



# POLICE INTEGRITY COMMISSION

REPORT TO PARLIAMENT  
OPERATION COBALT

DECEMBER 2005

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President  
Legislative Council  
Parliament House  
SYDNEY NSW 2000

The Hon John Aquilina MP  
Speaker  
Legislative Assembly  
Parliament House  
SYDNEY NSW 2000

Dear Madam President and Mr Speaker

In accordance with section 96(2) of the *Police Integrity Commission Act 1996*, the Commission hereby furnishes to you a Report regarding Operation Cobalt, being a Report in relation to a matter as to which the Commission has conducted a public hearing.

I draw your attention to section 103(2) of the *Police Integrity Commission Act 1996*, pursuant to which I recommend that this Report be made public forthwith.

Yours faithfully

**T P Griffin**  
**Commissioner**

December 2005

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## EXECUTIVE SUMMARY

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Operation Cobalt was an investigation by the Police Integrity Commission into the activities of Detective Sergeant Christopher John Laycock (Laycock). At the commencement of the investigation Laycock was a serving member of NSW Police stationed at Burwood. He was subsequently dismissed from NSW Police on 15 November 2004.

The Commission received information in early 2004 of a suspicious relationship between Laycock and a criminal, David John Hopes (Hopes). This information was combined with intelligence held by the Commission and gave rise, in mid 2004, to the investigation codenamed Operation Cobalt.

In October 2004 a public hearing commenced. Evidence was heard over nine days between 8 October 2004 and 18 January 2005. In addition to Laycock, nine witnesses gave evidence. One of those other witnesses was a serving NSW Police officer and two were former NSW Police officers.

## THE EVIDENCE

The evidence revealed a startling level of corrupt conduct on the part of Laycock and his associates, including Hopes and Christopher John Walker (Chris Walker), a former NSW Police officer. The conduct included extortion, theft, perverting the course of justice and unauthorised release of confidential NSW Police documents and information. It was apparent that Laycock was prepared to involve himself in a variety of corrupt activities, provided there was the prospect of monetary reward.

The conduct occurred over many years and continued up to the commencement of the public hearing. It probably commenced in 1996 when Laycock and Chris Walker worked together at Newtown Police Station. Between 1995 and 1997 Hopes was a registered informant of Chris Walker and it was through their relationship that Laycock was introduced to Hopes.

The hearing examined general aspects of the corrupt relationship between Laycock, Chris Walker and Hopes, and extortion and thefts of money, and possibly drugs, from drug dealers and other criminals. In addition to the general evidence, ten separate incidents of corrupt activity were examined. Laycock made admissions in relation to the general matters and to some of the specific incidents.

When served with a summons to appear before the Commission, Chris Walker claimed to be suffering from a psychological, or psychiatric, condition that made him unfit to give evidence. There was little, if any, medical evidence provided to support such a condition. When called to give evidence, Chris Walker claimed to have a total lack of recollection in relation to any matters adverse to his interests, despite having been implicated in criminal activities by lawfully recorded telephone calls, video footage and by Laycock and one or more of the other witnesses.

As a result of the evidence he gave at the Commission on 6 and 8 December 2004, Chris Walker was served with a summons to appear before the Supreme Court of New South Wales to face a charge of contempt of the Commission. The charge was based on his failure to answer questions due to his claimed lack of recollection. That matter is currently listed before the Supreme Court for hearing on 6 February 2006.

The Commission has placed no weight on the evidence he gave.

## **THE GLEBE STREET THEFT**

In November 2001 a woman living in Glebe Street, Glebe, was robbed of gold and cash worth approximately \$70 000. She reported the theft anonymously to Crimestoppers. Hopes was known to the woman and on the day of the robbery he called at her home. Not long after he left three men arrived claiming to be police officers and wanting to search her home for drugs. During the search they took all her jewellery and money.

Brett Richard Walker (Rick Walker), the brother of Chris Walker, gave evidence that the robbery at Glebe was the first job he participated in with his brother and Laycock. He said the robbery was arranged by Hopes, although Hopes did not actually steal the money and gold. Rick Walker said that he, together with Laycock and Chris Walker, entered the property and stole the gold and money, which was then divided up amongst them. Rick Walker said his share was approximately \$13 000.

Chris Walker denied involvement in the robbery. Laycock did not deny he had been involved but said he could not remember doing it. The Commission does not accept that he had no memory of such an event.

## **THE JURY “FIX”**

Laycock admitted that in 2001 he and Hopes accepted a substantial amount of money to “fix” a jury in a trial for a serious drug related offence. Laycock gave evidence that although Hopes accepted \$20 000 no approach was made to any juror. Instead, he and Hopes divided the money between them and pretended that an approach had been made. There was a suggestion that Hopes had in fact received \$50 000 and lied to Laycock about the amount received. Laycock’s evidence was that he received \$10 000.

## **\$10 000 FROM MURDER SUSPECT**

Laycock gave evidence that in 2003 he accepted \$10 000 from a man suspected of having committed a murder. The suspect is a person known to the Commission as having engaged in serious criminal activity. The victim of the murder was a suspected drug dealer, AH. He was murdered at Rozelle on 2 May 2003. The murder remains unsolved.

Laycock initially said he had received \$10 000 but later changed his evidence and said that Hopes told him he, Hopes, received \$10 000 but that he, Laycock only received \$3000. Laycock was unable to offer any credible explanation as to the reason for the payment. He then claimed the matter was a “scam” created by Hopes.

Documents obtained by the Commission reveal that in October 2003 Laycock prepared a report for the NSW Police Computerised Operational Policing System (COPS) that, on the face of it, appeared to downplay the possibility that the suspect who had made the payment to Laycock was involved in the murder. Initially Laycock claimed he could not remember preparing the report however he later agreed that Hopes was the source of the information contained in the report. Despite this, and the contents of the report, Laycock refused, in his evidence, to acknowledge that the payment had been for the production of the report.

It is unlikely that the suspect would have paid the sum of \$10 000 without receiving something valuable in return. The Commission is of the view that Laycock was deliberately unforthcoming in his evidence about the payment. In the absence of any other plausible explanation the Commission is satisfied that the payment was made on the basis that Laycock prepare a report deflecting attention away from the suspect, as he did.

## **THE FALSE FIREARMS FOLLOW-UP AUDIT**

On 4 December 2003 a robbery was committed at the home of a Burwood restaurateur. Approximately \$23 500 was stolen. Laycock and Rick Walker admitted to their involvement, and that of Chris Walker, in the robbery and to dividing the money equally between them. Chris Walker claimed he did not recall being there.

One week prior to the robbery a firearms audit had been carried out at the premises by an officer attached to Burwood Police Station. During the audit the officer noticed that there was a large quantity of money in the safe at the premises and he included that fact in his report of the audit. Laycock became aware of the details of the report as a result of his position as overseer of the audit of firearms at Burwood Police Station.

Laycock admitted in evidence that he arranged for the robbery to occur on the pretext of a follow-up firearms audit. He said that he passed the information about the money to the Walker brothers and later went with them to the premises. The Walker brothers went inside and sometime later came out with the money. Laycock waited outside in a van because he did not want to be identified. In evidence Rick Walker admitted to his part in the robbery and described the events in terms that corresponded with Laycock’s evidence.

The officer who carried out the original audit became the subject of an internal investigation after the robbery was reported. He was subsequently exonerated.



## THE CHISWICK EXTORTION

On 22 July 2004 Laycock, Chris Walker and Rick Walker extorted the sum of \$10 000 from a person identified as CB1. The extortion occurred at the Chiswick residence of CB1. Laycock, Chris Walker and Rick Walker presented themselves at the residence as NSW Police officers and purported to execute a search warrant. While Laycock and the Walker brothers were inside the residence with CB1, Hopes and another criminal associate John Dunks (Dunks), waited in a van outside. CB1 had been chosen as a target for the extortion by Dunks and Hopes.

Laycock was shown a video depicting himself, Chris Walker and Rick Walker taking part in the incident on 22 July 2004. Laycock agreed he had attended the Chiswick premises and said they expected to find large amounts of cash or jewellery there. He said that during the search \$20 000 was found and left there. After leaving the premises a telephone call was made to CB1. During the telephone call Laycock suggested to CB1 that his television was stolen and then made arrangements to meet again that night. The suggestion to CB1 was that the payment of money would ensure no charges were laid.

The further meeting took place and \$10 000 was paid by CB1. The money was later divided between the participants in the extortion. Laycock claimed he couldn't remember how much he received, although he thought it was \$2000. Banking records at this time show that two cash deposits amounting to a total of \$6000 were made into Laycock's account in the week after 22 July 2004. In evidence Laycock was unable to identify the source of this money. It is the Commission's view that the source of the cash was probably the extortion of CB1.

CB1 gave corroborative evidence of the events of that evening. Rick Walker and Dunks also made admissions as to their involvement.

Chris Walker initially claimed to have no recollection of the events at Chiswick. When shown the video he agreed that one of the people depicted in it looked like him but said he couldn't recall being there. On the second occasion he gave evidence he admitted to being involved but claimed his participation was lawful and that he did not receive any money as a result of his participation. He said, implausibly, that the reason he was there was to assist in the recovery of a debt owed to Hopes and Dunks and that he had no intention of stealing any money. Again, the Commission places no weight on this version of events given by Chris Walker.

## ASSISTANCE TO "MR Y" TO AVOID CHARGES

This incident involved Jahangir Shagaev, an associate of Chris Walker. In August 2004, Shagaev contacted Chris Walker on behalf of a Russian associate of his, "Mr Y", who had been charged by Balmain Police with some offences. At the time Shagaev contacted Chris Walker he had known Walker for approximately two years. Shagaev told the Commission that during that time he had had a lot of social contact with Chris Walker and had also assisted him in his (Chris Walker's) investigation business, in relation to debt collection. Shagaev had also met Laycock, through Chris Walker, although he knew him as "Peter".

Shagaev gave evidence that he asked Chris Walker to find out if Mr Y could leave the country before his charges were heard. Chris Walker consulted Laycock, who made some inquiries on the NSW Police computer database. Chris Walker then arranged for Shagaev to meet Laycock. At the meeting Laycock informed Shagaev that Mr Y could not leave the country (although this advice later changed and Shagaev was told Mr Y could leave the country), that his Court case was listed for a certain date and that he might be charged with further offences. Shagaev also gave evidence that Laycock had provided him with documents concerning Mr Y's case. He agreed that there was some discussion about payment for the information.

A number of lawfully recorded telephone conversations between Laycock, Chris Walker and Shagaev were played during the hearing. Those calls demonstrated:

- that Shagaev sought the assistance of Chris Walker to obtain information from Laycock in relation to the charges pending against Mr Y and, in particular, whether he might be able to flee the jurisdiction;
- that Shagaev expected to pay for the information;
- that Laycock obtained information from the COPS intelligence system;
- that on 27 August 2004, Laycock conveyed this information to Chris Walker;
- that Chris Walker conveyed the relevant information to Shagaev, which included information as to whether Mr Y could flee the jurisdiction; and
- that Shagaev subsequently met with Laycock and was given access to documents concerning Mr Y.

The Commission is satisfied that the supply of information by Laycock through Chris Walker was intended to assist Mr Y to avoid prosecution. The current whereabouts of Mr Y are unknown, however it is known that he left Australia on 9 September 2004 while on bail and that he has not returned to answer the charges against him.

Laycock agreed in evidence that Shagaev had sought his assistance in relation to Mr Y, although he claimed he could not recall being offered any money by Shagaev and that he did not receive any money from him. Computer records obtained by the Commission indicate that Laycock accessed the details of the arrest of Mr Y and sent the report prepared by the arresting officer to his own internal email in-box.

Chris Walker agreed in evidence that Shagaev approached him to obtain information and that he agreed to meet Laycock outside the Courthouse in Burwood to receive information. He also agreed that Shagaev had mentioned that his friend was thinking of leaving the country and that he, Chris Walker, had probably mentioned that to Laycock. When asked whether he had told Shagaev that the best course was for his friend to leave the country, Chris Walker said he could not recall saying that to him although he did not deny that he said it.

## **SUPPLY OF POLICE RECORDS / INFORMATION**

Jason Roberts (Roberts) is a former NSW Police officer who had met and worked with Laycock during his police career. Between 2001 and 2003, when Roberts left NSW Police, they were both stationed at Burwood and shared a desk at the Police Station. After he left NSW Police, Roberts remained in contact with Laycock and in fact attempted to establish a business venture with him. The business venture did not succeed. Despite a falling out over financial matters, in late 2003 Roberts re-established contact with Laycock. In mid-2004 Roberts sought re-employment with NSW Police.

Following Roberts' application to rejoin NSW Police, an officer at Burwood wrote a report that contained an adverse assessment of Roberts' suitability for re-entry. In July 2004 Laycock became aware of the report through another officer, Detective Sergeant Charles Khalifeh (Khalifeh), who was also stationed at Burwood, and who was a friend of Laycock. Laycock and Roberts had some telephone conversations about the report and on 3 August 2004 Laycock, Khalifeh and Roberts met at a café at Burwood. Laycock took a copy of the report to the meeting and while there allowed Roberts to read it.

In evidence Khalifeh initially claimed he could not remember the meeting although he conceded that it was possible that there had been a meeting. He said however that he had no official documents with him and could not remember if Laycock had such documents with him. On the second occasion he gave evidence, Khalifeh, after much pressing, acknowledged he had spoken to Laycock about the report. He agreed that there had been a meeting on 3 August 2004 but denied that he had provided any information to Roberts. He said he didn't know if Laycock had provided information to Roberts and that he wasn't there for the entire meeting. He agreed however that Laycock did have a copy of the report at the meeting. When reminded of the evidence he had given on the previous day, namely that Laycock did not have any official police documents with him, Khalifeh said that it was only in hindsight and on reflection that he realised that the document was an official police document.

Roberts readily admitted to having had dealings with Laycock about his possible return to NSW Police. He said that it was Laycock who had obtained the report but that at the meeting on 3 August 2004, Laycock, Khalifeh and he had all looked at it.

## **EXTORTION – OPERATION AUXIN**

Operation Auxin was an Australia-wide investigation into persons suspected of involvement in the downloading and possession of pornographic images of children. In September 2004 the simultaneous execution of search warrants on persons of interest to the investigation was planned, and each police agency throughout Australia received a dossier detailing the persons to be searched within its State or Territory. Within New South Wales, each Local Area Command (LAC) took responsibility for the execution of the search warrants within its geographical area. Laycock was the representative for Burwood LAC, and in that role attended a briefing and received dossiers of information on each person of interest within the Burwood LAC.

The search warrants were to be executed on Monday 27 September 2004. Laycock gave evidence that on the Friday before the warrants were to be executed, Friday 24 September 2004, he and Hopes went to the home of one of the persons of interest in Operation Auxin and introduced themselves as police officers. They advised the suspect that he was being investigated and that a search warrant was to be executed at his home the following Monday. They also advised him to remove any incriminating material from his computer and to destroy his credit cards. During the conversation they solicited money from him and it was agreed he would pay them \$4000 for the information they had provided.

Later that morning the suspect withdrew \$3900 from his bank accounts and met with Laycock and Hopes. During the meeting he paid Laycock and Hopes the money and Laycock provided him with further information including the timing of the proposed execution of the search warrant and details of the officer in charge. Laycock also gave him information about how to conduct himself when interviewed, and instructions that if he was taken to the police station for questioning and saw either Laycock or Hopes he was not to indicate that he knew them.

On Monday 27 September 2004 the search warrant was executed and a laptop computer seized. The subsequent examination of the computer did not reveal any evidence of child pornographic images. The suspect was not charged with any offences.

Laycock admitted to the extortion of money in this manner. He also admitted that he had been to the briefing in relation to Operation Auxin, that he had obtained the information and targeted the suspect by reference to official police records, and that Hopes had accompanied him and assisted him in extorting the money.

The Operation Auxin suspect provided information to the Commission confirming the fact of the extortion, the identities of those who perpetrated it and the amount of money that was paid. He confirmed that both Hopes and Laycock represented to him that they were NSW Police officers. Hopes was not, and has never been, a serving NSW Police officer.

## **AGREEMENT TO EXTORT MONEY**

The initial contact between Shagaev and Laycock concerned the request for assistance in relation to Mr Y (see above). From late August 2004, however, Laycock and Shagaev, together with an associate of Shagaev, CB3, began to develop plans to extort money from a number of persons.

The evidence suggests that consideration was given to the kidnapping of an Asian woman and the kidnapping of a Mr Z and/or his family. What was proposed involved the extortion of money, accompanied by at least the threat of violence, and/or criminal charges. From the evidence of CB3, and lawfully recorded telephone conversations between Laycock, Shagaev and Chris Walker, a proposed extortion was to take place on 28 September 2004. The extortion attempt did not go ahead, however, because on that day Laycock was served with his summons to appear at the Commission as a means of preventing this serious offence occurring.

Laycock admitted, when questioned in private about these events, that there was a proposal to extort money, and that the proposal might have involved kidnapping. He initially said that the purpose of meeting with Shagaev on 28 September 2004, the day on which he was served with his summons to attend the Commission, was to discuss the proposal. He later conceded that they were actually going to carry out the extortion on that day. Laycock was less forthcoming, when later questioned about the matter in public, and the evidence he gave was not consistent with the telephone conversations or the evidence of Shagaev and CB3.

CB3 gave evidence of his involvement. Although he never met Laycock he gave evidence that Shagaev had informed him that his contact was a police officer in the Burwood region. CB3 confirmed that the extortion proposal involved kidnapping and/or violence if necessary.

It is clear from the telephone calls that Chris Walker, at least, knew of the proposal and discussed the presentation of police identification to the occupants of the property where the extortion was to take place. Chris Walker denied however that he was the person who was going to provide the police badge.

## AFFECTED PERSONS

In the Commission's opinion the following persons are affected persons because substantial allegations have been made against them:

- CB3
- Dunks, Robert John
- Hopes, David John
- Khalifeh, Charles
- Laycock, Christopher John
- Shagaev, Jahangir
- Walker, Brett Richard
- Walker, Christopher John

CB3 is a civilian. Accordingly no finding of police misconduct can be made in relation to him however the Commission is satisfied he engaged in other misconduct: section 16(1)(a) of the *Police Integrity Commission Act 1996*. The Commission is of the opinion that consideration **should** be given to the prosecution of CB3 for a specified criminal offence in relation to his part in the agreement to extort money from the Asian woman and/or Mr Z.

Dunks is a civilian. Accordingly no finding of police misconduct can be made in relation to him however the Commission is satisfied he engaged in other misconduct: section 16(1)(a) of the *Police Integrity Commission Act 1996*. The Commission is of the opinion that consideration **should** be given to the prosecution of Dunks for specified criminal offences in relation to his part in the Chiswick extortion.

Hopes is a civilian. Accordingly no finding of police misconduct can be made in relation to him however the Commission is satisfied he engaged in other misconduct: section 16(1)(a) of the *Police Integrity Commission Act 1996*. The Commission is of the opinion that consideration **should** be given to the prosecution of Hopes for specified criminal offences in relation to his part in the Glebe Street Theft, the Chiswick Extortion, and the extortion of money from the Operation Auxin target.

Khalifeh is a serving NSW Police officer. The Commission is of the opinion that he engaged in police misconduct: subsection 16(1)(a) of the *Police Integrity Commission Act 1996*, in relation to the supply of police records and information to Roberts. The Commission is also of the opinion that consideration **should** be given to the prosecution of Khalifeh for an offence under section 107 of the *Police Integrity Commission Act 1996* for giving false and misleading evidence to the Commission.

Laycock was a serving police officer at the time he gave evidence however he was dismissed from NSW Police on 15 November 2004. The Commission considers that Laycock engaged in police misconduct: subsection 16(1)(a) of the *Police Integrity Commission Act 1996*.

The Commission is of the opinion that consideration **should** be given to the prosecution of Laycock for specified criminal offences in relation to:

- the Glebe Street Theft;
- the robbery at Burwood (the False Firearms Follow-Up Audit);
- the Chiswick extortion;
- the assistance given to Shagaev on behalf of Mr Y;
- the extortion of the Operation Auxin target; and
- the planned extortion of the Asian woman and/or Mr Z.

In addition the Commission is of the opinion that consideration **should** be given to the prosecution of Laycock for a number of offences under section 107 of the *Police Integrity Commission Act 1996* for giving false and misleading evidence to the Commission.

Shagaev is a civilian. Accordingly no finding of police misconduct can be made in relation to him however the Commission is satisfied he engaged in other misconduct: section 16(1)(a) of the *Police Integrity Commission Act 1996*. The Commission is of the opinion that consideration **should** be given to the prosecution of Shagaev for specified criminal offences in relation to his part in the conspiracy to pervert the course of justice (Mr Y) and the agreement to extort money from the Asian woman and/or Mr Z.

Rick Walker is a civilian. Accordingly no finding of police misconduct can be made in relation to him however the Commission is satisfied he engaged in other misconduct: section 16(1)(a) of the *Police Integrity Commission Act 1996*. The Commission is of the opinion that consideration **should** be given to the prosecution

of Rick Walker for specified criminal offences in relation to his part in the robbery at Burwood (the False Firearms Follow-Up Audit) and the Chiswick extortion.

Chris Walker is a civilian. All of the incidents examined in this Report took place after Chris Walker had left NSW Police. Accordingly no finding of police misconduct can be made in relation to him however the Commission is satisfied he engaged in other misconduct: section 16(1)(a) of the *Police Integrity Commission Act 1996*. The Commission is of the opinion that consideration **should** be given to the prosecution of Chris Walker for specified criminal offences in relation to his part in the Glebe Street Theft, the robbery at Burwood (the False Firearms Follow-Up Audit), the Chiswick extortion and perverting the course of justice (Mr Y).

## PROCEDURAL MATTERS

The Commission has a statutory role pursuant to section 14 of the *Police Integrity Commission Act 1996* to advise on possible ways in which police misconduct may be eliminated. In this Report the Commission makes observations about two procedural matters arising from this investigation: supervision and informant management.

### SUPERVISION

The Commission recognises that corrupt officers deliberately and actively avoid supervision, making their activities difficult to detect. It is also accepted that the extent of Laycock's corrupt activities could not have been anticipated. However the fact that corrupt activities are difficult to detect only serves to emphasise the need for constant vigilance.

The Commission acknowledges that Laycock had come to the notice of his supervisors at Burwood Police Station prior to the commencement of this investigation, and that close supervision and monitoring of his work had begun.

The Commission has been informed that NSW Police has undertaken a review and analysis of investigations, conducted during the years 1994-2004, in which Laycock had some direct involvement. This review was undertaken by NSW Police as a direct result of the revelations of this investigation. Each investigation was assessed for risk, using methodology developed after examining Laycock's patterns in relation to corrupt activities. The issues identified from that review are set out below:

- the need for the development of an integrated auditing system allowing for a more user-friendly analysis of police officers' access to NSW Police computer systems rather than dip sampling;
- the fact that lifestyle factors e.g. a history of pawning household items may be an indication of corrupt behaviour; and
- that the continued improvement in the case management system is necessary to ensure investigations are thorough and complete.

The Commission endorses the work done by NSW Police and commends the development of an integrated auditing system.

## INFORMANT MANAGEMENT

The corrupt relationship between Chris Walker and Hopes, which later included Laycock, commenced while Hopes was a registered informant to Chris Walker in the 1990s. The Commission acknowledges that the inappropriate nature of Chris Walker's relationship with Hopes was recognised by NSW Police and that steps were taken to ensure that the relationship was in line with the procedures required at that time for informant relationships. Those steps ultimately resulted in the deregistration of Hopes as an informant and the resignation of Chris Walker from NSW Police, well before the commencement of the Commission's investigation.

Relationships between police officers and informants are open to corruption and with this in mind NSW Police has continued to update the procedures required for the structure and management of such relationships. The Commission is aware that NSW Police has recently revised its Source Management Manual, including the policy and procedures to be applied in the case of informant relationships. This remains an area that requires constant attention.





# 1. INTRODUCTION

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- 1.1 In early 2004 the Commission became aware of information received in a joint investigation involving New South Wales Crime Commission, NSW Police and Australian Federal Police that Detective Sergeant Christopher John Laycock (Laycock) of NSW Police was associating with a criminal identity, David John Hopes (Hopes). The information suggested that Laycock was supplying Hopes with confidential NSW Police information.
- 1.2 The information, combined with intelligence already held by the Commission, including intelligence arising out of Operation Florida,<sup>1</sup> led to the decision, on 17 June 2004, to commence a preliminary investigation into the activities of Laycock. A full investigation, under the codename Operation Cobalt, commenced on 5 August 2004.
- 1.3 The public hearing in Operation Cobalt commenced on 8 October 2004. Evidence was heard over nine days between 8 October 2004 and 18 January 2005. The scope and purpose of the hearing was:<sup>2</sup>

To investigate whether Sergeant Christopher John Laycock or any other person associated with him, is currently or has been involved in criminal activity or serious police misconduct.
- 1.4 It was revealed that Laycock and his associates had been involved in a range of corrupt activities including extortion, theft, perverting the course of justice and unauthorised release of confidential NSW Police documents and information. These activities took place over a number of years, and had continued up to, and immediately prior to, the commencement of the public hearing in October 2004.

## THE WITNESSES

- 1.5 Ten witnesses gave evidence during the public hearing. Two of those witnesses were, at the time they gave evidence, serving NSW Police officers, and two witnesses were former NSW Police officers. The remaining witnesses can be divided into two groups; the first group being associates of Laycock, and the second group being victims of Laycock and his associates. A short profile of each of the witnesses, in alphabetical order, follows.

## CODENAMED WITNESSES – CB1, CB3 AND CB4

- 1.6 Laycock and his associates targeted CB1 in order to extort money. Following the “execution” of a fabricated search warrant on CB1’s premises in July 2004, CB1 paid Laycock and his associates \$10 000.
- 1.7 CB3 was an associate of another witness, Jahangir Shagaev (Shagaev). CB3 became involved with Laycock and Shagaev in an attempted extortion of

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<sup>1</sup> The Commission’s Report to Parliament, Operation Florida, June 2004

<sup>2</sup> PIC Exhibit 1, PIC Transcript, 8 October 2004, p. 2

money that may also have involved kidnapping, and/or threats of violence, or criminal charges.

- 1.8 CB4 gave evidence that in 2001 Laycock successfully extorted money from him in relation to a charge he was facing for the possession of a quantity of Sudafed tablets. According to CB4 Laycock did nothing for him in return for the payment. CB4 also alleged that he was later approached by a person on behalf of Laycock, and a further proposal was put to him in relation to the payment of money to assist with other charges. CB4 said he did not make any further payment to Laycock.<sup>3</sup>

## **JOHN ROBERT DUNKS**

- 1.9 John Dunks (Dunks) was an associate of Hopes and through that relationship had come to know Laycock. He was involved with Laycock and others in criminal activities. He gave evidence that he had known Hopes for many years as a friend, although they had not been in regular contact throughout all of that time. He told the Commission that in the five to six months prior to the hearing commencing he had had more regular contact with Hopes. Dunks had an interest in radios and scanners and had the capacity to listen to police radio frequencies.<sup>4</sup>

## **CHARLES KHALIFEH**

- 1.10 Charles Khalifeh (Khalifeh) is a serving NSW Police officer currently holding the rank of Detective Sergeant at Burwood. Since 2002 his duties have involved criminal investigation.
- 1.11 Khalifeh's involvement in this matter relates to an incident involving former police officer Jason Roberts, and the disclosure of a confidential NSW Police report to Roberts. Khalifeh was a work colleague of Laycock, and worked in close proximity to him, but was not involved with Laycock in the other corrupt activities examined in this investigation.

## **CHRISTOPHER JOHN LAYCOCK**

- 1.12 At the commencement of the investigation Laycock was a serving NSW Police officer holding the rank of Detective Sergeant. On the day he received the summons to appear at the Commission, 28 September 2004, he was suspended with pay from NSW Police. In early October 2004 he was suspended without pay. On 21 October 2004, the Commissioner of Police issued Laycock a Notice to Show Cause why he should not be dismissed pursuant to section 181D of the *Police Act 1990*. On 15 November 2004 Laycock was dismissed from NSW Police.

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<sup>3</sup> These allegations by CB4 are uncorroborated and Laycock denied them. They are not further commented on in this Report.

<sup>4</sup> PIC Transcript, JR Dunks, 13 October 2004, pp. 201-203

- 1.13 Laycock joined NSW Police in 1989. The early years of his career were spent at Ashfield, Burwood and in Special Operations and the Mid-West Local Area Command. In 1995 he was transferred to Newtown Police Station. He worked there until 2000 when he was transferred to Burwood. From 1997 at Newtown until 2001 at Burwood, his duties concerned criminal investigation. In early 2002 he was transferred to Lake Illawarra Command but returned to Burwood in late 2002. From 2002 until the date of his suspension from duties in September 2004, Laycock carried out restricted duties as a consequence of a back injury.
- 1.14 Laycock worked with Christopher Walker (Chris Walker) while at Newtown. He gave evidence that his involvement in serious criminal activity with Chris Walker had occurred over a number of years and had commenced during his time at Newtown.<sup>5</sup>

### **JASON ROBERTS**

- 1.15 Jason Roberts (Roberts) was a former officer who joined NSW Police in 1996 and resigned in 2003. While a member of NSW Police he attained the rank of Senior Constable. From 2001 until he resigned, Roberts was stationed at Burwood and his duties involved criminal investigation.
- 1.16 After leaving NSW Police, Roberts maintained contact with Laycock and had some business dealings with him. He was not involved in the corrupt activities revealed in this investigation. He became relevant to the investigation, however, as a consequence of his, ultimately unsuccessful, attempt to rejoin NSW Police in 2004, and the disclosure of a confidential NSW Police report to him by Laycock.

### **JAHANGIR SHAGAEV**

- 1.17 Jahangir Shagaev (Shagaev) was an associate of Chris Walker and came to know Laycock through that association. He gave evidence that he had known Chris Walker for one and a half to two years. He said that they had initially met in a social context but that he had also assisted Chris Walker in his investigation business.<sup>6</sup>

### **BRETT RICHARD WALKER**

- 1.18 Brett Walker (Rick Walker) is the brother of Chris Walker. He has never been a member of NSW Police. Following the commencement of the hearing he co-operated with the Commission and gave evidence about various unlawful activities in which he had been involved with Laycock, his brother (Chris Walker), and other associates of Laycock.

<sup>5</sup> PIC Transcript, CJ Laycock, 8 October 2004, pp. 44-45; Exhibit 134C - PIC Transcript, CJ Laycock, 8 October 2004, pp. 27-28

<sup>6</sup> PIC Transcript, J Shagaev, 12 October 2004, pp. 139-140

## CHRISTOPHER JOHN WALKER

- 1.19 Christopher Walker (Chris Walker) is a former NSW Police officer. He joined NSW Police for the first time in 1969 and left in 1980. In 1994 he rejoined and between 1994 and 1997 was stationed at Newtown. He was transferred to Leichhardt in 1997 and resigned in 1999. His association with Laycock commenced when they were both stationed at Newtown.
- 1.20 Chris Walker said that he and Laycock often worked together as partners while they were both stationed at Newtown. He admitted that he had had regular contact with Laycock since he left NSW Police.<sup>7</sup>
- 1.21 Chris Walker also admitted that he had maintained contact with Hopes after he left NSW Police. He said of Hopes, “... *you could call him a known criminal. He was also a good police informant.*” Chris Walker said that he maintained contact with Hopes, after he had left NSW Police, to “... *keep cultivating him as a police informant*”. He acknowledged that Hopes had been deregistered as a police informant and that he had kept in contact with him after the deregistration, although he denied he had been told to cease contact.<sup>8</sup>
- 1.22 Chris Walker gave evidence that he had known Shagaev in a social capacity for a period of two to three years. He admitted that more recently Shagaev had requested his assistance in relation to an associate who was in trouble with NSW Police.<sup>9</sup>
- 1.23 When served a summons to appear before the Commission, Chris Walker claimed to be suffering from a psychological, or psychiatric, condition that made him unfit to give evidence. There was little, if any, medical evidence provided to support such a condition. When called to give evidence, Chris Walker claimed to have a total lack of recollection in relation to any matters adverse to his interests, despite having been implicated in criminal activities by one or more of Laycock, Dunks, Rick Walker, lawful recordings of telephone conversations and video footage.
- 1.24 As a result of the evidence he gave at the Commission on 6 and 8 December 2004, Chris Walker was served with a summons to appear before the Supreme Court of New South Wales to face a charge of contempt of the Commission. The charge was based on his feigned lack of recollection. The proceedings were listed for hearing on 12 January 2005. On that day Chris Walker sought to have the proceedings adjourned on the basis that he would provide his “full co-operation” to the Commission. He gave further evidence on 18 January 2005 but, in the Commission’s opinion, provided no co-operation, full or otherwise. The contempt proceedings were resumed and the matter is currently listed before the Supreme Court for hearing on 6 February 2006.

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<sup>7</sup> PIC Transcript, CJ Walker, 6 December 2004, pp. 276-277

<sup>8</sup> PIC Transcript, CJ Walker, 6 December 2004, pp. 277-280

<sup>9</sup> PIC Transcript, CJ Walker, 6 December 2004, pp. 281-282

1.25 The Commission has placed no weight on the evidence he gave.

## **THIS REPORT**

1.26 In this Report, prepared and furnished pursuant to section 96 of the *Police Integrity Commission Act 1996* (the Act), the Commission examines the evidence heard during the public hearing. Evidence from private hearings is also discussed where it is relevant to matters reported herein.

1.27 The Report contains the Commission's assessments and opinions and expresses a view as to whether or not police misconduct, or other misconduct, has occurred in relation to each matter examined. The Report also contains the Commission's recommendations in respect of those individuals who come within the definition of "affected person" in subsection 97(3) of the Act.

1.28 Generally, persons are referred to in this Report, after the first mention of their name, by surname only. This is done in the interests of economy and no discourtesy is intended.



## 2. GENERAL ADMISSION OF CRIMINAL CONDUCT

### A SERIOUSLY CORRUPT RELATIONSHIP

2.1 The existence of a corrupt relationship between Laycock, Hopes and Chris Walker is not seriously in dispute. Although Chris Walker denied such a relationship, for the reasons already advanced, his evidence is rejected.<sup>10</sup> Laycock admitted that he had been engaged in serious criminal activity with Hopes and Chris Walker for *“a number of years”*. Initially, Laycock sought to limit the duration of this activity to *“two or three years”* claiming that he had engaged in criminal acts *“only ... a handful of times”* or *“four or five times over a two year period. Maybe even less, sorry”*.<sup>11</sup>

2.2 Laycock was however, unsuccessful in his attempt to so limit the extent of this activity. It was apparent from the evidence that the corrupt activities of Laycock and Chris Walker had occurred over many years, probably since as early as 1996. In Private Session, Laycock gave the following evidence:<sup>12</sup>

The Commissioner:

Q: Just before we close, what was the first job you did? I assume you can recollect the first time you stepped away from your oath as a police officer. When was that?

A: The very first – the very first time I ever took anything from anyone, believe it or not, was at Newtown. I don’t remember what year. I was working with Chris Walker and I think it was around the arrest of David [Hopes].

Q: How did that affect you? How did you feel about it at the time? Do you remember?

A: At the time, right now, look, I was going through a lot of problems. I was going through the Family Law Courts with matters that were resolved later on. I can still remember – I can still remember the reaction. I think Chris hit David up for \$10,000 and I said, “You’re kidding”. Although, look, I think it was a very small amount at the time.

Q: Approximately when was that? When were you at Newtown?

A: Look, at Newtown.

Q: Early in your time there or ... ?

A: When I first went into plain clothes, I think. I was only designated in 97, so it might have been 96. I was only at Newtown since about 96.

2.3 Laycock later confirmed, in Public Session, that he had been involved in corrupt activities for an extended period. He gave the following evidence:<sup>13</sup>

Q: For what period of time have you been involved in that sort of activity?

A: Now about three or four years, or longer.

Q: You have been doing it since 1996 have you not?

<sup>10</sup> See paragraphs 1.23-1.25

<sup>11</sup> PIC Transcript, CJ Laycock, 8 October 2004, pp. 44-45

<sup>12</sup> PIC Exhibit 134C - PIC Private Transcript APP, CJ Laycock, 8 October 2004, pp. 27-28

<sup>13</sup> PIC Transcript, CJ Laycock, 8 October 2004, p. 49



## 2. GENERAL ADMISSION OF CRIMINAL CONDUCT

A: Yes, I think so.

### 2.4 Four days later Laycock gave further evidence in relation to his involvement in criminality:<sup>14</sup>

Q: Can you go back a little further than that – that is, from 2001 to your days at Newtown – and tell us your best recollection of the first occasion upon which you and Walker extorted money?

A: There was only one occasion that sticks out in my mind, and that's when – I think it was after the arrest of David Hopes. We arrested him for an offence – a minor offence I think it was. I couldn't even tell you what year it was. We charged him with it, and I think Chris was doing negotiations with him for some reason, I've got no idea, received money from him. I think I received about \$1,500 for that.

Q: It was \$10,000, wasn't it?

A: I think that was the proposal and that's why it sticks out in my mind, because \$10,000 ...

Q: Did he ...?

A: No.

Q: Are you saying that there was no amount paid by Hopes?

A: Yes, I think it was about \$3,000.

Q: Did he split that with you?

A: Yes.

Q: Equally?

A: Oh, I think so.

## EXTORTION AND THEFTS

### 2.5 The Commission is satisfied that in general the conduct in which Laycock engaged involved either extorting money from suspected criminals and/or robbery. Laycock admitted as much, although he initially sought to qualify his admissions by claiming that he “*stamped*” drug dealers only. He gave the following evidence:<sup>15</sup>

Q: Just in general terms, can you tell us what the nature of that criminal activity was?

A: Improper dealings with drug dealers.

Q: Did it involve, in general terms, you and one or more of Hopes, Dunks and the Walker brothers presenting yourselves as police officers?

A: Sometimes.

Q: For want of a better word, stamping people for money?

A: Yes.

Q: That is, soliciting money out of them on the basis that if they paid you, they would not be proceeded against in respect of certain criminal acts?

A: Yes.

Q: As best you can, would you tell us – again, in general terms – in what suburbs of Sydney this occurred?

A: Inner metro area – Burwood. I can't even think now, to be honest with you. Five Dock. That's all I can think of, sorry.

<sup>14</sup> PIC Transcript, CJ Laycock, 12 October 2004, pp. 197-198

<sup>15</sup> PIC Transcript, CJ Laycock, 8 October 2004, pp. 44-45

- Q: How regularly did it occur over the two-year period that you had dealings with ...
- A: Not very often. It would only be a handful of times.
- Q: When you say a “handful of times”, I mean, obviously they were memorable events. You must have some idea of the detail.
- A: Four or five times over a two-year period. Maybe even less, sorry.

2.6 It is likely, in the Commission’s opinion, that Laycock also involved himself in the theft and subsequent distribution of drugs, or if he did not do so, then Hopes did so with Laycock’s knowledge. Significantly, Laycock demonstrated great reluctance to categorically deny that he had ever stolen drugs. Instead he claimed that he had no recollection of such matters. His evidence on this topic was as follows:<sup>16</sup>

- Q: Were you or were you not involved in ripping off drug dealers of their drugs?
- A: I don’t recall ever taking any drugs.
- Q: Do you deny that you were involved in ripping off drug dealers of their drugs?
- A: As I said, I can’t recall any time that I have taken drugs from any drug dealer.
- Q: But you don’t deny it?
- A: I don’t deny that David might possibly have done it, or someone else in the company of me might have possibly done that.
- Q: Do you deny that you did?
- A: I deny that I have, yes – the best I can recall, anyway.

2.7 It is inherently unlikely that Laycock would have limited himself to the theft of money. He appears to have been prepared to engage in any illicit activity provided there was a prospect of reward. That this is so is consistent with the evidence given by Rick Walker:<sup>17</sup>

- Q: You learnt of the scams and bits and pieces while you were having coffee with ...?
- A: Basically, we were in a hotel environment, but, yeah, a lot of it was innuendo and hearsay, but I picked it up over the time that they were doing things, yes.
- Q: Accepting for the moment that it was innuendo and hearsay, to the best of your knowledge, based upon what they said to you, what were they involved in?
- A: They were involved in shaking down people, obtaining, you know, money by deception – ripping – just generally ripping off people.
- Q: Were they also involved, as you understand it, in ripping off drug dealers of their drugs?
- A: Yes.

<sup>16</sup> PIC Transcript, CJ Laycock, 14 October 2004, pp. 242-243

<sup>17</sup> PIC Transcript, BR Walker, 11 October 2004, p. 67



### 3. THE GLEBE STREET THEFT

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- 3.1 On 10 November 2001, a woman occupying premises at Glebe Street, Glebe was robbed of an amount of gold and cash said to be valued at approximately \$70 000. The woman reported the matter anonymously to Crimestoppers.
- 3.2 The woman reported that on the day of the robbery David Hopes, who was known to her, had called at her house. Not long after he left she received a telephone call from a man claiming to be a police officer and saying that he wanted to search her house for drugs. She agreed to this saying that she didn't have any drugs. About half an hour later three men claiming to be detectives from Surry Hills arrived and entered her home. Before she knew what was happening they were searching her bedroom and taking all her jewellery and money.
- 3.3 The woman told Crimestoppers that she had met Hopes through her daughter, and that he was known to befriend young girls and then use them to sell drugs on his behalf. She also said that Hopes asked the girls about the contents of their homes and then arranged for their homes to be robbed.
- 3.4 Rick Walker gave evidence about this incident. He said that the robbery at Glebe was the first job of "*any significance*" that he could recall participating in with his brother. He claimed that the job was organised by Hopes, with Laycock and Chris Walker. Laycock and the Walker brothers entered the premises and took gold and money. His evidence was as follows:<sup>18</sup>

Q: When you attended, you went there with David Hopes, your brother and Sergeant Laycock?

A: Yes.

Q: Tell us, to the best of your recollection, what happened when you were there?

A: David Hopes – we knocked on the door. We entered the premises. Chris Laycock and my brother introduced themselves as police officers. They induced a search warrant. They then went through the premises, subsequently found some items, and then pretended to take David Hopes off to interview him and never went back – yes, and I was the guy who was on the lookout to look at things.

Q: You said that there was an amount of gold and cash?

A: Yes, that's correct.

Q: How much gold and how much cash?

A: I'm not – I'm not too sure. Probably in the vicinity of \$50,000 or \$60,000.

Q: In cash?

A: No, no, in cash – I'm not too sure. I know in gold bullion there would have been probably \$50,000 and probably \$20,000 cash. As again, I'm not too sure.

Q: I presume the spoils were divided up at a later time?

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<sup>18</sup> PIC Transcript, BR Walker, 11 October 2004, pp. 70-71

### 3. THE GLEBE STREET THEFT

A: That's correct, sir.

Q: How much did you get?

A: I worked it out, probably about \$13,000.

Q: \$13,000?

A: Yes. I can't be sure of the amount, but that's to my knowledge.

Q: From what you're saying, is this the situation, that Hopes had provided the information ...?

A: That's correct.

Q: ... he then pretends, in effect, to be the criminal who they're looking for, and he's taken away; is that right?

A: Yes, that's correct.

Q: Then the remaining three go in and do the job?

A: That's correct.

3.5 Chris Walker denied any involvement in the Glebe Street theft.<sup>19</sup> For the reasons already advanced<sup>20</sup> and because of the evidence given by his brother, Rick Walker, this denial is rejected.

3.6 Laycock did not deny that he had been involved in the Glebe Street theft but said he had no recollection of the theft. His evidence is as set out following. The Commission does not accept that Laycock would have no recollection of such an activity.<sup>21</sup>

Q: Sir, did you and the brothers Walker, in collaboration with Mr Hopes, engage in a stamping in Glebe Street, Glebe ...

A: I have no memory of that.

Q: ... on 10 November 2001; it was an election day

A: I have no knowledge of that.

Q: When you say you have no knowledge, you don't recall ...?

A: I have no recollection of it whatsoever.

Q: 10 November 2001, it's not all that long ago. Do you deny that you and the brothers Walker and Mr Hopes were engaged in a stamping at that address?

A: As I said, I have no recollection of that.

3.7 The woman who was the victim of this robbery is known to the Commission. She was unable to assist the Commission in its investigation.

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<sup>19</sup> PIC Transcript, CJ Walker, 6 December 2004, p. 288

<sup>20</sup> See paragraphs 1.23-1.25

<sup>21</sup> PIC Transcript, CJ Laycock, 11 October 2004, p. 90

## 4. THE JURY "FIX"

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- 4.1 In 2001 Laycock and Hopes accepted a substantial amount of money to "fix" a jury in a trial for a serious drug related offence. The identity of the person from whom payment (of either \$50 000 or \$20 000) was received, is known to the Commission. For the purposes of this Report he will be described as "Mr X".
- 4.2 Laycock gave evidence that Hopes informed him that he, Hopes, had been given the sum of \$20 000 by Mr X to fix a jury in a drug trial. Although money was accepted no approach was made to any juror. Rather, Laycock and Hopes kept the money and pretended to Mr X that an approach had been made.
- 4.3 There was no evidence to contradict Laycock's assertion that an approach was never made. However the fact that money was paid and that Laycock received at least \$10 000 is not in dispute.
- 4.4 Laycock's evidence was as follows:<sup>22</sup>
- Q: Let's go back a little further than that. That was 2003; let's go back to 2001. In 2001, you took a substantial sum of money, did you not, on the basis that you would fix a jury?
- A: I do recall the jury incident; I think I've been through it before. I was approached by a fellow in respect to that.
- Q: You were approached by Mr Hopes, were you not?
- A: Yes.
- Q: He informed you, did he not, that he had been given the sum of \$20,000 to fix a jury in a drug trial?
- A: Yes.
- Q: What did you do?
- A: Nothing.
- Q: Well, isn't this the case that you didn't in fact approach any jury person; you pretended that you had and you and Hopes pocketed the money?
- A: Hopes had come up with a story. He said, "I've got some money, someone else has given it to me. We'll split the money and if this bloke ever asks we'll come up with a story" – I can't remember what the story was now.
- ...
- Q: ... but you subsequently did speak to that person, didn't you, and pretended that you had approached a jury person, a member of the jury?
- A: I don't recall that. I don't think it was ever raised.
- Q: Well, certainly it was the case, was it not, that you and Mr Hopes split up the \$20,000, \$10,000 each way?
- A: David Hopes gave me \$10,000.

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<sup>22</sup> PIC Transcript, CJ Laycock, 12 October 2004, pp. 196-197

#### 4. THE JURY "FIX"

Q: In fact, you subsequently heard, did you not, that the amount of money which had been provided by this person to Hopes to have the jury fixed was in fact \$50,000?

A: I did hear that later on. I don't recall the source of it. It might have been David. There's a bit of – again, I wouldn't know what was going on behind the scenes, but he might have been trying to gyp someone else off. I'm not too sure.

4.5 One inference available from the above evidence about \$50 000 is that Hopes lied to Laycock about the amount of money he had received and gave Laycock \$10 000 while keeping \$40 000 for himself.

4.6 In Private Session Laycock confirmed his involvement in this matter, both the receiving of money, and then doing nothing for the money.<sup>23</sup>

Q: What was your involvement in that?

A: Nothing, apart from – I spoke to the person who paid David to do it and said that we'd actually paid the juror, when in fact we didn't. It was just a ...

Q: It wasn't \$20,000, was it; it was \$50,000?

A: No, it was \$20,000.

...

A: ... David approached me, and this is what – this is what Dave said, that Mr X gave him \$20,000. Now, I've heard stories later on that that was \$50,000, but I can tell you now that there was only \$20,000 in – when Dave was – when I was with Dave there was only \$20,000.

Q: So your cut of it, what, was half of \$20,000?

A: \$10,000.

Q: And no approach you say was made to the juror?

A: We didn't approach the juror.

Q: You just pretended that you had?

A: Yes.

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<sup>23</sup> PIC Exhibit 134C - PIC Private Transcript APP, CJ Laycock, 8 October 2004, pp. 11-12

## 5. \$10 000 FROM MURDER SUSPECT

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5.1 One of the most serious matters admitted to by Laycock involved the taking of a substantial sum of money from a suspect in a murder investigation. The suspect is known to the Commission. The murder was of a suspected drug courier, AH, on 2 May 2003. The murder remains unsolved.

5.2 Laycock initially gave evidence that he and Hopes were paid the sum of \$10 000 from the suspect. He said:<sup>24</sup>

Q: Mr Laycock, I want you to cast your mind back to 2003 in that year, you were paid a substantial amount of money from a suspect in a murder investigation, weren't you?

A: Yes.

Q: The sum of \$10,000?

A: Yes.

Q: That murder remains unsolved today, does it not?

A: I have no idea.

5.3 Later Laycock changed this evidence and said that he had been told by Hopes that the sum of \$10 000 had been paid but that he, Laycock, had received only \$3000.<sup>25</sup> The Commission is of the opinion that this second version is incorrect and that Laycock received half of the \$10 000.

5.4 Laycock was unable to offer any credible explanation as to the reason for the payment. The suspect is a person known to the Commission as having allegedly engaged in serious criminal activity. Laycock also knew this. He claimed that the reason why the sum of \$10 000 was paid to him was “*very sketchy at the moment*”. He said:<sup>26</sup>

... I was approached by ... a fellow who – and this is just – this isn't – I'm not using the exact words. I can't recall the exact words. He said, “Come and talk to this bloke, he wants to find out some information.” As it turns out, that very same day, he took me in his car to – I can't recall the location now, somewhere over at Balmain, where he introduced me to a bloke in a hat. I later find out what his name is, but I won't go into that.

I spoke to him very briefly. I don't even recall the content of the conversation. We both jumped back into the same fellow's car. He gave David \$10,000 and I think he dropped both of us off.

5.5 Laycock later claimed that the matter was a “*con*” or a “*scam*” which was created by Hopes. His evidence was:<sup>27</sup>

Q: But what was it that you had given him that caused him to make a substantial payment – that is, \$10,000 – to you?

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<sup>24</sup> PIC Transcript, CJ Laycock, 12 October 2004, p. 195

<sup>25</sup> PIC Transcript, CJ Laycock, 7 December 2004, p. 301

<sup>26</sup> PIC Transcript, CJ Laycock, 12 October 2004, p. 195

<sup>27</sup> PIC Transcript, CJ Laycock, 12 October 2004, pp. 195-196



5. \$10,000 FROM MURDER SUSPECT

A: I don't recall exactly now. I don't think I gave him anything. I think it was just a con that that person came up with. It was just a scam that the other fellow who I was with came up with at the time.

5.6 In the Commission's opinion it is inherently unlikely that the particular suspect would have paid the sum of \$10 000 without receiving something valuable in return. A report was prepared by Laycock and put into the COPS system in relation to the suspect and the murder.<sup>28</sup> That report, on its face, seeks to downplay the possibility that the suspect who made the payment to Laycock was involved in the murder. Indeed it suggests that although the suspect had arranged to meet the victim on the day in question, the victim failed to turn up. Initially Laycock claimed he could not recall preparing any report that deflected attention away from the suspect. He gave the following evidence:<sup>29</sup>

Q: Well, can I suggest this to you, Mr Laycock, that what in fact you did was put together a report alleging that you had received certain information, which formed the basis of a report which you put into the police system, that report being designed to take the heat off this particular suspect and that's what you got your \$10,000 for?

A: No, I don't recall that.

Q: Do you recall putting in a report in relation to this particular suspect onto the system?

A: No. I recall speaking to some investigators about it.

Q: Do you recall putting together a report which indicated that, in fact, somebody else probably committed the murder, not this particular suspect?

A: No, I don't recall that whatsoever.

5.7 Later Laycock agreed that the source of the report he had prepared was Hopes.<sup>30</sup> Despite the terms of the report Laycock refused to acknowledge that he had received payment for producing the report and deflecting attention away from the suspect.<sup>31</sup> He remained unable, however, to offer any other credible explanation for the payment.<sup>32</sup>

Q: Let's just cut to the chase. You tell us as best you can what it was that you and David Hopes did that caused this suspect, or somebody on your evidence who might have been pretending to be the suspect, to pay the sum of \$10,000?

A: Nothing. Hopes had a scam. He somehow devised that scam with a person who was known to this person of interest. He came to me, I spoke to him. I don't even recall what I said to him, it was absolute garbage, but I think the thrust of it was that what was relayed to that person was that something could be done for him which wasn't factual. It never happened, and is supported by these documents.

5.8 Laycock's evidence in relation to the report, the reason for the payment of money and his knowledge of the incident appeared to be deliberately unhelpful. The Commission is satisfied, however, that the payment was made to Laycock on the basis that he would prepare a report deflecting attention

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<sup>28</sup> PIC Exhibit 119B

<sup>29</sup> PIC Transcript, CJ Laycock, 12 October 2004, p. 196

<sup>30</sup> PIC Transcript, CJ Laycock, 7 December 2004, p. 305

<sup>31</sup> PIC Transcript, CJ Laycock, 7 December 2004, p. 306

<sup>32</sup> PIC Transcript, CJ Laycock, 7 December 2004, p. 311

away from the suspect in relation to AH's murder. The report he did in fact produce does just that.



## 6. THE FALSE FIREARMS FOLLOW-UP AUDIT

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- 6.1 On 4 December 2003, a robbery, involving approximately \$23 500, occurred at the home of a restaurateur at Burwood. Laycock and Rick Walker admitted to arranging and carrying out the robbery with Chris Walker, although Chris Walker was not prepared to admit his involvement. He claimed, “... *I don’t have any recollection of being there and therefore I deny being there*”.<sup>33</sup>
- 6.2 One week prior to the incident an officer attached to Burwood Police Station had conducted an audit of the firearms held at the premises. During the audit he noticed that there was a quantity of money in a safe at the premises, and he included that fact in his COPS report in relation to the audit. Laycock became aware of the COPS report in his position as overseer of the audit of firearms.
- 6.3 Laycock told the Commission he arranged with Chris and Rick Walker to do the robbery. He went with them to the premises and waited outside in the van. The Walker brothers represented themselves as police officers to the victim and entered the unit. After some brief conversation in which they indicated that they were following up the previous firearms audit they took possession of the money informing the victim that the money had to be fingerprinted to determine whether it was related to other crime scenes. The Walker brothers initially invited the victim to accompany them to the Burwood Police Station but later said they were going to Bankstown Police Station. Once outside the unit the Walker brothers fled and were seen by the victim to enter a van. The victim reported the matter to NSW Police.
- 6.4 Laycock admitted arranging for the robbery to occur at the premises on the pretext of a follow-up audit of the firearms. Initially his evidence was particularly vague, as follows:<sup>34</sup>
- Q: Can you tell us what happened?  
 A: It’s fairly vague. I do remember speaking to both Chris Walker and Richard Walker in respect of a house at Burwood.
- Q: What did you tell them?  
 A: I don’t recall the exact conversation, but I do recall speaking to them about a house.
- Q: Well, the substance of the conversation?  
 A: To the effect of there was a safe in a house and there was a possibility of there being money in that safe.
- Q: Well, it had come to your attention, had it not, that one of your fellow officers at Burwood had filed a report following a firearms audit which made it clear that there was the sum of \$23,500 in the safe; isn’t that right?  
 A: Possibly.

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<sup>33</sup> PIC Transcript, CJ Walker, 18 January 2005, p. 363

<sup>34</sup> PIC Transcript, CJ Laycock, 11 October 2004, pp. 90-91

- Q: What do you mean, “possibly”?
- A: Well, possibly that could have been the case, yes.
- Q: Do you have any doubt about it?
- A: I can’t recollect it, though it sounds it could be the case.

6.5 When questioned further Laycock was more forthcoming:<sup>35</sup>

- Q: To the best of your recollection, you tell us how it came that the sum of \$23,500 was pinched out of this safe?
- A: How did it ...
- Q: How did it happen?
- A: Well, I spoke to Chris Walker and Richard Walker. I relayed information to them.
- Q: What information?
- A: Obviously to the effect that there was a safe that contained money in it.
- Q: What happened then?
- A: Well, Chris Walker and Richard Walker went to the house and came out of the house some time later with the proceeds.
- Q: How much did you receive?
- A: I’d be lying if I gave an exact figure, but it would have been one-third of what was in there.
- Q: Indeed, you went to the premises, did you not, and stayed in Richard Walker’s van?
- A: I think I was in a van in a car park across the road.
- Q: I beg your pardon?
- A: I was in a van in a car park across the road.
- Q: I take it you stayed there because you didn’t want to be identified by these people; is that correct?
- A: Yes
- Q: As you were then a serving officer within Burwood police station?
- A: Yes

6.6 Rick Walker also made admissions, in his evidence, in relation to this robbery. He said:<sup>36</sup>

... Over the years I’ve been badgered by my brother, on a lot of occasions, as with Chris Laycock. This year – I can’t recount the date, I think it might have been March or April – we went to premises in Burwood. The people present were Chris Laycock, my brother and myself. Chris Laycock waited outside in a car, van, and my brother and myself went in. My brother did all the talking, as usual, and we were there on the pretence of inspecting a gun safe, because Chris Laycock at that time was in charge of the inspection of guns. We went in there. We procured approximately – once again, I’m not too sure on the amount; it could have been \$20,000 or \$23,000, I’m not too sure.

6.7 Rick Walker recalled that the relevant address was near the Burwood Police Station. He gave the following evidence:<sup>37</sup>

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<sup>35</sup> PIC Transcript, CJ Laycock, 11 October 2004, pp. 92-93

<sup>36</sup> PIC Transcript, BR Walker, 11 October 2004, pp. 71-72

<sup>37</sup> PIC Transcript, BR Walker, 11 October 2004, pp. 72-73

Q: You and your brother went to the premises and pretended you were police officers?

A: That's correct.

Q: Was it to continue the firearms audit; is that what was put to them?

A: Well, the idea was that there was some – Chris Laycock said that – told my brother that there was some irregularity in the guns. They had been taken away by a junior police officer in uniform and Laycock obviously obtained the information about that, and we were to go in there and, you know, procure what money was there. Chris Laycock was told that by a junior detective, so I don't know how he derived the information. Once again, in that particular instance I was coerced into doing the job. I wasn't threatened, but I was very scared about it. I didn't want to do it. I've never wanted to do any of these things, by the way, yeah, because of my brother's assertion and representation, I did.

Q: You mentioned a young detective. There is no suggestion, is there, that there was anybody else within Burwood police station that was involved in what you were doing?

A: Not to my knowledge, no. Where my brother and Laycock had conversations, you know, it was pretty tight. I mean, they're police officers, I'm not. Yeah, if that was said, I don't know, but not to my recollection, no.

Q: All right. The position was, was it, that when you attended these premises you and your brother fronted to the front door and Laycock was in, what, a van outside was he?

A: That's correct. Yeah, each time they did these things they coerced me into using my vehicle because they were too gutless to use their own. Yes, that's correct.

6.8 The officer who carried out the original audit was the subject of an internal investigation after the robbery was reported. He was subsequently exonerated.



## 7. THE CHISWICK EXTORTION

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- 7.1 On 22 July 2004, Laycock, Chris Walker and Rick Walker extorted the sum of \$10 000 from a witness identified as CB1. The extortion occurred at CB1's residence, a home unit at Chiswick, the address of which is known to the Commission. Whilst the extortion was carried out, Dunks and Hopes remained in a van that had been driven to the scene. CB1 was chosen as a target by Hopes and Dunks.
- 7.2 In addition to video footage from a surveillance tape,<sup>38</sup> Laycock, CB1, Rick Walker and Dunks all gave evidence in relation to the incident.

### LAYCOCK'S EVIDENCE

- 7.3 Laycock agreed that he had attended the premises with Chris Walker, Rick Walker, Hopes and Dunks. Hopes and Dunks remained in the van. Laycock said that Dunks and Hopes had identified the target. Laycock claimed that he had expected to find large amounts of cash or jewellery, particularly jewellery, at the premises.<sup>39</sup>
- 7.4 Laycock was shown the video depicting some of the events of 22 July 2004.<sup>40</sup> Although he was uncertain as to whether the video depicted him wearing latex gloves, Laycock agreed that it was sometimes his practice to wear latex gloves to avoid leaving any incriminating fingerprints. The video shows Chris Walker carrying a brief case. Laycock claimed that the brief case contained "... a receipt book, or something". He could not be one hundred percent sure that Chris Walker was carrying a document that purported to be a search warrant, although he agreed that there had been occasions in the past where he had taken fake search warrants to premises to use in the extortion of money.<sup>41</sup>
- 7.5 Laycock said that during the search of the premises, \$20 000 in cash was found, but not taken. He also discovered a television that he had reason to suspect might have been stolen. After leaving the premises, Chris Walker, Rick Walker and Laycock, together with Dunks and Hopes, drove to a street near the Roads and Traffic Authority Office (RTA) at Five Dock. A telephone call was subsequently made, from a public telephone in that area, to CB1. Laycock gave the following evidence:<sup>42</sup>

- Q: You were going to tell him, if you didn't tell him then, were you not, that the television was stolen and that he'd have to buy his way out of it?
- A: I think, yeah, the telephone conversation was to arrange to meet him again. I think that's the case when we met him.

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<sup>38</sup> PIC Exhibit 12B

<sup>39</sup> PIC Transcript, CJ Laycock, 8 October 2004, pp. 49-50

<sup>40</sup> PIC Exhibit 12B

<sup>41</sup> PIC Transcript, CJ Laycock, 8 October 2004, pp. 51-52

<sup>42</sup> PIC Transcript, CJ Laycock, 8 October 2004, pp. 52-53



7.6 Laycock agreed that they subsequently met with CB1 near some tennis courts. After some discussion Rick Walker went upstairs with CB1, into CB1's unit, and then came back down. Laycock claimed that payment was then made in the sum of \$9000 although it could have been \$10 000. The proceeds were subsequently divided up between those who had participated. Laycock claimed that he "*couldn't tell*" the Commission how much he had received but he thought it was \$2000.<sup>43</sup>

7.7 Banking records held by the Commission indicate that on 23 July 2004, the day after the incident, a cash deposit of \$1000 was made into Laycock's mortgage account with the National Australia Bank.<sup>44</sup> The sum of \$5000 in cash was subsequently banked into the same account on 30 July 2004. Laycock was, at the time, under pressure from his bank to pay mortgage arrears. In evidence he was unable to identify any source of income (other than robberies or extortion) that could have accounted for the deposit of these amounts. He gave the following evidence:<sup>45</sup>

Q: It is the case, is it not, that at least part of the proceeds which were paid into your mortgage account on 23 and/or 30 July were the proceeds of this particular activity?

A: Possibly.

Q: If it wasn't the proceeds of this particular activity, can I suggest to you you did another stamp somewhere else and that represented the balance?

A: I'm not denying that the money was taken. I don't know if that's the money that went into the bank account. I'm not too sure.

Q: Where else would you have got that sort of money?

A: As I said, I think was a loan there at some stage [sic]. That \$2,000 would have – would possibly have been part of that \$5,000 that I deposited.

The Commission is satisfied that at least part of the monies paid into the account were proceeds of the extortion.

7.8 Earlier in his evidence Laycock had endeavoured to justify the sum of \$5000 by reference to an alleged \$5000 internet transfer from Laycock's father's police credit union account to Laycock's own police credit union account. Records obtained by the Commission from the relevant institutions do not support this version of events.<sup>46</sup>

## CB1'S EVIDENCE

7.9 CB1's evidence in relation to the events of 22 July 2004 was as follows:<sup>47</sup>

Q: Could you tell us to the best of your recollection what occurred?

A: I was coming home from dinner with my fiancée and as I drove in the driveway and parked my car, I was fronted by three policemen and they asked me my name and I said, "Yep, that's my name". They said

<sup>43</sup> PIC Transcript, CJ Laycock, 8 October 2004, pp. 53-54

<sup>44</sup> PIC Exhibits 5, 6 & 7C

<sup>45</sup> PIC Transcript, CJ Laycock, 8 October 2004, p. 54

<sup>46</sup> PIC Transcript, CJ Laycock, 8 October 2004, pp. 20-21; PIC Exhibits 135C, 136C, 137C & 138C

<sup>47</sup> PIC Transcript, CB1, 8 October 2004, pp. 57-58

it was in relation to a number of things. They said firearms, jewellery, art, drugs, guns, and I said I didn't know what they were talking about and they said they weren't going to play ping-pong with me. They said they've got a warrant and if I can remember they said, "We'll go upstairs and have a quick look around". They said they've got the dog squad outside and if it's nice and quick they won't have to bring them up.

Q: Just pausing there, did somebody amongst the group identify themselves as being police officers, or was there something that was said?

A: Yeah, the taller one out of the three of them produced a badge and said he was from the crime agency.

Q: Was one of the persons concerned carrying an attaché case?

A: They were.

Q: You go up to the unit ...?

A: Yep.

Q: ... with them? What happened then?

A: We went inside. He asked me if there was anything illegal or anything stolen, stolen property. He asked me that a couple of times. Each time I said no, and I said – and then I said, "If there was one thing that could be stolen, it would be my television". I said I bought it at a good price and that sort of thing. I think I said I bought it in the Trading Post. Then we started to look around the unit. I went with him and went through a few different rooms.

Q: What happened then?

A: We came across some money. I had some money there. It was \$20,000. He put that on the table and kept on looking – went and put it on the kitchen table and kept on looking around.

Q: Did he have anything on his hands?

A: He put on plastic gloves.

Q: Did the person who was carrying the attaché case at any stage remove anything from the attaché case?

A: I'm not 100 per cent sure, but I think he was the one that handed me a warrant.

Q: Did you read that at the time?

A: I stared at it but I couldn't really concentrate.

Q: I suppose you were a bit anxious.

A: Yeah.

7.10 CB1 said further that Laycock obtained the serial number of the television and indicated to CB1 that he would be hearing from them soon. They then left the unit. A little later CB1 received a telephone call. He recognised the voice as being that of Laycock. Laycock indicated that there was a "*... bit of a problem*" and that CB1 would have to meet Laycock again near the tennis courts in the unit complex. He went down to the tennis courts and was met by Rick Walker and Laycock who said to him that the television had "*... come up stolen and they're going to have to take me and charge me with goods in custody*".<sup>48</sup>

<sup>48</sup> PIC Transcript, CB1, 8 October 2004, pp. 58-59

7.11 According to CB1, the conversation then continued as follows:<sup>49</sup>

He said that he was going to have to take me and charge me with goods in custody, or something like that, and then he said – he said – I’m a merchant seaman, I know how the world goes around. He said, “What part of that money back there are you prepared to part with?” I told them that the money was – I said that it was my father’s long service money. I said, “I don’t want to part with any of it.” They said, “Is it true it’s your father’s long service money?” I said, “Yes, it is.” They said, “Well, you’re going to have to part with some of it, you’re going to have to part with some of it.” I was in shock at the time. I said – I didn’t know if I was being recorded. I didn’t want to say anything at all. I said, “I’m not saying anything.” They said – they said, “Come around the corner a bit further from where we were standing”, and they said – they said, “We’ve exposed ourselves to you now. You have to more or less play ball”, something along that nature. I was still in shock sort of thing and I said, “I don’t really want to part with any of it.” They said, “You’re going to have to now, we’ve kind of dropped our pants”, sort of thing. Just words of that nature.

7.12 CB1 was then informed that he would have to pay the sum of \$10 000. CB1 said that the two men accompanied him back towards his unit and “*the smaller one ...*” (Rick Walker) walked back upstairs with him but stayed outside the unit. CB1 went into the unit, obtained the money and then, “*... walked out and walked back down and I think I handed it to him in the lift and that was it*”.<sup>50</sup>

## RICK WALKER’S EVIDENCE

7.13 Rick Walker’s evidence supports CB1’s version of events. According to Rick Walker, he became involved in the matter at the request of Laycock. They met outside the RTA at Five Dock where he entered a van with Hopes, Laycock and Chris Walker. They then travelled to Dunks’ residence and Dunks entered the van. They proceeded to the Chiswick address. Hopes and Dunks stayed in the van because they were known to CB1 personally. Rick Walker confirmed the search of the home unit, leaving the premises, the subsequent telephone call to CB1, and the return to the property.<sup>51</sup>

7.14 His evidence as to what occurred after the telephone call from the public telephone box was as follows:<sup>52</sup>

We then went back. I was nominated, with Laycock, to meet this person in a garden setting, because my brother wouldn’t do it, as usual, didn’t want to do it. I don’t know for what reason. I was petrified. I just didn’t want to do it. Anyway, we proceeded up there. We met this person. We procured \$10,000 or \$11,000 from him. Laycock indicated to him that everything would be OK if you, you know, keep quiet, dah, dah, dah. I’m the one that went up to the unit once again to walk down the money to Laycock. After that, he, you know, reassured the person that he wouldn’t be charged over the offences, whatever story he told him before that I don’t know. We then proceeded back to the RTA. We then disbanded. I was feeling sick. We went to a hotel at Five Dock. I consumed one beer. Chris Laycock then

<sup>49</sup> PIC Transcript, CB1, 8 October 2004, p. 59

<sup>50</sup> PIC Transcript, CB1, 8 October 2004, p. 60

<sup>51</sup> PIC Transcript, BR Walker, 11 October 2004, pp. 74-75

<sup>52</sup> PIC Transcript, BR Walker, 11 October 2004, pp. 75-76

went, I left my brother. In conversations with my brother a couple of days later, because I was totally – absolutely horrified about – you know, the situation, and scared. I rang him and my words to him was, “Don’t ever involve me in this again.” I said, “F-off”. Yes, that’s the full side of that.

## DUNKS’ EVIDENCE

- 7.15 Dunks’ evidence confirmed the extortion of money from CB1. He said that he had not met either of the Walker brothers prior to this incident and could not remember their names. He said:<sup>53</sup>

Well, it all started by Hopes asking me did this man have money in the house, because I’ve been there once or twice. I mentioned to Hopes that he had money in there, so whatever Hopes made some kind of arrangements to do, to take the money or get the money, I didn’t know when he was going to do it or how he was going to do it. So one night he just turned up. I was ready for bed. I’d walked outside to talk to him, he said, “Oh you can come too.” I said, “I don’t want to come”, he said, “You’re coming because you can listen to the radio for me”. So I got in the van, there was two men in the van, Chris in the van and David in the van. I sat at the back of the van. I just didn’t take no notice.

- 7.16 According to Dunks, when they arrived at the Chiswick property Laycock, and the two men Dunks didn’t know (the Walker brothers), got out of the van and walked towards the underground car park area of the unit complex. He said that when Laycock and the Walker brothers re-entered the van after the search, they claimed that they had not obtained anything. They proceeded to the Five Dock RTA car park where after some discussion, the details of which Dunks couldn’t remember, “... *someone decided to ring this feller that lived in the house back and ask for some money*”. Dunks confirmed that Laycock then made a telephone call from a public telephone in a nearby street. They then proceeded back to the Chiswick property, where Laycock and one of the other men (one of the Walker brothers) alighted from the van and walked towards the tennis courts. When they returned to the van, Dunks was given the sum of \$1500 and then dropped off at his home.<sup>54</sup>

## CHRIS WALKER’S EVIDENCE

- 7.17 On the first occasion he gave evidence Chris Walker claimed to have no recollection of the events at Chiswick. He agreed that one of the people depicted in the video<sup>55</sup> looked like him but said he couldn’t recall being there.<sup>56</sup>
- 7.18 On the second occasion he gave evidence Chris Walker admitted to being involved in the events at Chiswick but claimed that his involvement was lawful, and that he did not receive any money as a result of his participation. This was despite being implicated in the incident by Laycock, Rick Walker and Dunks.

<sup>53</sup> PIC Transcript, JR Dunks, 13 October 2004, p. 203

<sup>54</sup> PIC Transcript, JR Dunks, 13 October 2004, pp. 205-206

<sup>55</sup> PIC Exhibit 12B

<sup>56</sup> PIC Transcript, CJ Walker, 6 December 2004, pp. 274-275

- 7.19 Chris Walker said that it was known that the occupant of the Chiswick property owed money to Hopes and Dunks and that he had a substantial amount of money at the property. The plan was for the Walker brothers and Laycock to go into the property and for Laycock to make some kind of representation to him. Chris Walker agreed that he carried an attaché case but denied that they had, or used, a search warrant. He said he took the attaché case merely to carry the money.<sup>57</sup>
- 7.20 Chris Walker said that he knew money was taken but not the amount. He agreed it was divided up but said he didn't receive any of it, although everyone else involved in the events did receive some payment. Chris Walker said that he had merely attended to assist in the recovery of a debt owed to Hopes and Dunks and that he had no intention of stealing money.<sup>58</sup>
- 7.21 Chris Walker said that after they left the premises there was discussion about taking the money. He said that he advised the others to leave the money there and that he wanted nothing to do with it. He was unable to give a reason as to why the serial number of the allegedly stolen television was taken when they were only at the premises to collect a debt.<sup>59</sup>
- 7.22 Chris Walker agreed that it was odd that Laycock, a serving NSW Police officer, would involve himself in debt collection. He also agreed that he knew the nature of the debt. His evidence was as follows:<sup>60</sup>

Q: Were you aware of the nature of the debt between – allegedly between the occupant of this Chiswick Unit and Hopes and Dunks?

A: Well, they mentioned a figure, but they also talked in – in riddles. The fact that they were on the peripheral of dealing with this man in some way, there was a mention of two or three being involved in this particular syndication, which included the occupation.

Q: When you say a “syndication”, you are talking about a drug syndication?

A: A drug syndication in Balmain involving the occupant, and with Dunks and Hopes on the peripheral. It was my understanding at that meeting that both of them knew the occupant and didn't want to come into the place, and that's why they, for want of a better expression, were using us to do it.

Q: Collect drug money?

A: I beg your pardon.

Q: Collect drug money?

A: Well, if that's what it was, yes.

Q: Well, even at that level, didn't you think it a little odd that Laycock, a serving New South Wales officer, would involved himself in the collection of drug money?

A: Yes

<sup>57</sup> PIC Transcript, CJ Walker, 18 January 2005, pp. 360-361

<sup>58</sup> PIC Transcript, CJ Walker, 18 January 2005, pp. 369-373

<sup>59</sup> PIC Transcript, CJ Walker, 18 January 2005, pp. 373-374

<sup>60</sup> PIC Transcript, CJ Walker, 18 January 2005, pp. 374-375

## 8. ASSISTANCE TO "MR Y" TO AVOID CHARGES

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8.1 This incident involved Jahangir Shagaev, an associate of Chris Walker. On 26 August 2004 Shagaev contacted Chris Walker in relation to a friend of his who had been charged by NSW Police at Balmain with some offences. The name of the friend is known to the Commission but for the purposes of this Report, he is identified as "Mr Y". Mr Y had been charged with a number of offences including assault police, resist arrest and some fraud related offences.

8.2 Shagaev gave evidence that he had known Chris Walker for approximately one and a half to two years. He claimed to have had "*A lot of social contact ...*" with him and to have also helped Chris Walker in his "*investigation business*".<sup>61</sup>

8.3 Shagaev said that he had met Laycock through Chris Walker, although Laycock was introduced to him as "Peter". He only found out later that Peter's real name was Christopher Laycock. Shagaev said that prior to August 2004 he had assisted Chris Walker in his (Chris Walker's) investigation business, in relation to debt collection. Laycock, or "Peter" as he knew him, had also been involved in those activities.<sup>62</sup>

8.4 Shagaev agreed that when he contacted Chris Walker in August 2004 he had endeavoured to obtain information in relation to a friend of his. He gave the following evidence:<sup>63</sup>

Q: Did you, first of all, approach Mr Chris Walker in relation to the situation this fellow was in?

A: Well, I did call Mr Walker, because I had no direct contact with the man who I knew at the time, again, Peter.

Q: What was the purpose of your call to Chris?

A: To find out exactly what the charges were and what's going to happen to him.

Q: Was it your intention that Chris would contact Peter, who you came to know as Laycock, to obtain some information?

A: That's what I thought would happen, yes.

Q: And was it your understanding that if you obtained information in that way either through Walker or through Laycock, you would have to pay for it?

A: It – well, I don't know about intention, but I had a back thought that I might have to come up with some – some sort of – not me, but this person here might have to come up with something, some money or whatever.

Q: Now, I will get to what information may have been supplied a little later.

A: Yes.

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<sup>61</sup> PIC Transcript, J Shagaev, 12 October 2004, p. 139

<sup>62</sup> PIC Transcript, J Shagaev, 12 October 2004, pp. 140-141

<sup>63</sup> PIC Transcript, J Shagaev, 12 October 2004, pp. 153-154

## 8. ASSISTANCE TO “MR Y” TO AVOID CHARGES

Q: Did you in fact make some form of payment ...?

A: No.

Q: ... to Laycock?

A: No, no payment was made from me to Mr Laycock.

8.5 Shagaev said he was asked by Mr Y to find out if he, Mr Y, could leave the country. Shagaev said that the information supplied to him, by both Chris Walker and Laycock, about whether Mr Y could leave the country was “... *ambiguous. First it was yes, then it was no, then it was yes again*”.<sup>64</sup> He arranged to meet Laycock after Chris Walker told him “*Peter might have some information for you*”. Shagaev agreed that he then met with Laycock at Burwood. During the meeting Laycock informed him that Mr Y could not leave the country, that his Court case was listed on a certain date and that Mr Y might be charged with some more offences. Shagaev claimed that at this meeting Laycock had provided him with documents concerning Mr Y’s case. He gave the following evidence:<sup>65</sup>

Q: Did he give you any police documents in relation to the matter?

A: He had some papers in his hands, yes.

Q: Did he provide those to you?

A: He said, “If you want to have a look at this”. I had a glance, but because it was about this thick, I may be too lazy, I didn’t want to read it.

Q: What sorts of papers were in it, do you know?

A: What do you mean?

Q: Well, if it was that thick, was it a police brief?

A: It was about 10, 15 pages, I think, to the best of my recollection. It was just normal standard A4 paper.

Q: Did it appear to be official police documents?

A: Well, it was black and white, so I didn’t recollect anything saying, “This is an official police document”.

Q: Did it have the official police insignia on it, for example?

A: I cannot remember that, sir.

Q: Anyway, he allowed you to look at these documents?

A: It was in a plastic sleeve. He said, “If you want to have a look at this”. I had a glance at it, but I just didn’t want to read it, because there was too much of it. I don’t know what exactly.

Q: Did he ask for any money in relation to providing that information?

A: He said there might be – he might want some sort of payment – or him or I think someone else, it was, might want some sort of payment. I said, “It’s not up to me”. I said, “I’m not the one who’s going to be paying you”, or whoever he asked wants the money. I can’t recall whether it was for him or for someone else.

Q: Did he indicate to you that somebody else may have been involved in supplying this information?

A: He did indicate that, but he said, you know, “You might have to pay something for it”, something along those lines. It wasn’t “to me” or “to Joe Blow”; “You might have to come up with something”.

<sup>64</sup> PIC Transcript, J Shagaev, 12 October 2004, p. 154

<sup>65</sup> PIC Transcript, J Shagaev, 12 October 2004, pp. 155-156

- Q: Did you meet him on more than one occasion in relation to giving him this information, or just the once?
- A: Just the once, to what I recall.

8.6 When first asked about his dealings with Shagaev in relation to this matter Laycock was vague. He said:<sup>66</sup>

He was introduced to me by Chris Walker. I couldn't even give you a time period – two months ago, maybe. He asked for some advice in respect of, I think it was a friend of his at the time. He came across as some type of big influence in the Russian community. He purported to have some contact in the Russian community and said – I think at some stage he was telling us that he had contacts with, you know, the Russian Mafia, major fraudsters – pretty bad people and so forth. I can't remember the exact nature of what he was telling me. Most of the stuff that he was talking about was in one ear, out the other, I think. He was introduced as a friend of Chris's that he had known for some time. I spoke to him on a number of occasions.

8.7 Laycock agreed that Shagaev had sought his advice in relation to a matter where Balmain detectives had laid charges. He claimed that he could not recall being offered money by Shagaev for the provision of information and he "*certainly never received any money from him*".<sup>67</sup>

## THE TELEPHONE CONVERSATIONS

8.8 The contents of the various lawfully intercepted telephone calls,<sup>68</sup> between Laycock, Chris Walker and Shagaev in relation to this matter, provide compelling evidence that there was an arrangement between the parties to provide information to Shagaev, which would assist Mr Y to determine whether to flee the jurisdiction.

8.9 The Commission is of the opinion that the telephone conversations demonstrate the following:

- that Shagaev sought the assistance of Chris Walker to obtain information from Laycock in relation to the charges pending against Mr Y and, in particular, whether he might be able to flee the jurisdiction;
- that Shagaev expected to pay for the information;
- that Laycock obtained information from the COPS intelligence system;
- that on 27 August 2004, Laycock conveyed this information to Chris Walker;
- that Chris Walker conveyed the relevant information to Shagaev, which included information as to whether Mr Y could flee the jurisdiction; and
- that Shagaev subsequently met with Laycock and was given access to documents concerning Mr Y.

<sup>66</sup> PIC Transcript, CJ Laycock, 11 October 2004, p. 93

<sup>67</sup> PIC Transcript, CJ Laycock, 11 October 2004, pp. 94-95

<sup>68</sup> PIC Exhibits 24 & 25, 27 & 28, 29 & 30, 31C & 32B, 33 & 34, 35 & 36, 37C & 38B, 59 & 60, 141 & 142, 143 & 144, 147 & 148, 149 & 150, 151 & 152, 153 & 154, 155 & 156



## 8. ASSISTANCE TO “MR Y” TO AVOID CHARGES

- 8.10 The first recorded telephone call relevant to this matter occurred between Chris Walker and Shagaev on 26 August 2004 at 5.09 p.m. During the course of that conversation, Shagaev advised Chris Walker that he had a “mate” who was in “*very big trouble ... from detectives from Balmain*”. Shagaev went on to state: “*Um, he’s willing, obviously to pay if, if he can be helped.*” Shagaev expressed the belief that there were approximately ten charges, ranging from assaulting detectives to fraud. The conversation continued:<sup>69</sup>

Shagaev: Just thinking, it’s close to where your friend works. Maybe, maybe it was even him, he said a tall bloke. One of them.

Chris Walker: Tall bloke?

Shagaev: One of them, I don’t know, maybe your friend knows something about it.

Chris Walker: Yeah, oh I doubt it but I’ll, I’ll make him, I’ll get him to make inquiries tomorrow.

Shagaev: If – if it can be helped, I’ll get some detail um, and how much.

- 8.11 The Commission is satisfied that the reference to Chris Walker’s “*friend*” is a reference to Laycock.

- 8.12 The next relevant conversation was again between Chris Walker and Shagaev, later on 26 August 2004, at 9.08 p.m. During the course of that conversation, Shagaev provided to Chris Walker the name of the arresting officer whom Shagaev believed was stationed at Balmain. He also provided the name of his friend (Mr Y) and told Chris Walker that Mr Y was a “*very good friend of mine*”. Chris Walker stated “*I’ll get my bloke to make the inquiry and then ah*”. Shagaev then indicated that another “*big question*” was whether Mr Y could leave the country. The conversation was as follows:<sup>70</sup>

Shagaev: ... he’s on, he’s on bail now, he bailed himself out ...

Chris Walker: Yep.

Shagaev: and whether he can leave the country or not?

Chris Walker: Has he handed his passport in?

Shagaev: Nah, they didn’t confiscate that.

Chris Walker: They didn’t?

Shagaev: No they didn’t, but ...

Chris Walker: Oh ...

Shagaev: ... the lawyer says that it might be a trap.

Chris Walker: Shit. Um, yeah look ah, I’ll talk to you, I won’t talk on the phone about all that, alright.

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<sup>69</sup> PIC Exhibits 24 & 25

<sup>70</sup> PIC Exhibits 27 & 28

- 8.13 Although the remainder of the conversation is circumspect, there is a clear inference that Shagaev expected there would be "*a price*" for the relevant information and that Chris Walker was anxious not to speak on the telephone about such matters.
- 8.14 At 10.53 a.m. the next day, 27 August 2004, Shagaev telephoned Chris Walker again, to ascertain whether there had been any contact with Laycock. Chris Walker indicated that no contact had been made but that he would ring Laycock straight away and then call Shagaev back.<sup>71</sup>
- 8.15 At 11.19 a.m. on 27 August 2004 Chris Walker contacted Laycock in relation to the matter. The conversation included the following:<sup>72</sup>

Chris Walker: I'm still in bed. Listen that ah, the big R rung me right, or the big J.

Laycock: Yep.

Chris Walker: With a question.

Laycock: Yep.

Chris Walker: And I need to ask you something but you need to probably ring me on this phone from another number, you know, like ...

The conversation continued. Chris Walker provided the number to Laycock who undertook to ring him back.

- 8.16 At 11.25 a.m. on 27 August 2004 Laycock telephoned Chris Walker on the same number used in the previous call. It is apparent from the terms of their conversation that the number, which Chris Walker had just provided to him, was "*continually engaged*". Chris Walker went on to inquire whether Laycock knew the arresting officer at Balmain and he indicated that Mr Y had been arrested for "*fraud*". He then appears to indicate to Laycock that money would be paid for the information. The relevant part of the conversation is as follows:<sup>73</sup>

Chris Walker: Whatever and ah, is prepared, you know, big time, to ah, you know, need to know something that's all.

Laycock: Oh okay.

A discussion then followed as to whether Laycock had any contacts within Balmain detectives.

- 8.17 Chris Walker had a conversation with Shagaev, at 11.29 a.m. on 27 August 2004, almost immediately after his conversation with Laycock. During the course of this conversation, Chris Walker made it clear to Shagaev that he was proposing to meet with Laycock "... *cause I'd rather do it personally*". The conversation then continued:<sup>74</sup>

<sup>71</sup> PIC Exhibits 29 & 30

<sup>72</sup> PIC Exhibits 31C & 32B

<sup>73</sup> PIC Exhibits 33 & 34

<sup>74</sup> PIC Exhibits 141 & 142

## 8. ASSISTANCE TO “MR Y” TO AVOID CHARGES

Chris Walker: And by the time I see him, he woulda made an inquiry, alright, but he won't talk on the phone so.

Shagaev: ... yeah, just the main question is um, whether he can leave the country or not.

Chris Walker: Yeah, well he'll tell me, um he'll tell me.

8.18 A further telephone call took place between Chris Walker and Laycock at 2.39 p.m. on 27 August 2004. Chris Walker made the call and it is apparent from the terms of the conversation that he made it while he was within a short distance of Burwood Police Station. Discussion ensued as to where Chris Walker and Laycock would meet, Chris Walker rejecting a suggestion that he go into the Police Station. It was agreed that they would meet “*near the Court House*” at Burwood.<sup>75</sup>

8.19 Computer records obtained from NSW Police demonstrate that Laycock accessed, on the COPS system, the details of the arrest of Mr Y at 1501 hours on 27 August 2004. The records indicate that Laycock accessed the relevant details in full and sent a report, prepared by the arresting officer, to his internal email in-box.

8.20 Later that evening, at 7.02 p.m. on 27 August 2004, Chris Walker telephoned Shagaev to convey the information that had apparently been supplied by Laycock. After giving details of the offender and the relevant charges, the conversation continued:<sup>76</sup>

Chris Walker: He's gonna be charged with numerous other offences mate, alright.

Shagaev: It's pretty serious, is it, yep?

Chris Walker: Now, um you know something can be, but it's gonna be quite, you know, alright?

Shagaev: How much?

Chris Walker: Oh, ...

Shagaev: Oh not on the phone.

Chris Walker: You know, you, you, you're looking at ten feet of wood mate, okay.

8.21 This evidence indicates that the parties to the conversation believed that a significant amount of money would be required for providing information and possibly other assistance to Mr Y. Chris Walker and Shagaev then went on to discuss “*another avenue*” which was particularised in the following exchange:<sup>77</sup>

Shagaev: c-c-can he leave, can he leave Chris or not?

Chris Walker: I, that's what I'm su – that's what I'm recommending, if he wants to, he'd probably be better off that way.

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<sup>75</sup> PIC Exhibits 35 & 36

<sup>76</sup> PIC Exhibits 37C & 38B

<sup>77</sup> PIC Exhibits 37C & 38B

Shagaev: They’re not gonna, they’re not gonna get him (Unintelligible (ui))?

Chris Walker: No, no, no, don’t say anything on the phone but they’re not gonna be waiting somewhere for him, no, no.

Shagaev: Okay

Chris Walker: I doubt that that’d be the case, alright? But that,

Shagaev: (ui)

Chris Walker: If I were him, that’s what I’d be doing.

8.22 The conversation continued with a discussion between Chris Walker and Shagaev as to whether payment was required for the information provided thus far, and concluded on the basis that Shagaev and Chris Walker would try to meet the following Monday. The relevant exchange was as follows:<sup>78</sup>

Shagaev: Does, does your mate want ah, want anything?

Chris Walker: No, no, no, he did that for me, he, he.

Shagaev: Alright.

Chris Walker: you know, but, but if it goes any further

Shagaev: Yep.

Chris Walker: he can grab hold of certain things, but it’s gonna be very

Shagaev: Right, but there is ...

Chris Walker: you know. Alright but I’ll

Shagaev: there is, there is an avenue is there?

Chris Walker: Yeah, there is an avenue, yep.

Shagaev: Alright mate.

Chris Walker: there’s another way, there’s a couple of ways, ah, through all this.

8.23 Later still that evening, at 8.56 p.m. on 27 August 2004, Laycock telephoned Chris Walker. During the conversation Chris Walker indicated that he had “*passed that information on*” and that a meeting had been arranged with Shagaev for the following Monday.<sup>79</sup>

8.24 On 31 August 2004 at 11.44 a.m., Chris Walker and Laycock had a further conversation concerning the proposed meeting between Laycock and Shagaev. During the conversation a discussion occurred in relation to the advice given to Mr Y as to whether he could leave the jurisdiction:<sup>80</sup>

Chris Walker: Listen though also um, I told him that the other bloke shouldn’t leave. Alright? And that he, he hit the wall though when I told him that.

Laycock: Why?

<sup>78</sup> PIC Exhibits 37C & 38B

<sup>79</sup> PIC Exhibits 143 & 144

<sup>80</sup> PIC Exhibits 145 & 146

## 8. ASSISTANCE TO “MR Y” TO AVOID CHARGES

Chris Walker: Because I think he was gunna.

Laycock: Um well.

Chris Walker: I think he was gunna jump it.

Laycock: ... they'll just jab it, they'll just jump on him then he won't get.

Chris Walker: Yeah, yeah.

Laycock: OK that's very important, that's that's probably um what we can do. You know what I mean? Anyway I won't talk to you on the phone but ...

Chris Walker: No, no, no well that, he didn't realise that and I said well I said (ui) look you know if it were me I'd be, that, that's what I'd be doin', but um, and that's I think that's what he wanted to do you know.

8.25 Following his telephone call with Laycock on 31 August 2004, Chris Walker had a further conversation with Shagaev at 12.45 p.m. During the conversation it was agreed that Chris Walker would arrange for Shagaev to meet with Laycock on the following day. It would seem that at no time did Shagaev have a contact number whereby he could telephone Laycock directly. The conversation contained the following exchange:<sup>81</sup>

Shagaev: Yes. Now, alright well I-I'll speak to him (ui), I've got a little, a little, a little bit ready, in terms of ah, the plastic.

Chris Walker: Yeah, yep. Well, I, I, I'll just let him, put it this way, I-I'll let him know that that'll be around the time and the place and you, you blokes work it out between you mate, you know like, you might, put it this way, you mightn't be happy with what he says, he mightn't be happy with what you say, but it's a matter between you two blokes mate um.

8.26 It should be noted that it is not clear whether this conversation is referable to either or both Mr Y's position, or a plan that seemed to be emerging between Shagaev and Laycock around this time, that Shagaev would assist and participate in a planned extortion of money (see Chapter 11).

8.27 At 11.56 a.m. the next day, 1 September 2004, another telephone conversation took place between Chris Walker and Laycock. Chris Walker confirmed with Laycock that he had informed Shagaev that the meeting would be at 1.00 p.m. The conversation continued as follows:<sup>82</sup>

Chris Walker: Righto, I think he will have something with him, won't be much.

Laycock: Yeah.

Chris Walker: but I told him to bring something with him. Alright?

Laycock: Yeah.

Chris Walker: So um,

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<sup>81</sup> PIC Exhibits 147 & 148

<sup>82</sup> PIC Exhibits 149 & 150

Laycock: Yeah alright, are, are you gonna be around or not?  
 Chris Walker: probably, probably be nickels. Hey?  
 Laycock: Are you gonna be around?  
 Chris Walker: No, I, not 'til late this afternoon, mate. Just, just wiping the wall down at the moment.

8.28 At 1.12 p.m. on 1 September 2004, Chris Walker and Shagaev had a further conversation, during which he was given directions by Chris Walker where to meet Laycock in the proximity of "*the station*" (presumably Burwood). During the conversation Shagaev gave the impression of being anxious about the meeting and expressed concern that Laycock might be about to set him up. Chris Walker reassured him as follows:<sup>83</sup>

Shagaev: There's not going to be any, any um, tape  
 Chris Walker: No, no.  
 Shagaev: tape recorders?  
 Chris Walker: No, not at all, no I think, I think you should leave the past well alone,  
 Shagaev: No mate,  
 Chris Walker: and just concentrate on the future.  
 Shagaev: I'm not, I'm talking about that, I'm saying there's not going to be any tape recorders or anything like that?  
 Chris Walker: No, no, no, no, shit no.  
 Shagaev: (Ui)  
 Chris Walker: Well, if you, mate if you've got any doubts, pat him down. If he's got any doubts about you he'll pat you down, so don't worry about it.  
 Shagaev: Yeah. Alright matey.  
 Chris Walker: (ui) just, everything will be alright, just play it, play it cool and, and if he, look if you're not happy with what he says to you tell him to piss off alright? And the same thing, if he's not happy with you he'll just, he'll decline to talk any further. Okay?  
 Shagaev: Yeah.  
 C Walker: But that's not gonna be the case 'cause you're both sensible.

8.29 Later that day, at 2.38 p.m., Laycock and Chris Walker had a telephone discussion that confirmed that Laycock had met with Shagaev. It is apparent from the conversation that although no money changed hands, arrangements were made between Laycock and Shagaev. The conversation included the following:<sup>84</sup>

Laycock: Ah, oh, oh, oh, he's made um, arrangements, he's, he's gonna make arrangements but um

<sup>83</sup> PIC Exhibits 151 & 152

<sup>84</sup> PIC Exhibits 153 & 154

## 8. ASSISTANCE TO “MR Y” TO AVOID CHARGES

Chris Walker: Mm.

Laycock: So it's all, all positive, but um,

Chris Walker: (Coughs)

Laycock: Just for today, there's stuff all there mate, you know.

...

Laycock: I think um being the middle man he's sort of you know um, trying to look after (ui), you know.

Chris Walker: Yeah, yeah.

Laycock: But um, but, but happy with the scenario, um that can be arranged. Um,

Chris Walker: Yeah.

Laycock: Just gotta get the ball rolling actually.

Chris Walker: Yeah, yeah.

8.30 On 7 September 2004, Laycock telephoned Shagaev at 10.15 a.m. Apparently the purpose of the call was for Laycock to confirm with Shagaev that they would meet at 5.00 p.m. that day. During the conversation however Laycock appears to suggest that a “*down payment*” was required, either in relation to providing further information for Mr Y, or having the matter fixed. The relevant part of the conversation was as follows:<sup>85</sup>

Laycock: Mate just very briefly, ah I spoke to ah a friend of mine, um, he's a bit concerned at the moment, um, everything's alright but um what he mentioned um, was he, he might want some commitment in principle from ah, from your side, you know what I mean?

Shagaev: Oh ah.

Laycock: Something in principle but (ui) at this stage it's sort of um, he's just questioning, ah, you know, what's going on. Um.

Shagaev: Mm.

Laycock: If he sort of gives up sort of everything he's

Shagaev: Yeah well once ... I have a look at this paper today.

Laycock: Yeah.

Shagaev: Yeah.

Laycock: I understand your position.

Shagaev: Yeah, it'll, it'll be more like, it'll pretty much clear it.

Laycock: Yeah, but just for,

Shagaev: Alright?

Laycock: but what I'm saying is just for that, what he's, what he's asking for just, just to have a look at that to, be privy with that, he's, he's asking for a, a, some type of small ah contribution you know what I mean?

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<sup>85</sup> PIC Exhibits 155 & 156

Shagaev: Oh, what am I looking at? Half, half a G or?

Laycock: Yeah, at least.

Shagaev: Alright, I'll,

Laycock: Just to show him that it's, it's, it's not mucking around you know what I mean?

Shagaev: Alright I-I'll see what I can do mate. Alright.

Laycock: Alright I'll see you at five.

8.31 A little later on 7 September 2004, at 3.18 p.m., Shagaev telephoned Chris Walker to ask him to cancel the scheduled meeting with Laycock and re-arrange it for the following Monday. Shagaev also requested that Chris Walker convey that what had been sought from Shagaev by Laycock would be available on Monday. The relevant part of the conversation was as follows:<sup>86</sup>

Shagaev: and just, just tell him about what he requested this morning is, is fine, it's no problem, I'll have it ready for him on Monday.

Chris Walker: Righto.

Shagaev: Okay,

Chris Walker: Righto.

Shagaev: he knows, he knows what he requested

8.32 Laycock was played a number of intercepted telephone conversations between himself and Chris Walker, and between Chris Walker and Shagaev. Although he said he could not recall the meeting, he agreed that it “*appeared*” that he had met with Chris Walker on 27 August 2004 some time shortly after 2.39 p.m., and that he “... *may have given him some details, but I wouldn't have given him a COPS report*”. Laycock then gave the following evidence:<sup>87</sup>

Q: Well, you might note from the phone call that has been most recently played that he seemed to possess a lot of detail about this particular individual?

A: I might have given him that detail, yes.

Q: Well, it seems inescapable, does it not, that you in fact did so?

A: Not – I wouldn't have given him the document, but I may have told him.

Q: Of course, one of the things you also made clear to him, I suggest, is that if this particular person was to use their passport, and endeavour to flee the jurisdiction, they weren't going to be pinged at the airport?

A: I don't recall saying that.

Q: Well, that's certainly something that Chris Walker seems to have conveyed to Mr Shagaev, though, isn't it?

A: That's – yeah. That appears so.

Q: How would he have known that unless you told him?

<sup>86</sup> PIC Exhibits 59 & 60

<sup>87</sup> PIC Transcript, CJ Laycock, 11 October 2004, pp. 102-103



## 8. ASSISTANCE TO “MR Y” TO AVOID CHARGES

A: Well, he’s a former police officer. He knows how things work. It might have been something that he’s geared up, using me. I don’t know.

Q: What you were doing, I suggest, was providing this information in expectation that you would be paid for it?

A: No. It may be something that Chris might have arranged but, as I said, I never received any money from this fellow.

8.33 The evidence referred to above demonstrates that it is probable that Laycock at least supplied Chris Walker with relevant information concerning Mr Y, that each of Shagaev, Laycock and Chris Walker contemplated that Mr Y might flee the jurisdiction, that some of the information conveyed from Chris Walker to Shagaev suggested that this was an appropriate course, and that Shagaev and Laycock had agreed that a payment would be made for either further information or to take some further step to fix Mr Y’s case. It is possible that Laycock was deceiving Shagaev in the sense that, although he had no intention of taking any further steps, he was representing to Shagaev that in return for payment the case could be fixed. Be that as it may, the Commission is of the view that Laycock, through Chris Walker, did at least supply information concerning Mr Y that was intended to assist him to avoid prosecution.

8.34 Chris Walker agreed that he had been approached by Shagaev to obtain information in relation to one of Shagaev’s associates who had been arrested. He said that he met Laycock outside the Courthouse at Burwood to receive information from Laycock in relation to the matter. Chris Walker agreed that Shagaev had mentioned his friend was thinking of leaving the country and that during the meeting with Laycock, he (Chris Walker) “*probably brought it up*” with Laycock. When asked whether he in fact told Shagaev that the best course for his friend was to leave the country Chris Walker said:<sup>88</sup>

Well, I may have. I may have mentioned that to him. I can’t recall saying that to him, but I don’t deny that I have said it.

8.35 At present, the exact whereabouts of Mr Y is unknown, although it is known that he left Australia on 9 September 2004 while on bail, and has not returned to answer the charges.

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<sup>88</sup> PIC Transcript, CJ Walker, 6 December 2004, pp. 282-283

## 9. SUPPLY OF POLICE RECORDS / INFORMATION

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- 9.1 Jason Roberts (Roberts) was a member of NSW Police between February 1996 and April 2003. He met Laycock around November 1998 when he was seconded to a task force on which Laycock was also working. They had ongoing social contact until mid 2001 when they were both stationed at Burwood Police Station and Roberts was seconded to a task force where Laycock was the Officer in Charge. During this period he and Laycock shared a desk at Burwood Police Station.<sup>89</sup>
- 9.2 After he left NSW Police, Roberts maintained contact with Laycock and in fact attempted to establish a business venture with him. The business venture was not successful and during 2003 Laycock and Roberts had a falling out over some financial matters. Despite the falling out, in late 2003, Roberts re-established contact with Laycock. He said that he “... *wanted to be friends with him again*”.<sup>90</sup> In mid-2004, Roberts sought re-employment with NSW Police.
- 9.3 Detective Sergeant Charles Khalifeh (Khalifeh) was also stationed at Burwood during 2004 and was a friend of Laycock. Khalifeh was also a friend of Roberts. He was aware that Roberts was attempting to gain readmission to NSW Police. Khalifeh became aware that a senior officer within the Burwood Police Station had made adverse comments in a report that officer had prepared assessing Robert’s suitability for re-entry into NSW Police, and Khalifeh drew Laycock’s attention to the report.
- 9.4 At first Laycock would not admit to the Commission that Khalifeh had shown him the report, and said that there was general talk around the office about Roberts and the report. However he eventually admitted that Khalifeh had informed him about the report, and that as a consequence of receiving that information, Laycock had looked at the report and taken a copy of it.<sup>91</sup>
- 9.5 Laycock subsequently had some discussions with Roberts. The first discussion, during a telephone call on 28 July 2004 at 7.38 a.m., included the following exchange:<sup>92</sup>
- Laycock: Oh, yeah, yeah, yeah. I bloody um, I walked in and anyway I was smarting to bloody Charlie and Charlie’s bloody pointed me out to ah, X’s desk.
- Roberts: Yeah.
- Laycock: And there’s this, guess what they’ve given X? A report, about um, you know your
- Roberts: Yeah?

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<sup>89</sup> PIC Exhibit 113 - PIC Transcript, J Roberts, 13 October 2004, pp. 4-5

<sup>90</sup> PIC Exhibit 113 - PIC Transcript, J Roberts, 13 October 2004, pp. 5-8

<sup>91</sup> PIC Transcript, CJ Laycock, 14 October 2004, pp. 252-253

<sup>92</sup> PIC Exhibits 109 & 110

Laycock: and he's fuckin' bagged the shit outta ya mate, big time.

Roberts: Has he?

Laycock: Yep, big time.

Roberts: How did he get it out of that? How did he get that?

Laycock: Oh, they gave it to him, obviously Recruiting sent it to him.

Roberts: Fair dinkum?

Laycock: Yeah.

Roberts: Mm 'kay alright.

Laycock: Fuckin' hell. But um, he's gone right into it the fuckin' prick.

Roberts: Like into what? What'd he say?

Laycock: Oh just, th- you've gotta address attitude, um work performance and all these other things.

After listening to this call Laycock agreed, in evidence, that the discussion related to the report on the officer's desk that Khalifeh had pointed out to him, and that he took a copy of it.<sup>93</sup>

- 9.6 On 3 August 2004 Laycock met with Roberts and Khalifeh at the Bar Mona Lisa at Burwood. Laycock admitted that he took a copy of the report to the meeting and while there allowed Roberts to read it. Just prior to the meeting, at 8.14 a.m., Laycock and Roberts had another telephone conversation during which Laycock said, *"I don't know how um the other fellow is placed with that um, that material I've got, you know what I mean? I don't want to sort of, in front of him"*.<sup>94</sup> Roberts then reassured Laycock that *"...he'd be alright"*. Laycock agreed that in this conversation he was expressing concern that if he brought the report to the planned meeting Khalifeh might be anxious about it but that Roberts had reassured him that Khalifeh would be *"alright"*.<sup>95</sup>

## KHALIFEH'S EVIDENCE

- 9.7 When he first gave evidence, on 13 October 2004, about this incident Khalifeh claimed he could not remember the meeting at the coffee shop on that particular day but conceded that it was possible that he had met with Laycock and Roberts there on that day. He said that he did not have any official police documents with him and could not remember if Laycock had such documents. He also said that he could not access Roberts' personal files so could not have provided any information to him. However he thought Laycock had told Roberts that a report advising against his re-entry into NSW

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<sup>93</sup> PIC Transcript, CJ Laycock, 14 October 2004, p. 255

<sup>94</sup> PIC Exhibits 111 & 112

<sup>95</sup> PIC Transcript, CJ Laycock, 14 October 2004, pp. 254-256

Police had been submitted.<sup>96</sup> This evidence is at odds with Roberts' evidence which is set out below.

- 9.8 Khalifeh gave evidence a second time on the following day, 14 October 2004. On that occasion, after much pressing, Khalifeh acknowledged that he had spoken with Laycock about the report. He said that it was common knowledge at Burwood Police Station that the report had been prepared and that it was adverse to Roberts. His evidence was as follows:<sup>97</sup>

Q: Did you or did you not draw to Laycock's attention the fact that an adverse report had been prepared by ...?

A: I didn't draw it to his attention. I spoke to him about it, but he obviously knew before that.

- 9.9 Khalifeh agreed he had met with Laycock and Roberts at the Bar Mona Lisa coffee lounge on 3 August 2004 but denied that he had provided any information to Roberts that could only have been obtained by accessing his personal files. He said he did not know if Laycock had provided any such information and that he wasn't present for the entire meeting between Laycock and Roberts. He agreed that Laycock had a copy of the report with him at the meeting. When reminded that on the previous occasion he had given evidence he had said that he couldn't remember if Laycock had any official police documents with him, Khalifeh said that it was only "*in hindsight*" after he had "*... reflected on it a bit further*" that he recognised that the document was an official police document.<sup>98</sup>

## ROBERTS' EVIDENCE

- 9.10 Roberts readily admitted to having had dealings with Laycock about his return to NSW Police, to having telephoned Khalifeh about it, and to having met with Laycock and Khalifeh in Burwood for the purpose of reviewing the report that they had obtained. Roberts said that it was Laycock who had obtained the report, but that they had all looked at the document while at the coffee shop, and that there was no doubt in his mind that Khalifeh knew what they were looking at. Roberts also said that although he did not know how Laycock had obtained the report he knew it was a document he was not supposed to have.<sup>99</sup>
- 9.11 Roberts was asked about the conversation he had with Laycock on 3 August 2004 prior to the meeting in the coffee shop.<sup>100</sup> He agreed that Laycock's comment about "*... that material I've got ...*" was a reference to the report, and the reference to the "*other fellow*" was a reference to Khalifeh. In the conversation Roberts reassured Laycock that he need not worry because Khalifeh would "*be alright*". Roberts gave the following explanation as the basis for his view of Khalifeh:<sup>101</sup>

<sup>96</sup> PIC Exhibit 114 - PIC Transcript, C Khalifeh, 13 October 2004, pp. 6-7

<sup>97</sup> PIC Transcript, C Khalifeh, 14 October 2004, pp. 261-262

<sup>98</sup> PIC Transcript, C Khalifeh, 14 October 2004, pp. 262-264

<sup>99</sup> PIC Exhibit 113 - PIC Transcript, J Roberts, 13 October 2004, pp. 8-9

<sup>100</sup> PIC Exhibits 111 & 112

<sup>101</sup> PIC Exhibit 113 - PIC Transcript, J Roberts, 13 October 2004, pp. 10-12

## 9. SUPPLY OF POLICE RECORDS / INFORMATION

The Commissioner:

Q: Mr Roberts, how did you come to the view that Mr Khalifeh would be okay, if I can use those terms?

A: I know Charlie just to be a good bloke, all-round guy.

Q: But isn't it the case that you were talking about disclosing an official document in a way that wasn't proper?

A: Yes, sir.

Q: You were comfortable that he wouldn't be bothered by that?

A: Yes, sir.

Q: There were no events in your history with him that gave you that comfort, anything in particular?

A: No, just a good all-round bloke, sir.

## 10. EXTORTION – OPERATION AUXIN

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- 10.1 In April 2004 the Australian Federal Police Australian High Tech Crime Centre (AHTCC) launched an Australia-wide investigation into a large number of persons suspected of involvement in the downloading and possession of child pornographic images. The investigation was codenamed Operation Auxin. The investigation stemmed from inquiries conducted by the US Customs Service in early 2004 into a Russian organised crime network involved in the commercial sale of such images.
- 10.2 In July 2004 the AHTCC coordinated with all State and Territory police agencies for the simultaneous execution of search warrants on persons of interest to Operation Auxin. Each police agency received a dossier detailing the persons to be searched within that State or Territory.
- 10.3 The NSW Police Child Protection and Sex Crimes Squad (CPSCS) took carriage of the coordination of the execution of these search warrants within New South Wales. Briefings were held with the representatives of each Local Area Command (LAC) who were to take responsibility for the execution of search warrants within their LAC.
- 10.4 Laycock gave evidence that, as part of his police duties, he attended a briefing conducted by the CPSCS at the Parramatta Police Centre. He was supplied with information on each person of interest within the Burwood LAC.<sup>102</sup>
- 10.5 The search warrants in relation to the persons of interest in the Burwood LAC were to be executed on Monday 27 September 2004. Early in the morning of Friday 24 September 2004 Laycock, together with Hopes, went to the home of one of the persons of interest where they represented themselves as police officers. They advised this suspect that he was being investigated, that a search warrant was to be executed at his premises on the following Monday, that he should remove any incriminating material from his computer's hard drive, and that he should destroy his credit cards. During the conversation they solicited money from him for the information they had provided. It was agreed that he would pay \$4000 and arrangements were made for payment.<sup>103</sup>
- 10.6 Later that morning the suspect withdrew \$3900 from his bank accounts and then met with Laycock and Hopes as had been arranged. At the meeting the money was handed to Laycock and Hopes and, on receipt of the money Laycock provided him with further information including the proposed timing of the execution of the search warrant of his house and details of the officer in charge. He was also given advice on how to conduct himself when

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<sup>102</sup> PIC Transcript, CJ Laycock, 8 October 2004, pp. 31-32

<sup>103</sup> PIC Exhibit 139C, PIC Transcript, CJ Laycock, 8 October 2004, pp. 46-47

interviewed and instructed that, if he was taken in for questioning and he saw Hopes or Laycock, he was not to indicate that he knew them.<sup>104</sup>

10.7 At 6.30 a.m. on Monday 27 September 2004 personnel from Burwood Police Station executed a search warrant at the suspect's home address. A laptop computer was seized and later examined, however, no evidence of child pornographic images was located. The suspect was not charged with any offences.

10.8 Laycock admitted extorting money from this suspect as set out above. He gave the following evidence.<sup>105</sup>

Q: Can I suggest to you that one of the stamps or stamping episodes occurred as recently as 24 September?

A: Can you give me a location?

Q: Let me tell you a little bit more about it, and it will certainly, I suggest, jog your memory. The person involved had something to do with Operation Auxin?

A: I remember that; yes.

Q: I beg your pardon?

A: I do remember that; yes.

Q: You had obtained information, had you not, as to likely police targets?

A: Yes.

Q: Likely police targets who may be in possession of child pornography?

A: Yes.

Q: In relation to one such individual you and Mr Hopes went out and stamped him for about \$3,900; isn't that right?

A: Yes.

Q: You advised him that his premises were going to be the subject of a search warrant?

A: Yes.

Q: You went out there on the Friday and the search, as you understood it, was to take place on the Monday; isn't that right?

A: I think so; yes.

Q: That was to give him an opportunity to get rid of anything on his hard drive which might be incriminating?

A: I think so, yes.

Q: Did you give him some advice about his credit card?

A: I may have done. I really can't recall our exact conversation, but I do recall speaking to him; yes.

10.9 Laycock also admitted that he had been to the briefing in relation to Operation Auxin,<sup>106</sup> that he obtained the information and targeted this person

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<sup>104</sup> PIC Exhibit 139C

<sup>105</sup> PIC Transcript, CJ Laycock, 8 October 2004, pp. 46-47

<sup>106</sup> PIC Transcript, CJ Laycock, 8 October 2004, p. 31

by reference to official police records,<sup>107</sup> and that Hopes had accompanied him and assisted him in taking the money.<sup>108</sup>

- 10.10 There is further admissible evidence against both Laycock and Hopes. The suspect provided evidence to the Commission that confirms the fact of the extortion, the identities of those who perpetrated it, and the amount that was paid.<sup>109</sup> He confirmed that both Hopes and Laycock represented to him that they were police officers. Hopes was not, and has never been a serving NSW Police officer.

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<sup>107</sup> PIC Transcript, CJ Laycock, 7 December 2004, p. 317

<sup>108</sup> PIC Transcript, CJ Laycock, 7 December 2004, p. 305

<sup>109</sup> PIC Exhibits 139C and 140C





## 11. AGREEMENT TO EXTORT MONEY

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11.1 The initial contact between Laycock and Shagaev concerned the request for assistance by Shagaev in relation to his friend, Mr Y, (see Chapter 8 above). From late August 2004 however, Laycock and Shagaev, together with CB3, an associate of Shagaev, began to develop plans to extort money from a number of persons. The most developed plans were made in relation to an alleged drug dealer, known to the Commission and identified as Mr Z in this Report, and an Asian woman residing in the Homebush area.

11.2 There is some ambiguity in the evidence as to whether the arrangement involved the kidnapping of the Asian woman, and the kidnapping of Mr Z (and/or his family). On any view, however, what was proposed involved the extortion of money, accompanied with at least the threat of violence, and/or criminal charges. From the evidence of CB3, and lawfully recorded telephone conversations between Laycock, Shagaev and Chris Walker, (both discussed below), the proposed extortion was to take place on 28 September 2004. The extortion attempt did not go ahead, however, because on that day Laycock was served with a summons to appear at the Commission, as a means of preventing this serious offence taking place.

11.3 Laycock gave the following evidence, in Private Session, in relation to the proposal concerning Mr Z and the extortion of money:<sup>110</sup>

There was talk between Dunks, David and I to grab this fellow, in those exact terms, "We'll grab this fellow and try and coerce out – find out where his money is," and that's it. Now, I never gave the details to this Russian fellow about Mr Z. I think I gave a general thing – he lives down at, whatever it was, Chiswick, and that's it. I think I spoke to him about it, but nothing was ever done about it.

11.4 On his own admission, there was little doubt that the proposal might involve kidnapping Mr Z. He gave the following evidence:<sup>111</sup>

Q: What was it you were proposing to do?

A: Well, there was talk about grabbing Mr Z and – and the details weren't discussed – grabbing him and somehow, yeah, as you said, trying to get money out of him.

Q: Kidnapping him?

A: Well, kidnapping him, yeah. That was one of the options that was put to me.

Q: During that period of time, did you also consider doing the same thing to an Asian woman in Burwood or Concord?

A: No. I know – you've crossed it up, sorry.

Q: Well you help us out now. It's your turn.

A: It's two totally separate things.

Q: Tell me about that?

<sup>110</sup> PIC Exhibit 134C - PIC Transcript, CJ Laycock, 8 October 2004, p. 16

<sup>111</sup> PIC Exhibit 134C - PIC Transcript, CJ Laycock, 8 October 2004, p. 17

A: Okay, what I've told you about Mr Z is honestly all I know. There was talk between – talk between Dunks, David and I, something that I'd mentioned to that Russian fellow in very general terms, "Oh, look, I know this bloke." You know – I'm just trying to remember now. "I know this fellow who's involved in a big syndicate," or whatever it is. And I think we did discuss, and I'll use the words "grab him", grabbing hold of him somehow. As I just said, trying to extort money out of him. Sorry, the second one was an Asian female who was involved in large scale fraud, or immigration scam, and I think I was to meet the Russian, that fellow that I was – sorry, that day. I met the Russian fellow – it was proposed that I meet the Russian fellow the day that I was served with the summons to discuss that. I don't know whether it was mentioned that we'd abduct her. I think it was just a matter of approaching her. That's what I think you're referring to.

Q: But is it consistent with your recollection that on the day that you were served with your summons ...?

A: Yes.

Q: ... the Russian was out there waiting to do the job, but you didn't front?

A: Yeah. I was supposed to meet him that day.

11.5 At first Laycock claimed that he had proposed to meet Shagaev on the day upon which he was served with his summons (28 September 2004) "*to discuss ... what was going to happen*" and he resisted the suggestion that he and Shagaev were meeting on that day to actually carry out the proposed extortion of money from the Asian woman. He later conceded however that that was the purpose of the meeting that day. He said:<sup>112</sup>

Q: Wasn't the Russian and his associates waiting at a restaurant or a café for you to turn up?

A: Yes.

Q: That was for the purpose, you say, of making an approach to this Asian woman ...?

A: Yes.

Q: ... to extort money out of her?

A: Yes.

11.6 When asked why he involved Shagaev and his associate (CB3), Laycock said:<sup>113</sup>

Just heads, just numbers, and the fact that I really didn't want to put my head on show. The availability of David, who was overseas at the time.

11.7 In the public hearing, Laycock was far less precise in relation to the nature of the arrangements that had been struck with Shagaev. For example, he gave the following evidence:<sup>114</sup>

Q: You in fact endeavoured to enlist his assistance to extort money from people, did you not?

A: We discussed a lot of things. That may have been what I said to him.

<sup>112</sup> PIC Exhibit 134C - PIC Transcript, CJ Laycock, 8 October 2004, pp. 18-19

<sup>113</sup> PIC Exhibit 134C - PIC Transcript, CJ Laycock, 8 October 2004, p. 19

<sup>114</sup> PIC Transcript, CJ Laycock, 8 October 2004, pp. 103-104

Q: Can I suggest to you that on a number of occasions you endeavoured to enlist his assistance and the assistance of his associates to extort money from individuals?

A: On a number of occasions I may have spoken to him and I might have said that to him.

Q: What you were endeavouring for him to do was to participate in what you had done in the past - that is, to extort money out of individuals in the way that you have described in your evidence?

A: What I endeavoured to do?

Q: Yes. You were trying to get him on board?

A: As I said, I don't recall precise conversations. I know a lot of it was just rubbish talk. But that is quite possible.

Q: You know it is the truth, don't you?

A: As I said, it is quite possible.

11.8 Later in his public evidence Laycock moved further away from his earlier testimony about his arrangements with Shagaev and claimed, "*There was no real proposal. There was no plans or anything*".<sup>115</sup> He said that there were no "... arrangements ..." to extort money from the Asian woman on 28 September 2004 and that it was "... just all talk at that stage".<sup>116</sup> When questioned further about the details of what was to happen on 28 September 2004 when he, Shagaev and CB3 met, Laycock said there was only "... an arrangement to meet" and "... perhaps engage in discussions".<sup>117</sup>

11.9 Inquiries with NSW Police have identified the possible victim referred to as "the Asian woman". Records show that Laycock accessed the details of that woman on the COPS system. This is consistent with the methods employed by Laycock whereby he used legitimate information gained from the NSW Police database to facilitate his illegal activities.

11.10 The evidence given by Laycock in relation to this incident, that there were no definite plans and it was just talk between himself and Shagaev, is not consistent with the recordings of lawfully recorded telephone conversations between him and Shagaev, or the evidence of other witnesses.

## CB3'S EVIDENCE

11.11 CB3 is an associate of Shagaev. At the time of these events they both worked as security guards. CB3 gave evidence of his association with Shagaev and his involvement in proposals to extort money. He said he had known Shagaev for some years but had re-established contact in early 2004. CB3 gave evidence that initially Shagaev:<sup>118</sup>

... wanted me to sort of give him some personal security, because he was alluding to the fact that he was in businesses that weren't legal, and that he might require some personal looking after ...

<sup>115</sup> PIC Transcript, CJ Laycock, 8 October 2004, p. 106

<sup>116</sup> PIC Transcript, CJ Laycock, 8 October 2004, p. 107

<sup>117</sup> PIC Transcript, CJ Laycock, 8 October 2004, p. 108

<sup>118</sup> PIC Transcript, CB3, 11 October 2004, p. 111

## 11. AGREEMENT TO EXTORT MONEY

### 11.12 CB3 went on to say that:<sup>119</sup>

He then began offering certain tasks, if you will, to me which he had been given by his – what he called his contact, or his boy.

Although CB3 did not ever meet with Laycock, Shagaev informed him that he had a contact known as “*his boy*” who was a police officer in the Burwood region. The Commission is satisfied that this contact was Laycock.

### 11.13 According to CB3, he was recruited to assist in relation to three particular proposals, all of which related to the planned extortion of money.<sup>120</sup> There were three separate targets under consideration. One was an elderly man who allegedly had a large amount of money buried in his backyard, the second was Mr Z and another drug dealer, and the third was an Asian woman allegedly involved in large-scale immigration fraud.

### 11.14 CB3 gave evidence that the proposals involved kidnapping, and or violence, if necessary. In reply to a question about how they were to obtain information from the elderly man about where the money was hidden, he said “... *the idea was to scare him into doing it ...*”, and that it was possible the man would be forcibly taken to the address. In reply to a question about whether violence would be used CB3 said, “*I guess that was the implication behind the matter, sir.*”<sup>121</sup>

### 11.15 CB3 agreed that in early to mid-September 2004 there were two possibilities as to what would occur on 28 September 2004. One possibility was to extort money from the drug dealers and the second was to extort money from the Asian woman. Finally, a decision was made that the Asian woman would be targeted.<sup>122</sup>

### 11.16 The extortion job did not go ahead and Shagaev ultimately informed CB3 that his “*boy*” (Laycock) had been “*arrested*” or “*summonsed*” just prior to the time at which the extortion was supposed to take place on 28 September 2004.<sup>123</sup> CB3 gave the following evidence in relation to the events of 28 September 2004:<sup>124</sup>

Basically, we were informed that there was a couple who were involved in serious fraud; they had been sort of being watched. I then got told that the FBI were out here after them as well. The truth of that I don’t know. Basically, they had – they were supposedly to have large amounts of money stockpiled on their premises, which I was unaware of up until the last minute of the actual address. Now, when – to be honest with you, I wanted to get out of this before it even went down, but basically what happened is just as we were heading off for Jahangir [Shagaev] to meet up with his contact, he then informed that he wanted to send another guy in with us, who would be carrying a badge, some form of fake warrant and a pistol. I was informed it would be something along the lines of a Glock 9mm. I’m not 100 per cent sure. That’s all I was informed of.

<sup>119</sup> PIC Transcript, CB3, 11 October 2004, p. 111

<sup>120</sup> PIC Transcript, CB3, 11 October 2004, pp. 111-113

<sup>121</sup> PIC Transcript, CB3, 11 October 2004, p. 113

<sup>122</sup> PIC Transcript, CB3, 11 October 2004, pp. 118-119

<sup>123</sup> PIC Transcript, CB3, 11 October 2004, p. 127

<sup>124</sup> PIC Transcript, CB3, 11 October 2004, pp. 114-115

Then I also heard – was sort of being informed that his actual main contact wanted to come along as well, and when this started to reveal – because I didn't want anything to do with it from the beginning, and having that sort of bring into the whole situation really sort of scared me, scared the life out of me, basically. Jahangir went down to meet up with his contact. I waited in the car at the time. I went down, grabbed the coffee, walked back to the car, waited there for 15, 20 minutes, moved back down along the road, not knowing where Jahangir actually was meeting his contact, because I didn't want anything to do with it.

I then received the call from Jahangir saying he had seen me walking past. I then moved into a position where I could just see Jahangir from where I was standing. I waited there for approximately 45 minutes. Nothing happened. I said, "I'm going home", and got in the car. Then Jahangir received a call from the PIC officers.

## THE TELEPHONE INTERCEPTS

### SHAGAEV'S EVIDENCE

11.17 Shagaev also played down his role in the arrangements. His endeavour to minimise his role was inconsistent with the recordings of telephone conversations between him, CB3, Laycock and Chris Walker. He claimed that he had spoken to Laycock concerning certain "... *Asian fraudsters* ..." who were "... *ripping people off in some immigration scam* ...". He admitted, "*There was talk of going to get the money* ...". Although he agreed that the extortion of money from the "*Asian fraudsters*" was to take place on Tuesday, 28 September 2004, he claimed that on that day he had turned up to meet with Laycock "... *to tell him I don't want to do it*". He also agreed that there had been two potential targets, namely, Mr Z and the "*Asian fraudsters*" but by the afternoon of Tuesday 28 September 2004, the target had been narrowed to the "*Asian fraudsters*".<sup>125</sup>

11.18 The selection of the "*Asian fraudsters*" as the targets for the extortion of money appears to have been agreed upon during a series of meetings and telephone conversations. For example, on Monday 13 September 2004 at 5.44 p.m., Laycock telephoned Shagaev and the conversation included the following exchange:<sup>126</sup>

Shagaev:	Um, alright ah okay we're gonna wait until the twenty-ninth.
Laycock:	Yep.
Shagaev:	Okay. And, well, it's we're interested in (ui) one of the other things we talked about.
Laycock:	Yeah, okay,
Shagaev:	Ah,
Laycock:	not a problem.

<sup>125</sup> PIC Transcript, J Shagaev, 12 October 2004, pp. 150-152

<sup>126</sup> PIC Exhibits 65 & 66

- 11.19 According to Shagaev, the reference to waiting until “*the 29<sup>th</sup>*” was a reference to “... *the Asian people*”. The reference to “*one of the other things we talked about*” was, according to Shagaev, a reference to Mr Z. Later in that telephone call Shagaev and Laycock arranged to meet. Shagaev confirmed that at the meeting they discussed both possibilities for the job.<sup>127</sup>
- 11.20 In the week that followed, Shagaev and CB3 drove past Mr Z’s property.<sup>128</sup> This was confirmed in a telephone conversation between Shagaev and Laycock on Thursday 16 September 2004.<sup>129</sup> It would seem that Shagaev was being untruthful in the telephone conversation and the “*drive by*” did not in fact occur until around 20 September 2004 or, alternatively, CB3 and Shagaev went to the property on a second occasion.<sup>130</sup>

## THE MAGIC KEY

- 11.21 One feature of both the proposed extortions, from the Asian woman and from Mr Z, was the use of false police identification, which was to be provided by Chris Walker. There are a number of telephone discussions between Shagaev and Chris Walker referring to a “*magic key*”. According to Shagaev, the “*magic key*” was a locksmith’s tool that could be used to pick locks.<sup>131</sup> CB3 gave evidence that in his telephone discussions with Shagaev where he referred to “*the little bits and pieces*” and the “*magic key*”, he believed that these were references to a “*badge and warrant*” which Shagaev had informed him would be provided.<sup>132</sup>
- 11.22 Although it is possible that Shagaev believed that Chris Walker would be supplying some form of locksmith’s tool, Chris Walker was clearly contemplating the provision of police identification. On Saturday 25 September 2004 at 5.36 p.m., Shagaev and Chris Walker had a conversation which included the following exchange:<sup>133</sup>

Shagaev: Now listen, a bit on, on the other agenda I – I

Chris Walker: Yep.

Shagaev: need to get, I need to get my hands on that, like, within twenty-four hours.

Chris Walker: Yeah, the little black p -, a little black thing, with the card you’re talking about?

Shagaev: The, the, the, the magic key.

Chris Walker: Oh alright, okay. Yeah righto well I’ll have to bloody well ah, you know I was looking for it the other day, I know where it is, I think.

<sup>127</sup> PIC Transcript, J Shagaev, 12 October 2004, pp. 165-166

<sup>128</sup> PIC Transcript, J Shagaev, 12 October 2004, p. 167

<sup>129</sup> PIC Exhibits 67 & 68

<sup>130</sup> PIC Transcript, J Shagaev, 12 October 2004, p. 169, Exhibits 71C & 72B

<sup>131</sup> PIC Transcript, J Shagaev, 12 October 2004, p. 170

<sup>132</sup> PIC Transcript, CB3, 11 October 2004, pp. 123-125

<sup>133</sup> PIC Exhibits 81 & 82

11.23 It should be noted that later in the conversation Shagaev inquired of Chris Walker whether he had “... *the powder for it or not?*” which is at least consistent with Shagaev’s claim that he understood that to use a locksmith’s tool he needed graphite powder.<sup>134</sup> Chris Walker’s response to Shagaev’s question about the powder however appears to indicate that he is confused about what Shagaev had requested:<sup>135</sup>

Shagaev: Have, have you got the powder for it or not?  
 Chris Walker: Ah, the what? No I d-, um, eh? The pow-, powder?  
 Shagaev: Yeah because, oh fuck, um  
 Chris Walker: Can’t say too much on the phone.

11.24 Nevertheless, it would appear that, regardless of whether he was also supplying a locksmith’s tool, Chris Walker believed that he would be supplying police identification. On Sunday 26 September 2004 at 2.23 p.m., Shagaev and Chris Walker had a conversation which included the following:<sup>136</sup>

Chris Walker: Did you see the other bloke, did ya?  
 Shagaev: Oh no, he wants, he wants to do it tomorrow.  
 Chris Walker: Yeah.  
 Shagaev: tomorrow morning.  
 Chris Walker: Yeah just, ah, fucking thing – clicking noise – just opening up, ah yeah got it. I’ve got um  
 Shagaev: You’ve got it?  
 Chris Walker: Got the keys, yeah.  
 Shagaev: Oh beautiful. Is it, is it on you now?  
 Chris Walker: I’ve got, no um, no other information apart from the solid part, you know what I mean? The solid part of it?  
 Shagaev: Ah  
 Chris Walker: The other paperwork you’ll have to, you know?  
 Shagaev: Yeah, the use? Or what you want to?  
 Chris Walker: Yeah the, yeah the bloke with the (ui), you know the, I – I, my – the ah particulars aren’t there but the um silver thing is you know?  
 Shagaev: Alright?

11.25 It is reasonable to draw the inference from this conversation that Chris Walker was proposing to supply Shagaev with a police badge but any written identification to accompany it would have to be made up by Shagaev. The conversation continued, as follows:<sup>137</sup>

Shagaev: You’ve only got par –, part of it, or?

<sup>134</sup> PIC Transcript, J Shagaev, 12 October 2004, p. 177

<sup>135</sup> PIC Exhibits 81 & 82

<sup>136</sup> PIC Exhibits 87 & 88

<sup>137</sup> PIC Exhibits 87 & 88



## 11. AGREEMENT TO EXTORT MONEY

Chris Walker: Part of it's there, yeah. The main part of it.

Shagaev: The main part is it?

Chris Walker: Mm.

Shagaev: Is it useful?

Chris Walker: Oh well y – you, as long as you don't show the other part of it, that's all.

Shagaev: As long as you what?

Chris Walker: Well the other part of it has to be made up, you know what I mean, to suit who, you know? To suit the user, it's a user-friendly thing.

Shagaev: Oh, user-friendly is it?

Chris Walker: Yeah, well you know you can't have, you can't have ah, ah, me there for instance, you know?

Shagaev: Yeah (ui)

Chris Walker: Be a bit silly, wouldn't it?

Shagaev: Yeah, yeah, yeah, yeah, yeah.

Chris Walker: You know what I mean?

Shagaev: Will we be able to use it?

Chris Walker: Well the one side of it, ye-, you know the prop -, the, yeah.

Shagaev: We can use it, huh?

Chris Walker: Well, you only have to show one thing, don't ya? You only have to get in one way, don't you, with the key?

Shagaev: Yeah, one way.

Chris Walker: There's two sides but you only need one. (ui)

11.26 The Commission is satisfied that what Chris Walker was discussing was presentation of a police badge to the occupants of the property where the job would be carried out. In evidence Chris Walker did not dispute this, in fact when he was played the call referred to above<sup>138</sup> he admitted that he was referring to a police identification. He claimed however not to have such identification, or knowledge of why it was needed, and to have had no intention of giving any police identification to Shagaev. Use of police identification is also consistent with the manner in which Laycock and Chris Walker had carried out jobs in the past.

## PLANNING FOR THE EXTORTION ATTEMPT ON 28 SEPTEMBER 2004

11.27 On Saturday 25 September 2004, Shagaev and Laycock had a discussion during which it was agreed that the job concerning the Asian woman would

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<sup>138</sup> PIC Exhibits 87 & 88

be “*brought forward*”. The conversation, which occurred at 5.34 p.m., included the following exchange:<sup>139</sup>

Laycock: Listen, jus – just very shortly.  
 Shagaev: Yeah.  
 Laycock: that um thing that we had planned for later on,  
 Shagaev: Yeah.  
 Laycock: um that has to be brought forward  
 Shagaev: (ui) I thought  
 Laycock: as in  
 Shagaev: (unintelligible).  
 Laycock: (ui) mate maybe tomorrow, maybe tomorrow or the next day.  
 Shagaev: Tomorrow yeah?  
 Laycock: Yeah because there’s a problem.  
 Shagaev: You got some intel or?  
 Laycock: No, no worse er anyway, I – I won’t speak on the phone but  
 Shagaev: Alright, alright, alright.  
 Laycock: I’ll ring you at 12 tomorrow.

11.28 Shagaev agreed that the matter that had to be brought forward was the job concerning the “... *Asian people*”. He claimed that the “*problem*” which had been identified by Laycock was that the “... *FBI were after these people*” and “... *they wanted her before the 29<sup>th</sup>, I think*”.<sup>140</sup>

11.29 Shagaev confirmed this change of plan with CB3 during the course of a telephone call on Sunday 26 September 2004 at 12.47 p.m. The conversation included the following exchange:<sup>141</sup>

Shagaev: Well (ui) there’s a couple of things that I need to tell you.  
 CB3: Alright.  
 Shagaev: A slight change of plan for the other one we were gonna look at  
 CB3: Asians?  
 Shagaev: There’s a, there’s a little problem there, yeah.  
 CB3: Oh okay. Um.  
 Shagaev: And plus, we’ve got to get set. Are we still on the same track for, for our date, chosen date?  
 CB3: Ah well, as long as you’ve got all the um little bits and pieces, um.

<sup>139</sup> PIC Exhibits 79 & 80

<sup>140</sup> PIC Transcript, J Shagaev, 12 October 2004, pp.175-176

<sup>141</sup> PIC Exhibits 50 & 51B

## 11. AGREEMENT TO EXTORT MONEY

Shagaev: Yeah, probably by tomorrow morning. He's having trouble locating it.

11.30 On Sunday 26 September 2004 at 1.50 p.m., Laycock and Shagaev had a conversation confirming that the job concerning the Asian woman would take place on Tuesday 28 September 2004. The conversation included the following exchange:<sup>142</sup>

Shagaev: What about Tuesday then, 'cause

Laycock: Mi – might have to, might have to roll with it on Tuesday at the latest, do you know what I'm saying?

Shagaev: Oh alright, well OK, well what about then we'll hook up tomorrow before midday?

Laycock: Yeah, alright, that sounds good.

11.31 Shagaev agreed in evidence that it was his understanding the job would go ahead on Tuesday 28 September 2004. His evidence was as follows:<sup>143</sup>

Q: Now, Tuesday was the 28<sup>th</sup>?

A: Yes.

Q: Tuesday was, of course, when it all fell through?

A: Yes.

Q: But was it your understanding, up to that point – that is, the 28<sup>th</sup> – that the job would go ahead on the Tuesday?

A: That was my understanding.

11.32 On Monday 27 September 2004 at 12.40 p.m., Shagaev had a telephone conversation with CB3 during which he confirmed that he had received “... *a time, a place, a date and got an address*”.<sup>144</sup>

11.33 Shagaev confirmed that by 12.40 p.m. on Monday 27 September 2004, he had been given the relevant particulars. His evidence was as follows:<sup>145</sup>

Q: Do you agree it sounds like at that point – that is, at 12.40 on 27 September – you had in your possession particulars of at least the date upon which it was going to happen and the address?

A: Well, what do you mean “in my possession”? I didn't have anything written down as such.

Q: Well, in your head?

A: But in my head I had certain particulars, yes.

Q: I don't want you to give me an exact address, but did you have a suburb at which this was going to happen?

A: There was a suburb, yes.

Q: Where was that?

A: I believe it was Homebush.

Q: Had that information been provided to you by anyone?

A: Sorry?

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<sup>142</sup> PIC Exhibits 85 & 86

<sup>143</sup> PIC Transcript, J Shagaev, 12 October 2001, p. 181

<sup>144</sup> PIC Exhibits 52C & 53B

<sup>145</sup> PIC Transcript, J Shagaev, 12 October 2001, pp. 185-186

Q: Who had supplied that information to you?

A: Well, actually, it was by Peter [i.e. Laycock], and he said a place called Liberty Grove, and I assume the only Liberty Grove I knew was Homebush. I can't recall Peter saying, "Yeah, it's at Homebush".

Q: Okay. Did he give you a particular street number at Liberty Grove?

A: No, no.

11.34 On Tuesday 28 September 2004 at 12.10 p.m., Shagaev had a final conversation with Laycock. The telephone call was made by Laycock and included the following exchange:<sup>146</sup>

Laycock: Um, you still right for five?

Shagaev: We're on?

Laycock: Yeah, are you still right for five o'clock?

Shagaev: Yeah, I'm just waiting for your call.

Laycock: Yep, alright, yep. Not a problem, I'll

Shagaev: Just two, two quick things, (ui) quickly.

Laycock: Sorry, yep.

Shagaev: Just two quick things.

Laycock: Yes.

Shagaev: Um, ve – vehicle?

Laycock: Yeah, not a problem.

Shagaev: And the other thing, my friend um

Laycock: Yep.

Shagaev: is not really comfortable meeting with you, you know what I mean?

Laycock: Um, ooh.

Shagaev: He's comfortable with meeting your friend.

Laycock: Yes.

Shagaev: But not you.

Laycock: Okay

11.35 Shagaev confirmed that by this time he understood the job would be carried out by him, CB3 and another person sent there by Laycock. Laycock had agreed to meet him at a coffee shop in Burwood at 5.00 p.m. The reference to "*your friend*" was a reference to the person who was supposed to carry out the job with CB3 and Shagaev. The identity of that person has not been established although it may have been Hopes.<sup>147</sup>

11.36 By 5.00 p.m., Laycock had been served with his summons, to appear before the Commission, and the planned activity did not proceed.<sup>148</sup> The

<sup>146</sup> PIC Exhibits 89 & 90

<sup>147</sup> PIC Transcript, J Shagaev, 12 October 2004, pp. 186-188

<sup>148</sup> See also paragraphs 11.2 and 11.16

Commission deliberately intervened to prevent the commission of this serious offence, which contemplated the use of violence or kidnapping, from taking place.

11.37 That Hopes was to have some involvement in the activity of Tuesday 28 September 2004 was confirmed by certain discussions he had with Dunks, who gave the following evidence:<sup>149</sup>

Q: All right. Tell us as best you can what he [Hopes] told you was going to happen?

A: He come to my house. He just started out these conversations. To me, I wasn't involved. I didn't want to get involved with it. He said to me, "two things are going to happen today". He said ...

Q: Can I just stop you there, please.

A: Yes.

Q: I don't want you to mention any names.

A: Right.

Q: Just give us, as best you can, what he said, omitting the names.

A: Right. He was just talking. Half of the time he was just talking in riddles. I couldn't understand him most of the time. But he said there was a family going to be grabbed, taken away by Russian – Russian people, and wherever they've got the money, they'll make them talk to get the money from these people?

Q: All right. Did he indicate to you that there were other people who were going to be involved, apart from him and the Russian?

A: He said himself and Chris are going along in the van to make sure that he gets the money.

Q: Now, again I want to make it clear I don't want you to name any names, but did he tell you something that led you to believe that the family concerned were the family of an alleged major drug dealer?

A: Yes.

Q: At some point either at that time or later did he say anything to you which indicated to you that the plan had changed?

A: Yes.

Q: How much later was that?

A: The same day he told me.

Q: All right. Do you recall what day it was?

A: I'm not sure. I think it was the day before I got the summons.

Q: That would have been the 27<sup>th</sup>?

A: I think – I'm not sure.

Q: The day before you got the summons?

A: Yes, I think it was.

Q: Well, the day before you got the summons he indicated that, in some way, the plan had changed. What did he tell you?

A: He said the family that they were going to grab, or kidnap, whatever they were going to do – another person has been nominated, another person they were going to take money from, which was a Chinese lady. They said, or Hopes said, "Whichever way it goes today, one of them is going to be taken".

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<sup>149</sup> PIC Transcript, JR Dunks, 13 October 2004, pp. 206-208

Q: Did he tell you anything more about this Chinese lady?

A: He said, "She's already under investigation by Canberra", and that she's been sending millions of dollars overseas to her boyfriend.

Q: Did he give you any indication at all as to what sort of activity she may have been involved in which would have allowed her to send that sort of money overseas?

A: He just said cleaning money.



## 12. AFFECTED PERSONS

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- 12.1 A person against whom, in the Commission's opinion, substantial allegations have been made in the course of, or in connection with, an investigation, is an "affected person" for the purposes of a Report to Parliament by the Commission.<sup>150</sup>
- 12.2 Subsection 97(2) of the *Police Integrity Commission Act 1996* (the Act) requires the Commission to include in a Report to Parliament a statement in respect of each affected person as to whether or not in all the circumstances the Commission is of the opinion that consideration should be given to the following:
- a) the prosecution of a person for a specified criminal offence,
  - b) the taking of action against the person for a specified disciplinary offence,<sup>151</sup>
  - c) the taking of action (including the making of an order under section 181D of the *Police Act 1990*) against the person as a police officer on specified grounds, with a view to dismissing, dispensing with the services or otherwise terminating the services of the police officer,
  - d) the taking of reviewable action within the meaning of section 173 of the *Police Act 1990* against the person as a police officer.
- 12.3 In addition the Commission may form opinions as to whether police misconduct, or other misconduct, has occurred: subsection 16(1)(a) of the Act. These opinions help to inform whether any recommendations should be made or opinions expressed as to whether consideration should or should not be given to the prosecution of persons (including police officers) for criminal or disciplinary offences.
- 12.4 The expression "police misconduct" is not specifically defined by the Act. It nevertheless includes the following types of conduct (see section 5 of the Act):
- a) police corruption,
  - b) the commission of a criminal offence by a police officer,
  - b1) misconduct in respect of which the Commissioner of Police may take action under Part 9 of the *Police Act 1990*,
  - c) corrupt conduct within the meaning of the *Independent Commission Against Corruption Act 1988* involving a police officer,

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<sup>150</sup> Subsection 97(3), *Police Integrity Commission Act 1996*

<sup>151</sup> The power of the Commissioner of Police to refer a departmental charge against a police officer for hearing by the Police Tribunal was repealed on 8 March 1999. Since that date, the powers and obligations of the Commissioner to recommend or state whether consideration should be given to the prosecution of a person for a specified "disciplinary offence" (subsections 16(1)(b), 97(2)(b) of the Act) has no effective application to police officers. This is so even for police misconduct that occurred before this date.



## 12. AFFECTED PERSONS

- d) any other matters about which a complaint can be made under the *Police Act 1990*.

12.5 It follows that “police misconduct” may encompass not only serious criminal activity such as perverting the course of justice but also minor disciplinary breaches by police, the sanction for which may, for example, be nothing more than additional training and development.

12.6 Each affected person gave his evidence after a declaration had been made under section 41 of the Act. Therefore pursuant to section 40 of the Act the evidence each person gave is not admissible against him in subsequent criminal or civil proceedings, except for proceedings for an offence against the Act, or for contempt, under the Act.

12.7 The substantial allegations made in this investigation are as follows:

- a) that Laycock, Chris Walker and Hopes had a corrupt relationship extending over many years, probably from 1996;
- b) that Laycock and Chris Walker, both with and without the assistance of Hopes, engaged in the extortion and/or theft of money and/or drugs and/or other valuable property from suspected criminals and others;
- c) that on 10 November 2001, Laycock, Chris Walker and Rick Walker, with the assistance of Hopes, carried out a robbery of cash and gold from a property at Glebe Street, Glebe;
- d) that in 2001, Laycock and Hopes took the amount of \$20 000 from Mr X, Laycock and/or Hopes having represented to Mr X that the money would be used to fix a jury in the trial of a person for serious drug offences;
- e) that in 2003, Laycock and Hopes were paid the sum of \$10 000 by a murder suspect in relation to the murder of AH on 2 May 2003. The payment was for providing information to the suspect and/or placing a report on COPS that was designed to deflect attention from the suspect;
- f) that on or about 4 December 2003, Laycock, Chris Walker and Rick Walker stole the sum of \$23 500 from the safe of a restaurant proprietor at Burwood following an earlier police firearms audit;
- g) that on 22 July 2004, Laycock, Chris Walker, Rick Walker, Hopes and Dunks travelled to a home unit at Chiswick for the purpose of extorting or stealing cash and/or other valuables. The sum of \$10 000 was taken from the occupant of the home unit (CB1) and was distributed amongst Laycock, Chris Walker, Rick Walker, Hopes and Dunks;
- h) that in August 2004 Laycock, at the request of Chris Walker and Shagaev, provided information from official NSW Police records, to Shagaev in relation to an associate of Shagaev (Mr Y) who had been charged by detectives from the Leichhardt Local Area Command;

- i) that Laycock and Khalifeh were involved in supplying to Roberts the contents of a NSW Police report concerning the suitability of Roberts for re-entry into NSW Police.
- j) that on 24 September 2004, Laycock and Hopes extorted the sum of \$3900 from a suspect in Operation Auxin;
- k) that in August - September 2004, Laycock recruited Shagaev for the purposes of:
  - (i) extorting money from one or more drug dealers which extortion would involve kidnapping the drug dealer and/or his family; and
  - (ii) extorting money from an Asian woman, which extortion might also have involved kidnapping her.

12.8 Based on these substantial allegations the Commission is of the opinion that each of the following is an affected person:

- CB3
- Dunks, John Robert
- Hopes, David John
- Khalifeh, Charles
- Laycock, Christopher John
- Shagaev, Jahangir
- Walker, Brett Richard
- Walker, Christopher John

### **CB3**

12.9 CB3 is an affected person because he is the subject of the substantial allegation that in August - September 2004, he, together with Shagaev and Laycock, agreed to:

- extort money from one or more drug dealers, which extortion would involve kidnapping the drug dealer and/or his family; and
- extort money from an Asian woman, which extortion might also have involved kidnapping her.

12.10 CB3 is a civilian. Accordingly no finding of police misconduct can be made in relation to him. The Commission is satisfied however that he engaged in other misconduct: (subsection 16(1)(a) of the Act).

12.11 CB3 gave evidence on objection so his own admissions cannot be used against him. However the evidence of Dunks, together with the transcripts and recordings of the telephone conversations between Laycock, Shagaev, Chris Walker and CB3 himself are admissible against him.

## 12. AFFECTED PERSONS

12.12 In terms of subsection 97(2) of the Act the only relevant issue is whether or not the Commission is of the opinion that consideration should be given to the prosecution of CB3 for a specified criminal offence.

12.13 Section 94 of the *Crimes Act 1900* provides as follows:

Whosoever:

robs or assaults with intent to rob any person, or

steals any chattel, money or valuable security from the person of another,

shall, except where a greater punishment is provided by this Act, be liable to imprisonment for 14 years.

12.14 The Commission is satisfied that the evidence against CB3 is sufficient for the Commission to express the opinion that consideration **should** be given to the prosecution of CB3 for the offence of conspiracy to commit an offence against section 94 of the *Crimes Act 1900*.

12.15 Subsection 95(1) of the *Crimes Act 1900* provides as follows:

Whosoever robs, or assaults with intent to rob, any person or steals any chattel, money or valuable security from the person of another, in circumstances of aggravation, shall be liable to imprisonment for 20 years.

12.16 Subsection 95(2) defines “*circumstances of aggravation*” as follows:

(2) In this section, “circumstances of aggravation”, means circumstances that (immediately before, or at the time of, or immediately after the robbery, assault or larceny) involve any one or more of the following:

- (a) the alleged offender uses corporal violence on any person;
- (b) the alleged offender maliciously inflicts actual bodily harm on any person;
- (c) the alleged offender deprives any person of his or her liberty.

12.17 It is sufficient if the prosecution alleges and proves at least one particular circumstance of aggravation but the sentencing Court is entitled to take into account other circumstances of aggravation proved by the evidence.<sup>152</sup> Here, there is evidence that those who were to participate in the robbery of either or both Mr Z, and/or the Asian woman, intended to deprive those persons (or members of their family) of their liberty.

12.18 The robbery was not committed, however, from the evidence it is arguable that the parties participated in a conspiracy to commit the offence. In this regard, it is relevant to consider the following matters:

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<sup>152</sup> *R v Li* CCA (NSW), 9 July 1997, unreported, BC9703285; (1997) 4 Crim LN 46 [715]

- (a) A conspiracy consists of agreeing or acting in concert to achieve an unlawful act or to do a lawful act by unlawful means.<sup>153</sup> The agreement itself constitutes the offence. The *mens rea* of the offence is the intention to do the unlawful act: the *actus reus* of the offence is the fact of agreement.<sup>154</sup>
- (b) Although negotiations to reach an agreement will not be sufficient, it is unnecessary that the agreement be fully detailed at the time when it is formed so that the victims of the conspiracy need not have been determined.<sup>155</sup> Once the agreement is complete, it is immaterial that nothing transpires to put the agreement into effect.<sup>156</sup>

12.19 There is evidence that an agreement was struck between Laycock, Shagaev, Chris Walker and CB3 to commit an offence against section 95 of the *Crimes Act 1900* in relation to either or both Mr Z and/or the Asian woman.

12.20 The Commission is satisfied that the evidence against CB3 is sufficient for the Commission to express the opinion that consideration **should** be given to the prosecution of CB3 for the offence of conspiracy to commit robbery in circumstances of aggravation contrary to section 95 of the *Crimes Act 1900*.

12.21 Subsection 99(1) of the *Crimes Act 1900* provides as follows:

Whosoever, with menaces, or by force, demands any property from any person, with intent to steal the same, shall be liable to imprisonment for 10 years.

12.22 The Commission is also satisfied that the evidence against CB3 is sufficient for the Commission to express the opinion that consideration **should** be given to the prosecution of CB3 for the offence of conspiracy to demand property from Mr Z and/or the Asian woman with intent to steal the same contrary to section 99 of the *Crimes Act 1900*.

## JOHN ROBERT DUNKS

12.23 Dunks is an affected person because he is the subject of the substantial allegation that on 22 July 2004, he, together with Laycock, Chris Walker, Rick Walker and Hopes, travelled to a home unit at Chiswick for the purpose of extorting or stealing cash and/or other valuables. The Commission is satisfied that the sum of \$10 000 was taken from the occupant of the home unit (CB1) and was distributed amongst Laycock, Chris Walker, Rick Walker, Hopes and Dunks.

12.24 Dunks is a civilian. Accordingly no finding of police misconduct can be made in relation to him. The Commission is satisfied however that he engaged in other misconduct: (subsection 16(1)(a) of the Act).

<sup>153</sup> *DPP v Shaw* [1962] AC 220

<sup>154</sup> *DPP v Nock* [1978] AC 979 at 994

<sup>155</sup> *R v Ongley* (1940) 57 WN (NSW) 116

<sup>156</sup> *R v Aspinall* [1876] 2 QBD 48

## 12. AFFECTED PERSONS

- 12.25 In terms of subsection 97(2) of the Act the only relevant matter is whether or not the Commission is of the opinion that consideration should be given to the prosecution of Dunks for a specified criminal offence.
- 12.26 Dunks gave evidence under objection so his own admissions cannot be used against him. However the evidence given by Laycock, Rick Walker, and CB1 is admissible against him. Although Dunks did not go into the home unit or speak to CB1 during the extortion, the evidence suggests that each of the involved individuals, including Dunks, had a common purpose and were acting as part of a joint criminal enterprise.
- 12.27 The Commission is satisfied that the evidence against Dunks is sufficient for the Commission to express the opinion that consideration **should** be given to the prosecution of Dunks for the offence of demanding money with menaces contrary to subsection 99(2) of the *Crimes Act 1900*. Conviction for such an offence carries a term of imprisonment of 14 years. In this instance, the “*menace*” was the threat to have CB1 charged with goods in custody.
- 12.28 The Commission is also satisfied that the evidence against Dunks is sufficient for the Commission to express the opinion that consideration **should** be given to the prosecution of Dunks for the offence of robbery or stealing from a person contrary to section 94 of the *Crimes Act 1900*.

## DAVID JOHN HOPES

- 12.29 Hopes is an affected person because he is the subject of the following substantial allegations:
- (a) that he had a corrupt relationship extending over many years, and probably from 1996, with Laycock and Chris Walker;
  - (b) that he, together with Laycock and Chris Walker engaged in the extortion and/or theft of money and/or drugs and/or other valuable property from suspected criminals and others;
  - (c) that on 10 November 2001 he, with Laycock, Chris Walker and Rick Walker carried out a robbery of cash and gold from a property located at Glebe Street, Glebe;
  - (d) that in 2001 he, together with Laycock, took the amount of \$20 000 from Mr X, after he and/or Laycock had represented to Mr X that the money would be used to fix a jury in the trial of a person for serious drug offences;
  - (e) that in 2003, he and Laycock were paid the sum of \$10 000 by a murder suspect, in relation to the murder of AH on 2 May 2003. The payment was for providing information to the suspect and/or placing a report on COPS that was designed to deflect attention from the suspect;
  - (f) that on 22 July 2004 he, together with Laycock, Chris Walker, Rick Walker and Dunks travelled to a home unit at Chiswick for the purpose of extorting or stealing cash and/or other valuables. The sum of

\$10 000 was taken from the occupant of the home unit (CB1) and was distributed amongst Laycock, Chris Walker, Rick Walker, Hopes and Dunks;

- (g) that on 24 September 2004, he and Laycock extorted the sum of \$3900 from a suspect in Operation Auxin.

- 12.30 Hopes is a civilian. Accordingly no finding of police misconduct can be made in relation to him. The Commission is satisfied however that he engaged in other misconduct: (subsection 16(1)(a) of the Act).
- 12.31 In terms of subsection 97(2) of the Act the only relevant matter is whether or not the Commission is of the opinion that consideration should be given to the prosecution of Hopes for a specified criminal offence.
- 12.32 Due to the lack of evidence the Commission is of the opinion that consideration **should not** be given to the prosecution of Hopes for any criminal offences in relation to (a) and (b) above.
- 12.33 Rick Walker gave evidence adverse to his own interests and that of his brother Chris Walker in relation to the robbery at Glebe ((c) above). The Commission is of the opinion that there was no credible reason for him to give such evidence unless it was true. His evidence, together with the evidence of the incident as reported to NSW Police, provides sufficient basis for the Commission to express the opinion that consideration **should** be given to prosecution of Hopes for specified criminal offences, namely, the offences of steal money pursuant to section 94 of the *Crimes Act 1900* and larceny pursuant to section 117 of that Act.
- 12.34 In relation to the allegations of jury fixing and payment of \$10 000 by the murder suspect ((d) and (e) above) the only available evidence is that of Laycock, a co-offender. The Commission is of the opinion that consideration **should not** be given to the prosecution of Hopes for any criminal offences in relation to allegations (d) and (e).
- 12.35 In relation to the Chiswick extortion ((f) above) the evidence given by Laycock, Rick Walker, Dunks and CB1 is admissible against Hopes. Although Hopes did not go into the home unit or speak to CB1 during the extortion, the evidence suggests that each of the involved individuals, including Hopes, had a common purpose and were acting as part of a joint criminal enterprise.
- 12.36 The Commission is satisfied that the evidence against Hopes is sufficient for the Commission to express the opinion that consideration **should** be given to the prosecution of Hopes for the offence of demanding money with menaces contrary to subsection 99(2) of the *Crimes Act 1900*. Conviction for such an offence carries a term of imprisonment of 14 years. In this instance, the “*menace*” was the threat to have CB1 charged with goods in custody.

## 12. AFFECTED PERSONS

12.37 The Commission is also satisfied that the evidence against Hopes is sufficient for the Commission to express the opinion that consideration **should** be given to the prosecution of Hopes for the offence of robbery or stealing from a person contrary to section 94 of the *Crimes Act 1900*.

12.38 In relation to the extortion of money from the Operation Auxin suspect ((g) above) the Commission is of the opinion that consideration **should** be given to the prosecution of Hopes for an offence against subsection 99(2) of the *Crimes Act 1900*. It is relevant to note that the concept of “*menace*” may involve not only a threat of violence or injury, but also a threat of “*an accusation*”. In this regard, section 105 of the *Crimes Act 1900* provides as follows:

It shall be immaterial whether any such menace or threat, as is referred to in sections 99 to 103 both inclusive, is of violence, or injury, or of an accusation to be caused, or made, by the offender, or by any other person, or whether the accusation, if made, shall purport to be that of the offender, or some other person.

12.39 Section 319 of the *Crimes Act 1900* provides as follows:

A person who does any act, or makes any omission, intending in any way to pervert the course of justice, is liable to imprisonment for 14 years.

12.40 The Commission is of the opinion that consideration **should** be given to the prosecution of Hopes for an offence against section 319 of the *Crimes Act 1900*. The course of justice includes police investigations where curial proceedings are imminent or where the investigations could or might bring about proceedings.<sup>157</sup> An act which has the tendency to deflect the police from prosecuting a criminal offence or from adducing evidence of the true facts is an act tending to pervert the course of justice and it is unnecessary that the prosecution prove that a particular offence has been committed or that a charge of a given nature would be laid.<sup>158</sup>

## CHARLES KHALIFEH

12.41 Khalifeh is an affected person because he is the subject of the substantial allegation that he, together with Laycock, was involved in supplying to Roberts the contents of a NSW Police report concerning the suitability of Roberts for re-entry into NSW Police.

12.42 Khalifeh is a serving NSW Police officer. The Commission considers that Khalifeh engaged in police misconduct in relation to the allegation: subsection 16(1)(a) of the Act.

12.43 It is not in dispute that Laycock took to the meeting of 3 August 2004 official police documents that should not have been shown to Roberts. It was Laycock who had the documents and not Khalifeh, and it would be unsafe to conclude that Khalifeh played an active role in the disclosure of this material.

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<sup>157</sup> *R v Selva* [1982] QB 372 at 380

<sup>158</sup> *The Queen v Rogerson* (1992) 174 CLR 268

However “police misconduct”, in respect of which the Commissioner of Police may take action under Part 9 of the *Police Act 1990*, includes inaction as well as action and misconduct. Khalifeh’s participation in the meeting, having brought the document to Laycock’s notice, and his failure to take any steps to prevent Laycock’s improper use of official police records, is unsatisfactory.

- 12.44 Khalifeh is a serving NSW Police officer so it is necessary to consider the issues raised by subsections 97(2)(c) and (d) of the Act. The Commission believes that there is sufficient evidence to support the opinion that consideration **should** be given to the taking of action against Khalifeh pursuant to subsections 97(2)(c) or (d) of the *Police Integrity Commission Act 1996*.
- 12.45 The Commission is also of the opinion that consideration **should** be given to the prosecution of Khalifeh for an offence against section 107 of the Act, namely, that on 13 October 2004 at a hearing before the Commission at Sydney in the State of New South Wales, Khalifeh gave evidence that to his knowledge was misleading in a material particular in that in response to the question, “*Did either you or Laycock have any official police documents with you when you met in the café on 3 August?*” he did answer, “*I didn’t – I certainly didn’t, and I can’t remember if Chris Laycock had one with him or not*”.<sup>159</sup>

## CHRISTOPHER JOHN LAYCOCK

- 12.46 Laycock is an affected person because he is the subject of the following substantial allegations:
- (a) that Laycock, Chris Walker and Hopes had a corrupt relationship extending over many years;
  - (b) that Laycock and Chris Walker, both with and without the assistance of Hopes, engaged in the extortion and/or theft of money and/or drugs and/or other valuable property from suspected criminals and others;
  - (c) that on 10 November 2001 Laycock, Chris Walker and Rick Walker, with the assistance of Hopes, carried out a robbery of cash and gold from a property located at Glebe Street, Glebe;
  - (d) that in 2001 Laycock and Hopes took the amount of \$20 000 from Mr X, Laycock and/or Hopes having represented to Mr X that the money would be used to fix a jury in the trial of a person for serious drug offences;
  - (e) that in 2003 Laycock and Hopes were paid the sum of \$10 000 by a murder suspect, in relation to the murder of AH on 2 May 2003. The payment was for providing information to the suspect and/or placing a report on COPS that was designed to deflect attention from the suspect;

<sup>159</sup> PIC Exhibit 114 – PIC Transcript, C Khalifeh, 13 October 2004, p. 7



- (f) that on or about 4 December 2003 Laycock, Chris Walker and Rick Walker stole the sum of \$23 500 from the safe of a restaurant proprietor at Burwood following an earlier police firearms audit;
- (g) that on 22 July 2004 Laycock, Chris Walker, Rick Walker, Hopes and Dunks travelled to a home unit at Chiswick for the purpose of extorting or stealing cash and/or other valuables. The sum of \$10 000 was taken from the occupant of the home unit (CB1) and was distributed amongst Laycock, Chris Walker, Rick Walker, Hopes and Dunks;
- (h) that in August 2004 Laycock, at the request of Chris Walker and Shagaev, provided information from official records of NSW Police to Shagaev in relation to an associate of Shagaev (Mr Y) who had been charged by detectives from the Leichhardt Local Area Command;
- (i) that Laycock and Khalifeh were involved in supplying to Roberts, the contents of a NSW Police report, concerning the suitability of Roberts for re-entry into NSW Police;
- (j) that on 24 September 2004, Laycock and Hopes extorted the sum of \$3900 from a suspect in Operation Auxin;
- (k) that in August - September 2004 Laycock recruited Shagaev for the purposes of:
  - extorting money from one or more drug dealers which extortion would involve kidnapping the drug dealer and/or his family; and
  - extorting money from an Asian woman, which extortion might also involve kidnapping her.

12.47 The Commission considers that Laycock engaged in police misconduct in relation to all the above allegations: subsection 16(1)(a) of the Act.

12.48 Laycock gave evidence on objection with the benefit of a declaration having been made under section 41 of the Act. Therefore his admissions cannot be used against him.

12.49 Due to the lack of admissible evidence the Commission is of the opinion that consideration **should not** be given to the prosecution of Laycock for any criminal offences in relation to (a) and (b) above.

12.50 Rick Walker gave evidence adverse to his own interests and that of his brother Chris Walker in relation to the robbery at Glebe ((c) above). The Commission is of the opinion that there was no credible reason for him to give such evidence unless it was true. His evidence, together with the evidence of the incident as reported to NSW Police, provides sufficient basis for the Commission to express the opinion that consideration **should** be given to prosecution of Laycock for specified criminal offences, namely, the offences of steal money pursuant to section 94 of the *Crimes Act 1900* and larceny pursuant to section 117 of that Act.

- 12.51 In relation to the allegations of fixing the jury ((d) above) the only evidence is that which Laycock gave himself, under objection. Therefore there is no available admissible evidence against Laycock. The Commission is of the opinion that consideration **should not** be given to the prosecution of Laycock for any criminal offence in relation to this allegation.
- 12.52 The allegation of receiving money from the murder suspect ((e) above) is one of the most serious matters about which Laycock made admissions. However while the report prepared by Laycock provides compelling evidence of a motive for the payment, there is no independent corroboration of Laycock's admission that a payment was made. There is also no admissible evidence against Laycock in relation to receiving money from the murder suspect. The evidence is limited to admissions made by Laycock on objection. Therefore the Commission is of the opinion that consideration **should not** be given to the prosecution of Laycock for any criminal offences arising from this allegation.
- 12.53 In relation to the robbery at Burwood ((f) above) the evidence against Laycock, consists of the evidence of Rick Walker. In addition the occupants of the property, who were not called to give evidence at the Commission's hearing, are able to give evidence of the fact of the robbery. They also corroborate other aspects of the account given by Rick Walker. The Commission is of the opinion that consideration **should** be given to the prosecution of Laycock for the offences of steal money from a person pursuant to section 94 of the *Crimes Act 1900* and of larceny pursuant to section 117 of that Act.
- 12.54 Larceny consists of the taking or carrying away of anything capable of being stolen, without the consent of the owner, fraudulently and without claim of right made in good faith, with intent at the time of such taking permanently to deprive the owner of the thing concerned.<sup>160</sup>
- 12.55 It is sufficient to make out an offence of steal money from the person of another, pursuant to section 94 of the *Crimes Act 1900*, if the money is taken from the possession, care, guardianship and immediate presence of the victim concerned.<sup>161</sup>
- 12.56 The fact that Laycock may not have entered the premises would not impede such a prosecution. What was planned by Laycock, Chris Walker and Rick Walker was a joint criminal enterprise that had as its object the stealing of money from the occupants of the property.
- 12.57 The authoritative statement of the law of joint criminal enterprise insofar as the law of New South Wales is concerned is set out in *R. v Tangye*<sup>162</sup> where Hunt CJ at CL detailed the following principles:

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<sup>160</sup> *Illich v R* (1987) 162 CLR 110

<sup>161</sup> *R v Delk* (1999) 46 NSWLR 340 at 344

<sup>162</sup> *R v Tangye* (1997) 92 A Crim R 545 at 556

## 12. AFFECTED PERSONS

- (1) The law is that, where two or more persons carry out a joint criminal enterprise, each is responsible for the acts of the other or others in carrying out that enterprise. The Crown must establish both the existence of that joint criminal enterprise and the participation in it by the accused.
- (2) A joint criminal enterprise exists where two or more persons reach an understanding or arrangement amounting to an agreement between them that they will commit a crime. The understanding or arrangement need not be express, and its existence may be inferred from all the circumstances. It need not have been reached at any time before the crime is committed. The circumstances in which two or more persons are participating together in the commission of a particular crime may themselves establish an unspoken understanding or arrangement amounting to an agreement formed between them then and there to commit that crime.
- (3) A person participates in that joint criminal enterprise either by committing the agreed crime itself or simply by being present at the time when the crime is being committed, and (with knowledge that the crime is to be or is being committed) by intentionally assisting or encouraging another participant in the joint criminal enterprise to commit that crime. The presence of that person at the time when the crime is committed and a readiness to give aid if required is sufficient to amount to an encouragement to the other participant in the joint criminal enterprise to commit the crime.
- (4) If the agreed crime is committed by one or other of the participants in that joint criminal enterprise, all of the participants in that enterprise are equally guilty of the crime regardless of the part played by each in its commission.

12.58 Although doubts have been expressed as to whether it is necessary for a person who is a party to the enterprise to be present, for liability to arise on the basis of the doctrine of joint criminal enterprise, the law in New South Wales remains that a person must be so present.<sup>163</sup> Laycock was present in the relevant sense.

12.59 The evidence against Laycock in relation to the Chiswick extortion ((g) above) is the evidence of CB1, Dunks, Chris Walker, Rick Walker, the video recording of some of the events and the recordings of telephone conversations between Laycock, Chris Walker and Rick Walker. The Commission is of the opinion that consideration **should** be given to the prosecution of Laycock for the specified criminal offence of demanding money with menaces contrary to subsection 99(2) of the *Crimes Act 1900*. In this instance, the “*menace*” was the threat to have CB1 charged with goods in custody.

12.60 In addition the Commission is of the opinion that consideration **should** be given to the prosecution of Laycock for the offence of robbery, or stealing from a person contrary to section 94 of the *Crimes Act 1900*.

12.61 In relation to the allegation that Laycock and others provided assistance to an associate of Shagaev (Mr Y) to avoid prosecution, ((h) above), the evidence

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<sup>163</sup> *Osland v The Queen* (1998) 197 CLR 316

against Laycock is that of Shagaev. The recordings of telephone conversations between Shagaev, Chris Walker and Laycock support Shagaev's evidence.

12.62 The Commission is of the opinion that consideration **should** be given to the prosecution of Laycock for the specified criminal offence of perverting the course of justice pursuant to section 319 of the *Crimes Act 1900*.

12.63 Section 319 of the *Crimes Act 1900* provides as follows:

A person who does any act, or makes any omission, intending in any way to pervert the course of justice, is liable to imprisonment for 14 years.

12.64 Although the common law offence of conspiracy to pervert the course of justice has been abolished pursuant to section 341 of the *Crimes Act 1900*, a person may still be prosecuted for conspiring to commit an offence against section 319 (see section 342).

12.65 The provision of information concerning Mr Y to Shagaev was an act that had the tendency to pervert the administration of public justice<sup>164</sup> and was conduct that might have led, and was intended to lead, to a miscarriage of justice.<sup>165</sup>

12.66 Further, the Commission is of the opinion that consideration **should** be given to the prosecution of Laycock for the substantive offence of perverting the course of justice pursuant to section 319 of the *Crimes Act 1900*. He was intimately involved in the supply and receipt of information that had a tendency to cause, or assist, or incite, Mr Y to flee the jurisdiction.

12.67 The allegation that Laycock provided official NSW Police documents to Roberts, ((i) above), although confirmed by the evidence of both Roberts and Khalifeh does not give rise to any criminal offences. Therefore the Commission is of the opinion that consideration **should not** be given to the prosecution of Laycock for any criminal offence in relation to this allegation.

12.68 In relation to the extortion of money from the person of interest to Operation Auxin ((j) above) the evidence against Laycock is the telephone conversations between Laycock and Chris Walker. In addition the subject of the extortion has given evidence to the Commission in admissible form that corroborates the allegations against Laycock.

12.69 The Commission is of the opinion that consideration **should** be given to the prosecution of Laycock for an offence against subsection 99(2) of the *Crimes Act 1900*. It is relevant to note that the concept of “*menace*” may involve not only a threat of violence or injury, but also a threat of “*an accusation*”. In this regard, section 105 of the *Crimes Act 1900* provides as follows:

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<sup>164</sup> *R v Vreones* [1891] 1 QB 360

<sup>165</sup> *R v Selva* [1982] QB 372

## 12. AFFECTED PERSONS

It shall be immaterial whether any such menace or threat, as is referred to in sections 99 to 103 both inclusive, is of violence, or injury, or of an accusation to be caused, or made, by the offender, or by any other person, or whether the accusation, if made, shall purport to be that of the offender, or some other person.

12.70 The Commission is of the opinion that consideration **should** be given to the prosecution of Laycock for an offence against section 319 of the *Crimes Act 1900*. The course of justice includes police investigations where curial proceedings are imminent or where the investigations could or might bring about proceedings.<sup>166</sup> An act which has the tendency to deflect the police from prosecuting a criminal offence or from adducing evidence of the true facts is an act tending to pervert the course of justice and it is unnecessary that the prosecution prove that a particular offence has been committed or that a charge of a given nature would be laid.<sup>167</sup>

12.71 In relation to the allegation of conspiracy to extort money, possibly involving kidnapping or other violence ((k) above) the evidence against Laycock is that of CB3, Dunks and Shagaev. In addition the telephone conversations between Laycock, Shagaev, Chris Walker and CB3 are admissible against Laycock.

12.72 Section 94 of the *Crimes Act 1900* provides as follows:

Whosoever:

robs or assaults with intent to rob any person, or

steals any chattel, money or valuable security from the person of another,

shall, except where a greater punishment is provided by this Act, be liable to imprisonment for 14 years.

12.73 The Commission is satisfied that the evidence against Laycock is sufficient for the Commission to express the opinion that consideration **should** be given to the prosecution of Laycock for the offence of conspiracy to commit an offence against section 94 of the *Crimes Act 1900*.

12.74 Subsection 95(1) of the *Crimes Act 1900* provides as follows:

Whosoever robs, or assaults with intent to rob, any person or steals any chattel, money or valuable security from the person of another, in circumstances of aggravation, shall be liable to imprisonment for 20 years.

12.75 Subsection 95(2) defines “*circumstances of aggravation*” as follows:

(2) In this section, “circumstances of aggravation”, means circumstances that (immediately before, or at the time of, or immediately after the robbery, assault or larceny) involve any one or more of the following:

(a) the alleged offender uses corporal violence on any person;

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<sup>166</sup> *R v Selva* [1982] QB 372 at 380

<sup>167</sup> *The Queen v Rogerson* (1992) 174 CLR 268

- (b) the alleged offender maliciously inflicts actual bodily harm on any person;
- (c) the alleged offender deprives any person of his or her liberty.

12.76 It is sufficient if the prosecution alleges and proves at least one particular circumstance of aggravation but the sentencing Court is entitled to take into account other circumstances of aggravation proved by the evidence.<sup>168</sup> Here, there is evidence that those who were to participate in the robbery of either or both Mr Z, or the Asian woman intended to deprive those persons (or members of their family) of their liberty.

12.77 The offence was not committed, however, from the evidence it is clear that the parties participated in a conspiracy to commit the offence. In this regard, it is relevant to consider the following matters:

- (a) A conspiracy consists of agreeing or acting in concert to achieve an unlawful act or to do a lawful act by unlawful means.<sup>169</sup> The agreement itself constitutes the offence. The *mens rea* of the offence is the intention to do the unlawful act: the *actus reus* of the offence is the fact of agreement.<sup>170</sup>
- (b) Although negotiations to reach an agreement will not be sufficient, it is unnecessary that the agreement be fully detailed at the time when it is formed so that the victims of the conspiracy need not have been determined.<sup>171</sup> Once the agreement is complete, it is immaterial that nothing transpires to put the agreement into effect.<sup>172</sup>

12.78 There is evidence that an agreement was struck between the Laycock, Shagaev, Chris Walker and CB3 to commit an offence against section 95 of the *Crimes Act 1900* in relation to either or both Mr Z and/or the Asian woman.

12.79 The Commission is satisfied that the evidence against Laycock is sufficient for the Commission to express the opinion that consideration **should** be given to the prosecution of Laycock for the offence of conspiracy to commit robbery in circumstances of aggravation contrary to section 95 of the *Crimes Act 1900*.

12.80 Subsection 99(1) of the *Crimes Act 1900* provides as follows:

Whosoever, with menaces, or by force, demands any property from any person, with intent to steal the same, shall be liable to imprisonment for 10 years.

12.81 The Commission is also satisfied that the evidence against Laycock is sufficient for the Commission to express the opinion that consideration

<sup>168</sup> *R v Li* (CCA (NSW), 9 July 1997, unreported, BC9703285; (1997) 4 Crim LN 46 [715]

<sup>169</sup> *DPP v Shaw* [1962] AC 220

<sup>170</sup> *DPP v Nock* [1978] AC 979 at 994

<sup>171</sup> *R v Ongley* (1940) 57 WN (NSW) 116

<sup>172</sup> *R v Aspinall* [1876] 2 QBD 48

**should** be given to the prosecution of Laycock for the offence of conspiracy to demand property from Mr Z and/or the Asian woman, with intent to steal the same contrary to section 99 of the *Crimes Act 1900*.

- 12.82 Laycock was suspended from NSW Police with pay on 28 September 2004. In early October 2004, Laycock was suspended from duty without pay. On 21 October 2004, the Commissioner of Police issued a Notice to Show Cause pursuant to section 181D of the *Police Act 1990*. On 15 November 2004, Laycock was dismissed from NSW Police. Accordingly Laycock is no longer a serving NSW Police officer so the question of taking action pursuant to subsections 97(2)(b)-(d) of the Act does not arise.

## FALSE OR MISLEADING EVIDENCE

- 12.83 Section 107 of the Act provides as follows:

A person who, at a hearing before the Commission, gives evidence that is, to the knowledge of the person, false or misleading in a material particular, is guilty of an indictable offence

- 12.84 As has been previously noted, Laycock gave all of his evidence on objection. Such objection does not, however, provide any protection in relation to the giving of false or misleading evidence (see subsection 40(4)). Laycock was reminded of this on a number of occasions by the Commissioner during the hearing.

- 12.85 The Commission is of the opinion that consideration **should** be given to the prosecution of Laycock for a number of offences against section 107 of the Act, namely:

- (a) That on 8 October 2004 at a hearing before the Commission, Laycock gave evidence that to his knowledge was false in a material particular in that in response to a question concerning Chris Walker, *“Let’s talk about the last year. In the last year is it your evidence that you have never paid him any money?”*, he did answer, *“Not that I can remember; no”*.<sup>173</sup>
- (b) That on 8 October 2004 at a hearing before the Commission, Laycock gave evidence that to his knowledge was false in a material particular in that in response to a question concerning Chris Walker, *“Can we take it that neither you nor Mr Walker have ever divided up an amount of money between yourselves?”*, he did answer, *“Not that I remember”*.<sup>174</sup>
- (c) That on 8 October 2004 at a hearing before the Commission, Laycock gave evidence that to his knowledge was false in a material particular in that in response to a question concerning Chris Walker, *“Can we take it that you and Mr Walker have never divided up an amount of money*

<sup>173</sup> PIC Transcript, CJ Laycock, 8 October 2004, pp. 27-28

<sup>174</sup> PIC Transcript, CJ Laycock, 8 October 2004, p. 28

*between yourselves and other persons?”*, he did answer, *“I don’t remember dividing any money up with Chris Walker, I’m sorry”*.<sup>175</sup>

- (d) That on 8 October 2004 at a hearing before the Commission, Laycock gave evidence that to his knowledge was false in a material particular in that in response to a question concerning Rick Walker, *“You have never paid him any money?”*, he did answer, *“Not that I can remember; no”*.<sup>176</sup>
- (e) That on 8 October 2004 at a hearing before the Commission, Laycock gave evidence that to his knowledge was false in a material particular in that in response to the question, *“I asked you these questions in relation to his brother, but can we take it that neither you nor Rich Walker have ever been involved in a situation where you have divided up an amount of money between the two of you, or between the two of you and other persons?”*, he did answer, *“I don’t recall that; no”*.<sup>177</sup>
- (f) That on 8 October 2004 at a hearing before the Commission, Laycock gave evidence that to his knowledge was misleading in a material particular in that in response to a question concerning Hopes, *“You had a corrupt relationship, I suggest?”*, he did answer, *“In terms of certain policies and procedures that are in place, I’d say, yes, I’d breached a few of those policies”*.<sup>178</sup>
- (g) That on 8 October 2004 at a hearing before the Commission, Laycock gave evidence that to his knowledge was false in a material particular in that in response to a question concerning Hopes, *“I’m not talking about that, and you know I’m not. You had a corrupt relationship with him, didn’t you?”*, he did answer, *“The other thing was I was on restricted duties at the time. I mean, you know, supposed to be dealing with members of the public, and so forth”*.<sup>179</sup>
- (h) That on 8 October 2004 at a hearing before the Commission, Laycock gave evidence that to his knowledge was false in a material particular in that in response to a question concerning Hopes, *“Let me put it to you again: you had a corrupt relationship with Mr Hopes, didn’t you?”*, he did answer, *“I wouldn’t say ‘corrupt’”*.<sup>180</sup>

## JAHANGIR SHAGAEV

12.86 Shagaev is an affected person because he is the subject of the substantial allegations that:

- a) in August 2004, he sought the assistance of Chris Walker and Laycock to provide information from official records of NSW Police in relation to an associate of his (Mr Y) who had been charged by detectives from the Leichhardt Local Area Command; and

<sup>175</sup> PIC Transcript, CJ Laycock, 8 October 2004, p. 28

<sup>176</sup> PIC Transcript, CJ Laycock, 8 October 2004, p. 30

<sup>177</sup> PIC Transcript, CJ Laycock, 8 October 2004, pp. 30-31

<sup>178</sup> PIC Transcript, CJ Laycock, 8 October 2004, p. 42

<sup>179</sup> PIC Transcript, CJ Laycock, 8 October 2004, p. 42

<sup>180</sup> PIC Transcript, CJ Laycock, 8 October 2004, p. 43



- b) in August - September 2004 Shagaev, together with Laycock and others, agreed to:
- extort money from one or more drug dealers which extortion would involve kidnapping the drug dealer and/or his family; and
  - extort money from an Asian woman, which extortion might also involve kidnapping her.

12.87 Shagaev is a civilian. Accordingly no finding of police misconduct can be made in relation to him. The Commission is satisfied however that he engaged in other misconduct: (subsection 16(1)(a) of the Act).

12.88 In terms of subsection 97(2) of the Act the only relevant issue is whether or not the Commission is of the opinion that consideration should be given to the prosecution of Shagaev for specified criminal offences.

12.89 In relation to the allegation that Shagaev sought the assistance of Laycock and Chris Walker to assist his associate (Mr Y) to avoid prosecution, ((a) above), the evidence against Shagaev is that of Laycock. The telephone conversations between Shagaev, Chris Walker and Laycock, support Laycock's evidence.

12.90 Section 319 of the *Crimes Act 1900* provides as follows:

A person who does any act, or makes any omission, intending in any way to pervert the course of justice, is liable to imprisonment for 14 years.

12.91 Although the common law offence of conspiracy to pervert the course of justice has been abolished, pursuant to section 341 of the *Crimes Act 1990*, a person may still be prosecuted for conspiring to commit an offence against section 319 (see section 342).

12.92 The provision of information concerning Mr Y to Shagaev was an act that had the tendency to pervert the administration of public justice<sup>181</sup> and was conduct that might have led, and was intended to lead, to a miscarriage of justice.<sup>182</sup>

12.93 The Commission is of the opinion that consideration **should** be given to the prosecution of Shagaev for the substantive offence of perverting the course of justice pursuant to section 319 of the *Crimes Act 1900*. He was intimately involved in the supply, and receipt, of information that had a tendency to cause, or assist, or incite Mr Y to flee the jurisdiction.

12.94 In relation to the allegation of conspiracy to extort money, possibly involving kidnapping or other violence ((b) above) the evidence against Shagaev is that of Laycock, CB3, and Dunks. In addition the telephone conversations

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<sup>181</sup> *R v Vreones* [1891] 1 QB 360

<sup>182</sup> *R v Selvage* [1982] QB 372

between Laycock, Shagaev, Chris Walker and CB3 are admissible against Shagaev.

12.95 Section 94 of the *Crimes Act 1900* provides as follows:

Whosoever:

robs or assaults with intent to rob any person, or

steals any chattel, money or valuable security from the person of another,

shall, except where a greater punishment is provided by this Act, be liable to imprisonment for 14 years.

12.96 The Commission is satisfied that the evidence against Shagaev is sufficient to express the opinion that consideration **should** be given to the prosecution of Shagaev for the offence of conspiracy to commit an offence against section 94 of the *Crimes Act 1900*.

12.97 Subsection 95(1) of the *Crimes Act 1900* provides as follows:

Whosoever robs, or assaults with intent to rob, any person or steals any chattel, money or valuable security from the person of another, in circumstances of aggravation, shall be liable to imprisonment for 20 years.

12.98 Subsection 95(2) defines “*circumstances of aggravation*” as follows:

(2) In this section, “circumstances of aggravation”, means circumstances that (immediately before, or at the time of, or immediately after the robbery, assault or larceny) involve any one or more of the following:

- (a) the alleged offender uses corporal violence on any person;
- (b) the alleged offender maliciously inflicts actual bodily harm on any person;
- (c) the alleged offender deprives any person of his or her liberty.

12.99 It is sufficient if the prosecution alleges and proves at least one particular circumstance of aggravation but the sentencing Court is entitled to take into account other circumstances of aggravation proved by the evidence.<sup>183</sup> Here, there is evidence that those who were to participate in the robbery of either or both Mr Z, or the Asian woman, intended to deprive those persons (or members of their family) of their liberty.

12.100 The offence was not committed, however, from the evidence it is clear that the parties participated in a conspiracy to commit the offence. In this regard, it is relevant to consider the following matters:

- (a) A conspiracy consists of agreeing, or acting in concert, to achieve an unlawful act, or to do a lawful act by unlawful means.<sup>184</sup> The

<sup>183</sup> *R v Li* (CCA (NSW), 9 July 1997, unreported, BC9703285; (1997) 4 Crim LN 46 [715]

<sup>184</sup> *DPP v Shaw* [1962] AC 220

agreement itself constitutes the offence. The *mens rea* of the offence is the intention to do the unlawful act: the *actus reus* of the offence is the fact of agreement.<sup>185</sup>

- (b) Although negotiations to reach an agreement will not be sufficient, it is unnecessary that the agreement be fully detailed at the time when it is formed so that the victims of the conspiracy need not have been determined.<sup>186</sup> Once the agreement is complete, it is immaterial that nothing transpires to put the agreement into effect.<sup>187</sup>

12.101 There is evidence that an agreement was struck between the Laycock, Shagaev, Chris Walker and CB3 to commit an offence pursuant to section 95 of the *Crimes Act 1900* in relation to either or both of Mr Z and the Asian woman.

12.102 The Commission is satisfied that the evidence against Shagaev is sufficient to express the opinion that consideration **should** be given to the prosecution of Shagaev for the offence of conspiracy to commit robbery in circumstances of aggravation contrary to section 95 of the *Crimes Act 1900*.

12.103 Subsection 99(1) of the *Crimes Act 1900* provides as follows:

Whosoever, with menaces, or by force, demands any property from any person, with intent to steal the same, shall be liable to imprisonment for 10 years.

12.104 The Commission is also satisfied that the evidence against Shagaev is sufficient to express the opinion that consideration **should** be given to the prosecution of Shagaev for the offence of conspiracy to demand property from Mr Z and/or the Asian woman with intent to steal the same contrary to section 99 of the *Crimes Act 1900*.

## BRETT RICHARD WALKER

12.105 Rick Walker is an affected person because he is the subject of the following substantial allegations:

- (a) that on 10 November 2001, he, together with Laycock and Chris Walker, and with the assistance of Hopes, carried out a robbery of cash and gold from a property located at Glebe Street, Glebe;
- (b) that on or about 4 December 2003, he, together with Laycock and Chris Walker stole the sum of \$23 500 from the safe of a restaurant proprietor at Burwood following an earlier police firearms audit; and
- (c) that on 22 July 2004, he, together with Laycock, Chris Walker, Hopes and Dunks travelled to a home unit at Chiswick for the purpose of extorting or stealing cash and/or other valuables. The sum of \$10 000 was taken from the occupant of the home unit (CB1) and was

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<sup>185</sup> *DPP v Nock* [1978] AC 979 at 994

<sup>186</sup> *R v Ongley* (1940) 57 WN (NSW) 116

<sup>187</sup> *R v Aspinall* [1876] 2 QBD 48

distributed amongst Laycock, Chris Walker, Rick Walker, Hopes and Dunks.

- 12.106 Rick Walker is a civilian. Accordingly no finding of police misconduct can be made in relation to him. The Commission is satisfied however that he engaged in other misconduct: (subsection 16(1)(a) of the Act).
- 12.107 In terms of subsection 97(2) of the Act the only relevant issue is whether or not the Commission is of the opinion that consideration should be given to the prosecution of Rick Walker for specified criminal offences.
- 12.108 Rick Walker gave evidence on objection with the benefit of a declaration made under section 41 of the Act. Therefore his admissions cannot be used against him.
- 12.109 In relation to the robbery at Glebe ((a) above) there is no admissible evidence against him because his own admissions cannot be used. Therefore the Commission is of the opinion that consideration **should not** be given to the prosecution of him for any criminal offences arising out of this incident.
- 12.110 In relation to the robbery at Burwood, ((b) above), the evidence against Rick Walker consists of the evidence of Laycock. In addition the occupants of the property are able to give evidence of the fact of the robbery. They also corroborate other aspects of the accounts given by Rick Walker and Laycock. The Commission is of the opinion that consideration **should** be given to the prosecution of Rick Walker for the offences of steal money from a person pursuant to section 94 of the *Crimes Act 1900* and of larceny contrary to section 117 of that Act.
- 12.111 Larceny consists of the taking or carrying away of anything capable of being stolen without the consent of the owner, fraudulently and without claim of right made in good faith, with intent at the time of such taking permanently to deprive the owner of the thing concerned.<sup>188</sup>
- 12.112 It is sufficient to make out an offence of steal money from the person of another, pursuant to section 94 of the *Crimes Act 1900*, if the money is taken from the possession, care, guardianship and immediate presence of the victim concerned.<sup>189</sup>
- 12.113 In relation to the Chiswick extortion ((c) above) the evidence against Rick Walker is that of CB1, Laycock and Dunks together with the video recording of part of the events and lawfully recorded telephone conversations.<sup>190</sup> The Commission is of the opinion that consideration **should** be given to the prosecution of Rick Walker for the specified criminal offence of demanding money with menaces contrary to subsection 99(2) of the *Crimes Act 1900*. In

<sup>188</sup> *Illich v R* (1987) 162 CLR 110

<sup>189</sup> *R v Delk* (1999) 46 NSWLR 340 at 344

<sup>190</sup> PIC Exhibit 12B

this instance, the “*menace*” was the threat to have CB1 charged with goods in custody.

12.114 In addition the Commission is of the opinion that consideration **should** be given to the prosecution of Rick Walker for the offence of robbery or stealing from a person contrary to section 94 of the *Crimes Act 1900*.

## CHRISTOPHER JOHN WALKER

12.115 Chris Walker is an affected person because he is the subject of the following substantial allegations:

- a) that he had a corrupt relationship with Laycock and Hopes extending over many years;
- b) that he and Laycock, both with and without the assistance of Hopes, engaged in the extortion and/or theft of money and/or drugs and/or other valuable property from suspected criminals and others;
- c) that on 10 November 2001, he, together with Laycock, and Rick Walker, and with the assistance of Hopes, carried out a robbery of cash and gold from a property located at Glebe Street, Glebe;
- d) that on or about 4 December 2003, he, together with Laycock and Rick Walker stole the sum of \$23 500 from the safe of a restaurant proprietor at Burwood following an earlier police firearms audit;
- e) that on 22 July 2004, he, together with Laycock, Rick Walker, Hopes and Dunks travelled to a home unit at Chiswick for the purpose of extorting or stealing cash and/or other valuables. The sum of \$10 000 was taken from the occupant of the home unit (CB1) and was distributed amongst Laycock, Chris Walker, Rick Walker, Hopes and Dunks;
- f) that in August 2004, he, on behalf of Shagaev, facilitated the provision of information by Laycock, from official NSW Police records, to Shagaev, in relation to an associate of Shagaev (Mr Y) who had been charged by detectives from the Leichhardt Local Area Command.
- g) That in August - September 2004, Laycock, with the knowledge and assistance of Chris Walker, recruited Shagaev for the purpose of:
  - extorting money from one or more drug dealers which extortion would involve kidnapping the drug dealer and/or his family; and
  - extorting money from an Asian woman, which extortion might also involve kidnapping her.

12.116 Chris Walker is a civilian. Accordingly no finding of police misconduct can be made in relation to him. The Commission is satisfied however that he engaged in other misconduct: (subsection 16(1)(a) of the Act).

- 12.117 In terms of subsection 97(2) of the Act the only relevant issue is whether or not the Commission is of the opinion that consideration should be given to the prosecution of Chris Walker for specified criminal offences.
- 12.118 Due to the lack of admissible evidence the Commission is of the opinion that consideration **should not** be given to the prosecution of Chris Walker for any criminal offences in relation to (a) and (b) above.
- 12.119 In relation to the robbery at Glebe ((c) above), Rick Walker gave evidence adverse to his own interests and that of his brother, Chris Walker. The Commission is of the opinion that there was no credible reason for him to give such evidence unless it was true. His evidence, together with the evidence of the incident as reported to NSW Police, provides sufficient basis for the Commission to express the opinion that consideration **should** be given to prosecution of Chris Walker for specified criminal offences, namely, the offences of steal money pursuant to section 94 of the *Crimes Act 1900* and larceny pursuant to section 117 of that Act.
- 12.120 In relation to the robbery at Burwood, ((d) above), the evidence, against Chris Walker consists of the evidence of Rick Walker and Laycock. In addition the occupants of the property are able to give evidence of the fact of the robbery. They also corroborate other aspects of the accounts given by Laycock and Rick Walker. The Commission is of the opinion that consideration **should** be given to the prosecution of Chris Walker for the offences of steal money from a person pursuant to section 94 of the *Crimes Act 1900* and of larceny contrary to section 117 of that Act.
- 12.121 Larceny consists of the taking or carrying away of anything capable of being stolen without the consent of the owner, fraudulently and without claim of right made in good faith, with intent at the time of such taking permanently to deprive the owner of the thing concerned.<sup>191</sup>
- 12.122 It is sufficient to make out an offence of steal money from the person of another pursuant to section 94 of the *Crimes Act 1900* if the money is taken from the possession, care, guardianship and immediate presence of the victim concerned.<sup>192</sup>
- 12.123 The evidence against Chris Walker in relation to the Chiswick extortion, ((e) above), is that of CB1, Dunks, Laycock, Rick Walker, the video recording and the lawfully recorded telephone conversations. The Commission is of the opinion that consideration **should** be given to the prosecution of Chris Walker for the specified criminal offence of demanding money with menaces contrary to subsection 99(2) of the *Crimes Act 1900*. In this instance, the “*menace*” was the threat to have CB1 charged with goods in custody.

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<sup>191</sup> *Illich v R* (1987) 162 CLR 110

<sup>192</sup> *R v Delk* (1999) 46 NSWLR 340 at 344

## 12. AFFECTED PERSONS

12.124 In addition the Commission is of the opinion that consideration **should** be given to the prosecution of Chris Walker for the offence of robbery or stealing from a person contrary to section 94 of the *Crimes Act 1900*.

12.125 In relation to the allegation that Chris Walker and others provided assistance to an associate of Shagaev (Mr Y) to avoid prosecution, ((f) above), the evidence against Chris Walker is that of Laycock and Shagaev. The telephone conversations between Shagaev, Chris Walker and Laycock support Laycock's and Shagaev's evidence.

12.126 The Commission is of the opinion that consideration **should** be given to the prosecution of Chris Walker for the specified criminal offence of perverting the course of justice pursuant to section 319 of the *Crimes Act 1900*.

12.127 Section 319 of the *Crimes Act 1900* provides as follows:

A person who does any act, or makes any omission, intending in any way to pervert the course of justice, is liable to imprisonment for 14 years.”

12.128 Although the common law offence of conspiracy to pervert the course of justice has been abolished by section 341 of the *Crimes Act 1900*, a person may still be prosecuted for conspiring to commit an offence against section 319 (see section 342).

12.129 The provision of information concerning Mr Y to Shagaev was an act that had the tendency to pervert the administration of public justice<sup>193</sup> and was conduct that might have led, and was intended to lead, to a miscarriage of justice.<sup>194</sup>

12.130 Further, the Commission is of the opinion that consideration **should** be given to the prosecution of Chris Walker for the substantive offence of perverting the course of justice pursuant to section 319 of the *Crimes Act 1900*. He was intimately involved in the supply and receipt of information that had a tendency to cause or assist or incite Mr Y to flee the jurisdiction.

12.131 In relation to the allegation of conspiracy to extort money, possibly involving kidnapping or other violence, ((g) above), the recordings of telephone conversations between Laycock, Shagaev, and Chris Walker show that Chris Walker was aware of what was planned. However the Commission is of the opinion that consideration **should not** be given to the prosecution of Chris Walker for any criminal offences arising out of the allegation because there is insufficient evidence against him.

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<sup>193</sup> *R v Vreones* [1891] 1 QB 360

<sup>194</sup> *R v Selva* [1982] QB 372

## 13. PROCEDURAL MATTERS

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- 13.1 The Commission has a statutory role, pursuant to section 14 of the *Police Integrity Commission Act 1996*, to advise on possible ways in which police misconduct might be eliminated. With this objective in mind it is appropriate to comment on the following matters.

### SUPERVISION

- 13.2 The fact that Laycock, while a serving member of NSW Police, was able to continue carrying out the types of activities uncovered in this investigation, for the length of time that he did, is a matter of grave concern.
- 13.3 Laycock's history indicates that he was corrupted early in his police career, by his relationship with Chris Walker, and it appears as though acting corruptly became part of the way he worked. That this occurred may have been a result of a number of problems in Laycock's life outside NSW Police including a gambling problem.
- 13.4 It is acknowledged that where officers intend to participate in corrupt activity they will deliberately, and actively, avoid the constraints of supervision and thus their activities will be difficult to detect. However there were indicators that Laycock was an officer who required close supervision. In fact in late 2003, he had come to the notice of his supervisors at Burwood LAC and steps had been taken to more actively supervise him. This was the result of his supervisors becoming aware that Laycock's duty book did not portray an accurate picture of his work, and that he was unable to account for all of the time he spent at work. The Commission's investigation intervened in this process. Once the Commission's investigation began, the Local Area Commander at Burwood assisted the Commission by facilitating aspects of the investigation.
- 13.5 The fact that Laycock was able to carry out his corrupt activities for as many years as he did serves as a warning that NSW Police must remain alert to the possibility of corruption amongst its officers. This is especially so where officers have certain known risk factors associated with them, for example, a problem with gambling. The fact that corrupt activities are difficult to detect only serves to emphasise the need for vigilance.
- 13.6 As a result of the Commission's investigation into the activities of Laycock and his associates, NSW Police initiated a review and thorough analysis of investigations where Laycock had some type of direct involvement.<sup>195</sup> The review covered the period 1994 to 2004, because this represented Laycock's service whilst in criminal investigation, and allowed access to case records.

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<sup>195</sup> Risk Assessment of Investigations conducted by, and involving, former Sergeant Christopher John Laycock Registered Number 27014, May 2005



In total 65 cases were assessed for risk using methodology developed after examining Laycock's patterns in relation to corrupt activities.

13.7 The review uncovered a number of indicators of Laycock's corrupt activity. These included poor record keeping practices and the practice of accessing COPS whilst he was on leave.

13.8 As a result of the review NSW Police identified the following issues:<sup>196</sup>

- Lack of integrated auditing system: LAYCOCK regularly accessed COPS whilst on leave as well as frequently retrieved details of [a particular person] which was not detected. A need exists for review of auditing system[s] currently in place in order to ascertain early warning indicators and possibly intervention, removing the opportunity that possibly exists. Integration of COPS audit, SAP and Intelligence Based Rostering system for more user friendly analysis of officers' access to the systems rather than dip sampling is required. This "smart" auditing system could potentially identify officers accessing NSW Police system whilst on leave or outside normal duties or perhaps disable access when on leave.
- Lifestyle indicators – LAYCOCK's pawning history may have been an indicator of corrupt behaviour.
- Case management system has progressed in the past ten years, which was evident in investigations, recording practices and quality assurance / compliance of those cases from earlier times.

13.9 The Commission endorses the work done by NSW Police and commends the development of an integrated auditing system as identified above.

## INFORMANT MANAGEMENT

13.10 The corrupt relationship between Chris Walker and Hopes, which later included Laycock, commenced while Hopes was a registered informant to Chris Walker in Newtown in the 1990s. Relationships between police officers and informants are open to corruption and with this in mind NSW Police has continued to update the procedures required for the structure and management of such relationships.

13.11 It is acknowledged that the inappropriate nature of Chris Walker's relationship with Hopes did come to the notice of Chris Walker's supervisors and appropriate steps were taken, which resulted eventually in his resignation from NSW Police in 1999. Despite this Chris Walker's relationship with Hopes can be used as a case study, or reminder, of the dangers inherent in this type of relationship.

13.12 Chris Walker was the subject of various corruption allegations throughout his career. In 1998 he was the subject of a nomination under section 181D of the *Police Act 1990*, however he resigned on 15 August 1999 before any

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<sup>196</sup> Risk Assessment of Investigations conducted by, and involving, former Sergeant Christopher John Laycock Registered Number 27014, May 2005, pp. 21-22

disciplinary action could be taken. The nomination arose after an allegation was made that Chris Walker was corruptly involved with Hopes.

- 13.13 Hopes was registered as an informant to Chris Walker from 1995 to 1997. He was deregistered due to concerns about Hopes' criminal activity and the fact that Chris Walker had met with him 14 times in a five-month period without any worthwhile information being obtained.
- 13.14 In 1997 Chris Walker was transferred from Newtown to Leichhardt Police Station. In contravention of the then current Informant Management Plan he continued his relationship with Hopes after the transfer. Chris Walker's continued relationship with Hopes was the subject of an internal complaint by the then Leichhardt Crime Manager. The outcome of this complaint was that Chris Walker was instructed to desist from his contact with Hopes and was placed under close supervision.
- 13.15 During the investigation of an armed robbery in 1997 Walker's involvement with Hopes came to notice again. In February 1998, during the investigation of the robbery, he went off duty on sick leave and failed to attend arranged interviews with Internal Affairs. He also failed to produce his NSW Police notebooks and duty books. It later came to notice that many of Chris Walker's notebooks and duty books, issued since 1994, were missing. Walker resigned before his relationship with Hopes was investigated further and before any disciplinary action could be taken.
- 13.16 As noted above the Commission is aware that NSW Police has recently revised its Source Management Manual, including the policy and procedures to be applied in the case of informant relationships. This remains an area that requires constant attention.



## APPENDICES

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### APPENDIX 1 - ROLE AND FUNCTIONS OF THE COMMISSION

The Commission was established under the *Police Integrity Commission Act 1996* (the Act) on the recommendation of the Royal Commission into the New South Wales Police Service. The principal functions of the Commission, set out in section 13 of the Act, are:

- (a) to prevent serious police misconduct and other police misconduct,
- (b) to detect or investigate, or manage other agencies in the detection or investigation of, serious police misconduct,
- (c) to detect or investigate, or oversee other agencies in the detection or investigation of, other police misconduct, as it thinks fit,
- (d) to receive and assess all matters not completed by the Police Royal Commission, to treat any investigations or assessments of the Police Royal Commission as its own, to initiate or continue the investigation of any such matters where appropriate, and otherwise to deal with those matters under this Act, and to deal with records of the Police Royal Commission as provided by this Act.

As far as practicable, the Commission is required to turn its attention principally to serious police misconduct (subsection 13(2)).

#### POLICE MISCONDUCT

The expressions “police misconduct” and “serious police misconduct” are not specifically defined by the Act. They nevertheless include the following types of conduct (see subsection 5(2)):

- (a) police corruption,
- (b) the commission of a criminal offence by a police officer,
- (b1) misconduct in respect of which Commissioner of Police may take action under Part 9 of the *Police Act 1990*,
- (c) corrupt conduct within the meaning of the *Independent Commission Against Corruption Act 1988* involving a police officer,
- (d) any other matters about which a complaint can be made under the *Police Act 1990*.

It follows that “police misconduct” may encompass not only serious criminal activity such as perverting the course of justice but also minor disciplinary breaches by police, the sanction for which may, for example, be nothing more than additional training and development.

## INVESTIGATIONS

In matters where the Commission determines to carry out an investigation (whether or not in the nature of a preliminary investigation), it has a wide range of powers at its disposal in order to acquire information. For example, the Commission may:

- require public officials and public authorities to produce statements of information (section 25);
- require any person (whether or not a public official or public authority) to produce documents or other things (section 26);
- enter public premises (section 29);
- obtain search warrants (section 45);
- obtain warrants under the *Telecommunications (Interception) Act 1979*;
- obtain warrants under the *Listening Devices Act 1984* (section 50); and
- require persons to attend and give evidence before a hearing of the Commission, either in public or in private (section 38).

## REPORTS TO PARLIAMENT

### **When does the Commission Submit a Report to Parliament Regarding an Investigation?**

In circumstances where the Commission has conducted a public hearing for the purposes of an investigation, the Commission must prepare a report to Parliament in respect of the matter to which the public hearing related (subsection 96(2)). The Commission may also prepare a report to Parliament in relation to any other matter that has been, or is, the subject of an investigation (subsection 96(1)). A report to Parliament must be furnished to the Presiding Officer of each House of Parliament as soon as possible after the Commission has concluded its involvement in the matter, unless it is considered desirable, in the public interest, for the making of the report to be deferred (subsections 96(3), (4) and (5)).

### **Components of a Report to Parliament Regarding an Investigation**

A report to Parliament in relation to an investigation will generally contain a number of components. Under subsection 97(1) of the Act the Commission is authorised to include statements as to any of its assessments, opinions and recommendations, and the reasons for any of its assessments, opinions and recommendations. The Commission must then, in respect of each “affected person”, make a statement as to whether or not consideration should or should not be given to the prosecution of persons (including police officers) for criminal or disciplinary offences and, in the case of police officers, certain other forms of disciplinary action (subsection 97(2)). An “affected person” is a person “against whom, in the Commission’s opinion, substantial allegations have been made in the course of or in connection with the investigation concerned” (subsection 97(3)).

## **The Commission's Approach to the Assessment of Information and Evidence**

In forming the assessments, opinions and recommendations referred to above, the Commission may not make a finding or form an opinion that a specified person is guilty of, or has committed, is committing, or is about to commit a criminal or disciplinary offence (subsection 16(2)(a)). The Commission may form opinions as to whether police misconduct or other misconduct may have occurred, is or may be occurring, is or may be about to occur, or is likely to occur (subsection 16(1)(a)). However it is important to bear in mind that the Commission is an investigative agency, it is not a court or tribunal in the sense that it may determine whether a person has committed a criminal or disciplinary offence. Accordingly the Act deems permissible opinions concerning police misconduct or other misconduct not to be findings or opinions that the person is guilty of or has committed, or is committing or is about to commit a criminal offence (subsection 16(3)). That said, the Commission recognises, bearing in mind the definition of police misconduct may include conduct that amounts to criminal and disciplinary offences, that such an opinion may in some circumstances take on the appearance of a finding of a court or tribunal. The Commission's approach is, as far as possible, to avoid the expression of opinions that may be characterised as findings by a court.

The standard of proof applied by the Commission to the formation of an opinion as to whether a person has engaged in police misconduct or other misconduct is the balance of probabilities. Such an opinion will be reached having regard to the principles in *Briginshaw v Briginshaw* (1938) 60 CLR 336, that is, the more serious the matters under consideration, the more stringent will be the requisite degree of satisfaction.

### **Recommendations and Opinions that Consideration be given to the Prosecution of a Person for a Criminal or Disciplinary Offence**

If, in the Commission's opinion, the available evidence is sufficient to establish a *prima facie* case in respect of a criminal or disciplinary offence then, except in one very limited circumstance discussed below, it is the Commission's approach to recommend that consideration should be given to the prosecution of a person for a specified criminal or disciplinary offence.<sup>197</sup> Such a recommendation will be made to the relevant prosecutorial authority, for example, the New South Wales Director of Public Prosecutions. The Commission will not have regard to considerations, such as whether there is a reasonable prospect of conviction, or public policy considerations when deciding whether to make such a recommendation. These, and other discretionary considerations, are appropriately matters for the relevant prosecutorial authority. That said, the Commission may make findings or express opinions as to the veracity of evidence received from individual witnesses.

<sup>197</sup> The power of the Commissioner of Police to refer a departmental charge against a police officer for hearing by the Police Tribunal was repealed on 8 March 1999. Since that date, the powers and obligations of the Commission to recommend or state whether consideration should be given to the prosecution of a person for a specified "disciplinary offence" (subsections 16(1)(b), 97(2)(b)) have no effective application to police officers. This is so even for police misconduct that occurred before this date. Those powers and obligations may however have application to other public officials.

The circumstances in which the Commission may, in the exercise of its discretion, decline to furnish or defer furnishing a brief of evidence to the relevant prosecutorial authority are:

- where it is considered that to do so is likely to be counterproductive to the Commission’s pursuit of its principal statutory functions; or
- where the relevant person has already been considered for or has been prosecuted in relation to the same, or substantially the same, subject matter and evidence, and it would be unnecessary or duplicitous for the Commission to make a recommendation that consideration should be given to additional prosecutions.

### **Statements Regarding “Affected Persons”**

Subsection 97(2) of the Act requires that:

The report must include, in respect of each “affected person”, a statement as to whether or not in all the circumstances the Commission is of the opinion that consideration should be given to the following:

- (a) the prosecution of a person for a specified criminal offence,
- (b) the taking of action against the person for a specified disciplinary,
- (c) the taking of action (including the making of an order under section 181D of the *Police Act 1990*) against the person as a police officer on specified grounds, with a view to dismissing, dispensing with the services or otherwise terminating the services of the police officer,
- (d) the taking of reviewable action within the meaning of section 173 of the *Police Act 1990* against the person as a police officer.

### **Recommendations and Opinions Regarding Disciplinary Action Against Police**

“Reviewable action” within the meaning of section 173 of the *Police Act 1990* refers to forms of disciplinary action that would ordinarily apply to more serious breaches of discipline. The available forms of reviewable action are:

- a reduction in a police officer’s rank or grade;
- a reduction in a police officer’s seniority;
- a deferral of a police officer’s salary increment; and
- any other action (other than dismissal or the imposition of a fine) that the Commissioner of Police considers appropriate.

Owing to the seriousness of these forms of disciplinary action, a police officer may appeal the imposition of any of these penalties to the Industrial Relations Commission of New South Wales.

In addition to the requirement to include in a report to Parliament a statement of the Commission’s opinions regarding those against whom substantial allegations have been made, the Commission has discretion to recommend that consideration be given to other disciplinary action. This includes “non-reviewable action” within the meaning of section 173 of the *Police Act 1990*. Non-reviewable action is

disciplinary action available against police officers for less serious breaches of discipline. There is no avenue of appeal to the Industrial Relations Commission against the imposition of a form of non-reviewable action. The available forms of non-reviewable action are:

- coaching;
- mentoring;
- training and development;
- increased professional, administrative or educational supervision;
- counselling;
- reprimand;
- warning;
- retraining;
- personal development;
- performance enhancement agreements;
- non-disciplinary transfer;
- change of shift (but only if the change results in no financial loss and is imposed for a limited period and is subject to review);
- restricted duties; and
- recording of adverse findings.

### **Other Types of Recommendations and Opinions**

If the Commission considers it appropriate in the circumstances, a report to Parliament may also include recommendations for the taking of other action. Such recommendations may, for example, relate to the need for law reform or for changes to policies and procedures affecting the way in which police or other persons carry out their respective duties and responsibilities.



**APPENDIX 2 – WITNESS LIST**

<b>NAME</b>	<b>DATE OF APPEARANCE</b>
CB1	8 October 2004
CB3	11 October 2004
CB4	14 October 2004
John Robert Dunks	13 October 2004
Sergeant Charles Khalifeh	13, 14 October 2004
Former Detective Sergeant Christopher John Laycock*	8, 11, 12, 14 October & 7 December 2004
Jason Roberts	13 October 2004
Jahangir Shagaev	12 October 2004
Brett Richard Walker	11 October 2004
Christopher John Walker	6, 8 December 2004 & 18 January 2005

\* Laycock was dismissed from NSW Police on 15 November 2004.





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