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Having taken that on board your Worship those persons of interest will not be mentioned in the next few days in any event. I have suggested to Mr Madden and he's done that, that he should forward his complaint to the appropriate authority and that will occur or has occurred already.
5 When and if the time comes to deal with these persons of interest again, when they take, as a matter of abundant caution, steps to protect from that point on their various identities.

10

CORONER: I think so.

LAKATOS: Have I tendered that bundle of letters to your Worship?

15

CORONER: Yes thank you, I don't know whether we really need to, as they've been given as an exhibit number we'll make them an exhibit, I would have been more inclined to just simply to include them in the file as a matter of record now that we have received them and dealt with them.

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EXHIBIT #7 BUNDLE OF LETTERS TENDERED, ADMITTED WITHOUT OBJECTION

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But they're really not an exhibit in the inquest. All right, there's nothing more that we can say about that, but we certainly will be very cautious in the future to be very specific about non-publication, when we're dealing with juveniles.

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LAKATOS: And I suppose as a matter of abundant caution those members of the press that are here would need to take advice from their lawyers as to the future reporting.

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CORONER: Absolutely, we can't give anyone legal advice that's true.

<ALAN DAVID CALA(10.21AM)
SWORN AND EXAMINED

40

LAKATOS: Q. Doctor would you give us your full name please?

A. Alan David Cala.

45

Q. Your present address?

A. 21 Divett Place, Adelaide. That's my professional address.

50

Q. What is your present occupation?

A. I'm Chief Forensic Pathologist at the Forensic Science Centre in Adelaide.

55

Q. And until some recent time you were a Staff Forensic Pathologist at the New South Wales Institute of Forensic Medicine based in this complex?

A. Yes.

Q. When did you take up your new position in South

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Australia?

A. In January this year.

5 Q. Now in the present proceedings you have been asked to comment on I think a post mortem report which was conducted by a Dr Sylvia Hollinger who was then a pathologist at this institute?

A. Yes.

10 Q. Back in 1989?

A. Yes.

15 Q. And to give some further information concerning the properties of a body drowned in the ocean?

A. Yes.

Q. Do you have copies of the documents with you?

A. Yes.

20 Q. I wonder if you would go to Dr Hollinger's report?

A. I'm sorry I don't have Dr Hollinger's report, I've only got my own report.

25 Q. All right I understand that, I wonder if we can make available to you?

30 CORONER: You've got the original file down there, Mr Russell's original file. If Mr Russell's original file is there I'd prefer the doctor use that because that's got Dr Hollinger's original.

LAKATOS: Q. Do you have the report in front of you?

A. Yes I do.

35 Q. I just want to, if you wouldn't mind doctor, for you to, is there a need for Dr Cala to give his qualifications?

40 CORONER: No, I don't - Mr Saidi you accept Dr Cala's qualifications.

45 LAKATOS: Q. Dr Cala, Dr Hollinger records in her post mortem report of 29 November 1989 a pattern of injuries which she observed under the heading on the first page, do you see those?

A. Yes.

50 Q. What I was going to ask you was the severity of the injuries and whether they alone or perhaps in combination would have contributed or caused the death of John Allan Russell. The first two or three headings in the pattern of injuries, bruising to the left and the right side of abdomen, were they injuries of a seriousness which could have caused death by themselves?

55 A. No. They merely reflect some sort of blunt trauma to the abdomen.

Q. Is the blunt trauma to the abdomen possibly an assault

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or is it more likely to have been, bearing in mind he was found at the base of a cliff, as a result of his falling and sustaining injuries in that way or you cannot say?

5 A. I think that given the internal findings that most of the injuries would be due to the fall. But some of them I cannot exclude the possibility that they were inflicted during an assault.

10 Q. Follow me down, there was a laceration on the left side of the forehead, measuring 6 cms x 1.4?

A. Yes.

Q. How severe was that injury so far as you can discern from the papers?

15 A. Not life threatening of itself and probably fall related.

Q. I pass over, there's a number of abrasions?

20 A. Yes.

Q. And lacerations once again, perhaps if I can ask it globally this way, the injuries listed under the pattern of injuries is there anything there which would be life threatening so far as your assessment is concerned?

25 A. No.

Q. Looking at the cranial, the internal examination can you explain what the tearing of the dura overlying the right cerebral hemisphere is?

30 A. Yes, the dura is a quite thick membrane about, up to 2 millimetres in thickness that covers both cerebral hemispheres of the brain, right and left side and it sits over the top of the brain, on the surface of the brain but underneath the scalp.

35 Q. And is that an injury of some gravity?

40 A. Yes. To tear the dura requires, in all likelihood, substantial skull fractures which may have, that is to say the bony fragments from and around the skull fracture may have physically torn the dura which just sits underneath.

Q. Then going to page 2 there's a reference to comminuted fractures present at the right frontal parietal occipital bones?

45 A. Yes.

Q. Are those fractures likely to have been responsible for the tearing?

50 A. Yes, particularly the right front and parietal bones which sit at the front, in front of the brain in the forehead region and going towards the top of the head.

Q. Those injuries constitute grave injuries capable of causing death?

55 A. Yes, it's not just a skull fracture I should point out but whatever force has caused these skull fractures would also have torn the dura and injured the brain.

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Q. I understand that and then going, I pass over because it's a complete report, but in the neck and the thorax Dr Hollinger noted a large tear was present in the pericardium?

5 A. Yes.

Q. Whereabouts is the pericardium?

10 A. The heart sits in the pericardial sac and so it completely envelopes the heart at the back and at the front and to tear the pericardium also again implies substantial force to the chest region, most likely from a fall. This is quite a typical injury that we see from time to time in falls, from heights not just from one's own standing height.

15 Q. The transection of the aorta would have been a terminal injury would it not?

A. Yes that would be fatal by itself.

20 Q. By itself?

A. Yes.

25 Q. It's noted there's numerous width fractures, the third, fourth and fifth. I'm passing over many of the complete descriptions, do you see that?

A. Yes.

30 Q. All of which, may we take it, is consistent with injuries following a fall?

A. Yes.

Q. Of this kind?

A. Yes.

35 Q. You are aware of course that the fall distance is about 11 to 12 metres?

A. Yes.

40 Q. Now as is noted the cause of death attributed by Dr Hollinger is multiple injuries and we've looked at some of the more serious ones which Mr Russell sustained?

A. Yes.

45 Q. You were asked a number of questions by police officers to address a number of questions and you supplied a report, I think dated 14 August 2001, do you happen to have the questions which were asked because you've helpfully given the answers but I don't have and I wonder if you do the ten questions which were in fact asked of you?

50 A. No I'd have to respond in the negative. I only have the answers, from that I can maybe deduce the questions.

55 Q. I understand that, you were also given a set of 30 colour photographs, would you look at the photographs at the tail end of the coronial file and tell us whether those were the photographs that you looked at?

A. Yes.

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Q. You also referred to digital photographs in your second paragraph of your letter?

A. Yes.

5

Q. I'm not sure that I've seen digital photographs, do you know what those depicted?

A. Yes they were, these colour photographs were made into digital images and emailed to me as well and so I received those as well as copies of these colour photographs.

10

Q. So you received them in two forms in essence?

A. Yes.

15

Q. Digitally and photographically?

A. Yes.

Q. Now looking at your report perhaps you can, you've indicated at paragraph 2 or in answer to question 2, that there are many injuries to the left side of the body, this might indicate the deceased's primary impact was to left side, that is to say he landed on his left side?

20

A. Yes.

25

Q. The following statement from the report "there do not appear to be multiple directions from which the injuries arose". Can you perhaps elaborate on that statement?

A. Yes it seemed to me that the injuries were predominantly left sided and that made me think that it was more likely that this man landed heavily onto the rocks on his left side. As opposed to, for example, if he had injuries on both sides of his body might make me think another process was happening, that's really what I mean by that statement.

30

35

Q. Does the fact that most of the injuries appear to be left sided also tend towards a conclusion, not necessarily conclusive, that those injuries were as a result of a fall rather than as an assault. Unless one was assaulted totally on one side?

40

A. Yes, that's unlikely, I think it's more likely that the injuries which were occasioned more so on the left side were due to the fall.

45

Q. Your next conclusion was and I think we've covered this at least in passing, Dr Hollinger's report that the injuries described and reported as unsurvivable?

A. Yes.

50

Q. After the fall what would have been Mr Russell's condition, in terms of consciousness and other ones?

A. I think he would have been very deeply unconscious at the time he struck the rocks below, at the time of the impact. The impact that he sustained damaged the aorta, fractured the ribs, injured his brain and unconsciousness would have been instantaneous and severe and in all likelihood I think he's died a very short period of time after that. He's not been able to do anything purposeful,

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following that, given the injuries that I've read.

5 Q. And as you note in your numbers 5 and 6, he would have been immediately unconscious which is what you've just now said and would be, as of course not mobile as well after the fall?

A. That's right.

10 Q. Did you draw a conclusion as to whether or not Mr Russell was alive when he presumably fell from the cliff?

A. Yes I believe he was.

15 Q. What did you base that conclusion on?

A. The fact that the injuries that he sustained as a result of the impact were associated with bleeding internally. If he was already dead and thrown off a cliff for whatever reason then these four related injuries would not have been associated with very much bleeding, if any at all. The fact that there is quite substantial bleeding makes me believe that he was alive at the time he's impacted with the rocks.

20 Q. And the fact that he was bleeding you discerned from the presence of blood in and around the body?

25 A. Yes described in the autopsy that I was able to see externally.

30 Q. And the body cavities amongst other things?

A. Yes that's right.

35 Q. You were asked whether or not you could proffer an opinion about whether he was conscious or not at the time of the fall. You say you cannot do that?

A. No I don't.

Q. I'm looking at number 9?

40 A. I don't, that's correct. I don't believe I can, but if he was unconscious I would have to ask why would he be unconscious, what lead to that unconsciousness and was it possible to determine that from the autopsy, was there a, in other words, was there a pre-existed injury, for example, or other cause maybe alcohol and/or drug intoxication perhaps that might have caused

45 unconsciousness but not death. That contributed in some way to this man's death but I have to say on the autopsy report, in conjunction with the photos, I can't see any evidence that I am convinced about to indicate that he was unconscious prior to the fall.

50

Q. Would there be anything which would be disclosed on post mortem which would be indicative if not conclusive of whether or not unconscious?

55 A. Yes, if he had some injury, for example, which was not likely to have been caused by a fall, but that, which was of such a substantial or significant nature that it would make me think that he was unconscious. But the absence of that made me think that it was more likely that he was

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conscious at the time.

5 Q. There's no objective way of saying, in terms of examination for example of the brain after death that the person was unconscious at the time and there are no changes which are discernible or apart from looking at injuries as you've indicated or not, or is there?

10 A. There is no way of looking at the brain and determining whether somebody was conscious or unconscious at a particular time. But like I've said, for example, if this man developed a sub dural haemorrhage which is a bleeding between the brain and the dura. Now that happens over a - can happen over a period of minutes but usually even over a period of hours. If I'd found that or if
15 there was mention of a sub dural haemorrhage at the time of the autopsy that would make me think that this man survived for or had been, maybe, unconscious for a period of time prior to sustaining these injuries from the fall. So things like that would make me think that he might have
20 been unconscious, but their absence made me think otherwise and in fact he probably was, in all likelihood, conscious at the time he's fallen.

25 Q. Now going to question 10, you no doubt were asked "Were the injuries consistent with the fall of a person from a height of about 11 metres, you see 10 (i)?

A. Yes.

30 Q. And I think your conclusion in that regard is that they were, were they not?

A. Yes.

35 Q. Including soft tissue damage amongst this, one's we referred to the transection of the aorta?

A. Yes.

40 Q. You were asked about what a body might do physically after it had fallen from or a person I should say, not a body, after falling from a cliff of that height. What would be the mechanics, would a person just land flat or would there be some movement as a result of the fall or what?

45 A. I think either is possible, I have to say of course I haven't seen any or read any experiments of this sort of activity, because it's clearly impossible to do. But based on the description of people who are seen to fall and are later found deceased I think either are possible. That you can fall from a height and just stay in the
50 position in which you strike the ground or it may be such that the local environment where you impact, plus your speed, plus any horizontal velocity that you have if you take a running jump from a cliff, for example, might lead to some energy such that you might, for want of a better
55 word, bounce and the body may have a primary impact at the time it initially strikes the rocks and then because of the physics with the body striking that rock it may actually bounce a short distance, but not more than I would think a couple of feet.

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Q. What conclusions, if any, did you draw from the examination of the photographs which showed that Mr Russell's head was towards the face of the cliff?

5 A. Yes.

Q. And his legs were towards the sea if I can put it that way?

10 A. Yes. That's an unusual position, most people that are found around the Gap or North Head, around the cliffs of Sydney are not in that position. They're head is facing towards the ocean and their feet towards the cliff. So this is an unusual position. What it means to me is that it's likely that this man has perhaps, his body has
15 twisted on the way down, rotated, in some way such that he's landed and stayed in this position, because as I've said he hasn't moved. As soon as he's struck the rocks he hasn't been able to move. That being the case would make me wonder whether he's been deliberately thrown off the
20 cliff perhaps.

Q. Well had he been thrown head first you wouldn't have expected him to land in the position he was ultimately found?

25 A. No that's right.

Q. Had he been thrown feet first that might be an explanation consistent with the position might it not?

30 A. Yes. If he's been picked up and then thrown and there's been a rotatory element to the way that he's been thrown such that his legs swivel around towards the ocean, that might be another explanation for the position that he's seen to be lying in.

35 Q. Let me examine with you and I appreciate there is a degree of speculation involved here clearly enough?

A. Mm.

40 Q. If a person has had a great amount of alcohol and in fact some how backs onto the cliff and falls down with his back to the drop, rather than forward. I mean is it conceivable that a person might have ended up that way by reason of accident, if those are the only facts known. There are additional facts which I will put to you, but if
45 that's right?

A. I think that's unlikely I couldn't say it's impossible but I think it's unlikely, I think if somebody's affected by alcohol and they back over the cliff I'd still expect that they would fall and that their head would be closer
50 to the ocean than in this case.

Q. Fall backwards as it were but land on their back?

A. Yes.

55 Q. Rather than forwards in on their front?

A. Yes.

Q. I understand?

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A. With their head facing closest to the ocean and their feet closer to the rocks as opposed to what we have here.

5 Q. Now obviously you examined the photographs fairly carefully, were you able to discern the presence on one of the hands of a sample of hair?

A. Yes.

10 Q. Now I appreciate this is extremely difficult, because it's a photograph and so on, but did you draw any conclusions as to whether or not the hair was the same or similar to Mr Russell's or was hair of a foreign kind and I appreciate this is not a thing which can be answered definitively?

15 A. Yes.

Q. Perhaps you can't answer it at all?

20 A. No, Mr Russell's head hair is dark brown and these hairs that I saw, I'm just trying to find the photos actually, but they looked, they did not look as if they would have come naturally from Mr Russell's head hair.

CORONER: Q. Doctor that was in my pile?

25 A. Yes, however, I can't be absolutely sure and obviously I can't say that they were definitively not from Mr Russell, but they don't appear to be. That's probably all I can say, but it's also unusual, in a case like this, and I've seen many people who've jumped from great heights. The findings of hairs is unusual and would raise questions with me.

30 LAKATOS: Q. It's more than a simple single strand of hair is it not, there seems to be a small, clump would be not overstating it?

35 A. Yes, there's at least four and probably quite a number more on the photograph that I've seen.

CORONER: Mr Russell's got curly hair too.

40 LAKATOS: Yes.

CORONER: Can I show doctor the next--

45 LAKATOS: By all means, by all means.

CORONER: Q. You can see Mr Russell's hair there, it's very wavy hair?

50 A. Yes and also where the hairs actually are located at the base of the left index finger is unusual. I have no definite explanation for that of course, but it's unusual and raises questions.

55 LAKATOS: Q. I suppose that if somebody were to be grabbing something that would be the most or one of the more obvious places where residual hair, if hair is what was being grabbed, would reside it being between the base and the finger, thumb and the forefinger, the strongest part of the hand?

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A. Yes.

Q. I guess?

A. Yes.

5

Q. Once again this may be outside your area of expertise, but bearing in mind there is four hairs or more, from a reasonably healthy head is that likely to come out naturally as opposed to being pulled out or somehow

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artificially extracted if I can put it that way?

A. I think it's unlikely that its just fallen out, I think it's more likely that it's been tugged out. If it's come from Mr Russell's head, there are a number of explanations I would think that might explain it, but it is unusual and to me tends to suggest that it came from the head of somebody else, perhaps.

15

Q. Once again there's a healthy degree of speculation in this question, I appreciate, but having regard to the position of the body, the hair in Mr Russell's left hand and any other factors what do you think is, well can I ask this, is the possibility of suicide one strong in your mind as a cause?

20

A. No. I'd need to look at the deceased's medical history and see if there was a history of depression and so on and whether he'd been seeing doctors perhaps or talking to people about being depressed, but if that wasn't the case that still doesn't exclude suicide, but given the factors that I know about this, I'd think that that's unlikely.

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Q. And those factors, I think you rightly allude to is the proposition that those that saw Mr Russell approximate to the time that he went missing and was subsequently found indicated a man in good spirits looking forward to receiving an inheritance, looking forward to starting a new phase of his life that would, if that's the accepted facts, militate against a person taking their life would you agree?

35

40

A. Yes, yes, definitely.

Q. What about the possibility of accidental injury as a likely explanation, taking into account all of the material we've spoken about?

45

A. I guess that's also a possibility. I don't know what Mr Russell was engaging in, if anything, at the top of the cliff and I don't know what his blood alcohol was.

50

Q. It seemed to be afterwards, on testing .225 milligrams per 100 millilitres?

A. That's quite high, that's five times a driving limit so he's probably, at the very least, quite drunk at that level.

55

Q. I'm sorry I should also say, when I give that information that the evidence seems to disclose that he was seasoned drinker who drank large quantities quite often and appeared to hold his liquor well?

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A. Mm.

Q. I don't think I'm mis-stating that evidence?

5 A. Nevertheless .255 is, even for a seasoned drinker, I
can't say exactly what the effect of that blood alcohol
level would be on any person, and certainly in a non-
seasoned drinker you would expect that the effect was
going to be much more marked than to somebody who is a
10 regular imbiber. But I think it's a possibility that
Mr Russell may have met his death accidentally, I can't
exclude that possibility.

Q. There's one further matter which I think you do draw
to attention that I haven't, is the position of
15 Mr Russell's sloppy-joe that he was wearing?

A. Yes.

Q. I think you made a comment somewhere in your report?

20 A. Yes.

Q. Concerning the configuration of the fold in the jumper
which lead you to certain conclusions. Can you just tell
us what that was?

25 A. Yes the sweater that he's wearing is pulled up at the
back and at the front and exposes his lower back and the
lower front of his chest and abdomen. If somebody even
fell accidentally I would expect that the jersey, it looks
very loose in fact and would tend to be positioned over
the belt line of the jeans, I would expect. But it's not
30 it is quite a long way up his body and that again makes me
wonder whether it's been actually forcible retracted in
some way by another person.

Q. So at least an educated guess, perhaps I might be
35 doing your opinion a disservice in that regard, it might
be that there was something which occurred before his fall
which occasioned his jumper to be in that position and
accordingly it was in that position when he was found,
would that be fair?

40 A. Yes, I think that would be fair, but I certainly would
not say that that would be the only explanation for the
way that the sweater could end up in this position. Given
the way that he's fallen it may be that when he's landed
that the sweater has struck a bit of ledge of rock and
45 it's been pulled up by that.

Q. On the way down?

A. On the way down.

50 Q. I understand that?

A. But it is in an unusual position, I'd have to say, and
I was really just thinking of possible explanations for
that.

55 Q. We've spoken about the hairs on the left hand and I'm
reading your report. I think we've covered this, but you
do at least raise the possibility that foul play may be an
explanation for the fact that those hairs were on

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Mr Russell's hand?

A. Yes.

5 Q. You make reference to the injuries on Mr Russell's hands as being relatively non specific?

A. Yes.

10 Q. Not obviously assault related?

A. That's right.

10

Q. Those injuries are really abrasions to his two index fingers and to wrists on either one or both hands according to the drawings that you've supplied is that so?

A. Yes and they're not distinctly assault type injuries.

15

Q. I suppose one would, in a self-defence situation where would one expect marks on one's hands if one was defending oneself in your experience?

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A. Usually over the knuckle region, if one's throwing a punch and particularly in people who are intoxicated with alcohol, they tend to swing and miss and particularly over the little finger knuckle is quite a common anatomical location of evidence of somebody who may have been in a fight. But of course the absence of those injuries doesn't mean that he wasn't.

25

Q. No, no, it just means that he didn't injure him?

A. That's right.

30

Q. In the course of doing what he was doing?

A. That's right.

Q. I understand that?

35

A. And the other locations which Mr Russell didn't have was bruises on the forearms, so that if somebody is attacking you with either fists or a weapon that you may put your arms up in an attempt fend off the attacker or even your legs if you're on the ground. They weren't present on Mr Russell's body. Again it doesn't mean that he wasn't attacked, it just means that there was no bruises present. So it remains open.

40

Q. Well I think those were, in essence, the questions you were asked about an examination of material relating to Mr Russell?

45

A. Yes.

Q. Is there any other matter that I haven't covered that you can perhaps give us an insight into before we move to the second report that you've done?

50

A. No I think that covers all the factors.

Q. Now you were asked I think also to supply your view about, I suppose to put it ghoulishly the characteristics of a human body which lands in the water as a deceased body and whether it floats and rises and so forth?

55

A. Yes.

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Q. You made a reference to a written opinion from Dr Paul Botterill?

A. Yes.

5 Q. Now I don't think I've seen that, you don't happen to have a copy of that?

A. No I don't.

10 Q. In any event can I ask you, if a body falls in the water?

A. A deceased body?

15 Q. A deceased body, does it matter if a person's say unconscious and then drowns, does the configuration change if that's right, as to its characteristics?

A. No, no, it doesn't if that person dies in the water or is already dead the same things will happen to it.

20 Q. So a deceased person will cover, if that is the parameter, falls into the water what would happen to the body?

25 A. Presumably that person is wearing clothing and - which would act as a weight and the body would sink, not necessarily to the depths of the ocean but for a distance into the water and I, you know, it's very variable as to how far a body may sink and then depending on the temperature of the water, how long the body is in the water for of course, whether it's subject to animal prudation and then of course decomposition, that being 30 faster in warmer water than in cold water around Tasmania. Nevertheless that decompositional process will start and continue until that body is recovered and refrigerated but what will happen with that is that the body will sink, as I've said, after the body strikes the water and then a 35 period of time after that and that may be a period of some days, the body may and it's only may, may float up to the surface as a result of decomposition with gas formation in the body, such as it becomes really quite buoyant and that's often the case with deceased people located around 40 the harbour and off shore.

Q. And what kind of time frame is involved between the sinking and the refloating after the gases start to form?

45 A. I'd be surprised if a body floated up before about two days, but I guess in warm weather, with warm currents and decomposition being quite rapid perhaps in the tropics that may happen much faster or would happen much faster than down here. But I would think that after about two to 50 three days a body would be sufficiently decomposed to begin to produce enough gas and rise to the surface. But having said that it depends on the clothing that's worn, because that's waterlogged and is heavy and that tends to counteract against the amount of buoyancy due to the decomposition. So these, there's no clear cut answers for 55 this, each case is individual by virtue of the person's sex and size and so on and the individual factors surrounding that person's death. But as a generalisation I think about two to three days would be, I would think,

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an approximately time period.

5 Q. And of course that as you rightly say pre-supposes that other factors don't come together to ensure the body has remained in the water, for example, the body might be jammed between rocks and so forth?

A. Yes and never recovered, if that's the case.

10 SAIDI: Q. There appear to be no defensive injuries which can be clearly identified on the body, am I correct?

A. Yes, none that I was convinced about.

15 Q. But put more particularly none which can be clearly identified as defensive injuries and which were not consistent with a fall?

A. That's right.

Q. Now what about offensive injuries now?

20 A. I beg your pardon?

Q. What about what I'll describe as offensive injuries?

A. Yes.

25 Q. There appear to be no injuries which are consistent with the application of force by way of say a stick, am I correct?

A. That's right.

30 Q. There appear to be no injuries which appear to be consistent with the application of a localised force, that is a localised force specifically which is not consistent with a fall, am I correct?

35 A. Well you see a number of the injuries externally might have been occasioned by offensive injuries, some of the lacerations to the head might not just be explained by the fall but by - but be occasioned by being struck over the head with a blunt instrument for example.

40 Q. Doctor that's my point though, the injuries which are there are consistent with a fall or maybe consistent with a blunt injury having been occasioned prior to the fall?

A. Yes.

45 Q. But we don't appear to have any injury which appears to be consistent only with an injury sustained prior to the fall and which could not have been caused by the fall, do you follow what I mean?

A. Yes, but are you asking me as an offensive type injury.

50

Q. Yes, for example--

A. Where the deceased was in fact attacking somebody.

55 Q. No, whether he was being attacked - let me give you an example. Let's assume someone was wielding a stick of some kind and hit him on the back with the stick or him on the side of the leg?

A. Yes.

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Q. With the stick?

A. Yes.

5 Q. Now that can be to some extent differentiated from a
fall which is or an injury which is caused as a result of
a fall, but I am just looking at this and I don't profess
to be an expert but it appears to be the case that there
10 is no injury there which one can say is completely
consistent with an offensive injury, that is an offensive
injury towards him?

A. Mm.

15 Q. And is inconsistent with having been sustained in the
fall?

A. No I would think that there are several injuries,
there's the bruising on the left side of the abdomen,
that's the first sentence in pattern of injuries that may,
for example, have been occasioned by a kick to the left
20 side of the abdomen and likewise the bruise covered by the
abrasion on the right side of the abdomen might have been
an assault type injury. The laceration on the left side
of the forehead, 6 x 1.4 cm might have been occasioned by
an assault, particularly with a weapon of some kind.

25 Q. So we've got this possibility then that Mr Russell was
indeed assaulted?

A. Yes.

30 Q. Hit to various parts of his body and limbs and then
pushed over the cliff, after the assault, that appears to
be a possible scenario?

A. Yes.

35 Q. Or indeed it may be that he was assaulted and himself
stumbled over the side of the cliff after or during the
assault?

A. Yes.

40 Q. They appear to be, looking at the injuries, the most
probable scenarios do they not, having regard to the
injuries themselves?

A. Yes.

45 Q. If we accept them as the most probable scenario it
would follow then that any theory that he in fact came to
fall over the cliff by himself, as a result of being
intoxicated, could be discounted to a large extent, would
you agree?

50 A. Yes.

Q. And when I say discounted, I'm talking about
discounting in terms of probabilities?

A. Yes.

55 Q. Now the, I want to take up a couple of issues which
counsel assisting did with you and one is the clothing
issue?

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A. Yes.

5 Q. It appears that the clothing was found in a position in relation to the body which you would say would not be expected in the course of a normal fall?

A. No.

10 Q. Over 11 metres or so?

A. No.

10

Q. Why do you say that, is it because that when a person falls you would expect gravity to have some role and the clothing would naturally fall down?

15 A. I said that because the sweater worn by Mr Russell appears very baggy and I would expect that it would tend to fall down over his, because of the lack of constriction around his chest that I would expect it would hang somewhat over the belt line of his jeans. The fact that it doesn't that it looks as if it's ridden up in some way makes me speculate rather about the possibility that it's perhaps been pulled up in the process of or just prior to going over the cliff or indeed as I've said to Mr Lakatos, at the time he's landed, given that the rocks and the jagged edges on the rocks, it may be that it's also an explanation for the clothing to be in this position is the way that he's landed as well.

20

25

30 Q. But it wouldn't be as the result of the fall that the clothing would be pushed it, would it be what happened prior to the fall?

A. Prior to and at impact.

30

Q. And immediately at impact?

A. Yes.

35

Q. So you would expect the clothing to have been pushed up prior to the actual point of time of impact itself, am I correct?

40 A. I guess it might have been, if you mean that the clothing, that red jersey might billow as a result of a vertical drop. If you're suggesting that and by the way that it might billow out from the deceased's body and then appear to be pulled up, in this photograph. That's a possible explanation.

45

50 Q. But of course the other - another explanation is that in fact there was a struggle, the clothing was pulled up and the way in which the clothing appeared as shown in the pictures was, in reality, as a result of a combination of the struggle where the clothing was pulled up and the fall, the position of the body at time of fall?

A. Yes.

55

Q. Is that the more probable scenario you put forward?

A. No I don't really think I can give an order of probability, I'm just suggesting these as possible explanations and I think any is quite possible.

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Q. Now let me deal with another area and see if you can deal with this, if you can't just say so and I'll bring it to a halt quickly?

A. All right.

5

Q. If a body or if a person were to be pushed off a cliff what ability would a person have to adjust their body so to speak ie if someone's pushed backwards for example or side ways, over a distance of 11 metres is there a possibility there of that person adjusting the position of the body during the fall?

10

A. I think it's unlikely particularly if they're intoxicated like this man was.

15

Q. So then would I be entitled to deduce from that that on the probabilities Mr Russell came to be, in effect, pushed off the cliff. His body came to be found in what could be described as an unusual position?

A. Yes.

20

Q. And that's because (1) he was pushed off and (2) he had a limited capacity to correct his body?

A. Yes.

25

Q. And again I'm going to ask you the question, on the probabilities that appears to be the likely scenario does it not?

A. I don't know about the likeliest but I strongly favour that one as being quite likely, among other explanations as well, but that is a quite likely explanation for that scenario.

30

Q. If you just have a look at, I don't know if you've got the photo there showing the position of Mr Russell in relation to the ledge itself, that is how the ledge is depicted?

35

A. Yes.

Q. I'm going on my recollection and you've got the photo in front of you, but on my recollection I'd suggest that it's unlikely that his clothing would have been in fact grabbed by a ledge on the way down. That is there's nothing there on the way down to interfere?

40

A. No that's right, it looks like a free fall, there's been no obstruction or nothing that he's struck on the way down.

45

Q. So if that be correct, if there was no obstruction on the way down or no ledge that he would have struck, we can discount that as being a possible reason for way in which his clothes appeared?

50

A. Yes.

CORONER: Mr Lakatos is there anything that Mr Ted or Mr Peter Russell would want to ask of the doctor while he's here?

55

LAKATOS: No.

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<WITNESS RETIRED AND EXCUSED

<KENNETH JAMES BOWDITCH(11.10AM)
5 SWORN AND EXAMINED

LAKATOS: Q. Sir is your full name Kenneth James
Bowditch?

10 A. Yes sir it is.

Q. And is your address [REDACTED], Paddington?

A. Yes.

15 Q. Are you a company director by occupation?

A. Yes I am.

Q. You are a former New South Wales Police Officer?

A. Yes.

20 Q. Would you be good enough to let us know what the
history was, when you commenced and when you left the
Service?

25 A. I joined the New South Wales Police in 1971, I went
into plain clothes and trained as a detective in 1973, I
was designated as a detective in 1977. I had service at
Glebe, Bondi, Phillip Street, almost ten years at the New
South Wales Drug Squad and Special Weapons Operation
Squad. I then transferred back to the Eastern Suburbs
30 where I was at Bondi and in 1988 I was put in charge,
chief of detectives at Paddington and I was there until I
retired in 1996.

Q. May we take it therefore that you became involved in
the investigation of the disappearance of Ross Warren?

35 A. I did.

Q. By reason of the fact that the complaint that he was
missing was made to the Paddington Police Station
initially?

40 A. Yes sir.

Q. You undertook certain inquiries in relation to
Mr Warren's disappearance?

45 A. Yes I did.

Q. You are aware, I think, from at least having spoken to
me earlier on?

A. Mm.

50 Q. That there seemed to be very few documents which
record what occurred?

A. Yes sir I'm aware of that, which I'm appalled with
actually.

55 Q. The only document which connects you with the
investigation, if I may put it that way, is a four page
occurrence pad entry apparently made on 28 July 1989 and
signed at the end by, I take it, yourself K J Bowditch,

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Detective Sergeant?

A. That's correct.

Q. Have you seen that document?

5 A. Yes I did about eighteen months ago when I made my statement to Detective Page.

Q. You haven't seen it recently?

10 A. No I haven't.

Q. Were you spoken to in February 2001 and consequently made a statement on 19 February concerning your memory of what you did in relation to this inquiry?

15 A. Yes I was sir.

Q. You say in that document that you had carriage of the investigation?

A. I did sir.

20 Q. Do you now recall over what period of time, was it days, weeks or months that that investigation was active from your perspective?

A. The investigation was very active up until 19 August.

25 Q. What marks 19 August as a day when--

30 A. Because that was the day Marguerite Edwards was murdered in Woollahra, Marguerite Edwards, Dr Edwards' wife and at that stage Ross Warren was still a missing person, there was nothing to suggest otherwise and that's where the murder inquiry took precedence and then approximately four weeks later we got Dr Michael Chye was murdered in Woollahra.

CORONER: Q. Dr Michael who?

35 A. Michael Chye, he was shot in his home and so they naturally took precedence.

40 Q. I'm sorry when did you say Dr Chye's murder, the door closed and I didn't hear any of it. Dr Chye was murdered when?

A. He was murdered on 20 October.

LAKATOS: Q. So it was the 9th or the 19th did you say of August?

45 A. 19 August.

Q. So between 24 July, in round terms, to 19 August Mr Warren was, I suppose to use my term an active investigation?

50 A. It was sir and it still was because it was later sent into missing persons where they supposed to be doing other inquiries relative to it.

Q. Now can I just go through your running sheet?

55 A. Uh-huh.

Q. Just to, I suppose occurrence pad entry, my apologies. Because that seems to have kept a record of what was done

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up to that time, you found out about Mr Warren, that he was a television announcer and he had some criminal convictions, which you record there or a criminal conviction, is that correct?

5 A. That's correct, sir.

Q. Thereafter, no doubt as a result of speaking with Mr Craig Ellis you discerned what had occurred leading up to Mr Warren's disappearance?

10 A. Yes sir.

Q. That he had gone to, Mr Warren had gone to Redfern, met with Mr Ellis, that he'd then gone, to use perhaps an inelegant term, bar hopping in Oxford Street with a friend, Phillip Rossini?

15 A. Yes.

Q. So you spoke with Mr Ellis?

20 A. Yes.

Q. You spoke with Mr Rossini or police officers under your control?

A. I eventually, I spoke with him at some stage during the inquiry.

25

Q. The next step was that you spoke with Mr Ellis' friend, Mr Sausiss, did you not?

A. Yes I did.

30 Q. You conducted criminal history checks on all of these persons as well?

A. Yes I did sir.

35 Q. What was the purpose of conducting criminal history checks on the witnesses, what was your thinking in that regard?

A. Well at that stage sir, we had to establish the bona fides of all the people, it was standard procedure as far as an inquiry like that, particularly when we found out that Ross Warren did have a criminal offence for a minor incident.

40

CORONER: That - I'm going to make a non-publication order on that, it was made at the time that the occurrence pad entry was made, it's a very minor matter indeed, it's very, very old and it is not to be published. That part of the evidence dealing with any previous conviction.

45

LAKATOS: Q. Now going to page 2 you say that initial inquiries, this is about a third of the way down the page, if you can follow it. Initial inquiries were carried out by the constable, referring to Constable Robinson?

50

A. Yes sir.

55 Q. However there were no fears for his safety at that time?

A. That's correct.

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Q. Can you now tell me what time that referred to when there were no fears as to - for his safety?

A. When he was reported and up till the first 24 hours.

5 Q. You then record no doubt as a result of what Mr Ellis and Mr Sausiss told you, that they conducted their own inquiries in and around Marks Point?

A. That's correct sir.

10 Q. Where there sufficient - when a person's reported in that way, what was the position in 1989 so far as the capability of police of perhaps speaking to Mr Ellis, Mr Sausiss, working out where they thought he might be and
15 deploying resources to checking in that area. For example, Mr Ellis has told us that they sat down, thought about where Mr Warren might have been, figured upon Marks Park and then they themselves went to have a look. Had that information been made available to you or your
20 officers, were there resources or capabilities of police officers making those inquiries instead of Mr Ellis or Mr Sausiss?

A. That probably would have been the call of the officer making the inquiry at the time, because at that stage in
25 1989 there was no protocols in place in the New South Wales Police and in fact any Police Force in Australia for reporting of missing persons. It wasn't up till 1991 when the first National Missing Persons Conference was held in this country and I actually delivered a paper to it, that they started to introduce protocols similar to the US and
30 the UK system whereby they prioritised on ages, danger, level of anxiety and introduced different levels. Now there was nothing like that in there at the time. Now bearing in mind Ross Warren was an adult male, had no anxiety problems that the initial investigators
35 discovered. There was no reason for them to fear for his safety at that stage. It would have been if they'd got that information from the two witnesses, it would have been their call as to how far they would have taken it at that stage. But they would have followed it up. But in
40 the first 24 hours, first 48 hours, there was no reason to suspect that there was anything untoward happened.

Q. When did you yourself become involved, having regard to the fact that this run occurrence pad entry is dated
45 28 July?

A. I think I first come into it two days later, from memory I think Friday was a - I think he didn't turn up on the Saturday.

50 Q. He failed to - he went missing Friday night, Saturday morning?

A. That's right, so.

Q. Which is the 20th and 21st?

55 A. So I didn't, I was off for the week-end, I came into it when I came back on the Monday, which would be the 24th.

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Q. But at the time that you came into it, it was the case was it not that there had been found and brought to the attention of the police the fact that Mr Warren's car was parked in an area close to Marks Park?

5 A. Yes sir.

Q. There was also had been brought to the attention of the police the fact that certain keys belonging to him were said to have been found at the base of a cliff?

10 A. That's correct.

Q. Now at about point 5 on page 2 you say it was not considered unusual for the car to be there as this was a regular haunt for homosexuals of nocturnal habits and in fact was the location where Ellis and Warren first met. Do you see that?

15 A. Yes sir.

Q. The fact that the car was there without the person made it a little more intriguing did it not?

20 A. Not really sir.

Q. There was, was there not, a range of possibilities as to the disappearance, in terms of intellectual possibilities, that is to say he could have gone missing voluntarily and left his car there. He could have met with an accident. He could have met with foul play, there were a number of possibilities available were there not?

25 A. There was sir, there was.

30 Q. Were those various possibilities things that you were considering at that time?

A. We explored all of those possibilities.

35 Q. Now when the keys were found, which was the morning of the Monday, 24 July, did you yourself attend at the scene and have a look at location of the keys?

A. Yes I did sir.

40 Q. Did you cause any photographs to be taken as to their location?

45 A. Yes we - scientific section attended and conducted their inquiries in the area, took photographs. We also activated the police air wing and weather police and divers and just conducted normal inquiries in the area, including door to door canvass of the area, stopping people on the thing if they'd seen anyone at that time.

50 Q. Are you able to recall the identities of any of the scientific section of the police because we have not been able to locate anybody, so far as I'm aware, the subsequent re-investigation has not located anybody which it would suggest that the scientific section did attend.

55 I'm not saying that means they did not, but we simply don't know. So my question to you is 'Do you know of the identity of the scientific officers who did attend and photograph the location of the ..(not transcribable)..

A. No sir.

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Q. Whereabouts was the scientific section based in 1989?
A. They were based in Surry Hills in the Police Centre.

5 Q. Do you know who was responsible for their being called?

A. It would have been at my direction.

10 Q. Would you expect there to be documentation which would indicate from those people or at Paddington Station which would indicate who those persons might be?

A. There was documentation sir but where that documentation is I don't know.

15 Q. When you viewed the keys what thoughts did you have as to the possibilities as to how the keys might have gotten into the location they were found?

20 A. Well where they were found was over the ledge of the path, the walk path which may have indicated that he may have either been down there sitting, he may have fell off that into the water, he may have, anything could have happened there's a myriad of ideas how the keys could be there, because it wasn't unusual for people to sit on that edge there and gaze out to see. It was quite normal and
25 if he had had an accident and fallen in, his keys could have been just left there, I don't know.

30 Q. The possibility, the one possibility that you've averted to of the keys having fallen in there as a result of a fall of his, was that a likely scenario bearing in mind or perhaps let me go back a step. It has been described to this inquest that the keys were in a sort of pocket, a honeycomb situation which had an overhang and
35 Mr Ellis, the witness who gave this information indicated that from his perspective it seemed highly unlikely that the keys could have fallen into that position. Now can I ask you based on your memory of what you saw over a decade ago, like you said, do you agree that that was a fair description of the location of the keys?

40 A. I can't recall exactly the location sir, but I found over the years things end up in some very weird places and it's unexplained how they get there.

45 Q. But if I can press you a little more on this, when you're trying to deal with possibilities which are not supported by evidence, in order to determine which way your investigation will go, you'd look at the immediate possibilities as the likely scenario so that if Mr Ellis' assessment is correct, that they didn't fall down there by themselves, a reasonable or more reasonable possibility is
50 that somehow they were placed there by some person, do you agree with that?

A. Yes sir, they could have well been placed there by Mr Warren.

55 Q. They may well, exploring further possibilities, have been placed by other persons as well might they not?
A. That's a possibility as well.

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Q. Were these various possibilities things, I appreciate a decade later, that occurred to you as you were conducting or supervising this inquiry?

5 A. Yes sir.

Q. To go back then to the inquiries that were done, you indicated at the bottom of page 2 of that occurrence pad entry, that a residential canvass was carried out in the nearby dwellings with negative results. Do you see that?

10 A. Yes sir.

Q. Do you know how many police officers were involved in that regard?

15 A. No sir.

Q. Do you know whether the results of who was spoken to was recorded anywhere?

20 A. Yes sir, they were.

Q. My question was, do you know, may I take it that it was recorded?

A. It was.

Q. Are you now able to recall and I appreciate you may not, who were the police involved in that canvass?

A. Would have been other police from Paddington and also probably some from Bondi, we would have called on the resources of Bondi because it was their area at the time.

30

Q. And how extensive a canvass do you now recall that was, how long did it take for example, what area might it have covered?

A. Well I can't really recall, but it would have been just the houses along the - that fronted onto or backed onto the path, the walk path there. Whatever people weren't home during the day would have been revisited that night to see if they had seen anything.

35

Q. You've already said to us that you brought into the equation the water police and the police air wing?

40 A. Yes sir.

Q. Can you recall over what period the water police searched and what areas?

45

A. No sir that was left to their own discretion, because they were aware of the tides. They knew the area well, they had the charts for the area, they had retrieved bodies from underneath the ledges there at MacKenzie's Point on other occasions, they were professionals in that field sir and that's what they were left to do what they needed to do.

50

Q. Do you recall however, I accept that answer it stands to reason, but do you recall over what period they searched?

55

A. Sir they would have only searched probably for - depending on the weather, probably for a few hours. I

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know they put divers down.

Q. They put divers down you say?

A. Yes, I recall the day they put divers down.

5

Q. And you also talk about the fact that the air wing was called into play?

A. Yes sir.

10

Q. Over what period do you know did they search?

A. I don't know sir, they would have done a normal coastal sweep for a couple of hours probably to see if there's any been, pick up any bodies floating in the water had been drifted out to sea or had been drifted down south or wherever the current was going.

15

Q. Can I ask you this in terms of these inquiries and documents which are I suppose flesh out what these inquiries were. We have, as we say, only your occurrence pad entry?

20

A. Mm.

Q. Apart from this entry, you being the supervising officer, would there be other records kept under your control as opposed to the water police and the air wing, for example, which would record what those officers did apart from the occurrence pad?

25

A. Yes sir, there was the statements from all the police involved, the statements from the witnesses, there would have been the statement and the report from the Water Police, the Air Wing. Reports from the police at Wollongong who conducted the search of Mr Warren's flat. There was reams and reams of records sir.

30

CORONER: Q. There'd be duty books too wouldn't there?

35

A. There were duty books, yes.

Q. Did you hand your duty book in?

A. I did or I used to.

40

Q. So that should be archived somewhere?

A. That should be archived somewhere. So should the duty books of the other detectives who were involved in it.

45

Q. And notebooks?

A. And notebooks.

Q. And with this collection of statements and other things, you being the supervising officer, where would you have expected that material to have ended up, at the point when the investigation or inquiry became less active after August and October of that year. Where would it have been housed?

50

A. After that period of time a copy would have gone to missing persons, I do recall that in 1991/1992 a task

55

force was set up by missing persons or the Police Department to put on the TIM system, all records pertaining to previously missing people. The originals of

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5 that were taken by myself into Missing Persons and the
Task Force and the Task Force, I recall it was headed by a
Detective Inspector Mal Cox. Now they put everything on
the Tim System. Records were left with them, plus a copy
was left at Paddington. Now where those records are sir I
10 have no idea and that included dental charts, recent
photographs of Mr Warren, which were brought down from
Queensland by his parents. Bank checks on his credit
cards to see if his credit cards had been used. All the
15 normal stuff we do in an inquiry. Now where it is I have
no idea and I am appalled the Department has lost it.

Q. Can I ask you this and this is really your knowledge
of when you left the Police Services as Chief of
15 Detectives at Paddington?

A. Mm.

Q. Where was the place that that material would have been
20 stored, to your knowledge, when you left?
A. Well the copies of the briefs would have been left
with the brief manager in the brief room at Paddington.
There should have been a copy of it there and there would
have been a copy of it. Any other stuff should have been
25 archived in at the Archives with the Police Department.
Now what happened to it sir I have no idea.

SHORT ADJOURNMENT

Q. Mr Bowditch we were talking our way through your
30 occurrence pad entry, I wonder - I just want to clear up
one matter. I understood you to say that as part of the
inquiry that you've supervised into Mr Warren's
disappearance you caused the police divers to undertake a
search around the relevant area?

35 A. Yes, well that would have been through the water
police, the water police made that decision.

Q. There is no specific mention, do you agree, in your
40 occurrence pad entry of the fact that divers made a
search?

A. No, that's correct.

Q. And indeed no specific mention of that fact in the
45 later statement that you made that divers, I'm being
specific here, that divers were employed, do you agree?

A. No sir.

Q. But it was, were you there when the divers did their
50 stuff, if I can put it that way?

A. No sir.

Q. The records which appear to have been obtained in the
55 course of the re-investigation from the divers squad or
the diving squad, so called, my terms, appear to disclose
that in the use made of that unit in or around 1989 and
1990 there is no record of the squad having been utilised
to search in or around MacKenzies Point in the Warren
Inquiry?

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A. Well I understood they were from the information I received from the water police and that would have been a normal part of their patrol and their activity anyway.

5 Q. As part of the brief which has been put together, if I can put this to you and this is Annexure 177--

CORONER: I'm sorry could you say the annexure number again?

10

LAKATOS: 177.

15 Q. Mr Bowditch these are not your records I appreciate, but I just want to put this to you, is that in the period July 1989 through to some time later in 1990, the only utilisation of the divers to search for missing persons in the Eastern Suburbs generally was on 23 July 1989 divers attended at Dover Heights for the search of another male person, clearly not at MacKenzies Point. That on the
20 preceding day, 22 July 1989, once again it's a reference to Dover Heights, the same incident and thereafter the following times they were used were between July 1990 and December 1990, so that the divers have no record of being called into action in the search for Mr Warren at
25 MacKenzies Point, in or around July 1989. That appears to be the documentation you understand?

A. I can't comment on that.

30 Q. Having regard to, if that, and it's a big if, is a complete record of the divers' documentation it seems to suggest, does it not, that they were not used in this inquiry?

A. Well you'd have to speak to them about that sir, why they don't have the records.

35

Q. But it is your firm evidence is it, that they were used?

A. It is my belief, from what I was told, that they were.

40

Q. It was your way of recording an occurrence pad entry was it not, to list in the right hand column the police officers who were involved in the investigation so far as you knew it?

A. Yes only the main investigators sir.

45

CORONER: Q. I'm sorry I didn't hear that?

A. Only the main investigators.

50 LAKATOS: Q. And so may we take it therefore that the main investigators and I'm looking at the top of the first page, apart from yourself, were detectives Ben Sharrock, Plain Clothes Constables Ryan, Glascok and Constable Robinson?

A. Yes sir.

55

Q. Is it your belief that some or all of these officers did substantial investigations in the Warren inquiry so far as you can recall?

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A. Yes they did sir.

5 Q. Is it your belief that some or all of those officers reduced the results of their investigations into a form of a statement which ultimately attached to the brief to which you referred?

10 A. They wouldn't have had to do a statement at that stage sir, their records would have been in the running sheets and their record would have been in their duty books and their notebooks.

15 Q. Can I ask you this Mr Bowditch, because we managed to speak with some of these officers. May we take it that by reason of his position in the list, Detective Sharrock was your second-in-charge for these purposes?

A. He was sir.

20 Q. I'll read this and then show it to you, this is annexure--

CORONER: 141?

LAKATOS: Page 1049 of the brief or annexure 100.

25 Q. Detective Sharrock who's in August 2001 was a detective senior constable at the City Central Local Area Command said and the only operative part is this - "During July 1989 I was attached to Paddington Detectives Office, to the best of my recollection I was on annual leave during the time Mr Warren was reported missing and the subsequent investigation of his disappearance. I can only recall having discussions about the matter with Detective Sergeant Bowditch when I returned from annual leave, as far as I can recall I did not take part in any investigation of the matter" That seems to indicate that he, as he recalls a decade later took no substantial part in any investigation?

35 A. Well sir I can't comment on his recollection.

40 CORONER: Q. I didn't hear that I'm sorry?

A. I can't comment on his recollection.

45 Q. But you could comment to say that it's not in accordance with what happened?

A. Well he may have been on leave when Ross Warren disappeared and came back during it, but bearing in mind I made that occurrence entry on the 28th, some six days after Mr Warren disappeared.

50 LAKATOS: Q. Perhaps the sentence on which I'd like you to focus is the statement "As far as I can recall I did not take part in any investigation in this matter." Now if that is an accurate recollection do you say that statement is wrong?

55 A. I can't comment on his recollection sir.

Q. I'm not asking you to I'm asking you to comment on whether the statement is correct, if it represents a

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statement by him that he did not take part in the investigation?

A. He did take part in it sir and the records indicate that.

5

Q. So may we take it that if that statement, he says that statement is correct he is wrong?

A. Yes.

10

Q. Now also mentioned in the running sheet entry is a Plain Clothes Constable Glascok, do you see that in your notes?

A. Yes sir.

15

Q. Is that Adam Glascok?

A. Yes it is.

20

Q. Mr Glascok who in August 2001 and this is at page 1047, annexure 99, made a short statement to this effect, he is now a detective sergeant of police at the Tactical Operations Unit. "I have been supplied with an occurrence pad entry relative to the disappearance Ross Bradley Warren, the occurrence pad was prepared on 27 July 1989 by Detective Sergeant Bowditch" and it gives the reference number, that is the document you have?

25

A. Uh-huh.

30

Q. "I note that my name is recorded in the 'Action' column of the occurrence pad belonging to Detectives Ryan and Sharrock." Of course that should be, in fact it is Sharrock that is recorded there. "Although I have been unable to refer to a duty book, my recollection is that I had no involvement in this matter." Might I just show you that. If that is an accurate recollection then Detective Sergeant Glascok has to be wrong if your version is correct, is that not so?

35

A. Correct.

40

Q. And finally there was a mention of Plain Clothes Constable Ryan, was his first name Michael Ryan, so far as you can recall?

A. No.

45

Q. No what do you believe his Christian name was?

A. Paul Ryan.

50

Q. We obtained a statement from one Michael Ryan who at the time of the statement, being July 2001 was a Detective Sergeant in the Organised Crime Squad East Coast Crime Agencies and Mr Ryan said as follows, and I appreciate you've indicated Paul Ryan was the person and I'll show you this in a moment. "In 1989 I was attached to Paddington Detectives Office as an investigator."

55

Stopping there for a moment, to the best of your recollection how many investigators by the name Ryan were under your command in 1989?

A. Two.

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Q. And was the other Michael Ryan?

A. Michael Ryan, Michael Patrick Ryan and Paul Ryan.

Q. Right. This is Michael John Ryan?

5 A. Oh, Michael John Ryan.

Q. Now on 26 July Michael John Ryan stated as follows, he refers to a previous statement made and I won't trouble you with that. He refers to examining a copy of an occurrence pad entry made by Detective Sergeant Bowditch on 28 July relating to Ross Warren and he says this "Although my name is recorded in the 'Action' column as one of the five officers in charge, I have no recollection of any participation in any inquiries other than that referred to in my previous statement." In fairness I should say the previous statement refers to contact by a witness called Elizabeth Fitzpatrick from SBS. You may not now recall it but sometime after the disappearance?

10
15
20

A. I don't recall that sir, no.

Q. I wouldn't expect you to necessarily after that time, may I show you that document. May we take it that the explanation you would give is that this is the wrong Ryan or not?

25 A. Yes sir, I could make another comment but it needs to be suppressed from the media.

Q. Two of the three officers named as investigators appear to have, putting it at it's highest, no recollection of having taken part in any active investigation. Do you agree?

30

A. Yes sir.

Q. A search of the documentation seems to indicate that no brief of evidence can be found, if you'll accept that from me. At some point did you conclude in your investigations that Mr Warren was a person who was suspected to have been deceased?

35

40 A. At no stage did I suspect that at all.

Q. Can I ask why not - that is at least one possible--?

45 A. At that stage sir there was no evidence, other than keys and the card being found down in Marks Park and at Tamarama to indicate that Ross Warren was anything other than a missing person.

CORONER: Q. So you never prepared a P79A for the Coroner?

50 A. No. In fact because of the intense publicity that this inquiry generated because of who he was, and he worked in the media. We had to have inquiries, we had sightings, now they had to be verified and they were. All that evidence is with the documentation that was taken to missing persons. Now at that stage I wasn't prepared to
55 make any conclusions that Ross Warren was deceased.

Q. Did you consider that as an investigative possibility that he may be?

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A. Of course it was.

5 Q. What steps did you take to investigate the possibility that some foul play might have been involved in his disappearance?

A. Well from the evidence we had, there was nothing to suggest we couldn't take it any further than what we had.

10 Q. Well can I put this to you, one of the officers who investigated the death of a person probably three or four months later, at this very location. Said that his experience in the Bondi area was that Marks Park was a gay beat, do you understand what that term means, a gay beat?

15 A. Yes sir I do.

Q. Was that something known to you when you did your investigations into Mr Warren's disappearance in July?

A. Yes sir.

20 Q. That officer said that it was known amongst Eastern Suburbs Police Officers and I put that compendiously that it was also a beat where people who were gay were from time to time attacked by others. Was that something known to you?

25 A. It was sir, it was also known that the goat track in Moore Park was a gay beat.

30 Q. Well having this scenario then, a person who is normally reliable, not showing up at his job for two days after his disappearance. Having the scenario that his car is found near a gay beat which you knew had been the scene, at least of complaints of attacks on gay people. Knowing that keys were found at the base of the cliff at Marks Park, was that not a prudent investigative lead for you to undertake to say well perhaps I ought to inquire
35 into any persons who have been charged or against whom there was intelligence that might have brought harm to gay people in or around that area. Was that not something which occasioned--

40 A. Yes sir, that was done, did I not indicate that, it was done as part of the normal course of investigations. Any similar assaults, searches were done on the computer, they're normal things sir, investigate to see if there were any similar crimes or the MO may be similar.

45 Q. And was that also recorded somewhere?

A. It would have been, yes.

50 Q. And may we take it that you've got the detectives under you and the investigators under your to undertake those inquiries, you didn't do them yourself?

A. It would have appear from what their statements sir, that I must have done everything.

55 Q. And unfortunately it would appear from the documentation that very little was done?

A. That's right.

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Q. You see it is clear is it not, let me just say this to you, to put it bluntly. The final conclusion in the running sheet that you have drawn is this, I'm looking now at page 4, the second last page "Investigating police are
5 of the opinion that the missing person has fallen into the ocean." Was that your opinion?

A. Yes it was sir.

Q. In some manner and it is anticipated that in the near
10 future his body will surface and be recovered?

A. Yes sir.

Q. That is a statement, is it not, which tends to support
15 a proposition and I'll read a little further, that it was your strong belief that Mr Warren disappeared as a result of accidental circumstances rather than foul play?

A. Based on what I had on 28 July 1989 yes sir.

Q. But my problem with that, with respect detective, or
20 Mr Bowditch is that the material you had on 28 July was fairly new and incomplete and a number of options remained open, one of which was foul play, which you appear to discount and not pursue with any great figure. Is that not a fair statement?

A. No it's not a fair statement sir, nor will I be made,
25 to put it quite bluntly, a scape goat for the ineptness of the Police Department. That inquiry was still open, I expressed an opinion at the time, six days after Mr Warren disappeared that it was my belief, that doesn't mean to
30 say all the other options weren't looked at. In fact most of the statements was taken from witnesses and the inquiries with banks and that were ongoing and continually. But if you know the way the Police
35 Department works I had to get a record to my superiors and hence the occurrence pad entry.

Q. Can I ask why did you leave your conclusion open, that
40 is to say instead of giving a conclusion weighted to the greater possibility that this man had some how accidentally come to his end, which was an educated guess on the material that you had you agree. Why you simply didn't say "The range of options were, based on the
45 material that we have, that he could have slipped, that he could have disappeared or it was still open on the material that some foul play could have been at work" in this running sheet, why didn't you put it that way?

A. I chose not to.

Q. But do you agree that putting it this way seems to
50 attach a more innocent explanation to something which might not be right and therefore inhibit any further investigation along the lines of foul play?

A. No sir.

Q. That is certainly the impression it gives, that it is
55 an innocent accident does it not?

A. Not to me it doesn't.

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Q. Well what you've said, if I read further, I'm not able to offer any explanation as to how he would have fallen into the water, once again you use the word fallen. Now that, he may have fallen, he may not have, he may have
5 been pushed, he may have been forced, he may have been scared, all of those options were still, were they not, on the table as at 28 July?

A. Yes sir.

10 Q. And you have chosen the word 'fallen' as opposed to forced, pushed or whatever, correct. You've opted for an innocent explanation when that was not the only reasonable explanation?

15 A. No sir I don't agree with that, I haven't opted for anything. I've given my opinion as of the information we had at the time and you will not put words in my mouth.

Q. I don't expect you to agree with me if you don't, I accept that. But reading further, he would have fallen into the water in that area near where the keys were located. I'm sorry, he would have fallen into the water only that the area near where the keys were located is a treacherous rock formation which, at the present time, is secreting a lot of water and moisture from recent rains,
20 there is extensive moss and slippery sections from where experience would not be difficult to envisage somebody slipping on the rocks, particularly after 2am on the morning of 22 July. Inquiries reveal that the moon was full, although the night was overcast and visibility would
25 have been difficult and there had been a high tide at 11pm on 21 July. Thus leaving a high water level in the early hours of 22 July 1989. Now that's in effect your concluding paragraph isn't it to your running sheet?

30 A. Yes.

35 Q. Your occurrence pad entry?
A. Yes sir.

Q. I suggest to you that the overwhelming impression left from that is that the senior investigating police officer opts very strongly for an innocent explanation for
40 Mr Warren's disappearance, is that correct or not?

A. There was no evidence to suggest, as I said before, that anything other than that had occurred.

45 Q. Can I ask you this, why did you not say, these are the possibilities on the material we have (1) is that Mr Warren slipped because of the various factors. (2) is that he chose to disappear for reasons we don't know. (3)
50 is he might have come by foul play, but we don't have material one way or the other and whatever (4) and (5) might be. In other words to list that at the state of our investigations we are unable to say, opting for one or other as a more likely scenario what is likely to have
55 occurred. What prevented you from doing it that way without giving one explanation, a significant weighting?

A. Because that was my view at the time.

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Q. Do you agree or not that the effect of the view expressed would have been on other officers that the investigation was there for, because it was likely to be accidental not worthy of further vigorous pursuit?

5 A. No I don't sir.

CORONER: Q. Mr Bowditch if you believed that why was the P79A not put before the Coroner?

10 A. Because the inquiry was still ongoing ma'am then for some time.

Q. On the bottom of the occurrence pad you've got "further inquiries are continuing and the appropriate authorities will be notified" who are the appropriate authorities that you are talking about there?

15 A. That would have been eventually the Coroner.

Q. And in 1996 when you left as chief of detectives at Paddington, Ross Warren still hadn't surfaced, either his body hadn't surfaced or he hadn't surfaced in living form?

20 A. That's correct.

Q. Why was it never reported to the Coroner then as somebody who should be assumed dead?

25 A. Because I didn't have carriage of it then.

Q. Who did then?

30 A. As I said it was handed to missing persons straight after, early, within a few weeks of that. All records were taken to them and they took over the control.

Q. Finally Mr Bowditch I'll put this as a matter of fairness, it has been expressed by a number of gay persons who have given evidence in this inquiry and gay persons who have not, that in or around 1989 the way that complaints by gay people were treated by some police officers was that they tended to be fobbed off. Do you understand that?

35 A. I understand that.

40

Q. Was the way that you dealt with the Warren inquiry an example of it being fobbed off because Mr Warren was gay or not?

45 A. No sir and to answer that question fully, if you check the records and if you check with the ABC I went on National television to impart the policy of the New South Wales Police and also the Paddington Police on the reporting of hate related crime to Paddington. I was quoted in the gay newspapers on different things like that. We went to extreme efforts in inducting new police that came to Paddington on how to conduct themselves with gay people. No sir I totally disagree with what you're saying there and the conclusions you're drawing.

50

55 Q. Can I say this that in the event upon further searches that materials do surface of the kind that you've indicated we will let you know and allow you the opportunity, in the course of this inquiry, subject to

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what her Worship wishes to do, to address those further matters. But the questions I'll put have been on the basis of searches up to date and lack of documentation. You understand I want to be as fair as I can be to you?

5 A. Well that's something you'll have to take up with the Police Department sir.

SAIDI: Q. Mr Bowditch do you have a copy of the occurrence pad entry there in front of you?

10 A. Yes I do sir.

Q. I just want to go over a document or the format of the document with you, if I may. I may be wrong in my recollection of events, but my understanding of an occurrence pad entry is that firstly it contains information in narrative form, which this one obviously does. But secondly, on the right hand side of the occurrence pad entry, under the heading of record, you also or one is expected to include further information. For example, if a statement has been obtained from a person there is to be a reference to that statement on the right hand side, are you with me?

15 A. Yes sir.

20 Q. So is that the procedure which was your usual practise to follow back in 1989?

A. I wasn't aware that it was a requirement that whoever was spoken to had to be included in the running sheet, in the right hand side of an occurrence pad entry.

30

Q. I'm not speaking about whoever was spoken to, what I'm referring to is if a person was spoken to and if a statement was obtained, well then the fact that the statement was obtained was recorded by the word "statement" appearing or "statement obtained see" wherever the statement was kept, are you with me?

35

A. Well yes sir I am, but from memory I think it's in the main body of the occurrence pad entry that statements were taken from certain witnesses.

40

Q. Quite, but the occurrence pad entry summarises the fact that a statement was obtained from someone?

A. Yes.

45

Q. But if a written statement in fact existed in relation to that person you would expect it to be recorded on the occurrence pad entry ie see statement or see statement dated?

A. No sir.

50

Q. Wasn't that the practise that was in force then?

A. No.

55

Q. Similarly with canvassing, for example, if in fact canvassing was carried out, what one expected was that there would be canvass sheets maintained, am I correct?

A. Yes sir, there would have been.

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Q. And an occurrence pad entry you would expect would have an entry where there's a reference to canvassing, which would say "See canvass sheets" or something similar?
A. No sir.

5

Q. Wasn't that a practise which was then in operation?
A. No sir.

10

Q. Well then if anyone were to read your occurrence pad entry then, there'd be nothing there which would suggest, and I'm referring to page 2, at the bottom of the page, there'd be nothing there to suggest that in fact canvass sheets were maintained, am I correct?
A. No sir.

15

Q. Well where does it suggest canvass sheets were maintained?
A. Because that was a practise at the time to record it on canvass sheets.

20

Q. Right, well if it was a practise to record it on canvass sheets what I want to suggest to you is that in order to let other persons know, that is persons who are familiar with the investigation know that there were canvass sheets, that very fact would be recorded on the occurrence pad entry itself?
A. No sir.

25

Q. That wasn't a practise followed by you?
A. No sir.

30

Q. Who was it that drew up the canvass sheets?
A. The people who did the canvass.

35

Q. But you were in charge?
A. Yes sir.

40

Q. Wasn't it for you to draw up the canvass sheets and to set out the information with the other police, that is the foot soldiers, if I call them that for the moment, that they were to follow, for example, pro forma set of questions?
A. The canvass sheets were standard form and the pro forma questions were already on them sir.

45

Q. Well when you say they were standard questions what you needed to have were questions which were directed towards a particular event did you not?
A. Yes sir.

50

Q. So whatever the standard form was, you as the officer-in-charge were responsible for directing the police, carrying out the canvassing as to what information was in fact required to be sought?
A. Yes sir.

55

Q. Were there in fact canvass sheets which were prepared in relation to this matter?

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A. There would have been sir, yes.

Q. Not would have, do you have a clear recollection?

A. No I do not have a clear recollection sir.

5

Q. Because it seems to be the - sorry, would you agree with the proposition that canvass sheets are indeed an important record?

A. They are sir.

10

Q. A very important record?

A. Yes sir.

15

Q. For obvious reasons I want to suggest (1) being because they would record which houses or which persons were in fact visited or spoken to?

A. Yes sir.

20

Q. What information was obtained from each house or each person?

A. Yes sir.

25

Q. As well as any other relevant information which was obtained?

A. Yes sir.

30

Q. It's important to record that information, not only for yourself as the officer-in-charge but also any other police officer who was involved in the investigation, would you agree?

A. Yes sir.

35

Q. So that there would be a continuing record maintained which could be relied upon by any police officer involved in the investigation, at that point of time?

A. Yes sir.

40

Q. And at a later point of time?

A. Yes sir.

45

Q. Well do you have any independent recollection of drafting the questions which were to be included in the canvass sheets?

A. No sir.

50

Q. Are you able to give us any indication of your memory in relation to the canvass sheets as to what information, specifically, was to be sought?

A. No sir.

55

Q. Is it possible that in fact canvass sheets were not prepared?

A. No sir.

55

Q. Even though you've got no recollection of drafting them or?

A. No sir.

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Q. And - in other words you agree with me when you say "no sir", you've got no independent recollection of drafting them, am I right?

A. I have no independent recollection of it, no.

5

Q. Now Counsel assisting was asking you some questions in relation to the - your belief and the belief of the other investigating police as to what may have happened to Mr Warren. But the fact is this isn't it that there was a great deal of press in relation to his disappearance after his disappearance was there not?

10

A. Yes sir.

Q. Indeed the press related to the fact that there was a belief out there, amongst members of the community, that he had been murdered, correct?

15

A. I don't recall that sir.

Q. Well I'd like you to have a look at your occurrence pad sheet at page 3, if you'd be kind enough and I want you to look at the first half dozen lines?

20

A. Yes sir.

CORONER: I'm sorry where did you direct his attention to?

25

SAIDI: The first half dozen lines at the top of page 3.

Q. Now there's a reference there to the Daily Telegraph, do you see that?

30

A. Yes I can sir.

Q. And I'm not sure whether those behind me appreciate my comment or not, but I don't read the Daily Telegraph but I assume that you know it's a well read newspaper and would have been at that time?

35

A. Yes sir.

Q. And it's a newspaper which is circulated in the, not only the Sydney Metropolitan area but in parts of New South Wales generally?

40

A. Yes sir.

Q. If there were an article in the Daily Telegraph suggestive of the fact that Mr Warren may have been murdered, that would be something to be considered seriously by the police would it not?

45

A. Depends on where the information came from sir.

Q. Well wherever it may have come from, the fact that there was at least some community concern, as expressed in a daily newspaper, that Mr Warren had been murdered would have been something which would have been treated seriously by the investigators would it not?

50

A. It was.

55

Q. Well when you say it was, it seems to have been treated in a fashion whereby that view as reflected in the occurrence pad entry was "this is not the view of

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investigating police nor did the story or information regarding this emanate from this office" do you see that?
A. Yes I can read that sir.

5 Q. Indeed I invite you, without interrupting your reading, I invite you to read perhaps the top - from the top of that page through to about a dozen lines down to put it all in context for you?

A. Yes sir.

10

Q. Well the article which appeared in the Daily Telegraph, according to the occurrence pad entry appeared on 26 July 1989, a matter of perhaps a week or within a week or so of Mr Warren's disappearance?

15 A. Within four days if the dates are right sir.

Q. Well for the purpose of my questions it doesn't matter whether it's four, five, six or seven days, but within a week at least. It seems then that the investigating police were put on notice well and truly that there were persons who firstly were making it known to the Daily Telegraph and secondly the Daily Telegraph itself appeared to be agitating for the view that Mr Warren had been murdered, are you with me?

20
25 A. I can't speak for the manager of the Daily Telegraph sir.

Q. No but what you can speak as is an officer-in-charge of an investigation, at the relevant time, when there appeared to be publicity around expressing a view that the man whose disappearance you were investigating had in fact been murdered. Are you with me, you can speak about that can't you?

A. Yeah.

35

Q. Well didn't the fact that there was publicity in what I'll describe as a reputable Sydney newspaper with an extensive coverage, didn't the fact that there was publicity to the effect that the subject matter of your investigation had in fact been murdered, ring warning bells in your mind that perhaps you should look at the circumstances surrounding his disappearance somewhat carefully?

A. We did.

45

Q. Well when you say you did, it seems to be that as and by the date that you prepared this occurrence pad entry, 28 July 1989 you dismissed any suggestion that he had been murdered?

50 A. I don't see it that way at all.

Q. Well I invite you to read those very same parts of the occurrence pad entry again where the view is expressed "that investigative police were of the view that Warren had" sorry I'll start again where there is reference to the view that Warren had been murdered and "this is not the view of investigating police"?

55 A. It wasn't.

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Q. So then the view as of 28 July 1989 was that Warren had not been murdered, is that so?

A. To be quite blunt sir, it still is.

5

Q. That he had not been murdered?

A. Yes sir, there is nothing to suggest that, that I have any knowledge of unless there is evidence, will be or has been put to this inquiry.

10

Q. What about the possibility that he may have been murdered, did that enter your mind?

A. The possibility of anything can happen sir, Saddam might surrender himself to the US shortly, I don't know sir, I can't make--

15

Q. He may, but let's deal with the subject matter of this?

A. Yes sir and I'm trying to deal with it with a bit of commonsense. I don't know what happened to Ross Warren, I expressed a view at the time and I just expressed a view that as far as I know, unless there is other evidence, I am not aware of, that he is still a missing person.

20

Q. Well let me see if I can cut through a deal of time and see if I can come to what your belief is and what your belief was back then very quickly. You approached the investigation on the basis that you did not believe Ross Warren had been murdered didn't you?

25

A. That was my belief then, yes sir.

30

Q. And had you have approached it on the basis that he may have been murdered do you think you would have perhaps put more effort into the investigation?

A. How dare you suggest we didn't put effort into this sir.

35

Q. Do you think you would have put more effort into the investigation--

A. If the Police Department had not of lost the records and all the documentation on this you would not have to sit here quizzing me like this today. How dare you suggest I don't put effort into it.

40

Q. Mr Bowditch I'll ask you the question again?

A. You can ask it all you like sir, I'm telling you, how dare you suggest that I didn't put effort into it.

45

Q. And I'm asking you to answer it. Do you think that if you took onboard it as a possibility that Mr Warren had been murdered you would have put in more effort in terms of the investigation?

50

A. I put extreme effort into it sir.

55

Q. When you say you put in extreme effort did you, was that extreme effort directed towards an investigation of the possibility that Mr Warren had been murdered after 28 July 1989?

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A. I don't understand that question sir?

5 Q. When you put in that extreme effort did that extreme effort, was it directed rather to the possibility that any investigation after 28 July 1989 was directed towards the fact he may have been murdered?

10 A. There was always a possibility he may have been murdered sir, but it was not my belief at the time, as I'm trying to get across to you.

Q. And you maintain that belief right at this moment don't you?

15 A. Yes, unless there is other evidence that I am not aware of, that the police have or has been or will be put to this inquiry.

Q. Now a murder investigation is a serious matter is it not?

20 A. It is sir.

Q. And you know you would be obliged to take your duties seriously when conducting an investigation?

A. Yes sir.

25 Q. You would be required to pursue any possible avenue open to you when conducting that investigation?

A. Yes sir.

30 Q. Are you aware that when the set of keys were found, by the friends of Mr Warren, that efforts were made by them not to interfere with the keys?

A. I can't recall that sir.

35 Q. Were the, do you think it was open to you as an investigating officer, that is an officer in charge of a murder investigation to ascertain whether or not there could be fingerprint testing or analysis carried out in relation to a set of keys?

40 A. I still don't understand your question there sir?

Q. Do you think carrying out a simple fingerprint test or referring a set of keys on for fingerprinting would be an available avenue of investigation to a person in charge of a murder investigation?

45 A. Are you referring to this matter?

Q. Yes?

A. Or any investigation?

50 Q. This matter?

A. Well sir under the circumstances which the keys were found, from I what I was told, they were found in an area where they were wet and from my experience fingerprints do not hold on metal when they're wet.

55 Q. Well I'm now going to put this scenario to you and I'm going to suggest that when the keys were found, in fact the water line was well below where the keys were located

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on a ledge firstly, take that onboard if you would. Secondly, when they were found steps were taken by the person or persons who found them not to interview with the integrity of the keys. Do you understand what I mean by that?

5

A. Yes sir.

Q. Were you aware of that at the time when the keys came into your possession?

10

A. I can't recall that sir.

Q. If in fact what I'm putting forward is correct would you agree it would have been open to you to arrange for fingerprint analysis to be carried out in relation to the keys?

15

A. No sir, from the circumstances I was, from what I was told about how they were found it was wet, they were wet and I saw no reason to have it done.

20

Q. And have you got a clear recollection have you of being told that the keys were wet when they were found?

A. No I haven't, only from the occurrence pad entry where I indicate where the area was wet and it had been raining earlier.

25

Q. And the next point I want to take up with you is this, even if the keys were wet it was still worthy of having them fingerprinted to see if there was any fingerprinting left on the keys?

30

A. Not in my opinion sir, no.

Q. Not in your opinion?

A. No sir.

35

Q. Did you seek the opinion of any fingerprint experts at the time?

A. No sir.

40

Q. And given that your belief was that the fingerprints were wet did you take any steps to ascertain whether it was worthwhile to have those keys fingerprinted at the time?

A. I've already said no.

45

Q. And you didn't contact anyone from fingerprint or you didn't contact anyone else and discuss with them the possibility of having the keys fingerprinted, am I correct?

A. Not that I recall no.

50

Q. And would that be the same or rather would you adhere to that view today would you, in terms of your experience, faced with the same situation today you wouldn't arrange for fingerprinting to be carried out in relation to the keys?

55

A. Well that depends on the circumstances in which the exhibit is found sir.

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Q. Well let's talk about the specific circumstances of this case?

A. No sir, if it was the same circumstances I still wouldn't.

5

Q. And if the same thing happened today and if you were provided with the same information today is it the case you still wouldn't make any inquiries as to whether it was worthwhile fingerprinting those keys?

10 A. I've already answered that.

Q. Now let me bring you back to page 3 of the occurrence pad entry where the view is expressed of the investigating police that Mr Warren was not murdered. Can you identify for me who the investigating police are or were that are referred to there?

15

A. No sir I can't.

Q. It appears to be in the plural and I take it you intended it to read in the plural am I correct?

20

A. Sir I can't, I assume so.

Q. All right and would you turn to page 4 for me if you would, about two-thirds of the way down, the paragraph commencing "Investigating police are of the opinion that the missing person has fallen into the ocean in some manner." Do you see there?

25

A. Yes sir.

Q. That's recorded there. That appears to read in the plural again doesn't it?

30

A. Yes sir.

Q. Can you tell me which investigating police is referred to there?

35

A. I don't recall sir.

Q. Were you familiar with the area of Marks Park or that general area back in 1989?

40

A. Yes sir.

Q. Did you know it as a gay beat?

A. Yes sir.

Q. Did you have information to suggest it was an area where gays came to be assaulted from time to time?

45

A. There had been incidents of assault sir, yes.

Q. Did it come to your attention that there had been serious incidents of assaults involving gays at or about that time?

50

A. What do you mean by serious sir?

Q. Serious assaults, that is assaults where gays had been injured?

55

A. There was assaults yes sir.

Q. Serious assaults?

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A. I can't comment on how badly the assaults were sir, because I do not recall.

5 Q. Were you aware that the assaults which were occurring in that area back in July 1989 were occurring with some degree of frequency towards gay persons?

A. I can't recall that sir.

10 Q. Well whatever you knew of Marks Park or that area generally back in 1989, did you take it into account when you formed the view which you did, that Mr Warren had not been murdered?

A. I probably would have.

15 Q. When you say probably, do you have a recollection?

A. Well sir that's all I can say I probably would have.

20 Q. Well looking at that area back then and what appears to be your knowledge, at least, that there were assaults which had been perpetrated in relation to gay people at or about that time. Did you take it onboard as a possibility, that perhaps Mr Warren may have been assaulted in that general area?

25 A. As I said to your learned friend, we explored all aspects but we had no evidence to suggest that he had been.

30 Q. Well whatever all the aspects are, I want to repeat the question because I want you to deal with my question if you would. Did you take into consideration the possibility that Mr Warren, firstly, was a person who was gay and secondly, he being reported missing around about that area, which was a gay beat, that thirdly, he may have been assaulted in and around that area at the time?

35 A. Probably yes.

40 Q. When you say probably, do I take it that you've got no clear recollection of having taken that into account?

A. No, that's not what I'm saying at all, I'm saying probably would have.

45 Q. Well if in fact he was reported missing from an area known as a gay beat, where persons of a - persons who are gay come to be assaulted and if in fact his keys were found in the position and in the manner in which they were so found, do you think that those matters, together with the other matters, that is his personal circumstances at the time and more particularly the fact that he apparently had no reason to in effect disappear of his own volition. Do you think taking all those matters into account would lead one to the belief that his disappearance was, at the very least mysterious, if not suspicious?

50 A. Well that's the way I considered it right from the start sir.

55 Q. Do you think that one could say, based on that information, that one could go that step further and believe that there was a possibility he was subjected to

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foul play?

A. That was also a possibility sir.

Q. You discounted all these possibilities didn't you?

5 A. No I did not.

Q. As the officer-in-charge of the investigation you discounted the possibility that Mr Warren may have been subjected to foul play when he disappeared didn't you?

10 A. No.

Q. In your occurrence pad entry there's a reference to further inquiries being continuing and the appropriate authorities will be notified, do you see that?

15 A. Yes sir.

Q. Was there any further occurrence pad entry prepared by yourself?

20 A. I don't recall whether there was or there wasn't sir.

Q. Well do you have an independent recollection as to what further investigative step, if any, you took in relation to the investigation as and from 26 July 1989?

25 A. No.

Q. Sorry I'll correct that date and I'll repeat that question. Do you have any independent recollection as to any further step taken by you in terms of the Warren investigation as and from 28 July 1989?

30 A. No.

Q. As you sit there now is it the case that you know that there was no further step taken in terms of the investigation as and from 28 July 1989?

35 A. That's incorrect sir.

Q. Can you tell me one step then?

40 A. Well contact with his parents who brought down the dental charts, I suggest you question them about that sir, because if they didn't do them I don't know where I got them from and that's indicated in here.

Q. There's a reference there to the parents, as you quite well indicate, the fact of the parents being interviewed in the occurrence pad entry itself isn't there?

45 A. That's right, there is sir.

Q. And there's a reference to the flat being I think searched that is Mr Warren's flat?

50 A. That's correct sir.

Q. Well that investigation appears to relate to the period prior to 28 July 1989?

55 A. I thought you said the 22nd.

Q. Yes, so let's now--

A. I thought you said the 22nd.

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Q. No 28th, so that there can be no mistaking the point of my questions. 28 July is the date you prepared the occurrence pad entry?

A. Yes sir.

5

Q. Well I'll ask you this again, the fact is you took no steps whatsoever in terms of the Warren investigation after 28 July 1989 did you?

A. That's not correct.

10

Q. All right and again I'll ask you, can you nominate one step?

A. No I can't sir.

15

LAKATOS: Q. Mr Bowditch one short topic. Putting aside what your views were as to the possibilities relating to Mr Warren's disappearance, namely suspicious, accidental and so on. Can I ask you to consider this, you agree that the occurrence pad entry is an official record of the New South Wales Police Force which sets out for those coming after you, if they're interested or want to pick up the threads, what the inquiries have disclosed, what's been done and the views of the investigating police at that time?

20

25

A. Yes sir.

Q. Putting aside what your personal views were as to the possibilities and reading particularly page 4, if I ask you to assume that some other investigating officer came after you, you had been moved on, perhaps you were promoted, you'd gone elsewhere and somebody was to pick up the investigation and say "Look I want to find out what my predecessors have done, where should I go?" In those circumstances do you agree that your concluding paragraph, as to your thoughts, would tend to persuade police officers coming after you that the considered view of the investigating team who was there at the time this thing occurred, overwhelmingly was accident rather than any thing else?

30

35

40

A. Not necessarily, no.

Q. Don't you agree that from the paragraph and we won't go through it, investigating police to early hours of 22 July would have other officers conclude that Detective Sergeant Bowditch and his very experienced team, having looked at the material they then had, discounted or tended to discount murder or foul play by reason of the reference on page 3 and opted for accident by reason of slippage, water et cetera. Is that not a fair inference from the context of the document?

45

50

A. They could have drawn that inference I suppose.

Q. And whether wittingly or unwittingly the effect of recording something in that way might have been to dissuade other officers looking at the foul play scenario had they come after you?

55

A. No sir.

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Q. You don't think that's a possibility?

A. Anything's a possibility sir, but I don't believe so.

5 Q. So you don't concede that is the reasonable conclusion
a person coming fresh into this would draw from this
document?

A. Anything's possible sir.

10 Q. See that in itself, putting aside what investigations
you did and didn't do is a problem isn't it in the way
this is recorded, because if the effect is as I'm
suggesting to you it is, to dissuade other officers coming
after you to take additional steps that's not a good
outcome is it?

15 A. Are you suggesting sir, might I answer your question
with a question?

Q. Yes?

20 A. That no other records, relative to this inquiry ever
existed and that that occurrence pad is an absolute
fabrication, are you suggesting that?

25 Q. No what I'm asking you is, we've already gone through
it and I've indicated to you that current inquiries
indicate that that appears to be the only original
document and you've indicated that there were many, many
more. What I'm saying to you is that being an official
police record which other investigators might have cause
to consider, do you think it was unfortunate the way that
30 you concluded there that investigating police's first
option as to how Mr Warren disappeared was accident rather
than foul play. Might have had the unintended effect on
other officers coming with a fresh mind to say, those who
investigated this in 1989 had a firm view that it was more
35 than likely an accident and not foul play, therefore, we
may be influenced by that view and not investigate other
alternatives?

40 A. Sir I can't even comment on how someone else would
think nor will I attempt to.

Q. I see you can't comment as to how somebody might read
your paragraph, the words that you used?

A. No sir.

45 CORONER: Q. You said that there was an appeal on the
ABC, do you mean radio or television?

A. Television sir.

Q. And what was that in relation to?

50 A. There was some allegations in the area that a lot of
crimes, a lot of the assaults were gay related, were hate
related rather.

Q. In what areas were they Mr Bowditch?

55 A. Oxford Street, there were assaults in Oxford Street,
Centennial Park. In the general Paddington Patrol, there
was a lot of publicity in the newspapers regarding that.

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Q. What year was this?

A. 1989, 1990, 1991.

Q. So you were involved in an ongoing?

5 A. Yes and we went to extreme lengths to ensure the gay
community that we wanted to help then and they, it started
off because they started to get offended when we had our
staff asking them whether they were gay? Now one of the
10 things we had to do was establish whether it was a hate
related crime or not. Because we were looking to try and
help them. We had conferences on many occasions with gay
community leaders to try and work out the proper
protocols. Now that went on for some years to try and
15 turn the whole thing around and they didn't have to go
down to Bondi, they didn't have to go to Centennial Park
to bash gays. That was happening in Oxford Street outside
hotels, clubs, gay guys just walking up the street.

Q. So did you work with Ms Thompson?

20 A. Ms Sue Thompson, yes I worked closely with Sue
Thompson, I think she's still the gay liaison officer with
the Police Department.

Q. Now you said and I could be mistaken, I thought you
25 said in your evidence that you weren't aware that Marks
Park was an area where gay men had experienced assaults?

A. No I said I had, but I was concerned about, I couldn't
recall about the seriousness of the assaults at the time.

30 Q. I see, when Mr Ratana Jarutahorn got - was murdered in
1990, you were still the chief of detectives at Paddington
were you?

A. Yes I was.

35 Q. Were you involved in that death?

A. No I wasn't.

Q. In the investigation I'm sorry, it was a silly way of
40 putting it, in the investigation of the death. But you're
aware of it, you're aware that the investigation was
ongoing?

A. Yes I was.

45 Q. So and then we've heard during the course of the
inquiries about other assaults on gay men in that area and
that was your area so you would have checked the
occurrence pads daily and--

50 A. Ma'am what we did, there was a lot of murders which
were overflowing into each other, like Dr Michael Chye, he
was killed, murdered in October. Now Michael Chye was
also gay so a lot of the inquiries flowed on from the
Warren inquiry into the Michael Chye flowed on into the
Ludwig Gersh murder, his disappearance and murder some 12
55 months later. Now because of that we were able to build
up a pretty good profile amongst the gay community and
with the Homicide Squad investigators and other police
regarding the problems we had with the gay murders.

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Q. So even with all that happening you still didn't think, at that stage, because you don't you still don't believe or you don't know today, it didn't weigh in favour of perhaps Mr Warren meeting foul play?

5 A. No it was a possibility, as I said in my evidence, it was a possibility and we had looked at that, but we had no evidence.

10 Q. Did all this though, at the beginning when you struck this occurrence pad, these other events hadn't taken place, the ones that I suggested?

A. No, no, they hadn't.

15 Q. Did all of this happen in that area way - give weight then to the fact that perhaps the disappearance of Mr Warren should be taking a different tack or not?

A. Not at that time, no.

20 Q. Was it the investigation into Mr Warren, after, sorry, if I could say this. When did you prepare all the documents, this occurrence pad is dated 28 July, when did all the other statements, when were they all collated?

A. They were all taken at the time, all the banking records, all the other stuff.

25

Q. No, in using this as a reference point?

A. No, no, they would have been collated and put together in running sheet form, following on from that.

30 Q. Over what period of time?

A. Over a period of weeks.

Q. So would it be fair to say that by the end of 1989 all that would have been done?

35

A. Oh yes.

Q. And then - was it put together as a brief?

40 A. It was put together, in those days we used to do our running sheets in four copies, one original and then three copies all in big arch files, lever arch files.

Q. And all that was sent up to missing persons?

45 A. They were taken to missing persons, plus to the task force that was putting everything on the computer.

<WITNESS RETIRED AND EXCUSED

LUNCHEON ADJOURNMENT

50 <SALLY JANE JOHNSTON(2.03PM)
SWORN AND EXAMINED

LAKATOS: Q. Madam is your full name Sally Jane Dunbar?

55

A. It is now Sally Jane Johnston through marriage.

Q. You reside where?

A. At [REDACTED].