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SPECIAL INQUIRY

THE HONOURABLE ACTING JUSTICE ROBERT ALLAN HULME

5 TWENTY-THIRD DAY: TUESDAY 6 AUGUST 2024

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

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MACKENZIE: Your Honour, before we start, I should announce my appearance as Counsel for the Director of Public Prosecutions in this matter and also note that I was here yesterday appearing in the matter for the Director.

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<BRIAN ROBERT HARDING, CONTINUING(10.04AM)

<EXAMINATION BY MR BUCHANAN

20

Q. Mr Harding, can I move to a different subject from what I was asking you questions about yesterday? Thinking of the night of 8 February 1979, after you had returned to CIB from Bossley Park. Did any police officer whom you understood to be from Special Branch, apart from Detective Inspector Perrin, talk to you there?

25

A. I have no recall of speaking to Mr Perrin.

Q. Do you have any recall of speaking to any other person you understood to be from Special Branch?

30

A. No. At some stage later, Helson and Krawczyk were there, but that's when we compiled those notes.

Q. Your evidence is that you typed Mr Brajkovic's Record of Interview?

A. I did.

35

Q. Can I ask you this: before you finished typing Mr Brajkovic's Record of Interview, did you see any purported Record of Interview with Maks Bebic?

A. No.

Q. Before you finished typing Mr Brajkovic's Record of Interview, did you see any document that you understood came from Special Branch?

40

A. No.

Q. Can I go back to some evidence that you gave yesterday to the effect that to conduct an interview of Mr Brajkovic, it would be necessary to show him the explosives?

45

A. Yes.

Q. That that was normal procedure?

A. Yes.

50

Q. Can I make this suggestion: that there was, wasn't there, at the house a typewriter?

A. Yes. I saw that on the Property List.

5 Q. You could've conducted any interview, or Detective Wilson could've conducted any interview, of Mr Brajkovic at the house at Restwell Road using the typewriter?

A. Well--

10 Q. That was possible, wasn't it?

A. I would not think so.

Q. Doing that would've had advantages if you had allowed Mr Hudlin and Mrs Brajkovic to witness the interview, wouldn't it?

15 A. No, that would've been most irregular.

Q. It would've been of assistance to police to have the evidence of the accused's wife and brother-in-law that what was typed in the Record of Interview was what Mr Brajkovic said in front of them and to you?

20 A. It did not even enter my mind.

Q. It would've meant that explosives that you say were there could've been shown to Mr Brajkovic during the interview if it was conducted at Restwell Road, couldn't it?

25 A. No.

Q. It would've meant that the explosives could've been left there at Restwell Road under guard from the uniformed police officers whose attendance you arranged, to be photographed whenever Scientific Branch got around to getting out there to take a photograph?

30 A. No.

Q. Why not?

35 A. Well, what - you're suggesting that we conducted a formal interview in the house--

Q. Yes?

A. --with all these other people milling about, the police, all the rest of it--

40 Q. Well, you could've told people you didn't--

MCDONALD: Let him answer, sorry.

45 WITNESS: Well, for instance, what would we have used for paper and carbon?

BUCHANAN

Q. You couldn't find any paper in the house?

50 A. I didn't see any but--

Q. There was a large quantity of paper in the house, wasn't there?

A. Well, I'll have to accept your word for that.

5 Q. You could've told police who were getting in the way to leave the house, couldn't you?

A. Look, I--

Q. Go and search for explosives?

10 A. I've never heard nor seen what you're suggesting done.

Q. But it would've had that advantage, wouldn't it, that there would've been non-police witnesses to what police said occurred in the interview of Mr Brajkovic?

15 A. I've never seen it done.

Q. It's an advantage, though, to have non-police witnesses giving evidence corroborating police as to what occurred in a police interview of a suspect, isn't it?

20 A. I'd agree with that.

Q. The reason that no interview was conducted at the house, I want to suggest, is because there were no explosives at the house?

A. They were.

25 EXHIBIT 4.2-75 SHOWN TO WITNESS

Q. Just looking at the first page, sir, you recognise that as being the first page of Mr Brajkovic's Record of Interview?

30 A. Yes.

BUCHANAN: Can I ask if we could scroll, please, to red p 612? Yes, the bottom part of the page, please, thank you.

35 Q. You can see there question 98. This is attributed to Sergeant Wilson:

"Q. Vic, I have just been told that your group also planned to hi-jack Noan American aircraft in the near future. Again, you don't have to say anything unless you wish as anything that you do say will be typed down and may later be given in evidence. Do you understand that?"

40 A. Yes."

Continuing the answer:

45 "A. How do you know this, some traitor tell you?

Q. I've been informed by another police officer. Are you prepared to tell us what you know about this?

50 A. All I say is we talk about it. We make no plans yet.

Q. What did you hope to achieve by hi-jacking an aircraft?

A. I say no more. We don't know yet what we do. Some traitor tell you about us."

5 You see those two questions and answers?

A. Yes.

Q. And you typed them?

A. Yes.

10

Q. Do you see the spelling of the word "hi-jack" in the second line of question 98? "H-I hyphen J-A-C-K"?

A. Yes.

15

Q. Do you see the spelling of the word "hi-jacking" in the first line of question 100: "H-I hyphen J-A-C-K-I-N-G"?

A. Yes.

20

Q. I want to suggest to you that that's an unusual way, and was in 1979, of spelling the word hijack or hijacking?

A. No, I don't agree with that.

Q. Was it the usual way you spelt it?

25

A. Well, I don't know how many times I've used it, but that's the way that I recorded it.

Q. I take it that Sergeant Wilson didn't spell out for you--

A. No.

30

Q. --the letters of the word hijack or hijacking?

A. No.

35

Q. There are a number of documents produced by Police in this case which have the word hijack or its derivatives spelt that way, with a hyphen between the syllable "H-I" and "J-A-C-K"?

A. That could be right, yes.

40

Q. I just want to point out, however, question 101 and 102; do you see those two questions?

"Q. Are you prepared to tell us anything at all about your plans to hijack an American aircraft?

A. No.

45

Q. Well, are you prepared to tell us what your motive was in causing these explosions, the proposed murder of Mlinaric and Lovokovic, and the proposed hijacking of an American aircraft?

A. To free Croatia and all Croatian people. People listen, make Croatia nation."

50

You see the word hijack and hijacking there?

A. Yes.

Q. Not spelt with a hyphen in the middle?

5 A. No.

Q. You typed those words?

A. I did.

10 Q. Differently to the way that you normally typed them; is that what you tell us?

A. Apparently so.

Q. Why did you do that?

15 A. How can I answer that now?

Q. One of the documents produced by police in this case which has the word hijack or derivatives of it spelt with a hyphen is a Record of Interview purported to have been conducted with Mr Bebic?

20 A. Right.

Q. But the evidence of Sergeant Turner and Senior Constable Milroy was that the question and answer concerned were answered closed to 10am on 9 February?

25 A. Right, yes.

Q. That's a fair while after your purported Record of Interview with Mr Brajkovic--

A. Yes.

30

Q. --on the 8/9 February?

A. Yes.

Q. You'd accept that? Also the Record of Interview with Mr Bebic purports to have occurred in Lithgow, not in Sydney?

35

A. Yes.

EXHIBIT 11.35 SHOWN TO WITNESS

40 Q. Can you see that it's headed, "Croatian Terrorists Arrested on 8 February 1979"?

A. Yes.

BUCHANAN: If we could just scroll slowly through the whole document. I think it's only two pages, or so, long. If we could scroll down to the bottom of that page, please.

45

Q. You can see it's a narrative, what would appear to be a police narrative, of the case and what had been investigated and what had been discovered, you see at the bottom of page 3, referring to an informant called Vico Virkez?

50

A. That's at the bottom--

Q. I'm sorry, my mistake, Mr Harding. Paragraph 3, "The informant in this matter is Vico Virkez."

5 A. Yes.

Q. Then there's paragraph 4, talking about what the terrorist group had done before 8 February 1979; paragraph 5, what their intentions were in relation to placing bombs; similarly with paragraph 6; paragraph 7, the injuries that would have been sustained by people if this had occurred; and then paragraph 8, can you see this:

10

15 "In addition to these proposed acts of terrorism, the group were to abduct American businessmen from a Sydney hotel, convey them to Mascot airport, where they were to hi-jack a commercial American aeroplane for the purpose of demanding the release of political prisoners being held in American, and the sum of \$2 million in cash."

20 The word "hi-jack" in the third line is spelt the way you spelt it, "H-I hyphen J-A-C-K", a couple of times in Mr Brajkovic's Record of Interview.  
A. Yes.

25 BUCHANAN: If we can just scroll down to see - there are three pages. Go to the third page.

Q. I don't think there's anything to indicate authorship at the bottom of the document. That's the end of the document there. Do you see that?

30 A. (No verbal reply)

Q. Do you know where that document came from?

A. No idea.

Q. Was it a document you saw, at all?

35 A. This is the first time I've seen it.

Q. If you assume, as I'm asking you to, that the word "hi-jack" in Mr Bebic's Record of Interview of 8, 9 February 1979 had a hyphen between the syllables, "hi" and "jack" - you see in that police document, I think you'd accept, the word "hi-jack" spelt with a hyphen. We've seen it spelt twice in the Brajkovic Record of Interview with a hyphen. Is there anything you can tell the Inquiry that would assist in understanding how the word "hi-jack" came to be spelt with a hyphen in those instances?

40

45 A. Well, the only thing I can think of is that, around about this time, we used to have hijacking exercises with the Special Weapons and Operations and, as often as not, there'd be operational orders drawn up, or an outline of the scenario, and I - as far as I can remember, and I can't be 100% sure, that's the way it was spelt.

50 WOODS: Your Honour, in fairness to the witness, it should be pointed out by

Mr Buchanan that with the witness's own typing - at question 100, he uses a hyphen and at question 101 he doesn't use a hyphen, it's one single word.

5 HIS HONOUR: Dr Woods, this has already been pointed out to him. He was taken to questions 100 and 101, where there's no hyphen, by Mr Buchanan earlier.

10 WOODS: Yes. There's another document, as well, your Honour, in which he uses no hyphen, but a space. Anyway, I'll leave that for the moment.

BUCHANAN

15 Q. Dr Woods has suggested we have a look at another document that you typed, and that is the timetable of events, Exhibit 11.89, timetable of events relating to the arrest of Mr Brajkovic, which you typed, you told us, on 9 February.

EXHIBIT 11.89 SHOWN TO WITNESS

20 BUCHANAN: If we could go, please, towards the bottom of the document. Could you go to the next page, please, and scroll down. Again, if we could scroll down. Next page, please.

25 WOODS: It's page 1290.

BUCHANAN: Thank you very much.

HIS HONOUR: The first paragraph after "1.46am".

30 BUCHANAN: Thank you very much.

Q. Do you see "1.46am. Interview concluded"?

A. (No verbal reply)

35 Q. Do you see the paragraph that's underneath that that's in parenthesis, and the second-last line before the closing of the parenthesis has the word "hi jack" spelt "H-I" new word "J-A-C-K".

A. Yeah, I can see that.

40 Q. You typed that yourself?

A. I did. Yes, I did.

45 Q. Did you copy any part of a document purporting to be Mr Bebic's Record of Interview into a document that purported to be a Record of Interview of Mr Brajkovic?

A. I've never seen Mr Bebic's Record of Interview, even to this day.

Q. You weren't shown a copy or you didn't see a copy after 9 February?

50 A. No.

Q. How many copies did you make of the Brajkovic Record of Interview?

A. I'm only guessing, but probably an original and three.

5 Q. After you'd finished typing the document, what happened to those copies?  
A. I handed them to Wilson.

Q. The original and the copies?

A. That's right.

10 Q. Do you know what happened to those documents afterwards?  
A. Wilson retained them, with the exception of the copy that was placed in the safe at the CIB for Mr Brajkovic.

15 Q. Do you know whether a copy of Mr Brajkovic's Record of Interview was given to Sergeant Turner or Senior Constable Milroy?  
A. I've got no idea.

20 Q. Can I change the subject now, Mr Harding, and go to a subject that Counsel Assisting asked you about, the Wood Royal Commission Report.  
A. Yes.

25 Q. You didn't read, do I summarise your evidence correctly, any part of the Report except that part that concerned you?  
A. Correct.

Q. Was there a reason why you didn't read the rest of the document, or any part of it?  
A. I think I was already out of the police by then.

30 Q. Yes. You weren't interested, though, in what a Royal Commission into the Police Force found, particularly about CIB?  
A. No.

35 Q. Why weren't you interested?  
A. Well, I - at that stage, I was fairly bitter about some things that had happened, and I just saw no good reason to read it. I still haven't read it.

40 Q. You didn't have, by the late 90s, any pride in your service in the Police Force?  
A. Yes, I had. I still have.

Q. Any pride in your membership of, for example, the Armed Hold Up Squad?  
A. Yes.

45 Q. You must have heard that findings adverse to the elite - the Special Squads at CIB were made by Wood J.  
A. I saw all the media and I read the newspapers, but I've - to this day, I have not read the full report.

50 Q. Were you disappointed in the conduct of your colleagues that was



uncovered?

A. I didn't know those that did. I've never seen it - that conduct, nor have I ever been part of it.

5 EXHIBIT 13.13A, RED PAGE 111-1, SHOWN TO WITNESS

Q. Paragraph 3.64 reads:

10 "The main power base in the Force in this period was undoubtedly  
the CIB and its various squads, elements of which were regarded as  
seriously corrupt. Transfers to and from the CIB could take place  
overnight, in the 'interests' of the Service. Those from the squads  
were recognised as having shortcut systems for achieving results,  
15 such as 'police verbals' and 'loads' (planting of  
evidence). Moreover, investigations were seen by other police to  
become unpredictable if the CIB, which had the power to move in  
on any investigation, took them over."

20 You must have been disappointed when you learnt that findings of that nature  
were made?

A. Never read that before.

Q. Reading it as you do now, are you appalled?

25 A. It just did not take place in the places that I worked.

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

30 A. I was a foundation member in 1966, for only a brief period. Then I went to  
other places. Then I went back to the Armed Hold Up Squad, in '76, until  
'83. Then I went to the Regional Crime Squad South, at Miranda.

Q. Would you accept that it's difficult to understand how you could not have  
been aware of corrupt conduct on the part of your fellow officers in the Armed  
Hold Up Squad during that period, insofar as it extended to fabricating  
evidence?

35 A. I did not witness it.

Q. You were not aware of it?

A. Well, if I did not witness it, I was not aware of it.

40 Q. Did you ever go drinking with your colleagues?

A. Of course.

Q. Did your colleagues ever talk about work?

45 A. Yes.

Q. Did you talk about work when you went drinking with your colleagues?

A. More than likely.

50 Q. When you went drinking with your colleagues, was there never any  
discussion about how police had managed to make evidence up against

particular suspects?

A. No.

Q. Again, I want to suggest to you that that is difficult to accept.

5 A. Well, you may find it that way, but that's the simple truth.

HIS HONOUR

10 Q. Mr Harding, was there ever any talk about how detectives such as yourself could protect yourself from false allegations being made about verbals or loading up?

A. Well, even at that stage there were a couple of committees looking at the installation of tape recorders, and our officers - the likes of Noel Morey and others - supported it. But with a lot of these things, it was a long time coming.

15

Q. But there were a lot of capable and intelligent officers attached to the squads that you were attached to--

A. Yes.

20 Q. --at the time. Did anyone come up with any ideas, without going to a committee, but just talking amongst yourselves about what you could do to protect yourself as far as you could from these scurrilous allegations being made?

25 A. Well, we just followed the procedures which were in place, and that was, if you interview someone, you got an officer to come in to verify what had taken place. That's the way it remained.

30 Q. Did any of you think, "Maybe when we go to premises and we find incriminating items, we might get a signed receipt for the item so that we've got independent acknowledgment that we actually found the items at the place in question"?

A. A receipt from who, sir?

35 Q. Some other person that was at the premises. Not the suspect but some person other than the suspect?

A. I've never had that experience.

Q. That never occurred to you?

40 A. Well, it depends if there were people there.

Q. If there were people there?

A. No.

Q. Never occurred to you?

45 A. No, not at all.

Q. You would be able to go to a court and say, "Look, that allegation that we loaded them up was wrong. We in fact have a receipt here from the accused's friend, brother, sister, wife, whatever"?

50 A. I've never had that experience.

Q. But you couldn't think of it, though? That's what I'm wondering about?

A. Well, I - if I've never had that experience, I - the thought didn't cross my mind.

5 Q. No-one's ever suggested that you were involved or officers with whom you worked were involved, had loaded up somebody?

A. That has happened.

10 Q. What I'm asking you is what thoughts you gave to protecting yourself from those allegations?

A. Well, I've never turned my mind to asking some civilian to verify what we found if there were in fact someone there. I can't bring an instance to mind which fits what you're saying.

15 Q. Mrs Brajkovic could've been shown the items at the house at Restwell Road and--

A. Well, they were--

20 Q. --shown a list of the items in a notebook and asked to sign to confirm that they had been found and seized from the premises?

A. But those interviews did take place later that evening.

Q. Not at the premises?

A. No.

25

BUCHANAN

Q. What was the obstacle to asking Mr Brajkovic when at CIB whether he would like a friend or a witness to sit with him while he was being interviewed?

30 A. I've never - that only used to happen with juveniles. But he's a mature man--

Q. Yes, but what was the obstacle to it being done with an adult?

35 A. Well, I didn't ask him that or make that offer and I doubt if Wilson even turned his mind to it. He's a mature man.

Q. If a person who was not a police officer was present, then they would be able to go into court and support you in your version of what had occurred, making it more difficult for an allegation of a verbal to stick, wouldn't it?

40 A. Yes.

Q. Is the reason that no non-police person was present that, if they had been, then all they would've witnessed was a serious assault on Mr Brajkovic?

A. That did not take place.

45

Q. Counsel Assisting took you to statements made by former Detective Sergeant Rogerson telling the media in 1991 that loading up criminals was "the cult", to use his words, that it was police culture to load up criminals and verbal them?

50 A. Yes, I read that article.

Q. What he was saying was, as you understood it, the fact, wasn't it? It was police culture, particularly in the Armed Hold Up Squad and the Special Breaking Squad?

A. Not in my experience.

5

Q. Mr Rogerson was recorded as telling an opinion writer at the Sun Herald - Exhibit 13.11 - that people who police loaded up, to use his words, "would be charged with having a gun in their possession or some explosives." He was describing what happened in this case, wasn't he?

10

A. No.

Q. Even if he wasn't specifically referring to this case, he was describing what happened in this case?

A. No.

15

Q. Mr Rogerson was reported as saying that everyone, including himself, knew about it and that it was "par for the course"; Exhibit 13.12. It was par for the course, wasn't it?

A. No, not at all.

20

Q. You worked closely with Rogerson over the years when he was at CIB, didn't you?

A. Yes.

25

Q. You were involved with some important cases with Mr Rogerson, weren't you?

A. Yes.

30

Q. If he knew what the culture was at the Armed Hold Up Squad, and that was confirmed then by the Wood Royal Commission, how could you not have known about it?

BASHIR: I object, your Honour, to the equivalence between Rogerson's statements and the Wood Royal Commission.

35

WOODS: Yes, I join in that objection.

HIS HONOUR: Yes, I think there's force in that, Mr Buchanan.

40

BUCHANAN

Q. At the end of the day, there was a degree of coincidence, you'd accept, wouldn't you, between what Rogerson said was going on in terms of police culture and load-ups and what the Wood Royal Commission said was going on, particularly in the elite squads at CIB?

45

BASHIR: I object, your Honour, to that question for the same reason and also, your Honour, it doesn't accurately reflect the terms of what's in the Wood Royal Commission Report.

50

HIS HONOUR: It's really a submission, isn't it, Mr Buchanan?

BUCHANAN

5 Q. One of the things that I think Counsel Assisting took you to yesterday was what the Wood Royal Commission had to say about the expression "scrum down"?

A. Yes.

10 Q. You said you'd never heard it?

A. It was a term not used by us.

Q. The Wood Royal Commission described it as a "police" term; that is to say, a term used by police. Exhibit 13.13A, read page 50 to 51.

15 A. I've never used it nor have I ever heard any of my colleagues use it.

Q. But that's what you did on the early mornings hours of 9 February--

A. No.

20 Q. --extending into later in the morning?

A. No, I've described what took place and I've never heard it described as a scrum down.

HIS HONOUR

25

Q. Whatever you call it, let's just forget the terminology, you agree that police got together and formulated a description of agreed events?

30 A. Yes. That's - that took place and it took place in other cases as well. We were always encouraged, if we did not have notes made at the time, to at least prepare them as soon as possible afterwards, and that's what happened. And joint recollections were viewed as being better than perhaps one person.

Q. The Royal Commission, if I recall correctly, indicated that it was sometimes used corruptly and sometimes used legitimately?

35 A. Sometimes used for?

Q. Legitimately?

A. Yes.

40 BUCHANAN

Q. The purpose of the exercise in the early hours of 9 February was to create, as it were, a basic skeleton statement from which the police involved in the raid could prepare their witness statements--

45 A. Yes.

Q. --to the extent that they were involved?

A. Yes, everyone had access to those notes.

50 Q. It was essentially a script that you and your colleagues prepared as to what

you decided would be said in court about what had occurred that night?

A. No, it reflected what did take place.

Q. You would've heard the expression "holding the line"--

5 A. No.

Q. --when you were a police officer?

A. No.

10 Q. Sticking to a version of events?

A. No.

Q. You never heard of that?

A. No.

15

Q. It's important, isn't it, that if police are telling their story as to what occurred that all the detectives involved stick to the official version, the version that has been agreed by the police that was produced shortly after the events?

A. If it's the truth.

20

Q. If it's not the truth, of course, then if people don't stick to the version of events, the fact that it's not the truth will be exposed, won't it?

A. Look, I can only tell you what took place on this night.

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

A. No.

30 Q. You weren't aware of that?

A. No, I read newspaper reports but I did not read the actual words used.

Q. Does it come to you as a surprise that - Exhibit 13.13A, red page 111-107 at paragraph 620, seventh dot point - the Royal Commission found that the Police Force had an institutional tolerance of brutality and particularly for unnecessary assaults of persons under investigation or in police custody?

35

A. Did not see it happen.

Q. Were you aware of it happening?

40

A. No.

Q. I expect I know your answer, but did any senior police officer give you a hint when you got back to CIB that it would be appropriate for Mr Brajkovic to be given a bit of a beating up?

45

A. No.

Q. You were involved in taking Mr Brajkovic to Central Police Station for charging?

A. Yes.

50

Q. You saw no injuries on him?

A. No.

5 Q. This is despite the evidence you've given to Counsel Assisting about the violent struggle that you described--

A. That's right.

Q. --that you say occurred with Mr Brajkovic at the premises?

10 A. That's right. I definitely did not see two black eyes.

Q. I want to suggest to you that, before you and your work partner, Detective Morris, assaulted Mr Brajkovic, you were asking him questions like, "Tell us about the explosives."

15 A. No.

Q. When he did not give you an answer, you attempted to strangle him with a towel.

A. No.

20 Q. You said at trial - Exhibit 2.1, Day 22, red page 731 - that you were aware that Mr Brajkovic was claiming injuries.

A. Yes.

Q. That would have been because Internal Affairs notified you?

25 A. Yes.

Q. You were given access to medical reports, were you?

A. We were required to read several reports. I can't tell you what was in them now.

30 Q. I'd like to take you to some of the detail of the evidence at the trial, on the subject of injuries observed on Mr Brajkovic. Sister Susan Jefferies from the Prison Medical Service - Exhibit 2.1, Day 108, pages 3572 to 3573 and 3574 to 3576 -- saw Mr Brajkovic between 4pm and 6pm on 9 February.

35 A. Yes.

Q. This is the day that you'd taken Mr Brajkovic to Central Police Station.

A. Sorry?

40 Q. That is the day--

A. Yes.

45 Q. She said that Mr Brajkovic gave a history of an assault by police the previous night, that he'd lost consciousness for approximately a few minutes, and his complaint of assault included a complaint of being strangled (red pages 3572, 3573, 3577). She observed: bruising to both eyes and the forehead (red page 3572); graze marks above the right eye, approximately two to three centimetres long; bruising to the nose - no obvious displacement, tender to touch. He apparently had bled the previous day, but not  
50 since. Bruising to the right ear lobe. He complained of reduction in his

hearing. He was tender, with some swelling to his right mandibular angle, but the mobility of his jaw was good. There were welt marks around the front of his neck, from attempted strangling. There was bruising to the back of the neck. The line of welt marks was broken underneath each ear. The welt marks were around the front and there was bruising at the back. He complained of severe headache, without nausea or blurred vision. Sister Jefferies admitted him to Metropolitan and Reception Prison Hospital for observation and head injury. Are you able to account for how Mr Brajkovic, in the late afternoon of 9 February, ended up with injuries such as Sister Jefferies described?

BASHIR: Your Honour, prior to that answer being given, I just object to a material omission from the account, which was that Sister Jefferies recounted that when Mr Brajkovic said that he was assaulted the previous night, that he said that that occurred at 10pm.

HIS HONOUR: Do you accept that, Mr Buchanan?

BUCHANAN: Thank you. If the witness could take that into account, please.

HIS HONOUR: Yes.

BUCHANAN

Q. Can you account for those injuries?

A. I can only repeat what I've always given in evidence. There was the confrontation, there was the violent struggle. I've always said that I don't doubt that, perhaps later, bruising may have appeared, but I - he was not on the receiving end of a concentrated bashing. That did not take place. The only physical confrontation between us and he is what I've always described.

Q. There was another witness, a medical witness, in the trial, who gave evidence. He was Dr Anthony Graham, a vascular surgeon - Exhibit 2.1, Day 19, red pages 642 to 643. He said that Brajkovic gave a history of assault and complained of pain in the upper lumbar region - that is to say, the back - on both sides. He observed multiple bruising on the left frontal region of the skull - that is to say, the left forehead - and, also, there was bilateral post-orbital bruising around both eyes, and tenderness anterior to the right ear. Are you able to explain how Dr Graham observed those injuries?

A. No. My answer is exactly--

Q. I apologise, on 10 February.

A. No. My answer is exactly the same.

Q. On 12 February, Dr Ubali Gunawardena gave evidence - Exhibit 2.1, Day 19, red pages 630 to 632; Day 108, red pages 3559 to 3561. He said that Brajkovic had given a history of an assault by police on 8 February 1979. He observed a contusion, a bruise, just above the left lower eyelid and just above the upper eyelid. He observed conjunctival haemorrhage in the left eye; a contusion - a bruise - just above the right upper eyelid and below the lower



eyelid; conjunctival haemorrhage of the right eye. Both haemorrhages were quite evident. What they comprised was bleeding into the conjunctival membrane (red page 3564). He said that Mr Brajkovic was complaining of pain to the right wall of the skull. He saw Mr Brajkovic subsequently, on three different days, and said that Mr Brajkovic complained of trouble with his hearing and he referred Brajkovic to a Dr Halliday, an ear, nose and throat surgeon. The opinion that Dr Gunawardena gave to the Court was that the injuries he observed were consistent with trauma (red page 630) with Brajkovic having been beaten (red page 3560); they were consistent with having occurred on 8 February 1979. He also gave the evidence that a black eye becomes recognisable as a black eye almost instantly, whereas bruises usually show up pretty soon (red pages 631 to 632). The account you have given of this violent struggle, as you've called it, with Mr Brajkovic, at Restwell Road, wouldn't account for him having black eyes, would it?

A. He did not have black eyes when he was in our custody.

Q. You can't understand, I suppose, how the medical witnesses have observed the sequelae of black eyes?

A. Well, I could put forward a theory, but I've got nothing to back it up.

Q. Can I relate to you the evidence of another medical witness given to the trial, Dr George Halliday - Exhibit 2.1, Day 18, red pages 621 to 623; Day 106, red pages 3514 to 3516. He is an ear surgeon and a visiting consultant at Prince Henry Hospital. He saw Mr Brajkovic on 28 February 1979. He said Mr Brajkovic gave a history of deafness and a buzzing in his right ear, after it received a kick. He had some dried blood clot and scarring on the right eardrum. The blood clot was fresh, recent, indicating that the damage had occurred in recent weeks, and was consistent with the ear having been kicked. A hearing test showed slight deafness in the right ear. His eardrum was intact. Hearing in both ears was above the practical level and no treatment was indicated at the time. The injuries observed were consistent with having occurred on the night of 8/9 February 1979. Dr Halliday gave an opinion that Mr Brajkovic's hearing loss was a nerve loss, suggesting therefore that the problem was either in the inner ear, with a connection to the nerve endings, or damage to the nerve (red page 622). The trauma, he said, could possibly have been caused by a heavy kick. A history of a loss of consciousness at the time would be consistent with the trauma to the nerve endings having been caused by a kick (red pages 3515 to 3516). You know that Mr Brajkovic's account at the trial was of you having kicked him, don't you?

A. No. I was not present when he - when he gave evidence, and I've - I didn't kick him.

Q. No-one has drawn it to your attention that Mr Brajkovic has claimed that you kicked him?

A. No, not that I can remember. I did not kick him, nor did anyone in my presence kick him.

Q. There's no kicking, that you've given an account of, that occurred during the violent struggle that you say took place at 16 Restwell Road?

A. That's correct.

5 Q. Of course, you weren't aware of the details of these medical reports at the time you and your colleagues compiled the timetable and notes of evidence relating to the arrest of Mr Brajkovic?

A. This is the first time I've heard them in detail.

10 Q. You were asked yesterday as to whether an allegation of using a towel to strangle a suspect has been made to you in legal proceedings before. You told us that it had been, in legal proceedings relating to a Mr Steep – S-T-E-E-P?

A. Correct.

15 Q. It might have an 'e' on the end, or it might not.

A. I think he spells it either way.

Q. Thank you. You denied using a towel on Mr Steep to--

A. That's correct.

20 Q. --attempt to strangle him?

A. That's correct.

Q. You saw Mr Steep, didn't you, in Port Macquarie?

25 A. That's right.

Q. He had been arrested by local police, had he?

A. No.

30 Q. Who had he been arrested by, as you recall?

A. By us.

Q. You were involved in his arrest?

A. Yes.

35 Q. Thank you. You told us yesterday that the allegation was that he'd been involved in the theft of firearms?

A. No.

Q. No?

40 A. He - I think we charged him with possession of firearms, but there's a fairly lengthy explanation. Do you want me to go through it?

Q. No. Can you tell me your understanding of who the owner was of those firearms?

45 A. The ones that we charged him with?

Q. Let's start with those.

A. I've got no idea.

50 Q. Any others?

A. There were - there was another firearm involved, with which he was never charged.

Q. Who was the owner of that?

5 A. NSW Police.

Q. People stealing firearms from police are frowned upon by police officers?

A. Of course, yes.

10 Q. You meted out summary justice to Mr Steep--

A. No.

Q. --in part, for that reason.

A. No.

15

Q. Can I suggest, despite saying that you saw no injuries on Mr Brajkovic at the time he left CIB and went to Central Police Station on 9 February, you made up an account of a violent struggle with Mr Brajkovic outside the front of his house to muddy the waters in case Brajkovic complained about what had been done to him to anyone or a doctor saw him?

20

A. No.

Q. Can I just put this concluding set of questions to you. If you lied when you said that Mr Brajkovic was not beaten up in the interview room at CIB, then obviously you would've--

25

WOODS: I object, your Honour. This is sounding like a submission, not a question.

30 HIS HONOUR: I haven't heard the entirety of it.

BUCHANAN

Q. If you'd beaten him up at CIB in the interview room there, then you couldn't have been conducting a Record of Interview with him, could you?

35

WOODS: I object to that question.

HIS HONOUR: Does it follow anyway? That's a matter of common sense, isn't it?

40

<EXAMINATION BY MR COFFEY

Q. Sir, the first topic to ask you questions about concerns the carrying out of a typed recorded interview on a typewriter. You were asked some questions by Mr Buchanan concerning whether or not you could have carried out an interview using the typewriter at the house. Do you recall those questions earlier today?

45

A. Yes.

50

Q. On 8 February 1979, what was the practice and procedure in place concerning the carrying out of a record of interview with a typewriter in terms of the type of paper that would be used?

A. That was - 1979. Just the normal A4 departmental issue.

5

Q. With respect to "departmental issued", during the course of the exchange and you giving evidence to Mr Buchanan's questions, you spoke about a number of copies?

A. Yes.

10

Q. Mr Buchanan also spoke about whether or not you could've used paper at the house?

A. Yes.

15

Q. I want to suggest to you that during the course in 1979 the practice was that typed record of interviews adopted the use of a carbonated paper?

A. Yes, that's right.

20

Q. Would you tell his Honour in respect of the carbonation, as in there's obviously the top sheet but would you describe your recollection or your memory about how many sheets underneath there were in 1979?

A. I think three. Three copies.

25

Q. In respect of the three copies, could you just explain what the purpose of each three of the copies was for?

A. Well, one would go to the accused or the defendant. The original was obviously for court purposes. I would assume that one copy was - well, two copies anyway would go into the brief for the use by the investigating police.

30

Q. Just for my purpose, to make sure I've understood your evidence, is it the case that the top copy was the version you're referring to as the original?

A. Yes.

35

Q. Then there were three carbonated copies underneath?

A. Yes, that's correct.

40

Q. Was each of the carbonated copies a different colour or were they all the same colour, everything maybe being white?

A. Just all standard carbon copies.

45

HIS HONOUR

Q. Just so I can be clear about it, at some stage there was a certain sort of paper that didn't need carbon paper to make a copy onto a piece of paper behind it, but I think what you're talking about - and confirm for me, if you would, or correct me if I'm wrong - if you were going to make an original and three copies, you would have four sheets of standard paper--

A. Yes, correct.

50

Q. --and three sheets of carbon paper sandwiched between them; is that

right?

A. Correct. Yes, sir.

COFFEY

5

Q. In respect of the practice in 1979, sir, concerning the carrying out of a typed record of interview, what was your experience concerning typing an interview at a location other than a police station or a CIB office, for example?

10 A. I can't recall ever doing one other than at a police station. A gaol - I've done one there, or several there, actually. Yeah, that's the best I can do at the moment.

15 Q. Up until 1979, had you received any specific instruction or training that concerns the carrying out of a typed record of interview at a place other than a police station or a gaol?

A. No.

20 Q. To be clear, did you have any restriction? Was it possible; as in, did someone ever say to you or you had received training, you must not carry it out at a suspect's home or--

A. No.

Q. -you must not carry it out at a suspect's office, for example?

25 A. No.

HIS HONOUR

Q. Does that mean that it was a matter for discretion?

30 A. Yes.

Q. You could do it if you wanted to?

A. Yes, sir.

COFFEY

35

Q. Just clarifying, "you could do it if you wanted to," in 1979, had you experienced any other police officer in the course of the investigations you were involved in, did anyone return back to the office and say, "I just took a statement from Ryan Coffey at the office"? Do you have any experience of police officers taking statements at other locations than gaols or police stations?

40

A. Yes, that's - statements, yes, that's certainly taken place.

45 Q. Sorry, I withdraw the question of "statement"; I should be very clear. A typed record of interview is what my question is directed at?

A. I've never seen a record of interview that I can bring to mind conducted in private premises.

50 Q. You were asked some questions by Mr Buchanan about whether or not it was appropriate - and I may not have that description right - or whether you

should've had other civilians who were present at the house present while a record of interview was being carried out. Do you recall those types of questions?

A. Yes, I do.

5

Q. As at 8 February 1979, what was your training in respect to who was present during the course of a typed record of interview with a suspect?

A. Just generally the police - the two police or maybe even three police, and the accused person. That was it. With juveniles, of course, you always sought to have a parent or a carer there.

10

Q. When you raise "two, possibly three" police officers present in the course of the record of interview being typed, do I understand that to be one police officer is possibly the typist and the other two police officers are carrying out the interview?

15

A. That could be the case, yes.

Q. You've answered that "that could be"; is it possible that I've got that wrong? Is there another option in relation to all three--

20

A. Well, usually there's one interrogator but it - I've never had the experience but it wouldn't be unusual if perhaps another police officer, during the interview, asked questions as well, but it would've been recorded.

Q. As at 8 February 1979, putting aside any child or juvenile, young person that you were conducting an interview with - a suspect - in your experience up until February 1979, had you participated in any record of interview with a suspect where another person other than the police officers we've described and the suspect had been present?

25

A. Yes, solicitors. I've done that.

30

Q. What about an interpreter or translator?

A. Yes, forgot about that. Interpreters, that's right.

Q. Pausing on a solicitor or a legal representative and an interpreter, and putting the children to one side, had you ever had an experience where another person, another adult was present--

35

A. No.

Q. --that was not one of these categories of people?

40

A. No.

Q. Did you receive any specific training or instruction as at this date about whether or not it was appropriate to have such another person present?

A. I've never seen it done.

45

Q. Moving to another topic, Mr Harding. Yesterday, I understand you were asked some questions by Counsel Assisting in respect of the Emergency Management Manual. Do you recall those questions?

A. Yes.

50

Q. Mr Buchanan asked you some questions about that document as well. For the record, it was Exhibit 14.8 and 14.9. Yesterday, Counsel Assisting showed you page 102 of Exhibit 14.8 where it states, "The manual replaces all previous general instructions to police in connection with emergency disaster procedures." Firstly, do you recall being shown that yesterday?

A. Yes.

Q. You accept that that was what was the contents of the statement that was shown to you yesterday?

A. Yes.

Q. Do you accept from me that, as a general instruction to police, it was applicable to all police, not to police simply assigned to, for example, SWOS?

MCDONALD: Your Honour, I object. The problem is Mr Harding's evidence yesterday was he'd never seen the manual before and really had no knowledge of it at the relevant time or its operation.

HIS HONOUR: That's right.

MCDONALD: If my friend's asking about the terms of the Emergency Manual, what it says, it really speaks for itself but I don't think Mr Harding can assist further.

HIS HONOUR: I think that's right, Mr Coffey, isn't it?

COFFEY: I accept that. I might just move onto another question and tidy that up, so I withdraw that question, your Honour.

Q. Mr Harding, you were also shown yesterday by Counsel Assisting a specific reference - and I'll quote it to you; it doesn't need to be brought up - "Instructions directed specifically to personnel of certain specialist branches have not been included in detail in this manual." It goes further and then says, "However, the manual includes references to the existence of these specific instructions and objectives." Firstly, do you recall having any conversation or being examined about that yesterday?

A. No, not specifically that.

Q. The point of the paragraph that I've just read to you is to say that, as I understand it, the Emergency Manual applies to all police generally; however, if there's more specific protocols or procedures that apply to specialist squads such as CIB or Armed Hold Up, they'll be noted but the contents of those special instructions won't be recorded in the Emergency Manual and will be recorded elsewhere?

A. Okay, yes.

Q. Do you understand that?

A. I do, yes.

Q. I accept the point raised by Counsel Assisting; your evidence yesterday

was you had not seen that manual. In fairness, have you seen the manual over the course of the evening and had a look at it at all?

A. No.

5 Q. It's the case that, during your time at least up until 1979, you worked in the Criminal Investigation Branch, CIB?

A. Yes.

10 Q. As at 8 February 1979, what was your knowledge in relation to specific instructions given to CIB concerning emergency management?

A. They were - that could range from a hijacking to a serious motor vehicle accident. There were instructions there but I think they were in the police rules and instructions, and there were also circulars. Circulars used to come out virtually every week.

15

Q. Could we just go through your answer, sir? Where you say, "police rules", do you accept that police rules were rules that were promulgated by the Commissioner or the Police Board to all police officers, not specifically? They were more of a general application rather than specifically to CIB?

20

A. Yes.

Q. You also then talked about circulars. Again, circulars were of a more general application rather than specifically to CIB?

A. Yes.

25

Q. What my earlier question is more directed at is, do you recall any specific instructions issued to the CIB concerning emergency management?

A. No.

30 Q. Do you recall any specific instructions issued to CIB concerning the management of explosives and bomb material?

A. No.

35 Q. I ask those same questions in respect of your period of time in the Armed Hold Up Squad and the Special Breaking Squad. Are you aware now, as you give evidence, of any specific instructions that were given to those two squads, whilst you were in those squads, about emergency management?

A. No.

40 Q. What about the management of explosive material?

A. No.

Q. During the course of your evidence yesterday, sir, at transcript page 1620, 21 to 25, you gave this evidence:

45

"A. We were not normal police officers. We were members of the Special Weapons and Operations Squad. We received some rudimentary training. Certainly we were not experts. In my own case, I was not an expert, but I was - I was confident on the basis of what I'd learnt through the military that it could be handled safely,

50



and that's why I did that."

Do you recall responding yesterday and giving that evidence?

A. Yes.

5

Q. That evidence was specifically concerned with your involvement and training in SWOS. Do you recall, whilst you were in SWOS, whether you were given any specific training or instructions about the management of bombs or explosives?

10 A. Only what the military outlined to us.

Q. Just to be clear about the military outlines, do you mean that as part of your training in SWOS, the police members went to a military site and received training from military personnel?

15 A. Yes.

Q. Were you given any specific instruction or training by the Police Force in a document recorded by the Police Force?

20 A. No.

Q. Do you recall ever being given an instruction by anyone in the Police Force that members of SWOS were entitled to overlook general police circulars or rules by virtue of their special skillset?

25 A. No. I don't recall any of that.

<EXAMINATION BY MS MACKENZIE

Q. I just wanted to ask you about--

30 A. I'm sorry, who do you represent?

Q. I represent the Officer of the Director of Public Prosecutions.

A. Okay.

35 Q. I just wanted to ask you about some knowledge prior to that briefing on 8 February 1979, before you went to the raid. Is that okay?

A. Yeah. Yes.

Q. Had you ever met Mr Brajkovic prior to 8 February 1989?

40 A. No.

HIS HONOUR: '79, Ms MacKenzie.

MACKENZIE: Sorry, 1979. Thank you.

45 Q. Had you ever heard of Mr Brajkovic--

A. No.

50 Q. --prior to that date? Do you remember, and I know you've said you don't remember the details of that briefing, but do you remember any officers present at the briefing, or present at the raid, who indicated that they had any

prior dealings with Mr Brajkovic prior to then?

A. Yes. Krawczyk.

Q. Krawczyk?

5 A. Yes. And, I think, Helson as well.

Q. Can you remember what prior dealings they recalled?

A. No. No.

10 Q. Do you remember when they recalled prior dealings with Mr Brajkovic?

A. No. No, I don't.

Q. Was it before 8 February 1979?

A. Yes. Yes, it was.

15

Q. A long time before or shortly before?

A. I don't know. They'd be able to help you with that.

20

Q. Can you remember, and really think well, can you remember the substance - you can't remember the exact words - the substance of what they said to you?

A. Well, I understand that Krawczyk and Helson spoke to Mr Brajkovic on the night of the - or at least during the day of 8 February, but I - I don't know specifically what was said, or anything like that, but I'm sure they'd be able to help you.

25

Q. Did they tell you anything about what you should expect to see at the property when you went to the raid?

30

A. When we met Krawczyk prior to going to the house, I think he described - gave us a description of the house, and to his knowledge who was there, and a bit of a - a description of the layout.

Q. You said that in the briefing, you were briefed that there may be explosives at the property during the raid.

35

A. Yes. Yes, I think that was said.

Q. Were you provided with any details about where they may be or what there may be at the property?

A. No. No.

40

Q. Personally or professionally, did you hold any views about Croatians at this point in time around 8 February 1979?

A. None whatsoever.

45

Q. Were you aware at that stage of the political situation in Yugoslavia in that period around 1979?

A. Look, I'd had a rough knowledge of what was taking place in the Balkans, but certainly not an expert knowledge.

50

Q. Where would you get that information from?

5 A. Just through reading, and I used to work with a fellow called John Radji, who was a - I think John was Montenegrin, and he would occasionally talk about what was happening over there. And I was in the cadets with a fellow called Andy Tomic, and Andy went on to become a member of the Consorting Squad, and Andy would sometimes talk about it as well.

10 Q. In your discussions with people from Special Branch, did they talk to you about the situation in Yugoslavia, or, in particular, Croatsians in Australia?  
A. No. Not at that stage, no.

Q. Not at that stage, but later on?  
A. No.

15 Q. At no time?  
A. No.

Q. On that night, on 8 February 1979, you've said that the Special Breaking Squad and the Armed Hold Up Unit were involved in the raid. Was there anybody from Special Branch as well involved in the raid?  
20 A. On - with us?

Q. Yes.  
A. Yes. Krawczyk and Helson.

25 Q. In the briefing prior to the raid, you said you don't remember much, but do you remember where it took place?  
A. Yes. In the Armed Hold Up Squad office.

30 Q. In Exhibit 11.187, that's the Internal Affairs report. If that could just be put up on the screen, and at paragraph 4, in particular. That's at page 1547.

EXHIBIT 11.187, PAGE 1547, SHOWN TO WITNESS

35 Q. Just focusing on paragraph 4, you've said there that, "Mr Morey outlined the activities of a group of Croatsians involving the use of explosives." You've then gone on to say, "Each Police Officer attending the briefing was allocated a role and in my case I was to be involved with Mr Brajkovic."  
A. Yes.

40 Q. First of all, what other roles, to your memory, were allocated to police?  
A. I couldn't tell you. This report was prepared closer to the incident than - well, now, for instance. No, I - I can't. I've got no independent recall at the moment of that briefing taking place; but as I've said, it definitely did take place, and I was there, but I just can't remember.  
45

Q. What did you mean when you wrote, "...and in my case I was to be involved with Mr Brajkovic." What does that mean?

A. To be - to be part of the team that goes to his house.

50 Q. You've specifically said you were to be involved with that particular

person. Were other people allocated to particular people?

A. Yes. Wilson, Bennett, MacKenzie, Pettiford, Crawford, Helson, the two Observation Squad people were all involved with Mr Brajkovic.

5 Q. Do you have any memory whether you had any specific role that you were allocated?

A. No. Just to go there, and to assist, and then later on to assist with the interview.

10 Q. Were you advised as to anything in particular about Mr Brajkovic that you can remember?

A. Advise who?

15 Q. Were you advised about anything in particular about Mr Brajkovic? What you should look for?

A. No. Just the general instructions that we received at the briefing, which I'm not clear on right now.

20 Q. When you say, "involved", would it be correct to say Mr Brajkovic was the target of this raid?

A. Of that - of that specific house, yes.

Q. Do you know Detective Senior Constable Jefferies from Special Branch?

25 A. No. I don't.

Q. You have no memory of him prior to 8 February 1979 or after?

A. I don't think I've ever met him.

30 Q. Did you obtain any information about Mr Brajkovic from anybody on the evening of 9 February after you returned to the police station?

A. Yes. I carried out checks - telephone checks, and I would have spoken, I believe, to a representative within the Warrant Bureau, Criminal Records, and possibly the MO section.

35 Q. Can you remember what type of information you would have obtained from those telephone checks?

A. Just generally what was contained on the card, which would have been his history, and probably some personal detail as well.

40 Q. When you say, "his history", his address?

A. That's right.

Q. Where he was born?

45 A. That's right.

Q. That type of thing?

A. Exactly, yes.

50 Q. Things similar to the first questions that were asked in the Record of Interview?

A. Yes.

Q. I just wanted to go back to the briefing. You've said that you do remember being told that there may be explosives?

5 A. Well, I know that now.

Q. Do you have any recollection about being briefed on safety, either at that briefing--

10 A. No.

Q. --or discussions in the vehicle on the way?

A. No.

Q. You described the manual, which my friend has just asked you about, that police manual that you don't recall, but when Mr Buchanan was taking you through the particular parts of Chapter 19, it was paragraph 11, where it sets out how explosives or devices, suspected to being explosives, should be handled, and you said that it was, "a common sense direction". Would it be correct to say that you saw all the things in that manual as common sense?

20 A. Yes.

Q. So when you find an explosive device, you should leave it and call experts? That's common sense?

25 A. Well, we've been through this. I told you what happened on the night, and I believe we acted reasonably in the circumstances.

Q. But you've said--

30 MCDONALD: Your Honour, that's not answering the question.

HIS HONOUR: No. It's not.

MACKENZIE

35 Q. You'd agree that it's common sense to leave the suspected device and call the experts?

A. In certain circumstances, but we chose not to because of our background.

40 Q. You'd also - that--

HIS HONOUR: When you mean "a device", does that mean something that's been created so that it's capable of being exploded, or does it mean a component of something that could be used in such a thing?

45 MACKENZIE: Your Honour, we would say, something that is merely suspected of - capable of being exploded, capable of creating danger to other people.

50 HIS HONOUR: What I'm interested in is are you referring to - say, you find a stick of gelignite, on its own, with nothing else with it, no detonator, no fuse, no

nothing else, are you incorporating that sort of finding in what you're asking about?

MACKENZIE: Yes, your Honour.

5

Q. So in this case you've said that you found gelignite and detonators in the white bag. You'd agree that separating them out is common-sense?

A. They were separate.

10

Q. They were separate, but you said that they were in the same bag.

A. Yes, but they were individually wrapped.

Q. One was in, what, a brown paper bag, you said?

A. The detonators were in brown paper and the gelignite was in a newspaper.

15

Q. But they were all within the same one - white bag?

A. Correct.

20

Q. You'd agree that the reason that there is the manual and there are rules and instructions about explosives is because they can be dangerous?

A. Yes.

Q. If handled the wrong way, people can die?

A. Yes.

25

Q. You then went on to search for more explosives, you and the team?

A. Yes.

30

Q. You were also looking for items that could be used to make explosives, or--

A. Yes.

Q. That's correct. You said that - you would agree that if there had been - I think you described it as - an exotic device, such as a tripwire, then you may have sought some expert advice?

35

A. Yes.

Q. You'd agree that, once you've found that tripwire, it may all be too late?

A. I can't answer that.

40

Q. Because the situation was you had civilians in the house, you had police officers in the house and you were searching for, potentially, explosive devices.

A. That's correct.

45

Q. You didn't think to remove the civilians from the house or police that weren't required?

A. No, not at all. It was all part of a fluid movement at the time and--

Q. So, effectively, you took the risk that--

50

A. No. Well, we located the explosives, they were made safe. Nothing else

was found and the search was proceeding and, should something have been found which was dangerous, we would have assessed it on the spot, but nothing was found, apart--

5 Q. No, nothing was found. How--

A. --from what I've just described.

Q. How could you be that confident that nothing was going to be found?

A. I didn't say that. I said nothing was found.

10 Q. No, but to keep everybody in the house - not take any safety precautions--

A. Who's saying--

Q. --you must have been--

A. --that we didn't take any safety precautions?

15

Q. You agree that you didn't remove anybody from the house?

A. No. The search was proceeding.

Q. You didn't call any experts to assist you with it.

20

A. That's right.

Q. What I suggest to you is that you must have been confident that you were not going to find any other explosives or device.

A. I was not confident about anything.

25

Q. Then I'd suggest to you that you were willing to take the risk.

A. Well, when you say, "risk" - everything involves a risk, and the search proceeded and, if a risk had been identified, appropriate action would have been taken.

30

Q. I'd suggest to you that simply finding the gelignite and detonators was a risk that had been identified.

A. I'd agree with that.

35 Q. So you took the risk that you may find more explosives and, potentially, as you've described, an exotic device, like a tripwire?

A. That's right.

Q. And you went ahead anyway?

40

A. That's right.

#### SHORT ADJOURNMENT

45 Q. Mr Harding, it was suggested to you by Counsel Assisting and also his Honour that you had verballed Mr Brajkovic; that is, you'd fabricated evidence in relation to the typed Record of Interview, and you've denied that. That's correct?

A. Correct, yes.

50 Q. But you did tell us that you had been accused of being verballed a number

of times prior to 1979?

A. Yes.

Q. And up to 1988? I think that was the day you said--

5 A. Yes.

Q. --it would have been where it stopped. Now, it's true that an allegation that you had verbalised somebody, you had fabricated evidence, is a very serious matter?

10 A. Yes.

Q. And police took it very seriously at that time, as they do now?

A. Yes.

15 Q. Because it's true that it was, in 1979, a serious criminal offence?

A. Yes.

Q. A police officer's career could end because of either a finding of fabrication or even an allegation?

20 A. Yes.

Q. And it could perhaps even result in gaol time?

A. Yes.

25 Q. So these were all things that you were very aware of on 8 February 1979?

A. Yes.

Q. Mr Brajkovic participated in what you've called a typed Record of Interview with you and Detective Wilson?

30 A. Yes.

Q. You were the typist and he was the questioner?

A. Yes.

35 Q. There were no video recordings in those days?

A. No.

Q. Nothing available?

A. (No verbal reply)

40

Q. You've told us that the typed record of interview was preferred over a notebook or handwritten form of interview.

A. Yes.

45 Q. And that it made it more formal?

A. Sorry?

Q. That it made it more formal?

A. Just that it was quicker, I think, and it was a contemporaneous note.

50



Q. Why was it quicker than a notebook interview?

A. Sorry? I can't hear you.

5 Q. Why was it quicker than a notebook interview? You had to get a typewriter and--

A. Well, I could - I can type quicker than I can write.

Q. Sorry?

A. I can type quicker than I can write.

10 Q. But you'd need to have someone in the station with you--

WOODS: Sorry to interrupt, your Honour, but there appears to be something wrong with the sound system.

15 MACKENZIE: Sorry.

Q. Can you hear me now?

A. Yes.

20 Q. It's correct that when a suspect participated in a typed record of interview, you've said that they would be offered a copy of that typed record of interview?

A. Yes.

Q. I think you said that all up you made three copies?

25 A. Yes.

Q. If a suspect wanted their copy but was going into custody, what would happen to their copy of the record of interview?

A. It would - if he accepted it, it would go into his property.

30 Q. When you say--

A. Which would then accompany him to wherever he went.

Q. So to whatever remand centre or--

35 A. Yes.

Q. --wherever he was. Was that always the practice?

A. Yes.

40 Q. Are you aware in the case of other members of the group known as the Croatian Six that were arrested, that they declined to participate in typed records of interview?

A. No. I - I'm not fully aware of what - what happened there.

45 Q. Are you aware that they did, though, agree to participate in notebook interviews with police?

A. No. No, I--

50 Q. Did you ever have an experience in your policing career; that is, the late 70s and in the 80s, of suspects declining a typed record of interview but

agreeing to have a notebook interview with police?

A. I can't bring one to mind at the moment.

Q. You can't think of one?

5 A. (No verbal reply)

Q. Would you give suspects that option? You can either do a typed record of interview or a notebook--

10 A. I may well have, yes.

Q. Why would you give a suspect the option of either a notebook or a typed record of interview?

15 A. No. I - I always tried to pursue a typed written record of interview. If they declined, and we - we just kept taking notes.

HIS HONOUR

20 Q. When you are asked about offering an option, would you do that first up? Say, "We can do it on the typewriter, or we can do it in the notebook. What's your preference?" Or would you first propose a typed interview, and then if they declined that, then offer the opportunity to have it recorded in a notebook?

A. Probably the latter, sir.

25 MACKENZIE

Q. So a notebook record of interview is them being aware that you're taking notes of the conversation that you're having?

30 A. Well, it takes place right in front of them, yes.

Q. Then ultimately you'll ask them to sign that?

A. Yes. That could be the case.

Q. And they may or may not do that?

35 A. That's right.

Q. It would be correct to say that a notebook interview could really take place anywhere? It doesn't have to be in a police station?

40 A. That's true.

Q. You just need a notebook and a pen.

A. That's right.

45 Q. If you did either a typed record of interview or a notebook record of interview and somebody refused to sign it, what's your understanding of how it could be used in Court, if at all? If someone has refused to sign it, can it be used as evidence? What was your understanding at the time?

50 A. Back then, yes, it could have been, but it's - ultimately, it was up to the Magistrate or the judge whether it was accepted or rejected.

Q. What was your experience of what would need to be done in Court to have that accepted?

A. Well, just the normal adoption questions. That style of thing.

5 Q. So you would come to Court and say, "Yes. This person said these things and I wrote it down."

A. There was - there were standard questions at the end of it. I can't remember what they were now.

10 Q. Would it be correct to say your understanding was that if you went to Court and said, "Yes. This person said these things, and I wrote down them at the same time", that that would be a basis for the Court to--

A. Yes.

15 Q. --accept that statement as true and correct?

A. Yes. Yes.

Q. Even though they didn't sign it?

A. (No verbal reply)

20

Q. Yes?

A. Well, as I say, it was up to the judge or the Magistrate whether it was accepted or not.

25 Q. If you have a scenario where a suspect participates in a record of interview, signs it and then later says it's a fabrication, first of all, had you ever had that type of claim made in relation to you?

A. Yes.

30 Q. In a situation where a person has not signed it, other than the situation we have here with Mr Brajkovic, has anybody ever claimed that it was a fabrication?

A. I'm sorry, I missed that last bit.

35 Q. If somebody has not signed a record of interview--

A. Yes.

Q. --other than the case in relation to Mr Brajkovic, has anybody else ever claimed that it was a fabrication?

40 A. I just answered that.

HIS HONOUR

45 Q. You just answered a question about it in relation to signed records of interview.

A. Yes.

Q. You're now being asked about your experience of that occurring where it's an unsigned record of interview.

50 A. Yes. That's happened.

Q. So in both situations--

A. Yes.

Q. --you have been the subject of allegations of verballing?

5 A. Yes.

MACKENZIE

10 Q. During your career, did you develop any understanding or belief as to why a suspect would make a claim of fabrication of a record of interview?

A. There could be any number of reasons.

Q. But in relation to the matter before us, you were sitting next to Mr Brajkovic in the interview?

15 A. That's right. That's right.

Q. You said that he was watching you type?

A. That's right.

20 Q. Detective Wilson was asking him questions?

A. (No verbal reply)

Q. You were there. What's your belief as to why Mr Brajkovic says that the typed Record of Interview was a fabrication?

25 A. I'm sorry? That it was a fabrication?

Q. That he was verballled.

A. Well, that's what took place at Court. As to his reasons why, you'd better ask him.

30

Q. Was there anything to indicate, whilst you were interviewing, that he wasn't answering questions voluntarily?

A. No.

35 NO EXAMINATION BY MR SILOVE

<EXAMINATION BY MS BASHIR

Q. Mr Harding, I'm representing James Bennett.

40 A. Yes.

Q. I've just got a few questions to ask you. First of all, Counsel Assisting yesterday asked you some questions along these lines about when you were in the workroom at Mr Brajkovic's house - okay?

45 A. Yes.

Q. She asked you this, "Can I start with when you're in the workroom, for example, conducting the search or picking up items that you were going to seize?" It's transcript 1627 of 5 August, bottom of the page, line 44:

50

"Q. Do you recall any other officer who was present at the premises going into the workroom and having a look at the white plastic bag and its contents?

A. It could have happened.

5

Q. I'm not asking you that. I'm asking you, do you recall anybody doing that?

A. No, no."

10 Then you were asked whether you recalled overhearing any conversation between any of the officers and, for example, Detective Sergeant Wilson, where he invited them into the workroom to have a look at the white plastic bag and its contents, and you said, "I have no recall of that." Do you remember those questions and answers?

15 A. Yes.

Q. Is it the case that your memory at the trial proceedings was better than your memory, sitting here today?

A. Yes, absolutely.

20

Q. Can I take you to some evidence that you gave in the trial, Tab 2.1.22.

BASHIR: Could it be brought up for Mr Harding, please, red page 742.

25 Q. About halfway down the page, you were being asked about the workshop. Okay?

A. Yes.

30 Q. It's been put to you, just to orient you, that Detective Bennett came into the workshop room while Mr Brajkovic was there. All right? That's this series of questions and answers. In the middle of the page, you're asked this, "And Detective Bennett came into the room at one stage whilst you two" - that is, you and Wilson, okay? Have you got this question?

A. Yes, I have, yeah.

35

Q. "And the accused were present, did he not?" and you said this:

"A. No. Bennett did go into that room, but not while the accused was present.

40

Q. I see. When did Bennett go into the room, do you say?

A. During the course of the search, I have a recollection, he at one time did walk into the room.

45 Q. Was that before the accused had gone in there or afterwards?

A. No, afterwards.

Q. Do you remember something being said about an oscilloscope--

A. No.

50

Q. --as something being said by Detective Bennett about it - I'm sorry, about the accused saying it was a measuring voltage device of that kind?

A. No.

5

Q. When the accused returned to this living area, I think the position is there were several detectives in the rooms.

A. Yes, there were others there.

10

Q. Detective Krawczyk was there, was he not?

A. Yes.

Q. What other detectives were there at that time?

15

A. There was Pettiford, MacKenzie, Krawczyk and Bennett there at that point."

Do you see - I just want to stop there and ask you some questions. First of all, was that accurate evidence that you gave in the trial?

A. Yes.

20

Q. Secondly, it's the case, isn't it, that Detective Bennett was guarding Mr Brajkovic at the times Mr Brajkovic was in the lounge room?

A. Yes. I believe so, yes.

25

Q. That is, apart from the time that Mr Bennett went into the workshop room.

A. Yes.

Q. It's the case, isn't it, that, when you spoke about searching, you were talking about others searching?

30

A. Yes.

Q. In terms of timing as to how long after the accused had been in the workshop room that Bennett went in, do you accept that it may well be correct to say that Mr Bennett went into that workshop room shortly before he left the house?

35

A. That could be - that could well be right, yes.

Q. I want to take you to some other evidence that you gave in relation to the CIB. This is in the voir dire, transcript Exhibit 2.1-13, I think it is, at page 431 - actually, if we go to 429 first of all. Yes, I think that it's 2.1-13. Do you see that the third question down is where you were asked, "Were you present when the accused arrived at the CIB?"

40

A. Yes.

45

Q. Do you see that?

A. I see that, yes.

Q. You were asked this question:

50

"Q. I suggest, at the CIB, you, Sergeant Wilson, Detective Bennett,

Detective Morris and Detective MacKenzie went into a room where the accused was?

A. No."

A. Yes.

5

Q. Do you abide by that evidence?

A. I see that, yes.

Q. Do you abide by that evidence today?

10 A. Yes, I do, yes.

Q. You were asked a series of questions then, I won't go through them all, but can I just take you to 431, at the bottom of the page. This is after - sorry, about the middle of the - see at the very top - do you see up towards the top is where you're being asked about towelling, putting a towel around the neck? Can you see that?

15

A. (No verbal reply)

Q. "I suggest to you, you put a towel around his neck"--

20

A. Yes, I see that.

Q. --"third time - no, I did not". Following on - just to orient you that this is being suggested as having occurred in that interview room. Okay? Just at the bottom of the page:

25

"Q. I want to take you to the question and answer where it's suggested that Detective Bennett came into the room. Do you recall?

A. No. Bennett was in the room at one stage. This was prior to Wilson and I entering the room, interviewing the accused."

30

Just pausing there, do you abide by that answer?

A. Yes, I do.

35

Q. Then you were asked this:

"Q. Was Bennett in the room at the same time as you and Detective Morris at any stage?

A. No. Morris was not in the room at any time."

40

Do you see that?

A. Yes, I do.

Q. Is that true and correct?

45

A. Yes, it is.

Q. Just going over - "not at any time, not at any time". There was some discussion between Wilson - sorry. It goes on. It's suggested again, the third question, that Detective Bennett came into the room with a three-page document. Do you see that?

50

A. Yes, I do.

Q. You said, "No." Was that accurate evidence?

A. Yes.

5

Q. Then, going down further:

10 "Q. Just before the accused left to go to the Central Police Station, you, with Sergeant Wilson, Detective Bennett and Detective Morris, went into the room where the accused was.

A. No.

15 Q. And Detective Bennett said something like, 'You had better excuse this, Vic. Some of these fellows get pretty rough and I'm sorry about it,' or words to that effect.

A. That is pure nonsense."

Do you see that?

A. Yes.

20

Q. Do you abide by that answer that you gave on the voir dire in the trial?

A. Yes, I do.

25 Q. I've just got one more topic of questions, and going back to the committal hearing--

HIS HONOUR

30 Q. Mr Harding, am I right in understanding that earlier, when you gave evidence about, before coming here to give evidence, having read the transcripts of your committal evidence and the trial evidence, it was all accurate evidence, as far as you're aware, except for the two things that you pointed out to us?

A. Yes. Correct.

35

BASHIR

Q. The committal evidence, at Exhibit 2.3-36, page 7886 - it's 19 September 1979. I'm just going to ask you some questions about the typed notes.

40 A. Is it coming up on the screen?

45 Q. It's coming up. Just in the middle of the page, just to orient you about what I'm about to ask you for, the question that says, "But I'm not talking about the night of the day of the 18th" - goes on, "I'm putting to you that you typed out certain notes on the morning of 9 February. Isn't that so?"

A. Yes.

50 Q. You said, "I typed those notes on the morning of 9 February, yes." Okay? Then you were asked a whole lot of questions and answers, but could we go over the page, to 7887. You were asked this question, "And you didn't



bring those notes with you today, did you?"

A. Yes.

Q. Okay?

5 A. I see that.

Q. "No. They are available, but -", you answer. Do you see that?

A. Yes.

10 Q. Can you just read down, all the way down to the end of the page, please?

A. Yes, I see that.

Q. If you could keep going, just to where the bench says that there'd been a comment. My question is, do you remember - you may not remember, but do you remember whether those notes were produced to the Court, by you, at any time, or whether a subpoena was issued for them?

15

A. No, there was none.

Q. Sorry, there was?

20

A. There was no subpoena and, as far as I can recollect, the notes were never produced before the magistrate.

<EXAMINATION BY DR WOODS

25 Q. Mr Harding, in 1979, I take it that you had no particular interest in the correct spelling of the word "hijack".

A. No.

Q. Do you accept that it appears that, from material that you've typed at that year, you typed it in three different ways?

30

A. Correct, yes.

Q. There was some reference to a case involving a Mr Steep at Port Macquarie.

35

A. Yes.

Q. Was Mr Steep convicted?

A. Yes, he was.

40 Q. Did he go into custody?

A. Yes, I think - yeah, yes, he did.

Q. Do you have any idea when that was?

A. No, I don't.

45

Q. I think you mentioned it could have been 1980. Is that your recollection or not?

A. That could well be right, yes.

50 Q. But you're not certain?

A. I'm not certain.

5 Q. In the course of being asked questions about the Royal Commission, you were asked about what you'd read of it or what you hadn't read. You said you were out of the police by then. You said you weren't interested and you were asked why, and you said, "I was fairly bitter about some things which had happened."

A. That's right.

10 Q. Could you explain what you meant by that?

A. Well, in - well, you're aware of the circumstances, the Royal Commission, the charges against us were dismissed.

Q. If you could just go into that?

15 A. Yes.

Q. Was there a case in 1984?

A. Yes, that's correct.

20 Q. That flowed through, in some way?

A. That's right.

Q. Was that the Kareela case?

25 A. Yes, it was known as the Kareela Cat Burglar segment at the Royal Commission.

Q. Did you read that part of the report?

A. Yes, I did.

30 Q. What was the outcome of the report in that respect?

A. The matters were referred to the DPP and we were prosecuted. When I say, "we", myself and three of my colleagues were prosecuted. The charges were dismissed, and then three of us mounted a civil action against the government which was settled under confidential terms in 2005.

35

Q. Was there another case involving the man "Neddy Smith"--

A. Yes, there was.

Q. --where you were the subject of allegations?

40 A. Correct.

Q. You've heard questions this morning about the work that you did resulting in allegations having been made of verballing both before 1980 and after 1980?

45 A. Yes.

Q. In those cases, to the best of your recollection, were people acquitted or convicted?

A. In the main, convicted, I think.

50

Q. Some acquitted?

A. Yes.

Q. How did the allegation by Smith arise?

5 A. In 1978, I think it was - I've got to be a little bit careful here because I'm going to refer to an informant who's still alive, so if I--

Q. Don't do anything that will--

A. Okay.

10

Q. --identify that person?

A. I can - if his Honour permits me, I can refer to it as the code that he had at that time, the--

15 HIS HONOUR: Yes, that's fine.

WITNESS: Okay. There was an informant, SW-68, who had been a long-term informant of mine, and he himself was facing serious charges and was looking for a bit of a deal. And he in fact was on the run, and he rang me and I told  
20 him he should give himself up, and that's what took place. I went and collected him at North Sydney and I drove him over to the front of the Sydney Cricket Ground where members of the Bureau of Crime Intelligence were waiting. I introduced them. But on the way in the car, he told me about - well, Neddy Smith and his gang who were importing heroin from Thailand. There was a  
25 corrupt general involved up there. He knew all about the methods they used and who the couriers were, and in fact, I think I can say that I was the first person to expose Smith as a heroin dealer. That went on to - Smith was arrested with his brother, his wife, David John Kelleher and that - they were charged with importing heroin.

30

MCDONALD: Your Honour, I'm going to interrupt and raise relevance.

HIS HONOUR: Yes, I'm starting to wonder myself.

35 MCDONALD: There is an exhibit, Exhibit 17, in the proceedings which list where there were either recommendations after inquiries about possible criminal conduct, then a reference to whether it was referred to the DPP and what the result was. I think everything in respect of Mr Harding is encapsulated in Exhibit 17.

40

WOODS: Your Honour, I understand that. I'll shorten it.

Q. The ultimate outcome, Mr Harding, was that you were exonerated; isn't that the case?

45 A. By retirement.

Q. No, you were charged?

A. Yes, I was, yes.

50 Q. With misleading ICAC?

A. Yes, that's correct.

Q. That went before a court?

A. Yes, it did.

5

Q. You were acquitted?

A. Yes.

Q. Did anything that Smith say in prison come into evidence in that process?

10 A. Yes, he was captured on a lawful listening device in the gaol boasting that he'd lied about me.

Q. Specifically, lied by saying what?

15 A. That I'd received money. I think - there were several there. There was - one that stands out is, "I verbalised Harding. I said he got half the money. He got nothing." That was - but there were others as well.

Q. As a result of that, did you find that the attitude of the Police Commissioner towards you changed?

20 A. Correct, yes.

Q. After you left the Police Force in 1996 - it was 1996, was it?

A. Correct, yes.

25 Q. Or when you left then, the Kareela matter was still hanging over your head, was it not?

A. Yes, it was.

Q. Was that a contributing factor towards you being somewhat bitter at that point?

30 A. Yes, it was.

Q. After you left the police, you then took up private work as an insurance investigator?

35 A. Correct, yes.

Q. Subsequently, you worked for an airline logistics company which became TNT in a certain significant role, did you not?

40 A. I had - I firstly worked for Air New Zealand/Ansett. Ansett were 50% owned by Air New Zealand. I was the National Cargo Security Advisor, and when Ansett hit the wall, I applied for and was accepted into a similar role with TNT.

Q. You did that for how long?

45 A. Four years with Ansett and four years with TNT.

Q. The people who employed you there in those roles were familiarised with your background?

MCDONALD: Your Honour, I object.

50

HIS HONOUR: Yes, what does this go to, Dr Woods?

5 WOODS: Your Honour, the allegation that's being put against my client is of his misbehaviour in certain ways, which is denied by him, but his subsequent career is important in re-establishing, as it were, his character.

HIS HONOUR: His conduct in his post-police years at least has not been called into question. It may well have been exemplary. It probably was.

10 WOODS: If your Honour says that, I accept the point. I'm not suggesting your Honour's made a finding--

HIS HONOUR: It does not have much bearing, if any at all, in relation to the events of 8 February 1979, I've got to say.

15 WOODS: In this respect, your Honour: when he left in 1996, he did so under certain circumstances of a shadow over him which was exposed and was removed, and then subsequently senior people in the private sector employed him as a person of good character and, indeed, I want to ask a question about  
20 the Police Commissioner's attitude towards him in 2002, the new Police Commissioner following the Royal Commission.

HIS HONOUR: Subsequently, there was a confidential settlement of the action he brought against the government. Was all resolved favourably, I assume, in  
25 relation to him, so I really can't see this has a bearing on anything.

WOODS: Just briefly, your Honour.

30 Q. Was there, in 2002, interaction between yourself and the Police Commissioner in certain respects?

A. I'm not sure if it was 2002 but - I think it might've been slightly later than that. But yes, there was.

35 Q. Were you reinstated to a position on a committee?

A. Yes, I - they - I went onto the Property Crime Panel.

Q. Of the Police Force?

A. Yes.

40 <EXAMINATION BY MS MCDONALD

Q. Mr Harding, you've been asked some questions about your involvement into the investigation which led to the charging of Mr Steep?

45 A. Yes.

Q. Allegations were made against you by Mr Steep that, in the context, I take it, of some kind of record of interview or conversation with him, you used a towel to attempt to strangle him?

50 A. Correct, yes.

Q. The same allegations were made by Mr Brajkovic in his complaint to Detective Sergeant Shepard?

A. Yes.

5 Q. You deny both allegations?

A. I certainly do.

Q. Do you agree that the two allegations against you suggest an unusual modus operandi?

10 A. Well, as far--

Q. Do you agree with that or not?

A. Well, yeah, they're fairly unique.

15 Q. Often allegations of assaults of suspects or people in custody are bashing, kicking, hitting, et cetera?

A. That's right.

20 Q. Can you offer an explanation as to why the unusual modus operandi was made against you in those two matters, and can I say, accepting that you deny the allegations?

A. Yes. It's going to take an explanation. I'm not quite sure--

HIS HONOUR

25

Q. I can't hear you?

A. I say it's going to take an explanation. I'm not quite sure of the year, and because of the passage of time I may have sequences out. But there was a senior corrective services officer named Ron Woodham and, at this particular point in time, he was in charge of what they called the Malabar Emergency Unit, and they used to receive fairly good information within the gaol system. And he came - well, I'm not sure whether he attended personally or by phone - and he advised Inspector Morey that allegations were being orchestrated against me by a group of criminals, which included Neddy Smith. And then with the full passage of time, the connection between Steep and Smith was that it was the same informant, SW-68, that supplied me with the information which led to both their arrests. And at some stage prior to the Croatian Six trial, Steep came up with this allegation of strangulation by a towel.

40

MCDONALD

Q. Can I just pause there. Your recollection yesterday was that Mr Steep's trial was before the Croatian Six trial, maybe--

45 A. Yes.

Q. --in about February 1980?

A. Yes.

50 Q. That's where, if I can describe it as, the towel allegation's first made?

A. Yes.

Q. Can you explain how or how possibly the same allegation is made by Mr Brajkovic?

5 A. It's orchestrated within the gaol.

Q. Which gaol?

10 A. Well, Long Bay. Smith was in the - well, they changed the name several times but essentially the remand section. There - the Prisoners Action Group had just commenced their operations. They had delegates there as well, and, of course, Mr Brajkovic was in the same gaol.

Q. What you're suggesting is that the link between Mr Steep and Mr Brajkovic is Mr Steep through to Mr Smith, Neddy Smith, and then as he was in Long Bay Gaol and Mr Brajkovic was in Long Bay Gaol at the same time, some communication between those two?

15 A. That's right. And the additional information from Mr Woodham was that they had a prison officer who would effectively do their bidding. Now, what that entailed, I'm not quite sure of, but that - that was what was ultimately relayed to me.

20 Q. Can I just ask you: you spoke about, and, I'm sorry, was it Mr Woodham who was head of or was part of Malabar Emergency Unit?

A. Yes.

25 Q. He was the one who gave the information to Inspector Morey that there were allegations being made against you, including one from Neddy Smith?

A. Yes. And other police as well, though.

Q. We're focusing on you.

30 A. Yes.

Q. When was Inspector Morey told that?

A. I - look, I just can't do the - I can't tell you.

35 Q. If I can ask you roughly, was it before the Croatian Six trial?

A. Yeah. I'd say yes. Yes.

Q. Mr Steep - you gave evidence he was convicted?

40 A. Yes.

Q. And was sentenced to some period of custody?

A. Yes.

Q. Do you know which gaol?

45 A. No. No, I don't. He escaped at one stage, but, no, I don't know which gaol.

Q. The answer to my question, if I can summarise it, is you're suggesting a link between Mr Steep and Neddy Smith?

50 A. That's right.

Q. And then we have the link of Neddy Smith being in Long Bay at the same time as Mr Brajkovic was in Long Bay?

A. Yes.

5 HIS HONOUR

Q. And specifically within Long Bay, in the Metropolitan Remand Centre?

A. I think so, sir. Yes.

10 MCDONALD

Q. Do you know whether there was any investigation into these allegations? For example, a report produced internally within the police?

15 A. I don't know. I feel confident Mr Morey would have recorded it in his diary. He advised me of it, and I - I probably would have made a note in my diary as well.

Q. But your recollection is your knowledge of what was going on was very much conversations with Inspector Morey?

20 A. Correct, yes.

Q. And from what you said, it appears that Inspector Morey has the contact with Ron Woodham, who was at the Malabar Emergency Unit.

25 A. Yes. Mr Woodham ultimately ended up in charge of Corrective Services in later years.

Q. Is he still alive? Do you know?

A. No. No, he's not.

30 Q. You've been asked questions about records of interview, and you've agreed that you can conduct a record of interview by typing questions and answers?

A. Yes.

35 Q. And you also gave evidence about the notebook Record of Interview.

A. Yes.

Q. When you attended Bossley Park, you've given evidence that you had a notebook and a pen with you.

40 A. Yes.

Q. That night, what I want to suggest to you is that you and Detective Sergeant Wilson actually conducted a mini record of interview with Mr Brajkovic?

45 A. He was questioned, yes.

Q. He was taken into the workroom?

A. Yes.

50 Q. You had originally cautioned him outside when you found the bag, et



cetera.

A. Yes.

5 Q. Then, according to Exhibit 11.89, the notes, when you and Detective Sergeant Wilson are in the workroom with Mr Brajkovic, the caution is repeated.

A. Yes.

10 Q. Again, I'm just paraphrasing this to get through it, he's shown the white bag and the contents, and he says something like, "They're mine", and then it's put to him, "But you can make a bomb out of those?", and he says something like, "Yes. Bomb." Or, "I make bomb."

A. Yes.

15 Q. From your perspective, very useful admissions?

A. Yes.

20 Q. It was open to you to then open your notebook, write those questions down, and then get or ask Mr Brajkovic to sign them?

A. I could have.

25 Q. Did you turn your mind to that at that point?

A. I - I think I've described the whole night as fairly fluid, and I - I couldn't tell you what crossed my mind.

30 Q. But you agree that that was a possibility? Instead of the borrowing somebody's typewriter and typing up in the workroom, that you had, in a sense, in your possession the means to record those admissions and ask Mr Brajkovic to sign them--

A. Yes.

Q. --then and there?

A. Yes. But we just kept moving with what we were doing.

35 Q. I just want to take you back to that Emergency Manual, and if we can commence with Exhibit 14.8 at red page 99.

EXHIBIT 14.8, RED PAGE 99, SHOWN TO WITNESS

40 Q. That's the cover page. The contents I took you to. Then if we can go to page 102, "Introduction". I took you to this the other day, but I didn't ask you about this. You can see in the first sentence, "This manual replaces all previous general instructions to Police in connection with emergency-disaster procedures." Then it indicates that there's special instructions for specific

45 purposes. I want to ask you about the use of the word, "emergency-disaster procedures". Did that have any, I suppose, special meaning within the police in 1979?

50 A. Just normal English, but it could - I think I said earlier today it could have been a serious motor vehicle accident, an aircraft disaster, a train disaster. That style of thing.

Q. Would the raid that you participated in on the Bossley Park house, even though you went there with the expectation that explosives may be there, is it your view that that would have come under the description of an "emergency disaster"?

5 A. No. No. If the bomb had have been detonated, certainly.

HIS HONOUR

Q. Well, the whole operation was to avert--

10 A. That's right.

Q. --a disaster?

A. That's right.

15 MCDONALD

Q. You were asked some questions about Exhibit 11.89, the notes that you typed--

20 A. Yes.

Q. --on the night and in the morning.

A. Yes.

25 Q. Ms Bashir took you to an extract from the committal where you were asked about the notes and whether they were in Court, et cetera.

A. Yes.

Q. Then you were asked, "Do your knowledge, were they ever subpoenaed for the trial?"

30 A. For the trial? I thought - I thought it was before the Magistrate.

Q. What's your recollection about that? Were they subpoenaed for the committal, and your evidence was no?

35 A. I - I don't - I don't think they were ever subpoenaed.

Q. All right.

A. I don't think they were ever produced.

40 Q. Back in February 1979, was there a concept of in a prosecution there had to be disclosure of material to a defendant?

A. Not that I can recall, no.

45 Q. Any concept of material that is obtained during an investigation, which might not be in the brief of evidence but might be useful or relevant in some way to either the prosecution or the defence that that should be handed over to the defence?

A. I can't answer that. I certainly know that it was later, but whether it applied then, I'm just not quite sure.

50 Q. When you say, "later", during your career as a police officer you do know of

that concept and some kind of procedure being introduced?

A. Yes. Yes, I did.

HIS HONOUR

5

Q. In 1979, was it a requirement that the brief of evidence actually be served on the defence?

A. No.

10

Q. Statements of prosecution witnesses?

A. No.

MCDONALD

15

Q. Not even for the trial?

A. No. I stand to be corrected on that, but that's - that's what my recollection is at the moment.

20

Q. Mr Buchanan has suggested that defence might get the deps or the depositions?

A. Yeah.

HIS HONOUR

25

Q. Yes.

A. Yeah. Yeah. We didn't get them.

MCDONALD

30

Q. You were asked some questions about the telephone inquiries that you made when you returned to CIB--

A. Yes.

35

Q. --after being at Bossley Park. Could we bring up Exhibit 11.81, please.

EXHIBIT 11.81 SHOWN TO WITNESS

40

Q. Mr Harding, on, I think in July when you gave evidence, my recollection is I did take you to these records and got you to identify them, but it was for a different, in a sense, purpose.

A. Yes.

45

Q. I took you to this, and it would appear to be some kind of criminal record of Mr Brajkovic?

A. Yes.

50

Q. Looking at it, is it the type of information that you rang up and asked about by phone when you returned to CIB late in the night of 8 February?

A. Yes.

Q. On the last occasion, you gave evidence that it was a 24-hour service.

A. Yes, it was.

5 Q. When you rang, this would have been pre-fax days, did you just ask and jot down the results or--

A. Yes. You used to ring through and you had to quote your registered number, just to verify that the call was genuine, and you'd just take notes over - what they'd tell you over the phone. I think we did have faxes then, but - I don't know.

10

Q. Any of the information on the card you could have asked about and been given?

A. Yes. It was just to see if he was wanted and what his criminal history was.

15

Q. But there are also dates up there about - date of birth--

A. Yes.

Q. --where he's from--

A. That's right.

20

Q. --tattoos, et cetera.

A. That's right.

Q. You were asked some questions about Exhibit 11.89, the notes.

25

A. Yes.

Q. In cross-examination, you agreed that they were a source for the detectives to compile their statements?

A. Yes.

30

Q. Your evidence about how the notes were compiled supports that, that it was, in a sense, a group activity?

A. Yes.

35

Q. A particular issue or conduct in a chronology would be raised and there'd be a discussion, you know, for example, "We got to Prairie Vale Road at this time and these officers were present." You gave evidence that, if somebody disagreed with that, it would be raised and resolved, and there'd be, in a sense, an agreed position put in those notes.

40

A. Yes.

Q. As you said, those notes were then available when officers drafted their statement?

A. Correct, yes.

45

Q. I asked you about your response to the Detective Sergeant Shepard inquiry, Internal Affairs inquiry, yesterday.

A. Yes.

50

Q. You confirmed that you used those notes in compiling your response.

A. Yes.

5 Q. In using the notes to formulate your response, in a sense, you're using the collective recollection of the group of officers who have decided this account is correct?

A. Yes.

10 Q. I asked you some questions, in the context of your response to Detective Sergeant Shepard's inquiry, about whether you discussed your response with any other officers. Do you remember me asking you that yesterday?

A. Yes.

15 Q. I'm not being critical of you, but, when I reread your response, there was a suggestion that you were rather affronted by that suggestion and you said, "No, no, we didn't do that," or "We wouldn't do that." I said to you, "Is that a principle that you applied at the time?" and you agreed. Do you remember that evidence?

A. Yes.

20 Q. In responding to the Internal Affairs direction, you're quite happy to use notes which are a compilation of a collective decision-making by officers, but, when you turn to the response to the Internal Affairs inquiry, your answer suggests that you now implement strict principles of not discussing it with any other officers.

25 A. I thought we were talking about Pettiford elbowing--

Q. No. I was asking you about - I can take you to the transcript.

A. No. I accept what you say.

30 Q. What I'm getting at - there seems to be, with Internal Affairs, their reporting, you're applying principles of "We've got to be, in a sense, isolated. It's my response. I don't discuss what I'm going to say in my response to anybody else."

35 A. I thought - I was trying to demonstrate that we didn't get our heads together to formulate a response, if you like, in relation to the specific allegations of Mr Brajkovic.

40 Q. Mr Harding, I'm just going to bring up an extract from yesterday's transcript, but if I can just say formally it's in draft form. There's got to be a reading-through of it to make sure there are no typographical errors, et cetera. From yesterday, I wanted to go to page 1653. To be fair, while that's coming up, I did ask you about some evidence that you gave at the committal, where Mr Pettiford telling you about striking Mr Brajkovic with his elbow--

A. Yes.

45 Q. I'll keep on going while this is coming up. There was a question and answer:

50 "Q. Under what circumstances did Detective Pettiford tell you this assault or elbowing of Mr Brajkovic--

A. Well, recently, because of false allegations which were made to our Internal Affairs Branch"--

A. Yes.

5 Q. Then I started asking you some questions about the Shepard inquiry. Can you see, at about line 33, I then said to you:

"Q. You had a discussion with Detective Pettiford about what responses you had given to--

10 A. No, not at all.

Q. When did the discussion"--

15 And I take you back to the evidence that you'd given during the committal, and you said:

"Could have been over a cup of tea, or whatever. I just - I just can't bring it to my mind now. If I was to guess, I'd say it was after the Internal Affairs preliminary inquiry.

20

Q. Why do you guess that?

A. Well, the best guess I've got - because - before going into an Internal Affairs inquiry, you do not discuss what each other is going to say.

25

Q. That's what I was going to raise with you. So you knew that, did you, that you shouldn't speak to other officers?"

30 If we go to the next page, 1654, up the top, you say:

"A. Always known that.

Q. Your evidence is you complied with that?

A. Yes."

35 A. Yes.

Q. If we look at the Internal Affairs inquiry context, your answers suggest that you know you shouldn't be speaking to other officers and that you comply with that?

40 A. Generally, yes.

45 Q. Why, when you're drafting your statements that will eventually be used in Court - and the basis of your evidence in Court, et cetera - why, in February 1979, did you not adhere to the same principles of "It is not appropriate to discuss it with other officers, what my recollection is. I should draft my statement separately, by myself"?

50 A. You're talking about a statement. I'm talking about a report to IA. I'm just a bit confused here. What I'm - what I was trying to indicate to you - before going into an Internal Affairs investigation, you did not discuss what took place within that inquiry. For instance, when I read that report yesterday, Mr Hudlin

apparently alleged that he was handcuffed in the car. That did not take place.

5 Q. Can I just stop you there. When you spoke about not discussing anything with fellow officers in respect of an Internal Affairs inquiry, are you only speaking about circumstances where you were called before the inquirer and asked questions?

A. Yes.

10 Q. Did the same principle apply for giving statements to the inquiry?  
A. I think so, yes.

Q. So the report that I took to you yesterday that you prepared for Detective Sergeant Shepard, the same principle applied when you were writing your report?

15 A. More or less, yes.

Q. What I'm suggesting to you - the reason why you employ those principles with the Internal Affairs inquiry is you don't want each other's evidence to be contaminated?

20 A. Probably not.

Q. Sorry?

A. Probably not.

25 Q. Doesn't the same principle arise in respect of writing your statement that's going to be contained in a brief of evidence, tendered in a committal, forms the basis of your evidence at trial, that it should be your recollection and not a contaminated recollection of what all the officers thought was correct?

30 A. No. Look, we just followed a procedure that was long-established.

Q. I don't care if it's longstanding. Can you see that there is a possible inconsistency--

A. No.

35 Q. --between the principles in an Internal Affairs inquiry and your procedure in an investigation, writing up your statements?

A. No.

Q. Why do you say there's no inconsistency?

40 A. Well, the notes were prepared at the time, before we even knew there was going to be an Internal Affairs investigation--

Q. No, I'm not talking - I'm sorry, I'm interrupting you.

45 A. No, that's all I've got to say. It - I must confess I'm a little bit confused, but we - we followed a procedure that had been in place within the police department for donkeys years and at that stage we did not know there was going to be an Internal Affairs investigation and, when there was, obviously, we still relied upon those notes. But so far as - you do not discuss with a fellow workmate what takes place within the Internal Affairs investigation.

50

5 Q. I'm fine with that, and they're principles that - where I'm confused why they weren't applied when you were back at the CIB, thinking about drafting your statement. I accept no Internal Affairs inquiry on the horizon - but the principles of not contaminating your recollection, which arise in an Internal Affairs investigation - I say those principles also apply when drafting your statement for a brief of evidence.

A. No.

10 Q. You don't agree with that?  
A. I don't.

Q. You can't see any inconsistency with that?  
A. No.

15 MCDONALD: No further questions, your Honour.

HIS HONOUR: Mr Harding, that's the conclusion of your evidence, and you'll be free to leave. You're not formally excused. If there is a need to recall you for any reason in the future, you'll be notified.

20 WITNESS: Thank you.

<THE WITNESS WITHDREW

25 LUNCHEON ADJOURNMENT



<JOHN FRANCIS WILSON, ON FORMER OATH(2.07PM)

<EXAMINATION BY MS MCDONALD

5 Q. Mr Wilson, on the last occasion, we took you to an Exhibit, 11.89, which were the compilation notes from various officers who attended the raid at Bossley Park. Do you remember that exhibit?

A. Yes, I do.

10 Q. One reason for the compilation of the notes was that it could then be used by other officers when they were writing their individual statements.

A. Yes.

15 Q. I think it's been described as "It's a way of, in a sense, getting the evidence right"?

A. Yes.

20 Q. As you've agreed, it would be used for preparation of statements. Was there any other use that you anticipated of those compilation notes?

A. Not that I can recall right now.

25 Q. It would be a way that the different officers could refresh their memory when it was coming up to either giving evidence at committal or trial?

A. Perhaps.

30 Q. If there was a matter that they didn't include in their statement, they wanted to refresh their memory, they could look at the notes and see what was recorded?

35 A. Well, I can't speak for the others, but, if I needed to do that, that's what I would do.

40 Q. That's another use of the notes that you might have used them for?

35 A. Well, once I'd made my statement from them, I wouldn't think there'd be any need to go back to those notes.

40 Q. Do you agree there might be areas recorded in the notes that might not have been reflected in your statement?

A. There could have been.

45 Q. Because of the use or uses of the notes, was it important to be thorough in the drafting of the notes?

A. As thorough as one could be, yes.

50 Q. If a particular issue or conduct at a particular time was being recorded in the notes, it was important to include the detail?

A. I suppose so.

55 Q. Because, if the detail is recorded in the notes, it then will assist officers in drafting their individual statements?

A. Yes.

Q. After you returned from Bossley Park, a record of interview was conducted of Mr Brajkovic?

A. Yes.

5 Q. That Record of Interview was typed?

A. Yes.

Q. You were the person asking the questions?

A. Yes.

10

Q. And Detective Harding was typing?

A. Yes.

15

Q. The questions that you were asking him, at some time before actually starting the interview with him at CIB, did you jot down some notes of topics that should be covered, or items like that?

A. I may have. I don't remember that, though.

20

Q. Was that your usual practice, to do something like that before embarking on a record of interview?

A. I don't recall doing that now. I may have, but I don't remember doing it.

25

Q. Mr Wilson, could you move closer to the microphone? We're having a bit of difficulty hearing you.

A. Okay.

30

Q. The Record of Interview that you say you conducted was recorded by the typing of the questions and answers?

A. Yes.

Q. Mr Brajkovic would not sign it?

A. That's correct.

35

Q. But what you did was you involved Inspector Morey and brought him along at the end of the interview to, basically, verify the questions and answers?

A. Mr Morey read the Record of Interview to Mr Brajkovic, as well, and did the - adopted the questions.

40

Q. That conduct I was including under the term "verification".

A. Yes.

45

Q. That was important, to have a level of verification, in the absence of the interviewee signing the record of interview, wasn't it?

A. What do you mean by that?

Q. It was useful to have because subsequently, if the interviewee denied answering those questions in that way, or answering them at all, you had a senior officer who had undertaken that verification?

A. Yes.

50

Q. So it wouldn't just be a matter of you getting in the witness box and saying, "I asked these questions and these were the answers," and Mr Brajkovic getting in the witness box and saying, "I deny that"? You've got, kind of, another level of evidentiary support for your position?

5 A. Yes.

Q. That's important because admissions that are made by a suspect or somebody who's been charged with an offence - such admissions are very useful evidence?

10 A. Yes.

Q. Because they're so useful, to the best of your ability, you want to ensure that they're going to be admitted into evidence?

15 A. Yes.

Q. Before the Record of Interview with Mr Brajkovic, you had a meeting or a discussion with Inspector Morey?

A. It wasn't a meeting, just a brief discussion.

20 Q. Where did that take place?

A. In the Armed Hold Up Squad office, I think.

Q. In his office?

25 A. No, just in the open area, from recollection.

Q. You're saying the open area of the Armed Hold Up Squad?

A. To the best of my recollection, that's where it was, yeah.

Q. When you had this discussion with Inspector Morey, were you by yourself?

30 A. I think Detective Harding may have been with me but I'm not sure about that.

Q. Was that your first opportunity to report to Inspector Morey what had happened at Bossley Park?

35 A. Was that the first opportunity? Yes.

Q. Was any contact made by you at Bossley Park or in the car returning to CIB reporting to anybody about what happened?

40 A. Not that I remember that, no.

Q. That could've occurred via police car radio?

A. VKG - there's a radio in every car.

45 Q. How did that work at the time? If you wanted to get a particular message back to Inspector Morey, was it a matter of contacting the communications area and then they would forward it on?

A. Yes.

Q. You wouldn't speak directly to Inspector Morey?

50 A. No.

Q. When you were at Bossley Park, I just want to take you to the chronology very briefly. You, Detective Bennett and Krawczyk entered the house?

A. Yes.

5 Q. You had the discussion with Mrs Brajkovic?

A. Yes.

Q. You also saw asleep Mr Hudlin?

A. Yes.

10

Q. Then Detective Krawczyk had a word with him?

A. Yes.

15 Q. You were in that section of the house which seemed to be a combination kitchen and lounge room?

A. Yes.

Q. While you were there, Detective Harding and Detective Morris arrived with Mr Brajkovic?

20

A. Yes.

Q. Mr Brajkovic was then seated or sat on a chair in that area?

A. I think so.

25 Q. Detective Harding said to you something along the lines of, "This is Mr Brajkovic. There's been a bit of a struggle but he's quietened down now." Something along those lines?

A. Yes.

30 Q. And then asked to see you in another room?

A. Yes.

Q. At that point, in the other room he has the white plastic bag with him and shows you the white plastic bag?

35

A. I think I observed Detective Harding carrying the plastic bag into the house, from memory.

Q. When you observed him carrying it into the house, did you have any idea of its significance?

40

A. Not at all, no.

Q. It was only when you had moved to the other room, which I think it's described as a workroom or a workshop, that Detective Harding showed you the white plastic bag and its contents?

45

A. Yes.

Q. You gave some evidence on the last occasion about what happened in the workroom when you were shown the white plastic bag, and your evidence was that you took the contents out of the white plastic bag?

50

A. Yes.

Q. When that occurred, in a sense did you take over the possession and custody of the white plastic bag?

A. Well, I didn't consider anything at that time. I was just interested in what the contents of the bag were.

5

Q. But you took possession of the white plastic bag?

A. Well, I did. I took them from Detective Harding, I suppose, yeah.

Q. I'm sorry?

10 A. I probably took it from Detective Harding, yes, so it's in my possession then.

Q. You have a recollection that you take items out and put them on the table?

A. Yes.

15

Q. Detective Harding gave evidence that when in the workroom, what he would do is - items wouldn't actually be taken out of the white plastic bag but, in a sense, they would be brought to around the top of the white plastic bag and would extrude out so you could see what they were but weren't actually physically removed from the white plastic bag?

20

A. My recollection of it is that I removed them from the plastic bag.

Q. You don't agree with that evidence that Detective Harding gave?

25 A. No. Can I just say, he showed me - first he showed me. He held the bag open, I believe, and showed me the contents of the bag, and then I took it and emptied the bag. That's my recollection of it.

Q. He kind of opened the top of the bag?

A. Yes.

30

Q. You looked in?

A. I looked in and then I took the possession of the bag, or he put it on the table - I don't know how that happened but I possibly took the bag from him, but I know that my memory of it is that I removed the contents from the bag.

35

Q. The evidence of they actually weren't removed and put on the table but kind of protruded out of the top so you could see them, you don't agree with?

A. Well, I - they could've protruded out of the bag, I don't know. I don't remember, but - all I know that I took them out of the bag. I can't take it any further than that.

40

Q. After that, Detective Harding then goes and gets Mr Brajkovic and brings him into the workroom?

A. Yes.

45

Q. You have a discussion with him?

A. Yes.

Q. Again, I can take you to it in more detail but it's along the lines of you ask him some questions about some of the things in the workroom, the electrical

50

devices?

A. Yes.

Q. You ask him about the white plastic bag and the contents?

5 A. Yes.

Q. He admits that they're his?

A. Yes.

10 Q. Then you make a comment, "You can make a bomb out of that"?

A. Yes.

Q. He says something like, "Yes, I make bomb"?

A. Yes.

15

Q. During that conversation, you issue a caution to Mr Brajkovic?

A. Yes.

20

Q. That is because it would appear that he's about to make admissions that - against his interest?

A. Well, I don't know what he was about to say, but I'm duty bound to issue him a caution.

25

Q. That was because you could see the potential for him to be making - possibly making admissions which, again, as you've said before, could be useful in evidence against him at a trial?

A. I don't know what he was going to say.

30

Q. Yes, I know that. But you issue a caution?

A. Yes.

Q. And you don't issue a caution if somebody in your mind is completely innocent and is just going to give some completely innocent explanation?

A. No. I don't suggest that at all.

35

Q. Here you've got, after a caution, Mr Brajkovic making certain admissions about ownership of gelignite, detonators, and an admission that, "I make bomb."

A. Yes.

40

Q. The type of admission that you've described previously as "very useful" when you come to a defended hearing.

A. Yes.

45

Q. Detective Harding had a notebook with him. Did you know that?

A. I'd be surprised if he didn't, because most of us would have had a note book with us.

50

Q. At that point, you could have turned to Detective Harding and say, "Would you start taking some notes?"

A. I could have.

Q. "Record the caution I've administered."

A. I could have.

5

Q. "Record those questions and answers."

A. Yes.

10 Q. And then you could have turned to Mr Brajkovic and said, "Please sign this."

A. I could have.

Q. You didn't do that?

A. No.

15

Q. Why didn't you do it?

A. I don't know. It didn't cross my mind at that time.

Q. Even though they're admissions and very useful evidence for a future trial?

20

A. Yes.

Q. At the premises were Mrs Brajkovic and Mr Hudlin?

A. Yes.

25

Q. I asked you about this on the last occasion, but Mrs Brajkovic was not included in any of the briefing information or the initial screed that you received at CIB?

A. No.

30

Q. When you arrived at the premises, she was cooperative?

A. She was.

Q. Told you that, "My husband was here, but now he's gone and I'm not sure where." .

35

A. Something like that, yes.

Q. Agreed that you could search the premises?

A. Yes .

40

Q. Because you didn't have a search warrant.

A. That's right.

Q. Also, Mr Hudlin, he was cooperative?

45

A. Well, I've had nothing to do with Mr Hudlin, but he seems to me to be cooperative.

Q. You observed him speaking to Detective Krawczyk?

A. I knew he was speaking to Detective Krawczyk, yes.

50

Q. But, again, no concern about him not cooperating?

A. I had no concerns, no.

Q. Again, Mr Hudlin was somebody that you weren't briefed about back at CIB?

5 A. That's right.

Q. Were you a bit surprised that he was at the house?

A. I didn't know what to expect at the house.

10 Q. Did Detectives Krawczyk, when you met up at Prairie Vale Road, say anything to you about, "Look, Mr Brajkovic's brother-in-law - brother of Mrs Brajkovic also lives there", or, "Also was in the premises when we popped in for a visit that afternoon."

A. He may have, but I don't recall.

15 Q. On the last occasion, you gave evidence that you were the one who gave the direction or instruction that Mrs Brajkovic and Mr Hudlin be taken back to CIB and interviewed that evening.

A. Yes.

20 Q. While Mrs Brajkovic is in the house, you had the opportunity to, for example, take Mr Brajkovic back to the kitchen area, move Mrs Brajkovic in and say, "Look at this white plastic bag and the contents. Have you ever seen that before?"

25 A. Yes. I would have had that opportunity.

Q. Again, you could have made notes, or Detective Harding could have made notes in his notebook recording those responses?

A. I could have made my own notes, because that's what--

30 Q. You had a notebook?

A. I did.

Q. You could have done the same procedure with Mr Hudlin?

35 A. I could have, yes.

Q. But they were taken back to CIB?

A. Yes.

40 Q. That was your decision? It wasn't subject to any instruction from, for example, Inspector Morey?

A. No.

Q. Why did you direct that they be taken back to CIB?

45 A. To be interviewed.

Q. Why?

A. Well, to see what knowledge they had about Mr Brajkovic's activities.

50 Q. What kind of activities by--



A. Well, anything--

Q. Sorry. What activities by Mr Brajkovic?

A. Any criminal activities.

5

Q. When you say, "criminal activities", what are you talking about?

A. Blowing up Sydney.

10 Q. And, what, blowing up Sydney through his involvement with a Croatian Nationalist Republican Party?

A. Well, I didn't know who he was associated with at that time. Just with the other people mentioned at the briefing.

Q. But that's what you were interested in?

15 A. Yes.

Q. So it goes beyond, "Have you seen these white plastic bag and explosives?", to broader issues about Mr Brajkovic's alleged involvement in, basically, a terrorism plot?

20 A. Yes.

Q. As you described it, the blowing-up of Sydney?

A. Yes.

25 Q. Ultimately, Mrs Brajkovic did provide a statement?

A. She did, I believe.

Q. That was taken by Detective Bennett and Detective Krawczyk?

A. I don't know.

30

Q. Do you recall, when you went back to CIB, did you start directing the officers who attended Bossley Park what tasks they should then be doing?

A. I can't remember if I did that. I may have, but I don't recall.

35 Q. Would it have been likely that you would have, seeing you were the senior officer, in a sense, the officer-in-charge, of the Bossley Park raid?

A. Yes, or they might have taken it on their own - after I'd commenced interviewing Mr Brajkovic, they might have taken on their own decision to make the necessary interviews.

40

Q. I want to take you to Mrs Brajkovic's statement.

EXHIBIT 4.1-JJJJ, RED PAGE 257, SHOWN TO WITNESS

45 Q. Can you see the statement-maker is Milena Brajkovic?

A. I do, yes.

Q. That page is about five paragraphs. If we can go to red page 258, we have paragraph 6 and then the signatures of Detectives Bennett and Krawczyk and Mrs Brajkovic's signature.

50

A. Yes.

Q. Can we go back to page 257. Have you read this statement before?

5 A. I probably read it way back in 1979, but I haven't seen it since, so I've got no idea what the contents are.

Q. If we look at it, just going through very quickly, paragraphs 1 and 2 are really Mrs Brajkovic identifying herself?

10 A. Yes.

Q. Information that could easily have been obtained at Bossley Park?

A. Yes.

Q. Indeed, I think, you did obtain--

15 A. I don't know.

Q. You found out that Mr Hudlin was living there?

A. I found that out, yes.

20 Q. That was her brother?

A. I don't know when I found that out, but I did - I know what - he was her brother, yes.

Q. You knew that there was a little girl who was living there?

25 A. Yes.

Q. Probably didn't know how long they had been married for?

A. No.

30 Q. Then can we look at paragraph 3. That sets out her movements on 8 February; correct?

A. I'll read it.

Q. Yes, sure.

35 A. I've read that.

Q. You agree with me, setting out generally her movements on 8 February and then giving some more detail about what happened in the evening?

40 A. Yes.

Q. Paragraph 4, we then become - again we're looking at the events of 8 February, but a little bit more detail. It's around the time you arrive?

A. Paragraph 4? I'll read that.

45 Q. Yes.

A. Yes, I've read that.

50 Q. As I described to you, it's still events that are occurring at Bossley Park on the night of 8 February, but she's now concentrating on when you and Detective Bennett and Detective Krawczyk arrive at the back of the house and

walk in?

A. Detective Harding and Detective--

Q. No. You--

5 A. When I arrived with Krawczyk and Bennett, yes.

Q. Yes. Then, the last line, her husband comes in?

A. Yes.

10 Q. With some other men, who said they were police. Then again - have a quick read of paragraph 5.

A. Yes, I've read that.

15 Q. It's a little bit ambiguous, but what I would suggest, and see if you agree with it. When she says, "One of the men showed me a white plastic bag," that was at CIB?

A. She was shown the plastic bag at CIB, yes.

Q. Was she shown the plastic bag at the house?

20 A. Don't know.

Q. You didn't show her the plastic bag at the house?

A. No, I didn't.

25 Q. Then you can see the final sentence of paragraph 5 is, "Look, husband does some work in one of the rooms. I don't take any notice of what goes on there, basically"?

A. That's right, yes.

30 Q. Paragraph 6 is just "I am unable to say what this white plastic bag and its contents would be doing at my home or in the front yard"?

A. Yes.

Q. Not one question about political allegiance, political activities by Mrs Brajkovic?

35 A. No.

Q. Not one question about involvement with radical Croatian groups at demonstrations or anything like that?

40 A. No.

Q. All her answers were answers that could have easily been given at the Bossley Park premises?

45 BASHIR: I object, your Honour. I object.

HIS HONOUR: What's wrong with that?

50 BASHIR: On the basis of paragraph 5, and there was absolutely no issue about paragraph 5 in the trial where that occurred.

HIS HONOUR: I know it was said a short time ago. I read that as indicating that she was shown the bag at the house.

5 BASHIR: No, your Honour, there was no issue in the trial, and it's in the transcript that there was absolutely no issue that that happened at the CIB and that that referred to the CIB. I can take your Honour to the reference.

10 HIS HONOUR: I'm just reading the terms of the statement, the way it reads. She's talking about men coming in who say they're police and she says, "One of the men showed me" - past tense - "a white plastic bag." The way it reads, it sounds like she's shown the bag at the house, or she's saying that in the statement.

15 BASHIR: Your Honour, that wasn't her evidence--

BUCHANAN: Your Honour, as much as it pains me to agree with my learned friend, there are more than one reference in the transcript and I can give you the references in five minutes.

20 HIS HONOUR: Is that common ground?

BUCHANAN: It was an agreed position and the judge directed the jury that it was to be read as, "The detectives at CIB have shown me this white plastic bag."

25 HIS HONOUR: It's clear she was not shown the bag at the house?

BASHIR: Yes, your Honour, and can I add this, your Honour: her evidence at the trial accorded with what Mr Buchanan and I are telling your Honour.

30 HIS HONOUR: Yes, that's what I'm trying to ascertain, that it was common ground that she was not shown the bag at the house, only at the CIB?

35 BASHIR: Yes, your Honour.

MCDONALD: In my submission, it doesn't matter because Mr Wilson has agreed that it could've been shown to her at the house and that's the point of the questions that I'm asking him.

40 Q. The various matters that are covered in Mrs Brajkovic's statement could quite easily have been asked and answered by her at Bossley Park?  
A. Yes.

45 Q. There is not a hint of any exploration with her of any of, if I can describe it, the terrorism aspect of being involved in blowing up Sydney in this statement?  
A. No.

Q. Why was she taken back to CIB?  
A. Well, we didn't know what she was going to say, whether she's going to implicate herself or implicate her husband. She could've been charged.

50

Could've - she may have made admissions back at the CIB, I don't know.

Q. You didn't have a shred of evidence against her?

A. I know we - no, that's right.

5

Q. It would appear that wasn't even explored in this statement?

A. Well, it wasn't considered at the time. I thought the best decision was to take her back to CIB and have her interviewed there. A statement was obtained and that was all that was done.

10

Q. She wasn't taken back to CIB to apply pressure on Mr Brajkovic?

A. No, not at all.

Q. Because he was concerned about what was happening with his wife and his little girl, wasn't he?

15

A. Well, he didn't show signs of that but I would imagine he would've been.

Q. Didn't he raise it with you?

A. He did at one stage, I think.

20

Q. The same point can be made about Mr Hudlin's statement?

A. Could be, yes.

Q. Exhibit 4.1-KKKK. This is a very short statement, but again - they're not numbered - the first paragraph just really setting out "Who I am"?

25

A. Yes.

Q. Then we turn to 8 February?

A. Yes.

30

Q. Laying in bed watching TV. It was Rock Hudson's show, then went to sleep. Remembers Mr Brajkovic going in and out of the house. He did say there were two police down the road who were watching the house, and he was probably going out to see what they were doing. Then he wakes up and there's some police there?

35

A. Yes, I see that.

Q. Again, "Tonight a detective showed me a red and white shopping bag," and he's never seen that or any of the things in it beforehand. But again, Mr Hudlin could've been shown the white plastic bag and its contents at Bossley Park?

40

A. Yes.

Q. Again, not a hint of, 'What was your involvement with the Croatian Republican Party? Were you involved? Did you know about this plot to blow up water pipes or travel agencies or the Elizabethan Theatre?"

45

A. No.

Q. Nothing in either his statement about the terrorism plot?

A. Agree with that.

50

Q. Again, was it the case that Mr Hudlin was brought in again to apply pressure to Mr Brajkovic?

A. Definitely not.

5 Q. I've asked you about, when I was doing the kind of brief chronology of events at Bossley Park, that you were in the house and then Detectives Harding and Morris arrive with Mr Brajkovic?

A. Yes.

10 Q. Again, I was paraphrasing without actually taking you to the details, but Detective Harding said something like, "There was a bit of a struggle but he's quietened down now"?

A. Yes.

15 Q. At that point, did you observe on Mr Brajkovic any signs that he'd been involved in a struggle?

A. Well, I couldn't recall that but you referred me to some evidence that I gave at the committal and I said that I did notice that he was in a state - his hair was in a state of disarray.

20

Q. Hair disarrayed, something like that?

A. Yeah. And I think he was breathing heavily, and as so were Detectives Harding and Morris. But I didn't remember it when you spoke to me initially but last time I was here.

25

Q. So when I asked you, "And any injuries?", you were referring to the "disarrayed hair, breathing heavily, puffing"?

A. Yes.

30 Q. And maybe, I think you might have said, "A bit red in the face."

A. Yeah. I can't recall that, but if that's what I said in the transcript - is there, yes.

Q. Did you make any observation of bruises?

35

A. No. I didn't see any bruises.

Q. Abrasions?

A. I didn't see any abrasions at all.

40 Q. Now, at that point Detective Harding has said to you, "A bit of a struggle."

A. He said that, yes.

Q. The way Bossley Park raid continues, and, again, I'm just giving you the broad chronology, you have the discussion in the workroom with Detective Harding?

45

A. Yes.

Q. Then Mr Brajkovic is brought in?

A. Yes.

50

Q. Mr Brajkovic is put back in the kitchen area on a chair?

A. Yes.

5 Q. Then was it the case that you went outside and spoke to some of the other officers?

A. Yes.

Q. Who did you speak to?

10 A. I don't remember.

Q. What was the purpose of going out and having a discussion with them?

A. I don't remember that. Probably - maybe to tell them that we had the - found the gelignite. Just keep searching. Make sure they make a thorough search. I can't recall what else I said. That's--

15 Q. That would make sense, wouldn't it?

A. It would.

Q. You found the gelignite, and keep on searching, et cetera.

20 A. Possibly. That's all I said, yes.

Q. You continued searching the workroom and then the bedroom?

A. Yes. I did the workroom and the bedroom, yes.

25 Q. I think Detective Harding assisted you with the searching as well?

A. I can remember him in the workroom, but I don't know about the other room.

30 Q. At some point, you determined that certain items that you saw in the bedroom and the workroom would be seized and taken back to CIB?

A. Yes.

Q. Then there was a decision that you would travel back to CIB, arresting Mr Brajkovic?

35 A. Yes.

Q. Did you have in your mind then that there would be a record of interview undertaken?

40 A. I hadn't gotten to that stage yet, but it possibly could have entered my mind. I don't remember.

Q. But you headed back to CIB?

A. Yes.

45 Q. During that period, other than the discussion that you had with officers outside along the lines of, "Look, we've found some gelignite. You need to do a thorough search", et cetera, was there any other discussion or debriefing with the other officers that night at Bossley Park?

50 A. I don't think so. I may have suggested that - who take Mrs Brajkovic back to the CIB, and who would take Mr Hudlin back. I can't recall what else I would

have said.

5 Q. Then, again, looking at the sequence of events, you go back to CIB. You go upstairs with Mr Brajkovic, and I think you've taken some of the items you've seized?

A. Yes.

10 Q. Including the white plastic bag?

A. Yes.

15 Q. Then you put Mr Brajkovic in an interview room?

A. Yes.

20 Q. Who was with him at that point?

15 A. I don't remember. Possibly Krawczyk or Bennett or both. I don't know.

25 Q. Then you went and spoke to Inspector Morey?

A. Yes.

20 Q. Then after speaking to Inspector Morey, a decision was made that you would seek to conduct a record of interview with Mr Brajkovic?

A. I think I may have had a discussion with Detective Harding. That's what we intended to do.

25 Q. With whom, sorry?

A. Detective Harding, and that's what we intended to do, a record of interview with Mr Brajkovic. Yes.

30 Q. Because you determined, and this was your evidence last time, Detective Harding was a good typist?

A. Yes. And a very experienced detective.

35 Q. With that, again, chronology, having a debrief or discussion with other officers who were at Bossley Park didn't occur at that point?

A. I don't think so.

40 Q. You hadn't spoken in detail to Detective Pettiford?

A. No. I don't recall speaking to Detective Pettiford.

45 Q. Or Detective Helson?

A. At what stage are you talking about with Helson?

50 Q. In between seeing the white plastic bag at Bossley Park, and about to embark on the record of interview at CIB?

45 A. I don't think I had any further conversation with Detective Helson that night until we took the notes - prepared the notes. I don't think so.

50 Q. That appears to be re the debriefing that starts in earnest at the time that you start compiling the notes?

A. Yes.



Q. You didn't travel in a car back to the CIB with Detective Harding?

A. No.

5 Q. You saw him at some stage when you're getting ready to conduct the record of interview and ask him to be involved?

A. Yes. As I said before, I think Mr Harding was with me when I spoke to Inspector Morey.

Q. All right.

10 A. I think he was with me.

Q. But your recollection, was that a relatively short discussion?

A. Yes.

15 Q. Informing Inspector Morey of what you had found at the premises?

A. Yes.

Q. For example, the gelignite?

A. Yes.

20

Q. And that now you were going to conduct a record of interview with Mr Brajkovic?

A. I possibly told him that as well, yes.

25 Q. What you were told about the arrest of Mr Brajkovic outside the house, when the white plastic bag was found--

A. Yes.

30 Q. --was Detective Harding saying to you, "There was a bit of a struggle, but he's quietened down"?

A. Yes.

Q. You didn't have, at that point, any further details of what this bit of a struggle involved?

35 A. Unless Mr Harding spoke about it before we did the interview. He may have mentioned something more about this - the struggle.

Q. You haven't suggested that, so far.

A. No, that's what I'm suggesting now.

40

Q. What did Detective Harding say to you?

A. I can't remember, but he may have mentioned a struggle - I don't know. He may have mentioned other things--

45 Q. You've got no recollection?

A. No.

Q. Did you know at that point the extent of Detective Harding's involvement in the struggle?

50 A. I don't think I knew at that time.

Q. Or, indeed, the extent or conduct of any of the officers involved in the struggle?

A. I don't remember.

5 Q. You've agreed that the proper debriefing didn't occur until probably the time you started compiling the notes.

A. That's right.

10 Q. It would appear that you didn't really have an opportunity to have a long discussion or, really, any substantial discussion with, for example, Detective Pettiford?

A. I don't remember - I would have spoken to Detective Pettiford, but I - would have only been at Bossley Park. I don't think I spoke to him back at the CIB.

15 Q. Can I take you to the record of interview, which is Exhibit 4.2-75.

EXHIBIT 4.2-75, RED PAGE 606, SHOWN TO WITNESS

20 Q. You can see, up the top, "Record of Interview conducted at the CIB"?

A. Yes.

25 Q. I want to take you - after a series of questions where you're getting biographical details and other details about Mr Brajkovic. If we go down to question 13, "Do you agree that you were detained at your home at Bossley Park earlier tonight? Do you agree that you were located under a tree at the house?" Then, "Do you agree that, when you were detained, a violent struggle took place?"

A. Yes.

30 Q. What did you base, when you asked that question, at about 11.55pm - that it was a violent struggle--

A. Well, the only thing I could say in relation to that was that maybe Harding told me that before we commenced the interview. That's the only thing - only explanation I can give to the Court.

35

Q. You've got no recollection of Detective Harding telling you that?

A. No, but I'm suggesting he may have.

40 Q. At that point, did you have any details or idea of why it was a violent struggle?

A. No.

45 Q. Why it had metamorphosised from being a bit of a struggle when Mr Brajkovic was brought into the house at Bossley Park to now a violent struggle?

A. Well, the only explanation I can give, ma'am, is that Detective Harding must have told me that prior to the interview commencing.

50 Q. Then you ask, "Are you suffering any injuries as a result of this struggle?"

A. Yes.

Q. Why did you ask that?

A. Well, to see if he had any injuries. That's the - to ascertain he got injuries.

Q. But you had seen no evidence of any injuries?

5 A. None at all.

Q. With the compilation notes, which is Exhibit 11.89, page 1287--

10 EXHIBIT 11.89, PAGE 1287, SHOWN TO WITNESS

Q. We showed you this on the last occasion.

A. Yes, I recall seeing these maps the last occasion, yes.

Q. I want to take you to the first page, 1287. After 10.15pm, this is when  
15 you've arrived at Bossley Park, Restwell Road.

A. Yes.

Q. Then I want to take you down - the bottom of the page, this becomes an  
20 account of what was recorded about what happened outside the house.

A. Yes.

Q. Can I take you to:

25 "At this stage, he was laying in a gutter adjacent to the tree, with his  
head facing west. Pettiford said, 'Please come out of here.' He did  
not move and Pettiford and Helson approached him. As they did,  
Helson said to others, 'He's in here.' Pettiford again said, 'Come out  
of there.' Pettiford then grabbed him by an ankle and attempted to  
30 pull him out. Brajkovic got to his feet and violent struggle  
commenced."

A. Yes.

Q. Then it says, "Pettiford and Helson were joined by Morris and  
35 Harding. Continued to struggle - in which Brajkovic was thrown to the ground  
and eventually handcuffed."

A. I've read that.

Q. Again we see this reference to a violent struggle.

40 A. Yes.

Q. There are no details in there as to why it was a violent struggle, is there?

A. No.

45 Q. No details about - other than Mr Brajkovic jumping to his feet - or got to his  
feet, I'm sorry, no description of what Mr Brajkovic allegedly did in the  
struggle?

A. No, that's correct.

50 Q. No description of what either Detective Pettiford or Detective Helson did in  
the violent struggle?

A. No.

Q. Really nothing about what Detectives Morris and Harding did in the violent struggle?

5 A. No.

Q. Where you've given evidence that one reason for these notes was to be thorough and have details so it can provide the basis for an officer's statement, why didn't you include in the notes details of this violent struggle?

10 A. I don't know.

Q. It was something that should've been included?

A. Perhaps.

15 Q. In retrospect, and I know it's in retrospect, given Mr Brajkovic's complaints to Internal Affairs and the position that he took at trial about his treatment by the police, it would've been a very good reason to include details of this supposed violent struggle, wouldn't have it?

20 A. We didn't know what to expect so I don't know why it wasn't put in there. I just can't explain it. Didn't know what Mr Brajkovic was going to allege later on.

Q. You were the one who was, in a sense, doing the dictating of the notes, weren't you?

25 A. Yes.

Q. If it's not included, does it really fall at your feet as to its non-inclusion?

A. I'd say so, yes, I was responsible.

30 Q. The Record of Interview that was conducted at CIB, your evidence was that it would be determined that you would be the question asker and Detective Harding would be typing?

A. Yes.

35 Q. From the beginning of the interview, you were told by Mr Brajkovic that he wasn't going to sign it?

A. Sorry?

Q. He wasn't going to sign the record of interview?

40 A. Got to the end, yes.

Q. Sorry, I couldn't hear what--

A. At the end we - he ascertained he wasn't going to sign it, yes.

45 Q. You weren't told that at the beginning?

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

50 Q. What was the procedure with the Record of Interview? In the Record of Interview - and I can take you back to it - at one point you show him the plastic bag and you take the contents of the plastic bag out and put it on the table?

A. Yes.

5 Q. As we've seen from the statements of Mr Brajkovic and Mr Hudlin, at some point during the night, they were also shown the white plastic bag and its contents?

A. Yes.

Q. The people taking their statements, how did they get access to the white plastic bag and contents?

10 A. I assume - I - that they've come back to our interview room and asked if they could have them. That's all I could say.

Q. They would disturb your interview?

15 A. Would have.

Q. Was it the procedure that such a disturbance would've been recorded in the record of interview?

A. Depended what sort of disturbance it was.

20 Q. What do you mean by that?

A. Well, if they just - someone just came to the room and asked a question or just say, "we want to see you," wouldn't do that - it wouldn't record that, but if you - we take - we left the room for any good reason, it would be recorded, or if anyone came into the room for any good reason, it would be recorded. But I  
25 concede that it should've been recorded when they - if they did come to the room to take the explosives away. That should've been noted in the Record of Interview but it hasn't been included.

30 Q. In your answer you said basically it should've been recorded if they had come to the room. Do you have any recollection of, for example, Detective Krawczyk arriving to take the bag away to show Mrs Brajkovic?

A. No, I don't.

35 Q. Can I take you back to the Record of Interview which is Exhibit 4.2-75? If I can first take you through to page 611, after question 87. It's recorded - and from your last evidence, this would appear to be a proper procedure - "Detective Sergeant Wilson leaves room. Interview suspended then resumed"?

40 A. Yes.

Q. You can see the next question: "Sorry about that, Vic. I was wanted in the other room," and then you continue asking some questions?

A. Yes.

45 Q. If we go down to question 89: "I have just been told that your group had planned to kill two men in the very near future"?

A. Yes.

50 Q. I'll try and do this without jumping around with documents, but if you then go to page 612, question 97?

A. Yes.

Q. Can you see:

5           "Q. Just excuse again Vic, I'm wanted again in the other room.  
A. No reply.

10           (INTERVIEW AGAIN SUSPENDED AND WILSON LEAVES  
ROOM. INTERVIEW THEN RESUMED.)"

Just with 97, where you say, "Just excuse again, I'm wanting again in the other room.", would that indicate that somebody has opened the door or come in?

A. Someone would have knocked on the door, I'd assume, and spoken to me through the door, yeah.

15           Q. Something along the lines of--  
A. Yeah. "I want to see you."

20           Q. Okay.  
A. "I've got additional information." Something like that.

Q. The same thing happened, as recorded in the previous page, where you left the room, suspended and then resumed.

25           A. Yes.

Q. Can I take you back to Exhibit 11.89.

EXHIBIT 11.89, PAGE 1290, SHOWN TO WITNESS

30           Q. We're looking at under, "1.46am. Interview concluded."  
A. Yes.

35           Q. Here you've recorded some details about what happened when you suspended the interview, left the room and came back.  
A. Yes.

40           Q. The first one is you, "...had a conversation with Detective Jameson who informed him that Brajkovic was involved in this plan to kill two men."  
A. Yes.

Q. Detective Jameson, when you spoke to him, did he have any documentation, or how did he convey that information to you?  
A. I can't recall.

45           Q. Did you receive any further information about where this information had come from? Who was the source?  
A. I don't think so.

50           Q. Just purely that there was an allegation he was involved in such a plan?  
A. Yes.

Q. The next one where you had left the room, you say, "...I spoke with Detective Howard and informed him that Brajkovic was involved in the plan to hijack an American airplane in the near future." Do you see that?

A. Yes.

5

Q. Is that supposed to read: "I spoke with Detective Howard and he told me"?

A. I'll just read it, if you don't mind.

Q. Yes.

10

A. Yes, of course. Yes.

Q. Because Mr Brajkovic hadn't volunteered that--

A. No.

15

Q. --at any point to you?

A. No.

Q. What was Detective Howard's role at that point?

A. He was in one of the other teams involved in the operation that night.

20

Q. This is a pretty extraordinary allegation, isn't it?

A. It is.

Q. Hijacking an American aeroplane?

25

A. Yes.

Q. Did Detective Howard have anything like written on a piece of paper, or some kind of communication about that?

A. He may have, but I don't recall.

30

Q. Did he give you a piece of paper with any of that information on it?

A. I don't remember.

Q. Did he reveal and/or did you ask, "What was the source of that?"

35

A. I don't remember.

Q. Your recollection is being told that, going back into the Record of Interview and confronting Mr Brajkovic with that new allegation?

A. Yes.

40

Q. You agreed with me that that's an extraordinary allegation of being involved in a hijack of an American aeroplane or of any aeroplane?

A. Yes.

45

Q. After you concluded the Record of Interview, and when you were still at CIB compiling the notes and coming back the next day, did you make further inquiries about the hijacking plot?

A. I didn't personally, no.

50

Q. Weren't you interested?

A. Yes, I was.

Q. Why didn't you ask?

A. Well, I wasn't asked to do it.

5

Q. It's not a matter of being tasked to do it. You've been provided with extraordinary information, you confront a suspect with that, and then just out of interest you don't make any further inquiries?

10 A. Well, I wasn't tasked with that function to do that inquiry, and Detective Howard was the one that originally got the information, I assume, so I would expect that he would have made further inquiries, or pass it on. But, in any event, Detective Sergeant Turner and Detective Milroy were put in charge of putting the brief together, and I'm sure they would have gone through every document, and then possibly - if things warranted further investigation, those  
15 tasks would have been allocated to somebody to investigate.

Q. You're answering my question in a very formal way. Who was  
tasked? Who was preparing the brief of evidence. The question I want to ask  
20 you is more on a level of human nature. That is, you get some extraordinary information that somebody is going to be involved in hijacking an aeroplane, and just out of interest you don't follow up with, "Well, what happened to that? Like, what plane was it?" Or did it go nowhere, or was it just kind of a rumour that wasn't supported? You didn't make any of those, if I can describe them as human inquiries?

25 A. Not at that time. Maybe later on I did, but not then. I had other things on my mind.

Q. But you can't recall at any time making those - asking questions, just getting some information, not in an official capacity, but just as a matter of  
30 interest?

A. Perhaps, after a passage of time, I would have, but not immediately, no.

Q. But I'm asking you--

35 A. I'm sure - I'm sure if something had have been - come into the investigation, we would have known about it. We would have been told.

Q. I'm not interested in that.

A. Okay.

40 Q. I'm just interested in the extraordinary information you got, whether you can recall, as a matter of interest, just trying to get some more information about it.

A. No.

45 Q. I've taken you to the Record of Interview and you've given evidence about, I think, the third time you left the room, approaching Inspector Morey.

A. Yes.

Q. I've described it as getting him to come back into the room and undertaking the verification procedure.

50 A. And read the document to Mr Brajkovic, as well.



Q. I'm including that under the umbrella of "verification". The action that you took of getting Inspector Morey involved, was that part of the recommended procedure in existence at the time?

A. Yes.

5

Q. Was it something to be done or followed even if the interviewee was quite happy to sign the record of interview?

A. Yes.

10

Q. So, whether they're signing or not, you bring in a senior officer?

A. Yes.

Q. Was there also a requirement that it should be an independent senior officer?

15

A. If possible.

Q. In the circumstances of Mr Brajkovic and the other Croatian Six, Inspector Morey really wasn't an independent senior officer?

20

A. Not completely independent, no.

Q. He was really the driving force, in that he was the one who undertook the briefing at 9 o'clock, was issuing screeds and instructions, et cetera?

A. I wouldn't say he was the driving force, but he could be described as the ultimate - overall commander of the operation, yes.

25

Q. Back at - before 9 o'clock on 8 February, at the briefing, it was quite clear that there were going to be a number of raids undertaken at a number of premises?

30

A. Well, depends what you call a number. I can't - I think there was four, maybe.

Q. Four or five?

A. I don't remember the exact number.

35

Q. You agree with about four or five?

A. Yes, definitely.

Q. That brings with it the possibility of at least four or five suspects or people under arrest being brought back to CIB and records of interview being undertaken?

40

A. Or interviews, yes.

Q. Or interviews. Which may entail having an independent senior officer present to undertake the verification procedure?

45

A. I don't know if that was ever considered.

Q. That's leading to my question. Do you agree with me that at least it flags the possibility or need for an independent senior officer to be available?

50

A. Don't know how to answer that. Possibly, it could be arranged.

Q. That wasn't arranged?

A. No. Well, as far as I'm aware, it wasn't arranged.

5 Q. The sufficiently senior officer to undertake the verification that night was the only officer available, Inspector Morey?

A. Well, at quarter to 2 in the morning, yes. They're pretty scarce at that time of day.

10 Q. That's why I asked you about thinking ahead, organising for another independent senior officer to be present.

A. Yeah. I don't think that was ever considered.

15 Q. With the record of interview, the transcription or the typing of it, there were a couple of copies?

A. Yes.

Q. The procedure was that the interviewee would be given a copy?

A. Yes.

20 Q. Or at least offered a copy?

A. Yes.

25 Q. Your evidence at committal and trial was that Mr Brajkovic declined a copy?

A. Yes.

Q. But it was arranged that a copy would be put in a sealed envelope and placed in a safe?

A. Yes.

30 Q. Did you organise for that to be done?

A. Yes.

35 Q. You are aware that the account that Mr Brajkovic gives of what occurred at CIB, after he'd been brought from Bossley Park to CIB, is at complete odds with "I voluntarily participated in a record of interview. Questions were asked. I answered them. I declined to sign. Copy was put in the safe. Then I was taken to Central"?

A. Doesn't agree with that, yes.

40 Q. You first became aware that he didn't agree with that when?

A. Agree with what?

45 Q. I'm sorry, I withdraw that question. When did you become first aware that Mr Brajkovic was saying, "This is complete fiction. I was actually assaulted at CIB and didn't answer any questions"?

A. I don't know when I became aware of that. Maybe at the committal. I'm not sure.

50 Q. Can I just ask you, do you attend a semi-regular luncheon get-together of

CIB alumni?

A. Yes.

Q. When was the last time you met? You usually have a lunch or something?

5 A. There's three a year. We have one in - one in April - March/April, one in July/August and one in November. I missed the last one because I was on standby to come here.

Q. I missed that.

10 A. Missed the last one because I was on standby to come here to give evidence. There's one on tomorrow that I'll miss.

Q. There's one tomorrow?

15 A. Possibly miss, yes.

Q. With the ex-officers involved in the Croatian Six matter, can you give me an indication of who attends the luncheons?

20 A. Well, I can't remember everybody who - everybody who's involved in the Croatian Six matter, but it comes to mind in my sitrep, Brian Harding was the only one. Rick Grady's another one. Jim Counsel's another one but Jim doesn't come to too many these days because of his health. Ian Kennedy's another one. And I think there's a few that were on the fringe of the Inquiry. Peter Wick, I think. Bob Myers. I think he's on the fringe of this Inquiry. Rod Harvey, I think. And not only ex-CIB; some uniform chaps, some  
25 retired barristers, former police officers. It's a group of old mates that get together and have a feed and a few drinks--

Q. Mr Bennett attend?

30 A. No, he doesn't go.

Q. You missed the April one?

A. Missed the one in March, yeah.

Q. I thought you said they were in April but it was--

35 A. Yeah, end - March and April. I think it's the end of - I think I was - I missed it anyway because of this right now.

Q. Did you go to the one in November of last year?

40 A. I don't - I think I did. I don't remember that.

Q. Was Croatian Six Inquiry a topic discussed?

A. Possibly.

Q. Did you discuss it with anybody?

45 A. I possibly would have, yes.

Q. Who did you discuss it with?

A. I can't remember that.

50 Q. Was it a detailed discussion?

A. No.

Q. Have you had any report back as to what was discussed at the March/April lunch?

5 A. No, definitely not.

Q. The next one's tomorrow but you'll--

A. Yes, I won't be going to that one.

10 Q. --unfortunately you'll probably miss out again?

A. Yes.

Q. Do you recall that Mr Brajkovic made a complaint; it originally went to the Premier and then was referred to the Internal Affairs section?

15 A. I'm not sure if I was aware of that.

EXHIBIT 11.186 SHOWN TO WITNESS

20 Q. Page 1537. Mr Wilson, if I can take you to the top of that document, can you see it's addressed to you, Special Breaking Squad, and it's a memo from a Detective Sergeant Shepard?

A. Yes.

25 Q. From Police Internal Affairs Branch. The memo is, "Attached is a list of statements and documents which are attached to this report and which refer to an alleged incident at Bossley Park and the CIB on 8 and 9 February"?

A. Yes.

30 Q. "You are directed to peruse the statements and documents and to furnish a comprehensive report forthwith as to your knowledge or otherwise of the matters contained therein"?

A. Yes.

35 Q. If we can move further down that document, can you see it then commences, "Detective Sergeant Shepard, Police Internal Affairs". Paragraph 1: "I have read a number of documents"?

A. Yes.

40 Q. I'll just take you through this document. On page 1538, can you see you start giving your account of what happened on the night of 8 February?

A. Yes, I do.

Q. If you go to page 1539, paragraph 14; we're still at Bossley Park?

45 A. Yes.

Q. If we then go to page 1540, we've got you leaving Bossley Park?

A. At what paragraph?

50 Q. 19: "All the property gathered and placed in the containers I have mentioned was later removed from the house"?

A. Yes, I see that.

5 Q. Then you continue down, right down the bottom. You've got you arriving at CIB, Detective Harding arrived, you have a conversation with Detective Inspector Morey, then you go to the interview room occupied by Mr Brajkovic. Do you see you record there: "At this time, Detectives Bennett and Krawczyk left the room"?

A. Yes, I see that.

10 Q. I asked you before about after you arrived at CIB, you put Mr Brajkovic in an interview room and you said somebody would've been there with him, like another officer?

A. Yes.

15 Q. That would suggest that it was Detectives Bennett and Krawczyk?

A. I think I may have said that when I was giving evidence just a short time ago. I think so.

20 Q. If you go over to page 1541, do you see there you give an account of conducting the record of interview?

A. Which paragraph?

Q. Commencing at paragraph 27, up the top?

25 A. Yes, I see that.

Q. That continues through paragraphs 28 and 29?

A. Yes.

30 Q. Then down at paragraph 30, you record taking Mr Brajkovic to Central and him--

A. Yes.

Q. Then down at paragraph 30 you record taking Mr Brajkovic to Central--

35 A. Yes.

Q. --and him being charged. Subsequent Court proceedings?

A. Yes.

40 Q. Then in paragraph 31 you say:

45 "I would like to repeat my denial of any misconduct or any assault committed upon the man BRAJKOVIC either by myself or any other Police Officer involved in the arrest and interrogation of this man. I can report fruitfully that BRAJKOVIC at no time made any complaint to any member of the Police Force on the night of his arrest."

A. Yes.

50 Q. Then if you go across the page, paragraph 32 is another observation that you record about observing Mr Brajkovic at Petty Sessions on the 9th of Feb?

A. Yes.

Q. I'm just moving through this quickly. There are some other paragraphs dealing with some other complaints.

A. Which paragraphs?

5 Q. For example, in paragraph 33, "Insofar as the allegations made by Mrs BRAJKOVIC and Mr HUDLIN..."?

A. 33, you say?

Q. Yes.

10 A. Yes.

Q. Then at paragraph 34--

A. I'll just finish--

15 Q. --you record that on--

A. Excuse me. I haven't finished reading 33 yet.

Q. Sorry, Mr Wilson.

A. I've read 33.

20

Q. Unless you want to read them, you deal with other either allegations or complaints about the conduct of the raid at the premises, and then after paragraph 36, it's your signature. If we can move that up.

A. Yeah, that's my signature. Yes.

25

Q. I asked you a little while ago when you first became aware of the allegations by Mr Brajkovic of being assaulted at the CIB?

A. Yes.

30 Q. Your recollection at that time was you said, "Look, it was around the time of the committal." Does this jog your memory that it was a bit earlier than that?

A. It does now. I can't remember this interview by Mr Shepard.

35 Q. Was the procedure with this: were you actually interviewed, or were you provided with - if we go back to page 1537, right up the top under, "Memo"--

A. Yes.

Q. --it records that you've been provided with statements and other documents--

40 A. Yes.

Q. --and you're directed basically to read them and to furnish a comprehensive report.

A. Yes.

45

Q. Is the comprehensive report the paragraphs that I've just taken you to commencing with paragraph 1?

A. Yes. That's it. Up to paragraph 34, I think. Yes.

50 Q. In addition to providing that report, were you interviewed by Detective

Sergeant Shepard?

5 A. With IA inquiries you - you're usually handed a directive memorandum, which this is, and if your report doesn't satisfy the investigating officer, you're then put through a series of questions and answers. I don't know if that happened or not. I don't remember.

Q. So you don't remember whether there were subsequent questions?

A. No. I don't.

10 Q. The primary complaint by Mr Brajkovic is that at the CIB, he was assaulted.  
A. Yes.

Q. In particular, he made allegations against Detective Harding, and I think it was Detective Morris.

15 A. Yes.

Q. Do you recall that his account was at a certain time there would be a number of officers, including yourself, in the interview room with him?

20 A. Yes.

Q. You, and, for example, Detectives Bennett, would leave, and then Detective Harding and Detective Morris, primarily, would assault him?

A. I think that's been put to me, yes.

25 Q. There was evidence of injuries verified by nurses and doctors of injuries sustained by Mr Brajkovic when he was taken to Long Bay Gaol after he was bail refused in Petty Sessions on 9 February?

A. Yes. I'm aware of that.

30 Q. Again, I'm just summarising it, there were recordings of, I think, two black eyes?

A. I don't remember what the injuries were.

35 Q. But injuries, you would agree, black eyes, abrasions on the face, an injured ear. That would be apparent to somebody?

A. Black eyes would definitely be apparent to somebody, yes. I don't know about the rest.

Q. Abrasions on the face?

40 A. Abrasions, yes. Of course, yes.

Q. In the report that I just took you to, and if you need some more time to read it, because it's been a document that we've recently obtained, I took you to the paragraph where you denied any assault of Mr Brajkovic or any misconduct against Mr Brajkovic.

45 A. That's correct.

Q. When you prepared your report, what did you rely upon?

50 A. I probably had my statement there, and I could have had the - the notes that we prepared, too. I don't remember.

Q. The compilation notes would be a very useful document, wouldn't they?

A. Yeah, I probably would have had them. I don't remember what I had, ma'am.

5 Q. You would have had some source documents?

A. Most definitely, yeah. I--

Q. Sorry?

A. I couldn't remember all that.

10

Q. Did you have any discussions with any of the other officers who had been contacted by Detective Sergeant Shepard?

A. No.

15

Q. Why not?

A. Well, there was no need to.

Q. Why was there no need--

20

A. And it's not the right thing to do. If there's an investigation being conducted, you don't talk to your colleagues about that.

Q. Why wouldn't you talk to your colleagues?

A. I had no need to.

25

Q. Your answer then - you said, "Look, I had no need to, but," and it was something along the lines of "I didn't take a note of," something along the lines of, "but, in an investigation, you don't talk to your colleagues".

A. True, yes.

30

Q. Why, in an investigation, do you not talk to your colleagues?

A. In case you could be accused of trying to put something together. No, it's just not on.

Q. Accused of cobbling something together or--

35

A. Yes.

Q. Contamination of evidence?

A. That could be alleged, yes.

40

Q. Trying to - by collective thought process or discussion, coming up with a set right answer?

A. I don't know what you mean, ma'am.

45

Q. We've talked about contamination of evidence, compiling evidence. What I'm suggesting is that what you're saying should be avoided in this type of investigation is officers getting together and working out, in a sense, the right evidence or the right answer to give.

A. You're suggesting that - possibility, yes, but it's just an instruction, you're not to coerce with other - converse with other police about the matter.

50



Q. When you said, "an instruction", in 1979, was there such an instruction?

A. Well, I believe so. I just remember that was the rules - they were the rules.

5 Q. In your report to Detective Sergeant Shepard, you deny the allegations of assault?

A. Yes.

Q. But nowhere do you put forward a suggestion as to how Mr Brajkovic suffered those injuries.

10 A. Well, I don't know how he suffered those injuries, ma'am.

Q. But you accept that there's independent medical evidence that he suffered those injuries?

A. Yes.

15 Q. I know you've said, "I don't know how he suffered those injuries." It became an issue at committal?

A. Yes.

20 Q. Became an issue at trial?

A. Yes.

Q. Did you ever turn your mind to, "Well, you know, the nurse said he had two black eyes and had abrasions on his face. How on earth did he suffer those injuries?" Did you ever turn your mind and just think about that?

25 A. I may, but I don't recall.

Q. Sitting here today, can you suggest how Mr Brajkovic suffered those injuries?

30 A. No.

Q. From your observations of him at Bossley Park and back at CIB, during the Record of Interview, and then taking him to Central, you didn't see any evidence of any injuries?

35 A. No.

Q. Your evidence and account is that he wasn't assaulted at CIB?

A. That's correct.

40 Q. So, knowing those injuries couldn't have been incurred then?

A. No, they couldn't have occurred there.

Q. So, somehow, between petty sessions and Long Bay, he's incurred these injuries?

45 A. I don't know when he incurred the injuries, but he definitely wasn't injured in any way while he was in my custody.

Q. You really can't put forward any - you would disagree with the proposal that, "Oh, look, the injuries were sustained at Bossley Park"?

50 A. Well, he wasn't injured at Bossley Park. He didn't appear to be injured at

Bossley Park.

Q. You saw no evidence at Bossley Park or back at CIB?

A. No.

5

Q. Mr Wilson, in February 1979, had you ever come across the concept of verbals?

A. Yes, I'd heard of verbals.

10

Q. What was your understanding of a verbal?

A. Just fabricating conversations and admissions.

15

Q. For example, questions and answers by an accused where the accused didn't sign or acknowledge the questions and answers, that could be illustrative of a verbal?

A. Yes.

20

Q. Had you, up until February 1979, ever participated in verbals?

A. Definitely not.

25

Q. Had you ever witnessed a colleague or other officers?

A. No.

30

Q. In February 1989, had you come across the term "load up"?

A. '89 or '79?

Q. Sorry, '79?

A. Yes, load - yes, I have, yeah.

35

Q. Your understanding of somebody being loaded up?

A. Yes.

40

Q. What was your understanding of it?

A. Planting evidence.

45

Q. Such as drugs?

A. Drugs, yeah.

50

Q. Firearms?

A. Firearms, explosives, yes.

Q. Had you ever participated in loading up?

A. No. No, definitely not.

55

Q. Had you ever witnessed any other police officers loading somebody up?

A. No.

Q. I was drawing your attention to 1979, but can I expand that to your career in the Police Force?

A. Yes.

Q. Had you ever come across any police officers verballing?

A. No.

Q. Had you ever come across any police officers loading up?

5 A. No.

Q. You said that you had heard in February 1979 the term "verballing"?

A. Yes.

10 Q. How did you come across the term?

A. What do you mean how'd I come across it?

Q. Sorry?

A. What do you mean by that?

15

Q. You said, "I'd come across the term verballing"--

A. I just--

Q. --"by February 1979," and I'm asking you how or in what context?

20 A. It was probably spoken about over a beer, allegations of verballing's being made at courts - at court hearings and that. And you'd read about sensational trials and court cases where an allegation of police verballing suspects had been carried out.

25 Q. What about your knowledge of loading up?

A. Probably the same.

Q. Either at a beer at the pub, fellow police officers complaining that these allegations are being made against them at trial or something like that?

30 A. Possibly, yes.

Q. Also in media reports?

A. Yeah, when you'd read about some case, yes.

35 Q. Your knowledge of such allegations being made in February 1979, did that result in you, in a sense, being more diligent in ensuring that those allegations couldn't be made against you?

A. I don't think I changed in any way. I just carried on with investigations in the way normally just - and inquiries, yeah. No different.

40

Q. Not as an assertion or an inference that you had done anything wrong in the past, but if allegations are made in a trial, it can affect the strength of the Crown cases?

A. Yes.

45

Q. Those admissions that you discussed beforehand which can be great evidence might be determined to be inadmissible?

A. Yes.

50 Q. Also, I take it, for a police officer to have allegations of verballing

somebody or loading somebody up, in a sense confirmed by the court, again would not be very good for that police officer's career?

A. True.

5 Q. Here you were confronted with a typed Record of Interview but where the interviewee would not initial or sign it?

A. Yes.

10 Q. You would say to me, "But we got the verification procedure in place with Inspector Morey"?

A. Yes.

15 Q. But the additional problem then was allegations of assault with evidence of injuries being occurred at least at a relatively short period of time after the interview?

A. Yes.

20 Q. And no explanation being able to be put forward as to how those injuries were incurred?

A. That's correct.

25 Q. With the question of loading up and the white plastic bag, again if we're looking at independent evidence that there was a white plastic bag with the gelignite and detonators found at Bossley Park, the evidence was evidence of police officers?

A. Yes.

30 Q. There was no independent witness?

A. That's right.

Q. The bag and contents weren't shown to Mrs Brajkovic at the house?

A. I don't think so.

35 Q. Or Mr Hudlin?

A. I don't think so.

Q. Have you ever heard of, where explosives are involved, the procedure or suggestion, you should bring in experts from the Army?

40 A. I think you pointed that out to me at the previous--

Q. In that Emergency Manual?

A. Yes. But I wasn't familiar with those instructions.

45 Q. In February--

A. At the time.

Q. --1979?

A. That's correct.

50 Q. You became involved with, I think it's Detective Musgrave at Ballistics?

A. Yes, I did.

Q. Did you turn your mind on the 8 or 9 February to involving some of those officers?

5 A. I didn't, but that would have been a decision for Mr Morey, I would think.

Q. When you say, "That would be a decision Mr Morey", are you talking about the wider kind of verification of--

10 A. Yes.

Q. That at Bossley Park, you found a white plastic bag with gelignite?

A. Well, if Mr Morey thought it necessary we take somebody from Ballistics, or anywhere else, I'm sure he would have arranged that, but we weren't - that wasn't discussed with us.

15 Q. Within your role on that occasion, that wasn't part of your role?  
A. No.

20 Q. One way it could have been verified was the handwritten questions and answers that Mr Brajkovic gave in the workroom and getting him to sign it then and there?

A. Yes.

25 Q. That wasn't followed?  
A. That wasn't done.

Q. At some time on the 8th or the early morning of 9 February, you took possession of the white plastic bag and the explosives?

30 A. Yes.

Q. Now, again, with our chronology that there's a Record of Interview, and at some time other officers are coming to retrieve the bag to show Mrs Brajkovic or Mr Hudlin?

35 A. I think so.

Q. Do you recall at what particular point you resumed possession of the bag and its contents?

A. No. I don't.

40 Q. You didn't take it to Central with you?  
A. No.

Q. It remained at CIB?

45 A. Yes.

Q. And on the last occasion, you gave evidence that what you did on that night was put it in a locker?

A. Yes.

50 Q. And a secure locker?

A. Yes.

Q. Mr Brajkovic had been charged?

A. Yes.

5

Q. Are you all right?

A. I'm okay. Thanks.

10 Q. Mr Brajkovic has been charged. So this, you would anticipate, a brief of evidence is going to have to be gathered.

A. Yes.

Q. As part of that procedure, the explosives have to go to the Dangerous Goods Branch.

15 A. Yes. That's where they would finish up at, I would think, yes.

Q. That's for some kind of testing or analysis?

A. I don't know. I don't think that would have been done, unless it was asked to be done.

20

Q. You've got to ask for it?

A. I think you've got to - I think so.

Q. You asked for it in this case, didn't you?

25 A. No.

Q. Is the other reason why you send it to Dangerous Goods Branch is for safe storage?

A. Yes.

30

Q. Could we bring up Exhibit 11.104, please.

EXHIBIT 11.104, PAGE 1307, SHOWN TO WITNESS

35 Q. It's a two-page document, Mr Wilson.

A. I can see that. Well, it's one page, anyway.

Q. I'm going to take you to the second page, but can you see there you've got, "Explosives - Dangerous Goods Branch". "OFFICER IN CHARGE OF CASE", they nominate you. Do you see that?

40

A. Yes, I do.

Q. "DEFENDANT - MR BRAJKOVIC", and then you've got, "LIST OF SPECIMENS", and you can say the gelignite, detonators and flares?

45

A. Yes.

Q. Then we've got, "EXAMINATION REQUESTED", and can you see, "Nature of explosive substance", underneath the table.

A. I see, "Nature of explosive substance", yes.

50

Q. So that would suggest that it's not going just for safe storage; that an examination is being sought.

A. It appears so, yes.

5 Q. Then would you go to page 1309. Up the top there's just some background?

A. Yes.

10 Q. Then down the bottom you can see that the items were in the possession of Detective Bennett, and he's conveyed them to the Dangerous Goods Branch--

A. Yes.

15 Q. --on about 28 March 1979.

A. Yes.

20 Q. Now, Detective Bennett gave evidence about this. His evidence was that he was at CIB, and I'm just summarising it. He was at CIB and received a phone call from you. You were off-site at some kind of course, and you directed him to get the particular gelignite, et cetera, and to take it to the Dangerous Goods Branch?

A. I've got no recollection of that.

25 Q. You had the gelignite, or the explosives, in your possession, being your locker, for a substantial period of time?

A. I don't know if they were still there at that time. I don't know - I don't know when I disposed of the explosives. I can't recall.

30 Q. After conducting the Record of Interview of Mr Brajkovic and taking him to Central to charge him - you've given evidence that Detective Sergeant, I think, Turner and Detective Milroy were given the responsibility of compiling the brief of evidence?

A. Yes.

35 Q. But you still remained involved, in that you assisted in conducting some investigations?

A. I was, apparently, yes.

40 Q. Is it your recollection that the person who had - after the interviews were all conducted on 8 or 9 February, you had possession of the explosives?

A. Yes.

45 Q. You continued to have possession of the explosives until they were forwarded to the Dangerous Goods Branch?

A. I don't rightly know how long I had possession of the explosives. I can't remember how or when I disposed of them.

50 Q. Do you have any reason to question the evidence of Mr Bennett to this Inquiry that he was contacted by you, by phone, that you were offsite, and with a direction that he gain access to the explosives and take them to the

Dangerous Goods Branch?

A. I've got no doubt what Mr Bennett said was correct, but I've got no recollection of it.

5 Q. The date of him forwarding it is 28 March. That would mean that you had possession of the explosives from about 9 February to, let's say, 27 March in your locker?

A. I don't know. As I said, I don't know when or how I disposed of those explosives. That is a possibility, but I don't know.

10

Q. Let's work on "it's a possibility". That seems an extraordinary time to have gelignite and detonators in your locker at the CIB.

A. Definitely.

15

Q. You agree that it's an extraordinary time?

A. Yes.

Q. Your evidence is you have no recollection as to why you had them in the locker for a period of time. Can you suggest any reason as to why?

20

A. No.

Q. Do you recall organising for the gelignite and detonators, et cetera, to be photographed?

A. I think so. I think I organised that.

25

Q. You did organise that?

A. I think I organised that, yes.

HIS HONOUR: Would Exhibit 4.11-MM be relevant to that?

30

MCDONALD: I was going to look at some transcript at Exhibit 2.1-21, page 663.

Q. I think, probably before taking you there - I do apologise - if I could first take you to Exhibit 4.1-MM.

35

EXHIBIT 4.1-MM SHOWN TO WITNESS

Q. Do you recall that was the photograph that you arranged to be taken of the gelignite, the detonators and the flares, and also the batteries and the clock?

40

A. Yes.

EXHIBIT 2.1-21, PAGE 663, SHOWN TO WITNESS

Q. Page 663. Towards the bottom, can you see:

45

"Q. You have identified the items in the photograph now in Exhibit MM. When was that photograph taken?

A. I arranged for the photographs to be taken on 16 March 1979. I arranged for Detective Henkel of our scientific section to photograph

50



them.

Q. Was that taken on that day?

A. It was taken on 10 March.

5

Q. Was that 1969?

A. Last year, yes.

Q. '79, rather. Whereabouts was that photograph taken?

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A. In Special Breaking Squad office.

Q. What happened to the items photographed?

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A. They were subsequently - the explosives were taken to the Dangerous Goods Branch for examination. They were returned to me sometime later and then eventually taken back to the Dangerous Goods Branch to be stored there."

A. Yes.

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Q. Can I suggest from those answers it would suggest that you've at least got possession of the explosives from 9 February until at least 10 March when the photos are taken?

A. Yes.

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Q. Then it would, as you say, it seems to go to the Dangerous Goods Branch for an examination, are returned and then you send them back?

A. Yeah, that's strange that they were returned to me and then taken back to the Dangerous Goods Branch. I don't know why that would happen. I don't know why that would happen. That might be - that - not be correct.

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Q. In conjunction with the evidence given by Detective Bennett, that suggests that you had possession of the explosives at least up to around 10 March?

A. Yes.

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Q. If we rely on the documentation and Mr Bennett's evidence, it would seem that it remained with you until he forwarded it to the Dangerous Goods Branch for that analysis or examination towards the end of March?

A. Seems that way.

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Q. I know I've asked you this before, but just reading that through, that you organised the photo, then it was sent to Dangerous Goods Branch, does that jog your memory as to why it remained in your locker?

A. No.

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<THE WITNESS WITHDREW

ADJOURNED PART HEARD TO WEDNESDAY 7 AUGUST 2024