

**STANDING COMMITTEE ON
ENVIRONMENT AND PUBLIC AFFAIRS**

**INQUIRY INTO THE SANDALWOOD INDUSTRY
IN WESTERN AUSTRALIA**

**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
WEDNESDAY, 11 SEPTEMBER 2013**

Members

**Hon Simon O'Brien (Chairman)
Hon Stephen Dawson (Deputy Chairman)
Hon Brian Ellis
Hon Paul Brown
Hon Samantha Rowe**

Hearing commenced at 10.31 am**SMALPAGE, MR MURRAY****Acting Assistant Commissioner — Regional WA, WA Police, sworn and examined:****LETESSIER, MR HUGH****Detective Senior Sergeant, WA Police, sworn and examined:****BOND, MR ROBERT****Detective Senior Constable, WA Police, sworn and examined:**

The DEPUTY CHAIRMAN: Gentlemen, welcome to today's public hearing. Before I start, I will just quickly introduce my colleagues on the committee. We have Hon Brian Ellis, Hon Paul Brown and Hon Samantha Rowe. On behalf of the committee, I welcome you to the meeting. Before we begin, I must ask you to take either the oath or the affirmation.

[Witnesses took the oath.]

The DEPUTY CHAIRMAN: Please state the capacity in which you appear before the committee.

Mr Smalpage: I am the acting assistant commissioner for regional Western Australia, WA Police. My substantive position is commander for regional Western Australia, and operations coordinator for all operational activity for regional Western Australia, so across the state.

Mr Letessier: I am a detective senior sergeant, currently the officer in charge of the wheatbelt district detectives' office, stationed within the Northam Police Station.

Mr Bond: I am acting detective sergeant at the moment from wheatbelt detectives within the Northam Police Station. I am the investigating officer for the sandalwood inquiry or investigation that we are conducting from our office.

The DEPUTY CHAIRMAN: You have signed a document entitled "Information for Witnesses". Have you all read and understood that document?

The Witnesses: Yes.

The DEPUTY CHAIRMAN: These proceedings are being recorded by Hansard and a transcript of your evidence will be provided to you. To assist the committee and Hansard, please quote the full title of any document you refer to during the course of the hearing for the record. Please be aware of the microphones and try to talk into them. Ensure that you do not cover them with papers or make noise near them and please try to speak in turn to help Hansard. I remind you that your transcript will become a matter for the public record. If for some reason you wish to make a confidential statement during today's proceedings, you should request that the evidence be taken in closed session. If the committee grants your request, any public or media in attendance—we do not have any at the moment—will be excluded from the hearing. Please note that until such time as the transcript of your public evidence is finalised, it should not be made public. I advise you that publication or disclosure of the uncorrected transcript of evidence may constitute a contempt of Parliament and may mean that the material published or disclosed is not subject to parliamentary privilege.

Would you like to make an opening statement to the committee?

Mr Smalpage: Personally, thank you for the opportunity to speak to the committee. I prepared a letter as a submission to the committee, some 12 months ago, in October 2012. It related to a

number of concerns that we have identified from regional WA involving police into alleged criminal activity involved the sandalwood industry. Of concern to WA Police at that time were increasing requests from the Department of Environment and Conservation to assist and the fragmented approach, I suppose, in that we had multiple police districts and police stations called upon to assist. It becomes a regional issue. We would see activity occurring spasmodically and it was the ability for us to join up a coordinated investigative approach if that was appropriate. I suppose, essential to the WA position is that, predominantly, this is the Department of Environment and Conservation, which I think has been rebadged to a new organisation, and it was drawing on our resources to some significant extent. When those issues occur, obviously, WA Police do not attend to burglaries, home invasions, sexual assaults and other priority crimes that we are investigating, so it has had some impact on policing. I suppose from a broader perspective, it would appear from the intelligence we have gathered and from the preliminary assessment we made that this was a very lucrative criminal activity with high reward and low risk, which, predominantly then leaves those aspects of that industry vulnerable to infiltration or exposure to organised criminal syndicates, which are of concern to WA Police.

The DEPUTY CHAIRMAN: We have a number of questions that members will ask but I might kick off with: what prompted WAPOL to become involved in the prosecution of legal harvesting, under the Criminal Code in particular?

Mr Smalpage: What prompted that, and I will defer to my colleagues here in a second, was that initial involvement from WA Police where we were pouring significant resources in predominantly for an offence under the Sandalwood Act. The effort involved by police was not insurmountable, you know; it was taking up time, effort and some of our expertise in assisting DEC officers and wildlife officers executing warrants and, again, providing a raft of activity. And again, from what I saw, we saw through our reporting systems an increase in that type of activity, so it was not an isolated incident. From a coordinated approach from WA Police, we made some inquiries through my colleagues, through Detective Senior Sergeant Hugh Letessier, to see whether it was appropriate that we can actually prefer some criminal charges, perhaps bring some greater penalties involved as a general deterrent to offenders who want to flout the laws of Western Australia. The initial aim was, that if we can deter would-be criminals, we would actually see a reduction in our workload, because from what I saw we actually had an increasing number of reports. Whether that is better reporting by WA Police or that DEC was making more requests for assistance, it became an issue that we saw, and when we did some intelligence profiling and some looking, there were some unsavoury characters involved.

Hon BRIAN ELLIS: I appreciate that you got continuing requests from the department to help, but what was your involvement before you made that decision to go with the criminal charges?

Mr Smalpage: I will defer to my colleagues here. From a regional WA perspective, I had not received any direct assistance requests from senior members of the department of environment and conservation. All of those were localised requests and would generally go down to the OIC level at a police station, who would clearly make an assessment, and we generally try to assist our colleagues in law enforcement wherever we can. That is where the nexus of it starts. I do not know whether Detective Senior Sergeant Letessier has some further information, because he picked up the cudgels at our request to try to coordinate our response.

Mr Letessier: Perhaps I can speak specifically. When I commenced work in the wheatbelt in March or April last year, there had been some individual reports of small incidents where DEC had asked for our assistance. Our position at that time was, as Mr Smalpage has said, that it was a DEC matter that did not really require our input and our assistance. As time progressed, I became aware of a specific illegal sandalwood harvesting operation north of Beacon in an area known as Remlap, and DEC became more insistent that we assist them. As the picture became clearer in terms of the volume and the dollar value I thought it probably was appropriate that we get involved in assisting

DEC with the Remlap matter. As that was progressing, I actually went out to Remlap and I saw the extent of the harvesters' camp and the volume of product that they had taken out of the bush. Unfortunately, the offenders were not there, so that matter was going on in the background.

[10.40 am]

Then we received a request for assistance because DEC had tracked a fairly large shipment of illegally harvested sandalwood from the goldfields to a farming property within the wheatbelt, and from there they had apprehended a number of people and they had a significant amount of illegally harvested sandalwood. That really prompted us then to seek advice on whether we could prefer charges criminally because what had previously been, I guess, small and isolated incidents where a few tonnes may have been taken, this is now a commercial operation where there are clearly many, many, many hundreds of thousands of dollars of product being processed. That is where I involved my staff, particularly Robert Bond, who attended the property near New Norcia, I think it was—Wallamarra was the name of the property—and that is where our criminal prosecution commenced, if you like. Then I guess that was probably the catalyst for Mr Smalpage to say that we as an agency should start to dedicate some resourcing into the problem; let us get an idea of the extent of it. So we had an intelligence-gathering phase where we then became inundated, if you like, with reports of sandalwood theft throughout not only the wheatbelt but also the goldfields district. And that has, I guess, led us here to a number of prosecutions.

Hon BRIAN ELLIS: Were there any other reasons, apart from the sandalwood stealing—as an example, maybe personal threats to people or other criminal activities combined with the sandalwood stealing—that raised your interest?

Mr Smalpage: Again—I would ask that perhaps this be referred to in private as part of that process—our intelligence would suggest —

The DEPUTY CHAIRMAN: We might hold that item over for the moment because there is another process; we move into private —

Mr Smalpage: Okay. I can perhaps shed further information, but, again, I think it should be in private. It relates to intelligence as opposed to an evidentiary process, and I do not wish to speak about it publicly.

The DEPUTY CHAIRMAN: We might park that issue to one side for the moment, if members are happy, and we will continue with our questioning. Then we will move into private session a little bit later on. I just wanted to ask on behalf of the committee: I guess the prosecution of offences related to the illegal sandalwood harvesting has diverted resources from other WA Police activity in the wheatbelt area, or have you been able to garner additional funding for this area and, indeed, is the new approach a high priority for the wheatbelt police?

Mr Smalpage: I will answer that from a regional WA perspective because it is broader than just the wheatbelt. It touches upon the goldfields—Esperance district, the great southern, the midwest. From a WA perspective, it was a bit of an unknown problem, and whilst it was being managed by DEC as illegal harvesting under the Sandalwood Act, we probably had limited interest in it, but when you look at the volumes of numbers, the quantity of wood and the substantive value of it, essentially the legal opinion, in our view, is that they are assets of the state of Western Australia, and if it is capable of being stolen, then it probably does raise its head into a criminal nexus, if you like, and we would take probably further action than we historically have. But there are other precedents, I suppose, not just sandalwood. It may relate to stock on public property. There is a whole raft of other criminal offences that we would, generically, historically investigate. Historically, we have never been involved with sandalwood at all, as far as I am aware, other than if we are going to apply effort and, I suspect, if you are going to make an impact on the industry if there is criminality involved, then it should be reflected by the Criminal Code, not some other act; and that was the legal advice we got. Those prosecutions are pending, so we are not at the end of it. Who knows

what will fall out as the criminal trials unfold? But we have diverted resources into it, and Detective Senior Constable Bond, who has rapidly become our sandalwood expert for the state, is fielding calls from other police right across Western Australia, where there is seeking of guidance and advice about what we should do, or if DEC are seeking assistance at a local level, I think they are calling us as well. So, we have put effort into it. I do not believe at the moment it has impacted upon our service delivery in other fields, albeit it is always a balancing act, and, as I said, the concern that we hold, if there is not some closure of the gaps, is that there is a clear potential for organised crime to get a toehold in a very lucrative business, if it has not already.

The DEPUTY CHAIRMAN: Perhaps later on when we move into private session, we can maybe delve a little bit deeper into some of those areas and where that contact is coming from.

Hon PAUL BROWN: If the prosecutions under the Criminal Code are successful, would you be looking to seek more resources for this possibly, or are you comfortable with the level at the moment?

Mr Smalpage: Again, from a WA Police perspective, we would hope that there is some legislative amendment to the Sandalwood Act to bring it in line with, say, fisheries. If the penalties are severe, our submission is that we think that that would be an effective deterrent. When the penalties appear on the surface to be not as severe—Detective Bond may be able to talk in private session verbatim from people involved in it—they do not seem to be a general deterrent at the moment. You would have no doubt heard evidence and seen video footage. They are quite sophisticated operations. It is not a small undertaking for anybody. There does not seem to be a general deterrent at the moment at all, and they are prepared to take the risk. Whether that continues, I do not know. I went on three months' long service leave, I might add, so I have been away from the office for the last 13 weeks. But I do not know that there has been a general reduction in reporting.

Mr Letessier: I could probably add to that by saying that, as the self-appointed investigating officer of sandalwood within Western Australia, we in the wheatbelt could work full time on sandalwood theft. We have had that much information come and that many requests for assistance from other police officers and DEC officers to assist them with the investigation and prosecution that we could work on it full time. One officer could work on this exclusively and be more than busy. But that is a perfect-world scenario, I guess, so we prioritise it amongst all the other work we do. If there is an appetite to provide additional funding and additional people, absolutely we could use those people and they could be worked quite gainfully. But it is a case of Mr Smalpage deciding whether that is core business for us.

Mr Smalpage: I can relay the commissioner's view, which is that we should concentrate on core business. Crime is our core business, of course, but if other deterrents may affect this, there are no plans to create a sandalwood theft squad in WA Police at all. We have managed this proactively at the moment. Predominantly, in the first instance, it was a bit of an intelligence probe, I suppose, to see the extent and nature of the problem; hence, it has prompted my letter. We believe it is far broader than we had previously been aware of, but there may be remedies other than the Criminal Code. We are using that at the moment as a measure, and it is supported by the legal opinion. This is a lot of money at stake. I do not know the total value of sandalwood that we estimate, but it is substantial. One offender alone was charged with receiving nearly \$600 000 worth of wood. It is the property of the state, and to some extent, the state is losing revenue. To put it back in perspective, we have a lot of work we could be doing, but it is prioritised against our other business. Our submission is that we suspect that if there are greater penalties elsewhere, that may act as a general deterrent, without necessarily relying on the provisions of the Criminal Code and creating an additional police squad to manage that. DEC is very well prepared, I think, to do its jobs.

Hon SAMANTHA ROWE: Is there regular liaison between the WA Police and the departments that regulate the sandalwood industry?

Mr Smalpage: Up until this point, from a senior level from the regional statewide perspective, I have not had any contact from anybody. At a lower level, clearly there was local relationship building going on or we would not have got involved in the first place because of the priorities. But when DEC at a local level approach us, like any other government agency seeking our assistance, we would generally try to put our hand out to assist wherever we can. But certainly, from my end, I did not receive any submissions from anyone from DEC saying, “We want you to assist.”

Mr Letessier: At a local level, yes, certainly. Certainly at the level that I am working at and Robert Bond is working at, we quite frequently get phone calls for assistance.

[10.50 am]

Hon BRIAN ELLIS: In the situation as it is now, without changes to higher penalties, would DEC be able to control or deal with the illegal harvest with the resources they have got now, without your assistance?

Mr Smalpage: Again, I do not know what resources they have; they have never outlined what resources they have to date, so I have no idea. I will say that if there is an impact on the industry, we are not seeing it because the intelligence and the information we have is that it is too lucrative. The penalties do not mean enough, so people are prepared to take the risk. Criminal sanctions, if they are appropriate—the legal advice we have is that they are—may provide that general deterrent. I do not know. We are not yet through the prosecution phase. Application of the criminal law, obviously depending on the nature and scope, perhaps can include confiscation of profits and a whole raft of other activity around machinery and plant.

Hon PAUL BROWN: Similar to the Fisheries Act?

Mr Smalpage: Ideally, from my knowledge of the Fisheries Act, they take your boat; you get substantial penalties. It has not stopped the illegal fishing industry, as we all know. But I think as a general deterrent, it has been very, very effective. I think they have upskilled their Fisheries officers to a very high level. They were considered as part of the controlled operations legislation for their covert powers. They have invested significantly to protect state assets in terms of fisheries. I am not sure what DEC has done; it has not consulted us. My colleagues may tell me what they know at a local level but the director general or the deputy director general did not ring the commissioner saying, “We need a hand with this.” We have seen reporting coming through our mechanisms across police. I did as the commander for regional WA say, “We are putting a fair amount of effort into this all of a sudden.” Historically, I do not remember seeing it. Perhaps our reporting mechanisms did not capture it. If we are putting effort into it and if we are tying up a lot of police officers for a \$200 fine, there may be other sanctions available in law that will provide that general deterrent effect so that, from the police perspective, we can get a handle on what the picture is telling us. I am happy if go into private session. We have some concerns.

The DEPUTY CHAIRMAN: I am keen to get an update on the proceedings for the recent charges in the wheatbelt. We will take that in private session shortly.

Hon PAUL BROWN: I refer to the cross-border jurisdictions with the WA Police and other policing organisations, whether state or federal. Are the other organisations able to connect with you or connect up with the crime, either at a federal level or anything like that? Are you transporting across the border or anything like that?

Mr Smalpage: Again, we have information going across the border—to Port Augusta and other places. I do not think we have reached out to our police colleagues in another state at the moment, but through my position in regional WA I am on a number of cross-border jurisdiction committees anyway. I am going to attend a rural crime conference some time later this year where I will raise sandalwood with some of the other states. I am not sure of that. In terms of district reporting, we have a reporting system within police. We will capture cross-district reporting fairly quickly. Whilst police, as you know are siloed into different districts with different superintendents and

management teams, we can fairly readily identify whether there is cross-district activity because these offenders just move. They do not care where state boundaries are and all the rest. It has not significantly hampered us and it certainly has not hampered our reporting through our mechanisms. I think only a handful of wildlife officers are involved in this, so I assume they are across the state.

Mr Bond: I think the Department of Parks and Wildlife, which was DEC at the time, has a pretty good handle on it. As I said before, I think the penalties do not outweigh the amount of wood that is being seized. To answer the question: I think they have a pretty good grasp on it but there is no enforcement from the amount of the wood that has been stolen and the value of the wood as to what the outcome is.

The DEPUTY CHAIRMAN: Members, do you have any other general questions? If not, I propose that we move from public session into private session.

[The committee took evidence in private]

The DEPUTY CHAIRMAN: Can I thank our witnesses today; your evidence is appreciated. It will certainly help us in our deliberations. Thank you to each of you and I will officially close the hearing.

Hearing concluded at 11.34 am
