



Report on serious misconduct by a senior police officer

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INTRODUCTION

- [1] In July 2022, the Commission was approached by a journalist with allegations of misconduct concerning a senior Western Australian police officer.
- [2] Subsequently, the Commission commenced Operation Pemaquid in cooperation with WA Police. As the operation progressed, the Commission gathered information from many sources. Private examinations were held with five witnesses.
- [3] On 16 March 2023, information was disclosed to the Commissioner of Police for consideration of disciplinary proceedings.¹ On 25 October 2023, one day in advance of the Commission tabling this report in Parliament, the officer resigned, effective forthwith, bringing to an end any disciplinary proceedings.
- [4] The release of this report has been delayed longer than the Commission would prefer. This is no-one's fault. For acceptable reasons the officer's response to a draft report was delayed. His comprehensive response and representations were considered carefully and, where the Commission agrees, the report has been amended. The Commission has written to the officer's solicitor with a more detailed response.
- [5] Operation Pemaquid focussed on two matters of potential misconduct: the release of confidential information; and the misuse of police motor vehicles.
- [6] In the Commission's opinion, the officer's actions in releasing confidential information that he acquired as a police officer involves the misuse of information for his own benefit in maintaining a relationship with, and for the benefit of, a journalist.²
- [7] In the Commission's opinion, the officer's misuse of police motor vehicles is a breach of the trust placed in him by reason of his employment.³
- [8] The Commission acknowledges the officer's service over 32 years which has seen him rise to the position of detective senior sergeant. A psychiatrist's report indicates the officer is suffering from Post-traumatic stress disorder (PTSD). The Commission's report is about his conduct, rather than the motivation or reason for it. He is a senior police officer in charge of other officers in a team, trusted with complex investigations. In the Commission's opinion his actions fall well short of acceptable conduct.

¹ *Corruption, Crime and Misconduct Act 2003* (CCM Act) s 43(1)(a)(ii).

² CCM Act s 4(d)(iv).

³ CCM Act s 4(d)(iii).

In each matter his behaviour could constitute reasonable grounds for the termination of his employment.⁴

- [9] An opinion of misconduct formed by the Commission is not a finding of misconduct and is not to be taken as a finding that a person has engaged in conduct that constitutes or provides grounds upon which that person's contract of employment should be terminated.⁵
- [10] This report has been anonymised where possible and details have been omitted to protect the journalist.
- [11] The Commission considered anonymising the officer but concluded some investigations referred to are so much in the public domain that such a course would be pointless.
- [12] The Commission therefore applied its usual practice of naming a public officer in respect of whom a misconduct opinion has been formed.

⁴ CCM Act s 4(d) and s 217A.

⁵ CCM Act s 43(6).

CHAPTER ONE

Overview of Operation Pemaquid

[13] Cameron Shaun Blaine is a career police officer. He joined the WA Police Force as a cadet in 1991 aged 18 and by November 2021 had risen to the rank of Detective Senior Sergeant (DSS) and Senior Investigating Officer (SIO) of Team 2 in the Homicide Squad. He was a member of the Homicide Squad from 2012 to 2017 and re-joined the squad in April 2021.

Operation Rodia

[14] In late October 2021, DSS Blaine was one of many officers attached to Operation Rodia, established to investigate the disappearance of a three-year-old child from her parents' tent when camping outside Carnarvon. Although her name is well known, at present she will be referred to as the 'abductee'.

[15] In the early hours of 3 November 2021, DSS Blaine achieved international prominence when, as one of a team of four, he entered a Carnarvon house in the dead of night and the team recovered the abductee alive.

[16] During Operation Rodia, journalists and reporters for both print and electronic media were lodged in motels and other places in Carnarvon, as were police. Members of each socialised together on occasion. DSS Blaine grew friendly with a female journalist aged 22. She will be referred to in this report as 'Ms A'. She is not a public officer within the jurisdiction of the Commission and there is no evidence of wrong doing on her part.

A relationship between DSS Blaine and Ms A

[17] Ms A asserts and DSS Blaine denies that an intimate relationship developed in Carnarvon. Ms A alleged, and Operation Pemaquid confirmed, that DSS Blaine rented accommodation for one night on 10 November 2021 at the Carnarvon Sea Change apartments. During examination DSS Blaine said that he was tired of his WA Police funded accommodation. He was given a discount on the rental fee as a thank you for his role in the recovery of the abductee. The Commission accepts this discount was not solicited by DSS Blaine but offered by the proprietors.

[18] Ms A was invited to visit the Sea Change apartment that evening. She asserts that DSS Blaine divulged confidential information. DSS Blaine agrees that Ms A did visit the apartment but denies he divulged confidential information, and points to possible alternative sources for any confidential information acquired by her. For reasons which follow, the

Commission accepts Ms A's evidence about the events of the evening and what confidential information was divulged by DSS Blaine.

- [19] The relationship continued when both parties returned to Perth. Any intimate relationship seems to have ended in February or March 2022, though contact was maintained between them until 24 June 2022.
- [20] Ms A made attempts to end the association.
- [21] Ms A's employer spoke with the Commissioner of Police about the relationship. On 28 June 2022, an Assistant Commissioner spoke with DSS Blaine. There has been no subsequent contact between them.

Operation Pemaquid

- [22] After assessing the allegations, the Commission established Operation Pemaquid, a co-operative investigation with WA Police, and in particular the Internal Affairs Unit.
- [23] When the Commission decides to conduct an operation, it brings to bear a full range of its capabilities and powers. It is not in the public interest to detail the methods used by the Commission, in part because they are used by other law enforcement agencies including WA Police and widespread knowledge of them would seriously hinder future investigations. The use of those methods substantially confirmed both Ms A's evidence and other evidence gathered during the investigation.
- [24] The Commission took evidence on oath from Ms A, DSS Blaine and three senior police officers.
- [25] The senior officers were examined to provide facts to the Commission. Their honesty and reliability are not in issue.
- [26] Under compulsion, Ms A provided her personal mobile phone and DSS Blaine provided his police mobile phone for the contents to be downloaded.
- [27] During the relationship with Ms A, DSS Blaine divulged confidential information to her on many occasions. He acquired the information in connection with his functions as a police officer.
- [28] Operation Pemaquid discovered disclosures of confidential information by DSS Blaine to three journalists and another woman with whom he formed a liaison for a short time.
- [29] As team leader DSS Blaine had more or less unlimited use of an unmarked WA Police vehicle attached to the Homicide Squad Team 2. He repeatedly used the vehicle, a Toyota Prado, for private purposes in breach of WA

Police Fleet Vehicles Policy TR-07.01. The use of police vehicles for private purposes may affect the liability of WA Police for Fringe Benefits Tax (FBT). The issue of tax liability is a matter on which the Commission makes no determination. As it is a function of the Commission to help prevent police misconduct,⁶ the Commission highlights this misconduct risk for the agency.

Opinion on credibility

- [30] When an investigation is complete, a draft report is prepared containing tentative findings and opinions. A person adversely affected is accorded procedural fairness. A copy of the draft report is made available and the person may examine relevant evidence and make representations in response.
- [31] Time was extended for DSS Blaine to respond. He did so with lengthy and detailed submissions from his solicitor. The Commission has considered his response and criticism that the investigation was biased and inadequate. It has also considered his comments about the credibility of Ms A but has not altered its opinion that she is a truthful witness.
- [32] DSS Blaine is suffering a medical condition known as PTSD for which he has provided a comprehensive medical report. To respect his privacy, the Commission will not further detail the nature of that condition other than to note that it is debilitating and caused delay in tabling this report. DSS Blaine is not at fault for the delay.
- [33] Ms A impressed as an honest and credible witness. On occasion she gave evidence which did not paint her in a favourable light. She was cautious in her responses when she was unsure of something. Her description of certain material she said that DSS Blaine had shown her is accurate and supported by a review of video footage.
- [34] When a relationship ends in bitterness, a tribunal is cautious to accept evidence from a party unless, as here, there is substantiated confirmation to support that evidence. The possibility that anger or regret coloured the evidence of Ms A or DSS Blaine has been taken into account in forming opinions of misconduct.
- [35] The Commission does not act solely on the word of one witness, however apparently credible.
- [36] The investigation spent months investigating Ms A's allegations of misconduct in respect of disclosure of confidential information. The

⁶ CCM Act s 21AA.

Commission sought to verify or corroborate accounts where she and DSS Blaine's recollection differed by seeking reliable evidence.

- [37] To the extent possible, Ms A's evidence was confirmed by other evidence. This gave confidence for the Commission to accept her evidence of conversations between her and DSS Blaine, which by their nature are incapable of confirmation.
- [38] A court or tribunal such as the Commission may accept the evidence of a witness if it is credible and plausible. Her evidence was both.
- [39] DSS Blaine was examined for three days. He was appropriately represented by counsel of seniority.
- [40] During examination, DSS Blaine's nearly universal response to a specific allegation of disclosing confidential information was a lack of memory such that he could not recollect the event. The lack of memory may be due to a number of factors. The Commission has been provided with a medical report describing the effects of PTSD. It has no reason to doubt the veracity of DSS Blaine's lack of recollection. It accepts that DSS Blaine was genuinely unable to recollect many of the matters that were put to him during his evidence.
- [41] With treatment it appears DSS Blaine has now substantially recovered his memories of some events. He has indicated that he is prepared to swear to the account in his written response to the draft report.
- [42] The Commission is not bound by the rules or practice of evidence and can inform itself on any matter in such manner as it sees fit.⁷ The Commission has accepted DSS Blaine's response as material which it can consider without the need for further examination on oath. The fact that it is unsworn has been disregarded when assessing its credibility.
- [43] In his detailed written response, DSS Blaine takes issue with many of the Commission's preliminary findings. In particular he challenges Ms A's account, disputing conversations at which she alleges he disclosed confidential information.
- [44] DSS Blaine detailed his opinion of Ms A, the nature of the relationship and her motive in giving what he regards as false evidence against him. DSS Blaine's characterisation of the relationship is belied by the content of messages recovered from the phones. The totality of his messages to Ms A paints a different picture from that he now portrays.

⁷ CCM Act s 135.

- [45] DSS Blaine's evidence has been assessed with all the other evidence. DSS Blaine engaged in serial deceit in the use of police motor vehicles, disguising the reason for their use on occasion with false entries into a log book. His improper use of police vehicles adversely affects his credibility generally. His credibility is also affected by the clandestine nature of his relationship with Ms A and another woman.
- [46] The Commission does not accept many of DSS Blaine's assertions as to facts. That is because his assertions conflict with other extrinsic evidence or are not credible or plausible.
- [47] In respect of some events, DSS Blaine accepts the basic facts as recorded by auditable information such as a recorded time indicating when he looked at a police video at Ms A's home. Whilst accepting he accessed the police video he denies showing it to Ms A. His explanation lacks credibility.
- [48] The Commission is mindful that any finding or opinion will have grave consequences for DSS Blaine and therefore approached its fact-finding function with due regard for those consequences. It has not been prepared to make findings or form an opinion on the mere balance of probabilities but has accepted and applied a high standard, bearing in mind those consequences.⁸ The Commission has similarly approached with caution the drawing of inferences from circumstances.⁹
- [49] The Commission has put aside some matters of disclosure by DSS Blaine for which there might be a valid basis.
- [50] As to disclosure of confidential information, where there is a conflict between the evidence, the Commission prefers the evidence of Ms A.
- [51] Ms A did not give material evidence as to DSS Blaine's misuse of police vehicles. The Commission gathered evidence on the use of motor vehicles from police records and other sources.
- [52] The Commission is, to a high degree, satisfied on the balance of probabilities of the facts which have been established and are set out in this report.

Opinion on police misconduct

- [53] Police misconduct is defined to include:¹⁰

When an officer engages in conduct that constitutes or involves a breach of trust placed in the officer by reason of his employment as a police officer; or

⁸ *Briginshaw v Briginshaw* [1938] HCA 34; 60 CLR 336.

⁹ *Palmer v Dolmain* [2005] NSWCA 361 [41].

¹⁰ CCM Act s 3 and s 4.

Involves the misuse of information or material that the officer has acquired in connection with his function as a police officer whether the misuse is for the benefit of the officer or the benefit of another person; and

Constitutes or could constitute a disciplinary offence providing reasonable grounds for the termination of the officer's employment.¹¹

[54] The Commission has formed an opinion of police misconduct on two matters:

1. DSS Blaine's misuse of a State asset, a motor vehicle, in breach of policy; and
2. DSS Blaine's repeated disclosure of confidential information.

¹¹ CCM Act s 4.

CHAPTER TWO

Misconduct risk with police vehicles

- [55] This chapter is part of the Commission's corruption prevention and education function.¹² It does not specifically relate to DSS Blaine.
- [56] WA Police has approximately 2390 motor vehicles under its control.
- [57] There are policies and strict rules about their use to control this expensive asset.
- [58] Some police vehicles are subject to a FBT liability. Other vehicles used solely for business purposes do not incur FBT liability. However, if police vehicles are used for private purposes FBT liability may be incurred by the agency. Consideration as to whether a tax liability has been incurred relies on information as to actual use. Inaccurate information and records as to how police vehicles are used is a misconduct risk.
- [59] To ensure compliance for FBT and other purposes, WA Police have policies regarding vehicle use.
- [60] Travel to and from work is generally regarded as a private purpose and is permissible in a police vehicle only under certain conditions.
- [61] Operation Pemaquid established there are weaknesses in the enforcement of the WA Police vehicle commuting policy that need to be addressed.

Vehicle commuting policy

- [62] Policy TR.07.01 - Fleet Vehicle policy provides:¹³

TR-07.01 - Fleet Vehicles

Purpose

The Western Australian Police Force maintains a fleet of vehicles to enable the effective management of policing operations. All WA Police Force employees have a responsibility to ensure fleet vehicles are only used for official police business and when fleet vehicles are used employees comply with the guidelines and procedures.

¹² CCM Act s 21AA.

¹³ Police Gazette Western Australia No 33 2021 TR-07.01.

Accountabilities

WA Police Force Employees

All employees have a responsibility to adhere to the guidelines and procedures defined by Asset Fleet Services, Asset Management when using, maintaining and/or managing WA Police Force fleet vehicles.

- [63] The Vehicle Commuting policy was in place until 1 February 2023 when it was updated. The policy until 1 February 2023 provided:¹⁴

Western Australian Police vehicle shall not be used for private use or commuting purposes unless in compliance with this policy.

Scope

To limit the use of WAPOL vehicles for private use and commuting purposes and to provide instructions where the private and commuting use of WAPOL vehicles may be permissible.

...

Private use

Unless in accordance with an approved Police Service vehicle scheme allowing such use or as a condition of employment private use of any Police vehicle is not permitted.

- [64] Commuting use states:¹⁵

Commuting Use

Commuting use of a police vehicle is permissible only if it is approved and one or more of the following conditions is met:

- 1. The employee is performing and receiving an allowance for "Close-call" duties as defined by the Police Service Enterprise Bargain Agreement.*
- 2. The employee requires a specialised vehicle, tools, or equipment for the performance of emergency duties.*
- 3. The employee is required to provide an immediate response to a real or present threat to life or property.*
- 4. The employee is subject to frequent recall to duty necessitating the use of a vehicle to attend a scene, their place of work or another location.*
- 5. The employee has a vehicle provided under the terms of their employment.*
- 6. The employee is participating in an approved vehicle scheme. See Executive Vehicle Scheme on page one of this policy.*

¹⁴ Police Gazette Western Australia No 10 2012 TR-07.02.

¹⁵ Police Gazette Western Australia No 10 2012 TR-07.02.

7. *A special once-off circumstance exists where the use of a police vehicle for commuting purpose is the most effective alternative to meet the WA Police business needs.*

Note - An employee who is eligible to participate in an approved vehicle scheme but who chooses not to do so is not permitted to utilise a police vehicle for commuting purposes unless one or more of the other permissible commuting use conditions (1 to 7) is satisfied and approved.

For the purposes of condition four above, 'frequent' means at least three times a calendar week.

For the purposes of condition seven 'Once-off Use' must be:

- *On a single occasion basis only.*
- *More economical than if an employee was not allowed to use a police vehicle to commute.*
- *Approved in accordance with the spirit of this policy to limit commuting usage of police vehicles.*

Note - Examples of where a 'Once-Off Use' could be approved are:

- *Where an employee is required to commence duty directly from home the following day and at a location away from the normal work place.*
- *Where an employee is required to complete extended duty in the field and proceed directly home.*
- *Where an employee is required to undertake official duties after hours necessitating the use of a police vehicle.*

[65] Approval for the use of vehicles states:

Application Format

Applications by an employee to use a police vehicle for commuting purposes under the below 'Commuting Use' conditions 1 to 4 inclusive shall be in writing and shall consist of the 'Vehicle Commuting Record' form and a short memo outlining the circumstances that satisfy one or more of the conditions.

An application by an employee to use a police vehicle for commuting purposes under the 'Commuting Use' condition 7 shall be recorded on the 'Vehicle Commuting Record' form.

Where necessary an application can be completed and approved by fax or Email. The approved form of record and, where applicable, memo satisfying a condition of use must be forwarded on the first day of each month in conjunction with Vehicle Log Books to the Finance Directorate - Taxation Compliance Section. This will allow for external monitoring of the impact and adherence to this policy.

Approval

Commuting use of a police vehicle must be approved by:

- *A District Superintendent*
- *A Divisional Superintendent*
- *A Commissioned Officer*
- *An unsworn member of Level 7 or above.*
- *Approval can only be given for a maximum period of one month. At the expiration of one month, if further commuting usage is required a new application must be forwarded for consideration.*

It is not permissible for employees to approve their own commuting use of a WAPOL vehicle.

The approving member may impose additional conditions limiting the use of the vehicle whilst commuting.

All approvals shall be in the spirit of this policy to limit the use of police vehicles for commuting purposes.

Time Restriction on Commuting Travel

An employee using a police vehicle for commuting purposes may do so only for a period of one hour before and one hour after their hours of duty on the day of commuting.

Recording

Any use of a police vehicle for commuting purposes shall be appropriately endorsed in the relevant Vehicle Log Book.

Security

Any police vehicle used for commuting purposes is to be parked within the property line of the place of residence in a manner appropriate to ensure the security of the vehicle.

[66] The vehicle policy is not being followed faithfully. The Commission has information that police officers in the Homicide Squad and other squads depart from the policy. Vehicles are routinely used for commuting home each night and to work the following morning.

[67] As a result, WA Police FBT status may be at risk. Furthermore, senior officers may be deliberately flouting the vehicle commuting policy. Unless addressed, this may constitute a breach of trust placed in those officers and be classified as misconduct where the conduct could constitute a disciplinary offence providing reasonable grounds for termination.¹⁶

¹⁶ *Corruption, Crime and Misconduct Act 2003 s 4(d)(iii).*

- [68] This would be unfair as the evidence available to the Commission is that vehicles are taken home overnight principally for a quick response to an incident, especially a suspected homicide or other major crime.
- [69] In addition to commuting, there is a risk that a police vehicle may be used for other private purposes contrary to FBT rules. This risk is magnified if the same senior officer uses a vehicle and subsequently approves the sign in/out register, as evidence before the Commission has demonstrated.
- [70] Failure by officers to accurately record private use may lead to a misleading FBT return by the agency. Apart from a possible financial risk to the State, a perceived tolerance for failing to adhere to policy has a negative impact on workplace culture over time. If management averts its eyes for one policy position, then why not another?
- [71] The condition commonly used to justify nightly commuting using a police vehicle is condition 4 - frequent recall, at least three times a week.
- [72] The Commission heard evidence from police officers as to the practice followed in the Homicide Squad.
- [73] The practice, endorsed by more senior officers, is for senior detectives to take home a police vehicle every night. This includes detectives who are not rostered as 'on call'. The practice is followed to enable a swift response by other homicide teams if there is a need for a team to investigate a suspected crime when the on-call team has already been called out.
- [74] The Commission has formed no opinion of misconduct in respect of vehicle commuting. As explained, this chapter of the report is pursuant to the Commission's prevention and education function.¹⁷
- [75] The Commission is satisfied that the motive is to ensure a rapid response to serious crime. However honourable the motive, the actions may not comply with the policy in that most applications approved by an Inspector do not strictly conform to the commuting use conditions, particularly condition 4.
- [76] The practice is 'bending the rules'. The practice may well be efficient and appears to be in place for a worthwhile motive but does not comply with the vehicle commuting policy.
- [77] This leads to two results. First, that WA Police may incur an extra FBT liability for cars used for commuting. Second, officers following the practice as opposed to the policy may be at risk of disciplinary action.

¹⁷ CCM Act s21AA.

[78] The practice has continued for a considerable time. It is a misconduct risk. It may be 'best' practice enabling a rapid response to major crime. It is not for the Commission to say. But there appears to be a disconnect between the policy and the practice.

Evidence of senior officers - as to vehicle commuting practice

[79] Each officer who gave evidence was of senior rank. Evidence of Officer A:

What's your understanding of what goes in the reason code column?---It's to be honest, it's just the code we've always used.

Everyone just uses code A?---Yep.

Yes. And then attending police business the following morning. So all that reason code A, so that's what that's referring to, is that right?---Yes.

Okay. And that's just what everybody put on the form?---Yes.

Okay. And your stamp is on the bottom of that. So again, that's that you've signed off on it once it's been completed, is that right?---Yeah. I don't know why I raised that before. I don't think it should be signed by the team leader. But that is the practice at Homicide Squad. So it says OIC. I'm not the officer in charge. But yes, I got told that I had to sign that spot.

So in effect, you're approving your own use---Correct, yep¹⁸

[80] Officer A admitted he bent the rules from time to time:

Okay. Can you tell us what you mean by, "I bend them from time to time"?---Yeah, there's some other verbal conversation that transpired before and after that. So I mean, the commuting policy, as supplied at Homicide Squad, is a farce really. It's the – the expectation is that you will be able to respond within a reasonable period of time should a Homicide job occur.¹⁹

[81] Evidence of Officer B:

So the officers who are taking the vehicles home over the weekend, there's a process of approval that happens before they're able to take the vehicle home?---Yes.

Can you talk us through that, please?---It's called a vehicle commuting request. So the officer will fill that in. The request – the circumstances as to why they require the vehicle is written down. It's typed out. It's on the computer. And the request goes through to the OIC and it goes through to the inspector who does the approvals.

And on what grounds would it be approved?---The general three that we use is if there's a one-off special circumstances that requires the officer to take the vehicle home. It could be because they're going to finish late, interview somebody on the – out at Midland or something and then they will just leave to go home from there

¹⁸ Officer A, private examination transcript, 6 February 2023, p 11-12.

¹⁹ Officer A, private examination transcript, 6 February 2023, p 18-19.

for example. Or they have to start work early in the morning for whatever task they require. So it could be for that. It will be if they're on call, even though the policy says that you're supposed to be close call on call where we're just general on call we get paid. We don't get paid the close on call. And the third one would be special needs where they have a current operation in place and they have a suspect outstanding.

So they would still take the cars home over the weekend?---They do take the cars home. They will put it down under they need it to respond to another operation they're running on. And pretty much every single team has not completed fully their homicide investigation when they start a new one. Unfortunately but that's the way it is. So they are still – have several outstanding actions they're required to complete. So they're signed out on that basis.

Okay?---And also, so they can respond as being the backup on call team if required, which happens a fair bit.

So are there officers in the Homicide Squad who essentially take a vehicle home every day?---It varies. But generally, every team will take the vehicles home.²⁰

[82] Officer B gave reasons why the practice is followed:

Given the expectations on response times for officers in the Homicide Squad, do you believe that the vehicle policy has kept up with changes in the expectations of what how quickly a Homicide officer will respond?

No, I don't think it has. It probably meets with the requirements of a metropolitan detectives' office or something similar to that because they have a crime car on every night and there's no need for them to be – to respond. So it probably is appropriate for them. For specialised areas like Homicide Squad in particular, but maybe Organised Crime, Sex Crime, Child Abuse it probably is not up to date with the requirements of officers to be able to respond quickly.

Look, in my time, because the superintendent – the commander, the assistant commissioner, they're all aware and approve of the vehicle usage by Homicide. There's never ever any great concern because of the expectations that if there's a Homicide, you get there as quickly as possible. And if we need to send the whole office, we'll send the whole office. So there's never been any concern in relation to the policy in that regard. The concerns are more in relation to the on call aspects.²¹

[83] Officer C spoke of the restrictions of being on call or effectively being on call:

No alcohol because you can't drive while you have alcohol in your system. Obviously, you can't work. There's a potential that you may have to carry a firearm. So no alcohol for the on call team. Generally, the backup team will pretty much restrict their activities as well. So you know, however many people you have on your team that night, at that particular rotation of the on call, no alcohol for

²⁰ Officer B, private examination transcript, 15 February 2023, p 42-43, 44.

²¹ Officer C, private examination transcript, 15 February 2023, p 51.

the week. It's not unusual for teams given other workloads for some teams to spend two to three weeks on call in a row.

...

We have a good culture within the Homicide Squad. It's not generally a problem to get people to come to work. Everyone knows what the expectations are on them when they go to the squad. So they know that they're going to get called afterhours whether they're on call or not. They could get called at any time to come back in. And most people are quite comfortable with that and will respond.

And say you're on call, do you then have access to a work vehicle to enable you to then respond - - -?---Yes.²²

[84] The officer explained how the vehicles are allocated for 'on call' events:

- - - if you're recalled?---Yes. So we have three cars per team. So potentially, normally the other three cars would go home when you're on call so that you have capacity to respond straightaway. Obviously four people are on call. Not everyone gets a car. But we share the cars around, try to put people who are on call close to each other so whoever has the car can go and pick someone else up and we will quite often pick up a large number of members of the team if we can, depending – you know, we have people scattered all over the metro area. We can't – we don't have time to respond in a timely manner to be able to send a car 30 minutes south and then come back north. So most people will find their own way to work and take another car if they need to. But we try to get everyone to the scene or to where they need to be using the three vehicles that we have.²³

[85] Officer C highlighted the reason for departing from the policy in practice:

It's probably good to make the point that the way the policy is written is designed around suburban detective's offices or squads which really don't get recalled often. The policy in terms of how we – or the requirements for us to respond at Homicide Squad is really not very practical. It's not designed for a Homicide Squad. It's designed for a squad where people may occasionally take a car. Whereas our cars are going home almost every night. Most teams would take one or two cars home because you're either on call or you have current investigations where you're likely to be recalled or may have to respond because you've got special projects in place or we have alerts on people that you think are going to be moving. You may have to come in to deal with someone if they're arrested. So most teams would have those sorts of investigations operating at any one time. So it's not unusual for a team to take three cars if they have or wouldn't take three – two cars normally if you have an ongoing investigation where you may need to respond immediately in order to ensure that the investigation – or you don't lose evidence. So it's not unusual for us to be taking cars home when we're not on call but we have other obligations to respond to. So the cars at Homicide Squad are regularly used and taken home to enable a response. That's – I've never worked anywhere else where you have that requirement. So as I said, I spent three and a half years in regional Detectives. I probably would have taken a vehicle home less than half a dozen times in that time. And I think most – certainly most suburban or district

²² Officer C, private examination transcript, 15 February 2023, p 8.

²³ Officer C, private examination transcript, 15 February 2023, p 8-9.

detectives' offices would be in the same boat. Some of the squads may require to take their staff home for the same sort of reasons if they need to respond. But Homicide Squad is quite unique in that requirement in my experience.²⁴

- [86] Officer C explained that the practice does not completely align with the policy:

But it doesn't quite fit the policy, does it?---No, I think we probably – we probably stretch the policy I think. Make the policy – we'll make our practices fit the policy I think because it's written – it's not written for our – for the kind of work that we do and the response we're required. It's written for people who occasionally take the car home and – when it's justified. Whereas we, in my experience, we can justify taking a car home pretty much every night if we really needed to. We try to avoid taking cars unless we actually have to. It has to be justified. We have to make an application, has to be signed off by a commissioned officer. So – and it has to have an operational name attached to every application so it means that we can say, well, we're not just taking a car home because we feel like it. There is an operational need for us to be able to respond.²⁵

- [87] Officer C gave evidence of the approval process for vehicle commuting:

What's the process that you go through to get approval to take a car home?---So there's some online form. So it's a commuting request. You fill that out with the vehicle, the time you need it, the time of your departure from the office. And there's a grounds there within which you put the criteria that you need to – justification for taking the vehicle. There's a couple of categories. But predominantly use that where we're maybe required to respond to urgent out of hours need. And it's generally – I can't remember. I think there's about three categories. We usually predominantly use one if we're not on call. If we're on call, we just simply put in "Homicide Squad on call officer", although that particular category doesn't fit within the policy. But we're on call. You have to be able to respond. So that's an internal matter. If you're investigating a specific operation or there's an operational need, that would fit within the category of maybe a requirement to respond urgently to events occurring during the course of the investigation. That's usually around special projects being in place, that someone needs to respond to.²⁶

- [88] The issue of divergence between practice and policy has been raised regularly:

It's raised regularly. Look, it's – the policy, it's very difficult for us to change the policy. So effectively, what we do is we work within the policy and we bend it slightly to fit. That's the reality of it. But as I said, we take vehicles home, we put down we're taking home because of course, we're on call, there's no provision in the policy for on call. But we do it and accepted and it's signed off by the inspector and the superintendent. So we have that policy and he supports it. So we put that in place within a squad. But that enables us to provide an official response. If we didn't have that in place and we simply put people on call at home without a

²⁴ Officer C, private examination transcript, 15 February 2023, p 10.

²⁵ Officer C, private examination transcript, 15 February 2023, p 9-10.

²⁶ Officer C, private examination transcript, 15 February 2023, p 11.

*vehicle, our response would be poor. You know, I can – I have no public transport where I live at all. And it's almost impossible afterhours. So there are plenty of families with only one vehicle. And our officers commute with public transport, things like that. So in the middle of the night, if you'd want to recall someone and they don't have the provision to come to work, that's really not going to work and our people are recalled a lot.*²⁷

- [89] The evidence of senior officers is that they may be 'bending the rules' somewhat under the vehicle policy to ensure an early response to a call out, whether or not the team is officially on call. The Commission has no reason to doubt their evidence that the purpose of 'bending their rules' is to enable a rapid after-hours response to a possible serious crime. This is sufficient to recommend WA Police re-examine the policy and either vary it to accommodate the actual practice, or strictly enforce the current policy.

Recommendation

- [90] **The Commission recommends:** that the WA Police urgently re-evaluate its vehicle commuting policy to determine whether the current practice should be endorsed or discontinued.

- [91] In response to this recommendation the Commissioner of Police advises:

The evidence of officers before the Commission indicated the officers acknowledged their improper application of the Commuting Policy is to enable a timelier after-hours response to serious crimes and critical incidents. Whilst ensuring the best possible response to serious crime for our community is something I hope all WA Police employees strive for, I acknowledge policy should be clear in what the boundaries are in seeking to achieve this.

Within the draft report, at paragraphs 26 to 33, there is reference to Fringe Benefits Tax liability. It is my understanding that officers (generally) adhere to the approval process and usage guidelines, albeit I accept the Commission's findings in this case that the commuting 'condition' being applied to justify the private use is not strictly within policy. Therefore, the risk to WA Police should officers fail to accurately record private use, may lead to an inaccurate FBT return.

As identified in the Commission's draft report, Policy TR-07.02 was reviewed 1 February 2023 and published in Police Gazette 5 of 2023, hence technically it would not be reviewed until 2025. However, I intend to cause a review of the policy against a sample of vehicle commuting practices across portfolios, to ensure it serves our Policing Fundamentals 2023 and supports WA Police employees responding to critical incidents and solving crime faster.

- [92] In causing a review of the policy the Commission considers WA Police have adequately responded to the recommendation.

²⁷ Officer C, private examination transcript, 15 February 2023, p 12-13.

CHAPTER THREE

Misuse of police vehicles by DSS Blaine

- [93] DSS Blaine was given regular approval to use an unmarked police vehicle to commute to and from home. Approval was sought and given by a senior officer.
- [94] It is not fair to penalise DSS Blaine for breach of that aspect of the policy. He sought and obtained approval to commute using the unmarked police vehicle.
- [95] There are other parts of the policy he breached on a regular basis. An employee using a police vehicle for commuting purposes may do so only for a period of one hour before and one hour after their hours of duty on the day of commuting.
- [96] DSS Blaine repeatedly breached this provision as well as the prohibition on private use.
- [97] The prohibition on private use is well understood by other officers. Officer D gave evidence:
- is the expectation that they take the car with them so they can respond or do they leave it ---? --- Absolutely not. No. The vehicle's not for private use even on call. So the – if you were going somewhere else, to a child's sporting event or a dinner or whatever the case would be, you'd take your own vehicle and you'd leave the work vehicle at home.²⁸*
- [98] Another Homicide Squad officer team leader gave evidence:
- Is the expectation that you will take the work vehicle so that you have access to it if you are recalled? --- No, no, no, no. The work vehicles are required to – you have about an hour in the policy. So you have roughly an hour and then depending on the commute obviously. But you have an hour to travel to or from using that work vehicle. The vehicle stays at home, off the road. And doesn't move until you use it for a work purpose.*
- So there's no personal use? --- No.²⁹*
- [99] The Commission identified many occasions over an eight-month period where DSS Blaine breached the prohibition limiting commuting time and using the vehicle for his own personal reasons.
- [100] DSS Blaine had access to a Toyota Prado (the police vehicle) assigned to the Homicide Squad and on one occasion used another police vehicle.

²⁸ Officer D, private examination transcript, 15 February 2023, p 42.

²⁹ Officer C, private examination transcript, 15 February 2023, p 9.

- [101] DSS Blaine did not simply misuse access to the police vehicle when commuting. He used it frequently for private purposes not only during work hours but also while he was off duty.
- [102] DSS Blaine conceded he was familiar with the vehicle use policy.³⁰ He claimed he did not know about the one-hour rule.³¹
- [103] DSS Blaine conceded there were occasions where he journeyed elsewhere in the police vehicle before continuing his commute.
- [104] During 2022, DSS Blaine formed a liaison with a woman and visited her residence on occasion. Her identity is immaterial.
- [105] The Commission has identified 62 instances of DSS Blaine's breach of the vehicle policy but this summary is sufficient to give a fair representation of his misuse.

DSS Blaine's private use of a police vehicle: A summary of 21 instances

Date	Action
28 November 2021	Drove the Police vehicle to Ms A's residence stayed several hours, while on weekly leave.
2 December 2021	Took personal leave, drove the police vehicle to medical appointment then to Ms A's residence.
7 December 2021	Took police vehicle, recorded as Operation Rodia but in fact visited Ms A.
8 January 2022	Drove police vehicle to office - attended Market Grounds pub. Left Police vehicle at work and collected next day, while on weekly leave.
10 January 2022	Took five hours personal leave, drove police vehicle to Claremont and then to Ms A's residence.
24 January 2022	Drove Police vehicle during working hours to Ms A's residence for two hours before returning to work. Returned to Ms A's residence after work and stayed for approximately two hours.

³⁰ C Blaine, private examination transcript, 6 February 2023, p 6.

³¹ C Blaine, private examination transcript, 6 February 2023, p 17.

Date	Action
25 January 2022	Took two hours annual leave and drove the police vehicle to Ms A's residence after work, stayed approximately four hours. Records use as Operation Rodia.
30 January 2022	During weekend drove the police vehicle to Ms A's residence.
9 February 2022	Drove the police vehicle to Ms A's residence after work, stayed approximately five hours.
25 March 2022	Drove the police vehicle to Ms A's new address. Did not see her but left gifts.
26 March 2022	Drove the police vehicle to Ms A's new address, had coffee in nearby coffee shop.
31 May 2022	Drove the police vehicle past Ms A's new address around midday then returned to work. After work, returned to drive past Ms A's address and the address of Ms A's mother.
19 July 2022	Rest day. After COVID test drove the police vehicle to work then to address of a woman until approximately 0250hrs on 20 July 2022.
31 July 2022	While on call, drove the police vehicle to a woman's address, stayed overnight.
13 August 2022	On the weekend drove the police vehicle to a woman's address stayed 8 hours.
14 August 2022	On the weekend drove police vehicle to a sporting event some distance from his home while on call.
17 August 2022	Took time in lieu and drove police vehicle to woman's address, stayed 2 hours.
26 August 2022	Without signing vehicle out, drove a police vehicle to a woman's address while on duty. DSS Blaine describes this failure to sign the vehicle out as an accidental omission.

Date	Action
30 August 2022	Took annual leave from 1400hrs drove the police vehicle to woman's address. Returned to work and drove Police vehicle home.
31 August 2022	Drove police vehicle to woman's address. Stayed one hour.
2-4 September 2022	While on call drove the police vehicle to a sporting event some distance from his home. On Friday and Saturday, also visited a woman's address. Sunday following a sporting event, visited relatives before returning home.

- [106] Self-evidently when the unmarked police vehicle was used during the day for private purposes it was unavailable to the rest of the team if they were called out.
- [107] By themselves, the trips to a sporting event while DSS Blaine was on call may not have attracted an opinion of misconduct even though they were in clear breach of policy. However, they must be seen against a background of repeated use for private purposes.
- [108] Moreover, on two occasions, after attending the sporting event, DSS Blaine used the police vehicle to visit the woman referred to earlier, and on the third occasion, made another social call to a relative.
- [109] DSS Blaine acknowledged during his examination that without use of the police vehicle, it would have been more difficult for him to maintain his relationship with Ms A and the woman.
- [110] It is inconceivable that DSS Blaine was unaware of the prohibition on private use. Indeed, except for the visits to sporting events, DSS Blaine did not try and justify other private use. In his response DSS Blaine minimised the effect of his misuse. The misuse is more than just petrol consumption.
- [111] On occasion, he did not accurately record the reason for the use of the vehicle. On no occasion did DSS Blaine record his private use of the vehicle, potentially exposing WA Police to FBT liability.
- [112] All private journeys were in the Commission's opinion, acts of misconduct in that on each occasion they constituted a breach of the trust placed in a DSS by reason of his employment.³²

³² CCM Act s 4(d)(ii).

CHAPTER FOUR

Misuse of confidential information

[113] This chapter is part of the Commission's corruption prevention and education function.³³ It does not specifically relate to DSS Blaine.

[114] Police officers have access to material that is otherwise very sensitive and private. Some examples are: graphic images at the scene of a homicide; the reactions of grief-stricken victims; addresses of suspects and victims; and investigative capabilities.

[115] Police officers are entrusted to access private information by a compact with the community that they will do so only for the purposes of law enforcement, not just because they can. Private or official information has come to their knowledge only because they are a police officer. In the Criminal Code, official information is also referred to as 'official secrets'. Disclosing official secrets when unauthorised to do so is a crime.³⁴ Unlawful use of a restricted computer system to gain access to information or to operate the system is an offence that may result in a term of imprisonment.³⁵

[116] The requirement of confidentiality concerning information acquired as a police officer is reinforced by the WA Police Code of Conduct and regulations.

[117] The WA Police Code of Conduct:

We are trusted as the custodians and protectors of our official information and records. We only access, share or disclose agency information in the execution of our duty as authorised by policy or legislation.

[118] Police Force regulation 607 is entitled 'Secrecy':

(1) *A member shall not —*

(a) *give any person any information relating to the Force or other information that has been furnished to, or obtained by, the member in the course of his or her duty as a member; or*

(b) *disclose the contents of any official papers or documents that have been supplied to the member in the course of his or her duties as a member or otherwise, except in the course of his or her duty as a member.*

³³ CCM s 21AA.

³⁴ *Criminal Code* s 81.

³⁵ *Criminal Code* s 440A; *Casilli v Wehrman* [2014] WASC 319; *Rhatigan v Forbes* [2009] WASC 368.

- (2) *A member shall not, except with the express permission of his or her officer in charge or the Commissioner —*
- (a) *publicly comment, either orally or in writing, on any administrative action, or upon the administration of the Force; or*
 - (b) *use for any purpose, other than for the discharge of his or her official duties as a member, information gained by the member through his or her employment in the Force; or*
 - (c) *communicate to the public, or to any unauthorised person any matter connected with the Force.*

Relationship between WA Police and the media

[119] WA Police have a symbiotic relationship with media. Media outlets want to publish news relating to suspected criminal activity and there is a strong public interest that they do so.

[120] WA Police frequently use media to send a message or seek public assistance in a particular matter.

[121] A senior detective explained the relationship:

*It's always this immediacy around trying to get a message out there and the media want everything because it's immediate and they want to get it out there as quick as they can. So there's two aspects. There's the immediate aspect. And if you have a longer term investigation, what you release to the media can have a strategic value. You need to understand what you're saying and why you're saying it. So it comes back to control. So you really shouldn't be developing personal relationships with journalists is my view. You can have a professional relationship and you see the same faces. So there is always that they know who you are and you know who they are but you've got to be really careful about what you say because in the end, they don't give a toss about you. They're after the story. And if they can think there's a story and they can get some information out of it that you've inadvertently slipped, which can damage your investigation, they don't care. They'll just put it out there. So the control and approval process in media releasing is really important.*³⁶

[122] For significant investigations, a media strategy will be crafted by WA Police to maximise the benefits of publicity in solving a crime.

[123] If information is to be released, it should be done impartially, as one senior officer explained:

*--- is there an expectation that they will consult with yourself or somebody else?
--- Yes. So the media release would be approved by myself and the district office. And generally, it would be constructed by our Police Media Unit. And they would give a standard phrase or they would give us some standard dot points in relation*

³⁶ Officer C, private examination transcript, 15 February 2023, p 28.

*to the information that we want to put out to the public, whether it be a plea for assistance information or whether it's just a general – this is the understanding of "we've had an incident. Police are there. You'll see extra police in the area and we are currently speaking with someone that may be assisting with police" or something along those lines.*³⁷

[124] There is an element of latitude and a senior investigative officer is invested with discretion as to what to tell journalists, mindful always of the general principles outlined.

[125] Nevertheless there are limits. Publication of some information might hinder or jeopardise an investigation. Premature publication of facts might affect a fair trial of an accused person. Some information that police obtain is of a private nature and there is no public interest in broadcasting it. Some information may relate to investigative methods that should be kept secret.

[126] In the words of the same senior detective:

*The relationship between the police and the media and the Squad and the media is always somewhat tense. The reality is, we are out there seeking information to solve a crime and we like to hold that information to ourselves. The media are out there seeking exactly the same information. They want to tell everyone about it. So we have this conflict.*³⁸

The importance of confidentiality

[127] There are temptations for officers to release confidential information. In some cases it may be done for reward such as giving information about a traffic accident to a towing company, or an address of a person to a debt collection agency. When the misuse of information involves a restricted use of a computer system, WA Police have sophisticated audit systems. There are other checks as well.

[128] But not all confidential information is contained within a password controlled system.

[129] In a dynamic investigation, many detectives and uniformed officers may have access to information that would be of interest to the media.

[130] An officer may be tempted to tell his partner or other close relatives what is happening. An officer seeking publicity might try to build a relationship with a media representative in hope that by sharing information some personal benefit may flow.

³⁷ Officer B, private examination transcript, 15 February 2023, p 53.

³⁸ Officer C, private examination transcript, 15 February 2023, p 26.

- [131] Once confidential information is shared, control is lost. The recipient has no obligation to keep information confidential.
- [132] Leaking confidential information can be corrosive to relationships within a squad and in extreme cases lead to an unsatisfactory outcome due to lack of trust within the team. Disclosure of confidential information may directly assist the person of interest in a police investigation in a manner adverse to that investigation.
- [133] One senior detective could barely contain his fury when recounting how important details of an investigation were leaked to the media:

Police officers talk just like everyone else. And if it's really sensitive and you don't want people to know, then you don't tell anyone. You just keep it to the minimum number of people that you can to successfully carry out your work.

I can give you a very good example actually. I was the SIO (Senior Investigative Officer) for Operation [X]. We had a very significant problem with media leaks. Clearly from a police officer. And that caused us an enormous amount of damage during the investigation. Now, I don't know who it was. No one's ever been identified to my knowledge. I can confidently say that it wasn't anyone who was specifically in the operations room. I'm confident that my staff – because they'd invested so much time and effort into this. I couldn't believe and I don't believe any of my direct investigators were talking to the media. I can't rule that out as a possibility but I don't think so. So it was someone else who had access to what we were doing. But that caused us an enormous amount of damage.

I can't begin to tell you how annoying it really is when you've got people working 12, 14 hours a day, not talking about it. And someone puts it out there and it's in the paper the next morning. And it damages your investigation. It restricts your opportunities. And potentially affects the criminal outcome at the end. Well, it's a criminal act in my view. It's an offence under the Criminal Code if someone were doing that, they should be charged. That's my view. But I don't know who it was. So there's been an investigation and it hasn't revealed anything so I hope they sleep well at night. It does happen and it can be very damaging.³⁹

- [134] WA Police is aware of the risk of unlawful and unauthorised disclosure of confidential information and takes active steps to combat it. Although audits and other controls will help stop unlawful disclosures, adherence to regulations requires constant reinforcement and a culture of confidentiality. Notwithstanding the proactive efforts of WA Police to preserve confidentiality, unauthorised release of confidential information remains a misconduct risk.

³⁹ Officer C, private examination transcript, 15 February 2023, p 29-30.

Recommendation

[135] **The Commission recommends:** WA Police gives periodic reminders that stress the importance of confidentiality.

[136] In response to this recommendation the Commissioner of Police advised:

As quoted from the WA Police Force Code of Conduct, WA Police employees "... are trusted as the custodians and protectors of our official information and records. We only access, share or disclose agency information in the execution of our duty as authorised by policy or legislation." This is particularised within various areas of policy and the Police Force Regulations 1979.

The importance of maintaining confidentiality is stressed throughout police training, including the Academy Recruit Training and the Detective Training programs. Specifically, this is stressed when raising ethics and integrity issues, however bespoke media training is also provided to Detectives to heighten awareness of their vulnerability due to the nature of their work.

Information Security training is mandatory for all WA Police employees, with the purpose to inform all employees of their responsibilities regarding Information Security. This includes confidentiality; access and lawful use of Police Computer Systems; and Information security and sharing.

[137] On 3 May 2023, the Commissioner of Police updated the Declarable Association Policy.

Employees are also required to declare any personal relationships or associations with member of the media/media industry and non-work related relationships.

[138] The Commission considers WA Police has responded appropriately to the recommendation.

CHAPTER FIVE

Disclosure of confidential information by DSS Blaine

- [139] DSS Blaine disclosed confidential information. Although the disclosure was mainly to Ms A, he disclosed confidential information to other journalists as well.
- [140] In 2021, the abduction of the child from a tent in which she was camping with her parents attracted international interest. WA Police established Operation Rodia. It was successful. The abductee was recovered. The abductor, named Kelly, has been convicted.
- [141] On many occasions during his relationship with Ms A, the Commission is satisfied to a high degree that DSS Blaine released confidential information in relation to his own or other officers' investigations. The Commission is satisfied there is no rational basis for the release to progress the investigation.

The importance of confidentiality

- [142] DSS Blaine understands the importance of confidentiality.

The overriding or overarching explanation is that you wouldn't release information that would jeopardise an investigation or jeopardise the effectiveness of the police function.⁴⁰

- [143] There are other reasons to maintain confidentiality. Next of kin are entitled to be told of a death or serious injury before the information becomes generally available. There are legislative prohibitions on the publication of the details of certain sexual offences. There may be information that can prejudice the fair trial of an accused if released to the public. Information about some investigative capabilities should be tightly restricted.
- [144] The Commission has ignored disclosures by DSS Blaine which may have been within the general discretion of an SIO or are not especially confidential. For example, during Operation Rodia, DSS Blaine took photographs of the abductee in hospital. One of the photographs was later released to the media by WA Police and received international attention. DSS Blaine gave a copy of another photograph in the same series to Ms A. No harm was done, and it is questionable whether the photograph was confidential.

⁴⁰ C Blaine, private examination transcript, 7 February 2023, p 16.

[145] A similar comment can be made about a photograph taken by DSS Blaine of the Premier and others meeting with the abductee's family in a back yard.

Photograph of Carnarvon operation room: Operation Rodia

[146] At some stage DSS Blaine took a photograph of the Carnarvon operation room. On 27 October 2021, he sent it to Ms A. Later, police media released a similar photo. However, unlike the image sent to Ms A, there was no visible content on the monitor screens. The screen content was confidential. DSS Blaine asserts that he shared the image with a number of people and he was unaware of the sensitive nature of the material. He characterises his actions as unfortunate, and careless at worst.

[147] The Commission remains of the view that this disclosure was improper. By themselves each disclosure may not justify an opinion of misconduct. Together they show a senior officer repeatedly disclosing confidential information other than in accordance with his authorisation to do so.

Disclosures in Carnarvon

[148] DSS Blaine made significant disclosures to Ms A in Carnarvon.

[149] DSS Blaine told Ms A and another journalist about a particular capability used in the search for the abductee. This was highly confidential information. The other journalist published the information by Tweet. The Federal government commented on advanced capabilities but did not mention what they were. They were clearly secret.

[150] In his written response DSS Blaine now remembers the incident with clarity. He spoke to Ms A and a journalist in a social setting believing it was off the record. He asserts that a journalist asked him to clarify a capability used by a law enforcement agency, and that his answer was equivocal.

[151] The use of a specialised capability belonging to another agency in the investigation was confidential. DSS Blaine's 'off-the record' confirmation of its use to a journalist was injudicious and had the potential to affect the outcome of the investigation.

The Sea Change Apartments disclosure

[152] At the Sea Change Apartments in Carnarvon, DSS Blaine disclosed a number of confidential matters to Ms A. His motive for doing so is unclear. It is usually to a journalist's potential benefit to be told confidential information even if it is not requested.

[153] Ms A was specific about aspects of the investigation into the abduction and other matters which DSS Blaine shared with her. This is a summary:

- The apparent behaviour of persons of interest
- The route taken by Kelly
- Abductee's sleeping bag not recovered
- Offending by Kelly
- Use of police investigative methodologies
- Location of a particular building
- Threats against police

[154] DSS Blaine's evidence in relation to these matters was that he did not reveal this information. He advanced reasons why Ms A's evidence should not be believed.

[155] The Commission accepts her evidence as to these disclosures over the denial by DSS Blaine.

[156] Details of disclosure have been investigated and are correct. Ms A obtained them from somewhere. The only source of some information was an officer in Team 2. After considering the totality of the evidence available, the Commission is satisfied the most likely source was DSS Blaine.

[157] The Commission is satisfied that DSS Blaine released confidential information to Ms A in circumstances where there was no lawful excuse to do so.

A father's grief

[158] Video recording a father in his moment of grief upon learning of the death by fire of his wife and two children is conduct not readily explained away.

[159] DSS Blaine's attempt to do so by suggesting it was for training purposes for new members of the Homicide Squad is highly implausible.

[160] A Homicide Squad officer was forthright.

And if the dad's arrival back in Perth had been filmed, is that video that you would expect to be shared outside of the police? --- No. And I've seen the video that you're referring to. I think it was the following day, which I took offence to and raised. And it shouldn't have been filmed and definitely shouldn't have been forwarded.

What do you know about it being filmed? Like, who filmed it and why? --- [DSS Blaine].

Do you know why? --- That's the question that I asked and he couldn't justify it.

And you - you said you saw it. Where did you see it? ... as a job's progressing, we'll normally have a briefing in the morning to identify what we've learned from the day before and then plan of attack for the day. And the briefing in the next morning, they advised how the meeting went with [the father] and then [DSS Blaine] showed the team this video which is when I took umbrage and I said why - "Why would you film that?" And I can't remember what his response was, but it was - it was inadequate as far as to explain why. Yeah. That's the last I've heard of it until now.⁴¹

[161] The intensely private grief was not only filmed but the video later shared with Ms A.

[162] The Commission considers this confidential information should not have been disclosed. The Commission agrees with the Homicide Squad officer that it should not have been filmed.

[163] There were other disclosures by DSS Blaine.

A homicide at Alkimos

[164] This homicide investigation was assigned to another team. DSS Blaine obtained, then released information to a journalist.

[165] During an examination, Officer C was asked about the investigation:

Do you recall whether you ever had a conversation with Detective Senior Sergeant Cameron Blaine about this matter? --- Not specifically. But it's quite possible. That was a – that was a quite unusual investigation. The circumstances of the death were very unusual. So that caused some discussion, certainly amongst the SIOs, as to cause of death and how we could determine it and the nature of the investigation and how we might deal with the suspects. So it's quite conceivable that I would have discussed that with him and probably other SIOs as well.⁴²

...

Is that information that was sensitive that you might not have wanted released? - -- Yes.

Is there a reason?---Only because the nature of that offence and the circumstances surrounding that was quite sensitive and it was very unusual in relation to cause of death and things like that. So we didn't want to put – and I'm trying to remember what we actually released and what came out. I don't think we released, to my knowledge, any information that the body was in the garage. But I believe that was later in the media. But that was not the kind of information I would have expected to release. Now, I said I can't recall exactly what I did release

⁴¹ A Homicide Squad Officer, private examination transcript, 11 October 2022, p 50.

⁴² Officer C, private examination transcript, 15 February 2023, p 31.

*but I don't think we would have said anything about the body specifically being in the garage. But I think that subsequently came out in the media.*⁴³

- [166] DSS Blaine confirmed that he released information about the location of a body and other details to a journalist but did not regard it as operationally sensitive given the nature of the investigation. That is not the view of the investigating officers as just quoted. It was not DSS Blaine's investigation. It was not his decision to make.

Operation Rodia BWC footage relating to the abductee 24 February 2022

- [167] On one of DSS Blaine's visits to Ms A's residence, on 24 February 2022, she asserts that DSS Blaine showed her the Body Worn Camera (BWC) footage of the search for the abductee in the Kelly house. A portion of the BWC footage was released to the media by WA Police. Under oath, Ms A was able to recall detail of the content of the video beyond the portion released to the media.
- [168] DSS Blaine conceded that he had accessed the footage at her residence but says he did not show it to her. Rather, he watched it himself as she was not in the room. He accessed it to see his state of mind as it had taken a toll on him. The Commission considers this explanation implausible and prefers her evidence.

Disclosure on 13 July 2022

- [169] A journalist sent DSS Blaine a query about unconfirmed information of a possible link between Kelly and a man appearing in court on an unrelated matter. DSS Blaine confirmed the link. This was undoubtedly confidential information at the time DSS Blaine responded to the query. Publication of the information by media had the potential to affect the fair trial of the man.

Operation Baxia 7 February 2022 to 10 February 2022

- [170] Operation Baxia was the investigation of a homicide in Warnbro. Ms A, in her role as a journalist, asked for information about the victim who was not then deceased.
- [171] The Commission is satisfied that DSS Blaine sent her a custody photograph of the victim which had relevant details including a name. The release of such a photograph may sometimes prejudice a subsequent trial. It enabled a media company to publish details of the name of the victim at a very early

⁴³ Officer C, private examination transcript, 15 February 2023, p 33.

stage of the proceedings. DSS Blaine also told Ms A that the victim had died before that information was officially released.

- [172] While at Ms A's residence, DSS Blaine logged into police systems using his OneForce phone and showed her BWC footage of the investigators' walk through of the crime scene. This contained graphic images.
- [173] DSS Blaine denies showing her the BWC footage. The Commission is satisfied that he did so. Ms A was visibly distressed at the recollection when giving evidence. Her description of the footage was accurate.
- [174] He disclosed other confidential information including operationally sensitive information regarding evidentiary material and the involvement of others.
- [175] DSS Blaine denied disclosing two matters and could not recall a third matter.
- [176] The Commission prefers the evidence of Ms A that DSS Blaine disclosed information to her.

Operation Merete 14 March 2022

- [177] Operation Merete was the investigation into the murder of two children by their mother. She set a car on fire with the three of them inside, killing herself as well.
- [178] The investigation was assigned to Team 2, DSS Blaine's team. While at Ms A's residence he had a conversation with a team member on speaker phone, allowing her to overhear confidential details.
- [179] On 14 March 2022, as part of the investigation, DSS Blaine took photographs of the inside of the vehicle showing the bodies. This was very sensitive information which he nevertheless shared with Ms A.
- [180] DSS Blaine also told Ms A the ages and gender of the victims, information not known to the media at the time.
- [181] An indication that DSS Blaine knew his actions in disclosing information were improper may be inferred from a message he sent to a journalist on 14 June 2022:

Do you have Signal? ⁴⁴ All the messages going through the phone exchange to a journalist is going to cause me grief lol.

- [182] DSS Blaine's explanation is that he did not want WA Police to see the amount of messages or calls to a journalist as this had caused issues for

⁴⁴ Signal is an encrypted communications app.

homicide officers in the past. DSS Blaine did not appear to reflect on that reason and why it had caused issues.

CHAPTER SIX

Conclusion

- [183] For much of his professional career, DSS Blaine was a capable and respected officer. His rise to the rank of Detective Senior Sergeant and repeated secondments to the Homicide Squad are testament to this.
- [184] Whether PTSD has severely affected his judgement, and is a cause of his extraordinary behaviour, is beyond the scope of this investigation.
- [185] The objective facts of his conduct as outlined by Ms A are supported by a wealth of corroborative material.
- [186] The relationship was unwise. She is young, in the early stages of a career as a journalist. It is her job to ask questions and seek out information. DSS Blaine had an obligation to keep matters confidential and failed to do so.
- [187] Ms A did not seek some disclosures. The information disclosed was obviously a potential benefit to a journalist. Fortunately, for the most part, she recognised the material was sensitive and did not use it.
- [188] The Commission's opinions on misconduct are regrettable but inevitable.
- [189] In the Commission's opinion, DSS Blaine's actions in releasing confidential information involves the misuse of information he acquired as a police officer as it was both for his own benefit in maintaining a relationship and the benefit of the journalist.⁴⁵ In the Commission's opinion DSS Blaine was not authorised to make the disclosures and was subject to a duty not to do so.
- [190] In the Commission's opinion DSS Blaine's misuse of the motor vehicle is a breach of the trust placed in him by reason of his employment.⁴⁶
- [191] In each case his behaviour could constitute reasonable grounds for the termination of his employment.⁴⁷ The Commission has formed an opinion of police misconduct.⁴⁸
- [192] An opinion that misconduct has occurred is not to be taken as a finding or opinion that a particular person is guilty of, or has committed, a criminal or disciplinary offence.⁴⁹

⁴⁵ CCM Act s 4(d)(iv).

⁴⁶ CCM Act s 4(d)(iii).

⁴⁷ CCM Act s 4.

⁴⁸ CCM Act s 217A.

⁴⁹ CCM s 217A(3).