

1 UPON RESUMING AT 2.06 PM:

2 COMMISSIONER: Yes, Ms Boston.

3 <IAN MICHAEL DUNN, recalled:

4 MS BOSTON: Mr Dunn, you've given some evidence about your  
5 awareness of junior members of the Police Force being  
6 directed to alter their statements, including the  
7 inclusion of untrue material. Does your awareness of  
8 that practice extend beyond the constables to more  
9 senior members of the Police Force?---I suppose, when I  
10 talk of junior members, it clearly does include the  
11 constables and those who have just finished their  
12 training, but I would think that any member on a  
13 station who puts his brief in for approval, for  
14 checking and approval by the sergeant, would probably  
15 be subject to that kind of request or direction, but I  
16 would think probably less likely the more senior the  
17 person becomes, he'd be less willing to obey those  
18 directions I imagine.

19 And the prosecutors that you would speak to as part of the  
20 prosecutor's training course, how senior were  
21 they?---They varied quite a bit, and over the years  
22 they became more and more junior, so that, in 84 when I  
23 did the course, I struggled to get into the division  
24 even though I was 20 years a constable at that stage  
25 and nine years a sergeant. My first application to get  
26 in was, I was unsuccessful, so it was a very popular  
27 job back in 84. It became progressively less and less  
28 popular over the years, so that, by the time I left  
29 people were coming into Prosecutions with barely two

1 years' experience, I'd say in some cases; but in  
2 amongst those in any squad you'd have a fair range, so  
3 you might have some quite senior constables as well.  
4 And the people who were reporting to you these practices,  
5 how senior were they?---I honestly can't say. It would  
6 come up - part of our training was in relation to notes  
7 and how to work through the court procedure so that  
8 your witnesses could refer to notes, and a big part of  
9 my lecture there would be dealing with the problems  
10 with notes and it would come up in those discussions,  
11 but I can't recall whether it was just the most junior  
12 people or the others who were saying this - I don't  
13 know.

14 I'm just going to go through now a little bit of a  
15 chronology, if we can try and work out who it was you  
16 made reports to of these practices at various  
17 times?---Yes.

18 Initially, I understand your concern was in relation to  
19 notes not being taken at the time of an event but being  
20 portrayed as contemporaneous notes in court; is that  
21 right?---That's correct, yes, yes.

22 When did you first report your concerns with that  
23 issue?---It was 1988, and I think it was March the  
24 10th, from memory, but that's the first record I have  
25 of it that I've been able to find; there may have been  
26 one or two before that, I'm not sure.

27 Then, in 1994, you wrote a report to your section commander  
28 at Research and Training, asking that your report be  
29 forwarded to the Assistant Commissioner of

1           Operations - - -?---Yes.  
2           - - - in relation to your concern about notes?---Yes.  
3           And your concern that members of the Police Force were being  
4           asked to commit perjury?---Yes.  
5           If we could bring up Exhibit 633, p.10303. This is a copy  
6           of the report that you initially made on 27 July  
7           1994?---Yes, it is.  
8           This is contained in one of two volumes held by Victoria  
9           Police in relation to the issue of contemporaneous  
10          notes and the related issue of replacement statements  
11          being made; is that your understanding?---It is, yes.  
12          Commissioner, I propose to tender those two volumes as a  
13          confidential exhibit. I will be going to a number of  
14          individual documents within the volumes.  
15          COMMISSIONER: Yes. Have they already been ascribed an  
16          exhibit number?  
17          MS BOSTON: Exhibit 633, Commissioner.  
18          COMMISSIONER: Yes, and can it remain with that  
19          exhibit number?  
20          MS BOSTON: Yes.  
21          COMMISSIONER: Yes, very good.  
22          #EXHIBIT 633 - Confidential documents, volumes 1 & 2.  
23          MS BOSTON: So, this is a report by you to your  
24          section commander at Research and Training section. In  
25          the second paragraph there, you stated: "From  
26          conversations with other prosecutors and with  
27          barristers I believe that the problem is widespread and  
28          does not seem to be abating. The essence of the  
29          problem is that for many years contemporaneous notes

1 made by police, despite Force instructions, have been  
2 anything but contemporaneous. The reality is that  
3 these notes are often not made during the day or week  
4 or even the month of the events that they describe, but  
5 are hastily and inaccurately made shortly before the  
6 contest hearing day." So, this is the first time that  
7 there's a report on the file, and that seems to be in  
8 accordance with the concerns you've outlined already in  
9 your evidence?---Yes, that's true.

10 In that same document you raised your concern, on the next  
11 page, under the heading, "Perjury".

12 COMMISSIONER: What page number is that?

13 MS BOSTON: Page 10305, under the heading, "Perjury" - 04,  
14 I'm told. Yes, there it is. You said in this report:  
15 "There seems to be a widespread belief in the Force  
16 that to lie on oath about the contemporaneity and  
17 accuracy of notes does not amount to perjury but that  
18 these are no more than white lies. This belief is  
19 mistaken. Though the question of contemporaneity may  
20 not always of itself be material in the proceedings,  
21 the notes must always be material and the questions of  
22 contemporaneity and accuracy are intrinsically  
23 inextricably related." Where did your belief or  
24 persuasion of this widespread belief, that to lie on  
25 oath about this issue was no more than white lies, come  
26 from?---I suppose it goes back to my own - I'm sorry,  
27 I'll have to have a drink. It goes back to my own  
28 experience as an operational policeman. It was just  
29 part of the culture, right from day one in my

1 experience. I think there was an awareness in the  
2 earlier days that it was perjury, but we knew that what  
3 we were doing was wrong, but we did it anyway. But I  
4 think over the years, in terms of police knowledge of  
5 law and criminal offences, or police knowledge of law,  
6 became less and less, it diminished over the years. So  
7 that, I would think by 1994, a lot of police would have  
8 lost sight of the fact that what they were doing was  
9 perjury, and I think that would be even more the case  
10 by the time I left the job, that police are less and  
11 less skilled, and schooled in the law.

12 In 1996 and 1997 you wrote further reports, the first you  
13 asked that it be forwarded to the Ethical Standards  
14 Department, and the second one in 1997 you wrote  
15 directly to the Assistant Commissioner of Ethical  
16 Standards Department?---Yes.

17 What was your reason for contacting ESD?---As I recall that  
18 report, ESD had just been created - well, actually it  
19 was a renaming process; it had been, I think it was B  
20 11, IID, then ESD, but in changing the name they'd made  
21 much of the role of ethical standards in improving the  
22 ethical standards of the Force, so I thought it  
23 opportune to at that point.

24 And you considered this to be an ethical  
25 issue?---Absolutely.

26 Because of the fact that members were being asked to  
27 effectively commit perjury and, it would appear, were  
28 doing so; is that - - -?---I think at that stage, back  
29 in 97 or so, I was less aware of the police being

1 directed to change their statements, and I think I  
2 was - we were all aware of the fact that police did lie  
3 about their contemporaneous notes. They did claim that  
4 the notes they were referring to in court were  
5 contemporaneous when they were often not  
6 contemporaneous. The problem with people being forced  
7 to change their statements, improve their statements,  
8 became more apparent later on.

9 In 1998, after you'd raised these matters firstly with your  
10 officer in charge and also with ESD, there was a Chief  
11 Commissioner instruction, was there not, that members  
12 should take contemporaneous notes?---Well, at that time  
13 there was that instruction, yeah. Right through there  
14 was effectively an instruction to that effect, that  
15 they should take or make contemporaneous notes.

16 And in 1998 there was a specific instruction in relation to  
17 that matter?---Ah, I think there were changes to the  
18 existing instructions, so that, there were a number of  
19 changes as I recall it.

20 Did you see any improvement to the situation after those  
21 changes?---Not really. No. I was not - the  
22 instructions themselves may have been slightly better  
23 after those changes were made, but in terms of  
24 compliance, I was not aware of any improvement.

25 COMMISSIONER: Can I just be clear about something, Mr Dunn.  
26 You're talking about these issues with your fellow  
27 prosecutors, you're writing to various people and no  
28 doubt having communications with them. Is the overall  
29 effect of all of the communications that you were

1 having that others were confirming your own sense of  
2 things?---Yes, quite certainly amongst the prosecutors  
3 there was a lot of concern, it was seen to be one of  
4 the major causes for our losses in court.

5 So this wasn't you having a view that didn't accord with  
6 your colleagues?---No, no. But in fact the early  
7 reports I did from 94 to 97, I've been back through  
8 some of them last night, and I note that my reports  
9 were backed up to some extent by my superiors, up to  
10 and including the Superintendent for Prosecutions.

11 Yes.

12 MS BOSTON: If we could go to Exhibit 633, p.10603. This is  
13 a report you wrote to the officer in charge of the  
14 Prosecutions division on 17 July 2002. You will see,  
15 in the first paragraph there's reference to the  
16 amendments to the Chief Commissioner's instructions in  
17 1998 to which you earlier referred?---Yes.

18 In the second paragraph you note that: "The main thrust of  
19 the Force approach to this problem since 1998 has been  
20 through improved training. This approach seems to have  
21 produced some improvements." I take it, given your  
22 concern up to this point was primarily about the  
23 contemporaneity of notes and lying about that fact,  
24 that they're the matters to which you're referring to  
25 there in terms of the improvement?---Yes.

26 You go on to say: "Recently, however, we lost a case at the  
27 Melbourne Magistrates' Court where the defence had  
28 successfully summonsed our computer records in order to  
29 show that many versions of statements had been made by

1 the police witnesses. In that case we actually  
2 withdrew the charges with considerable costs rather  
3 than risk some very undesirable consequences." That  
4 was a case, was it not, in 2002 where records of the  
5 computer company IBM had been summonsed by the  
6 defence?---That's correct, they were the backup tapes  
7 of the - all the computer activity over the network, I  
8 suppose it was, for a particular period.

9 Was it the case that police gave evidence that their  
10 statements had been made soon after the alleged  
11 offence?---As I understand it the informant, and I  
12 think already a couple of corroborators, had given  
13 evidence that there was only one version of the  
14 statement ever made and that same version of the  
15 statement had been adopted by them. But, as I  
16 understand it, they had denied that there were any  
17 other versions at any time. But the computer records,  
18 when retrieved by the defence, showed otherwise; there  
19 were a number of versions.

20 You've gone on in the following paragraph to say: "To the  
21 best of our knowledge this was the first time that the  
22 defence had been able to access and use our computer  
23 records in this way, it will not be the last occasion,  
24 and there could be flow-on effects with serious  
25 implications for many areas of the Force." You're  
26 effectively saying here, aren't you, the landscape has  
27 changed?---I was, yes, true.

28 COMMISSIONER: But the issue that was looked at in relation  
29 to that particular court case was that only one

1 statement was being produced for witnesses, but when in  
2 fact the witness had made a number of prior  
3 statements?---That's correct, sir, yes. Yes.

4 How common was that occurrence, Mr Dunn?---It's very hard to  
5 say, sir, very hard to say. I suspect it was probably  
6 fairly common. I've only ever seen it happen in that  
7 one case that I had at Heidelberg with Brendan Murphy  
8 defending, but I know it happened in another case at  
9 Prahran. I think in the one at Prahran there were  
10 three different versions again in play in the one case,  
11 and of course the informant would have been saying  
12 there was only ever one version.

13 We've had sworn evidence from a sergeant in the Homicide  
14 Squad who employed that practice in the 1998-99 and  
15 perhaps 2000, that it was so far as he was concerned a  
16 universal practice. Do you have any knowledge of  
17 others recognising or acknowledging the existence of  
18 that practice?---Not really, no. There was - there was  
19 another case, I believe at Warrnambool, where the  
20 defence again accessed the backup tapes and  
21 demonstrated the same thing, that there had been more  
22 than the one version of statements made.

23 MS BOSTON: Was that the Clarke case that Robert Richter was  
24 involved in?---I know it was the Clarke case, I'm not  
25 sure whether Mr Richter was in it.

26 Just turning over the page, in the second paragraph here -  
27 you start off by talking in the first paragraph about,  
28 "... the recent case demonstrating the gravity of the  
29 risks we are taking in not making or adopting adequate

1 and accurate notes contemporaneously and that it almost  
2 inevitably leads to the production of notes long after  
3 the event and to false claims about their  
4 contemporaneity and their accuracy." You go on to say:  
5 "More fundamentally, it leads to a lack of commitment  
6 to honesty, perhaps even to a chronic and widespread  
7 lack of understanding of what honesty is. This has  
8 long been the cause of our improving notes or  
9 statements usually at the request of supervisors, it  
10 being widely accepted that such a document is a  
11 work-in-progress." Firstly, that's what you said in  
12 2002?---Yes.

13 Did that remain your position until your retirement in  
14 2012?---Yes, it did, yes. Yes.

15 What you said about it being widely accepted that the  
16 document was a work-in-progress, was that your  
17 understanding of this process of improvements being  
18 requested by supervisors?---Yes, that was - that was  
19 part of it, and I suppose quite apart from the  
20 improvements being requested by the supervising  
21 sergeant, I dare say there would have been cases,  
22 perhaps many cases, where the informant himself or  
23 herself would make what he or she thought were  
24 improvements. Because, it not being a truly  
25 contemporaneous document in the first place, it wasn't  
26 as though it was ever really an accurate document, it  
27 could be moulded to suit whatever the needs were.

28 The case in 2002, where the documents had been summonsed  
29 from IBM, do you remember what the type of offence was

1 in that case?---It was either a drink-drive or a refuse  
2 breath test; that's my recollection.

3 And that was the Raw(?) case where Damian Sheales was acting  
4 for the defence?---I don't recall the name of the  
5 defendant in that case.

6 It was Damian Sheales' case?---Damian Sheales was certainly  
7 the defence counsel, yeah.

8 Following on from the Commissioner's question earlier about  
9 other people being concerned about the practice. There  
10 was a senior sergeant and sergeant and two senior  
11 constables in the Research and Training unit who were  
12 also very concerned about these practices, weren't  
13 there?---There were quite a number over the years, yes,  
14 who were concerned as I was and they were part of the  
15 process too whereby we were making suggestions and  
16 hoping to get improvements.

17 And they were in fact also reporting to the officer in  
18 charge of the Prosecution divisions of their own  
19 experiences with these same problems?---That's true.

20 If we could turn to Exhibit 633, p.10528. Going down the  
21 page to the paragraph commencing, "There may be a  
22 significant proportion". This is a letter from an  
23 Acting Superintendent to the Deputy Commissioner,  
24 Specialist Operations on 4 July 2002." The Acting  
25 Superintendent said: "There may be a significant  
26 proportion of members of the Force who may not always  
27 prepare contemporaneous notes." Even where such notes  
28 are prepared, there may be a practice of these notes  
29 being amended for various reasons, perhaps on occasions

1 at the insistence of supervisors. This may be an  
2 established cultural practice and may not be capable of  
3 being addressed merely through the agency of training  
4 courses. There is a legitimate cause for concern that  
5 the above issues may constitute a risk to this  
6 organisation, both in monetary terms and in general  
7 terms, of the reputation of the Force. I understand  
8 that many other Australian states may be more  
9 professional in their approaches to compilation of  
10 notes/statements, particularly New South Wales." So,  
11 this report to the Deputy Commissioner from the Acting  
12 Superintendent, would that have been as a consequence  
13 of the various reports coming out of your  
14 section?---Could you tell me the date on this again,  
15 please?

16 4 July 2002?---Yes, quite likely. Quite likely, yes.

17 COMMISSIONER: So, Mr Dunn, if a problem like this can't be  
18 addressed by training courses, how can it be  
19 addressed?---I argued right from day one, sir, that  
20 there should be two things: the coupling together of  
21 audio recording and the making of contemporaneous  
22 notes, and making it mandatory that contemporaneous  
23 notes be made and adopted before the end of the shift,  
24 earlier if possible. But my primary focus really was  
25 on using audio recorders, because even the best note is  
26 not likely to be as accurate as an audio recording.  
27 And so, my recommendation right from the start was,  
28 make it mandatory to have the contemporaneous notes if  
29 there is no adequate audio recording. To me it's very

1 simple: I used audio recorders myself my last three  
2 years on the street and they were tremendous. And in  
3 my squad, of the 25 members, ten of us had our own  
4 recorders and it was nothing but a joy the whole thing,  
5 it was great.

6 I'm reading into the conclusion of the superintendent that  
7 this cultural practice may not be capable of being  
8 addressed by training, that what he's saying is, the  
9 issue here is not about whether members know what they  
10 should do - that is, they know the process they should  
11 be following - but as a matter of culture they don't  
12 see anything wrong with not following it?---Well, he  
13 may be saying that, sir, but I'm not - I wouldn't agree  
14 with it really. I think most people would realise  
15 there's something innately wrong in lying about - in  
16 lying about anything, but certainly in lying on oath  
17 about notes, there's something innately wrong about  
18 that.

19 Yes, so just to grapple with my point, he doesn't see  
20 training as necessarily being able to solve this  
21 problem, he sees there's a cultural issue, which rather  
22 suggests that it's not that he feels members don't  
23 understand what they should do, they don't accept that  
24 there's anything particularly wrong with doing it  
25 another way?---Well, he may see it that way, sir. I  
26 would see it differently, I did see it differently, and  
27 I still see it differently. I think training, there's  
28 nothing wrong with training; training of itself was  
29 never going to solve the problem here. It had to be a

1 mandatory requirement, but the thing that's rarely  
2 mentioned - only mentioned once or twice in passing in  
3 all these documents - is that there's an overriding  
4 concern that, if they make it a mandatory requirement,  
5 it's going to mean that people will be working back,  
6 working overtime to do their notes in some cases, quite  
7 a few cases, and there's a tremendous fear of going  
8 beyond the budget. But that's - there's only one  
9 reference there that I can - to that that I can recall,  
10 and one of the writers somewhere around headquarters  
11 talks of "strategic implications", I think is what he  
12 called it, which I took to be code for, it's going to  
13 affect the budget.

14 MS BOSTON: Exhibit 633, p.10438, please. This is a  
15 briefing note from a sergeant in the Prosecutions  
16 division to the superintendent. You will see, at  
17 paragraph 1 he states he's been lecturing to the  
18 probationary constable's course for about four years  
19 and that there's a recurring consistent theme  
20 concerning some issues that cause him some concern. At  
21 paragraph 3 he states: "Most stated that they might do  
22 their notes days later." At paragraph 4, and this is  
23 the particular matter I wanted to ask you about, he  
24 states: "The majority stated that there were occasions  
25 when they were instructed by supervisors to change  
26 their statements on briefs to add untrue material,  
27 usually by adding questions that were not asked or by  
28 adding the caution rights prior to conversation." This  
29 sergeant's statement that it was the majority of the

1 constables coming through that Constable Development  
2 Course who were saying that, was that your experience  
3 as well?---Not really. I'd say that, when I was out  
4 there at the Constable Development Course, in a group  
5 of 40 or 50 students, you might get ten or at most 20  
6 who would say they've had this experience. But it was  
7 a sizeable group, and I didn't ever take that to be the  
8 full extent of the experience, I think a lot of members  
9 at this stage, they were probably a little bit shy  
10 about talking openly about these kinds of practices.

11 Even if it's ten or 20 out of a class of 50, that's a pretty  
12 significant proportion from people that have only been  
13 in the job for 12 months?---I agree; even one's too  
14 many, yeah.

15 COMMISSIONER: But of course, the underlying concern,  
16 Mr Dunn, is, these are people who are going to progress  
17 through the Force and, with their progression,  
18 occupying more senior positions and, unless this sort  
19 of approach is corrected, I assume they take it with  
20 them?---Exactly, yeah, and it becomes part of the  
21 culture of the Police Force and it's - yeah, it's been  
22 that way for a long time now.

23 MS BOSTON: If we could go to Exhibit 647. This is an email  
24 forwarded to you from a senior sergeant on 5 March 2003  
25 of an email that he had that day sent to the  
26 superintendent of the Prosecutions department. Again,  
27 this is in relation to the issue of replacement  
28 statements. If we could go down to the third-last  
29 paragraph which begins, "My unit has been trying to

1 inform members to do it right for a long time and we  
2 have stepped up our efforts since May 2002. The  
3 information I received from most members is that the  
4 problem still exists. I am also informed that, rather  
5 than changing the culture, members are looking at ways  
6 to get around the problem such as going to floppy  
7 disks." That comment there about, instead of members  
8 stopping this practice of making replacement  
9 statements, looking for ways to effectively conceal the  
10 making of those replacement statements, did you have  
11 any experience of that?---I've certainly seen this  
12 report before, and I do remember that being said at the  
13 time, I don't think it came directly to me. I think I  
14 know who the author of this report is. I'm pretty sure  
15 he told me that people have said to him that's the way  
16 around it. Instead of backing up to the system where  
17 it'd be subject to the IBM backup tapes being  
18 discovered, if you backed up simply - or if you saved,  
19 rather, to a floppy disk you wouldn't have that issue,  
20 you'd avoid that kind of accountability.

21 Perhaps looking at things more broadly, that's an example  
22 of, it appears, of certain persons, instead of  
23 effecting cultural change, trying to get around the new  
24 way of exposing the problem. What was your impression  
25 within the Force of whether cultural change was trying  
26 to be effected because of the issues that you and your  
27 colleagues are raising?---I don't think there was an  
28 attempt, I didn't see an attempt to change that part of  
29 the culture of the Force. It had to come from the top

1 and there was never any sign of it coming from the top.  
2 If we can go to Exhibit 634, please.

3 COMMISSIONER: I just wonder, you've recently looked at your  
4 file that is Exhibit 633? That police file?---I have  
5 parts of it, I've kept parts of it, sir, but I  
6 certainly haven't gone through the whole file.

7 No, but it does show the concerns you and others were  
8 expressing were escalated through to Assistant  
9 Commissioner level and that one of the concerns, namely  
10 the contemporaneous notes, resulted in the Chief  
11 Commissioner issuing directions, new directions about  
12 requirements for contemporaneous notes. I just wanted  
13 to ask you, it wouldn't be correct to say that it  
14 never - none of these concerns were recognised as  
15 matters that had to be addressed at a senior level?---I  
16 think the changes that were made were always inadequate  
17 and should always have been seen by those who were  
18 making the changes to be far short of what was needed.  
19 I think it was a token effort and I think the changes -  
20 I still think - the changes could be made very quickly,  
21 but the decision to change has to come from the top and  
22 that decision hasn't been made.

23 MS BOSTON: Exhibit 634, this is an email that you wrote to  
24 the Chief Commissioner of Police, Christine Nixon, on  
25 2 August 2002. I take it, you were a sergeant at this  
26 stage?---Yes.

27 I take it, it wouldn't have been part of the normal chain of  
28 command to go directly to the Chief Commissioner?---Oh,  
29 it happens; it happens. I've done it a few times with

1 other Chief Commissioners.

2 Was that because of what you perceived to be the gravity of  
3 the situation following the Raw case, the IBM  
4 case?---As to sending this one, that was my reason for  
5 sending that email, yes.

6 We'll see, if we go down to your email on 2 August, you say  
7 that: "The problem from the widespread practice within  
8 the Force of not making adequate contemporaneous notes  
9 about events ...", and you describe it as, "... notes  
10 or statements are made days, weeks, months, and  
11 sometimes even years after the events which they  
12 describe. They often contain substantial  
13 inaccuracies." Effectively, you're reiterating the  
14 complaints we've been through previously about changes  
15 being made at the direction of supervisors. You go on  
16 to say: "These changes are made in such a way that they  
17 cannot readily be identified as changes." Was that a  
18 matter that caused you particular concern?---Yes, yes.  
19 Again, it's compounding the problem of the notes  
20 themselves being inaccurate because they're not  
21 contemporaneous, but where you have versions - as well  
22 as version 1, you've got version 2 and version 3 and so  
23 on of the statement, but there's nothing to let the  
24 other side know what's happened, it appears to be the  
25 original statement.

26 COMMISSIONER: So, we're talking here about the failure to  
27 comply with the fundamental obligation of full  
28 disclosure?---Yes, that's true.

29 And, has there been any period of time whilst you were in

1 the Force till 2012 where you think that the nature of  
2 that obligation's been fully and properly explained to  
3 members?---I can't comment on what the teaching would  
4 have been at the Academy or at DTS over the many years  
5 since I did my training at both those places, but I  
6 doubt that there'd be much adequate - I doubt that  
7 there would be adequate training on this point, I don't  
8 think there would be. I think - - -

9 That's based upon the end results that you have seen?---Yes,  
10 and also based upon what seems to be a general lack of  
11 training in relation to the law. It seems - there  
12 seems to be less training in relation to law now than  
13 there was when I went through the basic training; less  
14 knowledge of the law anyway.

15 MS BOSTON: In this email to the Chief Commissioner you go  
16 on to explain what happened in that computer  
17 case?---Yes.

18 At the bottom of the page, you say: "The risk to the Force  
19 is that it will be shown to be dishonest and  
20 incompetent and that many good cases will be lost  
21 unnecessarily." You talk about the potential damage to  
22 the Force and then go on to say: "Nothing seems to be  
23 being done to address this problem as a matter of  
24 urgency. Efforts by my immediate supervisors to warn  
25 operational police of the need to improve their  
26 procedures have been blocked. We really do need to act  
27 decisively, this is one problem which will simply go  
28 away."

29 COMMISSIONER: "That will not".

1 MS BOSTON: "... will not simply go away." So, the efforts  
2 that were being made by the Research and Training  
3 section of the Prosecution division, what were their  
4 efforts that were being blocked as you perceived  
5 it?---My recollection was that our senior sergeant had,  
6 I think on the day of the event, sent an email to his  
7 superiors in the hope that there would be a general  
8 warning to all members that this is what had happened  
9 and this is what was going to happen in the future and  
10 to lift the game basically, to do things properly.

11 The Chief Commissioner has referred your complaint  
12 elsewhere; what do you understand happened at that  
13 points?---There was, and I came across it last night,  
14 there was actually a general message went out - I think  
15 it was from someone with a name like Klysner(?),  
16 perhaps I've got the name wrong, one of the senior  
17 officers - did send a message out warning people of  
18 what had happened and what was likely to happen again.

19 It was a direction informing police of the methodology that  
20 had been used in summoning the documents from IBM; is  
21 that - - -?---I think so, yes.

22 Was there any direction given to your recollection about the  
23 fact that that practice should simply not be engaged  
24 in?---I can't recall that being said.

25 A working party was established at this point in relation to  
26 the making of contemporaneous notes?---Yes, yes.

27 Was anything done in respect of the problem, as you  
28 perceived it, of replacement statements being  
29 made?---Not that I recall.

1 That was something you would recall, I take it?---I should,  
2 yep, yep.

3 You subsequently, in 2004, reported your concerns to the  
4 Police Ombudsman. Is that a course you would have  
5 taken, as you perceived, that your concerns had been  
6 adequately addressed?---No.

7 You complained to the Ombudsman of both of those issues  
8 related to the contemporaneous notes and perjury, as  
9 well as what you perceived to be ESDs failure to take  
10 appropriate action; was that your impression?---Yes.

11 If we could go to 642, please. On 15 June 2005, you wrote  
12 to the Police Ombudsman about what you referred to as a  
13 related issue, a closely related issue, requirement  
14 that police improve the evidence in their briefs. You  
15 see that email there?---Yes, I do.

16 In this email, if we go down to the following page, you  
17 forwarded to the Police Ombudsman your correspondence  
18 with the Assistant Commissioner at ESD?---Yes, I can't  
19 see it on the screen, but I believe that's the case,  
20 yes. Yes.

21 If we stop there, you see the response to your email of  
22 13 June 2005 to the existing Commissioner at ESD was  
23 that the issue should be taken up by Legal Services and  
24 Education Department. Did you have concerns about that  
25 approach adopted by ESD?---I certainly did, because it  
26 was roughly 11 years, nearly 11 years since the file  
27 was commenced, and really, we'd made no progress at  
28 all, and everyone kept sending it on, creating working  
29 parties, doing everything but taking action and we

1           seemed to be getting nowhere.

2       The reason that you believed ESD should be taking action  
3           was, I presume, because you perceived it to be an  
4           ethical issue?---Yeah, they claimed to be working to  
5           improve the ethical standards of the Police Force, and  
6           this is very clearly an ethical issue.

7       If we could go back up to the top of the page, in your email  
8           to the Police Ombudsman - at the top of the next page,  
9           I'm sorry - in the second paragraph you refer to:

10          "... the closely related issue, the requirement that  
11          police improve the evidence in their briefs", and say  
12          that "it's not a new problem, but the risks associated  
13          with the practice have increased greatly in the last  
14          few years. It's not just the danger of costs and  
15          embarrassment to the Force that concerns me, the young  
16          members who are being required to make the improvements  
17          are placed in an invidious position: if they comply  
18          with the requests they risk the consequences of  
19          committing perjury; if they refuse to comply, they risk  
20          their careers." And that was certainly one of your  
21          primary concerns?---Yes, yes.

22       You continued to report issues to ESD in 2006 and 2007, and  
23           was it your understanding that ESD's conclusion was  
24           that it was unable to substantiate your  
25           complaint?---Yeah, that - there was actually a change  
26           in 1997, I think it was, at the end of - can I just  
27           check my dates here?

28       Yes?---There was a period, we seemed to be making some  
29           progress in 97 and up until 30 May 97 Chief

1 Superintendent Kelly was talking about taking action,  
2 he described it as a serious issue which should be  
3 addressed, but then - his was one of a number of  
4 reports to that effect, basically saying things should  
5 change. But then, on 7 June 1997, the same person,  
6 Chief Superintendent Kelly, adopted the position which  
7 has been adopted ever since then - with a few  
8 exceptions - but basically they threw the  
9 responsibility back onto prosecutors and said, well, if  
10 there's any evidence of people giving false evidence  
11 it's your responsibility to sort it out as prosecutors;  
12 until you do that, we won't take any action. I'm  
13 paraphrasing fairly loosely there, but that's  
14 essentially the position since 7 June 97 and - - -

15 The obvious difficulty with such a position is that, as the  
16 prosecutor, it's only going to be in a rare case where  
17 it's actually going to come to light that there have  
18 been previous versions of a statement?---Yes, sir, but  
19 of course we weren't just talking about previous  
20 versions of statements there, we were talking about  
21 contemporaneous notes or the lack thereof more broadly.  
22 But at the same time the other issue for us is - and of  
23 course they understood this when they threw the  
24 responsibility back onto us as prosecutors - for us to  
25 take that action it would mean that we would be handing  
26 in for prosecution a young person who, in many  
27 instances, has been forced to do what he did and we'd  
28 be punishing the least guilty rather than the most  
29 guilty.

1 So, you were concerned to address the problem of the Force  
2 in the wider sense rather than targeting individuals  
3 who were simply following a practice?---That's true.  
4 In fact, I always wondered what would have happened,  
5 had we had the evidence against some young constable,  
6 and had we reported them, we - I wondered whether they  
7 would have been prosecuted anyway; I kind of doubt they  
8 would have been prosecuted.

9 Well, the example of the IBM case in 2002, I think you said  
10 in one of those earlier documents that the charges were  
11 in fact withdrawn against the accused in that  
12 matter?---The charges against the person for refusing  
13 the breath test, if that's what the charge was.

14 Yes?---They were withdrawn and substantial moneys paid to  
15 the defendant on the day and then subsequently another  
16 large payment made to the defendant.

17 Do you have any awareness about whether the relevant police  
18 officers were charged?---I believe not. There have  
19 been many instances documented in the newspapers over  
20 the years where police witnesses have been shown to be  
21 grossly inconsistent, or lying in court, and nothing  
22 ever seems to happen.

23 Is your understanding that one of the primary reasons that  
24 those charges were withdrawn against the accused in  
25 that IBM case were that significant embarrassment to  
26 the Force wanted to be avoided?---I guess that was a  
27 factor. I think, in truth, we'd been told by the  
28 barrister that he would - he expected that he would  
29 have a couple of - no, a few police - committed for

1 perjury by the end of the day and I think that's why  
2 the intervention occurred in that instance; it was seen  
3 that, if the case proceeded, they would be charged with  
4 perjury.

5 If we go to Exhibit 639, please.

6 COMMISSIONER: There's a fundamental difference between an  
7 officer who, having made a statement, makes another one  
8 in which they insert a false fact to make the case  
9 stronger, and an officer who's made a statement and who  
10 sees they've overlooked something that they should have  
11 included, nothing false about it, but it should have  
12 been included in the first place and is thus inserted  
13 in the new statement and that new statement then  
14 replaces the old one. Is that what was meant by the  
15 reference to "white lies", that latter scenario, or  
16 were you using the phrase of white lies to cover both  
17 of those situations?---I think the reference to white  
18 lies might have been in my initial report in 94, and at  
19 that stage I wasn't really turning my mind to these  
20 improvements to statements, particularly improvements  
21 made at the request of the sergeants. The white lies I  
22 think I was referring to there was this notion, produce  
23 a document and say, these are my notes taken at the  
24 time, and everyone in the court, including the  
25 magistrate I think would have realised that it's an  
26 expression used, "notes taken at the time", but in fact  
27 they were anything but that in many, many cases. That  
28 was - it was such a part of the system that you kind of  
29 regarded it as white lies. It wasn't, of course, it

1 was still a perjury.

2 But one or two officers in the course of the last two or  
3 three weeks have ventured the view that they were not  
4 quite sure what sort of impropriety would be involved  
5 if all the officer was doing was doing a replacement  
6 statement which included something additional, which  
7 was true, but hadn't been inserted into the original  
8 statement, thereby reflecting a poor understanding of  
9 the disclosure obligation but their emphasis being on,  
10 no harm done, the officer was telling the truth. What  
11 do you have to say about that?---Well, it locks the  
12 officer into a position; if he's going to deny that the  
13 previous version or versions of the statement existed,  
14 it's going to lock him into committing perjury.

15 Well, he doesn't have to do that because the defence and the  
16 prosecution never know that there was an earlier  
17 statement?---Well, I suppose it comes close to an  
18 attempt to pervert the course of justice in many  
19 instances, if you look at the importance of disclosure  
20 and the effect it might have on the trial.

21 MS BOSTON: I just wanted to take you to this last document.  
22 This is a further email that you sent to the Chief  
23 Commissioner of Police, Christine Nixon, on 1 February  
24 2008. This is in response to a report released by the  
25 Chief Commissioner, "The Way Ahead 2008-2015."

26 COMMISSIONER: It just shows you, your communications with  
27 the Chief Commissioner paid off, she's responding  
28 directly to you?---As she did on a number of occasions,  
29 sir, yes.

1 Well done.

2 MS BOSTON: You will see here that, again, you raise with  
3 the Chief Commissioner that you're "regularly informed  
4 of young police being required by their sergeants to  
5 improve the evidence in their statements and that they,  
6 the young police who talk to us, are concerned at  
7 making these improvements because they appreciate the  
8 immorality and illegality of what they are being made  
9 to do but they don't have much choice. There is no  
10 doubt that many police still lie about the accuracy of  
11 their notes and statements and lie about when those  
12 documents were made. Force Command has been aware of  
13 the problem for more than ten years now. For more than  
14 ten years our senior management has been talking about  
15 solving the problem by training. For more than ten  
16 years senior management has refused to make mandatory  
17 the making/adoption of adequate contemporaneous notes.  
18 There has been little discernible improvement." Just  
19 on that last point there, "There has been little  
20 discernible improvement", you're there referring, are  
21 you, to the practice of replacing statements or the  
22 practice of failing to take contemporaneous notes at  
23 the time?---I think I was probably referring more to  
24 the failure to make adequate notes at the time.

25 What was your perception, in 2008, as to whether there had  
26 been any improvement in respect of the practice of  
27 replacement statements?---I don't know that I have a  
28 firm view on whether it had actually got worse in terms  
29 of the number of complaints we heard or were made aware

1 of, but my expectation is, it would have got worse. I  
2 think it was getting steadily worse.

3 And you base that upon the number of complaints you were  
4 getting?---No, not really; I suppose more on the fact  
5 that the sergeants, as a group, I think were becoming  
6 less and less aware of the nature of what they were  
7 asking their troops to do, their constables to do.

8 COMMISSIONER: What do you mean "they were becoming less  
9 aware of what they were" - you mean, the seriousness of  
10 what they were asking them to do?---Yeah, we - - -

11 Is that what you mean?---Yes. We at various times would -  
12 involved in the training of sergeants - not so much at  
13 this stage but earlier on - and it was interesting to  
14 see their reaction when you told them. If you told a  
15 constable to change their statement in these ways, it  
16 was subornation of perjury, and a lot of them seemed to  
17 be genuinely surprised that they would be liable to be  
18 charged with subornation of perjury; they seemed to be  
19 genuinely surprised that they were setting their  
20 constables up so that the constables would have to  
21 commit perjury. There just seemed to be a strong lack  
22 of awareness of the nature of what they were about and  
23 it seemed to be getting worse.

24 MS BOSTON: The following year you wrote a letter to the  
25 director of the OPI that we went to initially and at  
26 that time you were still at the Research and Training  
27 unit, were you, in February 2009?---Yes, yes, I believe  
28 so.

29 You then went back into prosecuting, did you?---Back to

1 Heidelberg, yes.

2 And retired in 2012?---Correct.

3 What was your perception, when you retired in 2012, as to  
4 whether these practices were continuing or whether they  
5 had ceased or lessened?---Well, there certainly seemed  
6 to be no improvement. In terms of the failure to make  
7 adequate notes contemporaneously, there seemed to be no  
8 improvement at all, we still had the same problems.

9 And the replacement statement issue, if you didn't see  
10 another example of it, you weren't speaking to  
11 constables any more, I take it, you wouldn't have known  
12 in those three years what happened to that  
13 practice?---No. No, that's true, and I don't think  
14 that I had an instance in those three years of  
15 prosecuting at Heidelberg where we had a number of  
16 versions of the statement come into play in the one  
17 case at the one time.

18 So, the last time that you would have taught that course and  
19 had reports to you from the Constable Development  
20 Course?---I suppose 2006, 2007, something like that.

21 And what about the prosecutor's course?---Right up till two  
22 thousand and - I think we finished our last course  
23 in April 2008.

24 And no discernible change there in terms of the regularity  
25 of reports of this practice of replacement  
26 statements?---No. It's the kind of practice that isn't  
27 going to just change by itself, something has to be  
28 done to change it.

29 Do you still have friends in the Police Force?---Yep, I do.

1 Have you been informed as to whether these practices  
2 continue?---Well, they say it's just as bad or worse.  
3 And are they from the Prosecution division or?---Yes,  
4 mainly, yep.  
5 Just finally, before when I asked you about whether the  
6 reports of these practices were coming from different  
7 areas of Victoria and you weren't able to say whether  
8 that was the case, I neglected to ask you whether the  
9 reports were coming from different squads, for example,  
10 Armed Robbery Squad or other squads?---I can't recall  
11 particular squads being named. I know in at least one  
12 of my reports there I'd made the suggestion that the  
13 Homicide Squad would be the one area that - where you  
14 wouldn't find this kind of thing happening, but - but  
15 no, I think that's the only specific mention I've made  
16 of a particular Crime Squad there.

17 Those are the matters, Commissioner.

18 COMMISSIONER: Ms Boston, could you just tell me, Exhibit 79  
19 which was Mr Collins' notes to investigators about  
20 contemporaneous notes, do we have a date on which  
21 Exhibit 79 was issued?

22 MS BOSTON: I'll just check that, Commissioner. There's no  
23 date on the document, Commissioner. My recollection is  
24 that there was a metadata date in October in relation  
25 to that document, meaning it was last modified  
26 in October 1998. But I recall the evidence was that  
27 this may have been a document updated for various  
28 investigations, so that's just the last modified date,  
29 it may have been created and used earlier.

1 COMMISSIONER: Much earlier than that. Yes, thank you.

2 MR MATTHEWS: Commissioner, I seek leave to ask questions  
3 about one issue flowing from counsel assisting's  
4 questions and that is in relation to the mechanics of  
5 how these contemporaneous notes were fabricated; that  
6 is to say, in the case of a uniformed officer. The  
7 Commission's now very aware of the sorts of  
8 contemporaneous notes that were taken by uniformed  
9 officers, and I dare say that Mr Dunn with his  
10 experience would be able to say how that happened:  
11 there are running sheets, there are notebooks, there  
12 may in some cases be diaries.

13 I mean, at first blush to an outsider, how is it  
14 that this occurs when you've got an ongoing  
15 notebook ...

16 COMMISSIONER: Sorry, I'm not clear, Mr Matthews. You want  
17 to ask Mr Dunn whether contemporaneous notes extends to  
18 entries in day books or notebooks?

19 MR MATTHEWS: In notebooks carried by uniformed officers and  
20 running sheets; they're the two key sources that over  
21 time have - are the key sources for most uniformed  
22 officers, and it has resonance in this case, but more  
23 broadly as well. They're the two sources of  
24 contemporaneous notes that a uniformed officer may draw  
25 upon when reaching - or, I may be wrong, but that's  
26 my - but that's what Mr Dunn will be seeing in his  
27 prosecution brief, or sorry, will be leading evidence  
28 about. How is it that officers fabricate - into what  
29 did they fabricate those notes? How did they do it?

1 COMMISSIONER: You mean, where are the notes recorded?

2 MR MATTHEWS: Yes, and how is it done. These notes can be  
3 done weeks or months later when the officer's been on  
4 subsequent duties, how are the notes fabricated.

5 COMMISSIONER: Well, that will vary from case to case, won't  
6 it?

7 MR MATTHEWS: Maybe, maybe not, it's just an extension of  
8 it, that's the only issue.

9 COMMISSIONER: What do you say, Ms Boston?

10 MS BOSTON: It may be of assistance to the Commission to  
11 explore those matters, Commissioner.

12 COMMISSIONER: Yes, all right.

13 <EXAMINED BY MR MATTHEWS:

14 Mr Dunn, you just heard my question. The Commission's heard  
15 a deal of evidence about running sheets being one  
16 source of records for uniformed officers out on the  
17 road, day in, day out; the Commission's also heard  
18 evidence about uniformed officers carrying notebooks in  
19 their pockets, not so much diaries, that was more a  
20 feature of detectives' work, but notebooks in their  
21 pockets. Are they the sorts of places where you have  
22 uncovered fabricated notes or in other places? What  
23 were the mechanics for the creation of these notes over  
24 your experience?---Look, they could be - the notes  
25 could be written on anything - well, they could be  
26 claimed to be written on anything or they could be not  
27 written at all. It was quite often the case that you'd  
28 have a witness in the box, a police witness in the box,  
29 who would ask to be able to refer to his notes and it

1 would turn out that the notes were in a statement form,  
2 and for many years now written on computer, and you  
3 would ask, "Were these your original notes?" And he  
4 would say something like, "No, my original notes were  
5 handwritten." "Where are they now?" "They've been  
6 lost", and I've lost count of the number of times I've  
7 been told they've been lost. They don't - my theory is  
8 that they don't - they've never existed, and it's over  
9 first - the first time the so-called contemporaneous  
10 statement is made, or contemporaneous notes if you want  
11 to call them that, was made is at some stage prior to  
12 the hearing date and that's the most contemporaneous  
13 account there's ever been of whatever it describes,  
14 conversation, events, that's it, and it's quite often  
15 very old indeed. As I've said a number of times  
16 there, months old or even years after the event when  
17 the first note is made and that's been common practice.

18 Have you had instances of running sheets being fabricated  
19 that have come to your attention?---I can't recall  
20 that, and I don't think - I wouldn't expect to see  
21 that. If it's - if someone's written out a running  
22 sheet, rewritten a running sheet perhaps to make it  
23 look like a contemporaneous note, I probably wouldn't  
24 be aware of that. Unless I really investigated it very  
25 thoroughly, I'd be none the wiser, I think.

26 Would the same extend, Mr Dunn, to pocket notebooks; if they  
27 were subsequently reconstructed, you would also not  
28 become aware of that?---Except, with the police issued  
29 pocket notebook, they were numbered pages as I recall

1           it. So, if people put an account in the police  
2           notebook out of sequence, it should show up straight  
3           away if there is something that's been added weeks  
4           or months or years after the event.

5           Unless the entire notebook was fabricated?---Oh, there's  
6           limits to the energy and the opportunity really of the  
7           police to do this kind of thing. This is fairly  
8           routine, you know, it's one case after the other; they  
9           would not have the opportunity, I think, to do that.

10          Why so?---Just lack of time. Lack of time. There's always  
11          other cases to prepare, there's always other work to  
12          do. They are genuinely busy, the operational police,  
13          and the detectives too.

14          Thank you.

15          COMMISSIONER: Thank you. Mr Dunn, thank you very much for  
16          your attendance here, your evidence has been most  
17          helpful. I'll discharge you from the summons, there's  
18          no need for you to attend tomorrow and I'll release you  
19          from the confidential notice. We'll make a copy of a  
20          video recording available to you and a transcript of  
21          your evidence. Do you have any questions?---No, I do  
22          not, thank you.

23          Thank you for attending.

24          <(THE WITNESS WITHDREW)

25          MS BOSTON: The next witness is Janine Gleeson,  
26          Commissioner.

27          COMMISSIONER: Was the summons for Ms Gleeson also  
28          returnable tomorrow?

29          MS BOSTON: Yes. Commissioner, is it okay for Mr Dunn to

1 remain in court now that he's given his evidence - or  
2 in the hearing, I should say?

3 COMMISSIONER: Yes.

4 <JANINE VALERIE GLEESON, sworn and examined:

5 COMMISSIONER: A summons was served on you on 19 February  
6 requiring your attendance tomorrow, 27 February,  
7 however you're here voluntarily?---I am.

8 You're happy to proceed today?---Yes.

9 You were served with a document setting out your rights and  
10 obligations. You recall receiving that with the  
11 summons?---Yes, I do.

12 And you looked at that document?---Yes, I did.

13 I'm obliged to inform you of your rights and obligations  
14 which are applicable to you in giving evidence.

15 Firstly, do you understand you have a right to seek  
16 legal representation? I take it, you're content to  
17 proceed without legal representation?---Yes, I am.

18 You could claim a privilege but you're not excused from  
19 answering a question or giving information, or from  
20 producing a document or other thing on the ground that  
21 the answer, information or document or other thing may  
22 tend to incriminate you or make you liable to a  
23 penalty. You understand that?---Yes, I understand  
24 that.

25 If you give any answer, information, document or other thing  
26 that does tend to incriminate you an immunity will  
27 probably arise as to the evidence, save in exceptional  
28 circumstances, and at the conclusion of your  
29 proceedings you would have a right to complain to the

1 Victorian Inspectorate if there's any issue that  
2 concerns you and there are delegates from the  
3 Inspectorate present. So, in summary, Ms Gleeson, you  
4 must answer the questions, you should answer them  
5 truthfully; so long as you do so, your evidence can't  
6 be used in evidence against you?---Thank you.

7 Do you have any questions at this stage?---No.

8 Thank you. Yes, Ms Boston.

9 MS BOSTON: Ms Gleeson, could you state your full name,  
10 please?---Janine Valerie Gleeson.

11 Could you look at these documents, please. The summons  
12 before you numbered SE2928, is that the summons what  
13 was served on you on 19 February?---Yes, that's a copy  
14 of it.

15 Is there also a copy there of a document entitled,  
16 "Statement of Rights and Obligations" that you  
17 received?---Yes.

18 As well as a copy of a covering letter dated 19 February  
19 2019?---Yes, that's correct.

20 And that's the document you received?---Yes, that's a copy  
21 of it.

22 Do you understand the nature of those documents?---Yes, I  
23 do.

24 I tender those, Commissioner .

25 #EXHIBIT FF - Documents served on summons to Ms Gleeson.

26 Ms Gleeson, you're a former member of Victoria  
27 Police?---That's correct.

28 From 1985 to 2007, you served?---That's so.

29 If you could just outline briefly your career with Victoria

1 Police in terms of stations and ranks?---I only ever  
2 got to the rank of senior constable. I was stationed  
3 first at the Sunshine Police Station as a trainee, I  
4 then went to the Broadmeadows Police Station as a  
5 trainee. I then spent a six month period with what was  
6 then called the Community Policing Squad, now I think  
7 it's SOCIT or something, and a short period of time on  
8 the Ty-Eyre Task Force, and then I started at  
9 Prosecutions on 1 January 1989 where I remained until I  
10 resigned at the end of February 2007. So, all in all,  
11 I only had about four years operational and 18 - just  
12 on 18 years as a prosecutor.

13 COMMISSIONER: And, what have you done since then,  
14 Ms Gleeson?---I left the Police Force on a Friday and  
15 started the readers course on a Monday. I went to the  
16 Bar and I became the public interest - deputy Public  
17 Interest Monitor on 20 December 2012, so I was at the  
18 Bar for six years.

19 So, you've been with the Public Interest Monitor for the  
20 last six years, have you?---Since its inception, yes,  
21 I'm the last woman standing.

22 MS BOSTON: In 1989, when you became a prosecutor, where  
23 were you based?---First up at Preston - in fact, I  
24 think I took over from Mr Dunn, he left and I moved  
25 into his chair at Preston. I then spent five years at  
26 Preston. I then went into what was called the Research  
27 and Training section for a period of four years. I  
28 then went to Prahran before it was closed down; I went  
29 to Prahran in 97. It was closed down in 98, in August.

1 I then went out to Dandenong for about four years, and  
2 then I went back into the Research and Training  
3 section in 2003, I think it was, until my resignation  
4 in 2007.

5 Your first stint in Research and Training for four years in  
6 the 1990s, do you recall the years you were there  
7 then?---Yes, from 1994 till 1997.

8 We've heard a little bit of evidence about the Research and  
9 Training unit from the previous witness, but how would  
10 you summarise your tasks - - -?---Well, it's - - -  
11 - - - and responsibilities there?---Beg your pardon, I  
12 didn't mean to speak over you. It was a dual role.  
13 Our main core function, I would have thought, is  
14 teaching police members to become prosecutors. At that  
15 time we were running three courses of six or seven  
16 weeks each year, and our other core function was  
17 providing advice to members, both over the phone in an  
18 urgent situation. Obviously, in those early days, in  
19 that early stint, we didn't have the internet and  
20 online resources that are available today, so members  
21 would often ring up for advice on-the-hop.

22 Members, do you mean prosecutors?---No, not necessarily.  
23 Prosecutors if they were in court and suddenly, you  
24 know, a barrister had thrown up a case that they  
25 weren't aware of, they'd ring us and we'd get a case,  
26 you know, faxed out or something like that, but also  
27 just general duties members, they were also welcome to  
28 ring us, and we also provided written advice. We did  
29 quite a lot of lecturing at the Police Academy,

1 district training offices, anyone who wanted to perhaps  
2 hear what we had to say about going to court and giving  
3 evidence, we were happy to talk to.

4 The lecturing you did at the Police Academy, did that  
5 include talking to constables 12 years into the  
6 job - - -?---Not 12 years.

7 Twelve months, I'm sorry, into the job - - - ?---Yeah.

8 - - - at the constable's development program?---Yes. They  
9 did their base training, which I think was about 18  
10 weeks in those days. We also used to go out - well,  
11 certainly I used to go out during that and play the  
12 role of the nasty barrister when they were doing their,  
13 what was called their indictable practice: they'd  
14 arrest someone, prepare a brief, and then have to go to  
15 court and we used to go out and play the role of the  
16 barrister and cross-examine them on - - -

17 And what stage were they at when they undertook that  
18 prac?---Training. They were training at those - yes.  
19 They were trainees?---Yes.

20 Speaking of your training, I think you said you joined the  
21 Victoria Police in 1985?---Yes.

22 And you attended the Academy, did you?---Yes.

23 Was there a statement-taking component of that  
24 course?---Yeah. Yeah - well, when I say a  
25 statement-taking component, it was mainly from the  
26 people called "communications skills instructors" who  
27 were, in our case, Ms Rumpf(?), she was a retired  
28 English teacher, and so, the actual statement-taking  
29 was, from my memory anyway, more focussed on how to put

1           it - grammatically correct, spelling correct, syntax,  
2           all of that sort of thing.

3       Was there any instruction during your time at the Academy as  
4       to the content of the statement?---Instruction from -  
5       look, I have a memory of law instructors giving us  
6       certain advice about what should and shouldn't go in  
7       statements.

8       And law instructors, who were they in terms of their  
9       experience? I take it, they weren't school  
10      teachers?---No, they were police members; in my memory  
11      and certainly from my law instructor, it was a  
12      detective who had taken promotion to sergeant out at  
13      the Police Academy and, yeah, that was their sort of  
14      career path, if you like.

15      You said that you were taught what to put in and leave out  
16      of statements. What was it that you were taught to  
17      leave out of statements at the Academy?---The only  
18      thing that I can remember being told to leave out of a  
19      statement is descriptions; that they were always to be  
20      put on a separate piece of paper.

21      And descriptions of offenders or - - -?---Offenders.

22      - - - or places or?---No, no, offenders.

23      You were told to record it where, I'm sorry?---Just in your  
24      notebook or in a separate piece of paper.

25      Where you told what the purpose of that practice was?---Just  
26      the fact that people - and it was more, I must say, it  
27      was more when you're taking a witness statement from a  
28      civilian rather than making your own statement as a  
29      police officer, yeah. My memory is that it was a

1 situation that a civilian might get it wrong when they  
2 were nervous, or upset, or you know, looking down the  
3 barrel of a gun and they might say someone was 6 foot  
4 tall when in fact they were 5 foot tall; that you  
5 didn't put it in the statement in case it wasn't  
6 completely accurate when you arrested someone.

7 And, if it did turn out to be accurate, what do you recall  
8 would happen to that information in terms of whether it  
9 would be incorporated in a further statement or  
10 attached as an exhibit?---No. I don't have a memory of  
11 ever being told that, once you've arrested someone and  
12 found out that it did match, that you then had to put  
13 it in; I don't ever remember being told that myself.

14 So, when you were instructed to record descriptions of  
15 offenders separately in your notebook, were you given  
16 any instruction about whether that information was to  
17 be provided to the informant of the matter?---Well, I  
18 was - I was the informant.

19 So, you would have that information?---That was my notes,  
20 yeah.

21 You said you were in general duties uniform until 1989 at  
22 Sunshine and then Broadmeadows?---Yes.

23 Did you follow that practice that you'd been taught by the  
24 detectives at the Academy?---I don't know, I just don't  
25 really have a memory of it. I know I had an extremely  
26 tough checking sergeant at Sunshine who had a very  
27 particular - but it was more about presenting accurate  
28 briefs as far as grammar, syntax goes. And you've got  
29 to remember, in those days we were using typewriters,

1 not computers, so you had to redo the whole thing, and  
2 he had a habit of putting a red mark right through the  
3 whole thing if you made a spelling mistake. I do not  
4 ever recall him or any other sergeant for that matter  
5 telling me to take something out or put something in a  
6 statement.

7 But, of course, you'd been instructed at the Academy not to  
8 include descriptions?---Oh, absolutely, yeah.

9 So, had you encountered that issue of a description being  
10 given to you by a civilian witness, would you have  
11 followed that practice that you'd been taught at the  
12 Academy?---Well, I'm sure I would have by not - I don't  
13 have a specific memory of it.

14 And that's because, I presume, that the more experienced  
15 person has taught you that's the way things should be  
16 done?---Yeah, in my case, yes.

17 Do you have any understanding of what other members in  
18 uniform were doing in regards to that practice you'd  
19 been taught?---Well, it's interesting, because I've  
20 made a point of asking both some retired members,  
21 resigned members and still current members, and whilst  
22 a few have said, "Yes, I can remember being told that  
23 at the Academy", far more have actually said, "I have  
24 no recollection or knowledge of that ever being  
25 taught."

26 But certainly your course in 1985 - - -?---Exactly.

27 - - - was taught that?---And that's why I put it down to the  
28 fact that I'm presuming it was my particular law  
29 instructor who'd been a detective and that was his -

1 his attitude.

2 You went to Prosecutions in 1989; when did you take the rank  
3 of senior constable?---About 18 months after.

4 In your experience as a police prosecutor, did you on  
5 occasion see examples of multiple versions of a  
6 statement having been made?---Not in my own experience,  
7 no.

8 If I could take you to an email that you wrote. If we could  
9 bring up Exhibit 637?---I've got a copy of that here,  
10 but I've been handed it.

11 Yes. Apparently there's an issue with the witness being  
12 able to see the screen, Commissioner.

13 COMMISSIONER: Yes.

14 WITNESS: Oh, I didn't realise I was - I saw that one from  
15 outside. I mean, this one's okay.

16 MS BOSTON: This is an email that you wrote on - I should  
17 have said "Exhibit 638", I'm sorry, I've gone to the  
18 wrong one, Commissioner. This is an email that you  
19 wrote to, as I understand it, the detective inspector  
20 at ESD; does that sound right?---No idea what his rank  
21 was. Until Ian sent me that, Ian Dunn sent me that  
22 email, I'd had no memory of who I'd actually spoken to  
23 or sent the email to, so I don't know what his rank  
24 was.

25 But at ESD?---Yeah, I'm figuring it was ESD, given the  
26 nature of it.

27 This is an email that you'd sent to ESD on 23 November  
28 2007?---No, that was when I sent it to Ian Dunn.

29 Oh no, I'm sorry. Forwarding to Mr Dunn an email you'd sent

1 on 19 October 2007. By this stage, you would have been  
2 at the Bar?---Yes. Been at the Bar about six months.  
3 I did the March readers course.

4 At about the second paragraph you say to ESD, four lines  
5 from the bottom: "As an aside, there are now some 25 or  
6 so of us ex-prosecutors at the Bar and we all know the  
7 tricks of the trade with such nonsense as  
8 contemporaneous notes." What do you mean there by "the  
9 tricks of the trade with such nonsense as  
10 contemporaneous notes"?---Well, which one, the tricks  
11 of the trade or the?

12 Well, both/either?---Well, tricks of the trade is people  
13 getting in a witness box and saying, or asking rather,  
14 that they be allowed to refer to contemporaneous notes  
15 when everybody knew they really weren't - well, in most  
16 cases anyway, they weren't contemporaneous at all.

17 And that's the nonsense, was it, that the contemporaneous  
18 notes weren't contemporaneous, they'd been made at a  
19 later time?---Yeah, hence the italics around  
20 "contemporaneous notes", I suppose.

21 Was that a well-known practice within the prosecution's  
22 office, that that's what occurred?---I think it was a  
23 well-known practice within Victoria Police that it was  
24 a phrase that was used completely wrongly. The term  
25 "contemporaneous notes" was used - was wrong.

26 Because they hadn't been made contemporaneously to the  
27 events?---Yeah. Well, I don't think many members  
28 actually understood what "contemporaneous notes" meant.

29 How did you come to know that so-called contemporaneous

1 notes regularly weren't being made  
2 contemporaneously?---Um, probably a combination of  
3 having been there myself and the pressures that are on  
4 members to get back out on the road and finish their  
5 shift, finish everything. Unless you went home at  
6 night and did it at 2 o'clock in the morning in your  
7 own home, it was very difficult yourself to do  
8 contemporaneous notes, but a little bit of  
9 cross-examination or even examination-in-chief -  
10 because the rule was that, before they could refer to  
11 contemporaneous notes they had to satisfy a certain  
12 criteria in evidence, "When were the notes made" and  
13 all of that sort of thing, and it wasn't difficult to  
14 work out that most contemporaneous notes were simply  
15 not that.

16 So, it's a combination of your experience in uniform and  
17 then subsequently your experience in sitting in many  
18 contests in court?---Absolutely.

19 When you say "notes", what kind of notes are you referring  
20 to?---Well, it would be - it would depend on what they  
21 were asking to refer to. If it was their notebook, it  
22 could be their typed statement or even in those days a  
23 handwritten statement.

24 When was your impression as to when those documents were  
25 actually being prepared?---Look, notebooks may well  
26 have been prepared very close to the event or shortly  
27 after, but it was the content of what was put into the  
28 notebook which then was put onto a typed statement,  
29 which may have been done some months after the

1 incident. That was my biggest problem, is that there  
2 sometimes was far less detail in the handwritten  
3 notebook than what was on the actual typed statement  
4 that was provided sometime later.

5 COMMISSIONER: What was your experience as to how those  
6 additions came about?---I can't say, Mr Redlich, I just  
7 can't say that.

8 You make some reference here to the sergeants, the  
9 supervising sergeants overseeing the content of those  
10 statements?---Yes.

11 Was it in that context?---Well, it probably was in that  
12 context, yes, yeah. They were being told what to put  
13 in their statements if they were somewhat deficient.

14 MS BOSTON: If you could go to Exhibit 637, please, this is  
15 the email that you sent to Mr Dunn directly on  
16 15 February 2007. In the first paragraph of this email  
17 you refer to your role when you would go to the Academy  
18 to play the role of nasty barrister. I take it, that's  
19 the role you were telling us about before when you  
20 would go out to the Academy for very fresh  
21 recruits?---Yes, during training.

22 COMMISSIONER: Is this an email by the witness?

23 MS BOSTON: Yes.

24 COMMISSIONER: I'm sorry, yes.

25 MS BOSTON: You've said here: "Without any difficulty  
26 whatsoever I could get every student to essentially  
27 perjure themselves on when they compiled their notes  
28 and why their contemporaneous notes never matched their  
29 statements." Now, obviously it wasn't a real

1 courtroom, it was a practical exercise, but what was  
2 occurring and what was concerning you about the fact  
3 that you were able to achieve that with these  
4 students?---Well, you would establish - they'd be  
5 taught how to go to court and give evidence. They'd be  
6 taught to ask for permission to refer to the notes. As  
7 the counsel, I was entitled to cross-examine them.  
8 "When were the notes made?" They'd respond. "Are they  
9 your original notes?" "No, my notes - they were notes  
10 of - my original notes are in my notebook." "Call for  
11 the notebook." They would produce the notebook and - I  
12 don't resile from that statement - in almost every case  
13 they didn't match.

14 Moving on to the Constable Development Course, you said  
15 before that you were in Research and Training, I think,  
16 from 94 to 97 and 2003 or 2004 to 2007, does that sound  
17 correct?---Yeah, I've got here on the email I sent to  
18 the ESD 2003, so yeah, that must be right.

19 During those two spells with Research and Training, did you  
20 go out to the Academy and talk to 12-month constables  
21 about preparing for and attending court?---That's  
22 correct.

23 How long was the program that you taught?---Their actual  
24 program back at the Academy, I think, was a fortnight.  
25 Initially, and I had forgotten this, in the earlier  
26 days when I'd go out there it was a whole day we would  
27 get to spend with the constables. By the time 2003  
28 came around to when I resigned in 2007, it had been  
29 pared back to half a day.

1 The purpose of the instruction you were giving was about  
2 attending court effectively?---Yes.  
3 How to be a good witness?---Yeah.  
4 How many recruits would attend the course at any one  
5 time?---Invariably there'd be two squads, 25 in a  
6 squad, so there'd be about 50 at each lecture and we'd  
7 go out on a monthly basis, because they'd have an  
8 intake every month.  
9 And by "we", do you mean prosecutors from the Research and  
10 Training unit?---Yes.  
11 How many times a year did you personally teach that  
12 course?---Look, I did it almost all the time because I  
13 lived out that way and it was just easier for me to  
14 just go from home or to go straight home afterwards in  
15 my own car. And I also volunteered to do it, so I  
16 would - out of 12 months, I would probably do 10 or 11  
17 of them each year.  
18 Was there one a month of these courses?---Yes, yes.  
19 In that course, did you seek to have an informal or formal  
20 approach?---No, very, very informal. We wanted to talk  
21 to - look, it would always start off with, "How many  
22 have given evidence?" Look, it just got less and less  
23 after the mention system had been introduced in 1985,  
24 coppers had - sorry, police stopped going to court on a  
25 very regular basis. So, it would start off like that,  
26 "Keep your hand up if you have been cross-examined in a  
27 contested hearing." There might be one or two;  
28 90 per cent of the time those one or two had been  
29 cross-examined by someone like Brendan Murphy in a

1 drink-drive matter where they'd been on a booze bus in  
2 the very early days of their training - sorry, of their  
3 employment. After they leave the Academy they go and  
4 do a month at the Traffic Alcohol; so, you know, there  
5 was so few of them who had ever actually been in the  
6 witness box and given sworn evidence.

7 You said in your email to ESD that you usually recounted a  
8 number of war stories about members who have landed in  
9 trouble after perjuring themselves in the witness box  
10 and in statements. Was there a consistent theme - did  
11 a consistent theme emerge as to what these constables  
12 were telling you that they were being required to  
13 do?---Yeah, absolutely, and then that's what's outlined  
14 in the email. They were being - mostly being told to  
15 put in caution and rights in statements when they  
16 admitted themselves that no caution or rights had been  
17 given.

18 If you could just go to 637, this is your email to Mr Dunn.

19 I should say, it opens up by saying: "I thought you  
20 might be interested to know that nothing ever changes  
21 in this job as far as court preparation goes", and you  
22 go on to outline your concerns about various matters.  
23 Why was it that you were writing to Mr Dunn about the  
24 matters?---Well, I knew Ian had been on the  
25 department's wheel for years and years and years,  
26 trying to get training fixed and trying to stop this  
27 sort of thing from happening.

28 So, if you look down at the second paragraph, and this is in  
29 the context of the Constable Development Course, you

1 say: "I must say, I am really disappointed but I guess  
2 not really surprised to learn that the junior members  
3 are being told by their briefs, the checking sergeants,  
4 and increasingly acting sergeants, that they must  
5 insert extra evidence in their statements, usually  
6 conversations, this is irrespective of whether the  
7 conversation actually occurred or not." So, what was  
8 coming back to you from the constables was that they  
9 were being directed to include untrue material in their  
10 statements?---Well, quite clearly, if a conversation  
11 didn't occur and they were being told to put it in, it  
12 has to be untrue.

13 If we could turn to 638, please.

14 COMMISSIONER: What about, if it had occurred, but the  
15 officer omitted it from their first statement, either  
16 deliberately or had not at the time recalled it, and  
17 then a new statement is made in which that additional  
18 conversation, which did take place, is inserted; did  
19 you see examples of that, of replace - - - ?---I don't  
20 specifically recall, Commissioner, but then, I suppose  
21 that's something that would not be worthy of telling  
22 us, because it's not really wrongdoing; if they've  
23 accidentally forgot to put it in and then they're being  
24 told to put it in, I don't see a problem with that at  
25 all.

26 What about, what's got to happen to the first  
27 statement?---Well, the difficulty is, if you're talking  
28 about the constable's own statement: my recollection is  
29 that that statement would not get sworn until the brief

1 was authorised. So, it's quite possible that the  
2 statement might go back to the brief checking sergeant  
3 on two or three occasions for it to be amended. It  
4 doesn't necessary follow that they are making multiple  
5 statements, as it were, because it's still the first  
6 statement because it's never been signed and it's never  
7 been jurated.

8 Yes?---So, yeah, that was certainly a practice that I recall  
9 myself, that you never ever had your statement signed  
10 and jurated until the brief was authorised and ready to  
11 issue process.

12 And, if so, neither the prosecution or the defence at a  
13 hearing would then be aware of the investigative  
14 process that led to the production of the final  
15 statement; all they would see is a statement, not the  
16 fact that it took three goes for the officer to insert  
17 all of the necessary information?---Absolutely, and it  
18 was - again, if I can hark back on it, it's the likes  
19 of Brendan Murphy that knew that process took place  
20 and, if they weren't cross-examined on it, well, then  
21 nobody would know and quite possibly the prosecutor  
22 wouldn't even know .

23 Yes, and that doesn't comply with the disclosure obligation,  
24 does it, to just produce the final statement?---Oh,  
25 gosh, you'd need to - I'd need to go back and have a  
26 look, I haven't looked at disclosure for a little  
27 while, especially under the Criminal Procedure Act; I  
28 don't have a really good memory of what exactly is  
29 required to be handed over.

1 But I take it from all that, your sense of it is that the  
2 police officers, in your experience whilst you were in  
3 the job, wouldn't have regarded it as obligatory to  
4 produce the earlier versions of their statement?---No.

5 MS BOSTON: If we could go to 638, please. This is your  
6 email to ESD. The paragraph commencing: "One aspect of  
7 our lecture is ethics." About four lines down, partway  
8 through the line you say: "I was constantly dismayed to  
9 discover that many junior members are being told to  
10 alter statements, usually by inserting cautions/rights  
11 that were never given in the field. Many of the kids  
12 have said that, even when they tell the checking  
13 sergeants that no such right/caution was given, it is  
14 insisted that they be inserted. It is not just rights  
15 and cautions, this goes on where the sergeants feel  
16 that the statements lack sufficient conversations to  
17 ensure a conviction." So, was this another matter that  
18 was being conveyed to you, that the purpose of some of  
19 these alterations was to make sure a conviction was  
20 obtained ?---Well, that's obviously what I've written  
21 there, and I can't - I can't resile from that, that's  
22 obviously what I thought at the time.

23 You go on: "When I have tried to warn the kids that their  
24 sergeant won't be coming along to court to tell the  
25 magistrate that they have suborned to perjury, I am met  
26 with most students saying, 'We are still on probation,  
27 not yet confirmed, I am not going to refuse my  
28 sergeant's instructions'." Were they effectively  
29 telling you that they didn't want to rock the

1 boat?---Oh, absolutely.

2 Did they say anything to you about why they were following  
3 the directions of their sergeant beyond what you've put  
4 in this email?---No, what I put in the email is it,  
5 that they just simply - they were young, they were  
6 inexperienced, they were, in your words, didn't want to  
7 rock the boat.

8 Don't let me put words into your mouth if  
9 that's - - -?---No, no, that sums it up pretty well.

10 If we go back to your email, 637, please. Under the  
11 paragraph, "What is most annoying" about halfway down  
12 the page. You say three lines in: "When I put to them  
13 that they will never see their sergeant get into the  
14 witness box and admit that he or she forced a constable  
15 to insert false evidence into a statement, some  
16 students get quite hostile saying that I have no idea  
17 what it is like to be a first year constable and  
18 telling the sergeant that you won't do what you are  
19 being told." Was that a common theme, that they felt  
20 compelled to follow the instructions of a more senior  
21 officer?---Yes.

22 Did you tell them to get their sergeant to ring you?---I  
23 did, and that's - we had a whiteboard in the room,  
24 every one of us would walk in, we'd put our name, where  
25 we were from and our phone number, and I used to  
26 point to it and say, "Just get your sergeants to ring  
27 me if they want to tell you to do these things."

28 Did you ever get a call from a sergeant?---Well, I've put in  
29 there that I didn't, and I was already at the Bar when

1 I wrote that, so I'm presuming I never did. I don't  
2 know, I didn't.

3 And one presumes that's not because the requests stopped;  
4 would you agree with that?---Sorry?

5 One would presume that the reason you weren't getting calls  
6 was not because the requests for alterations stopped,  
7 but that they simply weren't following your friendly  
8 advice?---Yeah, I'd - I think we can all agree on that  
9 one.

10 Just in terms of the brief authorisation process, just  
11 following up on some of the earlier questions, what was  
12 your understanding of how that process was undertaken  
13 in terms of how the amendments were being directed by  
14 the sergeant?---Are you talking about my own experience  
15 or what I'm talking about here with the constables?

16 I'm not asking about - well, either: your own experience of  
17 how that happened or what you were being told by the  
18 constables?---Well, I think that - there used to be two  
19 ways, from my recollection, of briefs being checked.  
20 Some stations had a policy where sergeants were  
21 allocated certain members and they always checked those  
22 members' briefs. Other stations, you simply put your  
23 brief in at the end of your shift and whoever was the  
24 sergeant coming in on the next shift went through and  
25 checked all of those briefs. Now, I've forgotten what  
26 your question was, sorry?

27 The process of amendments and the directions - - -?---Well,  
28 in my experience, as I said at Sunshine I had a  
29 sergeant who did all the trainees' briefs. He would

1 simply send them back, fix this, fix that; they could  
2 be just really mundane boxes that you hadn't ticked for  
3 different things, or it could be content, where he  
4 wasn't happy with the way you'd put content, but  
5 mostly, as I say, grammar and syntax and whatever.

6 But - - -

7 And when the constables were telling you that they were  
8 being told to add things into their statements  
9 sometimes which was not true, did they tell you about  
10 the process by which that occurred?---It was always  
11 just the sergeant checking the brief. I don't  
12 specifically know - obviously these constables were  
13 scattered all around the state; I'm sure different  
14 stations had different processes, but it was just a  
15 general theme that was coming back.

16 You said in your email of 19 October 2007 that you think a  
17 lot of the problems stem from the lack of training of  
18 supervisors in the area of brief management. Why do  
19 you say that? What is it, what is  
20 your - - -?---Because it was a fact.

21 - - - perception as to what the lack of training of  
22 supervisors in the area of brief management was?---I  
23 don't believe the Police Force put a high priority on  
24 actually training. I know one of my bosses in the  
25 Police Force - and I do actually name him but I notice  
26 it's been redacted - he ran the brief manager's  
27 component of the sub-officers, which is the sergeant's  
28 course at the Police Academy, and for a period of time  
29 that brief management component was two whole weeks of

1 the course. And, from my memory, it just got whittled  
2 away, and whittled, whittled, whittled all the way  
3 back, and especially with some acting sergeants, they  
4 were being upgraded into the position of sergeant  
5 without little or no training as to how to check a  
6 brief to see whether there is sufficient evidence for  
7 it to go to court.

8 Did you have any impression as to whether the training  
9 lacked, as far as the decision of a sergeant to require  
10 the untrue material be inserted to a statement for  
11 example, did you have any impression that that was the  
12 result of inadequate training?---No, I can't say. I  
13 wasn't closely enough involved.

14 If we could finally go to Exhibit 637, please, once more.

15 In the second-bottom paragraph, you said: "It's a bit  
16 sad that, as I come to the end of 22 years in the job,  
17 18 prosecuting, I still see exactly the same things  
18 being done as when I started." There, are you  
19 referring to the practice of replacement  
20 statements?---No, I'm not referring, I'm just simply  
21 referring to - oh well, I mean, you might call it a  
22 replacement statement, I'm referring to the instruction  
23 that you put in rights and caution when they didn't  
24 happen or fixing statements.

25 Those are the matters, Commissioner.

26 COMMISSIONER: Thank you. Ms Gleeson, thank you for your  
27 attendance today. I'm sorry, we've kept you so long.  
28 I'll discharge you from your summons and from the  
29 confidentiality notice. We'll make a video recording

1 of your evidence available, together with a  
2 transcript of your evidence. So, you are excused,  
3 thank you very much.

4 <(THE WITNESS WITHDREW)

5 MS BOSTON: That's the final witness for today,  
6 Commissioner.

7 COMMISSIONER: And what time tomorrow, Mr Rush?

8 MR RUSH: 10 o'clock.

9 COMMISSIONER: Adjourn the hearing until 10 am tomorrow  
10 morning.

11 Hearing adjourns: [3.53 pm]

12 ADJOURNED UNTIL WEDNESDAY, 27 FEBRUARY 2019

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