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TRANSCRIPT OF PROCEEDINGS

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INDEPENDENT BROAD-BASED ANTI-CORRUPTION COMMISSION

MELBOURNE

WEDNESDAY, 6 FEBRUARY 2019

(3rd 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

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*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: Commissioner, there are two matters that arise,  
3 one from yesterday and one from the day before.  
4 Yesterday in his evidence, Mr Pullin at p.210 of the  
5 transcript indicated that he'd had a conversation with  
6 Mr Iddles where Mr Iddles told him at line 6: "He's  
7 briefed the Chief Commissioner and the Silk-Miller  
8 families that Roberts wasn't there; that the Silk and  
9 Miller families were on his side, that he should be  
10 going out trying to - you know, if Roberts isn't  
11 supposed to be in gaol, rightly so ..."

12 As you're aware Commissioner, the Silk-Miller  
13 families are not represented in this IBAC hearing, but  
14 as a consequence of an approach to IBAC on behalf of  
15 those families I'd like to make it clear that, from  
16 their perspective there has been no such conversation  
17 with Mr Iddles, that insofar as what Pullin represented  
18 was the conversation it misrepresents the family's  
19 position, and from the family's position they have no  
20 reason to doubt the presence of Roberts at the murder  
21 scene on 16 August.

22 COMMISSIONER: That's so noted.

23 MR RUSH: The other matter is a correction at p.90 of the  
24 transcript which concerns a question that I asked  
25 Mr Abbey which, regrettably Commissioner, I'll read it:  
26 "Over your career, particularly over the latter part of  
27 your career, did you, I suppose, have a particular  
28 interest in engaging" - and the transcript says "women"  
29 - "and offering some form of [assistance] ..." My

1 note, which I'm confident represents what was asked, it  
2 concerns the "welfare" of police members. I'd ask that  
3 that word "women" be replaced with "welfare".

4 COMMISSIONER: The transcript will be corrected accordingly  
5 then, Mr Rush.

6 MR RUSH: Thank you.

7 MS BOSTON: Commissioner, the next witness is Sergeant  
8 Francis Adams.

9 MS HUSSAN: Commissioner, my name is Hussan and I appear on  
10 behalf of Mr Adams.

11 COMMISSIONER: Yes, thank you very much. Mr Adams, come  
12 forward, please.

13 <FRANCIS LEO ADAMS, sworn and examined:

14 COMMISSIONER: Mr Adams, I'll authorise Ms Hussan to ask  
15 questions on your behalf at the conclusion of counsel  
16 assisting's questions, if there are any matters that  
17 require clarification or anything further that you wish  
18 to say. I'm required to comply with a number of  
19 formalities.

20 I should remind you about the subject matter of  
21 your examination. First, you will be asked questions  
22 about aspects of the Lorimer Task Force investigation,  
23 of the murders of Sergeant Gary Silk and Senior  
24 Constable Rodney Miller concerning the taking of  
25 witness statements, the preparation of a brief of  
26 evidence for the trial of Bandali Debs and Jason  
27 Roberts, and whether there was full disclosure of  
28 witness statements or other relevant information prior  
29 to or during the trial, witness-statement taking

1 practices by Victoria Police, and compliance with the  
2 obligations to disclose evidence by Victoria Police.

3 You were served with a number of documents to  
4 attend here today?---That's right.

5 You've read those documents?---That's right.

6 Your rights and obligations are set out in those documents,  
7 in particular the confidentiality notice. Was that  
8 explained to you by Ms Hussan?---Yes, it was.

9 Do you require me to remind you again of those  
10 obligations?---No, Commissioner, I've been briefed a  
11 couple of times.

12 Thank you. At any stage, if there are matters that concern  
13 you that you want to raise with your counsel, you can  
14 indicate such and, depending on what the issue is, we  
15 may have an adjournment to enable you to do  
16 that?---Okay, good to know.

17 Yes, Ms Boston.

18 MS BOSTON: Could you state your full name, please?---My  
19 full name's Francis Leo Adams.

20 Do you attend today in response to a summons served on you  
21 on 17 January of this year?---Yes, I do.

22 Would you look at these documents, please. The summons  
23 before you numbered SE2744, is that the summons that  
24 was served upon you?---Yes, it is.

25 You've indicated that you also received a document entitled,  
26 "Statement of Rights and Obligations", do you see that  
27 document in the bundle?---Yes.

28 Together with the summons and statement of rights, did you  
29 also receive a confidentiality notice dated 11 December

1           2018?---I believe so.

2           Did you also receive a covering letter dated 12 December

3           2018?---I did, I received two covering letters: one

4           was - it came subsequent to the 17th in the mail.

5           Are documents in front of you copies of the documents that

6           you received?---They appear to be.

7           Do you understand the nature of the documents that were

8           served upon you?---Yes.

9           I tender those documents, Commissioner.

10          #EXHIBIT F - Documents received via summons by Mr Adams.

11          What's your current rank?---Currently sergeant.

12          Where are you stationed at present?---Um, I'm appearing here

13          today whilst on WorkCover after several surgeries, and

14          so, to some extent I'm in limbo after finishing work

15          after an on-duty incident, but at that time I was

16          seconded to road policing command in the strategy unit

17          as a secondment. Prior to that though, I think

18          technically I'm still attached to the Centre For

19          Operational Safety; it's part of education.

20          Could you just briefly outline your career with the Victoria

21          Police, please?---So graduated from the Academy in

22          1989, went through the usual steps in the city learning

23          the ropes and was, I think, offered a spot out at

24          Hastings and Frankston, and from there moved into

25          transit policing in the city. Did a range of

26          secondments there with the CIB and a couple of other

27          units, and also a lengthy secondment at the Drug Squad.

28          After leaving the Drug Squad, I took a position down in

29          Gippsland at a 24-hour police station in Cranbourne. I

1 was there for, off the top of my head, approximately  
2 four years and then moved to Cheltenham Police Station.  
3 When did you move to Cheltenham?---It would have been in the  
4 timeframe range of 95/96, I think. I had two roles  
5 there: I was a senior constable there working  
6 operational duties, and also I had been undertaking  
7 separate training to policing duties in the world of  
8 operational safety, so I was a workplace trainer where  
9 I was seconded to what they call OST, operational  
10 safety training. So, I'd work between the OST unit,  
11 the regional OST unit at Moorabbin and Cheltenham  
12 Police Station. From there I went to the Centre For  
13 Operational Safety at the Police Academy.

14 What year was that?---I think it was towards the end of  
15 1999, I was there for a couple of years in a research,  
16 design, development capacity, and then took leave from  
17 Victoria Police and worked with the Australian Federal  
18 Police placed in both Melbourne and Canberra and was  
19 deployed to Honiara. Left the Australian Federal  
20 Police, came back to Victoria Police, I think, in  
21 2009-10 .

22 Just to interrupt, sorry, when had you left Victoria Police  
23 to work for the AFP?---When?

24 Yes?---I think that was 2005, I took leave without pay and  
25 then that rolled into something else; it was extended  
26 leave with the AFP, so I think it was about four years.

27 Back to Victoria Police in 2009?---Back to Victoria Police  
28 in 2009 for the bushfires, so that's the sort of  
29 timestamp there, and promoted to sergeant shortly

1 thereafter, I think, and again, finished my masters of  
2 education and worked on building, you know, operational  
3 safety capability for the Victoria Police until leaving  
4 there in, I think it was October or November 2017.

5 Road policing strategy unit, involved in an incident in  
6 Flinders Street and haven't returned to work.

7 Since then. You mentioned before that you were at

8 Cheltenham as a senior constable; when was it that you  
9 took the rank of senior constable?---Back in those old  
10 days, you went through a process of getting promoted,  
11 so I must have been promoted at Cheltenham.

12 As at 15-16 August 1998, I take it you were stationed at  
13 Cheltenham as a senior constable?---That's right.

14 Did you have any duties connected with Operation Hamada, the  
15 task force which was investigating a series of armed  
16 robberies in the southeastern suburbs?---Not directly.  
17 Whilst working at Cheltenham, however, I understand  
18 that operation had a range of undercover operations  
19 working that went through our policing area, and whilst  
20 it's typical working at a general duties police station  
21 to get a range of taskings - so, often you will know  
22 what's going on in your patch, so to speak - we - I  
23 wasn't aware of where the Hamada guys were, and had no  
24 contact or understanding - I believe that was.

25 On Saturday, 15 August 1998 you were performing duties with  
26 Sergeant Hough in and around the Cheltenham  
27 area?---That's right, I was on nightshift.

28 And those duties, going on from your last answer, those  
29 duties weren't to do with Operation Hamada

1           itself?---No. In fact, I didn't know that they had a  
2           job at the Silky Emperor Restaurant.  
3    You commenced duty at about 10.30 pm?---Yes.  
4    Sometime after midnight, you heard a radio broadcast and  
5           heard that there'd been a shooting in Cochranes Road,  
6           Moorabbin?---That's right.  
7    You were still with Sergeant Hough at that time, were  
8           you?---Yeah, we weren't very far from the job. I  
9           remembered travelling south in Chesterville Road, and  
10           then turned left into Cochranes Road, so we weren't  
11           that far from the actual crime scene.  
12    Were you driving the car or were you the observer?---M'mm,  
13           sounds like a simple question, doesn't it? Probably to  
14           some. I was - see I don't - there's a couple of things  
15           I don't remember, but I don't think I was driving.  
16    COMMISSIONER: You were with Sergeant Hough, were  
17           you?---That's right.  
18    Is it pronounced "Hugh"?---I think it's Hough, H-O-U-G-H;  
19           Darren is the first name.  
20    MS BOSTON: The patrol duty sheet, Exhibit 100, if that  
21           could please be brought up?---Sorry, Ms Boston, are you  
22           referring to the running sheet?  
23    Yes. I understand, Mr Adams, that a patrol duty sheet is  
24           another name for a running sheet; is that  
25           correct?---That's right.  
26    Does this appear to be the running sheet or patrol duty  
27           sheet from yourself and Sergeant Hough on that  
28           night?---That's my handwriting and - I haven't seen  
29           that for 20 years - I believe it is.



1 You will see there that, on the third line down, there's  
2 your name and your number, "Senior Constable  
3 Adams"?---Yes.  
4 To the right of that is: "Driver: Sergeant Hough", does that  
5 indicate obviously that you weren't driving the car  
6 yourself?---This information perfectly refreshes my  
7 memory. I - it's definitely my handwriting and, thanks  
8 for clarifying.  
9 If we could go to the next page, please, p.2275. Is that  
10 your handwriting there, or is this Sergeant Hough's  
11 writing?---I'm on 2275.  
12 Further down?---So, what you can see in the header is my  
13 handwriting, including the names, upper case for "at  
14 00200", that might be my first word, "urgent",  
15 potentially, but the rest of that is not my  
16 handwriting.  
17 Would there be cause for anybody other than yourself and  
18 Sergeant Hough to have been writing in your patrol duty  
19 return?---Well, the fact that what I'm looking at now  
20 is different to some extent because in policing, since  
21 I joined, I know they've changed electronically, but  
22 typically what would happen is that, whoever was  
23 driving wouldn't do the running sheet, that would be  
24 the observer in the car, so that in itself is  
25 different, but I think under the circumstances because  
26 I was, I think, tasked on the night and was doing a  
27 whole range of things, that that would have been the  
28 least of my concerns initially. And, I worked an  
29 extended period - just on face value, I think someone's

1 finished the running sheet for me or - I'm not sure - I  
2 don't know if I try and back in on this running sheet,  
3 because I actually can't remember writing it, so  
4 anyway.

5 If we could go to the next page, 2276, in the header there,  
6 is that your writing or not your writing?---Most  
7 definitely not my writing.

8 What about the remainder of the page?---I'm just looking at  
9 the handwriting style, I actually haven't read this,  
10 but that's not my writing.

11 That's Sergeant Hough's signature at the bottom of that  
12 page, isn't it?---It's got a - it says "sergeant",  
13 something, with I believe the same number.

14 Certainly not your signature though?---No, it's not my  
15 signature, but that - the way that "sergeant" is  
16 written has a similar style to the other writing.

17 If that can be taken down, please. I appreciate it's been a  
18 long while and they're difficult events to go back and  
19 think about. In terms of your movements on the night,  
20 you've heard the radio call when you're in the call  
21 with Sergeant Hough sometime after midnight, he's  
22 driven the car to the first crime scene?---Yes.

23 At that point you've got out of the car?---That's right.

24 And you've seen Sergeant Silk's body at that point?---Yes.

25 Were you with Sergeant Hough still at that point?---Apart  
26 from getting to that initial crime scene in Cochranes  
27 Road, I have no great memory of even speaking to him  
28 again. So, I definitely did not partner with him  
29 again, because shortly after arriving we did other

1 things.

2 You've been at that primary crime scene for a while when

3 you've been informed that the missing police member had

4 been found a short distance away?---That's right. We

5 were aware - it was - very aware that Gary Silk was

6 deceased and that we had a police officer missing, so

7 it was quite - quite a, um, you know, chaotic period of

8 time, we didn't know what we had straight away.

9 Once you'd been informed that he'd been missing, you

10 yourself ran up Cochranes Road towards Warrigal

11 Road?---I ran approximately - well, it was only about

12 40 metres east in Cochranes Road, I cut through a

13 service station on that corner and onto Warrigal Road,

14 so yes, there was a call over the radio as I

15 understand.

16 Sergeant Hough has indicated in his statement that he went

17 back to your vehicle at the primary crime scene and was

18 in that car. Do you have any memory of seeing him

19 again on that night?---No.

20 So you've ran towards what I might call the second crime

21 scene?---That's right.

22 And that's around the Silky Emperor Restaurant?---At the

23 front of the Silky Emperor on the footpath.

24 You saw the person you came to know as Senior Constable

25 Miller lying outside?---That's right.

26 On the footpath, and were there others with him at that

27 time?---Yes, yeah, there were a couple of police

28 officers there who I think were my colleagues from

29 Cheltenham Police Station.

1 Were you there in the vicinity of Senior Constable Miller -  
2 or how long were you there for?---Well, once - I can't  
3 remember exactly why - I think I can safely make the  
4 assumption that I was informed that the second member  
5 had been found, and I raced to that point as soon as  
6 that information came to me, and it must have been  
7 pretty fresh because there were - there was maybe, at  
8 least one or two people standing there - well,  
9 comforting actually, comforting Rod, and so I went  
10 right up to that situation.

11 When you say you went right up to that situation, to the  
12 vicinity of Senior Constable Miller?---Yeah, within, I  
13 don't know, a foot, standing there with - yeah, I was  
14 standing there with Rod and a couple of other members.  
15 Sometime thereafter you've done a search of an underground  
16 carpark; is that right?---That's right.

17 How long were you near Senior Constable Miller before you  
18 left to go to that carpark?---Um, how long?

19 Yes?---Really, really couldn't - couldn't tell you how long  
20 I was there; a short period of time. My practice is  
21 to, I suppose, help out in the first instance, and so,  
22 from memory I felt that the, um, the Silky Emperor  
23 Restaurant underground carpark was quite a threat to us  
24 at that point, in that, it was a risk area and you had  
25 a member who had been shot, members standing there, to  
26 some extent not disrespectedly, but they were focusing  
27 with their blinkers on Rod and I had a cause for  
28 concern about the safety of all of us, so I did  
29 momentarily leave Rod.

1 You've come back to him, have you, thereafter?---Um, so -  
2 so, I then, because of the threat level, draw my  
3 firearm and did a search of the Silky Emperor  
4 Restaurant carpark and came back to Rod.

5 At that point, were you close to him or? I appreciate this  
6 is difficult, sorry?---Yeah, no - I suppose, look, I  
7 can't remember exactly timings and distances, I  
8 suppose, but as an operational police officer I'd had a  
9 little bit more training than average which wasn't much  
10 back in the day, but my practice is to get as much  
11 information as I can out of a scene and to do what I  
12 can do, so yeah, I definitely would have come back to  
13 that crime scene area where Rod was trying to suck more  
14 information out before the next bit.

15 And by "information", do you mean what he might have been  
16 saying?---In part, yes; yes, in part. I think the  
17 thrust of initial, you know, first responders in a  
18 critical incident is to get as much information as you  
19 can and, whilst I'd read across a few items in the  
20 Academy around dying declarations, you know, that was  
21 the first sort of setting that I'd been in and it  
22 happened to be police, so it was - so, I understood  
23 that to be important at the time, but there were  
24 members attending to him and talking to him.

25 So, you understood that it would be important to write down  
26 anything that he said?---Ah, yes.

27 Did you make any notes at all?---You see - well, if I can  
28 just quickly step back. The running sheet has changed  
29 over, and I didn't obviously end up writing on the

1 running sheet, I think I was out there for quite some  
2 time, there were things to do. I don't recall writing  
3 anything in a notebook, in fact I don't think I carried  
4 a notebook, I carried a day book, I think.

5 That was going to be my question, what was your practice at  
6 that time in terms of what you would take notes  
7 in?---Well, I'd record what I could on the running  
8 sheet. Look, my practice did change a little bit over  
9 the years. The notion of a little notebook, it just  
10 didn't necessarily work for me, so I ended up changing  
11 to a - what I think we loosely called a day book, which  
12 is just an A4 folder where often I'd note on that,  
13 but - - -

14 When you say you ended up changing, was that sometime after  
15 this - these murders?---I don't know. I don't know,  
16 but certainly - I mean, it's 20 years ago. In the last  
17 at least 10 years I've taken a different approach  
18 because of the nature of the work I do.

19 You've then gone and provided support for the police Dog  
20 Squad who were searching in the area for evidence; is  
21 that right?---That's right. So - that's right.

22 In terms of your movement, how long were you doing that  
23 for?---Searching?

24 Yes?---With the dog?

25 Yes?---Um, really got no idea how long; it was a period of -  
26 it felt like a while, a long time; I mean, I was still  
27 there, I think, in the early morning, I saw the  
28 sunrise.

29 Were you searching within the crime scene or outside the

1 crime scene, in terms of the established crime  
2 scene?---Okay, so the dog - police talk - the canine  
3 unit came and I remembered meeting him right at the  
4 crime scene - as in, right at where Rod was; the dog  
5 came, I distinctly remember talking to him  
6 within metres I think from where Rod was, and so from  
7 there we'd covered ground that I'd already covered  
8 earlier and then headed off into, goodness knows where;  
9 I was following the dog.

10 If we could go to Exhibit 17, this is the crime scene log,  
11 p.410. Further down at the entry for 6.45, you will  
12 see there at 6.45 there's reference to yourself, Senior  
13 Constable Adams, CCH 251?---Yes.

14 I take it "CCH" is Cheltenham?---Cheltenham.

15 Over the page, 411, at 7.40, "Adams, Frank", is that  
16 yourself?---Francis, but the guys I played footy with  
17 would call me Frankie.

18 "CCH251", that's clearly yourself again?---That's right.

19 That's got you entering again at that point?---Entering?

20 Entering the crime scene again, or what am I entering?

21 I suppose, this is going to lead on to my questions; I just  
22 want to let you know what the log says about your  
23 movements so it might jog your memory more precisely  
24 about what you were doing. Over the page at 414, you  
25 will see partway down that page, "CCH 251 Adams 9.12  
26 out." In the "time out" column?---Oh, right.

27 So, just by way of overview it seems to be 6.45 exit, 7.40  
28 enter and 9.12 exit. Does that jog your memory about  
29 your movements around the crime scene on that

1 morning?---Look, it does, it does. Actually, something  
2 on the news the other night jogged my memory, because I  
3 was just watching the Channel 9 news and there was a  
4 clip of the crime scene which I'd never seen, and I  
5 could see myself standing with people in what appeared  
6 to be mid-morning, so that looks to be consistent with  
7 that time.

8 If we could go, please, to Exhibit 23. This is some notes  
9 in the day book of Detective Senior Constable Rosemary  
10 Eden; do you know, do you recall her? Just generally  
11 speaking, not in relation to the particular  
12 night?---No.

13 You don't have any recollection of her?---"Rosemary Eden"?  
14 A detective from the Homicide Squad?---Sorry, I'm better  
15 with faces than names, and I wasn't necessarily - - -  
16 That's perfectly all right. If we go to p.887, please, at  
17 the very bottom of the page, you will see these are  
18 redacted notes from Detective Eden. There's something  
19 redacted at the bottom and it appears to say:  
20 "Statement from Senior Constable Adams"?---Yes.

21 So, did she take your statement that morning ?---Somebody -  
22 somebody took information from me that morning, and I  
23 can't remember who it was.

24 When you say they took information from you, what do you  
25 mean? Was it a handwritten statement or what?---Well,  
26 this is interesting to me, because only in the last  
27 couple of days I was trying to work out the chronology  
28 of this going back over time, and I thought I'd offered  
29 something to someone at that crime scene in the form of



1           some sort of statement or notes taken at the time, but  
2           then in the end I just wasn't sure, I just didn't - I  
3           just didn't know. I didn't know - I couldn't picture  
4           doing that, but I feel like I have, and I don't know if  
5           that's my handwriting, it doesn't look like it.

6           This is from Detective Eden's day book?---Right.

7           So it's a note from her?---Right.

8           At 9.20, you having exited the crime scene at 9.12. It's a  
9           note from her saying what appears to be a statement  
10          from Senior Constable Adams?---Right.

11          So it's not suggested it's your handwriting?---Right.

12          COMMISSIONER: Ms Boston, does the redacted part of that  
13          entry at 9.20 show where Ms Eden is?

14          MS BOSTON: We don't have the redactions, Commissioner.

15          COMMISSIONER: You don't have the redacted portion?

16          MS BOSTON: No, these are copies of the notes that were  
17          disclosed to the prosecution and the defence as part of  
18          the trial process, Commissioner.

19          COMMISSIONER: Didn't Ms Eden not produce her notes at the  
20          private hearing?

21          MS BOSTON: They haven't been provided. She didn't have  
22          them, Commissioner. (To witness) So your recollection  
23          certainly is providing information to somebody on that  
24          morning about your recollection of events?---Yeah, my  
25          recollection is, I spoke to a detective, or I spoke to  
26          a lot of detectives; I don't know if they were sort of  
27          local detectives, or Hamada detectives, or what went on  
28          to be Lorimer; I don't know who they were.

29          Do you remember whether they were male or female?---I spoke

1 to both, yeah.  
2 Is your recollection that, as you were giving this  
3 information to people, they were writing down what you  
4 were saying?---Well, only over the weekend I was trying  
5 to remember this process, and I can just - I can't  
6 imagine I would have been at the scene - I mean, I  
7 didn't, I wasn't in a position or probably didn't even  
8 have a pen to be writing the running sheet, I should  
9 have been doing my job and writing the running sheet,  
10 and clearly I wasn't doing that. And it probably isn't  
11 necessarily - you normally go somewhere to do a  
12 statement.

13 With the running sheet, is that something which is kept in  
14 the vehicle generally, or is it - - -?---Yes.

15 So, if Senior Constable Hough's with the vehicle, he would  
16 obviously have the running sheet?---Yeah, and I've  
17 conducted a search with equipment on me, and I'm very -  
18 you don't do those sorts of searches with a big clunky  
19 running sheet; it was the furthest thing from my mind.

20 Was there any direction on the night that it was important  
21 to take a note of events?---No, but I think - I think  
22 for most police it's implicit that that would be done,  
23 and I knew that I had offered information to the  
24 detectives, whoever they ended up being, and I think  
25 later on as time passed that gave me some comfort,  
26 because I'd made some - an effort to spell out what I  
27 did at the time.

28 So, don't let me put words into your mouth, but you were  
29 comfortable that you'd given a contemporaneous account

1 to the detectives?---Well, I must have been, but then  
2 it played on my mind because, even now I'm thinking,  
3 well, are they her notes or my notes?

4 These are Detective Eden's notes?---Okay, okay, yeah. But  
5 at the time I - I just wasn't - I just wasn't sure, I  
6 just wasn't sure, but I knew I'd offered something to  
7 the detectives, yeah.

8 Do you know now whether or not you did make a formal  
9 statement on that morning? By "statement", you  
10 understand I mean one signed and so forth?---Yeah, um -  
11 my memory hasn't improved over 20 years, but look, I  
12 feel like I signed something on the morning and then  
13 didn't actually see that again.

14 Do you have any recollection of what the thing that you  
15 think you signed looked like?---I'd just be guessing.  
16 So, no, I don't, I just really don't; I think I was out  
17 of petrol at that time, point.

18 COMMISSIONER: What about the location where you think you  
19 signed it?---Well, I think I was still at the crime  
20 scene close to the secondary - or sorry, the initial  
21 crime scene in Cochranes Road where Gary Silk had been  
22 lying, I think I was over there again. I remember  
23 because I remember standing on some grass, just to try  
24 and take in the whole - the whole, the whole night.

25 MS BOSTON: You said before that you weren't with Sergeant  
26 Hough after the primary crime scene?---No.

27 Are you aware of when he made his statement?---No.

28 Is he somebody that you know or you just happened to be  
29 partnered with that night?---Um, he was my partner for

1 the night but I'd have only spent, you know, maybe an  
2 hour with him. He was certainly a member at the police  
3 station who I was partnered with for the night, so.

4 The information before the Commission is that he's gone back  
5 to the Moorabbin Police Station on that  
6 morning?---Right.

7 So you don't know whether or not he made a statement on that  
8 morning?---Um, I - no, I don't know. I could easily  
9 make an assumption that, you know, a lot of police made  
10 statements. I'm assuming that he did, I don't think  
11 I've ever spoken to him about when, where, how or why  
12 he left early. To me it just made sense because, given  
13 that I was on nightshift and I was still sort of in the  
14 field at the crime scene for that period of time, it  
15 would have been an assumption I believe I made at the  
16 time that my partner had potentially clocked off. What  
17 he did, said, spoke to after I ran from where Silky was  
18 to where Rod was, I have no memory of Darren Hough.

19 So, your recollection is of possibly signing something on  
20 the morning at the crime scene?---Yeah - I don't know  
21 if I did, I think I did. I don't really know. Just  
22 bear - I'm sure - I've got a memory of offering  
23 something.

24 In terms of your statement that went on the brief, do you  
25 know when that one was made?---No.

26 I'll bring up Exhibit 200. See, this is a table of  
27 statements required and statements obtained which was  
28 kept by a detective at the Lorimer Task Force. The  
29 metadata indicates that this document was created on

1 21 August 1998 and that it was last modified on  
2 24 August 1998, so about a week after the murders. If  
3 we go to the final page, 3056, you will see there about  
4 halfway down the page your name, "Attended to Miller"  
5 and in the "Statement Required" column: "Yes.  
6 Statement obtained: Yes." Does that refresh your  
7 memory about how your original statement was  
8 made?---About how it was made?

9 Yes?---It doesn't say anything to me about how the statement  
10 was made; it's indicating, I think, I quickly read the  
11 top section, whether or not I had attended to Miller;  
12 that part's correct, I don't know it talks about  
13 method. Oh, sorry, the obtaining?

14 Yes, so the evidence before the Commission is that these two  
15 columns mean, "Statement Required", the first column,  
16 and then, "Statement Obtained"?---Okay.

17 And for you it's "yes" to both, required and obtained.

18 You've indicated that you have a recollection of giving  
19 information and possibly signing something on the  
20 morning of the 16th. Your statement that ended up in  
21 the brief is dated 29 February 2000, so I'm just trying  
22 to explore your recollections as to when you made an  
23 original statement in relation to these  
24 matters?---Right.

25 Can you provide any information about that?---Well, apart  
26 from - in terms of date - you know, I'm just calling  
27 this a date stamp for me to try and remember  
28 something - I don't remember when I made, you know, a  
29 more formal or - I can't remember what was on the brief

1 or what was in my statement.  
2 Perhaps we'll go to that now, it might assist. Exhibit 202,  
3 please. If we could go to the final page, 3060, you  
4 will see the final paragraph states: "In the early  
5 hours of Sunday morning, 16 August, I returned to the  
6 command post and had conversations with the Homicide  
7 Squad." Firstly, are they the conversations you've  
8 referred to this morning where you gave information to  
9 detectives about your recollection of events?---It  
10 would appear so, it would appear so.

11 "I later returned to the Cheltenham Police Station." You  
12 will see that you've signed that on 29 February 2000.  
13 If we go down a little bit further, an Acting Sergeant  
14 Glenn Pinder has taken your acknowledgment and  
15 witnessed your signature; who is he?---He was at the  
16 centre for operational safety when I arrived, yes. So,  
17 he's a - he's still a serving police officer who's an  
18 inspector at the Police Academy, yeah. He would have  
19 been probably - sorry, acting sergeant; I wasn't  
20 promoted - he could have been my line manager.

21 Does seeing this document refresh your memory about the  
22 circumstances in which this statement was made?---Not  
23 really. Um, could you go to the top of the document?  
24 COMMISSIONER: Would you like to see it in hard copy?---If  
25 you've got that time, Commissioner. Or, the print's  
26 big enough, I left my glasses behind. Actually, sorry,  
27 could I read the screen because I don't have my  
28 glasses? Sorry about that. Is this an opportunity for  
29 me to read it or are we - - -

1 MS BOSTON: Would reading the content assist you in working  
2 out the circumstances in which it was made?---Can you  
3 go down to the bottom of that statement? Sorry, just  
4 to be - could you go back up to the top? I mean, the  
5 circumstances in which it was made, is that the  
6 question, sorry?

7 Perhaps I'll move on. You've indicated that you - I'm sorry  
8 to be repetitive - that you gave information to police  
9 and that you may have signed something on the morning.  
10 You see the table indicating that you'd made this  
11 statement by 24 August 1998. Do you dispute that you  
12 had in fact made your statement by that date?---Sorry,  
13 so that table is saying unequivocally that I've  
14 produced a statement on the - sorry, the twenty?

15 That statement is recording the fact that as of 24 August  
16 1998 you had made a statement. Given your recollection  
17 that you had given information to detectives and signed  
18 something, do you accept that you had given your  
19 statement by that time?---Ah, no.

20 Why do you say that?---Because - because I can't really  
21 remember giving that other than - or whatever I've  
22 offered, I couldn't - I don't, I don't, I don't know if  
23 that - if that was considered a statement; I haven't  
24 read it, I - by the time I got to this, there seemed to  
25 be a large delay in time and there was no communication  
26 largely around some of the first responders and, you  
27 know, the uniformed police officers and so forth, and  
28 so by the time I think I was requested to make a  
29 statement, I made a statement.

1 Is this a fair summary of your position: it's been 20 years,  
2 so you can't accept that you made a statement by that  
3 date, but you don't deny that you may have made a  
4 statement by that date, 24 August 1998?---I've never -  
5 what you showed me, I've never seen that again.

6 I - - -

7 COMMISSIONER: You've never seen what again,

8 Mr Adams?---When earlier you mentioned a female  
9 detective had something and - - -

10 Sorry, I thought you said earlier, Mr Adams, you had a  
11 recollection of signing something on the night?---I  
12 think, I think I did, I think I signed - I do, I think  
13 I - - -

14 So, in your experience, other than a statement, what else is  
15 it you might have signed?---Someone else's notes, um,  
16 some information that might have supported the  
17 detectives, but - I mean, I'm assuming this is my  
18 statement, so I think this is my statement. I don't  
19 know - I don't know what the other one is, is the point  
20 I'm trying to make, and if I'd signed something, you  
21 know, back on the morning, I don't - I get a sense that  
22 I did, and I tried to write down the chronology on the  
23 weekend, and I think I - I think I offered information  
24 at the scene, is what I'm saying, to help the  
25 detectives. In terms of, did I absolutely sign  
26 something? I don't really know, I just - I can't  
27 remember.

28 MS BOSTON: There's been evidence before the Commission that  
29 it's common to amend statements; is that a practice



1           that you're aware of?---Um, not - no, not really; I  
2           mean, maybe in the development of a police officer from  
3           the Academy to, you know, getting experience under your  
4           belt, I think errors can be made or you may take a  
5           statement from another witness and, if they want to  
6           change a word, you might amend.

7           Sorry, this is when you're taking a statement from a witness  
8           and they want to amend something?---I allow them to  
9           amend it.

10          At what stage?---Um, at any stage.

11          So, just to pick a date out of the air, if they've made a  
12          statement on 1 January 2000, if they came along to you  
13          and wanted to amend something subsequently, say a year  
14          later, you would allow them to do that?---I think  
15          common practice is to always take another statement,  
16          but in the introduction or lead-up, leading into the  
17          subsequent amendment, just say that there was a  
18          previous statement and lead in and acknowledge there  
19          has been a previous statement made with respect to this  
20          matter dated, blah, I now wish to supply further  
21          information relating to this.

22          That would be proper practice, wouldn't it?---That - that's  
23          my understanding, yes.

24          Taking a supplementary statement?---Yeah.

25          You said, though, if a witness wanted to change a word or  
26          something, there seemed to be a suggestion that they  
27          could edit their original statement; is that what you  
28          meant?---Um, I think, to try and think through it  
29          practically, if I was at a home taking a statement,

1 handwritten statement for example, and I was taking  
2 information from somebody, and they said, "Someone's  
3 damaged my red car" and then a couple of seconds later  
4 said, "Oops, my car's blue", I would change that.

5 I thought earlier in your evidence you said any time you'd  
6 allow them to amend it?---Well, any time within reason.  
7 I mean, if someone came - - -

8 COMMISSIONER: Just, sorry, I think the confusion,  
9 Ms Boston, is that the witness plainly enough says, of  
10 course they can amend it at any time, the process for  
11 amending it will vary depending on the point in time at  
12 which they want to amend it.

13 MS BOSTON: Yes, that may well be the explanation. (To  
14 witness) Is that the explanation?---If someone came  
15 back to me with a big time delay, I wouldn't just - I  
16 wouldn't amend a statement, no, but I'd try and - I'd  
17 just do another one.

18 What do you mean by - do a supplementary one, is that what  
19 you mean?---Yeah, and acknowledge there's been a  
20 previous statement made.

21 So that's when you're taking a statement from a civilian  
22 witness, I take it?---I think that would be practice  
23 for everybody.

24 Have you been asked in your career to change a statement  
25 that you've made?---No, not as direct as that. I  
26 suppose I've developed and, you know, not that I'm  
27 - I'm not saying I've got any great skills now, but as  
28 you're developing as a police officer, taking  
29 information from people and making statements, you

1 learn the craft to some extent.

2 But whilst you were still learning the craft and maybe  
3 making statements that weren't entirely satisfactory to  
4 your superiors, were there occasions when you were  
5 asked to make some changes to statements?---Um, not  
6 really. I suppose in a structural sense each - are we  
7 talking broadly here as a police officer making  
8 statements?

9 We're talking broadly, not just in respect of this  
10 operation?---Right.

11 I can tell you, there has been evidence before the  
12 Commission that this was common practice that  
13 statements would be amended?---Right. Look, for me  
14 personally, I will have - I will have, um, you know, I  
15 suppose developed my own statement. Sorry, can you go  
16 back to that? Is there a direct question?

17 I informed you that there's been evidence that it's a common  
18 practice to amend statements?---Right.

19 And I was asking you whether that's something that you've  
20 ever been asked to do?---No, and it's not a common  
21 practice with me.

22 COMMISSIONER: Ms Boston, there's confusion in that  
23 expression because, on one view, producing a  
24 supplementary statement constitutes amending a  
25 statement.

26 MS BOSTON: I accept that.

27 COMMISSIONER: So, I think you need to be a little bit more  
28 specific.

29 MS BOSTON: Yes. (To witness) Have you been asked to,

1           instead of making a supplementary statement, amend your  
2           statement and not refer to the fact that you've  
3           previously made a statement?---No, I - no one's ever  
4           asked me to do that.

5           Are you aware of other people doing that?---No.

6           Could we go to Exhibit 508, please. This is a diary of  
7           George Buchhorn, Detective Sergeant George Buchhorn.

8           Is he somebody that you can recall?---I know the name.

9           He was a - - -

10          He was at the Lorimer Task Force?---I know him to be one of  
11          the detectives, yeah. Whether he was seconded from  
12          another unit or not, I ...

13          He had some involvement in the compilation of the brief for  
14          the trial of Debs and Roberts?---Yes.

15          You will see this is his diary on 14 January 2000 - this is  
16          before your statement which in the brief is dated. If  
17          we go down to Friday, 14 January 2000, you see there:  
18          "On duty 8.30 am at office re Lorimer to 10.30 am.  
19          Clear to Academy." Now, as of 14 January 2000, you  
20          would have been at the Academy, would you?---Yes. Yes,  
21          because, 14 January 2000.

22          Yep, "And spoke to Senior Constable Adams of OSTU unit."

23          Now, that would be you?---Yes.

24          So, this is about 18 months after the murders,

25          but - - -?---Right.

26          - - - but about six weeks before your statement was signed,

27          the one that appeared in the brief?---Right.

28          What was the purpose of speaking to Detective Sergeant

29          Buchhorn on 14 January 2000?---Sorry, what was the

1 reason?

2 M'mm, what did he speak to you about?---Well, I think it was  
3 around the time that - which was interesting to me,  
4 because it had been such a long time where I think a  
5 number of us were starting to make, you know,  
6 statements, and so, I think he came to request a  
7 statement. I would have potentially - for him to come  
8 I think it would have been normal practice to either  
9 call me or email me or something similar to that.

10 This was a murder of two police officers, wouldn't it be  
11 proper, wouldn't it be normal in that kind of situation  
12 that you would be requested to make a statement well  
13 before 18 months after the fact?---I've probably, you  
14 know, reflected on that a little bit over the years,  
15 and much more since in the last few days. I was  
16 falling in line with what I thought the Homicide Squad  
17 wanted me and other colleagues to do.

18 And what was that? Were they asking you to change a  
19 statement you'd previously made?---No. No, definitely  
20 not.

21 So, what do you mean "falling in line with what the Homicide  
22 Squad wanted"?---Well, I'd moved on from Cheltenham  
23 Police Station at that point and had been keeping in  
24 contact with a few colleagues, mainly for welfare  
25 matters, which is a whole story in itself, and I don't  
26 know if this is true, but from memory I thought quite a  
27 few of us made statements around that time, and so,  
28 whilst upon reflection, and maybe even at the time - I  
29 mean, I was eager, I was eager, but I was just sort of

1           waiting for, you know, the call up of - - -  
2       So you were eager to make your statement in that 18 month  
3           period, so did you contact anybody at Lorimer to say,  
4           "When am I gonna make my statement? I was at the crime  
5           scene?"?---I may have, I may have. I know that a lot  
6           of people from the crime scene were taken to, I think,  
7           Moorabbin Police Station, and I think statements were  
8           taken from them, and so, because I worked into the  
9           morning I was sort of - I just thought I was just in  
10          the churn and the churn was quite some time, so I was  
11          waiting - I was waiting, I was waiting.

12       But you'd been in the presence of Senior Constable Miller  
13          shortly before he died?---That's right.

14       And you heard some things that he said, didn't you?---Um,  
15          I - yes, I did. Yes, I did.

16       Didn't you think that it was important that your statement  
17          be taken as soon as possible?---Well, yes, in that - I  
18          mean, I don't know what I was thinking at the time, I  
19          don't know what I was thinking at the time, but look,  
20          upon reflection it's, you know, abundantly clear how  
21          important it is to provide information as soon as you  
22          can. I knew that I'd updated some detectives early in  
23          the morning.

24       Of 16 August. Yeah, and I was caught for a period of time  
25          thinking, well, I don't want to push the buttons of the  
26          busy task force, so I think - and other colleagues  
27          hadn't made statements, so I think a couple of us were  
28          just in some respects waiting for - to be like the  
29          other guys who had statements taken from them.

1 Were you comfortable with not having made a statement by  
2 that stage because you were confident you'd given the  
3 detectives at the Homicide Squad an account?---No. No,  
4 in that - I suppose, and even now I feel, whilst you  
5 put it that way it seems pretty clear, but I remember  
6 feeling like a bit-part contributor and I was simply  
7 waiting for the investigation processes to invite me in  
8 to make a statement of some sort.

9 Could we bring up Exhibit 78, please. If we go down, you  
10 can see this is a document dated 23 August 1998 from  
11 the Homicide Squad to the officer-in-charge, request  
12 for members' statements with regard to the  
13 investigation into the deaths of Sergeant Silk and  
14 Senior Constable Miller. Members of your station  
15 attended the incident and entered the crime scene for  
16 various reasons. Statements are required from these  
17 members who should read the attached guide for  
18 preparation of their statements. When the statement is  
19 complete the original should be forwarded into the  
20 Homicide Squad marked 'Operation Lorimer'. It is  
21 requested that the statements be compiled as soon as  
22 possible." Further on: "Members are requested to  
23 contact Detective Senior Constable Rosemary Eden prior  
24 to compiling their statements." That's dated 23 August  
25 1998. You were requested to make a statement within a  
26 week of the incident, weren't you?---Um, I - on the  
27 face of it, that's what that looks like, but I don't -  
28 I don't remember seeing that or being asked to make a  
29 statement until - - -

1 It's addressed to the officer-in-charge, and you wouldn't  
2 have been the officer-in-charge at that stage, I take  
3 it?---No.  
4 But weren't you asked very early on in this investigation to  
5 make your statement given you're one of the police  
6 members who attended to Senior Constable Miller?---Um,  
7 I think - I think it was, you know, well over a year  
8 and I think you indicated a timeframe of about  
9 18 months before a statement was made and, as I said, I  
10 certainly - I was waiting in abeyance for the process  
11 to - to um, to - you know, it was supposed to talk to  
12 me like quite a few other people.

13 When you say "quite a few other people", who are you  
14 referring to?---Well, I worked - some of the first  
15 responders - well, not some of them, all of them on the  
16 evening: Thwaites, Poke, Clarke, another more junior  
17 fellow, not a young fellow but a junior in experience,  
18 Brad someone - - -

19 Bradley Gardiner?---Brad Gardiner. My - well, I'd moved on  
20 from Cheltenham, and I mean - I mean, I can explain  
21 quite a bit with respect to that change and so forth,  
22 but - - -

23 What change, sorry?---Sorry, when I - I think these guys  
24 stayed at Cheltenham Police Station after the murders,  
25 as in, kept working there and I think I - in 1999 I  
26 moved on, and so, my position I think at the time was,  
27 "Come on guys", like, "Get to the small fries", sort of  
28 thing.

29 When you say "guys", you mean Lorimer, get to us, get our



1 statements?---Yeah.  
2 Are you saying that those other officers you mentioned were  
3 feeling the same way?---Yeah, I think so, maybe.  
4 Were you having conversations with them around that time  
5 about whether their statements had been taken  
6 yet?---Um, I must have been, because I kind of remember  
7 that. I remember that, whilst it's not normal on the  
8 one hand to have those sorts of delays, but on the  
9 other hand there hadn't been much sort of coming from  
10 the Lorimer Task Force, and others I think were in the  
11 same category, so I kind of jogged on with life the  
12 best I could and waited for process. That document you  
13 showed me earlier about requesting a statement,  
14 straight up, I don't remember even seeing that.

15 I'm not suggesting you saw the document, but what I'm  
16 suggesting to you, that it was conveyed to you very  
17 early on that it was necessary to provide a  
18 statement?---No, it wasn't.

19 COMMISSIONER: So, it was 18 months before - - -?---Right.  
20 - - - anyone in the Homicide Squad came to  
21 you - - -?---That's right.

22 - - - and asked for your detail of what you did on the  
23 night or what you heard Mr Miller say?---Absolutely  
24 correct, Commissioner.

25 And you had no diary entry of your own that you could rely  
26 on for that purpose?---No, and um, prior to coming here  
27 I'm thinking, "I hope they've got the running sheet."  
28 I mean, I thought I'd written the running sheet. I  
29 thought, if they've got the running sheet, I thought if

1           you produced a running sheet today, I thought I'd see  
2           all my writing through it and me writing a running  
3           sheet. I don't - you know, clearly I haven't, so.

4   MS BOSTON: And that's because you have an account of  
5           writing down your account that morning at some  
6           point?---That's because I remember offering information  
7           to the detectives and to what extent, what I signed,  
8           I've got no idea.

9           Isn't that why you weren't too concerned by the fact that  
10          you hadn't given a formal statement, you say, until  
11          2000?---Well, it's not that I wasn't concerned, I was  
12          still waiting for what I felt was the task force formal  
13          process to work with me. What gave me comfort was  
14          that, with respect to, you know, not being a pest, I  
15          thought, well, I think I've given the guy some  
16          information, obviously however they're conducting their  
17          investigation, whatever I said is not that important or  
18          they don't need to talk to me, so I think again in the  
19          end I never spoke to - so, whoever spoke to me that  
20          morning, I don't recall speaking to them again; I just  
21          remember that the Homicide Squad came to the Academy a  
22          couple of times and I ended up, you know, being sort of  
23          last in the chain and I'm thinking, "thank goodness".

24          By the time you made this statement that was on the brief in  
25          2000, were you aware at that point that the Homicide  
26          Squad's theory was that the two offenders responsible  
27          for the Hamada robberies were also responsible for the  
28          murders of Sergeant Silk and Senior Constable  
29          Miller?---Was I aware of that?

1 Yes, were you aware that that was the - - -?---I don't know  
2 at the time; it certainly came to light through media  
3 at some point. At the time it was the - I think  
4 everyone was trying to be very careful and not step on  
5 toes and waiting, so in some ways some things just  
6 weren't discussed, there was just an expectation that  
7 the task force was - sorry, Lorimer was well resourced  
8 and that they were working very hard on a complex  
9 matter. When it arose that Bandali Debs was linked to,  
10 you know, further armed robberies, I don't know, but I  
11 know that Hamada was working on armed robberies, so you  
12 know, I think I made that assumption, it was around  
13 armed robberies, but how many they did, I don't know.

14 I just want to go to your statement, if I can, Exhibit 202.

15 I appreciate this is difficult to revisit?---Thank you.

16 COMMISSIONER: You won't be helped by the hard copy, will  
17 you?---Well, I packed two sets of glasses and I left  
18 them behind. So, the screen is probably the best  
19 option. Sorry, Ms Boston, I'm turning my back on you.

20 MS BOSTON: Just before we go through the specifics, you've  
21 told the Commission that you were effectively by Senior  
22 Constable Miller's side on two occasions on that  
23 morning?---At least I'd say.

24 You heard some things that he was saying?---Yes.

25 Did you hear things he was saying on both occasions that you  
26 were at his side? The first time before you - - -?---I  
27 know you've shown it to me, I haven't read it and I  
28 can't remember what he said.

29 I'll come to that in a minute, I'm asking you for your

1 memory. You've said that you were by his side firstly  
2 when you got there?---Yes.

3 Thereafter you've gone into the undercover carpark to  
4 undertake a search to see if there were any offender or  
5 offenders around?---Yes.

6 Then you've returned to Senior Constable Miller's side. I  
7 take it, you would have heard words that Senior  
8 Constable Miller was speaking on both occasions?---Um,  
9 I heard words, but um, I can't - I remember him saying,  
10 you know, he couldn't - he couldn't breathe. He was  
11 definitely talking, he was definitely talking, because  
12 I mean, the purpose - apart from obviously trying to be  
13 there and available to support him, I was standing over  
14 members who were already holding him, and so, I don't  
15 think his voice was very loud and, to some extent you  
16 sort of respectfully, you know, not everyone's leaning  
17 in, and I had the other security risk in mind too,  
18 so - - -

19 COMMISSIONER: No one's being critical of you,  
20 Mr Adams?---Right.

21 But these questions are being asked in the context that it's  
22 18 months before you're making a statement in which you  
23 detail your recollections?---Yes. I think, because of  
24 the time delay and, look, you know, lessons learnt, I  
25 just wasn't certain I think in the end with my  
26 statement as to exactly what he said.

27 MS BOSTON: By the time that you made it in February 2000,  
28 it's understandable that you wouldn't have a good  
29 memory of what had been said?---Yeah. I was certain of

1           what others had said to me, but I understood that that  
2           was, you know, hearsay so wasn't necessarily part of my  
3           conversation, so.

4        You said you knew about the concept of dying declarations,  
5           was it your understanding that it was only what Senior  
6           Constable Miller was saying that would be admissible as  
7           a dying declaration?---Um, yes.

8        And not the questions that were prompting the responses from  
9           him?---Ah, yes, which - you know, hindsight's  
10          wonderful.

11       If we go down to the second-last paragraph on your statement  
12          on the first page. This paragraph refers to the first  
13          time that you're with Senior Constable Miller?---Sorry,  
14          which paragraph?

15       It commences: "I then ran up Cochranes Road." I don't think  
16          we're in the right spot. There it is?---Okay, I've got  
17          that.

18       "I then ran up Cochranes Road on the southern side towards  
19          Warrigal Road with Senior Constable Hough. Cut through  
20          the service station area and onto the footpath of  
21          Warrigal Road. I ran towards the Silky Emperor  
22          restaurant and observed a male lying on the footpath  
23          close to the driveway of the underground carpark.  
24          There were two policemen with this male and a police  
25          vehicle parked on the road. There was a policeman in  
26          uniform sitting on the ground providing comfort for the  
27          male who appeared to be injured. I stood with the  
28          injured male for a short time and believed he was a  
29          police member." And you go on. You then, over the

1 page at 3059, refer to the search. You'll agree,  
2 there's no mention here of anything that Senior  
3 Constable Miller or the other police officers were  
4 saying?---Sorry, can you say that again? I'm a little  
5 bit confused because I feel like I just need to read  
6 it.

7 Yes, please?---I just feel like I need to read it.

8 COMMISSIONER: What counsel is putting to you is, in your  
9 statement on the first occasion that you approached  
10 Mr Miller lying on the ground you've not recorded any  
11 conversation that you overheard with Mr Miller at that  
12 time?---Okay. Okay, so he's "lying on his back on the  
13 footpath, looked to be quite pale." I don't know,  
14 however, I - yeah, I remember doing that.

15 Counsel's simply wanting you to agree, you don't in that  
16 passage refer to any conversation that you then heard  
17 involving Mr Miller?---Um, no, I don't, no. No, I  
18 don't.

19 MS BOSTON: Is that because, by January 2000, you simply  
20 wouldn't have been able to remember what he'd  
21 said?---Well, I remember when I was doing that  
22 statement, in the end I just wasn't certain, and so I  
23 didn't put it in, but I was certain of what other  
24 members had said to me, but I wasn't certain apart from  
25 some conversation around breathing, and he may have  
26 swore. Yeah, look, by that time - and reading that, I  
27 mean, that's looking to me now like it's, um, you know,  
28 in terms of its flow it's quite wooden.

29 COMMISSIONER: Can I just ask you this, Mr Adams: did Acting

1 Sergeant Pinder have any documents that he was  
2 referring to, or that he showed you when you made your  
3 statement in 2000?---I don't recall, but I do see an  
4 anomaly there, in that, this statement opens with: "I'm  
5 currently stationed at Cheltenham Police Station." The  
6 fellow, Glenn Pinder at the bottom, I think he - he's  
7 always worked at the Academy in Glenn Waverley, so I  
8 don't know why I would say I'm stationed at Cheltenham  
9 Police Station, when I'm actually working in the office  
10 at Glenn Waverley.

11 You mean, you weren't stationed at Cheltenham at that  
12 time?---No. Well, according to this timeframe, no, I  
13 think I'd moved on, and Glenn Pinder works at Glenn  
14 Waverley, so I don't think he - unless - unless, unless  
15 for some reason my timeframes are wrong and I've moved  
16 to the Academy later.

17 MS BOSTON: But your recollection is, well, certainly George  
18 Buchhorn had come to visit you at the  
19 Academy - - -?---That's right.

20 - - - in January 2000, and that's - - -?---Sorry, Ms Boston,  
21 I don't know when he came to visit me other than  
22 the - - -

23 The note. Well, if we accept his note, he came and saw you  
24 about six weeks before this statement is dated at the  
25 Academy?---Right.

26 Would there have been any reason for him to visit you at the  
27 academy while you were still stationed at the  
28 Cheltenham Police Station?---Um, I don't know.

29 Isn't it more likely that there had been an earlier version

1 of this statement which had been drafted whilst you  
2 still were a senior constable stationed at the  
3 Cheltenham Police Station?---If this is indeed my  
4 statement, and it looks like my signature on there, I  
5 didn't make that at Cheltenham Police Station, so.

6 I appreciate you didn't sign this particular statement at  
7 the Cheltenham Police Station; what I'm putting to you  
8 is, in circumstances where, firstly, there's a table  
9 indicating that you had made a statement by 24 August  
10 1998 - - -?---Right.

11 - - - secondly, where you remember giving evidence to  
12 detectives on the morning of 16 August 1998 and signing  
13 something, and thirdly, where this statement says  
14 you're a senior constable stationed at Cheltenham  
15 Police Station when you had, by 2000, left that  
16 station, doesn't that all suggest to you that you had  
17 in fact made an earlier statement in relation to  
18 Operation Lorimer?---Um, no, and the overview you've  
19 just offered me felt like it had about three parts in  
20 it so it's confusing me a little bit.

21 I apologise for that?---And one of the items you noted was  
22 about me making a statement on the scene in the  
23 morning. I don't remember what I said to the  
24 detectives in the morning, and I've never seen that  
25 again.

26 What you've said, though, is that you gave an account to  
27 detectives on that morning of the events?---Yes.

28 And that you remember signing something?---That's right.

29 I've also shown you a document which states that by



1           24 August 1998 you had in fact made a statement. The  
2           third piece of information we now have is that, as of  
3           29 February 2000, when your statement which went into  
4           the brief is stated, you were no longer stationed at  
5           Cheltenham Police Station?---Right.

6           And yet your statement says, "I am a senior constable of  
7           police stationed at Cheltenham Police Station"?---That  
8           stands out to me.

9           And the fourth piece of information is that, six weeks  
10          before this statement is dated, George Buchhorn had  
11          visited you at the Academy where you were stationed at  
12          that time and you are not able to provide any detail  
13          about what happened. What I'm putting to you is, don't  
14          those four pieces of information suggest that, prior to  
15          29 February 2000, you had previously made a statement  
16          in relation to Operation Lorimer?---Ah, not to me.

17          "Not to me"?---Well, it doesn't - it doesn't indicate that  
18          to me because I hadn't done that.

19          Isn't it possible that you've just forgotten, it's been  
20          20 years?---I don't know.

21          Do you accept that it's possible that you had made a  
22          statement and you've simply forgotten about that now,  
23          some 20 years later?---Look, apart from me offering  
24          information to detectives at the scene, if my memory  
25          serves me, my recollection is that I made a formal  
26          statement based on a request from Lorimer Task Force  
27          when I was at the Academy; that's it.

28          COMMISSIONER: Now, I was asking you, when you made that  
29          statement at the Academy, did Mr Pinder have any

1 documents at all that he was able to have recourse to,  
2 or did this statement come entirely from your  
3 memory?---I think so. I think so, because there was  
4 pressure to supply something; all of a sudden, it was  
5 quiet, quiet, and then go, sort of thing, and so, I  
6 have - I would typically use something to help me, and  
7 so, I can only imagine at the time I would have reached  
8 out for some additional information. I may have even  
9 gone back to the - I mean, I'd be surprised if I didn't  
10 go back to the running sheet, and maybe I - you know, I  
11 looked at it and thought, well, that's rubbish, in  
12 that, it hasn't offered me much.

13 It certainly wouldn't have assisted you in giving this  
14 detail of information?---No. No, so what did I lean  
15 on?

16 You said a moment ago that you would have been looking for  
17 whatever you could to have recourse to - - -?---Yes.  
18 - - - that would assist your memory. Well, did you say to  
19 Acting Sergeant Pinder, "I gave an account to the  
20 Homicide Squad on the night and I believe I signed  
21 something, do you have that information"?---Makes very  
22 clear sense to me now, Commissioner, but I can't - I  
23 wasn't even sure who signed my statement, so I  
24 wouldn't - I couldn't remember. It makes sense  
25 logically, but I don't recall asking Glenn Pinder  
26 because I didn't know he'd sign my statement, that's  
27 all.

28 MS BOSTON: If we could just go back to Exhibit 202, please.  
29 We've gone through the paragraph in relation to the

1 first time that you were with Senior Constable Miller.  
2 If we go to the second time on p.3059, please. The  
3 second paragraph: "I then approached the injured police  
4 member to see if he was all right. He said something  
5 but I didn't know what he said. I just said, 'Just  
6 hang in there', he said he couldn't breathe, some other  
7 police were with this injured member so I didn't do  
8 anything as I knew the ambulance was en route." You go  
9 on to say: "I don't have a clear recollection of  
10 anything else he said apart from saying he was having  
11 difficulties breathing." When you said you didn't have  
12 a clear recollection of anything else he said, I take  
13 it you had some recollection of other things he'd  
14 said?---"A clear recollection of anything else he  
15 said." I think it - look, I think at this point - I  
16 have written that because I haven't - I've known that  
17 Rod was talking, but um, you know - well, I still don't  
18 have a clear recollection of what he said, but what I  
19 can say as a fact in terms of what I have a clear  
20 recollection of is what others were saying. I also was  
21 led to believe that that was hearsay evidence and not  
22 to be entered or approached in my statement, so I've  
23 ended up with this sort of quite wooden, you know - - -  
24 When you say that you were led to believe that what other  
25 members were saying was hearsay, are you talking about  
26 other members who were also with you with Senior  
27 Constable Miller?---Ah, yes.  
28 So, you heard them saying things whilst you were with them  
29 and Senior Constable Miller?---Sorry, can you say that

1           again?

2       You heard those other members saying things whilst you were  
3           with them and Senior Constable Miller?---Yes.

4       Who led you to believe that that would be hearsay and so you  
5           shouldn't include it in your statement?---Well, who's  
6           led me to believe that? I don't know, I don't know, I  
7           don't know. I know that I was at a point, I think,  
8           that I knew if you're not 100 per cent certain, don't  
9           put it in there, sort of, you know. And, that's why,  
10          you know, I've thought back over this very scene and  
11          Rod talking, and I'm - yeah, I'm - not that I've lost -  
12          I've lost my train of thought slightly.

13       When you say you don't have a clear recollection of anything  
14          else he said, were you asked by anybody to - I withdraw  
15          that. Do you remember giving evidence at the trial of  
16          Roberts and Debs?---I remember - I remember attending  
17          there and - to give evidence at the Supreme Court, not  
18          the committal.

19       Before I get there, sorry, I've jumped ahead a little  
20          bit?---That's fine.

21       When you said you'd remembered what other members were  
22          saying, what is it that you remembered them  
23          saying?---They were getting, as I understood, better  
24          information and, you know, I remember them commenting  
25          on - you know, and you're trying to get information in  
26          a scene like that, so you know, they have talked about  
27          two offenders, dark Hyundai, and that's sort of the  
28          main thing that sticks with me, and that was backed up  
29          for literally years after.

1 When you say "they have talked about it", are you talking  
2 about, that's what you heard them say on the night or  
3 that's what you know they said they said because of the  
4 last 20 years?---Well, I think they said that on the  
5 night as well as backing it up over a period of time.

6 So you had a recollection of hearing other members talk  
7 about two offenders and a dark Hyundai; is that your  
8 evidence?---That's right, yes.

9 Any reason, apart from what you've already told us about  
10 thinking it was hearsay, as to why that wouldn't be  
11 important information to go in your statement?---Sorry,  
12 have I got any more to add?

13 Don't you think that would have been important information  
14 to include in your statement, that you overheard other  
15 members talking about two offenders and a dark  
16 Hyundai?---Oh, I think - I think it was all - I think  
17 it was all important, and I - I can't remember my  
18 thinking as to why, why that's not there other than the  
19 hearsay rule and that was, I think, my thinking at the  
20 time.

21 COMMISSIONER: As a student of the evidence clause, you  
22 would have assumed, I take it, that something said by  
23 police officers at the time that Mr Miller is also  
24 making observations would be part of the res gestae of  
25 the events, wouldn't it?---Yes, and right till today  
26 I believe - or, I believe that the information that -  
27 and it's apparent to me that other members that I saw  
28 taking information had that dying declaration  
29 information, you know, better, firsthand and so forth

1 to me, and that that had actually been supplied within  
2 their statements and, therefore, whilst I didn't - it  
3 gave me a certain bit of confidence to think, well, I'm  
4 not certain, these members are certain and, because I'm  
5 not certain, you know, why would I introduce that? My  
6 understanding is, the police will make their - other  
7 colleagues will make their statements of what they  
8 heard; what I heard was, in the end, uncertain to me,  
9 so I didn't put it in.

10 MS BOSTON: There's been evidence before the Commission of a  
11 practice of leaving out witness descriptions of  
12 offenders or vehicles from statements, at least  
13 initially, and recording them elsewhere. Firstly, are  
14 you aware of that practice?---No.

15 Did anybody ask you to or tell you to not include  
16 descriptions of offenders or vehicles in your  
17 statement?---No.

18 COMMISSIONER: When did you first recall that you'd heard  
19 something about the number of offenders or any  
20 description? Is that something you've always  
21 remembered or something that's recently occurred that's  
22 refreshed your memory?---Always remembered. On the  
23 morning I was sure that I had heard members say, you  
24 know, words along the lines of, you know, "Two  
25 offenders". You know, whether they were on foot or  
26 not, I don't know.

27 That information, did that influence what you thereafter did  
28 in terms of searching, or was that something you heard  
29 after you'd done your search?---I think, because of the

1 chaos at the scene, you never really know what you  
2 have, so you'd be foolish to think that there weren't  
3 more than one, two or three. So, in terms of a search,  
4 I really didn't know what I would come across, but  
5 my - - -

6 I understand that. I'm just asking, are you able to say  
7 when you heard that information about the number of  
8 offenders? Was it before you conducted the search or  
9 afterwards?---I can't.

10 All right, if you can't - - -?---No, I can't really  
11 remember. I mean, it feels like that it was being  
12 relayed to me and it would make sense because, if I  
13 were the other members on the ground sort of supporting  
14 Rod, I'd be feeding that information out, so, you know,  
15 I just wasn't certain that Rod had said that himself  
16 but others had.

17 MS BOSTON: If we could go to Exhibit 400, please. This is  
18 a transcript of the evidence you gave at the trial of  
19 Debs and Roberts in 2002?---Sorry, this is in 2002?

20 Yes, this is 30 August 2002, this is a transcript of the  
21 evidence that you gave at the trial. If we could go  
22 down to line 28, please, on p.3883. At line 28 you are  
23 asked by Mr Kidd who represented Jason Roberts at that  
24 time: "Do you now recall anything Mr Miller said on  
25 this first occasion?" Answer: "There was mention of a  
26 dark Hyundai but I'm not sure if Mr Miller said that."  
27 You've given evidence this morning that you think it  
28 was - as I understand it, please correct me if I'm  
29 wrong - that you thought it was the members who were

1 saying that and that's why it wouldn't have been  
2 included in your statement. Does this change your  
3 position at all, seeing this evidence you gave at the  
4 trial?

5 COMMISSIONER: Sorry, change his position about what?

6 MS BOSTON: In terms of why you did not include the  
7 description of the vehicle in your statement?---Ah,  
8 okay, so I've said to Mr Kidd that there was mention of  
9 a dark Hyundai. Well, that - my interpretation of that  
10 is, if that were not in my statement, then maybe one of  
11 the other members had said that. I can't remember  
12 anything of being cross-examined.

13 What I'm getting to is, you recall the diary notes from  
14 Detective Eden that I took you to earlier which she's  
15 noted on the morning of 16 August at 9.20, "Statement  
16 from Senior Constable Adams." Detective Eden has given  
17 evidence before this Commission that it was her  
18 practice not to include descriptions in statements.  
19 So, what I'm getting at really is, was there any  
20 request by anybody at any time not to include  
21 descriptions in your statement?---I don't recall a  
22 request like that, but I will - I've got to be adamant  
23 about that first process; it still doesn't feel like  
24 that was my statement, I don't feel like I offered  
25 enough in that first conversation with the Lorimer Task  
26 Force, hence me looking forward to offering a statement  
27 which ended up being, you know, whatever it was  
28 18 months later. So, I don't remember - I don't  
29 remember what I said to the detectives at the scene and



1 I don't remember what they asked of me.  
2 You gave evidence at the committal, you recall that, in  
3 2001?---I remember going to the committal and being  
4 cross-examined.  
5 Ordinarily, when a committal hearing takes place you'd be  
6 asked beforehand to provide your notes and so forth;  
7 that's what normally happens, isn't it?---Yes.  
8 Did you ask anybody any time what happened to the account  
9 that I gave on the morning of 16 August to  
10 detectives?---I must have, I must have, because I would  
11 typically use things to prepare, and I would have -  
12 when Lorimer Task Force came out to the Academy  
13 18 months later, I would have been scrambling for  
14 information to support and back up what I was  
15 preparing, and so - - -

16 COMMISSIONER: But that's an assumption on your part,  
17 Mr Adams, you assume you would have asked?---Yes.  
18 But you have no memory of it?---No, I don't, no, I don't.

19 MS BOSTON: You understand, don't you, that the reason that  
20 notes and so forth are requested prior to committal are  
21 to comply with the disclosure requirements of police  
22 and prosecutors to disclose relevant evidence to the  
23 defence?---Yes. I'd be surprised if I said to anybody  
24 I had notes, because when I leant on the - I leant for  
25 the running sheet, there was very little in that - I  
26 might have used it for timeframes - and then, you know,  
27 I was working off, you know, whatever I had at the  
28 time, but I don't remember ever working off what you're  
29 calling a statement made in the morning. I would

1 expect that Lorimer would have said, hey Francis, you  
2 know, we've finally got to you, here's something you  
3 offered us in the morning, this is your statement. I  
4 don't - that certainly never happened, so I don't know  
5 what's in that statement.

6 Do you know a Detective Mark Wise?---I remember speaking to  
7 him briefly on the morning, yes.

8 Do you recall his name?---Yeah, I do, because I think I  
9 played football with him.

10 Those are the matters, Commissioner.

11 COMMISSIONER: Thank you. Are there any counsel present who  
12 have any wish to cross-examine?

13 MR MATTHEWS: Just one matter I would seek to cross-examine  
14 about.

15 COMMISSIONER: What's that, Mr Matthews?

16 MR MATTHEWS: Which is that, the evidence that Mr Adams gave  
17 at the committal, there was evidence given as to his  
18 state of mind as to the number of offenders as he was  
19 searching, and just in light of what has been led from  
20 him in order to provide you with a complete picture on  
21 this relevant matter, I simply put that to him,  
22 Commissioner. That's at pages 1081-1082 of the  
23 transcript.

24 COMMISSIONER: Yes. Anyone else that has any questions they  
25 want to ask? I'll let you, Ms Hussan, then ask any  
26 questions you want to following that cross-examination.  
27 Yes, proceed, Mr Matthews.

28 <EXAMINED BY MR MATTHEWS:

29 Mr Adams, you've told the Commission that you recall being

1 cross-examined at the committal hearing in this  
2 matter?---I thought I said the trial at the Supreme  
3 Court.

4 Certainly you said that, I just wanted to perhaps provide  
5 you with a lead in to what I'm going to ask you,  
6 because I'm going to ask you about a particular series  
7 of questions and answers you gave at the  
8 committal?---Yes.

9 It was when you were being asked about your search of the  
10 carpark of the Silky Emperor?---Right.

11 Does that ring a bell? You were giving evidence at the  
12 committal about conducting a search?---I searched it  
13 twice.

14 Yes?---Are we talking about the first search?  
15 We're talking about the search that occurred with the  
16 dog?---Right.

17 Does that assist?---Okay. I definitely did it.  
18 You were being asked quite a series of questions I won't  
19 trouble you with about that, and talking about coming  
20 to a wire fence and the dog veering left, and you were  
21 providing support with your firearm during that  
22 process - this is just a series of questions leading to  
23 what I want to ask you, sir. You were then asked:  
24 "Your approach to that was that you could come on an  
25 armed offender at any moment?" "That's right", you  
26 answered?---That was indeed a very real threat to us at  
27 the time.

28 Certainly, Mr Adams. Then you were asked, I'll just read  
29 you these three questions. You were asked: "That had

1 to be your approach given what had happened, but you  
2 did that because there was a very real chance in your  
3 mind that there would be an armed offender lurking  
4 around there on foot somewhere, yes?" Answer: "Yes."  
5 Okay?---Okay.

6 Then the next question you were asked - this is p.1081, sir:

7 "Was your information at that stage that, how many  
8 offenders did you think there had been involved in the  
9 shooting at that stage?" Answer: "Wasn't sure."

10 Question: "Was it possible that it was only one at that  
11 point or did you know that it was more or think there  
12 was more?" Answer: "I didn't know who the threat was  
13 or how many or ..."

14 Then you're asked a question:  
15 "When you got to the fences did you go over the fences  
16 or under them?" Answer: "Predominantly over."

17 Question: "Do you remember going under any fences?"  
18 Answer: "No." And the question leans off into that  
19 question?---Okay.

20 I've read you those three questions and answers. Your  
21 evidence at the committal was that, at the point you  
22 were conducting the search and approaching the fences  
23 with the dog, you didn't know it was more than one  
24 offender or think there was more than one offender,  
25 your answer was: "I didn't know who the threat was or  
26 how many or". So, were those answers - you were doing  
27 your best at that time to give truthful answers of  
28 course?---I - yes, of course.

29 That's quite some - I know that's a long, long time ago,  
that's in October 2001, Mr Adams.

1 COMMISSIONER: Well, Mr Matthews, you've had the benefit of  
2 drawing that to my attention, the witness is obviously  
3 not departing from that position, is there really  
4 anything more that you want at the moment?

5 MR MATTHEWS: No, that was all I wanted to draw to your  
6 attention, sir.

7 COMMISSIONER: Yes, thank you.

8 MR MATTHEWS: Thanks, Mr Adams.

9 WITNESS: Could I just say one thing? Sorry, Commissioner.

10 COMMISSIONER: Yes, Mr Adams?---I know a lot of things have  
11 come out around, you know, numbers; but, you know,  
12 really, under the circumstances, having listened to  
13 what you've said to me about what I said 18 years ago,  
14 I don't know, were there more? Were there more than,  
15 you know, three, four guys, I don't know. I just can't  
16 remember, I just can't remember.

17 MR MATTHEWS: Thank you, Mr Adams.

18 MS HUSSAN: I have no questions for Mr Adams, Your Honour.

19 COMMISSIONER: Very good. Ms Boston, what's the current  
20 thinking about whether there's any likelihood that  
21 Mr Adams will have to be recalled?

22 MS BOSTON: It's highly unlikely, Commissioner, but I can't  
23 rule it out.

24 COMMISSIONER: Very good. So, Mr Adams, your examination  
25 today is concluded. I'd really like to formally and  
26 completely excuse you from further attendance, but  
27 because it's an ongoing inquiry there remains the  
28 possibility, remote though it is, that you might have  
29 to be recalled, so I'll simply adjourn any further

1 examination of you, the summons will remain in place.  
2 If there is a need for you to be recalled we will  
3 advise you in writing, we will liaise with you so that  
4 you can come at a time that suits your convenience.

5 The confidentiality notice will remain in place  
6 but, because your evidence is public, most of the  
7 aspects of confidentiality cease to have any relevance.  
8 But there is an order for witnesses out of court which  
9 means, and you would know from your past experience,  
10 which means you're not at liberty to talk with either  
11 witnesses that have been or will be called to discuss  
12 your evidence or their evidence, so that prohibition  
13 you'll keep in mind?---Yes, Commissioner, I understand  
14 that component still applies.

15 Otherwise, I thank you for your attendance and your  
16 assistance. We'll adjourn until 2 o'clock.

17 <(THE WITNESS WITHDREW)

18 Luncheon Adjournment: [12.27pm]

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1       UPON RESUMING AT 2.06 PM:  
2       COMMISSIONER:  Yes, Mr Rush.  
3       MR RUSH:  I call Ms Poke.  
4       MS LACY:  Yes, I appear for Helen Poke.  Lacy is my name.  
5       COMMISSIONER:  Yes, Ms Lacy.  
6       MS LACY:  Could I raise, too, Ms Commissioner, that Ms Poke  
7               is - - -  
8       COMMISSIONER:  Have a seat in the witness box.  
9       MS LACY:  She is under rehabilitation following surgery and  
10              she has trouble standing or sitting for long periods of  
11              time.  She may need to alter her position from time to  
12              time.  
13      COMMISSIONER:  Certainly.  Thank you, Ms Lacy.  
14      <HELEN MARIA POKE, sworn and examined:  
15      COMMISSIONER:  Have a seat, Ms Poke.  Firstly, as you  
16              understand, your lawyer, Ms Lacy, is here, and she will  
17              be able to ask you questions at the conclusion of the  
18              examination by counsel assisting and, if you want to  
19              add anything that you don't feel you've adequately  
20              covered by your answers, you will have an opportunity  
21              to do that.  
22              I understand that there is a welfare person, an  
23              independent person present, Venita Hudson, so if at any  
24              stage you feel that you are having difficulty in  
25              answering questions, would like a break, or need some  
26              support, please let me know and we'll adjourn for a  
27              period of time to enable you to compose yourself or do  
28              whatever you need to, to feel that you can adequately  
29              answer questions, okay?---Yes, sir.

1 I need formally to just list to you the matters about which  
2 you are going to be examined. You will be examined  
3 about the Lorimer Task Force investigation of the  
4 murders of Sergeant Gary Silk and Senior Constable  
5 Rodney Miller, concerning the taking of witness  
6 statements, the preparation of the brief of evidence  
7 for the trial of Debs and Roberts, and whether there  
8 was full disclosure of witness statements or other  
9 relevant information prior to or during the trial,  
10 witness statement-taking practices generally by  
11 Victoria Police, and compliance with the obligation to  
12 disclose evidence by Victoria Police.

13 When you were served with a summons there were  
14 some other documents served at the same time, a  
15 confidentiality notice which set out your rights and  
16 obligations. Has Ms Lacy gone through that with you  
17 and discussed your rights and obligations?---This  
18 morning.

19 Do you wish me to repeat those things?---No, sir.

20 Very good. Yes, Mr Rush.

21 MR RUSH: Ms Poke, there are some formalities I need to go  
22 through?---Yes.

23 Is your full name Helen Maria Poke?---It is.

24 Do you live at an address which is on the summons that was  
25 served upon you?---Yep.

26 If you could have a look at these documents, please. Is the  
27 summons that was served on you on 20 December 2018 with  
28 the number SE2756?---Yep.

29 You've indicated to the Commissioner that, with the summons,



1           you've received the statement of rights and  
2           obligations; that was served upon you as well?---Yeah,  
3           with a whole bunch of other.

4       I just need to do this: a covering letter of 12 December  
5           2018?---Yep.

6       There was also a summons for production of documents served  
7           upon you within the summons, I think. You've produced  
8           no further documents in relation - - -?---(Indistinct).  
9       Good. I tender those documents.

10       #EXHIBIT G - Documents received via summons by Ms Poke.

11       WITNESS: My address doesn't get published, does it, sir?

12       MR RUSH: No, that's why - - -

13       WITNESS: Sir, my address doesn't go out anywhere, does it?

14       COMMISSIONER: No. There's an order in place that any  
15           information you provide that would - we call contact  
16           details - is not to be published.

17       MR RUSH: Ms Poke, can you tell us when you joined the  
18           police force?---April 1985.

19       Could you just very shortly run through your career in the  
20           police force?---Um, there was a two year probationary  
21           period, so at that time I did general duties policing  
22           at Frankston and Dandenong. I then was attached to  
23           Oakleigh Police Station. From there I went to the  
24           Black Rock Highway Patrol - oh, they weren't called  
25           Highway Patrol then but they are now, which became  
26           Caulfield Highway Patrol. I went to the National Crime  
27           Authority Surveillance Unit, I went to Caulfield  
28           Criminal Investigations Unit. I went to Accident  
29           Investigation Squad, then I went to Moorabbin Highway

1 Patrol, Moorabbin uniform, Cheltenham uniform where  
2 this incident occurred, and then down to Frankston  
3 Highway Patrol, got promoted, traffic alcohol section,  
4 then back to Moorabbin after that and to the Highway  
5 Patrol and then to Prahran Highway Patrol where I'm  
6 officially attached but I'm working out of Moorabbin  
7 and Cheltenham at the moment on light duties.

8 I need to go briefly back in time to 16 August 1998 and, as  
9 you've indicated then, you were posted or stationed at  
10 Cheltenham?---Yep.

11 On that morning were you in fact on divisional van  
12 duty?---Yep.

13 Were you in the company of Senior Constable Thwaites?---Yes,  
14 I was.

15 Do you recall now who was driving the vehicle or responsible  
16 for driving the vehicle on that day?---Me.

17 As a consequence of you driving the vehicle, is there  
18 responsibility on the other member for the preparation  
19 of the patrol duty return?---Correct.

20 Did you very early that morning receive a radio call for  
21 police to urgently attend Warrigal and Cochranes  
22 Road?---Yes.

23 Do you remember where you were located at the time of that  
24 call?---Yep.

25 Was it at a service station?---Yep.

26 You have a recollection, do you not, of actually speaking to  
27 the person who was attending taking measurements of the  
28 petrol area - or the fuel at the service  
29 station?---Yep.

1 When you attended the scene at Warrigal and Cochranes Road,  
2 did you subsequently, after your attendance, go to the  
3 assistance of Mr Miller?---Yes, I did.

4 Prior to that, had you particularly noticed, I think Senior  
5 Constable Clarke running down the road, or you don't  
6 remember?---I remember him standing - when I was in the  
7 van, I was already at the intersection of Cochranes and  
8 Warrigal, and Clarke, Senior Constable Clarke was - I  
9 think he was standing there doing traffic, I don't  
10 know, and then we all ended up with Rod, so I don't  
11 know if I saw him running down the road.

12 I just want to mention a couple of names to you. Do you  
13 remember Senior Constable Pullin being with you at that  
14 time?---Yes.

15 With Mr Miller. Senior Constable Thwaites, was he in that  
16 area as well?---Yes.

17 Senior Constable Clarke?---I knew he was there, I don't know  
18 where he was in relation to me.

19 And Constable Brad Gardiner?---Yep.

20 When the ambulance attended at the scene, did you give  
21 instructions to Constable Gardiner?---Yeah.

22 Can you give us the substance of the instruction that you  
23 gave to Constable Gardiner?---I told him to go into the  
24 ambulance with Rod.

25 What was the purpose of that?---Well, Rod was talking.

26 Did you give him instructions to - - -?---Rod was talking  
27 until we got him onto the trolley, and then we pushed  
28 the trolley to the back of the ambulance, and I said to  
29 Brad, "Go in there, stay with him, follow him wherever

1 he goes in the hospital and write down every word he  
2 says", but I believe Rod didn't say anything else.  
3 Was the reason for that because you saw the importance at  
4 that time of ensuring that those words were written  
5 down?---Yes.  
6 I want to move on a bit - - -  
7 COMMISSIONER: Just a moment, Mr Rush. Would you like a  
8 couple of moments, Ms Poke?---Are you finished talking  
9 about that bit?  
10 MR RUSH: I've finished talking about that bit.  
11 WITNESS: Yeah. Okay.  
12 MR RUSH: Did you, after a period of time at the crime  
13 scene, then return to patrol duties?---Ah, we were -  
14 there was a dog unit there, I don't know who he was,  
15 and the dog was getting a track, and the area's not  
16 like what it was back then, there's Bunnings and  
17 everything there now; it was Melbourne Water and it was  
18 vacant land, and usually only members from Cheltenham  
19 knew the back way down side streets into the paddocks,  
20 let's call them paddocks. So, the dog was tracking a  
21 certain direction, I believe, and I think it came over  
22 the radio that they were trying to get into the  
23 backtracks with their cars but they didn't know the  
24 street, and if you worked at Cheltenham you knew which  
25 street to go down and which pole to pull out of the  
26 ground and drive on the dirt. So, we did that for a  
27 bit, but you can only get the van so far, and then we  
28 had to come back out on the road and go around the big  
29 block, and we sat in a quarry driveway on Old Dandenong

1 Road, facing back towards Warrigal, but there's, like,  
2 lots of big empty space in between, and did that until  
3 we were told to move there. Then they asked us to go  
4 back to what is now Bunnings carpark because some dude  
5 was found in the back of a car passed out, and they  
6 asked us to put him in the van and take him back to  
7 Moorabbin, and I didn't go back to the scene after  
8 that.

9 I want to just take you briefly to Exhibit 103.

10 COMMISSIONER: It will be brought up on the screen for you,  
11 Ms Poke, so you can look at the screen.

12 MR RUSH: Page 2285. It will come up on the screen.

13 COMMISSIONER: There's a problem with that exhibit. Do we  
14 have a hard copy? It seems that that particular  
15 exhibit, the directory's said to be invalid.

16 MR RUSH: I have had it up before, Commissioner.

17 COMMISSIONER: Well, it's become invalid now, Mr Rush.  
18 Whilst you're doing that, we might have a back-up that  
19 we can log on to. Can you proceed with the hard copy  
20 for the moment?

21 MR RUSH: I can, Commissioner, if that could be shown to  
22 Ms Poke. (To witness) Up in the right-hand corner  
23 there are some page numbering; do you have p.2285  
24 there?---Yes.

25 I just want to take you to a couple of terms there. See  
26 "0140" in the left-hand column under the part that's  
27 been blacked out?---Yep.

28 Could you just read what that says?---"Senior Constable  
29 Adams with canine 207 updates. Possible shots heard in

1           vacant land area."

2           Is that what you've just been referring to?---The block,  
3           yeah.

4           Then there's some further blacking out under "0224", then  
5           there's reference there to a vehicle search with the  
6           person apparently being exonerated. Then, underneath  
7           that, "Resume static patrol"?---Yeah.

8           You will see that term used down the sheet; what's meant by  
9           "static patrol"?---You sit in a spot.

10          Sitting in a spot?---So, where that dude Kos - that you  
11          pointed up above, exonerated, he was taken away by that  
12          central unit. He did something else.

13          Okay?---And then we went back to the spot we were in and  
14          then we had to - that's right, I went back to the  
15          station, I had to - where it says we went to the  
16          station before we put that crook in the back.

17          Then we see, at 0320, you're back on static patrol?---Yeah.  
18          Then roving patrol, and then at 0415, "Convey suspect of",  
19          what's that?---Mr Casey.

20          Mr Casey, that was back to Moorabbin?---Yeah, he was the one  
21          asleep.

22          What I want to ask you is, whilst on static patrol did you  
23          make any notes?---Yes.

24          Where did you make those notes?---In that driveway. Where  
25          we sat with - where this guy got pulled up, this - that  
26          bloke, Kolos - that bloke, Kolostoubis, there's Old  
27          Dandenong Road and it was a quarry, and it's sort of  
28          like part bitumen on - if you're heading towards  
29          Warrigal Road, part bitumen and then goes to dirt, and

1           then on the other side was a driveway with a Cyclone  
2           fence which was the quarry, we was tucked up in there,  
3           so we could see straight down and that's where we sat.  
4           And, I believe - well, Graeme was writing, so I assumed  
5           he was writing the running sheet and I was writing in  
6           my notebook.

7   COMMISSIONER:   That's Mr Thwaites?---Yes, sir, sorry.  
8           That's all right.

9   MR RUSH:   What do you use?   Is it a police notebook?---It's  
10           a little black thing.

11           What then was your practice in relation to the use of that  
12           notebook?---First opportunity I - if I'm talking to  
13           somebody in the street, a suspect, I'll write their  
14           details as I go, but that was an evolving scene so that  
15           was the first opportunity we had to stop, so to speak,  
16           and I wrote my notes then.

17           In the circumstances of this morning from your perspective  
18           was there any importance to the notes that you  
19           made?---Yeah, 'cos I heard what Rod said.

20           Could we have a look at those notes which is Exhibit 85.

21           I'm told, Commissioner, we can't at the moment bring up  
22           any exhibit.   I'm just wondering if it's possible to  
23           rectify this in five minutes, whether it's worth  
24           adjourning.

25   COMMISSIONER:   Pardon me a moment, Mr Rush.   We'll adjourn  
26           for five minutes, Mr Rush.

27   Hearing adjourns:   [2.26 pm]

28   Hearing resumes:   [2.31 pm]

29   COMMISSIONER:   I understand things are now in order.   Yes,

1           please, Mr Rush.

2       MR RUSH:   So, Commissioner, Exhibit 85 is the notebook.

3       COMMISSIONER:   Have a seat, Ms Poke, I'm sorry.

4       WITNESS:   Thank you, sir.

5       MR RUSH:   We might use a hard copy, Commissioner.

6       MR MATTHEWS:   Commissioner, I have a difficulty, I don't

7           have a copy of this document that's legible, I wonder

8           if I might have a copy just for the purposes of

9           following.

10      COMMISSIONER:   Yes, is one available?

11      MR RUSH:   I don't have a spare copy, Commissioner.

12      COMMISSIONER:   Have mine, Mr Matthews.

13      MR MATTHEWS:   I'm very grateful, Commissioner.

14      MR RUSH:   Firstly, what we see is a photocopy of

15           the - - - ?---Inside front cover.

16      Yep, front cover.   There we are.   The Commissioner probably

17           would like his copy back.

18      COMMISSIONER:   Thank you.

19      MR RUSH:   So, that's the front cover and extracted on the

20           next page, 1995, is your notes that you say you made on

21           16 August concerning the events.   That follows, does it

22           not, Ms Poke, at p.1996, yes.

23      And at p.1997?---Yes.

24      At the bottom of p.1997, I'll read it to you, you noted:

25           "Keep calm.   Reassurance.   He said 'I'm fucked, help

26           me'.   He said, 'On foot, two.   One by foot.   6 foot'."

27           And I'll come to it, but you say that is "one checked

28           shirt.   Dark Hyundai."   That's what you've noted in

29           relation to conversation.   You note at the third



1 line from the bottom of the page that that was repeated  
2 over and over?---Yeah.

3 Then, at p.1998 you made further notes, and also at the  
4 bottom of that page a diagram, and the diagram  
5 represents what, Ms Poke?---Where - where we were.  
6 I need to ask this. If we could go back to Exhibit 103.

7 COMMISSIONER: Do you want those documents left with the  
8 witness, Mr Rush?

9 MR RUSH: There's no need, no. Exhibit 103 at p.2285, at  
10 the bottom of the page. There's an entry there, as you  
11 see at the bottom of the page, "0415 convey suspect of  
12 AA 22", what's that?---C and B was the old code for  
13 Moorabbin Police Station.

14 Then you've got the name of the person that you conveyed  
15 back?---Yes.

16 Then you refer to the name for Senior Detective Eden,  
17 Homicide Squad?---Yeah.

18 Do you recall what that was about?---She's the one who told  
19 us to take Mr Casey back.

20 When I say "you conveyed", these are notes made by  
21 Mr Thwaites?---Yeah, he went in the back of our van so  
22 his name went in the running sheet.

23 Then, at p.2286, at the top of the page, you reference there  
24 "Inspector Cooper re suspects." Do you recall what  
25 that was about?---The boy in the back of the van.

26 Good. Then if you go down to the fourth line, "Briefed re  
27 instructions from Homicide Squad." That's what's  
28 written?---Ah, can you - it's too - I can't see the  
29 top.

1 Okay. "From acting Super Cooper instructed to see/attend  
2 police." As best you recall it, was that an  
3 instruction to attend police for the purposes of making  
4 a statement?---No, we were told by Mr Cooper, he was in  
5 the sergeant's office with other bosses, that Mr Cooper  
6 was the highest ranked officer, and at that location we  
7 were told that Rod had passed away - we were told that  
8 Rod had passed away and it hadn't been broadcast yet,  
9 and then we were told to walk down the corridor and  
10 what was the Community Policing office was where the  
11 police psychologist and someone else was there, and  
12 then there was some detective down the end in the  
13 highway patrol - well, now called highway patrol, but  
14 it was called the traffic operations group, and we had  
15 to go there and see him. So, as you walk down the  
16 corridor at Moorabbin, it's a long corridor, so stopped  
17 off at the first indent and spoke to the welfare dude,  
18 and then went down to see this homicide, or detective  
19 or whatever he was.

20 Can you see the time there is 0500?---For Mr Cooper?

21 Yes?---Yes.

22 And then there's a later entry at 0700?---Yeah.

23 Which is written by Mr Thwaites: "Instructed by Grant Kelly  
24 SD 25603 Homicide Squad re statements"?---Yeah.

25 Firstly, in relation to the person that you saw for taking  
26 statements came from the Homicide Squad?---I didn't - I  
27 didn't remember his name, I really couldn't - all I  
28 knew, it was a bloke. I didn't even remember his name  
29 without reading the running sheet.

1 Does that jog your memory, looking at the running  
2 sheet?---Yeah.

3 And jog your memory as to him being a senior detective from  
4 the Homicide Squad?---Yes.

5 In relation to the making of a statement, was there a  
6 computer where you went to?---Yeah, we were in the  
7 sergeant's office at the highway patrol, and back then  
8 there was only one computer in the office, so that's  
9 all we had access to. So, Graeme and I sat down at  
10 this one computer and Graeme started his statement and  
11 I just sat next to him.

12 Over a period of time did he complete his statement at the  
13 computer?---I believe it was completed, yeah.

14 When he concluded, did the detective view the  
15 statement?---Yeah, we went up together. We were sort  
16 of like peas in a pod, we didn't leave each other. So,  
17 even though we were only, like, walking from, say, your  
18 desk, sir, to my desk here, we went together, I didn't  
19 leave him. So, he went up to this detective, yes, and  
20 gave him the statement.

21 Did you see the detective read the statement?---Yeah.

22 Was there anything said by the detective after reading the  
23 statement?---Yeah, he criticised what was in it.

24 And, to the best of your recollection, what was the nature  
25 of the criticism?---That we shouldn't be putting in the  
26 descriptions and some of the - I don't know what Graeme  
27 actually wrote in it, but he basically was saying we  
28 shouldn't be putting in descriptions and all this  
29 irrelevant stuff, and to tell you the truth, I cracked

1           it and - - -

2       Can I just ask you to move the microphone just a little bit

3           closer?---Sorry, sir.

4       That's all right?---I cracked it and - - -

5       You might just move it a bit so that you're speaking into

6           it?---I cracked it and I told him what he could do with

7           his statement.

8       I need to ask you a little bit about this.  What was it that

9           was in the statement that was said he didn't

10          like?---Well, he didn't like the description that's in

11          my notebook and what Graeme had written.  I think he

12          wrote it on the running sheet, I remember reading it in

13          the trial or something, the description, the words that

14          Rod kept saying, he didn't want in there.

15       Is that when you say you cracked it with him?---Yeah.  I

16          wasn't feeling too healthy at that stage, I can tell

17          ya.  I was a little bit trashed.

18       And, I think you said, he wanted the descriptions

19          removed?---Yep.

20       We've seen your description in the notebook, just to clarify

21          it if we go to Exhibit 103, p.2284.  Towards the bottom

22          of the page, the last entry - - -?---Is this the

23          running sheet?

24       "Assisting second member"?---Yes, "Into ambulance".

25       That's the patrol duty return and then the notes that were

26          made by Mr Thwaites?---Yeah, that's our running sheet.

27          I don't know if he made notes in the notebook, but

28          that's our running sheet.

29       If we go to p.2286, at the end of the shift, as we see at

1 the bottom of that page, both you and Mr Thwaites have  
2 signed the patrol duty return?---Correct.

3 Did Mr Thwaites say anything to the detective concerning  
4 what should or should not go in the statement?---He  
5 probably did, he probably said something similar to  
6 what I told him.

7 Do you recall if he did or he didn't?---I think he was - I  
8 think he said something, that he - "That's what we did,  
9 that's what we heard, that's what we saw and that's  
10 what we put in our statement and it's not his" - I'll  
11 use my word, sanitised version of what he wants.

12 Mr Kelly has told IBAC, that's the detective - - -?---Yeah.

13 - - - the detail of potential offenders, his practice,  
14 detail of potential offenders should not be in the  
15 statement, that was the practice that he adopted at  
16 that time. In relation to that evidence, you say it's  
17 consistent with what he told you on that  
18 morning?---Well, that's what he wanted; he wanted that  
19 out. We - I've always put my descriptions in. I don't  
20 care if they're off, you know. I could look at  
21 somebody and say, he's 6 foot and somebody else could  
22 look at that person and say they're 5 foot 8, you know,  
23 it's in a ballpark. It's relevant information.

24 Did you make a statement on that morning?---No, I told him  
25 where to stick it.

26 Do you recall if Mr Thwaites completed a statement on the  
27 morning?---I don't know if Graeme handed it over, I  
28 don't think he - I don't think he handed it over, I'm  
29 not sure. I got so annoyed with what was happening, we

1           went out the backyard of the station. I know I  
2           didn't - I don't know if Twatty - sorry, Graeme, I  
3           don't know if he handed it over.  
4       Just to understand it, you were annoyed - could you just  
5           explain to the Commissioner exactly what it is that you  
6           are annoyed about?---Well, I - I don't like people  
7           telling me what has to go in a statement; it's my  
8           statement. If somebody tells me something that's  
9           pertinent, and what Rod was saying was pertinent. And  
10          I'm sorry, Carmel and family, but he said he wasn't  
11          well, he kept saying that, so he must have known. And,  
12          whatever Rod said should have gone in the statement and  
13          some senior detective's got no right to say that we  
14          shouldn't put it in.

15       I ask you specifically: you have referred to what was the  
16          notes that you made that morning?---Yes.

17       Was that the detail that the detective was saying to  
18          Mr Thwaites - - -?---Leave out.

19       Leave it out?---Yeah.

20       I need to take you to another exhibit, Exhibit 50. I don't  
21          know if you've seen this recently?---I wrote it, I know  
22          it.

23       This was, I think, a reply that was to a friend of yours,  
24          Ms Ellen Edwards?---It was my feelings about a  
25          newspaper article that was written on 23 November that  
26          Victoria Police Command thought it was in their best  
27          interest to ring me at some hour of the night on  
28          22 November because there'd been certain articles  
29          written in certain newspapers about the Silk and Miller

1 investigation, or the offenders, I can't remember what  
2 it was. And, can I just talk here, sir?

3 Yes?---And they - these bosses that rang me said, "Oh, we've  
4 had an idea that you may be mentioned in the paper",  
5 and of course I said, "Why would I be mentioned in the  
6 paper and what's it about?" "Oh, we don't know."  
7 Well, as far as I'm concerned that's a crock of,  
8 whatever, because the newspaper that was writing the  
9 said article that was to appear wanted a right of reply  
10 from Vic Pol, but they didn't want a reply, but they  
11 thought it pertinent enough to ring me at home and tell  
12 me that I might be in the paper but they don't know  
13 what about. So the next day - and I'm off sick - the  
14 next day I have to go to my physio, and I walk into a  
15 physio that's full of people, and the lovely ladies  
16 there - and they are lovely - tell me, "Oh, Pokie,  
17 you're famous, you're all over the paper", and I didn't  
18 know what the hell was going on. I had to go through  
19 my physio, and then I read the paper quickly as I  
20 bolted out the door that was in the foyer, I've looked  
21 at it, and I just broke out crying and I've got in my  
22 car and driven down the road. I've got a coffee and I  
23 bought the paper and then I read it in its entirety and  
24 I drove straight up to Moorabbin headquarters and  
25 screamed at the inspector and the super that, "This is  
26 garbage and that I've been slagged off and discredited  
27 to 14,000 police officers and the general public as a  
28 liar. I'm honest."

29 That's the background that you set out - - - ?---And that's

1           why I wrote that. That's my emotions, that's how I was  
2           feeling.

3           Very well?---That's what this matter has done.

4           And you're going back to what you were (indistinct)?---And  
5           they think it's us GD members, the frontline people  
6           that went to help that have done the wrong thing, for  
7           God's sake.

8           I just want to take you down the page a bit. You see about  
9           a quarter of the way down the page on the right-hand  
10          side you've got in capitals: "I have not", N-O-T, you  
11          see that bit?---Yeah: "I have not lied, falsified or  
12          conspired or any other shit ..."

13          "Intimated in the article?---Yeah.

14          And you say: "The so-called firkin gods at the CI - Homicide  
15          Squad - Lorimer are responsible for this, no one  
16          else"?---Well, I didn't do the brief.

17          Okay. "On the night they balled us out for not putting all  
18          the evidence in our statements" - sorry. "On the night  
19          they bawled us out for putting all the evidence in our  
20          statements and we were told to remove it. I told the  
21          senior detective to stick it up his arse, it was my  
22          statement, not his sanitised version"?---Yeah.

23          "I wrote what I saw and did and most importantly what I  
24          heard from Rod ..." - - - ?---Mr Rush, can I just say,  
25          that timeframe is talking generalised, I didn't do a  
26          statement on the night.

27          Okay.

28          COMMISSIONER: I just want to clarify that, Ms Poke?---Yeah,  
29          so I didn't - - -



1 After what happened to Thwaites - - -?---It was a condensed  
2 version.

3 But after what happened to Thwaites, you - - -?---I never  
4 made one.

5 Did you say you wouldn't?---Yeah. I was - told him I was in  
6 no fit state to make a statement.

7 MR RUSH: And I think you say that a bit later. "I did not  
8 make a statement", so you say: "I wrote what I saw and  
9 did, most importantly what I heard from Rod when I  
10 cradled him, so in the end I did not make a statement  
11 that night, it was about two years later when they  
12 realised they didn't have one from me"?---Yeah.

13 "So I did not mishear Rod, how could I? Or furthermore, how  
14 could the six of us all miss and hear what he said? I  
15 was eventually told to make a statement without all the  
16 evidence on my running sheet and day book. 'Leave it  
17 out', they said, 'No conversation or description'."  
18 So, there are a couple of things out of that. Very  
19 soon after 16 August did you take leave - or not leave,  
20 were you incapacitated?---Oh, I don't know when, but  
21 yeah, I was sick.

22 Do you recall then over the next 12 months or 18 months  
23 having anyone from Operation Lorimer make contact with  
24 you concerning the events of 16 August?---The only  
25 thing I had to do was fill out some sort of  
26 questionnaire thing, but I don't know if that came via  
27 my boss at Cheltenham or came from Lorimer, I don't  
28 know if I got a phone call. We just got this thing,  
29 this document, and it was, tick the box.

1 COMMISSIONER: Was the questionnaire about what,  
2 Ms Poke?---Yeah, about shoe size, do you smoke.  
3 Oh, this was about you?---It was about, like, probably the  
4 crime scene. So, they wanted - they wanted - it was  
5 like generic: what size shoes, what brand shoes did you  
6 wear and all that sort of stuff.  
7 So it had a forensic purpose, did it?---Yeah, I think so,  
8 sir, that's probably more - yeah, and that's the only  
9 thing that I did, I heard from him.  
10 Mr Rush, it might be helpful just to put in context, what  
11 was the article or what was the thrust of the article  
12 that prompted that response?  
13 MR RUSH: Yes. (To witness) Firstly, was it an article in  
14 The Herald Sun?---I don't know what paper, it was  
15 either The Herald Sun or The Age.  
16 One of the Melbourne papers?---Yes, sir.  
17 What was it in the article that upset you?---They'd put my  
18 name and they were talking about a falsification of our  
19 statements, and I haven't seen the article for a little  
20 while. I found - you know, I bought it - in the paper,  
21 I read it. It had my name there, it had Glenn's name,  
22 somebody else's name, I think it had a picture of  
23 Glenn's statement.  
24 Was your statement, if you like, mentioned in the same  
25 article as the statement concerning Mr Pullin's  
26 statements?---Correct. Correct.  
27 You say there in the Facebook note that you were contacted  
28 two years after that statement - sorry: "I was  
29 eventually told to make a statement without evidence in

1 the running sheet and day book." Who was it that  
2 contacted you for the initial statement?---I think it  
3 was George Buchhorn.

4 To the best of your recollection, was that by  
5 telephone?---Yes, sir.

6 Were you then, again to the best of your recollection, were  
7 you still at Cheltenham or you'd been put somewhere  
8 else?---At Frankston.

9 As a consequence of that request, did you make a  
10 statement?---Eventually, I did.

11 If I could ask you to have a look at Exhibit 337. You see  
12 the second paragraph starts: "On Saturday, 15 August",  
13 and starts from there detailing down the statement the  
14 circumstances of your duty on that night leading up to  
15 what you've described already to the Commission?---Yes.  
16 Going to p.3562, there is room for your signatures and your  
17 acknowledgment of it being true and correct, and then  
18 underneath the acknowledgment and signature a bit  
19 further down, to be witnessed by Sergeant Nigel  
20 Atkins?---Yes.

21 The date there is 1500, 11 April 2000. That is an unsigned  
22 copy. What's your recollection as to whether there was  
23 ever a signed copy of this statement?---To my  
24 recollection, there was a signed copy and it was sent  
25 in.

26 COMMISSIONER: I didn't catch the end of it?---It was sent  
27 in, sir, to the task force.

28 Sent in?---Yeah, I didn't drive it in.

29 MR RUSH: Do you know how it was sent in, Ms Poke?---In the

1 internal mail probably, that's how usually things were  
2 sent.

3 Sorry?---That's how usually things were sent.

4 I understand.

5 MS LACY: Can I say, I'm concerned that Ms Poke be taken to  
6 the relevant points of difference in the statement so  
7 that she is sure that the statement that she's saying  
8 was sent in is in fact the statement that was sent in.

9 COMMISSIONER: But as I understand it, Ms Lacy, this is not  
10 the statement that was sent in. The statement Mr Rush  
11 is looking at with her at the moment is not the  
12 statement that was sent in.

13 MS LACY: She was just asked if this was ever forwarded on.  
14 It was requested by Mr Buchhorn and she was asked if it  
15 was ever sent on.

16 COMMISSIONER: Yes.

17 WITNESS: If I can stand.

18 COMMISSIONER: You can remain seated, Ms Poke, there's no  
19 need to stand up.

20 WITNESS: I just need to stand for a sec, thank you, Your  
21 Honour.

22 COMMISSIONER: Oh, I'm sorry, of course. No, then stand  
23 whenever you like.

24 WITNESS: Thank you.

25 COMMISSIONER: Can we just be clear, the document that  
26 you've been shown at the moment - - -?---Is not signed.  
27 No, is that the statement that you sent in though?---I would  
28 send a signed one.

29 Leaving aside the fact that it's not signed, do you know

1           whether the contents of this statement is the same as  
2           the one you sent in?---That's the statement I typed  
3           because it's in the pro forma format, that would have  
4           been sent in.

5           So, you believe the content of this - - -?---Correct.  
6           - - - is the same as the statement you sent in?---Yeah,  
7           that, from my understanding. Can you just lift that so  
8           I can see the drive at the bottom or has that been  
9           removed?

10          MR RUSH: That's all there is.

11          COMMISSIONER: Here, have a look at my document. Can you  
12           show the witness the hard copy. Ms Lacy, I'm not sure,  
13           does that address your concern?

14          MS LACY: No, not entirely, Commissioner. There's of course  
15           relevance to the statements and which it was that was  
16           sent in. I'm concerned as to Ms Poke accepting this  
17           was the copy that was then signed and sent in without  
18           her being taken to what other - without her reading it  
19           fully and being sure it's the right one.

20          COMMISSIONER: Very good. How are we going to address that  
21           concern, Mr Rush?

22          MR RUSH: I haven't finished with the statement,  
23           Commissioner.

24          COMMISSIONER: Perhaps if we just wait a little while,  
25           Ms Lacy, and see if your concerns are addressed.

26          MS LACY: Thank you.

27          MR RUSH: Can we go to p.3561, to the bottom paragraph.  
28           That says, Ms Poke: "I remember Miller saying, 'They  
29           were on foot. Two of them, one on foot. Check shirt.

1 Dark Hyundai." And there it's repeated. If we go  
2 back, firstly, is that consistent with your memory of  
3 what went in the statement that you believe was  
4 forwarded on in internal mail to Mr Buchhorn?---I  
5 suppose so.

6 COMMISSIONER: Ms Poke, would you - - -?---I don't quite  
7 understand.

8 Would you like an opportunity to just read that document  
9 through?---Yes, I would, sir, please, because I don't  
10 understand what's being asked.

11 All right, we might take a break for five minutes and,  
12 Ms Lacy, you're free to assist your client if you feel  
13 you need to.

14 MS LACY: Thank you.

15 COMMISSIONER: We'll adjourn for a few minutes. Let us now  
16 as soon as you're happy.

17 Hearing adjourns: [3.05 pm].

18 Hearing resumes: [3.29 pm].

19 COMMISSIONER: You will stand or sit as suits you?---Yes,  
20 sir, thank you.

21 Yes, Mr Rush.

22 MR RUSH: I understand you would prefer a hard copy to look  
23 at, Ms Poke?---Yes, Mr Rush, I'm old fashioned.

24 Exhibit 336?---Thank you, sir.

25 If I could have that handed to you?---Thank you.

26 I might start with Exhibit 337 which is the document that we  
27 were going to when we had the break, I'll give you a  
28 hard copy of that?---Thank you.

29 I had taken you to the last page, 3562, which bears the

1 date, 11 April 2000?---Yeah.

2 As I understand it, Ms Poke, you believe that you signed  
3 this in front of your sergeant?---Yes.

4 And you believe that this statement was sent in the internal  
5 mail to Mr Buchhorn?---Correct. Can I explain  
6 something, Mr Rush?

7 Sure?---The template Vic Pol used at that time, you pull up  
8 the template and when you type - so you auto have to  
9 fill in your name and everything, there's a little box  
10 that pops up, and then when you've done it all you hit  
11 "print", and there's two copies. So, there's one copy  
12 that would have been signed by Nigel and myself, off to  
13 the hommies, and I keep an unsigned copy, I don't need  
14 to keep the signed copy, I'm not doing the brief.

15 If I could ask you about what is at p.3561, p.2. I was  
16 going to the last paragraph, Miller saying they were  
17 "on foot, two of them, one on foot, check shirt, dark  
18 Hyundai". Again, that was what you'd typed in. If we  
19 went back to the notebook, that was not the complete  
20 details that was in your notebook?---Apparently I  
21 missed a couple of things, like, you know, when you're  
22 typing and you've got your book, I missed a couple of  
23 words which must have been picked up by Mr Buchhorn.

24 Do you remember if you had your notebook at the time of  
25 making the statement?---Yep.

26 And, did you have it?---Yeah, I did, sir.

27 Where did you get it from?---I had it.

28 Did you delay making the statement while you located  
29 it?---Yeah, 'cos everything was packed up in a box, and

1 I had to go and find what box it was in. I had an  
2 archive box that was labelled "notebooks", and then I  
3 had to dig through all the hundreds of notebooks that I  
4 had till I found the right one.

5 Where did you keep that box?---In a locked shed.

6 In your premises, your home?---Yeah.

7 What happened to the notebook?---It went into the Homicide  
8 Squad. Next time I saw it was at the committal  
9 hearing. I didn't see it after that.

10 Do you recall now whether you sent it in with this  
11 statement, or whether there was a request for it, how  
12 it ended up with the Homicide Squad?---Probably sent in  
13 with the statement. Um, I remember - I can't tell you  
14 the timeframe - that I spoke to Mr Buchhorn and they  
15 realised I had made a statement, and I think they  
16 realised they hadn't had my notebook, and I said,  
17 "Well, I thought the boss at Cheltenham had sent my  
18 notebook or a copy of the pages in."

19 Then, Exhibit 336, which is the typed statement, it's not in  
20 the pro forma, but do you recognise this as being, if  
21 you like, in the form that statements are prepared for  
22 the committal brief?---Yeah, the pretty statements.

23 Again, if you could go to the second-last page at p.3558.  
24 The last page, it's again, as you would expect on the  
25 committal brief, an unsigned statement of yours. What  
26 I want to suggest to you, if you go to what is the  
27 fourth page of the copy that you've got at p.3557, in  
28 the second paragraph it says: "I remember Miller saying  
29 they were on foot, two of them, one on foot, check



1 shirt, dark Hyundai"?---Yes.

2 So that was in the same form as the statement that you

3 believed you'd signed and sent to Mr Buchhorn in April

4 2000?---Yes. This is the one I did and Nigel signed

5 this three - yeah.

6 If you compare them, what I suggest to you - - -?---If you

7 look at the words.

8 Is that, the words are exactly the same?---Correct, so this

9 is a fancy type copy of this (witness indicates).

10 Yes?---Yes.

11 Then if you could have a look at what is Exhibit 339, at

12 p.3568. This is, again, a statement of yours that is

13 on the pro forma that you've described?---Yep.

14 If you go to the last page, 3571, you see that bears your

15 signature and the acknowledgment clause of it being

16 sworn at 1500 on 11 April at Frankston is crossed out,

17 and it's got: "9.20 am, 12 January 2001 at Melbourne in

18 front of Mr Buchhorn"?---Correct.

19 Do you recall being requested to come into the Homicide

20 Squad for the purposes of a further statement?---I was

21 asked by Mr Buchhorn to go in there, yeah, I remember

22 that; a long drive from Frankston.

23 Who made the request for you to come to the Homicide

24 Squad?---Probably him.

25 To the best of your recollection, was any reason given by

26 Mr Buchhorn as to why you should attend at the Homicide

27 Squad?---I think he said he'd found something that

28 wasn't right with my notebook and my statement.

29 If - - -?---I'm only thinking that's why he would call me

1 in.

2 I ask you to go to p.3 which is at p.3570?---Yes.

3 And the second paragraph which commences, "I

4 remember"?---Yes.

5 So, those words are the same: "I remember Miller saying they

6 were on foot, two of them, one on foot, check shirt",

7 and then what's inserted by comparison with what we

8 have previously seen from your statements is:

9 "6 foot 1, dark hair"?---"Dark Hyundai".

10 Sorry?---"Dark hair, dark Hyundai".

11 I think you will find that "dark Hyundai" was in the

12 statements that we've already looked at?---Yeah.

13 COMMISSIONER: So, what Mr Rush is putting to you,

14 "6 foot 1" and "dark hair" has been added?---That's in

15 my notebook.

16 MR RUSH: And that was added. On the basis of what you've

17 indicated, is it your recollection that that was added

18 at the request of Mr Buchhorn?---Yes, Mr Buchhorn -

19 well, I'm making a presumption here, I would say

20 Mr Buchhorn would have read my statement I sent in.

21 He's got my notebook, he's realised I've made a boo-boo

22 and left - missed two words as I'm transcribing what

23 Rod had told me, and he's picked up that I left out two

24 things. This was addressed at committal, and he told -

25 he wanted them put in.

26 At that time did he say anything to you about what would

27 happen to the statement that you'd previously made and

28 sworn in front of Sergeant Atkins?---I don't recall

29 that conversation.

1 Your note, apart from the insertion of the "6 foot 1, dark  
2 hair", that the statements by comparison, the two of  
3 them, are fundamentally the same?---Correct, sir. Can  
4 I just clarify something?  
5 Yes?---And I clarified at committal: it's not 6 foot 1 as in  
6 height, it was 6 foot, one, like, with dark hair. Yes.  
7 I think what you said at the committal was, and I'm looking  
8 at p.3570, the first line: "I remember Miller saying  
9 they were on foot, two of them, one on foot check  
10 shirt", and that should be "6 foot, one dark  
11 hair"?---Yes, sir, not 6 foot 1.  
12 As you say, you clarified that at the committal?---Yes.  
13 There is no reference in that statement to you having made a  
14 previous statement?---No, sir.  
15 I want to take you back now to Exhibit 50, which is the  
16 Facebook entry at p.1745?---Yep.  
17 COMMISSIONER: I take it, Mr Rush, you're going to come back  
18 to the fact of the alteration of the acknowledgment?  
19 MR RUSH: Yes, I will, Commissioner. (To witness) Going a  
20 bit further down the page, you see about eight lines  
21 from the bottom - I might get you a hard copy if you  
22 would prefer that. If you go a bit more than halfway  
23 down the page, on the left-hand side you will see the  
24 words capital "R", capital "S", Running Sheet, "Running  
25 Sheet and day book. Leave it out, they said"?---Yeah,  
26 yeah.  
27 We've been there. So, the line under that, you've said:  
28 "Firkin two years after that statement I get dragged  
29 into Lorimer and told to put it all back." You say:

1 "But no, the firkin elite of the elite don't make it a  
2 second statement, it's an altered first statement with  
3 the fourth page acknowledgment and jurat from the first  
4 statement perfectly fitted and not re-witnessed and  
5 dated"?---Okay, I'm talking about two things here.

6 Yes. What I want to ask you about, firstly, was there, when  
7 you went into the Homicide Squad, a statement prepared  
8 that changed your statement but had a final page with  
9 the same jurat particulars that you had sworn for the  
10 statement in April 2000?---So you're asking me if the  
11 statement with the "6 foot" in it was pre-prepared?

12 Not directly, but I might ask you that: was the statement  
13 with the "6 foot 1 inch, dark hair",  
14 pre-prepared?---No, I've called it up on the screen.

15 Who were you with when you called it up on the  
16 screen?---Sitting next to George.

17 And so, the statement was called up on the screen?---Yeah.

18 And that's the statement that you say you'd sworn in front  
19 of Mr Atkins ?---Yes.

20 And that was changed in your statement on the screen?---Yes.

21 With that change, was there any other change made to the  
22 statement?---Just those two things.

23 Was there any change - what we've seen and I've taken you to  
24 is the clauses crossed out by Mr Buchhorn and a redate  
25 of January 2001?---Yeah, so it's been printed off after  
26 the two things were put in, and Nigel's name was still  
27 there, so George has crossed that out and put the  
28 correct date and time and his name, rank and number.

29 What you in fact say in your Facebook is a little bit

1 different. What you say there, just to repeat it is:  
2 "No, the firkin elite of the elite don't make it a  
3 second statement, it's an altered first statement with  
4 the fourth page acknowledgment and jurat from the first  
5 statement perfectly fitted and not re-witnessed and  
6 dated." So, what I'm suggesting you are saying there  
7 is consistent with it being changed on the screen, that  
8 nothing else in relation to that changed?---I'm not  
9 talking about me in this Facebook post. That's the  
10 trouble, Facebook is not grammatically correct.

11 Well, could you tell us what you are referring to?---I'm  
12 talking about what was in the stupid newspaper, and as  
13 I told the dude from IBAC that came out for his  
14 unofficial visit to my station and said, "You've told  
15 different stories from your first IBAC hearing", that  
16 was me comparing the newspaper, with the statement  
17 printed in the newspaper, I was making just  
18 observations of Glenn's statement that was printed in  
19 the newspaper, statement 1, statement 2. I'm not  
20 talking about me, I'm all jumbled, I'm all over the  
21 shop here. I'm talking about what was in the paper,  
22 that you could see what they'd done to it.

23 So, to clarify then you're saying that those lines that I've  
24 read, you say, are a reference to Mr Pullin's  
25 statement?---The one that appeared in the newspaper.

26 But you go on to say - - -?---There's no order to this, I'm  
27 rambling, I'm upset.

28 What we've got, Ms Poke, is your statement which is over  
29 four pages and Mr Pullin's statement which the

1 Commissioner's seen which is over two pages. So, what  
2 I want to go back to, is that, you are there referring  
3 to a fourth page. You didn't know how many  
4 pages Mr Pullin's statement was, did you?---No, I'm  
5 talking - yeah, no, I don't, I haven't seen Glenn's  
6 statement.

7 So, when you say and specifically reference the fourth  
8 page acknowledgment and jurat and the first statement,  
9 what I'm suggesting you are specifically referring to  
10 is your own statement?---I don't know. I was pretty  
11 stuffed in the head. I could be - I could be referring  
12 to, that George had signed over the top of Nigel when I  
13 went in and - and, um, re-put the two words that I  
14 missed out.

15 But really, I want to suggest there's really no other  
16 interpretation to what you put there than - - - ?---I  
17 don't know what the interpretation is, because I don't  
18 even know what I was thinking at the time; I was just  
19 pissed that people kept writing crap in the newspaper  
20 and screwing with my head.

21 It may assist you just to read on: "So then the firkin brain  
22 surgeons shred the wrong statement and place the first  
23 statement on the hand up brief served on the filthy  
24 ferkers"?---Yeah, that's what I got told.

25 So what you're referring to is your own situation, is it  
26 not?---In that bit. In that bit you just read out I'm  
27 talking about, that they put the wrong statement on the  
28 hand-up brief and I got grilled at committal because a  
29 wrong statement was on the brief and I didn't even do

1 the brief.

2 When you refer to "the brain surgeons shredding the wrong  
3 statement", what are you referring to?---Homicide  
4 Squad, they did the brief.

5 Shredding what?---The one without the "6 foot" in it.

6 COMMISSIONER: Your statement?---Well, I heard that my  
7 statement - the wrong one ended up on the accused's  
8 brief without the "6 foot 1", I get grilled at  
9 committal why I'm referring to my notebook exactly what  
10 Rod had told me, and I see that the statement without  
11 the 6 foot is not on the brief.

12 MR RUSH: So you got grilled at committal because the  
13 committal - - -?---Homicide Squad.

14 Well, the committal brief showed your Frankston  
15 statement?---Correct.

16 And what you anticipated is that only the statement that had  
17 been signed by Mr Buchhorn in January 2001 would appear  
18 on the committal brief?---That's what I assumed would  
19 go on the brief because he signed the new statement.

20 And you assumed that your first statement would be  
21 shredded?---Well, no, I didn't assume; I didn't think  
22 he would shred the first statement, he would keep it.

23 I appreciate you were upset at the time you wrote this, but  
24 what you wrote was that they shredded the wrong  
25 statement?---That's what I got told way back at  
26 committal, that they lost it, they shredded it, I don't  
27 know what they did.

28 So, is the position this: that at the committal you  
29 understood from - well, let me break it up. At the

1 committal and in the committal paper or the committal  
2 brief you only expected the statement that you had had  
3 acknowledged by Buchhorn to be in the brief?---Correct.  
4 And what was your understanding - how was your understanding  
5 of that created? What were you relying on for that  
6 belief?---That the statements that are going to be  
7 tendered in evidence would be on the brief. If there  
8 had been an amendment to a statement, the amended  
9 statement should have been handed under - up, not as  
10 part of - well, maybe not as part of the brief, I don't  
11 know, if it goes as part of the brief or other  
12 documents.

13 So, what were you told, what were you told, about what had  
14 happened to your first statement?---Frankston  
15 statement.

16 In a Frankston statement?---I believe I was told it was  
17 shredded accidentally. I couldn't give the reason to  
18 the court and His Worship what had happened to it, so  
19 they had to call Mr Buchhorn in to explain what  
20 happened; I wasn't present in court.

21 Prior to getting into court, had you raised this issue with  
22 Mr Buchhorn?---About the wrong statement on the brief?  
23 Yeah?---I didn't know what the brief contained, I never read  
24 the brief. All I knew is, that statement with the  
25 "6 foot 1" was the one that I had in my possession and  
26 that's what I went into court with.

27 I want to suggest, your evidence in the committal hearing  
28 was given on 5 October 2001. Now, I don't expect you  
29 to remember that, but if you can take it from me. I



1 want to show you something at Exhibit 87, which I'll  
2 have to ask you to look at on the screen. This is an  
3 internal note of a solicitor at the Office of Public  
4 Prosecutions and it is dated 14 September 2001. You  
5 see there, it says: "George Buchhorn rang in regards to  
6 incident with Helen Poke. Has spoken to Helen.  
7 Indicated that in her notes she indicated the height  
8 and dark hair but it did not appear in her first  
9 statement. The difference was picked and she did a  
10 second statement, but due to an error administratively  
11 it hasn't appeared in her second statement which was  
12 acknowledged by George." Firstly, do you recall at all  
13 having a conversation with Mr Buchhorn in or about a  
14 month before you gave evidence at the committal  
15 hearing?---No.

16 Then underneath that is another entry?---Well, he might have  
17 rang and said I've got to go to court on whatever date;  
18 that would be about it.

19 But nothing about your statements?---No - or, I don't know  
20 how we were told we had to turn up at the committal  
21 date.

22 So, when you say you got grilled at the committal, it was  
23 something you were expecting?---Totally not.

24 Because you only expected the Buchhorn statement to be on  
25 the brief?---On the brief, which was an exact - not  
26 copy - exact words out of my notebook which was made at  
27 the time.

28 I just want to take you to this: "Phone out, George  
29 Buchhorn, 17 September. She" - which I think is meant

1 to be you - oh, we need to go down the page. "She had  
2 a statement taken some months later. She supplied  
3 notes which had additional comment that weren't in the  
4 first statement. First statement was unsigned." You  
5 have indicated the best of your recollection is that  
6 the first statement was signed?---By Nigel, yeah.

7 Then: "Acknowledgment in January 2001. Unable to change the  
8 acknowledgment on computer." Insofar as that is said,  
9 is it your recollection that you were able to change  
10 your statement on the computer?---Yeah, I was able to  
11 insert the two words I missed out on the day book, on  
12 my notebook, into the statement. Is that what you're  
13 asking me?

14 Yeah?---Yeah.

15 There's no need to retype the whole of the  
16 statement?---Should have been.

17 At the time you saw Mr Buchhorn and inserted "6, one dark  
18 hair", there was no need to retype the whole  
19 statement?---No, we didn't retype it, if that's what  
20 you're asking, if I had to retype - - -

21 Yes, that's what I'm asking you?---No, I didn't retype the  
22 whole thing.

23 Then said: "Crossed out acknowledgment by hand, handwrote a  
24 new one. This statement contained the 6 foot and  
25 Hyundai comments. This is the statement that should  
26 have been on the brief." So, insofar as that says it's  
27 the statement that should have been on the brief, you  
28 agree with that?---Yeah.

29 You also agreed that there was no reference in the statement



1 statement?

2 MR RUSH: Upon a thorough reading of it, it would have been.

3 Just to return to Exhibit 339 which you've got in front

4 of you, Ms Poke, at p.3571. Mr Buchhorn is the

5 signatory to the acknowledgement made by you?---Yes.

6 Did the same thing occur that you've indicated, you'd press

7 the button for print and two copies were printed, is

8 that how - when you were in the Homicide Squad?---Yeah,

9 it's a template, it's a - was used. I used a template,

10 I don't type like this prettiness, and when you use

11 this template, it prints two copies.

12 At that stage, the acknowledgment, was there a formal

13 process of saying this is true and correct, or was it

14 just signed up?---This?

15 Yeah?---I was asked to re-read it obviously by Mr Buchhorn.

16 And then, yep, it's true, I'm signing it, it matches my

17 notebook now.

18 Did you see the first statement at that stage, the statement

19 that you'd made in front of Mr Atkins?---I don't know.

20 He would have pointed out that I missed something out,

21 but I don't know if I saw it.

22 Do you recall whether you had visited the Homicide Squad

23 offices on a date prior to 12 January 2001?---Prior?

24 Yeah?---No.

25 Or prior to the arrests of Debs or Roberts?---I don't know,

26 I don't think so. I don't know. I know we had a

27 meeting somewhere about welfare but I don't know where

28 that was, or the lack of.

29 COMMISSIONER: While Mr Rush is doing that, could I ask you,

1 over your years of experience in the force you had  
2 occasions where you'd taken a statement from a witness  
3 and that at some later point of time on a different day  
4 the witness had some additional information to provide  
5 you?---Yes.

6 What would you do as a matter of practice in that  
7 setting?---Type a second statement.

8 A supplementary statement?---Yes.

9 And would you in the second statement  
10 refer - - -?---Cross-reference the first saying, on  
11 such and such a day I attended here, I made this  
12 statement to - well, let's say me, Sergeant Poke - I  
13 remember something else or I omitted something that was  
14 written down on this piece of paper, this is what I  
15 omitted - boom.

16 So, can you tell me why wasn't that process or procedure  
17 followed here?---I can't tell you why.

18 But you would have known that Mr Buchhorn was not following  
19 the usual procedure?---They're detectives.

20 What does that mean? You do what they say?---You do what  
21 they say. They don't care about us blue shirts out, we  
22 just - - -

23 Did you appreciate that the result of changing the statement  
24 but not making any reference to the earlier one might  
25 leave a reader with the impression that there was only  
26 one statement?---No, because I was cross-examined at  
27 committal. When I was asked at committal and I started  
28 to give my evidence, Mr - - - -

29 Whoever was appearing for the defendant, yes?---Yeah, picked

1 up that I started to read the description, and then  
2 there was this conversation between the judge and the  
3 lawyers.

4 Yes, but leaving aside the forensic skills of the barrister  
5 who was able to work out that - - -?---Yeah, he picked  
6 it up and challenged me, and I said, "That's what's in  
7 my notebook, that's what's in my statement", sort of  
8 thing.

9 But putting aside that he in fact picked it up, what I'm  
10 asking you as a general proposition is, if you don't  
11 follow the procedure you explained of doing a  
12 supplementary statement, but you only finish up with  
13 one statement, isn't there a risk that - - -?---Oh,  
14 yeah.

15 - - - a person will not realise that there was an earlier  
16 statement?---Yeah.

17 And won't therefore be able to work out what is the  
18 additional information in the second?---Correct.

19 MR RUSH: I just want to take you - I won't be much longer,  
20 Ms Poke - to Exhibit 440, which is a transcript of  
21 evidence that you've previously given at IBAC, at  
22 p.5530. At line 12, you were asked: "Do you have a  
23 recollection of swearing the truth before Mr Buchhorn?"  
24 You said: "Yes, and I know exactly where that was."  
25 Question: "Where was that?" Answer: "It was the first  
26 and only time I'd gone into the actual Lorimer Task  
27 Force, I actually drove it in myself." Question: "Do  
28 you have a recollection of any discussion you had with  
29 Mr Buchhorn on that occasion regarding your statement?"

1 Answer: "We spoke about, not about my statement."  
2 Question: "What did you speak about?" Answer: "We  
3 spoke about what the suspects were up to I think at  
4 that point in the investigation. They knew there were  
5 some suspects, and those particular, Debs and Roberts,  
6 were being watched, he told me it was quite manic up  
7 there that day. I do recall there was listening  
8 devices and stuff, there was a credible threat, they  
9 were going to drive over the Westgate Bridge and kill -  
10 entice two policemen." Now, if we just leave it there,  
11 that would suggest you were in the Lorimer Task  
12 Force - - -?---Oh, yes.  
13 - - - prior to the arrests of Debs and Roberts?---If that  
14 was the 20th of - - -  
15 Well, the 20th of January two thousand - - -?---The 12th  
16 of January?  
17 The 12th of January, I beg your pardon?---If that was the  
18 12th of January that those things were occurring, I was  
19 in Lorimer. When was the trial?  
20 Those things were occurring, they were arrested I think in  
21 June and July of 2000, so what it would suggest is at  
22 least a conversation with Mr Buchhorn prior to their  
23 arrest?---Yeah, I went in to do this.  
24 No, you did that in January 2001?---So, when did this  
25 happen?  
26 And this happened, you're referring to a credible threat to  
27 police, being told that by Buchhorn, Debs and Roberts,  
28 potential threat to police on the day you were in  
29 there, they were still at large, so?---Yeah, 'cos they

1           were gonna go over the Westgate Bridge.

2       So what I'm suggesting to you, is that, in addition to

3           12 January 2001, you must have been in seeing

4           Mr Buchhorn prior to June 2000?---Couldn't tell ya.

5       You don't remember it?---Nah. All I know is, you had to be

6           escorted to get in there, so they would have had to

7           have come and get me out of the foyer. You couldn't

8           walk up to the office.

9       COMMISSIONER: Do you remember an occasion when you were in

10           at the task force and it was manic because of this

11           issue?---This one here, when they were driving over the

12           Westgate - or going to or, I don't know what part of

13           the program they were in, that's what they were doing

14           and they were going to go over and try and get in a

15           chase or something probably with a couple of coppers

16           and try and kill them.

17       What's your best recollection about why you went in on that

18           occasion?---For a statement. I - I believe I only went

19           in to Lorimer, with all the locked doors, once, and

20           that was for the statement and that's when I thought I

21           heard this, this bit about the Westgate Bridge.

22       MR RUSH: Accepting, for the purposes of the question, the

23           chronology, you were told on this day that you went in

24           of what you were informed was a credible threat to

25           police - - -?---No, I wasn't told, I heard it.

26       You heard it, yep?---I heard that.

27       Heard it where?---In their office.

28       So, someone in the Homicide Squad told you of that?---No,

29           there was all this radios everywhere.



1 Okay, you heard it on the radio, thank you. So, that would  
2 suggest you were in their office at least on one  
3 occasion prior to January 2001?---I don't know what day  
4 that was. If you can tell me what day that threat was.  
5 You have said, at least at the initial part of that  
6 transcript that I've taken you to, that you have a  
7 recollection of swearing something in front of  
8 Mr Buchhorn on that day. Now, appreciating what you've  
9 told us, but at least you would agree that that would  
10 suggest you were in the homicide office on two  
11 occasions?---Yeah, if you say that's the case, sir.

12 The only person from homicide you've had anything to do with  
13 is Mr Buchhorn?---Yeah, he was put in charge of us.

14 COMMISSIONER: Mr Rush, is there some independent evidence  
15 that Ms Poke was in the Lorimer office on 12 January  
16 2001, or is that assumption made on the basis of the  
17 date on the statement?

18 MR RUSH: At this stage it's an assumption made on the date,  
19 yes.

20 COMMISSIONER: We're almost done, Ms Poke?---Thank you, sir.

21 MR RUSH: They are the matters, Commissioner.

22 COMMISSIONER: Yes.

23 MR MATTHEWS: Very briefly, Commissioner, and just for my  
24 understanding for the purposes of this application, the  
25 copy of the running sheet, of the Thwaites running  
26 sheet that's been put up on the screen has a  
27 significant number of redactions. As I understand it,  
28 that is the only copy that the Commission has, it  
29 doesn't have the original copy of the running sheet

1           unredacted. If that assumption is correct, I'll leave  
2           that topic. I see the investigator beside me saying  
3           that is correct.

4           The second question I have, sir, which I was  
5           wondering whether to ask the witness or simply to be  
6           more efficient: Exhibit 337 is the version of the  
7           witness's statement that Ms Poke has indicated was  
8           signed by herself and Sergeant Atkins, that's the  
9           11 April 2000 statement. The witness has given  
10          evidence about there being two copies printed out. I  
11          was wondering if I could ask the witness whether that  
12          has come from the witness or whether it's come from  
13          another source.

14         COMMISSIONER: Okay.

15         MR MATTHEWS: I will ask that just to understand that point,  
16                 sir. And, apart from that, I'm conscious of the time,  
17                 all up if I was given leave to do this it's going to  
18                 take ten minutes, but I'd prefer the witness not to  
19                 hear this.

20         COMMISSIONER: I'm sorry?

21         MR MATTHEWS: I'd prefer the witness not to hear my  
22                 application, sir.

23         COMMISSIONER: Very good. Would you mind just going outside  
24                 for a moment, Ms Poke.

25         <(THE WITNESS WITHDREW)

26         COMMISSIONER: Yes, Mr Matthews.

27         MR MATTHEWS: And these all go into the question of the  
28                 process issues here which concern the Commission. I  
29                 wanted to ask the following of the witness: first of

1 all, why there was no mention of the Kelly instruction  
2 during the committal evidence.

3 Secondly, there was, we understand, a complaint  
4 made to Acting Superintendent Cooper about what Kelly  
5 had asked the witness to do, and I wanted to ask  
6 whether that had occurred and when, just to understand  
7 that there's a contemporaneous - - -

8 COMMISSIONER: Sorry, I don't follow that point, just say  
9 that again?

10 MR MATTHEWS: We understand that this witness complained to  
11 Acting Superintendent Cooper, who was present on the  
12 night in August 1998, about what Kelly had asked her  
13 and Thwaites to do, there was a complaint made to him  
14 as we understand it. There's been no evidence given  
15 about that, but that's obviously of interest in terms  
16 of there being a contemporaneous or perhaps near  
17 contemporaneous complaint. I'd like to ask her about  
18 the details of that and what happened with that.

19 COMMISSIONER: Yes.

20 MR MATTHEWS: Following on from the question about the  
21 running sheet, given that the Commission doesn't have  
22 it, when the last time was that this witness saw it,  
23 and I suspect that the answer will be when she provided  
24 it to Detective Rosemary Eden; just to be clear that  
25 that's the case because that's a document of some  
26 importance.

27 COMMISSIONER: The running sheet?

28 MR MATTHEWS: The running sheet, yes, the Thwaites running  
29 sheet that's been put up as evidence before you today.

1 COMMISSIONER: Yes.

2 MR MATTHEWS: Those were the matters, sir, and they're just  
3 simply to clarify these issues connected to the  
4 procedure, obviously of real relevance to Mr Roberts  
5 but also of relevance to the Commission in terms of the  
6 task before it. All up, it's ten minutes.

7 COMMISSIONER: Yes, Mr Matthews, I'll hear from Mr Rush in a  
8 moment, but I'm troubled about asking a witness, why  
9 didn't you give evidence about such and such. That all  
10 depends on what questions she was asked, that would  
11 require her to be familiar with the entirety of the  
12 questions, wouldn't it?

13 MR MATTHEWS: I can certainly take her, very quickly because  
14 they're quite confined, to the questions and answers  
15 she gave at the committal about why she didn't make a  
16 statement that night.

17 COMMISSIONER: Yes, she was asked that, you say - - -

18 MR MATTHEWS: She was asked that directly and - - -

19 COMMISSIONER: So then you need to be more explicit.

20 MR MATTHEWS: Yes.

21 COMMISSIONER: You need to put to her, in response to a  
22 direct question about why she didn't do something, why  
23 didn't she provide this - - -

24 MR MATTHEWS: Why didn't she provide a statement that night.  
25 She gave an answer about that that did not include any  
26 reference to Mr Kelly - why not?

27 COMMISSIONER: Yes, thank you. What do you say, Mr Rush?

28 MR RUSH: Commissioner, I had noted but neglected to ask  
29 about Cooper, a complaint to Cooper. If it is put

1 directly in relation to Kelly but not being mentioned  
2 at the committal, I have no objection to that.

3 I'm not quite sure of the relevance of the  
4 question concerning Ms Eden, but if it is put directly,  
5 "the last time that you saw the running sheet", we  
6 would not object.

7 Could I just say that there is one matter that I  
8 had neglected to ask that I wish to that arises out of  
9 the Facebook page which will be very quick.

10 COMMISSIONER: Very good. Ms Lacy, I take it you would  
11 think it desirable to try and complete Ms Poke's  
12 evidence today?

13 MS LACY: Yes, I do, if that's possible.

14 COMMISSIONER: I'll give you leave to appear to ask those  
15 questions then, Mr Matthews. Could you ask Ms Poke to  
16 come back in.

17 <HELEN MARIA POKE, recalled:

18 COMMISSIONER: Come back into the box, Ms Poke, I remind  
19 you, you are still on oath. I think there's about  
20 another ten minutes, quarter of an hour of  
21 questions?---Yes, sir.

22 And then we'll have finished?---Yes, sir, thank you.

23 Mr Rush.

24 MR RUSH: There's just one matter I have, Ms Poke, and it's  
25 concerning Exhibit 50, p.1745, which is the Facebook  
26 page, down towards the last quarter of the page. You  
27 see there, in capitals, you have the word "the  
28 fixer"?---Yep.

29 And you say: "I was a witness, not the investigator

1 informant that submitted the brief. Now the arsehole,  
2 the fixer, makes me look like a right royal dick to  
3 friends." Who's the fixer?---You tell me. That was  
4 the headline in the newspaper article the day my name  
5 was slagged all over the paper, and that's what I told  
6 him (witness indicates). It's a headline from the  
7 paper, that's what was written, "The fixer" was all  
8 over 3AW, that's what they called him.

9 So, your understanding was "the fixer" related to people  
10 that was, or a person that was fixing up  
11 statements?---No. I believed the fixer was a person  
12 that was leaking all the information to the media  
13 about - - -

14 No other matters?--- - - - the brief or something.

15 COMMISSIONER: Thank you. Yes, Mr Matthews. Mr Matthews  
16 appears for Mr Roberts?---Yes, sir.

17 <EXAMINED BY MR MATTHEWS:

18 Ms Poke, you've been shown Exhibit 337 which is a statement  
19 with Sergeant Atkins' name at the bottom and the date,  
20 11 April 2000, and you've given some evidence that,  
21 yes, the copy that was brought up in front of you on  
22 the screen there just before was unsigned but that you  
23 signed that statement and Atkins signed that statement  
24 at Frankston on 11 April 2000. You recall that  
25 evidence you gave just before?---Yes.

26 And that that was then sent in the internal mail to  
27 Mr Buchhorn. You said that?---"Internal mail", I think  
28 I said, yeah.

29 Yes, that's exactly what I put to you?---I don't know who I

1           addressed to.

2           Understood. Not of importance for this?---No.

3           You explained then that there was a process that, when you

4           yourself had been using that template and you pressed

5           "print", two copies came out?---Yeah.

6           I think you said that one was signed and sent in and you

7           kept the other one?---Yeah.

8           What happened subsequently with your copy of that particular

9           document?---The, let's call it the Frankston statement?

10          Yeah, the Frankston statement?---Probably trashed.

11          Okay. It wasn't supplied subsequently to this Commission or

12          to any other public body?---Ah, no. No.

13          You don't know what happened to it?---No. My copy would

14          have been chucked out with all my other old police

15          junk.

16          I'm going to take you back to just a small portion of your

17          evidence at the committal in this matter, and I

18          appreciate that's a long time ago so I'm just going to

19          read to you a series of questions and answers and then

20          ask you about that. It relates to 16 August when you

21          were back at the station and you were asked to make a

22          statement by a detective, okay?---Yes.

23          And the series of questions and answers, and this is p.1066

24          of the committal transcript, I'll just read you the

25          questions and the answers, if I could. Question: "Who

26          asked you to make a statement on 16 August?" Answer:

27          "Whoever the detective was that was at the Moorabbin

28          Police Station, I don't know his name." Question: "And

29          as a result of a request that was made, did you assent

1 to that request or do something else?" Answer: "I said  
2 I wasn't able to make a statement at that time."  
3 Question: "And why was that?" Answer: "Because I was  
4 upset." Question: "So that's on the 16th, you were  
5 asked to make a statement and you tell the police  
6 officer that you were unable to do it at that stage  
7 because you're upset?" Answer: "Yeah." Now, I'll just  
8 go over to p.1067. You've followed those as I've read  
9 them to you, Ms Poke? Over at p.1067 you were asked a  
10 further series of questions and answers. Question:  
11 "The person who asked you to make a statement on  
12 16 August, did you tell that person you had taken  
13 notes?" Answer: "Yes." Question: "So, that person was  
14 aware you had made notes on 16 August?" Answer: "I  
15 assume so, he spoke to my partner or Graeme and I in  
16 the same room." Question: "And what did you say to  
17 that person other than the fact that you didn't feel  
18 that you could make a statement at that time?" Answer:  
19 "We walked into a room and he said to us, 'Sit down and  
20 make your statement.' Graeme - there was only one  
21 computer - Graeme sat down and started typing his  
22 statement at the computer and I was requested by an  
23 officer to go and do something else, which I did, and I  
24 told him that I was in no fit shape to make a statement  
25 on the night and that was the last I heard of it."  
26 Okay, you followed those as well, Ms Poke. Now, in  
27 neither of those places did you say anything about  
28 Kelly having told you and Thwaites to leave things out  
29 of your statement, did you?---Didn't ask the question.



1 Well, you were asked, "Why didn't you make a statement?",  
2 you said - - -?---That's why I didn't make a statement,  
3 because I wasn't feeling well. Not feeling happy, you  
4 know, I was sad.

5 Is that the reason why you didn't make the statement on the  
6 night, because you were feeling sad?---I was trashed.  
7 What do you mean by "trashed", can I ask?---What do you  
8 reckon?

9 I need to understand what you mean.

10 COMMISSIONER: Mr Matthews, I think we can all - - -

11 WITNESS: What do you reckon I felt like? I felt like crap,  
12 like every other copper that was there.

13 MR MATTHEWS: Perhaps I'll move on to the other topic.

14 COMMISSIONER: Yes.

15 MR MATTHEWS: You didn't say anything about Kelly at that  
16 time - - -?---Well, I didn't even know his frigging  
17 name.

18 You didn't say anything about a detective asking you not to  
19 make a statement?---No detective asked me - I told him  
20 I wasn't making a statement.

21 I beg your pardon, I withdraw that. You didn't say anything  
22 about a detective asking you to leave things out of  
23 your statement?---He told Graeme. He didn't ask that  
24 question at committal.

25 So the fact that he told Thwaites that didn't have anything  
26 to do with you not making a statement?---He said, was I  
27 present when Graeme handed his statement over - like, I  
28 was only gone for five seconds up the corridor to do  
29 what the boss asked me to do, was go and speak to some

1 welfare chick, and she got about a five second spray  
2 off me because I walked in and she said, "How ya  
3 feeling?", "Oh, how do you think I fucking feel? Shove  
4 it up your arse", and walked out. And then I went back  
5 to Graeme. What else do you think I did? You just  
6 want to fuck people over and make them feel like shit  
7 and re-live all this thing.

8 COMMISSIONER: It's almost finished, Ms Poke.

9 WITNESS: Oh, yeah, you really - and I go home and I spend  
10 the rest of my fucking week and months reliving this  
11 because you just want to keep rehashing all this crap  
12 and putting us through it. Speak to your detectives  
13 who did the brief. I didn't.

14 COMMISSIONER: Is there anything else, Mr Matthews?

15 MR MATTHEWS: The matter of the Cooper complaint.

16 COMMISSIONER: Yes. Can you just bear with us, please,  
17 Ms Poke, a moment longer? There's one other matter  
18 Mr Matthews wants to explore with you.

19 MR MATTHEWS: Did you take any action by way of  
20 complaint - - -

21 COMMISSIONER: Just a moment, Mr Matthews. Have you got  
22 some concern? Will you be all right to answer a couple  
23 more questions, Ms Poke?---Just finish it.

24 MR MATTHEWS: Ms Poke, did you make a complaint of some sort  
25 about what the detective had told - - -

26 MR RUSH: Commissioner, I've had advice that we think it's  
27 appropriate that the examination conclude, from an  
28 independent person within the room.

29 MR MATTHEWS: I note that my learned friend was going to ask

1           that question in any event. Perhaps I might speak  
2           to - - -

3           COMMISSIONER: Look, I think it's unfortunate that you  
4           pressed as far as you did, Mr Matthews, on a  
5           point which I think would have been self-evident to all  
6           of us.

7           MR MATTHEWS: I'm content to leave the topic and pursue it  
8           another time.

9           WITNESS: I'm not coming back.

10          MR MATTHEWS: And not with this witness.

11          COMMISSIONER: Thank you, I appreciate that.

12                 Ms Poke - - -?---Yeah.

13          - - - that completes your - - -?---Sorry for my outbursts.

14          That's all right, that's all right, you've been through a  
15          difficult time. So, I won't formally excuse you simply  
16          because, as you would understand, this is an ongoing  
17          inquiry. It's highly unlikely that we would need you  
18          to come back again to give any evidence, but I won't  
19          formally excuse you until the end of the inquiry. We  
20          will, of course, let you know as soon as we've  
21          completed our hearings and you are released from the  
22          summons. Needless to say, if any issue arose that it  
23          was suggested necessitated your return, I would take  
24          into account your condition and it would have to be the  
25          most exceptional circumstances before I asked you to  
26          come back. Do you follow?---Thank you, sir.

27          The only caution that I give you is, because I've made an  
28          order for witnesses out of court and because of the  
29          confidentiality notice, you are not at liberty to talk

1 to other witnesses about the evidence that you've given  
2 or the evidence that they might give?---Sir, but this  
3 is put on the internet tonight, so everyone knows what  
4 I've said.

5 No, but all I'm saying is that the order for witnesses out  
6 of court means you can't talk to other  
7 people - - -?---Oh, prospective?

8 Correct. You're not to talk to other people who might give  
9 evidence, not that I think you have any reason to, but  
10 until the hearings are completed you shouldn't talk to  
11 anyone that's going to give evidence about your  
12 evidence. Do you follow?---Yeah.

13 Very good?---Thank you, sir.

14 I'm sorry, Ms Lacy, I forgot to ask you, was there anything  
15 you wanted to ask.

16 MS LACY: I don't have any questions, thank you,  
17 Commissioner.

18 COMMISSIONER: Very good. So, Ms Poke, we appreciate your  
19 attendance today and, for what it's worth, I hope you  
20 can put these issues behind you?---Thank you, sir.  
21 Sorry about that.

22 Adjourn the hearing until 10 am tomorrow.

23 Hearing adjourned: [4.31 pm]

24 ADJOURNED UNTIL THURSDAY, 7 FEBRUARY 2019

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