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## SPECIAL INQUIRY

THE HONOURABLE ACTING JUSTICE ROBERT ALLAN HULME

5 TENTH DAY: FRIDAY 5 APRIL 2024

**INQUIRY INTO THE CONVICTIONS OF THE CROATIAN SIX**

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&lt;VICTOR RAYMOND JEFFERIES, CONTINUING(10.00AM)

&lt;EXAMINATION BY MS MCDONALD

15

Q. Mr Jefferies, I just wanted to revisit some evidence that you gave yesterday.

A. Yes, ma'am.

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Q. Your evidence yesterday - and I'm summarising at this point - was after your meeting with Virkez on 10 February you had a discussion with Inspector Perrin.

A. Yes.

25

Q. You also prepared a written report?

A. Yes.

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Q. Consistent with the procedure that you've described, that Special Branch would follow.

A. Yes.

35

Q. Having a meeting with Detective Sergeant Turner.

A. Yes.

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Q. Showing him the report and you observed that Detective Sergeant Turner appeared to read the report.

A. Yes.

45

Q. Then you gave evidence of another, at least, one meeting, or maybe a couple of meetings with Detective Sergeant Turner where aspects of the report or aspects of what you discussed with Mr Virkez was raised.

A. Yes.

50

Q. Can you recall whether in any of those meetings Detective Milroy was present?

A. I do remember he was - he was in the room because, from recollection, his - his desk was opposite Detective Turner, he wasn't far away. Whether he

actually took part, I don't think he took - I can't remember him taking part in the discussion.

5 Q. To your knowledge the responsibility for the preparation of the brief of evidence--

A. Yeah.

Q. --the two officers who were in charge of that were Turner and Milroy?

10 A. Turner was definitely in charge of it. I can't say that I recollect Milroy being connected with it.

Q. These discussions or meetings that you had with Detective Sergeant Turner, you've just referred to where his desk was and where Detective Milroy's desk was.

15 A. Yeah.

Q. That area of the CIB, was it an open plan office?

A. Yes.

20 Q. The first meeting you had with Turner when you brought a copy of your report with you; was that in the open plan area, or did you--

A. Yes, it was.

Q. --go to a?

25 A. No. I think it would've been in the open plan area, it would've been at his desk. From memory, yes.

Q. When you had a discussion at the desk; would you, if it was going to be a lengthy discussion, just pull up a chair and speak to him there?

30 A. Yes.

Q. The subsequent meetings that you can recall with Detective Sergeant Turner; did they also occur at his desk?

35 A. Well, as far as I recall, yes. Mostly, yes.

Q. Can I just confirm, that the information you obtained from Virkez at the interview or the meeting on 10 February, was that he had contacted the Yugoslav Consulate on two occasions?

40 A. Yes.

Q. To raise or report the bomb threat?

A. Yes.

Q. And in a sense was rebuffed or referred to the police on both occasions?

45 A. He - he was told to go to the police was my understanding.

Q. Well, that was what - your evidence is that's what he told you.

A. Mm.

50 Q. Now, again just concentrating on what you were told by Virkez at the

meeting, his contact with the Yugoslav Consulate; at the meeting did he say anything to you that went further than those two approaches to the Consulate? Like had, did he tell you that he'd contacted the Consulate on other occasions?

5 A. I think he might've - I think he might've mentioned that he'd rung them, but I can't be sure.

Q. Your recollection that he may have said that he had rung them, that was on a separate occasion from the two occasions concerning the bomb threat?

10 A. Yes.

Q. The other occasion that he'd contacted the Consulate, did he say what he had told the Consulate on that occasion?

15 A. Not that I remember.

Q. Or why he contacted the Consulate?

A. No, I can't remember.

Q. Moving on from 10 February, did you become aware, either in 1979 or 1980, of further contact by Virkez with the Consulate, starting in about 1978 and, you know, occurring on about ten or 11 different occasions?

20 A. I can't remember.

Q. Detective Milroy has given evidence before the Inquiry, and he was asked some questions about Mr Virkez and the Consulate. He gave evidence that he would say - he would give an answer along the lines of, "Sergeant Turner and I were putting the brief of evidence together, so we were aware that Jefferies spoke to Virkez" - this is at transcript 294. So to be fair, it may be that he's been informed by Detective Turner of your conversation, but he says, we were aware that you had spoken to Virkez. Then he was asked this and answered:

25 "Q. Did you know the contents of that discussion he had with Virkez; was that related to you?

35 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.

40 Q. To be clear, Detective Sergeant Jefferies conveyed that information to you orally; there should be some records to that effect?"

45 Then there are some subsequent questions and answers about records and running sheets. Now this was Mr Milroy's account, but his evidence would suggest that the information that you had provided was to do more with Mr Virkez's contacting the Consulate on other occasions, prior to 8 February, and passing on information about pamphlets and activities of other groups within the community. Can I just pause there? That type of conduct, is that often described as being like a community source, or a?

50

A. By whom?

Q. Within Special Branch. If you came across an individual who was contacting a consulate and giving information about other people?

5 A. No. We'd probably just call him a Yugoslav.

Q. I'm sorry, you'd call him a?

A. Yugoslav.

10 Q. You'd just call him a Yugoslav, and calling him a Yugoslav, that indicates that his interest is in line with?

A. Yugoslavian Consulate. In that context.

15 Q. Do you recall around 10 or 11 February, and in particular after your discussion with Virkez, finding out this other information about his prior contacts with the Consulate?

A. I can't remember.

20 Q. If he was contacting the Consulate--

A. Yes.

Q. --and passing on information about pamphlets and the activity of groups in the community, as you've just said, within Special Branch at this time you would've called him a Yugoslav?

25 A. Yeah.

Q. That was consistent with the information that he gave to you at the meeting on 10 February, that he was acting, I think it was, "in the cause of Yugoslavia"?

A. Yeah.

30

Q. I want to revisit some evidence you gave yesterday when I took you to several parts of your evidence in the committal. In particular, answers you gave to questions asked by Mr McCrudden. For example, one of the questions asked related to you meeting with Mr Virkez on 10 February and whether you had ever produced a report, and I can take you to your answer if you want to, but you will recall your answer there was, "No, I did not make a report".

35

A. Yes.

40

Q. I started off by just putting to you, or suggesting to you, that that was an inaccurate answer compared with your evidence earlier yesterday.

A. Yes.

45

Q. I again said to you, or I also asked you, whether you had been lying at the committal or giving false evidence at the committal, and your answer was, "Look, I may have been confused about something"--

A. Yes.

50

Q. --and you repeated that - that's at transcript pages 609 and 610. At the committal, what would have you possibly been confused about in answering a

question, "Did you make or produce a report after the meeting with Virkez on 10 February"?

5 WOODS: Your Honour, with respect, the learned Counsel Assisting should, in fairness, attend to the part on the next page where he says he may have made a report.

10 MCDONALD: Your Honour, I took Mr Jefferies to both sections yesterday, but his answer at 609 where he was, in our submission, asked a very - sorry, this is the transcript from yesterday - was asked a straightforward question by one of the counsel in the committal about providing or producing a report, and he answered, no.

15 WOODS: But, your Honour--

MCDONALD: Even if--

HIS HONOUR: Can you just point out whereabouts on the page?

20 MCDONALD: Yes, your Honour, I'll just - your Honour, I commenced in the committal transcript 2.3-32, page 7672 at about line 7 on the page.

"Q. Did you make a subsequent report on this meeting?

A. No, sir."

25

HIS HONOUR: Sorry, page 609?

MCDONALD: I'm sorry, your Honour, I am confusing everything. The committal transcript was page 7672.

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HIS HONOUR: And you started on that at page 607 at line 41.

MCDONALD: Yes. Then it continues over on to 608. Then in my questions yesterday, I did take him, and my learned friend is referring to page 7673 where - I'm sorry, to put it in context, down the bottom of the page, when it's put to him:

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"Q. You spoke with somebody for three hours, you just simply committed it to memory.

A. Yes, sir."

40

HIS HONOUR: Sorry, which page?

MCDONALD: Sorry, your Honour. Committal 7672.

45

HIS HONOUR: This is on yesterday's transcript page?

MCDONALD: 7672 commences on page 607.

50 HIS HONOUR: Yes, all right.

MCDONALD: Then at 608, the examination continues. Then at the bottom of 608:

5 "Q. Did you make a subsequent report?  
A. No, sir."

10 Then across on 609, I take him back to the first question where he answers, "No, sir." "Did you make a subsequent report on the meeting", at about line 13. And then, "I believe I prepared a written report sometime later." And then there's some questions about the actual timing. Then down the bottom of 609, I ask him about his answer of:

"A. No, sir. That's an incorrect answer.

15 Q. Why do you recall you gave that incorrect answer?  
A. I don't know. I may have been confused about something."

HIS HONOUR: Yes.

20 MCDONALD: So I'm asking him, your Honour, at that point about his clear answer, "I did not make a subsequent report on this meeting." He's then, within the committal, is asked a question about whether he prepared a statement, and if your Honour can just - so that's the--

25 HIS HONOUR: So his evidence here is, "I believe I did prepare a subsequent report." His evidence at committal was, "No."

MCDONALD: Yes.

30 HIS HONOUR: Yes. That's--

WOODS: Your Honour, with respect--

HIS HONOUR: What's been missed, Dr Woods?

35 WOODS: The problem, as I see it, is the problem I adverted to in yesterday's transcript at page 608, line 29, where this matter was being raised. That relates to the material from the committal.

40 HIS HONOUR: Just take me to the committal evidence. What page? What's the exhibit number?

WOODS: It's 7673.

45 MCDONALD: Your Honour, it's Exhibit 2.3-32, and to understand the section my learned friend is taking you to, we would ask your Honour looks at 7672, the last question on that page.

50 WOODS: Yes. Yes.

HIS HONOUR: Dr Woods, I've got the page now. Direct me to where on the page I should be looking.

5 WOODS: On 7672, the last half a dozen lines, and then the first half a dozen lines or so of the next page, 7673, where Mr McCrudden is prompting him, testing him.

10 HIS HONOUR: When he's asked about a report, he says, "Not to my recollection, sir. No."

WOODS: That's right, he does.

HIS HONOUR

15 "Q. Come on. You would remember if you made a report, wouldn't you not?  
A. Not necessarily."

20 Then he's asked about a statement, and he talks about typing up many statements.

WOODS: That's so, your Honour, but Mr McCrudden--

25 HIS HONOUR: And he allows for the possibility he might have made a statement, but as for a report--

30 WOODS: Well, Mr McCrudden was, as it were, blurring the difference between a "statement" and a "report", because he says on the line on the next page, this is at line 6:

"Q. And if you did, that report would go into a file marked 'Virkez'. That would be correct?  
A. Most probably, sir. Yes."

35 HIS HONOUR: I propose to allow the questions, Dr Woods. If there's any clarification available, you'll no doubt bring it forward.

WOODS: Yes. Thank you, your Honour.

40 MCDONALD

45 Q. Mr Jefferies, yesterday, in respect of your answers about whether you had prepared a report, and I'm talking about the answers at committal, you suggested that you may have been confused about something. What would you have been confused about?

A. I'm confused about the question, to tell you the truth.

Q. I took you to your committal evidence yesterday.

50 A. Yes.

Q. You were being asked questions about your meeting with Virkez on 10 February.

A. Yes.

5 Q. Yesterday you gave evidence before his Honour--

A. Yes.

Q. --that you wrote up a report.

A. Yes.

10

Q. And indeed, you've given evidence that you took it to Sergeant Turner.

A. Yes.

15

Q. When you were asked in the committal about whether you had produced a report, I think you were asked, you said, "No.", and yesterday I put a series of questions to you, which started with, "That was inaccurate?", and you agreed that that was an inaccurate answer; you remember that?

A. Yes.

20

Q. I then, in a sense, went to another level of seriousness, that that was a lie, that was an untruth that you told the Magistrate during the committal.

A. Yes.

25

Q. And your answer to that was, "Well, no. I may have been confused about something."

A. Yes.

30

Q. You've denied that you were deliberately telling a lie, or not being truthful in the committal--

A. Yes.

35

Q. --and the explanation you gave yesterday as to why you gave the answer you did at the committal, was, "I may have been confused about something."

A. Yes.

40

Q. --what was the something that you were confused about?

A. I can't - I can't remember. I can't remember. I think it was a very lengthy cross-examination, and I think my mind was possibly getting a bit weary at that time. I don't know. But I - I can't remember what the problem was.

45

Q. I don't want to take you back to it in detail, but do you recall yesterday I took you to some other answers at the committal. For example, whether you had discussed with Mr Virkez whether he was associated with the UDBa Intelligence Service--

A. Yes.

50

Q. --and your answer at committal was that, no, you hadn't raised that with him.

A. Mm-hmm.

5 Q. Again, that was contrary to the evidence you had given earlier in this Inquiry.

A. Yes.

10 Q. Also, there was the evidence about the use of the name "Misimovic"--  
A. Misimovic.

Q. Thank you, Misimovic. And you may have recalled in the transcript it was spelt differently?

A. Yes.

15 Q. But I took you to the series of questions, and yesterday you agreed that your understanding of what Mr McCrudden at the committal was asking you was about Misimovic?

A. Yes.

20 Q. Again, your answer that you hadn't heard that name, or you didn't associate that name with Virkez, or you weren't told that at the 10 February meeting, again, was wrong?

A. I don't - I don't remember.

25 Q. If I can take you to the transcript yesterday at 617.

A. Mm-hmm.

30 Q. I can show you the transcript, but do you remember there was a different spelling?

A. Yes, I do.

Q. And I took you to the series of questions, and at transcript 617 I asked:

35 "Q. What I want to suggest to you, taking into account all the questions and answers that appear on page 7678, what Mr McCrudden actually asked you is, 'Did you enquire from him at the meeting ['him' being Virkez, the meeting being 10 February] about the use of the name 'Misimovic'?"

40 A. Yes. Misimovic.

Q. And that was your understanding of what Mr McCrudden was asking you?

A. Yes.

45 Q. As illustrated by subsequent questions?  
A. Yes."

Now, if you accept that, your answer to the first question:

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"Q. Did you enquire from him about the use of the name Misimovic?

A. M-I-S-I-M-O-V-I-C .

5 Q. Were you aware that was another name which he used?

A. Not at that time, sir.

Q. That is, the meeting of 10 February, those two answers are not accurate?

10 A. No. They're not."

Then you do say:

Q. Because you--

15 A. As far as to my recollection, I don't remember that conversation at all. I knew him as Vico Virkez and Vitomir Misimovic. I don't recall this. I don't recall this question at all.

Q. Well, the evidence you gave this morning is that one of the new and astounding pieces of information that Virkez told you on 20 10 February was that he had another name?

A. Yep."

What I'm putting to you is when I took you to the committal transcript yesterday--

25 A. Yes.

Q. --if you accepted that what Mr McCrudden was asking you about was the name Misimovic--

30 A. Yes.

Q. --that you understood at the committal that that's what Mr McCrudden was asking you about?

A. Yes.

35

Q. When you gave an answer that you didn't know that Mr Virkez supposedly had that other name as at 10 February, that was wrong; because you knew. He told you at the meeting at 10 February.

A. I don't - I don't remember.

40

Q. What don't you remember?

A. I don't remember the incident that you're talking about. I - I can't remember when Virkez - I can't remember when I became aware that Virkez also had the name of Misimovic.

45

Q. Mr Jefferies, yesterday you gave evidence about what was discussed with Mr Virkez at that meeting on 10 February.

WOODS: Your Honour, I invite your Honour to utilise the provisions of s 128 of the *Evidence Act 1995* (NSW) in relation to this line of questioning, which is 50

being pursued now.

HIS HONOUR: How can the *Evidence Act 1995* (NSW) apply?

5 WOODS: It does. It's picked up by the *Royal Commissions Act 1923* (NSW) and the 2001 Act under which the Inquiry is established.

HIS HONOUR: I assume from what you're saying now that you have given advice to your client--

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WOODS: Yes.

HIS HONOUR: --Mr Jefferies.

15

WOODS: Yes.

HIS HONOUR: He is aware that he can object to answering a question on the basis of--

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WOODS: Yes, he's aware of that.

HIS HONOUR: --self-incrimination? Well, what am I to do now?

WOODS: Your Honour--

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HIS HONOUR: He hasn't objected to anything.

WOODS: I'm objecting on his behalf.

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HIS HONOUR: That's a matter for him.

WOODS: Yes, indeed. Mr Jefferies, do you object to the question?

WITNESS: I do.

35

WOODS: Your Honour, under s 128 your Honour then follows through with a series of questions, asking him whether he's willing, or indicating to him that whether he's willing or unwilling, it's open to you to direct that he answer the question, even if he objects, and that a certificate may be given in terms of the section for his protection in other proceedings, but not as to the falsity or otherwise of what he's saying now.

40

HIS HONOUR: To save me a little bit of concern; is it common ground amongst everyone here that the *Evidence Act 1995* (NSW) and s 128 in particular does apply in this Inquiry? Does anyone see it otherwise?

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MCDONALD: Your Honour, our view was that it didn't pick up the *Evidence Act 1995* (NSW) provisions.

50

HIS HONOUR: No.

5 MCDONALD: It may be a gap in the legislative scheme, when you look at the provision, s 81 of the *Crimes Appeal and Review Act 2001* (NSW), which in a sense is the source of the Inquiry, and then the *Royal Commissions Act 1923* (NSW). The only possible way we thought it could apply would be relying on s 11 of the Act, and in particular subs (3), which does provide a witness summoned to attend before the commission would have - and I'm just picking up the relevant sections - the same protection as any witness in criminal proceedings or civil proceedings in any case tried in the Supreme Court. But when one looks at the express exclusion of s 17, and then within s 11 other express provisions of applying certain sections of the *Evidence Act 1995* (NSW) - for example, religious confessions, et cetera - our conclusion was that it didn't pick up the other provisions of the *Evidence Act 1995* (NSW), such as the certificate regime, where a witness objects to giving evidence.

15 HIS HONOUR: Yes. We have s 17 of the *Royal Commissions Act 1923* (NSW) which provides for a Commission of Inquiry of some sort, to which that applies, to compel a person to answer a question that they might object to on the basis of self-incrimination. That section is specifically excluded from application to an inquiry of this nature. Dr Woods, do you contend that notwithstanding parliament taking a position of expressly excluding s 17 from the powers available to an inquirer, such as me; I can overcome the intent of parliament in that way by the circuitous route to which you seem to be suggesting, I take?

25 WOODS: Your Honour, with respect, we say that the exclusion of s 17 just has no relevance. The s 11 provides the same protections and liabilities for the witness as in any civil or criminal action in the Supreme Court.

30 HIS HONOUR: What was the point of parliament excluding s 17 from my powers?

WOODS: Well, there was a recent case where it was dealt with, where Bergin CJ addressed issues in the casino business. That's the only case I know of on the relevance of s 17.

35 HIS HONOUR: What sort of Inquiry was that?

WOODS: It was an Inquiry--

40 HIS HONOUR: It can't have been under the *Crimes (Appeal and Review) Act 2001* (NSW).

WOODS: No, it wasn't.

45 HIS HONOUR: No. That's the problem.

WOODS: But it was nonetheless an Inquiry which - it was under the *Royal Commissions Act 1923* (NSW).

50 HIS HONOUR: Isn't it in s 81 of the *Crimes (Appeal and Review) Act 2001*

(NSW) that makes mention of an inquiry having certain powers under the *Royal Commissions Act 1923* (NSW) except for s 17?

5 WOODS: Your Honour, it would be, with respect, an astonishing deliberate  
exercise by the parliament to exclude - deliberately to exclude - this power  
which operates in relation to all - to my knowledge - all royal commissions and  
inquiries throughout Australia and in the Commonwealth. It was introduced in  
10 the first decade of the last century, after the Lang Royal Commission, and the  
purpose is to ensure, basically, what s 128 ensures in all proceedings. It  
would be an extraordinary interpretation if that were the case, so we say that  
s 11 applies, and your Honour is entitled to use this provision.

15 HIS HONOUR: Section 81 subs (2) para (b) of the *Crimes (Appeal and  
Review) Act 2001* (NSW) couldn't be any clearer, could it?

WOODS: Well, it says, "except for s 17".

20 HIS HONOUR: Yes, so it says that an inquiry under this provision of this Act  
cannot have that power in s 17.

WOODS: Your Honour, that's, with respect, not my reading of it, and it would  
be an extraordinary reading, in our submission. It's not the intention.

25 HIS HONOUR: Well, what was the intent in saying "except for s 17"?

WOODS: Your Honour, it's very obscure. It's sometimes almost impossible to  
work it out, and this is--

30 HIS HONOUR: Maybe it's just apparent of the face of the words themselves.

WOODS: Well, your Honour, it's not apparent, in our submission. The right to  
take the procedure of objecting to a question, and then having a compelled  
answer with certain conditions, is a long-established principle. It doesn't go  
back to Magna Carta, but it's certainly long-established and it operates in other  
35 jurisdictions. I don't know of any statement in the second reading speech or  
anywhere else which suggests that the intention was that there should be, as it  
were, an absolute right to compel answers and to override the privilege against  
self-incrimination.

40 HIS HONOUR: I can't compel the answer. Isn't the end position this: if he  
fears that giving an answer might be self-incriminating, he can object to giving  
the answer, and I'm powerless to do anything about it.

45 WOODS: Well, my reading of it is that your Honour is not powerless. If your  
Honour compels the witness to answer the question, it has to be answered,  
and it would be an extraordinary arrangement for an inquiry, such as this, or  
the ICAC inquiries, or many Royal Commissions, if it were not possible, (1), to  
compel; and (2), not for the person being questioned to be able to insist on  
50 protection.

5 HIS HONOUR: Dr Woods, that might well be so. It might be unsatisfactory or undesirable, or any description like that. Making reference to other forms of inquiry, Royal Commissions, Special Commissions of Inquiry, and so forth is not helpful, because this is an inquiry under a specific piece of legislation; the *Crimes (Appeal and Review) Act 2001* (NSW). Parliament has chosen to exclude s 17 from the powers available to an inquirer in such an inquiry. If Mr Jefferies wants to object on the basis of self-incrimination he can do so, and I cannot compel him to answer the question.

10 WOODS: Very well, thank you.

HIS HONOUR: It's an unfortunate state of affairs. I do not understand why parliament would choose to exclude the power, but they have.

15 WOODS: Your Honour's ruled. Our position, as I say, is that parliament hasn't excluded it, but your Honour is the authority on the law in this Tribunal, and we accept that.

20 HIS HONOUR: Well, your client is protected.

WOODS: Yes, thank you.

25 HIS HONOUR: If we want to get to the truth of it, we can do so as best we can, except in circumstances such as this.

30 WOODS: Your Honour will recall that yesterday when my learned friend raised this - very fairly - raised this issue of conflict between what was being said about the Virkez report then and now, I advised Mr Jefferies and considered the questions and answers. We've taken the position that there wasn't any point in objecting to those questions and answers. It's a matter for Mr Jefferies to explain himself, as he's trying to do, and we're content with that position.

HIS HONOUR: Yes, all right. Yes.

35 MCDONALD

Q. Mr Jefferies.

A. Yes.

40 Q. What I'm asking you about is your evidence yesterday--

A. Yes.

45 Q. --where you told his Honour that you may have been confused about something at committal, and you referred today about, "Look, it was a lengthy cross-examination and I might've been weary at that particular point", and then you said, "Look, I really can't remember". The questions that I have taken you to, for example, did you produce a report, the name Misimovic, and also the issue of or the question that was asked about exploring with Mr Virkez, whether he was a member of UDBa, what I would suggest to you is they were  
50 relatively straightforward questions.

A. They were.

5 Q. And a question that, even if it was a lengthy cross-examination and you were weary, really, a question which didn't lend itself to you being confused about anything; do you accept that?

A. Yes.

10 Q. Yesterday, I asked you a question about a culture or a mentality of Special Branch keeping to itself its reports and dossiers and index cards.

A. Yes.

Q. And you agreed with that.

A. Yes.

15 Q. There could be another - and that was in the context of a reason why you answered the question, did you prepare a report, or produce a report, and you said, no; was it reflected that mentality of Special Branch at the time to kind of keep information about dossiers, index cards to within Special Branch? And I asked you that question yesterday, and you agreed with that.

20 A. Yes.

25 Q. I wanted to suggest whether there was an alternative explanation for your answers at the committal. Was there any discussion, particularly with Sergeant Turner, who you spoke - who had seen your report, about keeping this information about Mr Virkez being a Serb; having another name; contacting the Consulate on two occasions; and acting for the cause of Yugoslavia, whether there was a decision by Detective Turner which you agreed with to keep that information away from the defence and the Court in the committal?

30

WOODS: Your Honour, there are two questions there.

MCDONALD: I'm sorry, I'll break it down, your Honour.

35 Q. Were you given any proposal or suggestion by Detective Turner to keep that material away from the defence?

A. No, I don't believe so. No.

Q. Or away from the Court?

40 A. No. I - I think - I think there was - there was no suggestion of that, it was just a matter of Detective Turner was preparing the brief of evidence, he was - he was the man in charge, and he didn't - well he - he worked at the CIB, he was a detective interested in criminal matters, he had no idea of what  
45 Special Branch did, or very little idea, or of these matters. He saw it as a purely criminal matter, and he - he - he was - he prepared his brief or he was preparing his brief in his usual manner. He was concentrating on the criminal aspects and he wasn't - he was trying to - he wasn't interested really.

50 Q. He was interested enough, after he had read the report at your first meeting, to have another meeting with you, where yesterday you gave

evidence it was like Yugoslavia 101. You explained to him Yugoslavia post World War II--

A. Yes.

5 Q. ---the different tensions and interests.

A. Yes.

Q. The fact that he asked you about that and obtained information from you about that--

10 A. Yeah.

Q. --that would suggest a recognition on his part that some of the information you gained from Virkez was very relevant; would you agree with that proposition?

15 A. Yes, I - I'd agree with that.

Q. My question was, was there any, in a sense, suggestion or pressure by Sergeant Turner to keep the - if I can just describe it as the Virkez information--

20 A. Yeah.

Q. --away either from the defence or the--

A. No, I don't believe so.

Q. --or the Court?

25 A. I don't believe so.

Q. Can I ask the question, focussing on another person or another branch--

A. Mm-hmm.

30 Q. --was there any suggestion by you to Sergeant Turner that you informed him of this information but something along the lines of, look, this is Special Branch information, we keep it in-house, we really don't want it exposed to the defence?

35 A. No, I don't believe so.

Q. We don't want this exposed to the Court?

A. No. I don't believe so.

HIS HONOUR

40

Q. What about to the Crown?

A. I'm sorry?

Q. What about to the Crown?

45 A. No. I don't - I don't think that was suggested.

MCDONALD

50 Q. Well, I suppose - first thing, your recollection is Detective Sergeant Turner never suggested to you, look, we should keep this away from--

A. No.

Q. --the Crown Prosecutor?

A. No, I--

5

Q. And your evidence is you never suggested that?

A. No. No, no. Definitely not.

10 Q. Was there any pressure placed on you from your superior or superiors within Special Branch that the information you had gained about Mr Virkez should be kept away from defence, Court or Crown?

A. No.

15 Q. You gave evidence yesterday, I asked you about I think it was Ray Whitelaw.

A. Roy Whitelaw.

20 Q. Roy Whitelaw, I'm terribly sorry, and you said that he was Head of Special Branch and then he was promoted to an Assistant Commissioner.

A. Yep.

25 Q. And I asked whether, as an Assistant Commissioner, his responsibilities then included Special Branch, and you said, no, Special Branch reported directly to the Commissioner.

A. To the Commissioner. Yes.

30 Q. Were Special Branch considered in a sense isolated, or kept apart from other sections of the police?

A. Yes.

35 Q. When I say that, and you've agreed with it, is it on the level first of in a sense structurally - if I can, you know, because you report directly to the Commissioner?

A. Yes.

40 Q. You were in a separate building?

A. Yes, we were in headquarters building.

45 Q. Other than the kind of structure, like with direct reporting, how else were you kept separate or distinct?

A. We had a separate office in police headquarters and people just didn't generally walk in or walk out, they were usually there by appointment, or on a specific request. I don't know how else to answer your question.

50 Q. What about on the level of mentality, you know, whether there was a mindset within Special Branch that you did different type of work, you--

A. Yes.

Q. --were separate?

A. Yes. Most certainly.

Q. And because you were separate, there wasn't the same attitude of maybe sharing, or--

A. Yes.

5 Q. --giving information to--

A. That's correct.

Q. --CIB, or other areas of police?

A. We only supplied necessary, relevant information.

10

Q. On a need-to-know basis, would that be fair to describe it that way?

A. Yes.

15 Q. During your discussions with Detective Sergeant Turner, was anything ever raised by him that if the Virkez information was revealed to the defence, or came out in Court, that might blow a hole in the prosecution case?

A. With Detective Sergeant Turner?

Q. Yes.

20

A. No, I don't believe so.

Q. Concerning the case against the Croatian Six, back in 1979/1980 did you ever hear discussion about if the truth, or if the Virkez information came out, it may blow a hole in the case?

25

A. No.

Q. May undermine the case?

A. No, not to my recollection.

30

Q. May be embarrassing to the police?

A. Not to my recollection, no.

Q. Embarrassing to Special Branch?

A. Not that I recollect, no.

35

Q. Any dealings you had with the Crown, in the lead-up to giving evidence at the trial, again, was there ever any discussion or concern that if some of the Virkez information came out, (a), would weaken the Crown case?

A. No.

40

Q. Undermine the Crown case in any way?

A. No.

45 Q. Because yesterday you gave evidence that in your mind, and if you were running the investigative side, the Virkez information was relevant.

A. Yes.

Q. And you would have disclosed it, or would have put it - informed the defence.

50

A. Yes. Yes.

Q. Your evidence yesterday was that you, in a sense, knew your place because you were in Special Branch, you weren't part of the investigative team.

A. And I was junior.

5

Q. And you were junior.

A. Yes.

Q. Yesterday, you gave evidence that after the meeting with Virkez, you did turn your mind to whether the bomb plot was a setup.

10

A. Yes.

Q. You gave evidence that you kind of knew that, in a sense, a summary of your thinking process, and you said, "No. It wasn't."

15

A. Mm-hmm.

Q. But at another level, did you turn your mind to whether if the Virkez information did come out, or was revealed to the defence, that it would weaken the Crown case?

20

A. No.

Q. Did you turn your mind to that?

A. No.

Q. Sitting back now, and this may be a difficult question to answer, you didn't turn your mind to it, but what would have your view been, and this is the difficult part, back in 1979, 1980, would it have weakened the Crown case?

25

A. I don't know. I can't remember.

Q. Mr Jefferies, I'm sorry, I have been jumping around, what I wanted also to put to you this morning, that when you gave the evidence yesterday about the different answers you gave at committal compared with the answers you gave yesterday--

30

A. Mm-hmm.

35

Q. --that to then give evidence that, "Look, I may have been confused about something"--

A. Mm-hmm.

Q. --that evidence, again, wasn't truthful?

40

A. Which evidence? That I may have been confused?

Q. Yes.

45

A. No. I believe it was. I believe it was. It was - from memory, I was - there was a very lengthy - very, very lengthy cross-examination. I was very tired, and very weary, and it would have been easy to make a mistake, yes.

Q. But even, and I've taken you to this, they were very straightforward questions--

50

A. They were.

Q. --of events that had occurred a couple of months previously.

A. Yep.

5 Q. Indeed, you had a written report prepared shortly after 10 February--  
A. Yes.

10 Q. Before you gave your evidence at the committal, I think it was September  
1979, did you go back and read the report?  
A. Yes.

15 Q. So it was fresh in your memory?  
A. Yes.

20 Q. When I say, "fresh in your memory", it wasn't only "I prepared it in  
February. I actually re-read it before I was called to give evidence at the  
committal".

A. As I say, ma'am, I think it was a very lengthy cross-examination. I think it  
was a very lengthy report, from memory, and the only - the only answer I can  
offer is I was confused. I - I must have been confused.

25 Q. You say you must have been confused because your evidence to his  
Honour is that you did not deliberately lie or tell an untruth in the committal?  
A. No. No. I certainly did not.

30 Q. Mr Jefferies, I want to ask you now some questions, again, about 1979 but  
after 10 February, and I'm going to take you to some documents. It does not  
appear on the face of the documents that you were a party to these  
conversations, but you may have heard about some of the information in the  
documents.

A. Yes.

35 Q. You gave evidence that Assistant Commissioner Whitelaw had been  
promoted. Before he was promoted, you had dealings with him?

A. He was my officer-in-charge.

40 Q. He obviously would have known your expertise, or specialty knowledge--  
A. Yes.

Q. --about Yugoslavia and Croatia?

A. Yes. Yes.

45 Q. I'll take you to three documents to begin with, and I'm going to ask you  
questions about whether your knowledge of them, or knowledge of the  
information, and the issues being raised, whether that knowledge arose from  
being part of Special Branch, or whether you heard something from your  
Commonwealth Police contacts or your ASIO contacts.

EXHIBIT 9.1-21 SHOWN TO WITNESS

50 Q. Again, Mr Jefferies, if you want to look at the paper copy or the screen,

whichever one suits you--

A. Okay.

5 Q. --this is, as it says, an extract from what's referred to as an "ASIO Report to SIDC/PAV" dated 18 February 1979.

A. 28 February.

10 Q. Sorry, 28 February 1979. If you look at that page, it's just an extract containing information about the arrest of extremists in New South Wales.

A. Mm-hmm.

Q. What I wanted to draw your attention to is paragraph 34 where it says:

15 "One of those arrested was to act as a driver for those involved in the proposed bombing operation. For a period of at least six months prior to the arrests, that person also acted as an informer on Croatian nationalist activities to a person suspected by ASIO of being an intelligence official attached to the Yugoslav Consulate-General in New South Wales. Some hours before his arrest, that  
20 person contacted officials at the Consulate-General and passed them detailed information about the proposed bombings."

A. Yep.

25 Q. Just pausing there, the person isn't identified, but reading that, they are referring to Mr Virkez?

A. Yes.

30 Q. Again, if you can try and remember back to around the end of February 1979, you can see included in this ASIO report is an assertion of prior contact, or prior information being provided by Mr Virkez to the Yugoslav Consulate-General.

A. Yes.

35 Q. Had you become aware of that fact by the end of February 1979?

A. I can't remember.

40 Q. It would appear that the source of this information, because it's an ASIO report, it's ASIO. You had your contacts in ASIO.

A. Mm-hmm.

Q. Can you recall them? Because, you know, you've spoken to Virkez, you've got this new information about Virkez--

45 A. Mm-hmm.

Q. --can you recall discussing with your ASIO contacts at least something about Virkez?

A. No. I can't.

50 EXHIBIT 9.1-25 SHOWN TO WITNESS

Q. If you'd like to see the paper version it's--

A. No. This is good.

Q. Are you all right with that?

5 A. Yep.

Q. This is a Telex. Can you see it refers to, "Roy Whitelaw, Assistant Commissioner", was in touch with this office re paragraph 34, page 13.

A. Mm-hmm.

10

Q. The report to the Special Interdepartmental Committee on Protection Against Violence, is that something that you would see in your role at Special Branch?

A. Regularly, yes.

15

Q. That report dated 28 February 1979, was it a matter of you would see it shortly after it was produced?

A. Yes.

20

Q. Can you recall seeing that - I know we only had page 13, but page 13 concerned the Croatians, including the Croatian Six, the matter that you were involved in - you know, providing a statement ultimately. Do you recall reading that report?

A. No. I don't - I don't recall reading it, but I would have.

25

Q. If you have a look at this Telex, paragraph 2, Assistant Commissioner Whitelaw was very concerned re this paragraph, and that was paragraph 34 which referred to Virkez.

A. Mm-hmm.

30

Q. If the opposition became aware of this information, it could blow a hole right through the police case, and you might remember I asked you some questions about "blowing a hole right through the case."

A. Yes.

35

Q. That picked up that terminology.

A. Right.

40

Q. Then in paragraph 3, "Whitelaw would appreciate ASIO permission to tell selected senior officers involved in the case the contents of paragraph 34", and then it refers to a caveat on page 1 which prevents him from doing so.

A. Yep.

45

Q. The reference in this telex to Commissioner Whitelaw becoming concerned about it because it could blow a hole right through the police case; do you recall any discussion with him about that?

A. No, I didn't. I didn't have any discussion with him about that at all. That came as a complete surprise to me.

50

Q. When you got a copy of the report or when you said that Special Branch

would get a copy of this Interdepartmental Committee Report--

A. Yep.

Q. --I take it you would get a copy, or you would have access to a copy?

5 A. I'd have access.

Q. Obviously Inspector Perrin would get a copy?

A. It would go to Mr Perrin.

10 Q. Sorry, would go to him, and he obviously had access to it. Detective Krawczyk?

A. He would have had, yes.

15 Q. As we've seen in that particular page there's reference to the Croatian - I think it's referred to the Croatian 9, but obviously it involves the Croatian Six. Because it involves that matter where you know Sergeant Turner is compiling a brief of evidence, did you show Detective Turner that particular extract from page 13?

20 A. I don't remember. I probably discussed it with him. I can't remember.

Q. Probably discussed the contents of page 13 with him?

A. I'm at a bit of a loss. Where's - where was page 13?

25 Q. We'll go back to page 13. That was Exhibit 9.1-21, I'm hoping. I think it's right in front of.

HIS HONOUR

30 Q. Yes, top right-hand corner. You'll see page number 13.

A. I've got page 30.

MCDONALD

35 Q. Can you see "13" typed up there?

A. Thirteen, I'm sorry. I was looking at handwriting.

Q. No, ignore the handwriting. You can see--

A. Yep.

40 Q. --you've got "Secret" typed up there, "13"--

A. Yep.

Q. --and then the particular paragraph that Assistant Commissioner Whitelaw was interested in was paragraph 34.

45 A. Thirty-four.

Q. Your evidence, or your recollection from 10 February, was that Mr Virkez only told you about the two attempts - not attempts, he did contact the Consulate around 8 February?

50 A. I - I don't remember. I don't remember.

Q. You remember your evidence that you gave yesterday, and confirmed this morning that part of the new information that you obtained from Mr Virkez included that he'd contacted the Consulate, who said go to the police. Went to the police; nothing happened. Went back to the Consulate who said go to the police, then he went to the see the police and eventually spoke to somebody.

5 A. Yeah.

Q. It was those two Consulate contacts that Virkez told you about on 10 February.

10 A. I think so.

Q. I asked you this morning whether during that meeting on 10 February he said anything else to you about - I took you to Mr Milroy's evidence, where he said, look, we were also told that he was providing pamphlets and other information about the community.

15 A. Yes.

Q. I asked you whether you had been told that by Mr Virkez at the meeting, and you had no recollection that Virkez told that to you.

20 A. No, I didn't. I don't - I don't recall Virkez telling me that.

Q. But when you read this extract from the Interdepartmental Committee Report, which is in front of you, that clearly indicates - and I would suggest from a source such as ASIO - that for six months prior to the arrests Virkez had also acted as an informer; so when you read this report, the Interdepartmental Report on Protection Against Violence, you were alerted to the fact that Mr Virkez had been acting as an informant to the Consulate.

25 A. Yes.

Q. Or at least providing information to the Consulate?

30 A. Yes.

Q. With that information which would appear now to be new information for you; did you tell Detective Sergeant Turner about it?

35 A. I can't recall.

Q. It was relevant information for Detective Sergeant Turner?

A. It would have been, but I just don't recall. It was - terribly long time ago.

Q. You gave evidence yesterday that you had the first meeting with Turner where you showed him your report.

40 A. Yep.

Q. Then you said look, there were other meetings but you couldn't remember when.

45 A. Yep.

Q. Then I think I asked you about if there was a meeting when you actually discussed anything about the report with Turner, and you gave some evidence about that. You do have a recollection of having a number of meetings with

50

Turner?

A. I spoke to him a number of times, yes.

5 Q. If you get this new information that not only did he inform on one occasion or two occasions to the Consulate, it was actually six months prior. It would be very probable that you raised that with Turner?

A. I may - I may have. I can't recall.

10 Q. Can I just take you to another document, which is Exhibit 9.1-26, please.

EXHIBIT 9.1-26 SHOWN TO WITNESS

15 Q. Mr Jefferies, that document, it appears to be an internal ASIO document, so again I'm not suggesting you have seen it.

A. No.

20 Q. It goes for three pages. It's dated 16 March 1979, and the subject is "Croatian Extremist Activities in NSW", and it refers to references A and B. I want to suggest to you that A is that extract from the Interdepartmental Report that I just took you to?

A. Yep.

25 Q. And B is the telex that refers to Assistant Commissioner Whitelaw's concerns. All right?

A. Yep.

30 Q. Can I take you to page 38 in red down the bottom. If you want to read the whole document and get oriented, that's fine; but I wasn't to first draw your attention to paragraphs 6 and 7. Immediately before that he speaks about allegations and rumours to the effect that official Yugoslav Government representatives in Australia had been attempting to discredit Croatian nationalist organisations.

A. Yes.

35 Q. By the use of agents provocateur amongst their own people, et cetera. Then in 6, "His view was" - and that's Assistant Commissioner Whitelaw -

40 "was that it was, at least, likely this incident would give rise to similar allegations. For that reason the ASIO information should be available to the Police Prosecutions Branch so that the Police Prosecutor would be aware of all the circumstances and thus avoid 'blundering' into a possible untoward situation during the committal proceedings.

45 Then 7 refers to one of the nine having been established by ASIO as an informer.

A. Yes.

50 Q. Just reading that, that would be a reference to Virkez?

A. Yep.

5 Q. He believes "the respective heads of CIB and Prosecutions Branch should be made aware of the relevant information in reference A", which is the Interdepartmental Report.

A. Mm-hmm.

10 Q. If you jump down to paragraph 11 on that page, you can see "It was agreed that Mr Whitelaw should brief the Head of the Police Prosecutions Branch upon the import of the ASIO information, but in a non-attributable manner and in a way to avoid the possible embarrassment already mentioned."

A. Yes.

15 Q. Probably I should have taken you to paragraph 10 - sorry, in 9 and 10 there's a reference to the discussion about how "the police could be embarrassed during Court hearings should allegations of the type mentioned in paragraph 5"; that is, the Yugoslav government using people as agents--

A. Yep.

20 Q. --the police could be embarrassed during the Court hearings should allegations of that type be raised, and again he refers "to the need to properly brief police as to the ASIO information in that context." Now, in this document - and I know it's not your document - is this the first time you've seen it?

25 A. I think so, yes.

Q. This idea of the police being embarrassed during the Court proceedings--

A. Yes.

30 Q. --if it came out that (a), the Yugoslav Government in the past had used agents, and then you have Virkez at least providing information; a question mark over his whole role--

A. Yep.

35 Q. --the embarrassment that's identified there; did you share in 1979 a similar concern that if that information came out it could be embarrassing to the police?

A. No. I was more concerned with the actual actions that would lead to embarrassment. I was more concerned with the event occurring.

40

Q. When you say the actual event occurring, what are you referring to?

A. Well, referring to police being set up by Yugoslav agents.

45 Q. Does that refer to the evidence you gave yesterday that after your meeting with Virkez you sat back and thought, is this a set-up?

A. Exactly.

Q. And you've described your mindset.

50 A. Exactly. Well, the Yugoslav - the Yugoslav Government through its Consulate and its embassy were - were constantly trying to - trying to bring

pressure upon the Australian government to suppress Croatians' activities in the country to free Croatia. So we were always concerned that the Yugoslav Government would use their agents to commit an offence ostensibly committed by Croatians. So that - that was the problem.

5

Q. There's a reference in paragraph 11 that's up there, that it was decided that Mr Whitelaw could brief the Head of Police Prosecutions Branch--

A. Yeah.

10

Q. --but in a non-attributable manner and in such a way to avoid the possible embarrassment already mentioned.

A. Yes.

15

Q. After this permission or approval was given to Assistant Commissioner Whitelaw, were you informed that this information about Virkez, that you would've known, was to be told to Police Prosecutions Branch?

A. I don't believe I was informed.

20

Q. Within the New South Wales Police, you not only had your specialist knowledge of Croatia, but you've spoken to Virkez and you've already got a lot of this information--

A. Yes.

25

Q. --and then you've received the - or sorry, you've had access to the Interdepartmental Report--

A. Yes.

30

Q. --which has in a sense expanded your knowledge--

A. Yes.

35

Q. --of Virkez.

A. Yes.

40

Q. At that point, with that additional information you knew, did you sit back and rethink was this a set-up?

A. I probably would've. I probably would've considered the possibility, yes.

45

Q. Can you recall actually doing that?

A. No, I can't. It was a long time ago.

50

Q. Again, this is hypothetical, but if you had sat back with the new information, and you did become concerned it was a set-up, what would've you done with that information; or that opinion?

A. I probably would've discussed it with - with the officer-in-charge, Mr Perrin.

45

Q. Within Special Branch?

A. Within Special Branch, yeah.

50

Q. What about the officer-in-charge of the investigation?

A. Probably would've spoken to him too.

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

HIS HONOUR: Yes. All right. We'll take the morning break now, Mr Jefferies.

5 SHORT ADJOURNMENT

MCDONALD

10 Q. Mr Jefferies, I just wanted to revisit some evidence you gave yesterday and again this morning about Special Branch.

A. Yes, ma'am.

Q. Your evidence that how you fitted in to the overall police force--

15 A. Yes, ma'am.

Q. --and that structurally you were in a sense distinct and different?

A. Yes.

20 Q. And also your mentality, or the culture of the place, again you agreed was different--

A. Yes.

Q. --and that you really, in a sense, kept together and were different or isolated from the rest of the force?

25 A. Yes.

Q. I just wanted to take you to a finding of a report by the old Police Integrity Commission regarding the former Special Branch.

30 A. Yes.

Q. Your Honour, this is Exhibit 13.36. While that's being brought up, the report was dated June 1998.

A. Yes.

35 Q. Were you still working in Special Branch at that time?

A. No, I believe I'd - I'd left the police force by then.

Q. Do you remember hearing about this?

40 A. I do.

Q. Did you read the report back in 1998 when it was--

A. In the paper.

Q. --published?

45 A. In the newspaper, yeah.

Q. What I wanted to take you to is at page 250.

50 EXHIBIT 13.36 PAGE 250 SHOWN TO WITNESS

Q. You may remember that the PIC report focused I think primarily on your records, and the index cards and the dossiers you've been talking about; but here in the introduction the Commission refers to some of the Royal Commission findings.

5 A. Yes.

Q. The Wood Royal Commission.

A. Yes, ma'am.

10 Q. What I wanted to take you to was the findings where it records the second one, the fact that Special Branch "seemed accountable only to itself, operating under a cloak of secrecy". That finding, that it was accountable only to itself, operating under a cloak of secrecy, would you agree with that?

15 A. Yes, to a large degree.

Q. The cloak of secrecy, how did that arise?

20 A. Well, we were - we were engaged on largely political matters, and intelligence matters, and our records were kept to ourselves. We didn't broadcast the information that we held unless specifically requested in terms of a - a case.

Q. You've given evidence that your report about Mr Virkez, you allowed access to Detective Sergeant Turner about it, because you gave evidence you attended the meeting--

25 A. Yes.

Q. --you showed it to him.

A. I showed it to him, yes.

30 Q. He appeared to read it?

A. Yep.

Q. Then you've given evidence of you've kept in contact with Turner, you would have meetings with him, and you were keeping tabs on how the investigation is going.

35 A. Yes.

Q. Also you had a role to play because you provided a statement and were going to be a witness.

40 A. Yes.

Q. But this cloak of secrecy, did it operate that additional information you may have received about Mr Virkez, either from ASIO or the Commonwealth Police, you may not necessarily have told Sergeant Turner about?

45 A. That's a possibility, but it was a matter of relevance. If it was relevant to - to what Detective Turner was working on, he would be informed.

Q. The decision on whether it was relevant to what Sergeant Turner was working on, you made that determination?

50 A. To a large degree, yes.

Q. When you say to a large degree, did anybody else have input about what was relevant?

A. The officer-in-charge.

5 Q. So Inspector Perrin?

A. Inspector Perrin, Inspector Whitelaw. Whitelaw was - Whitelaw was the original - my original boss, and he - he was promoted and then Inspector Perrin took over as officer-in-charge.

10 Q. He was promoted to Assistant Commissioner?

A. Yes.

Q. While he was Assistant Commissioner--

A. Yes.

15

Q. --did he have involvement in Special Branch's dealings with Virkez?

A. Not to my knowledge, only - I can't really say. He - he wasn't - well, he wasn't part of Special Branch. He - he was a very senior officer, so what involvement he had I don't know.

20

Q. If I can just remind you of a chronology. In February 1979 you have Mr Virkez charged?

A. I didn't have him charged.

25

Q. No, no, sorry--

A. He was charged.

Q. You know that he was charged with offences, and also the Croatian Six?

A. Yes.

30

Q. I'm putting to one side Mr Stipich.

A. Yep.

Q. I'm just concentrating on the Croatian Six and Mr Virkez.

35

A. Yep.

Q. In September 1979 the committal hearing was held.

A. Yes.

40

Q. At that stage Mr Virkez was pleading not guilty.

A. Yes.

Q. You were cross-examined - I think I took you to his counsel who asked you some questions as well.

45

A. Yes.

Q. Leading up to 1980--

A. Yes.

50

Q. --you gave evidence at the trial.

A. I did.

Q. You were told or you knew that Mr Virkez changed his plea.

A. I don't remember.

5

Q. He wasn't in the dock during the trial of the Croatian Six?

A. I don't remember.

10 Q. Do you remember that in about March 1980 he changed his plea and he pleaded guilty.

A. No, I don't remember that. I know - I know he - I think I know that he went to prison, so he must have, I suppose. I - I can't remember.

15 Q. You gave evidence yesterday that after your two to three hour meeting or discussion with him, you were of the view that you established a rapport with him?

A. Yes.

20 Q. Did you have further meetings or discussions with him after 10 February?

A. I can't remember to tell you the truth. No, I don't know.

25 Q. You described him yesterday - and this was the impression that you reached during your time with him - that he was a strange man?

A. A strange man, yes.

30 Q. Did you tell Detective Sergeant Turner that your view was he was a strange man?

A. Yes.

35 Q. In the lead-up the trial of the Croatian Six, were you ever contacted by Detective Sergeant Turner about, look, we've got some difficulties with Virkez, we would like you to come along and have a work with him, or--

A. Not that I remember.

40 Q. --discuss things with him?

A. Not that I remember.

45 Q. Did you tell Detective Sergeant Turner that you considered that you had established a rapport with him?

A. I don't recollect that, no.

EXHIBIT 9.1-38 SHOWN TO WITNESS

50 Q. I want to take you to another document, and this is Exhibit 9.1-38. This is a two-page document, Mr Jefferies.

A. Yep.

Q. It's headed Australian Federal Police and it's addressed to the Secretary of the Department of Prime Minister.

A. Yeah.

Q. You can see it's headed "Representations from Vico Virkez"?

A. Yeah.

5 Q. If you just have a read through this, you can see that there were representations made to the Prime Minister by Mr Virkez, who's currently on remand at Parramatta Gaol.

A. Mm-hmm.

10 Q. Then there's been "Telephone conversations between Assistant Commissioner Farmer and Mr Cavanagh of this Force and officers of your Department".

A. Mm-hmm.

15 Q. Assistant Commissioner Farmer, had you come across him?

A. He was an ex-Special Branch man.

Q. Right.

A. Mm.

20 Q. And then had joined the Australian Federal Police?

A. He'd gone to the federal police, yeah.

Q. Did he join the Commonwealth Police?

25 A. I think it would've been the Commonwealth Police in those days.

Q. Then when the Australian Federal Police was established, he'd transferred across, or whatever?

A. Yeah. Something like that.

30 Q. Your dealings with him when he was a member of Special Branch, did he have a particular interest in Yugoslav or Croatian affairs?

A. I think he was gone before I got to Special Branch.

Q. All right. He'd gone across to the Commonwealth?

35 A. Yes, I think so. It was around about the same time, I think, roughly.

Q. If I can take you back to this, the letter from Assistant Commissioner Farmer, you can see in the next paragraph there's a reference to charges against Mr Virkez.

40 A. Mm-hmm.

Q. Then, "There are no Commonwealth offences involved at this time"--

A. Yeah.

45 Q. --"and Federal Police involvement only stems from a request for specialist assistance by the New South Wales Police." I'll just take you through the letter and come back and ask some questions.

A. Mm-hmm.

50 Q. Then it continues in the next paragraph, it refers to a trial as coming up:

"Following consultation with the New South Wales officers in charge of the case, Virkez has been interviewed by officers of this Force on two occasions..."

5 And then he's "no longer an Australian citizen", point (a); and then point (b):

10 "Virkez, in the opinion of the interviewing officers, has been operating in Australia as an agent of the Yugoslav Government... He was the original informant in the matter to both the NSW Police and to the Yugoslav Consulate-General;"

Then, "It is known to his fellow conspirators that Virkez was the informant... he has been held under tight security", et cetera.

15 A. Mm-hmm.

Q. Then:

20 "The dissatisfaction expressed by Virkez appears to stem from his inability to understand why he, the informant in the matter, has been arrested and charged along with his fellow conspirators. He appeared to have expected that immediately Police had broken up the group, he would have been permitted to leave the country".

25 A. Mm-hmm.

Q. Then there's a reference to further proof and documents.

A. Mm-hmm.

30 Q. Then:

"His main intent in talking with this Force appears to be a desire to make a deal with the New South Wales authorities i.e. he is prepared to testify against the others if he has a guarantee that he will be immediately deported following the trial without having to serve a gaol sentence."

35 A. Mm-hmm.

40 Q. The next paragraph:

"The NSW Crown Law authorities are anxious to come to some form of arrangement with Virkez as his voluntary testimony is considered to be vital to the successful outcome of the case."

45 A. Mm-hmm.

Q. Then, again, I will just paraphrase it:

50 "...it may well be in the best interests of this country for [him] to be deported following his conviction in the matter. Proof of his

involvement with the Yugoslav Government will be extremely difficult to produce even though it has been confirmed to the satisfaction of this Force from delicate intelligence sources. [He] will be a marked man...

5

... NSW Police are anxious to have some form of commitment by the Commonwealth to the effect that Virkez could be deported upon conviction."

10 A. Mm-hmm.

Q. All right. So from this letter, it first appears that New South Wales Police have sought the assistance of the Australian Federal Police.

A. Mm-hmm.

15

Q. Did you know that?

A. I didn't.

Q. Following that initial request, it appears that there has been an interview or dealings with members of the Australian Federal Police, and indeed Mr Cavanagh is nominated, of going to visit Virkez in gaol and speak to him.

20

A. Mm-hmm.

Q. Did you have knowledge of those interviews--

25

A. No - no knowledge of it, no.

Q. Again, you've given evidence you knew Mr Cavanagh?

A. No, I don't believe I did. I said I know the name but I can't actually put it to a face.

30

Q. You don't have a recollection of--

A. Of Cavanagh, no, and it - it doesn't come to mind at all.

MCDONALD: Now, if we can - yes, that's where I wanted us to be.

35

Q. On the second - we move from the police and we've now moved to:

"The NSW Crown Law authorities are anxious to come to some form of arrangement with Virkez as his voluntary testimony is considered to be vital to the successful outcome of the case".

40

Also, within this, it's quite clear that Mr Virkez is dissatisfied or annoyed about certain things, and appears to want to get back to Yugoslavia.

A. Yep.

45

Q. You gave evidence yesterday that, at 10 February, one of the matters he did raise with you was "why am I in gaol?".

A. Yes.

50 Q. So that seems to be a continuing point of contention by Mr Virkez.

A. Yes.

5 Q. Looking at that, "The NSW Crown Law authorities", what they want is some kind of arrangement where Virkez will be dealt with and that he will then come and give evidence in the Croatian Six trial.

A. Mm-hmm.

10 Q. What that arrangement will be, whether it's going to be he's going to plead guilty to certain - all offences or a number of offences, assistance taken into account, or whether the prosecution is dropped is not clear, but from reading that, it's quite clear the NSW Crown Law authorities want to get him giving evidence in the Croatian Six case.

A. Yes.

15 Q. Now, in the lead-up to the trial, as somebody who had spoken to him and established a rapport, were you asked by the NSW Crown Law authorities for your assistance in coming to some arrangement with Mr Virkez?

A. Not - not that I remember, no.

20 Q. In the lead-up to the trial and then when you gave evidence in the trial, did you know that Mr Virkez was going to give evidence against the Croatian Six?

A. I believe so. Yes.

25 Q. When a witness, and you're experienced working as a police officer, when you have a witness who was criminally involved in the conduct--

A. Yes.

30 Q. --but now is pleading guilty, coming along to give evidence against his co-offenders or co-accused--

A. Yes.

35 Q. --and getting some kind of benefit, does that raise other considerations about that witness' involvement in the crime?

A. Yes.

40 Q. And in particular, at one level his credibility as a witness?

A. Yes.

45 Q. Questions such as, wanting to minimise his or her involvement in the offending?

A. Yes.

50 Q. How they came to be involved in the matter?

A. Yes.

55 Q. Their relationship with the other offenders?

A. Yes.

60 Q. The, if I can describe it as the degree of culpability or criminality that they were actually involved in?

A. Yes.

5 Q. And those considerations may be different considerations that would go through your mind when that particular person was just an accused and had pleaded not guilty?

A. Yes.

10 Q. When you learnt that Mr Virkez was going to give evidence, all the information that you had from 10 February meeting, from the Interdepartmental Report?

A. Yes.

15 Q. Did you turn your mind to, he's giving evidence for the Crown; maybe all this information I've got about him takes on a different relevance, or a new relevance?

A. I would've considered that, yes.

20 Q. Again, if you can, your thought process in considering that; would you take into account that information that I've just taken you to, the 10 February and the four subject areas?

A. Yes.

25 Q. Then the ASIO report that it wasn't a one-off contact with the Yugoslav Consulate, it had occurred, according to ASIO, over a period six months beforehand.

A. Yes.

30 Q. Giving information about pamphlets and other activities.

A. Yes, ma'am.

35 Q. You would've considered that, those matters; would you have considered in this re-thinking of Virkez's new role in the trial, did you take into account any other information?

A. I can't remember. I probably - I obviously would have, but I can't remember.

40 Q. This re-thinking process that you went through--

A. Mm-hmm.

45 Q. --at this stage is it something that you're just doing, sitting at your desk at Special Branch, or something like that?

A. Probably.

50 Q. So step number one is you re-thinking it.

A. Yep.

Q. I'm sorry, what was your conclusion?

A. I don't remember. I don't remember.

50 Q. You gave evidence yesterday--

A. Mm-hmm.

5 Q. --that the four pieces of information you had, the new information from the meeting, if you were the officer-in-charge, you would have revealed it to the defence?

A. Yes.

10 Q. Then you gave evidence that wasn't my role?

A. It wasn't my role, no. I was very junior.

15 Q. But your evidence was you would have revealed it.

A. Yep.

20 Q. Now that Mr Virkez was going to give evidence for the Crown--

A. Mm-hmm.

25 Q. --the informing of the defence of all that information would become even more obvious, or more important that they knew.

A. Yes.

30 Q. I've been concentrating on the defence. It would also have been crucial information to ensure that the NSW Crown Law authorities had?

A. Yes.

35 Q. Did you discuss the new role and the information you had with Inspector Perrin?

A. I can't remember. I probably would have.

40 Q. Do you recall what was concluded, or what was decided?

A. No. I can't.

45 Q. You continued to have dealings with Detective Sergeant Turner, didn't you?

A. He was in charge of the case.

50 Q. As you said, you would pop over to CIB?

A. Yep.

55 Q. Did you pop over and have a word with him along the lines of, "Hey, I hear Virkez is now going to give evidence. Can I remind you that he told me he was a Serb, he had a different name, and he was ringing the Consulate, and also, I now know that he was ringing the Consulate for six months beforehand."

60 A. I can't remember. I would have had discussions with Sergeant Turner, but he was very much in charge, and I was very junior. So he was running the case his way.

65 Q. I understand that, but what I'm suggesting to you is, at this stage, is that you don't usurp his authority.

A. No.

Q. It's purely, "I've got relevant information. Do I tell, or do I remind Detective Sergeant Turner of that."

A. If I considered it relevant, I probably would have told him. I would have informed him.

5

Q. And you've agreed with me, particularly now that Mr Virkez is giving evidence from the Crown, it even becomes more relevant or more important, (a), that the defence know--

A. Yeah.

10

Q. --and, (b), that the Crown knows?

A. Yep.

Q. But given your respective roles and respective ranks--

15

A. Mm-hmm.

Q. --your view was that I would, or I did, raise it with Detective Sergeant Turner--

A. Yes.

20

Q. --and that it was up to him?

A. Definitely, yes.

Q. You recalled yesterday that you had at least one conference with, I think, the silk and the junior counsel before you gave evidence at the trial.

25

A. Yes. I think so.

Q. At that conference with the respective counsel, and I think also the solicitor from - it might have been the Clerk of the Peace at that point, was there?

30

A. I can't remember.

Q. Did you raise with them anything along the lines of, "Look, I've heard Virkez is giving evidence. I'm hopeful, or you would have been told, this background to him, or this information, X, Y and Z."

35

A. No. No, I don't believe I would have done that.

Q. Why wouldn't you have done that?

A. Because it was Sergeant Turner's case, and I - I don't think that was relevant to a criminal case. I - I probably wouldn't have raised it.

40

Q. But it was relevant to a criminal case.

A. Yes. It was. I - I - I retract that. It was relevant, but I probably wouldn't have said that.

45

Q. I'm going to summarise this, but did you have any knowledge of the to-ing and fro-ing between Mr Virkez and any New South Wales police officers in a sense to do a deal that he would plead--

A. No.

50

Q. --he would give evidence--

A. No.

Q. --and he would get this benefit.

A. No. I didn't have any knowledge of that.

5

Q. Nobody ever asked your advice or--

A. No. No. No.

Q. You never visited Mr Virkez during the period he was in gaol?

10

A. No. I never went to the gaol.

Q. You never were told something along the lines of, "Look, he was going to give evidence. Now he's reneging, or now saying he won't do it."

A. Not that I recall, no.

15

Q. Mr Jefferies, you gave evidence at the trial--

A. Yes.

Q. --of the Croatian Six.

20

A. Yes.

Q. During the trial, up until the jury coming back with their verdicts--

A. Mm-hmm.

25

Q. --did you keep an active interest in what was happening at the trial?

A. Yes.

Q. How did you keep your interest?

30

A. I'd - I'd sit in the Court sometimes, and I'd - I'd have - I'd hear discussions, or I'd have discussions, with other police about what was happening.

Q. Can you recall how many times you sat in the Court?

A. No, I can't. But it was probably more than a few.

35

Q. I'm sorry?

A. I can't recall, but I think it was probably more than a few.

Q. The trial went for a long time.

A. I'm sorry?

40

Q. The trial went for a long time.

A. It went for a very long time.

45

Q. And you obviously know with trials, there's evidence called by the Crown, then the defence can move into a case, and then you end up, after all the evidence is finished, with the Crown addressing the jury, the defence counsels, et cetera, and then the judge sums up to the jury.

A. Mm-hmm.

50

Q. Do you recall attending for any of the addresses by counsel?

A. No. I - I can't - I can't remember. I very well may have, but I can't remember.

5 Q. The Crown Prosecutor, when he was addressing the jury, made a statement along these lines about Mr Virkez that, "There was not a skerrick of evidence to suggest that Virkez was some sort of undercover agent, an UDBa or a Yugoslav representative." Do you recall being in Court when that submission was made by the Crown Prosecutor in his closing address?

10 A. No. I - I don't remember being in Court, but I do remember hearing that statement.

Q. How did you--

A. Or reading it. Reading it, or being told.

15 Q. When you say, "being told" about it, from another police officer who may have been in Court?

A. Who may have been in Court. I - I - I remember the statement, but I can't remember where I heard it.

20 Q. When you either heard or were told about it, was it in 1979 while the trial is still going on?

A. I don't know. Probably.

Q. Sorry, 1980.

25 A. Yeah.

Q. What I'm getting it, it wasn't like 10 years down the track or 20--

A. No. No. It was in a contemporaneous--

30 Q. When you were told about that statement, were you concerned?

A. No.

Q. Was it accurate?

35 A. Well, there was no - there was no real evidence. There was suspicion, but there was no evidence that he was a - a Yugoslav agent, or working for the UDBa, or anything else that - there was no evidence to that effect. A lot of suspicion.

40 Q. When you have used the word, "Yugoslav agent", what did you mean by that?

A. Well, somebody that works for the Yugoslav Government to further the government's purposes.

Q. Because there could be different levels of involvement--

45 A. Yes.

Q. --and at least from the material we've looked at today, the Interdepartmental Report, if you accept the ASIO information about contacting the Consulate six months beforehand, telling them about a pamphlet, or a demonstration that was coming up--

50

A. Yes.

Q. --how would you describe that involvement by Mr Virkez?

5 A. Mr Virkez, in my opinion, wanted to be a Yugoslav agent. He wanted to work for the Yugoslav Government, but they held him at arm's length.

Q. They what, sorry?

10 A. They held him at arm's length. They were - they were not terribly interested in Mr Virkez.

Q. Your opinion, as part of this wanting to be a Yugoslav agent, this led to contacting the Consulate and informing--

A. Yes.

15 Q. --at that, in a sense, community-base level of--

A. Yes.

Q. --you know, "Here's a pamphlet. They're planning a demonstration here.", and things like that.

20 A. Yes.

Q. A description of him as an undercover agent, an UDBa, or Yugoslav representative, your--

25 A. A bit extreme.

Q. And your opinion is that, (a), there wasn't evidence of that?

30 A. No. There wasn't evidence to nominate him as an official representative of the Yugoslav Government, the Yugoslav Intelligence Service. There was no evidence of that at all. It was exactly the opposite. He wanted to be. He was a wannabe.

Q. That was his aspiration?

A. That was his aspiration.

35 Q. When it was reported that that statement was made by the Crown Prosecutor, as you have outlined, you were not concerned about it?

A. No.

40 Q. Just out of interest, Mr Virkez was arrested on 8 February. He was taken back to Lithgow Police Station and he participated in a record of interview then.

A. Not with me. I--

45 Q. No, no, no - with one of the sergeants at Lithgow Police Station.

A. I think so, yes.

Q. In the lead up to the interview with him or your meeting with him on the tenth, did you read the Record of Interview?

50 A. No, I don't believe I did. I can't remember, but I don't think I - I don't think it was available to me.

Q. When you say it wasn't available to you, what do you mean by that? Did you ask for it? Did you ask whether he'd participated in a record of interview when you got up there on the tenth?

5 A. No. No - I can't quite remember what the circumstances were, but I didn't - I didn't see the Record of Interview.

Q. I want to ask you about one question and answer that he gave in the Record of Interview, and it's Exhibit 4.2-8, please.

10 EXHIBIT 4.2-8 SHOWN TO WITNESS

Q. It commences at 295. Maybe just to orientate you, Mr Jefferies, you can see it's a record of interview between Detective Sergeant Marheine. Do you recall he was the Sergeant at Lithgow?

15 A. Yes, I do.

Q. And Senior Constable Ingram is present, and it's at 9.05pm on 8 February.

A. Right.

20 Q. The relevant part I wanted to ask you about appears at the top of 298. There were questions immediately before that about Mr Brajkovic, but I'm interested in question 38. "Why were you going to plant these bombs in these positions?" His answer was, "To keep fighting for our country, that is it." And then a "Bit of politics too." After 10 February, after your meeting with him  
25 where he's informed you as part of the four pieces of new information, that this was all for the Yugoslav cause; do you remember that?

A. Yes.

30 Q. If you had then seen that question, "Why were you going to plant these bombs in these positions", his answer, "To keep fighting for our country, that is it." What would have been your interpretation of his reference to "our country"?

A. He would have been talking about Croatia.

35 Q. Why do you say Croatia and not fighting for the cause of Yugoslavia?

A. Yugoslavia existed. It was a dominant - it was a dominant - dominant country. Yugoslavia existed, and Virkez was talking about Croatia.

40 Q. In the context of when he said to you that his activities were for the cause of Yugoslavia; I was going to suggest to you, looking at that answer, was he actually referring to keep fighting for our country, actually Yugoslavia?

A. He wouldn't be fighting for Yugoslavia. Yugoslavia was a dominant country, it existed.

45 Q. Your construction - you can't give evidence of what he was referring to - but your take on that is that he's referring to Croatia?

A. Yeah.

50 Q. Also while we're still on 10 February 1979, do you recall that while at Lithgow you also had an interview with Mr Bebic?

A. Mr Bebic.

Q. Yes. He was also at the cells at Lithgow.

A. I think I did speak to Mr Bebic, but--

5

Q. Your evidence at committal was that it was quite a shorter--

A. Yeah.

Q. --meeting. Only about 30 minutes.

10

A. Mr Bebic was not very bright.

Q. Why do you say he wasn't very bright?

A. He - well, he just wasn't a bright person. He was not an intelligent person, and from memory he spoke - he only spoke broken English, from memory. With Mr Bebic was - I formed the opinion when I started talking to him that I was not going to get very far.

15

Q. What topics or matters did you raise with him during this interview?

A. It would have been in relation to the allegations of bombings and so forth and so on. What his part in it was.

20

Q. You gave evidence yesterday that you'd never come across Mr Bebic before?

A. No, I hadn't. I hadn't come across Bebic. Maksimilian Bebic, his name was. I - I learned later, but to my knowledge, I - I hadn't come across him.

25

Q. When you had this 30 minute meeting with him, did it suddenly dawn on you, "yes, I have come across you before", or "I have heard about you"?

A. I think it dawned on me that I'd seen him at demonstrations, but never - never attached much - much significance to him.

30

Q. You just gave an answer that after speaking with him for a short period of time you were not going to get very far with him.

A. No, I wasn't.

35

Q. What do you mean by that?

A. Well, as I say, he wasn't a - he wasn't a particularly intelligent sort of a person, and he spoke broken English, and it just became apparent that I wouldn't achieve very much by speaking to him for any longer.

40

Q. When you had the meeting with him you obviously introduced yourself?

A. Yes.

Q. You would identify that you were from Special Branch?

45

A. I probably would have, but I may have just said police headquarters. It varied. Sometimes we'd say Special Branch; sometimes we'd just say, "I'm from police headquarters." One or the other.

Q. You've said that he wasn't very intelligent and spoke in broken English, but his attitude to the meeting. Did he appear as if he was quite happy to talk to

50

you?

A. Yes, he seemed affable enough.

5 Q. Was there any apparent resistance to speaking with a representative of the police?

A. No. Not that I recall.

10 Q. Even though it might not have been very useful or coherent for you, did he seem that he was willing to answer questions and provide you with information?

A. Yes. He seemed cooperative.

15 Q. Did he raise with you anything about conduct or activity of other police officers; for example, on the night of 8 February when he was arrested?

A. I - I don't recall that, no.

Q. That he was assaulted by officers?

A. No, I don't recall him saying that.

20 Q. Can you recall whether there was any evidence of injury to Mr Bebic?

A. Bebic?

Q. Yes.

25 A. No, I don't remember to tell you the truth. I - I simply don't remember. I don't recall that.

Q. When I say injury, it could be an injury which isn't apparent, but might be revealed by, you know, grabbing your back, or limping, or something like that.

30 A. I don't remember that, no.

Q. After this relatively short meeting with Mr Bebic, when you returned to Sydney did you write up a report of this meeting?

35 A. I don't remember. I don't remember it. I - I probably would have done a report at some time, but not directly after I returned.

Q. Did you obtain anything useful from that meeting?

A. I can't really remember. I don't know.

40 Q. When you got back to Special Branch, you said that when you looked at Mr Bebic you thought I do remember the face, or I know the face. Was there already an index card for Mr Bebic?

45 A. I think there was a photograph. Maksimilian Bebic. I don't know; I think there may have been a card. There may have been a card. I can't be sure. It would have been created by my predecessor anyway.

Q. Why do you say it would have been created by your predecessor?

A. Because it wasn't created by me.

50 Q. So you've got that recollection?

A. Yeah.

Q. When you were thinking about whether there was a photo.

A. He was in a group photo, I remember.

Q. All right, and a group photo might've been in a dossier or another report?

5 A. It was probably in the photo index. Probably, because there were  
other - there were other Croats in the photo, I think there was about - I think  
there was five or six of them, and so they would've been mentioned in other  
cards and reports, but whether Bebic had a card, I can't remember, and they  
were - and the photo would've been in the photo index, so there'd be cards  
10 referring to that; but, yes.

Q. If there wasn't a card, I assume you would've created a card?

A. Yeah.

15 EXHIBIT 11.5 SHOWN TO WITNESS

Q. I want to take you to another document, and this is at Exhibit 11.5. It  
consists of two pages. We'll just scroll down it so you can orientate  
yourself - maybe, sorry, can we just go back up to the top?

20 A. Mm-hmm.

Q. Can you see it's - right at the top - it should read "The Officer in Charge,  
Special Branch"?

A. Yep.

25

Q. And "Preliminary report concerning the arrest of five Croatians on  
8 February 1979 at Lithgow and various suburbs of Sydney"?

A. Mm-hmm.

30 Q. Again, I'll just take you through this very quickly. There's the reference to  
Ingram of Lithgow ringing.

A. Yep.

Q. Then we have the three persons arrested at Lithgow, Virkez, Bebic and  
also Mr Topic.

35

A. Yeah.

Q. Did you know Mr Topic, was he?

A. No. No. I - I'm just looking at the name. I can't place Mr Topic at all.

40

Q. Then it continues down, further information from Lithgow, "and it was  
ascertained that a number of other Croatians in Sydney", et cetera.

A. Mm-hmm.

45 Q. Then we list, we start with Mr Nevic.

A. Mr Nekić, yeah.

Q. Nekić. The Kokotović brothers.

A. Kokotović brothers, yeah.

50

Q. Mr Brajkovic, I think's right down the bottom.

A. Vjekoslav Brajkovic, yeah.

Q. Then across the page we've got Mr Stipich.

5 A. Stipich, yeah.

Q. Mr Zvirotic.

A. Yep.

10 Q. Then you just report those particular people were all conveyed to CIB, et cetera, and charged.

A. Mm-hmm.

Q. They were all refused bail except for Mr Stipich and Mr Topic.

15 A. Yeah.

Q. Then you say:

20 "Further inquiries are continuing in relation to this matter and a comprehensive report will be submitted at the first practicable opportunity. Perhaps this report and the attached newspaper articles might now be filed at this branch for information."

A. Yeah.

25

Q. Your signature appears on the right--

A. Yeah.

Q. --and then there's a PC McNamara.

30

A. Yep.

Q. Who was he?

A. He - well he was my partner at that time. He worked with me.

35

Q. All right. So within Special Branch you had a partner and you usually worked together?

A. Yes, usually.

Q. Why didn't Constable McNamara go with you to Lithgow on 10 February?

40

A. I don't know. I can't remember.

Q. Is that the type of thing that your partner would've done?

A. Yes, he should - he should've. I don't know. I don't know why McNamara didn't come to Lithgow.

45

Q. Putting to one side his non-attendance on 10 February, if you were doing any other subsequent work on the Croatian Six or Mr Virkez, Constable McNamara would've been involved?

A. Not always.

50

Q. Why, what distinguished, or what was the reason whether he was involved or not?

5 A. Well, he was a - he was a junior - he was a junior member, and sometimes when I spoke - well, often, when I spoke to Croatians or Yugoslavs, I had a rapport with them, they'd speak to me, but they were reticent about speaking in front of other people, so often I'd - I'd speak to them by myself. Depending on the case, you know.

10 Q. His first name, what was it?

A. Paul. Paul McNamara.

Q. Can you remember why this report was created, and I know it's described as a preliminary report?

15 A. That was to get it on record, yeah.

Q. When you say to get it on record?

A. Well, to - to make the - to make the officer-in-charge aware of what was happening and to get this information recorded.

20 Q. The officer-in-charge was Inspector Perrin?

A. I believe it would've been Mr Perrin at that time, yes.

Q. If you go across the page - sorry, we're on the right page - under Constable McNamara signature block there's a date there, "8 March 1979"?

25 A. Mm-hmm.

Q. Then - no, 8 March, and then there's a handwriting, is it "Record and file 9 March"?

30 A. Record and file, yes.

Q. What does that mean, what's that referring to?

A. Well, that means that the report has been seen by the officer-in-charge, and he has decided what to do with it, to record it and file, and he sends that out to the clerical staff and it says record and file.

35

Q. You can see in the content of the report, you know, you're not just dealing with what occurred on 8 February, you also refer to what happened at Central Court on 13 February.

40 A. Yep.

Q. Nowhere in this report do you refer to your conversation with Mr Virkez.

A. No.

Q. Why not?

45 A. Well, it was not relevant to this report.

Q. Why isn't it relevant to this report?

50 A. If you read the last paragraph, "Further inquiries are continuing in relation to this matter and a comprehensive report will be submitted at the first practicable opportunity". This was just to get the matter before the boss so he knew what

was happening, get it recorded and we'd - we'd continue on from there. This was the initial report.

5 MCDONALD: Your Honour, I note the time.

HIS HONOUR: Yes. All right. We'll take the lunch break, Mr Jefferies. So we'll see you at 2 o'clock.

10 LUNCHEON ADJOURNMENT

MCDONALD

15 Q. Mr Jefferies, immediately before lunch I was asking you some questions about Exhibit 11.5, which was the preliminary report that you and Constable McNamara had prepared.

A. Yep.

20 Q. If we could bring that up again, please. Page 11. I want to take you to the final paragraph, "Further inquiries are continuing in relation to this matter and a comprehensive report will be submitted at the first practicable opportunity." What further inquiries were continuing?

A. I think - I think there was still inquiries being made by the CIB, by Detective Turner and other people. I was - I was still making inquiries in relation to the matter.

25 Q. What enquiries were you making?

A. I was trying to ascertain if there were other people involved that hadn't been arrested, and exactly what the whole thing was about. Most of the Croatian community were as astonished at anybody else that this had occurred.

30 Q. In your further enquiries did you find out or ascertain whether anybody else was involved?

A. No, I don't believe I did.

35 Q. The broader enquiry of what is this all about; what did you discover in respect of that?

A. I think it was - I think it was confirmed it was - it was an event that was restricted to these people, this group, and not part of the broader plan.

40 Q. When you say restricted to these people, that's to the people who were charged?

A. Yes. Yes.

45 Q. The Croatian Six, Mr Virkez, and also Mr Stipich?

A. Yeah.

50 Q. In that final paragraph you also refer to "a comprehensive report will be submitted."

A. Yep.

Q. Was such a comprehensive report prepared and submitted?

A. I believe so.

Q. When was that prepared?

5 A. Would have been sometime - I can't be accurate but it would have been some time after this report. I'm not really sure. At least weeks.

Q. At least, sorry?

A. Weeks.

10

Q. And your description of it, that it would be a comprehensive report--

A. Yes.

Q. What else did it include? What other information did it include?

15 A. I really can't remember.

Q. You were the author of it?

A. Yeah, I would have been.

20

Q. With Mr - sorry, Constable McNamara?

A. Yes.

Q. Did it follow the usual procedure that you prepared the report, and it would be submitted to your officer-in-charge?

25 A. Yes.

Q. And then filed somewhere in the Special Branch?

30 A. Whatever the officer-in-charge decided to do with it. He may - he may forward it to ASIO or perhaps a copy to the Commonwealth Police. Whatever he decided. But the report would, in itself, be filed at ASIO - at Special Branch.

Q. A decision by your office-in-charge that it would be forwarded to ASIO or the Commonwealth Police, would you be told of that decision?

35 A. No, not necessarily.

Q. The more comprehensive report, it would have included the information that you gained from Mr Virkez during your interview?

A. It probably would have, yes.

40

Q. The comprehensive report that you prepared, did you show a copy of that to Detective Sergeant Turner?

A. I don't recall.

Q. I asked you some questions before lunch about your interest in the trial.

45 A. Yes.

Q. And you gave evidence that you remained interested and attended the Court at different times after you'd given evidence.

A. Yes.

50

Q. And you obviously knew the six accused were convicted?

A. Yes.

5 Q. Were you also aware that after they were convicted, they were convicted they appealed to the New South Wales Court of Criminal Appeal?

A. Yes.

Q. Did you have any involvement with the Crown authorities who were representing the respondent Crown in the appeal?

10 A. I believe I did, yes.

Q. What involvement did you have?

A. I can't remember, to be accurate. I think - I think I may have supplied a report. I can't really remember.

15

Q. Who did you supply the report to?

A. I think I supplied it directly to the judge.

Q. The judge?

20 A. I think so.

Q. The judge or the judges?

A. I'm getting confused. I'm thinking it's something else. I don't know. I can't remember.

25

Q. Putting to one side the appeal, your answer about preparing a report to a judge, what was that in respect of?

A. I had a report - I can't remember exactly. I know I had a report in relation to this matter and the judge asked to see it. I - I think I made reference to it and the judge asked to see the report. I can't be sure. I'm - I'm - it's so - it's so long ago.

30

Q. When you said you referenced it, was that when you were giving evidence in the Court?

35 A. I - I - from memory I mentioned the report in my - in my evidence and the report was called for.

Q. You referred to in evidence a number of reports.

A. Yeah.

40

Q. We've had the report prepared after you spoke to Mr Virkez.

A. Mm hmm.

Q. The preliminary report that we've just taken you to, and then the foreshadowed, more comprehensive report that you said you prepared.

45

A. Yeah.

Q. Was it one of those reports that you evidenced?

A. It was one of - it was one of those, yes.

50

Q. And was it in the context of the trial or--

A. No, it was after the - it was after the trial. I think it was the appeal.

5 Q. All right. If we can turn to the appeal, appeals are usually heard on the evidence that was before the trial judge.

A. Mm hmm.

10 Q. But in this appeal, there were first a number of subpoenas issued, for example, to New South Wales Police--

A. Mm hmm.

15 Q. --seeking documents in particular about Mr Virkez.

A. Mm hmm.

20 Q. Were you aware of such subpoenas being issued to the New South Wales Police?

A. I can't remember.

25 Q. Were you aware that subpoenas were also issued to some Commonwealth agencies including ASIO?

A. No, I don't think so.

30 Q. I've asked you some questions about Roger Cavanagh.

A. Yes.

35 Q. Again, thinking back to the appeal, do you have any recollection of Mr Cavanagh's involvement in some way in the appeal?

40 A. I can't remember, I can't remember Roger Cavanagh at all to tell you the truth. It's - as I said, I think, I know the name, but I can't put a - I can't put a face to it to - perhaps with the passage of time I've forgotten but I really can't place Mr Cavanagh.

#### EXHIBIT 4.3-5 SHOWN TO WITNESS

45 Q. While this is being brought up, Mr Jefferies, issuing subpoenas and adducing what's known as either fresh or new evidence on appeal is it's unusual. I'm showing you or taking you to an affidavit which was before the Court of Criminal Appeal, and can you see it's an affidavit sworn on 29 May 1982--

50 A. Yes.

55 Q. --by Roger Francis Cavanagh, Commonwealth Officer, and an address in the ACT?

A. Yeah.

60 Q. We'll take you through this quickly. Can you see at this stage he was an officer-in-charge of the Criminal Intelligence Unit attached to the Royal Commission of Inquiry into Drug Trafficking?

A. Yep.

65

Q. And previously he was Principal Intelligence Officer of the Australian Crime Intelligence Centre?

A. Yes.

5 Q. Can I just pause there? When I've asked you about Mr Cavanagh before, I think you identified him as a member of the Commonwealth Police.

A. Yes.

10 Q. This entity, the Australian Crime Intelligence Centre, did you know of it?

A. No, I didn't.

Q. To your knowledge was it part of the Commonwealth Police or the Australian Federal Police?

15 A. I didn't. I - I didn't know the name, the Principal, Australian Crime Intelligence Centre, I - that doesn't ring any bells with me at all.

Q. If we can go to the next page, up the top, he's been "informed by officers of the Deputy Commonwealth Crown Solicitor's Office" that a subpoena has been issued requiring his attendance and production of certain documents?

20 A. Mm-hmm.

Q. He then says, and I'll take you to the subpoena in a minute, "I do not have any documents that answer the description". Then he refers to, "On 21 February 1980, in company with" another Australian Federal Police officer, Detective Senior Constable JS Blades.

25 A. Yeah.

Q. Do you know Detective Senior Constable Blades?

A. Yeah, I knew him very well.

30

Q. How did you know him?

A. Well, he was - he was in the Commonwealth Police, and he was - he was one of the two people in the Commonwealth Police in Sydney who worked on Yugoslav affairs, Jimmy Blades, I knew him well.

35

Q. The second person, I think you might've mentioned his name the other day. I asked you about who you were--

A. Percy West.

40

Q. Yes. Is - was that--

A. Well, Percy West was Jimmy Blades' boss.

Q. Were they the two people that you've identified as having--

A. Yeah. They were my counterparts.

45

Q. Now, can you see here he sets out that they went to Parramatta Gaol, interviewed Vico Virkez?

A. Mm-hmm.

50

Q. There was no formal record of interview, there were some notes, but they'd

been destroyed.

A. Mm.

5 Q. Then across the page, can you see he said to Virkez, "I have been told by the Yugoslav Consulate-General that you called them on the morning of 8 February"?

A. Mm-hmm.

10 Q. "Yes I did." Then Mr Cavanagh, "I suggest to you that you have in fact been an informant of the Consulate-General for some time and that you have visited their premises on a number of occasions". Then he comments:

15 "I did not know that this suggestion was the fact but I was seeking to obtain a response from Virkez. He at first denied this claim but later said, 'You are right but I have only been giving them information about things in the community. I wanted no part of this plan to blow up people. That's why I got scared and told everybody about it'. I said, 'What things in the community?'"

20 Then there's a reference to collecting pamphlets and newspapers.

A. Mm-hmm.

25 Q. Mr Cavanagh then puts to him, "I think that you are more than just a casual informant. I suggest to you that you are in actual fact an officer of the UDBa", and Mr Virkez says, "No way. I only got involved because they told me it was my duty as a patriotic Yugoslav. I have never even been paid for it". Across the page there is a reference to a second meeting with Mr Virkez, this time with some New South Wales police officers, and you can see towards the bottom of that paragraph it was a conversation regarding allegations of maltreatment by the New South Wales police made by Virkez in his letter to the Prime Minister.

30 A. Mm-hmm.

35 Q. "...the fact that it was the New South Wales Police who had the running of the case, that he was in no danger... he should arrange to obtain his own legal counsel." Then attached to the affidavit is the subpoena, and if we could go through to page 747, you can see that they were seeking "notes, transcripts, recordings and memoranda of any conversations", et cetera.

A. Yep.

40 Q. Did you know around the time of the appeal that Roger Cavanagh had prepared such an affidavit?

A. No.

45 Q. Did you have any knowledge from Percy West or Blades--

A. No, I didn't.

Q. --that subpoenas had been issued?

A. No.

50 Q. On your evidence at transcript 534, you gave evidence that you had met

Mr Cavanagh.

A. Yes.

Q. But I think it was only on about one occasion.

5 A. Yes, he - I can't say I - I can't say I really place him at all. I know the name, but I don't know anything about - I can't remember anything about Mr Cavanagh.

Q. Or the circumstances of your meeting?

10 A. No, not really. I don't think so. He - no, I never had anything to do with Roger Cavanagh.

Q. The evidence in Mr Cavanagh's affidavit of attending the gaol and putting to Mr Virkez, first, that he'd been an informant of the Consulate for some time, which it would appear that Mr Virkez then agreed with but downplayed his role; probably consistent with your view that he was a wannabe?

15

A. He was a wannabe, yep.

Q. Then you can see that Mr Cavanagh's view, as he put to Mr Virkez that he was actually an UDBa agent.

20

A. Yeah.

Q. Had you ever come across or been told that at least one officer within the Commonwealth was of that view?

25

A. No, I - I really can't remember, but if - if it was discussed, I would have discussed it with Percy West and Jimmy Blades, but I can't remember discussing it.

Q. Some of the evidence in Mr Cavanagh's affidavit, in particular that evidence at least of being - if I can describe it - as a low-level informant; like contacting the Consulate, telling them about pamphlets--

30

A. Yeah.

Q. --or other matters.

35

A. Yeah.

Q. That was material that you knew?

A. Yes.

40

Q. But to your knowledge, the committal Court and the trial Court didn't know?

A. I don't remember.

Q. In the lead up to the appeal did you raise with, first, anybody within the police, again of the knowledge that you had from speaking to Virkez, and then the particular Interdepartmental Report, that you had this information that Virkez was relevant?

45

A. I - I don't remember.

Q. As I said, subpoenas were issued by the appellants in the lead up to the Court of Criminal Appeal hearing. Do you recall appearing at Court in answer

50

to a subpoena?

A. No, I don't really recall it. I don't - I don't remember at all.

Q. If the witness could be shown Exhibit 2.4-2, please. Page 9272, please.

5

EXHIBIT 2.4-2, PAGE 9272, SHOWN TO WITNESS

Q. If you have a look at this, it's not one judge but we've got three judges. You can see it's Second Day, Tuesday, 18 May, and then his Honour Samuels JA asks whether Bundle A is available. I want to take you - if we can go down a little bit please - Mr Shillington's second comment there. There seems to be some issue with a subpoena and what's been identified as Bundle A, and then Mr Shillington - and do you remember he was the silk who appeared at trial for the Crown?

10

15

A. I don't.

Q. All right. Can you see he says, "Strictly, I think they are in the custody of the Commissioner of Police. Detective Jefferies is in Court and I have spoken to him as to whether he has actually physically got them here, I'm not sure." And then Samuels J says, "Look, what we might do is adjourn at 12:45, take the documents with us, and if Mr Jefferies waits when we have a look at them, we can send them straight back to him by way of one of the tipstaves."

20

A. Yes.

Q. And then, sorry, there's a further conversation about you having instructions that they should not - that you should not bring them to Court.

25

A. Yes.

Q. And then there's some further comments by his Honour. Just pausing there, does that bring back, first - you seem to have more of an involvement in this appeal than just a, you know, a general interest about they were convicted and now they're seeking to get that overturned. Do you acknowledge that?

30

A. No, I don't follow your question.

Q. I spoke to you about your interest in the trial?

35

A. Yes.

Q. And you said, "I was interested. I'd attend court. I'd chat to other police officers."

40

A. Yes.

Q. Then I asked you about the appeal and you knew there was an appeal.

A. Yes.

Q. And I would suggest consistent with your previous interest in the trial, you're still interested in the matter.

45

A. Yes. Yes, of course.

Q. But what would appear here from this extract of the transcript--

50

A. Mm hmm.

Q. --is your involvement is more than just an interest. You're actually appearing at court with documents sought pursuant to a subpoena.

A. Yes.

5 Q. With instructions not to bring them into the Court and with the senior counsel for the Crown trying to work out a way that - I think what appears to be the case, the judges want to review some or have a look at some of the documents.

A. Yes.

10

Q. So my first point to you is that suggests a more active role. For example, it's not Detective Sergeant Turner who's coming to court. It's not Detective Milroy who's coming to court to answer the subpoena. It's you.

A. Well, it appears that way, yes.

15

Q. And does that jog your memory about how you came to be more involved than just an interest in the appeal?

A. Yes.

20

Q. How did it arise?

A. Well, I was involved in preparing the - the documents for the Court. They had to be - the documents had to be edited so that informants and innocent people weren't revealed within the documents. And that took a great deal of work, time, and then I had to - had to produce the documents and I think I was questioned about some of the contents.

25

Q. I can understand the work that you've got to do when a subpoena is issued, particularly to an organisation like the police--

A. Mm hmm.

30

Q. What my query is, why were you doing it? You weren't the officer-in-charge at trial--

A. Because I had the documents.

35

Q. So your recollection, the subpoena was focusing more on Special Branch documents?

A. Yeah. That's my recollection, and I - I was - well, I was held responsible for the documents.

40

Q. Can I just take you to another extract of the transcript before the Court of Appeal--

A. Yeah.

45

Q. --2.4 - sorry, Exhibit 2.4-7. Red page 9472, please. Now, can you see at the beginning of that page Samuels J asks if there are any other subpoenas.

A. Mm hmm.

Q. And this time there is only one, a fresh subpoena addressed to the Commissioner of Police.

50

A. Mm hmm.

Q. "I understand there is someone to answer that?"

A. Mm hmm.

5 Q. In a reference to an affidavit. And then you come - you answer the subpoena?

A. Mm hmm.

10 Q. "What's your name? You appear. "Do you produce the documents?" and then we've got - your answer, "I don't have those documents, sir."

A. Mm hmm.

15 Q. "You do not have any of the documents called for in the subpoena?" "No, sir." That's repeated. And then there's a request to ask you some questions. And then counsel, I think for one of the appellants, Mr Summer-Potts, says, "Have you ever had or sighted the documents answering the description in the subpoena?" "No, sir." "Are you aware of the existence of these documents?" "No, sir."

A. Yes.

20 Q. Now, just pausing there. From the transcript, there seems to be an original subpoena to the police and you're at Court, it seems with some documents but you're a bit hesitant about coming into Court with the documents.

A. Can we just go back to what documents they called for? I think there might be a difference in the terminology.

25 Q. All right. Can I just set this out to you? There seems to be an initial subpoena--

A. Yes.

30 Q. --and you were at Court and this is when Mr Shillington was speaking. Then, from this transcript there seems to be a fresh affidavit issued to the police - subpoena I'm sorry.

A. Yeah.

35 Q. A subpoena issued to the police, and again you attend Court but you inform the Court there's no documents to produce.

A. Yes.

40 Q. Could we take the witness to Exhibit 4.3-4? That would appear to be the MFI note. It's MFI 7. What I just failed to do when I had the transcript up, and I can take you back to this if you want to, but Justice Samuels remarks at the bottom of the page, "I will mark the subpoena addressed to the Commissioner of Police as MFI 7". If you look there, we've got MFI 7. If we can then go to page 738. Maybe expand that a bit. Subpoena to produce to the

45 Commissioner of Police.

A. Mm-hmm.

Q. And what is sought is in the schedule on the next page, 739:

50 "All documents, records, reports, and correspondence including and

concerning information forwarded to the Commissioner from the Commonwealth Government to the effect that Vico Virkez...was an operative of the Yugoslav Intelligence Service."

5 A. Yes.

Q. So that was what the subpoena was seeking, and you informed the Court, though without being sworn, you were asked whether you had ever sighted or had documents answering that description and you said, no, and you were  
10 asked are you aware of the existence of any such documents, and you said, no.

A. Right.

Q. Pausing there, is that correct, that you were not aware of the existence of any documents as described in that schedule?  
15

A. I think so.

Q. What about the Interdepartmental Report dated the end of February 1979, which referred to Mr Virkez?  
20

A. That's probably something I didn't consider at the time. It's, you know, it's not one of our reports, it's a - it's a Commonwealth government report.

Q. Well, it is seeking--

A. I know, but--  
25

Q. --information forwarded to the Commissioner from the Commonwealth government.

A. Yes. I probably would've adopted the attitude that we didn't have the records, reports and correspondence, and - and stopped there. I wouldn't  
30 have thought about what the Commonwealth had or didn't have, or what Commonwealth documents there were.

Q. Even though in its express terms it's actually seeking things--

A. Yes.  
35

Q. --that the Commissioner, ie, Special Branch, for example, had received from the Commonwealth government?

A. Yeah.

Q. Can you recall, the subpoena's addressed to, I think the Commissioner, but you were then assigned responsibility for answering the subpoena?  
40

A. Yeah.

Q. Do you know why you were given that responsibility?

A. Because it was a matter that Special Branch were interested in.  
45

Q. So although it was addressed to the Commissioner of Police, if you look at Annexure A and what is being sought, are you saying that if anybody was going to have such records, it would be Special Branch?  
50

A. Yeah.

Q. Can you recall what you did when you were assigned the task to answer the subpoena what you looked for or what you did?

A. No, I really can't remember what happened. I don't really remember doing anything.

5

Q. Well, you must've done something, because--

A. Yeah, but I - I can't remember. I can't remember this incident, documents, records. I don't remember.

10

Q. Because you would know a subpoena is an important--

A. Yes.

Q. --document, it's an order from the Court.

A. Yes, I'm aware of that.

15

Q. It's compelling you or the Commissioner on your behalf--

A. Yes.

20

Q. --and it would appear from the evidence and the material we have - I'm sorry, the Inquiry has - there is at least one document from the Commonwealth government would meet that schedule?

A. Yes.

25

Q. Also there was the correspondence, the telex and other information from Assistant Commissioner Whitelaw.

A. Yes.

30

Q. Do you remember that, when he was concerned about the possible embarrassment to the police?

A. Yes, but I wasn't aware of - I wasn't aware of that discussion at that time.

35

Q. That's fine, and the documents I took you to were Commonwealth documents, which--

A. Yes.

40

Q. --would not necessarily have been handed to the New South Wales Police; but what it reflects is that there was this concern about Virkez and what Virkez was going to say and do at trial.

A. Not on my part.

45

Q. At least on your part there was a report which recorded that he'd been in contact with the Consulate.

A. Yes.

50

Q. I know that's not information forwarded to the Commissioner from the Commonwealth government; but what I'm saying to you, there seems to be evidence of you being interested in Mr Virkez, Assistant Commissioner Whitehead--

A. Law.

Q. Law, sorry, being interested in Mr Virkez. Some, at least one document from the Commonwealth concerning Mr Virkez. The concern is your response to the Court, albeit it not on oath, that there were no documents to produce, and you were not aware of the existence of any documents.

5 A. I don't remember.

Q. When a subpoena is issued, and particularly a subpoena issued by the Court of Criminal Appeal, wouldn't it be the case that there would be a very thorough search through records to make sure that anything that was caught by the schedule would be produced to the Court?

10

A. Yes.

Q. Do you recall undertaking such a thorough investigation?

A. No, I don't. I don't recall the incident at all, to tell you the truth.

15

Q. You gave evidence earlier about you recall being before a judge and one of your reports was raised, and you thought you produced the report.

A. Yes.

20 Q. Is it possible that you were referring to this interchange at the Court, although you didn't produce a report?

A. I really can't remember. I don't know. I don't know. I know I produced a report. I took it to the judge and gave it to him in his chambers.

25 Q. In his chambers?

A. He read it and gave it back to me, but what it was about I can't remember.

Q. The request for the report by the judge, was that made in what's known as open Court, so in a sense as we are at the moment - other people around, other legal representatives. You might have been in the witness box, or answering a subpoena as you did there?

30

A. I think--

Q. Was the request made in those circumstances?

35

A. I think so. I think so. I referred to a report and the judge said, "I'd like to see that", so, as I say, I took it to him in his chambers. I didn't have it with me, so.

Q. When you said you didn't have it with you, did you go back to Special Branch?

40

A. Yeah.

Q. Did you get a copy of it, or did you--

A. I think I made a copy of it.

45

Q. Did you personally go back to the judge's chambers?

A. Yep.

Q. Either gave the judge's associate--

50

A. No.

Q. --or the judge--

A. I gave it to the judge. The judge took it inside, read it, and came back out and gave it back to me.

5 Q. So you just waited outside?

A. I just waited outside his chambers, yeah.

Q. The judge was a male judge?

A. Yeah. Yeah.

10

Q. Do you remember where this occurred? I think his Honour yesterday asked you about the trial--

A. It was--

15 Q. --at Darlinghurst. Was it up there?

A. I think it was Darlinghurst. I'm not sure, but I think it was, yes.

Q. When in open Court you were asked about the report, was there, for example, a solicitor from the New South Wales Police or any of the Crown team there?

20

A. I can't remember, but I should - I should suppose so.

Q. You can't--

A. No, I can't remember.

25

Q. Do you recall any of the defendants' legal representatives being there?

A. No. I don't.

HIS HONOUR

30

Q. I take it the Court of Criminal Appeal appearances that you made was in the Law Courts building in Queens Square. Is that right?

A. I can't remember, sir. Don't remember.

35 Q. As opposed to a Courthouse in a--

A. Yeah.

Q. --in a multistorey, 20-odd storey building.

A. I can't remember.

40

Q. I'm just wondering whether it might have been to a judge's chambers in that building, as opposed to--

A. It was in the judge's chambers. I remember him coming out of the door of the room, but I can't remember where it was.

45

MCDONALD

Q. I've probably asked you this, but in the context of the trial and then the appeal--

50

A. Yeah.

Q. --can you recall whether it was in the context of the trial, or as I said, as has been pointed out, you had been attending at times to the Court of Criminal Appeal.

A. Yeah. No, I think it was the appeal.

5

Q. All right. I've probably asked you this, but you can't remember which report? Sorry, can I ask you this. I identified three possible reports.

A. Mm hmm.

10

Q. The report that I took you to before lunch, the preliminary report--

A. Yeah.

Q. --that was pretty innocuous.

A. Yeah.

15

Q. It contained information that really everybody would know.

A. Yeah.

20

Q. And would it be safe to say that a judge wouldn't be interested in the preliminary report?

A. No.

25

Q. The first report of your discussion with Mr Virkez and the more comprehensive report, assuming it contained details of your discussion with Mr Virkez, it's more likely to be one of those reports, isn't it?

A. Probably. Probably, but I really cannot remember.

30

Q. Going back to Special Branch finding the report, getting a copy of it and taking it to the judge's chambers, the evidence that you've given about Special Branch and the cloak of secrecy, et cetera, did you have to seek permission, for example--

A. Yes.

35

Q. --with Inspector Perrin?

A. Yes, of course.

40

Q. Do you recall going back from the Court and saying to Inspector Perrin, "Look, this is what's occurred, and the judge wants this report."?

A. I can't actually recall it, but I'm quite sure that's what would have happened.

Q. And again, not wanting to be rude but at this time, as you've emphasised, you were a senior constable, so not that senior within Special Branch.

A. Yes.

45

Q. And that would have been something that you would have had to at least inform a superior about?

A. Most certainly.

50

Q. And sorry, sir, you took it to the judge's chambers?

A. Mm hmm.

Q. He took it inside, read it--

A. Mm hmm.

Q. And then came back and handed it back to you?

5 A. And gave it back to me. Yeah.

Q. And you've got no idea why he was interested in it?

A. No, I can't remember. I think it had something to do with the evidence I gave that was challenged and I referred to it was in a report.

10

Q. I'm sorry--

A. I think it had something to do with evidence that I gave that was challenged and I said it was contained within a report and I think - I think he judge asked to see the report. I think that was the case. I'm not sure.

15

Q. And your recollection is it was one judge?

A. Yes, it was only one--

Q. Sitting up where his Honour is sitting.

20 A. Yes, it was only - it was one judge that I spoke to, yes.

Q. Right, but do you recall when I've taken you to those extracts from the transcript about the subpoenas there were three judges sitting up there?

A. Yes, I do. Yeah.

25

Q. Right, but definitely one judge?

A. It was one judge.

Q. From your involvement in answering the subpoena and attending Court--

30 A. Yes.

Q. --it was clear to you that on appeal one of the issues that either was being raised, or attempted to be raised by the Croatian Six, was Mr Virkez and what his - who he actually was, what his role was?

35 A. Yes.

Q. And as we've said, you had relevant information about that.

A. Mm hmm.

40

Q. Did you ever raise with the Crown team on appeal that something along the lines of, "Look, I've got this information. It dates back to February 1979. It seems - it would appear to be relevant to this Inquiry that the Court's interested in. Can I tell you about it? Can I give you a report?"

A. No, I don't believe so.

45

Q. The appeal itself, did you go up and sit in Court on those days?

A. Yes, I did.

Q. And so you - and was that your recollection for all the substantive - the days of substantive argument in the appeal?

50

A. From memory, yes.

5 Q. Do you recall at any time during those hearings that the Crown was asked about, "Look, if there was evidence in possession of either the police or the Crown about Virkez's connection with the Yugoslav authorities, and that hadn't been given to the defence, that may have led to a miscarriage of justice"?

A. No, I don't recall that.

10 Q. You don't recall any questions or issue?

A. I don't recall that at all.

15 Q. Why did you think at this appeal you were answering subpoenas about Mr Virkez's position with the Yugoslav authorities? There's obviously questions and issues being asked about it. Why did you think that was being raised on appeal? Why was the Court of Criminal Appeal interested in that?

A. Because the - I don't really know, but I would imagine it was because the Croatsians were trying to allege that it was a Yugoslav Government conspiracy to - to damage them. I should imagine that was the reason, but I'm - I'm really not sure.

20

25 Q. You don't remember any comments by the three judges sitting up there about the, you know, for example, on appeal you could raise something and the judges might say, that's completely irrelevant, not interested in that, but it would appear from the transcript and the fact that subpoenas are being issued and answered, or if not answered why aren't they being answered, that the Court was interested in the matter?

A. Yes, it would appear that way.

30 Q. And again, you had some relevant evidence about it stemming from 10 February--

A. Yes.

35 Q. --and it would appear that even at the appeal stage, at this appeal stage, the defence are not - or the appellants now are not in possession of it.

A. Well, it would appear so, yes.

40 Q. Also importantly, the Court that's interested in it isn't in possession of it, or it's not before the Court, sorry.

A. Well, once again I have to say the case was run by Detective Sergeant Turner from the CIB, and I was very junior to him; it was a matter for him as to what was said, what was produced, and so forth and so on.

45 Q. Detective Sergeant Turner, has he still got an involvement in the appeal?

A. I - I believe so. Yes. He was a - he was in charge of the case.

Q. I know he was at trial. I'm just unsure--

A. At trial, so at appeal I would suggest he'd be still the officer-in-charge.

50 Q. All right. What about, because it would appear from the transcript it was the same senior counsel who appeared at the trial who was appearing for the

Crown on appeal?

A. Mm-hmm.

Q. So you knew him.

5 A. Mm-hmm.

Q. Again, with it becoming obvious that this topic is of interest, did you approach the Crown at all?

10 A. No.

Q. To either inform them or remind them of what--

A. No.

Q. --you had told them in the past?

15 A. No.

Q. Sorry, I think I misquoted something. The question about whether there was a miscarriage of justice, after the Court of Criminal Appeal's decision which dismissed the appeal, did you know there was an application for Special Leave to the High Court?

20 A. Yes, I did.

Q. Again, you were keeping an interest in that matter?

25 A. Yes.

Q. Did you attend the hearing for Special Leave?

A. I don't believe so.

Q. I think to be fair to you, that was where this issue of if the Crown or the police had in their possession certain information about Mr Virkez, that wasn't handed over to the defence, would have that meant that there was a miscarriage of justice - and I think I put it to you that it was asked in the Court of Criminal Appeal, I think it was actually the High Court in the Special Leave application - but, again, it's clear from the Court of Criminal Appeal that that's the ground of appeal and that's what they're interested in?

30  
35 A. Yes.

Q. You really took no steps to draw attention of either the defendants of the Court that that information was available and in possession of at least the police?

40 A. No. No, I didn't.

Q. I think you've given evidence that you told the Crown certain information about it, in the lead-up to the trial?

45 A. I don't remember.

Q. A question that I asked you about yesterday, when you had received intelligence or information about some statues being blown up in Canberra.

50 A. Yes.

Q. My recollection is that you gave that evidence in the context of an UDBa agent--

A. Yes.

5 Q. --was suspected to have been involved in that.

A. Yes.

Q. When you became alerted to that intelligence, was Mr Virkez ever mentioned a somebody caught up in that, or a possible suspect?

10 A. I think he may have been. He may have been mentioned but later on I think. I can't quite remember, but I think his - his name did come up.

Q. When you attended Lithgow Police Station, on 10 February, did you know Sergeant Marheine from Lithgow Police Station had had some dealings and knew Mr Virkez relatively well?

15

A. I don't remember. I don't remember--

Q. Did Sergeant Marheine say anything to you about--

A. We had a--

20

Q. --look, I got this file from Canberra police about a statue blowing up and they asked me to talk to Mr Virkez about it, and I did, and he denied it?

A. No, I don't remember that.

25 Q. Okay, but your recollection is that sometime, and you can't pinpoint when, the blowing up of the statues in Canberra and Mr Virkez's name was mentioned?

A. Yes.

30 Q. I just want to turn to maybe a final matter. As part of your involvement in the investigation into the bomb plot, do you recall preparing a running sheet or an occurrence record?

A. No, I didn't.

35 Q. You don't recall?

A. I didn't do that.

Q. You didn't do it about anything?

A. I didn't - I didn't - I'm pretty sure I didn't prepare a running sheet, no.

40

Q. Why are you pretty sure?

A. Because that would have been - that would have been something that would be done at the CIB, Criminal Investigation Branch. I don't think I - I can't remember ever preparing a running sheet.

45

Q. Could the witness be taken to Exhibit 11.50, please?

EXHIBIT 11.50, PAGE 206, SHOWN TO WITNESS

50 Q. Just looking at the first page which is page 206, this isn't one of your

documents, but just the format, a P109 report of occurrence?

A. Yep.

Q. You're familiar with those pro forma documents?

5 A. Yeah.

Q. Could we take you through to page 208, please. Again, if you'd like the paper copy or whether you're happy to read on the screen?

A. I'll read it here.

10

Q. Do you want to read it first? Just have a quick read through.

A. Could we raise it? Could we raise it up, please? I don't remember doing that.

15

Q. Can I just ask you, looking at the document--

A. Yeah.

Q. --your name appears at the bottom there.

A. Yeah, I - I obviously did it, but I don't remember it.

20

Q. Could we go back to the top of the document?

A. Yep.

Q. This was produced by the police pursuant to a notice to produce.

25

A. Yep.

Q. We assume it was part of maybe the running sheets or occurrence reports from CIB, but we're actually not clear.

A. Yep.

30

Q. Looking at it--

A. Yep.

Q. --and again, your initial evidence that you wouldn't have prepared anything like this--

35

A. No.

Q. --is it probably that you'd prepared it for CIB and for inclusion in their files?

A. I really don't know. It's - I obviously did it, I'm not denying that, but it's - it's a - it's a unusual thing for - can you tell me where it was filed?

40

Q. No, I don't think I can. As I said--

A. Yeah.

45

Q. --a Notice to Produce is issued to the--

A. Yeah.

Q. --Commissioner of Police.

A. Yeah.

50

Q. A bundle of, I think we've described them as running sheets was provided--  
A. Yeah.

Q. --and amongst them was this.

5 A. I obviously did it, but I don't remember it at all, and - no. I recognise Sergeant Prytherch.

Q. Who was he?

10 A. He's a Commonwealth police. Phil Prytherch was a Federal Police - Commonwealth policeman at the time.

Q. Was he one of your, in a sense, counterparts?

A. Yes, he was. Yeah.

15 Q. With knowledge about Yugoslavia, Croatia?

A. Yes.

Q. So he would have been working with Percy West--

20 A. Yeah.

Q. --and Constable Blades--

A. Yeah.

Q. --or Agent Blades.

25 A. Yeah. I think he - I think he may have taken over from Percy West.

Q. You've read it. It concerns information that you already had that Mr Virkez had contacted--

30 A. Yeah.

Q. --the Consulate. Your material, or your information from Mr Virkez was on two occasions, but here it appears that you're now being told by a second source; that is, Sergeant Prytherch--

35 A. Prytherch, yeah.

Q. --from information that he's received from the Consulate?

A. Yeah.

40 Q. Then after receiving that information you went and interviewed a Mister - is it Bozo Cerar?

A. Cerar.

Q. What is it?

45 A. Bozo Cerar.

Q. At the Consulate, and you're really trying to get him to provide a statement.

A. Yes.

50 Q. I think as you concluded at the end, because of the diplomatic implications--

A. Yeah.

Q. --which raise immunities and things like that - a statement wasn't provided.

A. That's right.

5

Q. And just looking at the format of the document, the right-hand column, your name and rank appears, and branch.

A. Yeah.

10

Q. Then can you see next to the first kind of full paragraph, "See 21-21P".

A. Yeah.

Q. That's a reference to another document?

A. I've got no idea.

15

Q. Is that your handwriting?

A. No.

Q. And if you go to the next paragraph--

20

A. Mm hmm.

Q. Where I think it's "Bebic-20-20J".

A. Mm hmm.

25

Q. You don't know whether - what that's a reference to?

A. No, I don't.

Q. And it's not in your handwriting?

A. No.

30

Q. Do you - you've got no recollection - do you have a recollection of going to the Consulate?

A. I used to visit the Consulate regularly, but I really - I don't remember this incident at all regarding a bomb. I remember - I'm getting confused, ma'am. I don't remember this at all, to tell you the truth.

35

Q. The date of the occurrence is 12 March 1979.

A. Yeah.

40

Q. But you knew from 10 February 1979 of Mr Virkez contacting the Consulate?

A. Yeah.

Q. You didn't approach the Consulate after you were told that by Mr Virkez?

45

A. I can't remember. I don't think so. I may have. I don't know.

Q. From reading this document, it would appear that what prompts you to contact the Consulate is the telephone call from Sergeant Prytherch.

A. Yeah.

50

Q. I'm just wondering why that would prompt you to go to the Consulate, attempt to get a statement, and make a record of it and not--

A. Well, it was not - obviously - I wanted to determine the accuracy of the information and it would have been helpful to have a statement to support that.

5

Q. I've got no difficulty with the utility or use of obtaining a statement.

A. Mm hmm.

Q. It's rather why nothing was done about it when it was based on what Virkez told you--

10

A. Mm hmm.

Q. --and what would appear now to have prompted you now into action is a telephone call from a Commonwealth police officer.

15

A. Mm hmm.

Q. And nowhere in this report do you refer to other information that you'd received on this topic from Mr Virkez.

20

A. No. This was more about recording the information that I received from Prytherch. It's not a comprehensive report. It's more a - well, it's a note - it's a note regarding occurrence. It's not a comprehensive report.

Q. All right, but you didn't prepare such a report about any aspect - a report of an occurrence in respect of speaking with Virkez on 10 February?

25

A. At Lithgow?

Q. Yes.

A. No, I didn't.

30

Q. And is it - completing this type of document, this would have been for the provision to CIB?

A. No, this would have been for the Special Branch. It's - every police station or branch has what they call an occurrence pad where you make notes about things and then follow them up later on. So no, it wouldn't have been for the CIB. It would have been for Special Branch. And then, of course, the officer-in-charge makes decisions about what happens to this information.

35

Q. It's just when you've been describing over the last two days what happened in Special Branch, you've never referred to utilising or using this type of document. It's always been a report or--

40

A. It was - yeah. It wasn't often used. In Special Branch it wasn't often used. In police stations it's used every day but in Special Branch, the occurrence pad was seldom used.

Q. It wasn't - the message from Prytherch, did you inform Detective Sergeant Turner about it?

45

A. No.

Q. Did Detective Sergeant Turner ask you to make follow-up enquiries with the Consulate?

50

A. No. My memory, I received the information from Prytherch. I discussed it with my officer-in-charge. And I think my officer-in-charge then took it to the CIB where Turner became involved.

5 Q. Is that your recollection of the course of events?

A. That's my recollection.

Q. With this particular occurrence note?

A. Yeah.

10

Q. During one of your meetings with Detective Sergeant Turner where you're getting updates about the preparation of the brief and how the matter is going, did he ever raise with you what appears to be this information about Mr Virkez contacting the Consulate?

15

A. I don't think he did.

MCDONALD: Excuse me for a minute, your Honour.

20 Q. Can I take you to another occurrence sheet, this time page 226? This is another one of these occurrence reports.

A. Mm-hmm.

Q. It is not your document, but--

A. No.

25

Q. --I just wanted to ask you about the contents. The first thing is it's dated 26 March 1979--

A. 23 March.

30

Q. Is it, I thought it was the 26th.

A. I'm sorry, it is. I'm sorry, I've confused you.

Q. And in the middle there's an account of a telex from the Commonwealth Police re Vitomir Misimovic, can you see that?

35

A. Yep.

Q. Then down the bottom of that column Detective Krawczyk's name appears.

A. Yeah.

40

Q. Then over on the right under record we've got Detective Sergeant Turner.

A. Mm.

45

Q. If you go back to the body of the report, there's a reference to an attached telex, which I don't know whether we've got. Then a reference to a further conversation with Sergeant Prytherch, and again dealing with the consul. The first question is, do you have any knowledge of this subsequent information from the Commonwealth Police?

A. Your question was?

50

Q. This further communication with Sergeant Prytherch--

A. Yeah.

Q. --were you aware of this?

A. Yeah - was I aware of it?

5

Q. Yes.

A. No. I don't believe so. "I had a further conversation with." I really can't remember, ma'am.

10

Q. Also, just looking at the structure of the document--

A. Yeah.

Q. --it would appear that the information report in the middle column is from Detective Krawczyk.

15

A. Yeah.

Q. He does finish it with, "Perhaps this could now be forwarded and filed".

A. Yep.

20

Q. But the record on the right-hand column is a reference to Turner.

A. Yep.

Q. This particular document, where it - your understanding, and I know it's not your document - says, "Perhaps this could be forwarded and filed", do you know what that's referring to?

25

A. Well, that was the way we would often finish off our occurrence reports with that phrase, "Perhaps this could be now forwarded and filed".

Q. Was that referring - you spoke before about a Special Branch procedure of--

30

A. Well, that was - yeah.

Q. But why does Detective Sergeant Turner's name appear on it? I'm just wondering, does that suggest that it's going to be forwarded to him?

35

A. Well, it does suggest that, of course. It says, "Record", which is - that would be recorded at the Branch, and it looks as though it was to be forwarded to Detective Sergeant - or suggested it should be forwarded to Detective Sergeant Turner, reading that.

40

HIS HONOUR

Q. Could this be an occurrence pad entry in the records of the CIB, because the author of the report identifies that he's--

45

A. It's Krawczyk.

Q. --from somewhere else, not the CIB. He identifies himself as being Special Branch.

A. He's from Special Branch.

50

Q. And Detective Sergeant Turner--

A. CIB.

5 Q. --don't have to mention that, because this is a document internal to CIB. You don't have to say he's at CIB. I was wondering that, because the previous one you've been shown, which you say was a Special Branch occurrence entry--

A. Yeah.

10 Q. --in the right-hand column you've identified yourself as being from Special Branch.

A. Yeah.

15 Q. But people within the Special Branch would know that. Why was there a need for you to identify yourself as being from Special Branch? Perhaps that too is an internal CIB occurrence pad record.

A. I think it was just - just normal procedure, when you sign your name, to put where you came from.

20 MCDONALD

Q. Could we jump back to page 208?

A. Yes.

25 Q. There your name appears twice. In the middle column you're just V.R. Jefferies.

A. Yeah.

Q. No reference to rank or branch or station, or whatever.

A. Right.

30

Q. But then on the right-hand column it is set out in full, "Detective Senior Constable V.R. Jefferies - Special Branch".

A. Yep.

35 Q. I think what's being suggested to you is if it was just an internal Special Branch document, there'd be no need for you to identify that you were in Special Branch, because everybody knows that; but if it's a document that's going to another branch and maybe filed in their running sheets or something, the fact you're non-CIB, somebody picking up this running sheet, would need to know where you're from.

40

A. Yeah.

Q. Which would suggest that this was produced for CIB purposes?

45

A. It might have been produced for the I - it would have been produced for Special Branch, perhaps under the circumstances with - with an idea that a copy would be forwarded.

Q. Mr Jefferies, just one final very broad question.

A. Yes.

50

Q. You've given a lot of evidence over the past two-odd days, but you understand you've been called to this Inquiry which is looking into the conviction of the Croatian Six?

A. Yes.

5

Q. And put broadly, whether there's been a miscarriage of justice.

A. Yes.

10 Q. I've asked you many questions, but is there anything that's come back to you over the last couple of days that you haven't been asked about, that you think would be relevant to his Honour's consideration of the matter?

A. Well, there's been a lot of thoughts - thoughts returned, but we're talking about 50 years ago, and no, I - I don't think there's anything I want to add.

15 <EXAMINATION BY MR BUCHANAN

Q. While it is still fresh, hopefully fresh in your mind, Mr Jefferies; you spoke of an occasion when you think you may have supplied a copy of a report directly to the judge.

20

A. Yes.

Q. Knocking on the door--

A. Yes.

25

Q. --and handing it--

A. Yes.

Q. --to him.

A. Yeah. Yes, that's correct.

30

Q. Did you recognise that judge?

A. Yes, I did.

Q. Was it the trial judge, Maxwell J?

35

A. No, I don't believe it was Maxwell J. I'm pretty sure - that's Victor Maxwell, isn't it?

Q. Yes.

40

A. No, it wasn't him. He was a very nice man. I can't remember. No, I really can't remember his name, but - no, I can't - I can't help you.

Q. Was it in respect of or during the course of that appeal in the Court of Criminal Appeal?

A. I believe it was, yes.

45

Q. As one of those judges?

A. Yes.

50 Q. On the subject of Maxwell J, were you aware at any stage during the trial of measures being taken for the security of the judge or anyone in his family?

A. I believe that happened, yes.

Q. Were you involved in arranging that?

A. No, I wasn't.

5

Q. Were you involved in providing that?

A. No, I wasn't.

10 Q. You know that special measures were taken for the security of the trial, particularly on the first day?

A. Yes.

Q. Do you know who arranged that?

A. The then Detective Sergeant Turner.

15

Q. It was extraordinary measures, wasn't it?

A. I believe so.

Q. From your experience?

20

A. Yes, it was. It was.

Q. And I'm not just talking about metal detectors with which we're now very familiar.

A. Yeah.

25

Q. But a helicopter hovered overhead--

A. I don't remember that, sir.

Q. --at the beginning of the trial.

30

A. I don't remember that.

Q. A police helicopter.

A. I don't remember that.

35

Q. What were the features of the extraordinary measures taken for the security of the trial that you recall on the first day?

A. There were extra uniform police. There was checking - checking of the bags and other things on the entrances to the Court. I believe there was extra - or there was extra protection afforded to the judge. But that's to the best of my recollection. I wasn't involved in it.

40

HIS HONOUR: Just out of interest, what court room was being used for the trial?

45

BUCHANAN: The second - number 1. Sorry, not the old High Court. The one in the middle.

HIS HONOUR: Five?

50

BUCHANAN: I take your Honour's word for it.

HIS HONOUR: Or the Darlinghurst Road--

BUCHANAN: Yes. No. No. No, facing Taylor Square.

5 HIS HONOUR: It's a very tiny dock.

BUCHANAN: I could be wrong because the accused were in the dock.

HIS HONOUR: Anyway.

10

BUCHANAN

Q. Special Branch saw it as within their remit to look after aspects of security of the judiciary as and when required?

15

WOODS: Wait a moment. The witness said it was Detective Turner who arranged it.

HIS HONOUR: I think Mr Buchanan was asking as--

20

BUCHANAN: That's right.

HIS HONOUR: --a general proposition.

25

WOODS: Yes.

BUCHANAN

Q. As a general proposition in this area, Special Branch saw it as within their remit to provide or look after security for the judiciary as and when required. Isn't that right?

30

A. On occasions, yes.

Q. Do you have any recollections of measures being taken in respect of Maxwell J or any member of his family?

35

A. I believe they were, but I don't have any real recollection of the details.

Q. Was it the job of Special Branch to organise it?

A. No. No, that was organised by Detective Turner. Detective Sergeant Turner.

40

Q. Of course, on the first day of the trial there was what's called a jury panel, people from whom will be selected the jury.

A. Yes.

45

Q. And those people usually accumulated in the courtyard of the courthouse--

A. Yes.

Q. --before being asked by the sheriff's officers to come inside and sit in the court room.

50

A. Yes.

Q. And so they wd have been exposed to the security measures that were taken for the first day?

5 A. Probably, yes.

Q. Helicopter didn't hover over the Court for any subsequent day, did it?

A. I don't know, sir. I don't remember anything about helicopters.

10 Q. Were Special Branch members at the Court on the first day?

A. Yes, I believe - I was there.

Q. I'm sorry, I--

15 A. I believe I was there.

Q. Yes. And what did you understand your function to be on that occasion?

A. Just to prepare to be a witness.

Q. Be a witness to what, sir?

20 A. Just to whatever happened if I was called.

Q. I see. I'm sorry, you meant to act as a witness in the trial if called upon?

A. Yeah.

25 Q. Right. I apologise if you've already been asked this and answered. But when did your career in the Special Branch conclude?

A. Conclude?

Q. Conclude. Finish.

30 A. Would have been in 1980 - I worked there in 83. I can't be sure, sir. It would have been - probably about 89. I can't be quite sure. But I think it was around about 89.

Q. And did you do something more in the police force or do other work?

35 A. I went to Internal Affairs.

Q. And when did your career in the police force come to an end?

A. About - about 88, I think.

40 HIS HONOUR

Q. What was that again?

A. 88.

45 Q. You said you were in Special Branch until about 89. You were asked--

A. I'm confused.

Q. The second question was when did your career with the police finish.

50 A. Finish. Yeah. I'm confused, sir. I retired early because I was sick. I did 15 years, 83 - would have been 83 and 15 years. What's that? 98? About 98.

BUCHANAN

Q. And that's for when you left the police force altogether?

A. Yeah.

5

Q. Is that right? You said you had a predecessor in your portfolio of--

A. Yeah.

Q. --in the Ethnic Unit.

10

A. Yeah.

Q. Do you recall who that was?

A. Detective Sergeant Pat Whalen.

15

Q. Pat Whalen?

A. Pat Whalen.

Q. Pat Whalen? W-H-A-L-E-N?

A. Yeah.

20

Q. Thank you.

A. He's dead.

Q. You've indicated that you had a counterpart in your area of responsibility--

25

A. Mm-hmm.

Q. --in Special Branch over in the Commonwealth Police Force?

A. Yes.

30

Q. Just taking the question broadly, if you could, what contact from the Commonwealth Police did you have in your involvement in this matter?

A. We had regular - regular contact.

Q. Regular?

35

A. Mm.

Q. What form did that take, sir?

A. Probably telephone calls and the Commonwealth Police would come to our office to discuss matters.

40

Q. When they came to your office, what occurred, generally speaking?

A. We'd have conversations and compare notes and just discuss our general field of endeavour.

45

Q. This is in relation to the Croatian Six case?

A. We had some discussions, but - but, yeah, I think we just maintained normal - normal relations, we had discussions.

50

Q. Did you show Commonwealth Police during any of these visits any of the reports that you've spoken about?

A. No, we probably had - no, I probably didn't. That was - that wasn't a normal thing to do.

5 Q. Did Commonwealth Police show you any documents or provide you with any documents in the course of these physical contacts?

A. No, not that I remember.

Q. Did Commonwealth Police appear to want to know what you had found out in the course of your enquiries?

10 A. They were always very eager to find out what we knew so they could report to Canberra.

Q. Did you pass on the fact that you had had a conversation with Mr Virkez at Lithgow on 10 February 1979?

15 A. I don't know. I can't remember.

Q. Is that the sort of thing you would or would not have passed on?

A. At that time, probably not. At that time, probably not.

20 Q. Why not, sir?

A. Well, the Commonwealth Police were very interested in carrying favour with their political masters in Canberra, and they would often - they would often use our information to pass to Canberra claimed as their own.

25 Q. So if not actual turf wars, a perception of professional turf wars might inhibit the degree to which--

A. Yes.

Q. --or the quality of the material that you shared?

30 A. Yes.

Q. You've seen - we can bring it back up if need be - excuse me a moment, the occurrence pad entry that commences with the Exhibit 11.50 page 208.

A. Yeah.

35

Q. And what I'm going to suggest, sir is that you could read it in terms of the middle column as after the heading comprising two sections. The first being about a message left for you by Sergeant Prytherch.

A. Yeah.

40

Q. And the second being action that you took, it would appear, the way this has been constructed, as a consequence of that.

A. Yeah.

45 Q. You say in the second line of the first paragraph, "A telephone message was received".

A. Yeah.

50 Q. We all know how telephone messages are received these days; how was it received in February 1979, that is did someone make a note of it for you, was

it a voice recording?

A. I don't really remember, sir, but I - I - I think he simply rang me.

5 Q. You found out that he rang you because there was this telephone message, is that right?

A. "Telephone message was received from", yeah.

Q. Yes?

10 A. Well, a telephone, you know, from my memory - from my memory, it was just a telephone call, Phil Prytherch rang me.

Q. Yes.

A. Right?

15 Q. There's a time and date that you've put in there, 4.30pm on Thursday, 8 February 1979.

A. Yep.

Q. Where did you get that information from?

20 A. Where did I get the - the--

Q. How do you know it was at 4.30pm on Thursday, 8 February that the telephone message was received?

25 WOODS: Your Honour, I hesitate to interrupt. I think the witness is saying that Mr Prytherch just rang him, rather than it being a document or a message pad. It's a matter for my friend.

HIS HONOUR

30

Q. I thought he said he might have rung, but in any event, it is 4.30pm on Thursday, 8 February?

A. Yeah.

35 BUCHANAN

Q. Did you talk to Sergeant Prytherch on that occasion?

40 A. I can't remember, but I very may - I may have. I can't - I probably would have, given the information. If he didn't call me - he probably called me direct. That was - that was the norm - normal course of things; he'd telephone my desk; he knew my number. We conversed regularly.

Q. Are you saying that it's more likely than not--

45 A. Yeah.

Q. --that by 4.30 or shortly thereafter on Thursday, 8 February--

A. Yeah.

Q. --you had the knowledge--

50 A. Yeah.

Q. --that you recorded in the first paragraph and the second paragraph--

A. Yeah.

Q. --that night?

5 A. Yep. About 4.30pm on Thursday, yeah.

Q. Did you do anything about that knowledge on 8 February?

A. Yes, I did.

10 Q. What did you do on 8 February as a result of that knowledge?

A. Well, I went to the Consulate, according to the occurrence pad. I can't really remember, but the occurrence pad says that - I don't know, I'm sorry, I'm confused. That's the eighth of March, eighth of February. What did I do in relation to the message?

15

Q. Yes, on the--

A. Eighth of February.

Q. My question is what did you do on 8 February.

20 A. Well, I would have immediately discussed it with my officer-in-charge.

Q. Who would that have been at that time?

A. I believe that would have been Detective Inspector John Perrin.

25 Q. Do you have a memory of what Inspector Perrin's response was, to being given that information?

A. I think he - I think his response was this is a matter for the CIB. I think that was - that was his initial response.

30 Q. Do you know where you were when you got this call?

A. I would have been in Special Branch, Special Branch office.

Q. You can see that your occurrence pad entry--

A. Yeah.

35

Q. --is dated 12 March 1979.

A. Yep.

40 Q. Is there any reason why you didn't make an occurrence pad entry in respect of that message from Sergeant Prytherch earlier than 12 March 1979?

A. I think I was simply too busy. I think we concentrated on the information and commenced working on that, and I think I was just simply too busy. It wasn't unusual for--

45 Q. Did you pass on to any CIB detective that afternoon or night the knowledge that information had been received by the Yugoslav Consulate that a man called Vito Misimovic had telephoned the Consulate with information regarding a bombing?

A. I - I think so, yes. I think - I think we informed the CIB.

50

WOODS: Your Honour, I hesitate to interrupt my friend, but I think the witness is very weary after a very long day of evidence. Might your Honour ask him whether he wishes to continue?

5 HIS HONOUR

Q. We've got about ten minutes left. Do you want to continue, or do you want to stop there?

A. No - what's the time, sir?

10

Q. Ten to four.

A. Ten to four. Are we going to finish at? What time are we going to finish?

Q. I'll go to about four, but - you want to go on, or do you want to stop there?

15

A. We'll go on.

BUCHANAN

Q. To whom in CIB was this information passed on 8 February?

20

A. I think there was discussion - I think there was a discussion with Detective Inspector Morey, and Detective - Detective Senior Sergeant Angus McDonald, and John - with John Perrin. My - my officer-in-charge. There may have been other people there; I don't know. I can't remember.

25

Q. Do you know how McDonald came to be part of the conversation?

A. He was the Detective Sergeant First Class in charge of either the Breaking Squad or the Armed Hold Up Squad, one or the other.

30

Q. Sorry, my mistake for framing it the way I did. Was McDonald present physically with at the time of that conversation?

A. At the CIB, yes.

Q. At CIB?

A. He was, yeah.

35

Q. At a time after 4.30pm. You're quite sure? Because there's other evidence to suggest he was in Lithgow, or close to arriving in Lithgow at that time.

A. McDonald?

40

Q. Yes.

A. No, that's - that's not my recollection. No.

Q. Right.

45

A. I'm obviously mistaken but I thought McDonald was there at the CIB. I don't recall him - I don't recall being told that he went to Lithgow. I don't know.

Q. Is it possible you're thinking of a conversation with Inspectors Morey and Perrin at an earlier time in the afternoon when McDonald might have been present?

50

A. It could be, yeah. It could be the case.

Q. Because there was such a conversation, wasn't there, shortly after 2pm?

A. I believe so, yes.

5 Q. So from an early stage in the day, when I say the day, from say the middle of the afternoon, let's say, 8 February 1979, the police involved in gearing up to deal with this matter were - had information that raised a question as to whether Mr Virkez had a relationship with an officer in the Sydney Consulate of the Yugoslav Government?

A. Yes.

10

Q. You were aware at the time, were you, that at least two or three of the officers at the Yugoslav Consulate in Sydney were intelligence officers, or believed to be, or suspected to be?

A. No. We - we - we suspected one. One person.

15

Q. Can I ask you do you remember the surname of that person?

A. His name was Peter Crovkresky.

20

Q. Can I ask you to spell that, just to the best of your - how would you spell it if you were asked to write it out now?

A. C-R - Peter - I've written it that many times.

25

Q. Beginning with a K.

A. I can't remember. I thought it started with a C. C-R-O-V - I can't - I can't help you, sir. I've written that name probably a hundred times but that was a long time ago.

HIS HONOUR

30

Q. Can you just say the name again for us.

A. His name was Peter--

35

Q. No. No. Can you say it slowly so the transcription people might have a chance of doing it.

A. His name was Peter Crovkresky.

40

Q. You didn't have an understanding in February 1979 that an officer at the Consulate called Grce as I understand it - G-R-C-E--

A. Grce. Yeah.

45

Q. Was suspected of being an intelligence officer?

A. He was. He was. But I think--

50

Q. First name Veljko, V-E-L-J-K-O.

A. Yeah. I might be wrong, but I think he replaced Peter Crovkresky.

A. I'm pretty sure he did. Mr Grce. I remember him well.

Q. And there's information indicating he was the person whom Mr Virkez asked to be put through when he rang on the morning of 8 February.

5 A. Yes.

Q. But he was told that Mr Grce was not present.

A. Yeah.

10 Q. And he was put through to a Mr Kreckovic. K-R-E-C-K-O-V-I-C. Does that name ring a bell?

A. Faintly. Faintly.

Q. Slobodan.

15 A. Sorry?

Q. Slobodan, first name, S-L-O-B-O-D-A-N.

A. Yeah. I think he's the man I'm thinking of. He was - he was junior to Peter Crovkresky and Grce.

20

Q. Did you find out at any stage, not necessarily on the 8 February, that these were the people to whom Mr Virkez made this report on 8 February, or the people he tried to make it to?

A. I can't remember, sir. I remember he approached the Consulate, but I - I can't remember who he tried to contact.

25

Q. The fact that at a stage on the afternoon of Thursday 8 February you learned and you passed onto the senior officers over at CIB, in the presence of Mr Perrin as I gather from what you've told us, that Virkez was making this report, or had made this report to the Consulate earlier in the day. Did that raise a question in your mind at that stage as to whether this man that you'd been told about from Lithgow, and this man that you'd been told about by Sergeant Prytherch, who'd contacted the Consulate, may have a motivation to do what he did on 8 February other than as a disaffected bomb plotter; had a motive of his own to serve?

30

35

A. I - I would've considered, I would've considered that possibility.

Q. If a person has a motive of their own to serve, it's but a short step to having a motive to fabricate a story?

40

A. Yes.

Q. Was anything done to your knowledge to test the account that police received at Lithgow from this man, or the information that you'd heard from Sergeant Prytherch had been given by this man to the Consulate as to whether it was true or just a set-up?

45

A. I know enquiries were made and we tried to ascertain Misimovic's, who is Virkez, his background to determine where he was coming from. I can't remember what else was done at the time, but that was - that was principally what happened, we were trying to ascertain who he was and whether he was genuine.

50

Q. You've reminded me, I skipped over a step. Did you know before 10 February that the man Virkez had also been known by the name Vitomir Misimovic?

A. I can't remember, sir.

5

Q. When did you first learn that?

A. I can't remember. I don't know how I became possessed of that. I knew it. I don't know how I became possessed of that information.

10

Q. Certainly on 10 February Virkez confirmed it for you?

A. Yes.

15

Q. But on 8 February after you've spoken to Prytherch, and you're relaying the information to these senior officers, did you put two and two together and think to yourself, this man, Misimovic, who's talking to the Consulate, must be the man they've received information about at Lithgow who's calling himself Virkez?

A. I probably did.

20

BUCHANAN: Yes, your Honour.

25

HIS HONOUR: Yes. All right. Mr Jefferies, unfortunately that doesn't conclude your evidence. We'll have to have you back on another day. You can step down now. You'll be informed as to when that day will be. We're not continuing beyond this week at the moment, so it'll be some time in the future. I have had a conversation with Counsel Assisting earlier today about the future hearing dates for this Inquiry and they have been in consultation with the parties, and we have settled on some dates which will be set aside for the further hearing of this Inquiry. Those instructing Counsel Assisting will inform all of the parties as to what has been settled upon. Will that also be notified on the Inquiry website?

30

MCDONALD: Yes, your Honour.

35

HIS HONOUR: Yes. So that will be publicly available fairly soon on the Inquiry website as well. I think the next hearing date is in May, isn't it?

MCDONALD: That's correct, your Honour. The 13th.

40

HIS HONOUR: 13 May, so we'll be looking to continue your evidence on 13 May, Mr Jefferies.

WITNESS: Thank you, sir.

45

<THE WITNESS WITHDREW

HIS HONOUR: All right. Is there anything else?

50

EPSTEIN: Just before your Honour rises, one administrative matter. There has been an amendment to a translation that is found at Tab 13.39 of the

Tender Bundle. With your Honour's leave I'd seek leave to uplift that copy and replace it with this version of the document.

5 HIS HONOUR: Leave is granted for that to be done. All right. Thank you. I'll adjourn.

ADJOURNED PART HEARD TO MONDAY 13 MAY 2024