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SPECIAL INQUIRY

THE HONOURABLE ACTING JUSTICE ROBERT ALLAN HULME

5 TWENTY-FOURTH DAY: WEDNESDAY 7 AUGUST 2024

INQUIRY INTO THE CONVICTIONS OF THE CROATIAN SIX

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<ALASTAIR MACDONALD MILROY, RESWORN(10.31AM)

<EXAMINATION BY MS MELIS

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Q. Mr Milroy, since the last time you appeared before this Inquiry, the Inquiry has had produced to it copies of your duty book for the relevant period in 1979 to 1980. I have actually opened up the duty books there in front of you in hardcopy, but what I propose to do today is take you through entries of your duty book and ask you questions about that.

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A. Okay.

Q. We have also had produced to the Inquiry, Detective Sergeant Turner's notebook, and I will also be taking you to entries in that notebook, and ask you some questions to see if you can assist.

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A. Okay.

Q. Firstly, can I just ask: having a look at Exhibit 11.71(A) is the front cover of your duty book with the dates commencing 10 July 1979 to 2 August 1979. Do you see that?

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A. Yes, I do.

Q. Have these notes been provided to you previous to your appearance today?

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A. No.

Q. So you've not had a chance to review them?

A. No, I have not.

Q. I will take you through them carefully, Mr Milroy, and give you the chance to read entries carefully, but please let us know if you require more time to review anything.

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A. Thank you.

Q. I've also been asked to remind you to please keep your voice up?

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A. Okay.

Q. If we go to that Tab 11.71(A), to the first entry, Mr Milroy, red page 309. It's dated 8 February 1979.

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A. I'm sorry, I--

Q. Just behind that tab, 11.71(A)--

A. Mm-hmm.

Q. If you go through the pages, it's red page 309, on the right-hand corner.

5 A. I see. Right. Okay.

Q. If that could also please be brought up on the screen. We can see there that obviously this is the night that you attend the raid in Lithgow; correct?

A. Correct.

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Q. Partway down, you'll see there's a note there that says, "...explosives, papers and other items found...", and then it says, "...interview with BEBIC. Return same Lithgow Police Station, 8.30pm. Then interview with BEBIC. " Do you see that?

15

A. I do.

Q. There are two references to two different interviews there?

A. Two different interviews?

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Q. Yes. "...interview with BEBIC. Return same Lithgow Police Station, 8.30pm."

A. Yes.

Q. "Then interview with BEBIC. Attend charges."

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A. I see that, yes.

Q. I just want to confirm that those two references to two interviews refer to an interview you had with Mr Bebic and with Detective Sergeant Turner in the lounge room at the premises, and the second interview was the record of interview--

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A. That's correct.

Q. --at the station?

A. That's correct.

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Q. Are they the two interviews you're referring to?

A. That's correct.

Q. I've previously taken you to the lounge room interview, as I'll call it, and it's also referred to in your statement at Exhibit 11.66, red page 287. We also have your notes of that conversation at Exhibit 4.2-4, which I have previously taken you to. The conversation at the Lithgow Police Station, there was also a previous conversation you had with Mr Bebic, was there not? It was just between you and him, and he made a sketch--

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A. That's correct, yes.

Q. --of the explosive devices. Previously, we did not have notes of that conversation that you had with Mr Bebic; it was merely relayed in your statement. We now appear to have those notes.

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MELIS: If the witness could please be shown Exhibit 11.74, red page 552.

HIS HONOUR: I think that might be in the same folder, is it, Mr Milroy?

5 MELIS: Yes. It is, Mr Milroy.

HIS HONOUR: It's the second-last tab in the folder that you have, if you want to look at the hardcopy, but it's on the screen as well.

10 WITNESS: Right.

EXHIBIT 11.74, RED PAGE 551, SHOWN TO WITNESS

MELIS

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Q. I should, firstly, take the witness to red page 551 and identify this document as being the shorthand notebook of Detective Sergeant Turner. Mr Milroy, do you need some assistance bringing that up?

A. No. No. I'm fine. Yes.

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Q. We can see there that the timestamp is "11.10pm". Do you see that?

A. I see that, yes.

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Q. It's headed, "(TRANSFER - NOTES RE CONVERSATION BETWEEN BEBIC AND MILROY PRIOR TO THE R.O.I.)"?

A. Yes.

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Q. This is your handwriting, Mr Milroy?

A. That's correct.

Q. This is you using the shorthand notebook of Detective Sergeant Turner to record a conversation that you had with Mr Bebic prior to his record of interview?

A. That's correct.

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Q. The heading refers to these notes having been transferred from, it would appear, some other notes. I think we now also have those notes. If the witness could please be shown Exhibit 11.257. That's not in front of you there, Mr Milroy, but we'll bring it up on the screen first.

40

A. Okay.

EXHIBIT 11.257, RED PAGES 1676 TO 1682, SHOWN TO WITNESS

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Q. These notes are quite faint, Mr Milroy, but they begin at red page 1676 and finish at red page 1682. If you can just scroll through those pages, please. My first question to you, Mr Milroy, is: are these your notes in your handwriting?

A. Yes, they are.

50

Q. On what paper did you make these notes on?

A. On Mr - Sergeant Turner's notebook.

Q. Was it Sergeant Turner's notebook? Because I've just shown you Sergeant Turner's notebook, and it would appear that, and I'm making a suggestion here, which you can agree or disagree to, but it appears that these notes were written elsewhere and then transferred into the Detective Sergeant Turner's notebook.

WOODS: Your Honour, might the witness's attention be directed to the print notations at the top of the letter of the paper on the first page.

MELIS: The heading, "Lithgow Police Stn"?

WOODS: Yes.

MELIS

Q. There's no concern there, Mr Milroy, that this conversation took place at the Lithgow Police Station. I'm merely trying to ascertain whether you wrote these notes in a separate notebook and then transferred them into Detective Sergeant Turner's notebook, or whether you say you did write them into Detective Sergeant Turner's notebook, and then you re-wrote them in clearer handwriting in his notebook.

A. Yeah. I mean, the interview that took place in the lounge room was recorded in this very scribble in Sergeant Turner's note - shorthand notebook, and - because it wasn't very legible as far as - he was concerned, and then it was re-written, as you can see on this 552 and onwards.

Q. So you say it would have been written in Detective Sergeant Turner's notebook?

A. Yeah, I can't--

Q. Both sets?

A. --recall. We're going back such a long time, but I believe it would have been, because he wanted everything in his shorthand notebook.

Q. To be clear, for the record, the two conversations I've taken you to are the ones between you and Mr Bebic at Lithgow Police Station prior to his record of interview. Not in the lounge room?

A. No. The - these aren't - these are the notes that were taken in the lounge room. It--

Q. These notes that I've taken you to--

A. The notes that are on the screen were recorded at the time in the lounge room when we were sitting on the lounge, and then back at the police station because Turner couldn't understand some of my scribble. Then that was re-written back out again at 11.10pm, as you can see there.

Q. I just want to be clear about this, Mr Milroy. I've already dealt with the conversation in the lounge room. We dealt with that on the last occasion--

A. Yes.

Q. --and we have your notes relevant to that. This conversation that I'm directing your attention to, I suggest, is a conversation between just you and Mr Bebic at Lithgow Police Station where he asks for some paper and draws you a sketch.

5 A. Yes. I can understand what you're saying. That's the early part of that conversation. That's correct.

Q. We've also since had produced to us some typewritten notes. If the witness could please be shown Exhibit 11.241.

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EXHIBIT 11.241, RED PAGE 1650, SHOWN TO WITNESS

Q. Mr Milroy, this document is headed, "RECORD OF BEBIC NOTES TAKEN FROM SHORTHAND NOTEBOOK." Do you see that?

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A. Yes, I do.

Q. In fact, it might be easier if Mr Milroy has a hardcopy of this Exhibit 11.241. I might just get you to scroll through this yourself in hardcopy, Mr Milroy.

20

A. Okay. Yes.

Q. Do you recognise this document, Mr Milroy?

A. It's been a long, long time. I can't say I recognise it. I can see it was prepared but I have no - after all these years - memories of actually--

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Q. Is it a document that you likely typed up--

A. Yes. It's the sort of--

Q. --of the various conversations--

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A. That's--

Q. --between yourself and Mr Bebic or yourself and Detective Sergeant Turner and Mr Bebic; is that correct?

A. That's right, yes.

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Q. We can see there, just to identify those various conversations, on the first page on 8 February 1979 at 7.40pm, it's what we'll call the lounge room conversation at Lithgow. At red page 1652, you record the conversation between yourself and Mr Bebic before his record of interview where he makes the sketches?

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A. Yes.

Q. Over the page again, you record the fact that there was a record of interview at 9.05 until 10.47pm?

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A. Yes.

Q. Which resumed on 9 February at 7.20am?

A. 9 February, 10.40.

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Q. It says--

A. Yes, I - 11.20, that's correct. 11.30.

Q. Again over the page, you're again speaking with Mr Bebic on 9 February at 10.40am?

5 A. Yes.

Q. On that page, page red 1654, you are recording here conversations that were had between Mr Bebic and Detective Sergeant Turner at the various locations that Mr Bebic took you to at Hassans Walls, et cetera?

10 A. That's correct.

Q. You can put that aside. Was that your practice back in 1979, Mr Milroy, to type out any notes of conversations that were recorded in your notebook or other person's notebooks?

15 A. It would be. It was the sort of the thing that you would prepare, a sort of a chronology, you'd pool together the information that you've collected and make a bit of a chronology up of the circumstances leading to that particular operation, or if you arrested someone. It made it a lot easier to prepare your statement and - et cetera. And a lot of clarity too, because my - sort of
20 semi-shorthand wasn't very legible to others at times.

Q. It's fair to say you would've used those notes to prepare your statement?

A. It would've been used, that's right, as I recall.

25 Q. Would those notes have been provided to Detective Sergeant Turner for the purpose of the preparation of his statement?

A. He would've actually initiated - requested it, I think, because of the fact that he was in charge. He would've requested that sort of thing to be prepared so as that he could use that for his statement and I could use it for mine.

30

Q. Do you recall now giving those typed notes to any other police officer who attended the raid at Lithgow?

A. No. I don't see the - any need for that, no.

35 Q. Would they have been accessible to other police officers?

A. They wouldn't be accessible. I think we had the sort of things that weren't - that didn't go into the brief that went to the prosecutor - that is, the Telex and overseas and any other loose bits of paper went into a folder. That's why I indicated very early in the piece that there was a box that
40 Sergeant Turner kept that had a spring-back folder that contained the occurrence pad entries. There was the job tasking book where we worked out what jobs had to be done and who was going to do them, and then any other documents would've gone in a - sort of like a Manila folder, and all that went into this box that he retained, which I assume at some stage was filed when he
45 moved on in the Police Service.

Q. The box that you've described, that contained loose documents that needed to be actioned?

50 A. Not documents that - for example, if you - we made enquiries for - just an example, we get - made enquiries with Interpol, so there would be an Interpol

Telex. There would be other - they executed the warrants or - at Wollstonecraft, so whatever we might call pieces of paper that weren't really part of any brief as such. They may have been notes that you've taken from making enquiries, or when we went out to Parramatta Road to look for the electronic device, things of that nature that are part and parcel of any inquiry. You've always got loose pieces of paper. You might've got letters from someone - I'm talking generally here - and those would go in a folder that you'd retain for future reference, if any, but that all went into one of these sort of boxes. The Homicide Squad used to have a box that they kept everything in. Sergeant Turner had a box that had all of that information. That's why I asked very early in the piece where were the occurrence pad entries found because they would've been in a spring-back folder with the job book and everything else which Sergeant Turner retained when I left the Breaking Squad.

Q. Since the last occasion that you appeared before the Inquiry, we have also received some various drafts of your statement that you gave to the Court. The statement that we have been relying on is Exhibit 11.66. I want to take you to another version of that statement.

EXHIBIT 11.66A SHOWN TO WITNESS

Q. It begins at red page 299-1. Mr Milroy, this is a 13-page statement that has your name on it and I can confirm that the previous statement that we have taken you to on the last occasion is also 13 pages and the contents are the same. My question to you is this: this version has a line through each page, if we could just scroll through, please, to the end. It, at times, has various handwritten notations; for example, at red 299-3, there's a correction made partway down the page. The word "Turner" is put over the word "I", so it says, "Turner said" instead of "I said"; do you see that?

A. Yes, I do.

Q. By way of another example, we have red page 299-8. At the bottom of the page, another written correction. I think it's "make sure bombs" and the word "work" is in brackets, and I think on top it says, "safe". Do you see that?

A. Yes, I do.

Q. Again, over the page at 299-9, there's a further amendment where the word "electronic" has been inserted?

A. Yes.

Q. If we can go to the last page, there are some handwritten notes there. Are you able to read those, Mr Milroy?

A. Yes, I can read them but I've never seen this before.

Q. You've never seen this before?

A. No, and the statement that I received when I was called for the Inquiry is - that doesn't have any of this on it or even the lines across it.

Q. As I indicated, these are drafts that have since been produced to the

Inquiry by the Commissioner of Police.

WOODS: If I may, your Honour. Mr Milroy's not been shown any of this material in conference.

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MELIS

Q. Are the corrections and the handwriting in this draft statement yours, Mr Milroy?

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A. No.

Q. This is not your handwriting?

A. No, definitely not. No.

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Q. Do you recognise whose handwriting it is?

A. No. Doesn't look like Ted Turner's and - unless it could've been the prosecutor's or - the police prosecutor or the - I don't know. Sorry I can't assist you.

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HIS HONOUR: Is it being referred to as a draft because there's no signature of the maker of the statement or a witness? The previous item behind Tab 11.66 is in the same form; that is, unsigned. Do we have a signed version of his statement?

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MELIS: We don't, your Honour, and the use of the word "draft" is my own. It may not in fact be the case; it may not be a draft. My reason for these questions are to try and ascertain which version actually was before the Court because there's been--

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HIS HONOUR: Was any version of the statement before the Court? Did it get into evidence at the committal or the trial?

MELIS: Yes. We don't have a signed copy of this statement, your Honour, and it's questions that I'd like to put to Mr Milroy.

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HIS HONOUR: I was just wondering did it, at any time, get to be signed or whether there was an omission in signing it?

MELIS

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Q. Mr Milroy, can you answer his Honour's question? Did you ever sign your statement?

A. Well, I normally would sign my statements so I can't - unless, of course, the actual - it wouldn't be available I don't think now but the actual brief that was given to the police prosecutors, as you know, it contains the covering sheet and a summary of all the witnesses which I prepared, like a chronology, and had all the statements. And that, of course, after - when it goes through the committal, of course, it gets the actual brief that's been put together. It's usually pulled apart and statements are shown, and then what goes to the Public Prosecutions for the trial of course I assume all - sorry - I assume a lot

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of that is, is, is not lost, but it's broken up and ends up in a different type of folder, if you know what I mean, so. But I'd be, I normally would sign my statements.

5 Q. What would have been your normal practice?

A. Normal, of course, that's right.

Q. And that would have been the version that would have been produced to the Court?

10 A. That's right. And normally you, you're the prosecutor would, would request it; you wouldn't allow statements to go forward if they're unsigned, one wouldn't think.

Q. Another reason I wanted to bring this particular version of your statement to your attention was to show you those various hand corrections, and annotations. Because, take it from me, it appears that there have been corrections made from your typed written notes that you took of the various conversations, and where, for example, a sentence has been attributed to you, but in fact it ought to have been attributed to Detective Sergeant Turner that has been corrected in this version I just showed you at 11.66A, and my question is did someone within the Police Force have a role in reviewing the statements of police and making corrections, or notations, or sending them back for further revision?

15 A. Normally if you tender a brief to the prosecutor, irrespective of what the case might be, something like this of course they've appointed probably one of the more senior prosecutors to deal with the committal proceedings because of the length of the case. But normally you would, until they actually engage lawyers in-house you would take it to the police prosecutors and they would review it, and they would normally allocate a prosecutor to have the carriage of that case through the Petty Sessions, and they would go through the, the brief, and if they found that there was a statement missing, or "you better get a statement from another witness" in normal course of events they would raise it with the, the officer who is in charge of the matter. The question I was just wondering is the statement that they gave me for these hearings, does that have the same notations on it?

20 Q. No, it does not.

A. Right, and what I gave in the Petty Sessions does that correspond with the statement that they gave me for the hearing, or it doesn't?

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Q. There's one more version.

HIS HONOUR: Just before you go to another version.

45 Q. Was it the practice, and if so, did it occur in this case that you would have a conference with the police prosecutor prior to giving evidence at the committal?

A. Yes.

50 Q. In which they'd talk about your evidence and go through your statement.

A. That's right. And the same with the, the Public Prosecutions for a trial, that's right. Of course.

Q. So it was the practice, and it did in fact happen in this case?

5 A. Yes.

MELIS: I'm sorry Mr Milroy, I misspoke. I don't have another version to take you to; they would appear to be the two versions that we have.

10 WITNESS: Right.

MELIS

Q. But in any event, you don't know whose handwriting that is, but you did suggest it might be the prosecutor.

15 A. That's correct, yeah.

Q. If we could just go back to Detective Sergeant Turner's notes, that is, Exhibit 11.74, red page 564. Mr Milroy, looking at the top of that page can you identify where Detective Sergeant Turner's handwriting starts and your begins, or is it all Detective Sergeant Turner's handwriting on that page?

20 A. No, his, that's his handwriting where it says, "Major Dodwell" and then "12.10pm Leave Station" that's Sergeant Turner's handwriting.

25 Q. Yes, and then the rest of it?

A. The rest on that page you're showing me is, is my handwriting.

Q. The rest of it is your handwriting, where it starts "12.20pm Arrive Newnes Rd Location".

30 A. That's correct.

Q. Now these are notes that you were taken as you were going through the various locations that Mr Bebic was taking you to. Can you assist us with who Major Dodwell was?

35 A. No, actually it's not a name that I recall, cause I think it was a captain that we, that came from--

Q. Barkley.

40 A. Barkley, Captain Barkley, unless of course the Major is his superior; I don't know, I have no record.

Q. Just staying with these notes for a moment, if we can please go to red page 568. There's a date there, Mr Milroy of 10 February 79, do you see that?

45 A. Yes.

Q. It has 9.15am, and it reads "Vic Jefferies, Paul McNamara", do you see that?

A. Yes, I do.

50 Q. That's Detective Sergeant Turner's handwriting?

A. That's correct.

Q. The 10 February we ascertained was a Saturday.

A. That's correct.

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Q. On that day you had attended the CIB offices after your return from Lithgow.

A. That's my understanding, yes. My, my diary would reflect whether that's correct or not--

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Q. Yes, and I can take you to that. Do you know, well for what reason Detective Sergeant Turner was noting Jefferies and McNamara here on 10 February?

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A. I think he's probably recorded that either they've either rang him on the phone, or he saw them in person.

Q. Okay, could it be--

A. Or it's a name that he felt he need, he needed to consult with, I don't know.

20

Q. Do you recall whether Jefferies and McNamara attended the CIB and saw you both that day?

A. As you know, I did indicate my earlier evidence at some stage or other said Mr Jefferies came across to the CIB, but whether it was that day or another day I really can't comment.

25

Q. But we did ascertain on the last occasion that you certainly understood that Detective Sergeant Jefferies interviewed Mr Virkez on 10 February 1979?

A. That's correct. That's right, that's right.

30

Q. Mr Milroy, are you able to just read for us the rest of that entry?

A. Right "Vic Jefferies, Paul McNamara explosives at", I can't really work out what those words are; something about a house.

Q. Penrith I think it is.

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A. "Penrith house. Explosives at Penrith house", I can't recall what that says underneath, and then there's a mobile number.

HIS HONOUR: I'd be surprised if it was.

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WITNESS: Sorry?

HIS HONOUR: I'd be surprised if it was a mobile number.

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WITNESS: Well it goes 04 would be in 1979, I guess that would indicate some country location, wouldn't it, or, 04. I know technology moves fast, but you're quite right, it was in 1978--

COFFEY: It was the area code for the Hawkesbury where I grew up.

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HIS HONOUR: 04, or 045?

COFFEY: 045.

5 WITNESS: There we are. And the other words, I can't work out what he's got in the first line, but he's got the two names of Mlinaric and Lovokovic, and then it's "explosives in paddock off" something "road", and it's got "Sergeant Denis Duggan" with a number.

MELIS

10 Q. Was this information that Mr Jefferies was providing to Detective Sergeant Turner on this day; are you able to say?

A. No, I'm sorry, I can't really comment on that.

15 Q. If we turn over the page at red 569 there's a further entry there dated 12 February 1979. Again doing the best you can, can you read that entry out for us?

20 A. Yes, the first part of it's in my handwriting. It's "Vic Jefferies two victims Tomo Mlinaric" and an address at "126 Dudley Street, Punchbowl. Marrickville Croatian Club 7pm each night a vehicle, a 66 Valiant Sedan EFK 488" and the second name "Fabian Lovokovic, 94 Caroline Avenue, Kingsgrove" with a phone number "504 074" and then in Sergeant Turner's handwriting it's "Ken" I can't work out the surname, whether it's Colin or Mulin "977 5882 21" I can't work out the actual street. And then there's a suburb, it could be "Manly--

25 Q. Manly--

A. --and it's got "re felonies" or some name like that.

Q. Could it be re films?

30 A. Re, what?

Q. Re films?

A. Films, I'm not real sure. It could be.

35 Q. You say that that first part of the entry is your handwriting.

A. That's correct.

Q. And can you tell us, is this you obtaining information from Mr Jefferies, and noting it down?

40 A. Probably, yes.

Q. I know it's difficult to remember, but would that have been in person, or over the phone?

A. Unless the, the duty book indicates that; to say that he attended, it could have been over the phone; you're right.

45 Q. We'll now go back to your duty book, Mr Milroy, Exhibit 11.71(A), and I want to take you to red page 314, and tell me when you're there.

A. Mm-hmm.

50 Q. It's an entry dated Tuesday 13 February 1979?

A. Yes.

5 Q. You record, "On duty CIB. Attend records out to Central Prosecutions with Det. Sgt. Turner 9am. Then to court re matters of Zvirotic, Brajkovic, Nekic and Joseph and Ilija Kokotovic and Stipic." What's that next word?

A. I think it said, "remand".

10 Q. "Remands"?

A. "Remand".

Q. "Remand"?

A. Just short for the word "remanded".

15 Q. "...so engaged 12.30pm. Then office. 1pm meal. 2pm conference with Sgt 1C". How do you--

A. He'd be a First Class.

20 Q. First Class, sorry. "1C Brady prosecutor re Croatian brief..."?

A. Mm-hmm.

Q. Is this the first conference that you have with the police prosecutor with respect to this matter?

A. That's - unless it's - appears earlier than the 8th.

25 Q. Take it from me, this is the first entry that you have in your duty book of a conference with a police prosecutor.

30 A. All right. Okay. Well, I think I'll take your word for it, but I'll just check. Okay. Yes, that would probably be an indication of - because of the complexity of the matter, but I guess so many offenders charged, and the fact that the Petty Sessions would take some period of time, that they'd engage with a prosecutor, and you can see they've allocated a First Class Sergeant, which is you'd probably be second-in-charge of the prosecuting section at that stage.

35 Q. This is the very type of conference that his Honour was asking you about earlier that you would expect to have with the police prosecutor prior to the committal?

A. That's correct, yep.

40 Q. At this first conference, and please tell us either if you remember the details of the conference, or if not, what you generally would have discussed?

45 A. Yeah, I don't recall the actual conference, but on a matter that - where there are - people have been arrested three or four days prior, this would be more about advising them, bearing in mind - I think it was - what was the date before that you - that we had the remand date? What date was that? Was that the?

Q. I was just reading the word "remand" in that entry. Is that what you mean?

50 A. Well, I think you - where we had them at court. Well, that's the same day. Okay. Well, normally you would have that first meeting with the

prosecutor to explain, well, this is the case. It could have a number of witnesses, and it looks like he's been appointed to have carriage of the matter, and he'd be looking at the timelines, what's involved, how many witnesses, and that sort of nature. More of just a preliminary outline, so that he gets some appreciation - he or she gets some appreciation of the case that's before them.

Q. Was Brady the only member of the prosecution's branch that was in attendance at that meeting? Can we infer that if you have not written anybody else's name, that he was the only one from the prosecution's branch--

A. I'd say so, yep.

Q. --that you spoke with that day? If we can move through to red page 316. This is an entry, Mr Milroy, dated 15 February 1979, and you say, "On duty 8am". Is it "Moorebank Army Camp"?

A. Yes.

Q. "See Lt Elphick. Collect quantity of gelignite. Then to Liverpool, Cabramatta, Fairfield". Now, what's the word after that?

A. "Edensor Park".

Q. "Re Croatian inquiry." Going to Moorebank Army Camp to see Lieutenant Elphick and collect a quantity of gelignite, was that in relation to the Croatian matter?

A. I've got no recollection of that at all, really. Unless it relates to another matter. To go to Liverpool, Cabramatta, Fairfield, Edensor Park - nope. I'm sorry, I can't really add much to that, really.

Q. Can you think of a reason why you would be going to the Moorebank Army Camp to collect a quantity of gelignite? Was that something that some of your other matters required you to do? I'm just trying to understand the context?

A. Yeah, I'm trying to think back that far. It's - as I sit here, I really can't think - think back that far to work out the - seeing this lieutenant and collecting a quantity of gelignite. Whether that relates to another matter, and then - then I've got then to Liverpool re Croatia, whether it's two separate issues, I don't know. Unless there's a reference later on in my duty book to see what I did with it.

Q. There doesn't appear to be. But we can infer that your attendance at - what was it? Eddinson(as said)?

A. Edensor Park.

Q. Edensor Park was in relation to the Croatian inquiry because that's--

A. Yeah, that's right.

Q. --a location where there was a Croatian club?

A. That's correct, yeah.

Q. But you can't help us any further with your collection of gelignite--

A. No.

Q. --from the Moorebank Army Camp?

A. Nope.

5 Q. Just generally speaking, can you recall instances where you've had to collect gelignite from a location for whatever reason and handle it in some way?

10 A. Yes. I mean, tended you're a junior member of the squad, sometimes you'll be sent out to do - to collect exhibits and drop them off, and you might have picked up gelignite from some of the safe attacks. Sometimes criminals use too much gelignite and have to leave the premises because they've blown the place to pieces, and they leave remnants of explosives behind, and you collect them, and take them to the Dangerous Goods Branch, et cetera.

15 Q. In respect of this date, 15 February 1979, I want to take you to a running sheet of the same date.

EXHIBIT 11.50A-2 SHOWN TO WITNESS

20 Q. If we just go to the second page of that occurrence pad. It has your name. Do you see that, Mr Milroy?

A. Yes.

25 Q. It's headed, "15.2.79. PERSONS NOTIFIED OF INTENDED BOMBINGS." You list a number of locations. Sorry, if we could go back to the first page, red page 229-3. Do you see that?

A. Yes, I do.

30 Q. Can you just explain to us, Mr Milroy, what you're recording here in this occurrence pad entry?

A. I think I was sent out to speak to - what date was that again?

Q. 15 February 1979, which is the date that we've been talking about--

A. Right.

35 Q. --in your duty book.

A. Right. So I'd - I'd been asked to go out to these locations where it's referred to in Virkez's interview, so I'd assume from that, Sergeant Turner said these are all the places that are travel agencies, and I've gone out and notified them.

40 Q. So we can take it then that the references in your duty book to the suburbs: Liverpool, Cabramatta, Fairfield, Edensor Park--

A. Edensor Park.

45 Q. --relate to your attendance at these various locations--

A. That's correct.

Q. --in the occurrence pad? And you were tasked to go there to notify them that they were the target--

50 A. That's correct.

Q. --of a potential--

A. A potential--

Q. --bombing?

5 A. That's correct.

Q. Was that the extent of the information you provided?

A. Sorry?

10 Q. Was that the extent of the information you provided to each location?

A. Yes. I - I would say that - I can't recall the actual conversation, of course, today, but it would have been to indicate that there was a police investigation and that these locations were potential targets, and just to alert the owners in case there was a problem in the future.

15

Q. Mr Milroy, you appreciate I'm trying to do this all in a chronological way--

A. Yes.

20

Q. --and I apologise that we're moving around the documents a little bit, but I now want to go to 16 February 1979, but before we go to your duty book, if we could bring up Detective Sergeant Turner's notebook again at 11.74, red page 570.

EXHIBIT 11.74, RED PAGE 570, SHOWN TO WITNESS

25

Q. You'll see there, towards the bottom of the page, there is the date, "16.2.79", and I think the time is 1.50pm; is that correct?

A. Yes, I see that.

30

Q. This is Detective Sergeant Turner's handwriting?

A. That's correct.

Q. He's recorded there, "Inspector Burroughs"--

A. Yes, I see that.

35

Q. --"Commonwealth Police. Mascot Airport."?

A. Yes.

Q. Have I read that correctly?

40

A. Yes. Yes.

Q. First of all, do you know who Inspector Burroughs was?

A. No. I'm sorry, I can't - I can't recall. I can't recall that.

45

Q. That name is not ringing a bell?

A. No. I'm sorry, no.

Q. He's not somebody who worked together with Roger Cavanagh, for example?

50

A. No. I can't - I can't recall a Burroughs at Mascot Airport, no.

Q. Can you assist us to try and understand what the note means? For example, is this a note by Detective Sergeant Turner to suggest that he's going to collect Inspector Burroughs from Mascot Airport?

5 A. Unless he was contacting him over the airport hijacking - well, the allegation. That's a possibility. No different to the - advising the people from the travel agencies and the hotel, et cetera. That's all I can think of.

Q. Moving further along--

10 HIS HONOUR: Just before you move further along, that page in Detective Turner's shorthand notebook at red number 570 includes, above the entry we've just been looking at, a date, 15 February 1979: "Lieutenant Elphick, explosives (Penrith)." Does that assist in shedding light on that entry in the duty book that Mr Milroy didn't have any recollection about?

15 MELIS

Q. Does it, Mr Milroy?

20 A. No, it doesn't. And the other reference there, "Prints (Allan Riddel)" I don't - just the name doesn't - even Allan Riddel's name doesn't ring a bell. Whether it's - whether it relates to another matter, I don't know.

HIS HONOUR: That entry relating to Inspector Burroughs, does the entry in the occurrence pad at 11.50A-2 at page 229-3, the last entry on that page--

25 MELIS: Yes, thank you, your Honour. Yes, that's correct. Can we bring that back up again, please? Exhibit 11.50A-2, red p 229-3.

30 Q. The last entry there, Mr Milroy, is headed, "Mascot airport (Plane Hi-Jack)"?

A. See that, yes.

Q. "Commonwealth Police, Inspector Burroughs notified." This is your note?

35 A. That's correct. That's right.

Q. Is this you notifying Inspector Burroughs of the alleged plane hijacking allegation?

40 A. It could be. It may be that where I've recorded the places that relate to the various locations - Edensor Park, et cetera, which relate to my notebook, my diary - whether that's been an inquiry made by Sergeant Turner and then I've added that to the occurrence - the running sheet. But I think for something like this, it probably be I'd spoke to him personally but that's in my opinion.

Q. You think you may have spoken to him in person?

45 A. Yeah, the - or Sergeant Turner did. Yeah.

Q. Where would you have spoken to him in person?

50 A. I'm saying that Sergeant Turner might've gone out to the airport but I don't have it in - if I don't have it in my duty book, unless there's other entries that you've identified. There was also the hotel in William Street as well, wasn't

there? But I don't - where they--

5 Q. I'm just going to double-check your entry on 16 February. I don't think there is a record. If we go to your entry on 16 February, this is 11.71(A), red page 317. You can have a read of that?

A. That's the 16th you're referring to?

Q. Yes?

10 A. That's where I got the SWOS training and then back in the office.

Q. If we go over the page, the 15th?

A. 15th? Yeah.

Q. Sorry, before that. Page 316, 15 February?

15 A. Yes.

Q. There's no mention there of Mascot--

A. No.

20 Q. --as a suburb, so you think that it may have been Detective Sergeant Turner who--

A. Could've been, I--

Q. --advised Burroughs?

25 A. I could've - on the telephone but.

HIS HONOUR

Q. It was your typing on the occurrence pad entry, though, wasn't it?

30 A. Sorry, your Honour?

Q. The occurrence pad entry that you were shown a moment ago that concludes with your name, Milroy--

35 A. That's correct.

Q. --that's your typing of that entry?

A. That's correct, yes.

MELIS

40

Q. Just going back to finish off this line of questioning. If you go back to that entry at 11.50A-2, red page 229-3. Looking at that last entry again there, Mr Milroy, you'll see that there's some handwritten markings on the right-hand side. Is it "21K to M"?

45 A. Yeah, I see that, yes.

Q. What does that refer to?

A. I don't know whose writing that is.

50 Q. Do you know, however, what those markings generally relate to?

A. No. I think they're - I don't know who recorded that, whether it was some sort of a reference or indexing, I don't know.

HIS HONOUR

5 Q. Could that be a cross-reference to some other occurrence pad entry page numbers?

A. It's a possibility, your Honour.

MELIS

10

Q. Just noting there the word "Hi-Jack", Mr Milroy?

A. That's correct.

Q. You see you've typed it there with a hyphen?

15

A. That's correct.

Q. Is that how you would spell hijack? Was it your practice to spell hijack with that spelling; that is, with the hyphen?

20

A. Yes. And a very interesting point in the 1979 Police Annual Report, I had a look at that to try to identify some of the major cases that were running for that period because it would identify where either Sergeant Turner and I weren't working together or we were engaged in other things during - leading up to the committal proceedings and the trial. And there's a reference there to the Pan American attempted hijack, and in the Annual Report, it's spelt like that.

25

Q. What was the date of that annual report?

30

A. 1979 Police Annual Report, and there's a reference in there to some of the major incidents that were occurring, and - had a lot of staffing issues but that - there's a reference to that hijacking that took place. I think it was in August, it might've been - no, it could've been in May '79, where some of us got called to that. I was trying to identify, your Honour, the issue to do with - as I didn't work permanently with Sergeant Turner, there were periods when either of us were not working together, probably after 21 February leading up to the start of the committal, because I was working - I thought it was Detective Bennett but it must've been with Sergeant Wilson, and we were - had our own cases. And I checked the Annual Report because it identified that there were a couple of sieges occurred in Sydney where I was called to for two or three days which crosses over the Petty Sessions periods in March, and also I was at the SWOS camp in March '79 and other activities that you're engaged in, so there would be periods where Sergeant Turner would be working with his permanent partner and I would be with Sergeant Wilson or Detective Bennett and engaged in some of these SWOS callouts which you're away from the office for days at a time, so.

35

40

45

SHORT ADJOURNMENT

Q. Mr Milroy, just sticking to your duty book. I want to take you to an entry on 21 February 1979, red page 320. You see there you write, "Out 9.30am to Central Court. Det Sgt Turner confer with prosecutor, Sgt Brady." Do you see that?

50

A. Yes.

Q. Then you, "...attend fresh charges to court re BEBIC, VIRKEZ, ZVIROTIC, KOKOTOVIC, NEKIC AND BRAJKOVIC."?

5 A. Uh-huh.

Q. Yes?

A. Correct. Yes.

10 Q. We know on this particular day you deal with what happened at court in your statement.

A. Yes.

15 Q. I don't need to take you to it. I'm just going to read from it. I'm just reading, for the record, from Exhibit 11.66, red page 297. You say, with respect to 21 February 1979:

20 "About 2.50pm that day, whilst escorting the seven defendants from Central Court to the Central Police Station cells, the defendant, Brajkovic said to Detective Sergeant Turner, in the presence and hearing of the six co-offenders, 'We will kill you.' Detective Sergeant Turner made no reply, and the defendants were then placed in the cells."

25 A. Yeah. Yes.

Q. Do you have a recollection of that?

A. Yes.

30 Q. Your duty book doesn't record that interaction, does it?

A. No.

EXHIBIT 11.50A-5, RED PAGE 229-8, SHOWN TO WITNESS

35 Q. This is an occurrence pad in Turner's name dated 21 February 1979, and at a glance, Mr Milroy, that reiterates what I've just read out from your statement; that is, the interaction that occurred between the defendants and Detective Sergeant Turner in your presence.

A. That's correct.

40 Q. My question to you is this: in preparing your statement, is it the case that you use a number of different sources to make your statement?

A. Yes.

Q. That included the occurrence pad entries?

45 A. That's correct.

Q. Was it usually your practice to include conversations that you heard, that were of relevance, was it your practice to include them in your duty?

50 A. Not, really. I think you can see that the duty book really is more of a summary where you went, who you spoke to, but you wouldn't include

conversations because it's just a one-page entry for each day that you're on duty.

5 Q. Do you recall whether or not you, yourself, made a handwritten note of that interaction in any other notebook?

A. No. I can't recall, no.

10 Q. Do we infer, therefore, that you've relied on the occurrence pad entry by Detective Sergeant Turner to jog your memory when you were making your statement?

A. Probably.

Q. Going back to your duty book.

15 EXHIBIT 11.71(A), RED PAGE 326, SHOWN TO WITNESS

Q. This is an entry dated 27 February 1979. Mr Milroy, could you kindly read the entry to us?

20 A.

25 "On duty at the CIB at 8 o'clock. Attend records with Detective Sergeant Turner. Attend Croatian Inquiry to 1.00pm. Then there's a meal thence to the Special Branch. Attend same inquiry. Return to office - office at 3.05. Office re same inquiry to 5.30. Meal at 6pm thence to [somewhere in Marrickville. I can't even read my own writing Enmore - no that's] Newtown, Marrickville, Enmore re same inquiry of premises to be bombed. Office. 8.30 off duty."

30 Q. Taking it step-by-step. You've attended the Special Branch on this day the 27 February 1979?

A. That's correct.

Q. You haven't noted there with whom you conferred?

35 A. No.

Q. Do you know who you conferred with on that day?

A. Unless Sergeant Turner has recorded in his diary, but I don't recall, no.

40 Q. Your attendance at the Special Branch, do you recall what that would have been about?

A. Well, as I said, it indicates - it's about the - the inquiry, but I can't recall what transpired, or who we spoke to. Sitting here today, I can't, no.

45 Q. With respect to the inquiry, was there one person in particular that you conferred with from the Special Branch in relation to the Croatian Six matter?

50 A. I think - I know Sergeant Turner had meetings with McDonald and Perrin and these sort of people, but they're all commissioned officers, but I don't - I did indicate in my evidence earlier that I don't think I ever had any dealings with Mr Perrin, which it would be understandable, considering my low rank at the time, but who we were going to meet over there, I don't - I just can't recall,

I'm sorry. I can't assist the Inquiry about that.

5 Q. We know that Detective Sergeant Jefferies was somebody with whom Detective Sergeant Turner conferred and whose name appears in his notebook a number of times. You would agree, wouldn't you, that he was at least one officer of the Special Branch who you would have spoken with about the Croatian Six matter?

10 A. That's right. As you know, there were two or three involved in the various raids. That's correct.

Q. But he would have been the person you most conferred with?

15 A. Well, personally I think - I've tried to recall myself, since I last gave evidence - you know, who we met, who we didn't meet, but I'm afraid my memory is just no good in that regard, sorry.

Q. I want to show you another document.

EXHIBIT 9.1-21, RED PAGE 30, SHOWN TO WITNESS

20 Q. Mr Milroy, this is an extract from an ASIO document. It relates to a Special Inter-Departmental Committee report dated 28 February 1979. I emphasise it's an extract only. For the record it's red page 30. Did you ever see this document in 1979 or 1980?

25 A. No. I - I don't think I - from my memory, I don't recall seeing that, no.

Q. I want to particularly direct your attention to paragraph 34 of that document.

A. Okay.

30 Q. Did you at around this time in February 1979, or indeed any time thereafter, was it brought to your attention that a person; that is, the informant in this case, Mr Virkez:

35 "...acted as an informer on Croatian nationalist activities to a person suspected by ASIO of being an intelligence official attached to the Yugoslav Consulate in New South Wales. Some hours before his arrest that person contacted officials at the Consulate-General and passed them detailed information about the proposed bombings."

40 Was that information of that nature, was that ever passed on to you or Detective Sergeant Turner around this time? Around 28 February 1979 or any time thereafter?

45 A. Well, there was that - the - at some stage or other, the information that he'd rang the Consulate-General, but in relation to the other information about - for a period of six months prior to that, I don't recall seeing that.

50 Q. There's evidence before the Inquiry that this report was provided to New South Wales Special Branch. Accept that from me for a moment. Do you recall this report, or an extract of this report, ever being provided to you or Detective Sergeant Turner by a member of the New South Wales Special Branch?

A. No. I - I don't think so. From my memory, I don't recall. No.

5 Q. On the last occasion, Mr Jefferies gave evidence that he probably discussed this report with Detective Sergeant Turner, but couldn't remember. That's at transcript 651. Does that assist you in recalling whether or not this report was discussed with Detective Sergeant Turner and Mr Jefferies? Whether you have knowledge of that, or whether that occurred in your presence?

10 A. I mean, there are numerous occasions, I think in February and March, where I think I indicate in my diary, you can see I'm not there. I'm either at SWOS camp or something, and - but when I came back to work, Mr Turner would update me on what enquiries he's been doing, and if he was away, I would update him in relation to putting the brief together, and I knew he had discussions with Jefferies, but I can only say that I really don't have any
15 recollection of that sort of information at that earlier stage.

Q. Going back to your duty book now at 11.71(A), if we could please go to red page 329. This is an entry dated 7 March 1979. If you want to just read that to yourself, Mr Milroy, and orientate yourself as to what happened that day?
20 A. Yes.

Q. What I'm particularly interested in is the last couple of lines where it says, "Then to Bridge Hotel, Kent Street, city, re Yugoslav informant. Return office, re records, off duty 9pm." Can you please assist us in understanding who the Yugoslav informant was that you were going to see at the Bridge Hotel in Kent Street?
25

WOODS: Your Honour, does that question rise of public interest immunity?

30 HIS HONOUR: I don't know.

WOODS: I'd like my friend to consider that. I don't know.

35 MELIS: I'm inviting Mr Milroy firstly to see if he can assist us, if this entry jogs his memory.

Q. More specifically, does it relate to the Croatian Six matter?

40 A. I just - I really can't recall that at all, really. I can't really assist the Inquiry whether it related to the - this Inquiry or it was a separate matter.

Q. The likelihood is, however, Mr Milroy, that it--

A. Sorry?

45 Q. The likelihood is that it did relate to this Croatian matter because you're going to see a Yugoslav informant. What other matter were you dealing with in March 1979 that may have involved a Yugoslav informant?

50 A. It was - had a - it's - as I say, I don't recall - I don't even recall - that doesn't ring a bell at all with me. I mean, I - it's the first I've seen it in 45 years. I'm really wracking my brain here to try to work out what it could be of - in relation to. I mean, we had informants in other matters, you know. Jewellery thieves

and cat burglars and stuff like that, but I can't answer either way, to be quite frank.

HIS HONOUR

5

Q. Mr Milroy, if you had another matter involving jewellery theft or something like that and you had an informant in relation to that matter, would you refer to that person as just an informant or would you nominate their nationality?

10 A. Yes, you put a reference to them. Yeah, normally you had a reference number if they were registered informants or they were just an informant in a certain area, but I'm afraid I really can't--

Q. To be clear, what I'm saying is if, for example, in a jewellery theft matter you had an informant who happened to be British, would you refer to that person as "the British informant"?

15 A. Not really, no. Well, you'd--

Q. So it would have to relate to the actual case that the informant was relevant to, and in the Croatian case, Yugoslav was of particular significance?

20 A. Yeah, it could be a community informant - a person from a Yugoslav community, but there might have - if it was of substance, there'd be a record. I'd either put a running sheet in or, if Sergeant Turner was with me then it might be something referred to in his diary, but I'm afraid I can't assist the Inquiry any further, really.

25

MELIS

Q. To be fair to you, I'll take you to the running sheet that refers to this, and that is Exhibit 11.50A-29, red page 229-58. Just take a moment to have a look at that. It's a two-page entry, Mr Milroy. If you can let us know when you're at the bottom of it, we'll take it over to the next page?

30 A. Yes.

Q. If we can go over the page?

35 A. Yes.

Q. These are matters that you record in your statement, Mr Milroy; for the record, that's Exhibit 11.66, red 297. Just in respect to this Yugoslav informant that you've recorded on 7 March 1979, does reading that occurrence pad assist you at all with who this informant was?

40 A. Can I just have a - could you just scroll down to the first page? Just the part there where I give a copy to Detective Radalj, who translated the contents. No, I'm sorry, this doesn't--

45 Q. If you go over the page, Mr Virkez says to you - you ask him, sorry, "Any idea where the rest was?" and he says, "Tony and Brajkovic have hidden in someone house. I think Burwood." Is it possible that you have, from that conversation, gone and made enquiries about where the rest of the explosives may have been, possibly at a premises in Burwood and that this informant you talk of in your duty book relates to that enquiry?

50

5 A. Yeah, I suppose - well, it's a possibility but unfortunately I can't seem to think what that could be. And the Bridge Hotel in Kent Street in the city's nowhere near Burwood, but unless there's some further documentation that's available or occurrence pad entries - if it was relevant, it - there'd be an occurrence pad entry to that effect.

Q. You have been careful in your duty book to describe this person as an informant only and not use their name?

10 A. That's correct, yes.

Q. You've done that because they are supplying you with information and it's a means of protecting their identity?

A. That's correct, yes.

15 Q. There's nothing further that you can recall that might assist us in understanding who this further Yugoslav informant was that you were speaking with?

A. No, I'm thinking back. Just all blank, I'm afraid. Sorry.

20 Q. Moving along, if we could go to an entry dated 13 March 1979; that's at red page 335 of your duty book. You see here you write: "To Crown Solicitor's Section. See Mr" - is Doherty or Docherty?

A. Doherty, yes.

25 Q. "Doherty re Kokotovic papers"?

A. That's correct, yep.

Q. What was that about?

30 A. Right. 13 March. Unless it's linked to the reference above about "See Constable Foster re Croatian photographs and mapping section," whether they relate to Mr Kokotovic's premises. That's the only thing I could think of, sorry.

Q. But Mr Doherty was a solicitor with the Crown Solicitor's - you've referred to it as "Section" here. You mean you went to the Crown Solicitor's Office; we take it that's where you went?

35 A. That's what it says, yeah, Crown Solicitor's Section, yeah. See Mr Doherty. He doesn't ring a bell. I thought it was Mr - I thought it was John White we were dealing with but - unless he worked for him. I don't know.

40 Q. I'm indebted to my friend who tells me that Mr Doherty was the Head of the Prosecution Section in the Deputy Crown Solicitor's Office which was a part of the Commonwealth Crown Solicitor's Office. Does that help you recall Mr Doherty?

A. No, it doesn't, sorry.

45 Q. His first name is Brian?

A. No. "Re Kokotovic papers."

Q. Do you recall where, as in physically, where you went to see Mr Doherty?

50 A. No. I normally would write in, you know, with these diaries you write short,

short entries, but I normally would have put down, you know, Pitt Street, or Kent Street, or wherever it was, but I've omitted to do that, so I'm sorry, I really can't recall where his offices were.

5 Q. The Ansett building in 1979, were you familiar with that; the Ansett building?

A. The Ansett building, was that in Elizabeth Street, no?

Q. I'm ignorant myself, Mr Milroy. I'm asking whether you know.

10 A. I don't know exactly where it is, but it was the CBD in Sydney here somewhere.

Q. And were there any offices in there that you would attend upon? There's a reference in your duty book to the Ansett building, which I'll take you to in a moment, but I'm just trying to ascertain whether that was a building you had reason to attend because, well either Mr Doherty was in there, or he was otherwise in the TAA building.

A. No, I'm sorry. No, specifically where the office was.

20 Q. Just confirming, Mr Milroy, it's Mr Doherty, not Docherty.

A. Right, Doherty, right. It still doesn't ring a bell with me, unfortunately.

Q. On the last occasion, Mr Milroy, you told the Inquiry that you could not recall Mr Whitelaw.

25 A. The Assistant Commissioner, that's correct.

Q. Yes, you said something to the effect of you were embarrassed but you could not recall his name--

A. No.

30 Q. --and he was the Assistant Commissioner at the time, Roy Whitelaw.

A. He was an Assistant Commissioner.

Q. Yes.

35 A. I knew he - I'm not sure where he was prior to that, but he was an Assistant Commissioner, that's right.

Q. Are you sure that he never came to speak to you and Detective Sergeant Turner, or call for you to come and see him at his office in relation to the Croatian matter?

40 A. Yeah, I've actually tried to, since I last gave evidence, to think back. That's why I did some research on police reports; trying to look at where I was, and where I was, was engaged in other investigations at the time, and I've actually though, trying to think who was the head of the CIB on the basis that you reported to Mr McDonald, he reported to Mr Morey, and whether I ever was asked to go to meetings at that high level, or any higher than that, no, I just cannot recall. I'm sorry.

50 Q. I want to take you to Detective Sergeant Turner's notebook, Exhibit 11.74, red page 574. What I might do, just so that it's very clear, if you could go to

red page 573, please. You'll see there it says in red pen "phone Whitelaw", and then it's cut off and it would seem to say, "Roger Cavanagh", you see that?

A. Yes.

5

Q. Just for the record, it appears that the way those pages had been photocopied they'd been overlapped. But if you go to red page 574; over the page, that's a clear whole copy of the note. It says, "phone Whitelaw re Roger Cavanagh", do you see that?

10

A. Yes.

Q. The entry immediately after that is dated 17 April 1979 and the date prior to that, the first date prior to that that I can see is 11 February 1979 at red page 572, so it's not entirely clear, Mr Milroy what the date of this note is, but we might accept it's somewhere between the 11 February 1979 and 17 April 1979. Do you, looking at that note now, know why Detective Sergeant Turner would be ringing Whitelaw regarding Roger Cavanagh?

15

A. I don't know. I really can't really offer any explanation, really. What was Mr, was Mr Whitelaw, what was Mr Whitelaw's position before he was promoted, do we know?

20

Q. Head of Special Branch.

A. Maybe that was the reason, I don't, I don't know, but I - at least Sergeant Turner's, in his duty book he's got, when, when he went and saw him, I don't know.

25

Q. We understand that, around 16 March 1979, Assistant Commissioner Whitelaw was advised of the identity of the informant that was referred to in that ASIO document that I took you to, paragraph 34; you'll recall it talked about an informant who had previously contacted the Yugoslav Consulate with information about the proposed bombings, you recall that?

30

A. Mm-hmm.

Q. There is evidence before this Inquiry that Assistant Commissioner Roy Whitelaw was advised that the identity of that information was Mr Vico Virkez, and he was advised of that by ASIO around 16 March 1979.

35

A. Right.

Q. And on the last occasion my learned friend Mr Buchanan took you to aspects in evidence where Mr Whitelaw had great concerns about that information and it potentially blowing a hole in the case of the prosecution, do you remember those sorts of questions?

40

A. I do.

Q. So my question to you is, again, looking at that note by Detective Sergeant Turner; where he's written "phone Whitelaw re Roger Cavanagh", I know it's not your note, Mr Milroy, but you did work closely with Detective Sergeant Turner as the two officers in charge on the case; correct?

45

A. Yes, other than the, the period of time that I've indicated. I've researched that, I wasn't, I wasn't there.

50

Q. And you sometimes used his shorthand notebook to make notes yourself in respect of this matter.

A. If he was there I would, that's right, yeah.

5 Q. So you had access to this notebook.

A. No. No, I think most of the time when, if we're together he'd just say, "here, put it in here", but when we, when I wasn't working with him, as you know I worked with another sergeant, or was in charge, and there are times in my diary; you'll notice if you go through where I'm not there, I'm away in SWOS
10 camps for a week, I'm here, I've got called out on--

Q. Yes--

A. --sieges and stuff, so I wasn't there.

15 Q. But you've given evidence that on those occasions Detective Sergeant Turner would update you.

A. That's right, yep.

Q. Would you agree with me that a conversation with the Assistant
20 Commissioner, with respect to the Croatian Six matter was a significant matter?

A. Of course. If it took place, that's right, if it took place, that's correct.

Q. And something that certainly you would to be updated on.

25 A. Well, I, as they say, I'd rely on Sergeant Turner or Mr McDonald to advise, advise me what they, what they were aware of, yeah, that's correct. Like I have no recollection of that of course.

Q. You have no recollection of any involvement, or conferring by Detective
30 Sergeant Turner with Assistant Commissioner Whitelaw about the Croatian Six matter?

A. As I said before, I mean sitting here today, or even in the last few weeks I've tried to try and identify periods of time, that's why I did the research that I've done; to try to work out where I was. And even I indicated, you know, I
35 can't even remember who was the head of the CIB, or what meetings I was allowed to go to with McDonald or Morey in relation to this, cause they have oversight of, or they were the commanders in charge of all of this. I can't recall, I just physically cannot recall.

40 Q. Let me take you back to your duty book, and this is 11.71(A), red page 338, and it's the entry for 16 March 1979, and let me when you're there, Mr Milroy.

A. 16 March?

45 Q. Yes, red page 338.

A. I'm on, sorry, I'm on one year ahead here.

Q. Yes, Mr Milroy it's Tab 11.71(A). It's also up on the screen.

A. Here we go, 16 March.

50

Q. Yes, which is a date I've brought to your attention where Assistant Commissioner Whitelaw was advised by ASIO of the identity of that informant. And I've taken you to that handwritten note by Detective Sergeant Turner, and now I want to direct your attention to your note towards the bottom of that entry "then to Commonwealth Police headquarters, see Inspector Cavanagh re Croatians" you see that?

A. Yes.

Q. So this is on 16 March.

A. Okay.

Q. Now you haven't noted Detective Sergeant Turner here; do we take it however that he would have been in attendance?

A. I wouldn't be able to comment unless, if they refer to his diary. I haven't got it referred to there that who I was with, no.

Q. Like I say, as we understand it the note that I've taken you to in Detective Sergeant Turner's notes may correspond to this timeframe, but that's the only note there is.

A. Right. So in his duty book does he indicate where he was on the 16th?

Q. Well there's no timestamp, but there is that notation.

A. No, I meant on his diary.

Q. No. There's no notation of a date. So I'm unable to say, but I'm just simply asking you--

A. Yeah.

Q. --is it likely that he would also have been in attendance at a conference with Roger Cavanagh and yourself, or were there times where you attended conferences are Roger Cavanagh on your own?

A. I could have been on my own, or if Turner was with me, I would record it. That's all I can say, really.

Q. If you were going on your own, would you have been likely directed to go by Turner?

A. I'd say so, yes.

Q. In your earlier evidence in this Inquiry, you record Mr Cavanagh, and you described him, and using your words, "A senior intelligence officer in the Intelligence Department in the Commonwealth Police." That's at transcript page 300. You said: "He came to speak to you and Ted Turner at the CIB because of his interest in the Croatian and Yugoslav tension." Again transcript page 300. You record that the visit would have been after 20 February 1979, transcript 412, and you record that Cavanagh came to visit Sergeant Turner, and he mentioned that he had spoken to Virkez, and that in his opinion, "Virkez was just an ordinary person giving information to the Consulate." That's transcript page 334.

My first question is this: this is the first time in your duty book that we see a

reference to Inspector Cavanagh, and this is you attending at the Commonwealth Police Headquarters, not the CIB.

A. That's correct.

5 Q. Do you say that this is a further conference you had with Cavanagh in addition to the meeting you described to the Inquiry that occurred at the CIB sometime after 20 February, where Cavanagh was at the CIB and he spoke to Detective Sergeant Turner in your presence?

10 A. Is there any - you've reviewed by diary, so is there any entry prior to this?

Q. No.

A. And Sergeant Turner's? I mean, I can only rely on the diary, which is greatly--

15 Q. No. I appreciate that, Mr Milroy, and I'm doing my best to take you all the relevant sources of information to try and piece it together, and if I have forgotten anything, I'm sure my friends will assist. But at the moment, this is the first time that it's recorded in your duty book, and I just want to give you the opportunity to tell us whether this is a second and further conference to the
20 one you described to us on the last occasion. If I might add, Mr Milroy, you had, I would seem, a clearer recollection that it occurred at the CIB.

A. Yeah, I did have. What I said previously, I was - I said this vague
25 recollection that he came to the CIB shortly after the 20th, or after we got back from Lithgow, but if it's not in Sergeant Turner's diary or mine, then it's the best of my recollection at the time.

Q. What would you be going to see Mr Cavanagh about?

A. Well, I guess it had to do with the inquiry.

30 Q. Can you be any more specific, Mr Milroy?

A. Well, on 16 March I would have still been putting the brief together, and finalising inquiries. Whether it was - to see what sort of knowledge they might have had. I really can't say, but that's just sort of from my common sense point of view that it would - would be to see what the Commonwealth Police might
35 have had.

Q. You see, the first record the Inquiry has of Mr Cavanagh interviewing Mr Virkez in gaol is on 21 February 1980.

40 A. Yep.

Q. On the last occasion, you indicated to us that you recall Mr Cavanagh coming to the CIB and telling Detective Sergeant Turner in your presence that he had spoken to Virkez.

45 A. That's correct.

Q. And that in his opinion, he was just an ordinary person giving information to the Consulate, but in your mind, you placed this particular meeting earlier on. Sometime after 20 February 1979. Do you maintain that there was this meeting at that earlier stage in February 1979?

50 A. I mean, it was, as I said, I was trying to recall these events, but - when I

gave my information to the Inquiry before, and I still - I know it's all very vague, but without any sort of written record, I really can't elaborate any further or qualify what I've said.

5 Q. Can I suggest to you that this meeting on 16 March 1979 with Mr Cavanagh must have had something to do with the informant Vico Virkez. Would you agree with that?

10 A. Well, I can't really comment because I - unless there's an occurrence pad entry to say what occurred with Mr Cavanagh, or what we - information we might have received from him pertaining to the inquiry, then it's very difficult for me to confer one way or the other what you're putting forward.

15 Q. But what other interest would Mr Cavanagh have in the Croatian Six matter if it wasn't in respect to Mr Virkez, and his possible links to the Yugoslav intelligence?

20 A. Well, it could have been broad knowledge, similar to the Special Branch, of the Croatian/Yugoslav community and the issues that were occurring at that time. I don't know. I'm afraid, because I've got no record, to confirm that one way or the other.

Q. I can indicate now to you, Mr Milroy, that this is just one of a number of entries that you've made in your duty book about meeting with Mr Cavanagh.

A. Right.

25 Q. So I indicate that to you now.

A. Okay.

Q. And I will be asking you on each occasion if you can recall what was discussed at various points in time.

30 A. Yes.

35 Q. We have no running sheets, or running sheet entries, of meetings that you or Detective Sergeant Turner have had with Roger Cavanagh. Just accept that for me for a moment. There are no occurrence pad entries. Is there a reason for that?

A. Unless it's recorded in Sergeant Turner's notebook, no, I really can't - as I said, I'm trying to recall going to these meetings that you refer to. It's just nothing comes to mind, I'm sorry.

40 Q. Do you recall whether Mr Cavanagh usually lived in Canberra, and he would come out to Sydney?

A. I don't - I've got no information on that, I'm afraid. No, I can't recall.

45 Q. Is one of the reasons why there are no occurrence pad entries in the records because there was some sensitivity between your communications with the Australian Federal Police and this Croatian Six matter?

A. No.

50 Q. Is there a reason why there's no mention of any of these meetings in your statement?

5 A. Well, as you understand when you put it in your statement, you might say, "I carried out a number of enquiries", which I do refer to, but to have a statement and go, "I spoke to Mr Smith, and he told me something. So-and-so told", the prosecutors would just cross them out, because where's the relevance? So, I mean, you don't - you don't put in - like, for example, all the travel agencies I went to, I didn't put in there - in my statement I went Mrs Jones, Travel Agency, and she told me - and I told her something. They would just tell you, "That's not - you can't put that in your statement." It's not relevant to the case.

10 Q. Do you say your conferences with Roger Cavanagh had no relevance to the Croatian Six inquiry sufficient for you to put them in your statement?

15 A. Because I can't remember. I can't recall what the discussions were about, other than, as I suggested to you, it probably had something to do with the overall knowledge of the Croatian/Yugoslav situation, similar to what the Special Branch were involved in. That's my only suggestion to what those discussions could be. Otherwise we would - no different to anybody else. We would have put in an occurrence pad entry, or it be recorded in Sergeant Turner's notebook.

20 EXHIBIT 11.50A-59, RED PAGE 229-130, SHOWN TO WITNESS

25 Q. This is an occurrence pad entry by Jan Krawczyk from the Special Branch, and it's dated 26 March 1979. It is headed, "TELEX FROM COMMONWEALTH POLICE SYDNEY TO COMMONWEALTH POLICE CANBERRA DATED 8.2.79 CONCERNING VITOMIR MISIMOVIC OF LITHGOW." Do you see that?

A. Yes, I do. Yeah.

30 Q. I'm just going to read it on to the record, Mr Milroy. Mr Krawczyk says:

"At 5pm on 8 February 1979, information was obtained from Detective Sergeant Prytherch, Commonwealth Police, concerning the attached telex.

35 On Friday 23 March 1979, I had a further conversation with Detective Sergeant Prytherch concerning this telex and how this information was obtained. I was informed that the Detective Sergeant went to the Consulate and had a conversation with the Consul General in relation to another matter, which is part 2 of the attached telex. It was stated that the Consul only mentioned part of the telex when the Detective Sergeant upon his leaving the premises stated, 'Is there anything further, and by the way, if you have any bomb threats you know that you must inform the State Police. At this stage the Consul gave this information.

40 The Detective Sergeant upon returning to Commonwealth Police Headquarters then contacted the Special Branch, Police Headquarters and at the same time then forwarded the same information to Canberra.

45

50

Perhaps this could now be forwarded and filed."

5 Now, I want to take you to the telex, Mr Milroy. It's Exhibit 11.1. It's very faint but you can see a date of 8 February 1979 typed at the top and it's "To COMPOL headquarters from COMPOL Sydney." It's "Information received from Vice Consul Cerar S.F.R.Y Consulate Sydney, PM this date." You see that? I'll just give you a moment to read it?
A. Yes.

10 Q. On the occurrence pad that I took you to a moment ago, it actually notes that, on the right-hand side, Detective Sergeant Turner took action with respect to the information contained in that running sheet. Do you know what action was taken in respect of this telex that was attached to Mr Krawczyk occurrence pad entry?

15 A. Right, well, this would've been after - what date was Mr Krawczyk's telex?

Q. 26 March?

A. March.

20 Q. 1979?

A. Right.

Q. He had had a further conversation himself with Detective Sergeant Prythcherch on 23 March?

25 A. Right. There is - there were enquiries made at the Consulate to try to get a statement, as far as I recall, but whether that was--

Q. Yes, that was Mr Jefferies--

A. That's right.

30 Q. --and previously went to that entry on the last occasion, and there was no statement taken from anyone at the Consulate?

A. No, that's right.

35 Q. But here now we have the telex in the possession of the New South Wales Police and the officers in charge. My question is what was done with this telex?

40 A. The - it's the first time I actually - I've seen it. I mean, I'm trying to think back 45 years, but - what was the - do you recall - remind me what dates I went and advised all of these travel agencies? You can recall what date - was that after this date or before it?

HIS HONOUR: 15 February, wasn't it?

45 MELIS: Yes, your Honour.

Q. 15 February?

A. 15 February, I advised that there was - the relevant premises that were the subject of the bombing. Okay.

50

Q. What I'm more interested in exploring with you, Mr Milroy, is the fact that you have a telex in your possession--

5 WOODS: I object to that. That's not the evidence. It's not the evidence that Mr Milroy has a telex in his possession.

MELIS: I'll put it a different way.

10 Q. Firstly, Mr Milroy, you saw this telex?
A. Just now? Yes.

Q. No, previously, at the time, in the occurrence pad entries. You were the officer-in-charge of the investigation; correct?
15 A. I was the officer-in-charge?

Q. Yes, one of the officers in charge--
A. I was assisting--

20 Q. --of putting together the brief?
A. I was assisting to put the brief together, that's right.

Q. You had reference to these occurrence pads when you made your statement, for example; you agreed with me earlier?
25 A. Yes, that's correct.

Q. You would have kept abreast of the occurrence pad entries that were being made with respect to the Croatian Six matter, would you not?
A. Yes, I would've.

30 Q. This particular occurrence pad entry, even though it does not have your name on it, you would've surely seen it and appreciated its contents?
A. I would've seen it, that's correct.

35 Q. You would've seen its attachment, which is the telex?
A. If the - if that's - that occurred then, yes, that's right.

Q. I need you to be more specific, Mr Milroy. This is a telex--
A. That's right.

40 Q. --that's come from Commonwealth Police Headquarters to Commonwealth Police Headquarters in Sydney, and it is now in the possession of New South Wales Police in the form of these occurrence pad entries. You accept that?
A. Yes.

45 Q. It is a telex that reveals significant information with respect to your informant, Mr Virkez, who previously used the name Vitomir Misimovic. You accept that?
A. That's correct.

50 Q. The information this telex reveals that Mr Misimovic called the Yugoslav

Consulate to let them know of this potential bomb plot; you agree with that?

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

Q. That's relevant information, is it not?

5 A. That's right, his calls--

Q. Relevant information with respect to one of the persons that you have charged?

10 A. That's right. His call was intercepted. That's right.

Q. My question to you is, what was done with this telex?

15 A. Well, it's - I can only comment on not so much what happened to the telex. I'm only just saying we - as you know - tried to get a statement from the consulate to verify that he actually had rang them. I mean - and they refused. They wouldn't cooperate, which is understandable, because they claimed privilege. So that's what - that's all I can recall.

Q. That's where the matter end?

20 A. No, that's all I can recall.

Q. Is it information that you would have provided to, firstly, the police prosecutor?

25 A. Well, as I indicated previously when you've asked me these questions, I can only go on - my memory is that we provided overviews to the police prosecutor in relation to the whole matter, similar to with the Public Prosecutions, and I can't really elaborate any further. I mean, that's the only recollection I have.

30 Q. You told this Inquiry on the last occasion that, "I think all the information that we had at our disposal in relation to Virkez contacting the consulate was passed on to the Crown." You said to this Inquiry that, "There was nothing withheld in relation to what inquiries we carried out." That's at transcript 325. You maintain that evidence?

35 A. Yeah, that's what I believe, that's right.

Q. Consistent with that, you would expect that the contents of this telex would have been communicated to all prosecuting authorities?

40 A. Well, as I say, I can't recall, 45 years later, who I spoke to, what was passed on specifically unless there are records to that effect. I mean, it's just - it's humanly impossible to challenge your memory like this, to try to think, you know, who you spoke to, who you didn't speak to. I mean, really - I mean, it's just impossible, and I've tried, as I indicated, to think back who I - who we spoke to, who we didn't, and some of these things are revealing though by the diary, which is highlighting things that I could never recalled on the last
45 occasion.

LUNCHEON ADJOURNMENT

50 Q. Mr Milroy, can I take you an entry in your duty book dated 28 May 1979, red page 380. Sorry, again that's 11.71(A). Now, we've moved a little bit

ahead since before the lunchtime adjournment, Mr Milroy. We were in March 1979, and I've moved forward now to May 1979. This is a time when the committal proceedings are on foot. We can see from your note here that you have attended a conference with Detective Sergeant Turner, Sergeant First Class Officer Brady, being the police prosecutor, and your instructing solicitor, John White, and Sergeant Radalj. Am I pronouncing that correctly?

A. Radalj.

Q. R-A-D-I-A-L-G-Y?

HIS HONOUR: No. R-A-D-A-L-J.

MELIS: Thank you, your Honour.

Q. Just remind us again, Mr Milroy, Sergeant Radalj's role, what was it?

A. Sergeant Radalj?

Q. Sergeant Radalj. What was his role in the Croatian Six matter?

A. I think he actually - I think it was, if you recall from my statement, where he had transcribed one of the - the letter that Mr Virkez passed on to me that was - the author was Mr Bebic.

HIS HONOUR

Q. Translated, do you mean?

A. Sorry?

Q. Translated, do you mean?

A. That's correct. Sorry. And then I think he actually did other things that was requested of him by Sergeant Turner.

MELIS

Q. So we take it it was relevant for him on this occasion to attend this meeting with the police prosecutor because it may have had something to do with translations of documents he had undertaken?

A. Possibly, because that would be - that's right. This is before the--

Q. This is before the trial. This is during the committal?

A. During the committal. Yes. Well, he - he, of course, would have - I'm not sure whether he gave evidence, but he did have some role to play.

Q. If I can, please, now take you to another entry. On 12 July 1979, red page 384. You'll see there there's a reference to conferring with a Mr Byrnes of the Crown Solicitors' Office?

A. Yes.

Q. Do you remember Mr Byrnes?

A. No. As I said before, that's one of the disappointing things, when you can't remember people that you've met and - for some of these various cases, and I

remember John White, but I just can't visualise his face, or Mr Byrnes, or some of the others.

5 Q. Moving forward, I want to take you to an entry of 11 December 1979. This is red page 405. This entry you write:

10 "On duty 8am CIB. So engaged to 11am. Then with Detective Sergeant Turner to Clerk of Peace office. See solicitor John White. Dave Shillington QC and Roger Cavanagh - Federal Police re Croatian matter."

Do you see that?

A. Yes, I do. Yes.

15 Q. Just again to orientate you, at 11 December 1979, the committal has been completed. It was completed in October 1979--

A. That's correct.

20 Q. --and now you're gearing up for trial?

A. That's correct, yeah.

Q. Do you have an independent recollection of attending a meeting with these persons at this time?

25 A. No, I don't have an independent recollection other than what's contained in the diary entry.

Q. Do you recall which physical location you would've attended, the Clerk of the Peace? Where that was physically located? I'm not sure if you've already told us this but do you recall where you would have attended physically?

30 A. The Clerk of the Peace office, no. No, I can recall up at Darlinghurst where the trial was heard, I thought there were some offices off that building somewhere but whether that's the office we went to - but I can recall going there at some stage, maybe when the trial was on, for the meetings with the Crown during each day. But I really can't identify the building, I'm sorry.

35 Q. This meeting is not only a meeting with the Crown but also a member of the AFP, Roger Cavanagh?

A. That's right, yes.

40 Q. It's, again, you would agree with me, a further meeting at which you are in attendance with Roger Cavanagh?

A. Yes. That's correct.

45 Q. Do you remember who would've called for this meeting, given those that attended?

A. Well, I can only surmise that, to be called to a meeting with the Crown or the QC who was going to be in charge of the trial, it would've probably been John White, I guess, because he was the solicitor and - as part of that team, I guess, but that's the only thing I could think about.

50

Q. We don't have any further detail in your duty book about the contents of this conference--

A. No.

5 Q. --and there does not appear to be any occurrence pad entry concerning this meeting. In fact, before lunch I told you there are no entries--

A. Right.

Q. --concerning conferences with Mr Cavanagh?

10 A. Right.

Q. Are you able to enlighten the Inquiry as to the contents of this conference with the Crown Prosecutor and Mr Cavanagh?

15 A. No, I think I might just answer this in two parts. First of all, if I can just qualify about running sheets. Your Honour, running sheets normally were used on protracted inquiries, murders and the like where you have not arrested anybody, because it was the only way of collecting the information as the inquiries unfolded. Yes, in this case, we're - we started to put running sheets together on Sergeant Turner's instigation, but bearing in mind that people were
20 already arrested and charged. So you normally don't have running sheets because it's not necessary, but I think because there was inquiries to be carried out, Sergeant Turner requested that that would be the best way of capturing it and you're receiving information coming from other groups like Special Branch. But then to continue for every meeting that you held
25 afterwards and keep putting in running sheets just wouldn't happen.

There wouldn't be any requirement. You would make records; you'd write things down. As you know, we had a duty book - not a duty book, a tasking book where we write down tasks that we had to do, and I think I indicated that
30 when we had the meetings with Mr Shillington and them, I used to take along on a clipboard the summary of all the witnesses, which I've referred to is on top of the statements that went to the brief, and if it were required, "Contact this person. We want this person," I would make a note of it but most of the - most of those notes were things that you had actioned, you go back and put it in the
35 job book and whatever is requested by the Crown, you would do it, but you would not require running sheets to continue all the way right through to the trial.

40 Q. I understand that, but my question was, are you able to enlighten us any further with respect to the content of this particular meeting given the persons that were in attendance?

A. I mean, I would only assume that the Crown wanted to get a briefing or some understanding of the - what's required for the upcoming trial, which would be normal practice. You know, they would meet with you - in any other
45 cases I've been involved in, the Crown - you'd meet with the Crown and they'd say - go through the statements and say, "Right, we want these witnesses in this order," so it's quite common, but to make a record - to have a record now of it, I just could not possibly even think about what was said. I just - I - no
50 memory of it.

Q. Mr Cavanagh, however, we know from your own evidence was an intelligence officer--

A. That's right.

5 Q. --with the Australian Federal Police?

A. Yep.

Q. You agree with that?

A. That's correct, yep.

10

Q. There had been, it would seem, at least two prior conversations with him--

A. That's right.

15 Q. --and yourself and Detective Sergeant Turner, and you had previously told us that he had an interest in the matter, given Croatian/Yugoslav relations--

A. That's right.

Q. --of which he had knowledge about. You have told us that you certainly knew that he had gone and interviewed Virkez?

20

A. That's correct, yes.

Q. Given that information, what do you say to the suggestion that it was highly probable that, at this meeting on 11 December 1979, the topic of Mr Virkez came up?

25

A. I couldn't - I imagine the topic of the - all six of the co-conspirators would come up but I - I'm sorry, I can't really comment.

Q. Sitting here today, you--

A. It's possible. It's possible, yes.

30

Q. You're unable to say with any confidence--

A. No, that's--

35 Q. --whether for example at this conference Mr Cavanagh gave information around what he knew or understood about Mr Virkez's links, for example with the Yugoslav Intelligence Service?

A. Well I can't, as I indicated to you, I can't even remember the meeting, I can't even remember if he was going to give information he would have passed on his knowledge of all he knew of the Croatian, the politic environ, and the specific individual that I, that I, but I can't elaborate any further than that, really.

40

Q. Certainly by this state, I think we already established you knew that from Mr Cavanagh, and Mr Jefferies that Mr Virkez had been informing on members of the Croatian community onto the Consulate; you were aware of that?

45

A. That's correct, yeah.

Q. And you were aware, at least in the way that you say Mr Cavanagh described him to you, that he was a community member, an ordinary community member passing on information--

50

A. That's correct.

Q. --so you would have known all of that information as of 11 December 1979.

A. Yes, I believe so.

5

Q. And that was information, which consistent with your previous evidence, the senior Crown Prosecutor would have known because you and/or Detective Sergeant Turner would have informed him.

A. I believe so, that's right.

10

HIS HONOUR

Q. Mr Milroy, if the legal representatives of the Crown were interested to learn more about Yugoslavian political issues and things like that, in a general sense, there were officers of the Special Branch who were well placed to provide information about that, weren't there?

15

A. Yes, I believe so.

Q. Yes, just keeping your answers succinct if we can. Saying there was no need to get somebody to come to this meeting with the Crown outside your organisation to provide information like that, was there?

20

A. Unless of course he's providing a, a view of the Commonwealth's view of the overall issues to do with, you know, the Croatian and Yugoslavian in, in the political sphere, I don't know.

25

Q. Can you suggest why that would be relevant for the Crown to learn more about the Commonwealth's position?

A. No, I can't, no.

Q. That's right. So it is highly probable, isn't it, that Mr Cavanagh was there because of the need to talk about issues concerning Mr Virkez.

30

A. As I said, indicated before, he spoke, probably could have spoken about Virkez and all of them.

35

MELIS

Q. Just picking up on his Honour's questions there; there is some evidence before the Inquiry that at least at some point prior to the trial there was a suggestion that Mr Cavanagh himself would be giving evidence at the trial; principally he says background information on Croatian terrorist movements in Australia.

40

A. Mm-hmm.

Q. And for the record your Honour, that is Exhibit 10.1-12; I don't need to take the witness to it. But was there ever, to your recollection, a suggestion made that Mr Cavanagh be a witness at the trial to give evidence around background information on Croatian terrorist movements in Australia?

45

A. I can't, sorry, I can't assist you there, I can't, I can't even recall if was considered.

50

Q. Was it ever suggested, at this meeting, or any other meeting by anyone that Mr Cavanagh go on oath in respect of what he knew about Mr Virkez?

A. No. I mean again, again, I've got no recollection, I'm sorry.

5 Q. Moving forward to 31 January 1980, and this is red page 411 in your duty book. On this particular day there was an application made by Mr Virkez for bail, and it was refused, and you go on to say, "11.30am office attend records, peruse reports, contact Handwriting Section re Virkez, Parramatta Gaol re same", you see that?

10 A. That's correct, yeah.

Q. Can you explain what that note means; what are you telling us there?

A. 31 January, is that when the antecedence were?

15 Q. Yes, you attended court on that day, Mr Milroy, on the bail application, and on the last occasion Mr Buchanan took you to that transcript and the set of facts that you had prepared, and what I'm particularly interested in is the part I read out about "contacting the handwriting section re Virkez". And then "Parramatta Gaol re same".

20 A. Well that would indicate I went to the gal to see him. That might have something to do with the - wasn't there a document, no, that was back in - I'm just trying to remember, your Honour, but there was a letter or something that he provided. No, that was back in March.

25 Q. Yes. That was in March 1979.

A. That's right. That's right. I'm--

Q. We're in January 1980 now.

A. That's right.

30 Q. I can indicate, Mr Milroy, that we do not have a record of you attending Parramatta Gaol on 31 January 1980.

A. All right.

35 Q. We do have records of you attending on other days, but not this day. I was hoping you could enlighten us as to why you were visiting - well, first of all, do we assume you're visiting Mr Virkez at Parramatta Gaol in this entry?

40 A. Well, it says, "Contact the Handwriting Section re VIRKEZ", So I'm contacting them as to whether they've finished deciphering handwriting or in relation to some document, and then I've got, "Parramatta re same". "Parramatta Gaol re same." Unless I - I wouldn't have dropped something, because we only record - they only record you at the gaol if you're going into the prison. Yeah, if you - but--

45 Q. As opposed to dropping something off?

50 A. Yeah. But that - highly unlikely because you - I wouldn't - couldn't - couldn't think of going up to the prison to drop off a letter for a prisoner. No, I can't - I can't really look - think of what document the Handwriting Section were examining re Virkez, unless - of course, we wouldn't have the Handwriting Section records today, but - so I'm sorry. I really can't assist the Inquiry.

Q. Did you at any point in time recall having to take a sample of Mr Virkez's handwriting?

5 A. Well, his handwriting would be when they get fingerprinted. Again, if I did that, I'd - it would be referred to in my duty book. I just can't really think of what document that relates to - that went to the Handwriting Section, but it doesn't say I picked something up. It's actually contacting them re Virkez, which I assume, and one shouldn't assume, of course, is that there was a document being examined by them.

10 Q. Moving forward to 8 February 1980. This is red page 413. I just simply want to note, Mr Milroy, that, again, on this date, prior to the trial commencing, you were having a further conference with Mr Shillington and Mr Viney, as well as Detective Musgrave and Chivers.

15 A. And - that's right.

Q. Mr Chivers was a handwriting expert; is that right?

20 A. Yeah, I think the name does ring a bell. Actually, it doesn't say that there, but - unless the police records indicate that, but it doesn't say he's a detective, and I was just about to question why would he be there, because he wasn't involved in the 8 February raid.

HIS HONOUR

25 Q. Well, it indicates, or it seems to indicate, he was a detective because you've got "Dets Musgrave Chivers"?

A. Yep. That's right, Chivers. I think his first name was David. I can't even place where - where he was stationed. I don't think he was stationed at the Ballistics Unit with Musgrave. So, no, I'm sorry, I can't assist.

30 MELIS

Q. We know that on 21 February 1980, Mr Cavanagh and Mr Blades interviewed Mr Virkez at Parramatta Gaol, and this is Exhibit 12.6, red page 83, for the record. My question to you, Mr Milroy, is: was this interview by Mr Cavanagh and Mr Blades at the request of New South Wales Police?

35 A. Well, normally, because Mr Cavanagh and Blades were from the Commonwealth Police or the Federal Police - Commonwealth Police, because it wasn't the Federal Police until after the '79 *Federal Police Act* came in. Normally, more of a courtesy, really, you normally wouldn't go and interview an offender who is actually charged by another officer, if you know what I mean. So if I charged Mr Jones, I wouldn't expect any other New South Wales police officer to go and interview him unless they contacted the arresting officer and say, "I would like to go and talk your suspect in relation to another matter", and you'd either say, "Okay. Well, thanks for letting us know. It's nothing to do - it won't jeopardise our case." So - but in relation to
40 Mr Cavanagh going to see him, I really can't think back that far to say who asked him to go and do it.
45

Q. You see, there is some evidence before the Inquiry, and I quote, "Federal Police involvement only stems from a request for a specialist assistance by the
50

New South Wales Police Force." For the record, that's Exhibit 9.1-38. So I ask, again, Mr Milroy, is that an accurate statement? That the involvement of the Federal Police, or the Commonwealth Police, as you describe them, only came about because of a request by the New South Wales Police?

5 A. Well, if you're going to - it could work in reverse. If the Federal Police wanted assistance from New South Wales, there would be a formal request through commissioned officers or to the Commissioner's - Commission of Police, or a request from Special Branch to their corresponding unit in the Federal Police to assist, but it'd be at that formal level.

10 Q. Just to stop you there for a moment, what you're describing, would a request coming from Assistant Commissioner Whitelaw directly to Roger Cavanagh, for example, satisfy what you're describing?

15 A. Well, it normally - if it was going to be an official request, you would expect that it'd be - the Commissioner of Police would write formally to the Commissioner of whatever agency he's seeking assistance, so there's a formal process, and then there may be an officer nominated in relation to that. "Assistant Commissioner X, please progress that request to your corresponding officer in that other force." So it would be a formal process. It's
20 highly unlikely that a sergeant, even a lower in those - in 1979, sergeants had 20 years' experience in - within Police Force. A sergeant was a lot higher position than it is today, where normally it's an inspector - highly unlikely for a sergeant to contact a commissioned officer in another force, even if it was a State Police Force and say, "I want you to formally come and do this."

25 Q. I accept all of that. My question is, you had yourself interviewed Mr Virkez together with Detective Sergeant Turner on previous occasions?

A. Briefly on the 20th.

30 Q. It's relayed--

A. Yeah, that's right.

Q. It's relayed in your statement--

A. That's right.

35 Q. -and we have some other evidence that Detective Sergeant Turner interviewed him on his own on another occasion, and we have an occurrence pad entry relaying that, for example. Certainly, there are examples of the both of you interviewing Mr Virkez?

40 A. That's correct, ma'am, yeah.

Q. It was open to you to interview Mr Virkez at different points in time leading up to the trial; would you accept that?

A. Interview--

45 Q. If the need arose?

A. Yes, well, I think I did indicate previously that to go and speak to Mr Virkez when he became a witness was as - at the request of the Crown, to advise him he had to come - he was coming to court and the process. That's right.

50

Q. Having Mr Cavanagh conduct interviews with Mr Virkez, I suggest, points to certain sensitivities around this particular witness, Mr Virkez, and requires the need of a further specialist officer to conduct the interview?

A. I don't quite follow what your question is, sorry, counsellor.

5

Q. Involving Mr Cavanagh from the Federal Police to interview Mr Virkez; first of all, do you accept that's an unusual or extraordinary step to take?

A. Well, it'd depend, of course, what - as I indicated to you before, where you've got someone who's not involved initially in your arrest of that particular person wanting to go and speak to them, I'd - I wouldn't think it was extraordinary but - to go and - unless, of course, he was going to advise Turner or others what transpired, which you would expect.

10

Q. Is it the case that Roger Cavanagh interviewed Mr Virkez because there were some sensitivities surrounding Mr Virkez; namely, his potential links with the Yugoslav Intelligence Service?

15

A. What date was that? 21 February? Okay. He hadn't--

Q. Yes, 21 February 1980--

20

A. He hadn't agreed at that stage to plead guilty, no, that's right--

Q. No, and I was going to ask you that. At that stage, he had not--

A. Right.

25

Q. --pleaded guilty. He pleaded guilty on 25 March 1980?

A. That's right.

Q. He's still not a Crown witness?

30

A. That's right. Well, they're probably, as you say, trying to glean some information more broadly in relation to the overall Yugoslav political environment as well as some of the other, as you say - the sensitivities surrounding his involvement with the consulate. I mean, I - that's only an estimate based on sitting here today, yes.

35

Q. Would you have expected information arising from that interview with Mr Cavanagh and Mr Virkez to be relayed back to yourself and Detective Sergeant Turner?

A. Yes.

40

Q. You would expect to see some record of that information being conveyed?

45

A. Yes, if, of course, the information was going to go through whatever process was agreed to between the two forces in relation to Mr Cavanagh's situation; that is, was he reporting - was he putting his information through the Police Commissioner's office or direct to Turner? I don't know. Yeah. There would've been a process agreed to because he was a commissioned officer, and if there was a request made by the Force to seek Commonwealth Police assistance, there would be some formal process involved where he reports back to an Assistant Commissioner, and whether they passed on that information to Turner or through Morey and McDonald, I don't know.

50

Q. You see there's some further evidence the Inquiry has, again at Exhibit 9.1-38 that following consultation with the New South Wales offices in charge of the case Virkez had been interviewed by officers of this Force on two occasions, "this Force" being the Federal Police, or the Commonwealth Police. Accepting that for a moment, again do you recall at any point consulting with Mr Cavanagh about interviewing Mr Virkez?

A. I don't have any direct recollection, no, sorry.

Q. You see Mr Milroy, the first time that we hear about the contents of the interview between Mr Cavanagh and Mr Virkez on 21 February 1980 is during the course of his evidence to the Court of Criminal Appeal, and contained in his affidavit, Roger Cavanagh's affidavit dated 29 May 1982. For that record, that's Exhibit 4.3-5. Are you able to offer any explanation as to why information garnered from that interview, between Mr Cavanagh and Mr Virkez, was never put into a statement from Mr Cavanagh so that it could be put before the trial?

A. Did Mr Cavanagh have any meetings with the - Mr Shillington and Mr Viney after 21 February '81, sorry, '80?

Q. Yes.

A. Well I mean--

Q. Sorry, '81 did you say?

A. No, sorry, 21 February 1980, isn't it?

Q. Yes, I'm about to take you to another entry, but he did, yes--

A. You know, to obtain a statement for him as to the relevance of whatever he could give would be something that would be decided by, by the Public Prosecutions, and that I, I unfortunately I just sitting here today I just have no recollection of the specific meetings, or requests, or.

Q. Let's go to the next meeting, because that may assist. This is your duty book on 22 February 1980, red page 417. Now this is where the infamous reference to the Ansett building arises, Mr Milroy, that I was asking you about. You say that on this day "9.45pm out Detective Sergeant Turner to Ansett building and convey Mr Shillington and White to Federal Police headquarters" is that Redfern "and conference with Roger Cavanagh re Croatian matter office", so this is the day after Mr Cavanagh interviews Mr Virkez, you accept that?

A. I see that, yes.

Q. It appears that you've met Mr Shillington and White at the Ansett building.

A. I see that, yes.

Q. And then gone over to Redfern. We were just wondering, is there any significance to meeting at the Ansett building?

A. Well, unless of course the - Mr Shillington and White and they had offices there, but you know, it looks, it indicates here that we picked them up and drove them. That's all I can comment on that.

Q. Given that just the day before there's been this interview with Mr Cavanagh and Mr Virkez, do you agree with me that the likely discussion at this conference on 22 February 1980 was about Mr Virkez?

5 A. Well, it's probably about the whole case, but the fact that he spoke to Virkez the day before one would; one shouldn't assume of course, but I suppose there's a likelihood that Mr Virkez's name would have come up in discussions, but.

10 Q. But as you accepted when his Honour was asking you questions the fact that Mr Cavanagh is one of the attendees at this conference makes it highly probable, doesn't it, that he's imparting information to the rest of you about what he learnt in his interview with Mr Virkez just the day before?

15 A. Well, as you know, I can't - for me to say yes, that could have happened, I mean I - there's no way I could comment, your Honour, 100% because I don't remember. I don't even remember driving to the Ansett building, and driving them over there, to tell you the truth. It is interesting to go through this diary after 50 years and, and see these comments that tells you where you were, what you were doing, it's just an eye-opener because I just don't recall.

20 Q. You would accept, though, even standing back--

A. Yeah.

Q. --it would be quite extraordinary for Mr Cavanagh not to talk about the matters that he spoke to Mr Virkez about just the day before?

25 A. Yeah, it's possible. That's--

Q. What else could he be talking about?

30 A. Well, he could be talking - as I said, it could have been about the whole case, because that's what Mr Shillington was going to be in charge of at the trial, and, yes, they could have - Mr Cavanagh could have spoken about Virkez. He could have spoken about all of them. He could have spoken about the whole Croatian/Yugoslav political environment, but I - I just don't recall even going there in the first place. No. You know, that's the trouble.

35 Q. I understand your difficulties with recalling, and it's no--

A. It's just--

40 Q. --criticism whatsoever. I do need to put some propositions to you, and tell me if you agree or you don't agree. At this meeting, or indeed at any meeting you with Mr Cavanagh, did he ever disclose to you the fact that Mr Virkez had links with the Yugoslav Intelligence Service?

A. I just can't. Again, I'm trying to assist the Inquiry, but to try to recall conversations about specific issues, it's just impossible. I'm sorry.

45 Q. I'm trying to be quite specific in the descriptions I give you, as they may prompt your memory. Was he ever described to you as "a low-level agent"?

A. No.

50 Q. Were you ever told that Mr Cavanagh suspected that Mr Virkez was a Yugoslav agent?

A. No. I can't - I can't recall whether he said that or not.

Q. Or did he ever use the word, "Agent provocateur"?

A. Again, I'm sorry, no. I just can't - I can't recall that.

5

Q. I think you said earlier in answer to another question that the decision whether to put on a statement by Mr Cavanagh rested with the Crown. Was that the tenor of your evidence?

10 A. Well, I mean, if - initial during our discussions with the police prosecutor in relation to putting the brief together for the Petty Sessions, if - if there was information that - of any witness, we would have discussed it with them, and those statements would have been included, you know?

15 Q. You've already given us evidence that to the best of your recollection and knowledge, everything the police knew would have been imparted to the Crown Prosecutor?

A. As far as I'm aware, that's correct.

20 Q. At any point in time, did the Crown Prosecutor ever suggest to you, or others in your presence, that certain information did not need to be disclosed?

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

Q. Specifically with respect to Mr Virkez?

25 A. No. I don't recall that, no.

Q. The second time that Mr Cavanagh interviews Mr Virkez is on 7 March 1980, and according to Mr Cavanagh's affidavit, which I referred to earlier, that was before the Court of Criminal Appeal, he said at paragraph 7 that:

30 "At this particular interview, Virkez did not say anything to us concerning his relationship with the Yugoslav Government. No notes were taken. The interview almost entirely consisted of a conversation between Cavanagh and Virkez regarding the allegations of maltreatment by the New South Wales Police made
35 by Virkez in his letter to the Prime Minister."

40 That letter being at Exhibit 11.17. There is evidence before the Inquiry that the fact that Mr Virkez was making allegations of maltreatment by the New South Wales Police was, and I quote, "Worrying for the New South Wales prosecution, as they considered Virkez's voluntary testimony as vital to a successful prosecution." That's at Exhibit 10.1-12. Do you agree with that statement, Mr Milroy?

A. Agree with the statement?

45 Q. Yes. That it was worrying for the New South Wales prosecution, the fact that Mr Virkez was making these allegations of maltreatment by New South Wales Police, "as they considered Virkez's voluntary testimony as vital to a successful prosecution".

A. I don't see how I can comment on that statement.

50

Q. His evidence was vital to the prosecution, however, wasn't it, when he became a Crown witness?

5 A. Well, that's right. When somebody who decides to change their plea and provide evidence against their co-accused, yes, they are considered to be very relevant.

Q. I think I mentioned to you that we know that Mr Virkez pleaded guilty on 25 March 1980, but when did you discover or find out that he was going to change his plea?

10 A. I don't know. I mean, I - it's 31 March was where the antecedents were when he had a bail application and--

Q. You're referring to 31 January?

15 A. Sorry, 31 January, correct, sorry, counsellor.

Q. I can indicate that he was still pleading not guilty on 18 February--

A. 18th--

Q. --1980?

20 A. Right.

Q. He's formally pleaded guilty on 25 March 1980?

A. Right.

25 Q. My question is--

A. I know, yeah--

Q. --you must've known before 25 March 1980 that he was going to change his plea and when that likely was?

30 A. I know over that period prior to the 25th, I was not at the CIB for a few days. I was on another siege. So I guess, between February and - the date in February you quote and sometime in March, but I don't recall who told me or who told Sergeant Turner or what he said to me about him changing his plea or where that came from. I don't know, no.

35 Q. Moving along to 19 March 1980 in your duty book, red page 422. I just simply want to draw to your attention that, again, on 19 March 1980 you went to the clerk of the peace with Detective Sergeant Turner to see Mr Shillington and Mr Viney regarding Croatsians. You see that?

40 A. Yes, I see that, yep.

Q. This is before the trial and only days before Mr Virkez pleads guilty on 25 March 1980. It's highly probable, isn't it, that by this date you would have known that he was changing his plea?

45 A. Probable, that's right.

Q. That would've been the subject of discussion at this conference?

A. Well, if we knew then, I would imagine Mr Shillington would've raised it. That's correct.

50

Q. Moving to 8 April 1980, red page 436. This records:

5 "Attend Croatian matter then with Detective Sergeant Turner to
Mascot Airport. 11.30am flight to Canberra. Arrive 12.15pm. Met
by Roger Cavanagh, Australian Federal Police. Then to AFP
headquarters re inquiries. Meal 1pm to 2pm. Further conference re
Croatian matter. Serve subpoena Superintendent
Headland. Further subpoenas left with Mr Cavanagh for further
AFP officers. So engaged 5.30pm."

10

I think we'll do this together; we'll also read the next entry on 9 April, over the
page, red 437, where you're still in Canberra. You say: "On duty 8.30am,
Australian Federal Police Headquarters. Detective Sergeant Turner
conference with Assistant Commissioner Farmer and Mr Cavanagh. So
engaged to 9.30am then to Department of Immigration re further meeting with
Mr" - can you help me with that name, Mr Milroy? Is it Grawyczc?

15

A. With Mr - looks like it's Grazic or Grazics, some name like that.

Q. It seems to be spelt here G-R-A-W-Y-C-Z-C?

20

A. That's right.

Q. "Re Virkez. So engaged to 10.30am. Return to AFP building re further
inquiries, then to Canberra airport. Travel to Sydney. Arrive 2pm
office." These notes show that you, together with Detective Sergeant Turner,
travelled to Canberra to meet with certain persons at the Australian Federal
Police. Agree with that?

25

A. I agree, that's right.

Q. On the last occasion when you gave evidence to this Inquiry, you could not
recall any meeting in Canberra; that's transcript page 349. Having read these
two notes now, does this jog your memory with respect to a trip you took to
Canberra? I might put it in context. This is five to six days prior to the trial
commencing?

30

A. Yes, I didn't - I can't even recall what the relevance to the subpoenas for
AFP officers - I don't even recall any AFP officers being called to the trial, but
that just shows how, how my memory's gone. Sorry.

35

Q. Let's take it step by step. Can you recall why you went to Canberra--

A. Well--

40

Q. --what was the reason for this trek--

A. --this is, you know, these records the first time I've seen them, and as I
indicated before I didn't, I couldn't even remember going to Canberra, and so I
assume from what this says that the subpoenas, I would imagine that we must
have had possession of the subpoenas if we were leaving them with the AFP
for their staff, but - and then "the discussions with, with Roger Cavanagh and
police headquarters over the Croatian matter", so I guess that's to do with the
upcoming trial. We served the subpoenas, or we hand over the subpoenas for
the relevant AFP officers, which I just indicated I didn't know there was any
AFP officers called for the trial, or who they were from memory. And then the

45

50

meeting with Assistant Commissioner Farmer, whether that was to, similarly, for the upcoming trial, or more of a courtesy meeting because you're done in Canberra, you meet their Assistant Commissioner. "The Immigration Department re Virkez" just not sure really what that was about, to tell you the truth; I just can't seem to think why; it's before the trial and Virkez is a Crown witness. No, I'm sorry, I can't elaborate any further, really.

Q. Mr Milroy, I want to suggest to you that two days spent in Canberra in conferences with Roger Cavanagh and the intelligence officer with the AFP, as well as a conference with their Assistant Commissioner Farmer and Cavanagh suggests some very high level discussions were taking place between yourself and Detective Sergeant Turner and those persons, would you agree?

A. It's high level, of course you're meeting an Assistant Commissioner. But as I indicate earlier, it does say we, we delivered subpoenas, and it's before the trial, so either we're explaining what's going to take place in the trial. The Crown would be aware that we've gone there, otherwise why we're delivering subpoenas.

Q. You're not just going all the way to Canberra though--

A. No, I didn't say that--

Q. --to delivery subpoenas?

A. --I did say--

Q. Sorry, my apologies.

A. --explaining the fact that's a trial coming up. But I just, really, cannot - I didn't even recall going there in the first place; after all these years I've been, as you know, a lot of places and a lot of countries on crime matters, and - but actually what took place I can only relate it it's got to do with the upcoming trial. "The inquiries at the immigration", I don't know what that's for, to tell you the truth. I'm trying to focus on, on the actual meeting and what, what's in the diary. Does Sergeant Turner elaborate any further on his diary entry, do you know?

Q. No, we have no further records pertaining to this visit--

A. Sorry.

Q. --in Canberra, which is why we were hoping that you could tell us what the purposes were of this visit.

A. Well as I said, the purposes of the - if the trial's only a short few days later, whether we're explaining what's, what's proposed in the trial, some of the AFP officers are going to be called. With Virkez, whether it's got something to do his immigration, his status in the country, I don't know, or his passport, I, I just can't recall, really I just can't drill down to that, this meeting and, and explain anymore, otherwise it's just guess, guesswork, and it's not the way to advise the inquiry I'm afraid, you know.

Q. Mr Milroy, is that your whole answer--

A. Yep.

Q. --or are you deliberately withholding information that you know that was

discussed at this meeting in Canberra?

5 A. I am not withholding any information, and I have not withheld any
information in this Inquiry. To ask someone to go, to think of 45 years ago, a
meeting, have you ever thought about trying to do it yourself, to pick a
particular time and try to zero in and drill right down as to who said what, what
was it about, without any records is virtually impossible. It is for my memory; I
can assure you; I just cannot remember. I'm sorry, I know I'm not - you might
be upset, counsel, but I just can't go speculating and throwing words here and
there just to fill in a few blanks because it would be inappropriate for me to do
10 so. Sorry.

15 Q. On 9 April 1980, so the second day of your visit to Canberra, on the
second day, that's at red page 437 there is evidence before the Inquiry that
there was a meeting held at the Department of Prime Minister and Cabinet,
and at that meeting Commissioner Farmer was present, and Mr Cavanagh was
present. I can't give you a time of day that this particular meeting occurred, but
reading your note on 9 April 1980 I would suggest it's occurred after, sometime
after your meeting with Assistant Commissioner Farmer and Mr Cavanagh. Do
you follow me so far?

20 A. Yes, I do, yeah.

Q. At this particular meeting, we have some minutes of that meeting, and I
don't need to take them to you, but for the record, they are
25 Exhibit 10.4-1(A). The following is recorded. If I could just read it to you.

25 "Mr Cavanagh said that the prosecutor, Mr Shillington QC, is fully
informed on the background to the case. Mr Cavanagh indicated in
answer to Mr Enfield that Mr Shillington knows all about Virkez' YIS
links.

30 Mr Cavanagh said that on the day that Virkez was averted,
8 February 1979, the Commonwealth Police told the New South
Wales Police Virkez was suspected by Commonwealth Police of
being a Yugoslav informant.

35 Assistant Commissioner Farmer remarked that the AFP has held
nothing back from Ted Turner of the New South Wales Police.

40 When questioned by Mr Enfield as to statement he had previously
made that the New South Wales authorities did not know that Virkez
is a Yugoslav agent, Mr Cavanagh observed that there is a
difference between knowing and not knowing, and the New South
Wales Police do not know 'for evidentiary purposes'. "

45 It goes on to say:

"Mr Cavanagh said the New South Wales Police have tendered to
ignore Virkez' involvement with the YIS."

50 Do you need me to bring that document up, or have you absorbed what I've

just read to you, Mr Milroy?

WOODS: Your Honour, I--

5 WITNESS: You can put it up on the--

WOODS: --think it would be helpful for the document to be put up.

10 EXHIBIT 10.4-1(A), RED PAGES 352 TO 355, SHOWN TO WITNESS

MELIS

15 Q. I was reading from the bottom of red page 353, Mr Milroy. If we could just go to that. Right at the bottom you'll see it starts with, "Mr Cavanagh said..."?
A. Yes.

20 Q. And it goes over the page, that whole next paragraph. Let me know when you've read that.
A. Yes.

25 Q. If you go over to red page 355, in the last sentence at the top of the page, Mr Cavanagh said, "The New South Wales Police have tendered to ignore Virkez' involvement with the YIS." Do you see that?
A. Yes, I do. Yeah.

30 Q. Just to be fair to you, I should have orientated you first to this document at red page 352. It's some draft minutes of a meeting held on 9 April 1980 at Department of the Prime Minister and Cabinet in relation to Mr Vico Virkez. Do you see that?
A. I do.

35 Q. This was specifically a meeting amongst a number of different persons at Commonwealth level. You can see them named there. Persons from the Department of the Prime Minister and Cabinet, Department of Administrative Services, Attorney-General's, Department of Foreign Affairs and ASIO and Australian Federal Police. Do you see that?
A. I do, yeah.

40 Q. As I mentioned to you, on 9 April 1980, a day in which you were, yourself, in Canberra, and it specifically includes Assistant Commissioner Farmer and Mr Cavanagh giving information and their views about Mr Virkez, and, specifically, what has been communicated to Detective Sergeant Turner and New South Wales Police. Do you agree with me?
A. Yes.

45 Q. Having seen that, it makes it highly probable -- although, I'll put it even higher -- it makes it the fact that you would have been discussing Vico Virkez with Assistant Commissioner Farmer and Mr Cavanagh at the very least on 9 April 1980 when you met him?

50 A. Well, as I say, I - again, you're just - I've got to speculate. You're asking

me to just say, "Yes, that's what we spoke about," when I can't remember the specifics of it.

5 Q. We have a meeting that's been convened by a number of quite high level public servants who are occupied entirely with the subject of Mr Vico Virkez?

A. I notice that they didn't invite Sergeant Turner to this discussion.

Q. No, he's not invited to that discussion?

A. No, that's right.

10 Q. But it is mentioned by Assistant Commissioner Farmer that the AFP has held nothing back from Ted Turner of the New South Wales Police.

WOODS: That's asserted. That can't be assumed to be the case.

15 HIS HONOUR: Yes, that's what it says. Is he being asked about what the document says?

MELIS: Yes.

20 Q. It's noted that Assistant Commissioner Farmer remarked that the AFP has held nothing back from Ted Turner of the New South Wales Police and that Mr Shillington QC is fully informed on the background to the case, and that Mr Shillington knows all about Virkez's YIS links?

25 A. I see that, yes. The Crown's allegedly fully aware of everything, that's right.

Q. Do you agree with those statements?

A. Well, I wasn't--

Q. I know you weren't present but--

30 A. --there and it's a draft document.

Q. I know you weren't present, Mr Milroy--

A. No.

35 Q. My question is, we know that Mr Cavanagh attended conferences with Mr Shillington and yourself, and in those conferences, according to this document, he must have discussed Vico Virkez in the presence of Mr Shillington. According to this document, he must have, if he is remarking that Mr Shillington is fully informed on the background to the case?

40 A. If that's - if you accept what that document states, which is a draft, that's correct, yeah.

HIS HONOUR

45 Q. You're agreeing with the proposition in the question, are you?

A. Well, if they--

Q. With the proviso that--

A. If the--

50

Q. --the document is correct in the form we have it; is that correct?

A. --document's correct - that's a correct record of the minutes and, of course, the other thing, of course, the issue is - does Mr Shillington's office and - confirm that what Mr Cavanagh's saying is correct?

5

MELIS

Q. Leave that to one side for the moment. I'm more interested in the fact that you have attended some of these meetings - two meetings, in fact--

10

A. Yes.

Q. --with Mr Shillington and Mr Cavanagh, and you are unable to give us much detail around what was discussed at those meetings--

A. No.

15

Q. --even when I suggested to you that Virkez must've been a subject of conversation. You weren't able to tell us with any confidence. Looking at this document now, taking it on face value, if it's suggesting that Mr Shillington is fully informed on the background and that he knows all about Virkez's YIS links, that information must have come from Mr Cavanagh at one or both of those meetings that you attended with him and Mr Shillington. You'd agree with that proposition?

20

A. Well, I mean, how can I agree to propositions? I mean, it's just unfair for me to be able to--

25

Q. Let me put it another way. Were you ever aware of any conferences between Mr Shillington and Mr Cavanagh on their own?

A. Well, I - unless, of course, I've got record, yeah, I can't comment.

30

Q. Did you understand that Mr Virkez had YIS links? Did you understand that, Mr Milroy, at this point in time? As of--

A. In relation--

Q. --9 April 1980, did you understand--

35

A. That he had contacts with the Embassy, you mean?

Q. That's as far as your knowledge takes you, that he had contact with the Embassy?

A. I think so. That's correct, yeah.

40

Q. Do you maintain that if the topic of Vico Virkez was being discussed between yourself, Detective Sergeant Turner and Assistant Commissioner Farmer and Mr Cavanagh on 9 April 1980, any information about Mr Virkez that was imparted by them to you didn't go any higher than him being an informant to the Consulate? Is that what you're telling us?

45

A. Well, he - I can't - you know, I can't remember what was discussed. I mean, I - it's all about me speculating. It'd be just not appropriate after 45 years. It just - it's very unfair, I think, to have to test your memory like that.

50

Q. Do you accept that a person or an informant, a Crown witness, having links

to the Yugoslav Intelligence Service in this context is not only a relevant matter but an extraordinary matter and something that you would remember, if told?

A. I would've remembered if I could remember what I was told, but I can't.

5 HIS HONOUR

Q. What did you just say? Did you say, "I would've remembered it if I had've been told it"?

10 A. I mean, I was - what I'm trying to say, if I was told something like that and my memory was good, I'd be able to remember it, but I can't, irrespective of what, what the matter might be.

Q. So you're just saying you can't remember whether or not you were told it?

15 A. No, no, I can't. I can't, you know, it's hard to drill back, I've tried to go back 45 years and remember conversations. I can't even remember half the people, it's just impossible, really.

Q. But I think what was involved in the question was this was such a striking thing that surely you would remember it.

20 A. Your Honour, I've gone to meetings when I was working for the National Crime Authority, right up to the highest levels, prime ministers, all that. I don't even remember - I've been to the national security meetings over topics that I can't remember back that far as to what exactly was said, and what wasn't said, so I'm not trying to be difficult, it's just impossible for me to remember
25 these things.

MELIS: I'll move on.

30 Q. I want to take you to an entry in your duty book dated 17 May 1980, its red page 454. Now I know I'm jumping around, Mr Milroy, but to put it into context the trial has begun, it began on 14 April 1980. And you note here "On duty 8am CIB attend records, then with Detective Sergeant Turner to Parramatta Gaol, interview Vico Virkez in the presence of P.O. Weatherspoon and solicitor Steve Stewart, return CIB" you see that?

35 A. Yes, I do.

Q. There is an entry in the gaol log to you and Detective Sergeant Turner attending on this day. Would the witness please be shown Exhibit 12.6, red
40 page 89-A.

EXHIBIT 12.6 SHOWN TO WITNESS

Q. If you look towards the bottom of the page, if we could just magnify that a little bit, we can see yours and Detective Sergeant Turner's names there--

45 A. Yes.

Q. --do you see that?

A. Yes, I do.

50 Q. And you accept that we can see the date 17 May 1980.

A. Yes.

5 Q. That is a day that you attended the Parramatta Gaol, and you've noted it in your duty book, and you say that you're in the presence of P.O. Weatherspoon, what does P.O. stand for?

A. That'd be prison officer.

Q. Prison officer, and solicitor Steve Stewart, what was Mr Stewart's role?

10 A. Not really seeing what the significance of the prison officer, Weatherspoon and the solicitor together, because normally, you know, normally a prison officer's there when you speak to someone, but it's unusual to record their name.

15 HIS HONOUR: Have we been showing this on the live link, this exhibit? I'm not sure that we have.

WOOD: It shouldn't be.

20 MELIS: It's not being live streamed.

WITNESS: I just can't, trying to look at the date 17 May to see what the relevance of that meeting would be.

25 MELIS

Q. Again to put it in context, the trial has started on 14 April. We know the first time Mr Virkez gives his evidence to the trial is on 21 May.

A. 21 May?

30 Q. Correct. So this is a meeting you were having with a Crown witness just days before they're about to give their evidence.

A. Maybe this Mr Stewart might have been his solicitor, was it?

35 Q. Yes, can we assume that's who he was? Steve Stewart, Mr Virkez's solicitor?

A. Well that's my deduction I can get from it. Normally, the only reason a solicitor would be present.

40 Q. So why are you attending the gaol to see Mr Virkez with Detective Sergeant Turner just days out of him giving his evidence to the trial?

45 A. Well as I said previously, whether you go and see them at the gaol to explain to them what the arrangements are for them to come into the, into the Court for the trial, and explain the process, as you do with all witnesses; well you go to court you'll get sworn in, and the, the prosecutor will take you through your evidence, which is normal course of events. But to have a solicitor there I just don't understand in what context that is, so.

Q. Did Mr Virkez have questions for you about his evidence?

50 A. Well, other than I indicated the normal course of events, as you're requested by the Crown. Go and speak to the witness. Make sure that they

understand they're coming into court, where a person is in custody, of course, is a different kettle of fish, and the transport - my memory, he was concerned about, "How am I going to get into court?" The transport arrangements, but that's really all I can think of it, unless you have other information that relates to why this - the solicitor is present. I can't really elaborate any further, really.

Q. Was Mr Virkez ever told, either on this occasion or a prior occasion, specifically around the time when he elected to please guilty, was he ever coached as to the nature of the evidence he should give?

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

Q. Was he ever told not to mention any contact with the Yugoslav Consulate?

A. No. Not as far as I know.

15 Q. Was he ever told to refrain from mentioning any links with the Yugoslav Intelligence Service?

A. Not that I am aware, no.

Q. On 21 June 1980, Mr Virkez is released from custody. If we have a look at your duty book again at red page 467. To put this in context, Mr Virkez is released from custody on 21 June 1980. The trial continues. In this entry on 23 June 1980, you make a note towards the bottom, "5.45pm see Croatian crown witness." Do you see that?

20 A. We're on 466, is it? What date are we--

25 Q. I'm sorry, we might have the wrong page up. It's red page 467. I'm sorry, I think we're behind Tab 11.71(B). You can see towards the bottom, "See Croatian crown witness."

A. Mm-hmm.

30 Q. Who is that a reference to?

A. That would be Virkez.

Q. After he was released from custody, did you become Mr Virkez's handler, if I can use that term?

35 A. I'm not really sure of "handler", but I suppose the contact person.

Q. Contact?

40 A. Yeah, either Sergeant Turner or myself.

Q. Do you recall where he was released to?

A. What date did you say he was released again?

Q. 21 June 1980.

45 A. 21 June, okay.

Q. There's no note in your duty book bearing that date.

A. No. No. Well, I - when you say, "released to", whether he's got friends, or his solicitor.

50

Q. I'm simply asking you--

A. Sorry.

Q. --do you recall--

5 A. No. No. I don't, no.

Q. --where he went?

A. No. No.

10 Q. If we look over to the next page 468, you mention there - this is 24 June 1980, that you're, "Attend to special arrangements re crown witness."

A. Yes.

Q. What were the special arrangements?

15 A. When did he actually leave the country? Can you remember? Can you tell me when he left the country?

Q. Yes. He left the country on 24 December 1980.

20 A. I'm just trying to put this into context. So I'm on the 23rd. This is the day after. That might have been in relation to wherever he's being accommodated.

Q. You think it's got to do with accommodation?

A. Sorry?

25 Q. You think it's got to do with accommodation?

A. It could have something to do with it, on the basis that he might be recalled - going to be recalled, or I can't remember what was put in place by the Crown for that.

30 Q. You go on in that entry to say that you have a meeting with "Federal Police re Croatian matter."

A. Yeah, I don't - I don't know what that's to do with.

Q. You don't know what it's to do with?

35 A. No. No.

Q. We're sort of midway through the trial here. What would you go going to speak to the Federal Police about, or, more specifically, do you remember who you would have spoken to at the Federal Police?

40 A. Well, it could be because the - some of the Federal Police were being called, which I didn't - I couldn't recall that they were but that might've been why. But I don't know. I don't know what that relates to.

45 Q. Continuing on to red page 470. On 26 June 1980, you record going "with Mr Cavanagh of the AFP to the Yugoslav Consulate to see Mr Bozo Cerar re Croatian witness"?

A. That's right. I went with the - another Detective Bennett, that's right.

Q. Sorry?

50 A. I went with Detective Bennett that's referred to there.

Q. No, it says, "On duty 5pm, CIB with Detective Bennett," and then it says, "Then with"--

A. "With Mr Cavanagh," right.

5 Q. --"Mr Cavanagh AFP." Do I read that correctly? Or are you saying that Detective Bennett also came to the Consulate?

A. Well, if we're on at 5pm, that would be probably because at that stage in June, I was probably working - Detective Bennett was probably my partner then when I might've got moved up to being a senior team leader or a
10 pair. And 5 until 2 would indicate that we've worked, so, what they call a late shift. The Breaking Squad put one pair on night shift every week, so they were duties that you also - you were rostered to do, so you worked a night shift, which is what - equivalent 5 until 2am every day. There'd be a pair on to cover any emergency criminal offences have been committed, so he would've been
15 working with me on that shift.

Q. But sorry, my--

A. So I take it that he would've gone with me.

20 Q. You take it he would have come with you and--

A. Yeah, well, we're on duty together--

Q. --Mr Cavanagh--

A. We're on duty together, that's right.
25

Q. --to the Consulate--

A. That's right.

Q. --to see Mr Bozo Cerar?

30 A. Yeah.

Q. You recall that Mr Bozo Cerar worked at the Yugoslav Consulate and he had been previously asked by Mr Jefferies if he would give a statement--

A. That's correct.
35

Q. --to the effect that Mr Misimovic - that is, Mr Virkez - had contacted the Consulate on 8 February 1979, but he refused--

A. That's right.

40 Q. --and gave his reasons for that. Why would you be going to see him again with Mr Cavanagh at this stage in June 1980, midway the trial, after Mr Virkez has given his evidence?

MELIS: For the record, your Honour, the last occasion Mr Virkez gives his
45 evidence to the trial is 4 to 5 June 1980.

Q. What possible inquiries would you need to be making of the Consulate at this stage of proceedings, together with Mr Cavanagh?

A. Well, it could be a clarification of the issues that they were not forthcoming
50 with early in the piece, but - that's one thing, but that's a bit late in the

process. No, I - sorry, I'm just trying to think what it could be about, you know, but - so there's no other documents to that effect, is there, or?

5 Q. I don't have anything else to show you at this stage, Mr Milroy, to assist with that?

A. No. Might've been about the Croatians that were currently before the Court in the trial and - including Mr Virkez. I don't know.

10 Q. You've specifically noted there that it was "re Croatian witness". Do we take that--

A. I see, sorry. Yep.

Q. --to be Virkez or someone else?

15 A. Unless there was a potential other witness that could've been forthcoming from the Yugoslav Consulate, but that's a bit - that's a possibility--

WOODS: Your Honour, in fairness to the witness, it needs to be pointed out that there are still, at that point, a series of people with Yugoslav sounding names who were due to give evidence at the trial. That's apparent from--

20 HIS HONOUR: People who had something to do with the Consulate?

WOODS: On Monday, 1 September - this is 2.1-90 - list a number of witnesses.

25 HIS HONOUR: Yes, but are these people who had something to do with the Consulate?

WOODS: I'm not sure.

30 BASHIR: Your Honour, we're finding it very difficult to hear Mr Milroy.

HIS HONOUR: If you could keep your voice up, please, Mr Milroy.

35 MELIS

Q. I want to make some suggestions to you, Mr Milroy--

A. Okay.

40 Q. --if that might assist, and tell me if it assists you in recollecting this meeting. Did Mr Bozo Cerar get into contact with yourself or Detective Sergeant Turner or anyone else within the New South Wales Police Force saying that he now wanted to give a statement?

45 A. No, I can't recall him, and contacting me, no, and I don't recall that, no.

Q. Did that happen, and that was the reason why you--

A. It's possible.

50 Q. --went along with Mr Cavanagh to this meeting, because you wanted to be careful about the sensitives around Mr Virkez who had just given evidence

before the trial whereby there was no evidence led that he had contacted the Consulate on 8 February 1979, contrary to information Mr Bozo Cerar had, and which had been provided to New South Wales Police?

5 A. Well I did allude to that earlier that there's a possibility that was, that that was about the fact that the Consulate wouldn't give a statement in the first place.

Q. Yes.

10 A. That's possibly what we were trying to obtain--

Q. You think that maybe on this occasion you were still trying to obtain a statement?

15 A. It could have been, I mean that's the only logical reason for going there. But as you say, it does say about "re Croatian witness", or whether we're trying to get a witness out of the Consulate, or it related to Mr Virkez, I don't know.

Q. Another suggestion I want to put to you is that the Crown Prosecutor asked you to see if you could go and get a statement from Mr Cerar.

20 A. Yeah, that's, that's possible. I mean a lot of the inquiries we were making were as a result of the request from the Crown.

25 Q. Can you think of any reason why you would need to go to the Consulate on an inquiry on 26 June 1980 in the company of Mr Cavanagh from the Australian Federal Police?

30 A. Well I suppose because normally dealing with Consulates it's quite a sensitive area, and, and to use federal, commonwealth officer who, who did provide protection to, to the embassies and they would have a far better working relationship, a rapport, they'd say the special branch, for example.

Q. Although it was open to you, was it not, to take somebody from Special Branch?

35 A. If that's what the purpose of that was. But I would think if you're going to deal with the, the consulate that you would really want to engage somebody from a, a federal agency who would have a working relationships with them and - first of all you contact them you, you would probably wouldn't get in the front door.

40 Q. There's actually evidence before the Inquiry that Mr Cerar said specifically to Commonwealth Police that they deal with the New South Wales Special Branch on these sorts of matters, and that would explain how Mr Jefferies came to have the knowledge with respect to the contact by Mr Virkez of the Consulate on 8 February 1979, so it's certainly not unheard of that there was a relationship between the Yugoslav Consulate and members of the Special
45 Branch.

50 A. Of course, that's right. Well the Consulate's in the New South Wales, it's based in New South Wales, so they would have a, a Consulate with the local police, as well as the local police commander who, who, where the Consulate comes under their patrol; they would have a working relationship in case there was an incident.

Q. So you can't help us any further about what this was about; going to the Consulate?

A. No, I'm sorry, no.

5 HIS HONOUR

Q. Mr Milroy, a concept involved in a question asked a short time ago, that you didn't address, was whether at the time of this meeting there was some sensitivity about the topic of Mr Virkez having contacted the Consulate on 10 8 February 1979 because it had not been given in evidence or disclosed in the course of Mr Virkez's evidence. What's your response to that, is that true?

A. I can't really comment one way or the other, your Honour.

MELIS

15

Q. I'm going to go through the next part fairly quickly, but there are a number of entries that follow where you are in contact with Mr Virkez.

A. Yes.

20

Q. And just as an example, over the page at red page 472 on 10 July 1980. Sorry, if we can go one page back, red page 471 on 9 July 1980. This you're "seeing Vico Virkez re Croatian matter" you see that?

A. Yes.

25

Q. And if you go over the page, again on 10 July "contact Vico Virkez, then to Central Court" and then again over the page, 11 July 1980 "telephone inquiries re Virkez", what's going on here, why are you contacting Mr Virkez, and I can take you to more entries, Mr Milroy?

A. Please do, because it might assist me with--

30

Q. Yes, certainly, so if we go to 30 July 1980, red page 475 you've got "interview Vico Virkez".

A. You can see there where I've provided him with his witness expenses that came from the Court--

35

Q. Yes.

A. --the Crown, yeah.

40

Q. But you're interviewing him, does that suggest something more than being handed witness expenses, and certainly we have your records of those witness expenses, Mr Milroy, in the duty book as well.

45

A. Okay. I don't know what the reference to, sorry, "telephone inquiries", "contact Virkez, then to Central Court" well that, I don't think that's got anything to do with him. You know, where I, sorry, on 472 where I say, "contact Vico Virkez, then to Central Court", I don't think that has anything to do with Virkez going to Central Court, this probably would be to do with making arrangements to hand over his witness expenses, and where he was accommodated and things of that nature. As you pointed out, that was myself and Turner were the contact persons in relation to his sustenance and things of that nature.

50

Q. If we go to red page 476, this is an entry on 5 August 1980. You say, "Det Lawson to Sydney District Court re witness expenses for VIRKEZ, then to 14/23 Challis St, Kings Cross re VIRKEZ not seen patrol Kings Cross." Do you see that?

5 A. Yes.

Q. Then further down, at 2.45pm, you, again, go to 14/23 Challis St, Potts Point re VIRKEZ."?

10 A. Yes.

Q. Is that a location that Virkez was staying at, was it?

A. Well, I think there were a few occasions. Initially I think it was at Kurrajong, but - on the previous duty book reference, yes. Somewhere in Potts Point. That's where I--

15 Q. Was he required to report to you, or were you required to check up on him at certain intervals of time? How did it work? Can you just explain?

20 A. I think it was mainly when - from my recollection or from experience, and - I mean, witnesses in previous cases that were Crown witnesses, there'd be a - whether he was given - as you say, you've got the records there in relation to these payments. Whether they were weekly or fortnightly, you'd make contact with him, so as you could hand over his - the funds that were approved. So--

25 Q. I'm done with your duty book. I just want to place on the record that there are several more conferences that you have with Mr Shillington and Mr Viney during the trial period, and for the record they are in your duty on 15 August 1980, red page 478. On 17 September 1980, you contact Mr Shillington again, red page 484. And you have a further conference with Mr Shillington and
30 Mr White on 31 October 1980. That is red page 503. We've already established that Mr Virkez departed Australia on 24 December 1980, and the jury retired on 6 February 1981 and returned on 9 February 1981. There's just a couple of other small matters I wanted to take you to, to see if you could assist. If we can go back to Mr Turner's notebook at 11.74, red page 591,
35 please.

WOODS: Is that the duty book?

40 MELIS: No. This is Detective Sergeant Turner's shorthand notebook.

EXHIBIT 11.74, RED PAGE 591, SHOWN TO WITNESS

Q. You'll see here this page is headed up, "Follow up". It appears to be in Detective Sergeant Turner's handwriting. You agree with that?

45 A. Yes.

Q. At point 4 at the bottom of the page it says, "Cavanagh documents." Again, I can't really orientate you with a date, but what would "Cavanagh documents" being referring to?

50 A. There's no date, but - I know that you said there's no date, but--

Q. Unfortunately I think the shorthand notebook at times is simply that, notes, and they don't always have dates.

A. Right.

5 Q. Although there does appear to be a date at red page 593 of 5 April 1979.

A. Well, unless he's chasing up Cavanagh's documents, or he's - it looks more like a checklist. "Check PASLER", check, "Cavanagh documents", and then he's got, "Arrange commentary with" some other person's name. So it looks to me as though he's written down things that he wants to follow up and chase after, but what documents he's referring to there, I - I can't recall, really.

10

Q. I think I previously mentioned to you there was some evidence at a point in time where Mr Cavanagh was going to give evidence before the trial on background matters.

15 A. Right.

Q. That obviously did not eventuate because he did not give evidence before the trial. Was there a deliberate decision made not to put Mr Cavanagh in the witness box by the Crown Prosecutor?

20 A. No. Not as far as I know, no. Definitely not.

Q. Was there a decision made that you know about not to put him in the witness box so as not to expose him to any questions about what he knew about Virkez's links to the Yugoslav Intelligence Service?

25 A. No. I've got no recollection of that.

Q. Did he ever raise with you his preference not to give evidence?

A. No. I've got no recollection of that.

30 EXHIBIT 11.35, RED PAGE 125, SHOWN TO WITNESS

Q. Mr Milroy, this is an undated document headed "Croatian terrorists arrested on 8 February 1979." We might just slowly scroll through it to see if you recognise it. For the record, it's red page 125. Just let us know when you want us to turn the page?

35

A. Thank you, yeah, next page, thank you. Next page, thank you. Yes.

Q. There's some further pages that outline details about the accused, if we just go over. I think this is still part of the same document?

40 A. Yes. Okay, counsellor.

Q. I don't want to mislead you, Mr Milroy; I actually don't know if all of what you've read is one document. It could very well be two separate documents?

45 A. Right.

Q. Just dealing with the first three pages from red page 125 to 127, is that document familiar to you?

A. No, I don't think - I wouldn't do a document like this with these references down the right-hand side, and I haven't seen that before this.

50

Q. You don't think you saw this document back in 1979 or 1980?

A. No, this - I don't think this is produced - well, this is my view. I don't think this was produced out of the Breaking Squad either by Turner or myself. It's not the way which I'd set it out, and I normally did a lot of the summaries and--

5

Q. It may have originated, for example, from the Special Branch?

A. Yeah, I think so because there's--

10 Q. Does it look to you like a document that might be produced by the Special Branch?

A. Well, there's a reference there later on one of the pages where they make a comment that Bebic only took the explosives once. Well, it was twice, so there's a few inaccuracies in it. And there's a reference there to the magistrate at the end, so it looks to me it's some sort of a summary that's been together following the--

15

Q. Yes, and the summary goes up to the end of the committal proceedings--

A. Committal proceedings, that's right.

20

Q. I wanted to draw your attention in particular to paragraph 3 of red page 125 that details certain matters about Vico Virkez?

A. Yes.

25

Q. It says there that his correct name is Vitomir Misimovic. That was something that you already knew.

A. Mm-hmm.

30

Q. And that he was a Serbian by nationality who migrated to this country on 8 January.

A. Yes.

Q. That was a matter that you knew.

A. That's correct.

35

Q. And you had known these matters when you were preparing your facts, when you came before the Court for Mr Virkez's bail applications--

A. Yeah, I think--

40

Q. --and I can take you to those facts in a moment, but take it from me that is consistent with knowledge that you must have had. It then goes on to say, "for reasons unknown he used the Croatian name of Virkez and maintained that he was a Croatian by birth. He became an associate of the other persons arrested, gained their confidence and became a trusted member of this terrorist group. Whilst police suspect the purpose of Virkez changing his nationality to infiltrate the Croatian terrorist group it is unable to be clarified". Now is that latter part information that you knew?

45

A. Well as I said, I - this wasn't produced by myself, and it definitely didn't come out of--

50

Q. Putting aside production--

A. Yeah.

5 Q. --just the matters that it talks about being an associate of the persons arrested, gaining their confidence, becoming a trusted member of this terrorist group, and a suspicion of him changing his nationality to infiltrate the Croatian terrorist group are they matters that were known to you, or Detective Sergeant Turner about Mr Virkez?

10 A. Well if we had known we would have probably provided that to the prosecutor and the Crown, but as I said, it's a bit hard for me to comment really on that.

HIS HONOUR

15 Q. So does that mean you could have been aware of that, but you just can't recall?

A. I can't, that's right, that's right, your Honour.

MELIS: Sorry, Mr Milroy, I'm just being asked that you keep your voice up.

20 WITNESS: Right.

MELIS

25 Q. Is it your evidence that had you known this level of detail about Mr Virkez, that's in this paragraph 3, at the time that you were preparing the facts that you prepared on the bail applications in January 1980 you would have included that level of detail in those facts.

A. Yes.

30 Q. You would have?

A. Yes, we would have provided the, the facts as we knew it at the time, that's correct.

35 Q. Is it a possibility that those matters were known to you and Detective Sergeant Turner, but were not put in any facts or were not disclosed in any other way because it did not suit the narrative of the prosecution to expose that Mr Virkez was in fact infiltrating this group, pretending to be someone that he was not, and indeed, doing so to gain their confidence and trust, together with the knowledge that you knew that he was informing on members of the
40 Croatian community to the Consulate?

A. No, I, as I indicated previously we provided the information that we had before us that we knew about went in; we never withheld any information, I can assure you of that.

45 HIS HONOUR

Q. So were you denying the proposition that was just put to you, or what?

A. Sorry, your Honour.

50 Q. Were you denying the proposition that was put to you in that last question,

or not?

A. Well I can only indicate that I'm not denying that my indicating that we provided the facts in the antecedence as we knew it at the time, and I'm not, not indicating one way that I denied anything, any information at that time.

5

BASHIR: Your Honour, I just couldn't hear that answer.

HIS HONOUR: He said something to the effect that he's not denying anything.

10

WOODS: Your Honour, the first part of the answer he gave originally was the word "no".

HIS HONOUR: "No, I'm not denying anything". It'll come out in the transcript, Dr Woods.

15

BASHIR: Yes, I think the first answer was "No, we provided the information we knew about when we had the info, I can assure you of that", but then I didn't get the answer--

20

HIS HONOUR: Yes, that was the non-responsive part, I think, answer--

BASHIR: --when your Honour asked him.

25

HIS HONOUR: And when I asked him something he said something to the effect of "No, I'm not denying anything".

BASHIR: Thank your Honour.

30

HIS HONOUR: But hopefully the transcription people will be able to pick it up and accurately record what he said.

MELIS: If we need to re-address that matter I will do so in the morning.

HIS HONOUR: Yes.

35

MELIS: Your Honour, I note the time. I am nearly finished with this witness, but he will need to come back.

HIS HONOUR: Yes, we'll continue your evidence tomorrow, Mr Milroy.

40

WITNESS: Sir.

<THE WITNESS WITHDREW

45

HIS HONOUR: I'll adjourn.

ADJOURNED PART HEARD TO THURSDAY 8 AUGUST 2024