

**TRANSCRIPT OF PROCEEDINGS**  
**UNCLASSIFIED**

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**AUSTRALIAN DEFENCE FORCE**

**AUSTRALIAN ARMY, VICTORIA BARRACKS, NSW**

**INQUIRY INTO THE DEATH OF**  
**PTE JACOB BRUCE KOVCO**

**PRESIDING:**

**GPCAPT W COOK, President**  
**COL M CHARLES, Board Member**  
**MR J O'SULLIVAN, Board Member**

**COL M GRIFFIN, Senior Counsel Assisting**  
**MAJ E JOLLY, Counsel Assisting**  
**MAJ J HYDE, Counsel Assisting**  
**MAJ A BELKIN, Counsel Assisting**

**LTCOL P WILKINSON, representing Soldier 2**  
**LTCOL B GREEN, representing Soldier 14**  
**LTCOL T BERKLEY, representing Next of Kin**  
**LTCOL F HOLLES, representing PTE Kovco's Parents**  
**COL L YOUNG, representing PTE Kovco**

**0937 FRIDAY 21 JULY 2006**  
**DAY 8**

The transcript has been checked and cleared for operational security issues.

**TRANSCRIPT VERIFICATION**

I hereby certify that the following transcript was made from the sound recording of the above stated case and is true and correct

Signed.....  ..... Date .....21.07.06.....(President)

Signed.....  ..... Date .....21.07.06.....(Recorder)

Signed.....  ..... Date .....21.07.06.....(Transcriber)

Signed.....  ..... Date .....21.07.06.....(Transcriber)

Signed.....  ..... Date .....21.07.06.....(Transcriber)

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Kovco 21/07/06

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5 COL GRIFFIN: May it please the Board, we resume with Detective Inspector Hoffman.

PRESIDENT: Yes, thank you.

10 COL GRIFFIN: Will you want the witness resworn, sir?

PRESIDENT: Yes, please.

15 <WAYNE WALTER HOFFMAN, recalled and resworn [0937]

<EXAMINATION BY COL GRIFFIN

20 COL GRIFFIN: Sir, the Inspector was back this morning to be available for examination by Counsel Representing but, before he does so, I propose to complete the tender of the final document he produced yesterday where he spoke to critical factors relating to his opinion, so if I could complete that tender, sir.

25 PRESIDENT: Any further comment?

COL YOUNG: You've admitted it, sir.

30 PRESIDENT: I didn't formally mark it, though. It will be marked as Exhibit 94.

35 **#EXHIBIT 94 - MR HOFFMAN'S TWO-PAGE DOCUMENT - FACTORS RELATING TO SELF-INFLICTION OF INJURY**

40 COL GRIFFIN: Thank you, sir. One further document that the Inspector has produced to me this morning - I'll just show it to him. Inspector, is it the case that you've reviewed the file or made further inquiries as a result of questions put to you on issues raised yesterday and that you have further information for the Board?---Yes, I do. I was approached by one of the Counsel Representatives yesterday regarding fingerprints upon the firearm, cartridge case and bullet. I reviewed the file last night and this  
45 morning and I've located a form in front of me here containing three

5 pages of photocopy. It's titled, "Major Crime Laboratories, Westmead, General Documents and Exhibits," with a barcode A1123682. It indicates that on 1 May 2006 ballistics support officer Walter Murphy conveyed the exhibit handgun, which has sealed in a plastic bag the fired bullet and a fired cartridge case to Westmead Laboratories, where he waited there that day while it underwent a fingerprinting process. The results of that fingerprint process were covered by Inspector Wayne Hayes previously in his evidence but I can clarify. The results of the fingerprint examination revealed that the pistol had unsuitable marks on the pistol which could not lead to a positive identification. But the words, "unsuitable marks," are not clarified any further than just that. The fired bullet had no marks and the fired cartridge case had unsuitable marks but all not leading to any positive identification.

10  
15 If I draw your attention to the legend at the bottom of the second page. In the examination particulars column it records, "unsuitable marks." At the bottom of the page there's an entry, "(UM)," and then the words, "unsuitable marks," and then a description, that is:

20 *Insufficient fingerprint ridge structure found for ID -*

that is, identification, I take it?---Yes.

Then:

25 *Smudges, smears, et cetera.*

?---Yes.

30 Is that your understanding of the broader context of the description "unsuitable marks"?---Yes, it is, and I can't clarify any further than that than what's recorded on this form, but the fingerprint person could be called to give evidence if the hearing wish that to be, if they wanted any further information on that.

35 Thank you, Detective Inspector. I tender the document, sir.

PRESIDENT: Any opposition to the tender of that document?

40 COUNSEL REPRESENTING: No, sir.

PRESIDENT: It is to be marked Exhibit 95.

45 **#EXHIBIT 95 - MAJOR CRIME LABORATORIES, WESTMEAD,**

## GENERAL DOCUMENTS AND EXHIBITS

5 COL GRIFFIN: Thank you, sir, that completes my questions.

PRESIDENT: LTCOL Green.

LTCOL GREEN: No, thank you.

10 PRESIDENT: LTCOL Holles.

LTCOL HOLLES: Sir, by arrangement, COL Young has to go first.

PRESIDENT: Is that convenient to you?

15

COL YOUNG: Yes.

### <EXAMINATION BY COL YOUNG

[0942]

20

COL YOUNG: Inspector Hoffman, my name is COL Young. I appear to represent the interests of PTE Kovco. Just on the issue of fingerprints, from your experience is it possible to get fingerprints from weapons?  
25 ---Yes, it is. It depends on the surface of the metal of the gun naturally. Some modern weapons are polymer, modern polymer construction, which can make it very hard. Revolvers over the blue metal surface are very easy to pick up. And also pistols too if they're made of conventional construction of steel. But I find that usually cartridge cases and projectiles  
30 it is very hard or remote to get a fingerprint identification. So yes, that's through experience.

30

I imagine it would not be helped if a weapon had been extensively handled before being submitted for fingerprinting?---No, it would not help  
35 the process at all.

35

I'll show you a document. Are you able to identify that document?  
---Yes, it's titled - it's one of my official forms from my laboratory and it's titled "Forensic Ballistics Investigation Section Post-Mortem  
40 Examination" and it's two pages. I do not know who the author of it, but I presume that it's Sergeant Snow who took the notes at the post-mortem I believe on that date.

40

You'll notice on the second page at the bottom there's a highlighted area.  
45 Would you read that, please?---Yes, the highlighted area at the bottom of

45

page number 2 states:

*Info from SGT Francis. Weapon has been extensively handled prior to delivery to police.*

5

Do you know who SGT Francis is?---No, I don't, and after looking at this document this morning I can only imagine that SGT Francis may be a military person. I don't know if SGT Francis is police or military, but I think that may have been information that we asked for during the post-mortem. Snow was asked that just to find out by asking a question about all the exhibits and was given that information by someone and it's recorded there as a matter of course.

10

Assuming that notation is accurate, that the weapon had been extensively handled, would that be a reason why fingerprints may not have been able to be lifted from the weapon?---Or it might or it could possibly indicate that it was still - its integrity was still intact at whatever stage but it's just been handled in a continuity of coming from Baghdad to Australia.

15

That's something we don't know?---That I don't know.

20

Maybe SGT Francis could help us with that?---Yes.

Thank you. I've finished with that document. Do you have available to you your expert certificate in your report dated 18 May 2006?---Yes, I do.

25

Is it fair to say from that document that you've attended many courses and workshops, conferences in relation to weapons and that's mostly been in the United States?---The workshops on weapons have mostly been here in Australia. As far as workshops go, I've viewed assembly plants, seen firearms assembled in America. I've done armourers courses here in Australia.

30

In that document you've indicated a number of places you've been in the United States attending various courses?---Yes, those places were crime laboratories which specialised in the handling and examination of weapons which I - so I've examined their processes of how those crime laboratories have received evidence and how they've examined it.

35

Have you been to conferences or the like in England or Germany or Belgium, for example?---No, I haven't.

40

On page 2 of that document?---Yes.

Now, about halfway down it says:

45

*I have attended a wound ballistics workshop conducted by Dr Vincent Di Maio in 2002.*

5 ?---Yes.

Would it be fair to say you're an admirer of his work?---No, it was just a coincidence that he was at that conference. The conference I attended was what I indicate on page number 3 where I said I attended AFTE which  
10 was in San Antonio Texas in May 2002, Mr Di Maio just happened to run a workshop while I attended, so I participated in it. I didn't go there to see Mr Di Maio, this was part of the course.

I appreciate that. It's the case though that one of the references or book  
15 text you've relied on to produce a second statement is written by Dr Di Maio?---Correct.

And from your reading of that book, and I understand it's your personal  
20 copy, his findings are based on statistics and events in the United States, is that true to say?---Yes, plus his own work that he's carried out himself as a medical examiner.

Would you agree that the United States has a different attitude to guns as  
25 compared to England or Australia?---As far as law goes, or crime, law or general - - -

Well if I use the term "gun culture"?---Well if you use the term "gun  
culture" I would automatically think of America.

30 Would you agree that Dr Di Maio's work is based on a US culture and attitude to weapons?---I don't know if it was based - well, yes and no. It's based on the work that he's working in amongst that gun culture and that would indicate the sheer volume of jobs and things, the various crime  
35 scenes that he would've gone to. So I think some of those examiners and pathologists are very - not lucky, but are very fortunate in America that they're able to see volume crime scenes.

If I take you to page 5 of your report, at the very top of that page?---Yes.

40 It reads:

*All opinions expressed in the body of this certificate are based wholly or substantially on my specialised knowledge.*

45 ?---Yes.

And then going to page 10, in paragraph 7?---Yes.

5 You express an opinion, I wonder if you could read that for me, please?  
---Paragraph 7:

10 *I am of the opinion that the deceased had suffered a fatal gunshot wound with the muzzle of the firearm in close proximity near contact with the right side of the face of the deceased at the moment of discharge.*

And that opinion is based on your experience as certified on page 5?  
---Yes.

15 Could I ask you to turn to the document that you produced yesterday, the document dated 18 July 2006?---Yes.

And go to the last paragraph?---Yes.

20 If you would read that last paragraph for me?---

25 *Based on the abovementioned indicators only, I am of the opinion that the fatal shooting of PTE Kovco was a self-inflicted gunshot fatality. This self-inflicted shooting incident however could have been intentional or unintentional in its nature.*

30 Would you agree that you've changed your opinion from the one expressed in your first document? Without being obtuse, what you've added in the second document is the word "self-inflicted" that was not in the first document?---Which was the opinion I gave on the wound itself on - at the post-mortem?

35 Yes, it's Expert Certificate Pursuant to Section 117 of the Evidence Act, paragraph 7 on page 10?---Okay. Yes, I gave that opinion at that time, at the time as a result of a post-mortem, yes.

If you could just go through your second document, the one dated 18 July 2006, in the first paragraph, the last sentence there, it reads:

40 *This is commonly preferred as the shooter is comfortable with using their firearm only.*

?---Yes.

45 You're referring to suicide, are you not?---I'm referring to - I use the

word, “self-inflicted” here, I’m not indicating suicide in that paragraph. What I’m saying is, most shooters, if they’re going to use a firearm, will prefer to use their own firearm that they’re used to, whether it’s issued to them or it’s their own private firearm, more so than going to another  
5 firearm which they’re not used to, it’s not theirs and they’re not intimate with.

Paragraph 3, the last sentence:

10 *Firearm was instantaneously ready to fire at a moment’s notice, preventing any interference by any person or persons present at the time who may try and prevent (as confirmed by eye witness) accounts.*

15 ?---Yes.

Those words in brackets, does that mean you had access to statements from eye witnesses?---No, I had no access at all. The context, I mean that is only what I have been informed of or lead to believe - well, let’s put it  
20 this way: I have nothing before me or that I’ve been indicated that anyone including PTE Kovco loaded that weapon by inserting the magazine and pulling the slide before the moment of discharge. I have nothing to indicate that that occurred. That’s what I mean by that.

25 When you were giving evidence yesterday, you added the words, “I hope.” What did you mean by that? After you had said - - ?---Yes, I’m only expressing that opinion on the information that I know, unless that has been changed.

30 Information that you know that’s effectively hearsay as far as you’re concerned?---Yes, that’s correct.

If you go to paragraph 4, and after the bold print are the words:

35 *Self-inflicted shooting do not occur only in private.*

?---Yes.

40 Then you refer to 298 for Dr Di Maio’s book?---Yes.

I’m not sure if you have an extract there but when I turn to 298 - - ?  
---Yes, I do.

45 You’ve underlined some words at the bottom which I believe you read yesterday?---Yes.

What they read is as follows:

5 *Most people who shoot themselves do so in private; exceptions are numerous, however.*

You've used the words in your statement:

10 *Self-inflicted shootings do not occur only in private -*

Relying on Dr Di Maio. What I'm suggesting to you is that you've changed the emphasis and I ask you why you simply didn't quote Dr Di Maio's words if you were relying on him as an authority?---I'm not specifically relying completely on him as an authority. That's also my  
15 experience through attending suicides over 20 years and reviewing all crimes - homicides and suicides - that that type of incident has also happened, that people do not only just do it in private if they do it, it can be in front of people. I have seen that personally myself as well as supported by Di Maio.

20 Where Dr Di Maio says:

*Most people who shoot themselves do so in private.*

25 ?---Yes.

Do you disagree with that?---No, I don't.

30 If I tell you that Dr Duflou has expressed the opinion that it would be unusual to suicide in front of others, would you disagree with that?---No, I don't disagree with that.

If you go to paragraph 8?---Yes.

35 The last sentence there:

*This is a preferred location, i.e. the same side as the main firing hand, and it is an indicator for a self-inflicted gunshot wound.*

40 ?---Yes.

He then refers to page 294 of Di Maio's text?---Yes.

45 Part of what has been underlined there says:

*Although most right-handed individuals shoot themselves in the right temple and left-handed individuals in the left temple, this pattern is not absolute. Some right-handed individuals hold the muzzle of the gun against the left temple with the right hand.*

5

Again, I'm putting to you that you've changed the emphasis from what the author has written?---No, I've just selected what is relevant to the indicator I wanted to express. Not only that, that just generally being in the firearm field commercially and so forth and with the police for over 40 years, including recreational shooting, most people will use the firearm with their main firing hand. It is very unusual also for people to use and fire a firearm with both hands. Usually they will operate the firearm with their left or main hand or right hand. It's very rare for people to utilise a firearm and know how to fire it and use it with both hands. Usually they will go to the preferred main hand.

10  
15

I take you to paragraph 11 of your statement. You talk in that paragraph about the stovepipe position and the slack-hand grip?---Yes.

20

I take it you've shaken hands with many people and sometimes there will be a firm handshake and sometimes there will be a limp or slack handshake?---Yes.

25

If I put to you that if a person picked up a pistol that he believed was not loaded and put it near his head and pulled the trigger, that person would not expect a recoil because in his mind it's not loaded. So the person wouldn't necessarily have a firm grip on that weapon?---I agree.

30

Would you agree that that sort of action could create this stovepipe we're talking of?---Yes, I do.

35

Inspector, the second report you've written dated 18 July 2006, would you include that information in a report prepared as an expert certificate under section 177 of the Evidence Act?---No, I don't.

40

You would not include that information?---No, because it doesn't have the clause on it and it wouldn't comply with section 177.

Could I also suggest to you that you wouldn't include it because a Court would not accept the information you've put in that second statement? ---It's up to the Court or the hearing to make that decision.

45

Is there any reason you didn't include not necessarily the same information but similar information you've created in your second statement in your original 177 statement?---Yes, because I did not know I

was going to give full evidence and the evidence of another person until I was asked to do that upon return from leave in July this month.

5 The statement you've prepared dated 18 July 2006, is that something you produced of your own volition?---Yes.

10 I suggest to you in that statement you've gone beyond expressing the evidence of an expert and offered a personal view other than being an expert view?---I've just drawn on my experience in the crime scene field for 20 years and my knowledge, reading experience and what I've reviewed of this matter.

That document has a bias towards suicide I suggest?---Self-infliction.

15 No further questions, thanks, Mr President.

PRESIDENT: LTCOL Holles.

20 LTCOL HOLLES: Would you just excuse me a moment, sir. I just want to clarify something that my friend - thank you, sir.

**<EXAMINATION BY LTCOL HOLLES**

**[1002]**

25 LTCOL HOLLES: Detective Inspector Hoffman, do you have any medical training at all?---No, I don't.

30 Do you have any degrees in psychology?---No.

Psychiatry?---No.

35 Are you a fellow of the Royal Australian and New Zealand College of Forensic Pathologists?---No.

Your area of expertise is ballistics. Is that correct?---That is correct.

Ballistics is the study of firearms?---Yes.

40 It includes the effect of projectiles striking, among other things, bodies? ---Yes.

It does not include any study of motivation?---No.

45 It does not include any study of non-physical causation?---No.

Can I suggest to you that the document produced by you dated 18 July 2006 is largely speculative?---That's based on what I've reviewed of the matter.

5

You adhere to it?---Yes.

You adhere to all of its contents?---Yes.

10 There's nothing you wish to withdraw on the document as it has been presented to the Court?---No.

Are you familiar with the process of weapon issue within the Australian Defence Force?---No, I am not.

15

Are you aware, for example, that individuals within the ADF are trained to use not a particular weapon but any weapon within that particular classification? By that, a soldier will be trained on the use of a 9 mm SLP, the Austyre or some other weapon. He will not be trained to use a particular individual weapon but any weapon of that type or class; were you aware of that?---Probably the majority of that, but not completely as you've put to me today.

20

Were you aware that there were two 9 mm pistols in that room?---I wasn't - I had no evidence of the number of weapons but I just, from memory, knew there may have been other firearms in that room.

25

I'm sorry to push you, Inspector, but is that a yes or a no? Were you aware that there was at least one other 9 mm pistol in that room?---No.

30

So when you say the deceased used his own service issued firearm and no other firearm, you weren't aware as to whether there were other firearms available in the room?---That is correct.

35

You weren't aware that if that other firearm was a 9 mm SLP, PTE Kovco was an expert in the use of that pistol as he was in his own pistol?---No.

You weren't aware that the other soldiers in the room were equally as expert in the use of the 9 mm SLP as was PTE Kovco?---No.

40

You weren't aware that there was a testing process within the ADF to check if people are capable of using a 9 mm pistol to a determined standard?---No.

45

The second paragraph is:



Are you familiar with the operation of the 9 mm FN Browning pistol?  
---Only generally.

5 Are you aware that you can place a round into the chamber, ease the working parts forward so that to fire the pistol the cocking handle is drawn back and fired?---Yes, I'm aware of that.

10 Are you aware in that case that nothing further needs to be done to place a round into the chamber?---That is correct.

15 If a person is proceeding on the basis that there is no round in the chamber, that is, there is no round in the chamber, an empty magazine on the weapon, and cocks the pistol, then the person so doing would be of the belief that there was no round in the chamber, there was no round capable of discharging?---That is correct.

Are you aware that silent cocking is a practice frequently adopted by soldiers on active service?---No, I'm not.

20 Do you wish to change anything you've written in paragraph 3 of your statement given those circumstances?---No.

25 COL GRIFFIN: Just before that goes any further, I just want to confirm something that was just put. My note is that LTCOL Holles just put to the witness that silent cocking is a frequent practice of soldiers on operation. Am I correct in that's what he just put?

LTCOL HOLLES: Yes, sir.

30 COL GRIFFIN: I don't think there's an evidentiary basis that soldiers on operations frequently do that. We've heard evidence from two witnesses about some matters that occurred in theatre with one or two individuals, but I think it's overstating the evidence to say that Australian soldiers on operations overseas frequently silent cock their weapons.

35 LTCOL HOLLES: Sir, if I may respond?

PRESIDENT: Certainly.

40 LTCOL HOLLES: In some 30 years of experience with a 9 mm pistol, I'm able to say that authorised or otherwise the practise of silent cocking is extremely common and that's the basis - - -

45 COL GRIFFIN: Well, with respect, sir, I don't think that the evidence from LTCOL Holles of his personal experience can speak for the

hundreds, indeed thousands of Australian soldiers who've been on operations in the Solomons, Timor, Iraq, Afghanistan at the moment, in my view, that proposition does not stand on the evidence.

5 PRESIDENT: There's certainly no evidence of it at the moment. I've got to say out loud that it seems to me a, for want of a better phrase, a perfectly sensible way of going about business and I don't think there's any great issue to be drawn from it one way or another, except to say there's no evidence before this Board that it's a common practise. If at a  
10 later time you need evidence as to the frequency of the practise, we'll ask for it. But at this point in time I'm not terribly fussed about it.

LTCOL HOLLES: In that case, sir, I presume my right to ask that the witness be recalled after that evidence is adduced.

15 PRESIDENT: If it becomes an issue, yes.

LTCOL GREEN: Thank you, sir, just one other point; it was put to the witness that silent cocking was allowing the working parts to go forward  
20 slowly whereby leaving the hammer cocked. Silent cocking is the stripping of the weapon and the reassembling of the weapon with a round in the chamber.

LTCOL HOLLES: It can be done a number of ways, sir.  
25

PRESIDENT: Yes, I was just going to say I suspect there's a number of ways in your average camp. Yes, I take your point though. Yes, thank you LTCOL Holles.

30 LTCOL HOLLES: Thank you, sir.

You've quoted this:

35 *The incident occurred in the presence and company of other persons, workmates which does not preclude the incident from being one of a self-inflicted injury. Self-inflicted shootings do not occur only in private. See supporting documentation, copy of page number 298, a reference book titled Gunshot Wounds by Dr Vincent Di Maio, copy of page 157, a reference book titled  
40 Medicolegal Investigation of Gunshot Wounds by Professor Abdullah Fattah.*

If I may ask you this; Dr Di Maio at page 294 talks about the Cohle Study, which is something you referred to in your evidence yesterday, do you  
45 recall that?---Yes.

- How big was the Cohle Study?---I'm unaware of the Cohle Study.
- 5 Do you know how many people suicide in America between 1979 and 1996?---No.
- Can I suggest to you the figure was about half a million?---Yes, I could believe that.
- 10 Predominantly with firearms?---Yes, I would accept that.
- Do you know how many people suicide in Australia in the same period of time?---I'd only be guessing.
- 15 Please don't. Do you know what percentage of those were firearms?---No.
- Can I suggest to you it is significantly lower than the American figures? ---Yes, I would agree to that.
- 20 Dr Fattah's book was published in, I think, it was 1976, is that right? ---Yes.
- There has bee no second addition?---There could be, I - I do not know. He may have published another addition.
- 25 You don't know?---I don't know for sure.
- Can I suggest to you there has not been one?---Okay, I accept that.
- 30 You're aware that there have been significant changes in forensic medicine since 1976?---Yes.
- Did you read a review of Dr Fattah's book in the Journal of Clinical Pathology dated June 1997 by A K Matt?---No.
- 35 Would you accept from me the final paragraph of that review is this:
- This book describes unusual cases which might be of interest to the forensic pathologists but have little to offer which is not already included in standard textbooks on forensic medicine.*
- 40 ?---Yes.
- Are you aware of a study in September 2004 by the Institut fur Rechtsmedizin der Universitat Bonn?---No.
- 45

A short review of which is published by the National Library of Medicine of the National Institute of Health in America?---No.

5 And it says this:

10 *In the USA the frequency of witnessed suicide, i.e. suicide committed in the presence of at least one further individual is reported to range between five and 15 per cent. As up to now no detailed analysis of this special issue has been given in the medicolegal literature. This article presents and discusses a number of cases, including eight male and one female (aged 19 to 15 post-mortem blood alcohol concentrations of 1.73, 1.88 and 2.23 g/kg respectfully were observed. Toxicological tests produced negative results.*

20 *Five cases had a medical history of psychiatric disorder with endogenous depression in three, chronic alcohol abuse and drug abuse with concomitant psychosis in one case each. As far as the motives were know, domestic arguments were of prevailing importance. ... The reported cases are discussed in comparison with the psychiatric psychological classification according to McDowell et al with the aim to provide a solid and comprehensive medicolegal method to distinguish between homicide and suicide. Furthermore aspects of psychiatric sequelae and psychological support of the witnesses which is also important -*

30 et cetera. Were you aware of that?---No.

*The deceased's head was the target was struck and not another part of his body.*

35 I'd suggest to you that the head is a target for both suicide, homicide and accidental deaths?---Yes, I agree.

40 The mere fact that the round entered the head is not of itself conclusive of anything, is that the case?---Just the fact of the bullet entering the head itself?

Yes?---Yes.

45 You then say:

*The choice of a person's head as the target indicates an intention for a fatal wound.*

5 Again, I'd suggest to you that the choice of the word "target" presupposes that it was intended to fire the round into the head, does it not?---In a way, yes.

10 Well, Detective Inspector, you're the expert. The word "target" has a specific meaning in ballistics, does it not?---Yes it does.

It means the object into which the round is to be fired?---Yes.

15 It presupposes an intention so to do, does it not?---Yes.

*The distance of the muzzle end of the barrel to the wound at the side of the head was in close proximity at the time of discharge.*

20 Were you aware what was happening in this room at this stage?---No, I wasn't.

25 You weren't aware, for example, that the deceased has been described as dancing around to some music, putting on a little bit of a jig for the other people in the room, they're all singing, having a good time, he's talking to his wife on the laptop, there are no issues about stress, depression or anything like that?---Yes.

30 The scenario given by one of his roommates is that he's acted out a song, a Cranberry song for precision, and that's how the fatal shot was fired. Have you ever seen a suicide like that before?---No, I haven't.

Have you read any literature to suggest a scenario which is typical or otherwise?---No.

35 You say at number 8:

*The right side of the head region of the deceased was the preferred site for an entry wound which supports a right-handed shooter operating the firearm.*

40 Have you ever undergone military training?---Yes.

Back in the days when the SLR was the preferred weapon?---Yes.

45 Did that have a right and left handed side of operated weapon?---To be

perfectly truthful, I cannot remember; it was that long ago.

5 Let me assure you that until a percentage of the Styers were introduced with left-handed operations it didn't matter if you were left-handed or right-handed, you got to shoot right-handed. Do you accept that?---Yes.

I suggest to you that it is possible, especially with a pistol, for a person to train themselves to fire ambidextrously?---I agree with that.

10 Equally it's possible that a wound to the right-hand side of the head of a right-handed person does not of itself conclude that the person fired the weapon?---Correct.

15 Sir, would you just excuse me a moment, there's something I want to raise with LTCOL Berkley. Thank you, sir, I'm grateful for the moment I was allowed.

20 *The wound location to the side of the head was at the front of the right ear. This is a preferred common location and an indicator for self-inflicted gunshot wound.*

It's also a common location and an indicator for a close range homicide, is it not?---Yes, it is.

25 *The passage angle of the bullet through the head of the deceased approximated the holding position of the operator of the handgun. This is also an indicator for a self-inflicted gunshot wound.*

30 It's also an indicator for a close range homicide, is it not?---That is correct.

Approximately how many rounds were test fired on the subject weapon?  
---A minimum of 50 rounds to possibly a maximum of 100.

35 Did you have any misfires?---No, no misfires at all.

Did you have any jammed rounds?---No, only during the slack hand grip trials; only then.

40 What did the chronometer tell you about the muzzle whilst you did the rounds of your firing?---It was an average of 1250 feet per second, from memory.

45 So significantly supersonic?--- Yes.

At that muzzle whilst you - it's making a significant noise?---Yes, it is.

Not sounding like a firecracker?---No.

5

Can I suggest to you that because of the type of weapon that the 9 mm pistol is and the type of ammunition which I think is standard 9 mm ammunition which has been used in the pistol, unless you keep a relatively firm grip on the pistol, it's fairly easy to stovepipe?---I agree with that with all common generic pistols.

10

Indeed you'll get variations between ammunition batches and ammunition types?---Yes, that is correct.

15

The heavier the round the more likely that stovepiping occurs?---The heavier the?

I'll put it this way: you will get stovepiping with 22s, but it's more likely to occur at the head of their calibres?---Yes, in fact - well, I found there's more jamming and stovepiping with 22s than anything else.

20

That's usually a result of ammunition being light-loaded, or whatever?---The ammunition - yes.

25

Stovepiping itself is in no way conclusive of self-inflicted gunshot wound, is it?---No, it's not.

The reality is, is it not, Detective Inspector Hoffman, that you don't know what happened in that room?---That is correct.

30

Thank you. Nothing further.

PRESIDENT: Thank you. LTCOL Berkley.

35

**<EXAMINATION BY LTCOL BERKLEY**

**[1027]**

LTCOL BERKLEY: Detective Inspector, I'm LTCOL Berkley, and I represent Shelley Kovco. Shelley is just not with us at the moment, she's got a bit of a headache. To a certain extent I've got to traverse some the questions that have been asked. I'll try not to be too repetitive for you. Also I'm going to ask questions that are of interest to my client. Now, the document upon which you've been cross-examined on so far is, I take it, your opinion on certain physical indicators?---Yes.

45

5 From which you conclude that it's a self-harm episode but you can't conclude anything as to the intention of Jake?---No, it's self - my wording was self-inflicted, not self-harm, whether that was intentionally or unintentionally.

If it was intentional would you say it was self-harm as opposed to unintentional self-inflicted?---Yes, if it was intentional.

10 You'll agree of course - and I think LTCOL Holles and COL Young both traversed this area - there are a number of recognised psychological considerations in assessing self-harm or self-infliction?---Yes.

15 This document in front of us doesn't purport to consider any of those, does it?---No, it doesn't.

20 I think you'd agree that there is a relationship - one would have thought that there would be a logical relationship between psychological and physical considerations when coming to a determination of whether a wound was self-inflicted?---Yes, but I can't comment on the psychological.

Certainly, and I'm not asking you to?---Sure.

25 But you are of course aware that there are recognised psychological considerations?---Yes.

30 Since the deceased don't often talk, those considerations are usually derived by people who wish to study incidents such as, you know, how many times there was a suicide note left or whether the wound was to the front or to the side, those sorts of things?---Yes.

35 Of course in this document you start off with the proposition that the deceased used his own service issued firearm and no other firearm; do you see that?---Yes.

40 Would you say that that is your conclusion, that sentence I read out, is the conclusion that the deceased used his own service issued firearm and no other firearm from the fact that it appears that the bullet recovered was certainly fired by the pistol that was issued to Jake?---Yes.

45 Given that that is the basic fact, are you in any better position than any lay person to offer an opinion on whether that means that it was a self-inflicted wound?---No.

Thank you. So in relation to that first one, are you proffering from that conclusion as an expert or just as a conclusion that you put as a police officer?---Just as a police officer from general 25 years in the job investigating crimes and going to them.

5

You do agree, though, that at least any conclusion or any opinion based on the facts is normally, in this sort of case, a matter for expertise?---Yes.

10

I think you've made it quite clear to LTCOL Holles that you're not purporting to have that particular expertise?---No.

15

We go to the second on the conclusions from the fact - and I think the basic fact is that the handgun was in a holster hung from his double bunk bed within easy reach, and the conclusion that you've reached was that the deceased had ready access to his own service issued firearm at the time of the incident?---Yes.

20

If you disagree with my way of putting the fact in conclusion, because you might be just putting another fact, please let me know?---Mm.

I'm sure you will with all that experience. That means that anyone else in the room also had easy access to the weapon?---That is right.

25

Again, you're in no better position than any other lay person to offer an opinion on that basis; is that correct?---As a conclusion, yes.

30

Yes. You're of course aware that there would have been, from evidence we've got, there were probably three rifles and two 9 mm pistols in the room?---I take that from you. I don't know, but yes, I accept that.

All right. Are you aware of the dimensions of the room?---They're on the crime scene plans themselves but I can't recount or repeat what the dimensions are, I haven't - - -

35

All right. We can always go to them if you need to refresh yourself? ---Yes.

40

Just at this stage would you be happy with my statement that the room was small?---Yes.

45

That the people in it were virtually walking over the top of each other if you wanted to pass by the bunks or something?---I agree.

In relation to your third proposition here:

*The physical evidence indicates it would favour self-inflicted gunshot wound,*

5 you say that:

*The firearm was not only loaded but ready to fire with a live round in the chamber.*

10 ?---Yes.

Do you see that?---Yes.

15 Sir, there are you coming to the conclusion that there was no evidence that the weapon was loaded, the slide pulled back so the round was chambered and the safety catch was off?---Yes, that's what I mean, I have no evidence in front of me that that occurred.

So really, that is simply an assumption as to the state of weapon readiness?---Yes.

20 Again, you're in no better position than any other lay person to give any opinion on the state of that weapon?---Yes.

The fourth one is:

25 *The incident occurred in the presence and company of other persons, workmates, which does not preclude the incident from being one of self-inflicted injury.*

30 On that you've referred us to two reference works, one by Fatteh and Di Maio. In the reference from Di Maio - you've said page 157 - there is, under a heading, "Suicidal gunshot wounds," and a subheading, "The scene of death," the author says:

35 *The person contemplating suicide usually selects a secluded place such as a closed room or wooded area to end his life. Hence, most of the suicides are unwitnessed, however, this is not always so.*

40 Do you see that?---Yes.

I've got to let the Board know that the witness was kind enough to allow me overnight access to those books, the one by Di Maio and Fatteh, for which I'm very grateful. I think when we go to Fatteh's book, at page 45 298, Fatteh also says this, that - - -?---Sorry, Di Maio 298?

No, Di Maio is 157 and Fatteh is 298?---So I go to 298?

298?---Yes. I think it's Di Maio.

5

Hang on, I think I've got them the wrong way round?---It's Di Maio's 298.

10

298 is Di Maio, I'm sorry, you are correct?---That's all right, I've got it.

He says this:

*Most people who shoot themselves do so in private. Exceptions are numerous, however.*

15

?---Yes.

It would seem that both authors are indicating that the rule is that the suicides are done in private?---I agree.

20

And there are exceptions?---Yes.

But your conclusion is based on the existence of the exception?---Yes, that is.

25

But there is no other indicia to call into play the exception in this case, is there?---No.

30

Again - and I'm sorry to be repetitive about this - you're in no better position than any other person to proffer an opinion on that point?---Yes.

In point 6, you say this - I'm sorry, I just want to go back to 5. No, I withdraw that, I'll go on to 6. In 6 you say:

35

*The choice of a person's head as a target indicates an intention for a fatal wound.*

Do you see that?---Yes.

40

I think in this one you're relying on some of your own experience when you said that you've seen cases in which people put a gun to limbs or certain parts of the abdomen?---Yes.

45

More suicide gestures than attempts, even?---Yes, to duplicate a wounding or someone shooting at them and they're wounding and fabricating crime

scene evidence by shooting themselves but wish to survive but selected their extremities or other parts hoping that they won't die.

5 I'm not suggesting for a moment that there is any conspiracy - and I think LTCOL Holles has already covered so I can leave it - but of course in close proximity it's either a point that you would want to hit if you intended to do someone harm?---Yes.

10 And, of course, if you're being a silly bugger with a weapon and the head is any part of your demonstration, it's the likely location of the injury, isn't it?---Yes.

That includes accidents, clearly?---Yes.

15 So the fact that others who have suicided - and these books are basically about the identification of suicide - - -?---Yes.

20 - - - really puts you in no better position to offer an opinion than a lay person on that point?---Except for what I've seen at crime scenes when people - what they've selected. They've died of other wounds in other locations too, to the chest as well, but from what I've seen at crime scenes as well.

25 Yes, certainly in relation to head wounds, you're in no better position? ---No, well I've seen them survive from head wounds too.

Well there have been, yes. Now, number 7, you say:

30 *The distance of the muzzle end of the barrel to the wound at the side of the head was in close proximity at the time of discharge.*

?---Yes.

See that?---Yes.

35 You say this that:

40 *The self-inflicted wounds are usually in close contact proximity, this is the preferred distance to ensure the bullet does not miss its intended target, that is a strong indicator for a self-inflicted gunshot wound.*

?---Yes.

45 Now, of course as a matter of logic with a handgun, if a person wants to

inflict injury to themselves with a handgun, you would expect that you would see a close proximity wound?---Yes.

5 In fact the human arm, when you bend it, that is why just simply the length of the arm and if it is to be turned back on yourself, naturally enough you would expect a close wound?---Yes, I wouldn't expect it to be held out there in some awkward position or whatever. I would expect it to be up close because it's just - especially when we're talking handguns.

10 Yes, indeed and that's what I predicated the question on and you say:

*The self-inflicted wounds are usually in close contact proximity -*

15 Well that seems to be a matter of logic, doesn't it?---Well yes.

Does that mean that you're in any better position in this case than the lay person to offer an opinion on whether that it is an indicator of self-infliction?---Well for me it - it is a strong indicator. Well if there was no residue there, I would be - I would be worried.

20 Yes?---The wound in what I saw and being a handgun involved, I would be worried, I would be looking for something else.

25 Perhaps the investigation might take a different course?---Yes. Yes indeed.

But what I'm putting to you is this, that it doesn't preclude an accidental discharge at the hand of the firer?---No.

30 It doesn't preclude an accidental discharge at the hand of someone else in close proximity?---Correct.

And it certainly doesn't exclude by the same token intentional - - -?---Yes.

35 - - - discharge of the weapon by either Jake or some other person? ---Correct.

40 The mere fact that the wound is in close proximity is a function of the physiology of the human being, would you agree with that?---Yes, it can be, yes.

Or someone holding it in close quarters?---Yes.

45 And in close quarters, which I think you described the wound as, in close quarters one would expect or it wouldn't surprise you if there was a close

proximity wound?---No it wouldn't.

5 You make the point about right and left-handed shooters and LTCOL Holles has dealt with that and I don't want to go back to that and you also say at number 9 that the wound location to the side of the head was at the front of the right ear. I think what you're saying there is if it's at the right ear, that indicates to you that it was a self-inflicted injury?---Are we talking about paragraph 9?

10 Number 9, yes - I'm sorry, no, I'm sorry. I'll withdraw and I'll start again. At number 8 you said that we've got a right-handed shooter and an entry wound to the right side of the head?---Yes.

15 That simply means that the trajectory of the bullet, the bullet entered from his right-hand side?---Yes.

Unless the head was turned in some obtuse angle?---Yes.

20 All that basically means forensically that the bullet was fired from the right-hand side?---What I was trying to get at which was covered before previously was the fact of generally a person is not going to - if they're going to do self-harm to themselves, use a weak hand or a hand they're not used to, say if they're right-handed use a left hand to move a firearm around to shoot themselves in the right side of the head.

25 That is unusual?---It could happen and it's quite possible, all things - have been in different locations of head, but it proffers more if someone was to do that that they would use their main right hand and they're not going to go to the left side of the head, they're going to just naturally go up to the right side.

30 But once again that's because Jake was right-handed?---Yes.

35 You've said that the mere fact that he's right-handed and the wound was on the right-hand side is an indicator of self-infliction of the injury? ---Well it can be.

It can be?---It can be, yes.

40 Given that it can be, are you in any better position than any lay person to offer an opinion as to whether that supports self-infliction?---No, I'm not and I'd like to just clarify with that; I've seen right - people I know have been right-handed to shoot themselves in the front of the forehead, at the temple, high in the temple, at the side of the face as well, in the mouth and also under the chin which are also classic sites in the head.

I'll get to classic sites in a minute because I think there's about 10?---Yes.

But number 9 then follows on:

5

*The wound location to the side of head was the front right ear.*

And you say that in least the American author's experience, I think you're basing it on, is that it's a classic site?---That's what he refers it to, yes.

10

Yes, indeed I've read it. But of course are you aware of say in the Australian experience where people - is there a classic site in the Australian experience and if you are aware, where did you get that information from?---Well, that was only reference to those books, but I have seen those sites myself which I've just indicated to you, one of them was the same - same location, I've seen that. Also higher up in the temple, the front of the forehead, in the mouth and under the chin. That's the ones I have seen at crime scenes.

15

20

Yes, that's right, but I'm just saying I don't think there's any literature in Australia that describes the temple as a classic site, is there?---I don't think there's any literature in Australia on this really subject at all overseas. I'm only drawing on also what I'm seeing acting crime scenes. All those sites that have been used - not sites, locations on the head.

25

Sure, now, then we get to 10 when you say that the trajectory or the passage angle of the bullet through the head of the deceased approximates the holding position of the operator of the handgun?---Yes.

30

And you say:

*This is an indicator for a self-inflicted gunshot wound.*

?---Yes.

35

And you refer to page 162 of Fattah's book. But on 161 of Fattah's book, under the heading Direction of Fire, the author says this:

40

*That the direction of fire can be of help in the reconstruction of the events of suicide shooting. The bullet fired in the temple region generally travelled more or less towards the opposite temple. Those in the mouth travelled backwards and upwards.*

Do you see that?---Yes.

45

Well in this case of course that isn't the trajectory of the bullet, is it?---No.

5 Now, that would of course cause you to say well there is something a little bit unusual about the trajectory of this bullet?---Only because they're talking about the high temple region, not the side of the face.

Well it doesn't say that, it just says the temple?---No.

10 It just says the temple?---Yes, just the temple - - -

One would expect and I think at least for those authors one would assume - and only assume because they haven't given their studies upon which they base these things - but only assume that people are generally firing through the head and that's the trajectory that author relies on?---Yes.

15 Of course in Jake's case it's a rather unusual trajectory, isn't it?---It's one I would have expected if someone - if that angle holding it there matching the angle through the roof and ceiling that - I think it was evidence at 40, 45 degrees, a line going back through the room. At the post-mortem the angle we had a look at was around that 40-45 degrees that that projectile passed through the head.

20 What I'm suggesting to you is this: that if a person intended to commit self-harm it would be unusual for them to take the weapon out of their eyesight - he's not looking at it, is he? He can't be physically?---No.

And at an angle in which any deviations could have even missed his head?---Yes.

30 That's unusual, isn't it?---Yes.

That's all I'm putting?---If you wanted to do it and you intended to you'd want it up and feel it as close as you wanted to make sure.

35 You wouldn't want a chance of missing, would you?---No.

There is a chance of missing if you're unsighted and you've got the weapon at an angle?---Yes.

40 There is a chance of missing?---There is.

45 So as a matter of logic what I'm saying is that - well, if at least we rely upon the textbooks to draw the conclusion you would have felt much happier if the bullet had passed directly through say ear to ear?---No, not really.

Are you in any better position then - well, we say that the pistol wasn't in contact but I think the evidence was no more than 5 cm from its marking to body?---Yes.

5

Again LTCOL Holles dealt with this one, about the stovepipe position. You would expect if a trained shooter was going to shoot themselves that they would have a solid hold on the weapon such as so that the recoil could effectively travel down at least the forearm of the shooter?---Yes.

10

Again if we're looking at physical factors, the presence of the stovepiping in this case indicates that the gun that fired the bullet was not held in a firm grip?---At some stage.

15

We've got muzzle velocities, we've got muzzle (muscle ?) memory, we've got all sorts of things come into play here?---Yes.

20

One of the possibilities, but I suppose there's absolutely no forensics on it, is that there's this slack grip which may indicate the person shot themselves because as the bullet passes through the brain and the person dies the grip goes slack?---Yes.

25

It's very, very hard to replicate that, isn't it?---The actual - if it was self-intentioned to duplicate that, do you mean?

Put it this way: you tried to replicate the stovepiping and you were finding it very hard?---Yes.

30

Of course any one round out of the batch can misfire to the extent where the cycle of the weapon, the pistol, is interrupted?---That is possible, yes; contaminated ammunition.

35

A non-deliberate hold on the weapon might indicate any number of other things, mightn't it?---It could.

Such as not intending at all?---Yes, that is possible.

A playing around where some other hand has become involved?---Yes.

40

A holding of the pistol at an angle in which a trained shooter wouldn't if they intended to shoot themselves?---Yes.

45

We acknowledge as sensible people that there are so many other possibilities involved in this?---Yes, I agree. But if I can just add to that. I have been to crime scenes where I have seen - where it's been resolved

5 to have been suicides where that jam has occurred in the weapon. But I also totally agree that this can be a common occurrence on a range. It's a common occurrence also on police ranges if the weapon is not held properly. So this thing we talk about with stovepiping can happen on a general range and in other crime scenes and in homicides in a whole varying degrees. But it also can happen as I discussed here as well. But it is a general thing that can happen.

10 What I'm putting to you is this, and I'm going to ask for your concession, if you can: that in relation to that body of knowledge, would you be in any better position than a layperson to offer an opinion given that a layperson has given that knowledge? Would you be in any better position than a layperson to give that opinion?---In this circumstance, no.

15 Now, number 12, the handgun was forensically examined and underwent testing for accidental discharge tells us that the weapon was in its proper working order?---Yes.

20 You've explained those tests to us. I don't want to go into those, but I did want to go into this: LTCOL Holles has mentioned that there was another weapon of the same make and model in the room?---Yes.

25 That hasn't been forensically examined at all, as I understand it?---No, we've only examined the one weapon, which is this weapon only.

Are you aware of any phosphorescence on the slide of the weapon?  
---From swabs or general analysis?

30 From swabs or from gross analysis?---No.

Are you aware of the size of the samples of DNA, that there was gross DNA, mere traces? Are you aware of any of those sizes of the DNA that is apparently able to be detected from the weapon?---No, I'm not.

35 Are you aware of any psychological factors pertaining to Jake that would lead to a conclusion of intentional self-harm?---No.

Thank you, sir. I've nothing further.

40 PRESIDENT: Thank you.

**<EXAMINATION BY COL GRIFFIN**

**[10.57]**

45

COL GRIFFIN: Detective Inspector Hoffman, you've been asked a number of questions relating to self-harm and suicide?---Yes.

5 Is it the case that your opinion that you've offered to the Board is not about self-harm or suicide but about self-infliction?---Yes, self-infliction itself.

10 It was never your intention to express an expert opinion on the intention of PTE Kovco?---No, I cannot offer any intention - sorry, any opinion on his intention, only an opinion that I believe it to be one of self-infliction, but I don't know if it was intentionally or inadvertently done or accidentally.

15 You were asked questions and it was put to you about the evidence of Dr Duflou in respect of potential for self-harm?---Yes.

20 Would you accept from me that Dr Duflou's evidence is that he would defer to a mental health specialist in respect of intention to self-harm? I ask you the same question. Would you defer to a psychiatrist or mental health specialist on the issue of self-harm?---Yes.

25 In the questioning that you've just had a number of factors were raised with you in addition to the matters stated in your 12-point recitation of the physical evidence indicators. I won't go through all of them, but they were such matters as other people being present in the small room, other weapons being present in the room?---Yes.

Training of soldiers in terms of the use of weapons?---Yes.

30 The number of suicides in America as opposed to Australia?---Yes.

35 A variety of factors, but to come back to your opinion, having had those matters raised with you and on the basis that your opinion is about self-inflicted harm or injury, rather than intention, is there anything that you wish to revise or amend in your opinion or do you stand by your opinion?---I still stand by my opinion. It's not about intention, it was about the matter being self-inflicted wherever - as I state it again, intentionally or inadvertently or accidentally, I do not know.

40 Thank you Detective Inspector Hoffman. I have no further questions, sir.

PRESIDENT: The books you give us as our references, can you tell me when they were printed or when they were published?---Yes, sir.

45 LTCOL BERKLEY: If I can assist, I can hand the witness, with thanks, the very books.

PRESIDENT: Did you want me to see them?

5 COL GRIFFIN: Sir, would it assist to tender the copies, the extracts which the copies have the front page of the books and also relevantly the - - -

PRESIDENT: I believe we've already got them.

10 COL GRIFFIN: You already have those?

PRESIDENT: Yes.

15 LTCOL HOLLES: Sir, the difficulty is that the Fattah publication does not have the date of publication.

PRESIDENT: I think we require the date of publication if you could.

20 COL GRIFFIN: The date of publication has, on page 3 of the extract, copyright 1976.

LTCOL HOLLES: I apologise them.

25 COL GRIFFIN: Are you happy with that?

LTCOL HOLLES: Yes I am. The other one is 1985, I think, that is in the front somewhere.

30 COL GRIFFIN: The other one is, correct, 1985 for the Di Maio document.

35 PRESIDENT: Yes, thank you. Now, I'm having a little trouble getting my head around the slack handgrip in this context. As I perceive it, and stop me if I get this wrong?---Sure.

40 Just presuming classic pulling the trigger, weapon fires, bullet enters head, instantaneous death or major injury. As a result of that instantaneous death or injury, the body muscles relax so much that they allow the weapon to move in the hand and create the stovepipe effect. Now, that must be happening very, very, very quickly. I'm having trouble conceptualising the speed of it all?---Sir, I don't think I've - no studies have ever been really done of it. I think it's sort of like instantaneously naturally and I haven't even got the speeds that a weapon would - would cycle at. But it's just that it's a well - as I said, known feature and it probably happens daily also on ranges all over the world where people -

45

especially with one of the police academy and whatever, there's sort of a lot of malfunctions, people are not holding weapons properly and that type of issue could happen daily on ranges.

5 Yes, but my point is, we're holding it tightly, gun fires, we have the injury to the brain, the brain says I'm out of here or whatever and the muscles relax?---Yes.

10 Now, at this stage of course the gun is still operating?---That's right.

And we're talking hundreds of a second?---Microseconds or whatever, yes.

15 It's that quick?---Yes.

LTCOL BERKLEY: Sir, can I just ask a supplementary question?

PRESIDENT: Please.

20 LTCOL BERKLEY: Of course, the slack handgrip is a theory because I think we touched on that earlier on, because as they say, dead men don't tell tales, it's a theory, isn't it?---Yes.

25 Exactly the same as - - -?---Phenomenon or occurrence that happens, yes.

But exactly the same result, and this is what's always surprised me about it frankly, but exactly the same result could be achieved by simply holding the weapon incorrectly.

30 PRESIDENT: I've taken that point.

LTCOL BERKLEY: So the thing is there is no way to differentiate? ---No, and that happening is not a precise indicator of that. The person could have been holding it slackly right from the start, flopping it around and it would have done it anyway, yes.

PRESIDENT: LTCOL Holles?

40 LTCOL HOLLES: Sir, there is supplementary question also I'd wish to ask.

Detective Inspector Hoffman, this may or may not be within your current knowledge, but what is the cycling time in relation to the weapon, that is the time from the discharge of one round to the time at which the next round is chambered?---I haven't got that figure and I don't - we haven't

timed it, but it would have to be - it couldn't be any more than a second or half a second.

5 Well can I suggest to you it's less than that?---It'd have to be, yes.

And that in effect it's possible to empty 13 rounds out of a magazine in less than 5 seconds I'd suggest to you?---I've done it.

10 Yes?---Yes, I agree.

So in effect you're getting away better than two rounds a second?---Yes.

15 So if you take point 4 of a second as a rough approximation of how long it takes for the next round to chamber, it takes less time than that for the ejected round to stovepipe, does it not?---Right. I couldn't answer that. I have no test in front of me. It's just something that's probably so rapid and instantaneous no one has actually measured it by scientific instruments. And then it depends on the operator too and the trigger pressure applied.

20 Certainly?---And the ammunition, yes.

Certainly, but if accept that it's supersonic ammunition - - -?---Yes.

25 - - - coming out of a weapon that's otherwise working perfectly, there's no reason why you couldn't expend 13 rounds in less than 5 seconds?---Yes, that is correct.

30 So you're talking about point 4 of a second between one round firing and another round being chambered ready to fire?---Yes.

In fact probably less than that because the operator needs to pull the trigger?---True.

35 And because it's semiautomatic operation?---Yes.

So you're probably talking about point 2, point 3 of a second for the chambering side of it to take place?---Yes, I would agree with that.

40 That being the case, if it is the slack hand that has caused the stovepiping, it would in effect require about point 2 of a second for the body to shut down to the stage where it provides the stovepipe?---Yes.

Sorry, sir, but that required some explanation for what you were - - -

45 PRESIDENT: Thank you for the maths.

LTCOL GREEN: Could I possibly also ask a question, sir, with your leave?

5 PRESIDENT: Yes, certainly.

LTCOL GREEN: Detective Inspector Hoffman, the 9 mm Browning is a blowback operation?---Yes.

10 Blowback operations traditionally cycle at the rate of between 600 and 800 rounds per minute?---I'll take that.

If you can't answer that, you can't answer that?---No I can't.

15 Thank you, sir.

PRESIDENT: Anything further?

20 COL GRIFFIN: Well perhaps just to close on that issue, is it still the case that your proposition is that the stovepipe is a typical indicator of a self-inflicted injury?---Yes, it can be. It can be that, or as I discussed. It's one of stovepipe will happen over - as we discussed, in a range and these other circumstances.

25 Yes, thank you.

PRESIDENT: Yes.

30 LTCOL GREEN: Sir, can I just pick up a question from that point? I think that Inspector Hoffman agreed with me that it's also easily consistent with holding a weapon - - -

PRESIDENT: Loosely?

35 LTCOL GREEN: - - - loosely, not expecting it to be - - -

PRESIDENT: I think we've established that.

LTCOL GREEN: Yes.

40

WITNESS: Yes, I agree.

PRESIDENT: Yes, anything further? Last call.

45 LTCOL HOLLES: No, sir, I think I've done - - -

PRESIDENT: I think you've done your bit for the day LTCOL Holles.

LTCOL HOLLES: Thank you, sir.

5

PRESIDENT: Thank you Inspector, you may stand down. The Board is grateful to you.

10 <WITNESS WITHDREW

[1108]

COL GRIFFIN: Mr President, the next phase of evidence is to do with the pistol itself, characteristics and otherwise from Defence experts an armourers and I'm advised that because this is classified material that it needs to be led in closed session.

15

PRESIDENT: Very well, the Board will then be closed to the public and the information not published and classified.

20

COL GRIFFIN: And to allow the presentation of that evidence, I'd seek a short adjournment.

PRESIDENT: Yes, by all means. Everybody is comfortable with that, I take it?

25

COUNSEL REPRESENTING: Yes, sir.

30 **ADJOURNED**

[1109]

(Resumed in closed session)

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