Sydney Magistrate on Trial for Allegedly Sexually Abusing Teenage Boy

68-year old Sydney Magistrate Graeme Curran is currently on trial in Downing Centre District Court for nine counts of indecent assault, arising from allegations he sexually abused a teenage boy nearly four decades ago.

In his opening statement to the jury, Crown Prosecutor Mark Hobart SC submitted that between 1981 and 1983, Mr Curran performed a number of sexual acts upon the boy, who was aged 13 to 15 at the time.

These acts, it is alleged, included performing a 'ritual' of running his hands up and down the boy's body with 'extra time' on the genital area while the pair were in bed naked together, attempting to put his tongue down the boy's throat, masturbating the boy on a beach and performing oral sex upon him.

The prosecution alleges Mr Curran, a solicitor at the time, groomed the boy by spending lavishly on sailing trips, hotel rooms and even buying his parents a car and paying their bills.

Mr Curran's criminal defence barrister, Peter Boulten SC, admitted the pair often slept together but said they were always fully clothed.

He made clear that his client vehemently denies the allegations of improper conduct, telling the jury:

"Graeme Curran was a very close friend of the family and he became almost unconsciously a father figure".

"He had a very affectionate relationship with [the parents]

and all of their children, and he was a very generous and kind and caring part of the family."

The barrister suggested the complainant had become 'mixed up' over the years, noting that the allegations became 'bigger and better' over time.

He foreshadowed the defendant testifying in his own defence.

The trial continues before Judge Anthony Rafter and a jury of twelve.

Indecent assault

Indecent assault is an offence under section 61L of the Crimes Act 1900 (NSW) which comes with a maximum penalty five years' imprisonment if tried in a higher court such as the district court, or two years if the case remains in the local court.

To be found guilty, the prosecution must prove each of the following 'elements' beyond reasonable doubt:

1. **The defendant assaulted the complainant**

In the context of the section, an assault is the deliberate and unlawful touching of another person. The slightest touch is sufficient to amount to an assault and it does not have to be a hostile or aggressive act or one that caused the complainant fear or pain.

2. **The assault was indecent**

Indecent means contrary to the ordinary standards of respectable people in the community, and it must have a sexual connotation or overtone.

3. **The assault was committed without the complainant's consent**

Consent involves the conscious and voluntary permission by the complainant to the defendant to touch the complainant's body

in the manner that the defendant did.

Consent or the absence of consent can be communicated by the words or acts of the complainant.

4. **The defendant knew the complainant was not consenting**

The defendant must have known was not consenting. This is not a question of what a reasonable person would have realised, thought or believed, but what the defendant knew.

It is important to note that a person under the age of 16 cannot provide consent, and an indecent act will be regarded as an indecent assault in the absence of consent.

Aggravated indecent assault is an offence under section 61M of the Crimes Act.

To be found guilty, the prosecution must prove the above four 'elements' beyond reasonable doubt as well as at least one of the following 'aggravating circumstances'.

1. the defendant was the company of another person/s,
2. the complainant is under the authority of the defendant,
3. the complainant has a serious physical disability, or
4. the complainant has a cognitive impairment.

The maximum penalty is seven years' imprisonment, or ten years if the complainant is under the age of 16.

Sexual touching

In December 2018, the offence of indecent assault was replaced by 'sexual touching' in New South Wales.

The offence of sexual touching is now contained in section 61KC of the Crimes Act 1900.

The section states that a person is guilty of sexual touching if he or she, without the consent of the complainant and knowing that consent is absent, intentionally:

- sexually touches the complainant, or
- incites the complainant to sexually touch him or her, or
- incites a third person to sexually touch the complainant, or
- incites the complainant to sexually touch a third person.

‘Sexual touching’ is defined by section 61HB of the Act as touching another person with any part of the body or with anything else, or through anything, including anything worn by either person, in circumstances where a reasonable person would consider the touching to be sexual.

The section provides that the matters to be taken into account when deciding if touching is sexual include whether:

- the area of the body touched or doing the touching is the person’s genital area, anal area or – in the case of a female person, or a transgender or intersex person identifying as female – the person’s breasts, or
- the defendant’s actions are for sexual arousal or sexual gratification, or
- any other aspect of the touching, or the circumstances surrounding the touching, make it sexual.

Touching is not sexual if it was carried out for genuine medical or hygienic purposes.

What are the penalties for sexual touching?

The maximum penalty for sexual touching is 5 years in prison if the case is dealt with in the District Court, or 2 years if it remains in the Local Court.

The maximum penalty increases to 10 years if the offence was committed against a child who was at least 10 years of age but under 16.

The maximum penalty is 16 years if the child was under the age

of 10.

What does the prosecution have to prove?

For a person to be guilty of sexual touching, the prosecution must establish each of the following matters:

- That the defendant touched the complainant or incited another to do so,
- That the touching was sexual,
- That consent was not given to the touching, and
- That the defendant knew consent was not given, or was reckless as to whether consent was given.

The prosecution will fail if it cannot prove each of these elements beyond reasonable doubt.

What are the defence to sexual touching?

In addition to the requirement that the prosecution must prove each element (or ingredient) of the offence, it must also disprove any of the following defences if properly raised:

- Duress, which is where you were threatened or coerced,
- Necessity, where the act was necessary to avert danger, and
- Self-defence, where you engaged in the act to defend yourself or another, and
- Lawful correction of a minor.

It is important to bear in mind that, like everyone else, Mr Curran is presumed innocent until and unless he is proven to be guilty in a court of law.

Criminal Lawyers Appointed as Local Court Magistrates

In October 2018, NSW Attorney General Mark Speakman announced a four year, $148 million funding boost designed to ease the pressure of the state's District Courts by facilitating the appointment of seven new judges, more senior lawyers at Legal Aid NSW and upgrades to regional courts to enable them to accommodate for jury trials.

Five new Magistrates for NSW Local Courts

This week, Mr Speakman announced the appointment of five new Local Court Magistrates as part of a $4.1 million package aimed at dealing with an influx in sexual and indecent assault cases resulting from the findings of the Royal Commission into Institutional Responses to Child Sexual Abuse.

The appointees have a combined experience exceeding a century. They comprise a criminal defence barrister, three solicitors with significant experience in criminal law and a former coroner.

"The Local Court deals with more cases than any other court in Australia and increasing its ranks on the bench will help ensure it continues to lead the nation in the delivery of timely justice," Mr Speakman stated.

The appointees

Miranda Moody and Greg Elks will be the first to join the bench on 21 January, before Ian Rodgers Fiona McCarron in late February, and Stephen Olischlager in late March 2019.

Miranda Moody

Ms Moody was an associate to a number of judges in the District Court of NSW for several years before becoming a

barrister in 2006.

She has represented clients in cases ranging from drink driving, common assault and drug possession in the Local Court up to jury trials for serious offences in the District Court.

She has also appeared for clients before the Independent Commission Against Corruption (ICAC) and is a member of the Legal Aid Commission's General Criminal Law Panel.

Greg Elks

Mr Elks commenced his involvement in the criminal justice system as a police officer in 1979, before attaining the rank of sergeant and working as a police prosecutor from 1988.

He was admitted as a lawyer in New South Wales in 1991 and was employed for many years as a solicitor with Legal Aid NSW and then the Office of the Director of Public Prosecutions, before opening a law firm in Cronulla.

He became an Accredited Specialist in Criminal Law in 1999 and has serviced the community with integrity and commitment throughout his career.

Ian Rodgers

Mr Rodgers was admitted as a NSW lawyer in 1998 and has been employed as an Associate to a District Court Judge, a solicitor with the Aboriginal Legal Service (NSW/ACT) and a policy officer with the NSW Department of Justice.

For the past three years, Mr Rodgers has been in charge of Newcastle's busy Legal Aid office, managing several lawyers and administrative staff.

Fiona McCarron

Ms McCarron was employed as a Judge's Associate in 2000 before being admitted as a lawyer in NSW in 2002 and joining the

Legal Aid Commission.

She was involved in the case of Sydney woman Christine Lee, who was charged with fraud after going on a spending spree when Westpac mistakenly deposited $4.6 million into her bank account.

Ms Lee spent large sums of money on penthouse apartments, designer shoes and handbags, and siphoned about $33,000 a week over a period of nine months into her other accounts.

The charges against Ms Lee were ultimately dropped when the Office of the Director of Public Prosecutions decided the essential element of 'deception' could not be proved.

Ms McCarron has worked as the solicitor in charge and managing solicitor of Legal Aid's Inner City Local Courts office.

Stephen Olischlager

Mr Olischlager has had a lengthy and varied career in the criminal justice system – working as a registrar, a coroner, a developer of policy and a drafter of legislation including the Civil Procedure Act 2005, Coroners Act 2009 and Uniform Civil Procedure Rules.

Since 2009, he has been employed as an Assessor in the Small Claims Division of the NSW Local Court.

His involvement in the legal system spans 23 years.

It is hoped the newest appointments will help ease the pressure on some of the state's busiest courts.

Channel Nine Reporter Accused of Child Pornography Offences

In 2014, *A Current Affair* reporter Ben McCormack sat in the Downing Centre District Court as former '*Hey Dad*' star Robert Hughes was found guilty of child sex offences.

Today, the sexual assault complainants' champion – who liaised with the victims of Hughes and others – was himself arrested and charged with sexually inappropriate conduct towards children.

It has been reported that police detectives launched an investigation into the 42-year old after a tip off from the Joint Anti Child Exploitation team. Officers arrested Mr McCormack at 7.30am this morning during a vehicle stop at Moore Park and conveyed him to Redfern Police Station.

Police then executed search warrants at Mr McCormack's home in Alexandra and at the offices of *A Current Affair* in Willoughby, where they seized a mobile phone, computers, USBs and external hard drives.

"Police will allege in court the man was engaged in sexually explicit conversations about children with an adult male and discussed child pornography," a police spokesperson stated.

Mr McCormack was charged with 'using a carriage service for child pornography material'.

'The charge

'Using a carriage service for child pornography material' is an offence under section 474.19 of the Criminal Code Act 1995 (Cth).

For a person to be found guilty, the prosecution must prove beyond reasonable doubt that he or she:

1. Accessed material, or caused material to be transmitted to him or herself, or transmitted, made available, published, distributed, advertised, or promoted material, or solicited material, and
2. The person used a 'carriage service' to do this, and
3. The material was 'child pornography material'.

The prosecution must establish that the defendant 'intended' to do one of the acts listed in subsection 1 above, and that he or she was at least 'reckless' as to whether the material was 'child pornography material'.

The maximum penalty for the offence is 15 years' imprisonment.

Mr McCormack has been granted conditional bail and is scheduled to appear in Downing Centre Local Court on the 1st of May.

He is entitled to the presumption of innocence unless and until the prosecution is able to prove the case against him.

Definitions

Section 7 of the Telecommunications Act 1977 defines a 'carriage service' as "a service for carrying communications by means of guided and/or unguided electromagnetic energy"; which includes fixed and mobile telephones and the internet.

Section 473.1 of the Criminal Code Act defines 'child pornography material' as:

(a) material that depicts a person, or a representation of a person, who is, or appears to be, under 18 years of age and who

(i) is engaged in, or appears to be engaged in, a sexual pose or sexual activity (whether or not in the presence of other persons); or

(ii) is in the presence of a person who is engaged in, or

appears to be engaged in, a sexual pose or sexual activity;

And does this in a way that reasonable persons would regard as being, in all the circumstances, offensive; or

(b) material the dominant characteristic of which is the depiction, for a sexual purpose, of:

(i) a sexual organ or the anal region of a person who is, or appears to be, under 18 years of age; **or**

(ii) a representation of such a sexual organ or anal region; or

(iii) the breasts, or a representation of the breasts, of a female person who is, or appears to be, under 18 years of age;

In a way that reasonable persons would regard as being, in all the circumstances, offensive; **or**

(c) material that describes a person who is, or is implied to be, under 18 years of age and who:

(i) is engaged in, or is implied to be engaged in, a sexual pose or sexual activity (whether or not in the presence of other persons); or

(ii) is in the presence of a person who is engaged in, or is implied to be engaged in, a sexual pose or sexual activity;

And does this in a way that reasonable persons would regard as being, in all the circumstances, offensive; **or**

(d) material that describes:

(i) a sexual organ or the anal region of a person who is, or is implied to be, under 18 years of age; or

(ii) the breasts of a female person who is, or is implied to be, under 18 years of age;

And does this in a way that reasonable persons would regard as being, in all the circumstances, offensive.

Defences

Section 474.21 of the Criminal Code Act provides that a person if not guilty of ‘using a carriage service for child pornography material’ if he or she convinces the court on the ‘balance of probabilities’ (ie more than 50%) that the conduct:

(a) was of public benefit; and

(b) did not extend beyond what is of public benefit.

The conduct can only be of public benefit if it was necessary for:

(a) enforcing a law of the Commonwealth, a State or a Territory; or

(b) monitoring compliance with, or investigating a contravention of, a law of the Commonwealth, a State or a Territory; or

(c) the administration of justice; or

(d) conducting scientific, medical or educational research that has been approved by the Minister in writing for the purposes of this section.

An additional defence is available for law enforcement officers acting in execution of their duties.

Sydney Taxi Driver Charged with Indecent Assault

A 45-year old taxi driver has been charged with indecently assaulting a 25-year old woman during a trip between the Sydney CBD and Leichhardt.

The driver picked up the woman from outside a licensed venue in George Street, Sydney and drove her to Norton Street in Leichhardt.

Police allege the driver "indecently assaulted the woman a number of times" en route, then "attempted to stop the woman" after she got out of the cab.

The complainant reported the matter to Leichhardt Local Area Command who commenced an investigation, resulting in the man attending Glebe Police Station at 2pm yesterday.

The driver was charged with indecent assault and common assault, and bailed to appear in Downing Centre Local Court on 13 January 2017.

Indecent Assault in NSW

Section 61L of the Crimes Act 1900 contains the offence of 'indecent assault', which carries a maximum penalty of five years' imprisonment in the District Court, or two years if the case remains in the Local Court.

A person is guilty if the prosecution is able to prove beyond reasonable doubt that they 'assault[ed] another, and at the time of the assault or immediately before or after it… also commit[ed] an act of indecency'.

An act of indecency must have some sexual connotation, and there must be an intention to obtain sexual gratification. As the NSW Judicial Commission explains:

“For an assault to be “indecent” it must have a sexual connotation. It will have that connotation where the touching or threat is of a portion of the complainant’s body, or by use of part of the assailant’s body, which gives rise to that connotation: *R v Harkin* (1989) 38 A Crim R 296 at 301. However, if the assault does not unequivocally offer a sexual connotation, the Crown must show that the accused’s conduct was accompanied by an intention to obtain sexual gratification”

For those who plead guilty or are found guilty of indecent assault, the court can impose any one of the following penalties:

- A ‘section 10 dismissal or conditional release order’, which means guilty but no criminal record. This may be accompanied by a good behaviour bond.
- A fine.
- A ‘section 9’ good behaviour bond, which comes with a criminal record.
- A community service order.
- An intensive correction order.
- A suspended sentence; or
- Prison.

The applicable penalty will depend on a range of factors, including the seriousness of the conduct, whether a plea of guilty was entered, the defendant’s age, any mental condition/s suffered, demonstrated remorse, the likelihood of committing further offences etc.

Woman who are using taxis alone are advised to sit in the back seat, and to immediately report any untoward advances to the relevant taxi company and authorities after recording the driver’s details.

‘F*** Fred Nile’, ‘Bigots F*** Off’: Protesters Found Not Guilty of Offensive Language

There is no list of words which are considered to be ‘offensive’ under NSW law.

Whether a word or phrase is offensive depends on the context in which it is used, and whether it would ‘wound the feelings, arouse anger or resentment or outrage in the mind of a reasonable person.’

The words must be said in or near a public place or school to constitute offensive language under the law.

Sydney Protest

In September 2015, Christian Democratic Party leader MP Fred Nile led a protest in Sydney against proposed same-sex marriage laws.

A counter protest was conducted at the same time by members and supporters of activist group Community Action Against Homophobia (CAAH).

During the protest, CAAH convenors Cat Rose and Patrick Wright were issued with criminal infringement notices (CINs) for offensive language after chanting ‘fuck Fred Nile’ and ‘bigots fuck off’.

CAAH member and LGBTI Officer for the National Union of Students, April Holcombe, received a CIN days after the event

for saying:

“We need to make a stand against them and make sure us using bad language about the fuckers is nothing compared to the epidemic of suicides there people contribute to”.

Ms Holcombe later said:

“I was called 48 hours after the protest to be told that I had sworn, that this was on police footage, and that my $500 fine was in the mail… The police are keeping tabs on protesters and trying to intimidate them with shady penalty notices”.

Police then realised the CINs wereinvald because they cannot be issued during a genuine demonstration or protest.

They then issued Court Attendance Notices instead.

In Court

The case reached a defended hearing before Magistrate Bradd in Downing Centre Local court yesterday, where the trio faced fines of up to $660 and criminal records.

The court heard Ms Rose told police that “fuck off is part of the common vernacular”, to which police responded “it’s not part of children’s vernacular” – implying kids were around.

In delivering judgment, His Honour said there was no evidence Ms Rose used the phrase “fuck off” when speaking to police – which may have amounted to offensive language.

He noted that whether the word “fuck” is part of a child’s vernacular “depends on the words that a child listens to from others”.

He remarked that phrases like “you fucking beauty” and “fucking hell” are unlikely to be held offensive in this day and age.

His Honour found that the phrase “fuck Fred Nile” was used to

dismiss an argument against marriage equality, and was not sufficient to wound the feelings, arouse anger, resentment, disgust or outrage in the mind of a reasonable person.

He found all three defendants not guilty of the charge.

The Aftermath

After court, Mr Wright declared:

“This is a big win for free speech and the right to protest… the police have attempted to scare marriage equality activists out of speaking up against bigotry. They have failed.”

Ms Rose stated:

“… with marriage equality still banned by law, the homophobes haven’t been defeated. We’ll keep protesting until we have our rights, and you can expect a few f-bombs along the way.”

Ms Hearn’s solicitor added that offensive language laws have:

“for too long been used as a social control applied disproportionately against marginalised and vulnerable people”.

It seems the NSW government may still have some way to go before completely silencing the voices of protesters.

The next marriage equality rally will be held on 26 November at Sydney Town Hall.

Getting Out of Jury Duty

Serving on a jury can be a rewarding experience, but more than that, it's also a chance for any Australian citizen over the age of 18 to directly take part in the legal process.

The role of the jury

The role of a jury is to hear evidence and then apply the law as directed by the judge, to decide if a person is guilty or not guilty of a particular crime they've been accused of. The jury's decision is called a 'verdict'.

In New South Wales, juries do not participate in the sentencing process.

If you are summoned, you must to attend court at a certain time on a certain date. A summons is a legal document so unless you have express permission not to partake, you need to attend court when you're required to do so, or you may face a hefty fine.

But even if you do attend court, you might not be chosen as part of a jury. And there are many reasons for this. Only a small portion of people who attend court for jury duty actually end up as part of a jury in a court room.

The most recent statistics released by the Office of the NSW Sheriff are from the year 2014-2015. They suggest that 278,000 citizens were selected throughout the state to be on the jury roll, but only 58,000 were actually required to attend court. Of those, 7050 actually served on a jury.

Reasons for asking to be excused

In the same year, the following excuses were knocked-back:

- "I need to look after my cat,"
- "I'm allergic to air conditioning" and

- “I’m scared of buses and trains and have no one to drive me to court”.

However, the legal system can be understanding if you have a pressing reason, such as you own your own business and are indispensable to its day-to-day operations, or if you work in the system itself (lawyers, judges, police and politicians are not permitted to serve on juries).

If you attend court and realise you know the judge, one of the lawyers, the defendant, complainant or one of the witnesses, this is normally a valid reason for being excused.

People who are ineligible for jury duty include anyone who:

- has served time in prison in the previous 10 years,
- has been detained in a detention centre or other juvenile facility (excluding for a failure to pay a fine), or
- is currently bound by a court order that relates to a criminal charge or conviction; such as bail, a good behaviour bond, parole order, community service order, apprehended violence order or disqualification from driving.

If you fall into one of those categories, you can write to the Sheriffs department asking to be excused from jury duty even before attending court.

Otherwise, you can inform the Sheriff at court about your reasons for requesting to be excused – which may be decided in court by the judge.

‘Exemption’ versus ‘excused’

Some people can apply for exemptions from jury duty. If you work in emergency services or are a full-time carer, a member of the clergy or live a very long way from any courthouse, you may apply for an exemption, which, if granted, means you will

not be chosen for jury duty for a specified period of time.

However, if you are chosen you will need to apply to be 'excused'. This is different altogether, but illness, disability and work commitments, as well as pre-booked and paid for holidays may be valid reasons for being excused, so long as you can provide suitable evidence. Again, you may write to the Sheriffs department advising them of your reasons before attending court, or wait until you get to court to apply.

A change of address may also be a valid reason, especially if you are no longer in the state where you are required for jury duty. However, if you don't keep your address details up to date and therefore don't receive the summons, you may neverthless be fined.

Jurors get paid

It's worth noting that jurors get paid for their services, and there are travel allowances in some circumstances, and meals provided too.

The average trial in New South Wales is about 7 days long. If you're summoned, then remember how important it is to partake in this civic duty, especially for the ongoing benefit of the system itself.

Besides, it could be one of the most interesting experiences you'll ever have.

To Walk, or Not to Walk –

When is Jaywalking an Offence in NSW?

In recent years, police have carried out several operations targeting jaywalking, including the ongoing 'Operation Franklin' in the Sydney CBD, which have resulted in over 10,000 infringement notices being issued to alleged jaywalkers and netted hundreds of thousands of dollars.

For those going to Downing Centre Court, police can often be seen on bicycles near the court complex waiting to nab unsuspecting pedestrians.

But what does the law say about crossing the road in NSW? And how can you avoid being fined?

Here's a summary of the main rules:

Crossing a road at pedestrian lights

Regulation 231 of the NSW Road Rules 2014 says you can only start crossing at pedestrian lights (eg the red or green man) if the light is green.

If the light turns red, or flashing red, while you are already on the road, you must "not stay on the road for longer than necessary".

The fine for disobeying this rule is currently $72, or a maximum of $2,200 if you choose to fight the case in court and lose.

Crossing a road at traffic lights

Regulation 232 says you can only start crossing the road at traffic lights – where there are no pedestrian lights – if the traffic lights are green or flashing yellow, or there is no red light showing.

If the traffic lights turn red or yellow while you are already on the road, you must not stay on the road for longer than necessary.

Crossing the road when the traffic light is red or yellow comes with a fine of $72, or up to $2,200 if you challenge the case in court and are unsuccessful.

Crossing the road on or near a crossing

Regulation 234 makes it an offence to cross a road within 20 metres of a crossing (eg 20 metres of where there are traffic or pedestrian lights) unless you are:

(a) crossing, or helping another pedestrian to cross, an area of the road between tram tracks and the far left side of the road to get on, or after getting off, a tram or public bus, or

(b) crossing to or from a safety zone, or

(c) crossing at an intersection with traffic lights and a pedestrians may cross diagonally sign, or

(d) crossing in a shared zone, or

(e) crossing a road, or a part of a road, from which vehicles are excluded, either permanently or temporarily.

If you are more than 20 metres from a crossing, you must not stay on the road longer than necessary.

Again, the offence comes with a fine of $72, or up to $2,200 if contested in court.

Causing a hazard or obstruction

Regulation 236 makes it an offence to "cause a traffic hazard by moving into the path of a driver' or "unreasonably obstruct[ing] the path or any driver or another pedestrian".

The penalties are the same as the previous offences.

So, the bottom line is:

- You can only start crossing a road at a pedestrian light if the 'man' is green,
- You can only start crossing a road at traffic lights (where there are no pedestrian lights) if the lights are green or flashing yellow,
- You are allowed to cross a road if you are more than 20 metres away from lights,
- You must get to the other side of the road in a timely manner, and
- You must not cause a hazard or obstruction to drivers or other pedestrians.

"Major Inconsistencies" in Police Accounts of Fatal Shooting

On 18th November 2009, 36-year-old mentally ill man Adam Salter was shot in the back by NSW Police Sergeant Sheree Bissett at his Lakemba home, dying as a result.

Four police officers had responded a short time earlier to a triple-zero call by Adam's father, Adrian Salter, who reported that his son had been threatening to stab himself with a knife.

The four officers – Sergeant Bissett, Sergeant Emily Metcalfe, Senior Constable Leah Wilson, and Constable Aaron Abela – are

currently on trial before a Judge-alone in Downing Centre District Court for allegedly giving false evidence to the 2012 Police Integrity Commission (PIC) inquiry into Adam's death.

The District Court has heard evidence from Adrian Salter that at the time of the incident, his son was being treated by ambulance officer on the floor of the kitchen when he got to his feet and moved towards the sink where there was a knife.

"When Adam got to his feet, nobody stopped him. I didn't understand why there was a room full of trained people and nobody stopped him," Mr Salter said.

The concerned father rushed into the kitchen in order to stop his son from grabbing the knife.

"I did try to put my arms around him but he fended me off. I couldn't grab hold of him."

The father became tangled in cords and fell to the kitchen floor, before police shot his son in the back.

"I heard 'taser, taser' – I heard the words twice – and then I heard the bang", he testified.

That evidence was consistent with his initial statement to police and the statements of the treating paramedics – but police gave different versions of the events.

Immediately after the shooting, officers Bissett and Metcalfe were seen talking to one another and smoking on the footpath opposite the Salters' home, while officers Abela and Wilson were also talking to each other on the front porch.

Police Integrity Commission

During the PIC inquiry, the officers gave versions of events that were significantly different to the consistent accounts given by the ambulance officers and Mr

Salter's father.

Sergeant Bissett claimed Constable Abela was "struggling" with Adam who had lunged towards him.

Constable Abela's version was different – that there was some contact with Adam, but it was "just an instantaneous reaction where my arm just came out to stop him". He then proceeded to state that he grabbed the Adam's left arm in two places – just above the elbow with his right hand and just below the elbow with his left.

Officer Wilson's testimony was different again – that officer Abela placed his right hand on Adam's shoulder before Bissett fired the fatal shot.

Officer Metcalfe's evidence was different once again – that Abela was holding Adam around his upper torso when the shot was fired.

Due to these and other inconsistencies, the officers were charged with lying to the PIC.

Police Cover-Up

The PIC was highly critical of the police investigation which followed, finding that the evidence of the ambulance officers was excluded or ignored in an attempt to prevent embarrassment to the police force and conceal Sergeant Bissett's conduct.

The PIC recommended that veteran Homicide Detective Inspector Russell Oxford face disciplinary action over the way he handled the investigation, and that Inspector Matthew Hanlon and Detective Inspector Stephen Tedder also face action for their involvement in preparing misleading reports and documentation.

The Coroner described the police response as an 'utter failure', finding that "Police killed the person they were supposed to be helping,"

At Trial

In Court, Crown Prosecutor Nannette Williams highlighted the fact that the officers' versions were both inconsistent with one another, and with the evidence of the other eye-witnesses at the scene.

She pointed out that the accused are all experienced police officers, that "[i]t is their job, their profession, to get evidence right," that they were all in close proximity to the incident and yet "in this important matter their accounts do not align."

She said it was obvious the officers "got their heads together" immediately after the incident and agreed to lie by saying the fatal shot was fired because Adam was a threat to officer Abela – although they did not get a chance to sort out the finer details of their lie.

She described Metcalfe's "deliberately vague" testimony as an attempt to avoid locking herself "into a version which may quickly be exposed as a lie".

"For a trained and experienced police officer, those words don't ring true," she told the Court.

Ms Williams also highlighted the "consistency of omi[tting]" any reference to Adam's father's presence inside the kitchen.

"Not one police officer put Mr Adrian Salter in the room because to do so would expose the lie within their evidence to the Police Integrity Commission that it was Constable Abela who had attempted to restrain Adam," she said.

She stressed the fact that the father's account was consistent with the ambulance officers who were present and witnessed the incident.

"The combination of that evidence clearly gives the lie to the police accounts," she submitted.

Who You Gonna Call?

The accused are each represented by experienced criminal defence barristers, including Raymond Hood who attempted to counter the prosecution case by saying the incident was very quick, and that the officers cannot be expected to observe every detail.

The barristers cross-examined Adrian Salter at length, attempting to elicit inconsistencies in his evidence – but the best they could get was that Mr Salter was unsure of how many times the word "taser" was used or whether his son had been shot or tasered.

The trial continues before Justice Greg Woods

Police Ordered to Pay Protester's Legal Costs

It's taken a year, but a Magistrate in Downing Centre Local Court has found in favour of protester Simone White, who was manhandled, arrested and falsely charged by Sydney police officers.

The Magistrate also ordered police to pay Ms White's legal costs, due to the improper nature of her arrest, the investigation and subsequent prosecution.

The Court heard that officers grabbed Ms White's breasts and neck, then covered up their actions by deleting evidence, making up a false charge against her, lying under oath and attacking her in court.

The Incident

Simone White was one of hundreds of protesters rallying at an anti-Reclaim Australia protest in Martin Place last July. She said an officer groped her breasts in a jostle with the crowd and another grabbed her neck as they walked behind her, resulting in bruising.

Ms White turned to take a photo of the officer who had grasped her breasts, and as she was doing so, she was manhandled and arrested by that officer, Senior Constable John Wasko.

White was taken to a mobile police station where a female officer confiscated her phone, saying it was necessary to identify her, despite the fact she had already produced a bank card as identification.

When her phone was eventually returned, the photos of the officer who groped her breasts had been deleted.

The arresting officer, Senior Constable Wasko, claimed Ms White assaulted him in the execution of his duty. He alleged that, as a line of police were shepherding protesters through Martin Place, Ms White turned back at him with her elbow up.

The police case against Ms White relied entirely on Senior Constable Wasko's claim, and was not supported by footage from CCTV cameras in Martin Place or the many police officers who were filming the rally.

CCTV tells a different story

White's legal team subpoenaed footage from the police, which showed her being pushed and shoved by Senior Constable Wasko as the protesters walked through Martin Place, but did not show her assaulting or attempting to assault him at all.

Ms White can also be seen holding a water bottle in one hand, which the Magistrate found made the allegation of raising her elbow at Senior Constable Wasko "inconsistent".

The footage also showed Ms White taking a photo of the officer

on her phone, suggesting evidence was indeed deleted by police.

The Magistrate found that the "evidence strongly indicates" Ms White was indecently assaulted as she alleged. Medical records also showed bruising on Ms White's breasts.

Despite the evidence, the police prosecutor repeatedly accused Ms White of lying.

Her barrister, Phillip Boulten, SC, told the court on Tuesday that police had "escaped any form of investigation for perverting the course of justice".

"The only reason why [the photo] would be deleted would be to make it more difficult for the complainant to say something in court," he said.

In handing down his judgement, Magistrate Geoffrey Bradd let police know of his dissatisfaction, finding they had investigated the case in "an unreasonable and improper manner," and awarding Ms White $13,400 in legal costs.

Outside court, Ms White said she was relieved her legal battle was over.

Her solicitor, Lydia Shelly, said: *"This decision sends a very clear message to the police. It is not a criminal offence to protest nor is it an offence to film police if you are not hindering their duties. The NSW public expect more from NSW Police."*

The NSW Police Force says it will review the circumstances surrounding the incident. The officers involved are yet to be reprimanded, and if the Force's track record is anything to go by, it is unlikely they will be.

Man Plans to Sue NSW Police After Kings Cross Brawl

One of the men allegedly involved in a recent Kings Cross brawl during which six people were arrested says he will fight the charges against him and take legal action against NSW Police, whose tactics left him on crutches and unable to work.

Nari Rossi-Murray was one of those arrested, although he is not the only one who believes police acted with 'overwhelming force'.

Police were patrolling the area, which, until the government's 'lock out laws' came into effect, was notorious for drunken behaviour, when a fight broke out.

Officers initially used capsicum spray to subdue the altercation, but bystanders who captured the incident on their mobile phones say police then began assaulting those involved.

Witnesses captured Mr Murray being kneed to the head at least three times just after saying "I haven't done nothing". Murray says he will be using mobile phone video, photos and CCTV footage as evidence to defend charges brought against him, and to support his case against police.

He says while he understands and respects that police have a job to do, their actions were 'extreme' in this instance.

Police Brutality

The incident has bought the issue of police brutality into the spotlight once again, particularly the question of reasonable force when it comes to making an arrest.

There are laws and guidelines police must follow when making an arrest; for example, section 231 of the Law Enforcement (Powers and Responsibilities) Act 2002 says:

"A police officer or other person who exercises a power to arrest another person may use such force as is reasonably necessary to make the arrest or to prevent the escape of the person after arrest."

The use of excessive force constitutes assault, whether exercised by police officers or anyone else. Heavy-handed tactics can also cause an incident to escalate, causing those being man-handled to use self-defensive actions in an attempt to repel the attack.

All six of those involved were arrested and taken to Kings Cross police station, where they were charged with various offences including resisting arrest, assaulting police, offensive language, offensive conduct and hindering police.

Action Against Police

Anyone who believes they have been wrongfully arrested, mistreated or assaulted by police can lodge a formal complaint through the Customer Assistance Office, providing as much information as possible.

However, police are notorious for clearing their own of misconduct during internal 'investigations'. Another option is to make a complaint to the NSW Ombudsman, however, he receives in excess of 3,000 complaints against police every year and is powerless to discipline, let alone prosecute police officers.

This leaves the option of civil proceedings against police, which can be expensive and time-consuming; but those who have exhausted all other avenues may feel this is their only viable option.

Mr Murray and his alleged co-offenders are due to appear in

Downing Centre Court on May 31.