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5 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.
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

20 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.

EXHIBIT #7 BUNDLE OF LETTERS TENDERED, ADMITTED WITHOUT
OBJECTION

25

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.

30

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.

35

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.

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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.

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

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

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

A. Yes.

25 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?

A. No.

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

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.

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

A. Yes.

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

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.

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

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.

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?

25 A. Yes.

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

30 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?

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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.

40 Q. I'm looking at number 9?

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 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.

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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

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is unusual and to me tends to suggest that it came from the head of somebody else, perhaps.

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

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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?

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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.

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

50

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.

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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?

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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?

A. Yes sir it is.

10

Q. And is your address [REDACTED]?

A. Yes.

Q. Are you a company director by occupation?

15

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
where I was at Bondi and in 1988 I was put in charge,
30 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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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.

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

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].

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Q. And that's near [REDACTED]?

A. It sure is.

Q. Now what is your present occupation?

5 A. I'm a Postal Services Worker.

Q. You were I think, in a past incarnation, a police officer?

10 A. I was.

Q. Can you tell us when you joined the Police Service or Force?

A. 1985.

15 Q. When did you leave the Police Force?

A. 1995.

Q. As at 1989 what rank did you hold?

20 A. Plain clothes constable first class.

Q. How long had you been a plain clothes officer at that stage?

25 A. I don't recall the exact time, but it wouldn't have been long, I did a - what they called the "bull ring" in 1988 so--

Q. You were fairly new?

A. Yes to plain clothes.

30 Q. You were, I think, at the Bondi Police Station at about 1989?

A. Yes I was.

35 Q. How many detectives were at that station at that time, in approximate terms?

A. Eight, eight to ten.

Q. And would you have been one of the more junior of the detectives in that branch?

40 A. In that year yes.

Q. Now you came to be, as I read the papers the officer-in-charge of the inquiry into the death of John Allan Russell?

45 A. Yes.

Q. Can you tell us how it was that you came to be the chosen one in this, was it just a rotational thing or how did it happen?

50 A. I don't recall how exactly I would have come to be the one that would tend to the job, but whether it was just that I was there at the time that the call came in that morning and I was just rostered there. Other people might have had other issues.

55 CORONER: Q. It had nothing to do with the fact that you were a female officer and it was a gay man that the inquiry was into?

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A. I don't believe so.

LAKATOS: Q. You compiled a statement on 16 February, 1990 which you have a copy of do you not?

5 A. Yes I do.

Q. And that set out in summary form the inquiries that you made in relation to Mr Russell's death?

10 A. Yes.

Q. And going through that very briefly, you say that at about 10.30am on Thursday, 23 November you and Detective Owens went to the rocks on the south side of Bondi Beach? (No verbal reply)

15

Q. There was other officers, Sergeant Ingleby and Barrett there and you saw Mr Russell's body and you described what you saw?

20 A. Yes I did.

Q. You located, I think, some money near Mr Russell, a number of coins in and around his body?

A. Yes.

25 Q. When you saw that did you give consideration to how it might have been, let me go back a step. People normally keep coins in their pockets?

A. Yes.

30 Q. Although not always?

A. Yes.

35 Q. Did the thought occur to you when you saw the deceased man John Russell with coins, as it were strewn around the body, that something was not quite right and if so what were your thoughts as to how the coins might have got where they did?

40 A. I thought it was unusual that the coins would have been out about the body, as you said more than likely in. Whether he had them at the time that he fell, I don't know. But no I did find it unusual.

45 Q. The placement of the body, I think, I don't know if you've been here the entire morning, but Dr Cala gave evidence were you here when Dr Cala gave evidence?

A. Yes I did step out for a short time though.

50 Q. You've heard his thoughts as a sort of an interested and intelligent professional reviewing ..(not transcribable).. that the placement of the body indicated not a natural way of falling if one was to fall by accident or by self desire, that is suicide. Did the fact that Mr Russell's head was in the direction of the cliff face as opposed to pointing out towards the sea, was that something that struck you at that time?

55 A. No.

Q. You then, in your statement, review what you did in

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terms of carrying out the investigation on 24 November you spoke to and I won't mention his name because he's going to make an application in that regard, you see I'm reading from paragraph 6?

5 A. Yes.

Q. A witness, an acquaintance of the deceased?

A. Yes.

10 Q. On 20 December you contacted a constable from the police media liaison unit in relation to an article seeking public assistance. Was that an initiative of yours to seek to advertise, as it were, to find - call for public assistance?

15 A. I'm just trying to think of the lead up to that and I believe it was my initiation to go to a couple of the newspapers to get public assistance because it was something that, whether it was just general conversation around the station or whether statements had been taken
20 that maybe highlighted some other issues that we needed someone to come forward and give us the information.

Q. And as well you approached Mr Goddard, who was the editor then of the Star Observer with inquiries perhaps
25 with a view to having him advertise in his newspaper?

A. Yes I actually, I did ask Mr Goddard or we tried to do it and it was done a mannequin I believe, it was a
mannequin done in Mr Russell's clothes. I think that was put outside the police station, I can't be sure but I know
30 a photograph did appear in the Star Observer.

Q. May I show you - Ms Johnstone I'm showing you part of the coronial brief and I'm showing you a photograph of a
35 male dummy wearing white jeans or whitish jeans, gym shoes and a shirt with beer motifs on it. Is that the thing that you arranged with Mr Goddard to have?

A. Yes it was.

Q. Was that with a view to publishing that and hopefully getting some leads as to what might have happened to
40 Mr Russell?

A. Yes it was.

Q. You then, I think in January 1990, following your
45 statement through you spoke to a Mr Michael McMahon who made a sighting of a person with similar features, I put it very broadly and perhaps clothes that Mr Russell was wearing that night?

A. Yes.

50 Q. He concluded that he couldn't be certain that the person depicted in the newspaper was in fact the person that he had seen that previous evening?

A. That's what my statement says, yes.

55 Q. You indicate that from your inquiries you ascertained that Mr Russell was a gay man or was a homosexual as you indicate and employed as a barman?

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A. Yes.

Q. And when he was last seen he appeared to be in good spirits and looking forward to moving away from Sydney?

5 A. Yes.

Q. Did those matters lead you to a conclusion that the prospect of his having taken his own life was not, if that matter was to be believed, a real or the first possibility one would think of as a cause of his death?

10

A. That's not what I believed, no.

Q. And indeed the witness from whom you took the statement indicated that he was to inherit a large amount of money and had some grand plans as to what he was going to do?

15

A. Apparently so, yes.

Q. You indicate at paragraph 13 that you were aware that the southern end of Knotts Avenue, which is a street north of Marks Lane in Tamarama is frequented by homosexuals is known by the gay community as a beat?

20

A. Yes.

Q. And you understood that an area where gay people would congregate to meet each other?

25

A. Yes.

Q. And to interact. I suppose, to put it that way?

30

A. Yes.

Q. Now as of February 1990 you expressed a conclusion in paragraph 14, which was to this effect "at this time there is no evidence to suggest the deceased committed suicide or there were any suspicious circumstances surrounding his death. There were no signs of violence on the body and personal property was located on his person."?

35

A. Yes.

Q. Was that the view that you had then?

40

A. That was yes.

Q. Thinking about it now is that the view you still have now, although you wouldn't have had occasion to think about it for some years?

45

A. No and hindsight and experience is a wonderful thing, but at that time you only have what you have and at that time we did not have much.

Q. Can I ask this, one of the critical features of Mr Russell's case in particular was the fact that there was hair discovered on his left hand. Going back to your mind set in January 1990, how did you, in your own mind, explain the presence of hair on Mr Russell's hand in the context of an accident or a non-suspicious death?

50

55

A. I didn't and I - my recollection of the hair, I remembered the hair being there but I believe that it was with the scientific and I guess at that time I'm basing

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my, what I want to know and that is, on their expert opinion and I don't know from then what happened, I don't even know what happened to the hair.

5 Q. What was the procedure in the collection of physical evidence, such as the hair that the crime scene officers would be in charge of collecting it and storing it?

10 A. I would believe so, I don't believe that at the police station we would have had the facility to actually store a hair or would have the knowledge or the know how of how to store that securely and to keep it.

15 Q. At whose instigation should it have been in the hierarchy of the investigators of this investigations to have suggested that perhaps the hairs be sent away for testing, you know, blood type, whatever else might have been done. Was that down to you as the officer-in-charge or was it down to somebody else?

20 A. I don't know, I couldn't answer that. I would believe that as I wouldn't have the knowledge of that hair at that time--

25 CORONER: Q. No, no, he wasn't asking whether you would test it, he asked, the question was who would have been interested in the - you would have been surely as the officer-in-charge you would have wanted to know what the scientific section did with it and what they discovered?

30 A. I think I would have been interested, I don't know though. I would think I would mostly let the onus be upon the scientific that if they'd taken the hair that yes they would have done the tests or whatever they do with it.

35 LAKATOS: Q. So may we take it your evidence today is that you don't know whether or not such tests were suggested to attempted to be conducted?

A. I don't, no.

40 Q. Located in or around Mr Russell's body was a packet of cigarettes, do you recall?

A. No I don't, I don't recall the cigarettes.

45 Q. I can show you a photograph, well let me show you one where there is photographs and I might also try and jog your memory. Not only was there a cigarette packet but also a Coca Cola bottle found approximate to Mr Russell's body. Do you see the photograph I'm having you shown now, there's a photograph of a cigarette packet which you can take from me is a Peter Styvesant?

50 A. Yes.

55 Q. And accept from me for a moment I think it's uncontroversial because many police officers reported sighting a Coca Cola bottle as well?

A. Right.

Q. Did you take any steps, for example, to have that material perhaps subjected to fingerprint examination and the like?

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A. No, my statement doesn't suggest that, so I don't believe I did, no.

5 Q. Was that something that simply didn't occur to you to do?

A. Quite possibly.

10 Q. Being a comparatively junior officer if you needed guidance and assistance was there that sort of support from senior officers to say well look, hang on I've reached an area of impasse I need some help, can you direct me which way to go. Was there that kind of support available to you at the Bondi Police Station in 1989?

15 A. I believe there was, yes.

20 Q. So had you asked about, say for example, fingerprint analysis had you been the instigator of scientific analysis of the hair, putting aside it's loss, had you thought about it you could have arranged for that to have occurred?

A. I would think I would be able to, yes.

25 Q. At para 15 you say that it was your opinion the deceased fell from the cliff top edge where he was located. Once again that was based upon the material you then had without reference to the hair?

A. In relation to the hair?

30 Q. Yes, well putting aside the hair, that is a little more difficult to explain as a person who fell from a cliff top as it were in accidental circumstances, do you agree?

A. Yes.

35 Q. Do you now recall, because the hair of course has been lost, do you now recall whether or not you viewed the hair on the hand, you formed an opinion as to whether it may have been Mr Russell's or not?

40 A. No I didn't, I - it's such a long time ago. I remember the hair being on the hand but as to whose it was or where it came from, no I did not form an opinion.

45 Q. So just tracking that through, were you a party to the inquest of July 1990 when Mr Russell's inquest was held, presumably here?

A. I believe I was.

50 Q. So far as you are aware was the hair sample then available to the inquest or not?

A. I don't recall.

55 Q. At that stage how long had you been, that is to say until about July 1989, how long had you been serving at the Bondi Police Station?

A. 1985 from when I joined.

Q. Thank you, I'm sorry, you said that and I missed it?

A. Yes.

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Q. Were you aware that Marks Park was a gay beat when you conducted this investigation?

5 A. I don't know about Marks Park, I thought more along the coastal sort of walkway there were areas there that offered privacy as such. I wouldn't sort of say it was Marks Park in itself.

10 Q. Were you aware as of July 1989 that gay men particularly had been subjected to attack in and around Marks Park and perhaps the beats close to there?

A. I was aware of assaults, but I was also aware of assaults on other people in just the Bondi Park area.

15 Q. I understand that?

A. Mm.

20 Q. Was that - did that knowledge excite any attention looking for perhaps the possibility that Mr Russell had in fact been the subject of an assault at Marks Park?

A. That would have passed my mind yes and that's why I actually went to the papers looking for assistance, because we can't sort of pull witnesses out of nowhere and that's unfortunately people are reluctant to come forward.

25

Q. Gay people particularly was it?

A. I believe so, yes, I guess that's why I targeted directly to the Star, because they've got the paper too.

30 Q. Did you undertake any inquiries as to any gangs that might have been operating in and around Marks Park, the Eastern Suburbs?

35 A. I'm not aware of any particular gang, at that time my policing it was - we had a number of what they - you would call then street kids, which frequented the area but that ranged from south to the north end of Bondi Beach.

Q. It fell to you as the officer-in-charge to prepare the brief for the Coroner did it not?

40 A. Yes it did.

45 Q. I think you have exhibit 3 in front of you there, I'm sorry it's being shown to you. Towards the end, just before the photographs commence there's a report submitted of other gay assaults in and around the area, apparently under your hand. Do you see that?

A. Sorry before the photograph, or?

50 Q. Allow me to approach. You refer to two victims and two separate incidents which post dated Mr Russell's demise do they not?

A. Yes, yes they do.

55 Q. You then go on to give some information about the theory, I suppose, that perhaps Mr Russell might have met his end as a result of foul play. SO that by the time the Coronial Inquest comes forward you have now considered that as a real possibility to be brought to the attention

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of the Coroner?

A. I believe so, yes.

5 Q. And indeed would it be fair to say that at least two
of the statements, collected in those papers and you can
check if you wish, but you might accept it from me that
Sergeant Ingleby and Constable Barrett also indicate that
in their view the fact that Mr Russell might have met his
end by foul play as a gay attack was also a real
10 possibility?

A. Yes that is possible yes.

15 Q. So by the time the proceedings came round at least
you'd given that some thought and you brought it before
the Coroner?

A. Yes.

20 Q. Do you remember Ms Johnstone whether or not you kept
any official police record in your notebook or duties
books concerning your investigations of Mr Russell's
death?

A. I would have, yes.

25 Q. Can I just show you this bundle of documents, it's at
page 1304 and following, annexure 148. Do you recognise
from the front page that is your handwriting?

A. That is yes.

30 Q. The book number if F-63069 is it not?

CORONER: Sorry I've got 63060, 9?

LAKATOS: On the top left hand corner.

35 CORONER: I beg your pardon.

LAKATOS: There are two numbers your Worship that's true.

40 CORONER: Yes there are, I beg your pardon. I'm looking
at the wrong spot.

45 LAKATOS: Q. Now that book in terms of date moves from
page 1 and we don't know what date page 1 is because
there's no date on it, through to and these are not
sequential, page 17, does it not?

A. Yes it is.

50 Q. Well in fact sorry, look at page 15, because that
gives me an immediate date, 15 November 1989?

A. Yes.

55 Q. Then you go to the end and it gives a date 11 January
1990, do you agree?

A. Yes it does.

Q. So at least it covers the period November 1989 through
to January 1990?

A. Yes.

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Q. If you look at the last document being police note book record card, you see a table?

A. Sorry the?

5

Q. It has S Dunbar up the top and has the notebook number as the first entry F-63069, do you see that top left hand corner?

A. Yes.

10

Q. Date issued 16 October 1989?

A. Yes.

Q. And date of return on completion 22 May 1990?

15

A. Yes.

Q. If you accept that page 15 commences, as I say on 22 November it appears does it not that from page 15 through to page 17 there is no record of inquiries that you made in this inquiry, at least in the notebook?

20

A. Not in the official notebook no.

Q. Where do you believe you made notes?

A. At the time it was practise to have a shorthand notebook.

25

Q. That's one of those spiral?

A. The spiral, yes.

30

Q. And where would the notes that you made there have ended up?

A. I don't know, no I couldn't offer.

Q. Do you remember whether or not you arranged or there was arranged a canvass of the local area shortly after Mr Russell was discovered?

35

A. I can't remember, no.

Q. On reflection, and hindsight as you've said is a clearer picture than on the day, but do you think that that might have been something useful to be done?

40

A. In hindsight yes.

Q. Do you think by reason of the fact that at least in your statement you arrived to the conclusion that foul play was not likely, that was your intermediate conclusion I think. That that hampered further and vigorous investigation of what occurred or not, what do you think?

45

A. No I believe that I set out to either, to get the evidence of - to prove or disprove and I just don't believe that I had what I needed.

50

Q. Do you remember if you or somebody at your direction examined the top of the cliff area immediately above where Mr Russell was found?

55

A. I believe I walked that cliff.

Q. And would it be fair to say you made some

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observations, that there was a disturbance of vegetation up the top or not do you recall that?

A. I don't recall that no.

5 Q. If that was noted by some police officers as having been observed do you think that was also a fact that you overlooked in coming to your preliminary conclusion?

A. I would definitely think so.

10 Q. Finally just going back to the lost hair sample, accepting that the crime scene police were primarily responsible for its safe keeping, was there any secondary system that you as the officer-in-charge were required to or did do as to where these exhibits were at any given

15 time?

A. I don't believe so, no.

20 Q. Can I ask you this as a general question, from your general police knowledge. If an investigation stutters, in other words the police have done as they think, as much as they can do, and it appears that no further leads are outstanding and therefore whilst not closed there is no active work done on the investigation, do you understand the scenario I'm referring to?

25 A. Yes.

30 Q. Back when you were in the Police Service what facilities were there to store any exhibits, briefs that were collected in the event that if certain other information came to light it might at a future stage be reactivated?

35 A. I believe that all the deceased matters, because this one actually went to an inquest, but I believe that the - that was held here or elsewhere I would have had a copy myself, but it would have been stored elsewhere. With other briefs I believe that all my, I can only talk on behalf of myself with briefs, but if my briefs were finalised they had to be kept for a certain period of time, I don't know whether they were archived or what, whether they'd be at the station or elsewhere.

40 Q. And do your comments apply equally to physical evidence such as hair or not?

45 A. I would think so, I can't remember the hair being an issue at the inquest though, the initial inquest so I just don't recall that part.

50 Q. I suppose things may be different now in the Police Service but do you remember whether or not it was encouraged by the Police Service or by the protocols or procedures at that stage that one ought to keep in contact with relatives, like the two Russell gentlemen here, father and son or father and brother, in order to let them know how the investigation was going. Was that something which was then encouraged?

55 A. I don't believe it was, no not openly encouraged, I believe as I said, in hindsight and being a young officer and everything then and what I have now as a family of my

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own I would definitely take my--

CORONER: Q. You didn't hear about the Charter of Victims Rights?

5 A. I might of heard about them, but.

Q. So you're seriously saying that there was no emphasis on care of the victims around that time?

10 A. No there was care but I just don't believe that I understood it fully, as a young officer and not, really appreciating having a family of your own and being involved in that.

15 Q. Why didn't you chase up the hairs, why didn't you, I mean you were in charge of the matter why didn't you say "Now what's happened to these hairs?"?

A. I don't know, I cannot answer why I did not chase it.

20 Q. No I won't accept, I will not accept that as an answer?

A. I just believe that I most probably thought that the scientific officers, because they knew about that type of thing that they would be looking after that. I took it for granted.

25

Q. And that they would hand it to you?

A. Hand the result to me?

30 Q. Yes?

A. Quite possibly, yes.

Q. Well they didn't?

A. They didn't, no.

35

Q. So why didn't you chase it up?

A. I can't answer that. I don't know.

40 Q. Yes you can, why didn't you chase it up?

A. I guess when I got to the inquest later on in 1990 that I must have believed if it was going to be an issue it would have been an issue then and maybe that would have initiated me into some sort of action, I don't know.

45 Q. As a detective, I mean you passed the bull ring, you hadn't done your course at that stage, but nonetheless you would have known the importance of those hairs being found on a body?

A. Yes I believed they were important.

50 Q. So knowing that they were important why didn't you follow it up?

A. I can't answer you.

55 Q. Because you can't give an answer that would be satisfactory in terms of explaining why you didn't bother to follow up something that was important?

A. I can't give you a satisfactory answer, no. I wish I could.

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Q. Do you wish that you had of now, at least paid a little bit more attention to the hairs?

5 A. Yes, yes in hindsight, I didn't know the hairs were lost, I wasn't aware that the hairs were even lost until I believe 18 months ago when Detective Page first contacted me.

10 Q. But that's because as the officer-in-charge you didn't bother doing anything about them, except to hand them over to scientific?

A. Yes.

15 Q. So you can't blame anybody else for not informing you that they were lost because it's an inquiry you didn't make yourself when you were actually in charge of the matter?

A. No I accept that.

20 Q. And so you made all these appeals for people to come forward and yet a crucial bit of evidence just went by the wayside?

A. Possibly yes.

25 Q. Wouldn't that be fair to say. You would have worked in very closely with Paddington Police Station would you not?

30 A. Not really, no. Paddington was nearly always regarded nearly as in the Darlington area it was closer to others.

Q. But you heard Mr Bowditch give evidence?

A. Yes.

35 Q. You were aware of the detectives at Bondi surely?

A. Yes I was ..(not transcribable)..

Q. Did you know a Michael and a Paul Ryan?

40 A. Detective Michael Ryan, yes. Paul Ryan I think he was in uniform at the time.

Q. He was in uniform?

A. When I was at Bondi yes.

45 NO QUESTIONS MR SAIDI

<WITNESS RETIRED AND EXCUSED

50 LAKATOS: Your Worship may I call an acquaintance of Mr Russell's, he wishes to, because he's living in the country and there may be problems with the detail affecting where he's living, he would prefer to be given a pseudonym to deal with the matter.

55 CORONER: Yes, okay. How about we call him 1403.

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[1403] (2.35PM)
AFFIRMED AND EXAMINED

5 CORONER: Q. Are you happy for us to refer to you as
[1403]?

A. Yes.

10 CORONER: The only thing I'm concerned about is for the
purpose of the record is linking [1403] with who he
really is and we might get him to make that notation if
you would.

15 LAKATOS: You'll be handed a piece of paper and a pen,
would you kindly write your name and address on that
please and that will be kept with the papers?

20 CORONER: It will go with the papers and no-one will see
it. If in advertently this witness is mentioned by name
there is a non-publication order on his real name, but he
can be mentioned by the name of [1403] and there's a non-
publication on his address should that be discovered.

25 LAKATOS: Q. Can you tell us what your occupation is
presently?
A. I'm currently unemployed.

30 Q. Now I want to take you back to late 1989, I think it
was the case was it not that you knew John Allan Russell
who died in November of that year, at that stage for about
13 years?
A. I did.

35 Q. He was your best friend was he not at that point?
A. Yes.

40 Q. And you were, at some earlier stage were involved in a
homosexual relationship with him but then that evolved
into a best friendship if I could put it that way?
A. That's true.

45 Q. How often, as at November 1989 have you had contact
with John Russell?
A. A couple of times a week.

50 Q. What was the nature of the contact?
A. Social, friends, I'm friends with the family.

55 Q. Would you go over to their place?
A. Certainly.

Q. What other things would you do with him together?
A. Go out, go to the football.

Q. Go drinking occasionally?
A. Yes.

Q. How often had you been drinking with John prior to his
meeting his death?

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A. That evening.

Q. Well as a regular would you go out, I asked that wrong?

5 A. A couple of times a week, over several years and sometimes not, but mostly.

Q. Did you say several beers?

10 A. Several times a week.

CORONER: And probably several beers.

LAKATOS: Q. Generally speaking at these, when you met at the pub, what quantity of alcohol would you drink together?

15 A. It was possibly, that even probably a dozen beers or so.

Q. Was that fairly usual?

20 CORONER: Q. Is that each?
A. Yes.

LAKATOS: Q. Yes I should ask that?

25 A. Yes.

Q. Was that fairly usual when you got together?

A. Yes.

30 Q. Middies or schooners or something less?

A. Middies.

Q. I suppose to take it sequentially, you went over to where John was living with his brother Peter at about 7 or quarter past 7, that evening of 22 November?

35 A. That's right.

Q. You then both together went to the Bondi Hotel, do you recall that?

40 A. That's correct.

Q. What were you talking about there as the hours passed?

45 A. Well John's grandfather had just passed away and they'd moved out of the family home and his brother has got a flat at North Bondi and John was going up to, had plans to go up and help his father and the farm and do a bit of travelling and such and move up the North Coast eventually and settle somewhere there.

50 Q. He came into some money didn't he from an inheritance as well?

A. Not at that time, I assume.

Q. He was expecting to?

55 A. Yeah.

Q. You stayed with him did you not at the hotel until about 11 o'clock that night?

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A. That's correct.

Q. Drinking, I'm sorry did you say about 12 to 15?

A. About 12 yes.

5

Q. How intoxicated were you at the end of the night?

A. Reasonable, we'd both had a bit of experience I suppose, but quite alert and not drunk or--

10

Q. How intoxicated was he, same story?

A. Well at that stage, the same as me, yes.

Q. When you left he'd been buying the drinks had he not for both of you?

15

A. Well most of them, yes.

Q. And I think he said something to the effect that he was running out of money so he wasn't going to be staying too much longer, is that fair?

20

A. Yes.

Q. Anyway you took off, did he say what he was going to do thereafter, what his plans were for the immediate evening?

25

A. No, I assumed he was going to go home, I had to go to work the next day, so I left and I assumed he would shortly after me.

Q. When you last saw him, we've been told he was dressed in basically light coloured jeans with tears in the knees and a red sloppy joe, do you remember that?

30

A. From memory yes, the red sloppy joe. Beer motifs on it or something.

35

Q. That's right, John was a smoker was he not?

A. Yes.

Q. He used to smoke cigarettes?

40

A. Yes.

Q. How did you come to find out about his death, John's death?

45

A. His brother rang me on the Friday at work and informed me and we'd arranged to meet him on the Thursday night, for a farewell sort of thing and he didn't turn up, but that wasn't that extraordinary, so - and then his brother Peter rang me the next morning, I went straight from work to Peter's place.

50

Q. So far as you knew was there any reason that John had to take his life or to hurt himself or to disappear?

A. Not at all.

55

Q. You'd say he was in fairly good spirits, looking forward to his life as it was about to unfold?

A. Very much so.

Q. Marks Park in 1989 were you familiar with that area?

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A. No. I knew of it, but--

Q. Did you know then it was a gay beat?

A. I knew that, yes.

5

Q. Were you involved in the gay community at that stage or not?

A. Only socially.

10

Q. What was the reputation of Marks Park in the gay community so far as a place to go safely was concerned?

A. I don't know, I never approved of beats I thought they were dangerous and I'd been bashed myself before and John wouldn't have told me he was going there because he knew I would have objected to it or whatever.

15

Q. So he wouldn't have told you, do you know if he ever went there yourself?

A. No.

20

Q. But in any event you heard of rumours or talk in the gay community about Marks Park being particularly a place to be careful of because of the fact of the assaults, is that so?

25

A. ..(not transcribable)..

Q. So far as you're aware apart from being a drinker if alcohol did John become involved in other drugs?

A. Not to my knowledge, no.

30

Q. Did you see John speaking to anybody else at the Hotel, the Bondi Hotel before you left, apart from yourself and perhaps the bar staff?

35

A. The bar man yes. He was good with barmaids, he was a barman himself so he always was friendly to the bar staff and so on.

Q. Did he meet anybody he appeared to know?

A. No, not to my knowledge.

40

Q. When you heard that he was discovered some days later, as he was, what was your reaction to that?

A. Shock, horror, I went and saw the boss and left work straight away and jumped on a bus. Went and met his brother, took a couple of weeks off work.

45

Q. Was it your belief that he had come to his death by foul play?

A. Certainly.

50

Q. When, you gave a statement to police as we have indicated sometime in November 1989, were you ever asked for your views as to how he might have come to his death?

A. I don't think so, no.

55

Q. Did you volunteer it?

A. I can't remember, I assumed that he'd been bashed and had discussed it with his family and so on and to me it

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was obvious that he met with foul play.

5 Q. Can I ask you this, it was not an uncommon reaction for gay people to complain to police officers, certainly around about that time if not now that some police at least appear not to take it seriously. Now did you, what was your assessment of how the police approached Mr Russell's inquiry, that part of it that you had contact?

10 A. Well I only gave, I gave the statement, I went down to Bondi Police Station and gave a statement to Sally Dunbar and I don't think I heard from them after that. Except when the inquest was on, which I attended.

15 Q. You didn't feel you were fobbed off or anything like or did you, that people weren't taking you seriously?

20 A. No I assumed that he'd been bashed and that maybe one day they'd give themselves up or whatever. I didn't think there was much hope of finding them.

Q. May we take it's an episode in your life, even though it was ten years ago that you'd rather wish to forget?

A. Most certainly, I wish he was here.

25 CORONER: Q. I'm sorry what did you say then?

A. I said I wish he was here.

SAIDI: Q. Sir do you still mix in the gay community?

30 A. No.

Q. When did you stop mixing in the gay community?

A. When I left Sydney which was the first half of 1990 I think.

35 Q. Do you read any newspapers or articles relating to the gay community now?
(No verbal reply)

40 Q. Did you prior to leaving Sydney back in, what was it 1990 did you say?

A. Yes. Not really, no.

45 Q. Are you aware of attempts made to - by the Police Force to get a message across to members of the gay community that if they can they should report matters of assault to them?

A. Yes.

50 Q. Is that, as far as you're aware, that message is getting through at least?

A. Well back then it was a lot better than it used to be from what people said.

55 Q. From your perspective at least and your experience which we can only talk about, at least you're aware that that message is being sent out to the members of the gay community?

A. Well as of 1990.

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Q. And are you aware up till 1990 at least that there were efforts being made, by the Police Force to try and get members of the gay community to consider themselves as being treated as equals in the community when it means dealing with the Police Force?

A. Well yes.

CORONER: 1403 it's not easy just as you said all those years ago to be here now and have to revisit those feelings that you had, it's an awful tragedy that stays with you for ever and I'm so sorry that it's been visited on you and his family and as you said, you wish that he was here. But you've played no small part in trying to help us understand what may have happened to him. The circumstances surrounding his death and I thank you very much for involving yourself in the inquest.

<WITNESS RETIRED AND EXCUSED

<ADRIAN MacDONALD INGLEBY(2.51PM)
SWORN AND EXAMINED

LAKATOS: Q. Sir is your full name Adrian MacDonald Ingleby?

A. Yes it is.

Q. What is your present rank?

A. Senior sergeant.

Q. And what is your current station?

A. Marrickville Police Station.

Q. When did you join the Police Force or the Police Service?

A. 1970.

Q. My goodness thirty-three year?

A. That's right.

Q. And going back to 1989 were you a sergeant of police stationed at the Bondi Police Station?

A. Yes I was.

Q. Did you participate in the inquiry relating to the death of John Allan Russell?

A. Yes.

Q. And you have produced a number of statements, the first on 26 February 1990 concerning what you did in that inquiry, correct?

A. That's correct, yes.

Q. You indicate that you first became involved in the inquiry on 23 November at about 10.10am you went to Fletcher Street, Bondi near the intersection of Marks Lane, Marks Park?

A. That I did yes.

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Q. Can I ask you as at November 1989 how long had you been in the Bondi area, if not the Bondi Police Station?

5 A. Well I've worked that area most of my life, I went to
Waverley Police Station in 1973 and at that time I was a
plain clothes constable and at that time the detectives
10 worked out at Waverley not Bondi and I worked at Waverley
from 1973 to round about 1974 I think and then they moved
the detectives to the sub stations, Rose Bay et cetera, I
15 moved as plain clothes constable to Bondi Police Station
and I worked there till 1976, I moved to the CIB for four
years and in 1980 I moved back to Waverley as a detective.
Round about 1982 I moved to Bondi as a detective. Round
20 about 1983 I applied to go back to uniform and I was
transferred to Darlinghurst for 18 months and then in 1985
I returned to Bondi as a senior constable. A short time
after I was made up as a sergeant. So I worked from 1985
to 1993 as a general duty sergeant.

20 Q. So you have a fairly good knowledge of the Bondi patch
and what was going on there, from many years there, would
that be fair thing to say?

A. Yes.

25 Q. We've heard from former Plain Clothes Constable Dunbar
just a moment ago, I just wanted to ask you this question,
she indicates that she was an officer of about four years
standing when she was appointed to be the officer-in-
30 charge of the Russell investigation. Was it fairly
commonplace in the New South Wales Police Force round
about 1989 for junior people and I say that with no
disrespect to her, to be appointed to do inquiries which
might have turned out to be and indeed still may be a
murder inquiry?

35 A. Yes, but one would expect and I'm sure it was under
the supervision of the detective sergeants in the office
at the time, there would have been a minimum of two. I
think you asked earlier how many detectives worked there
and I think it might have been six or eight, but there
40 would have been two detective sergeants working there at
the same time. Everything is reviewed through the
detectives office and the Patrol Commander as well. So no
it's not unusual but one would expect that it's under the
supervision of the more senior members there to give
45 advice and guidance.

Q. In any event if I follow your statement through you
saw Mr Neville Smith who was the person that found
50 Mr Russell's body the morning of the 23rd?

A. Yes.

Q. You went down to where the area was shortly thereafter
and made some observations is that correct?

A. Yes.

55 Q. You've been in Court when I've raised this issue with
Constable, former Constable Dunbar, now Johnston, the fact
that coins were strewn around Mr Russell's body, was that

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something that you noted at that stage?

A. I made detailed notes of everything at the scene, including the money.

5 CORONER: Q. Including I'm sorry?

A. Including the money on the rocks.

LAKATOS: Q. And you totalled it up to \$4.60 I think it says in your statement or somebody else's?

10 A. Yes.

Q. The fact that it was strewn around in the way that it was, was that a matter which excited your attention?

15 A. I think everything about it excited my attention, but I - no the fact that there was money on the ground didn't raise specific concerns.

Q. Once again I've raised it with her, but I will with you, had the money been in his pocket when he either fell or was thrown or slipped or whatever, it's probably not very likely it would have been strewn in the way that it was, is that a fair comment or not?

20 A. Well in my personal view, no I didn't find that unusual or think it suspicious at the time, if money fell out of your pocket or if you had money in your hand when it hit the ground or hit the rock it would bounce and no I didn't put any suspicion on that factor.

Q. In any event you spoke to Mr Smith and then Mr Saxby who was the person that Mr Smith came and said "I found a body can we call 000?" is that correct?

30 A. Yes.

Q. Thereafter two further police officers, Constable Barrett and Scanlon arrived as well as two ambulance officers?

35 A. Yes.

Q. With those people you went down to the bottom of the steps and you very carefully, in your statement, count out how far you walked?

40 A. Yes.

Q. And ultimately you saw Mr Russell's body at a position you say about 40 metres to the right of the 26 steps which you named the Fletcher Street steps?

45 A. Yes. Well the steps that lead towards Fletcher Street footpath.

Q. Did you have occasion to look at the, I'll refer to it as the cliff top, immediately above where Mr Russell's body was?

50 A. Yes, but I, because it was a crime scene I didn't actually walk - I looked at it and made observations yes.

55

Q. What observations did you make in that regard?

A. Well I didn't see anything, didn't make any notes of anything specific but I did observe that from the footpath

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5 to that edge, I don't know if I mentioned the distance in my statement, obviously a number of metres, but there's no, once you walk to that edge it's a straight drop that's it, full stop, like you just walk there and it's a drop straight down.

Q. Was there any vegetation close to that point?

10 A. I'd have to rely on photographs taken by the crime scene fellows, but I've got a feeling it's probably sort of grass just, weed and grass, that sort of stuff you get growing around the rock tops at Bondi Beach.

15 Q. Without reference to your statement are you able to say whether you noticed any disturbances to that vegetation?

A. No I didn't note any, I can't recall any now.

20 Q. You say that Mr Russell's body was not visible from above as you looked down over the cliff?

A. Yes.

25 Q. You note that his head and upper body were facing towards the cliff face and you've got photographs of that?

A. Yes.

30 Q. Do you recall that, was that something which excited your attention as being a little odd had it been an accidental or a suicidal attempt?

35 A. No I only noted it because it was important obviously to describe the way the body was, I've got no special skills and if the body either fell or was pushed or thrown off I've got no idea whether it should land in any particular way. So it didn't - I just noted it as that's the way I saw it.

40 Q. You note in your statement, I think in paragraph 8 that you saw some head hair adhering to the left hand of the body, beside the left index finger?

A. Yes.

45 Q. You've heard, at length I think in the course of today that that hair went missing at some point?

A. Yes I was only here later, but I'm aware it went missing, yes.

50 Q. Do you remember what colour the hair was, after thirteen years it's difficult, but do you remember?

A. No I think at some stage I would have seen a photograph of it and from memory I think it was dark hair but no I don't. I could check my notebook, I might have, do you mind if I check my notebook?

55 Q. By all means?

A. I may have noted the colour, no my only note is hair on left hand behind left index finger. I didn't note the colour.

Q. Do you now remember whether you, the impression you

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got which is the best you can do was whether the hair came from him or from somebody else?

5 A. It crossed my mind, I thought, the moment I saw the hair was significant, I don't imagine someone would pull their own hair out falling down a cliff, so it was always potential it was someone else's.

10 Q. And was that particular piece of evidence something that struck you at the time as perhaps indicative or likely of foul play or otherwise?

A. It was something that certainly weighed on my mind towards, yeah there may be foul play.

15 Q. I think thereafter at about 10.29, you having arrived at 10.10 or thereabouts, some 20 minutes later Plain Clothes Constable Dunbar who has just given evidence and Detective Constable Owens arrived?

A. Yes.

20 Q. And did they immediately take over or not, were they then the officer-in-charge?

A. Yes so called because of the nature of the death, it was obviously at a minimum suspicious or unusual and it needed further investigation.

25 Q. You noted I think that there was an empty Coca Cola bottle near the body?

A. Yes.

30 Q. Did you observe whether that was taken into police custody by any officer?

35 A. Well I assume it was, I mean the crime scene examiners and scientific I think we call them now, that's their speciality, I would expect that anything in the area of relevance would have been taken by them.

Q. But you don't have any specific recollection of that?

40 A. No I have a recollection of them there examining the scene and taking photographs and specifically of that hair because that was of interest to me. I don't recall them picking, I mean I would assume that that would have happened but I didn't supervise them.

45 Q. Did you see the hair being taken, bagged or somehow collected from Mr Russell's hand?

50 A. I've just got a vague recollection of it being bagged, yes and I said in my statement I think it was a plastic bag but it's vague, but I mean it was - the hair was significant you know and I just think like, I obviously saw a photo later so I'm not too sure, whether I'm confusing looking at the photo later with what happened at the scene.

55 Q. The scientific officers we're lead to believe were a Constable Riviera and, I think a Sergeant Carlton?

A. Yeah.

Q. Now do those names, did you know those officers before

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that day?

A. Carl Cameron I think I would have, during my years--

5 Q. Cameron my apologies I said Carlton, it should have been Cameron?

A. It is Cameron I think isn't it. Anyway they were there, I noted them attending.

10 Q. Yes it was, you're quite right, I stand corrected?
A. Yeah.

Q. They were known to you?

15 A. Not the younger bloke but Carl, I'd come across him during my various jobs.

Q. And your best recollection is that they did take custody of these various physical exhibits?

20 A. Well that's their job, as I say I didn't supervise them doing it, but we call them there to do a precise examination of the crime scene and I mean my main job is to make sure no-one interferes with the scene so they can do their job properly.

25 Q. I think that was the end of your contact with the inquiry at that time was it not, that day?

A. Yes.

30 Q. Sometime later on 24 December which is approximately a month later you received a telephone call at Bondi Police Station did you not?

A. Yes.

Q. From one Rodney Vincent Stinson?

35 A. That's right.

Q. And he gave you some information, did he not, that a person who he identified only as "Red" gave him certain information about shouting and a potential bashing which had gone on some three weeks before?

40 A. Yes.

Q. Can you remember the substance of what Mr Stinson told you on that day?

45 A. Well again I think I got a statement off him, I may have notes here if you want me to refer.

Q. Well I suppose the question I should ask you is, is my very rough paraphrase reasonably accurate?

50 A. Yes, sorry.

Q. Did he also say that some two months previously that "Red" had told him that a middle aged man, who was either crazy or loony, had tried to push him, "Red" off the path and over the cliff near the Fletcher Street steps?

55 A. Yes.

Q. As a result of that information did you make some further inquiries to attempt to contact "Red"?

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A. Yeah he sort of stayed in touch with me and on a couple of occasions I did put patrols up there with him, they were looking for "Red".

5 Q. Can I ask you this, you of course weren't the officer-in-charge of the Russell inquiry?

A. No.

10 Q. Constable Dunbar was, to your credit you continued investigations which may have shed light on Russell's disappearance and death, I'm sorry. How was it that that fell to you as opposed to Plain Clothes Constable Dunbar?

15 A. Well basically I'm a shift working, working morning, afternoon and night. At the time Mr Stinson contacted it was, if I can recollect, early evening and when he rang it probably got put through to me because the police there would have known I was au fait - well first of all I would have been the senior person on and secondly, they would have known I was au fait with the investigation. If
20 somebody contacted me it was, as I say, late afternoon, early evening so there probably weren't even detectives working so what we do is retain what information I can and pass it on.

25 Q. So in fact you went with Mr Stinson on at least one occasion, in the evening around Marks Park?

A. Probably three, I've noted some of them, but I went with him on at least three occasions.

30 Q. In an attempt to find "Red"?

A. Yeah.

Q. And you were unable to do so?

A. That's correct.

35 Q. Did you keep Plain Clothes Constable Dunbar aware of what you were doing in this regard?

40 A. Yes, each time I did something, each time I got a statement I took it through to the detectives' office, left it there for the chief of detectives.

Q. The next thing which occurred was that you received some information in early January 1990 from a DM DM about an assault on that gentleman?

45 A. Yes.

Q. And you took a statement from him?

50 A. Yes, police had attended that incident the night, the evening before I think and he was at home and upset and injured and then, you know, arrangements were made for him to contact later.

55 Q. The substance of his complaint was that he had been confronted by some 10 to 12 young persons, aged between fourteen and eighteen and very savagely attacked?

A. Yes.

Q. And it appeared that in the course of the attack they

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were saying to him "Poofter, you're gay, you're gay"?

A. Yes.

5 Q. [DM] was shown some photographs was he in an attempt to identify who his attackers were?

A. Yes.

10 Q. Did that come to any successful result so far as identification was concerned?

10 A. No the initial photographs we showed him, from memory, were Polaroid photographs we had of - collected over previous years of persons, local people charged at Bondi. He didn't identify anyone from the photographs. Then at a later time, some months later, I showed him some more
15 photographs and he pointed out two photographs, one of a similar face and one with similar hair and there was, I don't know where it is in the statement, at one stage I took [DM] for a walk through Bondi Park. On a particular afternoon Constable Gleeson, one of our plain
20 clothes, he was either the youth liaison officer or a plain clothes constable at that time, he approached me in the station and said that all the Bondi boys were down the park, about 20 of them I think. So I gave [DM] a
25 ring and we took him for a walk through the group.

25 CORONER: Q. He was brave?

A. Yeah, well we were there in uniform and plain clothes, but yes he was and he didn't identify any person. It was
30 the main group of what I call the Bondi boys. He was unable to identify, he didn't identify any person but I must say he did seem a little bit nervous.

Q. I can imagine?

A. I mean I don't know.

35

LAKATOS: Q. So far as police intelligence and information was concerned then, the Bondi boys were what a group of youths who did what?

A. Well there was a whole group of youths aged from
40 twelve through to eighteen. Over a number of years they frequented the Bondi area, the Campbell Parade, Bondi Park consumed alcohol. Just hang together, probably committed a bit of crime and they caused a fair bit of trouble. Like they got up to no good a fair bit of the time and
45 were locked up a fair bit too.

Q. Marks Park was a known gay beat at about that time was it not to you?

A. Yes.

50

Q. And probably?

A. Well not the park area, below it.

55 Q. I understand, probably there were other police officers who had their finger on the pulse at Bondi, would that be fair, you weren't alone in that knowledge?

A. No, but it's not an area we had a need to patrol. Like the are in question, the gays go there at night.

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It's not like a, I can't recall being called there for a job, I mean except [DM]'s case is probably the first time that I've, even though I know that it's a gay beat, it's the first time I've been called down to take a report of a crime in that area. So we didn't actually and Marks Park, another problem with it is, that Birrell Street which actually runs into Marks Park is the border between the commands of Waverley and Bondi, which theoretically if you were assaulted in Marks Park itself I think it would get reported to Waverley Police.

Q. Right?

A. And the problem with it is most people at Bondi wouldn't report stuff to Waverley, they'd come to Bondi because they see Bondi as their local area, even if they happen to be on the other side of Birrell Street.

Q. Was it known amongst police that Marks Park was an area where gay, men particularly, were at risk from being attacked or not?

A. I can tell you from 33 years experience any gay man that goes to a gay beat is at high risk of getting assaulted and robbed or just bashed for the purpose of some person thinking it's a good thing to belt up gay people. Well they know that themselves, everyone - it's no secret.

Q. Mr Russell it transpired very early in the inquiry was a gay man?

A. Yes.

Q. He was in an area which was known to be a gay beat?

A. Yes.

Q. Were those factors, along with the nature of his death, such that caused you to conclude in paragraph 17 of your first statement "From inquiries so far I am unable to say what caused Mr Russell to fall. It was know he consumed alcohol. Some of the homosexuals who frequent the area sit near the ledge, but it's not known if Mr Russell did so. It appears Mr Russell was in a normal state of mind which ruled out suicide. Crimes of violence on the homosexual element in the area is prevalent as it is in many other areas of Sydney frequented by the homosexual community. I believe there would be a great number of unreported crimes of violence in this area. There is no direct evidence available at this stage proving foul play. The possibility of a dispute between Mr Russell and another homosexual is another potential hypothesis."?

A. Yes.

Q. So you had a fairly open mind which included, as a real possibility, not the only one, the fact that he may have been attacked at a gay beat?

A. Yeah I think when you take into account [DM]'s terror, like in fact where [DM] was first confronted by the offenders, that's at the top of the 26 steps I

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describe in my statement. The distance from that top 26 steps to where he went off, I think I say in my statement is 20 metres isn't it or 40 metres?

5 Q. Yes?

A. Like we're talking on the same level, you know what I mean, before you go down the steps. So what, a month later we've got 12 youths trying to throw a bloke off the cliff, they tried to throw him off 10 minutes later, down the next level, which was only a five metre drop, then it certainly raises concern.

10 Q. In fairness to all of the officers involved in this investigation and for that matter the investigations of the disappearance of Mr Warren, it's only yourself and one, Constable Scanlon as I read the material that appeared to seriously consider the fact that these men either disappeared or died by reason of a hate crime, so called, against gay man. Was the Police Service in 1989 receptive to complaints by gay men about violence or not in your experience?

15 A. I'm certain they were. I've been in the job 30 years, I mean you get the odd case of some homophobic but at that time the police were extremely supportive of the gay element.

20 Q. See we have, I think you've heard some of former Constable Dunbar's evidence that her initial impression was not foul play but something else. We've also had a former detective sergeant in the Warren inquiry who's strong initial impression was, in that disappearance not a gay hate crime as a real possibility but something else. So two of the operative people in two of the deaths we're dealing with here or the disappearances have apparently jumped to a conclusion, on fairly tenuous material, that the best option was something that was a non gay crime?

25 A. Yeah, well certainly - the Warren one that happened earlier didn't it?

30 Q. The Warren one happened July 1989?

A. I wasn't aware of that one and that was a missing person wasn't it?

35 Q. Yes it was?

A. So I don't think a lot of local kids would even have known about that, I mean it would have been a missing person report and I take it, it was made at Paddington was it?

40 Q. It was reported at, yes it was, reported to Paddington Police Station?

A. So we wouldn't have known - no-one would have known about that so I don't suppose that would have been weighed, initially a weight against the one I went to. But certainly I was quite concerned after [DM]'s matter, that's the situation of it.

45 Q. Would you have expected police officers at Paddington

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to at least have tried to tap the local knowledge of Bondi Police about whether or not Marks Park had any kind of reputation so far as gay men were concerned. Because that appears not to have been specifically done. As far as I understand it?

5 A. Well I think most police in Eastern Suburbs would have known it was a gay area. In that 1973/1974 period the actual gay beat area was the Knotts Avenue toilets next to the icebergs there and I don't know if at that time, and
10 assaults and robs were taking place then because I actually worked on an operation in those toilets trying to detect people doing assault and robs. But we did that operation there for about a month, because it was a
15 problem then in 1973/1974. Now they started locking the gates to the toilets because of the large amount of people frequenting, going in and out of those toilets and complaints. Now I don't know if that's when the beat moved down to the footpath, down to the walkway or whether that was already there and I just didn't know about it,
20 but--

Q. And finally in summary I think you've already averted to this but in one of your subsequent statements you made a reference to witnessing scientific officers bagging the hair, you think it was a plastic bag?

25 A. Yes.

Q. And you also made reference that in December 1989, you've already said this but you attended with DM to identify, in the hope of identifying some of the Bondi boys as his attackers?

30 A. In the Park?

Q. Yes?

35 A. Yes that's right.

Q. Were you the officer-in-charge of the DM inquiry or not?

40 A. No I did the crime report and supported it through the detectives, from that point on it was their investigation.

Q. I suppose in summary it seems, in many respects, that you've a lot of the substantive investigation both of DM and also, albeit it unsuccessfully, but nevertheless in relation to Mr Russell. That would be a fair?

45 A. Yes, I did what I do when information came to light, yes. You mentioned earlier your Worship the hair exhibit?

50 CORONER: Q. Yes?

A. Well from my experience at that time once the crime scene take possession of that exhibit, that goes into the Sydney Police Centre or wherever they were at that time. We don't, it doesn't get stored at a police station. From
55 my experience things are kept until the inquest so definitely it would have gone back to the scientific officers and at that time I don't think we had DNA so I think the only test I know that was available, I think we

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used to send hair out to the Lucas Heights, they had some method of just looking at hair, but I don't think it was a very good system, but it was all that was available at that time. So all I'm saying is that the hair wasn't
5 taken to Bondi or to Waverley and it shouldn't have been.

CORONER: No.

10 LAKATOS: Q. Nevertheless I suppose the point made by her Worship particularly and this is right, is that the ultimate responsibility of who looks after the exhibit or at least who knows where it is must reside, must it not to the officer-in-charge of the investigation?

A. Yes.

15

SAIDI: Q. Back in 1988 you were stationed at Bondi you told us?

A. Yes.

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Q. The culture at Bondi at that time, in particular police culture in the Bondi Police Station, was it one which was sympathetic towards gays neutral or anti-gay, can you tell us?

25

A. In the whole time I've worked there I don't know of any person that had homophobic attitudes, very supportive. We had a gay liaison officer, even at that time I think, but certainly we formed the beat unit in 1990, which I rang and we had a gay liaison officer definitely from that point but I - he worked extremely hard in trying to get the confidence of the gay community, extremely hard and I went to a number of meetings with him, he's one of the police involved in this investigation as well. I've been to half a dozen meetings with various gay groups that the constable organised to get support, you know, to get them to trust police and let them know that we want to help and I've never, in my whole time at Bondi, come across any individual that's homophobic, we've all had a positive attitude.

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Q. Your rank of course is or was that of sergeant back then, how many sergeants were there at Bondi at that time?

A. Uniform are you talking about?

45

Q. Yes?

A. Good question but I'd say four to six, one for each shift, so probably about six.

50

Q. In terms of the sergeants who work there, can I take it you would have known all of them?

A. Yes.

55

Q. Would any of those sergeants fit the category of persons who were anti-gay?

A. No, none.

Q. You see there's a suggestion by one person that he did in fact go to Bondi Police Station in November 1988 in order to report a gay related assault, if I use that more

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neutral term or an attempted assault and he was, in effect, treated, to use perhaps an understatement, treated unsympathetically by the sergeant who was then working on the counter?

5 A. That surprises me.

Q. Can you conceive of anyone who was working, that is any sergeant who was working at Bondi in that period who, upon a report of an assault having been made to him, would
10 treat a gay victim unsympathetically?

A. No I can't, I mean I'd be disappointed, if that happened then I'm disappointed because everyone deserves a fair go.

15 Q. Was there any incident that you can think of at the Bondi Police Station at that time whereby any police officer working at the counter or within the precincts of a police station, where he or she engaged in anti-gay behaviour?

20 A. No, if there had been I would have jumped on them.

Q. Did you perceive in those days, going back to the late eighties and perhaps 1989 specifically, did you perceive a reluctance on the part of gays to come forward and report
25 assaults at gay beats?

A. Well a lot of these people that go to the gay beats are married men, that I learned while doing the inquiries in 1974, persons we spoke to, occasionally we made arrests for offensive behaviour and most of the people I arrested
30 were married men who had been attending the toilet area on a Saturday night or whatever, left a party, left their wife at a party and gone to the beat.

35 Q. I suppose in the case of married men who attended gay beats there'd be a natural reluctance for them to report any assault perpetrated upon them?

A. Well there is and also a person might be gay and mightn't want people to know. I mean I used to drive a cab part time and heaps of times I've picked, I remember
40 one incident I picked a young bloke up at Darlinghurst, he was crying, I said "What happened?" He said "I just got, a bloke just king hit me." I said "Are you going to report it to the police?" "No, no, no, they don't care, they don't care." and he told me he'd been bashed a few
45 times. So I mean certainly some would have a perception that police don't care and I don't think they're always right, I think the majority of police do, but that doesn't change the perception, obviously the Department words hard to - I think we've had a lot of success.

50

Q. That's the point I want to take up with you if I may, perhaps one can try at least to get this message across to members of the gay community. You yourself have been in the Police Service for thirty three years you've told us?

55 A. Yes.

Q. Is it your experience now that in fact it is a situation where the greater majority of the members of the

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Police Service do in fact care if a gay person has been assaulted?

5 A. Of course they do and I mean if they had prejudice, they're not entitled to display them at work anyway and I don't think those that have do generally.

Q. And you're in a situation of some seniority within the Police Service?

10 A. Yes.

Q. Whereby you control and can influence the actions of younger members of the Police Service. If you detected amongst any of the younger members of the Police Service under your care and command an anti-gay feeling or a less than sympathetic attitude towards gays would you take action in relation to that?

15 A. ..(not transcribable)..

Q. In terms of a gay who is assaulted at a gay beat who reports the matter to a police officer is there a situation whereby that information can be received from the gay person with attempts being made to protect the identity of that person?

20 A. Yes, of course and well even then, as I said we had gay liaison officers, our beat unit started in 1990 but every police station at the moment, Local Area Command has got a gay liaison officer. Police advertise in the Star Observer and all the other magazines. I mean a large percentage of the police are gay. We've got a, our work force would - when you compare it with other work forces we'd have a very high level of gay people working with us and they're all accepted within the job.

Q. Do you see a need for a clear message to be sent out to members of the gay community that if they are in fact assaulted it's very important that they get that information back to the Police Force?

35 A. Well it's been sent out I mean it's been sent out for the last, even at the time of this incident, I think people know.

Q. The message has been sent out?

40 A. I don't think it can be sent out any more than it is.

Q. The message has been sent out from the perspective of the Police Force, but the other side of the coin is that the members of the gay community must react to that message and must report it, for the police to obtain some decent intelligence so as to prevent the problem?

45 A. Yes I think, look at this case Mr Stinson went to great lengths to help us and there'll always be those who are too embarrassed to, but the majority aren't.

Q. And if it be the case that a police officer were, to use the term homophobic or for whatever reason refused to properly take a complaint from a gay person who has been assaulted, for example, or to properly follow up the action it's the case is it not that the police officer

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Mr Russell's death being as a result of foul play?

A. Yes.

5 Q. Did you speak to other officers involved in the investigation about that theory?

A. Yes I just, well basically forwarded everything through, everything, all my opinions were in the statements and I mean you look at the DM statement it's fairly self-evident what's in that and conclusions you would draw.

10 Q. In terms of the Russell inquiry and the theory relating to him, did you have discussions with other officers that perhaps we ought to or a suggestion that we might have to push this side of the inquiry a little bit harder?

A. No I just left that to the detectives.

15 Q. Did they ask you your view about any of the statements you made in your statement about potential hate crime?

A. No.

20 CORONER: Q. In those days just listening to Ms Dunbar and listening to you and there is a marked difference, of course you've got the experience, she didn't have the experience in those days. So there you are a senior experienced officer, almost handing over a very serious investigation to a junior officer, I know you say that she was meant to be supervised, so you would expect that there would be that fall back position. But does it still work that way, that simply because you're in uniform that these types of investigations are given to the detectives because they're supposed to be the experts?

25 A. Well it's given to the detectives because one, at least one was virtually suspicious. I mean if that, I mean every day we, as general duty police, go to suicides and we - the only involvement when there are obviously apparent - they obviously are suicides, that's what they are, it's a suicide. What happens we still call in the crime scene and we're obliged to call a detective down to just check to make sure we haven't misjudged it. But the detectives - that's the only involvement, they walk in the door, look at it, they're happy with what we say happened and we never talk to them again about it. The uniformed police officer prepares a brief for the Coroner. However, when it's not straight forward like this one, in other words, not a person cutting their wrist or hanging themselves, no the uniformed police don't touch it, it's obviously for criminal investigators and that's why they were called down. I mean if they'd come down and spoken to a neighbour, a bloke said "I was sitting on my balcony, I saw him sitting on the edge and he just jumped off." Well the detectives would have come down, but would have left and they wouldn't have put the brief together for the

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Q. No because it's fairly obvious what happened?

A. Because it's straight forward. The general duty

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could be subjected to disciplinary action?

A. Would be, not could be, they would be, very strong.

5 Q. And from your perspective of a sergeant, if you saw that occur, that is a police officer refusing to carry out his duty would you report it?

A. Most certainly. I'd pull the person aside, talk to them and also make it official.

10 Q. I just want to get this assurance across, if I can to the people who matter. Can gay persons who are assaulted whether at a gay beat or elsewhere now, in the year 2003 be assured that if they report the fact of an assault having been perpetrated upon them to a police station, 15 that will be treated firstly, seriously and secondly, acted upon?

A. Yes and it would be treated in confidentiality as well.

20 Q. And thirdly, if any police officer was approached in a situation whereby a serious assault or indeed a minor assault has been perpetrated upon a gay person and if a police officer did not take his job seriously and treat the complaint with due seriousness can members of the gay 25 community be assured that action would be taken at an official level?

A. They can guarantee it, I mean failure to properly investigate is a serious matter and the other issues with prejudice are even more serious I suppose.

30 CORONER: Q. So anyone reporting a serious matter or any matter?

A. Any matter.

35 Q. To the police should expect to be received appropriately?

A. They should and can and one guarantees if they would like to make a complaint that the job wasn't done, that would be investigated even more thoroughly.

40 Q. You've got vast experience in uniform and in plain clothes, we heard from Mr Ken Bowditch, you'd know Mr Bowditch from Paddington?

A. Yes.

45 Q. I don't think you were here when he was giving evidence, but he was talking about at the end of his investigation in the Warren matter, Mr Warren, Mr Warren was the newspapers reader from Wollongong?

50 A. Yes.

Q. About him bundling up all his documents, I particularly asked him whether he'd prepared a brief and he went on to say that he'd bundled up all his documents and his cover sheet and he'd made so many copies and he'd 55 sent them off in the folders, you know, the sleeves?

A. Yes.

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Q. He'd sent everything off to missing persons?

A. Yes.

5 Q. I asked him whether he then, after a number of years
would have prepared a P79A for the Coroner and his
evidence was that it was the responsibility of missing
persons unit. Is that your understanding to that once
it's assigned or given to missing persons, that you as the
officer-in-charge, in those days, I'm not talking about
10 now so much. 1989, 1990 that you would then not lose
interest in it but somehow be divorced from whatever was
going on with it after that?

15 A. Well my view is that the command at which the person
reported missing from has always got responsibility for it
because the staff move all the time, if it wasn't followed
up it's probably like, I suppose one could ask oneself the
question "If I do something in 1989 at Bondi, 20 years
later when I'm at Darlinghurst am I still responsible for
it?" I suppose you're not but then the Police Service is
20 still responsible, still got the obligation to make sure
everything's taken as far as it can be taken, so I would
assume that it's up to that command that's got
responsibility for the investigation, but you know whether
25 20 years later I should be running back to see if they're
going to take it further.

Q. No, no, I'm talking about fairly close to the hand
over?

30 A. Well I don't think, to my knowledge the missing
persons unit, even then, if someone's going to be reported
missing it would have to come from an officer at a command
or a patrol, the procedure of it at that time would have
been basically recording the person as a missing person.
I mean the way the unit's set up at the moment is totally
35 different, they've got, with a matter like this, this
investigation that I'm involved in, if it happened today
it goes onto a new computer system called COPS EYES
something like that.

40 Q. Eagle Eye?

A. Eagle Eye and then it goes into a--

Q. There's supposed to be case management, it doesn't
always work that way?

45 A. But it does now.

Q. But that's what's supposed to happen does it?

50 A. Well it does now and you actually file the brief on
the computer electronically and anyone can get access to
it for follow up and I think they definitely - they
monitor each one and review better than what they did back
in those days you know.

55 Q. Did it disappoint you to hear Ms Dunbar say that there
was no follow up with Mr Peter Russell or Mr Ted Russell.
Did it disappoint you in terms of no--?

A. Yes I think, well she's a fairly genuine police
officer at the time of the investigation.

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Q. But still five years service as a constable first class would she not have had?

5 A. Yeah but no detective, no real detective experience and I think the responsibility would have been for the senior people in her office to supervise and manage it with her.

10 Q. But does it seem to you that she was sort of case adrift or left alone, who would have been her supervising officer. Someone at the station or someone?

15 A. Well in the detective's office, there would have been two detective sergeants in the office and other senior detectives, I mean it's their job, we've got a work load and manage, everything that goes through is read by everyone in the office, so I mean they should have identified any failure to investigate.

Q. And follow up?

20 A. And sort of guided her along the right lines.

SAIDI: Q. I want you to take an example of a married man, for example, who does frequent a gay beat to engage in gay sex?

25 A. Yes.

30 Q. If that person were to be assaulted and if that person were to report the fact of the assault to a police station it doesn't necessarily follow does it that that information will be released publicly so that the man would be embarrassed?

35 A. It wouldn't be, the only way it could come out in any public area would be if someone is charged and there's a Court hearing.

Q. And indeed if the married man who was assaulted at the gay beat were to make a request for some degree of confidentiality that could be respected, am I correct?

40 A. That would be granted anyway.

Q. So that it wouldn't necessarily follow if a request for confidentiality were to be made that that information would either get back to his wife or family or any other relative?

45 A. It wouldn't, no.

LAKATOS: Q. Sorry to trouble you senior sergeant, but two things. When did you first learn of the hair samples had gone missing?

50 A. I think it might have been around the time of the inquest, I'm not sure. I remember the day of the inquest I had another Court matter on and so I didn't come here. But the answer to that probably is I'm not sure, but I became aware of it at some stage, it may have been at the time of the inquest, but I'm not strong on that.

Q. And the final matter is this, we have spoken about the fact that you left very open the possibility of

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police and myself included, even as a supervisor, we don't really have that time available to spend days and days and weeks and weeks investigating.

5 Q. No, of course you don't because you're not--

A. We go to different jobs every night, we're going to 20 jobs.

Q. You're more reactive?

10 A. More active, we're the first there to make sure, like in this job, my job's to preserve the crime scene, make sure nothing's stuffed up and then call in the crime scene, call in the detectives.

15 Q. Does it disappoint you that the matter went the way that it did with the loss of the hair?

A. Well it does because I mean when I saw the hair I felt it was important and with DNA today.

20 Q. Should there have been morgue photos do you think in this, in Mr Russell's matter?

A. What did you say?

Q. Morgue photos?

25 A. I haven't--

Q. No do you think there should have been?

A. Photos taken I'm not--

30 Q. At the morgue?

A. Were they, I assume they were.

Q. We don't have any?

A. Right.

35

Q. But if you--

A. Yeah well I mean yeah I didn't know they weren't taken, I would have assumed they would have taken photos at the morgue.

40

Q. Now modesty aside, if you had been in charge of this investigation, now I'm not suggesting that you would have been able to unearth who it was that was responsible for this death, but do you think that you may very well have steered it differently than the way that it or dealt with it differently than the way that it was dealt with?

45

A. Yeah I think it, when the information from DM became available, I mean that sort of placed a different slant on what probably happened a month before, yeah I feel that probably more could have been done, yes.

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CORONER: Senior sergeant I'm very pleased that we've heard from you today because it hasn't been a good day, it's been listening to other police and explanation of their efforts to do something with the brief, but to hear from you it certainly says to me that there are people in the Police Service that are switched on, in tune, sensitive to the needs of victims and I think the Police

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Service is better off with people like you, I only wish we could claim you. But thank you very much, thank you for the honest answers that you've given to those questions.

5 <WITNESS RETIRED AND EXCUSED

DISCUSSION ON WITNESSES TO BE CALLED TOMORROW

10 ADJOURNED TO THURSDAY, 3 APRIL 2003 FOR FURTHER HEARING

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CERTIFICATION OF TRANSCRIPT

I, We the undersigned being (a) Sound Reporter(s) do hereby certify that the within transcript is a correct transcript of the depositions sound recorded at the New South Wales State Coroner's Court in the matter of Inquest into the deaths of Ross Bradley WARREN, Gilles Jacques MATTAINI and John Allan RUSSELL on 2 April 2003

PART HEARD

Dated at Penrith
this twenty second day of May 2003

NAME

PAGES

SIGNATURE

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