



***JOINT STANDING COMMITTEE ON
THE CORRUPTION AND CRIME
COMMISSION***

**REPORT ON PAST MISCONDUCT
INQUIRY - WESTERN AUSTRALIA
POLICE**

**Report No. 25
in the 37th Parliament**

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INQUIRY - WESTERN AUSTRALIA
POLICE**

Report No. 25

Presented by:

Mr John Hyde, MLA and Hon. Ray Halligan, MLC

Laid on the Table of the Legislative Assembly and Legislative Council on 17 May 2007

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COMMITTEE'S FUNCTIONS AND POWERS

On 31 May 2005 the Legislative Council concurred with a resolution of the Legislative Assembly to establish the Joint Standing Committee on the Corruption and Crime Commission.

The Joint Standing Committee's functions and powers are defined in the Legislative Assembly's Standing Orders 289-293 and other Assembly Standing Orders relating to standing and select committees, as far as they can be applied. Certain standing orders of the Legislative Council also apply.

It is the function of the Joint Standing Committee to -

- (a) monitor and report to Parliament on the exercise of the functions of the Corruption and Crime Commission and the Parliamentary Inspector of the Corruption and Crime Commission;
- (b) inquire into, and report to Parliament on the means by which corruption prevention practices may be enhanced within the public sector; and
- (c) carry out any other functions conferred on the Committee under the *Corruption and Crime Commission Act 2003*.

The Committee consists of four members, two from the Legislative Assembly and two from the Legislative Council.

CHAIRMAN'S FOREWORD

In May 1995, Mr Andrew Nicholas Petrelis was admitted to the State Witness Protection Program and subsequently re-located to Queensland under an assumed name. Following admission to that Program, it was alleged that two Western Australia (WA) Police officers, external to the Witness Security Unit (responsible for delivery of the State Witness Protection Program), accessed Mr Petrelis' covert details on the WA Police computer database. Further, it was alleged that one of those officers subsequently disclosed those details to persons with known criminal records.

On 11 September 1995, Mr Petrelis was found deceased in his unit in Queensland.

An inquiry was commenced by the former Anti-Corruption Commission (ACC) in 1999. It focused on whether WA Police officers had improperly accessed and disclosed Mr Petrelis' covert details; whether such access was linked to the death of Mr Petrelis and whether WA Police took timely and appropriate action in regard to the latter.

Following intense media focus and public interest in the above incident in November 1999, the former Minister for Police, Hon. Kevin Prince, MLA, announced a review into the operation of the WA State Witness Protection Program.

The review was conducted by Mr Len Roberts-Smith, RFD, QC and a report entitled '*Review of the Western Australia Police Witness Protection Program*' was tabled in the Parliament of Western Australia on 9 August 2000.

The Report was comprehensive and made 41 recommendations about various aspects of the Witness Protection Program, the Police computer data-base and management of the Petrelis Inquiry. Although not named within the report, Recommendation 33 pertained to WA Police Officer Mr Murray John Shadgett. It proposed that a priority review of all matters relating to Mr Shadgett be conducted with a view to 'determining criminal, disciplinary or other action'.¹

The Report determined that there was no evidence that a second officer who had accessed Mr Petrelis' covert details had in fact disclosed those details. No charges were available under the *Criminal Code*.² The WA Police Service (WAPS) did however pursue charges and secured a conviction in relation to another incident of unauthorised release of confidential information by this Officer. A recommendation for dismissal from WAPS was made by the Police Internal Affairs Unit and this Officer subsequently left the employ of the service.³ This second officer is now deceased.

¹ Roberts-Smith, L.R. RFD, QC. *Review of the Western Australia Police Witness Protection Program*, Edited Report, 30 June 2000, p231.

² Ibid.

³ Corruption and Crime Commission, *The Anti-Corruption Commission's Investigation Report into Any Involvement by Western Australia Police Officers in the Death of Andrew Petrelis: Operation Sweden Phase III Report*, (Appendix One of this Report, p.76).

Mr Len Roberts-Smith also recommended that representation be made by the Minister for Police and Commissioner of Police to their counterparts in Queensland for the conduct of a Coronial Inquest into the death of Mr Petrelis.⁴ This was conceded to and commenced in 2001. The report of the ACC was provided to the Coroner though not released publicly pending the Coronial findings.⁵

As a consequence of Recommendation 33 above, a further review of matters pertaining to the conduct of Mr Murray Shadgett was undertaken by the ACC and a report submitted in September 2001 to the Director of Public Prosecutions (DPP).⁶ The Committee notes that the DPP took just six days to determine that no charges would be laid.⁷

The Coroner's findings were handed down in late 2006, after private and public urging by this Committee and others to expedite the coronial findings. The Committee reviewed the Coroner's report, which it tabled in the Parliament of Western Australia on 30 November 2006.⁸ The Committee identified discrepancies and requested the WA Police and the Corruption and Crime Commission (CCC) to determine whether there were further avenues of investigation.

The CCC and WA Police advised the Committee on 19 January 2007⁹ and 11 March 2007¹⁰ respectively that they would take no further action. The Committee sought approval for advice and material provided to it by the agencies to be released in the public interest.

The response from WA Police is provided at Appendix Two of this report.

The Committee has argued strongly in the interests of transparency for disclosure of the combined Report on the investigation by the ACC and assessment by the CCC [under Section 22 of the *Corruption and Crime Commission Act 2003*] regarding alleged misconduct by WA Police Officers in the Petrelis' Inquiry.

The Committee views that it is essential to illustrate the consequences of tolerating illegal activities by Police Officers. This includes not taking action on the grounds of 'not wanting to compromise' ongoing operations. The ACC/CCC Report is available at Appendix One of this Report.

⁴ Roberts-Smith, L.R. RFD, QC. *Review of the Western Australia Police Witness Protection Program*, Edited Report, 30 June 2000, pxxvii.

⁵ Ibid., p231.

⁶ Corruption and Crime Commission, *The Anti-Corruption Commission's Investigation Report into Any Involvement by Western Australia Police Officers in the Death of Andrew Petrelis*, (Appendix One of this Report), p10.

⁷ Letter from Mr Robert Cock QC, Director of Public Prosecutions to Mr Graham Charlwood, Acting Chief Executive Officer, Anti-Corruption Commission, 24 September 2001, p3.

⁸ Western Australia, Legislative Assembly, Joint Standing Committee on the Corruption and Crime Commission, *Inquiry into the Future Operation of Witness Protection Programmes in WA: Interim Reports on ACC Reports into the Death of a Protected Witness*, 30 November 2006.

⁹ Letter from Mr Kevin Hammond, Commissioner, Corruption and Crime Commission, 19 January 2007.

¹⁰ Letter from Mr C J Dawson, Acting Commissioner, Western Australia Police, 11 March 2007.

The Committee offers no criticism of the ACC - in fact, if the ACC had been empowered to conduct inquiries in public and inform the Committee accordingly, as per the CCC, then many matters pertaining to official misconduct in this report would (and should) have been made public at the time.

Although the appended report of the ACC and CCC focuses on unauthorised access to Mr Petrelis' covert details by Mr Shadgett and subsequent conveyance of that information to known criminals, it also details an extensive history of misconduct by this Officer prior to that disclosure. The Kennedy Royal Commission¹¹ examined the matter and made the following comment:

*The IAU [Internal Affairs Unit] records reveal that Shadgett had an extensive disciplinary history within WAPS. As at June 1994, he was known to have had more defaulter sheets (disciplinary charges) than any other current member of WAPS...In particular, Shadgett was suspected of disclosing confidential police information to known criminals and persons of interest to law enforcement agencies.*¹²

Shadgett's reprehensible and illegal behaviour first came to the attention of WAPS in 1986. In that year, the joint operation between WAPS and the Australian Federal Police 'couldn't be compromised'.¹³ In 1992, Shadgett was again exposed disclosing confidential material during the National Crime Authority's (NCA) Operation Beagle, which 'couldn't be compromised'.¹⁴ In 1994 at issue was the NCA's Operation Harpy - Shadgett was at it again, but 'Harpy couldn't be compromised'.¹⁵ On this occasion it was argued that taking criminal action against Shadgett would have alerted criminal identities to the existence of phone taps. By the time WAPS had commenced its Operation Red Emperor in 1996, Shadgett was again reprieved through 'fear of compromising' that operation. As one Inspector told the ACC, 'WAPS had now become the obstacle instead of the NCA'.¹⁶ In May 1997, it was ongoing State Crime Squad investigations that kept Shadgett in uniform and on the job.¹⁷

Yet, as the ACC report reveals, at least some police, namely Sergeant Hill of the Police Internal Affairs Unit, had formed clear views on Shadgett's association with persons in the drug trade. He made comment in 1997 that 'there's no doubt in my mind that Shadgett must be dealt with either criminally or departmentally'.¹⁸

¹¹ Hon G A Kennedy OA, QC, *Royal Commission into Whether there has been Corrupt or Criminal Conduct by any Western Australian Police Officer*, January 2004.

¹² Hon G A Kennedy OA, QC, *Royal Commission into Whether there has been Corrupt or Criminal Conduct by any Western Australian Police Officer*, Volume 1, Part 2, January 2004, p382.

¹³ Corruption and Crime Commission, *The Anti-Corruption Commission's Investigation Report into Any Involvement by Western Australia Police Officers in the Death of Andrew Petrelis: Operation Sweden Phase III Report*, (Appendix One of this Report, p.68).

¹⁴ *Ibid.*, p69.

¹⁵ *Ibid.*, p69-70.

¹⁶ *Ibid.*, p70.

¹⁷ *Ibid.*, p71.

¹⁸ *Ibid.*, p71.

However, by 1998, the Police Service decided that due to the ‘staleness’ of the alleged (1992) offence, cost, credibility and various other reasons, no further action was taken against Shadgett. ‘Accordingly, on 5 August 1998, the matter was filed by Sergeant Hill and the telephone intercept [TI] material forwarded for destruction to the WAPS BCI [Bureau of Criminal Intelligence] telecommunications unit in accordance with the Commonwealth Telecommunications (Interception) Act’.¹⁹

The Committee notes that this expedited destruction precluded consideration of the 1992 material in the eventual Len Roberts-Smith Inquiry and the Queensland Coroner’s inquest.

Interestingly, in a report entitled *Interim Report on Amendments to the Corruption and Crime Commission Act 2003 - A Public Interest Monitor*, the Committee reports on the lack of evidence of TI material regarding innocent parties, being destroyed.

The Committee notes the ACC’s view that ‘Shadgett’s improper conduct should have received attention from the Assistant Commissioner’s [sic] as early as 1992’.²⁰

The Committee commends the 2007 WA Police and CCC for their assistance and agreement to make this material public.

The Committee is not an investigatory body, but is an oversight body and therefore makes no finding in this Report. It notes the recommendation of the CCC that ‘consideration should not be given to prosecution of, or the taking of disciplinary action against, Mr Shadgett, who is no longer a member of WAPOL [Western Australia Police], due to the DPP’s earlier decision not to support his prosecution and the subsequent passage of time’.²¹

The Committee urges all interested parties to read both attached reports in full, together with the Coroner’s report²². While it is unlikely that Shadgett will be charged for his appalling record of misconduct, it is important that this behaviour is continually exposed.

The Committee asserts that there have been vast improvements in the ability of the WA Police (and the CCC) to more appropriately prevent and address misconduct by Police officers. Since the Royal Commission, WA Police has adopted a new governance framework, comprising a Corporate Executive Team and Strategy and Performance Directorate. Its strategic focus is supported by systems that capture data to inform decision-making. Although their reform program is fluid, responding to corporate demands as they arise, the initial strategic focus was the recommendations of the Royal Commission. These proposals centred on systems improvements and cultural change. Hence we have seen the development and implementation of strategies for

¹⁹ Ibid., pp73-74.

²⁰ Ibid., p75.

²¹ Corruption and Crime Commission, *The Anti-Corruption Commission’s Investigation Report into Any Involvement by Western Australia Police Officers in the Death of Andrew Petrelis*, (Appendix One of this Report), p.12-13.

²² Office of the State Coroner, Queensland Available at: <http://www.justice.qld.gov.au/courts/coroner/findings/petrelis1106.pdf> Accessed on date 14 May 2007.

recruitment and training, supervisory accountability and leadership, a more secure information technology network with associated audit trails, Corruption Prevention Plans and Strategies and Code of Conduct.²³ In addition, the CCC has maintained a strong focus on unauthorised release of information and has undertaken proactive educational strategies, in addition to ongoing misconduct investigations. This Committee also has the capacity to review the management of integrity within the public sector given improved transparency in the Commission's investigations.

We know that no system is fool-proof and some people can and will find a way to commit misconduct. We are fortunate that public hearings and other tools are available to the CCC to deter misconduct and ensure, through publicity, that even the dimmest recalcitrant is aware of the consequences of his/her intended actions. It is therefore incumbent on each of us to maintain the integrity of that system and report misconduct or opportunities for misconduct when they become evident.

JOHN HYDE, MLA
CHAIRMAN

²³ Corruption and Crime Commission, *Two Years Out*, Perth, 3 August 2006,

ABBREVIATIONS AND ACRONYMS

“ACC”	Anti-Corruption Commission
“CCC”	Corruption and Crime Commission
“DPP”	Department of Public Prosecutions
“NCA”	National Crime Authority
“QC”	Queen’s Counsel
“RFD”	Reserve Force Decoration
“TI”	Telecommunications Interception
“WA”	Western Australia
“WAPOL”	Western Australia Police
“WAPS”	Western Australia Police Service

APPENDIX ONE

THE ANTI-CORRUPTION COMMISSION'S INVESTIGATION REPORT INTO THE PETRELIS INQUIRY



CORRUPTION AND CRIME COMMISSION OF WESTERN AUSTRALIA

The Anti-Corruption Commission's Investigation Report into any Involvement by Western Australia Police Officers in the Death of Andrew Petrelis

17 May 2007

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This report and further information about the Corruption and Crime Commission can be found on the Commission's website at www.ccc.wa.gov.au.

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Dear Mr President
Dear Mr Speaker

In accordance with section 84 of the *Corruption and Crime Commission Act 2003*, the Commission is pleased to present the Corruption and Crime Commission's Report on the Anti-Corruption Commission's Investigation Report into any Involvement by Western Australia Police Officers in the Death of Andrew Petrelis.

The opinions contained in this report are those of this Commission.

The Commission recommends that the report be laid before each House of Parliament forthwith pursuant to the *Corruption and Crime Commission Act 2003*.

Yours faithfully

CP Shanahan SC
ACTING COMMISSIONER

17 May 2007

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THE COMMISSION'S REPORT

Background to this Report

The body of Mr Andrew Nicholas Petrelis (Mr Petrelis) was found in a Queensland flat in September 1995. At the time, Mr Petrelis was a participant in the Western Australia Police Witness Protection Program. The discovery of his body gave rise to a number of investigations in both Queensland and Western Australia.

In November 1999, the Anti-Corruption Commission (A-CC) commenced an investigation into allegations that two Western Australia Police (WAPOL) officers had improperly accessed the covert identity details that were recorded for the protection of Mr Petrelis within WAPOL's mainframe computer system.

The A-CC completed its investigation in January 2001 and subsequently provided a copy of its investigation report and supporting material to the Queensland Police, Queensland Coroner and WAPOL.

In May 2004, the A-CC, prior to its dissolution, referred its files concerning Mr Petrelis, including its completed report, to the newly established Corruption and Crime Commission (the Commission), pursuant to Section 48A (2) of the *Anti-Corruption Commission Act 1988*. The Commission is authorised to deal with this matter under section 20 of the *Corruption and Crime Commission Act 2003* (the Act).

As a result of continued public interest in this matter, the completion of the Queensland Coroner's Inquiry and the particular interest demonstrated by the Joint Standing Committee on the Corruption and Crime Commission, the Commission has formed the opinion that it is in the public interest to table this report with the A-CC Investigation Report attached as Appendix One.

The A-CC's Investigation Report has not been edited by the Commission, other than by the removal of certain names and places and replacing them with identifiers in order to protect the identity of persons named in the A-CC's investigation. This has enabled the report to be declassified for publication.

Main Investigative Events

Prior to reporting the Commission's assessment, opinions and recommendations on this matter, this report briefly summarises the main investigative events arising from the death of Mr Petrelis.

In November 1999, the A-CC received a letter from the Western Australia Police Commissioner that included an Internal Affairs Unit Complaint Advice Note and report on issues relating to the death of Mr Petrelis, a signatory to the WAPOL Witness Protection Program.

WAPOL alleged that following the placement of Mr Petrelis on the Witness Protection Program, his covert identity details recorded within the WAPOL mainframe computer system were improperly accessed by Sergeant Murray John Shadgett and First Class

Constable Kevin Davy. It was further alleged that Sergeant Shadgett disclosed the details of the covert identity to persons identified in the subsequent A-CC Investigation Report as B1 and B2.

The A-CC commenced an investigation into the allegations, which gathered both sworn and voluntary evidence from serving police officers and from a number of other witnesses. Sergeant Shadgett declined to give evidence on medical grounds; however, Constable Davy gave detailed evidence of his involvement in the matter.

In December 1999, separate from the A-CC investigation, the Minister for Police, the Hon Kevin Prince MLA, appointed Mr Len Roberts-Smith QC to conduct an inquiry into the operation of WAPOL's Witness Protection Program. The A-CC assisted by producing to the inquiry that information it was legally able to provide.

In August 2000, the Minister for Police tabled Mr Roberts-Smith's report, *Review of the Western Australia Police Witness Protection Program*, in the Western Australia Parliament.

The Roberts-Smith report included a recommendation that representations be made to the relevant Queensland authorities requesting that an inquest into the death of Mr Petrelis be conducted. These representations were subsequently made and the Queensland authorities determined to conduct an inquest.

In November 2000, the Queensland Coroner, Mr Michael Halliday (the Coroner) commenced an inquest. Later that month, the inquest was adjourned until February 2001.

In January 2001, the A-CC completed its investigation and draft copies of the Investigation Report titled *Operation Sweden Phase III Report* were provided in February 2001 to Queensland Police and WAPOL, and the Coronial Inquiry.

In February 2001, the Coroner heard evidence from all Western Australian witnesses except for Sergeant Shadgett and Constable Davy who both declined to give evidence.

In September 2001, the A-CC provided a further report regarding the actions of Sergeant Shadgett to the Director of Public Prosecutions (DPP). This report outlined evidence which may be admissible in any prosecution of Sergeant Shadgett concerning his access and or disclosure of the covert identity of Mr Petrelis.

The DPP, Mr Robert Cock QC, advised the A-CC that:

*...in the absence of any further information or relevant factor, the report does not disclose a matter in which I believe a prosecution should be instituted taking into account the factors set out in my prosecution policy.*²⁴

Consequently, no action was taken to prosecute Sergeant Shadgett.

²⁴ Director of Public Prosecutions, Mr Robert Cock QC, 24 September 2001

Constable Davy was not the subject of such a report. He had earlier, in June 1996, pleaded guilty to an offence under section 81 of the *Criminal Code* in relation to a separate disclosure of confidential police information unrelated to Mr Petrelis. In relation to his improper access of the Petrelis information, WAPOL was unable to obtain any evidence to prove that Constable Davy had disclosed any information. Due to this and the fact that Davy had been dismissed from WAPOL as a result of his conviction, WAPOL did not proceed with further charges. Mr Davy is deceased.

In September 2001, the A-CC also provided to the Commissioner of Police a *Report of the Anti-Corruption Commission into Issues Arising From Operation Sweden* regarding members of WAPOL, which were discovered during the investigation, but which were not related to the death of Mr Petrelis.

In February 2002, following advice from the Commissioner of Police and a review of the Internal Affairs Unit's investigation regarding the *Report of the Anti-Corruption Commission into Issues Arising From Operation Sweden*, the A-CC determined to close that file.

In August 2002, the A-CC wrote to the Coroner seeking a completion date for the inquest as the A-CC had completed its investigation. The A-CC was waiting for the completion of the inquest before finalising its Investigation Report into the matter. The A-CC continued to assist the Coronial Inquiry by providing information and documentation.

The Royal Commission Into Whether There Has Been Corrupt Or Criminal Conduct By Any Western Australian Police Officer (Police Royal Commission), examined a number of issues related to the Petrelis matter and all the A-CC investigation documentary material. The Police Royal Commission published its findings at Chapter 13 Volume 1 of its final report.

In relation to Shadgett and Davy, it reported that:

*...it is clear that Davy and Shadgett unlawfully accessed the police computer system and disclosed information from it.*²⁵

However, the Police Royal Commission found that '*there was no evidence that those accesses were motivated by a desire to locate Petrelis*', but were intended to determine for another person whether a certain buyer of drugs was an undercover police officer.²⁶

In May 2005, the inquest resumed in Queensland. The A-CC's *Operation Sweden Phase III Report* was entered as an exhibit. The only difference between this and the original 2001 report supplied to the Coronial Inquiry was that identifiers had been used for the names of certain witnesses within the report to protect their identities.

Having received oversight of this matter from the A-CC, the Commission continued to assist the Coronial Inquiry by the provision of documents and information.

²⁵ Royal Commission Into Whether There Has Been Corrupt Or Criminal Conduct By Any Western Australian Police Officer, January 2004, Vol 1, p 382

²⁶ Ibid

The Coroner, as part of the inquest process, provided the parents of Mr Petrelis with access to the A-CC's *Operation Sweden Phase III Report* under the supervision of a WAPOL Inspector. They were able to examine the report but not to retain a copy of it.

In November 2006, the Coroner's findings were published. The formal finding was that Mr Petrelis had died of '*opiate toxicity*' and that:

*....there was no evidence which would reasonably suggest that the cause of death was other than self-administration.*²⁷

Commission's Assessment

The Commission, has considered all the available evidence, including the A-CC, Police Royal Commission and Coroner's reports.

The Commission notes that the reports of the A-CC and Police Royal Commission produced similar conclusions and the Commission is not in possession of information that would question these conclusions.

The Commission further notes that this assessment neither contradicts nor is contradicted by the Coroner's findings.

Commission's Opinion

In the Commission's opinion, it is in the public interest for the A-CC's Investigation Report to be published. It is attached as Appendix 1 to this report.

It is also the Commission's opinion that former WAPOL Sergeant Murray John Shadgett and former First Class Constable Kevin Davy (deceased) engaged in misconduct as defined by section 4 of the Act, by inappropriately accessing the police computer system and, in the case of Sergeant Shadgett disclosing information from it. The Commission has no evidence to indicate that Mr Shadgett had any connection to the circumstances associated with the death of Mr Petrelis.

Recommendation

The Commission recommends that consideration should not be given to the prosecution of, or the taking of disciplinary action against, Mr Shadgett, who is no longer a member of WAPOL, due to the DPP's earlier decision not to support his prosecution and the subsequent passage of time.

²⁷ Coroner Halliday's findings for the 'Inquest Into the Cause and Circumstances Surrounding the Death of Andrew Petrelis', November 2006, p 69

APPENDIX ONE

***The Anti-Corruption Commission of Western Australia - Investigation
Report entitled 'Operation Sweden Phase III'***



OPERATION SWEDEN PHASE III REPORT

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1 INTRODUCTION

- 1) On 25 November 1999, the Anti-Corruption Commission (the "Commission") received a letter from the Commissioner of Police ("COP"), Mr Barry Matthews, pursuant to section 14 of the *Anti-Corruption Commission Act 1988* (the "Act"). The letter was accompanied by an Internal Affairs Unit ("IAU") Complaint Advice Note and an Internal Police Report relating to the issues leading to the death of Andrew Nicholas Petrelis who was a signatory to a Memorandum Of Understanding ("MOU") relating to his entry into the Western Australia Police Witness Protection Program ("WPP").
- 2) The Complaint Advice Note alleged that, following Mr Petrelis' placement on the WPP, his covert details were improperly accessed from the Western Australia Police Service ("WAPS") mainframe computer by two serving police officers. It was also alleged that one of those officers disclosed Mr Petrelis' covert details to persons with known criminal records and that an inquiry into this alleged unlawful conduct was delayed due to other sensitive inquiries being conducted at that time.
- 3) The Internal Police Report reviewed Mr Petrelis' involvement in the WPP including the improper accesses to his covert details and alleged improper associations between known criminals and serving police officers. The Report recommended, inter alia, an investigation into the improper associations, improper accesses to the police mainframe computer and disclosure of official secrets.
- 4) On receipt of the information forwarded by the COP, the Commission commenced an investigation into the allegations raised which involved the appointment of a Special Investigator. The Special Investigator heard sworn evidence from both serving police officers and civilians. Commission Investigators also heard voluntary evidence from a number of witnesses.
- 5) In addition to the report referred to the Commission, the Minister for Police, Hon Kevin Prince MLA, commissioned Mr Len Roberts-Smith QC to conduct an inquiry into the operation of the WPP. Mr Len Roberts-Smith QC subsequently prepared a report on the inquiry entitled "*Review of the Western Australia Police Witness Protection Program*" which was tabled by the Minister for Police in the Western Australia Parliament on 9 August 2000.
- 6) Mr Len Robert-Smith's report recommended, inter alia, that representations be made to the relevant Queensland authorities requesting the holding of an inquest into the death of Mr Petrelis. These representations were subsequently made with the result that the Queensland Coroner decided to hold an inquest into Mr Petrelis' death which commenced on 13 November 2000. On 17 November 2000, the inquest was adjourned until 5 February 2001.

2 BACKGROUND

- 7) On 10 February 1995, the then Director of Public Prosecutions for the State of Western Australia (“DPP”), Mr John McKechnie QC granted Mr Petrelis an indemnity from prosecution in relation to a possible charge of possession of 20 kilograms of cannabis with intent to sell or supply²⁸. The indemnity was subject to the condition that Mr Petrelis would give “*full and active cooperation to crown prosecutors and police officers, revealing truthfully, frankly and fully...*” his knowledge in respect to all “matters” to be inquired by the Crown Prosecutor.
- 8) The matters to be inquired by the Crown specifically related to charges against a Mr John Kizon and Mr Francis Michael Rippingale that they conspired to possess 20 kilograms of cannabis with intent to sell or supply. Mr Petrelis outlined his involvement in this matter when he provided police with a statement and videotaped interview on 10 January 1995. His involvement included renting premises on 30 March 1994 on behalf of Mr Rippingale and then collecting a quantity of cannabis on 30 September 1994 and conveying this to the rented premises as instructed by Mr Rippingale. Police surveillance recorded that the drugs²⁹ were collected by Mr Rippingale on 22 November 1994 who then made telephone contact with Mr Kizon.
- 9) The WAPS had concerns for Mr Petrelis’ safety, pending him giving evidence in the trial of Mr Kizon and Mr Rippingale, and he was provided with formal witness protection status on entering into a MOU with the Witness Protection Unit (“WPU”) on 25 May 1995³⁰. Under the WPP, Mr Petrelis was provided with a new identity under the covert name of Andrew Parker of 24 Ormsby Terrace, Mandurah, Western Australia. On 20 April 1995, Mr Petrelis’ vehicle, a white Commodore sedan, was registered as 9BZ305 on the WAPS mainframe computer under his new identity. The Commodore was an ex-police vehicle that Mr Petrelis had acquired from a government auction on 19 April 1995.
- 10) Between 25 May 1995 and 28 May 1995, Sergeant Allen Kitchener Thompson from the WPU obtained, using a different chassis and engine number to that of 9BZ305³¹, a further set of Western Australian vehicle registration plates being 9CG937. These were registered in a different name, address and date of birth to

²⁸ Indemnity from Prosecution for Mr Petrelis dated 10 February 1995, signed by Mr Petrelis on 11 February 1995, ACC Barcode 68111

²⁹ The cannabis had, at that time, been substituted for grass clippings as part of a joint National Crime Authority, Australian Federal Police and WAPS operation

³⁰ Memorandum of Understanding between WAPS and Mr Petrelis dated 25 May 1995. (Not included as attachment due to sensitivity of documentation)

³¹ 9BZ305, and the name Andrew Parker remained on the police computer system.

that of Andrew Parker³². These details were never entered onto the Western Australia Police computer system.

- 11) Mr Petrelis was also under the WPP relocated from Perth to Queensland until such time as he was required to provide evidence at trial concerning the conspiracy charges against Mr Kizon and Mr Rippingale. Mr Petrelis' vehicle was transported by road on a carrier truck from Perth to Queensland on 22 May 1995 and on 28 May 1995 he took a commercial flight to Queensland accompanied by Sergeant Thompson. The Sergeant arranged temporary accommodation for Mr Petrelis who shortly after established himself permanently at Unit 6 Windrider Units, Leichardt Street, Golden Beach, Caloundra.
- 12) On arrival of the vehicle 9BZ305 in Queensland, Sergeant Thompson changed the registration plates to 9CG937. The registration details of 9BZ305 and the name Andrew Parker were not changed or deleted however, on the Western Australia police computer. The vehicle was to be re-registered in Queensland however did not comply with that state's transport guidelines³³.
- 13) On 11 September 1995, Mr Petrelis' deceased body was discovered at his home address by Queensland Police. The cause of death was adjudged to be opiate toxicity³⁴. On 27 November 1996, the Director-General, Department of Justice, Brisbane, decided, upon the recommendation of the Coroner, that the holding of an inquest into the death of Mr Petrelis was unnecessary³⁵.
- 14) In November 1999, Mr Kizon and Mr Rippingale appeared in the District Court on the charge of conspiracy to possess 20 kilograms of cannabis with intent to supply or sell. The charge was not substantiated and both Mr Rippingale and Mr Kizon were acquitted.

3 THE COMMISSION'S INQUIRY

- 15) The Commission's Inquiry consisted of three Phases. During Phase I, it was agreed that the referral of information by the COP required that the following issues should be investigated by the A-CC –

³² The name and address details connected to 9CG937 are unknown to the Commission. WPU records do not indicate when or whom by the details were obtained or registered.

³³ The vehicle was never registered in Queensland and when returned to Western Australia had the number plates 9CG937 removed and 9BZ305 replaced. Inquiries are being conducted to establish whether Mr Petrelis ever obtained a Queensland Drivers License in either his own name, that of Parker or some other identity.

³⁴ Post Mortem Examination Report 7 December 1995

³⁵ Memo from G J Crabtree, Coroner dated 3 December 1996.

- whether members of the WAPS engaged in criminal or serious improper conduct in relation to the accessing and alleged disclosure of Andrew Petrelis' covert details when he was in the WPP;
 - whether the accesses to Mr Petrelis' covert identity were in anyway linked to his death; and
 - why WAPS, having evidence that certain police officers had improperly accessed information on the police computer, and in one case passed that information to a person outside the Police Service, failed to take any action against the identified officers.
- 16) The Commission's Inquiry included a review of relevant material obtained from the WAPS Internal Affairs Unit files, Witness Protection Unit files, National Crime Authority ("NCA") telephone intercept product and records, WAPS Personnel Files, Australian Federal Police ("AFP") telephone intercept data and the Commission's holdings which included interviews and evidence acquired during a Special Investigation. The review identified evidence of a number of instances of corrupt, criminal and serious improper conduct by police officers. These matters were outside the agreed scope of this Inquiry and will be addressed in a separate report.
- 17) On 20 January 2000, the Commission agreed that the Inquiry should proceed to Phase II under Part IV of *the Act* with a Special Investigator being appointed on 4 May 2000. It should be noted that the Special Investigation did not enquire into issues surrounding the management of Mr Petrelis while in the WPU. These issues, as previously indicated, were the subject of a separate inquiry by Mr Len Roberts-Smith QC included in his report entitled "*Review of the Western Australia Police Witness Protection Program*".
- 18) This report into Phase III investigation will now outline the evidence gathered during the Commission's Inquiry in relation to the three identified issues.

4 ISSUE 1 - WHETHER MEMBERS OF THE WESTERN AUSTRALIA POLICE SERVICE ENGAGED IN CRIMINAL OR SERIOUS IMPROPER CONDUCT IN RELATION TO THE ACCESSING AND DISCLOSURE OF ANDREW PETRELIS' COVERT DETAILS WHEN HE WAS IN THE WITNESS PROTECTION PROGRAM

4.1 Introduction

- 19) Mr Petrelis' covert identity of Mr Andrew Parker was protected on the police computer network by a "trap"³⁶ at the time his vehicle's registration details were entered on the WAPS mainframe computer on 20 April 1995. The WAPS trapping system provided an audit trail of police user identification numbers³⁷ accessing Mr Petrelis' covert details³⁸ and provided immediate notification of those accesses to the WPU. However, the covert details were initially incorrectly entered by WPU personnel and as a result any accesses did not "trigger" the trap. This error was discovered on 18 May 1995 when an officer, who was the subject of a separate IAU trap, accessed Mr Petrelis' covert details at which point the WPU was notified.
- 20) As a result of the error by the WPU, the Commission was not able to establish whether any accesses to Mr Petrelis' covert details occurred prior to 18 May 1995. However, between 18 May 1995 and the date of Mr Petrelis' death, there were 46 accesses to his covert details. Enquiries revealed that 43 of these accesses were by 13 identified police officers. In addition, three accesses were from identified computer terminals within what is now the Department of Transport.
- 21) Investigation of the accesses by Police Officers revealed that –
- four of the identified officers performed purely administrative functions in relation to maintenance of the traps;
 - another four of the identified officers were members of the IAU or the WPU and their accesses were accountable as part of their duties; and

³⁶ A "Trap" is an electronic marker placed on the police mainframe computer system relating to a specific entity to indicate when and, by whom, that entity had been accessed.

³⁷ The police user identification numbers are "unique" to each officer who also has a password which is considered to be confidential

³⁸ The system allows for identification of which user identification number accessed a name, vehicle, address or offence report. The system does not reveal accesses to other areas of the mainframe computer such as the Property Tracing System.

- the remaining five identified officers appeared to have accessed the details without any authorised or legitimate reason.
- 22) The Commission was satisfied that the accesses of Mr Petrelis' covert details which occurred as part of trap maintenance and/or as part of the normal duties as members of the IAU, the WPU and the Department of Transport had been duly authorised. However, the Commission had concerns in relation to the remaining five officers and requested them to explain the reasons for their accesses. Those officers were identified as Senior Constable Stephen Paul Weston, Detective Sergeant Dominic Brian Blackshaw, First Class Constable Darryl Tyack, Sergeant Murray John Shadgett and First Class Constable Kevin Lewis Davy.
- 23) The identified accesses by the officers were³⁹:

SHADGETT

- 18 May 1995 at 20:06:40, Shadgett's User ID PD04460 accessed the details for vehicle 9BZ305.
- 18 May 1995 at 20:06:41, Shadgett's User ID PD04460 accessed the details for Andrew Parker.
- 19 May 1995 at 15:09:44, Shadgett's User ID PD04460 accessed the details for vehicle 9BZ305.
- 19 May 1995 at 15:10:14, Shadgett's User ID PD04460 accessed the details for vehicle 9BZ305.
- 19 May 1995 at 15:10:15, Shadgett's User ID PD04460 accessed the details for Andrew Parker.
- 24 May 1995 at 01:29:09, Shadgett's User ID PD04460 accessed the details for vehicle 9BZ305.
- 24 May 1995 at 01:29:10, Shadgett's User ID PD04460 accessed the details for Andrew Parker.

TYACK

- 27 May 1995 at 08:57:00, Tyack's User ID PD08936 accessed the details for vehicle 9BZ305.
- 27 May 1995 at 09:18:25, Tyack's User ID PD08936 accessed the details for Andrew Parker.
- 27 May 1995 at 09:53:52, Tyack's User ID PD08936 accessed the details for Andrew Parker.

³⁹ The system is configured so that a single key-stroke moves between the Vehicle Information data base and the Name Inquiry System, thus eliminating the need to enter the other details. In the cases of accesses by user Shadgett one second has been added to the time for each of the 'PARKER' accesses to reflect that those TRAPS were sprung solely by accessing the '9BZ305' record. User Shadgett did not access the 'PARKER' record. In relation to DAVY, PDCDS4 indicates the terminal used.

- 27 May 1995 at 09:54:01, Tyack's User ID PD08936 accessed the details for Andrew Parker.
- 27 May 1995 at 10:10:39, Tyack's User ID PD08936 accessed the details for Andrew Parker.
- 27 May 1995 at 14:45:02, Tyack's User ID PD08936 accessed the details for vehicle 9BZ305.
- 23 June 1995 at 12:06:35, Tyack's User ID PD08936 accessed the details for vehicle 9BZ305.

WESTON

- 27 May 1995 at 09:31:31, Weston's User ID PD07728 accessed the details for vehicle 9BZ305.

DAVY

- 31 May 1995 at 07:42:00, Terminal PDCDS4 used by Davy accessed the details for vehicle 9BZ305.
- 31 May 1995 at 07:56:35, Terminal PDCDS4 used by Davy accessed the details for Andrew Parker.

BLACKSHAW

- 1 September 1995 at 17:08:25, Blackshaw's User ID PD06583 accessed the details for Andrew Parker.
- 1 September 1995 at 17:11:22, Blackshaw's User ID PD06583 accessed the details for Andrew Parker.

- 24) In a voluntary interview, Detective Blackshaw said that he was the only Criminal Investigations Branch officer at Narrogin when he accessed the name Andrew Parker. His recollection was that a local woman was claiming that her missing husband had been murdered and was continually providing names of suspects which he believed included the name Andrew Parker. Detective Blackshaw also said that an officer from either the Bureau of Criminal Intelligence or the WPU questioned his access at that time and was satisfied with the explanation provided. The Commission made enquiries with the WPU who provided a document that confirmed that Detective Blackshaw was contacted by the WPU. In the absence of any conflicting evidence, the Commission had no basis to challenge Detective Blackshaw's explanation.
- 25) Constable Tyack's initial response to the Commission was in the form of a statement of information which he had provided to the Commission after the service of a section 44(1) notice under the Act. The Commission was not satisfied with Constable Tyack's statement and summonsed him to appear before the Special Investigator.
- 26) In his evidence to the Special Investigator, Constable Tyack said that he received a telephone call while on duty at the Midland Police Station from a male person

reporting that there was a *“stolen motor vehicle on the back of a truck heading east”*. According to Constable Tyack, the male was *“quite sure”* that the vehicle had been stolen and provided the registration number of 9BZ305. Constable Tyack believed that the truck was still in Western Australia when he received the report and believed that it was *“possibly”* heading to Sydney⁴⁰.

- 27) Constable Tyack said that he would have written the registration number and the name of the person who had telephoned him on a piece of paper. Constable Tyack agreed that he would have then accessed vehicle 9BZ305 on 27 May 1995 which would have revealed that the owner was a Mr Andrew Nicholas Parker of 24 Ormsby Terrace, Mandurah.
- 28) Constable Tyack agreed that WAPS action report G852989⁴¹ confirmed that he contacted officers from the Mandurah Police Station on 27 May 1995. Constable Tyack requested the officers, which included Constable Weston, to attend the Mandurah address to ascertain whether vehicle 9BZ305 had been stolen. Constable Tyack was unable to specifically recall whether the Mandurah Police later contacted him but agreed that they were unable to assist his inquiries⁴².
- 29) Constable Tyack also confirmed that he was the author of an entry on the police vehicle inquiry system indicating that vehicle 9BZ305 had been stolen and taken to New South Wales by truck. The entry nominated “Mr Roger Avery” as the person to contact for the address where vehicle 9BZ305 had been delivered. In this regard, Constable Tyack assumed that Mr Avery’s name was provided by the person who initially contacted him at the Midland Police Station regarding vehicle 9BZ305. Constable Tyack’s placing of the entry on the police computer system meant that any police officer within the State of Western Australia who may have had reason to enter the vehicle details into the computer would have been immediately aware that the vehicle was possibly stolen.
- 30) Constable Tyack was unable to recall whether the WPU or the IAU contacted him regarding his accesses to Mr Petrelis’ covert details.⁴³ However, the Commission was provided with a print-out of the entry by Constable Tyack made on the vehicle inquiry system. This print-out and associated documentation from the WPU indicated that Constable Tyack’s accesses had been examined in 1995 by the then Officer in Charge of the WPU, Inspector Hersey.⁴⁴
- 31) In relation to his access of vehicle 9BZ305 on 23 June 1995, Constable Tyack said that he may have found the piece of paper on which he had recorded the

⁴⁰ Transcript of evidence of Constable Tyack to Anti-Corruption Commission Special Investigator, 8 December 2000

⁴¹ WAPS Action Report G852989

⁴² Transcript of evidence of Constable Tyack to Anti-Corruption Commission Special Investigator, 8 December 2000

⁴³ Transcript of evidence of Constable Tyack to Anti-Corruption Commission Special Investigator, 20 December 2000

⁴⁴ Inspector Steve Wynne, who was second in charge of the WPU in 1995, examined the print-out and confirmed that Inspector Hersey’s writing was on a number of the documents and that Inspector Hersey had the carriage of inquiries into the accesses of Mr Petrelis’ covert details.

vehicle's details and again accessed the vehicle to ascertain whether it had been reported as stolen. He was unable to recall whether that registration was listed as stolen or if he made further enquiries.⁴⁵

- 32) Constable Tyack agreed that he knew Sergeant Shadgett having previously worked with him at the same Police Office. However, Constable Tyack denied accessing Mr Petrelis' covert details on behalf of Sergeant Shadgett and maintained that the accesses were solely related to the report made by a member of the public.
- 33) The Commission received evidence from Mr Roger Avery who is the proprietor of the Avery Transport which conveyed Mr Petrelis' vehicle to the Eastern States⁴⁶. Mr Avery's records confirmed that Avery Transport conveyed vehicle 9BZ305 from Perth to Brisbane on 22 May 1995. The truck travelled via Esperance and Port Pirie and vehicle 9BZ305 was unloaded on arrival in Brisbane on 29 May 1995. Mr Avery's records did not include details of the owner of vehicle 9BZ305.
- 34) Mr Avery explained that vehicle 9BZ305 was transported on a Ford Prime Mover with the name *Roger Avery Transport* and the contact telephone number on the side of the truck. Mr Avery said that he may have contacted the police on a couple of occasions when he had suspicions about certain vehicles that his company was transporting. However, he had no specific recollection of transporting vehicle 9BZ305 or making any report to the police concerning that vehicle.
- 35) On the evidence, it has not been possible for the Commission to positively establish the identity of the person who made a report to Constable Tyack concerning vehicle 9BZ305. However, Constable Tyack's explanation for accessing Mr Petrelis' covert details was corroborated by the action report to Mandurah and the state-wide entry on the vehicle inquiry system. Furthermore, Mr Avery confirmed that vehicle 9BZ305 was transported by his company from Perth to Brisbane on 22 May 1995 on a truck with the name "*Roger Avery*" clearly visible. In these circumstances, the Commission is not able to challenge Constable Tyack's explanation for accessing Mr Petrelis' covert details.
- 36) In relation to the access by Constable Weston, the Commission is satisfied that the access to vehicle 9BZ305 was legitimate as being a direct result of the request by Constable Tyack to attend at 24 Ormsby Terrace in Mandurah to ascertain whether 9BZ305 had been stolen.
- 37) The Commission's initial enquiries found that the accesses to Mr Petrelis' details by the remaining two officers, Sergeant Shadgett and Constable Davy, were clearly unauthorised. Accordingly, a more detailed investigation was conducted into the accesses made by these officers to determine whether any information

⁴⁵ Constable Tyack's statement of information to the Anti-Corruption Commission

⁴⁶ Telephone conversation between Mr Roger Avery and Anti-Corruption Commission Investigator, 13 December 2000

was disclosed which indicated their actions amounted to *criminal or serious improper conduct*.

- 38) Section 81 of the *Criminal Code (WA) 1913* provides, inter alia, that it is an offence for a person employed in the Public Service to *publish or communicate* any fact which comes to their knowledge by virtue of their office and which it is their duty to keep secret. The offence is punishable by a term of imprisonment of two (2) years.
- 39) Police Routine Orders and Procedures⁴⁷ provided that –
- “Access to the Police computer system by Police Officers is restricted to that which has a direct relationship to their specific work area for the operational requirements of the Police Department. The gaining of access to information for any other purpose not related to the work tasks of the individual staff member will be considered unauthorised and is strictly prohibited”.
- 40) The accesses by Sergeant Shadgett and Constable Davy will now be addressed separately.

4.2 Access to Mr Petrelis’ covert details by Sergeant Shadgett

- 41) On three occasions between 18 May 1995 and 24 May 1995, Sergeant Shadgett’s computer police user identification number accessed information relating to Mr Petrelis’ vehicle on the police mainframe computer via a computer terminal situated at the Albany Police Station. The details accessed related to the vehicle 9BZ305 registered in Mr Petrelis’ covert name, Mr Andrew Parker. The accesses were as follows –
- 18 May 1995 at 20:06hrs, the person accessed the details for vehicle 9BZ305.
 - 19 May 1995 at 15:09hrs, the person accessed the details for vehicle 9BZ305.
 - 24 May 1995 at 01:29hrs, the person accessed the details for vehicle 9BZ305.
- 42) On 12 June 2000, Sergeant Shadgett was summonsed to appear before the Special Investigator. On 19 June 2000, Sergeant Shadgett’s legal advisers informed the Commission in writing that their client would be unable to appear before the Special Investigator due to medical reasons. Attached was a medical certificate and letter, from Dr Hester, Consultant Psychiatrist, stating that Sergeant Shadgett was unable to be interviewed either by telephone or in person. On 22 June 2000, Dr Hester appeared before the Commission and provided further evidence in relation to Sergeant Shadgett’s medical condition.

⁴⁷ The Police Routine Orders has since been replaced by the Commissioner's Orders and Procedures Manual 1997

- 43) On 7 August 2000, the Australian Broadcast Corporation (“ABC”) Television’s *Four Corners* reported on police corruption within the State of Western Australia including exploring questions relating to the death of Mr Petrelis. Following the program, Sergeant Shadgett made various comments to the media which included “*no-one has come to see me, no-one’s even spoken to me*”. He also indicated that he was “*willing to assist inquiries into the death of Mr Petrelis*”⁴⁸.
- 44) On 9 August 2000, the Commission hand delivered a letter to Sergeant Shadgett inviting him to participate in a voluntary interview at a time convenient to him between 11 August 2000 and 15 August 2000. On 11 August 2000, the Commission received a facsimile letter from Sergeant Shadgett’s legal advisers stating that their client was now declining to assist the Commission.
- 45) In the light of the above, the Commission has been unable to obtain Sergeant Shadgett’s explanation as to why a person using his police user identification number accessed details relating to Mr Petrelis’ covert identity on the police computer. However, the Commission has been assisted by telephone intercept material and telecommunication charge call records (“CCR”), which were acquired during a 1995 NCA⁴⁹ investigation. This material specifically related to communications between Sergeant Shadgett and persons with whom he was associated around the time that Mr Petrelis’ covert details were accessed.
- 46) The associates mentioned in the 1995 telephone intercept material and CCR are B2, B1, B3 and B5. At that time, the antecedents of the associates and their relevant connections with Mr Rippingale and Mr Kizon could be described as follows –
- B2 was a Perth speedway and racing car driver and the proprietor of an engine reconditioning and auto-repair business⁵⁰. At the time, his criminal record included numerous driving offences, one conviction for unlawful common assault and one conviction for possession of an unlicensed firearm.
 - B2 was associated with Mr Kizon and Mr Rippingale and had a long and close association with Sergeant Shadgett⁵¹.
 - B5 worked in the off-shore drilling industry. At the time he had an extensive criminal record which included convictions for aggravated assault, vehicle offences, firearm possess no licence and importation of a prohibited import.
 - B5 first met Mr Kizon in 1985 when they were both serving terms of imprisonment in Karnet Prison. B5 described his relationship with Mr Kizon as “friends”⁵².

⁴⁸ West Australian Newspaper, 9 August 2000, p 7

⁴⁹ NCA Operation Harpy

⁵⁰ Transcript of B2’s evidence to the Anti-Corruption Commission Special Investigator, 19 June 2000

⁵¹ Transcript of B2’s evidence to the Anti-Corruption Commission Special Investigator, 19 June 2000

⁵² Transcript of B5’s evidence to the Anti-Corruption Commission Special Investigator, 8 December 2000

- B5 first met B2 in the early 1980's and described him as a "good friend"⁵³.
- B1 was a prior associate of B2⁵⁴. At the time B1 had an extensive criminal record which included convictions for a number of assaults, stealing, sexual offences, escape legal custody, firearm possess no licence and deprivation of liberty. B1 is currently serving a term of imprisonment for sexual offences⁵⁵.
- B1 met Mr Kizon when they were both serving terms of imprisonment in Karnet Prison. However, their relationship outside prison was limited, according to B1, to a casual "chat" when they met occasionally at E1 in Osborne Park⁵⁶.
- B1 knew of Mr Rippingale but they had never met in person⁵⁷.
- B1 knew Sergeant Shadgett and met him at B2's workshop and at other locations on a number of occasions⁵⁸.
- B3 was employed at B2's automotive workshop between 1992 and 1998.

47) The relevant CCR and summarised intercepted telephone material⁵⁹ is as follows -

- On 18 May 1995 at 10.44hrs, B3 received a telephone call at B2's workshop from B5. The call was transferred to B2 with B5 enquiring whether B2 had obtained certain information to which B2 replied that he was still waiting on a call. B5 then asked B2 to telephone him on his mobile when he received the information which B2 said should be within 30 minutes.
- On 18 May 1995 at 12.14hrs, B3 received another telephone call at B2's workshop from B5. The call was transferred to B2 who told B5 that *"they haven't got back to me yet"*. B2 said that he would give them "a ring now" and then telephone B5 back.
- On 18 May 1995 at 12:52hrs, a telephone call was placed from B2's workshop at E3 to Mr Shadgett's home address in Albany.
- On 18 May 1995 at 16:40hrs, B2 telephoned B3 at E3 and inquired as to whether she was in possession of some vehicle registrations. B3's response was that *"no-ones rung me back"* to which B2 commented *"Murray didn't ring you back"* and B3 replied *"no"*. B2 asked whether B3 could telephone him again and B3 commented that she thought he started at four o'clock.
- On 18 May 1995 at 16:44hrs, a telephone call was placed from B2's workshop at E3 to the police only line (an unlisted number) at the Albany Police Station.

⁵³ Transcript of B5's evidence to the Anti-Corruption Commission Special Investigator, 8 December 2000

⁵⁴ Transcript of B2's evidence to the Anti-Corruption Commission Special Investigator, 19 June 2000

⁵⁵ Transcript of B1's evidence to the Anti-Corruption Commission Special Investigator, 8 June 2000

Transcript of B1's evidence to the Anti-Corruption Commission Special Investigator, 8 June 2000

⁵⁷ Transcript of B1's evidence to the Anti-Corruption Commission Special Investigator, 8 June 2000

⁵⁸ Transcript of B1's evidence to the Anti-Corruption Commission Special Investigator, 8 June 2000

⁵⁹ Copies of telephone intercept material are available to listen to and are in Western Standard Time

- On 18 May 1995 at 16:45hrs, a telephone call was placed from B2's workshop at E3 to Mr Shadgett's home address in Albany.
- On 18 May 1995 at 16:46hrs, B2 telephoned B3 at the workshop. During the conversation, B3 stated that "*he*" does not start work until "*tomorrow*" at which stage he will let him know. B2 then told B3 to telephone B5 and "tell him". B3 also commented that she had to contact "*B1*".
- On 18 May 1995 at 17:58 hrs, B2 received a telephone call from B5. B5 asked whether a male person had got back to him. B2 said that he had not heard from the male as he had not been at work that day. B2 also said that he telephoned the male that afternoon and he was going to tell him "*tomorrow*".
- On 18 May 1995 at 19:38hrs, a telephone call was placed from Sergeant Shadgett's home telephone number in Albany to B1's mobile telephone number.
- On 20 May 1995 at 11:18hrs, B5 telephoned B2's workshop and spoke to B3. B3 transferred the call to B2. B2 asked B5 whether he had received the information relating to the registration to which B5 replied that he had.
- On 26 May 1995 at 10:28hrs, a telephone conversation between B2 and B1 was intercepted. During the conversation, B2 informed B1 that the person in the vehicle was an "*undercover*" and to call the whole deal off and stay away from him. B1, after getting over the initial shock, queried whether the information had come from the source "*down south*" whereupon he was informed that it had come from somewhere else.

48) B2, B1, B3 and B5 were summonsed before the Special Investigator to explain the circumstances surrounding the above communications and whether they had any connection with the accesses to Mr Petrelis' covert details by a person using Sergeant Shadgett's police user identification number.

4.3 B1's account

- 49) In his evidence to the Special Investigator, B1 was asked to explain the May 1995 NCA telephone intercept material which included a conversation in which he was a participant and a CCR indicating that he had received a telephone call from Sergeant Shadgett⁶⁰. B1 was unable to provide a clear explanation but recalled that it was around May 1995 that he had requested B2 to obtain a vehicle's registration details from one of his police sources.
- 50) B1's account is that, on or about 17 May 1995, he received a telephone call from a B4 who wanted to purchase an ounce of amphetamines on behalf of an associate.

⁶⁰ B1 was interviewed by the Internal Affairs Unit and Organised Crime Squad about this matter in 1995. B1's 1995 account was substantially the same as the account he provided to the ACC in June 2000.

B4 was a prostitute and a drug user with whom B1 had a sexual relationship⁶¹. According to B1, B4 had called him from a public telephone box and he told her to telephone him back in 20 minutes after he had made enquiries about obtaining some amphetamines. B1 then telephoned an associate who informed him that supply of the amphetamine was not a problem and a price was agreed.

- 51) B4 again telephoned B1 and it was agreed that they should meet at a car park at the Victoria Park Shopping Centre. B1 instructed B4 to park the vehicle at the rear of The Liars Saloon ("Liars Saloon") and then walk across the car park where he would meet her and supply the amphetamines. At that point, B4 told B1 that her friend wanted to meet him but he replied *"I don't want to meet anybody. I'm only doing this for you"* to which B4 replied *"alright"*.⁶²
- 52) On arriving at the Victoria Park Shopping Centre, B1 waited for approximately 20 minutes before he noticed a white Commodore ("the Commodore") park at the front of the Liars Saloon. B4 exited the Commodore and walked half way across the car park where she met B1 and they walked to his vehicle. B1 then drove her a short distance to where he had hidden the amphetamines in a container under a tree. B4 paid for the amphetamines after which she exited B1's vehicle and he drove away.
- 53) Approximately two hours later, B1 received another telephone call from B4 enquiring whether her friend could be supplied with a further two ounces of amphetamines. B1 said that the money was too good to *"miss"* and agreed to supply the drug again at the Victoria Park Shopping Centre car park despite his concerns about the identity of the friend. During that conversation, B4 also told B1 that she was calling from her friend's mobile telephone which angered B1 who said *"Now my numbers going to come up on that phone and he can phone me direct."*⁶³ He then instructed her not to telephone him again as he was concerned that the drug transaction could possibly be a police set-up.
- 54) B1 obtained some more amphetamines from his associate and returned to the Victoria Park Shopping Centre car park. He again saw B4 exit the Commodore and walk through the car park. He then noticed the Commodore drive into a lane at the rear of the Liars Saloon and watched it exit that lane and turn right into Mint Street and left back into the car park and towards the rear of the Shopping Centre. At that point, B1 exited his vehicle and shouted to B4 *"What - - what the hell's he doing, you know, trying to find me now?"*.
- 55) B1 allowed B4 into his vehicle and drove to a vacant block next door to the Sussex Street Law Advisory Centre. He left B4 near the location where he had buried the amphetamines. He then returned to the car park and, when the driver of the Commodore collected B4 as she was walking back through the car park, he

⁶¹ Transcript of B1's evidence to the Anti-Corruption Commission Special Investigator, 8 June 2000

⁶² Transcript of B1's evidence to the Anti-Corruption Commission Special Investigator, 8 June 2000

⁶³ Transcript of B1's evidence to the Anti-Corruption Commission Special Investigator, 8 June 2000

recorded the registration details of the Commodore as 9BZ305. B1 said that he recorded the registration number because he was concerned about the driver's actions, the similarity of the Commodore to a police vehicle and the possibility that the drug transaction was a police set-up.

- 56) After the second drug deal, B1 telephoned B2 and provided him with the registration details of the Commodore as *"he knew B2 had the (police) contacts that could find out...pretty quick"*.⁶⁴ B2 said that he would get back to B1 concerning his request for information. B1 then telephoned Detective A, for whom he had provided assistance, and told him about the drug deals and that he thought he was being *"followed"* by a person driving vehicle 9BZ305. An arrangement was then made to meet with Detective A at the Barrack Street Jetty, Perth, to discuss the matter further.
- 57) B1 was unable to say exactly when the meeting with Detective A occurred but recalled that he was accompanied by Detective B. According to B1, he supplied Detective A with the Commodore's vehicle registration details of 9BZ305. He also supplied a small sample of the amphetamines to Detective A, to cover himself if anything went wrong, and told him that [Person 1⁶⁵] was the supplier. It was also put to B1⁶⁶ that he had previously told police⁶⁷ that he may have provided Mr Petrelis/Parker's mobile telephone number to Detective A when he met with him on that occasion. B1 did not disagree with the proposition but said he was unable to recall if that was the case⁶⁸.
- 58) B1 initially said that B2 telephoned him back on the afternoon of 17 May 1995 but later conceded that it may have been the next day *commenting "I really honestly can't remember"*⁶⁹. B1 was also unable to recall receiving a telephone call on his mobile, made from Sergeant Shadgett's home address in Albany on 18 May 1995, and could not offer any suggestions as to the reason for that contact⁷⁰.
- 59) During the telephone conversation, B1 said that B2 told him that the driver of the Commodore was *"not a copper"* but said that he should have *"nothing ... more to do with them"* and indicated that his information was that the car had been involved in a car chase or similar and that it was *"taboo"*.⁷¹ Apart from this warning, B1 could not recall being provided with the name and/or address of the person who owned the Commodore. At that point, B1 was referred to an audio tape of a conversation he had with Police Communications at 9:06 am on 24 May

⁶⁴ Transcript of B1's evidence to the Anti-Corruption Commission Special Investigator, 8 June 2000

⁶⁵ Person 1 was not Andrew Nicholas Petrelis

⁶⁶ Transcript of B1's evidence to the Anti-Corruption Commission Special Investigator, 8 June 2000

⁶⁷ Interview of B1 with Detective McCagh and Detective Gere, Organised Crime Squad, 1 August 1996

⁶⁸ Transcript of B1's evidence to the Anti-Corruption Commission Special Investigator, 9 June 2000

⁶⁹ Transcript of B1's evidence to the Anti-Corruption Commission Special Investigator, 9 June 2000

⁷⁰ Transcript of B1's evidence to the Anti-Corruption Commission Special Investigator, 8 June 2000

⁷¹ Transcript of B1's evidence to the Anti-Corruption Commission Special Investigator, 8 June 2000

1995 which indicated that he was aware of the address of the owner of the Commodore. The transcript of the conversation was -

Police operations.

Yeah, g'day ...(indistinct)... um I just wanted - - I'm just doing a check to see if you've got a stolen car on your list, number 9 B for Bob, Z for Zebra 305, white Commodore?

Yeah, there's a stolen vehicle. Whereabouts is it?

It's a stolen vehicle?

Yep.

Um, we - - we followed it last night. It went to 24 O-r-m-s-b-y, Ormsby Terrace in Mandurah. It was running around like a - - oh, like a maniac.

But where did you say? 24 Ormsby?

24 Ormsby Terrace in Mandurah.

Where did it go there from though?

It stayed there. It stayed there for the night by the look.

Where was - - where was it running around beforehand though?

In Mandurah.

Righto.

Just up and down the street, chucking wheelies, things like that. And we thought 'Hey, this might be stolen' so we turned our lights off and followed it - -

Yeah.

- - at 2 o'clock in the morning and it went back to that address and stayed there. When I went to work this morning, as I say, it was still there.

Mm. What was the driving like when it went back there?

Oh, when it went back there, it was driving normal. What - - what made me think it was stolen is because of the way it was acting around Mandurah. So I got the rego and I thought I'll give youse a ring - -

And how - - sort of how long had it been driving like a maniac?

Oh, about half an hour.

And did - - did you see it - - did you see the whole of the car the whole time from when it was driving like a maniac to when it went back to - -

No, no. It - - we lost it for a while there, but when we were going down Pinjarra Road we seen it again when she was driving normal and we just - -

Yeah. I think - - I think that they dumped it and then ... (indistinct) ... picked it up.

Are you sure about that?

Well, that's what it looks like, according to this, because that's where the car stopped.

... (indistinct) ... Mandurah?

Yeah. So if it was just driving normal back to home, and then stopped at 24 Ormsby Terrace - -

But how - - oh. Well, has he told - - told you that he's found it yet?

I don't know. I'll - - I'll have to make a few inquiries. What's - - what's your name, mate?

My name's Clay, Peter - - Peter Clay.

Peter Clay. And your phone number?

Um, I'm not on the phone. I'm just using a friend's phone.

How can we contact you if need be?

Oh, well, you can't really. That's ... (indistinct) ... might be involved. I just thought that it might have been a stolen car and youse need to find it.

Oh, I see. Yep. Okay. Well, I'll make inquiries to find out what's - -

Thanks a lot.

Okay. Bye bye.

Bye.

- 60) After hearing the audio tape, B1 agreed that it was his voice and accepted that he must have been provided with details of the registered owner of the Commodore which included the address of 24 Ormsby Terrace, Mandurah. However, he was unable to say whether he had been provided with those details by either Sergeant Shadgett or B2. Furthermore, he was unable to explain the reason for identifying himself as "Mr Peter Clay" despite being told that Detective Clay was a police officer who was linked to the Petrelis/Parker case.
- 61) Detective Clay's connection with Mr Petrelis/Parker's case was the result of Mr Petrelis' Commodore being broken into between 2100hrs on 4 May 1995 and 0700hrs on 5 May 1995 when it was parked outside his parents' house. Stolen from the vehicle was a watch, camera and the steering wheel. Mr Petrelis reported the theft to Detective Clay, who was one of his case officers, who then notified the WAPS and the WPU. An offence report was then completed by Detective Clay in which he recorded Thomas Peter Clay, police officer, as the complainant⁷².
- 62) B1 was also told during his appearance before the Special Investigator that Mr Petrelis/Parker had made a report to WPU that he had received a call on his mobile telephone at approximately 9.00am on 24 May 1995. The report was that the caller asked whether Mr Parker was there to which Mr Petrelis/Parker stated "yes". The caller then said that a vehicle registered as 9BZ305 had been used overnight in Fremantle. Mr Petrelis/Parker's response was that the Commodore 9BZ305 had not been stolen and asked the caller to identify himself which he did as Senior Constable Shark. The call was then terminated and Mr Petrelis/Parker contacted WPU.⁷³ Mr Petrelis later identified the caller's voice as being the same as the person who telephoned Police Communications at 9.06am that day and made a report concerning the Commodore.
- 63) Despite this evidence, B1 said he was unable to recall telephoning Mr Petrelis/Parker's mobile telephone number at about 9.00am on 24 May 1995.⁷⁴ Furthermore, B1 was unable to explain the reason for identifying himself as Constable Shark or how he obtained Mr Petrelis/Parker's mobile telephone number.⁷⁵ However, he did comment that *"Quite often I would get a call on my mobile and it's got a number left who's called me"*.⁷⁶ He indicated that Mr Petrelis/Parker's mobile number may have been recorded on his mobile when B4 telephoned him from Mr Parker/Petrelis' mobile on or about 17 May 1995.

⁷² Offence Report Number 07059510007008 dated 7 May 1995, entered onto the police mainframe computer system and available to all police officers.

⁷³ WPU Running Sheet ACC Barcode 68214, page vii (Not included as attachment due to sensitivity of documentation)

⁷⁴ Transcript of B1's evidence to the Anti-Corruption Commission, 9 June 2000

⁷⁵ Transcript of B1's evidence to the Anti-Corruption Commission, 9 June 2000

⁷⁶ Transcript of B1's evidence to the Anti-Corruption Commission, 9 June 2000

- 64) B1 said he made numerous unsuccessful attempts to contact B4 after he had been told that the Commodore was “*taboo*”. Eventually B1 made contact with B4 but was unable to recall whether he spoke to her on the telephone or in person. However, he recalled that he warned her to stay away from the driver of the Commodore as he was an “*undercover cop*” and also told her to warn her friends who had apparently been associating with the driver of the Commodore.⁷⁷

4.4 B2's account

- 65) In his evidence to the Special Investigator, B2 was asked to explain the intercepted telephone conversations he had with B3 and B1 in 1995 around the time that a person using Sergeant Shadgett's police user identification number accessed Mr Petrelis' covert details. In this regard, B2 was -
- unable to recall or explain the telephone conversation he had with B3 at 16.40hrs on 18 May during which he asked her whether she had obtained the registrations. However, he did agree that he was referring to Sergeant Shadgett when he made reference to “*Murray*”.
 - unable to recall or explain the telephone conversation he had with B3 at 16.46 hrs on 18 May 1995 during which B3 said *that "he's not starting work till tomorrow" and "I'll have to ring B1"*. B2 said that he knew several B1s but believed that he was probably referring to B1.
 - unable to recall or explain the telephone conversation he had with B1 at 10.28hrs on 26 May 1995 during which he said that “*Mate, that car, that - - that vehicle, that guy's under cover.*”⁷⁸ During that conversation, B1 asked B2 if the information came from “*down south*” to which B2 responded “*No, it was from somebody else*”.
- 66) B2 agreed that the reference to the information about the person being an “*undercover*” not coming from “*down south*” meant that Sergeant Shadgett was not the source⁷⁹. B2 could not recall or confirm who the source of information could have been. Furthermore, he said that if he had made a request to Sergeant Shadgett concerning Mr Parker's details, he would not have been aware that the details were those of Petrelis and his request for the information was done “*innocently... not knowing what was going on*”.⁸⁰ However, he specifically said that he could not recall B1 asking him to find out information about “*Mr Petrelis or a vehicle registration*”.⁸¹

⁷⁷ Transcript of B1's evidence to the Anti-Corruption Commission, 9 June 2000

⁷⁸ Transcript of B1's evidence to the Anti-Corruption Commission, 9 June 2000

⁷⁹ As identified at paragraph 14, police association with B2 and others is to be addressed in a separate report.

⁸⁰ Transcript of B2's evidence to the Anti-Corruption Special Investigator, 21 June 2000

⁸¹ Transcript of B2's evidence to the Anti-Corruption Special Investigator, 19 June 2000

4.5 B3's account

- 67) In her evidence to the Special Investigator, B3 said that she requested confidential police information from Sergeant Shadgett on B2's behalf on numerous occasions.⁸² B3 explained that Sergeant Shadgett would provide her with names and addresses which she would write down on a piece of paper and place on B2's desk. She was unable to recall the details of the information obtained but believed they related mainly to vehicle registrations⁸³.
- 68) B3 recalled an occasion when B1 sought information from B2 in relation to a vehicle that was parked opposite his house. B3 was unable to recall the date of that incident and whether it was the subject of the intercepted telephone conversations she had with B2 on 18 May 1995. However, B3 did recall that the information that came back from Sergeant Shadgett was that the vehicle which B1 had enquired about was a "cop car".⁸⁴
- 69) Although B3 was unable to specifically recall the matters referred to in the intercepted telephone conversations she had with B2 on 18 May 1995, she explained that her comments that -⁸⁵
- *"He's not starting work till tomorrow"* would have meant that she would have telephoned Sergeant Shadgett in Albany and found out that he was not at work until next day.
 - *"I'll have to ring B1"* would have been in reference to B1.
- 70) B3 said that it was common practice for her to telephone Sergeant Shadgett at home when he had been living in both Albany and Perth. However, she was unable to specifically recall the telephone calls (as recorded by the CCRs) which were made from B2's workshop to Sergeant Shadgett's home address in Albany and the Albany Police Station on 18 May 1995.⁸⁶

4.6 B4's account

- 71) In her evidence to the Commission, B4 explained that she first met a person who she knew only as "Andy" at the house of a drug dealer named B8 who resided in Leederville, Perth. Furthermore, B4 specifically said that she did not know Andy's

⁸² Transcript of B3's evidence to the Anti-Corruption Special Investigator, 13 June 2000

⁸³ Transcript of B3's evidence to the Anti-Corruption Special Investigator, 13 June 2000

⁸⁴ Transcript of evidence provided by B3 at interview with Anti-Corruption Commission Investigators, 24 November 2000

⁸⁵ Transcript of B3's evidence to the Anti-Corruption Special Investigator, 13 June 2000

⁸⁶ Transcript of evidence provided by B3 at interview with Anti-Corruption Commission Investigators on 24 November 2000

surname, occupation or whether he had a girlfriend at that time⁸⁷. B4 explained that she purchased heroin for her own use and said that Andy was also purchasing heroin for his own use from B8⁸⁸. B4 was then shown a photograph of Mr Andrew Petrelis who she identified as the person she knew as Andy.

- 72) B4 recalled that, about two to three weeks after first meeting Andy⁸⁹, he asked whether she could organise the supply of some amphetamines⁹⁰. At that point, B4 contacted B1 who agreed to supply a “*trial size*” of amphetamines. B4 explained that B1 had supplied her with amphetamines on previous occasions and described him as a friend but maintained that they did not have a sexual relationship as alleged by B1⁹¹.
- 73) B4 believed the drug deal took place behind the Raffles Hotel on Canning Highway, Applecross. Her recollection was that she attended the Raffles Hotel with B1. B4 then met Andy (in the absence of B1) and passed him the amphetamines. B4 clearly recalled that Andy and B1 did not meet “*face to face*”.⁹² B4 did, however, say that she may have mentioned to B1 that her friend’s name was Andy but could not have said anything more as that was all she knew⁹³.
- 74) Following the Raffles deal, B4 said that Andy asked her whether she could arrange the supply of a further quantity of amphetamines. B4 recalled that she then made arrangements to meet B1 in a car park at rear of the Liars Tavern in Victoria Park⁹⁴.
- 75) B4 said that Andy drove her to the car park in his vehicle which she thought was a Commodore and “*looked like an ex-police car*”. B4 thought that the vehicle may have been the colour blue but then commented “*I really don’t know*”. However, B4 did recall that Andy told her that the vehicle was “*ex-Vice Squad*”.
- 76) On arrival at the car park, B4 recalled that she went into the Liars Tavern where she telephoned B1 from a public telephone box. She then went back outside and met with B1 who was positioned in his vehicle “*somewhere*” in the car park⁹⁵.
- 77) B4 recalled that B1 drove her “*around the corner*” to where the amphetamines were situated. At that point, B4 provided B1 with the money, exited the vehicle, collected the amphetamines by wrapping them in a piece of newspaper and then

⁸⁷ Transcript of B4’s interview with Anti-Corruption Commission Investigators, 2 December 2000, tape 1

⁸⁸ Transcript of B4’s interview with Anti-Corruption Commission Investigators, 2 December 2000, tape 1

⁸⁹ This would place the meeting between the two as late April or early May 1995.

⁹⁰ Transcript of B4’s interview with Anti-Corruption Commission Investigators, 2 December 2000, tape 1

⁹¹ Transcript of B4’s interview with Anti-Corruption Commission Investigators, 2 December 2000

⁹² Transcript of B4’s interview with Anti-Corruption Commission Investigators, 2 December 2000, tape 1

⁹³ Transcript of B4’s interview with Anti-Corruption Commission Investigators, 2 December 2000, tape 1

⁹⁴ Transcript of B4’s interview with Anti-Corruption Commission Investigators, 2 December 2000, tapes 1 & 2

⁹⁵ Transcript of B4’s interview with Anti-Corruption Commission Investigators, 2 December 2000, tape 1

walked back to Andy's Commodore⁹⁶. B4 explained that Andy was in his Commodore, which was parked behind the Liars Tavern, while the drug transaction was occurring. However, B4 recalled that, after completion of the drug transaction, Andy started driving around the car park which she said made B1 "suss" and he immediately drove away⁹⁷.

- 78) B4 recalled that Andy contacted her again and said that he wanted to purchase a larger amount of amphetamines. According to B4, she then telephoned B1 on Andy's mobile telephone and she recalled that this angered B1 who said *"Don't ever do that again. That was really stupid"*. B4 also said that B1's response to supplying more amphetamines was *"It just sounds something's not right. Something doesn't sound right. I'm not going to bother with it"*. B4 was unable to recall when she made that telephone call but said that she did not pursue the matter any further with B1.
- 79) Approximately a week after the drug transactions, B4 said that B1 attended her premises at Mount Street, Perth. B4's recollection was that B1 warned her about Andy telling her to *"keep away"* because he was "suss". B1 also told B4 that his telephone had been tapped and asked B4 whether she knew anything about it to which she replied *"Don't look at me. I don't know anything about it"*.⁹⁸ B4 had no recollection of B1 making any mention that Andy was an undercover police officer.⁹⁹
- 80) About a week after her conversation with B1, B4 recalled that B8 told her that Andy had *"gone"* to Queensland. B4 also recalled that she was later told by B8 that Andy was an informant and that he had died.¹⁰⁰

4.7 Detective A' account

- 81) In his evidence to the Special Investigator,¹⁰¹ Detective A confirmed that he was a member of the NCA between 1993 and 1996. Detective A was shown a copy of *NCA Harpy 189* which stated inter alia that [Person 2]¹⁰² was selling drugs to *"Nicholas Andrew Petrelis through a prostitute named Nicole... Petrelis is driving a VN Commodore 9BZ305 and his mobile is 015996222"*¹⁰³. (see paragraph 84 for full details of *NCA Harpy 189*).

⁹⁶ Transcript of B4's interview with Anti-Corruption Commission Investigators, 2 December 2000, tape 2

⁹⁷ Transcript of B4's interview with Anti-Corruption Commission Investigators, 2 December 2000, tape 2

⁹⁸ Transcript of B4's interview with Anti-Corruption Commission Investigators, 2 December 2000, tape 2

⁹⁹ Transcript of B4's interview with Anti-Corruption Commission Investigators, 2 December 2000, tape 2

¹⁰⁰ Transcript of B4's interview with Anti-Corruption Commission Investigators, 2 December 2000, tape 1

¹⁰¹ Transcript of Detective A' evidence to the Anti-Corruption Commission Special Investigator, 20 December 2000

¹⁰² Person 2 not Andrew Nicholas Petrelis

¹⁰³ Nicholas Andrew Petrelis is in fact the name of the father of Andrew Petrelis.

- 82) Detective A was unable to recall whether he was the author of *NCA Harpy 189* but did say that it *"sounds a bit like my terminology"*.¹⁰⁴ Detective A was unable to recall the circumstances surrounding *NCA Harpy 189* and had no specific recollection of a meeting he and Detective B supposedly attended with B1 at Barrack Street Jetty, Perth.¹⁰⁵
- 83) Detective A declined to discuss whether he had a recollection of B1 providing him with vehicle registration 9BZ305 or mobile telephone number 015996222 invoking the provisions of section 51 of the *National Crime Authority Act 1984*.¹⁰⁶ However, Detective A did comment that it was his *"belief"* that B1 *"doesn't know and never had known Petrelis"*.¹⁰⁷ Detective A explained that *"there was no indicators to me ... when all this was happening that he (B2) knew it was Petrelis"*.
- 84) Detective A was shown a NCA request to Optus Communications¹⁰⁸ for the subscriber name and address for mobile telephone number 015996222. Detective A again declined to discuss the specifics of the request due to section 51 of the *National Crime Authority Act 1984*. However, he did say that *"on most occasions when I get a mobile number...I would have that information – those telephone numbers checked out"*.¹⁰⁹ Furthermore, Detective A did comment that in relation to the information provided by the subscriber for mobile telephone number 015996222 *"that's where I would say it's been translated on to – on to the IR"*.¹¹⁰
- 85) Detective A was shown the IAU Running Sheet dated 29 May 1995 (see paragraph 95 for full details) and told that the meeting referred to was believed to have included Detective C from IAU and Detective B from the NCA. Detective A was unable to recall the meeting but did say that he instructed Detective B and NCA Analyst B9 to collate the information relating to the accesses of Mr Petrelis' covert details by Sergeant Shadgett and advise the IAU.¹¹¹
- 86) In his evidence to the Special Investigator, Detective A said that he was not made aware of who *"Parker"* was until he had carried out further enquiries.¹¹² In this regard, Detective A would not have been aware of that Mr Parker was Mr Petrelis at the time B1 provided him the registration details of vehicle 9BZ305 and mobile telephone number. Detective A's recollection was that B2 was making attempts to identify whether Mr Parker was an undercover police officer from Sergeant

¹⁰⁴ Transcript of Detective A's evidence to the Anti-Corruption Commission Special Investigator, 20 December 2000

¹⁰⁵ Transcript of Detective A's evidence to the Anti-Corruption Commission Special Investigator, 20 December 2000

¹⁰⁶ Transcript of Detective A's evidence to the Anti-Corruption Commission Special Investigator, 20 December 2000

¹⁰⁷ Transcript of Detective A's evidence to the Anti-Corruption Commission Special Investigator, 20 December 2000

¹⁰⁸ Letter from Nicholas Anticich, NCA, to Optus Communications, 19 May 1995

¹⁰⁹ Transcript of Detective A's evidence to the Anti-Corruption Commission Special Investigator, 20 December 2000

¹¹⁰ Transcript of Detective A's evidence to the Anti-Corruption Commission Special Investigator, 20 December 2000

¹¹¹ Transcript of Detective A's evidence to the Anti-Corruption Commission Special Investigator, 20 December 2000

¹¹² Transcript of Detective A's evidence to the Anti-Corruption Commission Special Investigator, 20 December 2000

Shadgett. Detective A maintained that B2 and associates were not aware that Mr Parker was Mr Petrelis.

4.8 B5's account

- 87) As outlined above, a number of telephone conversations between B2 and B5 were intercepted on 18 and 20 May 1995. The 18 May conversations consisted of B5 asking whether B2 had obtained certain information to which B2 replied that he was still waiting for a reply. Shortly after, B5 made a further telephone call to B2 and was again told that *"they haven't got back to me"*.
- 88) B2 then telephoned B3 and inquired as to whether she was in possession of some vehicle registrations. B3's response was that *"no-ones rung me back"* to which B2 commented *"Murray didn't ring you back"*. B2 later telephoned B3 who said that *"he"* does not start work until *"tomorrow"* and B2 told B3 to telephone B5. Later that day, B2 received a telephone call from B5 and told him that the male would be at work *"tomorrow"*. On 20 May, B5 telephoned B2 and B5 confirmed that he had received the information relating to the registrations.
- 89) The intercepted telephone conversations revealed that B5 was seeking information from B2 around that same time that Mr Petrelis' covert details were accessed by Sergeant Shadgett apparently at the request of B1. In this regard, the Commission explored the possibility that the information sought by B5, who was a close associate of Mr Kizon, may have been in respect to the owner of Commodore 9BZ305.
- 90) In his evidence to the Special Investigator, B5 recalled that he was asked by a friend, B10, whether he could provide the registration details of a certain vehicle. B5 said that he would have then contacted B2, who he knew was in contact with Sergeant Shadgett, and requested the registration details. He believed that the intercepted telephone conversations of 18 and 20 May 1995 probably related to his request for registration details on behalf of B10. He was unable to recall the reason why B10 wanted the information but told the Special Investigator that he would contact B10 to ascertain whether he was able to assist.¹¹³
- 91) B5 later informed the Commission that he had been unable to contact B10¹¹⁴. However, he did say that he recalled an occasion when B2 had made a request to Sergeant Shadgett for registration details of a vehicle on behalf of B1. B5 said that B2 did not *"...even [query] about who the number was or or what it was in connection with..."*. B5 recalled that Sergeant Shadgett told B2 that the details sought related to a police vehicle. B5 explained that B2 was irritated with B1 after

¹¹³ Transcript of B5's evidence to the Anti-Corruption Commission Special Investigator, 11 December 2000

¹¹⁴ ACC is in the process of locating B10 to interview him about this matter.

being advised by Sergeant Shadgett that the registration details he was seeking were “one of theirs”.¹¹⁵

4.9 Albany Police Station records

- 92) The Albany Police Station Occurrence Book¹¹⁶ recorded that Sergeant Shadgett was not on duty on 18 May 1995. The Occurrence Book also recorded that Sergeant Shadgett commenced duty at 16:00hrs on 19 May 1995 and at 00:01hrs on 24 May 1995 having ceased duty at 24:00hrs and 08:00 hrs respectively.

4.10 NCA documents

- 93) On 23 May 1995, NCA Information Report “NCA Harpy 189” was created at the NCA Perth Office. Although the Information Report was unsigned, it stated that the Reporting Officer was Detective A and that the information was received by him on 19 May 1995 from B1. The report provided -

NCA Harpy 189 – 23/05/95 – [Person 2] _ DRUGS.

“[Person 2] is selling large quantities of Amphetamines. He is selling it in ounce lots from a 2 kilo supply. The amphetamines are of high quality and sell at \$4,200.00 an ounce. He is selling it to Nicholas Andrew PETRELIS¹¹⁷ through a prostitute named Nicole. Her real name is B4, and she lives in a unit in Mount Street on the Kings Park side of the freeway.

PETRELIS is driving a VN Commodore 9BZ305 and his mobile is 015 996 222.

[Person 2] stated that he is collecting the drugs from a person called [Person 3]¹¹⁸. He leaves his house by foot and returns approx ten minutes later with the drugs. He is expecting another supply of 30 pounds in the next two to three weeks.”

- 94) On 30 May 1995, Information Report NCA harp0193 was created which contained a *summary of events* in relation to Sergeant Shadgett. The reporting officer was recorded as Detective B and the information was recorded as having been received on 30 May 1995. The information report referred to the previous Information Report NCA Harpy 189 and to information received from B1 and B2. The report provided -

NCA harp0193 – 30/05/95 - Murray Shadgett – Summary of Events

Information received from B1 that [Persons 3 and 2] are in possession of a number of ounces of amphetamines (IR No 189 refers). A prostitute places the order on behalf of

¹¹⁵ “One of theirs” refers to the police. Telephone conversation between B5 and Anti-Corruption Commission Investigator, 14 December 2000.

¹¹⁶ Photocopy of Albany Police Station Occurrence Book, pages relating to 18, 19 and 24 May, 1995

¹¹⁷ Nicholas Andrew Petrelis is the name of Mr Andrew Petrelis’ father

¹¹⁸ Person 3 was not Andrew Nicholas Petrelis

another male person. The amphetamines are then purchased from the [Persons 2 and 3] and transported via the prostitute to the unknown male person.

NOTE: The unknown male person is believed to be Andrew Nicholas Petrelis. Refer Harpy IR189 attached.

Information has been received indicating the possible involvement of a police officer in assisting criminals connected to [B2] and [B1], with registration and computer checks.

Summary:

17/5/1995 – B1 contacted B2 and requested that [B2] get hold of Murray from Albany to get B1 something. B2 asked B1 to meet him later that day to pass the details of the request. (This is believed to refer to Murray Shadgett, and a request to have Shadgett to obtain registration details of the person obtaining drugs from the prostitute described.)

18/5/95 – B5 (B5) contacted B2 and requested that something be done for him. (This is believed to be a request for provision of registration or similar details through B2.)

18/5/95 – B5 contacted B2 – B2 indicated the bloke is not on until 4 o'clock and that he can just punch it up on the computer.

18/5/95 – B2 spoke to B3. B3 stated that Murray had not called back with the registrations. B3 would contact Murray direct.

18/5/95 – B3 spoke to B2. Murray was due in at work on 19/5/95 and would get back with the registrations. B2 asks B3 to contact [B1] and (B5).

18/5/95 – B5 contacted B2 – B2 stated that he hadn't been successful and would contact him later on.

20/5/95 – B2 spoke to B3 – B5 was present with B3 – [B2] asked B5 if he got the registrations details – B5 stated that he did.

25/5/95 – B11 spoke to B2 and asked if Murray from ALBANY (the Sergeant) could get hold of a truck licence and possibly two hand held computers.

26/5/95 – B2 informed B1 that that bloke is an undercover and to stay away. (This is believed to indicate that B2 had formed a conclusion, based on the result of the registration check requested by B1 on the registration number of the male buying amphetamine from the prostitute, that the male was an undercover police officer. This conclusion is incorrect and the male is believed to be Andrew Petrelis, a known drug offender. Refer IR Harpy189 attached.)

It is known that between 18/5/95 and 26/5/95 B1 met personally with B2 on a number of occasions.

- 95) At this point, it should be noted that the NCA telephone intercept was on the mobile telephone of B2 and not his home or office telephone. The NCA telephone intercept therefore does not include conversations which were alleged to have taken place between the likes of B3 and Sergeant Shadgett. It should also be noted that both B2 and B1 were involved in numerous matters with the NCA. This involvement explains the comment in *NCA Harpy 0193* that the NCA were aware that B1 and B2 had met on a number of occasions.

4.10.1 NCA Harpy 189

- 96) One interpretation of the content of the Information Report NCA *Harpy 189* (“NCA Harpy 189”) was that B1 had told Detective A that he had sold drugs to Mr Petrelis (through B4) who was driving Commodore 9BZ305. If this was the case it would have raised serious questions about the truth of B1’s statement to the Commission that he never knew the true identity of the driver of the Commodore other than possibly Mr Andrew Parker or Mr Peter Clay (refer to “Issue” 2 for further discussion).
- 97) The Commission obtained documents from the NCA¹¹⁹ and summonsed a number of former NCA officers to appear before the Special Investigator to clarify *NCA Harpy 189*. The officers were Detective A, B9 who was the NCA Analyst at the time *NCA Harpy 189* was created and Detective B who was the NCA officer who B1 claimed was also in attendance when he met Detective A at the Barrack Street Jetty on 19 May 2000. The documents provided to the Commission included a NCA request to Optus Communications for the subscriber name and address for mobile telephone number 015996222¹²⁰.
- 98) The NCA request was forwarded on 19 May 1995, by the then NCA Operational Support Coordinator B12, and contained a hand-written annotation stating “*extremely urgent*”. On that same day, Optus Communications sent a facsimile response to the NCA indicating that the subscriber name and address for mobile telephone number 015996222 was *Union ANA P/L - Nicholas Petrelis* of PO Box 1203, West Leederville, Western Australia. A journal entry made by B12 confirmed that the request for the details of mobile telephone number 015996222 was made on 19 May 1995 and at the instruction of Detective A.
- 99) B9 provided evidence to the Special Investigator in which he addressed *NCA Harpy 189* and the request to Optus Communications. In relation to *NCA Harpy 189*, B9 commented that he was “*very sure that’s not my document*”. He went on to say that the “*logical conclusion to me is the original information comes in, the phone check goes off confirming the identity of the individual referred to in that report, and the report then contains an amalgam of both*”.¹²¹
- 100) Detective B’s evidence to the Special Investigator was that he was unable to specifically recall an occasion on which he and Detective A had apparently met with B1 at the Barrack Street Jetty on 19 May 1995. However, he commented that it was “*possible*” that the meeting occurred and explained that he and Detective A regularly met with B1. Detective B said that he did not believe that he was the

¹¹⁹ NCA officially disseminated documentation to the A-CC.

¹²⁰ Letter from Nicholas Anticich, NCA, to Optus Communications, 19 May 1995

¹²¹ Transcript of evidence of B9 to the Anti-Corruption Special Investigator, 17 November 2000

author of *NCA Harpy 189* and was also unable to recall having previously sighted the document.¹²²

- 101) As indicated at paragraph 74, Detective A was unable to recall the meeting which he and Detective B apparently attended with B1 on 19 May 2000. However, he did say that it was his belief that B1 “*doesn’t know and never had known Petrelis*”. He also suggested that he was the author of *NCA Harpy 189* commenting that it “*sounds a bit like my terminology*”. Furthermore, he commented in relation to the subscriber check on Mr Petrelis’ mobile telephone number 015996222 “*that’s where I would say it’s been translated on to – on to the IR*”.
- 102) It should be noted that *NCA Harpy 189* refers to *Nicholas Andrew Petrelis* who is the father of Mr Andrew Nicholas Petrelis. However, *NCA Harpy 0193* refers to *Andrew Petrelis*. The change in names would appear to support the position that B1 did not provide Detective A with Mr Petrelis’ name and that it was inserted in the *NCA Harpy 189* as a result of the subscriber check which showed that the mobile telephone number was registered under *Union ANA P/L – Nicholas Petrelis*. It would also appear to confirm that, as a result of further enquiries, the name was then changed to Andrew Petrelis.

4.10.2 NCA harp0193

- 103) B9 believed that he was the author of Information Report *NCA harp0193* (“*NCA harp0193*”) which he created on 30 May 1995. He actually recalled drafting the report and said that it was an amalgamation of information which included telephone intercept material, information from *NCA Harpy 189 IR*, telephone checks and surveillance reports.¹²³
- 104) Detective B declined to detail the specific sources of the information due to section 51 of the National Crime Authority Act 1984 which provides that it is an offence to “divulge or communicate to any person any information... being information acquired by him by reason of, or in the course of, the performance of his duties under this Act”.
- 105) Detective B accepted that he was the reporting officer of *NCA harp0193* but had no recollection of actually completing the report. In this regard, Detective B believed that Information Report *NCA harp0193* would have been an amalgamation of information contained in *NCA Harpy 189* and telephone intercept material.¹²⁴

4.11 IAU documents

¹²² Transcript of evidence of Detective B to the Anti-Corruption Special Investigator, 17 November 2000

¹²³ Transcript of evidence of B9 to the Anti-Corruption Special Investigator, 17 November 2000

¹²⁴ Transcript of evidence of Detective B to the Anti-Corruption Special Investigator, 17 November 2000

- 106) On 29 May 1995, an IAU officer attended at the NCA and spoke to Detective B about Sergeant Shadgett. The IAU running sheet entry stated -

To NCA speak to Detective B re Shadgett. B2 has told them that he gets his checks done through Shadgett but has never paid him any money. He does checks for [Person 1], B5 and B1 amongst others. In the incident of Petrelis' details being leaked, it was as a result of a request from B1. B1 was acting as a bodyguard for a prostitute who was selling drugs to Petrelis when he ordered a pound after a couple of small buys. (classic police MO) They became suspicious that he was a UCO. Did the check through Shadgett and the message came back from him that Petrelis was in fact a UCO.

There is now concern that Shadgett is endangering peoples safety so (Detective B) is going to provide a report outlining the contact and association between Shadgett and B2 in order that a Section 8 can go to the Commissioner¹²⁵.

- 107) In 1995, Detective C was an Acting Inspector at the IAU and it is believed that he was the officer who attended the NCA on 29 May 1995 and spoke to Detective B. Since that time, Detective C has suffered a stroke and is no longer a member of the WAPS. Detective C has been unable to provide evidence to the Commission due to his continuing poor medical condition.
- 108) Detective B was interviewed¹²⁶ by the Commission concerning his recollection of the meeting referred to in the IAU Running Sheet. Detective B was unable to recall the meeting but believed that he would not have met with the IAU delegate personally. He believed that the information contained in the IAU Running Sheet would have been gathered from NCA Information Reports and speaking to a number of NCA officers, with the majority of the information provided by Detective A. In particular, his recollection was that there was never any indication that B2 or B1 was aware that the driver of the Commodore that attended the drug deal was actually Mr Petrelis (refer to "Issue 2" for further discussion).
- 109) Detective A said that he instructed B9 and Detective B to collate the information relating to the accesses of Mr Petrelis' covert details by Sergeant Shadgett. Detective A said that the NCA would have then passed this information to the IAU for their consideration.

4.12 Conclusion

- 110) The Commission has been unable to hear evidence from Sergeant Shadgett concerning his alleged unauthorised access of Mr Petrelis' covert details. On the evidence available, however, it is clear that a person using Sergeant Shadgett's police user identification number accessed the details of vehicle 9BZ305 on three consecutive occasions on 18, 19 and 24 May 1995. The first two accesses were

¹²⁵ IAU Running Sheet, file 92-047

¹²⁶ Telephone conversation between Anti-Corruption Commission Investigators and Detective B, 23 November 2000

made when Sergeant Shadgett was officially off-duty with the third access being made about 30 minutes after he commenced duty.

- 111) Taking into account the confidentiality of the police user identification number, the CCR and telephone intercept material gathered over the period the accesses were made, the NCA documents and the IAU Running Sheet it appears highly likely that Mr Petrelis' covert details were accessed by Sergeant Shadgett.
- 112) In particular, the intercept material mentions contacting "Murray" and the CCR reveal telephone calls being made from B2's workshop to the Albany Police Station and Sergeant Shadgett's home telephone number shortly prior to the accesses. The IAU Running Sheet and *NCA harp0193 IR* are also confirmation of the NCA's belief, at that time, that Sergeant Shadgett was involved in the access of Mr Petrelis' covert details.
- 113) The Commission also heard evidence from B3, B2, B1, Detective A, B4 and B5 concerning the circumstances surrounding the telephone intercept material and CCR. In particular, whether Sergeant Shadgett had directly or indirectly *disclosed* any information to these persons concerning Mr Petrelis' covert details and, if so, the extent of information provided.
- 114) B3 was unable to recall the intercepted conversations nor could she recall what the calls listed in the CCR were about. However, she did recall an occasion when B1 sought information from B2 concerning the registration details of a vehicle which was apparently parked outside his house. B3's recollection was that the information later provided by Sergeant Shadgett was that the vehicle was a "cop car". She was unable to say whether this incident related to the requests referred to in the telephone intercepts between 18 and 19 May 1995.
- 115) B2 also had no recollection of the intercepted calls or the calls listed in the CCR and was unable to explain any of the conversations apart from saying that his reference to the information not coming from "down south" meant that it would not have come from Sergeant Shadgett. B2 commented that he may have obtained Mr Petrelis' covert details from Detective A or Detective B. He also said that, if he made a request to Sergeant Shadgett about Mr Parker's details, he would not have been aware that the details were those of Mr Petrelis and his request for the information was done "*innocently... not knowing what was going on*". However, he specifically said that he could not recall B1 asking him to find out information about "*Mr Petrelis or a vehicle registration*".
- 116) B1's account was that he made a request to B2 for details of the registered owner of the Commodore which had attended a drug deal at which he was a participant. He was unsure as to when he received a response, and whether it was from Sergeant Shadgett or B2, but recalled being told to keep away from the vehicle as it was an "*taboo*".
- 117) B1 said that he attended a meeting with Detectives A and B at the Barrack Street Jetty and provided Detective A with the registration details of vehicle 9BZ305. B1

accepted that he may have also provided Detective A with mobile telephone number 015996222 which he believed belonged to B4's friend.

- 118) B1 accepted that he had been provided with details of the registered owner of the Commodore which included the address of 24 Ormsby Terrace, Mandurah. However, he was unable to say whether he had been provided with those details by either Sergeant Shadgett or B2. B1 was also unable to explain the reason why he used the name Peter Clay when contacting Police Communications on 24 May 1995.
- 119) Detective B and Detective A were unable to recall the meeting which they allegedly attended at the Barrack Street Jetty with B1. However, Detective A did say that B1 was not aware of the identity of Mr Petrelis. Detective A declined to explain the reason for his belief citing section 51 of the *National Crime Authority Act 1984*.
- 120) B4's account was that she attended two consecutive drug deals which involved purchasing drugs from B1 on behalf of a person she knew only as Andy. She was shown a photograph of Mr Andrew Petrelis and verified that this was the same person she once knew as Andy. B4's recollection was not clear as to when and where the drug deals took place but she believed the first one occurred at the Raffles Hotel, Applecross with the latter taking place behind the Liars Saloon Tavern, Victoria Park. However, B4 clearly recalled that Andy and B1 never met personally at the deals. She said that she may have mentioned to B1 that her friend's name was Andy but could not have provided any more information. She confirmed B1's account that B1 attended her premises about one week after the drug deal and told her to "stay away" from Andy as he was "suss".
- 121) B5 maintained that the intercepted telephone conversations in which he was requesting confidential police information, via B2, were not connected with Mr Petrelis' covert details. His recollection is that he was seeking the registration details of a vehicle at the request of an associate, B10. (Refer para 84) He was unable to contact B10 to ascertain whether he had any recollection of enquiring about the registration details of a certain vehicle around that time.
- 122) The Commission considers that B3 provided an honest and truthful account to the Special Investigator concerning her knowledge of the intercepted conversations she had with B2. Although, in relation to her recollection about B1 seeking information about a vehicle parked outside his house, it is possible that this request was actually in relation to the details of the registered owner of the Commodore. Furthermore, B3's recollection that the information later provided by Sergeant Shadgett that the vehicle was a "cop car" is generally consistent with B1's recollection that he was told that the Commodore was "taboo".
- 123) The Commission also considers that B4 gave evidence to the best of her memory concerning her recollection of the drug purchases she made from B1 on behalf of Mr Petrelis. Although she was unable to recall certain details, the Commission

believes that this is understandable given the lapse of time since the event. Nevertheless, the Commission believes that B4's evidence confirms B1's account that he never met the driver of the Commodore personally and was not aware of his identity other than possibly as Andy. Furthermore, B4's account confirms B1's account that he was suspicious about the driver of the Commodore.

- 124) B1 accepted that he received information, either from Sergeant Shadgett directly or via B2, that the Commodore was in some way connected with the names Andrew Parker and Peter Clay and the address of 24 Ormsby Terrace, Mandurah. His recollection in relation to these names was vague and it has not been possible for the Commission to determine whether this vagueness was deliberate or due to a genuine lapse of memory since the events. Nevertheless, his evidence clearly suggests that information was disclosed by Sergeant Shadgett concerning Mr Petrelis' covert details which included his covert name of Andrew Parker of 24 Ormsby Terrace, Mandurah, and the name Peter Clay.
- 125) The Commission appreciates that Detective A and Detective B were unable to recollect the meeting they were said to have attended with B1 at the Barrack Street Jetty. However, the Commission believes that it is highly probable that the meeting took place and formed the basis on *NCA Harpy 189*. The Commission accepts that Detective A was unable to provide specific details concerning *NCA Harpy 189* due to section 51 of *the National Crime Authority Act 1984*.
- 126) The Commission notes B2's comment that he may have sought registration details without realising that they were connected to Mr Petrelis. It is clear the details were provided, however, unclear whether Sergeant Shadgett directly disclosed to B2 the names Mr Parker of 24 Ormsby Terrace, Mandurah and Peter Clay or whether he provided the information directly to B1.
- 127) The Commission believes that it is possible that Sergeant Shadgett discovered the Offence Report¹²⁷ (see paragraph 58) which stated that a police officer (Thomas Peter Clay) was the registered owner of Commodore 9BZ305. If he did, it is likely that this information may have been *disclosed* by Sergeant Shadgett to B2 leading to him telling B1 during the intercepted telephone conversation of 26 May 1993 that the person was an "*undercover cop*".
- 128) In conclusion, the Commission is satisfied that information concerning Mr Petrelis' covert details was '*accessed*' and later '*disclosed*' by Sergeant Shadgett to persons outside the WAPS. The Commission is also satisfied that the information accessed by Sergeant Shadgett concerning Mr Petrelis was ultimately received by B1. This included Mr Petrelis' covert name of Andrew Parker of 24 Ormsby Terrace, Mandurah and the name Peter Clay who was linked to Mr Petrelis' case.
- 129) The Commission notes that Sergeant Shadgett is no longer employed by the WAPS and therefore not subject to disciplinary action for any possible breach of discipline under Police Service *Routine Orders and Procedures*. However, it still

¹²⁷ The Offence Report is accessible to all police officers and does not create an audit trail.

remains to be determined whether Sergeant Shadgett's accesses to Mr Petrelis' covert identity and the subsequent disclosure of that information is a breach of section 81 of the *Criminal Code*. This is a question for the Director of Public Prosecutions to determine.

- 130) The Commission has no evidence that the intercepted telephone conversations in which B5 was seeking registration details on behalf of B10 were connected with the subsequent access of Mr Petrelis' covert details by Sergeant Shadgett. Moreover, the Commission has no reason to doubt B5's recollection that he was seeking the registration details of a vehicle on behalf of a B10.

4.13 Recommendation

- 131) **The Commission recommends that evidence gathered concerning the alleged access and disclosure of confidential police information by Sergeant Shadgett to persons outside the WAPS he forwarded to the DPP for consideration.**

4.14 Access to Mr Petrelis' covert details by Constable Davy

- 132) On three consecutive occasions on 31 May 1995, a person using Constable Davy's police user identification number accessed the police mainframe computer via a computer terminal situated in interceptor booth 4 at Police Communications, Perth. The accesses were to -
- Mr Thomas Clay at 7. 38am.
 - vehicle 9BZ305 at 7. 56am.
 - Mr Andrew Nicholas Parker at 7:56am.
- 133) The WPU were immediately notified of the accesses of 9BZ305 and Andrew Parker as they activated the "trap" which had been placed on Mr Petrelis' covert identity. Arrangements were then made for PO2 from Police Operations to interview Constable Davy that same day. According to the PO2, Constable Davy's explanation to him was that he had simply being "*playing around for something to do*". A couple of hours later, Constable Davy was again interviewed by two officers from the IAU¹²⁸ and told them that he accessed the details relating to "Parker" because he was an Elvis Presley fan and Parker was the name of Presley's Manager that of Colonel Tom Parker. Constable Davy denied accessing the name "Clay".

¹²⁸ Detective C and Sergeant PO1

4.15 Constable Davy's account

- 134) Constable Davy's account to the Special Investigator was that he was approached at the Winning Post Tavern in Belmont by a B6, a taxi driver, who he knew on a casual social basis¹²⁹. Constable Davy said that B6 was aware that he was a police officer and asked if he could check the credibility of two male persons who wanted to buy/hire his taxi. Constable Davy's recollection was that the names provided were Thomas Clay of Safety Bay or Salters Point¹³⁰ and Andrew Parker of no known address who owned an early model Commodore vehicle¹³¹. According to Constable Davy, he told B6 *"Well, I could have a look but I can't tell you very much"*.¹³²
- 135) Constable Davy admitted that he then entered the names Parker and Clay on the police mainframe computer during work hours on 31 May 1995. Constable Davy also confirmed that the accesses were made from his computer at Booth 4 at Police Communications.¹³³ His recollection was that there was possibly one match to Thomas Clay of Safety Bay or Salters Point¹³⁴ with the full name of Thomas Peter Mark Clay. According to Constable Davy, the name Thomas Peter Mark Clay was connected to the vehicle with registration 9BZ305 but he was unable to explain the connection and accepted that the situation was somewhat "unusual".¹³⁵ Constable Davy then entered the vehicle registration 9BZ305 which he believed may have led him to access Mr Petrelis' covert details of Andrew Nicholas Parker.
- 136) Constable Davy's recollection was that he was approached by the Officer in Charge of Police Operations, PO2, immediately after he had accessed the name Andrew Nicholas Parker.¹³⁶ PO2 asked Constable Davy to explain the reason why he had accessed the name Parker to which he replied *"I was messing around on the computer and I'm an Elvis fan"*. According to Constable Davy, his conversation with PO2 lasted only a couple of minutes and that PO2 appeared satisfied with his explanation.¹³⁷ Constable Davy admitted to the Special

¹²⁹ Transcript of evidence of Constable Davy to the Anti-Corruption Special Investigator, 25 May 2000

¹³⁰ Transcript of evidence of Constable Davy to the Anti-Corruption Special Investigator, 25 May 2000

¹³¹ Transcript of evidence of Constable Davy to the Anti-Corruption Special Investigator, 25 May 2000

¹³² Transcript of evidence of Constable Davy to the Anti-Corruption Special Investigator, 25 May 2000

¹³³ Transcript of evidence of Constable Davy to the Anti-Corruption Special Investigator, 25 May 2000

¹³⁴ It was put to Constable Davy the possibility of the address being Mandurah but he maintained that it was a "water" suburb starting with the letter "s". Evidence of Constable Davy to the Anti-Corruption Special Investigator, 25 May 2000

¹³⁵ Transcript of Constable Davy's evidence to the Anti-Corruption Commission Special Investigator, 25 May 2000

¹³⁶ Traps had been placed on the name Andrew Nicholas Parker

¹³⁷ Transcript of Constable Davy's evidence to the Anti-Corruption Commission Special Investigator, 25 May 2000

Investigator that his account of accessing the name Parker, because he was an Elvis fan, was fabricated.¹³⁸

- 137) Later that morning, PO1 and Detective C arrived at Police Communications to interview Constable Davy about the reasons for his accesses to the names Parker and Clay. Constable Davy again said that he had accessed the name Parker because he was an Elvis fan and Colonel Tom Parker was the name of Elvis' Manager. According to Constable Davy, he persisted with this story in the hope that he may retain his employment with the WAPS.
- 138) A day or two later, Constable Davy attended the Winning Post Tavern where he was approached by B6 who queried whether he had been able to obtain any information on Mr Clay and Mr Parker. According to Constable Davy, he simply told B6 *that "the names were too hot for me to handle. I am not going to touch them."* Constable Davy maintained that was the extent of information that he provided and B6 did not pursue the matter further.¹³⁹

4.16 B6's account

- 139) In his evidence to the Special Investigator, B6 said that he had worked as a taxi driver for a business managed by B7 of E2¹⁴⁰. B6 recalled a meeting which B7 held with the regular taxi drivers at which he informed them that the business was having financial difficulties. B7 mentioned the possibility that two business colleagues may invest (whose names B6 could not recall) in the business and queried whether any of the drivers knew about their credibility.¹⁴¹
- 140) B6 later attended the Winning Post Tavern, Belmont, where he approached Constable Davy who he knew only on a casual social basis. During the course of a conversation, B6 told Constable Davy that there were two persons interested in investing in E2 and asked if he could check their details to ascertain whether they were credible. B6 believed that he wrote the names down for Constable Davy¹⁴² and said *"just let me know"* if you find out anything interesting about the named persons.¹⁴³
- 141) A couple of days later, B6 spoke to Constable Davy at the Winning Post Tavern who said words to the effect of *"Tell your boss...leave them alone...they are bad*

¹³⁸ Transcript of Constable Davy's evidence to the Anti-Corruption Commission Special Investigator, 25 May 2000

¹³⁹ Transcript of Constable Davy's evidence to the Anti-Corruption Commission Special Investigator, 25 May 2000

¹⁴⁰ Transcript of B6's evidence to the Anti-Corruption Commission Special Investigator, 6 June 2000

¹⁴¹ Transcript of B6's evidence to the Anti-Corruption Commission Special Investigator, 6 June 2000

¹⁴² Transcript of B6's evidence to the Anti-Corruption Commission Special Investigator, 6 June 2000

¹⁴³ Transcript of B6's evidence to the Anti-Corruption Commission Special Investigator, 6 June 2000

news".¹⁴⁴ According to B6, he relayed this information to B7 who indicated that he had received similar information from other sources.¹⁴⁵

4.17 B7's account

- 142) In his evidence to the Special Investigator, B7 said that he was the sole proprietor of E2 from October 1993 until July 1995 which was based in Bayswater, Perth. The company provided a service, to persons who invested in the purchase of taxi plates, by organising taxi vehicles, drivers and general maintenance. This meant that the investors could receive a return from their taxi plates without the responsibility of the day to day running of the taxi.
- 143) During this period, B7 had a close friendship with B1 who regularly attended the E2 workshop and offered his assistance. It was also around this time that E2 was suffering financial difficulties and B1 suggested to B7 that he and two "mates" could invest \$40 000 in the business.¹⁴⁶ B7 recalled that one of surnames was "Clay" but was unable to recall the other name.¹⁴⁷
- 144) After his conversation with B1, B7 had a meeting with a number of his taxi drivers and told them that the company was suffering financial problems but there was a possibility of an injection of capital by a number of investors. He believed that he would have named the possible investors to the group of about three or four drivers which he recalled included B6.
- 145) B7 later attended the City Police Station at Curtin House, Beaufort Street, and provided the name of B1 to a male uniformed police officer¹⁴⁸ working at the inquiry counter who entered the name of a computer. According to B7, the officer told him that if he "touched" this person he was "mad".¹⁴⁹
- 146) B7 met with B6 two or three days later and B6 warned him that he would be "stupid" if he went anywhere near B1 and the other two persons who B7 could not recall. In particular, B6 said that his contact had told him that there were investigations pending on all three persons and to stay "well clear of them".¹⁵⁰

4.18 B1's account

¹⁴⁴ Transcript of B6's evidence to the Anti-Corruption Commission Special Investigator, 6 June 2000

¹⁴⁵ Transcript of B6's evidence to the Anti-Corruption Commission Special Investigator, 6 June 2000

¹⁴⁶ Transcript of B7's evidence to the Anti-Corruption Commission Special Investigator, 7 July 2000

¹⁴⁷ Transcript of B7's evidence to the Anti-Corruption Commission Special Investigator, 7 July 2000

¹⁴⁸ Transcript of B7's evidence to the Anti-Corruption Commission Special Investigator, 7 July 2000

¹⁴⁹ Transcript of B7's evidence to the Anti-Corruption Commission Special Investigator, 7 July 2000

¹⁵⁰ Transcript of B7's evidence to the Anti-Corruption Commission Special Investigator, 7 July 2000

- 147) In his evidence to the Special Investigator, B1 said that it was "*possible*" that he mentioned the Victoria Park incident to B7.¹⁵¹ He said that B7 was a close friend at the time and continually "*bragged*" that he had a female friend who was very senior in the "*Police Force or somewhere*" and could provide him with confidential information. Despite his braggings, B1 said that he had never received any confidential police information from B7.¹⁵²
- 148) It should be noted that B1 was not questioned during the Special Investigation about B7's claims that B1 mentioned the names Clay and Parker and possible investors in E2.

4.19 Conclusions

- 149) Constable Davy admitted to the Special Investigator that he accessed details connected to Mr Petrelis on three consecutive occasions on 31 May 1995. He said that he accessed the details on behalf of a B6 who wanted to check the credibility of two persons who apparently wanted to hire/buy his taxi. Constable Davy's recollection was that the names provided were Thomas Clay of Safety Bay or Salters Point and Andrew Parker of no known address who owned an early model Commodore vehicle. However, he maintained that he did not ultimately disclose any of the accessed information and informed B6 that the names were "*too hot to handle*".
- 150) B6's account corroborated Constable Davy's account in that he agreed that he provided the Constable with the names of two persons and asked him to check their credibility as they wanted to invest in E2. B6 was unable to recall the names but said that B7 had mentioned them as possible investors in his financially troubled taxi company. B6 also agreed that Constable Davy later told him that the names were "*too hot to handle*" and to "*tell your boss to stay away*". B6's evidence made no mention of suburb names or vehicle details as recalled by Constable Davy.
- 151) B7 agreed that he mentioned the names of possible investors to a group of his regular taxi drivers, which included B6, but was unable to recall the names other than to say that one of the surnames was possibly "*Clay*". B7 made no mention of an early model Commodore being connected with the name Andrew Parker as recollected by Constable Davy. He also made no mention that Thomas Clay possibly resided in Safety Bay or Salters Point as recollected by Constable Davy. However, B7 did agree that B6 reported back to him and told him to stay away from all "*three*" men as they were under police investigation. B7 said that an officer, who he approached at the City Police Station at Curtin House, also warned him to stay away from B1.

¹⁵¹ Transcript of B1's evidence to the Anti-Corruption Commission Special Investigator, 9 June 2000

¹⁵² Transcript of B1's evidence to the Anti-Corruption Commission Special Investigator, 8 June 2000

- 152) B1 said that it was a possibility that he mentioned the Victoria Park incident to B7 saying that B7 was always bragging that he had police contacts in high places. However, B1 was unable to assist the Commission regarding any conversation that he may have had with B7 concerning this matter.
- 153) There are certain discrepancies between the evidence of the various witnesses concerning the circumstances surrounding Constable Davy's accesses of information connected with Mr Petrelis. These discrepancies mainly relate to the extent of the details sought by B6 and provided to Constable Davy and later relayed to B7. Nevertheless, there is substantial concurrence between the witnesses' account concerning the reasons for the access and the extent and nature of the information ultimately disclosed by Constable Davy.
- 154) In view of the above, the Commission is satisfied that there is sufficient evidence that Constable Davy improperly accessed information connected with Mr Petrelis on the police mainframe computer on three consecutive occasions while Mr Petrelis was on the WPP. The Commission is satisfied that the accesses were conducted at the request of B6. From the evidence available no information was released other than to say that the information was *"too hot to handle"*. In these circumstances, the Commission considers that there is insufficient evidence to support a criminal offence under section 81 of the *Criminal Code* which requires proof of *disclosure* of confidential information. Furthermore, given that Constable Davy has since resigned from the WAPS he cannot be subject to disciplinary action.

5 ISSUE 2 - WHETHER THE ACCESSES TO MR PETRELIS' COVERT IDENTITY WERE IN ANYWAY LINKED TO HIS DEATH

5.1 Introduction

- 155) The improper accesses to Mr Petrelis' covert details by Sergeant Shadgett and Constable Davy have led to concerns in some quarters that they were in some way connected with the subsequent death of Mr Petrelis/Parker. In relation to Sergeant Shadgett, there is evidence that some of the information he accessed was provided to B1. It is also likely certain parts of the information accessed by Sergeant Shadgett may have also been provided to B2 although the evidence on this matter is unclear (see "Issue 1"). This section of the report addresses whether B1 and B2 were *aware* that the details that they were provided, concerning the owner of the Commodore, in fact related to protected witness Mr Petrelis. Furthermore, whether the accessing of Mr Petrelis' covert details by either Sergeant Shadgett or Constable Davy were linked with his death.

- 156) In relation to Constable Davy's access, there is no evidence to suggest that he disclosed any information concerning Mr Petrelis' covert identity apart from a warning to B6 to *"stay away"* as the information was *"too hot to handle"*. Furthermore, Constable Davy maintained that he had no association with the persons against whom Mr Petrelis was to give evidence (Mr Kizon and Mr Rippingale) or any of their associates and was never aware that Mr Parker was in fact Mr Petrelis. There is no evidence that the accesses by Constable Davy to information connected with Mr Petrelis were linked to his death.
- 157) Mr Kizon appeared before the Special Investigator and was questioned concerning the allegation that he was in some way involved in the death of Mr Petrelis. Mr Kizon denied any such involvement or of receiving any information from B2, B1 or any other person concerning Mr Petrelis' covert identity.¹⁵³ Mr Kizon did agree that he had knowledge of the death of Mr Petrelis prior to his death being reported in West Australia Newspaper. How Mr Kizon gained this knowledge is addressed in this Issue.

5.2 Knowledge that the driver and/or registered owner of the Commodore 9BZ305 was protected witness Mr Petrelis

5.2.1 B1

- 158) B1 admitted to the Special Investigator that he knew that the registered owner of Commodore 9BZ305 was an Andrew Parker of 24 Ormsby Terrace, Mandurah. He also conceded that he had the mobile telephone number of the person he knew as Mr Parker. B1 also agreed that B2 told him that the Commodore was *"taboo"* and to *"stay away"*. Furthermore, he accepted that he used the name Peter Clay when contacting Police Communications on 24 May 1995 but was unable to provide a reason for doing this despite being told during examination before the Special Investigator that Detective Clay was a police officer who was linked to Mr Petrelis/Parker's case (see paragraph 58 at "Issue 1").
- 159) Although B1 admitted to certain knowledge of the details relating to Mr Petrelis' covert identity, he maintained that he was never aware that Mr Parker was in fact Mr Petrelis. He also maintained that he had no knowledge that Mr Parker (Petrelis) was under witness protection or that he was a person who was to give evidence in the trial of Mr Kizon and Mr Rippingale on drug charges. He agreed that he knew Mr Kizon but denied providing him with any details relating to Mr Petrelis' covert identity. He maintained that he never discussed Mr Petrelis' covert details with any associates of Mr Kizon apart from the discussion he had with B2 (see paragraph 58 at "Issue 1").
- 160) B1 maintained that he never had any desire to meet Mr Parker (Petrelis) and he expressed this to B4. He was unsure as to how he obtained Mr Parker's (Petrelis)

¹⁵³ Transcript of Mr Kizon's evidence to the Anti-Corruption Commission Special Investigator, 6 July 2000

mobile telephone number but believed that it may have been recorded on his mobile when B4 called him from Mr Parker's (Petrelis) mobile telephone (see paragraphs 61 at "Issue 1").

- 161) B4 confirmed that she had purchased amphetamines on two consecutive occasions from B1 on behalf of a person she knew then only as Andy. She indicated that she may told B1 that her friend's name was Andy but maintained that B1 never actually met Andy. B4 also confirmed that she telephoned B1 on Andy's mobile telephone number and that B1 later visited her warning her to "stay away" from Andy as he was "suss".
- 162) As discussed at "Issue 1", the Commission had a concern that *NCA Harpy 189* and *NCA harp0193* had both mentioned the names Nicholas Andrew Petrelis and Andrew Nicholas Petrelis respectively. In relation to *NCA Harpy 189*, the source of that information was recorded as B1. The Information Reports seemingly contradicted B1's account that he was not aware that the driver of the Commodore was Mr Petrelis.
- 163) The *NCA Harpy 189* recorded that Detective A received the information on 19 May 1995 from B1. The NCA records (see paragraphs 91 -103 at "Issue 1") indicated that a request for the subscriber name and address for mobile telephone number 015996222 was forwarded to Optus Communications on 19 May 1995 at the instruction of Detective A. A response was received at the NCA that same day indicating that the mobile telephone was registered to *Union ANA P/L – Nicholas Petrelis*.
- 164) The Commission heard evidence from the Detective A in relation to *NCA Harpy 189* (see paragraph 99). Detective A's evidence was restricted by section 51 of the *National Crime Authority Act 1984* but he did say that B1 "doesn't know and never had known Petrelis". In relation to the subscriber name and address for mobile telephone number 015996222, he also commented "that's where I would say it's been translated on to – on to the IR".
- 165) The Commission heard evidence from B9 who was formerly a NCA Analyst. As discussed (see paragraph 101), B9 surmised that the author of *NCA Harpy 189* would have conducted a subscriber check for Mr Petrelis/Parker's mobile telephone number which confirmed that the owner was Mr Petrelis. In this regard, he suggested that the report would have been an "amalgam" of both the information received from B1 and the subscriber name and address information received from Optus for mobile telephone service 015996222.
- 166) In relation to *NCA harp0193*, B9 confirmed that he was the author of that report and explained that it contained information from telephone intercept material, *NCA Harpy189*, telephone checks and surveillance reports. The Commission also heard evidence from Detective B who confirmed that he was the reporting officer of *NCA harp0193* despite that he was unable to specifically recall the matter.

- 167) The IAU Running Sheet of 29 May 1995 also mentioned the name Andrew Petrelis. Detective C is believed to have been the author of this report but it has not been possible for the Commission to interview him (see paragraph 105 at “Issue 1”). The Running Sheet stated that Detective C spoke to Detective B at the NCA. Detective B was unable to recall the meeting but believed that Detective C would have had discussions with a number of NCA Officers, mainly Detective A, in order to prepare the Running Sheet. However, Detective B did say that he received no indications that B1 was ever aware that the person purchasing drugs from the “prostitute” was actually Mr Petrelis.¹⁵⁴

5.3 Conclusion

- 168) It is apparent that Sergeant Shadgett provided B1, either directly or via B2, with the name Andrew Parker of 24 Ormsby Terrace, Mandurah and the name Peter Clay. It is also evident that B1 had Mr Petrelis/Parker’s mobile telephone number which, in all probability, he provided to Detective A when he met with him at the Barrack Street Jetty on 19 May 1995. The evidence is that, on 19 May 1995, Detective A then instructed a NCA officer to conduct a subscriber name and address check for the mobile telephone number. The check revealed that the mobile telephone service was registered to *Union ANA P/L – Nicholas Petrelis*. It would appear that *NCA Harpy189* was then drafted on 23 May 1995 making reference to the name Mr Nicholas Andrew Petrelis, the father of Andrew Petrelis.
- 169) The evidence of B9, Detective B and Detective A suggests that *NCA Harpy189* contained a combination of information received by Detective A from B1 on 19 May 1995 plus information gained through the subscriber name and address check on the mobile telephone number conducted that same day. There is no evidence to indicate that the name “Petrelis” was provided by B1 to Detective A as contained in *NCA Harpy189* and which later formed the basis of *NCA harp0193* and the IAU Running Sheet of 29 May 1995. In this regard, the Commission was satisfied that *NCA Harpy189*, *NCA harp0193* and the IAU Running Sheet’s reference to the name “Petrelis” was not indicative that B1 had knowledge that the driver of the Commodore 9BZ305 was in fact protected witness Mr Andrew Petrelis.
- 170) The Commission also notes that the telephone intercept material of 26 May 1995 is consistent with B1’s evidence that he was informed that the Commodore was “taboo” and to “stay away”. Furthermore, the Commission refers to the transcript of B1’s telephone conversation with Police Communications and his reported telephone conversation with Mr Parker (Petrelis) both on 24 May 1995 which again suggests that B1 believed that the owner of the Commodore was Mr Andrew Parker of 24 Ormsby Terrace, Mandurah and/or connected with a police officer who was supposedly Peter Clay. The transcript of his conversation with Police Communications contained no reference to the name Petrelis.

¹⁵⁴ Telephone conversation between Anti-Corruption Commission Investigator and Detective B, 22 November 2000

- 171) B1 maintained that he did not discuss Mr Parker's details with Mr Kizon or Mr Rippingale. This is supported by evidence from Mr Kizon. B1 agreed that he obviously discussed the matter with B2, who he knew was an associate of Mr Kizon. B1 also maintained that B4 made no mention that her friend was actually Mr Andrew Petrelis which is confirmed by B4 who says that she only knew her friend by his first name of Andy. B4 agreed that B1 later attended her premises but recalled no conversation which indicated that B1 was aware that her friend Andy was actually protected witness Mr Andrew Petrelis.
- 172) In conclusion, the Commission has not uncovered any evidence to suggest that B1 was ever aware that Mr Parker was in fact Mr Petrelis around the time that the computer accesses were made relating to Mr Petrelis' covert identity. Furthermore, the Commission has no evidence that B1 disclosed any information relating to Mr Parker to Mr Kizon or Mr Rippingale.

5.4 B2

- 173) B2's evidence to the Special Investigator was that he possibly requested information from Sergeant Shadgett about a person's confidential police details without knowing that those details related Mr Petrelis' covert identity. However, he was unable to explain any of the May 1995 telephone intercept material or CCRs and had no recollection of actually receiving information from Sergeant Shadgett concerning details of the owner of the Commodore 9BZ305 (see paragraph 63 at "Issue 1").
- 174) The IAU Running Sheet of 29 May 1995 stated that B2 had told the NCA that he does "checks ... through Shadgett for... B1.... In the incident of Petrelis' details being leaked, it was as a result of a request from B1". One interpretation of the Running Sheet could be that B2 was aware of the identity of Mr Petrelis. Detective C believed to be the author of the Running Sheet was unable to be interviewed to clarify this matter. However, Detective B who was at the NCA at the time was questioned on this matter and was very clear in saying that B2 was never aware that the driver of the Commodore was Mr Petrelis (see paragraph 106 at Issue "1").
- 175) The Commission also considered how B2 received the information that the registered owner of the Commodore was an "undercover". On the evidence available, it appears the information came from Sergeant Shadgett. It appears that B2 then passed the information to B1 during the intercepted telephone conversation of 26 May 1993 that the person was an "undercover" (see paragraph 124 of "Issue 1").

5.5 Conclusion

- 176) B2 contends that he may have sought details concerning the owner of a vehicle from Sergeant Shadgett without being aware that those details related to Mr Petrelis' covert identity. However, there is insufficient evidence to establish whether B2 actually received information from Sergeant Shadgett (or B1) concerning Mr Petrelis' covert details. In this regard, Detective B has also confirmed that the IAU Running Sheet of 29 May 1995 should not been interpreted to suggest that B2 was aware that the registered owner of the Commodore 9BZ305 was in fact Mr Andrew Petrelis. According to Detective B, B2 had no knowledge that the driver of the Commodore was in fact Mr Petrelis.
- 177) There is no conclusive evidence that the accessed details of Mr Petrelis' covert identity were disclosed by Sergeant Shadgett directly to B2, although indications are that he somehow became aware of some information concerning the registered owner of Commodore 9BZ305. It is, acknowledged that B2 was and remains an associate of both Mr Kizon and Mr Rippingale and would have had the opportunity to disclose any information to Mr Kizon or Mr Rippingale directly. However, in the absence of any independent witness or evidence such as telephone intercept material, it is not possible to conclude that information accessed by Sergeant Shadgett and provided to B2 and B1 was passed on to anyone else.

5.6 B3's evidence

- 178) B3 gave evidence to the Special Investigator which raised the issue of whether B2 may have had some prior knowledge of the death of Mr Petrelis.
- 179) B3's evidence arose as a result of being asked whether she had any recollection of Mr Petrelis' name being mentioned at B2's workshop in 1995. B3's answer was "Not by name" and when asked to elaborate said "*B2 had a phone call one day and when he got off he just jokingly said 'They even get you when you're on witness protection'.*"¹⁵⁵ B3 did not know the identity of the person to whom B2 had been speaking nor the identity of the person he referred to as being on witness protection. She also said that she was the only person who heard B2's comment.
- 180) B3 clearly recalled that the comment was made prior to a newspaper article appearing in the West Australian Newspaper which reported the death of protected witness, Mr Petrelis. She was able to say that the reporting of the matter was a "*week at the most*" after she had heard B2's comment. At that point, B3 was told that the article appeared in the West Australian Newspaper on Thursday 14 September 1995.¹⁵⁶ On the basis of that information, B3 recalled that B2's comment was made in the morning and would not have been made on –

¹⁵⁵ Transcript of B3's evidence to the Anti-Corruption Commission Special Investigator, 13 June 2000

¹⁵⁶ Transcript of B3's interview with Commission Investigators, 24 November 2000, tape 1

- Thursday 7 September 1995 as it was B2's practice to be in the workshop that morning preparing his vehicles for the speedway. In this regard, B3 did not put the telephone calls through to B2 but rather took messages.¹⁵⁷
 - Friday 8 September 1995 as B2 did not attend the workshops on Friday.¹⁵⁸
 - The weekend of 9 and 10 September 1995 as she did not work weekends.¹⁵⁹
- 181) Having eliminated Thursday 7 September 1995 to Monday 11 September 1995, B3 said that the comment was probably made either on Monday, Tuesday or Wednesday morning.¹⁶⁰
- 182) The Commission has received evidence that Mr Petrelis' father was notified of his son's death on the morning of Monday 11 September 1995 between approximately 9:30am and 10:00am. Mr Petrelis told the Commission¹⁶¹ that he informed his wife and two children of Andrew's death at approximately 12:00 noon that same day. Mr Petrelis then informed his two brothers of his son's death and asked them to notify the remainder of the family. According to Mr Petrelis, his extended family would probably have known of his son's death by about 4:00 or 5:00pm on Monday 11 September 1995.
- 183) The Commission has received evidence that a relation of Mr and Mrs Petrelis' is married to a member of the B13 family who are the proprietors of a company called E1. In his evidence to the Commission, Mr Kizon said that he believed that he attended E1 and was told by a member of the B13 family that Andrew Petrelis had died of a drug overdose a "*couple of days*" prior.¹⁶² Mr Kizon said that he would have attended E1 on a week day¹⁶³ and believed that he would have immediately telephoned Mr Rippingale and told him of Mr Petrelis' death as he "*had nothing to hide*" and Mr Petrelis was going to "*testify against him (Mr Rippingale)*".¹⁶⁴
- 184) The Commission also heard evidence that Channel Seven Television reporter, Ms Alison Fan, had telephoned Mr Kizon on the evening of 13 September 1995 concerning a report that he had been admitted to hospital. During that conversation, Mr Kizon informed Ms Fan that protected witness Mr Petrelis had died from a drug overdoses on the Gold Coast, Queensland. Ms Fan then contacted newspaper reporter, Ms Cash, who subsequently prepared the report

¹⁵⁷ Transcript of B3's interview with Commission Investigators, 24 November 2000, tape 1

¹⁵⁸ Transcript of B3's interview with Commission Investigators, 24 November 2000, tape 1

¹⁵⁹ Transcript of B3's interview with Commission Investigators, 24 November 2000, tape 1

¹⁶⁰ Transcript of B3's interview with Commission Investigators, 24 November 2000, tape 1

¹⁶¹ Transcript of Mr Petrelis' voluntary interview with the Anti-Corruption Commission, 29 June 2000

¹⁶² Transcript of Mr Kizon's evidence to the Anti-Corruption Commission Special Investigator, 6 July 2000

¹⁶³ Transcript of Mr Kizon's evidence to the Anti-Corruption Commission Special Investigator, 6 July 2000

¹⁶⁴ Transcript of Mr Kizon's evidence to the Anti-Corruption Commission Special Investigator, 6 July 2000

on Mr Petrelis' death which appeared in the West Australian Newspaper on 14 September 1995.

5.7 Conclusion

- 185) Although it is evident that Mr Kizon was aware of Mr Petrelis' death before it was publicly reported in Western Australia, there is no evidence that Mr Kizon had any knowledge of Mr Petrelis' death prior to notification being given to Mr Petrelis' family.
- 186) The Commission has considered carefully B3's evidence that B2 commented to her *"They even get you when you're on witness protection"* after a conversation with an unidentified person. On the basis of B3's evidence, it is likely that the comment was made after Mr Petrelis' extended family in Perth were aware of his death but prior to the reporting of the death in the West Australia Newspaper on 14 September 1995.

5.8 Mr Petrelis' drug use

- 187) In her evidence to the Commission, B4 said that Andy (whom she identified from a photograph as Mr Petrelis) was purchasing and using heroin around May 1995. B4 explained that she witnessed Andy using heroin on about four occasions at B8's house in Leederville. B4 could not specifically recall Andy's method of taking heroin but commented that he probably would have used heroin the *"traditional way"* by injecting in the arm.¹⁶⁵
- 188) In his evidence to the Queensland Coronial Inquest on 29 November 2000, Dr Naylor, Pathologist, commented that it was possible that there had been injection in both arms of Mr Petrelis within a 12 hour period prior to his death.¹⁶⁶
- 189) The Commission has examined WPU file notes¹⁶⁷ prepared by Sergeant Thompson indicating that he received two telephone calls from Mr Petrelis at 9.30am and 10.30am on 8 June 1995. Mr Petrelis telephoned Sergeant Thompson in Perth from Queensland and said that he was using heroin and blamed his addiction on his ex-girlfriend and Mr Kizon. It should be noted that these file notes appear to be in direct conflict with Sergeant Thompson's final report to Inspector Hersey¹⁶⁸ on 23 November 1995 concerning the death of Mr Petrelis and were also absent from the WPU Running Sheet.


¹⁶⁵ Transcript of B4's evidence of interview with the Anti-Corruption Commission Special Investigator, 2 December 2000, tape 1

¹⁶⁶ Transcript of Queensland Coronial Inquest, 29 November 2000

¹⁶⁷ Two file notes from WPU files by Thompson dated 8 June 1995

¹⁶⁸ Report to Detective Inspector Hersey from Sergeant Thompson re Death of Petrelis on 23 November 1995 (Not included as attachment due to sensitivity of documentation)

5.9 Conclusion

- 190) In regard to B3's evidence that B2 commented to her "*They even get you when you're on witness protection*" after a conversation with an unidentified person, it is likely that the comment was made subsequent to Mr Petrelis' extended family and those associated with them in Perth becoming aware of his death but prior to the reporting of the death in the West Australian Newspaper on 14 September 1995. This likelihood is supported by the evidence that Mr Kizon heard of Mr Petrelis' death from a relative of Mr Petrelis a couple of days after he died but prior to the article of the death appearing in the West Australian Newspaper on 14 September 1995.
- 191) The Commission also notes the evidence of B4 in relation to Mr Petrelis' drug taking during mid-1995 and the WPU file notes. The Commission makes no further comment on this matter but intends to forward the information to the Commissioner of the Queensland Police Service for his consideration.
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6 ISSUE 3 - WHY WAPS, HAVING EVIDENCE THAT CERTAIN POLICE OFFICERS HAD IMPROPERLY ACCESSED INFORMATION ON THE POLICE COMPUTER, AND IN ONE CASE PASSED THAT INFORMATION TO A PERSON OUTSIDE THE POLICE SERVICE, FAILED TO TAKE ANY ACTION AGAINST THE IDENTIFIED OFFICERS

6.1 Introduction

- 192) There is evidence that both Constable Davy and Sergeant Shadgett improperly accessed the WAPS mainframe computer with the initial intention of providing information to persons outside the police service. In relation to Sergeant Shadgett, the Commission was provided with evidence which revealed that he had a history of disclosing confidential police information to persons outside the WAPS and that no affirmative action was taken concerning his conduct. Likewise, information was also provided concerning an incident in which Constable Davy had previously provided confidential police information to persons outside the WAPS.
- 193) On 18 June 1996, Constable Davy pleaded guilty in the Perth District Court to committing an offence under section 81 of the *Criminal Code*. On 22 June 1996, an IAU recommendation was made that Constable Davy be dismissed from the WAPS. The WAPS accepted the recommendation with Constable Davy officially leaving the WAPS on 12 July 1996.

6.2 Sergeant Shadgett

- 194) Sergeant Shadgett first came to the attention of the WAPS in 1986 during a joint WAPS and AFP operation codenamed *Operation Melon* which targeted persons involved in large scale heroin importation and distribution. During the operation, Sergeant Shadgett attended one of the suspects employment premises where listening devices recorded him being indiscreet with confidential police information. At that time, the WAPS did not pursue any action against Sergeant Shadgett due to not wanting to compromise *Operation Melon*.
- 195) In July 1992, the IAU commenced an inquiry into Sergeant Shadgett as a result of an informant claiming that a target of the Undercover Police Unit said that he could obtain confidential police information and prior warning of police raids from a serving police officer. It was suspected that the police officer was Sergeant Shadgett, however, the informant became concerned for his safety and declined to assist the IAU any further with the result that the investigation was discontinued.

- 196) In 1992, Sergeant Shadgett was also subject to surveillance during NCA *Operation Beagle* concerning his suspected criminal associations with B2. The investigation targeted B2 and [Person 1] and involved both physical and electronic surveillance. The information acquired included B2 driving around in a marked police vehicle and telephone intercept material which revealed that Sergeant Shadgett provided B2 with confidential police information.
- 197) In December 1992, the NCA forwarded an information report to the IAU which outlined Sergeant Shadgett's relationship with B2 and his improper disclosure of confidential police information. The NCA advised that the evidence of the improper disclosure of confidential police information by Sergeant Shadgett was obtained by the use of a telephone intercept.
- 198) The intercept product revealed B2 making a telephone call to Sergeant Shadgett requesting information concerning a B14. The telephone intercept product then records Sergeant Shadgett accessing B14's details and answering B2's queries. The telephone intercept product also records two background voices identified as B3 and a female named B15 who at that time worked in the same offices as B2 and Sergeant Shadgett respectively.
- 199) In regard to the telephone intercept product, the NCA requested the IAU not to actively use the information as it would compromise their investigation in that Sergeant Shadgett would then be made aware that B2's telephone conversations were being intercepted by police. The IAU agreed not to pursue further inquiries into Sergeant Shadgett until completion of the NCA inquiry.
- 200) As a result of the restriction on using the information, it would appear that the IAU's proposed strategy¹⁶⁹ was to install a listening device at Sergeant Shadgett's office at the Transport Section on completion of the NCA investigation. The plan was apparently for a surveillance vehicle to position itself within sight of B2's work premises in anticipation that B2 would contact Sergeant Shadgett and request the registration details of that vehicle. However, the IAU did not proceed with the plan as Sergeant Shadgett went on extended sick leave at the time when the NCA investigation was nearing completion.
- 201) On his return to duty, Sergeant Shadgett was transferred to the Central Police Station at which stage the NCA had commenced another investigation, codenamed *Operation Harpy*, which involved B2. During that investigation, the NCA provided the IAU with further information including telephone conversations intercepted in 1994 in which Sergeant Shadgett appeared to be providing confidential police information to a criminal associate. The NCA again requested the IAU to abstain from any inquiries into Sergeant Shadgett until the completion of their investigation. On 28 September 1994, the IAU agreed not to pursue further inquiries but recommended that they proceed with the planned "set-up" of Sergeant Shadgett immediately after completion of the NCA investigation¹⁷⁰.

¹⁶⁹ Memo from Detective C IAU to Acting Superintendent Syme IAU, 28 September 1994

¹⁷⁰ Memo from Detective C IAU to Acting Superintendent Syme IAU, 28 September 1994

- 202) On 29 May 1995, the AFP released to the then Commissioner of Police, Mr Falconer APM, communications pursuant to Section 68 of the *Telecommunications (Interception) Act 1979* consisting of three (3) cassette tapes¹⁷¹. In relation to those tapes, the AFP noted that the conversations intercepted between B2 and Sergeant Shadgett appeared to relate to improper conduct. On 2 June 1995, Mr Falconer forwarded the three tapes to the Deputy Commissioner Brennan for his attention¹⁷².
- 203) On 14 June 1995, Detective B attended at the IAU office where he listened to the VKI tape of "Peter Clay" complaining about 9BZ305. He confirmed the identity of the caller as B1. There was also a discussion between the IAU and Detective B about possibly setting a trap for Sergeant Shadgett either using B1 or [Person 1].
- 204) On 16 April 1996, Acting Inspector Longden from the IAU sent a memo to Inspector Syme in his capacity as Acting Superintendent of the IAU¹⁷³, advising that Person 4 was now assisting the NCA in an investigation. This development further restricted the use of the intercepted telephone conversations B2 had with Sergeant Shadgett. In these circumstances, Inspector Longden said that the IAU had no option but to continue to wait for consent to use the information as a basis of preferring criminal or disciplinary action against Sergeant Shadgett. In any event, he said that he had reviewed Sergeant Shadgett's history and believed that there was sufficient evidence for his dismissal under section 8 of the *Police Act* without resorting to the telephone intercept material.
- 205) In 1996, Inspector Syme became the Manager of Operations at the NCA replacing Superintendent Taylor. On his appointment, the Inspector made immediate arrangements for the dissemination of the 1992 and 1995 telephone intercept tapes and transcripts concerning Sergeant Shadgett to the IAU. At about the same time, Detective A and Detective B commenced duties at the newly formed WAPS Organised Crime Squad ("OCS") and were involved in an operation codenamed *Red Emperor*. *Operation Red Emperor* was essentially a continuation of *Operation Harpy*. A request was made that no further action be taken against Sergeant Shadgett for fear of compromising *Operation Red Emperor*. In this regard, Inspector Syme's evidence to the Commission was that "*WAPS had now become the obstacle instead of the NCA*".
- 206) A report was sent from Detective A to the Officer in Charge of the OCS concerning the IAU inquiries relating to Sergeant Shadgett¹⁷⁴. The report stated that "*Due to direct and integrated involvement between this internal investigation file and the*

¹⁷¹ Communication of information from AFP pursuant to Section 68 of the *Telecommunications (Interception) Act 1979* to Commissioner of WAPS.

¹⁷² Letter from COP to AFP forwarded to Deputy Commissioner for attention dated 2 June 1995.

¹⁷³ IAU memo Longden to Syme dated 16 April 1996.

¹⁷⁴ Report from Detective A to Gere re: Matter relating to Internal Investigation as to its Affects to Operation Red Emperor.

current Organised Crime Squad Task Force operation, any further action by the Internal Affairs Unit may have direct consequences against the future success of the operation." Detective A further wrote that he had briefed Superintendent Tovey, Acting Inspector Mitchell and Acting Inspector Cousins of the IAU and Commander Ibbotson and Acting Superintendent Lavender in relation to the matter.

- 207) On 12 June 1996, Assistant Commissioner Mackaay wrote to the Regional Director of the NCA, Mr Michael Cashman. In particular, he stated that he had been advised that the NCA had been involved in an investigation since 1992 in which suspicion had fallen upon Sergeant Shadgett. Following this letter, the restriction on the use of the NCA telephone product information relating to Sergeant Shadgett was removed by the Authority.
- 208) On 4 March 1997, a memo was sent from Sergeant Hill of the IAU to Superintendent Tovey concerning the 1992 and 1995 improper accesses by Sergeant Shadgett to confidential police information. In the memo, Sergeant Hill stated that the IAU had information which clearly identified Sergeant Shadgett's association with persons in the drug trade. The memo concluded that *"there's no doubt in my mind that Shadgett must be dealt with either criminally or departmentally. All that remains to be decided is which events will be used as a basis for taking action against him."*
- 209) After receiving Sergeant Hill's memo, Superintendent Tovey sent a further memo to Assistant Commissioner Mackaay dated 6 March 1997. The memo stated that Sergeant Hill had recommended that B2 should be interviewed concerning Sergeant Shadgett's alleged improper conduct. In addition, Superintendent Tovey stated that the matter should be further discussed with Assistant Commissioner Mackaay and the Assistant Commissioner for Crime, Mr Mott. Superintendent Tovey believed that further discussion was necessary as Detective A had approached him regarding the following -

"B2 [suppressed] Detective A of the organised Crime Squad [suppressed] John Kizon. Some time ago Detective A learnt of our evidence against B2 and met with me at our office. He made it quite clear that B2 [suppressed]. As an alternative, Detective A offered to assist this unit in carrying out an integrity test on Shadgett by having someone approach him for information."

- 210) On 20 March 1997, Detective Senior Sergeant Gere wrote to Acting Superintendent Lavender¹⁷⁵ and stated -

"The attached report by Detective A clearly indicates that the IAU had been fully briefed of the potential impact to use informants to prove charges against police officers. Red Emperor started in January 1997 with \$200,000 being expended to June 1997. A further \$150,000 was to be spent on the conclusion of Red Emperor by December 1997. If the operation informants were to be used to prove charges against police officers, then the operation would have to be terminated. The action against the police officers must be balanced against the possibility of compromising the long-term

¹⁷⁵ Report of Detective Gere to Superintendent Lavender dated 20 March 1997, OCS file 144/97.

operation. In the event that the inquiry may compromise Red Emperor, then it is requested that the matter be held pending completion of the operation."

- 211) On 26 March 1997, Assistant Commissioner Mott forwarded a memo to Assistant Commissioner Mackaay stating that the exposure of Person 4 would be detrimental to the major operation. On 9 April 1997, Assistant Commissioner Mackaay responded in a memo to Assistant Commissioner Mott stating that the IAU inquiries would be temporarily deferred as there was no possibility of achieving an outcome due to the informant situation. In this regard, Assistant Commissioner Mackaay said "However in view of this undesirable outcome you may consider placing a timeframe on the State Crime Squad ("SCS")¹⁷⁶ operation. At the conclusion of that, the IAU matter can be reopened and the member dealt with."
- 212) On 10 April 1997, a memo was sent from Assistant Commissioner Mckaay to Superintendent Tovey (IAU) advising that the issues arising from the NCA product had been discussed with Deputy Commissioner Brennan and Mr Mott. Assistant Commissioner McKaay said that he had requested Assistant Commissioner Mott to provide a timeframe in which he expected the SCS investigation to be concluded. In the interim, Assistant Commissioner Mackaay instructed that the investigation was to be left in "*abeyance*". A hand-written note on this memo shows that it was forwarded to Inspector Hill at the IAU on 11 April 1997.
- 213) In mid-May 1997, Assistant Commissioner Mackaay and Assistant Commissioner Mott signed a memo¹⁷⁷ which reached agreement between their two portfolios regarding Sergeant Shadgett. The memo noted that Sergeant Shadgett was subject to an IAU investigation regarding an NCA product obtained in 1992. Although Sergeant Shadgett would face disciplinary or criminal charges as a result of that product, the Assistant Commissioners agreed that pursuit of those charges could compromise investigations being currently undertaken by the SCS. In these circumstances, the Assistant Commissioners agreed to hold "*further investigations into Sergeant Shadgett's actions in abeyance until the finalisation of the State Crime Squad Investigations*". It was also noted that Deputy Commissioner Brennan had been consulted regarding this matter.
- 214) On 17 May 1998, Assistant Commissioner Mackaay sent a memo to Superintendent Tovey¹⁷⁸. The memo stated that "In view of the age and evidentiary difficulties encountered with the NCA product, a prosecution cannot ensue. Can we discuss with Senior Sergeant Hill whether sufficient CCR/Audit info is at hand to recommend dismissal."

¹⁷⁶ Formerly the Organised Crime Squad

¹⁷⁷ Assistant Commissioner Mackaay signing on 24 May 1995 and Assistant Commissioner Mott signing on 26 May 1997

¹⁷⁸ Memo from Assistant Commission Mackaay to Superintendent Tovey on 17 May 1995

- 215) On 19 May 1998, a memo was sent from Superintendent Tovey to Assistant Commissioner Mackaay¹⁷⁹. The memo stated that “I have discussed this matter with Senior Sergeant Hill. It does not appear that there are sufficient grounds to recommend Shadgett’s dismissal. We intend to audit his computer access for 2-4 weeks and then interview him regarding same and the large number of computer checks he conducted in a short period of time a couple of months ago.”
- 216) On 9 June 1998, Sergeant Hill sent a memo¹⁸⁰ to Superintendent Tovey concerning improper conduct by Sergeant Shadgett as supported by the 1992 NCA telephone intercept product in *Operation Beagle*. In this regard, Sergeant Hill considered the administration of justice versus the public interest argument concerning a possible prosecution of Sergeant Shadgett. In this regard, Sergeant Hill noted that –
- In the absence of any admissions by Sergeant Shadgett or B2, there appeared to be no independent corroboration of the 1992 telephone intercept products.
 - B2 was not a credible witness in any prosecution against Sergeant Shadgett.
 - The “staleness” of the alleged offence having first come to the attention of the WAPS on 19 January 1993.
 - A prosecution of Sergeant Shadgett would make it known to B2 that his telephone had been intercepted.
 - The likely length and expense of a trial.
- 217) In view of the above, Sergeant Hill recommended to Assistant Commissioner Mackaay that he should terminate any further inquiries and prosecutions of both Sergeant Shadgett and/or B2 due to the NCA caveats on the intercept material and the status of B2 [Suppressed]. This memo was subsequently forwarded to Assistant Commissioner MacKaay.¹⁸¹
- 218) On 13 June 1998, Assistant Commissioner Mackaay sent a hand-written memo to Superintendent Tovey. The note said that he had considered Sergeant Hill's report concerning the 1992 breach and agreed that no further action should be taken against Sergeant Shadgett. Accordingly, on 5 August 1998, the matter was filed by Sergeant Hill and the telephone intercept material forwarded for destruction to the WAPS BCI telecommunications unit in accordance with the Commonwealth *Telecommunications (Interception) Act*.
- 219) On 16 June 1998, Superintendent Tovey wrote to Senior Sergeant Hill confirming Assistant Commissioner Mackaay's position on the matter¹⁸². On 5 August 1998,

¹⁷⁹ Memo from Superintendent Tovey to Assistant Commissioner Mackaay on 19 May 1995

¹⁸⁰ IAU memo Hill to Tovey re IAU IR 47/92 Sergeant Shadgett – discretion not to prosecute.

¹⁸¹ Transcript of evidence of former Assistant Commissioner Mckaay

¹⁸² Instruction Memo from Superintendent Tovey to Senior Sergeant Hill dated 16 June 1998

Senior Sergeant Hill wrote to Inspector George Putland in relation to Sergeant Shadgett and stated that *"The Assistant Commissioner professional standards has exercised his discretion not to seek a prosecution against Shadgett and in his forwarding memo of the 13th of June 1998 he instructed this matter to be filed."*¹⁸³

- 220) During his evidence to the Commission, Assistant Commissioner Mackaay was specifically asked whether the Sergeant Shadgett matter was discussed with the then Commissioner of Police, Mr Falconer. In response, Assistant Commissioner Mackaay stated that he would have discussed the matter *"At some point during one of our meetings and he agreed that for operational necessity there are times you need to do that"*.

6.3 Conclusion

- 221) In December 1992, NCA telephone intercept product revealed that Sergeant Shadgett had disclosed confidential police information to B2 was forwarded to the IAU. Furthermore, in May 1995 the AFP forwarded to the Commissioner of Police a number of tapes containing intercepted telephone conversations from which it appeared that Sergeant Shadgett had provided confidential police information to B2.
- 222) On forwarding the telephone intercept product in 1992, the NCA requested that the IAU refrain from using the information claiming that it would compromise *Operation Beagle*. The IAU accepted the NCA's position and planned a "set-up" of Sergeant Shadgett to be implemented on completion of *Operation Beagle*. On the completion of *Operation Beagle*, however, the NCA commenced another investigation which involved B2 and was codenamed *Operation Harpy*. In September 1994, the IAU again accepted a request from the NCA not to use the 1992 telephone intercept material due to it compromising *Operation Harpy*.
- 223) In 1996, the OCS commenced *Operation Red Emperor* which was essentially a continuation of *Operation Harpy*. The OCS requested that the IAU refrain from use of the telephone intercept information involving Sergeant Shadgett and B2 as it would compromise *Operation Red Emperor*. At that stage, it would appear that the IAU became frustrated with the continuation of the various police investigations which restricted the use of the telephone intercept product adverse to Sergeant Shadgett. As a result, a joint memo was signed in May 1997 by Assistant Commissioner Mackaay and Assistant Commissioner Mott agreeing to hold further investigations into Sergeant Shadgett's *"actions in abeyance until the finalisation of the State Crime Squad Investigations"*.
- 224) The investigation of Sergeant Shadgett was not addressed again until mid-1998 at which time the IAU considered that the interests of justice did not merit the prosecution of Sergeant Shadgett in relation to the 1992 telephone intercept

¹⁸³ Memo from Senior Sergeant Hill to Inspector George Putland ["Inspector Putland"] (IAU) dated 5 August 1998 re Sergeant Shadgett NOTE: This document only addresses the 1992 issues

information. The Assistant Commissioner agreed with the IAU's recommendation and instructed that the matter be "*filed*". No mention was made of the 1995 telephone intercept information adverse to Sergeant Shadgett and its existence appears to have been completely overlooked.

- 225) The Commission appreciates that, in certain situations, it is necessary to delay a prosecution of a person(s) for fear of compromising a police investigation which has involved considerable police resources. However, the Commission considers that Sergeant Shadgett's improper conduct should have received attention from the Assistant Commissioner's as early as 1992 and a plan implemented which involved a regular review of the situation. It is the Commission's view a better system of recording and documenting inquiries being conducted by IAU, may have prevented the failure to ultimately address the 1995-telephone intercept product.

6.4 Recommendation

- 226) **The Commissioner of Police consider the formulation of a policy/procedure in dealing with police officers who have committed criminal acts or serious improper conduct in situations where such actions might impact on police operations.**
- 227) **A review be undertaken of recording procedures in IAU to ensure the problem of investigations being forgotten does not reoccur.**

6.5 Constable Davy

- 228) Constable Davy commenced his employment with the WAPS in January 1973. In August 1989, Constable Davy was employed as the Radio Operator/Interceptor at Police Communications where he remained until leaving the WAPS in 1996.
- 229) As outlined at "Issue 1", Constable Davy was interviewed by PO2 from Police Operations immediately after he had accessed Mr Petrelis' covert details on 31 May 1995. He was also interviewed by Detective C and PO1 from the IAU at the request of the WPU. During the course of this investigation Police Communication recordings of telephone conversations involving Constable Davy were reviewed. The recordings contained a conversation during which Constable Davy had provided confidential police information to a Ms Earnshaw. At that point, it was recommended, and later accepted, that Constable Davy be charged with disclosing official secrets under section 81 of the *Criminal Code*.
- 230) On 18 June 1996, Constable Davy pleaded guilty in the Perth District Court to committing an offence under section 81 of the Criminal Code. Constable Davy was fined \$500.00. On 22 June 1996, a memo was sent from PO1 from the IAU to Acting Superintendent from the IAU in which it was recommended that Constable Davy be dismissed from his service with the WAPS.

6.6 Conclusion

- 231) The IAU investigated Constable Davy's accesses to Mr Petrelis' covert details but were unable to obtain any evidence to prove that he disclosed the information to persons outside the WAPS. At the same time, the IAU discovered that Constable Davy had accessed confidential police information on behalf of a Ms Earnshaw and also had evidence of *disclosure* of that information. Accordingly, the WAPS decided to proceed with a prosecution against Constable Davy under section 81 of the *Criminal Code* in relation to the Earnshaw matter which resulted in a successful prosecution.
- 232) The Commission accepts that the evidence in relation to the Earnshaw matter appeared to be stronger than the evidence relating to Constable Davy's access of Mr Petrelis' covert details. In these circumstances, the Commission considers that the actions of the WAPS in preferring to proceed with a prosecution of Constable Davy in relation to the Earnshaw matter was both reasonable and justified. Furthermore, Constable Davy was ultimately dismissed from the WAPS for disclosing confidential police information to Ms Earnshaw which meant that it was unnecessary for the WAPS to proceed with any further charges against Constable Davy.

APPENDIX TWO

CORRESPONDENCE FROM WESTERN AUSTRALIA POLICE



WPP-133

Your Ref: 6272V1
Our Ref:
Enquiries:

WESTERN AUSTRALIA POLICE

OFFICE OF THE COMMISSIONER

POLICE HEADQUARTERS
2 ADELAIDE TERRACE EAST PERTH
WESTERN AUSTRALIA 6004
TELEPHONE (08) 9222 1424
FACIMILE: (08) 9222 1368

Mr John Hyde MLA
Chairman
Joint Standing Committee on the Corruption
and Crime Commission
Harvest Terrace
WEST PERTH WA 6005

Dear Mr Hyde

RE Andrew Nicholas Petrelis – Queensland Coroner's Report

Thank you for your letter dated 29 November 2006 in which you express your concerns surrounding the case of Andrew Nicholas Petrelis and your inquiry as to whether I intend to hold a "cold case review" into his unfortunate death.

I have considered the issues as outlined in the letter and provide the following responses to the matters detailed.

Item 1

"The circumstances leading up to ...this most unfortunate death ... may well be described as bizarre and highly suspicious" This pronouncement conflicts with a definitive statement in the findings that "there is no evidence which would suggest that the cause of death was other than by self administration".

This quote as outlined in the Committee's letter has been selectively edited from the Coroner's report. When the full paragraph is read, the Coroner's opinion is quite clear:

"The circumstances leading up to and surrounding this most unfortunate death are not only grossly unfortunate but may well be described as bizarre and highly suspicious. However, much of the suspicion surrounding the circumstances of this particular death have been engineered by certain media frenzy involving misrepresentation of relevant facts, sheer and bold speculation and irresponsible assertions of 'murder' and the like. Reference in such regard need only be made to various media articles published particularly in Western Australia which have been placed before this Court by way of exhibit."¹

¹ Queensland Coroner's report (revised copy issued 24 November 2006) page 11 para 2

In the Coroner's opinion the description of the circumstances as bizarre and highly suspicious was generated by "certain media frenzy". There is no conflict with his view that there is no evidence which suggests that the cause of death was other than by self administration.

Item 2

"Taking residence in Queensland on 28th May 2005. The date is incorrect as year was 1995.

This is either a typographical or editing error.

Item 3

"November 1994 RIPPINGALE threatened life of Petrelis and that of his parents..." is this a proven criminal offence?

The full paragraph reads

"November 1994 RIPPINGALE was photographed by police removing the bags of supposed cannabis from the storage unit. In November 1994 RIPPINGALE threatened the life of PETRELIS and that of his parents if the police were spoken to by him. Law enforcement agency telephone interceptions or intercepts were made of conversations between KIZON and RIPPINGALE which included personal violence or threats of personal violence intended against PETRELIS should he speak to the police."²

There is no evidence that these threats were made to either Petrelis or his parents. Threats made by Rippingale to Kizon over the telephone in relation to another person, of themselves, and without evidence of conspiracy to commit an offence, could not be considered to be a criminal offence.

In any event, the Coroner had considered the strong motive that both Rippingale and Kizon had in Petrelis' death, but concluded that there still remained insufficient evidence to link either of them to the death of Petrelis.

Item 4

"Date differs with the Roberts-Smith report"

This discrepancy between dates is not an issue which would give any weight to the consideration as to whether WA Police should conduct a cold case review.

Item 5

"Information is not contained in Roberts-Smith report"

While the Roberts-Smith report may not have included the fact that Petrelis contacted Detective Sergeant Clay, it is a matter which the Coroner took into consideration in reaching his findings. It is not an issue which would lead WA Police to consider conducting a cold case review.

² Queensland Coroner's report (revised copy issued 24 November 2006) page 11 para 2

Mission Statement "To enhance the quality and wellbeing of life of all people in Western Australia by contributing to making our State a safe and secure place"

Item 6

"Incorrect date"

This discrepancy between dates as to when a proposed review was announced is not an issue which would give any weight to the consideration as to whether WA Police should conduct a cold case review.

Item 7

"Evidence in report appears to be inconsistent regarding the movements and timeframes"

I am unable to determine which aspect of the evidence appears inconsistent and against which other fact(s) it is inconsistent.

Item 8

"An important part of the crime scene interfered with."

This item refers to the issue of Petrelis' mobile telephone being used by the police during the examination of the scene. While this is not considered good practice in a forensic examination of a scene and reflects poorly upon the police officers involved, it does not generate further suspicion or throw light upon any other facts. It is not an issue which would give rise to a need for a cold case review.

Item 9

"Kizon states he knew from THOMAS in April/May 1995 that 'Andrew' was on the witness protection program and possibly before that."

Whether Kizon knew that Petrelis was under a witness protection program was considered by the Coroner when he reached his conclusion "However one may speculate, and however one may guess and surmise, there is at the end of the day, having regard to the relevant standard of proof, no evidence before this Inquest sufficient to implicate KIZON with the death of the deceased"³

Item 10

"Rippingale states in evidence to the Coroner that he was in Qld at the time of Petrelis' death. The Coroner appears to prefer Kizon's version during cross examination of Rippingale that he wasn't in Qld. On page 45 the Coroner states 'regards RIPPINGALE, there is no evidence to indicate that he was in fact in Queensland at the relevant time.'"

The issue in relation to Rippingale's memory is addressed by the Coroner, who ultimately states "Well at the end of the day, not only is RIPPINGALE a most unsatisfactory witness, but there is once again, no evidence before this Inquest sufficient to implicate RIPPINGALE with the death of the deceased."⁴

³ Queensland Coroner's report (revised copy issued 24 November 2006) page 48 para 4

⁴ Queensland Coroner's report (revised copy issued 24 November 2006) page 49 para 5

The Coroner is required to consider the evidence and the weight to be applied to that evidence and in this case, obviously considered that very little weight could be applied to any statement that Rippingale was in Queensland at the relevant times.

Item 11

"Statement appears inconsistent with other report information."

I am unable to identify the inconsistencies referred to.

Item 12

Peter Coombes evidence of Kizon's knowledge of Petrelis' alias ID of 'Parker' "was not mentioned...and contained within the ACC report."

This refers to an allegation by former WA police officer Peter Coombes that "Kizon knew that Petrelis was Parker before his death and that such information was in the possession of the Western Australian (sic) Police Internal Affairs and the National Crime Authority"⁵.

This evidence was given by Coombes to the Inquest and it is noted by the Coroner that Coombes had not mentioned this contention to the special investigation conducted by and contained within the ACC report. The Coroner refers to Coombes evidence as "not at all satisfactory"⁶ and accordingly WA Police does not place much weight to this allegation. In any event, it is a piece of unsubstantiated hearsay and the likelihood of further investigation supporting this allegation is low in the extreme.

Item 13

"Missing report of POTTS sent to QLD Police"

Detective Sergeant Potts forwarded a report to the Queensland Police outlining a number of facts which could be considered to be relevant to the police investigating the death of Petrelis. The issue in this case is whether the investigating officer ever received the report and if so, whether it was considered during the investigation. It is a fact the Coroner rightly considered in the context of determining whether the Queensland Police response to the death was appropriate.

This fact remains unresolved, however, it is not an issue which indicates that a cold case review should be undertaken.

Item 14

"Lack of evidence produced by CJC is contrary to the Roberts-Smith Report regarding contact had by Allen Thompson of WA Police with the CJC"

Neither the Coroner nor Roberts-Smith J were able to reconcile the apparent difference between Mr Thompson and the CJC as to whether there was any contact between WA Police and CJC. It is highly unlikely whether further inquiry via a cold case review at this time would resolve the issue.

⁵ Queensland Coroner's report (revised copy issued 24 November 2006) page 52 para 3

⁶ Queensland Coroner's report (revised copy issued 24 November 2006) page 52 para 3

Item 15

"Objects identified, interfered with, moved and some missing and not returned to next of kin"

The Coroner notes that Petrelis' unit ought to have been treated as a "scene of crime and appropriately regulated and assessed".⁷ His criticism of the Queensland Police is noted; however this fact does not lend any weight to the argument that a cold case review should be undertaken.

Item 16

"Evidence of clothing and no police inquiry as to association with deceased".

It is accepted that further inquiry could have been undertaken as to the identity of the owner of other items located within the unit. This may have led to other persons who had been in the unit at some previous time, however, in 2007, the likelihood of another inquiry generating further evidence is minimal.

Item 17

"Lack of investigation by law enforcement authorities."

The Coroner makes a recommendation that "in the event of a death of such an important witness as a protected witness that such death be thoroughly investigated by the relevant law enforcement agency."⁸

This is not disputed, however I would like to refer to the fact that WA Police has developed, and continues to develop, rigorous protocols and training in the investigation of suspicious deaths.

Consideration for Cold Case Review

Given that this death and surrounding issues have been investigated and examined to varying degrees by a number of agencies and bodies, including the Queensland Police, WA Anti-Corruption Commission, Justice Roberts-Smith, Kennedy Royal Commission, and most recently by the Queensland Coroner, it is my view that a cold case review is not warranted.

Due to the number and breadth of previous inquiries and the lapse of time since the death, in my view, the possibility of ascertaining further evidence is negligible. To undertake a cold case review under these circumstances is simply not an efficient use of police investigative resources.

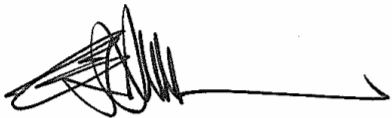
I have a responsibility to ensure that police resources are allocated efficiently and appropriately, and therefore I do not believe that a cold case review of this matter would be in the best interests of the public of WA.

⁷ Queensland Coroner's report (revised copy issued 24 November 2006) page 59 para 1

⁸ Queensland Coroner's report (revised copy issued 24 November 2006) page 71 para 2

The death of Mr Petrelis occurred in Queensland and was originally investigated by Queensland Police. If such a cold case review were to take place, the most appropriate agency to hold such a review would be the Queensland Police. However, for the same reasons that I do not believe that it would be appropriate for WA Police to hold a review, I do not intend to make any such request to Queensland Police.

Yours sincerely

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke extending to the right.

C J DAWSON
ACTING COMMISSIONER OF POLICE

11 March 2007