

18/3/ems

90/95

evidence from the directions hearing at page 16 of that hearing, if your Honour pleases.

MURRAY J: Thank you.

CAPORN, DAVID JOHN sworn:

BATES, MR: For the record, Mark Andrew Emmett is also in court.

MURRAY J: Yes, thank you.

BATES, MR: Is your full name David John Caporn?---Yes.

Can you tell us your rank and where you're currently stationed?---I'm a detective sergeant attached to the major crime squad.

If I can take you now to May and June of 1994, were you also a detective sergeant attached to the CIB major crime squad during those months?---Yes, I was.

As a detective attached to the major crime squad were you one of a number of detectives involved in the investigation into the death of Pamela Susanne Lawrence at her shop Florà Metallica at 4 Glyde Street, Mosman Park on 23 May 1994?---Yes, I was.

Can you just tell the court who was in charge of that investigation?---Detective Sergeant Shervill.

Can you tell the ladies and gentlemen of the jury what your particular role was in relation to that particular investigation?---I was in charge of one of the investigation teams.

Just tell the ladies and gentlemen of the jury what being in charge of one of those investigation teams involved?  
---Being in charge of one of the investigation teams is - basically your job is to follow up leads. Every piece of information that comes in is recorded on what we refer to as a serial and these serials are allocated to the various investigation teams to follow up those leads.

Right, and you were responsible for one of the teams following up some of those serials or some of those leads. Is that correct?---That's correct.

Thank you. Are you able to tell his Honour and the ladies and gentlemen of the jury how many serials this particular inquiry generated?---560.

That's 560 separate pieces of information that has come into the investigators. Is that correct?---That's correct, yes.

6/11/95

CAPORN, D.J. XN

308

19/1/mp

90/95

And of those 560 pieces of information, does that information show up particular individuals?---Yes, it does.

Just describe who they are and how many of those there were?---Anyone who is generated throughout the serials as a person - what we call - we refer to him as a person of interest and in this case through those amount of serials there were 136 persons of interest.

Right, and persons of interest - just describe who they were and why you would want to talk to those sort of people?---They were people who become of interest because of information we have received or information that had been generated about them. In other words, they were subject to the information that was in that serial. It may have been that a member of the public nominated that particular person as being a likely person that may have committed the offence or it may just be that they were seen walking past there at the time. That's basically - - -

As the officer in charge of one of the inquiry teams, did you not only have a number of pieces of information to follow up, but also a number of persons of interest to interview?---Yes, I did.

Was Andrew Mark Mallard one of those persons of interest?---Yes, he was.

Was it your job to interview him?---Yes.

Did you speak to him on a number of occasions?---Yes, I did.

And on each of those occasions was there anyone present with you?---Yes. Detective Emmett was with me on the times that I spoke to - interviewed him and there were various other persons present in some of the other interviews.

On each of those occasions were notes taken of the interview?---Yes, they were.

And who took the notes of the interview?---Detective Emmett.

Can you just describe for the ladies and gentlemen of the jury the procedure that was adopted for the taking of those notes?---Whenever I spoke to the accused, I would ask him a question. Detective Emmett would write down that question. The accused would give an answer and then Detective Emmett would write down that answer.

6/11/95  
12.06

CAPORN, D.J. XN

309

19/2/mp

90/95

And would the interview then progress in those terms?  
---That's correct, yes.

At some stage did you read Detective Emmett's notes in each of those interviews?---Yes.

Just tell us - the shorter interviews - when would you read those notes?---The shorter interviews - I read them - they occurred at Graylands Hospital and they were read in the carpark of Graylands after - immediately leaving the interview, while it was still fresh in our minds, and the longer interview - there were several breaks and it was in those breaks that the notes would be reviewed to analyse what he had said to us and also to ensure that they were correct. *NO BREAKS. ONE ONLY JUST BEFORE BITE*

I think we can concentrate on the shorter interviews at the moment. If I can take you now to the afternoon of Thursday, 26 May 1994 - did you attend at the Graylands Hospital on that occasion?---Yes, I did.

Who were you in company with?---Detective Emmett.

On that occasion did you interview the accused man, Andrew Mark Mallard, in the presence of Detective Emmett and also a nurse from Graylands, an Ian Sharp?---Yes, I did.

Can you tell us what time approximately you arrived at the hospital on that day?---Just referring to my notes here, it was 1.25.

Once you arrived at the hospital, did you take some steps to ensure that Andrew Mark Mallard was medically fit to be interviewed by you?---Yes, I did. I spoke to Dr O'Dea. I had received information that he was in charge of the accused's case and I had a discussion with him to ensure that the accused would be okay to interview.

And upon your discussion with Dr O'Dea, was it in order for you to interview the accused?---Yes. He said - he told me that he had not got very far with that particular case. He had only just commenced work on it and he said it was fine for me to interview - - -

Do you recognise Andrew Mark Mallard in the court today?  
---Yes, I do.

For the transcript the witness has identified the accused.

Do you have a commencing time for the interview with Andrew Mark Mallard?---It was 1.38.

6/11/95

CAPORN, D.J. XN

310

19/3/mp

90/95

I will just take you to that specific interview or that particular interview. Were notes made of that interview?  
---Yes, they were.

And who made those notes?---Detective Emmett.

And when were the notes made?---They were contemporaneous at the time in the fashion that I have described earlier.

Right. That is where you would ask the question. Detective Emmett would record it and Mr Mallard would give an answer. Detective Emmett would record it and it would proceed from there?---That's correct.

Did you read over those notes after the conversation?  
---Yes, I did.

Just tell us where you read over those notes?---In our vehicle in the carpark of the Frankland Centre of Graylands Hospital.

Do you have a concluding time for that particular interview?---I would have to refer to the notes on that.

If you just do that just for that purpose?---1.55 pm.

And how long after 1.55 pm did you read over Detective Emmett's notes?---I couldn't say exactly, but we're talking about only a very few minutes - enough time to walk outside, go through the security and - - -

And did Detective Emmett's notes reflect the conversation that you had with the accused man Andrew Mark Mallard on that afternoon of Thursday, 26 May 1994?---Yes, they did.

If I can ask you some general questions - the notes of Detective Emmett on this occasion and also on the other occasions that you spoke to the accused man in the presence of Detective Emmett - were those notes taken from the note form and put in the form of a statement?  
---Yes, they were.

Is that a lengthy statement which numbers some 114 pages and forms part of the papers for this particular matter?  
---That's correct, yes.

Have you gone over all of Detective Emmett's notes and seen that the deposition reflects the notes accurately?  
---Yes, I have.

Was that typed up and then - just tell us the procedure that you adopted to get the deposition in typed form brought into existence?---Yes. The typist has typed from my notes the interviews in that deposition form that I had with the accused and then after it has been typed I

19/4/mp

90/95

have later sat down and then checked each page against the notes and basically what I have done to ensure this is correct is read the deposition out to Detective Emmett while he has gone through the notes to make sure that everything is correct, yes.

And after the typewritten copy came into existence, was there a further check made between the typewritten copy and the handwritten notes of Detective Emmett?---Yes, there was.

HALFWAY TO 3/2 THE WAY THROUGH THE SW INTERVIEW DETECTIVE EMMETT DID NOT TAKE NOTES

MARK · I READ THIS BEFORE THE TIME I TOLD MR HOGAN THEN THE RECORDS OF INTERVIEW WAS CHANGED. A WORD OR TWO, SENTENCES AND WHOLE PARAGRAPHS. I DID NOT SWEAR DURING INTERVIEW OR LOOSE MY TEMPER. I WAS TRYING TO ANSWER THE QUESTIONS. DETECTIVES CONFUSED AND UPSET ME. THEY ALSO THREATENED ME. THE CONFUSION SEEMED WHEN EARLY IN THE CAPORN INTERVIEW CAPORN ASKED "WHEN DID THE TAXI DROP YOU OFF" I SAID 5 O'CLOCK. HE SAID NO! IT WAS 3 O'CLOCK THAT CONFUSED ME. I WAS TRYING TO ANSWER HOW THIS COULD BE I WAS DRAWING MEMORILY FROM ALL OVER DIFFERENT TIMES.

DURING BOTH INTERVIEWS I WAS NOT ASKED HAD I MURDERED OPPELLE LAWRENCE THOUGH I CONTINUELY DENIED ANY INVOLVEMENT. I GAVE DETECTIVES A THEORY ON WHAT MAY HAVE HAPPENED. THIS THEORY WAS ALTERED AND "HE" WAS REPLACED WITH "I"

P.T.O.

6/11/95

CAPORN, D.J. XN

312

20/1/cst

90/95

Did that adduce any minor discrepancies between the typewritten copy and the notes?---Yes, it did.

Have you then amended those - the typewritten copy to accord with the handwritten notes?---Yes.

That conversation - the first one on 26 May 1994 and the subsequent ones, can you remember all those conversations word for word?---No, I cannot.

I think your deposition numbers over 100 typed pages of double-line spacing. Is that correct?---That's right.

Did you speak to Mr Mallard - we will get to the details but on a number occasions including a lengthy interview over 8 or 9 hours; your final interview with him on 10 June 1994?---Yes.

Have you had a number of inquiries since this matter as part of your role as a sergeant in the major crime squad?---Several.

Do you seek his Honour's permission to refer to your deposition in order to give the ladies and gentlemen of the jury the conversation that you had with Andrew Mark Mallard on this and the other occasions?---Yes, I do.

MURRAY J: Sergeant, let me see if I have understood. When you say you would have an incapacity to remember the conversation verbatim, would you have any recollection of it at all now?---I have recollections in fact - I mean, I have gone over these notes several times since then for various hearings or whatever. My recollection certainly would not be accurate if I tried to relate it - the "I said", "He said" to this. It is just too much.

What should the jury understand, a recollection of substance rather than word for word?---Yes. I can recollect the various stories he has - the various things that he has told me - the accused has told me but to place them back in the order that they were told, I would not be able to do that very accurately I would not think.

Mr Bates, I think in those circumstances the witness should simply read identifying that he is reading particular noted conversations, rather than attempt to recall parts and refresh his memory from other parts. If he simply reads, it would seem to me to be the appropriate way to proceed.

BATES, MR: Thank you, your Honour. Do you have a copy of that deposition in front of you - the 114-page deposition?---Yes, I do.

6/11/95  
12.13

CAPORN, D.J. XN

313

20/2/cst

90/95

If I can take you to it, we will commence with the first one. You have told us about an interview with Detective Emmett present and Nurse Ian Sharp at Craylands Hospital which commenced at 1.38 on the afternoon of Thursday, 26 May 1994. How did that interview commence then?---It commenced with introductions. I introduced myself and Detective Emmett to the accused and then I cautioned him saying to him, "You do not have to tell us anything unless you wish to do so and anything you do say will be taken down and recorded and may be used as evidence." I then asked him, "Do you understand this?" and he said, "Yes."

I will just get you to relay that conversation from start to finish that you had on Thursday, 26 May 1994?---I said, "Andrew, we are investigating the death of Pamela Lawrence who was murdered at Flora Metallica jewellery store on Monday evening." "I thought you were drug squad. I am expecting someone; not this."

I said, "What do you know about the murder?" "I just walked past the shop, thought there was a burglary."

"When was that?" "About 7 pm, maybe after. The police were there; a van was out the front. I was just getting around past there, went past, thought it was a burglary."

"What time did you leave the lockup on Monday?" "I don't know; about 4 o'clock; something like that. I went past the shop later on as well. There was tape around the shop and a van out the front."

"What time was that?" "After 9 pm."

I said, "Okay, go back to the start. You say you got out of the East Perth lockup at 4.00. Who went bail for you?" He said, "Personal bail."

"Where did you go?" "I got a taxi to Murray Avenue, to Michelle's house."

"What time?" "About 5 pm and I went to Michelle's flat."

"Michelle told us that you didn't get back until after 6.30 pm. Could that be right?" There was a pause before he said, "Okay, right. I took ages to get a taxi. That's right. I remember I went to the International Hotel; you know, the Perth International Hotel. It was raining. I got the bellboy to call a taxi. He called twice. I waited about 1 hour, didn't turn up. I went to the town hall and flagged one down. The taxi took me home; that's right, yeah."

6/11/95

CAPORN, D.J. XN

314

THESE ANSWERS HAVE BEEN ALTERED

20/3/cst

90/95

I said, "Tell us about the taxi." "I remember it now. It was near the town hall. I flagged down the driver. He was about 55, English, white beard, no moustache, receding white hair like you, sergeant, no disrespect; glasses - reads with a magnifying glass."

"Where did he take you?" "Stirling Highway, to 2 Murray Avenue. I went to Michelle's place."

"What type of taxi was it?" "I don't know; a white Ford; it was raining."

"What time did you get home?" He said, "It was 6.30; just before or just after."

5.30 - 5.40  
I said, "What did you do when you went to Michelle's?" He said, "Got home, got changed, got something to eat."

"What were you wearing when you got home?" "My black Doc Marten's; blue jeans with tears in the legs, a purple shirt."

I said, "What did you change into?" He said, "I just grabbed my leather jacket."

"Then what did you do?" "I went to a friend Michael's in Fremantle. He will tell you. He is about 50. We had a talk and a smoke."

"How did you get there?" "On the train. That's when I went past the shop; thought it was a burglary."

"Where does Michael live?" "A suburban real estate place; a boarding house. We had a smoke and a talk and I got a train to Mosman Park. That is when all the tape was up at the shop."

I said, "What time was that?" He said, "About 10 pm."

"Which way did you walk when you left the train to go back to Michelle's?" "I walked past the shop to Ecclesborne and then to Murray Avenue."



21/1/ems

90/95

"Have you been into the Flora Metallica jewellery store?" "I looked in the window a week or so back and saw a gum leaf I liked; spoke to a middle-aged woman, blonde hair, glasses. Not the woman that was killed and in the news."

*I DID NOT SAY THIS*

"What did you talk to the woman about?" "To sell jewellery. I wanted to know if she would buy jewellery but she told me to go to Cash Converters or a second-hand antique store. I left straightaway."

"Do you know her name?" "No." "Is that the only time you have been to the shop?" "Yeah. I got some friends in the flats next to the shop but I've never been to the shop other than that time."

"Who are your friends who live in the flats next to the shop?" "Graham and Angie. They live on the ground floor, unit 17."

"Do you wear bandannas?" "Yeah, I used to wear bandannas but not for a couple of months now."

"Andrew, did you murder Pamela Lawrence?" "No, I don't do that shit."

"Have you anything further to say about this matter?" "Can you tell me what she was killed with?"

"No, I cannot tell you that. Why do you ask?" He said, "I'm just wondering what happened. Anything else?"

I said, "That's all for now. Thanks for your time." He said, "Can you give a message to Detective Sergeant Voyez? I want to speak to him regarding drugs." I said, "Yes."

If I can just stop you there. Have you subsequently seen a copy of what he told you on that occasion as to his movements and whereabouts reduced to the form of a plan which sets it out diagrammatically?---Yes, I have.

I would ask Mr Usher if he could hand these out to the ladies and gentlemen of the jury. On this first one we're caught a bit short. We're going to get some further ones done but we have only got four so if we can have two in the front row and two in the back row. We have a full number for the rest and we will get some folders in due course, your Honour.

Do you have a copy of one those alibi charts in front of you, Detective Sergeant Caporn?---Yes.

21/2/ems

90/95

If you can just take the ladies and gentlemen of the jury through that first one. Perhaps, Mr Usher, we could also have the street plan showing as well?---All right. How do you want - just go about - - -

If you just describe it, yes?---The first thing he said is that he has gone to 2 - 2 Murray Avenue in Mosman Park, which is the location of Bel Air flats.

Right?---Okay, and then to Michelle's house, which is - - -

On the one the jury has, it has a "1" opposite Bel Air and - - -?---"1" opposite Bel Air and a "2" should be here.

Opposite Michelle Engelhardt's at unit 3, 10 Murray Avenue, Mosman Park?---That's correct, yes.

Yes, thank you. If I can move on next to Friday, 27 May 1994, but before I do, what was the purpose of speaking to the accused on that first day, on the Thursday, some 3 days after the killing?---It was a preliminary interview to basically - if I can explain. With these serials and persons of interest our main objective is, as strange as it may seem, is to put people out of the picture, so my purpose of going there was to find out what he was doing and if he could give me an alibi for where he was at the time that this offence occurred. So if we could find an alibi that was supported, then we wouldn't have to concern ourselves with that person of interest and we could move on to other things.

What he told you on that occasion, was that then compared with information you already had and investigated further to see whether it stood up or not?---Yes, it was.

Thank you. If I can take you to the afternoon of Friday, 27 May 1994, on that day did you also attend at Graylands Hospital in company with Detective Emmett?---Yes, I did.

Did you make any arrangements before attending at Graylands Hospital--Yes, we contacted Graylands Hospital by telephone to let them know that we were coming out to interview the accused.

In company with Detective Emmett and in the presence of Nurse Ian Sharp from Graylands did you interview the accused man - - -?---Yes.

- - - Andrew Mark Mallard?---Yes, I did.

Can you tell us what time the interview commenced?  
---12.53 pm.

6/11/95

CAPORN, D.J. XN

317

21/3/ems

90/95

Was the same procedure adopted in terms of Detective Emmett taking the notes? You would ask the question and he would write the question down, Mallard would give an answer and then that would be written down?---That's correct, yes.

After the interview was concluded did you read over the notes?---Yes, I did.

Do you have a time for the conclusion of the interview?  
---I will have to refer to the notes if you don't mind.  
Yeah, 11 past 1 pm; 1.11 pm.

When did you read over those notes?---A few minutes after that in the car - our vehicle in the carpark of the Frankland Centre.

Did those notes accurately reflect the conversation that you had had with the accused man in Detective Emmett's presence?---Yes, they did.

Thank you. If you can now proceed to give that conversation to the ladies and gentlemen of the jury?---I cautioned him in the same manner as I have described before and said, "Do you understand this?" He said, "Yes."

I said, "Andrew, we want to clarify some things you told us in relation to our investigation into the murder of Pamela Lawrence." "Okay."

"I want to talk about what you did after you left the lockup on Monday night and caught a taxi. Where did the taxi take you?" He said, "To 2 Murray Avenue, Bel Air flats."

I said, "That's not the flats where Michelle lives."  
"No, I didn't go there. I went to Bel Air, did a runner, then I went to Michelle's flat."

22/1/mp

90/95

"What do you mean by 'Did a runner'?" "I did a runner - took off without paying for the taxi." I said, "What time did the taxi drop you off?" He said, "Just before 6.30."

I said, "Where did you go after you got out of the taxi?" "Michelle's flat." "Which way did you walk from the taxi?" "Ground floor, past laundry, over the carpark to Michelle's flat."

"What did you do there?" "Just changed into a check shirt, leather jacket." "Was Michelle home?" "Yeah, Michelle and her ex-boyfriend Damien."

"Was Michael there?" "No, Michael wasn't there." "What time was it you got to Michelle's?" "Just after 6.30."

Right - if I can stop you there. What he has told you there - has that alibi been reduced to diagrammatic form?---Yes, it has.

Yes, I have got seven copies the same as the photographs for the ladies and gentlemen of the jury, Mr Usher - if they could be handed out.

MURRAY J: Yes, I have understood what you are doing with the aides-memoire, Mr Bates, but it is going to become confusing, is it not, if people are left with simply bits of paper accumulating before them?

BATES, MR: Yes. We have got some folders, your Honour, and at the luncheon adjournment we can put the - they can come back, we can put them all in the folders and then - - -

MURRAY J: I think, ladies and gentlemen, you had better give the first four back, if you would, to Mr Orderly. We will hang onto those. Take the first four and let Madam Clerk of Arraignment have those, thank you, Mr Orderly, and there is another one to come back, Mr Orderly, if you would please before you distribute any of the others. I presume that in addition to supplying copies - roughly one between two of members of the jury - Mr Bates, you are proposing to provide copies for Mr Hogan?

BATES, MR: That's right, sir, yes, in the same form as the photographs.

MURRAY J: And also hopefully for the court as the official copy of the aide-memoire.

BATES, MR: That's right, yes.

6/11/95  
12.27

CAPORN, D.J. XN

319

22/2/mp

90/95

MURRAY J: All right. Before we go and deal with that, have we got seven among you, ladies and gentlemen? Yes, we have. All right. I just want to say something, if I may, ladies and gentlemen, to you - if you would just pay attention to me for a moment - in relation to those particular matters.

They are a rather different type of document from that book of photographs and material of that sort that you have been supplied with. As you will appreciate, the first set of material is simply a number of copies for ease of following particular matters which are introduced into evidence and have evidentiary value themselves. These documents, as I have understood what counsel is proposing to do and what I have permitted him to do, are of a different character.

They are simply aids to memory, so they have only value so far as they reflect what the evidence is and the relevant evidence is to enable you to understand and see what this witness says the accused person said to him about the accused person's movements. It is thought by counsel that you would have a better opportunity to do that if you see that reduced to graphic form.

So you need to be careful as you deal with that just to see and check as you are going through that the document does accurately reflect what the witness's evidence is as to what the accused person allegedly said to him on the occasion of the particular interview. There may be comment about it if it doesn't or if it has some other impact, but it has no more effect than that and just so that you understood how we have come to do that - it is a matter which has been debated before me by counsel and I heard submissions about it and permitted that course to be followed. So there it is, but I think you need that explanation. Yes, thank you, Mr Bates.

BATES, MR: Yes, as your Honour pleases, and I have got a copy of alibi number 2 for your Honour and also for the witness.

MURRAY J: Yes, thank you. So this document represents a version of what - yes, I see. You have the date at the top which is the date of the particular interview, is it?

BATES, MR: That's right, your Honour, yes. Then there is the one and two indicating the places on the map and also the legend just as a very brief explanation of one and two. So in this case there will be taxi to Bel Air, 2 Murray Avenue - is the first place he went to - and then secondly 3, 10 Murray Avenue - arrived just after 6.30 pm.

MURRAY J: Yes, thank you. I think we can all follow that. Yes, thank you, Mr Bates.

6/11/95

CAPORN, D.J. XN

320

22/3/mp

90/95

BATES, MR: I will just direct a question to the witness.

Detective Sergeant Caporn, that alibi number 2 that you have just referred to - does that reflect the accused man's account of his whereabouts and his movements as told to you at the start of that interview at Graylands on 27 May 1994?---Yes, it does.

Thank you - if now you could resume the conversation on that date?---I said, "Andrew, I was able to locate the taxi driver who took you to 2 Murray Avenue on Monday night. He actually dropped you off before 5 pm. What have you got to say about that?" "Oh shit."

"Where did you go after you got out of the taxi?" "Shit, let me think." There was a pause before he said, "Doesn't matter." I said, "Of course it matters. Pamela Lawrence was murdered during that period and your movements are not accounted for." He said, "I'm trying to remember. So that's about one and a half hours. Do you think I did this, sergeant? Do you think I killed her?"

I said, "If you weren't a suspect, I wouldn't be here. I am trying to establish if you are involved." He said, "Caught taxi to unit, ground floor to laundry at Michelle's. Checked bike. Hung around till taxi left, kept lookout around the corner. Yeah, yeah, that's right. I didn't go into Michelle's till 6.30 because I wanted to score smoke. Yeah, yeah, that's right. I went down to Bel Air, flat 133, see Russell. Tried to score. Seen Natalla, Rasa, Joshua, that's right."

I said, "So what did you do there?" He said, "Talk with them. I tried to score smoke. Didn't get any." "How long did you spend there?" "Yeah, a while. I talked. I was trying to score. Then to Michelle's about 6.30. All the rest is the same as I told you yesterday, that's right."

23/1/ems

90/95

"Did you go to the jewellery shop that night?" "No, I went past there on the way to Michael's and on the way back. There was a police van early and when I came back they had crime tape around the shop."

I said, "How many times have you been into that jewellery shop?" He said, "Just once. I spoke to a woman to see if she would buy some jewellery a couple of days before; blonde hair, glasses."

I said, "That's the only time?" "Yeah. It was a couple of days before the murder. I think the same day I went into the hi-fi shop to get a power cord for a micro cassette. Ask the guy, he'll tell you."

"Andrew, I am concerned with your account for Monday between 4.30 and 6.30 pm. Are you sure you've told us everything?" "I'm thinking. I'm thinking, sergeant. I'm not lying. That's right, after flat 133 Bel Air flats I went to flat 82 Dover Court, sixth floor, sergeant; spoke to a couple of guys there."

"What was that about?" "Trying to score a smoke. I was on the move trying to get on; asked them if they had any."

"Who were they?" "Shane is one. Can't remember the other's name. They were playing cards; talked a while."

"Did you get any drugs?" "No, they didn't have any. They said, 'See Ivan, flat 72,' but nobody was home."

"When did all this happen?" "Between the taxi drop off and when I got to Michelle's at 6.30. That's it, sergeant. I've told you everything."

"Who is Ivan?" "Some Kiwi bouncer." I said, "Did you speak to him that night?" "No, he wasn't home."

"Why didn't you tell us about this yesterday?" So much has happened I forgot."

"Just clarify one thing for me, Andrew. When you went to Flora Metallica to sell jewellery did you go inside?" "Yeah, but just inside the front door. No further."

I said, "When was that?" He said, "Friday or Thursday last week."

I said, "Is there anything further you can tell me about your movements?" He said, "No."

I said, "That's all for now. Thanks for your time."

6/11/95  
12.35

CAPORN, D.J. XN

322

23/2/ems

90/95

Thank you. That was the conclusion of the interview on that particular day?---That's correct.

Thank you. Mr Usher, if we could have alibi 2 back and we will hand out alibi 3. Mr Usher, if we could have one for his Honour and the witness.

Can you just take us through that alibi, Detective Sergeant Caporn?---Okay. Number 1, taxi to Murray Avenue, which has been - actually, I think the number 1 is incorrect; in the incorrect place.

You say it's at 10 Murray Avenue but it should actually be at 2 Murray Avenue?---It should be at 2 Murray Avenue outside Bel Air - - -

Yes, thank you. We will get that amended?  
--- - - - flats. So number 1 which is over here should be here in front of Bel Air flats. The second one is correct, placing it at unit 3, number 10 Murray Avenue. Number 3 is at the Bel Air flats again, which is depicting the flat 133. Number 4 and 5 are both at Dover Court, also known as Manhattan West, which depict the other two units that he has been to, both flats 72 and flat 82 that he has - reflects the things he told me.

Right. Flat 82 is the flat of Shane Ferguson and Barry Atherton and flat 72, Dover Court, no person home. Is that correct?---That's correct, yes.

Yes, thank you. If I can take you now to the afternoon of Monday, 13 May 1994. On that afternoon did you, in company with Detective Emmett, attend at the Graylands Hospital?---Yes, I did.

On that particular day, in company with Detective Emmett and Nurse Howard Pley, did you execute a search warrant on a Mark Andrew - Andrew Mark Mallard?---Yes, I did. -

Did you see some items including a pair of black shoes and some blue jeans?---Yes, I did.

Prior to going to the hospital on that day had you had any contact with the hospital then?---Yes. I contacted a Dr Srna at the hospital. Dr O'Dea wasn't available. I advised Dr Srna of our intention regarding the search warrant and the other people that I would be bringing with me and advised him of our procedure in that we would be also attending.

Was that search warrant executed on the accused man?  
---Yes, it was.

Were some items seized and given to Constable Ward from the forensic branch?---Yes.

6/11/95

CAPORN, D.J. XN

323



23/3/ems

90/95

I would ask if the witness could be shown exhibit 6 and 8. 6 is the Levi jeans and black belt and 8 is the black shoes.

Just tell us whether you can identify those items as being seized on that occasion?---Yes, I can.

Was a note made - were there some other items seized on that occasion as well?---Yes, there was.

Was a note made on what those other items were?---Yes, there is.

*[Faint, mostly illegible text, likely bleed-through from the reverse side of the page.]*



6/11/95

CAPORN, D.J. XN

324