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SPECIAL INQUIRY

THE HONOURABLE ACTING JUSTICE ROBERT ALLAN HULME

5 FOURTH DAY: TUESDAY 26 MARCH 2024

INQUIRY INTO THE CONVICTIONS OF THE CROATIAN SIX

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HIS HONOUR: Are we ready for Mr Marheine to resume?

MCDONALD: Your Honour, just some administration.

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MELIS: Your Honour, there are just some Tender Bundle updates this morning. There are two further pages from Volume 2 of the Royal Commission into the New South Wales Police Service Final Report, the Wood Royal Commission, which appear at red paginated pages 111-117A, and 111-117B. To be clear on the record, it's 111-117A, to 111-117B of

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Exhibit 13.13(b). There is also three additional pages of the Parramatta Gaol records which appear at red paginated pages 78-1 and 89-1 to 89-3 of Exhibit 12.6. I tender those pages, your Honour.

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HIS HONOUR: Those two items will be added to the Tender Bundle identified as said, and I take it that's appropriate that the pages from the Parramatta Gaol visitor record should be also the subject of the non-publication order that applies to the bulk of those pages.

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MELIS: Indeed, your Honour. May it please the Court.

EXHIBIT #13.13(B) SUPPLEMENTED BY THE ADDITION OF RED PAGES 111-117A TO 111-117B, ADMITTED WITHOUT OBJECTION

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EXHIBIT #12.6 SUPPLEMENTED BY THE ADDITION OF RED PAGES 78-1 AND 89-1 TO 89-3, ADMITTED WITHOUT OBJECTION

MCDONALD: We can recall Mr Marheine.

<JOHN WILLIAM MARHEINE, ON FORMER OATH(10.04AM)

<EXAMINATION BY MS MCDONALD

5 Q. Mr Marheine, I wanted to revisit a couple of aspects of your evidence yesterday afternoon. The first aspect was the evidence you gave about being contacted by the Canberra police with a request to interview Mr Virkez.
A. That's correct.

10 Q. You gave evidence that it was something about a statue being blown up at a church in Canberra.
A. That is correct.

15 Q. Your Honour, could the witness be shown Exhibit 14.1?

EXHIBIT 14.1 SHOWN TO WITNESS

20 Q. Mr Marheine, I'm not suggesting you've seen this document before, but can you see it's a Commonwealth Police training centre document, and if you go to the next page, page 2, it refers to "Croatian National Separatism, the Australian Experience"?
A. That's correct.

25 Q. Would you go through, and if you use the red numbers down the bottom, to page 74, please. Actually, I should go back. Could we first go to page 67? Sorry about that. Have you got page 67?
A. Yes.

30 Q. Can you see at the top, this is annexure A, and it's entitled "Chronological list of Significant Incident of Violence within the Yugoslav Community in Australia" during those years?
A. Yes.

35 Q. Now would you go through to page 74, please. Have you got that page?
A. I have.

40 Q. If you go down the page, the second entry from the bottom, there's a reference to the date is 24 December 1977.
A. Yes.

45 Q. You've got "At or about 0220 hours and explosive device believed to consist of gelignite was detonated on the statue of General Draza Mihailovic in the grounds of St Sava's Free Serbian Orthodox Church, Forrest, ACT", and then this is the third occasion on which the statue has been bombed.
A. That's correct.

50 Q. Reading that reference to December 1977, a statue of a general with an explosive device being detonated on that statue in a church in the ACT; does that refresh your memory about any details you were given by the ACT police about this explosion, and what they wanted you to interview Mr Virkez about?

A. No, it does not. There was nothing in the actual file which indicated where it was, or when it was, other than information had been received that he may have been involved in the explosion of a statue in a church, which I take to be right in Canberra.

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Q. So no details about what type of church?

A. No.

Q. No details about the identity of the statue that was blown up?

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A. No. There was nothing.

MCDONALD: That can be returned.

HIS HONOUR: While it's being returned, the transcription people mightn't have the name of the general. Draza, D-R-A-Z-A, Mihailovic, M-I-H-A-I-L-O-V-I-C.

15

MCDONALD

20

Q. Yesterday we were asking you questions about the first Record of Interview that you held with Mr Virkez.

A. Yes.

Q. If the witness could be shown Exhibit 4.2-8, please.

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EXHIBIT 4.2-8 SHOWN TO WITNESS

Q. If you have a look at the five pages.

A. Yes.

30

Q. Do you recognise that as the transcript of the Record of Interview that you conducted with Vico Virkez on 8 February 1979, commencing at about 5 minutes past 9 at night?

A. That is correct.

35

Q. You had Detective Senior Constable Ingram present in the room?

A. I did.

Q. But you were the one who typed the questions and typed the answers?

40

A. That's correct.

Q. Was that your usual practice when you were conducting a record of interview?

A. Yes.

45

Q. When you completed the interview, what was your procedure in getting the interviewee to either confirm that the contents were correct, or to adopt the answers that the interviewee gave?

A. I would ask them a question. If they could read, and if they could I would ask them if they would read the record of interview out aloud, and I would also

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advise them that if they couldn't read it, I would get someone to read it to them.

Q. What did you do with Mr Virkez?

5 A. Well, he - I asked him if he could read, and he said yes, and so he read it out aloud.

Q. After you conducted this Record of Interview, any of the information you obtained from Mr Virkez in that interview; did you tell anybody, any other officers, about it?

10 A. Well, I didn't actually tell anyone initially about it. I did have - contact this Detective Sergeant Pringle, and he came in and spoke to Mr Virkez, and also signed the Record of Interview.

Q. After Sergeant Pringle had come in and done that, I think you've got the interview concluded at about 20 minutes past 10.

15

A. That's correct.

Q. After that time, did you have any conversation with any of the other officers who'd come down from Sydney, about anything that Mr Virkez had told you during the Record of Interview?

20

A. I would have spoken initially, I would think, to Detective Sergeant McDonald, and I know that the next morning I did speak to Detective Sergeant Turner, but I don't know that I spoke to anyone else.

Q. Yesterday you gave evidence that Detective Sergeant McDonald, after he'd arrived at the Lithgow Police Station was the officer-in-charge of the raid that night.

25

A. That's correct.

Q. Where did Detective Sergeant Turner fit in?

30

A. Well, it was decided that he and Detective Milroy would interview the man Bebic.

Q. When you say, "it was decided that they would interview Mr Bebic", who decided that?

35

A. We all did. Well, I won't say we all did, but Detective Sergeant McDonald, Turner and myself decided that I would interview Virkez, and that Sergeant Turner would interview Bebic.

Q. When was that decided? When did you have this discussion with the three of you?

40

A. I would think it would be prior to the raid, because immediately after the raid, Sergeant McDonald told me to take Virkez away, and I took him back to the police station, but I - I'm not really sure now.

45

Q. I know it was a very long time ago, but you've interviewed Mr Virkez at the station, and according to the transcript, it concluded at - I think it was about 10 o'clock.

A. 10--

50

Q. Let me just confirm that. 10.20.

A. That is correct.

5 Q. You gave evidence that you thought you had a discussion with Detective Sergeant McDonald after the interview had finished?

A. Yes.

10 Q. Can you recall how long were you still at the station before calling it a day and going home?

A. I can't really recall that now.

15 Q. While you were still at the station, do you recall the officers bringing Mr Bebic back to the station?

15 A. I can't recall them bringing him back, but I do recall them taking him into one of the offices at the station.

20 Q. When you say, "one of the offices at the police station", was this an office where usually interviews were conducted?

20 A. Not normally, but the police station was virtually vacant that night, and they just took them into one of the rooms there.

25 Q. Your usual office, was it part of an area for detectives?

25 A. No. It was a - an office at the back of the police station, adjacent to the car park, and near the back entrance to the police station.

30 Q. Was it your office alone?

A. No. There were three detectives there. Myself and two others.

35 Q. Was Detective Senior Constable Ingram usually in that office?

35 A. Well, in the next room at that office. I had my own small room, and then there was a larger room where the other two detectives were.

40 Q. To use a modern description, that area was kind of open plan?

40 A. Yes.

45 Q. Detective Senior Constable Ingram had a desk in that second room, open plan area?

A. That is correct.

50 Q. Did you see him in that area that night of 8 February?

50 A. Well, we both had to walk through that - no, I'm sorry. No. Because that night the other detectives from Sydney had been using my office and that adjacent room, and when we went back to the police station, we used one of the other offices just off the main office.

55 Q. When you say, "We used another office", that's you and Detective Senior Constable Ingram?

A. That is correct.

60 Q. The office where Mr Bebic was taken to be interviewed, where was it

located - when you were in that other office that you used that night, where was the interview room for Mr Bebic?

A. Probably the second office away from where I was.

5 Q. This second area where you and Detective Senior Constable Ingram went on the night, because the Sydney detectives took over your offices--

A. Yes.

Q. --was it, again, an open plan, or individual offices?

10 A. No. These are individual rooms up near the front of the police station, and along the eastern side of the police station. They were generally occupied by the officer-in-charge of the station. The next one was a - occupied by the inspector in charge of the area. One was a licensing charge - office, I should say, and one was the inspector clerk's office. So we utilised two of those
15 rooms for the purpose of our interviews.

Q. You described them just then as, I think, being towards the front and to the east of the police station?

A. That's correct.

20

Q. To get back to your usual offices, which were occupied by the Sydney detectives, was there some kind of corridor?

A. Yes. There's a - a corridor which ran straight down the centre of the building, from the front office - like, the enquiry office at the front of the police
25 station, and down to the back door.

Q. Where you and Detective Senior Constable Ingram were on that night, so using the other offices--

A. Yes.

30

Q. --where was the office where Mr Bebic was being interviewed? Was it, like, across the corridor and down, or on the same side of the corridor?

A. No. It was on the same side of the corridor, and probably the second office down from where I was.

35

Q. The office you were occupying, the office where Mr Bebic was interviewed? I'm just trying to work out. You had an office. Did Mr Ingram have an office next to you?

A. No.

40

Q. Sorry, this is the--

A. In the detectives' office or that night?

Q. That night?

45

A. No. Well, we were - we were in the same room together.

Q. You were sharing another office that night?

A. Yes.

50

Q. Was it next door or two offices down they interviewed Mr Bebic?

A. Two offices down, from my memory. Yeah.

5 Q. At any time that night, when you were in this replacement office that you were sharing with Mr Ingram, did you hear anything, or anything being said in the corridor, by any of the officers who had brought Mr Bebic back?

A. No. Not that I can recall.

Q. Or overhear anything about him being interviewed, or how he was reacting or what he was saying?

10 A. Not that I can recall, no.

Q. Can I then turn to 9 February.

A. Yes.

15 Q. On 9 February you were back on duty, but a group of officers in three different cars went out with both Mr Bebic and Mr Virkez, and went to certain areas.

A. That is correct.

20 Q. Do you recall that you first went to an area called "Hassans Walls".

A. Yeah. Hassans Walls Reserve.

Q. At that stage, had Detective Sergeant Edmondston from Orange arrived to take photos?

25 A. Yes.

Q. So you didn't have to call on Mr Ashworth again?

A. No.

30 Q. Then from Hassans Walls, you went to an area in Newnes?

A. Newnes Forest, yes.

Q. I think you described it in your evidence as, "An area off Newnes Forest Road, Newnes"?

35 A. Yes.

Q. Yesterday I asked you a question about time to get from Hepburn Street to Newnes, and you said, "Look, it depends how far in the forest you've got to go."

40 A. Yes. That is correct.

Q. This area off Newnes Forest Road, Newnes, where you went, and I think things were shown to you or demonstrated, how far into the Newnes Forest was it?

45 A. It may have been a kilometre. I'm not really sure on the - on the distance, but it wasn't far into the - the forest, because the forest went for 20, 25 kilometres.

50 Q. At Hassans Walls, you gave evidence that Virkez and Bebic indicated a position underneath a burnt tree?

A. Yes.

Q. Then I think it was Constable Musgrave removed a buried garbage can there?

5 A. Yes.

Q. When you were at Hassans Walls with Mr Bebic, what was Mr Bebic's demeanour like?

10 A. He was quite friendly, actually.

Q. Friendly in what way?

A. Well, at one stage I know that they were both laughing about - look, I don't think it was Hassans Walls, but another - when we went down near the Cox's River and recovered the remains of a tyre, a photograph was taken of both of them, that's Virkez and Bebic, laughing or smiling about the noise that the explosion had made and--

15

Q. That was the third area that you visited that day?

20 A. Yes.

Q. If I can take you back to Hassans Walls--

A. Yeah.

Q. --and first take you to Exhibit 4.1-H, please.

25

EXHIBIT 4.1-H SHOWN TO WITNESS

Q. 4.1-H. You've got those?

30 A. Yes.

Q. Can I just take you to the first photograph. Can you identify Mr Bebic in the photo?

A. Is he the man standing in the middle of the three men?

35 Q. With the handcuffs?

A. Yes.

Q. And pictured in the photo is the burned-out tree.

40 A. That is correct.

Q. If you go through the photographs and go to the second last one, at page 38 in red down the bottom.

A. Yes.

45 Q. Looking at that photograph, you've got Mr Bebic and then can you see there's Mr Virkez in the middle?

A. That's correct.

50 Q. Then I think the caption describes Detective Sergeant Turner caught on the right?

A. Yes.

Q. You can see the expression on Mr Bebic's face?

A. Yes.

5

Q. Was that expression one that you saw throughout that morning, when you were going to the different places?

A. Yes.

10

Q. Looking at the expression in that photo, how would you describe it?

A. Well, I was going to say it looked as though he was quite happy and having a good time.

15

Q. You'd agree that he's smiling?

A. He's certainly smiling.

Q. That's your recollection of his demeanour, or his attitude, during that morning when you visited these three places?

A. Yes.

20

Q. I took you to Hassans Walls and Newnes, then in your evidence you talked about an area near Cox's River.

A. Yes.

25

Q. South of Bowenfels?

A. Yes.

Q. If that Exhibit can be returned, and if the witness can be shown Exhibit 4.1-K.

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EXHIBIT 4.1-K SHOWN TO WITNESS

Q. If you have a look at the photographs, I think there's about four there.

A. Yes.

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Q. The final one, you can see it's a group of people including Mr Bebic with his hands in the air?

A. Yes.

40

Q. Do you recall what he was doing there?

A. Yes. We were looking at something there, or he'd indicated to us, under the rock ledge, which appears to be further over to the right of the photograph.

45

Q. Maybe if you go to the first photo at page 42.

A. Yes.

Q. You see the caption is "Cavity under rocks near creek at Lyall's Crossing, showing portion of damaged kitchen clock".

A. Yes.

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Q. Then if you go to the next page, again there's a photo of Mr Bebic with Detective Milroy?

A. That's correct.

5 Q. Then the next photo, according to the caption, is "Prisoner Bebic and Detective Milroy on property near Lyall's Crossing".

A. Yes.

10 Q. Then the final photograph was the one that I just took you to, with Mr Bebic's hands in the air.

A. Yes.

Q. You gave evidence a little while ago that you could recall Mr Bebic and Mr Virkez laughing at this site.

15 A. Well, I don't think it was that site now.

Q. Where do you think it was?

A. There was another site we took them to, where they took us to, I should say, where they'd blown up a tyre, and they were sitting down there.

20

Q. Was it near a gravel quarry?

A. Yes.

Q. Were there remnants of a motor tyre that had been exploded?

25

A. Yes.

Q. But you can't recall at the moment that quarry where they had exploded things, which particular location it was?

A. No, but it was one that we went to that morning. There were four sites.

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Q. Could the witness be shown Exhibit 4.2-16, please?

EXHIBIT 4.2-16 SHOWN TO WITNESS

35 Q. Mr Marheine, would you have a look at that document?

A. Yes.

Q. It's eight pages, and it's entitled "Statement in the matter of Vico Virkez and Maxsim Bebich: John William Marheine".

40

A. Yes.

Q. Having a look at that document, do you recall that that was a statement that you made on 2 April 1979?

A. Yes. That is a statement I made.

45

Q. When you made this statement in April 1979, it was relatively shortly after the events of February 1979.

A. That's correct.

50 Q. It would have been obviously fresh in your memory at that time?

A. Yes.

Q. Can I take you through to page 4, and it commences at paragraph 26.

A. Yes.

5

Q. If you want time to read it through, please let me know, but maybe if I can just indicate to you the relevant parts. Can you see paragraph 26 talks about Friday, 9 February?

A. That's correct.

10

Q. So we're on the next day after the raid.

A. Yes.

15

Q. Then in paragraph 27 you say you left Lithgow Police Station in a police car with Detective Sergeant Edmondston

A. Yes.

20

Q. Who was from Orange, you've given evidence. The photographer--

A. That's correct.

Q. --from Orange, and the defendant, Virkez.

A. Yes.

25

Q. You followed another car, a police car?

A. Yes.

30

Q. Then we've got, "We then drove to Hassans Walls Reserve where we parked, and the defendant Bebic then led us through the bush and he indicated a position at the base of a burned tree stump."

A. That's correct.

35

Q. Then in 28, you were present when Detective Musgrave uncovered some explosives and detonators?

A. Yes.

40

Q. Can I just pause there. When you described it as you drove to Hassans Walls Reserve where you parked, and then Bebic led you through the bush to this burned tree stump; can you recall how far into the bush did you have to go? If you can't recall that's fine.

A. To my recollection it's - was about 100 yards.

45

Q. If we go back to your statement, if you go to paragraph 30, can you see that you then went with Detective Sergeant Edmondston and Virkez "in a police car", "followed another police car", and "went to an area off Newnes Forest Road, Newnes, where we parked"?

A. Yes.

50

Q. You say, at about 12.10, "Bebich indicated an area near some fallen trees."

A. Yes.

Q. You saw the ground there had been disturbed?

A. Yes.

5 Q. Then if you go across the page, paragraph, I think it's 31, "With those same persons I went to an area off the Rydal Road, South Bowenfels, adjacent to the Cox River."

A. Yes.

10 Q. Then "Bebich indicated an area near a gravel quarry. I also assisted to collect small pieces of a car tyre found in that area", and certain photos were taken.

A. Yes.

15 Q. Then in 32, "With those same persons I went to an area adjacent to a small creek nearby where the defendant Bebich indicated a position near a rock ledge."

A. Yes.

20 Q. Again, some pieces of a clock were found there and some photos were taken.

A. Yes.

25 Q. Then in paragraph 33, you say, "We all returned to the Lithgow Police Station."

A. That is correct.

30 Q. If you look at paragraph 34, you then talk about having a conversation with the defendant, Virkez, in the Licensing Room at Lithgow Police Station?

A. Yes.

35 Q. From your statement, which was made in April 1979, it suggests that morning, early afternoon of 9 February, you went to three locations. You didn't mention a fourth.

A. Just pardon me one moment. Hassans Walls Reserve, and then we went up to Newnes Forest, and then - of course. Then we went down to Cox's River, that's a third one, and in that same area we went over to the - that's - I knew we'd gone to four locations there, but that was close.

40 Q. When you've referred to a fourth location--

A. Yeah.

45 Q. --was that one of the locations that you went to when you had driven to an area off Rydal Road, South Bowenfels adjacent to Cox's River?

A. Yes.

50 Q. If you look at your statement, it seems that you went to an area near a quarry?

A. Yes.

Q. Also, you talk about Bebic showing a position near a rock ledge?

A. Yes.

Q. In your mind, are they two separate locations?

A. Yes.

5

Q. I think what led us to this was your evidence that you could recall Bebic and Virkez laughing at one point?

A. Yes. I later saw a photograph of that.

10

Q. You've seen a photo?

A. Yes.

Q. Was that one of the photographs we showed you earlier?

A. No. No.

15

Q. It was another photograph?

A. It was another photograph. They were - they were sitting down on the ground beside each other, and they were laughing, and they were recalling that they'd set off an explosion there, and the noise it made, but it certainly wasn't one of those photographs which I've just been shown. I might add, I have not seen any of those photographs prior to today.

20

Q. The photographs that I took you to rather quickly a little while ago. The photograph that you're thinking about--

25

A. Yeah.

Q. --wasn't included in that?

A. No.

30

Q. Relying on your four locations, this recollection by Bebic and Virkez that they were laughing about when they blew something up, was that near the quarry, which I think is location number 3?

A. It was on one of the last two positions. I think it was when they'd blown up the tyre - the tyre.

35

Q. I took you to your statement where you spoke about assisting in picking up some remnants of a tyre?

A. A tyre.

40

Q. From my recollection, that was either from location 3 or 4?

A. Yes.

Q. After visiting those locations, you returned to the station?

A. Yes.

45

Q. On that day, you conducted another Record of Interview with Mr Virkez?

A. Yes.

Q. Why did you conduct the second Record of Interview?

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A. I - I was told that he wanted to see me, and I - I went and saw him, and he

brought up something that he hadn't mentioned before, and when he started to tell me about what it was, that's when I decided to make a record of it.

Q. He asked to see you?

5 A. Yes.

Q. In that conversation, he said something to you which was new?

A. Yes.

10 Q. Then you decided you'd conduct a proper record of interview with him?

A. Yes.

Q. Do you recall in this conversation where he raised something new, what was the new thing?

15 A. I just can't recall it now. There was another conversation the following day, and I know what that one was about.

Q. Can I just ask you: that was when you conducted a third Record of Interview with Virkez?

20 A. Yes.

Q. The interview that you held with him on 9 February, the procedure that you adopted the night before, was that the same procedure that you adopted here?

25 A. Yes.

Q. That you had Detective Senior Constable Ingram as a witness?

A. Yes.

Q. You asked questions, which you typed?

30 A. I did, yep.

Q. And then the answer you would type?

A. Yes.

35 EXHIBIT 4.2-8 SHOWN TO WITNESS

Q. Have you got that?

A. I have.

40 Q. If you go to the second page, and down to question and answer 25--

A. Yes.

Q. --can you see you asked a question, "Where did the clocks come from that were used in the timing devices?"

45 A. Yes.

Q. It says, "I bought two at", and I think it says, "Collins Cole's", or, "Colline Cole's"?

50 A. Yes. "Collins".

Q. Collins?

5 A. They are two separate stores. He said, "Coles", and - well, when he initially said it, I put to - it at "Collins" - well, he said, "Coles", but I thought he said, "Collins", which is a hardware store in the main street and quite separate to where Coles was at that time.

Q. Because you thought he said, "Collins", you had typed "Collins"?

10 A. I had typed "Collins", and then I - I spoke to him and asked if he had said, "Collins", and he said, "No. Coles." So I then typed in "Coles", and wiped out the other one.

Q. Can you see it's crossed out and it's got "VV" over the top?

A. Yes.

15 Q. Who crossed it out?

A. He did. I may have crossed it out, but he - he initialled it.

Q. And, do you recall, at what point did he initial it?

20 A. Later on when he had read the - the Record of the Interview and signed it, I asked him to initial that error I had made.

Q. If you go across to page 3, if you go down the bottom of the page, question 36--

25 A. Yes.

Q. --again, there seems to be in the question, "You only had three bombs?" Then that's crossed out, but there looks like some handwriting, but on top is typed, "four".

30 A. Yes.

Q. How did those amendments come about?

A. Well, obviously I typed out the incorrect number.

Q. You have typed "four"?

35 A. Well, I typed down "three", but I should have typed "four", and he's corrected that, and put his initials there.

Q. Do you recall when he corrected it?

40 A. No. I can't recall now. But it would have been when he read through the Record of Interview.

Q. I take it, though my copy is not very good, is it "VV" that appears above the crossed out "three"?

45 A. Yes.

Q. Then, again, with the answer in brackets, "writes" - I think it's "same" something "down"?

A. "Same" again.

50 Q. Okay.

A. It's the same there. He's - it's been crossed out, and he has initialled it.

EXHIBIT 4.2-10 SHOWN TO WITNESS

5 Q. Mr Marheine, that document consists of five pages.

A. Yes.

10 Q. You can see at the top of the first page, "Record of Interview between Detective Sergeant Marheine and Vico Virkez at Lithgow Police Station on 9 February 1979."

A. That's correct.

15 Q. Again, other person present, P.C. Senior Constable Ingram. The interview commenced at 4.10?

A. Yes.

Q. And finishes, if you jump to page 5, it's 6.15pm.

A. Yes.

20 Q. If you have a look at this, and I don't know if you've had an opportunity to read through it recently, but if you go back to the first page and question 3, you say to him, "Do you agree that this morning you and Maks Bebic accompanied me and other police to bushland on Hassans Walls Mountain Range?"

A. Yes.

25 Q. If you then look, there seems to be a series of questions about, first, what was shown, or what was shown by Bebic at that site?

A. Yes.

30 Q. A question about when the explosives were buried there?

A. Yes.

35 Q. Then down the bottom there's a reference to "were these detonators given to Tony?", and "He came up on the train from Sydney"; "he stayed at Steve Topic's place, while Maks and I went and got the detonators. Then we went back to my place". "Tony came to my place and Maks gave the detonators to him", et cetera.

A. Yes.

40 Q. Then if you go across the page, there's some further questions about where the explosives had been obtained from, and then there's further questions about what you were shown, or what was found at the various locations.

A. Yes.

45 Q. Then if you jump to page 3, you appear to go to a different topic, which is you have a street directory for the Sydney area.

A. Yes.

50 Q. You show him different maps within that street directory, and you ask him

to circle where various bombs were going to be planted.

A. Yes.

5 Q. If you want to have another look through this in more detail let me know, but just with that very rough indication of topics and what was being answered, can you recall what information Mr Virkez gave you in your conversation with him when you decided that you should conduct another Record of Interview?

10 A. Yes, I think what happened - I told - this Record of Interview, he - Virkez had not mentioned anything to me in relation to bombs being placed in the Elizabethan Theatre at Newtown, and so I know in this one, I - I was typing that out, and that's when the matters of them came up.

Q. This is the Elizabethan Theatre?

15 A. Yes.

Q. Would you go to page 3?

A. Yes.

20 Q. Can you see at question and answer 27 there's an area marked which was identified as the Avio Tourist Centre?

A. Yes.

25 Q. Then in 28 there is a reference to a picture theatre, and "If Tony didn't have the key to the picture theatre we were going to put the bomb in the general tourist agency a couple of doors down the same street."

A. Yes.

30 Q. Then I think in 29 there's a reference to "Two creeks joining here, and we were looking at that place."

A. Yes.

Q. Then if you jump to question and answer 30 there's a reference to a "big water tower near Marrickville".

35 A. Yes.

Q. Then at question 31, "You had four bombs. Where were you going to put the last one", and then there's an answer, "Under the water pipes."

A. Yes.

40 Q. With those ones that were identified there, were any of those the Elizabethan Theatre?

A. No.

45 Q. Then if you go across the page there's further questions. For example, 36, "Just there in the Belvedere Arcade"?

A. Yes.

Q. A travel agency called "Balcan"?

50 A. Yes.

Q. Then in question 37, a reference to a Brana Travel Agency?

A. Yes.

5 Q. Then in 38, "The last one" "to be in Cabramatta", and a reference to a Yugoslav community hall.

A. Yes.

Q. Just following down, is there any reference to the Elizabethan Theatre?

10 A. No. Not that I can see in that Record of Interview.

Q. Do you recall any more details about the picture theatre that he was referring to?

A. Well, that is the Elizabethan Theatre.

15 Q. So the picture theatre that he refers to in question and answer 28?

A. Yes.

Q. Is your recollection that that was in reality the Elizabethan Theatre?

20 A. Yes.

Q. Again with this Record of Interview, did you adopt the same procedure of asking him to read through the interview?

A. I did.

25 Q. Did he read it out aloud?

A. Yes.

Q. Then did you witness him signing it?

30 A. I did.

Q. Did you bring in another officer to confirm?

A. Yes.

Q. Who was that?

35 A. That one it was Inspector Ray, the officer-in-charge of the Lithgow district.

Q. Does his signature appear on page 305?

A. That's correct.

40 Q. On 10 February - and I'll just say, that Record of Interview could be returned, thank you. On 10 February there was another Record of Interview at Lithgow Police Station with Mr Virkez?

A. Yes.

45 Q. It commenced at about 8.30am.

A. Yes.

Q. In an answer that you gave a little while ago, you said something along the lines of "I remember what was said, which led me to conducting that interview".

50 A. Yes.

Q. What was that?

5 A. Again I had been called in to speak to Mr Virkez, and he told me about the letter bombs, and on that occasion he indicated that there was one up at his home, that he had put under the wood heap in the back yard, and he was worried that it might fall into the hands of some children, so I - I went up there, and--

Q. When you say you went up there, you went to Macauley Street?

10 A. To Macauley Street there. I went there with two highway patrol officers, and, to look for it, and I found it not in the wood heap, but in the grass up on a - a ledge at the back of his block, and I took possession of it, and I took it back to the police station and I - the cells there at that stage were virtually empty, and I put it in one of those cells until I could get it taken away.

15 Q. Who did you contact about it to take it away?

20 A. Well, initially I - I would have contacted someone out at Marangaroo Army Camp, but on this morning I rang Sydney to report that I'd found the letter bomb, and they made immediate arrangements for a major from the army camp in Sydney be flown up to take possession of it, and he was up there within about an hour and a half.

Q. Who did you speak to at the Sydney office?

A. I can't remember now.

25 Q. Could the witness be shown 4.2-11, please? That can be returned, thank you.

EXHIBIT 4.2-11 SHOWN TO WITNESS

30 Q. Mr Marheine, you can see the transcript is six pages.

A. Yes.

Q. Again, you followed your procedure of asking a question which was typed, and then typing the answer?

35 A. Yes.

Q. Was there a witness who sat in on this interview?

A. It was a Saturday, and he wasn't working.

40 Q. No, no. Was there any witness who sat in on the interview?

A. No.

Q. You just answered me "It was Saturday and he wasn't working."

45 A. Yes.

Q. Who were you referring to then?

A. Detective Ingram. I'm sorry about that.

Q. Because he'd been the witness in the previous two--

50 A. That is correct.

Q. --interviews. Was there anybody else that you could have grabbed to be the witness in the interview?

A. Well, there would have been one of the uniformed police that I may have been able to get.

5

Q. Can you recall did you make enquiries?

A. No.

Q. Why not?

10 A. Well. Well, I did make enquiries in as far as I obtained two highway patrol fellows to come with me, but that was later. That was during the course of the interview which I temporarily suspended, from memory.

15 Q. At the time of conducting the Record of Interview, was it police procedure that you have a witness present during a record of interview?

A. It's not a laid down procedure, but it's certainly expected if you can get another person in there to verify, should something happen to me, and I can't put the evidence forward of doing the Record of Interview. Well, that witness can then say they were present, and saw and heard what
20 happened. Although, I worked for many years as a country detective, and generally most of my records of interview with people didn't have a witness present.

25 Q. Just looking at this transcript, if you go through to page 4.

A. Yes.

Q. Right down the bottom you've got question 40:

30 "Q. Yes. Where is it?

A. I will show you. I will draw you a plan where I threw it." "It has plastic on the back of it."

A. Yes.

35 Q. Then you type, "By me. I will go there now and try if find it."

A. Yes.

Q. Then across the page at the top we've got, "Interview resumed".

A. Yes.

40

Q. Then at question 41, "Is this the half-made letter bomb that you referred to?"

A. Yes.

45 Q. That indicates, as recorded in the transcript, your evidence that he said something to you, you suspended the interview, grabbed the two highway patrol people, went out to Macauley Street--

A. Yes.

50 Q. --found something and then came back?

A. That's correct.

Q. The procedure with this interview, was it the same that at the end of it you provided it to Mr Virkez?

5 A. Yes.

Q. He read it?

A. He read it out loud.

10 Q. And then signed--

A. Each page.

Q. --each page. Still on 10 February, the interview was commenced at 8.30am?

15 A. Yes.

Q. Then even with you dashing out to Macauley Street, if you go to page 6, it was concluded at about 11.30am?

20 A. That's correct.

Q. On that day, 10 February, do you recall a Detective Jefferies from Special Branch attending Lithgow Police Station?

A. I don't recall that, but I have read somewhere that Detective Jefferies and another police officer were there, but I don't recall that.

25

Q. If I suggested Detective Hogue was with Detective Jefferies?

A. I don't recall that name.

Q. There is evidence that they interviewed Virkez on that day. Do you recall why they interviewed him on that day?

30

A. I didn't know that they had.

Q. Sorry, that question did assume that.

A. Yeah.

35

Q. Do you have any other recollection of those two detectives attending on that day and wanting to speak to Mr Virkez?

A. None whatsoever.

40 EXHIBIT 11.36 SHOWN TO WITNESS

Q. Mr Marheine, this document consists of a number of different pages, and if you look at the first page, at the top it's got, "Information supplied by Detective Sergeant McDonald RE operation at Lithgow."

45

A. Yes.

Q. Then if you jump to the next page, which has got "132" at the bottom--

A. Yes.

50 Q. -- "further information received from Detective Sergeant Turner at

Lithgow”?

A. Yes.

5 Q. Then if you jump to the next page, 133, at the top it refers to, "Two years ago, Detective Sergeant Marheine at Lithgow interviewed a Yugoslav (Serbian) named Misimovic, Vitomir, alias Vico Virkez", and gives about - but 30 years old of 6 Macauley Street, et cetera.

A. Yes.

10 Q. Before coming back to that, can I just orientate you to the whole document. Then if you go to the next page, there appears to be a list of different officers. It starts at Lithgow, with you being referred to, and then Detective Constable Ingram?

A. Yes.

15

Q. And then, "Observation Squad", "Breaking Squad", "Metropolitan Area", et cetera?

A. That's correct.

20 Q. That seems to follow through to the next page. Then the next page after that, which has got "136" down the bottom, we've got, "Addresses to be visited." You can see there are different addresses in Sydney that are referred to, with officers names underneath?

A. Yes.

25

Q. Then the next page there seems to be a standby team and some other addresses, again, in Sydney?

A. Yes.

30 Q. Then on page 5, there is some information that commences with, "All members of Republican Party of Croatia."

A. Yes.

35 Q. Can I take you back to the beginning of this document. The document would appear to have different sources. Can you recall ever seeing any of the pages in the document before?

A. No. I have not.

40 Q. Could you go to the third page, which has got "133" down the bottom?

A. Yes.

45 Q. The section at the top, which refers to you, and an interview with Virkez, "Interviewed two years ago" "on behalf of the Canberra Police as a suspect for an explosion in a church at Canberra."

A. Yes.

50 Q. It then records, "He presented himself to Marheine and revealed the following information." That information in the first paragraph, it would appear you would have been the source for that?

A. I - I don't recall ever being spoken to by Sergeant McDonald to obtain any

of that.

Q. Or Detective Sergeant Turner?

A. No. Certainly not Turner.

5

Q. It would have been relevant information, at least some background information that you had on Virkez, seeing he was the one--

A. I - I could have told Sergeant McDonald that information about Virkez, and we had a discussion about getting him some immunity, if we could.

10

Q. This is Mr Virkez?

A. Mr Virkez, yeah.

Q. When did that discussion occur?

15

A. It would have occurred certainly on the 8th, and I had discussed that with Mr Virkez himself, and he didn't want me to do anything. He said he - he just wanted to be treated the same as the others, and then we had to ensure that he wasn't known as the informant.

20

Q. Can I just ask you a couple of questions about that. You spoke about you had a conversation with another officer about a possible grant of immunity to Virkez.

A. Yes.

25

Q. Who was that officer?

A. Detective Sergeant McDonald in relation to Mr Virkez.

Q. The discussion you with had Virkez about the possibility of being granted immunity, did that occur before you spoke to Detective Sergeant McDonald or after?

30

A. No. It would have been before.

Q. Again, with what had occurred on 8 February, that you had that initial discussion with Virkez, and I'm just jumping to certain events, you participate in a raid?

35

A. Yes.

Q. Then you bring Mr Virkez back to the station, and then sometime later that night, you conduct the first Record of Interview with him?

40

A. That's what happened, yes.

Q. Using those as kind of signposts, can you recall was it on the 8th, and at what particular time you discussed with Virkez about a possible immunity?

45

A. I think it was before he left the police station, and he left there about half past 1, I think it was, on that day, or 2 o'clock.

Q. You're referring to the time where I think you arrived--

A. Yes.

50

Q. --back after being contacted by Ingram?

A. Mm-hmm.

Q. I think you'd been investigating another serious matter.

A. Yes. Correct.

5

Q. You come back to the station, Virkez is there, and you have another discussion with him?

A. Yes.

10

Q. Your recollection is it was around this time--

A. Before he left the - the police station to go back to his home.

Q. Your recollection at that time, Mr Virkez says that he wasn't interested; he wanted to be treated the same.

15

A. Yes. And I - because Mr Virkez had been trying to get me since the Monday, and this was on the Thursday, that - and I'd been away in Sydney on duty, and I didn't get home until late on the Tuesday night.

Q. You gave evidence that you were away and you just hadn't had time to return--

20

A. Yes.

Q. --his call.

A. I did try on the Wednesday. I couldn't contact him.

25

Q. Even though he said that to you, was it sometime during the night of 8 February that you discussed with Detective Sergeant McDonald about the immunity?

A. Yes. It would have to have been, because they were all gone back to Sydney the next day.

30

Q. Do you recall what Detective Sergeant McDonald said to you about it?

A. I do.

35

Q. What did he say?

A. He said, "Leave it with me and I'll attend to it. I'll make the necessary enquiries."

Q. Did you ever chase up with Detective Sergeant McDonald what was happening with it?

40

A. No, not initially at that stage, because he said - he said something along the lines of we would have to wait until we saw how the Court case went, or was going, because again, Virkez didn't want to be revealed as the informant in the matter, but after the committal proceedings had gone for quite a few months, he gave himself up there, and that was when Sergeant McDonald was going to chase it up.

45

MCDONALD: Your Honour, would that be an appropriate time?

50

HIS HONOUR: Yes.

Mr Marheine, we're going to take the morning adjournment now, so we'll have you back in about 20 minutes.

WITNESS: Thank you, your Honour.

5

SHORT ADJOURNMENT

MCDONALD

10 Q. Before lunch I'd been asking you some questions about the document which is Exhibit 11.36.

A. Yes.

15 Q. My recollection is I asked you about the information that appears on the third page, or page 133, which starts off by talking about - have you still got Exhibit 11.36?

A. This one?

Q. Yes.

20

A. Yes.

Q. At the top I've taken you to the reference to Mr Virkez and the Canberra police enquiry, and I'd suggested to you that you were probably the source for that information.

25

A. Well, I think I would have been.

Q. I asked you, and my recollection it was about this, who you would have provided information to, and your recollection is it would have been Detective Sergeant McDonald?

30

A. That's correct.

Q. But you disagreed that it would have been Detective Sergeant Turner.

A. It certainly wasn't Turner as far as I'm aware.

35

Q. Why wouldn't it have been Detective Sergeant Turner?

A. Cause I hadn't discussed the matter with him.

Q. Only with Detective Sergeant McDonald?

A. Yes.

40

Q. Can you keep that page in front of you and I want you to be shown, please, Exhibit 4.2-95, which were the notes made by Detective Constable Ingram.

EXHIBIT 4.2-95 SHOWN TO WITNESS

45

Q. I showed you these notes yesterday, and I asked you in the context of when you returned to Lithgow Police Station after Ingram had contacted you, whether you had seen those notes, and you said no. Having a look at the notes, can you recall whether you were shown them at any time during the day?

50

A. I recall that I was shown two pages.

Q. You gave evidence yesterday that you were given a piece of paper with three names on it.

5 A. Yes.

Q. Is there another piece of paper that you recall you were shown around this time on 8 February, when you arrived back at the station?

10 A. I thought I was only shown one page, but then, subsequently I recall being told that there were two pages, and then now I'm told there are four.

Q. You just said that you were told that there were two pages.

A. Yes.

15 Q. Is that your recollection of what Ingram said to you when you arrived back at Lithgow Police Station on 8 February?

A. No, my recollection is that he only showed me one page.

Q. With the three names on it?

20 A. Yes, they were on there somewhere. I just can't see them on these at the moment.

Q. Can you see down the bottom the red numbers, and if you see page 670. Right up the top there's the details about Vico Virkez, and then underneath there are three names, with--

25 A. Yes. I can see them now. They were the three names.

Q. Can I take you to page 672 in the handwritten notes?

A. Yes.

30

Q. About half way down the page there's a reference to Brajkovic.

A. Yes.

Q. "Has informed Virkez that", I think it's "he has planted bombs before. Has also shown him how to make light-switch activated bombs. Also uses mercury switches and pressure switches."

35

A. Yes.

Q. You see that reference?

40

A. Yes.

Q. Would you jump back to page 133?

A. Yes.

45

Q. That's one of the typed written pages?

A. Yes.

Q. In the middle of the page can you see a paragraph, rather a long paragraph, which commences with the number 3?

50

A. Yes.

Q. It's got "Maks, surname, Bebic".

A. Yes.

Q. You've got that?

5 A. Yes.

Q. If you have a look about 15 lines down, it commences with "2 suspect has shown him how to make light switch bombs." Do you see that?

A. I'm just looking for it. Yes.

10

Q. So, "Number 2 suspect has shown him how to make light switch activated bombs", and then it continues, "he also uses mercury switches and pressure switches."

A. Yes.

15

Q. The information in the typed document would appear to be derived from those handwritten notes, and it was page 672 that I took you to.

A. It certainly appears that way.

20

Q. Also on page 133, the typed document, immediately underneath there are nominated the various sites where the bombs are going to be placed.

A. Yes.

Q. If you jump back to the handwritten notes, this time at the bottom of page 670?

25

A. Yes.

Q. Do you see there there's a list which commences with "The Yugoslav travel agency at Cabramatta (believe name Balkan)", and in the handwritten notes something very similar is recorded?

30

A. That is so.

Q. Again, if you look at the six locations listed in the typewritten document, it seems to accord with the handwritten notes on 670?

35

A. It does.

Q. Can I take you back to page 133, the typed document?

A. Yes.

40

Q. Right down the bottom it concludes, "At this time, 4.30pm, observation still made at the house."

A. I think that's 4.30pm.

Q. It says PM, doesn't it?

45

A. It should.

Q. I hope it's not 4.30am. I think it's 4.30pm.

A. Yeah.

50

Q. What I want to suggest to you, do you see that final line suggests

something that's happening at the time, so at this time, 4.30pm, observation still made at the house.

A. Yes.

5 Q. That would suggest that this information was information given or compiled on 8 February?

A. It does.

10 Q. You gave evidence yesterday that you and Ingram at certain times undertook observations at the house?

A. Yes.

15 Q. Then I think at one point you were relieved by Pringle and somebody else that I can't remember.

A. That's Detective Hudson.

20 Q. Thank you. Does that jog your memory as to whether you or Ingram compiled this information on 8 February, maybe for provision to the Sydney officers who were coming down?

A. I certainly didn't, and I - when I recollect, I can't see where Detective Ingram could have typed it out, cause we were together virtually a quarter past 1 onwards, or half-past one onwards. So, whether he has given that information to--

25 Q. Could it have been given to another superior like Pringle, who typed it up?

A. It could have.

30 Q. But sitting here today, you can't recall typing up?

A. I certainly didn't. Yeah.

35 Q. What we might do is relieve you of the various exhibits before you.

A. Right.

40 Q. If they could be returned. Mr Marheine, I wanted to ask you some further questions about Mr Virkez and what happened to him after - being taken back to the station and the Records of Interview.

A. Yes.

45 Q. It's linked with the evidence you gave immediately before the break about there was discussion about a possible immunity.

A. Yes.

50 Q. You gave evidence that you raised it with Mr Virkez, and he wasn't interested. He said something like, "I just want to be treated the same."

A. Yes.

Q. Did he give you an indication of why he wanted to be treated the same?

A. He did.

50 Q. What did he say to you?

A. He said, "I don't want them to know that it was me who has told you, because they will kill me."

Q. Mr Virkez was charged?

5 A. Yes.

Q. He was bail refused?

A. Yes.

10 Q. You gave evidence before the break that it was either at his committal, or shortly after his committal, he, in a sense, broke ranks and it was revealed that he was the informant?

15 A. It was - it was before the actual committal. I had given evidence for a number of weeks, and I'd been excused, and it was sometime after that he announced that he was the informant, and I don't know what was actually said, but he gave himself up in front of everyone. I was then recalled to enable the legal counsel for the other men to further question me in relation to it.

Q. That was all at the committal?

20 A. That was all at the committal.

Q. After he had been charged, and as you know, Mr Bebic was charged?

A. Yes.

25 Q. And there were other members of the Croatian Six from Sydney who were charged?

A. Yes.

30 Q. The further investigation and preparation of a brief of evidence for Mr Bebic, who undertook, or do you know who undertook that?

A. It would have been Detective Sergeant Turner.

Q. The brief of evidence to be prepared against Mr Virkez, who prepared that?

35 A. I did.

Q. Did you do it by yourself, or, with Mr, for example, Mr Ingram?

A. I did it by myself, but I may have asked Detective Ingram dates or times, but I think I should have had all of those to do it.

40 Q. Why did you prepare the brief of evidence against Mr Virkez while Turner prepared the brief of evidence against Bebic?

A. Well, I interviewed Mr Virkez. I had nothing to do with Mr Bebic.

45 Q. I was looking at it from you were at Lithgow. Detective Sergeant Turner is based in Sydney, and then Mr Virkez was at Parramatta Gaol, and the Court proceedings were going to be ultimately in Sydney, why there was a decision that you would prepare the brief of evidence against Mr Virkez, but, as you said, it was because you conducted the interview?

50 A. Well, it was normal procedure that if I made the arrest and did the interviews, that I would prepare the brief of evidence.

Q. Was that decided by anybody, or was it a matter, as you said, that was the usual practice?

A. It was just the usual practice.

5 Q. You've described sometime at the committal Mr Virkez announced that he was the informant in some way. Your relationship, or your dealings might be the better way, with Mr Virkez from the time of his arrest, up until being sentenced and giving evidence in the Supreme Court, how would you describe that?

10 A. Well, I'd only describe him as an acquaintance. I didn't have a lot to do with him, and once he was bail refused and taken away to prison, I had - the only time I saw him before he went for trial was on 15 March, when - I'm sorry, 16 March 1979. I had received on 15 March a document from Detective Sergeant Turner, and he had a conversation with me and asked me to show
15 that to Virkez, and I did that on the next day, 16 March 1979.

EXHIBIT 12.6 SHOWN TO WITNESS

20 Q. Mr Marheine, these are extracts from the visitors' log at Parramatta Gaol for certain days. Can you see down the bottom there are numbers, and there should be a number which is "78-1"?

A. What I have here appears to start at 79.

25 Q. If you go through to page 80, 81, 82, I think there may then appear page 78-1.

MCDONALD: Your Honour, I think they might have been out of order. Could we just retrieve the Exhibit?

30 WITNESS: I've got it now.

MCDONALD

35 Q. You've found it?
A. (No verbal reply)

Q. Thank you. Can I just confirm, down the bottom we've got "78-1"?
A. Yes.

40 Q. If you look up the top, we've got a date, "16 March 79"?
A. Yes.

45 Q. If you go down all the names for that date, "J Marheine, Lithgow Detectives".
A. Yes.

50 Q. Is that your recollection of the day that you attended Parramatta Gaol to speak with Mr Virkez?
A. Yes.

Q. You went by yourself?

A. I can't remember now, but I would think, looking at that, I was by myself, because there's no other name.

5 Q. It would make sense that you would probably sign in around the same time--

A. Yes.

10 Q. --if you went with another officer. You spoke about receiving a document from Sergeant Turner--

A. Yes.

Q. --that he wanted you to show Mr Virkez. What was the document?

15 A. There were two things on it. There was some names, and he knew the names, and the second document, or the second part of it, was a list, and - yeah, the second part related to who the letter bombs had to be forwarded to, and Mr Virkez told me he didn't know who the letter bombs had to be forwarded to, and hadn't seen that list.

20 Q. The two lists that you've referred to, were they on two separate pieces of paper?

A. My recollection is that they were.

Q. For example, the names, was it a typed document? Handwriting?

25 A. I can't recall that now.

Q. Your recollection is you showed Mr Virkez the first document with the names, and he didn't know the names?

30 A. Well, that was the second document, yes.

Q. Can you recall what he said about the first document?

A. Well, he agreed with it, and he knew the names of--

Q. On the first document?

35 A. Yes.

Q. The second document you said it was a list of those who were going to receive the letter bombs?

40 A. Yes.

Q. He said he didn't know who was going to receive the letter bombs?

A. That's right.

Q. After that visit, did you inform Sergeant Turner of that information?

45 A. I did. And then probably a month later, I returned those documents to Sergeant Turner.

Q. You've given evidence that Mr Virkez came out as an informant.

50 A. Yes.

Q. Did you consider him, from the time that he was at Lithgow Police Station on 8 February and you had that conversation with him, to be acting as an informant?

A. Yes.

5

Q. Is it usual procedure within the police at that time for an informant to have a handler, or a person who, in a sense - I won't say looks after them - but deals with them?

A. Not that I'm aware of. I know that there is such a procedure happening now, but not in those days, as far as I was aware.

10

Q. Without using the term "handler", did you consider yourself to be acting as a handler, dealing with Mr Virkez?

A. No. No, I think it was just that I hadn't - I knew him. I'd had dealings with him, and I was quite surprised when he came to give me that information, actually.

15

Q. As you'd said, you knew him before 8 February. Obviously had dealings with him on 8, 9, and 10 February.

20

A. Yes.

Q. Then visited him in gaol on the 15th?

A. Yes - 16th. 16 March.

25

Q. Sorry, 16 March. During all those dealings that you had with him, at any time did he talk about any kind of connection with first, the Yugoslav Consulate?

A. No.

30

Q. Yugoslav Intelligence Service?

A. No.

Q. There was a group who were known as UDBa, which were part of the Yugoslav Intelligence Service. Did you ever hear him refer to that?

35

A. No.

Q. Before the break you were giving evidence about raising the immunity.

A. Yes.

40

Q. No immunity was ever granted?

A. Not that I'm aware of.

Q. You left it in the hands of Detective Sergeant McDonald?

A. Yes.

45

Q. I think you said at one stage either Detective Sergeant McDonald later on said, look, I'll follow that up, or I'll have a look at it?

A. Yes.

50

Q. Did you make any further enquiries with Detective Sergeant McDonald

about what happened with the question of immunity?

5 A. No, and I think the reason why I didn't do anything is because he was still committed along with the others to go to trial, and they were all going to trial, and I didn't know until I read some documents last week that he received the smaller sentence that he had, and obviously - and I hadn't done the antecedents or anything for him at Court, so obviously something was said to - for the judge to, at the time, to give him such a small sentence compared to what the other prisoners received.

10 Q. Do you know why you didn't prepare the antecedents?

A. No.

Q. At any point, for example when you visited him in gaol on 16 March, did you discuss the evidence that he was going to give at trial?

15 A. No.

Q. The list of names, the two pages of documents that Detective Turner gave you. You said the first page were names?

20 A. Yes.

Q. Do you have any recollection of what the names were?

A. I think there were two - two names. I don't know whether they were brothers. There were two surnames the same, starting with a K. I think there were five names on the list, from memory.

25

Q. This is page 1?

A. Yes.

Q. Which was a list of names.

30

A. Yes.

Q. Your recollection is at least two of the names may have been brothers with a surname commencing with a K?

35

A. Yes.

Q. If I say to you a surname, Kokotovic?

A. Yes.

Q. Does that ring a bell?

40

A. It does ring a bell. I just didn't know how to pronounce it.

Q. Neither do I, and I've probably messed it up there. If I say to you an Ilija Kokotovic?

45

A. Yes.

Q. And a Joseph Kokotovic?

A. Yes.

Q. Did you know who they were?

50

A. No.

Q. That's two names. Did you think there were some other names?

A. Yes, there was - I think it was five names in all. I just can't remember them.

Q. Can I suggest this name Mile Nekić?

5 A. Yes, that was a - that was one of them.

Q. Brajković?

A. Yes.

10 Q. And I'll try and pronounce it, Zvirotić?

A. That was so. That's correct.

Q. They're the five names?

15 A. Yes.

Q. At that point, did the names ring a bell with you, any of the names?

A. No.

20 Q. With that piece of paper, what were you asked or directed by Detective Turner to do?

A. He asked me to show them to Mr Virkez to see if he knew them, or could tell me anything about them, and in relation to the second page, similar.

Q. We'll get to the second page in a minute.

25 A. Yeah.

Q. So it was a matter of showing him those five names on the first page?

A. Yes.

30 Q. Do you know them, can you tell me anything about them?

A. Yes.

Q. What did Mr Virkez respond? First, can you remember how he responded?

35 A. I don't recall him saying he knew them. He certainly didn't tell me anything about them. He may have said that he did know them, or he knew the names, but.

Q. The second list with, I think, it was nominating people who may receive the letter bombs?

40 A. Yes.

Q. Your evidence was that he didn't even know who the letter bombs were going to, or didn't know--

45 A. That's right. Had never seen the list, and didn't know.

Q. Those two pages, when you left the gaol, did you take them with you?

A. I did.

Q. What did you do with the documents?

50 A. I returned them to Detective Sergeant Turner the next time I saw him,

which was probably a month later.

Q. Did you have any discussion with Detective Sergeant Turner about what was said?

5 A. If Mr - Mr Virkez had told me something at the time about any of those names, I would have passed that on to Detective Sergeant Turner much earlier than giving - when I gave him back the documents. I would have contacted him by telephone and told him.

10 Q. At that visit to the gaol, did you have any discussion with him about the evidence that he would be giving at the upcoming trial of the others?

A. No.

15 Q. Did you make a suggestion to him that the names on the first page were being shown to him so that he wouldn't make any mistake when he was giving his evidence?

A. No.

HIS HONOUR

20

Q. When did it become apparent to you that he was going to be giving evidence against the others?

25 A. I didn't know that he would, at that stage, because at that stage we were still keeping quiet about him being the informant, and he was just going to go along with whatever happened to them throughout the trial. That's - that's - it was well into the committal proceedings when he must have announced that he was the informer.

30 Q. That's one thing, but what I was interested in was when it became known to police, and you can speak on your own behalf, that he was going to give evidence against others?

A. I didn't even know that he was going to give evidence.

MCDONALD

35

Q. You eventually knew that he pleaded guilty?

A. Yes.

40 Q. If I suggest to you 25 March 1980 of when he entered a plea of guilty to the Court, does that accord with your recollection?

A. I didn't know until last week when I was reading some documents that he had pleaded guilty, so I certainly didn't know back then, March 1980, that he had. When I went down to give evidence, as far as I was concerned, or knew, it was - he was still pleading not guilty.

45

Q. But when you gave evidence the accused would have been present in Court?

A. Yes.

50 Q. In the dock?

A. Yes.

Q. Do you remember looking at the accused in the dock when you gave evidence?

5

HIS HONOUR: Sorry, can I just ask for clarification. Are you talking about committal, or the trial?

MCDONALD: I'm sorry, at the trial.

10

Q. I'm asking you about when you gave evidence at the trial.

A. I can't remember now him being in the dock, any more than I can remember the other members, but I know from events that happened there that he was being brought in from Parramatta Gaol each day, and had he pleaded guilty I don't think that would have been the case. And as I said, I - it wasn't until I was reading some documents last week that I'd been supplied with, that I found out he had pleaded guilty.

15

Q. When you were contacted by Sergeant Turner, and the request made that you take two documents to Mr Virkez--

20

A. Yeah.

Q. --you were still stationed at Lithgow?

A. Yes.

25

Q. So you had to travel down to Parramatta?

A. No. No. I was down here in Sydney--

Q. On other matters?

30

A. --on other matters, and I saw Detective Sergeant Turner at the Breaking office, and then on my way home the next day, I called into Parramatta Gaol to see Virkez.

Q. Did Detective Sergeant Turner give an indication why he asked you to go and see Mr Virkez?

35

A. No. But I - I only thought that he asked me because of my association with Virkez.

EXHIBIT 4.1-E SHOWN TO WITNESS

40

Q. If you'd just look at the top document which has got handwriting on it?

A. Yes.

Q. Which includes, I think, Mr Virkez's name. Does that ring a bell? Is that the document that you took to Mr Virkez in the gaol?

45

A. I don't recognise it now, but, yes.

EXHIBIT 4.2-11 SHOWN TO WITNESS

Q. This was the interview that occurred on 10 February. If you would go

50

through to question and answer 24, which is on page 3.

A. Yes. I have it.

5 Q. You asked the question, "Who do you refer to as the two bosses", and there's a reference to "Zvirotic" and "Brajkovic". "As far as I knew, Brajkovic is the top boss, no not Brajkovic that you have there, I mean Kokotovic." And "writes down Kokotovic, Ilija". "He is the top boss, but I only talk to Zvirotic and Brajkovic."

10 A. That's correct.

Q. Those names, or at least three of those names, accorded with the names on the piece of paper--

A. Yes.

15 Q. --that Mr Turner gave you?
A. Yes.

Q. When Sergeant Turner gave you those names, did it ring any bells that, "I've heard those before in the Record of Interview."?

20 A. The only one I - I thought I may have known was - well, Brajkovic and Zvirotic.

Q. Your recollection is that when you looked at the names and you saw the brothers, Kokotovic, that you hadn't heard those names before?

25 A. I hadn't, no.

Q. You think when you looked at the list of names, when you went to the gaol, a bell might have rung in your mind about Zvirotic and Brajkovic?

30 A. Yeah, it did.

Q. But nothing further?

A. No.

35 Q. The three Records of Interview that you conducted which were typed up, did you provide copies of the transcripts to anybody?

A. Well, certainly I gave a copy to Virkez. I don't recall giving it to anyone else.

40 Q. To Detective Sergeant McDonald?

A. If I did, I don't remember that now.

Q. And--

45 A. I may have discussed it with him, or any names, but I - I don't think he - he got a copy.

Q. Back in 1979, copies, did you do carbon copies, or how did you generate copies of them?

A. Carbon copies.

50 Q. When you were typing, you'd have--

A. Yes.

Q. --a couple of pieces of carbon and - we'll explain that to anybody under the age of 30 at lunch time what that means.

5

HIS HONOUR

Q. How many copies was it your practice to make, or did you have a practice?

A. Yes. Usually we made three, but sometimes you made five. It was a nuisance.

10

MCDONALD

Q. Going back to 8 February, and I asked you some questions before the break about which office you were in, and when you moved around, et cetera.

15

A. Yeah.

Q. Did you hear anything said or suggested that Mr Bebic was assaulted during the raid?

20

A. No. I did not.

Q. Or while he was in police custody on 8 February?

A. No. Not - not then, but since then, I've heard of allegations that Mr Bebic has made about my conduct.

25

Q. When did you become aware of those allegations?

A. Last week.

<EXAMINATION BY MR BUCHANAN

30

Q. Mr Marheine, my name is Buchanan. I represent the petitioners in this case. You regarded yourself as the officer-in-charge of the brief of evidence to be prepared in respect of Mr Virkez; is that right?

A. Yes. That's correct.

35

Q. You've since found out that Mr Virkez pleaded guilty?

A. Yes.

Q. You've since found out that he pleaded guilty, I think, on 25 March 1980?

40

A. Yes. I've just heard that date.

Q. Is it possible, therefore, that you don't have a very good memory of being involved with Mr Virkez's case?

A. Only in relation to the matters in which I was involved.

45

Q. Is there anything you can help the Inquiry with as to how it would come to pass that the person in respect of whose brief of evidence you were in charge would be pleading guilty without you knowing about it?

A. I was amazed when I heard the - I don't know how it came about, but I wasn't informed.

50

Q. Or that you were unaware that he gave evidence at the trial against the other defendants?

A. Again, I didn't know that until last week.

5 Q. I take it then you have no memory of any conversations with any police about a concern as to whether or not Mr Virkez would plead guilty, or whether he would give evidence?

A. I have no knowledge of that, and I had no discussion with any other police officer.

10

Q. Is it possible that whilst you regarded yourself as the officer-in-charge of the brief of evidence against Mr Virkez, as a matter of practice, given what you now know, you had been cut out of that role?

A. Well, you could say that. Yes.

15

Q. Someone else was managing the preparation of the brief of evidence against Mr Virkez and managing Mr Virkez in the proceedings?

A. I don't know that that was the case, because I'd even, during the trial, there was one day there that I had to go and speak to Mr Virkez in - in the cells, and I was asked to go down there, so--

20

Q. By whom were you asked?

A. By the officer-in-charge of the cells at the Supreme Court.

25

Q. Did you go down with another officer, another detective?

A. Yes, I did.

Q. Who was that?

A. Detective Milroy.

30

Q. You ended up having to give evidence about that in the trial, about that visit to Mr Virkez.

A. Yes, in the voir dire.

35

Q. Could the witness be shown again please Exhibit 4.1-H, the photographs?

EXHIBIT 4.1-H SHOWN TO WITNESS

40 Q. Could we turn please to the photograph I think that is early in the sequence, of Mr Bebic smiling at the camera? That's red page 38.

A. Yes.

45 Q. At the trial an expert in forensic medicine, a Dr Carney gave evidence - Exhibit 2.1, day 99, commencing at red page 3251 - that looking at what was probably an enlargement of that photograph; he could detect an injury to Mr Bebic's face, above his right eye. I'm not asking you to comment so much on Dr Carney's evidence. My question is, having been told that, do you have a memory of noticing Mr Bebic appeared to have an injury to his face when you saw him on 9 February?

50

A. At no time have I noticed that he had any injuries to his face.

Q. Were you familiar, as at 1979, with a type of document used by police, often detectives, being an investigation running sheet?

A. Yes.

5 Q. Were investigation running sheets, in your experience in that era, used in more complex investigations to record what different people involved in the investigation did or discovered?

A. I'd agree with that.

10 Q. This was a complex investigation; I think you'd agree.

A. Yes.

Q. Were there any running sheets kept of it, to your knowledge?

A. Not to my knowledge.

15

Q. Do you know why not?

A. I didn't know they weren't.

Q. Do you mean by that that you would have assumed that someone was keeping them?

20

A. Not really. I agree it was a complex inquiry, but that was all done down in Sydney, because the Lithgow end was virtually completed, and if it required a running sheet it would have been attended to by the police involved in Sydney.

25 Q. What would have been the nature of the involvement of the police in Sydney in the investigation, such as to cause a decision to be made by one of them that a running sheet should be involved, should be prepared?

30 WOODS: Could that be made a bit clearer for the benefit of the witness, your Honour?

BUCHANAN: I'll reframe it.

35 Q. Mr Marheine, who in Sydney would have made the decision that a running sheet should be kept?

A. I would presume it would have been Detective Sergeant McDonald.

Q. Did you know whether Detective Sergeant McDonald was in charge of the investigation, so far as it was conducted in Sydney?

40

A. No, I didn't know that. I think, if I might say--

Q. Yes, sorry, go on.

45 A. I think that each of the police involved, whoever was responsible for the arrest of anyone, would be required to do a running sheet if they needed it, but I - I don't know that there would have been. I certainly didn't hear anything back from any Sydney police which would indicate that a running sheet should have been commenced.

50 Q. If it wasn't Detective Sergeant McDonald who was in charge of the investigation, so far as it was conducted in Sydney, then would you have

expected the officer-in-charge of the investigation, so far as it was conducted in Sydney, to have set up running sheets for the conduct of the investigation?

A. No, not really. You know, in each instance, I think, there was someone arrested, and it wouldn't necessitate a running sheet.

5

Q. Can I just ask you to explain that answer?

A. Yes. Yes.

Q. As to why in your opinion it wouldn't have been necessary?

10 A. What I mean is, usually a running sheet is commenced when you have an enquiry that is, quite obviously going to take a while to investigate, and so you have - you commence a running sheet, and on it it's generally recorded the names of every person that is interviewed in relation to that matter, and comments about what they have said. I just don't think that any of the
15 enquiries that were made in Sydney in relation to this matter required a running sheet, because the various people, or the names and addresses that we supplied to the Sydney police, or required by them, were all dealt with.

Q. When you say dealt with, what do you mean by that?

20 A. Well, they went to the names that obviously they were supplied with, and the addresses, and something happened at each of those places, and I presume - I don't know for sure - but I presume that some of those people were arrested, and there was no requirement for anyone else to be interviewed in relation to them.

25

Q. You're assuming that it was an exercise in simply rounding up the nominated people and bringing them in for interview?

A. Basically, yes.

30

HIS HONOUR: Is that a convenient point, Mr Buchanan?

BUCHANAN: Thank you, your Honour.

HIS HONOUR: Mr Marheine, we'll take the lunch break now, and have you
35 back at 2 o'clock.

WITNESS: Thank you very much.

LUNCHEON ADJOURNMENT

40

BUCHANAN

Q. Mr Marheine, can I ask you to cast your mind back, please, to the time
45 when you spoke with Mr Virkez, the first time. That is to say, a couple of years before 1979.

A. Yes.

Q. Were you given any information on that occasion that Mr Virkez was a man
50 prone to violence?

A. No. Not at all.

Q. Did you hear anyone in February or March 1979 indicate that Mr Virkez was a man prone to violence?

A. No.

5 Q. Did you ever talk, even now, with anyone that you believed to be from ASIO about Mr Virkez?

A. No. I did not.

10 Q. In answering questions from Counsel Assisting this morning, you denied assaulting Maks Bebic. I want to put to you that you did on three separate occasions?

A. I did not on any occasion assault Maks Bebic.

15 Q. You assaulted him at the back of the house at Macauley Street, didn't you?

A. No. I did not.

Q. You said that you saw Mr Bebic in the lounge room of that house with Detectives Turner and Milroy.

20 A. That's correct.

Q. In effect, you and Sergeant Turner and Senior Constable Milroy, pulled Maks Bebic into the kitchen.

A. That is not true.

25 Q. You, in particular, assaulted him there?

A. I did never assault Maks Bebic at any time.

Q. Do you remember that two of them, Bebic and Virkez, were brought back to Lithgow to appear at Lithgow Court on 20 February 1979?

30 A. I don't recall that, but that's probably correct. If that's when it was a court date at Lithgow.

35 Q. I'll put it another way. Weren't you involved in threatening violence to Mr Bebic in order to get him to sign pieces of paper that turned out to be his Records of Interview?

A. That has never occurred. The only time I spoke to Bebic was when I asked him for the keys to his house and told him that I was going to search it.

40 Q. Can I ask you, what was the process by which you made your police witness statement in this matter?

A. Could you explain that in more detail?

Q. There's a type-written statement at some date in April--

45 A. Yes.

Q. --and it purports to be the evidence of that you can give in relation to the matter.

A. That's correct.

50 Q. Did you see any other police officers' statement before you finalised your

statement?

A. No. I did not.

5 Q. Did you compile your statement over a period of time? That is to say, as against typing it all out at the one time and signing it?

A. I would have got together the various documents that I was going to include in it, and I would have looked up my duty book to find out where I'd been at any given day, and the times thereof, and I would have put all that into chronological order to make my statement.

10

Q. Did you consult with Plain Clothes Constable Ingram in the process of making your statement, or he making his?

A. Not that I can recall. There would have been no need for me to do that.

15

Q. It would not have been unusual for the two of you to talk to each other about each other's statements and the making of them, would it?

A. I - I would say it would be unusual. Not so much about talking about them, but in the making of them.

20

Q. You were never involved in any process with Constable Ingram of agreeing on a set of events that would then be written up by each of you in your respective statements?

A. Not at all.

25

Q. You'd heard the expression, "Scrum down" before, hadn't you?

A. I'm sorry, would you--

Q. "Scrum down". S-C-R-U-M down. D-O-W-N. Scrum down?

A. I have not heard that expression to my knowledge.

30

Q. You'd never heard it being used in respect of police getting together to decide on a version of events that would then go into their respective statements?

A. No. I haven't.

35

Q. Is that the truth?

A. That is the truth.

40

Q. Thinking of your time at Lithgow generally--

A. Yes.

Q. --did you know a gentleman called "Paret Saret"?

A. Not that I can recall.

45

Q. Did you hear anyone mention a name like that in connection with this case?

A. No. I didn't. But I've got a faint recollection that I saw the name written down somewhere.

50

Q. Do you have, in that faint recollection, an idea of the context? As in, was it

in a police document, a newspaper, or what sort of context you might have seen it?

A. I think it may have been up near the top of the document that Detective Ingram had.

5

Q. I don't think it's there, but I think we should just clarify that to make sure.

EXHIBIT 4.2-95 SHOWN TO WITNESS

10 Q. If we could go to the next page of the document on the screen. You probably can't see it, Mr Marheine.

A. Yes. I do have it here. No. I can't see it on--

15 Q. That's okay. If you could go back to the first page of that document. Not the title page as it were, but red page 670.

A. Yes.

Q. Was the name that you were thinking of "Misimovic", which is in the top left-hand corner of that page?

20

A. No.

Q. Was that a name that meant anything to you when you saw this document? "Misimovic"?

25

A. Yes. I - I know that that was a name that Vico Virkez was known as, but he changed it.

Q. Did you find out why he changed it?

30

A. No. He told me, at some stage after I first met him, that he had been married and divorced, and his name was Misimovic, and that he had changed it.

Q. Did you have any understanding in February 1979 of the significance of the names, on the one hand "Misimovic", and on the other hand, the names "Virkez"?

35

A. No.

Q. Once you had concluded your third Record of Interview of Mr Virkez on 10 February 1979, did you have anything more to do with investigating this matter than taking that document with names on it that Detective Sergeant Turner gave you and showing it to Mr Virkez at Parramatta Gaol?

40

A. Not that I can recall.

Q. Is it possible that the investigation of Mr Virkez was taken over from you by other detectives, such as Detective Sergeant Turner and Senior Constable Milroy?

45

A. I don't believe that to be the case at all.

Q. Are you aware of whether New South Wales police ever conducted an investigation into Virkez the man, and what he had told police in February 1979?

50

A. Not that I'm aware of.

5 Q. So as far as you know, New South Wales police who had anything to do with the matter took what Mr Virkez said, or was recorded as saying, at face value?

WOODS: Objection. How can he possibly know that?

10 BUCHANAN: As far as you know.

HIS HONOUR: No, I think it's reasonable, to his knowledge. Yes.

BUCHANAN

15 Q. I'll just repeat the question, Mr Marheine. As far as you know, is it fair to say that New South Wales police who had anything to do with this matter took what Mr Virkez said or was recorded as having said, at face value?

A. I don't know about other police, but I did.

20 Q. You didn't question the authenticity of Mr Virkez as a person who was supplying you with information?

A. No, actually I was rather amazed that he had come forward with the information. He'd never said anything to me before.

25 Q. Did the fact that you were rather amazed that he had come forward with this information set off any alarm bells for you?

A. No.

30 Q. Changing the subject now. You told us there was an occasion during the trial in the Supreme Court when you and Detective Milroy visited Mr Virkez in the cells.

A. That's correct.

35 Q. Just for a little bit more context, you gave evidence about that before the judge?

A. In a voir dire, yes.

Q. You said that in essence, the report had been to you that Mr Virkez was saying he was not well.

40 A. That's correct.

Q. Why were you at the Supreme Court that day?

A. The trial was going on.

45 Q. You didn't give evidence that day though. You had already given your evidence, had you not?

A. Yes, well, I obviously hadn't been excused. If that was the case.

50 Q. Is it possible that you had, as part of your duties, the management of Mr Virkez as a witness?

A. That's not right.

Q. Was anything to your knowledge done to make sure that Mr Virkez gave evidence in accordance with his Records of Interview?

5 A. No.

Q. Thinking back now on the eighth of February, and thinking about the middle of the day on the eighth of February, and you had been speaking with Mr Virkez. He'd been supplying you with information. He told you about this bomb plot?

10 A. Yes.

Q. To summarise it. Was anything said about what he should do with his bombs?

15 A. Yes, they were to take - he and Bebic were to make the bombs, and then take them down to Sydney that afternoon.

Q. Did you tell Virkez to put the bombs he was talking about in his car?

20 A. No.

Q. You say you didn't have anything to do with the management of Mr Virkez as a witness at the trial.

A. That's correct.

25 Q. You say you didn't have anything to do with him pleading guilty?

A. I did not.

Q. Were there police conversations in Lithgow involving Virkez where you were present, other than the three Records of Interview you conducted with him?

30 A. I spoke to him on each of the days that I had those Records of Interview. I'm not aware of any other police at Lithgow speaking with him apart from Detective Ingram.

35 Q. When you interviewed Mr Virkez on those three occasions, where were those interviews conducted?

A. In the Licensing Sergeant's office at Lithgow Police Station.

Q. I'm thinking of the first two interviews on 8 and 9 February. Was there anyone else present apart from you and Detective Ingram?

40 A. Only Mr Virkez.

Q. Sorry, yes. Granted. On 10 February, when you interviewed Mr Virkez in the absence of Mr Ingram, was there anyone else in the room?

45 A. No. Later on, Sergeant Wardrop came in and spoke to Mr Virkez, and witnessed the Record of Interview.

Q. Was there any difficulty getting Virkez to sign any of the interviews?

50 A. No.

Q. The Records of Interview?

A. No.

5 Q. When you spoke with Mr Virkez on 8, 9 and 10 February, it would be fair to say that Mr Virkez presented as a conspirator who had turned informer.

A. I would agree with that.

10 Q. Was there any time during those interviews where you ever thought that Mr Virkez might not be a conspirator who had decided to turn informer?

A. No, but during the trial, or it may have been in the committal proceedings, it was put to me that he was a spy. I'm not sure which.

15 Q. Did that cause you to think, oh, maybe he was, maybe he is?

A. No, I didn't think that at all.

20 Q. Is it your evidence that after those three interviews in February 1980 you never thought that Virkez might not be a conspirator who had decided to turn informer?

A. No, I didn't have any such thoughts.

25 Q. What is your memory of the number of days that you were present at the trial after you had given your evidence?

A. I think once I was excused I went straight home. I'd been away too long. I just wanted to get home.

30 Q. But do you have a memory of having to sit in Court watching the proceedings as part of your duties?

A. No.

35 Q. Was there anything said, thinking back on February 1979 now, during the interviews that you conducted with him, which was not recorded on the typewriter?

A. Yes, the conversation that I had over the mix up with - when he told me he bought the alarm clocks. I thought he said, "Collins", and he said, "Coles", and I amended that, and got him to initial, later.

40 Q. Mr Virkez has alleged that he was bashed to get him to sign what he called the small statements.

A. That didn't happen at all.

45 Q. He claimed - this is in 1991 - that the words in the statement - which seem to have been a reference to the three Records of Interview, saying that the Sydney accused had explosives, were the words of the police, not his.

A. Would you just repeat that again? Yeah.

50 Q. I'll break it up. Firstly, in his account that Mr Virkez gave on a couple of occasions around August 1991, he never used the term "records of interview". He used the term "statement", "my statement", and in the trial--

A. I was retired in August 1991.

Q. I'm not expecting you to remember it.

A. No, but I would have had--

Q. I'm trying to provide you with information.

5 A. I would have had nothing to do with it.

Q. Sure.

A. August 1991, I was probably up in the gulf country of Northern Territory.

10 Q. But during the trial, Mr Virkez is recorded as referring to his statement, and you tell us, don't you, he never made a statement, not a witness statement on a P190 form.

A. That's correct.

15 Q. The only thing that you could think of, is that fair to say, would be that he must be referring to his Records of Interview, because they are typed.

A. Well, I'd agree with that now.

20 Q. He claimed - we won't go into when - that the words in his statement saying that the Sydney accused had explosives were not his words, but the words of police?

A. He could say that, but that's not true.

25 Q. Was there any conversation with Mr Virkez while he was in police custody to which you were a party, of which you were a witness, that you haven't told the Inquiry about?

30 A. Only general enquiries. He - he asked to see me on each of those subsequent days on the - the 9th and the 10th, and I spoke to him, and when he divulged what he was talking about, that's when I made the Records of Interview. But basically I can't remember that there were any other conversations apart from those.

EXHIBIT 11.33, RED PAGE 108, SHOWN TO WITNESS

35 Q. The Exhibit begins in the middle of the document. This is a somewhat lengthy document. Mr Marheine, that is a report, and you can see it's dated 10 June 1981?

A. Yes.

40 Q. You've got the hardcopy in front of you. Can you go to the end? The last part of it? Can you tell us what the red page number is for that?

A. 117.

Q. Does it indicate the name of the author?

45 A. Yes. "A McDonald, Detective Sergeant First Class".

Q. It's a report, it's a report on the whole case, and by Detective Sergeant McDonald.

A. Yes.

50

Q. If we could go to page 110, paragraph 12.

A. Yes.

Q. Could you have a read of that to yourself, please? Paragraph 12.

5 A. Yes, I will. Yes, I've read that.

Q. I appreciate it's not your words. It's Detective Sergeant McDonald's words. Where would he have got the impression from that your interrogation of Virkez was "relentless"?

10

WOODS: I object to that question, your Honour.

WITNESS: I have - I have no idea.

15 WOODS: How can we possibly know that?

HIS HONOUR: It's a matter for the author of the document, isn't it, Mr Buchanan?

20 BUCHANAN: Very good. I'll reframe the question.

Q. Was your interrogation of Mr Virkez relentless?

A. No.

25 Q. Have you--

A. No--

Q. --any - I'm sorry, go on.

30 A. After the first Record of Interview, he had said to me that he didn't want to tell me anything further, but then the next day, I was notified he wanted to speak to me, and he spoke to me again, and then a similar thing happened the next day, and each day he just told me a little bit more.

Q. You'd agree with me that that doesn't sound like your interrogation of Mr Virkez was relentless?

35

A. I wouldn't call it relentless.

Q. Did you say anything to Detective Sergeant McDonald that might explain why he seemed to think that your interrogation of Mr Virkez was relentless?

40

A. No. I didn't.

Q. Could it be that you did say things to Mr Virkez that were not recorded in the Records of Interview with a view to persuading him to talk to you?

45

A. That did not occur.

Q. Were you aware of whether Mr Virkez's evidence in the Central Criminal Court, the Supreme Court, was untrue in any respect?

A. I didn't hear any of his evidence.

50 Q. Do you know whether you were in court the day before you went down and

spoke with Mr Virkez in the cells?

A. I think I was.

5 Q. Do you know whether you were there in court the day after you visited Mr Virkez in the cells?

A. No. I don't know.

10 Q. Were you ever concerned that the evidence Mr Virkez gave was not the truth, the whole truth and nothing but the truth?

A. Not at all. I don't know what evidence he gave.

15 Q. At any stage, did you see an address book that you understood belonged to Virkez, or that he used as an address book?

A. No.

20 Q. No-one drew to your attention an address book as possibly belonging to Mr Virkez?

A. At - again, I'm not sure whether it was at committal proceedings, but I believe it was, Mr McCrudden referred to a book, but I don't know whether that was an address book.

25 Q. Before you interviewed Mr Virkez on 8 February, were you given access to anything that had been taken from the house at 6 Macauley Street?

A. No.

30 Q. Were you interested to know whether there was anything at the house at 6 Macauley Street that you should ask Mr Virkez about?

A. No.

35 Q. You really weren't involved in investigating Mr Virkez at all, were you?

A. Yes, I was.

40 Q. Anything more than conducting three Records of Interview, and showing him a piece of paper that Detective Sergeant Turner gave you?

35 A. No.

45 Q. Is it right that you never heard Mr Virkez say anything about a man called, "Joseph Kokotovic"?

A. That's correct.

40

Q. You never heard him say anything about a man called, "Mile Nekić"?

A. That's correct.

45 Q. Do you know for how long you had been in the courtroom before the day that you saw Mr Virkez in the cells during the trial?

A. I do. I had not been - been in a courtroom. It hadn't even commenced. It was when I walked into the sergeant's office at the Supreme Court that the officer-in-charge there had a conversation with me and asked me to go down and speak to Virkez.

50

Q. Can I ask why you visited that sergeant at all?

A. I just - that's where I used to walk of a morning when I went in - into the Court. I'd go into his room.

5 Q. In the third interview on 10 February 1979, Mr Virkez is recorded as saying, Zvirotic and Kokotovic have "a big list of the names" of people to whom the "letter bombs would be sent". I'll arrange for it to be shown to you, if you'd like to see it.

A. I'd like to see it, yes.

10

EXHIBIT 4.2-11, RED PAGE 309, SHOWN TO WITNESS

Q. It's question 35 that I draw your attention to, but please feel free to read the questions before that for the context.

15

A. Yes. Yes. I've read that.

Q. Are you aware if any such list was ever found?

A. No, I'm not. I'm not aware of it. Well, there was a - a list found that Detective Sergeant Turner handed to me, and asked me to ask Virkez about that list, and that's when I saw him at Parramatta Gaol, and he said he'd never seen the list.

20

Q. Would I be right in saying that you, in your involvement in this matter, you weren't deeply concerned with what Virkez's motives might be?

25

A. I couldn't exactly agree with that, because I had asked him about the proposed placing of the bombs in the theatre, and I said to him, the Yugoslav dance troupe is appearing there. You are all Yugoslavs, why do you want to kill them? And he replied that they were going - that's the dance troupe - were going around the world getting money, and taking it back to Yugoslavia, and using that money to buy arms and weapons to use against them.

30

Q. Against who?

A. He said, "Against us." Now.

35

Q. Who did you understand him to be referring to, by the word "us"?

A. I thought he meant himself and the other people, because they were all Yugoslavs.

40

Q. You did not have any understanding at that time of relations between people of Croatian descent and people of Serbian descent, either in Yugoslavia or in Australia. Is that fair to say?

A. It's fair to say that.

45

Q. Did you have any understanding of what the religion was of most Croatian people?

A. No.

50

Q. Did you have an understanding of what the religion was of most Serbian people?

A. No.

Q. Did you have an understanding of what Virkez's ethnicity was, how he identified ethnically?

5 A. I understood him to be Yugoslav. I was questioned along that very line, again by Mr McCrudden, when he showed me the book that I referred to, and there was some foreign writing at the top of one of the pages. He asked me if I'd seen that before, but I hadn't, and he did state then that that was Serbian writing.

10 Q. Can you give us an indication of the dimensions of this book that you were shown?

A. Smaller than a - a foolscap size. Probably three-quarters as..(not transcribable)..Probably eight or 9 inches high, and 6 inches or so wide.

15 Q. When you were dealing with Mr Virkez in February 1979, did you have any understanding of what his religion was?

A. No.

20 Q. In that period, 8 to 10 February 1979, did you obtain from anyone, be it Mr Virkez or any police officer, of what the association was between, allegedly, Virkez and the man Bebic, and the men nominated as being in Sydney?

A. No.

25 Q. In the first Record of Interview there's a couple of questions and answers - this is Exhibit 4.2-8, red page 298, questions 38 to 39 - question, "Why were you going to plant these bombs in these premises?" Answer, "To keep fighting for our country that is it. Bit of politics too." Question, "Are you a member of any political party?" Answer, "Yes. The Croatian National Council. And one in Germany." Are you able to recall now why you asked Mr Virkez whether he was a member of any political party?

30 A. No.

Q. Had anyone said anything to you, prior to you speaking with Mr Virkez on 8 February 1979, that politics was involved in this case?

35 A. The cortex?

Q. I'm sorry - politics.

A. Politics. I do apologise. No, unless it was something that Virkez said in answering one of my questions.

40 Q. Is that the bit where he, in response to your question, "Are you a member of any political party", said, "Yes", and then he mentioned the Croatian National Council and one in Germany. Is that what you're thinking of?

A. Yes, I was just wondering what prompted me to ask that question, whether it was another answer prior to it.

45 Q. Did you get a briefing at any time from Detective Sergeant Turner or Detective Sergeant McDonald, before you spoke to Mr Virkez, about what police already knew about any of these guys?

50 A. No.

Q. No-one mentioned to you the Croatian Republican Party?

A. I'm confident enough to say no.

5 Q. When you say that in that first Record of Interview in answer to question 38, "Why were you going to plant these bombs in those premises?" He, Virkez, said, "To keep fighting for our country, that is it. Bit of politics too." What country did you understand him to be referring to?

A. Yugoslavia.

10 Q. That didn't seem strange to you in any way, that he would be fighting for Yugoslavia, and that's why he wanted to plant bombs?

A. I thought that was the reason. It certainly wasn't strange to me.

Q. Is it possible you made those words up, and he didn't say it at all?

15 A. It is not possible at all. That did not happen.

Q. You didn't ask Virkez what country he's referring to, according to the Record of Interview.

20 A. No, that was because I thought he was referring to Yugoslavia.

Q. How would a Court, reading the document, know that?

A. They wouldn't. That was his answer.

25 Q. Didn't you think that this was a document that was going to be used for Court?

A. I certainly did.

Q. So how was the Court to work out that he meant Yugoslavia, if you didn't ask him?

30 WOODS: I object to the question. Obviously the Court would be assisted by other evidence.

HIS HONOUR: I think it's going to Mr Marheine's state of mind in choosing what to ask and what not to ask him, and what he neglected to ask.

35

BUCHANAN

40 Q. My question is, given the purpose, as you understood it, of the Record of Interview, to be used by a Court as evidence; given that he didn't say that he was talking about Yugoslavia; why didn't you ask him what country he was talking about?

A. I don't know why I didn't ask him, except that I thought he was talking about Yugoslavia.

45

Q. Was anything to your knowledge done to investigate Mr Virkez's background? By New South Wales police, I mean?

A. I certainly didn't do any. Whether other police did, I can't answer that.

50 Q. You were the officer-in-charge of his case, as you understood it.

A. In as far as Virkez was?

Q. Yes.

A. Yes, I was.

5

Q. Why wouldn't you want to know what the background was of this man?

A. I - I didn't need to know at that time, but when he appeared before Court to be sentenced, I would have had to interview him again to prepare antecedents in relation to it.

10

Q. But that would be taking his word for his background, wouldn't it?

A. It certainly would.

Q. That's not always the way police conduct a criminal investigation, is it? To accept the word of a suspect?

15

A. That's not a criminal interview when you're asking about his prior history.

Q. Of course. You're sure you weren't given some material about Mr Virkez's background by some police officer?

20

A. No-one told me anything about his background.

Q. Do you know who did obtain the antecedents from Mr Virkez?

A. I learned yesterday it was Detective Ingram.

25

Q. He said that you would have been the person who would have asked him to do that.

A. I did not ask him to do that. I was surprised yesterday when I found out that he had obtained the antecedents.

30

Q. But Mr Ingram was asked "who gave you the direction or the instruction to go and see him in the gaol, when he was so upset about the amount of time he'd been in gaol". Mr Ingram gave the answer, "I can only assume it was Sergeant Marheine"; page 115 of the transcript.

A. Could I get the date that he obtained those?

35

Q. From memory, 24 March 1980. That's where he said he obtained them?

A. I don't know why he would have got them then. I - I don't think Virkez was dealt with it at that stage. The trial hadn't even started.

40

Q. We've established, haven't we, and with the greatest of respect to you, I got the worst of memory at the best of times myself, but isn't it possible that your memory has failed you in respect of your management of Mr Virkez's case? Finding out, as you would have yesterday, that he pleaded guilty on 25 March, the day after Mr Ingram saw him?

45

A. Well, now, he hadn't - the trial hadn't even started.

Q. Correct.

A. He hadn't been before the Court at that stage in 1980. It didn't--

50

Q. If I inform you that he had been before the Court a number of times, with

judges asking him, "Who's your lawyer?"

A. Well, in March of 1980, I was still at Lithgow. In May of 1980, I was transferred down to Albury, and it was whilst I was down there that the trial started.

5

Q. The trial started in April, Mr Marheine. The middle of April. Is it possible that your memory isn't very reliable about all of these matters?

A. No. It's - well, I suppose any time one could say their memory was good and when it may have been unreliable, but normally I would have taken, or prepared, the antecedents for Virkez, and when I heard later that he, when the trial was over, that he had got a certain period of time, I was amazed that I hadn't been called upon to get his antecedents. I certainly didn't give Detective Ingram instructions to get them.

15

Q. Is it possible, so far as you were concerned, you did not investigate Mr Virkez's background, or his motives for doing what he did, for fear that it might not help the police case?

A. That's not the case at all.

20

Q. I apologise if you've been asked this before, but on the 8th, 9th and 10 February 1979, did you have any conversations with anyone you understood to be from a Special Branch?

A. I have a recollection of someone from that section ringing me that afternoon.

25

Q. 8 February?

A. 8 February, yes. I didn't ring them, because Detective Ingram had already rung them. I can't tell you now what the - they rang me about, but I did speak to someone from there.

30

EXHIBIT 4.2-10, RED PAGES 301 TO 305, SHOWN TO WITNESS

Q. If I could ask you to look at red page number 304.

A. Yes.

35

Q. Question 39, and roughly the middle of the page, you asked, "Are all of these other people involved in the bomb attacks members of the Croatian National Council?"

A. Yes. It's--

40

Q. Just pausing there. It looks, doesn't it, as if you, in fact, did have an understanding that the politics of this case were deeper than just Yugoslav against Yugoslav?

A. I did not have an understanding, as you suggest.

45

Q. What did you understand the word "Croatian" to refer to in that era?

A. Well, I was aware that several small countries made up Yugoslavia, and Croatia was one of them.

50

Q. And that one of them was Croatia? You understood that one of them was

Croatia, did you?

A. Yes.

Q. You understood that one of them was Serbia, did you?

5 A. Yes. There were five or six countries, yes.

Q. Why did you ask that question at question 39, and please feel free to look at the questions before that, if it assists you.

10 A. I can't tell you now, but that - that must have been mentioned to me somewhere.

Q. Sure.

15 A. Because normally I wouldn't know anything about the Croatian National Council.

Q. But it suggests that you had an appreciation of motives of the people said to be involved in this case, which was deeper, more complex, than simply Yugoslav against Yugoslav, doesn't it?

20 A. Well, that's not the case in relation to me.

Q. In the next question and answer, question 40.

A. Yes.

Q.

25

"Q. Do you know the names of any other people involved apart from what you've told me?

30 A. No. There would be others but I don't know who they are. See the party system is that you can only know three men, one who has to find you, and then you have to find two men, after that those two men each have to find two other men, so that all the time three men would know each other. That is all that should know each other. About two months ago Tony said to me, 'You know too many men. It is too dangerous.'"

35

Do you see that?

A. Yes.

Q. What did you understand Mr Virkez to mean by his reference to, "the party system"?

40

A. I didn't think anything of it.

Q. Is that truly an answer that he gave?

45

A. That is the answer he gave.

Q. Why wouldn't you be interested to know what party he is talking about?

A. I wasn't interested, obviously.

50 Q. Did you hear anything on 8 February, or any subsequent day, from any police officer about an entity called the Croatian Republican Party?

A. Only when I - Virkez mentioned to me in a previous question as an answer.

Q. Well, I just point out that the words are, "Croatian Republican Rakovica".

A. Yeah. Yeah.

5

Q. Detective Sergeant McDonald never said anything in your hearing to the effect that, "All these guys are members of the Croatian Republican Party."

A. Certainly not that I can recall.

10

Q. And you don't think it would have been useful to the police investigation to find out what party Virkez was telling you about?

A. Not at that time.

15

Q. But on the strength of what he was saying to you on what you recorded, he was referring to an entity, which was part of a big bomb plot, wasn't it?

A. I don't know. But I didn't know a thing.

20

Q. On your evidence, you didn't care to find out; is that right?

A. I won't say I didn't care to find out. I didn't see a need to find out.

Q. You didn't think that motivation of people to commit violent crime was an important thing when police were investigating allegations of violent crime?

A. I don't agree with that.

25

Q. Why don't you agree with that?

A. Just the way you phrased the question.

30

Q. Is motive important in police investigations?

A. It depends on the investigation.

Q. Is this not a serious investigation with a threat of death, and injury, and buildings being blown up?

A. Yes. I agree that is.

35

Q. Isn't that the sort of investigation where knowing the motive of the alleged conspirators is important to the police investigation?

A. Well, it could be, obviously.

40

Q. What I suggest is you had an idea about this motive, but you didn't want to get too much information out from Mr Virkez in case it was not helpful to the police case?

A. That's not the case at all.

45

Q. What other explanation can you give us?

A. I can't give you another explanation other than I didn't even consider what you're just suggesting now, and here it is 45 years after the event, or more, that - I didn't know enough about politics over there. Now that I'm older, I probably realise that there was more going on there than what I did in those days.

50

Q. Or alternatively, you were provided with information by other police about the political aspects of this case, and you chose not to pursue them, so far as what you recorded was concerned?

A. That is not the case in relation to the two items that you've just referred to.

5

Q. Can I take you to another one.

EXHIBIT 4.2-11, RED PAGE 310, SHOWN TO WITNESS

10 Q. You agree that this is a copy of the third Record of Interview?

A. Yes, that's correct.

15 Q. Could you go to red page number 310, and could we enlarge questions 47 to 48, please? Questions 47 to 48. Question, "You have also written the words, 'Lusic on Kroatian Radio', down on the paper whilst I've been talking to you. What does that refer to?" Answer, "He works once a week for one hour a night on the Croatian radio program, just music and that. He is another one they were going to kill when they killed Mlinaric and Lovokovic." Question 48, "Do you know who was to kill him?" Answer, "No, that is the party problem."

20

A. That's correct.

Q. There's no record of you asking him what party are you talking about.

A. That's correct.

25 Q. So you didn't ask him?

A. No, I didn't.

Q. Why not?

A. There was no reason why not.

30

Q. Did you investigate whether there were any papers or documents, magazines, at Virkez's house that could have shed light on what this party was that he was referring to in the interviews by you?

A. No. I did not search the house at all.

35

Q. I'm not saying you did. Do you know whether police searched his house?

A. Yes. His house was searched.

40 Q. Do you know whether police brought things back to the police station from his house?

A. I believe they did.

Q. You would have had a look at those things before interviewing Mr Virkez, wouldn't you?

45

A. No, I did not. They hadn't searched the house at that stage.

Q. Did you ever have a look at the things that you understood had been brought back to the police station by police who had searched Mr Virkez's house?

50

A. No, I did not.

Q. You were completely uninterested in his motives, weren't you?

A. No. I asked him a question and he answered. Again, the Yugoslav dance troupe were going around the world, were bringing back money that they were using to buy weapons and arms against them.

5

Q. Do you think it's possible that you're making out that you were quite uninterested in the motives of these conspirators, and where they came from.

10 WOODS: Your Honour, we've got to the point where repetition is - he disagreed with that proposition anyway.

HIS HONOUR: I get the impression this is reaching towards the end of this topic, is it, Mr Buchanan?

15 BUCHANAN: The Court please.

Q. Are you just making out that you were completely disinterested in the motives of this man, or the men he was talking about?

20 MCDONALD: I object to that. That assumes that he wasn't interested in the motives, and he's given evidence that he asked him about the motives, and he got particular answers. To suggest that there was no interest whatsoever about the motives is incorrect.

25 HIS HONOUR: Yes. There's force in that, Mr Buchanan.

BUCHANAN: May it please the Court.

30 Q. Are you aware whether in the period 1978 to 1979 Mr Virkez communicated with the Yugoslav Consulate in Sydney?

A. No, I'm not.

Q. Were you ever aware of that at any previous time?

35 A. No.

Q. Did you ever have an understanding before you spoke with Mr Virkez in Lithgow Police Station in the middle of the day on 8 February 1979, whether he might have been providing information to any Australian police or intelligence agency?

40 A. No, I was not.

Q. Would you accept that if you had known that he was providing information to the Yugoslav Consulate or an Australian police intelligence agency, or both, that that would have been relevant to the police investigation in this matter?

45 A. It's a hypothetical question, because I didn't know, and--

HIS HONOUR: It's really a matter for the opinions of others to form. If he didn't know, he didn't know.

50 BUCHANAN: Very well, your Honour.

Q. In the context of this case did you ever hear about, or meet or speak with a man called Roger Cavanagh?

A. Not that I can recall.

5 Q. Did you ever meet or speak with anyone you understood to be from the Commonwealth Police in this period, 8, 9 and 10 February 1979?

A. No, I don't think so.

10 Q. Does the name Steve Topic mean anything to you in the context of this case?

A. Yes.

Q. What does it mean to you?

15 A. He was also charged with stealing the explosives, with Bebic, from the Wallerawang power house site.

Q. Did you take part in the investigation of Mr Topic?

A. No.

20 Q. Did you obtain a statement from Mr Topic?

A. No.

Q. Before 8 February 1979 did you know Mr Topic, or know of him, as a resident of Lithgow?

25 A. No, I did not.

Q. Mr Topic was mentioned in the first and second of Mr Virkez's Records of Interview. You didn't do anything in pursuit of that? You didn't chase that up in any way. Is that right?

30 A. I didn't personally.

Q. Did you ask someone else to?

A. I must have spoken to Detective Ingram and Hudson.

35 Q. I'm sorry, "and Hudson"?

A. Hudson, because they went around and spoke to him, and subsequently charged him.

Q. Do you know if any search was conducted of Mr Topic's house?

40 A. No. I don't know.

Q. Do you know whether any explosives were found in his house, or in his possession in any other way?

45 A. No. Had - had they found explosives there I would have known that.

Q. Thank you, Mr Marheine.

A. Thank you.

NO EXAMINATION BY MS NEEDHAM, MR BROWN AND MS BASHIR

50

<EXAMINATION BY DR WOODS

Q. Mr Marheine, how old are you?

A. 88 at the moment.

5

Q. Soon to be 89?

A. That's correct.

10 Q. You were asked some questions about your knowledge of the party referred to in the Record of Interview by Virkez. Have you ever studied the history of the Balkans?

A. No.

15 Q. Yugoslavia?

A. No.

Q. Has most of your working experience as a police officer been in country districts?

A. That's correct.

20

Q. Following this matter, did you get a transfer to Albury, or during the course of this case?

A. Yes.

25 Q. Could the witness be shown what is the red page 270 of the Tender Bundle? It's 11.50.

HIS HONOUR: Exhibit 11.50.

30 EXHIBIT 11.50 SHOWN TO WITNESS

WOODS: Could that be shown on the screen?

Q. If we can start at - do you have 206 in front of you there?

35

A. I do.

Q. After you retired, the police brought in a system called COPS, which is an electronic mechanism for producing running sheets. Are you aware of that, or was that after your time?

40

A. It's after my time.

Q. At the time that you were operating, there were things called occurrence sheets, were there not?

A. That's correct.

45

Q. And also running sheets?

A. Yes.

Q. Sometimes the two would be combined, in effect?

50

A. Yes.

Q. If you look at red page 206 there, does that look like the sort of thing that you might see in a running sheet? That sort of entry?

A. Yes.

5 Q. If you could go over to page 207, do you see that that looks like the sort of thing that comes from a running sheet?

A. That's correct.

10 Q. If we can go to 210. Have you got 210 up?

A. Yes.

15 Q. Before I talk to you about the document, I'll remind you that you were asked some questions a short while ago about whether, to your knowledge, any enquiries were being made by New South Wales Police into the background of the man, Virkez. Do you recall those questions?

A. I do.

20 Q. If you look at that document, which is red page 210, does it appear to be a document from Interpol Canberra to the attention of Detective Sergeants Turner and Milroy of the Breaking Squad?

A. That's correct.

25 Q. Do you see that that appears to be inquiries being made by them about the background of various people, particularly Virkez and others associated with this case?

A. Yes.

30 Q. If you turn over to the next page, 211, you'll see there a document that appears to be characteristic of a running sheet sort of entry?

A. Yes.

35 Q. There's plenty more there, but I don't need to pursue them. There were questions asked about a visit that you made to the cells at Darlinghurst Police Station.

A. Yes.

40 Q. I'm sorry, not Darlinghurst Police Station. That's now occupied by entirely a different set of arrangements. Darlinghurst Court House, and the context of it was that it was being suggested to you that you were somehow doing something improper in relation to Virkez. Did you try--

HIS HONOUR: No. No. No.

45 WOODS: I withdraw that question.

Q. That you were managing. You'll recall that there was a suggestion that you were managing him, in effect. You understand that?

A. Yes.

50 Q. What do you say about that general proposition? Were you managing

him?

A. I certainly was not.

EXHIBIT 11.50, RED PAGE 217, SHOWN TO WITNESS

5

Q. Do you see that sheet of paper, or that--

A. Yes.

10

Q. Does that appear to be part of a running sheet? Do you see at page 45 at the top right-hand side?

A. Yes.

15

Q. Is that dated 14 March 79?

A. Yes.

Q. It refers to a signed statement by Stjephan Topic?

A. Yes.

20

Q. It's reported into the system by yourself?

A. Yes. I - I can't recall it now.

25

Q. In any event, does that appear to be characteristic of the sort of things you would put into a running sheet?

A. Yes.

Q. Do you recollect when it was that you were actually transferred to Albury?

A. Yes. On 9 May 1980.

30

<EXAMINATION BY MR BUCHANAN

Q. That P109 form was an occurrence pad sheet, wasn't it?

A. That's - it was.

35

Q. It's not a running sheet, is it?

A. Well, it was used when you were having a running sheet. This is where you would put your information that you had established, and refer back to the original matter that you were investigating.

40

Q. If running sheets were established for an investigation and you were aware of that, if you wanted to make an entry in them, you would make the entry in the running sheet, wouldn't you?

A. Yes. But you would make it on this form, and that became part of the running sheet.

45

<EXAMINATION BY MS MCDONALD

Q. While we've still got that on the screen, that was a note you made on 14 March 1979?

A. Apparently so, yes.

50

Q. In it, you refer to the attached signed statement from Stjephan Topic, but you go on to make the comment, "who is able to establish an association between Bebic, Virkez and Zvirotic at Lithgow."

A. Yes.

5

Q. Why did you make that comment in this running sheet/occurrence sheet?

A. I have no recollection of it at all, so I can't tell you that.

Q. Does it indicate your ongoing involvement in the information of the matter, in particular, in respect of Virkez?

10

A. Well, just looking at that, I would think that I may have been told something by Virkez - by Ingram and Hudson after they arrested Stjephan Topic, and I - I have no recollection, of course, now what the - the statement by Stjephan Topic contained, unless it, in some way, it mentioned those three, Bebic, Virkez and Zvirotic at Lithgow.

15

Q. It was more the fact that you made that observation in this document, indicated your ongoing involvement in the investigation?

A. Yes.

20

Q. Do you agree with that?

A. Yes.

Q. With the same Exhibit, could page 225 be brought up, please.

25

MCDONALD: I repeat, your Honour, I may require leave to ask this question.

HIS HONOUR: Yes. All right.

30

MCDONALD

Q. Can you see this is a running sheet dated the 20th of the third, 79, information from Virkez at an interview at Parramatta Gaol?

A. Yes.

35

Q. You're not the author of this. It's Detective Sergeant Turner, but I wanted to ask you about the first paragraph, where it refers to your visit to Mr Virkez at the gaol on 16 March in relation to some documents. Do you see that?

A. Yes.

40

Q. Then it says, "During the course of their conversation, Virkez intimated his desire to see Detective Sergeant Turner." Then it continues, "As a result of this, Turner attended the gaol." What I wanted to ask you about: do you recall when you visited Virkez on 16 March that he raised Detective Sergeant Turner?

45

A. No.

Q. That he wanted to see him?

A. Not to me.

50

Q. You don't recall that?

A. Well, I know he didn't.

Q. I'm sorry?

5 A. I know that he did not call me - mention anything about Detective Sergeant Turner to me.

Q. That's your recollection when you went to see Mr Virkez at the gaol? That he didn't raise--

10 A. That's - that's correct. He did not raise Detective Sergeant Turner's name with me.

Q. Wouldn't you have raised Detective Sergeant Turner because you had the two documents from him?

15 A. I - I would have raised it, but he didn't say anything to me that he wanted to speak to Turner.

Q. You were asked a series of questions about the Records of Interview, the three of them. Was it your practice that when you learnt information in an earlier record of interview, subsequent records of interview would build on that knowledge?

20 A. Yes.

Q. If I can take you to the first Record of Interview.

25

EXHIBIT 4.2-8 SHOWN TO WITNESS

Q. Hopefully that's the first Record of Interview?

A. First one.

30

Q. Would you go to page 298 down the bottom, and it's question 39. Sorry, it would commence with 38.

A. Yes.

35

Q. You were taken to this. This is when you asked, "Why were you going to plant these bombs in those positions?" And the answer was, "To keep fighting for our country that is it. Bit of politics, too." And then you ask, "Are you a member of any political party?" And he nominates, "The Croatian National Council. And one in Germany."

40

A. That's correct.

Q. So you were alerted to a political party that Mr Virkez describes as the Croatian National Council?

A. That's so.

45

Q. Then could we go to the second Record of Interview which is Exhibit 4.2-10?

EXHIBIT 4.2-10 SHOWN TO WITNESS

50

A. Yes.

5 Q. This time would you go through to page 4 question 39? This is in the context of you asking questions about where bombs were to be planted, and at 39 you say, "Are all these other people involved in the bomb attacks members of the Croatian National Council", and that was the entity that was referred to in the first--

A. Yes.

10 Q. --Record of Interview. The answer is, "Probably half of them are, but half also belong to", and then we've got "Croatian Republikan Rakovica (writes name down)." Does that indicate that Mr Virkez actually wrote down the name of that second entity?

A. That is correct.

15

Q. Then he says, "I only belong to the National Council. They give me books and they try to get me to join that other party but I say that's all right but no I couldn't."

A. That's correct.

20

HIS HONOUR: The third word in the name of that other party is R-A-K-O-V-I-C-A.

MCDONALD: Thank you, your Honour.

25

Q. Then if we can then go to the third Record of Interview which I'll show you - Exhibit 4.2-11.

EXHIBIT 4.2-11 SHOWN TO WITNESS

30

Q. If you first would go to page 1 and question 3. "Do you agree that I have had a further conversation with you this morning and you have agreed to tell me more of the plans that were discussed by you and" I think that's supposed to be "other members of your party"?

35

A. They.

Q. And you say, "Yes, I will tell you. It will be very dangerous for me." Then four, "Will you tell me now what was to happen if the bombs which you and other members of your party planted had exploded?" Then Virkez answered, "it was planned that those two men had to be killed." Where you ask him about the party, are you referring to the identity of the party that he was involved in the other Records of Interview?

40

A. Yes.

45 Q. Then you were taken by my learned friend at page 5 to I think it was questions - there was 47, where another name was written down, and then at 48, "Do you know who was to kill him?" "No. That is the party problem."

A. Yes.

50 Q. Again when he referred to the party problem, were you referring to the

party that he'd identified back in the first Record of Interview?

A. Yes.

5 MCDONALD: If those Exhibits can be returned, and no further questions, your Honour.

10 HIS HONOUR: Mr Marheine, that's the end of your evidence. You're not excused, but I'm standing you down. In the event that you are required for further evidence you'll be notified. All right?

WITNESS: I will be available.

<THE WITNESS WITHDREW

15 MCDONALD: Your Honour, the next witness will be taken by Ms Melis, and it's Mr Milroy, who has been at Court all day, so we were eager to get him started.

20 HIS HONOUR: Very good.

MELIS: I call Alastair Milroy.

<ALASTAIR MACDONALD MILROY, SWORN(3.45PM)

<EXAMINATION BY MS MELIS

5 Q. What is your full name?

A. Alastair MacDonald Milroy, M-I-L-R-O-Y.

Q. Mr Milroy, are you retired?

A. Yes, I am.

10

Q. How old are you?

A. 79.

15

Q. In 1979, you were a Detective Senior Constable with the Breaking Squad of the New South Wales Police; is that correct?

A. That's correct.

Q. You gave evidence at the committal proceedings for the case of the Croatian Six; is that correct?

20

A. That is correct.

Q. You also gave evidence at the trial of the Croatian Six.

A. I did.

25

Q. You made a statement dated 23 April 1979 connected to those proceedings; correct?

A. Yes. That's correct.

30

Q. Have you had the opportunity to review your statement and transcripts of evidence?

A. I have.

Q. Having now reviewed the evidence, is there anything you want to change?

35

A. The only correction would be on page 233, the third question from the bottom, where there's a reference to 4 February, but it should be 8 February. Whether that's a transcription mistake, I'm not sure.

Q. You're referring there to your transcript of evidence at the trial?

A. That's correct, yep.

40

Q. Otherwise, the evidence you gave on each occasion was true and correct?

A. Yes.

45

HIS HONOUR: Sorry, just going back. That's 233 of the red number at the top?

MELIS: Your Honour, it's not the red number. It's the page number of the transcript, as I understand it.

50

HIS HONOUR: I've got Detective Musgrave at page 223, isn't it? Yes.

Detective Musgrave there. 233 in the red numbering.

Q. Which question did you say, Detective? Or former detective? Are you looking at the page numbering in the bottom right-hand corner of the page?

5 A. Yes. Yes.

MELIS: My apologies. It's the red 233. Yes.

Q. There's a date there referring to 4 February, but you say it would be a transcription error and it should read 8 February?

10

A. That is correct.

Q. As at February 1979, how long had you been with the Breaking Squad?

15

A. About 5 years.

Q. Prior to joining the Breaking Squad, were you attached to a different unit of the New South Wales Police?

A. I was a detective at Liverpool Police Station.

20

Q. How did you come to become a member of the Breaking Squad?

A. In those days, there was a process, I believe, where the hierarchy of the Criminal Investigation Branch would liaise with the Detective Inspectors who would be in charge of the various divisional police units, and they would look around for possible new recruits for the respective squads, and there was a process of some investigators at the Criminal Investigation Branch who were being transferred back to divisional police detective officers because they'd been promoted. So there was a constant stream of vacancies, and I was asked to fill a vacancy at the Special Breaking Squad, as it was called, and a sergeant from the Breaking Squad came to Liverpool to - to replace my position.

25

30

Q. Were you approached by a particular police officer with respect to that vacancy?

A. Was I?

35

Q. Were you approached by a particular officer in respect of that vacancy with the Breaking Squad?

A. No. The Detective Inspector who was in charge of the Liverpool detectives indicated to me that as a result of the results you've been achieving, your performance, that there was a vacancy at the Breaking Squad, and that, I believe, the Breaking Squad had a - a vacancy, and they asked me was I interested in moving to that position, and I accepted it.

40

Q. You mentioned the Criminal Investigation Branch; is that right?

45

A. That's correct.

Q. Is it the case that the Breaking Squad was a part of the Criminal Investigation Branch?

A. Yes. Your Honour, in those days, the Criminal Investigation Branch consisted of a range of squads. The Special Breaking Squad, the Armed

50

- 5 Hold Up Squad, the Dealers' Squad, the Homicide Squad, and a number of others, and the - most squads had specific responsibilities. The Breaking Squad, for example, was responsible for safe attacks. In those particular days, of course, there was a lot of attacks on safes, whether using explosives or by oxyacetylene. Large robberies, which may have been from the wharves, et cetera. Large jewellery robberies, bombings, and arsons. So that was basically the core areas of responsibility for the Breaking Squad, and other squads had the same.
- 10 You operated in those days probably in a bit of a - isolation, because in those days, your Honour, there was no technology like intelligence systems, and that like. There was a lot of, lack of a transfer of, or passing of, information, intelligence between Federal and State bodies, because of the - the way the system was in those days. If you looked at the hierarchy, you had the Federal
- 15 Government and the Attorney-General's Department, and ASIO and those intelligence agencies, and then you had the Commonwealth Police, and then you had the State Police under Commissioners, and then the ranks, and the CIB sat in that sort of pecking order.
- 20 And the - basically you, as the offences were committed in the State of New South Wales, then when they fell into that category that I just explained, we would be asked to then travel to the designated positions and assist the local police, and if it was a serious matter, we would take over that investigation.
- 25 Q. There's a bit to unpack there. You mentioned that the core work of the Breaking Squad was large robberies; correct?
A. That's correct.
- 30 Q. I think you mentioned arsons?
A. That's correct.
- Q. What were some of the other matters you mentioned? Was it anything to do with incidents involving explosives?
A. Bomb - bombings, that's correct.
- 35 Q. Bombings.
A. And large warehouse robberies, large retail robberies, jewellery robberies.
- 40 Q. When you joined the Breaking Squad, did you undertake further training with respect to your role within the Breaking Squad?
A. Not in the Breaking Squad, no, but other than being a member of the Special Weapons and Operation Squad, that was the only additional training I did during my period.
- 45 Q. Is it the case that as at February 1979, you were also a member of the Special Weapons and Operation Squad?
A. That's correct.
- 50 Q. Can you just explain to us what kind of jobs that squad responded to?
A. In those days, the Special Weapon and Operation Squad were - basically

5 consisted of one or two permanent staff, who were mainly at the Ballistics Unit, and the balance of the personnel were drawn from within the Criminal Investigation Branch Squad, there was sort of a pool, and we were part-time, and you would undergo some training at the army for a specified period during the year for, maybe, one week, in relation to dealing with high-risk incidents, like sieges, violent offenders, to be able to respond to such an incident when you're called out to resolve an incident in support of a local police area command.

10 Q. That was training of about a week, you said, with the army?

15 A. That's correct, yes. And during that period of, say, 12 months, you would - you may meet for a training one day, or an afternoon, specifically related to different offences. Like an extortion, or if someone had hijacked a train. So you'd have different, one-off, one days where these permanent members would bring a handful of officers together to run through the scenarios associated with things of that nature, as well as some exercises where you might join together with - under the SACPAR arrangement to deal with terrorist incidents. It might relate to an attack on a ship on the harbour, or a train, or a plane. So some of us went to the airport to understand how to deal with resolving a terrorist incident associated with an aircraft incident.

20 Q. I take it then in addition to your duties with the Breaking Squad, you would be called out to high-risk incidents, when required, in your role with the--

25 A. That's correct.

Q. --Special Weapon and Operation Squad?

30 A. Most - most of those situations, your Honour, would be after-hours. You might get a call at 2, 3 o'clock in the morning, and they would call out 10 or 15 of the SWOS to respond to a particular incident that may be evolving at that particular time in a suburban location. Other occasions, very rarely you might be told in advance to be at a certain place the following morning where there was going to be an assault on premises that they believed to be high-risk offenders in attendance and that were currently under surveillance. Those are the sort of situations you were faced with.

35 Q. In February 1979, where was the Breaking Squad physically located in Sydney?

40 A. They were in the Remington building. They'd only just moved from the Smith and Campbell Street building in late 1978.

Q. Is it the case that the Armed Hold Up Squad sat next to the Breaking Squad on the same floor in the Remington building?

45 A. That's right. The squads were broken up. They had one complete floor, and there was a row of lockers that separated, and different offices allocated, and different entrance to each of the squads.

Q. The fact that both squads were effectively neighbours, did that mean that you worked on jobs together?

50 A. There would only be an occasion where if, not only the Armed Hold Up Squad, but the Homicide Squad, or Dealers' Squad, or the Consorting Squad,

5 if that particular squad was going to run a particular operation, and they required additional resources to assist them, then they would call on different squads to - could you lend us two pairs of investigators, or half a dozen investigators, to supplement their resources for that particular operation, and that might happen now and again.

10 But normally the squads operated on their own areas. Occasionally, the Breaking Squad might have a - an operation, and it might also borrow officers from - depending on what the particular case was, if it had to do with retail property, they might borrow officers from the Dealers' Squad, because they dealt with that sort of area as well. So you would borrow officers, mainly within the CIB squad itself.

15 Q. In February 1979, who was the head of the Breaking Squad?
A. Mr McDonald.

20 Q. Did you report directly to Mr McDonald?
A. The structure, your Honour, at the Breaking Squad, I think we had something like 28 or 29 staff, and then Mr McDonald, and you had two weekends when a second-class sergeant, and what I mean by "two weekends", you worked 10 days and four off. So you had two groups under a second-class sergeant, and I think there was something in the vicinity of six pairs of investigators on each weekend, so that they basically only overlap on a Thursday and Friday. The rest of the time that weekend under that
25 second-class sergeant over six pairs of investigators run their weekend, and we were then - broke up into pairs. We had an operating pair. One was in charge, and they would have an assistant, and that was the way it was structured.

30 <THE WITNESS WITHDREW

ADJOURNED PART HEARD TO WEDNESDAY 27 MARCH 2024