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SPECIAL INQUIRY

THE HONOURABLE ACTING JUSTICE ROBERT ALLAN HULME

5 NINETEENTH DAY: WEDNESDAY 3 JULY 2024

INQUIRY INTO THE CONVICTIONS OF THE CROATIAN SIX

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HIS HONOUR: Dr Woods.

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WOODS: Your Honour, might I firstly indicate that I am here; the last several days I've been a ghostly presence via the efficient AVL system, for which I thank your team. I am back on duty and I am COVID free, I've been testing negative for the last few days and I am feeling fine; I'm confident I'm no threat to anybody.

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HIS HONOUR: Good news.

WOODS: Thank you.

HIS HONOUR: Yes.

25

<JAMES LEONARD ALEXANDER BENNETT, INTERPOSED,
AFFIRMED(10.00AM)

<EXAMINATION BY MS MCDONALD

30

Q. Please state your full name?

A. James Leonard Alexander Bennett.

Q. Mr Bennett, in February 1979, you were a member of the New South
Wales Police Force?

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A. I was.

Q. You attended with a number of other officers on what we've described in
this Inquiry as a raid at 16 Restwell Road, Bossley Park?

40

A. Yes.

Q. I want to first take you to your career within the Police Force. Did you first
become associated with the Police Force when you joined the cadets?

A. Yes.

45

Q. When was that?

A. That was September 1966.

Q. From being a member of the cadets, did you then undertake training?

50

A. Yeah, as a cadet there was training. There was employment in different
locations and then as I approached my 19th birthday some months before, I

entered the initial training class for adult members of the service.

Q. You completed that training?

5 A. I did. There was - that consisted of initial training; and then fortnightly attendances at the training centre; then an intermediate period; then more fortnightly attendances; and then the final six weeks training at the end of the probation period.

10 Q. Was it after the probation period that you were sworn in as a member of the Force?

A. No. I was sworn in on 6 March 1968, that was effective from 2 March 1968, my birthday. So that attestation carried forth from then.

15 Q. After you were sworn in, were you assigned to a station?

A. I was stationed at Blacktown on general duties but deployed to do traffic work effectively.

20 Q. Your rank at that stage, was that as a Probationary Constable?

A. Probationary Constable; then after that there was a confirmation; at the end of the 12 months I became a Constable; and I think it was in those days four years to become Constable First Class, and then another five years to become a Senior Constable. Then after that, it was strictly by seniority according to the registered number that was allocated at the point of attestation.

25 Q. You were at Blacktown commencing as a Probationary Constable; how long did you remain at Blacktown?

30 A. I stayed at Blacktown I think for three years. I think it was toward the end of 1970 and I was placed on what they call the ungraded list or the A list of applicants for plain clothes work, and that had me deployed with the local detectives office for a period of time. After that I was transferred to what was known as 21 - or it was called the 21 Special Squad; it had been formerly known as 21 Division but when I went there it was 21 Special Squad. From there, in late 1971 I think it was, I was transferred to Central Detectives where I was an undesignated I think Constable First Class doing CI work, criminal investigation work.

35 Q. Can I just pause there; you spoke about the 21 Special Squad?

A. Yes.

40 Q. Were they assigned to a particular region or a particular type of work?

45 A. They were - covered the metropolitan area. We were - it was part of a training process, really on the job training I suppose, where they would take two people of comparable rank who were aspirants to become detectives; they would work together in a car. They broke up the metropolitan area into areas; there was the Northern Beaches area, Eastern Suburbs, the Shire, Inner West and what they called the Ponderosa, which was 18, 26, 27 Division which covered from the other side of Parramatta - sorry, from Parramatta all the way out to St Albans I think. The car would be allocated to patrol that area, just as an adjunct of a back-up for other work and to keep an eye out, see what was going on. If any people were detected engaged in activity or wrongful activity,

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they could be arrested and investigated.

Q. When you were a member of 21 Special Squad were you allocated to a particular region?

5 A. It varied. I went from place to place. Sometimes the west, sometimes the other regions.

Q. You had come to the stage where you had been transferred to Central Police Station?

10 A. Yes.

BASHIR: Your Honour, the evidence was the Central Police detectives.

WITNESS: Yeah.

15

MCDONALD

Q. Central Police detectives?

20 A. Yeah, and that was - I was there from, I think it was late 1971, and I was there until 1974. In the early part of 1974, I was admitted to the detectives training course and in those days there was a three months course, there were three of those each year; I was in the first one for 1974. I achieved the highest assessment in that course and ultimately for the whole year and then those
25 who were in the top three in any given course were generally transferred to the CIB. After I'd finished the course, I was transferred to the CIB. I thought I was going to the - I think it was called the Special Crime Squad, that later to become the Homicide Squad, but I had been put with the Special Breaking Squad.

30 Q. When you were transferred to CIB, did you have a choice of which particular branch you went to or was it a matter of you being transferred and going to this particular branch?

A. No, I was just - just told where to go and where to be.

35 Q. Again just with rough years, were you transferred to CIB some time in 1974?

A. Yeah. It was after the detectives course but I can't remember precisely the date.

40 Q. You remained with the Breaking Squad until when?

45 A. 'Til the - I think it was 14 August 1980. I was in Melbourne attending to an extradition; I rang my wife every - at night, as I did every night when I was away, and she told me that I'd been transferred. Then I came back, it gone to - was sent to Merrylands for a period of time. At that stage, I had completed my law degree and - it was in 1980 was the last year, so I was coming to the
50 end of it. The officer-in-charge of the squad, I learned later, had the impression that I was going to resign and go to the Bar. At that point, I had no intention of doing that, therefore transferred me off the strength, but when I didn't resign, he transferred me back from Merrylands some time in 1981. I went back into there and then in August 1981, one of my lecturers was in

Chambers in 13 Selborne and he telephoned me and invited me to come down and meet the people down there and he said there's a room available, I'd like you to consider coming to the floor.

5 HIS HONOUR: I'm having difficulty hearing all of this and I apprehend that others in the room might be having difficulty too.

10 WITNESS: I'm sorry. Yeah. I apologise. I've got hearing aids in and it gives me an amplification which gives me a false sense of projection I suppose; I'll speak up.

MCDONALD: That's better. Thank you.

15 Q. The superior or officer-in-charge of Breaking Squad around '79/'80, was it the same person?

A. I think so. There was Detective Sergeant Angus McDonald. There was another fellow who came in, a Detective Sergeant Joseph Harrington, but I can't quite remember when they joined, but I think McDonald was - well, it'd be, McDonald was there when I was transferred out and when I came back in.

20 Q. The period when you were at the Breaking Squad, when you commenced there, what was your rank?

A. My memory is it was Detective Constable First Class, I think.

25 Q. Then did you--

A. After I was designated I became Detective Constable First Class, yeah.

Q. Did your rank change during the period you were at Breaking Squad?

30 A. I became a Detective Senior Constable, which I carried up until the point of my resignation.

HIS HONOUR

35 Q. Going back a bit, you mentioned a moment ago being transferred out and then coming back in. I didn't pick up the detail of you being transferred out and coming back in. When did those transfers occur?

A. It was in - I think it was 14 August 1980. As I said, I was in Melbourne doing a - engaged on an expedition matter.

40 Q. Was that when you were transferred to Merrylands?

A. To Merrylands and I was there at Merrylands until the first part of 1981. I can't recall precisely when that was. I think it was in the first few months of 1981 and I was transferred back.

45 Q. How did it come about that you were transferred out and then brought back in?

A. I don't know.

MCDONALD

50

Q. It was your understanding it was the same officer-in-charge of the section who transferred you out and then brought you back?

A. I - that's my understanding.

5 Q. That was Detective McDonald?

A. Yes, it was a Detective Sergeant First Class Angus McDonald. My presumption is that he transferred me back when I didn't resign, because I was admitted in - to the Bar in early 1981, from memory.

10 Q. In respect of the trial of the Croatian Six, you provided statements which were included in the brief of evidence?

A. Yes.

Q. They were a statement dated 24 March 1979?

15 A. Yes.

Q. And another statement, a relatively short one, dated 8 April 1979?

A. Yes.

20 Q. The first statement dated 24 March 1979, have you had a chance to read through that?

A. I have.

25 Q. Reading through it, is there anything that you wish to correct or doesn't accord with your recollection and belief?

A. No.

Q. The second statement dated 8 April 1979, you've had an opportunity to read through that?

30 A. Yes.

Q. Again, anything that you wish to correct?

A. No.

35 Q. It appears to be true and correct?

A. Yes.

Q. You also gave evidence at the committal hearing, which was on 13 August 1979?

40 A. Yes.

Q. You've been provided with a copy of your committal transcript?

A. Yes.

45 EXHIBIT 2.3-16 SHOWN TO WITNESS

Q. If we can go first to page 6570. Hopefully it's going to come up on the screen. If you want a paper copy, we can arrange for that. Looking at that page, do you recognise it as the commencement of your evidence at the

50 committal?

A. Yes.

Q. You've been provided with a copy of this transcript?

A. Yes.

5

Q. You've had an opportunity to read through it?

A. Yes.

10 Q. Can I take you to in this Exhibit, red page 6577. We might expand that, please. This is transcript where you're being cross-examined by Mr McCrudden?

A. Yes.

15 Q. You can see at the beginning of the questions he's asking you about a statement you made in relation to this matter?

A. Yes.

20 Q. You were asked a question, "When did you make your statement?" And you say, "At my office?" Then it was repeated, "When?" And you answered, "Very shortly after the incident. I think it was the next day". In reading the transcript, do you wish to make an amendment to that?

A. Yeah, that clearly must be wrong. It doesn't accord with the date that is on the statement, which was in March.

25 Q. Right.

A. Yeah.

Q. I think it was 24 March?

A. 24 March, yes.

30

Q. Reading that answer, "Very shortly after the incident. I think it was the next day"--

A. Yeah.

35 Q. --you'd wish to correct that?

A. That is incorrect, that answer.

Q. Your recollection, I know it's dated 24 March, do you have a recollection of when you drafted it?

40 A. The statement would accurately reflect the date on which I prepared it, but I have no independent separate memory of having done so on that day.

45 Q. Was your practice in February 1979 that the date on the statement - and I can take you to it, but it's a typed date at the top, that would reflect the date you signed it?

A. Yes. On a statement of that length, yes.

Q. Other than this amendment on red page 6577, was there anything else in the committal transcript that you wish to change or--

50 A. I can't recall whether it was in the committal transcript or later, but I did say

that when I - at the time I took a statement from Mrs Brajkovic that I retrieved the plastic bag with the items in it, but that was incorrect. It was--

5 Q. Can we go within that Exhibit to page 6591 and when that's there, if we can expand that. This is jumping ahead, Mr Bennett, but on either the night of 8 February or early in the morning of 9 February at CIB, you obtained a statement from Mrs Brajkovic?

A. Yes.

10 Q. That statement was obtained not on the floor where the Breaking Squad was, but on another floor of the building?

A. It was up on the - the policewomen had an office on level 5. Mrs Brajkovic had a child with her. She and the child were on that level and that's where the statement was taken.

15

Q. Did you take the statement by yourself or was another officer with you?

A. Krawczyk was with me in that process and my recollection was, and - that he was the one who retrieved the item for the purposes of taking her statement so it could be shown to her.

20

Q. Can I take you to, again, it's Mr McCrudden asking you some questions, it's in the context of you being asked about seeing Mr Brajkovic at the CIB and then there's a question, "That was the last time you saw of him that evening?" Do you see that? It's the fourth question down where the cursor is.

25

A. Yes, I see that. That's the one. Yes.

Q. Then your answer was, "I may have seen him again during the evening. I did see him at one stage when I went to get explosives to show his wife".

A. Yes.

30

Q. Is that the answer that you wish to change?

A. Yes.

Q. What is your recollection now?

35

A. Well, my recollection is now that it was Krawczyk went and retrieved the items, because I was the typist for the purpose of the statement.

Q. That demarcation, if you were the typist, does that mean Detective Krawczyk was asking the questions?

40

A. No.

Q. You were asking the questions and typing?

A. Yes.

45

Q. Detective Krawczyk was there as a witness or--

A. Yes, he was. I suppose you could put it in those terms. He was present, able to give evidence of the process.

50

Q. Those two amendments that you've indicated to the committal transcript, other than those, is there anything else when you read through it that you

thought, "Look, it's not correct", or, "It doesn't accord with my recollection".

A. There's nothing that I've seen that warrants correction as far as I can perceive the matters, no.

5 Q. You gave evidence at the trial?

A. Yes.

Q. Your evidence at the trial, two days in May, a day in September and then a day in December 1980. You've been provided with the transcript?

10 A. Yes.

Q. Have you had an opportunity to read through that?

A. I have.

15 Q. Was there anything that you wish to change or doesn't accord with your current recollection and belief?

A. No.

Q. You've recently been provided with a document which is dated 9 February 1979 and was entitled "Timetable of Events and Notes in relation to the arrest of Brajkovic"?

20

A. Yes.

EXHIBIT 11.89 SHOWN TO WITNESS

25

Q. This, as it is entitled, is the timetable of events and notes and it commences, I think you can infer it commences on 8 February at 9pm and continues onto 9 February.

A. I've got 9 February up the top.

30

Q. Yes, but it starts at 9pm.

A. Yes.

Q. You've had an opportunity to read through this?

35

A. Yes.

Q. You can see the first entry at 9pm is, "Conference takes place in Armed Hold Up Squad"?

A. Yes.

40

Q. "Instructions given by Detective Inspector Morey"?

A. Yes.

Q. That was a conference that you attended on 8 February?

45

A. Yes, or a briefing, I suppose, more.

Q. Than a conference?

A. Yeah.

50 Q. That was my point, that the timetable records events that actually start on

8 February?

A. Yes.

Q. Then if we can go to red page 1291.

5 A. Yes.

Q. We've jumped to the last page and you can see it's got, "2am Charged at Central Police Station"?

10 A. Yes.

Q. Then, "2.30, Returned to this branch and commenced these notes. Notes completed up end of first paragraph on page 2. Present when notes typed", a number of officers are named, including yourself?

15 A. Yes.

Q. Then, can I just jump to "8.30am. Notes recommenced and completed". Names are listed, including your name.

A. Yes.

20 Q. You've had an opportunity to read through this document?

A. Yes.

Q. Do you recall this compilation of this document recording a timetable events and notes from the events that night and in the morning?

25 A. I remember the compilation of a document, but that's as far as my memory today extends.

Q. You have a recollection of being at the CIB and either sitting around with these other officers?

30 A. I don't - I don't recall. As I sit here today, I don't remember, other than that there was compilation of a document with Harding typing, but that's as far as my memory goes.

Q. When you say, "a compilation of a document", the notes record that you are present, and other officers were present.

35 A. Yes.

Q. The notes, they were typed by Detective Senior Constable Harding--

40 A. Yes.

Q. --and then Detective Sergeant Wilson and Detective Harding then signed them.

A. Yes.

45 Q. When you say the notes were "compiled", did you have input into content of the notes?

A. I can't remember. I can't remember what participation or role I played in the compilation of the notes, but I recall it occurring.

50 Q. This, if I can describe it as, "a group compilation" of a timetable or notes of

events, was that something that was a usual practice within CIB at the time?

A. Something I had not ever done before or after.

Q. This was quite unusual in your experience?

5 A. In my experience it was. I don't know - I can't say what others' experienced, but that was not something that I had experienced previously or after.

10 Q. I know you had a relatively short time with the Police Force after these events, but in your time up until 1981 when you resigned, did you come across this procedure again?

A. No.

15 Q. I just want to, in a sense, put some broad events and times to you, just so it orientates us to more detailed questions. On the night of 8 February, there was some kind of briefing at CIB--

A. Yes.

Q. --which you attended?

20 A. Yes.

Q. Again, putting it at a general level, you and other officers were directed to attend premises at Bossley Park?

A. Yes.

25

Q. Then you and certain officers left CIB and headed towards Bossley Park?

A. Yes.

30 Q. Did you know at that time there was some other officers, A, who had been at Bossley Park and were conducting some surveillance?

A. I don't have any recollection of having that knowledge before we left. I've got to say, I have a vision of having gone to a different location to the house, to the extent that that's an independent recollection. I was informed by the documents that I've read on the - I'm a bit challenged, I might say, after all this time, but I have a perception of having gone to another location, and then gone from there to the house with Krawczyk driving, but I have to say that's, in large measure, informed by the documents that I've read, because I didn't remember that prior to reading the material.

35

40 Q. This kind of--

A. Sorry, I didn't remember Krawczyk driving the vehicle prior to reading the material.

45

Q. From this pre-house location, do you recall that there were also some members of the Observation Squad there?

A. I don't remember who was there at the moment.

Q. Do you have a concept of some other officers from Observation Squad?

50 A. I'm aware that - I'm just trying to think now. Krawczyk was there, because he joined Wilson and I, and then drove to the house. The other officers who

were there, I don't have a recollection of.

Q. Which branch was Detective Krawczyk with?

5 A. From what I've read, he was at the Special Branch, but, again, that's something that I've drawn from the documents. I have no memory of where he was actually deployed at the time.

Q. Did you know him before 8 February?

10 A. I did. I did. Do you want--

Q. Did you know him through his deployment at the Special Branch?

A. No. No. I - no. I think we did the same detectives' course, actually.

15 Q. Again, just establishing this rough timetable, and if I refer you to Prairie Vale Road--

A. Yes.

Q. --does that ring a bell with you?

20 A. Prairie Vale Road rings a bell, because of the name. The inclusion of the word "Prairie", and I have a recollection that it was - in those days, it was quite a remote location. Not that - like that now, of course.

Q. When you say, "remote", more semi-rural? Would that be an accurate description?

25 A. A lot of - yeah. "Semi-rural" would aptly describe the location, I think.

Q. You leave Prairie Vale Road. You go to the house?

A. Yes.

30 Q. Again, I'm just putting it broadly, at the house a number of officers enter the house--

A. Yes.

Q. --including yourself?

35 A. Yes.

Q. A number of other officers are outside in the yard?

A. Yes.

40 Q. At one point, Mr Brajkovic is brought into the house, I think, by Detective Harding and Morris?

A. Yes.

Q. There are searches conducted within the house?

45 A. Yes.

Q. Your understanding, are there also searches outside the house?

A. Yes.

50 Q. Then at one point, it's decided that Mr Brajkovic will be taken back to CIB?

A. Yes.

Q. With items seized?

A. Yes.

5

Q. Also, it was decided that Mrs Brajkovic and their daughter would be taken back to CIB?

A. Clearly that decision was made, but I have no recollection of who made it, or who announced it.

10

Q. Do you remember there was another man at the house who was Mr Brajkovic's brother-in-law?

A. Yes.

15

Q. Do you recall that he, also, was taken back to CIB?

A. I'm aware that he was, but I have no independent recollection at the moment of how that came about, but I'm aware that he was taken back.

20

Q. Taking Mr Brajkovic back to CIB, you were in the car that drove him back to CIB?

A. I drove back, yes.

25

Q. You were in the car, and Detective Sergeant Wilson?

A. Yes.

Q. And also Detective Krawczyk?

A. Yes.

30

Q. And Mr Brajkovic?

A. Yes.

Q. From Bossley Park back to the CIB, roughly how long would that take?

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

35

Q. You described it as "remote"--

A. Yes.

Q. --and "semi-rural".

A. Out there, it certainly was.

40

Q. This is probably cheating, but if you Google today it says 50 minutes. I don't know whether that's with the assistance of new expressways or whatever, but if I suggested to you about 50 minutes, would that sound correct?

45

A. I - I don't know. I don't know. I can't remember how long it took us to get there.

Q. Where was Bossley Park?

A. In the south-west, I think, from memory now.

50

Q. Then do you recall from the house, you go back to CIB--

A. Yes.

5 Q. --and then during the early morning, as you've given evidence, you participated in obtaining a statement from Mrs Brajkovic?

A. Yes.

Q. At one point, and this isn't in chronological order, you were in an interview room with Mr Brajkovic?

10 A. Yes. When we first went back, he sat in an interview room, and I remained with him for a short time until Harding and Wilson came in, and then I left.

Q. Did you know on the night that a form of interview was being conducted with Mr Brajkovic?

15 A. I don't have any recollection of knowing that occurring at the time. I've since became aware that one was conducted, but I don't have any memory of it occurring at the time.

Q. The notes that I took you to, Exhibit 11.89, they, of course, record that some kind of interview was conducted?

20 A. That document records a whole raft of information, a significant part of which I had no role to play in.

Q. No. I'm not suggesting that, but at least if you were there while the notes were being compiled--

25 A. It would have been referenced--

Q. --you would have heard about the interview?

30 A. Yep. I would have, yes.

Q. Then, again, per the notes, I think it was about 2.00am, it would appear that Mr Brajkovic was taken to Central and charged.

A. Yes.

35 Q. Were you one of the officers that took him to Central?

40 A. No, I wasn't. I was the - the office on level 3, or the floor on level 3, to the east of the building, east of the elevator bank, or suite, was occupied by the Breaking Squad and the Hold Up Squad. The area is separated by a bank of lockers. Our office, the Breaking Squad office, was on the northern side of the building, facing towards Hyde Park.

Q. Can I just stop you there?

A. Yep.

45 Q. Your evidence might be assisted by a map.

A. Yep.

EXHIBIT 4.1-LLL SHOWN TO WITNESS

50 Q. I'm going to take you to red page 128.

A. Yes. I've got that here.

Q. Just looking at that diagram, or floor plan, does that accord with your recollection of the floor plan of, I think it's level 3 of CIB?

5 A. Yes, it does.

Q. You can see marked on the floor plan at the top is the Special Breaking Squad--

10 A. Yes.

Q. --and then down the bottom the Armed Hold Up Squad.

A. Yes.

15 Q. The evidence that you were just giving, and I interrupted you, you spoke about Mr Brajkovic was, when you came back from the house, was placed in a room?

A. Yes.

20 Q. Can you indicate, and we've got different colours. I don't know if we can do this successfully but we can try, which room he was taken to?

A. My recollection is it was either the pink or the green room on the Armed Hold Up Squad side of the floor.

Q. When you say, "pink or green"--

25 A. Well, there's two rooms. They're both marked with letters "INT". There's a pink room, which is the northern-most, immediately adjacent to the green room.

Q. We've just expanded it to--

30 A. And it was in one of those, but I can't remember which one.

HIS HONOUR:

35 Q. Just for the record, that's the bottom-left-hand corner of the floor plan as we are looking at it, which would be the south-west corner of the floor, is that correct?

A. South-west corner, yes.

MCDONALD

40

Q. Again just orientating, for really my purposes, which street was the Armed Hold Up Squad; did the building, was it between two streets?

45 A. It faced onto Liverpool Street. Our squad was on the Liverpool Street Side. The street that ran off Liverpool on the eastern side of the building, I don't remember the name of at the moment. I think there was a laneway on the south of the building, which would've been adjacent to the space occupied by the Armed Hold Up Squad, but again, I don't know the name of that lane.

Q. When you say Liverpool Street, then behind was Hyde Park?

50 A. Hyde Park was -- Liverpool Street separated Hyde Park and this building,

yes. Hyde Park south.

Q. Your recollection is Mr Brajkovic was placed in, if I describe it as either the Pink room or the adjacent, I was going to say, aqua room?

5 A. Sorry, the adjacent?

Q. Aqua?

A. Aqua; sorry, yeah. Okay.

10 Q. You were giving evidence and I interrupted you. Is your evidence that later on in the night you saw Mr Brajkovic again?

15 A. I - I have a perception of having seen him take out of the building toward the lift bank, the lift suite, but at that point I'd done a - I had gone from where he was over to my area and the desk I used was - if one looks at the divider between the two squads, there's - marked as lockers - a row of desks adjacent to that. The desk I was using--

Q. Can I just pause you there; you're talking about in the Special Breaking Squad section--

20 A. Yes.

Q. --there seems to be a row of five desks?

A. Yes.

25 Q. Then a row of four?

A. Yes.

Q. Which desk was yours?

30 A. I was on the desk second from the right in the bank of five.

Q. Second from the right?

A. Yes. If one looks at the fire stair at the right-hand side of the map and moves along the lockers, the desk I occupied was the second desk.

35 Q. Thank you. Now that we've established that, in a sense, broad timetable, and I should just confirm, in Exhibit 11.89 the timetable had I think everybody - sorry, at least you, Detective Sergeant Wilson, Detective Krawczyk and Mr Brajkovic arriving back at about 11.35pm?

40 A. That's on the timetable but I've got no independent recollection of what time it was.

Q. It's not a time that strikes you as, look, that's wrong, it was much later than that, or much earlier, or anything like that?

45 A. No, I don't - I just don't know.

Q. Can I take you back to 8 February? How did you become, in a sense, involved in the raid; were you on duty, were you called in specially?

50 A. I expect that I was on day shift and I would've been told to remain and be available by someone; I don't know who.

Q. You do recall attending a briefing at CIB?

A. Yes.

Q. Before you went out to Bossley Park?

5 A. Yes.

Q. Who conducted the briefing?

10 A. I don't remember but I'm aware that the documents to which I have been exposed nominate Detective Inspector Noel Morey. I have no reason to say it wasn't him; I just don't remember.

Q. Within the Breaking Squad, did you have a usual partner?

15 A. At that time, we were paired with other officers but - and my partner was Alastair Milroy.

Q. Sorry, Ala?

20 A. Alastair Milroy, but not - we weren't together that night, but quite often happened that one or other would be on leave and you would end up with another job that involved another detective and that would occupy time and you'd be working with that particular individual for a period of time, whatever time that job might've taken or the investigation might've taken, but on a roster we would've appeared as partners.

Q. Detective Milroy was sent to Lithgow that, I think late afternoon?

25 A. I understand that, yes.

Q. Do you recall that--

A. No.

30 Q. --that him being directed--

A. No. No.

Q. The briefing, what do you recall was said?

35 A. I have no memory of what was said at all, other than, I expect, some outline of what we were - where we were to go and what was the nature of the investigation, but I have no memory of it.

EXHIBIT 4.2-86 SHOWN TO WITNESS

40 Q. Was it part of the briefing that you were assigned into different teams that would attend different premises?

A. I would expect so, yeah.

45 Q. If we can expand this - can go right to the top - can you see it's got "Information supplied by Detective Sergeant McDonald re operation at Lithgow"?

A. Yes.

50 Q. Then it records Sergeants McDonald and Turner, a number of other police went to premises - and I'm just jumping ahead - at Lithgow?

A. Yes.

5 Q. Two men named Vico Virkez and Maksim Bebic were arrested, and in a vehicle at the premises were located a number of items, and I'll just highlight "four bombs", "large sticks of gelignite"?

A. Yes.

10 Q. Then there's a heading, "Other men alleged to be involved in Sydney are", and a number of names?

A. Yes.

15 Q. If we can continue down, the paragraph that commences "Bebic and Virkez were allegedly going to meet all the above listed persons in Sydney and all are alleged to have explosives". I'll jump ahead to the last sentence, "All persons may have firearms and bombs or explosives in their home"?

A. Yes.

20 Q. My first question is, this document, can you recall seeing it at the briefing either in Inspector Morey's hands or other officers' hands?

A. No.

25 Q. The contents of the document which I've just highlighted to you, do you recall being told anything about those matters at the briefing?

A. No.

Q. Were you told that you were going to attend premises and that it was suspected that there was going to be explosives or bombs?

A. I have no memory of that.

30 HIS HONOUR

Q. You do or you don't?

A. Sorry, I have no memory of that, of being told that, but I can't discount that it was said; I just don't have a memory of it.

35

MCDONALD

40 Q. Attending premises where it is suspected that there are going to be bombs or explosives, that would be something that you would expect officers who were going to attend a raid at those premises would be told?

A. I would hope so. Yes.

45 Q. Because one aspect is a question of safety of the officers attending?

A. Yes.

Q. Also another consideration would be the safety of surrounding houses or the members of the public?

A. Yes.

50 Q. At that time, and sorry, I should've asked you this before, at this point were

you a member of SWOS?

A. I was.

Q. When did you become a member of it?

5 A. Some time during the period that I was at the Special Breaking Squad, it was an adjunct role, and I can't remember when it was but for at least half the time I was there, I think, until I left.

Q. Becoming a member of SWOS, did that involve training?

10 A. It did. I don't know how one was - came to be a member of the SWOS, I don't know what the - I have a recollection of having put a report in requesting membership. That then involved training. We would have a camp once a year, broken into three groups. So it'd be a camp of one week each at one of the army establishments at Moorebank. That would involve firearms training and tactical training and physical fitness, et cetera, that type of thing. In
15 addition to that, there were occasions when we went to the range out at Malabar for firearms practice or training. That was about it I think.

Q. The training at the army premises, did it include some training about
20 explosives?

A. I don't remember having that out there in the course of those training camps, but there I remember one day attending upon some army premises, I forget where, a Warrant Officer I think or a Regimental Sergeant Major, someone of that rank, senior NCO rank, gave us some demonstrations of
25 explosives and how they might be a problem. My memory is that there were detonators, there was gelignite and they exploded these in circumstances where we could see what was done. They had plastic explosives and how that was detonated was to use a detonator inside a portion of gelignite which was inserted into the plastic so there was a series of explosions to get to the plastic
30 explosive which was generally stable without having that process. And the other one was fuel oil and ammonium nitrate, which in combination could be used to create an explosive device, and they demonstrated how each one would go when they were detonated. That was - but then we had - there was another group of SWOS, SWOS members, who had more specialised
35 explosives training, which were the more intense course in handling of those - of that material; I didn't do it.

Q. You hadn't undertaken that?

A. No. I had none of that.

40

Q. When you refer to the training which involved the demonstration of a device which included ammonium nitrate--

A. Yeah, it was a mixture, it was a container with a mixture of ammonium nitrate and fuel oil, as it was described.

45

Q. The ammonium nitrate, were you given any details about how a member of the public could devise such a bomb?

A. I - I have no memory of having been told that; I think it was just to demonstrate what it can do.

50

Q. Now, just concentrating on safety aspects, first, at the briefing, do you recall being told anything about, "Look, when you go out to the premises, if you find explosives or if you find something that looks like" - I'll start with if you find explosives, like some gelignite or detonators, what you were to do?

5 A. No.

Q. Were you told anything about if you go to the premises and you see something which appears to be a constructed bomb, so gelignite with some wires, maybe, to a detonator and a clock or something like that, were you told anything about what you should do in those circumstances?

10

A. I don't believe so. I have no memory of that.

Q. At the time in February 1979, were there any manuals or procedures to assist police in such circumstances?

15

A. It's been shown to me. I think it came from the Inquiry, a booklet on - that was published by the New South Wales Police, but I've not seen that before it came to me.

Q. Are you referring to an exhibit, the first page of which is the emergency manual?

20

A. Yeah, that's it, but I've not - I have no memory of ever having seen that booklet until it was produced to me in preparation for today.

Q. This is a term which probably didn't exist or wasn't used in 1979, but was there any concept of, like, a risk assessment or saying to the officers, "Look, you might be confronted by this, this is what"--

25

A. A risk--

Q. --"you should do?"

30

A. The term "risk assessment", I had not heard until well after I left the police.

Q. But you know the concept of it?

A. I understand it, yes.

35

Q. Was there any discussion about, "Look, depending on what you find, the army might have to be called", or--

A. I have no memory of any discussion about that at all.

Q. Moving away from safety considerations--

40

A. Yes.

Q. --in February 1979, had you come across, for example, in defended hearings where an accused would allege, "Look, I wasn't in possession of those drugs or guns. I was set up. It was planted on me", something along those lines?

45

A. Yes, I've had experience of that when I was at the Breaking Squad. I have a specific memory of one case where - I can't remember the name of the accused, but I remember Peter - Mr Peter Staples was the defence counsel in the matter. My partner and I had found this fellow in possession of a pistol. The allegation was that he had never had the pistol and he was

50

acquitted. I think it was the Magistrates Court, actually. He was acquitted.

Q. Your recollection of that defended hearing was that, "I wasn't in possession of the pistol"?

5 A. Yes.

Q. This was the defence, "I wasn't in possession. I was set up"?

A. Yeah, it wasn't as--

10 Q. I'm probably putting it very bluntly.

A. Yeah, I can't recall the precise terms of the instructions that were put in the course of the case, but, in essence, it was his - it was something of which he had no knowledge at the time it was said to be found.

15 Q. That experience, it would have alerted you to the necessity or, at least, the benefit of corroborative evidence when, for example, you attend a site and find something like guns or drugs and the police seize them?

A. As a matter of commonsense, it was--

20 HIS HONOUR

Q. Sorry, as a matter of what?

A. As a matter of commonsense, I would have thought, one would look for some support for the assertion upon which reliance was going to be placed.

25

MCDONALD

30 Q. After this, even before this, is that something that you had in your mind when you would attend raids that, "Look, ultimately, we might be at the Downing Centre or Darlinghurst and we're going to have to prove that this was found in situ at this house"?

A. Yes.

35 Q. Did you put into place any procedures or things that you tried to do to strengthen the evidence that may ultimately have to be given?

A. In matters in which I was the investigator, I did.

Q. When you say, "Matters where I was the investigator", so not the chief investigator but any matters where you were involved?

40 A. The Police Force was in a hierarchical structure back in those days and if I was in the position equal to my colleague or senior to my colleague or near to equal seniority and I had some input and control over the matter, I would do what I had to do to find evidence - corroborative evidence. I was well aware of the significance and the benefit of appropriate circumstantial evidence to
45 support a case back then.

Q. Of what, sorry?

50 A. Circumstantial evidence to support a case. With the benefit of Basten J's lectures on this - on criminal procedure and if I was in a position of control, that's what I would try to achieve.

Q. Can I just pause there. Your view of the role that you were playing in the raid at Bossley Park, were you in a position of control?

A. No, I was subordinate.

5 Q. Before I return to the raid, where you've just given evidence of, "Look, matters where I was in some form of control", and "knew the importance of corroborative evidence", what would you do?

A. It would depend on the case. If--

10 Q. Can you just give me some examples?

A. Yeah, there was one matter in which I charged a fellow with possession of a pistol and it was a pistol that he had provided to another man who was committing armed robberies. It was a unique weapon. There were images of the other man carrying out armed robberies with a weapon that had all of the objective features that matches this item, so that was provided as a source of corroboration for the case that we presented. That's one example, but--

15

Q. I'm focusing more on corroborative evidence that at this particular house--

A. Yes.

20

Q. --officers found a gun or this gun. You know, for example, today you probably have a video being taken--

A. Yes.

25

Q. --of the raid. Videos weren't available, video recorders for police, weren't available back in 1979, but did you learn that at the Lithgow raid they organised for a photographer to be present?

A. I didn't know that.

30

Q. That was something that would assist, wouldn't it? Taking a photo of the particular item in situ?

A. Yes.

35

Q. Getting, I suppose, a number of officers to confirm that, "Yes, I saw the item at this premise at this particular part", and recording it in a notebook? Like a contemporaneous record?

A. Yes, that'd be another way of doing it. Yes.

40

Q. Or, ultimately, including it in their statement?

A. Yes.

Q. Moving to this raid, you gave evidence that your role was a subordinate.

A. Yes.

45

Q. Who was the officer-in-charge?

A. The senior man was Wilson and I don't know who was next after him. I would expect, I think, it was Brian Harding. I'm not sure, but Detective Sergeant Wilson was the ranking officer on this.

50

Q. Just to get some idea of how the police hierarchy operated at that time, if

you saw something and wanted to make a suggestion or, "Should we do this?" to the officer-in-charge, was that something that was encouraged or would you do or--

5 A. I don't know that you'd say it was encouraged, but it was permissible to do it, so--

Q. The examples like, I suppose, with the question of trying to organise photos of the item, that would probably be a matter within the jurisdiction of the officer-in-charge?

10 A. It would be and subject to resources, as well. It wasn't always easy to get - because it's - photography was done by the scientific investigations division and they had limited resources. It wasn't always easy to get them to come out on a job in a timely fashion that--

15 Q. I don't know if you eventually discovered this, but at the Lithgow raid they actually brought in a photographer from a local newspaper, because they couldn't get onto scientific branch?

A. No, I - it was a good sensible decision. I didn't know that, though.

20 Q. Something like recording it in a notebook--

A. Yes.

Q. --and making sure it's in your statement, that's something an individual officer could do?

25 A. Yes.

Q. We've dealt with safety and it doesn't really seem that there was much consideration that you can recall given to safety?

30 A. None at - none that comes to mind, no. Not on the description as it unfolded.

HIS HONOUR

35 Q. Can you recall going out to this raid, after having been told whatever you were told at the briefing, having any apprehension for safety?

A. I don't have any memory of that. We didn't go out with any specialist equipment, as I remember. I think I described in my evidence I was wearing either a suit - probably a suit, maybe a coat and trousers. That was the extent of my attire when I went to this job. That's--

40

MCDONALD

Q. As a member of the SWOS team you had a special kit?

45 A. No, we had - or there was equipment available to SWOS, but it was kept centrally somewhere, through the Ballistics Unit, I think, but all we had was a uniform of sorts that if we were going out on some job as a SWOS member, we would be invited to wear the uniform - or expected to wear the uniform, but that didn't occur on this occasion.

50 Q. Again, I'm harping back to the Lithgow raid--

A. Yes.

Q. --that they involved an officer from the Ballistics Unit who went out there with what he described as a bomb kit.

5 A. I don't recall us having any such equipment on the task.

Q. Also they contacted the army and an explosives expert from the army also attended the site.

10 A. Well, there was nothing like that in our situation that I can remember.

Q. Again, do you recall that being raised or discussed at all at the briefing?

A. No.

15 Q. If I can take you back, you attend the briefing and you're now part of this particular team that's going to go to Bossley Park and can I just confirm Detective Sergeant Wilson was the OIC?

A. Yes.

Q. Had you done much work with him before?

20 A. No.

Q. Then Detective Sergeant Harding?

A. Yes.

25 Q. Had you come across him before?

A. I had. When he was on our squad I did one seven-day nightshift with him, which in those days we were rostered on from 8.30 'til 5 in the next morning over a seven-day period. We were to be available for work, that our squad was supposedly a specialist in, and - but I have no recollection of us ever
30 having a job, but I've known Brian Harding since I first went to that squad, and I represented him on separate occasions.

Q. That was when you'd left the Police Force--

35 A. I'd left the Police Force.

Q. --for your career at the Bar?

A. I was at the Bar, yeah. Yeah.

Q. Now, Detective Senior Constable Morris?

40 A. I don't think I've ever done any work, aside from his participation on this, I've had no association with him at all in work.

Q. Detective Senior Constable Krawczyk?

A. Krawczyk, he - he had - I think it was - my memory is he was in the
45 detectives' course, and I think he might have been 21 Special Squad for part of the time I was there, I think, and that's it. He was the subject of an inquiry at one point. When I was at Central, there was - a Detective Inspector looked into an application that was made against him, and I was taken along as a
50 typist, basically, to type whatever statements or interviews had been to be recorded.

Q. Do you remember what the allegation was in the inquiry?

A. Yeah. The allegation was a matter of an assault in the police station at Newtown.

5 Q. Do you remember the result of the inquiry?

A. It was, in due course, withdrawn.

Q. Withdrawn?

A. Yeah.

10

Q. Your recollection is that was when you were at Central?

A. Mm-hmm.

Q. I'm just trying to remember when you were at Central?

15 A. 1971. Late '71 through till 1974, sometime after April, when I was transferred.

Q. At this point, on 8 February, you knew he was now signed with Special Branch?

20 A. I didn't - I don't think I did. In fact, my memory is that - well, I have a perception that he was with the Hold Up Squad, but having read the documents, there's reference to him being a member of the Special Branch. I can't assimilate that. I just don't know.

25 Q. Had you had many dealings with Special Branch--

A. No.

Q. --in your career up to 8 February?

30 A. No. No. Afterward, a friend of mine who'd been on the Breaking Squad was deployed as a Superintendent-in-charge, and I--

Q. Who was that?

A. Michael O'Brien, but he died. He ended up with stomach cancer, and he died not long after his appointment there.

35

Q. I should jump back to the briefing. Do you recall a detective from Special Branch being at the briefing, Detective Jefferies?

A. No. No.

40 Q. Who--

A. That name meant nothing to me at all, when I saw the list of witnesses. I just don't - didn't know.

45 Q. He specialised in Yugoslavian matters within New South Wales, and had knowledge of a number of the names that appeared on that screed that we put up.

A. Yep. No, I don't - I didn't know him.

Q. Detective Senior Constable Helson?

50 A. Helson, I've got a memory of a Colin Helson, who, I think, might have been

in the cadets, but I didn't know of him in the Special Branch.

Q. Detective Senior Constable MacKenzie?

5 A. MacKenzie is still - I just have no memory of anybody named MacKenzie as I sit here. I just don't know.

Q. Detective Senior Constable Pettiford?

10 A. Laurie Pettiford. He's also now deceased. He - I think he was at 21 Special Squad when I was out there, and he was on the - yeah, he was. And he was on the Hold Up Squad.

Q. Then there were two members from the Observation Branch. A Detective Senior Constable Cook?

15 A. Yeah, Kimbal Cook. I knew Kimbal Cook.

Q. You knew him before 8 February?

A. Yeah.

Q. Where did you come across him, or how did you know him?

20 A. I've got a memory that he was in the cadets also, but he was - he did observational work, and I think he did some work for us. I can't remember what it was, but he was - obviously he was a very, very competent policeman, Kim.

25 Q. Then finally, Detective Senior Constable Robinson?

A. No.

Q. Again, from Observation.

30 A. Did he have a given name?

Q. Ian.

A. No. I don't know.

35 Q. When I took you through the very general timetable and mentioned Prairie Vale Road, you did recall a meeting there before proceeding to Restwell Road.

A. I've got a vision of being pulled at the side of the road. There was some discussion, I don't remember by whom, or what was said, and then we went from there in the car to the premises with Krawczyk driving.

40 Q. Detective Krawczyk, did he come from CIB, or as you recollect, was he already in the vicinity?

A. My perception of matters now is that he was there at the time we arrived, but I don't know where he was before then.

45 Q. You were in a car from CIB?

A. Yes.

Q. Did you drive?

50 A. I think I did.

Q. Who was in the car with you?

A. I think it was just me and Wilson.

5 Q. Then the other officers, putting to one side Cook, Robinson, Krawczyk and Helson, were they in other cars coming from CIB?

A. I think so, yes. Well, I don't know where they came from, but they were in other cars when we saw them at Prairie Vale Road.

10 Q. Do you recall Detective Krawczyk saying anything about, "Look, I've met Brajkovic before", or, "We'd popped him to see him that afternoon, and he was at home at the time."

A. No.

15 Q. Or--

A. I have no memory of that.

Q. Or anything about, "Look, we've been parked out in the street observing the house. Nothing much is happening." Any recollection of that kind of intel or intelligence along those lines being provided?

20 A. No.

Q. After that meeting at Prairie Vale Road, the cars then went to Restwell?

A. Yes.

25 Q. There's a description in some of the evidence that you were the lead car?

A. I gave evidence to that effect, as I read it. I have a vision of that being the case, but whether or not it's memory or visualisation of the documents, I can't say, but I've got a vision of having driven in as the first car.

30 Q. Sorry, the lead car is the first car?

A. Yep. Yeah. It would make sense that it was, if Wilson was the--

Q. Because you've got the officer-in-charge.

A. Yeah. Yeah.

35

Q. When you arrived out there, it was dark?

A. It was.

Q. Did you have a torch?

40

A. I didn't.

Q. Do you recall whether any other officers had torches?

A. I can't remember. I think - I don't even remember whether I had one or not, but I have no memory of ever having had one.

45

Q. Was that part of your standard kit as a police officer--

A. No.

Q. --that you--

50

A. If one had one, it was one that we might acquire ourselves, but there was

no issued - well, none issued to me, at least.

EXHIBIT 4.1-OO SHOWN TO WITNESS

5 Q. When you had the meeting with the other officers at Prairie Vale Road, was there any designation of, "Right, you two go to this part of the premises. You two go there", or--

A. I would expect there was, but I don't remember.

10 Q. This is a photograph of the premises at Restwell Road.

A. Yes.

Q. When you described yourself as "the lead car", where did you drive first when you got there?

15

BASHIR: I object, your Honour--

A. I don't remember. It would have been through onto that driveway, but I don't have any memory of where I pulled the car up. If there were other cars following, I would expect I would have gone in far enough for them to get in behind, but I don't remember.

20

Q. The photograph, you can see the house is kind of cut off. Were you told anything about the entry to the house?

25

A. No. I know we went to the back door, but I don't know anything beyond that.

Q. Including the boundaries to the house, was it a big property or--

A. I have no idea. It looks like it is here, but I - I've got no idea.

30

Q. The first thing, is that your handwriting indicating "shed", and the number "16"?

A. I don't think so. It doesn't look like it, I don't think.

35

Q. Did you know that there was a shed at the back of the property when you arrived there?

A. I have no memory of that.

Q. When you arrived there, where did you go first and with whom?

40

A. We went to the back door, and, again, this is a visualisation drawing upon the documents. The door was slightly open, and Wilson called out, and then we entered.

Q. When you say, "we", there's you and Wilson?

45

A. And Krawczyk.

Q. So the people who were in, in your description--

A. Yeah.

50

Q. --the lead car?

A. Yes.

5 Q. One thing I failed to ask you about, and that was along the lines of when you were going to attend a raid, there were safety considerations, and also this idea of if you're going to seize items, to assist you in proving, or adducing them as evidence at a trial, was another consideration, at the time, continuity of possession of particular items?

10 A. I don't know of - I have no recollection of any - of that consideration being raised in any of the discussions at all. But as a matter of common sense, continuity would have been - should have been, I suppose, a consideration.

Q. And - I'm sorry, I interrupted you.

A. It should have been a consideration.

15 Q. Today, we have property seizure records, and things like that.

A. Much better systems now.

Q. Was there any recording, a contemporaneous recording of what was being seized?

20 A. No. Not according with my memory or perception.

Q. If there was any recording, again, would it just be, to your knowledge, if a police officer made a contemporaneous note in a notebook?

25 A. If they did, yes.

Q. I'm sorry, if I can take you back to 8 February.

A. Yes.

30 Q. I think you've given evidence that you, Detective Sergeant Wilson and Detective Krawczyk go to the back door?

A. Yes.

Q. And you enter?

35 A. Yes.

Q. Can you remember what was the setup of, first, that back area of the house?

40 A. I just want to make clear that I'm giving my best recollection according to memory, and aided by the documents that I've read. My perception is, as I sit here today, that there was - well, there were two rooms toward the front of the premises, and this room that we entered was in the nature of a kitchen/living area, and there was the bed where the man was asleep, and Mrs Brajkovic came out of one of the rooms when - after we'd entered the premises. That's my memory of it at the moment.

45

Q. You, with the other two officers, initially enter this back area?

A. Yes.

50 Q. During the time that you were at the premises on 8 February, do you go towards the rooms at the front of the house?

A. Not - not then, no.

Q. At any time on the night?

5 A. I was - well, that was - I know I was invited by Wilson to look at the plastic bag and contents, and I had a cursory glance of that in what was some sort of work room and it was on some sort of structure. That's the only time that I went out of that living room area.

Q. Roughly that night when were you invited by Wilson into that work room?

10 A. Shortly before we left.

Q. If we can go back to the beginning of the raid, you and the two other officers have entered that back area; what was your understanding of where other officers were?

15 A. I don't remember what my understanding was. I know I've read that there were some deployed around the building while we went to the back door, but that's from what I've read. I've got no independent recollection of who did what where.

Q. You gave evidence that Mrs Brajkovic came into that area out of a door?

20 A. Yes.

Q. Was there a discussion with her?

25 A. There was a conversation, which I've described in the statement and the evidence I gave. As I sit here now, I've got - I can't recall or recount what was said, but I have described it in the past.

Q. In the evidence you record that she was asked where Mr Brajkovic was?

30 A. Yes.

Q. And she answered something like, he's not here?

A. Yes.

Q. Do you recall whether that prompted you to do something?

35 A. I've read that I went to the door and called out something to the effect that he's not here, have a look around, that's what I'd recorded and that's the evidence I gave, which I have no reason to discount at this--

Q. You don't have a recollection of doing that today?

40 A. No, no, it's just - just it's all very vague I've got to say.

Q. After that, do you recall at least two other officers coming into that area?

45 A. That's when Harding and I think it was Morris came in with Mr Brajkovic and Harding was carrying the plastic bag, or a plastic bag.

Q. Before you attended the premises, were you given a photograph of Mr Brajkovic?

A. I don't remember seeing one at all.

50 Q. Any description of what he looked like?

A. No. No, I have no memory of the.

Q. You say Harding and Morris came in with Mr Brajkovic?

A. Yes.

5

Q. And your recollection was Mr Harding had a bag?

A. I think it was Harding had the plastic - had a plastic bag.

Q. Could you just repeat your answer?

10 A. Sorry. My recollection is that Mr Harding had a plastic bag, a white plastic bag.

Q. Do you remember any other details of the white plastic bag?

A. No, not - that's all I saw at that point.

15

Q. Mr Brajkovic, was he handcuffed?

A. He was.

Q. Do you recall what either Harding or Morris said then?

20 A. Harding said something to the effect that he'd put up a bit of a struggle but he's okay now, and he asked to see Wilson in the front room, and they removed themselves to there while Mr Brajkovic stayed with us in the living room/kitchen area, and then I think it was Harding came and called him into the front room and he was returned back into the other room. Yeah,
25 that's - again, I'm doing my best to remember 45 years ago, it's a long while.

Q. Other than that time that you just gave evidence about when you were invited by Detective Sergeant Wilson to go into one of the rooms in the front, did you leave that back area?

30 A. No, not until we left the building.

Q. Though I suppose when you called out he's not here?

A. Yeah, yeah. I can't remember precisely what I did; I don't - I expect I just called out through the door.

35

Q. For the rest of the period when you were there, and you've said that you were in that back area, except for that one time when you were invited by Wilson, were you conducting a search at all?

A. No. I did no searching at all.

40

Q. You were just there really with Mr Brajkovic or if he had been taken to the front room and you waited til he came back?

A. Yes.

45 SHORT ADJOURNMENT

MCDONALD: Your Honour, before resuming questions of Mr Bennett, I failed first thing this morning to remind everybody in the courtroom that there is a non-publication order.

50

HIS HONOUR: Yes. That related to the entirety of Mr Bennett's evidence.

MCDONALD: Yes, your Honour.

5 Q. Mr Bennett, can I take you back to 8 February--
A. Yes.

10 Q. --at Bossley Park and Restwell Road. You gave evidence that when
Mr Brajkovic was brought into that lounge/kitchen area with Detectives Harding
and Morris, I think it was Detective Harding said something like, "He put up a
bit of a struggle, but he's okay now.", or something like that.
A. Yes.

15 Q. After he said that, did you make any observations of Mr Brajkovic? For
example, did he appear to be injured, or bruised, or anything like that?
A. I saw nothing of that nature. I am aware that I described him being a bit
dishevelled, I think, on - on - in earlier evidence, but that's as far as I can go.

20 Q. Can I take you back to during your time at Restwell Road. Immediately
before the break, you spoke about, I'll say primarily, being in that back area for
the period when you were present at the site.
A. Yes.

25 Q. You didn't undertake any searching?
A. Yes.

30 Q. When, for example, Mr Brajkovic, you gave evidence that Wilson and
Harding went into a front area. Then Harding came back and took
Mr Brajkovic back. When you were there and Mr Brajkovic was in the front
room, what were you doing?
A. Standing there.

35 Q. When Mr Brajkovic came back and was seated in that back area, did you
have any conversations with him?
A. No.

40 Q. Up until the point that you were invited by Detective Sergeant Wilson, were
you told by any of the other officers about what they had found in the white
plastic bag?
A. I don't remember. I don't remember being told anything by anybody at that
point about that.

EXHIBIT 11.89, RED PAGE 1287, SHOWN TO WITNESS

45 Q. The particular entry I want to take you to is on page 1289. I'll take you to
the beginning of the paragraph. Can you see it commences with, "Harding
returns Brajkovic to lounge room, where he is left with Bennett and Morris."
A. Yes. Yes.

50 Q. Then, "Wilson goes with Harding to rear yard and spoke with MacKenzie

and other officers."

A. Yes.

5 Q. He gives them a particular instruction. Then it continues, "Wilson and Harding return to workshop and same searched."

A. Yes.

10 Q. "During the course of this, Harding located a roll of tape similar to that on sticks of gelignite."

A. Yes.

15 Q. "Wilson finds clock." I'll jump over that. Then can I just take you to, "Conversation between Wilson and Harding." Do you see that?

A. (No verbal reply)

15

Q. "Harding uses telephone, and arranges for uniformed guards to attend premises pending arrival of uniformed staff." Just the reference to "uniformed guards", do you know what that refers to?

A. No.

20

Q. And how it differs from "uniformed staff"?

A. No idea.

25 Q. It then continues, "Wilson and Harding also search bedroom at front of the house. Bennett and Krawczyk searched kitchen and lounge room areas."

A. Yeah. That's not correct.

30 Q. That doesn't accord with your recollection that you conducted any searching tasks that night?

A. No. I did not.

35 Q. Do you recall whether Detective Krawczyk did?

A. I don't - I don't recall.

40 Q. Can I take you back to the beginning of that paragraph, and I can take you to a little bit further on, but your evidence was that Harding, Morris and Mr Brajkovic come in, and you observe Mr Harding with the white plastic bag. Then Mr Wilson and Mr Harding go to the front area with the white plastic bag?

A. Yes.

45 Q. Then Mr Harding comes back, gets Mr Brajkovic, and they go to the front room. Then is the next sequence, the beginning of that paragraph I just took you to, "Harding returns Brajkovic to lounge room where he is left with Bennett and Morris."

A. Yes.

50 Q. When Harding came back with Brajkovic, did he have the white plastic bag with him?

A. Sorry, say that again?

Q. When Harding returns with Mr Brajkovic to the lounge room, where he is left with you and Detective Morris, did Detective Harding have the white plastic bag with him?

A. I don't remember.

5

Q. The sequence then, you can see, "Wilson goes with Harding to the rear yard", et cetera.

A. Yep.

10

Q. Did Detective Sergeant Wilson have the white plastic bag with him?

A. I don't remember.

15

Q. In that paragraph, if we can jump to that area where it asserts that you and Detective Krawczyk search the kitchen and lounge room areas. Then you've got, "MacKenzie and Pettiford subsequently join these police." I'm sorry, do you see that?

A. Yes. Yes.

20

Q. Does that accord with your recollection that at some point those two officers, it would suggest, came into that lounge room/kitchen area?

A. I don't remember.

25

Q. Then it records, "Vehicles in yard, and other areas searched. Rough plan of house, and area drawn by Morris." Then, "Wilson and Harding have further conversation, and travel arrangements made in workshop." You remained in the lounge room/kitchen area? You weren't party to those further conversations and travel arrangements?

A. Correct.

30

Q. Then it suggests that they come back and Wilson says, "John, will you come with us back to CIB and sit in the back with Vic."

A. Yes.

35

Q. And indeed, it records this conversation took place in the lounge room.

A. Yes.

40

Q. And John Krawczyk said, "All right." Wilson said, "Vic, come let's go." He said, "All right. We'll be very long ", et cetera. And then it records, "Wilson, Bennett and Krawczyk then left with Brajkovic."

A. Yes.

Q. That accords with your recollection?

A. Yes.

45

Q. Then, "Bennett and Krawczyk place Mr Brajkovic in police vehicle, and Wilson spoke with Detectives Cook and Robinson."

A. Yes.

50

Q. That, again, accords with your recollection?

A. Well, I don't know.

Q. Sorry, some of it you wouldn't have been party to.

A. Some of it does. Some - I don't remember Wilson speaking to anyone, but I remember leaving in the vehicle with those officers.

5 Q. In that rough sequence, which is recorded in this timetable, when were you invited by Detective Sergeant Wilson into the front room?

A. It was shortly before we left the house.

10 Q. Again, using this to jog your memory, the account at the end of that large paragraph where you have a conversation taking place in the lounge room, with Wilson saying, "John, will you come back with us, back to CIB, and sit in the back with Vic."

A. Yes.

15 Q. Sorry, "John" is Detective Krawczyk?

A. Yes.

Q. Your invitation to go into the front room, did it occur before or after that?

20 A. It would have been before then, yep.

Q. The circumstances in which you were asked, or invited, I think you described it as, by Detective Sergeant Wilson, was anything said to you, or did you know what you were going in to look at?

25 A. Something was said to me, but I - no, I can't remember what was said, other than it was in the form of some form of invitation. That's all I can remember at the moment.

30 Q. You were dispatched to Bossley Park because of information received from the Lithgow raid that there was a certain person there, and there was a suspicion that there were going to either be bombs or explosives there?

A. I assumed that to be so, because of what was contained in the document, but I can't remember what we were told, no.

35 Q. In that screed that was--

A. Yeah.

40 Q. --utilised at the briefing back at CIB. I understand you don't have a recollection, but just, again as a matter of common sense, if that was the aim of the raid, the fact that some gelignite and other items were discovered, wouldn't you expect that to be a matter that would - all officers who were at the site, to be told?

45 A. I don't know the answer to that. I can see no reason why they wouldn't be told, but I don't know why they would be specifically told at that time. They might be told later in the sequence of events, but I can't answer that, I don't think.

50 Q. What about the other searches being conducted? For example, if there was a discovery of gelignite at one place, wouldn't it, again, be common sense to be saying to officers, "Look, we've got something."--

A. I'd agree with--

Q. -- "There might be something somewhere else."

A. Yeah, I agree with that. I agree with that.

5 Q. Your recollection of going into this, I think it's been described as a work room?

A. Yeah.

Q. What do you recall seeing?

10 A. Nothing except that there was some type of structure upon which the plastic bag was positioned was all I recall.

Q. I think you've described it in your evidence at trial you had a cursory look?

A. Yes.

15 Q. There were no items next to the white plastic bag--

A. Not that I remember.

Q. --you recall looking into the white plastic bag?

20 A. Inside the bag, yes.

Q. What do you recall seeing?

25 A. I remember seeing specifically, that I have a memory of having seen the ends of what was later said to be the gelignite and I remember there being holes in the gelignite, but - in the substance that comprised the gelignite, but I have now no specific memory of what else was in there. I think the detonator wires, they were apparent, but that's as much as I can remember.

Q. Do you recall anything about - were they just all loose, kind of thrown in the bag together?

30 A. The wires just protruding up, extending up from below, lower in the bag up toward the mouth of the bag.

Q. Was anything wrapped or separated in any way?

35 A. I can't remember that.

Q. You said you were invited by Detective Sergeant Wilson; was he present at the time?

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

40 Q. Do you remember any other officer being there?

A. No, there was no one else. If - I don't discount that Wilson could've been there, but I don't remember him being there.

HIS HONOUR

45

Q. Did he say why he wanted you to have a look in the bag?

A. No. I - no. My - I've got a recollection or a vision of him having said, "Do you want to have a look?" or words to that effect, but that's as much as I can remember.

50

MCDONALD

Q. That would suggest that he had told you, or somebody had told you, about what was found in the plastic bag?

5 A. What was there, that something had been found, yeah.

Q. Detective Krawczyk was with you roughly the whole time in this lounge/kitchen area?

10 A. Yes.

Q. Was he invited?

A. I don't - I don't know; I don't recall it, but - don't recall him being invited but I have no memory of him being asked to be on that too, if he wanted to have a look.

15

EXHIBIT 2.1-23 SHOWN TO WITNESS

Q. I'll take you to some evidence in the trial - page 796 towards the top of the page - can you see there you say you saw the contents of the bag at some later stage?

20

A. Yes.

Q. "Q. When was that? A. During the time at the house I went into the front room and in a workshop-type room off the hallway the bag was on the bench, opened the bag and had the cursory glance." I'm jumping ahead; you didn't take anything out of the bag. What you saw in the bag, there was some newspaper, some red and green wire and what appeared to be gelignite. "Q. Did you look at the paper? A. Not at that stage but I saw it later." Can I just pause there; where you say, "I saw it later", what period of time or when are you referring to?

25

30

A. I can't remember what was in my mind at that point, but I remember seeing it when I took the statement from Mrs Brajkovic.

Q. Mrs Brajkovic?

35

A. Yeah. Yeah, so it could've been then I was speaking about.

Q. I'll take you to this photograph in a minute. Do you say anything - I think it's this photograph, sorry, I should withdraw that. You were taken to a photograph and you say:

40

"A. That is a photograph of the gelignite and wires that I had seen in the bag.

Q. When you say wires, did you see whether they were attached to anything?

45

A. Not at that stage, I could only see the wires.

Q. At some later stage?

A. At a later stage I saw they were attached to detonators.

50

Q. Where did you see that?

A. Later on at the CIB."

5 Then jumping ahead, you refer to taking a statement from Mrs Brajkovic?
A. Yes.

EXHIBIT 4.1-MM SHOWN TO WITNESS

10 Q. Mr Bennett, in the extract of the transcript I took you to you were shown a
photograph; do you recall if that was the photograph that you were shown?

A. That's a copy of the photograph I think, but I don't think that - I wasn't
shown that particular image as it's presented on the screen.

15 Q. You weren't shown - sorry.

A. If - do you have the original photograph?

Q. We may have; we'll just make some enquiries.

A. Because - all right.

20 Q. Are you making the point that you were shown an original photo or an
original--

A. Shown a photograph.

Q. --print, I'm sorry?

25 A. Yeah. The copy, this copy doesn't show what can be seen under the tape
that was wrapped around these two pieces of material.

Q. When you're talking about the tape and what could be seen under that
material, are you referring to the two cylinders that are taped--

30 A. The two cylinders here.

Q. What was your understanding of what the two cylinders were?

A. Gelnite.

35 Q. I think you gave evidence that when you had your cursory glance in the
bag you saw something at the end of the--

A. Those end pieces that are closer to the bottom of the image, with the holes
in them, they were the what are - that's what I was referring to.

40 Q. You can recall seeing those when you looked in the bag?

A. Yes.

Q. The reference that you just made that this copy of the photograph you can't
see, sorry, what was under the?

45 A. There was some lettering on the cylinders, the cardboard cylinders, and
that's not evident in this image that you've shown me.

Q. That might've indicated type of explosives or brand, or something like that?

A. The brand and a code of some type.

50

Q. You can see from this photograph that at the back there seems to be a white item?

A. Yes.

5 Q. Can you identify that or remember what that was?

A. Not from this.

Q. The white plastic bag, your recollection, was it just pure white or was there any writing on it or?

10 A. As I sit here, I've got a vision of it being similar to a white shopping plastic bag that's now not used, but again, I don't know how accurate that is.

Q. Do you recall on the night that other items were seized in addition to the white plastic bag and its contents?

15 A. Yes. I have read that I carried a typewriter, which I thought was heavy, and put it in the back of the car in the boot. I don't have any recollection of it, but I've given evidence that that was so. I think it was a suitcase taken as well, but I - that's only from what I've read in the documents.

20 Q. When you say suitcase, like a brief case or?

A. No, I don't know, I'm just relying upon what was recorded in the papers.

Q. You can see in that image a clock?

A. Yes.

25

Q. Also there appears to be a roll of like masking tape?

A. Yes, I agree.

Q. When you looked in the plastic bag, were the clock and the masking tape in there?

30

A. I don't know; I don't know.

Q. You've got no recollection of whether--

35 A. Well, I didn't - all I - I have no recollection of seeing them in the bag, ever, to begin with, but I don't - drawing upon the evidence I gave, which I had no reason to doubt, I didn't see or I didn't notice beyond the detonator wire and the gelignite.

Q. Mr Bennett, I'll show you the original Exhibit MM.

40

A. I've seen another photograph though where we could see beyond or beneath the tapes.

Q. You have a recollection that you were shown during your evidence another photograph which included an image of the gelignite?

45

A. Yes.

Q. We don't have a complete set of exhibits, so--

A. That's all right.

50

Q. --if that can be returned, thank you.

A. Yes.

5 Q. If we can go back to your transcript at page 796, which was Exhibit 2.1-23, there are a couple of other answers that I wanted to take you to. You were asked, "Q. How many detonators did you see there?", and you answered, "A. There were seven. Q. What else did you see at that stage in the bag?", and you refer to the gelignite, the newspaper written in a foreign language?
A. Yes.

10 Q. Then, I think you were shown another exhibit and you identified that as "identical with the newspaper that I saw in the bag", then "Q. What else?", and you say, "A. There was a brown paper bag and the detonators and there were six flares". Where was the brown paper bag?
15 A. I don't remember. I'd had no memory of - any recollection of a brown paper bag.

Q. His Honour asked you whether Detective Sergeant Wilson gave any indication of why you were being invited into the room.
20 A. He - it was - my memory of it is it was in the nature of invitation, "Do you want to have a look?", and words to that effect; that's as much as I can recall.

Q. But returning to some questions I asked you at the beginning of your evidence, it, at least, would mean that another officer who was present during the raid was, at least, shown a white plastic bag which contained gelignite, some wires and some other, I'll put it broadly, items?
25 A. Yes.

Q. That issue of corroboration, in a way, that was satisfying that requirement?
30 A. If that was what his purpose was, it could.

Q. You can't say what his purpose was, but that would, arguably, be a result or a consequence of--
A. Consequence.

35 Q. --of inviting you to have a look at the back?
A. I agree with that, yes.

Q. Leaving the premises, I think I took you to - it was in the timetable, but it seems to be that there - I'll describe it as a convoy, that there's going to be, I'll describe it as, your car with Mr Brajkovic in it? When I say your car, you were going to drive?
40 A. Yes.

Q. Then there was going to be another car with the man who was in the back area and then another car with, was it, Mrs Brajkovic and the daughter?
45 A. I don't know how they were conveyed or in what cars they were conveyed, whether they were conveyed individually or together. I just don't know.

Q. You weren't party to any discussion or instructions about that?
50 A. No.

Q. You just mentioned in one of your answers about - do you have a recollection of carrying a typewriter?

5 A. Yeah, there was - I don't remember now, but there's reference in the evidence that I gave to having carried the typewriter out and I said it was heavy.

Q. Do you recall there were some other items like a duplicating machine or something like that?

10 A. I don't remember that.

Q. Do you have a recollection that there were, at least, a number of items other than the white plastic bag and its contents being seized?

15 A. Other items, but I can't go beyond the typewriter, which is something I've learned or came to mind when I read the documents.

Q. The white plastic bag with the gelignite and the detonators and, I think, there were some flares in there. Was there any issue raised about, "Well, we've got to take this back to CIB. How are we going to do this safely?"

20 A. I had no such discussion. At that point I was - I don't think I noted the flares until later, but, clearly, by implication, they were in the bag, but there was no discussion of that type that I can recall.

Q. The account that I took you to in the timetable, to your knowledge was the white plastic bag left in the workroom without any officer being present at any time?

25 A. I don't know.

Q. Would that be an acceptable--

30 A. I would not have thought so.

Q. At the time for a crucial exhibit--

A. At any time.

Q. --and a dangerous exhibit to be left by itself?

35 A. I can't imagine why it would be left alone in that location.

Q. Do you recall being told at any time that items had been taken out of the white plastic bag in that workroom?

40 A. No.

Q. And then put back?

A. No.

45 Q. Again, is that something that was unusual or would it have been accepted procedure?

A. I could understand if someone was extracting items from the bag to see what the entire contents were and then replacing what they removed, but - I can envisage that occurring.

50 Q. If we can concentrate on the white plastic bag and its contents, they've got

to get from the house to the car--

A. Yes.

Q. --and then once in the car to CIB.

5 A. Yes.

Q. Who took control of the white plastic bag, where it was going to be placed, how it was going to be transported?

A. Sergeant Wilson.

10

BASHIR: Sorry, your Honour. Before any more questions, could I just ask the witness to keep his voice up.

WITNESS: Sorry. I apologise. Yes. Detective Sergeant Wilson.

15

MCDONALD

Q. Where was it placed in the car?

20 A. He had it with him in the front passenger section of the car. I can't recall where precisely he had it.

Q. You're driving and he's on your left?

A. He's on my left, yes.

25

Q. Your recollection is the white plastic bag is somewhere near him in that front passenger seat?

A. Yes.

Q. Possibly on the floor or on his lap or--

30 A. Could've been either. I don't know.

Q. The other items, including the heavy typewriter, where were they placed?

A. I understand from what I said previously that I placed that in the boot. It would've been uncomfortable to have it inside the cabin, I would have thought.

35

Q. You had four people in the car?

A. Yes, four adult males.

Q. It would have been cramped?

40 A. Yes.

Q. You remember, or you have a recollection of the typewriter, but other items, like a black briefcase or a duplicating machine--

A. No, I don't--

45

Q. --or some other literature?

A. No, I don't have any memory of that - of any of those items, except that there was a reference to, I thought, a suitcase in the evidence, but I don't - I can't add to that.

50

Q. Mr Brajkovic, he was placed in the back of the car?

A. Yes.

Q. Was he still handcuffed at that stage?

5 A. I would think he was. I have no specific memory of him being handcuffed. If he was, he would've been handcuffed to the front, but I would expect he'd be handcuffed, but I don't remember.

Q. From Bossley Park you're now then going to CIB. I asked you this this morning. Roughly how long would that--

10 A. I don't know. I can't remember the timeline and how long it took to get back. I think there was reference in the evidence to 35 or 30 minutes or thereabouts, but I - today, I don't remember.

Q. When you go back to CIB, the car's parked at CIB?

15 A. Yeah, there was - and I don't remember where I parked, but there was parking - street parking allocated to police cars in that side street to the east of the building and I think there was space out the front at the time on Liverpool Street on the westbound side of the roadway, I think.

Q. But it wasn't underground parking under the--

20 A. I don't remember. There - I think there was parking underground, but I think it was also part of the - there was a public car park under the building. I think it was Wilsons, one of those car parking companies, and I think they had some spots allocated, but I don't remember parking under there.

Q. Do you recall where you parked?

A. No.

Q. There was some evidence at trial that Mr Brajkovic assisted in transporting some of the items that had been seized?

30 A. Yes, I remember reading that, but I don't remember it.

Q. Do you recall that?

35 A. No, I don't have a memory of it today, but I recall reading it in the evidence.

Q. Would have that been unusual for a suspect who was handcuffed to assist in taking - carry an item back to the CIB?

40 A. No, I don't think it was a regular practice, but I don't think it's unusual. I don't think it would be - I don't see anything odd in it, if I can put it that way. If they didn't want to do it, of course, that would be the end of the story, but if they were happy to do it.

Q. If they wanted to be helpful?

45 A. And if we were - you know, our arms were full.

Q. From the car you go back to the third floor?

A. Yes.

50 Q. You gave some evidence this morning about this. Mr Brajkovic is put in

one of those - they were actually designated interview rooms?

A. Yes.

5 Q. What happened to the white plastic bag and its contents that were in the driver passenger seat with Wilson?

A. It was, so far as I can recall and so far as I am aware, it was retained by Wilson and he had that with him when he and Harding came into the room and I left.

10 Q. Can I just, before we go to those more details about what happened on the third floor, within the Breaking Squad, I'll ask you generally, if you attend a raid or execute a search warrant and items were seized, when you got back to the Breaking Squad, was there a procedure where they were going to be recorded in an exhibit book or some kind of record within Breaking Squad?

15 A. No, there was no exhibit register in the Breaking Squad. The procedure, I think, was to lodge them at the police station where the person was charged. They had exhibit registers back in the old way of doing it, they had an exhibit book and items were recorded there.

20 Q. I'll put it collectively, you had particular items that were seized which potentially were dangerous, the gelignite--

A. Yes.

Q. --and the detonators?

25 A. Yes.

Q. Was there any procedure at the time about where they were going to be logged in?

30 A. I don't remember there being one. I just don't remember that. There might well have been, but I don't have any memory of it.

Q. Within Special Branch, you said that there was no exhibit book or something like--

35 A. Special Breaking Squad, yeah.

Q. Not Special Branch, I'll start again. Breaking Squad. There wasn't any kind of special exhibit book or area where items could be logged or kept?

A. No.

40 Q. Based on your evidence, it was, really, assuming the person was then going to be charged, that they would accompany the person to the police station and be logged there?

A. Yes.

45 Q. Would that also include things like gelignite and--

A. I just don't know. The exhibits generally would be logged in at the police station, or should be logged in at the police station, I suppose. I know there were the procedures for items such as money or weapons and such, but I just don't know what they were. I've got no memory of what they were at the time.

50

Q. Can I take you back to the third floor. Are you the person when you arrive on the third floor that's got Mr Brajkovic, really, in his custody, in that do you take him to the interview room?

5 A. Yeah, we went into the interview room. I waited there until the other two arrived and then went on my way.

Q. Was there some kind of policy or procedure that if a suspect or somebody who had been arrested was brought onto the third floor and put into an interview room that there had to be another officer in the interview at all times?

10 A. There was no specified requirement, as I remember it, and I - it's possible someone could be left in the interview room for a moment while somebody walked away to get paper or whatever, a typewriter or whatever, but, generally, it would be unwise to leave somebody in custody alone in a room.

15 Q. You wouldn't expect it would be for an extended period like 15 minutes--
A. No.

Q. --or 20 minutes, something like that?

20 A. I wouldn't expect that to be acceptable.

Q. You take Mr Brajkovic to the interview room. Does he say anything, or do you have any discussion with him at that point?

25 A. I had - I didn't have any conversation with him. It was not my task on this occasion. He was there with Harding and Wilson. I went back to my desk and did whatever I was doing at the time.

Q. Can I just pause there. You remained in the room with him until Detective Sergeant Wilson and Detective Harding came back?

30 A. Yes.

Q. Do you recall if, at that point, Detective Sergeant Wilson had with him the white plastic bag?

A. That's - my memory is that's so, but it's - yeah, I think that's right.

35 Q. You think that's right?

A. Yeah.

Q. They come into the room, and then you leave?

40 A. Yes.

Q. What do you do then?

45 A. I went to my desk. I don't know what I did then. I had other work to do, of course. I have no idea what I did, but it was in the vicinity of my desk up in the location of the - at the location I identified earlier.

Q. At some point you were assigned, or directed, to take a statement from Mrs Brajkovic?

A. Someone asked me to do that; I don't remember who.

50 Q. Do you recall how long after you arrived back at CIB you were given that

task?

A. No. No.

5 Q. You outlined some aspects of it beforehand. It was in conjunction with Detective Krawczyk?

A. Yes.

10 Q. Because Mrs Brajkovic was there with their daughter, the interview was actually conducted on the fifth floor.

A. Yes.

15 Q. At any time, can I say up until the time recorded in the timetable of Mr Brajkovic being taken to Central to be charged, were you told, or did you come to know, that Mr Brajkovic was going to participate in some kind of interview?

A. No.

20 Q. When you went to the fifth floor to interview Mrs Brajkovic, as part of taking the statement, did you want to show her the white plastic bag and its contents?

A. Yes.

25 Q. How did you determine where it was, and how you were going to get it?

A. I don't know. I can't remember. I - I am satisfied, I had reference to the evidence I gave, that it was Krawczyk who retrieved it for that purpose, and they took it away again, but I don't remember the precise mechanics of the process and the decision that led to that.

30 Q. Your recollection is it was Detective Krawczyk who went down to level 3, got it--

A. Yes.

35 Q. --brought it back. It was shown to Mrs Brajkovic--

A. Yes.

40 Q. --and then Detective Krawczyk returned it to the third floor.

A. Yes.

45 Q. When it was in your possession on the fifth, and in showing it to Mrs Brajkovic, did you take items out of it?

40 A. I don't remember whether I did or not, but it - I expect that I opened the bag, so that the contents could be visible from the mouth of the bag, but I don't remember taking the items out and putting them on the table in front of her.

45 Q. In doing that, the passage I took you to, I think it was at the trial, where you said, "Look, later on I saw that there were flares"--

A. Yes.

50 Q. --or, "Later on, I saw that the wires were actually attached to detonators", your recollection is you were able to perceive that when you were with Mrs Brajkovic?

A. Yes.

Q. Your recollection, again, is that if you opened the bag to its width, you could actually get a better look?

5 A. Yes. Yeah.

Q. Do you have a recollection, other than that point of the early morning of 9 February, seeing the white plastic bag again?

10 A. No. No.

Q. We'll come back to this, but did you ever see the - putting to one side being shown at committal or trial, during February and March, do you recall seeing the white plastic bag and its contents again?

15 A. I did see the bag and its contents again, because I conveyed the items to the Dangerous Goods Branch up at the Royal Bank building.

Q. Putting that to one side--

A. But I have no other - no.

20 Q. --before you did that--

A. No. No, I don't.

Q. Do you know where it was?

25 A. I can't - I have no memory. I cannot remember. I know the evidence was that Wilson contacted me from doing the course out at the Army camp, I think, from memory, but I - I have no idea. I completed the forms, and thereafter took them up to the Dangerous Goods Branch and left them there with a Mr Armstrong, according to the document.

30 Q. Sorry, is your recollection that you were at CIB and you were contacted by Detective Sergeant Wilson?

A. That was the evidence I gave, and I presume it was the case. I would not have - wouldn't suggest that I said anything other than the truth.

35 Q. Based on that evidence, Detective Sergeant Wilson wasn't at CIB. He was elsewhere?

A. Yes.

Q. Where did you go within CIB to find it?

40 A. I don't know. I don't remember. I've got no memory of it at all. I don't know where it was being held.

Q. You would hope it was somewhere secure?

45 A. I would hope so. I would hope so. I can't even remember where the Ballistics Unit was located from back then. Whether it was within the - I just don't know.

50 Q. From your evidence and what you've said today, I think I took it that the white plastic bag and its contents was being kept somewhere in Breaking Squad?

5 A. I don't know. I have no - I just have no memory of having any contact with it other than the phone call from Wilson, and then conveying it to the Dangerous Goods Branch. I don't know from where I had it. There were - the actual administration, or the supervision, of the overall brief, what they would now today call the officer-in-charge of the case, was Turner, and I don't know whether he had it and - back - I just don't know. I have no memory of it.

10 Q. Do you recall at trial, including the voir dire, a different version of what occurred at the CIB at the end of 8 February and the early morning of 9 February was put to you during your cross-examination?

A. By whom?

15 Q. By counsel for Mr Brajkovic.

A. Mr Lloyd - it was Lloyd Jones?

Q. I think so.

A. Yep.

20 Q. In particular, there was evidence that on the night, before Mr Brajkovic was taken to Central, that there were times when he was left alone in the interview room for 15, up to 30, minutes by himself. Did you have any knowledge of that?

A. No.

25 Q. From what you've said, that would be contrary to your understanding of the procedure at the time?

A. It would be most unwise, I would have suggested. I just can't imagine ever doing that.

30 Q. Do you recall that night, were other officers arriving from other raids?

A. There were police coming and going, but I can't identify who they were, or from where they came, or to where they were headed.

35 Q. Let's say at 1 o'clock in the morning, that level 3 was unusually busy?

A. No. I wouldn't say that. It was - but there were police around, but I don't have any memory of what they were doing or why.

40 Q. Was there any discussion about what was found at other raids, and other people who had been brought in?

A. Not - not with me.

45 Q. Mr Brajkovic refers to being in the interview room where Wilson, Harding, Morris, MacKenzie and yourself were present, and then a conversation occurred, which I'll take you to what was suggested. Can you recall being in the interview room at any stage that night with those other officers?

A. No.

50 Q. Wilson said to him, "We've found explosives in your house." And Mr Brajkovic demands to be shown them.

A. Not in my presence.

5 Q. Then there was evidence from Mr Brajkovic that you had some kind of notebook, and you asked a series of questions. I'll just read them out. Along the lines of, "Are you against Serbians? Have you travelled overseas? Where have you travelled? What do you think about Chinese aggression? What do you think about human rights?"

A. I did not have any such conversation.

10 Q. Mr Brajkovic also gave evidence that at a particular point, when Detectives Harding and Morris were in the room with him, that he was assaulted. During 8 and 9 February, did you witness any assault of Mr Brajkovic?

A. No.

15 Q. When he was transported back to CIB and he was in the back of your car--

A. Yes.

Q. --at that point did you observe any injuries to Mr Brajkovic? For example, on his face?

A. No.

20 Q. Did you hear anything on 8 or 9 February which suggested that Mr Brajkovic had been assaulted by officers Harding and Morris?

A. What? The noise of such behaviour?

Q. Yes.

25 A. No.

Q. Or talk by other officers who might have been on the floor when you were up on level 5?

A. No.

30 Q. Mr Brajkovic, at one point after that, there is evidence that within the room there is Morris, Wilson, Harding and you again, and you asked the question, "Do you know anyone in Croatia, or have you got family in Croatia?"

A. No. I did not.

35 Q. Then you came back with a three-page document with his name and address and some other information on it.

A. I don't know what document that could have been, but I did not.

40 Q. At this point you said something to him along the lines of, "Look, excuse us, Vic, these people are rough, I'm sorry for this"?

A. No. Didn't say that at all.

45 Q. Can I just go back to your evidence earlier today when you were shown the floor plan of level 3?

A. Yes.

50 Q. You gave an indication of your desk. The location of your desk. You obviously saw Mr Brajkovic when you all arrived at CIB and you were in the room with him?

A. Yes.

Q. You gave evidence that you next saw him when it appeared that he was being taken from the building you assumed for charging?

5 A. Yes.

Q. Did you get a good look at Mr Brajkovic at that time?

A. No.

10 Q. But you were able to identify it was him?

A. Just saw him being - well, walking out of the floor, off the floor onto where the lifts were located, yeah.

Q. Were you able to see whether he appeared to be suffering from any injuries at--

15

A. I saw nothing to indicate that.

HIS HONOUR

20 Q. Were you able to tell that he appeared uninjured?

A. I couldn't form a view one way or the other, your Honour, in the - it was a little more than a glance as I perceived matters, and I was at the other end of the floor where my desk was located. It's simply having noticed him walking out, that's as much as I can say.

25

MCDONALD

Q. Can you give a rough indication of the distance?

A. From the interview room to the - where, here?

30

Q. From where you were--

A. From where I am, okay.

Q. --at your desk to the entrance to the lift lobby?

35

A. Yeah. It would have to be at least 20 metres I think. That's a guess; been a while since I've been in that building, but with reference to the desks and how they were located, it would have to be I think 20 metres.

Q. Do you recall on that night, and again I'm just putting it at the level of chatter or discussions on the floor, that there was some other evidence obtained or some intelligence about a possible plot to murder two other members of the Croatian community in Sydney?

40

A. No, I don't - don't remember that.

Q. Again during the night, were you, again chatter or, told anything, about some kind of plot to hijack an American plane?

45

A. I don't remember that.

Q. Do you recall that was raised during the compilation of the timetable and notes, and probably the next morning at the 8.30am meeting?

50

A. No. I don't remember.

Q. You prepared statements, but I'm concentrating on your first statement--

A. Yep.

5

Q. --which I asked you about this morning. That was dated I think 24 March?

A. Yes.

10 Q. If you need to have a look at it, it's a statement which only refers to events on really 8 February and 9 February?

A. Yes.

15 Q. We have seen, in the Inquiry, statements which in a sense are a work in progress because other things happened subsequently but that first statement you gave is confined to those - that time in February. Why was there the delay?

A. I don't know. I was - I just don't know. My life was quite busy at that time I might say, but I don't - I just don't know, and--

20 Q. You gave evidence that in - I'm sorry.

A. --and I might say, not a practice that I would favour to take that amount of time, prepare a statement, I just don't know.

25 Q. You gave evidence that, in writing, that statement you did have reference to, I think you describe it as compilation notes?

A. Yes.

30 Q. When you refer to compilation notes, do we take it it's a reference to Exhibit 11.89, the timetable?

A. I presume so, yeah.

EXHIBIT 4.2-28 SHOWN TO WITNESS

35 Q. In your statement, it's two pages--

A. Yes.

Q. --and it starts at 10.15pm on 8 February going to Bossley Park?

A. Yes.

40 Q. It concludes - if we go to the next page - what occurred or your account of your involvement at Bossley Park finishes really at the end of paragraph 7?

A. Yes.

45 Q. Paragraph 8, you, Wilson, et cetera, go back to CIB--

A. Yes.

Q. --and then you record in paragraph 9 taking Mrs Brajkovic's statement?

A. Yes.

50 Q. Nowhere in your statement do you refer to "I went into the work room and I

was shown - there was a white plastic bag there, I looked into the white plastic bag and there was some gelignite and wires"; do you?

A. That's right.

5 Q. That evidence was relevant evidence because it corroborated evidence of, I'll put it broadly, other officers as to finding the white plastic bag with those particular contents at the site on that night?

A. Yes.

10 Q. Corroborated that it was brought in by Detective Sergeant Wilson and his invitation to you to have a look at it?

A. Yes.

15 Q. As you gave evidence at the beginning of today, one of the things that you have in your mind, or you should have in your mind when you're attending a raid, is how can we corroborate what we found?

A. Yes.

20 Q. And it wasn't included?

A. Yes.

Q. Do you recall why you didn't include it?

A. No idea. I have no idea. I - just do not remember.

25 Q. If we can jump back to 11.89 which was the timetable, page 1287?

A. Yes.

Q. It records that on the two occasions when this was being compiled you were present?

30 A. Yes.

Q. Again, nowhere in the notes is recorded your corroboration of the plastic bag and its contents, or being invited in by Wilson and observing them on site. Again, was this something you raised during this compilation?

35 A. I have no memory having raised it. I have no memory of having introduced it all in the course of whatever that sequence was.

Q. I know hindsight's a wonderful thing, but in hindsight is it the type of thing that should've been included?

40 A. In hindsight it should've been. I can't - I just cannot explain why I didn't include it. It would be pure conjecture on my part; I just don't know.

Q. A suggestion that it wasn't included because it didn't happen--

A. Yeah, that's - I reject that.

45

LUNCHEON ADJOURNMENT

50 Q. Mr Bennett, before the lunch break, I had asked you some questions about Mr Brajkovic's account of what happened on level 3 of the CIB at the end of 8 February into the early hours of 9 February, and I put certain propositions to

you, or certain evidence to you, which you rejected. At any point at both the raid at Bossley Park, and also when you were at the CIB, for example, the first time you were in the interview room with Mr Brajkovic, did he ever raise, "Look, I want to talk to a solicitor."

5 A. Not in my presence, no.

Q. If he did raise, "I want to talk to a solicitor", in February 1979, what was the procedure where a suspect made such a request?

10 A. There was no normal procedure in place such as there is now, but what ought to have happened is that steps should have been taken, or let him make a phone call, or to nominate somebody for one of the police to contact.

Q. Given your role on 8, 9 February, was that matter that would have been considered by Detective Sergeant Wilson, or is it something that if a request had been made to you, you could initiate action?

15 A. I could, and I believe I would have initiated action.

HIS HONOUR

20 Q. Sorry, I missed the last part. Was that "would" or "would not"?

A. I could, and I believe I would have initiated action.

EXHIBIT 11.89, PAGE 1289, SHOWN TO WITNESS

25 MCDONALD

Q. If we can go to the bottom of the page. We have the entry commencing at 11.35pm.

30 A. Yes.

Q. It commences with you, Wilson, Krawczyk and Mr Brajkovic arriving at the Armed Hold Up Squad office. Then under that paragraph, it also includes "Mrs Brajkovic and daughter placed in Breaking Squad office, and then later taken to Woman Police Office", which was on level 5?

35 A. Yes.

Q. And, "Statement obtained from her by Bennett."

A. Yes.

40 Q. The time at which you took the statement from Mrs Brajkovic, what time was it roughly?

A. I can't remember, but I don't believe it was 11.35. That sequence of events there described seem to be a representation of them having commenced at 11.35, but my recollection is the statement was taken after midnight.

45 Q. If the suggestion is the taking of Mrs Brajkovic's statement occurred around 11.35, at 11.35, you disagree with that?

A. Disagree with that and my evidence, as I read it, was in terms - that it was after midnight, in the early hours of the morning.

50

Q. With the raid and the travel back to CIB in Sydney, I just want to suggest to you, in the timetable it is 10.15 roughly you all arrive at Bossley Park?

A. Yes, that's what's recorded in there.

5 Q. Then you've got the recording there of 11.35 that you, others and Mr Brajkovic arrive back?

A. Yes.

10 Q. Again with the travel from Bossley Park back into the city, does that suggest that it was, for the majority of officers, you were at Bossley Park for a relatively short period of time?

A. On that timeline, yes.

15 Q. Again I just suggest to you maybe about half an hour or less than half an hour?

A. At that - at the premises?

Q. Yes?

20 A. Could be. Yes.

Q. I did ask you earlier when I showed you the photo whether it was a substantial block of land or whatever. Did you have any understanding or did you overhear any directions about the continuation of the search of the premises?

25 A. No.

Q. Because if gelignite was discovered in the white plastic bag, which was with Mr Brajkovic, it was possible that there were other explosives or detonators on the site?

30 A. As a possibility, I'd agree with that.

Q. You would anticipate that a thorough search should be continuing?

35 A. In the modern era, I would've expected the place to be secure and isolated for an exhaustive search of the premises.

Q. Were you told at any point of time about phosphate, bags of phosphate or fertiliser being located in the shed?

40 A. I don't remember that. I think there's reference to that in one of the documents that went up to the Dangerous Goods Branch; I'm just trying to remember, but I don't - have no memory of that.

45 Q. Following up from one matter that you gave evidence about very early, when I took you through the various other officers who attended the raid, you spoke about Detective Harding and you mentioned that you had an involvement with him after you left the Police Force?

A. Yes.

Q. Just putting it very broadly, was that in respect of originally he was a person of interest at an ICAC inquiry?

50 A. Yeah, I think that's a fair comment. Yeah.

Q. You represented him during that hearing?

5 A. Well, part of the time. I became fairly ineffectual part way through because the primary witness, who was making allegations against him, was ill and was unable to continue, and therefore I was given the opportunity to ask him questions, so I ended up standing aside. I think David Kirby QC at the time took over that line of questioning.

Q. Subsequently is it your understanding there was a referral to the DPP--

10 A. Yes.

Q. --and some charges were laid against--

15 A. He was charged with giving false evidence in a sequence of hearings that were extended over a long period of time. I appeared in the trial and he was acquitted.

Q. That was when you were at the private Bar?

15 A. It was the last trial I appeared in before I was appointed as a Crown Prosecutor.

20 Q. I'll start with some specific questions and then kind of move to more general. With records of interview, and I'm focussing first on February 1979, you learnt, and I think it's reflected in the timetable, it's recorded then that Mr Brajkovic did participate in a record of interview?

25 A. Yes.

Q. You may have known at the time or seen subsequently there is a document which is a typed with questions and answers?

A. I don't think I've ever seen that document. No.

30 Q. Did you understand that with that record of interview that was the way that the evidence was produced at trial?

A. At the committal and the trial and I think Justice Maxwell rejected the tender.

35 Q. I'm more interested in the format. Did you have an - around February 1979, if a suspect was offered a record of interview or to speak to police, at that point, again it comes back to keeping in your mind we may want to adduce this in evidence eventually at a committal. In February 1979, what was the most optimal way of recording admissions in such a context?

40 A. Ideally, in a typewritten record of interview which the person participating signed and in which he initialled or she's initialled errors, if there were any, adopting the truth and accuracy of the responses given. The process included an independent officer coming forth and in the absence of the two or three, whoever was present, people asking questions, would ask a series of
45 questions to establish the integrity of the record of interview so that when the matter came to Court there would be the two detectives, whoever they might have been, who conducted the interview, typed it and questioned, and there would be a senior officer or independent officer who would give evidence of the adoption. That was the optimum. The other way of doing it would be to
50 record conversation in the notebook - the official notebook, which is an

accountable book, each one numbered, the pages numbered, and whether it was typewritten or handwritten, really, is neither here nor there. It's, obviously, quicker to type, I would've thought, but it's simply a method of recording whatever passed between those questioning and the person being questioned. The same practice ought to be followed either if the document or notebook was signed by the person or not, an independent officer would come forth to speak to the person to sever any complaints to establish the integrity or to confirm the integrity of the process.

5
10 Q. Around February 1979, had you ever come across a reluctance by a suspect, who was then charged, and was fearful that a signed record of interview or even some record of the record of interview would travel with the person when they were sent on remand in gaol?

15 A. I've heard of that, but I can't recall precisely in what circumstances, but the practice was that a copy of the document - this was before photocopiers were available in any reliable form. There'd be three or four copies, I think, carbon copies, and one of those should be given or should've been given to the person interviewed and some were reluctant to take them.

20 Q. Do you know why or did you have an understanding as to why?

A. My understanding was they were concerned about having a document finding their way into their property in the gaol if they were in custody and the possibility of that - their cooperation having been disclosed and it becoming known to other inmates.

25 EXHIBIT 4.2-75 SHOWN TO WITNESS

30 Q. You can see at the top this is the record of interview conducted at CIB, Thursday 8 February between Detective Sergeant J F Wilson and Mr Brajkovic. Then it records who is present and also that Detective Harding is the typist and commence date time. Have you seen this before?

A. No.

35 Q. If we just quickly go through it, you can see it's got the format of questions and answers and there's some kind of signature or initials right down the bottom of the left-hand corner, but if--

A. Yes.

40 Q. --you go through to page 613.

A. Yes.

Q. Can you see there that Detective Inspector Morey arrives?

A. Yes.

45 Q. There are a series of questions asked by Inspector Morey?

A. Yes.

50 Q. Then it records after 112 he reads out the first seven pages of the record of interview out aloud to Mr Brajkovic?

A. Yes.

Q. Then he read this page whilst it was still in the typewriter and then again there's a series of questions by Inspector Morey?

A. Yes.

5 Q. Then right down the bottom we have, "Witness J F Wilson"?

A. Yes.

Q. Then it would appear to be Inspector Morey's signature on that left-hand bottom corner?

10 A. Yes.

Q. It would appear on the face of this that Mr Brajkovic didn't sign it?

A. Yes.

15 Q. The procedure that you set out of Detective Inspector Morey as is reflected in this page of the transcript of coming in, speaking with the person, here, it would appear, reading out all the previous questions and answers, and getting Mr Brajkovic, it would appear, to agree and then Inspector Morey, in a sense, signing that.

20 A. Yes.

Q. Was there any issue, to your mind, of Inspector Morey, being the senior officer, who was brought in to undertake this verification?

25 A. In light of his role in the exercise from the beginning, it would have been, I thought, at least at this stage of my experiences, I would have thought it would have been better to have someone completely independent to come in.

Q. Was it usually the case that you brought in a senior and independent officer to do the verification?

30 A. It usually was the officer - well, in divisions, where there was a detective sergeant in charge of the detectives' office, it was usually that person. If he or she, "he" in those days, was unavailable, one of the commissioned officers from the station would be called upon, or a first-class sergeant from the uniformed staff. At the CIB, it would have been, in my experience, the
35 officer-in-charge of the squad, or the senior officer on duty at the squad. Back in the days when the CIB was in the building in Campbell Street, which is now a block of apartments, there was a reception officer, who was located on the ground floor, and either he was brought around, or wherever the office was, or the person being interviewed was taken to him and he would go through the
40 process, but he'd be removed from the investigation.

Q. Can you recall on whether in the--

A. Or separate from the investigation.

45 Q. Sorry.

A. I'll say separate from the investigation. I said, "removed", but correctly, it would have been separate and distinct from the investigation.

50 Q. Can you recall on whether in the early hours of 9 February whether there was any other senior independent officer at CIB at the time?

A. I don't remember. I don't remember who else was there.

5 Q. If you assume that there were a number of suspects brought in on that day, after various other raids had been undertaken, with interviews being undertaken with these various suspects, would it have made sense to bring in specially another independent senior officer for this verification role?

A. Sensibly, I'd agree with that.

10 Q. Again, is that something that given your role on the night, it wasn't something that you were--

A. Well--

Q. --concerned with or engaged in?

15 A. It's not - that wasn't my role on the night, and I don't know that Inspector Morey would have been favourable if I had said that we should be doing this.

Q. Can I just confirm, the verification that we've seen on the last pages of that interview, it was your understanding of the other process of a notebook questions and answers?

20 A. The same thing. It would have followed the same pattern. Well, I would. I would, anyway.

Q. At the time, was there any set procedure, or instructions, to officers about how they should obtain this form of verification?

25 A. In general terms, to have an independent officer come in and perform the verification, it came about sometime before 1970, that process. I don't know when. It was certainly the practice that was employed. When I did the detectives' training course, that was part of the training we had.

30 Q. That's what you were trained--

A. Yeah. Yeah.

35 Q. I asked you about the evidence of Mr Brajkovic about what occurred when he was on level 3. When you were on level 3 at the end of 8 February and into the 9th, did you hear anything of Mr Brajkovic being assaulted, or any or suspects that had been brought on to the floor being assaulted that night?

A. No.

40 Q. Can I ask more generally, around that time within the Police Force, were you ever involved in any other investigation where there were assaults by police officers on suspects in an effort to gain admissions from them?

45 A. No. I was not, but there was an incident at Central Police Station when I was stationed there as a - a designated detective on afternoon shift, when a man was taken to Sydney Hospital, and we were called, as the afternoon shift detectives, by the people in the hospital, and they - we went up to where the - from where the call emanated, the person was deceased. He - the history had been that he was, at some point, arrested and taken to the cells at Central Police Station, and in due course, after an investigation, there was - two police were charged with that death. My partner and I at the time, 50 Detective Sergeant Trevor Swift, who is now deceased, we took the report, or

took the information from the hospital staff, notified our boss, the detective sergeant in charge. He immobilised further members of our office, and in due course was taken over by other police from one of the specialist units. I think the Special Crime Squad, or whatever it was known by in those days. There was a coronial inquest. Mr Michael Finnane, who was junior counsel, appeared as counsel assisting. I gave some very short evidence in those proceedings. That was the high watermark of any misconduct of that type to which I was exposed, but not within the parameters of the strict - or strict parameters of the circumstances you've outlined, no.

5

Q. What about again at a more general level, allegations of police fabricating admissions? In a sense, you know, outside, just typing something up or writing something up in a notebook which they give evidence, look, the particular person ultimately didn't adopt it but this is what they said?

10

A. Yeah. That was - there was an awareness that some would engage in that behaviour. There was an inquiry by Justice Beach before he was appointed to the Bench in Victoria, dealing with that very problem to Victoria, and he came out with a report recommending certain processes that ought to be employed. I had been at university for some time; by then I was aware of studies that had been made in the United States where interviews by major city police forces were recorded electronically. The Police Association asked for input from the CIB upon that topic. I had provided a report. That was on 12 August 1281. When I provided it to Detective Sergeant Angus McDonald. I recommended strongly for there to be electronically recorded interviews. Didn't go anywhere and I was out of the job the following August.

15

20

Q. For example, the report by Justice Beach in Victoria, when you read that, I assume it was based on or referred to instances where either there was fabrication--

25

A. Yeah.

Q. --of admissions or the other example of duress through admissions, to obtain admissions I'm sorry.

30

A. Yeah. My memory of what I've read, and this is a long, long while ago now, but it was he focussed upon the patter, the pattern of speech that was recurrent in the confessional material that was presented by police down there and he'd found it implausible that the same representations would fall from the - from various participants of diverse circumstances, from diverse circumstances.

35

Q. I think in Rumpole that used to be "Fair cop guv, you've got me"?

40

A. Well, that's an extreme example of it, but one of the things that I noted, the thing with some people in their interview in that context, from a particular socioeconomic background, would adopt the same sort of speech pattern. I'm not suggesting that Justice Beach got it wrong, but there was a factor that one could not overlook. You would not expect Oxford grammar from somebody who was engaged in thieving from the inner west of Sydney, you know.

45

Q. The typed record of interview that I just took you to, and you gave evidence that, to your knowledge, the admissions, the recorded were excluded at trial--

50

A. I've read the judgment by Justice Maxwell on that.

Q. --part of the evidence that was put forward to Justice Maxwell included evidence of injuries that Mr Brajkovic received.

5 A. There was - Mr Brajkovic, I tell you Mr Brajkovic had accused me of having assaulted him and then that later was abandoned apparently, because I was interviewed by some senior officer from police headquarters about that. It was fallacious, that allegation, insofar as it was directed towards me, but that was one of the matters that Justice Maxwell considered when coming to the
10 decision that the interview should be excluded.

Q. Looking at your involvement on 8 February and 9 February, at any time did you see evidence of Mr Brajkovic suffering from injuries, you know, on his face?

15 A. No, I did not.

Q. You spoke about being interviewed by a senior officer; was that as a result of a complaint made by Mr Brajkovic?

20 A. A complaint by him. I was called upon to provide a report at police headquarters in College Street; I forget who the inspector was.

Q. Was it Shepherd, if I say Shepherd?

25 A. Yeah, Shepherd rings a bell. I had a Detective Inspector Walker in mind, but it could've been Detective Inspector Shepherd. I was called upon to provide a report, which I did, and I heard nothing else after that other than what I've learned since.

Q. I'd asked you earlier in the day about when you were on a raid and you locate an item of interest, like a gun or drugs or something like that, the challenge of in a sense strengthening the evidence to ensure its
30 admissibility. With, I'll put it generally, the Croatian Six, did you hear any discussion or word about, for example, Mr Brajkovic or other of the accused being loaded up with gelignite?

35 A. No.

Q. Moving away from the Croatian Six, did you ever witness any such conduct in other investigations or matters by police?

A. I did not. No.

40 Q. Did you ever hear rumours or word about that or discussion about that conduct happening?

45 A. There were rumours. Without being specific, I can't identify their source of their reliability, but there were rumours. Was a matter that one ought to have held concern about. There were propositions put to witnesses, police witnesses in Court, about having engaged upon that conduct, but beyond that the Royal Commission, which I've had access to, painted a bleak picture, I concede, especially in some areas.

50 Q. I was going to ask you that. The Royal Commission was, obviously, sometime after you've left the Police Force?

A. Yeah, it was 1995.

Q. But there were damning findings by the Royal Commission. Did it surprise you?

5 A. The extent of it did. Mr Justice Harrison, now the Chief Judge at common law, when he was at the senior Bar, he and I conducted an inquiry into the AFP as a spin-off from the Royal Commission and looked at their misconduct connected with the joint task force that was in place. The extent of it was surprising. Disappointing, at least.

10

Q. Can I return to March 1979 and you've given some evidence about this where you get a phone call from Detective Sergeant Wilson about taking the gelignite to the Dangerous Goods Branch?

A. Yes.

15

EXHIBIT 2.1-90 SHOWN TO WITNESS

Q. Page 3069. Looking at the cross-examination by Mr Lloyd Jones, and can you see the question, "Where were you when you received that from Wilson?"

20

A. Yes.

Q. Then you say, "I was actually in the office. Sergeant Wilson was at a training camp", et cetera.

A. Yes.

25

Q.

"A. He telephoned me and told me where they were located and asked me to arrange to have them taken to the Dangerous Goods Branch.

30

Q. So he didn't actually hand them to you himself?

A. No, he passed control via telephone call.

35

Q. It was not until 28 March that you took up any action in relation to them?

A. 28 March I took them up, yes."

40 Can I just pause there with some of the answers that you've given. In that second question, you do say that Detective Sergeant Wilson told you where they were located.

A. Yes.

45 Q. Does that jog your memory as to where he said?

A. I've read that several times. I just don't know.

Q. You say you were actually in the office?

A. Yes.

50 Q. Does that allow us to conclude that the plastic bag with the gelignite, et

cetera, was somewhere in the Breaking Squad office?

5 A. I don't know. I just don't know, because I completed the form at some point before - so there was a couple of days in-between the telephone call and when the form was completed and taken up. I just don't know. I don't know whether I've completed the form then retrieved them or - actually, I just don't know the answer to it.

Q. Then if you look at, I think it's about the third last question:

10 "Q. When you took these items, how did you carry them? What did you carry them in?

A. I put them in a large manila envelope and I labelled that envelope as to the contents and by name and station, I believe."

15 A. Yes.

Q. Do you recall did you take the plastic bag or was it only the gelignite and the--

20 A. I don't know. I just - I have no memory of precisely what I did. I don't cavil with proposition that I did it, that I took them up there. That was the evidence I gave back then, which must've been true, but I don't have a memory of the details of what occurred.

25 EXHIBIT 4.1-LLLL SHOWN TO WITNESS

Q. Page 260 and if we can expand that. You saw it was headed "dangerous goods branch", Police v Brajkovic, et cetera.

A. Yes.

30 Q. Then can you see, "On March 28 1979 I received from Detective Senior Constable Bennett the following", and it lists about six different items.

A. Yes.

Q. That's your record of what you transported in the large manila folder?

35 A. Yes.

Q. Manila folder or manila envelope?

A. Manila envelope, I think, was correct.

40 Q. This report, was it provided back to you?

A. I don't believe so.

Q. If you go to the next page, which is 261, if you look at Mr Butt's findings--

45 A. Yes.

Q. --you had seven L series delay electric detonators?

A. Yes.

50 Q. We'll jump over the flares and distress signals and then item 6 is, "Two part cartridges for commercial explosive, namely, A.N. Gelignite". Again, did you

have any concern of just putting everything in a large manila envelope and--
A. Apparently not.

EXHIBIT 11.89, PAGE 1290, SHOWN TO WITNESS

5

Q. I'm looking at the paragraph immediately under "1.46am".

A. Yes.

10 Q. This may appear to be a bizarre question, but can you see there's a reference there to, "Spoke with Detective Howard and informed him that Brajkovic was involved in the plan to hijack an American airplane in the near future."

A. Yes.

15 Q. I'm just looking at "hijack". You don't recall any discussion, or being raised, about the revelation of this plot to hijack a plane?

A. No.

20 Q. There's been some evidence about how you spell "hijack". Whether it's one word, whether it's got a hyphen, or whether it's got two words. Do you remember any discussion about that on level 3?

A. No.

25 Q. Do you recall anybody who used to spell it as two words, or with a hyphen, or anything like that?

A. No idea.

30 Q. You may recall in the document that I showed you, which was available at the time of the briefing before you went out to Bossley Park, and it referred to Lithgow and two names?

A. Yes.

35 Q. One of the names was Vico Virkez.

A. Yes.

35

Q. Had you come across that name before?

A. No.

40 Q. At any time during your role in the raids, and preparing statements, and attending committal and trial, did you ever hear anything about Mr Virkez, and any links he may or may not have with the Yugoslav Consulate?

A. No.

45 Q. The Yugoslav Government?

A. No. Nothing.

Q. You gave evidence of representing Mr Harding when you were at the Bar.

A. Yes.

50 Q. Do you still keep in contact with Mr Harding?

A. Yes. Yeah.

Q. Do you keep in contact with any other officers who were involved in this?

5 A. Detective - well, he was Detective Superintendent Rod Harvey. Rodney Graham Harvey. The squad would have, infrequently, lunches. It was a - with wives and former members of the squad, but not often.

Q. When was the last lunch?

10 A. Gosh. I remember it, because I had a terrible attack of gout beforehand. It was a Christmas a couple of years ago over at Manly. I think that was the last time.

Q. You still keep in contact with Mr Harding and also Mr Harvey?

15 A. With Harding infrequently. He - his wife and my wife are strong acquaintances, I suppose, and she's had some health challenges in recent times. Harding would - has taken on something of a paternal, or a pastoral role, I suppose. He seems to be the person who speaks at every funeral at - but they're occurring with increasing rapidity. He usually delivers a eulogy of some sort, but since receiving notice of this, I've had contact - I think I've had contact with him once, and I've had contact with Mr Harvey twice. My wife and I have been - because my statutory retirement age arrived on the 1st or 20 2nd of March, so that my wife and I went on a cruise. Mr Harvey and his wife happened to be on the same cruise, and I've seen them once since then.

25 Q. Would Mr Harding, in any contact you've had with him since the announcement of this Inquiry, have you discussed--

A. No.

30 Q. --any of the evidence that you anticipated you'd give, or that would be raised in the Inquiry?

A. I've done enough of this work in another capacity in different roles to know that that's improper, and we did not do it.

35 Q. Can I just confirm that was with Mr Harding. Does the same position apply with any contact with--

A. Of Mr Harvey?

Q. --Mr Harvey?

40 A. Yes.

<EXAMINATION BY MR BUCHANAN

Q. Mr Bennett, my name is Buchanan.

45 A. Hello, Mr Buchanan.

Q. I appear for the petitioners, who are the people who applied for this Inquiry.

A. Yes.

50 EXHIBIT 2.3-16, RED PAGE 6570, SHOWN TO WITNESS

Q. That's the first page of the transcript of the evidence that you gave at the committal hearing, 13 August 1979--

A. Yes.

5 Q. --that was about six months, a little over six months after the events on 8 February?

A. Yes.

10 Q. Your evidence occupies some two pages of that transcript, goes from 6570 over to 6571, and I wonder if we could have a look at the next page please, 6572 and the last thing you're recorded as saying is, taking those items on 28 March--

A. Yes.

15 Q. --to Dangerous Goods Branch, so it's essentially all in two pages. You would be aware of this, wouldn't you, you've reviewed the transcript of your evidence of the committal for the purposes of preparing to give evidence at this Inquiry; is that right?

A. Yes.

20 Q. In your evidence-in-chief, you made no mention, despite talking about going out to Bossley Park and seeing Mr Brajkovic and seeing the other detectives, made no mention of seeing a white plastic bag or seeing any explosives; that's right, isn't it?

25 A. That's in the committal hearing?

Q. I'm sorry?

A. That was in the committal hearing, can you remind me?

30 Q. Yes.

A. Yeah, I'm not a lot in the transcript.

Q. I'm sorry, I can't hear you?

A. Not in that transcript there.

35 Q. No. Do you think you said it and it wasn't transcribed?

A. No, no, no, I'm not suggesting that, but it doesn't appear in the transcript.

Q. This was the first occasion that you gave evidence in a Court?

40 A. Yes.

Q. About the events of 8 February, 9 February; is that right?

A. I think so.

45 Q. Can you explain how on the first occasion you gave evidence about these events, you said nothing about the subject matter of the case; explosives?

BASHIR: Your Honour, I object. Unless that question is limited to evidence-in-chief.

50

BUCHANAN: That's what I asked the witness about.

HIS HONOUR: Yes. All right. I'm understanding that.

5 WITNESS: Yes. Can you put that question to me again?

BUCHANAN

10 Q. Yes. Can you explain why on the first occasion that you gave evidence about the events on 8 February 1979 in your evidence-in-chief, to make it clear, you said nothing about seeing a white plastic bag, you said nothing about seeing explosives?

A. At the premises.

15 Q. You said nothing in your evidence-in-chief; would you like to read it?

A. No, just is--

Q. No, would you like to read it, Mr Bennett?

20 A. Mr Buchanan, please. I'm just asking you to clarify the questions. Are you asking me did I say nothing about seeing those items at the premises?

Q. You said nothing about seeing them at all, did you, in your evidence-in-chief?

25 A. I don't - well, I'd better look at it because I can't recall, not as I sit here.

Q. Perhaps we could have a look at the transcript please?

A. Thank you.

30 Q. It's red pages 6570 to 6571. If you could just sing out when you've read that.

HIS HONOUR: Is this where the evidence-in-chief ends on 6572?

BUCHANAN: Yes, your Honour.

35 WITNESS: Yes, so I can go onto the next page. So your question is I said nothing on that occasion in relation to seeing the items on the day of the attendance at the premises?

40 BUCHANAN

Q. For the third time, Mr Bennett--

A. Mr Buchanan, please--

45 Q. --in your evidence-in-chief--

A. --no, please, let's just take a step back. I'm trying to assist and be as frank as I can.

50 Q. Well, you're not, are you; you're in difficulties and you're trying to cover for yourself?

A. I reject that entirely.

Q. You know why you're in difficulties, don't you, Mr Bennett?

A. No, I do not.

5

Q. You know what the situation is with the evidence-in-chief that you gave at the committal, don't you, in relation to seeing explosives?

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

10

Q. You know, don't you, that in your evidence-in-chief you said nothing about seeing a white plastic bag or seeing explosives?

A. In this - in this passage of evidence, that's so.

Q. Can you explain that?

15

A. No, I can't. I just don't know.

Q. An explanation would be that you were giving evidence as best you could from a memory and you had no memory of seeing a white plastic bag or explosives; that would be an explanation, wouldn't it?

20

A. No, that's not the explanation.

Q. You were meant to be giving evidence of a memory of actual events, weren't you, when giving this evidence-in-chief?

A. Yes.

25

Q. In cross-examination, if we could go please to red page 9575?

HIS HONOUR: Which Exhibit is that, 2.3-something else?

30

BUCHANAN: I'm sorry, yes. 2.3, day 16 - I must have the wrong page number. I do apologise. I think it's probably 6575.

HIS HONOUR: Yes, there's mention of a bag on 6575.

35

BUCHANAN: Thank you.

Q. You can see at the time there there's Mr Goldberg continued; do you see that? Mr Goldberg was one of the solicitors for one of the Croatian Six--

A. Yes.

40

Q. --or maybe more? Do you see the second full question commencing "And which room"?

A. Yes.

45

Q. You then said:

"It was in the workshop-type room at the front of the place and Detective Harding had been carrying that at the time that he came in through the back door with the defendant. I may have - I thought I'd given that in my evidence-in-chief."

50

A. Yes.

Q. That was how, on what you knew you were meant to say, you corrected yourself, wasn't it?

5 A. Yes.

Q. You see, the fact of the matter was that whilst you may have seen Detectives Harding and Morris bring Mr Brajkovic inside the house, you did not see Detective Harding carrying a white plastic bag on that occasion, did you?

10 A. I did.

Q. Indeed, I want to suggest to you you did not see a white plastic bag with explosives in it in the house at Bossley Park?

15 A. I did.

Q. I want to suggest to you that you didn't see explosives anywhere on the premises of 16 Restwell Road?

A. I did.

20 Q. You've given some evidence today of seeing the explosives while you were at the house at 16 Restwell Road?

A. Yes.

Q. The evidence you've given is, excuse me for a moment, that you were invited by Sergeant Wilson to go into the workroom or workshop?

25 A. Yes.

Q. You said that that occurred "shortly before we left"?

30 A. Yes.

Q. Both of those propositions are new evidence by you, aren't they?

A. New evidence here today?

Q. New evidence by you, sir?

35 A. I don't believe so.

Q. In taking into account all of the evidence that you've given, committal proceedings, at trial, and that evidence that you've given in this inquiry?

40 A. I don't believe so.

BASHIR: I object to that proposition at both limbs.

HIS HONOUR: I can't hear you.

45 BASHIR: Your Honour, I object to Mr Buchanan putting that to the witness.

HIS HONOUR: What is the basis of the objection?

50 BASHIR: That it's a misleading proposition to put that to the witness, your Honour.

HIS HONOUR: Is there something else that he should be putting with that proposition or what?

5 BASHIR: Your Honour, it's not based on the evidence that Mr Buchanan has, that proposition.

HIS HONOUR: I don't know what Mr Buchanan has.

10 BASHIR: He has the transcript of the evidence that's been given both in the committal and the trial, as we all do.

HIS HONOUR: The question has been put, it's been rejected by the witness. There's no harm in that. Let's press on.

15 BUCHANAN

Q. I'll take you through the evidence. First of all, could we have a look, please, at Exhibit 2.3, day 16, red page 6587. At the top you can see this is on 13 August and you're being cross-examined by Mr McCrudden. Do you see that?

20 A. Yes.

Q. Do you remember Mr McCrudden asking you questions at the committal?

25 A. Yes.

Q. Almost where the cursor is, "Now, when you saw that white plastic bag". Can you see that?

A. Yes.

30 Q. Can I just ask you to follow me through that--

A. Yes.

Q. --and tell me if I misquote:

35 "Q. Now, when you saw that white plastic bag being carried in were you able to look inside it?

A. No, not at that time.

Q. You looked into it subsequently?

40 A. Yes.

Q. How much later was that?

45 A. That was - would've been after Harding and Wilson had gone into the front portion of the house, as I saw it in the little workshop around near--

Q. What, simply - someone simply put it down and left it there?

50 A. I don't think they just left it there, but it was on table there in that workshop room.

Q. It was on a table there in the workshop and Detective Harding or Morris anywhere near it?

A. No, Detective Wilson was near it.

5 Q. Wilson was near it?

A. Mm.

Q. What did you do? Did you open it up and have a look inside, did you?

10 A. I just opened the mouth of the bag and quickly glanced.

Q. What did you see?

A. I saw at that stage what appeared to be gelignite and the red-and-green fuse wire attached to the detonators."

15

Later on on the same day, and I'd ask if we could go to a subsequent page 6589. Exhibit 2.3, day 16, red page 6589. If we could have a look at that, enlarge the lower half, please. I want to suggest that - please read it to yourself, but I want to suggest summarise it to you and see if you agree.

20 A. Yes.

Q. You told Mr McCrudden you could see detonator wires inside the bag--

A. Yes.

25 Q. --but they were not taken out of the bag?

A. Yes.

Q. You made a very casual look in the bag?

A. Yes.

30

Q. Sergeant Wilson told you that some explosives had been bound and they were here in the bag?

A. Yes.

35 Q. And Sergeant Wilson invited you to look inside the white plastic bag and you did so?

A. Yes.

Q. Sergeant Wilson indicated the bag, and you merely opened up the bag and quickly looked in.

40

A. Yes.

Q. That's your evidence at the committal hearing--

A. Yes.

45

Q. --and so far nothing about being invited by Mr Wilson to come into the workshop.

50 BASHIR: Your Honour, I object to that question. Perhaps if I could speak to my friend?

HIS HONOUR: I can't hear you.

BASHIR: Perhaps if I speak to my friend for a moment. I do object to that question.

5

HIS HONOUR: All right. Is there something you need to draw his attention to?

BASHIR: Yes.

10

BUCHANAN

Q. 6576. Ms Bashir wants you to read some other part on this page.

15

"Q. Rear adjacent to the back door?

A. Yes.

Q. I drove from the house to CIB. When you got to CIB, did you see Detective Morey."

20

BASHIR: No.

HIS HONOUR: "I walked into the front room, and Detective Wilson said, 'Come through and just have a look.'" Is that the part?

25

BASHIR: Yes, your Honour.

BUCHANAN: I withdraw the suggestion that it is new evidence, when you said today that you were invited by Sergeant Wilson to come into the work room.

30

Q. I'll take you, if I can, to the evidence at the trial.

A. Yes.

EXHIBIT 2.1, DAY 23, RED PAGE 796, SHOWN TO WITNESS

35

Q. We see from the top of the page on the screen:

"Q. You said you saw the contents of the bag at some later stage?

A. Yes.

40

Q. When was that?

A. During the time I was at the house, I went into the front rooms, and in the workshop-type room off the hallway, the bag was on a bench. I opened the bag and had a cursory glance inside and saw--

45

Q. Did you take anything out of the bag?

A. No. I didn't take anything out of the bag at all."

A. "From the bag at all."

50

Q. "out of the bag at all."

A. "from the bag at all."

5 Q. "from the bag at all." Thank you. Can I take you to some evidence given by Sergeant Wilson that I'd ask you to have a look at. Firstly, can I show you his statement.

EXHIBIT 4.2-31, RED PAGE 367, SHOWN TO WITNESS

10 Q. If we can just go to the page before that, so the witness can see it. You can see that is a statement of Sergeant Wilson that doesn't have a date on it on that page, anyway. If I could take you to the next page, which is red page 796(as said). You'll see paragraph 5 commences with Detective Harding. "I went to a room at the front of the premises I would describe as a workshop, and which contained electrical and radio devices. Detective
15 Harding and I"--

HIS HONOUR: This is red page 367? 367 is the page? You said something else.

20 WOODS: You said 796.

BUCHANAN: I did say 796.

25 HIS HONOUR: So you're reading from the beginning of paragraph 5, are you?

BUCHANAN: Yes.

Q.

30 "I went to a room at the front of the premises I would describe as a workshop, and which contained electrical and radio devices. Detective Harding and I had a conversation, and at the same time he showed me the white plastic bag he was holding and the contents. I removed the contents from the bag and placed them
35 on a table and saw that they were two sticks of gelignite, a number of detonators, and a number of flares. Detective Harding left this room and returned a short time later with the defendant Brajkovic"

40 He then describes a conversation here. He says he had with Mr Brajkovic which included the following:

45 I said, "Detective Harding has told me that he found this bag in your possession outside," (at the same time I indicated the white plastic bag and its contents which were on the table."

Do you see that?

A. Yes.

50 Q. The position of the items concerned is that by dint of what Detective

Sergeant Wilson said he did, he removed the explosives from the bag and placed them on the table. Do you see that?

A. Yes.

5 Q. In the trial, if I could ask that we could have a look, please.

EXHIBIT 2.1, DAY 13, RED PAGE 402, SHOWN TO WITNESS

10 Q. Excuse me a moment, Mr Bennett. I wonder if we could just go back up to the top a little bit. Thank you. Yes. I'm sorry, the relevant part commences, "I went to" which is on the right-hand side of what is on the screen - four lines from the top of the question, "I went to a room towards the front of the house...?"

A. Yes.

15

Q. Thank you.

20 "...and I would describe this room as a workshop as it contained a large amount of electrical and radio devices. I had a conversation with Harding and he showed me the white plastic bag that he was carrying. I looked at the contents and I found that it contained two sticks of gelignite, a number of detonators and a number of flares. I took these contents from the bag and placed them on the table on top of the white plastic bag. Detective Harding at some stage of
25 time left the room and returned shortly afterwards with the accused person Brajkovic."

30 Then shortly later, red page 402, please, it's in about the middle of the screen as you can see it now, it's question commencing, "Perhaps we might come to that in a moment", where the cursor is.

"Q. Perhaps we might come to that in a moment; what happened after you saw these items in the bag?

35 A. Well, Detective Harding left the room and he returned a short time later with the accused Mr Brajkovic. I had a conversation with the accused at that time."

40 Then there's a recounting of the conversation that Sergeant Wilson and Detective Harding alleged occurred with Mr Brajkovic. If we could go a little bit lower on the page - thank you. It's again about the middle of the screen, Mr Bennett, it's the sentence commencing, "I said 'Detective Harding has told me'". The sentence commences on the right-hand side of what you can see on the screen, "I said", can you see where the cursor is?

A. Yes.

45

Q.

50 "A. I said, 'Detective Harding has told me that he found this bag in your possession outside', and I indicated to the bag and the contents, sir, that were on the table in the workshop room.

There was a caution, 'Do you understand that', and attributed to Mr Brajkovic are the words, 'Yes, I understand', I - and then Sergeant Wilson continued, I said, 'Who owns all of this', he said, 'They belong to me'.

5

Q. What were you indicating at that stage?

A. I was indicating the explosives on the table, sir, and he replied, 'They belong to me'."

10 Then at a later stage in the trial - if we could go, please, to Exhibit 2.1, day 21, red page 659 - I wonder if we could scroll down the page a bit please - and now in the middle can you see the word "indicated" on the left-hand margin?

A. Yes, I indicated, but yes.

15 Q. Thank you. In his evidence-in-chief Sergeant Wilson said, "I indicated to him the bag which was on the table with the explosives on top of it"?

A. Yeah. That first part you took me to was a voir dire; this is in front of the jury I take it.

20 Q. The second quotation is in front of the jury, quite right.

A. Yeah, yeah.

25 Q. And the prior quotation was from evidence on the voir dire. Then can I take you to some cross-examination on the same subject - Exhibit 2.1, day 21, red pages 678 to 679 - towards the bottom of the page?

A. Yes.

30 Q. Can you see the third line from the bottom?

A. Yes.

30 Q.

"Q. What happened to that bag after it was brought insofar as you were aware?

35 A. How do you mean? At what stage?

Q. Do you remember you say you saw it brought in by a policeman?

40 A. Yes.

Q. What happened to it then?

A. Detective Harding showed it to me. I took it and I removed the contents from the bag and I placed them on top of the bag in a table - on a table in the workshop room.

45

Q. How long did they remain there for?

A. I would say until shortly before we left the house."

50 A. That's on the next page, is it?

Q. I do apologise.

A. Yeah, I see. Yeah.

Q.

5

"Q. How long did they remain there for?

A. I would say until shortly before we left the house".

10 You've said today that the time you were invited by Mr Wilson to the workroom was "shortly before we left"?

A. Yes.

Q. You hadn't said that previously, had you?

A. I thought I had. I thought that was said previously.

15

Q. I'm sorry?

A. I thought I'd said that previously. I'm relying upon what I remember reading of the evidence I gave, but I thought I'd said it previously.

20 Q. Is it because you know that Sergeant Wilson said that?

A. No, I've not seen this evidence or his statement before today.

25 Q. Until we get to the answer in Sergeant Wilson's evidence, "How long did they remain there for?" Answer, "I would say until shortly before we left the house", the evidence Sergeant Wilson gave of the location of the explosives that you say you saw was inconsistent, was it not, with the evidence you gave of the way in which, the manner in which you obtained a sighting of the explosives in that room? You said you looked into the bag?

A. Yes.

30

Q. Sergeant Wilson said he took them out of the bag and put them on top of either the bag or the table, depending on which version you go with?

A. Well, depending - they had to be put back into the bag to be taken from the house, I expect, but my recollection is as I've given it in the proceedings, where I gave evidence in the committal, the voir dire and the trial.

35

HIS HONOUR: Mr Buchanan, did Mr Wilson give evidence as to when the contents were returned to the bag?

40 BUCHANAN: Not on my reading.

HIS HONOUR: The question at the top of red page 679, "How long did they remain there for?" That's a reference to "they" being the bag and the contents.

45 BUCHANAN: Yes, your Honour.

HIS HONOUR: But at what stage were the contents returned to the bag?

BUCHANAN: Your Honour, "until shortly before we left the house".

50

HIS HONOUR: That's when the bag and the contents remained there, until shortly before they left the house.

BUCHANAN: Yes.

5

HIS HONOUR: But someone at some stage has had to have put the contents back into the bag.

BUCHANAN: Absolutely, your Honour, if they existed, of course.

10

HIS HONOUR: Yes, all right.

BUCHANAN

15

Q. Can I take you to the evidence of another person who was a witness as to the location of the explosives said to have been found on the premises in the workroom. Detective Senior Constable Harding. Can I take you to his committal evidence. Exhibit 2.3, day 35, red page 7843. I wonder if we can enlarge the bottom half of that page, to questions to Mr Harding from Mr McCrudden:

20

"Q. At any time during that evening was the dynamite or gelignite and the detonators removed from the white bag?

A. Yes.

25

Q. Between the time that you discovered it and the time you were back at the CIB?

A. Do you mean completely removed from the bag?

30

Q. Well, removed from the bag means taken out of the bag.

A. No, I would say not. It was pulled out - almost out. I did that in the front room with Wilson.

35

Q. What, to show Wilson?

A. That's so.

Q. And you simply replaced it then again?

A. Yes. It was out on the table during the course of the interview with Brajkovic and covered with the white bag."

40

Then if I can take you to the next page, that's red page 7844, at the top of the page:

45

"Q. Well, then in your statement you say here, 'Your wife will have to be spoken to, because we want to ascertain if she is involved in any of your activities. He said, 'She does not know that I've had this', indicating the property from the white bag'.

A. Taken from the white bag?

50

Q. That's right. Taken from the white bag.

A. I've misled you there, because it was at any time completely removed from the bag. It certainly was protruding, but not completely removed from the bag. I think you're splitting straws there, anyway.

5

Q. Well, you see, Detective, this is your statement I'm reading from. It's not what you gave in evidence this morning.

A. That is so. I will agree with that."

10 You can see there that Constable Harding has given a different version of the location of the explosives said to have been found and put into the workshop room from the version given by Sergeant Wilson?

A. It appears so.

15 Q. And it's different from the version that you've given from what you saw--

A. I don't--

Q. --isn't it?

20 A. Well, to begin, it depends on the time of when this occurred and when I saw what I described.

Q. Wilson said that when he went into the workshop-type room, he took the explosives out of the white plastic bag and placed the bag with the explosives on top of them onto the table?

25

A. Yes.

Q. Harding said that, "When in the workshop-type room, the explosives were partially protruding from the white plastic bag."

A. Yes.

30

Q. You said that when in the workshop-type room, you opened up the white plastic bag and looked inside it and saw explosives.

A. Yes.

35 Q. You don't see any inconsistency between your version--

A. I can see that--

Q. --and the version of either of the other two witnesses?

40 A. I can see there's differences, but, again, it depends upon when these things occurred in relationship to each other.

Q. Or, in the alternative, as to whether there are explosives in a white plastic bag there at all?

A. Yes. Well, I don't--

45

Q. That's another possibility, isn't it?

A. No. It's not. I don't accept that.

50 Q. This looking into the white plastic bag occurred, did it, in Wilson's presence?

A. I think so.

Q. Shortly before you left the building?

A. Yes.

5

Q. You didn't see a clock?

A. No.

Q. You didn't see any batteries?

10

A. No.

Q. Anywhere?

A. No. I did not.

15

Q. Nowhere at all?

A. I did not see them at all.

Q. You do understand that police say they found the clock that had been tampered with?

20

A. I'm aware of that now, yes.

Q. And they found a couple of batteries that had been soldered together?

A. I'm aware that they said they'd found batteries, but the soldered together, I don't recall.

25

Q. Can you account for the fact that you didn't see those items, either in the bag or anywhere else in the room?

A. I just didn't see them. I can't say anything more than that.

30

Q. If I could take you to your main statement.

EXHIBIT 4.2-28 SHOWN TO WITNESS

Q. This is dated 24 March 1979?

35

A. Yes.

Q. I could have made another mistake, but there's nothing in your statement, is there, about going into the front room.

A. Yes. That's true.

40

Q. And there's nothing in it about you having actually sighted explosives while you were in the house at Restwell Road?

A. The contents in - in terms of the contents of the bag that's--

45

Q. Is there something there that you can take us to where you recorded that you saw explosives when you were at the house?

A. In the statement, there's not.

Q. In the statement.

50

A. Yes. I agree.

Q. Can you explain that?

A. I can't. I just don't understand why I haven't included that in the statement.

5 Q. Well, an explanation would be that you never saw any explosives there--
A. I don't accept that.

Q. --wouldn't it?

A. No. No, it's not true.

10 Q. You were not the only detective at Bossley Park who gave some evidence
about sighting explosives in the front room in a similar manner. If you can take
it from me, and I'm happy to give a citation in his statement, Detective
Krawczyk, Exhibit 4.2-36, likewise, said nothing in his statement about having
sighted actual explosives while at Restwell Road.

15 A. Well, I accept that, but I don't--

Q. But you both gave evidence of sighting explosives while at Restwell Road.

A. If we gave - if it's in that transcript, we did.

20 Q. Is that a coincidence, or did you have a conversation with Detective
Krawczyk, or he with you, or someone with either or both of you, about the
need to strap up your evidence about explosives at the house?

A. No.

25 Q. I'd like to ask you a little bit about Mrs Milena Brajkovic's statement taken.

A. Yes.

Q. Mrs Brajkovic and her young daughter, and Mr Hudlin, were taken to CIB in
cars separate from the car that you were in?

30 A. Yes.

Q. At the time, would it be a fair estimate in your opinion to say that
Mrs Brajkovic's daughter was about four years old.

35 A. Yes. I don't - she was a small child. I don't - I've got a memory, or a
perception, or a vision, I suppose, that she was about five, but I - I--

Q. Essentially, Mrs Brajkovic and Mr Hudlin were arrested and taken to CIB,
weren't they?

40 A. I - well, I can't comment on that. I don't know. I certainly didn't arrest either
one of them. And on one interpretation, I didn't arrest Mr Brajkovic; he was
arrested by others and I simply--

Q. I do apologise, I can't hear you.

45 A. I'm sorry. I on - I was not - I didn't arrest either Mr Brajkovic in the sense
that I arrested anyone. I simply drove them back to the CIB.

Q. In an office on the fifth floor of the Remington building, you took a
statement from Mrs Brajkovic?

50 A. Yes.

Q. This is done in the early hours of 9 February 1979?

A. Yes.

Q. You typed the statement?

5 A. Yes.

Q. Detective Krawczyk was present for some of it?

A. Yes.

10 Q. There was a white plastic bag with things in it that was shown to Mrs Brajkovic?

A. Yes.

15 Q. Could I ask you this? I'd ask you to assume - we don't need to go to it but exhibit 2.1 day 103, red page 3428 - Mrs Brajkovic at the trial said that three long cardboard tubes were placed on the table in the interview room in front of her; what would you say to that?

A. I don't recall there being three tubes. My recollection is that the proposition was that there were three sticks of gelignite put on the table in front of her.

20

Q. I'm not suggesting they weren't sticks of gelignite.

A. Okay. The - there--

Q. The word tubes is the word attributed to Mrs Brajkovic in the transcript?

25 A. There - the tubes might've - she might be referring to the flares.

Q. No, she was quite clear she didn't see any.

A. I don't know. I can't explain that.

30 Q. What she called the tubes, and you've told us were sticks of gelignite, did not appear, she said, to have been cut in half - Exhibit 2.1, day 103, red pages 3427 to 3428--

A. She's wrong about that.

35 Q. --she said she saw the ends of the tubes and they were covered by brown paper, and what I want to suggest to you is that that description she gave at trial is consistent with full length cartridges of gelignite?

A. Could be.

40 Q. Mrs Brajkovic's evidence was there were no holes in the end of the tubes that she saw?

A. She is wrong about that.

45 Q. You saw, did you, the type of indentation that is visible at the end of two half cartridges in the photograph you've been shown?

A. Yes.

Q. Mrs Brajkovic said that the tubes, as she called them, were not taped together, they were separate from each other; what do you say?

50 A. My memory is that they were taped together.

Q. I should give a reference for Mrs Brajkovic's evidence - Exhibit 2.1, day 103, red page 3425. She said - Exhibit 2.1, day 103, pages 3427 to 3428 - that they were not wrapped in a sheet of newspaper; would that be right?

5 A. When she was shown them in the - on level 5?

Q. What, she was shown?

A. Yeah, that might be so, the newspaper was there but they may not have been wrapped. I - I just can't remember at the moment.

10

Q. Yes, I'm to suggesting newspaper wasn't there. She gave evidence - Exhibit 2.1, day 103, red page 3428 - that she was shown a Croatian language newspaper?

A. Yes.

15

Q. A whole newspaper, not just a sheet.

A. No. My memory is there was a sheet of what I thought was Yugoslav language newspaper.

20

Q. Did you get the sheet of newspaper to show her from somewhere; where did you get it from?

A. It was in the bag as my recollection.

25

Q. You didn't get it or did it come to your knowledge from property which had been brought to CIB from Burwood, Ashfield or Bossley Park?

A. No.

30

Q. You asked Mrs Brajkovic if she could read the newspaper?

A. Can't remember that.

Q. I suggest to you that she told you that she could read it?

A. I can't remember that.

35

Q. Exhibit 2.1, day 103, red page 3425. Mrs Brajkovic said - I might have to withdraw what I said about not being shown flares.

A. Sorry?

BASHIR: I didn't hear that.

40

HIS HONOUR: I didn't hear it either.

BUCHANAN: How about if I read it out and I'll take the witness to it.

45

BASHIR: I'm sorry, your Honour, but I did hear Mr Buchanan say that he withdrew something but I didn't hear what he withdrew.

BUCHANAN

50

Q. I'm reminded that I did suggest to you that she wasn't shown flares, but Mrs Brajkovic said she was shown - day 103, red page 3424 - shiny, silvery

metal tubes.

A. The flares, that description could fit detonator, the flares were a yellow or orange colour from memory, and they're thicker. Distress flares are larger than detonators.

5

Q. Mrs Brajkovic said she was shown some wires.

A. Yes.

10

Q. During the statement taking, this is in the early hours of 9 February; is that right?

A. Yes.

15

Q. Mrs Brajkovic was nursing a young child?

A. Yes, I have no specific memory of that, but I wouldn't argue with it.

Q. She was obviously tired, wasn't she?

A. I expect she was. It was getting late.

20

Q. You didn't give her a chance to read the statement that you had typed, did you?

A. I did.

25

Q. You asked her to sign it?

A. I did.

30

Q. Is it possible that you showed Mrs Brajkovic while she was at CIB three long cartridges of gelignite that were not cut in half?

A. No.

Q. Is it possible that after that interview a decision was made by detectives that the sticks had to be cut in half?

A. I'm unaware of any such decision being made or any discussion concerning the proposition.

35

Q. Are you aware that police ended up showing to the Dangerous Goods Branch in total, as allegedly recovered from the premises at Burwood, Ashfield and Bossley Park three sets of two half sticks of gelignite?

A. I don't know. I don't know the answer to that.

40

Q. What I want to is that the evidence of what police in total produced to the Dangerous Goods Branch is consistent with three sticks of gelignite that you showed Mrs Brajkovic and that were shown by Detective Pettiford to Mr Hudlin in the early hours of 9 February 1979, having been cut in half in order to increase the number of sticks of gelignite that could be shown to the Dangerous Goods Branch?

45

A. I don't accept that.

50

Q. The picture that you paint is of not terribly much commotion occurring in the general office area of the Special Breaking Squad or, to your knowledge, the Armed Hold Up Squad while you were there that evening?

A. Yes, I'm aware of no commotion or, more correctly, unaware of any commotion, as you put it.

5 Q. It seems a little surprising that there would not be, "Guess what we found?" Or, "What, you found some, too?" No comparing notes on the part of members of teams that had been going out to these venues--

A. There--

10 Q. --and saying that they brought back these explosives?

A. There might have been those discussions, but I wasn't party to them.

15 Q. But you would've been aware, wouldn't you, of a kerfuffle about the fact that everyone seemed to have come back with the same sort of explosives from each of these places?

A. I don't know what was found in the other places. I don't know who went to the other places and I - there was no kerfuffle, as you put it, that I observed or heard.

20 Q. I'd ask you to assume that the evidence in the trial was that raiding teams went out to not just Bossley Park, but also to an address at Ashfield and an address of Burwood and, for what it's worth, also an address at Wilmot.

A. Yes.

25 Q. Leaving aside the address at Wilmot, although I can come back to it, the three that went to Burwood and Ashfield, Bossley Park each said that they had found two half-sticks of gelignite and at least one detonator, if not more, at the addresses to which they were sent by Detective Inspector Morey. That's, surely, interesting? An interesting development to have occurred in anyone's career, is it not?

30 A. I don't know what you mean by that.

35 Q. How often were you involved in a raiding party which, to your knowledge, was one of a number that went to varying addresses at different parts of Sydney and they each found similar quantities and types of explosives and brought them all back to CIB? How often had that happened in your experience?

40 A. I don't have a recollection of it ever happening on any other occasion, so far as my role was concerned. Again, I don't know who went to these other addresses. I don't know what was found at the other addresses and I'm not aware of any kerfuffle or excitement, as you've described it, almost in celebratory terms, upon the return of the teams from those locations.

45 Q. No comparing of notes--

A. Well, there might have been.

Q. --by members of teams?

A. There might have been, but I don't - I'm not aware of it.

50 Q. This is an open plan office?

A. Yes.

Q. And so far as there's separation between the Armed Hold Up Squad and the Special Breaking Squad is concerned, it's simply a bank of lockers?

A. Yes. Two - as I remember--

5 Q. Two banks?

A. Two banks back-to-back and they were about 6 foot, in old measurements, high, I think.

10 Q. The evidence in the trial also was that verbal admissions were made by each of the accused, each of whom were brought by back by these raiding parties from those addresses and each of them made verbal admissions of conspiracy to blow up places and to murder people. All this is happening on the one night on the same floor that you're on and you're not aware of any consternation, any comparing of notes, any, "Well, what did your guy say?" "You know what we got?"

15 A. I did not participate in any such conversation. I don't know whether any such conversation took place between the teams of detectives. I just don't know.

20 Q. That seems extraordinarily difficult to accept, might I suggest to you.

A. Well, it might be a matter for comment or submission, but I can tell you that is my evidence and that is the truth of the matter.

Q. Now, on day 23 of the trial. If we could have a look at it, please.

25 EXHIBIT 2.1, DAY 23, RED PAGE 799, SHOWN TO WITNESS

A. Yes. This is my evidence, I think.

30 Q. It is. If we could just scroll down, please, and do you see, "Where did you first see these explosives at the CIB."

A. Yes.

35 Q. Your answer, "I was up on the fifth floor of the building with the wife of the accused, and they were brought up to where I was by Detective Krawczyk." I want to suggest to you that you gave evidence to the same effect also on day 126 of the trial, red page 4187. But you gave different evidence at the committal, didn't you?

A. Yes.

40 EXHIBIT 2.3, DAY 16, RED PAGE 6591, SHOWN TO WITNESS

Q. I'm going to take you to the top of the page, and this is cross-examination by Mr McCrudden of you at the committal.

45 A. Yes.

Q. The date is 13 August 1979. It was six months after the events concerned?

A. Yes.

50

Q. Mr McCrudden asked:

"Q. Were you ever in his company once you returned back to CIB?

A. Yes.

5

Q. When was that?

A. He was in the car that I drove back, so he accompanied us to the third floor. We went to an interview room, where I stayed with him for a short time.

10

Q. Without speaking?

A. Yes. I sat him down until Detective Harding and Sergeant Wilson joined us and I left.

15

Q. That was the last you saw of him that evening?

A. I may have seen him again during the evening. I did see him at one stage when I went to get the explosives to show his wife.

20

Q. That was at the CIB?

A. Yes."

The evidence that you've changed is the evidence, "...during the evening, I did see him at one stage when I went to get the explosives to show his wife."

A. Yes.

25

Q. You've changed your evidence today to say that that was wrong.

A. I haven't changed my evidence today. I gave different evidence when I was giving evidence in the proceedings before then, and I explained today, as I recall it, that it was a flawed recollection that I described on the occasion that I gave this evidence on 13 August 1979.

30

Q. I'm sorry, I didn't quite catch the last part.

A. It was a flawed recollection that I gave in evidence--

35

Q. "A flawed recollection"?

A. "Flawed", yeah.

Q. It's unusual to have an accurate recollection 44 years later.

A. Extraordinarily unusual.

40

Q. And a flawed recollection six months later than the event being--

A. No. I don't--

Q. --recalled.

45

A. No. I don't agree with that.

Q. Not unusual? Not unusual?

A. It's - well, it's not usual, but I wouldn't say that it's unusual.

50

Q. You haven't given different evidence today, have you, because you've

been told that Detective Krawczyk was recorded as saying something different from what you said at the committal on that subject?

A. I don't know - I don't know what Krawczyk said. I've not seen his statement. I have not seen his evidence.

5

Q. On what you tell us today, you would have expected Krawczyk to say he went and got the explosives and brought them up to you, wouldn't you?

A. On what I said in the proceedings subsequent to 13 August 1979 when this matter was being prosecuted.

10

Q. But there's two aspects to this flawed recollection in August 1979. One is that you saw Brajkovic at a stage that you went to get the explosives.

A. Yes.

15

Q. And the implication there is that you saw him in the interview room, isn't it?

A. That could be the implication.

Q. So it's a flawed recollection that you saw him in the interview room after the occasion that you left him, and Wilson and Harding walked in--

20

A. I think you're extrapolating. It's a flawed recollection that I went to retrieve the exhibits to show Mrs Brajkovic.

Q. That is true. That's the other aspect that's flawed.

A. Yes.

25

Q. But do you see that what you said was, "During the evening, I did see him at one stage."

A. I said - I said, "I may have seen him again", and then during the evening, I did see him at one stage when I went to get the explosives to show his wife.

30

Q. You see, the interview that you know was given in evidence by police, Wilson and Harding with Mr Brajkovic was complete fabrication, don't you?

A. No.

35

Q. You know what happened in that interview room, and that is that Mr Brajkovic was given a hiding, don't you?

A. I do not know what treatment he received. I know that any allegation he made regarding mistreatment directed to me was completely false.

40

Q. I want to suggest to you that the reason you gave evidence of a flawed recollection on 13 August 1979 is that because you knew that you were venturing into a subject that involved both fabrication of evidence and a serious assault?

A. No.

45

WOODS: I object to that question, your Honour. I'm sorry, I don't follow it. If my friend could put it more clearly.

HIS HONOUR: It's been answered with a denial of the proposition, Dr Woods.

50

BUCHANAN

5 Q. Can I just take you to another part of the transcript of the committal
please - Exhibit 2.3, day 16, red page 6598 - staying at the top if we could,
please - four questions down, "When did you next" - or maybe we need to go
from the top:

"Q. In your car?

A. Yes.

10

Q. I take it that would be in the back of the car, would that be right?

A. I think he had it with him, he hung onto it.

Q. Carried it in the white plastic bag?

15

A. Yes.

Q. When did you next see that white plastic bag?

A. After we brought it back to the CIB I saw it in the room where the
defendant was with Sergeant Wilson and Detective Harding."

20

That was untrue evidence, wasn't it?

A. It was true evidence.

Q. Not the product of a flawed recollection?

25

A. It was true evidence.

Q. You did see a white plastic bag in the room where the defendant was with
Wilson and Harding; is that what you're telling us?

A. I did see it in the room. Yes.

30

Q. Where the defendant was with Wilson and Harding?

A. Yes.

Q. The way you expressed that sounds as if it all happened at the same time,
not at a series of sequential events. You see Mr Bennett--

35

A. I don't quite understand your proposition.

BASHIR: Your Honour, I object to the commentary that is being given by
Mr Buchanan, and it's difficult to understand in any case, but there shouldn't be
commentary, just questions and answers.

40

HIS HONOUR: Yes. The question might be clearer, Mr Buchanan, if you
could rephrase it.

45

BUCHANAN

Q. You've already told the committal hearing, "During that evening I did see
him", being Mr Brajkovic--

A. Yes.

50

Q. --"at one stage when I went to get the explosives to show his wife"?

A. Yes.

5 Q. Essentially you were saying the same thing, weren't you, to Mr McCrudden later, when he asked you, "When did you next see that white plastic bag", answer, "After we brought it back to CIB. I saw it in the room where the defendant was with Sergeant Wilson and Harding"?

10 A. I don't believe so. I think I was there speaking - I believe I was there speaking about being with him in the room when Harding and Wilson relieved me of that task and I went back to my - whatever other work I was doing.

15 Q. It's the case now, it's the case on the evidence you've given here, is it, that you did not go from the fifth floor to the third floor interview room to get the explosives allegedly found at Bossley Park?

A. Yes.

20 Q. That was, if you were giving evidence of a recollection, fabricated, was it not?

A. Sorry? If I was giving it as evidence of a recollection?

Q. I'm sorry, I apologise.

A. Yeah.

25 Q. You finish your answer.

A. No, no, I'm just trying to clarify the question so I understand it.

30 Q. You had a recollection at the time you gave evidence at the committal that you went from the fifth floor to the third floor interview room--

A. Yes.

Q. --and saw the explosives and collected them, and took them back up to the fifth floor?

A. Yes.

35 Q. That never happened?

A. Yes, that's correct.

40 Q. Is it possible, Mr Bennett, that you know that the cartridges of gelignite you showed to Mrs Brajkovic in the early hours of 9 February were retrieved for that purpose, to show Mrs Brajkovic from some place other than an interview room with Mr Brajkovic in it and Mr Wilson and Mr Harding in it?

A. I don't believe so.

45 Q. Was the source of the explosives you showed to Mrs Brajkovic on the early hours of 9 February 79 a stash of explosives kept at CIB?

A. No.

Q. To be used to load-up suspects as and when required?

A. No.

50

Q. Were you ever aware of stashes of illicit items such as firearms or explosives or illicit drugs being kept anywhere at CIB?

A. No, I was not.

5 Q. Is it the case that even if you didn't see one yourself, you had an awareness that such a stash existed?

A. I had no awareness of any such "stash" as you put it.

10 Q. If I could ask you some questions, please, about your involvement in the movement of the explosives said to have been found at Bossley Park, you had a second statement, which, correct me if I'm wrong, you've seen today 8 April--

A. Yes.

15 Q. --1979?

A. Yes.

Q. One-pager?

A. Yes.

20 Q. Exhibit 4.2, item 28, red page 356 in which you said you took possession from Detective Sergeant Wilson of two sticks of gelignite, seven detonators and six flares?

A. Yes.

25 Q. You said you completed an exhibit examination form and that on 28 March 1979, you conveyed these items, plus the completed form to the Dangerous Goods Branch where you handed them to Mark Weatherstone--

A. Yes.

30 Q. --who provided you with a receipt?

A. Yes.

35 Q. I wonder if I could take you to the certificate of Mr Butt, which we saw a little while ago, Exhibit 4.1-LLLL. It's dated, I think, 11 April 1979. Do you see that?

A. Yes.

40 Q. He says in the third paragraph, "On March 28 1979 I received from Detective Senior Constable J L A Bennett in the Special Breaking Squad CIB police department Sydney the following", and then he itemises the items.

A. Yes.

45 Q. He doesn't say anything about a Mr Weatherstone there?

A. Yes.

Q. Are you sure it was Mr Weatherstone?

A. I'm relying on what's contained in documents to tell me it was Mr Weatherstone. I have no independent recollection of it.

50 Q. Can I just clarify your position in this Inquiry. You don't know where you

went to to get the items you gave to Mr Butt or Mr Weatherstone, whoever?

A. That's so.

Q. Do you know how you accessed the place where you got them?

5 A. No, I have no memory of any of the action I took, other than as it's expressed in the documents. I have no reason to believe that anything that I said there is untrue, but I have no independent recollection what occurred.

Q. You can't tell us whether you had to use a key to access the place where they were to be found?

10 A. True.

Q. Did you log anywhere the movement of those items from wherever you found them?

15 A. I have no memory of doing so.

Q. Did you have to sign them out?

A. I don't remember.

20 Q. Your statement, your second statement, said that on 26 March you took possession from Sergeant Wilson of the sticks of gelignite, et cetera, and whether it was on 28 March, that you delivered them to the Dangerous Goods Branch?

25 A. I explained later that the transfer was by way of a phone call from Wilson. I don't - I have no recollection of collecting them from anywhere or - when I did that. It's possible that I completed the documents to be taken up to the dangerous goods branch on the 28th, I think it was.

Q. 28th of -- delivery.

30 A. The second day and it may be that wherever I've obtained them, I've retrieved them shortly before that step, but I have no independent recollection of what I did.

Q. Did you log them out or register the fact that you were taking them from CIB to take them to the Dangerous Goods Branch?

35 A. I don't remember, Mr Buchanan.

Q. Did you deliver them to the Dangerous Goods Branch by yourself or in the company of anyone?

40 A. I don't remember. It's only a short walk up the - from where the Breaking building is, as it was then known, up to the rural bank building at Whitlam Square, I think. So I might just - it's just as likely that I simply walked up myself alone.

45 Q. Is it possible that the explosives, or not all of the explosives you took to the Dangerous Goods Branch on 28 March 1979, were available on, say, 9 February and had to come into existence before they could be taken to the Dangerous Goods Branch? Obviously, they had to be in existence?

50 A. Yeah.

Q. Is it possible that there was a gap in their availability to detectives at--

A. But they didn't come--

5 Q. --CIB between 9 February or 8 February, on one hand, and 28 March on the other hand?

HIS HONOUR: I think there's an objection, Mr Bennett.

10 BASHIR: I object to that question. I object to that. About four questions wrapped into one. I just ask for it to be rephrased or broken down.

HIS HONOUR: It could be put more simply.

15 BUCHANAN

Q. Is it possible that it wasn't possible to take two half-sticks as having come from Bossley Park to the Dangerous Goods Branch on 9 February, because they weren't available to detectives to take to the Dangerous Goods Branch at that time?

20 A. No, I don't think that's possible.

Q. Do you have any understanding or knowledge as to why it wasn't until 26 March that you received instructions to take possession of these items and deliver them to the Dangerous Goods Branch?

25 A. I don't know the answer to that.

Q. On 26 March 1979, before you got that call from Sergeant Wilson, did you know that the explosives were sitting around somewhere?

30 A. No.

Q. That was news to you when you got the call from--

A. I have no memory of anything other than what's contained in the evidence I gave and in the documents that were raised.

35 HIS HONOUR: Is that the end of your cross-examination?

BUCHANAN: No, your Honour. I have more.

HIS HONOUR: Can you approximate the estimate?

40

BUCHANAN: By morning tea.

HIS HONOUR: All right. Mr Bennett--

45 WITNESS: I've deferred my other commitments until Monday, so--

HIS HONOUR: I understand. Yes.

<THE WITNESS WITHDREW

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ADJOURNED PART HEARD TO THURSDAY 4 JULY 2024

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