

RECORD OF INTERVIEW BETWEEN DETECTIVE CONSTABLE I/C R. YANNAKIS AND
KIRK ANTHONY PHILLIPS AT REDFERN POLICE STATION ON 6 MAY, 1992.

ALSO PRESENT:

DETECTIVE SENIOR CONSTABLE THOMAS
PLAIN CLOTHES CONSTABLE TREVILLION

TIME COMMENCED:

9.57am

Q. 1. This is a Record of Interview between Detective Constable First Class Richard Yannakis and Kirk Anthony Phillips at Redfern Police Station on Wednesday 6th May, 1992. The time by my watch is now 9.57am. I'm Detective Yannakis, Detective Senior Constable Thomas, this is Constable Trevillion, okay. Do you agree that apart from the people I've mentioned there is no one else present in this room?

A. Yeah.

Q. 2. Right, I'm going to ask you some questions in regards to a death of a man named Robert Malcolm on 29th January, 1992. It is my belief that Mr. Malcolm was assaulted in the vicinity of Eveleigh Street, Redfern about the 10th January, 1992 where he subsequently died of injuries sustained as a result of that assault. I want you to understand that you are not obliged to say anything unless you wish to do so but whatever you say will be electronically recorded and may be used in evidence. Do you clearly understand that?

A. Yeah.

Q. 3. Do you agree that prior to the commencement of this interview I told you that I intended asking you further questions about this matter?

A. Can you say that again.

Q. 4. Do you agree that prior to the commencement of this interview, I told you that I intended asking you further questions about this matter?

A. Yeah.

Q. 5. Do you agree that I also told you that this interview would be electronically recorded?

A. Yeah.

Q. 6. Do you agree that I also told you that at the conclusion of the interview you would be given a complete copy of the interview tape?

A. Yeah.

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Q. 7. For the purpose of this interview, can you please tell me your full name date of birth and current address?

A. Kirk Anthony Phillips, [REDACTED] of the [REDACTED], sixty. I live at [REDACTED], Chippendale.

Q. 8. How long have you been living at that address for?

A. Oh for close to 12 years or something.

Q. 9. Right, who do you live there with?

A. My mum and dad.

Q. 10. Are you currently employed?

A. Oh at the moment I'm just getting over an injury and they put me on a pension. Getting a job in January - in June, starting work.

Q. 11. On the 11th January, 1992 I believe you made a statement to the Police, is that correct?

A. Yes.

Q. 12. I show you a two page document here, is that the statement you made?

PHILLIPS SHOWN TWO PAGE STATEMENT

A. There was one other bloke there too, I went and got the ambulance and that?

Q. 13. I'll ask you about in a minute?

A. Right. Yeah.

Q. 14. Are they your signatures that appear on the foot of that statement?

A. Yeah.

Q. 15. Do you wish to add or detract anything from that statement?

A. No, that's how I remember it.

Q. 16. That's how you remember it.

A. Yeah, I'd just like to add there was Gary Riley was with us when we called the ambulance, when we - the kids come in first and told us there was a man in the empty house nearly dying.

Q. 17. Gary Riley was with you at the time was he?

A. Yeah, and he's the caretaker of the Aboriginal Christian Youth Organisation.

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- Q. 18. In your statement you refer to Richard and ~~Max~~, can you tell me who Richard and Max are?
- A. Richard Green and Max, Max's real name is Max Bright I think.
- Q. 19. Max Bright. Do you recall the incident we're referring to here?
- A. Yeah.
- Q. 20. Okay. Do you remember what time it was that you actually found the body?
- A. Oh it was a long time after the pub shut because I was at the pub all day and all night, the Clifton Hotel ...
- Q. 21. What time did you go to the Clifton?
- A. About five o'clock that afternoon, four o'clock, something like that.
- Q. 22. Who were you there with?
- A. I was there with a few people playing snooker.
- Q. 23. Can you give me any names?
- A. Craig Cole - Craig Goldie was one there.
- Q. 24. Craig?
- A. Craig Goldie.
- Q. 25. Goldie?
- A. Yeah.
- Q. 26. Where does he live?
- A. I'm not too sure of that.
- Q. 27. Okay, who else?
- A. Only Barbara.
- Q. 28. Barbara, Barbara who?
- A. I can't think of her second name.
- Q. 29. All right, and what time did you leave the Clifton Hotel?
- A. 12 o'clock it shuts.
- Q. 30. And where did you go after you left Clifton?

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- A. I was up the top of Eveleigh Street where ~~the~~ Housing Company is, drinking there.
- Q. 31. Right, who were you there with?
- A. Craig and his wife. A couple of their friends.
- Q. 32. Anyone else that you can remember their names?
- A. I can't think of their names.
- Q. 33. All right. And how long were you at the top of Eveleigh Street drinking?
- A. About two hours or something, something like that.
- Q. 34. Would I be correct in saying that took you through till 2.00am?
- A. What was that.
- Q. 35. Would I be correct in saying that that took you through till 2.00am, if it was two hours?
- A. Yeah, something like that, yeah.
- Q. 36. And what did you do after that?
- A. That's when I went down to the factory?
- Q. 37. The factory.
- A. It's in Holden Street.
- Q. 38. Did you go inside the factory?
- A. Yeah I stayed in there.
- Q. 39. All right, how long were you in there for?
- A. Must have been there for about - well I stayed there, I was going to stay there, go to sleep.
- Q. 40. Right.
- A. What I was doing was having a feed and going to bed.
- Q. 41. Who was in the factory at that time?
- A. Well we got like street kids out in the factory, me mum and dad look after them, we look after them. They got nowhere to stay, we look after them there, give them a feed and a bed and that there, when they've got no where to stay. There were boys that I know of there but I can't think of their names and that at the moment, that I know of, you know. And Richard, Richard Green he was asleep in bed. Gary was upstairs when I was cooking and I started going the boys up about getting through the machines and

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everything and ripping the place off. I started jarring up about it, and that's when Max come in, and I wasn't with him. He come in about five minutes after I came in and when I was cooking a feed and he heard what I was jarring the boys up about and he started getting on it, and Gary come downstairs then.

Q. 42. What happened then?

A. He was just listening, he was just listening to what we was - what we was talking to the boys about and then Max started jarring them up too then. Then Richard woke up and he started jarring them up too, you know.

Q. 43. What do you mean by "jarring them up"?

A. Telling them off about ripping the place off.

Q. 44. Ripping which place off?

A. The Aboriginal Christian Youth Organisation.

Q. 45. All right, what happened after that?

A. I went back and I started - just kept on cooking up while they were talking to the boys, they were going ripping the place off. And they were going to the toilet, coming back inside, just tell them "cool off it now boys", we told them - we told them. They know not to do That's when one of the kids come in then.

Q. 46. Which one, what's his name?

A. I'm bad with names, but I can't think of what kid it was.

Q. 47. What happened when he came in?

A. Well he came in and says there's a bloke over here, he's breathing - he's punched up something massive. In an empty house across the road there. So we go go Richard and Max into the old house and seen the bloke there. So I ran up to the station and rung the ambulance and - at the same time I didn't know that Gary had the key for upstairs where the phone was. I went up to the station, rung the ambulance there, by the time I come back and Gary had just come back too and says that he rung the ambulance from the factory. So we waited for there until the ambulance came and helped him into the car.

Q. 48. Did you assist the ambulance at all?

A. Yeah we helped the amublance, yeah, felt sorry for the bloke.

Q. 49. After the ambulance left, what did you do?

A. When the ambulance left?

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- Q. 50. Yes.
- A. Well the Police asked us to come up here and do an interview - what happened, what we know what happened.
- Q. 51. Once you left here, you had your statement taken which is the statement we referred to earlier, where did you do?
- A. Straight home to the factory mate, straight home.
- Q. 52. Do you know a person by the name of Antony Hookey, Beaver?
- A. Yeah I've met him before, yeah.
- Q. 53. Did you see him at all that night?
- A. No mate I never.
- Q. 54. Never saw him?
- A. I don't recall I did.
- Q. 55. I've been informed that about 10.00pm on the Friday night, being the date, being 10th January this year, you were in Eveleigh Street speaking with Richard Green. What can you tell me about that?
- A. Yes that's lies mate, 'cause I'd been at the pub all that night, hadn't seen Richard all that day, or all that night.
- Q. 56. I've also been informed that you said to Richard, quote "he should have been dead, we didn't do the job properly" end quote. What can you tell me about that?
- A. That's lies mate, that's lies. I never saw Richard, I was at the pub. That's lies, who said that.
- Q. 57. It's not for me to answer at this stage, just been told... I've also been informed that you then said to Richard Green, I quote "let's go before the coppers grab us" end quote. What can you tell me about that?
- A. That's lies mate.
- Q. 58. I've also been informed that at that point in time you and Richard Green walked up Eveleigh Street away from the house that the man was lying in?
- A. No.
- Q. 59. What can you tell me about that?
- A. That's lies mate, that's lies.
- Q. 60. Do you recall what the man looked like that was laying in the house in Holden Street?

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A. Yeah I think so.

Q. 61. Can you describe him for me please?

A. Kind of solid kind of bloke.

Q. 62. Do you remember what colour hair he had?

A. I don't know mate, I don't know.

Q. 63. Do you remember the position of the male person when you first saw him?

A. Yeah he was on his back.

Q. 64. Do you remember if he was wearing any clothes at that point in time?

A. Yeah I think he had his shirt on, but his undies, his pants were down.

Q. 65. Can you tell me if at that time he was propped up against the stick?

A. No.

Q. 66. Did you see this man earlier on in the evening, on the Friday night?

A. Which man?

Q. 67. The man that you found in the house?

A. I never even seen him mate, the only time I did see him was when he was in the house, that's the only time I seen him. I wouldn't go hurting blokes like that for nothing.

Q. 68. Can you tell me if you were in the vicinity of the Black Theatre in Cope Street, Redfern on the following day?

A. I think I was at home, I went around to Hugo Street to mum and dad.

Q. 69. I've been informed that you were in the Black Theatre in Cope Street at Redfern on the day with a group of people drinking. What can you tell me about that?

A. Well I could have went there in the afternoon too or something. But I went home first.

Q. 70. Can you tell me if Richard Green was with you on that day?

A. I can't remember mate.

Q. 71. How well do you know Richard Green?

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A. About four years.

Q. 72. Are you good friends, close friends or just?

A. Yeah, good friends, yeah.

Q. 73. Okay, all right. I've been informed that on the next morning in the Black Theatre in Cope Street, a conversation was used to the effect that, and I quote: "We did it, we killed him". What can you tell me about that?

A. No, no way mate, no way. That's lies, we didn't hurt - we didn't do nothing like that. I'd like to know, who said that mate, who said that?

Q. 74. These are just allegations I'm putting to you okay.

A. Because that's lying -

Q. 75. Let me ask the questions?

A. Couldn't help the man.

Q. 76. The time is now 10.20, this interview will be suspended for a few minutes for the purpose of my going to the bathroom, okay. While the interview is turned off, just don't say anything, just keep quiet, okay.

INTERVIEW INTERRUPTED 10.20am

INTERVIEW RESUMED 10.26am

Q. 77. The time is now 10.26, this interview between Detective Yannakis and Kirk Anthony Phillips is now resumed. Kirk, earlier you said that you were with Craig and his wife, do you agree with that?

A. Yeah.

Q. 78. Can you tell me who Craig is?

A. Craig Goldie.

Q. 79. Craig Goldie?

A. Yeah.

Q. 80. Do you know his wife's name?

A. No, Thelma, I heard the name but - he's one bloke I remember was there who I was with. There was a couple of other people I know too but I don't know their names?

Q. 81. Do you know where Craig lives?

A. His mother lives in [REDACTED].

Q. 82. Do you know the number?

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- A. No I don't know the number.
- Q. 83. You said earlier that you were at the Clifton Hotel, do you agree with that?
- A. Yeah.
- Q. 84. You also said that you were with Craig, is that correct?
- A. Yeah, I'm pretty he was there when I started, like I got there about four o'clock or something. It could have been a bit earlier.
- Q. 85. When - I'll start again. What time did you leave the Clifton Hotel?
- A. When it shut. It usually shuts about ten to twelve, something like that.
- Q. 86. Did you leave at that time or did you hang around and leave at a later stage?
- A. Yeah well usually the people stay out the front there for a little while just organise what they will do, I was out the front there for a little while.
- Q. 87. How long would that have been for?
- A. I don't know, probably about 15 minutes or something.
- Q. 88. So I'd be correct in saying that you left the Clifton and made your way home at approximately 12.15, would that be correct?
- A. Something like that.
- Q. 89. On 10th January this year, were you employed?
- A. Yeah well in our place there I get part time jobs at the Aboriginal Christian Youth Organisation, that's where my parents have got a church there. Me Dad's a Paster, Mum's sort of like a Pasteress, like and they've got all the street kids and all that. Me and Gary and Des and Simon, that's when we take it in turns, or either together looking after the other blokes, make sure they don't muck around or anything like that.
- Q. 90. Whereabouts is your father a Paster at?
- A. ██████████ Holden Street.
- Q. 91. So he's in Sydney is he?
- A. Yeah.
- Q. 92. All right. Was that your only source of income at that particular time?

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- A. No, well like I said before I was getting over an injury and they put me on a pension, that was from last year?
- Q. 93. Do you have any information whatsoever in relation to any person that made an assault of this gentleman on that night?
- A. No, to be honest you know, I'm being truthful, the only thing that I know, what I heard was - I heard something happened and Beaver had something to do with it. That's what I heard.
- Q. 94. Where did you get that information from?
- A. Just on the street.
- Q. 95. At the time you entered the derelict house when you first saw the gentleman lying down, did you see any implement which may have had blood or hair on it?
- A. No, I can't remember it, my memory is all I remember was the bloke the way he was breathing and that and we just kind of got worried about him, we ran up and got the ambulance.
- Q. 96. Did you speak to any white person at all on that night, that includes the night before which was the Friday, or early morning Saturday?
- A. Yeah, well there's a few white people that get down the Clifton mate, yeah I've got a few white friends. I've got - my son's a white fellow, I got a son that's a white fellow, I've got a daughter that's a white fellow too. I've got a son and daughter that's half white.
- Q. 97. How old are they?
- A. My son is ■ and my daughter's ■.
- Q. 98. Well they wouldn't be down the Clifton would they?
- A. No, no way mate.
- Q. 99. Did you speak to anyone, any white person that evening, which includes the Friday night and early hours of Saturday morning?
- A. No, I don't remember that.
- Q. 100. You don't remember. Did you assault any person on the Friday night being 10th January or the early hours of Saturday morning being 11th January?
- A. No I didn't.
- Q. 101. I'll see if Detective Thomas has any questions he'd like to ask you, then we'll conclude?

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DETECTIVE THOMAS:

- Q. 102. Thank you Detective Yannakis. When you say you were earning money from the Paster who is your father, how much money were you earning?
- A. Oh it's only \$20.00 a day or something you know.
- Q. 103. \$20.00 a day?
- A. Well really I wouldn't even take it ... only.
- Q. 104. When - \$20.00 a day, had you any other source of income apart from that \$20.00 a day?
- A. Yeah, well like I said I was - they got me on a pension 'cause I'm getting over an injury.
- Q. 105. How much was that pension for, how much was the pension for?
- A. \$307.00.
- Q. 106. Was that two hundred and seven?
- A. Three hundred and seven.
- Q. 107. Per week, or fortnightly?
- A. Fortnight.
- Q. 108. A fortnight?
- A. Yeah.
- Q. 109. So you were getting \$307.00 per fortnight?
- A. Yeah.
- Q. 110. Had you any savings up to that point that -
- A. Yeah well I had money in the bank but the bank ripped me off.
- Q. 111. So you had no money in the bank at that time?
- A. At that time.
- Q. 112. Which bank do you bank with?
- A. The National Bank.
- Q. 113. In Redfern?
- A. Waterloo.
- Q. 114. Waterloo. And that's the only source of income you had over that period, 10th January, '92, the morning of the 11th January, '92?

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A. Yeah.

Q. 115. You were unemployed at that time, so you weren't receiving unemployment benefits at that time, just sickness benefits?

A. No I think it was a pension, because I seen the Doctor, the Government Doctor down in town, the CES made me go down to a Doctor down town, the reasons why I was on sickness benefits for. I feel sorry for that bloke, I mean....

Q. 116. The man in the house you mentioned you hadn't seen before that night, the night that you saw him on 11th Janaury, '92. Had you seen him at all before?

A. Which bloke, who?

Q. 117. The person who was in the abandoned house, the derelict house?

A. The bloke that was assaulted?

Q. 118. That's right, yes?

A. Mate I never seen him at all.

Q. 119. You've never seen him before?

A. I never seen him before, the only time I seen him was when he was in the house, assaulted. That was the only time I seen him, I ran up and got the ambulance.

Q. 120. You described the man to Detective Yannakis, and when he was in this particular house, you say you saw him on his back. How was he on his back, how could you describe that. Can you clarify that for us a little further?

A. He was flat on his back like that and he had his tilted on the - tilted on the left side, I'm pretty sure. He was breathing real funny and that's when we freaked out and ...getting the ambulance before he dies. So I ran up to the Station, got the ambulance.

Q. 121. What time did you arrive at the Factory after you left the hotel you mentioned, after 12.15. You mentioned that about 12.15 am, how long would it take you to walk to the Factory. Did you go directly there?

A. Yeah from the top of the Housing Company, that's in the top of Eveleigh Street, and there's a little park, we just sit down on the steps and that. I was there for a couple of hours at least. From there I went straight to the Factory, straight to the Factory.

Q. 122. So you waited around that top area for about two hours after 12.15?

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A. I didn't wait, I was there with friends drinking and just talking and that.

Q. 123. And those friends, they - do you know their names, you mentioned them didn't you or is a new group?

A. Well I know Craig Goldie was there, I know all - I know he was one of them I was with. Him and his lady.

Q. 124. Anyone else?

A. Just a couple of other people I know but I can't remember their names.

Q. 125. All right Kirk, I have nothing further to say.

DETECTIVE YANNAKIS:

Q. 126. Just want you to understand one thing, at the conclusion of this interview you will be charged?

A. Charged.

Q. 127. With the murder of -

A. Hey you -

Q. 128. Robert Malcolm at Redfern on the 29th January, this year?

A. You charging me with this?

Q. 129. I'm sorry, not the 29th, the 11th January this year, do you clearly understand me?

A. You're charging me with this?

Q. 130. Do you understand that, do you understand that?

A. Oh no, you are charging me with this?

Q. 131. We are?

A. Oh you're kidding.

Q. 132. Sit down please?

DETECTIVE THOMAS:

Q. 133. Sit down Kirk?

A. Hey I didn't do this, you can't charge - I never done this.

DETECTIVE YANNAKIS:

Q. 134. Is there anything further you want to say about this matter?

A. Yes I want a solicitor, I never done this, you can't go charging me with this.

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- Q. 135. Do you wish to make a written statement ~~about~~ this matter?
- A. A written statement, you can't go - I never done this.
- Q. 136. Would you please sit down Kirk, so we can get this finished?
- A. I want a solicitor mate, I want a solicitor?
- Q. 137. Do you wish to make a written statement about this matter?
- A. A written statement?
- Q. 138. Mm.
- A. About this matter?
- Q. 139. Yes, about the murder of Robert Malcolm?
- A. I'm innocent, I never done this, I never done this.
- Q. 140. Can you please sit down, please?
- A. You're charging me with murder for this, I never done that.
- Q. 141. Can you please sit down, okay, we can get this finished, all right, just sit down, just listen to the questions and answer them, okay. Do you wish to make a written statement about this matter, yes or no?
- A. Yes I would like to write something about it, I never done it, I never done nothing.
- Q. 142. All right, at the conclusion of the interview we'll give you a piece of paper and a pen, you can make a statement about it. Have the answers you have given as recorded in this interview, been made of your own free will?
- A. Yeah.
- Q. 143. Has any threat, promise or inducement been held out to you to give the answers as recorded in this interview?
- A. No.
- Q. 144. I'll now have Constable Trevillion suspend the interview, where he will then leave the room and bring in a Sergeant to adopt this interview. In the meantime I don't want you to say another word, okay, until the Sergeant gets here. Sit down Kirk, until the Sergeant gets here?
- A. You're charging me with murder.
- Q. 145. Kirk, sit down please. Just sit down please?

YANNAKIS/PHILLIPS

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- A. You can't go doing that mate, I never done nothing.
- Q. 146. Sit down, just keep quiet until the Sergeant gets here, okay.
- A. You're charging me with this -
- Q. 147. Yes I'm charging you with this?
- A. Oh no.
- Q. 148. Kirk sit down, Kirk sit down?
- A. You can't go charging me with this mate, I never done nothing, I helped the man.
- Q. 149. Kirk sit down.
- A. Oh you're kidding.

INTERVIEW INTERRUPTED
INTERVIEW RESUMED

- Q. 150. All right Kirk, this is Sergeant Corliss, he's the officer in the charge here at the moment, he's going to ask you some questions about the interview we've just concluded, okay. Now you ... your father's here, okay, so you agree that your father has just stepped in?
- A. Yeah.
- Q. 151. Okay, now Sergeant Corliss is going to ask you some questions okay, we'll just be outside the door, Detective Thomas and Trevillion will be inside, I'll just be outside, okay. He's going to ask you about three or four questions and the interview will be completed, okay.

SERGEANT CORLISS:

- Q. Hello Kirk. As they said, I'm Sergeant Corliss.

DETECTIVE THOMAS:

- Q. I though so, do you want us to wait -

SERGEANT CORLISS:

- Q. You wait outside.

DETECTIVES THOMAS AND TREVILLION LEAVE INTERVIEW ROOM:

- Q. Now Kirk, you've made a recorded interview on the video?
- A. Yeah.
- Q. Is it - did you make it of your own free will?

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A. Yeah.

Q. Did you make the interview of your own free will?

A. Yeah.

Q. Was the recorded interview true and correct in every detail, what you told the video?.

A. Yeah.

Q. Have you any complaints about the manner you've been treated by the Police, in the fact of you know, assault or -

A. Yeah ...is they're charging me with murder and I never even done it, I helped the man. I helped him.

Q. Yeah, but have you got any other complaints about harassment or anything of that nature?

A. No.

Q. They've treated you in a decent manner?

A. Yeah.

Q. During the interview?

A. Yeah.

Q. You've got no complaints?

A. No.

Q. Okay.

INTERVIEW CONCLUDED: