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# **PARLIAMENTARY CRIME AND MISCONDUCT COMMITTEE**

## **Members present:**

Mrs EA Cunningham MP (Chair)  
Mr PJ Dowling MP  
Mr IS Kaye MP  
Mr JM Krause MP  
Mrs JR Miller MP  
Ms J Trad MP  
Mr PW Wellington MP

## **Staff present:**

Ms A Honeyman (Acting Research Director)  
Mr P Rogers (Principal Research Officer)

## **INQUIRY INTO THE CMC'S RELEASE AND DESTRUCTION OF FITZGERALD INQUIRY DOCUMENTS**

### **TRANSCRIPT OF PROCEEDINGS**

(In camera)

**WEDNESDAY, 6 MARCH 2013**

**Brisbane**

## WEDNESDAY, 6 MARCH 2013

Committee met at 12.27 pm

**MARTIN, Mr Ross, Chairperson, Crime and Misconduct Commission**

**STRANGE, Mr Warren, Assistant Commissioner, Misconduct, Crime and Misconduct Commission**

**HUTCHINGS, Mr Rob, General Counsel, Crime and Misconduct Commission**

**CHAIR:** Welcome. I am certainly hoping that you are feeling better, Mr Martin.

**Mr Martin:** Thank you.

**CHAIR:** We asked you to attend because of the fact that this has occurred. Warren Strange gave me a call late yesterday afternoon with a very general summary of what the issue was. Certainly what has transpired in the media has given us concern about the gravity or potential gravity of the situation. I know that you have had an interview at least with Steve Austin, and I think it is important for the committee to be apprised in detail of what the situation is and as background to your subsequent report which we hope comes as a matter of urgency.

**Mr Martin:** Yes, I understand. You will notice that I have invited Peter Duell to come down here. He is not in the room with us at the moment. He is the Director of Information Management from our section. He has the most direct knowledge of this. However, I am also mindful of the possibility—and I put it no higher than that—that there might be disciplinary hearings arising from this and if he were to come in then parliamentary privilege will attach to some of the things that he says. So I am leaving it in your hands as to whether you want to hear from him directly or not.

**CHAIR:** At this stage given that—

**Mrs MILLER:** I do want to hear from him. I want to know what he has got to say.

**Mr DOWLING:** Even with parliamentary privilege in a hearing environment we can choose whether or not we release information.

**CHAIR:** Perhaps we can do it on a split system. Let us hear from you first. We as a committee could take a couple of moments at the conclusion of that, and at the conclusion of our questions and answers, to determine whether Mr Duell could or should be included out of an abundance of caution to ensure that later processes are not prejudiced or compromised.

**Mr Martin:** Thank you. I have some documents here that might be of assistance that represent a time line. Can I table copies for each of the members and talk you through them if I may? I have only seen these recently. They have only been recently prepared. The history of the matter for immediate purposes is that as at Monday Mr Duell told me of a particular issue. That is how we became aware of this. I told him to shut down access to documents. That occurred on Tuesday. As a result of that, Hedley Thomas was deprived of access to documents that apparently he had been accessing and he has produced the story which you have all seen in today's *Australian*.

What has happened is that over time the Fitzgerald inquiry records have been transferred to State Archives. The version as it has been given to me—I should not say 'version'. It seems reasonably clear that earlier in 2012 a decision was made—and it is before my time so I do not really know too much about it, and it wouldn't have come to me anyway—to make available things that the public should be able to see such as the public reports of the Fitzgerald inquiry—sorry, the reports of the public transcript and the public exhibits. As a result of an administrative error—and I will come to the detail of that in a moment so far as it is presently able to be determined—that process opened up many more documents. There is a reference to thousands in the *Australian*. I am told, however, this morning that it is 741 documents but I will come to that in a moment.

If you go to the first half of the document that is in front of you, it starts by talking about the process of transfer. The documents are called 'series'. That is the language they use at the archives. I am told that the series are not terribly well described, and that could be a source of some difficulty. The third item is that on 3 September 2010 the Queensland State Archives was advised

by the CMC Records Manager of a minimum 65-year retention period to apply to all series—that is all of the Fitzgerald documents—with exceptions for specific items in series 18561 which were to have even more than that. At that time the document which was referred to—and I am not quite sure; I have not seen these documents; it has been relatively brief. I am told that series 18651 were thought to be the public exhibits.

**CHAIR:** It was thought, sorry?

**Mr Martin:** They were thought to be the public exhibits. How that mistake arises I do not know and we will have to look into that. It was described as 'documentation', unhelpfully, and it in fact contained sensitive documents from the commission of inquiry.

On 3 February 2012, at the fourth item, the Director of Information Management changed the access period—the retention period—to 20 years. Because 20 years had already passed, that meant they were instantly available as at 3 February 2012, thinking that 18651 were the public exhibits when in fact they contained more than that. That, it seems, is a short description of the source of the error. It goes back, as I say, to 2010 and perhaps earlier as to how they were described and how they were picked up.

Now I have to get a second subject. The second subject is what happened in 2012. It seems that a former Fitzgerald inquiry staffer named Krosch was writing a book. I think he is doing some sort of research, a doctorate or something of that sort. He went to the archives to have a look for things and discovered all of these interesting things, realised that they probably shouldn't be publicly available and contacted the CMC. I have some documentation, and I am not entirely confident that I have understood it properly so I want to be very careful about talking to you about it. Please understand that what I say now is preliminary and may be capable of rectification.

What happened was that in May 2012 that came to the attention of people. There was some attempt to correct that, but that attempt was imperfect. How that happened I do not know. I remember hearing about this and I remember telling the staff to fix it on at least one occasion, and the indications are that people were told it was fixed but it appears not to have been and that is a matter that has to be pursued.

**Mr DOWLING:** That date of May, Ross, does not appear on this time line.

**Mr Martin:** No, it does not. The time line that appears at the top there relates solely to how the documents got into the possession of the archives and what steps were taken. You will see, for example, that 19 September 2012 is where the Director of Information Management changed the RAP of specific items in series 18651 in response to confidential surveillance documents being identified by an ex-CJC staff member.

**CHAIR:** Is that Krosch?

**Mr Martin:** That is Krosch.

**Ms TRAD:** You said the issue of Krosch accessing had come to light in May?

**Mr Martin:** Yes, there seems to be some information that I have had that it came to light in May. I cannot explain now why there is a difference between some documents which say May and this date of September. I do not know why it took that long.

**Ms TRAD:** To the best of your recollection, when you were made aware of it and you said 'fix it' that happened after May and before September?

**Mr Martin:** I can't say. My memory is not good enough to say, I am afraid. I regret that.

**Ms TRAD:** In relation to changes to the RAP of series 18651 to 20 years, in terms of the process of changing the RAP what internal procedures are there to reduce the time—

**Mr Martin:** It is quite simple, I am told. I understand that it is a matter of simply writing a letter or an email to the archivist or indeed perhaps a phone call when we are the body who is the effective owner to say, 'It is 65 years. It is 100 years. It is 20 years. It is immediately available,' or whatever the case may be. So the process is quite simple.

**Ms TRAD:** That is the process to initiate it. What is the internal process to authorise it within the CMC?

**Mr Martin:** I know that the Director of Information Management has the authority to do that. What the hierarchy is beyond that I cannot assist you with.

**CHAIR:** Will you provide that to us by Friday please—just the process, not the detail; the changing?

**Mr Martin:** I will do my best to do that.

**CHAIR:** The other thing I would like you to clarify if it is not in your mind is whether from May to September this committee was apprised of the issue.

**Mr DOWLING:** So it is clear in my mind, series 18651 was actually thought to contain information that was for public consumption—some of the public documentation et cetera?

**Mr Martin:** Originally, yes.

**Mr DOWLING:** So somewhere along the line that series has been misidentified?

**Mr Martin:** That seems to be so. That is so back at 2010. At some point in 2012 somebody has realised there may be a problem. I had understood that it had been fixed but what was fixed was only a partial fix; it was not a complete fix, and the detail of that is something that we have to get to the bottom of. I will talk about how we do that in a moment.

**Mr KRAUSE:** Mr Martin, could I clarify one thing, too? In the third box there is a reference to series 18561. Is that a different series from 18651?

**Mr Martin:** This document was prepared quickly. I did not prepare it. It might be a typo, I am not sure.

**Mr KRAUSE:** I just wanted to—

**Mr Martin:** You are quite right; that could be the source of the problem, I do not know, but I will have that checked with Mr Duell outside if you like. We can worry about that in due course.

The next point I want to come to is why it was that the archivist rang us a couple of days ago. It seems that back in 2007 some documents may have been destroyed that were Fitzgerald inquiry records which should have been kept for much longer. Fitzgerald inquiry records should have been kept permanently, I would have thought, but I am not totally familiar with the details of this. But prima facie one would have thought that they should have been kept. I am presently informed that what happened was back when the Fitzgerald inquiry records became CJC records some one or more persons thought it useful to pull papers from the Fitzgerald records and use them as a starting point for CJC records as intelligence files—files to start doing actions on. Those files were then created, actioned and eventually closed with approval, but mistaken approval it may turn out. In 2007 they were destroyed without anybody realising that on those files was original Fitzgerald material. That is what is referred to in that second box there. The possibility exists—I do not think we can put it any higher than that—that as many as 4,000 documents may have been destroyed in that way, but we have to get to the bottom of that.

How do we get to the bottom of it? It seems to me that this course of action is appropriate but of course it is subject to you. The first thing we should do, I think—I will not say 'first'; these things happen more or less simultaneously. I am expecting to send Mr Hutchings, general counsel, out to the archives this afternoon to eyeball what there is that has been hypothetically available to anybody so that we have a sense of what is exposed rather than relying upon what the *Australian* tells us. Once he forms that view, we will ask the archivist to provide us with who has access to these documents, to what documents they have had access and the name and address of the various people who have been able to do that. They keep records of this. It would seem that is a process that is possible to go through. That is to satisfy ourselves whether or not anybody who was an inappropriate accesser has indeed had any access to this. What we do from there is unknown because we simply have to wait and see what that process is.

Secondly, or rather separately, we need to conduct an internal inquiry as to how this mistake was made. I will talk about that in a moment. Thirdly, we need to get somebody to go out to the archives and make sure that what is available is exactly what should be available and no more. Dealing with that last issue, what I propose to do is engage Stephen Lambrides. You may recall that he is a former assistant commissioner of misconduct. He was at the Fitzgerald inquiry. There is nobody any longer at the CMC who was at the Fitzgerald inquiry except me. There are some people there who are relatively junior officers who were relatively junior officers at the inquiry, but it would not be appropriate for them to do this task.

I am told as well that that is consistent with the practice that is adopted in the Commonwealth. When parliamentary papers are reviewed to be made available for the public they get old public servants and old ASIO spies and so forth to go through them just to make sure there is not something there. That was the value of getting Lambrides. He knows what was at the inquiry, he knows what is appropriate and he knows how the systems work. It may be that it is appropriate for him to also undertake the internal inquiry that I am talking about because they are related. I am

reasonably confident that he will not have had any role in the destruction of the documents or any role in the process of authorising their availability so I doubt very much there is a conflict.

**CHAIR:** And if there is?

**Mr Martin:** If there is, we can stop that process. However, can I take you to another possibility? It is desirable, I would think, for the Parliamentary Crime and Misconduct Commissioner to have a role in this. If he is available to do it all himself, I have no problem with that but he is a part-time commissioner and there may be issues of delay and all those sorts of things. It is a matter for the committee as to whether you want him to oversight the process or whether you want him to have the process all to himself or not. That is a matter I am entirely open about. The last possibility, if there are concerns about Lambrides' suitability, is to engage counsel to do it subject to the supervision of Mr Favell. I had in mind Martin Burns SC. He is a man of soundness and good judgement. He has appeared both for the CMC and against the CMC in various hearings, so he has some understanding of how we operate without being compromised in any sense. So that was a possibility that I wanted to raise with you.

To summarise, we have to do at least those things which I mentioned: find out who has access to this, do an internal inquiry and, lastly, make sure that the documents that are available should be available and no more. But exactly how we do that is a matter for discussion.

**CHAIR:** I have a couple of questions, if I might. You said the archivist contacted the CMC a couple of days ago and the CMC has at least had some knowledge of potential issues in relation to the security and appropriate access to those documents since May. I only got the call as chair yesterday. When the archivist contacted you or earlier in May last year or since—I am interested in whether the committee has ever been apprised of this?

**Mr Martin:** When I knew about it it did not occur to me to tell you about it because I thought the problem had been fixed—that it was not real, that it was an issue that had been resolved and it was not a matter requiring referral. In hindsight, I wish I had. The next issue is how it came to our attention a couple of days ago. The reason the archivist rang was because of this issue with respect to the destruction of the records. Hedley Thomas had looked for a record and they could not find it and did not know why. When we started to hunt, we found out about the destruction issue but we also simultaneously found out about this problem of documents still being publicly available. I was told about it yesterday afternoon and I got Mr Strange to ring you immediately. So that is how you were told.

**CHAIR:** Members, are there questions that you would like to ask?

**Ms TRAD:** I know that you did say when this occurred. When did you inform the State Archivist? When was the State Archivist informed to deny access to anyone?

**Mr Martin:** Yesterday.

**Ms TRAD:** Yesterday.

**Mr Martin:** Yes, that is in respect of this round of events. I thought that had happened previously, but access to everything was shut down yesterday.

**Mr KRAUSE:** Just to clarify—I think you may have touched on it as well—did you mention that there would be records at the State Archives about who accessed these files and which particular documents?

**Mr Martin:** I am told there are. I am tolerably confident that there should not be a difficulty about getting access to that.

**Mr KRAUSE:** So someone is looking into that today, are they not?

**Mr Martin:** They are. The archivist is compiling those documents. We are going to have Mr Hutchings go out and look at the documents himself and start the process of getting hold of the list of material that the archivist is preparing for us in that respect.

**Mrs MILLER:** With the information that Hedley has obviously already seen or got a hold of, is there any system like the Commonwealth has—a D-notice system—whereby you can actually stop him from publishing what he has already had access to?

**Mr Martin:** We can find that out. At the moment I do not think there is, as far as I can tell. One of the strategies that I have been thinking about is simply giving him a notification that any material that he has is confidential, in which case section 213 of the Crime and Misconduct Act might be engaged so that he would then be on notice that it was confidential and inappropriate for

him to reveal it any further. That is one strategy that I have been thinking of but there may be others. That is something general counsel will pursue.

**Mr DOWLING:** Without putting too fine a point on it, if we did not know the content of file 18651 and what it contained, how do we know the integrity of the information that anyone has accessed through all of those files? How do we know what they have seen, because it sounds like we do not know what we don't know?

**Mr Martin:** I understand the point you make. As I said it, the archivist knows what is there. They have records of all of that. The problem was that the CMC did not realise what was in 18651. So when it was saying, 'You can have a look at it,' it did so from a position of imperfect information. So I think that is the answer to your question as best I am able to tell it at the moment. But the archivist is able to determine that. The failure is in the CMC's understanding of what the archivist held and how it is described.

**Mr DOWLING:** Presumably there is a number of series that relate to all things Fitzgerald?

**Mr Martin:** Yes, as I understand it.

**Mr DOWLING:** They have all been frozen now?

**Mr Martin:** Yes.

**Mr DOWLING:** Is there any chance that there are other CMC files that are housed there that may also be misidentified?

**Mr Martin:** That is a part of the process we will look at. I do not think so. As I understand it, we still have non-Fitzgerald files, but I might be wrong about that. But the process that we undertake will try to identify whether there is anything of risk. You will understand that everything out there would ordinarily be frozen. It is only because there was an attempt to open up what would otherwise be public documents that this has emerged. So it is very unlikely that any CMC document would have fallen into that category of documents that is something that was a good idea to publicise. We will look at that, of course, but it is a very unlikely prospect.

**Ms TRAD:** In terms of Mr Lambrides, you raised the potential for a conflict of interest. Had he worked at the CJC or the CMC?

**Mr Martin:** Yes, he worked right throughout the process. That is part of both the value and the risk. He is very familiar with the organisation and the operations of it and he was at the Fitzgerald inquiry. So he would be familiar with those papers. So it is possible to restrict his role to that quite narrow one of making sure that everything is there—to check off, as it were, the exhibits against the Fitzgerald records of what should be there and what is a public and a private exhibit and so forth without him being involved in any of the other steps in the process.

**Ms TRAD:** It might benefit the committee if we were to know what roles he played at both the CJC and CMC.

**Mr Martin:** I know he was Assistant Commissioner Misconduct—Mr Strange's role prior to Mr Strange—for many years. He was a legal officer at the Fitzgerald inquiry. I am not quite sure what his title was at the CJC, but he eventually became the assistant commissioner.

**CHAIR:** Could you flick through to the secretariat this afternoon what his roles were?

**Mr Strange:** My recollection is that he always held a relatively senior legal position in what was the official misconduct division in the CJC. That involved leading investigative teams. I think he became the Assistant Commissioner Misconduct around the time when the two entities merged—the Crime Commission and CJC.

**Ms TRAD:** So not responsible for information management?

**Mr Strange:** No. I would not have thought, based on my knowledge of the organisation and its processes, that the decisions in issue here were ones that would have come to him in any of those positions that he held.

**CHAIR:** Would you be able to check that and advise us, please?

**Mr Martin:** I have spoken to him and he tells me that that is so. He can remember being involved in the destruction of CJC documents and signing off on that when they were misconduct documents. But these are intelligence documents that were destroyed. So he thinks it is very unlikely that he would have anything to do with it. But if we find a document that has his signature on that is relevant, that will change things.

**CHAIR:** I would still like it if you could flick something through in writing in terms of his role.

**Mrs MILLER:** Just in relation to the intelligence matters, what is going to happen if you think this information has been released to Hedley and could put a person at risk now?

**Mr Martin:** I guess we will try as a matter of speed to find who has had access to these things and what they have had access to. Once we find that out we will make decisions about how to deal with that. I mentioned before the process of taking steps to do that. I think the risk of that is unlikely. The reason I say that is that it would seem at present it is much fewer than 7,000 documents. These are all old documents. I do not want to be premature. I do not want to say the problem is non-existent until we look at it. As a matter of risk analysis, while the potential outcome is at the highest end of the scale, potentially grave, the actual quantum of risk is relatively small. These are old documents, and it is very unlikely that underworld figures have been out at the archives trawling through these things. It is also very unlikely that Hedley Thomas would be so irresponsible as to go and hand copies out to bikies and what have you.

**CHAIR:** Just on that, what is your projected time frame to get a notification in writing to Hedley in relation to his handling or release of those documents? When are you going to do that?

**Mr Martin:** I would have thought as soon as we possibly can. And when you say, 'When can you do that?' We can only go and get hold of the documents and look at them today, find out who has seen them today and start writing letters not just to Hedley but to everybody.

**CHAIR:** But Hedley is obviously the one you know has the documents. Would he be dealt with as a primary contact?

**Mr Martin:** I would think so. I am hoping that it would be by the end of this week or early next week. We have to find out. We have to be able to describe in the letter we write to him what it is that we are saying is confidential.

**CHAIR:** So there is no interim letter that you can write that says, 'In the interests of the safety of these people who have given evidence in good faith 30 years ago, we would ask for you not to—'

**Mr Martin:** We can do that and that is a good idea. Thank you for that. We can ask him. But I am not in a position to have thought through fully the formality of writing a letter that says, with authority, 'You may not do that. You will be bound by the provisions of section 213,' or some other step such as the D-notice process.

**Mr DOWLING:** Presumably he would appeal that through the courts. Would the suspension still hold if such a process was put in place?

**Mr Martin:** As I say, this is a process that has to be thought through. That is why I am hesitant to be able to say immediately that that is the best outcome because I cannot be confident of that yet. We have to think of a number of options and think them through. I accept what you say about writing a courtesy letter now as opposed to a compulsory letter.

**CHAIR:** Certainly time is of the essence. The archivist contacted you a couple of days ago. That was about the destruction. In May 2012 it came to attention of people that there could have been problems. It was thought to have been corrected. It was not corrected. Then you talk about September, which is some months later and some months ago. The potential risk—albeit I am acknowledging that you said it is small—given its gravity, has been there for some time. We do not want to be sitting here in a week's time saying, 'I wish we had stopped that access to or opportunity for the release of information on Wednesday, 6 March as opposed to Monday of the next week.'

**Ms TRAD:** Given that Hedley is a good investigative journalist, he would have harvested a great deal of information from documents he has already been privy to.

**Mr Martin:** He says he has had access to dozens of documents. You are quite right: he will have scanned a significant amount of that information. There is no doubt about that.

**Mr DOWLING:** Just a question on that. When Hedley walks into the archives, what is the process? Can he ask for photocopies of them? Can he take images of them with a mobile phone? Can he actually replicate the documents?

**Mr Martin:** I have seen in today's paper a reproduction of a document. How that arrived I do not know. It may be that Peter Duell is best placed to answer that question.

**Mr DOWLING:** Did the archivist copy them for him?

**Mr Martin:** I don't know.

**Mr DOWLING:** I should not laugh.

**Mr Martin:** It is entirely possible.

**CHAIR:** How long has Mr Duell worked in the records management area?

**Mr Strange:** My sense would be back to the latter part of the 1990s. He has been in position of director probably 18 months to two years.

**CHAIR:** But a position of authority?

**Mr Strange:** He has always been a reasonably senior officer. He has been through various restructures and alignment with the intelligence division at times.

**CHAIR:** Are there any other questions?

**Mrs MILLER:** Just my concern and understanding of Hedley Thomas, too. There would be nothing to stop him splashing whatever he has in the *Australian* tomorrow?

**Mr DOWLING:** That is what I was thinking, which is why I asked what methods he has to replicate.

**Mrs MILLER:** He will know that this meeting is on now, I would imagine. He is a brilliant investigative journalist; we cannot take that away from him. He will know what the steps are. So there is basically nothing at this point that we can do to actually stop him putting other people at harm?

**Mr Martin:** There are a number of issues. I suppose we could seek injunctions and all sorts of things. But we have to try to figure out whether that is going to be slower or quicker than actually writing letters and think through what is going to actually work.

**Ms TRAD:** Mr Martin, I appreciate that.

**Mr Martin:** I know you do. I do not mean to be—

**Ms TRAD:** I think we all appreciate that, but given what Liz has said about perhaps a courtesy letter and given the fact that this does look like a significant stuff-up on the part of the CMC and we need to be frank about that, I think it would perhaps go a long way if a speedy courtesy letter to advise him that there are some concerns and perhaps there may be a breach of confidentiality or breaches of sections of the Crime and Misconduct Act and ask him to be mindful of that while a proper process is determined or a proper audit is determined for the materials. That might go a long way or might go some way to actually trying to rectify the situation, I guess.

**Mrs MILLER:** And he'll publish that letter.

**Mr Martin:** Quite so.

**Mr DOWLING:** It will be online edition this afternoon if he has to.

**Mr Martin:** It is not about the damage to us. And you make the point that it is a stuff-up. The damage to us is irrelevant by comparison to the potential risk to the people—

**Mrs MILLER:** Absolutely.

**Mr Martin:**—who may be in the material. If he publishes that, then this is something that the CMC has to take on the chin.

**CHAIR:** True. Are there any other questions?

**Mr Martin:** It is deeply embarrassing.

**Mr KAYE:** Just with the RAP being changed—and obviously that applies to all the documents now?

**Mr Martin:** Yes.

**Mr KAYE:** Now, even though he has obviously got access to those documents really legally, I suppose, because of the stuff-up, with that RAP being changed wouldn't that automatically cover the documents that are now in his possession anyway?

**Mr Martin:** I am not sure. This is a problem—this is an issue that has to be thought about at some—I will not say some length, because we do not have that luxury, but it has to be thought about.

**Mr KAYE:** I am just wondering if that might give a bit more teeth to the letter.

**Mr KRAUSE:** Is that something that the commission will seek advice about?

**Mr Martin:** Bear with me for a moment.

**Mr DOWLING:** Rob, is there any chance you could advise the entire meeting—



**Mr Martin:** My apologies, I was taking advice. But I might ask Mr Hutchings to explain the position he was going to make.

**Mr Hutchings:** I apologise. Section 19(2) of the Public Records Act permits the responsible public authority to change the RAP, and that is just by written notice. To answer your question, I would have thought the general presumption that you construe legislation prospectively instead of retrospectively would mean that one would not probably be able to construe that provision as permitting the public authority to place a retrospective restriction. I have not given that a great deal of thought; that is just off the top of my head. But I would have thought there would be problems trying to impose a retrospective restriction simply by changing the RAP as of yesterday. That is why we would probably need to use the 213 process that the chairperson has referred to earlier.

**Mr KRAUSE:** And that's under the Crime and Misconduct Act?

**Mr Hutchings:** That is correct, yes.

**CHAIR:** One more question, then. Given that this is potentially an incredibly sensitive issue—and I think everybody in this room is hoping that nobody is detrimentally affected, those who have given testimony or witness in good faith, expecting anonymity and protection into the future. We do not want to see any of those people affected. Could I respectfully ask why you are only sending one person down and not enough people to be able to do all of that trawling and retrieving in a short period?

**Mr Martin:** There are 714 documents which can be identified reasonably quickly as to their character. If there were thousands, I might send more, but I also have to be mindful of the fact that we are going to send somebody reasonably senior and we do not have armies of reasonably senior people. We can send more, and if Mr Hutchings thinks it is necessary to do so then of course we will. But the preliminary steps of finding out what is there, finding out who has seen it, I would have thought can be done today. And once we are in that position, we will then be in a far better place to be able to say what we have to do after that.

**CHAIR:** Okay. Thank you. Would you mind if we just had a few moments? If you would not mind just taking a moment in the waiting room. We will just have a quick discussion and perhaps be able to give you just some small idea of where the committee is deliberating.

**Mr Martin:** Yes, indeed. Thank you very much.

**CHAIR:** Thank you.

**Proceedings suspended from 1.04 pm to 1.12 pm**

**CHAIR:** Thank you very much, gentlemen. I know it is extra time for you. We have had, obviously, a very short conversation, but the committee has a number of things that we would like to pass on to you. Firstly, we are concerned that the CMC at this point in time is not considering a Supreme Court injunction or any other legal—

**Mr Martin:** I am sorry, I did not hear that. Is concerned or is not—

**CHAIR:** We are concerned that the CMC does not appear to be considering a Supreme Court injunction or another legal remedy, given the importance of the documents and the potentially serious ramifications to protect those witnesses. The second thing is: we are at this time not going to take any information from Mr Duell. That is this time only. We may reconsider that. We will be asking you to investigate and to give us a report, albeit an interim report, by 15 March. We will be also requesting that the parliamentary commissioner oversee the investigation and report to the committee. Finally, the committee wishes to advise you that we may report to parliament on the matter.

**Mr Martin:** I understand that. I would be surprised otherwise. Can I say that while we have been outside we have been trying to get in contact with the Solicitor-General to see what can be done by way of injunctions and so forth. He is not available. We will keep working on that.

**CHAIR:** Will you please let the secretariat know as a matter of urgency once you know that?

**Mr Martin:** Yes. Thank you. I am not sure I can add anything.

**CHAIR:** No, that's fine. That is where we are sitting. We thank you for your attendance.

**Mr Martin:** Before I leave, does the committee have any view about who it should be who does the internal investigation?

**CHAIR:** No. We have not had that discussion, so it would be inappropriate for us to pass a comment on that. If we come to some conclusion, we will certainly notify you as a matter of urgency.

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**Mr Martin:** Thank you for that.

**CHAIR:** You are going to get us some information on Mr Lambrides's experience, as well.

**Mr Martin:** Yes.

**CHAIR:** Thank you very much. Thank you for coming at such short notice.

**Mr Martin:** I am sorry: before I leave I should say we have had a look at section 213 as well. We are doing many things but outside the room, and there may be difficulties with us using section 213 as a way of stopping any use being made of these documents because of its terms and the tense in which it is expressed. But we are looking at the issue of an injunction as soon as we can.

**CHAIR:** Could I ask you to keep us apprised as a matter of urgency and on an at-time basis?

**Mr Martin:** Yes. As things happen we will let you know.

**CHAIR:** Absolutely. Please do not wait for a week or three days or something and consider whether we need to know. I appreciate that very much. Thank you.

**Committee adjourned at 1.15 pm**