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NEW SOUTH WALES STATE CORONER'S COURT

DEPUTY STATE CORONER: J ABERNETHY

TUESDAY 17 SEPTEMBER 1996

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INQUEST INTO THE DEATH OF KENNETH RICHARD BRENNAN

FILE 1096/95

Sergeant T Astley assisting the Coroner

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CORONER: And there are no legal representatives present, is NP215 here? NP215 if you like you are the partner of the deceased, you're welcome to sit at the bar table if you like, you may have some questions to ask witnesses, I don't know it's up to you if you want to stay there that's fine. There is no next of kin is that the?

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ASTLEY: Well Mr Brennan's wife of some time was notified of the matter, there's some suggestion she was going to attend, that isn't the case I think she's indicated to the officer in charge she really had nothing further to offer your Worship by way of evidence.

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CORONER: Okay. All right this matter is in the matter of an unsolved murder and we've called - we haven't called a great number of witnesses but we've called the ones that we think may be able to help us if anyone can. If anyone feels at any stage that other witnesses ought to be called, they've only got to approach Sergeant Astley and give the details and we'll give that some thought. There is one witness, a NP199--

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ASTLEY: NP199

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CORONER: -- NP199 who contacted this office yesterday indicating [REDACTED] and can't attend. Whether or not we need him will be a matter for thought at the end of the - when we've gone as far as we can, I'll make that decision in due course. Is there anything else before we start?

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ASTLEY: No just briefly in relation to that, the witness we are calling today I'll call Dr Bradhurst first so he may complete his duties downstairs. Detective Thurtell is here, Senior Constable Van Leeuwen is also present. NP215 I'll be asking some questions of, NP214 also some questions of. At this stage the inquiries are rather exhaustive as far as Detective Thurtell--

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CORONER: Well that's what I was going - yes that's what I was going to say it's - the fact that we're not calling many witnesses does not mean that the Homicide detectives or Major Crime Squad South Homicide Division haven't been inactive, in fact Senior Constable Thurtell has compiled a most comprehensive brief, followed up all leads that she can possibly think of, in fact it's a very well prepared brief and what we're - the people we are calling are really just

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the stand-outs from that brief. It's a bulky brief and a lot of work's gone into it, I'd like to commend Constable Thurtell for her work there. Okay Dr Bradhurst.

<PETER GRAHAM BRADHURST(10.02AM)
SWORN AND EXAMINED

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EXHIBIT #1 NOTICE PRONOUNCING LIFE EXTINCT, POLICE IDENTIFICATION STATEMENT, POST MORTEM REPORT, NEUROPATHOLOGY REPORT AND ANALYST CERTIFICATE FROM THE NEW SOUTH WALES DIVISION OF ANALYTICAL LABORATORIES TENDERED, ADMITTED WITHOUT OBJECTION

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ASTLEY: Q. Doctor for the Court your full name, your occupation and your place of work if you wouldn't mind?
A. Yes my full name Peter Graham Bradhurst, I'm a Registered Medical Practitioner and I work as a Forensic Pathologist at the New South Wales Institute of Forensic Medicine, Glebe.

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Q. And doctor how long have you held that position for here at the Institute of Forensic Medicine?
A. For just over ten years.

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Q. And what sort of work would you undertake in your position as pathologist?
A. We assist the Coroner in seeking to find causes of death in people that have died under various circumstances and this may be natural death or accidental death or maybe homicidal death or various other types of death.

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Q. And in relation to the death of Mr Kenneth Brennan you performed a post mortem relevant to that?
A. Yes I did.

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Q. And as such you prepared for the Coroner what is referred to as the post mortem report?
A. Yes.

Q. Have you had a chance to peruse a copy of your report at some stage before coming into court today?
A. Yes I have.

40

Q. Doctor exhibit number 1 in fact contains your post mortem report, you wouldn't mind just having a look at that report for me and identify that as your report?
A. Yes that is the report.

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Q. Doctor you've signed that report have you?
A. I have.

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Q. Would you like to add anything to that report or change anything contained in that report?
A. No not that I'm aware of.

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Q. If you wouldn't mind just turn to the area where it indicates cause of death and just place onto the record for me or read onto the record for me what you've given as a cause of death in relation to Mr Brennan?

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A. I've given the cause of death as the direct cause stab wounds to the chest.

Q. Doctor were you able to ascertain how many stab wounds that have been inflicted on Mr Brennan during the course of this attack? 5

A. Yes there were 15 stab wounds.

Q. And besides the stab wounds were there evidence or was there evidence of any other injury that had taken place that was caused other than by the stab wounds? 10

A. Yes there were, there were a number of superficial cuts and scratches and defence injuries which are consistent with being caused by the same sort of implement that would cause a stab wound such as a knife. There were also head and facial injuries and there was an injury to the spine which I'm not sure how that occurred but it seemed to have occurred in the peri-mortem period, the period around about the time of his death. 15

Q. Now you've mentioned defence wounds, where were the defence wounds evident, on which part of the body? 20

A. On his upper limbs, there was - I just refer to my report. There was a stab wound on his upper part of his left forearm which could be considered a defence wound you know with the - his forearm being held up and close to this stab wound there were two superficial cuts which could also be considered to be defence in their sort of position. Then on his right middle finger, his right index finger and his right thumb, each of those fingers had a cut which would be consistent with - are caused in with him trying to shield off a knife wound. 25

Q. So pushing away the knife or grabbing at the knife or just generally guarding the body with one's hands, is that-- 35

A. Yes.

Q. --how you consider a defence wound?

A. Yes, yeah. 40

Q. What about the injuries to the head you've mentioned as well, is there any indication as to what may have caused those injuries?

A. He had an injury to the right side of his face which, although not apparent at the time of the initial autopsy but when the body was re-examined on 16 June, there appeared to be - there was bruising on the face, on the right side of the face that had the appearance consistent with say a shoe print or the sole of a shoe, there was a pattern to it that was consistent with that so-- 50

CORONER: Q. Almost as though he was trodden on or rather than kicked?

A. He could have been stomped on. 55

Q. Stomped on?

A. Yes your Worship and then that bruise was associated with some abrasions in that area which could fit in with that same injury. Then there was injury to his, to his lips

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which would be consistent with say a punch in the face, in the - on the mouth, a punch on the mouth and there was bruising on the chin which would also be consistent with a punch on the chin and that's about it.

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ASTLEY: Q. You've noted up to 15 stab wounds, was there any one wound which would be considered more fatal than the others or was considered the, the fatal wound?

A. Yes there was one that would have caused death fairly quickly, it has been described on page 4 of my report under 'Stab Wound Number 4' and it was a stab wound on the lower part of the front of the right side of the chest and this stab wound went from the right side of the body towards the left side of the body and it penetrated the liver, the diaphragm, the lower part of the right lung and also the right atrium of the heart and it would have caused death fairly quickly, although he could have been active immediately after that but it would have in a short period I'm sure have caused his death.

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Q. So we've got a situation where a possible assault's taken place by way of a fist around the facial area, we've got a situation where possibly a boot has been administered to the head of Mr Brennan and then some 15 wounds culminating at some stage with a fatal wound as you've just described. Doctors can be sometimes hesitant in describing or using the word frenzy in a description--

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25

A. Mm.

Q. --but would you describe this as having been a frenzied attack?

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A. Yes I - it could be a frenzied attack. I think it might be more likely, in my mind, to have been a frenzied struggle for survival and I say that because of the number of superficial cuts and scratches on the body as though he was involved in a violent struggle at the time that the injuries were inflicted and so maybe is fighting for his life rather than say someone being completely incapacitated and receiving a number of - or abnormally large number of stab wounds even though they are incapacitated. It looks to me as though these were most likely inflicted in the course of a frenzied struggle because there are a number of superficial cuts and scratches and some of the cuts, superficial cuts lead off from some of the main stab wounds as though the knife has been sort of moving around in someone's hand, not able to be kept in the, in the position that the attacker would want it to be but rather his - rather Mr Brennan being moving all the time.

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CORONER: Q. Could the - some of the non stab injuries, particularly the boot mark or the injury sustained with the boot or shoe, have occurred after the stabbing?

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A. Yes your Worship it could have been occurred when he was say not able to move when he.

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ASTLEY: Q. Doctor is there any suggestion that Mr Brennan had consumed alcohol in the hours leading up to his death by way of the analyst certificate?

A. Yes the analyst certificate shows a small quantity of

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alcohol, 0.024 grams per 100 mil which is--

Q. Not terribly high?

A. --not terribly high but - yes.

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CORONER: Q. What about that drug metoprolol what's that?

A. That's a drug that is used for control of hypertension and--

Q. It's not a recreational drug?

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A. No, no, no your Worship and it was in the therapeutic range.

ASTLEY: Q. Just further to that, and it's not used as a recreational drug as we often find with antidepressants or with sleeping tablets, sometimes they are used for reasons other than what they're actually prescribed for if I can put it that way?

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A. No I - you've put a bit of doubt in my mind, I'm pretty sure it's a Beta-Blocker, a Beta-Blocker which is used for, generally for control of hypertension or control of the heart rate, I'd have to check it again--

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CORONER: Not much turns on it anyway if it is a recreational drug.

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ASTLEY: Q. Finally just one further thing doctor, Mr Brennan from police investigations it appears was last seen alive on a Saturday evening around about 6.30 which is 10 June, he was located by NP215 the Monday evening which would be 12 June, can you give any indication as to a possible time of death, just to assist the Coroner in that facet of his function--

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CORONER: Q. Or rather you stick to the time you postulate in your post mortem at about 24 hours, a bit over 24 hours before you saw him, I think you saw him just after midnight on the Tuesday morning with his time of death as 6.30 or 11.30 on the Sunday night which as--

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A. Yes.

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Q. --18 or 19 hours before NP215 found him?

A. Yes I - that was my estimate. I have to admit that it's an unreliable - we can't be very reliable in that but that was my estimate just on the best I could do with the rectal temperature--

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Q. Yes I understand it's a ball park estimate but it would reasonable?

A. True I think it would be reasonable to - it was probably a 90% chance of it occurring in that--

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Q. In that time?

A. --in that time.

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<WITNESS RETIRED AND EXCUSED

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<LAURA CLARE THURTELL(10.40)
SWORN AND EXAMINED

ASTLEY: Q. Yes your full name, your rank and your station
for the Court please detective? 5

A. Laura Clare Thurtell, I'm a Detective Senior Constable
attached to the Homicide Unit of the Major Crime Squad
South.

Q. Detective Thurtell you are in fact the investigating
officer in relation to the death of Kenneth Brennan? 10

A. That's correct.

Q. As such you prepared for the Coroner a brief of evidence
that encompassed your investigation? 15

A. That's correct.

ASTLEY: Your Worship as I deal with these matters I've got
a copy of the brief, I haven't got the original but it's a
copy which has been labelled, marked and indexed, I might
just ask the detective to have a quick look at the brief
there. 20

Q. There's a covering sheet at the front of that brief
which indicates what you have in fact indexed and what is in
fact contained in that copy of the brief, there's nothing in
that index that you have since received which is not part of
that copy brief? 25

A. No, no.

Q. Is that the case? 30

A. I'll just check.

Q. I think it's indexed 1 through to 50 or 1 through to 51
is it? 35

A. Yes 51.

ASTLEY: And I don't know if your Worship wishes all those
read out onto the record-- 40

CORONER: I don't think so this - for the purpose of - just
for the record and for the explanation to explain to anyone
who's interested in the matter, this statement of
Detective Senior Constable Thurtell is a 54 page statement,
it contains 102 paragraphs - 104 paragraphs of information. 45
It recites the course of her investigation into this murder
and in shorter matters we read it out often but I think it
would take several hours and nothing's to be gained. I will
say this though, it's part of the record, it's now - it will
be an exhibit in this case and if anyone wishes to look at
it and read it, they're more than welcome to do so by
arrangement with the Clerk of the Court. 50

ASTLEY: I believe the case is, and I'll just get a firm
affirmation from [NP215], [NP215] has in fact seen a
copy of that statement. 55

[NP215]: Yeah.

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CORONER: It might be an idea to simply read her conclusion from paragraph 102 at page 53.

WITNESS: "Evidence establishes that the deceased was last seen alive on Sunday 11 June 1995 about 6.30pm at King Steam Sauna, Level 1, 28-43 Oxford Street, Darlinghurst. The deceased's body was found in his home at [REDACTED] Onslow Avenue, Elizabeth Bay about 5.30pm on Monday 13 June 1995..." - sorry that should read "...Monday 12 June 1995 by his boyfriend [NP215] who immediately attended Kings Cross Police Station. The Forensic Pathologist, Dr Peter Bradhurst, estimates the time of death between 5.30pm and 11.30pm on Sunday 11 June 1995.

It is the opinion of the investigating police that after leaving King Steam Sauna, he has met person or persons at an unknown location or upon returning to his home has met some person by arrangement. The deceased has then had sexual intercourse with a person or persons. It would appear that after the sexual act he has been stabbed possibly in the bathroom and other parts of the unit. Evidence suggests that he has also been hit in the face with a metal frypan. There is evidence to suggest that a struggle has taken place in the bedroom and hallway and the deceased has eventually been placed in the position he was found with a pillow underneath his body. There is evidence to suggest that the deceased's body has been sponged down with a sponge located on his neck. Dr Bradhurst was satisfied that the knife blade located in the bedroom was the murder weapon. There were no signs of a forced entry to the unit and no property stolen.

Known associates and the ex-lover of the deceased, [NP215], have been interviewed and there is no evidence to suggest that they are involved in the murder of the deceased. Inquiries and information received from the public led to the interview of three suspects, [NP188], [NP188] and [NP202] who have been eliminated from this inquiry.

It is the opinion of the investigating police that the frenzied attack, the positioning of the body with the pillow under the torso, the sponging down of the body and the signs of sexual intercourse, may indicated that the offender or offenders may be homosexual or homophobic."

ASTLEY: Q. Detective you've signed that statement?
A. Yes I have.

Q. And you know that statement to be true and correct?
A. That's correct.

Q. Is there anything you'd like to add to that statement or change that's been contained in that statement?
A. Yes I've just mentioned the - in paragraph 70 a fellow by the name of [NP206] is mentioned. He was treated at Sydney Hospital on the evening of 11 June for a sprained wrist. At the time of the inquiry [NP206] wasn't able to be located and he was located at Leonora in Western

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Australia on 15 August this year and interviewed by Western Australia Police. [NP206] was treated for a sprained wrist only at Sydney Hospital--

CORONER: Nothing consistent. 5

WITNESS: --and as far as I'm concerned [NP206] has, from the inquiries that have been made, he's be eliminated also.

ASTLEY: Q. Just with that-- 10

CORONER: Q. He might be hard to find in any event, he's underground for other reasons--

A. Yeah. 15

Q. --illegal immigrant or something?

A. Yeah.

ASTLEY: Q. I was going to say with that inquiry at St Vincents in fact police have made inquiries with St Vincents as to whether anyone had turned up, beside 20

[NP206]
A. Yes.

Q. That other person or persons were - that had attended St Vincents on the night? 25

A. Yes.

Q. For a variety of reasons being a typically busy Saturday night at - in the St Vincents area I'd imagine? 30

A. Yes.

Q. Could the staff at St Vincent recollect or describe any of the persons who attended on that particular night? 35

A. No the people that we - we were looking for people with cuts that may have been consistent with the attack on Mr Brennan and of the people that - of the names that we came up with, the staff weren't able to describe the people that they treated due to the heavy work load at that particular time. 40

Q. Now I'll certainly be asking Senior Constable Van Leeuwen some further questions as well relating to this but the attack or the struggle appears to take place in more than one room, would that be fair to say? 45

A. Yes.

Q. On the evidence of where the blood has been located by the police? 50

A. Yes.

Q. And a number of samples, whether they were by way of hair or blood, were taken from a number of people--

A. That's correct. 55

Q. --which was encompassed in your investigation, and again I'll be asking further questions of Senior Constable Van Leeuwen but there was no matching of any of those samples from the persons that they were taken from from your

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investigation with what was located at the scene, would that be fair to say?

A. That's correct.

Q. Now [NP199] was the one person who actually held out from supplying either blood, urine or hair samples, was that the case? 5

A. That's right.

Q. And in fact [NP199] also refused to sign a statement he supplied to police, is that the case? 10

A. That's right.

Q. [NP199] of course being the missing witness we sought to have here today, now I'm going to show you an item? 15

A. Yeah.

Q. Just identify the contents of the yellow envelope for me?

A. This is a-- 20

DISCUSSION AS TO SPEAKING UP A BIT LOUDER

Q. I'm sorry detective, please detective?

A. That's all right, this is a V Line ticket for - it's - the name on the ticket is [NP198] and it states it's from Melbourne, Spencer Street to Sydney and it's dated Wednesday 14 June 1995. 25

Q. Now [NP198] came under some attention for what reason? 30

A. Right during the inquiries we set up a mobile police station up in Oxford Street and during the time that the mobile police station was up there, we were approached by a fellow by the name of [1299]. [1299] gave us information that he had spoken to a young person or a young male up in Darlinghurst Road, commonly known as "The Wall" area, and took him back to his home in Flinders Street, Darlinghurst. [1299] stated that he spoke to the young person that evening, the young person stayed the night at his home. The next morning [1299] left his room for a short time, came back, the young person was gone and a large carving knife was protruding from his wooden table in his kitchenette. 35
40
45

CORONER: Q. One of [1299] knives? 45

A. Yes taken from his kitchen area. He stated that the young male's name was [REDACTED] and he had - he had seen him on occasions in "The Wall" area of Darlinghurst. We then set about to try and locate any people by the name of [REDACTED] that were in the area of Darlinghurst Road at the time and we came up with this fellow by the name of [NP198] and we traced him to an address in Melbourne. We went down there and we interviewed him and he was in fact staying with some friends at the time we interviewed him, who were able to corroborate his movements on that 10th, 11th and 12 June 1995, that he was in fact at their residence during that period and he confirmed that further by producing this rail ticket which showed that he travelled from Melbourne to 50
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Sydney on 14 June 1995.

ASTLEY: Q. Now just with NP198, that also came about I believe firstly because it was one of the knives belonging to both NP215 and Mr Brennan which appears to have been used during the course of the attack in this particular matter, is that the case? 5

A. That's correct.

Q. And the knife obviously stood out-- 10

A. Yes we--

Q. --because in that information?

A. --we - it was some information that we thought was warranted to follow up and-- 15

Q. Just one of the many leads you had under the circumstance--

A. Yes, yeah. 20

Q. The other thing too being that I believe the bottle shop owner describes someone he thought might have been Mr Brennan in the bottle shop with a young blonde person and police looked at the two different leads and said they can come up common ground was that the case? 25

A. Yes, yes.

Q. And I think there was some doubt as to the bottle shop owner's information because of the style of dress he described the person he saw as conflicting with the way that Mr Brennan normally dressed, was that the case? 30

A. That's correct and from the information from NP215 about his, his dress.

EXHIBIT #2 BRIEF TENDERED, ADMITTED WITHOUT OBJECTION 35

EXHIBIT #3 RAIL TICKET TENDERED, ADMITTED WITHOUT OBJECTION

Q. Detective Thurtell I show you another envelope containing a newspaper, if you could just remove the newspaper for me, identify that and the part it played in your investigation? 40

A. This is a newspaper called Capital Q Weekly, it's dated Friday 12 May 1995, issue number 137. 45

Q. In short I think that particular magazine contains an advertisement placed in there by Mr Brennan is that the case?

A. Yes and I'm just trying to locate the advertise - this is the weekly classified meat market section on page, page 14, 15, 16 and 17. I'll just go through-- 50

Q. Well there's no problems if you can't find it immediately?

A. Do you want me to find it or? 55

Q. No I wouldn't worry at this stage, the--

CORONER: Q. No when you stand you can find it, just put a

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texta mark around it?

A. Right this was the--

Q. So that contained the ad?

A. Yeah do you want me to read the, the ad? 5

Q. Yes?

A. The ad that was placed in there was the following "Elizabeth Bay two hung guys looking for a third hung guy for safe fun times. Active or passive, any age or nationality." and the code was 155377 and the pin 1769. 10

Q. Right and that was - your inquiries established that was inserted in the paper by Mr Brennan?

A. Yes. 15

ASTLEY: Q. Now it appears from your investigations a number of person or persons answered the ad?

A. Yes there were, there were twelve responses to the advertisement and our inquiries in relation to outgoing calls from Mr Brennan's unit in the days leading up to his death revealed that he retrieved twelve messages from, from the, the voice mail box. 20

Q. Now--

A. I'm just trying to find out when that phone call was made to retrieve - here it is, right on 11 June at 8.35am the telephone number to - in which to retrieve the messages left was made by - was made from the unit at Onslow Avenue and at that stage there were twelve messages on the voice mail box. 25

Q. Now there was cause for police to actually identify the person or persons who had answered the voice mail message or had left messages in the voice mail message, it appears, and I'm just going by my notes here, that nearly all of the twelve persons could identify their movements or have their movements verified, there was one or two who just couldn't recall what they were doing on the night, was that the case? 35

A. Yes of the - there were twelve messages left, eleven people were identified because one had in fact called twice and there are only a few that - yes as you said they couldn't account for their movements. 40

Q. But others could provide work, alibis or person alibis-- 45

A. Yes.

Q. --and the others--

A. And one was in fact an American visiting who we checked with Immigration had left the country by the date of Mr Brennan's death so-- 50

Q. Thus eliminating him--

A. Yes. 55

Q. --from any possible involvement from--

A. Yes.

ASTLEY: Yes perhaps that newspaper may be placed with the

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brief--

CORONER: Yes exhibit 4--

ASTLEY: --but I think Detective Thurtell will probably search it later on just to identify the actual article. 5

EXHIBIT #4 NEWSPAPER TENDERED, ADMITTED WITHOUT OBJECTION

ASTLEY: Q. I'm going to show you that? 10

A. Mm-mm.

Q. If you might identify that for me?

A. This is a, a face image which has been compiled by a witness whose name-- 15

Q. Mr Guijar?

A. Yes.

Q. Mr Guijar was in fact the bottle shop owner who suggested he saw someone fitting Mr Brennan's appearance in his bottle shop on the Saturday evening-- 20

A. Yes.

Q. --with the person that was identified or he has had penried as by that photograph? 25

A. Yes that's correct, yeah.

Q. I'm actually just curious, does that fit the description of NP198? 30

A. No - well it's a very - how do I say--

Q. I didn't mean to throw you on the spot by doing that to you?

A. No it's just - it's a very - brown hair, fair complexion, brown eyes, the - it fits a lot of descriptions re-- 35

CORONER: Q. Bland?

A. Yes there's nothing that is outstanding which could link it to NP198 40

ASTLEY: Q. The only thing I would have done, 1299 was going to come, that's 1299, the one who was subject to the knife protruding in his room, I wouldn't have actually minded showing the photograph but 1299-- 45

CORONER: He's not here.

ASTLEY: --isn't here - well he hasn't ..(not transcribable).. he's not here today so I'm not sure that it'll take us anywhere anyway. 50

CORONER: No. 55

WITNESS: Well NP198 when he was interviewed he stated that he did go back to 1299's home, so that kind of tied up that inquiry as well.

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CORONER: Q. Yes that's right and that was when?
A. I'll have a look.

Q. When was he with [1299]?
A. I'll have to look that up. 5

Q. 9 July I think at about 8.30 he met him?
A. Yes 9 July.

Q. So what he, he went - the deceased dies on the 11th? 10

ASTLEY: Well he was located on the Monday which was the 12th.

CORONER: Q. Died on the 11th, late on the 11th, so [NP198] [NP198] must have then gone to Melbourne, is that the way your investigation went? 15

A. [NP198] was in Sydney - can I just - I'll just have a quick look through this. Prior to the death of Mr Brennan [NP198] was in Sydney and he had his mobile phone stolen in Sydney which he reported to Kings Cross Detectives. Then he was living in Foster House and those types of establishments in the inner city and he had a drug dependency and then he went back down to Melbourne. He stayed with the people at South Yarra where we interviewed him, that was [1289] and [1290] and then it was on 14 June-- 20 25

Q. That he came back?
A. --that he travelled back to Sydney and that's when he picked up-- 30

Q. So he must have just gone to Melbourne for a few days if he was up here with [1299] on the 9th and 10th and then, then back in Sydney on the 14th he must have been - here it is "on the weekend before travelling to Sydney, 10th, 11th and 12 June I was in Melbourne"? 35
A. Yeah.

Q. So he must have gone down on the 10th if he was with [1299] on the 9th/10th, does that make sense? I'll have to look at [1299]'s statement? 40
A. Well [1299] says that he was with - hang on--

Q. With him? 45
A. He - 9 July.

Q. July?
A. Mm. 50

Q. Sorry?
A. Which is after.

Q. Right, well that's what mixed me up?
A. Yeah. 55

Q. So he was in Melbourne at the time anyway?
A. At time yeah.

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EXHIBIT #5 PENRI DIAGRAM TENDERED, ADMITTED WITHOUT OBJECTION

ASTLEY: Q. Detective I'll show you two video tapes, you might just indicate to me what the - what each video tape represents? 5

A. This first video tape is a record of interview that was conducted between [NP215] and Detective Orchard at Kings Cross Detectives office. That took place - also Detective Sergeant Whittle was present and I believe that took place on 12 June at Kings Cross Detectives office. The other video is a walk around interview which took place between [NP215], myself and Detective Muldoon on 14 June at the deceased's unit. 10

Q. Now the purpose of the second video tape the crime scene had been cleared by that stage had it? 15

A. Yes, yes.

Q. And you were trying to ascertain from [NP215] exactly where he had entered the building, where he had entered the room, what he'd seen upon entering the room? 20

A. That's right.

EXHIBIT #6 TWO VIDEO TAPES TENDERED, ADMITTED WITHOUT OBJECTION 25

Q. I show you a further yellow envelope, if you could just remove the contents of that envelope for me and identify the photo contained within? 30

A. Right that's a photograph taken from a video surveillance video at the Kings Cross Railway Station of [NP215] alighting - or he has alighted from a train and he's travelling from the platform area out to the street. 35

Q. Does that give a time and date?

A. It's dated the 12 June '95 and the time is 5.15 or 17:15:54, 5.15pm.

Q. In the afternoon? 40

A. Yes.

Q. That's consistent marginally with what [NP215] tells you what time he leaves [NP214]'s place? 45

A. Yes and his arrival at the unit in Onslow.

EXHIBIT #7 PHOTOGRAPH OF [NP215] TENDERED, ADMITTED WITHOUT OBJECTION

Q. Detective Thurtell at this stage your inquiries have been exhausted? 50

A. Yes.

Q. At this stage no known person is in a position to be charged in relation to Mr Brennan's Death? 55

A. No.

Q. At this stage would you like to add anything at all to the inquest which may assist the Coroner today with his

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finding?

A. No there's nothing I can, that I can add.

Q. Nothing by way of opinion which you haven't already - you've already expanded on in your statement would you like to express today? 5

A. No I - what I've put in my statement pretty well sums up how I feel about the inquiry yeah.

Q. As with all inquires if any information is forthcoming to the police it's something that you could further investigate down the track somewhere? 10

A. Yes, yes.

CORONER: Q. Your last paragraph a couple of things there, the positioning of the body, the pillow under the torso, the sponging down of the body particularly, what's the significance of those things, anything in particular to you or to police? 15

A. It's very unusual, I think that it's - that it may show that the offender or offenders have obviously placed the deceased in this position. 20

Q. Post mortem, after death?

A. After death with the pillow underneath him I - and the sponging down I don't know whether they've stood back and reassessed what's gone on and had some compassion or something but that's what I was trying to - yeah. 25

Q. Has that sort of thing been seen in other homicides or gay homicides in the south area to your knowledge, have any other police encountered that sort of thing? 30

A. No, no, no one that I've spoken to has seen anything like that.

<WITNESS RETIRED 35

<LYLE WILLIAM VAN LEEUWEN(11.15AM)
SWORN AND EXAMINED

ASTLEY: Q. Yes thank you for the Court your full name, your rank and your station thank you senior constable? 40

A. My full name is Lyle William Van Leeuwen, I'm a Detective Senior Constable of Police currently seconded to the Facial Imaging Unit but still attached to the East Sydney Crime Scene Section. 45

CORONER: Q. Specialising are you?

A. Further training your Worship. 50

Q. And your surname's spelt V-a-n L-e-e-u-w-e-n for the record--

A. Yes sir and I'm a constable attached at - to the East Sydney Crime Scene Section at the Sydney Police Centre. 55

Q. Detective there's a copy of the statement you provided attached to the tendered copy of the brief, just have a look at that for me, identify that as your statement?

A. Yes sergeant this is my document.

~17/09/96

15

THURTELL X (ASTLEY)
RTD; VAN LEEUWEN X (ASTLEY)

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Q. Do you know that statement to be true and correct?

A. To the best of my knowledge yes.

Q. At this stage is there anything you would like to add to the statement or change contained within the statement at all? 5

A. No sergeant.

Q. I think also to the rear of your statement was a further statement supplied by Senior Constable Ford from the Crime Scene Unit, is that the case? 10

A. Yes it is.

Q. Now both of those statements will have photos accompanying which I'll be showing you? 15

A. They do yes.

Q. Now those photos are actually indexed and your statement will reference and so does Senior Constable Ford's statement will reference those photographs to relative numbers, is that the case? 20

A. Yes sir.

Q. That appears to be the original, just identify that? 25

A. Yes sir this is my statement.

Q. Yes I'll keep that and I'll put that with the original brief, I show you an item, can you identify that for me?

A. Yes sergeant this is a photogrammetry plan prepared by Detective Senior Constable Mealing(?) with the Forensic Services Group Photogrammetry and Drafting Section on the night when the police attended the murder scene. 30

Q. Now what does the plan outline for us?

A. The plan is a two dimensional plan of the entire unit of [REDACTED] Onslow Avenue, Kings Cross. It shows all the relevant physical evidence that's visible in the negative plates exposed by Detective Mealing. It indicates the deceased Mr Kenneth Brennan, areas of blood within the unit, areas of clothing, knife blades and other items that were collected by police at the time of the - examination of the scene. 35 40

ASTLEY: I'm just wondering if that might be tendered and rather than kept with the brief that might be placed behind the detective-- 45

EXHIBIT #8 PLAN OF UNIT TENDERED, ADMITTED WITHOUT OBJECTION

ASTLEY: Q. Detective you're attached to the Crime Scene Unit or were - still attached to the Crime Scene Unit-- 50

A. Yeah still attached there.

Q. That's a specialised unit in the Police Department?

A. Yes it is. 55

Q. And the purpose of the Crime Scene Unit is to investigate, record, any other functions you can relate to the Court--

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A. Yes sir our duties encompassing the examination, documentation and collection of physical evidence at scenes of major incidents of crime such as murders, major - as I said crimes, murders, attempted murders, arson scenes, we also do the investigation of scenes of all suspicious and unnatural deaths on behalf of the State Coroner. Doing these scenes we use various methods of documentation including photography, preparation of scale plans, the taking of impressions, using putty and plasters and also the interpretation of physical evidence using sound scientific principles that have been established throughout the years. I'm currently in my final year of a diploma in Applied Science, is majoring in Forensic Sciences at the Institute of Technology at Canberra and I've been doing these for nine years and I've done over 60 murder scenes.

Q. That was going to be my next questions so you consider yourself fairly experienced in relation to crime scene investigation?
A. I believe so yes.

ASTLEY: Your Worship I don't know if NP215 actually has heard this particular statement, I'm wondering whether it might be a statement that could be read onto the record.

Q. If you could do that for me, when you get to the area which says "see photographs numbers 1 through to 20" don't bother reading those through just go to the next paragraph if you wouldn't mind?

CORONER: Q. Before you start, I imagine the fingerprints had a close look at the crime scene?
A. Yes they were called.

Q. To you knowledge nothing came of it?
A. I have had no correspondence from--

Q. I meant to speak to Constable Thurtell about that but I presumed there was negative result--

ASTLEY: Q. Just interposing, there was a champaign glass located?
A. Yes there was.

Q. Was a fingerprint located on that?
A. To my knowledge yes.

Q. But there was no suggestion the fingerprint belonged to NP215 or in fact Mr Brennan, was that the case?
A. That's the case.

CORONER: Q. But you don't know - we don't know whose it is?
A. Sir that print's classed as unidentified and is currently sitting in the fingerprint computer should anyone come along at some stage--

Q. You may get a match?
A. We may be able to cross reference it.

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Q. It's happened before, all right?

ASTLEY: Q. If you wouldn't mind reading your statement just after the introduction where you indicate what courses you have undertaken, just go on from that to your next paragraph please? 5

STATEMENT, PART OF EXHIBIT 2, READ TO THE COURT BY WITNESS

WITNESS: "...I produce a copy of that terrestrial photogrammetry survey of the [REDACTED] Onslow Avenue, Elizabeth Bay conducted by Detective Senior Constable Mealing-- 10

ASTLEY: Q. That's the diagram that has been tendered to-- 15
A. Yes sir it is.

STATEMENT, PART OF EXHIBIT 2, CONTINUED TO BE READ TO THE COURT BY WITNESS 20

WITNESS: "...The carpet in the hallway was heavily stained with blood splashes. I collected the orange towel for later examination--

CORONER: I'll stop you there, could you tender the photos now please? 25

ASTLEY: I certainly will.

Q. Can I just ask you to just have a look at the photographs if you wouldn't mind? 30
A. Yeah.

Q. Identify those as the crime scene photos you had cause to take? 35
A. Yes they are sergeant.

Q. Now they're not the morgue photos they were taken by Senior Constable Ford, was that the case? 40
A. That's the case yes.

Q. These are the ones relating to the scene of the crime where Mr Brennan was located? 45
A. Yes sir.

EXHIBIT #9 PHOTOGRAPHS TENDERED, ADMITTED WITHOUT OBJECTION

CORONER: Q. Yes okay go on? 50
A. Those photos your Worship are captioned on the reverse side.

STATEMENT, PART OF EXHIBIT 2, CONTINUED TO BE READ TO THE COURT BY WITNESS

WITNESS: "...I produce a certificate signed by Miss Michelle Franko dated 25 January 1996 setting out the results of her findings-- 55

ASTLEY: Q. I show you a copy of that certificate, which is

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item number 51 in your Worship's copy brief?

CORONER: 52.

ASTLEY: 52 I apologise. 5

WITNESS: Yes this is Michelle Franko's certificate sergeant.

ASTLEY: Q. If you wouldn't mind detective if you just read the last page onto the record for me, I think that, that provides the conclusion by-- 10

A. Page 4 of the certificate?

Q. Yes? 15

A. "I conclude that the hair from the left hand and the blood stain on area 1 of the underpants could have originated from Mr Brennan but not [NP215], [NP214] or [NP189]. DNA of this type occurs in approximately 1 person in 12,300 of the general population. DNA from area number 2 on the underpants originates from more than one person. The major component of the DNA originates from someone other than Mr Brennan, [NP215], [NP214] or [NP189]. A spermatozoon was detected on the condom number 1...", which was the one on the rim of the toilet bowl your Worship. "Semen was not detected on the oropharyngeal swab or smear, the rectal swab and smear or the condom number 3 item 12, the underpants item 27 or the condom number 2 item 37. DNA testing of two of the condoms, items 36 and 37 was unsuccessful, there was no obvious difference between the hair on the main bed and the hair sample of Mr Brennan. The hair from the right hand has been retained and can be analysed at a later date if required. Blood was not detected in the drain water samples, items 25 and 26 and the fingernail clippings were not examined." 20 25 30 35

Q. Now in relation to blood located within the apartment, from your information was there any blood located that did not belong to Mr Brennan? 40

A. No all the blood located from the swabs I took within the unit were Mr Brennan's blood.

ASTLEY: Your Worship I won't need to tender that document, it's already part of the brief. 45

CORONER: It's already part of the brief.

Q. So basically, going back to that analysis, the analysis has been useful because it's excluded certain close associates of Mr Brennan's but it's indicated that there's another person and if ever another suspect is turned up, there may well be sufficient to show a match or-- 50

A. Yes your Worship the DNA on that pair of underpants has been preserved and stored. 55

Q. And that with the fingerprints may well assist if someone - the day someone turns up?

A. Yes hopefully.

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ASTLEY: Q. Just with the evidence, now it was suggested there were in fact two different unidentified footprints or shoe prints in the unit at the time?

A. I've - of the four shoe prints - footprints, and these are bare footprints on the carpet in the unit, one of those footprints, and that is number 3 which was leading in towards the bathroom, had a distinctively flatter arch, a flat print-- 5

CORONER: Q. It almost comes out halfway along the foot rather than in? 10

A. Yes and hence the taking of footprint evidence from Mr Brennan, NP189 and others. I've yet to find a - well perhaps I'll put it differently, none of those footprints that I've taken, and they were taken in a method that would hopefully duplicate the method that the ones were deposited on the carpet, bears a resemblance to those footprints. The shoe print in the kitchen your Worship has been identified as a Windsor Smith pattern but that blocker is used by other manufacturers but I have managed to exclude the boots underneath the chair. 15 20

Q. Yes similar but not the same--

A. It's the same outline pattern but the web patterns are totally different. 25

ASTLEY: Q. Just with paragraph 20 of your statement ..(not transcribable).. "...On the carpet leading to the bathroom between the wardrobes I saw two footprints leading from the bathroom, I labelled these prints 3 and number 4. Footprint number 3 was wider than footprint number 4...", so were the prints coming from the same person with one foot being wider than the other, that's the point I was getting at? 30

A. No sergeant I - from my experience I'd suggest there was two separate prints-- 35

Q. And had the footprints that you've observed in paragraph number 20 been eliminated as belonging to Mr Brennan?

A. The wider footprint has been eliminated as being Mr Brennan's. 40

Q. And what about the less wider one?

A. I - it's very - it was very difficult to duplicate Mr Brennan's footprints when we were taking them but the print we got was fairly similar to footprint number 4. 45

Q. Of interest to the Coroner would be whether at the time of the murder there would be more than one person present besides Mr Brennan and that's what we're looking at, was there any suggestion within the unit itself that Mr Brennan had entertained anyone prior to his murder, when I say entertained I'm talking about food preparation, we've already mentioned a champaign glass, videos, anything like that which indicated that some time had been spent in the unit prior to any sexual act? 50 55

A. I didn't get that impression, there was the champaign glass with a number of just normal water tumblers in the sink but there'd been no food preparation in the area. There were videos in the bedroom but none of these were in

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the video player.

CORONER: Q. No and of course the used condoms?

A. The used condoms , one can only speculate as to whose they were--

5

Q. And when they were used?

A. Or when they were used, unfortunately our successes of getting grouping in DNA from condoms is fairly - it's a fairly difficult practise.

10

ASTLEY: Q. Now you've already indicated initially there was no signs of false entry to the unit?

A. I'm still satisfied of that yes.

15

Q. Which leaves us with some other scenarios, (a) that a person has been admitted to the unit or persons had been admitted to the unit, another scenario would be that Mr Brennan's opened the door and someone's pushed their way to the unit and another scenario yet again would be that someone had a key to the unit, can you think of any other scenarios we'd be looking at under the circumstance?

20

A. No I think you've got them covered there sergeant.

Q. Now your statement details an amount of blood that isn't contained to one room it appears to go throughout a large section of the unit, is that indicative that from your observation and your experience that the attack has occurred and Mr Brennan has staggered throughout the unit or that a life and death struggle was taking place throughout the unit?

25

A. From my experience and examination of this scene I'd tend to go for your second scenario that there was a life and death struggle throughout the unit. There's very large quantities of blood - do you mind if I--

30

35

CORONER: Not at all.

ASTLEY: Q. Please?

A. --can have a look and indicate, there was a very large amount of blood on this western wardrobe door, it was consistent and at a consistent height of the deceased actually having impacted that door, against that door. There - in one of the photographs your Worship there's actually an arterial spraying of blood which will tend, from my examination of the deceased, had come from one of those chest wounds. I'm satisfied and of the opinion that Mr Brennan was pushed into this wardrobe face first. There's a large amount of blood on the bed, I speculate that at some stage he was actually stabbed on the bed and spent some time there. The drag marks that were in the bathroom would indicate to me Mr Brennan had actually been taken in there or had been in there and was actually dragged out to where he was positioned. I've examined over 60 homicide scenes and I have not yet seen a body positioned in the similar fashion that Mr Brennan was, the top of the pillow and spanged down.

40

45

50

55

CORONER: Q. Did you speak to any of your associates and

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make inquiries as to whether any others have seen anything like that?

A. Yes we spoke about it back at the office your Worship where we have 16 crime scene examiners ranging in experience from twenty seven years right down to a year and none of us have seen an instance of a body having been sponged down. 5

Q. With your experience are you reasonably satisfied there was only one other person in the unit other than Mr Brennan?

A. I can't, can't speculate that your Worship it - there was a large amount of blood throughout the unit and Mr Brennan was a very well built person, there could may well have been two people ..(not transcribable).. The indication of three condoms might tend to suggest three people but that could be in speculation-- 10 15

ASTLEY: Q. So where would you suggest the initial attack has taken place, which room?

A. In - I formed the opinion that the initial attack took place in the bedroom and I speculated that it actually took place on the bed, there's a number of sexually based articles on the bed and could may well have started there but I'm also fairly satisfied that Mr Brennan eventually ended up in the bathroom and was taken to where he was due to the fact of there being drag marks across the floor. 20 25

CORONER: Q. By the time he's hit the wardrobe where you've marked it in red or the cupboard, he's possibly quite badly wounded?

A. He was bleeding profusely your Worship, and as Dr Bradhurst said that those injuries struck a number of major organs there. 30

ASTLEY: Q. Any indication that robbery might have been a motive ..(not transcribable).. ?

A. No the video recorder, a number of watches and change were all still found in the bedroom and in the lounge-- 35

CORONER: Q. What about a wallet and cash, anything like that?

A. I don't recall actually having found a wallet at the scene, it doesn't appear in my notes but I think there was inquiries made by Detective Taylor in relation to that. 40

ASTLEY: Q. NP215 and Mr Brennan had an answering machine which was utilised by both of them?

A. Yes. 45

Q. Now your photos depict the answering machine off its podium or pedestal from the bedroom face down on the bedroom floor?

A. Yes sergeant it appears here on this other side of the bed. 50

Q. And did you indicate that that had actually been disconnected from the socket?

A. Yes it was plugged into a piggyback socket for the phone and the answering machine and that actual socket had been disconnected from the wall so both the phone and the 55

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answering machine were disconnected.

Q. And was the phone off the hook as well?

A. Yeah I think it was actually yes.

5

Q. Now are you unable to say whether there were any messages on the answering machine tape--

A. No I'm not.

Q. I think Detective Taylor may be able to assist us with that particular snippet of information, now from your diagram where was the doorway to the unit?

10

A. At the top of the plan near the north point ..(not transcribable).. screen door, this is the actual corridor of the unit and this is the doorway.

15

Q. So from the doorway how would you go from the front door into the bedroom, if you just sort of ..(not transcribable).. ?

A. ..(not transcribable).. there, to get to where Mr Brennan's lying the front doorway of the bedroom is there.

20

Q. Now this section of area here that's still part of the lounge room?

25

A. Yes it is sergeant.

Q. To get to the kitchen from the front doorway you put a red line there how to go to get to the kitchen from the dining room?

30

A. You've got to go around Mr Brennan and then double back into the kitchen.

Q. So you've got the front door, you've got the hallway, would it be fair to say to access any other room or look into any other room you'd have to look past Mr Brennan or--

35

CORONER: Walk past.

ASTLEY: Q. Walk past Mr Brennan?

40

A. Well the only other room there is the lounge room and you have to walk past him, you can actually - you have a very clear view from the corner of the hallway of the entire lounge room because it's an open plan unit and from it you can see quite clearly from - also from that point into the bedroom as well.

45

Q. I show you a yellow envelope and I believe that contains a statement by Senior Constable Ford and a number of photographs taken at the Glebe Morgue, is that the case?

50

A. It does yes.

ASTLEY: A copy of the photographs already exist with the copied brief, I'd ask that the photos be tendered your Worship.

55

EXHIBIT #10 PHOTOGRAPHS TENDERED, ADMITTED WITHOUT OBJECTION

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WITNESS: Do you wish the statement too sergeant?

ASTLEY: I might have the statement here.

Q. Now at this stage would you like to add anything else to your evidence at all which may assist us today, any comment and I think the Coroner would appreciate in fact any opinion you may want to expand on? 5

A. Well I - there is no summary opinion on my statement your Worship because it's suitable for a charge matter but in my opinion Mr Brennan was initially stabbed in the bedroom. I surmise that he attempted to escape by going up towards the front door of the unit, hence the deposition of his blood on both sides of that. He has in some way fought back and taken to the bathroom where he may well have been further stabbed and the bathroom was the room where he was most likely to have become unconscious and he was then taken out and dragged out to his position in the lounge room where he was propped up in position by the assailant or the offender. I find it highly unusual that that person or persons then started to sponge the body down and I'm more than satisfied that the body was partially washed. 10 15 20

CORONER: Q. You think it was washed there rather than the bathroom? 25

A. I'd say he was washed there your Worship in the fact of the diluted blood that was located in the kitchen sink and on the floor of the kitchen, it indicated to me that the offenders had maybe made a number of trips to the kitchen to rinse the sponge and re-clean it and re-use it. 30

CORONER: I wonder - what about - has a reward been issued in this one?

ASTLEY: ..(not transcribable).. no. 35

CORONER: Turn your mind on it Constable Thurtell, I'll get you back into the box after the break just for a few other questions I've got now. Okay anything else? 40

ASTLEY: Not at this stage - just one thing actually I might press.

Q. With the answering machine what sort of answering machine was that? 45

A. It's a National Panasonic brand machine and just looking at it upside down in the photos it doesn't appear to be one of those digital machines that - the digital machine sometimes if they lose their power will lose the message stored on the chip. 50

Q. Would they rewind and erase the message if a message has been left and someone has played with it?

A. If a message is left and someone has played it, most answering machines usually automatically erase but they also all have the option of storing those messages, you get one pressing one or two, a combination of buttons. 55

<WITNESS RETIRED

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SHORT ADJOURNMENT

<LAURA CLARE THURTELL
ON FORMER OATH

CORONER: Q. Detective Thurtell did your inquiries indicate
that he had carried a wallet normally and did you find a
wallet--

5

A. Yes the wallet was located in the unit.

10

Q. Was there?

A. Yeah.

Q. Money in it?

A. No there was no money.

15

Q. No money?

A. No credit cards were all in the wallet.

Q. But no cash?

20

A. No.

ASTLEY: Q. From recollection when was the last time he'd
withdrawn money, I think your statement refers to that and
can you recollect when the money was withdrawn and how much
was withdrawn?

25

A. There were two withdrawals on the Sunday, I think the
first was for fifty and the second was for one fifty.

Q. Have you been able to ascertain from your inquiries what
he may have spent the money on?

30

A. No.

CORONER: Okay no that's all I've got thank you.

35

ASTLEY: If the detective makes an inquiry about the
answering machine, your Worship doesn't--

CORONER: That's right.

40

ASTLEY: --Detective Taylor to be called?

CORONER: Yeah no I--

WITNESS: Shall I go and do it now?

45

ASTLEY: If you wouldn't mind.

<WITNESS RETIRED

50

< [NP214] (12.22PM)
SWORN AND EXAMINED

ASTLEY: Q. Yes your full name for the Court please

[NP214] ?

55

A. [NP214].

Q. And your occupation?

A. Well I'm retired now, I do some charity work but I'm

~17/09/96

25

THURTELL X (ASTLEY)
RTD; [NP214] X (ASTLEY)

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retired basically.

Q. NP214 you prepared not one but in fact two statements to the police in relation to the matter of the death of Kenneth Brennan? 5
A. Yeah.

Q. I think the second one basically just qualifies and corrects a lot of information in the first statement, is that the case? 10
A. Possibly I--

Q. Have you had a chance to read either of those statements in recent times? 15
A. No I never had a copy of them so--

Q. Just have a look at the statements, just have a look at the first statement for me, that's the one dated 12 June 1995? 20
A. That's the Monday.

Q. And that statement contains your signature?
A. Yeah.

Q. When you made the statement to police you knew the statement to be true and correct? 25
A. Yes.

Q. And I show you the second statement which is the ..(not transcribable).. statement-- 30
A. That's just how I remembered it--

Q. What I might do actually I might leave that with you, you may want to refer to that at some stage or another, ..(not transcribable).. statement, this one's been dated 16 June 1995? 35
A. Uh-huh.

ASTLEY: That's annexure number 13 in your Worship's brief. 40
CORONER: Yes.

ASTLEY: Q. Just have a look at that for me, identify the signature and identify that as your statement? 45
A. Yes, yes.

Q. When you made both of those statements you knew them to be correct other than the alterations made from the statement number 2? 50
A. Yes.

Q. Both statements bear your signature?
A. Yes.

Q. Is there anything you would like to add to the statements or change in the statements at all? 55
A. No.

Q. Just some initial inquiries if you wouldn't mind,

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[NP199] you also know his as [NP199] or [NP199]--

A. [NP199] yeah.

Q. --is that the case?

A. Yeah--

5

Q. Have you any recent contact with--

A. I spoke to him last night.

Q. Now [NP199] indicated he was really unwell enough to come to court today?

10

A. No he said he'd try and make it today.

Q. What's [NP199] situation to your knowledge?

A. His situation?

15

Q. Are you aware of him [REDACTED]

A. No he said he's got the bug that's going around.

20

Q. If it was suggested to you that [NP199] was [REDACTED] would that surprise you?

A. Well no it wouldn't but I don't know.

Q. He hasn't volunteered that information to you?

25

A. No, no.

Q. He indicated he may be here today or he'd tried to get here today--

A. He said he would try and get here about noon because he had to come from wherever he lives out in the country somewhere, he wasn't feeling well he would try and make it by noon.

30

Q. No suggestion he was going to travel down by an ambulance or anything like that?

35

A. No, no, no he just gave an impression he had - just a little bit under the weather with a cold.

Q. I think he's given certain other impressions to your Worship's court staff somewhere down the line, anyway enough of that, [NP214] just so we've set the scene, [NP199], who we know as [NP199], he appears to be the person who has introduced yourself to [NP215] and Bennett is that the case?

40

A. Yes, yes.

Q. And I think you first had meetings with [NP215] and Mr Brennan about two weeks prior to--

A. One week before.

50

Q. A week before his death--

A. The weekend before, before the murder yes.

Q. And that introduction was organised, I believe, through [NP199] or [NP199] as you've referred to him--

55

A. Yes, yes.

Q. Was it something that - I have to call him [NP199]

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unfortunately--

A. Okay yes--

Q. --for the purpose of the record so that makes it awkward I'm sorry?

5

A. Mm.

Q. [NP199] has indicated this introduction to yourself, has it done it on other occasions with other people he knew?

10

A. Yes a couple of times before--

Q. Have you ever struck any problems arising from that, have you ever struck introductions from [NP199] from people he knew who turned out to be violent or--

15

A. No, no not at all--

Q. --who ended up being in an awkward situation for you?

A. No not at all.

Q. What was your first impression when you met [NP215] and Mr Brennan on the first introduction?

20

A. I'd like them yes.

Q. How did they appear to get on?

25

A. Fine.

Q. Were you more comfortable with one other than the other?

A. No, no.

Q. And I believe from the statements we have before us that you seeing [NP215] one other occasion without Mr Brennan?

30

A. Yes on the, on the following Wednesday he called up and said that Mr Brennan was entertaining someone, could he come up to my place and he did.

35

Q. And the next occasion was in fact the Saturday before--

A. Saturday night yes they came up again--

Q. --before Mr Brennan's death?

40

A. --yeah.

Q. And I'll ask you the question again, how did they appear to get on the Saturday night?

45

A. Fine.

Q. No arguments, no stress, no tension?

A. No not at all, we had a pleasant evening.

Q. And was there any suggestion of either or both [NP215] and Mr Brennan staying at your place that night?

50

A. No not really no I was kind of surprised when, when Mr Brennan left and [NP215] decided to stay.

Q. Were you surprised that Mr Brennan left or [NP215] stayed?

55

A. No I'm - yeah I was surprised I suppose that [NP215] stayed - it was not planned that way as I was going out--

Q. So Mr Brennan has left your residence?

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A. Yes he left about 10 o'clock he said he was tired and wanted to go home and **NP215** stayed on.

Q. And that was what he actually volunteered to you that he would in fact be going home? 5

A. He said that yes I think - I'm pretty sure he said he was tired, he said he was tired and wanted to go home.

Q. Did he give the impression of actually being tired, did he look tired, did he sound tired-- 10

A. No not really, not really but I didn't know him that well--

Q. That's okay, so we don't either we've got to get the information from you and from other witnesses-- 15

A. No I didn't get that impression but he said he was tired so we just accepted it you know, at the time it didn't mean, didn't mean anything.

Q. And like you said it wasn't pre-planned for **NP215** to stay at your place either-- 20

A. No not on my, not on my, not on my side I can't speak for anybody else--

Q. And there was no objection to him staying that night? 25

A. No, no I didn't no that wasn't - not planned, they came for dinner and I just assumed they would go home.

Q. I've already asked you but I have to ask you again, after the second evening did you find it easier getting on with **NP215** than Mr Brennan or Mr Brennan than **NP215** 30

or did you find them equally--

A. Equally.

Q. --easier to get on with? 35

A. Yes.

Q. Now we know Mr Brennan has gone home on the Saturday evening as you said about 10, 10.30? 40

A. Yes.

Q. And **NP215** has stayed? I'll have to get you to say yes or no for the microphone? 45

A. Yes, yes.

Q. It only records basically it doesn't amplify very well? 50

A. Yes.

Q. Now your places is at Woollahra? 55

A. Yes it was.

Q. What were your movements after Saturday night with **NP215**?

A. Well Sunday we didn't go outside the door, I don't know why it was ..(not transcribable).. not a great time we just sat around and read and talked and we played, played music-- 55

Q. So there's some suggestion of lazy - just--

A. Yeah it was just a day we didn't really do anything, it

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wasn't until the Monday that we actually went out, yeah.

Q. And again **NP215** staying on the Saturday and Sunday there was no plan for him to stay through the Sunday, on the Sunday night or--

5

A. No--

Q. --was that just something that happened?

A. --no it didn't bother me one way or another you know no.

10

Q. Now I think one of your statements suggests that when **NP215** stayed at your place mid week and that was because Mr--

A. He didn't stay.

15

Q. He came over I apologise--

A. He came--

Q. --he came over to your place mid week because Mr Brennan was entertaining someone at their place?

20

A. Yes that's what he said I don't know.

Q. Was there any anger from **NP215** over that?

A. No, no not at all no--

25

Q. Just something he said to you--

A. He just said "Do you mind if I come up?", or you know "Just come around and see you.", and he stayed for you know two hours maybe, something like that.

30

Q. Now at any time whilst **NP215** was with you the weekend before Mr Brennan's death, did you ever part company, was it ever a matter of one or either of you leaving the unit and going out for an hour and coming back--

A. No, no.

35

Q. Always in each other's company?

A. We were there together the whole time because he left on Monday evening about five.

40

Q. Were there plans from then for **NP215** to see you again or for you to see **NP215** again?

A. No I suppose we just said we would - "Talk to you during the week." I guess, I can't remember now what we said at the end, I'm sure I said something like that "I'll talk to you during the week." and that they had my number, I had their number.

45

Q. Have you maintained contact with **NP215** since Mr Brennan's death?

50

A. Well he stayed with me then after, after Mr Brennan died until I moved from Woollahra then I moved down to where I'm living now at Newport and I've seen him twice since then, he came down to see me twice, he gave me some money for phone calls and things and until today I haven't seen him about a year I guess.

55

Q. And you indicated in your statements also that a number of phone calls were made by **NP215** to their residence

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made to Mr Brennan?

A. Two phone calls, Sunday--

Q. About two in the afternoon?

A. --about two in the afternoon he called and apparently left a message on their answering machine. 5

Q. So the suggestion was the answering machine was operative and working at that stage?

A. That's the impression I got, he left it - I understood it was a message that he left on the machine and on-- 10

Q. And on the second time--

A. The second time he said "That's funny the phone's off the hook, he must have gone out...", I think that's what he said "...and not left the machine on.". I'm not sure if he said the phone was off the hook or the answering machine wasn't on, I can't remember now exactly what I said there but he didn't contact Mr Brennan at that time. 15

Q. Did he try a number of times to make contact?

A. No only once I think-- 20

Q. And as I said there was never any suggestion of any angst or anger by **NP215** or Mr Brennan towards each other? 25

A. Not, not that I--

Q. You never visited the residence at Onslow Avenue at Kings Cross? 30

A. No not until after the murder.

Q. You were never given a key, never held a key in relation to that--

A. No I'd only known him one week when it happened. 35

Q. And I think you volunteered some samples for the police at that stage--

A. Yes I thought if it helps them I'll do it you know, I had nothing to hide, I'd never been to the apartment but I told them that and they still wanted a sample so I gave it. 40

Q. But you were happy to cooperate in that respect were you?

A. Sure yes because I just knew they could you know rule out certain people you know. 45

Q. Getting back to **NP199**?

A. Mm-mm. 50

Q. What sort of a person is he?

A. Beg your pardon?

Q. What sort of a person is he?

A. He's a nice easy going guy, he talks too much-- 55

Q. ..(not transcribable).. ?

A. --but anyway I can't stand too much time in his company because he talks too much, that's all right though.

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Q. I've heard him described as eccentric, would that be a fair enough comment of him?
 A. Well yeah probably, I think I probably am too at this stage of my life but yeah perhaps he is a bit yes. I know nothing about his private life you know I've known him for three years or so but I've only seen him twice or maybe three times in that time. We talk on the phone quite often we talk, he's a mad movie buff and we talk about movies. That probably makes him eccentric--

ASTLEY: Yes thank you, I don't think there's any other questions your Worship.

CORONER: Q. No I wouldn't have questions of you NP214, is there anything you can - that you want to add, you've made your statement, you've cooperated as best you can--
 A. No, no I can't think of anything else, the little bit that I am involved in it I don't know any more than that.

Q. Haven't heard anything around the gay scene?
 A. No, no I haven't no it did surprise me--

Q. That straights might hear, might not hear?
 A. No, the only thing I heard at the time was that a friend of mine said he had been seen at King Steam which I told the detectives and they checked up on that, that's all I have heard and I've heard nothing since.

<WITNESS RETIRED AND EXCUSED

<NP215 (12.30PM)
 SWORN AND EXAMINED

ASTLEY: Q. Your full name for the Court please?
 A. NP215.

Q. Your occupation?
 A. I'm a clerical and school assistant at the ..(not transcribable).. at Redfern?

Q. NP215 I think you had contact with the Court Office and actually obtained a working copy of the police brief, that has a statement supplied by yourself to the police. I think there's also a record of interview there that--
 A. Yes.

Q. Had a chance to read both of those documents thoroughly?
 A. Yes I have I--

Q. The statement you've signed?
 A. Yes.

Q. The record of interview you agree with what you've told police at this stage?
 A. Yes.

Q. Is there anything at all you'd like to tell us today which may assist us further, any additional information you might have thought of at the time?

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A. ..(not transcribable).. as far as I know.

Q. I'm going to ask you some questions that's going to revolve around your relationship with Mr Brennan, certain aspects which the police have raised with me which I'll ask you as well and give you a chance to sort of just to explain a few things to us, okay so take your time, if you get upset just stop and take a deep breath and we'll try again, okay? I better get you to identify that statement first, would be the way to go, that's the typed statement with your signatures, look at that for me and satisfy yourself that is in fact the statement that you supplied to the police? 5

A. Yes that's correct it is yeah. 10

Q. There's your signature? 15

A. Yes.

Q. Now I think you were actually married in South Australia for some time before coming to Sydney, was that the case? 20

A. Who Ken?

Q. No no you were married?

A. No I've never been married.

Q. I'm sorry Ken was married for some time-- 25

A. Yes he was married.

Q. And where did you actually meet Ken from? 30

A. I met Ken through a mutual friend back in South Australia.

Q. So you were both originally South Australian?

A. Yes that's correct.

Q. I got the wrong person married, I apologise? 35

A. Okay.

Q. And you both moved to Sydney? 40

A. Yes.

Q. And you both resided at residence at [REDACTED] Onslow Avenue, Kings Cross? 45

A. Yes that's correct.

Q. How long had you actually resided at those residence as well? 45

A. About a year and a half - two.

Q. Now during that period had anyone else resided on a full time basis with you and Mr Brennan? 50

A. No.

Q. And how many key holders were there to the premises, yourself, Mr Brennan obviously? 55

A. Yes.

Q. Were there spare keys?

A. Yes there was but they were always in the kitchen hanging in the cupboard.

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Q. Did you or Mr Brennan have guests regularly at the units or who might actually also be given a set of keys - now I believe [NP189] has indicated--

A. Yes.

5

Q. --as one person who may have been given a set of keys at one stage?

A. Yes that's correct.

Q. Besides [NP189] anyone else?

A. No.

10

Q. Was it a practise to give someone a set of keys to the unit--

A. No it was not.

15

Q. Was [NP189] an exemption for that for some reason?

A. He stayed with us for a couple of nights previous to Ken's murder, ..(not transcribable).. should say.

20

Q. Well besides [NP189] had anyone else stayed at the units with yourself and Mr Brennan for a couple of nights which would require them to have a set of keys?

A. Yes there was.

25

Q. Were those persons given keys even temporarily?

A. Yes they were given keys but only temporarily.

CORONER: Q. Did [NP189] still have his keys at the time Mr Brennan was murdered?

A. No we got them back your Worship.

30

ASTLEY: Q. Now what were the security arrangements to the building, now it was a security unit is that the case you had to--

A. Yes.

35

Q. --how would you get into the building initially?

A. We had to use a, a special key to get into the building and the - the only way to get another one of those from the Strata Title people and you had to apply for that in writing.

40

Q. So a person or persons would have to access the building by using the special key?

A. Yes that's correct.

45

Q. It wouldn't prohibit someone coming in behind someone else, say I've accessed the building, got in the door, someone could come in behind you then, that could occur--

A. Yes that could have yes.

50

Q. So having got in through the building initially you were up on the fifth floor, your unit was up on the fifth floor?

A. Yeah.

55

Q. And what sort of locks did you have on the door?

A. It was a security screen door lock and there was a, barrel bolt lock and a Yale deadlock.

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Q. Now the security screen lock that was an aluminium screen door was it?

A. Yes, yes--

Q. And both yourself and Mr Brennan had keys to those doors?

5

A. Yes.

Q. And with the Yale lock you've spoken of you both had keys to those doors as well?

10

A. Yes.

Q. So a set of keys would consist of one to get you in downstairs?

15

A. Yeah.

Q. One in through the security door?

A. Mm-mm.

Q. And would you need one key to the door?

20

A. Two--

Q. Two keys to get you in the door itself?

A. --yes.

25

Q. Were there precautions taken if one or either of you were in the unit on your own, would you leave both doors locked or were both doors required to be locked or what was the situation there?

A. When we went out always the door, both doors were locked, the whole three locks including the inside door which is a dead lock, we always locked that as well.

30

Q. Did the unit door have one of those peep holes you can see through, similar to that one up there installed--

35

A. No I don't think it did.

Q. So it requires someone to acknowledge, knock at the door and say "Who is it?" and someone say "It's me Jim..." John or whoever?

40

A. No one could knock on the door because any visitors there was an electronic intercom system and you just came to the main entrance door, the entrance door of the building and you just pushed the - like the button on the intercom and you could speak via them from the room on the intercom.

45

Q. And that was the regular practise then?

A. Yes.

Q. Now just with your relationship with Mr Brennan at the time, how would you describe that, I mean was it in a good situation, was it a deteriorating situation--

50

A. We were starting to deteriorate about the last two, three months of his life.

55

Q. Was there any suggestion that you were going to separate as a couple?

A. Yes there was.

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Q. Was that his suggestion or your suggestion?

A. It was his suggestion because I just didn't like the way that Ken was sort of screwing around behind my back all the time.

5

Q. But he was the one who suggested to you that perhaps things weren't working out--

A. Yeah.

Q. --and that you might go your separate ways then?

10

A. But I didn't want it to break up, I stuck by him.

Q. So you've said that it appears that Mr Brennan may have been seeing people behind your back?

A. Yes.

15

Q. Did he say anything to you at all?

A. No I found out through other people like different phone calls and--

20

Q. But were you angry towards Mr Brennan for that happening though?

A. In a little way yes.

Q. Did you ever indicate to Mr Brennan you were angry over that?

25

A. Yeah we often use to have a fair few arguments about it when I walked out on him a couple of times.

Q. Now just to sort of to again set the scene, Mr Brennan would see other people whilst still in relationship with you?

30

A. Yes that's correct.

Q. Would at the time, and I'm not talking about the week prior to Mr Brennan's death but prior to that would you also be seeing other people besides Mr Brennan?

35

A. No only sort of [NP214] was sort of the only one that I was seeing.

40

Q. But was it the case in fact on occasions you and Mr Brennan would involve yourself in a three way relationship--

A. Yes.

45

Q. --even on a casual basis?

A. Mm-mm.

Q. At whose instigation would that normally be?

A. Ken's.

50

Q. Now Detective Thurtell's indicated an advertisement was placed in a Q Magazine?

A. Mm-mm.

55

Q. Was that placed either by yourself or by Mr Brennan or was that a joint suggestion?

A. Just a joint thing.

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- Q. And was that the first time an advertisement had been placed like that by yourself and Mr Brennan in relation to the - that particular magazine or other magazines?
 A. No he did it in other magazines as well. 5
- Q. Were you aware of any adverse - how do I put it, any adverse responses to the magazine advertisements--
 A. I knew there were some but Ken he was always very, very secretive he didn't sort you know tell me a lot about you know what was going on with that at all. 10
- Q. You ever aware of anyone who has actually attended or did Ken ever tell you of anyone who's actually attended in response to one of those magazine requests and threatened with violence or instigated violence against him?
 A. No not as far as I know of. 15
- Q. And what about in your situation with Ken, had you ever struck anyone in that situation who's came to the unit and just reacted oddly?
 A. No one no. 20
- Q. Never had any problems along those respects?
 A. No. 25
- Q. Now your situation with [NP214], you'd been introduced by someone who we know as [NP199], I'm not quite sure how you identify him?
 A. I know him as [NP199] as well. 30
- Q. And where do you know [NP199] from?
 A. I, I think Ken placed an ad in one of the, you know the magazines and we met him through one of those I think it was. 35
- Q. And how did [NP199] or [NP199] strike you as a person?
 A. He's a bit weird in some ways.
- Q. I'll ask you the same question I'm going to ask--
 A. Mm-mm. 40
- Q. --or I have asked [NP214], have you had contact with Mr - or [NP199] or [NP199] recently?
 A. No I haven't heard from him since the weekend that or the night he was at [NP214] home at Woollahra when Ken and myself both met [NP214]. 45
- Q. Had [NP199], or [NP199] introduced you and Ken to persons other than [NP214] on prior occasions--
 A. No. 50
- Q. --this is the first occasion? This is the first occasion though?
 A. Yes. 55
- Q. And the first evening you spent with [NP214] in Ken's company how did that go?
 A. Fine--

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Q. Everyone got on?

A. --no problems at all, yeah.

Q. And the second occasion you met NP214 that was
arrangement on your own that because Ken had actually
organised a--

5

A. Yeah.

Q. --an evening with someone else or an afternoon with
someone else--

10

A. Mm-mm.

Q. And you went over to NP214's place?

A. Yes.

15

Q. Now was there any anger on your part in relation to
that--

A. No.

Q. --because of Mr Brennan's relationship with someone
else--

20

A. There was a little bit because sort of Ken's a great one
for - he had a likeness for Asian men--

Q. Yeah you've indicated that in your statement, and that
wasn't your particular, particular fancy--

25

A. No way no.

Q. And do you recall that you and NP214 spoke about
this, this mid week when you've gone over there?

30

A. Yes I think I did.

Q. Were you speaking about Ken on this particular evening?

A. Could have been.

35

Q. Can't recall specially no?

A. I guess I did speak about you know Ken sort of you know
having somebody there and that.

Q. No anger at all?

40

A. No no anger.

Q. Have you ever expressed any anger at all about Ken's
relationship with other men?

45

A. Yes.

Q. Has it ever manifested itself beyond a shouting match or
an argument between yourself and Ken--

A. Not it was just a shouting match.

50

Q. No shoving at all, no--

A. No.

Q. --pulling or punching--

A. No.

55

Q. --or anything like that?

A. No.

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Q. It's never got that bad at all?
A. No.

Q. Now the Saturday before Ken's death yourself and Ken have gone over to NP214's place? 5
A. Yes.

Q. And that was by arrangement?
A. Yes it was by arrangement. 10

Q. At what point did you become aware that you were going to stay at NP214's place?
A. You know we were just getting on so well and sort of Ken sort of said to me your know "Do you want to stay?", and I said "I don't know if I should or..." so it just sort of turned out that way that I decided to stay. 15

Q. Do you recollect taking a shower pack or a shaving bag or something--
A. I just sort of took like an overnight bag with me which I've always got with me. 20

Q. But there was no direct intension of staying there that night?
A. No there was not. 25

Q. Have you and Ken on other occasions visited and stayed over the night both of you?
A. No. 30

Q. So this is a bit of an anomaly for you on this particular night?
A. Yeah.

Q. Now Ken indicated he was feeling tired and went home?
A. Yes that's correct. 35

Q. And I think NP214 indicates between about 10 and 10.30 I think--
A. It was about 10 o'clock I think it was. 40

Q. He indicated to you he was tired?
A. Yes he said that he was going straight home so--

Q. Any reason to doubt he was going to go straight home?
A. No there wasn't actually because he was very, very tired. 45

Q. So he gave the appearance to you--
A. Yes. 50

Q. --of actually being tired?
A. Yes he was tired.

Q. Was there any possibility, under the circumstances, that he may have decided just to do something else that night, did he give an indication that he'd tell you one thing but actually do something else?
A. Yes he could have easily done that for sure. 55

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Q. Just to get our minds straight, give us a bit of a picture about Ken, advertisements in magazines he'd do that on occasions?

A. Yes.

5

Q. The likelihoods of meeting people in places like coffee shops or parks, is that a likelihood or non likelihood?

A. No not in a coffee shop or a park or anything like that no.

10

Q. The steam room's been mentioned?

A. Yes.

Q. That's a possibility?

A. Yes he'd often go there.

15

Q. Discos?

A. No he wasn't one for anything like that.

Q. Not the discos?

A. No.

20

Q. Now I think one of the witnesses, Mr Guijar supplies a statement to police, he describes Ken in a manner of walking into his bottle shop with a young fellow, now - and what I might do is I just might read the description that Guijar has supplied to us of the clothing worn by this person he sees on the night?

25

A. Yeah.

30

Q. I'd just like a comment from you, if I could, as to whether that's the sort of thing Ken would wear, has worn, just bear with me okay?

A. Yeah.

35

ASTLEY: Number 37 in your Worship's brief.

CORONER: Thank you.

ASTLEY: Q. Paragraph number 6 and Mr Guijar indicates "...on Sunday 11 June I remember it was between 9pm and 10 o'clock in, in night. No more than 10 o'clock, it was when the movie was on. I remember the man he was medium size, grey and black hair, short hair with a moustache. He was wearing a black leather jacket and white pants of thick winter material. The pants were not very white, about bone or skin colour. There's a boy, I know when I saw him with the boy that he was a homosexual...", that description is that something you would imagine Ken wearing?

40

A. No because Ken didn't own a black leather jacket. I own one myself but--

45

50

Q. Has he ever borrowed your leather jacket--

A. No it wouldn't fit him.

55

Q. Perhaps NP215 might be shown that identikit photo, that was taken by police in relation to a person that's describe by Mr Guijar, does that resemble anyone you've ever seen or--

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- A. No it doesn't, I've never seen it before.
- Q. Did Ken have a preference for younger men?
A. Yes he did. 5
- Q. Also a preference for Asian men?
A. More Asian men than younger men.
- Q. Than younger men?
A. Mm. 10
- Q. But you haven't seen anyone like that or--
A. No I've never.
- Q. --may have been fitting that description at all? 15
A. No.
- Q. So you stayed at NP214's place on the Saturday night?
A. Yes. 20
- Q. And NP214's during the course of the Sunday?
A. Yes.
- Q. NP214 indicates that neither of you left the flat on the Sunday at all? 25
A. No.
- Q. And you stayed at NP214's place on the Sunday night as well?
A. Yes. 30
- Q. And for a fair time throughout the Monday as well by the sounds of it?
A. Mm-mm. 35
- Q. And you went home, I believe, from NP214's place about 5pm in the afternoon?
A. I think it was about ten past five or so. 40
- Q. And that was by train?
A. I left his unit or apartment at Woollahra and walked down to Edgecliff Railway Station and caught the train there. I think it was about twenty past five or so and I caught the train to Kings Cross. 45
- Q. Now you've walked from Kings Cross to the unit at Onslow Avenue?
A. Yes that's correct, actually it's Greenknowe Avenue that the entrance runs off-- 50
- Q. Okay I'll have to keep referring as Onslow though?
A. Mm.
- Q. You come to the building, nothing unusual there, there door had been sealed and you needed a security pass to get up the stairs? 55
A. Yeah well actually as I walked down the laneway I looked up to the apartment, I thought it seemed a bit strange

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because the loungeroom curtains were opened and the window was up and the bedroom venetian blinds were up all the way and sort of the curtains were sort of pulled away and I thought "Oh that seems strange." and I noticed the light was on in the loungeroom but it was you know like dimmed down and I thought you know I guess most likely Ken's got somebody up there so-- 5

Q. I'll come back to that later--
A. Mm-mm. 10

Q. --but with the dim down lights was that something Ken would do if he was entertaining, just drop the lights a little bit?
A. Yes. 15

Q. Would he normally entertain in the loungeroom or would the bedroom be the place where he entertained?
A. Usually the loungeroom. 20

Q. So you've gone up to the [REDACTED] floor apartment?
A. Yeah.

Q. Stairs or elevator?
A. Elevator. 25

Q. You've come to the front door, there's the security door--
A. Mm-mm. 30

Q. --that was closed?
A. Yes it was closed but--

Q. Locked?
A. I can't say for sure because I just naturally you know got my key and put in the lock and turned it. 35

Q. Can't recall the click of that lock when you--
A. No-- 40

Q. --put the key in?
A. --I didn't.

Q. It may have been locked or may have been unlocked?
A. It may have been unlocked. 45

Q. If it's been unlocked and you've put the key in and turned it that may have locked it though so--
A. Yeah. 50

Q. --you'd surely notice that, that that was the case?
A. Yeah.

Q. So it's more likely you've gone to the door, put the key in - you definitely put the key in the door?
A. Yes. 55

Q. You've turned the key?
A. Mm-mm.

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Q. And the door's opened, you haven't had to sort of return the key to unlock the door?

A. No.

Q. And what about the internal door, the door to the unit-- 5

A. Well they were both locked because I had to sort of use the two different keys to unlock the door.

Q. Was Ken security conscious?

A. Yes he was. 10

Q. Would that normally be locked, would he normally put - make sure both locks were secure in the door?

A. Mm-mm. 15

Q. Now you've gone into - opened the front door?

A. Yeah.

Q. Now have a look at the two diagrams to the left there okay, have a look at it for me before I start asking you any questions, just familiarise yourself, I'm going to approach if I may? It's the one tendered by Senior Constable 20

Van Leeuwen and just confirm for me that that's the set out, on the right there's the bathroom, on the left there's the - is the kitchen, straight as you go through the hallway 25

you've got the lounge room to the left and there's the bedroom to the right, so is that pretty much what you understand to be the layout of the unit? You don't disagree with anything that's been recorded there?

A. No. 30

Q. So you've come through the front door?

A. Yeah.

Q. You're not sure about the security door being opened or locked at this stage-- 35

A. No I'm not too sure--

Q. --you think it was closed--

A. Yes it was closed. 40

Q. --but not sure about it being locked?

A. No I don't know about being locked--

Q. The front door that was closed and locked-- 45

A. Yes.

Q. --because you had to unlock both of those?

A. Yes. 50

Q. Okay you come into the hallway and just take us through exactly what you saw as you come through the hallway?

A. Well I after unlocking the door I sort of turned the light dimmer switch up full and as I walked down the hallway I-- 55

Q. I stop you there, now the dimmer switch is where in relation to the diagram, just point to it--

A. The dimmer switch is here on the wall.

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Q. Just as you come through the hallway there?

A. Yes.

Q. On the right hand side is it?

A. Yes.

5

Q. What just a couple of feet past the door?

A. Not to be that far, it's right through the doorway.

Q. Just stay standing there?

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A. It's just through the doorway, it is just inches through the--

Q. Now okay the dimmer switch which light does that operate?

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A. The dimmer switch operates the lounge room lights.

Q. And was that dimmed down or dimmed up when you saw it?

A. It was dimmed down, very low.

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Q. So you've dimmed it back up--

A. Yes.

Q. --if I can put it that way?

A. Yes.

25

Q. And you've walked in through the hallway?

A. Yes I walked into the hallway and as I walked up the hallway I noticed all the - which I thought was dirt on the linen closet sort of louvred door and then I noticed sort of more marks on the - nearer here on the wall and, and as I sort of got closer--

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Q. Now you're pointing to the right hand section that's been serrated there which says "wall"--

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A. Yeah.

Q. --okay so you've noticed that, were you standing next to that when you noticed it or was that as you were walking up the hallway?

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A. As I was walking up the hallway.

Q. Okay keep taking us through then?

A. And I noticed the blood on the mirror and then I thought you know I thought "Oh that's not dirt it's blood.". Then when I sort of got to here I looked into the bedroom and that's when I noticed you know like the bedroom it was just unreal it was you know I just couldn't believe you know the state that the room - there was just blood everywhere and I think I took a couple of steps up to here and then I noticed that you know the phone and the answering machine was on the floor--

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Q. Okay I stop you there for a sec, and this is the part that's sort of confusing please you might be able to just elaborate for us, now you've come down the hallway?

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A. Yeah.

Q. You've taken a step to the right then you've actually

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virtually started heading into the bedroom, would that be fair to say?

A. Yes that's correct.

Q. This is the part the police don't understand, you haven't seen NP215 body at this stage? 5

A. No Ken--

Q. Ken's I'm sorry Ken's--

A. No I didn't see it at all. 10

Q. And you've turned the light up at that stage?

A. Yes see my eyes were sort of noticed all the blood everywhere around the door, the bedroom doorway and that hair and that and I noticed it all over but I didn't see Ken's body then. 15

Q. You could see from where that's been positioned there that in fact you should have seen the body?

A. Yeah. 20

Q. And you just can't recall having seen it?

A. I just didn't see it no.

Q. What about - the comment by the police that from where you were standing there in the hallway that you've observed the answering machine off it's podium there? 25

A. Yeah.

Q. But you really couldn't see that from behind the bed, what do you say about that? 30

A. Well I sort of like took a couple of you know a couple of steps that - you know like towards the bottom of the bed and that's when I noticed it was on the floor and that and thought-- 35

Q. So okay you're saying you didn't make the comment from there you've made the comment from further up towards the bed there?

A. Yeah just up past the doorway. 40

Q. Now the answering machine what sort of answering machine was that?

A. It's a National Panasonic. 45

Q. So Detective Van Leeuwen answered that correctly, he identified it correctly as the sort of answering machine it was?

A. Yes it only had the one sort of little micro cassette in it. 50

Q. How does that cassette work?

A. On the front of it it's - you can leave a message for the - like your incoming calls to be answered and then it sort of fast forwards a little bit and leaves the message of the incoming call on it. 55

Q. What about messages that have been left, I mean do they automatically wipe or do you have to wipe the messages or?

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- A. No they automatically wipe when the sort of - but it tells you how many messages are on the machine by a little indicator.
- Q. So at what point - you've gone into the bedroom, you've made the observation of the answering machine, so what did you do after that? 5
- A. Well I just turned around and sort of you know after seeing all the blood and that everywhere well I was you know really freaking out and then I sort of turned around quick and that's when I've seen Ken's body laying in the floor. 10
- Q. So you've actually walked past it initially, walked in the bedroom--
- A. Mm. 15
- Q. --that's when you spun back around--
- A. Mm-mm.
- Q. --and you've seen the body? 20
- A. Yeah.
- Q. What did you do after that?
- A. Well I walked around to the - to Ken's body and noticed you know him you know blood everywhere and, and I just looked into his eyes and I knew straight away that he was dead because his eyes were just staring at nothing and I'll never ever forget it as long as I live and, and then I sort of looked up into the kitchen - you know I don't know why I looked but I noticed all the blood there but then I just sort of I took off like a bat out of hell and - but when I went to the front door it was dead bolted on the inside, so I had to fumble around for my keys to unlock the inside lock to get out of the building. 30
- 35
- Q. So - I'm sorry you've come into the front door?
- A. Mm-mm.
- Q. You've entered into the bedroom?
- A. Yeah. 40
- Q. And you're saying - what's happened to the deadlock when you've come back out, that's--
- A. Well see when I've wanted to get out of it you have to unlock it from inside when you want to get out of it and sort of I had to fumble around for my keys to unlock the door. 45
- Q. So you're saying that you can enter the - the deadlock operates both sides--
- A. Yes. 50
- Q. --is that the case--
- A. Yes. 55
- Q. --so you have to unlock the deadlock from your end to go into the place--
- A. Yes.

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Q. From inside you can lock the deadlock--

A. Mm-mm.

Q. --or then unlock the deadlock?

A. Yes that's correct.

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CORONER: Q. So you must have locked it when you first went in?

A. No because the door - because the lock works differently--

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ASTLEY: Q. There's two different systems I think what you're saying?

A. Yes.

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Q. So what you're suggesting is that whoever has gone out of the building has had access to keys to--

A. Yeah.

Q. --lock the - locked it off before they've gone out?

A. Yes they wouldn't have been able to get out.

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Q. So you had your keys with you?

A. Yes I did.

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Q. And are you aware whether Mr Brennan's keys were located?

A. I don't know because I didn't know anything about keys or anything like that at all.

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Q. What about the spare set of keys?

A. Well as far as I know they were still hanging in the kitchen cupboard.

Q. So from what you've told us, from your explanation from what you've told us, you've gone to the door after seeing Ken's body?

A. Yeah.

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Q. Panicked, gone to the front door--

A. Yeah.

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Q. --and had to unlock the door?

A. Yes I--

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Q. And you're saying the only way that can be done is by some one who's exited the door and locked behind them?

A. Mm-mm.

Q. Because you can't lock the interior of the door from outside the exterior door--

A. No you can't.

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Q. They're two different locking systems?

A. Yes that's correct.

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Q. Now you've run to the local police station, told them what was going on?

A. I ran to the - yes I ran to the Kings Cross Police

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Station, the one by the Gazebo Hotel.

Q. And the last time you had seen Ken alive was in fact the Saturday night?

A. Yes. 5

Q. Was there ever any concerns between yourself and Ken about missing keys and things like that?

A. No because I always knew you know where they were. 10

Q. I recall reading in one of the interviews with Detective Thurtell and Whittan - or Whittan that you were on some sort of medication, antidepressant, is that okay?

A. Yes. 15

Q. Is that still the case now?

A. Yes it is.

Q. Are you being treated for something in relation to that?

A. No. 20

Q. You're taking the antidepressant for some reason, are you being treated for depression?

A. Yes I'm being treated for depression. 25

Q. Were you being treated for depression prior to Ken's death?

A. No.

Q. You're unaware of anyone who's made any threats towards Ken at all or yourself? 30

A. No.

Q. Just back to the issue of Ken's preferences where you talk about younger men, was there an age bracket he was particularly interested in? 35

A. I can't really say for sure.

Q. 20, 25, 16 to 18 - 18's to 20's?

A. I guess you know 18 to 30 or so I guess . 40

Q. Were you aware of any missing property that was taken or could have been taken from the unit after, after all this, I mean did you have a chance to go through the unit and see what property was still there, did you notice anything missing which-- 45

A. Yes there was lots of things missing because the police confiscated a lot of stuff and I still don't know where it is now. 50

Q. Okay I'm not talking about police confiscation--

A. Mm.

Q. --what I'm talking about was there any items taken which-- 55

A. No there was not.

Q. We're talking about videos, radios--

A. No nothing like that at all.

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Q. --cash jars lying around the unit, things like that?
A. No.

Q. Would Ken normally carry large amounts of money with him?
A. No he didn't. 5

Q. And Detective Thurtell indicates that he's made some withdrawals on the Sunday before his death?
A. Yes I've read that in the brief. 10

Q. Okay can you work out what he'd be using that money for on a Sunday?
A. No I really can't say. 15

Q. Any suggestion at all that - and I know you've denied it in your statements and record of interview but any suggestion at all that Ken perhaps went out to purchase sex from anywhere?
A. No I don't know. 20

CORONER: Q. Did he ever go up to the you know the well known places, the places around Darlington like "The Wall"?

A. No he would never ever go there because he always stressed to me, that was one thing he always use to say to keep away from that - those sort of places. Well I never ever went there. 25

Q. So it's fair to say he enjoyed short term relationships--
A. Yeah. 30

Q. --sexual relationships often?
A. Mm-mm. 35

Q. A range of persons?
A. Yeah.

Q. Usually through an ad perhaps in the gay newspapers or a steam bath--
A. Yes. 40

Q. --places like that?
A. Yes that's correct your Worship. 45

ASTLEY: Q. What do you think of Mr Guijar's statement about someone like Ken, resembling Ken walking into the bottle shop, you don't think it was the clothing that he'd normally wear?
A. Well I know that he had a pair of you know the trousers like he was wearing-- 50

Q. The bone coloured pair?
A. --but I know that Ken did not own a leather jacket. 55

Q. What about the general description about the moustache, the colour of the hair, did that fit Ken's description?
A. Yes it did.

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<WITNESS RETIRED

<LAURA CLARE THURTELL(1.05PM)
ON FORMER OATH

ASTLEY: Q. Just some inquiries, were you able to speak to-

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A. Detective Taylor.

Q. --Taylor in relation to the answering machine?

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A. Yes he--

Q. Did you get any further information please?

A. Yes he said that the, the day after police attended the unit they replayed the answering machine, they found that there were no messages on the machine. Himself and Detective Loon did that. He told me that it was a, a basic white answering machine, it had four or five buttons and to delete messages you would have to do that manually to delete the messages.

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CORONER: Q. So if NP215 did ring and leave a message on the answering machine, it's likely he's taken it off?

A. Yes.

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ASTLEY: The reason I raise the answering machine scenario was that NP215 story indicates he spoke to the answering machine or spoke - rang Mr Brennan at home at 2pm on the Sunday. It appears then the answering machine takes the message, it's around about 5 that afternoon the machine appears to ring out, if my recollection the evidence is right--

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CORONER: Well maybe Dr Bradhurst's a bit wrong with his time--

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ASTLEY: Well maybe I mean it doesn't say anything further--

CORONER: --frame but it doesn't necessarily mean that but--

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ASTLEY: No it doesn't and the final up shot was upon police attendance the answering machine is disconnected, upset, the phone is off the hook and it may help your Worship with some guideline as to times but how accurate I don't know.

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Q. Do you know anything else at this stage?

A. Sir just in relation to the deceased's keys were found in his - in the unit they were--

CORONER: Q. Yes the keys were found?

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A. --they were found.

ASTLEY: Q. Just to clarify it, now NP215 indicates there were three sets, his own set, Mr Brennan's set and possibly a spare set, so they were all identified--

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A. Yes the spare set was located in the kitchen. We did go through the unit with NP215s afterwards to ascertain if there was any other property stolen and as he's indicated there was nothing--

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CORONER: So someone could have opened the - unlocked the deadlock, put the keys back and then gone out, something like that--

ASTLEY: The fact there were a set of keys in the unit-- 5

WITNESS: Yeah that--

ASTLEY: --I guess that could be done-- 10

CORONER: He had to lock - he had to use the keys to get out and all the keys were in place, he's obviously gone to the door, opened it, perhaps propped it ajar while he's put the keys back, and then gone out .

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ASTLEY: But the other scenario is the fourth set of keys.

CORONER: Or maybe there's another set of keys, yeah.

WITNESS: And-- 20

ASTLEY: I mean it's an unusual situation, I mean what's your opinion the keys have been utilised to lock the door or to unlock the door, then lock the door, the other theory I suppose would be that Mr Brennan's locked the door behind him, whoever has actually got the keys has had to unlock the door-- 25

CORONER: Yeah. 30

ASTLEY: --and then before removing the keys just turn the key back into a locked position before removing the keys, but then he's had to go back into the unit--

CORONER: That's right. 35

ASTLEY: --place the keys back and then go outside the door.

CORONER: That's right. 40

ASTLEY: So that - it sort of throws all sorts of unusual slants on it--

CORONER: Yeah well we just don't know, okay-- 45

WITNESS: And - sorry sir and the only other thing was that there was a money jar found in the kitchen.

ASTLEY: Q. With money in it?
A. With money in it, coins and-- 50

Q. A large sum?

CORONER: Q. Coin or?
A. Coins and I think-- 55

Q. Some notes?
A. --just spare coins basically yeah, three spare coins in the jar and that was located in one of the kitchen

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cupboards.

Q. But none of that two hundred odd dollars that was drawn out--

A. No.

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Q. --that day was in the wallet?

A. No.

CORONER: ..(not transcribable).. knows what he's bought - well probably nothing it's probably been taken by the assailant or some of it.

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ASTLEY: Or spent by Mr Brennan you just don't know.

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CORONER: Well possibly.

ASTLEY: The possibility's there.

CORONER: Okay, right well I'll talk to you two in the lunch break about whether we need to go any further. All right ladies and gentlemen that's the evidence at this stage, we'll take the lunch and resume again about half past two I think, I may conclude the inquest then, I'll see.

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<WITNESS RETIRED

LUNCHEON ADJOURNMENT

ASTLEY: Your Worship just one or two minor things, firstly I have sighted a certificate from NP199 indicating that he has seen a doctor and has asked to be excused from court today for a [REDACTED] is what I think the certificate read. I think your Worship's also sighted that. I seek to tender also at this stage - as I've indicated earlier we had worked with the photocopy of the brief, Detective Thurtell has supplied us with the original brief and that might be tendered and--

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CORONER: Yes.

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ASTLEY: --placed with the file.

CORONER: Yes thank you. These - thanks for waiting upon me, it's better than coming back tomorrow, we set tomorrow aside but there's no need to delay it. I just can't assemble all these facts and read - and say something off the cuff, it doesn't do justice to the deceased. I've had to take some time to think about the matter, make sure that we can't really take the matter any further at this stage and sadly we do face each year a number of what we call unsolved murders, a small number.

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Mr Brennan was living in a homosexual relationship with a NP215. There has been a comprehensive investigation into his homicide. Detective Senior Constable Laura Thurtell has followed all reasonable leads and generally investigated the matter in her usual competent

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way. No real suspect has emerged and in fact it must be said that those closest to the deceased just before he died, that we know about, must be seen to be have been unlikely to have been involved on the evidence. Several pieces of physical evidence, a print on a champagne glass, underwear found, point to a person who hasn't yet been identified. 5

I am not going to retrace in detail the movements of the deceased on the June long weekend in 1995. Some weeks before, in the 12 May edition of the homosexual newspaper "Q Weekly", he placed an advertisement in the following terms:- 10

"Elizabeth Bay two hung guys looking for a third hung guy for safe, fun times. Active or passive, any age or nationality 155377." 15

Whilst a dozen inquiries were made, a person named NP214 was introduced to Brennan and NP215 by one NP199. The deceased and NP215 met NP214 the weekend before that weekend for sex. NP214 and NP215 met again midweek. On the long weekend NP215 and the deceased again went to NP214's residence in Woollahra arriving about 6pm on the Saturday night 10 June. The deceased left, claiming tiredness, the same night at about 10pm. NP215 stayed overnight and rang the deceased about 2pm Sunday 11 June and left a message on the answering machine. He stayed that night again and on the Monday morning again tried to ring the deceased, this time he indicated to NP214 that the answering machine wasn't on and no one was answering the phone. He left at about 5pm Monday. He returned to their residence and noted the window open, lights on, blind up, and this is in the middle of winter. He entered the unit noting that what appeared to be dirt, which turned out to be blood, on the walls and only later noted the deceased. Frankly police and I have had difficulty seeing how he wouldn't have seen the deceased positioned where he was, however he went to - it may be one of those situations where you see something, it doesn't register, I don't know. Of course the question being if he saw him and why not say so, there doesn't seem to me to be any reason or rhyme for saying he didn't see him when he did. However NP215 went to the Kings Cross Police Station straight away and informed the police. 20
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There was then a lengthy and detailed homicide investigation. There was a lengthy and competent crime scene investigation. There was a lengthy examination of the body and crime scene by the Forensic Pathologist Dr Bradhurst. 50

NP215 has taken part in a lengthy record of interview. He has made a statement, he has given body samples to police and generally done all that is reasonably possible to assist them. No piece of evidence indicates his involvement in this matter, I must say that. 55

The deceased was beaten up and stabbed to death. He received some fifteen stab wounds. He died between about

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5.30 and 11.30pm on Sunday 11 June 1995, presumably some time after [NP215] left that first message on the machine. No such message was found on the machine and of course any message left may have been deleted by the deceased or anyone else.

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The direct cause of death was the stab wounds to the chest, other injuries being superficial cuts, scratches and defence injuries to the upper limbs. Head, facial injuries and a spinal injury indicate that the deceased was well beaten up. They raise the possibility, as do the condoms found, that the assailant and the deceased were not alone in the unit at the time of his death, although I don't think police can say affirmatively that there was a third person there, they think so, and that's reasonable. Importantly an injury to the right side of the face shows a shoe print, it indicates he may well have been stomped to the face, possibly even after the knifing. He seems also to have received a blow to the mouth. One stab wound, listed in the autopsy or post mortem examination as stab wound #4, was such that he could not have lived long after receiving injury to the liver, diaphragm and heart.

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Detective Constable Thurtell concluded in this way:-

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"The evidence establishes that the deceased was last seen alive on Sunday 11 June 1995 at about 6.30pm at King Steam Sauna, Level 1, 38-42 Oxford Street, Darlinghurst. The deceased's body was found at his home [redacted] Onslow Avenue, Elizabeth Bay at about 5.30pm on Monday 12 June 1995 by his boyfriend [NP215] [NP215] .." She goes on to say "...it is the opinion of investigating police that after leaving King Steam Sauna he has met a person or persons at an unknown location or upon returning to his home has met some person by arrangement. The deceased has then had sexual intercourse with a person or persons. It would appear that after the sexual act he has been stabbed, possibly in the bathroom, and other parts of the unit. Evidence suggests that he has also been hit in the face with a metal frypan. There is evidence to suggest that a struggle has taken place in the bedroom and hallway and the deceased has eventually been placed in the position he was found with a pillow under his body. There is evidence to suggest that the deceased's body has been sponged down with the sponge located on his neck. Dr Bradhurst was satisfied that the knife blade located in the bedroom was the murder weapon. There were no signs of a forced entry to the unit and no property stolen..." and I have indicated with the possible exception of cash from his wallet, we do not know.

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"Known associates and the ex-lover of the deceased have been interviewed and there is no evidence to suggest that they are involved in the murder of the deceased. Inquires and information received from the public led to the interview of three suspects, [NP188], [NP198] and [NP202] who have been eliminated from this inquiry.

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It is the opinion of investigating police that the frenzied attack, the positioning of the body with the pillow under the torso, the sponging down of the body and the signs of sexual intercourse may indicate that the offender or offenders may be homosexual or homophobic.", the two ends of the spectrum if you will.

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As I said earlier, NP199 arranged the meeting between the deceased, NP215 and NP214. He did not assist police by providing samples which may assist in eliminating him from their inquiry. He has not attended court claiming illness. He had however the right, always had the right, to refuse to provide samples and exercise that right and it is my view, and I think the view of Detective Senior Constable Thurtell, that adjourning the inquest and forcing him to come to court will be unlikely, at this stage, to take the matter further. Certainly I can never force him to provide, on the evidence we have, to provide the samples such as others have provided.

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There is no evidence of forced entry, indicating an invitation by the deceased or an opening of the door by the deceased perhaps and then a forcing one's way in after him, or of course a key holder, we do not know of any key holder other than NP215.

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The crime scene was competently and carefully examined and analysed. It is the opinion of Detective Constable Van Leeuwen that he was stabbed in the bedroom, tried to get to the front door at some stage, made it to the bathroom where he may have again been stabbed and rendered unconscious or deceased, he has then been dragged to the location found and placed as found. This view of events appears to me to be reasonably likely.

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Mr Brennan enjoyed, and I am not criticising of course, he enjoyed short term relationships and he enjoyed them regularly with a range of persons often met either through advertisements, the newspaper or at the steam bath. It may well be that he met his assailant, for the first time, some time after leaving the company of NP215 and NP214.

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I am unable of course to record a finding as to who committed this homicide but I do stress that the investigation is actually at this moment continuing, and in any event, as with all "unsolved murders", the file will remain open and be reviewed periodically by police.

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MY FINDING WILL BE THAT KENNETH RICHARD BRENNAN DIED ON OR ABOUT 11 JUNE 1995 AT [REDACTED] ONSLOW AVENUE, ELIZABETH BAY OF STAB WOUNDS TO CHEST INFLICTED THEN AND THERE BY PERSONS UNKNOWN.

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I am of the opinion that this matter warrants the posting of a reward and I ask Detective Senior Constable Thurtell to make the appropriate application in the usual way. And I make this finding as the New South Wales Senior Deputy State Coroner, 17 September 1996.

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~17/09/96

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