
TRANSCRIPT OF PROCEEDINGS

INDEPENDENT BROAD-BASED ANTI-CORRUPTION COMMISSION

MELBOURNE

THURSDAY, 7 FEBRUARY 2019

(4th day of examinations)

BEFORE THE HONOURABLE ROBERT REDLICH QC

Counsel Assisting: Mr Jack Rush QC

Ms Catherine Boston

OPERATION GLOUCESTER INVESTIGATION

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

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

1 COMMISSIONER: Yes, Ms Boston.

2 MS BOSTON: Commissioner, the first witness this morning is
3 Grant Langmaid.

4 COMMISSIONER: Yes, Mr Langmaid, would you come into the
5 witness box, please. Yes, sir?

6 MR ALLEN: Commissioner, my name is Allen, A-l-l-e-n, and I
7 appear on behalf of Mr Langmaid today.

8 COMMISSIONER: Thank you, Mr Allen. Have a seat, please.

9 <GRANT DOUGLAS LANGMAID, sworn and examined:

10 COMMISSIONER: Mr Langmaid, the process that we will follow
11 here is that counsel assisting, Ms Boston, will ask you
12 some questions; there may be some application to
13 cross-examine you but we will consider that if and when
14 it arises. Your counsel, Mr Allen, will then have an
15 opportunity to examine you to either get you to amplify
16 any answers or to adduce additional information if you
17 think that hasn't been provided.

18 I need to identify for you what the areas are that
19 you will be questioned about. Firstly, the Lorimer
20 Task Force investigation of the murders Sergeant Gary
21 Silk and Senior Constable Rodney Miller concerning the
22 taking of witness statements, the preparation of the
23 brief of evidence in the trial of Bandali Debs and
24 Jason Roberts, and whether there was full disclosure of
25 witness statements or other relevant information prior
26 to or during the trial, witness statement-taking
27 practices by Victoria Police, and compliance with the
28 obligation to disclose evidence by Victoria Police.

29 Each of those matters were recited in the summons with

1 which you were served.

2 When you were served with a summons, there was
3 also a confidentiality notice attached?---Yes, sir.
4 So, your rights and obligations were set out in that
5 documentation. Has Mr Allen discussed with you those
6 rights and obligations?---Yes, sir.
7 Do you wish me to repeat them or do you feel you're clear on
8 what they are?---I'm clear, sir.
9 Very good. I'm sorry, I should have added: I understand
10 that the process we're following has been the product
11 of some level of anxiety on your part?---Yes.
12 There is an independent person available. If at any stage
13 during the evidence you feel uncomfortable, distressed,
14 please let me know and we'll adjourn and give you an
15 opportunity to liaise with your counsel and the
16 independent person, but you should feel free at any
17 stage to indicate if you need a break?---Thanks, very
18 much, appreciated, thank you.

19 COMMISSIONER: Yes, Ms Boston.

20 MS BOSTON: Mr Langmaid, could you state your full name,
21 please?---Grant Douglas Langmaid.
22 Do you attend here today in response to a summons served
23 upon you on 14 December last year?---Yes, ma'am.
24 Could you look at these documents, please. The summons in
25 front of you numbered SE2770, is that the summons that
26 was served upon you?---Yes, ma'am.
27 You indicated that you received a document entitled,
28 "Statement of Rights and Obligations", do you see that
29 document in the bundle?---Yes, ma'am.

1 Together with the summons and the statement of rights, did
2 you also receive a confidentiality notice dated
3 11 December 2018?---Yes, ma'am.
4 Also a covering letter dated 12 December 2018?---I did.
5 Are the documents before you copies of those documents you
6 received in full?---Yes.
7 You understand the nature of those documents?---Yes.
8 I tender those, Commissioner.
9 #EXHIBIT H - Documents served on Mr Langmaid.
10 Mr Langmaid, are you currently serving with Victoria
11 Police?---I am.
12 What is your current rank and station?---I'm a sergeant at
13 Bellarine Police Station.
14 When did you first join Victoria Police?---1985.
15 Could you just briefly outline your history with Victoria
16 Police?---I graduated in 1985. After my junior phase
17 at Port Melbourne Police Station and senior phase at
18 Malvern Police Station, my first station was St Kilda
19 Road. From there, I transferred to Nunawading. It was
20 at Nunawading I did a lot of various duties in and
21 around the area; upgraded, Box Hill, Burwood and Glenn
22 Waverley local stations. In about 2007 we decided to
23 have a sea change and we moved down to Drysdale where I
24 was the OIC at Drysdale Police Station. In about 2014,
25 we were - all the small stations were re-allocated and
26 we ended up going to Bellarine where I currently am
27 now.
28 In the period of 1998 to 2001, where were you
29 stationed?---I believe, Nunawading.

1 Have you ever been seconded to other parts of Victoria
2 Police?---No.
3 Never spent any time in the Armed Robbery Squad?---No.
4 Did you have any involvement with Operation Hamada which,
5 you will understand, was a task force investigating a
6 number of armed robberies on so-called soft targets in
7 the southeastern suburbs of Melbourne in 1998?---Yeah,
8 not as far as I'm aware, no.
9 I take it, you've taken a lot of witness statements over the
10 course of your career?---Correct.
11 What is your understanding of the purpose of a witness
12 statement?---A witness statement, to get the story of
13 what's actually happened.
14 And then, the statement's taken and ultimately it ends up on
15 the brief of evidence which goes before the court
16 either at the committal stage or in summary proceedings
17 at contest stage?---Yes, ma'am.
18 Are you aware of a practice within Victoria Police, when
19 statements are initially taken from witnesses, of
20 deliberately not including in those statements
21 descriptions of offenders that those witnesses could
22 give?---No, ma'am.
23 Perhaps I'll be more specific. Are you aware of a practice
24 within Victoria Police, either in the past or at
25 present, of, instead of including a description given
26 by a witness in the statement, recording it on a
27 separate document?---Yes, I agree with that, ma'am.
28 Could you please explain what that practice is?
29 COMMISSIONER: I'm sorry, I don't follow the two last

1 answers that you've given. You say you're not aware of
2 a practice of not including all relevant information in
3 the witness's statement, and then you say, "I've heard
4 of a practice of not recording the description in the
5 statement but putting it on a separate piece of paper";
6 how do you reconcile - - - ?---No, sorry, I don't know
7 it as a practice that happens, but I've heard of that
8 happening, yeah.

9 I see, thank you.

10 MS BOSTON: You've heard of a practice of recording the
11 statements on a separate piece of paper?---Yes, ma'am.

12 Are you saying that that's not a practice that you've
13 engaged in yourself?---No, ma'am.

14 You'll understand that you're on oath today,

15 Mr Langmaid?---Yes, ma'am.

16 And that you're under an obligation to tell the truth to the
17 Commission?---Yes, ma'am.

18 And that committing perjury is punishable by up to 15 years'
19 imprisonment?---Absolutely.

20 I'll ask you to reconsider that answer, as to whether you
21 have yourself engaged in that practice of, instead of
22 including in the statement a witness description,
23 recording it on a separate piece of paper?---Ma'am, I
24 cannot recall doing that at all.

25 If we could go to Exhibit 305. There's a hard copy that can
26 be provided to the witness as well, together with

27 Exhibit 307?---Thank you.

28 If we could bring up Exhibit 305 up on the screen first. Is
29 that your handwriting?---Yes, ma'am.

1 You will see on the final page, p.3460, "This is a statement
2 taken and signature witnessed by me at 19 July 1998 at
3 Surrey Hills", and it's signed by yourself?---Yes,
4 ma'am.

5 COMMISSIONER: Perhaps you might remind the witness,
6 Ms Boston, of the context in which that statement was
7 taken.

8 MS BOSTON: Yes, I will, Commissioner. (To witness) Just
9 establishing, firstly, that it is a statement that's
10 been taken by you?---Yes, ma'am.

11 I'll give you the opportunity now to read through that
12 statement. Do you have any difficulty reading your own
13 handwriting, because there is a - - -?---I am now,
14 Ma'am, (indistinct) one.

15 I confess, I've had the same difficulty, Mr Langmaid.
16 Exhibit 307, there is a typed version, if we could
17 bring that one up perhaps, Commissioner, of the same
18 statement. You will see, if we go to the final page,
19 p.3466, this is an unsigned ...

20 COMMISSIONER: This is a reformatted version, is it?

21 MS BOSTON: It is, yes, Commissioner.

22 COMMISSIONER: Can you read that?

23 MS BOSTON: If we go to the bottom page at p.3466, you will
24 see that that's an unsigned version of the handwritten
25 statement?---Yes, ma'am.

26 The purpose, as the Commissioner said, of such a typed up
27 statement is a reformatting for the purposes of going
28 in the brief, making it easier for people to be able to
29 read the statement?---Yes, ma'am.

1 So, I will give you the opportunity now to read through that
2 statement?---How do I get back to the start?

3 There's a hard copy in front of you, sir.

4 MR ALLEN: Commissioner, might I ask if the copy on the
5 screen could be taken to the start so I could follow
6 this as well?

7 COMMISSIONER: Yes, certainly. Could you take the document
8 back to the start of the document, please. Then you
9 can move it to the next page. Do we have a spare hard
10 copy of the document for Mr Allen, Ms Boston? What's
11 the exhibit number?

12 MS BOSTON: 305 and 307, Commissioner.

13 MR ALLEN: Thank you, Commissioner.

14 COMMISSIONER: I'll pass Mr Allen Exhibits 305 and 307. 306
15 is the handwritten version which I won't trouble
16 Mr Allen with at and present.

17 WITNESS: I think I got through it, but I can hardly read my
18 own writing there.

19 MS BOSTON: Like I said, there is a typed up version,
20 I believe there's a hard copy in front of you as
21 well?---Yes.

22 If that would assist if you feel you need more time?---No,
23 it's okay.

24 COMMISSIONER: I don't think anything, Mr Langmaid, will
25 turn on the accuracy of the typed document, I think
26 it's a copy of your handwritten material?---Yes, sir.

27 MS BOSTON: You'd agree that this is a statement from a
28 witness by the name of Mark Louis signed on 19 July
29 1998?---Yes, ma'am.

1 He was a part-time employee at the Green Papaya Restaurant
2 in Surrey Hills?---Yes, ma'am.

3 The statement was in relation to an armed robbery which had
4 occurred a couple of hours earlier the previous night,
5 on 18 July 1998?---Yes, ma'am.

6 It's a statement in relation to two offenders. Do you
7 recall taking that witness statement?---No, not
8 accurately, but I think I can remember an event but I
9 can't remember specific about it.

10 You say you think you were stationed at - - - ?---Probably
11 Box Hill at the time, I'd say.

12 Box Hill?---Yep.

13 And never had anything to do with the Armed Robbery Squad at
14 all?---No, it sounds like it would have been a job
15 probably that we were dispatched to.

16 So, who would have dispatched you?---D24.

17 So, you would have been on general duties at that
18 time?---General duties, yes.

19 You'll agree that, in the statement that you've just had the
20 opportunity to read through - - -?---Yes, ma'am.

21 - - - Mr Louis, just speaking broadly, he speaks of one male
22 entering the restaurant before putting the rubber mask
23 on?---Yes, ma'am.

24 He also refers to a taller male who came in behind the first
25 male?---Yes, ma'am.

26 Who was also wearing a rubber mask?---Yes.

27 You'll agree, won't you, at the bottom of the statement the
28 witness says: "During the whole thing I was very scared
29 and concerned for both my safety and that of my

1 workmates but I really wanted to look at them so I
2 could get a description"?---Yes, ma'am.

3 Followed by: "The first male seemed to be in charge, he was
4 giving all the orders and making all decisions, he did
5 all the talking during the robbery"?---Yes, ma'am.

6 You'll agree, wouldn't you, that the only description given
7 in this statement is that both men were wearing
8 masks?---Wearing masks, yes, ma'am.

9 He describes the masks, and that the second male was taller
10 than the first male?---Yes, ma'am.

11 COMMISSIONER: Just to put this in context, Ms Boston. In
12 the trial involving Debs and Roberts, the prosecution
13 was relying on these armed robberies to demonstrate an
14 involvement by Debs and Roberts in those robberies?

15 MS BOSTON: They did. There were ten armed robberies in the
16 southeastern suburbs, Commissioner, which were
17 investigated as part of Operation Hamada, and that
18 operation was subsequently subsumed really in Operation
19 Lorimer.

20 COMMISSIONER: In relation to this particular robbery, what
21 was Mr Roberts' attitude to his involvement in that
22 robbery?

23 MS BOSTON: There was no admissions at the time of the
24 trial, Commissioner. There have been subsequent
25 admissions, as I understand it, by Mr Roberts as to his
26 involvement. But as at the time of the trial and the
27 compilation of the brief, there'd been no admission in
28 that regard, Commissioner.

29 COMMISSIONER: That's the setting, Mr Langmaid?---Yes, thank

1 you, sir.

2 MS BOSTON: I take it, it's important when investigating any
3 kind of armed robbery like this to try and get a
4 description from the people who saw the
5 offenders?---Yes, ma'am.

6 In fact, the witness himself was expressing a desire to make
7 sure a full description was provided to the police,
8 wasn't he?---Yes, ma'am.

9 There's very little description in this statement, isn't
10 there?---There is, ma'am, yeah.

11 COMMISSIONER: Just before you proceed any further, could
12 you just tell us in a little more detail, as at that
13 date, what was your level of experience of
14 investigating a crime?---Sir, with general duties, I
15 was looking at the time, we probably had been
16 dispatched to the job, it was probably active, and we
17 would have jumped in a van and gone straight down
18 there. Probably the job was initially to try and
19 contain the scene, separate people, look for witnesses
20 and wait for the CI to arrive.

21 And, in that setting, would it be uncommon for you as a
22 member of a first responder, or response team, would it
23 be unusual for you to take a statement from an
24 eyewitness?---It would be - depend on the availability
25 of the CI, you know, and how - how long they might be
26 away, or if they were confidently in doing the
27 statement.

28 Would you necessarily wait for the CI to come before taking
29 it upon yourself - - - ?---Yes, sir.

1 - - - to take a statement?---Yes, sir.

2 So may we assume then that, when you took this statement you

3 were under some direction from the CI to do so?---I -

4 that's correct, sir.

5 MS BOSTON: If we could just turn, please, to Exhibit 305,

6 p.3459. This is the final page of the substance of the

7 statement, it's followed only by the jurat on the final

8 page. There's just a line and a bit of information on

9 that page in your handwriting; is that

10 right?---(Indistinct) it says he did all the talking

11 during the - during the thing.

12 During the robbery?---Yep.

13 Plenty of space, if you'd been given further details from

14 the witness as to descriptions of the offenders, plenty

15 of space where you could have entered that

16 information?---Yes, ma'am, plenty of space.

17 Would there be any reason why you wouldn't - well, wouldn't

18 include further details given by a witness?---No,

19 ma'am. If he gave them to me, I assume I would have

20 put them on.

21 Why would you have put them on?---Well, if he gave a

22 description, I assume I would have put them on the

23 statement.

24 Because - - -?---It's important.

25 It's important information, an eyewitness to an armed

26 robbery?---Yes, ma'am.

27 COMMISSIONER: Why is it important?---For - as you said,

28 sir, for future reference, for intelligence, for

29 cross-referencing.

1 So, it would be important at a later time whether or not the
2 description matched someone who was charged with the
3 offence or not; it would either be inculpatory or
4 exculpatory or neutral?---Very important, sir.

5 But it's highly relevant evidence, isn't it?---Yes, sir.

6 MS BOSTON: So I take it, you would have asked the witness
7 to give you as much description of the two
8 offenders - - -?---That's possible, yes, ma'am.

9 - - - as possible, and that would have included physical
10 traits; you would ask about hair colour, for
11 example?---Well, everything.

12 Height?---Height, weight, clothing.

13 As well as clothing?---Yes, ma'am.

14 And you would have asked about whether there was anything
15 about the voice that stood out to the witness?---Yes,
16 ma'am.

17 So, one's physical appearance, clothing, and their voice,
18 all important pieces of information?---Yes, ma'am.

19 Do you have any explanation as to why there's no reference
20 to those kind of details in this statement?---No,
21 ma'am, I haven't.

22 COMMISSIONER: Particularly, as the witness says, "Despite
23 being fearful, I was looking at the offenders"?---Yes,
24 sir.

25 MS BOSTON: There's been evidence before the Commission of a
26 practice within Victoria Police, at least some parts of
27 Victoria Police, of deliberately recording descriptions
28 on a separate piece of paper?---Like I said before,
29 ma'am, I have heard that, but I don't consider that a

1 practice.

2 In what context have you heard it?---Just through CI,
3 through CI talking, but I can't give a specific date,
4 it was just something that came up that I heard, I
5 think I heard in talking.

6 In general conversation?---In conversation, yeah.

7 What was said, to the best of your recollection?

8 Well, nothing specific, I just heard what you've just
9 said there, about putting a description on a separate
10 paper. I can't give any specifics to it, because I
11 don't know.

12 COMMISSIONER: How often had you heard that?---It's just
13 come to my memory now once you mentioned it, but I
14 couldn't tell you where or when; I assume it would have
15 been around Nunawading, Box Hill.

16 How recently, Mr Langmaid?---I been there, ah, 98, 2000s.

17 MS BOSTON: So, you'd heard about it on the job as a
18 practice that other people engaged in; is that your
19 evidence?---Ma'am, I can't tell you it's a practice, I
20 just heard that.

21 I won't use the word "practice", but you'd heard that other
22 people were doing this?---Again, I say I can't say that
23 other people are doing - I just heard that that was
24 just talked about. If I knew, I would tell you.

25 What did you understand the purpose to be of recording a
26 description on a separate piece of paper?---I just
27 thought we'd added - be adding to the - adding to the
28 statement or adding to the brief.

29 COMMISSIONER: I think the question, what's being put to you

1 is, can you think of a purpose for which someone taking
2 a statement from an eyewitness would deliberately not
3 record in the statement the description of the offender
4 but will put the description on a separate piece of
5 paper?---Well, so I remember because it was missed, you
6 know what I mean? Maybe it was taken at a separate
7 time, maybe - - -

8 Assume it was taken at the same time; can you think of any
9 legitimate purpose - - -?---No, sir, not at all.

10 MS BOSTON: The only purpose would be, wouldn't it, would be
11 to use the description if it matched the suspect
12 ultimately identified?---In this case, ma'am, I think,
13 if it was missed, maybe the CI weren't happy with the
14 statement, I don't know.

15 I'll make it clear, sergeant, I'm referring generally now,
16 not to the specifics of this case. The only reason for
17 recording a description on a separate piece of paper
18 and not in the statement, the only reason and improper
19 reason, would be to use the description if it matched
20 the suspect ultimately identified and not to use it if
21 it didn't match the suspect ultimately
22 identified?---That would be correct, ma'am, but I would
23 hate to think so.

24 You can't think of any other reason?---No, ma'am.

25 COMMISSIONER: You'd hate to think so?---Yes, sir.

26 MS BOSTON: There couldn't be any other reason at all, could
27 there?---I don't think so, ma'am.

28 If we could go, please, to Exhibit 171. Perhaps if we could
29 bring up at the same time, Commissioner, Exhibit 305.

1 On the left of the screen, Exhibit 171, we have a new
2 document you haven't seen previously from today, and on
3 the right-hand side of the screen we have the statement
4 which you've said you took from this witness?---Yes,
5 ma'am.

6 Clearly the new document, Exhibit 171, is in your
7 handwriting?---Yes, sir - yes, ma'am.

8 If we scroll down to the bottom of p.2952, and at the same
9 time scroll down on Exhibit 305 to p.3460. Looking at
10 Exhibit 305, that is the witness's signature at the top
11 of the page there, you'd agree?---Yes.

12 On Exhibit 171 at the bottom of that page is also that same
13 witness's signature?---Yes, ma'am.

14 I'll give you a moment to read through this, what I'll call
15 separate description.

16 COMMISSIONER: Can you provide it in hard copy to
17 Mr Langmaid?---I can see it here, yes.

18 Good?---I can see it now.

19 If you could go back to the top of the document, please.

20 Thank you?---Yes, ma'am.

21 MS BOSTON: You will see that that's a relatively detailed
22 description of, certainly the first male?---Yes.

23 Giving a height of approximately 6 foot 1, solid build,
24 medium body, brown hair, crew-style cut. What does the
25 next line say? "Clean shaven, approximately mid-30s.
26 Australian accent, very confident in action manner."
27 What does that next line say? "Wearing beige"?---Looks
28 like "blue", "Blue waist length rain spray jacket with
29 collar, loose fitting. Mid-beige jeans. White runners

1 with velcro straps, black or dark blue tongue, bulky,
2 sticking out over top, no gloves."
3 Below that there's a description of the second male, being
4 the second male to come into the restaurant. What does
5 that say there in relation to the mask?---"Reagan mask.
6 (Inaudible words). Did not get a good look at him."
7 So, this second male is said to be taller than the first
8 male?---Yes, ma'am.
9 Didn't get a good look at him. Agree, certainly in respect
10 of the first male, a very detailed description?---Yes.
11 And some description in relation to the second male?---Yes,
12 ma'am.
13 Most of this information was not included in the statement
14 given by the witness?---Yes, ma'am.
15 So, it appears you have engaged in that practice of
16 recording a description on a separate piece of paper
17 and not including it in a witness's statement?---Can I
18 say, I can't remember, but it looks like maybe the CI
19 weren't happy with my statement, said you need to get a
20 description, maybe. Have we got any dates on that
21 form?
22 That was going to be my next question. This document isn't
23 dated, is it?---No.
24 Let's consider that hypothesis. If the CI wasn't happy with
25 your statement and wanted you to get further
26 detail - - -?---Yes, ma'am.
27 - - - surely the correct procedure would have been to get
28 that witness to make a second statement, a
29 supplementary statement?---Maybe they just asked me to

1 get more details.
2 I'm sorry?---Maybe they asked me to get more details, I
3 can't remember it, even looking at it.
4 But there'd be no reason - if there was a need to get more
5 details, there'd be no legitimate reason, would there,
6 why you wouldn't simply take a supplementary statement
7 from the witness?---I don't know, I just - I can't even
8 remember it, but I'm assuming they would have said to
9 me, "Grant, you haven't got enough details in that
10 statement, can you get details of the offenders?" And
11 I probably just contacted them, wrote it down and gave
12 it to them.

13 COMMISSIONER: Ms Boston, this witness won't of course be
14 able to establish this, but are you able to indicate
15 for the purpose of the Hamada file investigations, was
16 this document containing the description annexed to the
17 original statement?

18 MS BOSTON: No, it wasn't, Commissioner.

19 COMMISSIONER: What material is available as to how it's
20 located and its connection to the first statement?

21 MS BOSTON: Ultimately, Commissioner, both the statement
22 taken by the witness as well as a separate description,
23 as well as a supplementary statement taken by another
24 member, were ultimately included in the brief in
25 relation to Debs and Roberts, Commissioner.

26 COMMISSIONER: Yes. So, did you follow that, Mr Langmaid?
27 That someone at a later point of time prepared a
28 supplementary statement for this particular eyewitness
29 that dealt with the description that you had

1 obtained?---So, sorry, yeah, someone's done a statement
2 with those two statements combined for someone else?

3 No?---No?

4 Done a supplementary statement from that witness dealing
5 with the description. So, the hypothesis on which we
6 are working, Mr Langmaid, and obviously if it's
7 incorrect you should tell us why, is, when you took the
8 statement from the eyewitness you recorded separately
9 to the witness's account this document containing the
10 description?---To the best of my knowledge, I don't
11 think that's - I can't recall, but I wouldn't think
12 that'd be right. I'm thinking that I didn't get enough
13 details and I was asked to get further details.
14 However, that would - that would appear now, but that's
15 how I'm thinking would have happened.

16 MS BOSTON: If you'd been asked to get further details,
17 though, the proper practice would have been to go back
18 to the witness and get the witness to say, I have
19 previously made a statement, I have some additional
20 information to add and set it out properly jurated at
21 the end; that would be the proper process, wouldn't
22 it?---That's correct.

23 And there's no reason why, if this separate description were
24 recorded legitimately, there's no reason why that
25 proper practice wouldn't be followed?---I understand
26 that, but I say it from my behalf, it looks like I
27 would probably ask for the details, I probably should
28 have done it (indistinct) that second statement.

29 COMMISSIONER: So, I'm curious, Mr Langmaid: why do you

1 alight on the explanation - you're now searching
2 ---?---Yes, sir.
3 - - - for an explanation; correct?---I'm trying to get one,
4 sir, yes.
5 So, why do you alight on the explanation that you must have
6 done this at some later point of time at a request of
7 CI, rather than the explanation, or I was asked at the
8 time by CI not to put this description in the same
9 statement?---Well, (1) sir, I can't remember; (2) it
10 doesn't seem like me. Can I - - -
11 I'm sorry, again, I don't follow. Why is it not like you to
12 act on a CI request at the time you were taking the
13 initial statement, to separately record the
14 description - - -?---Okay, sir - - -
15 - - - but it would be like you at a later time to do that
16 but not by way of a supplementary statement? I don't
17 follow, why - - -?---As I say, sir, I can't recall if
18 the CI asked me to do that.
19 Either of those explanations is equally possible, is it
20 not?---Yes, sir.
21 MS BOSTON: There's been evidence before the Commission of
22 various practices, related practices, in terms of how
23 separate descriptions were stored; I'm just seeing if I
24 can jog your memory. There's been one witness who's
25 given evidence that the separate description would be
26 stapled to the statement; another witness has said that
27 it would be stored elsewhere and a post-it note
28 referring to the separate description would be stuck on
29 the statement. Does that jog your memory at all about

1 how this description came to be recorded
2 separately?---No, I mean, I can't offer you an
3 explanation on that.

4 Can you see the dangers - - - ?---Yes, ma'am.

5 - - - of recording a description separately - - -?---Yes,
6 ma'am.

7 - - - from a statement made by a witness. What are those
8 dangers?---Well, leads to all sorts of accusations
9 about trying to fit the description to an offender.

10 Sorry, I missed that?---Like, trying to fit a description to
11 an offender at a later date.

12 So, the danger that, firstly, there will be deliberate
13 non-disclosure of the description to the legal
14 representatives?---For the defence, yes, ma'am.

15 So, that's the first risk, that the defence may ultimately
16 not even become aware that a witness has given a
17 description which will exculpate the accused?---Yes,
18 ma'am.

19 Or at least tend to throw some doubt on the reliability of
20 the witness?---Yes, ma'am.

21 And therefore such conduct has the tendency to pervert the
22 course of justice?---Well, it's certainly - certainly
23 not fair.

24 Because your duty as a police officer is to investigate,
25 obviously, and obtain evidence which is both
26 inculpatory and exculpatory?---Yes, ma'am.

27 And disclose all of that information to the defence?---Yes,
28 ma'am.

29 COMMISSIONER: Tell me, whichever of the two possibilities

1 provides the explanation, either that you were told at
2 the time by a CI officer, "Don't record the description
3 in the statement", or if it was at a later time that
4 you were told, "Get a description" but you've not by
5 way of a supplementary statement; did you do anything?
6 Did you complain or raise any concern that the CI was
7 asking you to follow a procedure which was plainly
8 improper?---Sir, I can't recall the CI asking me.

9 No, but you said - - - ?---Yep, yes.

10 We've covered the explanations, the two
11 possibilities?---Yes.

12 Either of them was a request to do something that was at the
13 very least improper. Did you make any complaint or
14 raise any concern with the CI?---Sir, I can't recall.

15 You think you - - -?---But I would have - yeah, certainly.

16 You think you'd remember if you had a concern at the
17 time?---Yes, sir, I can't remember the statement at
18 all, sir, but I would have.

19 We've heard from a number of uniformed officers who
20 responded in the Lorimer Task Force setting to
21 directions given by a detective from the Homicide Squad
22 that they felt it wasn't for them to question what
23 they're told to do, if a detective - - -?---Correct.

24 - - - tells you what to do, you'd do it?---Correct.

25 Was that your position?---Correct.

26 MS BOSTON: Just speaking generally, I know you don't
27 remember taking this particular statement, but when you
28 take a witness statement, what happens to it? If
29 you're not the informant in charge of the brief, what

1 would happen to taking - - -?---The statement would
2 then go back to the station and we'd either send it,
3 mail it, or we'd deliver it to whoever wanted the
4 statement.

5 Would you have any further involvement with the compilation
6 of the brief in terms of deciding what went in the
7 brief?---If the statement's with someone else who was
8 doing the brief, my involvement would be to - would be
9 on the brief, taking the statement, and it might come
10 up at court and then I have to give evidence that I
11 took the statement.

12 So your involvement would be to send in the statement, not
13 have any further contact in general with the matter
14 until you were called to give evidence at court if
15 necessary?---That would be normal, ma'am.

16 So, you wouldn't have any way of knowing whether all of the
17 information you obtained from a witness, whether in a
18 witness statement or a separate description, was
19 included in the brief, would you?---No, ma'am.

20 We've gone through one of the risks of such a practice, of
21 recording descriptions separately, and that is where
22 the description may not be disclosed if it doesn't
23 match the suspect. But there are some other
24 consequences, adverse consequences, of not recording
25 relevant information and the proper sequence in which
26 it emerged which we've had evidence before the
27 Commission about; I want to ask you about some of
28 those. We've touched on this concept of a replacement
29 statement where, for whatever reason, the first

1 statement is wrong or lacks some relevant information;
2 maybe a witness forgot to tell you something. In that
3 kind of situation, what is the proper practice to be
4 followed?---Well, it would be, re-interview the
5 witness.

6 And they'd make a further statement, would they?---Yes,
7 ma'am.

8 Would the second statement refer to the fact that they've
9 made a previous statement?---I believe the second
10 statement - or the first statement would be on the
11 brief as well, I would assume.

12 That's not specifically the question I'm trying to get an
13 answer to. If the first statement is deficient in some
14 respect, would the second statement include all of the
15 same information from the first statement, or just the
16 additional information?---I believe that it would make
17 mention that they'd made a previous statement to
18 police.

19 COMMISSIONER: And just include the additional - - - ?---And
20 include the additional information, yep.

21 MS BOSTON: When you say you believe, is this not something
22 you've ever had to do in your career, go back and get a
23 subsequent statement from a witness?---Yeah, I probably
24 would have, I can't remember anything specific, but as
25 my job now with the younger members, that would happen.

26 What was your training about what process you should follow
27 if you needed to obtain a subsequent statement from a
28 witness?---I was trained back in 1985, ma'am, it was
29 quite a considerable amount of time ago, but I believe

1 it would be to mention on the second statement that we
2 spoken to police previously and that the first
3 statement should be with the brief.

4 Are you aware of a practice there's been evidence before the
5 Commission about whereby, instead of taking a
6 supplementary statement in that way, a replacement
7 statement is made in which there's no mention of the
8 fact that a previous statement has been given and an
9 entire account is included which purports to be the
10 first statement by the witness?---Again, ma'am, I'm not
11 aware that's a (indistinct) but that's probably
12 happened.

13 There's certainly evidence before the Commission that it's
14 happened, sir?---I would say so, ma'am.

15 And indeed, is it something that you've seen yourself?---I'd
16 say, probably.

17 COMMISSIONER: What counsel's really putting to you,
18 Mr Langmaid, as you've correctly stated, the procedure
19 you were taught and which I take it you still
20 follow - - -?---Yes, sir.

21 - - - is, once a witness has made a statement, if the
22 witness provides additional information, then that is
23 addressed by a supplementary statement - - -?---Yes,
24 sir.

25 - - - which refers to the fact that the witness has
26 previously made a statement and then addresses the
27 additional material that's been provided?---Yes, sir,
28 that should happen.

29 What's being put to you is, are you aware of the fact that a

1 number of practices have been followed by Victorian
2 police officers that doesn't follow that procedure but
3 a different sort of process?---Yes, sir.

4 MS BOSTON: You've got some awareness of that practice
5 occurring, you think?---Yes, ma'am. I say, it would
6 happen.

7 Why do you say it would happen? What's your basis for
8 saying that?---Just, I imagine that - I just imagine it
9 would happen, that would probably be missed maybe in
10 the checking, um, it might be - just might be easier,
11 you know.

12 What's your understanding of what would happen when a
13 replacement statement were taken in terms of when that
14 replacement statement would be dated, the date that
15 would be included on that replacement statement?---I'm
16 assuming the replacement statement would be the date
17 from the original statement, I would say.

18 So, backdating it?---Probably backdate it.

19 There's also evidence of a practice of backdating
20 statements; is that a practice you've
21 encountered?---I'd say, probably, ma'am.

22 Is it in fact a common practice?---I would say, yes.

23 COMMISSIONER: Mr Langmaid, when a police officer commences
24 duty they take an oath and that oath is to uphold the
25 law, and that means, does it not, that when information
26 is gathered - - - ?---Yes, sir.

27 - - - with the potential of a criminal prosecution, it's
28 critical that things are done in a lawful and in a
29 proper way so as to advance the administration of

1 justice?---Yes, sir.

2 So, why do you think it probably the case that officers,
3 instead of following the procedure you said is clearly
4 the proper procedure, would follow an improper
5 practice?---I can't say at that time, sir, maybe
6 easier, um, just trying to get it done quicker.

7 What we would all hope for is that someone in your position
8 would be able to say, "I had no reason to think that
9 any police officer would not do what the law required
10 him to do and not follow a process which is
11 improper"?---Sir - - -

12 And you are not able to give us that assurance, are
13 you?--- - - - I'm finding it difficult to say it
14 doesn't happen, sir.

15 Yes.

16 MS BOSTON: The Commission has information that there's a
17 culture within Victoria Police of police members
18 routinely backdating statements or misrepresenting when
19 they've been made, and also making notes taken at a
20 much later stage that appear to be contemporaneous with
21 the incident; what can you say about that?---Well, that
22 happens, ma'am, if someone takes notes of an incident
23 and then when they're preparing the brief they do the
24 statement.

25 COMMISSIONER: I think counsel is putting something
26 different to you. If you ask the question again.

27 MS BOSTON: It was perhaps not clear enough, Commissioner, I
28 apologise. (To witness) So, they'll do the statement
29 when the brief is being prepared but backdate it to

1 make it look like it was done at an earlier
2 stage?---I'm saying, what I would assume, ma'am, they'd
3 take notes at the time, look at - in the notebook and
4 then maybe a week or two later when they're doing the
5 brief, then type the summons - statement up and put the
6 date on the notes wrong; is that right? Is that?

7 I'm talking about the date on the jurat, sir, so the date at
8 the bottom of the statement, that's the date I'm
9 referring to?---Yes, ma'am.

10 So that would be backdated to when the notes were
11 taken?---At the time, yes. I'm assuming that that's
12 what we're talking about?

13 Well, I'm asking you about your awareness of practices
14 within Victoria Police, whether they're practices
15 you've engaged in or you've got some awareness of other
16 members engaging in, either because you've seen the
17 practices or heard about them. So, if a brief has been
18 prepared - and please tell me if I'm misrepresenting
19 your position - notes taken soon after an event will
20 form the basis of a statement taken later on, but the
21 statement will be backdated to the time the notes were
22 taken?---Yes, ma'am, yeah, that would happen. Can I
23 just clarify a little too? I mean, that - we're
24 talking about the 1990s and 80s. My position now,
25 especially with the young people, trying to make sure
26 that doesn't happen.

27 You're trying to make sure that doesn't happen?---Correct.

28 And how are you trying to do that?---Instruction.

29 Has there been any formal instruction from Command at

1 Victoria Police that backdating of statements must not
2 occur?---Not that I've heard, ma'am.

3 Your understanding, if you are trying to make sure it
4 doesn't happen, your understanding is it does still
5 happen at present?---I'm saying, yes, ma'am, but I'm
6 trying to get - understand the environment and, I mean,
7 to try and get the new members and members to adhere to
8 that policy, to adhere to proper statement-taking.

9 So, are new members coming into Victoria Police with an
10 understanding that it's okay to backdate
11 statements?---No, I assume that they're taught that at
12 the Academy nowadays, I assume.

13 And the reason that you assume that is because, when the new
14 members arrive at the station, they are backdating
15 their statements?---No. No, I didn't say they're
16 backdating statement, all I'm saying, I assume they'd
17 be taught that at the Academy, so it's my job as a
18 supervisor to make sure they're doing the right
19 procedure.

20 Why would you assume that they'd been taught at the Academy
21 that it was okay to backdate statements?---No, no, no.
22 No, I'm not saying they were taught to backdate, I'm
23 talking they're taught correct statement procedure and
24 it's my job to make sure that that keeps going.

25 I see. In terms of this replacement statement issue that
26 you've said you think occurs, there's evidence that in
27 some cases the replacement statement is backdated and
28 in some cases, or at least one case - sorry, I'll start
29 that again. There's evidence that when the replacement

1 statement is taken sometimes it's dated at the date
2 that the replacement statement is made, and on at least
3 one occasion it's been backdated. You'd agree,
4 wouldn't you, that there is a problem with either of
5 those practices?---Yes, ma'am.

6 The reason for that is that justice requires that all
7 parties to a criminal proceeding know the sequence in
8 which information has occurred?---That's correct,
9 ma'am.

10 Or the sequence in which it's emerged?---That's correct,
11 ma'am.

12 That's important because that's important information for
13 the legal representatives of the accused in particular;
14 you'd agree with that?---Should be, ma'am, correct.

15 Because legal representatives are the people charged with
16 testing the accuracy of the information against their
17 clients?---Yes, ma'am.

18 And they can't properly test the accuracy of that
19 information if they don't know the sequence in which
20 it's emerged?---That would be correct, ma'am.

21 COMMISSIONER: Equally, a Magistrate, a judge or a jury in
22 assessing the credibility and the reliability of a
23 witness, need to know the sequence in which a witness
24 has provided information?---That's correct, sir.

25 MS BOSTON: The Commission has information that there is a
26 culture within Victoria Police of police officers lying
27 on oath in court about when statements were taken. Is
28 that a culture that you're aware of?---No, not at all.

29 Is there an expectation that, when statements are backdated,

1 that the police member will on oath testify that that
2 is when that statement was made?---In that
3 circumstance, ma'am, that may be correct. In that
4 circumstance I guess that would be correct.

5 COMMISSIONER: You're assuming that?---Yes, sir.

6 So, if the officer has backdated the statement, then if he's
7 questioned he'll confirm the false date?---Correct,
8 sir, yeah.

9 MR RUSH: Those are the matters, Commissioner.

10 COMMISSIONER: Thank you. Does anyone have any questions?

11 MR MATTHEWS: Not from me, sir, no.

12 COMMISSIONER: Mr Allen, anything arising out of that?

13 MR ALLEN: No questions, sir.

14 COMMISSIONER: Is there any reason why we should not fully
15 excuse this witness?

16 MS BOSTON: I can't think of any reason, Commissioner.

17 COMMISSIONER: Mr Langmaid, thank you very much for your
18 attendance. It's been indicated there's no likelihood
19 of you being required further, so I will discharge you
20 from your obligations under the summons.

21 I need to caution you, however, that there is an
22 order for witnesses out of court so, until these public
23 hearings have concluded, you should not speak to other
24 witnesses about their evidence or the content of your
25 evidence. Do you follow?---Just one question, sir?

26 Yes, certainly?---Am I allowed to speak to my wife?

27 Of course you are?---Because it's going to be pretty tense
28 at home.

29 Of course you are. I thank you for your cooperation,

1 Mr Langmaid?---Do you need the?
2 Yes, and if you could recover from Mr Allen the two
3 exhibits. Will we have a short break, counsel?
4 MR RUSH: Yes, Commissioner.
5 COMMISSIONER: We'll adjourn for five minutes, thanks
6 Mr Langmaid.
7 <(THE WITNESS WITHDREW)
8 Hearing adjourns: [11.18 am]
9 Hearing resumes: [11.30 am]
10 COMMISSIONER: Yes, Mr Rush.
11 MR RUSH: I call Marita Altman.
12 <MARITA ANNE ALTMAN, affirmed and examined:
13 COMMISSIONER: Ms Altman, have a seat, please. The matters
14 about which you may be examined are: (1) the Lorimer
15 Task Force investigation of the murders of Sergeant
16 Gary Silk and Senior Constable Rodney Miller concerning
17 taking of witness statements, preparation of the brief
18 of evidence for the trial of Debs and Roberts, and
19 whether there was full disclosure of witness statements
20 or other relevant information prior to or during the
21 trial, witness statement-taking practices by Victoria
22 Police, and compliance with the obligation to disclose
23 evidence by Victoria Police.
24 There are some formalities that I need to pursue
25 with you. You are not represented?---No.
26 You understand, however, that you have a right to be legally
27 represented?---Yes.
28 Do you wish to proceed without representation?---I do.
29 You were served with the summons and the confidentiality

1 notice?---Yes.
2 Although I have no doubt you understand your rights and
3 obligations, I'm required to briefly go through those
4 with you. In substance, those rights and obligations
5 are that you must comply with answering questions which
6 are directed to you in relation to the issues related
7 in the summons, you must answer those questions
8 truthfully and, so long as you do so, even if those
9 answers may incriminate you, subject to exceptions in
10 law, those answers would not be capable of being used
11 against you. You understand that?---I do.

12 You are entitled to complain to the Inspectorate in relation
13 to any matter arising out of the proceedings, and I
14 understand that there are officers of the Inspectorate
15 present if you wish to avail yourself of that
16 opportunity?---Yes.

17 Are there any matters that you would like to raise with
18 me?---No.

19 Very good. Yes, counsel.

20 MR RUSH: Ms Altman, could you state your full name,
21 please?---Marita Anne Altman.

22 Do you live at an address that was on the summons which was
23 served upon you?---It was served on my work address.
24 So, that is your work address?---That is my work address,
25 yep.

26 Was the summons served on 19 December 2018?---I think it was
27 served on the 14th, Friday.

28 Friday, yes, I can't read the writing. Is the summons
29 numbered SE2828?---It is.

1 Did you receive the statement of rights that the
2 Commissioner has referred to dated 11 December
3 2018?---Yes.
4 And a covering letter of 12 December 2018?---I did.
5 Those documents are in front of you, I tender those
6 documents, Commissioner?---Your.
7 #EXHIBIT I - Documents received on summons by Ms Altman.
8 Ms Altman, you practise as a solicitor?---I do.
9 And you practise in the area of criminal law?---Yes.
10 Can you indicate to the Commissioner for how long you've
11 practised as a solicitor and particularly how long in
12 that area?---I have been admitted to practice 20 years
13 in March, and I was admitted to practice in March 1999.
14 I did my articles in 1998, and I started working
15 part-time while at Uni studying law for Slades
16 & Parsons as a clerk of sorts, as a law student, from
17 96, April 96.
18 And Slades & Parsons were a practice - - -?---Criminal law
19 practice.
20 Criminal law practice?---I've never done anything other than
21 crime.
22 Does that involve the full array of crime?---Everything.
23 From Magistrates' Court work to more serious trials of a
24 criminal - - -?---Everything.
25 Criminal trials?---Yes.
26 In fact, were you and your firm, now Lethbridges, were you
27 the principal solicitor charged with the defence of
28 Roberts in the criminal proceedings?---Yes, subject to
29 supervision by Gerard Lethbridge who was my principal

1 at the time. There was only two of us when Jason came
2 to us, Mr Roberts came to us.
3 And so, I think he was charged in July of 2000 and was that
4 when you - - -?---No.
5 No?---October 2000 Mr Roberts came to us and we acted for
6 him from that point on. Originally, Mr Lethbridge was
7 the solicitor in charge of the file and then I
8 essentially took over the running of it subject to his
9 supervision the rest of the time.
10 And your firm represented, with counsel, Roberts at the
11 committal hearing?---Yes.
12 At that was, I think, in September-October of 2001?---Yes.
13 And subsequently at the criminal trial which concluded on
14 31 December 2002?---Yes.
15 You might just explain, what comes to a solicitor as far as
16 material for committal proceedings? Firstly, do you
17 receive all the statements?---Do we receive all the?
18 The statements of witnesses that are going to be called at
19 the hearing?---That's the theory, yes.
20 Then you receive necessarily all those witnesses who have
21 provided statements called at the hearing?---We're
22 served with what's called a hand up brief, and I
23 think - well, I know that back then it was subject to
24 the Magistrates' Court Act schedule rather than the
25 Criminal Procedure Act, but it was essentially the same
26 process. So, we're served with a hand up brief that
27 contains all of the statements on which the prosecution
28 intends to rely, as well as a list of material at the
29 front of it, back then it was called a Form 7A at the

1 front of the hand up brief which indicated all of the
2 material on which they don't intend to rely but which
3 they have possession of, and that can include
4 statements, other documents, etc., etc. As a matter of
5 practice, we ask for all of that material; we did then
6 and we do now, it hasn't changed, and if we are refused
7 for whatever reason by the Crown a copy of all of that
8 material, then we go and have a fight about it at
9 court, either by through special mention process or we
10 issue a summons on Vic Pol to get that material.

11 In relation to the provision of material, how much do you
12 rely on the OPP and police in relation to full
13 disclosure?---Entirely. I don't know what they have.

14 COMMISSIONER: When you say you rely on them, what's your
15 understanding of their legal obligation?---That it is
16 ongoing and it doesn't end with the provision of the
17 brief, and it's not just material that they, either the
18 police or the OPP or indeed the Commonwealth considers
19 corroborative of their case but relevant, sometimes
20 that seems to be a difficulty for some police to
21 understand the difference between corroborative and
22 relevant, and certainly relevant exculpatory. But we
23 rely on, firstly, the police to provide the Crown with
24 all of the material that they have that they know
25 should be subject to disclosure, and then on the Crown
26 to disclose it to us. Because there's only so much we
27 can do to get around an indication or a position taken
28 by the Crown that there is nothing that we're entitled
29 to.

1 So, you're largely dependent on the Crown to disclose to you
2 relevant information, whether it assists their case or
3 harms their case?---Entirely dependent on the Crown
4 living up to its obligations.

5 MR RUSH: In connection with that, you obviously have
6 discussions with people or representatives, the people
7 handling a particular matter, with the Office of Public
8 Prosecutions?---Yes.

9 If we go back to the trial of Debs and Roberts, did you have
10 any discussion or any interaction with any people
11 involved with Operation Lorimer, to your
12 recollection?---With the OPP or with the police?

13 No, directly with the police?---Yes, yes.

14 Who were those people?---From my memory, mostly Dean Thomas,
15 I think. Most of our interactions are generally with
16 whoever is the solicitor at the Crown, so my opposite
17 number, if you like, at the Crown who's managing it,
18 but because it's just the done thing really to do, once
19 there's a solicitor managing a file you deal with them
20 in terms of requests, you don't go to the informant.
21 Dean Thomas was the informant for Mr Roberts. I have
22 some record of correspondence directly from Graeme
23 Collins, but my preference is to deal, and I did
24 regularly, deal with the solicitor that was managing it
25 at the Crown.

26 You mentioned the hand up brief, and I'll show you something
27 in a minute, but with a hand up brief, is it the normal
28 procedure that original statements will be reformatted
29 for the purposes of the hand up brief?---It depends.

1 My experience is that some statements are taken in
2 handwriting by police members and jurated or not
3 jurated, and then they're converted into a printed
4 form, a Word form. Sometimes they might be taken in a
5 format that doesn't suit - that's not useful, for
6 example doesn't have paragraph numbers or something
7 like that and they get reformatted, so it's certainly a
8 regular occurrence for statements to be rendered into a
9 typed form that they might not have started out, but
10 that's, when you get the - because often we'll ask for
11 the original statement in its handwritten form, but it
12 will be the identical statement.

13 When you mention statements may be jurated or not jurated,
14 can you just explain what you're referring to
15 there?---The form of words that is at the end of a
16 statement that includes the acknowledgment, the perjury
17 acknowledgment, and then the fact of the - or the
18 detail of who took the statement or witnessed the
19 signing or swearing of the statement - signing of the
20 statement, so it's the block of text that's right at
21 the bottom. So, we see statements sometimes that are
22 written in members' handwriting that don't have a
23 jurat, there's a form they can use where they attach a
24 typed jurat to the back of the handwritten statement
25 that started out in a day book or diary, but it's sort
26 of case-by-case, there are different things that
27 happen.

28 But you will normally, in your experience, expect to see a
29 statement that bears, in the case of a police officer,

1 that bears the signature of the police officer and an
2 acknowledgment of the police officer's signature?---Ah,
3 yes, but we also get statements in briefs, whether they
4 be summary prosecution briefs or hand up briefs, that
5 don't have a completed jurat, so they're unsigned.

6 Just by way of example of that, if we could have a look at
7 Exhibit 336 at 35. This is a statement of Senior
8 Constable Poke that was prepared for the committal
9 brief. If we go to p.3558, you see at the bottom of
10 the page?---Yes, that's what I'm talking about.

11 So, this is what you're talking about. There we have her
12 signature and the acknowledgment clause right at the
13 bottom of the page, and over the page at p.3559, in
14 this particular example - - -?---It's ended up on the
15 next page.

16 - - - is the signature or the typed block of the sergeant
17 at Frankston in this case who witnessed the statement.
18 Having regard to that not being signed, would that
19 normally, on the basis it's prepared for the committal,
20 be accompanied by the original statement?---We would
21 ask for it.

22 Where it's provided in that form, you would expect it to be
23 backed up with an original statement?---Yes.

24 COMMISSIONER: And is the usual procedure that the
25 reformatted document doesn't contain a
26 signature?---Doesn't contain a?

27 The reformatted document that you're given for the brief
28 doesn't itself contain a signature?---Sometimes it does
29 and sometimes it doesn't. So, we can get statements on

1 a brief without signatures on them and statements on a
2 brief with signatures on them, and then those without
3 signatures, if they're material witnesses, we will
4 always ask for the statement that has - that is signed.

5 What I was actually asking you about was the reformatted
6 document. We have an original document that's been
7 signed and then a reformatted document, such as the
8 Poke document. Is it customary for the reformatted
9 document to also have a signature?---If there's a
10 signed copy on the brief, then I'm not sure that we
11 would generally get another reformatted copy. It's
12 quite common to have a hand up brief that has
13 statements in different formats, if you like, in terms
14 of where it's come from. It's hard to explain without
15 having different examples in front of me, but the type
16 spacing will be different. I notice that the
17 statements that - for example this one, they all seem
18 to be the same, so I've had a look at some of the other
19 statements. It's quite common to have a hand up brief
20 where the statements are in different formats depending
21 on where they've been taken. So, you'll have someone
22 who's made a statement at Footscray, someone who's made
23 a statement at the Embona Task Force or somewhere else
24 and they'll look different, but they'll all be signed
25 or they'll generally be signed.

26 MR RUSH: There's evidence before IBAC that - for example,
27 if we could go to Exhibit 339, I just give this by way
28 of example?---This is what I'm talking about.

29 That is a statement that is in a format that we understand

1 is something that can be just adopted on the police
2 computer and police can go about making their statement
3 using that standard form. Evidence before IBAC that,
4 for preparation of a trial brief, that will be very
5 often reformatted into a document, the nature of which
6 I've just shown you is the document previous to the one
7 that's on the screen. So, is that something you're
8 familiar with, the reformatting as we've seen?---I've
9 seen that, yes.

10 In relation to eyewitness descriptions of offenders, I guess
11 as a general question: how important, without being
12 specific about any particular trial, but how important
13 is that to defence?---It's vital.

14 Why?---Because of the nature of the description and whether
15 or not your client bears any resemblance to that
16 description is clearly, in an identity case, is
17 absolutely crucial.

18 So - - -?---Or if one cannot be - if the witness is unable
19 to give a description that's also relevant and
20 important in a case involving the identity of a person.

21 COMMISSIONER: It may also be relevant, even though
22 identity's not in issue, as throwing some light on the
23 reliability of a witness?---Absolutely.

24 MR RUSH: From, and again in a general sense, where you have
25 for example police officers who may be eyewitness to
26 events or have heard statements made during certain
27 events, if you received a statement from a police
28 officer that was dated a year - referring to
29 observations and discussions made a year or 18 months

1 after the particular event, what would be raised from a
2 defence point of view in those circumstances?---You
3 would immediately - it immediately brings to mind the
4 reliability of the recollection, and so, you would want
5 to explore the basis on which they say 18 months later
6 that they can adequately describe a person. Whether it
7 was a police officer or a person out on the street, you
8 would be asking them 18 months later, how did you come
9 to make this statement 18 months later with such
10 certainty as to - certainly if they'd given a detailed
11 description - as to their memory.

12 COMMISSIONER: So you need to have disclosed to you
13 precisely when the information has first been
14 provided?---Yes. "When did you first make a record of
15 your observations? Is that record in existence? Show
16 it to me."

17 MR RUSH: What about, this is a scenario where a police
18 officer makes a statement but does not include
19 descriptions in the first statement, but then
20 subsequently makes a statement that does include
21 descriptions or conversations? What would that
22 mean?---You would immediately want to know how that's
23 come about. "Why now do you suddenly say, 18 months
24 later, you can provide a description of an offender
25 when you couldn't 18 months beforehand?"

26 Are you at all, over your experience, aware of any police
27 practice in statement-taking whereby descriptions of
28 offenders are not put in initial statements?---No.

29 And, in saying "no", you've never encountered it; have you

1 heard of it?---No, I didn't know they were doing it.
2 What about backdating statements?---I can't say that I knew
3 that that's what was happening, but it didn't surprise
4 me to know that it had occurred.
5 How would you as a defence lawyer become aware or cognisant
6 of backdating of statements?---Someone would have to
7 admit to it.
8 And without the admission?---How would we know?
9 If I could ask you - - -
10 COMMISSIONER: Sorry, could I just ask you, Ms Altman, you
11 were the solicitor at the trial?---Yes.
12 Part of the prosecution brief involved statements from
13 Hamada and Pigout witnesses?---Yes.
14 Did not those statements include supplementary statements
15 which contained the description of offenders?---I can't
16 recall the specifics of the Hamada statements, I must
17 say. I don't have access to the complete hand up brief
18 or the depositions, and so, I wasn't able to refresh my
19 memory as to the form in which we received statements;
20 it's quite likely that we did, but I can't say for
21 certain that there were witnesses from the Hamada
22 robberies that made a statement at one point and then
23 provided - we were provided with a supplementary
24 statement that suddenly had a description in it. I
25 can't recall, I can't say either way whether that
26 happened or didn't happen.
27 The previous witness that we just heard from was a uniformed
28 member who took a statement from an eyewitness to one
29 of the robberies and who recorded on a separate piece

1 of paper the description of the offender. Mr Rush,
2 just to put in perspective, we didn't explore that in
3 the presence of Mr Langmaid.

4 MR RUSH: Yes, sir.

5 COMMISSIONER: Was he an exception, or what's the state of
6 the evidence?

7 MR RUSH: No. No, I should have pointed that out,
8 Commissioner. During the course of the public hearings
9 I think there will be four police witnesses who were
10 involved in statement-taking in Operation Hamada. We
11 anticipate that the evidence will be similar to that
12 that's been seen by IBAC this morning in relation to
13 the statement-taking practice of not including in first
14 statements a description of offenders but attaching a
15 description and then perhaps a supplementary statement.
16 We will call four rather than approximately 50
17 statements where that has been a signature of the
18 investigation.

19 COMMISSIONER: So, the information in IBAC's position
20 discloses, in the case of 50 statements, that the
21 description of the offender was recorded separately to
22 their statement?

23 MR RUSH: Approximately that number.

24 COMMISSIONER: And, is it our understanding that at the
25 trial, however, supplementary statements were made by
26 those witnesses which included reference to those
27 descriptions?

28 MR RUSH: Correct.

29 COMMISSIONER: Does that assist your memory at all?---No.

1 Okay.

2 MR MATTHEWS: Sorry, I wonder if I might clarify, sir, just
3 to understand: was that 50 statements in the Hamada
4 investigation or 50 statements across?

5 MR RUSH: Fifty statements across the investigation. Across
6 the Hamada investigation, not necessarily 50 statements
7 in the trial brief for Debs and Roberts. (To witness)
8 I was asking you about backdating of statements and I
9 ask that Exhibit 593 be brought up. This is an
10 example. On the left is a statement of Mr Pullin who
11 was a first responder on 16 August 1998 at the scene of
12 the crime. You will see that that is dated at 4.25 am
13 on 16 August, that's the acknowledgment and signature
14 taken by then Detective Senior Sergeant Bezzina?---Yes,
15 I can see that.

16 You will see over on the second statement the same
17 acknowledgment and Mr Bezzina's signature?---Yep.

18 And the same date and time, 4.25 am on 16 August 1998?---I
19 see that.

20 Have you encountered that before, that practice, taking it
21 from me that that second statement was not signed on
22 16 August but indeed some significant time afterwards,
23 but the signatures of Mr Bezzina and Mr Pullin were
24 placed on that statement and the first statement was
25 replaced with the second statement?---No. Well, it
26 might have happened, but we don't know if we don't have
27 them side-by-side.

28 I think you've answered this, but is there any way that you
29 can think of now that the defence would know about the

1 practice?---No.

2 COMMISSIONER: Unless someone was forthcoming with the later
3 date that the statement was actually made?---Yes.

4 MR RUSH: Again, in general terms, not knowing of the
5 practice but it existing, what do you say that means as
6 to the capacity of the defence to properly go about
7 their business?---It completely undermines our ability
8 to do the job of defending accused people. It's
9 unfair; it's not just unfair on us, it's unfair for the
10 people that are prosecuting as well, in terms of how
11 they do their jobs. If they can't rely on the material
12 that's given to them by police members as allowing them
13 to uphold their obligations of disclosure truthfully,
14 that's not good for prosecutors either, but it's
15 absolutely - it absolutely undermines the ability of
16 defence practitioners to properly represent the
17 interests of their clients and to make sure that a
18 trial is fair or committal is run properly.

19 COMMISSIONER: Is it an answer, Ms Altman, to say, no harm
20 done by misrepresenting the date on the statement, so
21 long as it can be shown that the information contained
22 in it was information provided by the witness at the
23 earlier time?---No.

24 In other words, all of those highlighted matters, if the
25 evidence disclosed that the witness either had
26 previously provided that information, or alternatively
27 there were contemporaneous records by the witness that
28 showed that the witness was able to give that
29 information, is there any harm done, it's said, by the

1 statement bearing the wrong date?---If it's a
2 deliberate - it's a false statement because it says
3 that "the acknowledgment is made and the signature is
4 witnessed by me at a certain date and time", it's a
5 statement made by a police officer and, if it's
6 deliberately untruthful, that's a harm. We're meant to
7 be able to rely on statements of truth by police
8 officers and that's a lie.

9 So, the explanation we've received from one officer has
10 been, yes, I was conscious that the date was wrong but
11 as the content of the statement was truthful, no harm
12 done?---M'mm, I can't agree with that.

13 MR RUSH: Exhibit 336 we've seen, if we could just have
14 another look at it at p.3557, second paragraph where it
15 says: "I remember Miller saying they were on foot, two
16 of them, one on foot, check shirt, dark Hyundai."
17 That, you take it, and we've looked at it, was on the
18 statement that was placed on the committal brief
19 provided on, I think, 11 April 2000. If I could ask
20 that you have a look at Exhibit 339. Going to the last
21 page of Exhibit 339, p.3571, you see that that's been
22 signed by Ms Poke and the acknowledgment further down
23 the page is that of Mr Buchhorn and dated 12 January
24 2001. If we go back a page to 3570, you see it says:
25 "I remember Miller saying 'They were on foot, two of
26 them, one on foot, check shirt'." And then there is
27 new information in this statement, it says: "6 foot 1,
28 dark hair, dark Hyundai"?---Yes.

29 Do you recall Ms Poke being cross-examined about that in the

1 committal hearing?---Yes.
2 Before I ask you further about that, if we could have a look
3 at Exhibit 59, p.1772, just down the page. This is a
4 letter that is sent to the Legal Aid Commission who was
5 acting for Debs. If we could move further down the
6 page, under the heading, "Additional statements", it
7 says: "One Senior Constable Helen Poke dated 12 January
8 2001. This statement has been amended to include
9 details contained in this member's notes that were not
10 included in the statement that is part of the brief of
11 evidence"?---Yes.

12 Do you have any recollection now of being provided with that
13 further statement of Ms Poke in the terms that are
14 there provided to the solicitor for Debs?---Yes, I have
15 that letter, I've seen that letter. There was one
16 addressed to me as well.

17 Did you have any discussion at that time or about that time
18 with the Crown as to how this had occurred?---If I did,
19 I don't remember what the content of the discussion
20 was. It's likely that we did, or that I did.

21 If we could have a look at Exhibit 87, p.2001. Here there
22 is a note, and these are OPP notes: "George Buchhorn
23 rang with regard to [it seems] incident with Helen
24 Poke. Spoken to Helen, indicated in her notes that she
25 indicated the height and dark hair but it did not
26 appear in her first statement. The difference was
27 picked and she did a second statement. But due to an
28 error administratively it hasn't appeared in her second
29 statement which was acknowledged by George [that's

1 Mr Buchhorn]. It might be best to call George about
2 this." Then the note underneath on 17 September 2001:
3 "She had her statement taken some months later. She
4 supplied notes which had additional comments that
5 weren't in the first statement. The first statement
6 was unsigned. Acknowledged in January 2001, unable to
7 change the acknowledgment on computer so George crossed
8 out acknowledgment by hand and wrote a new one. This
9 statement contained the 6 feet and two Hyundai
10 comments. This is the statement that should have been
11 on the brief." So, were you in any way aware of the
12 circumstances around how Ms Poke came to make a second
13 statement?---I don't believe that I was. If there's
14 any - I would probably be able to look for a file note
15 if I had any conversation with Kim Voulanas, as she
16 then was, about that but I don't have an independent
17 recollection of having a conversation where anybody
18 told me that. I know it was ventilated at the
19 committal and reasons were given via Ms Poke's evidence
20 as to how it all came about, but I can't say that I
21 have a recollection now, 17 years later, of being told
22 any of that. I'm happy to check file notes if it will
23 assist, if I still have them.

24 Here you're aware, and we've seen, the statement of
25 Mr Pullin; that Mr Pullin has made two statements but
26 only the second statement appeared on the brief?---Yes.

27 And you were not aware of the first statement?---No.

28 Do you recall a witness, Mr Thwaites, or Senior Constable
29 Thwaites?---I know there was a Thwaites, yes.

1 Senior Constable Thwaites' statement, without going to it,
2 is dated 23 October 1998 and he's provided evidence to
3 IBAC that he made a statement on 16 August 1998. Were
4 you aware of Senior Constable Thwaites having made two
5 statements?---The only statement we had was the one
6 that was in the brief which I assume was the October
7 one; I don't have it in front of me, and I don't have a
8 copy of it, but we only had one.

9 Another constable, Mr Gray, having given evidence that he
10 made a statement on 16 August 1998, but the statement
11 on the brief is 18 September 1998. Were you aware of
12 that?---No.

13 Without going through other police, again probably to repeat
14 your evidence, the chronology of statement-taking in
15 the circumstances outlined, how important is it for the
16 defence?---It can be very important, especially when
17 you're dealing with the reliability and credibility of
18 people's observations and their recollections. The way
19 that those observations and recollections are produced
20 into a statement is obviously important because it can
21 be influenced and it can be questioned.

22 COMMISSIONER: It's equally important, from the
23 prosecution's perspective, because the prosecutor won't
24 be able to discharge his or her duty fairly if they
25 don't know of these matters?---They can't - absolutely,
26 that's correct, respectfully, and they can't make an
27 assessment of the witness and their credibility and
28 reliability from their point of view, which is an
29 important consideration for prosecutors to take into

1 account as well.

2 Or at least enable them to discharge their obligation of
3 furnishing the defence with evidence or calling
4 evidence to make that position clear?---Yes, it puts
5 them in a terrible position.

6 MR RUSH: And, if that is repeated in a particular case
7 where there are four, five, six, potentially eight
8 important witnesses where that has occurred, the
9 position obviously is more untenable than what you've
10 described to the Commissioner?---Yes, it's just
11 compounding the problem.

12 MR RUSH: They are the matters, Commissioner.

13 COMMISSIONER: Anything?

14 MR MATTHEWS: I don't seek to ask questions, Commissioner.

15 COMMISSIONER: No reason why Ms Altman shouldn't be formally
16 discharged?

17 MR RUSH: No, Commissioner.

18 COMMISSIONER: So, we won't require your re-attendance,
19 Ms Altman, so you will be released from your summons
20 and the confidentiality obligation, and there is an
21 order for witnesses out of court, however, so you are
22 not at liberty to discuss your evidence or the evidence
23 they might give with them until after the hearings are
24 concluded?---I understand.

25 We will provide you with a video recording of your evidence
26 and a transcript, and that reminds me, Ms Boston, we
27 didn't inform Mr Langmaid that we will provide him with
28 such materials as well. So, thank you for your
29 attendance. What time will we resume, Mr Rush?

1 MR RUSH: Say, 1.30, Commissioner.
2 COMMISSIONER: Who's the next witness?
3 MR RUSH: Mr Anderson, who is a witness on the Hamada
4 witness statements.
5 COMMISSIONER: Very good. We might resume at 1.45.
6 MR MATTHEWS: Commissioner?
7 COMMISSIONER: Yes.
8 MR MATTHEWS: Just briefly one matter. I understand that my
9 learned friend referred to other instances where there
10 was a first statement and then a second statement and
11 only the second statement made it on the brief, and the
12 Gray matter was raised. Given that there's a Supreme
13 Court hearing potentially to take place in early May,
14 we would seek, as soon as it's consistent with your
15 task, we would seek details of those statements, it's
16 of huge significance to us.
17 COMMISSIONER: That's a matter, Mr Matthews, you can raise
18 with counsel and, in the event that you don't feel
19 you're getting sufficient cooperation, which is highly
20 unlikely, you can raise that with me then.
21 MR MATTHEWS: Yes, sir.
22 COMMISSIONER: Adjourn the court until 1.45.
23 <(THE WITNESS WITHDREW)
24 Luncheon Adjournment: [12.15 pm.]
25
26
27
28
29

1 UPON RESUMING AT 1.49 PM:

2 MR RUSH: Commissioner, there's just one matter we would
3 like to raise.

4 COMMISSIONER: Yes.

5 MR RUSH: It concerns, in effect, the call that was made by
6 my learned friend, Mr Matthews, as to matters that came
7 out of the examination of the previous witness.

8 From counsel assisting's point of view, we would
9 really want it on the record that there are proper
10 procedures if my learned friend wants information from
11 IBAC that he and his instructing solicitor should
12 follow, and that, the way in which counsel assisting
13 lead evidence and examine witnesses is one thing, but
14 the idea that we should be providing information for my
15 learned friend's application in May in the Supreme
16 Court, as he mentioned this morning, is a completely
17 different matter. And, my learned friend needs to
18 understand, respectfully, that it's into police
19 practices and the nature of that is said to every
20 witness. I just needed to make that clear.

21 COMMISSIONER: You have made your position clear, Mr Rush.

22 Mr Roberts' counsel doesn't have general right to
23 appear but thus far things have worked very smoothly.

24 Mr Matthews, if indeed at any stage you feel that
25 there's some material that would be pertinent to the
26 examination that's taking place and that, in the
27 absence of which cross-examination which you can
28 demonstrate you should be allowed to undertake would be
29 handicapped, then I will hear a submission to that

1 effect, but otherwise, your role is confined to the
2 evidence that's being called and any effective
3 cross-examination that you can demonstrate you should
4 be permitted to undertake.

5 MR MATTHEWS: I should say, Commissioner, that there is that
6 second aspect which is that there was allusion to the
7 documents that I may well have wanted to press
8 Ms Altman about as to what she'd seen or not, but it
9 was done in that way of, here's an example and there
10 are others; I hadn't seen the others, so that did, to
11 that extent, make it difficult for me as to whether I
12 applied for authorisation, so that's an ongoing
13 procedural issue.

14 The other thing that I've made clear to my learned
15 friends is that, it's not an application in the Supreme
16 Court, it's a matter in which my client has been
17 brought into the Supreme Court at the
18 Attorney-General's - or on referral and there is a very
19 pressing timeframe for that as I've explained to them.

20 So, this puts this particular set of public
21 examinations in a somewhat different position to other
22 previous public examinations. We are very anxious to
23 try and get hold of those.

24 COMMISSIONER: I'm not sure that the last proposition's
25 correct but, in any event, rather than have a
26 theoretical debate, as I say, if for the purpose of an
27 application that you want to make for cross-examination
28 you feel that you should have access to something which
29 hasn't adequately emerged from the witness's evidence,

1 your first port of call is to raise that with counsel
2 assisting, and in the event that you feel that you're
3 not getting a satisfactory response, then you can raise
4 it with me.

5 In the broad, you've heard the way in which
6 counsel assisting approaches the matter and it seems to
7 me, in principle, that approach is correct but you will
8 be mindful then of what the limitations are in terms of
9 your access to information in the course of these
10 public hearings.

11 MR MATTHEWS: Yes. Well, I hear you, but if it arises in
12 examination and I may need it - - -

13 COMMISSIONER: Well, then you might indicate, "I will want
14 to make an application for leave to appear and to
15 cross-examine but, in order to do so, this material
16 that I feel I should have access to, I'd like to have
17 some moments to discuss the matter with counsel
18 assisting", and let's see where the matter goes from
19 there.

20 MR MATTHEWS: Yes.

21 COMMISSIONER: Yes, Ms Boston.

22 MS BOSTON: Commissioner, the next witness is Matthew
23 Anderson.

24 MS LACY: Commissioner, can I say, today I appear for
25 Mr Anderson.

26 COMMISSIONER: Yes, Ms Lacy, very good.

27 MS LACY: Thank you.

28 <MATTHEW STEWART ANDERSON, sworn and examined:

29 COMMISSIONER: Mr Anderson, you are represented by Ms Lacy.

1 You will be asked questions. I will, in a moment, take
2 you to the topics that might be covered. At the
3 conclusion of counsel assisting's examination and any
4 cross-examination that I permit Ms Lacy will have an
5 opportunity to explore with you any additional
6 information you want or clarification on answers that
7 you have given.

8 The topics on which you will be questioned are:

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

19 Mr Anderson, at the time you were served with a
20 summons, you also received a confidentiality notice and
21 a document setting out your rights and
22 obligations?---That's correct, Commissioner.

23 Has Ms Lacy discussed with you the content of those
24 documents?---Yes, she has.

25 Do you understand your rights and obligations?---I do.

26 Do you require me to remind you of them?---No, Commissioner.

27 Very good. Yes, Ms Boston.

28 MS BOSTON: Could you state your full name, please?---It's

29 Matthew Stewart Anderson.

1 Do you attend today in response to a summons served on you
2 on 14 December 2018?---That's correct.

3 Could you look at these documents, please. The summons in
4 front of you numbered SE2768, is that the summons that
5 was served upon you?---That is correct.

6 You've indicated you received a document entitled,
7 "Statement of Rights and Obligations", is that document
8 in front of you?---Yes, it is.

9 Together with the summons and statement of rights, did you
10 also receive a confidentiality notice dated 11 December
11 2018?---I did.

12 As well as a covering letter dated 12 December 2018?---Yes.

13 The documents in front of you, are they copies of the
14 documents you received in full?---Yes, they are.

15 Do you understand the nature of those documents?---I do.

16 I tender those, Commissioner.

17 #EXHIBIT J - Documents served on summons to Mr Anderson.

18 What is your current rank and station?---Leading Senior
19 Constable, and Clayton Police Station.

20 So, in uniform?---Uniform.

21 When did you first join Victoria Police?---In 1990.

22 The Academy in 1990 then?---Yes, that's correct.

23 Thereafter, if you could just briefly outline for the
24 Commission, please, your employment
25 history?---Commissioner, after graduating from the
26 Academy I did a short stint at City Patrol Group in
27 Melbourne. From there I went to my training station,
28 which was Ferntree Gully, I think that was for about
29 two years, then to the Knox Police Station, and from

1 there, which I think was about two - sorry, 1993-1994,
2 to the Mount Waverley Police Station, and then
3 transferred to the Clayton Police Station where I am
4 still currently stationed.

5 So, as at 1998-2001, you were stationed at

6 Clayton?---1998-2001, Mount Waverley Police Station.

7 And, your rank at that time?---Senior constable, I believe.

8 Did the Mount Waverley Police Station work in combination
9 with other police stations in the area?---So, our PSA
10 is the Monash PSA, so the four police stations in that
11 PSA are: Glenn Waverley, Oakleigh, Mount Waverley and
12 Clayton.

13 Did you from time to time assist CIBs with their
14 investigations?---That is correct.

15 How did that work?---So, depending on the nature of the job
16 that we were attending to, whether it required the
17 attendance of CIB as it was known then, they'd be
18 notified either by D24 or by local units, by some
19 method, that their assistance was required at a scene
20 and they would on occasions attend a scene.

21 So CIB, that was formed of detectives?---That is correct.

22 Would they sometimes ask uniformed members to take
23 statements from witnesses?---That is correct.

24 I take it, you've taken a lot of witness statements over the
25 course of your career with Victoria Police?---Yes, I
26 have.

27 From your point of view, what is the purpose of a witness
28 statement?---It is to obtain an account from the
29 witness as to what's occurred or what it is that

1 they're reporting, their observations and what they may
2 have seen at a scene, generally in relation to maybe a
3 crime or it may even be for a coronial matter.

4 So I take it, if that's the purpose, then you would
5 obviously try and obtain the statement as soon as
6 possible in relation to the incident that they'd
7 witnessed?---Yes, generally we try to take it as soon
8 as possible to the timeframe of the event, yep.

9 Once you took a witness statement, what would you do with
10 it?---Well, it would depend for what purpose. If it
11 was an investigation being undertaken by myself, then I
12 would retain the witness statement; that would form
13 ultimately a part of the brief of evidence.

14 Just pausing there. If it's your own matter where you're
15 compiling the brief, you would obviously hold on to
16 that statement, as well as collecting any other
17 statements that have been taken in relation to that
18 matter?---That is correct.

19 What about when you're taking a statement and it's not your
20 matter?---Generally that statement would go to the
21 investigating member.

22 Would the investigating member sometimes be at your
23 station?---Yeah, possibility, yes.

24 As well as back at the CIB?---Or other police stations as
25 well. If we were assisting at a job that another unit
26 had the primacy of the investigation and they needed
27 assistance taking statements, then we'd certainly take
28 statements and provide it to the investigating member.

29 Do you remember taking any statements in relation to - well,

1 firstly, I withdraw that. Are you aware of Operation
2 Hamada?---Yes.

3 Operation Hamada, you'd agree, was a task force established
4 to investigate a series of armed robberies in the
5 southeastern suburbs in 1998?---I believe that's
6 correct; I'm not sure about the date, but yes, around
7 about that timeframe.

8 Sounds right? To the best of your recollection, what was
9 your involvement with that operation?---I don't believe
10 I had any direct involvement with that operation. I
11 may have gone to crimes that they were investigating,
12 but I'm not sure which those were.

13 I might take you to, firstly, a witness statement that you
14 took, Exhibit 375.

15 COMMISSIONER: It'll come up on your screen there,
16 Mr Anderson?---Thank you, Commissioner.

17 MS BOSTON: We have a hard copy of this statement for the
18 witness, that may also be of assistance.

19 COMMISSIONER: Yes, very good.

20 MS BOSTON: I might give you some time to read through
21 that?---If I may, that would be good.

22 Before I do that, I take it, this is your
23 handwriting?---Yes, it is.

24 And your handwriting throughout the entire four pages, apart
25 from the witness's signature of course?---Yes, that is
26 my handwriting.

27 I'll just give you a few moments to read through that to
28 yourself?---Okay.

29 COMMISSIONER: Just for the purposes of your reading it,

1 what we're interested in, Mr Anderson, is what's said
2 in the statement about any description of the
3 offenders?---Yes, Commissioner.

4 WITNESS: Yes.

5 MS BOSTON: Do you have any recollection of actually taking
6 that statement?---I have a vague recollection of
7 attending that job, but I don't recall the witness
8 specifically or taking the statement, but it's
9 certainly my handwriting, yep.

10 Take it from me that this was an investigation being
11 undertaken by the Armed Robbery Squad. What would have
12 been the circumstances in which you as a uniformed
13 member would have come to take a statement in relation
14 to an Armed Robbery Squad investigation?---Well, in
15 this circumstance I believe it would have been as a
16 result of a report of an armed robbery, we would have
17 been dispatched to attend the scene by D24. We would
18 have gone to the scene, I assume we would have
19 preserved the scene as a crime scene, and at some point
20 of time we would have been requested to take statements
21 from - - -

22 And where would that request have come from
23 normally?---Normally, with a job of that nature where
24 there's been an armed robbery, I would expect that
25 there would have been detectives, whether they were
26 local detectives or from a task force or from the
27 squad, I can't recall - - -

28 So, if this was an investigation as part of Operation
29 Hamada, would you have expected it to be a detective

1 from the Armed Robbery Squad who would be requesting
2 that you take a statement?---I would expect, yes, that
3 it would have been; did they attend, I don't know, I
4 just don't recall whether that was the case.

5 I appreciate it's a long time ago. Just briefly before I
6 ask you some specifics about the statement, you'll
7 agree that it's taken by a witness by the name of Nevy
8 Suganda?---Yes, I do.

9 And that she was a waitress at the Green Papaya restaurant
10 in Surrey Hills?---That is correct.

11 She was a victim of an armed robbery on 18 July 1998?---Yes.

12 In that statement - Exhibit 375, p.3708 - she states about
13 three paragraphs down: "At this time I saw two people
14 who I believe were both male open the front door and
15 enter, they were both wearing cartoon-like face masks
16 and both were holding guns similar to like the police
17 use"?---Yes.

18 Do you agree that that's the only description in this
19 statement of those two offenders?---I believe that is
20 the case, yes.

21 There's nothing in there in regards to build or?---No, I've
22 only referred to - or the witness in this statement's
23 referred to them as being male and, yes, what you've
24 just read out from that paragraph. I agree that's the
25 only descriptions provided.

26 You wouldn't have known the identity of the suspects or
27 offenders at this time?---No.

28 So it would be important to get a fulsome description from
29 the witness?---Absolutely.

1 And that would be matters to do with the person's clothing,
2 as well as their physical appearance and things like
3 their voice?---Oh, absolutely, even smells.

4 And they're matters you would have asked the witness
5 about?---Every job that I go to, I would, yes.

6 You'll notice at p.3710 there is a cross under the last
7 sentence there: "I was very scared and shocked
8 throughout the ordeal", there's a little cross
9 there?---Yes.

10 And then on the following page there's the jurat. Is the
11 purpose of the cross to indicate that the description
12 was recorded somewhere else?---No, the indicate - just
13 from memory, I think I've crossed there to get the
14 witness to sign at that location. However, looking at
15 p.3710, it would appear that she's signed at the bottom
16 of the page. That's my thinking.

17 COMMISSIONER: Just pausing there. Having said it would be
18 your practice to always ask the witness to give you as
19 much detail as they could about the appearance of the
20 witness, what's your reason for nothing like that
21 appearing in this document?---I can only speculate that
22 on occasions in the early stages of my career, with
23 certain jobs and they seemed to be jobs of a nature
24 where potentially there was seriousness, detectives
25 were involved, I do recall on occasions I was requested
26 that certain descriptions not be put in witness
27 statements; the reason, I don't know, but the request
28 had certainly been made.

29 And what, you think that might have happened here?---It is a

1 possibility; I don't totally recall taking that
2 statement, but I suspect with my usual taking of
3 statements and getting that information, in my
4 statement I would have included a greater description
5 in it, so I guess I'm only assuming that that request
6 was made, hence no detailed description included in the
7 statement. I would expect, though, that I would have
8 obtained a detailed statement in some sort of format.

9 MS BOSTON: Where did such requests come from, to not
10 include descriptions given to you by witnesses in their
11 statements?---With my experience, usually from a
12 detective requesting that, obtain a description but not
13 include it in the statement.

14 Was that a common thing?---Wouldn't say it was common. My
15 recollection is that it was only in jobs of more
16 significance like an armed robbery. Certainly, I don't
17 have recollection of, with jobs with local detectives,
18 maybe say at a burglary scene where an offender was
19 seen running and a witness was able to provide a
20 description, I don't recall that ever being asked to be
21 omitted from the statement.

22 If a specific request wasn't made to omit a description from
23 a statement, what was your practice?---To include it in
24 the statement.

25 To your knowledge, what was the practice of the members that
26 you worked with if a request wasn't made?---Include a
27 description in the statement.

28 You've said that requests certainly came from detectives in
29 more serious investigations; is that correct?---That's

1 certainly my recollection, yes.

2 Did requests also come from your superiors in uniform?---Not
3 that I recall.

4 What did you understand the purpose of that practice to
5 be?---I don't think I really had an understanding of
6 what the purpose was. Um, I can only guess that for
7 some reason the detectives didn't want it recorded in
8 the statement, the specific reason I don't know why.
9 There may have been, I guess, some methodology to the
10 way they investigate and what they want in statements.
11 I certainly have never done Detective Training School,
12 so I don't have a comprehension of what they're taught
13 in that regard.

14 Certainly at the Academy, were you told whether or not to
15 include descriptions at the Academy?---I've been
16 thinking about that; I can't recall one way or the
17 other, but I would be surprised if we were told to omit
18 them. I think, as long as I can remember, unless it
19 was circumstances where we've been asked not to put
20 them, descriptions always went into statements.

21 One reason why an investigating officer might not want a
22 description provided by a witness included in their
23 statement is that it might not end up matching the
24 ultimate suspect, in which case one possible
25 explanation for this practice would be that you would
26 use the description if it matched the suspect and not
27 use the description if it didn't match the suspect.
28 Can you think of any other explanation for this
29 practice?---Well, no, I can't.

1 COMMISSIONER: Could I just ask you, Mr Anderson, before you
2 got into the witness box was it already your
3 understanding that you were likely to be questioned
4 about this particular practice of omitting descriptions
5 from a statement?---Yes.

6 How did you come by that understanding?---After receiving
7 the summons to appear here today I had no idea what my
8 involvement was or what I was going to be questioned
9 about, but certainly I've followed the transcripts and
10 that certainly gave me a full process as to possibly
11 what it could be about. Specific matters, I obviously
12 couldn't be clear on, but it seems that that was
13 certainly part of what this investigation is in
14 relation to.

15 So you thought that's a likely area of questioning for
16 you?---Yes, sir.

17 Apart from counsel appearing for you, did you speak with
18 anyone else about the evidence you should give?---No, I
19 haven't.

20 You said earlier that, I think you used the phrase "early in
21 your career"?---Yep.

22 Did you mean by that, that this is not a practice that
23 you've recently encountered?---That's correct,
24 Commissioner. Certainly, I'd say, ten, 15 years - in
25 the last ten to 15 years I cannot recall on any
26 occasion where I've been asked to omit a description
27 from a witness statement.

28 MS BOSTON: How many times would you estimate you were
29 requested to omit a description?---It wouldn't be many.

1 If I had to guess, it would only be a handful of jobs,
2 three, four; maybe not even.

3 What's your awareness of the extent to which your colleagues
4 have been requested to omit descriptions from their
5 statements?---I'm not sure.

6 Are you aware of it happening though?---Not directly.

7 Do you know an officer by the name of Grant Langmaid?---I
8 know of him, yes.

9 He took a statement in fact in relation to that same armed
10 robbery. Do you have any awareness of any requests
11 made of him to omit a description - - -?---No, I don't.
12 - - - from his witness's statement?---No, I don't.

13 I'll take you to another document, Exhibit 192. You will
14 see that's an undated document. If we can just go down
15 to the bottom briefly, that is the signature of the
16 witness, Nevy Suganda; is that correct?---Yes, it
17 appears to be her signature, yes.

18 COMMISSIONER: And that's your handwriting?---That's my
19 handwriting.

20 MS BOSTON: Was it your practice, when requested to take a
21 description on a separate piece of paper, to not date
22 the document and not jurat it?---Um, I don't recall - I
23 don't recall making this, or having this second
24 document, I can't remember that being made or signed,
25 and generally not a practice that I would do, is take a
26 second statement without an acknowledgment or jurat.

27 My understanding of your evidence is that three or four
28 times earlier in your career you were asked to omit a
29 description from a witness's statement and put it in a

1 separate document; have I understood that
2 correctly?---Or to record it. Not necessarily a second
3 document, and I don't recall specifically whether it
4 required the witness signing it, but obviously I've
5 done that on this occasion.

6 So, recorded in a separate document, this is obviously one
7 example of you having done that?---Yes.

8 Where else would you record a description if not on a
9 separate piece of paper?---In a notebook or in a day
10 book, possibly a running sheet; certainly on our lab
11 reports.

12 COMMISSIONER: This may be important, Mr Anderson. Do you
13 actually have a recollection of sometimes recording a
14 description on something other than a separate document
15 like this in a diary or running sheet?---With every job
16 that I've gone to where a witness has a description of
17 an offender, I would record that. I guess what I'm
18 saying is, if it's been requested that I not put that
19 in a statement, then I certainly would have recorded
20 the description somewhere else.

21 I'm just wanting to be clear, do you actually remember
22 recording it somewhere else in a notebook or running
23 sheet rather than a separate document?---I would have
24 on occasions recorded it separately.

25 Because you would appreciate, it's one thing to record
26 something in a separate document that might be annexed
27 to the witness's statement - - -?---Yes.

28 - - - for later use, it's another thing altogether for it
29 just to be in your notebook or running sheet?---Yes.

1 So, if a description had been recorded by me, say in a
2 notebook, then a copy of my notebook would be provided
3 to the detectives. There's certainly - even now, if -
4 not in a statement format, but if we get details from a
5 witness, say we've got multiple witnesses and we
6 haven't got the ability to take statements from all the
7 witnesses at that particular time, but we can get in
8 dot point some of their observations which may include
9 a description, it is common practice to get them to
10 adopt my notes, and that wouldn't have an
11 acknowledgment or jurat on it, and I'm not sure whether
12 that was my mindset in relation to taking this second
13 document, whether it was just getting her to list the
14 description that she provided and getting her to sign
15 it.

16 Sorry, just to complete this, are you able to say with
17 certainty that you only followed this procedure because
18 you were asked to?---Yes. On every other
19 circumstance - - -

20 Otherwise, you would have put it in the statement?---Yes, I
21 would always include descriptions in my statements
22 unless it was requested to omit it.

23 MS BOSTON: You would have understood from your training at
24 the Academy that it was your duty to investigate
25 matters by obtaining material which was both
26 inculpatory and exculpatory?---M'hmm.

27 Didn't you have concerns on these occasions when you were
28 asked to omit potentially exculpatory evidence from
29 statements?---At the time I had no concern. I,

1 thinking back, would have been of the belief I was a
2 junior member, the detective has arrived, this is what
3 he's requested, there must be a good reason for that to
4 be requested, but certainly not to the extent where
5 completely omitting taking descriptions; the
6 description would always be obtained and obviously
7 gather as much evidence, but for whatever reason the
8 detectives requested, "We don't want that particular
9 description in the statement on this occasion."

10 So, the request was made by a more senior member, and so you
11 followed that request or direction?---Correct.

12 COMMISSIONER: But if I followed your evidence correctly,
13 Mr Anderson, you can think of no legitimate reason, no
14 forensic reason, for doing that?---I didn't understand
15 the reasoning for it - - -

16 No, I'm just trying to clarify your evidence. You've
17 already said to counsel assisting you could think of no
18 legitimate reason for that course being done?---I can't
19 think of a legitimate reason.

20 What about at the time?---At the time I just didn't think
21 about it, it was requested and I just - I didn't give
22 any thought as to why it would want to be omitted. I
23 guess at that particular time assumed that these
24 detectives that are investigating, there must be a
25 specific reason why they don't want a description in
26 that particular statement.

27 Is there anything at police training, the Academy or a later
28 time, that instructs you that you should follow the
29 direction of a detective regardless of whether or not

1 it seems to be a proper direction?---No, there isn't.
2 So, is it assumed within the force that you will still
3 exercise your discretion as to whether or not you think
4 a request that's made of you is a proper one or an
5 improper one?---Yeah, I certainly still have that
6 discretion. If it were now, I would certainly question
7 why a description wouldn't want to be put in a
8 statement. In fact, my opinion is, it's the witness
9 statement, I'm not to judge what should be in that
10 witness's statement; after all, they're detailing what
11 they've seen, it's their observations, and ultimately
12 they're the one acknowledging that it's their statement
13 and it's true and correct.

14 Yes.

15 MS BOSTON: Looking at this Exhibit 192 and the previous
16 Exhibit, the handwritten statement, it's on the same
17 pad - is it a pad or what was it written on?---They did
18 produce pads like this, or it might have just been
19 loose-leaf statement paper.

20 So either a pad that you could rip off pages?---Pre-printed
21 with "Victoria Police Statement" written on it and the
22 lines, yes.

23 To the best of your recollection, at this time when you took
24 the statement, would the pages have been attached to
25 each other or were separate pieces of paper?---It could
26 have been in a pad where they were attached to each
27 other; it wasn't uncommon to run out of those pads and
28 we would just photocopy additional pages and carry
29 those with us.

1 When you were directed to take the description separate from
2 the statement, in what form would you then provide that
3 to the detective who'd asked you to do that?---Sorry,
4 could you just ask that question again, please?

5 In those situations where you were asked to have the witness
6 record their description separately from the statement,
7 what was the form in which you provided the statement
8 and separate description to the detective? Was it
9 separate pieces of paper, or how - - -?---Yeah,
10 certainly on this occasion the statement would have
11 been one document and the description a second one,
12 although it may be a case that I made - on certain jobs
13 descriptions have gone into my notebook or a day book.

14 So, you may well have yourself retained the description
15 without providing that to the detective?---Oh, with any
16 job where someone else is going to be the investigating
17 member, they'd always be given or provided a copy of
18 notes that I've made.

19 So, it would ultimately go back to the
20 investigator?---Correct.

21 But the statement itself would have already been provided to
22 the investigator initially?---Yes.

23 Following on from the answers you gave earlier, I take it
24 that that would be the last time that you would see
25 your statement until perhaps at committal
26 stage?---Correct.

27 You wouldn't have any knowledge about what information went
28 into the brief?---No.

29 And you wouldn't know whether that separate description made

1 its way into the brief?---Back then, no.
2 Didn't that concern you, that potentially exculpatory
3 evidence may not make its way to the defence?---I guess
4 in those circumstances where we've taken the statement
5 and gathered whatever evidence we have and we handed it
6 over to the investigator, that the investigator would
7 include all evidence obtained.

8 Doesn't this practice give rise to a real chance of relevant
9 information not being disclosed?---I guess there is the
10 potential for that.

11 Therefore, it has a tendency to undermine an accused's right
12 to a fair trial?---I would agree.

13 There's even the potential - and I'm not speaking about any
14 particular case - there's even the potential that an
15 innocent person may be wrongfully convicted of a crime
16 if exculpatory evidence has not been provided to the
17 defence?---Yes, I would agree.

18 There's one further matter I wanted to ask you about your
19 statement that you've taken from Ms Suganda,
20 Exhibit 375. You will see on the first page that this
21 is in relation to an armed robbery on 18 July 1998. If
22 we go down to the very bottom page, 3711, the
23 statement's being taken in the early hours of the next
24 morning, 19 July 1998?---Yes.

25 That would be in accordance with normal practice, wouldn't
26 it, to take a statement as soon as possible?---That is
27 correct.

28 If you look back at p.3708, the top of each page is dated
29 18 September 1998, and that's a date which is repeated

1 on the first three pages of the statement?---Yes.
2 With the different earlier date appearing on the fourth
3 page. How is it that that could have happened?---It's
4 probably gone past midnight. So, commenced the
5 statement on the 18th and by the time the
6 acknowledgment has been signed it's ticked over to the
7 19th.

8 Well, it says 18/9, that would be 18 September 1998?---Oh,
9 sorry, I see what you mean, it's July, isn't it?

10 I'm just wondering, because obviously this robbery happened
11 about a month before the murders of Sergeant Silk and
12 Senior Constable Miller, and this date on the first
13 three pages is about a month afterwards, and I'm just
14 exploring with you the possibility of the statement
15 having been amended in some way?---Not that I'm aware
16 of. Um, I've certainly referenced, or the witness has
17 referenced in the statement that the offence has
18 occurred on 18 July. I can't give a reason why we've
19 got the 18 September date at the top.

20 There has been some evidence - and I'm not specifically
21 asking you about this statement but just generally -
22 there has been some evidence about what I might term
23 replacement statements being made commonly within the
24 police force, where in circumstances where a first
25 statement taken by a witness, be they a civilian or a
26 police member, is deficient in some way, seen to be
27 deficient, perhaps it contains possibly wrong
28 information or omits something relevant, the proper
29 practice in that scenario would be to take a

1 supplementary statement, wouldn't it?---That is
2 correct.

3 Acknowledging the fact that a previous statement had been
4 made?---Correct.

5 And contained incorrect or omitted information for some
6 reason?---Yes, and I would reference the date and
7 location that I took that original statement too.

8 There's been evidence about a practice of, instead of
9 following that practice, having the witness compile a
10 replacement statement which doesn't acknowledge the
11 fact that the previous statement ever existed. Is that
12 a practice that you're aware of?---No, I'm not. Not
13 personally.

14 But you're aware of other people engaging in that
15 practice?---I'm - only become aware from reading the
16 transcripts of this hearing.

17 It's not something that you've encountered in your
18 career?---No.

19 Not something that you've heard rumours about?---No.

20 What about backdating statements? There's also been
21 evidence about a common practice of backdating
22 statements to make it appear that they were taken at an
23 earlier stage than they were in fact taken?---Again,
24 it's never been done by me, and I've got no direct
25 knowledge of anyone doing that.

26 No direct knowledge?---No.

27 But some knowledge?---Only from reading the transcripts of
28 this hearing.

29 The problem with backdating is, isn't it, that you wouldn't

1 know a document had been backdated unless, firstly, you
2 saw it happening, or secondly, the person admitted to
3 it; you'd agree with that?---I'd agree with that.

4 That's one of the vices with the whole practice, isn't it,
5 that firstly the difficulty of ascertaining that it's
6 ever taken place, and secondly, it's hiding relevant
7 information both from the prosecution and from the
8 defence; would you agree with that?---I would agree.

9 And that, in order for an accused person's lawyer to
10 properly uphold their duty to test the accuracy of
11 information, they need to know how that information has
12 emerged, the sequence in which it's emerged; you'd
13 agree with that?---Agree.

14 So the practices that you've become aware of through the
15 transcript, it seems, of backdating and replacement
16 statements - - -?---Yes.

17 - - - you would agree, interfere with the proper
18 administration of justice?---Yes, I do.

19 And may in fact - again, not referring to any particular
20 case - may in fact result in miscarriages of
21 justice?---I would agree with that.

22 I take it that, as part of your job, you regularly take
23 notes in various books?---Yes.

24 Day books; you've got a day book?---It has changed, we do
25 now have a sensitised form where we take all our notes.

26 I'm sorry?---Currently we have a sensitised book where we
27 take all the notes. So, historically it was day books
28 or notebooks; we still have a notebook, but
29 predominantly we use, I think it's called a 502 which

1 has an original and it's got a sensitised copy
2 underneath.

3 There's information before the Commission that it's common
4 for police members to take notes well after an incident
5 or an event and give the impression that they were
6 taken relatively contemporaneously with the event
7 they're referring to. Is that a practice that you've
8 encountered?---Not to my knowledge, no.

9 In terms of the practice of omitting descriptions, how long
10 ago did you say was the last time that you were
11 requested to omit a description?---Oh, years ago, this
12 may have been - if this was the case, which I suspect
13 it was, this may have been the last job that I went to
14 where that was requested.

15 And you haven't encountered the practice since?---No, nor
16 have I been requested.

17 Have there been any directions from Command about the need
18 not to engage in this practice?---Not that I'm aware
19 of.

20 COMMISSIONER: Could you just tell us a little bit about
21 your training, Mr Anderson. After you completed the
22 Police Academy, have there been periods of time where
23 there have been retraining or refresher courses for
24 you?---Oh, absolutely, yes.

25 How often does that occur?---These days it's ongoing with
26 the advent of, I guess, technology, e-learning, we do a
27 number of courses in any given year.

28 And you've kept abreast of those training courses, have
29 you?---Yes.

1 To your knowledge, there's never been any course that's
2 directed attention to the practice that you were
3 involved in on this particular occasion and the fact
4 that it's inappropriate and must cease?---Not that I'm
5 aware of, no.

6 So, there's no direction that you're aware of from Police
7 Command that would lead members who are engaged in this
8 practice to consider that it must cease?---I've heard
9 nothing, no.

10 MS BOSTON: The people who requested you to omit the
11 statements, omit the descriptions, who were they? You
12 said detectives?---I believe it would be detectives.

13 But who were they in relation to which
14 investigations?---Well, in relation certainly with this
15 one. As I said, it would be my normal course to
16 include descriptions; the fact that there is not a
17 description there makes me believe that it's been
18 requested by, I would believe, a detective that's
19 attended the scene, he's made a request not to put the
20 description in the statement.

21 Do you recall any particular people who made that request of
22 you?---No, I don't.

23 You've mentioned that you believe you would have received
24 such a direction from the Armed Robbery Squad; is that
25 fair?---I don't know which - whether it would be local
26 CI or Armed Robbery Squad, that I can't qualify.

27 If the Armed Robbery Squad were the squad that was
28 investigating this, I take it from your earlier answers
29 that you infer it would have been a detective from the

1 Armed Robbery Squad that would have directed you to
2 omit the descriptions?---I guess what I'm trying to
3 say, I don't know which squad it was, I don't know
4 whether it was practice of the Armed Robbery Squad, but
5 it was certainly a request of detectives, in my
6 experience, have requested that descriptions be left
7 out of statements.

8 So, detectives from which squads - I'm not asking about this
9 particular one - but which squads?---Well, it might
10 have been local CI, and that's where I - unfortunately,
11 I can't be specific; it could have been local CI, it
12 could have been a task force, or it could have been a
13 squad.

14 When you say "local CI", you did give that evidence before
15 about which CI that would have been?---No, I don't
16 think I did.

17 Okay?---For that area?

18 Yes?---Sorry, difficult to say. So, there'd be a CI
19 attached to that area, but at certain times of day,
20 afternoons or evenings, sorry, and nights the
21 detectives that attend could be from a station or a
22 location that doesn't service that particular area.

23 I see?---They might only have four detectives working east
24 and four working west, so that could have been the
25 case, or it could have been a local CI or it could have
26 been a task force.

27 The practices could well be ongoing today but you just
28 simply haven't had a request yourself in that
29 time?---Yes.

1 MS BOSTON: Those are the matters, Commissioner.

2 COMMISSIONER: Yes, thank you. No applications for
3 cross-examination?

4 MR MATTHEWS: No application from me.

5 MS LACY: I have just a few questions, if I may?

6 COMMISSIONER: Yes.

7 <EXAMINED BY MS LACY:

8 My questions in relation to this issue would be where you've
9 taken a statement and the description's recorded
10 separately somewhere?---Yes.

11 You were asked about whether or not, while you were at the
12 Police Academy, you were ever taught that you must
13 comply with what you're told by a detective, and I
14 understand your answer was, no, you weren't ever taught
15 that. Is that right?---That would be correct.

16 Can I ask: at that relevant time when you say that this was
17 a practice that you had participated in, was it a part
18 of the police culture around which you worked or an
19 expectation that you would obey a direction given to
20 you by a detective as to how to take a statement and
21 what to include in it?---Yeah, I guess there was that
22 thought that, if detectives requested something, that's
23 what needed to be done.

24 More widely speaking, if an investigating detective on a job
25 that you were called to asked something of you at that
26 site, would you generally oblige?---Yes.

27 And, why is it that you would oblige?---Because you're
28 helping in the investigation of an offence. From my
29 perspective the detective's got a higher level of

1 training, I'm not aware of all the processes and
2 everything that they do with investigations and, if
3 they've got a specific request, my belief, it would be
4 part of the investigation, there'd be a reason for it.

5 MS LACY: Thank you. Thanks, Commissioner.

6 COMMISSIONER: Mr Anderson, you said earlier that you
7 recognised each individual officer has got a discretion
8 as to whether or not they should necessarily follow a
9 request or direction made by a detective?---That's
10 correct, Commissioner.

11 As I followed your evidence, you would say today, if such a
12 request was made of you in relation to keeping a
13 description off a statement, you would ask some
14 questions about it, you would query why that would be a
15 procedure followed?---Yes, I would.

16 Does that view of yours come down to the fact, you're now
17 more experienced and confident than you were in the
18 early days of the job?---Absolutely.

19 That's the difference or has there been a cultural change in
20 terms of taking direction or guidance from
21 detectives?---I'm not aware of a cultural change, but I
22 think with experience, obviously every job you go to,
23 every encounter that you have, the things that you
24 learn, you can become a better investigator but you can
25 also query the methodologies or the requests made of
26 others and speak to them about it and ascertain why. I
27 think certainly in my early career, if a detective has
28 made a request to omit a description, there was a very
29 good reason and he was the detective, that would have

1 been my thought process back at that time.

2 COMMISSIONER: Yes, thank you. Anything arising out of

3 that?

4 MS LACY: No, Commissioner.

5 COMMISSIONER: Is there any reason why Mr Anderson shouldn't

6 be permanently excused?

7 MS BOSTON: No, Commissioner.

8 COMMISSIONER: So, Mr Anderson, thank you for your

9 attendance today, that concludes IBAC's request for

10 evidence from you, so I will discharge you from the

11 summons and the confidentiality notice. There is,

12 however, an order for witnesses out of court which

13 precludes you from talking to other witnesses about

14 your evidence or the subject of their evidence, but

15 subject to that qualification you are now released from

16 the confidentiality obligations.

17 You will be provided with a video recording of

18 your evidence and a transcript, and thank you again for

19 your assistance?---Thank you, Commissioner.

20 <(THE WITNESS WITHDREW)

21 COMMISSIONER: Do you require a brief adjournment, Mr Rush?

22 MR RUSH: No.

23 COMMISSIONER: No. Are we ready to proceed?

24 MR RUSH: Yes.

25 COMMISSIONER: Thank you, Mr Anderson.

26 MS LACY: May I be excused, Commissioner?

27 COMMISSIONER: Yes, certainly. Thank you, Ms Lacy.

28 <IAN DOUGLAS HILL, sworn and examined:

29 COMMISSIONER: Mr Hill, you're aware that you're entitled to

1 legal representation if you wish; you don't require
2 it?---I don't require it.

3 Very good. I just draw to your attention the matters about
4 which you might be questioned. Firstly, the Lorimer
5 Task Force investigation of the murders of Sergeant
6 Gary Silk and Senior Constable Rodney Miller concerning
7 the taking of witness statements, the preparation of
8 the brief of evidence for the trial of Bandali Debs and
9 Jason Roberts, and whether there was full disclosure of
10 witness statements or other relevant information prior
11 to or during the trial, witness statement-taking
12 practices by Victoria Police, and compliance with the
13 obligation to disclose evidence by Victoria Police.

14 You were served with a summons, confidentiality
15 notice, rights and obligations?---I received all of
16 those documents.

17 Briefly, as you're unrepresented, I'm obliged to remind you
18 particularly of your rights and obligations, but given
19 your familiarity with the IBAC processes I won't dwell
20 on them, Mr Hill. But you have an obligation to answer
21 all questions, you must answer them truthfully; so long
22 as you do so you have immunity from those answers being
23 used against you, save in very limited circumstances.

24 Is there any question you have of me before we
25 commence?---No, Commissioner, I understand my
26 obligations.

27 Yes, very good.

28 MR RUSH: Mr Hill, your name is Ian Hill?---Ian Douglas
29 Hill.

1 And you either work at or reside at an address that appeared
2 on the summons?---That's so.
3 I just need to ask you to have a look at this material. Are
4 you here in response to the summons served on you on
5 19 December 2018?---I am.
6 Is the summons SE2832?---That was the summons served on me.
7 With it, as discussed with the Commissioner, you received a
8 statement of rights and obligations?---I did.
9 Which is in the bundle?---Yes.
10 And a confidentiality notice of 11 December 2018?---Yes.
11 And a covering letter of 12 December 2018?---I received all
12 of those documents.
13 Thank you. I tender those documents, Commissioner.
14 #EXHIBIT K - Documents served on summons to Mr Hill.
15 Mr Hill, you are a barrister that appeared for Mr Roberts in
16 the trial of Debs and Roberts that concluded on
17 31 December 2002?---Yes, I was.
18 Can you just give us, how long have you been a
19 barrister?---I came to the Bar, signed the Bar roll
20 in November 1975.
21 Over the course of that period of time has your practice
22 predominantly been in criminal law?---Predominantly in
23 crime.
24 Ranging from serious trials such as the one that's been
25 mentioned to you here, both murder trials, serious
26 other criminal trials both in Victoria and
27 interstate?---That's so, and I've prosecuted both
28 homicides and appeared for the accused in homicides.
29 Thank you. I want to ask you, firstly, some general

1 questions around statement-making practices and the
2 like. Firstly, as far as in a defence situation and a
3 prosecution situation, what reliance is there on the
4 statements that come to you in the police
5 brief?---Effectively, total reliance that that
6 statement was made by the witness on the date that it's
7 jurated; they're, in effect, sworn statements.

8 And that, I take it, forms a basis upon which the prosecutor
9 then acts and defence then act?---That's so.

10 That the statements and the dates, and the contents of the
11 statements, are accurate as purported in the
12 brief?---That's so. Bearing in mind that our system of
13 criminal justice is adversarial, the police are given
14 certain powers to identify suspects and to identify
15 whether in fact a crime had been committed.

16 In some criminal cases the evidence or the statements of
17 eyewitnesses, both witnesses to events and what
18 witnesses may have heard in various events, will be the
19 subject of statements?---Yes, indeed.

20 In relation to, I guess, firstly what is expected from a
21 prosecution and defence point of view, those statements
22 will be made as near or as close to the time of the
23 events they concern as possible?---It's expected that
24 those statements, if they're to be of value, will be
25 taken as close to the events in question, and that
26 there be full disclosure of that material by the
27 prosecution to the defence.

28 When you say "it's expected if they're to be of value", what
29 are you driving at?---Well, if a long period of time

1 passes between an event and the making of a statement,
2 witnesses' memories can alter, be corrupted, fade, or
3 worse, subject to some form of corruption.

4 And by that you mean by the effluxion of time, by taking to
5 others, et cetera?---That's so.

6 If in such a situation you were to be made aware of a
7 statement of an eyewitness to events and conversation
8 that, for instance, was made a year after the events in
9 question, from a defence point of view what does that
10 potentially mean?---You would want to ask questions as
11 to why that had occurred and it may, by its very
12 nature, cast or have the potential to cast some doubt
13 on the prosecution case or the reliability of the
14 witness or witnesses, and it may tend to assist the
15 accused's case.

16 Are you, over the course of your career from prosecution and
17 defence, aware of a practice adopted by police in
18 statement-taking of not placing descriptions of
19 offenders in initial statements?---I can say that that
20 is a practice that I have never heard of before, and I
21 prosecuted many cases and I've appeared for many
22 accused, including police accused on two occasions with
23 the offence of murder, and I've never heard of that
24 practice. And, I can go further than that: if I had
25 heard of that practice, I would have raised questions
26 about it because I can conceive of no legitimate reason
27 for that to occur.

28 No legitimate reason not to put the descriptions of
29 offenders in initial statements?---Indeed, particularly

1 if you took a case where the central issue was
2 identification.

3 So, with no legitimate reason, there is only an illegitimate
4 reason?---I can conceive of no legitimate reason and,
5 had I heard of that practice, not only would I remember
6 it, but I would have asked questions about it.

7 Apart from being made aware of descriptions in the brief, is
8 there any way as a prosecutor or defence barrister that
9 you could drive to find out about such a
10 practice?---Only by disclosure and relying upon proper
11 disclosure by the police or the prosecution which,
12 after all, must be paramount and central to a fair
13 criminal trial.

14 And the consequence of an unfair criminal trial is the
15 perversion of the course of justice?---Well, that's so,
16 and the courts have had to deal with that in numerous
17 cases: the High Court in Mallard, the New South Wales
18 Court of Appeal in Spiteri. To a lesser extent - and I
19 think you, Mr Commissioner, may have sat on this case
20 in the Court of Appeal of Farquharson, and it would
21 have been Farquharson (No.1), in terms of
22 non-disclosure.

23 Are you aware of any practice adopted by police in
24 statement-taking of backdating statements?---No, not at
25 all, and for all the reasons that I've already
26 annunciated.

27 Could we bring up Exhibit 593, please. You may or may not
28 recall, Mr Hill, but then Senior Constable Pullin was a
29 witness in the murder trial?---I recall that.

1 On the right-hand side of the screen, p.9612, is the
2 statement that was on the brief before the murder
3 trial. You will see that statement is at the bottom
4 with the attestation clause - or the acknowledgment
5 clause, I beg your pardon, it's acknowledged at 4.25 am
6 on Sunday, 16 August 1998 and the signatory to that is
7 Senior Detective Sergeant Bezzina. If you go to the
8 left-hand side of the page, you see a copy of what IBAC
9 has evidence before it of the first statement, and the
10 first statement is also timed at 4.25 am, 16 August
11 1998, and witnessed by Mr Bezzina. The highlighted
12 purple passages in the second statement on the
13 right-hand side of the screen is information that is
14 added to the statement that was not in the first
15 statement. There is evidence before the Commission
16 that Mr Bezzina signed the second statement, he cannot
17 recall precisely when, but signed it at a place, at a
18 time and on a date that was obviously not Moorabbin,
19 not 4.25 am, and not 16 August 1998. In general terms
20 firstly, is that a practice that you're aware of, of
21 senior members of the Homicide Squad signing backdated
22 statements?---No, not at all, because the second
23 statement on its face tells a lie.

24 The first statement is effectively destroyed and the second
25 statement made well after the events is that provided
26 on the trial brief, and with material in relation to
27 particularly what was said at the crime scene. Can I
28 ask you this: in your experience, is Mr Bezzina, in his
29 former role as a detective senior sergeant at the

1 Homicide Squad, a person known to you?---I've known
2 Mr Bezzina for many, many years.

3 And so, when his name appeared on the statement, did that
4 mean anything to you?---I'd be more likely to give it
5 more credibility as I believed, at least at that time,
6 that he had a good reputation for being an honest
7 police officer.

8 Looking at the two statements, accepting that the second
9 statement has been backdated, can you now, as a
10 defence, in your experience think of any reason why a
11 statement would be backdated in those
12 circumstances?---Perhaps I can answer that this way: in
13 the second statement there is critical information to
14 the central issue that the trial was concerned with
15 which isn't in the first statement that would make one
16 have some doubts as to the veracity of what's being
17 said, and I can think of no reason why it would be made
18 at a later time.

19 Are you aware of a practice where some person, or a
20 witness/police officer, will make a first statement and
21 then make a supplementary statement acknowledging the
22 first statement?---That happens frequently, that a
23 police officer will make a subsequent statement, or a
24 number of subsequent statements, usually referring the
25 first paragraph to the very fact that he's made a
26 previous statement. I should add that there are
27 occasions, and one sees at preliminary hearings, at
28 committals, where a statement may have been taken from
29 a witness in handwriting and at a later time is put

1 into a proper committal form of statement, but both
2 statements are included side-by-side, one after the
3 other, in the brief of evidence.

4 Are you aware of a practice where a person, a witness, may
5 make a statement which is an additional statement, put
6 in additional information in that statement, sign and
7 date it at the time it is in fact made, but the first
8 statement that that witness made is discarded,
9 destroyed?---No.

10 And, for the same reasons, that has the same impact?---It
11 would be entirely inappropriate and improper to discard
12 the first statement because it means that no one can
13 check what was in the first statement.

14 Coming back to, even in the context of your evidence, a
15 supplementary statement perhaps made a year after the
16 event involving an eyewitness observations and what the
17 eyewitness heard, as a supplementary statement would
18 that cause any form of, not concern, but investigation
19 on behalf of defence; that someone is adding material
20 even a year later?---It might, depending on the
21 circumstances, cause you to ask questions, but the
22 procedure there would be transparent and open for all
23 to see.

24 In your experience, if I could ask you this: the Homicide
25 Squad in Victoria over the course of decades, what is
26 the status of that squad as far as your experience of
27 dealing with police is concerned?---It was always
28 considered the elite squad in the Victoria Police
29 Force.

1 COMMISSIONER: Not always, Mr Hill, if we go back to the
2 1970s and the Beach Inquiry?---Perhaps I should qualify
3 that: since I've been at the bar. And that's
4 comparative with other police squads.

5 MR RUSH: With that elite status, in your experience, would
6 you understand perhaps a senior constable making a
7 statement obeying a direction from a Homicide Squad
8 detective as to the way in which they should make a
9 statement?---I can understand the pressures that are
10 brought to bear by senior police on junior police and
11 have been for as long as I've been a barrister, and a
12 large part of my practice until perhaps more recently
13 was in fact acting for The Police Association for
14 police charged with offences. So I've certainly seen
15 occasions where more senior police have - stood over's
16 not the right word - but made suggestions which would
17 be difficult for a junior police officer not to adopt.

18 Could I ask, in your time prosecuting or defending, have you
19 ever seen witness statements prepared without
20 descriptions of offenders, but a note accompanying the
21 statement with the descriptions?---I have a vague
22 recollection on one or two occasions of seeing a
23 statement that had accompanying it a handwritten
24 contemporaneous document identifying the suspect, but
25 my recollection is that that was referred to within the
26 body of the statement in any event.

27 COMMISSIONER: That was what, I'm sorry?---It was referred
28 to in the body of the statement in any event.

29 So, this comes back to an earlier piece of evidence you

1 gave, Mr Hill: you said you had no experience or
2 knowledge of a practice of not including the
3 description in the statement but recording it somewhere
4 else. Those are some exceptions, are they, that you've
5 just mentioned?---Well, I'm not certain it's an
6 exception, but often you would see, and I have a vague
7 recollection of seeing a statement that, in the body of
8 it, refers to a written attachment which is the
9 identifying comments by the witness.

10 Do you not recall in the trial that you were provided with
11 statements from various eyewitnesses in the Hamada
12 robberies to bear account of the robberies and their
13 description of offenders? And weren't there numerous
14 statements that did not contain in them the description
15 but had a supplementary statement which referred to the
16 description and annexed, or in some cases may not have
17 annexed, the original document of the witness setting
18 out that description?---I have that vague recollection,
19 bearing in mind that this is - - -

20 Some time ago?--- - - - some time ago.

21 MR RUSH: They are the matters, Commissioner.

22 COMMISSIONER: Could we just put Mr Pullin 's statement back
23 up. Just to clarify, Mr Hill: at the trial, the only
24 statement of Mr Pullin that you sighted is the second
25 one?---To the very best of my recollection, that's the
26 only statement - perhaps not in that format, but that's
27 the only statement, because the detail's familiar with
28 me. The first statement, the statement on the
29 left-hand side of the page I'm not familiar with.

1 So, does it follow, you were never told about the existence
2 of the first statement, the one on the left side of the
3 page?---That's my strong recollection.

4 There was a witness Thwaites that was called to give
5 evidence and a statement of his was produced. Were you
6 told that there had been an earlier statement prepared
7 by Mr Thwaites which was not provided to you?---No.

8 In the context of the issue in the trial, was the fact that
9 Mr Pullin's evidence included those matters
10 highlighted, a matter of some significance?---They're
11 critical issues, in my view, in the context of that
12 particular trial and the identification evidence.

13 COMMISSIONER: Is there anything arising out of that?

14 MR RUSH: No, Commissioner.

15 COMMISSIONER: Mr Matthews?

16 MR MATTHEWS: Commissioner, just following on from what I
17 raised this morning - - -

18 COMMISSIONER: I would hope there was going to be no
19 following on from what you raised this morning.

20 MR MATTHEWS: Well, except to pick up your point,
21 Commissioner: you yourself have asked about Mr Thwaites
22 having made two statements but only the - well, let me
23 put it another way. The fact that he'd made an earlier
24 statement than the one on the brief was not something
25 that Mr Hill was aware of, Mr Hill's agreed with that.

26 COMMISSIONER: Yes.

27 MR MATTHEWS: We've heard that, in relation to a witness,
28 Gray, the same situation occurred; I would seek that
29 that be put to Mr Hill as well - he may or may not

1 remember.

2 I understood it to be said this morning that there
3 were other instances - I'm not asking about the Hamada
4 instances at the moment, but I'm asking about any
5 Lorimer instances - where there were earlier statements
6 than the one in the brief and that matter wasn't
7 disclosed to the defence or prosecution as I understand
8 it. If those could be put to this witness as well.

9 COMMISSIONER: I'm sorry, what is - - -

10 MR MATTHEWS: The non-disclosure of the fact of those
11 earlier statements should be put to this witness as
12 well. If I understood my learned friend correctly this
13 morning with witness Altman - - -

14 COMMISSIONER: Look, what I'll do is, I'll stand the matter
15 down for five minutes, speak to Mr Rush and draw to his
16 attention what you say your understanding is, and then
17 I'll hear from Mr Rush whether or not there should be
18 anything additional advanced.

19 MR MATTHEWS: Thank you, yes.

20 COMMISSIONER: Did you want to say something, Mr Rush?

21 MR RUSH: Yes, Commissioner. There is already evidence
22 before IBAC that those statements were not on the brief
23 from the solicitor this morning, and so, it's
24 deliberately not been repeated because we have that
25 evidence.

26 I've explained to my learned friend that there are
27 a number of significant witnesses to be called further
28 in IBAC and I do not propose to be outlining the
29 evidence at this stage that they will be examined on.

1 My learned friend will be made aware, as I've indicated
2 to him already, of those matters that he raises in due
3 course as the evidence unfolds in IBAC.

4 MR MATTHEWS: In that situation, I'm content not to press
5 the matter, I'll await that further evidence.

6 COMMISSIONER: That's why I suggested earlier, Mr Matthews,
7 the first port of call is to discuss the matter with
8 counsel assisting.

9 MR MATTHEWS: Well, I had, but yes.

10 COMMISSIONER: Nothing else?

11 MR RUSH: No, sir.

12 COMMISSIONER: Mr Hill can be excused?

13 MR RUSH: Yes, he can.

14 COMMISSIONER: Mr Hill, I release you from the summons, the
15 confidentiality notice and any obligations that you
16 have. There is an order for witnesses out of court so,
17 until the hearings are concluded you should not discuss
18 the issues that have been explored with any other
19 witness. Thank you. We will provide you with a video
20 recording of your evidence and a transcript for
21 posterity?---Thank you, I'm very sure I'll value it.

22 COMMISSIONER: Adjourn the court until 10 am tomorrow
23 morning.

24 <(THE WITNESS WITHDREW)

25 Hearing adjourned: [3.14 pm]

26 ADJOURNED UNTIL MONDAY 11 FEBRUARY 2019.

27
28
29