CRIME AND MISCONDUCT COMMISSION

TRANSCRIPT OF PUBLIC INVESTIGATIVE HEARING

CONDUCTED AT THE CMC, LEVEL 2, NORTH TOWER, 515 ST PAUL'S TERRACE, FORTITUDE VALLEY, WITH RESPECT TO

FILE: OPERATION TESCO

HEARING NO: 06/2009

DAY 47 – THURSDAY, 23 SEPTEMBER 2010
(DURATION: 133 MINUTES)

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LEGEND

PO	**Presiding Officer – MARTIN MOYNIHAN, CHAIRPERSON**
CA	**Counsel Assisting – JOHN ALLEN**
INST	**Instructing – SUZANNE HARBIDGE and KATE McKENNARIEY**
HRO	**Hearing Room Orderly – MEL LETONDEUR**
W	**Witness – PROF TIMOTHY JAMES PRENZLER**
LR	**Legal Representatives - ALAN MacSPORRAN SC, with him MICHAEL NICHOLSON, instructed by KATE BRADLEY; CHRIS WATTERS, instructed by DANIEL CREEVY; TIM CARMODY SC, with him TROY SCHMIDT, instructed by CALVIN GNECH**

THE HEARING RESUMED AT 1.34 PM

PRESIDING OFFICER: Yes, Mr Allen?

MR ALLEN: Mr Chairman, I call Timothy James Prenzler and ask that he be sworn.

TIMOTHY JAMES PRENZLER, SWORN

MR ALLEN: Is your full name Timothy James Prenzler?

THE WITNESS: Correct.

MR ALLEN: And you have received an attendance notice with respect to your appearance today.

THE WITNESS: Right.

MR ALLEN: Do you recognise that as being a copy of the attendance notice?

THE WITNESS: Yes.

MR ALLEN: I tender that, along with an oath of service, Mr Chairman.

PRESIDING OFFICER: That's Exhibit 131.

ADMITTED AND MARKED "EXHIBIT 131"

MR ALLEN: You hold the academic qualifications of a Graduate Diploma in Teaching, Bachelor of Arts with Honours, Master of Arts, and also a Doctorate from the School of Humanities.

THE WITNESS: Right.

MR ALLEN: You are currently the chief investigator for the Australian Research Council Centre of Excellence in Policing and Security and also a Professor in the School of Criminology and Criminal Justice, Griffith University?

THE WITNESS: A chief investigator -- not the chief investigator.

MR ALLEN: A chief investigator, all right. Your teaching areas include crime, crime prevention and ethics in the criminal justice system.

THE WITNESS: Right.

MR ALLEN: You have written and published extensively about the prevention of police misconduct.

THE WITNESS: Right.

MR ALLEN: And have you conducted research with respect to public perception of acceptance by police of gratuities?

THE WITNESS: Right.

MR ALLEN: Perhaps if I could deal with that general area of interest to this hearing firstly. Is the acceptance of gratuities by police a matter of any significance when considering aspects of ethical police behaviour and risks of police misconduct?

THE WITNESS: Definitely.

MR ALLEN: Why is that?

THE WITNESS: It is seen as a form of unethical practice, as a misuse of office, and generally frowned upon by the public. It reduces public confidence in the police as well -- in the impartiality of the police.

MR ALLEN: One of the aspects which the Queensland Police Service expects a police officer to consider when determining whether or not it is appropriate to accept a gift or benefit, is the perceived attitude of the public towards it.

THE WITNESS: Mmm.

MR ALLEN: It doesn't seem, though, that the Queensland Police Service educates its members as to any empirical research into what public attitudes are. Is there such research available?

THE WITNESS: There is.

MR ALLEN: Can you expand upon that for us?

THE WITNESS: I am aware of three public attitude surveys that have been done: two in the United States and one here in Australia that I did myself in Brisbane. Generally speaking, if you are talking about very minor or occasional gratuities that relate to hospitality and probably in a sort of noncommercial context, typically about two thirds of people would say that's acceptable and about one third don't even like that. If you describe --

MR ALLEN: What's an example of that category?

THE WITNESS: That might be a police officer conducting an investigation is offered a cup of water or a coffee.

MR ALLEN: Cup of tea --

THE WITNESS: Cup of tea.

MR ALLEN: -- if they are interviewing a witness.

THE WITNESS: Yeah. Also, more formalised gifts, say, when a police officer gives a lecture or a presentation to a community group and they are given a tie or pin or something like that.

MR ALLEN: All right.

THE WITNESS: But if you talk about the sort of gratuity that most people probably think of that is in relation to fast food commercial outlets, typically 66 to 75 per cent of respondents would say they are opposed to that for various reasons but, you know, they disapprove.

MR ALLEN: So half price McDonald's would fall into that category?

THE WITNESS: Right.

MR ALLEN: Is there any difference in relation to, in public attitudes, towards this with respect to the regularity of receipt of minor benefits?

THE WITNESS: Yeah, anything that's regular, related to a business or something like that is disapproved of.

MR ALLEN: What else does the empirical research into public attitudes reveal with respect to other categories of gift?

THE WITNESS: The larger the gift, the higher the level of public disapproval, so if you describe a gift like free motor vehicle repairs or a free holiday, those sorts of things, you will typically get 95 per cent of people disapproving.

MR ALLEN: All right.

THE WITNESS: The reasons for disapproval vary but typically it is about the potential for favouritism towards the gift giver, the expectation that some kind of favour will be provided or expected in return, as well as just a kind of, I suppose, an image problem for police that it creates. It makes them look rasping and it can be sort of petty as well. There is also a lot of reportage on the issue of police gratuities by commissions of inquiry and judicial inquiries as well, and generally speaking as well they are highly critical and infer, basically, that -- specially in a commercial context, or if there is any possible criminal behaviour by the gift giver, that it is provided to police as a form of "insurance". So there is an expectation of some kind of favourable treatment. Or it is used for extra security, you know, cheap security for a venue which will be in violation of the principle of police impartiality and equality of service.

MR ALLEN: If we use that McDonald's example, it is a widespread, longstanding, well-known practice that police officers on duty can purchase food at McDonald's at a price significantly less than any other member of the public. And that practice

may extend to other emergency services personnel.

THE WITNESS: Mmm.

MR ALLEN: But looking at the situation of a police officer, I think you have said that your survey indicated that something over two thirds of respondents would have -- well, disapproved of that practice as a regular one.

THE WITNESS: Exactly, three quarters.

MR ALLEN: Three quarters, okay. For what reasons? Was there a perception that there could be some compromise, or was it for reasons of it being a bad look? What were the main reasons in that category?

THE WITNESS: All of those reasons. The perception that it compromises police impartiality, that the gift is given -- the discount is given in return for some sort of favour, such as a disproportion of police presence to deter crime. There was some support for the old slippery-slope theory that it can lead to other forms of corruption, but they were the main reasons.

MR ALLEN: What's the slippery-slope theory?

THE WITNESS: This is the idea that, you know, if you take a small gift, that can then lead to the acceptance of more serious types of corruption, such as bribes.

MR ALLEN: And is that -- is there a division of academic opinion as to the validity of that theory or is there some type of consensus?

THE WITNESS: It is difficult to say. I mean, I think the consensus view is that probably as a kind of mechanical process that doesn't occur. We know that in Queensland, for example, thousands and thousands of discounted meals are given to police every day. Those police don't go on to more serious forms of corruption. But we also know from inquiry reports, for example, that typically in more corrupt police departments, new officers on the job will be socialising to the practice of corruption through the acceptance of gratuities, half price meals or free meals, and that immediately compromises them and it does make them easier -- does make it easier for them to, you know, justify more serious gifts. I mean, Justice Stewart in the Stewart Royal Commission back in the 70s said as soon as a police officer accepts that first gift they have crossed the line over to corruption. I don't think that's actually an empirically supported view but it is a commonly held view. And what inquiries have also typically found in Australia and other countries is that the acceptance of gratuities usually meshes in with a variety of other inappropriate practices and there is a sort of process of mutual reinforcement. There is also a problem with some police officers who become known as aggressive shoppers, so that the acceptance of gratuities actually leads them to adopt the lifestyle where they seek discounts and free merchandise as a kind of habitual practice. That can lead to some embarrassing revelations in the press. For example, one might put the Krispy Kreme donuts incident in Brisbane last year in that case. So one of the problems with gratuities is that they are -- the issue and the practice is repeatedly

picked up by the media and it does reflect poorly on the police. So there was an incident, for example, in Townsville several years ago when aboriginal liaison officers complained that they weren't given a discount whereas fully sworn officers were and they felt that that was unfair. So these are the sort of complications and problems that occur.

MR ALLEN: The Krispy Kreme donut example --

THE WITNESS: Mmm.

MR ALLEN: -- was that a case where a police officer was refused some free donuts that he thought he was entitled to?

THE WITNESS: Right, yeah. That's right.

MR ALLEN: And involved -- and reacted in a behaviour that led to his arrest?

THE WITNESS: I don't think so, no.

MR ALLEN: No.

THE WITNESS: I mean it was exposed in the press and I think he was cautioned or something like that.

MR ALLEN: Right.

THE WITNESS: There is another dimension to the problem which is also exposed by the media periodically and that is senior police and senior public servants in police departments who are involved in purchasing decisions accepting gifts from companies that are tendering for police business. So the Courier-Mail and the Sunday Mail in Queensland has repeatedly used freedom of information to access documents that show quite senior people in the Police Service, certainly in the past, accepting things like interstate and international travel, corporate box seats, seats in theatres, restaurant meals and that sort of thing from people trying to get police business. Obviously, that's not a problem exclusively to the police. You know, the principle of not accepting gratuities is a public service principle not exclusively a police issue or principle at all.

MR ALLEN: Well, some would say it is just part of doing business that a company or an individual might want to spend money on marketing.

THE WITNESS: Mmm. Well, public service ethics prohibit gratuities because they are seen as exerting undue influence, inappropriate influence. You know, the decision about what product to purchase, what vehicles to purchase, for example, should be made on the grounds of the best value for money for taxpayers not because somebody has been wined and dined.

MR ALLEN: Would the Queensland Police Service be a very significant purchaser of goods and services of the Queensland economy?

THE WITNESS: Absolutely.

MR ALLEN: That --

THE WITNESS: I must say I don't know what the current practice is in that regard. I know the code of conduct has an example of how to deal with the dilemma, it specifically addresses that issue of a tenderer providing a gift and quite explicitly states it should not be accepted and any officer who did would be behaving incorrectly. The issue of things like half price meals, free entry to nightclubs, I don't think that's clearly addressed in the code of conduct.

MR ALLEN: The Krispy Kreme donut example, does that illustrate that one of the consequences of a culture that permits the receipt of relatively minor gratuities is the development of a sense of entitlement?

THE WITNESS: Absolutely.

MR ALLEN: Are you able to expand upon that at all?

THE WITNESS: One of the problems with gratuities is that they are in a grey area -- not clearly a bribe but not necessarily clearly a gift without any strings attached either. So if they are given to police and they become common, police can -- it just becomes a habit you expect a discount and that goes for any occupation. And one of the problems then becomes that gratuities can become extortion, police can coerce them -- I think that was very much the situation in New South Wales as revealed by the Wood Commission with -- specially in relation to free food and alcohol in hotels, and certainly in other jurisdictions, extortion of gratuities have been seen as a major problem. In fact, the most large-scale misconduct problem has been, you know, "gratuities" in inverted commas when in fact really they are payments as a result of standover action by police.

MR ALLEN: And what effect, if at all, does the development of that sense of entitlement have upon the ethical attitudes of police officers involved in that culture?

THE WITNESS: Mmm. I think it dilutes -- dilutes them. I think it reduces their sensitivity to potential conflicts of interest, and -- well, theoretically, at least, I think it means they are more accepting of other types of misconduct as well, if they find they can get away with it -- and, you know, the official policy is not being enforced.

MR ALLEN: Can I ask you to have a listen to some audio. You have a transcript in front of you. This is a conversation between two plain clothes officers, one of whom has been referred to during the course of this hearing as officer D1.

TI PLAYED

MR ALLEN: Now, that's a conversation between two police officers about how

they propose to enter the racetrack for the Magic Millions. One of the police officers suggest that what they will try and do is get some on-duty police to drive them in so they won't have to pay the $25 entry fee. Officer D1 expresses surprise because he has never actually paid and there is reference to the previous year where another police officer, when questioned by the security staff at the gate, admitted that he wasn't working and the police had to pay. He is the one who is described as an idiot. Look, the discussion seems to be in terms of if they flash the tin, which I assume to be the police badge, they will get in.

THE WITNESS: Mmm.

MR ALLEN: Now, the first thing that strikes me is it seems to be -- they seem to be going to a lot of trouble to avoid a $25 entry fee. You know, arranging for other police to get them in or discussing other means.

THE WITNESS: Mmm.

MR ALLEN: What does that say about the attitudes of the police officers involved there, and any sense of entitlement that might have developed, and what, if any, concerns arise from that sort of expressed attitude?

THE WITNESS: Well, I would love to put it in a book. It is a text bookcase, isn't it? I mean, it is -- it just demonstrates an attitude of entitlement and a lifestyle of, I would say aggressive shopping, you know, to use the academic term to describe that.

MR ALLEN: So going to -- when you say "aggressive shopping", what do you mean?

THE WITNESS: Well, trying to get free entry, free merchandise, discounts, using one's position as a police officer.

MR ALLEN: Does it matter in the big scheme of things?

THE WITNESS: Absolutely. I mean, it's in complete contravention of the code of conduct, international codes of conduct for police, and, you know, the image and then the role of the police.

MR ALLEN: Can I ask about the one particular example which has come up again and again through the course of Operation Tesco, and that is the receipt by off-duty police officers of free drinks in nightclubs within the same district that they enforce the law whilst on duty.

THE WITNESS: Mmm.

MR ALLEN: There has been evidence that there is a widespread practice, for example, of drink cards being provided to police officers and other patrons, it seems, according to the evidence of police officers, and that sometimes these drink cards have denominations of up to, say, $100.

THE WITNESS: Mmm.

MR ALLEN: There seems to be evidence from staff and management that the staff and management who provide such gratuities are quite aware that they're police; they deal with them in their official capacity when they are on duty, and they provide them hospitality in that environment when they are off duty. Is that something which falls into a more serious category than, say, the McDonald's and, if so, why?

THE WITNESS: I think it is more serious. It looks much more like there is an intent to potentially, you know, get insurance from those police officers if there are any violations of ethic codes or perhaps excessive force by security staff or anything like that. I mean, one inference is that it is to get cheap security from the police, but probably the more likely inference is that if -- if there are any regulatory violations occurring in the premises, that police will overlook it. So, you know, it is a sort of informal way of buying protection from prosecution.

MR ALLEN: And is that one of the researched and established motivations for businesses and individuals who offer gifts or benefits to police?

THE WITNESS: Numerous inquiries have made that finding, yes.

MR ALLEN: Do you see -- or does the research indicate any significant difference between a police officer accepting a $100 drink card or a $100 note from nightclub management?

THE WITNESS: I am not aware of any analysis of that scenario in the literature but it would seem to me that the cash payment is more indicative of a bribe, even if it is a fairly ambiguous kind of bribe, than the discount voucher or the free voucher which is more directly related to the activities of that establishment. So a payment of cash is going to be more suspicious.

MR ALLEN: It is less ambiguous.

THE WITNESS: Less ambiguous.

MR ALLEN: Evidence was given during the course of Operation Tesco by a uniformed police officer stationed at Surfers Paradise Police Station as to this practice that he was introduced to when attending nightclubs with other police of receiving free drinks, including drink cards to the value of $50 and $100. He was asked this question: "Now, you never saw any problem with accepting free drinks in those circumstances?" And he gave this answer: "As I said before, when I started going out, it was with" -- and I interpolate here officer D1 -- "and that hasn't happened for quite a long time." And I questioned him about how this worked. "Was it for us being police, whether it is the right thing, and it was conveyed to me by him, it was viewed the same way as discount at McDonald's, and that sort of thing." He was asked, "How is a discount at McDonald's viewed?" Answer: "Apparently accepted." Question: "Just a perk of the job?" Answer: "Yeah."

Now, does that lend at all any support to the concept of the slippery slope when an officer's justifying the receipt of free alcohol by comparison with discounted meals at McDonald's?

THE WITNESS: I think it does demonstrate a process of what's called moral neutralisation, developing justifications for what is considered probably the wrong thing to do, and also a classic example of on-the-job socialisation where a more experienced officer introduces a younger officer, less experienced officer into different types of misconduct, starting at the lower level and rationalising violations of code of conduct positions.

MR ALLEN: When you say on-the-job socialisation, though, this is another category, isn't it? Because this is off duty. They are both serving police officers.

THE WITNESS: That's right, yeah, yeah.

MR ALLEN: But they are doing this while off duty.

THE WITNESS: I mean once they are out of the academy.

MR ALLEN: Right, I see, okay. So once they have left the academy and they are really learning from the police they work with and who supervise them.

THE WITNESS: Right.

MR ALLEN: Okay. He was asked soon after that the question: "Why do you think that the management at nightclubs would be so generous?" His answer was, "I couldn't tell you." Question: "It has never crossed your mind?" Answer: "Well, it has but when we're in there, we're socialising and talking to them and whatnot. You know, they seem to be nice guys, you know, able to have a chat to, so obviously, you know, it has gone through my mind that, you know, they are giving us free drinks or offering that because we're police. On what level they are doing that for, I don't know. If they have been directed by owners or whatnot, I don't know." He was then asked the question, "Have you ever thought that they might expect, perhaps, something in return if the circumstances ever arose that you could give them something in return?" Answer: "I don't know. Honestly, I couldn't comment." Does that indicate, if those answers are accepted as being truthful, that there has been a failure to educate that officer to even ask the question as to whether what he is doing is acceptable?

THE WITNESS: I can't say because I don't know what training that officer had. I know there is training for police pre-service and in-service in ethics, so he might have been sick that day or just slept through class. I don't know.

MR ALLEN: Are there circumstances where it may be acceptable for a police officer to accept a gift or gratuity?

THE WITNESS: The situations I mentioned before. Customary or nominal, the terms that are usually used. It is difficult to put a dollar value on where you draw

the line, but, you know, those types of situations such as presentations by police or a very occasional type of -- perhaps a meal, for example, during an emergency operation or something like that; situations where it is either quite difficult, for reasons of hospitality, and custom to reject the gratuity or where it is just a one-off situation and unlikely to be repeated and there is no likelihood of a perception of potential bias.

MR ALLEN: There was a matter reported in the media earlier this year where there was an arrest of a person for impersonating a police officer who had for a period of about 12 months apparently impersonated or pretended he was a police officer so that he could get cheap meals at a Fasta Pasta restaurant.

THE WITNESS: I saw that.

MR ALLEN: There didn't seem to be -- the crime that was being reported was his impersonation of a police officer.

THE WITNESS: Right.

MR ALLEN: But there didn't seem to be any remark upon the fact -- or questioning of the issue as to why police officers would get cheaper meals at that Fasta Pasta restaurant. It is, though, a matter, as I understand from you, that has been subject to media comment.

THE WITNESS: I try to collect stories like that, and generally the media reports are critical of police accepting gratuities, so that case is fairly unusual.

MR ALLEN: And when you say that generally the reports in the media are critical of police accepting gratuities, I take it that that seems to reflect public opinion, as it has been ascertained in a number of surveys?

THE WITNESS: Right.

MR ALLEN: I will ask you to have a look at part of the human -- the Queensland Police Service human resource management manual and in particular at paragraph 17.1.10.7 of that manual. This is at least part of the published policies of Queensland Police Service with respect to the receipt of gifts and benefits. Have you had an opportunity to look at that previously?

THE WITNESS: Well, it looks like the code of conduct. It is on the police website.

MR ALLEN: I see, okay. You will see that it is prefaced by the words "In their official capacity as a member of the service".

THE WITNESS: Mmm.

MR ALLEN: And then provides that, "members are firstly not to solicit benefits, generally speaking --

THE WITNESS: Right.

MR ALLEN: -- except if authorised by the service and they are not to accept any personal or other benefit unless authorised or permitted by the service, eg customary hospitality and benefits of nominal value." And then it goes on to recognise that there may be instances where it is appropriate for members of the service to accept benefits and then provides a set of questions which might inform that decision. Do you consider that that policy is one which -- or the terms of that policy are adequate to address any concerns that may arise from police receiving gifts or benefits, or if there could be some changes to that policy?

THE WITNESS: I think framing it in terms of questions allows too much space for interpretation supportive of gratuities and I think that's demonstrated by practice, as we know it. So I would personally like to see a tightening up of the wording and a much clearer prohibition on acceptance of any regular gratuities or those that occur in a commercial context or where the person offering the gift could be of questionable character in relation to criminal conduct. Some of the exposés in relation to gratuities that have occurred in the media have also related to police, I suppose, partying with people with criminal records, accepting free hospitality, alcohol, barbecues, that sort of thing, and that again affecting the police image. So I think that nexus between gratuities and improper associations could also be made more explicit there as well.

MR ALLEN: Okay. Because as it stands at this stage it is perhaps simply caught up as one of the factors, who is offering the hospitality?

THE WITNESS: Right.

MR ALLEN: Is that so? All right. It is left for the police officer to consider as part of the factors, what is the purpose of the offer?

THE WITNESS: Mmm.

MR ALLEN: Does the appropriateness of receipt of a gift necessarily depend upon the subjective intention of the gift giver or are there wider factors in play which would -- might determine whether it is appropriate?

THE WITNESS: I think it is a case where there should be a lot less discretion given to the individual officer and the departmental policy made much clearer and tighter.

MR ALLEN: The reference by way of exception to accepting benefits of customary hospitality and benefits of nominal value, is that -- is there a risk in that being a somewhat rubbery definition in guidance of police officers?

THE WITNESS: I think it is probably the best that can be done with words and I think to try to give -- put some sort of financial limit or, you know, equivalent financial limit on it is just too difficult with inflation and drawing a strict line in

terms of dollar amount. But I think most people can, you know, interpret that in a fairly reasonable way.

MR ALLEN: You would think that an honest police officer would be able to draw the distinction between customary hospitality and receipt of free alcohol?

THE WITNESS: I would think so.

MR ALLEN: Right. Do you see -- well, what are the possible approaches that have been tried in various jurisdictions in addressing any ethical risks that arise from receipt of gifts? Can you have -- do they vary within different police jurisdictions, or is there a fairly consistent approach amongst them?

THE WITNESS: I think it is a common feature of police services that there is an yawning gap between policy and practice on this issue. I think most police managers and politicians put it in the too hard basket, they don't want to take it on. Periodically, a police minister or a commissioner will announce a crack down on gratuities that will receive some media coverage, and finds it's just too difficult to deal with it, to implement it, partly because of the standing offers of gratuities from fast food outlets so it is very difficult to police. I think probably what's needed is some legislative change so that it is actually an offence to offer a regular gratuity or make a standing offer to police in terms of gratuities, perhaps subject to a warning process before a fine. I think that would probably stop a lot of businesses having anything to do with it at all. I think I mentioned when I was talking to you the other day, I was at the NYPD Internal Affairs Department in December last year. I asked them about gratuities because the Knapp Commission report in the NYPD spent a lot of time talking about the problem of gratuities.

MR ALLEN: That's the K-N-A-P-P report?

THE WITNESS: Right.

MR ALLEN: Is that back in the early 70s?

THE WITNESS: Right. 1972, yeah.

MR ALLEN: It disclosed a very corrupt New York police force?

THE WITNESS: That's right, yeah. Knapp said gratuities were the most widespread and common form of misconduct but he put stopping gratuities basically in the too hard basket and said we really need to concentrate on the more serious forms of corruption and this is too difficult. But I did ask the people I spoke to from Internal Affairs what the current situation was. They claim to have eliminated gratuities in the NYPD, which I found quite extraordinary, and I asked them how, and they said, well, they have completely prohibited them in policy, and communicated that with police and they also said that they black ban any establishments that offer police gratuities.

MR ALLEN: Did you understand that they had, by policy, prohibited the receipt of

any gratuities, no matter to what extent?

THE WITNESS: They were talking about basically food and also hospitality from commercial establishments, the sort of thing that Knapp identified.

MR ALLEN: I see.

THE WITNESS: The problem was so bad in that period, the 1960s and early '70s, Knapp said that one of the reasons the crime rate was so high in New York was that the police were spending so much time in restaurants and hotels.

MR ALLEN: Other states in Australia, have they grappled with the McDonald's example?

THE WITNESS: As I mentioned, I'm just aware of media reports of a couple of attempts in Victoria and New South Wales to take on the issue, but I'm not aware of what the outcome was.

MR ALLEN: Do you see any benefit or -- well, do you see advantages or disadvantages, or both, in a policy which essentially prohibited the receipt of any benefit other than customary hospitality and benefits of nominal value?

THE WITNESS: As I mentioned before, it's going to be extremely difficult to implement, if you just rely on police themselves refusing gratuities, because a lot of these gratuities are given automatically to police. Police will front up at the counter of a fast food outlet or they will automatically be given a discount, it won't be offered to them. Several police have told me that if they try to pay full price, it actually creates quite a drama and people queue up behind them as the attendant tries to find the manager to change the billing system. So quite a few police who are opposed to gratuities just go along with it, because it's actually too inconvenient and it can also be seen as less offensive.

MR ALLEN: Hence, if there was to be a serious attempt to stop that practice, legislation directed at the persons giving the benefits?

THE WITNESS: Supplying it, I think it's the only away. You have to look at attacking supply and demand.

MR ALLEN: Could I ask you about some matters which relate to workplace and human resource management?

THE WITNESS: Can I say one more thing about gratuities?

MR ALLEN: Yes, please.

THE WITNESS: I was involved in a survey that QPS conducted internally in the late 1990s, where they surveyed police officers about their attitudes to gratuities and also presented them with a scenario about how they ought to respond if they were to give a traffic ticket to a cafe owner who had previously given them

gratuities. The survey was an attempt to see whether or not gratuities would actually influence police behaviour and the way they do their job. The scenario was in relation to a fairly serious traffic offence, and 55 per cent of respondents said that they would not ticket that person who had committed a traffic offence because of the previous relationship, the free food. I think it was -- 45 per cent said they would. But you can see how there's this division of opinion about police over a practice.

In that same survey, 66 per cent of police said their own personal practice was either consistent with departmental policy or stricter, but one third said that they actually had a more liberal approach to the acceptance of gratuities than the policy allowed.

MR ALLEN: And admitted so?

THE WITNESS: They said so in the survey, yes.

MR ALLEN: Did you have any other comments to make in relation to the topic of gifts and gratuities?

THE WITNESS: I think that's it.

MR ALLEN: We heard evidence on Tuesday from Detective Inspector Dowie dealing with this issue of how to achieve ethical practice by police and what role supervision can play in that and the limits of it, and he expressed the opinion that people's values, morals and ethics are well established before they enter the police academy. A person knows right and wrong, and how they choose to exercise their choice between right and wrong is a matter peculiar to that individual.

THE WITNESS: Mmm.

MR ALLEN: Therefore, there are limits to achieving ethical practice on the part of police. There has been evidence that, therefore, the recruit selection process is a critical gate keeper for rejecting inappropriate applicants and only selecting those suitable for police service. Is there any learning as to whether people can change as a result of training, if they are inherently unsuitable or the risks they present if recruited and not screened out?

THE WITNESS: I think it is abundantly clear from research, not just on policing, but across the field of organisational management, that training combined with appropriate on-the-job supervision and management changes behaviour -- can change behaviour. Any person going into a new job will try to find out what the rules are and then find out how the rules are enforced, whether they are enforced consistently or not, and will scope out the extent to which they can get away with certain behaviours. So if they get a message from colleagues or from management that certain behaviours are prohibited, but in practice a blind eye is turned or afforded, some will engage in those practices. So, in a sense, people's personal attitudes coming into the police are far less important than behaviour. At the end of the day it's behaviour, interacting with the public that matters, and that's something

that can be changed.

MR ALLEN: Are ethics, as far as you understand the police training, exclusively taught within the police service or do they take advantage of external education providers?

THE WITNESS: Well, as you probably know, they have a system where Queensland Police Service recruitment requires some previous tertiary education. The problem is that what they want from that is not clearly articulated. There's not a set of subjects or disciplines that need to be covered. So they may take people who have done chemistry or criminology or psychology or who are electricians. It is good that they employ people with those qualifications, but there's no set of foundational subjects that are required pre-entry to the police academy. I like the Queensland model, where they basically say, go to university or TAFE first and get a general grounding in criminology. Because they do recommend criminology departments, criminology as the discipline for police. Then they give applied training at the academy. As you probably know, there are other models, more integrated models that apply in other states. I think that gives police quite a bit of flexibility, I think it's probably a fairly efficient system for them, but I think they need to stipulate the tertiary level foundational knowledge that they want for people coming into the academy; ethics, some law, psychology, sociology, research methods as well, I would say, a range of subjects that must be covered, along with any other subjects the person has done.

MR ALLEN: Is restricting entry to persons who have some type of tertiary qualifications unduly restrictive and excluding persons who might have some valuable life skills?

THE WITNESS: That's a very difficult topic. A number of police departments have moved to tertiary education entry exclusively, without apparent problems in attracting people. I think it is unfortunate for people who haven't done those studies who want to, say, join the police -- an electrician, for example, or a carpenter, that they have not done those studies. Of course, with university fees, it's expensive for individuals to put themselves through.

MR ALLEN: It might disadvantage some people in rural areas, for example?

THE WITNESS: Potentially, although external studies is now very widely available, web-based learning. And regional universities have taken off to a considerable extent as well. I think police recruiters ultimately must make that decision as to where they draw the line, and they need to match the number of applicants to the number of positions as far as they can, without compromising their standards too much. But I think there should be a preference for a standard set of tertiary level subjects prior to recruit training.

So, for example, in the area of ethics, a recruit will have gone to university or TAFE and studied the more complex field of ethical reasoning, the police role in society, a history of police, read inquiry reports, looked at the Fitzgerald inquiry and that kind of thing, then go to the police academy and get applied training in the

Queensland Police code of ethics, the Queensland Police Administration Act, do applied scenario-based training, simulations, that kind of thing. To me, that's the best model, it gives you the best of both worlds.

MR ALLEN: On the subject of education, are you involved at all in any development or review of QPS education?

THE WITNESS: No. I must say, one of the Fitzgerald recommendations was that the CJC would have a dedicated unit to evaluate and advance police education and training, and that was one of Fitzgerald's many recommendations that was not implemented, and there has been nothing from the CMC of any substance since 1998 on police recruitment and education and training.

MR ALLEN: Do you have any other comments with respect to that issue of recruitment and subsequent training, given the notice you have been given as to the sorts of issues under examination in this hearing?

THE WITNESS: Except to say that I think we're overdue for an independent review of police recruitment and training practices as they relate to police operational competence and ethics.

MR ALLEN: Could I ask you some questions about off-duty behaviour on the part of police officers, and how that might impact upon ethical behaviour on duty or affect public perceptions. During the course of Operation Tesco a witness who was an associate of a person code named P12 gave evidence that she was socialising in a nightclub in Surfers Paradise when officer D1 arrived with a large group of off-duty police officers, including a woman who the witness recognised as a police officer she had seen on other occasions in uniform in Surfers Paradise. Officer D1 told the witness that everyone was celebrating the completion of a big case. The witness observed that officers in the group, including the female police officer in particular, were very drunk, behaving badly. The witness voiced her disapproval of the behaviour of the officers to D1, saying that she didn't think it looked good when the female police officer would later be seen in uniform by the persons who had seen her behaving in a drunk and disorderly manner in the nightclub. She expressed the view to officer D1 that, whilst it wasn't a bad thing to get drunk, the police shouldn't party and work in the same place. The witness said that D1 disagreed with her.

When is a police officer off duty with respect to public perceptions? And is there any danger in off-duty behaviour impacting upon the ethics of police officers generally?

THE WITNESS: It's a very difficult area. Nobody has an easy consensus view about that. There is a consensus of view that a higher standard of personal conduct is expected of police than other workers, especially outside the public sector, and that police should not engage in conduct that reflects poorly on the profession itself and might affect public confidence in the police. But exactly where you draw the line on a whole range of potential behaviours like public drunkenness, drunk-driving, all sorts of things, is a matter of debate. I think it is incumbent upon

the police department themselves, though, to clearly communicate to serving officers as far as possible what the standards are. So I think that system that is used with the Queensland Police code of conduct, where you have a statement of principle and then you have some scenario-based examples is very useful. I think more could be done in that area to say that public drunkenness or these sorts of things are unacceptable and you could be disciplined or even sacked for this kind of behaviour. Probably more work needs to be done on identifying more behaviours, you know, off work time that would be seen to be reflecting badly on the police, and that communicated to officers.

MR ALLEN: Are you aware of any other jurisdictions that have grappled with this issue of how to better manage off-duty behaviour?

THE WITNESS: There's very little on that topic, as far as I'm aware of. I really couldn't point you to any studies on that.

MR ALLEN: Certainly your view is that more or better education, including more practical examples, would benefit education of police officers as to what's acceptable and what's not?

THE WITNESS: I think so, yes. A more detailed and clearer policy.

MR ALLEN: You have already agreed at the start of your evidence that you received an attendance notice. It detailed a large number of matters that were of interest to the Commission in this public hearing. I have sought to touch upon some of them. Were there any other issues that were identified to you which caused you to think that you might have something to contribute on those matters?

THE WITNESS: I have an interest in drug and alcohol testing for police. I try to find and read everything I can on the subject. I think there is a fairly strong case that some kind of random drug testing regime should be brought into Queensland, particularly in entertainment hot spots or crime hot spots, where police might be at higher risk of exposure to the drug trade, taking drugs themselves, obviously, including steroids, or abusing alcohol on the job. I think probably the best source would be the Police Integrity Commission report, Project Abelia, from New South Wales, on that topic. I think drug testing has a number of advantages. It acts as a reassurance when there are doubts about police. So if police are tested and the result is neutral, that is reassuring that police are not under the influence of drugs. If a positive result is found then that's also positive, in the sense that suspicions have been confirmed and action can be taken.

In New South Wales, drug testing was initially targeted, so where a commanding officer had suspicions about an officer, drug testing was introduced. And then it was increased to serious incidents -- so whenever there was a serious incident, such as an accident involving a police officer, a motor vehicle accident involving a police officer, there would be compulsory drug testing. Then they introduced random drug testing.

MR ALLEN: When was that introduced?

THE WITNESS: I think it was the early 2000s, and then that most recent report by the PIC found that the deterrent effect of the random drug testing program wasn't adequate, because not enough officers were being tested, and recommended that on average 15 per cent of officers should be subject to random tests every year, for them to obtain a perception that there is a high probability that at any time they could be tested. Policing is an occupation where there is considerable exposure to drug use and it is an occupation where you just can't have officers under the influence of any type of illicit drug. Drug testing in the workplace is not something that is exclusive to police at all. A lot of occupations that have high safety considerations just routinely practise drug testing. I think there's a case for it in larger police departments, especially in big cities.

MR ALLEN: One possible objection to it that has been voiced by witnesses in this hearing is the cost.

THE WITNESS: Yes.

MR ALLEN: There has been an estimate that introducing random drug testing might cost $500,000 per annum, so that a cost benefit analysis might not support it. Are you aware of how other jurisdictions have fared with the cost benefit analysis of such a program?

THE WITNESS: I guess it is a matter of making a judgment about levels of risk. As far as I know, most departments that have introduced it have stuck with it and found it to be valuable. I haven't seen any specific work that I can recall on cost effectiveness so I can't really answer that question, I'm afraid.

MR ALLEN: The New South Wales Police Integrity Commission report on Project Abelia, would that be one of the latest words on that topic?

THE WITNESS: That's the best report I've been able to find. There are some academic articles as well that I can point you to. Some academic evaluations have argued that to be really effective and comprehensive hair sample testing is a better source than urine testing. That's going to increase the cost as well. One of the points about all these anti-corruption strategies is that they cost money, but if they are not implemented, usually there's a problem down the track that blows up, and you have expensive inquiries, you have police officers getting sacked, you have to retrain new officers, so there are a lot of costs. Victoria Police did an analysis some years ago on the cost of an average complaint, and they found that if you look at the whole integrity infrastructure, it costs on average $40,000 to investigate one complaint. So anything you can do to reduce the complaints is going to have a cost benefit effect as well.

MR ALLEN: Did that Project Abelia follow upon the Kings Cross -- sorry, was it a shooting on Bondi Beach by police officers?

THE WITNESS: Yes, I think that was one of the triggers, yes.

MR ALLEN: It was found that they were affected by cocaine, at least some of them?

THE WITNESS: Yes, at least one of them.

MR ALLEN: Did you have any other comments with respect to the issue of drug and alcohol use by police officers?

THE WITNESS: No.

MR ALLEN: Or any of the other topics that you have been alerted to?

THE WITNESS: No.

MR ALLEN: Thank you.

MR CARMODY SC: Mr Chairman, I don't know -- certainly for my part, I don't know if we can help very much. All of this is without notice to us, and it is dealing with some pretty big issues, like random testing and who should do it, and we get a bit of a mention of a New South Wales report. None of this is on notice. I would have thought, if you have any inkling of making any recommendations along those lines, that we would need not only a contradictor but also more time to prepare worthwhile questions to examine the witness.

PRESIDING OFFICER: Do you want to ask any questions now?

MR CARMODY SC: Would you mind if we just stood down for 10 minutes, so I can consult others?

PRESIDING OFFICER: Yes, sure.

THE HEARING ADJOURNED AT 2.37 PM

THE HEARING RESUMED AT 2.55 PM

MR CARMODY SC: Thanks for that, Mr Chairman. I needed that to test what I was about to say and make sure that it wasn't just me, but -- and I don't think it is but we don't think -- I speak for myself -- I don't think that the evidence that we've just heard is really in the spirit genuinely of all of us looking for answers to problems that we accept. I mean, we didn't have any notice of this. No statement from Dr Prenzler, no -- I have not -- I have got all these bits of paper about other things but not one piece of paper from which Dr Prenzler drew his evidence, not one report from PIC, not one study of his own, nothing. I have got his summary -- I don't know what the controls were, I don't know what the sample was, I don't know what the questions were. So I can't usefully ask him any questions about that. So I can't help you on that, and my concern, though, is if I say nothing, that will be taken as acquiescence and I will see in some report somewhere, well, this was unchallenged so it is reliable enough to say let's have random integrity testing, and I am not prepared, really, to debate that with Dr Prenzler who has got the drop

on me. He has read Abelia, I haven't. Similarly with drug testing and costs, okay, someone says it is half a million dollars. I don't know if it is half a million dollars or five million dollars, and I don't know, really, what I would suggest who should do it, whether the CMC should be doing it or whether the police themselves should be doing this testing. You know, what role the CMC has in external oversight of doing that sort of thing. As I say, the testing, drug testing and integrity testing is a really big issue, deserves a lot of focus on its own and I am really concerned that we're underprepared to deal with it, effectively.

The other thing is that none of what Dr Prenzler says about recruitment and training was put to the other witnesses who might have been able to make useful comment on it. That's unfair at the very least but it is also very unhelpful for you.

PRESIDING OFFICER: Well, it is, I mean, this isn't adversarial litigation; this is an inquiry.

MR CARMODY SC: I know.

PRESIDING OFFICER: And those sorts of issues if they are significant can be dealt with.

MR CARMODY SC: Sure, but the touchstones are still relevance and reliability, aren't they? If there is going to be a recommendation to, say, for instance, have an independent overhaul of the recruitment and training process, that's a big call, and I wouldn't have thought you would have had enough information to make it.

PRESIDING OFFICER: Well --

MR CARMODY SC: But I might be wrong.

PRESIDING OFFICER: In the normal course of events, there is a process of commentary -- comment drafts to be considered by people who are likely to be affected and that gives an opportunity for the various parties who might be affected, and obviously the parties represented here would fall within the ambit of being given an opportunity to comment on any decisions that were to be made and they could -- the comments could be dealt with, and if it was to be pursued, it could lead to another sitting so that there can be evidence and so on. So, as I say, it is not like -- this isn't like litigation where you get one cataclysmic go at sorting it out and you either do it or you don't.

MR CARMODY SC: No, I know how it works, but, nonetheless, the information you get still has to be reliable. Like, for instance, Dr Prenzler is a slippery slopist. There are plenty of people out there who aren't. Are they going to come in and say what they think about free hamburgers?

PRESIDING OFFICER: We're not going to conduct a poll of the citizenry to see who is a slippery sloper and who is not.

MR CARMODY SC: That's the point. You have only got a slippery slopist in here

who says --

PRESIDING OFFICER: Well, we have had an anti-slippery sloper in here this morning in Assistant Commissioner Martin and he gave his reasons for that.

MR CARMODY SC: But he wasn't attached with Dr Prenzler's --

PRESIDING OFFICER: I am not sure that that's of any great -- you are either a slippery sloper and you can justify it, or you are not and you can't.

MR CARMODY SC: But -- all right, okay. Well, let's go on to something else. He is a prescription and strict compliance-ist as well as opposed to a value-based, integrity leadership person.

PRESIDING OFFICER: All those things are on the table. As I say, if there are going to be -- if they are going to be significant to any final report, then consideration will have to be given to whether there needs to be further investigation or further inquiry or not.

MR CARMODY SC: Fair enough. Well, I have had my whinge.

MR MACSPORRAN SC: Could I formally adopt the whinge Mr Carmody has had for my client. And simply add this, Mr Chairman. There is another dimension at play here and that is that whilst it is obviously desirable and we accept it is going to happen that we have a chance to address these issues via written submissions or further opportunities to present evidence, the other dimension here is that the reporting, it being a public hearing, the reporting is necessarily confined to a day-by-day system and that can and has, with respect, led to both inaccurate and unfair reporting so far as my client and possibly others here of the proceedings because at the end of the day they report what they hear. It can often be out of context and that's in particular where the evil of not having this evidence we now hear today from Dr Prenzler put to Assistant Commissioner Martin in particular, if not the director of human resources division, Ms Jones. Because then you would have on the record publicly for the media the other side of the coin perhaps. They don't have that and to be fair to them they are reporting what they hear that's not otherwise contested. It should be understood in this context that we're not in a position to directly debate with Dr Prenzler in particular today his views but it should be understood we don't accept his views and that may have been implicit in the evidence that Assistant Commissioner Martin has already given today as well.

PRESIDING OFFICER: Well it was, I think, explicit in some respects.

MR MACSPORRAN SC: Yes.

PRESIDING OFFICER: And in the same sense the witness who was called yesterday, it was explicit in some aspects that there is -- what's the word -- a dichotomy of views.

MR MACSPORRAN SC: Yes.

PRESIDING OFFICER: Yeah.

MR MACSPORRAN SC: As long as that's understood, there is no harm in not being able to deal with this on the run. We have every confidence in you dealing with it when you report. That's a different issue and not one we're concerned about. It is really the perception that's the problem and we're dealing with an area that is highly emotive and sensitive and very damaging to the reputation of, particularly, my client as a service if it can be reported in a way that is not necessarily the case at the end of the day. And I just make that point because it is a point that needs to be made in our submission.

PRESIDING OFFICER: You are quite right and it is clear that there are a number of unresolved issues which have arisen and we have identified them -- I think you have identified them or Mr Carmody has identified them, and they may or may not have to be resolved at the close of the proceedings, and then, as I say, if there is likely to be any prospect of adverse findings affecting your client or anyone else here, then there will be a process to deal with it. I take your point that the things are reported on a day-to-day basis and those who are reporting them on that basis will, I assume, take into account that this is only one day in a long and involved process.

MR MACSPORRAN SC: Yes, that's so.

PRESIDING OFFICER: And there is not a question of anyone reaching any final conclusions in respect of the issues that might be contentious --

MR MACSPORRAN SC: That's so.

PRESIDING OFFICER: -- at this stage.

MR MACSPORRAN SC: Did I understand correctly that, Mr Chairman, the proposal might be -- we can debate this later this week, obviously, perhaps tomorrow, is for the CMC to produce a draft which may then be distributed for comment?

PRESIDING OFFICER: Yes.

MR MACSPORRAN SC: And then we see where we go from there.

PRESIDING OFFICER: As you know, that's in compliance with the rules laid down by the High Court in cases like Ainsworth that that's done.

MR MACSPORRAN SC: Yes.

PRESIDING OFFICER: And I am not saying this in any critical sense, but the need to do that is often a cause for delay which is quite proper and justifiable but it isn't appreciated that there will be delay because of the need to satisfy those requirements so that everyone who is likely to be affected by findings has an

opportunity to know what the findings are and meet with them.

MR MACSPORRAN SC: Yes, although, as I think I said the other day, by way of a submission, the fundamental facts under investigation here seem to be reasonably settled. There doesn't seem to be a lot of debate amongst the parties. It is really a question of what needs to be done in a remedial sense.

PRESIDING OFFICER: Yes, and it is in a field it is obvious there are going to be different viewpoints.

MR MACSPORRAN SC: Yes.

PRESIDING OFFICER: Quite proper and understandable.

MR MACSPORRAN SC: Yes. Can I say, finally, that I do have a couple of issues briefly I can address with Dr Prenzler now if that's convenient.

PRESIDING OFFICER: I am happy for you to do that.

MR MACSPORRAN SC: Doctor, you're based at the Griffith University?

THE WITNESS: Right.

MR MACSPORRAN SC: In the Centre of Excellence in Policing and Security.

THE WITNESS: Right.

MR MACSPORRAN SC: Is it the case that in that capacity you have had a longstanding and productive relationship with the Ethical Standards Command of the QPS.

THE WITNESS: Right.

MR MACSPORRAN SC: In particular, Assistant Commissioner Martin as the head of that part of the service?

THE WITNESS: Right.

MR MACSPORRAN SC: And are you currently engaged in a project called Integrity Systems.

THE WITNESS: Right, I am the leader of that project.

MR MACSPORRAN SC: And have you, as the leader of that project, regularly called upon and received assistance by way of provision of data and other services from the Ethical Standards Command of the QPS.

THE WITNESS: Yes, I have.

MR MACSPORRAN SC: And what would you say generally then is your relationship -- or I suppose I should say the Centre of Excellence's relationship with the Ethical Standards Command?

THE WITNESS: The Ethical Standards Command, as part of the Queensland Police Service is a partner organisation with Centre of Excellence in Policing and Security and the QPS puts in some money into the centre and then is also represented on our research advisory board and is able to contribute to the research directions and decisions about what projects are undertaken and communicates with us any particular research needs it might have that we might be able to accommodate.

MR MACSPORRAN SC: And is that -- has that been beneficial, firstly, to your work?

THE WITNESS: In my particular component of that whole relationship, yes, it has been. I haven't actually had any quantitative data from the QPS but the QPS have participated in an Integrity Systems stocktake which was our major project. Data collection was undertaken for that last year in the form of interviews that included Peter Martin and they reported on their integrity strategies. We did this with every jurisdiction and how they evaluate those strategies and what sort of ethical challenges they faced. We had excellent cooperation from QPS in that. Our main aim there was to present a national picture of what's being done with police integrity and what appears to be effective.

MR MACSPORRAN SC: Yes. Is that in turn, in your view as an expert in the field, a healthy sign for the QPS to be engaging in that dialogue with your centre?

THE WITNESS: Absolutely. Yeah.

MR MACSPORRAN SC: Now, you are aware also, I take it, of one of Fitzgerald's recommendations was that there be a broad council, committee, including community representatives advising on police education and training needs.

THE WITNESS: Right, PEAC.

MR MACSPORRAN SC: PEAC. And the Ethical Standards Command takes part in that process?

THE WITNESS: As far as I know. I don't know what the current state of PEAC is.

MR MACSPORRAN SC: All right. Do you see it as being a healthy sign for the service that they have taken up the recommendation in that respect and formed part of PEAC?

THE WITNESS: As I said, I don't know what the current situation is but up until recently, certainly I know PEAC was still meeting one or two years ago but--

MR MACSPORRAN SC: Be --

THE WITNESS: -- PEAC has been very inactive in the area of evaluation, research and communication. There is -- I am not aware of any publications or reports from PEAC on the public record since 1998.

MR MACSPORRAN SC: All right. Just to be clear about it PEAC stands for Police Education Advisory Council.

THE WITNESS: Right. Council or committee, I am not sure.

MR MACSPORRAN SC: And includes representatives from the CMC, for instance.

THE WITNESS: Right.

MR MACSPORRAN SC: The community generally, the police, and is there anyone from the university?

THE WITNESS: There is someone. I am not sure who it is. It might be me.

MR MACSPORRAN SC: You have been inactive, it seems, since 1998.

THE WITNESS: I went to a meeting some time ago and I haven't heard anything since.

MR MACSPORRAN SC: That's all I have, thank you, Mr Chairman.

MR CARMODY SC: Professor Prenzler, you wrote a book that was published in 2009 called Police Corruption Preventing Misconduct and Maintaining Integrity?

THE WITNESS: Right.

MR CARMODY SC: In the preface you say, "Reform in Queensland is founded on the rocks of government secrecy, indifference and party politicking with both sides of politics continuing to take a weak approach to the proper implementation of reform" and you express extreme disappointment at the reaction and ignorant response adopted by the leadership of the main police union in Queensland?

THE WITNESS: Right.

MR CARMODY SC: I act for that union. And I wanted to ask you some things that you wrote in the book but before I do that, I want to establish some general things for my own understanding. You are a social scientist, right? And that's the discipline you have practised for the last 30 years?

THE WITNESS: Right.

MR CARMODY SC: For almost 20 of those 30 years you have been particularly interested in ethics in policing.

THE WITNESS: Right.

MR CARMODY SC: Now, just so I can understand this in terms: Morals and ethics, often used interchangeably, refer to behaviour or conduct.

THE WITNESS: As well as opinions and judgments, principles.

MR CARMODY SC: Right. Making judgments, making choices, is conduct. So it is what we do. And ethics in the language of social science is the study of what makes conduct good or bad, is that right?

THE WITNESS: Right.

MR CARMODY SC: And good or bad also means moral or immoral as opposed to legal and illegal. Right?

THE WITNESS: Right.

MR CARMODY SC: Okay. So if you have a code of conduct, you could call it a code of ethics? Mmm?

THE WITNESS: Sure.

MR CARMODY SC: And ethical standards are the measurement of conduct to see whether it equals, exceeds or falls short of --

THE WITNESS: Right.

MR CARMODY SC: -- that standard. So the standard is the minimal acceptable standard of behaviour in that particular context, is that right?

THE WITNESS: Right.

MR CARMODY SC: And in the Police Service, they set their own standards of acceptable behaviour, publish it in a code of conduct, right? And that code of conduct has been around a long time.

THE WITNESS: Yep.

MR CARMODY SC: And it is accessible to everybody who wants to comment and criticise it, isn't it?

THE WITNESS: It is.

MR CARMODY SC: It is on the net. You can download it and see what it says about gifts and benefits.

THE WITNESS: Right.

MR CARMODY SC: If you want to, any time since it was first published to right now today. And those with oversight responsibilities could have read it and made comment on it in the past as well. Correct?

THE WITNESS: Right.

MR CARMODY SC: All right. Now, you have, within social scientists/ethicists a number of schools, don't you? You have those who say, well, let's restrict it to policing. You can't trust them to exercise discretion and make proper judgments. They will always choose the wrong consequence. So what you have to do is prescribe -- closely prescribe the rules and then strictly enforce them. That's one school, isn't it?

THE WITNESS: Right.

MR CARMODY SC: That's the school you belong to?

THE WITNESS: Pretty much, yeah.

MR CARMODY SC: Then there is another school that says well, what you do is you can never control every situation by a rule, and creating rules just sets people up for failure, specially if they have got problems in exercising discretions they are also going to have problems complying with rules, so what you have to do is instill in them a value system that meets the acceptable standards, so that instead of trying to predict a situation and tell them what the answer is in advance via a rule, you give them the skills to work out what the answer is when they meet it. That's a value basis approach, isn't it?

THE WITNESS: That could be part of a highly regulated compliance-oriented strategy as well.

MR CARMODY SC: All right. Well, it would make the -- wouldn't it make it redundant?

THE WITNESS: Well, ideally you would like it to.

MR CARMODY SC: Yeah. And that's the way -- that's the approach the police take -- have taken for some time, isn't it, the values-based approach?

THE WITNESS: I don't know.

MR CARMODY SC: You don't know? When you say you don't know, do you mean you have never asked, you have never -- you can't tell from what its code of conduct says, or what?

THE WITNESS: I haven't seen the curriculum. I have never seen the curriculum.

MR CARMODY SC: I thought you said before it was in need of a complete

overhaul from an independent reform?

THE WITNESS: I didn't say "overhaul", I said review.

MR CARMODY SC: Independent review?

THE WITNESS: Mmm.

MR CARMODY SC: How do you know it needs review if you haven't seen it?

THE WITNESS: Well, I am saying there is no assessment currently available since the Police For The Future Report on the police training and recruitment system and how effective it is. So I don't know because I think a lot of other people don't know.

PRESIDING OFFICER: What name was that report?

THE WITNESS: Police For The Future, 1998.

MR CARMODY SC: Can't we tell --

THE WITNESS: Sorry?

MR CARMODY SC: Doesn't Tesco give us a little bit of a window to that? For instance, it has been conducted in the environment that exists and its results would be indicative of how well the police comply with their code of conduct, wouldn't it, overall?

THE WITNESS: If you are talking about training, you know, everybody knows training has limitations and then it becomes a matter of on-the-job supervision and in-service training after.

MR CARMODY SC: Yeah, but that's all training, isn't it? It is all part of it, I suppose?

PRESIDING OFFICER: Well, supervision is supervision.

MR CARMODY SC: Yeah, but you learn from the supervision. I mean, if you do something wrong, your supervisor pulls you up, that's something of a lesson learned, isn't it?

THE WITNESS: Sure.

MR CARMODY SC: Then you know for next time. That's the whole point. You don't make the same mistake twice?

THE WITNESS: Right.

MR CARMODY SC: So -- I forget what I was going to say now. All right. Do

you agree with this proposition: That the ethical dilemma is the conflict, or it is when the moral and the legal are in conflict?

THE WITNESS: They can certainly be one type of ethical dilemma, yeah.

MR CARMODY SC: So if we call it a Code of Conduct, or a rule, a law, and call a situation that I have just come across, that I haven't met before and I have got to make a decision about which one way to jump, I could be in a moral dilemma, couldn't I?

THE WITNESS: Right.

MR CARMODY SC: Classic moral dilemma is traffic patrol, speeding car, pulls it up, it is mum behind the wheel, isn't it?

THE WITNESS: Right.

MR CARMODY SC: Okay. What do I do? What do you do? What does an ethical policeman do there? What's the answer to that?

THE WITNESS: You are asking me?

MR CARMODY SC: Yeah.

THE WITNESS: Enforce the law.

MR CARMODY SC: Book mum?

THE WITNESS: Absolutely.

MR CARMODY SC: Right, okay. From your studies how many people would say that's right, they would agree with that? What percentage of respondents would agree with that strict approach?

THE WITNESS: I have never seen a survey that asks that question or a similar question.

MR CARMODY SC: I got that example from your book.

THE WITNESS: Okay.

MR CARMODY SC: And what you said about that was that that was what put you on your 17 year quest in looking at the answer to that question?

THE WITNESS: You asked for a survey.

MR CARMODY SC: Yeah, no, no, no --

THE WITNESS: That was a classroom discussion.

MR CARMODY SC: A classroom discussion, but I asked you to give me a percentage of what people would agree with you, didn't necessarily say what source it was from. You would get somebody who would disagree with you, wouldn't you?

THE WITNESS: Absolutely. And that case refers to a recruit.

MR CARMODY SC: You would get a respectable minority, or even perhaps a majority of people, depending on the group, disagree with you?

THE WITNESS: I think that's inevitable.

MR CARMODY SC: So there is no right or wrong answer, really, is there?

THE WITNESS: There are degrees and there are percentages. I mean, 95 per cent, it is very different to fifty-fifty.

MR CARMODY SC: Yeah. And there are opinions and one of your sources of information is public opinion, isn't it?

THE WITNESS: Right.

MR CARMODY SC: You have done a survey on that, haven't you?

THE WITNESS: Right.

MR CARMODY SC: I haven't seen it. I am sure it is very good. But what you are looking for is what the public think about a particular thing, about a free hamburger?

THE WITNESS: Right.

MR CARMODY SC: And you got some results. And I just want to deal with the public for a moment, and since we're in a place of honesty and candidness, let's have a look at the public. You get a lot of disapprovers on your -- in your study, didn't you --

THE WITNESS: Right.

MR CARMODY SC: -- of police accepting gratuities?

THE WITNESS: Right.

MR CARMODY SC: Some of them are even frowning on water and coffee?

THE WITNESS: Right.

MR CARMODY SC: Some of those disapprovers, did you try to work out if the

responses they were giving you were honest? Did you have some controls built in?

THE WITNESS: They were anonymous surveys.

MR CARMODY SC: Anonymous surveys? So you just asked someone cold, "Do you approve or disapprove of this?", tick a box?

THE WITNESS: No, no, self-report; people filled out the hard copy questionnaire themselves.

MR CARMODY SC: Someone had to go -- wanted to go to the trouble of answering the question, and then they tell you what they think, what their attitude is?

THE WITNESS: Yes.

MR CARMODY SC: All right.

THE WITNESS: I must say, there were other studies that have been done that were more rigorous than that, in terms of using a randomised telephone --

MR CARMODY SC: Can I put this to you as an experienced social scientist: that the public is notoriously hypocritical? Our public. Our society.

THE WITNESS: Sure.

MR CARMODY SC: We live in a society that says you should obey the law, and yet we glorify cowboys and gun slingers, don't we? We glorify war.?

THE WITNESS: Sure.

MR CARMODY SC: So how do you trust the people -- how do you know that you can trust the response, is my question to you, as being an honest one as well as a reasonable one?

THE WITNESS: Well, you have to take the responses as they fall, and you have to wonder why people would lie.

MR CARMODY SC: Well, jealousy for a start. "I don't get a free hamburger, why should they?"

THE WITNESS: There was a question that was asked about fairness, that sort of alluded to that point, and not a lot of people picked up on that point as an objection. The responses were more related to the police role in society.

MR CARMODY SC: I'll give you another one -- it might be debatable -- but I suggest to you that the public generally have higher expectations of the police than is realistic, often?

THE WITNESS: It's quite plausible.

MR CARMODY SC: And they need as much education on what police do before they start expressing opinions about what they should be doing, as police need education about what's right and wrong?

THE WITNESS: I couldn't agree more. Part of this problem is that members of the public often give gratuities to the police.

MR CARMODY SC: And they are often ignorant about what police actually do, aren't they?

THE WITNESS: I don't know about that.

MR CARMODY SC: Their opinions are often media led, do you agree with that?

THE WITNESS: A lot of perceptions about crime and justice issues are adversely influenced by the media, yes.

MR CARMODY SC: If you read in the media, "Copper takes cheap hamburger," you are supposed to interpret that and say, "That's the wrong thing to do." So when you are asked, "What you think about that?", you say, "That's the wrong thing to do."

All right. My point in all this is we can debate in hard cases what's right and what's wrong, and what we're doing here is we are assessing how people have responded -- how police have responded in a situation to difficult choices; right? And what has happened is some people, usually the same people, have responded what most people regard as inappropriately, they have made choices of doing the wrong thing rather than the right thing. But we also know that most police have come to the right conclusion, because most police do the right thing. That's a good thing, isn't it?

THE WITNESS: Sure.

MR CARMODY SC: You see, in 17.1.10.7, gifts and benefits in the manual, these are the eight questions that the members are suggested that they ask themselves to test, and you suggested that that was too discretionary. But how could it be too discretionary if most people come up with the right answer to those questions?

THE WITNESS: Well, it hasn't translated into practice.

MR CARMODY SC: Why do you say that? You said that before. What's your basis for saying that?

THE WITNESS: Well, it's well known that there's a large scale practice of police accepting discounted food and drinks, travelling on public transport for free, obtaining free entry to nightclubs, a range of other gratuities.

MR CARMODY SC: But they are allowed to take customary hospitality and benefits of nominal value. You think that needs to be defined more?

THE WITNESS: I don't think 600 discount half price hamburgers at one outlet per month is nominal. I mean, they are very large amounts of money, if you add them up over a period of time.

MR CARMODY SC: They are nominal to an individual. On an individual --

THE WITNESS: And it's not customary, it's in a commercial context.

MR CARMODY SC: That might be from the outlet, but from the police, on a one-on-one basis, he gets one hamburger, it's customary?

THE WITNESS: One of the points was made about regularity. If you add up these amounts of money over the period of a year, it comes to a very large amount of money.

MR CARMODY SC: From that end, from the individual's end, if he only goes once a week, it's not regular, is it?

THE WITNESS: It sounds like it's regular to me, once a week.

MR CARMODY SC: Once a week is too regular to you?

THE WITNESS: Once a week sounds very regular. I don't know how else you could possibly define it.

MR CARMODY SC: That's it. It doesn't sound regular to me at all.?

THE WITNESS: Regular?

MR CARMODY SC: Yeah.

THE WITNESS: It means recurring on a similar frequency.

MR CARMODY SC: But three meals a day, one meal a week that is half price or free, you think that's seriously -- you think that's the beginning of a slippery slope, do you?

THE WITNESS: I never said that. In fact, I said the opposite of that.

MR CARMODY SC: Why did you use that as an example when I asked you what is your basis for saying that practice doesn't reflect that most people in the police service get the answers to those questions right?

THE WITNESS: There was no mention of a slippery slope.

MR CARMODY SC: Okay. But I'm still not understanding you. Why do you say

that Tesco, for example, isn't good evidence that most police get the answer to that question right?

THE WITNESS: I never said that.

MR CARMODY SC: What did you say? I have misunderstood you.

THE WITNESS: I didn't say that.

MR CARMODY SC: But what did you say?

THE WITNESS: I simply reported on the research findings.

MR CARMODY SC: Which was what?

THE WITNESS: You know what they are.

MR CARMODY SC: No, I don't. I haven't seen them.

THE WITNESS: I will supply you with a copy.

MR CARMODY SC: Sorry?

THE WITNESS: I will supply with you a copy.

MR CARMODY SC: Well, that's not going to be much good to me. I don't want to read it at night-time, I want you to tell me the answer now. You told Mr Allen.

THE WITNESS: I summarised them about half an hour ago.

MR CARMODY SC: Well, just remind me, if you don't mind. Sorry, I wasn't paying attention.

THE WITNESS: 75 per cent of the respondents -- 76 per cent of the respondents in the survey that I conducted were opposed to regular discounted meals to police on duty.

MR CARMODY SC: Was it 76 or 66?

THE WITNESS: 76.

MR CARMODY SC: Would you say that our behaviour as human beings is generally consistent with our values system?

THE WITNESS: Up to a point. I mean, people have to compromise their values all the time because they have to conform to the rules and regulations.

MR CARMODY SC: But they make choices between relative values, don't they? Like, for instance, if I've got an opportunity to cheat in a law exam and I'm making

a decision whether I actually take advantage of that opportunity then I'm resolving a conflict between two values, aren't I, between wanting to pass and wanting to be honest?

THE WITNESS: Right.

MR CARMODY SC: The cheat will favour passing over honesty; right?

THE WITNESS: Right.

MR CARMODY SC: But a person who highly values honesty won't; true?

THE WITNESS: Well, unless you're under a lot of pressure of some sort.

MR CARMODY SC: Unless the risks are too high, I suppose. There is that, isn't there? There is deterrence and risks, there's the factor there, which is why we have sanctions.

THE WITNESS: Hm.

MR CARMODY SC: But just talking about values systems, that's how it works, isn't it? It's a hierarchical ranking of values?

THE WITNESS: Yes.

MR CARMODY SC: Now, most people when they come into the police service these days, especially when the average age of a recruit is, what, 25, 26?

THE WITNESS: Twenty-seven, I think.

MR CARMODY SC: Twenty-seven, okay. They've already got a well established values system, haven't they?

THE WITNESS: Presumably, yes.

MR CARMODY SC: It will be developing, but it should be pretty well developed by then?

THE WITNESS: Right.

MR CARMODY SC: Do you think, just as a general statement, that we suffer a little these days in working out what our values system should be from the fact that we don't get ethical philosophy-based education in secondary school?

THE WITNESS: Probably.

MR CARMODY SC: And there's not as much religious practice as there used to be?

THE WITNESS: Right.

MR CARMODY SC: So we have to pick up our value systems from different sources, you know, as a general statement, and those sources mainly are role modelling, people we admire, we emulate, and also from reinforcement. Are they the two main areas?

THE WITNESS: Sure.

MR CARMODY SC: And reinforcement is positive or negative?

THE WITNESS: Right.

MR CARMODY SC: Reward the good and punish the bad; right?

THE WITNESS: Yes.

MR CARMODY SC: And that still works within an employment context?

THE WITNESS: Right.

MR CARMODY SC: So obviously recruitment is a pivotal point of weeding out the baddies, identifying and weeding them out?

THE WITNESS: Absolutely.

MR CARMODY SC: Tell us how you do that? How do you stop the baddies getting in?

THE WITNESS: You do psychological tests, you do interviews, you obtain references.

MR CARMODY SC: You do all that. The police do all that, don't they?

THE WITNESS: As far as I know, yes.

MR CARMODY SC: So that can't be the answer; some get under the radar. So what is it, don't they do it properly?

THE WITNESS: Sorry?

MR CARMODY SC: If some people get in, some bad apples get in, and you still do all that, how come? The bad apples shouldn't get in.

THE WITNESS: It happens in every organisation.

MR CARMODY SC: Exactly. And this organisation identifies them or has a system for identifying them as quickly as possible, doesn't it?

THE WITNESS: I don't know.

MR CARMODY SC: Well, it's got a code of conduct, it's got an internal investigation section, it's got the CMC, it's got supervisors, it's got control systems, hasn't it?

THE WITNESS: Yes. You said "as quickly as possible", and I said, "I don't know."

MR CARMODY SC: All right. How would you improve the systems to make early intervention more possible?

THE WITNESS: Well, I know that -- I do know that the police service at the moment, the Ethical Standards Command, is looking to renovate its early intervention system.

MR CARMODY SC: What advice would you give it?

THE WITNESS: I would say look at successful models that are used in other jurisdictions, pull in a lot of data on police officers and on police units of administration.

MR CARMODY SC: Has anyone ever asked you to design a state-of-the-art model for an integrity model within the police service?

THE WITNESS: No.

MR CARMODY SC: Could you do that?

THE WITNESS: I could contribute.

MR CARMODY SC: You do it in your book, don't you? You propose a model?

THE WITNESS: I propose a model, based on available research that I could find about what works and what doesn't work.

MR CARMODY SC: And if the CMC asked you to do that, you could do it and then we could circulate it around to other people for comment?

THE WITNESS: Right.

MR CARMODY SC: Would that be a good way of getting the state of the art?

THE WITNESS: I think so, yes.

MR ALLEN: You said psychologists have a role to play in identifying the recruit, but they can't accurately predict likely future behaviour based on reported moral beliefs and past conduct, can they?

THE WITNESS: I'm not a psychologist. From what I have read about psychological tests, they can be useful in identifying potentially risky character traits, dishonesty, tendency towards aggressiveness, self-aggrandisement, that kind of thing. And I do know there are studies that have found that recruits who were allowed through, when psychologists advised against them on the basis of these tests, did cause problems down the line, attracted numbers of complaints and had to be dismissed. There is a consensus about those psychological tests being useful.

MR CARMODY SC: But you would agree that the deficiency in that is that belief and action aren't always consistent?

THE WITNESS: Right, yes. The tests aren't just about beliefs.

MR CARMODY SC: Right. Because if I'm answering a question from your survey and I'm answering a question on the police recruitment questionnaire, I'm going to give you the question I think you want to hear, aren't I, by and large?

THE WITNESS: Sure, absolutely.

MR CARMODY SC: Because that's just human.

THE WITNESS: Hm.

MR CARMODY SC: Especially if I want to get into the police service and I know that there's something about me that's going to be an impediment to that, I'm going to be deceptive about it, if my value of getting in is higher than my value of being honest, isn't it?

THE WITNESS: Sure.

PRESIDING OFFICER: There's another factor in play, isn't there; that is, if I think I won't be caught out?

MR CARMODY SC: Yes. Quite right. That's why I said before, I suppose, that there are two things, deterrence and risks, and we will take a risk if we think the benefit is worth it and we won't if we think we'll be caught.

THE WITNESS: Yes.

MR CARMODY SC: But, apart from that, you would expect that a healthy ethical person would generally, if honesty was an intrinsic value, would generally opt for the honest, even in the face of temptation, wouldn't you?

THE WITNESS: Yes, up to a point.

MR CARMODY SC: We don't always do it, but sometimes we do it; right?

THE WITNESS: Hm.

MR CARMODY SC: And that person is the constable or the senior constable or sergeant who gets tempted from time to time. They are not the aggressive shoppers, are they? The aggressive shoppers are those people who put self-interest above duty and the interests of other people, aren't they??

THE WITNESS: Absolutely.

MR CARMODY SC: And they are always going to back the horse called self-interest because they know it's going to be trying in every race?

THE WITNESS: Hm.

MR CARMODY SC: But what we know from Tesco is D1 is probably one of those characters?

THE WITNESS: Okay.

MR CARMODY SC: He's the one who's going to go to a lot of trouble to save $25. His mate, who doesn't do it regularly, isn't an aggressive shopper, has to make a decision, am I going to go with him or going to go away from him? That's your ethical dilemma, isn't it?

THE WITNESS: For him.

MR CARMODY SC: And that's where your values come into play, and your strength of character, and, as the chairman said, risks and deterrence. But isn't that the best model? Isn't what works and will work every time, or at least most times that's humanly possible, the ethical policeman; not the one who is complying with the rule for fear of sanction?

THE WITNESS: That's the ideal, for sure.

MR CARMODY SC: The question is, if that's one, do we have those predominantly in the QPS? And looking at Tesco results, just in the context -- in its own context, it looks like we do.

THE WITNESS: I don't know enough about the Tesco findings, sorry.

MR CARMODY SC: Okay. So one way of changing unethical behaviours or instilling ethical behaviours, if you like, would be targeting new recruits, that is before they get captured by the subculture; do you agree with that?

THE WITNESS: That's standard, yes.

MR ALLEN: Would you say from your observations that the QPS has a healthy culture but it has to deal with a subculture of police who might be at risk or problem police? Would you think that's a fair assessment of what we've got?

THE WITNESS: I don't know, I'm sorry. I just don't have enough information on

that.

MR CARMODY SC: You yourself don't know the answer to that question because you haven't got enough information?

THE WITNESS: I feel I haven't got enough information currently.

MR CARMODY SC: Do you know anyone that has?

THE WITNESS: I'm assuming there are people in the CMC and the QPS who have on hand survey data or have a better knowledge of complaints or misconduct than I do who can answer that.

MR CARMODY SC: I want to ask you for your comment on this: "Often when a breakdown in ethical behaviour is detected there's an attempt to bring people back in line with formulation or expansion of rules. It seems, however, that in any profession the most effective ethical standards are not those that are specific or comprehensive but those that are consistent with and support an organisational idea." Do you agree with that?

THE WITNESS: Well, in theory. If it works, it's great.

MR CARMODY SC: "Decision makers in organisations often find it necessary to give employees extensive lists of rules. In an office these may include injunctions not to take supplies, not to make personal telephone calls and not to spend more than 15 minutes on breaks. These are very different from the ethical standards of honesty and integrity in the workplace. When there is a lack of ethical standards, it is doubtful that multitudinous rules of behaviour will suffice to eliminate wrongdoing." Do you agree with that?

THE WITNESS: I'm not sure. It depends on enforcement, I think.

MR CARMODY SC: Would you comment on this for me, please: It is safe say that police, like any operational group, maintain a value system devised to provide a rationale for decision-making. This value system is more important in influencing behaviour than the police rule book or code of ethics. Do you agree with that?

THE WITNESS: It has certainly been the case in the past, that's for sure.

MR CARMODY SC: Would you agree that diversity of recruits, both from every aspect; age, sex, previous occupation, race, historical, education, all assists in adulterating a subculture of misconduct in the police?

THE WITNESS: Right.

MR CARMODY SC: And the police service in Queensland has a diversity of recruiting policy?

THE WITNESS: Yes.

MR CARMODY SC: To be fair to police, given all the temptations that come -- the nature of their job -- specially on the Gold Coast, the nature of their job, their moral compass, and maybe the vagueness of some of their ethical framework, wouldn't -- to be fair to them, wouldn't the better question be to ask not why there are so many in trouble but why there aren't more?

THE WITNESS: I can't answer that, I am sorry.

MR CARMODY SC: Could I deal with your gratuities position, please? I just wonder why it is -- am I right in thinking -- you chatted me before about mentioning slippery slope out of order so I want to be careful -- am I right in thinking that taking the first hamburger is the top of the slippery slope, from your point of view -- first free one?

THE WITNESS: I think the police studies literature which I was trying to report on would probably put half priced hamburgers and similar offers related to food at that point.

MR CARMODY SC: But people we know, from -- obviously from the figures, can still take a hamburger or get a free coffee or a discounted meal and not be dishonest?

THE WITNESS: That's what I said 45 minutes ago, yeah.

MR CARMODY SC: Yeah, I know that. So what's wrong with it?

THE WITNESS: Well, I recommend you look at the code of conduct for an explanation of how gratuities potentially compromise the police mission for impartiality and how they affect public perceptions of that.

MR CARMODY SC: We have dealt with public perceptions. We know that can be trustworthy. What about -- how could it compromise their job?

THE WITNESS: I referred you to a survey done of police officers that show they reported in the survey as far as you can accept that finding that they would in fact not enforce the law against somebody who had committed a serious traffic breach in the scenario where they had accepted hospitality from this person.

MR CARMODY SC: Right. So that's not McDonald's. It wasn't McBurglar in the car, was it?

THE WITNESS: Not in that scenario. There is also some research from the US that shows that food outlets that offer gratuities to police do get better police presence. Police are there more hours and therefore fulfil that purpose of cheap security.

MR CARMODY SC: Well, let's have a look at that for a moment. What about --

how do you stop the situation where they get a cheap discount but also the food is much better there than it is down the road, and most police like the cakes they get there and they go there. How -- what's the difference?

THE WITNESS: If that's the reason they go there, that's fine.

MR CARMODY SC: What's the reason for that?

THE WITNESS: Because it is about undue influence.

MR CARMODY SC: Of whom?

THE WITNESS: The person offering the gift to the police officer receiving the gift.

MR CARMODY SC: But they offer it generally to anybody who is in uniform. What, are they all going to give them preferential treatment?

THE WITNESS: That's something I think they brought in later.

PRESIDING OFFICER: Mr Carmody, I don't think this is taking us very far at all.

MR CARMODY SC: If it is not helping you, Mr Chairman, then it is certainly not going to --

PRESIDING OFFICER: Now that I have interrupted, can I conduct a one-person poll --

MR CARMODY SC: Yeah.

PRESIDING OFFICER: -- of you.

MR CARMODY SC: Yeah.

PRESIDING OFFICER: What do you do: give mum the speeding ticket and do your own washing for the rest of the month?

MR CARMODY SC: Exactly.

PRESIDING OFFICER: Or do you say no, I am going to do the right thing?

MR CARMODY SC: Yeah.

PRESIDING OFFICER: And you do and mum says, well, that's what I brought you up to do so you can have roast lamb every night next week.

MR CARMODY SC: Yeah. Look ...

PRESIDING OFFICER: Where do you fall on that?

MR CARMODY SC: I have obviously grappled with this question because I thought of it myself but I would probably book her and pay for the fine, that's probably what I would do.

PRESIDING OFFICER: Very astute compromise.

MR CARMODY SC: I learnt that at the academy, your Honour.

THE WITNESS: Well, that doesn't help your mother learn the lesson.

MR CARMODY SC: Hey?

THE WITNESS: It doesn't help your mother learn the lesson.

MR CARMODY SC: But, you see, mum doesn't do it very often. She just happened to do it that day.

PRESIDING OFFICER: No, but she would do it more often when she knows you are on the road, that you are patrolling, when she's on the road.

MR CARMODY SC: Nobody else is going to help my mother, just me.

PRESIDING OFFICER: Anyway, yes, come on.

MR CARMODY SC: Can I go back to 1829 when Mr Peel set up the Metropolitan Police Service in London as a professional organisation? What he wanted was good recruits, ethically trained who would comply with a code of conduct, who were well supervised and disciplined, didn't he? That was how he worked out how you get a good police service.

THE WITNESS: Very good.

MR CARMODY SC: Still good today, isn't it?

THE WITNESS: Sure.

MR CARMODY SC: Would you add anything to that list?

THE WITNESS: A lot.

MR CARMODY SC: What.

THE WITNESS: It is in the book. I mean, that system almost failed and it has been inadequate, you know, for 150 years.

MR CARMODY SC: But what's made it --

THE WITNESS: We now realise we need an advanced system of police integrity

management with a lot more controls in place. I mean, they were -- they had police drunk on duty and they had a big problem -- you can imagine under that system because it was still -- it was tougher than the preceding system but it was still quite inadequate.

MR CARMODY SC: That's just because the supervision was lax.

THE WITNESS: It wasn't just supervision.

PRESIDING OFFICER: In part, but it is also because we live in a much more complex world.

MR CARMODY SC: Let's get to that. Your state of the art, from what I understand from your book, ethical police framework would be an intelligence driven, research-based, high-cost, continuous monitoring of the police service and its members, isn't it?

THE WITNESS: That's a pretty good description. I mean, subject to risks/needs assessment so as I think I mentioned to you earlier I don't think all jurisdictions need that. You have got to look at the history of a police department and the environment they work in. A lot of police departments need that, especially with the current drug culture and the availability of drugs.

MR CARMODY SC: It is heavily reliant on information, isn't it?

THE WITNESS: Exactly.

MR CARMODY SC: And you profile officers for looking for risk factors.

THE WITNESS: Right.

MR CARMODY SC: And you intervene early when you see too many factors, a pattern of factors.

THE WITNESS: Right.

MR CARMODY SC: Now, who would run that? Who should run that?

THE WITNESS: Well, if the police aren't doing it, then certainly the oversight agency should be doing it.

MR CARMODY SC: They are the ones with the money, aren't they?

THE WITNESS: Well, if they are the ones with the money that's fine.

MR CARMODY SC: They are the ones with the function.

THE WITNESS: They certainly have a responsibility to oversight police and that could be part of it.

MR CARMODY SC: And --

PRESIDING OFFICER: I think there might be some arguments about the proposition that --

MR CARMODY SC: It is difficult, though --

PRESIDING OFFICER: -- money --

MR CARMODY SC: -- bearing in mind you have trust-based relationship in police to have big brother within the organisation internally.

THE WITNESS: That just goes for any modern organisation. You know, a high trust model of staff hardly applies in any modern organisation any more.

MR CARMODY SC: What do you say to this: Mr Allen has asked a few of the police officers who gave evidence, well, why has it taken, you know, the CMC to come along and unearth -- uncover all these things, and -- that was a fair question, I was thinking about the answer to it, and then it dawned on me that, well, because they have got the telephone intercept product which the police don't have, and because they do the covert operation which isn't normally something you'd get the police to do on itself, is it?

THE WITNESS: I think there are lots of police departments who run covert operations on their own members.

MR CARMODY SC: You wouldn't recommend that, though, would you, that police do covert operations on themselves?

THE WITNESS: I would, yes.

MR CARMODY SC: Would you? Why wouldn't the CMC be better placed to do that?

THE WITNESS: I think the police department needs to have a system in place to try and minimise misconduct and then you have to have an external agency that evaluates that.

PRESIDING OFFICER: Oversights it?

THE WITNESS: Well --

PRESIDING OFFICER: Not do it.

MR CARMODY SC: Can I just go back to your research based intelligence driven for a moment. This organisation, the CMC, is research based compared to the police service, isn't it?

THE WITNESS: I am not sure about that.

MR CARMODY SC: What, they are both research based?

THE WITNESS: Well, I know the ESC is doing a lot of research.

MR CARMODY SC: Okay. But this has got a research division that --

THE WITNESS: Right.

MR CARMODY SC: -- Fitzgerald specifically designed for that purpose, research, be in front of the game, be proactive.

THE WITNESS: Right.

MR CARMODY SC: Right? Preventative.

THE WITNESS: Yeah.

MR CARMODY SC: Wouldn't you think this organisation is perfectly placed to tell the police, oh, look thanks for the information you have gave us, we have taken all your data information, we have fed it into our machine, we have coupled that with our covert operations and now we're going to give you a bit of a blueprint for improving things; we found a bit of stuff going on in Tesco, nothing too dramatic but we can fix it up, here are the answers. Wouldn't that be the way it works?

THE WITNESS: It could work that way.

MR CARMODY SC: Can you think of a better way?

THE WITNESS: Well, I think ideally police would do it themselves.

MR CARMODY SC: Really?

THE WITNESS: And then as a fallback position the oversight agency might do it where they feel they need to do it to test the effectiveness of the police system.

MR CARMODY SC: I thought you told me outside at lunchtime that you thought it would be better if the CMC did it. I got that wrong, did I?

THE WITNESS: Not exclusively. No.

MR CARMODY SC: All right.

PRESIDING OFFICER: We're just going around and around at the moment. Can we progress down that way?

MR CARMODY SC: All right. We will wind down. Structure and cultural causes of misconduct.

THE WITNESS: Mmm.

MR CARMODY SC: What are the structural ones?

THE WITNESS: Police involvement with criminals, or people who have something to lose from a police action who will offer a bribe. That's the number one one. People who have something to lose who are involved with police.

MR CARMODY SC: All right. What's one of the best indicators do you say of an improvement in ethical conduct in the police?

THE WITNESS: Well, I think after a period of reform, reducing complaints -- not exclusively. The outcomes of -- specially independent investigations, one would hope to see a reducing substantiation rate after a period of reform.

MR CARMODY SC: So the less complaints the healthier year the organisation.

THE WITNESS: As long as there is nothing being done to stop people complaining. As long as you have got a very open complaints system.

MR CARMODY SC: Is that a good anti-corruption strategy, reducing complaints?

THE WITNESS: Probably not particularly good for corruption as such because most complaints are for --

MR CARMODY SC: Misconduct?

THE WITNESS: Yeah.

MR CARMODY SC: Disciplinary breaches.

THE WITNESS: Yeah. I mean, I think the number one test is really what the oversight agency finds when it probes the police when it does those undercover operations, or investigations, that kind of thing.

MR CARMODY SC: Yeah. What's your diagnosis, doctor, on this one?

THE WITNESS: I mean, there are other measures as well like public confidence surveys, people's experience of police surveys and those sorts of things.

MR CARMODY SC: What's your diagnosis on this one, what about blue light -- a bit of blue light?

THE WITNESS: I don't know enough about the findings, sorry.

MR CARMODY SC: All right. Thank you.

MR WATTERS: I do have a couple of matters, Mr Chairman. I should commence

by asking that it be noted I join with the learned Mr Carmody and Mr MacSporran in the submissions already made to you about the difficulties with not having notice or sufficient particulars of this witness's evidence and I know you have already heard those matters.

PRESIDING OFFICER: We seem to be progressing, notwithstanding that so -- yes.

MR WATTERS: Professor Prenzler, can I ask you something about your research concerning public attitudes to gratuities for police? When you were asked by Mr Allen about this matter early in your evidence, I understood you to say there were two studies in this area in the US and one in Australia, that being by yourself; that's right?

THE WITNESS: Right.

MR WATTERS: When was that conducted, your study?

THE WITNESS: I think it was done in '93.

MR WATTERS: '93?

THE WITNESS: Yeah, the publication was '94.

MR WATTERS: Okay, so not too long after Fitzgerald.

THE WITNESS: That's right.

MR WATTERS: And it was a Brisbane-based study?

THE WITNESS: Yes.

MR WATTERS: What was the size of the sample group? How many people involved?

THE WITNESS: Oh, gee, you are pushing your luck there. Several hundred, I think.

MR WATTERS: 200 or --

THE WITNESS: I just can't recall exactly, sir.

MR WATTERS: The name of the study, can you tell us that?

THE WITNESS: It had no name as such. It was just a survey, public attitudes to police.

MR WATTERS: Was it --

THE WITNESS: Public attitudes to police gratuities.

MR WATTERS: Was it published?

THE WITNESS: Published?

MR WATTERS: Yeah, is it published?

THE WITNESS: Yeah, yeah.

MR WATTERS: Obviously, you don't have a copy with you?

THE WITNESS: No.

MR WATTERS: All right. In any event, I understood your evidence to be this: Two thirds of people say that they are opposed to gratuities or hospitality to police.

THE WITNESS: No.

MR WATTERS: All right. Well, I understood then, as your evidence went on, in answer to a question from Mr Allen, your answer was 66 to 75 per cent of people are against half price McDonald's. That's the notation I have of your evidence.

THE WITNESS: That was the summary of those three studies.

MR WATTERS: That's the summary of the three studies?

THE WITNESS: My study and the other two.

MR WATTERS: That is the two in the US?

THE WITNESS: Yeah.

MR WATTERS: And yours.

THE WITNESS: Yeah.

MR WATTERS: So, what was --

THE WITNESS: Never was half priced McDonald's mentioned in these surveys. There was just a scenario of a type of gratuity that could be interpreted as a McDonald's style gratuity.

MR WATTERS: Do you know the percentage from your study?

THE WITNESS: 76.

MR WATTERS: All right. So in Brisbane, shortly after Fitzgerald, 1993, some number of hundred people of surveyed, 76 per cent were against free gratuities for

police, free meals to police, yes.

THE WITNESS: Yeah.

MR WATTERS: Okay. And that's not been resurveyed since?

THE WITNESS: No.

MR WATTERS: All right. Look, we don't want -- do you have some understanding or knowledge of the findings of Tesco?

THE WITNESS: Only what I have read in the paper.

MR WATTERS: Okay. Well, would it surprise you to know that after about 18 or 19 months of investigations, one former police officer is to be charged criminally, one current serving police officer and six further officers it appears for matters of misconduct or disciplinary matters. In addition to that there are some other matters. They are against civilians, about eight civilians. That's the total catch, if you like, from the Tesco net. Does that surprise you?

THE WITNESS: I can't say.

MR WATTERS: Well, are you aware that in the opening of learned counsel, Mr Allen, on Monday this inquiry was told that Tesco did not discover wide-spread or systemic corruption by police on the Gold Coast? Were you aware of that?

THE WITNESS: Well, I guess I read that into what I read in the paper.

MR WATTERS: Okay. Do you know how many police are on the Gold Coast?

THE WITNESS: No.

MR WATTERS: 900? Would that surprise you?

THE WITNESS: I don't know.

MR WATTERS: All right. There is about -- if I was to tell you about 900 serving officers on the Gold Coast.

THE WITNESS: Mmm.

MR WATTERS: And we're going to charge eight, two of them criminally, that certainly would not be evidence of systemic corruption, would it?

THE WITNESS: Not systemic.

MR WATTERS: All right. Now, from there, can I just confirm your evidence about the so-called slippery slope. I understood your evidence to be this: You say there is a slippery slope theory that has it that small gifts lead to bribes.

THE WITNESS: Right.

MR WATTERS: And then I understood your evidence to be the evidence is not in support of that.

THE WITNESS: Right.

MR WATTERS: That's correct?

THE WITNESS: Correct.

MR WATTERS: All right. You are a criminologist of certainly some eminence. Among other things, you've -- I mean, your evidence here today is that of expert value. Have you ever spent a night in a police patrol car, midnight to eight or 10 to 6?

THE WITNESS: No.

MR WATTERS: So, if I was to say to you where do you think police would get a hot meal in the middle of the night shift, have you got any idea about where they would go for a meal?

THE WITNESS: I imagine they would go to a fast food outlet.

MR WATTERS: All right. On the question of McDonald's -- I want to finish off McDonald's and start on something else -- are you aware of any public statements by that corporation as to why they give police half price hamburgers?

THE WITNESS: I have read a newspaper account where it appeared that an executive said they offered them for security, but there are other public statements where they deny that. And they say they simply give them to police because they appreciate what police do.

MR WATTERS: Well, have you read a public statement this week in response to Operation Tesco whereby McDonald's say they provide emergency services with half price or discounted meals in response and as a thank you or a sign of appreciation to the community -- for the community service that those officers perform?

THE WITNESS: No, I haven't seen that.

MR WATTERS: Not familiar with that?

THE WITNESS: No.

MR WATTERS: There would be nothing wrong with that, though, would there?

THE WITNESS: I can't comment on that.

MR WATTERS: If that service was provided, as an appreciation of the community --

PRESIDING OFFICER: The witness says he can't comment on it, so you might --

MR WATTERS: Very well, Mr Chairman. Can I ask you this: Do you accept that they do perform a valued community service?

THE WITNESS: Of course.

MR WATTERS: All right. Look, the difference between McDonald's and the issues around licensed premises, let's say, you have heard these allegations of police accepting free drinks -- the difference is really about enforcement or regulation, isn't it? Police are required to enforce the laws on licensed premises. They really don't perform a hygiene or health enforcement role at McDonald's. You would accept that?

THE WITNESS: That seems to be a key point of difference, yeah.

MR WATTERS: Okay. Can I take you to your evidence around senior police, I understood you to give some evidence that senior police are involved in the purchasing process, accept gifts from companies involved in the supply of goods and services including travel, corporate box, theatre, restaurants, is that right?

THE WITNESS: Past tense.

MR WATTERS: Past tense?

THE WITNESS: I referred to newspaper reports on that.

MR WATTERS: Okay. So, I mean, can you tell me how far back we're going?

PRESIDING OFFICER: Let's not go back, let's go forward.

THE WITNESS: I haven't seen anything on that for quite a few years.

MR WATTERS: All right.

THE WITNESS: I think the last one I have got in my file is from 2002 or 2000.

MR WATTERS: Can I conclude on this: You were asked by my learned colleague, Counsel Assisting Mr Allen, about some evidence of Detective Inspector Dowie who appeared here earlier this week. He made comments about values and ethics and morals of police being more or less established by the time they get to the police academy. There were some questions then about off-duty behaviour. My question to you around that is this: Operation Tesco largely has established and discovered a range of behaviours of police off duty -- not in every instance but mostly -- accepting drinks at nightclubs, blue light taxis, drug use off duty, and I

understood when learned Counsel Assisting asked you about some strategies or how those matters could be improved or assisted, your answer was, "It is a very difficult area."

THE WITNESS: Although I did say it would be helpful to have more clarity about what is and is not acceptable behaviour.

MR WATTERS: Nothing further.

PRESIDING OFFICER: Mr MacSporran?

MR MACSPORRAN SC: No, I have nothing, thank you.

MR ALLEN: I have no re-examination. Could the Professor be excused?

PRESIDING OFFICER: Yes, you can go. Thank you.

THE WITNESS: Thank you.

WITNESS EXCUSED

MR ALLEN: I noticed Assistant Commissioner Martin is still in the hearing room. I would be quite prepared to call him if other parties wish to lead further evidence from him in light of Professor Prenzler's evidence but I don't propose to lead any further evidence from him myself.

MR MACSPORRAN SC: No, we're content for the reasons I advanced earlier to do it in the manner we understand is going to be advanced, which is to have a draft report taking on board the evidence you have heard and for us to respond in that form and if there is a need to have further oral evidence we can --

PRESIDING OFFICER: We will cross that bridge when we come to it.

MR MACSPORRAN SC: Yes, yes.

MR ALLEN: In that event, Chairman, could we adjourn until 10 am tomorrow?

PRESIDING OFFICER: Yes, we can.

THE HEARING ADJOURNED AT 4.05 PM

EXHIBITS