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SPECIAL INQUIRY

THE HONOURABLE ACTING JUSTICE ROBERT ALLAN HULME

5 FIFTH DAY: WEDNESDAY 27 MARCH 2024

INQUIRY INTO THE CONVICTIONS OF THE CROATIAN SIX

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EPSTEIN: If your Honour pleases, this morning we seek to interpose Mr Kennedy to give evidence at this point in time. Prior to calling Mr Kennedy, we seek to tender a document that relates to Mr Kennedy's medical conditions, and I seek a non-publication order over that document. I can hand up a copy.

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HIS HONOUR: Yes, very well.

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EPSTEIN: I've handed your Honour two medical reports. The first is of Associate Professor Rosenfeld, dated 19 February 2024, and the second is of a Dr Peter Shiner, dated 22 November 2023. Your Honour will see in the non-publication order that I have handed your Honour I have struck out the words "Dr Simon Chalkley", as there was an error, and I ask your Honour to make it in the amended terms.

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HIS HONOUR: The non-publication order will be made in respect of the two medical reports you have referred to. Do you want those marked at all?

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EPSTEIN: Yes, your Honour. I'm just confirming the exhibit number; if I could return to that, but I will tender it in due course and have it marked appropriately.

HIS HONOUR: Yes, all right. Anything else before we get the witness in?

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EPSTEIN: No, your Honour.

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HIS HONOUR: I just want to say something for the benefit of those preparing the transcript, that there have been many, many, references to the "breaking squad", B-R-E-A-K-I-N-G, which have been misinterpreted in the transcript as the "break, hyphen, in squad", so I just wanted to clarify that for their benefit. Yes.

EPSTEIN: Thank you, your Honour. I call Ian Malcolm Kennedy.

<IAN MALCOLM KENNEDY, INTERPOSED, SWORN(10.06AM)

<EXAMINATION BY MS EPSTEIN

5 Q. Is your full name Ian Malcolm Kennedy?

A. Yes.

Q. You were a police officer who attended a raid at 16 Chandos Street,
Ashfield, on 8 February 1979?

10 A. Yes.

Q. Mr Anton Zvirotic, one of the men who was a member of the Croatian Six,
resided at that premises. Is that correct?

15 A. Yes.

Q. At that time, was your rank a Detective Senior Constable?

A. Yes.

Q. You were attached to the Armed Hold Up Squad. Is that correct?

20 A. Yes.

Q. How long had you been with the Armed Hold Up Squad at that time?

A. About three years, I think.

25 Q. Where were you attached to prior to that time?

A. I was at Maroubra. Daceyville, I think it was in those days.

Q. You gave evidence at the committal proceedings for the Croatian Six and
also the trial?

30 A. Yes.

Q. You've been provided a copy of the transcript of your evidence?

A. Yes.

35 Q. Have you had a chance to read that evidence?

A. Yes.

Q. After having read it, are you able to recall the details of what you've been
given an opportunity to read?

40 A. Not very well. I have a medical problem, memory problem. I've been to
see a specialist about that.

Q. When you were in the course of reading it, did you notice anything that you
thought wasn't correct, or that you needed to change from your evidence at
trial or committal?

45 A. Not that I can recall.

Q. Do you have any independent recollection of the events of 8 February
1979?

50 A. Very little. Very little.

5 Q. I'm going to ask you some questions about that, to see if any of the events that took place jog your memory, but please, I don't want you to try and guess, so if you can't recall, please just say you can't recall. Prior to the raid that took place at 30 Chandos Street on 8 February 1979, do you recall attending a conference or meeting with other police officers at which the raid was discussed?

A. I don't really recall, but that's common practice, so I imagine that I did.

10 Q. When you say it was common practice, what types of things were discussed at meetings of this kind?

15 A. Well, you talk about the purpose of where you were - where you were going, for a start. Who you might find there, or hoping to find there in some cases. What it was about, what the offences were likely to be, or the history of whatever that person had brought to our attention, and any specific directions about security, or who was - if we were going to find people, who was likely to take that person into custody. Things like that.

20 Q. In your experience in attending meetings of this kind, who would be leading the meetings?

A. Normally - normally the person in charge of the investigation, but sometimes other people that had information would provide that.

25 Q. Do you recall who was leading the meeting in this particular case?

A. I don't know if it was Inspector Webster, or not.

Q. Do you recall who was in charge of the investigation prior to you attending the raid?

A. No, I don't. Not off the top of my head now.

30 Q. Prior to the raid occurring, were you told about the possibility of explosives being present at the premises you were about to raid?

A. No, I can't remember.

35 Q. Do you recall whether there was any discussion about events that had occurred in Lithgow earlier that day?

A. No, I don't remember that.

40 Q. I'll take you now to what happened at the raid itself. Your evidence at trial was that you entered through the front of the premises. Do you recall having done that?

A. Yes.

45 Q. What do you recall occurring?

A. Someone knocked on the door of the premises. It was opened by a male. I think it was Burke, and Burke spoke to him, and we went in, and there were some other police officers who came in through the back door. We met them inside the house.

50 Q. When you went inside the house, what happened?

A. Well, we had allocated - sorry. The first thing that happened was one of

the defendants had a bit of a disagreement with Gilligan, Detective Gilligan, and they had a bit of a scuffle, and then we commenced to search the place.

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

5 A. I'm trying to remember now. I just can't remember - pardon me, I've just read the statement but I can't remember anything, sorry.

Q. Do you recall any--

10 A. Just a bit of pushing. He - yeah.

Q. Do you have an independent recollection of that happening?

A. No.

15 Q. The evidence given at trial was that Mr Zvirotic was standing on the stairs when the police officers occurred(as said). He gave evidence that he was handcuffed, grabbed by the hair, and pulled downstairs. Do you recall witnessing that?

A. No.

20 Q. You were involved in searching Mr Zvirotic's room at the premises. Is that correct?

A. Yes.

Q. Do you recall--

25 A. Is that room 7?

Q. That's correct, number 7. What happened when you searched the room, to the best of your recollection?

30 A. Well, some - some things were found and brought to my attention by Detective Burke, and also I think Detective Gilligan.

Q. Sorry, can you say that again?

A. Gilligan.

35 Q. What things were those?

A. There was a box with some - it had some papers, some - some were in the Yugoslav language, I believe. Again, my memory's poor.

40 Q. Do you recall the box being found, or is that something you're recollecting have read your transcript?

A. No, having read my transcripts, that's all - I - I have very little independent memory of - of what happened. I've got a memory problem, unfortunately.

45 Q. Your evidence at trial was that you saw Detective Gilligan locate a pistol. Do you recall that having occurred?

A. Now? No, I don't, but that was in the - in my statement.

50 Q. You also gave evidence that you saw two sticks of gelignite and a detonator located at the premises. Sitting here today, do you have any independent recollection of that occurring?

A. Yes, I do, and I remembered Detective Burke, I think, put the detonator in his pocket.

5 Q. Can you tell us everything you remember about the location of the gelignite and the detonators?

A. No. I'm sorry. Look, I'm - I've read my statement and I should know now, but it's my memory.

10 Q. Do you recall how those items, the gelignite, the detonators, and the pistol, were transferred back to the Armed Hold Up Squad?

A. They were put in a box. I think I took the box out and put it in the car, the back of the car, and drove it back, and then took the box up into the Armed Hold Up Squad office, and I put - put some of them on the desk, and a lot of the papers that were there we spread out on the floor for easier access.

15

Q. Around that time, was there a practice of what would occur if there was a raid or search warrant executed and items were located? What would you do with them once you returned to the police station?

20 A. Well, people would start to have a look through them, so you'd put them on the desk and they'd be available for people to have a look at. I'm not sure I understand exactly what you've--

25 Q. Nowadays there's something called a property seizure record that would record anything that was found during a raid or a search warrant. Was there an equivalent document or a practice at that time of recording the items that were located?

A. No, not that I can remember.

30 Q. What about entering items into an exhibit book? Was there a practice around what should occur there?

A. Well, that would normally occur when we take them in and have them charged, at the charging station. They'd be put into an exhibit book there.

35 Q. Who would usually be responsible for that process?

A. Well, the person who probably was taking the accused, if they - if they shown those documents or had a need to question the accused about those documents, they'd probably take them, or it may have just been someone allocated to collect them all and take them down and enter them up.

40 Q. That occurred at the time of charging. Is that the evidence you're giving?

A. Basically, yes.

Q. Are you aware whether the items that were found at the Chandos Street premises were entered into an exhibit book in this case?

45 A. I'd imagine they were, but I can't say for certain.

Q. During the course of the raid, Mr Zvirotic's evidence was that he was assaulted by police officers, including being struck by a police officer. Did you witness Mr Zvirotic being assaulted during that raid?

50 A. No, I didn't.

Q. Are you otherwise aware of him being assaulted during the raid?

A. No.

5 Q. Mr Zvirotic also gave evidence that threats were made to him, for example by Detective Jameson, who allegedly said, "shut up and sit on the chair or we'll blow your head off"; did you witness any threats of that nature being made?

A. No.

10 Q. Did you otherwise become aware of any threats having been made to Mr Zvirotic during the raid?

A. No.

15 Q. What happened once you returned to the CIB after the raid?

A. Well I put the documents on the floor in an area we just spread the documents out so it was easy access for people if they needed to see them, and then I just - I just remained in the office.

20 Q. Did you have any further involvement with Mr Zvirotic?

A. No.

25 Q. Did you enter the room at all when he was being interviewed by police officers?

A. I don't think so. I walked past it a number of times, and looked in and saw him in there, but I don't think I entered, no.

30 Q. Were you able to see inside the room from the outside of it?

A. Yes.

35 Q. Mr Zvirotic at trial made allegations that he was severely beaten by a number of officers during the time at which he was interviewed at the CIB; did you witness any such assault?

A. No, I didn't.

40 Q. Did you participate in any such assault?

A. Certainly not.

45 Q. Are you otherwise aware from any other encounters of such an assault having occurred while he was at the CIB?

A. No. I know there were allegations made, but no, I don't know of any assault.

<EXAMINATION BY MR BUCHANAN

50 Q. For how long did you serve as a detective in the New South Wales Police Force, sir?

A. I think - I think I went into Plain Clothes about four years after I started, and then - so that would have been about 1972, and I retired in 2000. So I was--

Q. The year 2000?

A. 2000, yes. I was in Plain Clothes as a trainee, and then later on from there.

Q. You were aware, I take it, when it was published, of the Report of the Royal Commission into the New South Wales Police Force?

A. Yes.

5 Q. Before the publication of that report, and indeed before the publication of the evidence given in the hearings of the Royal Commission, in the course of your duties, had you heard the expression "load up"?

A. Yes.

10 Q. Did you know what it meant?

A. Yes.

Q. What did it mean?

A. It meant fabrication of evidence or exhibits.

15

Q. Did it mean fabricating evidence that a person had had something in their possession which it was unlawful for them to have?

A. So that's - that's a way you can look at it, yes.

20 Q. Had you heard that expression from other police officers?

A. You're talking about a long while ago; I just can't remember. It may well have.

25 Q. Were you aware of anyone in the police force loading up anyone else whilst you were in the police force?

A. I know some people were, I think, accused and convicted of it, or whatever, but it was a common tactic used by defence attorneys at times to - through - through their accused to allege that police fabricated evidence against their client.

30

Q. What you've just said now is the standard response that detectives in your squad gave when accused of being involved in a load up, wasn't it?

A. I can't answer for other people.

35 Q. Did you ever hear the expression "brick up", as in--

A. Unless it was a building, no I don't - I don't recall that, no.

Q. Not bricking someone up so that they end up going to gaol?

A. Never, no, not familiar with that.

40

Q. You've never heard that expression?

A. Not familiar with that one.

45 Q. The Royal Commission said that a brick up in police parlance was a load up; that is news to you, is it?

A. Yes.

Q. You were aware, I take it, of former Detective Sergeant Roger Caleb Rogerson?

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A. Yes.

Q. For how long did you serve in the Armed Hold Up Squad?

A. I think about six years.

Q. During those six years was he a member of that squad?

5 A. Yes, he was.

Q. What was the degree of overlap in terms of time with you and him?

A. Well he was there when I went there, and I can't remember who left first.

10 Q. Were you aware of him being involved in loading up criminals?

A. I'm aware that he made an admission to, I think, a Royal Commission, or something, about that.

Q. But are you aware that he loaded people up?

15 A. Well, he made an admission, so that makes me aware that, in a sense, that he did.

Q. Did you ever serve with him on a raiding team?

20 A. Yes.

Q. Are you saying to us that you are not aware of him, in any of those occasions when you were involved with him in a raiding team, having loaded up criminals?

25 A. Didn't happen when I - if I had any dealings with him, no. I'm not saying that I had control over him, but certainly that didn't happen.

Q. So on every occasion that you were working with him and he claimed that a criminal was found in possession or something unlawful like a pistol or explosives, you too saw the pistol or explosives; is that what you're telling us?

30 A. I don't remember too many times about finding pistols and explosives with Rogerson, but all I can say is that I - I - I was surprised when he made that admission to the Royal Commission.

Q. Is the reason that you were surprised that there was an informal rule amongst detectives not to break ranks when loading up a criminal?

35 A. No, I've - you've - you've told me something about that I didn't know existed, no. He did it because he thought it was the right thing to do, unfortunately, but that doesn't mean it was commonplace.

Q. So you accept that he didn't make up his admissions, as you've called it, but he was talking about something that actually happened, namely loading up criminals?

40 EPSTEIN: Your Honour, I object. This witness is being asked to comment on whether Mr Rogerson told the truth or not in a particular admission.
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HIS HONOUR: Yes, it's very broad, Mr Buchanan, what you're putting, and it's not specifically confined to matters he was involved in and he would be aware of.
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BUCHANAN

5 Q. There's evidence before the Inquiry that, in September 1991, former Detective Sergeant Rogerson told the media that loading up criminals was, to use his words, the cult amongst detectives; do you remember him saying that, or it being reported that he said that?

A. No, I have - that's - that's the first I've heard.

10 Q. The report of his words goes on to attribute to him the following:

15 "You were doing a community service. It was all done in the interests of truth, justice and keeping things on an even keel, and keeping crims under control. In the old days, the safe blower was the smart crim, so they always feared getting a couple of sticks of gelly found in their car or in their possession."

That's Exhibit 13.8 and 13.10.

A. I've never heard that before.

20 Q. Having heard me tell you what it was reported he said, that was all true, wasn't it?

A. I can't answer that.

25 Q. It was a cult amongst detectives, of which you were a member, to load up crims?

A. No.

Q. Including with gelignite?

30 A. No.

Q. Rogerson was reported as saying that everyone including himself knew about it, and that it was par for the course, Exhibit 13.12.

35 WOODS: I object. Unless the witness is going to be asked the next question, whether he was aware of it, but he can't speak for everybody.

HIS HONOUR: I haven't heard a question yet, I've just heard a statement to the effect that this is something that Rogerson said.

40 WOODS: Yes, move on.

HIS HONOUR: What is the question, Mr Buchanan?

BUCHANAN

45 Q. That was the truth, to your knowledge, wasn't it?

A. Can you repeat all that. I can't - I'm sorry, distracted.

50 Q. Rogerson was reported as saying that everyone, including himself, knew about it and that it was par for the course to load people up with guns or

explosives?

A. Because Rogerson said that doesn't mean it was true.

Q. Are you familiar with the expression "scrum down"?

5 A. I played football.

Q. Are you familiar with that expression being used by detectives?

A. No, that's an unfamiliar term to me.

10 Q. Did you ever take part in a practice of detectives involved in a matter, such as raiding somebody, bringing them back, dealing with them, after the person had been charged and put into the cells, taken to the cells, police getting together and working out what their evidence would be to be given to a Court in respect of what had happened with that person who had been lodged in the

15 cells?

A. Well I think that's pretty common practice that you normally, if you're going to charge people, you later on talk about things, what's got to be done, and.

20 Q. One of those detectives, once agreement has been reached as to what the narrative will be, creates the primary record, be it a screed or a notebook, which is then shared with the other detectives who were involved in the matter so that they can make their statements from that original screed or notebook, say?

25 A. Are you saying that the - the detective's own notes of a conversation, or is it the actual conversation?

Q. Of the events that occurred?

A. Well, I can't agree with you on that.

30 Q. You say, do you, that you were involved in meetings in which the matter that had just occurred was discussed?

A. Yes.

35 Q. With a view to arriving at an agreed version, an agreed narrative, of what had just occurred that would then be presented to a Court?

A. Yes, it's common practice that you - you talk about what else have we got to do, and what's been done, what else have we got to do, and then you get to it.

40 Q. You didn't make a statement in this matter; is that right?

A. I think I would of. I'm not sure.

Q. You gave evidence.

A. Yes.

45

Q. You've seen records of that.

A. Yes.

50 Q. Having seen the transcript of the evidence you've given, you think, do you, that it would be unlikely you would have given that evidence without having

had a witness statement to read and prepare from?

A. Well, I was called to give evidence, so I think I must have had a statement so that I could recall my evidence.

5 Q. Could I just go back to Mr Rogerson. When you were working with him, did you trust him?

A. I certainly did. Our lives were in each other's hands at times in the Armed Hold Up Squad, and I trusted everyone that I worked with.

10 Q. Did he ever ask you to, or tell you to, participate in a load up?

A. No.

Q. Or a verbal?

A. No.

15

Q. You were familiar with the expression "verbal"?

A. Yes.

Q. What was a verbal?

20 A. A verbal was a fabrication.

Q. A fabrication of what someone else--

A. Of evidence. Of what someone said.

25 Q. And that was a term in common use amongst detectives when you were working in the Armed Hold Up Squad, wasn't it?

A. No. It was a term in common use by solicitors when they were attacking detectives in giving evidence.

30 Q. Just going back to the expression "scrum down", which you've told us you're not familiar with. In this case, after Mr Zvirotic has been lodged in the cells, what happened?

A. I - I can't remember, I'm sorry.

35 Q. Do you believe you would have taken part in a meeting of detectives that had been involved in the raid, and with Mr Zvirotic, at CIB?

A. Yes. It's - it's - it's common practice that when you come back with people in custody, that you have a quick scrum down to discuss who's going to do the interviews, where you're going to go, what do you need, and what else needs to be done. That's - that's just preparation.

40

Q. But a scrum down can also take place in order for police to construct a load up. That is to say, a version of evidence which is fabricated that will be the basic story that will be given to the Court about what had happened in the past with this man.

45

A. I imagine so. If what you're saying how it happens.

Q. And if it was a load up, a scrum down would be to devise a story as to where the item was found, in what circumstances the item was found, so as to attribute responsibility for that item to the defendant. That's what a scrum

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down for a load up would involve, wasn't it?

A. Well, it could. It could involve varied things, I'd imagine, but a - a scrum down is not always to make up fabrications. A scrum down is to discuss what's being done and what's got to be done.

5

Q. Was it your practice to, in a matter where you'd been involved with other detectives, make your statement from some sort of master version from the person who had been assigned to make the first statement, and that would then be used as the model for the other detectives, or else prepared some sort of screed, which set out in narrative form what was alleged to have happened, and then the other detectives would make their statements from that? Was that how it worked?

10

A. If you were a member of the Armed Hold Up Squad, you were skilled at making statements. You were detectives of high class who had been called up into the Armed Hold Up Squad, and one of the - the assets of being a skilled detective is to be able to - to put a good brief together, so your allegations are - are not right.

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Q. It was undesirable if you were putting a brief together, wasn't it, to have statements that were inconsistent with each other as to what had happened in a particular place at a particular time?

20

A. Well, after incidents like that, there's a briefing, and everything is basically discussed, and I - I think from - from your own experience, you - my own experience, I'm saying, you - you know I've got to go down and make the statement. You know what to put in your statement.

25

Q. How do you know what to put in your statement?

A. Because you're describing what happened. You're - it's your future evidence that you're - you're putting down.

30

Q. You wouldn't want to include anything in it which was inconsistent with what another detective who was involved in the matter with you said in their statement about a particular event in which you were both involved. That would be undesirable, wouldn't it?

35

A. Well, mate, I'd make my statement some days, and other detectives would make their statements at different times. You just did it yourself. You're experienced. That's - that's one of the reasons you were basically asked to perform duties in the Armed Hold Up Squad, because you were capable of - of - of carrying out your duties, and everything that was required.

40

Q. And because detectives might make their statements at different times, it was important to have some model statement, or screed, that had been agreed upon at the end of the day, at the end of--

A. No.

45

Q. --police involvement in the matter?

A. No. We're not all robots. We - we know what to do.

50

Q. The Royal Commission into the police force provided a definition of an expression, "Holding the line". Have you heard the expression, "Holding the

line", before?

A. I'm not familiar with that.

5 Q. It was said to be a police expression, meaning, sticking to a version of events. It's at Exhibit 13.13(A), red page 49.

A. No. I'm not familiar with that term.

10 Q. But it was important to stick to a version of events, wasn't it?

A. Yes.

15 Q. And it was bad, as far as you were concerned, if your version departed from what other police said in respect of the same matter, wasn't it? It was undesirable?

15 A. You used the word "bad". I - I - I mean, people can make mistakes, but - you know - no, I'll leave it at that.

20 Q. It could never be just for one officer who was part of a team involved in a raid for that officer, themselves, to do a load up. The whole team basically had to do the load up, didn't they? They had to participate in the load up by saying they've seen the item said to be in possession?

WOODS: I object to that. This assumes that this witness had been involved in load ups.

25 BUCHANAN: I'm asking the witness's knowledge of practices.

HIS HONOUR: Yes. That's the way I understood your question, Mr Buchanan.

30 BUCHANAN

Q. So talking of practices of load ups--

A. Well, I can't - I can't tell you what that practice was.

35 Q. You worked in the Armed Hold Up Squad for how long again? Six years, did you say?

A. Seven - six or seven years, I think.

40 Q. You never heard of anyone in the Armed Hold Up Squad doing a load up?

A. We were accused in court by a lot of solicitors and barristers of fabrication of evidence.

45 Q. So a lot of crims seemed to think that you were loading them up. They seemed to give instructions to their lawyers that you were loading them up.

A. That's--

Q. Is that what you say?

A. That's the excuse they gave their lawyers.

50 Q. You see, your evidence about an ignorance of personal knowledge of

these practices of fabricating evidence is not true, is it?

A. I'm a third generation policeman. I have pride in my grandfather, my uncle, who were before me, and in my ability to be an honest policeman, and I have done that for all my police career.

5

Q. And to your knowledge, New South Wales Police, before the Wood Royal Commission, were loading up crims for decades, weren't they?

A. They're allegations that were made by solicitors and barristers for 30 or 40 years. It's the only defence that some of them had.

10

Q. You did understand load ups occurred, though; is that right?

A. Yes. There were people that admitted some, I think, and some people that were convicted of them.

15

Q. Did you have an understanding, and we're talking about the practice now, of why police loaded up crims?

A. Well, you don't have to be a genius to work that out. It's just--

Q. Could you tell us?

20

A. Well, they wanted to convict the person, and they wanted sufficient evidence.

Q. That suggests that without the load up, there wasn't sufficient evidence, doesn't it?

25

A. I - I--

Q. In the eyes of the detectives who were doing it?

A. Not necessarily, but I can't - I can't answer that for them.

30

Q. For load ups to occur, it was necessary for the police loading up a crim, to have the item that they were going to say the crim had in their possession available to draw upon to take to court and say, "This is what I found.", wasn't it?

A. That's common sense, I would think.

35

Q. It was necessary for police who were loading up crims to have stashes of unlawful items, such as--

A. I can't answer - I can't answer that.

40

Q. --pistols or gelignite?

A. I can't answer that.

Q. Where would they get these items from if they didn't have access to a collection of firearms, or gelignite, or other unlawful items?

45

A. Well, I'm not one of those people, so don't ask me.

Q. Now can I take you back to the subject of verbals we touched upon a moment ago. There's -- the Inquiry has some evidence; admittedly, some of it comes from Roger Rogerson, that police verballed people from time to time?

50

A. Yes.

5 Q. Now, the Royal Commission into the New South Wales Police Service defined the word "verbal" as, "False evidence by police that a suspect has confessed, or made inculpatory remarks at the time of arrest, or during an interview." Exhibit 13.13(A), page 100. Does that sound right to you? That definition?

A. Yes.

10 Q. Were you aware of any police officer having verbally someone in your career?

A. Yes.

15 Q. What was your experience of it?

A. Hearing that they'd been convicted, or charged with it, or even Roger Rogerson saying it at some stage.

20 Q. You're saying that never in your entire career, including your six years in the Armed Hold Up Squad, were you aware of any police officer verbally someone who'd been arrested, so in custody, unless that person later went on and was charged and convicted of giving false evidence. Is that your evidence?

A. Yes.

25 Q. That can't possibly be true, can it?

A. I - you're talking about the Armed Hold Up Squad. Whether it happened in other places or not, I don't know, but in the Armed Hold Up Squad - Roger Rogerson said he did it, but it wasn't common practice.

30 Q. Roger Rogerson said it was--

A. It was a common - it was a common practice for solicitors and barristers like yourself to make those allegations regularly, because that's the way that their clients wanted them to - to defend them.

35 Q. Can I ask you to respond to this: Roger Rogerson said it was common practice.

WOODS: He's already answered that question.

40 HIS HONOUR: Yes. He just said it wasn't common practice, so I don't know what that question.

BUCHANAN: Very good, your Honour.

45 Q. Were you aware that the Royal Commission into the New South Wales Police Service found that in numerous cases across different squads and stations, detectives assaulted people in their custody?

A. I - I have to say probably yes, but I can't recall. I think it was an allegation made by - at the Royal Commission.

50 Q. A finding was made by the Royal Commission that the police force had an institutional tolerance of brutality, and particularly for unnecessary assaults of

persons under investigation or in police custody. Exhibit 13.13(A), page 111-107. What do you say in response to that finding?

5 A. I think I remember hearing about that, but - yeah, look, I know there were police were charged and convicted of assaulting people in custody, but it had nothing to do with me.

Q. Were you ever aware of people being assaulted, say in an interview room at the Armed Hold Up Squad, or next door in the Breaking Squad?

10 A. I know of some cases where police defended themselves against people in interview rooms.

Q. Your evidence to this Inquiry is that you never heard an assault occurring in an interview room whilst you were at the Armed Hold Up Squad. Is that what you're saying?

15 A. No, I'm not saying that. There's times when we had to defend ourselves against assaults in the Armed Hold Up Squad, but I'm not saying that that - I heard people being assaulted regularly or anything.

Q. Did you ever have to defend yourself against an assault in an interview room?

20 A. No.

Q. It would be rare, wouldn't it, for a suspect to be left alone in an interview room with only one other police officer. Usually there'd be at least two.

25 A. There's times when there's one in there only for - while someone goes out to get something at different times, but yes, you normally try to have two people present at all times.

Q. Did you not hear the sounds of assaults occurring on people who'd been brought back to the third floor of CIB on the night of 8 February 1979?

30 A. No.

Q. Did you take part in any such assault?

35 A. No, I didn't.

Q. Did you ever take part in an assault of anyone in custody?

A. No. Unless I was making the arrest, there was a fight.

40 NO EXAMINATION BY MS NEEDHAM, MS BASHIR AND MR BROWN

<EXAMINATION BY DR WOODS

45 Q. It's been suggested to you that in this case there may have been some kind of a collection of unlawful things which were taken to Chandos Street and used to incriminate Mr Zvirotic.

HIS HONOUR: I'm not sure it was put that way.

50 WOODS: It was put in its relationship to the proposition that for a load-up, everyone had to be involved. That question was put.

HIS HONOUR: That's different to what you're putting.

WOODS: What I'm asking this witness is whether, if everyone was involved, there was such a stash used in this instance to incriminate Mr Zvirotic.

5

HIS HONOUR: That needed to have been taken to the premises where the arrest took place, or? Was that specifically put? I'm not sure it was.

BUCHANAN: It certainly wasn't my intention to. I can make it clear.

10

WOODS: What is the allegation?

BUCHANAN: We say a load-up is to allege, to give false evidence that a person had in their custody an unlawful item such as firearms or gelnite.

15

HIS HONOUR: Dr Woods, I'm not preventing you asking him whether items were taken to the address. You can do that if you like.

WOODS: Yes. I will.

20

Q. Doing the best with your memory, are you aware of any items, potentially incriminating items, being taken by police on the raid to "find" and to incriminate Mr Zvirotic?

A. Definitely not.

25

Q. Are you aware of any stash or collection of gelnite, or other incriminating material, which was used to be presented in Court against Mr Zvirotic, falsely?

A. No.

30

Q. You've told us that you had an understanding of what the word "scrum down" meant in the police context, as presented to you in various questions by Mr Buchanan. Let me explore that. Do you say that it was quite common for a meeting to be held after a raid in the course of which there would be discussion about what happened?

35

A. Yes.

Q. In this case, was there any discussion of an improper kind to alter your evidence so that it all fitted together?

A. No.

40

Q. Was it standard practice for there to be a briefing beforehand and a debriefing afterwards?

A. Beforehand, yes. After - excuse me. After, sometimes it just wasn't possible, because people would split up or have things to do, or have people in custody and things like that, but they wouldn't happen more or less at the scene. Normally a briefing about what happened would occur when we got back to our offices, or to the nearest police station, wherever we were going. That's standard practice, of a meeting just to go over what happened. What was to be done in future.

50

Q. You were asked some questions about certain things reported by the Royal Commission in 1997. Did you continue in the police force after 1997?

A. Yes, I got out medically unfit in 2000.

5 Q. So far as your recollection of events at Chandos Street is concerned, let me take you to another meaning of the word "scrum down". You had some experience of scrum downs in another context, did you not?

A. Yes.

10 Q. Were you a second-rower for the Randwick Football team, Randwick Rugby Union football team during your younger days?

A. Yes.

HIS HONOUR: Dr Woods, how is this helpful to this Inquiry?

15

WOODS: Well, your Honour, it simply flows from the evidence about - the medical evidence, which is before your Honour, as to any suggestion that might be put by my learned friend in due course that an absence of recollection about certain matters at 30 Chandos Street is in some way
20 faked. He played second row for Randwick for many years, and it may not be irrelevant to the genuineness of the observations by the doctors who've seen him.

HIS HONOUR: It's speculation, Dr Woods.

25

WOODS: Very well.

Q. The term scrum down was used by my learned friend in the context of Mr Zvirotic, who lived at 30 Chandos Street. You'd agree that theoretically
30 there could be a police scrum down to fabricate evidence? The question I put to you is, did it happen in this case?

A. No.

WOODS: Thank you.

35

HIS HONOUR: Mr Kennedy, thank you very much. That's the conclusion of your evidence and you're free to go. You're not excused completely. If you're required to return you'll be notified, but for the moment you're free to go.

40 <THE WITNESS WITHDREW

EPSTEIN: Your Honour, could I formally tender those two medical reports of Associate Professor Rosenfeld and Dr Shiner, as Exhibit 15.10.

45 HIS HONOUR: All right, yes. Those two exhibits will be marked as you've indicated.

EXHIBIT #15.10 MEDICAL REPORTS OF ASSOCIATE PROFESSOR
ROSENFELD AND DR PETER SHINER TENDERED, ADMITTED WITHOUT
50 OBJECTION

Epiq:DAT

D5

EPSTEIN: Thank you, your Honour. Ms Melis will resume.

HIS HONOUR: Is Mr Milroy back?

5 MELIS: Yes, your Honour. I re-call Mr Milroy.

<ALASTAIR MCDONALD MILROY, RESWORN(10.58AM)

<EXAMINATION BY MS MELIS

5 Q. Mr Milroy, yesterday you told us that you were a member for about five years with the Breaking Squad?

A. That's correct, yes.

10 Q. Up to 1979, and that the Breaking Squad came under the umbrella of the Criminal Investigations Branch?

A. That is correct.

Q. Otherwise known as the CIB?

15 A. That's correct.

Q. Were you aware during your time as a member of the Breaking Squad of a culture or practice by detectives in the CIB of loading up suspects, that is to say planting incriminating evidence such as guns or gelignite?

20 A. I think that sort of reference came up in the Royal Commission, yes.

Q. Is that where your awareness that term "loading up" comes from?

A. I think so, yes.

25 Q. Did you ever witness a police officer, or officers, loading up a witness during a police operation that you attended?

A. No.

Q. Were you aware of a culture or practice by detectives within the CIB of fabricating confessions of a suspect?

30 A. As I indicated, that sort of came up in the Royal Commission as well.

Q. Do we take it by that answer that you never witnessed or knew about a police officer, or police officers together, fabricating the confessions of a suspect?

35 A. No.

Q. Did you ever witness an officer, or officers together, assault a suspect under investigation or during police custody?

40 A. No.

Q. We know that you were involved in the raid at Macauley Street in Lithgow on the night of 8 February 1979, and I want to turn to that night now. How did you come to be involved in that raid?

45 A. I was in the Breaking Squad office, and Mr McDonald, who was the officer-in-charge of the Breaking Squad, came into the room and indicated that the SWOS officers who were present, he wanted to know who the SWOS officers were who were present, and once we indicated who was available, he then gave us instructions, and as a result of that, we then - I left with Sergeant Turner and Sergeant Etienne, and drove an emergency trip to Lithgow.

50

Q. Doing the best that you can, what were the instructions that you were given by Detective Sergeant McDonald?

5 A. He indicated that there were - they had information that there were two men from the Yugoslav community who were in Lithgow in a house with some bombs that they intended to transport to Sydney to blow up some places, around about that sort of conversation. Normally, I'd like to point out, when you get called out in a SWOS operation, normally it's very brief information because you're then deployed to the location where you're usually further briefed.

10

Q. Do you recall any names of any suspects being mentioned during that briefing?

A. No.

15

Q. What about the name Vico Virkez?

A. No, there was no names given in relation to the identity of the persons in the house at Lithgow at that briefing.

20

Q. Was this, I'll call it the pre-raid briefing, was this briefing attended by members of the Breaking Squad as well as members of the Armed Hold Up Squad?

25

A. No. The only - the only people that were in our office were those officers Simmons, Turner, Etienne, O'Brien, myself and their respective partners, and there may have been other investigators, because not all of the squad were members of SWOS. And some of those partners, like my partner, whether he was there or he wasn't there, he wasn't requested to travel with us; it was just the - the group that I just nominated.

30

Q. Who was normally your partner?

A. James Bennett, and I think Mr Turner's partner was Ian Jameson; I can't recall Mr Simmons' or Etienne's partners at the - at this time.

35

Q. So at this particular briefing, the information you were given related solely to what was happening at Lithgow; is that right?

A. That's correct.

40

Q. You mentioned that there was a mention of there being explosives, or did you say bombs?

A. Bombs, that's correct.

45

Q. What, if anything, did you do to prepare to go into that kind of incident involving a potential threat of explosives?

A. Well, at the Breaking Squad office I got changed into my SWOS - my SWOS uniform, which, very quickly. I had a locker, and I took my clothes that I had with me, and we took our weapons and we went down and got into the vehicle and drove up, because we were aware that there would be a - a briefing, further briefing, at Lithgow.

50

Q. Can you describe the SWOS uniform that you were wearing?

A. Yes. In those days, your Honour, the SWOS didn't actually have a

5 standardised uniform; they were going through a process of trying to organise a uniform that would be appropriate for the type of operations that we were deployed on, and our uniform, if you'd call it that, was a - a blue sort of trousers where the shirts had a badge with your name on it, not unlike the sort of trousers and shirts that people wear in service stations nowadays. And others had combination overalls similar to what the army have, but that's basically what my uniform was.

10 Q. You mentioned the other members that travelled to Lithgow with you.
A. Mm-hmm.

Q. Were they also dressed in the SWOS uniform?
A. Of types, that's right.

15 Q. Of dark types?
A. Of types; they had different types.

20 Q. Were they all blue?
A. No. I think Sergeant Turner had a sort of an army type overalls with combination pockets, sort of thing, but I can't recall what - I think Etienne had a uniform similar to mine, and I'm not sure what Sergeant Simmons was wearing, no.

25 Q. What about weapons; what kind of weapons did you arm yourself with to travel to Lithgow?
A. Either they're a service revolver and there are handcuffs; I think I had a Remington shotgun. Etienne and O'Brien would also had - would have had shotguns. I think Simmons, I think, had what you'd call a collapsible shotgun, your Honour, that had a very limited handle you could conceal inside a coat. And I think Musgrave, I think when Musgrave was called, but he was up
30 in Lithgow by the time I got up there.

35 Q. We'll come to Musgrave in a moment. Do you know what Turner was carrying with him?
A. Yeah, I think he had a shotgun as well; we put them in the boot of the vehicle.

40 Q. At the meeting with Detective Sergeant McDonald before you came down to Lithgow, were you allocated particular roles at that point?
A. No.

45 Q. You travelled down to Lithgow, and according to your statement you attend a further briefing at the Lithgow Police Station?
A. That's correct.

Q. You tell us that Detective Sergeant McDonald and Marheine lead that conference?
A. That's correct.

50 Q. Again doing the best that you can, what, if any, new information did you

receive at that briefing?

5 A. Basically we were given a - an update that the premises at Macauley Street were currently under observation. There were other police deployed around that house, and we were given a description of the premises. We were also
10 advised of the names of the two men, Vico Virkez and Maksim Bebic, and that they allegedly had a quantity of gelignite or explosives in the premises with an intention of transporting them to Sydney. I recall that we were the responsibility - we were told that we had the responsibility to contain the premises in - in the actual raid, that is that we were requested to deal with the
15 entry to the premises, to secure the premises, and if there was any persons inside, that is Mr Virkez and Bebic, and anybody else, that they were to be secured in the premises. So that was the role allocated to the SWOS team that was there. We were not comfortable ourselves without having a - an inspection, so we deployed two of the men, I think Etienne and somebody else, left and went up to check the premises for themselves, and they came back. So that was - it was a very evolving sort of briefing, but that's basically what occurred.

20 Q. We know that you and Detective Sergeant Turner ultimately brought Mr Bebic back to Lithgow and interviewed him; was that role pre-determined at this conference that you and Detective Sergeant Turner would do that, or would have responsibility for Mr Bebic?

25 A. I think at one stage there I mentioned that it's the first operation, SWOS operation, your Honour, that I have ever been involved in where you are allocated a responsibility to interview an offender who had been detained at a premises, and I recall that we - I went with Mr McDonald and Simmons and Musgrave in one vehicle, and whether it was at the briefing or in the vehicle, that - or when we got to the premises at some stage, but the decision was made by McDonald that you assist Mr Turner in relation to the - Mr Bebic.

30 Q. Do we take it then that you were essentially partnered up with Detective Sergeant Turner?

A. That's right, yep.

35 Q. And he was your superior?

A. Excuse me?

40 Q. Detective Sergeant Turner was your superior?

A. Yes, that's correct.

45 Q. Had you worked with him before; had you been a partner with him before on other operations?

A. In relation to interviewing suspects, no.

50 Q. What about other jobs generally?

A. There may have been. He'd been on the Breaking Squad maybe a year or two before - around the time I was there. There may have been a - what you might call a - a joint squad operation where we were executing search warrants and we went along together with other officers, but that's about the extent of it.

Q. Is it fair to say that prior to this incident, when you attended an incident as a member of the SWOS team, your role was to go in, contain and diffuse the situation, and you normally would not interview suspects?

A. That's correct, yep.

5

Q. Had you had experience in interviewing suspects in other matters?

A. Yes.

10 Q. Sitting here today, do you have an independent recollection of what happened at that raid at Macauley Street?

A. Well, I think - my memory is not too bad for 79, but to actually cast my mind back and visualise what took - took place without referring to my statement, it would be a bit difficult, but I'll give it a go. You ask me the question.

15 Q. Just before we go to the raid, one further question about your allocation to interview Mr Bebic.

A. Right.

20 Q. Why were you allocated that task on this occasion?

A. I think later on I did ask - I spoke - when I spoke to Turner later in the night when we were finishing - wrapping up on the day one, he just said, "Well, we're a bit short of detectives", and McDonald had made that decision that Turner and I were to look after Mr Bebic.

25 Q. Did you have any role in searching the premises?

A. Yes, I did.

30 Q. Did you find anything of significance on your search?

A. I didn't personally, no.

Q. Did you have a role in searching any of the cars on the property?

A. Search them? No.

35 Q. Did you see any of the explosives when you were at the premises?

A. When I went with Sergeant Turner, after I'd finished searching the premises, we walked out to the back where Mr Bebic was with Simmons and Musgrave, and they were standing at the back of the vehicle, and they - I - when we went - when Sergeant Turner was talking to Simmons just that - I got a glimpse - that the boot was up, and I could see the boxes, but I didn't go over and examine them. I could just see there was two boxes in the boot.

40

Q. All you saw was boxes?

A. Boxes which--

45

Q. Not the contents of those boxes?

A. Which - no. I didn't see the contents, no.

50 Q. Is it fair to say that you did not see any explosives yourself at the premises?

A. That would be - that would be fair to say. That's correct.

5 Q. You tell us in your statement that at a certain point in time, you and Detective Sergeant Turner took Mr Bebic to the lounge room, and there a conversation occurred between Detective Sergeant Turner and Mr Bebic in your presence.

A. That's correct.

10 Q. Without going to your statement at this time, do you have a recollection of that specific conversation?

A. No. I couldn't if the actual "I said", or "he said", or "Turner said". No.

15 Q. I'll take you to it in just a moment, but before I do, are you able to tell us how would you describe Mr Bebic's English as you heard it on that night?

A. It was okay. He had - it was broken, if you might call it. You know, with a letter or a word like - but he - he had an accent.

20 Q. Did you experience any difficulty understanding him?

A. No.

Q. Did you have to ask him to repeat words?

A. No. I think - no. I think he actually in the Record of Interview, I noticed he asked for an explanation of - when Sergeant Turner asked him about "relative". He asked, "What do you mean by 'relative'?" And he asked, "What do you mean by 'premises'?", but that was in the Record of Interview.

25

EXHIBIT 11.66 SHOWN TO WITNESS

30 Q. Mr Milroy, do you recognise this as being your statement dated 23 April 1979?

A. Yes.

35 Q. You'll see at the bottom of the first page, you talk about taking Mr Bebic to the lounge room. Do you see that?

A. Yes.

Q. Then you lay out the conversation that was had.

A. Yes.

40 Q. If you can turn over the page, please, to red 288. I just want to take you to some parts of this conversation. You agree that the conversation is primarily between Detective Sergeant Turner asking the questions, and Mr Bebic answering?

A. That's correct.

45

Q. Detective Sergeant Turner says to Mr Bebic, "I'm going to have to talk to you about the bombs we found in the car outside."

A. Yes.

50 Q. And he cautions him. There are some certain things that Mr Bebic tells you

and Detective Sergeant Turner. Halfway down the page he asks, "Who traitor? Who tell?" Do you see that?

A. Yes, I do.

5 Q. And he says, "I think I know traitor." And he's asked, "Who do you think the traitor is." And he responds, "No. No tell. I fix." You see that?

A. I do.

10 Q. Detective Sergeant Turner asks him again, "Are there any more bombs here, or in Sydney?" And he replies, "I tell you, you help me."

A. Yes.

15 Q. Turning over the page at red 289, he says, "All right. I tell. I know boss. I only help." You see that?

A. Yes.

20 Q. He's asked, "Are there any other bombs?", and he replies, "Yeah. Others in Sydney." Do you see that?

A. Yes. Yes.

25 Q. Then he says that there are friends that have them, and he names these supposed friends. Do you see that?

A. Yes.

30 Q. He names Tony Zvirotic. Do you see that?

A. Yes.

35 Q. And you've spelt it here, "V-I-R-O-T-I-C-H".

A. That's correct.

40 Q. He names, "Vic Brajkovic", and you've spelt it, "B-R-A-K-O-V-I-C-H"?

A. That's correct.

45 Q. You say, "Whilst I was recording this conversation in a notebook, I said, 'Hang on a minute. I then completed my notes', and I said, 'Okay.'" Why did you ask, "Hang on a minute."

A. Well, I was trying to write - write it down in the notebook, and they were just - I just wanted a bit more time to finish writing what I was putting in the book - notebook.

50

Q. Did you ask him at this point to spell out those names?

A. No.

55 Q. He continued with some more names, "Joe and Ilija Kokotovic", which you've spelt, "K-O-K-K-T-O-V-I-C-H". Do you agree?

A. That's correct.

60 Q. He also names "Mile Nekie", N-E-C-K-I-E, is how you've put it there.

A. That's correct.

65

Q. He goes on to say down the bottom of the page, "We all blow up places in Sydney." You see that?

A. Yes.

5 Q. Then he's asked, "Is the other man outside who was caught with you--", to which he responds, "Yeah. He and my friends in Sydney, we plan together." Do you see that?

A. Yes.

10 Q. Mr Milroy, you'll agree that Mr Bebic is making a number of admissions to you in this conversation?

A. Yes.

Q. How would you describe his demeanour during this conversation?

15 A. He was quite, but bear in mind we're sitting down on the lounge, I thought he was quite calm. He was quite forthcoming in relation to the - what the answers he was giving to the - the questions, and I think later in the Record of Interview, he - he was very forthcoming in relation to explaining his expertise in - in relation to explosives, but that's later on in the process.

20

Q. We'll come to that. You say you were seated in the lounge room.

A. That's correct.

Q. Were all three of you seated?

25 A. Mr Bebic and myself were sitting on a small lounge, and Turner pulled a - a chair over and sat directly opposite us.

Q. You were sitting next to Mr Bebic?

A. That's right. And I was writing it down on the - on the notebook.

30

Q. Mr Bebic was handcuffed?

A. That's correct.

Q. You're recording this conversation in a notebook?

35

A. That's correct.

Q. Were you writing on a table, or you were writing on your lap? How were you writing?

A. No. I was just holding. It was quite a thick shorthand notebook.

40

Q. Do you start recording this conversation in the lounge room on your own initiative, or does Detective Sergeant Turner instruct you to record the conversation?

45

A. He gave - he gave me his - his notebook. The notebook was his, he'd already been writing in it, and he handed it to me, and just nodded. You don't need to be - need to speak. It was just a process. You just sit down and start writing.

Q. So the conversation was noted by you contemporaneously?

50

A. At the time. That is right.

EXHIBIT 4.2-4, RED PAGE 268, SHOWN TO WITNESS

5 Q. Just take a moment to have a look at that document, Mr Milroy. Do you recognise this document as containing the notes that you'd recorded of the conversation between Detective Sergeant Turner, and Mr Bebic and yourself?
A. Yes.

10 Q. If we look at the first page, on the left-hand side, we can see that the handwriting at the top of that page is different to the handwriting that begins with the timestamp, "7.40pm". Do you see that?
A. That's correct, yes.

15 Q. You've told us that this was, in fact, Detective Sergeant Turner's notebook?
A. Yes.

Q. Which he gave to you to record the conversation.
A. That's correct.

20 Q. Is that because you did not have a notebook on yourself?
A. No.

Q. Your handwriting begins at that timestamp of 7.40pm--
A. That's correct.

25 Q. --with the letter "T", which stands for "Turner", I gather?
A. That's correct, yes.

30 Q. "B" is "Bebic"; is that correct?
A. That's correct.

Q. Thank you, you can put that aside. There were a number of names that Mr Bebic gave you and Detective Sergeant Turner during that conversation.
A. That is correct.

35 Q. Do you recall providing those particular names to any other officer that night, even upon your return at Lithgow Police Station?
A. I didn't, but Sergeant Turner took the book, while I was in the clerk's room with Mr Bebic, and he left and took his shorthand notebook with him, which contained the conversation that I had recorded, on his - in his shorthand
40 notebook.

Q. Mr Milroy, in Mr Bebic's evidence at trial, he said he was never asked any questions in the lounge room. What do you say to that?
A. That's not correct. He - he provided the answers to the questions while we
45 sat in the lounge room.

Q. He said he did not see you write down anything.
A. That's not correct. I recorded it at the time in the lounge room.

50 Q. What would say to the suggestion that this conversation did not take place

at all, as recorded by you?

A. It did take place.

5 MELIS: Your Honour, I'm just about to turn to another topic. I wonder if this is a convenient time?

HIS HONOUR: All right. Mr Milroy, you can step down. We're going to take the morning break.

10 SHORT ADJOURNMENT

MELIS

15 Q. Mr Milroy, Mr Bebic named you as one of the officers who beat him that night at the house at Macauley Street on 8 February 1979; what do you say to that?

A. That's not true, I can assure you of that.

20 Q. Did you witness any other officer beat him at the house?

A. No.

Q. Did you witness any officer put a pistol in his mouth?

A. Definitely not.

25 Q. Did you say at any point, "Don't beat him here, because people are watching it from the road, take him inside the house"?

A. No, that's a ridiculous allegation.

Q. Did you see any people standing on the road watching?

30 A. No. I mean, when we took Mr Bebic into the lounge room and we spoke to him there, and then we took him straight to the police station. I didn't see anybody on the street, to tell you the truth.

35 Q. Mr Bebic says that at one point he lost consciousness and you poured water over him; did you?

A. I did not, and I can state, your Honour, that at no stage, while Mr Bebic was in my presence during that interview and the subsequent interviews at the police station, was he assaulted or complained of having been assaulted.

40 Q. You've told us that you and Detective Sergeant Turner then returned to the Lithgow Police Station to interview Mr Bebic.

A. That's correct.

45 Q. When you returned to the police station, do you remember if there were any other officers at the police station?

A. There'd been - as you went into the police station, of course, there's the - the normal police officers who manage the station, and people milled around, but we went straight in, down the corridor into a - the clerk's room, but I didn't - we didn't stop and speak to anybody when we did that.

50

Q. You went straight to the clerk's office, you say?

A. That's correct.

Q. It was there that you conducted an interview with Mr Bebic?

5 A. That's correct.

Q. You recall that it was off a hallway?

A. That's correct, yeah.

10 Q. Do you remember how many offices were on that hallway?

A. How many offices?

Q. Yes.

15 A. I don't - I can't recall. I - I think that down - down that corridor was towards where the Inspector's office was. There might have been one or two other offices. Offices - specific offices in that corridor, but actually how many, I can't recall that.

Q. As you came in through that corridor--

20 A. Mm-hmm.

Q. --was the clerk's office on your left or on your right?

A. I think it was on the left.

25 Q. Do you remember seeing Mr Vico Virkez when you returned to the police station?

A. No.

30 Q. Did you, at any time, know that he was being interviewed at the same time as Mr Bebic?

A. I assumed he was, because he had been taken away from the premises by Sergeant Marheine and Ingram shortly after Mr McDonald and I detained him.

Q. Did you see him at all--

35 A. No.

Q. --that night?

A. No. I didn't, no.

40 Q. Did you speak to any officer, in particular, Detective Sergeant Marheine, about his interview?

A. No. I think when we finished at 11 o'clock, I didn't see Sergeant Marheine, no. Not - not that night, no.

45 Q. That night, you did not have any knowledge of what Mr Virkez had said in his interview?

A. No. I can't recall now. Mr McDonald may have. We spoke to Mr McDonald that night, but I didn't - I can't recall that, no.

50 Q. Did you just say, "We spoke to Mr McDonald."

A. Yep.

HIS HONOUR

5 Q. Mr Milroy, I'm finding it sometimes a bit difficult to hear what you're saying.
A. Sorry, your Honour.

10 Q. You might keep your voice up, or sit closer to the microphone or - thank you.

MELIS

15 Q. When you say, "We spoke to Mr McDonald", who are you referring to?
A. Sergeant Turner and I.

20 Q. You have a recollection of a discussion with you, Detective Sergeant Turner and Mr McDonald that night?
A. Not the specific issues. It was more of a wrap up. We've finished. It's 11 o'clock at night. We're coming back tomorrow. Let's go and find somewhere to stay. I mean, really that was the end of a - a long day.

25 Q. By this time, Mr McDonald had come back from the Macauley Street residence back to Lithgow Police Station, and the three of you sat down and had a debrief?

A. We didn't sit down and have a debrief, because we actually charged Mr Bebic, which took a little while, and we got our gear that we had, and we basically headed out of the station to get some sleep.

30 Q. Prior to conducting the interview with Mr Bebic, you detail an interaction that you had with him while you were waiting for Detective Sergeant Turner to come to the interview room. If I could take you back to your statement, that's Exhibit 11.66. Do you still have it in front of you?

A. Yes.

35 Q. You'll see there at red page 290--

A. I've got my own statement. I haven't got the one that you're referring to

EXHIBIT 11.66, RED PAGE 290, SHOWN TO WITNESS

40 Q. Mr Milroy, for the purposes of the remaining questions I have for you, if you can just keep that statement with you with the red numbers.

A. Thank you.

45 Q. Red number 290, about a quarter of the way down into the statement you say, "Shortly afterwards, Detective Sergeant Turner returned, and we conveyed Bebic to the clerk's office at the Lithgow Police Station.", and there you have a conversation with him. Do you see that?

A. Yes.

50 Q. Arising out of this conversation, there were some sketches drawn?

A. That's correct.

Q. Who drew those sketches?

A. Mr Bebic.

5

Q. Can you just explain to the Court, in your own words and with your own memory, if you can, what happened? How did this situation arise?

10 A. Well, there was a reference about the - the bombs going off and being not connected and he said, "I'll show you", and there were some paper and pencils lying on the clerk's office, and he took a piece of paper, and he drew a sketch. The first sketch showed the box with the explosives and how it was connected to the detonators, and he drew a sketch. And then he drew a second sketch showing the detonator connection mechanism.

15 Q. Did he say to you, "I will show you", or did you ask him? Direct him to draw--

A. No. He said, "I'll show you. I'll show you how it connected."

20 EXHIBIT 4.1-Q SHOWN TO WITNESS

Q. Mr Milroy, you described two sketches that Mr Bebic drew. Are those two sketches in front of you now?

A. Yes, they are.

25 Q. You say that that first sketch, what was that of?

A. Showing the--

Q. As far as you can recall?

30 A. Showing the - the actual bomb, or the box, of explosives, how it was connected to the battery and the detonator, and then the second sketch was the - the detonator to the battery connection.

Q. The second diagram at red page 52?

35 A. Yes. Well, that was the explanation - the second explanation about how the detonators were connected.

Q. What did you do with these two sketches?

40 A. I left them on the - the desk, and when Sergeant Turner returned, I pointed to them and indicated to them, and he just nodded, and, of course, he indicated, "Let's get on to the interview."

Q. The interview that was conducted, you were recording it on a typewriter; is that correct?

45 A. That's correct.

Q. Detective Sergeant Turner was asking the questions?

A. That's correct.

50 Q. Had you participated in any records of interview with Detective Sergeant Turner before?

A. No.

Q. Doing the best that you can, what was Detective Sergeant Turner's style of interviewing like?

5 A. Style? Well, he was quite a calm, sort of quiet talker, you know? I mean, quite - quite clear. Very - very well spoken, but "style"? I'm not quite sure what you're really asking me there.

Q. In the interview room, I presume there was a table and chairs?

10 A. That's correct, yeah.

Q. Where was everybody positioned?

15 A. I think I had the typewriter, and Sergeant Turner was on my right, and I think Mr Bebic was on my left while I'm typing.

Q. Mr Bebic is on your left?

A. It was a long time ago, but that's as I - the best of my recollection.

Q. And Detective Sergeant Turner is on your right?

20 A. That's right.

Q. Is he seated such that he's facing Mr Bebic across the table?

25 A. Yes. On a - on an angle, I think. Usually the - the interviewing officer sits beside the officer doing the typing, so he can see what you're recording, because he is dictating his - his questions.

Q. You were closest to Mr Bebic?

A. That's correct, yeah.

30 EXHIBIT 4.1-D, RED PAGE 8, SHOWN TO WITNESS

Q. Mr Milroy, flicking through those pages now, do you recognise this as being the seven-page Record of Interview with Mr Bebic that you typed on the night of 8 February 1979 commencing at 9.05pm?

35 A. Yes. And it continued through to the next day. That's correct.

Q. In this Record of Interview, you'll see at red page 9, you'll see there at question 30, Detective Sergeant Turner is asking, "Do you also agree you gave us the names of other persons in Sydney who were to help you in doing this?"

40 A. Yes.

Q. And he answers, "Oh, yeah." Question 31:

45 "Q. Would you give me the names of those persons again?

A. Yeah. I will write down."

50 And it's then recorded in brackets, "(Bebic writes names down on paper. Zvirotic, Tony; Brajkovic, Vjekoslav; Nekic, Mile; Kokotovic, Joseph; and Kokotovic, Ilija.)" Do you see that?

A. That's correct.

Q. At that point, did you record those as being the names that were given to you in the lounge room earlier on that evening?

5 A. I recorded these names into the Record of Interview from the note that Mr Bebic was writing at the time during the interview.

Q. He wrote those down, did he, himself?

10 A. Yes, he did. Yes.

Q. Did you see him write those names down?

A. Yes.

15 EXHIBIT 4.1-E SHOWN TO WITNESS

Q. Mr Milroy, do you recognise that as being the document upon which Mr Bebic wrote those names?

A. Yes.

20 Q. Do you say he wrote those names voluntarily?

A. Absolutely.

Q. At trial, Mr Bebic's evidence was that Detective Sergeant Turner had some names on a page, which he put into Mr Bebic's hand, and asked him to write them down as he would in Croatian.

25 A. That's not--

Q. What do you say to that suggestion?

30 A. That never occurs. Not correct.

Q. Mr Bebic said at trial that Detective Sergeant Turner, when asking questions, was standing and hitting his own hand with electric cable while questioning Mr Bebic.

35 A. That is not correct. As I stated earlier, Mr Bebic was never threatened or assaulted in my presence, and that was during his interviews with Sergeant Turner.

Q. Was Detective Sergeant Turner seated the whole time during the interview?

40 A. Yes.

Q. During this Record of Interview Mr Bebic is also shown a street directory and asked to mark certain locations on it.

45 A. That's correct.

Q. We can see that questioning occurring at red page 10 of the Record of Interview, beginning at question 42. Do you see that?

A. Yes, I do.

50 Q. Could you help us understand how this practically happened? Firstly, did

Detective Sergeant Turner leave the room to get the street directory, or did he already have it with him?

A. He had it with him.

5 Q. It was an actual book - it wasn't just pages of the directory - it was the whole directory?

A. Yes, as you know in those days, everybody carried a street directory in their car.

10 Q. Did Detective Sergeant Turner, given where he was seated, further away from Mr Bebic, how did he pass over the street directory?

A. He just passed it over to him.

Q. Did he open it at any particular page?

15 A. Mr Bebic went through the directory and - and marked the page.

Q. So he orientated himself against the directory?

A. Yes. That's correct.

20 Q. Did it take some time for him to do that?

A. Well, I can't recall back after all these years, but I know at the same time I'm typing on the - the interview, and I'm not a touch typist, so you tend to look at the keys while you're typing, and then you glance, so this took a little - few seconds.

25

Q. You say you glanced. Did you in fact see Mr Bebic mark these locations on the map with the red pen?

A. Possibly.

30 Q. Possibly?

A. Well, I'm trying to recall way back to those days, but - I can see him using - using the pen, but while I'm typing. I wouldn't be conclusive that he marked it in my presence, no.

35 Q. In the Record of Interview, if we look at the questions asked, from question 42. It appears that you have very clearly recorded the locations of the markings on the map. You see there at answer 42, Mr Bebic says, "Yeah", and you type, "Indicates a position on the Sydney water supply pipeline at position G4 of map, 58B. It is there", and in brackets, "(puts cross with red pen)."

40

A. That's right.

Q. Do you see that?

A. That's correct.

45

Q. In order for you to type down that kind of description, were you observing Mr Bebic do that and reading the map yourself?

A. As I indicated, I'm typing on the dictation of Sergeant Turner, and I - I can see Mr Bebic is - has the street directory, he's got a pen, and I'm typing down what's Sergeant Turner's relaying to me, based on what Mr Bebic is doing at

50

the time.

Q. Given that, was Detective Sergeant Turner - did he move closer to Mr Bebic so that he could see where Mr Bebic was marking?

5 A. You can see quite clearly based on the - the table where he was, and diagonally opposite. On the angle where he was sitting, yeah.

Q. Just to be clear on this evidence, Mr Milroy, so we can understand. Are you saying that the table was so small, and you were all gathered so closely together that Detective Sergeant Turner could clearly see--

10 A. Yes.

Q. --where Mr Bebic was marking on the map?

15 A. Yes.

Q. So as to describe that to you?

A. That's correct.

Q. So that you could record it?

20 A. That's correct.

Q. It wasn't the case, was it, that Mr Bebic would mark one cross, pass it back to Detective Sergeant Turner so that it could then be relayed to you?

25 A. I can't recall that sort of detail.

Q. Could the witness please be shown Exhibit number 4.1-F?

EXHIBIT 4.1-F SHOWN TO WITNESS

30 Q. Mr Milroy, just taking a moment to look at those pages. Do you recognise these as being the two pages that were marked by Mr Bebic during the interview on 8 February 1979?

A. Yes.

35 Q. They related to question number 42, question number 43, and question number 44?

A. Yes.

40 Q. These were locations that Mr Bebic was telling you were targets for the explosives?

A. That's correct.

Q. Thank you. You can put that aside. Did part of the interview we can see at red page 11 terminate at 10.47?

45 A. That's correct.

Q. Why did it terminate?

50 A. I think Mr Bebic indicated that he was tired, and he'd talk tomorrow, so we agreed with him, and we terminated the interview at 10.47, and then he was charged.

Q. I think earlier in your evidence you told his Honour something about Mr Bebic's demeanour during this Record of Interview. Can you tell us again what his demeanour was like?

5 A. Yes. During the interview I suppose after returning to the police station, I
guess a realisation, I suppose, that their plans to take these bombs to Sydney
and blow up - you know, his probably demeanour was a lot calmer. He was
very calm, and - and I was - I noticed that he was very forthcoming in wanting
10 to explain his expertise in relation to the - the bombs. They'd be assembled,
and I think at one stage there, I think, you'll see, your Honour, where he goes
into a very detailed explanation of really why they were doing this, the cause,
and he - I wouldn't say he got emotional, but he raised his voice a slight pitch,
15 explaining that why we are doing this is because of the fact that the Yugoslav
communists had killed so many thousands of people in Croatia, and you'll
notice that he actually made a similar comment in the other interviews, and
11 days later after being in prison, even in front of the Inspector. He made this
comment about why they were on this venture to try to kill the Yugoslav
20 communists. Not Australians, he made that very clear, so I think that was
really - you could tell he was actually quite - I wouldn't say passionate, but he
was very detailed in his explanation of why they were going down this track.

Q. I think there you're referring to question and answer 33 of that Record of Interview?

A. That's correct, your Honour.

25 Q. The interview resumes the next day - this is red page 12 - at 7.30am.

A. That's correct.

Q. Again, Detective Sergeant Turner is asking the questions and you are typing the answers, questions and answers?

30 A. That's correct.

Q. On this occasion we see, still at red page 12, at question 81, down the bottom of the page?

A. Yes.

35

Q. Just before that, actually. Question 80, he's asked, "Where did you get the knowledge to make a time bomb?" Answer, "I was in Yugoslav army, engineer. Do demolition on bridges. I get book on how to make bombs." Do you see that?

40 A. Yes.

Q. Then at question 81 he is shown a brown-covered book. Do you see that?

A. Yes.

45 Q. The book is in a foreign language. Correct?

A. That's correct.

Q. For the record, it's called "Osvetnici Bleiburga".

A. That's correct.

50

Q. Had you seen this book prior to Detective Sergeant Turner showing it to Mr Bebic?

A. No.

5 Q. Did you know what it was?

A. Not until Mr Bebic indicated a diagram on page 108, which - which he then went on to explain about how you drill through the glass to connect the wire, to make a bomb, so other than that, it was a diagram on - of such a description.

10 Q. Was the book in any way bookmarked?

A. No.

Q. Mr Bebic, you say, opened it himself voluntarily at page 108?

15 A. That's--

Q. Is that right?

A. --when he went - yeah, that's right. Yeah.

20 Q. Could the witness please be shown Exhibit 4.1-G?

EXHIBIT 4.1-G SHOWN TO WITNESS

Q. Mr Milroy, you recognise this as being pages of the book that was shown to Mr Bebic?

25 A. I - yes, I take it that that's what the pages are.

Q. Did he at any point ask you where you got this book from?

A. No.

30 Q. If we look at red page 25, sitting here today, do you recognise that as being one of the pages that Mr Bebic took you to?

A. Yes.

Q. Did he take you to both of those pages, or just page 108?

35 A. Just page 108. He went on to explain how he drilled through the glass of the - of the clock to connect the wire to the detonator and the battery.

Q. You can put that aside, Mr Milroy.

40 HIS HONOUR: The interview transcript said it was marked; am I supposed to be able to see that? I'm struggling.

MELIS: Sorry, your Honour, I didn't hear what your Honour said.

45 HIS HONOUR: The interview at question and answer 81 indicates that p 108 was marked with a cross and a W; I just can't see it.

MELIS

50 Q. Can you assist us with that, Mr Milroy? It's marked with a cross and the

letter W beside it?

A. And a W, that's right. You need a magnifying glass, but anyway, I - I can't see a mark on - on this exhibit.

5 Q. Do you, sitting here today, have a recollection of Mr Bebic marking a page of this book?

A. Yes, yes.

10 Q. It says it's made with the mark - marks the same with a cross and the letter W beside it; what does the W stand for?

A. I don't know. I don't think Sergeant Turner asked them to explain that reference.

15 Q. All right, but in answer to his Honour's question, you agree that we can't see those markings anywhere, certainly not on page 108, or anywhere in this document?

A. No. You actually have the actual - the actual book.

20 HIS HONOUR: I was going to say, we're looking at photocopies, so it might be something to do with what it was marked with and the copying process.

MELIS: Yes, that was to be my next question, your Honour.

25 Q. Was it marked with a pencil or a pen, as far as you remember?

A. I can't say at this stage.

Q. This interview terminates, this is red page 14, at 10.10am; do you see that?

A. That's correct.

30 Q. At question 99, Mr Bebic is asked, "Can you read?", and he responds, "Not good"?

A. That's correct.

35 Q. Detective Sergeant Turner leaves and brings in Detective Sergeant Pringle?

A. That's correct.

Q. And he reads out the Record of Interview; is that right?

40 A. Yes.

Q. Mr Bebic maintained in his evidence that Mr Pringle never entered the room and nothing was read to him?

A. That's not correct. Sergeant Pringle came - came into the room and read - read the interview as - as it's stated.

45 Q. Mr Bebic is asked to sign each page of the Record of Interview?

A. That's correct.

Q. Is that right?

50 A. That's correct.

Q. What do you say to the suggestion that this Record of Interview was a fabrication by police?

5 A. It's just a completely unsubstantiated allegation. I mean, the interview took place, and Mr Bebic signed it as - and it was witnessed by Sergeant Pringle and myself.

Q. Did Mr Bebic at any time on the night of 8 February 1979 during his Record of Interview say words to the effect of "you hit me, you kill me, I tell you nothing"?

10 A. No, he definitely didn't make that statement.

Q. During the evening of 8 February when this interview was taking place, did you or Detective Sergeant Turner ever leave the room to make any enquiries?

15 A. As I indicated, when we first arrived back - back at the police station and went into the clerk's room, Sergeant Turner left for a period and then came back, and that was it until we actually completed the - the interview on the eighth, and then took Mr Bebic into the police station and charged him.

Q. The Inquiry has heard evidence from a witness that they overheard someone in the hallway say words to the effect of "you hit me, you kill me, I tell you nothing"; were these words, to your knowledge, being relayed by you or someone else about what Mr Bebic was saying in the interview?

20 A. Definitely not.

Q. To your knowledge, did any other police officers interview Mr Bebic on 8 February?

25 A. No.

Q. Or otherwise did anyone else spend time with him in the interview room?

30 A. Definitely not. It would have been recorded if they had - if anybody had come into the room.

Q. So at all times the only officers he had interactions with was yourself and Detective Sergeant Turner?

35 A. That's correct.

Q. Could the witness please be shown this. Mr Milroy, do you agree with me that you've just been handed the book that we were discussing, and it's opened at page 108?

40 A. Yes.

Q. Do you see there that there are indeed some markings in pencil?

A. That's correct.

45 Q. And the markings consist of an X?

A. It looks like a cross and--

Q. A cross, yes, a cross.

50 A. --a cross and a pencil W.

Q. Sorry, and the letter W is there?

A. That's correct.

Q. But you can't illuminate us as to what the W stood for?

5 A. No. I suppose it might be that that's the watch, but that's only my - looking at it right now, it's the only thing it could be, the W. He referred to the clock and how they drill a hole through it, but W might mean a clock, I don't know. Maybe someone that's an expert on putting together explosives and explosive devices might know what the reference is.

10

EXHIBIT #15.11 BOOK ENTITLED 'OSVETNICI BLEIBURGA' WITH X AND W MARKINGS TENDERED, ADMITTED WITHOUT OBJECTION

15

MELIS: To be clear, your Honour, for the record, the Inquiry had the original copy of this book, and it was scanned for inclusion in the tender bundle, which would explain that the markings were not visible on the scanned copy.

20

HIS HONOUR: All right. I just note for the record the cross is on the face of the clock or watch, whatever it is, and the other writing, which is said to be a W, it might depend on which way you look at it, but if you look at it upright, it probably looks most like a W; it's just to the left of the watch or clock face.

MELIS

25

Q. Going back to your statement, do you still have that in front of you?

A. Yes.

30

Q. Please turn to red page 292. A little bit over halfway down the page you record some things that Detective Sergeant Turner tells Mr Bebic in relation to his Record of Interview; do you see that?

A. Yes.

35

Q. He says, "I'm obliged to give you a copy of this record of our interview, but I feel, under the circumstances, I should hand it direct to your solicitor"; do you see that?

A. I do.;

40

Q. And he replies, "I no want it, you give to my solicitor"?

A. Yes.

45

Q. Had a solicitor been engaged by that stage?

A. This was on the ninth, that's right.

50

Q. Yes, this is after Detective Sergeant Pringle reads out the interview?

A. I am aware that there was a court case, I think on the ninth, and I think the duty solicitor, a Mr Higgins, I think, appeared for Mr Topic and Virkez and Bebic. That's only my understanding at the time.

Q. I think you might be referring to 20 February, where you in your statement mention a Mr Higgins?

A. That could be the case, but they - they did appear in Court, I thought, on the ninth. So whether there was a duty solicitor, I don't know.

5 Q. Detective Sergeant Turner says, "Who will be your solicitor?", and Mr Bebic replies, "No, no, my party will get"; do you see that?

A. That's correct.

Q. What was your understanding of what "my party" meant?

10 A. Well at that time, I think there was a lot of groups. They were in sort of - a lot of the ethnic groups, they're on committees, and community groups, I think, is my understanding in those days. So I assumed that was what he was referring to.

Q. Was he asked any questions in relation to that comment about his party?

15 A. No, not - it's not, no. Not at that stage, no.

Q. So you had no knowledge of which party he was referring to?

A. No.

20 Q. To the best of your knowledge, did Detective Senior Sergeant Turner make any enquiries of Mr Bebic of what he meant by "my party"?

A. No.

Q. Did you think that that was a relevant enquiry to be made?

25 A. At that particular time?

Q. Yes.

A. Later we made a lot of enquiries, and, as you know, we went to some of the Croatian committees, and - so we did make enquiries at a later date.

30

Q. But not at that time?

A. Not at that time, no.

Q. We know from your evidence, and other evidence, that Mr Bebic and Mr Virkez, and a contingent of police, travelled to various locations on 9 February 1979.

35

A. That is correct.

Q. How did that come about?

40

A. Mr Bebic, as he indicated in the Record of Interviews, that he was - that he would show - show us where he had buried the explosives, and as a result of that, and some of the other comments he made in the interview, we made the arrangements to - for him to show us those locations, which he was very keen to - to do.

45

Q. Did he at any time say to you that the explosives were not his? That they were Mr Virkez's explosives?

50

A. No. I think in the interview he indicated that he stole - he broke in and stole the first lot of explosives with Mr Topic, and at a later time, he went and broke into the - the mine again and stole the second batch explosives with Mr Virkez,

and then he buried them prior to digging them up to make the bombs.

Q. The first location that was visited was at Hassans Walls Reserve, you tell us, at red page 293 of your statement.

5 A. Yes.

Q. You say that was about 4.4 kilometres from the Lithgow Police Station, and you had to walk into the bushland for a distance of approximately 400 metres.

10 A. That's correct.

Q. It was at that point that Mr Bebic indicated a pile of rocks inside a hollow tree stump.

A. That is correct, yeah.

15 Q. And said that the explosives were planted there?

A. That's right.

Q. At this particular location, how would you describe Mr Bebic's demeanour?

20 A. He was very, as I indicated, very calm. He was - always seemed to express the view that he wanted to show us, to make us understand what they were doing, why they did it, and where he had buried the explosives, and where he'd practised the bombs to make bombs. So his demeanour was very calm, very keen, very - very forthcoming.

25 Q. From your statement, you tell us that a number of items were taken from this location after they had been photographed by Detective Sergeant Edmondston?

A. That's correct.

30 Q. You say, "Instead of travelling direct to the next location, we returned to the Lithgow Police Station where we unloaded the explosives."

A. That's correct.

35 Q. Can you just explain to us what happened there exactly? Did you unload the explosives?

A. No. Sergeant Musgrave, who is a Ballistics officer, of course, has got experience in dealing with explosives, and he was responsible for taking the explosives, and then he was going to take them to - to have them stored.

40 Q. So effectively, you were giving him a lift back to Lithgow Police Station, so he could deal with those--

A. That's right.

Q. --items?

45 A. Yep. But there was a number of vehicles, you might call it, a small convoy.

Q. Mr Bebic was in the car with you?

A. That's correct, yes.

50 Q. Then you went to the second location at Newnes Forest Road?

A. That's correct.

Q. That location, you tell us, was approximately 8.2 kilometres from the Lithgow Police Station?

5 A. That's correct.

Q. Mr Bebic indicated broken ground adjacent to a tree.

A. Correct.

10 Q. An examination of the broken ground revealed it to be a refilled hole?

A. That's correct.

Q. Mr Bebic then shows you where the place is where he'd been practising?

A. That's correct.

15

Q. What did you understand him to be talking about when he said, "practising"?

A. Where he'd been practising to initiate the explosives' devices.

20 Q. And the location he led police to was a property adjacent to Rydal Road, Bowenfels?

A. That's correct, yeah.

Q. And the Cox's River?

25 A. That's correct.

Q. These were two separate locations?

A. Yes.

30 Q. But you understood that those were both locations where he had been practising?

A. That's correct.

Q. He indicated a quarry to you?

35 A. Yes.

Q. And said, "Just here, we blow up tyre."

A. That's correct.

40 Q. Then he takes you to another location on the same property, approximately 400 metres from the quarry, and it is there where he also indicates a hole in the rock?

A. That's correct.

45 Q. And he says, "In here, use clock, this one."

A. That's correct.

Q. Mr Milroy, you've gone into a lot of detail here with respect to matters that occurred at the variation locations.

50 A. Mm-hmm.

Q. Were you taking notes of your observations and conversations that were taking place?

A. Yes.

5 Q. You did take notes, did you?

A. Yes.

Q. In your police notebook?

A. In the same notebook that I was using on the 8th.

10

Q. That was Detective Sergeant Turner's notebook?

A. That's correct. That's correct.

Q. You say you continued to record events--

15

A. That's right.

Q. --in that book?

A. You can see it in the photographs the note - the notebook I'm referring to.

20

Q. If I tell you we seem to only have certain parts of that notebook, and I have already shown those parts to you, where would you say the rest of the notebook is?

A. They'd be - I think I did recall - I did refer to, when I was being cross-examined in the - in the Petty Sessions, I think, your Honour, by Mr Heazlewood. He asked me about - questions about how I was compiling my statement, and the relevant activities on the day, and I indicated then I think that I had - still had some notes back at the office, but they never called for them, so it could - those could have been some of the notes that I'm referring to that - that went in - when compiling my statement.

30

Q. Sorry, are you saying that there were some separate notes?

A. They - the notes in relation to what was in the notebook, they were - they would have been back at the office.

35

Q. Back at the office at Lithgow, or CIB?

A. No. In the - in the CIB. When I - when we were putting our statement together, the notes relevant to what - what led to making the statement for the visits, they were recorded - the comments were recorded at the time as we were walking around with the photographer and Mr Bebic, followed by Marheine and Virkez, that conversation was recorded in the shorthand notebook.

40

Q. Just so that the Inquiry is clear about this evidence--

A. Yep.

45

Q. --are you saying that the pages recording these interactions at the various locations, they were recorded in Detective Sergeant Turner's notebook?

A. Yeah, that's right. Yep.

50

Q. Did they remain in that notebook, or were they torn out at some point as

you were compiling your statement?

5 A. Back at the - I think back at the CIB, because Sergeant Turner had a lot of other things in that notebook that were relevant to other matters. We took those pages out, as you know, and they were - the ones that were tendered in the Petty Sessions are the ones that you already showed me. They were photocopied and became exhibits, but the conversations that were - that you relate to in relation to the visits were in other pages of that notebook, which could be still - would have been used to compile my statement some weeks later.

10

HIS HONOUR

15 Q. I'm unclear. Are you saying that the notes you recorded when you were at these locations with Mr Bebic were on pages in that notebook, and they remained in that notebook, not torn out from that notebook. They were in that notebook, which was back at the office at the time you were being asked questions by Mr Heazlewood at the committal?

A. That's correct, your Honour.

20

MELIS

25 Q. At page 294 of your statement, towards the bottom, you relay a particular point in time, and I understand we're still here at Rydal Road, Bowenfels - sorry, you indicate a certain interaction with Mr Bebic here where you note he laughed?

A. That's correct.

30 Q. Can you tell us, in your own words, what happened?

35 A. I think it was more of the fact that - whether - whether Mr Bebic thought that we weren't competent in relation to dealing with explosives, but as he explained, that he put his together, and he wanted to make sure it didn't blow up when they were in Sydney, and he just smiled. He actually smiled a few times as we were walking around, but he just seemed to smile and just laugh, and it was quite noticeable, but we didn't question him and say, "Why are you laughing?" This is not a funny matter, but we did note it.

40 Q. I might just show you some photos that were taken from this last location at Rydal Road, Bowenfels.

EXHIBIT 4.1-K SHOWN TO WITNESS

45 Q. Just take a moment to look through those photos, Mr Milroy. Do any of these photos depict the moment you describe in your statement of Mr Bebic laughing?

A. Can I just raise a question. They don't seem to be - there's no photograph here in relation to the first visit.

50 Q. Yes. I can take you to those.

A. Right. Okay.

Q. I just thought I'd take you to Bowenfels first, because you indicate in your statement, and correct me if I'm wrong, but that Mr Bebic laughing happened at this location, according to your statement.

5 A. More like 45 or 46. Where we were in a group, and where he's got his hands up in one picture, and the other one he's - they're all looking down, the broken ground, or the quarry.

Q. Mr Bebic said in his evidence that he was laughing at one point at something funny Mr Virkez had said. Do you have any knowledge about that?

10 A. No. Actually, if Mr Virkez had made any comments while we were in a group I would have recorded it.

Q. Just while we're talking about Mr Virkez, what was his role on these site visits?

15 A. I think - not I think, I was aware that he had gone with Mr Bebic to dig up the explosives on the eighth, that they took to the house and cut up and made the four bombs, and on one occasion I believe that Mr Virkez was with Mr Bebic when they did a test at one of these locations, and then another occasion Mr Bebic did the detonation on his own; Virkez wasn't present, and I think there was one - one of the sites where Bebic buried the explosives on his own, not in the presence of Virkez, so Virkez had been to one of the practices where they detonated a device, and also with Bebic when they dug up the explosives, so that was the reason why he accompanied Sergeant Marheine to the location.

25

Q. You say accompanied Sergeant Marheine to the location.

A. In his vehicle, and they followed us.

Q. But Mr Virkez was part of the whole contingent as you were going around--

30 A. Of course.

Q. --looking at various locations?

A. Yes, of course.

35 Q. Was he ever asked to indicate certain locations?

A. No.

Q. Did he ever offer to show police any other locations?

40 A. If he did that would be a matter for Sergeant Marheine to comment on, but if he had said anything in my company, or in Turner's, we would have, I would have recorded it.

Q. Is it fair to say he wasn't really taking an active role in these observations, in the same way that Mr Bebic was?

45 A. As far as we're concerned, we were - Mr Bebic was taking us to these locations and showing us what his involvement was in - in this venture.

Q. For the record, Mr Milroy, can you look at red page 43 of those photos. Do you identify that as yourself?

50 A. Yes.

Q. On the left-hand side, and again at red page 44?

A. Yes.

5 Q. It appears you're standing next to Mr Bebic at red page 45, with his hands in the air?

A. That's correct.

10 Q. Could the witness please be shown Exhibit 4.1-H? You can put those aside for the moment, Mr Milroy. Those photos related to Bowenfels. I want to now show you another set of photos.

EXHIBIT 4.1-H SHOWN TO WITNESS

15 Q. Can you please take a moment to flick through those.

A. Yes.

Q. These are a selection of photos from Hassans Walls. Do these photos depict the description you give of Mr Bebic laughing?

20 A. Yes.

Q. Which photo? If you could use the red numbers.

A. 38.

25 Q. To be clear, when you wrote in your statement that Mr Bebic was laughing at one point, is that the point in time you were recalling?

A. Yes.

Q. You would agree with me that that's a photo taken at Hassans Walls, not Bowenfels?

30 A. That's correct.

Q. Is that how you remember it, in that do you remember Mr Bebic and Mr Virkez being seated?

35 A. Yes.

Q. When he was telling you those things that are in your statement, and he laughed?

A. 38.

40 Q. Do you remember that much detail, that he was--

45 A. Well, actually, he laughed when we were at the um - the other location, the Cox's River, not - that's showing him sitting there smiling, but the reference to him laughing was at the other location, because in this - this picture, you can see there he's sitting there, and there's the cartridges of explosives, which have only just been removed from the hole in the ground. So that comment about him laughing, with - sitting with Virkez, is not - not relevant to the other reference where he laughed, where we - where he showed us where he had practised the detonation of a small device.

50 Q. Thank you. You can put those photos aside. The next point in time that

you record, at least in your statement, is 20 February 1979.

A. Yes.

Q. After 9 February, did you stay any longer at Lithgow?

5 A. No, we returned to Sydney, I think on the tenth, which was a weekend.

Q. What caused you to return to Lithgow on 20 February?

10 A. I think it was in relation to the relevant accused going to Court, and also we wanted to see if we could clarify a few outstanding issues with Mr Bebic.

Q. After returning to the CIB on 10 February, what was your role in the investigation of the suspects?

15 A. Well, as we were allocated the responsibility to pull the brief together, so we then were given an office at the Breaking Squad which we could lock, and some cabinets, and we took over an office and set up that office for us to gather all the statements and start a running sheet in relation to all the outstanding enquiries that would need to be carried out.

Q. You effectively became the officer-in-charge?

20 A. Well, we were given the responsibility of putting the - the evidentiary brief together.

Q. When you say we, who are you referring to?

25 A. Sergeant Turner and myself.

Q. Who gave you that responsibility?

A. Mr McDonald.

Q. Your responsibility was contained to Mr Bebic?

30 A. No, it's in relation to all of the Croatians who had been charged.

Q. All of them?

35 A. All of them with the exception of Mr Topic and one other gentlemen - Stipic, I think it was. We were not responsible for either of those matters.

Q. What about Mr Virkez?

A. Yeah, Mr - sorry, Mr Virkez as well. He was charged like the rest of them.

Q. We had some evidence yesterday from Detective Sergeant Marheine who said he was responsible for putting the brief together for Mr Virkez.

40 A. Yes, well, I think in - that's quite right. I mean that you had individual officers who were team leaders who charged the five - the five other men, and we were part of - we charged Mr Bebic, so we - so those people were responsible for gathering the statements from their team members who were
45 at - at the arrest of their individual targets, we could call it, so Mr Marheine was responsible for putting his brief together, his statements together, well knowing that his statements, of him and Ingram and other officers who were involved in the Lithgow operation, were put together into this overall brief of evidence for
50 all six of the - those people charged.

Q. Just to finish on this topic. Do you recall when those statements and other evidence relating to Mr Virkez were brought over to you to add to your brief of evidence?

5 A. Well, we understandably had a sort of a timetable in relation to the - the offenders, those accused going to Court, so we were contacting all the relevant team leaders, including Mr Marheine, that we need these statements sent in. This is what we require. We also chased up the scientific people, and Mr Marheine came to Sydney a few times and dropped off his statements, as did all the others that were involved in - in the case, so we had to chase - not
10 chase people up, but we had to contact a large number of police officers from various squads, and also the scientific and other civilian witnesses as well.

Q. Before we rise for lunch. What time on 10 February 1979 did you leave Lithgow?

15 A. Whether actually we left in the afternoon of the ninth, and we went back to the - we went to our respective homes and then went to - to the office on the tenth, but I - I can't recall it. It would have been - I can't recall really. We were packed up, and eventually left to return to our - our homes.

20 Q. So it could have been that you left on the evening of the ninth?

A. Yeah, but I - when you asked me the previous question was when I went back to Sydney. It was the tenth. I thought you meant when we went back to our office. It was the tenth.

25 Q. But in terms of leaving Lithgow, it could have been the ninth?

A. That's right. Late.

Q. Did you leave together with Detective Sergeant Turner?

30 A. We had no other option, really, cause we only had the one vehicle, so. Fortunately I think he - he lived on the way to my own home, so I think I might have dropped him off, or I got one of my colleagues to pick me up the next day.

MELIS: Thank you, your Honour. I note the time.

35

HIS HONOUR: All right, we'll take the lunch break now. You can step down, Mr Milroy.

LUNCHEON ADJOURNMENT

40

EXHIBIT 15.11 SHOWN TO WITNESS

45 MELIS: Your Honour, I've shown Mr Milroy the original copy of the book marked "11.15". I just have a photocopy of the pages that I'm taking the witness to for the benefit of the Inquiry, and I'll also hand your Honour a copy.

HIS HONOUR: 15.11?

50 MELIS: Just so everyone can follow. For the record, it is the inside of the cover page of Exhibit 15.11, and the corresponding page. I just note someone

has come up on the screen.

5 WOODS: Your Honour, I understand that's Mr Musgrave, and he's been waiting to give evidence, and my learned colleague has sent a message to him indicating that he's not likely to be called today.

HIS HONOUR: It looks like it'll be a slim chance we'll get to him.

10 AUDIO VISUAL LINK COMMENCED AT 2.03PM

WOODS: I think that's probably right. Mr Musgrave, can you hear us?

MUSGRAVE: Yes, I can.

15 WOODS: With his Honour's permission, I might indicate to you that unfortunately we won't get to you today, and we'll need you tomorrow morning at the same place.

20 MUSGRAVE: Yes. Thank you.

WOODS: Thank you.

HIS HONOUR: Thank you, Mr Musgrave.

25 AUDIO VISUAL LINK CONCLUDED AT 2.07PM

WOODS: Thank you, your Honour.

30 MELIS

Q. Mr Milroy, you've opened that book to the inside of the cover page?

A. Yes.

35 Q. Do you, sitting here today, recognise the writing that is on the inside of that cover? Have you seen it before?

A. Yes. But you mean I recognise the writing or the name?

Q. Recognise the name, and all that is written on that cover page?

40 A. In the, what's in the name of Misimovic, Vito.

Q. Do you recall seeing the inside of that?

A. Yes.

Q. Of the book before?

45 A. Yes. Yes.

Q. You have seen it?

A. Yes.

50 Q. When did you see it?

5 A. Well, after Sergeant Turner showed the book to Mr Bebic, and he went to that page for the diagram, for the devices. Sergeant Turner retained that book, and then later that night, he put all of the - the items that were shown during the interview in his suitcase, and I looked at it, and we saw that the name was on the inside.

Q. Did you question Mr Bebic about who owned the book?

A. No.

10 Q. Did you question Mr Virkez about who owned the book?

A. I didn't, no.

Q. But to your knowledge, on face value, looking at the inside of the cover, do you agree with me that it seems to belong to a Misimovic, Vito?

15 A. Yes. It's got his name on it. I think this is the book that was, correct me if I'm wrong, but it was found by Sergeant O'Brien at Mr Bebic's place. Is that correct?

Q. Yes.

20 A. Yeah. Yep. Yes, okay.

Q. You didn't make any further enquiries--

A. No. No.

25 Q. --about the owner of this book?

A. No.

Q. Was it an assumption of yours or Detective Sergeant Turner's that it belonged to Mr Bebic?

30 A. Well, I suppose sometimes you see a book that's got someone's name written in it, and they've given it to somebody else, and they've got it, and they give it to somebody else, so I guess you could assume that at some stage or other this book was in Mr Virkez's possession.

35 Q. We can see there as well there is an address in Geelong West. Do you see that?

A. Yes, I see that.

Q. Were any enquiries made with respect to that address?

40 A. Not as far as I know, no.

Q. There also appears a name, "Jozef"--

A. That's correct.

45 Q. J-O-Z-E-F?

A. Mm-hmm.

Q. And some numbers following. I think they are "99429".

A. That's correct.

50

Q. Were any enquiries made into that name or number?

A. Not as far as - not as far as I know.

5 Q. Just before lunch you were telling us that you arrived back in the office at the CIB on the tenth. You have a recollection of that, being back in the office--
A. Yes.

10 Q. --at the CIB, and that a room was allocated to work on the investigation. Is that right?
A. Well, I think the tenth was a Saturday, so we went back in only because we had so much to do, and start preparing some - a list of enquiries, and we - there was two offices there and we took the office, and there was a key. We knew where the keys were for the two rooms, and then on the
15 Monday we then spoke to Mr McDonald to clarify that we could use the room, and then we set that room up to start pulling together the - the brief of evidence on the total number of people that were charged.

20 Q. Up to that point your involvement was only with respect to the Lithgow raid. Correct?
A. That's correct, but we were told that we, that Sergeant Turner, was given the responsibility by McDonald, that we would be collating the brief, and putting the brief of evidence, which involved liaising with all of those who were involved in the raids, and ensuring that we actually contacted them, and tell
25 them that we need the statements from all of their nominated officers who were - participated in the various raids, as well as scientific and civilian witnesses, so we were responsible for putting the brief together under Sergeant - and I assisted Sergeant Turner in that process.

30 Q. Being eventually working under Detective Sergeant Turner--
A. Yes.

35 Q. --is it fair to say that you did more of the heavy lifting when it came to making enquiries?
A. Could you just repeat that? Who did the heavy lifting?

40 Q. Would it be fair to say that given Detective Sergeant Turner was your superior, was it the case that he was tasking you with making most of the enquiries?
A. Well, he tasked me to do some of the enquiries. I think, if I can explain, because it's such a detailed investigation, and this is not uncommon when you've got a number of offenders being charged in a conspiracy matter, for example, which this was. We had a - we put together a list of the enquiries that we had to carry out, so we had a job book, you could call it, that we
45 recorded ourselves as to these are the statements we'll have to get; these are the enquiries; and then we started a running sheet, which is quite common in these sort of complex investigations, where we recorded any activities that were carried out, to collect statements, or to contact witnesses, and make enquiries overseas, et cetera. We then put that together, and we ran that inquiry, and Sergeant Turner would ask me; you follow up and get statements
50 from Sergeant so-and-so for his arrest, et cetera, et cetera. So, yes, it was

a - the work was spread between us, and that's quite common.

Q. This list of enquiries you refer to. Would that have been recorded on a particular template, like an occurrence pad, or--

5 A. Yes.

Q. --a running sheet, or?

10 A. Well, the occurrence, that is the running sheet. That's - these were in those days in the Police Service in a station, you had the telephone pad, where they recorded information that came over the telephone, and any incidents that the police were involved in, whether it was an accident, a dog lost, all these sort of things, domestic violence, they'd be recorded on this blue - what they refer as an occurrence pad, and we used that, as other squads did, when you had

15 lengthy enquiries to make.

Q. I think you would agree this was a complicated matter, because it involved a number of accused?

20 A. Yes. It took a lot of pulling together. We had to chase up some of the teams to make sure they could get their statement in on time.

Q. Was it occupying a lot of your time?

25 A. Basically for the early stages up until the committal proceedings, I would say that nearly - the majority of my time for the first few months was committed to this project with Sergeant Turner.

Q. Up to the committal proceedings, you say. What about after committal proceedings?

30 A. After the committal proceedings, of course, during that process we would liaise with the Crown in relation to the brief going up for trial, and then when it came to the - the trial in 1980, we were tasked with the responsibility - Sergeant Turner and I was assisting to ensure that the relevant witnesses were arranged or contacted to be at Court on nominated dates, as per the request of the Crown.

35 Q. Did you sit in during the trial?

A. Only after I gave my evidence.

Q. Did you sit in Court every day after you gave your evidence?

40 A. The majority of the time we basically were responsible to be there, and assist the Crown if necessary, with follow-up enquiries, but we were there most of the time.

Q. Sitting here today, to the best of your recollection, do you recall there being a lot of entries on these running sheets?

45 A. Well, yes, I think there were. Yeah.

Q. Can you give us just an estimate of how many pages you think--

A. No.

50 Q. --you may have collated over the period you were investigating?

A. Not - not after all these years, no.

Q. That's fair, Mr Milroy. Can the witness please be shown Exhibit 11.50?

5 EXHIBIT 11.50 SHOWN TO WITNESS

Q. Red page 206. Just take a moment to familiarise yourself with these documents.

A. Okay.

10

Q. Do you recognise these as being entries made in, to use your words, the running sheet with respect to the investigation into the Croatian Six?

A. Yes.

15

Q. Would you agree with me that it appears that they are written on a P, a form P109?

A. Yes.

20

Q. And it's an occurrence pad; is that right?

A. Yes.

Q. But you term them as being running sheets, as being the same thing?

A. That's correct, yes.

25

Q. Do you agree with me that there's only a small handful of running sheets here?

A. Yes.

30

Q. You would expect to see more in this investigation?

A. Not really, and you normally find volumes of these sort of in a murder investigation, especially something that's protracted, but in relation to this, if that's the number of running sheets that's been obtained from the Police Department, then--

35

Q. But if I told you that these running sheets appear to all be dated in February 1979 and some in March 1979, would you expect there to be more records of enquiries made, et cetera, in this matter?

A. Well I think by the end of March or into April we had basically had the brief - the brief was basically prepared by April, and I can't recall, unless it was an enquiry that the Crown might have asked us to do, but--

40

Q. That's my next question. When you received enquiries from the Crown, would you record those in the running sheet?

A. Not - not one that was the trial, no, no.

45

Q. So your correspondence with the Crown was only during the trial?

A. I think it - so when the actual - because of the complexities of the case, I believe that someone from the DPP was the Prosecutor at the Petty Sessions; am I correct there?

50

Q. Sorry, can you just repeat that answer.

A. I said I'm under the impression that the DPP appointed the Prosecutor for the committal proceedings; is that correct?

5 Q. Yes.

A. That's right. Because of the complexity of the case, in normal cases the Police Prosecutor would - would run the case at the Petty Sessions, but because this was a very complex investigation, we engaged very early with the DPP, but there wouldn't be any need to prepare running sheets, other than
10 what we've got here, because this was all to do with putting together the outstanding enquiries and putting the brief together with all the statements from all the witnesses and - and the officers involved in the - in the matter.

Q. Is it fair to say that any enquiries that came from the Crown directed to you
15 and/or Detective Sergeant Turner were not recorded?

A. I don't think so, no.

Q. Who from the Crown were you dealing with?

A. I - well you'd have to indicate - I can't recall. I knew for the trial it was
20 Mr Viney, but in relation to the Petty Sessions, I just can't recall, unfortunately, the name of the DPP or the Prosecutor.

Q. But at least at trial you say you were communicating with Mr Viney?

A. Well, his team. He had a - an assistant, and--
25

Q. Just keep those documents in front of you for a moment because I'm going to take you back to some aspects. Going back to the chronology, the next time you visit Lithgow Police Station is on 20 February 1979; you told us that
30 before lunch, correct?

A. Correct.

Q. There you have a conversation, you say, with Mr Virkez, and you detail that in your statement at red page 295?

A. That's correct.
35

Q. Well I should correct that you're not having the conversation, it's Detective Sergeant Turner who's having the conversation?

A. That's correct.

40 Q. And you are present?

A. That's correct.

Q. You took notes of this conversation?

A. Yes.
45

EXHIBIT 11.42 SHOWN TO WITNESS

Q. Red number 171. Is this your handwriting?

A. Yes.
50

Q. Do you recognise these three pages of notes as being a record of the conversation on 20 February 1979 at about 9.35 with Mr Virkez?

A. That's correct, yes, they are.

5 Q. It would appear from these notes that not everything is recorded in these notes as they're recorded in your statement. Would you agree?

A. I'll have to read it. Can you point me in the direction of the--

10 Q. First of all, the first page, for example, at red 171, appears to be referencing whereabouts in Parramatta Road is this shop. Do you see that?

A. Yes.

15 Q. The reference to Parramatta Road, it would appear from your statement at red 296, is way into the conversation. Do you see that?

A. Whereabouts in Parramatta Road, yes.

20 Q. Do you agree with me that not everything written in these notes is a reflection of what you have written in your statement?

A. It would appear to be that, yes.

25 Q. It's possible, is it, that there may be some missing pages?

A. Well, I think this was all done on the - the notebook that Turner had, so--

30 Q. Yes. I was going to come to that.

A. Yeah.

35 Q. Are you still, as at 20 February 1979, recording in Detective Sergeant Turner's notebook?

A. Yes. He just said, "Keep using this notebook."

40 Q. Did he also use it?

A. Yes. I think you can see from the previous exhibit that you can see where he'd been writing very clearly in his handwriting.

45 Q. But he continued to use it as late as 20 February? You were sharing it with him?

A. Not really. I think only because we were going back to Lithgow to speak to Virkez and Mr Bebic. He said, "Keep using the note book."

50 Q. Why did you speak to Mr Virkez on this occasion?

A. I think it was to clarify some information that Sergeant Turner had in relation to this electronic mechanism that may have been used at the Elizabethan Theatre to set off the device, and a timing scale. That was the information that, I think, he obtained from some of the - the investigators who were involved in - in the interviews of others in Sydney.

Q. Is it your evidence that this interaction with Virkez was a matter that was identified by Detective Sergeant Turner as needing to be followed up--

A. That's correct.

50

Q. --with Mr Virkez? Some other things happened on that day. You say that later that day you went to Petty Sessions. I think you told us before lunch it was because the defendants were appearing that day?

A. That's correct, yes.

5

Q. Detective Sergeant Turner had a conversation with a solicitor named Higgins.

A. That's correct.

10

Q. Were you present when that conversation occurred?

A. I would have been in the vicinity, but I didn't hear the conversation.

Q. You can't tell us what was discussed?

A. No. No.

15

Q. Do you know who Mr Higgins was appearing for that day?

A. I believe he was appearing for Mr Topic and Virkez, and he also agreed, I believe, to - to appear for Mr Bebic.

20

Q. Was that a request made to Mr Higgins by Detective Sergeant Turner?

A. No. No.

Q. Mr Higgins, you say, agreed to appear for Mr Bebic?

25

A. Well, that's a matter for - you'd have to ask Mr Higgins because - you know, we were - he's a lawyer, a duty solicitor at the time, and--

Q. In any event, it would appear that Mr Higgins returns to the Lithgow Police Station?

A. That's correct.

30

Q. Did he come with both of you at the same time, did he?

A. No. As you can see, we went back into the room to interview Mr Bebic, which he agreed to, and Mr Higgins walked into the room when Sergeant Turner went to get the Inspector to read the - the Record of Interview, which Mr Bebic had agreed to.

35

Q. I appreciate you may not know the answer to this, but as far as you were aware, was Mr Higgins advised that there would be a further Record of Interview conducted with Mr Bebic that day?

40

A. Yes. Yes.

Q. He was advised?

A. That's right.

45

Q. You heard that from Detective Sergeant Turner?

A. Sergeant Turner indicated to - to Mr Bebic in my presence that he had spoken to Mr Higgins, and Mr Higgins was aware that we were going to interview Mr Bebic further, and Sergeant Turner asked Mr Bebic did he wish Mr Higgins to be present, and he made it very clear that he didn't wish him to be there.

50

Q. Mr Bebic said he didn't wish him to be there?

A. He said, "No. No." That's right.

5 Q. What I mean is, at Petty Sessions, was Mr Higgins advised that there would be a further interview with Mr Bebic?

A. In - after he walked out of the Court. When you say - not in the actual Court itself.

10 Q. I mean, just at that location.

A. Yes. That's right.

Q. Not back at the police station--

A. No.

15 Q. --but at that location?

A. That's right.

Q. My next question is: did he want to return and be present for that interview?

20 A. I think he indicated to Sergeant Turner that he wanted to speak to Mr Bebic over other matters, and that was the reason, when Sergeant Turner went to get the Inspector, that he returned with Mr Higgins, who had indicated he wished to speak to Mr Bebic.

25 Q. Just to be clear on that point, at no time did Mr Higgins say that he wanted to be present during that further Record of Interview with Mr Bebic?

A. That - yeah, that's my understanding.

30 Q. If he had wanted to be present, he would have been, of course?

A. Of course. Of course.

Q. A further interview is conducted back at the police station, again with Detective Sergeant Turner asking the questions, and you typing?

35 A. That's correct.

Q. Could the witness please be shown Exhibit 4.1-N?

EXHIBIT 4.1-N SHOWN TO WITNESS

40 Q. Mr Milroy, the document that has been placed in front of you; do you recognise that as being the interview between Detective Sergeant Turner and Mr Bebic at the Lithgow Police Station on 20 February 1979, commencing at 10.52, with you as the typist?

45 A. Yes.

Q. Were there particular matters that you and Detective Sergeant Turner wanted to put to Mr Bebic during this interview?

50 A. Yes, there were a few things that Sergeant Turner wanted to clear up, based on the information he had received, that came out of the interviews in Sydney with the other offenders.

Q. We can see at red page 48 of this document that at question 18 Mr Bebic is asked, "Who was the boss of your group?" Do you see that?

A. Yes.

5 Q. He answers, "Tony Zvirotic."

A. Yes.

Q. Then he's asked, "Who was boss of other group", and he answers, "Maybe Brajkovic. Maybe Ilija Kokotovic. Not sure." Do you see that?

10 A. Yes.

Q. We can see at red page 49 that Mr Turner leaves the room at 12.05pm and returns at 12.08pm with Mr Higgins, the solicitor.

A. That is correct.

15

Q. Do you at that point both leave the room and leave Mr Higgins with Mr Bebic?

A. No.

20 Q. You remain in the room?

A. Yes, I remained sitting with the typewriter, with the partly-completed page of the Record of Interview.

Q. At that stage, I think Detective Sergeant Turner says that he can't find the Inspector, and he says, "Whilst I'm looking for him, Mr Higgins wants to speak to you about another matter", and then Mr Higgins has a conversation with Bebic. Mr Higgins leaves at 12.28pm. Do you see that?

25

A. Yes.

30 Q. While that conversation is occurring between Mr Higgins and Mr Bebic, you and Detective Sergeant Turner leave the room?

A. I've already said to you, I was actually remaining behind to--

Q. You remained in the room?

35

A. With the - in front of the typewriter, with the Record of Interview partly completed, and Mr Bebic was sitting next to me, and Mr Higgins sat next to him and had a conversation, and said to me, "Don't record this."

Q. But you could hear the conversation?

40

A. Well, I wasn't really leaning back. I leant back. I could hear them talking; it was mainly - it was personal issues. Something to do with a block of land, or something to do with selling some property, but I didn't really take a lot of interest or made any notes of that in relation to what they were talking about, because it was not relevant to what this case was about.

45

Q. It sounds like from what you can recall, the conversation was not at all relevant to-

A. No. No.

50 Q. --the charges that--

A. No.

Q. --Mr Bebic was facing.

A. None whatsoever.

5

Q. Rather, he was speaking to the solicitor, Mr Higgins, about selling a property. Is that your recollection?

A. Yes, something to do with his personal issues, to do with his own finances and things like that, but I didn't really hear when he got into that, because I was just sitting back waiting for Sergeant Turner to return with the Inspector.

10

Q. I appreciate you may not know the answer to this, but was it your understanding that Mr Higgins was there to represent Mr Bebic in the charges he was facing, or for a completely different matter?

15

A. A completely different matter.

Q. Mr Higgins leaves, and Inspector Ray enters, and reads out the interview.

A. That's correct.

20

Q. And Mr Bebic signs each page.

A. That's correct.

Q. Was Mr Bebic at any time threatened during this interview, Mr Milroy?

A. Definitely not.

25

Q. Did he sign voluntarily?

A. Yes, he did.

Q. Mr Bebic said in his evidence at trial that - and I quote -

30

"Milroy had his hands on papers and he said to me that I have to sign those papers because the Court will start now, and that I have to sign it. I said to him I have no knowledge that what is written on those paper, and to bring a man who would translate what is written there, and he said, 'That is not necessary', and Turner was there also, and he had a stick of cable, of flex, and he started shouting at me, and said, 'You have got to sign this.'"

35

Did that happen?

40

A. That's a ridiculous allegation. It never happened. I mean, really, to have blank pieces of paper on a table. In the Record of Interview was there with Mr Higgins present, and to suggest that you line up pieces of paper; sign your name here, sign your name there; it's the most ridiculous allegation.

45

Q. To be clear, Mr Higgins was only in the interview room for a short period of time.

A. Mr Higgins was there with - and saw the interview in the typewriter and, as I indicated, it was--

50

Q. But according to the Record of Interview, he enters the interview at--

A. 12.08.

Q. At 12.08?

A. That's correct.

5

Q. And he leaves at 12.28?

A. Yes, that's correct.

Q. So he has not been present either before or after those times?

10 A. No, what I'm talking about is the Record of Interview is there in the - so what you're suggesting is other than what's typed on the typewriter, which Mr Higgins can see, you're suggesting, or Mr Bebic, his allegation that suddenly we have half a dozen or 11 pages and say, "here, sign these blank pages". It's the most ridiculous allegation and it never happened.

15

Q. I want to turn to another topic now, and that is your further contact with Mr Virkez. You've recorded in your statement on that on 7 March 1979, this is red page 297, that you had a conversation with Virkez; do you see that?

A. Yes.

20

Q. At Central cells?

A. That's correct.

Q. We've got a record of that - I think you've still got Exhibit 11.50 in front of you, the running sheets?

25

A. Okay, yes.

Q. Could you please turn to red page 221; do you agree that that's a record that you've made of an interaction you've had with Mr Virkez on 7 March 1979?

30

A. Yes.

Q. You record there that after his appearance at Central Court, you interviewed Vico Virkez at his request in the presence of his barrister, Mr Amor-Smith?

35

A. That's correct.

Q. Then you go on to say, "Virkez informed his barrister that he wished to speak to me on his own"; do you see that?

A. That's correct.

40

Q. Is it the case that there was no interview in the presence of Mr Amor-Smith at all, that the conversation that occurred was between yourself and Mr Virkez only?

A. After the barrister left, that's correct.

45

Q. Refreshing your memory from this document, if you need to, what did Mr Virkez want to tell you?

A. Well he indicated that he had a letter to give to Tony from Maks, which I assume he was meaning Bebic, and I think I indicated to him that - I indicated here that he would need to understand that "if you give me this copy, this could

50

end up in Court", and it didn't worry him. He said, "have a copy", and I made arrangements then to take the letter to the CIB and had it copied, and then I returned the - the letter that Virkez - and I took it back to the cells and gave it to him.

5

Q. Is there a record of when you returned that letter?

A. About 12.50 that same day.

10 Q. That same day, yes, okay, I see. In the second paragraph of that note, it says, "He was advised not to speak to the police anymore about anything"; was that Mr Amor-Smith advising Virkez not to speak to police, or was that you advising him not to speak to police anymore?

15 A. That was his barrister, and as you can see, later he indicated that he didn't wish to have Mr Amor-Smith appear for him any further, or Mr Higgins, and he said he was going to be looked after by some other person, and after receiving those instructions, Mr Amor-Smith left.

20 Q. Do you have a recollection of visiting Mr Virkez at Parramatta Gaol?

A. I recall seeing him on one or two occasions, yes.

20

Q. On those one or two occasions, doing the best you can, what were you visiting him for?

25 A. I think at that stage he was a witness for the Crown, and I recall just, you know, before he was due to give evidence we were asked - we went to see him to explain to him that he - he was coming to Court, when he was coming to Court, and the process, how the trial would be in terms of what witnesses do, they go into Court and they get sworn, and also the arrangements for his transport from Parramatta to the Court and return. So that was basically it, and of course, that was as a result of the request from the Crown.

30

Q. Did you say that happened on one occasion only before he gave evidence, or do you have a recollection of more than one occasion?

35 A. I can recall seeing him in the prison more than once, but I do recall one of the occasions was just before he was giving evidence, and we requested - to advise him at that stage he was - he was being treated as a Crown witness, and that was something that we did with all the witnesses, civilians as well. We'd go and see them and say, "You're required. You made a statement." There's some people who have never been to trials before, or before a jury, so they - they wanted to find out what's the process, so you would - you would, out of courtesy, advise them.

40

Q. Did you attend alone?

45 A. It would be highly unlikely. It should be recorded that the Parramatta Gaol, they always record you when you attended, and normally when you'd speak to them, there's a prison officer present.

45

50 Q. In terms of the timeline, the evidence that you've just given is consistent with evidence Mr Virkez gave at trial. That is, that you, and he also says Detective Turner, visited sometime after he entered the guilty plea, which we know was around 25 March 1980, and possibly a week and something prior to

giving evidence. He commenced his evidence on 21 May 1980.

A. Right.

Q. Does that accord with your memory?

5 A. Yes. Yes. Yes.

Q. We have the Parramatta logbooks that record the visits. There doesn't appear to be a log, or record, of this visit that you're discussing now, but there are three entries with your name, with you attending the gaol on the 3rd, the 5th and 11 November 1980.

10

A. November 1980.

Q. Does that assist you at all in clarifying whether you may have been visiting this Mr Virkez at that time?

15

A. Well, I've indicated I had visited him more than one occasion. Those dates would have been - he gave evidence, did you say, in May? So that's November--

Q. I should also add, he was deported on 24 December 1980, and these three dates are in November. To be fair to you, Mr Milroy, I'll show you the log.

20

A. Mm-hmm.

EXHIBIT 12.6 SHOWN TO WITNESS

Q. I think the first time your name appears is at red page 89-1 under the date, "3 November 1980" at the bottom of that page. Do you see that?

25

A. Yes.

Q. Again, over the page at red 89-2, it appears under the date "5 November 1980". Do you see that? Towards the bottom of the page.

30

A. Yes. Yes.

Q. Then, again, at page red 90, it appears towards the top of the page.

35

A. Yes.

Q. If I might suggest that last entry there, which corresponds with the date "11 November 1980", it appears that on that occasion, you have visited with two other officers from the CIB, and all three names are recorded in the one hand. Do you see that?

40

A. Yes. I know what that's about.

Q. That's not related to a visit with Mr Virkez?

A. Definitely not, no.

Q. What about the others? 3 November and 5 November?

45

A. 5 November was the same people.

Q. The same unrelated people?

50

A. Yes. Yep. Anderson, Wheelan and Palmier. We were engaged to deal with the riot that took place in Parramatta during the investigation in relation to

who was responsible.

Q. What about 3 November?

5 A. 3 November, it's pretty close to the 5th as well, which was part of that enquiry, but I haven't got - not having my police duty book, which would indicate why I was there. Does it indicate that - is there records that shows who I was visiting?

10 Q. No. Unfortunately not.

A. No. No. Well, I can't really say.

Q. Just a few other matters, Mr Milroy. When you visited Mr Virkez on the occasion that you were just discussing, did you discuss his evidence with him?

15 A. No. I mean, normal with any witness, you usually explain to them you've made a statement, and when you go to Court the prosecutor will take you through your evidence that you gave in written form, whichever way it may have been, and the process. What happens in a trial, and the transport. As far as he was concerned, the transportation arrangements that we put in place
20 to take him to and from prison to the Court; whereas with a civilian witness, of course you're not responsible for their security or transporting them to and from Court. That's the difference.

Q. Did you at any point in your investigation become aware of any connection
25 between Virkez and the UDBa, being the Yugoslav Intelligence Service?

A. No.

Q. Or secret police?

30 A. No. No connection we - we encountered, but I think the information that was passed to the Crown, it was the same. They were of the same view that if anything he was a community source, or a - what you might call a community informer, the person passing on information to a body that was interested in the activities that was going on at that particular time, but there was nothing concrete.

35

Q. During your investigation, did you become aware of any connection between Virkez and the Yugoslav Consulate?

40 A. No, but I believe Jefferies went and interviewed the Consulate. There's a running sheet somewhere which should be in relation to that. To try to get clarification as to what contact, if any, he had with them, but other than the comments he made himself to Marheine, as I understood it, that he was passing on information about pamphlets and their - the activities of these groups in - in the public environment. That's all we knew.

45 Q. Just in relation to that answer. How did you become aware that Virkez was passing on community information, and to whom was he passing it on to?

50 A. I wasn't aware of who he was passing it on to. I think he makes a reference in his - his interviews, which we have copies of, cause Marheine handed all these over. He was also spoken to by Jefferies at Lithgow on the eighth of February, I believe.

Q. There is evidence that Detective Sergeant Jefferies spoke to Mr Virkez on 10 February. You were aware of that?

5 A. Yes, I think there should be a - I think we have understand is that when we were allocated responsibility to - to prepare the brief, we engaged with all of the people who were involved in the - in the raids in Sydney, including the Special Branch, and they came to our office and passed on whatever they were doing, as part of the ongoing enquiries in relation to the - the putting the brief of evidence together, so we were aware that Jefferies spoke to Virkez.

10 Q. Did you know the contents of that discussion that he had with Virkez? Was that relayed to you?

15 A. All I was aware of what that the discussions that he had with Jefferies was to be related to his - his - nothing to do with the actual bombing, or his involvement in the bombing. It was to do with his passing on information to the Consulate, about pamphlets and the activities of - of the groups in the community.

Q. To be clear; Detective Sergeant Jefferies conveyed that information to you, orally?

20 A. There should be some records to that effect.

Q. We have no notes with respect to, or any running sheet with respect to the conversation on 10 February. The only note we have is - I'll show you, in fairness - is back at the running sheets, Exhibit 11.50, red page 208.

25 A. Yes.

Q. Just have a read of that entry.

A. Yes.

30 Q. It's dated 12 March 1979.

A. That's correct.

35 Q. At 11.45, and it details an interview of Mr Bozo Cerar, who was the Vice-Consul for Yugoslavia, in relation to a statement being made by him in relation to the arrest of nine Croats at Lithgow and Sydney on Tuesday, 8 February 1979. Do you see that?

A. Yes, I do.

Q. This is authored by Jefferies himself.

40 A. Yes.

Q. It relates to essentially wanting to try and get a statement from this person.

A. That's correct.

45 Q. As the Consul for Yugoslavia, do you agree with me that this entry does not make any mention of what you just told us, that is that Virkez told Jefferies about his involvement in passing on information?

50 A. Jefferies, as I understand it, spoke to Virkez before this date, and he passed on that information to Turner. I - now, I think you have to understand that Jefferies would have gone to do - to their consulate because he was

5 requested to do it by Turner and I, because that was some of the enquiries that we were initiating, but the Special Branch people were not running around doing things on their own. When the operation was completed, all of the police that had been involved, and the Special Branch and those that were sent to the relevant premises, were all contacted by Turner and myself, that is the team leaders, and we requested from them their statements in relation to their involvement, and then any enquiries that were to be made in relation to it was directed by Sergeant Turner. I mean, there was no willy-nilly people running around doing things on their volition, this was all coordinated.

10

Q. From what you've told us, you understood that Jefferies had received this information from Virkez, and that he would have been tasked or told to go and make these enquiries of the Yugoslav Consulate?

A. That's correct, yes.

15

Q. The Inquiry needs to understand, was the information from Jefferies about Virkez passing on information regarding the Croatian community ever conveyed to the Crown Prosecutor?

20

A. Oh yes, that's why the Crown Prosecutor, I think, indicated in the trial, I think, he indicated that was not a skerrick of evidence that the Crown had that indicated that Virkez was an agent in the sense of an agent provocateur. I mean, there was a - this issue of informants is a very loose environment; you have community sources, you have the one-off person that rings up with information, you have informants that are registered - this is in the police environment, I'm talking about, not in the Secret Service environment. So the Crown were appraised of all the enquiries and the results that we carried out.

25

30

Q. I just need to be clear about this evidence, according to the running sheet that Jefferies has recorded here, the person that he was seeking a statement from declined to make a statement in the matter?

A. That's correct, yep.

35

Q. But this information from Jefferies about Virkez passing on information to the Croatian community, that level of information, was that conveyed to the Crown Prosecutor?

A. Yes.

40

Q. When would that have been, would you say?

A. Turner would have briefed him, or Turner and I would have briefed him, in relation to that's what our understanding is, based on the information that was obtained from the Special Branch, that that was what Virkez was allegedly involved in.

45

Q. Did the Crown ask of you to make any further enquiries or requisitions with respect to this information?

A. I can't recall. I think the - I think all the information that we - we had at our disposal in relation to Virkez contacting the embassy was - the consulate, was passed on to the Crown.

50

Q. You didn't request a statement from Jefferies regarding his interview with

Virkez on 10 February?

A. Well, I can't recall what Jefferies' statement. I think he's giving evidence in this matter, isn't he? But I can't recall. If you showed me his statement.

5 Q. But sitting here today, you don't recall ever asking of Jefferies to make a statement of his interactions with Mr Virkez on 10 February, if I was to tell you that Mr Jefferies' statement does not detail having spoken with Mr Virkez on the tenth?

10 A. Right, so his statement indicates that he never went to - he never spoke to Mr Virkez.

Q. If it's silent, it's silent on that?

15 A. But it indicates he went and saw Mr Virkez. No, okay, but if you've got a record that he allegedly has, I guess he'll have to answer that.

EXHIBIT 5.5-2 SHOWN TO WITNESS

20 Q. Red page 557. What's been put in front of you is the statement of Detective Senior Constable Jefferies, dated 9 February 1979; do you see that?

A. Yes.

25 Q. Just take a moment to have a look through. I think you might have just a duplicate of the statement; I think the statement runs to paragraph 40. Then, I think, there's just a duplicate behind that, so you just need to read up to page 15. Mr Milroy, would you agree with me that this statement details Mr Jefferies' involvement on 8 February 1979 in connection with the raid on 30 Chandos Street, Ashfield, and otherwise details relevant interactions he had with other relevant persons involved in the Croatian Six trial.

30 A. Yes.

Q. But does not mention having a conversation with Mr Virkez on 10 February 1979. Do you agree with me?

A. I agree with you, yes.

35 Q. Yet, you've given evidence in this Inquiry that you had knowledge that Mr Jefferies had had a conversation with Mr Virkez on 10 February 1979 where he told him that he had been passing on community information. Do you agree with that?

40 WOODS: Before the answer is given, may I just make the point that the statement is dated 9 February, the day before the 10th.

HIS HONOUR: Yes. I think that's been made clear.

45 MELIS: Yes. That's part of my questioning--

HIS HONOUR: If it was, in fact, made that date, it's no wonder it didn't mention something had happened the day after. I think that's fairly clear.

50 MELIS

Q. Yet you had information from Mr Jefferies that he had this conversation with Mr Virkez on 10 February 1979, where he told Mr Jefferies that he was passing on information regarding the Croatian community. Do you agree with that?

5 A. Yes. That's my understanding, yeah.

Q. It was your responsibility, wasn't it, Mr Milroy, consistent with what you've told this Inquiry, that you were chasing up people for statements, and ensuring that you had the evidence that you needed to collate the brief of evidence for the prosecution of the Croatian Six; correct?

10

A. Yeah. Sergeant Turner and I. That's right.

Q. So the responsibility to chase up Mr Jefferies for a statement regarding his interactions on 10 February 1979 with Mr Virkez fell on you?

15

A. On - that is if he - if that is confirmed that Mr Jefferies spoke to Virkez on the 10th, as you've indicated, that the responsibility for us to get a statement that is, Sergeant Turner, yes, we would have spoken to him to get - obtain a statement.

20

Q. As far as the Inquiry knows, that there was no such statement made by Detective Sergeant Jefferies.

A. Right. Well--

Q. Can you explain why that is?

25

A. No. Perhaps Sergeant Jefferies might clarify that when he's called before the Inquiry.

Q. Were you receiving any pressure from the Special Branch about this investigation?

30

A. No. Definitely not.

Q. You were in regular contact with members of the Special Branch in collating the brief of evidence, were you?

35

A. We had - we had the list of the names of the police who attended the residences in Sydney, and - and if some of those were Special Branch officers, which they were, we would contact, as I indicated before, the team leader, or the senior man who was responsible for that raid and the charging of the individual, to ensure that they got their statements together and sent to us. Now, there were occasions where we had to chase people up, because they were on holidays, et cetera. So we did contact the Special Branch. There would have been individual officers who were part of the team, but we would have gone through the sergeant who was responsible for that arrest.

40

45 Q. Mr Milroy, I'm going to take you to some evidence that Mr Jefferies gave at the trial, but before I do that I just want to confirm that you told the Inquiry that you gave your evidence at trial, and that was in April 1980?

A. That's correct.

50

Q. Thereafter, you sat in Court and listened to the trial?

A. Not every day, but quite a lot.

Q. Most days?

A. A lot.

5

Q. Were you there for Mr Jefferies' evidence?

A. I can't recall that, sorry.

10 Q. Let's see if we can refresh your memory. Could the witness please be shown Exhibit 2.1-86, red page 2960 and following?

EXHIBIT 2.1-86, RED PAGE 2960 AND FOLLOWING, SHOWN TO WITNESS

15 Q. Mr Milroy, this is some evidence that Detective Sergeant Jefferies gave on 26 August 1980, and I want to draw your attention on red page 2960 to the questions towards the last quarter of the page. It says, "Were you present at CIB in the early hours of 9 February 1979?" Answer, "Yes." Do you see that question and answer?

20 A. Yes.

Q. It then goes on, question:

"Q. You were there for about three hours, weren't you?

25 A. Somewhere about that time, yes.

Q. On the other hand, did you interview Vico Virkez?

A. Yes.

Q. When did you do that?

30 A. It was on 10 February.

Q. Where did you do that?

A. Lithgow."

35 Over the page, he tells the Court that he interviewed him for about two or three hours. Do you see that?

A. That's correct.

Q. He says he did not take a record of interview.

40 A. That's correct.

Q. Is this bringing back some memories for you now? Were you in Court listening to this portion of the evidence?

45 A. Now it's hard for me to remember, after all these years.

Q. If you weren't in Court, would you have expected Detective Sergeant Turner to have been in Court?

A. Yes, one of us. That's right.

50 Q. He confirms that he does not record the conversation in a notebook.

A. You're - this is Jefferies, you mean?

5 Q. Yes, and he's asked, "Did you write up a note of the conversation afterwards?" Answer, "I don't believe I did." Then he's asked a series of questions that are objected to. He's specifically asked about the contents of that discussion and those questions are rejected too and he is not required to answer. Do you see that?

A. Yes.

10 Q. At the top of the page towards the quarter down, he says, "You discussed with Vico Virkez Croatian political affairs, didn't you?" That question is objected to, and further down he's asked, "Did you in your talks with Vico Virkez raise the question of his possible involvement with the UDBa?" Again, it's objected to. "You are aware, are you not, that Vico Virkez is not a
15 Croatian?" Again, the question is objected to. "Did you investigate the background of Vico Virkez?" Again the question is objected to, and "Did you consider whether Vico Virkez might be a plant?" Again, the question is objected and rejected too. Do you see that?

A. Yes, I do.

20

Q. I understand you don't have necessarily a recollection of sitting in Court, but had you been sitting in Court would that have not caused you some concern, that there was no evidence before the Court with respect to there was not statement before the Court about the conversation that Mr Virkez had--

25

WOODS: Objection. That's a legal question, your Honour. It's a legal question, rather than a question this witness can answer. It's a matter for the trial judge, and he took that course, and it may be regrettable, but that's the situation.

30

HIS HONOUR: You're more directed to his response to having heard this or having been perhaps made aware of this exchange that went on in these pages of the transcript. Is that what you're directing him to?

35

MELIS: Yes.

Q. Had you been aware of this exchange that occurred in Court, would that not have caused you to speak to the Crown about information you had regarding what Mr Jefferies discussed with Mr Virkez on 10 February 1979?

40

A. Is this the trial transcript?

Q. Yes, it is.

A. But the Crown are, the Crown are there, the Crown are --

45

Q. I understand that, but was there any discussion between yourself and the Crown about the discussion that occurred between Mr Jefferies and Mr Virkez on 10 February?

A. I can't - I can't recall whether I was there for Jefferies' evidence, or Sergeant Turner was there, or I was made aware of it afterwards, I'm sorry.

50

Q. Did the Crown ever approach you to make further enquiries about that interaction on 10 February 1979?

A. Not that I can recall, no.

5 Q. When you received the information from Mr Jefferies about the conversation he had with Virkez on 10 February, did that not cause you to want to interview Mr Virkez yourself again as part of your investigation?

A. I think Mr Virkez was spoken to by another officer, I think, from Cavanagh, from the - and he came to our office as well and advised us--

10

Q. I'll just stop you there for a moment. I think you just mentioned the name Cavanagh?

A. Yes, that was--

15

Q. Who was he?

A. Sorry?

Q. Cavanagh, who was he?

20

A. He was actually a senior officer in the Intelligence Department in the Commonwealth Police.

Q. You say he came to see you?

25

A. He spoke to - I recall he came and spoke to Ted, Ted Turner and I at the CIB because of their interest in the - the Croatian and Yugoslav tensions, et cetera, from my understanding.

Q. When would that have been approximately; when did he come to visit you at the CIB?

30

A. Well, it would have been as we were - in those early - early weeks when we were putting the brief together and chasing up all the enquiries, because I remember that he came and spoke to Ted Turner about his - his interest in the - from an intelligence point of view.

Q. So he came to see you. He was interested in Mr Virkez from an intelligence point of view?

35

A. That's my understanding, that's right.

Q. Did he ask you for any information you had on Virkez at that point?

40

A. I can't recall, I can't really. I can't recall what the conversation was about really.

HIS HONOUR

45

Q. You've raised this in the context of being asked questions about a passage of evidence when Mr Jefferies was being cross-examined by Mr Buchanan at the trial on 26 August 1980, and you've raised this visit by Mr Cavanagh in the very early days after the arrests in February 1979. Why did you raise that?

50

A. It was in relation to the - this issue about Virkez's role, or being an informant, or a source, to the consulate, because I recall, other than Jefferies going and speaking to Mr Virkez, also I believe that Cavanagh also spoke to

5 him; that is my understanding. So there were - like they were communicating that back to us what they had - their views were of - of what Virkez's role was in relation to the information he's provided to the Yugoslav consulate. So I just remembered that in the same context as Jefferies was speaking to Virkez about the same issue.

MELIS

10 Q. This conversation you had with Cavanagh, where was it recorded?
A. I don't recall where it's recorded, but he came in, he spoke to Ted, Ted Turner.

15 Q. I'll just stop there. He spoke to Ted Turner?
A. That's right.

Q. But you were present?
A. I believe so, I'd run the - because I'd met Roger previously, yeah.

20 Q. You'd met him previously, in what context?
A. In relation to an intelligence conference that I went to, I remember; he was with the Federal Police, Commonwealth Police, at the time, yeah.

25 Q. Was his visit to the CIB initiated by you or Detective Sergeant Turner, or did he just turn up one day?
A. No, I think actually he contacted Ted Turner and came in and spoke to him, but in relation to what the conversation was, I can't - I can't recall the actual full conversation or the discussion.

30 Q. Was there a decision made to withhold information about Jefferies' interview with Virkez from the defence?
A. Definitely not.

35 Q. Was there a decision made to withhold information about the fact that Virkez was passing on information regarding the Croatian community activities?
A. No.

40 Q. When did your involvement in the Croatian Six case cease?
A. After the trial.

Q. You were not involved at any time during the appeal stage?
A. No, I don't recall I got called in relation to that.

45 Q. We know that on 14 October 1982, the Court of Criminal Appeal dismissed the appeal.
A. I recall that--

50 Q. Were you still involved at that time?
A. I recall being - I recall being called down to the - the Attorney General's office, and I - I'm not sure when - when that was. Whether it was

during - leading up to the - the appeal to clarify, or answer a few questions, about the - the case.

5 Q. We know in the history of this matter that there was some fresh evidence, and that consisted of evidence concerning Mr Virkez making - fresh evidence in the appeal that Mr Virkez had made contact with the Yugoslav Consulate. Do you follow?

A. Yes.

10 Q. In addition, he had also previously contacted the consulate with information concerning the Croatian community. Do you follow?

A. I follow, yes.

15 Q. Did you receive a call from anyone about the fact that there was this fresh evidence and asked what you knew about it?

A. As I - the only call that I received was to - and it must been at the time that Mr Pickering was the Police Minister, so I'm not sure which of the appeals this relates to, but I was asked to call down to the Attorney General's office, or - and I can't recall actually who - who I spoke to, but they indicated that
20 there were either a - an Inquiry may be coming forward, and wanted - wanted just to clarify what I knew about the - the case. I basically advised them that I was one of the officers involved, and a short discussion took place, and they said, "Thank you very much", and I left.

25 Q. Who was in attendance at that meeting at the Attorney General's office?

A. I can't recall who the--

Q. Were you on your own--

A. Yes.

30

Q. --or were there others?

A. Yes. Yes, I was.

35 Q. Who was asking you the questions? Was it Mr Pickering, did you say?

A. I think it was one of the - one of the lawyers at the - from the Attorney General's office. I think they had indicated there was a - an appeal coming up, or something like that, and was I aware of what all the - the investigation - what the investigation was all about.

40 HIS HONOUR

Q. When you say, "The Attorney General's office", do you mean the office of the actual Attorney General?

A. Yes.

45

Q. Was the Attorney General involved in the discussion?

A. I can't - I can't recall, your Honour. It was a very brief. It wouldn't have been anything more than - about 5 or 10 minutes, really. It was just really to clarify that there was something - an Inquiry may be coming up, or words to
50 that effect, and where all the police know, where are they located, and things

of that nature, and were you involved, what was your role. What generally took place. That sort of - in 5, 10, 15 minutes, and they said, thank you very much", and I - I left.

5 MELIS

Q. Are you able to give us an approximate date for this discussion?

A. No. I - I can recall that Mr Pickering was the Police Minister, that's all.

10 Q. Was anyone else from the CIB present?

A. No.

Q. Just yourself?

15 A. I think Sergeant Turner had been contacted, and I'm not sure where he was stationed then, and he asked if I could go, which I did.

Q. During this conversation, were you asked about what information you knew about Mr Virkez?

20 A. No. No.

Q. Was the name "Virkez" mentioned at all?

25 A. No. No. It was more of a - just an overview. What was the overview of the operation, what actually happened, you know, and I'd say we - police went up to Lithgow. Generally just about what - an overview of the operation, and I said what I indicated, and they said thank you very much, and you can go, and that was it.

Q. We know that there was a previous application for an Inquiry in around 2011 to 2012. Were you still a police officer at that time?

30 A. No, I left the police, resigned in '97.

Q. Certainly this meeting that you had would have occurred while you were still a police officer?

35 A. That's correct. I'm not really sure of the date, because, your Honour, I spent about five or six years out of the actual Police Service on secondment at various bodies, and I'm not - it wasn't while I was with those particular areas.

Q. There was a Special Leave application to the High Court. Are you aware of that?

40 A. I'm aware of that, yes.

Q. The Crown was asked about this fresh evidence, being evidence related to Mr Virkez, and the Crown in that special leave application accepted that if information was available or in its possession, it would be a miscarriage of justice. Were you aware of that?

45 A. I - read that document, yes.

Q. You're aware of that, were you?

50 A. I read the document that you're referring to. It was in the papers.

Q. When did you become aware?

A. Well, isn't in the - the reasoning, the reason for the inquiry being?

Q. You're referring to Justice Wright's decision?

5 A. Yes, that's right. I wasn't aware of it prior to that.

Q. During your investigation did you have any contact with anyone else from any other federal or Commonwealth government agency about the Croatian Six?

10 A. No. I don't recall, no.

Q. Was Mr Cavanagh the only person you recall speaking with at the Commonwealth level?

15 A. Yes, yep, I referred to the conversation he had with Sergeant Turner, yes.

Q. Was there ongoing contact with Mr Cavanagh after that first occasion that he visited at the CIB?

A. No. Not that I recall, no.

20 Q. Did you become aware at any time about what his investigations about Mr Virkez revealed?

A. Only when I read the - the documents leading to the Inquiry, which outlined Mr Cavanagh and others from the Commonwealth, allegations or information.

25 Q. Do you know whether Detective Sergeant Turner remained in contact with Mr Cavanagh?

A. I don't because Sergeant Turner left the CIB and I think he went - eventually went to a division down the south coast, so I don't really much - he never mentioned it to me if he did.

30 Q. When did Detective Sergeant Turner leave the CIB?

35 A. I don't know. I don't know. The only time I had any dealings with Roger Cavanagh was when I was at the National Crime Authority, and that was in 1985 to 1989, and at some stage in the early stages when Justice Stewart was trying to pull all the intelligence together in relation to organised crime, that Roger Cavanagh came to the office, and that's the only other time, and he never mentioned the Croatians. That's the only contact I've ever had with him.

40 Q. Did you have any contact with Assistant Commissioner Whitelaw about the Croatian Six matter?

45 A. No. As a matter of fact, when I read the paperwork that led to the reason for the Inquiry, it was the first time I saw Mr Whitelaw's name. I know it's embarrassing, but I don't even recall him - his name at all, while I was in the Police Service, but that's - I guess I was a Detective Senior Constable and you tended not to rub shoulders too much with the Assistant Commissioners of that rank, so I didn't have any idea he was - he was even in that position.

Q. When you've said that you've moved on and did some other things. Can we just establish that chronology? When did you leave the Breaking Squad?

50 A. In 1981, I went to the Homicide Squad and then in 1985, Justice Stewart

recruited me to go to the newly-established National Crime Authority, so I was released from the Police Service for four years, and then I came back to the Police Service in 1990.

5 Q. When did you retire?

A. '97.

10 Q. Do you know whether Inspector Morey of the Armed Hold Up Squad was aware of the information relating to Mr Virkez and his passing on of information regarding the Croatian community, and/or his contact with the Yugoslav Consulate?

A. I'm not aware of what information Mr Morey had.

15 Q. Was he somebody that you were liaising with in putting together the brief of evidence?

20 A. I don't recall that Mr Morey was required to make a statement. You would probably know yourself I haven't got the full list of - of the police that made statements for the committal proceedings, but I don't recall us needing to get a statement from Mr Morey; I think it was to do with the - the officers who were in charge of the teams.

25 Q. What about Inspector Perrin; was the information about Mr Virkez, as I previously described, ever conveyed to him by you or anyone else?

A. No, I don't think I ever spoke to Mr - Mr Perrin; Sergeant Turner may have, but - of the Special Branch officers, like Jefferies, who were providing statements, and who were involved in the case; they may be able to answer that question.

30 Q. To confirm, the information that Detective Sergeant Jefferies obtained from Mr Virkez on 10 February 1979 was known to yourself, correct?

A. Yes.

35 Q. To Detective Sergeant Turner, correct?

A. Yes.

40 Q. And to Detective Sergeant Jefferies himself?

A. Yes.

45 Q. As far as you know, no other police officer knew about that information that was involved in the case?

A. I don't - I can't recall. You'll have to ask Jefferies who he passed that on to.

50 Q. We heard some evidence from Detective Sergeant Marheine that he received two pages from Detective Sergeant Turner, and was asked to go and speak with Mr Virkez and to show him these documents and ask Mr Virkez about his knowledge about them. There are two documents where one page had the names and addresses of the alleged offenders, as well as the names and addresses of the people that the letter bombs were to be sent to. Do you know what two-page document I'm referring to?

A. If you show them to me, I'll be able to comment on them.

Q. Unfortunately, I don't have something to show to you, I just want to ascertain whether you had any knowledge of Detective Sergeant Turner supplying Mr Marheine with these two pages and asking him to speak with Mr Virkez?

5 A. So you're suggesting that one page had the names of the co-accused on it, which is quite odd, and the second had a list of the--

Q. Names and addresses of the persons that the alleged letter bombs were to be sent to?

10 A. Doesn't Mr Virkez in his Record of Interview make reference to who the letter bombs were going to be sent to? If you check it--

Q. Putting that aside, do you know whether--

15 A. No, no, I don't.

Q. --whether there was a list of these names?

A. No, there - there could have been, there could have been, but I have no recollection of it.

20 <EXAMINATION BY MR BUCHANAN

Q. Mr Milroy, you know who I am?

A. Yes, I do.

25 Q. Just taking a global look at the matter from let's say after the raid on 6 Macauley Street, Lithgow, is it right to say that Detective Sergeant Turner was the officer-in-charge of the matter?

A. Yes.

30 Q. You were working with him to help him do the work that needed to be done putting together the brief of evidence?

A. That's correct.

Q. Did you work with him continuously in that task in 1979 through to 1980?

35 A. There would have been - there would have been periods where he had, or he or I respectively, had other matters with our individual partners, but most of the time, in particular getting the brief of evidence ready for the - for the DPP or the Petty Sessions, yes.

40 Q. You mentioned in your evidence today that the process of you and Detective Sergeant Turner starting work on this task from the Monday afterwards at CIB was that you started with a list of enquiries?

A. That's correct.

45 Q. What can you tell us about that list of enquiries?

A. Well, we basically sat down and we had a - a list of the - all of the police that were involved in - in the raids, which we knew when he started to put together who do we have to get a statement from, and we also looked at what enquiries we had to do. For example, we'd send a Telex overseas with a list of
50 the names of those that had been charged, to see if Interpol had any

information. That's in one of the running sheets. We made up a job book, or a job list, of statements that we would have to obtain from the - the power station where the explosives were stolen. So things of that nature.

5 Q. Was this a typewritten document or a handwritten document?

A. We had a - what you'd call a "job book", or a "job tasking book", where we sat down together and worked out, well, we'll need to get statements from these people. We'll need to do the enquiries that I've referred to. So that was like a job book that we kept, and anything that related to tasks that would come
10 out, they would be put on the running sheets with the results.

Q. From what you've just said, the author, or authors, of that list were you and Detective Sergeant Turner?

15 A. That's correct.

Q. Did anyone else give you any ideas as to what could usefully be included in the task list or enquiries list?

A. No. You would - basically you would engage with the teams that did the relevant raids, and we looked at what occurred, and what evidence they would
20 need to - would need to pull together in relation to exhibits and things of that nature, but it was an evolving process, but we never had anybody walk into the office and say, "You need to do this", or, "You need to do that". I mean, Detective Sergeant Turner was an experienced investigator, and - and I think we were seen to be competent enough to be able to do the investigation and
25 collate all of the enquiries and put the brief of evidence together.

Q. This was an unusual case, though, was it not, in your experience?

A. Well, I'd been - I'd been - we'd been involved in other such cases. Like the Hilton bombing, for example, the year before.
30

Q. I'm sorry, the?

A. The Hilton bombing.

Q. The Hilton bombing. Is that 1978?

35 A. That was in '78, that's right.

Q. What about the Yagoona bomb conspiracy? Anderson, Alister and Dunn?

A. No. I wasn't involved in that, no. But, yes. I mean, it was a - it seemed to be - it was a very complex investigation, very time consuming, and it was the
40 reason why we engaged very early with the DPP to have the Crown involved in the - in the Petty Sessions.

Q. You know that a captain of the Royal Australian Ordinance Core was engaged, or came in to Macauley Street on the evening of 8 February 1979?

45 A. Yes. That's Captain Barkley, that's correct.

Q. Did you have anything to do with his services being obtained?

A. No. I was aware before we went to the raid that the - the Army Captain, because he was an ammunitions expert, was going to come and be outside
50 the premises, but I--

Q. How were you aware of that?

A. At the briefing.

5 Q. Was that something that was discussed by, or mentioned by Detective Sergeant McDonald?

A. McDonald and Marheine, that's correct.

10 Q. At the trial, Detective Senior Constable Musgrave said that he did not know who obtained the services of Captain Barkley.

A. Could you repeat that question.

15 Q. Well, I'm just giving you some information. At the trial, Detective Senior Constable Musgrave from the Ballistics Unit, he was there, you remember, on 8 February, he said he didn't know who obtained the services of Captain Barkley, so my question to you is: do you know?

A. No. I don't know who - who contacted him.

20 Q. Do you know who decided that arrangements should be made for him to attend?

A. No.

Q. But you can recall it being mentioned at the briefing at Lithgow before the raid occurred?

25 A. That's right. That he would be outside the premises. That's right.

Q. Did the enquiries list, as you recall it, have anything in it about making enquiries with other police agencies? You mentioned Interpol?

A. Yes. Interpol.

30 Q. That was on the enquiries list, am I right?

A. That's correct, yes. Yep.

Q. Was the Commonwealth Police on the enquiries list?

35 A. No. I can't recall that, no.

Q. Is there any reason why the Commonwealth Police would not have been on the enquiries list if Interpol was?

40 A. Well, only the fact that I mentioned that Mr Cavanagh, who was in charge of their intelligence, came and spoke to Sergeant Turner, but other than that, no.

Q. When did you first know of the existence of Mr Cavanagh?

45 A. I couldn't give a date, but it would have been in February/March, or something – that sort of period.

Q. Of what year?

A. '79.

Q. 1979?

50 A. Sorry, 1979.

Q. I could have it wrong. Did you mention having met him before the time of the meeting at CIB between Cavanagh and Turner, at some conference?

5 A. Yeah, I think there was a sort of a - there was intel conferences that - when I was at the Breaking Squad that I went to, that had these sort of half - half day events that were in Sydney. I think it was at the Commonwealth Police Office that I went to, but other than that - then then next time I met him was later, when I was at--

10 Q. What is your best recollection as to when that - let's say it's a half day conference was held?

A. Gee whiz. I couldn't - I couldn't give a date, sorry.

Q. In what year?

15 A. No, I'm sorry. I couldn't recall back then. You're talking 40, 48, 50 years.

Q. Was it in the same year as these investigations we've been asking you about today?

A. No, definitely not in.

20 Q. Was it subsequent to that year or before that year?

A. I can't - I can't give a date, Mr Buchanan, sorry.

Q. Before 8 February 1979, had you had any information or intelligence, or training, in relation to the subject of Croatian terrorism in Australia?

25 A. No. I had no training, no.

Q. I'm sorry?

A. I had no training.

30 Q. No training?

A. No training.

Q. What about information provided?

35 A. No, other than you're probably - bear in mind when I first, before I went to CIB, I was stationed at Liverpool, so I - Liverpool Detectives, and we covered Liverpool and Fairfield, and I was aware of the - the Croatian and the other groups that made up the Yugoslav Federation, because I played sport there. I was - I played soccer, I was a soccer coach, and we played in a lot of the ethnic teams, so I was aware of the - the Croatian and the Serbians, and the things of that nature, but that was only just as a normal member of the community, but in the police service I had no - I didn't attend any briefings or anything of that nature.

40

Q. What would Mr Cavanagh have been talking about at this conference?

45 A. Well, he was at the conference. He wasn't talking at it.

Q. But you saw him there?

A. Yes. Yeah.

50 Q. Did you exchange greetings?

5 A. Yes, it was only - it wasn't actually a large conference. There were only about a dozen or 20 people I can recall. It's just in one room, but you walked around; hello, who are you, and very unusual, because in those days you really didn't have - you operate in isolation, and you didn't really engage a lot with other agencies, unless you were specifically involved in a - in an investigation that crossed their - their paths.

10 Q. What's your best memory now, at the time when you saw Mr Cavanagh at this conference, did you already know him?
A. No. No.

15 Q. Did you and he speak at all about the subject matter of Croatian nationalism or sectarianism, or terrorism in Australia?
A. No.

20 Q. If we can possibly show the witness please, Exhibit 10.1 item 3, page 8. There's a minute of a meeting of a Commonwealth interdepartmental committee held in Canberra on 9 April 1980.

25 HIS HONOUR: What was the reference?

BUCHANAN: 10.1-3. If I have the notes right.

25 EXHIBIT 10.1-3 SHOWN TO WITNESS

30 Q. Can you see that on the first page it mentions the attendees. They include Mr Cavanagh.
A. Yes.

35 Q. Below his name, Assistant Commissioner R Farmer, Australian Federal Police.
A. Yes.

40 Q. Can I take you then to the bottom of the second page? Top of page 2, if you just expand that. Do you see that it's recorded as Mr Cavanagh saying that the prosecutor, Mr Shillington, is fully informed on the background to the case?
A. Yes.

45 Q. Did you know anything about that?
A. No.

50 Q. Mr Cavanagh is recorded as saying that Mr Shillington knows all about Virkez's YIS links. You understand YIS to mean Yugoslav Intelligence Service?
A. Yes.

55 Q. Do you know anything about that?
A. No.

5 Q. The next sentence records, "Mr Cavanagh said that on the day that Mr Virkez was arrested, 8 February 1979, Virkez was suspected by Commonwealth Police of being a Yugoslav informant." I'll take you to the next sentence. "Assistant Commissioner Farmer remarked that the AFP has held nothing back from Ted Turner of the New South Wales Police. Do you know what Assistant Commissioner Farmer would have been referring to there?

A. Probably the conversation that Cavanagh had with Ted Turner.

10 Q. Are you aware of any other communications from the Commonwealth Police to New South Wales Police in relation to Vico Virkez's history or background?

A. No, I'm not aware of anything other than that.

15 BUCHANAN: I wonder if you'd just excuse me a moment. I'm sorry. I note the time, your Honour.

HIS HONOUR: If you want to finish something?

20 BUCHANAN: I do, but I need to take the witness to a document, and I haven't got the reference in front of me.

HIS HONOUR: All right. Mr Milroy, we'll be back tomorrow to complete your evidence. You can step down.

25 <THE WITNESS WITHDREW

ADJOURNED PART HEARD TO THURSDAY 28 MARCH 2024