

**SELECT COMMITTEE  
INTO THE POLICE RAID ON THE *SUNDAY TIMES***

**TRANSCRIPT OF EVIDENCE TAKEN  
AT PERTH  
FRIDAY, 13 JUNE 2008**

**SESSION TWO**

**Members**

**Hon George Cash (Chairman)  
Hon Adele Farina  
Hon Giz Watson**

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**Hearing commenced at 10.50 am****MURPHY, MR KIERAN****Acting Chief of Staff, Premier's Office, Department of the Premier and Cabinet,  
sworn and examined:****Mr Murphy:** Is this confidential or —**Hon ADELE FARINA:** The chairman will run through it shortly.**The CHAIRMAN:** Before you even take the oath or affirmation, I will just run through a couple of things. Firstly, it is the committee's preference that evidence be taken in public.**Mr Murphy:** Yes.**The CHAIRMAN:** But if for some reason—and I will go through this in a more formal sense in a moment—you believe something should be taken in private, if you raise it with the committee, we will go into committee and just deliberate on it and let you know what the position is.**Mr Murphy:** Yes.**The CHAIRMAN:** Do you have any particular preference at the moment, Kieran?**Mr Murphy:** I would prefer to give evidence in public.**The CHAIRMAN:** Yes. That suits us fine. There will be no argument about that, because that is the preference of the committee. All right. I am going to just make some introductory comments in respect of the matter.**Mr Murphy:** Yes.**The CHAIRMAN:** Then we will ask some questions. On behalf of the committee, I would like to welcome you to the meeting today. Before we begin, I must ask you to take either the oath or affirmation.

[Witness took the affirmation.]

**The CHAIRMAN:** Could you please state your full name and the capacity in which you appear before the committee.**Mr Murphy:** Kieran Peter Murphy. My capacity at the time was director of communications in the Premier's Office.**The CHAIRMAN:** In the meantime, you have changed jobs. What is your current position?**Mr Murphy:** Acting chief of staff to the Premier.**The CHAIRMAN:** But at the time you were the director of communications. Thank you. You will have signed a document entitled "Information for Witnesses". Have you read and understood the document?**Mr Murphy:** I have.**The CHAIRMAN:** These proceedings are being recorded by Hansard. A transcript of your evidence will be provided to you in due course. To assist the committee and Hansard, please quote the full title of any document you refer to during the course of this hearing for the record. Please be aware of the microphones and try to talk into them and ensure you do not cover them with papers or make noise near them. 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 and media in attendance 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 the premature publication or disclosure of public 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 any opening statement?

**Mr Murphy:** No.

**The CHAIRMAN:** The committee has been directed by the Legislative Council to inquire into and report on all circumstances surrounding the police raid on the *Sunday Times* on 30 April 2008. Your prior or subsequent knowledge, understanding or involvement in any matter relevant to the police raid on the *Sunday Times* on 30 April 2008 is of interest to the committee. Mr Murphy, I refer to the February 10 article published in the *Sunday Times* at page 3 under the title “Bid to ‘buy’ Labor win”, an exclusive by Paul Lampathakis. Have you a copy of that or are you aware of the article?

**Mr Murphy:** I do not have a copy but I am aware of the article.

**The CHAIRMAN:** Prior to the publication of the article on 10 February 2008, when and how did you first become aware of possible unauthorised disclosure of confidential information? If you have notes that you wish to refer to, you obviously are entitled to refer to them. If you have any documents that would assist the committee, we will ask you to table them.

**Mr Murphy:** I do have notes that I would like to refer to. They are in chronological order. I also do have a couple of emails that I would like to provide to the committee.

**The CHAIRMAN:** Okay. If you will tell us when and how you first become aware of the possible unauthorised disclosure of confidential information.

**Mr Murphy:** On the afternoon of 8 February, a Friday afternoon, Stuart McLagan, who was at the time the acting media adviser to the Treasurer, Eric Ripper, received by email some questions from Paul at the *Sunday Times*. Stuart raised them with Guy Houston, who, at the time, was the Premier’s principal media adviser, because the questions alluded to matters that may have pertained to cabinet confidentiality. Guy came and saw me in my capacity as director of communications at the time and a member of the cabinet subcommittee on communications, which deals with advertising approvals for government. We had a look at the questions from Paul Lampathakis and, I think, in the course of the afternoon, two emails came through—at least two that I was aware of. The second or subsequent email provided a little bit more detail.

**The CHAIRMAN:** Were these emails directed to Mr Houston?

**Mr Murphy:** Directed to Stuart McLagan, but then on-sent from Stuart to Guy Houston. I made some preliminary investigations and ascertained that the numbers, the dollar figures used in the questions that Paul was asking, and some of the language with which the questions were framed appeared to me to be identical to numbers and language that appeared in a draft ERC submission requesting additional advertising expenditure. So, I reported that matter to Mal Wauchope, and told Mal that I believed that there may have been a leak from within either DPC or somewhere in the ERC process. I had a discussion with Mal, and that was the extent of it that afternoon. Sorry, we then went back and I also have a third document here which is the response that was crafted by Mr Houston and myself to the Paul Lampathakis questions.

**The CHAIRMAN:** We are dealing with 8 April?

**Mr Murphy:** Yes, all of those events are on the afternoon of 8 April.

**The CHAIRMAN:** Is there any need for you to refer to those documents again?

**Mr Murphy:** I may need to, if I could.

**The CHAIRMAN:** You have only got one copy, have you?

**Mr Murphy:** Yes. I am quite happy to provide them now.

**The CHAIRMAN:** I will get them photocopied so that we are aware of what you are referring to. We will give a copy back to Mr Murphy so he has got the document. Just pausing for a moment—the reason for that is so we can dispose of the events of 8 April.

While we are waiting for those particular documents to come back, perhaps we can move on to another area. Can you tell the committee what the nature and purpose of the confidential document was, and who produced the original document?

**Mr Murphy:** The original document, I understand, would have been produced within the Government Media Office's advertising unit. It was a submission to ERC—a request for additional expenditure to support a number of advertising campaigns which were likely to run during or later on in the financial year. The purpose of it was essentially as part of the budget process—rather than determine a budget, print it and put it out, and then have agencies come back and ask for separate allocations for advertising campaigns, the idea was to actually have it all dealt with as part of the budget process. If I can add, it was a bit of an ambit claim—a draft ERC submission. Not every one of the proposed advertising campaigns would have succeeded. I think the dollar figures, as they appeared in the *Sunday Times* story, by the end of the process was significantly less than what was reported.

[11.00 am]

**The CHAIRMAN:** Did you regard that particular document as falling within the category of confidential documents?

**Mr Murphy:** Yes. It is my understanding that cabinet subcommittee documents are considered similar to cabinet documents.

**The CHAIRMAN:** Mr Murphy, are you aware that it is a criminal offence to disclose confidential documents without authorisation?

**Mr Murphy:** I understand it is, particularly cabinet documents.

**The CHAIRMAN:** Are you aware of the particular offences that might be committed by —

**Mr Murphy:** I could not tell you the particular offences. Anyone who has been watching events in Western Australian politics since the creation of the Corruption and Crime Commission would understand that the leaking of cabinet material is a serious matter.

**The CHAIRMAN:** And you formed the view that the document was a confidential document.

**Mr Murphy:** Certainly. Yes.

**The CHAIRMAN:** We will deal with the issues that relate to 8 April and the emails when they are copied and returned. We will move on. What action did you take generally after 8 April?

**Mr Murphy:** At some stage, it may have been 8 April or shortly afterwards, I spoke to Tim Marney, the Under Treasurer, because I was not quite sure whether the leak came from within the Department of the Premier and Cabinet or from within Treasury. ERC documents do the rounds of Treasury and bureaucrats for checking and compilation for ERC meetings. Of course, some years ago there had been a leak of budget documents. I took it upon myself to advise Tim of the Lampathakis questions and that I had reported the matter to Mal Wauchope.

**The CHAIRMAN:** With respect to the previous leaked documents, are you referring to the leak of certain documents from the DTF about which the CCC investigated and wrote a report?

**Mr Murphy:** Yes. That was some years before.

On the Monday after this—that would have been Monday, 11 February—I advised Eric Ripper that I had reported the matter to Mal Wauchope. From memory, Eric was on leave at the time. He called me on the Monday morning—he might have just been back on deck on the Monday morning—to speak about another matter. During that conversation I advised Eric—Eric might have inquired

about the story in the *Sunday Times* or I might have initiated it—that I had communicated with Mal Wauchope.

**The CHAIRMAN:** We can return to the documents you just tabled. The first document, which appears to be your notes on matters, will be document 6A. The copy of the email dated Friday, 8 February at 3.02 pm is document 6B and the email dated Friday, 8 February 2008 at 3.30 pm is document 6C. Do you want to raise any other matter about these documents, two of which at least relate to the eighth?

**Mr Murphy:** No.

**The CHAIRMAN:** We are at Monday 11 February and you have advised Mr Ripper of the situation generally and you advised Mr Mahoney of the actions that you had taken in referring the issue to Mr Wauchope. What is the chronology of events insofar as the knowledge of events and the people you spoke to?

**Mr Murphy:** I had little if any involvement from that point on. I may have had a phone call at some stage from Lisa Ward from Mal Wauchope's office, but it was inconsequential. I took no notes and nothing really hinged upon it. I recall having a discussion with her along the way that she had initiated. I sensed that —

**The CHAIRMAN:** Did you understand that Ms Ward had carriage of the matter within Mr Wauchope's office —

**Mr Murphy:** Yes.

**The CHAIRMAN:** — and that she was the officer who was detailed to respond to various people?

**Mr Murphy:** Yes. The next thing that happened takes us to the day of the raid on 30 April. In between reporting to Mal and the raid I had no involvement.

**The CHAIRMAN:** Are you aware that following your advice Mr Wauchope wrote a letter to the CCC about the matter?

**Mr Murphy:** Yes. I was not advised of that at the time. I reported it to Mal and basically left the process at that.

**The CHAIRMAN:** The evidence that has been presented in public indicates that Mr Wauchope —

**Mr Murphy:** Mr Chairman, I simply assumed at that stage that Mal would deal with it according to his responsibilities as director general of the department.

**The CHAIRMAN:** You then moved to 30 April, the day of the raid. The reason that Hon Adele Farina is looking at me is because I keep saying 30 March. I have a question about that before we get to 30 March. Did the police contact you about this matter prior to 30 March?

**Mr Murphy:** Do you mean 30 April?

**The CHAIRMAN:** Thank you!

**Mr Murphy:** They contacted me prior to the raid on 30 April, but I cannot recall having any contact with them between the time that I reported the matter to Mal and 30 April.

**The CHAIRMAN:** Can you tell us what contact you had with the police on 30 April?

**Mr Murphy:** I received a message through the Premier's office that a police officer from the major fraud squad needed to speak to me urgently. I attempted to return the call —

**The CHAIRMAN:** Do you know what time that was approximately?

**Mr Murphy:** I first got the message when I was walking out the door of the office at 12.30 pm or 1.00 pm—something of that nature. I returned the call, but the policewoman was not there. I spoke to a guy and said I was returning the policewoman's call. I told him that I was available if she could call me on my mobile phone. I gave my mobile number. Somewhere along the lines after an

exchange either she returned my call or I managed to get a hold of her. I was in the city at the time. She asked a series of questions about the leak. When I received the message to call her I had no indication about what the matter was about. It was a bit hazy and from her questions it took me a little while to put in place what she was talking about. The impression I got was that she may have been new to the case and had taken over the brief from someone else. They seemed to be ticking-boxes type questions. She asked what I had done at the time and what sort of process we had gone through to report it. She asked whether I had any suspects at the time. I told her that I did not. It was a brief conversation. I asked her—once it registered with me what she was calling about—whether she had any particular suspects. She said she was not able to answer that question, understandably. We left it at that. It was later that afternoon —

**The CHAIRMAN:** Do you know the name of the detective constable with whom you spoke?

**Mr Murphy:** It was Detective Senior Constable Elissa Mansell.

Later on that afternoon I learnt with some shock that the police had conducted a raid on the *Sunday Times* building. I make the point that as former journalist and as someone involved in government communications, I consider that to be an overreaction by the police.

**The CHAIRMAN:** What was your subsequent involvement following the raid on the thirtieth?

**Mr Murphy:** None whatsoever.

**The CHAIRMAN:** Detective Senior Constable Mansell asked you on the day of the raid whether you had any further information to offer her. Do you know who leaked the confidential information to the *Sunday Times* that enabled the publication of the article on 5 February?

**Mr Murphy:** No. She asked me that. I told her that at the time I had my suspicions, but they were nothing more suspicions. There was nothing to substantiate that. Therefore, I do not think I provided any names to her because it would have been unfair to do so.

[11.10 am]

**The CHAIRMAN:** Is it fair to say that if you had wanted to cover the field, so to speak, there would have been a significant number of people who had access to the document?

**Mr Murphy:** I think it really hinges on what you determine as “significant”. There were only probably a couple of people involved in the preparation of the document, but, of course, once it leaves the preparation stage and goes into the ERC loop, if you like, I must say that I am not quite sure who then would have had access to the document. It goes into an ERC process, and how many sets of eyes it passes, I could not say. At the time I said—I think when I reported it to Mal or to Senior Constable Mansell—that I could not even be 100 per cent sure that, in fact, documents had been leaked, but it was clear that information had been leaked.

**The CHAIRMAN:** Yes, thank you. Mr Murphy, do you know whether the draft ERC submissions contained a watermark?

**Mr Murphy:** I could not tell the committee that; I would hope they did.

**The CHAIRMAN:** Fine, thank you. In hindsight, how differently would you approach an issue with circumstances, should such a similar situation arise?

**Mr Murphy:** I think in hindsight, Mr Chairman, I would not approach it any differently. I think I had a responsibility to report it to the director general. My understanding is that under the CCC act I am not a reporting authority, but I know that Mr Wauchope is. Leaking of cabinet documents or cabinet sub-committee documents is a serious matter, although the stories that may result from those leakings are not always necessarily serious matters. They are, obviously, by degree; some may embarrass the government, but sometimes it is nothing more than that. However, the leaking itself is a serious matter, so I think I would probably play it the same way if it happened again.

**The CHAIRMAN:** Do you have any recommendations you can suggest to the committee to improve the management of information relating to confidential documents or information? Do you have any recommendations that you would want to put to the committee to try to improve the situation?

**Mr Murphy:** I guess not at this stage, Mr Chairman.

**The CHAIRMAN:** I am happy for you to take that on notice if you would like to. If you think you can add something to the committee's information gathering, it would be helpful.

**Mr Murphy:** I think that until the matter is concluded and all the facts are brought to light, I could not really make any suggestions about how to improve the situation, but I will take that on notice and at some stage in the future I will endeavour to do that.

**The CHAIRMAN:** Thank you. Mr Murphy, did any minister, parliamentary secretary or member of Parliament attempt to influence you in respect to this matter?

**Mr Murphy:** No. The first conversation I had with any minister or member of Parliament about this matter was on the Monday morning, when I advised Mr Ripper of what I had done.

**The CHAIRMAN:** Have you spoken to any other ministers, parliamentary secretaries or members of Parliament about the matter since the publication, apart from Mr Ripper?

**Mr Murphy:** I have obviously spoken to the Premier about it and may have, in general conversation, to others. I think when the Premier first heard about it, he was overseas at the time and he thought, as I did, that the raid on the *Sunday Times* was an overreaction by the police, but it was an operational matter and something that was conducted independently of government.

**Hon ADELE FARINA:** You say that you felt that the police execution of a search warrant on the *Sunday Times* was an overreaction. How else would you suggest the police could have conducted an investigation to identify who leaked the document, if you consider the execution of the search warrant an overreaction?

**Mr Murphy:** I guess, Adele, the police have got to do what the police have got to do. I take the committee back to previous occasions in which the police have investigated official government. It might be that one or two coppers arrive at the door of a newspaper, they are let in, they take a few photographs, they talk to the editor, who causes some minor excitement in the newsroom, then they leave and that is really where the matter is left. It is not police doing what they have to do or executing the warrant that was necessarily the issue; I think it was the size and scale of the operation that was of concern to me. I would not begin to tell the police how to do their job, and without knowing what had happened within government that led to leak, I could not have pointed the police in another direction. I guess I make the point that the purpose of an investigation like that, to my mind, is to find the source of the leak and not necessarily the recipient of the leak. Journalists do what journalists do; they go about their job, and I do not think there is much to be gained by raiding newspaper offices in that manner. We know that any journalist worth his salt is not going to reveal a source, so I am not really sure what it achieves.

**Hon ADELE FARINA:** I suppose that still really leaves the question of how else the police are to identify the source.

**Mr Murphy:** I cannot tell the committee what else the police might have done in the meantime—whether they have interviewed other people in government; they have not spoken to me in the meantime. I cannot answer the question of whether they have interviewed other people within government, whether they have interviewed public servants or people involved in the preparation of the ERC documents. I would have thought that perhaps I would have gone if I was investigating this matter.

**The CHAIRMAN:** Following on from what Hon Adele Farina has asked, I ask whether, on an operational basis, when the police are executing a search warrant, should the media be treated

differently to any other person, firm or organisation; and, if so, why should the media be treated differently?

**Mr Murphy:** I am not necessarily sure, Mr Chairman, that the media would expect to be, or should be, treated differently, but I maintain my observation that 16 or so fraud squad coppers descending on the *Sunday Times* over what was, at the end of the day, really nothing more than an embarrassment and a story for us in government, we saw as an overreaction.

**Hon GIZ WATSON:** My question relates to the question of what is a leak and what is not a leak. It seems that from time to time information is passed on to journalists or to the public that might technically be a disclosure, but it becomes a leak only when it has negative consequences. My question is: procedurally, would you understand the obligation to report a disclosure to be the same whether it is positive or negative?

**Mr Murphy:** If the material is cabinet material or relates to a cabinet subcommittee, and it is clearly a breach of the confidences and security that relate to those documents, yes, I would imagine that they should be reported, too.

**Hon GIZ WATSON:** Is anybody within that process empowered to provide that information? It seems to me that it is only a leak if it is not known that it has been disclosed in a clandestine way rather than openly. Do other people who are privy to that information decide to provide that information in advance of its formal tabling?

**Mr Murphy:** If they do, they do so at great peril, because whether the story is embarrassing to the government, and whether the leak results in a story embarrassing to the government or a positive story, it does not deny the fact that the law has been broken. I think that in this time of heightened sensitivity—if I can say, the post-CCC era we live in—most people in government will play it by the book. If they are aware of a leak, it should be reported. If they do not report it, I think it is probably at their own peril.

**The CHAIRMAN:** I think it is fair to say, Mr Murphy, that section 81 of the Criminal Code does not distinguish between positive or negative leaks.

**Mr Murphy:** No, but at the same time we should not necessarily confuse a government releasing information in a particular way as a leak; information can be released via other means than media statements. That does not necessarily mean it is a leak. However, if the information is confidential, secure and sensitive, and it is released in an unauthorised way, I would consider that to be a leak and therefore a breach of the Criminal Code and probably the CCC act as well.

**The CHAIRMAN:** Unauthorised disclosure of confidential documents or information?

**Mr Murphy:** Yes, that is right.

**The CHAIRMAN:** Thank you. Mr Murphy, do you have any other matter that you want to raise with the committee?

**Mr Murphy:** No.

**The CHAIRMAN:** Thank you again for your attendance this morning. You will be provided with a copy of the transcript in a very short while—in the next day or so. We also will have the opportunity of reading what you have said, and if there is any need for any clarification or if further issues arise, we will notify your office. I want to indicate to you that the committee reserves the right to recall, so to speak, but you have been very helpful this morning and we appreciate your attendance.

**Mr Murphy:** Thank you.

**Hearing concluded at 11.21 am**