

1 UPON RESUMING AT 2.06 PM:

2 MR RUSH: I call Mr Sheridan, Commissioner.

3 MR CASH: Commissioner, may it please the Commissioner, I
4 "appear" for Mr Sheridan.

5 COMMISSIONER: Yes, Mr Cash.

6 <PAUL ANTHONY SHERIDAN, sworn and examined:

7 COMMISSIONER: When you were served with the documents to
8 attend, included amongst the documents was a summons
9 that set out the matters about which you might be
10 questioned. I am obliged to remind you as to what
11 those matters are?---Yes, sir.

12 Firstly, the Lorimer Task Force investigation of the murders
13 of Sergeant Gary Silk and Senior Constable Rodney
14 Miller concerning the taking of witness statements, the
15 preparation of the brief of evidence for the trial of
16 Debs and Roberts, and whether there was full disclosure
17 of witness statements or other relevant information
18 prior to or during the trial, witness statement-taking
19 practices by Victoria Police, and finally, compliance
20 with the obligation to disclose evidence by Victoria
21 Police.

22 You're represented by Mr Cash so that, at the
23 conclusion of questions by counsel assisting and any
24 cross-examination that I permit, Mr Cash will have an
25 opportunity to examine you further to have you
26 elaborate on any of your answers or to provide any
27 additional information that you wish to give to the
28 Commission.

29 When you were served with the documents, did you

1 receive a document stating your rights and
2 obligations?---I did, sir, yes.
3 Has Mr Cash discussed those with you?---Yes, we've had a
4 brief discussion, I do understand those.
5 You understand them; do you require me to repeat them?---I
6 don't, sir, thank you.
7 Very good. Importantly, Mr Sheridan, you're obliged to
8 answer the questions, answer them truthfully. If you
9 do so, your evidence can't be used against you save in
10 exceptional circumstances.

11 Yes, Mr Rush.

12 MR RUSH: Mr Sheridan, your full name is Paul Anthony
13 Sheridan?---It is, yes.

14 We need to have some formalities dealt with. Do you attend
15 here today in response to a summons served on you on
16 12 December 2018?---Yes, I do.

17 Is the summons numbered SE2759?---It is, yes.

18 With the summons, did you receive what the Commissioner's
19 just referred to, a statement of rights and
20 obligations?---I did, yes.

21 That is the document before you there?---Yes, I believe so.

22 Did you receive a confidentiality notice of 11 December
23 2018?---I did receive a confidentiality notice, yes.

24 And a covering letter of 12 December 2018?---That's correct.

25 I tender those documents, Commissioner.

26 #EXHIBIT DD - Documents served on summons to Mr Sheridan.

27 Mr Sheridan, you are currently a superintendent of
28 police?---Yes, I am.

29 You work within Serious Crime Operations?---Yes, that's

1 right.

2 Before I go to that, could you just indicate to the
3 Commissioner briefly when you joined the police force
4 and a potted history of your career in the police
5 force?---Yes. I graduated from the Police Academy in
6 1975, I was a uniform constable for about four years,
7 various suburban stations. Become a detective
8 constable at some suburban CI branches. Become a
9 detective senior constable in 1980 at the Homicide
10 Squad. Served four years, just under four years there,
11 promoted to sergeant. I was a uniform sergeant, I was
12 a sergeant at the Vice Squad, and I was a detective
13 sergeant at various places in the suburbs. Went back
14 to the Homicide Squad as a detective sergeant in 88/89
15 for a period. Got promoted to senior sergeant, senior
16 sergeant for about a year in uniform, then back to the
17 Homicide Squad as a team leader, detective senior
18 sergeant for four years. Promoted to inspector at that
19 stage to Internal Investigations. I was an inspector
20 at Russell Street. I went back to the Crime Command
21 area then and worked at the Drug Squad for
22 several months, then at missing persons. In about 96 I
23 became the detective inspector at Homicide when I was -
24 at the time when the Silk and Miller homicides took
25 place, I was there till about - till approximately 2000
26 when I got promoted to a superintendent, I've been a
27 superintendent since then at various locations,
28 including uniform and some specialist services areas.
29 I've now come back at the same rank to the Crime

1 Command where I'm at Serious Crime Division.

2 So, in Crime Command at the moment, do you have involvement
3 or some form of oversight in relation to the Homicide
4 Squad?---Yes, that's - the Homicide Squad is one of the
5 squads that I manage or oversight, yes.

6 What's the role there? When you say "manage", what's the
7 role?---I'm the detective superintendent in charge of
8 the division, which means I have a couple of other
9 squads also to manage and direct line management of
10 those squads is done by a detective inspector who
11 reports to me.

12 So, is a detective inspector reporting to you, who has
13 direct line management of Homicide?---That's right,
14 yes.

15 Is that the same with the Sexual Crimes Squad?---It is, yes.
16 And the Missing Persons?---Yes.

17 And also Child Exploitation?---Well, yes, I don't have them
18 any more, I now have the Arson Squad, but yes, it's the
19 same practice.

20 So, each one of those areas is an area that involves very
21 serious enquiry and investigation of the squads or
22 units over which you have that responsibility?---Yes.

23 And obviously, the level of sophistication and thoroughness
24 in those areas will involve their statement-taking
25 procedures and processes?---That's correct, yes.

26 Whereas fundamentally the investigation around Homicide or
27 Sexual Crime Squad is going to involve the statements
28 of witnesses that are involved in those particular
29 areas or crimes?---Yes.

1 And that I guess, when you look at your career as a
2 detective, the statement-taking practices have been a
3 constant theme of what is required in sophisticated
4 investigation right through your career?---Yes, that's
5 true.

6 Have you followed the transcript in relation to the public
7 hearings here?---I have, yes.

8 At what level of detail?---Well, I suppose that remains to
9 be seen subject to the questions, but I have read them.
10 I would say I've read pretty much every day's
11 transcript. I have a pretty good understanding of the
12 issues that seem to have been identified thus far, I
13 feel.

14 Do you understand any evidence that's been given by Sergeant
15 Buchhorn this morning or former Sergeant Buchhorn this
16 morning?---I don't know about his evidence this
17 morning, no.

18 One of the specific areas that IBAC has looked into is the
19 statement-making procedures that have emanated out of
20 Operation Lorimer?---Yes, I understand.

21 You were the head, as an inspector, of Operation
22 Lorimer?---Yes, that's right.

23 Operation Lorimer was pretty much created on 17 or 18 August
24 1998?---That's right, yes.

25 We've been through it, but just formally, there was a crew
26 from the Armed Robbery Squad that came into Operation
27 Lorimer?---Yes, that's right, Butterworth's crew.

28 Butterworth's crew. Mr Collins' crew from Homicide?---Yes.
29 Then there were various others that came in, sergeants that

1 had been at Homicide that had gone out to uniform
2 positions were brought back in to Operation
3 Lorimer?---Yes, that's right.

4 In all I think at the outset there were in excess of 30
5 police investigators involved in Operation
6 Lorimer?---Yeah, I would say that would be fair; might
7 be one or two more, but yes, that's about it.

8 From the very outset, the statement taking and the review of
9 statements was a major consideration of those senior
10 investigators who had oversight of the entire
11 investigation?---Yes.

12 And so, just to understand, you as the inspector,
13 immediately under you, as I understand it, was then
14 Detective Senior Sergeant Collins?---Yes, that's right.

15 And, from Detective Senior Sergeant Collins, various other
16 sergeants and others reported through that chain of
17 command?---Yes.

18 Just so we understand it, you attended the crime scene on
19 the morning of 16 August?---Yes, I did.

20 You obtained briefings upon your attendance there?---Yes,
21 yes.

22 Including a briefing from then a Senior Constable
23 Sherrin?---Yes.

24 Who had been in the car that followed the Silk-Miller car
25 after the offenders?---Yes, that's right.

26 Over the course of the morning there were no doubt updates
27 on the briefing and the like?---Well, I expect there
28 would have been; I can't say that I recall that there
29 were updates during the course of that morning, but

1 yes, there were certainly updates at some point.
2 It's not a memory test, but Detective Senior Sergeant
3 Bezzina was at the crime scene?---He was, yes.
4 And Collins arrived with Detective Senior Constable
5 Eden?---I believe that's true, yes. I don't have a
6 recollection of who arrived with who at what time, but
7 yes, I've read that and I don't dispute it.
8 No doubt, your memory is refreshed a little bit by reading
9 the transcript of what those people have had to
10 say?---Yes.
11 Did you attend Moorabbin Police Station on that
12 morning?---No.
13 You then have read the evidence that involves, firstly,
14 first responders to the crime scene who were with
15 Mr Miller prior to him being conveyed to hospital in an
16 ambulance, you are aware of a number of those police
17 officers having been there and then over time providing
18 statements?---Yes.
19 You will have read of the evidence that IBAC has which has
20 been referred to through this public proceeding of
21 police officers attending at Moorabbin and being
22 instructed by a Homicide member not to put descriptions
23 of the conversations with Mr Miller, particularly as it
24 concerned offenders, in their statements?---Yes, I've
25 read that material.
26 And the evidence that has been given by, for instance,
27 Detective Senior Constable Eden that that was a common
28 practice from her knowledge in Homicide at the
29 time?---Yes, I've read that evidence, yes.

1 I suggest, that is a practice known to you?---Well, you'd be
2 totally wrong.

3 You say, do you, to the Commissioner that it is totally
4 wrong to suggest that you knew anything of a practice
5 involving witnesses, whether they be police or
6 civilian, not putting descriptions of offenders in
7 their statements?---I think my point, and I may have
8 answered the question in a way that doesn't really
9 direct - an answer what you asked me, but what I'm
10 getting at is, that was not what I understood to be
11 occurring, but if you're asking me - and may I ask: are
12 you asking me, am I aware of such a practice occurring?

13 Yes?---At all?

14 At all?---Oh, I've heard of that practice that I've read
15 about in this hearing, yes, I've heard about that over
16 the years, particularly back in the 80s, but in terms
17 of whether that practice occurred when I was at
18 Homicide as the inspector, whether that practice
19 occurred at Lorimer while I was in charge, it didn't
20 occur with any support or authority from me, I can tell
21 you.

22 So you say, well, I was not a person, as my role in Lorimer,
23 I would not have in any way allowed or permitted such a
24 practice to take place if I'd known about it?---I would
25 most definitely say that, particularly on the basis
26 that at that stage of the investigation we knew very
27 little. Every homicide investigation ultimately ends
28 up in a coronial hearing; the focus of statement-taking
29 for homicide cases is, all detail goes in, no detail is

1 excluded. The members that have said that are clearly
2 wrong. They may well have genuinely believed that but
3 that is not the way homicide investigation statements
4 are taken; not then, not in 1980 when I was junior
5 detective there, not in 88 when I was a detective
6 sergeant there, not in 1990 when I was a team leader
7 there, and certainly not when I was inspector in charge
8 there in the late 90s; it was not a practice that
9 Homicide undertook.

10 You say that with such certainty, yet - - -?---I do.

11 - - - two of the detectives that were there in 1998 that
12 IBAC has taken evidence from said that was a practice
13 that they followed at Homicide?---They are both
14 entirely wrong - - -

15 No, just a minute?---Yep.

16 That is a practice that they followed at Homicide, they
17 personally?---They are both entirely wrong. That is
18 not a practice that was - - -

19 COMMISSIONER: Forgive me, Mr Sheridan. You are now being
20 asked about whether they followed that
21 practice?---Well, I can't speak for the practice of the
22 individual - I apologise - I can't speak for the
23 practice that the individual undertook at that time,
24 particularly if they're erroneous in their belief, but
25 that was not a practice within that squad. The whole
26 focus of homicide investigation is an attention to
27 detail. They are human beings and they definitely make
28 mistakes, and they don't always get it right, but the
29 focus is attention to detail, not the exclusion of

1 detail.

2 You have read the evidence that's been given by Mr Thwaites,
3 the evidence that's been put to witnesses concerning
4 Ms Poke?---I have.

5 That they were instructed by Detective Senior Constable
6 Kelly on 16 August not to put details of descriptions
7 of offenders in their statements; you've read that?---I
8 have read that, yes.

9 And you've read, because it's been put to them, that that
10 was the practice that was followed by Detective Senior
11 Constable Kelly?---Yes, I've read that, yes.

12 And, on the basis of the evidence, there's no other
13 explanation for that instruction that he gave to police
14 officers bar him following the practice?---Well, not
15 that - there are other - there are other potential
16 explanations of course. There's no practice to follow,
17 there was no such practice.

18 What do you think the other potential explanations
19 are?---Well, it's a personal error, it's a single fault
20 of the member concerned. I don't know where he learnt
21 that practice, but it was not a practice within
22 Homicide. If he transposed it across and thought that
23 was appropriate, that's possible, I don't know.

24 You've also then read the evidence of Ms Eden that it was
25 her practice at Homicide?---Then I would say the same.
26 I believe those members, if they genuinely believed
27 what they were doing was right, and I expect that they
28 did, they must have brought that practice with them and
29 it had never been detected at that stage, but all

1 Homicide briefs, as I said, the focus is on detail, not
2 the lack thereof.

3 COMMISSIONER: Mr Sheridan, I think it's important we
4 distinguish between what the objective of a good
5 Homicide investigator should be and whether or not
6 there was within the Homicide Squad individual members
7 who followed an inappropriate practice?---Yes, sir.

8 Now, both Mr Kelly and Ms Eden said, not only did they do it
9 but to their knowledge it was a practice which others
10 followed?---I understand, sir, but I would disagree
11 with that.

12 Well, how would you know?---Well, I was the Homicide
13 inspector, I checked every brief that went through the
14 office for a number of years; I read each statement, I
15 never noticed a trend in statements where descriptions
16 were not apparent, where detail was held back, and
17 dying declarations are a particularly important part of
18 Homicide cases, they don't come along all that often,
19 to be truthful, so I can only presume this is an error
20 on the part of the individuals. It certainly wasn't -
21 anyway.

22 MR RUSH: What did you think when you read the initial
23 statements of first responders with Mr Miller as far as
24 detail of descriptions of offenders or a conversation
25 with Mr Miller? What did you think of those
26 statements?---Well, the answer's in a number of parts.
27 I didn't think they were the best statements I'd ever
28 read, I'll admit to that, but that often is the case
29 with taking statements from traumatised victims,

1 witnesses be they members or civilians. With the basis
2 of what I knew about the scene, my understanding was
3 that none of those, save for Bendeich and Sherrin, none
4 of the first responders to Miller - if we could call
5 them that, dying declaration-type witnesses - none of
6 them were in a position to actually see the suspects on
7 the night, so I was really going off what was written
8 in those - in their accounts, if you like, as to what
9 they said Miller had said. The other part in the
10 answer, is that, I wouldn't have expected, just by
11 experience, that five or six witnesses in a stressful
12 situation would all hear or see the same thing, so I'd
13 expect that there'd be substantial variation, if you
14 like, between the respective members. Even though
15 they're trained police officers it's traumatic and I
16 expected there to be variation in what they recorded.
17 I agree, it was substantial variation, but I - it's a
18 warts-and-all process with the investigation; we accept
19 what we get and then we work with what we have.

20 So, there was some serious work done in the months
21 immediately after 16 August in relation to
22 clarification of dying declarations?---Yeah, I think
23 there was some follow-up work, but I'm - yeah, I'm not
24 totally conversant with what you're referring to.

25 Yeah, I believe there was some follow-up work.

26 Just by way of example, we've had a look at it with
27 Mr Buchhorn, but Exhibit 11 are some extracts out of
28 your diary of 1998.

29 COMMISSIONER: Mr Rush, I just wonder before we move onto

1 that, whilst we've covered the question of the practice
2 of not recording a description given by a witness in
3 their statement, you've made clear what your
4 expectations were from your Homicide Squad
5 investigators, but were you not aware of a very common
6 practice that existed at the time of Lorimer in
7 relation to the Armed Robbery Squad and the fact that
8 victims, if they gave a description, would not
9 necessarily have that description included in their
10 statement?---No, I wasn't aware that practice existed
11 at that stage. As I said, during the 80s I was aware
12 there was a practice of a similar nature but I thought
13 that had died off. It's a rather foolish and, seems to
14 me, a practice that's doomed to fail in terms of for
15 court purposes for a start, but no, I wasn't aware that
16 was going to - that was being done; I've read about it
17 since in the hearings, of course.

18 You've no doubt seen then that a large number of victims
19 from both the Pigout and the Hamada investigations were
20 asked not to include their descriptions in their
21 statements but a note was made by the
22 investigator - - -?---Yes.

23 - - - and it later became the subject of a supplementary
24 separate statement?---Well, I've seen that in the
25 hearings, yes. I - - -

26 But we're not talking about one or two isolated - - -?---No,
27 no.

28 - - - witnesses, it was a common course that was
29 followed?---I've seen that within the hearings but, as

1 I said in answer to the question, I had no knowledge
2 that that practice was actually going on in 1998, as it
3 were but.

4 What I want to suggest to you is that Mr Kelly and Ms Eden's
5 account of not including descriptions is merely a
6 variation of that same practice, of not putting a full
7 description initially into the victim's
8 account?---Yeah, I expect it is, but I can't understand
9 the logic of it, but yes, I expect it is, yes.

10 But that's a different matter?---Yes.

11 I think we're all agreed there's no legitimate purpose to be
12 served by it?---Yes.

13 Illogical, but the Commission regrettably has received an
14 overwhelming body of evidence that that was still a
15 practice at that time?---Well, it wasn't within
16 Homicide but I - yeah, I can't take it any further.

17 I don't follow why you keep saying it - - - ?---I'm saying
18 these one - - -

19 We have at least two members who not only gave sworn
20 testimony that that's what they did, but it was their
21 understanding at the time that other members did
22 it?---Well, they're wrong. They're wrong, and I'd be
23 happy for the Commission to call as many Homicide
24 members and ex-members as you choose, because I think
25 you'll find they are definitely in the minority. That
26 is not a practice that took - it doesn't make any sense
27 from a Homicide perspective at all to exclude detail
28 particularly around a dying declaration; makes no sense
29 whatsoever. There is no perceived advantage by doing

1 that, it just - - -
2 I think we can - - - ?---I know we're all on the same page
3 but I'm just saying, yes.
4 We can be in agreement about that?---Yes.
5 But you can see how, if someone was familiar with the
6 practice, the Armed Robbery Squad practice of not
7 recording descriptions, how one might slide into
8 thinking, well, I won't include the description either
9 in the case of a dying declaration?---Yeah, I concede
10 that.
11 MR RUSH: You understand that the Commission has evidence
12 that the practice was actually taught at the Police
13 Academy?---No, and I would dispute - I have read it in
14 the - when you say "the evidence", you're talking
15 about - - -
16 Yeah, Mr Kelly for example?---Yes, I dispute that very much,
17 yeah, very much. That was - I would say that has never
18 been taught in the Academy, nor has it - never been
19 taught in crime investigation.
20 You should understand that tomorrow there will be a further
21 witness who will say it was taught at the Police
22 Academy?---That's, I'm - I have no issue about that,
23 but I'm telling you my view is - I've discussed this
24 aspect in general terms with people, you know, in the
25 force, I think we're all of the consent, this was never
26 a trained practice; it's an aberration.
27 It is a trained practice if it was taught at the Police
28 Academy?---Well, I say it wasn't; that's what I'm
29 saying.

1 I beg your pardon?---I say it wasn't taught at the Academy.
2 Well, how would you know?---Well, how would Kelly know?
3 Well, he was actually there when it was taught?---Well, you
4 know, I - - -

5 And the witness tomorrow, actually there when she was
6 there?---Well, if it was taught at the Academy, it
7 wasn't taught as a result of a formal syllabus. It may
8 be one-off, someone in a position of authority in terms
9 of a lecture, et cetera, who may have lost their way
10 and given some sort of advice, but I'm saying it's not
11 part of the formal syllabus. Training going back to
12 even when I was in the Academy in the dark ages was
13 certainly all around obtaining as much detail from a
14 witness as possible, not excluding the detail. So, I'm
15 not suggesting that no one's ever said it at the
16 Academy, but it's not a formal trained practice. I
17 think you could - - -

18 Did you read the Hamada statements?---I don't recall that I
19 ever actually did, to be honest, but I probably could
20 have, yes.

21 Did you read the Pigout statements?---No, definitely not.

22 Pigout was basically to do with Giller and Debs.

23 What the Commissioner has put to you that - I mean, it's not
24 one or two, but the tens and tens of witness statements
25 from Pigout did not include the descriptions of
26 offenders that were responsible for armed
27 robberies?---Look, well, I'm not arguing the point on
28 Pigout, as I said, I never read those statements.

29 No, but you seem to be arguing the point that you say it's

1 not a Homicide practice?---Yeah, I do.

2 If we accept that as a proposition, it's a practice of the

3 Armed Robbery Squad?---Well, I don't necessarily think

4 that that follows.

5 I beg your pardon?---I don't think that necessarily follows;

6 if it's not one squad it necessarily belongs to the

7 other, but I can't dispute it, I don't know enough

8 about the Armed Robbery Squad.

9 If you read the Hamada statements - well, you were part of a

10 group that decided that witnesses to the Hamada

11 robberies should be re-approached for further

12 statements, were you not?---We discussed the Hamada

13 witnesses with a view to seeing whether the witnesses

14 could be re-approached to attempt to enhance the case

15 against Roberts and Debs.

16 To see if they could give better descriptions than what were

17 in their initial statements?---Well, that may have been

18 part of it, but it was to enhance the case against

19 Roberts and Debs to see - - -

20 Well, how do you enhance the case against Roberts and Debs

21 by going to the initial statements of witnesses to the

22 Hamada armed robberies?---Well, it depends what the

23 witness has to say when you approach them, I would

24 think.

25 Generally speaking, we've got armed robberies in

26 Kew - - -?---Yes.

27 - - - and various stores; what was the intention of going to

28 those witnesses to enhance Debs and Roberts theory in

29 relation to the Silk-Miller murders?---Well, with any

1 homicide case, particularly a case of that magnitude,
2 the revisiting to witnesses to perhaps re-interview,
3 see if there's anything else that hasn't been picked up
4 is always a process that's considered and in the case,
5 as I said, of that magnitude it was one that we
6 considered was worth doing. I'm not saying part of
7 that wasn't, depending on whatever was in a particular
8 statement, may not have included whether they could
9 make an identification et cetera, but - - -

10 Well, you say you've read the initial Hamada

11 statements?---No, no, I said I think I had read the
12 Hamada statements, as in I've seen them on the brief; I
13 don't ever recall reading original Hamada statements
14 ever.

15 There was a decision made, I suggest in January 2000, to go
16 back to interview Hamada witnesses to get better
17 descriptions of offenders?---May well have been.

18 Because they weren't in the initial statements?---That may
19 well be true, yes.

20 And the reason that they weren't in the - can you think of
21 any reason why a person 18 months or two years would be
22 better off giving a description of an offender than
23 they were on the night or the day after the armed
24 robbery?---No, I can't other than to say, perhaps to
25 enquire with that witness, would you be in a position
26 to identify anybody if you saw them or if you heard
27 their voice, that type of stuff; that's the sort of
28 thing I would envisage would be a consideration.

29 Or another reason may be if police in fact had written down

1 the descriptions that were initially given and not put
2 in the initial statements?---Yes, of course that could
3 be a reason.

4 Was that not pointed out to you over the course of the
5 Lorimer investigation?---I have no recollection
6 specifically of - I was discussing it around
7 descriptions. I said, as I said earlier, it was all
8 about seeking to enhance the evidence we had against
9 Roberts and Debs.

10 COMMISSIONER: Mr Sheridan, as an investigator, as a
11 supervisor of investigations, would you regard yourself
12 as someone that's hands-on, likes to keep on top of the
13 detail of an investigation?---Not at my current level
14 because it's - but at inspector level, you're saying?
15 Yes?---Generally, yes, however it depends on how many -
16 there are competing priorities, obviously, but yes,
17 generally yes.

18 But presumably there was no competing priority in relation
19 to Lorimer, it was going to get priority as an
20 investigation?---No, there were competing priorities
21 within Lorimer, of course. But yes, that was the only
22 case, but yes.

23 Can we assume you would have worked closely with
24 Mr Collins?---Yes.

25 In terms of the direction of the investigation?---Yes.

26 And in relation to where a thing like description of
27 offenders was concerned, the suspects, you would have
28 been closely following with Mr Collins what the
29 material was that the investigators were

1 producing?---Generally, yes, I would expect so, yes.

2 MR RUSH: By way of example I want to take you to

3 Exhibit 478, which is an extract from the diary of

4 Mr Collins. Going to p.7230, this is an extract from

5 his diary of 17 March 2000. You see towards the bottom

6 of the page: "Office Butterworth re Pigout special

7 effort. Sheridan present"?---Yes.

8 "Discussed logistics" and - - -

9 COMMISSIONER: "And manpower".

10 MR RUSH: "And manpower. 1 TRS without Lorimer partner", is

11 it? This is not the part. I want to take you down to

12 the second-last line: "Also discussed obtaining

13 statements from witnesses. Decide where witness has

14 excellent recall of events and can add extra

15 information, then statement should be taken. Also if

16 descriptions of offenders were written on separate

17 pieces of paper, then these also should be recorded in

18 second statement, otherwise we will only record

19 witness's info on questionnaire." So there, what I

20 want to suggest to you, in your presence, is discussion

21 around the Pigout statements and the

22 indication - - -?---Pigout or Hamada, sorry?

23 Pigout.

24 COMMISSIONER: Perhaps you might go back to the top.

25 MR RUSH: If we go back to the previous page, it's starting

26 off with, "Re Pigout special effort", at 9 am?---Yes.

27 COMMISSIONER: You think that might have extended to Hamada,

28 do you?---No, I don't have any real thought on it at

29 the moment.

1 MR RUSH: Hamada preceded this, I suggest, Mr Sheridan, with
2 the same procedure being made in Hamada in early
3 2000, January 2000, there to go out again to revisit
4 witnesses, but this is a note that just sets out the
5 point I'm wanting to make, is that there is recognition
6 that here on separate pieces of paper are descriptions
7 of offenders not in statements?---Yes, I would agree
8 with that, yes.

9 So, what did you think - well, you say you agree with that:
10 did you know about it or you - - -?---No, I agree with
11 what you're putting to me, is what I said.

12 So, it has you present at a meeting that is suggesting that
13 police should go out and take the descriptions and
14 specifically referring from people where the
15 descriptions are on separate pieces of paper?---That's
16 what that says.

17 Yeah?---Yes, I agree, that's what that says.

18 So, the substance of what is recorded here is said in your
19 presence at this meeting on 17 March 2000?---Well, not
20 quite like that. That is what Collins has written, and
21 I presume you'd speak to him about what the note means;
22 that is not a verbatim of what was actually said while
23 I was there, so as far as - I mean, I can't say whether
24 it was or wasn't, but I'm saying that's what he's
25 written. You're asking me to comment on what he's
26 written, as in, those things were actually said. I
27 don't have a recollection of such a conversation like
28 that, but I can't dispute the note, of course.

29 COMMISSIONER: Clearly the germane aspect of this is, do you

1 have a recollection of learning during the - - -?---No.
2 - - - Lorimer investigation that there was a practice of not
3 recording the description in the statement but on a
4 separate note? Certainly I must say - - -?---No, I
5 don't have a recollection - of reading that I would
6 expect that, yes, it's likely that I did. But I can't
7 say, and having read the material from the transcripts
8 et cetera, yeah, there are things I'm learning here
9 that don't sound familiar to me, but yes.

10 And, an undesirable practice?---The practice of a separate
11 description - - -

12 Of not recording the description in the statement?---Yes,
13 totally, totally, an unlawful practice and, as I said
14 earlier, a practice that in my view is - is just doomed
15 to cause all sorts of angst for - well, for the court
16 firstly, of course, but for the witness in particular
17 and credibility around the witness's evidence if they
18 are fortunate enough to give evidence that's positive
19 in the sense of identification, and also, I think it
20 goes to the credibility of the investigator, so it's
21 not a practice that I would condone.

22 MR RUSH: And your evidence is, as the inspector ultimately
23 in charge of the preparation of the Lorimer brief, you
24 were not familiar with statements provided in the brief
25 where that practice of having descriptions on separate
26 pieces of paper was commonplace for the statements that
27 ultimately ended up on the Lorimer brief?---Yes, I
28 think I'd agree with that, yes.

29 That you were unaware of it?---Well, I don't have any

1 recollection of ever being conscious of it; it's not a
2 practice, as I've said, I've ever condoned.

3 COMMISSIONER: But, Mr Sheridan, isn't your position: you
4 don't have an independent recollection of being aware
5 of it - - -?---Yes.

6 - - - but faced with a document such as this, faced with
7 what is in fact on the Hamada and Pigout investigation
8 files, you would accept that the material was exposed
9 to you at the time of Lorimer, that there was a
10 practice of not recording descriptions in the
11 statements?---No, I wouldn't - no, I - no, I wouldn't
12 say that I was aware totally that that was the case.

13 What do you mean by "totally"?---Well, I'm aware that we had
14 some poor statements in relation to some of the armed
15 robbery victims and that, as I said earlier, there was
16 a need to enhance, but to say that I had an
17 understanding that that was the case, as you put, that
18 there were, you know, scores of statements with no
19 descriptions et cetera, I - no, I don't recall that at
20 all.

21 No, descriptions that were in a separate note, as Mr Collins
22 has recorded, was discussed in your presence?---Yeah,
23 I - no, I understand what you're saying. I have no
24 recollection that that was the case, so I don't - I
25 - I'm not going to accept that I was aware of that
26 practice.

27 So, if you don't remember it now, then regardless of what
28 the record suggests you might have known, you're not
29 prepared to concede you might have known that?---Well,

1 that - to me, that is such a problem, I think I would
2 have remembered it.

3 MR RUSH: Is what you're saying is that, when you say it's
4 "such a problem", it is so contrary to good and proper
5 practice - - - ?---Yes.

6 - - - you would have remembered it? Yet, as I've said, on
7 the Lorimer brief for both committal and trial there
8 are dozens of statements, both from Pigout and from
9 Hamada, where that practice has been adopted; not
10 putting descriptions in initial statements, police
11 going back 18 months, and sometimes many years in
12 Pigout, to get further statements from witnesses based
13 on notes that have been taken by police?---Yes, I
14 understand.

15 And that practice which took up the time of people like
16 Mr Kennedy, Mr Buchhorn, Mr Dale, all part of Operation
17 Lorimer, you say you were not aware of that
18 practice?---That's what I've said, yes.

19 COMMISSIONER: Can you recall now what the forensic reason
20 was for looking at Hamada and descriptions of offenders
21 in Hamada as potentially assisting in the investigation
22 of the murders of police officers?---Yes. Yes, of
23 course, we were trying to see whether - well, the Crown
24 was seeking to lead Hamada evidence, if you like, as
25 part of a key component of the trial case.

26 On the basis that the offenders in the Hamada
27 robberies - - -?---Were the offenders.

28 - - - were the offenders - - -?---Yes.

29 - - - responsible for the murders?---Yes.

1 Therefore the critical two things that would emerge from
2 Hamada was descriptions of offenders - - -?---M'mm.
3 - - - and an attempt to look at the level of similarity to
4 the suspects of the murders - - -?---Similarly in
5 particular, yes.
6 - - - and any modus operandi that might also reflect on the
7 suspects in the murders?---Yes.
8 So, wouldn't that of necessity have required you, as the
9 person in charge of the investigation, looking at what
10 descriptions you had of the offenders in the Hamada
11 operation?---Yes, it would; but, as I said earlier, I
12 don't have a recollection - - -
13 No, I understand?--- - - - other than what we said in terms
14 of, the Hamada offender descriptions were generally
15 consistent with what the Crown case was in the Lorimer
16 trial as such, an older and a younger, a larger and a
17 smaller, so - - -
18 A difficulty that we've encountered with a number of
19 witnesses is moving from what you can recall to moving
20 to what you would concede having regard to whatever
21 objective evidence there is of what was actually going
22 on at the time of the task force; do you follow?---Yes.
23 MR RUSH: I think you used the word, you felt there was a
24 need to enhance the evidence as it concerned Debs and
25 Roberts and their descriptions?---Yes.
26 Part of that job was to go back to - let's just start with
27 the Hamada statements, because it was thought by police
28 that that would provide evidence supporting the theory
29 of their involvement in the Silk-Miller murders?---Yes.

1 As has been put to you, as a consequence of that, it's right
2 to say, is it not, you as the inspector have the
3 overall responsibility for the direction of the
4 investigation?---Yes.

5 And so, matters that potentially enhance the case, which is
6 the principal theory in relation to the murders, are
7 matters that are going to very specifically come to
8 your attention?---Yes, I expect so, yes.

9 I'll just give you one example of what we've been talking
10 about at Exhibit 324. This is a statement of Shirley
11 Ng. If we just go a little bit down the page, you will
12 see that she was a waitress at the Jade Kew Restaurant,
13 Walpole Street, Kew, that was held up on 27 June 1998,
14 a couple of months before the murders. She is
15 providing a statement. If you go to p.3516, the bottom
16 third of the page, in her statement it's recorded:
17 "Then all of a sudden a male with a handgun came around
18 the corner. He was wearing a plastic mask covering his
19 head." Then the last paragraph: "Ten seconds later the
20 second offender appeared behind the one with the gun.
21 We all got down on the floor." And over the page she
22 refers to: "The first one yelling at us to 'Hurry up'."
23 Then the third paragraph: "The second one then started
24 to tie us up. Keith was first followed by me." Then
25 the next paragraph: "The first one came back out of the
26 kitchen, he was asking where the money was. He then
27 grabbed Bobby who was closer to the front, held the gun
28 to his back, he took him to the front register and made
29 Bobby open it. I didn't see much after this due to

1 being on the ground. I could hear them searching for
2 cash." Then, over the page, there's the reference to
3 conversation with the first offender, "Who drives the
4 Volvo", et cetera, she hears that conversation. Then,
5 the second-last paragraph: "As the first one was still
6 asking all of this, the second one was still tying us
7 up, tying up Minh or Alan. I looked at him. I then
8 saw that he was wearing a Bob Hawke plastic mask, black
9 jeans, maroon jumper, on the outside a black denim
10 jacket with a sheepskin inside. His runners were white
11 but had no brand, with velcro straps. The first
12 offender helped the second one finish tying us up."

13 That is pretty much the statement which, you would
14 agree, is pretty remarkable for its lack of description
15 of offenders?---Oh, yeah, it'd be - it'd be nice to
16 have a little bit more, I would agree, yes.

17 Over the page, at 3520, the statement is taken on 29 June by
18 Mr Peterson, detective sergeant, who at that stage was
19 in the Armed Robbery Squad?---Yes.

20 Then, if we go to Exhibit 323, at p.3514, it says: "Further
21 statement taken from Ms Ng on 26 November 2000" and
22 it's attested to by Sergeant Paul Dale who was working
23 with Operation Lorimer. Remember him?---Yes.

24 At p.3513, back to the first page, Ms Ng states her full
25 name and then says: "I have previously made a statement
26 to police in relation to a hold-up on the Jade Kew
27 Chinese Restaurant on 27 June working as a waitress
28 there at the time. From referring to the notes of
29 descriptions I gave police on the night, my memory,

1 I am able to say, that there were two males." Then
2 goes on to describe the males and gives, as you see:
3 "Bigger build than the second male. Above 5 feet 11 to
4 6 feet tall. A male mask with brown hair on his head.
5 26 to 30 years of age. Australian accent. Medium
6 build. Beer belly", and then gives a description of
7 the second offender from notes that were made at the
8 time. Now, that is an example, Mr Sheridan, of the
9 statements from Hamada and from Operation Pigout that
10 were the subject, both of those operations, of a
11 special effort by Lorimer; examples of people going
12 back, November 2000, part of Operation Lorimer, to get
13 further statements and descriptions to enhance - to use
14 your word - the police theory in relation to Debs and
15 Roberts. Did you not become aware, as a consequence of
16 your review of these statements and the second
17 statements coming in with specific reference to people
18 having made notes or having provided police with
19 descriptions?---Sorry, what are you actually asking me
20 though?

21 What I'm asking you is, does that not jog your memory to
22 this being a common practice within the statements that
23 became part of the Operation Lorimer brief for which
24 you were responsible?---I'm confused as to what you're
25 actually really asking me, but yes, it jogs my memory
26 that that's the sort of stuff, in terms of enhancing,
27 if a witness could have made a description and they
28 didn't, that would be something we would want, if that
29 answers your question.

1 So, that's something you'd want, and something clearly that
2 you got?---Well, it appears so, yes.

3 Did not the manner in which it was provided concern
4 you?---Well, ideally that description should have been
5 obtained in the first victim statement that that person
6 made.

7 I guess my question is, with this being repeated dozens of
8 times in the Hamada and Pigout statements, are you
9 indicating to the Commission that you did not pick up,
10 in the enhancement statements, that people were
11 referring to descriptions that they had provided to
12 police at the time of their initial statements?---I
13 don't know how I can really answer that because I
14 don't - I don't have a recollection of it at all, to be
15 honest. And I'm looking at it, yes, I don't doubt what
16 it says and as we've discussed, but I think you're
17 asking me what I was thinking back then - I don't know,
18 I can't tell you.

19 Well, you used the word "enhancement" in relation
20 to - - -?---Yes, I did.

21 In relation to that, but you also used it in relation to
22 enhancement of those police that had been witness to
23 dying declaration statements made by Mr Miller?---Yes.

24 So, what did you understand the process was of obtaining
25 further information or detail from those police
26 witnesses?---Well, my understanding is that, there's
27 nothing unlawful or improper about going back to a
28 witness that has already made a statement and seeking
29 to obtain more information from that witness.

1 COMMISSIONER: Of course not.

2 And who was responsible - - -?---I'm sorry?

3 COMMISSIONER: Of course not, Mr Sheridan - - -?---I don't

4 think that's the question.

5 - - - but when that happens there's only one way to

6 thereafter deal with the additional

7 information - - -?---Yes.

8 - - - and that's by way of a supplementary statement?---Yes.

9 There's no other way of adequately dealing with it?---That's

10 right.

11 MR RUSH: So - - -?---I haven't said anything to the

12 contrary.

13 COMMISSIONER: No, no?---Oh, okay.

14 MR RUSH: You would, if you've read the transcript, have

15 heard plenty to the contrary, would you not?---Sorry,

16 could you just give me that question - I'm not quite

17 sure what your question there is.

18 Well, you've agreed with the Commissioner that there is only

19 one proper way - - -?---Yes.

20 - - - of obtaining a second statement, and that is by way of

21 supplementary statement?---Yes.

22 And my question was, if you have read the transcript, you

23 would have read plenty to the contrary of that practice

24 being - taking place?---Yes, I understand you now.

25 Yes - yes, in the views of others, yes.

26 Sorry?---With others' views - you're referring to the views

27 of others saying there's other ways - - -

28 The views of others?---Yeah.

29 I'm referring to the evidence, the sworn testimony of

1 others, as to what they did?---In the views of others
2 expressed in their sworn testimony, yes, I've read
3 something about that, yes.

4 What do you mean "the views of others"?---I'm not - your
5 questioning is confusing me, I'm sorry.

6 What do you mean by "the views of others"?---What you've
7 just said is what I'm talking about. I just used the
8 word "views" instead of testimony; I apologise if
9 that's confusing.

10 And, what are you referring to by "the views of others", in
11 having read - - - ?---The differing views others may
12 have, which was in this case in sworn testimony to this
13 Commission, which in their minds - not in mine - seems
14 to justify a different way of taking a supplementary
15 statement.

16 So, what you'd read is that there is evidence before the
17 Commission that people have not, in taking further
18 statements, adopted the practice which you think is
19 proper, of taking a supplementary statement?---Yes.

20 Tell me, what do you understand by a supplementary
21 statement?---Any statement that follows the original
22 statement that a witness takes, their statement No.1,
23 that has to be - statement No.1 must survive, it isn't
24 shredded, whatever, destroyed in any other way. Any
25 statement that's made past statement No.1 is an
26 additional statement or a supplementary statement. And
27 at the beginning of each of those statements - and
28 we've had cases where people have made five or six
29 extra statements, it would say, "I have previously made

1 a statement", you know, sometimes to Detective Smith
2 about such and such, and then it would lead in - you
3 know, it may have Detective Jones today has asked me,
4 X, Y, Z, and then they might go into it, that sort of
5 thing. Or they may have just had a recollection or it
6 could be any other thing, but any subsequent statement
7 must be recorded as such as it was a statement made
8 subsequent to one that was already made.

9 COMMISSIONER: And why is that important,

10 Mr Sheridan?---Well, the witness's evidence must be
11 presented in totality in court. So, if they make seven
12 statements, then seven statements have to go up.

13 But why is it important that then seven statements are
14 disclosed? What's the importance of that
15 disclosure?---Well, the court has to know exactly what
16 it is that that witness claims to have said, not said,
17 changed, amended, whatever, along the way through and
18 that may or may not enhance the Crown case and, as I
19 said earlier on, with Homicide stuff it's
20 warts-and-all. If witnesses do make a secondary or
21 third statement or whatever and it's to our detriment,
22 in terms of the prosecution's detriment, then that's
23 just the way it is; that doesn't mean you lose the
24 earlier statement.

25 Can I just come back for a moment to your vehement assertion
26 that, contrary to Mr Kelly and Ms Eden's evidence,
27 there was not a practice that you knew of - or in fact
28 you go further than saying that you knew of, you just
29 assert there was no practice not recording a witness's

1 description of offenders in a statement?---Within the
2 Homicide Squad, yes.

3 Yes, within the Homicide Squad. You've worked with Senior
4 Sergeant Kennedy?---Yes.

5 And he's currently in your section, is he not?---Yes, he's
6 in the division now, yes.

7 And he was a member of the Lorimer Task Force?---He was,
8 yes.

9 And he was in the Homicide section?---Yes.

10 His unqualified evidence was that at the time of Lorimer he
11 was aware of the practice within Homicide, within Armed
12 Robbery, of not recording witnesses' descriptions in a
13 statement?---I can't account for what - other
14 than - - -

15 That's three we've got?---Yeah, three very junior detectives
16 who had - and Kennedy had never worked in the armed
17 robbery or the Homicide Squad at all at that time.
18 Eden and Kelly, both who are - with due respect to them
19 as individuals - very junior and very inexperienced
20 detectives.

21 What was Mr Kennedy's rank at that time?---A detective
22 senior constable.

23 And then we have evidence from Mr Butterworth; what was
24 Mr Butterworth's role?---Well, he was an Armed Robbery
25 Squad detective sergeant who was seconded to our task
26 force .

27 Yes, he was seconded into the task force?---I think I gave
28 that evidence earlier, sir.

29 And he's also given evidence of being aware, at the time of

1 Lorimer, of this practice. Do you not - - -?---I
2 disagree with that.

3 Do you not start to have some concern that perhaps you
4 shouldn't be quite so adamant about the claim that
5 there was no such practice within the Homicide
6 Squad?---Sir, I've been in and around the Homicide
7 Squad for the last 30-odd years at varying ranks and
8 had input into the squad in other positions I've worked
9 in since then; I'm not an expert in the field, but I
10 can say that I do have a good understanding of how the
11 Homicide Squad do their work, and generally the trend,
12 as I said earlier, is, the focus is on detail, not
13 exclusion of detail. I also make the point that the
14 squad's full of human beings; some of them obviously
15 may see things slightly different from others, but
16 generally speaking the trend is, all detail in, you
17 don't exclude things. Those detectives that you
18 mentioned are all - Butterworth's not a Homicide
19 investigator - but the other three, with respect to
20 them, and they're all good people, were all very
21 inexperienced and very junior investigators at the time
22 of their involvement in this matter and may well have
23 had erroneous views in their mind as to how they were
24 to do things, but it certainly wasn't indicative of a
25 standard of practice within the squad.

26 MR RUSH: Most of the crews, Homicide crews, were made up of
27 detectives of the same rank and experience as Ms Eden,
28 Mr Kelly, Mr Kennedy; most of the crews are made up of
29 those personnel, aren't they?---Most of the crews

1 within Homicide or within Lorimer or?
2 Within crews within Homicide?---No, they're varying levels
3 of experience. We've got some very experienced - - -
4 But your crews start off with a detective senior sergeant, a
5 sergeant, maybe two sergeants, and the rest of the crew
6 is made up of junior detectives?---That's correct, but
7 there's - there is a supervision structure in place
8 that does not appear to have been in place around this
9 particular issue at Moorabbin, and that's where I think
10 the failing is.

11 And, on the basis of the evidence that the Commission has,
12 not only at Moorabbin but within Homicide?---Well, I
13 think the statements you've pointed out are statements
14 taken in relation to armed robberies.

15 No, I'm asking you: we've got Eden, Kennedy's been pointed
16 out, Kelly's been pointed out; junior detectives within
17 the Homicide squads - Bezzina's squad, Collins' squad
18 as an example - who are adopting the practice of not
19 putting descriptions in statements?---Well, I've got
20 two detectives who adopted it at that time, it would
21 appear.

22 And, as far as them being junior detectives, I think the
23 initial question I may have put to you is, most of the
24 Homicide personnel are made up of detectives of that
25 general rank and experience: the Edens - - -?---That's
26 the base level rank, yes.

27 COMMISSIONER: To be fair to Senior Sergeant Kennedy, his
28 evidence to IBAC at the previous occasion he gave
29 evidence was, that wasn't a universal practice within

1 the Homicide Squad, it varied from officer to officer,
2 and his point was that it was really left to the
3 discretion of each individual officer. You would
4 disagree with that?---I would disagree with that.

5 MR RUSH: I want to come back to it now: the dying
6 declaration witnesses of conversations with Mr Miller
7 became important in the same manner as the Hamada and
8 Pigout witnesses became important?---Yes.

9 Important in relation to descriptions and important in
10 relation to numbers of offenders?---Yes, that's right.

11 I will briefly go to your notes, your diary, Exhibit 11 at
12 p.218. Here, 3 September 1998, the first really full
13 entry there: "Notes: dying declarations." It's
14 something that obviously you were reminding yourself
15 of?---Yeah, can we scroll - can I see the whole page?

16 Yep?---Okay, thank you.

17 And again, at p.222, on 7 September you have, at the top of
18 the page, the second full entry there is: "Notes on
19 dying declarations"?---Yes.

20 And 30 September, p.241, "Notes on dying
21 declarations"?---Well.

22 Sorry?---No, I said "well", as in, yes, I understand.

23 So certainly, over the course of September you, I take it,
24 are making that note for yourself and following it up
25 with those who would be responsible?---That's a -
26 that's not a diary. Well, it was a diary by nature of
27 being a book, but it's sort of like a day book, it's
28 just a note. So, yes, it's probably - I can't be
29 totally sure, but I'm looking at it and trying to

1 reconstruct it, I'm thinking, yes, it's probably a note
2 to either look at it, look at dying decs, to discuss
3 them with Collins or something along those nature.

4 COMMISSIONER: Just reviewing the state of the evidence
5 during this period in relation to the murders: you had
6 two officers, Sherrin and Bendeich who were some
7 hundreds of metres away from the murder scene?---Yes.

8 So their capacity to provide anything by way of
9 identification of the offenders was very
10 limited?---Yes.

11 And the only person who could give a more specific
12 description of either of the offenders, as you saw it
13 ultimately as a multiple offender case, the only person
14 who could give any sort of description was Senior
15 Constable Miller?---Yes.

16 So that, whatever he had said by way of description to the
17 first responders who were comforting him was
18 critical?---Yes.

19 Can we take it, you've familiarised yourself with what each
20 of them were saying in their statement about
21 Mr Miller's declaration?---Yes.

22 MR RUSH: At Exhibit 480, perhaps the follow-up to your
23 notes, p.7236, you see: "9.05 meeting Sheridan" and
24 you've got Sergeants Solomon, Humphries, Witschi,
25 Butterworth. This type of meeting, I take it, to have
26 a discussion on what needed to be done was a regular
27 feature of Operation Lorimer?---Yes.

28 And they are some of your senior investigators that you are
29 meeting with there?---Yes.

1 Including Collins who's taking this note?---Yes.
2 If you go down to the asterisk under that, it says: "Chase
3 up Buchhorn re clarification statements by Miller at
4 scene. Queries identified in statements. Follow-up
5 required re dying declarations"?---Yes.
6 So, to reach that stage it would appear, firstly, that at
7 least some statements from people who had been with
8 Mr Miller at the scene of this crime had made
9 statements?---Yes.
10 And those statements have been analysed and gone through and
11 there are some queries in relation to it?---Yes, I
12 would expect so, that's right.
13 And as a consequence of that there is a follow-up indicated
14 that Sergeant Buchhorn needs to do or to
15 perform?---That's - that's what the note indicates,
16 yes.
17 We have heard evidence from Sergeant Buchhorn that he was
18 principally responsible for the follow-up of the dying
19 declaration witnesses?---I believe that's right.
20 And that would be entirely consistent?---I think that's so,
21 yes.
22 The Commission has a body of evidence now that statements of
23 police sent into the Lorimer Task Force, including
24 first responder police, were the subject of scrutiny
25 and then corrections were identified that needed to be
26 put into those statements. Were you aware of that sort
27 of - - -?---I've read that in the transcripts, yes.
28 And that what would happen is that, one of two things: those
29 people would be met, or alternatively the statements

1 would go back with the corrections to be made
2 identified, and those people would make further
3 statements with the corrections included in the further
4 statements?---Yes, I believe that's right.

5 But the further statements did not have the rider that
6 you've spoken about with the Commissioner; the second
7 statements did not have the rider of them being
8 supplementary statements?---Yes, I've read that too.

9 Firstly, the practice is something that you were aware of;
10 that is, corrections being made in Operation
11 Lorimer?---Yes, I'm aware that - and I think there was
12 an example there where someone put an incorrect time,
13 as in, am or pm or whatever, that that sort of stuff
14 would be clarified back with the witness, yes.

15 Or, with Mr Pullin, a lot more detail in his
16 statement?---Well, it would appear so, yes.

17 Tell me, do you have any explanation for the second Pullin
18 statement?---No, I - I presume that second Pullin
19 statement has been forensically examined by the
20 Commission in a thorough way, because I - I've
21 speculated at times whether it was just concocted by
22 somebody, but no, I don't - I did see the evidence, I
23 think of Buchhorn speculating that perhaps it was a
24 duplicate made on the morning; that's a theory that I
25 think a few people have considered, that in the process
26 of, when the members were being interviewed at
27 Moorabbin, that the statement was reviewed then by
28 Bezzina or someone else at that position and that it
29 was raised perhaps with Pullin, "Did you hear what so

1 and so heard?", and a supplementary statement or a - I
2 know it's not portrayed as that - but a supplementary
3 statement was made incorporating that part of it and
4 that's how the two statements exist, they were both
5 print. So, I don't know whether - I presume metadata
6 searches and things have all been done on that.
7 You could have discounted that theory immediately, couldn't
8 you?---How?
9 Well, you didn't know or have a briefing to the effect there
10 were two offenders on 16 August?---Oh, no, we - yes, we
11 did, we knew - on 16 August?
12 Yeah?---Yes.
13 Well, Mr Bezzina has said he went to Moorabbin and was
14 totally unaware of it?---Yeah, I have read that, yes.
15 Well, you - - -?---Well, I can't explain why he says that,
16 I'm sorry.
17 COMMISSIONER: Weren't you party to the Sherrin
18 briefing?---Yes.
19 So, you were also present when Mr Sherrin said one offender,
20 one suspect?---Mr Sherrin did say that, that's right,
21 but the understanding at the scene was - because
22 there'd already been a radio broadcast go out which had
23 somehow come from the members that were around Miller
24 at the time, that there were perceived to be two
25 offenders. So, the view - the consensus was, it's more
26 likely two offenders; now, we keep an open mind on
27 that, but at that stage we were more likely looking for
28 two offenders. But Sherrin's account was on one
29 because Sherrin only actually ever saw one, if that

1 makes sense.

2 There was a misunderstanding in Sherrin's communication as
3 he claimed that he'd been told by Senior Constable
4 Miller that there was one offender - - -?---No, Sherrin
5 never actually spoke to him.

6 Correct; it then emerged a little later on that he'd never
7 actually spoken to Senior Constable Miller. The
8 content of the radio broadcast wasn't known to you in
9 the early hours of the morning of 16 August.

10 Mr Collins has made clear that there was - for some
11 hours after the murders everybody was proceeding on the
12 basis that there may be only one offender?---It was
13 certainly a consideration that that was - there was
14 only one offender definitely sighted by the members.
15 But even in the first call that I received, it was
16 about plural offenders, whatever it was before I even
17 left home. That the nightshift person - inspector that
18 rang me said, "The offenders have left", so it was
19 always a focus on, that it was more than one and, as I
20 said, yeah, I'm basing my - what I'm saying on, I
21 guess, some reconstruction but looking at the notes
22 since, Sherrin definitely said one in the briefing, I
23 agree with that; but my understanding was, we'd already
24 put out that there was more likely two offenders
25 because of the basis - the consensus of the dying dec
26 people were, it was a bit like a jigsaw, someone heard
27 a dark Hyundai, someone heard one on foot, someone
28 heard two offenders, one on foot; you put all that
29 together, you're left with a dark Hyundai, likely two

1 offenders; one offender's possibly on foot, in other
2 words, he's still at risk, we're still at risk, those
3 who are on the ground there are still at risk at that
4 time.

5 Sure, but that's a knowledge that you had from an
6 accumulation of information over some hours on the
7 morning of the murders. But Mr Bezzina, when he went
8 to Moorabbin to assist in the taking of statements, he
9 didn't have access to all that information, did
10 he?---Well, I would have thought he would have known
11 that. Yes, I would have thought he would have known we
12 were looking for at least more than one at that stage.
13 It certainly needed to be clarified, and that's the
14 purpose of the interviews, of course.

15 MR RUSH: Perhaps on that point, can we have a look at
16 Exhibit 370.

17 COMMISSIONER: Mr Sherrin, if at any stage you want a break,
18 let me know?---Thanks.

19 MR RUSH: You see, this is a statement of Detective Senior
20 Constable Small on the front, and it's witnessed or
21 acknowledged by Mr Bezzina at p.3685 at 4.45 am on
22 16 August?---Yes.

23 If we go to p.3684, in the second paragraph: "I heard the
24 injured member yell out he was in pain and wanted help.
25 He was rolling backwards and forwards from the pain. I
26 heard him say there was one male offender on foot and I
27 also heard someone mention a small dark-coloured car,
28 possibly a Hyundai"?---Yes.

29 So, that's the information, firstly, one of the pieces of

1 information available to Mr Bezzina at 4.35 am. One
2 offender?---Yes, that's right.

3 And you're aware of other statements made by police on
4 16 August identifying one offender?---Yeah, I think
5 there's five or six members around at the time. My
6 understanding is that, at least one had the - one on
7 foot but that there were two offenders.

8 Well, that's not what the statement says, though, is
9 it?---Well, that's not what that statement says, that's
10 right, but I haven't got all the other statements.

11 The one taken by Mr Bezzina - - -?---I think that statement
12 was just witnessed by Bezzina, I don't know if he
13 actually took it.

14 No, witnessed by Bezzina at 4.35 am - - -

15 COMMISSIONER: There's an ambiguity, of course, Mr Rush: one
16 male offender on foot. If there's a Hyundai that's
17 being driven away, presumably that's by someone that's
18 not on foot.

19 MR RUSH: There's one other: you doubt Bezzina's accuracy,
20 do you, in his evidence to the Commission?---Most
21 certainly, yes.

22 Could we go to Exhibit 20 on this point, please,
23 Commissioner.

24 COMMISSIONER: Just to perhaps shorten this aspect of the
25 examination, Mr Sheridan: although Mr Buchhorn advanced
26 that theory early in his evidence, it may be Mr Pullin
27 made a second statement almost immediately after the
28 first one in which he provided more detail. I think
29 it's fair to say, Mr Buchhorn did not persist with that

1 theory throughout his evidence because he was
2 confronted with what I would describe as an
3 overwhelming body of evidence that makes clear that the
4 second statement of Mr Pullin must be furnished at a
5 later date.

6 MR RUSH: Perhaps I'll leave it at that, Commissioner. If
7 we go back to the dying declarations, who, within your
8 team, had the responsibility of checking off the dying
9 declarations for consistency or corrections or
10 otherwise?---Collins, it would be Collins; in my view
11 it would be Collins or someone within his team. I've
12 read, you know, aspects of it, whether that was
13 Buchhorn or not; I don't have a clear recollection that
14 was Buchhorn, but yeah, it would certainly go back to
15 Graeme Collins in the initial phase and then could
16 possibly have been handed down from there.

17 And so, how is it reported to you that there are statements
18 in need of clarification, or what the nature - or is it
19 reported to you that there is some type of
20 clarification needed?---I don't recall when - if or
21 when, to be frank, it was actually reported to me. I
22 know that I, in the early - you know, within 24-hours I
23 had a rough understanding of what each of the members,
24 the dying declaration members, could say. So, I think
25 the - after that I probably didn't focus as much on
26 that in those first few weeks, I would think; as I
27 said, that's probably why the note's there, to come
28 back to it.

29 COMMISSIONER: But looking at the notes you made and

1 Mr Collins' notes that you've been taken to in which
2 there's discussion about getting clarification of the
3 statements, can we proceed on the basis that, once
4 first responders had made a statement which set out
5 what they said were the dying declarations, you would
6 have seen those?---Yes.

7 MR RUSH: And, to clarify that, would you have seen the
8 first statements?---I'd expect so, yes.

9 Therefore, you would expect, on the further statements that
10 you saw, that they would refer - on the basis of your
11 evidence they would refer to that witness having made a
12 previous witness?---I would expect that, yes.

13 Was that something you checked for?---I don't actually
14 remember seeing the additional statements, but yes, if
15 I've got it I'd expect it - that I would expect it
16 would start with, you know, this is a supplementary
17 statement essentially.

18 MR RUSH: Could we have a five minute break, Commissioner?

19 COMMISSIONER: Yes, certainly. Go and refresh yourself,
20 Mr Sheridan, we'll resume in five minutes.

21 Hearing adjourns: [3.26 pm]

22 Hearing resumes: [3.40 pm]

23 COMMISSIONER: Yes, Mr Rush.

24 MR RUSH: Just one matter, going back to Moorabbin Police
25 Station, Mr Sheridan, and a statement at Exhibit 370 of
26 Detective Senior Constable Small. If we go to p.3685,
27 you see that statement is acknowledged at the bottom,
28 witnessed by Mr Bezzina at 4.45 am on 16 August?---Yes.

29 If we go to p.3684, in the second paragraph, Detective Small

1 states that he was with Mr Miller: "I heard the injured
2 member yell out he was in pain and wanted help. He was
3 rolling backwards and forwards in pain. I heard him
4 say there was one male offender on foot. I also heard
5 someone ... dark colour", I've been to that one, I beg
6 your pardon. I'll come back to it, Commissioner, I'm
7 sorry, it was another. Can we have a look at
8 Exhibit 263, a statement of Senior Constable Gardiner
9 who was firstly at the scene of the crime and was in
10 the ambulance with Mr Miller when he was conveyed to
11 hospital. You will see, at p.3299, in the second-last
12 paragraph he records: "A senior constable, the same one
13 that found the gun, asked, 'What's happened?' Miller
14 replied, 'Two, one on foot.' The senior constable
15 asked, 'Any vehicle?' Miller replied, 'Dark Hyundai'."
16 And the senior constable, the one that found the gun,
17 you may or may not recall from reading the
18 transcript over the last few days, was Senior Constable
19 Pullin?---Yes.

20 You're aware that Senior Constable Pullin picked up the gun
21 and checked the chamber of the gun?---Yes, I do.

22 That created, you reading that would think, okay, what's
23 Mr Pullin got to say, would you not?---Well, that's
24 Brad Gardiner's statement.

25 That's Gardiner's statement?---Yeah.

26 So Gardiner's saying - - -?---So therefore, how do I jump to
27 Pullin from this?

28 "A senior constable, the same one that found the gun asked,
29 what happened? Miller replied, 'Two, one on foot.

1 Dark Hyundai'", you would be very keen, would you not,
2 to go to the statement of Mr Pullin to see if there's
3 verification of what Gardiner has heard by way of
4 conversation between Mr Pullin and Mr Miller?---That
5 would be ideal, yes.

6 Reading the statement and clarifying dying declaration
7 witness statements, that would be the first thing you
8 would do, is it not?---I don't know if it's the first
9 thing, but it certainly would be an ideal, yes.

10 And you, as you said before the break, are a person that
11 would read the first statements?---Yes.

12 And read the second statements?---I - yes, I would hope so,
13 yes.

14 When we see, in your diary repeated - - -

15 COMMISSIONER: You say "I would hope so"?---I think I
16 earlier said I wasn't sure about the second statements,
17 so I think that - - -

18 Do you think that's possible, Mr Sheridan, that as the
19 officer in charge, that having with Mr Collins focused
20 on the fact that there needs to be more work done on
21 the dying declarations, that you wouldn't have made it
22 your business to see what further information was
23 forthcoming from the first responders as to the detail
24 of the dying declaration?---Well, hence my answer, "I
25 would hope so", sir, meaning that, yes, I would - that
26 would be an ideal, but this was not the only aspect of
27 this case that I was obviously focused on. So, my
28 point being, yes, I would have expected that I would.

29 But you can't draw and you have no recollection of whether

1 you did?---I don't have a - it's 20 years, I don't have
2 a recollection, no.

3 Yes. Good.

4 MR RUSH: If we look at p.3302, that statement's
5 acknowledged by Senior Detective Constable Jones on
6 16 August at 4.39 am which, you may or may not
7 remember, is approximately 14 minutes after the time
8 that Mr Pullin's statement bears at Moorabbin, which is
9 4.25 am?---Oh, I don't recall the time off the top of
10 my head, no.

11 So, there's no way Mr Bezzina, at the time he's witnessed
12 Mr Pullin's statement at Moorabbin at 4.25 am, would be
13 aware of a statement made in Clayton at 4.39 am.

14 Pretty obvious, isn't it?---Yeah, I would agree with
15 that.

16 But, just going back - - -?---But that's at 4.39 am; it's
17 not to say that at 4.41 am a phone call couldn't have
18 been made by Jones to Bezzina to say, "He's just said
19 X, Y, Z."

20 Why would he phone Bezzina?---Jones?

21 Yeah?---Well, if Jones is doing statements as a result of
22 that role, and Bezzina is the senior sergeant managing
23 that, well, I'd expect that he would be the person he'd
24 be reporting back to you.

25 Why wouldn't he go back to you?---Oh, no, they - there's a
26 chain of command in terms of these things. There's a
27 structure that goes back to the initial - Bezzina is
28 responsible for what occurred at Moorabbin in relation
29 to statements, yes.

1 So, Mr Bezzina's responsible for Mr Kelly?---Yes.

2 And in what way is he responsible for Mr Kelly?---An
3 investigation is a team-orientated focus, but the rank
4 structure's there so that supervisors can guide and
5 advise; didn't happen in this case, but that's how it's
6 supposed to work.

7 So, it should work in that way?---Yes.

8 And it feeds up the chain to you, does it?---Well, the end
9 product feeds up the chain to me, yes.

10 Who was responsible then for the collection of
11 statements?---The physical collection of statements?
12 Yeah?---No idea.

13 Who was responsible and was there any attempt at all to
14 separate dying declaration witnesses on the
15 evening?---I would hope so.

16 But you know there wasn't, don't you?---No, I actually don't
17 know what happened at Moorabbin on that night.

18 As the inspector there on the night - - -?---I wasn't at
19 Moorabbin at the night, at the police station.

20 No, no, at Cochranes Road on the night?---Yes.

21 Knowing that there were dying declaration witnesses, what
22 did you do to ensure that the dying declaration
23 witnesses were conveyed, looked after, et cetera?---I
24 expect I gave a direction that they'd be conveyed to
25 police stations, and there's an expectation of a, I
26 guess of role playing, one would think a detective
27 senior sergeant would know what would be expected and I
28 would have expected that to happen. It didn't happen,
29 but that was my expectation.

1 Well, you said you gave a direction; is that right?---In
2 relation to taking them - the members away? Yes.
3 What members, Sherrin and - - - ?---The dying - the members
4 that had to be interviewed back to Moorabbin. I
5 consulted with Collins, I don't recall who actually
6 said what, but eventually the decision was made that
7 Bezzina would manage those people back at Moorabbin.
8 You know, for example, that Poke and Thwaites continued on
9 their patrol duties?---No, I did not know that; I heard
10 that since, but no, I did not know that.
11 So, just going back to your statement, and I just ask you to
12 be careful about this: do you say you gave a direction
13 that the dying declaration witnesses should be conveyed
14 back to Moorabbin?---I gave a direction that Bezzina
15 was to take the members that were around - - -
16 No, that's not my question - - -?---Well, that's my answer
17 though and what I'm getting to is I'm dealing - - -
18 I ask you to answer - - -?---Yeah, I'm dealing with the
19 question. The members who were around Miller who were
20 in a position to hear the dying declaration were to be
21 conveyed back to Moorabbin to make statements.
22 You know, don't you, that the persons that went back to
23 Moorabbin with Bezzina were Mr Sherrin and
24 Mr Pullin?---I know that now, yes.
25 And you say you gave a direction to Mr Bezzina to take the
26 dying declaration witnesses back to Moorabbin?---Not
27 personally, but I - I consulted with Collins and the
28 message was that Bezzina would take the key witnesses,
29 those witnesses back to Moorabbin and that they would

1 be interviewed.

2 Well, let's get it straight, because my understanding of the
3 evidence you've just given is that you gave that
4 direction to Bezzina; did you give it to someone
5 else?---I think I explained it twice: look, please let
6 me try and assist. I'm saying I - - -

7 If you can do it clearly - - -?--- - - - conferred
8 with - - -

9 - - - it would help?---Thank you. I never spoke directly to
10 Bezzina myself.

11 Thank you?---But, as you said, I was in charge. My deputy
12 at that stage, Graeme Collins, and I consulted in
13 relation to this. I don't expect there to be a note on
14 this, there were a thousand things occurring at this
15 time, but the understanding between both of us was that
16 Bezzina would handle the key witnesses, as you referred
17 to before, the dying declaration witnesses, those
18 members who were around Rod Miller at that time, that
19 they would be conveyed back to the police station to
20 make statements.

21 So, you made that very clear to Mr Collins, did you?---I'd
22 like to think so, yes.

23 Well, that's very different to the answer you've just given
24 ?---No, please explain, I'll - - -

25 You say you would like to think so. You say you would like
26 to think so, your evidence previously was that, that is
27 what you told Collins. Are you reconstructing this
28 as - - -?---No, I think your questioning is probably
29 pushing me into a direction and I'm trying to answer

1 it, but are you - I - you know.

2 COMMISSIONER: Let's be clear, Mr Sheridan. Are you drawing
3 on recollection or are you really telling us what you
4 assume you would have done, whether directly to
5 Mr Collins or otherwise, are you making an assumption
6 about what you think you would have done?---No, I'm not
7 making an assumption, I have a clear recollection - - -
8 Very good?--- - - - today that in my discussions with
9 Collins at the scene there was an expectation that
10 Bezzina would handle the key witnesses, not just
11 Bendeich and Sherrin, back at Moorabbin Police Station.

12 MR RUSH: So, that required Mr Collins to give that
13 direction to Bezzina?---Well, I expect so, yes. I
14 wasn't there, but I - as in, I wasn't there when he -
15 as I said, I didn't have a direct conversation with
16 Bezzina; I don't even recall seeing Bezzina physically
17 now, I don't recall seeing him at the scene though I
18 know he was there because I know I've got his name in
19 my notes. But, yeah, I would expect that Collins would
20 have transmitted that message to Bezzina. If he
21 didn't, someone else would have I expect. It was a
22 pretty busy scene, so I'm expecting if Collins couldn't
23 do it, he would have necessarily passed it on to
24 someone else to pass it on. There were lots of senior
25 officers, it could have been passed on through that.
26 There was - Ethical Standards were there, there was a
27 whole range of people. It could have gone to Bezzina
28 in a variety of ways.

29 So, getting back to the statement of Mr Gardiner, a

1 statement you would have, you expect, seen?---Yes.
2 And you would expect, as part of your practice and
3 oversight, then to have thought, okay, what's Pullin
4 say about this?---Yes, I expect so, yes.
5 Then, no doubt, you would have gone to Pullin's
6 statement?---Yes.
7 You have seen that statement - - -?---Yes, I have.
8 - - - recently, the first statement?---Yes.
9 And it says nothing about that?---That's right.
10 So, on that basis you would indicate - not yourself - but
11 you would be saying to Collins to clarify that
12 situation?---Yes.
13 And clarify it by a supplementary statement?---Yes, a
14 supplementary statement.
15 And other issues that we've explored already, where issues
16 are raised, supplementary statement?---Yes.
17 And you would have read those supplementary statements?---I
18 expect so; I don't have a clear recollection, as I said
19 earlier, but I expect I would have, yes.
20 Your practice would be, and particularly in an investigation
21 such as this, noting the importance of dying
22 declarations, to have checked the supplementary
23 statements?---I expect so.
24 COMMISSIONER: I mean, is it conceivable that, when the
25 officer designated with the task of getting additional
26 information from the first responders about the dying
27 declaration had got that information and placed it in a
28 statement, is it conceivable that you would not have
29 looked at it to see what's the detail of the

1 description which Senior Constable Miller gave the
2 first responders?---No, I - no, I think that's what I'm
3 saying, I would have expected that I would have had a
4 look at it.

5 Yeah?---I don't think I denied that I wouldn't have looked
6 at it.

7 No, no?---I said I would expect that I would have had a look
8 at it.

9 MR RUSH: And, Mr Collins obviously would as well?---I'm not
10 gonna speak for him.

11 Sorry?---I'm not going to speak for him.

12 Would you not expect that?---I would expect it, yes, but I'm
13 not going to speak for him.

14 I'll be some time, Commissioner. It's convenient for me
15 if - - -

16 COMMISSIONER: We've got a full day tomorrow, Mr Rush, do
17 you think we should perhaps start earlier?

18 MR RUSH: Yes, Commissioner: 9.30?

19 COMMISSIONER: Is that convenient to you,
20 Mr Sheridan?---Yes, sir.

21 Very good, we'll adjourn until 9.30 tomorrow.

22 Hearing adjourns: [3.56 pm]

23 ADJOURNED UNTIL TUESDAY, 25 FEBRUARY 2019

24

25

26

27

28

29