



## SPARK AND CANNON

### TRANSCRIPT OF PROCEEDINGS

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THE HONOURABLE TIMOTHY FRANCIS CARMODY SC, Commissioner

MS K McMILLAN SC, Counsel Assisting  
MR M COPLEY SC, Counsel Assisting

IN THE MATTER OF THE COMMISSIONS INQUIRY ACT 1950  
COMMISSIONS OF INQUIRY ORDER (No. 1) 2012  
QUEENSLAND CHILD PROTECTION COMMISSION OF INQUIRY

BRISBANE

..DATE 26/11/2012

Continued from 1/11/2012

..DAY 2

WARNING: The publication of information or details likely to lead to the identification of persons in some proceedings is a criminal offence. This is so particularly in relation to the identification of children who are involved in criminal proceedings or proceedings for their protection under the *Child Protection Act 1999*, and complaints in criminal sexual offences, but is not limited to those categories. You may wish to seek legal advice before giving others access to the details of any person named in these proceedings.

COMMISSIONER: Good morning, Mr Copley. 1

MR COPLEY: Good morning, Mr Commissioner.  
Mr Commissioner, pursuant to section 17 of the Commissions of Inquiry Act of 1950 a commission in the exercise of any of its functions or powers shall not be bound by the rules or practice of any court or tribunal as to procedure or evidence but may conduct its proceedings and inform itself on any matter in such manner as it thinks proper. So pursuant to that section I intend shortly to tender a number of statements from persons who can provide evidence relevant to the ambit of paragraph 3(e) of the Order in Council. However, before I commence to tender these statements Ms Campbell from the firm of Bosscher Lawyers will need to seek authority to appear for the purpose of this morning's proceedings. 10

COMMISSIONER: Thank you. Ms Campbell?

MS CAMPBELL: Yes, good morning, Mr Commissioner. Thank you. For the record my name is Campbell, initial A. I am seeking leave to appear today on behalf of Mr Lindeberg solely for the purposes of today's hearing given Mr Bosscher is unavailable. 20

COMMISSIONER: All right. I suppose I'll - look, I'll treat it as an application for leave to appear as agent for Mr Bosscher rather than for Mr Lindeberg.

MS CAMPBELL: Thank you.

COMMISSIONER: I'll grant leave for the purposes of today because they're procedural only.

MS CAMPBELL: Yes, thank you, Mr Commissioner. 30

COMMISSIONER: Thank you. Mr Copley - sorry, I should have asked. Is there any objection from anybody?

MR COPLEY: No.

MR HANGER: No objection to that.

COMMISSIONER: Yes, Mr Copley?

MR COPLEY: Thanks, Mr Commissioner. You may recall that on 1 November 2012 five exhibits relevant to paragraph 3(e) were tendered in the presence of all those who have authority to appear today, so the next exhibit number would be number 6. 40

COMMISSIONER: Yes, thank you.

MR COPLEY: I tender a statement under the hand of Eileen Elizabeth Bisby dated 7 September 2012.

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COMMISSIONER: Ms Bisby's statement will be exhibit 6.

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ADMITTED AND MARKED: "EXHIBIT 6"

MR COPLEY: I tender a statement under the hand of Brian Cartledge dated 21 September 2012.

COMMISSIONER: Exhibit 7.

ADMITTED AND MARKED: "EXHIBIT 7"

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MR COPLEY: I tender a statement under the hand of Bruce Henry Adam Cassidy dated 18 September 2012.

COMMISSIONER: Exhibit 8.

ADMITTED AND MARKED: "EXHIBIT 8"

MR COPLEY: I tender a statement under the hand of Grace Hazel Chong dated 28 October 2012.

COMMISSIONER: You've lost me. I'm lost already.

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MR COPLEY: That would be number 9.

COMMISSIONER: Yes, okay. Ms Chong's statement will be exhibit 9.

ADMITTED AND MARKED: "EXHIBIT 9"

MR COPLEY: I tender a statement under the hand of Warren John Christianson dated 26 September 2012.

COMMISSIONER: Exhibit 10.

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ADMITTED AND MARKED: "EXHIBIT 10"

MR COPLEY: I tender a statement under the hand of Gordon Cooper dated 5 October 2012.

COMMISSIONER: Exhibit 11.

ADMITTED AND MARKED: "EXHIBIT 11"

MR COPLEY: I tender a statement under the hand of Janice Grace Cosgrove dated 5 September 2012.

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COMMISSIONER: Exhibit 12.

ADMITTED AND MARKED: "EXHIBIT 12"

MR COPLEY: I tender a statement under the hand of Rosemary Elizabeth Cox dated 22 October 2012.

COMMISSIONER: Exhibit 13.

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26112012 01/RMO(BRIS) (Carmody CMR)

ADMITTED AND MARKED: "EXHIBIT 13"

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MR COPLEY: I tender a statement under the hand of Trevor James Cox dated 27 September 2012.

COMMISSIONER: Exhibit 14

ADMITTED AND MARKED: "EXHIBIT 14"

MR COPLEY: I tender a statement under the hand of Deirdre Denise Duncan dated 1 November 2012.

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COMMISSIONER: Exhibit 15.

ADMITTED AND MARKED: "EXHIBIT 15"

MR COPLEY: I tender a statement under the hand of Dennis Gary Everett dated 3 October 2012.

COMMISSIONER: Exhibit 16.

ADMITTED AND MARKED: "EXHIBIT 16"

MR COPLEY: I tender a statement under the hand of Frederick John Fiege dated 5 October 2012.

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COMMISSIONER: That will be exhibit 17.

ADMITTED AND MARKED: "EXHIBIT 17"

MR COPLEY: I tender a statement under the hand of Barbara Joan Flynn dated 10 September 2012.

COMMISSIONER: Exhibit 18.

ADMITTED AND MARKED: "EXHIBIT 18"

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MR COPLEY: I tender a statement under the hand of Jan Marion French dated 13 September 2012.

COMMISSIONER: Exhibit 19.

ADMITTED AND MARKED: "EXHIBIT 19"

MR COPLEY: I tender a statement under the hand of Bronwyn Marguerite Friend dated 8 November 2012.

COMMISSIONER: Exhibit 20.

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ADMITTED AND MARKED: "EXHIBIT 20"

MR COPLEY: I tender a statement under the hand of Paul Lester Hampson dated 10 September 2012.

COMMISSIONER: Exhibit 21.

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26112012 01/RMO(BRIS) (Carmody CMR)

ADMITTED AND MARKED: "EXHIBIT 21"

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MR COPLEY: I tender a statement under the hand of Gary Thomas Havilland dated 3 November 2012.

COMMISSIONER: Exhibit 22.

ADMITTED AND MARKED: "EXHIBIT 22"

MR COPLEY: I tender a statement under the hand of Glen Scott Healy dated 9 October 2012.

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COMMISSIONER: Exhibit 23.

ADMITTED AND MARKED: "EXHIBIT 23"

MR COPLEY: I tender a statement under the hand of Ollie Isaac dated 2 October 2012.

COMMISSIONER: Exhibit 24.

ADMITTED AND MARKED: "EXHIBIT 24"

MR COPLEY: I tender a statement under the hand of Kerry Ann Jones dated 31 October 2012.

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COMMISSIONER: Exhibit 25.

ADMITTED AND MARKED: "EXHIBIT 25"

MR COPLEY: I tender a statement under the hand of Eric Kaltner, K-a-l-t-n-e-r, dated 29 October 2012.

COMMISSIONER: That will be exhibit 26.

ADMITTED AND MARKED: "EXHIBIT 26"

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MR COPLEY: I tender a statement under the hand of Kenneth Wallace Clyden dated 5 October 2012.

COMMISSIONER: 27.

ADMITTED AND MARKED: "EXHIBIT 27"

MR COPLEY: I tender a statement under the hand of Margaret Alice Knell, K-n-e-l-l, dated 10 September 2012.

COMMISSIONER: Exhibit 28.

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ADMITTED AND MARKED: "EXHIBIT 28"

MR COPLEY: I tender a statement under the hand of Sabina Konicanin dated 19 September 2012.

COMMISSIONER: Exhibit 29.

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ADMITTED AND MARKED: "EXHIBIT 29"

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MR COPLEY: I tender a statement under the hand of Daniel Francis Lannon dated 17 October 2012.

COMMISSIONER: Exhibit 30.

ADMITTED AND MARKED: "EXHIBIT 30"

MR COPLEY: I tender a statement under the hand of Gail Lesley Leggett dated 23 October 2012.

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COMMISSIONER: Exhibit 31.

ADMITTED AND MARKED: "EXHIBIT 31"

MR COPLEY: I tender a statement under the hand of Lorraine Margaret Logan dated 31 October 2012.

COMMISSIONER: Exhibit 32.

ADMITTED AND MARKED: "EXHIBIT 32"

MR COPLEY: I tender a statement under the hand of Bronwyn Jane Marshall dated 26 September 2012.

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COMMISSIONER: Exhibit 33.

ADMITTED AND MARKED: "EXHIBIT 33"

MR COPLEY: I tender a statement under the hand of Lorraine Margaret McGregor dated 26 September 2012.

COMMISSIONER: Exhibit 34.

ADMITTED AND MARKED: "EXHIBIT 34"

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MR COPLEY: I tender a statement under the hand of Leslie Alan Morrison dated 31 October 2012.

COMMISSIONER: Exhibit 35.

ADMITTED AND MARKED: "EXHIBIT 35"

MR COPLEY: I tender a statement under the hand of Jane Vivian Mumford dated 19 October 2012.

COMMISSIONER: Exhibit 36.

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ADMITTED AND MARKED: "EXHIBIT 36"

MR COPLEY: I tender a statement under the hand of Narend, N-a-r-e-n-d, Chand, C-h-a-n-d, Nath, N-a-t-h dated 22 October 2012.

COMMISSIONER: Exhibit 34 - sorry, 37.

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ADMITTED AND MARKED: "EXHIBIT 37"

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MR COPLEY: Thank you. I tender a statement under the hand of Lola Maree Nolan - or Lola Maree Nolan, dated 24 October 2012.

COMMISSIONER: Exhibit 38.

ADMITTED AND MARKED: "EXHIBIT 38"

MR COPLEY: I tender a statement under the hand of Trudy Notley dated 11 October 2012.

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COMMISSIONER: Exhibit 39.

ADMITTED AND MARKED: "EXHIBIT 39"

MR COPLEY: I tender a statement under the hand of Robert James O'Hanley dated 24 September 2012.

COMMISSIONER: Exhibit 40.

ADMITTED AND MARKED: "EXHIBIT 40"

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MR COPLEY: I tender a statement under the hand of Ingrid Rae Ostbye, O-s-t-b-y-e, dated 30 October 2012.

COMMISSIONER: Exhibit 41.

ADMITTED AND MARKED: "EXHIBIT 41"

MR COPLEY: I tender a statement under the hand of Irene Kathleen Parfitt, P-a-r-f-i-t-t, dated 27 September 2012.

COMMISSIONER: Exhibit 42.

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ADMITTED AND MARKED: "EXHIBIT 42"

MR COPLEY: I tender a statement under the hand of Theresa Ellen Parker dated 7 November 2012.

COMMISSIONER: Exhibit 43.

ADMITTED AND MARKED: "EXHIBIT 43"

MR COPLEY: I tender a statement under the hand of Mariana Catherine Pearce dated 15 October 2012.

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COMMISSIONER: Exhibit 44.

ADMITTED AND MARKED: "EXHIBIT 44"

MR COPLEY: I tender a statement under the hand of Irina Percival dated 12 September 2012.

COMMISSIONER: Exhibit 45.

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ADMITTED AND MARKED: "EXHIBIT 45"

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MR COPLEY: I tender a statement under the hand of Jodie Marie Preston dated 24 September 2012.

COMMISSIONER: Exhibit 46.

ADMITTED AND MARKED: "EXHIBIT 46"

MR COPLEY: I tender a statement under the hand of Cindy Marie Ranger dated 10 October 2012.

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COMMISSIONER: Exhibit 47.

ADMITTED AND MARKED: "EXHIBIT 47"

MR COPLEY: I tender a statement under the hand of Vincent Robert Robertson dated 23 October 2012.

COMMISSIONER: Exhibit 48.

ADMITTED AND MARKED: "EXHIBIT 48"

MR COPLEY: I tender a statement under the hand of Walter James Tallis dated 30 October 2012.

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COMMISSIONER: Exhibit 49.

ADMITTED AND MARKED: "EXHIBIT 49"

MR COPLEY: I tender a statement under the hand of Jane Elizabeth Thirnbeck dated 17 October 2012.

COMMISSIONER: Exhibit 50.

ADMITTED AND MARKED: "EXHIBIT 50"

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MR COPLEY: I tender a statement under the hand of Marion Ann Thompson dated 11 October 2012.

COMMISSIONER: Exhibit 51.

ADMITTED AND MARKED: "EXHIBIT 51"

MR COPLEY: I tender a statement under the hand of Gary John Truloff, T-r-u-l-o-f-f, dated 19 September. You might just check that, Mr Commissioner. I think it could be September (indistinct)

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COMMISSIONER: 27 September, 19 February. 1

MR COPLEY: Could you check and just see if he's got a signature, what date he signed it. Because sometimes the wrong date might be entered in the box on the front, but - - -

COMMISSIONER: Yes. The box on the front says 19 September.

MR COPLEY: Yes. 10

COMMISSIONER: But the declaration is dated 19 February.

MR COPLEY: It's probably safe to assume that it was sworn or taken on 19 September 2012 because the commission of inquiry was not constituted on 19 February or did not exist on 19 February this year.

COMMISSIONER: Well, it's witnessed on 27 September.

MR COPLEY: I see.

COMMISSIONER: So, yes. 20

MR COPLEY: Perhaps we should regard it as being taken on 27 September 2012.

COMMISSIONER: Yes, I think so. Will I amend it?

MR COPLEY: Yes, please, 27 September.

COMMISSIONER: All right, the statement apparently taken on 27 September from Mr Truloff will be exhibit 52.

ADMITTED AND MARKED: "EXHIBIT 52" 30

MR COPLEY: Thank you. May I proceed?

COMMISSIONER: Yes, please.

MR COPLEY: Thank you. I tender a statement under the hand of Jill Wesche, dated 21 September 2012.

COMMISSIONER: Exhibit 53.

ADMITTED AND MARKED: "EXHIBIT 53" 40

MR COPLEY: I tender a statement under the hand of June Yvonne West dated 3 October 2012.

COMMISSIONER: Exhibit 54.

ADMITTED AND MARKED: "EXHIBIT 54"

MR COPLEY: I tender a statement under the hand of

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Lynne Dianne Woollard dated 30 October 2012.

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COMMISSIONER: That will be exhibit 55, Mr Copley.

ADMITTED AND MARKED: "EXHIBIT 55"

MR COPLEY: Thank you. Mr Commissioner, they represent only some of the statements that have so far been obtained by the police seconded to the commission of inquiry from persons who have evidence that may be of relevance to the ambit paragraph 3(e) of the order in council. So I intend to tender further statements during the period of the fortnight commencing 3 October 2012.

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MR .....: Not 3 October.

MR COPLEY: Thank you. 3 December 2012. And I'll ask you to make those statements exhibits. It is my intention wherever possible to call each of the persons whose statements have been tendered so that they may identify them in court on oath and so that they may, if necessary, be examined or cross-examined as you deem appropriate in each case. I say wherever possible they will be called; a number of the people are now of course 22 years older than they were when the events relevant to paragraph 3(e) or the event considered to be substantially relevant to paragraph 3(e) occurred.

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Some of the people live overseas, some of them live interstate, some of them are somewhat infirm. So it could be that an application may have to be made to take telephone evidence from some; it could be that some are simply not in a position to testify owing to medical difficulties. And so that bridge will be crossed if and when it arises.

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In the meantime I'd ask you - and by the meantime I mean between now - for the purposes of today I'd ask you to make an order pursuant to section 16 of the Commissions of Inquiry Act of 1950 to this effect: that until further order - and I would contemplate that this would be a matter that could be revisited - on a statement by statement basis from 3 December as these witnesses are called; but that until further order, exhibits 6 to 65 shall not be published except to this extent, that each of those persons who have been granted authority to appear in relation to paragraph 3(e) of the order in council dated 1 July 2012 are to be provided with a copy of each of exhibits 6 to 55 subject to the condition that apart from obtaining instructions from their client or clients they will not publish, give, distribute or otherwise make these exhibits available to any personal persons.

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It might be appropriate to ask those with authority to appear whether they wish to be heard on this proposed order.

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COMMISSIONER: Before I do that, Mr Copley, do you want to tell me why the non-publication order is appropriate? 1

MR COPLEY: I contended that a non-publication order is appropriate for the following reason: in a lot of statements there are allegations made about people; about their style of management, their work practices, their relationships with other staff, their relationships with inmates of the John Oxley Youth Centre. Many the allegations would fall into the category of hearsay allegations. There are allegations that are - I know from other material - have been investigated by the police on at least one, if not more than one occasion over the years and no charges were ever laid, or if charges were laid the proceedings were discontinued as a result of professional assessments made by persons such as the Director Of Public Prosecutions. 10

So in the circumstances, bearing in mind the commission's duty to ensure that persons' reputations are not unnecessarily damaged, it is my submission that until further order the contents of these statements should not be made public because it may well be that if they were, serious damage to reputation would be sustained by some people. Just to give you an example, there's an allegation made that in 1981 a man did something or other to a child, but that allegation does not come from the victim, if indeed there was one; it comes from a person who claims to have a vague recollection that a person who said they were a victim of it told them X, Y and Z. 20

So in the circumstances in my submission it would not be responsible of the commission to permit publication of the statements at the moment. The better course would be to preserve confidentiality insofar as that can be done. I put it that way because the people with authority to appear need to be able to have a copy of the statements to peruse them to see whether or not they will wish to cross-examine any or all of these witnesses or some of these witnesses. That can't be done unless they have a copy of the statement. 30

Once they have a copy of the statement they will then be in a position to make an informed submission to you about whether that particular witness's statement should be published in its entirety or only partially. They can't make an informed submission to you today because none of them have the statements yet. 40

COMMISSIONER: And I suppose you can't make an informed decision as to who should be given a notice of allegation or an opportunity to be heard in response to an allegation either before or after it's made.

MR COPLEY: Well, that is a difficulty and that will be tackled this week to the extent that the officers from the

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police who are seconded to the commission of inquiry will be providing copies of these statements to some of the people who I have identified as running the risk of sustaining some damage to reputation, so that those people will have an opportunity to read and digest the statements and consider their position before next Monday.

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COMMISSIONER: They should read it from the statement and not from the Courier Mail.

MR COPLEY: That is correct.

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COMMISSIONER: All right. Okay.

MR COPLEY: The other matter to bear in mind is this; paragraph 3(e) of the order in Council requires you to:

*Review the adequacy and the appropriateness of any response of and action taken by government to allegations, including any allegations of criminal conduct associated with government responses into historic child sexual abuse in youth detention centres.*

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The way that term of reference is phrased these are very much open to doubt that you have either the authority or the duty to inquire into the truthfulness of any particular allegation of sexual abuse.

COMMISSIONER: It's the responsiveness of government.

MR COPLEY: That is correct, it is response of government to allegations of sexual abuse. So to the extent that there might be in a statement and allegation that a person did such and such to a child, you in my submission will probably never make a ruling or a finding about that, but that allegation is in the statement at the moment; it's a serious allegation and would damage reputation.

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COMMISSIONER: So for the purpose of examining the government response, is it based on the assumption of truth or the irrelevance of truth? 1

MR COPLEY: It really has to be based on the assumption of irrelevance of truth.

COMMISSIONER: I suppose though how they respond will depend on their assessment of the truthfulness or credibility or improbability of an allegation, wouldn't it?

MR COPLEY: That's true. In the system that we operate in Queensland, and have for many years, ministers of the Crown don't take it upon themselves to investigate allegations against people of criminal behaviour or of official misconduct if that concept existed prior to the enactment of the Criminal Justice Act. That's the responsibility of other entities and other bodies and then a government response would no doubt be informed by what those charged with the duty of investigating recommend or find or what action they take or did not take. 10

So to that extent the reaction of government might well be - in the hypothetical we're talking about at the moment. In the abstract I'm only speaking of the reaction of government might well be affected by the attitude that's taken by a police station or by a director of public prosecutions to something. It's really stating the obvious to state that in the abstract. 20

COMMISSIONER: Although governments probably have a broader interest or menu option of what their reactions will be beyond the functions of government officials.

MR COPLEY: That's true, but my submission is this: that no unfairness to anyone will be occasioned by you making that order today. The parties who have authority to - the people, rather, who have authority to appear will have an opportunity to make submissions to you on a statement-by-statement, exhibit-by-exhibit basis on and from December 3 as to how much of the statement of each person should be made public. 30

I would envisage that about 95 per cent of most people's statements would - we would all be in agreement should be made public, but when those with authority to appear get to read and digest the statements and see the source of an allegation against someone or the apparent strength of it, they will be in a better position to make a responsible submission to you about what course should be taken in terms of a particular paragraph or a particular name in a particular paragraph of the statement. 40

COMMISSIONER: All right. We will treat it today as although the statements have been tendered, accepted and marked, its main purpose is to provide a copy to interested

parties for the purpose of obtaining instructions and the question of whether or not all, part or none of a particular statement should be published will be left until 3 December when we reconvene.

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MR COPLEY: Yes.

COMMISSIONER: All right. Does anyone want to make a submission about that?

MR HANGER: I have no idea what's in the statements but I submit my friend's approach is eminently proper.

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COMMISSIONER: Mr Harris?

MR HARRIS: No objection to Mr Copley's position.

MS CAMPBELL: No, I have no submissions, thank you, commissioner.

COMMISSIONER: All right. Any concerns after you have read them before I rise and before 3 December, let us know and we will deal with them if and when it arises, otherwise we will take the course. I make the order in the terms you have suggested, Mr Copley, and we will till 3 December. Is that right?

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MR COPLEY: If you make an order as per the draft.

COMMISSIONER: I will make an order as per the draft.

MR COPLEY: I will provide a copy of the order to those with authority to appear.

COMMISSIONER: Okay.

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MR COPLEY: Thank you.

COMMISSIONER: Have you got a draft?

MR COPLEY: I will hand up a draft.

COMMISSIONER: Thank you. I will initial the draft and I will make it an order in its terms.

MR COPLEY: Thank you.

COMMISSIONER: Mr Hanger?

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MR HANGER: Before you adjourn I would like to mention matters for the rest of the week, if I might.

COMMISSIONER: Yes, sure.

MR COPLEY: If we just attend to this - - -

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COMMISSIONER: We will attend to this first. 1

MR COPLEY: Yes, so we don't forget anything.

COMMISSIONER: I will make the order as per draft initialled and dated by me. Thank you.

MR COPLEY: Mr Blumke, might be able to distribute those statements now.

COMMISSIONER: Yes, and then I might adjourn this proceeding and then we will go to the other terms of reference. 10

MR HANGER: Yes, it should be a closed hearing then.

COMMISSIONER: Yes.

MR COPLEY: Actually, that's a good suggestion. We might perhaps make the draft that you have initialled an exhibit in the proceeding as well.

COMMISSIONER: All right. That will be exhibit 56. 20

ADMITTED AND MARKED: "EXHIBIT 56"

MR COPLEY: Thank you.

COMMISSIONER: I will adjourn the further proceedings of the examination of matters related to term of reference 3(e) until 6 December 2012.

MR COPLEY: 3 December.

COMMISSIONER: 3 December 2012 at 10 am. 30

MR COPLEY: Yes, thank you.

COMMISSIONER: 10 am, thank you. So I am now going to reopen the proceedings relating to the other terms of reference other than term 3(e) and I'm going to hear an application for the court to be closed so those with interest in term 3(e) only are welcome to leave and those who want to stay can stay until I decide the closure application. Thank you.

MR HARRIS: Thank you, your Honour. 40

COMMISSIONER: Thanks, Mr Harris. Thanks very much, Ms Campbell. It looks like you will win by default, Mr Hanger.

MR HANGER: Could the recording device be stopped - the live streaming be stopped?

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COMMISSIONER: Yes, sure. Is it finished? The live streaming is finished.

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THE COMMISSION ADJOURNED AT 10.30 AM  
UNTIL MONDAY, 3 DECEMBER 2012

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