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SPECIAL INQUIRY

THE HONOURABLE ACTING JUSTICE ROBERT ALLAN HULME

5 TWENTY-FIFTH DAY: THURSDAY 8 AUGUST 2024

INQUIRY INTO THE CONVICTIONS OF THE CROATIAN SIX

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HIS HONOUR: Yes, Mr Milroy, take a seat.

<ALASTAIR MCDONALD MILROY, ON FORMER OATH(10.01AM)

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MELICAN: Your Honour, I might just announce my appearance for the Commonwealth, being instructed by ASIO. My name is Melican, M-E-L-I-C-A-N.

HIS HONOUR: Welcome, Mr Melican.

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MELIS: Your Honour, before we continue with Mr Milroy. If I might hand up a document - your Honour with this bundle of documents I wish to uplift Exhibit 11.257 and replace it with the documents before you, and within them, your Honour, the red pages 1675-1 to 1675-2 have been added. And they are, your Honour, a bundle of documents which form part of Exhibit 11.257.

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HIS HONOUR: That can be done, thank you.

<EXAMINATION BY MS MELIS

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EXHIBIT 11.257 SHOWN TO WITNESS

Q. Mr Milroy, you'll recall that yesterday I was showing you some rough notes in your handwriting that related to the conversation you had with Mr Bebic at the Lithgow Police Station before his record of interview, do you recall that?

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A. Yes.

Q. And then I showed you that the contents of those same notes, it would appear, had been transferred by yourself to Detective Sergeant Turner's notebook.

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A. Yes.

Q. And I was asking you questions about on which notebook did you write those first jotted notes, and you seemed to suggest that it was still in Detective Sergeant Turner's notebook but you couldn't really be sure, do you remember that?

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A. Yes.

Q. Overnight we've been provided with some photographs of the actual original notebook upon which those initial jotted notes were on, and you can

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see a photo of that on this first page, do you see that?

A. Just see a photograph, which is--

5 Q. Yes, if we could just expand it a little bit. Would you agree with me that that appears to be an A4 foolscap notebook; it's not a spiral notebook, is it?

A. No, I mean it's - the image that I've got here on the screen is pretty hard to see because it's just a snapshot of the corner, but a statement with the

10 Q. But would you agree with me that that is not Detective Sergeant Turner's shorthand spiral notebook, is it?

A. No.

15 Q. If you go over the page you'll see that there's a further clarifying description there that's titled "Rough Notes - Conversation with Bebic 8.35pm to 9pm on 8 February 1975 prior to R.O.I.", you see that?

A. Yes.

20 Q. Then it would appear, if you go over the page again, this is the beginning of those rough notes that I took you to yesterday.

A. That's - yes.

25 Q. So just to be clear, these are rough notes you took on a notebook that was not Detective Sergeant Turner's notebook, but these notes were later transferred by yourself into Detective Sergeant Turner's shorthand notebook.

A. That's correct.

30 Q. Yesterday, I also took you to an entry in your duty book that was dated 26 June 1980, and this was in respect of a visit you had to the Yugoslav Consulate; where you met up with Bozo Cerar, you recall that?

A. Yes, do you have the actual--

Q. Yes, I'll show it to you again.

35 EXHIBIT 11.71(B), RED PAGE 470, SHOWN TO WITNESS

Q. Red page 470.

A. Yes.

40 Q. And you weren't able to recall with any confidence what this meeting was about, is that still the case?

A. Yes.

EXHIBIT 18.4 SHOWN TO WITNESS

45 MELIS: In fact, could the witness please be also given a hard copy of this document because it might be easier for him to peruse, and it's red page 7. And could we also expand it a little bit on the screen.

50 Q. Mr Milroy, what I'm showing you here is a letter from Mr Virkez to a Mr Macphee who was the Minister for Immigration and Ethnic Affairs. The

letter is dated 9 September 1980, and it is three pages long. I'm going to take you to aspects of it, but please take a moment to have a read through.

A. Yes.

5 Q. You've read that. I want to pick up the letter from on the first page, page 7, where Mr Virkez writes "I wrote to the Prime Minister on 24 November in Yugoslav and his Secretary acknowledged on 15 January", that's on the first page of the letter, towards the bottom. And he says, "As a result of this letter, two Australian Federal Police visited me at Parramatta Gaol, they were
10 Detective Sergeant Jim Blades and a more senior officer whose surname is Cavanagh. At the first of", and over the page, "the two interviews I had in gaol with these gentlemen I told my story. The AFP officers returned after a few weeks and told me that they had investigated what I had told them and confirmed my story. They said they would arrange for me to go to a country of
15 refuge of my choice and promise to supply a ticket, a passport, and other identity documents to get me out. All this so long as I would give evidence in court". Just stopping there for a moment. Mr Milroy, did you or Detective Sergeant Turner ask Mr Cavanagh to do the bidding of the New South Wales Police to have Mr Cavanagh represent to Mr Virkez that arrangements would
20 be made to get him to a country of refuge with the promise of a ticket, a passport and identity documents so long as he gave evidence in court?

A. Well, I understand we have never seen this document before, and I've - I can't recall just how Mr Virkez came to plead guilty as to what took place in relation to - whether he had legal representative, who he met with, and how he
25 changed his - changed his plea I have no recollection of that. And in relation to arrangements, a choice, or tickets and all that sort of stuff I've got no recollection of that, and also the comment here about being in protection for - with police officers.

30 Q. I will go to that in a moment--

A. I've - I've got no recollection of that occurring.

Q. I will go to that in a moment - just sticking with this, do you have any knowledge at all of any officer within the New South Wales Police Force
35 directing Mr Cavanagh to make this offer to Mr Virkez?

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

Q. Did you or Detective Sergeant Turner ask that representations be made by Mr Cavanagh to Mr Virkez that, if he pleaded guilty to the charge of conspiracy
40 to explode bombs, the charge of conspiracy to murder would be dropped?

A. No, as I said earlier I - I can't recall what - what discussions took place in that period that led from the bail applications through to when he pleaded guilty, I don't have any recollection at all what took place.

45 Q. But that is in fact what did happen, isn't it Mr Milroy, that Mr Virkez was indicted on 25 March 1980 on a charge of conspiracy to make dangerous things with intent to commit malicious injury to property and cause damage to buildings, to which he pleaded guilty on the one charge?

A. Yes, he pleaded guilty on that date, that's correct.

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Q. At that time in 1979/1980, whose decision was it to do a plea deal with the Crown? To clarify, to drop a charge for a plea of guilty. Who--

A. I don't--

5 Q. --had that decision?

A. I don't know what - your Honour, what government department or within the Justice department that would be and the public prosecutions - I'm not sure whether it's some law division or it was an offshoot of the public prosecutions section, Mr Shillington and those sort of people, because they were involved in this, as you know from diaries, well into - well before the trial. So I don't - I've got no idea who that could be.

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HIS HONOUR

15 Q. Given there was no Director of Public Prosecutions at that time, do you have any recollection of decisions like that being a matter for the Attorney-General?

A. Yeah, I'm sorry, your Honour, it's possible. Attorney-General's Department or Crown Law, I don't - I don't know what departments existed in those days to deal with it. As I said before, I didn't even know about the - what the solicitor was doing at - with Virkez when I went to Parramatta Gaol. I've got no idea who he was represented with.

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MELIS

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Q. On that same page, Mr Virkez goes on to say halfway down the page that he was sentenced to two years and four months gaol, and he was released on a special licence 16 months after his initial arrest. He then says, "I am not on parole. The New South Wales CIB pays me an informant's wage." Was that correct?

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A. Well, that might be his terminology. We didn't have - my understanding in those days, because he was a witness still subject to recall, that would've been done through the Court process so I'm not sure what department. I think you indicated you've got records to show what payments were made. That would indicate which department, and then I was authorised to deliver the payments to him on the specified dates when the payments became available, but that was basically what my role was so I can't--

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Q. Yes, that might be his way of talking about--

40 A. That's his--

Q. --expenses?

A. That's right, yeah.

45 Q. He then goes on: "I had police protection for a time. Six officers in shifts of two." Is that correct?

A. I'm not saying it couldn't be possible because, as you recall mentioned in the earlier document, when he got released I think he mentioned something about - is it Kurrajong or an address up there? On my diary entry, one of the diary entries--

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Q. An address in Kings Cross?

5 A. No, prior to that, there was at - a diary entry where I - you've got me - where it records me going to - is it Kurrajong or somewhere like that? Shortly after his release. So shortly after his release, he's gone to an address. Now, whether he - whether the department had made arrangements or arrangements were made through consultation with the Crown that he go into some sort of initial protection, that's not unusual, but I recall he was living in Kings Cross on his own for quite a while.

10 Q. There was at least one entry where you've noted going to try and find him in Kings Cross--

A. That's right.

Q. -and you've patrolled Kings Cross?

15 A. That's right, yeah.

Q. But you don't have a recollection of this more--

A. No.

20 Q. --formal arrangement of having six officers in shifts of two?

A. Yeah. No, I'm not saying - it's possible and it's probably part - something that would normally occur in certain circumstances.

25 Q. He says he got sick of their close scrutiny and that he now protects himself by changing address from week to week "as I am in fear of my life." Do you remember Mr Virkez changing addresses week to week because of the fear, for his protection?

30 A. I know he was - I recall - you know, I don't recall the actual addresses where he was or - but I'd make contact with him to - once I had a phone call to ring him because - or who I had to contact to make arrangements to see him. Whether it was fortnightly or monthly, I can't remember. But I do remember the - going to find him in Kings Cross, but it would've been around that area because I was at the CIB there. I don't recall ever driving anywhere to see him. I just handed over - I think I used to get a receipt because you had to account for these sort of payments back to the issuing body.

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Q. He goes on to say, "Two months ago, in the company of two CIB detectives and Mr Cavanagh of AFP, I visited the Yugoslav Consulate after hours to arrange for a Yugoslav passport to be issued. The police said they would be arranging a country for me to travel to," and then he says, "Now the Consulate informs me that they have issued police with an identity document which will facilitate my travel only to Yugoslavia." Mr Virkez is talking there of "two months ago". If we take his word, and the letter is dated 9 September, two months ago would be July. Putting that aside for a moment, is it possible that the visit to the Consulate that you had on 26 June 1980 in the company of Mr Cavanagh and Detective Bennett was in relation to arranging a passport to be issued to Mr Virkez?

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A. So you're saying that the visit by the two CIB detectives and Cavanagh and Blades would be in July?

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Q. According to this letter--

A. Yeah.

5 Q. --this visit that Mr Virkez had to the Consulate in the company of two CIB officers and Mr Cavanagh happened two months ago, so that would, on his word, make it July. I'm making a suggestion, which you may agree or disagree to, Mr Milroy, that he's actually referring to a visit to the Consulate on 26 June 1980 that you have recorded in your duty book. Would you like me to take you back to your duty book?

10 A. No, the - so the visit by these officers was to Parramatta Gaol, was it?

Q. No, this is to the Consulate?

A. No, where did they - where did they go to see him? They must have picked him up. Is that--

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WOODS: Your Honour, may I suggest that my learned friend's suggestion of showing the entry might be easier for the witness.

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MELIS: I can certainly do that, Mr Milroy. I don't want there to be any confusion.

Q. This letter is dated September 1980. Mr Virkez is not in custody?

A. Right, okay.

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Q. He's writing a letter to the Minister of Immigration and Ethnic Affairs, and he's explaining certain things that have occurred between himself and Mr Cavanagh and Mr Blades and then this particular visit to the Consulate to arrange for his passport. He's saying that there were two CIB detectives with him and Mr Cavanagh at the Consulate. I'm merely seeking to try and clarify whether or not what he's referring to here is in fact what you have noted in your duty book on 26 June 1980--

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A. Right.

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Q. -because, in parts, it does marry up. Two CIB detectives, being yourself and Detective Bennett, and Mr Cavanagh is there also. The one thing that your note does not clearly stipulate is that Mr Virkez is also present with you?

A. I haven't got the entry.

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MELIS: We'd better put it back up. It's red p 470.

EXHIBIT 11.71(B), RED PAGE 470, SHOWN TO WITNESS

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WITNESS: And he also - doesn't he also mention that there were two - there was Blades and Cavanagh?

MELIS

Q. He only mentions Mr Cavanagh?

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A. Right. Yeah, well, I mean, if I - if Mr Virkez was with us, I would record it. It'd be fairly sensitive, of course, taking him to the Yugoslav Consulate,

but - he's not mentioned so I - there's no other reason for me not to mention it.

Q. Your practice would've been to mention the presence of Mr Virkez--

A. That's right.

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Q. --if he was with you at that--

A. That's right.

Q. --meeting?

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A. Have you actually checked my duty books for the period in July where you believe that's a possibility or?

Q. There is no other reference to you attending the Yugoslav Consulate--

A. No, okay, no.

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Q. --in July, Mr Milroy. You are attending to Mr Virkez's expenses throughout July and August. I want to show you one further document that might assist you further.

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EXHIBIT 11.232 SHOWN TO WITNESS

Q. What is shown here, Mr Milroy, is a two-page document and it is an application for issue or replacement of a travel document for Mr Virkez. It appears that the handwritten notes on the right-hand side are a translation of the document on the left-hand side. If you turn over the page, there is a date of 25 June 1980. Do you see that?

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A. Yes, I see that, yes.

Q. First of all, do you recall ever seeing this document?

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A. No, I don't recall the handwriting either, no.

Q. That's not your handwriting?

A. No.

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Q. It could be Mr Virkez or it could be someone else completing this form on his behalf, but it appears to have been completed on 25 June 1980, and we have you noting that you're going to the Consulate on 26 June 1980?

A. The 20?

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Q. 26th?

A. The 26th? The day after?

Q. Yes, the day after. I wanted to show you this document, together with what Mr Virkez has said, together with your duty book entry, to see if that at all assists in explaining your visit to the Consulate on 26 June 1980?

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A. No, I mean, that - as I said yesterday, I thought it had something to do with, you know, the sensitivities around the Yugoslav Consulate and Cavanagh going along because he came from a Commonwealth environment, it may have been for us to try to obtain some more information from the Consulate about the - Virkez contacting them. But it's possible it's to do with Virkez's

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process. That's really all I can say, really.

Q. One thing that you are clear about is that if Mr Virkez was present, you would have mentioned that in your entry in your duty book?

5 A. Yes, I would have mentioned the entry with - Detective Bennett and Cavanagh, Blades and Virkez, definitely.

Q. Mr Blades was not there.

A. No.

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EXHIBIT 12.6 SHOWN TO WITNESS

Q. Red page 85, this is the gaol log. There is a non-publication order over this document. Mr Milroy, I want to draw your attention to the attendance of Mr Wilson, Radalj, Cavanagh and Blades about three-quarters down on the page, if you could just expand that a little bit.

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A. Yes.

Q. On the last occasion you were before the Inquiry you were asked this, and that is at transcript page 344. You were asked by Mr Buchanan "It'd be reasonable to assume, wouldn't it, that Wilson and Radalj were in the same room as Cavanagh and Blades, with Virkez on 7 March", and your answer was "That's right" and for the record the date of this visit is 7 March 1980; we can see that on the top of the page. My question is, do you know whether Mr Wilson was involved in aspects of the investigation of the Croatian Six matter as late as March 1980?

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A. Well as you know the - there was one third of the Breaking Squad staff of about 28 were tied up in the Croatian matter, that is - and Sergeant Wilson was in charge of one of the arrest teams. And through Mr McDonald Ted Turner had the inquiries that he wanted to carry out, so these officers were made available and would be tasked to assist not only in getting their statements but also in relation to doing other aspects similar to this, including Radalj who was not involved in the operation but was brought in to assist with some translations et cetera, so.

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Q. So it is possible that he may have been tasked--

A. Yes.

Q. --on a job in relation to the Croatian Six matter as late as March 1980--

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A. Yeah, that's my understanding.

Q. --that's conceivable. And would Wilson and Radalj have had to get permission from Detective Sergeant Turner, or someone else to visit Mr Virkez?

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A. They were - they would have been advised by Sergeant Turner to go with Cavanagh and Blades, but that would have been arranged, and they would be the two officers allocated to go with them.

<EXAMINATION BY MR BUCHANAN

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Q. Mr Milroy, can I ask you some questions, please, arising out of the questions that you were asked yesterday and today by Counsel Assisting.

EXHIBIT 11.74 SHOWN TO WITNESS

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Q. Red page 552. You were asked about a number of sets of notes purporting to record events that occurred with Mr Bebic on 8 February 1979 - this is one of those sets of notes - you remember being taken to these yesterday?

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A. Yes.

EXHIBIT 11.257 SHOWN TO WITNESS

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Q. And you've been asked yesterday and today about this set of notes - if we could go to red page 1676, please. This is a page from another set of notes that purported to set out a conversation with Mr Bebic that you've been taken to by Counsel Assisting yesterday and today.

A. Yes.

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Q. Would it be right to say that these notes, to the best of your knowledge, were created as part of a process of creating a verbal of Mr Bebic both at Macaulay Street, and at Lithgow Police Station?

A. No.

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Q. I'm asking you a different question, but still about notes. Do you know whether, in respect of what happened at Lithgow on 8 February 1979, police created a set of notes, compiled a set of notes of events on that day, or possibly on that day and also 9 February 1979 for the purpose of police witnesses drawing upon such a compilation of notes of events to assist them in drafting their witness statements.

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A. No, that didn't happen.

Q. Would it have been the wrong thing to do if it had happened?

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A. Well I think we - as far as Lithgow's concerned Sergeant Turner and I put down our sort of timeline, what happened. Others would have done the same in relation to each of their teams; everybody has a different way of recording what happened, the timeline, the events, and for the purposes, diary entries for the purpose of making their statements. But there was no master set of notes for the whole six - six teams - six teams operations, no. And of our occurrence about entries put in, as you know, by Sergeant Turner to his superiors so as that information was passed up the line, but they were in broad terms as to the events as you report up to the superiors, and all the way up the line to the Commissioner's office, so as they're aware of a summary of what took place. But that's the only sort of - and some of those notes have been shown to me in this Inquiry.

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Q. Would it have been wrong though for police to have created such a compilation of notes to be drawn upon by police witnesses for the purposes of compiling their statements, so far as concerned the events involving Mr Bebic at Lithgow?

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5 A. Well the supposition that I can only comment on, in my experience, you prepare a timeline or a chronology of events and you use that or your diary and do interviews to prepare your statements, but a master document being circulated to ensure that everybody toes the line, I don't - I've never encountered that, and it would be wrong.

Q. You've never encountered that in your experience as a detective?

A. No - no - no.

10 Q. Did you think that it would be an improper practice because of the risk of the recollection of witnesses being contaminated by reading what someone else had said had occurred?

A. It would be wrong, that's right.

15 Q. Yesterday you were asked questions - I'm looking at page 1794 of the uncorrected transcript - and it's about line 6 you were asked:

"Q. Do you know, well for what reason Detective Sergeant Turner was noting Jefferies and McNamara here on 10 February?

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

Q. Or, could it be--

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

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

30 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.

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

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

And the remaining questions move to another part of the notes. Do you have a recollection of Detective Jefferies telling you anything he had learned from Mr Virkez as a result of meeting with Mr Virkez on 10 February?

40 A. If you've got my diary entry for 10 February 79?

Q. Well does that mean you don't have a recollection--

45 A. I don't have a--

Q. --I'm very happy for you to be shown it--

A. I don't have a recollection.

Q. You don't?

50 A. No. And also I think Mr Jefferies - correct me if I'm wrong - was in - spoke

to Virkez in the afternoon, I believe, was it, of 10 February?

Q. 11.71(A), page 311. That's the entry in your duty book for Saturday, 10 February 1979; you see that?

5 A. That doesn't - I did indicate that I wasn't quite sure whether I actually saw him in person, so that shows that if he attended while I was there - not saying he didn't speak to Sergeant Turner, it's quite possible - I would've recorded, you know, meeting. It's unusual to meet with other officers from another unit
10 you've not dealt with, so it would've been recorded, so I have no recollection. He could've spoken to Sergeant Turner in the morning before he went to see Virkez, it's possible.

Q. Do you have a recollection of ever learning, as you understood it originally from Detective Senior Constable Jefferies, that Virkez had given him some
15 very unusual information, that he had gathered things from and about Virkez as a result of seeing him on 10 February and learning unusual things?

A. I think I did say previously in one of the hearings some weeks ago that my understanding from what Virkez - sorry, what Jefferies said to Turner and
20 Turner passed it on to me or I was present at some later stage was that they didn't speak to Virkez about the actual bombing but they spent two hours with him discussing all other issues surrounding the - himself and the Yugoslav community. So that could be classified, as you pointed out, as strange things. I don't know specifically what that is.

Q. Virkez was meant to be, as you understood it in this period of time, on the weekend commencing 10 February 1979, an informant to New South Wales
25 Police; is that correct?

A. In relation to being an informant, as I think I might've mentioned, your Honour, someone can just ring up on the telephone and pass on information
30 and they're classified as an informant in a matter or, as he did, walked into the police station. He'd be classified as an informant. Other informants are somebody who, as you know from your experience, Mr Buchanan - is a long-term adviser to a police officer of information surrounding criminal activity, so there are various stages, so I classify him as an informant in the sense that
35 he reported the incident to the police department at - on 8 February, we're talking about, yeah.

Q. But on that weekend commencing 10 February 1979, did you understand Virkez to have been of Croatian nationality or something else?

40 A. I think you asked me that before and I - without any disrespect to people who come from the former Yugoslavia, we just thought he was from Yugoslavia. As you know, it's made up of a number of ethnic groups. And then later on at some stage, I thought some - between that period through October and preparing the antecedents, we became aware that he was
45 Serbian. But I mean, when we actually knew he was Serbian, I - I've got no actual recollection of the - of when - whether it was in February or March or whenever--

Q. Or from whom you learnt it?

50 A. Well, that's correct, yeah. From whom, that's right.

Q. Wasn't it your understanding as at, say, 10 February 1979, that this bomb plot was directed against the Yugoslav government?

5 A. Yes, I mean, I think his Honour and Counsel Assisting Melis raised that issue about the political sensitivities and - around that time, and it was directed at the Yugoslav government and it was a fairly tense period in Australia with the immigrants from that area who were complaining about the Yugoslav government, so it was a very sensitive area.

10 Q. Did you ever learn, as you understood it originally from Jefferies but it might've come via Turner, that Mr Jefferies' appreciation of Mr Virkez as a result of talking to him on 10 February was that Mr Virkez was an ardent Yugoslav?

15 A. I can't have any recollection of that. I mean, at that stage, you know, like - yesterday was the first time, your Honour, that I saw my diaries to show the early involvement with the prosecutor, with public prosecutions, with Mr White's office, which I had indicated early in my evidence that I thought that was the case. And then, of course, the involvement of the Commonwealth Police early and the Special Branch, so there would've been a lot of information becoming available spread over that period, but I can't pinpoint
20 who said what or what specific information - what you're asking me now.

Q. If, hypothetically, Mr Virkez, in participating in this bomb plot had in fact been an ardent Yugoslav, that would necessarily have meant that he had been masquerading as anti-Yugoslav government? I emphasise the word
25 "masquerading", passing himself off?

A. Yeah, I mean, I can't - I'd imagine there was a - you have a multitude of possibilities, but I mean, I can't comment on that. I mean, I - as I mentioned before in evidence that people shift their allegiances from one country to another and they get involved, they become indoctrinated and not necessarily
30 as driven by where they're born. So it's extremely difficult for me to comment one way or the other.

Q. I apologise if I asked you this last time I asked you questions, but as a detective, isn't it important to understand the motivation of a person who is an informant?
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A. Of course. Sometimes, of course, informants are - they do it for money, they do it for - because they dislike somebody. They turn on their own people. They do it for a multitude of reasons.

40 Q. Was anything done, as far as you understand, either by yourself or Mr Turner or any other police officer, to ascertain Mr Virkez's motivation in being an informant in this case?

45 A. Well, as you know, in the first - up until he pleaded guilty, he was charged and was going to be prosecuted, so yes, there would've been - we would've been looking at all the information that came from the Special Branch, from the federal authorities if it was available through Mr Cavanagh, through the whole - you might call the Yugoslav community environment, the political sensitivities at the time. Yes, you'd look at what was behind this, what was behind this plot. In particular, I mean, there would've been very great concerns
50 when something like this happens, there's why did this happen and why did the

intelligence authorities at the federal and state level not know about this plot and what's really behind this, what's behind the overall plot and the individuals, what's motivating them. So all of that would've been looked at but I can't be specific any more than what I've just said.

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Q. What was your understanding at the time Mr Virkez pleaded guilty as to what his motivation was to have been involved in this plot?

A. That's when he pleaded in March? I took, sort of - the fact that he wanted to change his plea, whether it was because of--

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Q. No, I'm not asking you about that. I apologise if I've misled you. I'm just fixing a particular point of time and asking you to think back. At that time when Mr Virkez pleaded guilty, what did you think was Mr Virkez's motivation to be involved in this plot?

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A. Well, I can't think back that far, to be quite frank, but - so I'm sorry, I can't comment one way or the other, really.

Q. Isn't it the case that you had an appreciation that Mr Virkez had indeed masqueraded as a Croatian?

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A. Well, we found out later that he was Serbian, and as I said to you, I don't think I've - I can't recall ever thinking - masquerading or - as a Croatian. That may have been a possibility but I can't form a view, sitting here today.

Q. But if you knew that he had been masquerading as a Croatian, which I suggest you did, then doesn't that mean that you should've been focusing on whether Mr Virkez was telling the truth in what he told police?

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A. I can't think back that far, Mr Buchanan, about the - what we were looking at. I'm sorry.

Q. One possibility that must've occurred to police, I want to suggest to you and invite you to consider it, is that Mr Virkez was possibly or probably working for the Yugoslav Intelligence Service and inserting himself in the Croatian émigré community, passing himself off as Croatian and trying to find out whether there were Croatian terrorists plotting to commit crimes in Australia. That's one possibility that surely must've occurred to police, if not in fact appealed to police, in 1979/1980?

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A. Well, if it was considered by police, I mean, I personally haven't got any recollection but I don't discount what you're saying. It could've been - it's possible that's - it could've been considered. I don't dispute that but I don't personally have any recollection as of myself.

40

Q. Just as possible, wasn't it, was that whilst he was masquerading as a Croatian, he was trying to set up people in the Croatian émigré community in Australia? That was just as much a possibility, wasn't it?

45

A. Well, that's raised now that that's a possibility. It's been raised in documents in this Inquiry that that is probably a possibility, but I can't comment on all of these issues of way back in those days. There's multiple possibilities, as you would appreciate, once you delve into cases like this.

50

Q. It's difficult to believe that you're telling us the truth when you say you can't

remember that, Mr Milroy?

5 A. Mr Buchanan, you know 45 years, you know - I mean, I'm nearly 80 years
of age and I have difficulty even remember when some of my family members
passed away or the dates, and to actually go to a particular event 45 years
ago - some people here were born after this time, but to go to 45 years, and it
could be some significant event, and try to remember all the specifics - I mean,
overnight I've thought about the fact that, now I've been shown my diaries, it
just highlighted a lot of the areas that I wasn't even aware of. I know that your
10 Honour raises issues about the political sensitivities and that. I thought
overnight, "Well, that's quite right," because we had a Liberal government then
we had a state government, we've had immigrants from various communities,
there were a lot of volatility in the community, unrest because of the atrocities
committed by their governments overseas, sensitivities around the Consulate
and when we arrested these people and foiled this plot to blow up and kill a lot
15 of people and destroy buildings the community unrest was quite sensitive.

Highlighted with police departments, would have been a lot of pressure on
them for their ministers going "what's going on here, how come you didn't
know about this". Same with the Federal Police, it highlighted this issue to do
20 with very poor information sharing, which was quite common in those days
between federal and state agencies, and between agencies, so there would
have been a lot of pressure to bare for - through ministers and Police
Commissioners as to what's this all about, why wasn't this plot foiled prior to
this event. So there was a lot of things going on, and one had to be conscious
25 of, but at the same time you had your job to do as to put the brief before the
Court, gather the statements, and - and try and understand what had
happened, which I already refer to - we would have consulted with other
agencies and gathered information to get better knowledge. I mean that's the
best I can recall really.

30 Q. But this case was unique, wasn't it?

A. Well, you know, the preceding year we had the, as you know, the Hilton
Bombing, which was very political - quite a huge issue in Australia. Raised
the--

35 Q. Is your answer "no, it wasn't unique"?

A. Well it was - yes, well it was unique, in terms of the - the volumes of
explosives and the actual plots and what was planned, yes, there's no doubt
about that. Even today, if it happened today we'd have every agency in
40 Australia jumping up and down to respond to it because of the magnitude of
the explosives that were seized, and - and the plot that was planned.

Q. And so given the background and the atmosphere, and the pressure that
you've referred to, police couldn't be seen to be failing to bring the people
45 informed upon by Virkez to justice, could they?

A. Well in my - in my level, at the bottom of the food chain, sort of thing, and
the - you had your job to do, you had the brief, you had a timetable set by the
Court to get the statements, and you tried - you did your job as best you could,
as professionally as you could. Yes, there might have been meetings at a
50 higher level, Assistant Commissioners and Commissioners, and Inspectors,

and things of that nature wanting information, mainly about wanting information that, you know, when's the Court case going, what's the current status, and you can see yourself from the prosecutors appoint a senior prosecutor, they - a public prosecutions get involved early in the process because, yes, it was a significant case.

Q. You're not giving an honest answer, are you, Mr Milroy, because you keep on saying you're a lowly detective senior constable, but obviously from the documents that you were taken through yesterday by Counsel Assisting you took part at a very high level in what would appear to have been decision making moments across jurisdictions in relation to this case, didn't you?

A. Yes, I accompanied Sergeant Turner and because that's - that's the pairing that was put together by Mr McDonald to put, gather the statements and put the brief together, and yes, if Sergeant Turner was going to a meeting I would have driven him, I would have driven him over, driven him there and be given tasks to go and do things, yes, I would have.

EXHIBIT 11.71(A) SHOWN TO WITNESS

Q. Red page 316. A change in the topic now, Mr Milroy. I'm taking you to another entry in your duty book, and this is the entry where on the second line the words "collect quantity of gelignite" appear in the context of going to the Moorebank Army Camp, you see that?

A. Yes.

Q. Is it possible that gelignite produced to the Dangerous Goods Branch as having been found by police in this case came from the quantity of gelignite which you collected on 15 February 1979?

A. No.

Q. And how do you know that?

A. Because I didn't pick up gelignite from the Army and take it to the - the other cases that you're referring to.

Q. Did you give it to any detective at CIB, or give any part of the gelignite you collected to a detective at CIB?

A. No, I didn't. But unless there's any other references in my diary - first of all I'm officially recording that I - I've gone to an Army camp. I point out, your Honour, that Victoria Barracks wouldn't, from my recollection, receive explosives for storage in an ongoing police matter for security reasons; pending going to the Dangerous Goods Branch. Moorebank Army Barracks would - camp wouldn't because they had an extensive base. Unless the Army records for Lieutenant Elphick, which is clearly identified in my diary, that they - there would be some record there to say that they've signed out these gelignite to me and then I've returned to the office. Yeah, I note it's on 15 February, and I can't recall whether any of the explosives seized by the other raids in Sydney were taken to Moorebank Army Camp for security storage and then I was asked to go and pick them up, but I've got no other record. I've even looked online overnight to see whether there'd been any gelignite found in Liverpool or Moorebank that might have related to another

Breaking Squad matter, and I've been asked to go and pick that up and bring it back for it to be booked in at the Ballistics, or taken to the Dangerous Goods Branch, but I'm sorry there was nothing on Google that I could see that was relevant, so - but I've got no explanation what that's for, but it's officially
5 recorded, and hopefully the Army might be able to verify it through their records. Or there's another diary entry that would indicate what I did with the gelignite when I got back to the CIB.

Q. I'm going to change the subject now, if I may, Mr Milroy, and ask you a couple of questions arising from examination of you by Counsel Assisting yesterday - pages 1825 to 1826 of the transcript. And at page 1825 Counsel Assisting quoted to you some evidence before the Inquiry, "Federal Police involvement only stems from a request for a specialist assistance by the New South Wales Police Force", and that's a quote from Exhibit 9.1-38. You were
10 asked whether that was an accurate statement, and you answered "Well, it could work in reverse", and you explained how it could work in reverse. You know that Mr Cavanagh went and saw Vico Virkez at Parramatta Gaol on two occasions, in February and in March--
15 A. Yes.

Q. --of 1980. Did, as you understand it, New South Wales Police ask Cavanagh to see Virkez, to see whether he could assist in getting Virkez to plead guilty, and to give evidence against his at that stage co-defendants?
20 A. I've got no recollection of whether that happened.

Q. Did Roger Cavanagh volunteer, or suggest to New South Wales Police that he could see Virkez and solve this problem of whether he would plead guilty and give evidence for the Crown?
25

A. Again, I can't comment. I think I did make the comment that the Commonwealth Police to be brought in either they initiated it to say, "Well we're here to help", or they've contacted the Special Branch. But to get to that level, your Honour, with an inspector from another agency in charge of an intelligence - here just to suddenly join in uninvited, or not some formal process as to who he would engage with, that is, at either Assistant
30 Commissioner level. And then what his role would be, whether he'd liaise with the Special Branch and he came down and liaised with Sergeant Turner and Mr McDonald and Morey that's the sort of formal thing you would have. Because in those days it was very uncommon, and I only can speak from being at the Breaking Squad, to be - you tended to operate in isolation and you'd only engage with an external agency if - if the case deserved it. So
35 40 this would be one of them.

Q. I'm sorry, I missed what you had to say there; could you just repeat that?
A. Unless the case was deserving of it, for example, if you're on a safe robbery in the ACT that you'd liaise with them, but most of the time you operated in your own area, specialisation that you were, and you had the cases to deal with, yeah.
45

Q. As you understand it did Mr Turner and Mr Cavanagh already know each other at the time that they first met, to your knowledge?
50

A. Not to my knowledge, no.

Q. Did you ever learn of whether Mr Cavanagh had a pre-existing relationship with Mr Virkez, pre-existing 8 February 1979?

5 A. No, I don't know.

Q. Did you ever understand or suspect that Virkez had been an informant to Mr Cavanagh?

10 A. I've got no information.

Q. Did you suspect that he had been providing information to Mr Cavanagh?

A. No.

15 Q. Mr Cavanagh was an intelligence officer, Virkez was masquerading and getting into the Croatian community--

A. No, I've got no - no information - other than what I've read, and sometimes you read the stuff that - that's for the inquiry which mentions Mr Cavanagh, but I got no knowledge of that, no.

20 Q. Was it the case in February 1980 that as you understood it the Crown law authorities were anxious to secure Mr Virkez's testimony in the trial, and to that end, his plea of guilty to one of the charges?

25 A. Well as I've indicated earlier, I wasn't aware of who was involved in the discussions with Virkez's legal people, or whatever, Crown law department, if that's the name - the correct term - in relation to discussions about him pleading guilty. I'm afraid I can't assist you there.

30 Q. Obviously to get Virkez to change his plea and give evidence for the Crown, in the face of his earlier disinterest in cooperating with the Crown, would have been useful to New South Wales Police and the Crown law authorities, as you understood it.

A. Well I think in all cases it's - you have people who are co-offenders - some of course will--

35 Q. In this case, I'm asking about this case.

A. Well then in this case, yes, it was excellent if you got one - one other who's going to roll over and plead guilty and - and provide evidence against the others. It would be great if two of them would have done it, always.

40 Q. And had you being at a meeting with the Crown Law authorities in which that had been indicated in your presence?

A. Unless there's any record in my diary about going to a meeting with--

Q. There are a number of references, so that's why I'm asking you.

45 A. Well if there are references I haven't been shown them in my diary about meetings with the Crown - Crown Law office.

Q. Shillington? Viney? White?

50 A. I'm sorry, I'm confusing - I'm confusing the - whatever the department was that negotiated in relation to the plea of guilty. I thought that was separate to

Mr Shillington and Mr Viney and Mr White. They were--

Q. Having got over that confusion--

A. Yeah.

5

Q. --what is your answer? Had you been at a meeting with any of those gentlemen at which you had understood it to be the desire or wish of the Crown Law authorities that Virkez give evidence for the Crown, and to that end, that he plead guilty to one of the charges?

10 A. Well, I can't recall being at any meeting with that, but I acknowledge that for him to plead guilty was - and to give evidence was - it was an outstanding result.

15 Q. Is it possible Roger Cavanagh made that approach to Mr Virkez for a reason that he had a better chance of getting Virkez to agree than any of you guys at the New South Wales Police?

20 A. Well, I don't think in my career I've ever experienced a - where anyone other than myself or the other investigator had gone and made discussions with an individual to change their plea, unless it was through the person's legal officer making an approach to the Crown.

Q. Which is why if you believed that that was what was occurring, you are likely to remember it now, aren't you?

25 A. Well, as I said, I have a great difficulty remembering any of the specific meetings and conversations that took place way back then, but it would have been a significant thing for Sergeant Turner or Mr McDonald or Morey to - to have an officer from another police force to go and consult with an offender. It's quite strange. Quite odd, actually.

30 Q. Mr Cavanagh did that twice? That's to say he made two visits to Mr Virkez at Parramatta Gaol in early 1980.

A. That's what the records indicate, yes. Yep.

Q. It makes it even more strange, doesn't it? Unless there's a reason for it.

35 A. That's right. And the reasons - it could have something to do with - what's outlined in this other document about the arrangements for him to get a passport and whatever - Commonwealth immigration issues, I don't know. But there were two CIB detectives that went, and they might be able to expand more on what took place and why they went there.

40

Q. Can you help us on that subject? Surely the CIB detectives who went, went for a reason?

A. Well, they were tasked to go by Sergeant Turner.

45 Q. And to your knowledge, what were they meant to do? What were they meant to achieve?

50 A. I don't know. Is there - I thought there was an occurrence pad entry - was there an occurrence pad entry in the Inquiry that relates to Wilson, Radalj and Blades and Cavanagh's visit? Is there an occurrence - I thought there was an occurrence pad entry to that effect.

Q. Yes. Would you like to see it?

A. No - well, yes. I mean, that would say - that would be them reporting back as to what transpired and what was the outcomes.

5 Q. You don't know without looking at the occurrence pad entry as to why these men were sent? By this, I mean from your squad, as I understand it, was sent to Parramatta Gaol to be with Cavanagh and Blades and they spoke with Mr Virkez?

10 A. Yeah, Sergeant Wilson was from the Breaking Squad. Sergeant Radalj, I don't know where he came from.

Q. CIB?

A. But - he was from the CIB, but I'm not sure what squad he was from.

15 Q. You can't tell us, from your memory, as to why they went out there?

A. Not specifically, no. No. Hopefully that occurrence pad entry might enlighten us.

20 Q. I might come back to that, Mr Milroy. Can I move on to your trip to Canberra with Sergeant Turner covering 8 and 9 April 1980. That had completely escaped your memory when you were asked about knowledge of Mr Cavanagh's involvement in this matter the first time you gave evidence in this Inquiry; is that right?

25 A. That's right. And you'll notice from the minutes of the transcript, that I'd made a comment that I wasn't aware that if there was some documentation available, and, of course, now there is, so it's become - now that I've seen all these entries, which I'd never seen before--

30 Q. How many times were you involved in an investigation in your career as a detective of travelling to another city and conferring with senior officers from another force in relation to the matter in which you were engaged? Has that happened many times before?

A. Prior to '79, you mean?

35 Q. Or after?

A. Nearest - I mean--

Q. I'm trying to work out why you wouldn't have remembered it?

40 A. I can't remember some of the ones you're talking about either. I mean, I - I've been involved in extraditions from interstate and overseas, but--

Q. But not sitting down with an Assistant Commissioner of Police, and a Superintendent from another force, and having a conversation with them about the matter in which you're involved?

45 A. No. I mean, I - it's the first I knew, now that we've got the records, and I'm not trying to be difficult for the Inquiry, I can't recall, until I was shown the records, that I went to - and even when after I was asked previously a few - a few weeks ago, I went home thinking, "Did I actually go to Canberra?" That I was in - trying to visualise did I go? I even looked at some of the other dates
50 and mistaken - thinking, no. And I just can't. It's just - yes, it might be

important meeting an Assistant Commissioner or so-and-so, but I just can't specifically remember it.

5 Q. When we talked about Mr Whitelaw, you have indicated that you didn't have involvement in communications with Mr Whitelaw, because he up there in a rarefied atmosphere of being an Assistant Commissioner, and you were down there as a lowly Detective Senior Constable. So it just seems strange that you wouldn't remember speaking to Mr Farmer, and Mr Headland and Mr Cavanagh on 8 or 9 April 1980?

10 A. Well, I recall the note because it's in the diary, but when I was asked--

Q. You only recall something if proof positive is placed in front of you. Is that your evidence?

15 A. That's the - Mr Buchanan, I am nearly 80 years of age, and you're asking me to remember something that happened 45 years ago. I mean, just - I mean, I have a reasonable memory, but, really, this is quite unfair to an individual to be able to be - to drill down and actually being asked question that was not even asked in the trial. It's not even in the transcript. You know, how it is - it's extremely difficult, and you're trying to help the Inquiry, but to actually try and remember the faces of people, and what they actually said without any documents. Now, if the documents are not available in relation to the meeting, 20 or an occurrence pad entry, or records from the Federal Police, what transpired, who said what, it's impossible for me to sit here and answer these questions like that.

25

Q. On the night of 8 April 1980, what did you do?

A. The 9th of?

30 Q. The night, N-I-G-H-T, of 8 April 1980. You stayed overnight in Canberra. You'd been meeting with Mr Cavanagh--

A. Did we stay on the--

Q. --you and Mr Turner.

35 A. Did we not stay on the 8th, is it? We went down on the 8th and came back on the 9th?

Q. Yes. That's right.

A. So you mean--

40 Q. And you were off duty, if I recall correctly, at about 5.00pm on the 8th. What did you do that night?

A. You mean, socially?

Q. Yes.

45 A. I don't even remember where we stayed.

Q. Is there a chance that you and Mr Turner and Mr Cavanagh went off and had a drink?

50 A. I mean, that's possible. I mean, these things are all possible. They're all - I mean, Mr Buchanan, it's all possible we went somewhere for dinner.

Q. Is it possible that you had a reasonably social relationship with Mr Cavanagh as much as a professional one at this stage?

5 A. Well, based on what's in my diary, it looks like we've - I've met him a few times prior to that. So normally, I suppose, when you went interstate, or you went to another jurisdiction, sometimes the agency you were dealing with, whether it was law enforcement or judicial, of their hospitality invites, "Why don't we have dinner? What are you doing tonight? Would you care to have dinner?" I mean, that's just a common occurrence.

10 EXHIBIT 11.71(B), RED PAGE 437, SHOWN TO WITNESS

Q. Do you see that there's a reference in the fourth line, "10 to Dept of Immigration re further meeting with Mr Grawczyk", it looks like "Krawczyk" without the "K" and a "G" at the beginning of the word there.

15 A. That's correct, yep.

Q. "Re Virkez so engaged to 10.30am." You weren't sure when you were being asked questions by Counsel Assisting what that was about. From what you've been taken through this morning, do you think there's a fair chance that 20 you and Mr Turner were engaged in trying to find out what would be involved in having Mr Virkez deported at the end of his evidence in the trial?

A. 8th and 9 April. Well, it's - definitely would have been in relation to an immigration issue.

25 Q. It's, "Re Virkez"?

A. Of course it is. No, I don't deny that. No. That's quite clear that's what it's about. I mean - but the possibilities are what - what the specific topic could have been about. Whether--

30 Q. Well, can I ask--

A. If it's got to be about--

Q. Make this suggestion to you: that you'd heard back a report from Mr Cavanagh, either in February or later in March, and/or from Sergeant 35 Wilson or Detective Radalj, that one of the things that Mr Virkez wanted, if he was going to cooperate with police and give evidence against the co-defendants, was a promise that he would be able to leave the country, if not, in fact, deported, at the end of the evidence?

40 A. That's possible.

Q. Is it possible that on this occasion you were trying to find out what would be involved in arranging for that to occur?

A. Yes. That's possible.

45 Q. You saw Mr Virkez on 17 May 1980 with Mr Turner at Parramatta Gaol.

BUCHANAN: Perhaps just for safety's sake, could we pull up the Parramatta Gaol visitor records? Exhibit 12.6, and it's red p 454 and it's the subject of an 50 NPO.

HIS HONOUR: 454 is the page entry in the duty book--

BUCHANAN: I apologise.

5 HIS HONOUR: --which might be more informative.

BUCHANAN: Would it be possible to have access to that, please?

HIS HONOUR: 11.71(B), p 454.

10

EXHIBIT 11.71(B), RED PAGE 454, SHOWN TO WITNESS

BUCHANAN

15 Q. That is your duty book entry for 17 May 1980, and you can see on the second line that you went, according to this, with Sergeant Turner to Parramatta Gaol interviewing Mr Virkez in the presence of a prison officer and a solicitor?

A. That's correct, yeah.

20

Q. You can't help us with the solicitor, as in who he was or what interest he was representing?

A. No, actually, it's - I raised that yesterday myself.

25 Q. Crown Law authorities or Mr Virkez's solicitor--

A. You would think it was Mr Virkez. Whether that was his solicitor that was in negotiations with the Crown Law, I don't know.

30 Q. Can I just give you a bit of context: this is 17 May 1980. Mr Virkez commenced giving his evidence in the trial on 21 May, so this is only a few days away to the time when, it's likely, isn't it, you were aware Mr Virkez's travel to court to give evidence was coming up?

A. That's correct, yeah.

35 Q. Did you or Sergeant Turner report to Mr Virkez what you had learned from Mr Grawyczc at the Department of Immigration on 9 April?

A. No, I mean, I can't recall. I don't recall that matter, no.

40 Q. Do you have any recollection of Mr Virkez being satisfied, by which I mean police satisfying Mr Virkez's concern that he be able to leave the country once he'd given his evidence?

A. No.

45 BUCHANAN: Can I ask that the witness be shown red p 470 in this exhibit, please.

EXHIBIT 11.71(B), RED PAGE 470, SHOWN TO WITNESS

50 Q. This is your duty book entry for 26 June 1980 that Counsel Assisting took you to earlier that records that you were "at CIB with Mr Cavanagh AFP to

Yugoslav Consulate, see Mr Bozo Cerar re Croatian witness." You see that?
A. That's right.

Q. The Croatian witness would've been Virkez?

5 A. Yes.

Q. Obviously, isn't it?

A. Yes, that's right.

10 Q. This is after Mr Virkez had been released from gaol. He was released from
gaol, according to the records, on 21 June; this is on 26 June. I just wanted to
ask, isn't it likely that you were arranging Mr Virkez's passport?

A. So - sorry, could you clarify what date did you say Mr Virkez was released
from prison?

15

Q. On 21 June?

A. 21 June? Right. Yeah, well, I mean, I'm not sure. I mean, Mr Cavanagh
must've had to come up from Canberra. That's where he was based, as I
understood it, or he may be based in Sydney, I'm not sure but - at the time. So
20 did Virkez leave the country on a Yugoslav passport? Did he have a Yugoslav
passport or he--

Q. I'm not in a position to assist other than--

A. Or he had then left on his Australian--

25

Q. --to indicate that one was issued?

A. Right. That's right, because I think he relinquished his citizenship--

Q. I'm not in a position to tell you that it was issued on this day?

30 A. No. No, it's possible to do with his movements. That's all I can say, really.

Q. I just want to explore with you, if I can, please, your understanding as to
why Mr Cavanagh took part in this visit to the Consulate. First of all, you've
indicated to Counsel Assisting that you think it's unlikely that Mr Virkez was
35 with you on that occasion because you haven't recorded it?

A. That's correct, yeah.

Q. But in this page, you refer to what, I think you agree, as Mr Virkez as
"Croatian witness" rather than Virkez by name, even though you've identified
40 Mr Virkez by name in previous entries. Is it possible that Mr Virkez was with
you and you were trying to disguise the fact, in your entry, that he was with you
on this occasion?

A. No, I mean, I refer to him when I'm handing over payments to him later on
so I can assure you, if he was present, I would've said we'd have gone - we'd
45 have collected Mr Virkez and took him with us. It's definitely not--

Q. Can I suggest to you that the reason Mr Cavanagh was there is that he had
the special relationship with Mr Virkez that you didn't have and nor did Turner?

50 A. I would think that probably Mr Cavanagh would've been there because he's
from the federal environment - a federal agency, and whatever arrangements

were being made at the federal level through immigration, that he's there for that purpose so - because it's not - wouldn't have been a state matter as such, yeah.

5 Q. You understand the phenomenon, in intelligence gathering, of an informer having a handler, don't you?

A. Yeah, that's a term that's - can be used.

10 Q. Would it be right, on your knowledge of the whole situation, that Mr Cavanagh was and had been Mr Virkez's handler from the AFP's point of view, Commonwealth Police's point of view?

15 A. Well, I've got no knowledge of that, and if he was, then the AFP should have records because, in those days, you had to - long-term informants were registered, not to the degree they are today but you had to have them registered. You might've had them listed under a code name, but there should be records if he was a long-term informant, as you call it, to Mr Cavanagh.

Q. Mr Cavanagh wasn't a serving police officer, was he?

20 A. I think he was an inspector in the Commonwealth--

Q. Yes, you referred to him as an inspector but he was an employee attached to the AFP, wasn't he?

25 A. I didn't know that. And I had dealings with him at the National Crime Authority. I was - had the impression that he was a commissioned officer in the Federal Police.

Q. He was a bit of a cowboy, wasn't he?

30 A. I don't know about a cowboy but he's a - my only involvement after that was in relation to the Griffith mafia and the Commonwealth - the Federal Police's intelligence holdings and knowledge of them, and that's why Mr Cavanagh came to the Stewart Royal Commission.

Q. When you were there?

35 A. When I was there, that's - from the beginning, that's right, yeah.

Q. Tell me if I'm wrong: this is after the times--

A. Of course.

Q. --we're talking about in 1979/1980--

40 A. That's right. That's correct. That's right.

45 Q. You appreciate what it is that I'm suggesting to you; that New South Wales Police used Mr Cavanagh - and he was quite happy to be used in this way - to achieve things with Virkez that New South Wales Police weren't in a position to achieve by themselves? What do you think about that?

A. I don't think that's a bit of the case--

Q. Why not?

50 A. Because the New South Wales Police were in charge of the case and it would be very unlikely - I couldn't imagine, even today, to turn around to

another agency, "You go and talk to, what, my offender in prison and get them to roll over and do this." I mean, that's just - I couldn't imagine that happening.

5 Q. It might be unorthodox to some people's minds but it's not unheard of for police to use unorthodox methods to achieve their goals, is it? Or was it, in this era?

A. That - there were media reports to that effect and the Royal Commission and--

10 Q. Come on, Mr Milroy?

A. Well, I mean--

Q. Media reports to that effect?

15 A. Well, there were unorthodox methods. Do you mean illegal methods or you mean unorthodox or--

Q. Including illegal methods, yes, but unorthodox will do?

20 A. Well, unorthodox maybe where you use family members to pass on information, you know. I have, you know - you might use, you know, taxis to follow people and all these sort of methods that would be out of ordinary role of the normal police. You used - try to look at different ways of gathering information and some would see it unorthodox.

25 Q. Mr Cavanagh was attached to a police force with which you and the New South Wales Police Force were working. He was not exactly right out there on the margins, was he?

30 A. Well, in that - those days, in the 1970s, I don't think the relationship between the Commonwealth Police and the state police - I think there was a fair bit of - what I say - I don't think tension but there was a lot of rivalry and, you know, "We're the state police and you're the small police force looking after the ACT," and - so there was a fair bit of - hard to describe, really, but I don't think tension but there was a fair bit of lack of cooperation as such.

35 Q. But that wasn't the case with Mr Cavanagh, was it? You got lots of cooperation?

40 A. Well, because, as I said, somewhere along the lines in the - as a result of what happened, once the offenders were charged and you might say the plot was foiled, there would've been a lot of questions asked as to how both federal and state intelligence agents weren't aware of this plot, and there would've been - the police hierarchy would've wanted to find out what was going on. There'd be numerous requests for information going backwards and forwards, so that would be why he and other Commonwealth officers were asked to assist the Special Branch and, eventually, Turner and I, our team, in relation to the overall investigation, yeah.

45

SHORT ADJOURNMENT

50 Q. You told Counsel Assisting yesterday that Mr Virkez said in a document that, "The CIB pays me an informant's wage", and you said, "That's his terminology."

A. Mm-hmm.

Q. Amongst other things, you said, "The witness was still subject to recall."

A. That's my understanding, yeah.

5

Q. That's an expression, meaning that as you understood it, he could still be required to go back to court to continue his evidence in some respect?

A. Yes.

10

Q. As with any other witness who is not excused.

A. That's correct.

15

Q. If I can inform you of this: the evidence in the trial concluded, according to the transcript, on 4 December 1980. Mr Virkez departs Australia on 24 December 1980. What I want to do is just get your understanding of the involvement by police in the witness departing the jurisdiction when he was understood to still be subject to recall in the trial.

A. Well, I have no actual recollection of who was involved in the - making that decision before the end of the trial, so it's been - that's all I can really say.

20

Q. It must have been Sergeant Turner at the least, wasn't it?

A. I don't think Sergeant Turner would have the authority to give someone the green light, get on the plane and leave while a trial was still running. Somewhere on either - either it was consultation with public prosecutions, because he was no longer going to be recalled, and whatever consultation was carried out with the Federal authorities for him to be - to leave the country, immigration? I don't know what took place there, unless there's some records to that effect.

25

30

Q. Can I change the subject, Mr Milroy. You're aware that--

WOODS: I'm sorry, your Honour. If I may interrupt my learned friend. Perhaps I got it wrong, but I thought that Mr Buchanan said that the trial evidence ended on 4 December 1980, and Mr Virkez departed on 24 December 1980.

35

HIS HONOUR: Yes. That's what he said.

BUCHANAN: Have I got it wrong?

40

WOODS: No. No. No. I'm just not certain. I was concerned, your Honour, that I thought Mr Buchanan was suggesting that he was still subject to recall at the time that he departed?

45

BUCHANAN: Yes.

HIS HONOUR: No--

BUCHANAN: That was the kernel of my question.

50

HIS HONOUR: All right. Yes?

WOODS: Your Honour, I mean theoretically, I suppose, a person is subject to recall until the jury verdict comes in, but, anyway, I'll leave it to my friend.

5

HIS HONOUR: Yes. All right.

BUCHANAN

10 Q. Changing the subject, Mr Milroy. You were aware that a body of detectives were sent to Lithgow to respond to the information that Lithgow Police had received from Mr Virkez on 8 February 1979?

A. Yes. I was one of them.

15 Q. You were all members of SWOS?

A. As far as those from the Breaking Squad under Mr McDonald. That's why we were sent, because we were members of SWOS within the Breaking Squad, but the other personnel that came from the local police area were not.

20 Q. Is it the case that, as far as you understand it, SWOS was not deployed as members of the teams that comprised the raiding parties that went to the premises in Sydney that night?

25 A. I'm not sure about that. I know some of them were SWOS members but I'm not sure whether it was a SWOS operation, if you want to call it that, you know. But Lithgow was because that's why we were sent on that - under that umbrella of being SWOS members, to Lithgow, yeah.

30 Q. What was the difference between the two operations? Lithgow, a criterion was that people be members of SWOS but not necessarily when it came to the raids in Sydney?

A. I'm not sure what the briefing in Sydney was that took place on the evening of the 8th as to whether they were going out as a SWOS operation as such, but as far as Lithgow was concerned, we were deployed as a SWOS unit in the first instance.

35

Q. You don't have any knowledge now as to whether that was replicated in respect of the raids in Sydney?

A. No, other than what has come forward in the Inquiry, no.

40 Q. From the knowledge that you have as an officer who assisted in the compilation of the brief of evidence, were you aware that, on the night of 8/9 February 1979, no searches were conducted of the alleged targets of the bombing conspiracy? Searches conducted by police?

A. You mean while I was in Lithgow, you mean?

45

Q. I'll start again. I'm asking you to draw upon all the knowledge you have in particular from your involvement in compiling the brief of evidence. I'm asking you to assume that none of the targets of the alleged conspiracy were searched by police that night. I'll ask you to make another

50 assumption. Detective Inspector Morey went off-duty at 2am on the night and

the bombs were meant to explode at 3am. Do you know why none of the targets were searched for bombs?

5 A. Well, based on the statements that they made, they went to the premises and searched them, didn't they? I don't know what you mean by none of the targets were searched. You mean physically searched or their premises were searched--

Q. Yes, physically searched? Sydney Water Supply?

10 A. Sorry. I thought - I'm thinking about targets, I'm thinking targets are the six targets, the offenders, not - you're talking about the premises. Right. Okay.

Q. Yes. Do you know why none of the physical sites that were alleged to be the targets of the bombing conspiracy were not searched by police that night?

15 A. I'm just trying to think of the Elizabethan Theatre. No, I can't recall whether it was - whether they were or they weren't, sorry.

Q. The alleged bombing targets, on the information that the defendants were meant to have given police such as yourself, in the case of Mr Bebic, and the other defendants in the Croatian Six, not being searched for bombs that night is consistent with police knowing that the whole exercise was a frame-up, that there were no bombs, certainly not in Sydney. Isn't that the case?

20 A. No, I mean, we were probably confident we foiled the - based on the information from Bebic and subsequently Virkez that the plot was foiled. I mean--

25 Q. How did you know there weren't another couple of Croatians out there that hadn't been identified, that had explosives and were to go through with the dastardly plan?

30 A. But as I said, I've got no recollection now as to what action was taken in Sydney under Mr Morey's direction as to - or anybody else as to looking at the premises that were the subject of the alleged bombs and were there any other bombs could be around, but can only go on the fact that we - based on what we had in Lithgow on the 8th and 9th that the offenders were all allegedly arrested, based on the information that we gleaned during the interviews.

35 EXHIBIT 11.50A-2, RED PAGES 229-3 AND 229-4, SHOWN TO WITNESS

40 Q. This is an occurrence pad entry that you were shown yesterday by Counsel Assisting, Mr Milroy. Can you see - if you could scroll through it, please, to red page 229-3 and 229-4 - that it's your occurrence pad entry?

HIS HONOUR: This is 11.50A-2, isn't it?

45 WITNESS: The preceding pages, there was a page that was before this one something about - had Fairfield on the top. I don't think I've ever seen that before. That was a different exhibit, is it? Yeah.

EXHIBIT 11.50A-2 SHOWN TO WITNESS

50 HIS HONOUR: This is what was shown yesterday.

BUCHANAN: I see, I apologise.

HIS HONOUR: No, these two pages were shown yesterday.

5 BUCHANAN: Thank you, your Honour. I appreciate the correction.

WOODS: And a front page.

10 WITNESS: I've never seen that before.

BUCHANAN

Q. You must've seen it if you wrote it--

15 HIS HONOUR: I just want to be clear, where is that from, that page that's on the screen now?

20 BUCHANAN: 229-3, in my copy of Exhibit 11.50A, but I'm told that it has a sub-reference of "-2".

HIS HONOUR: That is what's on the screen now and that was shown yesterday.

25 BUCHANAN: Yes, I thought it was.

HIS HONOUR: But also shown was something to which Mr Milroy said, "I haven't seen that before."

30 WITNESS: That's the present--

HIS HONOUR: But that was just the wrong exhibit being put up, I think.

WITNESS: Is it? Yeah.

35 BUCHANAN: Possibly.

HIS HONOUR: Is what's on the screen now what you intend to show him?

40 BUCHANAN: Yes, your Honour.

HIS HONOUR: Thank you. That's 11.50A-2.

BUCHANAN

45 Q. You're satisfied that you made the entry?
A. Yes.

50 Q. It indicates - and I appreciate this is a different, but I'd suggest, an adjacent subject to searching for bombs - that the proprietors are being notified. That's what's recorded here, that the proprietors of the alleged target premises--

A. That's--

Q. --are being notified of the conspiracy?

5 A. I think I notified them that their premises had been identified at the time of the offenders' arrests, yes.

Q. That wasn't done before 15 February 1979?

10 A. It could've been, but as you know, I haven't - whoever was running the overall operation, Morey and McDonald in Sydney, what - in consultation with Sergeant Turner - what action was taken to, as you say, attend the specific premises, as you inferred, in case there was other bombers around. I've got no knowledge of that, nor are - there's no records can assist me there.

15 Q. There's a question I failed to ask you, and I apologise. I appreciate you made this entry but did you conduct these notifications?

A. I--

Q. Is this recording what you did?

20 A. I did - that's correct.

Q. It is?

A. That's right, yes.

25 Q. Can you assist us as to why the alleged bombing targets in Sydney would not have been searched as soon as possible after it came to the notice of police that they were bombing targets, such as on the night of 8/9 February 1979?

30 A. Well, I would think myself they - it should've been, if they - and I can't comment - I don't know. There should be a record of such. There should be some sort of log to say that these premises were visited, either by uniformed police or police might've been deployed to the Elizabethan Theatre, I don't know. I mean--

35 Q. Assume that Mr Morey said that before he went off-duty at 2am on 9 February, he did not send out anyone to search for explosives at the alleged bombing targets. That's inexplicable, isn't it, from a safety point of view, unless the whole thing was setup by police?

40 A. Well, if we didn't, it may - as I indicated, it may have been the basis that the evidence that had come was forthcoming as a result of the - foiling the operation and the offenders were arrested and the information that was gleaned from them from the interviews satisfied those in higher authority that that wasn't necessary. But as I say, I can't comment any further.

45 Q. You would agree that, on the information that police say they had about the bombing conspiracy, there was an acute safety issue that existed on the night of 8/9 February 1979 in relation to the alleged bombing targets?

A. Of course.

50 Q. Can I take you to a different document, Mr Milroy; Exhibit 11.35, pages 125 and following.

EXHIBIT 11.35 SHOWN TO WITNESS

5 Q. Counsel Assisting asked you some questions about this document yesterday. The gist of your evidence was that you certainly didn't create it and you didn't believe you'd seen it before you were shown it?

A. That's right.

10 Q. Is there a hard copy we can give to Mr Milroy to make it easier for him to peruse it? If you could just reacquaint yourself with it, it's red pages 125 through to 127.

A. Yes.

15 Q. And my note of your evidence yesterday was that you didn't think it came from the Special Breaking Squad office, from Turner, or from you.

A. That's right.

20 Q. At page 125 - excuse me a moment; I haven't made a sufficiently specific reference. Could we expand paragraph 3, please, and this paragraph 3 is what I'm asking you to have a look at, at the moment, please. Do you see there it says:

25 "The informant in this matter is Vico Virkez whose correct name is Vitomir Misimovic, a Serbian by nationality who migrated to this country on the 8 June 1973. For reasons unknown he used the Croatian name of Virkez, and maintained 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
30 unable to be clarified."

Were you among the police who suspected the purpose of Virkez changing his nationality to infiltrate the Croatian terrorist group?

A. No.

35

Q. You never wondered about that at all?

A. I wonder a lot of things when you're involved in these cases, as I said before about motivation et cetera, but specifically I can't recall way back in those days, no.

40

Q. And paragraph 3 it says that "Virkez migrated to this country on 8 January 1979", was any investigation conducted as to where Virkez lived in the period following his arrival in Australia, and what he did?

45 A. There would have been enquiries carried out as much as possible in relation to the background, and as you know, prepare an antecedence et cetera. I mean I don't know when this document was produced; there's no date on it, there's no signature, so - and that's why indicated to me it's definitely not - it wasn't produced by the Breaking Squad, so. But yes, there would have been enquiries made as to how extensive - if there were they'd be
50 recorded as part of the records keeping for the - on the product, on the - on the

investigation.

5 Q. I want to suggest to you that there is very little in the police department records indicating that there was any investigation of what Virkez did in his early years in Australia.

A. Well at the time of his - his arrest there would have - I'm not sure what records were held then, and you are - are you talking about after he was arrested and what - what enquiries were made?

10 Q. Yes.

A. Well these would be similar to this that's probably been produced by one of the intelligence bodies; that they gathered all this information in relation to the six accused, including Virkez. And we would have done some preliminary enquiries, we would have checked through criminal records, background
15 checks and in the antecedence were prepared during that process. There would be enquiries carried out by Marheine and Ingram and others cause - as part of their enquiries, so yes, there would--

20 Q. The antecedence said he lived in Victoria initially, does that ring a bell with you?

A. I recall that there was some records to say that there was some notification it was - he had come from Victoria, but - but as to what enquiries were made, and where is that recorded, I can't comment at this stage.

25 Q. Did you ever watch the interview of Virkez by journalist Chris Masters, broadcast on the ABC's Four Corners program on 26 August 1991, or a tape of it?

A. No, I was asked that previously. No, I never - I never saw it - never saw it, no.

30

Q. Never interested to see what he had to say?

A. I read - I read what was in the fairly detailed account in the newspaper, which--

35 Q. Mr McGeough--

A. Yeah, that's right.

Q. --M-C-G-E-O-U-G-H.

40 A. Yeah, and that - that indicated what Virkez had allegedly said to Masters in his interview. But I never saw the Four Corners program.

45 Q. Virkez was asked by Masters where he learned to make bombs, and this is what it's recorded he said - Exhibit 13.2 red page 20 - "Well I learned from some books, but mainly from, you know, they teach us in the bush how to make them. I was training little bit with groups. They come to Yugoslavia in 1972. I was good friends with them. We played billiards in Geelong, which you know, I was married at the time and I learn with them. That group was killed in Yugoslavia in 1972". Now I'm just giving you an extract from what Mr Virkez told Mr Masters in 1991. Did you ever discover that before he
50 moved to Lithgow Mr Virkez lived in Geelong?

A. No, I can't - I can't recall at what stage we were aware of that.

Q. Did you ever find out whether there was a Croatian community of any significant size in that region in the early 1970s?

5 A. Unless it came up in the - the discussions where--

Q. With Mr Cavanagh.

10 A. With Mr Cavanagh explaining the - the Australian environment, if you know what I mean, what's - because it was all allegedly pretty sensitive in those days with the immigrants and the various nationalities, so it's possible, yes.

Q. What did Mr Cavanagh tell you about Mr Virkez's early days in Geelong?

A. I have no recollection of that conversation, sir.

15 Q. And you didn't investigate, and you aren't aware of any investigation that was conducted into what Mr Virkez did in his early days in Geelong.

A. Well whatever was investigated is either recorded in Special Branch reports, like these, or others; I assume this is Special Branch, but I - unless there's a record to that affect I have no direct knowledge, no.

20

Q. You're aware that there was an armed incursion into Yugoslavia in 1972 by people who had lived in Australia.

25 A. Yes, I recall, I think, from the history that area, yeah, there were some Australians - excuse me - as well as, I think, in other regions where there's been conflict; people have gone back.

Q. But thinking of the people that Virkez was talking about, who were killed in Yugoslavia in 1972, thinking of that incursion. You're aware that that occurred, weren't you, as at 1979?

30 A. I can recall - I can recall it might be when my days with the International Criminal Tribunal, but I think another whole history of everything that we got briefed on when we first went there; there was all that issue to do with what had transpired leading up to the war, but. Or I knew - or I read in the newspapers back here, I got - that's all I can comment really.

35

Q. Can you comment on whether you ever learned from any source that Virkez had socialised - let's put it that way - with men who'd been in that armed incursion in 1972?

40 A. No.

Q. Did you ever see the book Osvetnici, O-S-V-E-T-N-I-C-I, Bleiburga, B-L-E-I-B-U-R-G-A, Exhibit 4.1-G?

A. At the time of the interview, yes.

45 Q. The interview of Mr Bebic?

A. That's correct.

Q. You typed an answer in which you attributed to him the claim that it was his book.

50 A. That's correct, yeah.

Q. Did you ever have a close look at the book?

A. Yes. At the time, yes.

Q. Page 108 had this material about how to make a bomb.

5 A. That's correct.

Q. In a chapter called, if I recall it correctly, "explosivite"?

A. I recall the page number, but not the - the reference as you have.

10 Q. Did you have a close look at the rest of the book?

A. Well, we would have actually - bearing in mind it was in the Croatian or in Yugoslav language - might have looked through the pages, because that was one page that had the diagrams. There may have been other pages that had references to bomb making and - not sure whether we got someone to look at the - to review it from a translation point of view.

15

EXHIBIT 15.11 SHOWN TO WITNESS

Q. That is an exhibit in the Inquiry, but it was an exhibit in the trial as well.

20 A. Yes.

Q. If you could open it up, and you can see on the inside of the book a place where the person who owns the book would put their name and address; correct?

25 A. That's correct. I think I - you asked me questions on this previously in the Inquiry, that's right.

Q. And whose name and address is there?

30 A. Vico Virkez.

Q. And what's the address?

A. It looks 104 Shannon Avenue, Geelong West, and there's a telephone number.

35 Q. And it's in handwriting; correct?

A. That's correct, yeah.

Q. It's very strange that Mr Bebic would say that a book that, according to what is written in it is owned by Virkez, was in fact his book, don't you think?

40

A. I think you asked me that before, and I indicated that sometimes people have got books you get at the library, and they've got people's names and addresses on them, and you acquire them and you then pass it on. So I - I can't comment, other than the fact that Mr Bebic said it was his book and drew our attention to page 108.

45

Q. What is written on the inside of that book, you can assume by Vico Virkez, because he said he did, shows is that you and Mr Turner verballed Mr Bebic, at least in respect of that question and answer, doesn't it?

A. Definitely - definitely not.

50

Q. Did you suspect or learn that, since about 1972 or 1973, Virkez had been infiltrating Croatian émigré communities in Victoria and New South Wales?

A. Did he not come into the country in 1973?

5 Q. There are varying dates, Mr Milroy.

A. You're--

Q. I'm just trying to cover all dates.

A. Right. Right.

10

Q. Since about 1972, 1973, Virkez had been infiltrating Croatian émigré communities in Victoria and New South Wales? Did you ever suspect or learn that?

15 A. No. But if - as you're indicating there, he's in the country before the Immigration Department acknowledged that he arrived. So it's - but I have no knowledge of any - all that background information. Other agencies may have.

Q. If that was true, it would seem that Mr Virkez had an interest that he was pursuing, in infiltrating Croatian émigré communities in Victoria and New South Wales, wouldn't it?

20

A. It's possible.

Q. It never occurred to you as to what his interests might be?

25 A. Well, if we had have been advised of that as part of this overall information sharing from the Federal Police and the Special Branch, we would have probably made enquiries, but, again, without having any documentation, and I don't have any direct knowledge, no.

Q. Mr Cavanagh never dropped a hint to you of Virkez's history in his country before 1999?

30

A. He could have done. It's possible, in relation to all this background information that we were appraised of.

Q. A purpose that Mr Virkez may have had in infiltrating Croatian émigré communities in Victoria and New South Wales was to discredit Croatian activists, Croatian nationalists, whichever you want to call them. Wouldn't you accept?

35

A. I mean, that's a theory you have, or based on whatever knowledge you've got, although I don't have--

40

Q. What's wrong with that theory?

A. Well, as I say, it's possible. Anything is possible.

Q. But it's the duty of police to try and find out, isn't it?

45

A. Well, that's right. Well, of course. We do a lot of investigations, and sometimes you don't find out everything about someone's background, or motivation, or allegiances or associates. Yes, it's our duty to do that, and whether we did that in that time, I haven't any recollection.

50 Q. And you've got no recollection of anything being indicated to you by

Mr Cavanagh that Virkez had been hanging out with the men who went over to Yugoslavia in 1972 with arms and ended up being killed there?

5 A. As I said, I can't recall. It's possible, but I can't, because we had, as you say, numerous meetings with Mr Cavanagh, and they briefed us on whatever knowledge they had. Whether it's 100% or not, I don't know. So I can't comment any further. I mean, I've been asked these questions before about knowledge, and who said what and who didn't.

10 Q. I've confined my question to Mr Cavanagh. Can I extend it to Mr Jefferies. Did you ever learn from - anything Mr Jefferies said in your presence or wrote, that you read, that Mr Virkez had been involved with the people who conducted the armed incursion into Yugoslavia in 1972?

A. No. No.

15 Q. That document I showed you a moment ago, I wonder if we could see it again, please.

EXHIBIT 11.35, RED PAGE 128, PARAGRAPH 3, SHOWN TO WITNESS

20 Q. It says that Virkez migrated to this country on 8 January 1973.

A. Mm-hmm.

Q. If we go to the next document in this exhibit.

25 EXHIBIT 11.35, RED PAGE 128, SHOWN TO WITNESS

Q. It seems to be a different document. Do you agree? It looks like a carbon copy of a document, and produced with a manual typewriter rather than what appears to be an electronic typewriter that produced the preceding document.

30 A. Yeah. It looks a bit different typed, that's right.

Q. Do you know who produced this document, and please feel free to peruse it.

35 A. Yeah, I've looked at it. It's got quite a lot of information that - in particular, places of birth, and it looks to me as though it would have been provided by someone from an intelligence area, or a Special Branch, because of the ethnic references.

40 Q. This time, if I can take you to the reference to "Misimovic, Vitomir", can you see that this is about two-thirds of the way down the page?

A. Mm-hmm.

Q. Page 128, and it's got, "Arrived in Australia 1970 in Sydney"--

45 A. Yes.

Q. And naturalised in 1972.

A. Mm-hmm.

50 Q. Which is not the same information that you saw in the preceding document.

A. That's correct, yeah.

Q. Do you know which is correct?

A. No. I don't know which is correct, no. No.

EXHIBIT 11.35, RED PAGES 125 TO 127, SHOWN TO WITNESS

5

Q. Going back to 11.35, pages 125 to 127, paragraph 3, it says that, "For reasons unknown he used the Croatian name of VIRKEZ and maintained that he was a Croatian by birth." Did you know the reasons why he did that?

A. No. No.

10

Q. Did it cause you concern that you didn't know that?

A. Well, it would be information that you would like to know. Why someone would use a different name.

15

Q. It suggests he's trying to hide something, doesn't it?

A. Well, sometimes, as you know, Mr Buchanan, a lot of people in this who - in the criminal environment have multiple names that they use for their convenience.

20

Q. That suggested that Virkez was a criminal? Is that what you're telling us?

A. I'm only just saying some people who are charged have got multiple names. There's some people in the community who use more than one name and they're not criminals, for various reasons.

25

Q. But this says that, "For reasons unknown he used the Croatian name". Did that not cause you concern?

A. It would have been, at the time if we were aware of it, as part of our enquiries. I mean, this is probably a document that's produced by somebody from the intelligence area, or a Special Branch have formed a view based on what they've obtained, or gleaned from people they have spoken to.

30

Q. When you say, "The intelligence area", was there any source of intelligence, as far as their job was concerned, than Special Branch? Any other?

35

A. In the Police Department at that stage, the Special Branch, as you know, were a specialist area looking at these political issues, and generally - and the with the police, there was a Modus Operandi Section, and there was an intelligence area which would gather information from various sources that were submitted. For example, if you saw criminals associating with someone, there was a form that you used to fill in, and type it in, and it would be sent and they would record that. You know, a sort of a card index system to say that this criminal was seen associating with so-and-so in Pitt Street by a certain - so there was a small--

40

45

Q. MO Section?

A. There was an MO Section, Modus Operandi Section, and there was also some intelligence capability in the Police Service, but I'm not sure as to what - how extensive that was.

50

Q. What you're reading in this document, from what you know of these

sources of intelligence available to you--

A. Yep.

Q. --really must have been compiled by Special Branch, mustn't it?

5 A. Well, it's - yes.

Q. It looks like it was?

10 A. It looks like it, from - that's why I indicated an intelligence or a Special Branch-type body would have put something in, because the way they've set it out, the references and the knowledge that they've got in relation to the travel, the ethnicity of the people, and where they're born, it's a lot more detailed than would normally appear in one of our documents.

15 Q. Looking at the sentence, if you wouldn't mind, "Whilst Police suspect the purpose of VIRKEZ changing his nationality to infiltrate the Croatian terrorist group, it is unable to be clarified." Now, I apologise, I think you might have been asked about this yesterday by Counsel Assisting--

A. That's right.

20 Q. --and you weren't able to assist the Inquiry as to what that suspicion might have been.

A. That's right. Or who the author of this document was talking to, to form that view that led to their recording that in this document.

25 Q. But it goes on to say, "...it is unable to be clarified." That's to say the purpose of Virkez changing his nationality to infiltrate the Croatian terrorist group. Are you able to assist? Was it able to be clarified? Couldn't Virkez be interviewed?

30 A. Well, again, of course it would depend on what date this was prepared, but, yes, Virkez could have been interviewed.

Q. Indeed, police went to see him at Parramatta Gaol a number of times in 1979/1980--

35 A. That's correct.

Q. --as you understand it?

A. That's correct.

40 Q. So on any of those occasions, there could have been an attempt to discover what Virkez's purpose was?

A. That's possible.

Q. But it wasn't done?

45 A. It could have been done, but I didn't get any records or knowledge to comment on--

Q. Was it not done because police didn't want to know?

50 A. I don't think it would have - in my opinion, working on that project, I can't recall any deliberate attempt to not do a proper investigation, or to hide information, or anything of that nature.

Q. The failure to attempt to clarify Virkez's purpose in changing his nationality to infiltrate the Croatian terrorist group is consistent with police wanting to conceal the answer, isn't it?

A. No.

5

Q. Do you know who the police were who, according to this document, suspected the purpose of Virkez?

A. No.

10

Q. Could it have been, for example, you and Detective Sergeant Turner?

A. No. Well, I don't have any recollection of being spoken to specifically by anybody based - and I - it's a long time ago. It could've been Mr Turner. They could've spoke to others involved in the project at a senior level. Could've - it could've occurred at a higher level. I don't know.

15

Q. Were those suspicions as to Virkez's purpose conveyed to any detective at CIB as far as you were aware?

A. I can't recall, I'm sorry.

20

Q. Did Detective Jefferies canvass that subject with you, to your knowledge? When I say, "with you", I mean with you and/or Mr Turner?

A. In relation to specifically what?

25

Q. Mr Virkez's purpose in changing his name to one which was Croatian, to infiltrate the Croatian terrorist group?

A. It's possible that Mr Virkez would've raised it with Sergeant Turner or McDonald in relation to that.

30

Q. But you have no knowledge as to who held those suspicions?

A. No.

35

Q. Was there any question raised with you or in your presence or that you became aware of as to whether there was a question in the mind of police about Virkez's genuineness that he was who he was and had done what he said he did?

A. I think there's always a - I don't have a direct recollection of that but there's always a view that you always question yourself as to whether you've been told the truth in any investigation. But in relation to that matter, no, I can't recall, no.

40

Q. The fact that you knew Virkez was Serbian, that was conveyed to Mr Shillington, Mr Viney or Mr White, was it?

A. Yes. I think - as you know, Mr White's name appears at the time of the antecedents, so it was some time period between February and then when we became aware of that.

45

Q. If the knowledge that Mr Virkez was Serbian was not disclosed to defence lawyers, and I'd ask you to assume that it wasn't, that might've prejudiced the Crown case, mightn't it?

50

A. Did you say they were?

Q. Sorry, I've bowdlerised that question. I'll start again. In hindsight, would you agree that if your knowledge about Virkez being Serbian was disclosed to defence lawyers in the trial, it might have prejudiced the Crown case?

5 A. I don't see how. We provided all the information and I believe that the Crown were aware of his--

Q. It would tend to raise a question, wouldn't it, about what else is Virkez telling a lie about, wouldn't it?

10 A. Yes, of course, that's possible.

Q. It wouldn't be helpful to the Crown case for defence lawyers to start asking questions like that in a trial, would it?

A. Possible, yes.

15 Q. I apologise. I promise we'll move on but still in paragraph 3 on page 125 of this document, it says, "He" - being Virkez - "became an associate of the other persons arrested, gained their confidence and became a trusted member of this terrorist group." Do you know what the source was for that claim?

20 A. No.

Q. Did Mr Cavanagh give you that impression, that those matters were matters of fact?

A. I can't recall, no.

25 Q. Virkez didn't say that in any record of anything he said to police?

A. I don't think he did in his interviews, no.

Q. Did Mr Cavanagh tell you anything about Mr Virkez that fit the description of facts: "He became an associate of the other persons arrested, gained their confidence and became a trusted member of this terrorist group"?

30 A. Not specifically but as you - as I indicated, Mr Cavanagh provided the background information on the Croatians that he - that the Commonwealth Police were aware of, but what specifically about Virkez, I have no direct recollection.

35 Q. I need to ask you to keep the hard copy of this document, Exhibit 11.35 in front of you.

EXHIBIT 11.47 SHOWN TO WITNESS

40 Q. This is a statement of facts that you read out to the Supreme Court, 31 January 1980; is that right?

45 HIS HONOUR: No.

WITNESS: Can I scroll through to the bottom?

HIS HONOUR: Doesn't sound right, Mr Buchanan.

50 BUCHANAN: It's the first two paragraphs only that I'm focusing on now.

HIS HONOUR: This is the bail application?

BUCHANAN: Yes.

5 Q. If you look at those two paragraphs and then look back at the document that we've agreed might've come from Special Branch, Exhibit 11.35, the first two paragraphs of the two documents are identical, aren't they?

A. So what you're referring to is paragraph 1 where I've got, "The applicant is Serbian by birth"?

10

Q. Yes?

A. Where does that appear in this other document? Page 125, is it?

15

Q. I withdraw that question. Did you, for anything that was in the statement of facts on that bail application made by Mr Virkez, draw upon the document Exhibit 11.35, the hard copy of which is in front of you?

A. No. I'd never seen that before. Not that I can recall. There were other antecedents prepared earlier in January, as I understand, so whether I referred to some of that information in preparing an updated antecedents for the later application.

20

Q. Can I take you now to paragraph 5 of Exhibit 11.35, which is over on page 126. There's a reference to "Each bomb constructed contained 12 and a half kilograms of high explosive gelignite"; do you see that?

25

A. I don't have anything in front of me, I'm sorry.

Q. Should be red page 126?

A. 126, okay.

30

Q. Printed paragraph 5. I'm just directing your attention to the sentence commencing "Each bomb constructed." Do you see that?

A. Yes, I do.

35

Q. That sentence continued after the reference to the amount of high explosive:

40

"Were to be detonated by means of an electronic timing device which was to have been constructed by Brajkovic, who has been attending an electronics course during the past three years. He is believed to have travelled overseas for the purpose of receiving instructions in terrorism and was present during an actual terrorist bombing attack which is unknown at this stage."

Are you familiar with the claims made there?

45

A. I'm aware of the electronic timing mechanism because, as you'll recall, we went back to speak to Virkez or Bebic to find out where that could've come from, and we went and made enquiries at an electronic shop at Parramatta Road. But in relation to the reference there about travelling overseas and present during another terrorist - it's the first time I've become aware of that, as far as I can recall.

50

Q. You're not able to assist us as to the source for those claims?

A. No, I'd say the source would be whoever this - the author of this document was consulting with.

5 Q. Can I take you to paragraph 6 in the same document. There's a reference to placing bombs at the water mains at St Mary's, and then, second sentence of that paragraph, "Whilst it is obvious the reason for attacking Yugoslav premises, the pipeline was to be destroyed to gain publicity which they felt would involve the federal government." Are you familiar with that claim, that
10 the pipeline was to be destroyed to gain publicity which they felt would involve the federal government?

A. I can't really recall other than what is contained in the record of interviews, really. Sorry, no.

15 Q. You don't know what the source would've been for that claim?

A. No. Not sitting here today, no.

Q. There was no reference to involving the federal government in any of the evidence of admissions alleged to have been made by the accused or any of
20 them?

A. Involving the federal--

Q. The federal government?

25 A. Other than the federal police, no.

Q. I think we might be at cross-purposes. I'll withdraw the question.

LUNCHEON ADJOURNMENT

30 EXHIBIT 11.35, RED PAGE 126, SHOWN TO WITNESS

Q. You might have a hardcopy of it in front of you; is that right?

A. Yes, I have.

35 Q. Would you mind turning, please, to red page 126?

A. Yes.

Q. Can I take you to paragraph 9 which reads:

40 "In the event of the mentioned acts of terrorism being successful in Sydney it was their intention to instruct similar groups in Victoria in acts of terrorism."

45 You can take it from me that there was nothing in any of the admissions attributed to the Croatian Six accused to that effect. Were you aware of what's recorded there in paragraph 9?

A. No. Definitely not.

Q. No-one suggested it to you?

50 A. No.

Q. Not Mr Jefferies?

A. No. Not that I can recall, no.

5 Q. In paragraph 10, the first sentence talks about, "...the arrest of these offenders on the 8 February 1979...". You'd take that to be a reference to at least the people arrested in Sydney, would you? Is that how you'd read it?

A. I'd probably think that they're referring to all of them.

Q. Right.

10 A. But that's only my interpretation.

Q. Then it goes on to say:

15 "...time bombs, electronic devices, explosives, detonators and firearms were found in their possession. At the time of the arrests they were in the process of leaving their respective premises to meet and form into two groups to place the time bombs in the premises mentioned."

20 That wasn't correct, was it? Not on the police evidence, as you understood it?

A. Which part are we - you--

25 Q. That, "At the time of the arrests they", these offenders, "were in the process of leaving their respective premises to meet and form into two groups to place the time bombs in the premises mentioned."

A. I think they were in the process of - that Virkez and Bebic, as I recall, were travelling down to Sydney to meet up with them.

Q. That was the plan, allegedly.

30 A. That was the plan, that's right.

Q. You know that the police evidence, in respect of the three accused arrested at Burwood, was that they were found in the attic of those premises?

35 A. That's right, yep.

Q. That in the case of the accused, Zvirotic, the police evidence was that he was found inside 13 Chandos Street, Ashfield on the stairs?

A. That's correct.

40 Q. But at the time, he was wearing what's been variously described as underpants, a swimming costume, and a pair of football-type shorts.

A. That's correct.

Q. Not exactly garb for going out?

45 A. No. Whoever was the author of that document, I guess--

Q. And in the case of Mrs Brajkovic, he was allegedly found lying under a tree in the nature strip outside his house with a pair of binoculars.

50 A. That's correct.

Q. Do you know what the source would have been of this claim in this document, "At the time of the arrests they were in the process of leaving their respective premises to meet and form into two groups to place the time bombs in the premises mentioned."

5 A. Again, that's the - I guess it's whoever - whoever was the author of that, and what information they had, or whatever deduction they'd made, or how they formed that statement. It's a matter for them really. It's not a document that I - that I can recall, no.

10 Q. You don't know of any evidence to support that claim in the second sentence of that paragraph?

A. No.

15 Q. Could I take you, please, to paragraph 11, which I think might be of red page 127. It reads:

"Whilst searching their homes Yugoslav literature relating to the construction of time bombs was found together with newspaper cuttings referring to various hi-jackings throughout the world."

20

Now, please found the book in the Croatian language Osvetnici Bleiburga in Lithgow.

A. Mm-hmm.

25 Q. That certainly had, even if you don't read Croatian, instruction on how to construct bombs.

A. Mm-hmm.

30 Q. Do you know whether there was anything found in the homes raided in Sydney by way of Yugoslav literature relating to the construction of time bombs?

A. Not specifically. I'm aware that there were materials or items removed from the premises, but I can't indicate at this stage what they were, but--

35 Q. All the premises raided - when I say that, the premises at Ashfield, Burwood and Bossley Park - were searched and, amongst other things, documents were taken away?

A. That's right.

40 Q. But nothing was produced at the trial, was it, by way of Yugoslav literature amongst those documents relating to the construction of time bombs?

A. You might be able to help me whether there was produced at the trial. I mean, you - are you in a position to tell me--

45 Q. I'm suggesting none was produced. Do you have a different memory?

A. No, I don't have a memory. I was relying on your knowledge of it.

50 Q. It goes on to say - this is at paragraph 11 - "Together with newspaper cuttings referring to various hi-jackings throughout the world." Again, do you know what the factual basis might've been for that claim?

A. No, again, it's - it'd be a matter for the author or the agency that produced that.

Q. It's nothing that ever came to your attention?

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

Q. Just looking at paragraph 11, on what you were aware of, whoever wrote this would be apparently attempting to poison the mind of the reader against the people who'd been arrested in Sydney, wouldn't they? It's slanted to their prejudice?

10 A. Well, I don't know what was in their mind when they prepared it or what information they were using to provide that report or to form that opinion, but - or who this - who the audience was for this document, but that's all really I can comment on.

15 Q. Paragraph 12: "Since their arrest, the Croatian Intercommittee Council have refused to assist police and, on a number of occasions, have displayed sympathy for this group of terrorists." Do you see that?

20 A. Yes.

Q. You executed a search warrant on the offices of the Intercommittee Council?

A. I did, yes.

25 Q. Did police, on the execution of that search warrant, find evidence that the Croatian Republican Party had been expelled from that controlling body because of their extremist and violent views?

30 A. I recall that we - there were some documents but you'll have to assist me, or the Counsel Assisting, what that material indicated. I don't--

Q. None were tendered at the trial?

A. No.

35 Q. Was anything found along those lines that didn't end up being tendered in the trial?

A. If there had've been information, we would've provided that to the prosecutor and to the Crown, yes.

40 Q. Paragraph 13: "Information has been received of three others who are involved with this group and are currently residing in the Sydney area." I take it that was drawn to your attention?

45 A. I don't have a recollection of that. If there was other - if there was others indicated to us, then we would've carried out some sort of investigation, and again, I can only rely on the documents that I have at my disposal here at the Inquiry to answer that.

Q. Do you have a memory of understanding, let's say in 1979, that you hadn't caught all the offenders, all the members of this group, that there were others out there who might be likeminded?

50 A. No, I have no memory of that, no.

Q. I take it that, as far as you're aware, given the role you were playing in assisting in the compilation of the brief of evidence, you don't know of any factual basis or you can't remember any factual basis for that claim?

A. That's correct.

5

Q. Paragraph 16: "The within information to be kept strictly confidential and not made available to the general public for obvious reasons." From what you have read of this document, can you understand why the information shouldn't have been made available to the general public? In other words, what were the obvious reasons as far as you're aware?

10

A. I suppose it's to make unfounded claims or to alert people when there was no need to alert them, or it was just a process within these intelligence areas that they tended to keep these things confidential or it's a secret document. Depend on its classification by superiors as to whether it should be released or not released, you know, within the Special Branch intelligence environment.

15

HIS HONOUR: Mr Buchanan, inviting him to speculate about something in relation to a document that he has no knowledge of, is it helpful?

20

BUCHANAN: May it please the Court.

<EXAMINATION BY MS GLEESON

25

Q. Mr Milroy, my name is Ms Gleeson. I appear for the New South Wales Commissioner of Police. I wanted to explore with you in the first instance, accepting you have no direct memory of it, the manner in which you go about assembling the brief for the prosecution?

A. How it was assembled?

30

Q. Yes. The first question I have is you gave some evidence, and this is at page 1821 of the transcript, and I'll just give you a summary of it. You were asked some questions by Counsel Assisting about a meeting that you had had with the Crown Prosecutor, and as well as Detective Turner and Mr Cavanagh. Some questions were then asked about the contents of that conference; you gave an answer that included that you would make records, including in a duty book, but also in a tasking book that involved writing down tasks that you were required to do, including tasks that were given to you by the prosecutor in relation to the materials that were on the brief.

35

40

A. Mm-hmm.

Q. Are you able to provide a further explanation about this tasking document, and how that was put together?

A. On the - I think I did indicate that on the - other than the current report on the actual brief that went to the prosecutor and the list of the - those charged and the relevant charges, the document under that would have been a - list of the - all the witnesses, or all the statements that were contained within the brief. And then I would indicate who the witness was, civilian or police, and do a summary of the evidence that they will - would be giving as per their statement. And underneath that if they were producing a - an exhibit or a

45

50

5 photograph I would have that block letters. And I used to indent them so as
there was a column on the left-hand side under the - the person's name. And I
used to always carry that because they would have their contact details, or
it'd - and if they were required, I'd indicate on that, so that was what would go
with it. As far as the tasking books were concerned, it's just more like a similar
book you have for you tax; ruler, a line down it, you write down the time, date,
what - what is the task and who it's allocated, but that was something that I did,
or it was quite common in investigations that were time consuming. And that
10 wouldn't go with the brief of course, that was a handwritten document; it just
contained records of the - of what the enquiry was, and - and who is allocated,
and if there was a result you make a reference to - either an occurrence made
entry or see a statement, or a statement obtained, things of that nature.

15 Q. Does it follow from what you've just told me that in relation to every entry
you may have had in the tasking list there would be another independent
record, be it in a notebook, in an occurrence sheet, or in a statement of the
outcome of the enquiry that you'd undertaken?

A. Yes, that's correct.

20 Q. And you're not aware of any incidences in which you would have a task
that was assigned in the tasking list where there wouldn't be a record of what
the outcome of the enquiry was.

A. That's correct. Like for example, you do the enquiry with immigration, or
Interpol the result of that would be the - the telegram that we got, or the telex
25 we got from Interpol and you would - we'd keep that in a folder. I did indicate
that in the brief there would be the brief of the - of the evidence, they'd be the
tasking book, a spring back folder with your occurrence pad entries, and
another sort of manila folder that you'd put any letters or documents, or the
telex, or things like that - that you were - were collecting as part of the ongoing
30 inquiry, yeah.

Q. Just turning then to the occurrence entries, you've been asked a number of
questions about documents behind Tab 11.50A, and there are a number of
occurrence sheets. I can take you just to one example, just to familiarise
35 yourself again with the document--

A. Okay.

40 Q. --I know you are familiar. If the witness can just be shown Tab 11.50A-1,
and that's red 229-1.

EXHIBIT 11.50A-1, RED PAGE 229-1, SHOWN TO WITNESS

Q. You can see that document - don't worry about the contents of this
document, but you can see that it's in a standard form, it's got date, time and
45 occurrence number. And then it's got the report of occurrence and the police
in charge action taken; it looks like whoever's typed this one has filled it out as
a narrative document, so it's probably not the best example. Could you just go
to the next document, which is 11.50A-2, and this is perhaps a better
example. You can see there that, as I've said, it's in a standard form. On the
50 top of the document it, on each occasion that I have seen, has P109, do you

know what that signifies?

A. The P, what?

Q. It says P109 in the top centre of the page.

5 A. That's the standard occurrence entry reference number in the police service.

Q. A form number, for example?

A. Yes.

10

Q. And then if you look at the top right-hand side, above the "police in charge action taken" there's a handwritten number.

A. That's correct.

15

Q. What was the process by which the handwritten numbers were assigned?

A. That would have been the - the next number in the folder, so if we're number 7, the next, I assume the next one would be number 8, and so on. But I don't - I don't know whose writing that is.

20

Q. Was the process then that there was a book of these forms, and as each officer completed a report of occurrence they would then handwrite the number?

A. Yes.

25

Q. And was the number intended to be sequential as officers moved through the book?

A. Mm-hmm.

30

Q. Were the books confined to a particular investigation, or did officers just go, fill them out as they went, and then allocate them to the particular investigation to which they pertained?

A. Well you'd have a - a pad of these P109, which are common in most police - police stations.

35

Q. Yes.

A. Which reports really all occurrences that occur within a - within a patrol, and we would have just got one of these pads, which are allocated within the office or in the secretary's office, and we would just use the individual sheets ourselves and other officers, if they were submitting them, would do likewise.

40

Q. In relation to this investigation, would it stand to reason that as you were compiling the brief, all of the occurrence sheets filled in relation to this investigation would come to you?

45

A. Either they'd come to myself and Sergeant Turner, and as I indicated, they were kept in a spring-back folder. You know, in those days you had those spring-back folders, and he retained all of the - those documents in a box, which he locked away every day.

50

Q. I take it that some of the occurrences that were recorded in the loose sheets would eventually find their way into a statement? Either a statement

that recorded what a particular officer did, or a statement of whoever it was that the officer was speaking with?

A. If it was applicable, yeah. Yeah.

5 Q. On some occasions, and I'm happy to show you an example, there were occurrences which recorded that a particular document had been obtained?

A. That would be the same - the same thing would apply.

Q. And it would annex that document?

10 A. Yeah. But as I indicated, in a lot of investigations, you don't use occurrence pad entries. You wouldn't refer to it as an occurrence pad. It'll be referred to as running sheets, and normally you don't use them once someone has been arrested. The way you've got - sort of wide-ranging enquiries, or things coming in from different areas, it's really up to the team leader to decide,
15 "No. We'll get some running sheets. We'll do running sheets initially on this until we feel it's not necessary", in addition to the job tasking book. So--

Q. You'd accept from me that notwithstanding that the arrests were obviously made at the outset of this investigation, that the occurrence reports moved well
20 into March of 1979 as--

A. You referred to them as a running sheet, not as - the trouble is, that's all you had in those days to use, so - you could have used actually a blank sheet of foolscap, if you wanted to, and just say that's the running - but because you had other staff from other areas, you would just say, "Look, put it in a running
25 sheet." You wouldn't say, "Put in an occurrence pad entry." You would say, "Put it in a running sheet."

Q. Can I take you back to the running sheets that annex the documents. If an officer was to obtain the document, the running sheet entry came to you, and it
30 was deemed to be of sufficient relevance to go into the police brief. What the process you undertook to include it in the police brief? For example, was it appended to a statement of the officer who obtained the document, or did it go in independently into the police brief?

A. Well, if there was something relevant that was uncovered by an officer who
35 put that into a running sheet, we'd tell them to make a statement, but the running sheet would be held, as it would have been in those days, and it wouldn't be attached to the statement, I don't think. If it was required to be produced, you would produce it.

40 Q. Does it follow from what you've told me that the police brief would have had a number of statements, as you've indicated to this Inquiry, that might also contain a number of independent documents that stand on their own as records that would go to the prosecution?

A. I can't recall everything it went to, but photographs and other documents
45 from the Dangerous Goods Branch and things of that nature, yeah.

Q. So that there may have been documents in the police brief that weren't necessarily referred to in the statement of any officer who would put forward statements in relation to the prosecution?

50 A. Well, there would be a statement for all witnesses that - if they're going to

present a document or a photograph, so there would be a statement, and there would be - and in the statement, "I now produce this", or, "I now produce that".

5 Q. Can I now turn to a different matter, and I want to go back to the evidence you've given about the commencement of your involvement in this matter following your attendance at Lithgow and the investigations and the rest that were undertaken when your responsibilities moved to compiling the police brief.

10 A. Mm-hmm.

Q. You've given some evidence that, at least according to your records in your duty book, that your first conference with Sergeant First Class Officer Brady was on 13 February 1979?

15 A. Yes. Yeah.

Q. I just want to understand from you, and whether it's as a matter of your usual understanding or any direct recollection you have, once you had met with Sergeant Brady, I will call him, were the further enquiries that were undertaken by you and by other officers of CIB, were they at the direction of the officers of CIB, or was there input by the prosecutor from that time into what enquiry should be undertaken?

20 A. Right. Well, that's a long time ago, but the fact that the First Class Sergeant from the prosecutor was going to be the prosecutor at the committal proceedings, there were early discussions with him in relation to how we're going compiling the brief, what statements are outstanding, and that would be an ongoing process between Sergeant Turner and him, or both of us at some stage. You always found that when you presented a brief to a prosecutor, if they felt themselves, after they read it and reviewed it, that there were gaps in the - you've missed. You need to find another witness, or as a - chase up another witness in another - by assisting in the enquiry. That would be pretty standard, so you find that they would have some input into the brief, that it's in a position for them to actually lead the prosecution.

35 Q. I take it that may mean that either you may have brought to Sergeant Brady, or Sergeant Brady may have suggested that certain inquiries be undertaken, but that they would not always wind up in a statement that went into the police brief?

40 A. Well, I - you know, I can't recall right back - you know, at that period as to what he wanted. But if there was a request from a prosecutor on a brief with respect to this one or that one, you would carry out the enquiries. If they wanted another statement, you'd find a statement, or it might be that the scientific guy hadn't produced a certificate properly or the Dangerous Goods Branch or whatever agency were involved in, yeah.

45 Q. If you received certain information in relation to, for example, a witness like Mr Virkez, would it be your practice to discuss that information with the prosecutor and what enquiries needed to be undertaken in relation to that information?

50 A. Well, at that stage it was Sergeant Brady and Mr Virkez was a defendant, and if there was a request for enquiries to be made by Mr Shillington, Mr Viney

and Mr White and the public prosecutions for the trial, then those enquiries would be recorded in a duty book or a tasking book, and we would do them and report back accordingly, yeah.

5 Q. The reports back, would they be reports of matters that were recorded in the running sheet or would, on occasion, those reports simply be that you would have a note, presumably in your notebook, of whatever you had discovered and you would communicate that to the prosecutors?

10 A. Yeah, you report back to them because running sheets stopped being used, I think, sometime in March. Maybe the Counsel Assisting might assist, but I'm quite sure it was sometime in March '79, so.

15 Q. Can I ask you, and I'll take it in stages: firstly, in relation to the preparations of the police brief for the committal, do you recall, even if very roughly, how often you met with Sergeant Brady in relation to the preparation of the brief?

A. Other than what's in my duty book, Sergeant Turner may have met with him more times than I did but again, you'd have to refer to his diary.

20 Q. Do you have any memory of whether it was with some frequency or was it only on one or two occasions?

25 A. Well, there would be a regular - I assume, because, first of all they were committed 21 February, my recollection, at Central Court. I believe that's when the date was set for the commencement of the proceedings - committal proceedings, so there would be ongoing meetings leading up to a certain time to ensure that the prosecutor was comfortable that the case was ready to proceed.

30 Q. Would you have any conversations with Sergeant Brady that were not in person; for example, would you simply telephone him if you had some information that you either needed to seek from him or give to him?

A. I think there may have been. I can't recall back then but that'd be quite common sense that there'd be phone calls, yeah.

35 Q. Would they necessarily be recorded in your duty books?

A. Well, if it recorded - well, if it wasn't in the duty book, it would be recorded somewhere else.

40 Q. Can I turn now - and again, generally - just to the preparations for the trial. We've got records of at least two meetings in 1979 of you meeting with Mr Shillington QC. In relation to the preparation of that brief - and you've given some evidence about enquiries that would be made - were the discussions you had with Mr Shillington or would they also be with his instructing solicitor or any other person?

45 A. They could've been with Mr White because he was the solicitor, when we did the antecedents, for example. It wouldn't be uncommon that he would be acting on behalf of - and this goes with any other case. There's usually a junior working for a QC or a - or the Crown, and they say, "We got - we'd like further information here," or - you'd record it and do it and report back.

50

Q. Again, because now we're dealing with external parties, being barristers rather than another member of the police force, would it be common in those circumstances for there to be discussions on the phone as well as formal conferences?

5 A. Yeah, of course, yeah.

Q. Can I take you now to the chronology, briefly. I've already indicated that your first recorded meeting with Sergeant Brady was on 13 February 1979. Counsel Assisting has then asked you about some enquiries that you
10 undertook in March 1979. Can I just ask you as a general question, if you were to be undertaking enquiries after the time that the police prosecutor had become involved, is it your recollection that you communicated the results of that inquiry to the prosecutor at all times?

15 A. Of course.

EXHIBIT 11.71(A), RED PAGE 329, SHOWN TO WITNESS

Q. I'll come back to that in a moment. Can I ask you to go to 11.71(A), red
20 page 338.

EXHIBIT 11.71(A), RED PAGE 338, SHOWN TO WITNESS

Q. You can see there that there is an entry, and it's about four lines from the bottom "Went to Commonwealth Police HQ to see Inspector Cavanagh, re
25 Croatsians".

A. Mm-hmm.

Q. You were asked some questions by Counsel Assisting about this. You gave an answer that "as at 16 March 1979 you would still have been putting
30 the brief together and finalising inquiries". Does it follow from the evidence that you gave that because the brief was being assembled and you were finalising your enquiries that the result of any information that was given to you by Mr Cavanagh at this meeting would have been communicated to the Police Prosecutor?

35 A. Well, it would depend of course what - what - what Mr Cavanagh communicated - it would have been whatever the information was, it would have been communicated to Sergeant Turner, because it doesn't indicate who; I might have been by myself there. And subsequently passed on to the Police Prosecutor, because that's all the information was wheeling around on that
40 Inquiry at the time we would have passed that on if in case there was a reference to needing a statement, or follow up enquiries.

Q. Can I ask now that you go back to 11.71(A), page 329. Can I just direct to your attention to the bottom of the page, and it's the second last - the third last
45 line says at the end "then to Bridge Hotel, Kent Street city", and then you've used the words in this note "it appears to be re Yugoslav informant".

A. That's correct.

Q. Now you were asked some questions by Counsel Assisting that suggested
50 that this meeting would have been to meet with a Yugoslav informant.

A. Could you repeat that?

5 Q. I'll ask the question in a different way. You've used the words "re" as in regarding Yugoslav informant, would you necessarily use that language if you were meeting with an informant, or could it be that you were meeting to receive information about an informant?

10 A. Yeah, right, okay, interesting if I was meeting with an informer I suppose I would have said, "re Yugoslav informant". Could mean that I was going there about a Yugoslav informant, or I met with one, but I guess it's one way or the other.

Q. But as it stands you don't have any direct memory of--

A. No.

15 Q. --meeting anyone at that stage? I take it that the results of whatever information you received whilst meeting with whoever you met at the Bridge Hotel would have been recorded in the running sheet?

A. Unless there is a running sheet to that effect. What date was that, that's?

20 Q. It's on 7 March 1979.

A. 7 March.

Q. We don't have a record of one, but--

25 A. No.

Q. --but that doesn't necessarily follow that it doesn't exist.

30 A. Well it depends what - what came out of that, whether I -whether I reported - put it in to the job book, discuss it with Sergeant Turner if it was relevant, cause the running sheets, that's from memory now of course didn't stop - in - in April I think it was.

Q. And it's right, isn't it, that as at 7 March 1979 all of the defendants in this matter were in custody?

35 A. That's correct, yes.

40 Q. I just want to orient you in time to the period after which the committal proceedings have concluded, and the matter has been committed to trial. I've already asked you questions about meetings that you've had with Mr Shillington. Obviously at the meeting on 11 December 1979 whatever information was conveyed by Mr Cavanagh at that meeting was also conveyed to Mr Shillington by virtue of him being at the meeting.

A. Possibly, yes.

45 Q. You were also asked questions about a meeting on 22 February 1980, and that was one in which you and Mr Turner had attended on the Australian Federal Police, but in Sydney, to meet with Mr Cavanagh.

A. Mm-hmm.

50 Q. Now that's a meeting in February in relation to a trial that's set to commence on 14 April 1980. At that time were you continuing your

involvement in this matter for the purposes of compiling the prosecution brief that would go to trial?

A. Well whatever enquiries we would have been doing from the end of the committal to the trial would be relative to the - the Crown prosecution brief.

5

Q. And when you say, "relative to the Crown prosecution brief" does it follow from that that any information that was obtained during that period was either at the request of the Crown Prosecutor, or for the purposes of conveying information to the Crown Prosecutor?

10

A. To the best of my knowledge, yes.

Q. There are two more meetings about which you've been asked by Counsel Assisting, and they both occurred in Canberra, following Mr Virkez's guilty plea, but shortly in advance of the trial. They were on 8 April and 9 April. You were asked some questions by Mr Buchanan about them this morning also.

15

A. Mm-hmm.

Q. Do I take it that, leaving aside the meeting with the Department of Immigration about which you gave evidence this morning, there would be any other reason for you meeting with the Australian Federal Police on that occasion, other than to assist the Crown Prosecutor in preparations for trial?

20

A. Yes. Yes. That would be the reason. That's right.

Q. Can I take you, finally, to your meeting on 17 May 1980, with Mr Virkez in gaol with his solicitor and a prison officer present. Do you remember being asked questions that by Counsel Assisting?

25

A. Yes, I do.

Q. You gave some evidence in response to the effect that this was a typical visit that was given at the request of the Crown to provide information to the witness about giving evidence, and the timing and process of doing so, including when this witness was in custody, how he would be moved from gaol to the Court. Do you remember that answer?

30

A. Yeah, that's one possibility. That's right, yeah.

35

Q. You were also asked separately by his Honour about the practice of prosecutors sitting down and taking a witness through their evidence in advance of the trial.

A. Right.

40

Q. Am I right that the process of a prosecutor taking a witness through their evidence, and what you were doing when visiting Mr Virkez in gaol were two separate processes?

A. Of course. That's right.

45

Q. And there was an expectation that when it came to discussing the evidence, and the evidence that Mr Virkez was giving and the manner in which he would give that evidence, that would be undertaken by the Crown Prosecutor?

50

A. Yes. Or whoever was prosecuting the matter. That's correct.

Q. Would you ordinarily be present for that conference?

5 A. No. I can remember even with all the other witnesses, as they were being proofed, you might want to call it, we wouldn't be present. We would be asked, "These are the next witnesses", and they would be told to go, but we wouldn't sit in with everyone. You know, all the various police, or scientific, or ballistics, no.

<EXAMINATION BY MS MACKENZIE

10 Q. Mr Milroy, my name is Katrina Mackenzie. I'm from the Office of the Director of Public Prosecutions. Just a few questions. I just want to ask you some general questions about the process, because the word "prosecutor", "Crown", it's been thrown around, so I just want to get some lines drawn.

15 A. Mm-hmm.

Q. You said that you would effectively collect statements and put the brief together, and it would then be given to the police prosecutors. Generally, you would accept that?

20 A. Yes. Well, yes. Once it was completed, you would then hand it to the prosecuting department. Usually we would table them into their in-tray, and their inspector or assessors would review them and then allocate a prosecutor to do the matter, and then if there was follow-up statements to be obtained, they would - the respective prosecutor would request it, yeah.

25 Q. With the police prosecutors, where were they located? In the same building as you or nearby?

30 A. Initially they used to be done at Central. Near Central Petty Sessions, from memory. No, I'm sorry. I can't - there was a fair bit of a changeover going on in 1979, with a fair bit of shuffling, and people being transferred to different buildings. So I can't quite answer that question.

Q. Would you say, though, that they were easy to access if you wanted to talk to them, or they wanted to talk to you?

35 A. Yeah, we'd normally make an appointment to go and see them, or ring up and - or if there was matters that went before the Petty Sessions, where a person is remanded in custody, and a date set either for a hearing or for bail, they would be aware of it, because there would be a prosecutor at the Petty Sessions for each of the Court cases, and they would normally go, "Right. Somebody will be in contact with you", or the same person would have carriage of the case.

40 Q. You also said that, when you were compiling the brief before it went to the police prosecutors, that there might be additional documents that went in a box, and you said that sometimes those documents didn't have statements attached to them, that sometimes they existed because of further enquiries, and that would be cited in your statement as part of a further enquiry. Do you know what I'm talking? The box of--

45 A. Yes. Yes. Yeah.

50 Q. You did say that this box went to the police prosecutors. What exactly did

you mean by that?

5 A. No. No. No. I think - what I was meaning was that there was a box that contained a copy of the brief, and the occurrence had entries in a spring-back folder, a tasking book, and a - sort of a folder that might have loose papers. For example, like the Telex that came back from Interpol and things like that. That would not be attached to a statement because they wouldn't be relevant. You might say you've made enquiries - we've made enquiries at Parramatta for the electronic - you might have had a piece of paper that had the name of the company. Things of that nature. There might have been
10 other communication you might have received.

Q. But that would - sorry.

15 A. On - that's a Modus Operandi Section and things. They would just be in a folder that we'd be - associated papers with - but all cases have them and that would be kept together and whenever - normally, with a - in the police service, you are supposed to - the completion of a prosecution is to have the brief filed. You don't take them with you. You know, if you get transferred, you don't take boxes and boxes and boxes; you just take your police statement with you because you may be called on to give evidence later. And they are
20 usually put into a repository, booked in - in particular, homicides and complex cases are all filed, and there used to be a repository at the old CIB which had reams and reams and reams of old cases that are held indefinitely for future access and particularly those that were unsolved, yeah.

25 Q. All those documents would go to the police prosecutors initially with the other statements as well?

A. Yeah, give the police prosecutor the completed brief, as you believed it was, and any, in any discussions you had with him, he might've said, "Well, where's the telex for Interpol? Can I have a read of it?" You would show it to
30 them, but that--

Q. You would keep that information?

35 A. That would - that's right. Sergeant Turner retained all those, locked up in his locker.

Q. That would be because you decided it either wasn't relevant or is an enquiry that went nowhere?

40 A. No, if there was - I think in this case, there were some letters that were translated that there was no statement required later, they weren't required by the Crown to be produced so the - there'd be things like - of that nature.

Q. A letter that had been translated, would that be kept by you at the police station or does it go to the police prosecutors?

45 A. It would've been shown but I'm just saying, it was retained by the - Sergeant Turner, yeah.

Q. You've got these documents that go to the police prosecutors. The police prosecutors run the committal; that's correct?

50 A. Sorry, the police?

Q. The police prosecutor runs the committal?

A. That's correct, yes.

5 Q. In this case, I think you say the running sheets stop in March/April. The committal commences in about May and runs through to October?

A. That's correct.

Q. Is it correct that you would've maintained regular contact with Sergeant Brady, the police prosecutor?

10 A. There would've been. I mean, at various stages, you know, if you look at my diary, there's - we have other duties. You get sent off on other - once you've given your evidence, unless it was necessary, either Sergeant Turner or I would be around to chase up witnesses, but you'd go - you'd be sent off on other jobs. That was the same when the trial was on, that's right.

15

Q. It's just an ongoing process?

A. Yeah.

20 Q. The contact, the committal runs, things come up, you do some chasing. When the committal ends, the matter goes to the higher courts and the Crown Prosecutor becomes involved; that's correct?

A. That's right.

25 Q. In this case, your diary would show your first meeting with Mr Shillington was in December 79; that's correct?

A. If that's what the diary shows, yes.

30 Q. You indicated that that's a normal part of the process. You would meet with the Crown Prosecutor after the committal, getting ready for trial?

A. Yes.

35 Q. The brief that goes to the Crown Prosecutor, is that passed to the Crown - I'm talking back in 1979 so you may not remember - by the Police Prosecution Service or do you, as the leading police, take the brief to the Crown yourselves?

40 A. I think in those days, the depositions from the Petty Sessions and the accompanying statements of the relevant witnesses, whether police, civilian or otherwise, would go through in a package, and the forwarding of that from the committal court to the Public Prosecutions in *Virkez v The Crown* would be an administrative process which I - we have no involvement in.

Q. In relation to the documents that either the police prosecutors or yourselves had formed a view weren't relevant, would they remain with police?

45 A. What's not relevant?

Q. You gave the example of a letter that had been translated, so--

A. Yes, that's right. I mean, they would - that's right--

Q. They would remain with you?

50 A. --that's right. Well, I mean, some of these things come up later, I assume,

with the discussions with the Crown.

Q. The Crown didn't know to ask for them specifically--

A. Well, if the Crown--

5

Q. --or they didn't come up--

A. There are - I think there are one or - a letter there, I think, that - I'm not sure. The Counsel Assisting might be able to confirm but I thought there was a letter that was translated from Virkez and I don't think there was a statement
10 obtained for that to be tendered at the trial, because I guess it was translated, looked at, examined, not considered to be relevant, as would other bits and pieces. So, you know, the telex from overseas on Interpol, things of that nature. So they'd be held by Sergeant Turner, in this case, with the running sheets and the job tasking book, et cetera.

15

Q. Unless it was in that bundle that had been passed to the Crown, they wouldn't necessarily know that it existed unless it came up in the--

A. Well, they'd know it existed because they would've been - they would know it existed if they were briefed during these ongoing meetings.

20

Q. If it came up?

A. If it came up, that's right, yeah.

25

Q. You were asked about the first meeting with the Crown Prosecutor, which was on 11 December 1979. That was after the committal and, although you haven't been able to recall the details, you agree that that was a normal part of the process, the meet and greet with the Crown Prosecutor, yes?

A. Yes, and I think in this case, I think because of the length of the upcoming trial, I think the - Mr White and Mr Viney and Mr Shillington who had early
30 involvement, if you know what I mean, in engagement with the police.

Q. So you do have some recollection of that conversation, if you feel that--

A. I don't have a - I don't have a--

35

Q. --they were heavily engaged?

A. No, I don't have a recollection of the conversation as this inquiry has gone. Initially I did indicate I didn't even remember their names until it was highlighted to me with antecedent documents. I did mention Mr Viney was one name I'd remembered. But that - in this case I think it was the Crown were
40 involved early in the - in the piece all because of the length of the upcoming trial, which is just common sense, yeah.

Q. So they were involved, though in, I think, it was December--

A. That's right.

45

Q. --so it's a few months after the committal.

A. Well that's right, a month after the committal.

50

Q. Based on all the documents you've seen you assume that they were heavily involved, because you've got no recollection, is that correct?

A. Heavily involved?

Q. You said that you felt they were very involved, and involved early--

A. Well based on--

5

Q. --in relation to this matter.

A. Based on the - what I recall from my diary entries there were numerous meetings, I believe, and there could have been other meetings that Sergeant Turner went to and I was present, and - but the Crown were spending quite some time preparing for the upcoming trial, you know.

10

Q. And that's your recollection?

A. That's my - that's right.

15

Q. On 22 February 1980, you've got a notation of a meeting in your duty book, and that was at red page 417. Present at that meeting, based on your notes, was Mr Shillington QC, Mr White, Mr Cavanagh, Sergeant Turner, and of course yourself. Now you've told us that you don't have an independent recollection of that meeting, but you were told by Counsel Assisting that the day before, on 21 February, that Mr Cavanagh had met with Mr Virkez, do you remember the meeting that I'm referring to on 22 February?

20

A. Yes.

25

Q. You agreed that in the context of the information that you were given that it was possible in your meeting of 22 February 1980 that it included discussion in relation to Mr Virkez, do you remember agreeing to that?

A. That's - yeah, I - possibly, yeah.

30

Q. But just to confirm, you have no independent recollection?

A. No.

Q. Are you aware that Mr Cavanagh gave evidence under oath on 31 May 1982?

35

A. I'm aware from what Counsel Melis mentioned to me, and also what I read in the papers that led to the setting of the Inquiry.

40

Q. What I'm going to do is just take you to some evidence that Mr Cavanagh gave to the Court of Appeal on 31 May 1982, and then I'm just going to ask you a few questions about what was known about Virkez prior to him giving evidence, effectively. And also whether any of this may help you recall some of the details. Exhibit 2.4, it's red page 9563, it doesn't necessarily have to come up, but at that point Mr Cavanagh said that on 21 February 1980, so that's the meeting the day before that you did not attend; that Mr Cavanagh attended with another AFP officer. I'm not sure of his rank, but it was Blades. That he said, "It was he attended purely as a representative of the Prime Minister and cabinet department to satisfy myself as to his bona fides", now what does that statement mean to you? This is Mr Cavanagh saying why he attended the 21 February 1980 meeting.

45

A. Just what it says, it's bona fides.

50

Q. But "attending purely as a representative of the Prime Minister and cabinet", does that indicate that you had any involvement with the meeting?

A. No.

5 Q. He wasn't in the presence of State Police officers during that meeting on 21 February 1980, when he visited Mr Virkez. Now given no-one from New South Wales Police was present at that meeting, is it possible that at the time you didn't know about that meeting; I'm talking on 21 February when it happened?

10 A. It's possible, yeah.

Q. Is it true that sometimes other agencies, or other police services didn't always tell New South Wales Police what they were doing in New South Wales?

15 A. Well, I - I don't think there was a lot of cooperation between agencies in those days, but the point I made earlier is that it's unusual for another police officer, or another agency to go and speak to a person that's in custody that's actually charged by another - another agency. You would normally contact them and say, "I'd like to go and talk to Mr X or Ms Y that you've got in custody because - about a different matter" and they pay the courtesy of letting you know that they're doing it.

Q. But in this case you had two Federal Police officers who went to speak to Mr Virkez, and there were no State Police in attendance, is that unusual?

25 A. But as I said - as I said, I wasn't aware, I don't get no actual knowledge of it, no.

Q. We know from the records that you then have that meeting on 22 February that included Mr Shillington QC from the Crown. It was mentioned to you earlier, you agreed with Counsel Assisting earlier that it was possible that Virkez was discussed on that 22 February meeting purely by virtue of the fact that Mr Cavanagh and Detective Sergeant Blades of the Federal Police had spoken to Virkez the day before. Just because of the timing, you agree that it was possible you spoke about Virkez?

30 A. I think what I said to Counsel Assisting. That's right.

Q. Yes. If Virkez was discussed at that meeting on the 22nd, would you have expected a full rundown of every question and answer that was asked by Cavanagh and Blades on the 21st to Mr Virkez?

40 A. If that's what transpired, I would expect Sergeant Turner would have asked him, "Well, what did you talk about? What did he say?" And, in particular, to ensure if it was relevant to the case coming before a trial, but, I mean, like--

Q. The question I was asking is: would you have expected a full rundown of every--

45 A. Of course.

Q. --question and answer relevant or not?

A. Yes.

50

Q. Yes?

A. Yes.

Q. At that point in time?

5 A. Yes.

HIS HONOUR

10 Q. Mr Milroy, I think you're being asked literally would you expect every single question that was asked, and every single answer that was given by Mr Virkez would have been relayed to the prosecutors?

A. If - if there was a record of the conversation, you would expect to have a copy of it, or given it to the - Mr Shillington.

15 MACKENZIE

Q. If there was no record of that conversation?

20 A. If there isn't - well, of course, that seems to be - intelligence people do tend to talk to people and don't use notes for reasons to - I suppose to not upset people. I guess that's one of their things that they do. They've got good memories, but I would have expected some sort of an overview of what was said, or what was the meeting for, what was the outcome, and that would have been, as I indicated to the Counsel Assisting, that was possibly passed on to the Crown.

25

Q. You said earlier that you would have expected Mr Turner to have asked whether there was anything relevant discussed if the conversation was, you were aware of it that day. Isn't it correct that the Federal Police more likely to only advise you of things that they were of the view that you need to know and not everything that was said?

30

A. Well, I mean, I can't comment really after all these years--

Q. But in your experience?

35 A. But in my experience I've had - you know, you've always had suspicions that some agencies, even within your own police force, they don't tell you everything. You know, you--

Q. In this case, did you ever have that suspicion?

40 A. I can't recall way back to that time. There was so much going on.

Q. Because you'd agree that if, first of all, you didn't know about the conversation on the 21st when you met with Mr Shillington, that Mr Shillington would have not have known?

45 A. Sorry, could you repeat that?

Q. On the 22nd, if you did not know about the meeting that Senior Constable Blades and Mr Cavanagh had with Mr Virkez on 21 February, if you did not know about that, then Mr Shillington QC and the Crown could not have known?

50 A. I think - I think there was evidence--

Q. Would you agree with that proposition?

MELIS: Your Honour, could the witness just finish--

5 HIS HONOUR: Yes.

WITNESS: I think there's evidence before the Inquiry where there's some record of, or I indicated, that Mr Cavanagh passed on to Mr Turner that he'd spoken to Mr Virkez, so I don't quite understand what--

10 MACKENZIE

Q. If you could answer the question? The proposition? I mean, ultimately, if there is that information, it can be dealt with, but if you did not know about the visit and the conversation that the Federal Police officers had by themselves with Mr Virkez on the 22nd, you'd agree that Mr Shillington QC could not have known?

A. But we did know.

20 Q. Sorry?

A. But we did know. Whether we didn't - whether we knew then or later, we knew.

Q. I'm talking about then?

25 A. Well, I can't - you're asking to pin me down on dates, and after all these years it's just impossible. I'm sorry.

Q. So you'd agree on the 22nd it's quite possible that you did not know?

30 A. Well, it's possible.

Q. And if you did not know, Mr Shillington could not have known.

WOODS: Well, that doesn't necessarily - your Honour, I object to that.

35 HIS HONOUR: Is the proposition this: If Mr Cavanagh didn't tell the prosecutors about X, the prosecutors wouldn't have known about X--

MACKENZIE: Yes.

40 HIS HONOUR: --unless they found out about it from some other source.

MACKENZIE: That's correct.

HIS HONOUR: Isn't that just logic?

45 MACKENZIE: Well, absolutely.

HIS HONOUR: We don't need Mr Milroy to assist us with that, I don't think.

50 MACKENZIE: Thank you.

Q. If you just keep in mind everything that you have been asked, the evidence that you've seen over the last few days, I'd like to take you to some of the questions and answers that Mr Cavanagh gave in 1982 before the Court of Appeal.

5

EXHIBIT 2.4, RED PAGE 9568, SHOWN TO WITNESS

Q. He was asked:

10

"Q. Was any of this information sent on to the New South Wales Police, the content of this?

A. From my recollection the major thing that was passed to the New South Wales Police was that in my opinion he was not a professional agent."

15

Further, he said that this was "possibly passed on by him verbally to a number of officers dealing with him at the time, including Detective Sergeant Turner." Would you agree with his recollection, that verbally he may have passed on that information to Sergeant Turner or maybe some other officers?

20

WOODS: I object to that, your Honour. How can this witness know that? Ask another question.

HIS HONOUR: It's "may have".

25

MACKENZIE

Q. Well, he said "a number of officers he was dealing with at the time, including Sergeant Turner." Would you fall into that group?

30

A. Of course.

Q. He says, "From my recollection, the major thing that was passed to New South Wales Police was that, in my opinion, he was not a professional agent." Would you agree with that? We're talking about Mr Virkez, I should--

35

WOODS: I object to that. It's ambiguous. The ambiguity is apparent.

HIS HONOUR: I think the question might be, "Were you aware that Mr Cavanagh had conveyed to New South Wales Police that he didn't think Mr Virkez was a professional informant," I think the word was.

40

MACKENZIE: I think the word he used was "agent".

HIS HONOUR

45

Q. Were you aware of that?

A. Well, it's a bit confusing because the - I was asked all the questions yesterday about 9 April 1980, and you're talking about what he said in 1982, so - and he's supposed to have passed on information to Sergeant Turner, which is what he claims in 1980. And now you've got other comments in

50

1982. I'm a bit confused by all this but I have no, sort of, recollection. I can't really take it much further, I'm sorry.

MACKENZIE

5

Q. You told Mr Brown, who was appearing for the Office of the Director of Public Prosecutions when you were last in court, that your understanding was that Virkez was not a professional UDBa or YIS agent. The reference to that is transcript page 400, line 20. Do you still stand by that?

10

A. If that's what I said then, yes.

Q. You've said that, then it says here Mr Cavanagh has given evidence on oath that he was not a professional agent, and that that's the information he passed to New South Wales Police--

15

BASHIR: I object, your Honour. If that's going from the transcript reference is that the major thing was his opinion that he wasn't. I'm just being accurate with the evidence.

20

HIS HONOUR: Yes, and I'm not clear what you're putting to him. Are you quoting Mr Cavanagh's evidence or what?

MACKENZIE: Yes, I am quoting Mr Cavanagh's evidence.

25

MELIS: I wonder, your Honour, if it may assist to actually bring up the transcript on the screen.

HIS HONOUR: It might.

30

MACKENZIE: It's Exhibit 2.4, red p 9568.

EXHIBIT 2.4-10, RED PAGE 9568, SHOWN TO WITNESS

35

Q. Mr Cavanagh's been asked in 1980 about what information was passed to New South Wales Police.

HIS HONOUR: For the record, this is Exhibit 2.4-10, p 9568, is it?

MACKENZIE: Yes, it should be, your Honour. I can't see it.

40

Q. If we just look at the top:

"Q. Was any of this information sent on to the New South Wales Police, the content of this?

45

A. From my recollection, the major thing that was passed to New South Wales Police was that it was, in my opinion, he was not a professional agent.

Q. Who passed that on?

50

A. It was possibly passed on by me verbally.

Q. To whom?

A. To a number of officers I was dealing with at the time. One of the people would've been Detective Sergeant Turner who was the officer-in-charge of the case.

5

He goes on to confirm that there were a number of conferences, and a further question:

10 "Q. The question of Virkez as some sort of agent or whatever was discussed between you and at least Turner?

A. Yes, I would've said to Turner, was in essence, I did not consider him to be a professional.

Q. A professional?

15

A. Yes.

Q. Did you indicate to him that you had formed the view that he was at least some sort of functionary?

20

A. No, I didn't have the view he was a functionary. A functionary implies he was an official."

Given the evidence of Mr Cavanagh in 1980 as to what he says was passed on to Mr Turner and other police officers, you've agreed that you were speaking to Mr Turner on a regular basis and obviously involved with what he knew in the investigation. Would you agree that that's--

25

A. Just - can I just--

Q. --an accurate representation of what was told to New South Wales Police during the period prior to committal or after committal?

30

A. Could I just qualify? This, which is before me here, is what he said - you said 1980 but this is 1982, is it?

Q. He gives the evidence in 1982--

35

HIS HONOUR: It's 31 May 1982.

WITNESS: Right. Not 1980, okay.

HIS HONOUR: In the Court of Criminal Appeal.

40

WITNESS: Thank you, sir. Where he talks about a number - a number of officers that raises that issue I raised before; he was a senior officer talking to a lot of senior officers at, I assume, in the New South Wales Police, other than us. But I'm not sure what I'm supposed to comment on, evidence that he gave in 1982--

45

MACKENZIE

Q. But what I'm asking is you've been taken to various evidence and asked to comment on it.

50

A. Right.

5 Q. Taking into account what Mr Cavanagh says - well I'll put a proposition to you. Would you agree that taking that into account that the evidence you gave in response to Mr Brown's question, is it consistent with what you said to Mr Brown that I read to you before?

A. What, I'm--

Q. He's not a professional agent.

10 A. Well I - if you produced what I said in the transcript it's a bit hard for me to just comment just on verbal statements.

HIS HONOUR: Have you got the transcript reference?

15 MACKENZIE: Yes, it's transcript p 400, line 20.

Q. The question was:

20 "Q. The information that you have been given, including information about Mr Virkez passing on information about pamphlets and activities of groups within the community to the consulate did not cause you to consider that Mr Virkez was an agent in the sense of being an agent provocateur, is that right?

25 A. Yes, that's correct.

Q. My understanding - and I think I mentioned last week. Rather the difference between a community source, an informant, a registered informant, an agent well of course is a term that secret service bodies use - not police.

30 A. To go to being an agent provocateur there was no information that I can recall that we had the Virkez was encouraging and enticing these other men to carry out these offences.

35 Q. The same information you did not consider was evidence that Mr Virkez was an agent of UDBa, or had some role as a Yugoslavian intelligence agent; correct?

A. No, we had no information."

40 So would you agree that your answer there, that you had no information that he was an agent of UDBa, or had some role as a Yugoslavian intelligence agent is consistent with the evidence that Mr Cavanagh gave in 1982?

45 A. I'm not really sure what I can - to lay down what I said in evidence at this Inquiry and then lay across this document word for word the substance might be similar, but I mean I - I really can't comment, really, without spending all that time going through it all.

WOODS: Your Honour, I object to that question, perhaps too late. But it may be easier if the witness simply is asked to confirm that what he told Mr Brown the other day remains his opinion.

50

HIS HONOUR: I think he already did that, but he's answered that question; he can't assist further.

MACKENZIE: No.

5

Q. Well taking into account I just put a number of things to you, that when you had the meeting on 22 February 1980 if Mr Shillington QC, the Crown, was actually briefed to some extent about Mr Virkez is it possible, or indeed probable, that Mr Shillington was told that Virkez was not an UDBa representative?

10

A. Possible.

Q. Is it possible that Mr Shillington was told that Virkez was not a representative of YIS?

15

A. That's possible, yeah. Not - not having any knowledge of the actual - the event or the conversation, but it's possible.

Q. Well that would be consistent with what Mr Cavanagh had said in his evidence in 1982.

20

A. Again, I have to go back to the document and - to try and analyse it.

HIS HONOUR: Isn't this really a submission?

MACKENZIE: Yes.

25

Q. Is it also possible that indicating that he was not a member of YIS, and not a member of UDBa was the extent of the information that Mr Cavanagh, or other police officers had expressed to Mr Shillington in that meeting of 22 February?

30

A. It's possible.

NO EXAMINATION BY MR MELICAN

<EXAMINATION BY DR WOODS

35

Q. In your meetings with Mr Shillington QC and Mr Viney was there somebody there taking a note of the exercise?

A. I think I did indicate earlier in the hearings, evidence, your Honour, where I - I assumed very early in the piece that - that the Crown were involved in this matter, and when we had meetings somebody would be taking notes. In those days, you know, the foolscap pages they'd be. But normally it'd only be either Mr Shillington, and now that I know the names, Mr White or Mr Viney and his - his assistant, and notes would be taken, but mainly on foolscap pages, you know, those pads that people have.

45

Q. And those notes would not be given to you, but would be kept by the relevant person who took the notes.

A. Of course. You know, I think that was quite - every time you had meetings with the - in all the case I've been involved in there's usually someone, and even the individuals writing things down, and - which like everybody does

50

today, still.

Q. When you had discussions with Mr Brady, leading up to the committal, was there a similar kind of exercise, or did he not have that sort of staff?

5 A. Best of my knowledge it would - I think from memory I don't think the prosecuting office had the staff until they got some professional legal officers. I just think that you dealt with the individual prosecutor by himself, he or she, that was available.

10 Q. Did you sit through the whole of the trial? The committal and trial in court?

A. No. I think my diary will indicate, because I did so much checking myself, I was actually involved with the - out at the prison when it went on strike. I think that was in August for the whole - nearly for a week or ten days I was - went in the police SWOS. Most of the SWOS personnel were deployed there because
15 all the warders went on strike. There was a hijacking at the airport. I think it was in June or something.

HIS HONOUR

20 Q. Mr Milroy, I don't think we know that - need to know that sort of detail.

A. No. On a number of occasions--

Q. The answer to the question, I think, is "no".

25 A. It's - from time to time, that's right.

WOODS

Q. During the period '79 through '80, did your police rank remain the same?

30 A. Yes. I think it was yes. That's correct, yeah.

Q. You were shown at some point, in the course of questions earlier, a document which appeared to be a draft report from a cabinet subcommittee. Do you remember being shown a document to that effect?

35 A. Mm-hmm.

Q. I think it's common ground that that material was revealed by government processes in about 2018 or so. Had you ever seen that document before?

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

40 Q. There is a gentleman by the name of Mr Cunliffe, who is mentioned, I think, as a member of that subcommittee. Is he a person of whom you have any knowledge personally?

A. The name sort of rings a bell, but whether it's because I read the papers to do with the Inquiry and the - unless - I don't actually think I've met him,
45 because I would have spent time in Canberra with him when I was in the National Crime Authority.

Q. You said that you thought that Mr Cavanagh was, in fact, a full-time police officer, or he wasn't a person that connected with some non-police
50 organisation. Do you have any better recollection about that?

A. No. I've always felt that he was a senior officer in the then Commonwealth Police, and then eventually the Federal Police when I crossed paths with him later on in another jurisdiction, yeah.

5 Q. When you had dealings with Mr Cavanagh, were you always confident that he would communicate with you all of the relevant information that he knew about a particular subject?

10 A. Well, I would hope for. I mean, they're intelligence boffins and they tend to talk in intelligence language and information which is a lot broader, and at times not proven by any evidence, so you tend to take a lot of that on as what you might call "raw intelligence", and you would try and use that information for - to pursue any lines of inquiry.

15 NO EXAMINATION BY MS BASHIR

<EXAMINATION BY MS MELIS

20 Q. Mr Milroy, you gave some evidence to Mr Buchanan that at around the relevant time there was, "A lot of pressure to bear". Do you remember giving that evidence?

A. Yes.

25 Q. The Inquiry has heard some evidence from Mr Harding that his impression was that on 8 February 1979, Inspector Morey was under pressure from the top. Now, I understand that you had already left for Lithgow on the afternoon of 8 February to travel to Lithgow and did not attend any briefings with Inspector Morey that night. My question to you is: did you ever get the impression, either by speaking directly with Inspector Morey, or through speaking Detective Sergeant Turner, that Inspector Milroy(as said) was under pressure from the top?

30 A. Well, I think when we returned - first of all, when we were deployed to Lithgow, the pressure for the unit boys, of course, we're pulling into an emergency deployment with a high level of urgency, because normally you would actually do this - the raids early in the morning. You very rarely go into premises at night. It was too risky, but - and then when we were back in
35 Sydney, because of, like, the significance of the operation and foiling these bombers, there was a sense that this was a significant case, and - but - that it needed to be investigated, et cetera. So there was a sense, as a junior at the time, that this time - we're going to tie up half squad, and - so it was a
40 time-consuming project, so one could feel that it was a very important project to be involved in, yeah.

45 Q. I just want to understand where you got that sense from. Was it from one or more particular persons? Where did you get that sense from?

A. I think really when we had the meeting with Mr McDonald, and then we were advised that, when we got back, I think it was on the Monday, where they had to look at the existing cases that were being carried out by the squad before we all got tied up in this project, and then there would be some reallocation of resources, and this is going to be - be very time consuming, so
50 from Mr McDonald there was this - this is very - very important. The bosses

will want to know - want reports as soon as possible, hence the documents that Mr Turner produced for Mr McDonald. So there was that sort of sense that this was a pressure type environment to be involved in.

5 Q. Mr Buchanan asked you some questions around a compilation of
notes. Remember he asked you some questions about, if there was the
creation of a compilation of notes that other officers could draw upon for the
purpose of creating their statements. You answered that, in your experience,
10 you would prepare a timeline or a chronology and you would use that, together
with your diary, but to create a master document to toe the line would be
wrong. You remember giving that evidence to Mr Buchanan earlier today?
A. Yes.

15 Q. I want to show you a document.

EXHIBIT 11.89 SHOWN TO WITNESS

MELIS: Perhaps if Mr Milroy could also be provided with a hard copy.

20 Q. Mr Milroy, what's up on the screen is a document dated 9 February 1979 at
the Armed Hold Up Squad office, CIB, headed "Timetable of events and notes
in relation to the arrest of Brajkovic." I'll just get you the hard copy so that you
can quickly peruse through it and tell us whether this document is familiar to
you?

25 A. I've - no, I've not seen this before other than you producing it now, no.

Q. You've never seen this before?

A. No.

30 Q. This, as you can see, is a typed timeline of events that occurred with
respect to the raid on Mr Brajkovic's house, including his record of interview,
being charged, et cetera, and it is signed on the last page by Detective
Sergeant Wilson and Detective Constable Harding; you see that?

A. Mm-hmm.

35

Q. In your experience with the New South Wales Police Force, had you ever
seen a document like this being prepared after an event--

A. Yes, I--

40 Q. --that encapsulated the collective thoughts of officers who attended an
incident?

A. Yes, I've prepared them myself, yeah, for--

Q. In this much detail?

45 A. If - specifically for your own investigation, it's like a timeline or a chronology
of events. It'd be quite common, but I thought Mr Buchanan was talking about
an overarching document that would actually say - this would go out to multiple
officers involved and "you'll all - there it is, that's it. Type up your statements
and comply with this over" - that's what I thought he meant, which I've
50 indicated would be inappropriate.

Q. A number of officers have given evidence - in fact, they gave evidence before the committal proceedings and trial - that they used this document to create their statements?

A. Yes.

5

Q. Consistent with the evidence you've given, that would not be improper, in your opinion?

A. No, in actual fact - to give you an example - I don't want to bore the Inquiry but this Mr - Detective Bennett in a particular incident, shortcut the situation, he and I were lying there, writing down everything that happened at 2 or 3 o'clock in the morning, and then later on, all of the assembled officers who were involved in this major extortion/kidnapping, from those handwritten notes, a timeline or a chronology was prepared based on the fact that somebody had taken notes at the time. So that's quite common. Otherwise, you know, you have no other records other than the fact of an interview or what's in your diary, so it's quite a common practice, yeah.

10

15

EXHIBIT 11.50A-12, RED PAGES 229 - 23, SHOWN TO WITNESS

Q. This is an occurrence pad entry, Mr Milroy, dated 23 February 1979. It's by Turner and it is a summary of events of the arrests of Kokotovic and Nekic; you see that?

20

A. Yes.

Q. If you go over the page, we see again a summary of events regarding the arrest of Joseph Kokotovic, Ilija Kokotovic and Mile Nekic at Livingstone Street, Burwood on Thursday, 8 February 1979?

25

A. Yes.

Q. It's two pages but in a similar format as to the other document I just showed you, it gives a summary of what occurred at that raid on that night. This is not signed or dated as such, but it does appear under this occurrence pad entry. The previous document I showed you does not appear to have been attached to any occurrence pad entry like this one has, that the Inquiry has. Would you expect that a summary document like this should have been attached to an occurrence pad entry?

30

35

A. Yes, or it could've just been handed - have you noticed that Sergeant Turner's just got a little paragraph with this attached, whether this was handed over at the time, I don't know. I can't recall, but - yeah, could've - should have come in with an occurrence. A running sheet I'm talking, but not occurrence, but.

40

Q. And consistent with the evidence you just gave to the Inquiry you see nothing improper in the creation of such a document that can be used by other officers who attended the raid in the preparation of their statements.

45

A. Well normally the - whoever compiled this would have - those would have been the officers who were - would have contributed to this document, if you know what I mean. They would have sat down, and said, "Right, I did this, I did that, you did this" and so as you can capture all the - well especially if you've got multiple officers involved it's not uncommon in those days. Today of

50

course you've got video cameras and other technology that makes life a lot easier in terms of - of capturing what actually occurred. But this is quite, well would have been quite common in those days.

5 HIS HONOUR

Q. Just going back to the first of those documents, the 11.89 Exhibit, can you just look through it again and just note the level of detail that is in there, and the extent of the notes.

10 A. Yes, that's right.

Q. Turn over a few pages and you'll see what you're talking about.

A. There is.

15 Q. It not only summarises events in a chronological order like the other document does, but it includes detail as to conversation, questions asked, answers given. And at the end it records that there were a number of officers present at the time that the notes were compiled.

20 A. That's right.

Q. Do you see anything unusual or unacceptable about a document of that nature?

25 A. No, I think actually it just indicates the difference of the - those who are putting them together, there's Sergeant Wilson and Turner, and the group compared with the others. I've seen them actually shorter than that, just like dot - dot points. It just really depends on who's preparing it, and who's, you might say, coordinating the - the group to come together to provide their input. I think if you had another four or five raids you'd probably find four different, four types of documents, with some with more information than
30 others relevant to the facts of the event, yeah.

MELIS

35 Q. Mr Milroy, during a point in your evidence to Mr Buchanan you mentioned that there would be, for trial, a timetable for the provision of statements, and you would do your best to gather the evidence that you needed. Do you remember giving evidence around that, around a timetable for the provision of statements?

40 A. That - is that from the prosecutors or the Crown - Crown we're talking about?

45 Q. Well I just wanted to explore it with you. In 1979/1980, when you were preparing for the trial do you recall there being a timetable for the provision of statements by the New South Wales Police?

WOODS: Does my friend mean for trial, or the committal?

MELIS

50 Q. I mean for trial.

5 A. Right. Well I mean the statements would already be prepared, because they've been through the - the Petty Sessions, and would have been transferred across with the depositions to the Crown. And unless the Crown identified a new witness then we go out and get a statement. I'm not sure if there were witnesses called at the trial in addition to what was called at the Petty Sessions, in other words, new witnesses, I don't know. But when I say a timeline, it would have just been if we had a meeting they'd say, "could you get a statement from Mrs Smith" you go out and get the statement then bring it back and give to the Crown--

10

Q. I understand, so that's what you were referring to--

A. --so they would know a timeline. That's right, yeah.

15

Q. --when you discuss, when you said there'd be a timetable for the provision of--

A. That's right.

Q. --statements, okay.

20

HIS HONOUR: Just in relation to the compilation of the brief.

Q. There was a time when there was not a requirement to serve the brief of evidence on the defence, like there is in more current times. What was the situation in 1979, did you serve the brief of evidence on the defence?

25

A. Yeah, it's something I actually thought about because I just can't think if that was the process in 1979. I know you had to learn your - your statements word for word, and stop half way through and refer to your statement and keep going, but I - I can't recall. Because I - I remember there's a process where you had to serve the - the prosecutor would serve a copy of the brief to the - to the defence. But I'm not sure whether that is something that occurred in 1979.

30

WOODS: Your Honour, if I may. In the matter of *Maddison v Goldrick* in 1975, it was a case that prevented a trial by ambush in reply - the brief at committal to be handed over to the defence.

35

HIS HONOUR: In '75 was it?

WOODS: Yes, 1975.

40

MELIS

Q. Mr Milroy, was Mr Vico Virkez ever referred to you by anyone as being a high grade informer to the Yugoslav Consulate?

45

A. No, I can't recall that - I can't recall that reference being made, no.

Q. Or being a high grade informer to any other agency?

A. No.

MELIS: Those are the matters, your Honour.

50

HIS HONOUR: Just before you go, Mr Milroy. Dr Woods, was that a requirement to serve the brief on the defence prior to trial, or prior to committal?

5 WOODS: No, it was the beginning. Samuels JA said, "This is the end of trial by ambush".

HIS HONOUR: Yes, that's trial. But was the brief served prior to committal?

10 WOODS: It was at the committal. The defence subpoenaed the Crown brief at the committal, and the Court of Criminal Appeal, or the Court of Appeal said that it should be done. It's 1975, it's in the New South Wales Law Reports.

HIS HONOUR: Yes, *Madison v Goldrick*, yes.

15 COFFEY: Your Honour, the citation is 1976 1 NSWLR 651, and the headnote says, "Magistrate has the power to order the police brief to be produced to the Court in committal proceedings".

20 HIS HONOUR: That's "has the power".

COFFEY: "Has the power", yes.

25 HIS HONOUR: All right, Mr Milroy, that's the end of your evidence in this phase. You're free to go but, again, you're not formally excused and if you are required you'll be notified, but I hope you're not. Thank you.

<THE WITNESS WITHDREW

30

<JOHN FRANCIS WILSON, RESWORN(3.46PM)

<EXAMINATION BY MS MCDONALD

5 Q. Mr Wilson, I want to first just put some propositions to you, and then take you to some evidence before the Inquiry. At the briefing by Inspector Morey on 8 February at about 9.00pm at CIB, you heard the name Vico Virkez?

10 A. I can't recall. Honestly, I don't even remember being at the conference. I could - the name could have been mentioned, but I honestly can't recall.

Q. Just while that's coming up, previously I took you to what was described as a "screed" that Inspector Morey had copies of at this briefing, and that were distributed to officers, such as you, who were going to be officer-in-charge of a particular raid.

15 A. Yes.

EXHIBIT 4.2-86 SHOWN TO WITNESS

20 Q. If we just quickly look at that, you can see in the first paragraph there is a reference to events in Lithgow with police officers there, where two men, and the first one named Vico Virkez were arrested.

A. Well, obviously I've heard his name that night, yes.

25 Q. A little bit further down, we can see at this stage, which is just before 9 o'clock, you're being informed that, "BEBIC and VIRKEZ were allegedly going to meet all the above listed persons." They were, "...alleged to have explosives." And then further that they were planning, "...to bomb various places in the Sydney area...".

30 A. Yes.

Q. Then if I can just very quickly take you to Exhibit 4.2-87.

EXHIBIT 4.2-87 SHOWN TO WITNESS

35 Q. I asked you about this second screed back in July. This was another screed that Inspector Morey distributed when you arrived back at CIB after the raid.

A. Yes.

40 Q. Again, I just want to draw your attention to you're being provided with further information about this person called Virkez.

A. Yes.

45 Q. You can see there that there's further detail. Just a heading, you can see, "The targets for the bombings were;", and the first one is listed, "A picture theatre at Newtown."

A. Yes.

50 Q. From the 8th and 9 February, it was apparent to you that this investigation was involved allegations of terrorism.

A. Yes.

Q. Allegations that were arising out of political relationships between Yugoslavia and other national groups that were now part of Yugoslavia?

5 A. I think at that stage I wasn't aware of that.

Q. You realised it was something to do with Yugoslavia?

A. Yes.

10 Q. Indeed, and I can take you to this if you need it, but in your record of interview that you conducted with Mr Brajkovic, there are some questions about the bombings, and he's talking about Yugoslavia, and that you should stand up for human rights, et cetera.

A. Yes.

15 Q. It was apparent from 8 February that Special Branch had some kind of involvement or interest in this investigation.

A. Yes.

20 Q. Detective Krawczyk attended your raid?

A. Yes.

Q. And also Detective Helson?

A. Yes.

25 Q. And also Detective Jefferies, who I think you're a little bit uncertain about whether you remember him?

A. I don't think he was at Bossley Park that night.

30 Q. No. He wasn't at Bossley Park. I would suggest to you he was present at CIB?

A. I don't remember that.

35 Q. At any stage during your involvement in the matter, and that's leading up to your evidence at committal and evidence at trial, did you become aware that the Commonwealth Police also had an interest in the subject matter of the raid?

A. I can't recall that.

40 Q. If I mention the name of an officer, Commonwealth Police officer Roger Cavanagh, to you, does that ring a bell?

A. The name does ring a bell but I don't know to what extent.

45 Q. Another officer, a Commonwealth Police officer with the surname Blades, does that ring a bell?

A. I - not at all.

Q. Another officer who wasn't a member of CIB but who was on loan to CIB, I think his name was John Radalj?

50 A. Yes, I'm aware of John Radalj.

Q. Was it your recollection that he was a sergeant at Phillip Street Police Station and was, in a sense, on loan to the Breaking Squad for a considerable part of the investigation?

5 A. I'm not aware of where he came from but he was on loan to us for a short time, yes.

Q. Do you recall that he was on loan because he had some language skills in either Yugoslavian or Croatian that was going to be useful when you seize documents in either the Yugoslav language or the Croatian language?

10 A. Yes.

Q. Do you recall the process was, for example, if you seized one of the documents at Bossley Park that appeared to be in a foreign language, you would give it to him to say, "Look, can you have a rough read or translate this?"

15

A. I think he was handed a large amount of documentation, which I think he was left to go through it himself. I don't think anything was sort of pointed out to him.

20 Q. No, but you would give him documents that you seized?

A. Yes, I think we gave him - I gave him a fair amount of documents.

Q. The idea was it was a little bit like a vetting; he'd read through the document and if it seemed of potential interest and to be tendered at committal or trial, it would then be forwarded to an official translation service?

25

A. I would say so, yes.

Q. Back in 1980, at times, did you have cause to visit Parramatta Gaol?

30 A. I may have but I have no recollection of it.

Q. Do you recall at that time the procedure was that you would fill in a visitor's book--

A. Yes.

35 Q. --with your name and your designation?

A. Yes.

MCDONALD: Could the witness be shown Exhibit 12.6, which shouldn't be on the livestream, and this time go to red p 85. If we can first just go to the top of the page.

40

Q. Can you see a date of 7 March 1980?

A. I can.

45 Q. I want to draw your attention to four names towards the bottom of the page. Can you see the first name, "J F Wilson"?

A. Yes.

Q. "Detective Sergeant CIB"?

50 A. Yes.

Q. That's you?

A. That's me.

Q. Is that your handwriting?

5 A. Yes.

Q. Immediately underneath, you've got Sergeant Radalj?

A. Yes.

10 Q. Then can you see the two names immediately underneath: "R F Cavanagh, Headquarters, Australian Federal Police, Canberra"?

A. Yes.

15 Q. And then "J S Blades, Divisional Headquarters, Australian Federal Police, Sydney"?

A. Yes.

Q. At the time of the entries into this visitor record, Vico Virkez was at Parramatta Gaol. Will you accept that?

20 A. I'll accept that, yes.

Q. The four names that appear there, I'm going to suggest to you that the four of you attended the gaol in some way connected with Mr Virkez?

25 A. I'd have to agree with that.

Q. Do you have recollection of you attending with Sergeant Radalj and meeting up with the two AFP officers?

A. No, none whatsoever.

30 Q. You agreed with the proposition before that it would suggest the four of you are there for a reason associated with Mr Virkez?

A. I would think so, yes.

Q. Did you visit Mr Virkez?

35 A. I assume we would have.

Q. Do you have any recollection of why you were visiting Mr Virkez with, number 1, Sergeant Radalj, that may suggest for his language skills?

40 A. I'd suggest that too, yes.

Q. Then with the two AFP officers?

A. Well, I don't know - obviously they wanted to speak to Mr Virkez.

Q. Yes, but why did you go?

45 A. I don't know. I had no interaction, or I can't recall any - any interaction with Mr Virkez at all.

Q. This is leading up to the trial--

50 A. Yes.

Q. --commencing in April. Towards the end of March, I think it's about 24 March, Mr Virkez indicates to the Court that he's going to change his plea.

A. I don't remember that.

5 Q. And he gave evidence for the Crown at the actual trial.

A. Yes.

10 Q. What I'd suggest to you, that in the lead-up to him changing his plea there was some discussion about "well what's he going to plead guilty to, will the Crown accept what he's offering, what evidence he can give" issues such as that.

A. Yes, but - but I'm not aware of any conversation, like, I wasn't present when any of that type of conversation was conducted.

15 Q. I'm just trying to jog your memory as to what was happening around that time--

A. Yes.

20 Q. --to see if you can remember why you attended Parramatta Gaol with the two AFP officer.

A. I can't at all, no.

25 Q. At that time you weren't the officers in charge of the investigation, were you?

A. No.

30 Q. Detective Sergeant Turner and Detective Milroy had compiled the brief of evidence.

A. Yes.

Q. Were dealing with questions and issues being raised by the Crown.

A. Yes.

35 Q. And even though you're going to give evidence - and do you know why you were given the task of attending Parramatta Gaol?

A. I have no idea.

40 Q. Does anything come back to you, like, can you even see yourself in a room at the gaol with these officers?

A. It's probably been said a lot of times that this is over 45 years ago. I mean I've got no recollection of this at all.

45 Q. On the topic of gaols, do you recall in about August 1979 there was a strike of prison officers?

A. Well there was a strike of prison officers, but I don't know when - when it was. I think there was probably more than one strike, two of prison officers.

Q. Could we bring up a newspaper clipping, which is Exhibit 13.40, please.

50 EXHIBIT 13.40 SHOWN TO WITNESS

Q. Now you can just see from that first page it's from Sydney Herald archives.

A. Yes.

5 Q. Would you then go to page red 286. I'm sorry, if we go back to 285 you can see "prisons in cells all weekend".

A. Yes.

10 Q. And then "last night more than a thousand warders were on strike determined to stay out until their demands are met".

A. Yes.

15 Q. Then if we could go to page red 288, and just up the top "Spokesman for the Department of Corrective Services said security in the institutions at Long Bay have been in control of police since 2pm--

A. Yes.

20 Q. --as reporters waited outside more than a hundred uniform police in buses, patrol cars and private vehicles drove through the prison gates in a steady stream".

A. Yes.

Q. And then further reference to "Police, Special Weapons Operating Squad".

A. Yes.

25 Q. Were you a member of Special Operation Squad by that time?

A. At that time I think I was, yes.

Q. And then you can see another reference to "The Salvation Army with police escorts issuing 24 hour ration packs".

30 A. Yes.

Q. During that strike, in August 1979, were you one of the officers who attended Long Bay Gaol to assist with the running of the gaol while the warders were on strike?

35 A. I think there's a couple of strikes, and I know I went to at least one of them, possibly two.

Q. What I want to suggest to you is that you were one of those officers who assisted during that strike, and at that stage Mr Brajkovic was at Long Bay.

40 A. I don't know that, but I was probably at the gaol assisting with the strike. But I'm not aware of Mr Brajkovic was there at that stage or not.

Q. You don't recall coming across him in his cell?

45 A. Quite possibly I could have.

Q. Do you have any recollection?

A. No.

EXHIBIT 15.4 SHOWN TO WITNESS

50

Q. That's the first page of the document; it's red page 4. Can you see at the top, Mr Wilson, it's a statement of Mr Brajkovic's?

A. Yes.

5 Q. And it's statement that Mr Brajkovic has made for the Inquiry and it's been tendered for the Inquiry?

A. Yes.

10 Q. Could we now go to page red 12, please. And you can see a heading "Visit from Detective Sergeant Wilson at prison"?

A. Yes.

Q. And it goes from paragraphs 38 down to 44. Have you been shown it before?

15 A. No.

Q. Could I ask you just to read paragraphs 38 to 44.

A. I've read that.

20 Q. Mr Brajkovic in this part of his statement refers to the prison officers' strike, and then recalls that you were passing, knocked on his cell door and said, "Victor, it's Sergeant Wilson", and you're there wearing overalls. Do you recall coming across Mr Brajkovic in those circumstances?

A. No.

25

Q. He then accounts a conversation where you say, "This is not a place for you to be. You're a good man, but, Victor, you cannot win the case. What about the jury? Victor, if the jury find you not guilty, we have another two charges for you." Do you recall having any kind of conversation with Mr Brajkovic along those lines?

30

A. I completely reject this conversation.

Q. I'm sorry?

A. I completely reject this conversation.

35

Q. And you reject, for example, in paragraph 43, "One way or another, the jury will find you guilty."

A. Yes, of course.

40

Q. The final paragraph where he says you came back with a fistful of instant coffee packets and put them under the door and went away, does that jog your memory that that occurred?

A. Not at all.

45

Q. Reading that, can I just confirm, you deny that there was any kind of conversation in these terms?

A. I can't even recall - I wouldn't - first of all, I wouldn't go to visit him in gaol. Where it says, at paragraph 38, I went to visit him in gaol. That wasn't the case at all. I was there strictly for the strike and only for the strike.

50

Q. Taking that into account, and it would seem from the rest of the paragraphs what Mr Brajkovic is saying is that you were present at the gaol in the context of a warders' strike?

A. That's why I was at the gaol, yes.

5

Q. Can you recall coming across him?

A. No. I can't. And I'd like to refer to paragraph 43 where he mentioned that I've said I'm going to charge him with pulling the moon down, and then attempting to rape the Queen. I mean - the English Queen. Well, that's just ridiculous.

10

Q. Again, it might be a suggestion of a flippant comment by you.

A. Flippant? It's a ridiculous comment.

15

Q. Your evidence is, though, you were in attendance at the gaol. You can't recall coming across Mr Brajkovic in his cell when you were assisting at the gaol?

A. That's true. And also I'd like to point out, too, I wasn't wearing overalls. We were in SWOS uniform when we were at the gaol.

20

Q. Your recollection is you attended the gaol in your capacity as a member of SWOS?

A. And in SWOS uniform, yes.

25

Q. But as to the conversation that's accounted there, you deny that you have ever engaged in such a conversation, or said anything like that to Mr Brajkovic?

A. Absolutely.

30

<THE WITNESS WITHDREW

ADJOURNED PART HEARD TO FRIDAY 9 AUGUST 2024