

CORRECTED

**REPORT OF PROCEEDINGS BEFORE**

**COMMITTEE ON THE CONDUCT AND PROGRESS OF THE**  
**OMBUDSMAN'S INQUIRY "OPERATION PROSPECT"**

**INQUIRY INTO THE CONDUCT AND PROGRESS OF THE**  
**OMBUDSMAN'S INQUIRY "OPERATION PROSPECT"**

**At Sydney on Tuesday 10 February 2015**

---

**The Committee met at 9.40 a.m.**

---

**PRESENT**

The Hon. R. Borsak (Chair)  
The Hon. N. Blair  
The Hon. T. Khan  
The Hon. N. Maclaren-Jones  
The Hon. A. Searle  
Mr D. Shoebridge  
The Hon. L. Voltz

**CATHERINE JUDITH BURN APM**, Deputy Commissioner, NSW Police Force, Specialist Operations, on former oath:

**CHAIR:** Welcome to the fifth hearing of the Select Committee of Inquiry into the Conduct and Progress of the Ombudsman's Inquiry "Operation Prospect". Before I commence I would like to acknowledge the Gadigal people, the traditional custodians of this land. I would also like to pay respect to the elders past and present of the Eora nation and extend that respect to any other Aboriginals present. Today we will hear from Ms Catherine Burn and Mr Nick Kaldas, deputy commissioners of the NSW Police Force.

Before we commence I would like to make some brief comments about the procedures for today's hearing. Today's hearing is open to the public and is being broadcast via the Parliament's website. A transcript of today's hearing will be placed on the Committee's website within the next day or two. In accordance with broadcasting guidelines, while members of the media may film or record Committee members and witnesses, people in the public gallery should not be the primary focus of any filming or photography. I would also like to remind media representatives that they must take responsibility for what they publish about the Committee's proceedings.

It is important to remember that parliamentary privilege does not apply to what witnesses may say outside of their evidence at the hearing, so I urge witnesses to be careful about any comments they make to the media or to others after they complete their evidence because such comments will not be protected by parliamentary privilege if another person decided to take an action for defamation. The guidelines for the broadcast of proceedings are available from the secretariat. Media representatives who are not accredited to the parliamentary press gallery should approach the secretariat to sign a copy of the broadcasting guidelines.

There may be some questions that a witness would only answer if he or she had more time or with certain documents to hand. In these circumstances, witnesses are advised that they can take a question on notice and provide an answer within 24 hours following the receipt of the transcript. Given the subject matter of this inquiry, it is possible that some of the information that witnesses may be asked to provide will be covered by statutory secrecy provisions. The position of the Legislative Council is the same as the Australian Senate and other Houses, that statutory secrecy provisions have no application to Parliament, except by express enactment and that the secrecy provisions do not affect the powers of the Select Committee to require answers to lawful questions.

The Legislative Council has stated this position in establishing the inquiry and received advice from Mr Bret Walker, SC, dated 14 January 2015 that supports the Legislative Council's position regarding this matter. This advice can be accessed on the Committee's website. Following the recent advice from Mr Bret Walker, SC, the Select Committee has adopted the unusual step of resolving to summons all witnesses to appear before it for this inquiry only. Mr Walker stated that although not necessary to protect witnesses, he strongly favoured the service of a summons to make it clear that witnesses are being compelled to answer questions or provide information.

In the submissions received to date, inquiry participants have made a number of serious allegations against certain persons. I remind all witnesses who may reflect adversely on other people not to misuse parliamentary privilege and ensure that their comments are relevant to the inquiry's terms of reference. Witnesses are advised that any messages should be delivered to the Committee members through the Committee staff. Finally, could everyone please turn off their mobile phones or turn them to silent for the duration of the hearing. I will now ask Ms Burn whether she would care to make a short statement.

**Ms BURN:** Thank you once again for the opportunity to make a statement. There are some important issues that I would like to address specifically and I will comment on some of the evidence given to date that I believe should be rectified or explained further. I will then conclude with a general comment. The mission of the NSW Police Force is to work with the community to reduce crime, violence and fear. One of our main functions, therefore, is the prevention and detection of crime. The prevention and detection of crime takes many forms, and a vital one is investigating allegations or suspicions of crime when they are identified. In addition to high-volume crime or personal crime, there is also organised crime, major crime and, unfortunately, police corruption. With regard to the latter, as we all know, the NSW Police Force is the primary investigative body with oversight from the Ombudsman and the Police Integrity Commission.

To properly investigate organised crime, major crime and serious police corruption, we have a number of tools available to us, many with a legislative basis. This includes powers to obtain listening devices and telephone intercepts, to conduct controlled operations and so on. We also have mechanisms in place to manage people who come forward to provide information to the police about actual or potential criminal activity. They can provide insight into criminal activities that may otherwise not be available and, as such, are an invaluable intelligence and investigative resource in helping to prevent and to detect crime. Often these people are criminals and they are dishonest. This is a fundamental reality of criminal investigation. For example, if a person who was a member of a terrorist cell came forward with information about the cell being involved in terrorism crimes in the past and present and we formed a reasonable suspicion about those allegations, we would investigate the matter, notwithstanding that the source may also be a criminal. Indeed, if we failed to investigate, the community of New South Wales would be ill-served and would justifiably lose confidence in us.

The same applies to allegations about police corruption. This is the nature of important police work. The same example applies for M5. M5 came forward and provided extensive information and made allegations about police corruption spanning most of his police career from the early 1980s until his confessions in December 1988. M5, by his own admissions, was a criminal—a corrupt police officer. He admitted to fabricating evidence, stealing money, perjury and other serious crimes—all while serving the community of New South Wales as a police officer. He also provided allegations about other police officers, many his work colleagues and others not.

M5 also had mental health issues related in part to his clear knowledge that he himself was corrupt while maintaining his role as a serving police officer. His health problems were identified and managed by a psychiatrist and other medical practitioners throughout the Mascot reference. Over the course of Operation Mascot, which was a high-risk major covert operation, M5 turned out to be a credible source. For example, he exposed serious crime at Manly police station involving serving police officers allowing criminals to engage in dealing heroin. These officers turned a blind eye and received money for doing so. He also gained corroborative evidence of many serious crimes that had occurred in the past. Throughout Operation Mascot, more than 50 people were arrested and charged, including six then serving and one former police officer. The six police officers were criminally prosecuted and received custodial sentences. Up to 200 charges were laid for a variety of offences, including pervert the course of justice, supply commercial indictable and large quantities of drugs including heroin, and soliciting and receiving bribes.

As noted in the 2004 Police Integrity Commission report to Parliament regarding Florida, the commission conducted 78 days of public hearings and a number of private hearings between October 2001 and August 2003. Ninety-nine witnesses gave evidence—95 in public and four in private. Of the 99 witnesses, 32 were serving New South Wales police officers at the time they gave evidence, 31 were former officers and 36 were civilians. Fourteen of the 32 serving officers have since left the NSW Police Force, and 11 of those as a direct result of the investigation. An extract from the report shows that the evidence presented in the public hearings revealed a range of corruption, including soliciting and receiving bribes from drug dealers, organising or allowing drug trafficking, stealing cash and property, reducing charges in return for payment, perverting the course of justice, assaulting suspects, verballing suspects, planting items on suspects, and organising or allowing break-and-enter offences.

The conduct in question was committed by officers attached to a number of different commands within the NSW Police Force and spanned a period from the late 1980s until 2001. In total, the investigation identified 400 incidents of police corruption or misconduct. Twenty-nine of those incidents were the subject of examination in the Police Integrity Commission hearings, and a task force set up by the NSW Police Force investigated the balance of the matters with oversight from the Police Integrity Commission. In addition, several of the police officers whom M5 originally named later admitted their extensive involvement in police corruption.

One matter, known as the "Magnum Segment" was examined in the Police Integrity Commission hearings with regard to Operation Florida. It involved a robbery in February 1991 where two people were charged and put before the court. M5 gave evidence in relation to his involvement and the involvement of others in the fabrication of evidence. Two other police officers whom M5 named also admitted their involvement. This was as a result of the Mascot investigation. One of those officers also admitted that he gave false evidence at his trial for conspiracy to pervert the course of justice. This matter and several other related matters were of interest to Operation Mascot from its beginning and preceded M5 coming forward. With that, we must acknowledge that the work of M5 and the information he provided and continued to provide over a number of years at

considerable risk to himself and his family was extremely important and highly successful. If we had rejected him from the outset, we would not have identified the corruption that was exposed and dealt with.

That brings me to reasonable suspicion. As mentioned, our role is to investigate. It is not about determining guilt or innocence beyond reasonable doubt. That is the role of the court. Based on the information from M5, material from other sources and the credibility of M5, we not only had a duty to further investigate the matter but also had a basis for reasonable suspicion. I wish to emphasise this point. My role was that of an investigator and my duty was to investigate the allegations of which I became aware. Some steps in a police investigation require formation of a reasonable suspicion. That is what it is—a suspicion; not certainty nor knowledge.

I am aware that Mr Kaldas has denied any wrongdoing in relation to the matters under investigation in Mascot I and Mascot II. However, with regard to the suspicion, that is not the point. The issue at the time was whether we had a reasonable suspicion, and we did. With regard specifically to Mr Kaldas, the reasonable suspicion I had arose over a period of time and not from just one source. It should be understood and emphasised that this was not my suspicion alone amongst officers of the Special Crime and Internal Affairs and the New South Wales Crime Commission, and that the suspicion was reasonable, given that the information we held was honest and real. I had that suspicion at the time in question and I believe now that that suspicion was reasonable. However, to reinforce regarding the Mascot operation, I did not have any animosity towards, conflict with or vendetta against Mr Kaldas. Mr Kaldas was not central to the operation. Mascot was intended to investigate the entirety of M5's allegations, including those events involving Mr Kaldas. Over the course of Mascot we investigated many of the allegations made against many people.

There are three other important points I need to make. First, regarding Operation Mascot, I did not run the operation, I did not lead an internal affairs probe, I was not in charge of the operation, and I was not the commander of Mascot, Special Crime and Internal Affairs or the Special Crime Unit aside from a four-month period between 4 March 2002 and 4 July 2002, when I relieved as the acting commander of the Special Crime Unit, which was after the covert investigation involving M5 had concluded. As has been stated in evidence, the investigation was run under New South Wales Crime Commission terms of reference known as Mascot and later through a memorandum of understanding of the Police Integrity Commission.

Secondly, I refer to the warrants and affidavits that are the subject of this hearing. I did not prepare or swear those warrants or the affidavit. During the Select Committee hearing on 4 February 2015, Mr Giorgiutti was asked, "Whose job was it to ensure that there was enough information in it to satisfy the warrant being issued against those named in it? Whose ultimate job was that?" Mr Giorgiutti responded, "The solicitor would have been satisfied that the affidavit supported the application for the warrant."

Thirdly, I need to comment on this completely unsatisfactory position we all find ourselves in. I agree with Mr Kaldas and other witnesses that none of us should be in this position. These matters should have been resolved 12 years ago. I understand the frustration, anger and bitterness which has been expressed and which is being felt. I, too, have experienced and the felt those things over the past 12 years. This is the same for the many fine officers who worked on Operation Mascot. This has undoubtedly gone on for too long and it has taken a toll on us all. I cannot emphasise enough that there is nothing more I wish had happened than that these matters had been resolved earlier. I have had to endure allegations and innuendo in the media for many years without any ability to respond. This has had a detrimental impact on my reputation and a horrible impact on my family.

Contrary to allegations that I am hiding behind secrecy provisions, this is simply not the case. It is precisely because of those secrecy positions that I have been unable to defend myself at every step of the way due to the requirements of the law not to disclose such information. I have never compromised those provisions and aside from internal interviews and occasional requests due to court or administrative matters, I have not spoken about these matters to anyone since I left Operation Mascot in November 2002. This has been to my absolute detriment.

Importantly, we all want to see procedural fairness and natural justice, and this should extend to those who worked on Operation Mascot. This is something that seems to have been lost over the years. As I mentioned, there were many fine officers involved in the operation and several of them are still serving. In a quest for some specific answers, let us not make the same mistake that appears to have been made many years ago—the failure or inability to properly investigate the circumstances because not all the available information and evidence is on hand. To be frank, this is glaringly obvious with the current circumstances. Strike Force Emblems was formed to investigate serious allegations. I cooperatively participated in two interviews conducted

by Emblems officers—one in December 2002 and one in June 2003. At the end of the 2003 interview I asked whether there were any allegations against me. The response by Assistant Commissioner Dobson was, "None that I'm aware of."

When Emblems was, dare I say, finalised in 2004 it is apparent that they were unable to come to any proper conclusions because of lack of access to documents. This has been mentioned several times over the course of these hearings and the Committee and some witnesses have quite rightly made a lot out of this, but herein lies the same fundamental problem for this Committee. The Committee does not have access to all the documents or witnesses so, exactly like Emblems, it will not be able to come to any comprehensive and complete conclusions. We are no further advanced. Importantly though, it appears that the Ombudsman does have access to all the information and documentation which will allow a proper and thorough investigation and end this extremely distressing set of circumstances.

But what is happening now is that I am being scrutinised and judged on incomplete and sometimes incorrect information. This is very dangerous. One example of many I have heard over these proceedings relates to evidence given by Mr Barrett. I am not criticising Mr Barrett as I understand he is making his judgements based on partial information. When he was asked about the King send-off he responded that he believed it was a very impromptu farewell. However, the evidence that I have been able to give to this Committee indicates that the farewell was something that was being planned as early as March 2000 and maybe even February 2000—some three months before it took place. It was not impromptu. The evidence to date is marred with similar discrepancies that all need further investigation or clarification through access to all the documentation and all the witnesses.

To finish I will make one general comment. I have proudly served as a New South Wales police officer for 31 years. I have been fortunate to have worked in many complex areas and I have valued them all. This includes major crime, homicide, Burwood and Redfern commands, Professional Standards Command, Commander of the Central Metropolitan Region, corporate services, and specialist operations. I have and continue to be humbled by our communities and am in awe of our police.

Police work is tough. Every day our police put their lives on the line. Every day they deal with the worst of humanity. They use their training, skills and ability to keep us all safe. This is what we routinely expect from police and what we depend on. Wherever our citizens are in danger or under attack or duress we hope there will be police there quickly to step in. We saw this demonstrated so vividly just recently with the police response to the Martin Place siege. With great pride I can say we are the best police force in Australia and most likely beyond. But the police force of today is not the police force of the 1980s, the 1990s and the early 2000s. The professionalism that now defines our police is as a result of much reform that followed the Wood Royal Commission where chilling systemic and entrenched corruption was exposed. Thankfully, our police culture today is very different.

I invite the Committee to consider this in the context of the Special Crime Unit, which was set up some 15 years ago following that royal commission. The purpose of this unit was to investigate corrupt officers, particularly those who allowed organised crime or major crime to flourish. I felt then when I served in that unit—as difficult and personally taxing as it was—it was an important duty. It was critical to the health of the force and it was owed to every officer across the State doing their uniform proud every day and night. Investigating your own is a difficult and damning job but it is the system we have in place in New South Wales. I have built a 31-year career in the NSW Police Force on the bedrock of my personal and professional integrity. There is nothing I possess that I value more highly. Thank you. I will table my opening statement.

**The Hon. ADAM SEARLE:** You said that the suspicion that you had regarding Mr Kaldas was reasonable at the time. I think you have set out in your answers to supplementary questions why you felt that was the case. In the transcript of your evidence the other day you said, "I did have a reasonable suspicion. I do ..." Do you say that you still maintain that suspicion today or were you talking about suspicion that was had back in 2000-2001?

**Ms BURN:** I think that answer needs some explanation.

**The Hon. ADAM SEARLE:** Please explain.

**Ms BURN:** As I have just outlined, I believe I had a reasonable suspicion at the time and I believe now that that suspicion was reasonable. When Mascot was conducted the majority of the investigation, 2½ years, was

CORRECTED

covert. It was a covert investigation. In mid-2001 it became overt, which meant we then went into the public hearings through the Police Integrity Commission. Following the beginning of the hearings many of the matters were then referred to a task force that was set up known as Volta. So the rest of the matters were referred to Task Force Volta.

I left the Special Crime Unit in November 2002 and I do not know the outcome of any of the matters that I have referred to. I do not know what happened. I know one matter was referred to the Police Integrity Commission and I will assume that other matters were referred to Task Force Volta but I do not know the outcome. On that basis I do not know what happened to them; however, I am aware and I understand that Mr Kaldas has been promoted twice since I left in 2002, once to assistant commissioner and once to Deputy Commissioner of Police. I would expect, as we all would expect, that if anybody has reached that position and they have been promoted in that position then any outstanding matters have been dealt with.

That is my belief and that is my position. In fact, Mr Scipione gave evidence last week to the effect that Mr Kaldas had been cleared by the Police Integrity Commission and by the Professional Standards Command. I do not know of that, I did not have that information; nevertheless, I was satisfied, because he had been promoted, that those matters had been dealt with.

**Mr DAVID SHOEBRIDGE:** The question is the state of your mind. I will read you the transcript of exactly what you said last time you were before this Committee. It was in relation to the very serious allegations against Mr Kaldas and you said:

I did have a reasonable suspicion. I do have a reasonable belief. I do not believe it is something I should necessarily be saying in public.

Your assertion there is very clear. You said at the time, just last week, "I do have a reasonable belief." Are you now saying that you misspoke and you did not last week have a reasonable belief?

**Ms BURN:** What I am saying, Mr Shoebridge, is that I had a suspicion during the course of Mascot and now I believe that that suspicion was reasonable. In terms of my state of mind now, I am satisfied that those matters were dealt with.

**Mr DAVID SHOEBRIDGE:** Insofar as you no longer have any suspicion in relation to your fellow deputy commissioner?

**Ms BURN:** I do not know the outcome of those matters but in terms of those matters I do not have a suspicion because they have been dealt with and he has been promoted on two occasions.

**The Hon. ADAM SEARLE:** In your evidence last week and I think in your interview with Strike Force Emblems you indicated that the source of the information that gave rise to that reasonable belief was M5 and the debrief with M5 as well as some other sources. The Committee has received evidence from Mr Giorgiutti that in fact M5 did not make any allegations against Mr Kaldas but that Mr Kaldas's name was suggested to M5 by one of the two officers conducting the debrief. You were one of the two officers conducting the debrief. Can you tell us do you recall whether it was you or the other officer who suggested Mr Kaldas's name to M5?

**Ms BURN:** I heard that evidence last week from Mr Giorgiutti and I also have a recollection of being asked this through the Ombudsman's hearings. I do not recall that happening and I do not recall, because of that, which officer. I would definitely need to refer to that debrief so that I could, one, have a look at it but, two, also see, if that was said, the context.

**The Hon. ADAM SEARLE:** Do you recall that it was only you and the other officer who conducted the debrief with M5?

**Ms BURN:** That is correct.

**The Hon. ADAM SEARLE:** You remember that fairly clearly?

**Ms BURN:** That is correct.

**The Hon. ADAM SEARLE:** Surely you would remember, would you not, whether it was M5 who proposed Mr Kaldas's name or whether it was either you or the other officer who suggested it to M5? I mean, that is a pretty fundamental issue. Do you agree?

**Ms BURN:** What is the question?

**The Hon. ADAM SEARLE:** The question is: Is it your evidence that you cannot remember whether M5, this important intelligence source, actually proposed Mr Kaldas's name?

**Ms BURN:** I do not recall that. Could we also remember that this was conducted over five days and during the course of that debrief over five days he mentioned many, many people. He mentioned many instances of corruption. I do not recall but I have heard in evidence what Mr Giorgiutti has seen but unless I can see the document, Mr Searle, I cannot help you any further.

**The Hon. ADAM SEARLE:** Your evidence last week was that you cannot remember who on the operational committee proposed that Mr Kaldas be targeted as part of this inquiry. Is that still your evidence, that you cannot remember who proposed Mr Kaldas for being targeted?

**Ms BURN:** I cannot recall who proposed Mr Kaldas to be targeted on the operation coordination committee. We have to put that in its context as well. That was a weekly meeting that had representatives from all the organisations and the team and the function of that committee was to discuss what had occurred, go through the evidence or information that had been obtained, come up with future priorities and decide on strategies such as listening devices, controlled operations, et cetera. I do not have a recollection now who might have particularly proposed any particular person—those meetings were held weekly—but it is very easy for us to find where that might be if we could have access to the minutes of the operation coordination committee.

**The Hon. ADAM SEARLE:** Last week you also told us that you could not remember whether M5 admitted perjury and whether you authored an incident report. Is that still your evidence, that you cannot remember whether or not that occurred?

**Ms BURN:** I have thought about that. When M5 came to us and he gave his confessions he did admit perjury. He admitted perjury on a number of occasions. During the course of Mascot there was an incident where—I do not recall the circumstances but I think in the question you mentioned something about it relating to something. In any case, I do recall that it was documented and from memory I actually believe it was added to the schedule of debrief where all instances as they came up throughout the course of the investigation were added. I also recall—but again you would have to check source documents—that it was referred to the Police Integrity Commission.

**The Hon. ADAM SEARLE:** That is your recollection now?

**Ms BURN:** After you raised it that is what I have been thinking about but it is again very, very easily identified through one or two documents.

**The Hon. ADAM SEARLE:** But you do not have access to those documents?

**Ms BURN:** I do not have access.

**Mr DAVID SHOEBRIDGE:** We were provided with a number of documents in the evidence last week. One of them was this information report authored by you regarding the informant contact on 23 August 2000 and which annexes a two-page memorandum prepared by Detective Superintendent Dolan regarding informant contact with M5 on 23 August. I will show you that information report and the attached memorandum. Do you recognise the document?

**Ms BURN:** Do you want me to read the document?

**Mr DAVID SHOEBRIDGE:** If you require time to read it that is perfectly acceptable. Does that document appear familiar to you?

**Ms BURN:** Not really. I cannot actually recall it, but it is a document that I would have seen at the time.

**Mr DAVID SHOEBRIDGE:** Indeed, it appears, on the face of it, the front page is an information report authored by you. Is that right?

**Ms BURN:** The front page, that is correct.

**The Hon. TREVOR KHAN:** How do you get to that?

**Mr DAVID SHOEBRIDGE:** Is that right, Ms Burn?

**Ms BURN:** In terms of the front page, I put, I think it is my initials on it.

**The Hon. TREVOR KHAN:** But that does not mean she has authored it.

**Mr DAVID SHOEBRIDGE:** Ms Burn, I am asking you not Mr Khan, in his never-ending quest for the truth.

**The Hon. TREVOR KHAN:** You have put propositions that are not based on fact.

**Mr DAVID SHOEBRIDGE:** I am asking you, Ms Burn, not Mr Khan.

**Ms BURN:** I do not recall if I authored the front page, but it would not be unusual that I had.

**Mr DAVID SHOEBRIDGE:** So when it says "the reporting officer Burn", in the top left-hand corner, what does that mean?

**Ms BURN:** That would mean that I am submitting this information report.

**Mr DAVID SHOEBRIDGE:** So it is your report?

**Ms BURN:** Yes, the front page, absolutely.

**Mr DAVID SHOEBRIDGE:** We could have got there much more quickly. Do you see the fifth paragraph on that first page where it says, "Sea", which is also M5, "informed Dolan, Standen that he swore information in support of an application for a search warrant (integrity test) knowing that information to be false"? Do you see that?

**Ms BURN:** Yes.

**The Hon. TREVOR KHAN:** That is the second page.

**Mr DAVID SHOEBRIDGE:** The first page of the attachment. Do you see that?

**Ms BURN:** Yes.

**Mr DAVID SHOEBRIDGE:** You see the paragraph I am referring to?

**Ms BURN:** I see the paragraph in a document which is titled "Record of conversation between NSW Crime Commission Informant Sea, Detective Superintendent Dolan and Mr Standen at covert premises on 23 August 2000".

**Mr DAVID SHOEBRIDGE:** This is your key witness, M5, admitting to perjury not prior to your operations but admitting to perjury in support of Mascot, is it not?

**Ms BURN:** This is an information report where he is admitting perjury.

**Mr DAVID SHOEBRIDGE:** But not perjury before the investigations, which was the subject of your investigations; this is your key informant perjuring himself in front of a magistrate in support of a warrant for Mascot.



**Ms BURN:** That is what this record is about, that is correct.

**Mr DAVID SHOEBRIDGE:** Indeed, it goes on to say, referring to M5, "He stated that time was running out near 4.00 p.m. when the local magistrate completed work and he was aware that the principle of swearing the false information was authorised". Is that the case that the swearing of false information was authorised to get warrants from Mascot?

**Ms BURN:** The swearing of false information in that form was not the practice. However, if there had been a controlled operation in place, which I am not saying there was, there might be some reason, there might be some protection there because a controlled operation enables that to occur. But it is not something that was authorised as a practice in Mascot.

**Mr DAVID SHOEBRIDGE:** Are you saying a controlled operation permits informants or operatives of a police investigation to give false evidence to a magistrate? Is that your evidence?

**Ms BURN:** No, not necessarily, but in terms of your general question I am saying that at times a controlled operation can be in place, which does authorise the person to potentially engage in criminal activity. I am not saying that this happened in this case but you said in general. It was not the practice if there was not a controlled operation for that to be the position.

**Mr DAVID SHOEBRIDGE:** Are you saying that Mascot sought controlled operations where your informants were entitled to perjure themselves before magistrates?

**Ms BURN:** No, not that I recall.

**Mr DAVID SHOEBRIDGE:** This is an extraordinary proposition from your key witness in Mascot that he was perjuring himself in the course of your operations, and what did you do with it?

**Ms BURN:** There are a few things, I think. There is absolutely no doubt that M5 was a dishonest person, and I explained that in my opening statement. With regard to this, it was identified that that had occurred and I think if you read it in its entirety he is actually reporting this to Mr Dolan and Mr Standen. So he is actually reporting that this occurred. Then they have submitted this information report, which outlines that occurrence. They also state in it—I have only just very, very briefly read it—that that is not how it should be done and they tell him not to do it again in terms of a whole range of things. So in fact you really do need to read out the whole document to get its flavour.

I do not recall specifically what happened because I do not have access to the documents that surround this. But in relation to my response to Mr Searle, I have a recollection that this matter was then added as another instance to our schedule of debrief and the matter was referred to the Police Integrity Commission. I do not have any other recollection about what happened to that matter.

**Mr DAVID SHOEBRIDGE:** There can be few more serious crimes than perjuring yourself before a magistrate. Did you refer M5 off for prosecution for the perjury that it appears you had clear evidence of?

**Ms BURN:** M5 was not referred at that particular time for prosecution. I believe the matter was added to a schedule of debrief and I believe that the matter was at that time referred to the Police Integrity Commission. I do not know what came of that matter subsequent to this.

**Mr DAVID SHOEBRIDGE:** But what we do know from this is that the best evidence we have is that he perjured himself, he was known to perjure himself, and police officers simply said to him, "Don't do it again."

**Ms BURN:** As I have said, I do not know what happened to it, Mr Shoebridge; I do not know.

**The Hon. ADAM SEARLE:** Ms Burn, just getting back to the basis of your reasonable belief at the time in connection with Mr Kaldas, in your further answers to questions you took on notice I think at pages 2 and 3 you set out the bases of that reasonable belief.

**Ms BURN:** Sorry, are they my questions on notice or are they the supplementary?

**The Hon. ADAM SEARLE:** Supplementary questions—answers to your supplementary questions, and this is the document that had been redacted. Pages 2 and 3 appear to me to set out the substance of what you say gave rise to the reasonable belief against Mr Kaldas. One of them appears to relate to the allegation of planting a firearm. Do you see that? It is at the top of page 2. That is one of the three matters, is it not?

**Ms BURN:** There are three matters I make reference to.

**The Hon. ADAM SEARLE:** One of the matters is the planting of a firearm?

**Ms BURN:** There is more than that. I am happy to read it all out if you would like, but it is more than that.

**The Hon. ADAM SEARLE:** And the alleged fabricated admissions in a notebook in connection with that?

**Ms BURN:** Yes, that is outlined; that is right.

**The Hon. ADAM SEARLE:** That is one allegation. We have received evidence that that matter was dealt with in a court proceeding; it was referred to the PIC and nothing further came of that matter. Is that your understanding of the situation?

**Ms BURN:** I do not know. I do not have any of that understanding whatsoever.

**The Hon. ADAM SEARLE:** But that is one of the three matters that you set out in your supplementary answers as giving rise to the reasonable belief.

**Ms BURN:** That is one matter, but there is a lot more to it, if you would like me to read it out.

**The Hon. ADAM SEARLE:** I think this document will be published. The second matter is something to do with alleged theft of money, but you do not recall any details. Is that correct?

**Ms BURN:** That is correct.

**The Hon. ADAM SEARLE:** The third matter, I think it is on page 3, is the suspicion that Mr Kaldas was the source of a leak concerning M5 and whether or not he was conducting a covert operation. That is the third matter?

**Ms BURN:** It is about a leak involving M5, yes.

**The Hon. ADAM SEARLE:** So those are the three matters that you say gave rise to the reasonable belief?

**Ms BURN:** That is correct.

**The Hon. ADAM SEARLE:** And there is nothing else, as far as you can recall at this point in time?

**Ms BURN:** Not at this point in time.

**The Hon. ADAM SEARLE:** In relation to the third matter, do you recall what documents you saw in relation to that?

**Ms BURN:** What documents I saw when?

**The Hon. ADAM SEARLE:** What was the basis of your information in relation to that third matter?

**Ms BURN:** As I set out very clearly in the first two paragraphs, I stress that much of this information is based on my memory and recall. I do not have very many documents at all and I have emphasised that that is a very real problem; that this is incomplete. When I was examined through the Ombudsman's hearings I was shown a range of documents about this matter, which has enabled me to refresh my memory to a certain degree. So when I refer to documents they are the documents I am referring to.

**The Hon. ADAM SEARLE:** In relation to that third matter, do you recall whether one of the documents you were shown was an affidavit in support of a telephone intercept?

**Ms BURN:** I do not recall. I was shown documents around the telephone intercept, but I do not recall specifically if it was the affidavit.

**The Hon. ADAM SEARLE:** Again I am just trying to be fair to you; you do not recall what it is that underpinned this third basis of suspicion?

**Ms BURN:** What do you mean?

**The Hon. ADAM SEARLE:** You say the third basis for the reasonable belief was the suggestion that Mr Kaldas might have been the source of a leak.

**Ms BURN:** That is correct.

**The Hon. ADAM SEARLE:** And you cannot now tell us what document or source material gave rise to that. Your recollection is you did see the telephone intercept material but you do not know what else.

**Ms BURN:** In terms of a specific document, at this point I do not recall exactly what the documents were. But I have a memory of what actually occurred at the time which led me to have the suspicion at the time as it was unfolding, day by day by day as it was unfolding and occurring. So I do have a recollection of that.

**The Hon. ADAM SEARLE:** But as best you can, you have set it out in the answer here.

**Ms BURN:** That is correct.

**Mr DAVID SHOEBRIDGE:** Ms Burn, Mr Kaldas thought that he was being the target of a covert operation and he told people about that. Are you saying that that is a criminal offence?

**Ms BURN:** I do not know what that means if Mr Kaldas is telling who that he was a target of an operation. I do not know what that means. I do not know who he told that to, who you are saying he told that to, and what that means.

**Mr DAVID SHOEBRIDGE:** Ms Burn, you say that if Mr Kaldas was the source of information that M5 was an operative for Mascot, his conduct would have amounted to a serious criminal offence. But if his belief is formed upon the clumsy and inept behaviour of M5, and M5 appearing obviously like a covert agent, there is no criminal offence there.

**Ms BURN:** I actually take exception to that, Mr Shoebridge, and there are a couple of things I think then that it might important to remind the Committee of. At this particular point, this is May-June 2001. At that point M5 had actually been conducting a covert operation since late 1999—sorry, since late 1998—so throughout 1999 and throughout 2000, and during that time he gained a lot of evidence about police corruption. He identified people at a police station—which I outlined in my opening—green-lighting, allowing people to deal heroin. He walked amongst these officers. He walked amongst other officers who admitted—gave admissions—to corruption. He was not inept. We are talking about an incident that happened in May-June 2001.

**Mr DAVID SHOEBRIDGE:** Ms Burn, I am talking about the repeated efforts that Mascot gave to send M5 time after time after time to Mr Kaldas. He had worked out that this was a clumsy covert operation and he told people about it. There is no criminal offence there.

**Ms BURN:** I have outlined my suspicion at the time in relation to what happened and that, I still believe, was a reasonable suspicion at that time. We had an informer who went to a function, who went to an engagement, and who was confronted that he was wearing a listening device. We later found out that that source might have been Mr Kaldas.

**Mr DAVID SHOEBRIDGE:** Ms Burn, you say one of the other reasons you had reasonable suspicion against Mr Kaldas was because he did not turn up to a lunch. Surely we have not descended to that level, have we, in New South Wales—

**The Hon. TREVOR KHAN:** No. You are misstating. You are misstating the evidence.

**Mr DAVID SHOEBRIDGE:** —where reasonable suspicion is formed upon the basis, in part, of someone not attending a lunch?

**The Hon. TREVOR KHAN:** You are misstating the evidence. That is just unreasonable.

**Ms BURN:** I have outlined in my supplementary response the suspicion that I had at the time, and it is more than a person not turning up for a lunch.

**Mr DAVID SHOEBRIDGE:** Ms Burn, in your evidence last week I asked you about whether Mr Dolan declared anything to you in relation to conflict with Mr Kaldas. Do you remember that?

**Ms BURN:** Yes.

**Mr DAVID SHOEBRIDGE:** When I said to you, "Did Mr Dolan ever declare anything to you?", your answer was, "I cannot remember specifically in relation to Mr Kaldas." I then asked, "Did Mr Brammer ever declare anything to you?", and you said, "Yes he did at a later time." You have clarified in your answers on notice that you think it was the memorandum that Mr Brammer referred to in his evidence in about July 2001. Is that right?

**Ms BURN:** That is correct. In the supplementary question, that was my response. I listened to the evidence of Mr Brammer and that accords with my memory—what he said about that document.

**Mr DAVID SHOEBRIDGE:** But are you clear about your evidence that you do not recall Mr Dolan ever declaring anything?

**Ms BURN:** Mr Dolan declaring?

**Mr DAVID SHOEBRIDGE:** Anything about his conflict or his antipathy with Mr Kaldas?

**Ms BURN:** There was a time around—really, around when Mr Brammer said he thought he had sent that email, document, whatever it was—July 2001 where there was a lot of activity happening. I do not recall specifically what Mr Dolan might have said to me then, but at that particular time, as I think is recalled by Mr Brammer, the circumstances were set out that there were some issues about what was going on with the people involved in this leaking matter.

**Mr DAVID SHOEBRIDGE:** Ms Burn, you have described Mr Dolan's management behaviour as intimidatory in your evidence before task force Emblems. Do you remember that?

**Ms BURN:** Yes.

**Mr DAVID SHOEBRIDGE:** It sounds like it was a very difficult and at times unpleasant workplace if you had an intimidatory boss.

**Ms BURN:** Yes.

**Mr DAVID SHOEBRIDGE:** And it sounds, as I read your evidence, that it was very hard for you to raise issues of concern, raise issues where you were contrary to Mr Dolan.

**Ms BURN:** It was very—it was difficult. However, we had the weekly coordination committee meetings which enabled open discussion amongst everybody who was involved at that time.

**Mr DAVID SHOEBRIDGE:** But to stand up against Mr Dolan would have been next to impossible in that situation. He was intimidatory and he would effectively bite your head off if you stood up to him, would he not?

**Ms BURN:** Mr Dolan was my superior. He was my commander. He was the superintendent in the workplace and in terms of my—whether it is standing up or whatever—I aired things openly in the operation coordination committee and that is as far as that really needs to go.

**The Hon. TREVOR KHAN:** Sorry, has his time slot finished?

**CHAIR:** Yes. He will just finish this one off.

**Mr DAVID SHOEBRIDGE:** Ms Burn, in your evidence in December 2002 to task force Emblems, you were asked this: "We have been informed that the general feel from some of the staff in the Mascot team is that the selection of some of the integrity test targets was subjective and that with many of them Dolan had an axe to grind from past experience with the person selected. Are you able to comment on that?" You are recorded as saying this: "Oh look, look, John Dolan might have had an axe to grind with a lot of people because he put a lot of people offside. I don't think he was a particularly liked person but the actual targeting of some of the people—he'd make it known that he had a conflict or that there was a problem. For instance with"—then one officer is named—" he made it known that there could have been an issue there. Nick Kaldas, he made it known there could have been an issue there, but it was not solely his decision and when you say 'subjective', I don't think it's subjective. Names came up, M5 gained the information. He was corroborated in nearly everything he said." Ms Burn, in your evidence before task force Emblems, you make it clear that Mr Dolan did express his conflict in relation to Mr Kaldas.

**Ms BURN:** I do not say there is a conflict. There was an issue. I think Mr Dolan had an issue with lots of people. It does not necessarily mean it is a conflict.

**The Hon. TREVOR KHAN:** Right. Well, his time is now surely finished, Chair.

**CHAIR:** It is.

**Mr DAVID SHOEBRIDGE:** Ms Burn, in the second interview you are then asked, "Can you recall at any of the management meetings"—

**The Hon. TREVOR KHAN:** Point of order—

**CHAIR:** Order! I think we need to finish. You will get the full time anyway.

**The Hon. TREVOR KHAN:** Yes. Ms Burn, Mr Shoebridge showed you a document before, which was yellow. Do you remember that document? It has your initials on the front page.

**Ms BURN:** Yes, I do.

**The Hon. TREVOR KHAN:** He took you to a second page which was the annexure to that document. The document clearly shows an interview that involves two other people. Is that right?

**Ms BURN:** That is correct.

**The Hon. TREVOR KHAN:** Or three other, including M5. One of those people is Superintendent Dolan. Is that right?

**Ms BURN:** That is right.

**The Hon. TREVOR KHAN:** Who is your superior. Is that right?

**Ms BURN:** That is right.

**The Hon. TREVOR KHAN:** What was his role on Mascot?

**Ms BURN:** Superintendent Dolan was the commander of the Special Crime Unit and he had a commanding role in terms of Mascot.

**The Hon. TREVOR KHAN:** The other person with whom the interview with M5 takes place is Mr Standen. Is that right?

**Ms BURN:** That is correct.

**The Hon. TREVOR KHAN:** What was his relationship to you?

**Ms BURN:** Mr Standen at that time was an assistant director at the New South Wales Crime Commission so, again, he was my superior in terms of the Crime Commission.

**The Hon. TREVOR KHAN:** Two of your superiors had to undertake an interview with M5. How come you have a front sheet which appears to show an interview between two of your superiors and M5?

**Ms BURN:** I would suggest that this was a document that was produced, it looks like, by those two people because they have got the signatures on the second page. As a part of the process—

**The Hon. TREVOR KHAN:** Sorry, second and third page.

**Ms BURN:** Sorry, on the second and third page. As a part of the process at the New South Wales Crime Commission every document needed to have a cover put over the front and put into the system so it would be given a reference. The cover sheet is that—it is just putting the document into the system.

**The Hon. ADAM SEARLE:** Do you have any independent recollection of the matters contained in that document, or is your recollection now limited to just seeing that document?

**Ms BURN:** It is limited to seeing this document now.

**The Hon. TREVOR KHAN:** You do not have any independent recollection of those matters?

**Ms BURN:** Well, you raised it last week.

**The Hon. ADAM SEARLE:** Yes.

**Ms BURN:** I am just trying to recall if it was raised in the Ombudsman's hearing, but I cannot recall at the moment. But aside from that, it is not something that I would have just recalled.

**The Hon. ADAM SEARLE:** Despite the centrality of M5 to Mascot/Florida? I guess, in fairness, I am just sort of struggling to accept that something that is this important you would not have an independent recollection.

**The Hon. TREVOR KHAN:** Just in fairness, I did not interrupt your questioning.

**Mr DAVID SHOEBRIDGE:** Ms Burn—

**The Hon. TREVOR KHAN:** No, Shoebridge.

**Mr DAVID SHOEBRIDGE:** —given that I am chairing the matter for the moment—

**The Hon. TREVOR KHAN:** Shoebridge!

**The Hon. NIALL BLAIR:** Oh, you are kidding.

**Mr DAVID SHOEBRIDGE:** Ms Burn, did you want to answer—

**The Hon. LYNDA VOLTZ:** Point of order: It is the Government's opportunity to ask questions. I do think it is unfair to jump in on Government members while they are asking questions.

**Mr DAVID SHOEBRIDGE:** I agree.

**The Hon. LYNDA VOLTZ:** I think they should be allowed to ask the questions.

**Mr DAVID SHOEBRIDGE:** I agree with you, Ms Voltz.

**The Hon. NIALL BLAIR:** You are in the big boy's chair now and you want to take over.

**Mr DAVID SHOEBRIDGE:** I agree with you, Ms Voltz. Ms Burn—

**The Hon. TREVOR KHAN:** No. Point of order—

**The Hon. NIALL BLAIR:** To the point of order.

**Mr DAVID SHOEBRIDGE:** —Mr Khan will be asking you questions.

**The Hon. LYNDA VOLTZ:** Point of order—

**The Hon. TREVOR KHAN:** Point of order: Keep your mouth shut and let other people ask questions for a change.

**Mr DAVID SHOEBRIDGE:** If you had listened—

**The Hon. TREVOR KHAN:** Everyone in this room is of the same view.

**Mr DAVID SHOEBRIDGE:** If you had listened.

**The Hon. TREVOR KHAN:** You will get another chance.

**Mr DAVID SHOEBRIDGE:** Mr Khan, your question is?

**The Hon. TREVOR KHAN:** If we can move on, we will move on to Prospect. We have heard evidence from Mr Barbour that apparently you gave evidence over four days. Is that right?

**Ms BURN:** That is correct.

**The Hon. TREVOR KHAN:** How did you become aware that you were to give evidence before Mr Barbour?

**Ms BURN:** Through a summons.

**The Hon. TREVOR KHAN:** Did you speak to an investigator as well as give evidence before Mr Barbour?

**Ms BURN:** In what context? Prior to—

**The Hon. TREVOR KHAN:** He had investigators working for him as well as the giving of evidence by way of sworn evidence in a hearing.

**Ms BURN:** Yes.

**The Hon. TREVOR KHAN:** Did you go through both procedures?

**Ms BURN:** I spoke to—I do not know if they were investigators. I spoke to people earlier on in Prospect, not under summons, and then—

**The Hon. TREVOR KHAN:** And if I can just stop you there—

**Mr DAVID SHOEBRIDGE:** Sorry, no. Let the witness finish.

**The Hon. TREVOR KHAN:** If I can just—

**Mr DAVID SHOEBRIDGE:** Let the witness finish, Mr Khan.

**The Hon. TREVOR KHAN:** If I can just stop you there.

**Mr DAVID SHOEBRIDGE:** No. You will let the witness finish, Mr Khan. Ms Burn?

**The Hon. NIALL BLAIR:** This is turning into a joke, fair dinkum.

**Mr DAVID SHOEBRIDGE:** You are interrupting the witness. Ms Burn? Had you finished?

**Ms BURN:** I am sorry, what was the question?

**The Hon. TREVOR KHAN:** When you spoke to investigators, are you able to indicate how long you spoke to investigators?

**Ms BURN:** Look, I do not think it was very long. It was really in the process of complying with the production of documents. I do not have a recollection of it being particularly long.

**The Hon. TREVOR KHAN:** In respect of the four days on which you gave evidence before Mr Barbour, was that in a sense in one hit pursuant to one summons, or did you give evidence for one or two days and then get called back later on for a further chop?

**Ms BURN:** It was over a period of time. I believe one was around July and then three in October-November last year, so it was over a period of time.

**The Hon. TREVOR KHAN:** As best as you can, without going into the specific questions, what were the areas of inquiry that Mr Barbour was asking you about?

**Ms BURN:** The areas encompassed a number of the areas that have been the subject of discussion in evidence over these hearings.

**The Hon. TREVOR KHAN:** I am sure. So if you can just, as best as you can, identify those areas that Mr Barbour was asking you about?

**Ms BURN:** It was in relation to the initial debrief of M5.

**The Hon. TREVOR KHAN:** The initial debrief—that is the debrief over five days involving you and another officer. Is that right?

**Ms BURN:** That is correct.

**The Hon. TREVOR KHAN:** And the questions asked with regard to that debrief were whether Mr Kaldas's name became, in a sense, planted into M5's debrief by you or by the other officer.

**Ms BURN:** I do not recall that. I do recall being asked questions around that. I cannot remember the context that they said it. I do not recall actually being given an opportunity to go through the debrief but I was asked around about that. Subsequent to that I was asked about telephone intercepts, I was asked about listening device warrants and I was asked about targeting.

**The Hon. TREVOR KHAN:** When you talk about targeting, that was identifying people who would have listening device warrants issued in respect of them. Is that right?

**Ms BURN:** That is correct.

**The Hon. TREVOR KHAN:** Go on.

**Ms BURN:** I was asked about a lot of things. Four days is a lot of hearing time.

**The Hon. TREVOR KHAN:** Were you asked with regard to your memo of 13 April 2002—that is, I think I have used the term "the Burn briefing memo"?



**Ms BURN:** I was asked about that.

**The Hon. TREVOR KHAN:** Were you asked about the circumstances in which it came about? Were you asked about that?

**Ms BURN:** That is correct.

**The Hon. TREVOR KHAN:** Were you asked about the issue of perjury by M5?

**Ms BURN:** I cannot recall.

**The Hon. TREVOR KHAN:** As best as you can remember, was anything else covered in those four days?

**Ms BURN:** As I say, a lot was covered. Everything that has been asked here was covered in great detail, plus more.

**The Hon. TREVOR KHAN:** Do I take it that you were shown documents that you had not been presented with here?

**Ms BURN:** I was shown a lot of documents that I have not been presented with here.

**The Hon. TREVOR KHAN:** With regard to documents that were in your possession, were they assumed or taken in some way by Mr Barbour?

**Ms BURN:** I received notice to produce all my documents which I did, and I handed them all over.

**The Hon. TREVOR KHAN:** If I could go back a bit. Before you gave evidence you were one of a number of officers who were at the budget estimates hearing on 11 October 2012? Do you recollect that?

**Ms BURN:** Yes, I recall being at estimates.

**The Hon. TREVOR KHAN:** Indeed, that was shortly after, in a sense, this whole issue blew up in the media again?

**Ms BURN:** That is correct.

**The Hon. TREVOR KHAN:** Mr Kaldas was present?

**Ms BURN:** That is correct.

**The Hon. TREVOR KHAN:** Mr McFadden was also present I think?

**Ms BURN:** Yes.

**The Hon. TREVOR KHAN:** Indeed, sitting around the table and no doubt being cooperative with each other was Mr David Shoebridge and me, amongst others. Is that right?

**Ms BURN:** Yes.

**The Hon. TREVOR KHAN:** Do you remember a document being tabled that related to Operation Prospect and to a letter dated 10 October from the Ombudsman?

**Ms BURN:** I do recall a letter being tabled from the Ombudsman.

**The Hon. TREVOR KHAN:** That was a letter from the Ombudsman to Mr Scipione. Were you aware of the contents of that letter at or about the time of that budget estimates hearing?

**Ms BURN:** I cannot recall now. I do not recall now so I am sorry I cannot help.

**The Hon. TREVOR KHAN:** I will put it to you in a general form. Were you aware early on in Operation Prospect, that is, the Ombudsman's inquiry that Mr Barbour was intending to look at a range of issues relating, first, to Mascot and Florida, but also with regard to the apparent leaking of confidential information? Were you aware of that in the early stages?

**Ms BURN:** Yes, I was aware of that in the early stages.

**The Hon. TREVOR KHAN:** Do I take it that that was either as a result of some knowledge of that letter or information that the Ombudsman gave you?

**Ms BURN:** I do not know if it was in that letter but at some particular point quite early I was aware that that was one of the references that they were looking at.

**The Hon. TREVOR KHAN:** Just assist me with this. The document that Mr Shoebridge showed you before, I think your initials show 5 September 2000. What is the source of that? I am not asking you about the source for it to end up being handed to you, but who would be the keeper of that record normally?

**Ms BURN:** This was a record—the document produced by Mr Standen and Mr Dolan, as you say. It might have been for a number of reasons but it was clearly to put on the record what had occurred. It was clearly then to put it into the system.

**The Hon. TREVOR KHAN:** Whose system?

**Ms BURN:** At the NSW Crime Commission. So in terms of the computer system there everything was electronically recorded or given a cover report and made sure there was a reference to it so everybody had access to most of the information. If there was some restriction there were restricted folders as well. This was a document that was clearly an official record, an official document that was then put in to form part of the whole of the records.

**The Hon. TREVOR KHAN:** If I turn up at the Crime Commission front gate or door, and say, "Look I want a copy of a document produced by Burn dated 5 September 2000", am I entitled to it?

**Ms BURN:** If you turned up at the front door and said that, no.

**The Hon. TREVOR KHAN:** Who is entitled to the document?

**Ms BURN:** Very, very few people would be entitled to this document.

**The Hon. TREVOR KHAN:** If somebody were to let it fall off the back of a truck, what are they doing?

**Ms BURN:** This, like other documents I have seen, I believe is extremely disturbing to see it in the public domain.

**The Hon. TREVOR KHAN:** Putting aside that it may be disturbing, are they committing an offence or doing something improper?

**Ms BURN:** I believe an offence is committed because these are confidential documents. There are statutory provisions in place about maintaining the confidentiality of information, and by not maintaining that confidentiality you are breaching the provisions which have sanctions.

**The Hon. TREVOR KHAN:** If a police officer goes onto the police computer network and looks for somebody, for instance, the traffic record of the Hon. Niall Blair—

**The Hon. NIALL BLAIR:** Which is all good, I might add.

**The Hon. TREVOR KHAN:** Is the police officer committing an offence, is he doing something improper, or what is he doing?

CORRECTED

**Ms BURN:** It does depend on the context in that particular example but generally, in terms of privacy and access to information there are very strict—whether it be from a legislative basis or a police procedure around access to information. I cannot go in and look up somebody who I might want to have a look at, just out of curiosity or maybe even something sinister. If I do that, that is an unauthorised access of a police computer system and it has sanctions.

**The Hon. NIALL BLAIR:** To clarify, before we had the meltdown earlier about the production of this document, your two superiors conducted the interview and produced the substantive pages 2 and 3 in August of that year?

**Ms BURN:** That is correct.

**The Hon. NIALL BLAIR:** Were you then handed this document in September and asked to enter it into the system, and that is when you produced the front page? Is that what the front page is—an administrative procedure to enter the document, as you put it, onto the system?

**Ms BURN:** That is exactly what the front page is.

**The Hon. NIALL BLAIR:** Your superiors conducted the interview and were privy to the information that was produced by M5 at that time?

**Ms BURN:** That is correct.

**The Hon. NIALL BLAIR:** And then asked you to enter that into the system?

**Ms BURN:** That is correct.

**The Hon. ADAM SEARLE:** Ms Burn, when you answered questions relating to Strike Force Emblems you were asked questions about the source of the information that went into the warrants. In particular, I ask you to look at question 201 on page 49 of the transcript of 2 December 2002. You were asked a question and you said, "Every name that would have been on the warrant had some mention by M5 or some link." Do you see that?

**Ms BURN:** Yes.

**The Hon. ADAM SEARLE:** In 2002 you had a recollection that M5 was the source of the information that went into that warrant. In your answers to the supplementary questions and in oral evidence you say now that you do not recall whether or not M5 made any allegations against Mr Kaldas. In fairness, you seemed to have a recollection in 2002 about where the information came from and today and last week you do not seem to have that recollection.

**Ms BURN:** I think that answer says, "Every name that would have been on the warrant"—that is on the warrant so I assume we are talking about 266—

**The Hon. ADAM SEARLE:** Yes.

**Ms BURN:** —had some mention by M5 or some link.

**The Hon. ADAM SEARLE:** So it is the "some link" that you are relying on, is it?

**Ms BURN:** That is correct. I think, as in response to the supplementary questions, I do not recall the circumstances about Mr Kaldas's name at the time of the debrief. I do recall that during the debrief many names were mentioned by M5. I do recall that the entirety of those allegations and information by M5, plus other information, led to the suspicion. So it is not all M5.

**The Hon. ADAM SEARLE:** Based on the evidence the Committee has it may be that M5 did not mention Mr Kaldas at all?

**Ms BURN:** It may well be.

**The Hon. ADAM SEARLE:** In which case it would be entirely from other sources.

**Ms BURN:** At that particular point if he was not mentioned by M5 particularly there were other sources. But there were other sources. In fact, the other source, as again outlined in my response, preceded M5 coming forward. It was one of the reasons why M5 actually came forward because there was another task force investigating M5 and many other officers in relation to suspicions about corrupt activities.

**Mr DAVID SHOEBRIDGE:** Ms Burn, you say "many other officers".

**Ms BURN:** That is correct.

**Mr DAVID SHOEBRIDGE:** But the very clear evidence of Mr Giorgiutti was that in the course of a five-day debrief that you and another officer undertook of M5 the only police officer who was proffered to M5 to seek to get some evidence of corruption from was Mr Kaldas. How do you explain that?

**Ms BURN:** If that happened, I do not recall the context and, please, I would need to refer to the debrief to get that context. I think it is only reasonable and fair to ask that I would actually be able to have a look at that. Regardless of whether he was mentioned or not, there were links; there were allegations. If you are suggesting because that might have occurred then I had some vendetta or I was targeting him inappropriately, I reject that.

**Mr DAVID SHOEBRIDGE:** Let me be clear: The evidence seems to suggest that Mr Dolan had a very strong antipathy towards Mr Kaldas and Mr Dolan, with his intimidatory management style, may well have led to that being put to him. Do you have a recollection to that effect?

**Ms BURN:** No.

**Mr DAVID SHOEBRIDGE:** In another one of your answers to Emblems in the second interview in June 2003 you were asked, "Can you recall at any of the management meetings whether Mr Dolan or Mr Brammer had an overt influence on trying to persuade people or trying to persuade the management meeting to target specific officers?"

**Ms BURN:** Sorry, what page?

**Mr DAVID SHOEBRIDGE:** It is page 41 of the second interview. Do you see that—question 161?

**Ms BURN:** Yes.

**Mr DAVID SHOEBRIDGE:** Your answer was, "Very much so, well, they ran the place, they ran it like it was their influence, their direction, also, not just that, also Mr Bradley, he had a lot of input into it, so, for instance, people like"—one officer—"Nick Kaldass, especially, I know there was a lot of friction there because people would, some people would say, John Dolan has had fall-outs with these people, you know, and it just won't look good or there's a perception here or whatever. Now, they tried to address that with the people at the time, so whether or not it's a perception thing I do not know, but it wasn't that it was like a real shock, it's not, this isn't a shock. Maybe they should have put other things better, more in place because of a perception of a conflict of interest." Ms Burn, you knew that there was a conflict between Dolan and Mr Kaldas, and Mr Kaldas in particular, and you knew it at the time. Is that not true?

**Ms BURN:** I did not know of a conflict between Mr Dolan and Mr Kaldas early into it—early into Mascot. I do not know when I became aware that there were issues, but I do know I became aware there were issues and it related to issues around undercover unit. I do know there were issues. I do not recall specifically when any extent of this other information came to my knowledge.

**Mr DAVID SHOEBRIDGE:** Ms Burn, the evidence that you gave to Emblems, I put it to you, is not consistent with the evidence that you gave to this Committee last week that the first knowledge you had about the conflict between Dolan and Kaldas was when you had a memorandum from Mr Brammer.

**Ms BURN:** I do not recall when I first got the knowledge of a conflict between those two people. You will need to ask other people about that, and there are other people who will be able to give you that information. I do not recall particularly with that person. I know there were conflicts with others and there are

other occasions in my interviews where I actually say, I name a specific person, not Mr Kaldas. I do not recall, Mr Shoebridge, when I became aware of that conflict.

**Mr DAVID SHOEBRIDGE:** Ms Burn, in 2003 you identified Mr Kaldas especially as somebody who Mr Dolan had a conflict with—a lot of friction. That is far more likely to be the case and an accurate record—what you thought in 2003—than what you told the Committee last week, is it not?

**Ms BURN:** This is potentially entirely based on information about conflict that I became aware of post or probably around July 2001. This was after the covert investigation that M5 was conducting had finished.

**Mr DAVID SHOEBRIDGE:** Ms Burn, it was notorious that Mr Dolan had a strong antipathy toward Mr Kaldas. Mr Dolan identified Mr Kaldas as a target and that conflict of interest was never addressed in Mascot. That is the case, is it not?

**The Hon. TREVOR KHAN:** That is three questions.

**Ms BURN:** You will have to ask other people because I am not the person who has those answers.

**The Hon. ADAM SEARLE:** Ms Burn, in answers to questions last week you said, "Post 2002 it became more widely known that Mr Dolan and Mr Kaldas did not like each other. At the time"—meaning at the time the operation was taking place—"I did not know the extent of their dislike." That presupposes you were aware at the time that there was, to some degree, dislike or bad blood between the two of them?

**Ms BURN:** Yes, Mr Searle, as I said, there was an issue. There was an issue.

**The Hon. ADAM SEARLE:** You have told us that you could not remember who on the operations committee suggested that Mr Kaldas be targeted. You have said you have no independent recollection about M5 admitting perjury or the incident report, and you have also said that you no longer have any independent recollection of the debrief conducted by you and another officer of M5. Given the importance of M5 to the Mascot/Florida operation, and given the importance of the matters that the operation was undertaking, I suggest to you that it is not believable that you would not now have any recollection of at least those three matters?

**Ms BURN:** Well, I take absolute exception to that, absolutely, and could we just go through those once again?

**The Hon. ADAM SEARLE:** Sure.

**Ms BURN:** Number one, thank you. What was the question?

**The Hon. ADAM SEARLE:** The first one was that you do not remember who it was on the operations committee who decided that Mr Kaldas should be targeted.

**Ms BURN:** I do not remember specifically who was on the operations committee. Now, you do understand what the Operation Coordination Committee is about, and I will take you to it.

**The Hon. ADAM SEARLE:** You have given us some evidence.

**Ms BURN:** No, I would like to take you through it, if that is okay.

**The Hon. ADAM SEARLE:** Ms Burn, you may answer the questions however you like; I am not going to interrupt.

**Ms BURN:** I just want to make it sure that the Operation Coordination Committee—this was a committee that was defined by the memorandum of understanding, signed by three commissioners, and my understanding of the Operation Coordination Committee is that it was to meet regularly to determine matters and, from my recollection, about operational strategies, including future operational priorities, and I have given that in evidence. Members of that—and I have given evidence about who was involved in that. So to say that there was any one person when there were up to—I think Mr Giorgiutti gave evidence at any one time up to 20 people around that table—that there was any one person who was somehow having some influence on that committee that either we did not know about it or we were being—

**The Hon. ADAM SEARLE:** Ms Burn, in the record of interview with Strike Force Emblems—

**The Hon. TREVOR KHAN:** Are you going to let her finish?

**The Hon. ADAM SEARLE:** Yes, I think this will assist.

**The Hon. TREVOR KHAN:** All right.

**The Hon. ADAM SEARLE:** At page 32—

**Ms BURN:** Of which one?

**The Hon. ADAM SEARLE:** The 2002 record of interview. I think there is a discussion there about proactive targeting and you list a number of persons.

**Ms BURN:** What page is that?

**The Hon. ADAM SEARLE:** Page 32. I think it is an answer to question 146. You say it was "...decisions made by Crime Commission, the PIC and mainly John Dolan, me, Brammer..." Is that the committee that decided who to target?

**Ms BURN:** I would have to go back and read the context of how—look, I do not know.

**Mr DAVID SHOEBRIDGE:** You can have as much time as you need, Ms Burn.

**The Hon. TREVOR KHAN:** Well, not really.

**Mr DAVID SHOEBRIDGE:** Well, to fairly answer the question.

**CHAIR:** Excuse me, I am chairing this Committee, not you.

**The Hon. LYNDA VOLTZ:** Maybe if you would like to answer the question as you are answering it?

**The Hon. ADAM SEARLE:** I did not mean to interrupt. I thought that might assist.

**Ms BURN:** That answer is identifying Crime Commission, the Police Integrity Commission [PIC], Mr Dolan, me, Brammer, et cetera, members of the Operation Coordination Committee, and there were other members as well. As Mr Giorgiutti gave in evidence, at any one time there were 20 people around the table having these discussions about operational priorities and strategies. So in relation to the first matter, I do not recall who specifically—and if it even did occur. The second matter, the perjury matter, I do recall that matter at the time, but I do not have an independent recollection of that now. I am not saying I do not recall that that happened.

**The Hon. ADAM SEARLE:** Okay. So you do recall that it happened, just not the details?

**Ms BURN:** That is exactly right. I think I gave in earlier evidence that, in fact, I think it was actually added to the schedule of debrief as another instance of police corruption to have a look at. In fact, it was referred to PIC, was my evidence, in relation to number two, and in relation to number three, the question about the debrief, could you give me that one again?

**The Hon. ADAM SEARLE:** It was you and one other officer debriefing M5. The proposition is that M5 made no allegation against Mr Kaldas but, in fact, that one of the officers suggested Mr Kaldas's name to M5. Now I think your evidence in your supplementary answer was, "I do not recall whether M5 made any particular allegations against Mr Kaldas." I am just testing, given the importance of M5 to the investigation, the matters that were under investigation. Is that believable that you would not remember one way or the other whether M5 did make an allegation against Mr Kaldas or whether, in fact, Mr Kaldas's name was introduced by one of the two officers conducting the debrief?

CORRECTED

**Ms BURN:** I simply do not have a recollection one way or another. But as I have also given in evidence, Mr Kaldas was not central to this investigation. I do not necessarily think that that is unusual. M5 mentioned hundreds of police, many of them who were serving. Mr Kaldas was not central and I do not believe that you can then say to me that I am giving evidence that is not believable.

**The Hon. ADAM SEARLE:** I thought I had to put it to you as a matter of fairness, Ms Burn.

**Ms BURN:** Thank you.

**The Hon. NIALL BLAIR:** Deputy Commissioner, you stated earlier that the Emblems investigators had limited information to be able to do their report or their investigation?

**Ms BURN:** That is my understanding.

**The Hon. NIALL BLAIR:** It is acknowledged that this Committee does not have the full range of information as well.

**Ms BURN:** That is very, very obvious. I have been asked a number of questions that are easily answered with reference to documents. It would take you one minute to actually get the answer.

**The Hon. NIALL BLAIR:** You spent four days with the Ombudsman and you have seen many documents that we have not seen?

**Ms BURN:** Absolutely.

**The Hon. NIALL BLAIR:** Do you—and this is your opinion—believe that the Ombudsman has the full range of information and the ability to try to do a thorough investigation into all these matters?

**Ms BURN:** From what I have seen and what I have heard, I believe so.

**The Hon. NIALL BLAIR:** Thank you.

**CHAIR:** I think we are done. Thank you very much for coming again, Ms Burn. I note you did not take any questions on notice and I do not believe there are any supplementary questions. This Committee will now break and resume at 2.15 p.m.

**(The witness withdrew)**

**(Luncheon adjournment)**

**NAGUIB KALDAS**, Deputy Commissioner, Field Operations, NSW Police Force, on former oath:

**CHAIR:** Would you like to start with a short opening statement?

**Mr KALDAS:** Yes, thank you. I thank the Committee for following up on the letter from my solicitors in which they observed that Deputy Commissioner Burn's evidence on 30 January made some broad allegations about me in respect of which she said she still had a reasonable belief but without giving any details. I have seen the written answers to the supplementary questions provided by Ms Burn and I have heard her speak today. I have led many investigations over three decades and I have headed up major crime squads and international investigations. I am in effect the most senior detective in New South Wales, having command of all the local area command detectives and the State Crime Command—some 16,000 staff out of the 20,000 total strength.

What Catherine Burn has outlined are allegations against other police officers which she says somehow give credibility to allegations against me. In all the circumstances, and in my experience, it is preposterous to suggest that that could give rise to reasonable suspicion, let alone a suspicion that causes intense and prolonged targeting and bugging. She may have had a reasonable suspicion, but she cannot have had a reasonable suspicion for 15 years. I want to discuss her assertion in her written submission. She states on the bottom of page 1 of her written material:

Other allegations were made by [blank], including one matter where he alleged that he was falsely arrested at Wyong by Detectives [blank] and Kaldas on 18 August 1992 re an armed robbery offence. It was alleged that at the same time police planted a firearm exhibit near a cemetery, which he allegedly led them to, and that Detectives [blank] and Kaldas fabricated alleged admissions in an official notebook and that Detective Inspector [blank] fabricated evidence about adopting the notebook entry.

Nobody can say these allegations came from M5. He was not present and played no part in that arrest. This arose out of evidence given by a convicted criminal—a man who was convicted entirely properly as a result of an investigation that I assisted with. It has serious credibility issues and there are severe problems with using that incident as an excuse to target me, let alone so intensely using 80 warrants over many years for the following reasons.

The loading of the criminal with guns was a furphy from the start. Any intelligent examination of the facts would have discounted it. If I may, the criminal involved committed an armed robbery on an armed van. During the robbery he also stole two pistols from the armed guards at gunpoint. I was part of a task force from the armed holdup squad investigating the robbery. He was arrested some weeks after the offence, having been on the run north of Sydney. There was clear evidence of flight. He admitted the offence, stating that he had had enough. I and other police obviously wanted to get the two stolen guns off the street.

We asked him about them and where they were. He told us that he had buried them next to a criminal's grave at Rookwood Cemetery. That criminal had been his mentor. We had no way of knowing that. He accompanied us to the gravesite and showed us exactly where the guns were buried. We dug the ground and found them. He was photographed showing us where the guns were. They certainly matched those stolen from the armed guards during the armed robbery. That could not have been fabricated. The information regarding the location of the stolen firearms simply could not have come from anyone other than the offender; we could not have made it up. The guns could not have been a load; they were proven to be the actual guns stolen during the robbery. He was convicted of the robbery after a lengthy trial before a jury, the jury having heard and examined all the evidence properly and thoroughly.

To my knowledge, the criminal arrested has never actually made a formal complaint about this matter. He may have complained about other arrests, but I had no involvement in or knowledge of any of those matters. The matter is historic, and it was historic during Mascot/Florida. One would normally need some extraordinarily compelling evidence from someone with direct knowledge to commence an investigation. None existed and Deputy Commissioner Burn has not outlined any in her evidence, including in her written answers. I was one of the most junior officers involved in this matter, if not the most junior. There is no logic in targeting me out of the entire team unless Magnum was involved. I doubt if the other members of that investigation were ever targeted in relation to this matter or bugged as I was, or even interviewed.

I now refer to the second allegation about the Orange Airport armed robbery. It is difficult to understand the actual allegation against me, let alone seeing it as justifying the intense targeting that I suffered. However, some background may be helpful to the Committee. There was an investigation of an armed robbery



in a country town. I was part of that investigation team as a member of the armed holdup squad. A number of individuals were arrested, charged and, to my memory, all pleaded guilty in the end and were convicted. One of the fellows arrested—I was not part of the team that arrested him—admitted his part in the robbery. However, he made a complaint that some weeks earlier in Sydney two police officers who had no connection with the investigation into the robbery and who were from an entirely different region had taken money from him. I do not know those officers and I have never met them. We conveyed that information to internal affairs at the time and identified the two officers concerned. They were actually charged with stealing that money, but were ultimately acquitted of all charges at court.

I and the team I was a member of had no involvement in the allegation of that money being stolen. Subsequently my memory is that another of the offenders heard of those complaints and said, "Me too." That allegation revolved around the search of an offender's car. Again, that did not directly involve me and I was not part of that search team—I was not even there. Apart from that, I do not recall any allegation against me personally ever being made in this matter. Along with other police officers I arrested one offender who, like his co-offenders, ultimately pleaded guilty. We had pulled together a strong brief of evidence, including fingerprint evidence. A plea of guilty was the sensible thing for his lawyers to recommend, and they did.

Again, the matter is historic and was historic during Mascot/Florida, having occurred in 1991 or 1992. Again, one would need extraordinarily compelling evidence from someone with direct knowledge to commence such an investigation. Mascot/Florida had no witness with an involvement in the matter making any allegations or with any direct knowledge to make allegations, let alone any actual evidence. I highly doubt that any of the offenders in this matter made any complaint to Mascot/Florida, nor was the matter ever seriously investigated as part of Mascot/Florida.

Other issues include again that I was one of if not the most junior man on that task force. To my knowledge, the senior men have never been bugged or even interviewed. A matter of great note is that I was instrumental in getting a reference for the investigation of the armed robbery from the Crime Commission to enable me and the other investigators to use the commission's full resources in relation to the investigation. This was innovative and was part of the beginning of the Crime Commission being involved in non-drug investigations. Phillip Bradley, then the head of the Crime Commission, would be able to validate this claim. It was my idea. If I had been involved in any misconduct would I have been the architect of referring a matter like this to a body like the Crime Commission? I had nothing to hide and the use of the commission's resources was instrumental in us solving the case.

Notwithstanding the evidence that Catherine Burn gave to the Committee this morning, the person who introduced my name to M5 was in fact Catherine Burn. I would like to table an extract—which unfortunately is all I have—of the interview that was conducted by Ms Burn and another detective with M5. I would like to read one or two lines.

**The Hon. LYNDA VOLTZ:** Point of order: Is this document going to be tabled?

**Mr KALDAS:** I am hoping to leave it with the Committee.

**CHAIR:** Please do not mention any names.

**Mr DAVID SHOEBRIDGE:** Perhaps if Mr Kaldas tables the document he can indicate what he is intending to read onto the record.

**CHAIR:** Yes.

**The Hon. LYNDA VOLTZ:** What is the document?

**Mr KALDAS:** It is an interview conducted by Ms Burn with M5.

**The Hon. LYNDA VOLTZ:** But it is only an extract.

**Mr KALDAS:** Yes. That is all I have.

**The Hon. LYNDA VOLTZ:** Is it a whole page or just a paragraph?

**Mr KALDAS:** It is two pages.

**The Hon. ADAM SEARLE:** Can we have a copy to see before you read it?

**Mr KALDAS:** There are three relevant lines. They do not mention any names other than mine. I draw members' attention to question No. 830 onwards.

**The Hon. LYNDA VOLTZ:** Is there no other document that goes with this?

**Mr KALDAS:** All I have is this extract. My memory is that it was given to me by Mr John Giorgiutti. I will touch on his evidence shortly.

**The Hon. LYNDA VOLTZ:** My problem is that it does not identify who was conducting the interview.

**The Hon. TREVOR KHAN:** It is asserted that it was Deputy Commissioner Burn, but that is not clear on the face of the document.

**The Hon. LYNDA VOLTZ:** There is nothing on here to identify who was doing the interview and who was asking questions.

**Mr KALDAS:** I understand. On that basis I was going to invite the Committee to obtain the entire transcript so that members can verify it for themselves.

**Mr DAVID SHOEBRIDGE:** On what basis do you understand that it is Ms Burn asking the questions?

**The Hon. TREVOR KHAN:** It is not "understand"; it is "assert".

**Mr KALDAS:** That is what I have been told.

**CHAIR:** We will proceed. Please read the lines you want to quote.

**Mr KALDAS:** Question No. 830 states:

Q830 Do you have any knowledge of police officer Kaldas, Nick Kaldas?

A Nick Kaldas. I know Nick Kaldas, yes.

Q831: Do you have any knowledge of any participation in Magnum he may have had?

A I don't remember him being involved in Magnum. He wasn't on the team. I know that.

Q832 Ah...

A I know he was on the Hold Up Squad at North West there for a time.

**Mr DAVID SHOEBRIDGE:** You will not mention the individual's name.

**CHAIR:** Is that it?

**Mr KALDAS:** I think that is the part I wanted to draw to your attention.

**CHAIR:** You assert that this is an extract of a debriefing of M5?

**Mr KALDAS:** Yes.

**CHAIR:** Conducted by Ms Burn and another officer?

**Mr KALDAS:** Yes.

CORRECTED

**Mr KALDAS:** As you have heard from Mr Giorgiutti, his analysis was that while M5 was debriefed and went through his career, I was the only one—the single one—who M5 did not actually volunteer or mention. Despite that, I was singled out and specifically asked about by the interviewing team of Ms Burn and another officer. Mr Giorgiutti also stated that I was not mentioned in the original allegations, but was added in much later by a person or persons. M5 had no knowledge of involvement in or, indeed, any evidence of anything that happened in this arrest. He simply had no involvement. There is also the evidence of M5 in his claim for a hurt-on-duty pension. I am not sure whether or not the Committee has that. I am happy to supply copies to the Committee.

**CHAIR:** What was that?

**Mr KALDAS:** It is a claim made by M5 in relation to him being hurt on duty. The substance of his claim is that he was used to even up personal scores.

**CHAIR:** Can we circulate that?

**Mr KALDAS:** Certainly. Finally in relation to this matter in particular, there is also the evidence of at least two former SCIA staff who were interviewed and outline the fact—

**CHAIR:** Excuse me, Mr Kaldas, can you draw our attention to the relevant part of this handout?

**Mr KALDAS:** I will need another copy.

**CHAIR:** Would you care to resume now in relation to document two?

**Mr KALDAS:** I apologise if it has caused any confusion but I have only had a couple of hours to ascertain what Ms Burn was going to say and read her written material and then work out how we are going to respond.

**CHAIR:** Please be careful with names.

**Mr KALDAS:** Certainly. If I can draw the Committee's attention to paragraph 4 on the first page:

Both the NSW Ombudsman and the Police Integrity Commission have declined to oversight this internal investigation.

That may or may not be relevant for you. The main crux of what I wish to draw your attention to is on page 2, paragraph 4:

M5 described further difficulties which arose from the fact that at times he knew that what he was doing was settling old scores which related to his supervising superintendent.

Further, in paragraph 2, halfway down:

I was sent by my supervising superintendent to see a particular person five or six times ... I smelt a rat ... I've done stuff you wouldn't do to your worst enemy ... I've been used.

I would submit that that refers to me. Finally, in relation to this issue there is evidence of at least two former SCIA staff who were interviewed. If I can call them perhaps P1 and P2, if the Committee is agreeable?

**CHAIR:** Yes.

**Mr KALDAS:** I have copies of their interviews which have been circulated I think previously and they have formed part of many complaints that people have made. I have copies here for the Committee. I apologise again, I do not have many. If I can draw the Committee's attention to a couple of areas. If we call one person P1, or PA perhaps, and if I could draw your attention to page 41 at the top of the page. This is the interview with this person we have called P1 or PA. He says:

There was a fourth one, as I said, that was unfairly targeted, but there were others as well, but Nick Kaldass, to me was the worst out of the lot, they just didn't seem to want to let that matter go.

I will not read the whole thing but if I can just go to halfway down the page:

... by an old crook and they were trying to get, to feed from that into a scenario whereby Kaldass wasn't doing what he was supposed to be doing and then they wanted to move on from that and get Kaldass talking about old criminal behaviour. Now, there was nothing coming up at all, about old criminal behaviour, and he seemed to be quite taken aback by, and be playing things sort of straight down the line, on each occasion they had their meetings, he just, sort of saying, Why're you coming to me with this, I'm not your supervisor, and he'd ring his supervisor and say, Well he's coming with this stuff and I don't know why he's, he's coming to me with it. And he seemed to be playing everything extremely fairly down the line, and yet they just kept doing it, they just, he, they kept pushing C—

I understand the letter C refers to M5—

I think on three occasions it was, they had his phones off and I couldn't see where, how they were getting the phones off because, there was nothing coming over on the investigation, and started off as pretty light on it as well. So, eventually it just got to the point where there was so many mutterings within the unit about their past history and this was the reason why he was being targeted, that no one wanted to put their name on the affidavit, they just, everyone was just like, I don't want anything to do with it.

He is asked if he knew that the affidavit was the one that is mentioned and he says yes. Then if I can just draw your attention to one other part—no, I will leave it at that if that is okay.

**Mr DAVID SHOEBRIDGE:** This is a record of interview with a then detective sergeant who had been working on Mascot. Is that right?

**Mr KALDAS:** Senior constable. The second one if I may, Mr Chair, or do you want me to wait?

**CHAIR:** Is it the same document?

**Mr KALDAS:** No, it is a different interview. I apologise for the confusion. It is P2 if we could call him that. So there is PA and P2.

**CHAIR:** At which page?

**Mr KALDAS:** The first part I wish to draw your attention to is on page 31.

**The Hon. TREVOR KHAN:** I am sorry to interrupt. I do not want to know the name of the person but who is performing these interviews or seeking them?

**Mr KALDAS:** Task Force Emblems.

**The Hon. TREVOR KHAN:** So these are police documents.

**The Hon. LYNDA VOLTZ:** And there are no front pages to them?

**Mr KALDAS:** There should be a page 1. It usually starts with question 1.

**The Hon. ADAM SEARLE:** The copy we have starts at page 2 with question 6. At some point we will ask you for a full copy.

**Mr KALDAS:** I am happy to give you these before I leave. They certainly have page 1. I apologise. If I could draw your attention to question 97 at the bottom of page 31, "Are you aware of any officer who was targeted unfairly by"—can I say that name?

**CHAIR:** You can.

**Mr KALDAS:** It says:

Q97 Are you aware of any officer who was targeted unfairly by Dolan?

A I have no direct knowledge other than, but I have, if I can use the word, hearsay knowledge, or the, or the talk that was going about, around and around the office, and that related to Nick Calgos.

Please pardon the misspelling of my name; that is the least of my worries. It continues:

Now, again, the full extent of Nick Calgos' alleged corruption, I did not know in, in depth, so again, it might have been more than targeting but, from only from what I saw and what I perceived in the office, was that him and Dolan had a fall-out some years

CORRECTED

back, something to do with the undercover course, I, there, there was a conversation that I heard that was intercepted by a lawful TI, so I don't know if I can just, can I talk about that sort of product, if that's all right. And part of the calls, Calgos was talking to someone and sticking it right into Dolan, about he ripped him off or some report or something like that, I believe it was. We all had a bit of a chuckle in the office and we knew there was an unhealthy relationship between the two, and the two didn't like each other. When it come up that we were targeting Calgos and C—

or M5—

was to be pushed into Calgos, if I can use the word, pushed in, for, for that. Myself, I had no idea why, I, to that point, I don't think I had any knowledge of any alleged corruption he was involved in. I think that's right, I'm sure that's right. And I, I couldn't see the reasoning for the targeting of him. I didn't know him at that point, I only knew him by name and I couldn't see a reasoning for the life of me why we were targeting him, again, but that sort of didn't surprise me ...

And then he goes on.

**Mr DAVID SHOEBRIDGE:** This officer who is being interviewed by Emblems, what was his role in Mascot?

**Mr KALDAS:** I understand he was one of the investigators. One final area there is on page 35 at question 108. He talks about the integrity testing regime and he says effectively that they objected to conducting integrity testing when there was an integrity testing unit which was set up to deal with these issues. He also mentions Ms Burn and Dolan as having come to them and said, "We're going to run some integrity tests on some targets there." I apologise, there is one very important point that I left out from the first. I am going to confuse everyone, I apologise. It is the first interview. I apologise, I cannot find it. I will have to draw your attention to it later. It is where one of these fellows is asked if it is the warrant that mentions me and says yes and then later on—sorry, here it is. It is in that first batch that I gave you. I do apologise for all the confusion.

**CHAIR:** It is okay. What page?

**Mr KALDAS:** Page 34. This is question 101 at the top. This is the fellow we have called P2, the second batch. Question 101 is:

Q101 O.K. So when you say management, who were you referring to in this case?

A Look, I believe the whole, my opinion about the whole Calgos matter was that it was, it was driven by Dolan himself.

Q102 Would have Kath Byrne had any knowledge of - - -

A She would have, she would have had to, she was the head of our unit.

If I may just turn to a couple of common points in relation to the allegations. In neither case did Mascot/Florida have any complainant or anyone with actual or direct knowledge of what happened. In both cases the matters were over a decade old and had been tested in court proceedings in minute detail, which did not reveal any wrongdoing or disciplinary action. In both cases M5 did not actually make any allegation against me; he had no knowledge of the cases. In fact, his claim for hurt-on-duty status states the opposite and he was being used to even up personal scores.

Finally, if these matters were so serious that they required the highly unusual step of extraordinary surveillance of me, surely at the end of the investigation there should have been an interview process where the allegation was put to me and I had the chance to answer these serious allegations. That never happened. Yet for over a decade, despite being given written assurances that I was cleared of wrongdoing, our elected politicians, our police Ministers, were briefed that I had a cloud over my head and that there was a reasonable suspicion about my integrity. This was a time when I led numerous sensitive investigations and operations across the State and internationally. I had been called on to carry out confidential, independent reviews of major investigations in other jurisdictions. I held the highest level of clearance from our Federal Government and was entrusted by our national government and many other nations, our allies, with top-secret information. There was never a doubt of my integrity, or reasonable doubt, from those who work with me.

I just want to highlight to the Committee that if there had been a reasonable basis for the allegations I have just refuted then surely I should have been interviewed as the matter was closed. I have never been interviewed. If it was serious and if there was any evidence, they would have interviewed me. Once again, I have never been interviewed. If it was reasonable enough to bug me using 80 warrants it is difficult to believe that it was not reasonable enough for them to interview me, but they did not. In addition, of the three allegations

that have been made, two were historical and it is difficult to believe that either of those allegations could have provided a reasonable basis to bug me in 2000 or 2001.

The third allegation, if I may explain, I think there has been some confusion. The allegation is not that I leaked; the allegation is that I received the leak from someone who had knowledge of what internal affairs were doing. The allegation that was put to me repeatedly at Police Integrity Commission hearings is that the leaker was Andrew Scipione. In relation to that allegation, I explained the circumstances in which I formed the view that M5 was a covert operative and the circumstances in which I discussed him with others. I still have no evidence which would form a basis for any reasonable suspicion that I had some knowledge which I had obtained or leaked unlawfully. I do not understand how it could still form the basis of 80 warrants.

Commissioner Scipione gave evidence last week that he had no reason to believe that there were any live allegations against me or that any former allegations against me have any basis. I thank him for that endorsement, which was unambiguous in a vote of confidence. This is consistent with a letter that I received from internal affairs, and I would like to table that, if I may. There will be no confusion with this one, I hope.

**Document tabled.**

I should clarify that Andrew Scipione was subsequently proven not to be the person who leaked to me. So the allegation that was put to me—I did not mean to cast any aspersions on him.

**The Hon. ADAM SEARLE:** I was not going to ask any questions about it.

**Mr DAVID SHOEBRIDGE:** I think we were just going to get it unambiguously affirmed from you that that was not the case.

**Mr KALDAS:** That is not the case; there was no leak either from him or anybody else. I will not go over old ground again—I did cover this, I think, the last time I was before you. I have some knowledge of covert areas and it simply did not make sense that this fellow was there, and I think he says that himself ultimately in his claim.

**Mr DAVID SHOEBRIDGE:** Just to be clear, you are forming that view on the basis of his repeated returns to you, and telling somebody that you thought that this man was coming at you in a covert operation, that would not possibly be grounds for saying you had engaged in some serious criminal offence.

**Mr KALDAS:** I cannot see what offence that would be. If someone can point one out to me I might stand corrected, but I cannot think of an offence. The person, if someone had leaked to me, may have committed an offence, but receiving a phone call from someone, I cannot see how that can be an offence.

**Mr DAVID SHOEBRIDGE:** Or having deep suspicions because someone keeps coming back at you again and again and again for no good purpose cannot be the basis of committing a criminal offence either.

**Mr KALDAS:** That is correct. I also received a letter from the Police Integrity Commission ultimately telling me that I had been exonerated of the allegation that I received a leak or had a leak in relation to M5. I regret I do not have a copy of that letter. Ladies and gentlemen, in five days of hearings here you have already uncovered the basic truth of the misconduct that occurred in Mascot/Florida. The Ombudsman has been going for over two years and says he is not yet ready to draw any conclusions. He has also told you that his investigation has not been sidetracked by investigating the alleged leaks. But there are two basic inconsistencies here.

First, investigating the alleged leaks can only be making a lengthy investigation take even longer. Secondly, there is a fundamental conflict between one person investigating wrongdoing and then that same person investigating alleged leaks which led to the uncovering of the alleged wrongdoing in the first place. Even if you were to accept from the Ombudsman that he should be investigating these leaks, it is my submission that the way he is going about it is simply not right; it is wrong. At the very least he should have investigated the original wrongdoing in Operation Mascot/Florida first, made some findings and then perhaps looked at the leaks later on in the context of the very serious misconduct or corruption, systemic problems, that the first leg of the investigation would have revealed. Only then should any investigation into the alleged leaks have been commenced and by a delegate of the Ombudsman, not the Ombudsman himself, and bearing in mind any relevant protections, such as those in the Public Interest Disclosures Act.

I want to reiterate that as someone who has unambiguous status under the public interest disclosures legislation, my treatment at the hand of the Ombudsman, in my view, breaches all of my rights. The Ombudsman stated that he treated all his witnesses civilly and appropriately, but that was not my experience. In any event, I cannot accept the gist of the Ombudsman's evidence about this matter. There is no comparison between those who sought to reveal wrongdoing and bring out the truth and right the wrongs and those who have committed misconduct that has hurt hundreds of lives. It is illogical for the Ombudsman to investigate wrongdoing on the one hand and to investigate and prosecute with more vigour, in my view, those who simply want the misconduct to be revealed.

Further, the Ombudsman agreed that I was not asked any questions of substance during my one and only hearing regarding the allegations of misconduct during Mascot/Florida—not one question. There are accepted set-in-cement basics for any major investigation: you must hear from the witnesses and the victims about what they say happened to them, their perceptions, the impact on them. Eighty warrants I have been the subject of—not one question. The Ombudsman knew I was the subject of 80 bugging warrants, that there was a history of conflict and even more recent issues and developments and the massive impact this misconduct had on me; yet he saw no reason to explore any of that with me—not even one question. Eighty warrants and not one question? I do not think Neddy Smith has ever been the subject of 80 warrants, ladies and gentlemen.

I had not heard of the 80 warrants before the Ombudsman gave evidence to this Committee. My original verbal complaint and my written evidence only dealt with what I knew about. I would have had a lot more to say had I been given an opportunity. Even if you were to accept the Ombudsman's evidence at face value, why could he not have asked me about the rest of the 80 warrants? The Ombudsman was very selective in his dealings with this Committee. For example, you only have to look at his comment that no complaints were made "during these hearings" on page 4 of his letter dated 19 November 2014. I made complaints, others also wrote to him, many with complaints, but not "during these hearings". The complaints were in correspondence, not in the hearing room.

If I can refer to the Ombudsman's evidence redacted at paragraph 34. I assume from the context, and I may be wrong, that that may refer to me. As I have already told the Committee, the Ombudsman's examination of me made me feel as if I had been ambushed. It was this which led me to believe that Operation Prospect was miscarrying in the sense that it would not identify and expose the wrongdoing of Operation Mascot Florida. The tactics used and the line of inquiry to be followed meant I found it impossible to cope adequately with the examination, particularly in the afternoon and early evening. In this context, and trying to protect someone who at one point provided me with information, I made an incorrect statement to the Ombudsman. Towards the end of the examination, when I barely remember what I was doing, when I was feeling particularly overwhelmed, the Ombudsman made a sustained attack on my credit.

I was extremely distressed by what occurred during the course of that examination and it led to my taking an extended period of sick leave, which the Ombudsman was good enough to air publicly when he gave evidence here. I also note he was very careful not to infringe on John Dolan's privacy, even by saying whether he had been examined or not. Regarding information provided to me by John Giorgiutti, I have already indicated to you that I was keen to protect his position. Under the intense cross-examination I did not initially give a candid account of how I became aware of this information.

Ladies and gentlemen, who among you would not be distressed to hear at a public hearing that you had been the subject of 80 warrants for some years and to know that in your heart that it is wrong, that it is unfair and that your every effort in over a decade to reveal the truth was met with reprisal and ridicule? Then, after all that, when someone finally begins to look into the matter you are not asked one question about what happened to you but you come under attack for accessing or seeing the incriminating documents and complaining? Those who see this as a conflict between two people are missing the point entirely: there are many more important issues at stake here.

I would have preferred Deputy Burn to express some regret for what appears to have been poor decision-making early on in her career. That did not happen. I did nothing to seek or provoke the assault on my privacy. This inquiry was established to report on the conduct and progress of the Ombudsman's inquiry. It is this Parliament's supremacy over all other government institutions that has meant in five days of hearings you have uncovered the truth of the misconduct that occurred during Mascot/Florida. Whilst I cannot presume to speak for the others that suffered at the hands of Mascot/Florida, without foundation, and notwithstanding my career was derailed for years, that my family's privacy was invaded and my integrity so very publicly and

wrongly called into question, I forgive Catherine Burn and Mascot/Florida investigators. I believe in Christian forgiveness.

What I know for sure, what I know for certain, is that at a time of sustained global conflict and anxiety, where there are high expectations of our police force, it is now that I want to reassure the public that the NSW Police Force can function well and will hopefully do so into the future. If I may make one final point. You ladies and gentlemen here have shown leadership in a way that has perhaps been lacking for over a decade, and for that I thank you. You have acted in a non-partisan way, by and large, and I hope that at the end of all this I, for one, hope we can put all this behind us and get on with our lives. As I said to you the last time I was here, all we have ever wanted is an admission that it was wrong and an apology. Thank you, ladies and gents.

**The Hon. ADAM SEARLE:** In relation to what Ms Burn said were the foundations of her reasonable belief against you, were those matters investigated or gone through with you by the Ombudsman at all?

**Mr KALDAS:** No. If I can clarify: I did make a verbal complaint, which was recorded, at the end of 2012. At that point in time, the Office of the Ombudsman had not probably received any material, had not studied anything. Quite appropriately, they said, "We won't be asking any questions. You can just make your complaint on the record." It was electronically recorded. I do not recall any questions being asked and it was not conducted by the Ombudsman or his deputy, there were two other staff members.

**The Hon. ADAM SEARLE:** But those matters were not explored with you as to their truth or otherwise?

**Mr KALDAS:** No.

**The Hon. ADAM SEARLE:** In relation to what was page 3 of Ms Burn's supplementary answers—this is the issue about whether or not you were the source of a leak about M5 recording you—it is the case, is it not, that you, in fact, did make a complaint to an officer of the NSW Crime Commission that you thought M5 was surveilling you at the behest of Mr Dolan?

**Mr KALDAS:** Yes, that was a suspicion I had formed and I recall discussing it at least with Mr Bradley. The bottom line is I could not possibly have leaked that he was a wired-up individual because I was not part of internal affairs and I had not received anything from internal affairs to warn me. If I can just make the point: his effort was, at best, amateur, his body language—you have to have a cover story if you are going to see someone to entrap them. He suggested that two particular individuals who were fellow superintendents had told him to come and see me to confess his sins. I approached those two individuals and both of them said the same thing: they had not seen him and had not asked him to do anything of the sort. It was immediately after I had some conflict with John Dolan, in particular.

**The Hon. ADAM SEARLE:** It was his behaviour that gave rise to your own suspicion that you were being—

**Mr KALDAS:** And the timing, yes.

**Mr DAVID SHOEBRIDGE:** And a very prompt check of his backstory, which did not pan out.

**Mr KALDAS:** It did not stack up.

**Mr DAVID SHOEBRIDGE:** Policing 101.

**The Hon. LYNDA VOLTZ:** Can I take you back, Mr Kaldas, to the statement at pages 70 and 71. You do not have access to anything else from that statement?

**Mr KALDAS:** I am sorry, I do not, no.

**The Hon. LYNDA VOLTZ:** In those two pages—I will not go to the names—there are a number of other police officers names proffered by the people asking the questions.

**Mr KALDAS:** Yes.



**The Hon. LYNDA VOLTZ:** Approximately another three in those two pages.

**Mr KALDAS:** Yes.

**The Hon. LYNDA VOLTZ:** Do you know if any of those people also appear in the warrants?

**Mr KALDAS:** I do not recall.

**The Hon. LYNDA VOLTZ:** That is all right. Thanks.

**Mr DAVID SHOEBRIDGE:** Mr Kaldas, you first saw Ms Burn's written answers this morning. You heard her evidence this morning as well. Is that right?

**Mr KALDAS:** Yes.

**Mr DAVID SHOEBRIDGE:** Prior to that, had you had explained to you in detail the alleged basis upon which you had been the subject of investigation?

**Mr KALDAS:** Not that I can recall: certainly in no formal setting. There may have been conversations with Phil Bradley—informal conversations—after the event. Certainly the letter from internal affairs which clears me does not go into any detail, but it does spell them out.

**Mr DAVID SHOEBRIDGE:** You have been pulling this together bit by bit over the last few years.

**Mr KALDAS:** Yes.

**Mr DAVID SHOEBRIDGE:** I suppose this is an opportunity you have waited for to be able to respond to them on the record.

**Mr KALDAS:** Absolutely; and I thank you for that opportunity, no matter the outcome.

**The Hon. NIALL BLAIR:** Deputy Commissioner, the document, or the excerpt from the interview, did you have this? Is this a recent document? You did not have this last week when you came?

**Mr KALDAS:** No. I think I have had it for a while but I am not—I do not recall specifically having it, but I think it has certainly been around for a while.

**The Hon. NIALL BLAIR:** You said that Mr Giorgiutti said that—because from the document we just see "Q" and then the number of the question, and then "A", so we actually do not know who is asking the questions on the document. Mr Giorgiutti said, or gave you the impression, that he believed that the questions in relation to you were done by Ms Burn. Is that right?

**Mr KALDAS:** Yes.

**The Hon. NIALL BLAIR:** When Mr Giorgiutti was here last week, he was asked about that document. From the transcript, Mr Searle says—I might just read through a part of it. Mr Searle says, "On page 11 of the second paragraph, you indicate that the confidential informant did not provide information of corrupt activity on the part of Nick Kaldas, that his name was specifically put to the confidential informant." Mr Giorgiutti said, "Yes, that is my recollection. That is my recollection, yes." Mr Searle said, "Presumably, it was put by one of those two officers." Mr Giorgiutti said, "Yes." Mr Searle says, "Do you know which police officer?" Mr Giorgiutti said, "I have no recollection of that." Mr Searle then said, "Nevertheless, there would be documents that can reveal the identity of each officer?" Mr Giorgiutti said, "Yes. The debrief was a question-and-answer-like record of interview so questions were asked and answered. I do not think it was recorded. I think it was typed on the fly, so to speak. The document will tell you exactly who asked the question." What Mr Giorgiutti told us is different to what he has told you—

**Mr KALDAS:** Well, it is—

**The Hon. NIALL BLAIR:** —in the sense that last week he said he could not recall who was asking that or put that to M5.

**Mr KALDAS:** I accept that that is what he cannot recall.

**The Hon. NIALL BLAIR:** Yes.

**Mr KALDAS:** But I did keep—that meant something to me when I got it, and I have obviously hung onto it.

**The Hon. NIALL BLAIR:** Sure.

**Mr KALDAS:** And I have a very clear recollection. The other point that is worth noting—and it is very easily cleared up if the Committee chooses to seek the interview; it will be a matter of just looking at the front page and seeing who asked the questions—that there is an accepted practice within the police that in a two-man or two-person interview team, the senior person asks the questions. I am fairly clear that the senior person in that two-person team was Catherine Burn, and I do know who the second person was.

**The Hon. NIALL BLAIR:** You made reference to Mr Scipione's evidence last week about the operation of the executive within the police force, the statistics that he gave about the performance of the police force throughout the time that he has been the commissioner and some of the good results that the police have delivered under some trying circumstances. I guess we have now got a situation today where we have got conflicting—that is probably the right word—evidence between two members of that executive. Where do we go to from here? We have got the Ombudsman doing their investigation, but I would be interested in your view as to where we go to from here, from today forward.

**Mr KALDAS:** That is a very good question. Nobody regrets the disruption and the turmoil more than me. I and many others have done our best for over a decade to try to bring this thing to a head. It is not for lack of trying. What was impossible for all of us to accept is simply to bend over and pretend it did not happen once the evidence came out that it clearly had happened. There was wrongdoing. There was misconduct, possibly illegal activities; I do not know. Where we go from here is I give this Committee, the Parliament and the people of New South Wales my absolute undertaking: I feel I have always acted professionally, as Andrew Scipione said, and I will certainly continue to do so. I will always act collegially.

I am in charge of all the stations. We are the ones that actually drive down the crime rates. We monitor that very closely. We monitor our customer service, for instance, as Andrew Scipione said, very closely. We are actually on track. We are doing what needs to be done. But you are right, Mr Blair: It has been very destabilising. We are only human beings. We have feelings. We get hurt. We bear grudges—all of those things—as the Ombudsman does, too. In reality, the quicker we finalise this thing, the quicker we can all get on with our lives. I found it a little bit disappointing that the Ombudsman said—he drew attention to the fact that this matter caused disruption within the police hierarchy and yet he was happy to extend it, after two and a half years now. It will be nearly three years by the time he has finished. I would have thought it would be in everyone's interest if he had expedited at least a part of it in relation to Mascot/Florida and then did what he wanted to do with the other stuff.

**The Hon. NIALL BLAIR:** You might have heard me ask this question to Deputy Commissioner Burn, but the Emblems investigators did not have access to the full range of information. This Committee does not have the full range of information. Do you believe that the Ombudsman has been able to get in behind those secrecy provisions to gather all the information to at least conduct a substantial investigation and hopefully some outcomes from the initial conduct and issues that led to the Emblems investigation?

**Mr KALDAS:** I believe he probably has all the documents that it needs. What he is clearly missing is any input from people who can give him the background; the people who—you know, you can call them victims if you like—the people who are on the receiving end of some of this bugging. I cannot see how you can get 52 warrants for a journalist. You have to satisfy a judge every time you go before him that you have achieved some progress and some evidence has been gathered. I cannot—to answer your question, I think you probably have the material, but I think he is missing the input from the people who would add a whole lot of context and texture to what he needs to have.

The second thing that has been of concern, and I have raised it here, is his intentions. I am not certain what percentage of his time he has spent on hunting down the whistleblowers and what percentage of his time

CORRECTED

he has spent on Mascot/Florida activities. What would be more enlightening even is whether the percentage changes after this parliamentary Committee is announced.

**The Hon. TREVOR KHAN:** Look, you know, do you not, from the evidence that has been given—you gave evidence for a day. The evidence now from two sources is that Cath Burn was interviewed for four days.

**Mr KALDAS:** Yes.

**The Hon. TREVOR KHAN:** You accept that Burn was interviewed over matters relating to Mascot and what we could say are matters from 2000 and 2002. Would you accept that?

**Mr KALDAS:** I accept that, I am sure, but I am not sure of the dates—whether they were before or after this Committee was formed. I do not have the dates. If I could just make one other point?

**The Hon. TREVOR KHAN:** Well, are you seriously proposing that since this Committee was formed that the Ombudsman may suddenly have been chasing up Burn?

**Mr KALDAS:** No. I am not proposing that.

**The Hon. TREVOR KHAN:** Is that the proposition you are seeking to advance?

**Mr KALDAS:** I am just saying I do not know the dates and whether it may have caused him or his staff to go back and look at some other things. While I accept Mr Blair's contention that this Committee does not have access to the full range of material that the Ombudsman certainly does, I think this Committee has enough—more than enough—brainpower. From the deep sampling you have done, the picture is pretty clear.

**The Hon. TREVOR KHAN:** You were present, were you not, on 11 October 2012 when there was a budget estimates into police.

**Mr KALDAS:** Yes. I do not recall the exact date, but it was certainly around that time, yes.

**The Hon. TREVOR KHAN:** That was something of the order of three weeks after you had made your protected disclosure to Commissioners Scipione. That would be about right, would it not? I think your protected disclosure was made on something like 13 September.

**Mr KALDAS:** Yes.

**The Hon. TREVOR KHAN:** Indeed, you sat at one end of the table and Cath Burn sat at the other far end of the table.

**Mr KALDAS:** Yes.

**The Hon. TREVOR KHAN:** The body language was particularly noticeable on that day, I would suggest.

**Mr KALDAS:** We did not actually arrange the seating arrangement. I am not sure who does that, but it was not us.

**Mr DAVID SHOEBRIDGE:** The Committee does.

**The Hon. TREVOR KHAN:** It may have just been entirely coincidence you sat at opposite ends of the table.

**Mr DAVID SHOEBRIDGE:** The Committee does. The Committee staff does.

**CHAIR:** The Committee does, yes.

**The Hon. TREVOR KHAN:** Yes. But you will remember that there was questioning—in fact, I think it was vigorous questioning by Mr Shoebridge on that day of Mr Gallacher—with regard to some matters around Emblems and some letters that were tabled.

**Mr KALDAS:** Yes.

**Mr DAVID SHOEBRIDGE:** I think you shut that questioning down, Trevor.

**The Hon. TREVOR KHAN:** In the context of that, there was a letter of 10 October from the Ombudsman that was tabled before the Committee.

**Mr KALDAS:** I mean, I do not recall the dates but I do recall a letter being tendered by him, yes.

**The Hon. TREVOR KHAN:** You see, that was the letter that indicated that the Ombudsman was looking at not only the issues around Mascot and Florida but also the disclosure of confidential material. I think that was the term that was used in the letter. Do you remember that?

**Mr KALDAS:** No. I do not recall that, but I accept it, if that is what you tell me.

**The Hon. TREVOR KHAN:** I do not want to trick you in any way. What I am essentially putting to you is this: From that early stage of the Ombudsman taking it over, essentially, the first day of the Ombudsman taking it over, he was disclosing that it was looking at all matters—that is, Mascot and Florida—and the issue of the disclosure of confidential information.

**Mr KALDAS:** I accept, if you tell me that is the case, that he included it in his letter. It certainly did not resonate with me or stick with me. But if I could just make the point: there are press releases that were put out by Mr O'Farrell, the then Premier; there are *Hansard* records; there is a call for information put out by the Ombudsman, and there is material on his website that he put up initially. In none of that—and certainly in my discussions with various Government members—I do not recall anyone mentioning that it was the Premier's or the Government's intention for him to hunt down the whistleblowers who revealed the wrongdoing. Further, I would have to ask: Who is it that complained to him, causing him to have a look at the leaks? I think he mentioned there was—

**The Hon. TREVOR KHAN:** Let us just suppose by way of example that it could have been, for instance, the head of the Crime Commission.

**Mr KALDAS:** The head of the Crime Commission and possibly the head of the Police Integrity Commission.

**The Hon. TREVOR KHAN:** Yes.

**Mr KALDAS:** And, as the old saying goes: They would say that, wouldn't they.

**The Hon. TREVOR KHAN:** Let us just deal with that. The Crime Commission, for instance, receives a range of or has a range of dealings with a number of other significant bodies both at State and Federal levels. Is that not right?

**Mr KALDAS:** Yes.

**The Hon. TREVOR KHAN:** They deal with the most sensitive and secret of material.

**Mr KALDAS:** Yes.

**The Hon. TREVOR KHAN:** The integrity of the security of the Crime Commission is important not only for the people of New South Wales but in fact federally because of the sensitivity of some of the material.

**Mr KALDAS:** The integrity of their operations is utmost, yes.

**The Hon. TREVOR KHAN:** Right. On an ongoing basis, that remains of utmost importance to the people of New South Wales.

**Mr KALDAS:** Yes.

**The Hon. TREVOR KHAN:** Yet in this case we have sensitive material from the NSW Crime Commission which is being distributed, it would seem, far and wide. Is that not right?

**Mr KALDAS:** That is correct. It has been distributed far and wide but—

**The Hon. TREVOR KHAN:** And it has been sensitive material, has it not?

**Mr KALDAS:** Well, it is historic material and I have to say that while it is historic, the secrecy provisions—that the whole framework of secrecy around bodies like the Crime Commission—should not and could not have been used to cover up corruption or misconduct. I would say that is the central tenet of giving people secrecy provisions. You cannot use those secrecy provisions—

**The Hon. TREVOR KHAN:** So it is a circumstance—

**Mr DAVID SHOEBRIDGE:** No, let the witness finish.

**The Hon. TREVOR KHAN:** Is it a circumstance—

**Mr DAVID SHOEBRIDGE:** You keep cutting him off.

**The Hon. TREVOR KHAN:** —where, for instance, you get to decide whether the secrecy provisions apply to particular material?

**The Hon. ADAM SEARLE:** Point of order: That was not what the witness said. I do not think that is a fair characterisation.

**CHAIR:** Please rephrase the question.

**Mr KALDAS:** There were repeated requests made, as you have heard in evidence here, from three or four people to the Crime Commission to reveal the incriminating affidavits. Depending on who you believe, they were either rejected or simply just did not happen. If I can just make the point—and I am not disagreeing with you—I am saying that the leaks began when many people came to the conclusion that there was no other way that this matter was going to see the light of day. If the leaks had not occurred there would never have been an Operation Prospect, there would never have been a parliamentary inquiry and we would still be sitting here in the dark.

**The Hon. TREVOR KHAN:** Let me go to Commissioner Scipione. Is the first complaint—I am not using that in a pejorative sense—that you made to him with regard to the Mascot matters, the protected disclosure that you made on or about 13 September 2012?

**Mr KALDAS:** Sorry? Is it the first complaint I have made?

**The Hon. TREVOR KHAN:** Yes, to Scipione.

**Mr KALDAS:** It is the first one I had made to Andrew Scipione, yes.

**The Hon. TREVOR KHAN:** You have heard a lot of questions, indeed accusations made to Commissioner Scipione that he should have acted on it earlier. Would that be a summary of some of the toing and froing that you heard in relation to Commissioner Scipione's evidence?

**Mr KALDAS:** I have heard that, yes.

**The Hon. TREVOR KHAN:** Do you hold to that view?

**Mr KALDAS:** I do not want to single out any individual, and certainly not Andrew Scipione. There have been failures on many levels here, certainly at police level and, without insulting anyone, perhaps at

government level, at parliamentary level. Perhaps people were misled, perhaps people were misinformed. The bottom line is this got swept under the carpet.

**The Hon. TREVOR KHAN:** Sure.

**Mr KALDAS:** I am not even sure it is helpful any more to single out one or two individuals.

**The Hon. TREVOR KHAN:** You have seen that happen in this inquiry.

**Mr KALDAS:** Look, we all have our views. Certainly on one view I think the office of the commissioner could have done more in this case. I do not think there is any doubt about that.

**The Hon. TREVOR KHAN:** The essential part is you received certain documents through the mail in about September 2012. Is that right?

**Mr KALDAS:** Yes.

**The Hon. TREVOR KHAN:** And that led to you making a protected disclosure to Commissioner Scipione. Is that right?

**Mr KALDAS:** Yes.

**The Hon. TREVOR KHAN:** He immediately referred it on to the Professional Standards Command. Is that right?

**Mr KALDAS:** Yes.

**The Hon. TREVOR KHAN:** Operation Jooriland is initiated?

**Mr KALDAS:** Yes. I am not sure I knew whether it was called that, but yes.

**The Hon. TREVOR KHAN:** Within one month then the Ombudsman had stepped in and taken over the matter?

**Mr DAVID SHOEBRIDGE:** I think the evidence was Strike Force Jooriland was from a series of complaints.

**Mr KALDAS:** Yes.

**The Hon. TREVOR KHAN:** So that essentially within about one month of you making a complaint—within days of you making a complaint—Commissioner Scipione had moved the matter forward, is that right?

**Mr KALDAS:** Yes.

**The Hon. TREVOR KHAN:** Operation Jooriland was formed by your complaints and other complaints that were made at about the same time? Is that right?

**Mr KALDAS:** Yes.

**The Hon. TREVOR KHAN:** And let us be fair, the complaints arose because there was more than a drop of material that was dropped about various people and that initiated, it would seem, the rise of concern all of a sudden in September 2012?

**Mr KALDAS:** Yes.

**The Hon. TREVOR KHAN:** It was, in a sense, a torch back on the bonfire, or back in the petrol that set this thing going again?

**Mr KALDAS:** Yes, you could describe it that way.

**The Hon. TREVOR KHAN:** Indeed, prior to 2012 and perhaps from around about 2004 after Emblems fizzled essentially there might have been a slow grumble but the real fire began when those documents were re-distributed?

**Mr KALDAS:** Yes.

**The Hon. TREVOR KHAN:** Indeed, I think Commissioner Moroney might have thought that it had gone away and then he retired. Would that be about right?

**Mr KALDAS:** Yes.

**The Hon. TREVOR KHAN:** I am not being critical of him but that little boil had been lanced, it would seem?

**Mr DAVID SHOEBRIDGE:** I do not think that is a fair characterisation. He said that the matter had been taken as far as he could, given the secrecy provisions under the Crime Commission Act. He did not say the boil had been lanced.

**The Hon. TREVOR KHAN:** The boil had gone down.

**Mr DAVID SHOEBRIDGE:** That is a total mischaracterisation.

**The Hon. ADAM SEARLE:** I do not think the witness can assist us with these characterisations.

**The Hon. TREVOR KHAN:** Be that as it may, the thing had essentially gone from Moroney's time until that bonfire was relit in September 2012?

**Mr KALDAS:** Yes, I think that is the case. It is also worth noting, I think you have probably heard the saying, there are a hundred angry men in this thing.

**The Hon. TREVOR KHAN:** I think we have worked that out.

**The Hon. ADAM SEARLE:** You have provided to us two records of interview of two individual police officers with Strike Force Emblems.

**Mr KALDAS:** Yes.

**The Hon. ADAM SEARLE:** I think you have described them as P1 and P2. Do you have a complete copy of the documents with you?

**Mr KALDAS:** I have but it may be marked. I am certainly happy to leave them with you.

**The Hon. ADAM SEARLE:** Do the copies of the documents you have identify, for our benefit, who those two persons are?

**Mr KALDAS:** Yes.

**The Hon. ADAM SEARLE:** And you are happy to provide that to the Committee?

**Mr KALDAS:** Yes.

**The Hon. TREVOR KHAN:** Where did those documents come from?

**Mr KALDAS:** I do not recall where these particular ones came from. They go back quite a while and they have formed part of my complaint going back to when I first complained to Mr Levine, Inspector of the Police Integrity Commission.

**The Hon. ADAM SEARLE:** What role did Andrew Scipione play in your promotion to Deputy Commissioner? Was he on the selection panel?

**Mr KALDAS:** Yes, he was. He had just been appointed commissioner, as he said to the Committee, and Dave Owens and I were promoted to deputy.

**The Hon. TREVOR KHAN:** There is no question, is there, that you agree with his evidence that essentially—I think he used the term—he appointed you?

**Mr KALDAS:** He did.

**The Hon. TREVOR KHAN:** It was a show of faith in you?

**Mr KALDAS:** Yes.

**The Hon. TREVOR KHAN:** Were you aware that Cath Burn had applied for the same position?

**Mr KALDAS:** No, I was not.

**The Hon. TREVOR KHAN:** So you now know, do you not, at least out of this exercise, that you bested, if we could describe it in that way, Cath Burn in your appointment to Deputy Commissioner?

**The Hon. ADAM SEARLE:** I am not so sure that that is a fair question. The record speaks for itself. He now knows.

**Mr KALDAS:** I would say that I was on the rank of Assistant Commissioner for quite a bit longer than her and our backgrounds and experiences were very different.

**The Hon. LYNDA VOLTZ:** He did make that point I think as well.

**The Hon. TREVOR KHAN:** He did.

**The Hon. ADAM SEARLE:** Okay, fair point.

**The Hon. TREVOR KHAN:** Do you agree with the Ombudsman that the dissemination of confidential information from the police is a significant and serious matter?

**Mr KALDAS:** It is not black and white and this is where we probably disagree. I accept that that is what he believes. I do not agree with that. This is a case where serious misconduct at best, illegalities at worst, have now become clear. How can you logically punish those who brought it to light, especially when you take into account that people have been trying to point this out for 10 years? I do not think, and I really do not believe, that it was this Government's intent that he go down that road.

**The Hon. TREVOR KHAN:** Would you accept that the Ombudsman has taken over essentially the complaints that were made to Commissioner Scipione and also received complaints from, it would seem, others on what seemed to be related matters with regard to the leaking of material?

**Mr KALDAS:** Yes, he certainly took them on. He has absolute discretion as to whether he proceeds with complaints or not.

**The Hon. TREVOR KHAN:** He is, in essence, exercising an independent role from government, that is, he is not at the direction of government with regard to what complaints he pursues and how he pursues them?

**Mr KALDAS:** No, he is not. However, in this particular case specific funding, specific legislation, specific powers were given to him by this Parliament to carry out a specific task.

**The Hon. TREVOR KHAN:** I agree with that Deputy Commissioner. But are you saying that the Government, whichever government is in power, should seek to interfere in an Ombudsman's inquiry because it may or may not be convenient to them?

**Mr KALDAS:** No, not at all. That is not what I am saying. I am not necessarily criticising him. All I am saying is in this particular case the Ombudsman, for instance, does not have an inspector, unlike the Police Integrity Commission, the Crime Commission and the Independent Commission Against Corruption. He does



not have an internal affairs function from within. He has royal commission powers. He has secrecy provisions. He cannot be sued either in office or now when he retires. Who does one complain to, apart from Parliament, if you are not happy with the direction it is taking? This is what has happened here. The hundred angry men have come to you and you have listened.

**Mr DAVID SHOEBRIDGE:** And the parliamentary committee that is set aside to do that does not have the power to investigate into a specific operation, a specific decision or any specificity about the Ombudsman. There is a big hole there, is there not?

**Mr KALDAS:** I cannot comment on what Parliament does but what I would say is the framework is broken; it is not working. If he was going to do both legs of this investigation, if there was no way he could be persuaded that he needed to hold off or look at the totality of why people may have leaked documents, it should have been done separately at arm's length. You cannot do both. It just defies logic.

**The Hon. TREVOR KHAN:** I am going to sort of wind it up and I am sure everyone will be pleased. You heard Commissioner Scipione raise the possibility of some form of independent oversight body of police. I think I sort of invited you to jump into the pool last time. Having heard Commissioner Scipione with regard to his views on the matter, what do you reckon now?

**Mr KALDAS:** I think we have got too many bodies as it is. This is just my view; it is not the corporate view and it is not the NSW Police Force view. I think we have a framework, as I may have mentioned last time I was here, where four of five super judicial bodies have sprung up, not part of a grand design or structure. Each of them has probably been created in a well-intentioned but ad hoc reaction to a scandal and then there is no re-examination down the track to say, "Do these bodies need to exist? Do they have enough work? Are they overlapping? Will they take each other to court and sue each other?" which has happened on occasions here. I think we need a rationalisation of some sort. This Committee may be the first step perhaps to say let us look at this. We have complaints regularly in the police force that the Ombudsman claims jurisdiction over, sometimes a Coroner claims jurisdiction over, sometimes Police Integrity Commission claims jurisdiction over, WorkCover and so on. They all essentially want to do good; they want to get the job done, but the structure is not conducive. One point of complaint, if you like for the police, whatever that may look like, whether it is a part of the Independent Commission Against Corruption or whatever, it is probably the way to go.

**The Hon. ADAM SEARLE:** There is no indication of which should be the lead agency in the circumstances of an overlap in jurisdiction, is there?

**Mr KALDAS:** You could talk about this forever and I apologise as I know you want to wind it up, Mr Khan—

**The Hon. TREVOR KHAN:** No.

**Mr KALDAS:** The Police Integrity Commission is responsible for one government agency. It gets roughly the same funding as the Ombudsman who does every government agency, for instance. They do not really accept responsibility for prevention. The Ombudsman does to some extent. If you look at the role of the Ombudsman in other jurisdictions it does not bear any resemblance. We are entirely different from every other jurisdiction here. He has a much broader stretch. That has happened as an accident of history almost—I do not want to defame anyone. But the bottom line is you need to look at which agency—you know, function before form. What are they doing? How much work have they actually got and does it fit in anywhere else?

**The Hon. ADAM SEARLE:** So that network of agencies and their relationship and jurisdictions in this particular area does need to be examined and re-evaluated?

**Mr KALDAS:** Absolutely.

**Mr DAVID SHOEBRIDGE:** If we are looking to a single or a rationalised oversight it would be important that that oversight body be independent of the NSW Police Force?

**Mr KALDAS:** We absolutely need independent, extraneous oversight; there is no doubt about that. Some experiences in other jurisdictions may be instructive. In Western Australia and in Queensland, I understand—I am not going to tell you it works perfectly—they have amalgamated most of these oversight bodies into two. In fact, in both of those jurisdictions they do crime and misconduct and I feel that is cutting it

down too much. Perhaps two bodies; one for crime such as the Crime Commission to do all the good stuff that Mr Khan mentioned, and then one in relation to the misconduct issues. That body perhaps ought to be clearer about what it does; whether it is an Ombudsman review-type function or proactive investigations with criminal investigators and prosecuting functions which he has both at the moment in competition with others.

**The Hon. TREVOR KHAN:** Your lawyers are earning their money because they are handing you notes. You might want to refer to those at the end but I think this is the last area.

**Mr DAVID SHOEBRIDGE:** You have said that four times now.

**The Hon. TREVOR KHAN:** We will go back to that. Earlier the Hon. Niall Blair asked you where we go forward from here. I suppose what he was really asking you was this. There has been a degree of—again I am not being pejorative—venting before this inquiry by both you and Deputy Commissioner Burn. When you go back to your desks next week would you like to explain whether or not you are capable of working together from your perspective?

**Mr KALDAS:** From my perspective, yes. We have been doing that for a few years now. Admittedly the heat is somewhat hotter at this point in time. But I have never acted in any way other than professional and collegial.

**The Hon. TREVOR KHAN:** Do I take it from that that pending the outcome of the Ombudsman's report, whatever the outcome of that report is, that you believe that both of you can continue to work professionally alongside each other?

**Mr KALDAS:** In the long term?

**The Hon. TREVOR KHAN:** At least until the Ombudsman's report comes down.

**The Hon. ADAM SEARLE:** Yes, that was the caveat in Mr Khan's question.

**The Hon. TREVOR KHAN:** I am trying to put a defined point.

**Mr KALDAS:** I do not see an alternative. We are grown-ups; we are adults. We are managing an organisation of 20,000 people, a budget of \$3 billion. We owe it to the people of New South Wales. I recognise and I act on the fact that I owe it to the people of New South Wales to act professionally, and if you can find one person who says I have acted otherwise, I will take my hat off to you.

**The Hon. TREVOR KHAN:** I am not putting that proposition to you. I just wanted your assurance.

**Mr KALDAS:** Sure.

**The Hon. TREVOR KHAN:** Thank you.

**Mr KALDAS:** If I could just make one final point and I promise, Mr Chair, this will be my last point.

**The Hon. TREVOR KHAN:** Is it the lawyer's one too?

**Mr KALDAS:** Possibly. The tenure of people and how jaded people get, perhaps, whatever you decide, you may simply recommend that this area of oversight bodies needs to be looked at. I do not know that you would have the time or the wherewithal at this point in time to delve into yet another topic as to how it might look. But you may simply recommend that it is something government ought to look at reforming. I would add in there that probably anything over five, six, seven years is too long for an individual to be in a seat where they become fixed or fixated on some topics or some organisations, whatever it might be. Change is actually a good thing. A fresh pair of eyes is a good thing. We do it with our commanders. We do not leave them in the same place too long. They get jaded and sometimes fall into traps.

**The Hon. ADAM SEARLE:** They get rotated, do they not?

**Mr KALDAS:** We rotate people fairly regularly.

CORRECTED

**The Hon. LYNDA VOLTZ:** Sort of like the electorate at the moment.

**Mr DAVID SHOEBRIDGE:** And it is as important for those who oversight police as it is for the police themselves.

**Mr KALDAS:** Certainly.

**CHAIR:** Thank you very much, Mr Kaldas.

**Mr KALDAS:** Thank you, Mr Chair, and members of the panel, for the patience you have shown me.

**(The witness withdrew)**

**The Committee adjourned at 3.30 p.m.**