



POLICE INTEGRITY COMMISSION

REPORT TO PARLIAMENT
OPERATION RANI

DECEMBER 2007

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The Hon Peter Primrose MLC
President
Legislative Council
Parliament House
SYDNEY NSW 2000

The Hon Richard Torbay MP
Speaker
Legislative Assembly
Parliament House
SYDNEY NSW 2000

Dear Mr President and Mr Speaker

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

I draw your attention to section 103(2) of the *Police Integrity Commission Act 1996*, pursuant to which I recommend that this Report be made public forthwith.

Yours faithfully

A handwritten signature in black ink, appearing to read "J Pritchard".

J Pritchard
Commissioner

December 2007

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EXECUTIVE SUMMARY

Operation Rani was an investigation by the Police Integrity Commission (the Commission) into the NSW Police Force investigation of the disappearance of Bathurst woman, Ms Janine Vaughan, in the early hours of Friday 7 December 2001. Ms Vaughan had been drinking with friends on the evening of 6 December and into the early hours of 7 December 2001. She left the Tavern Nightclub in Bathurst around 4 a.m. and as she walked approximately 40 metres ahead of her friends a red car was seen to stop near her. Without hesitating she entered the vehicle which then drove off. She has not been seen or heard of since.

Bathurst police officers commenced an investigation. The officer originally in charge of the investigation was (former) NSW Detective Sergeant Bradley George Hosemans (Hosemans) who was, at that time, not only working in the Investigations Branch of Bathurst Police but also the Deputy Mayor of Bathurst. During the week following Ms Vaughan's disappearance the investigation was taken over by homicide detectives from Crime Agencies¹ in Sydney. Strike Force Toko was established and Detective Inspector Paul Jacob (Jacob) was appointed to lead the Strike Force.

During 2002 Hosemans became a person of interest to the investigation. In 2003 Hosemans was dismissed from the NSW Police Force as a result of matters unrelated to Ms Vaughan's disappearance. In June 2005 the Commissioner of Police received an anonymous letter alleging that Hosemans was involved in the disappearance of Ms Vaughan.

The Commission's investigation focused on the role of Hosemans in the initial investigation of Ms Vaughan's disappearance, the manner in which any association between Hosemans and Ms Vaughan was investigated, and the reports Jacob prepared in response to the letter received by the Commissioner of Police.

A public hearing was held in Orange, NSW from 5-7 June 2006 and continued in Sydney on 21 August 2006. A number of private hearings were also held during 2006; the final private hearing concluded in November 2006.

The following persons were the subject of substantial allegations made during the investigation and therefore are "affected persons" for the purposes of section 97 of the *Police Integrity Commission Act 1996* (the Act):

- Hosemans, Bradley George
- Jacob, Paul Yervan
- McFawn, Lance Leslie
- Sim, Ritchie Ian Duncan

¹ In 2002 Crime Agencies was amalgamated with the Information and Intelligence Centre to form the State Crime Command.

- Young, Stephanie Anne

All of those “affected persons” gave evidence after a declaration had been made pursuant to section 41 of the Act. The effect of that declaration is that the evidence they gave cannot be used against them in civil or criminal proceedings except in relation to offences under the Act, and in the case of police officers, managerial action against them by the NSW Police Force.

The Commission makes the following assessments and recommendations.

Pursuant to subsection 16(1)(a) of the Act the Commission considers that Hosemans engaged in police misconduct because he deliberately provided Jacob with a statement containing false information regarding his whereabouts on the night Ms Vaughan disappeared. In addition the Commission is of the opinion that the breaches by Hosemans of the agreement he had made with Superintendent Kuiters, the Local Area Commander, restricting his duties, amounted to police misconduct.

However the Commission considers that there is no reliable evidence linking Hosemans to the disappearance of Ms Vaughan and is of the opinion that consideration **should not** be given to the prosecution of Hosemans for any criminal offences. Hosemans is no longer a serving NSW Police Force officer so the question of taking action pursuant to subsections 97(2)(b)-(d) of the Act does not arise.

Pursuant to subsection 16(1)(a) of the Act the Commission considers that Jacob engaged in police misconduct because:

- he failed to act upon, and thoroughly investigate, whether or not police were deliberately leaving out of statements information that suggested an association between Hosemans and Ms Vaughan;
- he prepared a deliberately misleading report to Kuiters in response to the request for a report in relation to the matters raised in the anonymous complaint to the Commissioner of Police in June 2005; and
- he prepared a deliberately false and misleading report in response to questions raised by the NSW Ombudsman after that office’s review of the report Jacob prepared for Kuiters.

The Commission is of the opinion that consideration **should not** be given to the prosecution of Jacob for any criminal offences. However the Commission believes that the evidence supports the opinion that consideration **should** be given to the taking of action against Jacob pursuant to subsection 97(2)(c) of the Act, or alternatively subsection 97(2)(d).

The Commission considers that the evidence does not meet the requisite standard to enable a finding of police misconduct to be made in relation to McFawn and that therefore consideration **should not** be given to the taking of any action against McFawn pursuant to 97(2) of the Act.

Pursuant to subsection 16(1)(a) of the Act the Commission considers that Sim engaged in police misconduct because he deliberately misled the Coroner and Sergeant Norton, the Senior Coronial Advocate, when he stated to them that a police officer had been a person of interest in relation to Ms Vaughan's disappearance, had given an alibi and that the alibi had been investigated and confirmed. The Commission is of the opinion that consideration **should not** be given to the prosecution of Sim for any criminal offences. However the Commission believes that the evidence supports the opinion that consideration **should** be given to the taking of action against Sim pursuant to subsections 97(2)(c) or (d) of the Act.

Young is a civilian employed by the NSW Police Force. Pursuant to subsection 16(1)(a) of the Act the Commission considers that Young engaged in other misconduct because she deliberately produced a false document to the Commission and gave false evidence about it. The Commission believes that the evidence supports the opinion that consideration **should** be given to the prosecution of Young for an offence against section 107 of the Act, being an offence of knowingly give false or misleading evidence.

Pursuant to section 16(1)(c) of the *Police Integrity Commission Act 1996*, the Commission may make recommendations for the taking of other action that the Commission considers is appropriate in relation to the subject matter of its assessments or opinions, or the results of any investigations. In this Report the Commission comments on the following matters:

- The establishment of Strike Force Toko;
- Co-operation between the Local Area Command and specialist units; and
- Exhibits, intelligence and information management.

The Commission makes the following recommendations:

- That during protracted investigations annual reviews of Joint Agreements between Local Area Commands and Specialist Commands are conducted and, when the original signatories to an agreement are transferred, that those reviews should include the re-signing of a joint investigation agreement;
- That the use of job books, or occurrence pads, in investigations is reviewed by the NSW Police Force;
- That the NSW Police Force considers instigating a cluster model arrangement to share intelligence officers, similar to the current shared duty officer initiative, thus ensuring that Local Area Commands have intelligence officer capacity available at all times.

The Commission also notes that the NSW Police Force has established a new Strike Force to investigate the disappearance of Ms Vaughan, Strike Force Mountbatten. Consultation between the Commission and Strike Force Mountbatten is continuing. The preparation of this Report was deliberately delayed to permit liaison between the Commission and the new Strike Force in the period immediately following the conclusion of the Commission's investigation.

GLOSSARY

CCR	Call Charge Record – a record of calls made from a service number derived from billing system records
COPS	Computerised Operational Police System
Crime Agencies	In 2002 Crime Agencies was amalgamated with the Information and Intelligence Centre to form the State Crime Command
e@gle.i	NSW Police Force Intranet based investigation management system
ESDA	Electrostatic Detection Apparatus
HSVCA	Homicide & Serial Violent Crime Agency
LAC	Local Area Command
Job Book	The “Job Book” is a book kept at the front desk of a police station and information is written in it. Information written in the book is not able to be linked to electronic databases, e.g. COPS and e@gle.i, unless the information is also entered onto those databases.

1. INTRODUCTION

- 1.1 On the evening of Thursday 6 December and into the early hours of Friday 7 December 2001, 31 year old Janine Mary Vaughan was drinking with friends at the Ox Hotel and later at the Tavern Nightclub in Bathurst. After she left the Nightclub, just before 4 a.m. on 7 December 2001, Ms Vaughan walked up Keppel Street, Bathurst, near Machattie Park, about 40 metres ahead of her friends. A distinctly red coloured vehicle stopped near her and she was seen to enter the vehicle which then drove off. Ms Vaughan has not been seen since.
- 1.2 In 2001 Ms Vaughan was the Manager of the Ed Harry Menswear Store in Bathurst. When the store did not open on the morning of 7 December 2001 a customer rang the Lithgow store. The manager there contacted the head office of Ed Harry Menswear and attempts were made to locate Ms Vaughan. Later that afternoon when she was still unable to be located the police were notified of her disappearance and inquiries were commenced.
- 1.3 At that time Inspector Mark Gallagher (Gallagher) was relieving in the role of Acting Chifley Local Area Command Duty Officer and Crime Manager and stationed at Bathurst. In that position he had overall responsibility for the investigation into the disappearance until it was taken over by Crime Agencies personnel who were based in Sydney.
- 1.4 In 2001 (then) Detective Sergeant Bradley George Hosemans (Hosemans) held the position of Investigations Manager, Chifley Local Area Command (LAC) and was working in the Investigations Branch of Bathurst Police. In the initial stages of the investigation Hosemans managed the day to day work of the detectives and the receipt of information from them.²
- 1.5 The investigation into Ms Vaughan's disappearance was codenamed "Operation Toko". During the week following her disappearance the investigation was taken over by homicide detectives from Crime Agencies in Sydney. Detective Inspector Paul Jacob (Jacob) was appointed to lead the investigation. Operation Toko was renamed Strike Force Toko.
- 1.6 Hosemans remained on the investigation until about April 2002 when he took a new position within the NSW Police Force and ceased working on Strike Force Toko. His employment with the NSW Police Force was terminated in 2003 as a result of matters unrelated to Ms Vaughan's disappearance. During the first year of the Strike Force Toko investigation Hosemans became a person of interest, although by the end of 2002 he was no longer considered by Strike Force Toko to be a person of interest.

² PIC Transcript, M Gallagher, 5 June 2007, p. 27

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- 1.7 On or about 2 June 2005 the Commissioner of Police received an anonymous letter alleging the following:³

Why havent you done anything about this bastard Hoseman here in Bathurst especially about that he did that woman in who is still missing. he tried to fuck her and she knocked him back even on the night she went missing. Everyone knows about it and you do to and you havent done anything about him. Put the Bastard in jail where he belongs Some nurses at the Bathurst hospital know that he did it and they are to frightened to speak up and they were there that night as he will get at them to like he has others before. ...

- 1.8 The anonymous letter was treated by the NSW Police Force as a complaint under Part 8A of the *Police Act 1990* and brought to Jacob's attention. Jacob prepared a report dated 5 July 2005 for the Assistant Commissioner of the Western Region, the Commander of the Homicide Squad, and the Manager, Investigations Co-Ordination, State Crime Command in relation to the manner in which the nature of any association between Ms Vaughan and Hosemans had been investigated.⁴ The Ombudsman reviewed the report and raised some further questions. Jacob then prepared a further report for the Ombudsman, dated 27 November 2005, dealing with those questions.⁵
- 1.9 The complaint was referred to the Commission in August 2005 and an investigation into the anonymous allegations was formally commenced on 26 September 2005. The Commission's public hearing in Operation Rani commenced in Orange, NSW, on 5 June 2006 and continued until 7 June 2006. The hearing was then adjourned and resumed in Sydney for one day on 21 August 2006. A number of private hearings were also held, concluding in November 2006. The scope and purpose of the public hearing was:⁶
- To investigate the circumstances surrounding the disappearance of Ms Janine Mary Vaughan from Bathurst on 7 December 2001, and the conduct of NSW Police involved in the subsequent investigation of her disappearance.
- 1.10 The Commission's investigation focused on the role of Hosemans in the initial investigation of Ms Vaughan's disappearance, the manner in which any association between Hosemans and Ms Vaughan was investigated, and the reports Jacob prepared in response to the anonymous letter received on 2 June 2005 by the Commissioner of Police.

THE WITNESSES

- 1.11 Twenty-five witnesses gave evidence as part of the Commission's investigation; some on more than one occasion. A number of the witnesses gave evidence in private hearings and edited transcripts of their evidence were later admitted as exhibits in the public proceedings.⁷

³ PIC Exhibit 50 (6758335)

⁴ PIC Exhibit 51B

⁵ PIC Exhibit 53C

⁶ PIC Exhibit 1, PIC Transcript, 5 June 2006, p. 2

⁷ PIC Exhibits 89, 90, 108, 109, 110, 111, 112

- 1.12 Eleven serving NSW Police Force officers gave evidence.⁸ One witness, Hosemans, was a former NSW Police Force officer at the time of the hearing. The remaining 13 witnesses were civilians although one of those, Stephanie Young, is a civilian employee of the NSW Police Force. A short profile of each of the witnesses follows.

NSW POLICE FORCE WITNESSES

Inspector Ian Alexander Borland

- 1.13 Ian Borland (Borland) is an Inspector of Police stationed at Bathurst. He joined the NSW Police Force in 1972 and has served in the Bathurst area since 1979. At the time he gave evidence he held the position of Duty Officer at Bathurst Police Station although he had been on sick leave since January 2006.
- 1.14 In December 2001, at the time of Ms Vaughan's disappearance, he was the Acting Local Area Commander. He was not directly involved in any part of the investigation into her disappearance. Borland was however the signatory, as Acting Local Area Commander, to the Work Place Agreement⁹ that operated to restrict Hosemans' duties in 2001-2002.

Detective Sergeant Jason Paul Dickinson

- 1.15 Jason Dickinson (Dickinson) joined the NSW Police Force in 1993. In 2001 he was attached to the homicide section of Crime Agencies and was part of the HSVCA (Homicide & Serial Violent Crime Agency) response team.¹⁰ At that time he held the rank of Detective Senior Constable. He gave evidence that he worked on Strike Force Toko for several months.¹¹
- 1.16 Dickinson attained the rank of Sergeant in 2004. At the time he gave evidence he was attached to the Child Protection and Sex Crimes Squad.

Detective Inspector Mark Gallagher

- 1.17 Mark Gallagher (Gallagher) joined the NSW Police Force in 1984. In 2001 he held the substantive rank of Sergeant and was attached to Canobolas LAC. At the time of Ms Vaughan's disappearance he was relieving as Acting Duty Officer and Crime Manager at Chifley LAC and held the rank of Acting Inspector. He worked an evening shift at Bathurst on the evening of 7 December 2001 when inquiries were commenced into Ms Vaughan's disappearance.
- 1.18 As the Acting Duty Officer and Crime Manager Gallagher had overall responsibility for major crime investigations in the LAC and as such was in

⁸ One of those officers has since retired from NSW Police.

⁹ PIC Exhibit 4

¹⁰ The HSVCA was part of Crime Agencies which, in 2002, was replaced by the State Crime Command.

¹¹ PIC Transcript, JP Dickinson, 5 June 2006, p. 39

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overall charge of the investigation until Jacob and the team from Sydney took over.¹² He was the author of Situation Reports dated 8, 10 and 11 December 2001.¹³

- 1.19 Gallagher attained the substantive rank of Inspector in 2003 and at the time he gave evidence was attached to the Proactive Deployment Group, Dapto Police Station, Lake Illawarra LAC.

Bradley George Hosemans

- 1.20 Hosemans joined the NSW Police Force in 1982 and left in 1984. He rejoined in 1988 and was stationed in Bathurst until he was dismissed in 2003 under the provisions of section 181D of the *Police Act 1990* following an incident at the Bathurst Golf Club on 20 October 2001.
- 1.21 As a result of that incident at the Bathurst Golf Club Hosemans was charged with a number of offences, including wilful and obscene exposure and aggravated indecent assault. All the charges were eventually dismissed in the Local Court at Bathurst.
- 1.22 Hosemans attained the rank of Sergeant in 2001. At the time of Ms Vaughan's disappearance Hosemans held the position of Investigations Manager, Chifley LAC. He was also the Deputy Mayor of Bathurst, having been elected onto the Council in 1995. He remained on the Council until 2004.
- 1.23 At the time of Ms Vaughan's disappearance Hosemans was working restricted duties pursuant to a Work Place Agreement entered into as a result of the abovementioned criminal charges.¹⁴ He was on leave on the day of Ms Vaughan's disappearance and returned to work on 10 December 2001. On his return he was initially in charge of the investigation until it was taken over by the Homicide Detectives from Sydney. He remained part of the investigation team until April 2002 and continued to have some involvement with the investigation until October 2002.

Detective Inspector Paul Yervan Jacob

- 1.24 Jacob joined the NSW Police Force in 1979. He served as a detective in investigations at various locations from 1985 and transferred to the Homicide Squad in 1997. He attained the rank of Inspector in July 2001. In 2006 when he gave evidence before the Commission Jacob was working on the Sex Crimes Team, which is part of the Child Protection and Sex Crimes Squad.
- 1.25 On Wednesday 12 December 2001 Bathurst detectives contacted the HSVCA call out team for assistance because it was thought that a number of other

¹² PIC Transcript, M Gallagher, 5 June 2006, p. 26

¹³ PIC Exhibits 2, 3 & 140C

¹⁴ PIC Exhibit 4

offences committed in the Bathurst area might be linked to the disappearance of Ms Vaughan. Following the decision that Crime Agencies was to take over the investigation, a Strike Force was formed and Jacob was appointed Officer in Charge of the investigation. On Sunday 16 December 2001 the Strike Force was deployed and Jacob and other officers travelled to Bathurst.

- 1.26 Jacob remained in charge of Strike Force Toko until 10 May 2004 when Detective Senior Constable Ritchie Sim took over. During the time he was in charge of Strike Force Toko, Jacob, and the other investigators, were based in Sydney and also worked on other investigations. A number of local detectives, including Hosemans, continued to assist the Strike Force Toko investigation.

Superintendent Franciscus Gaston Kuiters

- 1.27 Franciscus Kuiters (Kuiters) joined the NSW Police Force in 1971. In December 2001 he was the Local Area Commander at Bathurst although he was not working in Bathurst at the time Ms Vaughan disappeared. As stated above, Borland was the Acting Local Area Commander in his place.
- 1.28 Kuiters returned to Bathurst around 18 December 2001 and by that time the investigation had been taken over by Jacob and the team from Sydney. Kuiters did not take an active role in the investigation into Ms Vaughan's disappearance although he was involved in the establishment of the Strike Force and the allocation of resources to it. He was also directly involved in the supervision of Hosemans.
- 1.29 Jacob's Report dated 5 July 2005,¹⁵ in response to the anonymous allegation about Hosemans and the manner in which the nature of any association between Ms Vaughan and Hosemans had been investigated, was prepared after a memorandum was sent to him by Kuiters. The memorandum requested that Jacob advise whether Hosemans was interviewed as part of the investigation and asked for Jacob's confidential views on the investigation.¹⁶
- 1.30 Kuiters retired from the NSW Police Force on 30 September 2006.

Detective Sergeant Lance Leslie McFawn

- 1.31 Lance McFawn (McFawn) joined the NSW Police Force in 1984. He has been stationed at Bathurst since 1992 and has been involved in criminal investigation since 1997. In 2001 he held the rank of Detective Senior Constable. McFawn attained the rank of Sergeant in 2002.
- 1.32 McFawn gave evidence that he was recalled to duty on Saturday 8 December 2001 and continued the investigation until the arrival of the team from Sydney. He said he had the "*on-the-street*" control of the investigation which

¹⁵ See paragraph 1.8 above

¹⁶ PIC Exhibit 51B

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he defined as “... *the decisions in relation to where to go as far as crime scenes, statements, that type of thing. But the overall control would rest with the investigations manager and the crime manager*”.¹⁷

- 1.33 He continued to work on Strike Force Toko after the investigation was taken over by the detectives from Crime Agencies.

Detective Senior Constable Scott Brian McWhirter

- 1.34 Scott McWhirter (McWhirter) joined the NSW Police Force in 1995. In 2001 he was attached to the Western Target Action Group based at Orange. From there he was assigned to Strike Force Toko and performed numerous tasks in the early stages of the investigation. In early 2002 he received notification that he had won a position at Orange detectives and he was reassigned to that position. He remains stationed at Orange.

- 1.35 In April 2002 while at Orange he received some information from a witness codenamed RA2 in relation to Hosemans’ connection with Ms Vaughan. He passed this information on to Inspector Waterman.

Sergeant Tara Anne Norton

- 1.36 Tara Norton (Norton) joined the NSW Police Force in 1992. She attained the rank of sergeant in 2004. In 2006 she was attached to the Coronial Law Unit of Legal Services and held the position of Senior Coronial Advocate.

- 1.37 In her capacity as Senior Coronial Advocate Norton was responsible for liaison with Sim in relation to the provision and finalisation of the missing person brief regarding Ms Vaughan’s disappearance. She also conducted a review of the brief in preparation for a conference with the Coroner.¹⁸

Detective Sergeant Matthew Scott O’Donnell

- 1.38 Matthew O’Donnell (O’Donnell) joined the NSW Police Force in 1994. In 2001 he held the rank of Senior Constable and was stationed at Lithgow carrying out criminal investigation duties. In December 2001 he was asked to relieve as Detective Sergeant at Bathurst Police Station. While working at Bathurst he became involved in the investigation into Ms Vaughan’s disappearance. He gave evidence that he was working at Bathurst prior to Jacob becoming involved in the investigation. In his position as Detective Sergeant he reported to the Crime Manager, who at that time was Acting Inspector Gallagher, and to Hosemans, the Investigations Manager.¹⁹

- 1.39 He attained the rank of Sergeant in 2002. At the time he gave evidence he was on secondment to the Independent Commission Against Corruption.

¹⁷ PIC Transcript, LL McFawn, 5 June 2006, p. 57

¹⁸ PIC Exhibit 80C

¹⁹ PIC Transcript, MS O’Donnell, 5 June 2006, pp. 31-32

Detective Senior Constable Ritchie Ian Duncan Sim

- 1.40 Ritchie Sim (Sim) joined the NSW Police Force in 1988. In 2001 he was working in the Homicide Squad at Crime Agencies. He gave evidence that he was assigned to Strike Force Toko shortly after it commenced in December 2001.²⁰
- 1.41 Sim continued to work on Strike Force Toko and took over from Jacob as the officer in charge of the investigation in early 2004. He prepared the brief to the Coroner, the majority of which was completed and handed to the Coroner in January 2006.
- 1.42 At the time he gave evidence Sim was attached to the Property Crime Squad in State Crime Command. He retained responsibility however for the finalisation of the missing person brief to the Coroner in respect of Ms Vaughan.

Detective Inspector Andrew Phillip Waterman

- 1.43 Andrew Waterman (Waterman) joined the NSW Police Force in 1980. In 2001 he held the rank of Sergeant and worked in the Homicide Squad in Crime Agencies. He attained the rank of Inspector in 2005 and at the time he gave evidence was still attached to the Homicide Squad.
- 1.44 Waterman was assigned to the Strike Force Toko investigation from the time Crime Agencies took over the investigation although, because he was on leave in December 2001 and early January 2002, he did not commence work on the investigation until the middle of January 2002.²¹
- 1.45 He gave evidence that his main role in the investigation finished about July 2002. He did continue to have some minor involvement from time to time after that date but was predominantly working on other investigations.²²

Stephanie Anne Young

- 1.46 Stephanie Young (Young) is a civilian employee of the NSW Police Force. Young met Hosemans in 2001 when she was a student police officer at Bathurst Police Station. In late 2001 they commenced a relationship which continued until early 2005.
- 1.47 Young gave evidence before the Commission twice, at private hearings in August and November 2006. Edited transcripts of those hearings were later tendered as exhibits in the public proceedings.²³ Young told the Commission she thought she had been with Hosemans on the night Ms Vaughan

²⁰ PIC Transcript, RID Sim, 21 August 2006, p. 277

²¹ PIC Transcript, AP Waterman, 5 June 2006, p. 71

²² PIC Transcript, AP Waterman, 5 June 2006, p. 78; PIC Transcript, AP Waterman, 7 June 2006, pp. 238-239

²³ PIC Exhibits 111 & 112

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disappeared. She produced diary entries to the Commission which, she said, provided corroboration for her account of the night Ms Vaughan disappeared.

CIVILIAN WITNESSES

Graham Ronald Bury

1.48 At the time he gave evidence Graham Bury (Bury) was the Area Manager of Ed Harry Menswear. In 2001 he worked in the Ed Harry Menswear store at Lithgow. On the morning of 7 December 2001 a customer from Bathurst contacted him at the Lithgow store because Ms Vaughan had failed to open the Bathurst store. Bury knew Ms Vaughan as a work colleague and in that capacity spoke to her regularly on the telephone.

Codenamed Witnesses RA1, RA2 and RA3

1.49 RA1 came forward with information after seeing a photograph of Ms Vaughan in the local Bathurst newspaper. She gave evidence to a private hearing that she had seen Hosemans in a red car with Ms Vaughan close to the time Ms Vaughan disappeared.

1.50 RA2 and RA3 were friends of Ms Vaughan and gave evidence of conversations they had had with her prior to her disappearance.

Rachel Ann Green

1.51 Rachel Green (Green) was a friend of Ms Vaughan. In 2001 Green managed “Fashion Fair”, a shop situated close to the Ed Harry Menswear store where Ms Vaughan worked. She had met Ms Vaughan prior to her commencing to work at the Ed Harry Menswear Store but came to know her better in the time they worked at Ed Harry Menswear and Fashion Fair respectively.

1.52 In 2001 Green also knew Hosemans. She said that he would occasionally come into the Fashion Fair store and have conversations with her. In the months prior to Ms Vaughan’s disappearance, Hosemans had expressed an interest in Ms Vaughan to Green.

Jordan Andrew Morris

1.53 Jordan Morris (Morris) was a friend of Ms Vaughan. On the evening of her disappearance Morris and his girlfriend were out with Ms Vaughan at the Ox Hotel and then later at the Tavern Nightclub. They left the Tavern Nightclub at closing time and Ms Vaughan walked along George Street and then Keppel Street some distance ahead of Morris and his girlfriend. Morris and his girlfriend saw the car pull up and Ms Vaughan get into it and then the car drove away. They were the last people to see Ms Vaughan.

Daniel Murphy

- 1.54 In December 2001 Daniel Murphy (Murphy) worked with Ms Vaughan in the Ed Harry Menswear store. He had previously met Ms Vaughan through a mutual friend. At the time they met Murphy worked at Grace Bros in Bathurst. He expressed interest in working at Ed Harry Menswear so in October 2001, when a position became available, Ms Vaughan offered him the position. He last saw Ms Vaughan at 6 p.m. on 6 December 2001 when he left work for the day.
- 1.55 Murphy's usual work hours in 2001 were 11.30 a.m. to 5.30 p.m. On the morning of 7 December 2001 he received a telephone call from the State Manager of Ed Harry Menswear, Zarina de Souza, advising him that Ms Vaughan had not arrived for work and asking him to go into work early to open the store. During that day he tried to contact Ms Vaughan without success.

Nicole Jean Nolan

- 1.56 In 2001 Nicole Nolan (Nolan) worked at the Fashion Fair store as a sales assistant. At the time she had worked there for two years. Nolan met Ms Vaughan when she started working at Ed Harry Menswear. Because of the proximity of the two shops Nolan and Ms Vaughan had contact on most working days.
- 1.57 Nolan also knew Hosemans through his association with Green and the fact that he came into the store from time to time to talk to Green. Nolan had informed Ms Vaughan of Hosemans' interest in her.²⁴

Sue Maree Single

- 1.58 Sue Single (Single) moved from Dubbo to Bathurst in 1999 to assist in opening the Ed Harry Menswear store. She interviewed, selected and trained Ms Vaughan to work at the Ed Harry store. Ms Vaughan took over as manager of the store from Single in August 2000. Single left the store in October 2000. She remained in contact with Ms Vaughan after she left the store and last spoke to her on 5 December 2001. Single also knew Hosemans through her employment at the Bathurst Golf Club.

Zarina De Souza

- 1.59 In 2001 Zarina De Souza (De Souza) was the State Manager of Ed Harry Menswear and had known Ms Vaughan since the Bathurst store opened in 1999. In her work capacity De Souza spoke to Ms Vaughan approximately three times each week. She did not socialise with her.

²⁴ PIC Transcript, NJ Nolan, 7 June 2006, pp. 255-256

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- 1.60 On the morning of 7 December 2001 De Souza was contacted by Bury, the manager of the Lithgow store, who told her that Ms Vaughan had not opened the Bathurst Store. De Souza attempted to contact Ms Vaughan and made arrangements for the Bathurst store to be opened. Later that day, after being unable to contact Ms Vaughan, De Souza reported her as missing to Bathurst Police.

Christine Symington

- 1.61 Christine Symington (Symington) was a friend of Ms Vaughan. She had known Ms Vaughan since they attended the same primary school. They remained good friends throughout school and were still close friends in 2001 when Ms Vaughan disappeared. She did not live in Bathurst and last spoke to Ms Vaughan in late November 2001.

EXPERT WITNESS

Michelle Helena Novotny

- 1.62 Michelle Novotny is a Handwriting and Questioned Document Examiner with experience in all aspects of forensic examination of documents. She is a Registered Forensic Practitioner with the Australian and New Zealand Forensic Science Society (ANZSS) and an associate member and committee member of the Australian Society of Forensic Document Examiners (ASFDE).
- 1.63 Novotny conducted forensic examination on the diary pages provided to the Commission by Young. The purpose of that examination was to determine when entries on the back of the loose leaf page dated 2001 were written, and any other information of potential significance.

THIS REPORT

- 1.64 In this Report, prepared and furnished pursuant to section 96 of the *Police Integrity Commission Act 1996* (the Act), the Commission examines the evidence heard during the public hearing. Evidence from private hearings is also discussed where it is relevant to matters reported herein.
- 1.65 The Report contains the Commission's assessments of the evidence and opinions as to whether or not police misconduct, or other misconduct, has occurred in relation to each matter examined. The Report also contains the Commission's recommendations in respect of those individuals who, in its opinion, come within the definition of "affected person" in subsection 97(3) of the Act.
- 1.66 Generally, persons are referred to in this Report, after the first mention of their name, by surname only. This is done in the interests of economy and no discourtesy is intended.

- 1.67 The NSW Police Force was previously known as NSW Police and before that the Police Service of New South Wales.²⁵ The expression NSW Police Force is used throughout this Report and includes references to the organisation when it was known by those other names.

²⁵ In December 2001 the NSW Police Force was known as the Police Service of New South Wales. On 12 July 2002 the name changed to NSW Police with the commencement of the *Police Service Amendment Act 2002* No 51. On 1 February 2007 the name changed again to NSW Police Force with the commencement of the *Police Amendment (Miscellaneous) Act 2006* No 94.

2. THE INITIAL NSW POLICE FORCE INVESTIGATION

THE ESTABLISHMENT OF STRIKE FORCE TOKO

- 2.1 Ms Vaughan was last seen in the early hours of Friday 7 December 2001. As the Manager of the Ed Harry Menswear store in Bathurst she should have opened the store for business on that Friday morning. A customer called the Ed Harry Menswear Store at Lithgow when the Bathurst store did not open. Graham Bury, the Lithgow Manager, attempted to contact Ms Vaughan and then contacted Zarina De Souza (De Souza), the Ed Harry Menswear Area Manager.²⁶
- 2.2 In the early afternoon, when De Souza was still unable to contact Ms Vaughan, De Souza contacted Bathurst police. She was concerned about the fact that Ms Vaughan could not be located and thought it was out of character for her not to let someone know that she could not open the store.²⁷
- 2.3 On 7 December 2001 Acting Inspector Mark Gallagher (Gallagher) was the afternoon Duty Officer and Crime Manager at Bathurst Police Station. At that time he was officially stationed at Orange but was performing relieving duties at Bathurst. He gave evidence that inquiries into Ms Vaughan's disappearance commenced that evening.²⁸ A situation report written by Gallagher, dated 8 December 2001, stated that numerous inquiries had been undertaken in an attempt to locate Ms Vaughan and that the police had commenced to take statements. Gallagher is noted on the report as being the officer in charge of the investigation.²⁹
- 2.4 The second situation report, dated 10 December 2001,³⁰ noted that "Operation Toko" had been commenced under the command of Gallagher and that Hosemans was in charge of managing the brief of evidence via e@gle.i, the NSW Police Force computer investigation database.³¹ Gallagher's evidence was that in his position as the relieving Local Area Command Crime Manager he had overall responsibility for the investigation until Jacob took over on 16 December 2001.³²
- 2.5 One of the documents obtained by the Commission during the investigation, an unsigned and undated document headed "*NSW Police Service, Chifley, Terms of Reference, Operation Toko*" directed Detective Senior Constable Lance McFawn to take command of a Strike Force codenamed Operation Toko which was charged with the investigation into Ms Vaughan's

²⁶ PIC Transcript, GR Bury, 6 June 2006, pp. 200-201

²⁷ PIC Transcript, Z De Souza, 6 June 2006, pp. 188-189

²⁸ PIC Transcript, M Gallagher 5 June 2006, pp. 23-24

²⁹ PIC Exhibit 2

³⁰ PIC Exhibit 3

³¹ [e@gle.i](#) is the NSW Police Force intranet based investigation management system. It supports major investigations and is used to capture and report on information gathered during an investigation.

³² PIC Transcript, M Gallagher 5 June 2006, p. 26

2. THE INITIAL NSW POLICE INVESTIGATION

- disappearance.³³ That document stipulated that any information concerning corrupt and or unethical conduct, including any conflict of interest, was to be reported in writing to Hosemans. McFawn was to report regularly to Hosemans as to the progress of the investigation, with the first progress report due on 24 December 2001.
- 2.6 Gallagher gave evidence that although he had overall responsibility Hosemans was the officer responsible for the day to day running of the detectives in the initial stages of the investigation. Gallagher said that he, Gallagher, also had responsibility for “... *a lot of other things happening as well that had to be attended to*”. Gallagher said that McFawn was the detective who commenced the investigation.³⁴
- 2.7 McFawn’s evidence was that he had “*on-the-street*” control of the investigation during this initial period, while Hosemans and Gallagher, who were senior to him, had overall control.³⁵
- 2.8 On 12 December 2001 Inspector Borland (Borland), as the Acting Local Area Commander, contacted Crime Agencies in Sydney to request assistance with the investigation.³⁶ Gallagher told the Commission that as a suspected homicide it was mandatory to notify Crime Agencies. He said “... *the disappearance of a young woman in suspicious circumstances, there is every reason to believe that the worst may have occurred, and it was certainly something that was notifiable to the Sydney authorities.*”³⁷
- 2.9 As a result of Borland’s request an initial team from Crime Agencies was sent to Bathurst. Detective Inspector Henney, who was acting in an on-call capacity at Crime Agencies and had responded to the request for assistance, sent Detective Sergeant Coman and others from the homicide squad to Bathurst.³⁸
- 2.10 On 15 December 2001 a decision was made by Crime Agencies that the investigation would be a category one³⁹ Crime Agencies investigation led by Jacob as the commander.⁴⁰ Initially it was thought, due to a number of other incidents that had occurred in the weeks preceding Ms Vaughan’s disappearance, that there might have been a serial offender in Bathurst. In Jacob’s opinion this potential for the involvement of a serial offender was the reason he was appointed as commander.⁴¹
- 2.11 On 16 December 2001 Jacob attended Bathurst Police Station and spoke with Hosemans, Detective Acting Sergeant Matthew O’Donnell (O’Donnell), and

³³ PIC Exhibit 30

³⁴ PIC Transcript, M Gallagher, 5 June 2006, p. 27

³⁵ PIC Transcript, LL McFawn, 5 June 2006, p. 57

³⁶ PIC Exhibit 134C

³⁷ PIC Transcript, M Gallagher, 5 June 2006, p. 28

³⁸ PIC Transcript, PY Jacob, 5 June 2006, p. 84; PIC Exhibit 129C

³⁹ The term “category one” refers to the category of homicide as listed in the NSW Police Guidelines for Investigation of Major Crime

⁴⁰ PIC Exhibit 129C

⁴¹ PIC Transcript, PY Jacob, 5 June 2006, p. 86

McFawn and was given a general overview of the investigation.⁴² Jacob's evidence was that when he attended at Bathurst at that time his understanding was that Hosemans was in charge of the investigation.⁴³

- 2.12 What is clear from the evidence is that during the period 10 December to 16 December 2001, Hosemans had a significant role in the investigation of Ms Vaughan's disappearance. That was at a time when Hosemans was facing serious criminal charges and his day to day activities were subject to an agreement between himself and Superintendent Kuiters, (Kuiters), the Local Area Commander, which restricted the work that he was permitted to undertake. The agreement is discussed in detail below.

HOSEMANS' WORK PLACE AGREEMENT

- 2.13 On 5 November 2001 Hosemans was charged with the offences of obscene exposure, assault, indecent assault, and assault occasioning actual bodily harm. The charges arose out of an incident at the Bathurst Golf Club on 21 October 2001. The alleged victim of the assault offences was a female employee of the Club, aged 24 years. The charges were first mentioned in Bathurst Local Court on 3 December 2001 and the proceedings were extensively reported in the local newspaper, the Western Advocate, on 4 and 6 December 2001. Ultimately Hosemans was acquitted of all charges on 19 July 2002 by Deputy Chief Magistrate Henson, (as his Honour then was). The reasons for his Honour's decision will be returned to later in this Report.⁴⁴
- 2.14 On 8 November 2001 Hosemans entered into a Work Place Agreement, ostensibly with Kuiters, as a consequence of the criminal charges that had been preferred against him.⁴⁵ The agreement was signed by Borland on behalf of Kuiters. Despite this Borland gave evidence that although he was aware of the agreement and the restrictions placed on Hosemans he was neither aware of the contents of the agreement, nor of its exact wording, and had never seen the agreement.⁴⁶
- 2.15 The agreement set out the terms on which Hosemans was to continue performing duties at Bathurst Police Station. The following terms are of significance:⁴⁷

1. Detective Sergeant Hosemans will work under the direct supervision of the Commander or the person from time to time relieving in that position or the Crime Manger [sic].

...

⁴² PIC Exhibit 98C

⁴³ PIC Transcript, PY Jacob, 5 June 2006, p. 85

⁴⁴ PIC Exhibit 99 – see also paragraphs 4.14-4.15

⁴⁵ PIC Exhibit 4

⁴⁶ PIC Transcript, IA Borland, 6 June 2006, pp. 184-185

⁴⁷ PIC Exhibit 4

2. THE INITIAL NSW POLICE INVESTIGATION

3. Detective Sergeant Hosemans will work from the office currently designated as the Crime Coordinator Office with in the Crime Management Unit area.

4. Detective Sergeant Hosemans is not to have any contact with members of the public.

...

6. Detective Sergeant Hosemans will be responsible for the COPS quality reviews on a daily basis (when rostered). He will be responsible for case management follow up and advise [sic]. For quality review of all court briefs that will be presented to the D.P.P. and advising to other Police of any areas of deficiencies in those brief [sic].

7. Detective Sergeant Hosemans is not to absent himself from the Police Station at Bathurst with [sic] first obtaining the knowledge and consent of one of the person [sic] mentioned in point 1.

2.16 The agreement provided that it would be reviewed after each court appearance (by Hosemans). Kuiters gave evidence that, at the time of Ms Vaughan's disappearance, there had been no such review. He agreed that Hosemans' involvement in direct dealings with the public was clearly outside the terms of the restricted work agreement. Despite that Kuiters did not think it was inappropriate, given the charges faced by Hosemans, that Hosemans was involved in this investigation. Kuiters held the view then, and still held that view at the time he gave evidence, that while the public might have had some concerns about Hosemans' position he, Kuiters, did not, and he was prepared to deal with any adverse public perceptions.⁴⁸

2.17 Jacob gave evidence that he did not know of the restrictions that had been placed on Hosemans' duties when he took over the control of the investigation on 16 December 2001 although he was aware that Hosemans was facing some charges. The investigation log records that Jacob had a conversation with Hosemans about a "*prior confidential matter*" on 17 December 2001.⁴⁹ Jacob said in evidence that that conversation related to the charges against Hosemans.⁵⁰

2.18 Jacob could not recall if he had spoken to one of Hosemans' managers prior to speaking with Hosemans but said that he had:⁵¹

... certainly been made aware that he had been charged with matters, and they were pending, and I had certainly been made aware that he was still in the role of investigations manager within the command and operational.

2.19 Jacob also gave evidence that he had received an indication from officers in the Bathurst command that it was appropriate that Hosemans continue with his work on the investigation. He said that he could not recall if he was aware at the start of his investigation that the charges against Hosemans included a charge of indecent assault on a young woman. Jacob agreed that in hindsight it was a "*little odd*" that an officer facing such a criminal charge

⁴⁸ PIC Transcript, GF Kuiters, 21 August 2006, pp. 335-336

⁴⁹ PIC Exhibit 130C

⁵⁰ PIC Transcript, PY Jacob, 5 June 2006, p. 87

⁵¹ PIC Transcript, PY Jacob, 5 June 2006, p. 88

was initially placed in charge of the investigation of the disappearance of a young woman but said that at the time Hosemans was accepted as part of the team and he, Jacob, was focused on the investigation.⁵²

- 2.20 Whatever view is taken of the wisdom of continuing to have Hosemans perform duties at Bathurst Police Station pending the resolution of the criminal charges brought against him, the evidence before the Commission was that Hosemans exceeded the restricted duties that he was permitted to perform under the agreement with Kuiters. This, together with the fact that he was facing serious criminal charges concerning conduct alleged to have occurred with respect to a young female, made it inappropriate that he have the level of involvement that he did in the investigation of Ms Vaughan's disappearance.

⁵² PIC Transcript, PY Jacob, 5 June 2006, pp. 88-90

3. HOSEMANS IS LINKED TO MS VAUGHAN

INFORMATION OMITTED FROM STATEMENTS

- 3.1 Very early in the police investigation Hosemans was named by a number of people as having shown an interest in Ms Vaughan. However this information was not always included in the initial statements prepared by police.

ZARINA DE SOUZA

- 3.2 De Souza, the former State Manager of Ed Harry's Menswear, gave evidence to the Commission concerning conversations she had had with Ms Vaughan some four to six weeks prior to her disappearance. In the first conversation Ms Vaughan had said that she had met an "*ex copper*" who was also on the Local Council and that she was going to go out with him. A couple of weeks later, De Souza had a further conversation with Ms Vaughan in which Ms Vaughan had said that "*... the guy's not for me. He's harassing me*". Ms Vaughan had also told De Souza that the person had bought her flowers, made phone calls to her and kept walking past the store.⁵³
- 3.3 De Souza gave evidence that she told Ms Vaughan to record this in the store's work diary and Ms Vaughan had told her that she would do so. Each store had a diary in which anything of significance that happened during the day was to be recorded. De Souza could not recall Ms Vaughan mentioning the name of the person concerned⁵⁴ (although the references to him being an "*ex-copper*" and on the Local Council make it likely, in the Commission's view, that the person being referred to was Hosemans).
- 3.4 De Souza gave a statement to the investigating police on 11 December 2001 which was witnessed by a Constable Kathryn Phillips. There is no mention in the statement of the above mentioned conversations De Souza had with Ms Vaughan. The information De Souza provided about the staff diary and the fact that she had asked Ms Vaughan to record her concerns in the diary was also not included in the statement.⁵⁵
- 3.5 Ms De Souza told the Commission that she did in fact tell the investigating police about the conversations she had with Ms Vaughan. Her evidence was as follows:⁵⁶

Q: Did you say anything to the police when you gave your statement --

A: Yes, I did.

...

⁵³ PIC Transcript, Z De Souza, 6 June 2006, p. 190

⁵⁴ PIC Transcript, Z De Souza, 6 June 2006, pp. 190-191

⁵⁵ PIC Exhibit 55

⁵⁶ PIC Transcript, Z De Souza, 6 June 2006, pp. 192-193

3. HOSEMANS IS LINKED TO MS VAUGHAN

Q: What can you remember about that?

A: I was - the question was actually prompted by the police officer. I can't recall if it was in the station or if it was out at Janine's home. As I said, the question was prompted, and it was along the lines of "Can you think of any thing or anybody that would want to hurt Janine or any reason this has happened to her?" And I did say to them, "The only thing that comes to my mind is this fellow she was going out with, who" - as I said, I didn't know who this fellow was. All I knew is he was a police officer or an ex-police officer who worked on the council chambers, and I did tell the police this.

Q: Was it at the time that you made the statement that you told the police that, or not?

A: I can't say 100 per cent if it was at the time of statement or at the home.

Q: Was it just one policeman speaking to you, or was there more than one, or what? Can you say or not?

A: At the police station there was one and at the home there was two with me.

Q: Did you say you can't be sure whether you had this particular conversation with the police about what Janine had said to you, whether that was at the home or at the police station?

A: I can't recall whether it was at the home or at the police station.

...

Q: Are you able to describe the police at all that you spoke to --

A: No.

Q: -- either at the home or at the police station?

A: Not at all.

Q: Were you ever spoken to again by the police, apart from perhaps in recent times? During this year you have been spoken to, I think, but prior to this year were you spoken to again by the police at all?

A: No

3.6 De Souza told the Commission that she was not mistaken or confused as to who she told about the conversations with Ms Vaughan and was "*100 per cent positive*" that she told police about the conversations she had with Ms Vaughan.⁵⁷ There is no entry on the police [e@gle.i](#) database or in the investigation log recording this information, which was clearly of significance to the investigation.

3.7 When interviewed by Commission officers Detective Senior Constable Phillips had no recollection of De Souza saying anything to her about Ms Vaughan being harassed. She was certain, however, that if she had been given such information she would have included it in the statement or reported the information to her senior officer.⁵⁸

⁵⁷ PIC Transcript, Z De Souza, 6 June 2006, p. 194

⁵⁸ PIC Exhibit 131C

- 3.8 The 2001 diary for the Ed Harry’s Bathurst store has never been located. De Souza gave evidence that she was never asked for it by investigating police, although someone told her that it had been picked up.⁵⁹ Attempts by the Commission to locate the diary have been unsuccessful.

DANIEL MURPHY

- 3.9 Murphy, who worked in the Ed Harry Menswear store with Ms Vaughan, also provided information about Hosemans at an early stage in the investigation. Murphy made two statements to police in relation to the disappearance of Ms Vaughan. The first is dated 8 January 2002 and the second is dated 1 July 2002.
- 3.10 Murphy gave evidence that he first told police about the connection between Ms Vaughan and Hosemans when he made his initial statement on 8 January 2002, although he could not remember to whom he had told the information. His evidence was that he had been told by the officer interviewing him that the avenue concerning Hosemans had been “*exhausted*”.⁶⁰ The witness to the first statement was Senior Constable Scott Drady, (Drady). Drady, when interviewed by Commission investigators, had no recollection of taking the statement.⁶¹
- 3.11 The statement of 8 January 2002 does not contain any information about a connection between Hosemans and Ms Vaughan. Murphy’s second statement, dated 1 July 2002, and witnessed by Waterman, contains information about Hosemans. That statement is discussed below at paragraph 4.7.

CHRISTINE SYMINGTON

- 3.12 On 17 December 2001 Christine Symington made a 10 page statement⁶² to police providing background information concerning Ms Vaughan, who had been a long term friend of hers. There is no reference in the statement to Hosemans, or to anything that Ms Vaughan said to Symington concerning Hosemans. In evidence to the Commission Symington said the following in relation to conversations she had had with Ms Vaughan in the period prior to her disappearance:⁶³
- Q. Did she talk to you at any time in that period prior to her disappearance about any men that might have been in her life?
 - A. We’d certainly had conversations over all our friendship about different people that she had been involved with, but in the months prior to her disappearance she had spoken to me about a person who was a policeman in Bathurst who had been asking people about her and who she said had been walking past the shop trying to make eye contact with her and those sorts of things.

⁵⁹ PIC Transcript, Z De Souza, 6 June 2006, p. 194

⁶⁰ PIC Transcript, D Murphy, 7 June 2006, pp. 241-243

⁶¹ PIC Exhibit 127C

⁶² PIC Exhibit 56C

⁶³ PIC Transcript, CG Symington, 6 June 2006, p. 205

3. HOSEMANS IS LINKED TO MS VAUGHAN

- Q. Doing the best you can now, what can you recall her saying, if anything, more than what you have already told us?
- A. She'd said that the person was a policeman at Bathurst; that he was the mayor of Bathurst; that his name was Brad Hosemans; that he'd walked past the shop and that he had tried to make eye contact; he had asked friends about her and that she had found that somewhat uncomfortable; and that she was concerned about being involved in a relationship with this fellow because she'd heard from other people that there had been allegations made against him.

3.13 Symington gave evidence that she was spoken to by McFawn at the time the statement was finalised. She said that she told him about the conversation she had had with Ms Vaughan about Hosemans. Symington told the Commission:⁶⁴

- Q. Did you mention that conversation to any police at around the time that you were spoken to when you were giving evidence?
- A. Yes, I mentioned it to - when I was going through that interview with Detective Lance McFawn.
- Q. What can you recall about that? How long did you spend with Detective McFawn? Can you say in approximate terms?
- A. The reason that I recall this quite clearly is that at the same time that Janine had expressed concern about Brad Hosemans, I myself was having some - not difficulties, but some dealings with a police officer at the [name suppressed] station, and when I was talking to Lance McFawn about it, he was interested as well into - I guess we talked about what had happened to me and what were those circumstances, and that's, I guess, how I can recall that we spoke about the concerns that Janine had expressed to me about Brad Hosemans.
- ...
- Q. Doing the best you can in terms of what was actually said by you to Detective McFawn on that occasion, what can you remember now?
- A. I had expressed to him that, you know, I had - that Janine had told me about the concerns that she had had about this fellow, and Janine and I have been great buddies, had kind of made this pact that because I was having problems and because she was having problems, that maybe we should just steer clear of police because we felt that maybe they had a bit of a problem. So at the time we'd kind of made a bit of a pact that we should both just cut our losses and move on.

3.14 There is nothing recorded in Symington's statement, or in the investigation log, or on e@gle.i that shows that this information given by Symington was in any way captured in the investigation holdings.

3.15 McFawn was questioned about this matter at the Commission hearing. He gave the following evidence:⁶⁵

- Q. And you heard her say that she had a conversation with you in which she had detailed concerns that had been expressed to her by Ms Vaughan about Mr Hosemans?
- A. Yes, I heard that.
- Q. Do you say that she had that conversation, or it didn't happen?

⁶⁴ PIC Transcript, CG Symington, 6 June 2006, pp. 207-208

⁶⁵ PIC Transcript, LL McFawn, 7 June 2006, pp. 263-264

- A. Sir, I have barely slept overnight trying to think, rack my brain, as to the exact conversation that Christine and I had. I recall going to [name suppressed] police station to interview a number of witnesses. I believe that detectives from [name suppressed] had been asked to take a statement from Christine, and that was in relation to what had happened down with Janine. It was also in relation to phone calls that she'd had which escalated the matter and we needed a statement straightaway.
- Q. Do you have some recollection now that it is possible that that was said to you, or what is your position?
- A. I do not recall her saying that she had concerns, that Janine had concerns against Hosemans, or that there was a relationship. I vaguely recall having a conversation with Christine about Hosemans, but I can't recall the exact extent of it. We spoke a lot, Christine and I, in relation to her ongoing problems, and she was quite upset through the interview, I recall that.

3.16 McFawn acknowledged the possibility that there had been a conversation with Symington in which she had provided some information as to what Ms Vaughan had said to her about Hosemans. There is a reference in McFawn's duty book entry for 3 January 2002 to a conversation with Ms Symington "*re further information and concerns re telephone calls*".⁶⁶ The content of the conversation is not recorded.

3.17 The Commission accepts Symington's evidence that she told McFawn about the conversation she had had with Ms Vaughan about Hosemans. McFawn's failure to record, either in Symington's statement or on e@gle.i, the information provided by her concerning what Ms Vaughan had said about Hosemans was a significant omission. It is particularly noteworthy given that on 2 January 2002 McFawn had taken a statement from Jennifer Vaughan, Ms Vaughan's stepmother, where Hosemans was mentioned in a flattering light. McFawn included the comments Jennifer Vaughan made about Hosemans in her statement.⁶⁷

3.18 In evidence McFawn said that when Jennifer Vaughan mentioned Hosemans to him this was the first time he had heard that there might be an association between Ms Vaughan and Hosemans.⁶⁸

3.19 The evidence that information was apparently left out of the statements of De Souza, Murphy and Symington has additional significance in that it provides support to a complaint conveyed to Jacob on 3 March 2002, that relevant information concerning Hosemans was not being recorded, for whatever reason, by those involved in the investigation. That complaint is discussed further below.⁶⁹

⁶⁶ PIC Exhibit 66

⁶⁷ See paragraphs 3.20-3.21 below

⁶⁸ PIC Transcript, LL McFawn, 5 June 2006, p. 59

⁶⁹ See paragraphs 3.27-3.32 below

HOSEMANS IS MENTIONED IN STATEMENTS

- 3.20 The first mention of a possible association between Ms Vaughan and Hosemans appears in a statement by Jennifer Vaughan on 2 January 2002. The statement was taken by McFawn. Paragraph 16 of that statement is as follows:⁷⁰

I don't recall Janine talking about any other guys in her life other than a guy she had seen in Bathurst and who she described as drop-dead gorgeous. Apparently he had made some inquiries about Janine and used to walk past her shop. Janine found out that his name was Brad HOUSEMAN [sic] and that he was a Policeman. As far as I know Janine never spoke to this bloke but she was initially keen on him and had enquired about him.

- 3.21 The summary of that statement, including a reference to the contents of the above mentioned paragraph, was placed on the [e@gle.i](#) database. The summary was prepared by McFawn and reviewed by Jacob.⁷¹ McFawn gave evidence that he could not recall any discussion with Jacob, Hosemans, or any other member of the investigation team about the fact that a connection between Hosemans and Ms Vaughan had been mentioned in the statement.⁷²
- 3.22 Kylie Vaughan, the sister of Janine Vaughan, also provided a statement to police on 2 January 2002. The statement was witnessed by O'Donnell. Following is paragraph 19 of the statement.⁷³

I went to Bathurst last Thursday to visit my fiancée's great grand mother who is in a nursing home facility at Bathurst. I went into the police station to see if I could speak with one of the police officers involved in the investigation. I was told previously that I should speak with Mark Gallagher however he was not there. I met a police officer by the name of Bradley Hosemans. I remember his name being mentioned before because Janine had mentioned that he had walked past her shop at Ed Harrys in Bathurst a lot and he always waives [sic] to her. I went home and told my mother and she told me that Janine had been talking about him because he had been charged in Bathurst.

- 3.23 The statements of Kylie Vaughan and Jennifer Vaughan show that, even in information recorded by police, from an early point in the investigation there was information provided to the investigators that Hosemans had shown an interest in Ms Vaughan. The [e@gle.i](#) summary of Kylie Vaughan's statement that was prepared by O'Donnell, on 4 January 2002, did not however contain any reference to this possible association.⁷⁴ Kylie Vaughan's statement is also of significance because it indicates again that Hosemans was dealing with members of the public in breach of the Work Place Agreement he was subject to at that time.
- 3.24 On 18 January 2002 Dickinson witnessed a statement from Rebecca Maree Medhurst (Medhurst) a friend of Ms Vaughan. In paragraphs 15 and 16 of

⁷⁰ PIC Exhibit 19C

⁷¹ PIC Exhibit 20C

⁷² PIC Transcript, LL McFawn, 5 June 2006, pp. 60-61

⁷³ PIC Exhibit 5C

⁷⁴ PIC Exhibit 123C

that statement Medhurst provided information about a conversation she had with Ms Vaughan on Wednesday 5 December 2001, two days prior to her disappearance. In paragraph 16 Medhurst stated:⁷⁵

... Janine was telling me that one of the local police officers had been showing interest in her. She said that Brad HOSEMANS had walked past the shop a few times and had waved at her and gave her a wink. She said that she had seen him talking on his mobile out the front and that he smiled and looked into the shop while he was talking. Janine thought it was good because she thought he was a good sort and was flattered by his interest. The only thing was that she thought he had a bit of a bad reputation with woman, [sic] that he was a womaniser. Janine was disappointed because she thought it was good that a more mature man was showing interest in her, particularly after she had been out with Dave who was much younger and not ready to settle down.

- 3.25 Dickinson's duty book and notebook indicate that he spoke with Hosemans, Jacob and Waterman prior to and after he interviewed Medhurst for the purpose of the statement, after first speaking with her on 17 January 2002.⁷⁶ A summary of this statement was created by Dickinson and placed on [e@gle.i](#). The summary of paragraphs 15-19 includes: "*She spoke of a local police officer showing interest in her.*"⁷⁷ It does not however name Hosemans.
- 3.26 Dickinson told the Commission that he had no recollection of speaking to Hosemans or Jacob about the fact that Medhurst had provided information that suggested that Hosemans had shown some interest in Ms Vaughan.⁷⁸

JACOB'S NOTEBOOK AND EVIDENCE

- 3.27 In Jacob's notebook there is an entry in the following terms and dated 5 March 2002:⁷⁹

[name suppressed]
 Gerard Martin – Local Member
 Local Member
 –Flowers chocolates in weeks leading up to disappearance
 –Brad scene (sic)
 Statement takers left out issue with Brad.

- 3.28 This notebook entry is of considerable significance. The note on its face suggests that in the weeks prior to her disappearance Ms Vaughan had been sent flowers and chocolates and that there was also a report of Hosemans having been seen although it is unclear when or where he was seen. Significantly, the note also suggests that information was given to Jacob indicating that the police who were taking statements in relation to the

⁷⁵ PIC Exhibit 13C

⁷⁶ PIC Transcript, JP Dickinson, 5 June 2006, pp. 39-43; PIC Exhibits 15, 16 & 17

⁷⁷ PIC Exhibit 18C

⁷⁸ PIC Transcript, JP Dickinson, 5 June 2006, pp. 49-51

⁷⁹ PIC Exhibit 33

investigation of Ms Vaughan's disappearance were omitting an issue concerning Hosemans from the statements.

3.29 By the time this information was provided to Jacob on 5 March 2002 a possible connection between Hosemans and Ms Vaughan had featured in a number of the witness background statements that had been taken. It is difficult to accept that information suggesting that statement takers had been leaving out issues concerning Hosemans from statements would be ignored or forgotten by an officer of Jacob's experience and reputation. In evidence Jacob confirmed that the notebook entries were in his handwriting. He gave the following evidence:⁸⁰

Q. What is that a note about?

A. When I was reading the material getting ready for this hearing, I was reviewing the stuff that I produced to Mr Modra, and in looking at this notebook I came across this entry. Again, with the benefit of all this hindsight, it has jumped out at me. I have searched my mind in relation to this particular entry, and I cannot for the life of me remember writing it or who I spoke to about it. [name suppressed] was certainly a witness of ours who we spoke to much later on, but I cannot recall anything about this entry at that time.

...

Q. Is there any other record that you might have created at the time that you feel if you had access to you might be able to shed some light on that particular entry in your notebook?

A. Again, the material that I produced is what I would have relied on, and there is nothing in that material that assists me in bringing to light the creation of this entry.

Q. There is not much doubt it relates to the investigation of the disappearance?

A. There is no doubt at all. And, of course, when I read this material in preparation for this, in light of everything that has happened, it has jumped out like a beacon at me.

Q. It doesn't come as any surprise, then, that I have taken you to it?

A. Absolutely not. It is a matter that I have had some discussion with my counsel over, because I did - it is like a bolt out of the blue to me, this particular entry.

Q. Well, would you agree with the proposition that where you have written the word "Brad", "Brad scene", that's a reference to Mr Hosemans.

A. Absolutely, yeah.

Q. The reference to "scene" - and I don't criticise you for the way you have spelt it - is that a suggestion that you were told something about him being seen? Is that what it conveys to you?

A. That's certainly possible, and that was part of the material we examined in depth later on in the investigation.

Q. Then you have a note: "Statement takers left out issue with Brad."

A. Yes.

Q. First of all, do you think this is a note of what you had been told by somebody?

⁸⁰ PIC Transcript, PY Jacob, 6 June 2006, pp. 103-106

- A. I certainly do. When I looked at it and tried to search for an answer to this particular thing, it is like that I have made a note of something that was coming to me - a letter, or someone was going to come and see me or speak to me about this particular issue, and in the context of the investigation and the overwhelming amount of material we were dealing with during this period, I have just put it aside and haven't thought about it again. That's my only explanation for this.
- Q. Can I suggest to you that it seems a pretty significant event, that you are being told by somebody that "the statement takers" - which is clearly a reference to the investigators; correct?
- A. Well, I assume so, yes.
- Q. Well, it couldn't be anyone else, could it?
- A. I have in my mind a consciousness - a problem with statements that came up later on in relation to some two or three statements were obtained from people that talked about Mr Hosemans and were subject to our inquiries later on.
- Q. But this is on 5 March 2002, isn't it?
- A. Yes, I know, but I am telling you what is in my consciousness about problems with statements, and the problems I recall about statements were that these people that were interviewed originally, and later gave us information about Mr Hosemans' alleged contact with Janine, had their statements or were interviewed by Mr Hosemans in the earlier part of the investigation and didn't raise it. That's my consciousness about problems with statements. This means nothing to me, other than it is like this beacon when I am reviewing the material to come here, in light of everything that has happened. I just can't explain that in any more detail.
- Q. You can't say who said that to you?
- A. No, I can't.
- Q. You can't say that you have spoken to anyone involved in the investigation about it?
- A. No, I can't.
- Q. But it is the sort of thing, with respect to you, that you would raise, wouldn't you? If you are there in charge of this investigation and you get some information about the fact that the statement takers left out the issue with Brad - being clearly, you would accept, a reference to Mr Hosemans; is that right?
- A. Yes.
- Q. And you know Mr Hosemans --
- A. Again, looking at it with this hindsight, I have no doubt.
- Q. But leave hindsight to one side. That must have been an important conversation, given the content of it, surely?
- A. I can only point to what was happening within the investigation in that period of time, and in looking at this material - I looked at that, what was impacting on our investigation. There is a very good synopsis of the amount of work that my eight-member team were doing in that period of time in the progress reports which are part of the e@gle.i record. In reviewing that, I find that the amount of work that we were doing as a small team was extraordinary, and I just can't explain how this entry didn't focus my attention towards it, other than the amount of work - the significant hours, the amount of work we were doing at that time, and it was a huge amount. But I agree with you - ... I'm not minimising this issue.

3. HOSEMANS IS LINKED TO MS VAUGHAN

3.30 The evidence given by Jacob concerning this entry in his notebook acknowledged the significance of the information that he had recorded. Taken together with other evidence referred to earlier the note infers that the police under his command, who were taking statements from relevant witnesses, were leaving out matters concerning Hosemans. This should have been a matter of great concern to Jacob and clearly warranted immediate steps being taken to speak with those who had been involved in taking statements up to that point in time.

3.31 It is appropriate to note that on 9 March 2002, (only 4 days after the above note was made in Jacob's notebook), Jacob, together with Waterman, interviewed a person of interest to the investigation called Shane Gibson. During the course of the interview Gibson said:⁸¹

Q596. Just on, on boyfriends and that, do you know of any other boyfriends she had apart from this fellow we're talking about? I know you don't know his name.

A. Oh, she used to always having people going and ask her out and stuff like that all the time, people go in and out. She had Brad Hosemans there, that was just yeah.

Q597. She had---

A. Oh, probably 3 months before she had Brad Hosemans coming in there at the shop and talking to her and that. That was one, Dan told me about it anyway, so.

Q598. What did Dan say about that?

A. He said, Oh, Hosemans has been coming in and trying to chat Janine up. I said, Oh, righto. Yeah, and that's that, yeah.

Q599. Janine, did Janine tell him that?

A. One of the girls in the shop next door did actually, told him ...yeah, but ---

3.32 The evidence before the Commission suggests that no action at all was taken in relation to the information that was provided to Jacob. Jacob in his evidence suggested that there was in fact a review done of the alleged connection between Ms Vaughan and Hosemans. While that is true, the review did not occur until June/July 2002 and the catalyst for the review was not the information contained in Jacob's notebook entry of 5 March 2002 or provided by Gibson. In addition the review that occurred did not involve the questioning of the statement takers to ascertain if they had left out details concerning Hosemans and their reasons for doing so. The information conveyed to Jacob on 5 March 2002 suggested that there were gaps in the investigation which required attention.

⁸¹ PIC Exhibit 25

4. INVESTIGATION OF ALLEGED CONNECTION BETWEEN HOSEMANS AND MS VAUGHAN

FURTHER EVIDENCE OF CONNECTION

- 4.1 Despite the references to a possible connection between Ms Vaughan and Hosemans in the statements taken in the early part of the investigation, and the information recorded by Jacob in his notebook on 5 March 2002,⁸² the connection was not the subject of investigation until sometime in June 2002. Jacob gave evidence that in mid 2002 Hosemans was a declared person of interest and the Strike Force Toko investigation was focused on him.⁸³
- 4.2 The trigger for the investigation appears to have been a phone call received by Detective Senior Constable McWhirter (McWhirter) in which he received some information about a possible connection between Hosemans and Ms Vaughan from a police officer based at Orange. At the time McWhirter was stationed in Orange and no longer working on Strike Force Toko. On 29 April 2002 he communicated the information concerning Hosemans and Ms Vaughan to Waterman at Bathurst. In his evidence before the Commission McWhirter was unable to recall specifically what the information was but assumed it concerned a connection between Hosemans and Ms Vaughan.⁸⁴ In his duty book he had recorded only the fact that he contacted Waterman in relation to Hosemans and no further detail.⁸⁵
- 4.3 Waterman gave evidence that the first time it was “*prominent in my mind*” that Ms Vaughan may have had a connection with Hosemans was when he received the above call from McWhirter. This was despite the fact that he had earlier participated in the interview of Shane Gibson in which Gibson had mentioned a connection between Hosemans and Ms Vaughan.⁸⁶ Waterman’s notebook contains a record of the information McWhirter communicated to him as follows:⁸⁷
- Contacted by Det McWhirter
Orange Dets
Policewoman has spoken to a “Cody” (friend) who was a witness in SF TOKO who works at [name suppressed] at Bathurst. He spoke to Janine @ 2-3 weeks prior to disappearance. She said she had received telephone calls from Brad Hosemans.
Brad took statement from “Cody” who didn’t want to tell same.
- 4.4 The witness was identified in the note as being RA2. Waterman’s notebook indicates that he phoned RA2 shortly after receiving that information and

⁸² PIC Exhibit 33

⁸³ PIC Transcript, PY Jacob, 6 June 2006, p. 127

⁸⁴ PIC Transcript, SB McWhirter, 5 June 2006, pp. 65-68

⁸⁵ PIC Exhibit 23B

⁸⁶ PIC Transcript, AP Waterman, 5 June 2006, pp. 72-73; see also paragraph 3.31 above

⁸⁷ PIC Exhibit 26B

4. INVESTIGATION OF ALLEGED CONNECTION

arranged to speak with him when he next visited Bathurst during the week of 20 May 2002.⁸⁸

4.5 Waterman interviewed RA2 on 4 June 2002. His synopsis of the interview, which he put on e@gle.i, includes the following.⁸⁹

About two or three weeks before her disappearance, after RA2 had got home from work to [name suppressed] Street, VAUGHAN was already there. VAUGHAN usually finished work about 5.00pm and would often drop in to socialise.

...

VAUGHAN told RA2 that she had a guy hassling her and appeared to hesitate whether to tell RA2 or not.

RA2 asked her what was going on. She said that Brad HOSEMANS had been ringing her up at night and walking past the store and asking her out. She said she told him, "No" but he kept on ringing her up. RA2 believes the calls were to her home as one call was supposed to be 11.30 - 12.00 (late one night).

....

RA2 stated that VAUGHAN appeared worried about what to do at the time he spoke to her but she was not scared.

4.6 In June/July 2002 Waterman was also involved in taking a number of statements from other witnesses who provided information concerning a connection between Hosemans and Ms Vaughan. On 4 June 2002 Waterman interviewed Rebecca Larkin. The synopsis he prepared of that interview included the following:⁹⁰

Larkin stated she started working at ED HARRY about July, 2001. She had known VAUGHAN for a couple of months previously through LARKIN'S brother, Mathew (Matt) LARKIN, who worked at the SANITY music store next door.

...

LARKIN stated that about 3 - 4 weeks prior to her disappearance VAUGHAN mentioned that (Detective) Brad HOSEMANS had walked past the shop, looking in at her. At that time they knew he was involved in some incident at the golf club. LARKIN believed VAUGHAN told her of a couple of times HOSEMANS had looked in on her.

LARKIN stated that VAUGHAN had mentioned HOSEMANS looking in on her again, the last time may have been a week before she disappeared. To LARKIN'S knowledge there was no conversation between VAUGHAN and HOSEMANS. LARKIN stated that 'Nicky' who works at Fashion Fair, Bathurst City Centre, part time, had been spoken to by HOSEMANS who inquired about VAUGHAN. Rachel GREEN is the manager at Fashion Fair and was also a friend of VAUGHAN.

4.7 On 1 July 2002 Waterman witnessed a statement taken from Daniel Murphy, who had worked with Ms Vaughan. Murphy had given an earlier statement

⁸⁸ PIC Exhibit 26B

⁸⁹ PIC Exhibit 28B

⁹⁰ PIC Exhibit 38B

on 8 January 2002 that did not contain information about Hosemans.⁹¹ The 1 July 2002 statement included the following information:⁹²

10. About one or two weeks before her disappearance Janine told me about two phone calls. One was about 7.00pm on a Wednesday/Thursday and the second was about 8.00am the next morning. She told me the calls were to her home phone number. She couldn't work out who was calling because the person didn't say anything. She dialled *10# on her phone and got the telephone number for a motel in Carcoar or Cobar. She said she dialled the motel and they told her they couldn't tell her which rooms the calls came from.
11. In early - mid November Janine told me one day at work that Brad HOSEMANS was interested in her. I knew him from the newspapers as being a local Policeman and that he was on the Council. She was a bit nervous about his interest because of his position and that she was not interested. She did not seem to be scared of him as a person it was just awkward. She didn't think he posed a problem but she didn't know how to let him down.
12. Just after she told me about this 'Nicky' from FASHION FAIR came into the shop and spoke to Janine and me. Nicky said that Brad HOSEMANS had spoken to her about Janine and whether she was seeing anyone. Nicky was a friend of Brad HOSEMANS and also a friend of Janine.
13. Janine told me that she had seen Brad HOSEMANS walk past the store about four to five times and look in on her. This was in the week after Nicky spoke to her and also before as well. She also told me that she was at the Oxford⁹³ Tavern one night and caught him looking at her. They didn't exchange words but she thought that he was interested in her.
14. In late November I was at work by myself when I saw Brad HOSEMANS walk past the store about two to three times on different occasions. He didn't stop but just looked in as he past, Janine wasn't there at the time.
15. The last time Janine mentioned Brad HOSEMANS to me was when she told me about him walking past the store and looking at her. She didn't appear concerned but she didn't know how to approach him because of his position.

4.8 Waterman told the Commission that he kept Jacob fully informed of the information about Hosemans that was provided in these statements. Waterman was asked whether, as a result of this information, he had had a conversation with Jacob about whether Hosemans should be formally interviewed. He replied that Jacob was leading the investigation and it was not his place to tell him what to do. Waterman did agree however that in mid 2002 it was a specific task of Strike Force Toko to look at Hosemans.⁹⁴

4.9 A statement was taken from Rachel Green, (Green), on 2 July 2002 by Dickinson. At the relevant time Green was the store manager at Fashion Fair

⁹¹ See discussion at 3.9-3.11

⁹² PIC Exhibit 29

⁹³ In September 2002 the Ox Tavern changed its name to the Oxford Tavern Bathurst.

⁹⁴ PIC Transcript, AP Waterman, 5 June 2006, pp. 78-79

Shop in Bathurst City Centre. Her statement included the following information in relation to Hosemans and Ms Vaughan:⁹⁵

8. I have been asked about Janine by Brad HOSEMANS. I know Brad to talk to and have met him a few times. I know of him, but that's about it. Brad has spoken to me about Janine in the past. He asked me about Janine while I was at work. He spoke to me in the shop and asked if I knew the girl that worked in Ed Harrys. I don't remember the exact words used but Janine was the only girl working at Ed Harrys so I knew that he was talking about her. I told him that I did know her and then he asked me if I knew if she was available or if she had a boyfriend. I told him that I didn't know but I could find out. He had a bit of a chuckle and we left it at that. This is the only time that Brad has asked me about Janine. I can't remember exactly when this was but it was about three or four months before Janine disappeared.
9. A couple of days after Brad asked me about Janine I spoke to her about it while we were at work. We talked about how Brad had asked after her. Again, I can't remember the exact words used but Janine said that she was aware of his interest in her. She said at first she didn't know who he was and that he had walked past the shop and given her the eye a couple of times. Then somebody pointed Brad out to her and told her who he was and so she knew who I was talking about when I told her the name. I don't know who pointed Brad out to Janine but she knew who I was talking about when I told her his name. When I told Janine about Brad asking about her she just laughed it off and went on with her work. I think she was flattered a little because she blushed. She didn't seem to have a problem with it. I don't know if she ever went out with him and I never heard any more about it.

4.10 Also on 2 July 2002 a statement was obtained from Nicole Nolan, (Nolan) by Waterman. Nolan worked at Fashion Fair Shop with Green. In that statement Nolan provided the following information:⁹⁶

9. About late July, early August 2001, Brad HOSEMAN [sic] came into FASHION FAIR. He is an acquaintance of Rachel. He had come into the store previously to talk to Rachel. On this day he spoke to me to briefly [sic]. The next day Rachel told me that he had asked about whether I was single or not and when she told him I had a partner he asked about Janine. I was then off sick for about six weeks.
10. After I came back to work Brad still visited the store occasionally. This was normally between 12 and 3.00pm which is my normal shift. Brad did make comment that Janine was good looking and had a good body. It was a general comment it wasn't anything 'smutty'.

4.11 In her statement Nolan also mentioned seeing Hosemans at a hotel one evening. During their conversation he asked whether Ms Vaughan was single and commented that she was attractive. Nolan said she told Ms Vaughan about this conversation with Hosemans on the next occasion that she saw her. Nolan also gave evidence about this incident to the Commission.⁹⁷

⁹⁵ PIC Exhibit 61B

⁹⁶ PIC Exhibit 41B

⁹⁷ PIC Exhibit 41B; PIC Transcript, NJ Nolan, 7 June 2006, pp. 255-256

JACOB'S REPORT ON THE CONNECTION BETWEEN HOSEMANS AND MS VAUGHAN

4.12 A review of the evidence suggesting a connection between Hosemans and Ms Vaughan was undertaken by Jacob in his Progress Report to Crime Agencies for the period ending 29 July 2002. The following passages in the report are of significance:⁹⁸

The Homicide and SVCA personnel returned to Bathurst on Sunday 30/6/02 and remained through to Saturday 6/7/02. During that period Detectives worked on a particular significant issue involving Detective Sergeant Bradley HOSEMANS, which is described below.

...

The significant issue arising during this reporting period is the matter involving Detective Sergeant Bradley HOSEMANS.

... He [Hosemans] was appointed to the investigation by the LAC immediately after Janine VAUGHAN'S disappearance and remained part of the investigation beyond the involvement of Crime Agencies.

... Det Sgt HOSEMANS ceased working with S/F TOKO in about mid April 2002 ...

On the 4/6/02 (just prior to leaving Bathurst on our previous trip) information was received which indicated that Detective Sergeant HOSEMANS might have had some contact with the missing person Janine VAUGHAN prior to her disappearance. This contact was alleged to have included and in the form of telephone contacts, visits to her shop, request of her for a date (nothing of a criminal type nature).

...

These inquiries are on-going and a full briefing will be given at the conclusion of them, suffice to say there have been statements obtained from persons close to Janine Vaughan. Each of which has indicated that Ms VAUGHAN had told them of various type of contacts between herself and Det Sgt HOSEMANS in the two months prior to her disappearance. It should be stressed that there is no allegation of any criminal conduct by Det Sgt HOSEMANS by Ms VAUGHAN to her associates and at most (at this time) could be categorized as 'annoying' if in fact they occurred. From an investigative perspective the alleged involvement of Det Sgt HOSEMANS is being examined, as would any other matter of interest arising.

Although inquiries into this phase are on going (and will be completed as operational duties and commitments allow), at this point I am in a position to say that the various versions given by Ms VAUGHAN to about 6 or 7 persons, about the contact with Det Sgt HOSEMANS, is not supported for the following reasons:

- There is no evidence of any contact between Det Sgt HOSEMANS and Ms VAUGHAN. Staffs [sic] working under and with Ms VAUGHAN have been interviewed and there is no evidence that Det Sgt HOSEMANS visited her shop.
- Close friends of Ms VAUGHAN have been interviewed and there is no indication that Det Sgt HOSEMANS had contact with her as she has indicated.

⁹⁸ PIC Exhibit 43

4. INVESTIGATION OF ALLEGED CONNECTION

- There is no evidence of any telephone contact made to Ms VAUGHAN on any of her telephone numbers from either the Bathurst Police Station, home or mobile telephone of Det Sgt HOSEMANS, (some work is to be done in relation to Bathurst Local Council telephone numbers).

As indicated inquiries will continue into this aspect of the investigation and all avenues explored. A full briefing with [sic] be given at the conclusion of this phase of the investigation which will include the interviewing of Det Sgt HOSEMANS.

4.13 Under the heading, “*Future Directions*” the Progress Report noted that the investigation was to “*Continue to investigate the Det Sgt HOSEMANS issues to finality*”.⁹⁹

4.14 At the time Jacob wrote the Progress Report for the period ending 29 July 2002, Hosemans had been acquitted of the charges arising from the Golf Club incident and Jacob referred to this.¹⁰⁰ The reference however did not mention the adverse remarks made by the presiding Magistrate, as to the lack of credibility of the evidence given by Hosemans in those proceedings. Relevantly the following appears at page 42 of His Honour’s decision:¹⁰¹

I have already indicated that I regard the witnesses Kelly and Constable to not be truthful in the giving of their evidence and that I had formed the view they were not the only ones. I did not mean at the time that I made that statement that the other two were the defendants Hosemans and Woolfe although it is abundantly clear by now that they are not to be believed on their oath. Throughout these proceedings there has been the permeating odour or undercurrent of cover up and deceit.

4.15 In evidence to the Commission Jacob conceded that the magistrate’s findings concerning Hosemans’ credibility were matters that would have been a matter of concern to him in relation to the assessment of information given by Hosemans in the investigation. Jacob also gave evidence that he did not know whether or not he knew about the magistrate’s findings at the time he wrote the Progress Report of 29 July 2002.¹⁰² The timing of the magistrate’s decision being only 10 days prior to the Progress Report, the local publicity given to it and the fact that written reasons were delivered suggests it is likely that the decision was brought to Jacob’s attention prior to the writing of the Progress Report.

4.16 The Progress Report wrongly stated that the information suggesting a connection between Hosemans and Ms Vaughan was first provided on 4 June 2002. The evidence canvassed earlier in this Report shows that such information was provided to the investigating police in early January 2002, if not before.¹⁰³ Further, that in March 2002 there was a report to Jacob that detail concerning Hosemans was being left out of statements,¹⁰⁴ and that there was a further report to Waterman by McWhirter of such information on 29

⁹⁹ PIC Exhibit 43

¹⁰⁰ See also paragraph 2.13 above

¹⁰¹ PIC Exhibit 99

¹⁰² PIC Transcript, PY Jacob, 6 June 2006, pp. 124-126

¹⁰³ See evidence of De Souza, Murphy and Symington at paragraphs 3.2-3.19 above

¹⁰⁴ See paragraphs 3.27-3.32 above

April 2002.¹⁰⁵ The Progress Report, to the extent that it suggested that the first information provided to police on this issue was on 4 June 2002, was misleading.

- 4.17 The Progress Report¹⁰⁶ stated that the versions given by Ms Vaughan were not supported by the other inquiries that police had undertaken. While it is true that no evidence of contact, either in person or by telephone, between Hosemans and Ms Vaughan had been found, one aspect of her statements to others about Hosemans was in fact supported by inquiries made by the police. At the heart of what Ms Vaughan was saying was that Hosemans had expressed interest in her in the period shortly before her disappearance. That aspect of what she had told friends was confirmed by the statements of Nolan¹⁰⁷ and Green¹⁰⁸ both of whom gave statements to police dealing with conduct and conversations with Hosemans that indicated he did in fact express an interest in Ms Vaughan. The Progress Report was therefore inaccurate in stating that there was no evidence independent of Ms Vaughan suggesting that Hosemans had an interest in her.
- 4.18 The issue of Hosemans and a connection with Ms Vaughan was next dealt with in Jacob's Progress Report for the period ending 17 December 2002. Homicide personnel returned to Bathurst on 15 December 2002 and the Progress Report noted that, with assistance from McFawn, inquiries were continuing from the incident room at Bathurst Police Station. In terms of the investigation of a connection between Hosemans and Ms Vaughan the report contained the following:¹⁰⁹
- Completion of investigations into this previously reported significant issue will be affected [sic] this trip by JACOB. Det Sgt HOSEMANS will be spoken to about this aspect this week. Det Insp THURTELL will be briefed on outcomes.
- 4.19 The report also noted that it was proposed that there be a command handover of the investigation to Sim during the December trip to Bathurst.

HOSEMANS PROVIDES A STATEMENT

- 4.20 As the December 2002 Progress Report indicated, it was proposed that during the December Bathurst trip Hosemans would be spoken to in relation to Ms Vaughan. The manner in which he was spoken to and a statement obtained from him was detailed in Jacob's Progress Report for the period ended 14 January 2003.¹¹⁰
- 4.21 Jacob prepared a memorandum dated 19 December 2002 for Hosemans in which he requested that Hosemans provide a statement addressing in detail a number of questions. The questions concerned any association Hosemans

¹⁰⁵ See paragraphs 4.2-4.3 above

¹⁰⁶ PIC Exhibit 43

¹⁰⁷ PIC Exhibit 41B, see also paragraphs 4.10-4.11 above

¹⁰⁸ PIC Exhibit 61B, see also paragraphs 4.9 above

¹⁰⁹ PIC Exhibit 45

¹¹⁰ PIC Exhibit 46B

4. INVESTIGATION OF ALLEGED CONNECTION

had with Ms Vaughan prior to her disappearance and importantly, included the following question:¹¹¹

- 12) Would you be position [sic] to provide your movements for the evening of the 6th of December and the morning of the 7th December 2001?

4.22 On 19 December 2002 Jacob saw Hosemans looking distressed in the incident room of Bathurst Police Station. Hosemans had just been served with a notice pursuant to s181D of the *Police Act 1990* advising that he was being considered for removal from the NSW Police Force. As a consequence of Jacob's observations of Hosemans he decided not to give Hosemans the memorandum that he had prepared and told Hosemans that he would speak with him in the New Year. On the following day, however, Hosemans informed Jacob that he wanted to be interviewed in relation to Strike Force Toko. At 11 a.m. that day Jacob handed the memorandum of 19 December 2002 to Hosemans.

4.23 Jacob told the Commission that Hosemans went to the Detectives' room and completed his statement.¹¹² Jacob also gave evidence that by that point in time he had determined that Hosemans was no longer a person of interest in the inquiry but that he "... *simply wanted to secure from Mr Hosemans a version of events in the form of a statement, having consideration for everything that was occurring at that time and place on this issue. I felt that was an appropriate way to do it.*"¹¹³

4.24 The material parts of Hosemans' statement are produced below:¹¹⁴

3. I first became aware of Janine VAUGHAN some time ago, possibly in the early part of 2001, after walking past Ed Harry's Menswear in the Bathurst City Centre and seeing her standing in the shop. At the time I was in the course of carrying out my routine of shopping in the Bathurst City Centre. I did not speak with or engage in any form of acknowledgement. Shortly after seeing her I spoke with Rachel GREEN, manageress of the Fashion Fair clothing store located in the centre. I asked the name of the girl working in the Ed Harry's menswear shop. She informed me it was a girl named 'Janine' and that she was dating someone that worked in the Sanity record store. I made no other form of inquiry in relation to Janine. I have never expressed to any person that I had any feelings for or was interested in Janine in any way, other than to suggest to Rachel GREEN that Janine was an attractive girl. I have not indicated to any person a desire to go out with Janine.
4. I have no knowledge of whether or not Janine had any interest in me. I have never indicated to Janine a desire to go out with her either directly or indirectly. I have never seen Janine at a licensed premise or purchased her a drink. I have not seen her, in particular, at the Oxford Hotel. I have never purchased anything from Ed Harry's menswear store either in Bathurst or at any other location. Consequently I have never returned any items. I have never sent Janine, or caused to be sent any flowers. I have never telephoned her

¹¹¹ PIC Exhibit 7

¹¹² PIC Transcript, PY Jacob, 6 June 2006, pp. 130-134

¹¹³ PIC Transcript, PY Jacob, 6 June 2006, p. 134

¹¹⁴ PIC Exhibit 8

either at her work, home address or on her mobile telephone. At the time I first became aware of Janine I had no knowledge of either her telephone numbers or address.

5. I have walked past the Ed Harry store on many occasions in the course of carrying out my normal routine of shopping in the Bathurst City Centre. Given Bathurst is a small city this is not an unusual practice. I have never attended the centre for the purpose of walking past the Ed Harry store in particular to look at Janine. I have seen her standing in the store on several occasions whilst walking past in the normal course of window shopping or whilst making my way through the centre. There has never been any acknowledgement from me in the form of winking or waving at her.
6. On the evening of the 6th December 2001 I was staying at my mother's house in [location] near Newcastle. Her name is Anne HOSEMANS and resides at [address]. I arrived there on the 3rd December, 2001 after having attended court in Bathurst that day for a personal matter. I remained at my mother's until the 7th December, 2001 when I travelled back to Bathurst, arriving some time in the late afternoon. I own a silver coloured Toyota Prado Landcruiser that was newly purchased in November, 2001. Prior to that date and subsequently, I have had no access to any vehicle similar in description to the one it is alleged Janine Vaughan was seen getting into in the early hours of the 7th of December 2001.

4.25 There are a number of significant matters contained in Hosemans' statement. He confirmed that he had noticed Ms Vaughan and that he had expressed some interest in her. To a considerable degree this confirms Green's statement,¹¹⁵ although there was no mention of the comments Nolan said Hosemans had made to her. The most important part of the statement is the assertion that Hosemans was not in the Bathurst area at the time of Ms Vaughan's disappearance, and that he therefore had an alibi to counter any suggestion that he may have been involved in Ms Vaughan's disappearance.

JACOB'S ASSESSMENT OF HOSEMANS' EVIDENCE

4.26 In his evidence before the Commission Jacob initially said that the details Hosemans provided in terms of his whereabouts at the time of Ms Vaughan's disappearance were not considered by him to be an alibi. Jacob claimed that he had asked for Hosemans to account for his whereabouts "*for completeness*", not to see if he had an alibi.¹¹⁶ This was despite the fact that in the Progress Reports for the periods ended 14 January 2003¹¹⁷ and 18 February 2003¹¹⁸ he referred to "*alibi issues*" in relation to the information provided by Hosemans.¹¹⁹

4.27 Jacob later conceded in evidence that, in his Progress Reports, he had categorised Hosemans' evidence as providing an "*alibi*". He tried to suggest to the Commission he had done this because it was a simpler way of referring

¹¹⁵ PIC Exhibit 61B

¹¹⁶ PIC Transcript, PY Jacob, 6 June 2006, p. 138

¹¹⁷ PIC Exhibit 46B

¹¹⁸ PIC Exhibit 47

¹¹⁹ PIC Transcript, PY Jacob, 6 June 2006, pp. 139-141

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to the evidence but ultimately he agreed that it was an accurate way to categorise the evidence.¹²⁰

- 4.28 The Progress Report for the period ending 14 January 2003 contained what was described as “... a very detailed account of the assessment process and findings of the strike force ...” in relation to what was termed the “*Detective Sergeant Hosemans phase of the investigation*”. Relevantly the report contained the following:¹²¹

In brief there is no evidence of improper, criminal or corrupt conduct by Detective Sergeant HOSEMANS in relation to S/F TOKO’S investigations. There is some final record/alibi evidence to be looked at and collected before this phase can be finalized, but it is anticipated that this will have no impact on the ultimate conclusion. As a review mechanism, it is proposed to have Analyst Alana Sullivan review the Det Sgt HOSEMANS phase of the investigation.

- 4.29 The proposed review of the Hosemans’ phase of the investigation was never performed. When interviewed by Commission investigators Alana Sullivan, the analyst, confirmed that she had not been asked to perform, nor did she perform, any such review.¹²² In his evidence Jacob said he could not remember giving her any instruction to perform such a review, and could not remember if she carried out any such review.¹²³

- 4.30 The Progress Report for the period ending 14 January 2003 stated that after a “*thorough investigation*” of the reports of contact between Hosemans and Ms Vaughan, Jacob was able to conclude the following in relation to “*evidence of suspected behaviour*”:¹²⁴

- There is no evidence of any criminal conduct.
- There is no evidence from associates from her work that Det Sgt HOSEMANS called into her shop.
- No evidence that he purchased and returned goods.
- No evidence that he telephoned her at the store and
- No evidence that he had any contact with her at all there.
- There is no evidence on all of the CCR material that any telephone connected to Det Sgt HOSEMANS has been used to contact Janine VAUGHAN.
- There is no evidence that those closest to Janine VAUGHAN were told about any of these issues.
- There is no evidence that Janine VAUGHAN was in fear of the attention she claimed she was receiving.
- There is no evidence that she wanted any action taken in relation to these issues alleged, although such support was offered by at least one of these persons [name suppressed].
- It is clear that the versions that Janine VAUGHAN has given to these various persons, are not consistent in detail to one another.

¹²⁰ PIC Transcript, PY Jacob, 6 June 2006, pp. 143-144

¹²¹ PIC Exhibit 46B

¹²² PIC Exhibit 128C

¹²³ PIC Transcript, PY Jacob, 6 June 2006, p. 140

¹²⁴ PIC Exhibit 46B

- The only apparent independent evidence of any interest in Janine VAUGHAN by Det Sgt HOSEMANS is found from the Fashion Fair personnel (GREEN and possibly NOLAN).
- In this matter the only evidence is that Det Sgt HOSEMANS asked about Janine VAUGHAN who worked in a near by shop.
- Further on this issue Janine VAUGHAN did not tell these persons (GREEN and NOLAN), who actually know Det Sgt HOSEMANS, about her claims of his ongoing interest/attention.

4.31 The relevant extracts from statements that were in existence at the time of the preparation of this Progress Report are set out earlier in this Report.¹²⁵ In light of the statements of Ms Vaughan's stepmother and sister it is difficult to understand what Jacob meant by stating, *"There is no evidence that those closest to Janine Vaughan were told about any of these issues"*. A review of the statements of Jennifer and Kylie Vaughan demonstrates that Ms Vaughan had mentioned to them Hosemans' apparent interest in her.

4.32 While there may be some inconsistencies in the versions of what Ms Vaughan said to others about Hosemans, the inconsistencies are of the type that are common when people are subsequently asked to recount what were essentially casual informal conversations at the time they occurred.

4.33 In addition it was not accurate to state that Ms Vaughan had not told Nolan, or Green, about Hosemans' ongoing interest/attention. In paragraph 12 of Nolan's statement she recorded the following; *"She [Ms Vaughan] also told me that she had noticed him walking past the store and looking in and was aware that she had been noticing him. Janine did not seemed [sic] to be at all concerned."*¹²⁶ Similarly see paragraph 9 of Green's statement.¹²⁷

4.34 Later in his Report Jacob purported to cast doubt on what Ms Vaughan had reported to friends and acquaintances about Hosemans' attentions. The following appears on the fourth page of the Report under the heading *"Relevant prior behaviour of Janine VAUGHAN that should also be considered"*:¹²⁸

Janine VAUGHAN has allegedly previously manufactured issues which she has reported to friends and police, the stalking, the flowers, the threatening letters, it is reported by Janines [sic] former sister in law, that Janine is a 'drama queen' who simply made these things up.

4.35 Between September and December 1998 Ms Vaughan had made several complaints to police about harassment incidents unrelated to Hosemans. No supporting evidence or findings in relation to those previous complaints by Ms Vaughan appear to have been made, nor was there anything to suggest that the complaints were baseless. In addition the fact that no evidence was found to support the complaints should have little bearing on assessing the truthfulness of the statements made by Ms Vaughan in relation to Hosemans. In this instance the police were in possession of the statements of Green and

¹²⁵ See paragraphs 3.20 and 3.22 above

¹²⁶ PIC Exhibit 41B; see also paragraph 4.10 above

¹²⁷ PIC Exhibit 61B; see also paragraph 4.9 above

¹²⁸ PIC Exhibit 46B

Nolan that provided independent confirmation that Hosemans had expressed an interest in Ms Vaughan. It is difficult to see why any significant weight ought to be given to a view expressed by a former sister-in-law in relation to the statements made by Ms Vaughan. This contrasts with Jacob's failure to mention the doubts expressed by the magistrate in relation to Hosemans' credibility.

4.36 The Progress Report for 14 January 2003 also states:¹²⁹

As I indicated although I believe it is unnecessary, prior to making the final determination in relation to this matter I have sought some further material, copies of rosters/duty book etc re alibi. ...

DRAFT CONCLUSION RE DET SGT HOSEMANS

In the absence of any further information, intelligence, evidence or something arising from an examination of records/alibi issues which are to be examined, that the investigation into Det Sgt HOSEMANS and his involvement in S/F TOKO'S investigation should be concluded. There is no evidence of any impropriety, corrupt or criminal behaviour by Det Sgt HOSEMANS. In my view once these final matters are resolved he should be advised of his status in relation to this investigation and that it is appropriate to do so.

4.37 Jacob was indicating, in his comments under the heading "*Draft Conclusion*," that if records were examined that might be expected to support the alibi but did not, it would be necessary to reconsider the significance of Hosemans to the investigation. In evidence, after contending that he would not describe the information provided by Hosemans as an "alibi", Jacob eventually conceded to the Commission that if Hosemans had told him that he was in Bathurst on the night Ms Vaughan disappeared he would have made different and further inquiries.¹³⁰

HOSEMANS' ALIBI INCONSISTENT WITH OTHER EVIDENCE

4.38 It appears that no further inquiries were undertaken in relation to Hosemans' alibi until December of that year. On 6 December 2003 Jacob met with Hosemans in the CBD of Bathurst and indicated that he was continuing inquiries into the allegations that had linked Hosemans to Ms Vaughan prior to her disappearance. Jacob requested that Hosemans provide financial records, showing for example credit/debit card usage in the Newcastle area and mobile telephone records, during the period 3 December 2001 to the afternoon of 7 December 2001, being the period Hosemans had said in his statement that he had remained in Maitland. Hosemans indicated that he would search his records and would get back to Jacob. On the same date Hosemans indicated that he had such records and would provide them to Jacob as soon as possible. This information is recorded on e@gle.i as an "Investigators Note". On that same note Jacob recorded that he would submit

¹²⁹ PIC Exhibit 46B

¹³⁰ PIC Transcript, PY Jacob, 6 June 2006, pp. 138-139

a request to obtain the mobile telephone records for Hosemans' mobile telephone.¹³¹

4.39 In the investigation log for 6 December 2003 Jacob noted that he had requested the mobile telephone records and that, *"This will show the bases used by the phone and either support or otherwise the contention of Det Sgt Hosemans"*.¹³² This request is an indication that Jacob himself recognised the importance of mobile telephone records at that time.

4.40 A request for Hosemans' mobile telephone records was submitted by Waterman to Optus on 6 December 2003. On 8 December 2003 the records were provided.¹³³ On 12 December 2003 Waterman recorded the following entry on e@gle.i in relation to those call charge records:¹³⁴

It is believed that Detective HOSEMANS travelled to the Newcastle area on the 3/12/01 and this is corroborated by the phone record.

It would appear that Detective Hosemans travelled back to the Bathurst area on the 6/12/01 as there are entries for calls received from this mobile telephone at the Wentworth Falls cell site about 3.47pm and 3.48pm that date, followed by a call received at the Meadow Flat cell site about 5.12pm.

A call is then received at the Bathurst cell site about 10.36am on the 7/12/01.

During the period between the 27/11/2001 and the 09/12/2001 there are no calls from HOSEMAN's mobile telephone to VAUGHAN's home landline ... or to Ed Harry Menswear landline ...

4.41 The mobile telephone records, as noted by Waterman, contradicted the account Hosemans had provided in his statement that he was at his mother's home near Newcastle at the time of Ms Vaughan's disappearance. Waterman's note on e@gle.i was the extent of the analysis undertaken in relation to the mobile telephone records of Hosemans. The e@gle.i system indicates that this entry by Waterman was reviewed by Sim.

4.42 On 8 December 2003 Hosemans gave Jacob a bank statement for his ANZ Bank account for the period 3 December 2001 to 2 January 2002.¹³⁵ The bank statement on its face indicated that on 5 December 2001 Hosemans had conducted a transaction at Lowes in the Hunter Shopping Centre, presumably in the Newcastle area, and that the next transaction was conducted on 7 December 2001 at the Caltex service station at Wyong South, suggesting that Hosemans had not left the Newcastle area until sometime on 7 December 2001.¹³⁶

4.43 On their face the mobile telephone records obtained from Optus and the financial records obtained directly from Hosemans were in conflict. Despite that apparent conflict there appears to have been no further report or analysis

¹³¹ PIC Exhibit 48B

¹³² PIC Exhibit 101C

¹³³ PIC Exhibit 35C

¹³⁴ PIC Exhibit 34B

¹³⁵ PIC Exhibit 9 & 49B

¹³⁶ PIC Exhibit 9

4. INVESTIGATION OF ALLEGED CONNECTION

conducted by the police even though the information was obtained within a two day period.

- 4.44 In his evidence to the Commission Jacob said that he was told about the telephone records not long after they were obtained, and from that point on he believed that Hosemans had been in the Bathurst area at the time of Ms Vaughan's disappearance.¹³⁷
- 4.45 Hosemans was never re-interviewed at anytime after the telephone records were obtained, even though Jacob had formed the belief that Hosemans was in fact in the Bathurst area at the time of Ms Vaughan's disappearance. The final Progress Report prepared by Jacob was dated 18 February 2003. It stated that no duties had been performed on Strike Force Toko during that reporting period. Under the heading "*Future Directions*" was a list of matters still to be completed including "*Finalise alibi/records issue re Det Sgt Hosemans*".¹³⁸ No further Progress Report was ever prepared despite the fact that the opinion expressed in the Report for the period ending 14 January 2003 contained a draft conclusion in relation to the Hosemans' phase of the investigation, and that it, and the Report dated 18 February 2003, was subject to an issue arising from records to be obtained in relation to Hosemans' alibi.¹³⁹ The foreshadowed review by analyst Alana Sullivan never occurred.¹⁴⁰
- 4.46 There were further lines of inquiry open to the police that could have been readily undertaken. Hosemans' mother was not interviewed in relation to his whereabouts on the evening of 6 December 2001. Hosemans' mobile telephone records were not requested until December 2003 and further inquiries could have been made with the bank in relation to the bank statement. Hosemans was not interviewed as to his whereabouts once doubts were raised about his alibi.
- 4.47 It is not apparent why the police failed to follow up these lines of inquiry. It was not the case that the police had more promising persons of interest. Although there were a number of persons of interest identified in the investigation there was insufficient evidence to link any of those persons of interest with Ms Vaughan's disappearance, as will be discussed later in this Report.

¹³⁷ PIC Transcript, PY Jacob, 6 June 2006, pp. 110-112

¹³⁸ PIC Exhibit 47

¹³⁹ PIC Transcript, PY Jacob, 6 June 2006, p. 144

¹⁴⁰ See paragraph 4.29

5. JACOB'S RESPONSES TO THE NSW POLICE FORCE AND OMBUDSMAN

JACOB'S RESPONSE TO A/ASSISTANT COMMISSIONER KUITERS

5.1 As previously noted,¹⁴¹ around 2 June 2005 the office of the Commissioner of Police received an anonymous complaint concerning the investigation of Ms Vaughan's disappearance and in particular, the investigation of any connection between Ms Vaughan and Hosemans. On 2 June 2005 the Commissioner's office sought advice in relation to the matters raised in the anonymous complaint, from the Commander of the Western Region. On 7 June 2005 the matter was referred by Kuiters to Jacob with the following request:¹⁴²

Could you please advise in writing if Mr Hosemans was interviewed or not and your Confidential views on this investigation.

5.2 Jacob responded to the request by a memorandum dated 5 July 2005 attaching a report "... outlining the extent of Mr Hosemans involvement in the investigation of the suspected death of Janine Vaughan who was last seen alive about 4am on Friday 4 December 2001 [sic] in Bathurst."¹⁴³ A copy of the statement provided by Hosemans was attached to the report. It is the Commission's opinion that the report by Jacob was misleading in a number of significant respects.

5.3 As noted above, Jacob attached a copy of Hosemans' statement to his report. In the report Jacob stated that the statement had been read and assessed, and he provided a summary of its contents. In that summary the following appears:¹⁴⁴

He indicates that he was staying at his mothers, Anne Hosemans, at [address] arriving there on the 3rd December 2001 and leaving on the 7th December 2001 and travelling back to Bathurst. He indicates that he was at his mothers home on the night of the 6th.

5.4 In relation to the asserted alibi contained in Hosemans' statement Jacob stated in his report:¹⁴⁵

As indicated although I believe it is unnecessary, prior to making the final determination in relation to this matter I have sought some further material, copies of rosters/duty book etc re alibi. None of this material raised issues of any further concern.

5.5 In paragraph 4.44 above it is noted that Jacob's evidence to the Commission was that he was told about the details contained in the phone records not long after they were obtained, in December 2003, and that from that time onwards,

¹⁴¹ See paragraph 1.7 above

¹⁴² PIC Exhibit 50

¹⁴³ PIC Exhibit 51B

¹⁴⁴ PIC Exhibit 51B

¹⁴⁵ PIC Exhibit 51B

5. JACOB'S RESPONSES

he believed that Hosemans had been in the Bathurst area at the time of Ms Vaughan's disappearance (i.e. the evening of 6/7 December 2001).

- 5.6 Accordingly Jacob believed at the time of writing the report of 5 July 2005 that Hosemans was in the Bathurst area at the time of Ms Vaughan's disappearance.¹⁴⁶ However by annexing Hosemans' statement, together with a summary of it in the body of the report, and stating that the "*further material*" he had requested in relation to the alibi had not "*raised issues of any further concern*", Jacob conveyed the clear impression that Hosemans' alibi had been investigated and that no issues surrounding it had been raised.
- 5.7 Jacob had been asked for his confidential views of the investigation. From his evidence to the Commission it appears Jacob's view was that even though he believed Hosemans had been in the Bathurst area at the time, he considered that Hosemans was not a person of interest so it was not necessary for there to be any further investigation of him.¹⁴⁷ Jacob told the Commission he only made the further request for information in relation to Hosemans "*for completeness*" because he was a police officer.¹⁴⁸ He did not communicate that view to Kuiters. The fact that the report failed to refer to the results of the mobile telephone records, and asserted that checks of the alibi had been done and that the checks gave rise to no matters of concern, leads a reader inevitably to conclude that Hosemans' alibi was not contradicted by other information then available. In that respect the report was significantly misleading.
- 5.8 Kuiters gave evidence that suggested he was misled by the report. He told the Commission that the report indicated to him that Hosemans had not been in Bathurst at the time of Ms Vaughan's disappearance. He said he expected that if there was material available to Jacob indicating that Hosemans was in Bathurst at the time of her disappearance that material would have been referred to in the report. He told the Commission that the first time he had heard that there were telephone records placing Hosemans in the Bathurst area at the time of Ms Vaughan's disappearance was during the Commission's hearing in Orange in June 2006. Kuiters agreed that the report was misleading in the sense that he "*... wasn't fully informed of all the available facts*".¹⁴⁹
- 5.9 In giving evidence to the Commission concerning his report to Kuiters, Jacob said he could not explain why he did not mention in his report the fact that the telephone records suggested that Hosemans was in Bathurst at the time of Ms Vaughan's disappearance, thus contradicting Hosemans' alibi.¹⁵⁰ He denied that the report was intended to mislead, and said "*I simply didn't put it in there*".¹⁵¹

¹⁴⁶ PIC Transcript, PY Jacob, 6 June 2006, pp. 110-112

¹⁴⁷ PIC Transcript, PY Jacob, 6 June 2006, pp. 135, 142

¹⁴⁸ PIC Transcript, PY Jacob, 6 June 2006, p. 138

¹⁴⁹ PIC Transcript, FG Kuiters, 21 August 2006, pp. 339-340

¹⁵⁰ PIC Transcript, PY Jacob, 6 June 2006, p. 156

¹⁵¹ PIC Transcript, PY Jacob, 6 June 2006, p. 162

- 5.10 The information from the telephone records, being inconsistent with Hosemans' alibi, added considerable weight to the anonymous complaint Jacob was investigating (see paragraph 5.1). To have disclosed these results, along with the fact that Hosemans had never been further interviewed about the matter would have raised very serious concerns about Jacob's, or Strike Force Toko's, investigation into Hosemans' involvement.
- 5.11 Jacob, in his evidence, attempted to dismiss the failure to refer to such matters in his report by suggesting that such matters were really of no significance and that he didn't put it in because he "... *didn't think it was necessary ...*".¹⁵² Given the circumstances in which the report came to be prepared, and its focus and subject matter, the Commission finds it difficult to accept this explanation. This is particularly so in the light of Jacob's response to queries raised by the NSW Ombudsman's Office after that office's review of Jacob's report of 5 July 2005.

JACOB'S RESPONSE TO NSW OMBUDSMAN

- 5.12 On 12 August 2005 Detective Inspector Nash (Nash), Professional Standards Manager for the Western Region, responded to the memorandum from the Commissioner's office dated 2 June 2005 and advised that; "*The complaint has been finalised and is now awaiting the determination of the Ombudsman*".¹⁵³ On 16 August 2005 Nash forwarded an email, received from the NSW Ombudsman (Ombudsman), to Jacob. The email raised a number of questions concerning the investigation of Hosemans undertaken by Strike Force Toko. In relation to Hosemans' asserted alibi the following specific questions were raised by the Ombudsman.¹⁵⁴

Was there any attempt to verify the information given in relation to former officer Hosemans whereabouts at the relevant time? Is there a need to do so now? The report of Detective Inspector Jacob does not appear to give a final outcome on CCRs. Is this now available?

- 5.13 On 27 November 2005 Jacob provided a memorandum to Nash to which he attached a supplementary report addressing the issues raised by the Ombudsman. In relation to the questions concerning Hosemans' alibi the following appears:¹⁵⁵

4. Was there any attempt to verify the information given in relation to former officer Hosemans whereabouts at the relevant time? Is there a need to do so now?

Yes all efforts to independently verify the information provided were made. Mr Hosemans was interviewed on this matter over a year after the disappearance of Janine Vaughan and at that time indicated that he returned to Bathurst from his mothers in Newcastle on the afternoon of the 7 December 2001.

Visa Card EFTPOS transaction records obtained showed that Mr Hosemans used his card [sic] Newcastle at Lowes Manhattan Pty Ltd,

¹⁵² PIC Transcript, PY Jacob, 6 June 2006, pp. 162-163

¹⁵³ PIC Exhibit 51B

¹⁵⁴ PIC Exhibit 52

¹⁵⁵ PIC Exhibit 53B

(shop 40 The Hunter SC) on the 5/12/2001. That same card was used on 7/12/01 at the Caltex Service Station Wyong South however we are not able to say what time the card was used. This latter usage cannot be taken any further.

Having regard to the length of time between the disappearance of Ms Vaughan and the information sort [sic] from Mr Hosemans on his movement, together with our ability to seek that information from other records, I considered it unnecessary to interview Mr Hosemans mother, although he was supportive of me doing so. As previously stated I am of the informed view that sufficient explanation has been provided regarding Hosemans whereabouts and I stand by my decision to not interview Hosemans mother.

5. The report of Detective Inspector Jacob does not appear to give a final outcome on CCRs. Is this now available?

CCR records obtained on Mr Hosemans mobile telephone also support the fact that Mr Hosemans travelled to the Newcastle area on the 3/12/2001.

However, those CCR records also indicate that Mr Hosemans travelled back towards the Bathurst area on the 6/12/01. There are entries for calls received through the Wentworth Falls cell site about 3.47pm and 3.48pm that date, followed by a call received through the Meadow Flat cell site about 5.12pm, a call was then received through the Bathurst cell site about 10.36am on the 7/12/01.

These records are in apparent conflict with Mr Hosemans visa charge records. This conflict is a matter that cannot be resolved on the evidence available. Mr Hosemans believes that he returned to Bathurst on the afternoon of 7/12/01, his CCR mobile records indicate that he came back into Bathurst on 6/12/01. *It is not uncommon for cell sites to be inaccurate and it would be unwise to rely on this type of evidence.* [emphasis added]

5.14 It was noted above in paragraph 4.44 that Jacob gave evidence he became aware of the results of the call charge records for Hosemans' mobile phone not long after they were acquired in December 2003, and from that time onwards he formed the belief that Hosemans was in the Bathurst area at the time of Ms Vaughan's disappearance.¹⁵⁶ Not only did Jacob fail to state in his report his belief that Hosemans was in the Bathurst area at the time of Ms Vaughan's disappearance, as suggested by the telephone records, but he suggested that it is not uncommon for such records to be inaccurate and that it would be unwise to rely on this type of evidence.

5.15 The only conclusion available from Jacob's report was that, contrary to his own stated belief, he was of the view that Hosemans' alibi was true and that the telephone records ought not to be relied upon to conclude otherwise. On Jacob's own evidence to the Commission this did not reflect his true position in regard to both Hosemans' alibi and the significance of the telephone record evidence.

5.16 In his evidence before the Commission, prior to being taken to his report dealing with the questions raised by the Ombudsman, Jacob confirmed that in

¹⁵⁶ PIC Transcript, PY Jacob, 6 June 2006, pp. 110-112

concluding that Hosemans was in Bathurst on the night Ms Vaughan disappeared, he had accepted the accuracy of the call charge records:¹⁵⁷

Q: You have accepted the accuracy of the call charge records, haven't you?

A: I absolutely have.

Q: Absolutely have?

A: Yes. But we rely on them all the time, call charge records.

- 5.17 It should be noted that in the investigation log for 6 December 2003 Jacob wrote, in relation to the request for the Hosemans' mobile telephone records; *"This will show the bases used by the phone and either support or otherwise the contention of Det Sgt Hosemans."*¹⁵⁸ This shows the importance Jacob attached to the reliability of the mobile telephone results. Sim also confirmed in evidence that police and prosecutors regularly rely on the evidence derived from call charge records in investigations and criminal prosecutions.¹⁵⁹
- 5.18 Jacob agreed that his reliance upon the telephone records, to support his belief that Hosemans was in the Bathurst area at the time of Ms Vaughan's disappearance, did not sit with the statement in his report dealing with the questions raised by the Ombudsman that it would be unwise to rely upon the evidence of the telephone records. Jacob could not give a reason why he suggested in his report that it would be unwise to rely upon the telephone records. He denied he was attempting to suggest to the Ombudsman that he preferred to accept the banking records and Hosemans' statement even though they were inconsistent with the mobile telephone records.¹⁶⁰
- 5.19 Another aspect of the report prepared by Jacob dealing with the questions raised by the Ombudsman requires comment. The report, as quoted in paragraph 5.13 above, suggested that Hosemans made a purchase from the Caltex Service Station, Wyong South on 7 December 2001 using a card linked to his ANZ savings account and that police could not determine at what time the card had been used. The reference to the use of the card being on 7 December 2001 was taken from the bank statement that Hosemans provided to Jacob in support of his asserted alibi.¹⁶¹ Jacob's report indicated that police could not take the usage of the card any further.
- 5.20 Inquiries made by the Commission of the ANZ Bank established that the bank had records available to it that could have been produced to the police had they asked. These records show that the date and time the card was used at Wyong South was 10.25 a.m. on 6 December 2001, a date and time consistent with Hosemans travelling to Bathurst from the Newcastle area on 6 December 2001. The records also show that the transaction at Wyong South was not posted to Hosemans' account until the next day, 7 December 2001,

¹⁵⁷ PIC Transcript, PY Jacob, 6 June 2006, p. 158

¹⁵⁸ PIC Exhibit 101C

¹⁵⁹ PIC Transcript, RID Sim, 21 August 2006, pp. 289–290

¹⁶⁰ PIC Transcript, PY Jacob, 6 June 2006, pp. 168–172

¹⁶¹ PIC Exhibit 9

5. JACOB'S RESPONSES

thus explaining why Hosemans' bank statement showed that date as the date of the transaction.¹⁶²

- 5.21 Prior to Jacob asserting to the Ombudsman that the usage of the card could not be taken any further, no checks were carried out by Jacob, or anybody attached to the investigation, to determine if the bank was able to provide any further detail. Jacob said in evidence he made no such inquiries and he was not aware of any such inquiries being made.¹⁶³ It was misleading for Jacob to assert in the report that the police could not take the usage of the card any further when in fact no checks were undertaken to determine if the bank could in fact provide further information about the date and time the card was used.

¹⁶² PIC Exhibit 54B

¹⁶³ PIC Transcript, PY Jacob, 6 June 2006, pp. 166–167

6. THE PROVISION OF A BRIEF TO THE CORONER

HOSEMANS AND OTHER POI'S NOT MENTIONED IN BRIEF

6.1 Detective Senior Constable Sim, (Sim), was involved in the investigation into Ms Vaughan's disappearance from December 2001. In evidence Sim said he became the officer in charge of the investigation on 10 May 2004, which is the date that appears in his statement to the Coroner, however the NSW Police Force [e@gle.i](#) database records he took over the investigation from 4 December 2003. On 11 April 2005 he made a formal report of Ms Vaughan's death to the Coroner. In that report it was stated that a Coronial Brief was being prepared and a request was made for a reasonable period of time to prepare the brief.¹⁶⁴

6.2 In August 2005 the NSW Ombudsman had raised a number of questions requiring further information following his review of the manner in which the police had investigated the anonymous complaint concerning Hosemans. The following inquiry was included:¹⁶⁵

Will the material in relation to former officer Hosemans be included in the brief prepared for the Coroner?

6.3 In his 27 November 2005 report addressing the issues raised by the Ombudsman Jacob gave the following response to the above inquiry.¹⁶⁶

Yes. The brief is being compiled as I type. I liaised regularly with Det LSC Ritchie Sim who is undertaking that task. I have again spoken to him today. There will be an area within the brief provided to the Coroner where all persons of interest will be dealt with including the material collected on Hosemans, but more importantly included in that material will be those persons of interest of significance. Please note that as this process of compiling this Coronial brief of evidence is being undertaken by Det LSC Sim is reviewing the investigation in an effort to identify any deficiencies.

6.4 Sim delivered the brief to the Coroner's office on 23 January 2006 and spoke with the senior coronial advocate, Sergeant Norton, (Norton), who was handling the matter. At the time the brief was delivered Sim requested a conference with the Coroner who was to conduct the inquest. In evidence to the Commission Sim said the reason for this meeting was that the investigation was still current and he wanted to seek the Coroner's advice about how to present evidence about persons of interest without interfering in the ongoing investigation. Sim told the Commission he did mention the persons of interest in his statement but that he didn't specifically refer to individuals.¹⁶⁷

¹⁶⁴ PIC Transcript, RID Sim, 21 August 2006, pp. 277-279; PIC Exhibit 72B

¹⁶⁵ PIC Exhibit 52; See also paragraphs 5.12-5.21 above for discussion of Jacob's response to the Ombudsman

¹⁶⁶ PIC Exhibit 53B; See also paragraph 5.13

¹⁶⁷ PIC Transcript, RID Sim, 21 August 2006, p. 280

6. THE PROVISION OF A BRIEF TO THE CORONER

6.5 Norton's evidence to the Commission was that when the brief was delivered there was no suggestion that it was not complete. She also said there was no mention by Sim when he delivered the brief, or in the brief itself, that a former police officer had, at one point in time, been a person of interest in the investigation. Norton recalled that she had a brief discussion with Sim about the circumstances of Ms Vaughan's disappearance and that they discussed the need for Sim to have a meeting with the Coroner. She said that she told him that when she had completed her review she would provide the review to the Coroner and arrange for a conference with him.¹⁶⁸

6.6 Having received the brief Norton proceeded to complete a review of it. She said it was the practice to conduct the review once the full brief had been received and that she would not have conducted the review had she known that the brief was incomplete.¹⁶⁹ Her review was based on the material in the brief including Sim's 159 page statement. In her review she wrote the following in relation to persons of interest:¹⁷⁰

Police state that numerous persons of interest have been identified through information from the public, associates of the deceased, by witnesses and persons known to police. Due to the body of the deceased not being located, and there being no crime scene where the death had taken place, no opportunity has arisen for forensic evidence to be gathered to be utilised in the investigation. This being the case, the interviewing of the persons of interest was limited. A strategic interviewing plan was put into place when dealing with possible persons of interest. Following this interview process, there was insufficient evidence to support the consideration of any of the persons of interest to be considered as being direct suspects with regards to the deceased's disappearance.

6.7 The only mention of persons of interest in Sim's statement was at paragraph 188. The above paragraph from Norton's review is an almost direct restatement of the information provided by Sim. Her interpretation of the information he provided is in the last sentence of the above quotation; that is, there was insufficient evidence to support any of the persons of interest being considered as direct suspects. There was no indication from Sim's statement that more evidence was to be provided in relation to either Hosemans or other persons of interest.

6.8 Sim told the Commission that when he submitted the brief in January 2006 "*the majority*" of it was complete. The documents still to be provided were, he said, a report detailing the inquiries conducted in relation to persons of interest and some other requisitions requested by the Coroner.¹⁷¹ This is in contrast to the evidence of Norton who said that she was of the view that the brief was complete and that the only requisition she requested as a result of her review was the Missing Person Unit statement.¹⁷²

¹⁶⁸ PIC Transcript, TA Norton, 21 August 2006, pp. 316-319, 330

¹⁶⁹ PIC Transcript, TA Norton, 21 August 2006, pp. 317-318

¹⁷⁰ PIC Exhibit 80C, pp. 3-4

¹⁷¹ PIC Transcript, RID Sim, 21 August 2006, p. 279

¹⁷² PIC Transcript, TA Norton, 21 August 2006, p. 330

- 6.9 Norton told the Commission that once the Missing Person Unit statement had been obtained and the availability of witnesses had been ascertained, she organised a conference with the Deputy State Coroner Mr Milovanovich (the Coroner). In her opinion the matter was, at that stage, ready to formally list for inquest. She said she was not aware that there was a large quantity of material still to be provided. She said:¹⁷³

If I were made aware that there was a large amount of material still to be provided, I wouldn't have conducted the review. There's no use reviewing a part brief because you only have to go back and redo it again.

THE MEETING WITH THE CORONER

- 6.10 The meeting between Sim, Norton and the Coroner was held on 24 March 2006. Norton said that a police officer in charge of a matter would not normally attend a meeting held to formally list a matter for inquest. However in this instance Sim attended because he had requested to do so. At that meeting, according to Norton's evidence, Sim told Norton and the Coroner that a former police officer had at some stage of the investigation been considered as a suspect. Sim also said at the meeting that the person concerned had provided an alibi which had been confirmed.¹⁷⁴ Norton recalled as follows:¹⁷⁵

I recall Detective Sim giving us an explanation of the former police officer being in Newcastle. There was talk of call charge records and possibly even a petrol voucher, from memory. I specifically recall the call charge records, but from that we were then told that the alibi had been verified, or words to that effect. My words, when I recorded it later after the conference, was that the alibi checked out.

- 6.11 Norton said that the Coroner expressed concern at the information provided by Sim and stressed to him the need to be transparent, given that a former police officer had at one point been considered to be a person of interest. She said that there was also discussion about the need to always include information in the brief verifying whether a person was or was not involved. Norton could also recall some discussion about the fact that Hosemans had produced some documents. She told the Commission a request was made for Hosemans to be re-interviewed and for Jacob to provide a statement in relation to his inquiries. At the meeting the Inquest was listed to commence on 23 May 2006 for four days.¹⁷⁶
- 6.12 On 5 April 2006 Sim called Norton to advise that Hosemans had provided a statement early in the investigation and that he would provide that statement to the Coroner. In her notes of that conversation Norton recorded "*Informed Coroner wants all info to see if Crown needs to take over*". In a later conversation that same day Norton again reiterated that the Coroner wanted to see all the information, that there was a need to be transparent and

¹⁷³ PIC Transcript, TA Norton, 21 August 2006, p. 318

¹⁷⁴ PIC Transcript, TA Norton, 21 August 2006, pp. 319-320

¹⁷⁵ PIC Transcript, TA Norton, 21 August 2006, p. 320

¹⁷⁶ PIC Transcript, TA Norton, 21 August 2006, pp. 320-322

“Everything open and on the table”. Norton recorded that Sim agreed to this. The fact that the inquest date may have to be vacated was also raised.¹⁷⁷

- 6.13 Subsequently, on 10 April 2006, Sim provided Norton with Hosemans’ statement and Jacob’s report of 5 July 2005 which was the response to Kuiters’ memorandum, discussed above at paragraphs 5.1-5.11.¹⁷⁸ Neither of these documents gave any indication that there might be a problem with Hosemans’ alibi. On 10 April 2006 Sim also sent Norton an email advising that there was a large amount of work involved in obtaining all the information in relation to persons of interest and requesting an extension of time which he acknowledged would mean that the date of the inquest would have to be vacated.¹⁷⁹
- 6.14 Nothing in the material provided to the Coroner indicated that the telephone records did not support the alibi asserted by Hosemans. Nothing in the material provided to the Coroner indicated that Jacob and the investigating police believed that Hosemans had been in the Bathurst area at the time of the disappearance of Ms Vaughan. This was so even though in Jacob’s response to the Ombudsman he said he had discussed with Sim the need to deal with the Hosemans’ aspect of the investigation when compiling the brief for the Coroner.¹⁸⁰

SIM’S EVIDENCE

- 6.15 Sim gave evidence to the Commission of his dealings with Norton and the Coroner. He said he told the Coroner that Hosemans’ alibi appeared to be correct although he denied using the words the *“alibi checked out”*.¹⁸¹
- 6.16 Sim had in fact known about the discrepancy between the mobile telephone records and Hosemans’ alibi since 14 December 2003. On that date he reviewed the e@gle.i record that was created by Waterman on 12 December 2003 after he had seen the call charge records for Hosemans’ telephone.¹⁸²
- 6.17 Sim initially agreed, in evidence to the Commission, that he had known since 14 December 2003 that the call charge records suggested Hosemans’ alibi was incorrect.¹⁸³ However he later qualified this answer by saying that the term *“reviewed by”* in relation to e@gle.i records relates to a process of ensuring documents have the relevant information and attachments, and not necessarily that the information contained in them has been considered in detail. He said that while *“... there is every possibility I did read it ... it’s very possible that I didn’t read it in great detail”*.¹⁸⁴

¹⁷⁷ PIC Exhibit 86C

¹⁷⁸ PIC Exhibit 77B

¹⁷⁹ PIC Exhibit 87C

¹⁸⁰ See paragraph 6.3 above

¹⁸¹ PIC Transcript, RID Sim, 21 August 2006, pp. 283-284, 291-292

¹⁸² PIC Exhibit 74B, see extract at 4.40

¹⁸³ PIC Transcript, RID Sim, 21 August 2006, pp. 285-286

¹⁸⁴ PIC Transcript, RID Sim, 21 August 2006, p. 312

- 6.18 Sim gave evidence that he believed he mentioned the “*anomaly*” in the phone records to Norton and the Coroner although he had no recollection of doing so.¹⁸⁵ Norton’s evidence to the Commission was that she recalled Sim mentioning the call charge records at the meeting but that they were also told that the alibi had been verified.¹⁸⁶
- 6.19 On 5 April 2006 Sim telephoned Norton and during their conversation Hosemans’ statement was mentioned.¹⁸⁷ Sim’s evidence was that the discussion related to him providing Hosemans’ statement to the Coroner in addition to the statement of Jacob as requested.¹⁸⁸ On 10 April 2006 Sim faxed Hosemans’ statement and Jacob’s report of 5 July 2005 to Norton.¹⁸⁹ Sim recorded in his notebook that prior to faxing those documents to the Coroner he had reviewed Jacob’s report.¹⁹⁰ Sim admitted in evidence that he was aware when he sent the report that it did not contain any information about the “*anomaly*” with the call charge records and agreed that he did not raise this issue with the Coroner. Sim said that prior to sending the documents to the Coroner on 10 April 2006 he had spoken to Jacob but not in any detail.¹⁹¹
- 6.20 Sim also said that in April 2006 he knew about Jacob’s report of 27 November 2005. That report contained the paragraph saying that Sim was preparing the brief to the Coroner and would include material about Hosemans and other persons of interest in it.¹⁹² Sim said he recalled speaking to Jacob around the time Jacob was preparing the report for the Ombudsman¹⁹³ and he, Sim, was preparing the brief for the Coroner. Sim said that Jacob told him he, Jacob, would be addressing the issues in relation to Hosemans with the Coroner but that he was to address the information in relation to the other persons of interest.¹⁹⁴
- 6.21 Jacob, in his evidence to the Commission, confirmed Sim’s evidence. Jacob said that he had spoken to Sim about this matter in March or April 2006 and was of the opinion that Sim was preparing a document for the Coroner in relation to all the persons of interest and that he, Jacob, was to prepare a statement in relation to the Hosemans aspect of the investigation. Jacob also gave evidence that he was not aware that the Coroner was unhappy with any aspect of the brief as it had been initially provided to him.¹⁹⁵
- 6.22 Sim also gave evidence that the first time he had heard it said “*blankly*” by anyone that Hosemans was in the Bathurst area at the time of the disappearance of Ms Vaughan was during the Commission’s public hearing in Orange. Despite this he said that Jacob may have told him, prior to June

¹⁸⁵ PIC Transcript, RID Sim, 21 August 2006, pp. 292–293

¹⁸⁶ PIC Transcript, TA Norton, 21 August 2006, p. 320; see also paragraph 6.10 above

¹⁸⁷ PIC Exhibit 75

¹⁸⁸ PIC Transcript, RID Sim, 21 August 2006, p. 298

¹⁸⁹ See paragraph 6.13 above

¹⁹⁰ PIC Exhibit 78

¹⁹¹ PIC Transcript, RID Sim, 21 August 2006, pp. 296–299

¹⁹² See paragraph 6.3 above

¹⁹³ PIC Exhibit 53B

¹⁹⁴ PIC Transcript, RID Sim, 21 August 2006, pp. 299–301, 303–305

¹⁹⁵ PIC Transcript, PY Jacob, 6 June 2006, pp. 172–173

2006, that he had believed since December 2003 that Hosemans was in Bathurst on the night of 6 December 2001. Sim said however that this information did not “... *stick out as a big thing*” and was “*Not a major issue*” in “... *the entirety of the investigation ...*”.¹⁹⁶

- 6.23 Sim conceded that he had told members of Ms Vaughan’s family and the Coroner that police were satisfied that Hosemans was not in the Bathurst area at the time of the disappearance of Ms Vaughan after he was aware of the content of the mobile phone records.¹⁹⁷ This was also at a time when, according to Jacob, police were of the view that indeed Hosemans had been in the Bathurst area at the time of the disappearance. The information provided to the members of Ms Vaughan’s family and the Coroner is a matter of particular concern.

¹⁹⁶ PIC Transcript, RID Sim, 21 August 2006, pp. 309-310

¹⁹⁷ PIC Transcript, RID Sim, 21 August 2006, pp. 310-313

7. THE EVIDENCE OF RA1

7.1 A witness came forward during the Commission's investigation and provided evidence which, on the face of it, implicated Hosemans in the disappearance of Ms Vaughan. On 10 May 2006 the witness, codenamed RA1, provided a statement to her solicitor. The material parts of the statement are set out below:¹⁹⁸

[personal details]

I was alone in my car [location] early approx 7.00–8am on a Friday or Saturday morning shortly after the disappearance of Janine Vaughan.

I turned up [address] (heading north) and saw a small red car, hatchback which I recognised as a Mitsubishi Colt, approaching from approximately [address] (heading south). I think it had a black and yellow numberplate.

As the vehicle got closer I thought that I knew who's vehicle it was but the person I know as driving that type of vehicle was not driving it.

As it approached closer I saw a very distressed woman sitting in the front passenger seat trying to get my attention and appearing to wave when I realised that her hands were tied together (with what appeared to be baling twine) as she put her hands up. Her hair was as if it was standing on its end (very messy).

The person that I recognised driving the vehicle had a clean cut look (no beard and shortish dark hair cut) he was wearing a light coloured shirt and looked shocked (his mouth dropped open) when the vehicles passed. I knew this person was Brad Hoseman, as he was a policeman in Bathurst, and I knew his sister in Bathurst, having had business dealings with her regarding advertising over the radio.

At this time I was slowing down as I was approaching the street and about to turn into it, and I was able to see Brad Hoseman and Janine Vaughan quite clearly.

The last time I saw this vehicle it was travelling south along [address] towards [address].

I wondered what was happening, but as I knew Brad Hoseman as a policeman, who should be trustworthy, and should be a pillar of society, I thought nothing of it, and I got on with my day, as I had a busy life.

[personal details]

It did not occur to me that there was a problem with those circumstances, until I saw Janine Vaughan's picture in the Western Advocate, on Friday 7th April 2006, and I then saw my Solicitor on Monday 10th April.

[personal details]

7.2 RA1 gave evidence before the Commission at two private hearings. The contents of her statement were confirmed with her at those hearings. The private evidence was subsequently released publicly. RA1 said that on 7 April 2006 while at work she saw a photo on the front of the previous day's edition of the local Bathurst newspaper, The Western Advocate. She

¹⁹⁸ PIC Exhibit 91

recognised the photo as being that of the woman she had seen in the car with Hosemans as described in her statement. She gave evidence that she had never met Ms Vaughan. RA1 also stated that she had not met Hosemans personally, although she was aware that he was a policeman and had been on the Local Council and was the Deputy Mayor. She said she had seen him on television and in the local newspapers.¹⁹⁹

- 7.3 There are a number of issues surrounding the evidence given by RA1 that must be considered in assessing the weight that should be placed on it. RA1 gave evidence that she told no-one about what she observed in December 2001, prior to seeing the photograph of Ms Vaughan in the Western Advocate on 7 April 2006. This was despite the fact that she said that what she observed that day was out of the ordinary and she had not seen anything similar to that before.²⁰⁰ It is the type of incident that one might expect a person would mention to someone. RA1 said that she did not mention it to her husband even though they have a good relationship.²⁰¹
- 7.4 The delay in RA1 coming forward must also be taken into account. Her explanation for that delay was twofold. Firstly she said she knew Hosemans to be a policeman and therefore his actions on that day could have been something to do with his job and secondly she was fearful of getting involved in something that had nothing to do with her.²⁰²
- 7.5 RA1's evidence about the red car also needs to be considered when making an assessment of her evidence. RA1 said that when she first saw the red car described in the statement she made to her solicitor, she thought she recognised the car as belonging to a friend of her son but when the car came closer she realised that the person driving the car was not her son's friend.²⁰³
- 7.6 Inquiries by the Commission have established that her son's friend did not own a car fitting the description of the vehicle RA1 described until April 2002, some four months after the incident RA1 says she saw. The evidence available therefore suggests her claim, that on seeing the car she initially thought it was the car of her son's friend, is not reliable. However when this apparent contradiction of her evidence was put to her, RA1 gave the following response:²⁰⁴

Q: I think you have been told that inquiries suggest that [name] didn't own that car, or a car of that description, until about April 2002?

A: I have been told that, yes.

Q: That is some four months, almost, from when it is that you think you saw Mr Hosemans and the woman you now know as Janine Vaughan in this car in December 2001. Does that cause you to doubt your recollection of these events?

A: Not one little bit.

¹⁹⁹ PIC Exhibit 89: PIC Transcript ASA, RA1, 14 June 2006 pp. 4-6, 11

²⁰⁰ PIC Exhibit 89: PIC Transcript ASA, RA1, 14 June 2006 p. 12

²⁰¹ PIC Exhibit 89: PIC Transcript ASA, RA1, 14 June 2006 pp. 17-18

²⁰² PIC Exhibit 89: PIC Transcript ASA, RA1, 14 June 2006 pp. 12-13

²⁰³ PIC Exhibit 89: PIC Transcript ASA, RA1, 14 June 2006 pp. 14-15

²⁰⁴ PIC Exhibit 89: PIC Transcript ASA, RA1, 14 June 2006 pp. 15-16

Q: Why not?

A: Why? Because I know what I saw. I saw Brad Hosemans and Janine Vaughan in a small red car that I thought belonged to [her son's friend] first-off. Obviously it wasn't [his] car, according to the investigators, who said it wasn't until April that he owned the car. But how many people drive a car before it's actually in their registered name or registered to their name? ...

7.7 Caution must also be adopted in assessing evidence of identification. RA1 gave evidence identifying two persons whom she had never met, in circumstances where the time available to her to view the persons concerned was no doubt very short. In performing the identification of Hosemans, RA1 was relying upon pictures she had seen of him in newspapers and on television. In identifying the female person in the car as Ms Vaughan, RA1 relied upon a newspaper photograph that she saw for the first time some five years after the incident about which she was giving evidence. In these circumstances the nature of the identification evidence and the circumstances in which it came to be made raise doubts as to its reliability.

8. THE EVIDENCE OF HOSEMANS

- 8.1 Hosemans gave evidence in public on two occasions, 5 and 7 June 2006. On each occasion he denied any involvement in the disappearance of Ms Vaughan.
- 8.2 Hosemans told the Commission that he was on leave from 29 November to 7 December 2001 and returned to work on 10 December 2001. When asked about his role in the investigation of Ms Vaughan's disappearance, prior to the arrival of Jacob and the Homicide Squad, he initially said that he was involved in the "... *e@gle.i data management system* ...". However when he was then asked specifically if he was in charge of the investigation at that early stage he said "*I suppose the overall responsibility may well have rested with me at that stage, but it wasn't an investigation that I certainly took over ...*".²⁰⁵ This accords with the evidence of Gallagher and McFawn in relation to the initial investigation and the establishment of Strike Force Toko as discussed above in Chapter 2.²⁰⁶
- 8.3 Hosemans was asked in evidence about his statement of 20 December 2002 in which he asserted, at paragraph 6, that he had not returned to Bathurst from his mother's home until 7 December 2001.²⁰⁷ He initially stated that the contents of the statement were, "*To the best of my knowledge and belief, most certainly ...*" true and correct.²⁰⁸
- 8.4 Hosemans was then asked to confirm that the information in his statement about his whereabouts on 6 and 7 December 2001 was correct. In reply Hosemans said that at the time he made the statement he had used a bank statement²⁰⁹ to assist him in his recollection but "... *it may be that ...*" he was back in Bathurst on the 6 December 2001. When questioned about this answer Hosemans said that at the time he made his statement he "*believed*" that he had stayed at his mother's house until Friday 7 December and then travelled back to Bathurst.²¹⁰
- 8.5 Hosemans was then asked if he had ever previously suggested that he may have been in Bathurst on the night Ms Vaughan disappeared. He said that the first time he had suggested to anyone that he may well have been back in Bathurst on 6 December 2001 was just a few minutes earlier when he had given that evidence.²¹¹ He conceded that even in May 2006, shortly before the Commission's hearing, he had told journalists that he had not been in

²⁰⁵ PIC Transcript, BG Hosemans, 5 June 2006 p. 11

²⁰⁶ See paragraphs 2.6-2.7 above

²⁰⁷ PIC Exhibit 8

²⁰⁸ PIC Transcript, BG Hosemans, 5 June 2006 p. 12

²⁰⁹ PIC Exhibit 9

²¹⁰ PIC Transcript, BG Hosemans, 5 June 2006 pp. 12-13

²¹¹ PIC Transcript, BG Hosemans, 5 June 2006 p. 14

Bathurst at the time of Ms Vaughan's disappearance.²¹² His explanation for the turnaround was that in the week before the Commission's hearing:²¹³

I went through some documents that I had at home and I found a petrol receipt which indicated that I had purchased petrol on the 6th, which I thought was unusual, because I was under the impression that I had done so on the 7th, and then that caused me to think, well, perhaps what I had relied on to provide the information in my statement some 12 months after was not exactly written as it should have been.

8.6 Hosemans produced the petrol receipt indicating that he had indeed purchased petrol at South Wyong on the morning of 6 December 2001.²¹⁴ Inquiries made by the Commission to the ANZ Bank established that the bank records show that the date and time the card was used at Wyong South was 10.25 a.m. on 6 December 2001, a date and time consistent with Hosemans travelling to Bathurst from the Newcastle area on 6 December 2001. As previously indicated the records also show that the transaction at Wyong South was not posted to Hosemans' account until 7 December 2001, thus explaining why Hosemans' bank statement showed that date as the date of the transaction.²¹⁵

8.7 Hosemans acknowledged that he had previously been asked by Jacob to produce documentation to support his alibi and the only documentation he had produced was the bank statement suggesting the petrol purchase took place on 7 December 2001.²¹⁶ He conceded that he would have had the petrol receipt in his possession at the time Jacob requested him to produce such documentation. His initial evidence to the Commission was that he found the petrol receipt in the same box as the bank statement, although at the time he produced the statement to Jacob he was not aware of the receipt.²¹⁷ He subsequently gave evidence that he found it in a box of other documents, but when questioned quickly reverted to the position that it was found in the same box that contained the bank statement.²¹⁸

8.8 Hosemans said that he could not recall how the typed statement he gave to Jacob came into existence although he agreed that he took care in preparing it. He said "... *the best I can recall would be sitting there with Detective Inspector Jacob – whether he typed it or not, I don't know ...*".²¹⁹

8.9 Jacob had better recall of the circumstances in which Hosemans provided the statement. He said:²²⁰

Mr Hosemans came to the police station expressing his desire to be interviewed in relation to this particular matter, and wanting to get it over with. He said he had nothing to fear, and once I satisfied myself that he was fit to do that, I served that document upon him for attention. He then

²¹² PIC Transcript, BG Hosemans, 7 June 2006 p. 223

²¹³ PIC Transcript, BG Hosemans, 5 June 2006 p. 16

²¹⁴ PIC Exhibit 57B

²¹⁵ PIC Exhibit 54B

²¹⁶ PIC Exhibit 9

²¹⁷ PIC Transcript, BG Hosemans, 5 June 2006 pp. 18-19

²¹⁸ PIC Transcript, BG Hosemans, 7 June 2006 p. 224

²¹⁹ PIC Transcript, BG Hosemans, 5 June 2006 p. 14

²²⁰ PIC Transcript, PY Jacob, 6 June 2006 p. 131

went, I think, to the detectives office, away from the Strike Force Toko incident room and completed his statement. I later received that statement back from him, witnessing his signatures.

8.10 Jacob also said that the reasoning behind asking Hosemans to prepare a statement rather than participate in an interview was that by then he had already assessed Hosemans as not being a person of interest to the inquiry and he “... *wanted to get a record of his [Hosemans] issues in relation to this particular matter, and this, to me, seemed an appropriate way to deal with it in consideration of all the circumstances that existed at that time*”. Jacob said that while he recognised the difficulty for Hosemans of remembering what he had been doing on a particular day twelve months earlier he expected Hosemans to accurately answer the questions posed in the memorandum addressed to him. Jacob also acknowledged that Hosemans was an experienced detective at the time he was asked to prepare the statement.²²¹

8.11 Hosemans’ evidence was ultimately equivocal in relation to whether or not he was in Bathurst at the time of Ms Vaughan’s disappearance.²²²

Q: On Monday, Mr Hosemans, you told us that it may be that you were back in Bathurst on 6 December 2001. What is your position today? Were you back in Bathurst on 6 December 2001?

A: I don’t have an independent recollection of my movements. I would concede that if the records indicate I was in the Bathurst area on 6 December, that could well be the case.

And later²²³

Q: Can you account for your movements on the evening of 6 December 2001?

A: I can’t tell you what I did, but I can certainly tell you what I didn’t do.

8.12 Hosemans told the Commission that he had not intentionally provided a false alibi to Jacob when making his statement of 20 December 2002. He said that he had never met Ms Vaughan, never spoken to her, never sent her flowers and was not involved in her disappearance. He could not account for what he did on the evening of 6 December 2001 but he asserted he had nothing to do with Ms Vaughan’s disappearance. He said his “... *expectation is I would have remained at home*” that evening. He gave evidence that he resided at his premises alone and that he did not believe he spent the night of 6 December 2001 with any person. He could not say what he did do that evening.²²⁴

8.13 At the time that Hosemans provided his statement to Jacob he was an experienced detective. He was asked to provide an account of where he had been at the time of Ms Vaughan’s disappearance, some 12 months after she had disappeared. The statement he provided was particularly precise in terms of its assertion that on the evening of 6 December 2001 he was staying at his mother’s house near Newcastle, and that he remained there until 7 December

²²¹ PIC Transcript, PY Jacob, 6 June 2006 pp. 132-134; See also paragraphs 4.21-4.23

²²² PIC Transcript, BG Hosemans, 7 June 2006 p. 217

²²³ PIC Transcript, BG Hosemans, 7 June 2006 p. 222

²²⁴ PIC Transcript, BG Hosemans, 7 June 2006 p. 222

8. THE EVIDENCE OF HOSEMANS

before travelling to Bathurst arriving some time in the late afternoon of 7 December. The Commission places no weight on Hosemans' evidence about finding the petrol receipt for the first time, the week before the Commission's hearing in Orange, in the same box of documents in which he kept the bank statement recording the transaction, and which had been produced to Jacob some two and a half years earlier.

9. THE EVIDENCE OF STEPHANIE YOUNG

A NEW ALIBI FOR HOSEMANS?

9.1 At the time of the Commission's investigation Stephanie Anne Young (Young) was a Customer Service Representative employed by the NSW Police Force at Lithgow. On the evening of 5 June 2006, following the first day of the Commission's public hearing in Orange at which Hosemans had given evidence, Young sent Hosemans an SMS message from her mobile telephone in the following terms:²²⁵

Well I could have told u a long time ago u were in townthat night :) hope ur ok & soldiering on!!

9.2 The Commission subsequently examined Young in private hearings on 21 August and 14 November 2006. Transcripts of that evidence were later admitted as public exhibits.²²⁶

9.3 On 21 August 2006 Young gave evidence that she had known Hosemans since June 2001 and that their relationship had become intimate in late November or early December 2001. She described her relationship with him at that time as being "*... a very casual relationship, but an intimate relationship*". From time to time she would visit Hosemans at his premises at Bathurst. Her evidence was that it was during the Commission's hearing in Orange in June 2006 that she heard for the first time that Hosemans had said in a statement to the police that he had not been in Bathurst at the time of Ms Vaughan's disappearance.²²⁷

9.4 Young told the Commission that at the time of the hearing in Orange she told a couple of her friends that she thought she might have been with Hosemans on the night Ms Vaughan disappeared. This was after she heard that Hosemans had said he was not in Bathurst that night. She also said that she first became aware that she might have been with Hosemans on the night Ms Vaughan disappeared during a conversation with a friend not long after the disappearance.²²⁸ The friend had raised the possibility, as a joke, that Hosemans may have been responsible for Ms Vaughan's disappearance. Young gave evidence that she had said to the friend:²²⁹

No I don't believe he was. I believe I was with him that night.

9.5 The relationship between Young and Hosemans continued until early 2005 however Young denied that Hosemans had ever told her that he had been asked to account for his whereabouts on the night Ms Vaughan disappeared. She also denied they had spoken about the evidence that was given at the

²²⁵ PIC Exhibit 104B

²²⁶ PIC Exhibits 111 & 112

²²⁷ PIC Exhibit 111; PIC Transcript ASG, SA Young, 21 August 2006, pp. 4-5

²²⁸ PIC Exhibit 111; PIC Transcript ASG, SA Young, 21 August 2006, pp. 5-6

²²⁹ PIC Exhibit 111; PIC Transcript ASG, SA Young, 21 August 2006, p. 6

Orange hearing, although she admitted she had wished him luck while he was at the hearing.²³⁰

- 9.6 Young initially told the Commission on 21 August 2006 that she could not recall sending Hosemans the SMS message.²³¹ When reminded that the hearing in Orange was only a couple of months prior to her giving evidence and shown the transcript of the SMS message Young said:²³²

I have no recollection of sending that message whatsoever. There is every chance that I sent that message, it says that it comes from my mobile phone, but I could not sit here and honestly say that I remember typing that message.

- 9.7 Young was then questioned as to her recollection of being with Hosemans at the time that Ms Vaughan disappeared:²³³

Q: Well, do you still hold the view that you were with Mr Hosemans on the night that Ms Vaughan disappeared?

A: I don't remember now, because it was a while ago, the exact – I don't actually remember the exact night, but I remember very clearly the conversation that I had with a friend in which I stated that I was with him that night.

And²³⁴

Q: ... Had you, on the occasion of the night that we're concerned about when Ms Vaughan disappeared, spent the [whole] night at Mr Hosemans' residence?

A: I don't believe I had, no.

- 9.8 Young was asked whether there was anything she could do to assist her to recall whether or not she had been present with Hosemans at the time of Ms Vaughan's disappearance. She replied:²³⁵

A: The only way I thought that I would have been able to check was with my diary, but there was nothing written in the diary, I'd stopped using it at that point, and the only thing was phone records, because we always communicated via SMS and there would have been SMS messages sent that night, prior to me going there.

- 9.9 Prior to giving evidence to the Commission, Young had produced her diary for 2001.²³⁶ There was nothing recorded in it at all for 6 and 7 December 2001. Young's evidence about her use of the diary at that time was as follows:²³⁷

Q: What was your practice in 2001 in relation to recording things in the diary?

A: Basically I had the diary for university, so I basically went through at the start of the semester and wrote down when all the [sic] of my classes were, when all of my assignments were due in - all of that type

²³⁰ PIC Exhibit 111; PIC Transcript ASG, SA Young, 21 August 2006, pp. 7-8

²³¹ PIC Exhibit 104B, see 9.1 above

²³² PIC Exhibit 111; PIC Transcript ASG, SA Young, 21 August 2006, p. 9

²³³ PIC Exhibit 111; PIC Transcript ASG, SA Young, 21 August 2006, p. 9

²³⁴ PIC Exhibit 111; PIC Transcript ASG, SA Young, 21 August 2006, p. 11

²³⁵ PIC Exhibit 111; PIC Transcript ASG, SA Young, 21 August 2006, p. 10

²³⁶ PIC Exhibit 106C

²³⁷ PIC Exhibit 111; PIC Transcript ASG, SA Young, 21 August 2006, p. 13

of thing - and then I would use it to write down what I was doing from day to day.

PRODUCTION OF DIARY PAGE

9.10 Following the abovementioned hearing Young contacted the Commission on 30 August 2006 and advised that she had located a loose leaf page from her diary on which she had recorded the text of an SMS message she had received from Hosemans on 7 December 2001. She said that this message indicated that she must have been with him on the previous night (which was the night of Ms Vaughan's disappearance). Young produced this diary page to the Commission.²³⁸

9.11 As a result of producing this page Young was summoned to appear at a second private hearing on 14 November 2006. At that hearing she said that after the previous hearing she had found a document that she thought might be of interest to the Commission. Her evidence included the following:²³⁹

Q. What was the document?

A: It was a loose piece of paper from that purple diary with a list of text messages that I'd recorded that Brad Hosemans had sent to me.

Q: What were the circumstances in which you came to find that piece of paper?

A: I was in the process of moving house, so I was going through a whole heap of different boxes that I had papers in from university and things and came across it in there.

Q. Where was it located in the box?

A: Oh, in - just in amongst a whole heap of papers.

Q. What did those papers relate to?

A: That was all just university work.

Q. Was this the only page of SMS messages that was in amongst all the university pages?

A: It was the only SMS messages, yes.

9.12 The document provided by Young was a double sided handwritten document which Young identified as being in her own handwriting.²⁴⁰ Of particular significance is the following entry:

So you are telling me that is it. After your best work last night to. Such a shame. Bye 7/12/01 23.31pm

9.13 Young said that this was a record she made of an SMS message that had been sent to her by Hosemans on 7 December 2001. She said that the circumstances in which the record came to be made were as follows:²⁴¹

A: I don't remember whether I wrote some down when they were initially sent, some down after a while, before I deleted them from the phone - they were all written at different times. I'm guessing these

²³⁸ PIC Exhibit 105C

²³⁹ PIC Exhibit 112; PIC Transcript ASX, SA Young, 14 November 2006, p. 7

²⁴⁰ PIC Exhibit 105C

²⁴¹ PIC Exhibit 112; PIC Transcript ASX, SA Young, 14 November 2006, pp. 9-10

were all written at the same time because the handwriting is all similar, but I don't recall whether – when I wrote them.

Q: Well, was it recently?

A: No, it was ages ago. It would have had to have been a few months after that – within those date times, because they couldn't stay in my phone for that long. My phone only held 20 messages, so – yeah, they couldn't possibly have stayed in my phone for that long.

Q: Was it likely, then, it was in 2002 or early 2003?

A: Thereabouts, I would imagine, sir.

Q: Would you go to the reverse of the document, please, and could we have that on the screen. Are you able to tell us when it was that you wrote this document?

A: I wouldn't know. Like I just said, I don't know when I wrote them down – some time following them being sent.

Q: Just looking at the dates on the document, all of the messages there are dated 2001; correct?

A: Yep.

Q: The last message at the bottom of the page, which has the latest date, is 28 December 2001; is that right?

A: That's right.

Q: Is it your evidence that you probably wrote the document some time after 28 December 2001, or at the time that each message was received?

A: I would imagine it was some time after the 28th of the 12th, because I know that I didn't – that was when I first started seeing him, so I know I wasn't having trouble then.

Q: And again, is your evidence that this part of the document was written ages ago?

A: That's right.

Q: Would you say possibly the last writing on the document was made by you some time in 2002?

A: Sorry?

Q: Would you say, given the date - -

A: Yes in 2002.

9.14 Young's explanation as to why she wrote out this particular message was as follows:²⁴²

Q: Just remind us again why [you] wrote out these messages?

A: It had something to do with – at that time, I didn't realise that, shall we say, Brad was seeing other people, and he had said that he was going to cause trouble if people found out about it and was going to deny everything, and it was just that kind of situation, so I took record of some of the messages that he had been sending, just in case the worst happened.

9.15 The Commission arranged for Young's diary²⁴³ and the separate page²⁴⁴ produced by her to be forensically tested by a forensic handwriting and

²⁴² PIC Exhibit 112; PIC Transcript ASX, SA Young, 14 November 2006, p. 10

²⁴³ PIC Exhibit 106C

²⁴⁴ PIC Exhibit 105C

questioned document examiner. A report was provided by the examiner, Michelle Helena Novotny, (Novotny) and became Exhibit 122C.

- 9.16 Novotny gave evidence to the Commission at the private hearing on 14 November 2006 about her examination of the pages from the diary and the separate page. In the diary she found impressions of writing similar to, but different from, the writing on the separate page. The writing on the separate page included words that were not found on the impressions. The content of the impressions was as follows:²⁴⁵

So you are telling me that is it? After your best work too. Such a shame.
Bye 7/12 23.31pm

- 9.17 The relevant content of the separate page was:²⁴⁶

So you are telling me that is it. After your best work **last night** to. Such a shame. Bye 7/12/01 23.31pm (*emphasis added*)

- 9.18 The words “**last night**” and the insertion of the year “**01**” purport to suggest that the message was sent on the evening of 7 December 2001 and related to something that had occurred between Young and Hosemans during the evening of 6 December 2001. Novotny’s evidence suggests that those words and numerals have been added to the message recorded on the separate page.

- 9.19 When confronted with the evidence that there must be two handwritten records of the SMS message said to have been sent on 7 December 2001 Young’s evidence was as follows:²⁴⁷

Q: Well, how did the words “last night” get added to the note of the SMS?

A: All I can suggest is that it’s – I’ve obviously done a duplicate – when I’ve been writing them all down, I have duplicated a page. I mean, I can’t tell you whether any of those messages are 100 per cent accurate or not. They were just for my record - -

Q: Well, where did you get them from?

A: - - just written down.

Q: Where did you get the words from?

A: They were from the SMS message but I can’t specify whether I have added in an extra “0” on to a word or an extra word in any of the messages.

Q: Not an extra word; an extra two words “last night” you have added, haven’t you?

A: It could possibly – well, I could have actually deleted them from the other messages. I can’t specify whether this is the most accurate record or the one – the impression that you’ve got is the most accurate record.

Q: How many notes did you make of these SMSs?

A: I know that there were quite a few pages.

Q: Yes, but of the one message, how many notes did you make of the one message?

²⁴⁵ PIC Exhibit 122C Appendix D

²⁴⁶ PIC Exhibit 105C

²⁴⁷ PIC Exhibit 112; PIC Transcript ASX, MH Novotny, 14 November 2006, pp. 31-32

A: I don't know.

Q: You didn't make more than one copy at the time – one note of it at the time, did you?

A: I obviously did, yes.

Q: Well, why would you do that? Why did you do that?

A: Obviously for my own records, whether or not I was being more specific, or whether or not I was writing this page out more neatly, or whether or not I was writing the other page out more neatly – I don't recall specifically why I would have made two records.

Q: Why would you need two records?

A: I don't – I wouldn't need two records, but obviously - if I knew why I wrote two records at the time, perhaps it was because one of the records was more accurate than the other record.

Q: But why would there be any difference? You were just taking it off the mobile phone, weren't you?

A: I can't recall. I don't remember what was going through my mind at the time that I made these notes. If I could, I would be able to answer that question.

9.20 The evidence of Young as to why she made two different handwritten records of the SMS message sent to her by Hosemans is less than satisfactory. This is particularly so given her evidence that the reason why she made a handwritten record of the SMS message was because she could only store a limited number of messages on her phone, and wanted a handwritten record because of issues she was having with Hosemans at the time. The more likely scenario is that the handwritten document produced to the Commission by Young, after she gave evidence on the first occasion, is a document that she created to support her claim that she was with Hosemans on the night of 6 December 2001.

9.21 Young asserted in her evidence that it was not possible for her to have recently created the notes because the Commission had possession of her diary prior to the day on which she first gave evidence to the Commission.²⁴⁸ However Young gave evidence that at some point prior to the production of the diary to the Commission she had removed pages containing notes of the messages from the diary.²⁴⁹

Q: Can you think of any reason why you would have extracted the page from your diary?

A: Because it had nothing to do with my diary. I took – I actually took the pages out of it to write on it, because I was no longer using that diary, so I had taken the pages out.

And²⁵⁰

Q: But in the diary that we had we didn't have any details of any SMS messages for 7 December 2001, did we?

A: That's because I removed all of the pages that had the SMSs written on them a long time ago.

²⁴⁸ The diary was produced to the Commission by Young on 15 August 2006 in response to a section 26 notice PIC Exhibit 112; PIC Transcript ASX, SA Young, 14 November 2006, pp. 33-34

²⁴⁹ PIC Exhibit 112; PIC Transcript ASX, SA Young, 14 November 2006, p. 11

²⁵⁰ PIC Exhibit 112; PIC Transcript ASX, SA Young, 14 November 2006, pp. 30-31

Although she also said:²⁵¹

Q: Did you remove any pages from the diary before it came to the Commission?

A: No, I didn't. I had no reason to. There was nothing in it. Can I suggest that – like, can I explain that these – some of these messages are quite explicit and not something I would want to expose.

She later returned to her original position that she had removed pages prior to producing the diary to the Commission.²⁵²

Q: So you had actually extracted pages from your diary at the time you made the notes; is that right?

A: That's right.

Q: How many pages did you extract from your diary, can you say?

A: Just whatever pages I had written on.

Q: So there is at least that page which you produced to the Commission on 15 September 2006; is that right?

A: That's right

Q: Because these were pages from the "Notes" section of the diary; correct?

A: Yes.

9.22 In other words pages were removed from the diary at some point well before the production of the diary to the Commission. This clearly provided an opportunity for Young to produce a handwritten version of the SMS message, with additional pieces of information that strengthened her claim that Hosemans had been in her company on the night of 6 December 2001.

9.23 Young's evidence that she believes she was with Hosemans at the time of Ms Vaughan's disappearance is difficult to accept in view of the strong doubts that attach to the document she produced to support her claim and, in particular, the circumstances of its creation. The Commission places no weight on the evidence given by Young.

²⁵¹ PIC Exhibit 112; PIC Transcript ASX, SA Young, 14 November 2006, p. 34

²⁵² PIC Exhibit 112; PIC Transcript ASX, SA Young, 14 November 2006, pp. 44-45

10. AFFECTED PERSONS

- 10.1 A person against whom, in the Commission’s opinion, substantial allegations have been made in the course of, or in connection with, an investigation, is an “affected person” for the purposes of a Report to Parliament by the Commission.²⁵³
- 10.2 Subsection 97(2) of the *Police Integrity Commission Act 1996* (the Act) requires the Commission to include in a Report to Parliament a statement in respect of each affected person as to whether or not in all the circumstances the Commission is of the opinion that consideration should be given to the following:
- a) the prosecution of a person for a specified criminal offence,
 - b) the taking of action against the person for a specified disciplinary offence,²⁵⁴
 - c) the taking of action (including the making of an order under section 181D of the *Police Act 1990*) against the person as a police officer on specified grounds, with a view to dismissing, dispensing with the services or otherwise terminating the services of the police officer,
 - d) the taking of reviewable action within the meaning of section 173 of the *Police Act 1990* against the person as a police officer.
- 10.3 In addition the Commission may form opinions as to whether police misconduct, or other misconduct, has occurred: subsection 16(1)(a) of the Act. These opinions help to inform whether any recommendations should be made or opinions expressed as to whether consideration should or should not be given to the prosecution of persons (including police officers) for criminal or disciplinary offences.
- 10.4 The expression “police misconduct” is not specifically defined by the Act. It nevertheless includes the following types of conduct (see section 5 of the Act):
- a) police corruption,
 - b) the commission of a criminal offence by a police officer,
 - b1) misconduct in respect of which the Commissioner of Police may take action under Part 9 of the *Police Act 1990*,
 - c) corrupt conduct within the meaning of the *Independent Commission Against Corruption Act 1988* involving a police officer,

²⁵³ Subsection 97(3), *Police Integrity Commission Act 1996*

²⁵⁴ The power of the Commissioner of Police to refer a departmental charge against a police officer for hearing by the Police Tribunal was repealed on 8 March 1999. Since that date, the powers and obligations of the Commission to recommend or state whether consideration should be given to the prosecution of a person for a specified “disciplinary offence” (subsections 16(1)(b), 97(2)(b) of the Act) has no effective application to police officers. This is so even for police misconduct that occurred before this date. Those powers and obligations may however have application to other public officials.

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

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

10.6 The substantial allegations made in this investigation are as follows:

- a) that Hosemans was involved in the disappearance of Ms Vaughan;
- b) that Hosemans deliberately provided Jacob with a false statement in relation to his whereabouts on the 6 and 7 December 2001;
- c) that Hosemans involved himself in the investigation of Ms Vaughan’s disappearance in breach of the Work Place Agreement;
- d) that Jacob failed to act upon, and thoroughly investigate, whether or not police were deliberately leaving out of statements information that suggested an association between Hosemans and Ms Vaughan;
- e) that Jacob prepared a deliberately misleading report to Kuiters regarding the matters raised in the anonymous complaint to the Commissioner of Police in June 2005;
- f) that Jacob prepared a deliberately false and misleading report in response to questions raised by the NSW Ombudsman after that office’s review of the report Jacob prepared for Kuiters;
- g) that McFawn deliberately omitted information that suggested there was an association between Hosemans and Ms Vaughan from Symington’s statement;
- h) that Sim deliberately misled the Coroner and Norton when he stated to them that a police officer had been a person of interest in relation to Ms Vaughan’s disappearance, had given an alibi and that the alibi had been investigated and confirmed; and
- i) that Young deliberately produced a false document to the Commission and gave false evidence about it.

10.7 Based on these substantial allegations the Commission is of the opinion that each of the following is an affected person:

- Hosemans, Bradley George
- Jacob, Paul Yervan
- McFawn, Lance Leslie
- Sim, Ritchie Ian Duncan
- Young, Stephanie Anne

- 10.8 Each affected person gave his or her evidence after a declaration had been made under section 41 of the Act. Therefore pursuant to section 40 of the Act the evidence each person gave is not admissible against him or her in subsequent criminal or civil proceedings, except for proceedings for an offence against the Act, or for contempt, under the Act.
- 10.9 Before expressing any opinion that misconduct may have occurred (s 16(1) of the Act) or that in all the circumstances it is of the opinion that consideration should be given to the prosecution of any person for a specified criminal offence (s 97(2)(a) of the Act), the Commission should be comfortably satisfied of the relevant facts applying the civil standard of proof in the manner suggested by Dixon J in *Briginshaw v Briginshaw*.²⁵⁵ His Honour said at p 361:

The seriousness of an allegation made, the inherent unlikelihood of the occurrence of a given description, or the gravity of the consequences flowing from a particular finding are considerations which must affect the answer to the question whether the issue has been proved to the reasonable satisfaction of the tribunal. In such matters, “reasonable satisfaction” should not be produced by inexact proofs, indefinite testimony, or indirect inferences.

BRADLEY GEORGE HOSEMANS

- 10.10 Hosemans is an affected person because he is the subject of the following substantial allegations:
- that he was involved in Ms Vaughan’s disappearance;
 - that he deliberately provided Jacob with a false statement in relation to his whereabouts on the 6 and 7 December 2001; and
 - that he involved himself in the investigation of Ms Vaughan’s disappearance in breach of the Work Place Agreement.
- 10.11 Hosemans was a police officer at the time of the events that are the subject of this Report. The Commission considers that Hosemans engaged in police misconduct in relation to the allegation above that he deliberately provided Jacob with a statement containing false information regarding his whereabouts on the night Ms Vaughan disappeared. In addition the Commission is of the opinion that the breaches by Hosemans of the agreement he had made with Kuiters restricting his duties amounted to police misconduct: subsection 16(1)(a) of the Act.
- 10.12 However, given the delay in the obtaining of the statement from Hosemans, and in the face of his denial that it was deliberately false, the Commission is of the opinion that consideration **should not** be given to the prosecution of Hosemans for any criminal offence arising out of the provision of the false statement.

²⁵⁵ (1938) 60 CLR 336

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- 10.13 The difficulties associated with RA1's evidence of identification are very substantial and there is no other evidence to corroborate RA1's allegation, or to implicate Hosemans in the disappearance of Ms Vaughan. Therefore the Commission is of the opinion that consideration **should not** be given to the prosecution of Hosemans for a criminal offence arising out of Ms Vaughan's disappearance.
- 10.14 Hosemans was dismissed from the NSW Police Force in 2003 for matters unrelated to events raised in this Report. Accordingly Hosemans is no longer a serving NSW Police Force officer so the question of taking action pursuant to subsections 97(2)(b)-(d) of the Act does not arise.

PAUL YERVAN JACOB

- 10.15 Jacob is an affected person because he is the subject of the substantial allegations that:
- he failed to act upon, and thoroughly investigate, whether or not police were deliberately leaving out of statements information that suggested an association between Hosemans and Ms Vaughan;
 - he prepared a deliberately misleading report to Kuiters regarding the matters raised in the anonymous complaint to the Commissioner of Police in June 2005; and
 - he prepared a deliberately false and misleading report in response to questions raised by the NSW Ombudsman after that office's review of the report Jacob prepared for Kuiters.
- 10.16 Jacob is a serving NSW Police Force officer. The Commission considers that Jacob engaged in police misconduct in relation to the three allegations set out above: subsection 16(1)(a) of the Act.
- 10.17 The evidence in relation to each of these three allegations was reviewed in Chapters 3-5 of this Report. On his own admission Jacob failed to act on information that suggested an association between Hosemans and Ms Vaughan. It is difficult to accept that such information would be ignored or forgotten by an officer of Jacob's experience and reputation.
- 10.18 In relation to the second allegation the Commission also finds it difficult to accept Jacob's evidence that the inconsistency between the telephone records and Hosemans' alibi was of such limited significance that he did not think it was necessary to include it in his report to Kuiters.
- 10.19 In relation to the third allegation it is difficult to resist the conclusion that the report prepared by Jacob dealing with the questions raised by the Ombudsman was a deliberately misleading report. It was designed to suggest that Hosemans' asserted alibi had been investigated and had been shown to be supported by relevant documentary material, when clearly it had not been

fully investigated and Jacob knew that the alibi was not so supported by the information that had been obtained during the investigation.

- 10.20 In relation to the above allegations the Commission is of the opinion that consideration **should not** be given to the prosecution of Jacob for any criminal offence.
- 10.21 However in the opinion of the Commission the actions taken by Jacob, both individually and as a whole, are such that he should not remain a member of the NSW Police Force. The Commission believes that the evidence supports the opinion that consideration **should** be given to the taking of action against Jacob pursuant to subsection 97(2)(c) or (d) of the Act.

LANCE LESLIE MCFAWN

- 10.22 McFawn is an affected person because he is the subject of the substantial allegation that he deliberately omitted information, which suggested there was an association between Hosemans and Ms Vaughan, from Symington's statement.
- 10.23 The Commission considers that the evidence does not meet the requisite standard to enable a finding of police misconduct to be made in relation to McFawn and that therefore consideration **should not** be given to the taking of any action against McFawn pursuant to 97(2) of the Act.

RITCHIE IAN DUNCAN SIM

- 10.24 Sim is an affected person because he is the subject of the substantial allegation that he deliberately misled the Coroner and Norton when he stated to them that a police officer had been a person of interest in relation to Ms Vaughan's disappearance, had given an alibi and that the alibi had been investigated and confirmed.
- 10.25 Sim is a serving NSW Police Force officer. The Commission considers that Sim engaged in police misconduct in relation to the allegation: subsection 16(1)(a) of the Act.
- 10.26 When Sim met with the Coroner and Norton he knew that telephone records placed Hosemans in the Bathurst area at the time of Ms Vaughan's disappearance. Given Sim's knowledge of the telephone records, and the inconsistency between those records and the banking records, it is implausible that the statement made to the Coroner, that Hosemans had provided an alibi and the alibi had been confirmed, was not intended to be deliberately false and misleading.
- 10.27 The Commission is of the opinion that consideration **should not** be given to the prosecution of Sim for any criminal offence arising from this allegation. However the Commission believes that the evidence supports the opinion that

consideration **should** be given to the taking of action against Sim pursuant to subsections 97(2)(c) or (d) of the Act.

STEPHANIE ANNE YOUNG

10.28 Young is an affected person because she is the subject of the substantial allegation that she deliberately produced a false document to the Commission and gave false evidence about it.

10.29 Although employed by the NSW Police Force Young is not a sworn officer. Accordingly no finding of police misconduct can be made in relation to her. The Commission is satisfied however that she engaged in other misconduct: subsection 16(1)(a) of the Act.

10.30 Section 107 of the Act provides as follows:

A person who, at a hearing before the Commission, gives evidence that is, to the knowledge of the person, false or misleading in a material particular, is guilty of an indictable offence

10.31 As has been previously noted, Young gave all of her evidence on objection. Such objection does not, however, provide any protection in relation to the giving of false or misleading evidence: see subsection 40(4) of the Act.

10.32 The document referred to in the allegation is the handwritten note of what was said to be an SMS message received by Young from Hosemans on 7 December 2001. The evidence in relation to the forensic examination of this document, the surrounding diary pages, and Young's evidence about the document, is discussed in detail in Chapter 9. The Commission believes that the evidence supports the opinion that consideration **should** be given to the prosecution of Young for an offence against section 107 of the Act, being an offence of knowingly give false or misleading evidence.

11. PROCEDURAL MATTERS

- 11.1 Pursuant to section 16(1)(c) of the *Police Integrity Commission Act 1996*, the Commission may make recommendations for the taking of other action that the Commission considers is appropriate in relation to the subject matter of its assessments or opinions, or the results of any investigations. With this objective in mind it is appropriate to comment on the following matters.

THE STRIKE FORCE TOKO INVESTIGATION

A SHORT HISTORY

- 11.2 Ms Vaughan was last seen in the early hours of Friday 7 December 2001. Later that day her employer notified Bathurst Police that she was missing and the initial investigation commenced. On or around 10 December 2001 Chifley LAC established Operation Toko to investigate the disappearance. The investigation, at that early stage, was conducted by officers from Chifley LAC.
- 11.3 On 12 December 2001 Borland, the Acting Local Area Commander, formally requested assistance from Crime Agencies,²⁵⁶ as it was then known. At that stage the request was for “*short term investigative support*” to assist in the investigation of “*possible abduction/murder*”.
- 11.4 The NSW Police Force Guidelines for the Investigation of Major Crime, in force at the time and currently, define major crime as including homicide, kidnapping and abduction, and require that those crimes are notified to State Crime Command “*immediately on detection*”. The purpose of such notification is for the State Crime Command to determine the leadership and composition of the investigation team in consultation with the Local Area Command or Region. The NSW Police Force policy is that, as far as is possible, investigations are to be conducted within the Local Area Commands although some types of serious crime are to be reported to ensure that the major crime is dealt with appropriately.
- 11.5 As a result of Borland’s request an initial team from Crime Agencies was sent to Bathurst²⁵⁷ and within a few days a decision was made that Crime Agencies would take over the investigation and Jacob was appointed to head the investigation, renamed Strike Force Toko. Resources from Crime Agencies were allocated to him for the investigation. Jacob, together with other police officers assigned to Strike Force Toko, arrived in Bathurst on 16 December 2001.

²⁵⁶ PIC Exhibit 134C

²⁵⁷ PIC Transcript, PY Jacob, 5 June 2006, p. 84

11. PROCEDURAL MATTERS

- 11.6 On 21 December 2001 a further request was made by Chifley LAC to Crime Agencies.²⁵⁸ At that time it was thought that Ms Vaughan's disappearance might be linked to several other incidents and might be the work of a serial offender. The second request proposed a "*long term joint investigation*".
- 11.7 On the same day, 21 December 2001, an Investigation Agreement was signed between Crime Agencies and Chifley LAC.²⁵⁹ That agreement was signed by Kuiters, as Chifley LAC and Detective Helen Begg, as A/Chief Superintendent of Crime Agencies. The agreement stated that Crime Agencies would provide "*specialist investigative support*" to Chifley LAC for the investigation into the disappearance of Ms Vaughan. The agreement provided that leadership of the investigation would be supplied by Crime Agencies and that Jacob was to be the Officer in Charge and accountable for all operational and administrative decisions. Crime Agencies was to provide four investigators and Chifley LAC was also to provide four investigators. The agreement also allowed for the investigation to be reviewed monthly.
- 11.8 In the Commission's opinion the establishment of Strike Force Toko was timely and the initial stages of the investigation into Ms Vaughan's disappearance were handled appropriately, with the exception of the involvement of Hosemans in the early inquiries.
- 11.9 Initially the officers from Crime Agencies assigned to Strike Force Toko spent time in Bathurst, however from mid January 2002 they worked from Sydney and travelled to Bathurst from time to time. Until early July 2002 there were officers in attendance regularly at Bathurst and the investigation was active. During the second half of 2002 the officers were deployed on other investigations and work on the Strike Force Toko investigation slowed. Jacob recorded in the investigation log, in late November / early December 2002, that the investigation had stalled due to deployment on other jobs, that the analyst had not been in a position to do any work on the investigation "... *for a considerable period of time*" and that a planned trip to Bathurst had been cancelled due to budget issues. He said that the team was working on the investigation from Sydney "... *when we can*".²⁶⁰
- 11.10 The Strike Force Toko team did travel to Bathurst in late December 2002 and continued with inquiries. However there are no entries in the investigation log between 22 December 2002 and 25 November 2003. In his entry for 25 November 2003 Jacob expressed concern at the length of time the investigation was taking and said the delay was "... *due to competing priorities and re-deployment*". He also said that two previous trips to Bathurst had been cancelled.²⁶¹
- 11.11 The Strike Force Toko team travelled again to Bathurst in early December 2003 and attended to a number of outstanding inquiries. In the investigation

²⁵⁸ PIC Exhibit 135C

²⁵⁹ PIC Exhibit 136C

²⁶⁰ PIC Exhibit 137C

²⁶¹ PIC Exhibit 138C

log immediately prior to that visit Jacob noted that any outstanding jobs left after that visit would be allocated to Chifley LAC detectives and that Sim would therefore be able to complete the brief to the Coroner in what Jacob described as a "... *shorter time frame*".²⁶²

- 11.12 The last entry in the investigation log was made on 8 December 2003. In that entry Jacob noted that he was handing over the investigation to Sim and that arrangements were made for an officer from Chifley LAC to manage ongoing Strike Force Toko work.²⁶³ From that time on Sim continued to work intermittently on Strike Force Toko mainly with a view to putting a brief together for the Coroner. In May 2005 Sim was transferred to the Property Crime Squad. Although the brief was due to be provided to the Coroner in October 2005 Sim sought a number of extensions of time because, due to other work commitments, he was unable to complete the brief on time.
- 11.13 From e@gle.i records it can be seen that the Bathurst officer who was allocated to do the ongoing Strike Force Toko work did not have continuous access to create products on e@gle.i for Strike Force Toko between December 2003 and April 2006. That officer did not conduct any proactive work or focus on Strike Force Toko but had a full workload of his usual duties to attend to during that period. His role would have been to attend to any Strike Force Toko tasks as instructed.
- 11.14 It should be noted that the lack of progress in this investigation was a concern for Jacob and Sim who both expressed, on more than one occasion in their diaries or the investigation log, frustration at the delays, the fragmentation of resources and the lack of progress. The investigation appears to have been initially well resourced but as time went on resources were deployed to other investigations. The lack of resources contributed to the lack of progress with the investigation. While there will always be demands on resources, the lack of progress with this investigation demonstrates the need for careful prioritisation of resources to achieve results.

CO-OPERATION BETWEEN THE LAC AND SPECIALIST RESOURCES

- 11.15 Although initially there was good co-operation and liaison between Chifley LAC and Crime Agencies, as time went on and the Crime Agencies personnel returned to their Sydney base the focus of the investigation was left to the LAC. Kuiters, the Local Area Commander, left Chifley LAC at the end of 2002 and the new Local Area Commander, Superintendent Martin Wookey (Wookey), was not appointed until April 2003. Jacob recorded in the investigation log that he had a meeting with Wookey in December 2003.
- 11.16 The Investigation Agreement²⁶⁴ for Strike Force Toko was signed by Kuiters as the Local Area Commander however by the end of 2002 he was no longer at Chifley LAC. Jacob's investigation log for 19 December 2002 stated "*The*

²⁶² PIC Exhibit 138C

²⁶³ PIC Exhibit 139C

²⁶⁴ PIC Exhibit 136C

problem of course is that Toko now has no Chifley LAC involvement at all.²⁶⁵ Despite this the location for the remaining enquiries remained unchanged and was still focused within the Chifley Command.

- 11.17 The Guidelines for the Investigation of Major Crime state that investigations are to undergo regular reviews. To ensure that protracted investigations continue to get appropriate attention the Commission **recommends** that the reviews are conducted annually and, when the original signatories to an agreement are transferred, the review should include the re-signing of the joint investigation agreement.
- 11.18 These arrangements would allow for the new Local Area Commander to be fully cognisant of all ongoing joint investigations in the Local Area Command and also enable any necessary changes to be made to the agreement, thus ensuring that each investigation is continued in the most appropriate way. Such practices would also accord with the NSW Police Force policy for major crime investigations that all investigations are, as far as possible, to be conducted within Local Area Commands.

EXHIBITS, INTELLIGENCE AND INFORMATION MANAGEMENT

- 11.19 Three separate incidents illustrate the importance of good management of information in an investigation such as Strike Force Toko which had to deal with large amounts of information.
- 11.20 Very early in the investigation a person was questioned by Strike Force Toko officers in relation to his whereabouts on the night of 6 December 2001. This person owned a salmon pink Hyundai in December 2001. Following this questioning an information report was placed on e@gle.i and the person was categorised as a person of interest (POI) in the investigation. It does not appear that a “Target dissemination” link was created on the COPS system following the information being placed on e@gle.i.²⁶⁶ Such a link would have allowed for the investigating officer to be electronically notified when an inquiry was made about the POI.
- 11.21 In August 2002 an anonymous female provided information about the same POI to Bathurst Police Station. The information was recorded in the “Job Book”²⁶⁷ at the police station and the record notes that a memo was sent to Strike Force Toko detectives, however no COPS or other electronic information report was created. The record in the job book stated that the POI, who was named, had allegedly told a friend that he had killed Ms Vaughan and that he used a small pocket knife.

²⁶⁵ PIC Exhibit 141C

²⁶⁶ Computerised Operational Policing System – This is the NSW Police Force’s primary corporate database. It comprises of a number of systems that perform law enforcement and administrative processes. Users of COPS have the capacity to interface with external bodies.

²⁶⁷ The “Job Book” is a book kept at the front desk of a police station and information is written in it. Information written in the book is not able to be linked to electronic databases, e.g. COPS and e@gle.i, unless the information is also entered onto those databases.

- 11.22 Two weeks later the POI was arrested by the Highway Patrol (HWP) on an unrelated matter and charged with traffic offences and custody of a knife in a public place. His arrest was recorded on COPS. The knife was seized on his arrest and entered as an exhibit in the exhibit book at Bathurst Police Station. The exhibit book records that the knife was destroyed on 31 October 2002.
- 11.23 It was not until December 2002 when a memo was sent to Strike Force Toko that Sim saw the record written in the Bathurst Police Station job book and made an entry onto e@gle.i about it. By that time the knife had already been destroyed.
- 11.24 During a more recent audit of the Miscellaneous Property Book at Bathurst Police Station it was noted that on 12 December 2001, only days after Ms Vaughan went missing, a knife was located in the driveway of a nursing home in Bathurst. The property receipt states that the knife was bloodied and had hair on it. The COPS report created at the time notes that the knife was photographed by a sergeant attached to Bathurst Crime Scene and submitted for forensic examination. A search of the records shows that this knife was destroyed on 19 February 2002. There are no records of any forensic examination in relation to this knife.
- 11.25 On 19 December 2001 a woman complained to Bathurst police about a sexual assault and named the alleged offender. The information was recorded on COPS as intelligence only because the woman was assessed as being “*strange and unreliable*”. The woman is now deceased. The person named by the woman has now been identified as being another POI in the disappearance of Ms Vaughan. He also owned a small red car in December 2001. In early 2006 information linking this person to Ms Vaughan’s disappearance was again provided to NSW Police Force. An information report was created on COPS but no link made to the Strike Force Toko investigation.
- 11.26 These three incidents illustrate a number of issues. Firstly the importance of information management and particularly the usefulness of “Target” links so that information can be effectively used.
- 11.27 Recording information in a police station job book only, without also entering the information onto the electronic database results in the information not being linked, disseminated or shared. Such information also runs the risk of being overlooked as happened in this investigation. In the past job books, or occurrence pads, were common place. However they have no place in a modern investigation and the Commission **recommends** that their use is reviewed by the NSW Police Force.
- 11.28 The NSW Police Force e@gle.i database, on which major investigations are managed, is independent of the COPS database which is the primary corporate database. Thus information does not automatically transfer. Information generated from “Target” links on COPS has to be manually uploaded onto e@gle.i. In effect information has to be entered twice, once on

each database, to ensure both systems contain all relevant information. This duplication drains resources, especially in large investigations like the Strike Force Toko investigation.

- 11.29 The advantage of setting up the link is that every time a fresh COPS inquiry relating to a POI is conducted, a computer generated notification is automatically sent to the case officer who put the link in place. This saves the need for continual manual searching of the system for each POI or entity²⁶⁸ connected to the investigation, and promotes timely review of the activities of the POI or entity. If an entity or POI is not linked and someone not attached to the strike force conducts an inquiry on the POI there will be no automatic notification to the strike force. The status of persons of interest evolves during an investigation and once established it is up to investigators to decide how long a “Target dissemination” link should be maintained. In the example discussed in 11.20-23 above the consequences were that although the HWP officer entered information into COPS about the POI, this information did not reach Strike Force Toko. At the time the HWP officer recorded the incident on COPS the POI’s name was recorded in the message book on the front counter as a POI. His name was also recorded on e@gle.i but not linked via COPS case management to the Strike Force Toko investigation. Had the link been created the actions by the HWP officer would have created an automatic “Target Dissemination” to Strike Force Toko officer/s via COPS.
- 11.30 In major investigations where a lot of information is obtained the correct categorisation and linking of intelligence is crucial. This is made difficult where the IT systems employed lack interface capacity. Until such links are established investigators must ensure that analytical and investigative resources are used to put “Target” links in place and resources must be provided to manually transfer new information to e@gle.i cases.
- 11.31 The availability of analysts and intelligence officers is vital to major investigations. These officers need to be available every day, including weekends, to assist with investigations. It is not uncommon for intelligence officers to work rosters allowing them to work four days only each week with three days off duty. This type of shift arrangement often means that intelligence officers work Monday to Thursday only and therefore information that comes in on a Thursday afternoon or Friday is not assessed until the following Monday. By Monday there is potentially a considerable amount of intelligence that has been received over the three day period waiting to be assessed and there is a risk that information is missed or is not adequately assessed. The Commission **recommends** that the NSW Police Force consider instigating a cluster model arrangement to share intelligence officers similar to the current shared duty officer initiative, thus ensuring that Local Area Commands have intelligence officer capacity available at all times.

²⁶⁸ COPS categorises entities as PERSONS, LOCATIONS or VEHICLES

- 11.32 The incidents discussed above also raise the issue of the management of exhibits. Two knives were located that may have been of relevance to the missing person investigation. One knife was located five days after the disappearance of Ms Vaughan and placed in a forensic exhibit bag. The second knife was linked to a POI however neither knife was fully examined before they were destroyed. The fact that these knives were both destroyed without being forensically examined, particularly where one knife had obvious hair and blood on it, is unsatisfactory. It also further illustrates the importance of linking information and intelligence, and that the failure to link information in an investigation can lead to missed opportunities to gather evidence.
- 11.33 In the Strike Force Toko investigation, because the investigators were not based at Bathurst, it was some months before the record relating to the POI and the knife was drawn to the attention of the investigators and by that time the knife had already been destroyed. It may be that valuable information was lost because the information was recorded in the job book and not entered onto the COPS system where it could have been linked to the Strike Force Toko investigation and thus come to the knowledge of the Strike Force Toko investigation at a much earlier time.
- 11.34 This highlights the importance of information management in any investigation and especially an investigation like Strike Force Toko which was large and had a broad focus because of the lack of investigative leads. Good information management will ensure that information is placed on the computer system, categorised and appropriate links created, all in a timely manner thus enabling the information to be accessible to the investigation.

A NEW STRIKE FORCE TO REPLACE STRIKE FORCE TOKO

- 11.35 During the course of the Commission's investigation fresh information was received regarding Ms Vaughan's disappearance. It was never the purpose of the Commission's investigation to re-investigate the disappearance and suspected murder of Ms Vaughan and so the Commission approached the NSW Police Force with a request that a new team of experienced investigators be formed to receive the information obtained by the Commission and continue the investigation. In November 2006 Strike Force Mountbatten was formed. The Commission provided all relevant holdings in its possession to the new Strike Force. Thereafter a comprehensive review of the existing police holdings undertaken by the new Strike Force led to the discovery of the incidents and information referred to above in paragraphs 11.19-11.25.
- 11.36 Consultation between the Commission and Strike Force Mountbatten is continuing. At the time of the preparation of this Report the Strike Force has progressed a number of lines of inquiry.

APPENDICES

APPENDIX 1 - ROLE AND FUNCTIONS OF THE COMMISSION

The Commission was established under the *Police Integrity Commission Act 1996* (the Act) on the recommendation of the Royal Commission into the New South Wales Police Service. The principal functions of the Commission, set out in section 13 of the Act, are:

- (a) to prevent police misconduct,
- (b) to detect or investigate, or manage other agencies in the detection or investigation of, police misconduct,
- (c) **(repealed)**
- (d) to receive and assess all matters not completed by the Police Royal Commission, to treat any investigations or assessments of the Police Royal Commission as its own, to initiate or continue the investigation of any such matters where appropriate, and otherwise to deal with those matters under this Act, and to deal with records of the Police Royal Commission as provided by this Act.

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

In January 2007 the Act was amended to provide for a system of investigation, referral and oversight of complaints against certain members of the NSW Police Force who are not police officers. Sections 5A and 13A were inserted into the Act. Section 5A defines corrupt conduct of administrative officers.²⁶⁹ Section 13A sets out the functions of the Commission in relation to administrative officers as follows:

- (a) to prevent corrupt conduct of administrative officers,
- (b) to detect or investigate, or oversee other agencies in the detection or investigation of, corrupt conduct of administrative officers.

As far as practicable, the Commission is required to turn its attention principally to serious corrupt conduct of administrative officers (subsection 13A(2)).

POLICE MISCONDUCT

The expressions “police misconduct” and “serious police misconduct” are not specifically defined by the Act. They nevertheless include the following types of conduct (see subsection 5(2)):

- (a) police corruption,
- (b) the commission of a criminal offence by a police officer,
- (b1) misconduct in respect of which Commissioner of Police may take action under Part 9 of the *Police Act 1990*,

²⁶⁹ Corrupt conduct is defined as any conduct of an administrative officer that is corrupt conduct for the purposes of the *Independent Commission Against Corruption Act 1988*.

- (c) corrupt conduct within the meaning of the *Independent Commission Against Corruption Act 1988* involving a police officer,
- (d) any other matters about which a complaint can be made under the *Police Act 1990*.

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

INVESTIGATIONS

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

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

REPORTS TO PARLIAMENT

When does the Commission Submit a Report to Parliament Regarding an Investigation?

In circumstances where the Commission has conducted a public hearing for the purposes of an investigation, the Commission must prepare a report to Parliament in respect of the matter to which the public hearing related (subsection 96(2)). The Commission may also prepare a report to Parliament in relation to any other matter that has been, or is, the subject of an investigation (subsection 96(1)). A report to Parliament must be furnished to the Presiding Officer of each House of Parliament as soon as possible after the Commission has concluded its involvement in the matter, unless it is considered desirable, in the public interest, for the making of the report to be deferred (subsections 96(3), (4) and (5)).

Components of a Report to Parliament Regarding an Investigation

A report to Parliament in relation to an investigation will generally contain a number of components. Under subsection 97(1) of the Act the Commission is authorised to

include statements as to any of its assessments, opinions and recommendations, and the reasons for any of its assessments, opinions and recommendations. The Commission must then, in respect of each “affected person”, make a statement as to whether or not consideration should or should not be given to the prosecution of persons (including police officers) for criminal or disciplinary offences and, in the case of police officers, certain other forms of disciplinary action (subsection 97(2)). An “affected person” is a person “against whom, in the Commission’s opinion, substantial allegations have been made in the course of or in connection with the investigation concerned” (subsection 97(3)).

The Commission’s Approach to the Assessment of Information and Evidence

In forming the assessments, opinions and recommendations referred to above, the Commission may not make a finding or form an opinion that a specified person is guilty of, or has committed, is committing, or is about to commit a criminal or disciplinary offence (subsection 16(2)(a)). The Commission may form opinions as to whether police misconduct or other misconduct may have occurred, is or may be occurring, is or may be about to occur, or is likely to occur (subsection 16(1)(a)). However it is important to bear in mind that the Commission is an investigative agency, it is not a court or tribunal in the sense that it may determine whether a person has committed a criminal or disciplinary offence. Accordingly the Act deems permissible opinions concerning police misconduct or other misconduct not to be findings or opinions that the person is guilty of or has committed, or is committing or is about to commit a criminal offence (subsection 16(3)). That said, the Commission recognises, bearing in mind the definition of police, or other, misconduct may include conduct that amounts to criminal and disciplinary offences, that such an opinion may in some circumstances take on the appearance of a finding of a court or tribunal. The Commission’s approach is, as far as possible, to avoid the expression of opinions that may be characterised as findings by a court.

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

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

If, in the Commission’s opinion, the available evidence is sufficient to establish a prima facie case in respect of a criminal or disciplinary offence then, except in one very limited circumstance discussed below, it is the Commission’s approach to recommend that consideration should be given to the prosecution of a person for a specified criminal or disciplinary offence.²⁷⁰ Such a recommendation will be made

²⁷⁰ The power of the Commissioner of Police to refer a departmental charge against a police officer for hearing by the Police Tribunal was repealed on 8 March 1999. Since that date, the powers and obligations of the Commission to recommend or state whether consideration should be given to the prosecution of a person for a specified “disciplinary offence” (subsections 16(1)(b), 97(2)(b)) have no effective application to police officers. This is so

to the relevant prosecutorial authority, for example, the New South Wales Director of Public Prosecutions. The Commission will not have regard to considerations, such as whether there is a reasonable prospect of conviction, or public policy considerations when deciding whether to make such a recommendation. These, and other discretionary considerations, are appropriately matters for the relevant prosecutorial authority. That said, the Commission may express opinions as to the veracity of evidence received from individual witnesses.

The circumstances in which the Commission may, in the exercise of its discretion, decline to furnish or defer furnishing a brief of evidence to the relevant prosecutorial authority are:

- where it is considered that to do so is likely to be counterproductive to the Commission’s pursuit of its principal statutory functions; or
- where the relevant person has already been considered for or has been prosecuted in relation to the same, or substantially the same, subject matter and evidence, and it would be unnecessary or duplicitous for the Commission to make a recommendation that consideration should be given to additional prosecutions.

Statements Regarding “Affected Persons”

Subsection 97(2) of the Act requires that:

The report must include, in respect of each “affected person”, a statement as to whether or not in all the circumstances the Commission is of the opinion that consideration should be given to the following:

- (a) the prosecution of a person for a specified criminal offence,
- (b) the taking of action against the person for a specified disciplinary offence,
- (c) the taking of action (including the making of an order under section 181D of the *Police Act 1990*) against the person as a police officer on specified grounds, with a view to dismissing, dispensing with the services or otherwise terminating the services of the police officer,
- (d) the taking of reviewable action within the meaning of section 173 of the *Police Act 1990* against the person as a police officer.

Recommendations and Opinions Regarding Disciplinary Action Against Police

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

- a reduction in a police officer’s rank or grade;
- a reduction in a police officer’s seniority;
- a deferral of a police officer’s salary increment; and

even for police misconduct that occurred before this date. Those powers and obligations may however have application to other public officials.

- any other action (other than dismissal or the imposition of a fine) that the Commissioner of Police considers appropriate.

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

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

- coaching;
- mentoring;
- training and development;
- increased professional, administrative or educational supervision;
- counselling;
- reprimand;
- warning;
- retraining;
- personal development;
- performance enhancement agreements;
- non-disciplinary transfer;
- change of shift (but only if the change results in no financial loss and is imposed for a limited period and is subject to review);
- restricted duties; and
- recording of adverse findings.

Other Types of Recommendations and Opinions

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

APPENDIX 2 – WITNESS LIST

NAME	DATE OF APPEARANCE
Inspector Ian Alexander Borland	6 June 2006
Graham Ronald Bury	6 June 2006
Zarina De Souza	6 June 2006
Detective Sergeant Jason Paul Dickinson	5 June 2006
Detective Inspector Mark Gallagher	5 June 2006
Rachel Ann Green	7 & 14 June 2006
Bradley George Hosemans	5 & 7 June 2006
Detective Inspector Paul Yervan Jacob	5 & 6 June 2006
Superintendent Franciscus Gaston Kuiters ²⁷¹	21 August 2006
Sergeant Lance Leslie McFawn	5 & 7 June 2006
Detective Senior Constable Scott Brian McWhirter	5 June 2006
Jordan Andrew Morris	7 & 14 June 2006
Daniel Murphy	7 June 2006
Nicole Jean Nolan	7 June 2006
Sergeant Tara Anne Norton	21 August 2006
Michelle Helena Novotny	14 November 2006
Detective Sergeant Matthew Scott O'Donnell	5 June 2006
RA1	14 June & 22 August 2006
RA2	14 June 2006
RA3	14 June 2006
Detective Senior Constable Ritchie Ian Duncan Sim	21 August 2006
Sue Single	7 June 2006
Christine Gaye Symington	6 June 2006
Detective Inspector Andrew Phillip Waterman	5 & 7 June 2006
Stephanie Anne Young	21 August & 14 November 2006

²⁷¹ Kuiters retired from the NSW Police Force on 30 September 2006.



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