



PARLIAMENTARY CRIME AND CORRUPTION COMMITTEE

Members present:

Mr JM Krause MP—Chair
Ms JM Bush MP
Mr MJ Crandon MP
Mrs MF McMahon MP
Dr MA Robinson MP
Mr JA Sullivan MP
Mr A Tantari MP

Counsel assisting:

Dr J Horton QC
Mr B McMillan

**Staff of the Office of the Parliamentary Crime and
Corruption Commissioner:**

Mr M Woodford—Commissioner
Mr M Kunde—Principal Legal Officer

Staff present:

Ms E Jameson—Committee Secretary
Ms M Salisbury—Inquiry Secretary
Ms M Cook—Evidence Officer
Mr S Finnimore—Principal Legal Officer

INQUIRY INTO THE CRIME AND CORRUPTION COMMISSION'S INVESTIGATION OF FORMER COUNCILLORS OF LOGAN CITY COUNCIL; AND RELATED MATTERS

TRANSCRIPT OF PROCEEDINGS

WEDNESDAY, 25 AUGUST 2021

Brisbane

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The committee met at 9.33 am.

CHAIR: Good morning, everybody. Welcome back to the Legislative Council chamber for day 5 of the inquiry hearings. I am Jon Krause, member for Scenic Rim and chair of the committee. Joining me on the committee are: Mr Jimmy Sullivan, member for Stafford and the deputy chair; Mr Michael Crandon, member for Coomera; Mrs Melissa McMahon, member for Macalister; Ms Jonty Bush, member for Cooper, who is substituting today for Mr Barry O'Rourke, member for Rockhampton; Dr Mark Robinson, member for Oodgeroo; and Mr Adrian Tantari, member for Hervey Bay.

The committee's proceedings are proceedings of the Queensland parliament and are subject to the standing rules and orders of the parliament. As parliamentary proceedings, under the standing orders any person may be excluded from the hearing at the discretion of the chair or by order of the committee. In line with general rules relating to parliamentary proceedings, I remind witnesses to please refrain from using unparliamentary language, even if directly quoting material.

The proceedings are being recorded by Hansard and broadcast live on the parliament's website. Media may be present and will be subject to the chair's direction at all times. The media rules endorsed by the committee are available from committee staff if required. All those present today should note that it is possible you might be filmed or photographed during the proceedings by media and images may also appear on the parliament's website or social media pages. I ask everyone present to turn mobiles phones off or to silent mode.

Members of the committee, we have dealt with our declarations of interest in great detail over the past several weeks, including full declarations at the beginning of the inquiry last week, so I do not think it is necessary to go through that again.

Members of the committee and members of the public, I welcome Mr Michael Woodford, the new Parliamentary Crime and Corruption Commissioner, to the hearing. Michael commenced his role on Sunday for a term of three years. Welcome and thank you for the assistance you will render us in the coming weeks, months and years.

I also wish to make a statement in relation to future hearings for this inquiry. The committee met this morning, which is why we were a couple of minutes late, and resolved to set down the dates of Friday, 3 September and Monday and Tuesday, 6 and 7 September as hearing dates, as required. Hopefully we may conclude this stage of the inquiry prior to the end of Tuesday, 7 September, but those days have been set down in case we need them so that everyone is aware of the upcoming dates. That all said, I will ask Mr Horton to resume his questioning of Detective Sergeant Andrew Francis.

Detective Sergeant Andrew FRANCIS (accompanied by Mr Peter Dunning QC and Mr Matthew Wilkinson)

CHAIR: Detective Sergeant Andrew Francis, you were sworn last week, and I comment that you remain under that oath. Mr Horton, before we resume, is there anything else that you need to deal with?

Dr HORTON: Nothing, Chair.

CHAIR: Thank you. Mr Horton?

Dr HORTON: Detective Sergeant Francis, last week we were looking at pages 308 and 309 of volume 2 of the bundle.

Det. Sgt Francis: Mr Horton, may I ask: were you referring to pages 52 and 53 also of the memorandum?

Dr HORTON: Yes. Would you like to go there first, because I think there was something you were going to read over the weekend and think about in terms of the boxes which appear earlier on in your January memorandum? Is that what you are referring to?

Det. Sgt Francis: I think my reference was, instead, to an earlier copy of the memorandum, Mr Horton, if I recall correctly.

Dr HORTON: Let's just check. I want to ask you about the memorandum of 54 pages that appears relevantly for present purposes at pages 308 and 309. But you are referring to another memorandum that you would like to refer to?

Det. Sgt Francis: No. I am content to refer to this memorandum.

Dr HORTON: Thank you. On page 309 you will see your heading 'Public interest test'; is that right?

Det. Sgt Francis: That is correct.

Dr HORTON: Here is an exhaustive statement of the public interest criteria to which you had regard in formulating your recommendations about charging.

Det. Sgt Francis: Yes, sir.

Dr HORTON: I want to focus briefly on a few aspects of it. You say—

The need for the CCC to protect whistle blowers cannot be overstated.

That is the first line there. Do you see that?

Det. Sgt Francis: Yes.

Dr HORTON: A little bit further down—two paragraphs down—you say—

Operation Front asserts the practice of 'burying' corruption and misconduct in non-disclosure financial settlements is a cancer within LG—

local government. Those are your words.

Det. Sgt Francis: Yes.

Dr HORTON: A bit further down—the last full paragraph and the last partial paragraph—you say Ms Kelsey's—

... integrity is of the highest calibre.

Do you see that—middle of the paragraph?

Det. Sgt Francis: Yes, sir.

Dr HORTON: You 'contrast' that, to use your words on the bottom of page 309—

Mrs Kelsey credibility stands in contrast to the Mayor.

Det. Sgt Francis: Yes, sir.

Dr HORTON: Over the page, you say he—

... lives with ease as a person living a Jeckle and Hyde existence.

Correct?

Det. Sgt Francis: Yes, sir.

Dr HORTON: I have not read all the words there. You have all the words in front of you. These are statements which reveal your feelings.

Det. Sgt Francis: No, I disagree with that and I am happy to explain, if need be. In respect of your first comment in the use of my language and, in particular, the use of my word 'cancer', that is a choice of words, of course, that I myself used and that may well stand to be proven to be needless. However, what I am referring to there is a system—rather than a system—the habit of utilising non-disclosure agreements by the mayor to dispose of two previous CEOs, two previous directors, managers and a previous chief of staff in matters that were the exercise of their legal rights, and the mayor's involvement in matters—

Dr HORTON: That is not what you say there.

Det. Sgt Francis: No, but that is what I am referring to, and that explains my use of the word 'cancer'. I see those non-disclosure agreements as standing in opposition to accountability and transparency in local government, and that explains to the committee and Mr Horton why I chose to use the word 'cancer' in this case.

Dr HORTON: I see. 'Cancer' is a word by which you meant to convey feeling and emotion; is that correct?

Det. Sgt Francis: It is a word that I have used to convey a systemic and destructive methodology by the mayor to bury what I believed at the time to be corrupt conduct.

Dr HORTON: What was not good about using the word 'systemic'?

Det. Sgt Francis: Pardon me, sir?

Dr HORTON: Why did you not use the words you just used in describing these things, rather than the word 'cancer'?

Det. Sgt Francis: I could have used the word 'systemic', in hindsight.

Dr HORTON: Yes. Then describing the mayor as 'living a Jeckle and Hyde existence', you agree you are wishing to convey there your feelings; correct?

Det. Sgt Francis: Mr Horton, I would disagree again, and I am happy to provide background to the use of those words.

Dr HORTON: Are you a Robert Louis Stevenson fan? Are you a fan of the author of *The Strange Case of Dr Jekyll and Mr Hyde*?

Det. Sgt Francis: No, I am not a fan.

Dr HORTON: No? So you are wanting to convey an emotion by reference to someone who is living what you say is a dual existence; is that correct?

Det. Sgt Francis: I am wishing to convey six months of telecommunications intercepts in which I listened and understood the lifestyle that the mayor was living, and I observed directly the nature in which the mayor was able to evolve from one that commanded respectability to one that operated in a background that was entirely self-serving and used circumstances to manipulate his purported purpose, in this case to dispose of the CEO.

Dr HORTON: The words you are using today, I want to suggest to you, are relatively unemotional and relatively unfeeling; correct?

Det. Sgt Francis: I am doing my best to choose my words carefully, yes, sir.

Dr HORTON: Wouldn't it have been good in the memo to have chosen your words carefully also, so that you were working factually and not emotively and with feeling?

Det. Sgt Francis: Putting aside emotion and relying on my observations and I was using an example familiar to most to explain what I observed as the conduct of the mayor.

Dr HORTON: Thank you. Looking at the memo now, do you accept that, probably, this memo reveals that you were influenced by your personal feelings in a way you could not identify at the time because you were too close to these matters?

Det. Sgt Francis: I think I would have to lack self-awareness to not concede that I was influenced by a sense of feeling and my observations over a long-term investigation, as this is.

Dr HORTON: You are aware in the prosecution guidelines, which we discussed last week, that a decision to prosecute or not to prosecute must never—that is the word used in the guidelines—be influenced by personal feelings of the prosecutor concerning the offender or the victim?

Det. Sgt Francis: Yes, I am.

Dr HORTON: Here we see under 'Public interest test' many feelings of the prosecutor being expressed which are clearly influencing the decision to prosecute.

Det. Sgt Francis: I disagree. I would say that my thoughts and reflections are conveyed in this memorandum and that there is no evidence that I was influenced by my feelings in respect to the commencement of prosecutions.

Dr HORTON: Thank you. If we turn back a little earlier in the memo, there is a few other things I would like to clear up. Page 257 of the bundle is the first page of this memo. I want to draw your attention to the first sentence of the paragraph numbered 7—that is, the chair has approved, you note, on 30 January commencing proceedings against the mayor with respect to two charges, one of which is fraud; correct?

Det. Sgt Francis: Yes.

Dr HORTON: And that is a correct understanding of what occurred on 30 January 2019, in your mind?

Det. Sgt Francis: As it stands right now, yes.

Dr HORTON: Thank you. In paragraph numbered 8—

Further consensus was reached with regards to the commencement of proceedings and relevant matters of time.

Det. Sgt Francis: Yes.

Dr HORTON: Who is in that consensus to which you refer there?

Det. Sgt Francis: To answer your question, Mr Horton, the second sentence refers to the delays in regards to the statement of Andrea Millberry-Smith at that time and her commitment to endorse her statement only after the DPP had settled the current confiscation proceedings. It was that point that was widely discussed, and there was frustration, that I was very aware of, as to why Ms Andrea Millberry-Smith was delaying the signing of her statement. That statement at the time was widely accepted to be critical to obtain prior to the commencement of proceedings, and that is what I am speaking to in that paragraph.

Dr HORTON: Among whom is this consensus?

Det. Sgt Francis: Not only Operation Front but the senior executive officer and other members of the executive within the Crime and Corruption Commission.

Dr HORTON: Thank you. So this is a decision about both timing, you are saying, and the commencement of proceedings—two things?

Det. Sgt Francis: Yes, sir.

Dr HORTON: I see. Page 323 is a memorandum of Detective Inspector David Preston which goes up to Mr Alsbury, dated 26 March 2019. Were you involved in the drafting of this memorandum?

Det. Sgt Francis: My involvement was very minor. I do recall that the detective inspector called on me to review some elements of this, but they were limited to that of which I had knowledge only.

Dr HORTON: Paragraph 4 is one I want to raise with you. You will note that in paragraph 5 your name is mentioned—

Detective Sergeant Francis has now completed a thorough investigation...

but it is the paragraph above that I want to talk about. 2 May 2019 is an important date; correct?

Det. Sgt Francis: Yes.

Dr HORTON: I took you there last week, to this issue. So when the committee is to understand the matters of time that are referred to back on page 257 I took you to, the 'matter of time' is the importance of 2 May 2019; is that right?

Det. Sgt Francis: Sorry, could you please repeat the question, Mr Horton?

Dr HORTON: When on page 257 it is said—

Further consensus was reached with regards to ... relevant matters of time

the relevant matter of time there is 2 May 2019?

Det. Sgt Francis: Yes, these speak to different matters of time. Is that what you are suggesting?

Dr HORTON: I am suggesting that is the matter of time that you are concerned with—the 2 May 2019 date?

Det. Sgt Francis: No. No, I disagree.

Dr HORTON: I see. What was the relevant matter of time referred to in paragraph 8 on page 257 upon which consensus was reached?

Det. Sgt Francis: As I have stated, it was in regards to the signing of the statement by Andrea Millberry-Smith, the completion of the statement by Ms Sharon Kelsey and, as I have already provided in the evidence, the other matter of time was the availability of witnesses leading up to the QIRC and the unavailability of those witnesses and the deadlines in which I was expected to provide a brief of evidence to the DPP.

Dr HORTON: Thank you. We will come back to the issue of time. We will be looking at a few more documents in due course. In the end, with the charges, Sergeant Francis, you particularised them and you were involved in the particularisation; is that correct?

Det. Sgt Francis: Yes, sir.

Dr HORTON: And you identify the specific act here for the purpose of the fraud charge as voting to terminate Sharon Kelsey's employment on 7 February 2018; is that correct?

Det. Sgt Francis: Mr Horton, are you referring to section 408 of the Criminal Code?

Dr HORTON: Yes.

Det. Sgt Francis: Yes.

Dr HORTON: And the way you particularised the offences.

Det. Sgt Francis: Yes.

Dr HORTON: So am I right that you drafted the particulars for the charge?

Det. Sgt Francis: I am unclear as to exactly what you refer to in drafting the particulars of the charge. I completed the summary of the facts, if that is in fact—

Dr HORTON: Yes. I am not talking about the summary of facts. I am not talking about the formulation of the charge.

Det. Sgt Francis: Yes.

Dr HORTON: You will be more familiar with this than me, but at some later time the charges were—particulars of the charge were given; do you remember that?

Det. Sgt Francis: Are you referring to the construct of the charges within the software that we utilise to then produce bench charge sheets? That is what I understand as the particulars of the charge.

Dr HORTON: The particulars of the charge are commonly understood as the particulars underpinning the charge as formulated. There were three paragraphs of the particulars of the charge.

Det. Sgt Francis: I am not with you, Mr Horton.

Dr HORTON: Okay. So the particulars stated that on 7 February 2018 at Logan in the state of Queensland the defendants dishonestly caused a detriment to Sharon Kelsey and the property was of a value of \$100,000 or more. Paragraph 1 states, 'At all relevant times the defendants were Logan City councillors.'

Det. Sgt Francis: Mr Horton, are you reading out the bench charge sheets from the summary of facts?

Dr HORTON: I am reading out the particulars of the charge.

Det. Sgt Francis: Where are you reading that out from, Mr Horton?

Dr HORTON: I am, for the minute, reading out from a submission for one of the parties, which is a convenient reference point for me. Do you need to find them?

Det. Sgt Francis: I have the bench charge sheet right in front of me, charge 303, and it appears to be the same as what you are referring to.

Dr HORTON: Perfect. Paragraph 2 states, 'At all relevant times Sharon Kelsey was the chief executive officer of Logan City Council.' Do you see that?

Det. Sgt Francis: No, I do not see that.

Dr HORTON: We will come back to it. You are not familiar with the particulars of the charge that was laid under section 408C?

Det. Sgt Francis: I am not sure you understand my police process, Mr Horton, but I do not construct particulars of charges in the manner that you are describing. I can explain to you the process of which I construct a charge and then provide the facts. I call those a summary of facts.

Dr HORTON: This might be my confusion. I had understood you said to me that you did draft the particulars of this charge, but am I wrong about that?

Det. Sgt Francis: When I say that I drew up the particulars of the charge, I am referring to the bench charge sheets and the time, date, place and the elements of an offence—

Dr HORTON: Yes.

Det. Sgt Francis:—in this case 408A of fraud, or whichever subsection applies, and then I put together a charge and I include time, date, place and the elements specific to the offence of which I am proceeding with.

Dr HORTON: Yes. Okay. So you are saying that you were not involved in formulating the three paragraphs being the particulars of the charge of 408C?

Det. Sgt Francis: Perhaps I can have the opportunity to have a look at what you are referring to so that I can shed some light on this.

Dr HORTON: We will come back to this. I have the bench charge sheets in front of me, and that is not what I am referring to. I am referring to particulars given at a later stage and ascertaining if you were involved.

Det. Sgt Francis: If I am involved I cannot recall it, because I am unfamiliar with what you are referring to.

Dr HORTON: Let me move past it. The specific dishonest act that was alleged was that the defendants had knowledge that Ms Kelsey had made a PID; correct?

Det. Sgt Francis: As part of the facts, yes.

Dr HORTON: Yes, and they had knowledge that Ms Kelsey could not be terminated for making a PID; correct?

Det. Sgt Francis: I believe so, yes.

Dr HORTON: And they had intended to terminate her because she made a PID; correct?

Det. Sgt Francis: Yes, sir.

Dr HORTON: And that a substantial reason to terminate her was because of, or directly related to, the PID?

Det. Sgt Francis: Or the assistance provided by Ms Kelsey to the Crime and Corruption Commission, yes.

Dr HORTON: I see. That is your understanding of the particulars of the charge that were given, as you have just indicated?

Det. Sgt Francis: I am relying on my memory, yes.

Dr HORTON: I suggest to you that last bit is not in there. Just proceed on that assumption. Where in this memo do we find you stepping out, as we have seen from the meeting earlier, how the evidence you have collected or downloaded informs each of the components, if you like, of what you are alleging is dishonesty?

Det. Sgt Francis: Of course, Mr Horton, I can take you to that.

Dr HORTON: Thank you.

Det. Sgt Francis: The memo provides context and background, and as the committee and you know, Mr Horton, there are other charges relevant to this operation. In regards to the specific information that speaks to the dishonesty concerning the defendants, I will take you to that now.

Dr HORTON: I think you have said the whole thing relates to dishonesty, but what I am interested in is a stepping out as the particulars as I have read them to you articulated what that dishonesty was.

Det. Sgt Francis: Mr Horton, I would direct you to a discussion. It is exhibit—it is noted here on the bottom '263'. Within the memo it is page 7. It starts with point 16. It is titled 'Explanation of Charge 3 Reprisal Generally'.

Dr HORTON: Is this page 263 of the bundle, Sergeant Francis?

Det. Sgt Francis: Yes, sir, volume 2.

Dr HORTON: Yes.

Det. Sgt Francis: That discussion goes through 264, 265. That is the summary.

Dr HORTON: Excuse me if I am mistaken. The heading there is 'Explanation of Charge 3 Reprisal Generally'. Am I mistaken in that heading?

Det. Sgt Francis: Yes. That is the heading, yes.

Dr HORTON: So we are talking about dishonesty on the fraud charge?

Det. Sgt Francis: Yes, Mr Horton. I understood your question, and I am directing you to the section of the memo, as you asked, that deals with that point in particular. If you further note, that discussion there that I have led you to is reproduced in the summary of facts, which also expands—because this is only but a summary of the evidence. The summary of facts deals with it further and speaks to the particulars of the charge in more detail.

Dr HORTON: Okay. Thank you. Now, what the memo does not do, I want to suggest to you—even taking into account your answer—is step out how the evidence you have collected might inform in a useful way specifically what other dishonest acts, and particularly the ones that are alleged to be causing a detriment, have caused a detriment to Ms Kelsey.

Det. Sgt Francis: Mr Horton, I strongly disagree. It is obvious to me that this memo does in fact step out the limbs and threads of dishonesty. In regards to the detriment, well, there is a further discussion on that at the beginning of the memo.

Dr HORTON: No, that caused the detriment, Sergeant Francis—caused.

Det. Sgt Francis: Yes, I refer back to my previous response about that. The limbs, in summary, that I constructed as informative to the executive of the CCC, the chair in particular, are detailed here commencing at point 16.

Dr HORTON: Thank you. I would like to move to this topic now. They are related topics—two. One is your knowledge of the effect of the charge you were laying under section 408C at the time you laid it.

Det. Sgt Francis: Yes, sir.

Dr HORTON: That is, specifically its effect on the accused and the likely effect on the council.

Det. Sgt Francis: Yes, sir.

Dr HORTON: And second, and in a related sense, the timing imperative that in your mind and your team's mind that brought with it. You gave evidence last week, as I understood it, that you could not really recall when you first learned of the effect of the charges on the accused in the sense that it would cause them to be disqualified as councillors, but you did say that you may have heard it in the media afterwards; correct?

Det. Sgt Francis: Yes. I could not rely on my recollection with any certainty as to when I learnt of those matters.

Dr HORTON: Having had a little bit more time over the weekend and a couple of days and having had longer access to the volume, has your recollection improved over the weekend?

Det. Sgt Francis: No, it has not. I have looked into the matters of discussion because I was embarrassed that I could not recall, Mr Horton, and I am now aware that it was by an act of government that those members were stood down, suspended or dismissed—I cannot recall which—but my recollection has not improved.

Dr HORTON: It was by your act they were disqualified, Sergeant Francis. The charge disqualified them; correct?

Det. Sgt Francis: It was by an act of government that they were stood down, as I understand.

Dr HORTON: I see. That is your understanding today, and it was by an act of the minister, pursuant to statutory requirement, that the council be, in effect, disbanded; correct?

Det. Sgt Francis: Yes, sir.

Dr HORTON: But my question is a bit different. My question I am going to explore with you now is when you first knew about these consequences. As I understand it, you have accepted that your memos do not allude to these consequences. I think you have accepted that—the memos to which we have taken you.

Det. Sgt Francis: Yes. I have not reviewed in any of the material before the committee that sheds light on that particular topic.

Dr HORTON: I see, but surely as a result of my questioning last week you would have been very keen to read this bundle insofar as you could refresh your memory to assist the committee today.

Det. Sgt Francis: I have reviewed certain documents over the weekend and I cannot assist in providing an answer to the committee on that question, Mr Horton.

Dr HORTON: I see. And you were informed, weren't you, that I was going to ask you today about the rationale for the timing of the charging of fraud and that I would test the proposition that the charge of fraud was motivated by a—not necessarily the only—desire to charge before the hearing of closing submissions in the QIRC so as to assist Ms Kelsey in her desire to be reinstated. See volume 2, page 93.

Det. Sgt Francis: I was informed of that Friday week, yes, and I have reflected on it and I cannot provide you with a response, Mr Horton.

Dr HORTON: I see. I am going to take you to a few documents in the bundles before you which you have had since last week and I want to directly challenge you on these matters.

Det. Sgt Francis: Sure.

Dr HORTON: Would you go to page 28, please, of volume 2. Email from Makeeta McIntyre to Mark Andrews, copied to you among many others.

Det. Sgt Francis: Sorry, Mr Horton. I misheard you.

Dr HORTON: I will change that a little. If you look up above that, I am sorry—page 28 of volume 2.

Det. Sgt Francis: Yes, Mr Horton.

Dr HORTON: I have taken you back a little bit. You will see this is 12 September, on page 28. You are involved in discussions with various others. For the moment I am not going to ask you specific questions about those, but just to try to refresh your memory about the time. If you turn back to Brisbane

page 27, we are in fact moving forward in time, as email strings work. There is an email there from David Beattie to others but copied to you. This is six months before your memorandum of 25 March 2019.

Det. Sgt Francis: Yes, Mr Horton.

Dr HORTON: Does this assist in your recollection of the questions that I asked you about last week and which I am pressing now about when you first knew that charging a councillor with fraud under section 408C would result in their disqualification?

Det. Sgt Francis: No, it does not.

Dr HORTON: I see. So to be clear, the fact that David Beattie sent you an email, and others, on 12 September 2018 at 9.38 am saying—

A person is automatically suspended as a councillor when the person is charged with this offence.

is not something which assists you now in your recollection?

Det. Sgt Francis: No, it does not.

Dr HORTON: Do you wish to suggest to the committee you did not receive this email?

Det. Sgt Francis: No. It is clear that I am a member cc-ed to this discussion, and I cannot explain to the committee why I cannot recall this. I can only say that I was not a contributor in this discussion. The discussion was a matter between Detective Sergeant David Beattie and principal lawyer Makeeta McIntyre and my supervisor, Detective Senior Sergeant Mark Andrews. I was not a participant. Maybe that one went through to the keeper. It is a discussion in regards to offences, I acknowledge, Mr Horton. It is a discussion in regards to offences and consequences. I cannot recall this email.

Dr HORTON: I have taken you to this document already. I am going to take you back there, because I am going to press you on these matters a little further. Page 93 of the same volume: Mark Andrews to David Beattie and others, including you—

We really need to pinch Smithy & a decent portion of The Fab7 prior to 2 May.

There is that date again. And you will see the line above—

2 May is set for submissions in QIRC, which will include this doc & who knows how long before a decision—I'm guessing months, at least.

And the document to which reference is made there is a document that has come—the submissions made by the advocate for Ms Kelsey.

Det. Sgt Francis: Yes. I believe I have provided evidence on these emails already.

Dr HORTON: You have.

Det. Sgt Francis: My position has not changed.

Dr HORTON: I understand. I want to be very clear about this. This is a suggestion that disqualification of a council needs to occur before 2 May. Do you have a comment about that?

Det. Sgt Francis: Mr Horton, in regards to the doc, I am referring to the email from Mark Andrews to team members within Operation Front, myself included. Detective Senior Sergeant Andrews refers to a document. Is that document included in this evidence before the committee so that I might reflect on that?

Dr HORTON: If you read back through the email string, Sergeant Francis, you will get a feel for it yourself and I would really like you to do that. I would have liked you to have done it before today, Sergeant Francis, so that you were in a position to answer what you knew you were going to be asked about, but particularly page 94. You will see there that Mr Williams of MinterEllison has sent 'our closing submissions' at the bottom of page 94, being a reference to the closing submissions to the QIRC made on behalf of Ms Kelsey by her advocates.

Det. Sgt Francis: I understand the documents might now refer to WhatsApp messages that were tendered as exhibits within the QIRC. I cannot comment on the reason Detective Senior Sergeant Andrews refers to those documents. On reflection, my comments there relate to my sense of urgency in obtaining evidence for DPP from witnesses who were party to the proceedings in the QIRC. As for the dates, I was certainly aware that there were proceedings going on but there was a distant interest. My interest in the QIRC was solely and largely obtaining evidence in regards to the proceedings which I was collating a brief of evidence for at that time.

Dr HORTON: You understood Mark Andrews's email of 26 March 2019, 1.15 pm, as expressing a need to charge the mayor Luke Smith with fraud and cause disqualification before 2 May, when QIRC was then scheduled to resume to hear closing submissions?

Det. Sgt Francis: I understand now that Detective Senior Sergeant Andrews may have an interest in matters beyond my rank, but at that time my interest was getting this matter dealt with in a timely matter, not in respect of proceedings in the QIRC.

Dr HORTON: Do you remember the question, Sergeant Francis?

Det. Sgt Francis: Yes, I do.

Dr HORTON: Would you like me to ask it again?

Det. Sgt Francis: I am happy for you to ask the question again, Mr Horton.

Dr HORTON: You understood Mark Andrews's email of 26 March 2019 at 1.15 pm, sent to you and others, as expressing the need to charge mayor Luke Smith with fraud and cause his disqualification before Ms Kelsey's matter came back on for hearing in the QIRC on 2 May for the purpose of hearing closing submissions?

Det. Sgt Francis: At the time, no. No, I did not understand that email to relate to matters that you have just described.

Dr HORTON: And you understood that same email to be expressing an imperative to charge a decent portion of seven other councillors with the same offence to cause their disqualification and, hence, to lead to the appointment of an administrator, for the same reason I put to you in my preceding question?

Det. Sgt Francis: This email does not refer to the appointment of an administrator, Mr Horton.

Dr HORTON: That is the only inference, I want to suggest to you, that can be drawn from the need not only to 'pinch' the mayor but a decent portion of seven other councillors before 2 May.

Det. Sgt Francis: No, I disagree, Mr Horton. That email is not as clear as you are submitting. It is a matter, I guess, for Detective Senior Sergeant Andrews to clarify to the committee.

Dr HORTON: And your affirmative response is—

Yup time critical

Det. Sgt Francis: Yes, I acknowledge they are my words and I typed that.

Dr HORTON: And in fact, as we know, the mayor and seven councillors were charged with fraud prior to 2 May; is that correct?

Det. Sgt Francis: Yes, they were charged on the—

Dr HORTON: And on 2 May an interim administrator was appointed to the Logan City Council?

Det. Sgt Francis: If you say so. I do not know that for a fact.

Dr HORTON: Assume it for the moment. Then I would like you to jump to the same—still on the same topic but a different point in time. Again, it is in the bundles before you, but this time it is in volume 1. We are now jumping to 30 May 2019. This is after you have laid the charges and after the administrator has been appointed, just assume for a moment, and it appears at page 586 of the large volume, volume 1. It is an email from you to Mark Andrews, 30 May 2019 sent at 8.30 am.

Det. Sgt Francis: Yes, sir.

Dr HORTON: I am taking you to this because—for two reasons. One, I am going to suggest to you it throws light on what was in your mind before you charged.

Det. Sgt Francis: Sure.

Dr HORTON: And, second, I am going to suggest ultimately that this brings into serious question your impartiality—that is, that you were partial in doing what you did when you charged and were motivated by personal feelings, as I put to you in other respects. Have you read this email recently?

Det. Sgt Francis: Yes, I have. Yes, I have, sir.

Dr HORTON: Thank you. You say—

I spoke to Ms Kelsey late yesterday—

that is 29 May, I presume—

and she shared a few interesting particulars regarding the QIRC matter ...

And then you summarise what Ms Kelsey has noted as best you can; is that correct?

Det. Sgt Francis: That is correct.

Dr HORTON: And the first dot point is—

LCC has not withdrawn from the proceedings—

That is the QIRC proceeding?

Det. Sgt Francis: Yes, I imagine.

Dr HORTON:—

as expected—

emphasise 'as expected'—

given the recent dismissal by the Minister.

Det. Sgt Francis: Yes, sir.

Dr HORTON: So the expectation here is yours or Ms Kelsey's?

Det. Sgt Francis: Ms Kelsey's.

Dr HORTON: I see. And not yours?

Det. Sgt Francis: No.

Dr HORTON: I see. You did not have that expectation at all is your evidence?

Det. Sgt Francis: On 30 May 2019 I was under considerable pressure to provide a brief of evidence in full. In fact, I do not believe I did that; it was a partial at best. I was in constant communication with witnesses including Ms Kelsey and others—other councillors, previous councillors—and they were providing me with this information and I was in turn briefing up to my line of commands, as is expected of someone in my situation, and this is an example of simply that. This is an example of information that I have received—privileged information from Ms Kelsey. I believe I did this on other occasions as well and I have made a file note of my conversation and I have briefed up, Mr Horton.

Dr HORTON: Come back to my question, if you would. The expectation being referred to there was not your expectation?

Det. Sgt Francis: That is clear to me, yes.

Dr HORTON: And there is no similar expectation which you had held at any time before you charged the councillors?

Det. Sgt Francis: It may have been a consideration of mine, but my focus was front and centre, tunnel vision, providing a brief of evidence to the DPP at this time.

Dr HORTON: You knew from no later than 12 September that if you charged the mayor and councillors with fraud, first, they would be disqualified and, second, the council would likely be disbanded by the minister, pursuant to the Local Government Act?

Det. Sgt Francis: No, Mr Horton. I did not know that with certainty.

Dr HORTON: This expectation is a shared expectation?

Det. Sgt Francis: No. No, it is not. I disagree.

Dr HORTON: It is certainly not one, by the time you charged fraud, of which you were unaware?

Det. Sgt Francis: Pardon me?

Dr HORTON: It is certainly not one, by the time you charged fraud, of which you were unaware?

Det. Sgt Francis: It is certainly not a shared expectation; is that your question?

Dr HORTON: No.

Det. Sgt Francis: Can you repeat your question, please, because I am not understanding?

Dr HORTON: I will take you further down the email—

Det. Sgt Francis: Sure.

Dr HORTON:—and I will keep putting it in various ways. Your note goes on to say—

Ms Kelsey was optimistic the administrator would present an objective view ... rather than only seeking the interests of the dismissed respondents (if indeed any view). This does not appear the case.

Is this Ms Kelsey's view now, or are you speaking?

Det. Sgt Francis: Where are you reading from, please, Mr Horton?

Dr HORTON: The same paragraph we were just on, first dot point, page 586, email from you to Mark Andrews, middle of the dot point.

Det. Sgt Francis: No, Mr Horton. I again rely on what I previously supplied to the committee, and that is this is a file note of the conversation that I had and I am briefing up to my supervisors as to what Ms Kelsey has afforded me. She refers to a document, but I do not recall ever seeing that document—only that that document exists, as purported by Ms Kelsey.

Dr HORTON: Detective Sergeant Francis, you are just not answering the question. Could you just focus only on my question? I have a number of them and just—we take it step by step. Okay?

Det. Sgt Francis: Sure.

Dr HORTON: Let's approach it differently to make it easier. There are six dot points here. Do these express only the views of Ms Kelsey as recorded by you?

Det. Sgt Francis: I am reporting on the disclosure of Ms Kelsey. I cannot say, given the passage of time, what flavour mindset had on my briefing. They may have. I am perusing the document, Mr Horton, looking for some opinion or a view of my own, and I cannot immediately reflect on one. I am not sure how much more I could say, Mr Horton, on that.

Dr HORTON: No view in the six dot points is your view? They are all your statement of what Ms Kelsey's view was as stated to you?

Det. Sgt Francis: That is what it appears like to me.

Dr HORTON: Well, be sure.

Det. Sgt Francis: That is what it appears like to me.

Dr HORTON: Okay, so as sure as you can be?

Det. Sgt Francis: At this moment, yes.

Dr HORTON: Great. Now, you go on to record this—

Ms Kelsey's team forwarded correspondence some time ago concerning this, and—important word—

suggested a pathway for Ms Kelsey's reinstatement apart from the QIRC.

Det. Sgt Francis: That is what Ms Kelsey communicated to me.

Dr HORTON: What did you understand a 'pathway' to be that was 'apart from the QIRC'?

Det. Sgt Francis: I understand now that that pathway may have been involving the administrator, Ms O'Shea.

Dr HORTON: And what did you understand it to be before the appointment of the administrator in order to get the administrator appointed?

Det. Sgt Francis: I understood it to be her obtaining a resolution in the QIRC for her reinstatement as was her purpose.

Dr HORTON: 'Apart from the QIRC'. That is not what is said.

Det. Sgt Francis: 'Apart from the QIRC'? Well, I have answered that question, Mr Horton. It involved the administrator.

Dr HORTON: And the appointment of the administrator needed some things to happen first; correct?

Det. Sgt Francis: What things are you referring to, Mr Horton?

Dr HORTON: You charging the mayor and a good portion of seven councillors with fraud pursuant to section 408C.

Det. Sgt Francis: No. I had not considered that in my answer just now and I disagree with that.

Dr HORTON: It is the only way, I want to suggest to you, the committee should read your notes as recorded here in the first dot point of the email on page 586 of volume 1.

Det. Sgt Francis: That 'LCC has not withdrawn from the proceedings'? I disagree with that.

Dr HORTON: The whole dot point, Sergeant Francis—you cannot just pick out a bit and change the question—and particularly the words 'suggested a pathway for Ms Kelsey's reinstatement apart from the QIRC'.

Det. Sgt Francis: No. Mr Horton, I strongly disagree. It is obvious to me now reading this that the other pathway is in regards to the administrator dealing with the matter, as Ms Kelsey detailed to me in this email.

Dr HORTON: We are at one on that. This is about 'get the administrator in because she might reinstate Ms Kelsey'; correct?

Det. Sgt Francis: No. The matters of administration of council and matters of the minister were not my concern. My concern was simply doing my job as a police officer. These are matters of the executive and council and government. I do not involve my—I disagree with your suggestion. I had no involvement in those matters.

Dr HORTON: In fact, what we are reading here in these six dot points are views that are yours and Ms Kelsey's which are inseparable because you are empathetic and your interests are common?

Det. Sgt Francis: Mr Horton, the only thing I might agree with you is that I was empathetic to Ms Kelsey's situation and her predicament. I do not agree with you in regards to these being my views. As I have said—and I continue to rely on—I am just communicating Ms Kelsey's situation to my superiors.

Dr HORTON: And that you have lost all objectivity in relation to the investigation of Operation Front?

Det. Sgt Francis: Are you saying that simply because I communicated Ms Kelsey's views to my supervisors I had lost objectivity, because I would disagree with that?

Dr HORTON: This is your chance to answer the question. That is your answer? You disagree?

Det. Sgt Francis: Yes, I disagree.

Dr HORTON: Thank you. By the way, where is the correspondence 'some time ago' in which Ms Kelsey's team suggests 'a pathway for Ms Kelsey's reinstatement apart from the QIRC'? Can you identify it for the committee?

Det. Sgt Francis: No, I cannot identify that.

Dr HORTON: When you wrote these words did you think, 'I should go and find that or have a look at it'?

Det. Sgt Francis: No.

Dr HORTON: Was it already in your mind as to what that pathway was that had been suggested?

Det. Sgt Francis: No. I am just communicating what Ms Kelsey said when she says 'suggested a pathway' for reinstatement. I just assumed that was involving the administrator, not a process of the commission.

Dr HORTON: You did not at all think that the administrator in order to be appointed needed some things to happen first—that is, elected representatives no longer to continue to hold their positions?

Det. Sgt Francis: No, I did not.

Dr HORTON: Okay. Let's go a bit further on. We are going to later the same day, page 591. Before you read this, I want to put you in the picture about something. It will be suggested to this committee in evidence that on 29 May Mr MacSporran QC telephoned the administrator and sought the reinstatement of Ms Kelsey. I need to inform you of that so that you can put yourself chronologically, hopefully, in the context of what is occurring at this time. Let me know when you are ready for me to ask you about this email, which runs over to page 592.

Det. Sgt Francis: Yes.

Dr HORTON: You have commenced an investigation into the administrator because she told Mr MacSporran she would not reinstate Ms Kelsey; is that correct?

Det. Sgt Francis: No, that is incorrect.

Dr HORTON: We are going to go through this email in some detail, but this comes after you have sent your email I just took you to recalling what you say are the views of Ms Kelsey. But, to be clear, this email is expressing only your views; is that right?

Det. Sgt Francis: Yes.

Dr HORTON: The one at 591 and 592?

Det. Sgt Francis: I acknowledge that there are some of my views in this.

Dr HORTON: These are only your views; correct?

Det. Sgt Francis: No, incorrect.

Dr HORTON: Whose other views are you purporting to state in this email?

Det. Sgt Francis: I refer to them directly in that email: 'Ms Kelsey directed correspondence', 'Ms Kelsey states'. I am referring to views other than my own.

Dr HORTON: I see. So we are not going to not find here, are we, views of yours as distinct from Ms Kelsey's? I do not for a minute understand what you are saying.

Det. Sgt Francis: We may do on a thorough examination, Mr Horton, but as it stands right now I am not prepared to limit my answer to that, having not gone through it with you.

Dr HORTON: It was an email you wrote years ago. It is an email you had access to over the weekend. It is an email you had access to last week. Presumably you have read it in recent times; correct?

Det. Sgt Francis: Yes, that is correct.

Dr HORTON: So let's get to the point, Sergeant Francis, rather than beat around the bush. Now, you have serious concerns regarding the conduct of the administrator, is that correct, as at 30 May at 1.59 pm?

Det. Sgt Francis: I had serious concerns that the reprisal was continuing, Mr Horton.

Dr HORTON: You just told the committee a moment ago that matters of government and administration were no concerns of yours, and this is you meddling.

Det. Sgt Francis: Reprisal, Mr Horton, was my concern. That was the topic and the allegation of my investigation, and if this was some way tethered to that reprisal or dishonesty then it was my concern and interest.

Dr HORTON: You are investigating a reprisal by the administrator now, are you?

Det. Sgt Francis: No, I am not. It is not my delegation to decide what I investigate and what I do not.

Dr HORTON: Who gave you the authority to do what you are doing in this email?

Det. Sgt Francis: All I am doing is briefing up, as I did in the previous email, Mr Horton.

Dr HORTON: Who gave you the authority, if anyone, to do what you are doing in the email at pages 591 and 592?

Det. Sgt Francis: Are you talking to sending emails?

Dr HORTON: Who gave you the authority to do what you are doing as being recorded in the email at 591 and 592 of volume 1, Sergeant Francis?

Det. Sgt Francis: Mr Horton, I am not doing anything; I am simply communicating.

Dr HORTON: Thank you. The answer is no-one, because you did not need it?

Det. Sgt Francis: Yes, I gave my own, yes. It was a decision I made myself, Mr Horton.

Dr HORTON: I see. You are doing this on your own?

Det. Sgt Francis: Yes.

Dr HORTON: Okay; initiated by you?

Det. Sgt Francis: Yes.

Dr HORTON: On the basis of your serious concerns regarding the conduct of the administrator; correct?

Det. Sgt Francis: Yes.

Dr HORTON: Right. Now, following the dismissal of the LCC—so at least by 30 May you are conscious that the administrator came about as a result of the dismissal of the LCC; correct?

Det. Sgt Francis: Yes, clearly.

Dr HORTON: And the dismissal of the LCC came about as a result directly of you charging people with fraud under section 408C?

Det. Sgt Francis: Yes, that is correct.

Dr HORTON: Great. Now, your 'concerns are following a discussion with Ms Kelsey yesterday'. So now you have concerns as a result of speaking to Ms Kelsey 'yesterday'; correct?

Inquiry into the Crime and Corruption Commission's investigation of former councillors of Logan City Council; and related matters

Det. Sgt Francis: Yes, sir.

Dr HORTON: Good. And then certain people, you are worried, are 'suffering detriment' under the hand of the administrator?

Det. Sgt Francis: Yes.

Dr HORTON: It says—

It appears the Administrator has demonstrated no resolve to assist the four—
in the ways you identify?

Det. Sgt Francis: Mr Horton, I was communicating with Councillor Power, Councillor Koranski, Councillor Raven, councillor—and others, and these were strong concerns of those councillors and Ms Kelsey at the time, and I was communicating that to my supervisors.

Dr HORTON: Did you think at any time it was very, very important that you separate the views of others from your views, rationally held, separately?

Det. Sgt Francis: These are the views of the others.

Dr HORTON: These emails to which I have taken you rather look like a blancmange, with respect, where you are so confused as to what you think as separate from what those people you consider you are assisting think.

Det. Sgt Francis: I think I am adequately describing, having read this email, the views of those which I am quoting.

Dr HORTON: Well, and your views—

I have serious concerns ...

That is your concern; correct?

Det. Sgt Francis: I would say that I had empathy with their concerns, yes.

Dr HORTON: No, you do not say that. You have serious concerns. Can you own your serious concerns or will you not own them before the committee?

Det. Sgt Francis: In respect to whether I held serious concerns, it would be relative to a further investigation of reprisal.

Dr HORTON: I am sorry, we know you did. You just say—

I have serious concerns ...

So is there something wrong with telling the committee 'I had serious concerns'? You are being evasive.

Det. Sgt Francis: I am being qualified, and I am trying to separate what you are suggesting to me, Mr Horton, with a qualified response as to the nature of this email, and the nature of this email seems self-explanatory.

Dr HORTON: Then you go on to say—

The administrator as reported in the media is in the process of finalising the ... budget, and the four have expressed to me strong views in regards to—

what they say, presumably—

the disproportionate allocation of funding to favour—

certain electorates. Was this a concern that you held?

Det. Sgt Francis: Where are you specifically referring to, Mr Horton, sorry?

Dr HORTON: I am specifically referring to paragraph 4 of the email on page 591. I am just going through it sequentially, so if you get lost again I am just going down through it and I will continue to.

Det. Sgt Francis: All right. Let me read—

The administrator as reported in the media is in the process of finalising the LCC budget, and the four—

I imagine I am referring to Councillor Power, Councillor Raven, Councillor Koranski—

Dr HORTON: Just read it to yourself and then answer my question.

Det. Sgt Francis:—Councillor Bradley—

have expressed to me strong views ...

So, yes, I am conveying their strong views.

Dr HORTON: I see; not your views?

Det. Sgt Francis: No.

Dr HORTON: Okay. And you thought it was relevant to note their views about budgetary matters within council?

Det. Sgt Francis: Yes; I did at that time.

Dr HORTON: This is a matter which you as the investigator on Operation Front think it is relevant to know and relevant to communicate?

Det. Sgt Francis: Yes, sir.

Dr HORTON: Thank you. And then over the page on 592 in the first full paragraph you say—

The Administrator—

Is this you speaking now or are you retelling someone else's view? I cannot tell.

Det. Sgt Francis: No, I am communicating the views provided to me from those four councillors, Mr Horton.

Dr HORTON: Right. So now we say in the first full paragraph—

The Administrator has yesterday provided advice and direction to the QIRC proceedings, and has demonstrated her willingness to provide legal advocacy only for the respondents ...

Det. Sgt Francis: Yes. I had no direct knowledge of this.

Dr HORTON: I see.

Det. Sgt Francis: It was purely from the views of those provided to me.

Dr HORTON: I see. And then—

The Administrator provided no support or fairness to Ms Kelsey ...

Whose view is this?

Det. Sgt Francis: I am relying on the views provided to me from the four councillors I just listed.

Dr HORTON: Not the question. Whose view did I just read out?

Det. Sgt Francis: Not my own.

Dr HORTON: Whose view did I just read out?

Det. Sgt Francis: I just answered your question.

Dr HORTON: Right: not yours, but you are not prepared to tell the committee whose view it was that you are recording here?

Det. Sgt Francis: I have already, Mr Horton. I explained that these views are the views of the four councillors I just listed.

Dr HORTON: Right; so is this a parroting of complaints made by other people in this email that you are recording?

Det. Sgt Francis: Yes, sir.

Dr HORTON: I see. Then next paragraph—

Ms Kelsey believes her interim reinstatement is a matter for the Administrator.

And then four lines down—

The Administrator now remarkably advocates for the respondents, opposing Ms Kelsey reinstatement and it appears offered Ms Kelsey no consideration to her request and instead attempted to influence Ms Kelsey position in respect to a stay application without reinstatement through financial incentive.

Det. Sgt Francis: Yes.

Dr HORTON: These are your views, Sergeant Francis, in this para and the words I just read out to you?

Det. Sgt Francis: Mr Horton, the more I read this and reflect on it, the more I disagree with you.

Dr HORTON: And you certainly have received these views from others, but you by this point and an earlier point have become unable to separate the opinions of others from those which ought rationally be held by an impartial investigator and prosecutor in connection with this matter?

Det. Sgt Francis: No, I disagree and rather I am becoming more firm in my view that I acted rationally and that I am instead, as stated, simply passing on the strong views—emotional views, I acknowledge—of my witnesses in this case.

Inquiry into the Crime and Corruption Commission's investigation of former councillors of Logan City Council; and related matters

Dr HORTON: Two paragraphs down—

The Administrator to the knowledge of investigators ...

You are one of the investigators—correct—just to be sure?

Det. Sgt Francis: Yes.

Dr HORTON:—

has not requested an audience with the CCC to assist with her role in the administration of LCC or convened a briefing concerning CCC involvement with CCC leadership.

Det. Sgt Francis: Yes, that is a stated fact.

Dr HORTON: Just to be clear: does one have an audience, not a meeting, with the CCC?

Det. Sgt Francis: Yes, that is correct.

Dr HORTON: I see. That is a very grand term for a meeting, Sergeant Francis.

Det. Sgt Francis: Is my communication an issue, Mr Horton?

Dr HORTON: Yes. Your communication is an issue because repeatedly we see in your correspondence—and I am taking you to it—and your memos emotive language which reveals, I am suggesting to you constantly, that you have lost perspective and partiality and that you are now not able to see a difference between the interests of a private litigant in the QIRC proceeding and the interests of a proper, fair, impartial, transparent investigation under public power.

Det. Sgt Francis: No, I disagree. I would say that my communication is simply a reflection of my direct personality.

Dr HORTON: I see. And so you took it as adverse to the administrator that she had not requested an audience with the CCC; correct?

Det. Sgt Francis: That paragraph does not indicate positive or negative connotations. It is simply a stated fact.

Dr HORTON: It sure does, Sergeant Francis. I am suggesting to you it absolutely does. This is a negative connotation by you expressing a view of the investigators, of which you are one.

Det. Sgt Francis: Mr Horton, it simply provides an element of perspective from where I sit.

Dr HORTON: I see. And even today you are unable to accept my proposition that the paragraph I have just read to you shows partisanship?

Det. Sgt Francis: Mr Horton, I cannot accept that.

Dr HORTON: Then the next paragraph—

The Administrator has not consulted with Ms Kelsey ...

These are now facts you are asserting; correct?

Det. Sgt Francis: No. I had no knowledge of the administrator's actions apart from that which was given to be from Ms Kelsey and the four other councillors of Logan City Council.

Dr HORTON: In any event, as at 30 May you are briefing up because you hold serious concerns regarding the conduct of the administrator on the basis of the matters contained in your email at pages 591 and 592?

Det. Sgt Francis: Mr Horton, I agree: I consider this a serious a matter.

Dr HORTON: And you brief up to your DSS; is that correct?

Det. Sgt Francis: This matter was certainly worthy of briefing up; yes, that is correct.

Dr HORTON: And Mark Andrews at 591 on 30 May at 2.03 pm?

Det. Sgt Francis: Yes. I have communicated my concerns and I have described them as serious in this email to my senior sergeant.

Dr HORTON: In the subject matter line there, do you know what the words in the brackets mean—'consider this version'—and the reason they are put in there? Do you have any insight into that?

Det. Sgt Francis: Sorry, Mr Horton, I am not with you.

Dr HORTON: In the email at 591 from Mark Andrews to you and others at 2.03 pm, added into the subject line are now the words in brackets 'consider this version' which are not in yours. Can you assist with the significance of the addition of those words, if any?

Det. Sgt Francis: No, I cannot. That is a matter for Detective Senior Sergeant Andrews to comment on, not myself.

Dr HORTON: Andrews sends it up the line saying 'as discussed, we hold serious concerns'.

Det. Sgt Francis: To Detective Inspector Preston?

Dr HORTON: Yes.

Det. Sgt Francis: Yes.

Dr HORTON: When he sent it up and said 'we hold serious concerns', did you take that to include the serious concerns in the email he is sending up?

Det. Sgt Francis: It appears to me that my supervisor shared my concerns as stated in the email.

Dr HORTON: I see. So you are accepting that your email that I read to you, at 591 and 592, are concerns expressed by you?

Det. Sgt Francis: Pardon me?

Dr HORTON: You are accepting, as I understand it, what you have put in your email at 1.59 pm on 30 May are a list of serious concerns held by you, albeit on information provided by others?

Det. Sgt Francis: Mr Horton, I accept that these are serious concerns communicated by me on behalf of others.

Dr HORTON: I see. You are doing this on behalf of someone else?

Det. Sgt Francis: The witnesses in Operation Front, yes.

Dr HORTON: I see. It goes up to Mark Andrews and goes further up the line, is that correct, to Davie Beattie—and you are still copied in at that stage, 2.49 pm, same day at 590?

Det. Sgt Francis: Yes. Detective Sergeant David Beattie is not up the line; he is an equivalent rank to myself, but he does join in in the conversation.

Dr HORTON: I see. So you are on board, Mark Andrews is on board, David Beattie is on board, correct, with the serious concerns you have expressed?

Det. Sgt Francis: Correct.

Dr HORTON: Then Detective Sergeant Beattie says he would be supportive of petitioning the minister to have the administrator removed. That is pretty serious stuff, is it not?

Det. Sgt Francis: Very serious, Mr Horton.

Dr HORTON: You have charged people with fraud, you got them disqualified, the council has been disbanded, an administrator has been appointed and you thought the next step would be the reinstatement of Ms Kelsey?

Det. Sgt Francis: Mr Horton, I do not presume to predict the outcomes of ministerial or local government. It was not for me to reflect on.

Dr HORTON: That proposition cannot stand as true in light of your email of 30 May 2019 sent at 1.59 pm to Mark Andrews.

Det. Sgt Francis: Repeat the question, please, Mr Horton?

Dr HORTON: The proposition you just stated cannot stand as true in light of the contents of your email of 30 May 2019 sent at 1.59 pm to Mark Andrews—the one I have just taken you through.

Det. Sgt Francis: Perhaps you can rephrase your question. I do not understand what you are suggesting.

Dr HORTON: That it is false to say you were not concerned with matters of the administration of the council or with governmental actions as a result, because your email of 30 May at 1.59 pm voluntarily opts in to those very same questions.

Det. Sgt Francis: Mr Horton, I was not opted in to the administration of council and the delegation of an administrator of Logan City Council in any way.

Dr HORTON: I do not know whether it is deliberate that you have misunderstood the question or not, but I will put it again.

Det. Sgt Francis: Sure.

Dr HORTON: Because I am suggesting to you your evidence is less than frank to this committee. It is not correct to suggest that you did not get involved in the questions of administration of the council and related governmental mechanics because your email of 30 May 2019 of your own volition takes up these and related questions.

Det. Sgt Francis: No, I disagree.

Dr HORTON: Ultimately, you can see from the email chain, this goes up further—589—and you do not get agreement on this from those senior to the police officers; is that correct?

Det. Sgt Francis: Mr Horton, once I brief up I recognise this as a matter that was beyond my control, above my pay grade. It was none of my concern, except to say that I brief up correctly and accurately. What the executive or other members do with that information is a matter for them.

Dr HORTON: If you look at page 589, is the answer to my question yes?

Det. Sgt Francis: Mr Horton, are you referring to the email from David Caughlin and his comments in respect to the information that I have passed up the chain of command?

Dr HORTON: That is the email that appears on 589.

Det. Sgt Francis: There are a number of emails. There is an email from Mr Alsbury and there is an email from Mr Reid. Which one are you referring to?

Dr HORTON: So that is your answer to my question?

Det. Sgt Francis: I do not understand your question.

Dr HORTON: Thank you. Now, Sergeant Francis, you knew before you sent the 30 May email, 1.59 pm, from having spoken to Ms Kelsey at least that a request had been made to the administrator for Ms Kelsey's reinstatement. Question.

Det. Sgt Francis: Yes, Ms Kelsey had communicated that to me directly.

Dr HORTON: Had anyone in the CCC communicated that to you?

Det. Sgt Francis: I cannot recall.

Dr HORTON: That annoyed you.

Det. Sgt Francis: Mr Horton, what annoyed me?

Dr HORTON: It annoyed you that a request by the CCC to the administrator to reinstate Ms Kelsey had been unsuccessful; correct?

Det. Sgt Francis: Mr Horton, I cannot recall if I ever knew that the CCC provided correspondence to the administrator to have her reinstated. If it did, I certainly was not party to that, I was not provided that and I cannot recall it.

Dr HORTON: I thought you agreed with me that you knew that a request had been made to the administrator before 30 May for the reinstatement of Ms Kelsey as CEO to the administrator.

Det. Sgt Francis: I cannot recall agreeing to that.

Dr HORTON: You cannot recall now.

Det. Sgt Francis: No, I do not think I did. It is my memory that I cannot recall so I would not have agreed to that.

Dr HORTON: I see. Your evidence today is you cannot recall if before 30 May at 1.59 pm you knew that a request had been made to the administrator for the reinstatement of Ms Kelsey?

Det. Sgt Francis: Yes, I cannot recall.

Dr HORTON: I put it to you you absolutely did.

Det. Sgt Francis: I am happy to explore that with you, Mr Horton.

Dr HORTON: You are happy to—

Det. Sgt Francis: Explore that particular issue with you.

Dr HORTON: No exploration, Sergeant Francis. You are in the box. You answer the question.

Det. Sgt Francis: My answer is I cannot recall.

Dr HORTON: Right. And that we know that because when you record what Ms Kelsey said in the email of 30 May at 8.30 am, at page 586, your complaint about the administrator there is on the basis of her not having been reinstated by the administrator.

Det. Sgt Francis: Mr Horton, I have considered this email. It does not assist my recollection, I am sorry.

Dr HORTON: Thank you. It was annoying to you for this reason: you had charged fraud for the—or a—purpose of achieving, ultimately, the dissolution of the council, the appointment of an administrator, to have Ms Kelsey reinstated 'apart from the QIRC'.

Det. Sgt Francis: No, I disagree, Mr Horton.

Inquiry into the Crime and Corruption Commission's investigation of former councillors of Logan City Council; and related matters

Dr HORTON: Last week I asked you about the charging process within the CCC and you gave some evidence about that. As I understood your evidence, given on Friday, 20 August 2021 at page 61 of *Hansard*—

The direction to charge and the authority to charge comes from me.

Your words, at page 61 of *Hansard*. A question from me—

The decision to charge was yours and yours alone?

Response from you, still at page 61—

That is correct, as in the case of any police officer.

And you go on to state some other things. Having reflected on matters, is that still evidence that you say is true and correct, to the best of your knowledge and belief?

Det. Sgt Francis: Yes, sir.

Dr HORTON: So you would say it is not right to say that the chair or anyone in senior management above you in the CCC has, in effect, the right of veto whether or not to charge?

Det. Sgt Francis: When the matter is referred to me, it is my decision to charge or not to charge.

Dr HORTON: Yes, so theoretically at least you could be at odds with the chairman on the question of whether to charge?

Det. Sgt Francis: Yes, sir.

Dr HORTON: Can I ask for the witness to be given this document, please, and for it to be circulated to the committee? This is a transcript of your evidence, Detective Sergeant Francis, given at the committal on 10 December 2020, day 8. I am going to hand to you the relevant pages and a copy for your representatives. I ask for copies to be circulated to the committee. Page 25 is what I want to ask you about, lines 4 and 6.

CHAIR: Mr Horton, are you seeking to table this?

Dr HORTON: Yes, please. I do seek to table this extract from the committal hearing on 10 December 2020, day 8.

CHAIR: We consider the document tabled in accordance with previous guidance, not to be published at this point in time.

Dr HORTON: Thank you, Chair. For the record, and it does not matter much but it is probably day 9 of the committal. It is wrongly misprinted as day 8 on the front, in case there is any confusion. We think it is probably day 9. You were asked by a barrister there about the charging process, and I have given the extract from page 24 as well, Sergeant Francis. You will see you agree

And that goes up through the chain ... not just straight to Mr MacSporran, it goes up through a number of levels to be approved or not approved or more information sought or whatever else?—Yes.

That is page 24, lines 40 to 44. More is put to you below—page 24—about your inspector and it goes up to your superintendent. And then lines 4 and 6

And if the answer is yes, then you charge?

Your answer—That's correct.

Question

And if the answer is no then you don't?

Your answer—That's correct.

Det. Sgt Francis: Yes, sir.

Dr HORTON: That is irreconcilable with your evidence given to this committee that I have referred to at page 61 of *Hansard*. You have an opportunity now to comment on what I have put to you.

Det. Sgt Francis: What specifically would you like me to comment on, Mr Horton?

Dr HORTON: It is the question that I have asked you. Would you like me to put it again?

Det. Sgt Francis: No. I acknowledge that this is the evidence I have given in a committal proceeding and it is not at odds with what I have provided to the committee.

Dr HORTON: I see. You do not see any inconsistency between—

Det. Sgt Francis: I have never requested the chair permission to commence proceedings, Mr Horton. And if my senior executive officer or the chair provided to me that they did not consider the facts within the memo sufficient to refer the matter to me to consider the charge then I would not have charged. In that case, this is a correct explanation of that process.

Dr HORTON: You said to me, as I understood it, in explaining what you said at page 61 of *Hansard* today that, theoretically at least, you and the chair could have different decisions about whether to prosecute but the discretion would remain yours; correct?

Det. Sgt Francis: Yes.

Dr HORTON: But page 25 of the committal transcript suggests to the absolute contrary.

Det. Sgt Francis: How so, Mr Horton?

Dr HORTON: I am sorry?

Det. Sgt Francis: How so?

Dr HORTON:—

And if the answer is yes, then you charge?—That's correct.

And if the answer is no then you don't?—That's correct.

Det. Sgt Francis: Yes, and the context to my answer is still correct, that I would never go to the chair and ask permission to charge—only that he would refer the matter to me to charge. So my position is yes. If the chair refrained from referring the matter to me then I would not consider the matter; I would not consider commencing prosecutions.

Dr HORTON: And so your evidence now—I am trying to understand it—is if the chair said yes then you might not charge; correct? There are circumstances where you might not charge even though the chair said yes?

Det. Sgt Francis: Yes, that is correct.

Dr HORTON: And vice versa?

Det. Sgt Francis: No, that is incorrect.

Dr HORTON: I see. If the chair said no then there are not cases where you would charge?

Det. Sgt Francis: No, if the chair did not refer a matter for me to consider in respect to prosecuting then I would not consider it.

Dr HORTON: I will just go back to the transcript before you of the committal, page 24—... you prepare a briefing note when you think you might want to charge someone, recommending to the executive of the CCC that that person be charged?

Det. Sgt Francis: Mr Horton, I am not with you. Which line are you on?

Dr HORTON: And take it for the minute that by 'the executive' it is meant 'the chairman'.

Det. Sgt Francis: Mr Horton, I am not with you. Which line are you quoting from?

Dr HORTON: The little extract that I gave you—

Det. Sgt Francis: Yes, I have that here in my hand.

Dr HORTON: Page 8-24.

Det. Sgt Francis: Yes, I am on that page.

Dr HORTON: Line 36. Do you see how the lines work there?

... you prepare a briefing note when you think you might want to charge someone, recommending to—

Assume that you are saying 'the chair', from earlier evidence given at page 4 in the transcript—

Det. Sgt Francis: Yes, Mr Horton, I am with you now.

Dr HORTON: So if you send one up saying you think you want to charge someone, if the chair answers yes then you charge and if the answer is no then you do not?

Det. Sgt Francis: What is your suggestion, to be clear, Mr Horton?

Dr HORTON: That the evidence at page 61 of *Hansard* and your answers to me before I took you to this today are irreconcilable with the evidence that you gave in the committal at pages 8-24 and 8-25.

Det. Sgt Francis: No, I disagree. I do not see that they are at conflict or at odds.

Dr HORTON: And that you cannot charge someone in an investigation like the current one until you have the leave of the chair.

Det. Sgt Francis: I cannot say that I could charge someone and I cannot say whether that has been done without the support of the chair, but I certainly would not.

Dr HORTON: And you cannot charge somebody in an investigation like this until you have the leave of the chair.

Det. Sgt Francis: The process within the Crime and Corruption Commission and the chair's position is that he refers matters to the office of constable for commencement of proceedings, and that is what occurred in this case.

Dr HORTON: I am going to move to another topic and then I need to put to you some things to suggest to you. I am not going to be too much longer, Chair. Is that a convenient time for a break, or would you like me to move to another short topic?

CHAIR: How long do you think you will be?

Dr HORTON: I will be five minutes on the topic and then I will be about five or 10, depending on the length of the sergeant's answers about the matters that I put to him for his comment—about 15 in all.

CHAIR: Detective Sergeant, are you okay to proceed or would you like a break?

Det. Sgt Francis: I would appreciate a comfort break, sir.

CHAIR: There may be some members of the committee in that boat, too. Mr Horton, we might take a 15-minute break and resume at 11.15.

Proceedings suspended from 11.00 am to 11.17 am.

CHAIR: We will resume hearings now. Mr Horton, if you could continue where you left off, please.

Dr HORTON: Thank you. Sergeant Francis, I am now going to put to you a number of propositions. I am putting them to you for the purpose of giving you an opportunity to explain, contradict, give context or agree with what is being suggested to you. If at any time you have concerns about what I am asking you, you have next to you your legal representative and you can, of course, turn to him for assistance if you need. I will try to do this chronologically as much as possible, so it makes as much sense and is simple. Before 3 October 2018 you had a close involvement as investigator in Operation Front.

Det. Sgt Francis: Agree.

Dr HORTON: You knew that on or about 24 August 2018 the QIRC had ruled against receiving documents produced by the CCC in answer to a notice of attendance to produce.

Det. Sgt Francis: Neither agree or disagree.

Dr HORTON: And you knew of the fact of that ruling and of its content before 3 October 2018.

Det. Sgt Francis: Neither agree or disagree.

Dr HORTON: But you delivered the documents on 3 October 2018 to Acting CEO Trinca of the Logan City Council.

Det. Sgt Francis: Agree.

Dr HORTON: For the purpose or a purpose of putting those documents into the hands of the council so that they would be amenable to disclosure in the QIRC proceeding commenced by Ms Kelsey.

Det. Sgt Francis: Disagree.

Dr HORTON: And that you did so in order to get around the QIRC ruling about that.

Det. Sgt Francis: I reject that.

Dr HORTON: You were at all times aware, again because of your involvement in Operation Front as an investigator, that a further delivery of documents to the Logan City Council on or about 19 November 2018 had not resulted in the disclosure of those documents in the QIRC proceeding.

Det. Sgt Francis: Disagree.

Dr HORTON: And you were aware of pathways being suggested in late 2018 or early 2019 by Ms Kelsey's lawyers, MinterEllison, for ways in which Ms Kelsey might be reinstated 'apart from the QIRC'.

Det. Sgt Francis: Disagree.

Dr HORTON: And that partly as a result of the desire to assist Ms Kelsey achieve reinstatement you, before you charged on 26 April 2019, were aware that the charging of certain offences would result in the disqualification of councillors who were the accused.

Det. Sgt Francis: I reject that.

Dr HORTON: If so many councillors were charged as would prevent the council from achieving a quorum it would be inevitable that an administrator would be appointed.

Det. Sgt Francis: Out of a desire to assist Ms Kelsey, I disagree and reject that too.

Dr HORTON: Your answer there is given out of a desire to assist Ms Kelsey?

Det. Sgt Francis: That was your question, yes.

Dr HORTON: You laid the charges on 26 April 2019 knowing that the consequence of them would be, first, to disqualify the accused and, second, to bring about the dissolution of the council.

Det. Sgt Francis: No, disagree on both those points.

Dr HORTON: But you failed to mention, despite knowing it, that that would be the consequence of your actions in any of the memos to senior management.

Det. Sgt Francis: Disagree.

Dr HORTON: It was the or a purpose for which you laid those charges to assist Ms Kelsey in her reinstatement quest, 'apart from the QIRC'.

Det. Sgt Francis: Disagree.

Dr HORTON: When Ms Kelsey was not reinstated by the administrator in response to a request by the CCC on or about 29 May 2019, you commenced an investigation into the administrator.

Det. Sgt Francis: Disagree.

Dr HORTON: You did so because you were annoyed or frustrated that the administrator had not assisted Ms Kelsey with reinstatement.

Det. Sgt Francis: Disagree. No investigation was commenced, Mr Horton.

Dr HORTON: In framing the charges that you did, you lacked impartiality and let your personal feelings for the victim and the accused intrude upon your decision to prosecute.

Det. Sgt Francis: Strongly disagree.

Dr HORTON: The decision to charge that was made on 26 April 2019 was one made in conjunction with the CCC chair.

Det. Sgt Francis: Disagree. The discussion in relation to the commencement of proceedings occurred before 26 April.

Dr HORTON: You became incapable, in the course of recommending charges, of separating Ms Kelsey's interests from those of a proper, orderly and lawful investigation.

Det. Sgt Francis: I reject that statement, Mr Horton.

Dr HORTON: They are my questions for this witness for the moment, Chair.

CHAIR: We will go to questions from committee members. We will turn first to the deputy chair.

Mr SULLIVAN: Detective Sergeant Francis, I will take you to a couple of papers firstly. I take you to page 141 of volume 2, which is your memorandum that Mr Horton discussed at some length on Friday, and particularly paragraphs 90 and 91 of that document.

Det. Sgt Francis: Yes.

Mr SULLIVAN: This is discussion around, as you have described, tactical considerations in terms of considering charging particular councillors and the mayor first. Do you remember that discussion with Mr Horton?

Det. Sgt Francis: Yes.

Mr SULLIVAN: I do not want to re prosecute that line of questioning from Mr Horton other than to ask some questions that stem from it. Your justification from Friday was—and this is from *Hansard*—

The reason I propose this is because the varying culpability amongst the seven, for example, the mayoral cabinet ...

Det. Sgt Francis: That is correct.

Mr SULLIVAN: I turn to page 327 of the same volume. There are a series of handwritten notes at page 327 that set out—

Chair approved Feb 7 + Smith

1 x Fraud + Smith 2 x 92A .

That is at page 327?

Det. Sgt Francis: Yes.

Mr SULLIVAN: On page 333, at the highlighted section, it says that it is to be charged as a group. On 335 it goes through the charges. They all seem to be, although slightly varied they are pretty similar, notes of the meeting on the 24th; is that fair?

Det. Sgt Francis: Yes.

Mr SULLIVAN: I take you to that meeting. It seems that, as you described it, the memo that you delivered was extensive/significant work. It was leading up to seeking a reference from the chair. It had received a covering note and a memo from Mr Alsbury and was leading up to that meeting. Is it fair to say that that was a pretty significant meeting?

Det. Sgt Francis: I cannot recall if the covering note was a matter discussed at that meeting. I am aware that the SCA would prepare a covering note. That would only usually arrive by notice to me once those executive discussions had been had—

Mr SULLIVAN: I think Mr Horton covered off on this, but you were at the meeting, were you not?

Det. Sgt Francis: Remind me of the date, please?

Mr SULLIVAN: The meeting of the 24th with the chair and Mr Alsbury and I think one of your colleagues.

Det. Sgt Francis: I cannot recall. These notes that you have disclosed to me here on 335 are not my handwriting and I cannot recognise that handwriting. I might well need to be assisted in identifying whose handwriting that is.

Mr SULLIVAN: On page 329, is that your handwriting?

Det. Sgt Francis: No.

Mr SULLIVAN: You do not recall if you were even in the meeting—

Det. Sgt Francis: No, I do not—not at this point right now.

Mr SULLIVAN:—when the chair—

Det. Sgt Francis: Not without looking at my diary. I cannot recall. That is not my handwriting. Page 331 is, and I have a note there—that is my handwriting—

Recalled due to Op Front (Briefing required to executive E.D. Alsbury)

That is on the 23rd. I can only assume that that was a rostered day off, as indicated in the column there. Page 272 is my handwriting as well. There is a note there on 24 April 2019—yes, 2 pm on the 24th, sir, I have indicated in my diary here in my handwriting that I attended a meeting with the chair.

Mr SULLIVAN: I might seek counsel support in terms of what other evidence has been put. You do not recollect meeting with the chair about seeking his, in your words—I do not want to quibble about how you describe it—recommendation to you to consider charging. You do not remember having a meeting with the chair about that?

Det. Sgt Francis: It is clear that I did—

Mr SULLIVAN: You did?

Det. Sgt Francis:—according to my notes, but I cannot recall the nature and what was discussed. It is clear to me now, after your prompting, that there was a meeting on 24 April and that the chair supported the referral of the charges to me for consideration.

Mr SULLIVAN: Which you consider and then two days later did charge. It seems like that time frame is pretty set in what we have heard.

Det. Sgt Francis: My recollection is yes. I then began a pursuit—

Mr SULLIVAN: What page are you looking at there?

Det. Sgt Francis: Sorry, 332. Deputy Chair, my recollection is that post that date I then attended to the completion of paperwork relative to the commencement of proceedings and liaising with each of the members representing the legal interests of those parties.

Mr SULLIVAN: Assuming it is that date, in discussions with the chair, Mr Alsbury and whoever else was in that meeting, do you recall whether you discussed the strength of cases to pursue a charge of fraud against the mayor and seven councillors?

Det. Sgt Francis: I do not recall.

Mr SULLIVAN: I find that hard to reconcile. How many meetings have you had with the chair of the CCC that led to a recommendation to charge a mayor and seven councillors?

Det. Sgt Francis: In this case—Operation Front—a couple.

Mr SULLIVAN: I am not trying to be flippant, Detective Sergeant.

Det. Sgt Francis: I understand.

Mr SULLIVAN: I understand that in your line of work—in our line of work—there are meetings that go back to back and there are different matters that over time might not stand out. I would have thought that a meeting with the chair and Mr Alsbury and your colleagues where you walked out of the room with a recommendation from the chair to charge a mayor and councillors would stick out in your mind.

Det. Sgt Francis: Deputy Chair, this event occurred on 24 April 2019. My recollection is not good enough to rely on. As to the details of what occurred at that meeting, I find myself relying on my notes. My notes indicate that approval was obtained from the chair to proceed all in one day. I can only assume, reading between the lines and my understanding of the events and circumstances that led up to this, that approval had been obtained prior to this event and that this meeting was in consideration to proceeding with all defendants—commencing proceedings in respect of the persons of interest all at one time.

Mr SULLIVAN: The chairman's memo was signed on the 24th. The covering note was signed by Mr Alsbury on the 23rd. I do not want to go back over the evidence, but the handwritten note from the chair which says 'approved' the charges on the memo was signed on the 24th. I think it is fair to assume, isn't it, that that recommendation from the chair was made on 24 April?

Det. Sgt Francis: Deputy Chair, on that evidence I am inclined to agree with you.

Mr SULLIVAN: In terms of that meeting, taking you back to page 141—I do not need you to re-read it—that part of your memo where you suggested for tactical reasons a staged charging and your evidence on Friday where you said the reason for that was, in your view, 'varying culpability', did you discuss with the chair or Mr Alsbury at that meeting whether all seven councillors should be charged?

Det. Sgt Francis: My recollection, after discussion with the deputy chair and looking at my notes now, is at that meeting no, to answer your question; rather it was in regard to a—to use the word—staggered consideration. That was rejected by the chair. So far as approval, I accept that that day was the formal date that the chair provided approval to refer the matter to me for charging.

Mr SULLIVAN: I am asking about the meeting, Detective Sergeant, because I cannot see it in the papers. If you can find it in your memo or other material, I am more than happy to be drawn to that, but I cannot see it. That is why I am asking about what occurred on that day. That is the context. Did you discuss whether some of the seven councillors should be charged with fraud and others not?

Det. Sgt Francis: I recall a conversation in respect of culpability with Mr Alsbury and the chair. I specifically recall a conversation in regard to culpability, as it stood, with then councillor Lutton. That is the extent of my recollection.

Mr SULLIVAN: Either in that meeting or in a previous discussion with Mr Alsbury, did you make a deliberate decision that it was one or all—that if you were going to charge for fraud you had to charge all seven?

Det. Sgt Francis: I recall, to answer your question—I am sorry, Deputy Chair. I am hesitating because I am struggling with recollection.

Mr SULLIVAN: That is okay. We have all day.

Det. Sgt Francis: I do recall a conversation in regard to co-jointly—the decision to co-jointly charge or to prefer charges individually, but the context of the exact discussion has escaped me.

Mr SULLIVAN: I cannot see in your memo—take me to it, if you want to—where you have set out the varying culpability or the various evidence against each of the seven, if we can leave the mayor aside for now, for obvious reasons. You have made several references both in your memo and in your testimony to the mayoral cabinet.

Det. Sgt Francis: You are correct.

Mr SULLIVAN: You do not recall in that meeting on 24 April specifically going—obviously you have treated the mayor separately, for obvious reasons. I do not need comment on that. But there was no discussion that you can recall as to the different or possibly various levels of culpability of the seven? You do not recall specifically going through each of them?

Det. Sgt Francis: No, Deputy Chair, I do not. I do not recall that.

Mr SULLIVAN: Detective Sergeant, between the meeting on the 24th, when the chair signed off on recommending for your consideration, and the 26th, which is when charges were laid, did you turn your mind to the individual culpability of the seven or did you think that once you had approval for all of them you were doing them all?

Det. Sgt Francis: Deputy Chair, it was always my view that all were culpable. Any conversations that were in respect of culpability would have been directed to me from the SEO and the chair and their views. In respect of my views, it was always the same—that they were all culpable to varying levels because of their participation in what I saw was dishonest conduct. I never, ever wavered in my view that they were all culpable.

Mr SULLIVAN: Is that because to prove fraud for the reprisal, leaving the other fraud charges for the mayor aside—in terms of the reprisal related fraud charges, did you believe you needed to get all seven because it was a group decision to get any of them?

Det. Sgt Francis: No.

Mr SULLIVAN: Did you think individuals could be charged and prosecuted on their own merit?

Det. Sgt Francis: It is still my view, even now with the passage of time that has passed, that in consideration of varying culpability I could have proceeded individually. If I felt that there was less evidence or had not reached a standard of proof required to commence proceedings then I would not have commenced proceedings in respect of a councillor or a number of councillors.

Mr SULLIVAN: Is your understanding at the time of charging fraud—you have discussed with Mr Horton significantly the issue of dishonesty and the core role of dishonesty—that that was an element of that charge?

Det. Sgt Francis: That is correct.

Mr SULLIVAN: In proving that in a court beyond reasonable doubt, you are aware that the Crown have to negate defences that would be put?

Det. Sgt Francis: That is correct.

Mr SULLIVAN: Different points of view as to justification for people's actions would have to be disproved by the Crown.

Det. Sgt Francis: That is correct.

Mr SULLIVAN: In considering the seven councillors involved—and, again, if we can leave the mayor aside—did you consider what defences they would likely put up?

Det. Sgt Francis: Of course I did,—absolutely.

Mr SULLIVAN: And what were they?

Det. Sgt Francis: My consideration was, No. 1, providing each of the councillors that were charged an opportunity firstly to participate in a record of interview and put their points across. That was declined, and that was communicated strongly by individual counsel. No. 2, my strong view on that issue was that the innocent hypothesis explanation could be thoroughly explored by the inclusion of the affidavits tendered by each of the councillors in the QIRC and further explanation. We have already indulged in that, but I can go into that now if need be.

Mr SULLIVAN: So by the 24th—the day of the meeting—and certainly by the 26th—the day of charging—you did not need to guess what defences would be put up, did you? You knew, because people had already put them in the QIRC?

Det. Sgt Francis: Yes, of course, and there was evidence of those defences within recorded councillor meetings.

Mr SULLIVAN: And you were confident by the 26th that all of those materials put—what would obviously be defences put—to a charge of dishonesty could be negated beyond reasonable doubt?

Det. Sgt Francis: Absolutely.

Mr SULLIVAN: For each and every one of the seven?

Det. Sgt Francis: Yes, sir.

Mr SULLIVAN: Thank you.

CHAIR: Just following up on that, Detective Sergeant Francis, you have mentioned the levels of culpability amongst the seven. In particular, you made reference—or maybe the deputy chair pointed you to councillor Lutton—

Mr SULLIVAN: That was his evidence.

CHAIR: Yes, and your evidence as well—to there being a lesser degree of culpability in the case of councillor Lutton.

Det. Sgt Francis: Yes.

CHAIR: Why was that?

Det. Sgt Francis: Councillor Lutton was not part of the WhatsApp conversation.

CHAIR: Okay.

Det. Sgt Francis: The WhatsApp conversation, in my mind, was strong evidence of covert and dishonest communication, being mindful that that was deleted. Councillor Lutton was not party to that. In my mind there has always been an overwhelming body of evidence to proceed through committal and reach a trial and allow a jury to make a decision in fairness to all parties. In respect to councillor Lutton there was still overwhelming evidence, but the absence of his participation with WhatsApp introduced that conversation of culpability.

CHAIR: Yet you still went ahead and charged him with fraud?

Det. Sgt Francis: Yes, absolutely, yes.

CHAIR: And that was your decision? Or a joint decision of yourself and the chair?

Det. Sgt Francis: We were all in agreement.

CHAIR: You were all in agreement?

Det. Sgt Francis: Yes, sir.

CHAIR: Last week in your evidence counsel raised with you the issue about best practice to set out elements of an offence in memos in relation to charges. I made a note here, so correct me if I am wrong. The response that you gave was that you did not see it was necessary in this case to lay out all the elements of the case of the particular charge because of your experience. I just wanted to ask whether that experience you were drawing on was based on your experience at the CCC or your experience at the QPS.

Det. Sgt Francis: My experience at the QPS, Chair. In my experience at the CCC I have elementised and constructed reports in the manner that you have described but, given the complexity of Operation Front, I thought to exceed—that construct is a very basic construct. It does not include the particulars, the context, the background and the level of offending as we observed in Operation Front. The memo I considered—and I still do—to be far exceeding the standard inclusion in a matrix of what you have described.

CHAIR: How many other matters have you charged on at the CCC?

Det. Sgt Francis: I have charged a number of people. I have charged another mayor. I have charged civilians and police officers at the CCC.

CHAIR: Putting Operation Front to the side, how many other cases—if you could call them 'cases'—have you charged in?

Det. Sgt Francis: Two investigations, and each of those investigations involved two defendants.

CHAIR: Two, involving two defendants each?

Det. Sgt Francis: Yes. The investigations of which I speak evolved to a point where proceedings were commenced, Chair.

CHAIR: In those other cases, did you go through the process of setting out the elements of each offence in your memo to the SEO or to the executive or the chairperson?

Det. Sgt Francis: One I did; one I did not. Another one was quite complex and I adopted the same procedure as I did in Operation Front.

CHAIR: This was your first case charging at the CCC, though, wasn't it?

Det. Sgt Francis: No. I had commenced proceedings before this.

CHAIR: Okay. You said that you did not go into more detail in the more complex cases. Why is that? I would have thought that you would go into more detail and consider all the elements because they would be harder to prove if they are complex.

Det. Sgt Francis: I am not understanding.

CHAIR: The belt-and-braces approach.

Det. Sgt Francis: I am not understanding your question entirely. In the other cases, to refer to my other methodologies, the offending was much more up-front and clear. The particulars that I speak of—time, date and place—were very easily defined and did not require a memo of this calibre, if I can use that word, or this complexity. In another investigation involving another member from local government there was a period of offending over a protracted period of time, and I adopted the same approach in that investigation as I did in this.

CHAIR: Your experience before going before the CCC, I think you mentioned, was with the CPIU; is that correct? Child protection?

Det. Sgt Francis: My experience, to go into it—I progressed to my plain-clothes appointment in 2003, 2004. I remain in that. I became a detective in 2007. I was appointed to detective training in the Specialist Investigations Unit in 2013. I fulfilled a role in the ethical standards unit in the integrity and professionalism unit before I came to the CCC. I came to the CCC in November 2017.

CHAIR: So you did not have a lot of experience in these sorts of matters before you came to the CCC?

Det. Sgt Francis: I consider myself that I have extensive experience in plain-clothes investigations, in particular my experience at detective training, where I provided advice. I overviewed investigations. For a candidate to receive the appointment of detective they have to undergo a minimum of three years training. I was in a position where I was overseeing that training, providing that training on complex investigations methodologies in respect to sexual assault investigations and others—crime scene investigations, Police Powers and Responsibilities Act. I also had overviewed many participants' complex investigations in order to afford that participant the award of detective once they had gained sufficient experience and exposure to complex investigations. I would advocate in my own interests and say that I had a very broad experience in investigations prior to commencing at the CCC.

CHAIR: None involving fraud or corruption, though?

Det. Sgt Francis: Numerous investigations involving fraud but, Chair, I acknowledge, not at this level of offending and not involving mayors and councillors and local government.

CHAIR: I just want to clarify one thing. Looking at *Hansard*, it says your answer on Friday was that this matter was your first investigation at the CCC, but I think you said a couple of minutes ago that it was not your first one?

Det. Sgt Francis: When I arrived—yes to clarify, I am not retracting that at all. When I commenced at the CCC, this was my first investigation. This was my primary investigation, but throughout the duration of this investigation I was involved in other investigations. For example, from November 2017 until April 2018 or 2019—correct me if I am wrong—when these proceedings were commenced, I had been delegated the responsibility of case officer on other investigations, so this was not my sole responsibility as a case officer. That was the reason for my comments on Friday.

CHAIR: Was this the first one you laid charges in?

Det. Sgt Francis: No, it was not the first one where I laid charges.

CHAIR: Okay, sure. We will go to the member for Coomera.

Mr CRANDON: Just to tidy up a couple of things from last week if we can, go to page 45 of *Hansard*. Do you have a copy of the *Hansard*? Has that been provided?

Det. Sgt Francis: No, I do not.

Mr CRANDON: Page 45 of *Hansard*.

Det. Sgt Francis: Yes, sir.

Mr CRANDON: Partway down the page, probably we would say the fourth-last comment by Dr Horton on that page, which reads—

Did anyone inform you before 25 September 2018, or did you otherwise know, that the QIRC had issued a decision on 24 August 2018 about the notice which had been issued to the CCC?

Inquiry into the Crime and Corruption Commission's investigation of former councillors of Logan City Council; and related matters

You asked to provide context, Dr Horton said, 'Yes,' and then you said—I will just pull a couple of sentences out of here because they are the ones I want to go to. About halfway down, the fourth line, you said—

It was always my belief—strong belief—that those affidavits were in conflict with evidence that we had gathered ...

You use that term 'strong' quite often in the evidence that you provide. Then a few lines further down, in fact the third-last line, you said—

However, I was strongly informed by—

Then you hesitated and then went on to say—

strongly informed that that evidence was not obtainable due to suppression orders within the QIRC, and that was a frustration of mine.

But you neglected to tell us who that person was who strongly informed you. You said—

However, I was strongly informed by—

you paused and then you went on to say that it was a frustration of yours. Who was it who informed you?

Det. Sgt Francis: Member for Coomera, the use of my language on reflection is not overstated. This was a matter of high interest of mine and frustration in that I wanted to include into evidence the affidavits of the councillors, and I was strongly referring to what I said last Friday. I was informed—these robust discussions were between myself and others, members of my team and principal lawyer Makeeta McIntyre. She provided legal advice to me that those materials were off limits and that I was not lawfully able to disclose those in the brief of evidence and rely on them until the matter was concluded.

Mr CRANDON: Just to be clear, your evidence is that the person you were going to name last week was Makeeta McIntyre?

Det. Sgt Francis: That is correct.

Mr CRANDON: So you were strongly informed by Makeeta McIntyre that the—informed that the evidence was not obtainable due to the suppression orders, and that frustrated you?

Det. Sgt Francis: It did. In part my frustration was due because of my lack of understanding of QIRC matters, but that was the legal advice I obtained. I got it in writing. I was not to consider access or even review the matters of the affidavits for the brief of evidence until those suppression orders were lifted.

Mr CRANDON: Yes.

CHAIR: Can I just jump in there? And that might be when the QIRC makes its decision?

Det. Sgt Francis: That is correct.

CHAIR: And you could not let that happen, could you?

Det. Sgt Francis: Pardon me?

CHAIR: You could not let that happen, could you?

Det. Sgt Francis: No, the reason for my comments is that I wanted that evidence in fairness. I considered that evidence of the affidavits made by the councillors to be at odds with the evidence that I had within WhatsApp and telecommunications intercepts, and that would strengthen the brief of evidence and make the passage through committal easier. So that was my interest—not what you are referring to, Chair.

Mr CRANDON: Let me use my terminology now. You were told in no uncertain terms by Makeeta McIntyre that that evidence could not be used?

Det. Sgt Francis: That is correct.

Mr CRANDON: Thank you. You mentioned in your evidence five councillors keeping you informed. You mentioned the other five councillors keeping you informed, and I jotted that down the other day. So you relied on them heavily—the information they were providing?

Det. Sgt Francis: I was in constant communication with them through the construct of their statements, and in those conversations, yes, they were feeding me or providing me with information.

Mr CRANDON: And you accepted that information as true?

Det. Sgt Francis: Yes, in most circumstances I did.

Mr CRANDON: Did you check the veracity of what they were saying to you at any time?

Det. Sgt Francis: I measured it with information that I obtained from other sources. Yes, that was a constant process.

Mr CRANDON: There is nothing in that memo, we will call it—a 1½-page email—to your superior that suggests that you had checked or measured or considered anything. You have sort of made it pretty clear that that was your interpretation of what they were saying to you. It was an important document. It was a 1½-page document that went up the line, but you measured it. How did you check the veracity in other ways? How did you fact-check?

Det. Sgt Francis: I did not do any fact checking prior to sending that up the chain. If it was at odds with what I had received from other witnesses, for example, I would have included that in the text or discounted it. The measure of what I am saying is that I just simply passed it up. I did not do any fact checking or—

Mr CRANDON: Just getting on to another topic in that regard, did any of those councillors that you relied upon use WhatsApp, to your knowledge?

Det. Sgt Francis: Not to my knowledge.

Mr CRANDON: Did you ever ask them?

Det. Sgt Francis: I cannot recall.

Mr CRANDON: Let me go back a step. What we have in your testimony is a suggestion that it is a—what is the word you use for WhatsApp?

Det. Sgt Francis: Covert?

Mr CRANDON: Covert?

Det. Sgt Francis: I did use the word covert, yes.

Mr CRANDON: Yes.

CHAIR: Used by drug dealers.

Mr CRANDON: Yes, you indicated used by drug dealers. But you never asked any of these other five councillors whether they were involved in WhatsApp communications with one another or anyone else?

Det. Sgt Francis: No, I cannot recall whether I did or I did not. I cannot provide evidence of whether I did or I did not. I would expect that I did, but I cannot give evidence of that because I cannot recall.

Mr CRANDON: So you do not believe you asked them?

Det. Sgt Francis: No, I expect that I would have, but I cannot recall.

Mr CRANDON: Are you aware whether any one of the four, as you were referring to them, eventually, in the correspondence that you were writing—did any of the four to your knowledge want any of their records or any of their electronic devices destroyed?

Det. Sgt Francis: I do not recall. I do not recall, and I cannot remember coming across any information that suggests that Councillor Power, Counsellor Bradley, Councillor Koranski or Councillor Raven wished to have their devices destroyed.

Mr CRANDON: They were used to using covert means though, weren't they, to gather evidence on your behalf—on the CCC's behalf, I should say?

Det. Sgt Francis: I do not understand your question.

Mr CRANDON: They were used to using covert recordings to gather evidence on behalf of the CCC?

Det. Sgt Francis: Who is that, member for Coomera?

Mr CRANDON: The four councillors that you have just mentioned.

Det. Sgt Francis: I cannot give evidence of that. I cannot give any evidence to suggest that those four used WhatsApp or any other method of communication on a device. I just do not know.

Mr CRANDON: Or recording?

Det. Sgt Francis: I do not know.

Mr CRANDON: You do not know?

Det. Sgt Francis: Recording evidence on their devices?

Mr CRANDON: Yes.

Det. Sgt Francis: That is a different question. Do I know whether those four used their mobile phones to record meetings?

Mr CRANDON: Devices—

Det. Sgt Francis: Yes, I am aware—

Mr CRANDON:—could be—sorry?

Det. Sgt Francis: Yes, I am aware that those members recorded conversations and meetings at Logan City Council, yes.

Mr CRANDON: So they were of the ilk of being prepared to use covert means to gather evidence?

Det. Sgt Francis: There is nothing illegal—it is not against the Privacy Act to record another conversation as long as one member has knowledge that there is a recording.

Mr CRANDON: Yes, I am aware of that. But a step forward is: one would wonder whether or not they also used other covert technology such as WhatsApp. But you do not recall ever asking that?

Det. Sgt Francis: No, I do not recall.

Mr CRANDON: Would you regard that as being thorough in your investigations?

Det. Sgt Francis: Those four councillors were not under any allegation that warranted any investigation by me. I was not given any delegation to investigate those parties. They were my witnesses.

Mr CRANDON: And you also did not check the veracity of what they were telling you either, did you?

Det. Sgt Francis: I conducted a continuous appraisal of what they told me and I measured that against other information that Operation Front came into contact with, and that information was extensive—and I understand that the committee has the brief of evidence. You will appreciate that we had a copious amount of material to measure the veracity of an individual's claim, particularly those four, and I had no reason to doubt, to this day, anything that those four provided to me.

Mr CRANDON: They were operating as a bloc, weren't they? There is a lot being talked about of the seven working as a bloc. These people, these four—at least these four, perhaps the fifth as well—were operating as a bloc. They were operating together to bring down the others.

Det. Sgt Francis: I know other councillors thought that to be the case. I know that those four voted for Ms Kelsey's retention at council, so in that regard they voted together. Whether they consistently voted against or as a bloc, I do not know.

Mr CRANDON: They willingly worked, though, with you, didn't they, as a bloc?

Det. Sgt Francis: They willingly cooperated with my investigation. Yes, they did.

Mr CRANDON: As a bloc?

Det. Sgt Francis: As four individual witnesses, yes, they did.

Mr CRANDON: The others were a bloc but these were four individuals? Do you see the different terminology that is being used when we are looking at one side or the other of this argument? One side is a bloc; the other side are four individuals.

Det. Sgt Francis: My hesitancy to acknowledge that they vote as a bloc is simply I do not have voting records in front of me and I am not inclined to agree with you without being certain, having a review of the voting trends, that they did in fact vote as bloc. In respect to Ms Kelsey, yes, they voted as a bloc.

Mr CRANDON: Could we go to page 327, the file notes that the deputy chair spoke about.

Det. Sgt Francis: Volume 1 or volume 2?

Mr CRANDON: I believe it was volume 1. Sorry, my apologies: it is volume 2.

Det. Sgt Francis: Yes, sir.

Mr CRANDON: I just wanted to clarify something. The deputy chair was asking you if you were involved in that meeting. It says on Wednesday, 24 April—this is my reading of it—'AF recalled' to meeting. Would that be you?

Det. Sgt Francis: Yes, that would be me.

Mr CRANDON: But didn't you indicate to the deputy chair a short while ago that you do not believe you were at that meeting, or you could not recall being at that meeting?

Det. Sgt Francis: Not from my recollection. From my recollection, I reviewed those notes as not my own and I deferred to my own notes, which were just a couple of pages further, which are on page 332. When I was given the opportunity by the deputy chair to review those notes, I conceded that, yes, my notes indicated I was at that meeting on 24 April.

Mr CRANDON: But looking at these notes, you were not prepared to accept that 'AF' was you? I just wanted to clarify, because you are mentioned twice in that particular note, but it was like we had to go further and further to have you actually confirm. That is fine. I just wanted to tidy that up—that indeed that note did reflect that you were in the meeting as well. Pages 591 and 592, the email from you with your observations, we will call them, as you have put it, of your meeting with Ms Kelsey. It is volume 1.

Det. Sgt Francis: Yes, sir.

Mr CRANDON: What we have there—I will make sure I am on the right page myself—is you start out by saying—

I have serious concerns regarding the conduct of the Administrator ...

And you go on to talk about various aspects. Where I want to go with this is: I just want to ask the question. This email was sent by you on 30 May at 1.59 pm. If we go then to Mark Andrews's email, he sent his on at 2.03 pm, four minutes later. Mark Andrews has in his subject line: 'LCC Administrator concerns (consider this version)'. Then he talks about 'Inspector—as discussed', so it indicates that he has had a conversation with the inspector. Do you recall whether or not he came back to you and asked you to make some changes to your original email to him?

Det. Sgt Francis: No. I do not believe the detective senior sergeant asked me to do that at all.

Mr CRANDON: Can you say that again?

Det. Sgt Francis: I do not believe that he did.

Mr CRANDON: So you sent an email to him that says 'LCC Administrator concerns', and it was at 1.59 pm on 30 May, and four minutes later he appears to have sent on to the inspector, David Preston, an email and put in brackets next to 'FW', which is normally when you are forwarding on a document you have already got, 'FW: LCC Administrator concerns (consider this version)'. I will ask a different question. Was there a previous version of this email that you sent to Mark Andrews that he perhaps spoke about, because he talks about 'as discussed' with the inspector, and he came back to you perhaps verbally and said, 'Can you make some changes to that and send it to me again'?

Det. Sgt Francis: Member for Coomera, I can say that that is not the case. If that was the case, you would have evidence of it in front of you right now.

Mr CRANDON: Would we?

Det. Sgt Francis: Yes, you would.

Mr CRANDON: You would not have destroyed the previous version?

Det. Sgt Francis: I was not a party to providing this material to the committee, and I certainly do not delete emails. If the search that was conducted provided this email, it would have provided any previous versions. There is no previous version.

CHAIR: It is interesting we only have the chain; we do not have the original email.

Det. Sgt Francis: I cannot explain that. I was not—

Mr CRANDON: Do you believe there would be another version?

Det. Sgt Francis: No, I do not believe there is.

Mr CRANDON: Given that Mark Andrews is saying to his inspector 'as discussed' and in the subject line he has taken the time to put in there in brackets 'consider this version'.

Det. Sgt Francis: I understand your point clearly. My evidence is there is no previous versions. I cannot provide evidence on behalf of the senior sergeant. That will be a matter for him, but from where I sit right now there is no previous versions.

Mr CRANDON: And yet he was able to read and absorb 1½ pages of email from you—1½ pages of detail from you—in less than four minutes?

Det. Sgt Francis: My only explanation, sir, is that there was perhaps a verbal briefing—

Mr CRANDON: There was what, sorry?

Det. Sgt Francis: A verbal briefing that pre-empted my email. That is the only explanation that I can offer.

Mr CRANDON: You gave him a verbal briefing?

Det. Sgt Francis: Quite possibly I provided him with a verbal briefing.

Mr CRANDON: Where are the notes?

Det. Sgt Francis: The notes are here.

Mr CRANDON: These are the notes for the verbal briefing?

Det. Sgt Francis: Well, these are the notes of my conversation with Ms Kelsey. I do not record every conversation that I have with my senior sergeant in my diary.

Mr CRANDON: You are suggesting that you perhaps gave him a verbal briefing?

Det. Sgt Francis: I perhaps had a discussion with him and then I articulated—

Mr CRANDON: But you take notes. Where are the notes of that discussion?

Det. Sgt Francis: I do not record every conversation I have with my senior sergeant. He sits right next to me at the CCC and we discussed numerous matters, so quite possibly I was talking to him while typing out this email. I do not recall. But I do recall that there were no previous versions to this email.

Mr CRANDON: You do recall what, sorry?

Det. Sgt Francis: There were no previous versions of this email.

Mr CRANDON: No previous versions and yet your superior has suggested that his inspector should consider the previous—consider this version and refers to 'as discussed'? You are quite right; we subpoenaed all documents from the CCC. This clearly suggests that there is more than one version of this document. An inspector does not just disregard the previous version when he—sorry, an inspector would not simply go, 'Oh okay. I've seen this before,' when he has received another email that says 'consider this version'. It is not like it was being discussed with the inspector. It was being discussed because he has indicated that that discussion has gone on, but there is also a suggestion 'consider this version as well' in that the inspector has another version. And so this first version—sorry, this second version is something that you, sitting next to your superior, have been suggested that you make a couple of changes here and there verbally and then send it back through again so that it can be sent on to the inspector. That is what I would put to you.

Det. Sgt Francis: No, I reject that.

CHAIR: Detective Sergeant Francis, I also just want to refer to that same email which you sent on 30 May 2019 at 1.59 pm—not in the vein of the member for Coomera though, but just in relation to the actual content of it, particularly the part in relation to your concerns about the Logan City Council budget and the administrator's actions. So at this point charges had been laid. What concern is it of yours about how the administrator is actually doing the budget and administering the council?

Det. Sgt Francis: I am glad you asked, Chair. The evidence—there is evidence in the brief of evidence that speaks to budget considerations and budget considerations that were favouring the defendants. My concern was that that consideration might be continuing in the context of the investigation of Operation Front. So the evidence given by—

CHAIR: But they were suspended.

Det. Sgt Francis: Yes, I know. That is part of my concern. It was at the time part of my concern that the budget would be maintained in the manner that it was already set at, in light of the evidence given by other councillors, that it had been apportioned unfairly and prejudicially that that might continue.

CHAIR: But what has that got to do with the CCC?

Det. Sgt Francis: That was part of the investigation, part of the brief of evidence, Mr Chair. That the reprisal was continued was of interest to me.

CHAIR: Reprisal against whom? The reprisal was about the chief executive officer, not the other councillors as I understood it.

Det. Sgt Francis: I was aware to any possibility that any further reprisal or dishonesty in respect of Ms Kelsey might well continue or to any witnesses party to the proceeding of Operation Front.

CHAIR: So the CCC thought that the administrator—an independent person highly respected—should have just changed the budget because you had concerns about the way it had been divvied up beforehand?

Det. Sgt Francis: I am not giving evidence on the culpability of any other person other than the defendants here. I can say that I was aware to the concerns of my witnesses that reprisal or any recompense might be stood up against them for being witnesses in this party.

CHAIR: Okay. Further up that email chain, there is an email which you are copied into from David Beattie, Detective Sergeant, to Mark Andrews and David Preston relating to the concerns raised by yourself about the budgeting process and various other matters as well. In that email it is suggested that the chair should take these concerns about the administrator to the minister to seek to have the administrator removed. This is 28 days after she was appointed. Are you aware of this discussion, because you were copied in on the email? I would like a bit more colour on that, because 28 days after she was appointed the CCC was trying to have her sacked. How do you explain this?

Det. Sgt Francis: Mr Chair, 28 days after the administrator was appointed there was a conversation amongst my team in regard to matters involving the administrator. That is my evidence.

CHAIR: There was also a suggestion about going to the Supreme Court to have the administrator removed.

Det. Sgt Francis: I can see from reading the email from Detective Sergeant David Beattie that there were ideas being disseminated amongst the team.

CHAIR: One of the other issues discussed in this email was the reluctance or refusal—however we could term it—of the administrator to reinstate Ms Kelsey. You see that on page 592?

Det. Sgt Francis: Which paragraph, Mr Chair?

CHAIR: Third paragraph—

It is understood from a discussion with Ms Kelsey, Ms Kelsey via her legal team advocated to the Administrator that council ought to withdraw from the QIRC proceedings in consideration to council's dismissal and reaffirmed her motivation for interim reinstatement. Ms Kelsey believes her interim reinstatement is a matter for the Administrator.

Det. Sgt Francis: Yes, sir.

CHAIR: So I am going to put something to you, and that is: the discussion around going to the minister to seek to have the administrator removed and the thought of applying to the Supreme Court for her removal was really all about her refusal to reinstate Ms Kelsey, as the CCC had been advocating for some time—to your knowledge?

Det. Sgt Francis: It is not my evidence. I was not the author of that discussion, although I was party to it in that I observed Detective Sergeant David Beattie's comments. Where I stood I would disagree with your—I was not party to that. There was a discussion about matters that were clearly articulated. I am not denying that email exists; it is clear to me that it did and that there were matters related to the administrator being discussed amongst our team. But you have the evidence that—of my involvement in that, and my involvement is clear.

CHAIR: That would be extraordinary though, don't you concede, DS Francis, if that was the case—that you would charge people with fraud, the council had been dissolved and yet still the CCC was talking about ways in which they could have Ms Kelsey reinstated?

Det. Sgt Francis: If that was the purpose of those discussions, yes, that would be extraordinary.

CHAIR: That would be extraordinary.

Det. Sgt Francis: Yep.

Mr CRANDON: DS Francis, in testimony you gave to questions asked by the chair you talked about budgets and a bias towards, as I understand it, the seven councillor divisions—

Det. Sgt Francis: Yes.

Mr CRANDON:—versus the four, but we will refer to them as the four. There are some indications from your writings that there was some bias there, but you also said that it was a continuation of—it appeared to be a continuation of a bias. Are you aware, during the time that the councillors were in office and the mayor was in office, that there had been accusations by anyone that those councillors received a disproportionate or an unfair consideration in relation to budget matters over the four?

Det. Sgt Francis: I would have to say it is five, because there is another member.

Mr CRANDON: What happened to that member?

Det. Sgt Francis: That member was charged with an offence.

CHAIR: Not related to this inquiry.

Det. Sgt Francis: Not related to this inquiry. To answer, no, I am not aware of any allegation of bias from members of council, other than and outside those five.

Mr CRANDON: Other than?

Det. Sgt Francis: Those five councillors that we have been referring to.

Mr CRANDON: Those five making accusations, you mean?

Det. Sgt Francis: Darren Power, Jon Raven, Lisa Bradley, Laurie Koranski and Stacey McIntosh.

Mr CRANDON: Making accusations against the seven councillors, being the bias in previous budgets being towards them?

Det. Sgt Francis: The evidence of that bias was obtained from those five persons I just named.

Mr CRANDON: That is where you got that information from?

Det. Sgt Francis: That is right.

Mr CRANDON: Did you check the veracity of that?

Det. Sgt Francis: I did. I measured what those councillors said against documents obtained under warrant on 4 December and budget documents, yes.

Mr CRANDON: Where is that?

Det. Sgt Francis: It is part of the brief of evidence.

Mr CRANDON: Have we got it somewhere?

Det. Sgt Francis: Yes. I understand that that material was provided to the committee.

Mr CRANDON: Okay. So there is evidence that we have that indicates that there was an accusation by the five that the seven benefited in previous budgets and also that spilled over into the current budget at the time which was being put together by the administrator?

Det. Sgt Francis: There is evidence of that in previous budgets. Of that I am certain. In regards to the budget which the administrator was overseeing, I am not certain.

Mr CRANDON: But that was your evidence a short while ago, wasn't it? Isn't it somewhere in your writings? I would not be able to find it off the top of my head now, but somewhere in there there were accusations that they were being disadvantaged in relation to the budget matters?

Det. Sgt Francis: There were accusations that certain councillors were being disadvantaged in regards to the budget.

Mr CRANDON: Well there were not any councillors, but there were four that were assisting the administrator and those four were giving you evidence—

Det. Sgt Francis: That is correct.

Mr CRANDON:—that they were being disadvantaged by the administrator?

Det. Sgt Francis: That is correct.

CHAIR: They were complaining.

Mr CRANDON: They were complaining about not being treated fairly by the administrator?

Det. Sgt Francis: Yes, they were.

Mr CRANDON: And the inference was there that it was intended to advantage the seven councillors who had been sacked? How would that happen? How would that work?

Det. Sgt Francis: I would have to concede that that would be the inference, yes.

Mr CRANDON: How would that work, though?

Det. Sgt Francis: I do not know.

Mr CRANDON: They had been charged. How would that work? How can they be advantaged by it?

Det. Sgt Francis: The obvious inference to me is that a councillor who obtains a strong proportion of the budget to spend in their electorate is more favourably considered by the electorate for re-election.

Mr CRANDON: But they are on charges. They have been sacked.

Det. Sgt Francis: Yes, but those charges were in motion. They were not yet finalised.

Mr CRANDON: So we were looking forward to the 2020 election and assuming this was all going to be over by then and they were going to re-run, just like happened in Ipswich?

Det. Sgt Francis: I do not know. I do not know what the inference was directed at or the motivation for the inference.

Mr CRANDON: I thought that is what you were piecing together then?

Det. Sgt Francis: Well, that is what I started to piece together but there was no investigation. I certainly never did any further inquiries other than what is indicated in this email. I can provide the committee that I never investigated this matter.

Mr CRANDON: I am sorry, I thought you said you did investigate the previous budgets. Did you come to a determination that there was bias?

Det. Sgt Francis: It is clear to me that, yes, there was bias in previous budgets, but I understood your question was in regards to the current budget.

Mr CRANDON: I had been talking backwards and forwards. I take your point. Coming back to the previous budgets, did you ask anyone with a forensic accounting background to assist you? Was it something done by yourself? Did you call in any other specialists to see whether or not that was true?

Det. Sgt Francis: We have a forensic accountant as part of team Operation Front. I am trying to recall now while speaking to you whether or not our forensic accountant provided evidence of this in her statement as part of Operation Front, and I cannot. That would likely be a matter that I would have to take on notice and the commission would have to respond to that.

Mr CRANDON: Thank you.

CHAIR: No other questions? Counsel assisting, do you have any follow-up?

Dr HORTON: I do not. I will, for completeness, foreshadow to the committee that Ms Tamara O'Shea, the administrator, will be called to give evidence, hopefully tomorrow, and to deal with, among other things, these matters, including her assessment of whether or not the budgets were as has been alleged by the sergeant here before you today and as contained in those emails. Unless there is anything else the committee wishes me to explore on their behalf, might the sergeant be stood down?

CHAIR: Okay. Detective Sergeant Francis, thank you for appearing. You will be stood down.

Det. Sgt Francis: Thank you.

CHAIR: Mr Horton, given we only kicked off again at 11.15, we might start with the next witness, if we can?

Dr HORTON: Yes.

Detective Inspector David PRESTON (accompanied by Mr Peter Dunning QC and Mr Matthew Wilkinson)

Witness was sworn—

CHAIR: Detective Inspector Preston, thank you for joining us. We will commence the proceedings. Mr Horton?

Dr HORTON: You are Detective Inspector David Preston; is that correct?

Det. Insp. Preston: Yes, that is correct.

Dr HORTON: In 2018-2019, you worked at the CCC?

Det. Insp. Preston: That is correct, yes.

Dr HORTON: And you do to this day?

Det. Insp. Preston: No, I have left there. I am now out at Warwick.

Dr HORTON: Thank you. When did you leave the CCC?

Det. Insp. Preston: January 2020.

Dr HORTON: I understand, thank you. Could you just briefly explain where in the line of command you sat with respect to Andrew Francis, Mark Andrews and David Beattie?

Det. Insp. Preston: I started down at the CCC as the operations coordinator for team 1. As a result of an investigation, I moved over to team 2 as the operations coordinator. That is the rank of detective inspector. Andrew is a detective sergeant who was in that team. Mark Andrews was a senior sergeant who is the operations leader for that team. Beside Andrews, David Beattie was another sergeant and there were a couple of other sergeants who were also on that team. I managed them as a team. My role was one of management, supervision and support.

Dr HORTON: To whom did you directly report?

Det. Insp. Preston: I reported to Detective Superintendent Mark Reid at that particular time. He is the director of operations.

Dr HORTON: Would you regard yourself as in charge of the investigation Operation Front?

Det. Insp. Preston: I am the operations coordinator. The investigation is the responsibility of the officer and Mark Andrews as the team leader. Yes, I would be the overseeing and responsible officer for that investigation.

Dr HORTON: I do not want to take you through the whole chronology of affairs if I can avoid it, but I would like to focus on some specific aspects in which you seem to have had a particular involvement.

Det. Insp. Preston: Yes.

Dr HORTON: And they are these for the moment: one is what, if any, initiation or approval you gave in relation to the delivery of documents to the Logan City Council on 3 October 2018; next, your involvement in a series of emails, which the committee has just been considering, in late May 2019 about the alleged conduct of the administrator who, by then, had been appointed to the council, Ms O'Shea; about your knowledge, if any, of the motivations for the timing of making the charges which were ultimately laid on 26 April 2019; and, in a related sense, the motivations for charging the particular type of charges that were then laid in the context of the consequence they had for the councillors and for the council; and then, also related to the 3 October issue, the extent to which you had knowledge of the Public Records Act being a live issue in the investigation and the extent to which that bore upon the delivery of documents to council. Can we start chronologically with 3 October. On 3 October documents were delivered to the Logan City Council by Detective Sergeant Andrew Francis. Were you aware of that?

Det. Insp. Preston: At that particular stage I was on recreation leave and I was advised that he had delivered them upon my returning to duty, yes.

Dr HORTON: I see; I should have been clearer. You learned only after he had delivered them that that had occurred?

Det. Insp. Preston: That is correct, yes.

Dr HORTON: Did you approve ahead of time him doing so?

Det. Insp. Preston: No, because what led to that, upon going back over it again, is around 25 September, I believe, there was a presentation that was made to the Crime and Corruption Commission from the State Archivist in relation to public records. This was organised through a Brisbane

gentleman by the name of David Honeyman, who was our records officer within the CCC. As part of our training, we used to go to those sessions that were generally held during our lunch breaks. They were short, sharp training sessions just to give us an awareness of what was going on. During that session it came to my attention that potentially we had off the WhatsApp some documents that were potentially public records. What brought it to my attention was the fact that in the actual act it does not relate to councillors or mayors unless they are actually using a council phone and it relates to a council decision or an action that they have actually taken. If that was the case, there is a requirement upon them to provide that as a public record document to the CEO of council. In the context of the email, and, if you may, if I could be referred to—

Dr HORTON: Please do. It is in the larger volume—volume 1, sir—at page 347—the email of 25 September, which I think may be the one you are referring to?

Det. Insp. Preston: So, as you will see on that, the training session was, I believe, that morning, from memory, and as a result of that I sent this email not only to Andrew and Mark in my team and also Makeeta McIntyre, who was our legal officer; you will see there is a number of other people on the top of that email—namely, Mark Reid, who was our director of operations, so he managed five different teams—and then you will see there is Charlie Kohn, Mark D'Hage, Simon Hewlett-Smith and Craig Hawkins. They are four other operations coordinators also at my level. So this was about sharing the information in relation to the State Archives and what we had found or what we had considered was probably a potential issue for us for this council, and I was aware of other investigations that were being conducted at the time that involved a number of other councils that could potentially utilise this sort of information to make a determination or what was required to make a determination in relation to contents of those documents.

So this is—I sent this because I was going on leave on 27 September, so two days later I was heading away. I have sent this email out for the information of the staff to ascertain as to whether the documents we had or anyone had from any investigation were actually a public record. We would need to talk to the CEO for them to have a look at their documents as they owned those documents—they were not ours; they owned those documents—and for them to make a determination as to what was council business and what was not council business. The State Archivist provided the information that they could not do that; it had to come from the CEO. So that is where the communication came from. At that stage it was up for a conversation—a general conversation. That is why I gave it to Mark and Makeeta, being Mark would have stepped into my role in my absence—he would have been the acting operations leader; he would have stepped up one rank and become the detective inspector—and sent it to Makeeta as our legal representative for her information to see was there a possibility we could do it.

Dr HORTON: Yes.

Det. Insp. Preston: So that was basically to start a conversation to see if we could make a continuance of our investigation, see if we could take that any further in relation to the release of the public documents.

Dr HORTON: Thank you. Do you remember who initiated the contact with the Queensland State Archives?

Det. Insp. Preston: I believe it was David Honeyman.

Dr HORTON: And do you know when?

Det. Insp. Preston: No, I could not tell you that.

Dr HORTON: Would it be right to assume it is shortly before 25 September?

Det. Insp. Preston: I could not tell you.

Dr HORTON: Thanks. Now, if you just look back a bit—page 341—you are copied into an email from Mark Andrews to Makeeta McIntyre.

Det. Insp. Preston: Yes.

Dr HORTON: There is reference to delivering them—WhatsApp printouts—to the acting CEO 'tomorrow'?

Det. Insp. Preston: That is correct, yes.

Dr HORTON: Which would be the 12th. Was there some—there was no meeting, as I understand your evidence, with the Queensland State Archives immediately prior to this email to which you point?

Det. Insp. Preston: No. That would be correct, yes.

Dr HORTON: Were you aware about this time, on 11 September, that on 24 August 2018 the QIRC had given a ruling saying that it should not have before it, in effect, documents which had been produced to it in answer to a notice of attendance to produce?

Det. Insp. Preston: Not that I can recall in particular, no.

Dr HORTON: I see. So are you able to explain why on 11 September there is talk about delivering these documents to acting CEO Silvio Trinca but the meeting to which you referred occurred on 25 September 2018?

Det. Insp. Preston: No, I cannot explain that email.

Dr HORTON: That is all right. Is there—I will go forward a bit. Page 349, following on your same line of thought, is an email from you?

Det. Insp. Preston: Yes.

Dr HORTON: And then you will see what you propose, which is—

... take the whatsapp and ... other records we believe may be missing back to LCC for consideration and opinion from the CEO.

Det. Insp. Preston: That is correct, because my initial email was at 12.01, I believe—that is correct—and as a result of that I actually had the time to read over the document that the State Archivist had left for us and I was just inferring further on from that that this is where—I was of the opinion that we needed to get that opinion from the CEO in relation to the documents as to whether they were public records or not.

Dr HORTON: What is the August 2016 document that you say is good reading?

Det. Insp. Preston: That is—I understand from memory that is the document from the State Archivist describing what the—

Dr HORTON: Which might be preceding these emails in the bundle perhaps?

Det. Insp. Preston: It could have been, yes.

Dr HORTON: Good but not interesting reading?

Det. Insp. Preston: Yes.

Dr HORTON: Now then, you go on leave on 27 September?

Det. Insp. Preston: That is correct.

Dr HORTON: I see. I think your evidence has been you did not give authority for these documents to leave the building to go to the acting CEO of the council before you left?

Det. Insp. Preston: No, but in saying that there is—I was of the opinion at this stage—when I came back from leave and advised of what had happened—that nothing was untoward with that. The council do own the documents. When we conduct an investigation as police, we always return the property to the owner. There is no requirement for a dissemination for that to happen. However, if the documents are being provided to an external agency, yes, there is a requirement for a dissemination, which—I think there is a number of occasions we have used that dissemination process through this investigation.

Dr HORTON: Yes, I understand. I think the exchange you might be talking about appears at page 373 and following, where, maybe upon your return or sometime near to then, there are discussions taking place about the circumstances of the delivery of these documents to the council.

Det. Insp. Preston: Those emails are running on 16 October. If you have a look on page 343 you will notice that Mark Andrews has still got his block signature as the acting detective inspector, so I would have still been away on leave.

Dr HORTON: Yes. 373 maybe?

Det. Insp. Preston: Yes, 373. Those documents continue over to 374, and you will see that Mark Andrews's signature block says 'Acting Detective Inspector' on the top there. At that stage I was still away on leave. I was away for about four weeks at that period.

Dr HORTON: Understood. Can you look at 373 at the bottom, please.

Det. Insp. Preston: Yep.

Dr HORTON: The first dot point—

Dave Preston & I met with Dave Goodman about this topic prior to his email to all of us of 26 Sept.

I cannot find that email. Is it possible it should be 25 September?

Det. Insp. Preston: I think it would be 25 September, yes.

Dr HORTON: It said that you initiated this. On page 374, about two-thirds of the way down the page, Andrew Francis says—

A decision to liaise with A/CEO Trinca was initiated by Insp Preston on the 26th Sept.

Is that true? Leave aside the date for a minute.

Det. Insp. Preston: If you are going off my email on the 25th, yes, I have initiated the conversation to have around that. As to actually what actually transpired after that, I had no part of or approval in saying, yes, that be followed.

Dr HORTON: Yes, I understand. By the time you get back from leave, the documents, as we now know, were probably being or about to be retrieved from council on or about 9 November 2018?

Det. Insp. Preston: That is correct, yes.

Dr HORTON: In any event, you say, do you, on the basis of the evidence given and the documents I have taken you to, you yourself did not see that dissemination—that leaving the building to go to the council—as something that was improper or, so far as you are aware, unlawful?

Det. Insp. Preston: No.

Dr HORTON: Understood. Were you aware of any desire by anyone, communicated to you, to put those documents into the hands of Logan City Council because there had been a ruling by the QIRC which, in effect, prevented them going by way of notice of attendance to produce?

Det. Insp. Preston: As I have said before, after going through that training session and identifying what we could do, there was potential other offences being committed there. As our investigation had been ongoing for some months at that stage, this was just another part of that process of trying to identify what criminal offences had been committed and for us to follow the process of going back through the CEO to get that information, because we required that in a statement to actually proceed with any criminal investigation there. I was aware of some of the goings-on with the Industrial Relations Commission stuff, simply because of Mr Hutchings, who was kept at arm's length of our investigation. He was managing all that sort of thing, and I think there had been some discussion around the WhatsApp and that it could not be admitted or it would be inadmissible, so I cannot see there would be any need to have any further discussions about how we are going to get that to court if that ruling has already been made.

Dr HORTON: Yes, I understand. That is in a way why I am exploring whether you had knowledge of any other motivational purpose in these documents being delivered to council, for a purpose—for a minute do not worry about 'the' but for 'a' purpose—which was to put them into the hands of council so that council would be obliged to disclose them in the QIRC proceeding.

Det. Insp. Preston: I cannot recall that, no.

Dr HORTON: But it sounds, from what you are saying, that you thought the purpose and the only purpose was in connection with the Public Records Act.

Det. Insp. Preston: That is correct, yes.

Dr HORTON: But you do not know what involvement Mr Hutchings had, for example, in liaising with Detective Sergeant Andrew Francis about these matters?

Det. Insp. Preston: From memory, there were discussions and meetings about that. There may have been emails. If I can be directed towards something in particular I am happy to have a look at it, but at this stage I cannot recall anything off the top of my head, sorry.

Dr HORTON: No, I am just for a minute investigating it with you.

Det. Insp. Preston: Yes, well, no.

Dr HORTON: Thank you. Makeeta McIntyre expressed the view that they may have been required to have a dissemination authority to do what was done by Andrew Francis. Were you involved in that debate?

Det. Insp. Preston: That discussion was already underway prior to me coming back.

Dr HORTON: I understand. Were you aware that the documents that were delivered at least potentially contained material that was legally professionally privileged?

Det. Insp. Preston: I believe so, yes.

Dr HORTON: Were you involved in the debate about whether that was the case?

Det. Insp. Preston: Not that I can recall.

Dr HORTON: Was Detective Sergeant Andrew Francis taken to task, to your knowledge, for his delivery of the documents on 3 October 2018?

Det. Insp. Preston: Not that I can recall, no.

Dr HORTON: The documents were sought to be retrieved by him on or about 8 November 2018. Were you involved in seeking the retrieval of those documents or the circumstances in which that came about?

Det. Insp. Preston: I was aware that that was happening, because I was back at work at that time, and by the time I had returned that process was underway so I really did not have much more to do with it. He had to go down and recover them and they went down and recovered them.

Dr HORTON: Were you aware why they were being retrieved?

Det. Insp. Preston: Because there was some conversation around the fact that we needed a dissemination order to actually disseminate the documents.

Dr HORTON: I see. So far as you are aware, that was the purpose of seeking their retrieval?

Det. Insp. Preston: Yes.

Dr HORTON: Thank you. The documents again are delivered to the Logan City Council on or about 15 December 2018. Were you aware of that at the time?

Det. Insp. Preston: Yes.

Dr HORTON: Were you involved in the decision whether those documents should be delivered back to council?

Det. Insp. Preston: I cannot recall. Just to put some focus around that, some context around that, during Operation Front there would be times that I have actually gone from the Crime and Corruption corruption operations down into crime operations, where I was required to go down and do the acting superintendent's work down there as the director of crime operations, which is totally two separate groups. There were also times where I went down there as the operations coordinator to help manage some organised crime jobs that they had going. So there are times where I would not have been around and Mark would have been actually up doing my job, but I cannot recall that conversation around that at that time, no.

Dr HORTON: I understand. You were in charge of more than one thing at a time and this is only one of those responsibilities? And because you are senior, many of your other responsibilities are heavy ones which might call for your attention at different times?

Det. Insp. Preston: That is correct, yes.

Dr HORTON: Can I move away from that topic a little. To what extent were you involved in the decision made on—I will give you three dates, because there seem to be three—30 January 2019, 24 April 2019 and 26 April 2019 about the decision to charge the mayor and councillors with certain offences?

Det. Insp. Preston: You are not going to believe it, but once again I was on leave. Unfortunately I had commenced leave on 24 April at that particular time, but in the lead-up to that there was a report that Andrew does—he does his investigation report up. That is a summary, a brief—what we refer to as a brief for referral to the chair. That came to me sometime in March and I would have reviewed that. I probably would have reviewed several draft reports of that. There could be draft ones that I have sent back asking for clarification, looking for further information, or there could have been a need to actually finalise a statement or improve some part of the investigation before I was happy with it to proceed.

That process of going through that report—as you have seen the report that is in there, it is quite a lengthy, detailed report provided by Detective Sergeant Andrew Francis, who Mark Andrews gets to read through. I then go over it and I do a covering report over the top of it. Now, that review could take anything from three or four days, depending what else is happening, to three to four weeks. So I effectively could have got that report sometime back in February. I cannot recall the date of getting it, but I remember the submission that I did was in March, I believe.

Dr HORTON: Yes, I think it might be in the smaller volume. So you are well placed here, it is page 315 of volume 2. It seems to be a memo from you to Mr Alsbury copied to your direct report, Detective Superintendent Mark Reid.

Det. Insp. Preston: That is correct, yes. So this is my memo over the top that I prepare after reading through, and you will see on page 316 there are a number of documents that are attached to that. So I review all of that and then type this report up and send it through. It generally goes to Mark

Reid, my director, first, for him to have a review of and then it goes to Mr Alsbury as the executive director of operations for him to have a review and make comment on. That process that we have here is the standard process for all investigations. That is how they must proceed through, so there are delays.

This is unusual for police to actually do this, because a police officer gets a brief—put it together, go make the arrest and they do not need any other authority to go do it, but with the Crime and Corruption there is a process there where it goes through a number of people. So whilst Andrew is doing up his report he would also be working with Makeeta, who was the team lawyer at the time—Makeeta McIntyre—and she would have been giving him advice on dots of legal points or potentially case law or things that we may need to consider in a brief of evidence and that the chair may be wanting to know. So that then comes to me and then that is how it gets forwarded through the process. Every investigation is managed in exactly the same way as this one was.

Dr HORTON: I want to talk to you a little about the process to understand it better. To the extent that I am asking you questions which happened below you or which you are unaware, please tell me. Can I talk about the charging process first.

Det. Insp. Preston: Yes.

Dr HORTON: On 30 January a memo goes to the chair about charging—and you know that, I think, because in your memo. If you look at page 315, 316 but particularly your paragraph numbered (2) on 316, you mention an original memo submitted January 2019 regarding charges against mayor Luke Smith.

Det. Insp. Preston: Yes.

Dr HORTON: You mention that concept also, in the second full paragraph on your memo at page 315—

A memo in relation to further charges against Smith was approved on 30 January 2019 ...

Det. Insp. Preston: Yes.

Dr HORTON: I want to suggest to you that on 30 January 2019 something in relation to the mayor goes to the chairman of the CCC for approval.

Det. Insp. Preston: For consideration of charges, yes.

Dr HORTON: Can you explain what, in your words, you understand is happening when that occurred? What is being asked and what is or is not being approved?

Det. Insp. Preston: Sorry, can you ask the question again?

Dr HORTON: If I am getting too legalistic about this and you cannot answer, please let me know. I am trying to work out the charging process in the CCC and the decision making in connection with it. We know that on 30 January a memo went to the CCC chair. If you want to see that, I am going to suggest to you, if you turn back in the same volume, sir, it appears at page 77. I think this is a memo you are referring to as the January one, because the top right-hand corner has the document or file number that you have referred to in your memo of 26 March 2019, at paragraph numbered (2).

Det. Insp. Preston: That number is actually on page 316.

Dr HORTON: It is at 316, in your paragraph numbered (2). I am only trying to understand the process for a minute. In the 30 January memorandum it goes up, which I suggest to you is at page 77. What is it that is going up for consideration, to your knowledge, knowing the practices of the CCC?

Det. Insp. Preston: So we do not know who the author is on this document?

Dr HORTON: I am going to suggest it is Detective Sergeant Francis principally. I am suggesting that is the memo that seems to have gone to the chair. I am not asking—

Det. Insp. Preston: I am unsure if it actually would have gone to the chair. The charging process as it occurs, if I may go through that?

Dr HORTON: Yes.

Det. Insp. Preston: The standard process—and it was followed, and this is as far as I am aware—is that the report is done, it goes through all the avenues that I explained before—through myself, the director of operations, chief executive operations—and then it goes to the chair for consideration. He has the options under the act to make a decision to send it to DPP or it can come back to a police officer who has the office of constable to actually consider the charges. In the case of the brief where we did actually proceed with the charges, it came back for consideration of a police officer, and naturally it was given back to the officer who had all the case notes, the case investigator, which was Andrew Francis.

Dr HORTON: In your memo of 26 March 2019 you say—I have taken you already to the sentence on page 315—

A memo in relation to further charges against Smith was approved on 30 January 2019 ...

I am trying to understand, in a process sense only for the minute: what is it, in the process sense, that you understood to have been approved on 30 January 2019?

Det. Insp. Preston: My understanding from that—and I have nothing beside my recollection of this—is that when we submitted this there were issues in relation to the unsigned statement of his wife at this particular time. We had to consider issues of credibility, cooperation and a number of other aspects of it. I cannot remember at what stage there were discussions around that for consideration that we decided not to go until we actually had that statement signed and sworn as Oaths Act evidence.

Dr HORTON: On 30 January, you can take it, there is a meeting that occurs about this matter which you do not seem to have attended.

Det. Insp. Preston: I cannot recall.

Dr HORTON: I am not criticising you for not being there, but I am drawing—

Det. Insp. Preston: I cannot recall. I could have been there. I cannot recall.

Dr HORTON: What I am trying to uncover, to the extent that you know it, is how the process works. It has gone to the chair for approval and, so far as you knew in your memorandum of 26 April, approval had been given for something.

Det. Insp. Preston: My understanding would be it would be approval for consideration so then the police officer—whatever; it would have been Andrew—would have taken consideration. I am only making assumption here because I cannot recall.

Dr HORTON: I am only asking for process in the abstract for the moment. When it comes to later in April, as we can see from your memo and those around it, a memo goes up again to the chair, seeking something. I will take you to it: 317, Mr Alsbury.

Det. Insp. Preston: That page 317 would have been put over my memorandum on page 315 and 316.

Dr HORTON: Yes, that is the understanding. You will see that Mr Alsbury asked to be approved, on the second page, at 318

... the request is for you to approve the matter being referred to a police officer seconded to the CCC—

Det. Insp. Preston: That is correct, yes.

Dr HORTON: And just note the annotation on 317; see Mr MacSporran's handwriting—I agree with the recommendation to charge Smith x 3 and the 7 relevant councillors with 1 count fraud as suggested.

That is 24 March. Did you understand that, so far as you are able to comment, on being a decision to charge or being a decision to refer to someone else consideration of whether to charge?

Det. Insp. Preston: Knowing the process, I would understand it to actually be to send it to a police officer for consideration.

Dr HORTON: Thank you.

Det. Insp. Preston: You will note that is actually dated the 24th, Mr MacSporran's decision, and that is when I was away on leave so I did not see that decision.

Dr HORTON: Yes, you do not do your memo until the 26th.

Det. Insp. Preston: 26 March, but Mr MacSporran's decision is 24 April. That is the day that I started leave.

Dr HORTON: That is right, so you have done yours ahead of time.

Det. Insp. Preston: Which is the normal process. Generally it can take up to a month, a decision to come through.

Dr HORTON: Understood. Is that a convenient time, Chair, given that it is one o'clock?

CHAIR: Thank you, counsel. Thank you, Detective Inspector. We will take a break for lunch and see you back here at two o'clock.

Proceedings suspended from 12.59 pm to 2.01 pm.

CHAIR: Welcome back to our hearing today. We will pick up where we left off with Mr Horton and Detective Inspector David Preston.

Dr HORTON: Thank you. We were speaking before the break about the charging process.

Det. Insp. Preston: Yes.

Dr HORTON: Your memo goes up on 26 March 2019. You mentioned earlier that there would be advice and input from lawyers along the way into the formulation of material that comes up to the chair for consideration; is that correct?

Det. Insp. Preston: That is correct, yes.

Dr HORTON: Did you have in mind a document—you will find an example of it at page 43 of volume 2, the smaller volume.

Det. Insp. Preston: Yes, that is what I am referring to—something like that, yes.

Dr HORTON: Were you aware in this case that that document was never finalised and never went to the chair?

Det. Insp. Preston: No. It would not have come through me. That goes straight to Mr Alsbury, so I am unaware of that.

Dr HORTON: Understood. But your understanding is that in the normal course such a document would be prepared and go up to the senior executive?

Det. Insp. Preston: My understanding is they are attached, yes.

Dr HORTON: That comes up in a separate channel from you?

Det. Insp. Preston: Sometimes they can go on the report, depending on the lawyer. Some of them—because there could be delays, they could be sent straight to Mr Alsbury or straight to the chair.

Dr HORTON: In your experience, is it common in decisions about charges to have a stepped out and elemental analysis of the offences that are being proposed for charging?

Det. Insp. Preston: Well, that can initially be done in the submission or the report that is done by the investigating officer.

Dr HORTON: Were you aware of any such stepping out or elemental analysis occurring of that kind here?

Det. Insp. Preston: Not that I can recall, but it would be fairly uncommon not to have it included in a report. I would have to go back through the report.

Dr HORTON: That is all right. I am not asking you to guess, but I am just asking you if you are aware independently that it did.

Det. Insp. Preston: No.

Dr HORTON: In a general sense, I am trying to understand the interaction between the charging officer's discretion and whatever approval it is that is or needs to be given by the institution of the CCC to charge.

Det. Insp. Preston: Yes.

Dr HORTON: You have mentioned in respect of 30 January you would read that process, it seems, as an approval to refer to a charging officer for consideration whether to lay charges?

Det. Insp. Preston: I would have to see the covering report on it. That is a submission that was made up. I cannot see anything that is attached to it that came back from the chair.

Dr HORTON: No, we cannot see anything either from 30 January that is offering up a recommendation, but you will see there are some meeting minutes. But you are not aware of anything in that case that went up proposing a particular thing for approval or a particular record of an actual approval besides what might appear in meeting notes?

Det. Insp. Preston: I cannot recall.

Dr HORTON: You have the documents in front of you now about the 24th, and in particular I have taken you already to pages 317 and 318. Can I approach it perhaps from the most general terms in the moment, in reverse almost and in the abstract? In a case like this where important people might be charged—and by that I mean people who have been elected to public office, for the minute—would it be necessary in your view to have the approval of the chair to lay whatever charges might be proposed?

Det. Insp. Preston: If any of our investigators are considering criminal charges on any person through the CCC, every one of those has to go to the executive—in this case the chair—for consideration and approval for us to proceed further.

Dr HORTON: I see. So if the chair said no, there would be no charges laid?

Det. Insp. Preston: I would say yes to that; however, I put the caveat on it that it is always up to the option of the office of constable, but it would be highly unlikely that the chair would say not to charge and that we would then continue with the charge, because it just would not happen.

Dr HORTON: And if a recommendation went up to the chair saying 'do not charge' and the chair said, 'Yes, do charge,' what do you say would be the consequence of that?

Det. Insp. Preston: I have never seen it happen. I do not know what the consequence could be. In saying that, we have files where we do not charge people. We have investigations that I have had come through our team where we report to the ELT, executive leadership team, every month. As part of my role I put all those together for our team, and there are cases on there where we find there is insufficient evidence to actually lay a charge, and they get accepted at that ELT meeting; they do not go any further than that. There is no report as such put up seeking that approval. The only time we put a report together is when the officers have the recommendation to actually criminally charge somebody.

Dr HORTON: On the evidence here, it seems to be a consensus—that is the word used in one of the memoranda—about doing what is proposed. I am not suggesting here there was not consensus. You can understand the basis of my question here is this: if the officer retains the discretion whether or not to charge, as the person with, for a moment, the commission to prosecute as a commissioned police officer, I am just inquiring to what extent the say-so of the chair might affect that discretion. Does the context of the question make sense?

Det. Insp. Preston: No, not really, sorry.

Dr HORTON: The seconded police officer has the discretion to or to not charge?

Det. Insp. Preston: Correct.

Dr HORTON: Because he is a commissioned police officer?

Det. Insp. Preston: Yes.

Dr HORTON: That would mean he can decide by himself whether or not to charge? All other things being equal, he can decide whether or not to charge?

Det. Insp. Preston: If they were back in the Police Service, yes.

Dr HORTON: Yes. In the CCC he needs to go up and seek, if you like, the approval of the chair for important offences, for a minute?

Det. Insp. Preston: Well, the chair makes the decision as to whether it is going to go to the DPP or if it is going to come back to the police officer. The chair does not make the decision actually as to the charging; he is making the decision as to whether it is going back to the police officer or it is going to be referred to the DPP for them to commit on indictment.

Dr HORTON: I understand, I think. That is the sole decision that is before the chair when the chair is considering what is being recommended?

Det. Insp. Preston: That is my understanding of the act, yes.

Dr HORTON: I see. That might arise under section 49 of the Crime and Corruption Act—you might not know the provision.

Det. Insp. Preston: I do not know the provision, sorry.

Dr HORTON: That is the extent that you suggest—and I know you are only giving evidence of an abstract process for the minute—it goes to chair, because the chair has to decide whether it is going to go back to a police officer for the exercise of discretion or go to the DPP for the exercise of discretion?

Det. Insp. Preston: That is my understanding of it, yes.

Dr HORTON: The chair himself is not forming a view about the adequacy or not of the evidence and/or the public interest considerations?

Det. Insp. Preston: That is something you would have to ask the chair. That is part of the whole process. If we are submitting it, he is basically becoming the risk manager of that file as to whether it is sufficient to go ahead. If it is not, he would not refer it back to the police officer, I would imagine, or not refer it on to the DPP.

Dr HORTON: I see what you mean. There might be a case in which he elects to do neither because he just does not think—

Det. Insp. Preston: With every investigation that is completed, as I said before, we do the monthly reports. At completion there is a finalisation report that gets done. We cannot close an investigation without it going to the executive leadership team for their discussion and consideration as to what we have done—whether we have sufficiently investigated it or whether they have other thoughts about the investigation or the outcome of that investigation. Even though we manage all of our investigations and make recommendations, they go up in different ways. We put up reports that quite often come back with recommendations in relation to policy and procedures—the way things could be done better. We make recommendations to either the head of the government agency or the head of the council—the mayor—suggesting procedural changes as well as whether there are going to criminal charges or not.

Dr HORTON: I think I understand. To your knowledge, was there any liaison with the DPP before the charging about whether this matter might go to the DPP?

Det. Insp. Preston: I cannot remember when it was, but I was present for some of that liaison. I went down to a meeting with the DPP with Andrew Francis and Mark Andrews. I am not sure whether Dave Beattie was with us or not. We did go down and have discussions with the DPP.

Dr HORTON: Do you think that was before 26 April 2019?

Det. Insp. Preston: I cannot recall when it was.

Dr HORTON: Can you remember any advice being sought of the DPP on whether or not he or his office had a view about the adequacy of the evidence or public interest consideration before charging in the case?

Det. Insp. Preston: No, I am unaware of that. When we went down with the brief, I can remember there were discussions—they only had delivery of a partial brief. There was still further information to come. I do not think they would be able to form an opinion at this stage, and I cannot recall anyway.

Dr HORTON: I think I might be able to help you out. The partial brief was delivered to the DPP after the charge was laid and so was the full brief.

Det. Insp. Preston: That could be so, but I am not sure when the meetings occurred. I believe we had discussion around some of the evidence before they received any of the brief.

Dr HORTON: You do not have a sufficient recollection for me to explore that with you now?

Det. Insp. Preston: No, I cannot recall when that was, sorry.

Dr HORTON: I understand. Just in case it jogs a memory, on 28 June 2019 the CCC gave the partial brief to the DPP. On 5 August the full brief goes down to the DPP.

Det. Insp. Preston: If you can show me where that is, I can confirm it.

Dr HORTON: I am just suggesting those dates to you in case it jogs a memory about when you think the meetings to which you refer might have occurred.

Det. Insp. Preston: No, that does not.

Dr HORTON: Then I think you said you went on leave after 26 March or thereabouts?

Det. Insp. Preston: No, I started leave on 24 April, which was the day, I believe, the chair signed this.

Dr HORTON: Do you remember how long you were gone?

Det. Insp. Preston: It was only a short period of time. I think I was back sometime in May.

Dr HORTON: Can I take you now to a completely new topic. It is in the larger of the two bundles, volume 1, and towards the end. We can start at page 590.

Det. Insp. Preston: Yes.

Dr HORTON: You will see an email from you to Mark Reid on 30 May 2019.

Det. Insp. Preston: Yes.

Dr HORTON: If you have not already, you can familiarise yourself with what is being passed on by reference to the documents which appear on pages 591 and 592. I am going to ask some general questions first which might remove the need for you to read those documents in detail. Are the views we see expressed by Andrew Francis on pages 591 and 592 views which you assisted in the forming of or expression of?

Det. Insp. Preston: That I assisted in?

Dr HORTON: I am sorry, I did not catch your question to me.

Det. Insp. Preston: Did you say that I assisted him in forming views?

Dr HORTON: Did you assist him in forming and/or framing the views he does on pages 591 and 592 in his email?

Det. Insp. Preston: I will have to read through the whole thing to know.

Dr HORTON: Your name is not mentioned and I am not suggesting that there is evidence to suggest that you did. I am merely asking because I am going to ask some further questions.

Det. Insp. Preston: I will have to read through it. I have quickly read over that. I can see that it has come to me. At the same time, it has been forwarded on to me for consideration. There has obviously been some discussion around it.

Dr HORTON: Do you recall whether you were involved in discussions about the topics in Mr Francis' email of 31 May at 1.59 pm before you sent it to Mark Reid?

Det. Insp. Preston: I cannot recall that I was involved in the discussions with him prior to 1.59 or whether that was something that he typed up and sent. I cannot recall.

Dr HORTON: When you write to Mark Reid at 3.15 pm you say—

Here are some further comments from the team ...

What had occurred such as to make you think that these were further comments?

Det. Insp. Preston: I cannot recall.

Dr HORTON: You do not remember what the earlier comments from the team might have been?

Det. Insp. Preston: I would say from my involvement with the team that there would have been verbal discussions about this. We are all in close proximity to each other. Whether we actually held an informal meeting or had a discussion, I am not sure. I may have walked around to Mark Reid and told him that there were concerns coming. It could well be that we have had that meeting and I have said to Andrew, 'You need to put them into an email or something to us.' I cannot think of any other comments, besides these that I have read now, that I can recall.

Dr HORTON: Do you remember, at the time that you forwarded the email on, whether you shared the views that Detective Sergeant Francis records in his email of 1.59 of that day?

Det. Insp. Preston: He had obviously spoken to Sharon Kelsey at that stage. I had not spoken to her. It is mere communication of his opinion on that. I cannot say whether I share it or not.

Dr HORTON: Would you recall having any concern at that stage that an investigator was probing the conduct of the administrator and alleging a possible breach of the Public Sector Ethics Act?

Det. Insp. Preston: Our investigation was around that type of behaviour so it does not surprise me to see communications like this occurring. Yes, our criminal investigation runs hand in hand with the QIRC hearings. I was only thinking about this over lunch. There are numerous investigations I have done previously where the criminal investigation I run runs alongside a parallel investigation. It could be in the Family Law Court or it could be civil matters. They always cross over each other. That is the nature of the beast we work with. In this situation here, I can recall it slightly happening. There were concerns about whether further offences were being committed in relation to the other councillors who were still there.

Dr HORTON: You seem to be saying that you are passing on the views of, ultimately, Detective Sergeant Francis to your superior but you yourself are not having an input into those views, their veracity or otherwise?

Det. Insp. Preston: No.

Dr HORTON: Did you have, at or about this time, a discussion with your superior, Mark Reid, about the matters the subject of your email of 3.15 pm?

Det. Insp. Preston: I may well have. I could not tell you; I cannot recall.

Dr HORTON: You might see on the preceding page, 589, your superior sends them up to Paul Alsbury—

Det. Insp. Preston: Sorry—509 or 589?

Dr HORTON: 589. Sorry I was not clear. They go up. I just wanted to show you that and to ask whether any of those emails on page 589 prompt a memory of any discussion with Alsbury or Reid or the chair about the content of Andrew Francis' email of 1.59 pm?

Det. Insp. Preston: It would indicate from David Caughlin, who is the acting director, that he has had a conversation with Mark Andrews, or potentially Mark Reid, 'this morning'. It could be either of the Marks; I am not sure which one. No, I cannot provide any comment on that.

Dr HORTON: Thank you. I am going to the final topic I want to ask you about. It is about the timing of the charges that were ultimately laid on 26 April 2019. Were you aware at any time before those charges were laid of some pressing urgency to do so before 2 May 2019?

Det. Insp. Preston: I cannot say I can recall but, from looking over some of this information, I do recall an email that is in here, something about—one of the officers mentioned they needed to charge before 2 May. Besides that—if I can just take a step back from that—considering that we have put this together back in March, Andrew's report would have been before 26 March. There are no time restraints. How fast or how slow it goes up through the system generally depends on how big the brief is. Sometimes they can take hours if they are a small brief; sometimes they can take weeks to come back.

As I said earlier, I actually was away on leave. I started leave on the 24th. Going by the record here in front of me, at page 317, that was the day the chair signed that approval. So there would have been no consideration as to when this was going to come back by then, because we simply would not go out and do it without that consideration by the chair first. Then there would have had to have been planning put into place as to what action they take from there. Once again, I believe Mark Andrews would have been relieving in my position, and once that comes back the general process is that we generally go out within a couple of days to make the arrest as soon as we can.

Dr HORTON: The connection I wanted to make was this: on 26 March, your memo goes to Paul Alsbury. I have taken you to that at page 323.

Det. Insp. Preston: Yes.

Dr HORTON: That is your memo that goes up on 26 March. On the same day—if you want to keep the two pages open, it is page 93 of that same volume, volume 2. That is the email that you alluded to a moment ago?

Det. Insp. Preston: Yes, that is the one I recall seeing the other day, yes.

Dr HORTON: It comes to you as well, you might see.

Det. Insp. Preston: Yes.

Dr HORTON: This is the same day that your memo goes up, if that assists—

2 May is set for submissions in QIRC ...

Then it goes on to say—

We really need to pinch Smithy & a decent portion of The Fab7 prior to 2 May.

Is the 2 May date there important because it is the day set for submissions in the QIRC, or is there some other understanding, to your knowledge, that should be had?

Det. Insp. Preston: My understanding around that particular time is there was conversation around the QIRC hearings. I can remember having a conversation—because this has come from Dave Beattie; this is not from Andrew or Mark. Dave Beattie was the other detective sergeant. I can remember having a conversation around the relevance of the QIRC for us. They were more concerned about the information that we had getting to the QIRC. My reason for that thought is that the brief of evidence had already been put up to the chair through our normal processes in March and that any decision around that sort of stuff was being made through the legal team of Rob Hutchings and the chair and that we were not to influence that. This was our criminal investigation that we were talking about, not the QIRC hearings. I can remember that conversation occurring with them, albeit very brief, on that day around this and talking about remaining focused on the criminal brief of evidence that we had at hand that had already been submitted. It was not going to make any difference to our prosecution or our case.

Dr HORTON: The only thing that could be done in respect of the prosecution in respect of 2 May is just the fact of it. The charge would have been laid before submissions are in QIRC; correct? The only possible influence on the QIRC is that it just would become a fact?

Det. Insp. Preston: I could not tell you what was happening on 2 May. As I have said before, right from the word go I was aware of the QIRC hearings. I knew things were going on; I did not know when submissions were being made. I was getting briefed on that from Rob Hutchings occasionally, but it did not really interfere with our investigation.

Dr HORTON: Could you go back to 323, your memo. The third-last paragraph mentions 2 May; I just wanted to remind you of this.

Det. Insp. Preston: The third-last paragraph?

Dr HORTON: The third-last paragraph on 323 of your memo—

... lawyers for Kelsey have provided a submission they have lodged with QIRC for determination on 2 May 2019. A copy of the submission is attached for consideration and weighs heavily on actions against Kelsey which could be considered as reprisal.

So 2 May was important to you, at least in the respect that I have read to you from paragraph 4 of your memo?

Det. Insp. Preston: In relation to a recharge of reprisal.

Dr HORTON: Right, 'which could be considered as reprisal'.

Det. Insp. Preston: Which was part of our investigative brief.

Dr HORTON: Yes. So the 2 May, I want to suggest to you, is important, because that is the day this matter is set to go back to QIRC; correct?

Det. Insp. Preston: Yes.

Dr HORTON: And I think on the material the only reason that 2 May is important; correct? Can you think of another reason why 2 May is important?

Det. Insp. Preston: Sorry, can you say that again, please?

Dr HORTON: The 2 May being mentioned in the two documents I have taken you to can only be the fact that the matter is listed to be heard for submissions on 2 May before QIRC; correct?

Det. Insp. Preston: No.

Dr HORTON: What is the other importance of 2 May?

Det. Insp. Preston: I think it actually says here 'a copy of the submission is attached for consideration and weighs heavily on actions' of reprisal against Kelsey. So is it in the interest of a criminal or an industrial matter that potentially someone is going to commit perjury and we let it go or not? This is why this is gone up to the chair for a consideration as to whether the CCC needed to intervene and potentially prevent something like that from happening.

Dr HORTON: Okay, let me pause there. The other possible purpose you are raising is the need to charge people because there might be about to be committed in the Queensland Industrial Relations Commission an untruth or perhaps even a perjury?

Det. Insp. Preston: I believe that was the discussion above my level, yes.

Dr HORTON: Yes, okay. How would charging those people help or not help that?

Det. Insp. Preston: With the brief that we put up before the chair, as I said before, they have it in front of them as to whether they wish to provide any sort of injunction in relation to proceedings or act as a third party in relation to proceedings, and that was something for them to decide—understanding what information we had, which was why it was all forwarded up. From my understanding, that is where it was left—for the senior executive to consider that and not for us as an investigative team to take any further, besides to take the arrest powers when we get it.

Dr HORTON: I am trying to understand the purpose and motive for charging before 2 May.

Det. Insp. Preston: The motive to charge before any time was that we had authority to do it, and as per usual we go out the following days and do it.

Dr HORTON: I get authority. I am trying to explore reasons why 2 May was important. I am trying to explore every reason. I am suggesting that one reason 2 May is important is because it is the closing submissions of the QIRC. You have suggested another one which I think is related, which is that people are about to commit an untruth or commit a perjury in that proceeding and charging would be important in that.

Det. Insp. Preston: No. As I said to you, it was important that we submit that information up to the chair for them to consider in relation to what we were advised is about to happen. There is probably no need for us to go out and do it before 2 May—the criminal charge before 2 May, but there is no need not to go out and do it before 2 May.

Dr HORTON: I will leave that thought for a minute. Page 93—

We really need to pinch Smithy & a decent portion of The Fab7 ...

That is not referred up to the chair for reflective consideration. 'Pinch' is charge; correct?

Det. Insp. Preston: Yes, that is correct.

Dr HORTON: So 2 May there is going to be a charge. It is not referred up for the reflection of senior management. This is going to happen on this person's desire. I am suggesting to you that the imperative of 2 May is because on that day there are going to be final submissions in the QIRC and it needs to come to the QIRC's attention then that these guys are being charged.

Det. Insp. Preston: Can you say that again, please?

Dr HORTON: The importance of 2 May is that it needs to come to the attention of the QIRC on or before closing submissions that the mayor and a decent portion of the seven have been charged.

Det. Insp. Preston: It does not—we do not make a recommendation and it gets told to the QIRC that they are charged. I am sort of—I am lost, sorry.

Dr HORTON: That is all right. I will put it to you again a different way. The effect of these charges was to cause the accused to be disqualified from holding office as councillors. Were you aware of that?

Det. Insp. Preston: Yes, there was discussion around that, yes.

Dr HORTON: And if so many of the councillors were charged that the council could no longer form a quorum, then it would be likely the council would be disbanded; correct?

Det. Insp. Preston: I believe—yes, that is correct.

Dr HORTON: So if these people were charged before 2 May the thinking was, I want to suggest to you, that the QIRC would know that the council was gone when the closing submissions were made.

Det. Insp. Preston: That could be an assumption from it, yes.

Dr HORTON: And you may not know the intricacies of industrial relations cases—and I certainly do not—but the fact the council was gone would materially help Ms Kelsey in her QIRC proceeding with her quest to be reinstated?

Det. Insp. Preston: I do not know. As you say, that is industrial relations. I do not know how they work.

Dr HORTON: Yes, okay. Do you remember at any time before your memo of 26 March having discussions with anyone about what would be the legal consequence of the charge on the councillors' capacity to continue as such?

Det. Insp. Preston: I believe there were some meetings and discussions. I believe the chair may have even been involved in some of those meetings. Because I was of the opinion that there had been discussions with the minister and that that had been given to us, yes, that was potentially an option as to what could happen.

Dr HORTON: Who else besides the chair do you recall being privy to those discussions?

Det. Insp. Preston: I would say the entire team would have been privy to those discussions, most likely Mr Reid and Mr Alsbury as well and a number of lawyers.

Dr HORTON: Do you recall, or have you seen recently, anyone having noted down at a time before the charges are laid that one important consequence of this would be (1) the accused would be disqualified from being councillors; and (2) the likely—in fact, the inevitable—result was that council would be disbanded as a result of the laying of these charges?

Det. Insp. Preston: I would say it would have been noted somewhere, but I cannot recall exactly where.

Dr HORTON: It would be a very important thing to note and be cognisant of in the decision whether to proceed with such charges; do you agree?

Det. Insp. Preston: No. I do not have an opinion on that, sorry.

Dr HORTON: If I was laying a charge and the consequence would cause, by operation of law, that person to be sacked, disqualified from office and elected office, do you think that is a material factor that I should turn my mind to expressly before deciding whether to charge?

Det. Insp. Preston: That is—it would be involved in our discussions. I am sure it would have been discussed somewhere, as I said. Through the reporting process I do recall a meeting of some kind where the chairman had gone to the minister for that discussion. I am sure that would have come back down to us.

Dr HORTON: I think you are agreeing with me that it would be an important thing to know and consider?

Det. Insp. Preston: Yes.

Dr HORTON: And it would be an important thing to know and consider if I charge so many of the councillors with relevant offences that it would cause a council to be disbanded and an administrator to be appointed?

Det. Insp. Preston: In the instance of our criminal investigation, that was obviously going to happen. If that was the case, it does not matter where or when we charge, that was going to happen at some stage because I do not think the industrial relations matter was finalised on 2 May. That was the submission date, you said?

Dr HORTON: Yes, it was scheduled for submissions that date. I think it is fair to say that on that date they do not proceed, but on 2 May an administrator is appointed as the culmination, if you like, of the charging of these people with the offences with which they were charged.

Det. Insp. Preston: Yes. I can recall that, yes.

Dr HORTON: But what I want to give you an opportunity to correct me on is this: this obvious point, as you said, does not seem—in the documents, at least, that are before you in these volumes—to treat that obvious fact as material or warranted for written consideration and reflection.

Det. Insp. Preston: I am unaware of anything that is documented that was given to us as part of our criminal brief. Whether there is something contained within this that is separate that the legal team had that were looking after the QIRC side of things, I cannot recall seeing any document around that.

Dr HORTON: Yes. Chair, they are my questions for the moment for this witness.

CHAIR: Thank you, Mr Horton. Do you have questions, Deputy Chair?

Mr SULLIVAN: Just a couple, Chair, thank you. Detective Inspector, just a very quick one. Mr Horton put to you about the time frames where the brief—both briefs may have gone to the DPP and you were mulling over in your mind, I think, whether you were certain if input had been received from the DPP prior to charges. Can I take you to 315 and 316, which is your memo.

Det. Insp. Preston: Volume 1?

Mr SULLIVAN: Volume 2, sorry, and 216 in particular where you set out—as you have touched on in your evidence today, you set out the attached documents that accompanied your memo.

Det. Insp. Preston: Sorry, 315 and 216, did you say?

Mr SULLIVAN: Sorry, 316.

Det. Insp. Preston: Yes.

Mr SULLIVAN: It is the second page of your memo. In terms of your consideration of whether the DPP had had any input into it, it appears from those six attachments that it did not include any advice from the DPP and no mention in your memo of discussion with the DPP. Is that a fair summary?

Det. Insp. Preston: It does not list it there. There were meetings held and the brief certainly did not go down before this, because I think the dates have been given of June or some other later date, which is fine—

Mr SULLIVAN: Do you accept those dates?

Det. Insp. Preston: I accept those dates, yes.

Mr SULLIVAN: I take that point. You also said as you returned after lunch that—you said words to the effect that you had thought about it over lunch and that it happens all the time—I am paraphrasing, but I believe it is a fair summary—that there are CCC criminal investigations that occur parallel to civil and other proceedings and they intersect or cross over regularly.

Det. Insp. Preston: No, I am talking about general police investigations. To give you an example, I have done 13 years in child protection stuff where we would quite often have a criminal investigation on a particular family member and there could be a Family Law Court situation going on that is running in parallel with it. We have had murder investigations where you have a Coroners Court that is running parallel to a criminal investigation, which have totally different rules of evidence as well. It is not uncommon to have parallel investigations, but the industrial relations one is certainly unique for any of our guys. I have never done one that has run parallel to industrial relations before.

Mr SULLIVAN: From your experience, then, you raise the Coroners Court as a good example. There are protocols—I think there is actually legislation in place, isn't there?—for where criminal investigations and indeed prosecutions are halted while Coroners Court matters occur, or the other way around. I think you used the word 'intersect' in your earlier—

Det. Insp. Preston: Generally, the Coroners Court will hold over a matter until a criminal proceedings is finalised—in general. But there are procedures in place, you are correct, who hold it, yes.

Mr SULLIVAN: So that one does not interfere with the other?

Det. Insp. Preston: Yes, that is correct.

Mr SULLIVAN: And they have different purposes?

Det. Insp. Preston: Yes.

Mr SULLIVAN: For example, with the Industrial Relations Commission or court, was there any discussion internally as to what protocol should be put in place so that where the two matters intersect they do not improperly interfere with each other?

Det. Insp. Preston: There was some discussion around that with the legal team and through the chair in relation to ensuring that, whilst we were conducting our criminal investigation, the request in relation to the QIRC, or what action they were endeavouring to take in the QIRC—that was discussed amongst the legal team, but they had access to all of our files because they are all stored on an electronic data system.

Mr SULLIVAN: So in terms of the two interacting and the timing of the prosecutions and the timing of charges—all those issues that would naturally come with criminal investigations and in parallel to civil procedures, or Coroners Court, as the example you gave—was there direction from the legal team or your team's legal adviser or anyone in the CCC as to how to properly conduct your criminal investigations, including the possible laying of charges, in a way that should not improperly intersect?

Det. Insp. Preston: No. As far as we were advised, we had our operational plan done up well before the issue with the councils came on board, because that had already been subject to Operation Belcarra, and there was information that flowed over from that in relation to the mayor which commenced Operation Front. It was during that further information that we got this information and evidence that related to it. A plan was already in place in relation to the timings of our matters and that sort of thing, so our criminal investigation had commenced and was well underway. There was no direction given to us to actually stop the investigation or delay the investigation or speed the investigation up. The team continued on as if it was a normal investigation.

Mr SULLIVAN: In terms of being a normal investigation—and you can draw on your experience as a police officer or your time at the CCC—when there is an ongoing criminal investigation and it intersects with another matter, whether that is family law or Coroners Court—two of the examples you gave—there are protocols in place and directions given as to how to properly manage those two?

Det. Insp. Preston: Family Law Court is different again, being a federal court. There is generally nothing to stop the investigations running parallel to each other. They would not probably interlock as much as what the industrial relations has done on this occasion. Generally, those investigations just continue to go ahead, unless there is an order made from the Family Law Court or something, but that is very, very rare.

Mr SULLIVAN: If there was an order made in the Family Law Court, would there be direction for your team to consider what that order was?

Det. Insp. Preston: We would have to. If there is a court order on it, it could be for whatever reasons, I am not sure. I have never seen the Family Law Court do anything like that.

Mr SULLIVAN: Sorry. I thought it was an example you gave.

Det. Insp. Preston: No. What I am saying is they quite often run together and they just keep on going.

Mr SULLIVAN: But if there was an order, there would be legal advice as to how to abide by that order in terms of how you manage your criminal investigation?

Det. Insp. Preston: If any court put a court order upon the Police Service in relation to an investigation, if there was stuff suppressed or information, we would have to abide by that order. It is the same in relation to the industrial relations. If there is an order on suppression to seek documents, which I think there was in this case—there were certain documents that we could not give to the QIRC, from my understanding. I was not involved in that; that was through the legal team. There were notices served upon the CCC by one party—I believe it was Ms Kelsey's party—and the opposition objected to that and that got held so the documents were not given. So there is always stuff that feeds back and forwards through the court orders that goes to usually the head, namely the chair of the CCC, who then must follow that order. If there is a suppression or a direction—

Mr SULLIVAN: And you are confident that people in your team followed the order with the QIRC in relation to the management of documents and the non-disclosure of documents held by the CCC?

Det. Insp. Preston: I believe so, yes.

Mr SULLIVAN: Including those that were received because of the extraordinary powers of the CCC?

Det. Insp. Preston: I believe so, yes.

Mr SULLIVAN: And you do not think there were any motivations or assistance in trying to get around that order?

Det. Insp. Preston: I would not say there were motivations to get around anything. There was certainly a motivation to complete our investigation and to do the job thoroughly.

Mr SULLIVAN: In terms of the court order I am talking about, because you said—

Det. Insp. Preston: If there is a court order, yes, I would expect a team to abide by it 100 per cent.

Mr SULLIVAN: In this particular case—I am not talking about general expectations but in the management of this case—is it your evidence that post the court order there was not an effort to try to get that prohibited material before the QIRC?

Det. Insp. Preston: That is correct, yes.

Mr SULLIVAN: That is your view?

Det. Insp. Preston: That is my view.

Mr SULLIVAN: Can I take you to a different matter, back to the same page, 315, which is your memo. I take your point that you were on leave on 24 April. I am not saying that as a criticism; I am just noting you were not in that meeting. By the time of 26 March, where you have dated that memo, you had already seen the extensive material by Detective Sergeant Francis, hadn't you, and the additional attachments that you have laid out on page 316?

Det. Insp. Preston: That is correct.

Mr SULLIVAN: You feel like you had that material in front of your consideration?

Det. Insp. Preston: Yes.

Mr SULLIVAN: Can I take you to page 315, the bottom paragraph, that runs over to 316. You have said—

The investigation memo outlines the actions of all seven LCC councillors and Mayor Smith which appears to amount to reprisal and/or misconduct.

You have seen the material, as we have just discussed, yet you have said in your memo for consideration of charges that the evidence points to reprisal and/or misconduct.

Det. Insp. Preston: Yes.

Mr SULLIVAN: Were you surprised when you returned from leave that the meeting of 24 April had recommended the charge of fraud against the mayor and all seven?

Det. Insp. Preston: No, because it had been discussed before I went away on leave.

Mr SULLIVAN: Can you point me in your memo—

Det. Insp. Preston: Because what had actually happened, if you look at the report by Mr Alsbury, which is on—

Mr SULLIVAN: Page 319? Or 317, the cover note?

Det. Insp. Preston: Just give us a second, thanks. I can recall that, when I submitted my report and we had a conversation with Mr Reid—if you have a look at page 319 and in particular the bottom of 321 and 322—this is dated 23 April, so I went away on leave that afternoon—this is where Mr Alsbury had submitted to the chair the charges of section 92A in relation to Luke Smith and over the page section 408C, which is fraud related charges. That had been through various discussion with the legal team in relation to the preferring of the charges, and once that was done—

Mr SULLIVAN: Were you involved in those discussions between signing your memo—

Det. Insp. Preston: Yes. I can recall there had been conversations through it over the following weeks, because they are weeks apart.

Mr SULLIVAN: Do you have any notes as to how it changed from—and I am quoting your memo again on page 315. You say that the evidence appears to amount to reprisal and/or misconduct before it then ending up in one paragraph in Mr Alsbury's brief at paragraph 17 where it brings section 408C.

Det. Insp. Preston: No, I cannot recall making any notes about those conversations or meetings.

Mr SULLIVAN: Who was involved in those conversations?

Det. Insp. Preston: It could have been Mr Alsbury. When we have a brief like this, I hand-deliver it to Mr Reid. He has a read of it. He may come and ask me some questions, which is typical of any brief. Then, likewise, Mr Alsbury—he may call us in for a meeting. And I may have some notes in my diary somewhere—I could not tell you—in relation to it and I could not tell you who would be present from the legal team at that particular stage as well. There were some discussions around the fraud charge whilst I was—before I had prepared my briefing note, but it was still something that was just under consideration.

Mr SULLIVAN: Had you considered it?

Det. Insp. Preston: Yeah, as I said, it was part of that.

Mr SULLIVAN: But you did not include it in your memo?

Det. Insp. Preston: No, no. When I went—

Mr SULLIVAN: Why I am asking questions around your recollection of conversations is because you have said in your evidence that between 26 March, where you signed off on your own memo, having already considered it, and the memo of the 23rd and then the meeting of 24 April, there were discussions around fraud. Why I am asking around recollections of conversations and meetings is that it does not appear on the papers where we got from the memo of 26 March—

Det. Insp. Preston: No, that is correct.

Mr SULLIVAN:—to that meeting on the 24th.

Det. Insp. Preston: That is correct. I can remember, because some conversations about it I cannot remember putting to paper because I already submitted my memorandum to Mr Alsbury.

Mr SULLIVAN: And we cannot ask you if it was discussed in the meeting of the 24th because—

Det. Insp. Preston: No, I was not there on the 24th.

Mr SULLIVAN:—of circumstances.

Det. Insp. Preston: This was dated 23 April, so it could have potentially been discussed then. On the 23rd when he did this report up, I could have been there.

Mr SULLIVAN: Do you remember being in a meeting on the 23rd?

Det. Insp. Preston: I cannot. No, I do not remember, sorry.

Mr SULLIVAN: Did you do a handover before you went on holidays about this matter?

Det. Insp. Preston: I would have completed a handover for this and other matters. It would have been a conversation with Andrew.

Mr SULLIVAN: Sorry to interrupt you. I think you said before you expected Mr Reid to step up in your absence; is that correct?

Det. Insp. Preston: Mr Andrews, Mark Andrews.

Mr SULLIVAN: Mr Andrews, sorry. Forgive me. Did you do a handover around knowing that the meeting was happening on the 24th? Did you do a handover as to whether—

Det. Insp. Preston: Any of the meetings that I would have been in on this matter Mark Andrews would have been in as well, so I cannot recall a particular meeting about it. I can remember discussions about the fraud.

Mr SULLIVAN: And in those discussions on fraud, to use your words, did you remember discussions around what elements would need to be proved for a successful prosecution of that charge?

Det. Insp. Preston: As part of any process you always elementise an offence and then you relate the evidence to it. I cannot remember whether there was actually any mention of the fraud charge in Andrew's report. I cannot recall. I will have to go back through it.

Mr SULLIVAN: In considering whether the charge of fraud would stick or would be successfully prosecuted, what elements do you think you would need to turn your mind to?

Det. Insp. Preston: There was discussion around the term of dishonesty in relation to the actions of the councillors. I recalled the conversation being that they thought a fraud charge would be easier to prove than one of reprisal because of the wording of the actual offence of reprisal.

Mr SULLIVAN: In proving such a charge beyond reasonable doubt, what would need to be achieved?

Det. Insp. Preston: You would have to prove each and every element of the offence beyond reasonable doubt.

Mr SULLIVAN: And you would have to disprove every defence put up beyond reasonable doubt?

Det. Insp. Preston: If defence puts something up, but at that stage defence would not have put anything up. So this is a brief of evidence—

Mr SULLIVAN: To that point—mind you, we are up in March in your memo and then April in Mr Alsbury's—are you suggesting that there was not any evidence as to what defence would put up?

Det. Insp. Preston: At that stage—

Mr SULLIVAN: Or what defences would be put up?

Det. Insp. Preston:—I cannot recall that there has been because—I do not recall them ever being approached at that stage and asked if they wish to participate in an interview. There had been some hearings that had been done, coercive hearings, which cannot be used against the individual, but particularly there is some evidence from those that can be used. Some of that evidence is admissible in relation to other offenders.

Mr SULLIVAN: I understand.

Det. Insp. Preston: So there was that evidence that could have been afforded towards it, yes.

Mr SULLIVAN: So in your discussions around whether fraud was a preferred charge or charges, you do not recall a conversation around what evidence was before the QIRC?

Det. Insp. Preston: No, I cannot recall.

Mr CRANDON: Thanks for that information. It has covered off some of my questions, but I just want to fill in a couple of gaps if I can, just to get it clear in my own mind. You said earlier that the decision by the chair, or one of the decisions by the chair, is to either send it off to the DPP or off to a police officer within the CCC to proceed with laying charges. Did I have that right?

Det. Insp. Preston: That is correct, yes.

Mr CRANDON: I cannot find anything in the material myself. Would that be in writing?

Det. Insp. Preston: That is actually part of the act, the decision—

Mr CRANDON: No, the decision, I mean.

Det. Insp. Preston: The decision? That is where all the memo—if I can find where it is now.

Mr CRANDON: I have not read every word, so you might be able to point me to where it said—

Det. Insp. Preston: If you have a look at page 317, that is the chairman's cover sheet. That goes over the top of the investigation report and the other submissions. That is the chair's handwriting—it is my understanding—on the top. It has got his signature block on the date of the 24th of the 4th.

Mr CRANDON: Oh yes, sorry. No, I am referring to your comments earlier where you said the decision to either send it to a police officer—in this case DS Francis—or the DPP. Would that be in writing somewhere? Would that normally be in writing?

Det. Insp. Preston: No, this is the only thing we ever get back if it is coming back to the police officers to commence the prosecution.

Mr CRANDON: But where does it say not to send it to the DPP, send it back to Francis?

Det. Insp. Preston: Well, we would not get this back. If it was going to DPP it would have been forwarded to the Director of Public Prosecutions.

Mr CRANDON: You would not have seen it?

Det. Insp. Preston: It would have had a covering report over it and it would have been sent away.

Mr CRANDON: You would not have even seen it?

Det. Insp. Preston: No.

Mr CRANDON: Okay. So it is not unusual for it not to be in writing that 'we have decided to do this in-house'?

Det. Insp. Preston: If it is done in-house, it comes back with this recommendation for us to proceed with the charges. If it is not, it will come back with a letter over the top directed to the DPP and then we will actually physically take that down. So we do see it come back, but it is a letter. It will have a letter—

Mr CRANDON: Right, but it is with a letter over the top of it that says 'DPP'?

Det. Insp. Preston: Yes.

Mr CRANDON: Thank you for that. Just drawing your attention—I am hoping you have a copy of *Hansard* from last Friday, page 45. Down towards the bottom there is a conversation between Dr Horton and Detective Sergeant Francis. Dr Horton says—

Did anyone inform you before 25 September 2018, or did you otherwise know, that the QIRC had issued a decision on 24 August 2018 about the notice which had been issued to the CCC?

In the response—and I will just read the relevant sections, that I have underlined anyway. Feel free to read the whole thing yourself. It says—

It was always my belief—strong belief—that those affidavits were in conflict with evidence that we had gathered ...

But then he went on to say—

However, I was strongly informed by—

And then he refrained from saying who—

strongly informed that that evidence was not obtainable due to suppression orders within the QIRC, and that was a frustration of mine.

Now, today DS Francis has indicated or confirmed that that advice came from Makeeta McIntyre. He has made the statement that indeed it was her who made it very clear to him—in my words, very clear to him that it cannot be used. So my question is: were you aware of that conversation or were you involved in that conversation when all of this was going on?

Det. Insp. Preston: I cannot recall if I was involved in that conversation.

Mr CRANDON: Okay. Can you recall any conversations where it was made clear to you that that information cannot be provided to QIRC? Were you aware of that?

Det. Insp. Preston: If I may just—if this will help answer—

Mr CRANDON: Sure.

Det. Insp. Preston: We are talking about the affidavits that were submitted in the QIRC hearings?

Mr CRANDON: The inadmissibility of—

Det. Insp. Preston: Their affidavits?

Mr CRANDON: Yes.

Det. Insp. Preston: Yes. I can recall—I think Rob Hutchings was the lawyer at the time. There were discussions with him in relation to admissibility of the statements in relation to a criminal investigation. I cannot recall too much more context than that.

Mr CRANDON: Okay. The question I have of you is: are you aware or were you involved in any discussions around finding other ways to get the material?

Det. Insp. Preston: Not that I am aware of, no.

Mr CRANDON: You are not aware of any of that?

Det. Insp. Preston: No.

Mr CRANDON: Because there were discussions going on. The evidence so far that we have received from various officers has indicated that. It does not trigger a memory for you?

Det. Insp. Preston: No.

Mr CRANDON: Okay. Could you then go to pages 591 and 592? There is an email from Andrew Francis and the subject line reads 'LCC Administrator concerns'.

Det. Insp. Preston: Yes.

Mr CRANDON: It is 'DSS'. Who is he talking about with DSS?

Det. Insp. Preston: That is the Detective Senior Sergeant. He is referring to Mark Andrews.

Mr CRANDON: Okay. So he sent it to Mark Andrews and Mark Andrews alone, it would appear. It is then from Mark Andrews to yourself?

Det. Insp. Preston: Yes.

Mr CRANDON: I just want to draw your attention to the difference between those subject lines. On the email sent by Andrew Francis to Mark Andrews it says 'LCC Administrator concerns'.

Det. Insp. Preston: Yes.

Mr CRANDON: And on the version that is sent to you, copied back to Andrew Francis and David Beattie, it says—

FW: LCC Administrator concerns (consider this version)

Det. Insp. Preston: Yes.

Mr CRANDON: So that is a different version to the original version. It seems that that is suggesting there is another version of that original email from Andrew Francis.

Det. Insp. Preston: Yes.

Mr CRANDON: You would agree?

Det. Insp. Preston: Yes.

Mr CRANDON: Are you aware of the other version?

Det. Insp. Preston: Not that I can recall, but it appears that way, yes.

Mr CRANDON: It seems, though, that the conversation has been had with you in that it talks about—

Inspector—as discussed, we hold serious concerns ...

So he is talking to you; he has written it to you. He said 'as discussed' with you. Yet there is what appears to be a second version of an email. I am just trying to get to the bottom of why that would be the case, why there would have been two different versions. Was it cleansed perhaps? Was there something in it that was not appropriate? Was there something in it that needed to be fixed so that it could be sent up the line?

Det. Insp. Preston: I honestly cannot recall.

Mr CRANDON: You do not recall the conversation you had?

Det. Insp. Preston: No, and that is the first time—I have seen this email over the past week and that is the first time I have noticed 'consider this version' written beside it. Sorry, I cannot provide any light on it.

Mr CRANDON: Do you recall the conversation that you had? It says—

Inspector—as discussed, we hold serious—

Det. Insp. Preston: We had daily discussions about all of the matters that we are doing. I can remember a discussion about the administrator going in. I cannot remember the details of that, sorry.

Mr CRANDON: You cannot shed any light on where the other version of the email might be?

Det. Insp. Preston: No.

Mr CRANDON: You cannot recall making any suggestion to someone that they make changes to an email?

Det. Insp. Preston: No.

Mr CRANDON: Even though he said to you 'consider this version'? It suggests, doesn't it, that you read a previous version?

Det. Insp. Preston: It does, but I cannot say that I considered any other version or, for that— get someone to change an email? No.

Mr CRANDON: Thank you, Chair. That is all I have.

CHAIR: Any other questions?

Dr HORTON: Chair, can I ask a few questions which arise from those that have come from the members of the committee?

CHAIR: Of course.

Dr HORTON: Detective Inspector Preston, would you turn to 311, please, of volume 2? This is a note of the executive leadership team, ELT, report of 18 April 2019. You are not a member of the ELT; is that correct?

Det. Insp. Preston: No, that is correct.

Dr HORTON: Would you turn to page 313, 'Proposed outcomes to be achieved next month'.

Det. Insp. Preston: Yes.

Dr HORTON: I just wanted to point out there in the dot points that the first dot point relates to the charges of fraud approved on 30 January 2019, it seems, being only against the mayor?

Det. Insp. Preston: Yes.

Dr HORTON: The third dot point down—

- Receive approval to charge (memo submitted)—

I want to suggest that is yours—

and then proceed by way of arrest for all Feb 7 with Reprisal/Misconduct ...

I wanted to point out that there is nowhere there mentioned fraud.

Det. Insp. Preston: That is correct, yes.

Dr HORTON: Is it possible that your memo has come up on 26 March, the ELT has considered this on 18 April but at that stage fraud, at least on the memo we see before us, is not something being considered?

Det. Insp. Preston: That is possible, yes.

Dr HORTON: Which might explain why your memo of 26 March deals with reprisal and not fraud?

Det. Insp. Preston: Yes, it could be that way. I cannot provide any more than what is written there, sorry.

Dr HORTON: Is it possible, then, that what you were dealing with at the time was charges which did not involve fraud, in your memorandum—at least against the seven councillors?

Det. Insp. Preston: What was the question?

Dr HORTON: Is it possible, then, that your memo of 26 March is dealing only with offences, at least so far as the seven councillors are concerned, which do not include fraud?

Det. Insp. Preston: If I can just refer back to Andrew's report?

Dr HORTON: Please do. Your memorandum is 323.

Det. Insp. Preston: And Andrew's report, that I would have received beforehand, is—

Dr HORTON: The long memorandum of 25 March is the relevant one you will find useful. It is at 257, which seems to be the final one.

Det. Insp. Preston: Excuse me, this might take some time.

Dr HORTON: And note paragraph 11 in particular of Mr Francis' memorandum of 25 March, page 258.

Det. Insp. Preston: Okay. The only reference it makes to the fraud charge does relate to Mr Smith, which is in the report, and it does not mention the councillors. Sorry, but I have forgotten your question again, sorry.

Dr HORTON: Well, I am really trying to understand what is in your mind on 26 March, given this is the day before, it seems, about what is actually being recommended to you by Detective Sergeant Francis to be done.

Det. Insp. Preston: Going from this here, I can remember that there was a discussion around the fraud matter on the mayor and then there were questions asked—'Why aren't we charging the councillors with the same charge?'—and that appears to be after I have submitted my report—

Dr HORTON: Okay; I see.

Det. Insp. Preston:—and I cannot recall where that conversation was or what came of it.

Dr HORTON: Do you accept it is hard to trace through on the documents we have shown you?

Det. Insp. Preston: It is, yes, and it is not in Andrew's report and it is not in my report.

Dr HORTON: No. What are the considerations? What precisely has been recommended—on what elements and what is the evidence which informs each element? What are we actually doing here with respect to the councillors in particular? It is not clear.

Det. Insp. Preston: Yes, fair comment.

Dr HORTON: Do you have much experience charging or being involved with section 408C charges on fraud or not?

Det. Insp. Preston: Not a lot of charges with them. It is a charge we have charged before in the CCC on some other matters, so I have used it in the past, yes, but not that often.

Dr HORTON: But following on particularly from the deputy chair's comments, one would want to know when charging that. For instance, one would want to ask oneself, 'Is it an objective or subjective consideration?', and I think on the law it is that you have to be dishonest by the standards of ordinary honest people. You would want to know those sorts of things.

Det. Insp. Preston: You elementise the offence, as the member raised before. You do break down the offences of the charge—elementising the offence—and they would normally write to each of those charges, and that is the way it is normally written.

Dr HORTON: Thank you. They are my questions for this witness. Might this witness be excused for this reason: he has operational responsibilities on the border away from Brisbane and I would ask that he be excused for that reason?

CHAIR: Be excused, not stood down?

Dr HORTON: Be excused. We do not presently have any further questions which we would anticipate to ask and it would be preferable perhaps if he can return to his operational duties away from Brisbane.

CHAIR: Okay. Are there any other questions? No? If not, thank you, Detective Inspector Preston. You are excused. Thank you for your participation.

Det. Insp. Preston: Thank you.

CHAIR: Mr Horton, how would we proceed now?

Dr HORTON: Could we now hear please from Detective Sergeant Andrews and then, if there is time, Detective Sergeant Beattie this afternoon.

CHAIR: Okay.

Dr HORTON: I call Detective Sergeant Andrews, committee.

Detective Senior Sergeant Mark ANDREWS (accompanied by Mr Peter Dunning QC and Mr Matthew Wilkinson)

Witness was sworn—

CHAIR: Mr Horton?

Dr HORTON: Thank you. You are Senior Sergeant Mark Andrews; is that correct?

Det. Snr Sgt Andrews: That is correct.

Dr HORTON: And have I correctly described your title—senior sergeant?

Det. Snr Sgt Andrews: Detective senior sergeant.

Dr HORTON: Detective senior sergeant; I am sorry. You were involved in Operation Front?

Det. Snr Sgt Andrews: Yes.

Dr HORTON: And you were at the CMC—CCC, I am sorry, from 2018 to 2019; is that correct?

Det. Snr Sgt Andrews: Yes.

Dr HORTON: For the whole of that period?

Det. Snr Sgt Andrews: Yes.

Dr HORTON: Thank you. And you in the hierarchy sat just underneath Detective Inspector David Preston; is that correct?

Det. Snr Sgt Andrews: That is correct.

Dr HORTON: And you were between him and, for example, Detective Sergeant Francis; is that correct?

Det. Snr Sgt Andrews: That is right.

Dr HORTON: I would like to focus my questions only on a couple of specific topics. Now, the first one is this: you will recall that on 26 April 2019 the mayor and seven councillors were charged with fraud—

Det. Snr Sgt Andrews: Yes.

Dr HORTON:—under section 408C. I am interested in exploring with you the reasons for the timing of that charge.

Det. Snr Sgt Andrews: Okay.

Dr HORTON: And if you would turn to the larger volume, volume 1, page 93. Sorry. I might have that wrong, I am sorry. Volume 2, sir—the smaller one—page 93. It is an email from you of 26 March 2019 at 1.15 pm.

Det. Snr Sgt Andrews: Yes.

Dr HORTON: You record that 2 May was at that time set for submissions in the QIRC; is that right?

Det. Snr Sgt Andrews: That is correct.

Dr HORTON: And that was for the hearing of closing submissions in Ms Kelsey's industrial proceeding?

Det. Snr Sgt Andrews: Yes.

Dr HORTON: And then you express the view there is a need to do things prior to 2 May. Is the need there referred to the fact that closing submissions are to occur in the QIRC on 2 May?

Det. Snr Sgt Andrews: Sorry, but could you ask that again, sorry?

Dr HORTON: Is the need there referred to the fact that closing submissions are to be heard on 2 May in the QIRC?

Det. Snr Sgt Andrews: No, that is not correct.

Dr HORTON: Okay. What is the need to which you refer there?

Det. Snr Sgt Andrews: This email was written obviously on 26 March. The investigation has been going for some time. When I conduct operations I like to not just work to arbitrary dates; I like to work to dates where something may or may not happen which may or may not impact the people that we are investigating to give us our best opportunity to get the people we are investing to cooperate with us. So I wanted the brief and the memo to be completed and that we had approval to commence proceedings in relation to mayor Smith and, as I said, a decent portion—some, if not all—of the seven councillors who had voted to sack the CEO.

Dr HORTON: I see.

Det. Snr Sgt Andrews: And I wanted that to be done before the submissions were to be made in the QIRC. I did not really know what the result of that was going to be, obviously, but the thinking was—my thinking was, as best I can remember is—the outcome of that may have fortified some of the councillors we were investigating. It may have made them more vulnerable to assisting us with our investigations. So I wanted it done before that happened and I just needed the paperwork and the brief completed prior to that date to give the team a date to work to, not just some arbitrary date.

Dr HORTON: I see. So, to be clear, the thing you are wanting to be done by then is preparation of the brief only?

Det. Snr Sgt Andrews: No, and approval granted by the CCC for us to commence proceedings.

Dr HORTON: Yes, to charge—approval to charge?

Det. Snr Sgt Andrews: Yes, because when we are seconded to the CCC we need approval from the chair ultimately before we can commence proceedings or charge anybody with any offence.

Dr HORTON: Yes. You will not charge anyone with any offence without the approval of the CCC chair?

Det. Snr Sgt Andrews: Correct; we are not allowed to.

Dr HORTON: The difficulty, I want to suggest to you, is your use of the word 'pinch'.

Det. Snr Sgt Andrews: Yep.

Dr HORTON: Of course that is not 'prepare brief' or 'receive instructions to commence when we are ready'. That is to charge and arrest; correct?

Det. Snr Sgt Andrews: That is what pinch means, that is right, but we cannot do that until all that other material was prepared and approval was granted. So it was a very short, off-the-cuff email and I did not want to go into all of that detail because everybody knew what I meant.

Dr HORTON: Well, absolutely. You need, you are saying—'really need', not 'need'—really need to pinch and arrest and charge before 2 May?

Det. Snr Sgt Andrews: Correct.

Dr HORTON: Not 'have the brief prepared', not 'get approval to charge', but you actually really need to arrest and charge before 2 May.

Det. Snr Sgt Andrews: We needed to have approval to be able to do that to give us our best opportunity to, when we went to talk to the councillors—to give them the opportunity to assist and potentially give witness statements against the mayor or other people we are investigating, and we could not go and ask them about that until we had approval that we could actually arrest them.

Dr HORTON: I just want to make sure we get the sequence right. Of course you have to have approval, you say?

Det. Snr Sgt Andrews: Yes.

Dr HORTON: Of course you have to have a brief before you pinch, but the pinching really needs to be done, in your view, by 2 May?

Det. Snr Sgt Andrews: Correct, because on 2 May, whatever happened in the QIRC, or whatever was going to happen in the QIRC, it may have fortified the councillors. It might have given them—it might have bolstered their confidence that they did not need to cooperate or it could have been the case that something happened and it made them more vulnerable, which would be better.

Dr HORTON: But if they had been arrested and charged before 2 May, they certainly will not be fortified in the QIRC on 2 May; correct?

Det. Snr Sgt Andrews: No, I disagree with that. That is not what I was saying.

Dr HORTON: Okay. The lead-up to this email is those emails which you see on the following pages.

Det. Snr Sgt Andrews: Yep.

Dr HORTON: Because someone sent up through the ranks closing submissions from Ms Kelsey's advocates; correct?

Det. Snr Sgt Andrews: Yes, that is correct.

Dr HORTON: And do you remember reading those submissions?

Det. Snr Sgt Andrews: I do not remember whether I read them all, but I certainly—as you can see from the emails, I wanted my staff or my team to make sure they were all over the information in there.

Dr HORTON: Your team is submitting that MinterEllison says the respondents have given false evidence?

Det. Snr Sgt Andrews: Yes, that was obviously very relevant as part of our investigation if they were giving different stories at different jurisdictions.

Dr HORTON: Yes. Did you ever read the submissions from the advocates for the people who were not for Kelsey in the QIRC case about whether they were giving false evidence?

Det. Snr Sgt Andrews: No, I do not think I did.

Dr HORTON: You understand submissions from advocates are a persuasive piece designed to persuade a judge, correct, in their client's favour?

Det. Snr Sgt Andrews: Of course.

Dr HORTON: So it could reasonably be assumed that what Ms Kelsey's advocates said in writing about Ms Kelsey would be the best reasonable case that could be offered to a judge?

Det. Snr Sgt Andrews: Yes, of course it would be.

Dr HORTON: And the worst reasonable case about the other side?

Det. Snr Sgt Andrews: Correct.

Dr HORTON: So to get a balanced picture, you would want the other side's advocacy, would you not, to see what they said about the accusations that they have given false evidence?

Det. Snr Sgt Andrews: Of course, to give it balance.

Dr HORTON: Did you seek that?

Det. Snr Sgt Andrews: I did not, no.

Dr HORTON: Did anyone to your knowledge say, 'Hang on, let's read both sides'?

Det. Snr Sgt Andrews: I do not know whether they did or not, but we were not basing our investigation just on those submissions. It was just more information that we took into account in the overall operation.

Dr HORTON: But to be clear, you were basing it in part on Kelsey's submissions but you were not basing it in part on anyone else's submissions from the other side.

Det. Snr Sgt Andrews: I do not know whether we got the other submissions or not. I do not know.

Dr HORTON: Did you think that it was important to check with your team whether they had done that?

Det. Snr Sgt Andrews: I do not know whether I even thought of that at the time.

Dr HORTON: I see. Coming back to your email of 26 March at 1.15 pm, because I still do not understand your evidence and I want to check that I really do, you want to arrest and charge them before 2 May because you are worried they could be fortified by what could happen in the QIRC on that day and therefore be less cooperative?

Det. Snr Sgt Andrews: No, I was not worried about that; it was just a date or an event that was going to happen. I wanted the team to have all the material ready so we could present it to the lawyers and the chair to seek approval to commence proceedings.

Dr HORTON: No, no, no. You have agreed with me that 'pinch' is arrest and charge.

Det. Snr Sgt Andrews: Yes, and we cannot do that until we have all that material and approval from the chair.

Dr HORTON: No, this email is saying you need to pinch prior to 2 May, not have it all ready to go so that after 2 May. It is you need to arrest and charge prior to 2 May. I am just reading your words.

Det. Snr Sgt Andrews: Yes, that is correct.

Dr HORTON: You can understand why I am perplexed?

Det. Snr Sgt Andrews: No, I do not understand why you are.

Dr HORTON: Okay, I will read the words—

We really need to pinch Smithy & a decent portion of The Fab7 prior to 2 May.

So you need to arrest and charge—really need to arrest and charge—before 2 May. What AM I missing?

Det. Snr **Sgt Andrews:** Well, to be able to arrest and charge before 2 May we needed all that other material done before that.

Dr HORTON: Got you. I am with you. Fully with you. But you want to do more than that by 2 May; correct? You want to go the next step, yes?

Det. Snr Sgt Andrews: Yes, but we cannot do that without all that other material.

Dr HORTON: Got you. I get you. That is all before, right, and after that you want to do something and the thing you want to do is you want to pinch, okay? And you want to pinch prior to 2 May, yes?

Det. Snr Sgt Andrews: Correct.

Dr HORTON: So you want to arrest and charge before 2 May comes up on the calendar?

Det. Snr Sgt Andrews: Yes.

Dr HORTON: Good. So, why the arrest and charge before 2 May if not because the QIRC submissions are that day?

Det. Snr Sgt Andrews: I wanted to get it done before the submissions happened. Like, I wanted to work towards a date, a milestone that the team could work towards, and I wanted to have it done before that because after that, if we had not got it done, it could have dragged on and on and on and I did not want that to happen. I wanted to move the investigation along and I needed to have it done before then to give us the best opportunity to get the people we were investigating to cooperate.

Dr HORTON: Okay. So it is not an arbitrary date. You said before that you did want an arbitrary date, but the date you set is 2 May for the arrest and charge to happen before.

Det. Snr Sgt Andrews: Yes.

Dr HORTON: I see. And that date is not arbitrary. That date is the date for closing submissions in the QIRC; correct?

Det. Snr Sgt Andrews: That is the information we had, correct.

Dr HORTON: So, you wished the councillors—the charged councillors—and the mayor and the QIRC to know that these people are being charged before 2 May?

Det. Snr Sgt Andrews: I did not care whether the QIRC knew or not.

Dr HORTON: What did you know at this time about the effect of charging these people before 2 May? What did you think was the effect of what was going to happen?

Det. Snr Sgt Andrews: I know that the laws changed not long before that, that when councillors are charged with certain offences they would be suspended.

Dr HORTON: When did you first learn that?

Det. Snr Sgt Andrews: When the amendment was made by the government. I do not know when that was. It was not long before it.

Dr HORTON: Is it May 2018 that it might have occurred?

Det. Snr Sgt Andrews: I could not say with any precision, sorry.

Dr HORTON: You would have adverted to that in your mind well before 26 March 2019, that that was a likely consequence of charging certain offences; correct?

Det. Snr Sgt Andrews: It did not enter into my thinking about whether a particular charge would make that happen or not.

Dr HORTON: I see. At no stage did you think you needed to turn your mind to what would be the legal effect of charging particular offences under the Local Government Act?

Det. Snr Sgt Andrews: Sorry, say that again? It was not under the Local Government Act; it was under the Criminal Code.

Dr HORTON: Yes, but at no stage did you think because of those amendments, 'I need to turn my mind to what is the effect of laying the charge under the Criminal Code by reference to the Local Government Act'?

Det. Snr Sgt Andrews: No, and actually back in March when I wrote that email I do not think we had even thought about fraud for that offence back then.

Dr HORTON: Right. That is what I wanted to come to.

Det. Snr Sgt Andrews: Because that did not happen until much closer to getting the approval.

Dr HORTON: Great. I am trying to work out the genesis of the fraud charge. The preceding pages have a memo that you can assume for the moment—starting at page 77—is dated about 30 January 2019. There is another memo that follows later in the bundle that has, at its base, 25 March 2019. There are various, as you flick through, either side. There is one dated 5 April at 173. Help me out, would you: where do we find the genesis of the decision to charge fraud, the beginning of it?

Det. Snr Sgt Andrews: Which pages were you looking at there? Are you looking at all the memos?

Dr HORTON: I am just scoping it a bit with you. 77 is a memo of 30 January. That is about—well, who knows what it is about for a minute, but it says—Sharon Kelsey Public Interest Disclosure Assume that is January 2019, prepared by Andrew Francis. Then if you look in the bundle at page 97 there is a memorandum of 25 March. There is various iterations of something like that that follow.

Det. Snr Sgt Andrews: It starts at page 97?

Dr HORTON: That particular one does and then there are others. There are other drafts, it seems.

Det. Snr Sgt Andrews: From my memory of it, the memo was submitted. The lawyers made suggestions about how it could be made better or amended or whatever. As you all know, it is a very long document and it goes into a lot of the evidence. Then there was a meeting had with—and in one of the memos, I think, the chair has made a note on the top of it where he gives approval for the charges—

Dr HORTON: Can we take this step by step, because we are going backwards and forwards. I am trying to find out—is this the question that you are answering?—where do we find, in your opinion or your view or to your knowledge, the genesis of the charge of fraud?

Det. Snr Sgt Andrews: It did not, for want of a better—it did not solidify until right at the death. On the 24th there was a meeting. We had a meeting with the chair and a couple—it was not decided upon until around that time or maybe a little bit before, but around the 24th. The 25th was a public holiday, Anzac Day, and then the 26th was the day that we did the charging.

Dr HORTON: Back in January 2019 there has been a decision about—I am putting it neutrally—charging the mayor with fraud; do you remember that?

Det. Snr Sgt Andrews: Yes, I remember because—I do not have a real good independent recollection of a lot of the stuff that happened down there, but reading some of the documents and getting prepared for today, one of the proposed charges was a misconduct by the mayor in relation to Ms Frawley and then there was another one for Smith in relation to the CEO, which was 'misconduct' maybe slash 'fraud', so there was some thinking around a dishonest detriment to the CEO. That was probably the first time that fraud came up and that was, if you said back in January then that—

Dr HORTON: So now let us project forward a bit to the seven councillors. You are saying, I think, that the question of fraud comes on or about 24 April?

Det. Snr Sgt Andrews: Yes, because there is lots of evidence that could fit different charges, obviously, and that was the one that was decided upon by the team and the lawyers that reviewed or worked with them.

Dr HORTON: Wouldn't we expect to see—wouldn't the committee expect to see—coming up for approval from the investigator a memorandum clearly recommending and dealing with and stepping out what it is that he recommends be charged or that he is recommending be referred back to him for consideration whether to charge?

Det. Snr Sgt Andrews: The evidence was the evidence and it could have fitted different charges. At that meeting or shortly before it, it was decided that that would be the charge that would be preferred, that best fitted the evidence or the evidence best fitted that charge.

Dr HORTON: Were you involved in that meeting?

Det. Snr Sgt Andrews: I was at the meeting. I do not recall much detail about it.

Dr HORTON: That is the meeting on or about 24 April?

Det. Snr Sgt Andrews: Yes.

Dr HORTON: At the meeting did someone say, 'Well, these charges are ones which are going to have a particular effect under those amendments that have been made in the Local Government Act recently'?

Det. Snr Sgt Andrews: I do not recall that getting said.

Dr HORTON: Your recollection is that it was not said?

Det. Snr Sgt Andrews: I do not recall whether it was or was not said. I do not recall.

Dr HORTON: If you look at the memo that I am suggesting to you goes into that meeting: 257, paragraph 7. The chair has approved something on 30 January.

Det. Snr Sgt Andrews: Document 257?

Dr HORTON: Yes. I am showing you a few references to try to see if I can jog your memory. 259, bottom of the page—... Fraud—illegitimate probation process ...

Det. Snr Sgt Andrews: Yes. That was the one I discussed just a short while ago.

Dr HORTON: Yes. I am trying to work out here what you understood is being offered up to senior people as the thing which should be considered to be charged.

Det. Snr Sgt Andrews: Shortly after I arrived at the CCC, and I had not done investigations in relation to misconduct offences in the past—I thought that a misconduct could be like an overarching charge, like 'interfered with a probation process' or 'did something else and did something else', and it could have been between dates, as a misconduct. For a fair while, that is what I thought we were working towards. It was not explained until later on that that is not the case. I thought a misconduct overarching for a bunch of his alleged behaviours would have been the charge preferred, but obviously that was not the case, which is, I guess, why the fraud charge was considered after some time.

Dr HORTON: It is all very confused, Detective Senior Sergeant Andrews, the way you are explaining it. I do not mean you are confused; I mean the thing you are explaining is a confused thing.

Det. Snr Sgt Andrews: I apologise if that is the case. Do you want me to try to make it less confusing?

Dr HORTON: No, you have misunderstood me. It is not a criticism of you. It is a criticism of the thing that you are trying to explain, that it is so confused and uncertain.

Det. Snr Sgt Andrews: Okay.

Dr HORTON: The thing that we are explaining should be, for the committee, coming after the event, given the importance of the act of what was being recommended and what was charged—something that the record clearly reflects what was recommended, what was done and when; do you agree?

Det. Snr Sgt Andrews: Yes, I agree that—

Dr HORTON: It does not seem to do that, the record.

Det. Snr Sgt Andrews: Are you talking about just the memo?

Dr HORTON: For a minute, everything I have taken you to.

Det. Snr Sgt Andrews: During the operation we obviously were intercepting phones. I listened to the vast majority—like, hundreds—of phone calls. So in my mind I knew what allegations we were making against Smith. I knew all the minute detail about what we were alleging he had done. That is a lot of information and everybody in this room possibly does not have all of that, so it is probably impossible to explain all of that detail.

Dr HORTON: I am not sure that is an answer to why it is less confused than it is appearing, but anyway. Let us go to page 27 of the bundle, volume 2. I am still on this concept of what you knew when about what the effect of the charge would be. The email from David Beattie to Makeeta McIntyre and to you—not copied to you but to you and to Makeeta McIntyre, 12 September 2018, 9.38 am.

Det. Snr Sgt Andrews: Sorry, did you say page 27?

Dr HORTON: Yes.

Det. Snr Sgt Andrews: In volume 1?

Dr HORTON: Volume 2, the littler one. In the front there is a little divider. You can ignore that and turn past it. I am sorry; it is a trick.

Det. Snr Sgt Andrews: I am sorry; I did not mean to be more confusing.

Dr HORTON: It is a hidden bundle. Page 27. The bit I want to draw your attention to in particular is the fourth last paragraph and the beginning of the next one. It seems you had some understanding in September 2018 of these provisions of the Local Government Act, some of which at least calls the council to be automatically suspended when they are charged with some things. Is that ringing any bells?

Det. Snr Sgt Andrews: I am sorry, I do not understand what you are asking of me.

Dr HORTON: In September of 2018, you understood that charging a councillor with certain offences—the mere charge would result in their automatic suspension? These are the amendments that you mentioned.

Det. Snr Sgt Andrews: Okay, yes. Sorry, I do not remember this email but, yes, I can see it now.

Dr HORTON: I am trying to refresh your memory. In about September 2018 you knew that charging councillors with certain offences would result in that councillor being disqualified from being a councillor, correct?

Det. Snr Sgt Andrews: Yes, I understood that.

Dr HORTON: When we came to the email of 26 March 2019 at page 93 of the same bundle, we need to understand this being in the context of your mind. You knew that certain offences would result in the disqualification of councillors, by the mere charge. This is six months later.

Det. Snr Sgt Andrews: That was not the reason we charged with that offence.

Dr HORTON: Let's not jump ahead for a minute. I am going to ask you that question really squarely in a minute, but could you return to my question?

Det. Snr Sgt Andrews: Sorry, I—

Dr HORTON: On 26 March, you know that charging a councillor with certain offences results in that councillor's disqualification?

Det. Snr Sgt Andrews: Yes.

Dr HORTON: You know on 26 March that the QIRC is set for final submissions; correct?

Det. Snr Sgt Andrews: Yes.

Dr HORTON: And you know that in that proceeding Ms Kelsey is seeking reinstatement; correct?

Det. Snr Sgt Andrews: I do not recall whether that is what she was seeking, but—

Dr HORTON: Well, you must know because you said you read her advocate's submissions, so that would probably have given it away, yes?

Det. Snr Sgt Andrews: Sorry, the whole process was her trying to get her job back, obviously.

Dr HORTON: Yes, great. You knew she wanted her job back, you knew certain offences would cause the councillors to be disqualified, and I suggest you knew also that if they could not constitute a quorum—you charged enough so that they could not constitute a quorum, then the council would be disbanded and someone would be brought in to administer the council?

Det. Snr Sgt Andrews: I was not sure what they would do with that.

Dr HORTON: Let's not worry about 'sure' for the minute; let's just say 'knew'.

Det. Snr Sgt Andrews: Sorry?

Dr HORTON: Let's not worry about 'sure'; let's just worry about that you knew these things—not 'I wasn't sure of'. I am saying: did you know?

Det. Snr Sgt Andrews: I do not know whether they were going to put an administrator in there or not. Obviously they did, but I did not know that that is how it would work.

Dr HORTON: You, for the moment, want to disagree with me, do you, that you did not know as of March that charging certain offences could result ultimately in the administrator being appointed by someone else and the council being disbanded?

Det. Snr Sgt Andrews: No, no. Your question was a two-part. The administrator bit: I did not know—I did not know what they would do, whether they would put an administrator in there or—I did not know that bit. But I knew that they would get suspended.

Dr HORTON: And that control of the council would be taken out of their hands?

Det. Snr Sgt Andrews: Sorry?

Dr HORTON: And you knew that control of the council would be taken out of their hands?

Det. Snr Sgt Andrews: Well, they would be suspended.

Dr HORTON: And that your reference to 'a decent portion of The Fab7' is a reference, I want to suggest, to needing to charge such a portion as would result in the council afterwards being unable to constitute a quorum?

Det. Snr Sgt Andrews: No, that was definitely not the case. I did not know whether we would ever get approval to charge all of the seven. Some were involved in a WhatsApp group and one in particular was not, so I did not know whether we would have sufficient to charge all seven. That is why I said 'a decent portion' of the seven.

Dr HORTON: But by this time, investigator Detective Sergeant Andrew Francis has raised with you, has he not, that he thinks the evidence warrants a charge of fraud because of its element of dishonesty in particular?

Det. Snr Sgt Andrews: Yes, the dishonesty, yes.

Dr HORTON: By 26 March he has told you this?

Det. Snr Sgt Andrews: No. We were not contemplating fraud for all the councillors back then. The fraud was contemplated for the mayor and the charges against the other councillors had not been decided upon in March.

Dr HORTON: No, it had been decided subject to gaining a statement from the wife or ex-wife that you would charge—that fraud would be charged against the mayor, correct, in January?

Det. Snr Sgt Andrews: I do not remember the exact—

Dr HORTON: Assume that for the minute. Assume that in January 2019 it has been decided relevantly that, subject to some things happening, the mayor will be charged or referral would be made to consideration whether to charge the mayor for fraud, okay? That is 30 January?

Det. Snr Sgt Andrews: Yes.

Dr HORTON: Then I am suggesting to you that the memo which appears immediately before the document I am taking you to at page 93 is prepared by Andrew Francis.

Det. Snr Sgt Andrews: Yes.

Dr HORTON: And that what he collects there is evidence that he thinks could go to dishonesty not only against the mayor but against others.

Det. Snr Sgt Andrews: Yes, that is correct. That is what the memo was prepared for.

Dr HORTON: And he, I am suggesting, communicated to you that view before 26 March 2019.

Det. Snr Sgt Andrews: I do not recall whether he did or not.

Dr HORTON: And that he told you that his purpose in the memoranda that he prepared on 25 March 2019 was to collect the evidence on dishonesty involving not only the mayor but what he thought was dishonesty in respect of the seven councillors.

Det. Snr Sgt Andrews: Yes, because that is how it works. We put the brief together and the memo together and then we submit it and then if we get approval to move forward with commencing proceedings, then we do.

Dr HORTON: And your email of 26 March comes after Detective Sergeant Francis has prepared at least the first iteration of his 25 March 2019 memo that you see there perhaps at page 97?

Det. Snr Sgt Andrews: Yes, that is correct.

Dr HORTON: On 26 March, you know that dishonesty and fraud is in play, so to speak?

Det. Snr Sgt Andrews: Well, dishonesty but, no, not fraud. I remember closer to the time that we charged, I remember not being surprised, but—well, slightly surprised that we had approval to charge all seven. I just thought it was a big step. I knew that we had ample evidence to do it, but it was a big step to go forward with that and to get approval to do it. So I was pleasantly surprised that we were able to move forward with what we were recommending, that they should be charged.

Dr HORTON: Surprised, even though on 26 March you had sent an email saying—

We really need to pinch Smithy & a decent portion of The Fab7 prior to 2 May.

Det. Snr Sgt Andrews: That was not in relation to charging all the councillors with fraud. That was getting the memo together to propose that they get charged with potentially misconduct. Then as the memo progressed it turned to fraud, which only got approval on 24 April. It evolved.

Dr HORTON: Did you not think the evidence existed as at 26 March 2019 to charge the councillors with an offence involving dishonesty?

Det. Snr Sgt Andrews: Yes, we did, but we did not have the approval to do it yet.

Dr HORTON: I suggest to you that you knew, as at 26 March 2019, that charging with certain offences, including fraud, would cause the accused to be disqualified from office.

Det. Snr Sgt Andrews: Yes, I knew that the amendment would do that.

Dr HORTON: And that one of those such offences was fraud—408C; correct?

Det. Snr Sgt Andrews: Yes.

Dr HORTON: And if such a number of people were charged as to make it impossible to achieve a quorum in council, the control of the council would be taken over by people who were not the former councillors.

Det. Snr Sgt Andrews: That did not come into my thinking.

Dr HORTON: You were very keen before 2 May to charge not only the mayor but also a decent portion of the seven councillors with an offence which caused their disqualification.

Det. Snr Sgt Andrews: Was that a question?

Dr HORTON: These are propositions. I am giving you a chance to comment on them. The reason I am explaining them to you is because these are propositions which I, as counsel assisting, consider open on the evidence as it presently stands. In complete fairness to you, I am suggesting them to you. You should feel free to contradict, explain, accept or whatever is the truth in relation to them. This is your opportunity to speak if you wish. Do you have a comment in relation to my last suggestion?

Det. Snr Sgt Andrews: Can you say it again so I know what I am commenting on?

Dr HORTON: You knew that charging a sufficient portion of the mayor and seven councillor such as would cause the council not to be able to achieve a quorum would result in administration of the council being taken out of their hands.

Det. Snr Sgt Andrews: We knew that would happen, but that was not the reason we did it.

Dr HORTON: You knew that on 2 May the QIRC had listed Ms Kelsey's matter for final submissions; correct?

Det. Snr Sgt Andrews: Yes.

Dr HORTON: She had made submissions through her advocates for that purpose?

Det. Snr Sgt Andrews: Yes.

Dr HORTON: It would assist her reinstatement case if, by the time the QIRC came to hear that matter on 2 May, the administration of the council had been taken out of the hands of the mayor and the seven councillors?

Det. Snr Sgt Andrews: I do not agree with that.

Dr HORTON: You urged to rush in pinching—that is, arresting and charging—those people for that purpose or for a purpose which included that purpose?

Det. Snr Sgt Andrews: I disagree with that as well.

Dr HORTON: I want to take you to a fresh topic at a later time. I am going to take you to 30 May 2019 and to the larger of the two bundles, which is volume 1, at page 591. Detective Sergeant Francis writes to you expressing concern about the LCC administrator.

CHAIR: Mr Horton, before we go too much further, I think this might be a convenient time for a 10-minute break to give Detective Senior Sergeant Andrews time to stretch his legs. We will come back at five past four.

Proceedings suspended from 3.55 pm to 4.05 pm.

CHAIR: We will get back underway. Thank you for being very prompt to return after the break. Mr Horton, you can pick up again from where you left off?

Dr HORTON: Thank you. Sir, we were at page 591 of volume 1.

Det. Snr Sgt Andrews: Yes.

Dr HORTON: It is an email sent to you from Andrew Francis. Did you have any prior involvement before you received this email in the concerns he there expresses?

Det. Snr Sgt Andrews: I took the 10-minute break to read through this and to refresh my memory about it. I do not remember a lot of the detail around it. I remember receiving it, understanding his concerns that he raised in it, and then forwarding it up the chain for the powers that be to do with it what they deemed correct.

Dr HORTON: Your email comes above on 591 and you refer to them in the plural, 'we hold serious concerns', 'our concerns'. Would the committee read that email as sharing in the concerns which Andrew Francis is explaining in his email of 1.59 pm?

Det. Snr Sgt Andrews: I was just being—I was being supportive of my team, and my team—we had serious concerns, and that is why I worded it like that. So I was being supportive of Andrew Francis' submissions or email and then passed it up the chain so whoever got it knew it was not just from one person; it was the team's thoughts about the matter.

Dr HORTON: I see. So the thoughts that Andrew Francis expresses in his 1.59 pm email are ones that you held?

Det. Snr Sgt Andrews: No, I was supportive of Andrew's email that I forwarded on.

Dr HORTON: Yes. You are supportive of his concerns being considered by people senior to you?

Det. Snr Sgt Andrews: Correct. Correct.

Dr HORTON: But you are not saying, as I understand it, that they are concerns you held at that time?

Det. Snr Sgt Andrews: Well, I had not talked to those people so I did not have the same information that Andrew had, obviously.

Dr HORTON: Yes. So in fact, do I take it that you—apart from the fact it was expressed by Andrew Francis, which I understand may be important given he had worked with you—

Det. Snr Sgt Andrews: Mm-hmm.

Dr HORTON:—there is nothing that you knew in addition to what he says in his email that gave you cause to think his concerns were ones you should also hold?

Det. Snr Sgt Andrews: Well, obviously if the four councillors that assisted were feeling they were suffering a detriment because of that, that is obviously a concern that should be sent up the chain for consideration by people above me.

Dr HORTON: You say at the beginning of your email that you have discussed it. You say, 'Inspector—as discussed'. Did you discuss it ahead of time, before 2.03 pm, with DI Preston?

Det. Snr Sgt Andrews: Yes.

Dr HORTON: Do you recall when and what was said?

Det. Snr Sgt Andrews: No, I do not recall. Obviously before that. But the email from Sergeant Francis was only a few minutes before, so clearly it was discussed before the emails were sent up to formalise it.

Dr HORTON: In your subject line you have added in brackets the words 'consider this version'? Why?

Det. Snr Sgt Andrews: I do not know why I would write that.

Dr HORTON: Is there another version?

Det. Snr Sgt Andrews: No, I do not know why I wrote that.

Dr HORTON: Were you involved in the framing of the email at 1.59 pm from Andrew Francis to yourself?

Det. Snr Sgt Andrews: I do not recall.

Dr HORTON: Was it of concern to you that the investigator was now raising concerns against a person who was, at the very least, ostensibly an independent person who had been appointed to run the council's affairs in the interim?

Det. Snr Sgt Andrews: No.

Dr HORTON: Then David Beattie expresses the view, you will see there at 590—

I strongly echo Andrew and Mark's comments.

Do you see that in the second line of his email? Is he wrong to equate the comments as being Mark and Andrew's?

Det. Snr Sgt Andrews: Well, from that email, he is concurring with what is in the preceding emails that we have sent up, yes.

Dr HORTON: So were you content for him to have said to DI Preston that these were comments that were made by you?

Det. Snr Sgt Andrews: Well, I do not know what was in Dave Beattie's mind when he wrote that, but there is my email and then there is Sergeant Francis' email as well, so either way what he said was correct.

Dr HORTON: But you did not at that stage distance yourself and say, 'Well, to be clear, these are concerns expressed by Andrew Francis and I'm offering them up because ... Although I do not know the detail of them, I think it's important that his voice be heard on this'?

Det. Snr Sgt Andrews: No, it is not necessarily like that. He has raised it. We have clearly talked about it before we have sent these emails on because there was only four minutes between them, but I do not recall the content of that conversation. He has obviously raised the concerns about the administrator, he has documented it in an email and then he has sent it to me and I have forwarded it up, as we do. We follow the chain of command so it can be considered by the people up from us.

Dr HORTON: Given that there have been charges laid now, given that an administrator has been appointed on 2 May—assume that—didn't you think at the time, 'Look, the legal processes have occurred. It's just time to step back from these things and not get too emotionally involved in what is properly an affair now of state and administration and not for CCC involvement'?

Det. Snr Sgt Andrews: Well, it was not an emotional thing. The CEO was the whistleblower or the PID, if you like. When somebody puts themselves in that position because it is an obligation of their role, they are to be supported and given assistance—to be supported through the whole process.

Dr HORTON: The whole process, once they make a PID.

Det. Snr Sgt Andrews: Well, that is my understanding of it.

Dr HORTON: I see. And that here meant supporting Ms Kelsey in her QIRC proceeding?

Det. Snr Sgt Andrews: No, I did not mean that. But when a person is a whistleblower, they really need to be supported—like a complainant in a normal criminal matter. They need to be supported as well.

Dr HORTON: I am trying to work out the boundaries of this. In your mind, it is not supporting her in the QIRC?

Det. Snr Sgt Andrews: Well, we did not. We were asked to, the CCC complied with the summons that was issued, but we did not intervene in that.

Dr HORTON: The committee will make findings in the end about what the CCC did not do, but what I am asking is: when you say supporting a public interest discloser, I am trying to work out what boundaries you would draw around it. It is your words and I am just trying to explore them. You say that does not include support in the QIRC, or you do?

Det. Snr Sgt Andrews: No. We support her in our operation or our investigation because she was obviously going to be a significant witness in the matter.

Dr HORTON: So it includes scrutinising the administrator appointed by the minister, if the administrator is not doing what Ms Kelsey thinks is correct?

Det. Snr Sgt Andrews: Well, that is why I forwarded the emails up. I was not going to buy into that.

Dr HORTON: There does not seem to be a limit to this idea of support for a public interest discloser, I want to suggest to you.

Det. Snr Sgt Andrews: The whole legislation is a bit poor when it comes to whistleblowers or PIDs.

Dr HORTON: And you see it as a legislation problem, not an administration problem?

Det. Snr Sgt Andrews: It is really I think—and this is just my opinion—pretty unclear about who is supposed to take care of the PID when somebody does that, particularly when it is part of their duty or role or obligation on them when they are in a particular public office.

Dr HORTON: Do you think one possible solution to this is that good, responsible heads in the CCC should make judgements about these things and how far to support a PID?

Det. Snr Sgt Andrews: I do not think I am in a position to comment on that.

Dr HORTON: I see. And that there would be a limit to the extent to which one supports a public interest discloser, without turning one's own mind to what it was you were being asked to do to support that person?

Det. Snr Sgt Andrews: Can you ask that again? I am not trying to be smart; I just do not want to answer a question I do not understand.

Dr HORTON: I understand, and maybe you are the wrong person to explore this with. I am interested in this idea of supporting a PID, and you seem to think that what Mr Francis was doing on 30 May in scrutinising an administrator is part of supporting a PID?

Det. Snr Sgt Andrews: I remember we had a lot of discussions about how PIDs should be supported and other ways that they could be—like, people get in trouble with the law and they get legal aid; a PID does what they do and they get no support. I am not saying that is the solution, but I remember having conversations about how sometimes they are left in the lurch. But that is just my thoughts, my opinion, about it.

Dr HORTON: Yes, and you worked on the assumption that Ms Kelsey had absolutely no support, other than through her lawyers and the CCC?

Det. Snr Sgt Andrews: No. We provided her support in our investigation. We investigated her information, which is supported. When people make an allegation, it is part of the police's job to investigate that.

Dr HORTON: I will probably come to it more directly. I am really suggesting to you that taking up the cudgels against the administrator was just pushing the support thing way too far.

Det. Snr Sgt Andrews: What word did you say?

Dr HORTON: Taking up the cudgels.

Det. Snr Sgt Andrews: What does that mean?

Dr HORTON: Investigating the administrator—it was just pushing the support for the public interest discloser way too far; that is my suggestion to you.

Det. Snr Sgt Andrews: That is why I just send it up and then somebody else can decide.

Dr HORTON: You did not think it was for you to put boundaries around this?

Det. Snr Sgt Andrews: No.

Dr HORTON: I understand. If you just go back to 591 of the big volume, I just want to point your comments out. At 2.03 pm there is your email, and you say this—

... needs to be done ASAP or QIRC could make another ruling without having full facts and potentially on the basis of incorrect or dishonest information ...

Did you hold the view there was some dishonest information?

Det. Snr Sgt Andrews: Yes, I was concerned that we held evidence and information that other jurisdictions did not have, and I was concerned at some stage the CCC or the police might suffer some criticism for having that information and evidence and not making it available to another court or function.

Dr HORTON: I see. Do you see it as the CCC's role to make information available to courts which you would be concerned the court might not otherwise have?

Det. Snr Sgt Andrews: Only if it is for a permitted purpose and that we were permitted to do that. I think most courts would like to make a decision having access to all of the information, but for some reasons obviously that is not always the case.

Dr HORTON: It shows—I am going to give you a chance to comment on this—a fundamental misunderstanding about what courts do in civil litigation, I want to suggest to you.

Det. Snr Sgt Andrews: Yes, that is right. I do not really understand what the QIRC does and I never went out of my way to try to understand that.

Dr HORTON: No, but you are asserting lots of things here as if you do know, I want to suggest.

Det. Snr Sgt Andrews: Well, I made the suggestion that if we have this information then perhaps it should be got to them, but obviously the people who knew how that worked decided that was not the case and that did not happen.

Dr HORTON: The dishonesty you are alleging here is about information provided by the administrator?

Det. Snr Sgt Andrews: No, no. This is about the evidence given by the other councillors.

Dr HORTON: No, read it again. Read it again.

Det. Snr Sgt Andrews: Okay.

Dr HORTON: 591, see that—

... incorrect or dishonest information provided by the Administrator &/or the A/CEO.

Big statements from you—

... [incorrect or dishonest information provided by the Administrator &/or the A/CEO.

These are your views here, not anyone else's?

Det. Snr Sgt Andrews: Well, I said 'potentially on the basis', so—

Dr HORTON: You are not using the word 'potentially' to say, 'Don't worry about this.' You are using the word 'dishonest'.

Det. Snr Sgt Andrews:—

... potentially on the basis of incorrect or dishonest—

so 'potentially' was dishonest, 'potentially' was incorrect.

Dr HORTON: You had formed that view. On what material had you formed the view of potentially incorrect or dishonest information provided by the administrator and/or the acting CEO? Or is it merely Detective Sergeant Francis' email?

Det. Snr Sgt Andrews: Well, it would have been on the other things that he had told me at the time, which I do not remember the detail of, which is why I have sent that email up the chain.

Dr HORTON: Okay. Can I go back to another point. I want to finish on this point with you, please, because I want to be sure about my understanding of things. I put to you about the timing of the charge and its purpose, about the 2 May.

Det. Snr Sgt Andrews: Yep.

Dr HORTON: I very much again want to try to understand your position, not the one that I have put to you if what I have put to you is wrong. I want to really search to understand what you say about that purpose and the timing. Let me put to you a few questions and see if we can clarify it. The 2 May time was important, as you have tried to indicate I think, one, as a date by which to get things done, get things moving?

Det. Snr Sgt Andrews: Yeah, partially, yeah.

Dr HORTON: Second, because you were concerned that on that day in QIRC things might happen which would boost the mayor or seven councillors such that they would be less likely to cooperate?

Det. Snr Sgt Andrews: That could have happened, yes.

Dr HORTON: And so you wanted to be ready, at least with a brief of evidence and other necessary approvals, before that date—and this is where you lose me.

Det. Snr Sgt Andrews: Okay.

Dr HORTON: You want to be ready before that date because—I do not understand the next bit. Could you fill in the blank?

Det. Snr Sgt Andrews: Well, we wanted to be able to approach the councillors, the ones that we were investigating for the charge of fraud that had been decided upon in the last few days. The fraud was the charge, but the evidence could have fitted other charges. So we decided upon the fraud and we wanted—when I typed that email that was back in March—

Dr HORTON: 26 March.

Det. Snr Sgt Andrews: Yeah, that is right.

Dr HORTON: That is really what I am trying—

Det. Snr Sgt Andrews: When we go and speak to suspects, to get the best result is for them to confess. In the administration of justice, it saves money for everybody; court works better. So confess, give a statement against the co-offenders and then when they go to court they get a lesser penalty. So before we could go and talk to those people in that sense—without having approval to

arrest them if they say, 'No, go away. I don't want to talk to you,' it can hamstring the investigation. Without having—it is not an arrest warrant, but without having that in your back pocket, knowing that if they say, 'I don't want to talk to you,' we know, 'Okay, we can arrest you.' But if we go there knowing that we could but we do not have to if they are able to cooperate, give evidence, ongoing assistance potentially—sometimes in other matters, not necessarily in this. That was my thinking behind being able to charge them before we attempted to interview them.

Dr HORTON: Well, that is where you lose me again, because you have now said charge rather than 'know that you could charge and deal with them'—I understand that—and maybe avoid a need for a charge because they cooperate.

Det. Snr Sgt Andrews: No, I did not mean that. I would still—

Dr HORTON: Sorry—confess and then you go ahead. But at the time that you are wanting to interview them for this purpose, you would not have charged them; correct?

Det. Snr Sgt Andrews: No, we wanted to be—when we approach these to attempt to get a truthful version out of them, attempt to get them to assist us, to give a statement against the mayor or any other people that had allegedly committed offences, we needed to know that if they had said, 'We don't want to cooperate,' we could arrest and charge.

Dr HORTON, Yes, I understand. So when did you have this conversation with them?

Det. Snr Sgt Andrews: With the councillors?

Dr HORTON: All the things you are saying you wanted to do. When did that occur?

Det. Snr Sgt Andrews: They all came in with their lawyers and they refused to get interviewed. They did not want to take part in an interview, so they were arrested and charged.

Dr HORTON: I think Andrew Francis might have done that, or did you?

Det. Snr Sgt Andrews: I was there for that as well. They were arranged to present with their lawyers through the 24th and 25th. So we knew that they were not going to get interviewed. They had told us that through their lawyers. So we lined them up to arrest by appointment, basically.

Dr HORTON: But—okay. Run with that for a minute. Why does this have to be done before 2 May if not for the purpose I put to you?

Det. Snr Sgt Andrews: Well, when we made contact with the lawyers to arrange for them to come in to get interviewed, if they had been interviewed we would have done that on that day. The process would have taken longer, obviously, because interviews take time, but all of them refused to be interviewed. So our opportunity to interview them about it in an attempt to get them to tell us their role never eventuated because they were all given legal advice not to participate in an interview.

Dr HORTON: I think I am clear about all that, but it is the 2 May I want to fix on for a minute because that is what you fixed on as really important in your 26 March email. It was not some other date; it was 2 May.

Det. Snr Sgt Andrews: Yep. We lined them up to come in on the 26th. Had people wanted to have interviews, we would have several days before that—

Dr HORTON: I think I am following all that, but can we just for the moment focus on 2 May? It is 2 May now that I am interested in.

Det. Snr Sgt Andrews: Right.

Dr HORTON: And you are saying to me it is really, really, really important. 'We really need,' I think you said in your email, 'to do this by the 2nd of May.' And you want to say it is not because of the QIRC proceeding, other than because you think they could possibly be boosted in the QIRC on that day by what happens?

Det. Snr Sgt Andrews: The QIRC matter could have impacted on our investigation as well, which is in my thinking, too. It could have helped or it could have hindered if we waited till after that happened.

Dr HORTON: Okay. But, anyway, that is your explanation for the 2 May that is different from the one I put to you. Have you explained that fully in the way you would like to?

Det. Snr Sgt Andrews: I do not understand what you mean.

Dr HORTON: I am giving you—I put to you a version or a thinking and I am trying to make sure that you have had a full chance to say what independently I put to you, you say, was the importance of 2 May and doing what you had said you wished to do in the 26 March email.

Det. Snr Sgt Andrews: Yes. I wanted the investigation moved along. I did not necessarily want it all to happen on the 25th and 26th. If it had been earlier than that it would have been good, but it took time and that is when we were able to do it. It was close to the deadline that I had set.

Dr HORTON: You would normally have some legal observations go up with a brief of this kind; is that right?

Det. Snr Sgt Andrews: Most times it does, yes.

Dr HORTON: There is an example in the volume there, you will find. We think is dated about 14 December 2018. If you go to volume 2, page 43.

Det. Snr Sgt Andrews: Yes.

Dr HORTON: So something like this would normally go up, I want to suggest to you, as part of consideration of charges? This is an unfinished version of one. Assume for a moment it is never finished.

Det. Snr Sgt Andrews: I do not recall ever seeing the observations from the lawyers. Normally the process goes from me to the inspector and then it goes and then it comes back later whether we have approval to commence proceedings or not.

Dr HORTON: So you would not necessarily see observations before the decision? There would be some interaction, I want to suggest to you, at least between the person who is going to draft these observations and the charging officer, yes?

Det. Snr Sgt Andrews: It does not happen that often, getting to the point where we put a memo in to arrest people. I do not know whether I generally get to see the observations or not. I just do not remember.

Dr HORTON: But the charging officer would and should?

Det. Snr Sgt Andrews: Yes, of course, because some of the information in that would probably be covered off in the memo.

Dr HORTON: In here you might see, for example, there is consideration of a fraud offence—page 57? Assume this document is December 2018. One would normally expect a document like this to have been prepared to finalisation; is that correct?

Det. Snr Sgt Andrews: Yes, normally it would be completed.

Dr HORTON: It would assist to have one, wouldn't it, for anyone considering the charges, because one might have Detective Sergeant Francis' memorandum but alongside it one would have a more systematic, elemental consideration of to which particular limbs and issues within limbs the evidence went?

Det. Snr Sgt Andrews: I cannot really comment on that, sorry.

Dr HORTON: When you write in 26 March 2019, you are not ready to go because, for instance, those legal observations are not anywhere; is that correct?

Det. Snr Sgt Andrews: That could have been one of the reasons it was taking longer. I do not recall whether that was specifically one of the hold-ups or not. I do not remember.

Dr HORTON: Just going back to 2 May for the moment in the QIRC, what was it that you perceived could possibly happen in the course of closing submissions in the QIRC that might make them less cooperative?

Det. Snr Sgt Andrews: No, I did not really know whether it would be good or bad or make them less cooperative or more cooperative. It was a date when something was happening involving the people that we were investigating.

Dr HORTON: I think you told me, though, that it was not an arbitrary date.

Det. Snr Sgt Andrews: No, that is right. It was not an arbitrary date; it was a date when something was happening involving the people we were investigating.

Dr HORTON: Thank you. They are my questions, Chair, of this witness.

CHAIR: Thank you, Mr Horton. Questions from committee members? Deputy Chair?

Mr SULLIVAN: Thank you, Chair. Can I take you back to your evidence to a question from Mr Horton about 10 or 15 minutes ago in relation to that email of 26 March where you talk about the 'need to pinch'? I am not prosecuting those questions. Did you say that at that time you were aware that fraud was a possibility?

Det. Snr Sgt Andrews: 26 March when I wrote that?

Mr SULLIVAN: Yes.

Det. Snr Sgt Andrews: No, I did not think that there would be a fraud for all the councillors. There was a memo that had been drafted—some versions with the misconduct for the mayor in relation to Ms Frawley and then a misconduct or perhaps fraud in relation to the mayor and the CEO.

Mr SULLIVAN: We will keep that aside; I understand that distinction there. Can you point to me in any of the memos from the detective inspector or others that deals with fraud for the other councillors?

Det. Snr Sgt Andrews: It does not. It talks about all the evidence and then that evidence fits the offence of fraud as well, which was decided in the last few days before we charged.

Mr SULLIVAN: Right. I do not know if it is a coincidence, but the memo signed by the detective inspector was also dated the 26th, the same day as your email, and that, as you have pointed out, described misconduct rather than fraud, didn't it? Did you have input into that document?

Det. Snr Sgt Andrews: The memo? No.

Mr SULLIVAN: The memo I am talking about, to be clear, is at 315, which is a memo from Detective Inspector Preston to Paul Alsbury and others. The bottom paragraph of 315 specifically says—

... which appears to amount to reprisal and/or misconduct.

Do you think that memo was the reflection of your group's—you report to Detective Inspector Preston?

Det. Snr Sgt Andrews: Correct.

Mr SULLIVAN: You think that is an accurate reflection of your collective thinking at that time?

Det. Snr Sgt Andrews: Yes. Reprisal was certainly an offence that we were investigating but, unfortunately, a lot of the evidence we had was not able to be used to charge that offence.

Mr SULLIVAN: I understand. Can you please step me through what meetings or discussions you were involved with between then and 24 April as to why fraud would be a preferred charge? Again, please leave the mayor aside. I do not want to deal with ongoing matters, obviously, but I mean fraud for the seven. Were you involved in any discussions between the date of the 26th, of that memo being signed, and the meeting of the 24th? I think you have confirmed you were involved in that meeting, weren't you?

Det. Snr Sgt Andrews: On the 24th, yes. I cannot think of any specific conversations we had during that almost a month, but the memo—Sergeant Francis took a long time to put it all together. It is long and detailed.

Mr SULLIVAN: I agree it is a very long memo. The evidence from Sergeant Francis is that he put a lot of effort into that. I am paraphrasing. But that material was provided to Detective Inspector Preston prior to the memo of 26 March; correct? Detective Inspector Preston based his memo of 26 March on the information presented by Sergeant Francis?

Det. Snr Sgt Andrews: He would have based it on one of the versions, yes.

Mr SULLIVAN: Okay. So the memo—

Det. Snr Sgt Andrews: It was an evolving thing.

Mr SULLIVAN: It is not as if there was extraordinary new evidence that emerged between 26 March and the meeting of 24 April? It is just that thinking changed in that time? Is that a fair summary?

Det. Snr Sgt Andrews: We were trying to work out the best charge based on the evidence that we had gathered.

Mr SULLIVAN: I am asking you about your recollection, because I cannot see it on the paper. I have put similar questions to your colleagues, so I will give you the same fairness. What discussions did you have between 26 March, when the focus was on 'appears to amount to reprisal and/or misconduct', to the meeting of the 24th between you and your superiors or you and the executive team or you and your colleagues? I will put that separately. Do you remember having any discussions with the executive team—either Mr Alsbury or the chair—prior to that meeting on the 24th?

Det. Snr Sgt Andrews: I do not recall any meetings. Obviously we work in the same building and see each other, but I do not recall any details of any conversations with them.

Mr SULLIVAN: About that matter. Do you remember any conversations between yourself and Detective Inspector Preston around whether fraud should be recommended as a preferred charge?

Det. Snr Sgt Andrews: My recollection of the fraud for the seven councillors—the decision was only made right at the death, like on the 23rd or 24th when we had the meeting.

Mr SULLIVAN: When you had that meeting. So in that meeting did you discuss the elements of fraud that would need to be prosecuted?

Det. Snr Sgt Andrews: I do not recall. Obviously the evidence was discussed, but I do not recall.

Mr SULLIVAN: It is not obvious, because it is not in the papers and it is not in the memo, so that is why I am asking about the particular meeting. I am not trying to press you, but when it is not here in the materials I need to ask for your recollection of what was a fairly significant meeting. That is a fair summary, is it not—that it was a significant meeting in terms of progressing the charges?

Det. Snr Sgt Andrews: Yes.

Mr SULLIVAN: Yes. And it was out of that meeting that the chair approved, by his words, recommendations for consideration to an officer for charging and the charge is laid two days later?

Det. Snr Sgt Andrews: Yes.

Mr SULLIVAN: So you do not recall in that meeting whether the elements of fraud and what would have to be proved were discussed?

Det. Snr Sgt Andrews: They were and obviously the elements for the particular charge was 'dishonestly caused a detriment' and we alleged that the councillors—

Mr SULLIVAN: I understand what is alleged and I understand what the elements of the offence are; I am asking whether in that meeting, that seems to be contrary to the memo provided by your superior based on the memo of DS Francis, there was detailed discussion as to what would be required for a successful prosecution for the charge of fraud.

Det. Snr Sgt Andrews: I do not recall.

Mr SULLIVAN: You do not recall. I again put it to your colleagues that I know when you have busy files and you have back-to-back meetings and all of that sort of stuff it is hard to remember any given day and what times, but I would have thought a meeting with Mr Alsbury, the chair, your colleagues about a decision to charge a mayor and seven councillors would be a meeting that would stand out.

Det. Snr Sgt Andrews: Well, the memo is there and we discussed it, but I do not remember the details of what we actually talked about.

Mr SULLIVAN: So you discussed DS Francis' memo or Mr Preston's?

Det. Snr Sgt Andrews: No, the final version of the memo, and the chair has signed off on the top of one of those.

Mr SULLIVAN: He has signed off on the cover note, of Mr Alsbury's cover note, which does not lay out in any detail—

Det. Snr Sgt Andrews: Okay.

Mr SULLIVAN:—the elements of fraud. I can take you to that. It is 317—

Det. Snr Sgt Andrews: No, I have seen it, sorry.

Mr SULLIVAN: Yes. And to be fair to Mr Alsbury, it is touched on in one paragraph, I think, in his brief. It is at 332 for completeness. Was that memo discussed methodically or was it more—I think the words 'by consensus' have been used on several occasions—a discussion between senior executive and officers most familiar with the case as to what charges were going to be walking out of that room?

Det. Snr Sgt Andrews: Yes, because we had all been involved in it for a long, long time, so we knew what the evidence was so we did not need to go through minutely and cover off on the—

Mr SULLIVAN: No, I agree. You were involved for a long time and you did know a lot of the detail to DS Francis' point. It was a lengthy memo. I guess my point is: having been involved for so long and having seen the same evidence for so long all the way through, in the memo from at least 26 April from Mr Preston fraud does not appear for the seven.

Det. Snr Sgt Andrews: That is correct.

Mr SULLIVAN: So you cannot enlighten me at all about that particular meeting on the 24th as to why the recommendation from Detective Inspector Preston, contained in his memo of 26 March, got transferred to the charge of fraud by your evidence?

Det. Snr Sgt Andrews: I am just—I am trying to remember. No, I cannot really add to it, sorry.

Mr SULLIVAN: Okay. Can I take you to another point. In terms of the memo at page 97, which is a version of DS Francis—I do not mind if you want to rely on that version or other versions; I am not particular about that, but I think you said that in the preparation of that lawyers made suggestions as to 'how do we make it better?' I think that is close to what you said, but I am happy to take that as paraphrasing you. Do you remember saying that in our first session?

Det. Snr Sgt Andrews: Yes, it is sort of a back and forward process.

Mr SULLIVAN: Yes, that is right. I do not want to put words in your mouth, but it was something along the lines of in the process of progressing it to your superiors you go back and forth with lawyers and they try to make it better.

Det. Snr Sgt Andrews: Yes.

Mr SULLIVAN: Yes. Who made suggestions or recommendations in terms of that memo? Who would have?

Det. Snr Sgt Andrews: We had weekly meetings and we would have discussed it in the meetings. The team lawyer came along. I do not know, but I would be very surprised if Sergeant Francis did not have conversations with Mr Alsbury to get advice about the best way to word things, and with the inspector and the other superintendent.

Mr SULLIVAN: Okay. I will take a few of those steps then. So lawyers within your team or superiors, not the corporate side of the CCC? Not the legal team—Mr Hutchings? It would be, when you say—

Det. Snr Sgt Andrews: No.

Mr SULLIVAN:—that you talk to lawyers, you are talking about lawyers associated with your team? Or you have said Mr Alsbury.

Det. Snr Sgt Andrews: Our team, yes.

Mr SULLIVAN: Can I take it to your team? Would it surprise you to hear that the lawyer attached to your team did not have any input into that memo, by her evidence? And I am happy to be corrected on that, but my clear recollection is that she said she did not have input into that.

Det. Snr Sgt Andrews: Okay. Well, that does surprise me, but that could be the case.

Mr SULLIVAN: I take you to your answer to my previous question in terms of who else would have input. I think you said that you would be surprised if DS Francis did not go back and forth to Mr Alsbury, for example, in terms of how to frame it. I do not want to, again, misquote you; I think you said in terms of how to structure it or how to improve it. Was that your point you were making?

Det. Snr Sgt Andrews: Yes, to get the best finished product, because when it is submitted we know it will move through.

Mr SULLIVAN: Operationally, the committee has been told that it would go from DS Preston—I do not know if it goes through you—but then gets presented to senior executive by Detective Inspector Preston, who provides the memo and sends that for consideration to Mr Alsbury.

Det. Snr Sgt Andrews: Correct.

Mr SULLIVAN: But you are saying there is face-to-face or direct impact between the investigating officer and Mr Alsbury?

Det. Snr Sgt Andrews: No. I said I would be surprised if they did not, because quite often Mr Alsbury did a walk-around and we talked casually about our work.

Mr SULLIVAN: I am just trying to understand the process, because we have had other evidence that set out the structure as to how it would progress through to the chair's consideration, which of course had Mr Alsbury's cover note and memo on top of the others.

Det. Snr Sgt Andrews: Yes.

Mr SULLIVAN: But you are suggesting that throughout that process there would be input from the senior executive into the investigating officer's memo?

Det. Snr Sgt Andrews: I would be surprised if we did not speak to—or Detective Sergeant Francis did not speak to other people in the area to seek advice, give their thoughts and work out a way to refine the memo.

Mr SULLIVAN: When you realised that fraud for the seven councillors was going to be the preferred charge or the recommendation for consideration to be the preferred charge, in terms of your reaction of 'surprised' and then you corrected yourself and you said 'slight surprise', when was that? When did that occur? In the meeting of the 24th or prior to that?

Det. Snr Sgt Andrews: I do not know whether it was in the meeting or around the time of the meeting, but, when I became aware that we were going to get approval to charge them all, at first I was a little surprised that that happened.

Mr SULLIVAN: That is because, by your evidence just 10 minutes ago, you had been involved for a long time, you knew the details of the case and the evidence and you had seen it progress to that point and at that point you had not considered fraud the preferred charge?

Det. Snr Sgt Andrews: No.

Mr SULLIVAN: So you were surprised, on the evidence that you were very familiar with, that it was decided on the 24th that fraud of the seven was the—

Det. Snr Sgt Andrews: I had not turned my mind to that it was a fraud, but when that was raised and we considered that what we alleged they had done fitted the elements then it fitted.

Mr SULLIVAN: You were slightly surprised, though, as a senior—

Det. Snr Sgt Andrews: I was not surprised, because I knew there was a lot of evidence that they had, we allege, committed offences. My surprise was that we got approval to charge all of them, which I thought was a big step, but I was very confident that we had sufficient evidence to make those charges stand.

Mr SULLIVAN: But you just said you had not turned your mind to fraud until very progressed through the matter. Where between 26 March and 24 April did you turn your mind to you are very confident that fraud would stick?

Det. Snr Sgt Andrews: No, I was very confident we had a lot of evidence that they committed either misconduct, and then at the end when fraud was decided upon I remained as confident.

Mr SULLIVAN: You had been heavily involved for a long time. You said you were across the detail of the brief, but you did not consider fraud until right at the end because you thought the preferred charges were misconduct or reprisal?

Det. Snr Sgt Andrews: Yes.

Mr SULLIVAN: Okay, and you cannot enlighten us any more as to why your view changed and who said what in terms of fraud becoming the preferred charge?

Det. Snr Sgt Andrews: No, I cannot remember the detail of it, but it was that fraud fitted best and that is—

Mr SULLIVAN: So in terms of detail, it is a pretty big detail; is it not?

Det. Snr Sgt Andrews: No, not really. The evidence was that they had—well, potentially—committed or allegedly committed misconduct, but the offence of fraud fitted better. The elements fitted better for what we were alleging they did.

Mr SULLIVAN: It is a big detail in terms of the consequences of what charge is preferred, is it not—that you are aware of?

Det. Snr Sgt Andrews: The misconduct and fraud penalty is similar.

Mr SULLIVAN: I think you discussed with Mr Horton that you were aware of the automatic implications of what would occur if a sitting councillor is charged with fraud.

Det. Snr Sgt Andrews: I think misconduct would have had the same effect. I assume it does.

Mr SULLIVAN: I will leave it there, thank you, Chair.

CHAIR: Member for Macalister, did you have a question?

Mrs McMAHON: Just to be clear, the charges that were considered for the seven prior to fraud: what were they and under what acts?

Det. Snr Sgt Andrews: Under the Criminal Code misconduct or potentially a reprisal, but there were reasons we would not be able to charge with reprisal under the PID Act.

Mrs McMAHON: You were saying before that fraud and misconduct are a similar penalty. Any of those other charges that were being considered: would they have been charges that would result in the automatic suspension of councillors?

Det. Snr Sgt Andrews: I believe misconduct would have, but I am not sure about reprisal. I would have to find out.

Mrs McMAHON: In weighing up in terms of DPP guidelines and the impacts, fraud or misconduct would have had the same effect on the employment of the councillors, to your knowledge?

Det. Snr Sgt Andrews: Yes, to my knowledge, yes. I am sure because I know of other people who had been charged with misconduct and they were caught by that amendment.

Mrs McMAHON: But to your understanding it would have had the same impact, the same consequences, to the councillors?

Det. Snr Sgt Andrews: Yes.

CHAIR: Member for Coomera?

Mr CRANDON: Thank you, Detective Senior Sergeant Andrews. I want to get through a couple of quick things. Who is Donny?

Det. Snr Sgt Andrews: That is Andrew Francis. Detective Sergeant Andrew Francis.

Mr CRANDON: So he has a nickname. I just wanted to clarify that. I have seen you have 'Donny this' and 'Donny that', '(which Donny will attach to his Memo) is a must read', that kind of thing. Just turning you to page 591, which relates to the 1½-page email from Donny—from Andrew Francis—sent on to you. Correct me if I am wrong: I got the impression from your evidence here that you were indicating that you were supporting the team and you were sending it up.

Det. Snr Sgt Andrews: That is right.

Mr CRANDON: We have already acknowledged that it was a four-minute turnaround.

Det. Snr Sgt Andrews: Yes.

Mr CRANDON: But you had absorbed everything in the email, in the document, prior to sending it up, so we have already established that you have had offline discussions about all of that.

Det. Snr Sgt Andrews: Yes.

Mr CRANDON: But, really, are you asking the committee to accept that you were sending it up in support of your team when it says—

Inspector—as discussed, we hold serious concerns about the actions or lack of actions by Administrator appointed to LCC by Minister. Below is an outline of some of our concerns and as the QIRC matter is back in QIRC next Tuesday 4 June 2019, it is a matter of urgency that, if these concerns are to be acted upon by CCC then it needs to be done ASAP or QIRC could make another ruling without having full facts and potentially on the basis of incorrect or dishonest information provided by the Administrator &/or the A/CEO.

That is not just supporting your team, is it? That is not just supporting your team. You have drawn some very strong conclusions yourself there. You are not just passing it up. That last line—

This is for your information ...

Yes, that looks like it, but that fulsome comment you have made after a four-minute turnaround is not just backing your team; you have come to some very strong conclusions there yourself.

Det. Snr Sgt Andrews: Yes, you are correct.

Mr CRANDON: Which is completely in contrast to the evidence that you were giving earlier.

Det. Snr Sgt Andrews: No, no, that is not what I meant. I do not remember having the conversations with Sergeant Francis about this, but we must have had a conversation about it. He would have relayed his concerns. I do not remember telling him to do this, but because of the quick turnaround I would have told him to put it in an email and then I have forwarded it up so it can be considered by the people above us about if we should do something about it or not.

Mr CRANDON: And you included in that email—you changed the subject line to '(consider this version)'. So I would suggest to you that there was significant conversation about a previous version of that email between you and Donny about this matter before you came to the conclusion that you were going to send it up and give strong advice to those up the line that you wanted action taken.

Det. Snr Sgt Andrews: No, no, I did not want action taken. I wanted them to be aware that these were our concerns and to avoid any potential criticism of us or the CCC down the track if we possessed information or evidence but for whatever reason other decision-makers, if they could have access to it, which as it turned out they were not permitted, so that was the thinking behind that.

Mr CRANDON:—

... if these concerns are to be acted upon by CCC then it needs to be done ASAP or QIRC could make another ...

I cannot see how you cannot say that you were asking for action to be taken in that document and I put it to you that basis.

Det. Snr Sgt Andrews: The concerns about the administrator and the acting CEO: I wanted someone else to consider whether they needed to do something about that or not.

Mr CRANDON: It is interesting that you just once again select the last part of that overall comment. That comment did not come about as a result of four minutes of you perusing that email. That comment came about as a result of you having an in-depth conversation with Donny about the content of it, and I would put to you that you recommended that he make some changes to that document before he sent it to you because you have written in the subject line '(consider this version)'.

Det. Snr Sgt Andrews: Like I said before, I do not remember writing that, but that is possibly the case.

Mr CRANDON: Something that you have given a lot of in-depth thought to and conversation with Donny. Coming back to 26 March—

We really need to pinch Smithy & a decent portion of The Fab7 prior to 2 May.

In your evidence here you said charges were laid so they may cooperate. In later evidence you indicated that it was not lay the charges and then get them to cooperate; it was threaten to lay the charges—

Det. Snr Sgt Andrews: No, not threaten.

Mr CRANDON: No?

Det. Snr Sgt Andrews: No.

Mr CRANDON: Did you give any indication to them whatsoever that you had the charges in your back pocket—I think you said something along those lines in that previous witness statement—and that it was good to have something in your back pocket? On the 24th and the 25th, when you were trying to push them to give evidence, to provide you with statements, did you give them any indication whatsoever that if they did not cooperate you were going to lay charges?

Det. Snr Sgt Andrews: No. We would not have had that conversation. They knew they were going to get charged, which was why we contacted the lawyers and arranged for them to bring them in and the lawyers all said there were not going to be interviews.

Mr CRANDON: That is not quite as I understand it from the earlier evidence. I understood it that you attempted to get statements from these individuals before a charge was laid. Now you are saying that you arranged for them to come in so you could charge them in an orderly fashion.

Det. Snr Sgt Andrews: No. We contacted the lawyers to tell them we wanted to interview them about the allegation and then they said there were no interviews so then it went to the next step, which is the arrest.

Mr CRANDON: The first step, with the lawyers, was, 'We want to interview them.' There was no mention of charges. They came back and said, 'No, you're not going to interview them,' and then you said, 'Right, we're going to charge them.' Are those the steps?

Det. Snr Sgt Andrews: I did not do that, but that is what Andrew Francis would have done when he spoke to the lawyers to arrange for them to come in on the 26th.

Mr CRANDON: So it was not the same conversation? I have seen lawyers' letters before where the first letter says, 'We reject everything that you have to say.' Then the second letter is a nice soft one that says, 'Look, we don't mind coming in and having a chat.' It wasn't that kind of thing in the same conversation?

Det. Snr Sgt Andrews: No.

Mr CRANDON: It was one conversation where you said, 'We want to interview your client.' They said, 'No, they're not going to be interviewed.' The second conversation, at a different time of day or the next day, was when you said, 'We're going to charge them; do you want to make arrangements?' Is that the idea?

Det. Snr Sgt Andrews: It could have been in the one conversation, because the lawyers would have known their advice was not to—

Mr CRANDON: So the reality is that there was an inference in the conversation that they were going to be charged if they did not play ball and—

Det. Snr Sgt Andrews: No, no. It was never, 'You're going to be charged if you don't play ball.' There is not that sort of conversation.

Mr CRANDON: At that time you were thinking that it was some of the councillors rather than all of the councillors that you would go after, because your target was Luke Smith?

Det. Snr Sgt Andrews: Yes, he was from the start.

Mr CRANDON: And there were a couple of others who were part of his leadership team, I think the treasurer and the deputy mayor.

Det. Snr Sgt Andrews: I was hopeful that all of them would cooperate but they did not.

Mr CRANDON: You were aware about the 2 May date. You were quite clear that you were aware about that 2 May date and that it was a QIRC matter.

Det. Snr Sgt Andrews: Yes, I knew.

Mr CRANDON: And you knew quite early. Who else knew?

Det. Snr Sgt Andrews: Back then I used to check eCourts every night. It was a thing that I used to do when I used to arrest people, to see how they were travelling through court. I saw when the dates were happening so when people—

Mr CRANDON: Did you keep that to yourself?

Det. Snr Sgt Andrews: No. When there was an event happening people would ask, 'What's happening with the QIRC?' I would say this date is happening.

Mr CRANDON: What did you tell? Donny?

Det. Snr Sgt Andrews: The team. Sometimes some of the other lawyers asked but they can find it out. It is open information anyway.

Mr CRANDON: Of course they could. Would you have told the chair?

Det. Snr Sgt Andrews: No, I very rarely saw the chair.

Mr CRANDON: Would you have tried to get someone to make sure that the chair knew?

Det. Snr Sgt Andrews: No, I did not.

Mr CRANDON: You knew the law was changed. Who else knew in your team?

Det. Snr Sgt Andrews: That the law had changed?

Mr CRANDON: Yes.

Det. Snr Sgt Andrews: Everybody.

Mr CRANDON: Everybody knew, including Donny?

CHAIR: To be clear, he is talking about the law change about the suspension of councillors if they are charged with—

Mr CRANDON: Yes.

Det. Snr Sgt Andrews: I assume everybody would have known. It was a pretty big deal.

Mr CRANDON: It was a big deal. Everybody would have known, including Detective Sergeant Francis?

Det. Snr Sgt Andrews: I would be very surprised if he did not know.

Mr CRANDON: On the charge of fraud, who in your team—because we were just talking about them a little while ago—do you think decided that, or was it decided above your team? Was it decided by Alsbury or—

Det. Snr Sgt Andrews: It was above us. It was not us that decided on the fraud, otherwise we would have put it in the memo. It was above us. I do not recall. I do not think I know who came up with the idea.

Mr CRANDON: It was not one of your team; it was one of the lawyers or it was one of the ELT?

CHAIR: You do not think you know or you do not know?

Det. Snr Sgt Andrews: I do not know, but once that was decided upon we all agreed that that was the appropriate charge on the evidence.

Mr CRANDON: Who do you think put forward the suggestion in the first place? Did it come from your team or did it come down to your team? Because you were surprised—

Det. Snr Sgt Andrews: It did not come from our team.

Mr CRANDON: It did not come from your team, so those above you made the decision. At the time of charging fraud, you knew that the councillors would be unable to continue in their role. You have made that clear. You were aware of that.

Det. Snr Sgt Andrews: Yes.

Mr CRANDON: As a result, council would have to be dissolved. You were aware of that?

Det. Snr Sgt Andrews: I did not really know what would happen, but obviously—

Mr CRANDON: If you take seven people out of a quorum—you would be aware that there is a quorum. There is a number of people—

Det. Snr Sgt Andrews: Sorry, I do not really follow politics much.

Mr CRANDON: Were people excited?

Det. Snr Sgt Andrews: No.

Mr CRANDON: People were not excited?

Det. Snr Sgt Andrews: Excited about what?

Mr CRANDON: Excited about the fact that you are going to go and take these guys out.

Det. Snr Sgt Andrews: No.

Mr CRANDON: No-one was excited? It was all very deadpan?

Det. Snr Sgt Andrews: Yes.

Mr CRANDON: It was not that they finally got the outcome they wanted: 'Let's go after it. Let's go and do it'? There was no excitement in that?

Det. Snr Sgt Andrews: Certainly there was not any excitement from me about it.

Mr CRANDON: What about others?

Det. Snr Sgt Andrews: No.

Mr CRANDON: You didn't get any feedback from above: 'Yes, good on you guys.'

Det. Snr Sgt Andrews: We got acknowledged that it was a good investigation that we conducted.

Mr CRANDON: Because the CCC chair, of course, went out to the media and had plenty to say: 'a most significant event' and all of those sorts of things. It was big. We are not just talking about just another day; we are talking about a big event. You are saying that no-one within your office or within your team was particularly excited about it? There were no high fives?

Det. Snr Sgt Andrews: No, we were not excited about it. We were pleased we were able to do a good investigation.

Mr CRANDON: Is it because you were shocked that you were not excited? Were you still trying—

Det. Snr Sgt Andrews: I was not shocked. I was just a little surprised that we were given approval to arrest.

Mr CRANDON: You said before you thought it was a big step.

Det. Snr Sgt Andrews: Yes, it was.

Mr CRANDON: It was a big step, so were you still trying to absorb everything and just put it through the grey matter?

Det. Snr Sgt Andrews: No.

Mr CRANDON: So at the end of the day, there was not any excitement amongst the team. It had been going on for how long? For forever?

Det. Snr Sgt Andrews: Yes.

Mr CRANDON: It must have been an absolute nightmare—writing things, sending them up, making changes to emails to make sure that they were all squeaky clean to send up the line—and nobody was excited at the end? It was just: 'Okay guys, that's another day. See you tomorrow.'

Det. Snr Sgt Andrews: No-one was excited. It was not that type of resolution.

CHAIR: Detective Senior Sergeant Andrews, in some of your earlier evidence you mentioned you were seeking interviews with the seven councillors prior to charging them. That was some time ago now but I recall quite clearly. You indicated that it could take several days to do that. All the while, 2 May was looming, just a couple of days after the date on which this all came about. When you actually charged the seven on 26 April, you said that did not have anything to do with 2 May. You were just charging them because you had the evidence and you had the authorisation. Actually, you did mention there was some sort of issue with 2 May that put a time imperative on charging them once you had the authorisation. If you were willing to let the interview process play out over several days, wouldn't that have presented some issues with 2 May because it would have run across that?

Det. Snr Sgt Andrews: No.

CHAIR: Which one is it?

Det. Snr Sgt Andrews: We would not have—when we got the approval on the 24th, if when we made contact with the lawyers they said that the suspects wanted to be interviewed, we would have just rolled through the interviews until they were done and we would have worked—we could have worked on Anzac Day. I was in there doing work on the public holiday. We could have put the arrests off on the 26th and just continued with the interviews, but that did not happen. Once we had the approval to charge and we knew there was no more evidence to be gathered by conducting interviews with the suspects, that is when we go to the arrest and resolve the matter.

CHAIR: Could you remind the committee again what your evidence was about 2 May, because you featured in an email which puts some sort of urgency on 2 May to arrest and charge?

Det. Snr Sgt Andrews: I do not like working to arbitrary dates and it certainly was not one. It was something that was potentially going to happen with the people that we were investigating on that day. I was not sure what was going to happen on that day, but it was a day that was a bit over a month away which I, in my mind, thought there was enough time for the team to get done what they need to do. If we got approval then—

CHAIR: That is right. They might have been galvanised by—

Det. Snr Sgt Andrews: I think I said fortified.

CHAIR: Fortified, galvanised.

Det. Snr Sgt Andrews: That could happen. If they had a really good day, then they might have been less inclined to cooperate. If they had a bad day, then they might have been more vulnerable was, I think, the evidence I gave before.

CHAIR: But what you are saying also is if they went through the interview process, hypothetically speaking, because that was your evidence, rather than just going straight to the charge you might have still run into that time frame, 2 May. The two do not go together.

Det. Snr Sgt Andrews: No. If all of them wanted to be interviewed, we could have got them done in the five or six days—we could have easily done that—but none of them wanted to.

CHAIR: It would have been a very tight run thing.

Det. Snr Sgt Andrews: We do that. We work to short time frames if and when it is needed. I obviously did not expect all of them to get interviewed. I hoped some would and if someone wanted to get interviewed we could have got that done.

CHAIR: I think you mentioned, too, there was a strategy of getting cooperation out of some of them by interviewing them and you went into some detail—well, not some detail, but you had a bit to say about that strategy and maybe in other documents it has been mentioned that you could have charged the three to start with and then gone on with others, so there is evidence of that strategy, but where is the strategy behind charging seven of them all together?

Det. Snr Sgt Andrews: That was the approval that was granted after we submitted the memo and outlined what evidence we had against them all. Approval was given to charge all.

CHAIR: So you just abandoned the strategy of interviews and staggered charging?

Det. Snr Sgt Andrews: That was an idea that was thrown up: do three, see what happens and then do some more. 'Abandoned' is the right word.

CHAIR: You were practically directed to charge seven, were you not?

Det. Snr Sgt Andrews: No, we were not. We were not directed. We wanted to and we got approval to do it.

CHAIR: At the death, as you said before?

Det. Snr Sgt Andrews: On the 24th, I think that meeting was, yes.

CHAIR: It had not really featured in consideration before that time. In fact, do you know if it had been considered at all before the meeting of the 24th—fraud?

Det. Snr Sgt Andrews: I do not know. I cannot remember. I do not think so. My recollection is it was a bit of a surprise that—

CHAIR: 'Slightly surprised', I think you said. What is the difference between 'slightly surprised' and 'surprised'?

Det. Snr Sgt Andrews: I do not know.

CHAIR: You were surprised. I suppose you would be for that charge to be laid at the death, in your words, after it has not really been fleshed out in the documentation hitherto. There is just one other question before we close for the day—and I think that will see you out for this inquiry. In relation

to the issues regarding the administrator and the acting CEO and commentary in some of the emails that we referred to before, including the one that Mr Crandon asked you about, raising complaints effectively about the administrator after her appointment, I just want to ask you a question in relation to how far, in your opinion, the CCC should go in these things. The CCC had attempted to disclose documents obtained through coercive means and disseminate those to the parties involved in the QIRC. They had also charged by that point seven councillors with fraud to have them removed from office, which some would speculate had significant ramifications for the QIRC case. Is that not enough for the CCC? Doesn't further action blur the lines between actions of the CCC right and proper and actions of the government or the council or an administrator appointed by the government? Do you have a view on that?

Det. Snr Sgt Andrews: I do not think I am in a position to make a comment about that one way or the other.

CHAIR: The deputy chair has a question.

Mr SULLIVAN: This is more administrative. I am just trying to get some details. Can we turn to page 327 in volume 2 which starts a series of handwritten notes from that meeting on the 24th. Forgive me if you have answered this before. I am trying to remember if any or which one is your handwriting. It starts at 327 and then there is different handwriting and different notes from different authors, obviously. I am just wondering if you can recollect if any of those are yours.

Det. Snr Sgt Andrews: On 327, that is mine.

Mr SULLIVAN: I can tell the handwriting then. Down the bottom of that, where it has the note on Friday 26th, that is the staged bringing the councillors in by time?

Det. Snr Sgt Andrews: Yes, the schedule.

Mr SULLIVAN: To achieve that, did you say earlier—I think Mr Crandon was asking you a question about this—that you got in touch with the relevant lawyers on the 24th and then you worked over the public holiday and then brought them in as we see there from Friday morning?

Det. Snr Sgt Andrews: Yes, that is right.

CHAIR: Mr Horton, did you have some follow-up?

Dr HORTON: Very briefly, arising from what the committee has asked. Where do we find the note or other record of the offer to the accused of an interview?

Det. Snr Sgt Andrews: I did not make those phone calls. Andrew Francis rang the lawyers to arrange all those.

Dr HORTON: Where if anywhere, to your knowledge, do we find the note of the call to the lawyers about coming in and the basis upon which that invitation was extended?

Det. Snr Sgt Andrews: I cannot answer that. I do not know where that would be.

Dr HORTON: You were not involved in those calls?

Det. Snr Sgt Andrews: No.

Dr HORTON: You have not ever seen written records of them?

Det. Snr Sgt Andrews: No.

Dr HORTON: They are my questions for this witness in follow-up.

CHAIR: Can we stand down the witness?

Dr HORTON: Yes, if you would, please.

CHAIR: Thank you, Detective Senior Sergeant Andrews. You are stood down. Thank you for your assistance with the inquiry. Mr Horton, is there anything else we need to address today?

Dr HORTON: No, other than Detective Sergeant David Beattie is up tomorrow morning, as I understand it. Mr Dunning may wish to say something about his presence here.

CHAIR: Did you want me to invite Mr Dunning to say something?

Dr HORTON: Yes, if you do not mind. I think he might have something to say about arrangements.

CHAIR: Mr Dunning.

Mr Dunning: I have a commitment in court tomorrow of long standing and involving multiple parties so I cannot be here. No disrespect is intended. If I could have moved it I would have. Mr Rice will be leading Mr Wilkinson tomorrow.

CHAIR: Thank you for letting us know. I appreciate the courtesy. That said, we will adjourn for the day. Thank you, Hansard. Thank you, committee staff. Thank you to our witnesses and the parliamentary commissioner and his staff. Thank you, counsel assisting and committee members. We will adjourn until 9.30 tomorrow morning.

The committee adjourned at 5.19 pm.