
TRANSCRIPT OF PROCEEDINGS

INDEPENDENT BROAD-BASED ANTI-CORRUPTION COMMISSION

MELBOURNE

THURSDAY 21 FEBRUARY 2019

(10th day of examinations)

BEFORE THE HONOURABLE ROBERT REDLICH QC

Counsel Assisting: Mr Jack Rush QC

Ms Catherine Boston

OPERATION GLOUCESTER INVESTIGATION

PUBLIC EXAMINATIONS PURSUANT TO PART 6 OF THE INDEPENDENT
BROAD-BASED ANTI-CORRUPTION COMMISSION ACT 2011

*Every effort is made to ensure the accuracy of transcripts.
Any inaccuracies will be corrected as soon as possible.*

1 COMMISSIONER: Yes, Mr Rush.

2 MR RUSH: I call Mr Collins.

3 <GRAEME JOHN COLLINS, sworn and examined:

4 COMMISSIONER: Mr Collins, in your summons the matters about
5 which you were questioned were listed?---Yes, sir.

6 I need to just remind you as to what those matters are.

7 First, you may be questioned about the Lorimer Task
8 Force investigation of the murders of Sergeant Gary
9 Silk and Senior Constable Rodney Miller, concerning the
10 taking of witness statements, the preparation of the
11 brief of evidence for the trial of Debs and Roberts,
12 and whether there was full disclosure of witness
13 statements or other relevant information prior to or
14 during the trial; second, witness statement-taking
15 practices by Victoria Police; third, compliance with
16 the obligation to disclose evidence by Victoria Police.

17 I understand, Mr Collins, you're represented by
18 Ms Kapitaniak; is that so?---That's right.

19 At the end of counsel assisting's questions and any
20 cross-examination that I might permit, Ms Kapitaniak
21 will have an opportunity to ask you questions, have you
22 elaborate on anything that you wish to or to provide
23 any further information that you consider to be
24 relevant to do with the inquiry?---Yes, sir, I
25 understand.

26 When you were served with the summons you were also given a
27 notice of rights and obligations?---That's right.

28 Have you discussed those rights and obligations with your
29 lawyer?---Yes.

1 Do you understand those rights and obligations?---Yes.
2 Would you prefer me to go through them again with you?---No.
3 Just to summarise, you have to answer the questions you are
4 asked unless there is some reasonable excuse for not
5 doing so; you must answer them truthfully and, subject
6 to certain exceptions, your answers can't be used
7 against you in a court of law. Do you follow that?---I
8 understand.

9 Very good. Yes, Mr Rush.

10 MR RUSH: Mr Collins, your full name is Graeme John
11 Collins?---Yes, sir.

12 If you could have a look at these documents. Do you attend
13 here as a consequence of a summons served on you on
14 14 December 2018?---Yes, sir.

15 The summons, is that numbered SE2749?---Yes, sir.

16 With the summons, did you receive a document entitled,
17 "Statements of Rights and Obligations"?---Yes.

18 Did you also receive with the summons a confidentiality
19 notice dated 11 December 2018?---Yes.

20 And a covering letter dated 12 December 2018?---Yes.

21 I tender those documents, Commissioner.

22 #EXHIBIT BB - Documents received on summons by Mr Collins.

23 COMMISSIONER: Mr Collins, I should have added that I
24 anticipate you will be in the witness box for some time
25 today, so at any stage if you want to have a break or
26 if there are issues you want to discuss with your
27 counsel, just tell me and we'll adjourn for a period to
28 enable you to do that?---Yes, sir, I understand that,
29 thank you.

1 MR RUSH: Mr Collins, when did you join the police
2 force?---May 1975.
3 Could you just indicate to the Commissioner briefly your
4 history in the police force?---Yes. I graduated from
5 the Academy in October 1975 and then performed uniform
6 duties at Russell Street in the Melbourne District
7 Traffic and Patrol Division, and then ultimately
8 Fitzroy Police Station until 1978. I then went to the
9 Prahran Crime Car Squad until December 79, where I
10 became a member of the CIB. I performed duties at
11 Carlton CIB and the Drug Squad, and then subsequently
12 at again at Carlton and at Ferntree Gully CIB. I was
13 promoted to sergeant in 1985 and went to the Protective
14 Security Groups until 1987, when I went back to the CIB
15 to the Crime Command area. I performed duties at the
16 Major Crime Squad and at the Homicide Squad until 1992.
17 I was promoted to senior sergeant in 92 and went to the
18 Crime Courses Unit, which is otherwise known as
19 Detective Training School, until 1995. I went then to
20 the B District Support Group at Elwood where I was the
21 officer in charge until June 1996 and I went back to
22 Homicide as a senior sergeant. I remained at Homicide
23 until 2002 when I was promoted to inspector, and I went
24 to the Major Drug Investigation Division for about two
25 years - not quite, I think. Then I went to White Horse
26 PSA, or Police Service Area, for about two and a
27 half years, I think, and then I was promoted to
28 superintendent in 2006. I went back to the Crime
29 Command in 2006 as a superintendent, and in 2007 I went

1 to Eastern Region Division 1 as the divisional
2 commander, I was there for seven years, and in 2013 I
3 went to Eastern Region headquarters as the operations
4 support superintendent and I remained there for three
5 years until I went to my current position which is at
6 the Professional Standards Command in charge of the
7 Investigations Division in June 2017.

8 COMMISSIONER: What's your role at PSC?---I'm in charge of
9 the Investigations Division, sir.

10 MR RUSH: In 1998, you were a detective sergeant at Homicide
11 heading crew 7?---Detective senior sergeant then, yes.

12 Beg your pardon, and crew 7 was your crew?---Yes.

13 The persons in your crew were Sergeant Buchhorn and then
14 Detectives Richardson, Eden and Welsh(?)?---Well,
15 there's Sergeant Richardson and Welsh, Detective Senior
16 Constables Welsh, Hickman, Dale, and one other I think,
17 I can't remember now; there was a little bit of a
18 changeover at about that period of time with different
19 detectives. I had Paul Solomon on my crew and I'm not
20 sure whether he was there at that time or not.

21 Have you been keeping up-to-date with the
22 transcripts?---Yes, sir.

23 Then you have an understanding of the issues that attracted
24 the attention of the Commission?---Yes.

25 Matters in relation to the backdating of statements?---Yes.

26 Are you aware of that occurring during Operation

27 Lorimer?---No.

28 Not at all?---No.

29 Aware of any practice in relation to correcting statements

1 but not acknowledging a first statement?---Um, I'm not
2 sure what that - what you mean by that, Mr Rush? I
3 mean, there was certainly occasions when statements
4 were corrected if they were in draft form, is my
5 understanding.

6 I'm talking about signed statements - - - ?---No.

7 - - - made by witnesses that are corrected and redated and
8 no acknowledgement of the witness having made a first
9 statement?---No, I'm not.

10 Not at all?---No, not that I recall.

11 When you say "recall"?---I don't have any memory of anything
12 like that occurring.

13 You have outlined a history in the police force that would
14 lead one to conclude that you're a very experienced
15 investigator?---Well, crime investigation was my
16 passion, and certainly I pursued that aspect throughout
17 my career.

18 We'll go to it, but I want to suggest you were well and
19 truly over the detail of the statement taking and what
20 was in the statements as they came into Operation
21 Lorimer?---In some respects, yes; some, no. There were
22 certainly statements that came in that I may not have
23 seen immediately; I eventually would have seen them, of
24 course, but as they came in I'm not sure whether I saw
25 them at the time that they came in or subsequently.

26 Your day book and diary, I suggest, reveals constantly your
27 attention to the collection of statements, the proof
28 reading of statements and, where necessary, the going
29 back to witnesses for further information from

1 statements?---Yes, I agree with that.

2 And you would see those statements and then be going to
3 members of Operation Lorimer requesting the further
4 detail?---On occasions, yes.

5 When that further detail came in - I'm asking this generally
6 at the moment - you would look at it and check it to
7 see that it was meeting what was required for the
8 further statements?---Yes.

9 COMMISSIONER: What was the hierarchy in terms of
10 discharging that function? You looked at material, you
11 could see that there's something necessary that is
12 omitted of importance; who did you work through to
13 achieve that end?---Well, it would depend on the nature
14 of the statement, sir. We had throughout the
15 investigation, not just the Debs and Roberts aspect to
16 this investigation, but there were 3,000 other persons
17 of interest that were investigated, suspects, if you
18 like, but certainly persons of interest as they were
19 referred to in the trial. Those investigations took
20 the form of - covered by an information report and
21 usually those information reports would come across my
22 desk for checking, sometimes they included statements
23 with them, and I'd look at those statements as part of
24 the information report, make a decision about whether
25 further information or investigation was required, and
26 then either file them or arrange for further
27 investigations to be done. Generally those people
28 that - the members that provided that information, if
29 there was further investigation required, I would go

1 back to them to make those enquiries.

2 Who did you work through? Presumably you didn't do that on
3 your own, you'd work through a team; who did
4 you - - -?---Well, we had seven or eight teams
5 I believe from memory, of sergeants and senior
6 constables who had all the tasks with different
7 enquiries. So, I would go back to the sergeant if
8 there was an issue in relation to a particular matter
9 and, if it related particularly to a statement for the
10 Debs and Roberts matters, then it would depend upon the
11 nature of the statement as to who it went back to and
12 who actually provided it or provided the information to
13 me. So, there wasn't definitely a one-stop-shop, if
14 you like, about go back to this person on every
15 occasion, it depended upon what occurred, who had that
16 information, who supplied it, who was doing that aspect
17 of the investigation.

18 Yes.

19 MR RUSH: Having read the transcripts of this public
20 inquiry, have you been surprised at all by any of the
21 information that has been disclosed?---Absolutely.
22 What has surprised you?---I think the first surprise was the
23 evidence of Grant Kelly in relation to his commentary
24 about what - decisions about what was included in
25 statements in regards to the dying declaration
26 witnesses, and then there's been other comments in
27 regard to practices that have been referred to about
28 statement taking, descriptions of offenders, and
29 basically about that process; I think they were the

1 ones that certainly caught my eye.

2 What about evidence in relation to statements being made and

3 first statements not being acknowledged?---Yeah,

4 obviously that was something that I picked up as well.

5 I'll come to it, but you expressed you were surprised about

6 the evidence of then Detective Senior Constable Kelly

7 and the practices that were involved on the morning;

8 16 August you were talking about?---Yes, sir.

9 Surprised to the extent that he indicated to police

10 witnesses to dying declaration that they should not put

11 in their statement descriptions of

12 offenders?---Absolutely.

13 Then no doubt also you are aware of the evidence of

14 Ms Eden?---Yes.

15 Who was in your crew?---Yes.

16 Who has indicated that at this time she was aware, or she

17 herself, and she has stated other members of the

18 Homicide Squad adopted exactly the practice that was

19 referred to by Mr Kelly?---I'm aware that she said

20 that, yes.

21 You say to the Commission you are unaware of that

22 practice?---Myself?

23 Yes?---That came as a surprise to me, to be honest.

24 Unaware of the practice of not putting in first statements

25 descriptions of offenders?---Yeah, that wasn't my

26 practice, at all.

27 No, that's not what I'm asking you though?---No, I'm not

28 aware of it, no. I don't recall ever having a

29 discussion with Rose Eden in regard to that practice.

1 And again I'll come to it, but you're saying to the
2 Commissioner that you are unaware of the practice of,
3 anywhere in the police force, not only Homicide, of not
4 putting descriptions of first offenders in your initial
5 statements - sorry: not putting descriptions of
6 offenders into initial statements?---Well, I wasn't
7 aware in 1998 of that practice being a practice.

8 You were?---I wasn't.

9 You wasn't?---At that stage. I was certainly aware of
10 it years prior to that when I joined the force, and I
11 know that that was a practice employed by some police
12 then.

13 You didn't see it in statements that had been taken during
14 Operation Pigout or Operation Hamada?---Subsequently, I
15 did, yes.

16 What do you mean by that?---Well, I - when Lorimer was
17 formed, and I had no knowledge of the Hamada or the
18 Pigout investigations, so as Lorimer unfolded and I was
19 briefed upon - about the Hamada and Pigout operations,
20 I certainly learnt then that there were occasions when
21 that practice was employed.

22 COMMISSIONER: Mr Collins, can I suggest you need to be
23 careful about how you answer the question, because only
24 a few questions earlier you answered counsel by saying
25 you were not aware of that practice?---No, at the time
26 of - of the commencement of Lorimer, sir, that's what I
27 was referring to, not subsequently. I certainly was
28 aware that this practice had been employed, yes.

29 Very good.

1 MR RUSH: So, prior to Lorimer, are you saying to the
2 Commissioner that you were unaware of that practice
3 being a practice that was adopted by many members of
4 police?---I don't recall seeing that, to be honest,
5 Mr Rush. I know it was a practice, as I said, when I
6 was a very junior member. I remember seeing that that
7 had occurred, and I hadn't seen it since the early 80s,
8 to be honest.

9 Okay, so let's just clarify that. You in the early 80s were
10 aware of the practice?---I believe that that - yes.

11 And you had seen that practice adopted by police in the
12 early 80s?---Yes, sir.

13 And what are you saying, that you didn't see it after the
14 early 80s?---Well, it wasn't a practice that I recall
15 ever using as an investigator when I took statements.

16 But again, that's not my question?---Sorry.

17 The question was, you say to the Commissioner that you were
18 aware of the practice in the early 80s?---Yes.

19 Are you saying to the Commissioner that you did not see that
20 practice amongst police after the early 80s?---Not that
21 I remember, no.

22 COMMISSIONER: Until Lorimer?---Until the start of Lorimer.

23 MR RUSH: I'm going to come back to that, but I want to just
24 go back to 16 August. You arrived at the crime scene
25 on 16 August, I suggest, with then Detective Senior
26 Constable Eden at approximately 2.50 am?---Yes.

27 And you were briefed by Mr Sheridan?---Eventually, yes.

28 I understand that there was also a briefing from Senior
29 Constable Sherrin?---Yes.

1 You are aware that Mr Bezzina took Sherrin and Pullin, two
2 constables, back to the Moorabbin Police Station for
3 the purposes of taking a statement?---Yes, I am.

4 Mr Bezzina has told IBAC that, at the time that he went back
5 to the Moorabbin Police Station, he was of the
6 understanding there was one offender; was that your
7 understanding?---I think there was a fair bit of
8 confusion at the start when I arrived and when I was
9 briefed about whether there were one or two offenders.
10 I think in my notes you would have seen that there's
11 reference to one offender initially, and there was a
12 bit of confusion about who did what and et cetera, and
13 that wasn't sort of really clarified for, I think
14 probably 24-hours in my mind from memory, but it was
15 certainly clarified later on, yes.

16 Do you know, why was Mr Pullin to go back with Mr Bezzina to
17 Moorabbin?---I don't know, ah, I don't know the reason
18 why that occurred, there were - when I arrived at the
19 scene there were a lot of other people there, a lot of
20 uniform police and other members; I don't recall Pullin
21 particularly or whatever, and I don't know the reason
22 why that was the case, but there was certainly an
23 instruction or a request from, I think Paul Sheridan
24 made the request for those members who were the first
25 responders to go back to Moorabbin to have statements
26 taken from them and, for whatever reason, Bezzina took
27 Pullin and Sherrin, I think.

28 COMMISSIONER: So, the answer to the question was, because
29 you understood they were first responders, they went

1 back to make a statement?---Yes.

2 And I'm sorry, we'll just clarify: at some stage that
3 morning you were appointed to what position in relation
4 to the investigation?---I was - on Monday the 17th, or
5 I think it might have been, I was appointed to be part
6 of the task force in relation to the investigation, and
7 I think I was referred to as the primary investigator,
8 I think, in my notes.

9 MR RUSH: You were asked at the committal hearing questions
10 in relation to your notes - perhaps if I bring it up,
11 Exhibit 413.

12 COMMISSIONER: It will come up on the screen there,
13 Mr Collins?---Thank you, sir.

14 And, Mr Collins, if at any stage you feel you're not getting
15 a sufficient grasp of the document by looking at it on
16 the screen, you can always indicate you'd like to see
17 the hard copy?---Thank you, sir.

18 MR RUSH: If we can go to p.4396, down the page, line 13.
19 You are being questioned about your notes made on
20 16 August. Then we go over the page, about midway
21 down, line 13. Then we go over the next page about
22 midway down underneath "Sherrin", we then go to:
23 "Suspects, plural, not known. Who are they? Yes. How
24 are we moving? From being a singular to plural?" And
25 you answer: "Look, I'm not sure there. I know that at
26 some stage, that during the first day or two I had
27 access to statements that were obtained from members
28 who attended the scene and I certainly was aware that
29 there were references to conversations that were

1 attributed to Senior Constable Miller that mentioned
2 more than one suspect." Is that the position, that at
3 least initially on 16 August you were concentrating or
4 you believed what Mr Bezzina said, that he only
5 believed there to be one suspect?---Um, well, I'm not
6 sure where that information came from now, to be
7 honest, I don't recall who told me, but certainly in
8 that first day or two then at the start of the - it
9 started to get clearer about what had occurred as far
10 as conversations go about descriptions and numbers.

11 What that's suggesting is that, at some stage during the
12 first day or two, with access to statements that had
13 been made on 16 August, that you certainly became
14 aware - to use your words - there were references to
15 more than one offender?---Yes, that's right.

16 I want to just have a look at Exhibit 416. Exhibit 416 is
17 the intergraph transcript of events that came over
18 intergraph on the morning of 16 August. Before I go
19 there, can I ask: who receives intergraph
20 communications? Is that all police, police
21 vehicles?---Police that are operating on the channel,
22 on the particular channel, so that there were separate
23 channels in those days, and there still are in relation
24 to particular geographical areas, and those
25 geographical areas have a channel dedicated to them so
26 only police on that channel would receive those
27 communications.

28 And police, being Mr Silk and Mr Miller, were part of an
29 operation that evening and morning concerning Operation

1 Hamada?---Yes.

2 That had been set up with a number of police, in effect

3 staking out what were considered to be the sort of

4 targets that had been the subject of armed robberies, I

5 think, since March 1998?---That's correct.

6 That particular operation that weekend was led by

7 Mr Murnane?---Yes.

8 And Mr Thornton, who was known to you, was involved in

9 that?---Yes.

10 You would anticipate they would be on the channel relating

11 to the intergraph communications of around the events

12 of this evening?---I think from memory, they were

13 operating on a channel that was off the - not off the

14 grid so to speak, but certainly off the main

15 operational channel, they were operating on a separate

16 channel in relation to communications with the units

17 that were part of the stakeout.

18 Have a look at p.4695. You see the time check a quarter of

19 the way down the page is "00:32:30". If we go down to

20 the bottom of the page where it says "Cheltenham 206.

21 We've found the second member, he's been shot in the

22 stomach. He's about 100 metres south of Cochranes Road

23 and Warrigal Road. Cochranes. Cochranes on Warrigal.

24 He's conscious at the moment and breathing. Conscious

25 and breathing. He's been shot twice, once in the

26 chest, once in the stomach. He said there's two

27 offenders, two on foot." Now, that is the intergraph

28 communication at effectively 12.30 am?---Yes.

29 Was there any communication of that at all on the

1 morning?---To whom, sir?

2 To you?---Look, I - I don't recall exactly. I mean, I got
3 briefed when I arrived at the scene and pretty well
4 what I've got in my notes is what I recall being
5 briefed about, and I think there was confusion about
6 who was - how many members or how many offenders there
7 were, what had been reported, what hadn't been reported
8 and at that stage I don't think I had a clear
9 understanding of what occurred.

10 COMMISSIONER: Is it not safe to assume, Mr Collins, had
11 your attention been directed to the fact that there was
12 a radio report quoting Mr Miller as saying that there
13 were two offenders, then from that moment onwards that
14 would have been a prominent hypothesis in your
15 thinking?---Well, I think so, sir, yes. I mean, it
16 was, um - there were so much being said and so much
17 happening at the time, you know, whether I was
18 consciously aware of that aspect of things then and
19 there, I'm not sure now, to be honest.

20 MR RUSH: I appreciate that there's a lot going on, but was
21 there any appreciation of the importance of identifying
22 and taking statements from those people that had been
23 with Mr Miller?---There would have been, yes.

24 Do you recall now anything being done to identify those
25 people, in effect triage those people, for the purposes
26 of taking statements on 16 August?---Well, by the time
27 I got to the scene at 2.50 or 2.40 or whatever it was,
28 I think that aspect of things had been dealt with in my
29 absence, is my understanding. There was certainly

1 decisions made to send members back to Moorabbin, and I
2 don't think I was part of that process, about triage,
3 about the briefing in regard to who should look after
4 that and who should coordinate the taking of
5 statements; I'm sure that that was done, but that
6 wasn't done by me.

7 You went back to the Moorabbin Police Station during the
8 course of the morning?---Yes, I did.

9 I'll come to that. Perhaps if we could go to Exhibit 20
10 which is part of your day book or notebook?---Yes.

11 If we go to p.765, it sets out the time at the top of the
12 page, you were briefed by Mr Sherrin?---Yes.

13 You there set out the details of that briefing which
14 concerns basically the way in which the offender
15 vehicle was followed and what was done by Mr Sherrin
16 and Mr Bendeich?---Yes.

17 Over the page, at 766, what you were asked about at the
18 committal hearing, about the fourth entry: "Sherrin and
19 others to Moorabbin. Suspects, not known who they
20 are." The question was based around going from the
21 singular, as to the briefing, to the plural and that
22 was explained how - that, did you believe there were
23 two or was that just a - - -?---Well, I would have - I
24 can't remember, where is that, sorry, sir? I can't see
25 that in my notes.

26 I'm sorry. So, we're on p.766 - - -?---Oh, here they are,
27 okay.

28 If you go down to the second arrow?---Yes; no, I've got it
29 now, thank you. That's right, well, I've written that

1 in in response to something that I was told and it's
2 probably just a summary of what I was told at that
3 stage, that we weren't aware of who the suspects were.
4 Over the page at 767, you have reference there to Mr Pullin
5 having removed equipment from Mr Miller; down the page,
6 having opened the revolver and checked the
7 revolver?---Yes.

8 And other entries which I'm not going to take you to.

9 COMMISSIONER: Mr Collins, just to be clear about something:

10 I'm sure you read that, when these public hearings
11 commenced, counsel assisting made clear these hearings
12 are not directed to the question of whether or not the
13 convictions in relation to these matters was valid or
14 whether there was any miscarriage of justice, we're
15 simply looking at one aspect of the investigations by
16 Lorimer, namely, in relation to witness
17 statement-taking practices, and so this is really being
18 explored for the purposes of setting the
19 background?---I understand that, sir, thank you.

20 MR RUSH: So there was certainly an understanding of
21 Mr Pullin and other police had attended Mr Miller
22 before he was conveyed to hospital by ambulance?---Yes,
23 sir.

24 Then, at p.769 there is a further description and you've
25 mentioned that there was a briefing from Mr Sherrin,
26 and are these notes that you made at that
27 briefing?---Sorry, is this the briefing that Sherrin
28 provided or was that something I've - when I've talked
29 to Paul Sheridan? I can't recall here.

1 Well, it's not entirely clear and I'm not sure it fully
2 matters. I do need to take you to an entry just for
3 completion though. If you look down to about ten lines
4 from the bottom of the page do you see an entry there,
5 you see: "Sherrin and Bendeich. Best up. See vehicle
6 drive off, normal speed. Sherrin goes to scene. Silk
7 then to Miller. Sherrin told by Miller one offender,
8 Hyundai." Is that - you went back to Moorabbin and
9 read Mr Sherrin's statement?---I'm not sure whether I
10 read his statement or I spoke to whoever was taking the
11 statement about those issues; I don't recall
12 specifically reading the statement at that stage, it
13 would have been partly taken at that stage, I think.

14 I'll come to it. The statement was taken by
15 Mr Bezzina?---Thank you.

16 Just for completeness, in Exhibit 363, p.3647, I just ask
17 you to read from the top of that page.

18 COMMISSIONER: Commencing, "I then re-checked"?

19 MR RUSH: "I then re-checked." I might be able to shorten
20 this a bit. If we go down to: "I then spoke with
21 Sergeant Jorgensen, told him we were missing a member.
22 We both did a systematic search block. When doing this
23 someone called out to return as a dog was on the way.
24 We've walked back to the vehicles, by that stage there
25 were quite a number of police present. Crime scene
26 tape up. Sergeant then asked me if I wanted to start
27 up a log. I didn't feel up to it, I asked him to get
28 another member. Prior to going into the vacant paddock
29 to commence the search Sergeant Butterworth arrived,

1 detailed what had happened, but I sat in Butterworth's
2 car and tried to keep warm"?---Yes.

3 There's no reference there to any conversation with
4 Mr Miller?---No, I don't, um - I now, I now, my memory
5 is that I don't believe that that information in
6 relation to that conversation was accurate.

7 COMMISSIONER: That is, the information you'd recorded in
8 your note?---That's information that was in my notes,
9 but I don't believe it was accurate, sir, no.

10 What was the basis on which - - - ?---Only because of the
11 evidence subsequently as to their movements, the
12 clarification in their statements and what other
13 investigation revealed.

14 But I'm sorry, your answer's ambiguous?---Sorry.

15 Do you mean it became clear that what Sherrin had said was
16 inaccurate?---I believe so.

17 Or that what was recorded that he'd said was
18 inaccurate?---Ah, well, I don't believe - I think what
19 I recorded was accurate as to what I was told I believe
20 at the time, but I don't think that was accurate about
21 what was said, what he said, about actually speaking to
22 Miller.

23 So, to be clear, you don't think that what Mr Sherrin was
24 reported to have said was an accurate record of what
25 Miller had said?---That's my understanding. I mean,
26 that he was present during that conversation.

27 So, just pausing there for a moment. Assume that to be the
28 case, that it became clear that something Mr Sherrin
29 said he thought Miller said was

1 inaccurate - - -?---Well, that's my understanding of it
2 now.

3 Yeah, but was it not necessary that Mr Sherrin's statement
4 nonetheless include what he thought Mr Miller
5 said?---Obviously, yes. I would have thought that
6 everything - - -

7 Yeah, even though you might have concluded it was wrong,
8 unreliable, couldn't have occurred, the
9 statement-taking practice requires that everything
10 relevant be inserted, doesn't it?---Yes, it does.

11 Can you tell us why that didn't find its way into
12 Mr Sherrin's account?---No, I can't.

13 MR RUSH: If we go back to Exhibit 20 at p.770. You note
14 there that, is it 6 am, you were at Moorabbin?---Yes.
15 And you spoke with Mr Bezzina?---Yes, I did.
16 You were told of a statement that had been made by
17 Mr Sherrin?---I think it was in the process of being
18 made at the time, sir.

19 Were you updated then by Mr Bezzina as to what Sherrin was
20 saying?---Yes.

21 And that's set out in your notes?---Yes, or some aspects of
22 it.

23 Three lines at the bottom of the page, could you read what
24 that says?---"Pullin made statement. Removed ASP and
25 OC spray because amb [ambulance, which 'amb',
26 ambulance] having difficulty getting off him on the
27 stretcher."

28 So, as of 16 August you were aware that Mr Pullin had made a
29 statement?---Yes.

1 You obviously reviewed the statement to be able to put in
2 that detail?---No, I didn't review it, it was my
3 memory; I think that's what Bezzina told me.
4 Was there someone responsible for the collection of
5 statements at Moorabbin?---Charlie Bezzina, is my
6 understanding.
7 You spoke about the importance of having witnesses that were
8 with Mr Miller making statements. Was it your
9 understanding that other members who had been with
10 Mr Miller were at Moorabbin?---Some were, yes.
11 Was anything done to ascertain what they were saying or what
12 they were reporting?---By me?
13 Yes?---I don't think so at that time. My role on the night
14 was to be in charge of the scene and to ensure that the
15 scene was processed effectively and to obtain an
16 understanding of what had occurred in relation to the
17 scene and what evidence was there. As part of that,
18 there were two eyewitnesses which were Bendeich and
19 Sherrin, and I think I was asked to go down back to
20 Moorabbin to see how they were going with their
21 statements and what other information might have been
22 elicited from them, and that was my focus when I went
23 to Moorabbin.
24 You say there were two eyewitnesses, Bendeich and Sherrin,
25 and you were aware of what they were saying, as you've
26 noted?---Well, I had that information but I wanted to
27 see if there was any further information I could
28 provide in relation to identifying the persons
29 involved.

1 Wouldn't that mean the people that had been with Mr Miller
2 were of particular importance?---Oh, they were equally
3 as important obviously.

4 From your wanting to get an understanding of what had gone
5 on, just so it's clear, there was nothing done by you
6 on that night to get an understanding of their
7 statements or what was in their statements?---Well, I
8 didn't sit and read all their statements, if that
9 make - I may have had a discussion with Charlie Bezzina
10 about what was coming out of those statements, but I
11 don't recall that now.

12 Were you aware that Detective Senior Constable Kelly was at
13 the Moorabbin Police Station at that time?---No.

14 Why were Homicide members present at the police
15 station?---Well, Charlie Bezzina's crew responded to
16 the murders. He was called to the scene. At the time
17 there were three on-call crews operating: my crew was
18 on-call 3, Bezzina was 2, I believe, and I think Rod
19 Iddles' crew was 1; I think Ron's crew were tied up
20 with another job out in the Western Suburbs, and so,
21 Charlie was called to the scene as one of the first
22 Homicide response, and then I was called out
23 subsequently, and my understanding at the time was that
24 it was probably Charlie's job as far as being in charge
25 of that aspect of the investigation. So, I would have
26 thought that - or he was obviously briefed by Paul
27 Sheridan about coordinating statements from those
28 people that responded and was sent to - asked to go to
29 Moorabbin to obtain those statements and coordinate

1 that, so that was his role.

2 So what was your role?---My role was to look - be in charge
3 of the scene, to liaise with the forensic people that
4 were at the scene and then to subsequently inspect the
5 scene and look at what evidence we had in relation to
6 the murders then, the scientific evidence that was at
7 the scene.

8 And so, what was the purpose in going to Moorabbin?---To
9 speak to Charlie about Bendeich and Sherrin, about what
10 they had seen, their observations, and to see if there
11 was any further that we could understand about what
12 occurred on the night.

13 Can we have a look at Exhibit 344. This is a statement, and
14 I suggest the statement made by Senior Constable Pullin
15 on 16 August. If we go over the page, we see that he's
16 signed it and the acknowledgment is by Mr Bezzina at
17 4.25 am on 16 August 1998?---Yes.

18 That was a statement that was referred to by Mr Bezzina when
19 you saw him?---Well, I don't know whether he actually
20 had the statement present, but he - I asked him about
21 the issue of the equipment, Miller's equipment, that
22 was an issue for me to clarify, and that's what I spoke
23 to him particularly about in relation to that, in
24 relation to Pullin's observations and actions.

25 And Mr Miller's equipment being to - what was the
26 point?---Well, his ASP baton and OC spray, his gun,
27 were on the ground at the scene near the Silky Emperor
28 Restaurant, and I wanted to clarify who did what as far
29 as removing those items from Mr Miller.

1 What about conversation between Mr Pullin and
2 Mr Miller?---Well, that was obviously important, but I
3 don't know whether I had that discussion with Bezzina
4 about that aspect of it then and there.

5 In that statement, if we go back to the previous page, there
6 is reference in the second-last paragraph, the last
7 three lines: "I instructed a constable whose name I do
8 not know to travel with Miller in the ambulance to
9 hospital to take notes of anything Miller said in the
10 ambulance." So, were you aware of that?---Um,
11 possibly, I don't recall.

12 Certainly, a statement was subsequently provided to you from
13 Constable Gardiner?---Yes.

14 And Constable Gardiner's statement was taken, I think by
15 Detective Senior Constable Jones?---Yes.

16 Do you know Detective Senior Constable Jones?---Yes, I do.
17 What's the base of Detective Senior Constable Jones?---I
18 think he was on Charlie Bezzina's crew, from memory.

19 So, you would anticipate that a statement taken from
20 Mr Gardiner would be also collected, obviously, and how
21 does it come together? What's the process?---Well,
22 whoever's coordinating an aspect of the investigation,
23 i.e. statements at Moorabbin, my understanding was that
24 they were collected by Charlie Bezzina after they were
25 taken and he retained them and at some stage they were
26 handed over to someone within the task force, I'm not
27 sure who now got those, but they were certainly handed
28 over at some stage. That was really the process that
29 occurred; whatever statements that were taken would

1 have been handed over eventually.

2 Have a look at Exhibit 263, a statement of Mr Gardiner. At
3 p.3299, down the page: "A senior constable, the same
4 one that found the gun, asked what happened. Miller
5 replied, 'Two, one on foot'. The senior constable
6 asked, 'Any vehicle?' And Miller replied, 'Dark
7 Hyundai'. We continued to comfort him and he
8 complained he could not breathe." Now, obviously that
9 senior constable was Mr Pullin?---I would say so, yes,
10 by the sound of it.

11 You, no doubt, have read the statement of Mr Pullin that has
12 been published in The Herald Sun and has been the
13 subject of examination in IBAC?---No, I haven't read
14 the full statement, I don't believe. Whatever was
15 published in the paper I have seen, yes.

16 I'll take you to it, but take it from me, there is nothing
17 in the statement of Mr Pullin of 16 August that refers
18 to that conversation?---Yeah, I'm not disbelieving you,
19 Mr Rush.

20 Which could be for a number of reasons, but it would be
21 consistent potentially with the practice that we've
22 discussed of not putting descriptions of offenders in
23 statements?---That could be right, yes.

24 The statement at p.3301, Exhibit 263, is taken on 16 August
25 by Mr Jones, a member of Mr Bezzina's crew, you
26 say?---Yes.

27 At Clayton. I want to suggest at the Monash Medical
28 Centre?---I'm not sure, sir.

29 You have mentioned that you are aware of evidence concerning

1 Mr Kelly and what is alleged that Mr Kelly said to
2 police members at Moorabbin in relation to details of
3 description going into statements?---Yes.

4 COMMISSIONER: Perhaps we could be clear about this,
5 Mr Collins. Mr Kelly, Mr Thwaites, Ms Poke, all give
6 the same account, namely, that when Mr Kelly was taking
7 the statement from Thwaites and was going to take a
8 statement from Poke, he provided direction to the
9 effect that the details of Mr Miller's description of
10 offenders should not be included in the
11 statement?---Yes, I'm aware of that, sir.

12 MR RUSH: Are you aware - when we say "not included" - are
13 you aware of a practice of police noting descriptions,
14 either on a piece of paper or in their day books, that
15 are given by witnesses but not included in first
16 statements?---No, as I said earlier, that was a
17 practice that I believe occurred in the early 80s, or
18 up to the early 80s, but I don't recall that continuing
19 after that time.

20 I want to suggest to you that you were well and truly aware
21 of such a practice as a consequence of your review of
22 statements made in Operation Pigout and statements made
23 in Operation Hamada?---No, no, I agree with that,
24 absolutely, I became aware of that, sir, yes.

25 Again, so you say to the Commissioner that you are now
26 satisfied that that practice, at least in the Armed
27 Robbery Squad, was a common practice?---I'm satisfied
28 that that occurred, yes.

29 Did you have anything to say about that at the time?---I

1 certainly - I spoke to Mark Butterworth and Paul
2 Sheridan about aspects of those, that practice, yes.
3 Perhaps it's better to do it from your notes. At
4 Exhibit 478, p.1799, this is an extract from your day
5 book, Mr Collins, of 17 March 2000. I want to take you
6 down the page to the entry at 3.50 pm. So: "Sergeant
7 Butterworth re Operation Pigout special effort." Could
8 you just read the next few lines?---"Discuss merits of
9 doing questionnaires as done with Hamada witnesses for
10 Pigout witnesses. Believe this may assist re similar
11 fact case. Will be done but statements not necessarily
12 be taken."

13 So, as far as by this stage, 17 March, questionnaires have
14 been sent out to witnesses involved in armed robberies
15 that were the subject of Operation Hamada?---They had
16 been previously, yes.

17 And the purpose of that?---We wanted to revisit the Hamada
18 witnesses in relation to descriptions, the modus
19 operandi that the offenders used in the armed robberies
20 and to see if there was anything missed effectively
21 during the investigation.

22 You say in the concluding two lines: "As far as Pigout is
23 concerned, will be done but statements will not
24 necessarily be taken"?---Yeah, and I think it goes over
25 the page in relation to that aspect of things.

26 So, what is it over the page that you want to draw our
27 attention to?---I think I made a comment, I don't know
28 whether it's this day or another day, but I think I
29 recall saying that, where witnesses had an excellent

1 memory of the descriptions, et cetera, that if
2 statements - that statements should be taken but, if
3 not, then we would deal with that matter later on.

4 So, this is a note that's been raised in IBAC, so over the
5 page at, I think 9 am the following day, what you're
6 referring to is a meeting with - at the Lorimer office.

7 COMMISSIONER: Are you able to read that, Mr Collins?---Sir:

8 "Office and speak to Butterworth re Pigout special
9 effort. Sheridan present. Discuss logistics and
10 manpower. One TOS member. Without Lorimer partner.
11 Thornton to accompany same to do enquiries if
12 available. Discuss photos of guns, masks and whether
13 these should be shown to witnesses. Butterworth
14 concerned about prejudicing witnesses for future
15 identification if these are shown. Decide not to show
16 same during special effort. Also discussed obtaining
17 statements from witnesses. Decide where witness has
18 excellent recall of events and can add extra info then
19 statement should be taken. Also, if descriptions of
20 offenders were written on separate pieces of paper,
21 then these also should be recorded and second
22 statement - and second - in second statement [sorry]
23 otherwise we will only record witnesses on
24 questionnaire. Further statement can be taken later if
25 deemed necessary."

26 MR RUSH: So, arising out of that is your very clear
27 knowledge of the practice of putting descriptions on
28 separate pieces of paper?---Yes.

29 You would have been aware of that prior to this as a

1 consequence of going back to Operation Hamada
2 witnesses?---Yes.
3 Save that, at least the statements that were provided for
4 trial of Hamada witnesses did not have any descriptions
5 on pieces of paper?---I'm not - I think there were -
6 there were some statements that did have separate
7 pieces of paper, descriptions on separate pieces of
8 paper for the Hamada witnesses, or a couple I believe
9 from memory, that is my understanding, probably a
10 handful I think.

11 What was the - you were going to only take certain
12 statements from people that had good memory?---Well, I
13 think that there was - there were - I'm not sure how
14 many Pigout witnesses now, there were a number of them,
15 and I think that, given the timeframes and the pressure
16 we were all under to try and get the briefs finished
17 and everything else, that we looked at only taking
18 statements from those people that we could obtain, you
19 know, the descriptions of those people that were fresh
20 or easily - sorry, I'm mixing my words up here; only
21 obtain those - the statements from witnesses who had an
22 excellent recall of that information at the time.

23 And how was that to be determined?---Well, by speaking to
24 them about what their memory was of the robberies that
25 occurred.

26 Is that the way it worked with Hamada?---Yeah, well, what
27 happened with Hamada was that, we wanted the person -
28 foremost the questionnaires completed in relation to
29 similar fact evidence, that's what we were looking for.

1 And there were, I think, a handful of statements where
2 the witnesses, or some witnesses hadn't provided
3 details of the descriptions of the offenders in those
4 statements, and my recollection was that I made it - I
5 gave instructions to the members who were doing that to
6 take those - take statements from them in relation to
7 the descriptions. And, I think something must have
8 been lost in translation somewhere, because some of
9 those statements weren't actually taken. Some were,
10 where there were additional information taken and
11 additional statements taken, but there were a couple I
12 think, two or three, perhaps four, I don't know now,
13 that where those descriptions that had been provided at
14 the time hadn't been included in the statement, so they
15 were subsequently revisited and another statement taken
16 to include those details.

17 A couple of matters I want to ask you. What is the purpose
18 of not putting descriptions in first
19 statements?---Well, I know this is a subject of
20 conjecture, I suppose, but my understanding was in the
21 early days when I was constable that - and I don't know
22 whether I was taught this or this was a course of
23 practice that was adopted - but there was some concern
24 that witnesses who were involved in armed robberies
25 were so traumatised that they couldn't provide detailed
26 descriptions or accurate detailed descriptions and that
27 the - in their statements and that they were then
28 recorded on a separate piece of paper and adopted by
29 those witnesses and attached to the statement; I really

1 couldn't see the point of it, to be honest.

2 Well so, when you make the comment here that "descriptions
3 on separate pieces of paper", you've spoken about the
4 early days. What is the purpose of having, as you
5 would have seen, very complete descriptions of
6 offenders on separate pieces of paper?---I don't see
7 any purpose at all.

8 Or no descriptions of offenders on separate pieces of paper
9 but in police logbooks or diaries?---Well, it doesn't
10 serve any purpose.

11 COMMISSIONER: But you're aware that that was sometimes a
12 variation of the practice?---Yes, sir.

13 That, rather than doing a separate note, the officer would
14 record in a day book, or diary or his notebook, what
15 the witness has said by way of description?---Yes.

16 MR RUSH: Surely, when you saw statements of the nature that
17 we've spoken about, from Hamada and Pigout witnesses,
18 that's something you would have then raised as the
19 senior, next to Sheridan, investigator of Operation
20 Lorimer?---Well, I think Paul Sheridan and I were both
21 concerned about that aspect of things, yes.

22 Did you discuss it?---Yes.

23 And, in what terms?---That the - certainly with the Pigout
24 statements, that there were a number - as I remember -
25 a number that didn't have - that had those separate
26 descriptions and, as I said, I think in the Hamada
27 there were probably a handful.

28 I suggest to you, much more than a handful, that most of the
29 Hamada witness statements did not contain details of

1 offenders from eyewitnesses?---Well, I think, from
2 memory - I'm not disagreeing with you, Mr Rush - but
3 from memory I thought that most of the statements had
4 descriptions in one form or another; they may not have
5 been in the detail that had actually been recorded by
6 other - by members when they took the statement, but
7 they certainly had descriptions, is my understanding.

8 So, you discussed it with Sheridan; did you discuss the
9 purpose of it with those that you are meeting with
10 regularly, such as Butterworth, as to why it was
11 done?---I think I probably did have a discussion with
12 him. I think that was a practice that the Armed
13 Robbery Squad and those members who were attending
14 armed robberies, as I subsequently learnt, followed.

15 COMMISSIONER: What was Mr Sheridan's rank at that
16 time?---Inspector, sir.

17 Firstly, one can readily understand why you would discuss
18 the issue with him in terms of your investigative task
19 and, as reflected in your notes, the decision to then
20 go back and, if the witnesses could make a further
21 statement based upon the descriptions given or, if the
22 witness had a good recollection, make a statement based
23 on recollection. But did you and Mr Sheridan have any
24 discussion about what steps needed to be taken within
25 Victoria Police to address this practice?---I don't
26 recall having any discussions in relation to that
27 aspect of things.

28 For someone at your level of seniority, or particularly his
29 at that time, is that a relevant consideration for a

1 police officer, that if it becomes apparent that
2 there's a practice which is undesirable or improper,
3 that it needs to be communicated up the ladder to Force
4 Command?---Yeah, I think it's probably something I
5 considered and we considered, certainly. Now, as to
6 what we did with that after that, I'm not too sure, to
7 be honest. My - I've thought about this in the last
8 few days, obviously, because of the matters that have
9 been raised, and what I think has happened is that, we
10 were under such - there was such a, um - so absorbed
11 with the brief and the information that we were putting
12 together in the brief that it - and subsequently the
13 committal and the trial, that it's something that might
14 have been left on the wayside and not followed up
15 subsequently, I think that's probably how I remember
16 it.

17 Yes. I think you earlier mentioned you also had such
18 discussions with Mr Butterworth?---Yes.

19 Along the same lines, about what you needed to do to rectify
20 the situation?---Well, I think that we had discussions
21 about, why did you - why is this done in this manner?
22 Because it wasn't something that we followed, or
23 Homicide Squad as far as I'm aware, followed as a
24 matter of practice.

25 MR RUSH: I was going to ask you about that. You had a
26 member of your crew that we've heard from that followed
27 the very same practice?---Well, that's what Rose Eden
28 said, yes.

29 COMMISSIONER: Sorry, you put it that way, but do you doubt

1 that what she said is correct?---Well, I don't have any
2 recollection of ever having a discussion with her about
3 that issue and an understanding that that was her - her
4 - the way that she took statements. I don't recall
5 ever seeing a statement from her that would have
6 included the lack of descriptions in a - certainly in
7 an identification case, Commissioner. There's times
8 when the description of people/offenders are not
9 required to be in a detailed - recorded in a detailed
10 manner. If the offender's known to the victim and is
11 readily identifiable, or to the witness, then there's
12 probably no need to put detailed descriptions of those
13 in, but in an identification case where you've got no
14 idea of who the offender is who has been observed by
15 the witness and, in my view, every piece of detail
16 should be included in the statement and that's always
17 been my practice. Now, I don't recall ever having that
18 discussion with Rose Eden about her views on it, but -
19 and I don't believe I recall anything - any incidents
20 within my crew where that would have been an issue.

21 MR RUSH: And, these are just people that the Commission has
22 heard from?---Yes.

23 And also Mr Kelly, who has said that it was a practice
24 taught at the Academy?---That may be the case, I don't
25 know.

26 Do you know if it was taught at the Academy?---No, I don't.
27 He was there, I think, in 1984 or 85?---No, I don't know
28 that.

29 So, for two of the detectives who'd worked with Homicide,

1 one Ms Eden saying common practice in Homicide, and you
2 say you're not aware of it?---Well, I - certainly, it
3 never crossed my mind and, from what I - I've gone back
4 to try and remember as many cases as I can in relation
5 to - that I was involved in, I don't recall that being
6 an issue. Remember, Homicide is - the Homicide
7 investigations are so much different, I suppose, in a
8 lot of ways to what local CIBs did and what other Crime
9 Squads did. You know, information is the lifeblood of
10 investigation and certainly in relation to a case that,
11 when you're doing a murder investigation, and every
12 piece of information that you can obtain should have
13 been put in statements. That's my view.

14 COMMISSIONER: Let me just take up that. You say "that's my
15 view"?---Yes.

16 But surely, it has to be a view of the entire police
17 force?---I agree entirely, sir.

18 And whether it's a summary charge that's being investigated,
19 or a lesser indictable offence or a homicide, there
20 must be an unmistakable view within the police force
21 that everything relevant should be included in a
22 statement?---No, I agree with that entirely.

23 MR RUSH: Have you, since 1998, seen any direction at all
24 from Command to address the practice?---No, not that I
25 recall, no.

26 From your position now - two things: the practice, unless
27 it's disclosed, is not going to be known to the OPP or
28 to defence?---Well, I - that's probably right. I think
29 that, if a witness made a statement and there was no

1 description in that statement, then I'm sure that would
2 have been picked up and discussed by the prosecutor and
3 the defence counsel in relation to that witness's
4 evidence but, you know, I think generally, yes, I'd
5 agree.

6 But you've said that you were unaware of the
7 practice?---Yes, that's true.

8 But you've got your own team member who adopts the practice
9 and you've signed off on her book every month?---On her
10 diary?

11 Yeah?---And in investigations, I reviewed all those
12 investigations.

13 And you didn't pick it up?---No.

14 So the point is, the transparency at least has the very
15 strong potential of the practice not being
16 disclosed?---Yes, I agree with that.

17 And the witnesses that have been questioned in IBAC have not
18 been able to express one legitimate reason for the
19 practice?---Sorry, Mr Rush, I've got a cramp in my
20 hamstring here.

21 COMMISSIONER: Would you like a short break?---I think it'll
22 be right, sir, it's gone away again, this cramp.
23 Sorry, could you repeat that, I'm sorry?

24 MR RUSH: I think you've said, there's no legitimate
25 reason - - -?---No.

26 No legitimate reason for the practice?---No, I agree with
27 that.

28 But there is, of course, the potential of an illegitimate
29 reason?---Well, there's potential, yes.

1 Having regard to the state of the witness, Commissioner, I
2 appreciate, but there's something that I need to do, if
3 we could have a five minute break.

4 COMMISSIONER: I think a short break would be helpful. (To
5 witness) Mr Collins, of course you're welcome to leave
6 the premises.

7 How long would you suggest?

8 MR RUSH: Ten minutes, Commissioner.

9 COMMISSIONER: We'll adjourn for ten minutes and have a chat
10 with your counsel.

11 Hearing adjourns: [11.18 am]

12 Hearing resumes: [11.36 am]

13 COMMISSIONER: Yes, Mr Rush.

14 MR RUSH: Thank you. (To witness) I just want to,
15 Mr Collins, go back to Exhibit 478 for a minute, which
16 we've been to and it's your day book entries from
17 17 March 2000. I just want to ask you, at that time
18 firstly, the prime suspects in relation to the murders
19 were Debs and Roberts?---That's correct.

20 The purpose of going back to Operation Hamada and to
21 Operation Pigout was for the purposes of getting
22 descriptions around those persons to set up potential
23 evidence of showing similarity, chain of events, what
24 Operation Hamada on 16 August was doing?---That relates
25 to, in relation to the Debs and Roberts investigation
26 was - that preceded the murders was Hamada and they
27 were looking at that - information or evidence in
28 relation to the Hamada armed robberies. Pigout was a
29 separate investigation that did not relate to the

1 murders, it related to armed robberies that occurred
2 prior to the murders when - and we had at that stage, I
3 think, Debs and Jason Giller as the prime suspects for
4 those. So, they were effectively - the investigation
5 was running parallel but they were separate.

6 I'm just reading from the notes for Operation Hamada for the
7 weekend of 16 August where it said: "A constant
8 description of offenders in these offences are: male,
9 180 to 185 centimetres, medium to solid build, potbelly
10 Australian, 30 to 40 years. Second male, 165 to
11 170 centimetres, slim to medium build, Australian, late
12 teens to mid-20s."

13 COMMISSIONER: What are you reading from, Mr Rush?

14 MR RUSH: I'm reading from Exhibit 554, I might just for the
15 purposes take the witness to it. (To witness) So here,
16 this is the operation details for the effective
17 Operation Hamada Task Force as they were going into the
18 weekend commencing on the Friday night, 14 August 1998
19 through to the Sunday?---Yes.

20 The details or the situation that commences the details for
21 the operation that weekend, you will see, is that the
22 Armed Robbery Squad is investigating a series of 11
23 armed robberies committed on business premises in those
24 districts, the first offences occurring on 2 March
25 1998. It refers to, in the fifth line, "The series of
26 offences bears a striking similarity to 27 offences
27 committed in 1991-1994 and investigated under Operation
28 Pigout. Investigators believe at least one of the
29 offenders involved in the Hamada offences may also have

1 been associated with the Pigout offences"?---Yes.

2 Then it goes on to describe the usual method adopted in

3 commission of the Hamada offences?---Yes.

4 Then it gives the description that I've just read to you, "A

5 constant description of the offenders in these offences

6 are as follows"?---Yes.

7 Then it notes the nature of the profile of businesses that

8 are generally the target of the offenders?---Yes.

9 As of March 2000 Debs and Roberts were your prime suspects

10 for the Hamada offences?---Yes.

11 And they were the prime suspects for the murders of Silk and

12 Miller?---Yes.

13 Then, if we go back to Exhibit 478, p.7230, and we've been

14 through this, but I just take you to the bottom of the

15 page, last two lines: "Also discuss obtaining

16 statements from witnesses. Decide where witness has

17 excellent recall of events and can add extra info, then

18 statement should be taken." Who was going to take the

19 statements?---Um, would have been Mark Butterworth's

20 crew that were tasked to do that job.

21 And, rightly or wrongly - I withdraw that. They would also

22 be aware that the prime suspects for the murders were

23 Debs and Roberts?---Yes.

24 In asking people to take statements from those with

25 excellent recall, you are giving a very great

26 discretion, are you not, to those that go out to take

27 further statements to fit in with the police theory

28 that existed at that time?---No, no, I disagree with

29 that.

1 Well, those with an excellent recall, and you have police
2 that have a pretty good idea of precisely the detail
3 they need in relation to description; it could be said
4 that those that did not have a description that fitted
5 in with what I've just read to you may be said not to
6 have a very excellent recall?---No, it was - really,
7 those comments relate to what I would say was a
8 judgment call in relation to those investigators that
9 were speaking to the witness in regard to the similar
10 fact evidence that was provided, and - - -

11 And that judgment call in relation to similar fact raises
12 the very point, they could determine that people that
13 didn't have similar fact evidence could be said not to
14 have excellent recall?---No, well, I - you may - may -
15 you could probably make that assumption, but that
16 wasn't the intention in relation to that description to
17 what I've said there.

18 COMMISSIONER: I think what counsel's putting to you,
19 Mr Collins, is not that you set out with some improper
20 purpose in mind, but given the practice that we've been
21 looking at about not necessarily recording the
22 description in statements, and the discretion which
23 seems to have been left to individual officers as to
24 what they put in a statement or don't, the sort of
25 instruction that you gave to Mr Butterworth - who, I
26 should add, acknowledged the existence of this practice
27 and from memory thought that it had application at the
28 time of Lorimer - that the risk existed, from the
29 nature of your instruction, that officers might not

1 include a description if it wasn't a description which
2 fitted the then existing prosecution
3 hypothesis?---Well, I suppose that that's something
4 that could have occurred, Commissioner, but I don't
5 believe, certainly in this instance here, with the
6 Hamada - sorry, the Pigout armed robberies, all those
7 statements with those descriptions were included as
8 part of the brief and disclosed, so there wasn't
9 anything withheld. So that, as I said, the purpose was
10 to examine the similar fact material or evidence that
11 we were looking at trying to produce and put before the
12 court in relation to the Hamada - sorry, the Pigout
13 armed robberies, and that was - - -

14 No one's questioning the theory that lay behind your
15 decision or the fact that it was necessary to go back
16 and obtain detailed accounts in statements, I'm just
17 pointing out, though, the way that's expressed, that it
18 left the practice open that individual officers have a
19 discretion as to whether or not they think that the
20 information being provided is sufficiently relevant to
21 put in a statement?---Yes, I understand what you're
22 saying.

23 Yesterday we heard evidence from a former officer, an
24 experienced officer, who spoke in terms of taking a
25 statement from a witness if the officer considered that
26 the information provided was sufficiently reliable to
27 make it relevant to the investigative task?---I
28 understand what you're saying.

29 MR RUSH: If I just perhaps have a look at a statement that

1 may shed some light on this, Exhibit 285, a statement
2 of (indistinct) Kurukulasuriya. Just, you see there,
3 he was a casual employee at Dick Smith Electronics,
4 which was the subject of an armed robbery on 26 June
5 1998 by two offenders. I won't go through every bit of
6 detail, but you'd see in the second-last paragraph on
7 that page starting with, "This male", let's call him
8 the first male: "This male was wearing a black
9 balaclava and holding a small black pistol. He said to
10 me, 'Do you think this is a joke?' He repeats this a
11 couple of times. I was speechless. I looked at
12 Arj(?), he also looked dumbfounded. This male then
13 forced us from the storeroom into the main area of the
14 store." Over the page, in the first paragraph there:
15 "I then heard a second male instructing the first male
16 to tie us up. I was told to put my hands behind my
17 back and then they were taped up. The second male
18 appeared to be the boss." If you go to p.3387, it
19 says: "The male who came into the storeroom [the first
20 male] to get us was smaller than me. I'm about 5'10
21 and I would say the male was 5'6, he had a slim build,
22 and by his voice I would say he was late teens to early
23 20s. I did not see the second male. By his voice, I
24 would say he was older, he had a deeper voice." His
25 statement is taken on 27 June 1998. Mr Kurukulasuriya
26 was asked to make a second statement as a consequence
27 of the special effort in relation to Operation Hamada,
28 and you're aware of that Dick Smith
29 robbery - - -?---Yes.

1 - - - a couple of months before 16 August being part of the
2 Operation Hamada investigation. If we go to
3 Exhibit 284, p.3382, although difficult to read, this
4 is a statement taken by Mark Kennedy who was working in
5 your team at the time?---Yes.

6 You see, in the third paragraph: "As I was leaving the
7 storeroom I opened the door from this room to the main
8 room of the store when I saw the second male. He was
9 standing ...", it might be easier - - -?---"Customer
10 care area", I think, is it? "Customer".

11 "He was standing", I just can't pick it up, Commissioner,
12 I'm sorry?---I think it's "customer area".

13 "He was standing in the customer area and another near the
14 front door. This male, the second one, was bigger than
15 the first, about 6 feet inches in height and he had a
16 solid build. He sounded Australian and would have been
17 in his late 20s or 30s, I'm judging this based on the
18 sound of his voice." Now, there is a description given
19 in a subsequent statement of the second male when this
20 witness has said in the first statement he was unable
21 to give such a description?---Yes.

22 The question that I put is that, what we were talking about
23 in relation to the way in which discretion of officers
24 may work in relation to statement taking may be,
25 perhaps, that they know the offenders, that's the
26 suspects, and statements are being made to fit in with
27 the theory?---Look, that's possible, I can't say that
28 that wouldn't be, but certainly in my view and my
29 understanding it wasn't the case here.

1 It's difficult to find an explanation for that statement,
2 isn't it, on the basis that the person has said he is
3 unable to describe the second male at the time he made
4 the statement literally hours after the event?---Oh,
5 obviously there's an inconsistency and, as to why that
6 occurred, I don't know.

7 I want to take you to Exhibit 197. Are you familiar with
8 that document, or the look of that document?---Not
9 really, no, sir, it's - it looks like a list of
10 witnesses who may have been at the scene at some stage,
11 I would think, or been part of the attendance at the
12 scene in some form.

13 Then Senior Detective Eden worked very closely with you in
14 administrative duties after she announced that she'd
15 been pregnant, approximately a month after the
16 murders?---Yeah, I think, well, Rose pretty will
17 continued what she was doing I think, from memory, she
18 didn't - wasn't operational from that perspective but I
19 think she was doing the same role pretty much.

20 And in that role, of getting the statements, assessing the
21 statements, worked very closely with you?---Yeah -
22 well, she reported to me via George Buchhorn,
23 I believe, and I would have had discussions with her
24 about aspects of what - the statements that were taken
25 at some point, yes, absolutely.

26 And a key plank of this investigation, obviously, was the
27 statements?---Absolutely.

28 COMMISSIONER: You said she reported to you via

29 Mr Buchhorn?---Well, I think Rose Eden was on George

1 Buchhorn's crew.

2 Yes?---And he supervised the activities from that aspect or
3 from within that crew.

4 Yes. What was Mr Buchhorn's role?---Well, he had various
5 roles, but initially it was to ascertain the details of
6 people/members who attended the scene, to follow up in
7 relation to statements with notes, running sheets,
8 those sort of issues. He had control of, like, the
9 exhibits and the property, and Rose, Rose Eden, had a
10 role in relation to maintaining our property registers
11 and our continuity registers in relation to all
12 exhibits that were received, and so, was - that crew,
13 Mark Kennedy was also part of that I believe and Jane
14 Welsh, I think from memory, who were involved in those
15 activities in general, but then George's role sort of
16 changed over a period of time; he was involved in the
17 planning aspect in regards to the Debs and Roberts
18 searches and a whole range of other activities
19 including witness - sorry, Exhibit management,
20 follow-ups with our examination of those exhibits and
21 he had a lot - multiple roles.

22 In relation to his role with respect to witness statement
23 taking, did he work closely with you?---He reported to
24 me, yes, absolutely. He was one of the - there were
25 multiple roles being undertaken at that stage - - -
26 Sure?--- - - - and he was one of those, so he reported back
27 to me, yes.

28 And he also, in the end, assumed a responsibility, did he
29 not, for the preparation of the brief of

1 evidence?---Yes.

2 At what stage did that start?---I think - I remember having
3 a discussion with him in, I think, December 99 after
4 Debs and Roberts were identified as the likely
5 offenders, and we had a discussion about getting our
6 mind around the brief of evidence eventually, how it
7 might be prepared, some of the tasks involved, and
8 obviously it was a momentous task, there was
9 a million - no, gross exaggeration - there were lots,
10 there were many, many documents that needed to be
11 considered, statements, the format of the brief, those
12 sort of things needed to be considered, and then that
13 was the start of that conversation, is my recollection,
14 and it continued on from there.

15 Was he, from that time, responsible - subject to your
16 direction, was he then responsible for the assembly of
17 the brief?---Yes, along with others as well. There
18 were different aspects of the brief that others had
19 responsibility for: the Hyundai evidence was one, the
20 evidence in relation to the listening device material
21 was another, and other members had that responsibility
22 to provide that aspect of the evidence and that was
23 then included in the brief, and George Buchhorn would
24 have been involved in liaising with those people and
25 actually looking at including that in the brief.

26 You mentioned he was responsible for the crime scene and
27 those attending the crime scene, had he retained that
28 responsibility in relation to preparation of the
29 brief?---Well, I think it was in relation to

1 identifying those who had attended and obtaining
2 statements from those people who had attended, and so
3 we could then eliminate or tick off everybody that
4 would have been there and decided whether we needed a
5 statement from those people or not. Some people had
6 very minimal responsibilities, so a statement wasn't
7 necessarily taken from those, and where there was
8 obviously more activity, more detailed activity in
9 relation to what they did and didn't do on the night,
10 then statements were taken from them.

11 But did he retain responsibility of that area for the
12 purpose of preparing the brief?---That was certainly
13 part of the brief preparation responsibility, yes.

14 MR RUSH: Just looking at the document in front of you, this
15 obviously is a list of witnesses with a description of
16 their actions taken at or around 16 August?---I would
17 say so, yes.

18 What it is setting out is, statement required, and whether
19 it's been obtained?---Yes.

20 For example, if we go to p.2993, the fourth-last entry on
21 that page: "Polk attended to Miller. Mobile patrol",
22 it's required but no statement has been obtained?---No.

23 And, for Thwaites, there had been a statement
24 obtained?---Yes.

25 If we go to the last page, Mr Adams attended to Mr Miller
26 and he had provided a statement?---I think we've gone
27 past that; Tom was on the previous page.

28 Page 2993?---Yes.

29 So, he had provided a statement. The spreadsheet that we

1 have taken out of the Operation Lorimer papers
2 indicates that, on the metadata basis, that this was
3 last modified on 9 October 1998. So, in other words,
4 this was current to 9 October 1998?---Okay.

5 Was it your practice to review statements when they came in
6 to Operation Lorimer?---Yeah, as I said earlier, I
7 think a lot of them I did review, some I may not have,
8 but I'm not - whether I reviewed statements of this
9 ilk, I don't know; I can't recall actually.

10 If we could bring up on the other side of the screen
11 Exhibit 202. We see there a statement of Mr Adams, who
12 is described, as you see - and I'm not going to take
13 you to the detail - but he was one of the persons at
14 the scene with Mr Miller. If we go to p.3060, see that
15 that is a statement that is signed and acknowledged on
16 29 February 2000?---Yes.

17 And yet, on the basis of Exhibit 197, we have Mr Adams
18 having made a statement prior to 9 October 1998?---Yes.

19 If we go to p.3058 of Exhibit 202, you see that, in the
20 first and second paragraph, there is no acknowledgment
21 of Mr Adams having made a previous statement?---Sorry,
22 where am I looking here? On the left-hand side?

23 On the right-hand side, we're looking at the statement that
24 was made by Mr Adams on 29 February 2000 without an
25 acknowledgment of a previous statement?---I'm sorry,
26 are there two statements, Mr Rush?

27 No?---No?

28 That's the point?---Okay.

29 One statement of Mr Adams appeared on the trial

1 brief?---Yes.

2 Which is his statement of 29 February 2000, the one on the
3 right-hand side of the screen. And yet, what the
4 Operation Lorimer's records demonstrate, that by
5 9 October 1998 Mr Adams had already provided a
6 statement?---Yes, I understand that.

7 So, how can you give any explanation - this is but one
8 example of how there could be two statements of
9 Mr Adams but only one on the trial brief?---Well, I'd
10 only be guessing now I think, but I think - and this
11 was possible, that Adams provided a statement with no
12 acknowledgment, if that was the case and it would need
13 to be followed up and an acknowledgment taken and that
14 could have occurred in 2000, I don't know.

15 I suggest to you, you knowing Ms Eden, that there would be
16 no way that she would fill in a document such as you
17 see on the left-hand side of the screen, of having a
18 statement and it being obtained if it was
19 unsworn?---Oh, I don't know. I can't answer that for
20 Rose, as to what Rose was thinking or what she
21 recorded.

22 I suggest you can answer it in the sense that you know she
23 was a very thorough officer?---Yes, she was.

24 And that the whole purpose of this document was for the
25 preparation of the brief eventually?---Well, it was to
26 record what statements were obtained from people, yes.

27 And, when you obtain a statement from a person, it is a
28 signed statement otherwise you wouldn't be putting it
29 in a document saying that you've obtained a

1 statement?---Oh, look, I don't know, I really don't; I
2 can't answer that.

3 Mr Collins, seriously, having regard to the seriousness of
4 what we are talking about here, and also Operation
5 Lorimer, I suggest to you that it is clearly apparent
6 that this would not be filled out as having obtained a
7 statement if it was an unsworn statement?---Well, I
8 - I'm not disagreeing with you, Mr Rush, but I'm just
9 saying I don't know.

10 COMMISSIONER: But couldn't you go so far, Mr Collins, as to
11 say, "I would be very surprised if the person under my
12 control who was designated with the task of identifying
13 those officers who had made statements recorded that a
14 person had made a statement if their document was not
15 yet in the form necessary to be a statement?---Well,
16 then I'd have to agree with that, sir, yes.

17 As to that issue, if officer A does a draft statement which
18 has not yet been signed or acknowledged and some
19 significant time later the officer returns to that
20 document for the purpose of formalising it and at the
21 time of doing so adds some further information that
22 wasn't in the initial draft, would it not be necessary
23 in some way to identify the process that had been
24 followed?---Yeah, I suppose if we knew about that
25 process, absolutely, yeah.

26 Why is it important that the investigative sequence always
27 be transparent? Why is it important that anyone
28 looking at the investigation process can see, on day
29 one the witness provided this information, on day two

1 some significant time later the witness provided some
2 additional information? Why is it important that there
3 be that level of transparency, Mr Collins?---So that
4 that process will be disclosed to both the prosecution
5 and the defence.

6 And why is that important?---Well, for the course of
7 justice, I suppose, to make sure that every piece of
8 information was put before the court.

9 And every police officer should be cognisant, should be
10 aware, that there should be transparency in that
11 investigative sequence?---Yeah, I agree with that.

12 MR RUSH: Just to conclude on this, you were in fact
13 directly asked in the committal proceedings about this
14 at Exhibit 413, p.4597. At line 19 you were asked:
15 "Are there any statements that have been signed but
16 have not formed part of the hand up brief of 7A
17 material in relation to Mr Roberts?" You said: "No,
18 not to my knowledge." Question: "Are there any
19 unsigned statements that have not formed part of the
20 hand up brief or the 7A material in relation to
21 Mr Roberts?" And you said: "No." So clearly, you
22 understood the importance of the question that the
23 Commissioner has just asked?---Yes, I understand that.

24 And clearly on the documentation I suggest that we have
25 seen, what we've got is a replacement statement without
26 any acknowledgement of the first statement, whether you
27 know about it or not?---Yeah, okay, then I agree - I'm
28 not sure, to be honest; I don't know whether that was a
29 replacement statement or whether it was an original

1 statement without an acknowledgment, I'm not sure.

2 But on the face of it, what we see on the document prepared
3 by Ms Eden is the provision of Adams' statement
4 by October of 1999 and what is on the trial brief, a
5 statement of 29 February 2000?---Yes, well, that's
6 what's recorded, yes.

7 COMMISSIONER: What you mean, Mr Collins, is, if the witness
8 had prepared a statement unsigned and sometime later
9 signed that statement without anything being changed in
10 it, there wouldn't be any need then to produce the
11 unsigned statement; is that what you're saying?---Um,
12 well, I'm not sure whether that Adams' statement was
13 the second - - -

14 No, I'm talking about in theory. Is your position, if
15 nothing was altered to the initial unsigned statement
16 except that it was now signed and acknowledged, then
17 there wouldn't be a need for then to produce the
18 unsigned statement?---Yes, I would agree with that.

19 I thought that was the explanation you were
20 proffering?---Yes. Yes, sorry. Sorry, I'm getting a
21 bit confused, Commissioner, but that's what I was
22 saying.

23 Yes.

24 MR RUSH: I want to take you to two more matters.

25 Exhibit 321 is a statement of Mr Morris who attended
26 the scene of the murders and I'll come to that in more
27 detail. Side by side with that if we could have
28 Exhibit 80. Firstly, on the right-hand side of the
29 screen what's cut off there is the Victoria Police

1 crest. Are you familiar with that sort of memo
2 paper?---That looks like - sorry, looks like a - yeah,
3 I think that they were sort of memo pads that we had in
4 those days that we used to use to write handwritten
5 notes on.

6 Do you recognise the handwriting?---Yes.

7 Whose handwriting?---That looks to be George Buchhorn's
8 handwriting.

9 If we look at paragraph 1, "How was he informed by Senior
10 Detective Hanson? Clarify." And there is a tick next
11 to that?---Yes.

12 If you go to the third paragraph across the page, starting
13 in the second line, "A short time after this I was
14 informed by Detective Senior Constable Hanson a police
15 member had been wounded in Cochranes Road, Moorabbin.
16 Detective Senior Constable Hanson contacted myself via
17 the mobile telephone as my vehicle was experiencing
18 radio communication problems." So, in the sense that
19 there is a question, how was he informed, it would
20 appear that that has been corrected in the
21 statement?---Yes.

22 And the clarification of time, there are two times referred
23 to in the first line, "11.45 pm ", he indicates what he
24 was doing, and he indicates arrival at the intersection
25 of Warrigal Road and Nepean Highway, arriving at 12.30,
26 being met by an unknown divisional van, and that's
27 ticked. More particularly, a tick up near the "3":
28 "Told van to close Warrigal Road and stop traffic
29 travelling west. Warrigal Road is basically

1 north-south." If we go down to just after the
2 "12.30 am" time: "Upon arrival at this location I met
3 an unknown police divisional van, instructed same to
4 close off all traffic from travelling north along
5 Warrigal Road." That also, with the tick, would appear
6 to be corrected in the statement?---Yes.

7 What is not ticked, at "5" is, as an example: "Delete field
8 contact with Beech", and that's not ticked. If you
9 look at the second-last paragraph on that page, the
10 "field contact with Beech" is there referred to?---Yes.

11 COMMISSIONER: I take it you've seen, from the transcript,
12 that counsel assisting have taken a variety of
13 witnesses to this particular note - - -?---Yes, sir.
14 - - - for the purpose that he's then exploring with you
15 now?---Yes.

16 MR RUSH: And the variety of witnesses, including Ms Eden
17 yesterday, agreed that that suggested that Mr Morris
18 had provided a statement that had been gone through at
19 Operation Lorimer with a need for corrections?---Yeah,
20 well, that looks like it, what's happened, yes.

21 If you have a look at the first two paragraphs on the
22 left-hand side of Mr Morris's statement, there is no
23 reference to having made a previous statement?---That's
24 right.

25 And, in such circumstances, there should be?---If the
26 statement was signed and sworn, yes.

27 So, you've seen the other examples we've been to in the
28 transcript, what was the role of Mr Buchhorn in
29 relation to this sort of thing?---I think George

1 Buchhorn was reviewing the statements as they come in
2 to review what evidence was contained in them.

3 COMMISSIONER: At your direction?---Well, that was part of
4 the role, yes, to ensure that the statements were
5 checked and recorded, and that relevant evidence or
6 supporting statements were obtained as well.

7 I thought we just settled a few moments ago, Mr Collins,
8 that whether or not Mr Morris had made a statement
9 earlier which was signed or unsigned, if subsequently
10 further information was added to that statement, signed
11 or unsigned, then there needed to be disclosure of the
12 fact that there was an earlier statement?---No, I agree
13 we that too, yes, absolutely, and I don't know whether
14 that occurred obviously in this situation.

15 MR RUSH: You, were you not, were keeping a very beady eye
16 on the statements as they came in to Operation
17 Lorimer?---Um, well, I kept a beady eye on everything
18 that came in, I tried to, but there were certainly some
19 things that I probably wouldn't have been across, and
20 what exactly I don't know now but, as I said to you
21 earlier, there were a multitude of other enquiries
22 happening in relation to suspects, it was really
23 impossible to keep close contact with everything that
24 was being done.

25 Would Mr Buchhorn report to you with what was happening with
26 statements?---Yes. From time to time I spoke to him
27 and that was part of our - we had regular meetings with
28 the office about what enquiries were happening, and
29 updates would be provided in relation to the activities

1 of those crews.

2 Could we have a look at Exhibit 471. What we're looking at,
3 at p.6764, is December of 1999 taken from your day
4 book?---Yes.

5 I want to go to p.6765. There is a starred item there
6 commencing with, "Discussion." Can you read
7 that?---"Discussion with Buchhorn on Ops Solly(?) and
8 details of LD conversations."

9 What's that operation?---Ops Solly was the operation that
10 involved Debs and Roberts.

11 And that specifically?---Yes. Yes.

12 Very well?---Each of the main persons of interest had a
13 separate operation name so that things could be put
14 under the one umbrella.

15 Then the next line?---"Discuss brief preparation.
16 Statements identified need to be proof read. They are
17 in a separate file. Other enquiries: photos and E24
18 tape needed attending to. Buchhorn to concentrate on
19 these tasks and fill in re screen enquiries where
20 needed."

21 So, what is the identified task for Mr Buchhorn there?---To
22 start looking at the brief preparation in relation to
23 both Debs and Roberts.

24 So, when you say "statements identified need to be proof
25 read, concentrate on these tasks", the sort of task -
26 is that not the sort of task that we've just seen of
27 going through the statement?---Yes, it would include
28 all those, Mr Rush, yes.

29 And, you were updated with the way in which that task

1 progressed?---From time to time, yes, absolutely.

2 And where we see, for example, what we've identified as the
3 Adams on the Eden books and Adams on 29 February 2000
4 statement, but having made a previous statement, and
5 Ollie, and I think the previous - - -

6 COMMISSIONER: Morris.

7 MR RUSH: Thank you - were you not getting an understanding
8 that people were making second statements and not
9 acknowledging their first statements?---No, I don't
10 recall that. I mean, there was - there were - they
11 were - Buchhorn's crew were tasked with those
12 follow-ups, and I thought by 99 most of those
13 statements had been taken, to be honest with you, but
14 if there were more outstanding, I'm not sure now; I
15 thought most of the scene statements by then, other
16 than Senior Constable Poke's, would have been pretty
17 well taken.

18 COMMISSIONER: We'll come to more critical statements in a
19 moment, Mr Collins, but in relation to the three that
20 counsel assisting has just mentioned to you - I think
21 I'm right, Mr Rush, am I not - Mr Rush, I'm right in
22 saying only one statement was ever provided for the
23 prosecution brief?

24 MR RUSH: Correct.

25 COMMISSIONER: So that, the fact that each of those three
26 police officers had made an earlier statement, whether
27 signed or unsigned, was never disclosed. So, whose
28 failure is that?---Well, I don't know specifically. It
29 was obviously something that occurred as part of that

1 follow-up process, and someone has obviously made a
2 decision to put those amendments, to make the changes
3 and that was the decision in relation to producing that
4 statement or making that statement. So, who - - -
5 Whose responsibility was it to ensure, as we discussed a few
6 moments ago, that there be transparency in the
7 investigative process so that earlier statements, had
8 they been made, or unsigned but then later added to,
9 that there was full disclosure of that process? Whose
10 responsibility was that?---Well, that would have been
11 my responsibility ultimately, I suppose, as being - - -

12 But I mean, who was tasked?---I'm sorry.

13 Who had the task at its face?---George Buchhorn had that
14 task.

15 MR RUSH: We'll have a look at Exhibit 470, which is an
16 extract, Mr Collins, from your diary of 26 October 1999
17 to 8 December 1999. Again, at p.6760, at the bottom of
18 the page, 2.30 pm: "Sergeant Buchhorn at office ...",
19 you might read the rest?---"Speak to Sergeant Buchhorn
20 at office. He's putting in for sergeant's position at
21 DTS. Referees GC and PAS. Discuss other options, CIB
22 divisions. Discuss inquest brief. Brief of evidence
23 for Lorimer and compilation of same."

24 Then over the page, the first two lines?---"Collins to
25 identify all evidentiary statements and place in
26 folder. Will be cross-referenced on computer. Also
27 chase up photographer's statements. Property to be
28 checked at Emu(?). Discuss extent of info in inquest
29 brief i.e. that basic statements to be included in the

1 investigation summary by me or PAS."

2 I'm asking you again, it is you directing Buchhorn in
3 relation to the brief, the preparation of statements
4 for the brief and the like, and making it ready
5 in December 1999?---Yeah, well, that was the start of
6 the conversation, yes, sir.

7 When it says at the top of the page: "To identify all
8 evidentiary statements, place in folder", what's
9 involved in that?---It would have been going through
10 the list of witnesses that we'd had on record, all
11 those people that had attended or had statements taken
12 from them, and then working out what was part of - what
13 should be part of the brief and what wasn't necessary
14 to be part of the brief.

15 How is what is necessary as part of the brief and not
16 necessary reported to you? Is that in his sole
17 discretion or do you have an oversight of that?---I
18 think later on I had a - certainly an oversight of it.
19 At that time, I'm not sure whether I had a significant
20 input to it. I asked George to do those enquiries and
21 I think later on we - there's certainly times when I
22 went through the list of witnesses to work out whether
23 they should be included in the brief or not, and so,
24 I'm not sure exactly when that was, probably in 2000 I
25 would say, but George had that responsibility at that
26 time.

27 COMMISSIONER: If there were two statements in the end taken
28 from a witness/police officer, would you expect that
29 Mr Buchhorn would communicate that to you?---I expect

1 that they would be on a list in relation to the list of
2 witnesses that we had, that there were two statements
3 obtained from those people.

4 And that you would be provided with them both?---Yes.

5 MR RUSH: Have a look at Exhibit 472. This is your day book
6 from January 2000. At p.6772, 11.40 am, could you read
7 that entry?---"Discussion at office with Buchhorn re
8 proof reading and brief compilation. Need to consider
9 rostering personnel to proof read statements. Will
10 commence on a staggered basis next roster. If done
11 whilst things are quiet then it will alleviate a big
12 job later. Discuss inclusion of armed robbery
13 statements from Pigout and Hamada. These are not to be
14 included unless offences are provable.

15 Propensity - - - "

16 I'll stop you there. What's that mean?---Well, at that
17 stage we weren't sure whether there would have been
18 sufficient evidence to charge Debs and Roberts with the
19 armed robberies, that I think that's what that related
20 to, and yeah, that's really what that's about I think
21 at that stage.

22 Then, next is, "Propensity for violence" ?---"Propensity for
23 violence? They need to include some - if this is
24 relevant will depend entirely on what result of
25 enquiries reveal."

26 So, is it not January 2000 that the decision was made to
27 focus on the statements of Operation Hamada?---Well,
28 that was part of the consideration, yes, that we needed
29 to look at - I think that preceded the special effort

1 in relation to the questionnaires and the similar fact
2 evidence, so it was part of that consideration to look
3 at the evidence that we had with regards to the armed
4 robberies and whether or not we would subsequently
5 charge them with those offences.

6 COMMISSIONER: When you say "unless offences are provable",
7 you don't mean, unless it can be proved that there was
8 an armed robbery?---No, no.

9 You're now talking about whether or not there's sufficient
10 evidence to show that it was Debs and Roberts that
11 committed those offences?---Yes, sir.

12 And, if the evidence of an armed robbery wasn't sufficient
13 to do that, then you wouldn't include it in the
14 brief?---Absolutely.

15 MR RUSH: What I suggest we see in your diary entries is a
16 constant return to your oversight of the brief
17 preparation and the statement taking?---Yes.

18 Even extending, at p.6777, on this day at 4.40 with "a
19 meeting with Sergeant Buchhorn re statements, and a
20 discussion of the order" - sorry, "re photos" -
21 "discussion of the order of same and inclusion in the
22 set"?---Yes.

23 Meaning, you would see the photos, discuss the order in
24 which they would be presented in the folio and what
25 should be in and what should be out?---Yes.

26 And that part of your responsibility in relation to the
27 overall operation?---Yes.

28 If we can go to Exhibit 490, which is part of your day book
29 from 25 August 2000 to 28 November 2000. Going to

1 p.7643, you see "Operation Lorimer brief preparation
2 tasks"?---Yes.

3 Whose handwriting is that?---Looks like mine.

4 If we run down the page, each task has your specific comment
5 and direction about what should be done?---Yes.

6 For example, at paragraph 8 on that page: "Statements that
7 require checking", and for Pollard and Southam, you
8 have indicated, "exclude from brief"?---Yes.

9 And that would be only after you had read the
10 statements?---Yes.

11 And, in your opinion, they were not relevant to the brief
12 that at that stage was in contemplation?---Yes.

13 The level of detail of your oversight, obviously, had to go
14 to that specificity for you to be on top of your
15 job?---Yes.

16 If we go over the page to 7644, there's a direction: "Update
17 Senior Constable Paul Edwards' statement. Remove
18 reference to the crime scene video." You've got:
19 "Reformat Buchhorn." What's that mean?---Um, the
20 first - the first part or the second?

21 Well, I get what you're saying, "Remove reference to the
22 crime scene video." That specific reference, you've
23 read Mr Edwards' statement who was the
24 videographer?---I would say so. There's obviously
25 something there that prompted those comments,
26 absolutely.

27 And the level of detail and oversight you had was that you
28 are directing the removal of reference to the crime
29 scene video?---Um, obviously that's come up as a

1 reason, but I can't tell you why.

2 From his statement?---Yes.

3 Your direction is "reformat"?---Yes.

4 What's that mean?---Um, all I can think of is that it was -

5 needed to be put into the format that was consistent

6 with the rest of the brief and in regard to the way

7 that it was set out.

8 How would Mr Buchhorn remove reference to the crime scene

9 video from Mr Edwards' statement?---Well, I don't see

10 why he would, to be honest. I mean, if Paul Edwards

11 was the one that took the crime scene video at the

12 scene on 16 August, that video would be evidence and

13 would have been used as evidence in the brief, so I

14 don't know what that reference means, I can't

15 understand.

16 Whilst no one expects you to have a memory of the statement

17 of Mr Edwards, you have indicated that you would read

18 these statements before putting the

19 comment?---Obviously, I'd read them at some stage

20 because that was the list of tasks that came out of

21 what we were doing at the time, but I can't recall what

22 that means now.

23 You've indicated, as the statements that we've been through,

24 where you say for two detectives, don't put their

25 statement in the brief, you'd only do that after

26 reading the statement?---Yes, I agree with that.

27 And here, we have the instruction, "remove reference to

28 crime scene video"?---Yes.

29 Who would make that instruction?---Well, I don't know

1 whether I prepared this list or not, I assume I did in
2 consultation with the rest of the investigators when we
3 were going through those tasks that needed to be done,
4 but if I've typed this list up, it would have been me.

5 So my question is, how do you remove the reference of the
6 crime scene video from the statement?---I don't know, I
7 don't recall what it means at all, sir. I mean, I
8 can't think of what context that would be to want to
9 take that out of his statement, I wouldn't know.

10 COMMISSIONER: No, no. Look, counsel's not asking you why
11 would you remove it, we understand your difficulty in
12 recalling now what led you to do that. He's asking you
13 about the process?---Okay, sorry.

14 How could you, as a matter of process, remove something that
15 was already in a statement?---Well, it would be to
16 obtain a second statement from the person, I would have
17 thought, and make reference to the fact that, already
18 made a statement and change the format of that
19 statement.

20 MR RUSH: That's not what it says?---No, it says "remove
21 reference to the crime scene video", and I - as I said,
22 I don't know why that's there and what it means.

23 It's maybe not an overly important matter, but what we have
24 already seen is a process of correcting statements and
25 the first statements not being made available in the
26 brief to prosecutor or defence and, on its face, a
27 direction to remove reference to the crime scene video
28 with reformatting would indicate that that should be
29 done without a second statement?---Ah, I don't know.

1 Look, I don't know whether you can draw that conclusion
2 from that comment, but I don't really understand why
3 it's there. I mean, it doesn't ring - - -

4 COMMISSIONER: We're not interested in your reasons, they
5 may be entirely sound, it's the process of removing it
6 and, on the face of it, no suggestion that there needs
7 to be a second statement produced?---Yeah, quite
8 possibly, sir, yes.

9 So, Mr Collins, before we come to the more significant
10 statements that counsel assisting will want to explore
11 with you, the level of detail of which you immersed
12 yourself obviously demonstrates your forensic skills as
13 an investigator, and that's in that sense a credit to
14 you, but it also makes it very hard for you to say that
15 you didn't know in detail what people like Mr Buchhorn
16 were doing with respect to the taking of statements and
17 the taking of additional statements or obtaining of
18 additional evidence under your direction?---Well,
19 Commissioner, I - I was across most of the things that
20 were happening, and look, I could have had discussions
21 with George Buchhorn in relation to specific issues and
22 statements that were taken. I had a lot of
23 conversations with a lot of people about a lot of
24 things, you know, at various times, so I'm not saying
25 that I - I'm - I wasn't across things in specific
26 detail, there was obviously things that I was across in
27 very fine detail and others that I wasn't, so it's a
28 matter of trying to remember exactly what those
29 discussions were, how they occurred, and what I was

1 told at the time.

2 We may return to this later on today, but if Mr Buchhorn
3 comes to the public hearings and says, "I discussed
4 with my superior, Mr Collins, the sequence that was
5 being followed when I took a further statement or
6 obtained additional evidence and he would have been
7 aware that therefore a new statement was being prepared
8 but only one was being disclosed on the prosecution
9 brief", what would you say to that?---He's quite - it's
10 quite possible that I had those discussions with
11 Mr Buchhorn. I mean, as I said, I had a lot of
12 discussions with him about the brief preparation issues
13 and I could well have had those discussions about
14 individual statements, but I don't recall them.

15 But, if that's so, would you accept now, looking back, that
16 that would have been an error, that if there were two
17 statements and the second one contained additional
18 information, both of them needed to be
19 disclosed?---Yeah, it could well have been an error,
20 sir, and I - and I am quite confident to say that we
21 made - there were errors made during the investigation,
22 I've got no doubt about that and, you know, how - some
23 of these things could have been done in error, but
24 it's - I know right now, while I'm thinking about it, I
25 just can't recall the details of those discussions and
26 what conclusions were made.

27 MR RUSH: If we have a look at Exhibit 79. This is a
28 document, the date as best we can ascertain it,
29 23 August 1998. I'll just, perhaps before we go

1 through it in detail, take you to p.1984, the
2 conclusion of the document. You see there at the final
3 concluding paragraphs: "Original statements are to be
4 hand-delivered or sent to officer in charge, crew 7
5 Homicide Squad Detective Senior Sergeant Grant
6 Collins." I want to suggest, if we go back to p.1982,
7 and down the page a bit, this is a document that is
8 prepared by you to various police members set out there
9 as to the nature of statements and what they should and
10 should not include in statements?---Can I just read
11 that document, sir? It's not familiar with me but.

12 COMMISSIONER: Would you like to see it in hard copy?---It
13 might be easier, but I'm happy to scroll down, but I'm
14 just trying to put it into the context of - - -

15 What's the exhibit number, Mr Rush?

16 MR RUSH: I'll get one.

17 COMMISSIONER: Thank you.

18 MR RUSH: The document as printed here may have been
19 formatted differently, but the contents are the
20 same?---Yeah, I think the top half confused me a little
21 bit. I'm just trying to see what's in it now.

22 If we just quickly go through it, the statements are typed
23 or handwritten, and handwritten ones to be legible.
24 "Reviewed, are downloaded onto the Homicide program
25 regardless and are produced at subsequent committals
26 and trials." Then a direction as to information, the
27 spelling of names, details of corroborator or member
28 performing duty. Not the numbers, registered numbers,
29 or abbreviations"?---Yes.

1 "Not canine" as an example. "Do not use police signs,
2 Daniel at 311. Use their names. Details of rostered
3 duties on relevant days. Times of arrival and
4 departure. Details of duties." Then, moving on: "Your
5 notes will be required for production. Retain your
6 original notes unless specifically requested. Forward
7 a copy of your statement, details of any conversation
8 had with the victim if still alive or police arrival.
9 The conversation must: recorded contemporaneously and
10 be a full and accurate account of what the victim
11 stated. Note: all conversations should be recorded at
12 first available opportunity as they will be required at
13 subsequent trial and produced as original notes. If
14 first on the scene record all observations including
15 position, clothing, injuries and any other sighted
16 weapons or articles." What that sets out, I suggest,
17 Mr Collins, is a direction to people as to how, in
18 effect, they should make their notes?---Make their
19 statements.

20 Well, I would suggest that what it says, that what we are
21 here talking about specifically is notes. If you go :
22 "Conversation must be recorded contemporaneously with a
23 full and accurate account of what the victim stated.
24 Note: all conversation should be recorded at first
25 available opportunity as they will be required at the
26 subsequent trial and produced as original notes. If
27 first on the scene record all observations including
28 position, clothing, injuries the victim cited and
29 weapons." That's not statements, that's notes?---Okay,

1 yeah, sorry.

2 And what it is, is in effect a direction as to how people
3 should make notes that may not have been made at the
4 time of the incident?---Oh, I don't - that's what that
5 might seem to say, but I think it's - I don't know, I
6 really don't recall this at all and as to whether -
7 when it was made and what it relates to, to be honest.
8 I mean - - -

9 The date of the document is 22 October 1998.

10 COMMISSIONER: Would you like a little time to read that
11 through again to yourself?---I might, sir, I think it's
12 something - not something that I recall and, um.
13 Could you perhaps move on to something else, Mr Rush, and
14 Mr Collins can look at that over the luncheon
15 adjournment?

16 MR RUSH: Certainly.

17 MR MATTHEWS: Commissioner, I wonder if I might have a hard
18 copy of that document as well, to assist in considering
19 leave. Thank you.

20 COMMISSIONER: Yes, certainly.

21 MR RUSH: Mr Collins, you are at least now aware of the
22 existence of two statements of Mr Pullin?---Yes.
23 Both dated 16 August 1998?---Yes.
24 Both are acknowledged at 4.25 am by Mr Bezzina?---Yes.
25 And, of course, there is an impossibility around that, that
26 can't happen?---True.

27 As the person primarily responsible for the detail of
28 statements that we have been to, can you offer the
29 Commissioner any explanation as to how that would

1 occur?---No. No.
2 Surely, you must have some explanation, some thought
3 process, as to what has happened?---Well, I think it's,
4 obviously at some stage a second statement has been
5 produced and has been signed by Mr Bezzina at that,
6 saying it's been produced at the same time, but I don't
7 know the circumstances of how that occurred.
8 Have you, since becoming aware of it, made any enquiry or
9 investigation yourself as to how this might
10 happen?---No.

11 Not at all?---Um, no, not - well, I had nowhere to go. I
12 think it was something that came out in 2017,
13 I believe, and um - and ah - - -

14 COMMISSIONER: I think we can go back to 2015, when the
15 issue was first publicly ventilated, wasn't it,
16 Mr Collins, that there was a suggestion that Mr Pullin
17 had made more than one statement?---Not that I'm aware
18 of, sir, no. This came to me as a surprise
19 in November, I think it was, 2017.

20 MR RUSH: Have you not spoken to anyone in an attempt to get
21 some form of explanation as to how this has
22 occurred?---Well, I've spoken to Paul Sheridan about
23 this on a number of occasions, to be honest with you,
24 but we're both at a loss as to how this came up, you
25 know, when it did; it came as a surprise to me. I'm
26 not aware that it came out in 2015.

27 COMMISSIONER: Mr Iddles made some initial allegations in
28 2015 - correct me if my memory's failing me, Mr Rush:
29 did the matter first emerge in 2015 by way of some

1 publicity?

2 MR RUSH: Yes, it did, Commissioner.

3 COMMISSIONER: Although at that stage there was no

4 conclusive proof that there was a second statement; it

5 was only information which Mr Iddles had?---Well, I'm

6 not aware of that per se. I recall being told that

7 there was an issue raised in relation to the two

8 witnesses, Pullin and Poke, and that there were private

9 examinations conducted, but my understanding was that

10 it related to an allegation that they were coerced into

11 making false statements, that was my understanding, but

12 I don't recall anything about the second statements

13 being made at all.

14 What I think we need to make clear for the record, there's

15 never been such a suggestion, Mr Collins. Where does

16 the information come from that there was an issue of

17 coercion?---Well, that's what I was told by Paul

18 Sheridan at some - probably in 2015 - who had become

19 aware of the fact that that issue had been raised.

20 That was my understanding of what the content was of

21 the - - -

22 So, before you received the summons and the confidentiality

23 notice in this matter, it was already well ventilated,

24 in 2017, that there were in fact two statements by

25 Mr Pullin?---Yes.

26 Had you not spoken to anyone, whilst you were free to do so,

27 had you not spoken to anyone about how that could come

28 about?---Well, I certainly - as I said, I spoke to Paul

29 Sheridan about it, and I think I'd spoken to Craig

1 Thornton as well, and - - -

2 How would they - they are far removed from it by contrast to
3 yourself: how would they be able to throw any light on
4 it?---Well, as to whether there was any suggestion that
5 that had occurred, that such a statement or two
6 statements existed.

7 Yes, Mr Rush.

8 MR RUSH: Looking at it, Mr Bezzina has signed a second
9 statement that bears an incorrect date and time as far
10 as an acknowledgment is concerned?---Yes.

11 He has provided evidence that perhaps is best encapsulated
12 in what he told Mr Neil Mitchell in a radio interview
13 in 2017, Exhibit 431, p.5107. Down the middle of the
14 page, "Mitchell: Okay, so you would possibly sign it
15 without reading it?" "Absolutely." "And it's common?"
16 "Bezzina: Yeah, it's common because with the amount of
17 statements we take as investigators, and especially a
18 witness statement, and I knew I took the witness
19 statement some time previous, so I had no reason to go
20 through with a fine tooth comb or question that
21 detective who had approached me, whoever that was." I
22 want to ask you about that practice, because Mr Bezzina
23 has indicated, both to Mr Mitchell and in the
24 Commission, that it is a common practice in effect to
25 sign statements that are bearing incorrect date and
26 time on the acknowledgement. Is that a practice that
27 you're aware of?---No, that's not a practice I'm aware
28 of and that's not the practice that I follow.

29 Mr Bezzina says it's a common practice, and he's a person

1 who's been in Homicide for decades effectively; is that
2 not right?---Well, he was there a long time, I don't
3 know how long, but it's not a practice that I was aware
4 of in the Homicide Squad.

5 Can you think of any reason why a second statement would be
6 put before Mr Bezzina for signature, bearing the same
7 date and time as the first one?---Can I think of any
8 reason? No, I can't think of any reason why they would
9 do that, or that would happen.

10 COMMISSIONER: It's a false statement on its face, isn't
11 it?---Yes, it is. On its face, yes, sir.

12 MR RUSH: There would be no reason to reformat. You've seen
13 the first statement on the screen of Mr Pullin; no
14 reason to reformat that statement?---No, reformat it's
15 - I'm not sure what you mean by "reformat".

16 Well, "reformat" was a word that you used in relation to
17 Mr Edwards?---Well, that was in relation to the
18 destruction of the statement on the brief of evidence,
19 that's what I referred to as, in relation to the same
20 consistent font, size, and appearance of each statement
21 so that it was put into that process; that's what I
22 meant by "reformat".

23 Thank you. And those statements are normally not
24 signed?---No, that's true.

25 One, you say that what Bezzina describes as a common
26 practice is not one that you are aware of?---I've never
27 seen it at Homicide, no.

28 Two, you would say you could see no reason for a statement
29 to be re-signed with the same date and time?---Well, if

1 another statement was required, a supplementary
2 statement was normally taken from a witness.

3 And what Bezzina says, in effect, that he has had a
4 statement put in front of him and he has just re-signed
5 it, not as a supplementary statement, but with the same
6 date and time as the initial statement?---That's what
7 he said, yes.

8 The second point I wanted to ask you about: you can think of
9 no reason why he would do that?---No, I can't.

10 And no reason for a second statement in those
11 circumstances?---No, I can't.

12 COMMISSIONER: I think it's implicit from what you've
13 previously said, Mr Collins, about the importance of a
14 second statement which contains additional information
15 being quite separate from the original statement, so
16 that there's transparency in the investigative process;
17 implicit in that is the correct procedure that, where a
18 second statement is made which contains additional
19 information, it's a supplementary statement?---Yes,
20 sir.

21 And that should be the invariable practice, should it
22 not?---It should.

23 There should be no other way of producing additional
24 information?---I agree.

25 And that way the transparency of the process is thus evident
26 for all to see?---Yes.

27 MR RUSH: Before lunch on this point. Mr Iddles has given
28 evidence to the Commission that he was informed by
29 Mr Pullin that Mr Pullin was approached by Mr Buchhorn

1 for a second statement; that the reason given to
2 Mr Pullin was that another police officer had heard
3 conversations between Mr Pullin and Mr Miller and those
4 conversations had not gone in Mr Pullin's statement;
5 that the other member was described to - this is,
6 Mr Pullin told Iddles - that the other member, Buchhorn
7 said, was "a bit of a dickhead", and that they needed
8 Pullin's statement to enhance evidence about
9 conversation as a dying declaration from Mr Miller; and
10 finally, that Mr Buchhorn told Mr Pullin at the
11 committal not to mention that he had previously made a
12 statement different to the one on the brief of evidence
13 at the committal. Now, there are a number of matters
14 there. I have to ask you first, did you know anything
15 about that?---No.

16 Putting that sort of information into a second statement
17 would explain the second statement?---Yes.

18 Indeed, the only reason for a second statement with the same
19 time, date, would be to put in further
20 information?---Yes.

21 And, as the Commissioner has asked you, without a proper
22 acknowledgment of a previous statement, obviously that,
23 as you'd agreed, at the end of the day impacts on the
24 course of justice?---Yes.

25 If that's a convenient time, Commissioner.

26 COMMISSIONER: How long do you wish with Mr Collins?

27 MR RUSH: I think another hour, Commissioner.

28 COMMISSIONER: Mr Collins - I'm sorry, adjourn for an hour?

29 MR RUSH: Yes.

1 COMMISSIONER: That will give you time for some lunch,
2 Mr Collins, if you could return here at
3 2 o'clock?---Thank you.
4 You're welcome to speak to your counsel in the
5 meantime?---Thank you.
6 Adjourn the hearing until 2 o'clock.
7 Lunch adjournment: [1.01 pm.]

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1 UPON RESUMING AT 2.03 PM:

2 COMMISSIONER: Yes, Mr Rush.

3 MR RUSH: Commissioner. (To witness) I was asking you,
4 Mr Collins, about the Pullin statements. If we bring
5 up Exhibit 593. On the left of the page is the
6 statement we've been to and on the right of the page is
7 the second statement, the statement that appeared on
8 the trial brief. What is highlighted in purple in the
9 second statement are the additions and changes to the
10 first statement?---Yes.

11 Some of the conversation is referred to and highlighted in
12 yellow. In the fourth paragraph of the second
13 statement, about five lines from the bottom of that
14 paragraph, the addition: "I said to him, 'Did you hit
15 him?' He replied, 'I don't think so'. I also asked
16 him, 'Were they in a car or on foot?' He replied,
17 'They were on foot.' I asked him, 'How long ago did it
18 happen?' He replied, 'Couple of minutes.' Miller
19 quite obviously in pain so I didn't ask him any more
20 questions. Closed the chamber of the firearm, replaced
21 the firearm on the ground where I had found it, then by
22 this time a number of police ..." And then it goes on
23 to detail, so some conversation there in Mr Pullin's
24 statement concerning details of conversation with
25 Mr Miller not in the original statement?---Yes.

26 Indeed, from the point of view of first responders, those
27 that were witnesses to dying declarations of Mr Miller,
28 there was a problem over the first two or three months
29 of Operation Lorimer in relation to their statements,

1 was there not?---A problem in respect to?
2 In the sense that those statements did not reflect
3 conversations, for example, that were in the Gardiner
4 statement that I took you to this morning made by the
5 person in the ambulance at the Monash Medical
6 Centre?---Um, I'm not sure, to be honest; I don't
7 recall those problems you might be referring to.
8 Well, one of the things that was requested early on were
9 patrol duty returns?---Yes.
10 At Exhibit 103 is the patrol duty return that is signed by
11 Senior Constable Poke and Senior Constable Thwaites.
12 At p.2284, towards the bottom of the page - you see at
13 the top of the page, "Assisting second member into
14 ambulance. Gardiner in company with ambos." Then:
15 "Two male offenders. One on foot. Possibly second.
16 Possibly Hyundai. Mazda 323. One of offenders said to
17 be 6'1, 6'2. Long dark hair, three to four days
18 growth. Blue check shirt. Blue jeans. No further
19 details"?---Yes, sir.
20 So that was information that came in by way of patrol duty
21 return that would have been examined by those
22 responsible at Operation Lorimer?---Yes, I believe so.
23 COMMISSIONER: Are you familiar with that return?---I don't
24 remember it, sir, I really don't, I - I'm not saying we
25 didn't - it wasn't come in - it didn't come in, but I
26 don't remember seeing it at this particular point.
27 No, but what can you say with confidence about whether or
28 not something as significant as that would have been
29 drawn to your attention?---Um, I don't remember it; I

1 mean, it was - - -
2 No, I'm not talking about your memory now, we can readily
3 understand you're casting your mind back 20 years, but
4 what can you say with confidence, given the procedure
5 you were following and the importance of this
6 information, to a likelihood that it was something you
7 would have become aware of?---Well, probably if the
8 descriptions were - well, my understanding was, the
9 descriptions were part of the statements, that's what I
10 recall, but obviously in relation to Poke's - I'm not
11 sure about Thwaites - but certainly Poke's statement
12 wasn't taken for some time, so - but this was
13 information that would corroborate the statements made
14 by those who made the - who, those members.

15 But I'm asking you about the actual running sheet. This is
16 the so-called contemporaneous note?---Yes.

17 Right?---Yes, sir.

18 Can we not assume you would have been aware of that
19 contemporaneous note?---I may have been, but I don't
20 recall.

21 I'm not quite sure why you're so qualified in your response.

22 I mean, how many contemporaneous records were there of
23 a description of one of the offenders?---Um, um, I
24 don't remember. I mean - I mean, I don't remember how
25 many - there would have been very - there would have
26 been few, I suggest, in relation to having those
27 descriptions because the descriptions of the offenders
28 would have been confined to those members that attended
29 to Miller at - the first responders.

1 Correct, so?---How many exactly, I don't recall the number,
2 sir.

3 Can we got assume that one of the very important pieces of
4 information that you would have been seized of would
5 have been the contemporaneous accounts made by first
6 responders of Miller's description of the
7 offender?---Yes, I can - I would agree with that.

8 Yes.

9 MR RUSH: Indeed, if we have a look at Exhibit 480, which is
10 some pages from your day book between 9 October 98 and
11 21 October 98, at p.7236, two-thirds of the way down
12 the page with an asterisk: "Chase up Buchhorn re
13 clarification of statements by Miller at scene.
14 Queries identified in statements. Follow-up required
15 re dying declarations." So, that indicates, firstly,
16 that you have read statements that have been provided
17 by persons who were witness to the conversations with
18 Mr Miller?---Yes, agree with that.

19 And that there is a direction to Mr Buchhorn to say, well,
20 there are queries in relation to those statements and
21 you've got to follow them up?---Yes.

22 COMMISSIONER: What was the date of that note, Mr Rush?

23 MR RUSH: 20 October. (To witness) And the next asterisk:
24 "Follow up ...", could you read the next lines on that
25 page?---"Follow up" - I don't know whether that's
26 "significant" or (indistinct) for "significant" - or
27 "sign" it says, I think, what it looks like there.
28 "Trace evidence re bullet hole. Discussion with group
29 regarding scene enquiries, re-enactments and firearm

1 angles, other forensic evidence in our possession."
2 Over the page, first two lines?---"Check statements of
3 witnesses."
4 And that checking of statements of witnesses is something
5 that you did on that day?---Um, can you just go back to
6 the next page? I'm not sure whether it's - - -
7 Previous page, 7236?---It's possible that I did, yes.
8 You've made a note of, that you, on that day, checked the
9 statements of witnesses?---I - yes.
10 And, to hammer the point I suppose, the dying declaration
11 witnesses was something of critical importance to this
12 investigation?---Yes.
13 And you would have been well aware of those statements and
14 have read those statements in the same way as you're
15 reading the statements there relating - that was part
16 of your job?---Yes.
17 COMMISSIONER: How many statements were there of police
18 officers who were privy to Mr Miller's dying
19 declaration?---I think there were eight or ten, from
20 memory. There may have been more than that; that's
21 roughly what I recall. Would have been about ten I
22 think, roughly.
23 MR RUSH: And it was something that - I appreciate I've
24 taken you to something in October - if we look at
25 something from your day book in August at Exhibit 481.
26 Your day book between 17 August 98 and 22 August 98,
27 and at p.7240, that note, is it not, is: "George and
28 crew. Brief preparation statement. Follow
29 up ..."?---Yes.

1 What's that say, "Follow up", what?---"Follow up enquiries".
2 "Follow up enquiries. Scene members contamination
3 checks"?---Yes.
4 What's that relate to?---Oh, I don't know. I assume that
5 I've had - or I've spoken or there's been some
6 discussion about brief preparation statements and
7 follow-up enquiries that Buchhorn was doing, but I
8 don't recall having a discussion with him, it was just
9 a side note. As far as "scene members" go and
10 "contamination checks", I don't know what that means.
11 Well, "scene members" really means one thing, doesn't it?
12 It means police at the scene of the crime?---Those who
13 attended the scene, yes.
14 And "contamination check" really only means one thing, does
15 it not? It means check, make checks with police
16 officers as to whether they've really heard or really
17 seen or whether they're repeating what someone has told
18 them?---No, I don't - I don't know what it means, to be
19 honest. I don't know whether, in the context of that
20 note there, what "contamination checks" mean.
21 Recollections of what was going on is contaminated by who
22 they've spoken to?---Well, I don't know.
23 Can you think of any other explanation?---No, I can't, I
24 really can't, I don't know what that means. Whether
25 it's contamination of the scene in relation to
26 attendance at the scene and what might have occurred in
27 regard to the crime scene itself, but that's the only -
28 about the only thing I could see; whether that's
29 something that was relevant.

1 There's not going to be any contamination of the scene, is
2 there?---Well, there would be if people entered the
3 scene without our knowledge of it or understanding of
4 who might have gone into the scene; that's probably
5 what I was thinking, but that would be an issue.
6 But that's got nothing to do with brief preparation and
7 statements, has it, and that's what this is about, I
8 suggest?---Possibly.
9 Well, if you look at it, I'd suggest "contamination" is a
10 word frequently used in relation to witnesses who may
11 have their evidence impacted, not by what they've seen
12 or heard, but rather by what they've been told?---No,
13 I - no, I don't know, I don't know what - - -
14 You're not across that word "contamination" being used in
15 that sense?---Not in that sense I don't believe, no.
16 COMMISSIONER: It's a standard concern about a crime scene,
17 that the scene hasn't been contaminated?---Yes,
18 absolutely.
19 MR RUSH: Excuse me, Commissioner. (To witness) One of the
20 witnesses that you wanted a statement from was Senior
21 Constable Helen Poke?---Yes.
22 And at least initially in the weeks after 16 August she was
23 off work?---Yes.
24 But there was no follow-up to obtain a statement from
25 Ms Poke until December 2000?---That's right.
26 Why was that?---I thought she was off work for longer than
27 weeks, I thought she was off work for a prolonged
28 period of time, was my understanding, and that she was
29 very unwell, and there wasn't an opportunity to speak

1 to her in relation to her statement.
2 So, who became responsible for obtaining a
3 statement?---George Buchhorn.
4 The issue of Ms Poke's statements was something that became
5 significant at the committal hearing in her
6 cross-examination?---Yes.
7 But it was significant prior to the committal hearing in
8 relation to correspondence between lawyers acting for
9 the defendants and the OPP?---Yes.
10 You yourself were involved in that?---I believe so, yes.
11 Involved to the extent of ascertaining what the position was
12 with original statements and follow-up
13 statements?---Yes.
14 Did it become your understanding, Mr Collins, as a
15 consequence of those investigations, that Ms Poke had
16 in fact forwarded to the Homicide Squad a statement,
17 together with her notes, in April 2001?---I'm not - I'm
18 not sure exactly what date when they were forwarded.
19 2000?---2000, yeah. I'm not sure, it would have been about
20 that, I think, from memory.
21 COMMISSIONER: Do you have a recollection of receiving a
22 signed statement?---No sir, no.
23 But do you have a recollection of seeing some notes of
24 Ms Poke?---No.
25 So, what was your last answer based on?---Um, maybe from
26 what I read in the transcripts in relation to this -
27 these hearings. I had no memory of Helen Poke's - the
28 issues around her statement until I read the
29 transcripts, and I know that there was discussion in

1 relation to - - -

2 So that's refreshed your memory, did it?---Yes, it did, but
3 I don't remember exactly when things occurred and what
4 actually occurred as far as discussions went and to -
5 in relation to the order of events in relation to her
6 statement.

7 Mr Collins, it's important when you're providing detail
8 then, to make clear that it's something you're able to
9 say from a refreshed memory, as distinct from something
10 you simply know from having read a transcript. Do you
11 follow?---Sorry. Yes, sir.

12 MR RUSH: Have a look at Exhibit 85. This is the notebook
13 of Ms Poke - if we go to p.1997, she sets out there an
14 account. She says, she wrote on the morning of
15 16 August: "Keep calm. Reassurance. He said, 'I'm
16 fucked, help me.' He said, 'On foot, two. One by
17 foot. 6 foot. One check shirt. Dark Hyundai, dark
18 hair'." That, obviously you would have looked at that
19 when it arrived at Operation Lorimer?---Um, I don't
20 recall.

21 But it is something of great importance, you agree?---I
22 agree.

23 COMMISSIONER: Is it conceivable that, between you and
24 Mr Buchhorn, you would not have discussed that
25 note?---It's conceivable, sir, yes, absolutely.

26 That you may not have discussed it?---Sorry?

27 It's conceivable that you may not have discussed it?---No,
28 no, it's conceivable I discussed it.

29 Yeah?---Absolutely.

1 MR RUSH: Indeed, it's likely you discussed it?---Yes, yep.
2 And, if those notes were accompanied by a statement, it is
3 likely that you would have seen the
4 statement?---Likely, yes.
5 Perhaps if we have a look at Exhibit 337, and you see here a
6 statement of Ms Poke. If we go to p.3561, in the
7 bottom paragraph, she says: "I remember Miller saying
8 they were on foot. Two of them. One on foot. Check
9 shirt. Dark Hyundai." That is a statement, if it was
10 provided, if we go to the final page, it's
11 acknowledged, not signed, but the acknowledgment typed
12 in is 11 April 2000 at Frankston in front of Sergeant
13 Atkins?---Yes.
14 Does that bring back a memory of the statement?---No.
15 You knew there was an issue at committal, and prior to
16 committal, about an unsigned statement of
17 Ms Poke?---Yes, well, I - that's what I've read since,
18 yes, and that refreshed my memory, I suppose, of what
19 has occurred.
20 But you knew there was an issue, prior to the committal, of
21 an unsigned statement of Ms Poke and then a further
22 statement of Ms Poke?---Yes, only from what I've read
23 as a result of the transcripts, that's all; I don't
24 recall that prior to then.
25 COMMISSIONER: Has it refreshed your memory?---No, sir.
26 No?---No, I really don't have any memory of this.
27 MR RUSH: Exhibit 59 is a letter of 21 September, so prior
28 to the committal. If we go down a little bit to,
29 "Additional statements", "Senior Constable Helen Poke

1 dated 12 January 2001. This statement has been amended
2 to include details contained in this member's notes
3 that were not included in the statement that is part of
4 the brief of evidence." That, at p.1773, is
5 correspondence that went out under your name?---Yes.

6 So, does that refresh your memory?---No.

7 COMMISSIONER: What are you able to say from that note,
8 Mr Collins?---Well, I'm able to say that I sent a
9 report - obviously there was a query in regard to Helen
10 Poke's statement and I provided that letter to the
11 Legal Aid Commission.

12 MR RUSH: And, I should say, to the other solicitors acting
13 for Roberts?---Yes.

14 COMMISSIONER: Does it not enable you to say, Mr Collins,
15 that there had already been an original statement
16 prepared and signed by Ms Poke and that there was
17 something in her notes that was not included in that
18 statement which had been added to the statement that
19 you were forwarding to the Legal Aid
20 Commission?---Well, that's - you could - um, that's the
21 inference obviously from what I've said there, but I
22 don't recall that at all.

23 No, no. Forget about your recollection?---I'm sorry, yep.

24 Now I'm just asking you whether you can agree that what your
25 letter states is, she's made a statement, there were
26 notes, some of which was not included in that
27 statement, so her statement had been amended to include
28 those details?---Yeah, that's right.

29 And you were providing the amended statement?---Yes.

1 MR MATTHEWS: Commissioner, I wonder if I might just ask on
2 that issue, if the letter could be scrolled back down
3 as to whether it was some of which was not included or
4 whether that fact was clear from the note?

5 COMMISSIONER: Sorry, I'm not clear, Mr Matthews.

6 MR MATTHEWS: I wonder if I might just - yes, I just note
7 what you, Commissioner, just put to the witness and
8 what in fact is in the document is: "This statement has
9 been amended to include details contained in this
10 member's notes that were not included in the statement
11 that is part of the brief of evidence."

12 COMMISSIONER: Yes.

13 MR MATTHEWS: With respect, what that might mean is either
14 that some or all of what was in the notes had not been
15 included; it's not clear from the actual words there
16 which of those two it is.

17 COMMISSIONER: Well, Mr Matthews, we've already heard from
18 Mr Collins that he has no independent recollection, so
19 I take it, you can't expand beyond what's in the
20 letter?---No, sir.

21 MR RUSH: If we bring up Exhibit 337.

22 COMMISSIONER: I just wonder, before you move on from
23 Exhibit 59. That's the day you wrote to the Legal Aid
24 Commission, and it seems that on the same day it was
25 necessary to serve original statements on the
26 Magistrates' Court, presumably pursuant to some
27 timetable, and Mr Buchhorn has written on the same day,
28 21 September, including Ms Poke's statement, that's
29 Exhibit 57, in which Mr Buchhorn has stated: "This

1 statement is an amendment to her original
2 statement"?---Yes, sir.

3 So, you both wrote on the same day, you to the defendant's
4 solicitors, and Mr Buchhorn to the court making
5 reference to that?---Okay.

6 MR RUSH: Next to Exhibit 337, if we could bring up
7 Exhibit 339. At p.3561 of Exhibit 337, in the bottom
8 paragraph which we've been to, it states: "I remember
9 Miller saying they were on foot. Two of them. One on
10 foot. Check shirt. Dark Hyundai." In Exhibit 339, at
11 p.3570, it states: "I remember Miller saying they were
12 on foot. Two of them. One on foot. Check shirt.
13 6'1. Dark hair. Dark Hyundai." Clearly that material
14 has been added in?---Yes, it's different, yes.

15 And added in perhaps consistently with the notes that we'd
16 previously been to?---Yes.

17 Save that, at the committal Senior Constable Poke said that
18 it was incorrectly typed and it should have been
19 6 foot, one, i.e. one offender, dark hair?---Yes, yep.

20 If you turn to p.3571, the last page, the acknowledgment at
21 Frankston, "Sergeant Atkins" is crossed out and
22 "9.20 am, 12 January 2001" is placed on that
23 statement?---Yes.

24 Do you not have any recollection, as of around 21 September
25 when original statements needed to be supplied, of a
26 problem in relation to this?---No.

27 Would you not have checked with Detective Sergeant Buchhorn
28 about what had gone on?---I possibly could have. I
29 could have spoken to him about it, and he could have

1 briefed me on what was going on, but I don't recall
2 that.

3 Because it became also an issue at the committal, did it
4 not?---I believe so, yes.

5 Did you not then check with Mr Buchhorn?---I don't know
6 whether I did or I didn't now.

7 It would have been of your nature, and everything that we've
8 looked at, for you to have checked with Mr Buchhorn,
9 wouldn't it?---Well, I assume I would have, I should -
10 I think - this is not from - this is from reading the
11 transcripts and those, Commissioner, that I obviously
12 had discussions with him because we provided responses
13 back to the OPP according to that information about
14 what had occurred, so I obviously did have discussions,
15 but I don't recall those.

16 Did you make any enquiry, looking at that statement, which,
17 apart from the additional words we've been to, the
18 statement signed by Mr Buchhorn is in precisely the
19 same terms as that that is attested to by Sergeant
20 Atkins? Did you make any enquiry as to where the
21 initial statement was?---Oh, I don't recall now, I'm
22 sorry.

23 I want to take you to Exhibit 87 then, Mr Collins. If we go
24 down the page to an entry that starts, "Phone out
25 George Buchhorn." The Commission has heard evidence,
26 this a note taken by Ms Voulanas at the Office of
27 Public Prosecutions with whom you are familiar?---Yes.

28 Because of the concerns around the statement of Ms Poke, she
29 had a discussion with Mr Buchhorn prior to the date

1 that you've sent out the further statement, and doing
2 the best I can with her handwriting: "She had [that is,
3 Poke] her statement taken some months later. She
4 supplied notes which had additional comments that
5 weren't in the first statement. First statement was
6 unsigned." Can we just stop there. A statement being
7 provided, of this importance being provided to the
8 Lorimer Task Force, I suggest, would not be left
9 unsigned?---Um, I don't know, I'm sorry.

10 In your experience, as an investigator in charge of
11 Operation Lorimer, you would not expect to receive an
12 unsigned statement from a witness to the scene and who
13 had been with Mr Miller prior to him being conveyed to
14 hospital?---I think I - well, I agree with that, I
15 think if a statement was requested from there and it
16 was provided, then ordinarily it should be signed.

17 And, if Ms Poke says that it was sworn before Mr Atkins and
18 sent to the Homicide Squad with her notes, that would
19 be entirely consistent with what was expected?---Yes, I
20 would say so.

21 And you would not sit on an unsigned statement for 18 months
22 of such magnitude: April 2000 to September 2001, you
23 would not, in the preparation of the trial brief, have
24 an unsigned statement?---I wouldn't think so.

25 Well, the answer's no, because that was your big concern
26 over all this time, checking statements and ensuring
27 the propriety of the brief?---Absolutely, at that time,
28 yes.

29 So, you would question, would you not, the first statement

1 was unsigned as it's written there as an explanation
2 from Mr Buchhorn?---Um, well, I don't recall this
3 issue, but if you're asking me to hypothesise, I
4 suppose I would have asked George Buchhorn what the
5 response was and the reason and I would have - I had no
6 reason to disbelieve what he would have said to me.

7 COMMISSIONER: I think it follows from your previous answer,
8 you would have been surprised, though, that it was
9 unsigned?---Well, it would have been something that -
10 it would have been odd, I would have thought.

11 MR RUSH: Then the next paragraph: "Acknowledgment in
12 January 2001. Unable to change the acknowledgment on
13 computer, so George crossed out the acknowledgment by
14 hand and handwrote a new one"?---Yes.

15 I want to show you an exhibit - we'll come back to this -
16 but I want to show you Exhibit 338. This is a
17 statement, as you see, from Ms Poke. You will see, at
18 p.3565, that it includes the further details,
19 "6 foot 1, dark hair" in the second paragraph?---Yes.

20 If you turn over the page to Exhibit 338, there is an
21 acknowledgement and signature block of George
22 Buchhorn?---Yes.

23 Which goes directly against what he informed Ms Voulanas in
24 writing, that he couldn't change it?---Yes.

25 Just to understand, this has been found in the files of
26 Operation Lorimer, and the metadata date for this
27 document is 14 September 2001; in other words, that it
28 was prepared at around the time that these statements
29 had to be filed?---Oh, okay. I'm just trying to think

1 about what might have occurred here, but I - I'm not
2 familiar with it, I'm sorry.

3 Let me make a suggestion perhaps as to what's occurred in
4 one minute. I just want to take you to one final
5 document, Exhibit 336. This document, you would agree,
6 is formatted into a consistent style for the purposes
7 of the brief?---Looks like it, yes.

8 This is a copy taken from the committal brief. If you go to
9 p.3557, in the second paragraph there: "I remember
10 Miller saying, 'On foot. Two of them. One on foot.
11 Check shirt. Dark Hyundai'", the further detail not in
12 the statement that appeared on the committal
13 brief?---Yes.

14 And the statement, signed statement, to support these
15 statements, the committal brief statement and the Poke
16 statement that was unsigned, there was no signed
17 statement available to support that at the time the
18 filing of witness statements was due with the
19 court?---Okay.

20 Do you remember that?---No.

21 That would explain the phone calls, potentially the
22 preparation of Buchhorn's statement with his own
23 signature block at around 14 September, on the basis it
24 was due to be filed on the 21st?---Okay, right.

25 Well, don't you agree with that?---Well, I - yeah, I'm not
26 disagreeing with you, but I'm trying to get my head
27 around it. I'm quite confused as to what's happened
28 now. I really, um, um, am trying to put it all
29 together. It's, um, it is very confusing.

1 COMMISSIONER: But here's a witness who had critical
2 evidence, as it turns out, critical evidence to give at
3 committal and trial given the nature of the issue which
4 was whether Mr Roberts was present; more particularly,
5 whether there were two offenders?---Yes.

6 In the information which both you and Mr Buchhorn provided
7 on 21 September, you to the defence, to the Legal Aid
8 Commission, and Mr Buchhorn to the court, you both say
9 that there are two statements, the second statement has
10 come into existence because it contains details from
11 Ms Poke's notes which weren't previously in the
12 statement?---Yes.

13 What Mr Rush has now explored with you is that, according to
14 Mr Buchhorn's explanation back in January 2001, after
15 he received Ms Poke's statement he looked at her notes,
16 could see that they were deficient, the statement was
17 deficient, and reported that to her whereupon she came
18 in to the Homicide Squad with an amended statement
19 which contained those additional details?---Yes.

20 But the statement that you provided is not an amendment -
21 was not an amended statement containing new details, it
22 was a further statement in the same form as the
23 statement Mr Buchhorn had got Ms Poke to sign back in
24 January?---Well, I really don't know what's happened
25 with that and why that's occurred.

26 And, prior to you being summonsed, you've never had any
27 conversation with Mr Buchhorn and sought clarification
28 from him as to what happened?---Well, the only
29 conversation I would have had would have been at the

1 time in relation to, at the time when the replies were
2 given and I certainly haven't spoken to - - -

3 Not since?---No.

4 MR RUSH: Mr Buchhorn, did he not attend the
5 committal?---Um, he was at the committal, he was
6 looking after witnesses, I think that was his major
7 role, but um, I'm not sure whether he gave evidence or
8 not.

9 And you were at the committal?---Yes.

10 This, as I think you've agreed, was raised in an issue in
11 cross-examination of Poke?---Well, I'm aware of that
12 now as a result of the transcripts.

13 But, you say you're aware of it now; you were aware of it
14 then being raised?---Well, I don't recall that, sorry.

15 Firstly, the issue has clearly been raised between police
16 and the Office of Public Prosecutions in 14 September
17 2001?---Yes.

18 And Mr Buchhorn has been in communication with Ms Voulanas
19 as we've just been to?---Yes.

20 What we have seen over the course of the morning is your
21 oversight of statements, preparation of the brief and
22 ensuring you're fastidious in relation to its
23 presentation. I would suggest to you that it is almost
24 beyond belief that Buchhorn would not have spoken to
25 you about this?---I don't doubt that he did.

26 And an issue that went to the very heart of proper statement
27 taking, you say you can't remember?---I don't remember
28 it, not at all, I'm sorry.

29 Not one bit?---I had no memory of it whatsoever.

1 Because it was followed up after the committal by the Office
2 of Public Prosecutions?---Yes, it was.

3 And you know that by reading the transcript?---Yes.

4 And you're saying you've got no recollection of that
5 either?---No.

6 COMMISSIONER: The explanation provided, Mr Collins, one
7 explanation by Mr Buchhorn, you've seen that
8 handwritten note which Mr Rush took you to, another by
9 Mr Solomon to the OPP, both refer to statements being
10 shredded?---Yeah, I understand that.

11 From Mr Solomon's detailed explanation to the OPP, it wasn't
12 just earlier statements of Ms Poke that were shredded,
13 a lot of other statements were shredded. You've read
14 or seen the detail of Mr Solomon's explanation to the
15 OPP?---Um, I've read that - I've read that part; no,
16 I believe that was probably my explanation back to the
17 OPP rather than Mr Solomon's.

18 Perhaps take the witness - - -

19 MR RUSH: Exhibit 68, Commissioner.

20 COMMISSIONER: Thank you, Mr Rush. (To witness) Have a look
21 at it, Mr Collins. Question 47.

22 MR RUSH: Page 1863, down to Q47. Perhaps you might
23 like - - -

24 COMMISSIONER: We'll give you a moment to read that,
25 Mr Collins.

26 WITNESS: Yes, I've read that.

27 MR RUSH: If we go down perhaps to - see where in capitals
28 in the middle of the screen the word "Buchhorn" is in
29 capitals?---Yes.

1 If you go about four lines up, it starts: "A later review of
2 statements by Buchhorn revealed she'd not made a
3 statement so she was chased up on the phone. She then
4 compiled a statement from her notes which she had
5 secured in a locker she didn't have immediate access to
6 and delivered the statement and a copy of the notes to
7 the task force." So, stopping there. Firstly, are you
8 responsible for this note?---Possibly. Yeah, I
9 possibly would have compiled it and forwarded it;
10 whether I actually typed that response is another issue
11 altogether.

12 COMMISSIONER: Just a moment, Mr Rush. (To witness) If you
13 go to the very end of the note, it reads: "To prevent
14 unnecessary papers being kept in the folders they were
15 shredded." If you go to the sentence before it:
16 "Members sent statements with duplicates or typed
17 copies. Members did this in the belief the Homicide
18 Squad would attach the copy to the brief, not knowing
19 they are all retyped and reformatted. To prevent
20 unnecessary papers being kept in the folders they were
21 shredded." "To prevent unnecessary papers being kept
22 in the folders they were shredded. I believe I
23 mistakenly thought the first statement was a typed copy
24 of what Helen had brought in and simply shredded it.
25 Human error." Is that you speaking?---No, I don't
26 believe so, no.

27 So, who would it be?---Probably George Buchhorn, I would
28 suggest.

29 What can you tell us about the shredding of statements,

1 Mr Collins?---I'm not - I'm not aware of it, I don't
2 recall that at all.

3 Because obviously, whoever's given this note to the OPP was
4 not talking about the shredding of one statement.

5 Indeed, on the account we've explored in relation to
6 Ms Poke, it means that at least two statements of hers
7 and copies must have been shredded; namely, the one
8 that she initially sent in and the one that she did in
9 January 2001?---I'm not sure of that, but I assume what
10 they're saying in that explanation is that there was a
11 handwritten statement and an original, or a typed one
12 that was sent in and signed, and then a duplicate one
13 that was unsigned and those duplicates were the ones
14 that were shredded because they were identical to the
15 original, not knowing that - - -

16 But we don't have the original - - -?---No, that's true.
17 - - - so that must have been shredded too?---Correct, I
18 think that's obviously the issue.

19 And the original of the January 2001 statement must have
20 been shredded too?---I'm not sure.

21 Well, it wasn't produced?---Well, if it wasn't produced,
22 then that's probably the reason.

23 It hasn't seen the light of day, has it?---Pardon?
24 It hasn't seen the light of day?---No, I don't think so.

25 And you have no knowledge of this shredding process at
26 all?---No, I don't recall it at all, sir, no.

27 MR RUSH: It goes on: "Buchhorn later checked the statement
28 against the notes supplied and found discrepancies.
29 She was again contacted and arrangements were made for

1 her to re-attend to clarify the statement and make a
2 second statement. She then came in with a printed copy
3 of the amended statement which contained the clarified
4 points." The idea that Ms Poke would come into the
5 Homicide Squad to speak to Mr Buchhorn about
6 clarification of her statement and bring in a statement
7 already fixed up, that's really not credible, is
8 it?---I don't know why you would say that; I mean, I
9 don't know whether she did come in or not come in with
10 a second statement.

11 Well, on the basis of what police are informing the OPP, she
12 came in with a printed copy of the amended statement
13 which contained the clarified points. If that be the
14 case, why did she need to come into Homicide?---Well,
15 she would have come into Lorimer, I would assume.

16 Or to Lorimer?---Well, that may have been the discussion she
17 had with George Buchhorn about bringing that statement
18 in.

19 "The second statement still had the old jurat attached, and
20 on the morning the diskette she had brought in refused
21 to open on the computer at the office so the old jurat
22 was simply crossed out and Helen signed the statement
23 then acknowledged by Buchhorn." That's what it
24 says?---Yes.

25 And yet, what we've seen at Exhibit 338 - and I don't want
26 you to go back - is precisely the same statement with
27 Buchhorn's signature block?---Yes.

28 So that is, to put it politely, wholly incorrect?---I can't
29 say anything about that, I don't know.

1 Well, you've got a statement that you have seen with
2 Buchhorn's signature block on it?---Yes.
3 Is there any reason you can think why the person providing
4 this information would indicate that they had to use
5 the old jurat?---I don't know how that's occurred.
6 COMMISSIONER: Do you not have any memory at all,
7 Mr Collins, of having a sense of disquiet at the time
8 that you learned that Ms Poke had amended her statement
9 but the original of her original statement, and
10 possibly the second statement she'd made in which she'd
11 added details, that both of those originals were not
12 available?---No, I don't remember that at all.
13 You have no recollection - - -?---No.
14 - - - of a discussion with Mr Buchhorn prior to you
15 providing your explanation to the defence for Ms Poke's
16 second statement?---No, not really, no.
17 MR RUSH: For a witness to make a statement and then years
18 after an event add description, when it comes to a
19 trial that witness is going to obviously be the subject
20 of cross-examination and that potentially going to that
21 witness's credibility?---Yes, correct.
22 One way of avoiding that attack on a witness is to undertake
23 the process that was undertaken with Mr Pullin's
24 statement, to backdate it?---Well, that's possible, but
25 I don't know in this - in this circumstance.
26 Well, it's not possible here, that actually happened with
27 Mr Pullin, isn't it?---Well, obviously there were two
28 statements made, yes.
29 One made - and we've got the date - I think it's 18 months

1 after 16 August?---I don't know the date.

2 But Mr Pullin, when he went to court, could not be the
3 subject of a cross-examination going to his credit
4 concerning recollection because his first statement had
5 been likely shredded?---I don't know what happened to
6 it, but yes, I would say that that's correct, he
7 wouldn't have been subject to that cross-examination.

8 And if, when Ms Poke came to Lorimer to make a second
9 statement, the particulars of jurat of her first
10 statement were adjusted to make it look like the
11 original statement, that would also preserve her
12 credibility when she was cross-examined at trial?---I
13 think you've got to look at the original, that's the
14 thing that I would be looking at.

15 What we have is one version at least from Ms Poke as
16 follows: that when she went back, made a second
17 statement, she says this: "But no, the firkin elite of
18 the elite don't make it a 2nd statement, it's an
19 altered 1st statement with the 4th page acknowledgment
20 and jurat from the 1st statement perfectly fitted and
21 not re-witnessed and dated." That would be, in general
22 terms, a practice entirely consistent with what we saw
23 with Mr Pullin?---Well, I don't know.

24 Well, you do know. If that happened exactly - - -?---If it
25 happened, yes.

26 COMMISSIONER: How was the defence to know what had been
27 added to Ms Poke's statement?---If that - the original
28 was shredded or - yeah, well, that's an issue,
29 obviously, sir.

1 MR RUSH: I need to take you back, Mr Collins, because in
2 the context of the memory that you displayed this
3 morning, I suggest that you must have some memory of
4 the circumstances around the Poke incident?---No, what
5 I'm saying to you, Mr Rush, is, I don't recall anything
6 to do with that aspect of it. Um, I've got very clear
7 memories of some aspects of the investigation and very
8 unclear memories of others, I'm sorry, but that's just
9 the way it's - it's been and the passage of years and
10 everything else, I just don't recall that.

11 COMMISSIONER: Mr Collins, I understood you before lunch to
12 accept that it may well have been that during the
13 course of your many discussions with Mr Buchhorn during
14 the period of the investigation you may have discussed
15 with Mr Buchhorn the fact that witnesses were making
16 more than one statement but that only one statement was
17 being produced for the brief and that that might have
18 been an error on his part and your part. Did you not
19 say something like that before lunch?---That was in
20 relation to drafts, that's what I was referring to, the
21 draft statements that come in, I think, Commissioner,
22 that's in relation to what I was talking about, that
23 they were making draft statements and then amended, and
24 then the originals were signed, that those draft
25 statements weren't kept; that's my understanding.

26 I see. But you don't concede the possibility of discussing
27 with Mr Buchhorn that you had more than one signed
28 statement by a witness, but the second statement
29 containing additional material was to be the statement

1 produced on the brief, and that no reference was made
2 to the earlier statement?---No, that - I'm not aware of
3 that ever happening.

4 And you don't concede the possibility that you might have
5 said or done anything with Mr Buchhorn which would have
6 encouraged him to think that such a course was
7 appropriate?---No.

8 MR RUSH: Commissioner, I did say an hour. If I could have
9 a five minute break and I think I'll be another
10 15 minutes.

11 COMMISSIONER: Yes, very good. Have a break,
12 Mr Collins?---Thank you, Commissioner.

13 Hearing adjourns: [3.03 pm]

14 Hearing resumes: [3.08 pm]

15 COMMISSIONER: Yes, Mr Rush.

16 MR RUSH: There's just one issue been raised by my learned
17 friend, we may as well deal with it now, Commissioner.

18 The I think re-examination, my friend says she
19 would rather undertake tomorrow morning after review of
20 the transcript. From counsel assisting's point of
21 view, we have no problem with that at all. The only
22 thing is in relation to the transcript overnight and
23 whether that should be published in the light of
24 tomorrow's witness.

25 COMMISSIONER: I'm not sure what you mean. You mean you
26 think there might be some justification for
27 non-publication of it?

28 MR RUSH: Yes, Commissioner, just temporarily until
29 tomorrow.

1 MS KAPITANIAK: Would it be just, sorry, to the exclusion
2 obviously of myself and my client, or at least myself?
3 COMMISSIONER: I'm sorry, I couldn't catch that.
4 MS KAPITANIAK: I apologise, Commissioner. With the
5 exclusion, obviously, of the provision to myself?
6 COMMISSIONER: Yes, of course.
7 MS KAPITANIAK: Particularly if I could just focus on the
8 last 20 minutes, obviously I've had lunch to consider
9 the morning and I've sought some instructions. I feel
10 it wouldn't be appropriate, in fairness to
11 Superintendent Collins, to chat to him for ten minutes
12 in relation to what's occurred in the last 20 minutes.
13 I think the benefit of time - whether I had
14 transcript or not, my preference is to have
15 transcript - it's important, it's serious, and I'd like
16 the time to consider that.
17 COMMISSIONER: Let me allay your concern. I have no
18 difficulty with you having overnight to consider
19 Mr Collins' re-examination.
20 MS KAPITANIAK: Yes, I'm grateful.
21 MR MATTHEWS: Commissioner, I wonder if I might seek the
22 same latitude, the reason being that there is some real
23 intricacy to the evidence that's just been led on the
24 issue of Poke's statements. I would seek overnight to
25 just reflect on that with the benefit of the
26 transcript and to put that against a body of other
27 material relevant to the issue we're aware of. So, I
28 wonder if I might have the same latitude?
29 COMMISSIONER: If Mr Collins is coming back tomorrow, I see

1 no reason why you can't reflect on your position. I
2 don't want you to take that as any sign of
3 encouragement that I'm going to give you additional
4 latitude in terms of any cross-examination.

5 MR MATTHEWS: Thank you, Commissioner.

6 COMMISSIONER: Let me just reflect on the question of the
7 transcript, Mr Rush.

8 MR RUSH: Can we have a look at Exhibit 476, which is a
9 diary entry of yours, Mr Collins, of 5 October. And
10 you see there, perhaps you could read the first three
11 lines?---"Lorimer admin enquiries, briefing of members
12 re prosecutor's meeting."

13 And what's the prosecutor's meeting?---Um, it would have
14 been a meeting with Mr Rapke and members of the OPP, I
15 would assume.

16 And, was that a daily thing or a regular thing during the
17 course of the committal?---Is this during the
18 committal, Mr Rush or?

19 Yes, it is?---Well, I think, yeah, I think most days we
20 spoke to the prosecution team during the committal,
21 yes.

22 You see, just to confirm that, at 9.40 down the page: "At
23 Melbourne Magistrates' Court, liaised with witnesses.
24 Assist prosecutor." Yes.

25 Then, if you go down to the last four lines, the asterisk:
26 "Issue re Poke statement. Not being made until April
27 2000. Why? Not asked. Why didn't she provide? Make
28 a time. When asked for ..." What's that word?---"Why
29 didn't she provide notes made at the time when asked

1 for a running sheet."

2 And over the page, "Answer: They didn't ask, didn't cross
3 her mind." So, this is your shorthand, sitting in
4 court, of the evidence that Ms Poke is giving?---Yes.
5 Then there's 1 pm, the adjournment for lunch, and:
6 "Questions about Poke's OSTT qualification" after
7 lunch, and the asterisk point at Frankston where: "Poke
8 made statement. Alterations to page 3, para 2 omitted
9 from typed statement. Two, 6 foot. One on foot. Dark
10 Hyundai et cetera." Then the next asterisked point:
11 "Original statement made by Poke called for,
12 acknowledged by Atkins on 11 April 2000." So clearly,
13 the significance of, not all her evidence, but these
14 points of her evidence, were such that you made notes
15 of them?---Yes.

16 And, over the page, at p.7225, still being questioned around
17 this. Four lines in: "Original statement made by Poke
18 on 11 April 2000. On computer? Signed statement made
19 by Poke and witnessed by Atkins." So, I suggest, and
20 at the top of the page you've had a discussion with the
21 prosecutor, Mr Rapke, outside court. And the issue, I
22 suggest, that would be highlighted on this day is the
23 issue around Ms Poke's original statement?---Yes, I
24 would agree with that.

25 And it's an issue of significance, and again, I'm putting it
26 to you that you say you have no recollection of it
27 apart from what you've read in the transcript of
28 IBAC?---I'd forgotten completely about it and, ah,
29 until I saw those transcripts, yes.

1 If you'd had dealings or had explanations in relation to
2 what had happened to the statement, those explanations
3 would have been provided to you by Mr Buchhorn?---Yes.
4 On the basis of the materials we've been to, it was
5 Mr Buchhorn that was providing explanations as to what
6 had happened to those statements?---Yes.
7 And as we had seen earlier, you had tasked Mr Buchhorn
8 generally, much earlier, with responsibility for the
9 dying declaration witness statements?---Yes.
10 And it was Mr Buchhorn's normal practice to discuss with you
11 issues arising out of those statements?---In general
12 terms probably, yes, I would say; in specifically, I'm
13 not sure whether they were raised specifically or not,
14 to be honest.
15 If Mr Buchhorn was at court during the committal
16 proceedings, you would be talking to him?---I imagine
17 so, yes.
18 And, if he wasn't at court, would you not be seeking an
19 explanation from him as the person responsible -
20 although you have ultimate responsibility, he has the
21 responsibility under you?---Absolutely, yes.
22 COMMISSIONER: Can I just come back to the shredding of
23 documents? You've no doubt, since Lorimer, either been
24 in charge of or been a senior investigator in many
25 criminal investigations?---Yes.
26 Is shredding of documents that have been collected during
27 the course of an investigation common practice?---No.
28 No, Commissioner.
29 Have you had any other occasions that you know of where

1 materials gathered by the investigators during the
2 investigation have been shredded?---No, not that I
3 recall, no.

4 We have at least half a dozens then whose initial statements
5 have been amended, not by the use of the only process
6 that you've acknowledged as the correct one, namely, a
7 supplementary statement, and in all of their cases,
8 without exception, the original statement is not to be
9 found?---Yes.

10 Do you have anything to say about that?---Well, I don't have
11 any memory of that occurring, to be honest, I really
12 don't. It's not something - usual practice, it's not
13 something that we would do, and if - in this case I
14 don't know why.

15 Yes, Mr Rush.

16 MR RUSH: When you say "it's not something we would do",
17 it's something you would not do?---Yes, well, I - we,
18 as in the task force on this occasion, but certainly
19 me, no.

20 And the six statements at least that the Commissioner has
21 referred to are the ones identified by the Lorimer Task
22 Force, but you would appreciate, if there are others,
23 really no one's going to know about it?---Yeah, that'll
24 be right, yes.

25 Finally, at Exhibit 476, at p.7225, down the page to an
26 asterisk, "Queries", could you read what you've written
27 there?---"Queries. Male pulled over at 2.24 am who
28 entered the scene. Note taken in notebook. Statement
29 required if supports Poke. Memo to solicitor, legal

1 professional privilege applies."
2 Just stop there. So, Ms Poke was being cross-examined
3 concerning her notes?---Sorry, I missed that question?
4 Ms Poke was being cross-examined as to the authenticity of
5 her notes that we've had a look at?---Okay, yes.
6 And you have suggested a question as to whether a witness
7 may be able to provide a statement to support, or her
8 notebook may be supportive of that?---Yes, that's what
9 I've noted.
10 I want to return, Mr Collins, to Exhibit 79 which we looked
11 at prior to lunch.
12 COMMISSIONER: Before you do that, Mr Rush, were you going
13 to take Mr Collins to Mr Thwaites?
14 MR RUSH: Yes, Commissioner. Exhibit 79. Now, you've had
15 the opportunity of reading that over the break?---Yes.
16 We were particularly looking at p.1983. What I suggested to
17 you was that the invitation being made under the
18 heading, "Must" and the heading, "Note" down to
19 "continuity" was in effect for people to produce what
20 colloquially may be referred to as contemporaneous
21 notes but they're not contemporaneous at all?---Well,
22 this document, from memory now, is something that I
23 prepared before Lorimer that was distributed to uniform
24 members who attended the scenes of murders, homicides,
25 and these were general instructions in relation to
26 their statements.
27 My question was specifically related to the passages about
28 the preparation of notes, and the invitation, I'm
29 suggesting, from those two paragraphs is an invitation

1 to police to make what could be called contemporaneous
2 notes when they're not contemporaneous at all?---Well,
3 contemporaneous, in my understanding, is made at the
4 time or soon after and these - that was the issue, that
5 if they hadn't made notes at that particular time or on
6 that day, that they should make them as soon as
7 possible after the event.

8 So, this went out to uniform police and others who attended
9 the crime scene?---I'm not sure where it - how it went
10 out or when it went out, to be honest. I'm not saying
11 it didn't go out, but it may have been something that
12 was sent out as a consequence of the need to follow up
13 with those people that hadn't provided statements, but
14 I'm not sure of the circumstances now.

15 No, but you agree that what it is directed at when it says:
16 "Crew 7 Homicide Squad uniform members", it's being
17 directed specifically for the purposes of Operation
18 Lorimer to those members?---Well, my signature block on
19 the back of it obviously related to the Lorimer Task
20 Force, so it would have related to, I assume, those
21 members who hadn't provided statements at that time and
22 that was a memory - a memory prompted an instruction in
23 relation to how to provide them and what to include.

24 COMMISSIONER: You understand, Mr Collins, there's a world
25 of difference between saying to a group of police
26 officers by way of general instruction in terms of
27 investigative techniques that, if they are preparing
28 contemporaneous notes, this is the sort of content that
29 should be found in them?---Yes.

1 Another thing altogether to go back to someone who's already
2 provided some contemporaneous note and be saying to
3 them, this is what needs to be in your contemporaneous
4 note, because if they then follow your instruction in
5 that setting it ceases to be a contemporaneous
6 note?---Yeah, I agree with you and that's something I
7 probably never thought of at the time when it was sent;
8 um, it was something that we'd used and a decision was
9 made to send it out, but I - certainly that wasn't the
10 intention.

11 MR RUSH: So, insofar as there may be some doubt, you are
12 saying you're not directing people to write up their
13 notes a week after the event - weeks after the
14 event?---Weeks?

15 Weeks, yeah?---Well, obviously they wouldn't be
16 contemporaneous, would they? I mean, that's the -
17 that's the - as per the definition. It's something
18 that we made a decision, I assume, to send out and
19 perhaps that wasn't picked up. I certainly wasn't
20 after anybody - any suggestion or trying to make
21 anybody make notes that, on the surface, should have
22 been made at the time.

23 Are you aware, from reading the transcript and examination,
24 of what has been said about Mr Kelly, who says he was
25 just following procedure that he'd learned at the
26 Police Academy in relation to putting the description
27 of offenders in statements?---Yes.

28 COMMISSIONER: He's extended that practice to including a
29 description given in a dying declaration?---I agree.

1 That merely illustrates the vice of an improper practice
2 that shouldn't exist at all so that there's no
3 boundaries associated with the practice?---I agree.

4 MR RUSH: And, I put to you, Mr Thwaites has indicated that
5 he made a statement on 16 August in the morning that, I
6 think he used the word "shredded" in the sense of
7 having information removed from it at the direction of
8 Mr Kelly and was signed on 16 August, and then he and
9 Ms Poke left Moorabbin Police Station upset at what had
10 occurred; you've read that?---Yes.

11 But there is a statement from Mr Thwaites that was on the
12 trial brief?---Yes.

13 And that statement was not dated, obviously, 16 August. If
14 we bring up Exhibit 378. You'd see, if we go to the
15 final page, that that is a statement that is
16 acknowledged by Mr Buchhorn on 23 October 1998?---Yes.

17 And Mr Thwaites - there is no reference, at p.3717, to this
18 being in any way a supplementary statement?---I'm not
19 aware if it - if this was the statement that was made
20 originally or subsequently.

21 Well, it's not the statement that's made originally, because
22 this one's dated 23 October?---But I'm not sure whether
23 this was the statement that Thwaites made on 16 August
24 and then the acknowledgment was signed on 23 October,
25 that's what I'm saying.

26 The evidence of Mr Thwaites is that it isn't?---Okay.

27 And he was visited by Mr Buchhorn who was the acknowledger
28 of the statement?---And is he saying that another
29 statement was taken from him?

1 He says there was, I've told you, a statement taken on
2 16 August with the details that he wanted to put in the
3 statement shredded, taken out, at the direction of
4 Mr Kelly?---Okay.

5 And, just to complete that picture, so incensed that he
6 wrote Kelly's name in the patrol duty return with his
7 number and underneath "re statements"?---Right.

8 So, the first thing is, on the basis of accepting
9 Mr Thwaites, there is no first statement of 16 August
10 on the trial brief?---Right.

11 COMMISSIONER: Am I right in saying, Mr Rush, there's an
12 Eden schedule?

13 MR RUSH: I'll just try and find that. At Exhibit 197, I
14 think, Commissioner.

15 COMMISSIONER: That shows possession of Mr Thwaites'
16 statement well before the date of the signed statement
17 you have?---Okay.

18 MR RUSH: So, if we bring up Exhibit 197, p.2993. The
19 third-last entry, appreciating that this document was
20 last modified on 9 October 1998, we have an entry of a
21 statement required for Mr Thwaites and a statement
22 obtained from him?---Yes.

23 Which would be entirely consistent with a statement of
24 16 August?---Yes.

25 We see, but not taking you back to it, this is a further
26 statement dated 23 October 1999?---Nine?

27 98, I beg your pardon, 1998?---Okay.

28 COMMISSIONER: And, if I may add, Mr Rush, in response to
29 the OPP queries that I took you to earlier, Mr Collins,

1 in answer to Question 47, Exhibit 68, whoever provided
2 the response to the OPP said that at the station - this
3 is speaking of Poke - at the station her partner,
4 Thwaites, had a statement taken from him. So, the
5 information provided to the OPP is that, consistent
6 with Mr Kelly and Mr Thwaites' evidence, that a
7 statement was taken from him on that day, on
8 16 August?---And does it go on about the second
9 statement or is it - - -

10 No?---No.

11 No, it only deals then with the Poke issue?---Right.

12 MR RUSH: So, from a practice, what we are identifying is
13 something that you have indicated you knew nothing
14 about?---No, I'm not aware of that.

15 I guess this is one of the difficulties someone or some
16 people in your direct command are responsible
17 for?---Well, they've obviously taken the statement off
18 him in October, yes.

19 COMMISSIONER: But, Mr Collins, something I'd like you to
20 reflect on overnight seeing you're coming back
21 tomorrow: you made the exception, in relation to
22 unsigned statements, that you might have had a
23 discussion with Mr Buchhorn about the fact that there
24 were unsigned statements that were later supplemented
25 by additional information, and only one signed
26 statement produced and no reference made to the fact
27 that there was an earlier unsigned statement. I just
28 want you to reflect on whether or not it's possible
29 that so many witnesses had completed signed statements

1 which were thereafter the subject of additional
2 information resulting in a new statement, the original
3 statement not being produced, and that you never knew
4 of that process. Is that conceivable? Is that
5 possible having regard to your level of involvement,
6 the level at which you work with Mr Buchhorn and the
7 process that you were following particularly with
8 respect to the dying declaration of Mr Miller? Is it
9 conceivable that you didn't know of that sequence of
10 events? Can you just think on that overnight?---I'll
11 think on that.

12 MR RUSH: I want to ask you, firstly, about the practices
13 that have been identified. I think you have indicated
14 that you are not aware of any formal direction, by any
15 means, but emanating from Police Command that would
16 direct that any practice of not putting descriptions of
17 offenders in first statements is not acceptable?---No,
18 I'm not aware of anything that's come out formally or
19 even informally for that matter.

20 So you, in your position of ethical standards, how is that
21 conveyed to the police force? What needs to be
22 done?---Oh, if it was - certainly, if it was an issue
23 today, that would be the subject of formal reporting
24 and, through my Assistant Commissioner, through to the
25 training area and making sure that, if any practices
26 are identified - they're certainly part of our process
27 now with the oversight process that we have in regard
28 to any matters, peripheral issues that have come out of
29 investigations where matters of training, matters of

1 process and procedure are identified, then they're
2 reported upon and formal files are created in relation
3 to those matters.

4 I guess you say you were unaware of that practice whilst you
5 were within the Homicide Squad?---Yes, it certainly
6 wasn't something that I was aware of, yes.

7 So, the position is, from your perspective and others, it's
8 a practice that may still be in existence that people
9 may not be aware of?---Could be, I haven't seen it
10 personally, but it could be.

11 The Commission will have evidence that a common practice of
12 Police is to not have - we've been to contemporaneous
13 notes - but to make those notes in preparation for
14 court but not contemporaneous notes at the time of the
15 incident that they're meant to refer to. Is that a
16 practice with which you are familiar?---No, not now,
17 no. I mean, I can only speak on my behalf in relation
18 to notes that I take, but I certainly haven't become
19 aware of notes that have been made, you know, sometime
20 after an event that then are purported to be
21 contemporaneous, no.

22 This is that - - -

23 COMMISSIONER: You've never ever had any experience of an
24 officer doing that?---Not that I remember, no.

25 MR RUSH: Members being required my supervisors to improve
26 their statements and then make the statements look as
27 though they're original statements?---Oh, I think
28 that's probably occurred, and um - you know, I - but I
29 don't know whether it's still occurring, to be honest

1 with you.

2 And young police coming back to the Academy after a year and
3 reporting of those sorts of incidents and being
4 directed by supervisors to do that very thing?---Oh,
5 that would be probably the case, yes.

6 So, what is it? Is it education? What needs to be
7 done?---Look, I mean, I reflect back on when I was a
8 constable and left the Academy and then went to a
9 uniform station; everything that you were taught was -
10 was, um, I suppose, secondary to what the process and
11 practices were of the police station you were at and
12 the whims of the sergeants and supervisors that you
13 were working with, and what was required or what they
14 wanted you to do; I think that's fair to say.

15 COMMISSIONER: That's an apocryphal story, that the young
16 officer after leaving the Academy is told by the
17 experienced uniform officers, "This is where you start
18 to learn what the job is really all about"; that was
19 your experience back then?---Absolutely it was, yes.

20 And, to what extent is it still the experience?---Um, well,
21 I can only speak on my behalf. I haven't been at a
22 station for some years. My last station posting was at
23 the BD - DSG and I had a group of very young members
24 who had high aspirations usually to become detectives,
25 and I think that I had a - one of my practices in there
26 and my focus was to ensure that their practices were
27 appropriate and the way they should be done. When I
28 later become an officer I think it's very difficult to
29 have an influence or an understanding of what occurs on

1 the ground, I think, in a lot of ways, but you know, in
2 most of the complaints that you see/I saw as an
3 inspector and then later as a superintendent, I don't
4 think there was - there's always deviations from
5 process which are becoming, um, the subject of
6 complaints as a rule, you know, when people don't
7 follow process, but they were always dealt with in
8 relation to those complaint files and remedial action
9 taken with those members that are identified. But as
10 far as a practice goes, I'm not really - I'm not really
11 sure, I don't - I don't see or I haven't heard of any
12 sort of practices along those lines.

13 So, just dealing with the various practices that have been
14 put to you during the course of the day in relation to
15 the taking of witness statements, their content and the
16 obligation of disclosure, are you aware of any training
17 that currently takes place that specifically addresses
18 those practices?---No.

19 MR RUSH: When was it you were at Detective Training
20 School?---1992 to 95.

21 And did you have a role of, what, of instructing
22 there?---Yes.

23 Then I think Detective Senior Constable Kennedy has
24 indicated that, in relation to the identities or
25 descriptions of offenders not going into initial
26 statements, that that was something that was referred
27 to, taught at Detective Training School?---I'm not sure
28 when he went through, but I certainly don't recall that
29 being something that was, certainly not a part of the

1 curriculum or taught as far as I'm aware.
2 And whilst that, you say, is not part of the curriculum of
3 being taught as far as you're aware, directions as to
4 undertaking proper statement practices, was that part
5 of the Detective Training Course?---There was a
6 component in relation to evidence, I think, that is
7 taught, the theory in relation to evidence, and I would
8 assume that that covers statement taking witnesses, but
9 I can't be certain; certainly not something that I
10 taught.

11 And, no doubt, that evidence training course emphasised the
12 importance of dying declarations?---Well, that was part
13 of the - would have been part of the homicide notes and
14 lectures which I delivered.

15 They are the matters, Commissioner.

16 COMMISSIONER: You may stand down, Mr Collins. If you will
17 return tomorrow morning at 10 am and I will hear any
18 argument as to whether there should be
19 cross-examination. I will be interested in your
20 response to the question that I posed for you to
21 consider overnight, and your counsel may then be able
22 to re-examine you. So, you can leave the witness box,
23 Mr Collins?---Thank you.

24 <(THE WITNESS WITHDREW)

25 MR MATTHEWS: Commissioner?

26 COMMISSIONER: Yes, Mr Matthews.

27 MR MATTHEWS: Commissioner, can I offer on my own
28 behalf - - -

29 COMMISSIONER: Have a seat, Mr Collins.

1 MR MATTHEWS: Can I offer on my own behalf and that of my
2 instructor an undertaking that, when we receive the
3 transcript overnight, that we will not
4 disseminate/publish that between persons, we will keep
5 that strictly between ourselves?

6 COMMISSIONER: Yes. Look, Mr Rush, my only concern about
7 the course that you've proposed is, to what extent will
8 it be served if there is no suppression order made in
9 relation to the evidence?

10 I'm loath to make any such order. Will it still
11 have some efficacy if the media is able to publish but
12 the transcript is not released?

13 MR RUSH: We think it would, Commissioner, in the sense that
14 any media reporting of today's evidence is unlikely to
15 be of the detail that has been encompassed over the
16 course of the day, and in those circumstances we think
17 there would be efficacy in restricting just this day's
18 transcript until tomorrow.

19 COMMISSIONER: Very well. Well then, the transcript won't
20 be released until tomorrow morning, but there is no -
21 any vision on the media publishing whatever it sees fit
22 in relation to today's proceedings.

23 MR RUSH: Yes, Commissioner.

24 COMMISSIONER: Nothing else?

25 MR RUSH: No, Commissioner.

26 COMMISSIONER: Adjourn to 10 am tomorrow morning.

27 Hearing adjourns: [3.45 pm]

28 ADJOURNED UNTIL FRIDAY, 22 FEBRUARY 2019

29