the evidence he has given and the scurrilous attack he has launched on me and others, he is not a whistleblower; he is a trumpet blower—his own. In fact, the only campaign that we know of to unseat a Minister and a commissioner was the one that Priest and Basham—Batman and Robin—and this so-called gang of four, concocted to get rid of Mr Whelan and Mr Ryan. There is your bitter and divisive campaign. Whatever it does, it does seem that Priest has it in for me. Indeed, he told a senior television journalist only a few weeks ago that he thought I should be murdered or strangled.

Perhaps he meant it. Perhaps it was his version of a light-hearted joke. He certainly said it. So I scorn him, Madam Chair. I utterly reject his McCarthyite smear and innuendo against me and others as a vicious and self-serving pack of lies and a travesty of all reason and commonsense. Madam Chair and honourable members, I thank you for the opportunity to make my case.

**The Hon. GREG PEARCE:** You mentioned in your statement that you had not seen—or that the Committee had not read—the James report?

**Mr CARLTON:** I have not even seen it.

**The Hon. GREG PEARCE:** Have you been briefed on its contents by anybody?

**Mr CARLTON:** I have read what Assistant Commander Small said in evidence about it before this Committee, yes. I have not been briefed about it, no.

**The Hon. GREG PEARCE:** Have you discussed it with Assistant Commander Small?

**Mr CARLTON:** I suppose so, yes.

**The Hon. GREG PEARCE:** You suppose so?

**Mr CARLTON:** Well, I have, yes.

**The Hon. GREG PEARCE:** On one occasion or on a number of occasions?

**Mr CARLTON:** Perhaps one occasion. I have discussed it with a number of police officers. I have discussed it with the commissioner.

**The Hon. GREG PEARCE:** And you have not seen any extracts of that report?

**Mr CARLTON:** No.

**The Hon. GREG PEARCE:** You also said you have not read Mr Priest's internal affairs file. Have you seen extracts of that file of any description?

**Mr CARLTON:** No.

**The Hon. GREG PEARCE:** Have you been briefed by anyone on the contents of Mr Priest's internal affairs file?

**Mr CARLTON:** No.

**The Hon. GREG PEARCE:** Then what is the basis of your evidence today that there was a complaint against Mr Priest?

**Mr CARLTON:** It was the evidence that you tried to stop me giving, actually, Mr Pearce.

**The Hon. GREG PEARCE:** It was not evidence. You were quoting from Mr Ryan's so-called—

**Mr CARLTON:** Book? I would be happy to give you the exact quotation, if you would like.

**The Hon. GREG PEARCE:** You regard that as sufficient evidence, do you, to slur someone else? You regard the comment in Mr Ryan's book as sufficient evidence?

**Mr CARLTON:** It is not a matter of sufficient evidence.

**The Hon. GREG PEARCE:** You come here complaining about unsubstantiated comments about you and you proceed to do exactly the same thing.

**Mr CARLTON:** But I have offered you a source for these. They are from a former commissioner.

**The Hon. GREG PEARCE:** A source?

**Mr CARLTON:** Yes, a source—the former commissioner. Would you like me to read you the quotation, Mr Pearce?

**The Hon. GREG PEARCE:** No, I heard you read them before.

**Mr CARLTON:** I thought you would not. I am not surprised.

**The Hon. GREG PEARCE:** It is not evidence. Do you recall writing in your column at one stage—

**Mr CARLTON:** May I ask a question?

**The Hon. GREG PEARCE:** No, you may not. I am asking the questions today.

**The Hon. JOHN HATZISTERGOS:** Let him finish the answer.

**The Hon. GREG PEARCE:** He had finished the answer.

**The Hon. JOHN HATZISTERGOS:** Have you finished your answer?

**Mr CARLTON:** Are we operating under the rules of evidence as in a courtroom trial?

**CHAIR:** No, we are not.

**Mr CARLTON:** That is what I thought.

**The Hon. GREG PEARCE:** I am asking you a number of questions that arose as a result of what you have said today. Much of what you said was very helpful but I am concerned that you engaged in exactly the same thing that you complained about—that is, to make slurring comments about other people without any evidence?

**Mr CARLTON:** I am about to give you that evidence.

**CHAIR:** I ask the Hon. Greg Pearce to ask questions instead of making comments.

**Mr CARLTON:** I am happy to give you the evidence.

**The Hon. GREG PEARCE:** Do you recall writing in one of your columns words to the effect that Mr Priest's internal affairs file makes interesting reading?

**Mr CARLTON:** I am told it makes interesting reading, yes.

**The Hon. GREG PEARCE:** Who told you that?

**Mr CARLTON:** Peter Ryan.

**The Hon. GREG PEARCE:** When did he tell you that?

**Mr CARLTON:** I do not know; over lunch one day.

**The Hon. GREG PEARCE:** So you were discussing Tim Priest's internal affairs matters with Mr Ryan over lunch one day?

**Mr CARLTON:** No.

**The Hon. GREG PEARCE:** That is what you just said.

**Mr CARLTON:** I was not discussing it. I think he made the aside. You are asking me on what basis I made those remarks.

**The Hon. GREG PEARCE:** I have already heard what you said. I do not need you to say it again.

**Mr CARLTON:** I am prepared to help.

**The Hon. GREG PEARCE:** I have already heard what you said.

**Mr CARLTON:** I am sorry; I am trying to help.

**The Hon. GREG PEARCE:** I made the comment in relation to that.

**Mr CARLTON:** Mr Pearce, I have sworn here to give the whole truth. Apparently, you are not interested.

**The Hon. PETER PRIMROSE:** Let him answer the question.

**The Hon. GREG PEARCE:** I am asking for the whole truth.

**Mr CARLTON:** I am trying to give it to you.

**CHAIR:** If Mr Carlton wants to respond he should respond.

**Mr CARLTON:** Mr Pearce has asked me where I got the information that Tim Priest was in some trouble and that his affairs were being investigated.

**The Hon. GREG PEARCE:** I asked for the evidence.

**CHAIR:** The Hon. Greg Pearce must not interrupt.

**Mr CARLTON:** This is not a court of law. I am quoting from page 264—

**The Hon. GREG PEARCE:** You are the person complaining about the lack of evidence.

**The Hon. PETER PRIMROSE:** Let him answer the question that you asked.

**CHAIR:** Order! Mr Carlton has the floor. Mr Carlton, please proceed.

**Mr CARLTON:** Thank you, Madam Chair. I quote from page 264 of Mr Ryan's book:

This presented a whole other nightmare for Ryan. He claimed an internal investigation was being conducted into Priest on another matter—

something later confirmed by Priest—

and that his outburst was directly related to this fact. If Ryan were to reveal this, however, doubtless Priest would complain to the media that the move was exactly the kind of cover-up tactic he was trying to expose.

**The Hon. GREG PEARCE:** So you are not relying on Mr Ryan's statement at all, are you? You are relying on another journalist's interpretation or reporting in that book. That is not Mr Ryan's statement at all.

**Mr CARLTON:** It is a book approved by Mr Ryan. Surely he could have had it withdrawn if it was incorrect.

**The Hon. GREG PEARCE:** He may well have. Are you suggesting that you should be slurring somebody on the basis of that?

**Mr CARLTON:** No, I am also suggesting—

**The Hon. GREG PEARCE:** No, that will do thanks.

**CHAIR:** Order! Everybody can hear the evidence. They can make their own judgment.

**The Hon. GREG PEARCE:** He has come here wanting—

**Mr CARLTON:** I would like to give the answer, Madam Chair.

**The Hon. PETER PRIMROSE:** We do not want an editorial from you. Ask the question and let him answer.

**CHAIR:** Order!

**The Hon. GREG PEARCE:** I am asking a question.

**CHAIR:** Order!

**The Hon. PETER PRIMROSE:** We will talk about this later.

**The Hon. GREG PEARCE:** I go back to the question of Mr Priest's internal affairs file. You have never seen it?

**Mr CARLTON:** No.

**The Hon. GREG PEARCE:** You have never seen an extract from it?

**Mr CARLTON:** No, I have not.

**The Hon. GREG PEARCE:** You have never been briefed on it?

**Mr CARLTON:** No, I have not.

**The Hon. GREG PEARCE:** The only evidence that you have to support what you are saying about Mr Priest is an aside by Mr Ryan at lunch?

**Mr CARLTON:** Yes. It might have been dinner.

**The Hon. GREG PEARCE:** And the report in that book?

**Mr CARLTON:** And the report in that book.

**The Hon. GREG PEARCE:** And you think that is sufficient to embark on the sorts of comments you have made today about Mr Priest?

**Mr CARLTON:** Yes, I do.

**The Hon. GREG PEARCE:** And you object to the comments that others might have made?

**Mr CARLTON:** I ground those remarks in Mr Ryan's aside to me, as you rightly say, and also that comment in the book. There is some evidence there—rather more I thought than Mr Priest produced in evidence against me of this vast conspiracy of which he speaks.

**The Hon. GREG PEARCE:** I am not supporting any notion of a conspiracy that you are involved in.

**Mr CARLTON:** That is nice of you.

**The Hon. GREG PEARCE:** I am simply concerned about hearing from you the very same sorts of charges and comments, lacking in substance, that you complain about.

**Mr CARLTON:** And I would like to show you how I have handled those charges.

**The Hon. GREG PEARCE:** I think we have dealt with that.

**The Hon. JOHN HATZISTERGOS:** We should hear evidence about this in camera.

**Mr CARLTON:** I do not have anything more to add in camera.

**The Hon. JOHN HATZISTERGOS:** I said that we should hear evidence on these issues in camera.

**Mr CARLTON:** I am sorry.

**The Hon. GREG PEARCE:** You urge this Committee to seek the release of the James report? You probably would have seen from the transcript that I have done the same thing. Why do you suggest that that should be done?

**Mr CARLTON:** Reason one, I believe, as a journalist, in the widest possible public disclosure of events, knowledge pertinent to the community. From what Assistant Commissioner Small has already told you in evidence, it blows the credibility of Priest and Basham clear out of the water. These two were carting James around to various of your more gullible media outlets, offering this young man as ultimate proof that gang warfare was raging across the playgrounds of Cabramatta and Canley Vale.

I understand that subsequent investigation torpedoed most of James' claims; that he was not, in fact, a dealer in guns and had never been a member of an Asian gang. Although he did have an unpleasant criminal record he was not nearly the lurid gangster as portrayed by the Batman and Robin of Cabramatta in their presentations to the media.

**The Hon. GREG PEARCE:** And those understandings are based, you say, on Mr Small's evidence to this Committee?

**Mr CARLTON:** Yes.

**The Hon. GREG PEARCE:** On no other briefing, no other discussion that you have had, except one discussion with Mr Small?

**Mr CARLTON:** I chatted with Commander Small about it in a pub once. He actually made the point that he cannot tell me more than what he has said publicly. He was most honourable about that.

**The Hon. JOHN JOBLING:** Mr Carlton, it seems strange to me that Assistant Commissioner Small would not specifically be pushing for and attempting to have the James report released.

**Mr CARLTON:** I would suggest that Assistant Commissioner Small would be delighted to have the James report released.

**The Hon. JOHN JOBLING:** Equally, you would be delighted?

**Mr CARLTON:** I would be delighted. But you might have to ask him that, I am sure.

**The Hon. JOHN JOBLING:** I am sure we might. If that is the case, and the evidence is as you say it is, you have at least been briefed on it once—which is probably once more than a number of people have—what would then be the reason for containing and holding back this report, in your view?

**Mr CARLTON:** It might well be embarrassing to a great many people. It might be embarrassing to the Minister for Police, who appears to have given James some credibility. It might be embarrassing—I almost said to the parrot—to Alan Jones, the colourful breakfast host, who invited James into the embrace of his studio and listened avidly to every word he said. He then invited Dr Basham to comment further upon it, suggesting that Basham suggested that James had only scratched the tip of the iceberg and that there was much more.

**The Hon. JOHN JOBLING:** Is it not important that these facts are released so that the Basham-James allegation, or the view that is expressed—or I expect will be expressed by Commissioner Small that it is totally incorrect—should be exposed and so that we know? Without that, does it not lead us to the same proposition that allegations can be made but cannot be tested, proved or disproved?

**Mr CARLTON:** I am not quite sure what you mean by the last question. I agree with you, yes. In the interests of the people of Cabramatta the James report should be released. I suspect—I do not know; I am guessing—that there may be some parts of it which may touch on privacy and which may touch on police operational matters. Commander Small would know all that. But surely the people of Cabramatta have the right to know of the credibility or otherwise of James' allegations and those that were hawking them around the media.

**CHAIR:** I ask Committee members not to dwell on the James report. I repeat that James never used this information before the Committee.

**Mr CARLTON:** Certainly not.

**CHAIR:** The James report is an operational matter, which is quite divorced from our focus and our terms of reference.

**Mr CARLTON:** Madam Chair, with respect, surely you are inquiring into police operational matters? That is the term of reference of the Committee—to inquire into policing in Cabramatta.

**CHAIR:** No. The very thing that we are not looking at is police operational matters. We are looking only at resource allocations, Cabramatta policing, the crime index and how the relationship between the police and the community is progressing.

**Mr CARLTON:** In which case I would suggest to you that the James report is central to that. As I understand it, the James report torpedoed—and this is a report compiled not solely by Commissioner Small but by, I gather, a number of experienced detectives and in which a great many witnesses were interviewed—and it goes directly to the heart of the slur and innuendo that have been thrown around the Cabramatta community, particularly at schools.

**The Hon. JOHN JOBLING:** But the release of that report would resolve it, would it not?

**Mr CARLTON:** I would think so. I would hope so.

**CHAIR:** It is up to the police service to release the report; it is not up to the Committee to ask for its release.

**Mr CARLTON:** With respect, could the Committee recommend, request and ask for it?

**The Hon. JOHN HATZISTERGOS:** How much of the evidence in the Cabramatta policing inquiry have you actually read?

**Mr CARLTON:** I could not put a figure on it, but a hell of a lot.

**The Hon. JOHN HATZISTERGOS:** Have you read the report of the Committee?

**Mr CARLTON:** Yes, but I am not conversant with it. I read it some time ago.

**The Hon. JOHN HATZISTERGOS:** I can understand your indignation in relation to the allegations that have been made concerning you. But today you have gone a bit further. You attacked some or all of the evidence that Basham and Priest have given. Is there anything that they have said that you believe has not led to the description that you have given as being a "farrago of lies"?

**Mr CARLTON:** Is there anything they have said that does not meet—

**The Hon. JOHN HATZISTERGOS:** Is there anything that they have said that you accept in relation to what has happened in Cabramatta?

**Mr CARLTON:** In the broad, yes. There is no doubt that Cabramatta was very troubled, no doubt at all. Contrary to received public opinion, I was not particularly a fan of Peter Ryan's dealings in Cabramatta. I think he blew it, frankly, whether that was because of the poor advice of his subordinates or what. You can pinpoint the very moment when he blew it—that remark that Roseville was safer than Cabramatta. That was a public relations disaster of megaton magnitude. Sure, there were huge concerns about Cabramatta. I had voiced them on air. But I think Priest and Basham used them then to advance their own agenda and that of the media tarts. But they were not totally wrong about Cabramatta; no, certainly not.

**The Hon. GREG PEARCE:** I wish to clarify one issue with you. In relation to the matters about which you have given evidence today, you have not been given any internal police reports, you have not read any police reports and you have not been given any police emails, extracts of documents or private briefings other than the lunch with Commissioner Ryan and the drink in the pub with Mr Small. That is the basis of your evidence today?

**Mr CARLTON:** I think I asked Deputy Commissioner Dave Madden about the James report.

**The Hon. GREG PEARCE:** But you have not been given any internal police documents?

**Mr CARLTON:** No.

**The Hon. GREG PEARCE:** So you are happy to make comments in your editorials concerning Sergeant Priest and happy to make comments today with no evidence to support them other than a drink in the pub with Mr Small, an aside with Mr Ryan and an extract from a book written by a journalist for Mr Ryan? That is the summary of the basis on which you proceeded to make your comments today?

**Mr CARLTON:** You are asking do I stand by what I have said, is that what you are asking? Because I do.

**The Hon. GREG PEARCE:** No. I am asking if you have any other evidence for the comments you have made today?

**Mr CARLTON:** Mr Pearce, we are entering the realm of the absurd with that question, if I may say with great respect.

**The Hon. GREG PEARCE:** No. You are the one who came along and complained about the lack of evidence concerning comments by Mr Priest.

**Mr CARLTON:** Indeed.

**The Hon. GREG PEARCE:** I am simply applying the same test to you in relation to the comments you have made.

**Mr CARLTON:** Yes, and I have told you what they are.

**The Hon. GREG PEARCE:** Thank you. You are fond of referring to the police Minister as the Phantom. What was the basis of that nom de plume?

**Mr CARLTON:** Oh, a certain skull-like appearance and an eagerness to demolish crime.

**The Hon. JOHN JOBLING:** He is not wearing a purple suit with his underpants on the outside?

**Mr CARLTON:** No, and God forbid that he ever does.

**The Hon. JOHN JOBLING:** I would agree, a horrible sight.

**The Hon. GREG PEARCE:** It is bad enough with the black shirts.

**Mr CARLTON:** Indeed.

**CHAIR:** On behalf of the Committee, thank you for coming. You made a full and systematic rebuttal of the evidence of Mr Priest.

**(The witness withdrew)**

**CLIVE THOMAS SMALL**, Police Officer, Premier's Department, Governor Macquarie Tower, Farrer Place, Sydney, sworn and examined:

**CHAIR:** What is your occupation?

**Mr SMALL:** I am a police officer, currently on secondment to the Premier's Department, Strategic Projects Division.

**CHAIR:** Are you conversant with the terms of reference of this inquiry?

**Mr SMALL:** Yes, I am.

**CHAIR:** This inquiry is focused on the change with policing in the Cabramatta area since March 2001, including police community relations, as well as the changes that are still required in relation to policing in the Cabramatta area. That is our focus. Mr Small, if you should consider at any stage during your evidence that in the public interest certain evidence or documents you may wish to present should be heard or seen by only the Committee, the Committee will consider your request. However, you should be aware that the Committee or the House may decide at a later stage to publish that evidence.

You did request that the Committee have an in camera session of part of your submission. The Committee will accede to that. You are appearing today because you have been advised by the Committee of an adverse reflection and you have sought a hearing before the Committee to respond to that reflection. Is that correct?

**Mr SMALL:** That is correct.

**CHAIR:** I will allow you to proceed to address the Committee in the terms outlined in my opening statement. I caution you again that I really would like you to confine yourself to the rebuttal and not to use your comments to further mention or adversely mention other people.

**Mr SMALL:** I appreciate that, Madam Chair, and that is also one of the reasons why I will be seeking an in camera proceeding at a later stage in addition to the material that is in the statement that I have already given to you.

**CHAIR:** The Committee is aware of that.

**Mr SMALL:** I have prepared this submission in response to an invitation issued by the Hon. Helen Sham-Ho, Committee Chair. On 7 June 2002 I appeared before the reconvened General Purpose Standing Committee No. 3 inquiring into police resources in Cabramatta and responded to two questions posed by the Committee: one, what has changed since March 2001? and, two, what changes are still required at Cabramatta? My present submission relates to matters raised before the Committee on that day by Messrs Priest and Basham after I had given evidence and which issues require a public response. I propose to deal with the broad allegations they make rather than the detail of the evidence. However, I am quite willing to provide a more detailed report or response on any aspect if the Committee requires.

I note the public acknowledgement by Mr Priest when he appeared before this Committee on 7 June that matters had improved significantly at Cabramatta under my leadership. I also agree with Mr Priest's observation that "the battle is not won". My previous comments to the Committee were clearly a progress report. Mr Priest claimed that he "must draw your attention to the continued attempts by a small group of academics, media figures and some very senior police—some serving and one just left—who, as we speak, are undermining and plotting to discredit both Costa and Maroney".

Later, he went on to list the conspirators as including David Dixon, Lisa Maher, the ABC's *Four Corners* program, Peter and Adrienne Ryan, Mike Carlton, Morag Ramsay, Dr Don Weatherburn, Neil Mercer, myself and others in the media. In Mr Priest's in camera evidence, now made public, he adds Chris Masters of the *Four Corners* program and John Lyons of Channel 9 and the *Bulletin*, I think, to the list of conspirators. Mr Priest's conspiracy claim is malicious and without foundation. It highlights the hypocrisy of both Mr Priest and Dr Basham.

To the best of my knowledge the only thing that the people named by Priest have in common is that they have publicly questioned some claims that he or Dr Basham have made. I did not understand this to be a crime, let alone a conspiracy. It is, on my understanding, quite legitimate to challenge and express alternate views in a democratic and civil society. I thought that was the society in which we lived. The conspiracy claim is also

hypocritical when you look at the role of Mr Priest, Dr Basham and others associated with them and the role they played in leaking information to the media and spreading behind-the-scenes rumours about myself and at least some of the other people named by Mr Priest.

Mr Priest's hypocrisy is also highlighted by his protestations to this Committee that "I [Priest] have endured Mike Carlton referring to my internal affairs history as interesting reading. How did he get to read my Police Service history? Who gave it to him? Did he also read Peter Ryan's IA file or Clive Small's? Apparently not." I do not know whether or not Mike Carlton did in fact read Mr Priest's file, although today I heard him say that he did not. But it is the absolute height of hypocrisy of Mr Priest to protest in the way he does when he and others actively distributed my internal affairs file to the media and two members of Parliament last year in an attempt to discredit me.

Not only that, but my file was covered with a so-called chronology that was presented as part of the official file. It was not. Some person or persons whose courage did not extend to putting their name to the document typed it up. And there was good reason for this, of course. The document contains untruths, it distorts facts, it is malicious and it is highly defamatory. The absurdity of Mr Priest's conspiratorial claims is highlighted by the example he gave of Dr Weatherburn, who "suddenly appeared" and made a presentation at a public forum conducted by the University of New South Wales and how "it was dutifully recorded by a reporter for the *Sydney Morning Herald*, Neil Mercer, who is a close friend of Clive Small".

The problem is that the forum was a public lecture. It was open to anyone who wanted to attend. The information reported by Mr Mercer was readily available to any person who wanted it, including members of the media. It was also available on the Internet, accessible by, I assume, some millions of people. So I do not know where the conspiracy lies! Mr Priest claims that the James report was "largely engineered by Clive Small and is discredit a young man called James." I made no criticism of James. I did, however, criticise those who used him and continue to use him for their own purposes.

I have already given evidence about aspects of the James investigation. The findings are based on a thoroughgoing transparent investigation. It took into account, in addition to the information provided by James, a comprehensive review and analysis of a range of police records, criminal histories, intelligence reports; interviews with named gang members, former gang members and others said to have been involved in or to have had knowledge of a range of criminal activities; victims and witnesses to alleged incidents; and various records held by other agencies.

Detective Appleton's investigation was reviewed by the then Acting Region Commander, Les Wales, and by the then Region Operations Co-ordinated, Allan Taylor. Each of those offices can be called to give evidence, if required. Mr Priest referred to an affidavit completed by James and said, "I think we would have to go in camera because some of the allegations are fairly damaging." Evidence was then taken in camera. That was Friday. Two days later, on Sunday, much of the contents of the affidavit appeared in the *Sun-Herald* under the heading "Teen who told of gangs abandoned".

John Kidman, a friend of Priest and Basham, wrote it; that is the journalist who Basham, in his evidence before the Committee on the Friday, described as a person admired for his integrity and courage. Mr Kidman reported in his article that the *Sun-Herald* had obtained a copy of the James affidavit. I should make it perfectly clear that I make no criticism whatsoever of Mr Kidman. Leaks are an invaluable source for any person in the media. My point is the hypocrisy displayed by Messrs Priest and Basham. Furthermore, if Mr Kidman has accurately reported the contents of the affidavit, the affidavit contains several matters that are not accurate.

Witnesses and documentation can be produced to support that. Given the evidence of Dr Basham, Mr Kidman's role in arranging a meeting between Mr Priest and myself during the first half of last year is directly relevant to this inquiry. Mr Kidman was one of two journalists who approached me at a function and asked if I would consider meeting with Tim Priest to resolve differences. There was an animated discussion, on both the part of the journalists and on my part. But there was an agreement that I would meet Mr Priest. Over the next several days Mr Kidman negotiated a meeting. The meeting was on and it was off and this scenario repeated itself several times before it was eventually on.

During this time Mr Kidman told me that Mr Paul Kenny, a solicitor, was advising Mr Priest and that he was acting as a strategist for Mr Priest in his campaign, rather than as a solicitor. It was Mr Kenny, according to Mr Kidman, who was against the meeting. This is the same Paul Kenny who now appears as a solicitor for James. Mr Priest broke off the meetings for reasons that are known to him but included allegations that I had done "something" which he did not like. Dr Basham refers to a senior police officer who, he alleges, passed threats through him to junior officers. It is clear from his evidence that I am the senior officer he is referring to. No threats

were passed through him. No threats were made. Dr Basham's claims fly in the face of the results of the Ethical Culture Survey, which was developed by the Independent Commission Against Corruption, and which was administered across the Greater Hume Region.

While I have previously reported those results to this Committee, given Dr Basham's claims they are worth briefly repeating. Sworn and unsworn staff, front-line police, supervisors and managers at Cabramatta, and across the region generally, say that under my leadership the workplace was increasingly seen as one in which honest behaviour is encouraged and dishonest behaviour is discouraged; the work environment is more open; there is a higher level of trust and a higher regard is held for supervisors and managers; and management is more consultative and perceived to "practise what they preach". This is not an environment built on threats and intimidation by management.

I have not trusted Dr Basham for some very considerable period of time. I have been cautious in conversations I have had with him. I was aware that he was one of a number of people distributing what was purported to be my official internal affairs dossier to members of the media, to members of Parliament and others, and was actively making highly defamatory and untrue allegations about me. He was doing all that he could to destroy my credibility and career. His activities continue to this day.

**CHAIR:** Mr Small, I am sorry to stop you, but I remind you to be very careful about talking about Dr Basham. So far so good, but Dr Basham is not here and he will not have any response. We are not calling Dr Basham as a witness so I remind you and caution you that what you say about Dr Basham should not adversely reflect upon him.

**Mr SMALL:** With all respect, my comments are focused specifically on responding to the allegations Dr Basham and/or Mr Priest made about me.

**CHAIR:** So far you have been making a rebuttal, but if you want to refer to Dr Basham further down the track I want it to be relevant to what was said about you and that you not talk about Dr Basham when it is not relevant.

**Mr SMALL:** Okay. I regard the whole of my statement as being directly relevant to rebutting the allegations made by Messrs Priest and Basham against me. I do not believe it introduces material that they themselves have not introduced in some form.

**CHAIR:** As long as that is the way it is done I have no problem.

**Mr SMALL:** Thank you. During conversation with Dr Basham in the first part of last year he threatened me by way of a caution that I needed to be careful as "a lot of damaging material was falling off the back of trucks everywhere and this material could easily find its way to the media and politicians." The material did find its way to the media and politicians; I took it to the Police Integrity Commission. It has been reported to them some time ago. I have nothing to hide. Dr Basham's claim that I passed threats through him to other officers simply does not stand up to scrutiny. It defies logic that I would do this when I did not trust him and when I knew he was actively spreading lies and rumours about me to destroy my credibility and my career.

Elsewhere in his evidence Dr Basham said "I [Basham] was also involved with Task Force Air, doing profiling in 1994." Mr Pearce asked if he, Basham, was doing the profiling of Ivan Milat, to which Dr Basham responded, "Well, not a profile of him but a profile of whoever might be the offender." Dr Basham was not a profiler on the backpacker investigation. Dr Rod Milton was the only profiler on that case, and he was paid for his services. Police records will substantiate that. Dr Basham was one of a number of people who were invited to attend discussions about ways to improve information management for Task Force Air, not to profile the offender. This had been arranged by Superintendent Ken Hughes, then of the State Intelligence Group, a friend of Dr Basham and the other academics who were involved. A number of meetings were held and subsequently one of the participants, not Dr Basham, provided a paper outlining the characteristics of an ideal information management system. This formed the basis of a reconfigured information management system for Task Force Air and was later taken into account by the police in a project known as [e@gle.i](mailto:e@gle.i), which developed an information management system for major investigations.

At this stage I would produce a copy of the report I have just referred to. It is a public tendering. It is headed, "Some Thoughts on Investigative Data Management and Analysis." However, I ask that the name of the academic be deleted or given a code. I do not see any point in involving, if you like, an innocent party in this whole slanging match.

**The Hon. JOHN JOBLING:** Did Commissioner Small say it was a public document?

**Mr SMALL:** A public document, except that I would ask that the name be deleted.

**The Hon. JOHN JOBLING:** If it is a public document, what is the purpose of deleting a name that is already in the public domain?

**Mr SMALL:** It is not in the public domain.

**The Hon. JOHN JOBLING:** Is it a public document?

**CHAIR:** Is it publicly available?

**Mr SMALL:** No, it is not a public document. What I said was I would tender this to the Committee as a public document except that I ask that the name of the academic be deleted. The document itself is not in the public domain.

**CHAIR:** In other words, it may be published except the name?

**Mr SMALL:** Except the name.

**Document tabled.**

It supports the activities and the purpose of the consultations. During meetings with Dr Basham he did express an interest in the investigation and did discuss characteristics of the case with me, other members of the task force and Dr Milton. But he was not a profiler on the case and to suggest that he was is to significantly distort any role he had and any contribution that he might have made. Superintendent Hughes can be called to corroborate my evidence on this matter if required. In addition to Superintendent Hughes, a number of other police and other civilians who were part of those discussions at various times can be called to support this evidence if required.

The campaign against me by Mr Priest, Dr Basham and others has been malicious. I believe that, in substantial part at least, the campaign has been carried out to deter me from giving evidence before this Committee or, at a minimum, to influence my appearance before the Committee and the evidence that I might or might not give. I believe it was designed to send a wider message to other potential witnesses that, if you disagree with the views of Messrs Priest and Basham then you will be subject to the same treatment. Mr Priest's conspiracy theory is, in my view, an example of that. I have received a letter from Mr Reynolds, Committee Director, advising that the Committee made the following resolution since my last appearance:

That the Committee write to Mr Small requesting that he provide an explanation for his evidence regarding the Operation Portville document in his written statement to the Committee prior to the supplementary hearing.

I am advised that the Portville document referred to in the resolution is the terms of reference, which I tendered to the Committee in February 2001. I have read the evidence I gave previously to this Committee regarding Portville. I refer in particular to the outline I gave leading to the establishment of Portville at pages 5 to 6 of the transcript of 27 February 2001 and at page 5 of the transcript of 11 May 2001. This evidence is included in the Committee's report of July 2001 at sections 4.42, 4.43 and 4.46. My evidence is accurate. I have neither seen nor heard anything that would cause me to alter that evidence.

On 7 June 2002 when I appeared before this Committee, Mr Pearce put to me, particularly at pages 12 to 14 and 34 to 35 of the transcript, that I had tendered a fraudulent Portville document and had misled the Committee during my evidence last year. To the best of my recollection, June 2002 was the first time I had heard any concern expressed about the document. My comments to the Committee and the action that I took on that day are consistent with this recollection. I immediately undertook to find out what had occurred. Later that day I tendered two Portville documents. One was a terms of reference issued and signed on 1 or 2 February 2001. The other was expanded terms of reference issued and signed on 28 March 2001. I explained that, based on the inquiries I made that day, it appeared that the first pages of the expanded terms of reference, which listed six specific items and two general directives, had been inadvertently pinned to the signature page of the original terms of reference. The original terms had three of the six specific items in the expanded terms of reference, and a fourth general introductory directive. That is, "The investigation will include, but not be restricted to the following ..." —the

following being those three matters specified. This general directive equates with the two more general directives contained in the expanded terms of reference. In both sets of terms the general directives gave the strike force commander the discretion to include in the investigation any other matters considered relevant.

While the error is regretted, it does not change the substance of the evidence I gave last year regarding Portville. Portville was formally established on 1 and 2 February as a result of the processing of the Cook report, National Crime Authority investigations that were being undertaken during the period November 1999 to February 2000 and which were directed to some people named in the Cook report, and other intelligence gathered by Crime Agencies respecting crime in Cabramatta. Superintendents Jones and Smith, Detective Inspectors Day and Phillips, Detective Cook and Sergeant Tsung can be called to give evidence, if required. The evidence I previously gave about the establishment of Portville was based on the advice that some of these officers gave me. Since completing my statement I have been informed that Detective Cook agrees with the chronology I have given in my evidence but believes that the meetings in which he was involved were later than 9 or 12 December but he supports the chronology. That includes the fact that Portville was established in substantial part as a result of his report. Mr Pearce also said at page 12 of the transcript of June 2000:

Our report is out there—it is out in the public—and it contains statements that were based on a complete misunderstanding of the evidence that Mr Small gave, because he gave us a fraudulent document. It was a fraudulent document.

This statement does not reflect the facts. Before publication of its July 2001 report this Committee sought clarification of Portville terms of reference through Mr David Blunt, then of the Committee directorate. On or about 25 July 2001 Mr Blunt contacted Mr Paul Akon, the manager, special projects in the Court and Legal Services Unit of NSW Police. Mr Akon made inquiries directly with Superintendent Smith at Crime Agencies. The Superintendent clarified the situation and in a written report to Mr Akon dated 25 July said:

I am unable to explain how the two sets of Terms of Reference (Original and Amended) became mixed up other than to say possibly by accident, when removed from the main file.

Superintendent Smith's report acknowledged at that time, prior to the publication of your report, that the mix up had occurred at Crime Agencies. I was not involved directly or personally in the extraction of records from the file. This response, together with the two terms of reference, was forwarded by fax to Mr Blunt. Mr Blunt, Mr Akon and Superintendent Smith can be called to corroborate this evidence, if required. For reasons known only to the Committee, Superintendent Smith's explanation was not included in the Committee's report though the error was. Had the Committee been concerned about the matter I would have thought that procedural fairness would have required that I be offered an opportunity to respond prior to completion of the report, not 12 months after the report had been published. Given these circumstances, I do not see any need to further comment on this matter. This leads me to another matter raised by Mr Pearce. At page 14 of the transcript of June 2002 Mr Pearce said:

Mr Small, you came before us again in May—

That was 2001—

and I asked you to look at the document again in May, because on the face of it, it was a fraud. You restated again in May, when you took the document and looked at it again, that it was accurate. But it is a fabrication, it is a fraud, and that was the basis of your evidence to us.

Mr Pearce later repeated this claim at page 35 of the transcript:

When you came back in May, Mr Small, I asked you to have another look at that document because it was plainly apparent on the face of it that it was a fraudulent document, because it could not have been dated 1 February and include the items on the first page of it. I handed that document to you. I invited you to refer to the transcript of that proceeding. You had another look at it, you read it, and you confirmed once again that it was the original document.

A few questions later, also at page 35 of the transcript, Mr Pearce made a similar claim. I have read the transcript of the evidence I gave in May 2001. I assume that the Committee's report at sections 4.40 to 4.60, but particularly at 4.47 to 4.52, cover those parts of my evidence to which Mr Pearce refers. The assertions Mr Pearce put to me in June last are not reflected in the transcript of that evidence. What Mr Pearce put to me in May 2001 was that terms of reference that had been tendered to the Committee did not reflect the focus on the drug trade in Cabramatta. It was not put that the terms of reference were in any way a fraud or otherwise inaccurate. These are

two very different things, and in these circumstances I do not see any need to comment further on the evidence I have previously given before this Committee.

I have read the in camera evidence, since made public, of both Dr Basham and Mr Priest. For the greater part it is simply a continuation of their public evidence. I have already responded to that material and, except for some aspects of Dr Basham's evidence, I do not see any need to comment further. At page 2 of his in camera evidence Dr Basham sets out a number of guarantees he says I gave at the outset of interviews with James and each of which, Dr Basham says, I violated. I did not violate any guarantee. First, Dr Basham says that I guaranteed James protection from prosecution for any matters he divulged during the course of his interviews. That is true. The guarantee was kept. James participated in his interviews as a result of an inducement given with my authority. The evidence obtained cannot be used against him. James has not been prosecuted for any matters he divulged during the course of the interviews. I do not see, therefore, how this particular guarantee has been violated.

Second, Dr Basham says that I guaranteed that either he or Detective Reitano could be present during all interviews with James. That is true. The guarantee was kept. They were present during the interviews of James. There were a number of contacts by Detective Appleton with James, particularly after he had been relocated to country areas, where neither Dr Basham nor Detective Reitano was present. This was with the knowledge of James, Dr Basham and Detective Reitano. In fact, James initiated some of these contacts. This was not a violation of the guarantee. Third, Dr Basham says that I guaranteed James would be assisted in the process of rehabilitation. James was on a methadone maintenance program at the time of his first interviews. Arrangements were made for him to be admitted to local programs when he was relocated. Accommodation, including access to public housing, which required special intervention, was also found for James and his grandmother. Detective Reitano undertook some of these accommodation arrangements. There was also a level of financial support given at different times. Other matters of an operational nature were attended to. The guarantee was kept.

Fourth, Dr Basham says that I agreed that both he and James would be given copies of James' interview tapes. This is partially true. The fact is that at the outset Dr Basham asked that he be given copies of all interviews with James and copies of all records and documents resulting from the investigation. I informed the doctor that there was no justification for him to be given copies of all material arising from the investigation. I also told him that there was no way we could justify giving him James' interviews without James' written authority, and even without authority we would have to take into account what came out of the interviews. I pointed out to Dr Basham that James would be entitled to a copy of his interviews and that if he, James, chose to give him, Dr Basham, a copy, that was a matter between James and Dr Basham. The doctor agreed with this. Subsequently, James signed a document stating that he did not want a copy of his interviews and he did not want anyone else to be given a copy of the interviews. By definition, that includes Dr Basham. I will deal with this matter further later in my statement. At this stage it is sufficient to say the guarantee was kept.

Fifth, Dr Basham says that I gave a guarantee that Detective Reitano would be involved in researching James' allegations. This is partially correct. Several times I asked Detective Reitano to be part of the investigation team with Detective Appleton, and each time he declined saying that he was too busy to become involved. Detective Reitano said that he would undertake research work in relation to the James' allegations. This included the routine procedure of checking police records. It did not extend to interviewing witnesses or undertaking any external investigative activity. Detective Appleton also approached Detective Reitano and asked him to be part of the investigation team. The Inspector received the same response as I had received from Detective Reitano, that is, he was too busy to be part of the team. I told Detective Reitano that we would need to see what came out of the James' allegations.

Subsequently, Detective Appleton advised that the inquiries were such that he was able to undertake the background work and that this would need to be done on an ongoing basis as he progressed interviews with witnesses. Detective Reitano was told this and did not object. Detective Reitano did assist Detective Appleton by arranging accommodation for James and his grandmother on a number of occasions. On other occasions Detective Appleton made these arrangements. This guarantee was kept. Nowhere until recent times has there been a complaint from Detective Reitano, or on Detective Reitano's behalf, about him being excluded from the inquiry. Dr Basham says at page 2 of the transcript of his in camera evidence on 7 June 2002:

Most worrying to me (Basham) is the apparent perception perpetrated on James and his grandmother to gain their approval to a deed of release, which appears to have rescinded all the promises Mr Small made to James, his grandmother, to Frank Reitano and to me.

There was no deception of any person. The deed did not rescind any promise made. Dr Basham is wrong entirely on both counts. I have already outlined the circumstances under which each of the guarantees was kept. The facts are that the James' investigation was nearing completion. Certain matters of an operational nature occurred

involving James. James had been relocated a number of times during the course of the investigation and was seeking to be relocated yet again. I discussed the matter with Detective Appleton, and it was agreed that we should relocate James one final time and, unless further matters arose, sever ties so that James could get on with his life. There comes a time in every investigation where there is an informant or other source of information that termination of the relationship must be dealt with. In this case I was of the view that a deed of release from James should be part of the termination process. I telephoned Detective Reitano and discussed the situation with him. Detective Reitano agreed that the course I outlined should be followed. I told Detective Reitano that I would progress the matter and keep him informed.

The Office of Court and Legal Services was contacted and arrangements were made for a deed of release to be drawn up. Arrangements were made for James and his grandmother to travel to Sydney to discuss the matter. A date was set. I telephoned Detective Reitano and told him of the arrangements. Again, he agreed with the process. I told him the date of the meeting and asked that he attend. He declined, saying that he was too busy. I encouraged him to attend, but he continued to decline. I went over the procedure to be followed and the possible outcomes with Detective Reitano. He endorsed the scenario. I informed Detective Appleton that Detective Reitano had declined to attend because he was too busy. I asked Detective Appleton to ring Detective Reitano to keep him informed of what was occurring and to encourage him to attend. I am informed that Detective Appleton spoke with Detective Reitano on several occasions. He kept the detective informed, and Detective Reitano continued to decline to attend, offering a variety of reasons but essentially revolving around the claim that he was too busy. I told Detective Appleton to proceed and to ensure that there was an independent person present.

On 21 February 2002 Detective Appleton met with James and his grandmother at the Office of Court and Legal Services, Police headquarters. Keith West of that office attended as an independent witness. I understand that Keith West is a police officer, a prosecutor and has legal training. I should add that apart from perhaps one or two encounters of a few moments, to the best of my knowledge I have had no contact with Mr West. He is not a friend of mine. He is a completely independent person and he is a person I would say that I do not know. I am informed that the status of the investigation was explained, as were the options for the future and a particular need for James to get on with his life. The deed of release was explained to James and his grandmother, and he signed it. His grandmother also signed it. Detective Appleton signed the document as a witness. Mr West was there as an independent person and verified it. James was asked about the distribution of his interviews. He said that he did not want a copy and that he did not want anyone else to be given a copy. In a written document underneath a statement to the effect—

**The Hon. GREG PEARCE:** You have said that Mr West was an independent witness. But he was a member of the Police Service.

**Mr SMALL:** Yes, he was a member of the court—

**The Hon. GREG PEARCE:** He was a member of the Police legal service?

**Mr SMALL:** That is correct.

**The Hon. GREG PEARCE:** And you say he is an independent witness?

**Mr SMALL:** I do say he is an independent witness, yes.

**The Hon. JOHN HATZISTERGOS:** In the sense that he had no prior involvement in these matters?

**Mr SMALL:** In the sense that he had no prior involvement.

**The Hon. GREG PEARCE:** He is clearly not independent because he is employed by the Police Service.

**Mr SMALL:** With all respect—

**The Hon. JOHN HATZISTERGOS:** That is a matter of comment.

**CHAIR:** The matter has been clarified. Please continue.

**Mr SMALL:** James was asked about the distribution of his interviews. He said that he did not want a copy and that he did not want anyone else to be given a copy. In a written document underneath a statement to the effect

that he authorised only the persons listed below to have copies of the interviews, he wrote the word "nil". He also initialled the word "nil".

**The Hon. GREG PEARCE:** This was done in the presence of the police officers and the Police legal service officer but no true independent representative of James?

**Mr SMALL:** With all respect—

**The Hon. GREG PEARCE:** I just want to be clear on that.

**Mr SMALL:** I think Mr West is an independent person. He has no vested interest in the matter one way or the other.

**The Hon. GREG PEARCE:** Except that he is employed by the Police Service.

**Mr SMALL:** Does that mean then that every person has a vested interest?

**The Hon. GREG PEARCE:** I just want to be absolutely clear. There was no true independent representation of James or his grandmother.

**Mr SMALL:** Yes, there was—Mr West.

**The Hon. GREG PEARCE:** The Police legal officer?

**Mr SMALL:** Yes.

**The Hon. JOHN HATZISTERGOS:** His grandmother was there.

**Mr SMALL:** His grandmother was there as well, that is correct.

**The Hon. GREG PEARCE:** But she signed as well. She was a party, was she not?

**Mr SMALL:** I am sorry, before I proceed could I have one moment, please? I am trying to find some documents I was handed this morning.

**CHAIR:** Certainly.

**Mr SMALL:** So that I am clear, if I could just start again. James was asked about the distribution of his interviews. He said that he did not want a copy and he did not want anyone else to be given a copy. In a written document underneath a statement to the effect that he authorised only the persons listed below to have copies of the interviews, he wrote the word "nil". He also initialled the word "nil". I understand Mr West made a notation in his duty book confirming that James did not want any person to be given a copy of the interviews. James' grandmother was present during the interviews.

**The Hon. GREG PEARCE:** This took place in Police headquarters?

**Mr SMALL:** That is correct.

**The Hon. GREG PEARCE:** With policemen and a police lawyer and no-one else present?

**Mr SMALL:** That is correct. Can I just make the point on the issue of impartiality in terms of the Office of Court and Legal Services, the fact is that I am not represented here today by the Police because of their perceived need to keep an impartial position in this matter? That is particularly over the issue of the publication or otherwise of the James' report. In terms of being impartial, certainly in my case they have showed extreme impartiality.

**The Hon. JOHN HATZISTERGOS:** What interest did you have in the outcome reflected in the deed of release?

**Mr SMALL:** I had no personal interest at all. What was very important to me was that the James' investigation be thoroughly investigated as it had serious implications for operational policing matters in Cabramatta.

**The Hon. JOHN HATZISTERGOS:** In terms of the matters reflected in the deed of release, what interest did you have in the outcome?

**Mr SMALL:** I did not even see the deed of release. The deed of release was prepared by the Office of Court and Legal Services. It is in a standard format.

**The Hon. JOHN HATZISTERGOS:** Reflecting administrative matters?

**Mr SMALL:** Effecting administrative matters.

**The Hon. JOHN HATZISTERGOS:** I cannot see where the conspiracy arises from the deed of release.

**Mr SMALL:** It is a standard practice in matters of this type. I am not saying it is a daily occurrence, but in those matters where you have informants or people who provide information—

**The Hon. JOHN HATZISTERGOS:** For example, if James wanted to ensure that his interviews were provided to him and distributed, that would not concern you at all?

**Mr SMALL:** No, not at all.

**The Hon. GREG PEARCE:** Has he been provided with copies of his interviews and tapes?

**Mr SMALL:** I do not know. I have not had any official contact over the James' matter since February.

**The Hon. GREG PEARCE:** But you initiated the James' investigations?

**Mr SMALL:** That is correct.

**The Hon. GREG PEARCE:** Did you actually take part in the initial part of the investigation? What did you actually do?

**Mr SMALL:** I initiated the investigation. I had spoken to Dr Basham—I cannot recall about Mr Priest, but Dr Basham certainly, Detective Reitano and also with representatives of the Committee secretariat about the need to interview James, and I organised that.

I arranged also for James to be brought to Sydney and to be placed in accommodation with his grandmother, and I authorised all the expenditures that were necessary to facilitate that and any expenditures that would be incurred during the course of the investigations.

On the first day of meeting James I accompanied Detective Appleton and, indeed, before I selected Detective Appleton for the investigation I spoke with Detective Basham and with Detective Reitano and said, "Does he meet your approval?" or words to that effect, and they said yes. So it was in that context that Detective Appleton and I went to a location in Sydney where we met Detective Basham, Detective Reitano, James and his grandmother. I was present when the initial discussions were had about how we would proceed from there. I was present for a period of time after that—I just cannot recall—to make sure that the interviews were progressing satisfactorily. I believe, but I would not be 100 per cent sure, that it was perhaps around 2 o'clock or 3 o'clock that I left that afternoon with the interviews proceeding—that was, having met them in the morning.

After that my role was one of supervision of the investigation, and by that I mean approving costs and travel and movements and accommodation and other issues that were supported, ensuring that Detective Appleton was given time to do the investigation, that any assistance he required was provided, and to facilitate the investigations. Towards the end when the detective started writing his report draughts of the report were given to me and I reviewed those summaries. I am sorry, I should say that during the course of the investigation I spoke to him about the progress of the investigation. I made suggestions about some other matters that should be covered and issues that might need to be pursued. When he started preparing drafts I, if you like, gave a quality control check to those drafts, suggesting, again, other avenues that we might need to pursue, issues that we might need to cover or matters that might need to be included in the report. It was at that stage where I would say the report was around about—I do not know, 80—between 70 and 90 per cent finished that I left Greater Hume.

**The Hon. GREG PEARCE:** So you were not actually then a signatory of the report?

**Mr SMALL:** No, I have not seen the report. Sorry, I have not seen the final report. I certainly—

**The Hon. GREG PEARCE:** You saw it up to the 90 per cent stage—

**Mr SMALL:** Seventy to 90 per cent, and that also included draft covering reports which I suggested would need to be used as covering reports so that the people receiving it had an understanding of who James was and had a summary of the investigation, like an executive summary.

**The Hon. JOHN JOBLING:** Assistant Commissioner Small, can I just go back to 21 February. You said Detective Appleton, James, his grandmother and Mr West of the police office met with James and you discussed the matter and had the deed of release. In explaining this, is it usual to allow or to advise somebody in this situation, if they wished, to have an independent person present?

**Mr SMALL:** I was not present so I cannot say what conversations did or did not take place. What I can say was that there was never any suggestion or any attempt to deny James any advice that he wanted.

**The Hon. JOHN JOBLING:** I am sorry, I just do not know that. What I am looking at is that we do not know, therefore, and you are saying to us that you do not know, that an option for an outside person, an independent solicitor, to guide James and his grandmother in what the deed of release actually meant and how it might or might not affect him—there was no such person but there was a person from the office of the New South Wales police service court and legal services.

**Mr SMALL:** Correct.

**The Hon. JOHN JOBLING:** Which could lead one to a conclusion that, whilst Mr West's advice was absolutely impeccable, there may have been matters that a totally outside body might have raised in a different matter which may have altered James's or his grandmother's determination.

**Mr SMALL:** First of all, the option was always available for James or his grandmother to seek legal advice.

**The Hon. JOHN JOBLING:** What I am particularly looking at is whether it was again offered to them at this stage. It is fairly overcoming when you look at the situation of the people who are there for a person such as James, and his grandmother.

**Mr SMALL:** Well, no, it is not, with all respect. These people had been having contact with the police over life-threatening and other matters and over serious criminal activities over several months. So this was not an issue of being put into a room with someone—

**The Hon. JOHN JOBLING:** That does not mean that you may not still be overawed or frightened.

**Mr SMALL:** I am not—

**The Hon. JOHN JOBLING:** I think you have answered my question on that. The only other one is, just briefly again, will we ever see the James report publicly released in your view?

**Mr SMALL:** On my last appearance before this Committee I made clear my view about the James report and that it ought to be made public.

**The Hon. JOHN JOBLING:** You still hold that view?

**Mr SMALL:** I still hold that view.

**The Hon. GREG PEARCE:** Have you communicated that to the Premier yet?

**Mr SMALL:** There is no need to communicate that to the Premier, with all respect, Mr Pearce. You consistently keep trying to have a shot at me and the Premier, let me put it that way.

**The Hon. GREG PEARCE:** Oh no, I have asked you—you are working in the Premier's office. This is a very important issue. Why have you not suggested it to the Premier?

**Mr SMALL:** The fact of the matter is that the James report is an operational matter and the release or otherwise of that document rests with the New South Wales Police. I saw in the newspaper the other day—I have not discussed it with the police Minister personally—and I assume that the media accurately reported him, that the police Minister said that he was acting on the advice of the New South Wales Police that the James report should not be released. Mr Costa, as I understand it, has not expressed a view on the James report, nor has any member of Government. It is a matter for the police department.

**The Hon. GREG PEARCE:** You are a fairly senior police officer with a lot of experience. You are telling us that in your view it should be released. I find it hard to understand—

**CHAIR:** Mr Small, I think we have canvassed that point.

**Mr SMALL:** I have put on public record my view. If you have some concerns or you want—and indeed you have the power, as you continually remind me, Mr Pearce—to summons the material from the police, you do not need to involve the Government. It is an operational police matter. Do it.

**CHAIR:** This is the point, Mr Small. I have repeatedly said that the James report is an operational matter. It is not up to the Committee to deal with it. So can we go on without referring to the James report, which I think is irrelevant?

**The Hon. JOHN JOBLING:** Chairman, with respect, can I just make one comment to you on that. It has been referred to by both witnesses in a very lengthy statement and much made of it. I put to you that you cannot, on behalf of the Committee, say that it is not relevant. That is all I wish to comment.

**CHAIR:** I do not think we should discuss this in the Committee meeting. This is a Committee matter, I am sorry, Mr Small. Please continue with your address.

**Mr SMALL:** I am not sure where I was up to, actually.

**The Hon. JOHN JOBLING:** Halfway down page 12.

**Mr SMALL:** There are several documents that can confirm the evidence I have given and refute the evidence of Dr Basham and Mr Priest. These documents include: 1. The deed of release signed by James and his grandmother and Detective Appleton. This document sets out some of the things that were done to support James and his grandmother. 2. A one-page document prepared by Detective Appleton dated 21 February 2002 and signed by James and the detective in which James declines to authorise the distribution of his interviews. 3. A one or two page document prepared by Detective Appleton and signed by James acknowledging receipt of moneys for setup costs, rail travel for him and his grandmother to return to their then home and to travel to a new and agreed location. 4. The duty book of Mr Keith West of the office of court and legal services for 21 February where the entry regarding James' decision concerning the distribution has been recorded. I should say, Madam Chair, that this morning, just before I came to give evidence, I had been given access to those documents by the police and I would seek to tender them. So far as I am concerned—

**CHAIR:** How many?

**Mr SMALL:** If I can deal with them—as far as I am concerned I would be tendering them—they are not public documents; they are police department records. So far as I am concerned I would be tendering them as public documents subject to the names of James and his grandmother being deleted or at least given a code, if I can do that.

**The Hon. JOHN JOBLING:** I would move that we accept them, yes.

**Mr SMALL:** The one exception is that I have not been given a copy of the deed of release. The police department advises me that they are not objecting to its production. However, there are certain legal matters that I have not been briefed on which preclude them from volunteering the document to the Committee. But, if sought, they will provide it.

**CHAIR:** Thank you, Mr Small. And the other three?

**Mr SMALL:** Yes. The other three are: The one-page document signed by Detective Appleton dated 21 February and signed by James and the detective in which he declines to authorise distribution of his interviews. If I

may I will just read that document, "I, being a person using the name of James have been interviewed a number of times by Inspector Appleton in relation to my knowledge of policing and crime in Cabramatta. At the time Detective Basham and Detective Reitano were present. The interview process has now completed—finished. I am aware that Inspector Appleton has all records of our interviews, which include my copies of transcripts, audios and videotapes. On 21 February I met Inspector Appleton"—and he crosses out the word "did" and initials it and it reads "did not"—"give permission to release my copies of the documents, transcripts and tapes. I authorise only the persons listed below to have copies of the transcripts, audio and video tapes" and he therein wrote the word "nil" and initialled it. I think it is pretty clear on what James' intention was at that time.

**CHAIR:** You have already told the Committee earlier on, actually, Mr Small. If you are going to tender to the Committee all the documents—

**Mr SMALL:** I thought that one was important to read because it clarified an aspect of my evidence. The second document I—

**The Hon. GREG PEARCE:** I am sorry, Mr Small, do you know whether James was still on methadone treatment at that time?

**CHAIR:** No, no, hang on. Can the Committee just finish one thing. We are receiving the documents. Mr Pearce can ask questions later.

**Mr SMALL:** The second document, which is dated 21 February, is a receipt of cash signed by James and Detective Appleton. I tender a third document, which is again a receipt for travel and expenses for relocation. I also tender the notebook or the duty book of Mr West. I would particularly—without reading the whole document, Madam Chair—there is one part that I would particularly raise and suggest I should read. It documents the explanation and signing of the deed of release and the other material by James and his grandmother. It says in part "both"—that is James and his grandmother—"sign the document and their signatures were witnessed by Appleton. I heard" and then it quotes a name, which was James' grandmother "say to [name expunged by direction], 'Do you want'—say to James—'Do you want Frank to get a copy of the document?' James said, "No." I just read that piece. So that is James' grandmother actively asking: Do you want Basham, or do you want Reitano—to have the document? I would apologise, Madam Chair—

**CHAIR:** Please hold on for a minute.

**Mr SMALL:** Madam Chair, I accidentally—

**CHAIR:** I was advised just now—I did not hear it myself—that you inadvertently mentioned James' name. I asked you not to mention James' name. I ask the media—television or otherwise—please expunge James' name from your tape and please do not show or repeat James' name in public. I ask all the media and the press to cooperate.

**Mr SMALL:** Madam Chair, I was just going to apologise for that. I was also going to ask if it could be deleted from the transcript.

**CHAIR:** It will be. The Committee will ensure that his name will be deleted from the transcript. I also hope that those who are present at this public hearing will not repeat James' name.

**The Hon. JOHN JOBLING:** We just have the conditions of tabling those documents and once we re-do that I will probably move that we table the documents. They were released, as I understand, by Assistant Commissioner Small who presented them for tabling to the Committee as a public document.

**Mr SMALL:** They are police records. I have presented them as a public document subject to the names being given a code or deleted.

**The Hon. JOHN HATZISTERGOS:** Isn't all this material going to the Integrity Commission?

**Mr SMALL:** I have got no idea.

**The Hon. JOHN HATZISTERGOS:** There was some suggestion in the last transcript it should go there.

**The Hon. JOHN JOBLING:** Subject to the conditions of the names being either deleted or coded, I will move that the documents be received, otherwise they are a public document.

**Mr SMALL:** I think I was part way through saying that as I understand it, if the Police Department wishes to object to them being tendered as public documents, that is up to them.

**The Hon. JOHN JOBLING:** Well, they are a public document, they can object all they like.

**Mr SMALL:** What I am saying is if they have an objection it is up to them to lodge it. Whether you take notice of it or not is a matter for yourself. I was making the point that I was not here representing the police.

**CHAIR:** I heard you. That is exactly why the Committee will finally decide.

**The Hon. PETER PRIMROSE:** Are we receiving it but not agreeing to publish it?

**The Hon. JOHN JOBLING:** No, we publish it.

**CHAIR:** It can be published according to Mr Clive Small, subject to the name being deleted but at the end of the day the Committee can decide whether it will publish it or not.

**The Hon. PETER PRIMROSE:** Let us get this very clear, are we saying that we are receiving it or are we agreeing to receive it and publish it?

**The Hon. JOHN JOBLING:** We are saying we are agreeing to receive it as a public document. We are saying that we agree to delete the names as requested and therefore if it is a public document it is part of the transcript.

**CHAIR:** We do not want to publish it until the end. The Committee always has the final decision whether it will be published.

**Mr SMALL:** I would just make the observation that the documents I have described, and three of which I have tendered, do not deal with the allegations made by James or the investigation of those allegations. Rather they deal with James' treatment and support during the period of the investigation. Their production goes directly to the credibility of the allegations raised by Dr Basham. They support my evidence. The specific claims of Dr Basham and the more general claims of Mr Priest are false. Notwithstanding that on the 21 February James and his grandmother took and signed for relocation expenses and special arrangements were made for their accommodation at the new location, it appears that they did not relocate but remained at their then existing residence or at least in the same town. Detective Appleton and the independent witness, Mr West, and indeed in part Detective Inspector Wallace, can be called to give evidence in these matters if required or if the Committee has any concerns about my evidence.

Contrary to the assertions of Dr Basham, each undertaking I gave was kept. This is simply a case of Dr Basham not getting the result he wanted from the investigation. Dr Basham says of James at page 1 of the transcript of his in camera evidence of 7 June 2002 that James was "swept up in the world of heroin dealing and ultimately heroin addiction produced by a so-called harm minimisation approach to the drug trade which would effectively decriminalise drug use at the consumption end while maintaining serious criminal penalties at the supply end." Later, at page 2 of the in camera evidence Dr Basham again refers to James living a life of drug dealing and crime and then becoming a heroin addict himself.

Two points need to be made about these statements. First, rather than the sequence of events described by Dr Basham, James, on his own admission, was born with a heroin addiction due to the addiction of his mother. James was a drug user and an addict before he became a dealer. Second, and more important, Dr Basham's comments about harm minimisation and harm reduction reflected ignorance of this concept and of drug policy in this State and country. Helping drug involved offenders to tackle their drug problems and become better integrated into the community has a significant positive impact on crime levels and general community well-being.

Dr Basham's ignorance of the criminal laws of this State is reflected in his evidence. At page 2 of the in camera transcript he says "James' identification of certain dealers would have been enough to get warrants on them". The information provided by James was several months to several years old. While it might have pointed police in a certain direction, a lot of police work was required to determine whether or not it was still current before an application for a warrant could even be considered. No warrants were obtained as a result of James' information because the information he provided did not justify that action being taken.

There are some matters relating to James and to one other matter that ought to be given in camera. They are matters that are directly relevant to the issues now being dealt with by this Committee.

**CHAIR:** We will have question time now for your evidence given just then.

**The Hon. JOHN HATZISTERGOS:** At the first hearing of this matter last year, 30 March 2001, Dr Basham gave evidence about yourself which one could only describe as complimentary. He said on page 8, "I have the highest regard for a number of people in the service. I am particularly pleased that the most difficult job in the New South Wales police service has been given to Clive Small. I think he is one of the more capable policemen in the police. I just hope it was done for the right reasons. But in any event I think if anybody can help, Clive can".

On page 11 he said, in relation to matters that Mr Priest had relayed to the Committee, "First of all, I take it that Tim Priest is sincere, although I find it difficult to believe his charges concerning Clive Small. Knowing Clive Small I do not believe for a moment he would have neglected this information and knowing the way the police service operates I am not sure it made it all the way to Clive Small." They are just two of the references that I have been able to find. I think there may be others. Where did the relationship with Dr Basham falter after 30 March 2001?

**Mr SMALL:** In addition to those comments there were a number of comments made, I would say, in the first half of last year—not up until June but up until around about April or May, I would suggest—where Dr Basham was on a number of radio programs, derogatory comments were put and when it came to me he resiled from those derogatory comments. He was clearly trying to balance the act, if you like, but he clearly did not want to offend his interviewer. Prior to the release of the report in June—I would suspect it was around March or April,—as a result of the arrangements of John Kidman that I have spoken to, I met with Richard Basham, Tim Priest and Frank Reitano on a number of occasions and we had in a sense at that stage agreed to disagree on some issues and agreed that we needed to move forward and that there was a lot of work to be done to help the people of this State and, in particular, Cabramatta.

Things seem to have been somewhat balanced at that time. There were issues which still riled, I suppose, both sides which we let go. There were a number of comments made during those meetings and then on a particular day, for reasons that are absolutely unknown to me, there was a wild outburst by a radio commentator about me on the radio; it made a series of allegations. I think it was this one occasion it included access to my internal affairs record—which the person had well before that, by the way—and included these comments which Dr Basham referred to about me going feral with some journalists. I do not know what actually changed the relationship of our conversation over a four-month period but, nonetheless, I rang Detective Priest on that day and said to him "What is the problem?" He made a number of comments to me and told me that he wanted to see me that night as there was something in the wind. When he rang me that night I was told in two words what to do—I do not think I need to repeat those words here—and I had not heard from him for some time after that. To this day I must say I still do not know what caused that problem.

**The Hon. JOHN HATZISTERGOS:** You did not have a meeting with Mr Priest just for him to express two words?

**Mr SMALL:** No, I did not. What happened, in the morning he asked that I see him that night, he was going to ring me and tell me when and where. I cannot say the exact time but around about five or six o'clock that night I had a phone call from him which was essentially two words. I said "What is the problem?" And it was "I don't care if I never see you again". That was the breakdown in the relationship.

**The Hon. JOHN HATZISTERGOS:** That was with Tim Priest?

**Mr SMALL:** That was with Tim Priest. But you understand that Priest, Basham and Reitano move together like that. One moves to the left, they all move to the left. One moves to the right, they all move to the right. One makes an allegation, they all make an allegation.

**The Hon. JOHN HATZISTERGOS:** That was not the case when Basham gave evidence on 30 March. He disagreed with Tim Priest on the question of your credibility.

**Mr SMALL:** That's right, and what I am saying is the incident I referred to was after that. It was just prior to the release of the report, so that would put it somewhere around May I would think or maybe even June.

**The Hon. JOHN HATZISTERGOS:** Following the media report about yourself?

**Mr SMALL:** No. If I could put it this way, there was the initial blow up of 23 February 2001 and my response on 27 February, or thereabouts. Then some several months later—I would have put it at around about April or May, somewhere around that period—there was the approach by John Kidman and another journalist to sit down and have a talk with Priest as they in fact themselves expressed the view that the matter was getting out of hand. That was agreed to. I subsequently met Priest, Basham and Reitano on three or four occasions and that was just over a coffee. There was this one occasion after that last meeting where there was the outburst on the radio, there were a range of allegations made against me; I was told they didn't care if they didn't speak to me again, and the reason for that is still absolutely unknown to me. It has never been explained. That then caused, if you like, a worsening relationship. That continued through.

**The Hon. GREG PEARCE:** Can I just clear up the issue of your evidence and what I have called the fraudulent document that you tendered to us. Mr Carlton was good enough to remind us of one of the seminal moments in the inquiry which was recognising Mr Ryan's comments that Cabramatta was safer than Roseville. The other very significant issue of course was when Mr Priest came and gave his evidence that the Cook report had been prepared and was not acted upon, there were murders and gang warfare was about to break out. You came in and refuted that by, in essence, saying that there were 11 strike forces in operation, that it was acted upon and that it led to the creation of Portville. That is it in summary?

**Mr SMALL:** That is correct, yes.

**The Hon. GREG PEARCE:** I see that you have looked at the report and you have referred to various chapters and paragraphs. Can I just take you to paragraph 4.48 of our report?

**Mr SMALL:** I am sorry, I do not have a copy of it.

**The Hon. GREG PEARCE:** I can lend you mine. In paragraph 4.48 the Committee concluded that only one of the strike forces nominated by you in your evidence was directed to act in any proactive way in relation to drug related crime and this strike force had been established in October 1999—that was Pitten. So on the issue of the 11 strike forces the Committee did not believe your evidence.

**Mr SMALL:** With all respect, there were a number of—

**The Hon. GREG PEARCE:** Would you like to read the paragraph in the report? The Committee did not believe your evidence.

**Mr SMALL:** That is for the Committee.

**The Hon. GREG PEARCE:** If you go to paragraph 4.54 you will see that the Committee—

**The Hon. JOHN HATZISTERGOS:** Point of order: Can we actually have questions?

**The Hon. GREG PEARCE:** Yes, I am asking questions. I am taking him to paragraphs.

**The Hon. JOHN HATZISTERGOS:** Now you are not, you are reading paragraphs out and you are making statements as to what you believe the Committee thought.

**The Hon. GREG PEARCE:** It is the conclusion. In paragraph 4.54 our conclusion is that we were not provided with an explanation as to why a shooting on 27 December 1999 was incorporated as part of Strike Force Portville and paragraph 4.55 states that "The Committee is not satisfied about the claims that the information provided in the Cook report was used as the basis of Strike Force Portville's terms of reference. Rather, it is apparent that Strike Force Portville was a reactive investigation into the series of shootings, stabbings and violent incidents which occurred and had been outlined in general terms in the Cook report." The Committee did not believe your evidence in relation to the Cook report.

**Mr SMALL:** Could I take you to 4.58, which contradicts what you have read out in the earlier paragraph, which says, "The Committee is not in a position to form a view whether the Cook assessment formed the 'basis of intelligence analysis undertaken during December and January and the basis for Portville'". So your own report contradicts yourself.

**The Hon. GREG PEARCE:** Would you like to read the whole of the paragraph.

**Mr SMALL:** I have. I have read the relevant part.

**The Hon. GREG PEARCE:** Read the whole of paragraph 4.58 out.

**Mr SMALL:** Am I required now to read this out?

**The Hon. JOHN HATZISTERGOS:** Paragraph 4.57 also says the suggestion that the Cook report was hidden and not acted upon is incorrect.

**The Hon. GREG PEARCE:** The balance of paragraph 4.58 says that "the Committee finds that the content of the Cook Report was such as should have received urgent priority and critical attention."

**Mr SMALL:** Yes. I am not debating that.

**The Hon. GREG PEARCE:** "The Committee further finds that the failure to take any action until at least 1 February 2000, some ten weeks after the production of the assessment, was an inadequate response". The point is that your refutation of Mr Priest's seminal claims was rejected by the Committee and part of the reason for that, and one of the things we have been trying to get to the bottom of, is this fraudulent document you produced on 27 February—

**The Hon. JOHN HATZISTERGOS:** Point of order: We have actually rejected that it was a fraudulent document. We discussed at the last meeting.

**The Hon. GREG PEARCE:** We have not done that at all. Mr Small has just given evidence and I would just like to—

**The Hon. JOHN HATZISTERGOS:** He said it was a compilation of two documents and it was an inadvertent error. You keep throwing in the word "fraud" like it involves a motive.

**The Hon. GREG PEARCE:** He said that crime agencies have now admitted an error, which is not the case. I asked you to look at this document when you came back in May 2001—

**The Hon. JOHN HATZISTERGOS:** He actually did not put it together himself, he has said that.

**The Hon. GREG PEARCE:** He tendered it to us. It was the basis of his evidence, which we did not believe.

**CHAIR:** That particular point is for the Committee to decide. Mr Small has already explained it was an inadvertent error. It was put together with the terms of reference and the expanded terms of reference.

**Mr SMALL:** There are two issues that need to be put on the public record with respect to Mr Pearce's question. First up, to reiterate the point that I made earlier, this Committee in fact had an explanation for the mix-up prior to the publication of the report and chose not to include that explanation in the report.

**The Hon. GREG PEARCE:** That is a lie. You have said in paragraph 4.53 that what we were told by the police it was a compilation, but when I asked you to look at this in May when you came before us—would you like to have another look at it?

**Mr SMALL:** No, I have given an explanation. I have been through your evidence. It is wrong.

**The Hon. GREG PEARCE:** This document supposedly dated 2 February 2000 referred to an investigation of an attempted murder on 28th February, and you expected us to believe that?

**The Hon. JOHN HATZISTERGOS:** That was the compilation of the two documents. You are not listening.

**The Hon. GREG PEARCE:** It referred to an attempted murder on 5 March 2000, and this is a document you said was a true document that we were supposed to rely on.

**Mr SMALL:** First of all, I repeat for the third time, you were given an explanation of the mix-up.

**The Hon. GREG PEARCE:** Not by you.

**Mr SMALL:** You could have called me back and asked me.

**CHAIR:** Mr Pearce, I ask you not to interrupt the witness's answer.

**Mr SMALL:** The second point that I would make is that there were a number of people who could have corroborated my evidence, who were named by me but this Committee, for whatever reason, chose not to call. You made a decision, having only part of the evidence before you and not seeking to corroborate.

**The Hon. GREG PEARCE:** We had your evidence, which we rejected.

**Mr SMALL:** And you had seven or eight people who could have corroborated my evidence and you chose not to call them.

**The Hon. JOHN JOBLING:** I think Assistant Commissioner Small would accede that in presenting the document to the Committee, whether it was an incorrect compilation or not, you did not check it yourself to ensure that the document was correct and accurate. That would be a reasonable conclusion, would it not?

**Mr SMALL:** I had checked it but not picked up the mistake.

**The Hon. GREG PEARCE:** That a document dated 2 February referred to a murder on 28 February and an attempted murder on 5 March?

**Mr SMALL:** With respect, Mr Pearce, you did not pick it up either.

**The Hon. GREG PEARCE:** I picked it up later.

**Mr SMALL:** Exactly.

**CHAIR:** Mr Pearce, please ask questions and not cross-examine the witness.

**The Hon. GREG PEARCE:** What is the precise nature of your role at the Premier's Department?

**Mr SMALL:** I do not see that it is within the terms of reference of this Committee, with respect, Mr Pearce.

**CHAIR:** It is irrelevant. I ask the member to ask a question that is relevant.

**The Hon. JOHN JOBLING:** Possibly it might be, but it would be very simple if Mr Small could succinctly answer it.

**The Hon. PETER PRIMROSE:** It is not part of the terms of reference.

**The Hon. GREG PEARCE:** I was going ask whether Mr Small had written the report on the Cabramatta progress and what role he had in that, given that we had him back to inquire whether there were further matters that had to be dealt with, and what has happened in Cabramatta.

**The Hon. JOHN HATZISTERGOS:** That is the report you said you quite liked.

**The Hon. GREG PEARCE:** Yes.

**The Hon. JOHN HATZISTERGOS:** You said you thought it was a good report. It will be a compliment if you say yes.

**Mr SMALL:** Yes then.

**The Hon. GREG PEARCE:** What role did you have in preparing it?

**Mr SMALL:** I provided some information from my position as the regional commander.

**The Hon. GREG PEARCE:** But not from the Premier's?

**Mr SMALL:** I did not, no. Any role, bearing in mind that that extended over the time I was there, but the input I had was as the regional commander not as in the Premier's Department.

**The Hon. GREG PEARCE:** As the James investigation was taking place and he was in the care of police, were any telephone taps placed on his telephones?

**CHAIR:** I rule that question out of order. It is an operational matter. It is not relevant to our terms of reference, our progress and our review.

**The Hon. JOHN JOBLING:** With respect, would it be easier for Assistant Commissioner Small to indicate that it is an operational matter rather than putting you in the difficult position as chairman. Commissioner Small will obviously indicate that.

**The Hon. JOHN HATZISTERGOS:** He wants him to give an answer so that basically everyone can infer from the answer that there is something sinister.

**CHAIR:** I do not think that Mr Small should answer this question because it is an operational matter.

**The Hon. GREG PEARCE:** Are you going to answer it?

**Mr SMALL:** No.

**The Hon. GREG PEARCE:** You mentioned in your statement that leaks are an invaluable source for any person in the media.

**Mr SMALL:** Yes.

**The Hon. GREG PEARCE:** Have you engaged in providing any police documents to the media or given any off-the-record briefings, particularly in relation to Cabramatta matters?

**Mr SMALL:** In terms of Cabramatta I, in my position as the regional commander, gave frequent briefings to the media about a range of matters concerning Cabramatta and policing in the greater Hume region generally, consistent with media policy. I do know members of the media, as I am sure you do, and from time to time we would have a general talk about them but they would not be briefings; issues generally I am talking about—"How are things going? All right", whatever. I cannot put a date on it but following John Lyons interview of Priest and Basham, I think it was a round about May, and the program on the Sunday where Mr Priest actually publicly called for the release of the James report, and contacts that had apparently arisen from them not from me, the media was in somewhat of a frenzy about the James report, everyone wanting copies, and quite obviously numerous people from the media contacted me and I told them, as I have told everyone, I do not have copies of the James report. I have got no comment on it.

**The Hon. GREG PEARCE:** I was actually wanting to revert back a little earlier to the Cook report. Did you give the briefing to Mr Mercer that led to the article in the Herald?

**Mr SMALL:** No.

**The Hon. GREG PEARCE:** You did not give to Mr Mercer or to any of the other authors of that article any information on the Cook report?

**Mr SMALL:** No.

**The Hon. GREG PEARCE:** Did you give anybody any information or access to the Cook report?

**Mr SMALL:** No. Let me be clear on that. I have said to a number of journalists, which I said at the time, that I had no problem with the Cook report being released.

**The Hon. GREG PEARCE:** But you did not give a briefing on the Cook report?

**Mr SMALL:** No.

**The Hon. JOHN HATZISTERGOS:** Do you know how the Cook report came to be published?

**Mr SMALL:** No.

**The Hon. JOHN HATZISTERGOS:** No idea?

**Mr SMALL:** No.

**The Hon. JOHN JOBLING:** Looking at the statement you gave this morning, you made and developed strongly an argument dealing with the role that you allege Mr Priest, Dr Basham and others have played in leaking information to the media and "spreading behind the scenes rumour about myself and at least some other people named". I take it there must be some evidence that will confirm this, or is it just an anecdotal belief?

**Mr SMALL:** No, there is evidence to confirm it. I am not in a position to divulge to this Committee the extent of that evidence but if you would like to go into an in-camera session I am prepared to outline to you broadly the conspiracy that has been run and the people involved.

**The Hon. JOHN JOBLING:** You can understand my problem in accepting the statement. I probably will accept your comment and offer in Committee but to make that statement without being able to produce the evidence tends to leave you in the same situation you accuse the others of—"I've got the evidence but I can't tell you".

**Mr SMALL:** Well, the evidence is available.

**The Hon. JOHN JOBLING:** They say the same thing.

**Mr SMALL:** It is causing a difficulty for me in answering this question. If you would like to go into—

**CHAIR:** Okay.

**The Hon. JOHN JOBLING:** No, I will come back to that one.

**Mr SMALL:** Although I can sketch an outline for you publicly if you wish.

**CHAIR:** I think we should have that evidence in camera.

**The Hon. JOHN JOBLING:** If we can have a public sketching of it now, I would agree that that be done.

**Mr SMALL:** It will involve naming other names who have not been named before.

**CHAIR:** I would strongly advise the Committee not to have any names, maybe adversely, mentioned in public.

**The Hon. JOHN JOBLING:** Surely to substantiate the claim, if Mr Small is prepared to do it.

**CHAIR:** The Committee is not prepared to call witnesses again to rebut what was mentioned.

**The Hon. JOHN JOBLING:** I do not know what the Committee is prepared to do.

**Mr SMALL:** I also have another problem, which is a very delicate one and I do not know how I can explain this in public. In fact, I do not know how I can explain it to this Committee because it might compromise the Committee.

**The Hon. JOHN JOBLING:** Now you have got the attention of the media.

**CHAIR:** Is there any other question in relation to Mr Small's evidence that can be asked now?

**The Hon. GREG PEARCE:** Did you at any time provide to any person a briefing, extract, copy or any other material in relation to Detective Sergeant Priest's internal affairs file?

**Mr SMALL:** I have never seen Detective Sergeant Priest's file, including that I have never had it. When I took the position of commander, greater Hume, effectively the beginning of January or late December 2000-01, and Detective Priest made the allegations against me in mid February, somewhere about that time I became aware of an internal investigation matter and I directed that given Detective Priest's allegations, the file was not to come to the region office, that I was not to have access to it and that I did not want the office to have any decision-making role in it because it would be argued, no matter how it was done, that I had somehow influenced it and for that reason I also directed it not even go through the office to avoid any suggestion of influence or interference in the file.

**The Hon. GREG PEARCE:** So you have never read it. You have never had a summary of what is in it?

**Mr SMALL:** No. Excuse me, that is absolutely true. As I indicated to the Committee, though, on a previous occasion when there was a suggestion of Mr Priest coming to crime agencies, I was informed by the then deputy commissioner that there were some outstanding internal affairs matters. I was not made aware of the detail of those matters but the fact that they were outstanding meant—and this was not a matter of dealing with Mr Priest any differently—that no-one could come to crime agencies while there were outstanding internal affairs matters and I explained that on my, I think, first occasion.

**The Hon. GREG PEARCE:** It would not be particularly unusual. There are complaints and internal investigations of all sorts of police, including yourself, at various times, so it would not be unusual that there was one for Sergeant Priest?

**Mr SMALL:** Sorry?

**The Hon. GREG PEARCE:** That it would prevent him from going to crime agencies.

**Mr SMALL:** No. The procedure was that there was, if you like—I am loathe to use the word integrity test, but there was an integrity assessment of individuals who went to crime agencies. That involved looking at their internal affairs records to see what they were, essentially making a risk assessment.

That was not held against any person. In other words, there was not a black mark put on a file or anything like that. Simply a decision was made in some cases not to accept people into crime agencies because of a risk assessment without impacting adversely on any future career opportunities that they might have had. That applied to all people. So the mere fact that you had a current internal affairs investigation going would preclude you from consideration at that point in time.

**The Hon. GREG PEARCE:** But it was by no means otherwise necessarily a black mark against the person?

**Mr SMALL:** I do not know what the matter was or the matters were.

**The Hon. JOHN JOBLING:** In preparing the document that you have submitted to us today, did you consult with other people in relation to its preparation? Would you like to us tell us with whom you consulted? Were you given any advice as to what should or should not be included in the submission?

**Mr SMALL:** I will start with the last part of your question first because it is the simplest. No-one gave me any advice or instructions as to what should or should not be included in the statement. The contents of the statement were of my own choosing. Yes, I did consult with people to the extent that, in terms of the James report, as I said, I did not have access to it. I put it down to the best of my recollection, if you like, and I spoke with Detective Inspector Matt Appleton and said, "Have I made any big blunders here", or that sort of thing. It was not seeking input from him; it was to ensure that my recollection of events was accurate.

To that extent he reminded me of a few matters and I made sure that it was accurate. In terms of the police who are named as being able to corroborate my evidence regarding the setting up of Portville, I did not approach them myself; I asked an officer, originally through Court and Legal Services, to ask the police whether they would read my evidence that I gave last year, that is, about how Portville was set up from the Cook report through, to see whether they were satisfied with the evidence I had given and whether there was anything that should be done, had I made a mistake, or were they satisfied with it.

The advice I got back was that they were all satisfied with the evidence and they thought it accurately reflected the series of events. That is not to say that every person I named can give comment on every bit of the flow of events that occurred but, to their knowledge of the events that occurred, my description is accurate. No-one

said, "This is wrong, that is wrong." Their combined recollection and their combined knowledge of it was that what I said last year was true and correct.

In fact, the evidence I gave last year was based on the advice that they gave me. I was not there. I had to go to people and say, "What happened? How did this come together?" They confirmed the accuracy of it, as I said, except at the last minute Detective Cook thought that the discussions that he was a part of were later than 9 and 12 December. But there was no suggestion that he was actually at those meetings in any case.

**Ms LEE RHIANNON:** Did you write the report during working hours?

**Mr SMALL:** Which report?

**Ms LEE RHIANNON:** The report that you presented to us today?

**The Hon. JOHN HATZISTERGOS:** The submission.

**Mr SMALL:** In substantial part, I wrote it in my own time. Other parts of it you could say that I wrote in work time.

**Ms LEE RHIANNON:** The various documents that you have submitted today, were you getting those through during work time? There seems to be a confusing crossover there.

**Mr SMALL:** No. The documents I produced today I was handed this morning by officers from Court and Legal Services, who are in the back of the room, just before I gave evidence. What happened was, without worrying too much about the detail, originally the police department was to represent me in these proceedings, but it was clear from my last appearance when I had said that the James report should be released, there were some in headquarters who had a different view. That caused a conflict of interest for Court and Legal Services, so they indicated that they could not represent me.

I was offered alternative legal advice, which I declined. But I had asked them, given the lateness of the hour, if you like, that there were some people that I needed to talk to and there were some documents that I wanted to produce—which were the three of the four that I have produced today—and would they still give me access to them. I was told yesterday that they would and that they would hand them here to me today.

**Ms LEE RHIANNON:** So about how many hours of your work time would it have taken?

**The Hon. JOHN HATZISTERGOS:** How is this relevant?

**Mr SMALL:** I suppose I can put it this way—

**The Hon. JOHN HATZISTERGOS:** Point of order: How is this relevant? Either you want him to give evidence or you do not. Why do you not deal with the substance?

**Ms LEE RHIANNON:** This is obviously part of the substance. We have Mr Reitano from the police Minister's office on the one hand and we have Mr Small here. An extraordinary situation is unfolding. Asking some questions may help us to resolve what is going on. You have had a fair go. I am now asking a couple of questions.

**Mr SMALL:** I am happy to answer the question.

**CHAIR:** Order! The witness is happy to answer the question.

**Mr SMALL:** It is a bit difficult to the extent that my average work week is about 70 to 80 hours. So somewhere in that 70 to 80 hours I have spent time preparing this statement. I guess the argument is: Did I do it between 9.00 and 5.00, which is my official work time, or did I do it between 5.00 and midnight when I am working at home, because I was still working? The point is that, yes, I did do it or, if I took four hours off during the day to do this, I worked four hours at night because that counts as my work time.

The fact of the matter is that I have something like a 70-hour to 80-hour work week. Some parts of that 70 to 80 hours were spent preparing this. Some other parts of my time, over and above the 70 or 80 hours, were also spent preparing this, but I can assure you that the public has not been short-changed on my salary, diverting it to private use.

**The Hon. JOHN HATZISTERGOS:** I ask a question relating to some comments you made about Dr Basham. You said that you did not trust him for a considerable period of time.

**Mr SMALL:** Yes.

**The Hon. JOHN HATZISTERGOS:** You also had been very cautious in your conversations with him.

**Mr SMALL:** Yes.

**The Hon. JOHN HATZISTERGOS:** When did that considerable period of time start?

**Mr SMALL:** I have described the fact that I had three or four meetings with Messrs Basham, Priest and Reitano. At that time, while I had a degree of caution, the point that has been made is that Dr Basham, up until around that period, had certainly spoken favourably of me and I saw him at that time as a potential mediator, if you like, a mediator or facilitator, in calming things down. But whatever day it was when there was this outburst—

**The Hon. JOHN HATZISTERGOS:** In May.

**Mr SMALL:** In May or so, at that point, the whole relationship just collapsed with any of them.

**The Hon. JOHN HATZISTERGOS:** When was it?

**Mr SMALL:** I can tell you that it was not too long before the completion of the report.

**The Hon. JOHN HATZISTERGOS:** That is probably around May. You say that you are aware that your internal affairs file was being distributed to the media by persons who included Richard Basham?

**Mr SMALL:** Yes.

**The Hon. JOHN HATZISTERGOS:** When was that happening?

**Mr SMALL:** About the time of the blow-up, if I can put it that way. About the time I was meeting them. In fact, my belief is that it was distributed prior to that. It had been distributed to members of the media and also to members of Parliament.

**The Hon. JOHN HATZISTERGOS:** I did not get a copy.

**The Hon. JOHN JOBLING:** Nor did I.

**The Hon. GREG PEARCE:** Nor did I.

**The Hon. JOHN HATZISTERGOS:** How are you aware that Mr Basham is one of those involved in the distribution?

**Mr SMALL:** I have already alluded to the fact that, in a conversation with Mr Basham during that period of peace, he made the comment that I needed to be careful. That was made as a clear warning to me. He made a number of references to the fact that he had documentation. So he certainly was in possession of it. There are other matters which I do not believe I can respond to publicly that would support that, and indeed there would be some difficulties—with no disrespect to the Committee—in responding to the Committee even in private hearings.

**The Hon. JOHN HATZISTERGOS:** You make the statement at the top of page 5 of your report that that threat was made in the first part of last year?

**Mr SMALL:** Yes.

**The Hon. JOHN HATZISTERGOS:** When was it made?

**Mr SMALL:** As I said, from the first meeting with Mr Priest it was made clear that they had my internal affairs record, and so did a number of other people.

**The Hon. JOHN HATZISTERGOS:** Mr Priest told you that?

**Mr SMALL:** It was a matter that came up in a general conversation. I cannot recall who, but Messrs Priest, Basham and Reitano were present. I think it actually came up in the first conversation in a general way.

**The Hon. JOHN HATZISTERGOS:** How do people of the standing of Mr Priest, Mr Basham and, perhaps Mr Reitano, get access to material of that nature?

**Mr SMALL:** I can tell you precisely, but I do not think it should be done in this public hearing.

**The Hon. JOHN HATZISTERGOS:** Legally?

**Mr SMALL:** No, and indeed it raises questions of even people in possession of the document, as part of the material includes police board reports, which it is a criminal offence to possess. Part of the material relates to police reports to the now defunct police board. Possession and distribution of that material is a criminal offence. Now that the board has gone I am not sure what the standing of that law is, but it did relate to the distribution and possession.

**The Hon. GREG PEARCE:** You have gone a little further now than you did in your written statement. Nowhere in this written statement do you actually say that Mr Priest, Mr Reitano or Dr Basham said that they had your file.

**Mr SMALL:** There are a lot of things that are not contained in that report.

**The Hon. GREG PEARCE:** I am pointing out to you that you have now gone further and you are saying that one or other of them has made that claim that they have your file?

**Mr SMALL:** With all respect, I think my statement is actually clear enough on that. I have said that I was given this warning, if you like, by Mr Basham, and that subsequently the material was made available to members of the media.

**The Hon. GREG PEARCE:** It is a fairly large leap in logic to get to there.

**Mr SMALL:** Not from my point of view, with all respect.

**The Hon. JOHN HATZISTERGOS:** Have you done anything about the fact that your internal affairs records—

**Mr SMALL:** Yes.

**The Hon. JOHN HATZISTERGOS:** What action have you taken?

**Mr SMALL:** The matter has been taken to the Police Integrity Commission. In fact, it was quite public. The situation is—

**The Hon. GREG PEARCE:** You put that in your report too.

**Mr SMALL:** The situation is, though, that the document was being so widely circulated that members of the media were ringing and I took a view that the best way to deal with it was to do a public on-the-record interview with the media, which I did. I indicated publicly at that time I would then be taking the matter to the Police Integrity Commission, without going much further, which I did.

**The Hon. JOHN JOBLING:** Could you tell us when you did that, Assistant Commissioner Small? Could you give us the month and the year?

**Mr SMALL:** I cannot recall the time. I can check that. It was certainly around the middle or the second half of last year.

**The Hon. JOHN JOBLING:** How long would it normally take to conclude that inquiry?

**Mr SMALL:** It is a matter of whether or not they chose to investigate it or just to note it.

**The Hon. JOHN JOBLING:** Let us take that as an unknown.

**Mr SMALL:** I think I need to clarify one point because of the way in which the question was asked. The material that is contained in the internal affairs record is for the greater part pre 1997. I think it was in 1997 or 1998 that I was promoted. It is normal practice—and I have to be careful how I say this—for the Police Integrity Commission to vet and to check all allegations against senior police before the promotion is made.

**The Hon. JOHN JOBLING:** That is reasonable.

**Mr SMALL:** That is reasonable. I was promoted.

**The Hon. JOHN JOBLING:** In your statement you say that you have not trusted Dr Basham, that you were aware that he and a number of people were distributing information, et cetera, and that he was actively making highly defamatory and untrue allegations about you?

**Mr SMALL:** Yes.

**The Hon. JOHN JOBLING:** You did not take any action in relation to those defamatory allegations?

**Mr SMALL:** No, I did not.

**The Hon. JOHN JOBLING:** Why?

**Mr SMALL:** For a couple of reasons. One was that, frankly, I do not know that he has got the money, so he is not worth pursuing.

**The Hon. JOHN JOBLING:** That is a very generous outlook.

**Mr SMALL:** Secondly, I believe that at the end of the day they would make such a muck-up of it that they expose themselves for the ill-informed, malicious people that they are; the vindictive people that they are. Thirdly, there was the reason that I was trying to get on with policing and making Cabramatta a better place, as part of the Greater Hume Region. I figured that by doing this was simply going to prolong it and make it worse. In hindsight it might have actually shortcut it but, at the time, they were the sorts of reasons that I had advanced. There is another reason which, again, I am prepared to at least identify in an in camera session.

**The Hon. JOHN HATZISTERGOS:** You say that comments made to you by Dr Basham amounted to a threat that material would be released about you. What was the context in which that threat was made? What was sought by Dr Basham in making the threat?

**Mr SMALL:** While Dr Basham has always had a sort of abrasive personality, if I can put it that way although it may not be the right word. He has always been a very outspoken person. My own view is that about March or April of last year his attitude had changed considerably to the point where he had, if you like, an obsession with power. That very much drove him. Conversations we had, which from my point of view were about—no, my experience with this group of people is that you do not talk with them about anything. You sit there and listen to the lecture that they give you. When I met with them, I sat there and listened to the lectures, and I nodded, and I said "yes". My view was to try to simply work through this whole process and problem.

Dr Basham's position was, "You have to join us, you cannot beat us, and we are going to get Peter Ryan". That is summing up what the conversations were about, consistently. I am not saying that that is the precise language that was used, but that is the message that was clear: If you come on side with us and co-operate with us you will be all right.

**CHAIR:** I would like to clarify that. Was that the implication, "We will get Ryan"?

**Mr SMALL:** There was no implication, Madam Chair.

**CHAIR:** You said it was not the exact words.

**Mr SMALL:** It was overt and overtly stated.

**The Hon. JOHN JOBLING:** They used those precise words that you have quoted?

**Mr SMALL:** That "Ryan has to go. The place is in such a mess".

**The Hon. GREG PEARCE:** And you sat there quietly, nodded in agreement, and went along with it?

**Mr SMALL:** Yes, exactly. And told Peter Ryan straight after.

**The Hon. JOHN HATZISTERGOS:** Was that context in which the threat was made, about you?

**Mr SMALL:** The context was about—

**The Hon. JOHN HATZISTERGOS:** I want to be clear about this. Was it suggested to you that if you went along with this plan, information about yourself that was critical of you would not be disclosed?

**Mr SMALL:** It went further. The fact of the matter is, it was put by Basham and Priest that if I co-operated with them they would make me the commissioner after they got rid of Peter Ryan. Clearly in view of what has happened that was a bad career choice of mine of not joining them. What I am simply saying is that this is the ludicrousness, or the stupidity, and the view of self-importance of them in this whole matter.

**The Hon. GREG PEARCE:** These are the advisers to Mr Costa?

**Mr SMALL:** And also the Liberal Opposition, I understand.

**The Hon. GREG PEARCE:** Is that right?

**Mr SMALL:** I am only going on what I read in the newspaper.

**The Hon. GREG PEARCE:** Well, you should not.

**Mr SMALL:** I should not read the newspaper?

**The Hon. GREG PEARCE:** You have a lot of problems with your evidence when you do not check things.

**Mr SMALL:** No, Mr Pearce, I do not. I check evidence before I give it.

**The Hon. GREG PEARCE:** You do not check things.

**Mr SMALL:** I do check things.

**The Hon. GREG PEARCE:** You say what suits you. That is the trouble.

**The Hon. JOHN HATZISTERGOS:** Is the evidence that you have just given the material you supplied to the Police Integrity Commission as part of the material that you asked it to investigate?

**Mr SMALL:** I am not in a position to answer that.

**The Hon. GREG PEARCE:** Perhaps if it is not, you should give it to the PIC. That is the proper inference from the answer.

**Mr SMALL:** If I have not given it to the PIC I will give it to the PIC.

**CHAIR:** We have exhausted the questions. I ask people to clear the room because we are going to the in camera session.

**Mr SMALL:** Before we do that, Madam Chair, I would like to make one concluding public statement. Can I make that now or when the public hearing resumes?

**CHAIR:** There will be no resumption of the public hearing.

**Mr SMALL:** I wish to make one concluding statement. In a sense I would like this to be my final words. I make this observation: I have attempted to provide a broad-base response to the allegations raised by Messrs Priest and Basham. There are a significant number of other points on which critical comment could be made. But it seems that little would be achieved by that. To do so would only serve to prolong this debate which, bluntly, is not particularly helpful to anyone; certainly not to the people of Cabramatta, to the schools, to the police or the other institutions and community associations that are trying very hard to ensure that Cabramatta reaches its full potential, is productive, healthy and an attractive community of diverse peoples working together.

If Messrs Priest or Basham have concerns about me or anyone else they should take those concerns to the Police Integrity Commission or other appropriate body where they can be thoroughly and transparently investigated, and where they can take the witness box and be asked about their allegations. That is an approach that would ensure fairness to all. The mess that was Cabramatta was not of my making. I would ask this Committee to remember that. The mess that was Cabramatta was not of my making. I went there to clean it up, that is why I was sent there. I am well satisfied with the achievements of the Greater Hume Region under my leadership and that of the then regional leadership team.

Cabramatta is not the place it was; it is a much safer place. Crime and violence is down, police morale is up, there is a positive relationship between front-line police, their supervisors and managers. There is an improved and improving relationship between police and the community.

**(Evidence continued in camera)**