

XV COUNT 6: SOLICITING OF MR JAMES MORRIS
TO MURDER MR BARRY CATT

(a) THE TRIAL

Mr James Morris

785. The case for the Crown at trial depended on the evidence of Mr James Morris and his sister, Ms Sandra Ridgeway. Mr Morris said he had been at the Taree RSL Club with his sister on Friday, 28 July 1989 when he saw Ms Catt with a female companion. He said he had never previously met Ms Catt and was introduced to her by his sister.

786. Mr Morris claimed that Ms Catt asked him whether he wanted to make some money and said in effect that she would pay him \$10,000 to break her husband's arms and legs with a bonus if he killed him. He said that she claimed to him that Mr Catt had been sexually molesting his children.

787. Mr Morris said that his sister was present throughout this conversation whereas Ms Catt's female companion had left part of the way through it.

788. Mr Morris said that he saw Ms Catt again about one week later in the street in Taree. She had a little girl with her and was accompanied by another woman. He said that Ms Catt had asked him whether he had thought about what she had said to him at the RSL Club and had said, apparently indicating the child, "Fancy him doing things like this to a little girl like this". He claimed that she had also said to him words to the effect, "When can you get it done? I would like it done straight away or as soon as possible". He said he could not recall what his

. P-207
response was.

789. Mr Morris said (H.Ex 2.4; T/T p2615-7) that after this second conversation he had spoken to Mr Ferguson, the first FACS officer to make contact with Ms Catt and the Catt children.

790. In cross-examination Mr Morris said that he had five schooners of beer at the RSL Club before speaking to Ms Catt. He said that, before he made his statement, he had never met Det Sgt

Thomas or Det Paget although he had been an Aboriginal Community Police Liaison Officer at the Taree Police Station since February 1988 (H.Ex 2.4; T/T p2617-21).

Ms Sandra Ridgeway

791. Ms Ridgeway, Mr Morris' sister, confirmed the substance of Mr Morris' evidence as to the conversation at the Taree RSL Club including the soliciting (H.Ex 2.5; T/T p2600-9).

Ms Roseanne Catt

792. Ms Catt denied knowing Mr Morris or of ever seeing him before she had seen him in the witness box. She agreed that she was at the Taree RSL Club on Friday, 28 July 1989 with Ms Lucy Parkinson and other friends. She said she did not leave the company of her friends and go and stand by the bar where, according to Ms Ridgeway, the soliciting of Mr Morris had taken place. She said she had spoken to no-one in Ms Ridgeway's presence that night about her domestic situation. She denied the allegations of soliciting (H.Ex 2.9; T/T p2710-2).

Ms Lucy Parkinson

793. Ms Parkinson confirmed Ms Catt's evidence. She had gone to

. P-208

the RSL Club with Ms Catt on a Friday night on which she had seen Mr James Morris and Ms Ridgeway both of whom she already knew. Ms Parkinson said she had seen Mr Morris at the bar "getting a bit boisterous" and "very full, very drunk".

794. She denied that she had ever been at the bar with Ms Catt and Mr Morris or Ms Catt and Ms Ridgeway. She said Ms Ridgeway was also "quite full" to the point of "wandering around a bit". She agreed in cross-examination that she was not in Ms Catt's company the whole of the evening but said she was quite close to her whilst she was there (H.Ex 2.10; T/T p3540-53).

(b) THE SECTION 12 HEARING

Ms Joy McGregor

795. Ms McGregor, Ms Catt's sister, said that she was with Ms Catt at the Taree RSL Club. She claimed that she had not left Ms Catt's sight whilst she was there. She did not see either Ms Catt or Ms Parkinson speak to anyone such as Mr Morris or Ms Ridgeway (HIT p1737-9). In cross-examination she said she had made no statement in relation to what she had done or her observations at the RSL Club nor had she been asked to make

one. She said she did not know Ms Morris (HIT p1742). No adequate explanation was given for failing to call her at the trial

Ms Lucy Parkinson (Cooper)

796. Ms Parkinson was called to give evidence she had not given at the trial. She said that after having made a statement in about November 1989 to Mr Jones, solicitor for Ms Catt, as to the events at Taree RSL Club, Mr Vernon Taylor (Count 7) came to her house.

. P-209

797. She said that she had previously known Mr Vernon Taylor's mother but not Mr Taylor. She said that he spoke to her about Mr Catt and offered the view that Ms Catt could not be trusted and was just a "blow in". He also mentioned another person, Mr Newell, she had not heard of before.

798. She claimed that Mr Taylor said he was a messenger on behalf of Mr Catt and Mr Newell who wanted her to change the statement she had already made with particular reference to Ms Catt not having spoken to any person who might have been Mr Morris at the Taree RSL Club. Ms Parkinson said that she told him that she would give this some thought.

799. Ms Parkinson claimed that a few days later, Mr Taylor telephoned her and had visited her again and she told him that she had not had time to think about his request.

800. Some two to three days after that he rang again and she had told him that she knew what had happened that night because she was there. She said there was no further contact between them (HIT p2352-57).

Is Ms Lucy Parkinson's Additional Evidence Fresh?

801. Ms Parkinson said at the trial that she had been visited twice by Mr Taylor and had received a telephone call from him. Senior Counsel for Ms Catt, however, was clearly of the view that the substance of the ensuing conversations was inadmissible and did not attempt to lead it (H.Ex 2.10; TIT p2544-5).

802. At the trial, Mr Catt does not appear to have been asked whether he knew or had attempted to have any contact made with Ms Parkinson through Mr Taylor or otherwise.

. P-210

803. Mr Newell said that whilst he knew Mr Taylor he did not know Ms Parkinson. He denied that he had ever "gone with Vernon Taylor" to Ms Parkinson's house. The basis for this suggestion is not clear. Ms Parkinson never suggested that Mr Newell was present on either occasion on which Mr Taylor visited her.

804. Mr Taylor at the trial said that he had, at the request of Det Sgt Thomas and Det Paget, found Ms Parkinson and asked her whether she was prepared to make a statement and talk to the police. He said that he had told her the "whole story". He said he had reported to the police the result of his contact with Ms Parkinson. He said ultimately Ms Parkinson had said that she was prepared to make a statement but not favourable to the prosecution's case (H.Ex 2.6; T/T p2593-5).

805. Mr Thomas at the section 12 hearing said that he knew nothing about Mr Morris prior to the date of Mr Morris' statement of 5 September 1989. Mr Baggs, FAGS Officer, said that he had received information from Mr Ferguson on 25 August 1989 of the alleged approach by Ms Catt to Mr Morris. Mr Baggs asserted that later on that same day he had so informed Det Sgt Thomas (H.Ex UUUU). Mr Thomas said, however, that he could not say what investigative process led him to Mr Morris as a prospective witness (H/T p371). He denied that he had offered Mr Morris any sort of assistance or protection if Mr Morris gave evidence against Ms Catt (HIT p372).

806. The evidence does not disclose how either Mr Catt, Mr Newell and/or Det Sgt Thomas or Det Paget came to know of the existence and general purport of a statement made by Ms Parkinson to the solicitor for Ms Catt in a pending criminal proceeding against his client involving serious criminal charges.

. P-211

(c) MR JAMES MORRIS AND ALLEGATIONS RELATING TO UNDER-AGE ABORIGINAL GIRLS

Mr Gregory Baggs and H.Ex 00000

807. H.Ex 00000 is a report by Mr Baggs of FACS dated 22 September 1989 to his Regional Head Office. It recites a report by two officers, one of whom is Mr Ferguson, to the effect that

"a number of thirteen to fifteen year old Aboriginal girls had been involved in sexual intercourse with Jimmy Morris, Aboriginal Police Liaison Officer (Taree), and that also involved were a number of Taree policemen. It was alleged that Mr Morris did this during late shifts in his job".

808. The report then states that Mr Morris' wife had left him some three months previously on discovering what he was (allegedly) doing. It is then recited that "many people in the Purfleet (Aboriginal) Community were aware of this" including, so it is reported, Mr Ferguson.

809. Mr Baggs reports that he had sent Mr Ferguson to obtain the names of one of the girls involved, and Mr Ferguson had returned with two statements, not in evidence but apparently tending to confirm the allegations.

810. The report recites that the matter had been drawn to the attention of Police Internal Affairs Branch which had investigated and concluded "there appears to be substance to the disclosures of these Aboriginal girls".

811. H.Ex 00000 then cites two matters as appearing "to link". One is the visit by Ms Whalen to the offices of FAGS on Tuesday, 19 September 1989 in which she is said to have "disclosed her treatment by Det Peter Thomas when

. P-212

questioned about the Catt case". The second, "Jimmy Morris is a witness for the police in the charges against Ms Catt".

812. Mr Baggs said that the FACS investigation of allegations of sexual abuse of under-age Aboriginal girls had been made by an Area Supervisor, Mr Ford (not called).

813. H.Ex 00000 states the name of one of the two girls, described as "workers", from whom Mr Ferguson had obtained a statement. H.Ex 00000 seems to take the form of an official notification by Mr Baggs to his superior officer, Mr Madden, on 22 September 1989 as to that named child.

814. H.Ex 00000 states that the Police Internal Affairs investigation was "meant to be 'hush hush'". Neither the result of Mr Ford's investigation nor the Police Internal Affairs

investigation was before me at the section 12 hearing.

815. According to Mr Baggs, although it involved allegations of criminality as to at least one child, the matter was left to be dealt with by members of the Purfleet Aboriginal Community rather than by the police or FACS.

(d) DID DET SGT THOMAS AND/OR DET PAGET KNOW OF THE FACTS ASSERTED IN H.EX 00000 AS AT 5 SEPTEMBER 1989?

816. Objection was taken to the admission of H.Ex 00000 by the Crown on the basis that there was no evidence that either Det Sgt Thomas or Det Paget had been aware of the allegations regarding Aboriginal children prior to the date of Mr Morris' statement of 5 September 1989. I overruled this objection on the basis that H.Ex 00000 contains an assertion that these allegations had been aired since June/July 1989, and this went

. P-213

to whether there is an inference open that Det Sgt Thomas and/or Det Paget are likely to have been aware of the allegations, particularly in light of the fact that some police stationed at Taree are alleged to have been involved.

817. Mr Thomas denied at the section 12 hearing ever having seen Mr Baggs' report of 22 September 1989 (H.Ex 00000) or having any recollection of having then been aware of these allegations. He said that he had only been made aware of them recently but had no recollection of what his state of knowledge was as to them in 1989, and in particular what it was before and at the date of the statement of Mr Morris dated 5 September 1989 which is witnessed by Det Paget (H.Ex YY).

818. Det Paget said that as at 5 September 1989, the date he appears to have witnessed Mr Morris' statement, Mr Morris was not to his knowledge being investigated by police in relation to the allegations in H.Ex 00000. Det Paget said he knew nothing about that (HIT p575-6).

819. Mr Baggs said that when on 25 August 1989 he had informed Det Sgt Thomas about Mr Ferguson's information disclosing the soliciting of Mr Morris by Ms Catt, he could not recall if he was then aware of the allegations as to the Aboriginal children. Mr Baggs said that he got no indication from the police that they

were aware of the allegations at that time (H/T p2127).

820. According to H.Ex 00000, it was on 20 September 1989 that Mr Ferguson and another departmental officer, Mr Davis (not called), advised Mr Baggs of the allegations. It also appears from H.Ex 00000 that it was not until some time between the date of that document being faxed to Mr Baggs' superior, Mr Madden, and about one week previously that senior police

. P-214

outside Taree were informed of the allegations. H.Ex 00000 states that the head Aboriginal Police Liaison Officer at Hornsby had been informed and he in turn had advised his Chief Inspector. It was not until after this it would seem that the "hush hush" investigation by Police Internal Affairs commenced.

821. This history indicates that it was not until after Mr Morris had made his statement of 5 September 1989 that senior police at Hornsby were officially notified on a confidential basis of the allegations involving children from the Purfleet Aboriginal Community.

822. H.Ex 00000, however, makes it clear that the allegations were being made known on an unofficial basis some three months prior to September 1989. They came to the notice of Mr Morris' wife and members of the Purfleet Aboriginal Community. There is an available inference that police officers stationed at Taree were also likely to have known, at least in general terms, of these allegations particularly as they were said to involve local police from Taree.

823. The question remains whether it is reasonable to infer that the allegations were likely to have come to the ears of Det Sgt Thomas and/or Det Paget who were not formally stationed at Taree.

824. In an interview with police assisting the Crown at the section 12 hearing, Mr Ferguson denied that he was said to have been involved in the sexual activities alleged. He asserts that Mr Morris was alleged to have been involved but says "it never came to DOCS" (H.Ex 39, Q&A 49-57; verified in the witness box H/T p1975).

. P-215

825. H.Ex 39 does not indicate when Mr Ferguson came to know of the allegations and in evidence he said that he was not sure when he came to know of Mr Morris' alleged involvement in what was described by Mr Ferguson as a "prostitution ring". Whenever it was it must have been on or prior to 20 September 1989, the date of H.Ex 00000.

826. Mr Ferguson denied that in about August or September 1989 Mr Morris had made any confession to him about the matter. He also denied, however, that he had been told by Mr Morris of the soliciting of him by Ms Catt to murder Mr Catt (HIT p1983, 1988). I do not accept this in light of Mr Baggs' report, H.Ex UUUU, where at paragraph 38 he states that it was on 25 August 1989 that Mr Ferguson told him of Mr Morris' allegation.

827. Mr Morris in effect denied that Mr Ferguson had asked him to make a statement to the police about the soliciting as a way of getting both him and Mr Ferguson out of difficulties in relation to allegations about under-age Aboriginal girls (HIT p1208).

(e) CONCLUSIONS AS TO COUNT 6

Ms Joy McGregor

828. As to Ms McGregor, although her evidence is clearly material, no satisfactory reason has been suggested to me to explain why she was not called at the trial. On the evidence before me she was available but notwithstanding the apparent importance of what she had to say particularly in relation to the alleged soliciting by Mr Morris, no statement was taken from her. This and her close relationship to Ms Catt brings me to the view that her evidence lacks sufficient cogency to be regarded as fresh.

. P-216

Ms Lucy Parkinson

829. As to Ms Parkinson, it was the decision of senior counsel at the trial not to adduce the details of the conversation which she says that she had with Mr Vernon Taylor.

830. Whatever the validity of senior counsel's view, the evidence given by Mr Taylor that he had reported back to Det Sgt Thomas and Det Paget the end result of his conversations with Ms Parkinson, made the terms of the conversation admissible and relevant as some evidence going to the allegation of collusion between one of these two police officers, Mr Newell and/or Mr Catt.

831. So viewed, however, the evidence does not go to the question whether there may have been any miscarriage of justice specifically in respect of Count 6.

Allegations as to Under-Age Aboriginal Girls

832. As to whether pressure may have been brought to bear on Mr Morris by reason of his alleged involvement in serious sexual offences relating to Aboriginal children, there is no direct evidence to establish that either Det Sgt Thomas or Det Paget was aware of these allegations before Mr Morris made his formal statement to the police, H.Ex YY, on 5 September 1989. Such direct evidence as was given suggests that the contrary may be true.

833. The circumstances, however, raise in my mind a degree of unease as to whether this may have been so. It would be extraordinary if, in a township the size of Taree, allegations of this kind, abroad some three months or so prior to September

. P-217

1989 involving police officers at Taree Police Station, did not come to the ears of Det Sgt Thomas and/or Det Paget before 5 September 1989 while they were working in Taree.

834. If they did know, then it may have been within the modus operandi of Det Sgt Thomas to have "softened up", Mr Morris, directly or indirectly, into co-operating in making a case against Ms Catt and by agreeing to give false evidence.

835. Against this is the sworn evidence of Mr Morris and Ms Ridgeway. If Mr Morris and Ms Ridgeway were persuaded that co-operation with police might help to keep Mr Morris out of trouble in this regard, then Ms Ridgeway may well have assisted her brother.

836. Having considered the evidence against the background of other material relating to Det Sgt Thomas' methods of investigation, I am unable to determine whether it is likely that Det Sgt Thomas and/or Det Paget may have known of the allegations and Mr Morris' alleged involvement on or before 5 September 1989 when a statement was taken from Mr Morris.

. P-218

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