

TRANSCRIPT OF PROCEEDINGS
UNCLASSIFIED

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

1057 THURSDAY 27 JULY 2006
DAY 12

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.....  Date27.07.06.....(President)

Signed.....  Date27.07.06.....(Recorder)

Signed.....  .. Date27.07.06.....(Transcriber)

Signed.....  Date27.07.06.....(Transcriber)

Signed.....  Date27.07.06.....(Transcriber)

Kovco 27/07/06

WITNESS LIST

Name Of Witness	Page No.
PROFESSOR PHILIP BOWDEN MITCHELL, sworn [1058].....	678
EXAMINATION BY MAJ HYDE.....	678
EXAMINATION BY LTCOL HOLLES [1140].....	692
EXAMINATION BY LTCOL BERKLEY [1141].....	692
EXAMINATION BY MAJ HYDE [11480].....	693
EXAMINATION BY COL YOUNG [1145].....	694
WITNESS WITHDREW [1146].....	695

EXHIBIT LIST

Number	Description	Page No.
	EXHIBIT R112 - REPORT OF PROFESSOR MITCHELL DATED 24/07/06.....	679

NTS

5 PRESIDENT: Good morning, ladies and gentlemen, MAJ Hyde.

MAJ HYDE: Good morning, sir. I call Professor Mitchell.

10 <**PROFESSOR PHILIP BOWDEN MITCHELL, sworn** [1058]

<**EXAMINATION BY MAJ HYDE**

15 MAJ HYDE: Professor Mitchell, could you state your full name and occupation for the record?---Phillip Fowler Mitchell. I'm, by training, a medical practitioner and psychiatrist, qualified psychiatrist, and I'm a Professor at the University of New South Wales and head of the School of Psychiatry and the University of New South Wales.

20 Have you been shown a copy of Annex F to Chapter 7 of the Administrative Inquiries Manual of the rights and obligations of witnesses?---Yes, I have this morning before the hearing.

25 Could you outline for the Board, please, your employment history and qualifications?---I've been an employee of the University of New South Wales since 1985. I've been head of the School of Psychiatry at the University of New South Wales since 2002, and I've been a full professor at the University since 1999. My qualifications: I graduated from the University of Sydney, Bachelor of Medicine, Bachelor of Surgery, with First Class Honours in January 1977. I also received a doctorate, a research dissertation doctorate from the University of New South Wales in 1991. In terms of professional qualifications: I'm a Fellow of the Royal Australian and New Zealand of Psychiatrists and have been so since 1984. 30 I'm also a Fellow with the Royal College of Psychiatrists in the United Kingdom.

35 For the purposes of your giving evidence today, have you prepared a report?---I have prepared a report and that was dated July 24th.

40 If the witness could be provided with a copy of his report, together with a copy of his curriculum vitae and a redacted version of his report. Do you have a copy of your report in front of you, Professor?---I do, thank you.

45 Is that the substance of the evidence that you propose to give to the

Inquiry today?---Yes, it is.

I tender that report.

5 PRESIDENT: Any opposition to that tender? I take it people have been supplied with copies.

COL YOUNG: We have, sir.

10 COUNSEL REPRESENTING: No objection, sir.

PRESIDENT: It will be marked as Exhibit 112. There's a redacted version, I notice.

15 MAJ HYDE: Yes.

PRESIDENT: That means there's also a restricted version.

20 **#EXHIBIT R112 - REPORT OF PROFESSOR MITCHELL DATED 24/07/06**

25 MAJ HYDE: In addition, as part of that tender, Mr President, could I also tender the curriculum vitae of Professor Mitchell.

PRESIDENT: That can form part of the same exhibit, gentlemen?

30 COUNSEL REPRESENTING: Yes.

PRESIDENT: Part of 112.

35 MAJ HYDE: Professor Mitchell, you've been asked to consider the circumstances from a psychiatric perspective of PTE Kovco in relation to his death. For the purposes of doing that, were you provided with certain materials?---I was provided with materials and they are detailed at the beginning of my report.

40 Is it the case that they were sufficient for you to reach certain conclusions in relation to PTE Kovco?---Yes, I do consider them sufficient. There are other information that may have assisted, like reports from senior officers,

but I considered this to be sufficient to give a meaningful report to the Inquiry.

5 In particular, were you asked to ascertain whether PTE Kovco was suffering from any psychiatric disturbance or illness at the time of his death?---Yes, I was asked to provide that answer to that question.

10 Could you tell the Board what expertise you have, in particular in relation to determining issues such as this?---As well as my general training as a psychiatrist, my specialist research and clinical areas of interest are in mood disorder, depression and bipolar disorder. I've written extensively in those areas and I've also written a number of studies on suicide as part of that.

15 You've referred to mood disorders. What is the correlation between mood disorders and suicide, if any?---Should I refer to some of the material in the report in answering that question; would that be appropriate?

20 Yes, if you would?---In the report I make some statements about what are termed "psychological autopsies" related to suicides, which are in essence retrospective reconstructions. Looking for evidence from medical records, from family, from acquaintances of individuals to determine if there was prior evidence of psychiatric or mental health problems. The studies indicate - and I've provided a recent review that encapsulates the broad field - indicate that where suicides have occurred that 91 per cent of individuals have had a prior psychiatric - a clear identifiable psychiatric illness. Of those psychiatric illnesses depression is the most common disorder that is associated with suicide.

30 In your analysis of the materials that you were provided with for the purposes of producing your report were you able to identify any depressive condition that PTE Kovco may have been suffering from?---I could identify no evidence to support that PTE Kovco was depressed.

35 Could I ask you to elaborate on whether in the ordinary course when people commit suicide they do that in isolation or whether they would do that in company of others?---As I documented in my report, that the vast majority of people who suicide do that in isolation.

40 Referring to your report again, what are the indicia that you have identified that allow you to reach your conclusion that this was not a suicidal event?---The term "indicia" I am not familiar with.

45 Indicator that it was not a suicidal event?---I suppose to take you through the logic of that, the first series of evidences or indicators that I looked for

were, firstly, was there any evidence of any prior psychiatric illness. Should we go through that; would that be helpful?

5 Certainly. Could I ask that you refer to the redacted version that you have before you for the purposes of doing that?---Okay. The redacted is?

PRESIDENT: The blacked out, sanitised, whatever?---Okay.

10 MAJ HYDE: The one that doesn't contain operational security?---The one without alterations or the one with alterations?

The one that has been blacked out?---Yes, I can see one has been blacked out. So I should use that.

15 Yes, if you could, sir?---I think there was a mislabelling of the two.

I see?---Firstly, to follow through, as I was saying before, I'd looked through the documentation to see whether there was prior evidence of psychiatric disorder. Because depression is the most commonly associated psychiatric disorder with suicide, I look for evidence for that. As I state on page 3 of 8, beginning of the first full paragraph, the second paragraph, I could identify no evidence of features suggestive of current or prior depression in the documentation provided to me. Now, what I've done is looked at different components of the documentation, and I'll just go through those. The first was the candidate medical history questionnaire pro forma undertaken in October 2001. I assume that was part of the initial assessment process. That report indicated no history of psychiatric admissions, no suicide attempts, no depression, no anxiety or suspected psychiatric or psychological illness and no treatment for such psychiatric or psychological disorders.

The next evidence was the psychology record. That was undertaken 31 October 2001, again as I assume part of the original assessment process at recruitment. The statement there was that there were no signs of any psychological impediments to satisfactory military service. In a later formal component of the medical history, the comprehensive preventative health examination of 28 April 2005, there was a specific recording that there were no stress or mental health issues and that there was a normal mental state. I then document details from the various individuals interviewed as part of the documentation. The first was the statement from PTE Kovco's wife, Shelley and that she indicated that he was excited about going to Iraq, he wanted to deploy to get service medals. At no time had he ever indicated to her that he had talked about hurting himself and, to her knowledge, had never tried to do so. She stated that she could not think of any reason why he would hurt himself and there

was no way he wasn't happy with his family, and that "he told us that he loved us all the time," she said. There was a prior incident four years ago that seemed to relate more to potentially harming someone else rather than himself.

5

Then the report of Soldier 16, who was interviewed, denied that PTE Kovco had been unhappy prior or subsequent to the deployment to Iraq. He spoke of PTE Kovco being ecstatic about the deployment and he said:

10 *I never saw him depressed or down in the dumps, although he may have had the shits from time to time but would get over it.*

I assume by that he meant irritation with events:

15 *Nothing made me think Jake was upset or pissed off before he left for leave, and there was no way that he self-harmed,*

said Soldier 16.

20 The next was some of the extracts from the comments of Soldier 17, who commented that he hadn't observed PTE Kovco to be depressed, nor had he had any major difficulties - had any difficulties. He said that he had no reason to believe that PTE Kovco intentionally shot himself. I noted that Soldier 17 had attended the army suicide awareness training. I'm not
25 aware of the details of what's involved in that training so I'm just documenting that I'm aware that he attended that training program.

Soldier 17 told MAJ Hyde on June 14 that, when he passed PTE Kovco during duty changes on the day of the incident, he seemed fine, and a
30 similar statement was made to the service police on April 30:

I can recall that PTE Kovco was his normal self throughout the process,

35 and I assumed that that was a change in guard duty positions. In the service police statements of Soldiers 17 and 19, both stated that PTE Kovco hadn't mentioned any form of self-harm. I've noted here that I was concerned the same words were used for each of the soldiers in those reports.

40

Soldier 19 stated to the service police, April 30:

PTE Kovco was his normal self throughout the process during the duty ships prior to the day of the event.

45

Some of these are repetitive but I will go through it as it is.

5 Certainly, if you would?---In the New South Wales Police interview of May 31, when asked if PTE Kovco had said anything about being unhappy, Soldier 19 had replied:

No, not a thing.

10 He spoke about how PTE Kovco had been looking forward to receiving the medals on Anzac Day. I note here, and I've emphasised, that that's an important observation that PTE Kovco was looking forward to the future. I make the comment here that suicidal depressed individuals tend to be focussed on the suicide and have little interest in future events. So again, that was to me evidence or was supportive of him not being depressed at
15 that time.

I then turn to extracts from PTE Kovco's diary and I've just pulled out a number of indicative comments and remarks. On March 6 he indicates he's looking forward to going to Iraq, and he states in upper case:
20

IRAQ! (FINALLY)

So that there was an excitement I would read into certainly a positive intent of being deployed. On day 14, after recording the dream - and I'll refer to the dream later on - he states, quite specifically:
25

I have intention in shooting myself, I'm very happy with my life.

30 On day 15, he says:

Feeling good, having a ball. Miss Shell and the kids.

35 On day 40 he wrote of some irritation about arguments between his mother and his wife, and then later about being distressed by the sight of some wounded Iraqi troops waiting for security clearance to enter the hospital. Both accounts read to me like normal responses to difficult life circumstances and certainly it didn't reveal or suggest to me an overwhelming or persistent sense of despondency or depression.

40 The last entry is on day 42, and that indicated that he was cheered by contact with his family and he states, "Also hearing their" - I'm assuming this is Shelley and the children - "voices is a good lift for my spirits," because it refers to them in the prior sentences. I would also make the comment that there was no suicide note that I've been informed of that's
45 been found and there was certainly no suicide note in the journal, nor was

there any suggestion of suicidal intent in the journal. So they were my comments about depression. Shall I go on to the other psychiatric disorders for the sake of completeness for the Board?

5 Could I ask you to pause there and perhaps just answer this question, if
you would. Ordinarily, given PTE Kovco's circumstances and the fact
that he's deployed, et cetera, and away from home, would you expect a
suicide note if that was the intention of someone wishing to take their own
10 life?---I wouldn't expect it would be mandatory, I mean in the sense of
that it would be necessary to be sure about suicide. It may be that the
circumstances of his accommodation and the deployment make it a
different situation to a civilian considering suicide. I would make the
comment that if it were present, it would clearly be indicative of suicidal
15 intent but its absence, I don't think, excludes the possibility of suicide but
certainly the absence is consistent with my thesis that it's unlikely that he
had suicidal intent beforehand.

20 Secondly, you've mentioned in that part of your evidence this issue of
looking to the future, and I think you've said ordinarily, people with
depressive illnesses are less inclined to look to the future?---Particularly if
they're suicidal.

25 How strong a factor is that in your reasoning process militating against
suicide?---That, to me, is one of the important components. I think we're
looking here at a pattern of behaviour, a pattern of observation, and to me
that is an important component leading me to my conclusion.

30 Thank you, perhaps if you would go on now?---Okay. I then went on to
look for evidence of other psychiatric disorders which may be associated
with suicide with an increased risk for suicide. At the beginning of the
report I referred to a major British study that did a meta analysis or a
combined analysis of a series of studies that looked at the heightened risk
that a number of psychiatric disorders produce in terms of heightened risk
35 for suicide. So I've just picked out those that are a particular concern that
one would look for where you were considering suicide, so the next was
the issue of alcohol dependence or abuse or drug dependence or abuse.
That while PTE Kovco did drink alcohol, and there was some record in
one of the medical reports of him having used marijuana, the implication
was in the past. I found no evidence from the documentation provided to
40 me that he had alcohol dependence or abuse or drug dependence or abuse.

45 Some of the evidence for that: the candidate medical history
questionnaire pro forma of October 15, 2001 recorded that he drank
alcohol and had used marijuana. The medical records of April 24, 2004
record an instance where PTE Kovco had run into a pole after drinking six

bourbons. I think that was actually six cans of bourbon. But this appeared to be an isolated incident in terms of the documentation provided to me with no more evidence of substantial drug or alcohol problems. The comprehensive preventive health examination of April 28, 2005 recorded that PTE Kovco drinks about five drinks in one week. In the service police statements of Soldiers 17 and 19, taken on April 30 - again, I would emphasise the same words were used for each, I was concerned about that. Both stated that PTE Kovco didn't use drugs.

The other three disorders that I looked at were personality disorder, bipolar disorder and schizophrenia. I'll take you briefly through my thoughts about those. In terms of personality disorder - personality disorder is where there is clear personality disturbance that leads to significant effects - the initial psychology test in October 31, 2001 noted - the quote is:

He sees military life as challenging, is prepared to persevere.

The report went on to describe him as a sensible, mature, articulate candidate, conscientious and highly motivated. I also found no evidence of manic or hypo-manic episodes to suggest bipolar disorder. I think just for the sake of the Court that depression is one of the components of bipolar. Individuals have phases of depression as well as mania or hypomania. So that if we're considering depression we need to consider bipolar disorder as a potential cause. But I could see no evidence, again in terms of the documentation provided to me, that there had been past manic or hypo-manic episodes. Lastly, in terms of excluding schizophrenia or psychotic disorders of a similar nature, I couldn't see any evidence of any delusions or hallucinations. So I was comfortable that there was no evidence prior to the incident of formal psychiatric disorder. Did you want me to progress on the context of the day of the event?

Yes, if you would; thank you?---Okay. So I make the comment in section 2 - this is on page 5 of 8 - that the behaviour of PTE Kovco in his room on the afternoon prior to the event was not consistent with depression or any other psychiatric condition. I'll take the Inquiry through my reasoning for that in terms of specific sections of the documentation. So firstly, we look at the evidence of Soldier 17. In sworn evidence of 20 and 21 June I think to this hearing he stated that PTE Kovco was using his laptop to check email. He was singing and talking with the others - that's the other two in the room - about experiences and - that should be "officers" rather "offices" in C company; there should be an R in there. With regard to the email from his wife about the webcam and her initially not finding part of this in his box, he thought it was funny. I think that any - I've just inserted - any irritation - appeared to be in good humour rather than him

being clearly distressed by that. Soldier 17 had said that while they were signing together to the Cranberry song "Dreams" PTE Kovco was "taking the piss" out of the female singer and while he was singing a high-pitch voice. Soldier 17 described PTE Kovco as having pulled his shorts high
5 above his waist. He pulled them up to one side so his testicles would - should be "hang out", not "hand out" - and pretend to sing really loud. It was pretty funny. He was laughing too. Soldier 17 described PTE Kovco as "in good spirits and happy" prior to his death.

10 Can I just ask you to pause there, Professor, and perhaps if you'd answer this question: did you extract for the purposes of preparing this report the words to the Cranberry song "Dreams"?---Yes, I did.

Perhaps if you could tell the Board why it was that you did that?---Yes, I
15 downloaded these, as one does searches on Google, and found the words, the lyrics to it. The reason I did that was just wondering was there anything in the words that maybe what we would term "depressogenic", were there words that might make him depressed or unhappy or induce suicidal thoughts. Do you want me to read those out to you or should we
20 just - - -

Perhaps if you would just say whether there was anything in there that gave rise for concern in your view?---No, I was comfortable there wasn't - I mean, he uses the term "dreams", it's about a woman that the writer of
25 the song is in love with and this is the woman of his dreams and there's some sort of philosophical reflection. But it's in general a positive love song. So I didn't feel that this was likely to have induced suicidal thought. I've been given access to Prof McFarlane's report and note his comment that did this suggest memory of a dream. It's possible, I hadn't
30 thought of that, but I didn't think there was anything in the lyrics that clearly indicated to me that this was likely to induce suicidal thoughts or depression. So I was quite comfortable after having read that. It was an anxiety I had beforehand. Should that be tendered to the Court, the words?

35 I will in due course, yes?---I'll move onto the evidence of Soldier 19. On 14 June he told MAJ Hyde:

40 *Nothing made me think he was upset -*

referring to PTE Kovco.

We were laughing pretty loud.

45 He said to any suggestion of suicide:

I say no way, absolutely not.

5 Soldier 19 had stated in the service police statement of 30 April that when PTE Kovco pulled up his trousers so his testicles were showing - I should say I put this in because it was obviously a bit embarrassing in many ways for people who know him, to indicate that there this was this skylarking, horseplay going on.

10 *We all thought this was funny and had a good laugh about it.*

In the New South Wales Police interview of 31 May Soldier 19 says before the event occurred, referring to the shooting:

15 *We were actually laughing -*

20 and that the three in the room were acting like clowns. I make the comment that those who suicide normally do so on their own. The fact that the shooting occurred in the presence of his two roommates - and I'd emphasise here that the documentation indicated to me that he was aware that they were planning to leave the room to go to the gym at about 4 pm, leaving him alone in the room. So while I'm aware that in general the soldiers on deployment have very little time on their own, he was aware that he would have time on his own that afternoon. This isn't consistent with usual suicidal behaviour, as I mentioned before. My interpretation would be if he had been intending to shoot himself he would have waited till those soldiers had left the room.

30 In general, the above behaviours that I've just referred to on the day of the incident aren't consistent with someone who's depressed and contemplating imminent suicide. Such individuals would be expected to be more likely to be withdrawn and preoccupied. Now, I just need to make a few caveats. That some individuals are able to hide their depression from others for much of the time and may at times even appear to be in good humour. The term we use for this in psychiatry is "masked depression", m-a-s-k-e-d depression, like a mask. You put a mask over the depression and put on a brave front. However, I would find it difficult to accept that in a tightly-knit and close community, such as the Security Forces at the Embassy - I find it hard to believe that no-one would have noticed any depression at some stage. In my experience when people have a masked depression those close to them usually can pick that something is different, even if it's they're just not as spontaneous as they normally are.

45 Similarly, there's also well-recognised phenomenon that sometimes

5 individuals - sorry, sometimes after individuals with depression finally
make the decision to kill themselves they may appear calm and not
distressed prior to the actual act of suicide. It's almost as if that the
difficulty in the decision to suicide has been - that the decision has been
10 made and they're at that point they feel relaxed and content that their plan
is the correct plan. However, if we look at that second scenario of a
calmness after having made a decision, again I would expect that there
would be some observations of behaviour consistent with suicide -
consistent with depression prior to the day, prior to the event, that others
15 had observed. And we don't see any evidence of that.

So in view of the above accounts and observations of his behaviour in
terms of the accounts of his behaviour on the day of the event, it's my
opinion that if PTE Kovco did shoot himself this was most unlikely to
15 have been a deliberate attempt to kill himself as a result of a psychiatric
disorder. I'll finish at that.

Thank you. You've then gone on in your report to discuss the issue of
risk-taking behaviour and you've made certain observations about military
20 life in general and the sort of personality that is attracted to that particular
activity. Was there anything that you could identify in relation to
PTE Kovco that allowed you to draw any conclusions about him in
particular being a risk taker or not?---I couldn't draw any firm conclusions
to support that he was any more of a risk taker than his peers. The
25 conclusion that I make in the first paragraph, page 7 of 8, is that the
descriptions of the behaviour that I've gone through - and I'll detail those
if you want - would be compatible with, at the least, someone who - and
using lay terms - would be considered to be a larrikin. That was a
descriptive term given by a number of his contemporaries - and likely to
30 be involved in horseplay - my term - or skylarking. Some of this
behaviour may be considered to be indicative of excessive risk taking, but,
as I discussed, it's difficult to be sure whether this would be more than
demonstrated by his peers. So I wasn't happy that there was clear
evidence of excessive risk-taking behaviour. But I feel that the
35 description of him as a larrikin, liked to be involved in horseplay or
skylarking is one that I felt comfortable making.

Could you explain to the Board what the significance to you as a
psychiatrist would be of an individual being prone to risk taking?---You'd
40 be concerned that the person may be potentially putting themselves or
others into a position of potential harm. That could be in terms of
substance use or physical harm, you know, to that individual. So that
would be the significance that I would be concerned about if there was
clear evidence of risk taking.
45

But your opinion is that there's nothing there that you've been provided with that would allow you to - - -?---Not to make a definitive statement about that.

5 Could I now ask you to consider the topic of the bad dream?---Yes.

Perhaps if you could - - -?---Should I work through the report?

10 Yes, if you would?---The bad dream is described in PTE Kovco's diary on day 14 of his diary, which is 21 March 2006. He describes this dream as occurring during the previous night. The dream, as described, involved PTE Kovco sitting in his room in the Embassy grounds, pulling out his 9 mm pistol and shooting himself in his head. He states in the diary:

15 *I have no idea why, but it seemed I wanted to see what it felt like. I didn't die, but it felt like I did. I heard the click of the hammer hitting the firing pin and then instead of a loud crack the sound went dull.*

20 Then he goes on to describe an entry wound and an exit wound and then he states:

25 *Now, don't get me wrong, I have no intention of killing myself. I'm very happy with my life. It shook me up a bit because I haven't had a dream like that since I went through a rough patch (very blood rough) about four years or so ago. I know it wasn't about killing myself, so I'm a bit worried it might be a premonition of a bullet hitting me in the head but not killing me.*

30 He says in brackets:

(Fuck, I hope not.)

35 And that's the end of the quotation. My comment is it's difficult to know if the dream had any bearing on the circumstances surrounding his death. As I previously indicated, there was no suggestion in the journal that the dream was indicative of any current or future suicide intent. PTE Kovco seems to be adamant about this in his journal. My interpretation is that this was presumably to make matters clear to anyone who may later read
40 the diary. If anything, I read that he was disturbed by the dream and didn't understand why it occurred. Do you want me to continue?

45 Yes, if you would?---I make the comment that dreams are sometimes reflective, usually in part. I just make the comment for the Inquiry that dreams - there are sort of fragments of dreams that reflect what goes on.

5 Not everything in a dream reflects what happens in a person's life, but fragments or parts of dreams sometimes do reflect the days, as I mentioned here, the events or concerns of the day. In the context of the violence in Baghdad where he was aware of frequent death around him, it's not surprising that he may have had dreams involving his own death.

10 I then go on to make the comment that there's an eerie similarity between the dream and the events that occurred on 21 April. I make the speculation that one I think was worth drawing to the attention of the Inquiry as a possible speculation. But I make the caveat that I would view this as speculative and somewhat highly speculative. But obviously we're all trying to understand what happened. My comment is that while in the spirit of horseplay that seemed to be occurring on the day with his roommates - they were laughing, they were singing along with the song and PTE Kovco was singing in a high-pitch voice and pulling up his pants to expose his testicles, presumably playing - that he's sort of castrating himself. My speculation is that he then pulled out his pistol to see what it would be like to re-enact the dream. I was trying to make sense of what's the connection between the dream and the event. In this speculative scenario it may have been that, as in the dream, he pulled out the pistol from the holster, placed it close to his head, then pulled the trigger but being unaware that there was a bullet in the chamber. I'd been given background facts in MAJ Hyde's correspondence to me that it's possible that PTE Kovco did not clear his 9 mm pistol on the day of the incident and that Soldier 14 had observed him to be silent cocking this weapon some days prior to his death. I'll finish at that point.

30 Can I ask you to clarify something. You say that he pulled out his pistol to see what it would be like to re-enact the dream, and you say that's speculative?---Yes.

35 Is it possible for you to comment on whether if indeed he did do that, that was some form of subconscious activity or conscious activity or is that something you're simply not able to comment on?---I'd probably say that that's something I couldn't comment on. I think it would be difficult to interpret. I can just sort of speculate on the behaviour rather than the conscious or unconscious components of it. I think it's impossible to know and I wouldn't want to venture an opinion on that.

40 Finally, you've been asked to comment on whether within the field of psychiatry people can have in effect premonitions and whether this is a psychiatric term. Could you just tell the Board your view on that?---Yes. I made the comment that there's no acceptance of the concept of premonitions in the field of psychiatry and that this has no relevance in terms of indicating any psychiatric disorder. I mean, certainly in clinical

45

5 practice one sees patients who claim that they have premonitions. But my reading of the scientific literature where people have examined probably analogous para-normal or psychic phenomenon - there's been no evidence that you can actually demonstrate this in formal scientific studies. Things happen that we can't scientifically explain, but in terms of formal psychiatric diagnosis, it doesn't give us any indicators of a psychiatric condition.

10 For the purposes of preparing your report, did you do any research on this topic?---I did. That was - I did that yesterday just thinking about if this issue was to be discussed in the Inquiry. There's no - the only study that I could come across was actually just a description from the Israeli Journal of Psychiatry and Related Sciences, about 2000 - I haven't got the reference with me - looked at this as a phenomenon in terms of foretelling death. It was saying that where these descriptions were occurring that this tended to be in older people who died within following weeks, foretelling the date or the circumstances of their death. It's certainly just descriptions. That article also refers to accounts in classical literature historically. But I think that these are not of what we would sort of say would be high scientific standards.

15 Thank you, Professor. There is another matter that I'll ask for you to comment on, if I may. You've said that there's a possibility from what you've read in the materials that have been provided to you that PTE Kovco's personality is that of somewhat of a larrikin. Ordinarily, would you expect someone who was behaving as a larrikin in the circumstances described to you - you'd expect that they'd ordinarily do that in front of an audience. Would that be a fair comment?---I think it's fair to say that the part of the excitement or enjoyment of the larrikin behaviour is the response of others. So I think that would be fair to say that that behaviour would be most likely to occur in the company of other people or the presence of other people.

20 I have nothing further for this witness at this point, sir.

25 PRESIDENT: Thank you. LTCOL Wilkinson?

LTCOL WILKINSON: No, sir, thank you.

30 PRESIDENT: LTCOL Green?

LTCOL GREEN: No, thank you, sir.

35 PRESIDENT: LTCOL Holles?

40

LTCOL HOLLES: Thank you, sir.

<EXAMINATION BY LTCOL HOLLES

[1140]

5

LTCOL HOLLES: Professor Mitchell, could I suggest to you that the thrust of your report is best summed up in your paragraph which reads:

10

In view of all the above accounts and observations, it is my opinion that, if PTE Kovco did shoot himself, this was most unlikely to have been a deliberate attempt to kill himself as a result of a psychiatric disorder.

15

?---Yes, I think that's the crux statement. I can't say a hundred per cent sure that that didn't happen, but I would feel it's highly unlikely that it wasn't a suicide attempt due to a psychiatric illness.

20

It's predicated on the basis that if in fact it was established he did shoot himself, then it was not the result of a psychiatric disorder?---Yes, and I'll add that comment that this is if he shot himself and I was assuming he shot himself.

25

Just one other thing: would you agree that, if you're able to, any member of a parachute battalion is likely to have more than their fare share of musculoskeletal injuries?---Yes, I made that comment because I was really scouring through the evidence. I was asked to make a comment about risk-taking and I made the comment that I had no, in essence, comparator that this any more so than another soldier with the same activity. So I made that caveat and I would accept that in some areas of the military there may be a graver risk of musculoskeletal injury. So I made the observation that it was really in comparison to his peers as the critical issue.

30

35

Thank you. There's nothing further, sir.

PRESIDENT: Thank you. LTCOL Berkley.

40

LTCOL BERKLEY: Yes.

<EXAMINATION BY LTCOL BERKLEY

[1141]

45

LTCOL BERKLEY: Just one matter, Professor. It goes to what you've

clearly declared is a highly speculative connection between the dream and the event. Rather than excite the members of the Fourth Estate into some sort of gratuitous headline, I will ask just a couple of quick questions about that?---Yes, happy to.

5

I think it's inherent in your report that of course that is one of many scenarios we could speculate upon?---Yes, I would agree with that.

10 There is another issue: you've read literature, obviously, and I've seen your CV, you've obviously written a lot about your field; we've had a witness who had read literature, a police witness, and it was this issue of people where they normally might suicide in private but of course there's exceptions to that. As a matter of sound thinking, would you speculate that a person has committed suicide, such as this witness did - sorry, that's
15 not fair to the witness. Would you speculate that a person committed some form of self-harm or at least was the author of their own downfall on the basis of that exception? Basically, what the witness said to us was this: the fact that it happened in front - or this injury occurred in the presence of others was enough reason to say that it was an action under his
20 own hand. Is that sort of thinking sound?---I wouldn't feel that I could say that because it happened in the presence of others therefore a hundred per cent it wasn't suicide, but I would say - and I would emphasise - it makes it highly extremely unlikely to be suicide because of the fact that it occurred in the presence of others, but I'm not going to preclude the
25 possibility because I don't think one can say that.

Certainly?---I think it makes it highly unlikely.

30 Thank you, Professor, I have nothing further.

PRESIDENT: Thank you.

35 MAJ HYDE: Mr President, I do have one topic that I overlooked, if I may?

35

PRESIDENT: By all means.

40 <EXAMINATION BY MAJ HYDE

[11480]

40

MAJ HYDE: Professor Mitchell, have you been provided with a copy of Professor McFarlane's report?---Yes, I was provided that this morning before the hearing and I just emphasise that I had no contact with
45 Professor McFarlane before providing my own report on July 24, but I did

have access to his report this morning and I read that as I was waiting for the Inquiry to commence.

5 Are his findings largely consistent with yours?---Yes. My reading is that our opinion and conclusions are very similar. There's a small amount of detail that differs but I think that many of the conclusion statements we make are identical or very similar.

10 Are there any material differences that you think the Board should be aware of?---No, I don't think there are.

Nothing further, sir.

15 PRESIDENT: Thank you, Professor.

COL YOUNG: Excuse me - - -

20 PRESIDENT: I'm sorry, COL Young, how could I possibly forget you; I do apologise.

COL YOUNG: Thank you.

25 <EXAMINATION BY COL YOUNG [1145]

COL YOUNG: Professor Mitchell, COL Young is my name, I represent the interests of PTE Kovco. Do you have any connection with the Australian Defence Force at all?---No, I have none at all, no.

30 You're not a reserve member of the Navy, Army or Air Force?---Not a reserve member.

35 Please don't take offence at this, your good name and reputation is important to you?---Yes.

When you were asked to prepare this report there was no preferred outcome put to you?---Certainly there was not.

40 Thank you, Mr President.

PRESIDENT: Have you ever been a member of the military?---No, I haven't.

45 Anything arising?

COUNSEL REPRESENTING: Not from me, sir.

PRESIDENT: Thank you, Professor, you may stand down.

5

<WITNESS WITHDREW

[1146]

10 PRESIDENT: Before you leave us, Professor, may I express the Board's thanks. Thank you, we're very grateful to you.

15 MAJ HYDE: That's the evidence for today. Tomorrow we have GPCAPT Lambeth who will talk to ADF policy in relation to suicide, suicide prevention awareness, et cetera.

PRESIDENT: Very well.

20 MAJ HYDE: Professor Mitchell was somewhat shorter than we'd envisaged today.

PRESIDENT: That's understandable. Now, I also for the benefit of Counsel understand that some arrangements have been made for a non-sitting day on Monday.

25

MAJ HYDE: Yes. Perhaps COL Griffin can - - -

30 COL GRIFFIN: I'll speak to that, sir. As a consequence of the return of the soldiers from Iraq, it will be necessary to alter the arrangements we had and to facilitate the taking of their evidence we won't sit on Monday, with your leave, to prepare the materials and to provide Counsel with the opportunity to, if they wish to, speak with those persons before they are called to give their evidence.

35 PRESIDENT: Does anybody want to make any comment about that approach? It seems a very reasonable one to me.

40 COL YOUNG: Sir, I might just say I would appreciate that opportunity from my own point of view just to try and keep up with the material that we've been bombarded with as well.

PRESIDENT: Yes, there's been many trees sacrificed.

45 COL GRIFFIN: Indeed it is for that reason that I ask that we adjourn now, sir, because there is more documentation to provide to Counsel. I

5 speak specifically in respect of the statements obtained by Counsel
Assisting in theatre of operations from the SECDET members that have
been distributed to Counsel and I propose to tender before the Board
tomorrow.

PRESIDENT: Very well. 10 o'clock tomorrow morning then.

COL GRIFFIN: Thank you, sir.

10

**MATTER ADJOURNED AT 1149 UNTIL
FRIDAY 28 JULY 2006 AT 1000**

NTS