

REPORT OF PROCEEDINGS BEFORE

**STANDING COMMITTEE ON PARLIAMENTARY
PRIVILEGE AND ETHICS**

¾¾¾

At Sydney on Monday 15 October 2001

¾¾¾

The Committee met at 10.00 a.m.

¾¾¾

PRESENT

Reverend the Hon. Fred Nile (Chair)

The Hon. Peter Breen

The Hon. Amanda Fazio

The Hon. Patricia Forsythe

The Hon. Jennifer Gardiner

The Hon. Peter Primrose

The Hon. Janelle Saffin

CHAIR: I wish to make an opening statement so that everyone understands the purpose of this Committee hearing. The Standing Committee on Parliamentary Privilege and Ethics has been requested to inquire into and report to the House on whether the Police Service, in serving directive memoranda on four officers who had given evidence on 23 April 2001 before General Purpose Standing Committee No. 3, and in subsequent actions, have committed a contempt thereby breaching the privileges of Parliament.

In determining whether or not there has been a contempt, this Committee is concerned with whether the conduct of the Police Service, in issuing the directive memoranda and/or in subsequent actions obstructed or impeded the general purpose standing committee in the performance of its functions. It is also possible that a finding of contempt may be made if the conduct of the Police Service in this matter, even if not actually obstructing or impeding the committee, may have had a tendency to produce such a result.

It is possible that one or more police officers involved in the issuing of the directive memoranda and/or other actions which may have influenced or intimidated the police witnesses, including Detective Sergeant Tim Priest, were unaware that they may have been breaching the privilege of Parliament. However, as it is often stated in court, ignorance of the law is no excuse. Finally, this inquiry is very specific in its scope. It is to determine whether or not a breach of privilege has occurred and to make recommendation in relation to this matter alone. It is not a second inquiry into policing in Cabramatta.

Members of the media should be aware that Standing Order No. 252 of the Legislative Council states that any evidence given before this Committee and any documents presented to the Committee which have not yet been tabled in Parliament "may not, except with the permission of the Committee, be disclosed or published by any Member of such Committee or by any other person." Accordingly, the Standing Committee on Parliamentary Privilege and Ethics has resolved in this regard to authorise the media to broadcast and video excerpts of its public proceedings held today. The Committee's resolution conforms with the guidelines governing the broadcast of proceedings adopted by the Legislative Council on 11 October 1994. Copies of the guidelines have been circulated to you.

The Committee wishes to emphasise that when the public hearing commences only members of this Committee hearing evidence and the witnesses appearing before them may be filmed or recorded. People in the public gallery are not considered to be part of the proceedings and therefore may not be included in sound or video broadcasts. Furthermore, media reporting the proceedings of this Committee are advised that as with reporting the proceedings of both Houses of Parliament you must take responsibility for what you publish or what interpretation is placed on anything that is said before the Committee.

ROBERT EDWARD FRANCIS, Detective Sergeant of Police, Wollongong Police Station,

GREGORY PATRICK BYRNE, Sergeant of Police, Penrith Police Station, and

CHRISTOPHER LAIRD, Constable of Police, Merrylands Police Station, sworn and examined:

CHAIR: Did you receive a summons issued under my hand in accordance with the provisions of the Parliamentary Evidence Act 1901?

Mr FRANCIS: Yes, I did.

Mr BYRNE: Yes, I did.

Mr LAIRD: Yes.

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

Mr FRANCIS: Yes, I am.

Mr BYRNE: Yes, I am.

Mr LAIRD: I am.

CHAIR: Do you have a written submission?

Mr FRANCIS: Yes.

Mr BYRNE: Yes.

Mr LAIRD: I do.

CHAIR: Do you wish your submission to be included as part of your sworn evidence?

Mr FRANCIS: Yes.

Mr BYRNE: Yes.

Mr LAIRD: I do.

CHAIR: I wish to make it clear to the witnesses that if you should consider at any stage during your evidence that in the public interest certain evidence or documents you may wish to present should be seen or heard only by the Committee, the Committee will consider your request. This is in conformity with Standing Order 250; in other words, we go into camera and the room is cleared. You make that decision. Do any of you wish to make an opening statement?

Mr BYRNE: Yes. In relation to our submission, which I gave your last week—

CHAIR: All members of the Committee have a copy of the submission. The submission has not been made public but has only been made available to members of the Committee.

Mr BYRNE: There are some points I would like to clarify. On page 6 of the submission at paragraph 1.22 there is a statement that starts "A number of days later she confirmed", about halfway down that paragraph.

CHAIR: Yes.

Mr BYRNE: I spoke to Nancy Searle on Friday. She indicates that has not happened in relation to internal affairs so I would like to remove that from the submission.

The Hon. PETER BREEN: Does that include the whole sentence to the end of the paragraph?

Mr BYRNE: The words I want removed are, "A number of days later she confirmed that she had forwarded a complaint to internal affairs and sent correspondence to the internal witness support unit. To this date internal affairs have not made any contact with the Police Association of New South Wales or us in relation to the complaint." The issue with the internal witness support unit is that she did make contact with them but they have not returned her call.

CHAIR: So we delete that.

Mr BYRNE: Down to the word "Nor" on the second last line.

The Hon. PETER BREEN: Will you just read that sentence so that it is clear? Does the sentence begin with the words, "A number of days"?

The Hon. JANELLE SAFFIN: Should the words "nor has" form a new sentence?

Mr BYRNE: Yes.

CHAIR: Do you want to retain the last part of the sentence?

Mr BYRNE: From the words "Nor has the internal witness support unit attempted to contact...".

The Hon. PETER BREEN: So the sentence commences with the words "The internal witness support unit"?

Mr BYRNE: Yes.

CHAIR: So we should delete the words "Nor has". The sentence will then commence with the words "The internal witness support unit has not attempted ...".

Mr BYRNE: I refer also to paragraph 4.3.6 on page 20, which should read, "To the best of our knowledge Sergeant Byrne posted the minutes." So that sentence should then read, "the minutes from the internal police memo system".

The Hon. PETER BREEN: So it should read, "Sergeant Byrne posted the minutes"?

Mr BYRNE: Yes.

CHAIR: For the benefit of the media, I make it clear that there is only one submission—a joint submission from four officers.

Mr BYRNE: The only other change is to be found at paragraph 3.9.3 on page 16. The third complaint that is made by us, that whole point should be removed. In paragraph 3.9.3 there are a number of dot points. The third dot point starts with the words, "Complaints made by us ...". That whole dot point should be removed.

CHAIR: The third dot point?

Mr BYRNE: Yes.

The Hon. PETER BREEN: I draw the witnesses' attention to paragraph 4.3.5 on page 19 of the submission, which begins with the words, "I compiled". I think that is also a mistake. Should that not be "Sergeant Byrne compiled"?

Mr BYRNE: "Sergeant Byrne compiled".

The Hon. PETER BREEN: I think you overlooked that one.

Mr BYRNE: Yes, I did.

CHAIR: Are there any other changes?

Mr BYRNE: Not that I am aware of.

CHAIR: The questions that will be asked by Committee members can be answered by any of the witnesses. Would you explain to the Committee your reactions upon receiving the directive memorandum? If you have referred to that issue in your submission you can refer Committee members to it.

Mr BYRNE: I think we referred to that in the submission. I think that the history of Cabramatta over the last 18 months has to be told for you to then understand why I reacted the way I did to that directive memorandum. It was very hard over a period of 12 months. It involved some fairly intense negotiations and manoeuvring with the police hierarchy. It was very hard. I was getting very tired. When there was an indication that the chairman of the parliamentary inquiry wanted some police officers to go, as I have said in the submission, I said to Ian Ball, "I do not think we should." Round about that time there had been a lot of media attention on Cabramatta. Again, as I have indicated in our submission, that placed a lot of pressure on police at Cabramatta.

I was worried that people were going to start taking their eyes off the ball and we were going to get hurt because they would not be concentrating on their work. I said to Ian Ball, "I do not think we should go." He said "I think you have to." I said, "Why?" He said, "Because the chairman of the inquiry has indicated that she wants someone to go to the inquiry." Ian Ball told me that she said that if no-one was prepared to go she was prepared to summons the whole police station. I said, "I do not think that would be a good move. I do not think that would help Cabramatta." I said, "I think it looks like we will have to go." So we indicated that we probably would. We did a submission. Just the mere fact that we did a submission seemed to generate a lot of publicity. That caused more angst and tension within the police station.

In fact, the police station became quite divided over the whole issue. To walk in through the doors of the parliamentary inquiry to me was not a daunting experience, but I was certainly quite tense. I was very receptive to what people at Cabramatta police station thought about the whole process. I knew too that the police department was not very happy about the parliamentary inquiry. I had seen what had happened to Tim Priest's evidence and what Mr Small had done there and I was very concerned about what was going to happen to us too. When I walked out of the inquiry I was fairly happy that we had done a pretty good job. We had said that the police station was running very well, that Mr Small was doing a good job, that Mr Hansen was doing a good job and that the place was running very well.

I remember going to have some lunch or some afternoon tea after we had given evidence. I said, "I do not think anyone will be too upset about that." We had not said anything controversial or anything bad about anyone; in fact quite the opposite. When we got that directive memorandum the next morning—I think Chris rang me up and said that he had been served with a directive memorandum—it sort of hit me between the eyes. I sort of dropped my guard. I thought, "That is it for me. It is all over. We have had our say. Now we will just get on with the rest of our lives." When I found out that that had happened it sort of hit me between the eyes. My wife said, "I could not believe your face when you hung up the phone." I was shocked.

CHAIR: Would the other witnesses like to add to that?

Mr FRANCIS: Yes. I felt the same way. I felt that after we had given evidence that would be the end of it. The following day, to be handed a directive memorandum by a public servant was, as Sergeant Byrne said, like being hit between the eyes. I thought, "What have I done wrong?" We went along in the vein that we were trying to help, not only the Police Service but the people of Cabramatta by helping the committee. All of a sudden it was as if we had done something wrong. I just could not understand why, the day after, we were being asked to comment on what we had said when we had prepared a submission and that had been given to the Police Service weeks beforehand.

We asked whether our evidence could be given in camera at that stage because we did not want it to become a media circus. The next day it was in the newspapers. How it got there or why it got there I think was the subject of an inquiry as well. We all answered notices that we were given. We had no idea how that got to be in the media. But it was alluded to later on that we were untrustworthy. We were treated, as we have indicated in our submission, as though we were a disgrace. Then to be served with a directive memorandum it was absolutely unbelievable.

CHAIR: When you received that directive memorandum were you relating that in your mind to you, as a police officer, being accused of corruption or some other misbehaviour?

Mr FRANCIS: Yes. We were the subject of an internal inquiry.

CHAIR: That was quite serious.

Mr FRANCIS: Yes.

CHAIR: Are directive memorandums used frequently or infrequently?

Mr FRANCIS: They are not used very frequently at all.

CHAIR: Constable Laird, for the record we better get your reaction.

Mr LAIRD: I received the directive memorandum the next morning straight after the inquiry because I was the only officer who was rostered on the next day. I received it in the car park; it was just in a yellow envelope given to me by the administration lady. I opened it and I just looked at it. I started to read it and all of a sudden I could just feel the blood going straight out of my head and I just started to feel sick. I thought, "Oh my god, what have we done?" We have been given this directive memorandum. I thought, "Have I done anything corrupt or have I offended somebody?" As far as I was aware, I had just told the truth to the best that I could help the inquiry, and the next day the directive memorandum tells me to please explain some of the assertions that we made. I thought, "What have I done wrong?" I just felt totally ill. That is when I rang up Sergeant Byrne, Sergeant Francis and Sergeant Fusca straight away and told them, "You'll never guess what I have just been given." They honestly thought I was joking. They said, "You are kidding, aren't you?" Their total mood changed with me for the rest of the day. I could not believe it.

CHAIR: For the record, whose signature was on the directive memorandum?

Mr BYRNE: Superintendent Hansen.

CHAIR: So if you were going to give further evidence to the parliamentary committee, would that have influenced your willingness to attend or to give evidence? Did it have a degree of intimidation?

Mr BYRNE: To be honest, I do not think that would stop me. All that would do is get my back up, something like that. But I know, talking to people at Cabramatta police station, there is no way they were ever going to do that. No-one was going to go near that parliamentary inquiry after that because I think, if you have a look at the evidence of Tim Priest and then you have a look at the evidence of Mr Small, I was not going to go near it after that, knowing that I sort of basically had to, then I only went to the parliamentary inquiry at all.

The Hon. PETER BREEN: When you say you "had to", can you just explain that a bit further?

Mr BYRNE: I suppose it is my terminology. I was a branch official at Cabramatta, an association union official. As an elected representative of the greater police station I had their interests at heart, I suppose, and the last thing I wanted was everybody going down to the parliamentary inquiry because I do not think that served any purpose. But at the same time I think, bearing in mind that what was coming out of the parliamentary inquiry was quite positive and a lot of police there were happy with what had come out of the parliamentary inquiry and some of the powers that the Government was enacting, I thought that I should go down and support something that has been a vehicle of change.

The Hon. PETER BREEN: Did you feel you represented other officers or you just represented yourself?

Mr BYRNE: I represented myself. I was not going there in any official capacity as a union official, no.

The Hon. AMANDA FAZIO: When you said earlier that you were concerned that the Committee chair had threatened to summons the whole of the Cabramatta police station if some other representatives did not put themselves forward or some other members of staff at the Cabramatta police station did not put themselves forward to give evidence to the inquiry, do you feel that that also would have constituted intimidation of a sort?

Mr BYRNE: No. The way it was explained to me was that the Committee was concerned about the direction it was taking because of all the Tim Priest evidence and Mr Small's evidence and the publicity that that had generated and they did not know where the truth lay and they wanted someone to come down. So I did not think it was intimidatory; I was not intimidated by that. I thought it was an indication from the Committee that they wanted to find out what was going on. I do not think that comment was designed to bring any particular person there against their will. I think it was

an indication—that is my understanding of it; that is how I interpreted it—that they wanted someone to come. It was important for them that they spoke to someone from Cabramatta.

CHAIR: In paragraph 1.21 of your submission it refers to an offer by Mr Small for the directive memorandum to be withdrawn. Can you elaborate on this reference?

Mr BYRNE: I think in his evidence he made reference to withdrawing his directive memorandum or at least three of them. I think in the transcript of his evidence there was agreement that that would happen, that he was going to withdraw the evidence.

The Hon. PETER BREEN: I think he was going to consult his lawyers about withdrawing three of them.

Mr BYRNE: Was he? I cannot remember exactly, but he indicated to Ian Ball, who is the President of the Police Association, that provided we supplied him with written confirmation that what we said at the parliamentary inquiry was absolutely baseless then he would withdraw it and further I think there was something about also in writing that we understood the obligations under clause 9 of the Police Service Regulation 2000, which is complying with directions of senior police.

The Hon. PETER BREEN: Which means you have to comply with the directive memorandum?

Mr BYRNE: Yes, or have to comply with lawful directions of senior police officers.

The Hon. PETER BREEN: What if you do not comply? What is the penalty?

Mr BYRNE: I suggest it would depend on what they were inquiring about. If they are inquiring about a serious offence and you refused to answer the directive memorandum I suggest that you could be looking at going all the way up to dismissal from the Police Service.

The Hon. PETER BREEN: There was a long time between when you got the directive memorandum and when you replied.

Mr BYRNE: Yes, there was.

The Hon. PETER BREEN: Was there any pressure on you in that period to reply to it?

Mr BYRNE: Not outside a committee room. Certainly within the committee, like, in the parliamentary inquiry Mr Small made a reference a number of times that we have not answered him because we could not. That was not true. We could always answer the directive memorandum.

CHAIR: And you did answer it with a detailed response.

Mr BYRNE: Yes, which is part of the submission.

The Hon. PATRICIA FORSYTHE: If I could go back to the evidence of Detective Sergeant Francis, did you say that the submission that you intended to put to the Committee had gone to the Police Service several weeks before? Did I understand you to say that?

Mr FRANCIS: Yes. We had a working party. It was fairly widely advertised at Cabramatta that anybody who wanted to come along to the working party could come along to it. Mr Greg Chilvers from the Police Association came along. He took notes on the whole day. There were various representatives. I think there were about 10 police there and we put a submission together which he typed up, and that typed submission was given to Superintendent Hansen.

The Hon. PATRICIA FORSYTHE: Did you receive any comment from Superintendent Hansen prior to your appearance before the Committee in relation to what was in the submission?

Mr FRANCIS: No I did not.

The Hon. PETER BREEN: Did that submission become public? Was it generally available in the police force?

Mr FRANCIS: Yes.

Mr BYRNE: Yes it was.

The Hon. PETER BREEN: Did it change very much between the draft that was made available and the one that eventually came to the inquiry?

Mr BYRNE: No.

Mr FRANCIS: The original submission indicated that these submission was going to be put before a branch of the Police Association, before our branch of the Police Association, and if it was agreed on then that would go as a branch submission. There was some debate over some of the items in it. A lot of the items were agreed upon. Others, people had not made up their minds and as such that submission became the submission of four police officers at Cabramatta.

The Hon. PETER BREEN: When you say the branch you mean the local area command, the 41 people in the command. That was originally the intention, was it not?

Mr FRANCIS: Yes.

The Hon. PETER BREEN: That that submission would represent the view of—

Mr FRANCIS: The view of everybody in the command.

The Hon. PATRICIA FORSYTHE: But in the end it was not seen as a representation of everybody's position.

Mr FRANCIS: That is right. A number of people had differing views on some of the points and because of those differing views on some of those points that submission was not put it as a branch submission. It was amended before the Committee. A number of alterations were made where instead of saying "we the police at Cabramatta" it was changed to us four officers.

The Hon. PATRICIA FORSYTHE: Prior—

CHAIR: We need to move on to consider the matters relating to this inquiry. I think we are getting a bit too much detail which is more related back to the Cabramatta inquiry. In your submission, paragraph 1.22, you refer to the internal witness support unit. Can you elaborate on this reference?

Mr BYRNE: We indicated to Nancy Searle, who is a legal officer at the Police Association, that we wanted to be registered as internal witnesses as a result of the directive memorandum and our evidence before the parliamentary inquiry. She told me last Friday that she had contacted the internal witness support unit and they had not returned her call. I also add that I know Ian Ball has spoken to a number of senior police officers and also indicated that we should be registered as internal witnesses, and to our knowledge nothing has been done about that.

CHAIR: What was the reason for that? Was that to get some moral support?

Mr BYRNE: The internal witness support unit is a body within the Police Service that supports and mentors people who make internal complaints. Their actions are supported by legislation under the Police Service Act that makes it an offence to intimidate an internal witness or to make a retaliatory complaint against an internal witness.

CHAIR: Paragraph 1.23 of your submission refers to the PANSW facilitated transfers out of Cabramatta LAC. Can you elaborate on this reference? Were these transfers voluntary, and what has happened to each of you in career terms since these transfers?

Mr FRANCIS: Because the entire mood at Cabramatta changed after we gave evidence, I felt the mood towards me had changed. I felt that it was unworkable to stay there. I think the other three officers felt the same. We approached the association. The association then negotiated with the Police Service for us to transfer away from Cabramatta, and we did that voluntarily.

CHAIR: Does that apply to the three of you?

Mr BYRNE: That pretty well sums it up. It was an intense situation as it was, the parliamentary inquiry, and after the directive memorandum and the reaction by senior police officers to our evidence, and like Bob says, the mood changed like the way senior police would interact with us. I am not saying Mr Hansen at all. In fact, he is the person who served the directive memorandum, but I had absolutely no problem with him at all. You could tell other people were not very happy about it. They seemed like we had been broken ranks. That is the impression we were given. Bearing in mind then on top of that the feeling we had, we were given absolutely no support at all.

The Hon. PATRICIA FORSYTHE: From?

Mr BYRNE: Any member of the police service in relation to this.

CHAIR: Just to clarify this, in your submission, paragraph 6.1, you acknowledge the support of a number of senior police officers since 23 April 2001. Your submission also refers to an assurance you have received from Commissioner Ryan, paragraph 1.26. Could it not be argued that these things are not indicative of ongoing harassment or intimidation?

Mr BYRNE: I think the move out of Cabramatta was a pretty wise move on my behalf. Since I have been working at Penrith I have had no problems at all. It is quite a good place to work. I have had a lot of support from Mr Harding, who is the superintendent or the local area commander there. I have spoken to Mr Laycock who is the regional commander. He has been very supportive. So in that Macquarie region environment I have no problems at all. It is quite a good place to work.

CHAIR: Would that be the response of the three of you or your experience?

Mr FRANCIS: I have not started at Wollongong as yet. I had some leave and I am currently on sick leave at the moment. When I received a summons to appear here—I received that on Friday—I made a phone call to the rehabilitation officer at Wollongong and within 10 minutes Mr Deddon, the relieving commander at Wollongong, rang me up, and in 10 minutes on the phone to him I had more support from him in that 10 minutes than I had had in the previous six months. As a result of that, there is a welfare officer here today for us.

CHAIR: Constable Laird?

Mr LAIRD: Just what you were saying before about the reasons why we left Cabramatta, I stayed at work during the whole time after the inquiry. I know the other three went off on various degrees of sick leave. I have felt the same, just general mood change, being unwelcome in the command, particularly just by some of the managers. However, I have gained a lot of support from the team members of the general duties team I was in. So that was my sort of saving grace. However, I just felt that my career aspiration was in terms of investigations and I just felt that there was really no chance of me ever progressing in the field of investigations at Cabramatta and that it was in my interest to go elsewhere and as a result I asked to go for a secondment to traffic services for crash investigation.

While I was there I received wonderful support from Chief Superintendent Sorrenson, the traffic commander, and all of the Traffic Services Branch, and there was a totally different feeling of just being made welcome. I would like to say that to the Committee as well, it is a total change and renewed my total interest in policing.

The Hon. PETER BREEN: You said you felt supported by your team but not by the managers. How many people are you talking about who were managers?

Mr LAIRD: Some of the duty officers and some of the members of the other teams that were not linked to me, because I was doing general duties at the time, working on the general duties car. My team was about six of us and my sergeant looked after me wonderfully.

The Hon. PETER BREEN: When you say you did not feel supported, did they actually say things to you or was it their manner?

Mr LAIRD: It was mainly being ignored. I know we have made reference in our submission to certain things in relation to minor incidents—I know Sergeant Francis made mention a couple of times when he was supervising that he was given directives for reasonable minor managerial like not changing tape numbers and things like that. I felt the same way too. However, I did not have a managerial responsibility as the other three did—they were sergeants, I was a constable—so I think I was pretty lucky in that. I tried to limit coming to work to weekends and afternoon shifts as far as I could so I did not have to be in the face of management very often.

The Hon. JENNIFER GARDINER: Gentlemen, in your joint submission, at page 9, paragraph 3.1.2, you are talking about directive memorandum and you say about the submission you have presented "In it we hope ... in its tracks". Do you stand by that statement?

Mr BYRNE: Yes.

The Hon. JENNIFER GARDINER: Each of you?

Mr FRANCIS: Yes.

The Hon. JENNIFER GARDINER: You then go on in paragraph 3.1.3 to say "We will show ... the parliamentary inquiry". Then you say in paragraph 3.1.4 "We will then detail ... parliamentary inquiry". You then say at paragraph 3.1.5 "We also wish to ... of the environment". You have done that in your opening submissions. You then say in paragraph 3.1.6 "We will draw a ... 'out of control'". Do each of you stand by those statements?

Mr BYRNE: Yes.

Mr FRANCIS: Yes.

Mr LAIRD: Yes.

The Hon. PATRICIA FORSYTHE: If I could go back to the fact that you were preparing a submission sometime before you came to the inquiry and you said it was known by some people that the work was being done—indeed it was seen by some people. Who did you understand to be aware of your intention to appear before the inquiry and were you given any advice by any senior officers of the Police Service about your appearance before the police inquiry?

Mr BYRNE: We informed Mr Hansen that we were coming to the inquiry. He was fully aware of that, as I am sure Chief Inspector Wallace was. No, we have not received any advice in relation to going to the inquiry at all.

CHAIR: Did Mr Hansen make any reaction to you when you advised him and say it is better that you did not go or anything like that?

Mr BYRNE: No.

CHAIR: He never reacted in a negative way?

Mr BYRNE: No.

CHAIR: I suppose it is unusual for police to be giving information or evidence at a public inquiry which, as you have indicated yourself, is quite a nerve-wracking experience, so it is obviously not something many police have experienced before?

Mr BYRNE: No, it is not a common thing for police to be involved, especially at the more junior ranks.

The Hon. PETER BREEN: Sergeant Byrne, did Hansen know that you were going to tender the submission to the inquiry?

Mr BYRNE: He knew that that is what we believed. He had a copy of the submission, as did Chief Inspector Wallace.

The Hon. PETER BREEN: Yes, but did he know you were going to bring it along to the inquiry?

Mr BYRNE: We did not say we were going to tender this at the parliamentary inquiry.

The Hon. PETER BREEN: You did not say that?

Mr BYRNE: No. But by inference, surely, I thought he would know. We gave it to him—I did not give it to him, I think Sergeant Fusca did—and said this is our submission. At no time did we say we were not going to tender it and at no time did we say it was going to be withdrawn or we were not going to the inquiry or we were not going to tender it. Albeit he was not told we were going to definitely tender the document, I think by way of inference he would surely think that we were.

The Hon. PETER BREEN: You did say earlier, and I think I can quote you, "The fact of us doing a submission generated a lot of media attention".

Mr BYRNE: Yes.

The Hon. PETER BREEN: Can you say what sort of attention that was? Was it in the newspapers, for example?

Mr BYRNE: I think it was along the lines of support for Detective Sergeant Priest. I think it was portrayed as renegade officers—I think it was reported in the media as up to 18 police.

The Hon. PETER BREEN: But was the submission quoted in the media, for example?

Mr BYRNE: Before the inquiry?

The Hon. PETER BREEN: Yes.

Mr BYRNE: No.

The Hon. PETER BREEN: So when you said, "The fact of us doing a submission generated a lot of media attention", I wonder how the media knew about the submission all, in fact, if they did no about the submission?

Mr BYRNE: I suppose to use the word "submission", the media did not know that we were going to do a submission. But they were certainly aware that we were going to have a meeting.

The Hon. PETER BREEN: But the Police Service and the local area command all knew about the submission?

Mr BYRNE: Yes. We had a meeting on 15 March, I think it was, at the RSL club at Parramatta to do the submission, and Greg Chilvers was a research officer at the association, and he was going to facilitate that. Two days before that—I am pretty sure it was two days—the media were really onto it and it was more along the lines of renegade police support Detective Sergeant Priest.

The Hon. PETER BREEN: Yes, but they were not onto the submission itself?

Mr BYRNE: No. Ian Ball came out two days before the 15th, so I am pretty sure it was around the 12th or 13th, and spoke to us about that and I said "I do not think we should be doing this,

because it is causing so much pressure on the people here at the police station". He said "You have to", and that is why I mentioned about what the chairman of the inquiry had said. He said "I will have a talk to Frank Hansen and see if he will come to your focus group on the 15th also". He did that. Mr Hansen indicated that he was unable to, I think he had an appointment with a media outlet that afternoon, but he said Chief Inspector Wallace would go. She did. She was there the whole time, while we compiled the submission and spoke about all the points in the submission document, including recruitment from schools. So, they were fully aware of that. This is what makes me so angry, that they knew everything we said in that submission in relation to recruiting from schools and they were told that many times.

The Hon. PETER BREEN: But it was nothing different from what appeared in the paper?

Mr BYRNE: No.

The Hon. PETER BREEN: And what appeared in your submission, that is what you are saying, is it not?

Mr BYRNE: That is right.

CHAIR: Just for the record, we should make it clear that we did summons Sergeant Fusca but I understand he is out of the State.

Mr BYRNE: He is in New Zealand.

CHAIR: He is obviously willing to appear as a witness if we require him. I say that so his absence is not misinterpreted, that the four of you are in agreement with the submission you have presented.

The Hon. PETER BREEN: Can I ask a question about the submission on page 20. You have made the point here that Detective Sergeant Priest on 23 February made serious allegations of criminal activity that far outweighed anything you claimed. I think Detective Sergeant Priest also made allegations about recruiting people from schools and that gangs were involved in that, and it was that allegation that Tim Priest had made that was the basis of your allegation along the same lines, is that correct?

Mr BYRNE: Tim made allegations—I cannot remember exactly what he said—about flashy cars and rolls of cash.

The Hon. PETER BREEN: I think we need to focus on the schools.

Mr BYRNE: Yes, he was talking about the schools. Then Mr Small basically rebutted everything he said. Our position with that is that we do not think what Tim is saying is exactly right, we do not think it is as bad as that, but certainly we think something is going on there. It is not something concrete or anything you can put your finger on but, as we said in our submission and in the answer to my directive memorandum to Mr Hansen which is also part of our submission, I say that unless you can prove it does not happen you have to err on the side of caution and suspect that it is. There is so much intelligence and anecdotal evidence to suggest that there is a problem with the schooling. I am not making any aspersions on the education department or on any school in particular but, like I said in my answer to the directive memorandum, you cannot have a place in Cabramatta surrounded by this drug problem that is a pristine environment. That does not make any sense.

We have so much intelligence to suggest schoolkids are mixing with drug addicts and that drug addicts are going to schools, and I drew on the police corruption as an analogy and I said it is now excepted worldwide that policing is never going to be a corruption-free environment. So, you have to devote something to it, not to eradicate it, because I do not think you will, but at least to keep a cap on it. It is the same with the drug problems with the schools. You have to have knowledge that something will be going on and it will always be very subtle and may be even behind closed doors, but you cannot ignore it because to ignore it lets it flourish. That is basically why we went to the inquiry and said that about the schools. It was not to say it was out of control, but you cannot ignore it, you cannot say it is not happening at all.

The Hon. PETER BREEN: Just a final question on that point, did you ever wonder why, having made the same allegations that Detective Sergeant Priest made, you got a directive memorandum and he did not?

Mr BYRNE: Of course we did. That is what we said in our submission on page 20, paragraph 4.5.2. We said that in answer to my directive and again in our submission. No-one even to this day has asked Tim Priest anything about what he said.

The Hon. PETER BREEN: Did that add to your shock and horror when you got the directive memorandum, the fact that you got it and Priest did not get it?

Mr BYRNE: Yes.

CHAIR: I should make it clear that Detective Sergeant Priest will be giving evidence after you have concluded. So, we can ask Sergeant Priest those questions about his reaction and so on.

Mr BYRNE: The shock was yes, that was one thing, plus they knew anyway, because we told them.

The Hon. PETER BREEN: What do you mean "they knew anyway"? They knew what?

Mr BYRNE: They knew where we stood in relation to the schooling.

The Hon. PETER BREEN: They knew you made the allegations, because—

Mr BYRNE: Chief Inspector Wallace was in the room when we spoke about it at that focus group. On 3 May we had a meeting at the police station and she was in that meeting where we discussed it again. The morning of 3 May—I gave her a copy of the submission a couple of weeks before 3 May—she said to me "Greg, I have read this. There are no dramas with it". I have shown it to other people and they do not have any problems with it either". There is a bit in the submission about Tim Priest, and I think they blamed him for these media dramas and there was a bit of undercurrent towards him. She said "I do not think they will be too happy with the support for Tim, but there is certainly nothing else in there they have any problems with".

CHAIR: The way you have written your submission, to use a political term, you are not making a submission or appearing as witnesses before this hearing to activate some sort of which-hunt; you are concerned about how to resolve the situation at Cabramatta, how to resolve the issue of police giving evidence or police having a grievance, what do they do? You have only made one recommendation in your submission, which reads "That an internal body ... problems with". Could you explain how this recommendation would help to prevent some of the problems experienced by you at Cabramatta?

Mr BYRNE: On 23 February 2000, I think it was, Tim Priest moved a motion of no-confidence in the commander of Cabramatta at that time. That generated what, I suppose, we have today. It was the catalyst for a huge number of events and actions. One of them was the police department's response to it, which was very negative.

I think Mr Ryan was in England at the time and he said that we were a pack of rascals or scoundrels or something. I think the Police Minister also made a negative comment about "troublemakers" and so on—which did not really instil in us much confidence about our actions. It went from bad to worse after that. As a result the commander was removed and another, Mr Sweeney, was placed there. He was removed after about four months and replaced by Mr Hansen, who I think has done a fine job. A number of police officers and their families suffered inordinate amounts of stress and tension, and obviously senior managers of the Police Service copped a portion of the blame for what happened in Cabramatta.

If someone had asked at the time "What is going on?" and actively sorted it out in February 2000, we would not be sitting here talking to you today. There is no legitimate body in the Police Service to which we can go and say, "We have some problems in Cabramatta." If that had happened it

would have been sorted out. Tim Priest would probably still be working there as a detective sergeant, we would probably still be working there happily and Cabramatta's drug problem would probably have been fixed—albeit it is being fixed now. I think the police department handled it very badly. Instead of firing Scud missiles at us from headquarters in Macquarie Street, they should have just asked us what was going on and sorted it out. That would have saved everyone a lot of heartache, including—and most importantly—the community.

CHAIR: I suppose one of the tensions in the police force is that it is structured like an army, with officers, ranks, discipline and so on. If a unit has no confidence in its commanding officers, that obviously creates strong feeling. That is why you think there should be an escape valve or some procedure whereby—if it ever occurs, and we hope it does not—there is a means of resolving a tense situation within a particular police station or command. The question is: Where do you go and who do you talk to?

Mr BYRNE: We need someone to talk to.

CHAIR: I think that is a good recommendation and one to which I am certainly sympathetic as Chairman—as I am sure are other Committee members.

The Hon. PETER BREEN: Mr Byrne, I have one final question about the link between the evidence of Tim Priest and the subsequent evidence that you gave. I refer you to paragraph 4.3.4 on page 19 of your submission. You make reference to a meeting of 41 members of the local area command on 3 March at which a motion was moved and passed. It stated, "This branch supports the comments of Detective Sergeant Priest made at his parliamentary inquiry on 23 February insofar as his reference to drug and gang activity in Cabramatta. Passed unanimously. Three abstained from voting because they had not read the transcript." In paragraph 4.3.5 you say that Sergeant Byrne compiled minutes of this meeting and was present during the whole of discussions surrounding the motion. The intention of the motion was to support the comments of Tim Priest insofar as his claims of gang activity in and around schools were concerned. I point out that the intention of the motion is not consistent with the motion because it does not refer to activities in the school. Do you have any comments about that?

Mr BYRNE: Yes. At that meeting they debated the issue of Tim Priest's evidence and the subsequent evidence of Mr Small. They were aware that Mr Priest had made claims of recruitment within schools and also gang activity and so on in the Cabramatta central business district [CBD]. When they moved that motion they were careful not to be drawn into anything else in relation to the task forces or the Cook report, but they certainly supported what he had said about recruitment from schools and the Cabramatta CBD—albeit the motion does not say that. I remember who moved that motion and it is probably not worded as well as it could have been, but that was certainly the intention of the motion.

CHAIR: You summarised the motion.

Mr BYRNE: I suppose that I did not write it as best I could.

The Hon. PETER BREEN: Did the person who moved the motion use the word "school"?

Mr BYRNE: I do not recall.

The Hon. PETER BREEN: It is very important.

Mr BYRNE: I suppose it is. I am trying to remember what he said. I remember the debate about the matter. There was certainly some debate about his evidence, and many people said that they did not want to get involved in the task forces and the Cook report. However, what it says about the rest of his evidence is true. I suppose that summarises the motion and reflects it more accurately. Everything else he said in his evidence was true, which is basically how the debate went. Therefore, if the rest of his evidence was true then his evidence about the schools would be true also. The motion does not say that we support him in relation to flashy cars and rolls of cash. However, they supported his comments about gang activity and drug activity.

The Hon. PETER BREEN: Do you still believe there is a problem with recruitment in schools?

Mr BYRNE: I have not been out there for quite a long time so I do not know what has been going on in the schools.

CHAIR: Thank you for appearing before the Committee. We probably do not understand how police officers feel about appearing before a parliamentary committee. Although this has probably not been an enjoyable experience, I hope you appreciate that we are working together for the good of this State. That is our objective. We support you and what you are endeavouring to do on behalf of the community.

Mr BYRNE: Thank you.

MICHAEL PATRICK TIMOTHY PRIEST, Detective Sergeant, New South Wales Police Service, City Central Detectives Office, Sydney, sworn and examined:

CHAIR: Thank you for appearing before the Committee. We must complete some formal matters at the outset. I will make an opening statement so that we understand the purpose of this inquiry. The Standing Committee on Parliamentary Privilege and Ethics has been requested to inquire into and report to the House on whether the Police Service in serving directive memoranda on four police officers who had given evidence on 23 April 2001 before the General Purpose Standing Committee No. 3 and in subsequent actions had committed a contempt, thereby breaching the privilege of Parliament.

In determining whether there has been a contempt, this Committee is concerned with whether the current conduct of the Police Service in issuing the directive memoranda, and/or in subsequent actions, obstructed or impeded the General Purpose Standing Committee in the performance of its functions. It is also possible that a finding of contempt may be made if the conduct of the Police Service in this matter, even if not actually obstructing or impeding the Committee, may have had a tendency to produce such a result. It is possible that one or more police officers involved in issuing the directive memoranda and/or other actions that may have influenced or intimidated the police witnesses, including Detective Sergeant Tim Priest, were unaware that they may have been breaching the privilege of Parliament. However, as is often stated in court, ignorance of the law is no excuse. Finally, this inquiry is very specific in its scope: it is to determine whether a breach of privilege has occurred and to make a recommendation in relation to this matter alone. It is not a second inquiry into policing in Cabramatta. I read out earlier an instruction about the broadcasting of proceedings. I remind the media that they are responsible for what they broadcast.

Mr Priest, did you receive a summons issued under my hand in accordance with the provisions of the Parliamentary Evidence Act 1901?

Mr PRIEST: I did.

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

Mr PRIEST: I am.

CHAIR: Do you have a written submission for the Committee?

Mr PRIEST: I have.

CHAIR: We have received that submission, and I trust that all Committee members have a copy of it.

The Hon. PETER PRIMROSE: We obviously have not had an opportunity to read it.

CHAIR: It arrived at 9 p.m. on Friday and has just been distributed to Committee members.

CHAIR: Do you wish your submission to be included as part of your sworn evidence?

Mr PRIEST: I do.

CHAIR: At the conclusion of these formal questions I wish to advise that if you should consider at any stage during your evidence that in the public interest certain evidence or documents you may wish to present should be heard or seen only by the Committee, the Committee will consider your request in conformity with Standing Order 250.

Mr PRIEST: I understand that.

CHAIR: Do you wish to briefly elaborate upon your submission or make a short statement?

Mr PRIEST: I do. I ask the Committee that on page four of my submission, the second rather large paragraph, the names of those two persons mentioned in that be strictly confidential. Their careers and occupations are probably more vulnerable than what police officers are. I stand by that paragraph, however, I ask that the Committee take into account that I wish their names to remain confidential as possible witnesses.

CHAIR: You can request that the submission be confidential, but the Committee could decide to make it public, but no submissions are made public unless this Committee actually votes to do that.

Mr PRIEST: I understand. I just ask that if you did consider that, that that particular paragraph could remain confidential.

CHAIR: Do you have any objections, other than that request, that the submission be made public?

Mr PRIEST: Other than that, no.

The Hon. PETER BREEN: Do you want the paragraph published or just the names excluded?

Mr PRIEST: I would not want that paragraph published, if possible.

CHAIR: That is the paragraph commencing "I have been reliably informed ..." down to "...company."?

Mr PRIEST: That is correct.

CHAIR: The Committee notes your request but, as I said, it depends on the Committee's decision as to whether the submission is made public. Do you wish to make any formal statement or add to your submission?

Mr PRIEST: I will keep it brief.

CHAIR: Do you want to take us through your submission?

Mr PRIEST: I will keep it brief, actually, the submission is there for you to read. When I gave evidence on 23 February I gave that evidence in good faith and I believed what I said. It was much motivated by seeing a community that was in despair and had been forsaken. I had no political motivation whatsoever in any of the allegations I made on that day. I simply wanted a problem fixed and a community looked after.

I have heard various comments on the evidence I gave in relation to Cabramatta High School. At no stage did I want to sully the name of Cabramatta High School. When I mentioned about drugs, easy money, fast cash, fast cars, and so forth that was—how can you put it—an anecdote that that is the sort of behaviour that goes on worldwide with Asian gang recruitment. I am not saying that occurred, and I did not wish for it to be said that that occurred at Cabramatta High School. But what I am absolutely convinced of—and there is ample evidence—is that gang recruitment goes on in a lot of high schools, not least of which is Cabramatta High School and Canley Vale High School.

The same people that attacked me over my evidence are the same ones that denied there was a problem in Cabramatta. We have seen what has evolved since the inquiry finished with the Helen Sham Ho inquiry. I do not want to see high school recruitment of gang members squashed or denied for the sake of someone's ego. These are our kids, they are your kids, they are my kids, like the kids that died on the streets of Cabramatta. People denied there was a problem there in much the same they are denying that gangs do not recruit from high schools. That is rubbish. It is a worldwide phenomena with Asian gangs and now we are seeing it with Middle Eastern gangs. The worst thing we can do is to deny it for political sake. We have got a responsibility to our kids. If I am going to be attacked over the evidence I gave on the twenty-third, so be it, as long as I can highlight the risks that our kids face

in schools at the moment. It is not a condemnation of the education system: it was never meant to be that way, it was a problem that has to be highlighted.

In relation to three of the officers that you saw here, and the other one that could not be here, four more honest and courageous police you will never meet in your life. The fact that they stood by me in unbelievable circumstances says volumes for their character and their integrity. There are literally thousands upon thousands of police like them. It would be a shame if we lose police such as those four simply because they told the truth and because their line of thinking is not in agreement with people trying to cover up problems. Police like those four officers have to be protected at all costs or sooner or later we are going to run out of cops like that. We have had enough bad news lately with the allegations before the Police Integrity Commission.

As I said, the evidence I gave on the twenty-third was not motivated in any other way other than I wanted to see problems fixed that had been denied and had been covered up. For whatever reason people attack me they did so in a manner which does not say a lot for their professionalism nor does it say a lot for their integrity. The fact that I was attacked by Government Ministers, I am afraid, does not say a lot for their integrity either. When I leave here today my career is finished: I know that. I knew that on the twenty-third but the cost of my giving evidence is only a small reflection on the damage that has been done to kids across Cabramatta over the past five or six years, and the shameful denial that there was a problem there.

I fear that one other major problem is being covered up at this very time which links directly with Cabramatta and that is the Star City Casino. Without a proper inquiry into what has gone on there for the past five years, we will never ever solve the problems of Cabramatta, nor will we solve the problems of organised crime or drug abuse in this country. If nothing is done to reign in the organised crime that is occurring there every day, little will happen in the way of kerbing organised crime and drug abuse across this city. That is all I wish to say.

CHAIR: You referred to the other officers. Are you aware of their submission? If you are do you support it broadly?

Mr PRIEST: I have not seen their submission to this Committee.

The Hon. PETER BREEN: Everybody else seems to have seen it.

Mr PRIEST: I must be the only one, sir.

The Hon. PETER BREEN: That was initially a draft submission that went to the local area command—

CHAIR: No, I refer to the submission of the other witnesses that Sergeant Priest has just referred to. You have not seen that submission?

Mr PRIEST: No, I have not.

CHAIR: You were sitting in the audience?

Mr PRIEST: I was.

CHAIR: Do you agree in principle with what they said?

Mr PRIEST: Yes, I do.

CHAIR: Do you have different points to make?

Mr PRIEST: No, only that I have always found the fact that I never received a directive memorandum after I gave my evidence on the twenty-third—yet those four officers received a directive memorandum—says a lot in itself that Commander Graham or Assistant Commissioner Adams, a regional commander, never saw fit to serve me with a directive memorandum. I felt that my

allegations were probably far more serious and controversial than what their allegations were. I think it just goes to the very heart of why directive memorandums were issued against those four police.

CHAIR: Do you have any explanation why you did not get one?

Mr PRIEST: I believe because my evidence was true. Had a directive memorandum been issued to me on the Cook report, on the eleven strike forces, on the state of crime in Cabramatta, I think, they would have got answers that they did not really want to see.

The Hon. PETER BREEN: But their directive memorandum was limited to the issue of recruiting from Cabramatta High School?

Mr PRIEST: That is right.

The Hon. PETER BREEN: It could be argued that the police had already investigated your allegations about that. In fact, I notice you have referred to it in your submission today.

Mr PRIEST: I have missed your point.

CHAIR: What is your question?

The Hon. PETER BREEN: The question relates to your submission today in which you have said—may I quote from the submission, on page 2? It says:

Subsequent to my giving that evidence the particular COP system entry that I referred to was altered by Inspector Deborah Wallace of Cabramatta Police Station. I submit to this Committee that the altering of that COP system by Inspector Wallace was more than unusual.

One of the arguments that the police might use is that there was no evidence in relation to recruiting from schools, in response to what you said, because there was nothing on the COP system, and, as you have said in your submission, it was removed?

Mr PRIEST: I see your point. I think what happened there, although I have no direct evidence of this, is that inquiries were made on the day that I gave my evidence in relation to Cabramatta High School. For some reason that particular COPS entry appeared under a different heading within the police computer system. When somebody has accessed it and could not find the event, it told people that the incident did not happen. I think we heard the Minister for Education and Training and other people say that it was totally untrue: it did not occur, and words like that.

When it was discovered that there was a computer entry that did specify this incident, there seemed to be some sort of investigation done and, strangely, a second narrative appeared which appeared to hose down the very first narrative. I am saying that at first they did not know that the event happened and they tried to make out that I was a liar. When they did realise that there was an incident and some people had some egg on their faces, they have then gone about it in a different fashion and that was to alter the actual body of the incident. I hope that explains it for you.

The Hon. PATRICIA FORSYTHE: Sergeant Priest, you have put the word "altered" in your submission on two lines. Can you elaborate on what you actually believe Inspector Wallace did in relation to the COPS entry?

Mr PRIEST: Bearing in mind the answer I just gave—with the background that there was an event, then there was not an event, and that sort of thing—my belief is that that incident was then hosed down. It was pulled apart, a different connotation was put on certain sentences within the narrative. In other words it was designed, in my belief, to make a rather serious incident appear matter of fact or trivial.

CHAIR: This Committee is inquiring into whether the Police Service breached privilege. You did not get a directive memorandum, but what other actions, if any, were taken that you feel may have been designed to intimidate, harass or discourage you from giving evidence to a parliamentary inquiry? That is the heart of this inquiry.

Mr PRIEST: Mr Small's evidence on 28 February was a litany of personal attacks and alleged causes for my evidence, which he said was distortions of truth and malicious lies and so forth. That in itself showed every other policeman in New South Wales that if you come before a committee and you make allegations against a senior officer, that you will be repaid in kind and then some. It showed to every cop that if we go before a committee and we happened to criticise someone of a senior rank, they will come back bigger and better than ever.

That is exactly what Mr Small did to me on the 28th, mentioning my alleged IA reports, reasons that I wished to transfer to crime agencies, all of which were absolute lies. Then the publishing of a memo by Mr Small before and after his evidence which, amongst other things, again said that I had committed distortions of truth, ill-informed falsehoods, portrayed that if you go to a committee and perhaps some of your evidence is either inaccurate or not to the point, that you could expect a hiding.

That hiding came in the form of a memo. It told 1,800 cops that Clive Small had dealt with my allegations there and then when he appeared before the Committee, and they did not expect to ever hear from me again. It was a warning. Let's not muck around! It was a chilling warning to every other cop in this State that if you go before a properly constructed committee and you step out of line, you get out of the square, you will be punished. That is as simple as it gets.

The Hon. PETER BREEN: I was at the inquiry when Commander Small gave evidence. It is true that he called you a liar over and over again on various issues. What concerns me is that today you are actually calling him a liar because on 28 February, when Commander Small gave evidence, he tendered a written submission in which he said:

I have caused inquiries to be conducted to determine whether there is any knowledge or record of gangs attending schools to recruit members in the way described by Detective Priest. A check of the—

CHAIR: From what are you quoting?

The Hon. PETER BREEN: A written submission by Commander Small that supported the oral evidence he gave on 28 February to the Cabramatta inquiry.

CHAIR: This inquiry is not about the Cabramatta inquiry.

The Hon. PETER BREEN: But it is very important, because Commissioner Small said something about it and Detective Priest has said something about it. The submission continued:

A check of the service's Computerised Operational Policing System [COPS], on which all events are required to be recorded, failed to reveal any record of such event, at least since 1994.

In your submission you indicate that Commissioner Small is a liar, because there was an entry on COPS about that, and that it has been altered by Detective Wallace. Do you still hold to that position?

CHAIR: Are you verballing the witness? Do you say that Detective Priest is calling Commissioner Small a liar? He did not actually say that.

The Hon. PETER BREEN: Commissioner Small has said that a check of the service's COPS failed to reveal any record

CHAIR: I heard what you said. The witness did not say that Commissioner Small is a liar, you said that.

The Hon. PETER BREEN: That was certainly my word, Mr Chairman, yes.

CHAIR: There are two different views.

Mr PRIEST: The fact is that there are a number of incidents on COPS which pinpoint to gangs recruiting actively from high schools. An infinite number of events list students from a particular high school in Cabramatta who are regularly at Caley Vale railway station and other parts of Cabramatta who have to be chased back into school.

The Hon. PETER BREEN: Are you suggesting that COPS is being altered by the police to reduce the number of those incidents?

Mr PRIEST: No, I am not saying that. I am saying that this particular incident was a very unusual editing of an original COPS event. So much so that I do not recall ever having seen a chief inspector go to a daily occurrence such as this COPS event and finding it necessary to put a second narrative on it. There are literally much more controversial COPS events that I have seen that could require some tidying up or some examination. I have never yet seen it happened. That is why I say that it is unusual, it is highly unusual.

I believe, even though I have not seen it, that the answers to the directive memorandums by the four police give a very large volume of COPS entries and intelligence reports which say that gangs do recruit from schools. Numerous intelligence reports suggest that it is not just Cabramatta, but that it is Sydney-wide in relation to Asian gang recruiting. It goes on. You might recall the young fellow who gave evidence before the Helen Sham-Ho inquiry; he has since gone on and provided further intelligence that openly convinced me that the gang recruiting is beyond the front gates, it is actually inside the school. That is no criticism of the principal or the teachers of that school.

If the cops are having trouble finding evidence of it, you can imagine that the teachers would have even more trouble. It goes on, and it is absolutely no indication that the education system has let anyone down. It is nobody's fault, it is a phenomenon and we have to deal with it.

CHAIR: This Committee will not keep going over the evidence of the Cabramatta inquiry, which is what is starting to happen.

The Hon. PETER BREEN: I agree.

CHAIR: The Committee will concentrate on the attitude of Detective Priest and how he has been affected or influenced by anything that has happened to him that discouraged him and/or other police officers from giving evidence. Detective, in your opening remarks you mentioned that you feel that your police career has come to an end. Could you amplify that? Obviously, if you resign that would give the impression that you are being almost forced out of the police force, and that certainly would discourage other officers from the evidence at any future inquiry.

Mr PRIEST: That is regrettable. Since I gave evidence on the 23rd I have achieved some notoriety. Essentially, I am a pretty private person. Ever since I was in the Drug Squad I have tried to remain anonymous, for obvious reasons. In particular, I have closely guarded the privacy of my family. I have given the community my best for the past 20 years, probably in front of my family for many years. Now I feel that the pressure on them is sufficient for me to not continue as a police officer. I know that until the end of my days in this job I will be hunted down and repaid for the evidence I gave on the 23rd. There is no mistaking that; Michael Drury is a perfect example.

That is not to say that there is a large network of people who will do that, it is a very small network but that network will operate for at least until I finish in this job. It took them 16 years to get Michael Drury, so I have no doubt that if 16 years is necessary to get me, it will be 16 years. I am not prepared to live with that pressure. As much as it looks like I am a defeatist, I am just battle weary and I am worn out. That is all there is to it.

The Hon. PATRICIA FORSYTHE: Sergeant Priest, on page 2 of your submission at .1 you have identified some unusual incidents. You referred to Inspector Wallace addressing a morning meeting at Cabramatta police station. Was that a normal meeting? Was there anything unusual about the holding of that meeting, because it was in relation to the evidence you gave to the parliamentary inquiry? Were you present at the meeting? In your submission you say that Inspector Wallace addressed the meeting and criticised the evidence that you had given to the inquiry and claimed that the evidence you gave in relation to gang warfare was either false or misleading.

You note that Sergeant Byrne and Constable Laird were present at the meeting. Was there a discussion at that meeting, or was it merely a report from Inspector Wallace? Was there some opportunity for other officers to make any comment? What the Committee heard earlier in evidence

from other police about the nature of their submission would seem to have arisen from those issues. Was there anything unusual about the holding of the meeting? Were you present? What was the mood then?

CHAIR: Taking it one step at a time, your answer should be relevant to this inquiry.

Mr PRIEST: I understand. I was not at the meeting. Besides Byrne and Laird there were a number of other police, it was actually the morning parade which is usually held at 7 o'clock to start off the day's duties. It is highly unusual that an address by Inspector Wallace covering my evidence before Parliament turned up at the meeting, so to speak. I was left in no doubt when I received phone calls from one or two people who were at the meeting that it was a direct attack on me. She was waving some document that was five or six years old and said, "This was a solution to gang problems, this was Police Service policy."

It was some document that was totally outdated. I understand that Sergeant Byrne later confronted her in the meal room, as well as informing Superintendent Hansen that her behaviour at that meeting was over the top. I am also led to believe that the mood of that meeting was pretty hostile as a result of what she said about my evidence and about me personally.

The Hon. PATRICIA FORSYTHE: What is the purpose of those morning parades?

Mr PRIEST: Just to mark the role, to make sure that everyone is there, to list the day's duties for the car crews, for any relevant intelligence reports, and that sort of thing. I suppose it is just house business.

CHAIR: In your evidence you indicated that the way Assistant Commissioner Small influenced you was in his evidence. Did you have any involvement with him on a personal level? Did he give you any direct instructions or anything you regarded as intimidation or harassment?

Mr PRIEST: Apart from the conversation that took place with the two people in a hotel where they relayed the conversation, I have to say that towards the middle of this year there was an attempt to rectify the problems between Commander Small and myself. On at least two occasions we met for coffee and we discussed things over the phone.

CHAIR: Who initiated that attempt at rectifying the problems?

Mr PRIEST: It was a mediation, there was one person in the middle at the scene with both of us.

CHAIR: From the Police Service itself?

Mr PRIEST: No, it was a Sydney academic.

CHAIR: From outside the Police Service?

Mr PRIEST: Yes. We had at least two meetings which at the time I thought were fruitful, bearing in mind that I was prepared to forget the attacks that he had launched on me and what he had done to me, because I wanted to see things go forward about Cabramatta and about organised crime and drug dealing in this State. But I became aware afterwards that there were behind-the-scenes conspiracies, I suppose you could call them, to attract dirt on me, to pass comment to media personalities. It was as though I was shaking hands with him on one hand and being stabbed in the back. So I quickly withdrew from that set-up and remained disappointed that it got to that stage.

CHAIR: That was based on hearsay from journalists?

Mr PRIEST: Yes.

CHAIR: Not from Commissioner Small himself?

Mr PRIEST: You have to appreciate that these men are very senior police. They are not going to walk straight up to you and say, "I'm going to destroy you. I'm going to do this to you; I'm going to do that to you." It is almost three and four and five removed. That is the way they operate in the view of a series of people, at least one of which has been identified and she was actually transferred out of Cabramatta into the city and now the hard question is that no other police station in that south-west seems to want her back for what she did, so that is a prime example of how they get you. This will go on for years and I really do not want to take it any more.

CHAIR: Just to balance up what you have been saying so far, the other witnesses we had earlier indicated they had support from a number of senior police officers and even from Commissioner Ryan. Can you relate any supportive remarks made by any senior police officers, from the commissioner down?

Mr PRIEST: Commander Graham and Detective Chief Inspector Cooper have gone out of their way to protect me and to make me feel comfortable and assist me in any way. If you could get their managerial competence and their ability spread across the New South Wales police force we would never be in a better state. They have bent over backwards—almost like I have given them the kiss of death—to try and help me. Commissioner Ryan has made statements in support. I have met with him twice. He said that he wanted to try and dissuade me from leaving so to some degree I have had support off him too.

CHAIR: Did those officers you mentioned encourage you to stay in the Police Service?

Mr PRIEST: They did.

The Hon. PETER BREEN: I am still concerned about the fact that you did not get one of these directive memoranda. During his evidence given to the Committee on 27 February Commander Small said that your evidence a few days earlier had caused distress and harm to students, their parents, friends and teachers, those people at Cabramatta High School and the education department of the State more generally. He was obviously concerned about your allegations about recruiting students from the school. Do you have any further evidence or information to indicate why you were not the recipient of a directive memorandum?

Mr PRIEST: I go back to the first answer that I gave you. Had I been given an opportunity to compile a report into my allegations it probably would have been more horrific than the evidence I gave before that Committee and I think they were aware that I have been around a long time, I have a lot of experience in Asian organised crime and in Cabramatta. I do not think they were prepared to run the risk that maybe I could not back up what I said, whereas they were under the illusion that the other four officers were merely supporting me rather than actually genuinely saying, "Well, these guys do know what they are talking about." They were attacked on the basis that they supported me not on any evidence they may have.

The Hon. JENNIFER GARDINER: You have been in the Police Service for 20 years?

Mr PRIEST: Nearly 20 years.

The Hon. JENNIFER GARDINER: I will read to you a statement that the other officers have given in writing about what they interpret to be the implications upon receipt of directive memoranda. On page 8 of the submission they say, "Clearly, directive memoranda are a managerial instrument used by the Police Service to illicit" they mean elicit "information from serving police officers under direction. There is clear inference at the time any directive memorandum is issued that a failure to comply with such a direction places the officer in direct contravention of clause 9 of the Police Service Regulation 2000 and as a result liable to dismissal." Do you think it would be reasonable to have a fear of dismissal if you did not respond to such a directive memorandum? Is that your experience?

Mr PRIEST: Definitely. There are a range of penalties leading up to dismissal. In my experience whenever I have been served with a directive memorandum it is quite a serious matter.

CHAIR: You have been served with one before?

Mr PRIEST: A few times. Say, for example, there is an incident where an assault is alleged to have taken place by police officers on an offender. Virtually everybody who is on that shift, whether directly involved or not directly involved but simply on the roster, would almost certainly be served with a directive memorandum as to their knowledge of the allegations. It may be that half the people in the directive memorandum would not have even witnessed the event or even know about the event but it is a serious matter, otherwise you would simply get an ordinary correspondence, "Please report as to your knowledge of a damaged front window at the front of the police station" as opposed to a directive memorandum where there is a specific allegation, say, about the breaking of that front window. Directive memoranda are served on a lot of operational police. It is the nature of the beast. You do get allegations so you do get directive memoranda.

CHAIR: It is like a legal document, it has more status than a letter.

Mr PRIEST: It does. It has disciplinary status where it has implications.

The Hon. JENNIFER GARDINER: Your fellow officers who gave evidence earlier followed on from that statement by saying at 2.3.1. "Generally speaking, directive memoranda are used in internal investigation proceedings", which I think is what you are saying, "where the person issuing the directive memorandum is investigating alleged police misconduct. Clearly then they are used to investigate if police officers have done something wrong. None of us have ever seen it used for any other purpose." Does that fit with your experience?

Mr PRIEST: It does. As I said, it almost certainly always is a result of a disciplinary investigation. I have never seen it really used for anything else, not that I can recall here.

The Hon. PETER BREEN: How long would you normally expect to respond to a directive memorandum. Would you be expected to respond immediately?

Mr PRIEST: It depends. If there was a situation where you needed to research the answer, where the answer was not evident at the very start and you had to research and find out what you did, because a directive memorandum could be issued three or four years after the event took place, it would then force you to get hold of duty books, diaries and stuff like that, so it could take you some time.

The Hon. PETER BREEN: One of the things senior police have said is that they issued the directive memorandum because they wanted an immediate response but in this case the immediate response has taken several months. Does that surprise you?

Mr PRIEST: I have a view as to how the mechanisms took place for those directive memoranda that were issued.

The Hon. PETER BREEN: Do you want to express that view?

Mr PRIEST: I will. I believe the leaking of that document to the journalist was a guise for it to get out into the open so that the senior police could then attack the four witnesses by what they thought was a legal attack. Had that memorandum never saw the light of day as far as the media went it would have been only a few days or may be a week when it would have been published in *Hansard*, I understand, or at least there would have been some indication of the allegations. By having it leaked to the media, who then published it, it gave certain senior police the opportunity to immediately attack the four police officers and stop what might have been a flood of other police going down there in support as well. In other words, it knee-capped them and sent a warning out to other police that "We can get you any way we like", least of which was to have the report leaked to the media and then use the memorandum to attack them. I have no evidence of it but I have strong suspicions as to why it occurred.

CHAIR: You said earlier that you did not get one. You have just made the point that other officers did not get one but knowing that the other four did get one was enough to send them a warning and in the same way, without sending you one, sent you a warning. Is that how you interpret it?

Mr PRIEST: That is right. I think they thought they had handled me by the way I was attacked by Commander Small and I was attacked by people outside of Parliament. My feeling is they thought they had effectively knee-capped me. With the four officers, I think they did not want to go through the same sort of procedure where they had been criticised in the media over their treatment of me, I think that they thought they would do it a different way and that was the directive memorandum.

CHAIR: In their submission the other officers made only one recommendation—and you may not be aware of it—where they said "that an internal body similar to an internal ombudsman as in the American army, an inspector general, be created so that police who have legitimate grievances with management have a legitimate body to air their problems with." Do you support that recommendation? Do you feel that is something positive that could come out of this situation?

Mr PRIEST: Without claiming copyright, I actually suggested that in my submission to the Helen Sham-Ho inquiry in August-September last year and that was that we have an inspector general for the very purpose that problems like Cabramatta can be sorted out by people who are not part of the region political network. Maybe the commissioner is always going to have problems finding out what goes on in Cabramatta on 14 or 15. He will not have somebody to eavesdrop on them. However, if you have an inspector general and they get wind of complaints—let us face it; cops traditionally do not like going to internal affairs and that is not to say that they are dishonest but they are aware of the ramifications that can occur if police make complaints about other police. If you have complaints about the way you are managed or the way you are treated, it may not necessarily strictly fit into internal affairs, in which case everyone denies responsibility and nothing is achieved.

If you have an inspector general they can go there in complete confidentiality and say, "We have been treated like this. We can't get over time. There is a problem here." They can then go over the top of the LAC get to the truth of the matter, report back to the commissioner and make instant recommendations. If there had been a mechanism in place in Cabramatta in 1999-2000 that public brawling that occurred at the police station and the bad publicity that it gave the Police Service would have been totally avoided.

The Hon. PATRICIA FORSYTHE: You refer to the fact that you gave evidence to the inquiry "based on my personal knowledge gained over a three-year period and from a COPS system entry." This is in relation to the Cabramatta High School incident. Do you know the date of the COPS system entry in relation to the so-called Cabramatta High School incident and is it appropriate to ask because I am not sure how these things are done, who would have been the author of the COPS system entry?

Mr PRIEST: My recollection is that the first COPS event on the incident at Cabramatta High School was round about 20, 21 or 22 January. It was round about a month prior to my giving evidence on 23 February. However, the updated version of the event I think took place after I had given evidence, somewhere around about 26, 27 or 28, so there was a time gap between the incident occurring, my giving evidence and suddenly the second narrative being updated.

The Hon. PATRICIA FORSYTHE: Who would have been the author?

Mr PRIEST: The author of the document was Probationary Constable Bradley Element.

CHAIR: Is the original narrative still in the system?

Mr PRIEST: It still is.

CHAIR: Or the first narrative is edited or changed?

Mr PRIEST: It is an anti-corruption mechanism. It is my understanding that narratives cannot be changed other than by the author of the narrative in the first place. That prevents people coming in and closing down a narrative, so to speak. My understanding is that Element was approached about the incident and was questioned about it and then Wallace says that as a result of that questioning she went and updated the narrative. From a supervisor's point of view, if I was in her situation I would have said to Element, "It doesn't appear as though it happened as you said it did. Can

you please do something about that narrative you have written", which makes me think why Element did not update the narrative himself and why it was Wallace who updated the event and not the author. That puzzles me deeply.

CHAIR: Is the original narrative still there then?

Mr PRIEST: It is still there.

CHAIR: And then there is an updated version underneath that.

The Hon. AMANDA FAZIO: Did you say that the date of the COPS incident was 20, 21, 22 or 23 January this year?

Mr PRIEST: Yes. I could be wrong. My memory is going.

The Hon. AMANDA FAZIO: I suggest that you are wrong as the New South Wales school term started on 29 January this year. So there could not have been teachers at the school.

Mr PRIEST: It must have been after that. As I have said, I made a mistake with the date. It is pretty easy to get the COPS event and the updated narrative and then everybody would be satisfied with the date.

The Hon. PETER BREEN: I think we need to clarify that. Are you suggesting that there was about a week's gap between the original COPS report and the subsequent updating of that report?

Mr PRIEST: My recollection is that I gave my evidence on 23 February. I believe that either 18 or 19 February was the actual COPS event. Sorry, I got confused there.

The Hon. PETER BREEN: On 18 or 19 February?

Mr PRIEST: Yes. I stand corrected here. I think that the actual event at Cabramatta High School occurred five to six days or a week before I gave my evidence on 23 February. That is why it was so fresh in my mind. The second narrative, which was done by Wallace, was probably done on or about 26 or 27 February.

The Hon. PETER BREEN: After you gave evidence?

Mr PRIEST: After I gave evidence. So there was at least a 10-day gap between the incident occurring at Cabramatta High School and the event being updated. I apologise to Ms Fazio for leading her astray.

CHAIR: We realise that you do not have a chronology of dates in front of you. The Committee might need to call you again as a witness. Thank you for appearing. I hope that you reconsider your decision to leave the Police Service and that you continue to make a contribution in the future.

Mr PRIEST: Thank you.

(The witness withdrew)

(Luncheon adjournment)

PETER JAMES RYAN, New South Wales Commissioner of Police, Police Headquarters, College Street, Sydney, sworn and examined:

CHAIR: Thank you, Commissioner, for attending this hearing. We know that you have many things on your plate, so we appreciate your attendance today. The Committee thought it was important to hear from you, as officer in charge of the police force, as we are dealing with sensitive matters relating to serving police officers. You might indicate that you know nothing about any of the things that we are talking about. However, I thought that you ought to have an opportunity to appear before this Committee.

The Standing Committee on Parliamentary Privilege and Ethics has been requested to inquire into and report to the House on whether the Police Service, in serving directive memoranda on four officers who had given evidence on 23 April 2001 before General Purpose Standing Committee No. 3 and subsequent actions, has committed a contempt, thereby breaching the privileges of Parliament. Concerning whether or not there has been contempt, this Committee is concerned with whether the conduct of the Police Service, in issuing the directive memoranda and/or in subsequent actions, obstructed or impeded General Purpose Standing Committee No. 3 in the performance of its functions.

It is also possible that a finding of contempt may be made of the conduct of the Police Service in this matter. Even if it did not actually obstruct or impede the Committee it may have had a tendency to produce such a result. It is possible that one or more police officers involved in the issuing of the directive memoranda and/or other actions which may have influenced or intimidated the police witnesses, including Detective Sergeant Tim Priest, were unaware that they may have been breaching the privileges of Parliament. However, as is often stated in court, ignorance of the law is no excuse. Finally, this inquiry is specific in its scope, that is, to determine whether or not a breach of privilege has occurred and to make recommendations in relation to that matter alone. It is not a second inquiry into policing in Cabramatta. Mr Ryan, in what capacity are you appearing before the Committee?

Mr RYAN: As the Commissioner of Police.

CHAIR: Did you receive a summons issued under my hand in accordance with the provisions of the Parliamentary Evidence Act 1901?

Mr RYAN: Yes.

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

Mr RYAN: Yes.

CHAIR: Do you have a written submission?

Mr RYAN: No.

CHAIR: Do you wish to make a brief statement at this stage?

Mr RYAN: No.

CHAIR: If you should consider at any stage during your evidence that, in the public interest, certain evidence or documents that you may wish to present should be heard or seen only by the Committee, the Committee will consider your request.

The Hon. PETER BREEN: Commissioner, can you explain why the four officers who gave evidence received a directive memorandum while Detective Sergeant Tim Priest did not?

Mr RYAN: No.

The Hon. PETER BREEN: Do you agree that the four police officers who received the directive memorandum might have reason to feel unsupported by senior police?

Mr RYAN: No.

The Hon. PETER BREEN: Would you say, from your experience as a police officer, that it is unusual to find other police officers speaking out publicly about the force in the way that those four officers and Detective Sergeant Priest have done?

Mr RYAN: It is not usual.

The Hon. PETER BREEN: On 4 September this year you were reported in the *Bulletin* as saying:

Current debate about why police feel they have to run to radio talkback to get their view across is concerning. They feel that the system within the force does not give them an avenue to express concern.

Do you agree that that is what you said to the *Bulletin*?

Mr RYAN: That is what I said, yes.

The Hon. PETER BREEN: I take it that you are still concerned that police do not appear to have an avenue to express their grievances in the force?

Mr RYAN: I am surprised that they should feel that way.

The Hon. PETER BREEN: Yet when you spoke to the *Bulletin* journalist you were not surprised?

Mr RYAN: You should have read the question that he asked me that was not reported in the *Bulletin*.

The Hon. PETER BREEN: What was that question?

Mr RYAN: "Are you surprised that it is still necessary for officers to do that?" I said, "Yes, I am." The answer also included statements to the effect that there are mechanisms within the Police Service for people to come forward and express their views.

The Hon. PETER BREEN: And it is unusual, in your experience, for them to be expressing those views in the way that they have done to a parliamentary inquiry?

Mr RYAN: In that way, yes it is.

The Hon. PETER BREEN: Do you agree that the directive memorandum given to the four officers highlights the problems that are likely to arise when serving police officers have no avenue to express their concerns?

Mr RYAN: No, I do not.

The Hon. PETER BREEN: With the benefit of hindsight, do you think it was a mistake to issue the directive memorandums?

Mr RYAN: I would not like to comment on the reasons as I knew nothing about them.

CHAIR: Would you just clarify that answer? Were you aware of the directive memorandums at all?

Mr RYAN: I was never aware.

CHAIR: Did you give any advice?

Mr RYAN: I was never asked for advice. I did not give any directions, nor was I given any information at all that these directive memorandums were to be issued. The question is: Are they

directive memorandums? I would submit that they are not, but we have legal advice available, which you will be examining later, Mr Chairman, which might clarify that matter more fully.

CHAIR: Are you suggesting that they were not directive memorandums?

Mr RYAN: They were not known as directive memorandums under the Police Service regulations, no—that is, regulation No. 9 of the Police Service regulations.

CHAIR: How would you describe them then?

Mr RYAN: They were a memorandum. I would not like to describe them in any way. I did not issue them. I did not authorise them. I had no part at all in their composition. I was not even here in Sydney when those things were issued. So I think that that has made that quite clear. I knew nothing about them until at least a month or so afterwards. I would describe them as a memorandum asking officers for information. But I can understand how one could be drawn to the conclusion that they were a directive.

The Hon. PETER BREEN: I think that they had the word "directive" written on the top of them.

Mr RYAN: I did not issue these things. I just answered the question, and I said that they do not comply with regulation No. 9(1) of Police Service regulations as a directive memorandum.

The Hon. PETER BREEN: I ask a question in that context. If it is not the kind of directive memorandum that you are suggesting, would you have powers, or would those directive memorandums and failure to comply with those directive memorandums represent a basis upon which you might be able to exercise power under section 181D of the Police Service Act in respect of these officers?

Mr RYAN: No, I would never exercise such power unless it was legally found that I was entitled to do so on any evidence that was presented before me.

The Hon. PETER BREEN: What if it was intolerable insubordination, as has been suggested?

Mr RYAN: If the accusation was made and later proved and it was quite clearly tendered in the documentation to me, upon which I would make a recommendation that intolerable insolence, or whatever words were used—

The Hon. PETER BREEN: Intolerable insubordination.

Mr RYAN: It could be a consideration in making a determination under section 181D.

The Hon. PETER BREEN: And you would have power under section 181D, if that were proved, to dismiss the officers?

Mr RYAN: I would have power, but it would need a lot more than just someone saying they were insubordinate.

The Hon. PETER BREEN: I have a letter from Michael Holmes, the solicitor for the service. The letter, which is addressed to the solicitors for these four officers—Walter Madden Jenkins—is dated 1 May. In that letter the solicitor for the service states:

Your clients must provide the information that has been sought from them and must do so immediately. Any delay in providing information pursuant to a directive memorandum is insubordination of the sort that cannot be tolerated in a disciplined force that is responsible for public safety.

If that were proved, I am suggesting to you that you would have power, under section 181D, to dismiss those officers. If they were aware, in any sense, of that power and of their vulnerability, that would cause them great concern to receive such a directive memorandum. Would you agree with that?

Mr RYAN: I would agree that, if it could be proved that they did behave in such an intolerable way, I could consider them under section 181D. I could not give you a decision as to what the outcome of that deliberation might be, other than that it could be considered.

CHAIR: The legal officer will be appearing later today. Apparently he thinks that it was a directive memorandum. That legal officer gives legal advice to the Police Service. Are you saying that he was in error?

Mr RYAN: No. Nothing was put to me, so I could not make a deliberation on it. I would not make a deliberation on it until all the circumstances of the file that appears on my desk, upon which I would make a decision, had been properly examined in all respects so that the decision I made was legally founded to prevent appeals to being made to the Industrial Relations Commission.

The Hon. PATRICIA FORSYTHE: We have a letter from the New South Wales Police Legal Service dated 1 May and we have just heard your evidence, which seems to be contradictory. On what basis are you saying that it was not a directive memoranda as we have prior advice that suggests that others within the police legal service think that it was?

Mr RYAN: On my reading of police regulations and regulation No. 9(1).

The Hon. PATRICIA FORSYTHE: When you became aware of the issuing of this directive did you call in all the files relating to this matter?

Mr RYAN: No.

The Hon. PATRICIA FORSYTHE: Why not?

Mr RYAN: I did not call in the files. I had no need to call in the files. Why should I? I was not asked to make a decision on anything in relation to this matter.

The Hon. PATRICIA FORSYTHE: If you were not asked to make a decision would Superintendent Hansen have needed to seek endorsement from an officer with a higher rank within the service before he issued the memoranda to police officers? If so, did he do that?

Mr RYAN: No. He can make his own choices. That is what delegated authority is about. They do not come to me for these things. There are just simply too many of them.

The Hon. PATRICIA FORSYTHE: But did they go to anyone else?

Mr RYAN: I do not know. You would have to ask Mr Hansen, I am sorry. I cannot speak about that of which I know nothing. It is no use the honourable member suggesting that I can by visual indications or otherwise. I just do not know.

The Hon. PATRICIA FORSYTHE: You said earlier that you were not aware of the memoranda until a month after it had been issued. What is your knowledge of the memoranda?

Mr RYAN: Nil until I knew when I came back from my leave a month later or thereabouts that these things had been issued and as a result of that a furore had broken out, and that really was it.

The Hon. PATRICIA FORSYTHE: But you did not call in the file in relation to it?

Mr RYAN: It was already being dealt with by other people. No, I did not call in the file.

The Hon. PATRICIA FORSYTHE: How do you know it is not a directive memorandum?

Mr RYAN: Because I looked at it this morning.

CHAIR: Just to clarify that, if you did know they were directive memoranda do you feel it was a wise decision by Mr Hansen to issue them, in retrospect, that you were not involved?

Mr RYAN: I would not really like to make a comment on why these things were issued but I would like to indicate that from my understanding of the evidence given there was an accusation that organised criminal gangs were recruiting children within schools and as a result of that large amounts of publicity broke out and these were denied by various people. I think it is important that if that was the case, then the belief by others that that was not the case, we needed to find out and quickly so we could do something about it, this being the first, as I understand, that the commander there knew about it.

CHAIR: Mr Breen has asked questions about the opportunity for police officers to go somewhere when they have a grievance. What do you suggest they should do, or do you have any views on what should be set up if there is not an opportunity already?

Mr RYAN: I think there is a strong opportunity already. There is a very active Police Association or union, whatever you want to call it, that does represent its members on all these sorts of issues. There are methods within the organisation through the internal witness protection unit that we have. People can go through their managers, their local managers, their regional managers. They can go to the integrity commission, that is, the Ombudsman. They can fax direct to my office. They can seek an appointment with my office or they can see one of the deputy commissioners as well or one of the other assistant commissioners if they so wish. There is a whole range of things they can do. So there are a few alternatives, I think.

CHAIR: So you do not see any need to set up any extra machinery with an inspector general or some other person like that?

Mr RYAN: No. We already have an integrity commission. We already have an Ombudsman. If they like, there is a whole range of issues through their local members. They can go to the Minister. There is a range of people and organisations, if you like, which are available to them.

The Hon. JENNIFER GARDINER: Who is authorised to issue directive memoranda? How many would be issued in any year, and can you outline the typical circumstances that might lead to the issuing of directive memoranda?

Mr RYAN: I cannot give you the exact number, I am afraid, no, because there are many of them. Those officers who are charged with the responsibility of examining whether or not a police officer has acted improperly—and improperly means a whole range of activities in breach of the police code of conduct or regulations or the criminal law or whatever—they can issue a directive memorandum. However, there are very clear guidelines on the Police Service Intranet and on papers already issued to the Service through the special crime and internal affairs department which gives very point by point, step by step indications to people how they should proceed with an investigation, particularly in the use of directive memoranda.

CHAIR: Will you take that question on notice, because obviously our Committee is not aware of the procedure of the Police Service as to how many were issued, say, in the last five years?

Mr RYAN: That would be an enormous burden to try to find all of that out from records because it is not an easily identifiable fact within an investigation because an investigation may take on many forms and it may use many different methods of gaining information. I will have a look at it and come back to you with the work involved in trying to do that.

CHAIR: Specifically regarding directive memoranda, not other requests for information.

The Hon. PETER BREEN: I think there is a problem in that the Commissioner has already said that these things have a different status and that directive a memorandum in this case, for example, is not a directive memorandum. How would the Commissioner determine, in all the past directive memorandum, which ones are directive memoranda and which ones are not?

CHAIR: We may have to ask the legal department when they are here how they define them.

Mr RYAN: It may not be easy so I cannot promise a result here, but I think you ought to know that it could be quite difficult to find that information.

The Hon. JENNIFER GARDINER: The officers who gave evidence this morning, in their submission, quoted the Wood royal commission in chapter 4, page 341 of the final report, which states inter alia:

The current procedure involving a directive memorandum to respond to written questions should be sparingly used because of its potential to allow collaboration and fabrication. Generally it will be preferable for the Local Commander to conduct the interview and to ask searching questions designed to elicit the truth.

If there is no documentation as to how many are being issued that is readily to hand, how do you know if the royal commission's views on that matter are being complied with?

Mr RYAN: We told the Service through the guide of how to conduct an inquiry how they should go about conducting an inquiry. What we did not do was ban the use of directive memoranda. What we did do was emphasise the need to investigate these complaints or any complaint of any nature in different and probably better ways in accordance with that recommendation.

The Hon. JENNIFER GARDINER: So do you now think that they are being used sparingly?

Mr RYAN: I really do not know, I am sorry.

CHAIR: The officers indicated—at least Sergeant Priest said that he had conversations with you. Can you indicate to the Committee what support you have given to any one of the officers we have had as witnesses, the four officers and Sergeant Priest?

Mr RYAN: I first saw Sergeant Priest some months ago—I cannot remember the exact date. I think it would be July perhaps or maybe early August—to talk through with him—and he brought his father with him—about issues of concern. He was concerned about his future in the Service. I tried to encourage him that he should stay, we will find a suitable location for him to work. He wants to remain an active Sergeant rather than someone hiding away in an office doing other things. Therefore we moved him to City East for that very purpose with a supportive commander and to try to tell him that whatever we could do to keep him in the Service we would do. That in a nutshell was the first conversation. I saw him again I think it was Thursday of last week. A similar sort of conversation took place. I told him it would be sad if he did leave the Service and I would like him to stay. What I could do is prevent anyone treating him badly as best I could to protect him in that sense but I could not protect people discussing him, saying things about him or misusing him or whatever he has to say in ways which he would not like.

In relation to the other officers, I have seen them also. I think it was in August. They came to see me at police headquarters. We discussed their concerns and their issues. We left on very amicable terms. I took on board many of the things they had to say and I extended that conversation with another group of police officers from another command where we were talking about similar sorts of issues in relation to their concerns about how best we could police that particular part of the city. So I spoke to them, gave them my email. They have got my phone number. They know my chief of staff's phone number. We encouraged them to come forward if they would wish to spend time and to talk through their issues with us.

CHAIR: Just to clarify another point, you were not involved in the issuing of these directives or memoranda?

Mr RYAN: No.

CHAIR: Do you believe there was any way in which they were being issued to try to intimidate the witnesses in giving evidence to an inquiry, or was it in your mind a genuine part of police follow-up on serious allegations? How did you view that?

Mr RYAN: I think it was a genuine attempt to find out just what had been said, because the allegations being made about drug gangs recruiting in schools was a very, very sensitive issue and we really did need to find out just what on earth had been said so we could do something about it. That is how I viewed it had I been there at the time. And I think it is important—maybe it could have been

handled differently, it could have been handled in a completely different way but it is difficult to put yourself in another person's shoes at the time that those requests were made.

CHAIR: Do you understand that the officers who received those memorandums could have felt some intimidation or harassment?

Mr RYAN: They probably thought that they were being put under a lot of pressure, yes.

The Hon. PETER BREEN: Having met those four officers, do you agree that the information they provided was provided in good faith? They appear to be genuine people?

Mr RYAN: They appear to be genuine officers. They are very concerned about the work that they do. Apparently I am told they are quite happy in their current postings, although Tim Priest has intimated that he may be wishing to leave the Service for a number of reasons, but no matter what we do that is a choice he must make. We cannot force someone to stay, although he will be a loss. It is just unfortunate the circumstances that surrounded that issue at the time the breakdown in relations in that police station took place. It could have been more productive than it was.

The Hon. PETER BREEN: There was a general air of intimidation about at that time, if I recall. For example, the police Minister had been censored by the Parliament for suggesting that the inquiry should be shut down.

Mr RYAN: There was a whole range of things happening at the time. I think in hindsight many things could have been handled by everybody just that little bit more sensitively to try to eliminate people polarising the issue.

The Hon. PETER BREEN: I think you said on *Stateline* on Friday night that an angel can make a mistake and that there can still be failings. Would you regard this as one of those cases where there were failings?

Mr RYAN: We are dealing with human beings. I really do wish there was a magic potion or reprogramming activity we could undertake. People make choices on things on a daily basis. They may not always make the right choice and quite often in hindsight they realise they could have done things better. I think we really have to take account of human failings sometimes in these issues.

CHAIR: You said a moment ago in passing that if Sergeant Priest did resign that would be a loss. Do you actually believe that?

Mr RYAN: Yes I do. I have just spoken to the officers outside this hearing room and just made contact with them and discussed things generally, not about this hearing, just about things generally and then I was called in so we did not get into too much of a debate.

CHAIR: In Sergeant Priest's case you do feel he would be a loss? You see him as a professional police officers?

Mr RYAN: Yes. Officers leave the Service for a variety of reasons. When they are experienced and they have a lot to offer, it is always a sad thing when people decide to go for whatever those reasons are. We need every experienced person we can get at the moment and we will continue to do so in the future.

(The witness withdrew)

CLIVE THOMAS SMALL, Commander, New South Wales Police Service, Greater Union Region Office, Liverpool, sworn and examined:

CHAIR: Did you receive a summons issued under my hand in accordance with the Parliamentary Evidence Act 1901?

Mr SMALL: Yes, I did.

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

Mr SMALL: I am.

CHAIR: The Committee has had a request for a barrister—I assume Mr Hughes—to assist the witnesses. The Committee has resolved that Mr Hughes can assist the witnesses in giving answers and sit beside them. Mr Hughes will not be sworn. We do not anticipate he will be speaking directly to the Committee at this stage.

I did read out an opening statement concerning the purpose of this inquiry. Were you both present?

Mr SMALL: Yes.

CHAIR: Would you like me to read it again?

Mr SMALL: No sir.

CHAIR: You know the purpose of this hearing?

Mr SMALL: Yes sir.

CHAIR: For the benefit of the media, the requirement still stands that they have to take care about what they broadcast. Mr Small, do you have a written submission?

Mr SMALL: Yes, I do.

CHAIR: Do you wish your submission to be included as part of your sworn evidence?

Mr SMALL: I do, sir.

CHAIR: Do you wish to briefly elaborate on your submission or make a brief statement?

Mr SMALL: I do, sir. My submission contains a number of attachments. If I could just briefly mention those attachments so their status can be clarified. I have broad copies of my submission for the Chair and the Committee. My submission is intended as a public submission. Attachments 1 and 2 to that submission are exhibits that have previously been tendered to the committee inquiring into police resources and they are attached to my submission for convenience. I have no personal problem with those documents being public, but that is a matter, with respect, for the Committee to determine. They relate to minutes of Police Association meetings at Cabramatta.

Item 3 is simply a clipping from a newspaper which is directly relevant to this matter. So, it is a public document. There is the directive memorandum of 27 April, which is item 4, and some advice from Court and Legal Services to me and Superintendent Hansen. From my point of view it does not matter whether those documents are public or not but I will leave that to the Committee. Item 5 is the written submission of four police officers to the Committee. Again that is a matter that is already in the possession of the Committee. Item 6 is a newspaper article which, again, is relevant to this and is therefore a public document.

Item 7 is a minute from me to Mr Akon of Court and Legal Services and an advising to the Hon. Helen Sham-Ho as chair of the committee. Again, I am not personally concerned whether that becomes a public or private document. I will leave that to the Committee to decide. Item 8 is a

memorandum from Superintendent Hansen to the four police. That is already in the possession of the Committee. Item 9 is an extract from the Police Service Directions and Guidelines entitled "Correspondence, Files and Reports". That is for public information from my point of view. It is directly relevant.

Item 10 is an extract from a promotional application that I will refer to and, while I am prepared for the content of part to be made public, and I will refer to it in public, the document itself I believe should remain private. Item 11 is a matter about which I would simply refer and draw the attention of the Committee to. It is a matter which in my view should remain as a confidential exhibit because of its nature and content. Item 12 is an ethical culture survey of the Greater Union region and the Cabramatta police local area command. It is intended as a public document and the results of this survey have already been made public. So, that document can be made public.

At the outset I wish to point out that Commissioner Ryan was in no way involved in the matter being considered by this Committee. He was neither consulted nor informed of my decision to issue memoranda to the four police. Mr Holmes, who has also been summoned to appear here today, was neither involved in nor informed of my decision to issue the first memorandum to these police prior to its issue, nor was Chief Inspector Wallace. The responsibility for the decision rests with me.

I have prepared a significant written submission. I am quite prepared to read the lot, because I believe it will answer many questions and perhaps that is the best way to proceed with it. On 11 May 2001 I appeared before General Purpose Standing Committee No. 3 inquiring into police resources in Cabramatta. Hereafter I will simply refer to that as committee No. 3. On that occasion I explained and answered questions about the circumstances under which the four police officers who gave evidence before the committee were issued with memoranda. I do not wish to repeat that evidence, although to some extent that is unavoidable to put my appearance here today into context.

Earlier this year, during hearings of committee No. 3, I learned that some police at Cabramatta wanted to make a submission to that inquiry. I subsequently became aware that about seven or eight police, including Detective Chief Inspector Debbie Wallace, met to draft a submission. Mr Greg Chilvers, a legal officer of the Police Association, facilitated that meeting. I was broadly aware of the issues raised in the draft although I was not aware of its details or of the claimed recruitment of students in schools by drug criminals contained in the draft. On either 3 April or a day or two after that I learned that a meeting of the Cabramatta branch of the Police Association had met and discussed the draft submission. I was told that the submission had been rejected by members "due to content". To me, rejection in those terms meant that the substance of the claims contained in the draft was rejected. I was also aware that a motion critical of the "unsubstantiated" comments of Alan Jones and Ross Treyvaud had been passed at the meeting. A copy of the minutes of this meeting has been attached to my statement.

On or about 9 April I became aware that there was a meeting on that date of the Cabramatta branch of the Police Association. There was, on my understanding, a heated debate. To a significant degree the meeting focused on the leaking of information from the police station to Ross Treyvaud and the media. Importantly, however, the meeting also adopted the minutes of the previous meeting. That is, the adoption reiterated the branch rejection of the draft submission "due to content". A copy of those minutes is attached. I subsequently heard that four police officers from Cabramatta were to make a submission to committee No. 3. I did not know what their submission would be. I was aware that Superintendent Hansen had facilitated that meeting or their attendance at that committee by rostering them for duty on that day.

On or about 23 April I became aware that the four police were to give in-camera evidence before the committee on that day. Around 3.30 or 4.00 p.m. that day journalists from the *Sydney Morning Herald* and the *Daily Telegraph* telephoned me. It was clear from my conversations with these journalists that they had a copy of the submission made to the committee by the four police just a few hours earlier and that they were aware of the evidence that had been given. The next day I read an article by Linda Doherty in the *Sydney Morning Herald*. The article reported that the four police who had given evidence to the committee had, among other things, knowledge of drug criminals recruiting students from high schools.

I had previously caused inquiries to be made into this specific allegation and found no evidence to support it. Superintendent Hansen and Detective Chief Inspector Wallace supported this view. It is important to understand that the allegation was not that schoolchildren were using drugs or that schoolchildren were involved in the sale of drugs, but that they were being recruited by drug criminals or gangs in the school environment. As a result of the newspaper article I spoke with Superintendent Hansen. My concern and his was that, according to the newspaper report, schoolchildren were at risk in the school environment and some police under our command had knowledge of that activity. We did not. Our concern was at all times the safety of the young people of Cabramatta.

Critically too was the broader environment that existed at that time. The issue of drug criminals and gangs recruiting students in the school grounds was a highly-charged political and emotional issue with accusations flying back and forth both in Parliament and in the media. The Police Service itself was been severely criticised for not taking action. The reputation of innocent schools was been damaged and innocent students attending the schools were being harmed. I was of the view that the in-camera evidence of the police had been deliberately leaked to the media. It was my view that the purpose of the leak was malicious and was done for the purpose of causing damage to the police management in Cabramatta and to me specifically.

Additionally, it is important to understand that the "memorandum affair", if I can use that term, would not have arisen if any of the following had occurred. One, there had not been a leak to the media immediately following the giving of in-camera evidence by the four police. Two, the Police Service had been allowed legal representation at the in-camera hearing. Three, the Police Service had been debriefed on the in-camera evidence shortly after it had been given and before it had been leaked to the media and, four, any one or more of the four police had come forward to management and said "We have a concern about this issue, and this is the basis for our concern". It was in this context that the memoranda were issued.

Important too is the action taken by management following the issue of the memoranda and the advice received from the parliamentary committee's secretariat. Following the issue of the memoranda I advised Court and Legal Services of the action I had taken. They suggested that I should have spoken with them and obtained advice prior to taking action. Perhaps that is so. However, on being advised, Court and Legal Services made contact with the committee's secretariat and was subsequently advised that Superintendent Hansen and I could proceed with our inquiry subject to, one, the inquiry being done in a sensitive and circumspect manner; two, no questions being asked about what was said in Parliament to the committee and, three, there be no sense of punishment or vilification of the police in the action.

This advice resulted in the preparation of a second memorandum. Its purpose was to ensure there was no misunderstanding about the purpose of the first memorandum and it had the legitimacy of action being approved by the secretariat of committee No. 3. I have tendered a copy of that advice with my statement. I am not suggesting that the secretariat's approval to proceed is a retrospective approval of the action already taken. However, the initial action taken was within the parameters outlined by the secretariat, and the secretariat did give approval for the seeking of information from the four police officers to continue. It can be assumed only that this approval was given with the knowledge and agreement of the committee. Obtaining the information it was suggested these police possessed was a necessary precursor to any investigation that might be undertaken. A media report the other day summed up my situation, the situation of Superintendent Hansen and of the Police Service generally: Damned if we do, damned if we don't!

Since the article appeared in the *Sydney Morning Herald* I have had an opportunity to examine the submission of the four Cabramatta police. It is clear that the media leak was based on the written submission presented by the four police to the Committee just a couple of hours before the leak occurred. I base this assertion on the claim by the *Herald* and the *Daily Telegraph* that they had a copy of the submission, and the quote in the *Herald* article:

We confirm that we believe that drug criminals take recruits from local schools.

That quote appears at page 9 of the draft minute rejected by the police at Cabramatta. However, in the draft the words "Officers at Cabramatta" appear in place of the word "we". The word "we" was inserted during the in-camera hearings. Given the short time frame involved, the leak could therefore

have originated only from someone who participated in the in-camera hearings and who had access to the altered document.

My action in initiating the memoranda was triggered by an activity that the Committee itself recognised was a contempt of Parliament if a leak had occurred—and a leak had occurred. Much has been said about the "directive memoranda". However, the first time I heard this term used and heard that threats were allegedly being made against the four police was when Alan Jones made these claims after the issue of the memoranda had been leaked to him. The term was subsequently widely used by the media and by General Purpose Committee No.3. As recently as a few weeks ago I saw an article in a local newspaper quoting the Hon. Helen Sham-Ho as saying:

...she understood a Directive Memorandum required a police officer to provide certain information to superior officers, under threat of being sacked.

No-one was ever going to get the sack over this memoranda. This was made clear when I appeared before Committee No. 3 on 11 May. The recent statement to the media is all the more difficult to understand given my letter of 23 June 2001, outlining a conversation with Ian Ball, President of the Police Association, concerning an offer to withdraw three of the four memoranda. This letter was forwarded by the Police Service to the Hon. Helen Sham-Ho as Chair of Committee No. 3.

My inquiries have failed to identify a single case of a police officer being dismissed solely for not responding to a directive memorandum in an internal affairs environment. I draw this Committee's attention to the memorandum of 24 April 2001 issued by Superintendent Hansen. The memorandum does not take the form of directive memoranda used in departmental disciplinary investigations. It was explained to Committee No. 3 in May that the words "I now direct you to forthwith provide the following" were used in the report to indicate that a response was required now. In general correspondence a person has 14 days to respond. I direct, with respect, the Committee's attention to attachment 9, which sets out that 14-day provision. The memorandum issued also clearly sets out its purpose:

...to properly investigate the assertion that drug criminals take recruits from local schools.

The memorandum continues:

Clearly, the assertion that drug criminals recruit from local schools raises a serious issue requiring an investigation. To that end your immediate advice on this matter is particularly important.

It does not refer to, or in any way imply, any disciplinary issue. It is not a disciplinary issue. The memoranda do not comply with the standard requirements of directive memoranda relating to disciplinary investigations that they be endorsed with the time and date. They were not endorsed with the time and date of service. The actual service of the memoranda on the police was not consistent with the requirements of disciplinary investigations—that is, that the memoranda be formally served on the officers face to face. To the contrary, the approach adopted by Superintendent Hansen was to place these memoranda in sealed envelopes for delivery to the affected police. The directive memoranda in disciplinary proceedings are to be served on involved officers at the same time to avoid opportunities for or suggestions that responses were tailored after consultation between the officers. This was not done because this is not a disciplinary matter. This matter was raised in one of the questions directed to the commissioner.

Furthermore, it is important to note that under the Police Service Act there is a legislative requirement that police register complaints of wrongdoing or suspected wrongdoing. That means if disciplinary action had been the basis for the memoranda, a formal complaint would have had to be registered and a formal procedure followed. No complaint was registered; the formal complaint process was not followed. Each of these points supports the assertion that the purpose of the memoranda was to obtain operational information from the police in order that the best protection practicable could be provided to the young people of Cabramatta, and for no other purpose.

On 11 May 2001 I appeared before Committee No. 3. During an in-camera hearing of the Committee the issue of the directive memoranda to the four police was discussed. The recording of that hearing, or at least the greater part of it, has now been made public. During those proceedings it was put that, in effect, now that Superintendent Hansen and I knew the evidence of the four police, we were in a more informed position to know what was said and who said what. I agreed with this.

Further, from the evidence it appeared that, while one officer claimed specific knowledge of the recruitment of children from schools by drug gangs, the other three had been less specific. They did not claim evidence of its occurrence; rather, they "believed" it to be occurring. To help resolve the dispute between management and the four police, I was asked whether it would be possible to withdraw the memoranda served on the three police who had merely stated a belief rather than claimed the existence of evidence. I agreed to this.

Following this hearing I gave consideration as to how the withdrawal of the memoranda could best be achieved, particularly in light of the fact that my discussion with the Committee had at that time been in camera and not released. On the afternoon of 23 May 2001 I telephoned Mr Ian Ball, President of the Police Association. I explained to him that certain facts had come to my attention and that I was prepared to withdraw the memoranda against three of the police but that the memorandum against the fourth officer would have to stand—at least at that stage. Identified to Mr Ball the three officers whose memoranda could be withdrawn and the fourth officer against whom the memorandum would stand. Mr Ball informed me that the four police had been told to respond to the memoranda and they had already responded. I told Mr Ball but this was not correct: none of the police had responded. He was somewhat surprised. He told me that the police were going to respond and not to worry about withdrawing the memoranda. He said that he would talk to them. I again repeated my offer to withdraw the memoranda against three of the officers and he told me to leave things the way they were. I took no further action. I have previously referred to my letter of 23 June 2001, which deals with this matter and which was forwarded to the Hon. Helen Sham-Ho.

A question that has arisen is why I did not take action to investigate the allegation in the submission that drug criminals or gangs were recruiting children in schools prior to the *Sydney Morning Herald* article of 24 April. The answer to this question falls into two distinct parts. One, I had previously made inquiries into this general allegation and found no support for it. I gave this evidence to the parliamentary inquiry into Cabramatta. Two, I was not aware what it was that the four police intended to say, or in fact did say, to Committee No. 3 until I read it in the *Herald*. It was only then that I learned the issue of school recruitment by drug criminals had been raised and supported by the four police. It was not until two or three days after the *Herald* article appeared that I saw a copy of their written submission. The first opportunity to act occurred only after reading the leaked *Herald* article. Since this time, no action has been taken by management to seek a response. The four police officers have responded. Their responses do not change the evidence I gave before Committee No. 3 on the issue of drug criminals or gangs recruiting young people in the school environment.

There are four other matters that I respectfully draw to the attention of this Committee because they have, in my view, a very significant bearing on the treatment of these four police by management since the issue of the memoranda and the likelihood of that action deterring others from appearing before parliamentary committees in the future. The first matter relates to an application by one of the officers for promotion. These applications require endorsement by the commanding officer. Before I go any further, I am not sure whether the officers who appeared before the Committee this morning identified who was A,B and C.

The Hon. PETER BREEN: I do not think they did, Mr Chairman.

CHAIR: They did not use those letters; they identified themselves to the Committee.

Mr SMALL: I did not want to be specific in identifying this application. Superintendent Hansen endorsed Officer C's application thus:

I am aware 'C' made a significant contribution to both the management and operational modes of the various phases of Puccini. 'C' is a mature, thoughtful and motivated officer with a demonstrably good management style ... There is no question as to 'C's' integrity.

This document is dated 9 April 2001. Officer C is aware of the superintendent's comments. That document is attached. With respect to a second officer, who was one of the four, Superintendent Hansen provided support when he need not have done so. Given the nature of the matter, I do not propose to speak about it publicly, but it has been presented to the Committee on a confidential basis. I respectfully draw members' attention to it as I believe it is particularly important and sends a strong message. Both of these actions fly in the face of claims of anything other than proper and fair treatment of these people by management.

In December 2000 I caused to be administered across the Greater Hume region the ethical culture survey of the Independent Commission Against Corruption [ICAC]. The survey measures perceptions across five categories of ethical culture: thoughts about the command; thoughts about work relations; thoughts about the immediate supervisor; thoughts about the senior executive, which we defined as duty officers and local area and region commanders—or, in this case, me—and thoughts about colleagues. The results of this survey are directly relevant to the matter before the Committee because, among other things, they reflect the attitude of front-line police towards management previously and now.

In the first survey the Cabramatta command fared poorly, exceeding the ICAC benchmark in only 31 out of 70 questions compared with a regional average of 47. When administered in July—some seven months later—Cabramatta exceeded the benchmark in 56 questions compared with 53 for the region. These results reflect a dramatic positive change in the attitude of front-line and other police within the command. They show, among other things, that the police at Cabramatta believe they have moved towards an environment in which honest behaviour is encouraged and dishonest behaviour is discouraged; the work environment is more open; there is a higher level of trust and higher regard is held for supervisors and managers; and management is more consultative and perceived to practise what they preach. A copy of that survey has been tendered.

This survey is particularly relevant to this Committee as it provides an objective measure of the attitude of front-line police both before and after the issue of the memoranda and the publicity and debate that has, among other things, attended that action. There is no indication in those survey results that police might be deterred from appearing before any Parliamentary committees or, in fact, any other inquiry in the future, to the contrary. Indeed, if the issue is whether the memoranda might deter other police from coming forward in the future then the malicious and vindictive campaign that has been waged against me since I first gave evidence before Committee No. 3 should be of concern to this Committee and the Parliament. This campaign, more than any other action, is likely to deter police from coming forward and giving evidence to Parliamentary inquiries. Paraphrasing comments from both police and others from across a broad spectrum of the wider community is: "If this is what you get for doing your job, you can have it. They won't get me standing up there."

Last, in the matter now before this Committee, I have always acted with the well being of the young people of Cabramatta foremost in my mind. So too have Frank Hansen and Deborah Wallace. If I am to be criticised by this Committee or the Parliament because of my concern for the well being and future of our young then that is a criticism I must accept. If I am to be criticised for making Cabramatta a safer place for the residents and those who wish to enjoy its offerings then that is a criticism I must accept. If I am to be criticised for making things better for the police of Cabramatta then that too is a criticism I must accept.

At no time have I in any way attempted to intimidate or otherwise prevent any police officers or other person from giving evidence before Committee No. 3 or any other inquiry. On the contrary, I took command of Greater Hume region at a very difficult time in the policing history of Cabramatta and, together with Frank Hansen, Deborah Wallace and front-line police we have made it better for the community and for the police.

CHAIR: It seems clear from what you have said in your submission that you were not aware of the submission that was presented to General Purpose Standing Committee No. 3?

Mr SMALL: That is correct. My understanding was a draft submission was presented to the police at Cabramatta. It was rejected due to content. I had not been told the details of that submission. I was certainly not aware of any reference to the issue of school children being recruited by drug gangs, though I did have, if you like, the broadest of awareness of the type of material that was in it. I was told virtually nothing more than it related, for the greater part, to issues in Cabramatta during 1999-2000 when I was not there.

CHAIR: It now appears from what the Commissioner has just said, and your submission, that there is some confusion as to what is a directive memorandum?

Mr SMALL: There are, sir. The fact of the matter is that every request I make, no matter how nice or how roughly I make it is, in fact, a direction. If I say to Superintendent Hansen "Can you please provide me with this information by 5.00 o'clock tonight?" that is a direction, so every bit of correspondence is a direction. All we did on this occasion was in a timeframe. We wanted the answer now because of the importance of the issue. It was not a directive memorandum in the terms that is applied to internal investigations.

What you have, I suppose, are basically three levels of correspondence, if I can put it that way. One is the most fundamental correspondence which asks someone, "Are you going on leave? Do you have any knowledge about this matter?" It is an open-ended piece of correspondence to which, according to the police guidelines, a person has about 14 days to respond. It is non-urgent. We then have correspondence which might be described as urgent, "Please provide me with this information by such and such a time." That is what this material was. It was a request to provide the information forthwith. I get that sort of correspondence from the Deputy Commissioners and the Commissioner and the Minister seeking information about things almost daily. "Please provide by the close of business today information about this, this or this." It is no different to those instructions.

You then have, if you like, a higher level of correspondence, a more formal level of correspondence, which applies during the course of internal investigation which is what we have commonly termed "directive memoranda". That has a whole range of formal processes that must accompany it.

CHAIR: Does it have the description or title "Directive Memorandum" at the top of the document?

Mr SMALL: Generally speaking it will have the words "Directive Memorandum" typed across the top, but if that is not there it does not mean it is invalid. That is more a matter of convenience and practice that has grown up but in all internal investigations that I have ever been involved the words "Directive Memorandum" is typed at the top. In fact, the situation now is, and since the Wood commission has increasingly been, that directive memoranda are used less frequently and, in serious cases, the use of electronically recorded interviews are used in lieu of directive memoranda because of their reliability.

CHAIR: In any discussion with police officers or other officers you never described them as directive memoranda?

Mr SMALL: We never described them as directive memoranda. They were directive in the sense that we wanted an answer now, but the term "internal investigations, disciplinary action" directive memoranda in the context of internal investigations was never used.

The Hon. PATRICIA FORSYTHE: In relation to this matter, what meetings did you hold with representatives of the New South Wales Police Service, court and legal services branch?

Mr SMALL: After I had served the memorandum, or had caused it to be served, I advised court and legal services of what I had done. I cannot recall whether it was that afternoon or the next morning. They suggested I should have spoken to them first, and perhaps that is so. They then took action to contact the secretariat of Committee No. 3 and informed them of what I had done. They took advice from them, and that advice was then conveyed to me and it was proposed to issue a second memorandum to police in terms that were consistent with the secretariat's advice, and I assume the advice of the Committee, just to clear up any misunderstanding that may have occurred.

That memorandum was drafted. It was, in fact, served on one police officer. It was not served on the other three simply because they were absent from the police station for various reasons. As the publicity and other things developed it was decided not to proceed any further with it.

The Hon. PATRICIA FORSYTHE: Would you explain why in a letter dated 1 May from Michael Holmes to Walter Madden Jenkins, solicitors, I presume, acting for the police officers that references to two "Directive Memoranda" the term was used in that letter?

Mr SMALL: I cannot answer that because I did not write the letter. I have explained my knowledge of two memoranda. I cannot comment on the content of the letter as I did not write it.

The Hon. PATRICIA FORSYTHE: Prior to 1 May had you met with Michael Holmes in relation to the matter?

Mr SMALL: To the best of my recollection I had not spoken to Michael Holmes direct about this matter—I may be wrong on that. If I did it was a very short conversation, not one that has any particular significance to me. I believe that all my conversations were with Mr Paul Acon.

CHAIR: Can you understand how the officers who received that type of correspondence would understand it was a directive memorandum, even though that was not your intention?

Mr SMALL: I can understand that sir, but by that time a number of sections of the media had been describing these as directive memoranda and talking about the police being sacked and all of that sort of thing. It was becoming quiet emotional. I cannot recall whether any politicians had raised it publicly at that time but I am aware also that there was correspondence, either written or verbal, between court and legal services and the committee, about it. The Police Association itself either before or after that date had written correspondence referring to it as a directive memorandum.

The Hon. PATRICIA FORSYTHE: The letter refers again to "Directive Memorandum" and it says:

Any delay in providing information pursuant to a directive memorandum is insubordination of a sort that cannot be tolerated.

When the officers received that letter how were they meant to interpret that?

Mr SMALL: I cannot answer that because I did not write the letter, I was not consulted on it and I was not aware of it until sometime later.

The Hon. PATRICIA FORSYTHE: You refer to having a brief conversation with Mr Acon?

Mr SMALL: No, I think I said I might have had a number of conversations with Mr Acon. If I spoke to Mr Holmes, it was a brief conversation.

The Hon. PATRICIA FORSYTHE: Were they formal meetings or chance conversations in relation to this matter? What was the nature of your discussions with the legal branch?

Mr SMALL: The question is my contact with Mr Acon, I take it?

The Hon. PATRICIA FORSYTHE: Yes.

Mr SMALL: During that period almost all, if not all, of my contact with Mr Acon was via the telephone, initiated either by him or myself as a result of matters that were arising. I was not consulted on each bit of correspondence, if you like, between the Police Association and the court and legal services branch. I was not involved in the drafting of letters one way or the other.

CHAIR: In your submission you have made a great deal of reference to the "leaked" material?

Mr SMALL: Yes.

CHAIR: It should be understood by you that members of Parliament regard the fact that material has been leaked as a most serious matter. There were investigations to try to identify who leaked it.

Mr SMALL: I understand that. I was simply making the point that the trigger, in one sense, for my action in this matter was a leak. I am not saying who leaked it other than it must have been someone present at those proceedings.

The Hon. PETER BREEN: Could it have been someone in the Police Service that leaked it?

Mr SMALL: Unless it was one of the four officers who attended the in-camera hearings, the answer is no.

The Hon. PETER BREEN: In your statement you have not referred to a question that has occupied our minds this morning, that is, why the Police Service did not issue a directive memorandum to Tim Priest after he gave his initial evidence to the inquiry. Do you have an explanation?

Mr SMALL: There was no need to. What we need to understand, and I think it has been lost in a lot of the publicity, is that Sergeant Priest gave evidence—you might correct me on the dates now—in October/November 2000—

The Hon. PATRICIA FORSYTHE: December.

Mr SMALL: December 2000 and the proceedings were proceeding. It was not until February 2001 that Mr Priest returned to the Committee and made a very personal attack on me. He accused me of being criminally negligent of allowing murders and shootings to occur with action of sitting on files. It was in that context that I responded to Mr Priest's evidence a few days later. If you care to look at that evidence, what you will see is that there was not one word of criticism in my evidence about what Mr Priest said about Cabramatta in 1999-2000 roughly.

The Hon. PETER BREEN: No, but there was also questions raised by him about recruitment by drug gangs from the schools. That is the whole point.

Mr SMALL: Sorry, on that particular point, following that claim being made I caused extensive inquiries to be made to see if that could be verified. I gave evidence before the Committee subsequently that we found no evidence to support those claims. The particular incident that was referred to was clarified during my evidence on the second occasion. So there was no need to do it.

The Hon. PETER BREEN: When you gave evidence on 27 February you referred to his allegation about recruitment by drug criminals from the schools?

Mr SMALL: That is correct.

The Hon. PETER BREEN: But why was there no suggestion at that time that he should be issued with a directive memorandum to produce the evidence that he had for this allegation?

Mr SMALL: There were a couple of reasons but one was he referred to a specific incident at a school in Cabramatta and that incident was addressed by me in detail in my response to the Parliament.

Mr SMALL: In fact, you tendered a written submission on that day, signed by you and dated 27 February which says:

My inquiries disclose that while there was a minor incident at the school last week, there is no suggestion that the youths were there to recruit members to their gang. There was no display of jewellery, et cetera.

You continue:

Later the detective said that gangs had hired up to 50 students in the past six months from a variety of high schools in Sydney's west for gang-related crime. I have caused inquiries to be conducted to determine whether there is any knowledge or record of gangs attending schools to recruit members in the way described by Detective Priest.

You said in conclusion:

A check of the service's Computerised Operational Policing System [COPS], on which all events are required to be recorded, failed to reveal any record of such event, at least since 1994.

Mr SMALL: Yes, sir.

The Hon. PETER BREEN: Today Detective Priest gave evidence to this Committee, and I know that you are at some disadvantage in not having heard what he said, which completely contradicts the evidence that you gave on 27 February.

Mr SMALL: Well, sir, I do not know what he said this morning. I have seen nothing to change the evidence that I gave on that occasion. Mr Priest was not issued with a memorandum, because of the inquiries I made. His allegations were, if you like, in open hearings. We knew what was being said, they were checked out and no evidence was found to support them. That is quite different to a part of an allegation being contained in the newspaper report. But we did not know whether there was information we had missed, whether there was some other information of which we were not aware, or whatever. All we did was sought to clarify it. I do not know what Mr Priest said this morning, so I do not know that I can respond.

The Hon. PETER BREEN: In relation to the incident at Cabramatta High School that he referred to in evidence and that you addressed on 27 February, do you know anything about Chief Inspector Wallace going back to the school and carrying out a further instigation about his allegations?

Mr SMALL: Yes.

The Hon. PETER BREEN: Do you know the result of those investigations by Chief Inspector Wallace?

Mr SMALL: Yes, and the results were recorded on the COPS entry in the proper fashion.

The Hon. PETER BREEN: In doing that, did Chief Inspector Wallace change the previous COPS reference in relation to the same incident?

Mr SMALL: No, she did not change it. She added material to it in the manner that is expected of someone conducting further inquiries into an incident.

The Hon. PETER BREEN: Did she have any discussion with the person who physically puts the material on the COPS about the initial entry?

Mr SMALL: You would have to ask Miss Wallace that; she is here and will give evidence later.

CHAIR: She is to be called as a witness later today. Although Mr Priest did not get a directive memorandum, do you believe that any action was taken that could be regarded as harassment or intimidation of him as a police officer, to make him an example, so to speak, so that other officers would not give evidence before parliamentary committees?

Mr SMALL: I know of no action taken against Mr Priest that would cause him to think that. I have, in fact, had three personal meetings with Mr Priest, going back some time. Mr Priest has not indicated that to me at any of those meetings. In our evidence both of us agreed, if you like, to disagree on some aspects. That is what was basically said in private conversations. As I understood it we were moving forward. I understand, although I was not here this morning, that Mr Priest has now made some allegations which completely contradict the matters he has told me in private.

The Hon. PETER BREEN: Can you elaborate on that? What matters are you referring to?

Mr SMALL: I understand, and again I was not here but I have been asked already, that this morning Mr Priest apparently said—and please correct me if I am wrong, I am sure that you will—that he regarded my evidence against him in February, I presume February particularly—

The Hon. PETER BREEN: Yes.

Mr SMALL: —was intended to intimidate other police and stop them from giving evidence. That is not what was said in private. We agreed that we had different views about aspects of our

evidence. That has never been suggested to me in a number of conversations with Mr Priest in private or on the telephone.

The Hon. PETER BREEN: Do you stand by the evidence you gave about him in February?

Mr SMALL: Yes.

The Hon. PETER BREEN: You made a number of serious allegations that cast discredit on him.

Mr SMALL: No, I made a number of allegations which gave context to his answers. I do not know one piece of evidence that I have given about Mr Priest's allegations with respect to me that is untrue, that requires correction. If there is a particular issue, I am happy to address it.

The Hon. PETER BREEN: What about him being under investigation by Internal Affairs? Do you think that that would have any detrimental effect on him?

Mr SMALL: Sir, with respect, before I answer that, there was severe criticism of Mr Priest's Internal Affairs record being discussed publicly before. Mr Chairman, I am prepared to answer the question now if you direct me to do so. But I do not want to be now accused of raising these matters again.

CHAIR: I do not think that the question is relevant to this inquiry by the Standing Committee on Parliamentary Privilege and Ethics. We do not want to have an investigation into Cabramatta; this inquiry is whether there has been any influence on or statements made to police officers that would in anyway intimidate, harass or discourage them from giving evidence before committees. You do not have to answer that question.

Mr SMALL: I know of no action taken against any police that intimidated them. However, if we are to talk about that there was circulated anonymously a 60-page document making the most serious allegations against me. It was done only to harm me and the policing and management of Cabramatta. It was done maliciously and vindictively. It is not only those police, with all respect sir. The action that has been taken against me is probably a more serious concern in terms of deterring people who will come before parliamentary committees in the future than other matters.

CHAIR: Of any rank?

Mr SMALL: Absolutely, sir.

CHAIR: The Committee members understand that, you have made that point.

The Hon. PETER BREEN: Arising from your last answer, could it be that your antipathy or your anger as a result of the circulation of that document motivated you to issue the directive memorandum?

Mr SMALL: No, that occurred much later.

The Hon. PETER BREEN: Much later?

Mr SMALL: Yes.

The Hon. PETER BREEN: I apologise. That is a matter that this Committee knows nothing about, I have to say.

Mr SMALL: The document has been widely circulated to the media, politicians and others.

The Hon. PETER BREEN: The members of this Committee certainly have not seen it.

CHAIR: No, it is not a matter before this Committee.

Mr SMALL: I understand, sir, that this is limited to the directive memorandum.

CHAIR: Anonymous documents are written about a lot of people and distributed. We do not put any weight on those documents.

Mr SMALL: I would like to tender one other document for the Committee's information, a document that is to be released by the Bureau of Crime Statistics and Research tomorrow or the next day that refers to drug conditions in Cabramatta. It is not directly related to the memorandum, but it is related to the attitude of the police and the morale of police in Cabramatta since the time of the memorandum.

CHAIR: Would you like that document to be included as part of your evidence?

Mr SMALL: Yes, on a confidential basis until Mr Weatherburn releases it tomorrow.

Mr HUGHES: Mr Chairman, may I have your indulgence to suggest that it might be appropriate to now call Mr Michael Holmes before calling the next Police Service witness. Mr Holmes can deal shortly with the content of his letter of 1 May.

CHAIR: Yes. Rather than asking witnesses what they think Mr Holmes meant, the Committee has agreed to your suggestion.

(The witness withdrew)

(Short adjournment)

MICHAEL NORTH HOLMES, Solicitor for the New South Wales Police Service and General Manager for Court and Legal Services, Police Headquarters, College Street, Sydney, sworn and examined:

CHAIR: Did you receive a summons issued under my hand in accordance with the provisions of the Parliamentary Evidence Act 1901?

Mr HOLMES: I did.

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

Mr HOLMES: I am.

CHAIR: Do you have a written submission?

Mr HOLMES: No.

CHAIR: Do you wish to make a short opening statement?

Mr HOLMES: No.

CHAIR: If at any stage during your evidence you consider that in the public interest any evidence or documents you wish to present should be seen or heard only by the Committee, the Committee will consider your request. That is in conformity with Standing Order 250 and we will go into camera.

Mr HOLMES: Before I commence there is a matter that I should formally disclose. It is a minor matter but it is a matter that should be disclosed. I am the line manager of your son, Stephen Nile, who is a Police Service prosecutor. I believe it is a matter that I should disclose.

CHAIR: Does that have any influence on the Committee? It does not have any influence on me.

The Hon. JANELLE SAFFIN: No.

CHAIR: As you have heard previously, we have had some discussion about this directive memorandum. Up until now we thought we had a directive memorandum. The evidence now indicates that it is not such a document. Your letters or memos seem to indicate that it is. Can you clarify how you describe those documents?

Mr HOLMES: Yes. I am happy to clarify. If I can first of all draw the Committee's attention to the memorandum of Superintendent Hansen dated 24 April 2001, that is a document that is addressed to four individuals. If I can just read the wording: "In order to properly investigate the assertion that drug criminals take recruits from local schools I now direct you to forthwith provide the following" and the memorandum continues.

I draw your attention to a document I am in possession of that is off our intranet about directive memoranda. "Clause 9 (1) of the Police Service Regulation 1990 requires police officers to promptly comply with all lawful orders from those in authority over them. This includes a direction to submit a report and answer questions. The appropriateness of using directive memoranda and their quality, have at times been the subject of valid criticism by review agencies. These have included situations where police used computer disks or saved hard drive documents to collaborate with their responses to directive memoranda. Responses to directive memoranda must be made independently and without consultation with other persons."

Again, moving through the document, "directive memoranda should only be used for non-criminal matters, with the following requirements: multiple issues may be addressed, with significant information to identify the incident/s surrounding the complaint but should not identify the complainant; should be in writing, with the date and time of service recorded—so there is a formal

requirement for service—as far as practicable, the service of directives should be contemporary and the police officers should be separated until each has completed their report. This, from the evidence to date, was not the case in this case. The investigating officer should properly supervise all police who are served with directive memoranda to ensure there is no collaboration between police in the submission of their reports. Again, from the evidence before the Committee to date—I do not think it is in dispute—that was not the case. Any response to a directive memorandum should be accepted, regardless of whether it contains irrelevant information, spelling mistakes, et cetera.

Generally, on the format, there should be the name of the local area command at the top, it should have the date served and the time served and it should be addressed to the name and rank of the officer upon whom the directive memorandum is served. You do not serve it on multiple officers. In the memorandum as it now stands there were four officers mentioned in the memorandum and it should be a separate memorandum to the individual officers and then addressed to the local area command. The memorandum would normally start off, "I am conducting an investigation concerning" and then go into detail about the investigation, "You are directed to immediately submit a comprehensive report detailing your knowledge of this matter" and then there is usually a paragraph at the end, "You are directed not to disclose any information in respect of this memorandum to any other person without my authority until the completion of this inquiry. You are directed to respond to this memorandum and are not to collaborate with any other officer or officer's response. You are directed to retain and adequately secure any copies of your response to this memorandum, including hard copies or electronic copies and not show your response to any other officer without my authority." I am happy to tender that document to the Committee, which was taken out of a document within the service.

Leave granted.

As you can see, compared to the memorandum that had been provided by Superintendent Hansen to the four officers, it does not take that format. In relation to the solicitor's letter between Walter Madden Jenkins, Solicitors, dated 1 May 2001, that had been settled on the basis of advice from Senior Counsel, Mr Temby, QC, with one of my assistant solicitors. As you are probably aware, Court and Legal Services is a big organisation with many solicitors and many Police Service prosecutors. An assistant solicitor prepared the letter in consultation with Mr Temby, QC, and, unfortunately, they continued to use a phrase, which was coined in a letter from the Police Association, as directive memorandum and this mistake continued to compound by referring to it as directive memorandum. My respective submission and my legal viewpoint is it is not a directive memorandum but rather a memorandum prepared for management purposes, not the traditional investigative memorandum. I hope that helps.

The Hon. PATRICIA FORSYTHE: I seek clarification. Is the signature on the letter of 1 May your signature?

Mr HOLMES: That is my signature. I am the head solicitor for the service. It was a significant matter and all significant matters should be signed by the head solicitor for the service, not that I was the wordsmith for the letter.

CHAIR: It did not catch your attention?

Mr HOLMES: It did not catch my attention, no. If I was signing it today, it would catch my attention but it was just one of those matters

CHAIR: You understand though, that on the receiving end now are the officers involved.

Mr HOLMES: This was a solicitor's letter from solicitor to solicitor.

CHAIR: It would become acknowledge—

Mr HOLMES: Potentially.

CHAIR: —that would be passed on to the officers that would keep reaffirming that it is a directive memorandum, that even the legal branch of the police department thinks it is a directive memorandum?

Mr HOLMES: Yes. Unfortunately, we followed upon the lead from the Police Association in that regard, unfortunately.

CHAIR: You saw it more as a descriptive term of the actual document?

Mr HOLMES: Yes. I think the accurate term is it is more a memorandum involving management action.

CHAIR: It should have been dated with the date and a more accurate description?

Mr HOLMES: Yes.

The Hon. PATRICIA FORSYTHE: There is another letter of 1 May, the one to the Hon. Helen Sham-Ho?

Mr HOLMES: That is correct.

The Hon. PATRICIA FORSYTHE: Under your signature. Was that similarly authored, that is, by an assisting solicitor on the advice of—

Mr HOLMES: That is correct. I was not the author of that letter. Again I was the head solicitor.

CHAIR: Did anyone seek legal advice from you, Mr Small or Mr Hansen, before they issued the directive memorandum or the memorandum?

Mr HOLMES: No.

CHAIR: You did not give any legal advice?

Mr HOLMES: No, nor did any of my assistant solicitors.

CHAIR: Is that common, that they do not ask you for advice?

Mr HOLMES: It was a management matter.

CHAIR: Do you normally get consulted on matters like that or has there been any precedent?

Mr HOLMES: Not as a matter of course. Everything is on a case-by-case basis

The Hon. PATRICIA FORSYTHE: In relation to the letters, which you have signed, with whom did you had discussions about this matter prior to the letters going out?

Mr HOLMES: I had some general discussions with my senior manager, Mr Robert Redfern, and also manager, Mr Akon.

The Hon. PATRICIA FORSYTHE: Was there any suggestion that there was a direction coming from elsewhere within the Police Service in relation to this matter?

Mr HOLMES: I do not understand your question.

The Hon. PATRICIA FORSYTHE: As to the insistence that the issue be brought to the attention of the Hon. Helen Sham-Ho and that indeed the letter to the solicitors be sent on that day?

Mr HOLMES: I think that was on the advice of Senior Counsel.

The Hon. PATRICIA FORSYTHE: In relation to the Hon. Helen Sham-Ho on this matter you say, "I am sure you will understand that the matters raised in the directive memorandum from Superintendent Hansen must be pursued. The public interest so require." Could you elaborate on what was meant by that and also the next sentence "I take the opportunity to remind the Committee, through your good self, that morale and discipline, which are close cousins, can be difficult to uphold in an unsettled environment". Why did you see it necessary to include that sentence in the letter to the committee chair?

Mr HOLMES: Again, it is a matter that was drafted on the advice of Senior Counsel. I think the letter itself speaks for itself. I cannot interpret it other than that. At the relevant time there was a great deal of debate and unsettling comments within the service and we believed the matter needed to be resolved quickly.

CHAIR: Do you agree that the officers involved in this matter, because you used that term, either accidentally now as it appears, could appear to be intimidation or harassment of the witnesses in their minds?

Mr HOLMES: I would be very surprised. I would not think so.

CHAIR: You do not think they would see it as a serious matter, a directive memorandum?

Mr HOLMES: No.

CHAIR: You have said how serious directive memoranda are.

Mr HOLMES: They would have regard to the memorandum that was put before them on 24 April and there is no mention of the words "directive memoranda".

CHAIR: We understand that is what they believed those documents to be?

Mr HOLMES: I really cannot speak for the officers concerned but I would be surprised if they would have those sorts of implications that would arise.

The Hon. PETER BREEN: In relation to that letter of 1 May, after the words "directive memorandum", you also used the words "insubordination of this sort cannot be tolerated in a disciplined force". Do you think those words would have an impact on the officers?

Mr HOLMES: Again, it is a letter from a solicitor's office to another solicitor's office. If the solicitors show them that letter it maybe a matter that may focus their minds on the problems facing the service in that particular matter.

The Hon. PETER BREEN: Is it possible that they might think they could be dismissed as a result?

Mr HOLMES: Anything would be possible but I do not think that could be drawn.

The Hon. PETER BREEN: You were here this morning when Commissioner Ryan gave evidence?

Mr HOLMES: I was here this afternoon.

The Hon. PETER BREEN: I think you might have heard Commissioner Ryan say that there are circumstances in which a person could be dismissed as a result of intolerable insubordination?

Mr HOLMES: Yes.

The Hon. AMANDA FAZIO: You said that the document you tabled earlier was from the department's intranet?

Mr HOLMES: Yes.

The Hon. AMANDA FAZIO: Is that from some sort of style guide or a book of sample letters?

Mr HOLMES: It is on the intranet in relation to internal investigations.

The Hon. AMANDA FAZIO: So anyone in the police force can look up that document?

Mr HOLMES: I understand that it is accessible. I wish to clarify an earlier question. Mr Breen referred earlier to intolerable behaviour. The word "intolerable" was not included in the letter that he was referring to earlier, that is, the letter of 1 May to Walter Madden Jenkins.

The Hon. PETER BREEN: I do not wish to be pedantic about it but the words "insubordination of the sort that cannot be tolerated", with respect, I do not think mean anything different from the words "intolerable insubordination".

Mr HOLMES: With respect, I think that it has an entirely different meaning.

The Hon. JENNIFER GARDINER: Mr Small told the Committee on page 4 of his submission:

Following the issue of the memoranda I advised Court and Legal Services of the action taken. They suggested I should have spoken with them and obtained advice prior to the taking of action. Perhaps that is so.

Do you agree that that would have been advisable in the circumstances?

Mr HOLMES: I think in hindsight, yes.

The Hon. JENNIFER GARDINER: Has there been any review of this whole question of directive memoranda? How are Police Service members to understand what they are and what implications they have on the different levels of correspondence?

Mr HOLMES: I think directive memorandums are a useful tool within the Police Service from time to time. It depends on the nature of the investigation being carried out.

The Hon. JENNIFER GARDINER: So police officers could still be confused. Commander Small, at the beginning of his testimony, referred to directive memoranda. He then went on to say that they were not. So obviously there was a problem in figuring out what was a directive memorandum.

Mr HOLMES: Perhaps there is some confusion in some areas.

CHAIR: Do you understand that the police officers concerned thought they were directive memorandums?

Mr HOLMES: I have not heard their evidence, but I take it that that is what they felt they were.

The Hon. PATRICIA FORSYTHE: Why did the Police Service believe it was necessary to get advice from Mr Temby?

Mr HOLMES: It is essential in matters of this nature that appropriate legal advice is obtained to assist the service in assisting any parliamentary committee.

The Hon. PATRICIA FORSYTHE: Was there any doubt about the nature of the memo?

Mr HOLMES: I am sorry, I do not understand the question.

The Hon. PATRICIA FORSYTHE: Was there any doubt about the status of the memo or directive that was issued by Superintendent Hansen? Was it a clarification of the status of the memo? If not, what was the nature of the advice from Mr Temby?

Mr HOLMES: Mr Temby, as you may be aware, was engaged generally in relation to the Cabramatta inquiry. It is a matter of good practice that all significance correspondence would go via counsel for settling. The issue as to directive memorandum, as opposed to a memorandum, I do not think was explored.

The Hon. PATRICIA FORSYTHE: I suppose I should really ask Superintendent Small or Commander Hansen whether they sought advice before the issuing of the original memoranda. Would that have been considered to have been significant correspondence?

Mr HOLMES: Again, I think I answered the Chairman's question earlier. A lot of these matters are management matters and it is not necessary to pass by Court and Legal Services on every matter. Commander Small was undertaking a management function. He rightly took action. When my officers spoke to him I think it was again in hindsight. Perhaps it should have been passed by our office.

CHAIR: Did you become aware that the officers thought they were directive memorandums? There is no doubt from the evidence that we have that they believed them to be directive memorandums. All the documents that we have specify or describe those documents as such.

Mr HOLMES: With respect, this is the document here. I have a copy of the document. It does not mention it. It is not titled and it is not formatted. It was not done in the normal manner of a directive memorandum.

CHAIR: You are clear about that. The officers were not clear about that. They saw the documents as threatening documents. Did anyone go to the trouble of reassuring them that they were not directive memorandums?

Mr HOLMES: You would have to ask those questions of Superintendent Hansen. I cannot assist you in that regard.

CHAIR: Your office used the term, which is why we have the problem.

Mr HOLMES: Our office used the term following on the term used by the Police Association and its legal representatives.

CHAIR: You did not believe it to be your obligation to reassure the officers that it was not a directive memorandum; that it was an error in your correspondence?

Mr HOLMES: It only came to my attention in the last few days when I turned my mind to the matter that, clearly, it was not a proper directive memorandum. The letter of 1 May 2001 which was referred to this morning was not a proper directive memorandum. It was a memorandum seeking advice.

The Hon. PATRICIA FORSYTHE: When would the officers have been made aware of the view of the Police Service that it was not a directive memoranda?

CHAIR: Have they ever been? That is the question.

Mr HOLMES: Have they ever been? To my knowledge, I am not aware. But, again, Superintendent Hansen may be in a position to assist you in that regard.

The Hon. PETER BREEN: Do you have any information that might assist the Committee as to why no directive memorandum was issued to Detective Sergeant Priest after he gave evidence to the Committee?

Mr HOLMES: I have no knowledge of that matter.

CHAIR: Or a memorandum?

The Hon. PETER BREEN: Or any kind of memorandum?

Mr HOLMES: I have no information in that regard.

The Hon. PETER BREEN: Were you consulted by Commander Small about the possibility of withdrawing three of the four directive memorandums?

Mr HOLMES: He may have consulted with my assistant solicitors; I have no personal knowledge.

The Hon. PATRICIA FORSYTHE: Would Mr Temby have been consulted?

Mr HOLMES: I have no personal knowledge of that.

CHAIR: There is one matter that I believe was confusing for police officers. To talk about withdrawing a memorandum makes it appear as though a memorandum is different from any other correspondence. You do not withdraw correspondence. However, if a memorandum has some weight behind it, you could understand police officers believing that it was a directive memorandum. Without criticising Mr Small for saying that, he might have been conciliatory in that regard. That could have reinforced in the minds of those police officers the fact that they were dealing with a directive memorandum.

Mr HOLMES: I cannot comment on it. I cannot put myself in the shoes of the police officers or in the shoes of Mr Small.

CHAIR: The document to which you referred earlier contains the words "a directive memorandum". Would you say that that was simply a Police Service description of what it is?

Mr HOLMES: Yes, it is a Police Service description, for your records. I believe it is off our intranet site.

CHAIR: There is some information at the top of the page of that document.

Mr HOLMES: I think that article came from the "Policing Issues and Practice Journal—A Guide to the Conduct of Criminal Investigations involving Police Officers."

(The witness withdrew)

FRANK ROBERT HANSEN, Superintendent of Police, Cabramatta Police Station, sworn and examined:

CHAIR: I made an opening statement earlier today. Are you aware of that opening statement?

Mr HANSEN: Yes.

CHAIR: In what capacity are you appearing before the Committee?

Mr HANSEN: As a Superintendent of Police.

CHAIR: Did you receive a summons issued under my hand in accordance with the provisions of the Parliamentary Evidence Act 1901?

Mr HANSEN: I did.

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

Mr HANSEN: Yes.

CHAIR: Do you have a written submission?

Mr HANSEN: Yes, I have.

CHAIR: Would you like to table that document?

Mr HANSEN: I understand it was circulated with Mr Small's papers. It is simply a one-page document in that folder.

CHAIR: I identify a one-page statement from Superintendent Frank Robert Hansen, Local Area Commander, Cabramatta, dated 15 October 2001. Do you wish to make any comment in relation to that statement?

Mr HANSEN: No. I could read it if you wish.

CHAIR: It might be best if you do so that it is on the record.

Mr HANSEN: Could it be treated as part of my evidence on oath?

CHAIR: Yes.

Mr HANSEN: Early in the week commencing 16 April 2001 I was approached by one of the police officers attached to Cabramatta. The officer told me that he and three colleagues intended giving evidence before the Legislative Council's General Purpose Standing Committee No. 3, the inquiry into police resources in Cabramatta, the following Monday. That was 23 April 2001. I indicated my support for that action and asked that he arrange with the roster clerk to have each of the officers rostered on duty for that purpose. I understand that that occurred.

On the morning of 24 April 2001 I had a telephone conversation with the Region Commander, Greater Hume, Assistant Commissioner Small. I also read an article in the *Sydney Morning Herald* of that date entitled "Drug Criminals Recruiting School Students." As a consequence of our conversation I prepared a memorandum addressed to each of the four officers referred to previously. I then arranged to have each copy sealed in an envelope and handed to each of those officers as it was convenient. Except for Mr Small I did not disclose to another party the fact that the officers had received a memorandum, nor did I disclose to another party the contents of that document.

As a consequence of subsequent media attention about this issue I addressed as many officers attached to Cabramatta local area commands as were available on four separate occasions over the ensuing week. On each occasion I explained my actions and encouraged them to also give evidence to the inquiry if they so wished. At no stage did I disclose the identity of any of the officers involved. As of 27 April 2001 I had not received a reply to the memorandum from any of the officers concerned. On that day I prepared another memorandum referring to the first and I arranged for it to be delivered to one of the officers.

Responses to the memorandum of 24 April 2001 have been received from each of the officers. Responses are dated 30 May 2001, 2 July 2001, 26 July 2001 and another, undated, but delivered by registered mail, dated 30 August 2001. The memoranda sought through a normal administrative process to provide me with information which I believed was fundamental to issues of public safety within my command. To have done otherwise would have been a breach of my responsibilities. Neither of these memoranda was associated in any way with a disciplinary or similar investigation.

Furthermore, the distribution of the memoranda to the involved officers was never intended to intimidate or otherwise discourage them from providing additional information and/or evidence to the parliamentary inquiry, nor was it intended to discourage others from doing so. I suggest the contents of the memoranda, the manner in which they were delivered and the subsequent action I took to encourage other police to also provide evidence to the inquiry supports this proposition.

CHAIR: You heard previous discussions about whether the memorandum was a directive memorandum. We understand that the police officers concerned thought that it was. They regarded it as a serious matter. Were you aware that that was their belief?

Mr HANSEN: Recently yes, subsequent to it being provided to them.

CHAIR: Do you understand that was perhaps why they were sensitive in their replies to the document, why they took some time? If they thought it was a directive memorandum it was a serious matter and they needed to be very careful what they said in reply to it?

Mr HANSEN: I am not sure why they took the time they did to respond to my memorandum. I certainly said in the memorandum that this was a serious matter, that I needed information from them so that I could investigate the assertion.

CHAIR: Did you do anything to reassure them that it was not a directive memorandum if that had come to your knowledge?

Mr HANSEN: Not specifically, although I have had some day-to-day interaction with each of those officers but I have not particularly raised that issue, no.

The Hon. PATRICIA FORSYTHE: When you issued the memorandum did you intend it to be a directive memorandum?

Mr HANSEN: Certainly not.

The Hon. PATRICIA FORSYTHE: Certainly not?

Mr HANSEN: No. It was a request for information as a consequence of an article in the *Sydney Morning Herald* of that day.

The Hon. PATRICIA FORSYTHE: Did you become aware of the letter sent from the New South Wales Police Service court and legal services branch to the solicitors acting for the police officers on 1 May? Were you aware of that letter?

Mr HANSEN: Not particularly. I do not recall seeing that letter.

CHAIR: Should a copy have been sent to you if it deals with officers under your command? Do they normally send letters like that without informing you as the officer in charge?

Mr HANSEN: They can quite legitimately send a letter and correspond. It was, from my understanding, generated as a consequence of a letter from Walter Madden and Jenkins.

The Hon. PATRICIA FORSYTHE: When you became aware that the term "directive memorandum" was being used in the media—and we have had evidence today that that term was used a number of times—did you take any steps to assure these officers that it was not intended to be a directive memorandum?

Mr HANSEN: Not in particular, no.

The Hon. PATRICIA FORSYTHE: Why not?

Mr HANSEN: It was clearly not a directive memorandum.

The Hon. PATRICIA FORSYTHE: Clearly?

Mr HANSEN: Clearly not a directive memorandum in this sense that I know a directive memorandum and I would have thought what they would have known as a directive memorandum. The fact that the word "direct" appears in the document would be the only relationship between a normal memorandum and a directive memorandum. Clearly a directive memorandum takes on an entirely different format to that which was provided to those police officers.

CHAIR: Do you understand that the police officers themselves understand that directive memorandum are often used in regard to corrupt police, serious matters like that?

Mr HANSEN: As part of an investigation, yes, an internal investigation, yes.

CHAIR: So if they got one then they would obviously feel threatened by it if they believed it to be one?

Mr HANSEN: A police officer receiving a directive memorandum where they were an involved officer and they were the subject of the complaint, I suppose that would raise some concerns with them. However, directive memorandums are also served on police who are not the subject of the complaint but simply may be witnesses or on the periphery of the complaint, so it depends on where you would be in that investigative process.

The Hon. JENNIFER GARDINER: Can you tell us what sort of frequency officers would be in receipt of a directive memorandum as you describe it if they were on the periphery of the complaint? We have heard evidence, for example, from one person who has been in the Police Service for nearly 20 years, who told us today that he had never known of any such directive memorandum in those circumstances, other than an internal police inquiry relating to a serious matter like corruption.

Mr HANSEN: I only know of directive memorandums being served in conjunction with an internal police inquiry. That is the normal process in asking for police to provide information.

CHAIR: Have you issued some at Cabramatta?

Mr HANSEN: Me personally?

CHAIR: Directive memorandums.

Mr HANSEN: No.

CHAIR: Have you issued them before in other positions?

Mr HANSEN: Yes, some time ago in conducting an internal inquiry for instance. Yes, on occasions I have done that.

CHAIR: Mr Holmes has tabled with us part of the Police Service regulations about directive memorandums. When you have issued them before have you placed on top of the document involved the words "directive memorandum"? Is that your practice?

Mr HANSEN: Yes. It has been some time since I have had reason to conduct an internal inquiry but, yes, under those circumstances it would. The most recent internal inquiry I did was electronically recorded so the memorandum was not used.

CHAIR: But did it have that heading?

Mr HANSEN: When I have used them in the past, yes, they would have "directive memorandum" and the date served. I would then follow protocols which would be entirely different to the process I engaged in on this occasion.

The Hon. PATRICIA FORSYTHE: Was this process what you would regard as a normal process? You have said it was a memorandum that you prepared. You say in your submission that you then arranged for each to receive a copy sealed in an envelope.

Mr HANSEN: Yes.

The Hon. PATRICIA FORSYTHE: Is that the normal way in which correspondence is received from you to your officers?

Mr HANSEN: No.

The Hon. PATRICIA FORSYTHE: Why was this treated differently?

Mr HANSEN: It was treated differently on this occasion because I was aware that I knew who the four police were who gave evidence at the inquiry. I knew the sensitivity of disclosing. Obviously I did not want to disclose their identity publicly so the only means I had to do that, other than to place—the normal process would have been to place it in a pigeon hole, mark it out in the normal course as a piece of routine correspondence, but clearly that would not have been a satisfactory process on this occasion, bearing in mind the nature of those officers having given evidence the day before.

CHAIR: So you were protecting their identity?

Mr HANSEN: Absolutely, and it was upper most in my mind to ensure that this did not enter the public forum or that their identities were not disclosed. I was very conscious of that and as a consequence I used the method that I did.

The Hon. PATRICIA FORSYTHE: In the preparation of the submission by those officers it is understood that a number of police within the Cabramatta police area were aware of some or all of the contents. What was your knowledge of what they were proposing to take by way of a submission to the parliamentary inquiry?

Mr HANSEN: Touching on the original submission first, I was aware that a submission had been prepared by a number of officers. I was not involved in the preparation of that submission. I understood that the status of that submission was that it was a draft subject to further changes or alterations depending on how the Cabramatta branch of the Police Association adjusted it. That submission was subsequently rejected on content and that was the last I knew of the document, the submission.

The Hon. PATRICIA FORSYTHE: But you did know they were appearing at the inquiry, you did arrange for a roster?

Mr HANSEN: Yes I did. I did arrange for them to be rostered but I did not know what they were going to say at the parliamentary inquiry and I did not know that the original submission would form part of their evidence or all of their evidence. When the officer told me that the four were going down to give evidence I certainly did not ask what they were going to say.

CHAIR: With the issuing of the memorandum you had discussions with Assistant Commissioner Small?

Mr HANSEN: Yes.

CHAIR: In that discussion did he suggest to you that you should send it or was it your idea to send it? How did the decision come about to send one? I know you sent it, but was that your own initiative?

Mr HANSEN: No. It was as a consequence of a discussion with Mr Small. We discussed the contents of the article in the *Sydney Morning Herald*. I was of the view, as was he, that this was a very serious matter that had been raised, this notion that children were being recruited from schools. It was during that conversation decided that I would send them a memorandum and asked them what they knew relevant to the report in the *Sydney Morning Herald*, which of course alluded to their evidence the previous day.

CHAIR: So with or without the conversation with Mr Small, you still would have sent a memorandum. In your own mind it was important enough to send a memorandum?

Mr HANSEN: Yes, I believe I would have.

The Hon. PETER BREEN: You said in your statement here today that it was never intended to intimidate these four officers.

Mr HANSEN: No.

The Hon. PETER BREEN: Would you be surprised to learn that Constable Laird, for example, felt physically sick when he received the memorandum?

Mr HANSEN: I cannot put myself into his position of course but it certainly was not my intention.

The Hon. PETER BREEN: Have you had discussions with the four officers since then as to their reactions to the memorandum?

Mr HANSEN: In one particular case, yes.

The Hon. PETER BREEN: That is in the case of one officer?

Mr HANSEN: In the case of one officer but I have spoken to the other officers in respect to a range of issues, and I mean informally more than formally about a range of issues touching on and around this. I think my relationship with those officers is reasonable.

The Hon. PETER BREEN: Yes, it appears to be reasonable. They have said the same thing.

Mr HANSEN: I think they may well have raised matters of concern with me. I would like to think that they would have.

The Hon. PETER BREEN: Do you agree, with the benefit of hindsight, that the memorandum might have intimidated them and might have upset them?

Mr HANSEN: Again, I cannot place myself in their position. To me, it is a document not dissimilar to a request that any police officer could have received. Perhaps the words "direct" and "forthwith" may have an edge to them. Maybe had I put in hindsight, bearing in mind where we are at this stage, "request" or "require" we may well have not ended up with this misinterpretation of what the document was.

The Hon. PETER BREEN: Yes.

Mr HANSEN: Certainly, with the media attention that was being focused on Cabramatta and the article in the *Sydney Morning Herald* asserting what was asserted, I was not going to be backward in asking and those words were used, "direct" and "forthwith", because I needed to know. It was a matter of a serious nature and I do not resilie from those words.

The Hon. PETER BREEN: You would not have been surprised though to see the allegations in the *Sydney Morning Herald*—may be in the *Sydney Morning Herald* you were but the allegations generally about recruiting students into drug gangs at schools at Cabramatta? This was not the first time you heard those allegations.

Mr HANSEN: No. I was aware of Detective Sergeant Priest—

The Hon. PETER BREEN: He made allegations in February.

Mr HANSEN: Yes.

The Hon. PETER BREEN: And you would have seen the draft submission that these four officers had which they intended to lodge with the inquiry.

Mr HANSEN: I was aware of its existence. I believe I would have had access to it if I had asked. I did not physically examine it in any great detail. I think it would have been made available to me but the status of the document at that point, which was immediately after its preparation or close thereto, was that it was a draft document.

Once the document had a status more than a draft, I may well have asked. I was not entitled to see it, it was a submission put together by a branch of the Police Association so I deliberately did not want to intrude into their submission as it may well have been interpreted somehow as trying to influence their submission. So, I was conscious to stand back from the position. However, once the document had taken on a status other than a draft I may well have been more interested in its contents, put it that way.

The Hon. PETER BREEN: Did you actually see it?

Mr HANSEN: I recall it being there but I certainly did not sit down and read it, because at that stage it was a draft and I was going to wait until it became a more substantial document in status.

The Hon. PETER BREEN: So you would not have seen the allegations about recruitment at schools?

Mr HANSEN: No, not particularly, and it was not drawn to my attention.

The Hon. PETER BREEN: Did you expect to learn anything about that when you issued the directive memorandum?

CHAIR: Or the memorandum.

The Hon. PETER BREEN: Yes, the memorandum, sorry.

Mr HANSEN: I could not really anticipate what the response to my memorandum was, but I would have in some respect expected some information upon which an assertion was made. I may well have also received a response that said "We did not say that, the *Herald* got it wrong". I could also have received one that said "This is a matter between me and the parliamentary inquiry and I do not intend to tell you". So, there could have been a variety of responses and I can only speculate what they may have been.

The Hon. PETER BREEN: Can you give us any information about why there was no directive memorandum—

CHAIR: Or a memorandum.

The Hon. PETER BREEN: Or a memorandum issued to Detective Priest after he gave his evidence?

Mr HANSEN: No. I am aware that he provided an allegation. Certainly that was consistent, to my understanding, with an incident that occurred at the school, and he used that as the basis for his assertion. I was aware of that incident and knew the facts of the incident, and I was not aware of any other information that he had.

The Hon. PATRICIA FORSYTHE: Why would that not also have applied to the four officers who gave evidence in relation to this so-called incident?

Mr HANSEN: I did not know what they were basing their assertion on. They may well have had other information that I was unaware of. That was the purpose of my request.

The Hon. AMANDA FAZIO: Would you have expected the Police Association of New South Wales to have known the difference between a directive memorandum and the memorandum such as you issued? If it would know, why do you think it would not have advised the four officers when they contacted the Police Association of the difference between the two?

Mr HANSEN: The answer to the first part of your question, I would have thought they would have known the difference, bearing in mind they are police down there and no doubt they would have reviewed various investigations on behalf of their members. I am not sure. I think probably it came about simply because of that word "direct" in the body. I can only speculate on that.

CHAIR: And the police legal branch using the term in its memos.

(The witness withdrew)

DEBORAH WALLACE, Chief Inspector of Police, Cabramatta Police Station, sworn and examined,

CHAIR: Have you heard the opening statement I made earlier today?

Ms WALLACE: Yes sir, I did.

CHAIR: And the media should take note of the instructions about what they report. Ms Wallace, did you receive a summons issued under my hand in accordance with the Parliamentary Evidence Act 1901?

Ms WALLACE: Yes, I did.

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

Ms WALLACE: Yes, I am.

CHAIR: Do you have a written submission?

Ms WALLACE: No, I do not.

CHAIR: Do you wish to make a short statement or an opening statement?

Ms WALLACE: No, I do not.

CHAIR: Again, I can indicate to you that if you wish to give any evidence or present any documents that you feel should be heard or seen only by the Committee, the Committee will accede to your request and go into camera.

Ms WALLACE: Thank you.

CHAIR: As you gather from the witnesses we have had, starting with the Commissioner himself, we wish to get from each person their opinions and views on the matter before us, which is whether there has been a possible contempt of Parliament. Obviously we have had a debate about this directive memorandum.

Ms WALLACE: Yes.

CHAIR: What was your view about the memorandum sent to the police witnesses? Did you understand it to be a memorandum or a directive memorandum?

Ms WALLACE: I have not seen it to know exactly what it looks like, but from what I have heard today it certainly is not what I would consider to be a directive memorandum. It would be a memo, from what I am hearing today. With my experience of having worked in internal investigation matters, when they are usually used and having received a directive memorandum on occasions myself, knowing under what circumstances they are issued.

CHAIR: Are you surprised that the officers concerned thought it was a directive memorandum and so did the legal branch use that term?

Ms WALLACE: I cannot say how they would feel having received it. I can only say in a similar scenario, but I would probably say yes.

CHAIR: Have you had any involvement with the witnesses trying to seek your assistance or clarification about the document or their evidence before the parliamentary inquiry?

Ms WALLACE: No, not at all.

CHAIR: You had no discussions with the witnesses?

Ms WALLACE: About the directive memorandum or memorandum?

CHAIR: Yes, the memorandum and the evidence they were planning to give to the inquiry.

Ms WALLACE: No, because I did not know who was attending the inquiry.

CHAIR: Are you aware of any attempts to harass or intimidate those police witnesses in giving evidence?

Ms WALLACE: No.

CHAIR: You have heard no reports of that occurring?

Ms WALLACE: Not to my knowledge, no.

The Hon. PATRICIA FORSYTHE: We have heard some evidence in relation to an incident at Cabramatta High School which was apparently the subject of a COP system entry. What was the nature of the entry and I understand that subsequently to that you made an addendum. If you could explain what your role was in relation to that entry, when you made the entry and why the time lag between the original entry and your decision to add to the entry?

Ms WALLACE: I recall, as my practice as crime manager at Cabramatta, I often review incidents on the computer daily of significant. I do not recall when the incident was first reported on the day, and I believe it was 19 February. It drew my attention to no more than simply reviewing the crime that occurs on a daily basis. The reason I did not pay significance to it in particular is that when I read the content of the narrative it said that some Asian males had attended the school—I cannot remember the exact words—and had an incident involving some teachers. As you go on there are a number of additions you put to an entry when you put it in to give an indication whether it might be ethnically based or alcohol related or drug related, and I looked on the back on this occasion to see whether there was any associated factor, and my recollection is there was not. I gave it no more attention than that and it simply went through our cell that collates all the information.

It was not until sometime later that an inquiry was made. There was a lot of media attention as a result of the evidence given by Sergeant Priest and he related that incident. At that time it was my understanding that the principal of the high school was contacted I think by the media in relation to his version of events. He was quite upset that it was portrayed in the way of, in his words, "gang members in gang cars". He was quite upset because that was not the case. Even the original entry described by the original police officer has "young Asian males". It is my understanding at that time that Mr Kidd spoke to Superintendent Hansen and gave him his eyewitness version of the incident. Mr Hansen then relayed that eyewitness version from detailed notes taken with Mr Kidd, the principal at the time, and sought my advice. I said it is similar but a bit more detailed in that he described the young Asian males as students from another school, which is common practice and accepted practice and proper practice in any investigation.

I did an additional narrative, which is like an ongoing running sheet of the incident of point of clarification, and commenced that new narrative with words similar to "Mr Hansen following a further conversation obtain disinformation from the principal, who would like to clarify the issues as follows". If I was to compare it to any other investigation, if I was to give an example, is it common, the answer is definitely yes. If I was to give an example of a missing person, police do ongoing investigations about that and every time a new inquiry is made about that a new narrative is added to the original report of the missing child.

CHAIR: Was the original report from the principal of the school?

Ms WALLACE: It did not say. I am not sure who the young constable who attended there first spoke to. It is my understanding it was, but I could not say for sure because there were a number of teachers there that day.

The Hon. PATRICIA FORSYTHE: So in actual fact what we have was a recording of an incident at Cabramatta High School, there is no doubt about that?

Ms WALLACE: That is correct.

The Hon. PATRICIA FORSYTHE: According to evidence this morning, there is a suggestion that following Detective Sergeant Priest's evidence to the Committee that you made comments about it at a morning meeting, a morning parade, after that?

Ms WALLACE: Yes.

The Hon. PATRICIA FORSYTHE: Can you explain why it was necessary to make comments about the evidence of Detective Sergeant Priest?

Ms WALLACE: I do not recall I made any comments about that incident. The only comments I remember making at any parade were in relation to one small line of evidence and it was brought to my attention by my staff and it related to a question about—at one stage in the mid-1990s there was a suggestion that they were going to put gang squads in districts, and the question was "Are you aware of that occurring", to which I recall Sergeant Priest's evidence was "No". Some of my staff at Cabramatta were part of a district gangs squad between 1995 and 1997. They worked extremely hard and achieved outstanding results, so it was a point of clarification for those newcomers that there was gang focus in the 1990s, but that is the only reference to the matter. It was because a number of police felt that all their work had been for nothing.

The Hon. PATRICIA FORSYTHE: If you had made some comments in relation to Detective Sergeant Priest's evidence and there is evidence of a report in the systems entry, would the knowledge of that incident at Cabramatta High School have been widely known by other members of the Police Service at Cabramatta, in particular the four who appeared before the Committee?

Ms WALLACE: The original incident?

The Hon. PATRICIA FORSYTHE: Yes.

Ms WALLACE: Not necessarily. The original person who puts the entry in would certainly be aware. People on his shift may be aware. But unless you go in particular to look at the daily summaries every day, there are crimes that not every officer is aware of. I would suggest that probably after the evidence was given people looked at it to see, but at the actual time, on 19 February, I would say probably not that many except the shift would be aware of it.

Hon. PETER BREEN: Did the incident take place on 19 February?

Ms WALLACE: Yes, to the best of my recollection.

The Hon. PETER BREEN: After Priest gave evidence and you had discussions with Hansen you went back to the COP system and updated it.

Ms WALLACE: Yes.

The Hon. PETER BREEN: Was that unusual? Would it have been more usual for you to instruct Bradley Element to do that?

Ms WALLACE: No, I would not instruct the other constable to do it because he was not privy to the information. Any investigation starts off with a primary narrative or primary result. It is quite common for any police to go in. In fact, we have in place a system for monitoring a particular client area, for example. We might want police to go there three, four and five times a day, and it is common for a number of police to update the entry that I might start. It is a running investigation.

CHAIR: To clarify that point, the crime narrative is obviously very important. It sounds as though you did not expect people to look at it. Is not the purpose of the crime narrative to keep people, certainly sergeants, up to date with reports that have been made? People such as Detective Sergeant Priest would look at that narrative?

Ms WALLACE: That would not be uncommon.

CHAIR: It would be expected of them. That is my point. Is it not their job?

Ms WALLACE: Yes, particularly the sergeant at that command who must verify his activities for the day. For example, it would not be usual for someone at Gladesville to look at Cabramatta's crime.

CHAIR: I understand that; I am referring to the officers at Cabramatta.

Ms WALLACE: It is an individual's commitment to the process. The information is there for all and sundry to see from the time that it is recorded. That is the purpose of this system: To allow the free flow of information.

The Hon. PETER BREEN: Did you have the opportunity to see the proposed submission by the four officers?

Ms WALLACE: No.

The Hon. PETER BREEN: Did you have any discussions with anyone about it?

Ms WALLACE: I had no idea what the four officers intended to say. I knew only that some police from Cabramatta may attend.

The Hon. PETER BREEN: Superintendent Hansen gave evidence that he knew there was a draft submission—in fact, he indicated that he had seen it but not read it. Were you privy to that document?

Ms WALLACE: The branch submission?

The Hon. PETER BREEN: Yes.

Ms WALLACE: Yes, I was certainly aware of the branch submission.

The Hon. PETER BREEN: Had you read the branch submission?

Ms WALLACE: On the morning it was to be tendered to the branch one of the branch officials came into my office and said, "We finally have the submission." I believe he passed his copy to me to look at and I remember reading the first few pages, which were about moving forward in the future. I thought it looked fairly positive but I did not take note of the contents per se because it was not my document to comment on.

The Hon. PETER BREEN: Other people have said that the content caused the submission to be rejected by the branch. Do you know what aspect of the content was a problem?

Ms WALLACE: Yes, there was a large amount of it. I was invited to the meeting where the document was tendered. There was lots of discussion between the 25 to 30 people present. Different people rejected different parts of the document.

The Hon. PETER BREEN: Was there any discussion about recruitment by gangs?

Ms WALLACE: Yes, I recall that part was definitely rejected—I do not know by how many. When someone raised the issue and said "I disagree"—I do not know the exact contents that he disagreed with—the administrator asked the youth liaison officer whether the officer had knowledge of it because when that officer had spoken to the administrator about it, the person was quite vague. That did not sway some of the group to reject it. So many components of the document were rejected that the branch official, to his credit, said, "Well, it's your document and if you don't want to submit it then we don't have to." I recall that he collected it from them and that was the end.

The Hon. PETER BREEN: Do you remember seeing the words in the document about recruitment from schools?

Ms WALLACE: No. I read the first few pages and, when I saw where it was going, I thought it looked positive and did not read any further. It was not my document.

CHAIR: I imagine it would be very difficult to get 20 or 30 officers working in different areas on different matters to agree on a submission. I suppose it is unusual even to have a submission in the first place.

Ms WALLACE: Exactly. It was significant that the majority of the staff at the time felt—I remember the comments made at the meeting—that they had moved a long way in a few months. They were working very hard and they were happy with management. Drug work was a priority and many of them at the meeting voiced their reluctance even to give a submission. They said that they did not intend to give a submission. According to the minutes from the following meeting—I did not attend it but I have read the minutes—the motion was passed that the branch would not make a submission. To his credit, the administrator said, "That's okay; you don't have to if you don't want to. It is purely up to you." The invitation was offered at that point. There was discussion about it that morning. I remember walking into my office and seeing lots of staff there. I asked "Do you know there is a meeting today? You are free to go and I will give you time to go if you so desire." However, no-one took my offer.

CHAIR: In other words, you were concerned that a submission about past problems that had been rectified could be misleading?

Ms WALLACE: They felt that they had moved on and they wanted to give all the changes that had been implemented. Things were looking for good for them. That was the impression that they gave even at that open meeting.

The Hon. PATRICIA FORSYTHE: The decision to make a submission arose from the evidence of Detective Sergeant Priest and the following media comments. Is that correct?

Ms WALLACE: No. Conversations around the command at the time were that the staff were under the impression—I do not know where they got it; it proved not to be correct—that they had to make a submission as a branch; otherwise every member of the command would be subpoenaed to give evidence. They felt in that case it would be better to give one submission so that 100 police would not be called. When that impression was refuted, I believe they said it was up to the individual to go.

The Hon. PATRICIA FORSYTHE: Prior to determining that they did not have to give a submission, how many meetings took place and what was the nature of the discussions at those meetings?

Ms WALLACE: There was only one meeting on 15 March. I cannot recall the discussions that took place. Not many people were present: there were seven police, former and present members of the association, the president of the association and the facilitator, Mr Chilvers, who wrote the submission, and me. I was extended an invitation to attend as a management observer, and I thought it was a wonderful move forward. I believe that is the only meeting that took place.

The Hon. PATRICIA FORSYTHE: Was the issue of so-called gang recruitment at Cabramatta High School discussed that day?

Ms WALLACE: Not that I recall. The discussion was mainly about past issues—for example, the 1999-2000 period, which is what the inquiry was to focus on, and addressing moving forward. The meeting took quite a positive direction. I do not recall anything specific being said about recruiting.

Mr HUGHES: Mr Chairman, may I have leave to present a written submission to the Committee after we have had an opportunity to read and evaluate the evidence that was given this morning and other evidence on the question of whether or not the Committee should report that a contempt was committed?

CHAIR: A submission on behalf of one or more witnesses?

Mr HUGHES: Yes.

CHAIR: We have no objection to that. There is no reason for our not accepting such a submission.

Mr HUGHES: I would be obliged to have that leave.

CHAIR: The Committee has not made any decision to publish any submissions at this stage. We understand that there is some sensitive material containing names so we are reluctant to give blanket approval until the Committee has time to examine the documents.

Mr HUGHES: I had in mind the evidence that has been given in public. I will make a submission based on that, without trespassing upon the confidential material.

CHAIR: Thank you.

(The witness withdrew)

(The Committee adjourned at 4.42 p.m.)