

<p style="text-align: right;">Page 1</p> <p>1                                    Wednesday, 9 January 2013 2 (10.03 am) 3 MR BERESFORD: Mr Chairman, before we start with the 4 witnesses today, my learned friend Mr Mok has 5 an application to make. 6 THE CHAIRMAN: Yes. 7                                    Mr Mok? 8 MR MOK: Mr Chairman, my application is in relation to three 9 police divers who will be giving evidence tomorrow 10 morning. The application is for the identity of these 11 individuals to be withheld. 12 THE CHAIRMAN: Give me a moment, please. 13 MR MOK: It's for their identities to be withheld from any 14 disclosures in these proceedings. The suggested 15 measures will be as follows. One is that a screen will 16 be put -- 17 THE CHAIRMAN: First of all, why should their identity be 18 withheld? 19 MR MOK: Yes, because these individuals are involved in the 20 usual course of duties in sensitive operations, and it 21 is feared that the disclosure of their identity may 22 jeopardise their safety or otherwise affect the 23 effectiveness of their operations. So it is thought 24 that it is necessary, for the sake of protecting their 25 work and their individual safety, for such identity to</p>	<p style="text-align: right;">Page 3</p> <p>1                                    course of the proceedings to either the names, surnames 2 or police numbers or other details which might lead to 3 their identification. 4                                    Those are the measures that we propose to be put in 5 place. 6 THE CHAIRMAN: Thank you. 7                                    Do any other counsel representing involved parties 8 have anything to say as to this application? 9 MR McGOWAN: No objection from us. 10 THE CHAIRMAN: Thank you. 11 MR ZIMMERN: And neither from us. 12 THE CHAIRMAN: Thank you. 13                                    Mr Beresford? 14 MR BERESFORD: Mr Chairman, if you're satisfied as to the 15 matter of fact as to whether the safety of these 16 officers would be jeopardised or that it would affect 17 effectiveness of their operations, then in my submission 18 you have a discretion to allow this and to permit 19 anonymity to be granted. The application has to be 20 weighed in the balance with the public interest in 21 having these proceedings in public for all to hear. 22 THE CHAIRMAN: Well, the proceedings would be in public, as 23 outlined by Mr Mok; it would simply be that the identity 24 of the officers would remain anonymous. They would be 25 described as "officers in the Hong Kong Police Force"</p>
<p style="text-align: right;">Page 2</p> <p>1                                    be protected. 2 THE CHAIRMAN: Assist me, if you would, with a brief 3 illustration of the nature of the work that makes it 4 fall in this sensitive category. 5 MR MOK: Yes. They are sometimes involved, for example, in 6 counterterrorist activities and activities of that sort. 7 It is important, essential, that those people should be 8 protected in that way. 9 THE CHAIRMAN: Yes. So the actual measures that you seek to 10 achieve this objective, what do you have in mind? 11 MR MOK: First of all, it's for a screen to be put in place 12 surrounding the witness stand so that they will be 13 protected from the views of the general public. They 14 will be seen by the Commission and also by counsel who 15 will be involved in the proceedings, but not members of 16 the public. 17                                    Secondly, subject to the Commission's direction, we 18 suggest that the hearing room be vacated when they enter 19 or leave the room. 20 THE CHAIRMAN: To better achieve this objective of 21 anonymity? 22 MR MOK: Correct. Thirdly, that any statements of their 23 evidence be redacted so that any reference to their 24 names, surnames, police numbers and so on, be withheld. 25                                    And finally, that there should be no mention in the</p>	<p style="text-align: right;">Page 4</p> <p>1                                    and then nothing more would be said about who they are 2 or what rank they have. 3 MR BERESFORD: Mr Chairman, in my submission there is no 4 relevance in anything more than that they are police 5 divers in this case. 6 THE CHAIRMAN: Yes. 7 MR BERESFORD: So their identities and ranks, et cetera, are 8 not of interest to this Inquiry. 9 THE CHAIRMAN: Thank you, Mr Beresford. 10                                    The Commission is satisfied that it is appropriate 11 to proceed in the manner outlined by Mr Mok. We direct 12 that matters proceed in the way in which he has 13 outlined. We will give effect to them when they are 14 called to give evidence. 15                                    Mr Beresford? 16 MR BERESFORD: Mr Chairman, the first witness today is 17 Mr Yuen Ka-wai. 18 THE CHAIRMAN: Before we move to him, Mr Beresford, there's 19 a matter I wanted to have you confirm: that steps have 20 been taken to alert the relatives of the deceased whose 21 bodies will be -- the description of the recovery of 22 whose bodies will be dealt with by witnesses today, that 23 that is the evidence that we will be receiving. 24 MR BERESFORD: Steps have been taken, and it's being done 25 through the Social Welfare Department.</p>

Page 5	Page 7
<p>1 THE CHAIRMAN: Thank you. I'm sorry, you did tell me the 2 name of the witness? 3 MR BERESFORD: The witness is Mr Yuen Ka-wai. 4 OFFICER YUEN KA-WAI (affirmed in Punti) 5 (All answers via interpreter unless otherwise indicated) 6 Examination by MR BERESFORD 7 MR BERESFORD: Good morning, Officer. Thank you very much 8 for attending this morning to assist this Inquiry. 9 I have some questions to ask you on behalf of the 10 Commission. 11 Officer, you have previously made a statement, have 12 you not, to the Director of Fire Services, which may be 13 found in our Fire Services Department bundle 2 at 14 pages 308 to 309. 15 Could that be shown to the witness, please. 16 A. Yes. 17 Q. And also at page 307-4, a supplemental statement. 18 Mr Chairman, the translations are at pages 309-1 to 19 309-3. 20 THE CHAIRMAN: Yes, I have it. Thank you. 21 MR BERESFORD: Officer, do you recognise those as your 22 statements? 23 A. Yes. 24 Q. And have you had an opportunity today to remind yourself 25 of their content?</p>	<p>1 "All Tung Lo Wan crew boarded Fireboat 7 for 2 operation briefing and preparation. We then boarded 3 diving support speedboat 2 (DV2) and sailed to Lamma IV 4 which was partially sunk in upright position for search 5 and rescue. When approaching Lamma IV, my 6 officer-in-charge ... instructed the coxswain of DV2 to 7 sail around the vessel for risk assessment and also 8 tried to push the wreck slightly for checking its 9 stability for underwater penetration diving." 10 THE CHAIRMAN: Before you go on. 11 Officer, can you help us what time it was, as best 12 you remember, when you arrived at the scene of the 13 wreck? 14 A. We have spent about 25 minutes before we arrived at the 15 scene. 16 THE CHAIRMAN: So, 22:15 hours? 17 A. This is approximately the right time, because when we 18 set off, we didn't pay attention to the time because at 19 that time, we were focused on making preparation on our 20 equipment. 21 THE CHAIRMAN: You are a Fire Services diver? 22 A. Yes, correct. 23 THE CHAIRMAN: Thank you. 24 Mr Beresford? 25 MR BERESFORD: This officer, Mr Chairman, was the second</p>
Page 6	Page 8
<p>1 A. Yes. 2 Q. Is there any amendment you would wish to make? 3 A. No. 4 Q. So are the contents true? 5 A. Yes. 6 Q. Thank you. Officer, you recovered one female body, 7 which I understand to be deceased number 21, whose name 8 is Lam Yat. 9 A. Yes, as far as I know. 10 MR BERESFORD: Mr Chairman, we have a discrepancy in the 11 identity of the deceased, so I'll proceed while that's 12 being checked. 13 THE CHAIRMAN: Yes. 14 MR BERESFORD: You've explained in your statement how you 15 were on duty on 1 October 2012. 16 A. Yes. 17 Q. And that you were on standby duty for the National Day 18 fireworks display at the Central Government Pier. 19 A. Yes, correct. 20 Q. And then your Tung Lo Wan diving tender was turned out 21 to attend a vessel collision incident as reinforcement. 22 A. Yes. 23 Q. And you left Central Government Pier at about 21:50? 24 A. Yes, correct. 25 Q. Then, reading from your statement:</p>	<p>1 diver, as he's about to say in his statement. 2 THE CHAIRMAN: Yes. 3 MR BERESFORD: The second dive commenced at 23:15 and was 4 completed at 23:45, which is information that we will be 5 getting from Chan Man-fai, the senior station officer 6 who will be called later today. 7 THE CHAIRMAN: Thank you. 8 MR BERESFORD: So, to continue reading your statement, 9 Officer: 10 "To facilitate the penetration diving, Fireman 12870 11 was instructed to break a window at the wreck with 12 a 5 kg weight. The 1st diver was Senior Fireman Kwong 13 Chi-keung." 14 You describe how he located a drowned body. Then 15 you say: 16 "I was the 2nd driver to enter the wreck. When 17 getting into the wreck, I was pushed into the passenger 18 cabin by very strong current. Inside the cabin, I saw 19 a lot of miscellaneous articles on the water surface. 20 I therefore passed the articles to my colleagues outside 21 the wreck to create a better working environment. After 22 about 10 minutes, I descended and began my underwater 23 searching to the passenger cabin at the lower deck. The 24 visibility was about 2 feet and the maximum depth 25 I reached was about 10 metres. During the search</p>

<p style="text-align: right;">Page 9</p> <p>1 operation, I found many life jackets and detached false 2 ceiling fixtures. I proceeded via the central corridor 3 of the cabin and searched horizontally along the seats 4 of each row but the search was obstructed by many life 5 jackets and miscellaneous articles. When I searched 6 between the 3rd and 4th row, I found a female body 7 trapped by some benches. I moved the benches aside and 8 then brought the female to the surface. When I reached 9 surface, I found very difficult to keep the victim on 10 the surface because the current was very strong. The 11 female did not accompanied with others and her body had 12 not turned to stiff condition yet. She put on a dark 13 colour short sleeve shirt and a pair of jeans but no 14 life jacket was found on her body. I handed over the 15 deceased to my colleague outside the cabin. The female 16 was the only body I located during my dive and was found 17 unconscious since I approached her. Afterwards, 18 I performed the duty of a tender and also received the 19 bodies located by my colleagues and handed over to 20 police. I worked until 02:00 hours on 2 October 2012 21 and then boarded Fireboat 7 to have a rest." 22 Then you deal with further work that night, and you 23 describe removing miscellaneous articles from the 24 passenger cabin. You explain that you used a spinal 25 board to convey the deceased from the cabin, and that</p>	<p style="text-align: right;">Page 11</p> <p>1 deceased at page 656 in the diving operational log. 2 This is an important matter, so we'll leave it where it 3 is for the moment and you can return to it when we're on 4 surer ground. 5 MR BERESFORD: Yes. We'll have to find some other evidence 6 to make the link, Mr Chairman. 7 THE CHAIRMAN: Thank you. 8 Do counsel have any applications to make? 9 MR MOK: I have one question concerning the current. 10 THE CHAIRMAN: Yes, very well. 11 Examination by MR MOK 12 MR MOK: Officer, you said in your statement that you found 13 it very difficult to keep the victim on the surface 14 because the current was very strong. 15 A. Yes, correct. 16 Q. Can you give a little bit more detail to describe how 17 the current affected your ability to keep the victim 18 still or on the surface? 19 A. Because at that time I was inside the cabin, and when 20 the water rushed in, it was like a washing machine. And 21 when I was at 3 metres' depth, I was pulled to the 22 surface. So when I was bringing the victim up, I was 23 actually bringing it slowly up through a very narrow 24 canal, slowly. So when I arrived at the surface of the 25 sea, the waves were even stronger and water continued to</p>
<p style="text-align: right;">Page 10</p> <p>1 during the operation, more bodies were located. 2 In your supplemental statement, you explain that the 3 female that you found was wearing a "dark colour 4 overcoat and a pair of long trousers. (Police file 5 ref. TD1/MS/B016)". 6 You mention that you "also received a drown female 7 rescued by Fireman Ko Wing-ki", who we'll be hearing 8 from in due course, and: 9 "She wore a short sleeve shirt and a pair of long 10 trousers." 11 Officer, that in summary is your statement. I have 12 no supplemental questions. If you'll just wait. 13 THE CHAIRMAN: Are you able to deal with the issue of the 14 identity of the female victim? 15 MR BERESFORD: I don't believe we are at the moment, 16 Mr Chairman. I was given some information that the name 17 that I gave was the name of a male victim. 18 THE CHAIRMAN: So for current purposes, the evidence is that 19 this corpse was identified by the numerical designation 20 21? 21 MR BERESFORD: Yes. I'm not quite sure how this has 22 happened, Mr Chairman, but number 21 is Mr Lam Yat. And 23 plainly what this witness has found -- there's no doubt, 24 is there, that this was a female body that you found? 25 THE CHAIRMAN: There is another name ascribed to this</p>	<p style="text-align: right;">Page 12</p> <p>1 rush in. So I had to hand over the body to the firemen 2 outside, and I have to use a lot of strength to stable 3 myself and pass the victim out through the window, and 4 I encountered great difficulty in doing this. 5 MR MOK: Thank you very much. 6 THE CHAIRMAN: Mr Beresford? 7 MR BERESFORD: No further questions. 8 THE CHAIRMAN: Officer, thank you for attending to assist 9 the Commission by your evidence. Your evidence is now 10 complete and you're free to go. It remains for us to 11 commend you for taking part in this rescue mission. 12 A. (In English) Thank you. 13 (The witness withdrew) 14 MR BERESFORD: Mr Chairman, the next witness is Lam 15 Yim-lung. 16 OFFICER LAM YIM-LUNG (affirmed in Puntì) 17 (All answers via interpreter unless otherwise indicated) 18 Examination by MR BERESFORD 19 MR BERESFORD: Officer, thank you for attending this 20 morning. I have some questions to ask you on behalf of 21 the Commission. 22 You have previously made a statement to the Director 23 of Fire Services, have you not, which may be found in 24 FSD bundle 2, pages 310 to 311; and supplemented at 25 page 311-3.</p>

<p style="text-align: right;">Page 13</p> <p>1        Could those statements please be shown to the 2        witness. The translations are at pages 311-1 to 311-2. 3        A. Yes. 4        Q. Do you recognise those statements as your own, Officer? 5        A. Yes. 6        Q. And have you been given an opportunity to remind 7        yourself of the contents? 8        A. Yes. 9        Q. Do you have any amendment you would wish to make? 10       A. No. 11       Q. Are the contents of those statements true? 12       A. Yes. 13       Q. Thank you. Officer, I understand that you recovered 14       four bodies that night? 15       A. Yes. 16       Q. You were the third diver? 17       A. Yes. 18       Q. I'm told that the references are 26, 33, 38 and 15. 19       THE CHAIRMAN: By that you mean the number assigned to the 20       deceased? 21       MR BERESFORD: The number assigned to the deceased, yes. 22       A. Yes. 23       Q. Police reference 26 is Lam Wai-ye, a girl aged 10. 24       Police reference 33 is Au Hiu-lam, a female aged 20. 25       The deceased reference 38 is Lam Ka-man, a male aged 30.</p>	<p style="text-align: right;">Page 15</p> <p>1       the chest was severely impaired. The overall picture 2       was consistent with the condition 'traumatic asphyxia', 3       when the chest was pinned between objects with 4       sufficient pressure to cause breathing and circulatory 5       difficulty. This condition can cause rapid death within 6       a matter of a few minutes, as illustrated in cases of 7       stampede. 8       However, the deceased also showed some, despite 9       mild, signs of drowning, in the form of hyperinflation 10       of lungs, inhalation of a small amount of dirty fluid 11       into the lungs, and presence of frothy secretion from 12       mouth (seen at the time of reception into mortuary). 13       The lungs were, however, not quite waterlogged. As 14       such, drowning probably partly contributed to, or 15       somehow finalised, the dying process. Given the 16       scenario of this case, one plausible explanation was 17       that she was trapped by heavy objects when the ship 18       started to sink and tilted, resulting in unrelenting 19       compression of the chest, causing the signs of 20       'traumatic asphyxia' as mentioned above. Shortly 21       afterwards, upon immersion, the buoyancy of water 22       probably lessened the weight on the chest, allowing some 23       breathing movements, and thus inhalation of fluid into 24       the lungs. In view of the overall autopsy findings, the 25       medical cause of death was given as 'traumatic asphyxia</p>
<p style="text-align: right;">Page 14</p> <p>1       The deceased reference 15 refers to Madam Ie Hwie Wendy, 2       a female aged 30. 3       Might I just mention, Mr Chairman, that the autopsy 4       reports in relation to each of those gave the cause of 5       death for each of them as drowning, the only difference 6       being in relation to deceased reference 33, Ms Au, who 7       was stated to have died from traumatic asphyxia, as well 8       as drowning. 9       THE CHAIRMAN: Give me a moment, please. 10       MR BERESFORD: The reference to the autopsy report is 11       bundle J(IV), page 2768-1. 12       THE CHAIRMAN: Yes, I have it. Thank you. 13       MR BERESFORD: You see in the "Remarks" on page 2768-3: 14       "Autopsy finding suggested firm pressure on the body 15       over a large area, from mouth level to upper abdominal 16       level. In particular, the chest was so compressed that 17       the bra left intradermal bruising on the chest, and a 18       rib and the breastbone was fractured, despite her young 19       age and hence flexibility of the ribs. The back was 20       apparently pressed against something hard, causing 21       tearing of t-shirt and bleeding injuries to left upper 22       back, while the object on the chest was probable not so 23       firm in consistency. The very severe congestion of 24       upper face, with bleeding patches of eyes, suggested the 25       pressure on the chest was so large that venous return to</p>	<p style="text-align: right;">Page 16</p> <p>1       and drowning'." 2       THE CHAIRMAN: Thank you. 3       MR BERESFORD: Officer, returning to your statement. You 4       were on duty on the Tung Lo Wan diving tender on 5       1 October 2012; is that right? 6       A. Yes. 7       Q. At about 9 o'clock that evening, your diving tender was 8       put on standby for the National Day fireworks display at 9       the Central Government Pier, and you arrived there at 10       21:20? 11       A. Yes. 12       Q. Then you were turned out to attend the vessel collision 13       incident as reinforcements. You left the Central 14       Government Pier at about 21:50. According to my 15       translation, you arrived at the scene at about 20:15, 16       but that must be a typographical error. Is that 22:15 17       that you arrived at the scene? 18       A. Yes. 19       Q. Thank you. Then you say: 20       "All Tung Lo Wan crew boarded Fireboat 7 for 21       operation briefing and preparation. We then boarded 22       diving support speedboat 2 (DV2) and sailed to Lamma IV 23       which was the partially sunk in upright position for 24       search and rescue. When approaching Lamma IV, my 25       officer-in-charge Senior Station Officer Chan instructed</p>

<p style="text-align: right;">Page 17</p> <p>1 the coxswain of DV2 to sail around the vessel for risk 2 assessment and also tried to push the wreck slightly for 3 checking its stability for underwater penetration 4 driving. 5 During the search operation performed by 1st and 2nd 6 divers, I was responsible for surface support and helped 7 to convey drown bodies to police speedboats nearby. 8 I was assigned as the 3rd diver and was instructed to 9 conduct search and rescue at the upper deck of Lamma IV. 10 Senior Fireman 11314 was second to bring a 5 kg weight 11 to the submerged upper deck and tried to create an 12 entrance by breaking a window. When he was checking 13 against the windows, he found one of them was already 14 broken. I therefore use that broken window facade of 15 the wheelhouse near starboard side as the entrance to 16 the upper deck." 17 Pausing there, could we please have on screen the 18 plan of the window numbers at bundle FSB3, page 63. 19 Officer, could you just confirm which window it was 20 that you found was broken at the facade of the 21 wheelhouse near the starboard side, which you used as 22 the entrance to upper deck? 23 A. It should be G2 on the plan. 24 Q. Thank you. 25 THE CHAIRMAN: Do we have the time at which this officer</p>	<p style="text-align: right;">Page 19</p> <p>1 surface one by one. I firstly brought the male to 2 surface and at the same time pushed some articles out of 3 the cabin. I handed over the victim to by colleague 4 outside the cabin and then return to the wheelhouse 5 until the other two victims were also brought to 6 surface. I performed surface support again during the 7 4th dive. 8 During the course to stabilise Lamma IV by a crane 9 lighter, I was deployed to standby for any surface 10 rescue at DV2. When Lamma IV was hoisting upwards, 11 a female emerged to the surface. I assisted to bring 12 the body onto the speedboat. When Lamma IV was 13 stabilised, search and rescue operation was handed over 14 to NSC/DT. I was standing by at Fireboat 7. At about 15 07:50 hours, Tung Lo Wan diving tender crews left the 16 scene and were conveyed to Central Government Pier by 17 Fireboat 8." 18 Then in your second statement, you have in fact 19 identified the window as G2. You have also given the 20 dive time: 21 "... moving forward in the cabin means searching 22 forward, dive time from 00:10 to 00:24 hours." 23 Then you've clarified: 24 "... the male victim wore dark colour short sleeve 25 t-shirt with dark-colour backback.</p>
<p style="text-align: right;">Page 18</p> <p>1 began his diving expedition? 2 MR BERESFORD: Yes, we do, Mr Chairman. The third dive 3 commenced at 12.10 on the 2nd. 4 THE CHAIRMAN: Thank you. 5 MR BERESFORD: Does that coincide with your recollection? 6 12.10? 00:10 on 2 October. 7 A. I am not sure. 8 Q. Okay. Continuing to read from your statement, then: 9 "When diving into the cabin, I found a lot of 10 miscellaneous articles. The visibility was only 11 one metre and the depth I reached was 2.3 metres. 12 During the course of search, I discovered some fixtures 13 such as radio microphone and steering wheel. 14 I recognised that it was the wheelhouse of the vessel. 15 When moving about 5 metres towards the port side, 16 I found a drown male body without wearing life jacket. 17 I reported the situation to the surface and then got 18 ready to bring the body to surface. At that time, 19 I found the backpack of the victim was entangled by 20 a metal bar. When using a knife to separate the 21 entanglement, I saw another two female victims behind 22 the male body. They did not put on life jackets as well 23 and all these three deceased were found hand in hand. 24 As the cabin was full of articles, it was very difficult 25 to get in and out. I had to bring the victims to the</p>	<p style="text-align: right;">Page 20</p> <p>1 ... one of the two female victims wore a dark colour 2 t-shirt and black long trousers. The other cannot be 3 remembered." 4 And the female victim that came to the surface 5 during the stabilisation of the Lamma IV wore a golden 6 watch, black-and-white striped vest, long jeans and 7 brown shoes. 8 Mr Chairman, I have no supplemental questions. 9 THE CHAIRMAN: Are we able to identify which of the various 10 victims these persons were? The male victim, obviously, 11 since he was the only one of the four, speaks for 12 itself. 13 MR BERESFORD: Yes, that must be deceased 38, Mr Chairman. 14 THE CHAIRMAN: Mr Lam Ka-man? 15 MR BERESFORD: Mr Lam Ka-man. And the fourth victim that 16 came to the surface during the hoisting, the 17 stabilisation of Lamma IV, I think we know is deceased 18 reference 15, Ms Ie Hwie Wendy. 19 THE CHAIRMAN: Thank you. And the cause of death for all of 20 them was drowning? 21 MR BERESFORD: With the exception of the one that 22 I mentioned, traumatic asphyxia and drowning. That was 23 number 33 -- 24 THE CHAIRMAN: Yes. Thank you. 25 MR BERESFORD: -- Ms Au.</p>

Page 21	Page 23
<p>1 THE CHAIRMAN: Thank you. 2 MR BERESFORD: No further questions. 3 THE CHAIRMAN: Do counsel have any applications to make? 4 MR McGOWAN: No, thank you. 5 MR ZIMMERN: No, Mr Chairman. 6 MR MOK: No, Mr Chairman. 7 THE CHAIRMAN: Thank you. 8 Officer, thank you for coming to give evidence. 9 Your evidence is complete and you are free to go. 10 Before you do so, on behalf of the Commission, may we 11 commend you for taking part in the rescue. Thank you. 12 A. Thank you. 13 (The witness withdrew) 14 MR BERESFORD: Mr Chairman, the next witness is Senior 15 Station Officer Chan Man-fai. 16 OFFICER CHAN MAN-FAI (affirmed in Punt)  17 (All answers via interpreter unless otherwise indicated) 18 Examination by MR BERESFORD 19 MR BERESFORD: Good morning, Officer. Thank you very much 20 for attending this morning to assist with this Inquiry. 21 I have some questions to ask you on behalf of the 22 Commission. 23 Officer, you have previously made a statement to the 24 Director of Fire Services on 13 October 2012, and that 25 may be found in our Fire Services Department bundle 2 at</p>	<p>1 diving tender on 1 October; is that right? 2 A. Yes. 3 Q. And you were in fact the officer-in-charge? 4 A. Correct. 5 Q. When you were on your way to substitute for standby duty 6 on the National Day fireworks display at the Central 7 Government Pier, you were told about the collision 8 incident near Lamma Island and asked to provide 9 additional diving support; is that right? 10 A. No. In fact the message was received through radio. 11 Q. Okay. Thank you. Then you travelled to the scene on 12 Fireboat 3, leaving Central Government Pier at 21:50 and 13 arriving at the scene about 25 minutes later; is that 14 right? 15 A. Correct. 16 Q. When approaching the vessel -- Lamma IV, that is -- you 17 observed that the vessel was sunk at an upright position 18 with two-thirds of the hull submerged into the sea and 19 only about 9 metres of the bow above the surface of the 20 water. 21 A. Correct. 22 Q. And then you checked the stability of the sunken vessel 23 by observing the incline of the vessel and asking 24 Fireman Koo to bump it slightly with a diving tender. 25 A. An amendment to be made. I used a Fire Services</p>
Page 22	Page 24
<p>1 pages 301 to 303, and it's in English. 2 Can the witness please be given a copy of that 3 statement. 4 Officer, do you recognise this as your statement? 5 A. Yes. 6 Q. Have you been given an opportunity to remind yourself of 7 its content? 8 A. Yes. 9 Q. Do you have any amendment you would wish to make? 10 A. No. 11 Q. So are the contents of this statement true? 12 A. Yes. 13 Q. Thank you. Officer, you refer in this statement to five 14 deceased. They are police reference numbers 3, 12, 18, 15 27 and 28. 16 Number 3 refers to Cheung Chung-hin, a boy aged 10. 17 Number 12 refers to Szeto Ying, a female aged 50. 18 Number 18 refers to Chui Lin-ho, a female aged 66. 19 Number 27 refers to Cheng Sin-kam, a male aged 64. And 20 number 28 refers to Chan Hau-luen, a female aged 55. 21 Mr Chairman, for your information, the autopsy 22 reports give the cause of death as drowning in each 23 case. 24 THE CHAIRMAN: Thank you. 25 MR BERESFORD: Officer, you were posted to the Tung Lo Wan</p>	<p>1 speedboat. 2 Q. Yes, DV2? 3 A. Yes, DV2. 4 Q. You used DV2 to bump the Lamma IV slightly? 5 A. Correct. 6 Q. And then you describe a number of dives that were made 7 from your tender. You were in fact the fifth diver, but 8 in your statement you describe the previous four dives. 9 A. Correct. 10 Q. Firstly, you describe how Fireman Ko broke a window. 11 We're going to be hearing from Fireman Ko on Friday, we 12 expect. So I will pass over that. 13 You then tell us that the diving operation commenced 14 at 22:45 hours. Is that right? 15 A. Correct. 16 Q. You then describe Senior Fireman Kwong Chi-keung's dive. 17 A. Correct. 18 Q. We heard from him already. He was witness number 48. 19 The first dive was completed at 23:10 hours; is that 20 right? 21 A. Correct. 22 Q. The second dive commenced at 23:15 hours, and the diver 23 was Senior Fireman Yuen Ka-wai? 24 A. Correct. 25 Q. And we've heard from Mr Yuen this morning.</p>

<p style="text-align: right;">Page 25</p> <p>1 You then decided to change the location of search to 2 the upper deck, and the third dive commenced at 00:10 on 3 2 October, and the diver was Lam Yim-lung, Fireman 4 13489, Lam Yim-lung. 5 A. Correct. 6 Q. The third dive was completed at 00:25 hours, with three 7 deceased being handed over to the police launch. 8 A. Correct. 9 Q. We have, of course, heard from Fireman Lam this morning. 10 He was witness number 50. 11 The fourth diver was Fireman 12870, Ko Wing-ki, and 12 the dive commenced at 00:40 hours; is that right? 13 A. Correct. 14 Q. As I've mentioned, we expect to be hearing from Fireman 15 Ko in due course. 16 The fourth dive was completed at 01:05 hours. 17 I'm just going to read the next paragraph of your 18 statement, which will be translated simultaneously as 19 I read, so I'll read a little bit slowly. 20 "Afterwards, members of Penny's Bay diving tender 21 were conveyed to DV2 to relieve the duty of Tung Lo Wan 22 diving tender. Other than me, Tung Lo Wan diving tender 23 members were conveyed to Fireboat 7 to undergo surface 24 interval after diving. I was the 5th diver and the dive 25 commenced at 01:12 hours. I followed the same route as</p>	<p style="text-align: right;">Page 27</p> <p>1 Then I moved to the starboard side of the same row and 2 I discovered a group of casualties behind several fabric 3 sheets from the detached lighting fixtures. After 4 [I] reported the situation to the surface, I brought the 5 first female casualty to the entrance and at the same 6 time cleared the obstructions en route the passage. 7 When I reached the group of casualties again, I tried to 8 bring a male child at the front of the group to the 9 surface but was not succeeded. Later, I believed that 10 I had discovered a family of 3 members as the child was 11 grasped by a female adult at his back and at the same 12 time the female was grasped by another male adult at her 13 back. I untied the three bodies and brought them to the 14 surface one by one. Finally, I located another male 15 adult from the wreckage at very close vicinity before 16 I ended by dive at my dive at 01:45 hours. I returned 17 to DV2 after the dive and resumed the duty of safety 18 officer." 19 Now I'm going to continue paraphrasing your 20 statement. 21 The sixth dive, you say, commenced at 02:00 hours 22 and the diver was Senior Fireman Liu Wai-ming; is that 23 right? 24 A. Correct. 25 Q. We are due to hear from him next. His dive ended at</p>
<p style="text-align: right;">Page 26</p> <p>1 the 4th diver and entered the passenger cabin on the 2 upper deck." 3 Just pausing there. The route you describe for the 4 fourth diver was to use the same entrance that we've 5 heard about to enter the wreckage, entering the 6 passenger cabin via an opening between the wheelhouse 7 and the passenger cabin, and he searched at both sides 8 of the first row, row A, of passenger seats. 9 So when you talk about following the same route, 10 you're talking about the entrance to the vessel, are 11 you? 12 A. Including entering into the vessel and into the 13 passenger cabin. 14 MR BERESFORD: Perhaps we could just have a quick look at 15 the window plan, please. 16 Where did you enter the passenger cabin? Can you 17 identify the window that you used? On the screen, we 18 can see the starboard side. Was it the starboard side? 19 A. Correct. It is G2 on the starboard side of the vessel. 20 Q. Thank you. So you said you entered the passenger cabin 21 and then, to continue reading: 22 "Detached lighting fixtures and other miscellaneous 23 articles were found everywhere inside the wreckage. 24 I firstly approached the port side of the 2nd row 25 (row B) of passenger seats but no casualty was found.</p>	<p style="text-align: right;">Page 28</p> <p>1 02:25 hours? 2 A. Correct. 3 Q. Then you describe the arrival of the crane lighter at 4 02:30 hours, and the temporary suspension of the diving 5 operation. During the course of stabilisation, you note 6 that a female adult was located at the sea surface. 7 A. Correct. 8 Q. Then diving operations resumed at about 04:15 hours? 9 A. Correct. 10 Q. And another diving tender, NSC/DT -- what's "NSC", 11 please? 12 A. Ngong Shuen Chau. 13 Q. Thank you. They were employed as relief for the Penny's 14 Bay diving tender? 15 A. Yes. 16 Q. And they conducted the seventh to the 12th dives under 17 your supervision? 18 A. Correct. 19 Q. During those six dives, a total of five females and one 20 male adult were located inside the passenger cabin on 21 the upper deck; while one male child was found at sea, 22 on the seabed beneath the wreckage? 23 A. Correct. 24 Q. And you completed the 12th dive at 07:45 hours and 25 returned to base at about 08:55?</p>

<p style="text-align: right;">Page 29</p> <p>1 A. Correct.</p> <p>2 MR BERESFORD: Could we please have on screen FS bundle 3, 3 page 658.</p> <p>4 This shows, in purple, I think, the bodies that you 5 retrieved, Officer: 27, 12 and 3 on the left, and 18 and 6 28 on the right. And you've described 18 as holding 7 a life jacket.</p> <p>8 A. I would like to make an amendment, that all the bodies 9 retrieved were located on the right side of the vessel.</p> <p>10 MS LOK: "Retrieved by me".</p> <p>11 THE INTERPRETER: "Retrieved by me were on the right side of 12 the vessel".</p> <p>13 MR BERESFORD: So this is inaccurate, okay.</p> <p>14 A. Yes. Yes, the plan is not accurate. But number 18, who 15 was holding a life jacket, was accurate.</p> <p>16 Q. What was the life jacket situation with regard to the 17 other -- were none of the other deceased wearing life 18 jackets?</p> <p>19 A. Correct. The other four were without life jackets.</p> <p>20 Q. And the one that you say was holding a life jacket, do 21 you mean just holding it free of their body, or had they 22 put it over their head, or what was the state of play?</p> <p>23 A. It was carried round one of his hands.</p> <p>24 Q. Right. In relation to these five casualties, can you 25 throw any light upon why they were stuck there? Were</p>	<p style="text-align: right;">Page 31</p> <p>1 A. Afterwards, they were -- I identified them as part of 2 the false ceilings, but they didn't cause any 3 obstruction.</p> <p>4 Q. So they'd just come down and they were in the cabin, 5 lying in the water in the cabin?</p> <p>6 A. Some of them were wholly detached, and some of them were 7 partially detached.</p> <p>8 MR McGOWAN: Thank you very much.</p> <p>9 MR ZIMMERN: We have no questions.</p> <p>10 MR MOK: I have one question concerning the male child who 11 he had difficulty bringing to the surface.</p> <p>12 THE CHAIRMAN: Yes, very well.</p> <p>13 Examination by MR MOK</p> <p>14 MR MOK: Officer, you describe that there was one male child 15 who you had difficulty bringing to the surface?</p> <p>16 A. Correct.</p> <p>17 Q. Can you describe the difficulty?</p> <p>18 A. The difficulty in bringing this boy out is because he 19 was grabbed by another victim at the back. He was 20 embraced by another victim at his back.</p> <p>21 Q. So you had difficulty in disentangling the two?</p> <p>22 A. As I have mentioned in my statement, in fact there were 23 three of them who were entangled together. So I had to 24 untangle each of them before I could bring them out.</p> <p>25 MR MOK: Thank you.</p>
<p style="text-align: right;">Page 30</p> <p>1 they trapped, were they caught by anything?</p> <p>2 A. At that time they were not entangled by anything, but 3 I think it is because they couldn't find a way out of 4 the vessel, so they gathered together.</p> <p>5 Q. Yes, I see. You have mentioned that they were behind 6 several fabric sheets from detached lighting fixtures; 7 do you remember that?</p> <p>8 A. Yes.</p> <p>9 MR BERESFORD: All right, Officer. Thank you very much. 10 Mr Chairman, I don't think at this stage I can be of 11 any further assistance in identifying which one is 12 which.</p> <p>13 THE CHAIRMAN: Thank you.</p> <p>14 Do counsel have any applications?</p> <p>15 MR McGOWAN: I have one matter I'd like to ask some 16 questions about, please, sir. It deals with what's 17 described as "detached lighting fixtures".</p> <p>18 THE CHAIRMAN: Yes, very well.</p> <p>19 Examination by MR McGOWAN</p> <p>20 MR McGOWAN: Station Officer Chan, you described in your 21 statement something as "detached lighting fixtures".</p> <p>22 A. Yes, I did mention about that.</p> <p>23 Q. Were these actual fixtures or were they part of the 24 false ceiling, the false deckhead which had come down 25 and was obstructing passage through the cabin?</p>	<p style="text-align: right;">Page 32</p> <p>1 THE CHAIRMAN: Mr Beresford?</p> <p>2 MR BERESFORD: Could you just give me one moment, please, 3 Mr Chairman.</p> <p>4 Mr Chairman, I was hoping I would be able to do some 5 more identification, but I can't.</p> <p>6 THE CHAIRMAN: Thank you.</p> <p>7 Officer, thank you for coming to assist the 8 Commission by giving testimony. Your testimony is now 9 finished, and you are free to leave. You can, of 10 course, stay and watch the proceedings if you wish.</p> <p>11 Before you leave, the Commission would like to 12 commend your role in this rescue.</p> <p>13 A. Thank you, Mr Chairman.</p> <p>14 (The witness withdrew)</p> <p>15 THE CHAIRMAN: Yes, Mr Beresford?</p> <p>16 MR BERESFORD: Mr Chairman, the next witness is Fireman Liu 17 Wai-ming.</p> <p>18 OFFICER LIU WAI-MING (affirmed in Puntì) 19 (All answers via interpreter unless otherwise indicated)</p> <p>20 Examination by MR BERESFORD</p> <p>21 MR BERESFORD: Officer, thank you very much for coming this 22 morning. I have some questions to ask you on behalf of 23 the Commission.</p> <p>24 Officer, you have previously made statements, have 25 you not, to the Director of Fire Services, dated</p>



<p style="text-align: right;">Page 33</p> <p>1 13 October 2012 and 9 November 2012? 2 A. Correct. 3 MR BERESFORD: Those statements are to be found in FSD 4 bundle 2 at pages 280 to 283; and 283-5. Could they be 5 given to the witness, please. The translations are at 6 pages 283-1 to 283-4. 7 THE CHAIRMAN: Thank you. 8 MR BERESFORD: Do you recognise those statements as yours, 9 Officer? 10 A. That's correct. 11 Q. And have you been given an opportunity to remind 12 yourself of their content? 13 A. Yes. 14 Q. Is there anything you would wish to amend? 15 A. One of the deceased that I retrieved from the cabin in 16 the upper deck, after several verification and reference 17 to police information, I found that they are similar in 18 terms of the features on their body. But after 19 verification, I found that the original one I retrieved 20 was not Chan Hau-luen, but Wu Yuk-fan instead. 21 Q. So, subject to that amendment, Officer, are the contents 22 of these statements true? 23 A. Yes. 24 Q. Thank you. 25 Mr Chairman, we understand the three deceased that</p>	<p style="text-align: right;">Page 35</p> <p>1 THE CHAIRMAN: And that assisted you with the correction 2 that you've given? 3 A. Correct. 4 THE CHAIRMAN: Well, having done that, perhaps you could 5 just put them aside. Thank you. 6 MR BERESFORD: Officer, you describe in your statement the 7 water surface rescue that you carried out? 8 A. Correct. 9 Q. You describe jumping into the sea and swimming to 10 a crowd of victims, where there was chaos and screaming 11 everywhere? 12 A. Correct. 13 Q. And you approached three victims first, a man, a woman 14 and a child, believing that they were one family? 15 A. Correct. 16 Q. You observed two adults dressed with a life jacket, but 17 not dressed properly, and struggling in the water? 18 A. Correct. 19 Q. And the child had no life jacket; is that right? 20 A. Correct. 21 Q. Then you took over the child, took hold of the hand of 22 the woman, and asked the man to follow you towards the 23 life raft? 24 A. Yes. 25 Q. Other crews took over with them and you swam to another</p>
<p style="text-align: right;">Page 34</p> <p>1 were recovered by this diver to be those bearing police 2 references 5, 19 and 20. 5 refers to Kwok Man-hei, 3 a boy aged 3; 19, the deceased the witness just 4 mentioned, Wu Yuk-fan, a female aged 53; and 20, Lam 5 Kai-yuk, a female aged 70. All are shown as having 6 drowned in the autopsy reports. 7 THE CHAIRMAN: Thank you. 8 MR BERESFORD: Officer, you were posted to the Penny's Bay 9 diving tender, is that right, on 1 October? 10 A. Correct. 11 Q. At about 20:00 hours, you were patrolling Victoria 12 Harbour on National fireworks display duty; is that 13 right? 14 A. Correct. 15 Q. And at about 20:23, you heard on the radio that you were 16 required at a vessel collision incident near Lamma 17 Island? 18 A. Correct. 19 Q. And at about 20:55 hours, you were about 100 metres 20 distant from the affected vessel, Lamma IV; is that 21 right? 22 A. Correct. 23 THE CHAIRMAN: Officer, may I enquire whether you have some 24 notes in front of you? 25 A. They are the names of the deceased.</p>	<p style="text-align: right;">Page 36</p> <p>1 struggling male passenger who was without a life jacket; 2 is that right? 3 A. Correct. 4 Q. As you took him back to the life raft, he cried and said 5 that his son was missing? 6 A. Correct. 7 Q. You then returned to the Lamma IV and received a male 8 passenger without a life jacket from another fireboat 9 crew? 10 A. Correct. 11 Q. He was in a state of shock, so you had to hold his head 12 out of the water and call for help to get him to the 13 life raft? 14 A. I asked my colleague to help me to pull him to the life 15 raft. 16 Q. Thank you. And then you returned to the Lamma IV again? 17 A. Correct. 18 Q. And colleagues reported the presence of victims in the 19 front portion of the cabin in the lower deck? 20 A. Correct. 21 Q. And you said: 22 "Because of the upright position of the Lamma IV, it 23 [was] difficult for the passengers to escape from the 24 cabin inside. Hui Ka-chun kept encouraging them to 25 leave the cabin at the lower deck third window."</p>

<p style="text-align: right;">Page 37</p> <p>1 A. Correct. 2 MR BERESFORD: May we just have a look at the plan, please, 3 the window plan. 4 You said you approached her from her starboard side. 5 So if we can have a look at the starboard side of the 6 vessel, and the lower deck third window. Can you just 7 give us the number of that window, please? 8 A. G14. 9 Q. G14? 10 A. Correct. 11 Q. Thank you. 12 And then you say about a minute later, 13 an 11-year-old boy jumped from the third window and held 14 onto you. 15 A. Correct. 16 Q. That boy was wearing a life jacket? 17 A. Correct. 18 Q. So you took him to the nearest police speedboat and then 19 swam back to Lamma IV? 20 A. Correct. 21 Q. Then, another minute later, another 11-year-old girl 22 with a life jacket jumped from the same window? 23 A. Correct. 24 Q. You passed her to the police, and asked them to wait 25 because you knew there was another passenger still</p>	<p style="text-align: right;">Page 39</p> <p>1 A. Correct. 2 Q. So then you swam back to the wreck, but Hui Ka-chun 3 reported that there were no more passengers in the lower 4 deck cabin? 5 A. Correct. 6 Q. You describe how you then boarded Fireboat 7 and 7 provided first aid to passengers onboard Fireboat 7. 8 A. Correct. 9 Q. Then later, you formed part of the diving teams. I'm 10 just going to read your last paragraph. The Chinese 11 will be shown on the screen. 12 "After a brief report from Senior Station Officer 13 Chan Man-fai, I, in SCUBA, swam to Lamma IV from DV2 and 14 entered the front portion of the upper deck cabin. 15 I located a 60-year-old woman at the port side 3rd row 16 seat. Then I handed over the bodies to Hui Ka-chun on 17 water surface. I returned to the cabin again and 18 located a 40-year-old woman at the port side 4th row 19 seat. I handed over the bodies to Hui Ka-chun on water 20 surface again. Afterward, I reported my cylinder 21 pressure 140 bars to the diving supervisor on DV2. 22 I dived into the cabin again and found an adult body 23 trapped by the seat, when I tried to pull the body out. 24 I saw a 6-year-old boy in nearby and I took the boy out 25 first and handed over to Hui Ka-chun. When I got ready</p>
<p style="text-align: right;">Page 38</p> <p>1 inside? 2 A. Correct. 3 Q. She was in shock and she couldn't get out, so your 4 colleague Hui Ka-chun pushed her out from the window and 5 you took her to the police boat? 6 A. She was not in shock, but she was terrified. 7 MS LOK: I think, Mr Chairman, there is a problem with the 8 translation. "In shock" was somehow translated as 9 "unconscious" or -- 10 THE CHAIRMAN: We haven't had that translation. 11 MS LOK: No, in Chinese. So perhaps it can be translated to 12 the witness. 13 THE CHAIRMAN: Could you try again, Officer, to describe the 14 state that you observed this woman in? 15 A. She was terrified, and I believe that she was also 16 injured. 17 THE CHAIRMAN: But terrified? 18 A. Correct. 19 THE CHAIRMAN: Thank you. 20 MR BERESFORD: All three passengers that you rescued from 21 the cabin in the lower deck were awake; is that right? 22 A. Correct. 23 Q. And the female passenger that we were just talking 24 about, you estimated she was about 40-50 years old and 25 she was wearing a life jacket?</p>	<p style="text-align: right;">Page 40</p> <p>1 to dive into the cabin again, my diving supervisor 2 informed me to stop the dive and return to DV2. All 3 three passengers found by me were without life jacket. 4 The visibility under water is about 2 m, there are full 5 of miscellaneous articles in the cabin. My diving time 6 was from 02:00 to 02:25 hours on 2 October 2012. At 7 last, we returned to Fireboat 7 and NSC/DT arrived to 8 took over the diving rescue job. Penny's Bay diving 9 tender Left scene at about 05:30 hours." 10 Then you had some amendments to make in your 11 supplementary statement of 9 November. 12 After looking at information and photographs of the 13 deceased, you provided this additional information. The 14 7-year-old girl that you described was wearing a purple 15 blouse and black trousers. The 70-year-old woman that 16 you described was wearing a khaki blouse and khaki 17 trousers. The 60-year-old woman you described was 18 wearing a long-sleeve blouse in light colour, and you 19 gave a police reference number E1/MS/B028. The 20 40-year-old woman described in your statement was 21 wearing a blouse in dark colour and capri pants, police 22 reference number TC2/MS/B031. And the 6-year-old boy 23 was wearing a red t-shirt, police reference number 24 TD2/MS/B017. 25 Mr Chairman, I have no supplementary questions.</p>

Page 41	Page 43
1 THE CHAIRMAN: Thank you. 2 Do counsel have any application? 3 MR McGOWAN: No, thank you. 4 MR ZIMMERN: No, sir. 5 MR MOK: Mr Chairman, I think in the supplemental statement 6 the fourth person, I think the officer had already 7 corrected her identity. I don't think this is 8 a 40-year-old woman, and not by the name as indicated in 9 Chinese. 10 THE CHAIRMAN: Well, he corrected his identification to be 11 that of Madam Wu Yuk-fan, who we are told was 53. 12 MR MOK: Yes. 13 THE CHAIRMAN: Thank you. 14 Officer, thank you for coming to assist us with your 15 evidence. Your evidence is now complete, and you are 16 free to go. Of course, you are entitled to sit in the 17 hearing and listen if you wish. But before you go, it's 18 appropriate that on behalf of the Commission, I should 19 commend you for your role in this rescue. 20 (The witness withdrew) 21 THE CHAIRMAN: We'll take a 20-minute break and resume at 22 12 o'clock. 23 (11.40 am) 24 (A short break) 25 (12.00 pm)	1 A. Yes. 2 Q. Thank you. So, Officer, on 1 October you were on duty 3 on the Ngong Shuen Chau diving tender? 4 A. Correct. 5 Q. And the officer-in-charge was Senior Station Officer 6 Ng Wah-sum? 7 A. Yes, correct. 8 Q. On 2 October, your diving tender was turned out to the 9 special service at sea, about half a nautical mile west 10 of Shek Kok Tsui. 11 A. Yes, correct. 12 Q. And you arrived on Fireboat 8 at about 03:28 hours? 13 A. Correct. 14 Q. And at that time, there was a helicopter providing 15 lighting towards the Lamma IV and a dumpsteer lighter 16 named Wah Sum using steel wire to stabilise the vessel? 17 A. Correct. 18 Q. So it was not until 04:25 that you went over to the 19 Lamma IV and started diving work? 20 A. Correct. 21 Q. You were appointed diver to enter the upper deck via the 22 window marked R6 on the plan? 23 A. Correct. 24 Q. We can see the plan on the screen now. This is the port 25 side this time. "R" for "red". And the cursor is
Page 42	Page 44
1 THE CHAIRMAN: Yes, Mr Beresford. 2 MR BERESFORD: Mr Chairman, the next witness is Fireman Chan 3 Ting-fai. 4 OFFICER CHAN TING-FAI (affirmed in Punti) 5 (All answers via interpreter unless otherwise indicated) 6 Examination by MR BERESFORD 7 MR BERESFORD: Good morning, Officer. Thank you very much 8 for coming this morning. I'm going to ask you some 9 questions on behalf of the Commission. 10 You've previously made a statement in connection 11 with this matter to the Director of Fire Services on 12 13 October 2012, and that statement can be found in our 13 bundles at FSD bundle 2, pages 327 to 328. The 14 translation is at page 328-1 to 328-2. 15 THE CHAIRMAN: Thank you. 16 MR BERESFORD: Could the witness please be shown his 17 statement. 18 Do you recognise that statement as yours, Officer? 19 A. Yes, this is my statement. 20 Q. And have you been given an opportunity to look over it 21 and remind yourself of what it says? 22 A. Yes. 23 Q. And do you have any amendment to make? 24 A. No. 25 Q. So are the contents of this statement true?	1 hovering over R6. 2 Can you just tell me, please, Officer, was that 3 above or beneath the water surface at that time? 4 A. It is above the water surface. 5 Q. Thank you. And you said that Senior Station Officer 6 Ng Wah-sum and Principal Fireman Chan Wa-hung were 7 inside the upper deck? 8 A. Correct. 9 Q. And Principal Fireman Chan was appointed your diver's 10 attendant? 11 I'm just going to read from your statement: 12 "At about 04:34 hours, I commenced my dive work and 13 cleared many miscellaneous articles inside the upper 14 deck. At about 04:44 hours, I located and rescued 15 a female adult to the water surface and Senior Station 16 Officer Ng and Principal Fireman 9080 [that's Chan 17 Wa-hung] secured the female onto a spinal board and 18 handed over to the diving crews onboard DV2. I was then 19 restarting my diving work and at about 05:00 hours, I 20 located and rescued another female adult to the water 21 service and Senior Station Officer Ng and Principal 22 Fireman Chan secured the female onto a spinal board and 23 handed over to the diving crews onboard DV2. 24 I was then restarting my diving work and I noted 25 that there are many benches inside the upper deck that

<p style="text-align: right;">Page 45</p> <p>1 need to be cleared so that I informed the top side. The 2 top side provided lifeline to me and I used the lifeline 3 to secure the benches and removed them one by one to the 4 water surface and eventually Senior Station Officer and 5 Principal Fireman Chan helped to hand the benches to 6 crews of DV. At about 05:15 hours, I finished my diving 7 works and I remained in DV as supportive works for the 8 divers." 9 Officer, the rest of your statement deals with 10 subsequent events and other divers' dives, so I'm not 11 proposing to read that now. 12 In relation to the two bodies that you recovered, 13 the two female adults, we understand that these relate 14 to those that have been given police reference numbers 15 deceased 29 and deceased 32. Deceased 29 refers to Wong 16 Wai-ngor, a female aged 56; and deceased 32 refers to 17 Lau Man-lai, a female aged 24. 18 A point of information, Mr Chairman: the autopsies 19 indicate that the cause of death for both was drowning. 20 THE CHAIRMAN: Thank you. 21 MR BERESFORD: I wonder if we can be shown on the screen 22 FS bundle 3, page 659. 23 We see here a diagram that's been produced. In the 24 red boxes, we see "DECD29 Dive 7", "DECD32 Dive 7". 25 Do those positions accurately accord with your</p>	<p style="text-align: right;">Page 47</p> <p>1 MR ZIMMERN: We have no questions, thank you. 2 MR MOK: No questions. 3 THE CHAIRMAN: Thank you. 4 Mr Beresford? 5 MR BERESFORD: No further questions. 6 THE CHAIRMAN: Thank you, Officer, for assisting the 7 Commission by coming to testify as you've done. That 8 evidence is now finished and you are free to go. But 9 before you do so, may we commend you for your role in 10 assisting in this rescue attempt. 11 (The witness withdrew) 12 THE CHAIRMAN: Yes, Mr Beresford? 13 MR BERESFORD: Mr Chairman, the next witness is Fireman 14 Leung Kin-kie. 15 THE CHAIRMAN: Thank you. 16 OFFICER LEUNG KIN-KIE (affirmed in Punt) 17 (All answers via interpreter unless otherwise indicated) 18 Examination by MR BERESFORD 19 MR BERESFORD: Officer, thank you very much for attending 20 today to assist this Inquiry. I have some questions to 21 ask you on behalf of the Commission. 22 A. Yes. 23 Q. Officer, you've made a statement previously to the 24 Director of Fire Services dated 13 October 2012, which 25 is to be found in our FSD bundle 2 at pages 324 to 326.</p>
<p style="text-align: right;">Page 46</p> <p>1 memory as to where you found the two deceased? 2 A. It is in accordance with my memory. 3 Q. In relation to deceased 32, it says that she was trapped 4 by a bench; is that correct? 5 A. Correct. 6 Q. Is there anything about the circumstances of deceased 29 7 that might throw any light as to why she was stuck 8 beneath the sea and unable to escape? 9 A. When I went down, she was not trapped by anything. She 10 was not trapped by a bench. 11 MR BERESFORD: Thank you, Officer. I have no supplemental 12 questions. 13 THE CHAIRMAN: Were you assigned the diver designation 14 number 7? 15 A. Yes, I was the seventh diver to go into the water. 16 THE CHAIRMAN: Thank you. Do counsel have any applications? 17 MR McGOWAN: I've just got one question. It's about the 18 benches, please, Mr Chairman. 19 THE CHAIRMAN: Yes. 20 Examination by MR McGOWAN 21 MR McGOWAN: Officer, were these benches floating in the 22 water or were they all piled up on top of each other? 23 A. They were piled up in left and right position. They 24 were all piled up together. 25 MR McGOWAN: Right. Thank you very much.</p>	<p style="text-align: right;">Page 48</p> <p>1 Could a copy of that statement please be given to 2 the witness. The translation is at page 326-1 to 326-2. 3 THE CHAIRMAN: Thank you. 4 A. Yes, correct. 5 MR BERESFORD: Do you recognise that as your statement, 6 Officer? 7 A. Yes. 8 Q. Is there any amendment that you wish to make? 9 A. No. 10 Q. So are the contents true? 11 A. Yes. 12 Q. Thank you. 13 Officer, you recovered three bodies, I believe, two 14 of which have been identified as those bearing the 15 police reference numbers 11 and 22. 11 refers to Wong 16 Pui-lan, a female aged 63; and 22 refers to Chan 17 Wing-kei, a male aged 56. 18 A. Two of them were correct, but I have retrieved three. 19 Two of them were female, and one of them male. 20 Q. Yes. I was coming to that. There's a possibility that 21 the third was that numbered 2, but we're unclear as to 22 the precise identity of that person. Perhaps we'll come 23 back to that later. 24 A. Okay. 25 Q. So, Officer, on 1 October you were on duty on the Ngong</p>

Page 49	Page 51
<p>1 Shuen Chau diving tender; is that correct? 2 A. Correct. 3 Q. And on 2 October, your tender was turned out to the 4 special service at sea, about half a mile west of Shek 5 Kok Tsui? 6 A. Correct. 7 Q. And you arrived in the vicinity at 03:28 on Fireboat 8? 8 A. Correct. 9 Q. And you observed a boat, later known as Lamma IV, 10 half-sunk and with over half of the boat covered by 11 water, her bow upright and her hull at an angle with the 12 sea of about 45 degrees? 13 A. Correct. 14 Q. When you arrived, there were stabilisation works 15 proceeding with a dumpsteer lighter; is that right? 16 A. Correct. 17 Q. And then DV2 embarked at about 04:20 hours? 18 A. Correct. 19 Q. And toured around Lamma IV, and was then berthed to the 20 port side of Lamma IV; is that right? 21 A. Correct. 22 Q. Then Fireman Chan Sik-chiu broke the windows of the 23 upper deck at R6 and R7. 24 Could we please look at the starboard side of the 25 window plan.</p>	<p>1 my diving work along the port-side, I located and 2 rescued another female adult at about 2 metres at depth 3 within the same minute, her body was rigid and no safety 4 vest on her body. I immediately reported the situation 5 to the top side and led the female adult to water 6 surface. With the help of Senior Station Officer Ng and 7 Principal Fireman Chan, we secured the female onto 8 a spinal board and handed over to the diving crews 9 onboard DV2. I was then restarting my diving work along 10 the port-side, I located a bench blocked my way and 11 thence I removed that bench to water surface and handed 12 over to [colleagues]. I was then restarting my diving 13 work along the port-side until I reached the bottom of 14 the upper deck which was about 3 metres in depth. I was 15 then moved to the starboard side and discovered there 16 were many benches, at about 05:39 hours, I searched 17 along the bench and located another adult. The adult 18 was facing downward and trapped by a bench, 19 I immediately requested a lifeline from top side to help 20 clear the bench. After I got the lifeline from water 21 surface, I tired the bench and removed the bench to the 22 water surface. The adult's body was rigid, faced 23 downward and no safety vest on the body. I also 24 discovered the shirt was clasped by the bench, after 25 I fix the situation and surfacing I discovered he was</p>
Page 50	Page 52
<p>1 A. Correct. 2 Q. And you describe how your colleague, Fireman Chan, 3 located and rescued two female adults? 4 A. Correct. 5 Q. And then you were appointed as diver to carry out 6 underwater searching via the upper deck window R6? 7 A. Yes, through R6. 8 Q. Thank you. Then I'm going to read from your statement: 9 "Senior Station Officer Ng Wah-sum and Principal 10 Fireman Chan Wa-hung were inside the upper deck and 11 Principal Fireman Chan was appointed as diver's 12 attendant supporting me throughout the diving operation. 13 At that time, part of the false ceiling was damaged and 14 I could not saw any chair/bench inside the upper deck. 15 At about 05:20 hours, I commenced my dive work and left 16 water along the port side inside the upper deck and the 17 water clearance was about 2 feet, the tide was slow and 18 the water temperature was 26 degrees. I located 19 a female adult at about 2 metres depth, her body was 20 rigid, faced downward and no safety vest on her body. 21 I immediately reported the situation to top side and led 22 the female adult to water surface. With the help of 23 Senior Station Officer Ng and Principal Fireman Chan, we 24 secured the female onto a spinal board and handed over 25 to the diving crews onboard DV2. I was then restarting</p>	<p>1 a male adult. With the help of Senior Station Officer 2 Ng and Principal Fireman Chan, we secured the male onto 3 a spinal board and handed over to the diving crews 4 on-board DV2." 5 You then describe finishing your diving works at 6 about 05:54, and then you report on your work as diver's 7 assistant, and the recovery of bodies by others, but we 8 will deal with that with other witnesses. 9 Officer, you said the tide was slow. Are you able 10 to estimate the rate of tide? 11 A. It was about 0.5 metres. 12 Q. 0.5 metres per second? 13 A. Inside the cabin, the tide did not affect the divers' 14 work and so I can say that there is no tidal power. 15 THE INTERPRETER: Or something like that. 16 A. But outside the cabin the rate was about 0.5. 17 MR BERESFORD: Is that 0.5 metres per second? 18 A. Yes. 19 MR BERESFORD: Thank you. 20 Mr Chairman, I have no supplemental questions. 21 MR MCGOWAN: I have no questions, Mr Chairman. 22 MR ZIMMERN: No questions. 23 MR MOK: No questions. 24 THE CHAIRMAN: Thank you, Officer, for assisting the 25 Commission by coming to testify as you've just done.</p>

<p style="text-align: right;">Page 53</p> <p>1 Your evidence is now complete and you're free to go. Of 2 course, you are entitled to remain and watch the 3 proceedings from the public gallery. Before you go, 4 it's appropriate that the Commission commends you for 5 your role in assisting in the retrieval of these bodies. 6 A. Thank you. 7 (The witness withdrew) 8 MR BERESFORD: Mr Chairman, the next witness is Yuen 9 Kin-pun. 10 THE CHAIRMAN: Before we move to this witness, what is the 11 position as to the cause of death of the two persons 12 that have been identified as their bodies being 13 retrieved by the last witness? 14 MR BERESFORD: They were drowned. And if the third was 15 deceased 2, deceased 2 drowned also. 16 THE CHAIRMAN: Thank you. 17 OFFICER YUEN KIN-PUN (affirmed in Punt) 18 (All answers via interpreter unless otherwise indicated) 19 Examination by MR BERESFORD 20 MR BERESFORD: Officer, thank you very much for coming this 21 morning to assist this Inquiry. I have some questions 22 to ask you on behalf of the Commission. 23 Officer, you've previously made a statement on 24 14 October 2012 to the Director of Fire Services. It's 25 a statement in English, which is contained in our</p>	<p style="text-align: right;">Page 55</p> <p>1 you deal with the recovery of the deceased that you were 2 concerned with. 3 So I'm going to read the paragraph beginning "After 4 the 6th dive" on page 295. 5 "After the 6th dive, divisional officer (diving) 6 informed me that the crane barge came and wait for 7 hoisting Lamma IV. Then I instructed all divers to 8 suspend the diving operation and instructed DV2 with us 9 [to go] back to Fireboat 7. During hoisting the ferry, 10 divisional officer (diving) instructed Senior Fireman 11 Kwong Chi-keung, Fireman Lam Yim-lung and I back to 12 Lamma IV for standby operation by the AFC speedboat. 13 I was acting as an officer-in-charge of AFC speedboat 14 and water surface rescuer. When Lamma IV was hoisting, 15 I found a female body was flushed out from the port side 16 window of Lamma IV. Then I instructed Senior Fireman 17 Kwong and Fireman Lam to salvage this female body. 18 After that, we sent this body to the police speedboat." 19 Then you describe how at 04:15, Lamma IV was secured 20 by a crane barge. And you organised further dives. 21 Then I'm going to read again from the paragraph 22 beginning "At about 05:57". 23 "At about 05:57 hours, I passed the diving 24 supervisor duty to the divisional officer (diving). 25 Then I was acting as diver 9. When I descent to the</p>
<p style="text-align: right;">Page 54</p> <p>1 bundles at FSD bundle 2, pages 293 to 296. 2 Do you have a copy of that statement there? 3 A. (Witness nods). 4 Q. Do you recognise it as your statement? 5 A. Yes. 6 Q. Do you have any amendment you wish to make? 7 A. I have one amendment to make. On page 295, on the third 8 line of the second paragraph, the time should read 9 "00:10" instead of "01:00". 10 Q. Thank you. Officer, we understand that the body you 11 recovered was that with the police reference number 30, 12 which refers to Leung Chung-choi, a female aged 58. 13 Mr Chairman, we understand the autopsy report says 14 that she drowned. 15 THE CHAIRMAN: Thank you. Just give me a moment, please. 16 Thank you. 17 MR BERESFORD: Officer, on 1 October you were acting as duty 18 assistant divisional officer (diving) from 09:00 hours, 19 in fact until 09:00 hours on 3 October; is that right? 20 A. Amendment. It should be until 09:00 on 2 October. 21 Q. On 2 October, okay. Thank you. 22 Officer, a large part of your statement very 23 helpfully gives an overview of the whole diving 24 operation, but in order to avoid duplication I'm going 25 to go straight to that part of the statement in which</p>	<p style="text-align: right;">Page 56</p> <p>1 rear portion of the upper deck, I found two 5-seated 2 long bench entangled with a female body. Then I tried 3 to remove these long benches. However, these long 4 benches were entangled with another bench. Then 5 I request top side to give me a rope for helping me to 6 hoist these long benches. After 25 minutes later, 7 I removed these 2 long benches. After that I found 8 1 female adult trapped on the rear portion of upper 9 deck. Then I brought this female body to surface and 10 pass it to surface. After that I continued the second 11 dive for remove other benches. At about 06:34 hours, 12 I finished the dive and arrival surface." 13 Officer, we've in fact referred to two bodies. The 14 first one mentioned, that was flushed out from the port 15 side window of Lamma IV, sounds as though it may have 16 been deceased number 15, who was found floating in the 17 water when the Lamma IV was lifted. 18 THE CHAIRMAN: We've dealt with that recovered body already, 19 have we not? 20 MR BERESFORD: We've dealt with that, Mr Chairman. Yes, 21 we've heard about that one before, but not about its 22 being flushed out of the window. 23 But the main one that you were concerned with is 24 deceased number 30, which is the one you describe being 25 trapped under the bench. Was she wearing a life jacket?</p>

<p style="text-align: right;">Page 57</p> <p>1 A. Neither of them were wearing a life jacket. 2 MR BERESFORD: I have no other questions for this witness, 3 Mr Chairman. 4 MR MCGOWAN: I have none, Mr Chairman. 5 MR ZIMMERN: No questions, thank you. 6 MR MOK: I have a question about the weight of the benches 7 in the water. 8 THE CHAIRMAN: Yes, please do. 9 Examination by MR MOK 10 MR MOK: Officer, are you able to describe how heavy these 11 benches are inside the water? Would it be possible for 12 one person or a number of persons to move them when they 13 are inside the water? 14 A. It is not enough for one person to lift the benches up. 15 Moreover, under the water, the benches were piled up and 16 entangled. So one has to lift up several of them 17 instead of just lifting one of them. 18 Q. So how were the benches disentangled when they were in 19 the water? 20 A. First of all, we need to identify the point where they 21 were entangled and then we would get a line from the 22 port side to lift part of it up, to see where it was 23 entangled. And with that, we began to untangle the 24 benches knot by knot. 25 Q. Was that a time-consuming exercise?</p>	<p style="text-align: right;">Page 59</p> <p>1 A. Yes. 2 THE CHAIRMAN: Thank you. 3 Thank you for coming to assist us by giving your 4 evidence, as you've just done, Officer. But your 5 evidence is now complete, and you're free to go. You 6 can, of course, remain and listen to other evidence if 7 you wish. But before you go, may we commend you for 8 your role in the attempted rescue and then the retrieval 9 of the bodies of the deceased. Thank you. 10 A. (In English) Thank you. 11 (The witness withdrew) 12 MR BERESFORD: The next witness, Mr Chairman, is Ng Wah-sum, 13 Principal Fireman Ng Wah-sum. 14 OFFICER NG WAH-SUM (sworn in Punti) 15 (All answers via interpreter unless otherwise indicated) 16 Examination by MR BERESFORD 17 MR BERESFORD: Officer, thank you for coming today to assist 18 this Inquiry. I have some questions to ask you on 19 behalf of the Commission. 20 Officer, you've previously made a statement to the 21 Director of Fire Services, in English. This statement 22 can be found in our FS bundle 2 at pages 314 to 316. Do 23 you have a copy of that statement there? 24 A. Yes. 25 Q. And do you recognise that as your statement?</p>
<p style="text-align: right;">Page 58</p> <p>1 A. Yes, it takes a lot of time. 2 MR MOK: Thank you. 3 THE CHAIRMAN: I think you told us in your evidence it took 4 25 minutes to disentangle these benches; is that right? 5 A. Yes. 6 THE CHAIRMAN: Yes. 7 Mr Beresford? 8 MR BERESFORD: Mr Chairman, I wonder if it would help to 9 look at some photographs. 10 THE CHAIRMAN: Yes, certainly. 11 MR BERESFORD: If we could look at the police photographs 12 bundle at page 167. 13 Officer, we see there two benches in the middle that 14 appear to be still fixed after the boat has been 15 beached, and a line of benches just lying on their backs 16 on the side. Are any of these the type of benches that 17 you're talking about? 18 A. I was referring to the five benches lying on the side 19 that was detached. 20 MR BERESFORD: Thank you very much. I think we get another 21 view at page 168. 22 Thank you, Mr Chairman. 23 THE CHAIRMAN: Am I correct in understanding that you 24 recovered the body of Madam Leung from inside the cabin 25 on the upper deck? Is that your evidence?</p>	<p style="text-align: right;">Page 60</p> <p>1 A. Yes, it is my statement. 2 Q. Have you had an opportunity to review it today? 3 A. Yes. 4 Q. Are there any amendments that you would wish to make? 5 A. No. 6 Q. So are the contents of this statement true? 7 A. Yes. 8 Q. Thank you. Officer, you describe here the recovery of 9 the body of a boy which is, we believe, police reference 10 deceased 16, Nicholas Belshaw, a boy aged 7. The 11 autopsy indicates that he drowned. 12 THE CHAIRMAN: Thank you. 13 A. Yes. 14 MR BERESFORD: Officer, on 1 October, from about 15 09:00 hours, you were on duty as the officer-in-charge 16 of the NSC diving tender; is that right? 17 A. Yes. 18 Q. At about 02:25 hours on 2 October, the NSC diving tender 19 was turned out for special service at the sea about half 20 a mile west of Shek Kok Tsui; is that right? 21 A. Yes. 22 Q. And you were on Fireboat 8, and Fireboat 8 arrived at 23 the incident area at about 03:28 hours? 24 A. Yes. 25 Q. And then you were embarked on Fireboat 7 at about</p>

Page 61	Page 63
<p>1 03:38 hours? 2 A. Yes. 3 Q. Now, when you arrived, you noted that the vessel, the 4 Lamma IV, was in the process of being stabilised by 5 a dumpsteel lighter; is that right? 6 A. Yes. 7 Q. And it was after completion of the stabilisation works 8 at about 4.20 that you embarked to travel to the 9 Lamma IV? 10 A. Yes. 11 Q. Your diving support speedboat was berthed to the port 12 side of the Lamma IV, and your colleague broke two 13 windows, numbered R7 and R6, on the port side upper 14 deck; is that correct? 15 A. Yes. 16 MR BERESFORD: Perhaps we can just have a look at the window 17 plan to remind ourselves of the location of windows R6 18 and R7. And you entered the upper deck at R7; is that 19 right? 20 A. I entered the upper deck through R6. 21 Q. R6. Thank you. And you've told us that at the time of 22 entering the upper deck, the water level was at about 23 mid-window; that is to say, R7 level. Is that right? 24 A. Yes. 25 Q. And you observed some life jackets, backpacks, bags,</p>	<p>1 afternoon? 2 MR BERESFORD: Not at present. I was hoping to find some 3 more over lunch, but -- 4 THE CHAIRMAN: Yes. Can we make enquiries? Obviously the 5 witnesses in prospect are either fellow firemen, or the 6 police officers. Perhaps enquiries can be made of them 7 as to their availability. 8 MR BERESFORD: That's exactly what we're doing. 9 THE CHAIRMAN: Thank you very much. 10 2.30. 11 (12.59 pm) 12 (The luncheon adjournment) 13 (2.30 pm) 14 THE CHAIRMAN: Yes, Mr Beresford. 15 MR BERESFORD: Mr Chairman, there are two more witnesses in 16 the list but I have decided not to call one of them, so 17 that leaves one witness, which is Mr Yung Man-tai. 18 THE CHAIRMAN: So the consequence is that the next witness 19 is? 20 MR BERESFORD: Yung Man-tai, and that's the last witness for 21 the day. 22 THE CHAIRMAN: That's because you've been unable to -- 23 MR BERESFORD: Efforts have been made, Mr Chairman, to fill 24 the time. We've obviously proceeded faster than we 25 anticipated.</p>
Page 62	Page 64
<p>1 false ceilings of the Lamma IV, and other articles found 2 floating over the water surface inside the upper deck, 3 and you said only one passenger seat in row 6 was found 4 in situ. 5 A. Yes. 6 Q. You've also noted that a portion of the staircase 7 handrails at the centre, between the upper deck and main 8 deck, were still left out of the water level, above the 9 sea surface. 10 A. Yes. 11 Q. However, you didn't find any victims at that time? 12 A. Yes. 13 Q. Now, you have then described a number of other divers' 14 dives, and they are coming or have been to give 15 evidence, so I'm going to pass over that in your 16 statement. I'm going to then read the paragraph 17 beginning "After that, Principal Fireman 9080 and 18 I retreated from the upper deck". 19 THE CHAIRMAN: Perhaps we can deal with that after lunch. 20 MR BERESFORD: Certainly, Mr Chairman. 21 THE CHAIRMAN: Officer, we're going to take the lunch break 22 now and we'll resume at 2.30. May I ask you to be back 23 in place so you can continue your evidence at 2.30. 24 Mr Beresford, as to witnesses for this afternoon, 25 will we have sufficient to encompass the whole</p>	<p>1 THE CHAIRMAN: Yes. 2 MR BERESFORD: We allowed a relatively short period of time 3 for each of these divers, but it's gone even more 4 quickly than we thought. There's been no further 5 examination from my learned friends, so it's been a much 6 quicker process than we anticipated. 7 THE CHAIRMAN: Yes. 8 MR BERESFORD: We've made efforts during the morning and 9 over lunch to try and fill the afternoon. I assure you, 10 Mr Chairman, we're trying hard not to waste the 11 Commission's time. But we've been unable to do so. 12 I don't want to call Mr Chan unnecessarily. It seems to 13 me that it's not necessary to call him. So we just deal 14 with Mr Yung Man-tai today, and then I have 15 an application to make. 16 THE CHAIRMAN: Thank you. 17 MR McGOWAN: Mr Chairman, before we get under way with the 18 witness, the documents you asked for from Mr Fok 19 Wing-kei's -- 20 THE CHAIRMAN: Could we deal with that after we have 21 finished the oral evidence? 22 MR McGOWAN: Certainly. 23 THE CHAIRMAN: Officer, in a moment you'll be asked to take 24 the oath or the affirmation, whichever you choose. 25 I beg your pardon, I thought this was another</p>



Page 65

1 witness.  
2 Mr Beresford, remind me who's in the witness box at  
3 the moment.  
4 MR BERESFORD: I was just asking the same question. It  
5 looks to me very much like Mr Ng Wah-sum.  
6 THE CHAIRMAN: That's what I thought as well.  
7 MR BERESFORD: I think Mr Ng's evidence is finished and we  
8 should be moving on to -- I'm so sorry, I'm getting  
9 ahead of myself.  
10 THE CHAIRMAN: Yes. You were about to read, as I remember  
11 now, a passage from his statement and I suggested that  
12 we defer that until after lunch.  
13 MR BERESFORD: Let me just recover my statement,  
14 Mr Chairman. I apologise for that.  
15 That's right, Mr Ng. I was about to read the  
16 crucial paragraph from your statement, beginning "After  
17 that, Principal Fireman 9080 and I retreated from the  
18 upper deck". You had just told us that this was dive  
19 11; is that right?  
20 THE INTERPRETER: I'm sorry, sir, can you repeat the last  
21 sentence?  
22 MR BERESFORD: Dive 11.  
23 A. Yes.  
24 Q. Thank you.  
25 "After that, Principal Fireman 9080 and I retreated

Page 66

1 from the upper deck. Later, we were appointed as divers  
2 and work as a diving team to carry out underwater  
3 searches along the port side to the seabed. Principal  
4 Fireman Chan wore the communication lifeline so that he  
5 could communicate with the top side and I was connected  
6 with Principal Fireman Chan via a buddyline. We left  
7 surface and commenced the dive at about 07:15 hours on  
8 2 October 2012 and reached the seabed at about 07:16.  
9 We found that the seabed was clayey with little current,  
10 the visibility was about 0.5 metre with the depth of  
11 about 12.8 metres. The Lamma IV was vertically stood  
12 onto the seabed with her stern and a portion of the main  
13 deck was also covered by clay. Principal Fireman Chan  
14 was thence report the bottom situations to the top side  
15 and began the underwater search. We began the searching  
16 from the port side of the stern toward the starboard  
17 side over the main deck. At about 07:22 hours, I  
18 located a boy who was lied down onto the seabed with his  
19 face facing upward at about 5 metres away from the  
20 stern. I alerted Principal Fireman Chan via the  
21 buddyline. Principal Fireman Chan was then informed the  
22 top side and we left bottom immediately. On the way [to  
23 the] surface, I noted that the boy was wore short  
24 t-shirt, short trousers, short socks and sports shoes.  
25 After reached surface, we handed over the boy to Senior

Page 67

1 Fireman Chan Hung-lap on DV2. After a while, Principal  
2 Fireman Chan and I restarted the diving work and  
3 completed our diving work at about 07:45 hours with  
4 negative result. After finished the dive we returned to  
5 DV2 to dismantle the diving gear."  
6 Then you go on, Officer, to describe the end of your  
7 duty.  
8 I think I mentioned at the beginning that the boy  
9 was the boy identified with police reference number 16,  
10 Nicholas Belshaw, and that his cause of death was  
11 drowning.  
12 I don't have any supplemental questions.  
13 MR McGOWAN: I have no application, thank you.  
14 MR ZIMMERN: No questions.  
15 MR MOK: No questions.  
16 THE CHAIRMAN: Officer, was this boy whose body was  
17 recovered on the seabed wearing a life jacket or not?  
18 A. No.  
19 THE CHAIRMAN: Thank you.  
20 Thank you for coming to testify to assist the  
21 Commission in its enquiries into this matter. Your  
22 evidence is complete now, and you're free to go. Of  
23 course, you can stay and hear the remaining witness we  
24 have today, if you wish. But let me, on behalf of the  
25 Commission, commend you for your role in the rescue and

Page 68

1 the retrieval of the body that you retrieved that  
2 morning. Thank you.  
3 (The witness withdrew)  
4 THE CHAIRMAN: Yes, Mr Beresford.  
5 MR BERESFORD: The next witness, Mr Chairman, is Yung  
6 Man-tai.  
7 OFFICER YUNG MAN-TAI (affirmed in Puntì)  
8 (All answers via interpreter unless otherwise indicated)  
9 Examination by MR BERESFORD  
10 MR BERESFORD: Officer, thank you very much for coming this  
11 afternoon to help with this Inquiry. I have some  
12 questions to ask you on behalf of the Commission.  
13 You've previously made a statement to the Director  
14 of Fire Services on 14 October 2012, and there's a copy  
15 of that statement in our FSD bundle 2 at pages 331  
16 to 333.  
17 Could the witness please be shown a copy of his  
18 statement. The translation is at pages 333-1 to 333-2.  
19 Do you recognise this as your statement?  
20 A. Yes.  
21 Q. And have you been given an opportunity to review it  
22 today?  
23 A. Yes.  
24 Q. Is there any amendment that you would wish to make?  
25 A. No.

<p style="text-align: right;">Page 69</p> <p>1 Q. Are the contents of this statement true? 2 A. Yes. 3 Q. Thank you. Your dive concerned the recovery of two of 4 the deceased, which bear police reference numbers 6 5 and 23, we believe. The reference number 6 refers to 6 Mr Koo Man-cheung, a male aged 25. And 23 refers to 7 Madam Chiu Siu-king, a female aged 53. 8 Does that accord with your understanding, Officer? 9 A. Yes. 10 MR BERESFORD: Thank you. 11 Mr Chairman, a point of information on the autopsy 12 reports. They both state the cause of death to be 13 drowning. 14 THE CHAIRMAN: Thank you. 15 MR BERESFORD: In the case of Koo Man-cheung, there are some 16 remarks at bundle J(I), tab 6, page 1634-1. 17 The relevant ones are in numbered paragraph 2 at the 18 bottom of page 1634-2. 19 THE CHAIRMAN: Yes. Would you read that out, please. 20 MR BERESFORD: "There was evidence of extensive blunt impact 21 trauma to the body with extensive areas of bruises and 22 abrasions on face, neck, trunk and limbs. These 23 injuries could have been caused by impacts against hard 24 objects or surfaces. The presence of brain swelling and 25 oedema on internal examination, as well as microscopic</p>	<p style="text-align: right;">Page 71</p> <p>1 Q. I know you were instructed to, and did, search the three 2 rooms of the underdeck, including the storeroom, engine 3 room and water-tank room, but I'm going to pass over 4 that part of your statement. 5 You've also told us that between 13:45 hours and 6 15:45 hours, the diving was suspended due to -- well, 7 from 13:45 hours, I should say, to be accurate, the 8 diving works were temporarily suspended while the 9 dumpsteel lighter lifted up the Lamma IV. And at about 10 15:35 hours, the dumpsteel lighter began to lift up 11 Lamma IV. 12 Now, I'm going to read from your statement: 13 "At about 15:45 hours and during the lifting 14 process, the seaman at the dumpsteel lighter saw a 15 victim at the upper deck and yelled towards us. NSC 16 diving tender crews embarked to DV2 immediately and 17 approached Lamma IV, until they were about 30 metres 18 away from Lamma IV. Fireman Chan Ka-chun, Fireman Tsang 19 Wai-kwan and I jumped into the water and swam to 20 Lamma IV. When I touched the victim, I discovered she 21 was a female, about 40 years old [wearing] grey t-shirt, 22 jeans and with no shoes and no safety vest. Her body 23 was rigid. She was in the canopy on the upper deck with 24 her body clasped in the canopy and both her feet wound 25 by the ropes of 2 lifebuoys. Fireman Chan and Fireman</p>
<p style="text-align: right;">Page 70</p> <p>1 cerebral contusion on histological examination, 2 suggested that the impact to the head could have 3 impaired the conscious level of the deceased, and 4 possibly rendering him less capable of rescuing himself. 5 Multiple lacerations on lower back of right arm and 6 upper back of right forearm could have been caused by 7 sharp objects such as broken glass fragments or jagged 8 surfaces of rocks." 9 THE CHAIRMAN: Thank you. 10 MR BERESFORD: Officer, on 2 October 2012, you were on duty 11 on the NSC diving tender, and the officer-in-charge was 12 Station Officer Tam Kwok-hung; is that correct? 13 A. Yes. 14 Q. At about 09:43 hours, your diving tender was turned out 15 to special service at sea about half a mile west of Shek 16 Kok Tsui, Lamma Island; is that right? 17 A. Yes. 18 Q. You've told us that upon arrival at the address, you saw 19 Lamma IV was being stabilised by the steel wire of 20 a dumpsteel lighter. 21 A. Yes. 22 Q. And Lamma IV was in an upright position, and the hull 23 made an angle with the sea of about 45 degrees; there 24 was about one-third of Lamma IV out of the sea. 25 A. Yes.</p>	<p style="text-align: right;">Page 72</p> <p>1 Tsang unwound the ropes and I helped to remove her body 2 from the canopy. After that Fireman Chan and I removed 3 the female victim to DV2 and thence to Fireboat 7 and 4 eventually certified death by the ambulance onboard 5 Fireboat 7. At about 16:40 hours, the dumpsteel lighter 6 had finished the lifted up work. At about 17:00 hours, 7 Fireman Cheung Yat-wing and I were instructed to carry 8 out searching work inside Lamma IV. We entered Lamma IV 9 from the stern of the main deck. Once we entered the 10 main deck, we discovered there was a male victim at the 11 port side near the refrigerator ..." 12 You said "position X", and I'll come back to that in 13 a moment. 14 "He was in a head-down position with his body laid 15 to the refrigerator at about 45 degrees. He [wore a] 16 Polo shirt, khaki trousers but no safety vest was noted. 17 Fireman Cheung and I lifted the male victim to the stern 18 and passed to DV2. At about 17:15 hours, Lamma IV began 19 to [be towed] away, DV2 had locked the GPS and left 20 a marker buoy to the incident address. At about 21 17:45 hours, all the diving works were temporarily 22 suspended and Lamma IV was being towed away." 23 Could we please have a look at the chart in 24 FS bundle 3 at page 660. 25 Can you confirm, Officer, that this is the position</p>

<p style="text-align: right;">Page 73</p> <p>1 in which you found the deceased 23? 2 A. Yes, correct. 3 Q. That's Ms Chiu Siu-king. 4 Then on the next page, page 661, there's 5 a diagrammatical representation of where you discovered 6 deceased 6. Is that accurate? 7 A. Yes, correct. 8 Q. Thank you. 9 THE CHAIRMAN: Do we have a photograph that shows the 10 refrigerator in this main deck that the witness has 11 referred to? 12 MR BERESFORD: I don't recall seeing one, Mr Chairman. 13 We'll have a look. 14 Officer, while searches are being made amongst the 15 photographs to see if there's a picture, can you tell 16 me, was there any clue that you saw why the male victim 17 was stuck in the position where he was, why he had not 18 been able to escape? 19 A. When I discovered him, he was being trapped by some 20 articles and wooden planks near the air-conditioner at 21 the stern of the vessel. I believe that when the vessel 22 came to a vertical position, he fell down and was 23 trapped by the articles. 24 MR MOK: Mr Chairman, in the Chinese statement it is 25 actually "air-conditioner", rather than "refrigerator".</p>	<p style="text-align: right;">Page 75</p> <p>1 rear of the main cabin is obscured by falling ceilings. 2 The same as in the next photograph, pages 146, 147 3 and 148. Possibly page 149. 4 Officer, can we see the air-conditioning unit at 5 page 149? 6 A. Yes. 7 THE CHAIRMAN: Can you describe to us where we see it? 8 THE INTERPRETER: The witness is pointing at the right-hand 9 side of the photo. 10 THE CHAIRMAN: We see a doorway at the bottom of the 11 photograph with a man outside wearing a life jacket. 12 Where is it in relation to that? 13 A. It is located at the right-hand side of this man. 14 THE CHAIRMAN: Thank you. 15 MR BERESFORD: Then we have another picture, slightly less 16 obscured, at page 275. It doesn't really show any more, 17 I'm afraid. 18 Unless there's anything else, Mr Chairman. 19 THE CHAIRMAN: Thank you. 20 MR BERESFORD: Please wait there. 21 MR McGOWAN: I have no application. 22 MR ZIMMERN: I have no questions. 23 MR MOK: I have no questions. 24 THE CHAIRMAN: Thank you, Officer, for attending to assist 25 the Commission in its enquiries by giving evidence, but</p>
<p style="text-align: right;">Page 74</p> <p>1 THE CHAIRMAN: Thank you for that. 2 MR BERESFORD: I'm grateful to my learned friend, and in 3 fact that's how it came across in the interpretation 4 just now. 5 THE CHAIRMAN: Yes. 6 MR BERESFORD: Is it the case that the air-conditioner was 7 at the rear of the main cabin? 8 A. Yes, it is located at the rear part of the main deck. 9 THE CHAIRMAN: Can you help us any more as to the articles 10 by which he was trapped? 11 A. After the ship was lifted up, I went inside the cabin 12 and approached the rear part of the vessel and I went to 13 the door and saw something like hair near my feet. So 14 I looked towards the air-conditioner, and I found -- and 15 I lifted up some large wooden planks and plastic sheets 16 and I found that there was a body lying between the 17 wooden planks and the air-conditioner, and I had to use 18 a lot of force, a lot of strength, to lift up the wooden 19 plank in order to retrieve the body. 20 THE CHAIRMAN: Thank you. 21 MR BERESFORD: Could we please have a look at the photograph 22 in the police bundle at page 145. 23 Mr Chairman, I show this only to show the 24 difficulties in finding an appropriate photograph, 25 because it can be seen from this that the whole of the</p>	<p style="text-align: right;">Page 76</p> <p>1 your evidence is now complete and you're free to leave. 2 But before you do so, let me commend you for your 3 efforts in assisting the search for the recovery of the 4 bodies of the deceased. 5 (The witness withdrew) 6 MR BERESFORD: Mr Chairman, that concludes the taking of 7 evidence for the day. 8 Mr Chairman, the Commission has received a letter 9 from solicitors acting for a witness who has been 10 summonsed, a passenger witness on one of the vessels. 11 He is in the process of making a claim for protection 12 under article 3 of the Convention against Torture and 13 Other Cruel, Inhuman or Degrading Treatment or 14 Punishment, which prohibits a state, in this case Hong 15 Kong, from returning a person to a place where they may 16 face torture. 17 It's currently being processed and he is concerned, 18 and he has applied to appear in camera before the 19 Commission. But he's concerned that his identity may be 20 compromised in the course of the Inquiry, and that he 21 and his family may face increased risk of torture should 22 he be removed from Hong Kong, if he's named, 23 photographed or otherwise identified during the course 24 of the Inquiry. 25 THE CHAIRMAN: That is to say, his concerns are if he's</p>

<p style="text-align: right;">Page 77</p> <p>1 repatriated from whence he came, where he fears torture? 2 MR BERESFORD: Yes. And they therefore ask that his 3 identity be protected as the Commission sees fit, in 4 order to allow his participation in the Inquiry without 5 jeopardising his safety. 6 In an application of this nature, the English rules 7 identify some factors which the Commission may take into 8 account in considering whether to take evidence 9 in camera or make anonymity orders. The are discussed 10 in a chapter in Beer on Public Inquiries, but in 11 summary -- I'll summarise them in a moment. 12 THE CHAIRMAN: Give me the reference to Beer. 13 MR BERESFORD: Yes. It's chapter 6, and in particular from 14 paragraph 6.92. 15 THE CHAIRMAN: Do you have copies of the relevant passage? 16 MR BERESFORD: No, I don't have copies with me. Perhaps 17 copies of paragraph 6.92 to the end could be made now. 18 In my submission, it would also be legitimate to 19 have regard, by analogy, to the grounds for excluding 20 the public, mentioned in article 10 of the Hong Kong 21 Bill of Rights, and article 14 of the International 22 Covenant, under which it would be justifiable to exclude 23 the public from part of a trial where the interests of 24 the private lives of the parties so requires. If it's 25 justifiable there, a fortiori it would be justifiable in</p>	<p style="text-align: right;">Page 79</p> <p>1 of the Bill of Rights is twofold. Firstly, viewed 2 objectively, would a risk to the applicant's life be 3 created or materially increased if he gave evidence 4 without anonymity? And secondly, does that increased 5 risk amount to a real and immediate risk to life? This 6 is a high threshold, and the application does not appear 7 to be advanced on this basis. 8 The common law test is based on the tribunal's 9 common law duty of fairness, and it seems clear that 10 subjective fears can be taken account of. The basis is 11 set out in Beer at paragraph 6.104, and this does appear 12 to be one possible basis for the application. 13 The article 14 basis is discussed in Beer at 14 paragraph 6.110 forwards, and this is another possible 15 basis for the application. This shows that reporting 16 restrictions must be balanced against rights of freedom 17 to expression under article 16 of the Bill of Rights. 18 Ground 4 is not alleged in this case. But there are 19 a list of factors to be balanced, set out in Beer at 20 paragraph 6.119 to which I draw attention. 21 In my submission, given that the Commission will in 22 any event know the identity of the witness, and that the 23 granting of anonymity does not contravene the principle 24 that proceedings should be conducted in public, there 25 does not seem to me to be -- Mr Chairman is looking</p>
<p style="text-align: right;">Page 78</p> <p>1 a public inquiry. 2 Beer identifies four bases on which orders granting 3 protective measures may properly be made, and translated 4 into Hong Kong terms, they are: (1) that such an order 5 is required as a matter of law pursuant to article 2 of 6 the Hong Kong Bill of Rights, the right to life, because 7 a risk to the applicant's life would be created or 8 materially increased if he gave evidence without 9 anonymity and screening, and that is, I shall call, the 10 article 2 basis; (2) that such an order is required as 11 a matter of law at common law because the applicant 12 fears that he may be put at risk by the revelation of 13 his identity, and those fears are based on reasonable 14 grounds, the common law basis; (3) that such an order is 15 required as a matter of law pursuant to article 14 of 16 the Bill of Rights, that's the protection of privacy 17 et cetera, because disclosure of the identity of 18 an applicant would amount to an unjustified interference 19 with his personal and professional life, that is the 20 article 14 basis; and (4) because such an order is 21 necessary in the public interest because the refusal of 22 the protective measure would erode the ability of the 23 applicant to perform his or her in job in the future, 24 and that's the public interest basis. 25 As will be shown in Beer, the test under article 2</p>	<p style="text-align: right;">Page 80</p> <p>1 puzzled by this submission. 2 THE CHAIRMAN: Yes, because the request is that it should be 3 heard in camera. So that's the antithesis of "in 4 public". But are you addressing the sub-issue of 5 anonymity? 6 MR BERESFORD: Yes, I am. I'm addressing the sub-issue of 7 anonymity. 8 There would not seem to me to be a strong case 9 against taking the witness's evidence, with protective 10 measures. 11 THE CHAIRMAN: By that you mean that his evidence could be 12 taken in the same way that the Commission determined to 13 receive the evidence of the police officers? 14 MR BERESFORD: Yes. So behind a screen, with orders for the 15 exclusion of the public while he comes in and out of 16 court. 17 THE CHAIRMAN: Yes, but they would be present whilst he 18 testified? 19 MR BERESFORD: And a reporting restriction on his identity. 20 THE CHAIRMAN: Very well. Is it that that you're submitting 21 is appropriate in this case? 22 MR BERESFORD: It is, Mr Chairman, and I submit that if the 23 press are restricted from reporting his name, for 24 example if they refer to him as "A", then that should be 25 sufficient to satisfy him and protect the press's rights</p>

Page 81	Page 83
<p>1 to report his evidence.</p> <p>2 THE CHAIRMAN: Where is the power in the Commission to order</p> <p>3 the press not to report his name?</p> <p>4 MR BERESFORD: Under the Commissions of Inquiry Ordinance,</p> <p>5 section 4(1)(i):</p> <p>6 "The Commission may, for the purpose of complying</p> <p>7 with the directions issued under section 3 [that is, by</p> <p>8 the Chief Executive] and for conducting the inquiry</p> <p>9 generally:</p> <p>10 (i) hold in camera, or exclude any person (including</p> <p>11 any person implicated or concerned therein and his legal</p> <p>12 representatives) from, the whole or any part of the</p> <p>13 inquiry ..."</p> <p>14 And then there's an immaterial proviso.</p> <p>15 Under (j) it has the power to "prohibit the</p> <p>16 publication to or disclosure by any person attending</p> <p>17 before the Commission of all or part of the material</p> <p>18 received by the Commission".</p> <p>19 THE CHAIRMAN: But the Commission will have not publicly</p> <p>20 received his name, will they?</p> <p>21 MR BERESFORD: The Commission will know his name.</p> <p>22 I'm grateful. My attention has also been drawn to</p> <p>23 subparagraph (b), which permits the Commission to</p> <p>24 "determine the manner in which such material shall be</p> <p>25 received and what persons or class of persons shall be</p>	<p>1 of censorship. But one would hope that measures could</p> <p>2 be put in place to ensure that the identity of</p> <p>3 anonymised witnesses was simply not disclosed.</p> <p>4 THE CHAIRMAN: Yes.</p> <p>5 MR BERESFORD: If any irresponsible person were to find out</p> <p>6 by other means and make a publication, then they may</p> <p>7 face proceedings for contempt.</p> <p>8 THE CHAIRMAN: Yes. Thank you.</p> <p>9 Do any of the counsel representing the involved</p> <p>10 parties have any submissions to make on the issue?</p> <p>11 MR McGOWAN: No.</p> <p>12 MR ZIMMERN: No.</p> <p>13 THE CHAIRMAN: Thank you.</p> <p>14 Mr McGowan, you had something you wished to address</p> <p>15 the Commission on?</p> <p>16 MR McGOWAN: Yes. Mr Chairman, that's correct.</p> <p>17 I was just informing the Commission on the record</p> <p>18 that Mr Fok Wing-kei, you'll remember the organiser of</p> <p>19 the --</p> <p>20 THE CHAIRMAN: He's provided his file?</p> <p>21 MR McGOWAN: He's provided his file, yes. Some are in</p> <p>22 Chinese and some are in English. And they're with your</p> <p>23 solicitors.</p> <p>24 THE CHAIRMAN: Thank you.</p> <p>25 Have you had an opportunity to peruse the material,</p>
Page 82	Page 84
<p>1 permitted or required to give evidence".</p> <p>2 THE CHAIRMAN: The narrow issue is, what power is there to</p> <p>3 order the press in Hong Kong not to report someone's</p> <p>4 name?</p> <p>5 MR BERESFORD: Well, Mr Chairman, in my submission you have</p> <p>6 the power to accept evidence in camera under (1)(i).</p> <p>7 THE CHAIRMAN: But you're not inviting us to do that?</p> <p>8 MR BERESFORD: I'm inviting you to accept his name</p> <p>9 in camera. And you also have the power to exclude any</p> <p>10 person from the whole or any part of the Inquiry, and</p> <p>11 I would submit that that includes a power to admit</p> <p>12 persons to the Inquiry on conditions.</p> <p>13 Mr Chairman, it's implied, in my submission, because</p> <p>14 the --</p> <p>15 THE CHAIRMAN: What I have in mind is if the press were</p> <p>16 minded to establish this person's identity by some other</p> <p>17 route, what power does this Commission have to prevent</p> <p>18 them from publishing that name? There are powers that</p> <p>19 we can deploy here, yes. But there are no powers of</p> <p>20 censorship.</p> <p>21 MR BERESFORD: Oh, no.</p> <p>22 It's pointed out to me that the same question arises</p> <p>23 in relation to the police officers.</p> <p>24 THE CHAIRMAN: Yes.</p> <p>25 MR BERESFORD: Mr Chairman, no, of course there's no power</p>	<p>1 Mr Beresford?</p> <p>2 MR BERESFORD: No, I haven't, although I gather it's not</p> <p>3 very extensive.</p> <p>4 MR McGOWAN: I understand, sir, it is more a working folder</p> <p>5 than a file into which he puts things he thinks are</p> <p>6 going to be useful in the future, possibly for use</p> <p>7 again.</p> <p>8 THE CHAIRMAN: In view of the fact that the textbook to</p> <p>9 which you refer has only just been provided,</p> <p>10 Mr Beresford, and in order to consider the matter, we</p> <p>11 propose retiring to do so and we'll resume at 3.45.</p> <p>12 Thank you.</p> <p>13 (3.17 pm)</p> <p>14 (A short break)</p> <p>15 (3.47 pm)</p> <p>16 Ruling</p> <p>17 THE CHAIRMAN: This is our ruling.</p> <p>18 The Commission declines to hear the evidence of the</p> <p>19 prospective witness in camera. These are public</p> <p>20 hearings, and there is no case made out why they should</p> <p>21 not be conducted in public. On the other hand, there</p> <p>22 appears to be a case made out in respect of the</p> <p>23 witness's subjective concerns as to his safety or</p> <p>24 welfare if his applications in Hong Kong fail and he is</p> <p>25 returned from whence he came, wherever that is, where he</p>

<p style="text-align: right;">Page 85</p> <p>1 fears torture or maltreatment in consequence of his 2 claims in Hong Kong. There is no evidence whatsoever to 3 support a finding on an objective basis. 4 There is no compelling need to identify the witness 5 in public. What is relevant is that he was a passenger 6 on the Sea Smooth and apparently a witness to the 7 collision. That is the nub of the matter. 8 We are satisfied that it is appropriate to receive 9 his evidence in the same way in which we will receive 10 the evidence of the three police officers in respect of 11 whom we acceded to applications that their identity, in 12 particular their name and rank, not be disclosed in 13 public, and that they give evidence behind screens, 14 obscuring them from the public but not from counsel or 15 the Commission. 16 All of these witnesses will be required to write out 17 their respective names on a piece of paper which will be 18 placed by the Commission in sealed envelopes marked "Not 19 to be opened without the leave of the Commission or 20 order of a court". 21 Pursuant to section 4(1)(j) of the Commissions of 22 Inquiry Ordinance, we order that the information written 23 out by those respective witnesses not be published or 24 disclosed by anyone attending these proceedings. 25 Now, Mr Beresford, as to where we are for tomorrow</p>	<p style="text-align: right;">Page 87</p> <p>1 witnesses, if I can call them that? 2 MR BERESFORD: The next phase is the Marine Department 3 surveyors, which are number 5, and we're in the process 4 of giving them notice to attend on Friday so as to bring 5 that evidence forward and so as not to waste any time. 6 THE CHAIRMAN: Yes. 7 Mr Mok, is there any difficulty with expediting the 8 hearing of that evidence? I'm aware of correspondence 9 from those instructing you and the solicitors to the 10 Commission in respect of requests that were made for 11 assistance in relation to marine surveyors and the 12 documentation that they looked at. 13 MR MOK: There may be some difficulty if those witnesses 14 were to be moved to Friday, for a number of reasons. 15 One is that I think the Marine Department is in the 16 course of compiling a statement to address those 17 matters, which would include speaking to some of 18 those -- 19 THE CHAIRMAN: I follow that, but I think we're moving 20 faster than that will permit, and our response is 21 this -- I can deal with it now, because it's simpler -- 22 MR MOK: Yes. 23 THE CHAIRMAN: -- and we have asked that the material as is 24 available is provided, and that which is being collated 25 is provided later. But we're going to move into</p>
<p style="text-align: right;">Page 86</p> <p>1 and Friday? 2 MR BERESFORD: Tomorrow we have more divers listed, and we 3 will try and move forward some from Friday in order -- 4 THE CHAIRMAN: Well, at the speed we're moving with those 5 involved in the attempted rescues -- I think that we're 6 now at the stage of dealing with witnesses dealing 7 perhaps more with retrieval of bodies -- it's clear that 8 that is moving at some speed. 9 MR BERESFORD: It's quite likely that we'll finish them all 10 tomorrow. 11 THE CHAIRMAN: So that we can move Friday's witnesses into 12 tomorrow? 13 MR BERESFORD: Yes. 14 THE CHAIRMAN: How many witnesses will that leave us to deal 15 with? 16 MR BERESFORD: I understand there may be difficulties in 17 moving Friday's witnesses into tomorrow, but -- 18 THE CHAIRMAN: Why is that? 19 MR BERESFORD: Those instructing me are liaising with the 20 DoJ to try and ensure their attendance. 21 THE CHAIRMAN: What are the difficulties? 22 MR BERESFORD: I understand they've been deployed to 23 discharge other duties, but I can't give more detail 24 than that. 25 THE CHAIRMAN: Yes. What then lies after the rescue</p>	<p style="text-align: right;">Page 88</p> <p>1 receiving their evidence, I think, on Friday. 2 MR MOK: The witnesses? 3 THE CHAIRMAN: Yes. 4 MR MOK: Yes, if that is your inclination. 5 THE CHAIRMAN: It may be that that is not the best, 6 apple-pie way of dealing with it but we are moving 7 relatively quickly and this is material that we must 8 gather as soon as we can. It's relevant, as you'll 9 appreciate, to the expert evidence that lies in the 10 future. 11 MR MOK: Yes, it is. Yes. 12 THE CHAIRMAN: And it may be that it will take a little bit 13 longer dealing with witnesses orally than dealing with 14 it by a witness statement. But so be it. 15 MR MOK: Yes. I mean, if it is possible for that evidence 16 to be delayed until Monday, that would be -- 17 THE CHAIRMAN: I don't think it's going to be. 18 MR MOK: -- much better. 19 THE CHAIRMAN: I see what you're saying, but I don't think 20 that's going to be possible. I'm just alerting you to 21 that fact. The Commission is under time limits imposed 22 by others, and in our turn we apply them to others. 23 MR MOK: Yes, of course. Thank you. 24 MR BERESFORD: Mr Chairman, there's also the witness Francis 25 Cheng who has not yet had a time fixed.</p>

Page 89	Page 91
<p>1 THE CHAIRMAN: This is a witness volunteered by those 2 representing Hongkong Electric? 3 MR BERESFORD: That's correct, and he is the general manager 4 of the generation department. I understand he is a busy 5 man, but perhaps if he could find it possible to come 6 tomorrow, then -- 7 THE CHAIRMAN: Well, no doubt you can make those enquiries. 8 MR BERESFORD: -- that might assist the Commission to 9 a considerable degree. 10 THE CHAIRMAN: Yes. Obviously we try to accommodate 11 witnesses as best we can. 12 MR BERESFORD: Of course. We've been trying to do that on 13 our side. 14 MR McGOWAN: Yes. We will obviously take instructions, 15 Mr Chairman. Our understanding was that he was likely 16 to be called on Monday. 17 THE CHAIRMAN: Yes. Things are changing, Mr McGowan. 18 MR McGOWAN: I do appreciate that. 19 THE CHAIRMAN: This is not written in stone. I'm trying to 20 get that message across. 21 MR McGOWAN: Yes. 22 THE CHAIRMAN: Everyone must be flexible. 23 MR McGOWAN: Yes, indeed. We understand that, sir. 24 THE CHAIRMAN: Thank you. Are there any other matters we 25 can deal with at this stage?</p>	<p>1 I N D E X 2 OFFICER YUEN KA-WAI (affirmed in Punti) .....5 3 Examination by MR BERESFORD .....5 4 Examination by MR MOK .....11 5 (The witness withdrew) .....12 6 OFFICER LAM YIM-LUNG (affirmed in Punti) .....12 7 Examination by MR BERESFORD .....12 8 (The witness withdrew) .....21 9 OFFICER CHAN MAN-FAI (affirmed in Punti) .....21 10 Examination by MR BERESFORD .....21 11 Examination by MR McGOWAN .....30 12 Examination by MR MOK .....31 13 (The witness withdrew) .....32 14 OFFICER LIU WAI-MING (affirmed in Punti) .....32 15 Examination by MR BERESFORD .....32 16 (The witness withdrew) .....41 17 OFFICER CHAN TING-FAI (affirmed in Punti) .....42 18 Examination by MR BERESFORD .....42 19 Examination by MR McGOWAN .....46 20 (The witness withdrew) .....47 21 OFFICER LEUNG KIN-KIE (affirmed in Punti) .....47 22 Examination by MR BERESFORD .....47 23 (The witness withdrew) .....53 24 25</p>
Page 90	Page 92
<p>1 MR BERESFORD: I don't believe so, Mr Chairman. 2 THE CHAIRMAN: Are we then to receive the police officers 3 first tomorrow? 4 MR BERESFORD: Yes. 5 THE CHAIRMAN: In which case I can deal with how we will 6 proceed, now. 7 I'd ask that there be a notice posted on the door 8 and downstairs that the hearing room will not be open 9 until 10 o'clock. The Commission will sit first to 10 permit the witnesses, the witness in the first place, to 11 come into the hearing room and be positioned behind the 12 screens. Once that is done, counsel, solicitors and 13 members of the public will be admitted, and I think the 14 only way to do it will be through that door, the main 15 public door. When that witness's evidence has come to 16 an end, the public and counsel and solicitors will be 17 asked to withdraw and the witness will then leave the 18 room, and the next witness will come in. Is that clear? 19 So, 10 o'clock tomorrow is when the main public 20 doors will be opened. 21 Thank you. 22 (3.56 pm) 23 (The hearing adjourned until 10 am on the following day) 24 25</p>	<p>1 I N D E X 2 OFFICER YUEN KIN-PUN (affirmed in Punti) .....53 3 Examination by MR BERESFORD .....53 4 Examination by MR MOK .....57 5 (The witness withdrew) .....59 6 OFFICER NG WAH-SUM (sworn in Punti) .....59 7 Examination by MR BERESFORD .....59 8 (The witness withdrew) .....68 9 OFFICER YUNG MAN-TAI (affirmed in Punti) .....68 10 Examination by MR BERESFORD .....68 11 (The witness withdrew) .....76 12 Ruling .....84 13 14 15 16 17 18 19 20 21 22 23 24 25</p>