

In the matter of the *Commissions of Inquiry Act 1950*

Commissions of Inquiry Order (No.4) 2015

Barrett Adolescent Centre Commission of Inquiry

AFFIDAVIT

I, John Patrick Tate, Executive Legal Consultant, c/- Crown Law, 50 Ann Street, Brisbane, Queensland say on oath:

1. I am an Executive Legal Consultant employed by Crown Law and have been responsible for liaising with FTI Consulting (Ringtail) in relation to the ongoing arrangement to effect disclosure of documents to the Commission.
2. On Monday, 9 November 2015, I requested Mr David Bowie, the Australian Manager of FTI Consulting (Ringtail) to provide a technical report setting out the difficulties FTI Consulting had experienced in relation to processing documents received from Crown Law and producing documents in accordance with the Commission's Document Management Protocol. **Exhibit A** to this affidavit is a copy of the report dated 11 November 2015 from FTI Consulting.
3. An arrangement currently exists where FTI Consulting (Ringtail) provides Crown Law with an update report containing statistics of the documents categorised and to be categorised on a daily basis. **Exhibit B** to this affidavit is a copy of the statistics report dated 12 November 2015 from FTI Consulting, noting the statistics for Wednesday 11 November and Thursday 12 November 2015.

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Deponent

A J.P., ~~C.~~Dec., Solicitor

AFFIDAVIT

On behalf of the State of Queensland

Crown Solicitor
11th Floor, State Law Building
50 Ann Street
BRISBANE QLD 4000
TEL: (07) 3239 6304
Email:

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4. On Sunday, 8 November 2015, when reviewing a report of Ringtail processed documents, it became evident that the documents were not being processed and exported by the Ringtail software in a way that complied with the Commission's Document Management Protocol. As a result of discussions with Mr David Bowie and myself, an arrangement has now been made to vary the terms of the existing contractual arrangements to include a variation to the contract to permit FTI Consulting to undertake objective coding of all documents to ensure they are processed and exported to meet the requirements of the Commission's Document Management Protocol. **Exhibit C** to this affidavit is a copy of the email chain between Crown Law and FTI Consulting.

All the facts sworn to in this affidavit are true to my knowledge and belief except as stated otherwise.

Sworn by John Patrick Tate on 12
November 2015 at Brisbane in the
presence of:

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)
)




A Justice of the Peace, C.Dec., Solicitor



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Commissions of Inquiry Order (No.4) 2015

Barrett Adolescent Centre Commission of Inquiry

CERTIFICATE OF EXHIBIT

Exhibit A to the Affidavit of John Patrick Tate sworn on 12 November 2015.



Deponent



A J.P., ~~G.Dec.~~, Solicitor



In the matter of the *Commissions of Inquiry Act 1950***Commissions of Inquiry Order (No.4) 2015****Barrett Adolescent Centre Commission of Inquiry****INDEX TO EXHIBITS**

Exhibit No	Exhibit description	Page numbers
A.	FTI Consulting Report entitled "FTI Technology Barrett Inquiry" dated 11 November 2015	1-6
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C.	Email chain between Crown Law and FTI Consulting on 11 November 2015	8-11



FTI TECHNOLOGY BARRETT INQUIRY

Prepared for Crown Law
RE: BACCOI
FTI Matter #: 444237 0002
11 November 2015

Confidential and Proprietary

Summary of Matter Progress

Crown Law engaged with FTI Technology on 2nd October 2015 to provide eDiscovery services in support of the Barrett Inquiry. Those services have entailed the following:

1. eDiscovery processing of approximately 1TB of data into Ringtail for culling and review as provided by Crown Law on various USB¹;
2. Assistance with undertaking review of potentially relevant material after culling using Ringtail eDiscovery platform;

Three USB drives containing approximately 784GB of data was received on USB from Crown Law to commence processing on 9th October 2015 and was staged to FTI's processing servers over the weekend of 10th – 11th October 2015.

An update was provided to Crown Law on 12th October 2015 indicating that the data was 70% staged in preparation for processing and that we required further instructions (user details to create logins for Ringtail and keyword list to commence keyword culling of data).

A meeting was held between Scott Gillard and Chris Russell of FTI and Louise Syme of Crown Law on 15th October 2015 to discuss matter requirements and progression of keyword search terms to further cull the data for review. 1,441,482 have been processed into Ringtail awaiting further instructions.

Instructions were received from Louise Syme on 21st October in the form of a list of users to be created in Ringtail and a list of keywords for use in culling the documents for review. Initial feedback on these search terms was provided for comment the same day.

On 23rd October 2015, FTI received correspondence from Crown Law in relation to their clients concerns over security. Further questions re: security were received from Louise Syme on 25th October 2015 for comment, Scott Gillard provided a written response to their concerns to Louise Syme on 26th October 2015.

Further material is received on USB for processing on 26th October 2015 with instructions for processing received on 27th October 2015.

Scott Gillard requested a meeting with Louise Syme on 29th October 2015 to progress receipt of instructions to apply keyword culling and to commence training of staff for review to commence.

Instructions for application of search terms is received at meeting with Louise Syme on 29th October 2015 with those keywords being applied and analysed by FTI overnight. Training is tentatively set for Monday 2nd November to train reviewers.

Training is re-scheduled to Friday 30th October 2015 by Crown Law at 2pm. 8 to 10 users are trained and logged into Ringtail to commence review of material.

¹ Crown Law have undertaken self-collection of data in conjunction with their client(s)

Received final party code information for processing documents into disclosure database from Crown Law on 30th October 2015. Documents have been unable to be processed in preparation for final disclosure until this time.

Since the Initial training session on 30th October 2015, in order to speed up review approximately 105 users have now been added to the review team. These reviewers are predominantly Crown Law Brisbane staff with the balance being Barristers.

Impediments To Matter Progress

Crown Law Procurement Process

The length of time to engage and commence the project with Crown Law was longer than most projects. It is understood that this was to do with the numerous processes which Crown Law has to undertake in order to contract with a 3rd party (including a tender process). Albeit that FTI has previously engaged with Crown Law on a separate unrelated project in the past, this did not seem to speed up the procurement process.

Crown Law Client Security Queries

Crown Law client expressed concerns about security in relation to where electronic data would be stored and whom it would be handled by. The process of providing feedback on these concerns and the Client satisfying themselves that the information would be secure delayed the commencement of the project.

Crown Law Education

The staff at Crown Law are inexperienced in electronic litigation and also technology in general in comparison to other FTI clients. On initial survey of users being trained to review documents in this matter, only one user had previously been involved in an electronic litigation where an electronic database has been used. Whilst Ringtail is not a difficult software program to understand, there is a learning period for new users to any software product before they become comfortable with what they are doing. This learning curve is much steeper if those users also are not comfortable with using a computer.

FTI has also had a similar experience whilst supporting Crown Law on another matter.

Crown Law Information Technology

Crown Law is supported by JAG in relation to their Technology Infrastructure. That technology infrastructure, including their Standard Operating Environment (SOE) is extremely locked down and customized and local Crown Law IT staff do not have sufficient privileges to make any changes that may be required.

Ringtail is a simple web based application which requires some Active X controls to run in the web browser (such as Quick View Plus). Trusting the site in your browser is the best way to ensure Ringtail will function as it should. Unfortunately Crown Law staff do not have the capability to action this themselves as JAG lock this down. It is up to JAG to do this for staff

via a security policy change. This request was made of Crown Law (for a separate matter) in August 2015.

Whilst all best endeavors were made to ensure that the reviewer's environments were functional, Crown Law IT were unable to make necessary PC configuration changes in a timely manner. This has meant that the progress of reviewers has been hindered (and stopped at times) whilst these issues have been resolved over the course of a week between 30th October and 9th November.

It is understood from speaking to the reviewers at Crown Law that they have also experienced general IT issues with their PC's crashing from time to time which has also slowed review.

Whilst the type of issues that have been experienced have been seen in other environments by FTI before, those issues are usually swiftly managed by organisations IT departments or the users themselves whom have the appropriate rights to make changes to their PC or web browser. Crown Law's inability to make changes to users PC's or even settings in Internet Explorer on the fly as they have to follow a process with JAG has significantly hindered the review progress and the commencement of new reviewers.

Large Volume of Data

The volume of data which has initially been processed in this matter is not trivial. The handling, processing and review of nearly 1TB of data (and increasing daily) takes time and requires a level of rigor and time is required to be applied to the management of this volume of material in order to ensure that it is done properly.

Large Volume of Users

Crown Law are now operating with over 100 users. The logistics in obtaining those reviewers and finding space for those reviewers to work, ensuring that their IT environment is operational (see IT operational issues below), the training of those users and support of those users is a time consuming process. Once those reviewers are on-board, educated and comfortable with reviewing (see Crown Law education below), review speeds are increasing daily. But the initial "gearing up" or "learning" period has caused delays.

Undertaking Objective Coding To Make Documents Protocol Compliant

FTI rarely sees matters in either the Federal or Supreme Courts (in all states) these days where the parties agree to undertake objective coding of electronic documents and even scanned hardcopy documents. The majority of matters utilize the electronic metadata of documents only and do not require a manual objective coding process to further describe the data in order to save time and costs.

Whilst the Document Management Protocol for the Barrett Inquiry provides provision for the use of some metadata to describe documents, fields such as Document Type and People / Organisations are required to be manually coded by human beings reading each document and entering the data into the database. This process lengthens the amount of time it takes

to prepare documents which have been identified by Crown Law as being relevant for disclosure.

Overall Progress

Despite the difficulties outlined above which has impacted Crown Law's ability to review documents smoothly, from FTI's experience, overall progress in the space of a month has been significant. To get to where Crown Law are today despite the problems encountered and with the sheer volume of data and number of reviewers needing to be applied to the review is an achievement.

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LOS ANGELES	WASHINGTON, DC

About FTI Consulting

FTI exists to help companies and their stakeholders protect and enhance enterprise value in an increasingly complex economic, legal and regulatory environment. We are the trusted advisor entrenched in many of the game-changing events that make headlines, move markets and create business history.

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Date	Total Database		Keyword Hits		Reviewed		Remaining	
	Without Family	With Family	Without Family	With Family	Without Family	With Family	Without Family	With Family
11-Nov-15	1,472,351	1,472,351	277,434	312,297	98,147	99,168	179,287	213,129
12-Nov-15	1,472,351	1,472,351	277,434	312,297	167,895	168,340	109,539	143,957

Lisa Cooney

From: Gillard, Scott
Sent: Wednesday, 11 November 2015 6:02 PM
To: Melinda Pugh
Cc: John Tate (CL); Karen Watson; Susan Chrisp; Helen Freemantle; Bowie, David
Subject: RE: Hardcopy for Historic Documents

Melinda / John,

To re-confirm timeframes, LitSupport have indicated that due to the late commencement, a completion date for coding will now not be until the morning of the 20th November (24 hours later than originally stated). This will then push the final production of the last batch to Saturday morning (21st November 2015).

Can you confirm if the Commission will be accepting disclosure on a Saturday and if not, would Monday morning be a more suitable delivery time for the final tranche of material.

Please confirm.

Regards

Scott Gillard

CONNECT WITH ME SOCIALLY:



From: Gillard, Scott
Sent: Wednesday, 11 November 2015 5:23 PM
To: 'Melinda Pugh'
Cc: John Tate (CL); Karen Watson; Susan Chrisp; Helen Freemantle; Bowie, David
Subject: RE: Hardcopy for Historic Documents

Melinda,

Please see comments below. I will call soon.

Thanks

Scott Gillard

CONNECT WITH ME SOCIALLY:



From: Melinda Pugh
Sent: Wednesday, 11 November 2015 4:34 PM
To: Gillard, Scott

Cc: John Tate (CL) [REDACTED] Karen Watson [REDACTED]; Susan
 Chrisp [REDACTED]; Helen Freemantle [REDACTED]
 Subject: FW: Hardcopy for Historic Documents

Dear Scott

I refer to my conversation with you this afternoon and your email below.

I confirm that:

- FTI Consulting will process hardcopy documents for Crown Law so that they can be produced to the Barrett Commission of Inquiry in accordance with the Document Management Protocol.

FTI will provide non-compliant documents to LitSupport for objective coding in order to make them protocol compliant.

- FTI will engage LitSupport to conduct the objective coding of the documents for Crown Law.

Agreed. Invoices from LitSupport will be disbursed to Crown Law on FTI's monthly bill.

- LitSupport will start this work this afternoon. The work to be performed by LitSupport will ensure that all of the fields specified in clause 3.1 of the Document Management Protocol will be accurately populated, as required to comply with the Document Management Protocol.

Incorrect. LitSupport will be provided with material tomorrow morning to commence after FTI has engaged with LitSupport. We have missed the timeframe to get them material today. A revised timeframe will need to be provided tomorrow.

Agreed that they will code 7 fields as per the protocol.

- FTI requires an additional 24 hours, after completion of LitSupport's work, to run a production of up to 10,000 documents.

Correct

- You will instruct LitSupport to provide FTI with daily tranches of documents after coding, so that FTI can conduct the necessary production and then deliver the documents to Crown Law in tranches ready for production to the Commission.

Correct. We will receive data from LitSupport once a day and 24 hours later it will be available for production.

- FTI will commence by coding the approximately 6,000 documents that were non-compliant with the Document Management Protocol after the sample report was run on 8 November 2015.

Correct. This is all documents which are not emails.

- Crown Law will deliver the other hardcopy documents to be coded on USBs to your Brisbane office by 5pm on 13 November 2015.

My understanding is that Crown Law will instruct FTI which documents in the BACCOI_Staging case are ready for disclosure preparation. FTI will:

1. *Migrate these documents from staging to disclosure (24 hour turnaround for each tranche)*
2. *Provide non-compliant data to LitSupport for coding*
3. *On return of data from LitSupport, prepare data for disclosure -- 24 hour turnaround*

- LitSupport has indicated that these documents can all be coded by the morning of 19 November 2015 and FTI will require 24 hours after that time to finalise production to comply with the Document Management Protocol.

As we have missed COB today, I need to get a revised timeframe from LitSupport hopefully overnight.

- You will provide us with daily updates about the numbers of documents coded and the numbers that have been through the production process.

Yes

- You **will** advise us as soon as possible if the time frames of Thursday morning for completion of coding and COB Friday for completion of production cannot be met and the reasons why.

Yes. As outlined above we are already looking like this will need to be pushed out due to non-start today.

- The cost of processing the hardcopy documents so that they can be produced to the Commission in compliance with the Document Management Protocol is [REDACTED] per document. As David indicates in the email below, FTI has been running below budget, so it may be that the cost of the coding will have no effect on the budget already agreed. You will inform us if that changes.

Correct. The cost of objectively coding the non-compliant documents is [REDACTED] per document. The cost of preparation of the disclosure over and above objective coding is performed at FTI's time & materials rates as outlined in our proposal.

Could you please confirm that FTI agrees to this arrangement.

Melinda Pugh
Assistant Crown Solicitor
Commercial and Property Team
Crown Law
Ph: [REDACTED]
Level 12, State Law Building | 50 Ann Street, Brisbane Qld 4000
[REDACTED] | <http://crownlaw.govnet.qld.gov.au>

From: Gillard, Scott [REDACTED]
Sent: Wednesday, 11 November 2015 11:20 AM
To: Bowie, David; Louise Syme; John Tate (CL); Karen Watson; [REDACTED]
Subject: RE: Hardcopy for Historic Documents

Karen / Susan,

Please see below David's email from this morning. In relation to price, see the attached email.

However, as discussed you have since requested that you would like 20,000 to 30,000 documents coded by Monday morning on the basis that we would be instructed to code this volume by no later than COB Friday. This may have an impact on price and we are waiting for LitSupport to confirm if it is possible. I hope to have an answer within the next hour.

If you wish to proceed on the understanding that cost may increase to accommodate your timeframes, I can start making that happen in the background. What I need to know to start this process is:

1. Can you please confirm if Crown Law will be engaging with LitSupport or if FTI will be engaging with LitSupport and providing invoices as disbursements on our bill. David would like this confirmed.
2. What documents do you want coded? Originally the first disclosure contained 7,490 documents. Can you confirm what you wish to exclude from this list not to be coded?

Please remember that as per the attached email and as discussed with David Bowie, we require 24 hours per tranche (up to 10,000 documents) to finalise the data after coding has been completed. We cannot refine this any further. So for example, if we got coding back at 9am Monday morning, we would not have a disk of disclosure for you until 9am the following morning. If it is more than 10,000 documents, depending on overall size, more time will be required.

Regards

Scott Gillard

CONNECT WITH ME SOCIALLY:



From: Bowie, David

Sent: Wednesday, 11 November 2015 8:45 AM

To: Louise Syme [REDACTED]; John Tate (CL) [REDACTED]

Cc: Gillard, Scott [REDACTED]

Subject: Hardcopy for Historic Documents

Importance: High

Dear Louise and John,

As per our recent discussions, I have arranged to have the scanned hardcopy documents objectively coded.

This means that for the 6000 or so scanned hardcopy documents we have an indicative estimate of a throughput of 1,500 per day (the actual estimate was rolling production of approximately 6,000 documents over 4 days).

We will clearly try and improve these numbers as the process moves along but if there is any potential variation (for good or bad) we will advise you asap.

Also as discussed, FTI are currently running below budget for the project. This means we are in a position to forward the Objective Coding Invoices to you as part of the total project spend. So long as we continue to remain under budget for the next two months, I don't anticipate the Objective Coding will have any adverse impact on the total budget.

If, however, we start to approach the cap, I will be in contact to see if there is a way forward as far as funding the objective coding is concerned.

For this morning I am looking to get better particulars regarding the Objective Coding throughputs – particularly what it takes to have the throughput increased – and am also chasing up the statistics report.

I look forward to speaking to you soon.

David Bowie

Senior Managing Director, Technology | FTI Consulting | D [REDACTED]

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