

## Instructions to Counsel

### *R v Farina\**

You have been briefed to advise the Director of Public Prosecutions on the prospects of successfully prosecuting Salvatore Farina (“the defendant”), who has been charged with intentionally causing serious injury (on the basis of the doctrine of acting in concert) to David Baxter-Jones on 16 December 2004. In approaching your task, you should make the following assumptions:

- a. The law applicable at all times and to all events relevant to the factual scenario described in the brief, the investigation and prosecution of the defendant and any future trial or related proceedings, is the law of Victoria, including the **Evidence Act 2008** (Vic), which you should treat as if it is already in force.
- b. In relation to the trial, you are instructed that:
  - (i) Five persons have been charged in relation to these events: the defendant, Antonio Batista, Giovanni Rambaudi, Manuel Garcia, and Rosa Corbinelli;
  - (ii) Rambaudi has pleaded guilty, and has agreed to give evidence for the prosecution in accordance with his statement;
  - (iii) Each of the other persons charged (including the defendant) has entered a plea of not guilty and has been committed for trial in the County Court of Victoria;
  - (iv) The four accused will be tried jointly;
  - (v) The trial will take place in August 2009;
  - (vi) As with any trial, you will not know until the close of the prosecution case whether or not any of the accused, including the defendant, will testify;
  - (vii) Garcia gave a full record of interview to the police, the contents of which are reflected in his sworn statement;
  - (viii) Batista, on the basis of legal advice, gave a no-comment interview to the police, and did not make a statement;
  - (ix) Corbinelli has been charged as an accessory after the fact on the basis that she assisted her son in an attempt to flee the jurisdiction; she gave a record of interview to the police, but it only deals with this allegation; and
  - (x) No issue will be made by any of the accused in relation to the delay between the alleged events and the trial.

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\* Please note that although this brief is based on a real case, all names, addresses, identifying numbers and some of the facts, have been changed in order to preserve anonymity. While the replacement addresses or numbers used in the brief may be real addresses or numbers, none of the persons who are – in real life – connected with those addresses or numbers have anything to do with the events with which this brief is concerned.

- c. You are not instructed to consider the case against the defendant's co-accused, and should not do so other than in so far as it impacts, or is likely to impact, on the case against the defendant himself.
- d. At the trial, all witnesses (other than the various accused – as to whom, see the instructions above) will give sworn testimony that accords with the witness statements contained in the brief. You should consider the relevance and admissibility of that testimony, rather than the statements (the purpose of which is merely to indicate what that testimony will be). Originals of all documents and real evidence referred to (but not included) in the brief will be adduced and will match their description in the brief. All statements have been properly sworn and attested.
- e. You have not been provided with the complete brief of evidence in this matter. A number of statements contained in the brief refer to other persons, such as other police officers. You should assume that all such persons have also made statements, that they will be called to give evidence at trial, and that their testimony will be generally supportive of and consistent with the evidence given by those witnesses for whom you have been provided with a statement. Similarly, you should assume that where evidence as to the continuity, or chain of custody, of an exhibit is necessary, that evidence will be available. In other words, any gaps left by the omission of such statements will be filled at the trial.
- f. The document headed “Telephone Calls Relating to the Attempted Murder of David BAXTER-JONES” is based on, and accurately summarises, telephone call records for all of the various telephone numbers referred to in it. However, this document is not “evidence” and you do not need to consider its admissibility. On the other hand, you do need to consider the admissibility of the actual call records, which are included in the complete prosecution brief, but which have not been provided to you due to their length. Each set of records is accompanied by a statement from the relevant officer of the telephone network in question setting out:
  - (i) The process by which the records were produced. This is known as “WEBTRACE” and involves searching an electronic database. Each telephone network’s database contains certain information about all telephone calls switched via that network; the information is kept for a period of four to eight weeks after the making of the call. In order to search the database, an operator specifies a telephone number and time period.
  - (ii) The particular search that was conducted in relation to each set of records.
  - (iii) The information provided by WEBTRACE in respect of each search, which includes:
    - i. The date of a telephone call being made;
    - ii. The time of a telephone call being made;

- iii. Whether or not the call was answered;
  - iv. The duration of the telephone call;
  - v. The number making the telephone call; and
  - vi. The number receiving the telephone call.
- g. All search warrants were lawfully granted and executed.
- h. The case against the defendant has been put on the basis of the doctrine of “acting in concert”. For the purposes of this examination, you will succeed in proof of your legal case if you can prove beyond reasonable doubt that:
  - (i) Batista caused serious injury to Baxter-Jones;
  - (ii) Batista did so intentionally;
  - (iii) Batista did so without lawful excuse (e.g. was not acting in self-defence);
  - (iv) There was an understanding or agreement between Batista and the defendant (and – although this part is not essential to proof of your legal case – Rambaudi and Garcia), as to causing serious injury to Baxter-Jones;
  - (v) Batista’s actions in causing serious injury to Baxter-Jones were done in accordance with and furtherance of this understanding or agreement; and
  - (vi) The defendant was present when Batista caused serious injury to Baxter-Jones.
- i. Accordingly, you do not need to, and should not, engage in any analysis of the law of complicity (including any alternative bases on which you might also have been able to put the case against the defendant, such as the doctrine of common purpose).
- j. The process of producing the brief – scanning and then editing to change identifying details – will inevitably have left, despite proof-reading, a number of typographical errors. You are instructed to use your intelligence and your common sense to resolve these, and to indicate, where appropriate, that you have done so.

You are instructed to prepare an **Advice on Evidence** which performs the following tasks:

1. **Sets out the factual theory upon which you will rely.** In other words, what do you say happened? This part of your answer should be a brief statement of the essential elements of what you regard as the best factual theory that supports the legal case you’ve been asked to prove.
2. **Identifies the real issues in the case.** The point of this is to ensure that in answering the next question you do not waste your energies by analysing issues that are unlikely to be in dispute. You will need, however, to (usually briefly) justify an assertion that a particular factual proposition is unlikely to be disputed.

3. **Explains how you will go about proving the factual propositions which are likely to be the subject of genuine dispute in the trial.** This is the most important part of your case analysis. In this part of your answer, you must describe how the factual theory you have chosen can be supported by the evidence in the brief. You can express yourself however you want, using prose, charts, outlines or a combination of these.
4. **Analyses the admissibility of any items of evidence in relation to which objection might reasonably be anticipated.** This component of the Advice will be worth approximately 50% of the total marks for the examination. Your answer must be an analysis of the capacity of the prosecution to prove its case (consistently with your answers to the preceding three questions) in a future Victorian criminal trial. You will have to identify any items of evidence or arguments that might be affected by a rule of evidence and perform whatever analysis is necessary to resolve whether the evidence or argument will be lawfully available to the prosecution or defence.
5. **Indicates, in light of the above, the likelihood of conviction.** Your answer should be a reasonably brief evaluation of how successful your argument (as described in question 3, and as affected by the admissibility issues discussed in question 4) is likely to be in establishing your case.

You are required to provide separate answers to these questions and to avoid overlap wherever possible. So, your answer to question 1 should not include a description of how any part of your theory can be established by the evidence; discuss that in question 3 instead. Your answer to question 3 should not include an identification of how strong or weak your case is; discuss that in question 5 instead. And none of your first three answers should mention or be drafted in anticipation of the impact of the rules of evidence on your proof; do that in question 4.

Given the time constraints and the limit of 5,000 words, you will obviously not be able to cover every aspect of the issues raised by the brief in your answers to the five questions above. Instead, you must focus on the issues that are likely to be of greatest significance in any future trial (i.e. factual propositions that are especially likely to be disputed; and propositions, evidence and reasoning that are likely to be crucial to the success of the prosecution case).

Your advice will be assessed according to whether you have complied with these instructions, whether you have demonstrated knowledge about how to analyse facts, and your skill at analysing facts and expressing your analysis within the constraints of the exam.

## STATEMENT

Name: David BAXTER-JONES

Date: 31/12/2004

### **STATES:**

My name is David BAXTER-JONES, I am 17 years of age and was born on the 12<sup>th</sup> of February 1987. I reside at home at Ormond with my mother Margaret, father Reginald and brothers Max and William and my sister Emily. I just finished year twelve at Ormond Secondary College.

On the 11<sup>th</sup> of December 2004, my car which is a Holden sedan white, registration SQQ123 was parked in Foch Street which crosses Malane Street, Ormond. I parked it there at 8 pm and left it there until 10 pm. I attended at my car at 10 pm to collect my phone. I noticed that the head unit of my car radio was gone. I checked the car and noticed that the sub woofer was missing as well and the rear speakers had also been stolen. The car had been ransacked with things all thrown around. I called the Police, they asked me to bring the car in. My mum was at work and I couldn't bring it in to the Police station. The next day two Police officers attended and I reported the incident and they fingerprinted the car. I spoke to my mum later when she woke up and she said that she had seen a white Camry sedan parked in Foch Street at about 9.15 pm. Mum said she saw Tony BATISTA, Salvatore FARINA, Giovanni RAMBAUDI and a fourth person in the car who was possibly Manny GARCIA. These people are all known to me.

I called Sal FARINA on mobile number 0444111222 and asked him if he had been involved with stealing things from my car. We discussed it and he denied it totally. Over the course of the next few days I attempted to call Tony BATISTA on his mobile telephone number. His phone never answered. I sent my number to him on each occasion. On Thursday the 16<sup>th</sup> of December 2004, I started work at 7.00 am with my uncle in Mulgrave. I called Tony BATISTA at about 7.00 am but he didn't answer again. I finished work at about 4.00 pm and my uncle Josh BAXTER dropped me off at my girlfriend's place at 15 Grout Street in Hampton. My girlfriend's name is Lily SHAW; she is 16 years old.

At about 4.30 pm we left and caught a bus; Lily went to work at Southland. After dropping her off I caught a train home to Malane Street where I arrived at about 5.30 pm.

At about 6.00 pm I called my friend Alex BOND and arranged for me to attend at his place. A short time later I drove my car to Alex' place in 15 Strathmore Street Bentleigh. Alex was there with his girlfriend Stella GEORGE. Two friends, Ralph and Harry arrived. I don't know either of their last names. Some more friends arrived a few minutes later. They were Damian BROWN and Rufus BALLARD. We all decided to go to Nando's in Bentleigh. I drove down with some people and Ralph drove the rest. It would have been about 6.15 to 6.30 pm; we stayed for about half an hour. Alex said he wanted to go home. I then drove Alex and Stella to a street near where Alex lives. I think it was Mavho Street in Bentleigh.

Once there I received a phone call from Tony BATISTA. Tony asked what I wanted, in relation to the missed call this morning.

I said: "That I wanted to ask you why you were saying I was a bitch and a snitch and had Police protection".

Tony said: "You are a bitch and a snitch and he was better than me, he called me a piece of shit".

Tony was yelling at me.

I said: "Look Tony you can sit there and scream and yell but at the end of the day we both know I'm better than you".

Tony said: "No you are a piece of shit, you are digging your own grave".

Basically he began yelling "you are a dead man walking, you are digging your own grave."

I said something like "I don't care, you're a car park junkie".

Tony continued to be abusive and that really pissed him off.

Tony said: "Where are you, I'm going to come and stab you, I'm going to fucking kill you".

I said: "I could be anywhere, I could be outside your house, my house or in Bentleigh. It doesn't matter".

Tony continued with "where the fuck are you, come to the car park in East Boundary".

I then hung up the phone call. I was a little worried about his threats, but thought we used to be friends and that if we spoke face to face about my car it would be ok. I then

asked Alex if he wanted to go to the park in East Boundary and speak to Tony about it. At this stage I thought we would talk because he was with the others that I knew meaning, Manny, Rambo and Sal. We decided to go and see if they were at the car park. We then started to drive along Centre Road in an easterly direction towards Clayton. It would have been approximately 7.30 pm by this stage.

I was driving. Alex was in the front passenger seat and Stella was behind Alex. As I crossed Jasper Road, I saw a white Toyota sedan driving towards me. I saw Rambo driving. I pulled over to the left. At this stage I thought only Rambo was in the car. He then turned around and parked behind me. He was about two metres behind my car. I then got out of the car, thinking I was going to say hello to Rambo. I then saw Tony BATISTA get out of the car. Tony got out of the rear passenger door onto the road. The door was open and he was standing leaning into the car with his left hand outstretched. I then realised that there were other people in the car. I saw that Sal FARINA was in the front passenger seat and that Manny GARCIA was in the rear behind Sal. I saw Tony talking to Sal. I then saw what looked like Manny passing something to Tony. Tony then closed the rear door and began walking towards me.

Tony then threw a spray can at me. He was about 5 to 7 metres away when he threw it. I bobbed down and the spray can hit me on the shoulder blade on the right hand side. Tony threw it with his left hand. Tony then began walking towards me; I heard him say "I'm going to fucking kill you bitch".

I was just standing there. I then saw him pull a knife out of his right hand pocket. It was a kitchen knife, about 6 inches, stainless steel blade. I think it was a straight edge. I couldn't see the handle. Tony was holding it in his right hand, with the blade pointing towards me but to the ground. I saw the knife but it happened so quick it didn't compute. I put my hands up in a fighting stance to defend myself. Tony threw what I believed was a punch. I put my arms up to defend my face and didn't see or feel where Tony hit me. I then punched Tony in the face with a right clenched fist.

At this stage we were still on the road. Tony then jumped onto the nature strip and I followed him. Tony turned around and I was coming at him. He had a stunned look on his face. I hit him again and then grabbed him from behind and pushed him face first over a fence. I was hitting him; he was trying to hit me with his right hand; he was swinging it back towards me but because of the angle he couldn't connect. He was

making noises with his mouth at the time.

The next thing, Sal FARINA grabbed me from behind around the neck and dragged me to the ground. I knew it was Sal but couldn't see him. I was shaking and screaming at Sal.

I said: "Get the fuck off me".

Tony came at me again. I managed to shake Sal off. Tony was coming at me again with the knife. Tony was swinging it around. I managed to move backwards and create space. Sal got off my back; I'm not sure if Alex grabbed him or not. Tony was standing on the nature strip holding the knife in his right hand. Tony looked at Alex.

Tony said: "What do you want some too?"

Alex looked scared at this stage. Tony points the knife at me and says, "Get the fuck out of here, get the fuck out of here".

I then saw blood on the left side of my arm and chest. I realised then that I had been stabbed. I put my hand on the left side of my chest and felt the cut and blood. I sat in the front passenger seat of my car and Alex got in the driver's seat. I don't know where Tony or the others went. At that stage I was feeling alright but worried about the blood. I then called out to Alex to get me home.

Alex then started driving me home. I remember we turned left into Tucker Road and I passed out. I came to again driving along North Road. I then found it difficult to breathe; I was scared and realised I was seriously hurt from Tony stabbing me. The next thing I remember my dad was holding my arms up and Paul McNULTY was slapping my face. My legs were giving way and I wanted to lie down. I then passed out and woke up in the Ambulance. I recall being asked questions by the Ambulance paramedics and later at the hospital.

I was rushed to surgery at the Alfred Hospital a short time later. I stayed at the Alfred Hospital for eight days recovering from the stab wound. I spent three days in the Intensive Care Unit and five days in a cardio-thoracic ward. As a result of the fight with Tony, I suffered a stab wound to the chest that entered my left ventricle and pierced my lung. I am aware that I nearly died and I am lucky to be alive.

I have signed a medical release for the Police to access my medical files. Tony BATISTA started the fight when he came at me and stabbed me. I punched him in self-



defence. I was scared he was going to stab me and that's why I continued to punch him when I held him over the fence. I did not give Tony permission to assault me and looking back now I think I was fighting for my life after Tony stabbed me.

I am currently house bound and will be for at least a few more weeks. I am unable to do things. I can't walk far. I have shortness of breath and difficulty with mobility. I can't walk very far at all. I can't work and have suffered a financial loss. It has affected my family and they are scared in case Tony or his friends get out and do something again. This has had a serious effect on my life and I am just glad I am alive.

(David BAXTER-JONES)

## STATEMENT

Name: Alexander Charles BOND

Date: 16/12/2004 at 10:06 PM

### **STATES:**

My full name is Alexander Charles BOND and I am 17 years old. My current occupation is as a car detailer.

In the early hours of Thursday 16<sup>th</sup> December, 2004 at about 12.30 am to 1.00 am my friend David BAXTER-JONES rang me on the mobile. David's nickname is Baxter. Baxter had his car broken into and his Pioneer Head Unit which is an MP3 player stolen from his car. Baxter told me that he thought another friend of ours, Tony BATISTA, had done it because he was a mechanic and knew how to get into cars. We talked for a while and I told him it was hard to accuse Tony without any proof or anything. Later in the day Baxter told me that Tony wasn't returning his calls and had his phone turned off.

On Thursday 16<sup>th</sup> December, 2004 I was at home with my girlfriend, Stella GEORGE, and Baxter gave me a call at about 6.00 pm and asked me what I was doing. I told him I was doing nothing and he came by and picked me and Stella up. I was starving so we went to "Nandos" in Centre Rd, Bentleigh and grabbed a bite to eat. After we ate we went back to Baxter's so he could drop off some clothes.

Around 7.00 pm we had left Baxter's and we were driving along Centre Rd, towards the Nepean Highway. Baxter pulled into Mavho Street and we were just talking and stuff. Baxter then received a phone call on his mobile from Tony BATISTA. I could hear the person on the other end because he was screaming in the phone and he was in a pissed off tone. I recognised the voice as Tony. Tony was really pissed off and Baxter was taking it pretty cool. Tony was saying, "You're a dead man walking", and Baxter retaliated by saying, "You're a druggie and a junkie and you have no life ahead of you". Tony said back to him, "I'm going to stab you" and I couldn't hear the rest. Baxter said something about "They're at the pool". He then said to me, "How about going down the swimming pools". I was really worried about catching up with these guys because they don't use fists, they use weapons and things like that.

We then pulled out onto Centre Rd, heading down towards Clayton way. I rang my mate Harry and told him that Baxter's going to punch on with Tony. I hung up the phone

quickly because I saw a car that I recognised. It was RAMBAUDI'S car which is a white Toyota Camry. RAMBAUDI was driving and Sal FARINA was in the front passenger seat. RAMBAUDI is fat, has pale freckly skin, is about 18 or 19 years old and wears everyday glasses. He was wearing a long sleeve polo neck top and jeans that I think were black. Sal FARINA has olive skin, short slicked back hair, average height and he is not bulky, quite slim, and has a bit of facial hair, like a bit of a 3 day growth and is about 18 years old. I can't think what he was wearing but he was wearing dark clothes and it may have been a jumper with the sleeves rolled up. Manny GARCIA was sitting behind the driver and I noticed that Tony BATISTA was sitting behind the driver but leaning over Manny. Manny GARCIA is about 16 or 17, was wearing a red soccer jersey, possibly Spanish, white track suit pants. He has olive skin, black short scruffy looking hair, average height, a bit of hair growth on the chin. Tony BATISTA is about 6 foot, very skinny, white skin, very short hair, probably like a number 3 shave, long side burns that come down to round his chin, and is around 17 or 18 years old. He was wearing a sort of grey tight fitting bonds top with short sleeves and white stitching, the top was sort of faded, grey tracksuit pants with one thick white stripe down the side from the waist right down to the bottom. I went to school with Tony BATISTA and I knew the others from parties that I went to with Baxter.

The Camry passed us and we pulled over outside 491 Centre Rd, Bentleigh. GARCIA hung a U-ey and pulled in behind us. I thought cool, everything's going to be OK. I stayed in the front passenger seat and Stella was sitting behind me. We both stayed in the car and Baxter got out of the car. I think Tony got out of the back seat and threw a can or something towards Baxter. Baxter went up to Tony and started yelling, "What the fuck cunt" and he said, "A couple of months ago we were mates." He also said to Tony, "I wasn't accusing you, all I wanted to do was to find out". Tony started yelling and screaming really angrily at Baxter and he then punched Baxter in the head. They started scruffing and wrestling with each other. At first I thought they were just playing around but then I realised it was serious. I'm not sure who else was out of the car and I was pretending to be on the phone.

Baxter then pushed Tony over the fence sort of into the front yard of a house and was punching him from side on and it looked like he was hitting him in the face but it could have been in the shoulder. Tony was leaning over the fence front on and sort of bent over the fence palings.

Tony stood up and was sort of punching Baxter up under the left armpit where the rib cage is. Tony had a closed fist but wasn't punching him with his fist as you would when you punch someone, but was using the side of his fist in a shanking motion. I couldn't see if anything was in his hand. He hit Baxter with the side of his fist, probably 2 or 3 times. Baxter kept fighting and was pumped on adrenalin.

Sal FARINA then grabbed Baxter and pinned his arms behind his back and his hands were together. Sal was behind Baxter and had his arm through the gap of Baxter's arm and was holding onto him and pulling him back. Tony then noticed Baxter was bleeding and said, "He's bleeding, he's bleeding." This is when I hopped out of the passenger's seat and walked towards them and I noticed that everyone was out of the Camry. I walked towards Tony saying, "Stop, stop", because I could see that Baxter was bleeding. I looked at Tony and I had a face like I wanted to rip him apart. I was really pissed off about what they had done and thought enough was enough. Tony had blood all over his hand and on the front of his top.

Tony then yelled, "Get the fuck out of here, get the fuck out of here" to all of his mates. They all jumped in the car and they took off. I don't know which direction they went. Baxter jumped in the passenger seat and was holding his left side saying, "I'm bleeding. I'm bleeding. I've been stabbed." I jumped in the driver's seat to get him home which was just around the corner. Baxter was talking to us and was bent over holding his side. There was blood over his singlet. Just before we got to Baxter's place, I went around a corner and Baxter said, "I can't breathe. I can't breathe." His eyes were rolling back and he sort of passed out.

When we got to Baxter's place, I ran inside his house and spoke to his Dad, Reg JONES. I told him that Baxter had been stabbed. Baxter's brother, Max, rang an ambulance and I went outside and another friend was there, Macca. His real name is Paul McNULTY. Macca asked me what had happened and I told him that Baxter had been stabbed by Tony BATISTA. Macca and I went to up to Baxter who was sitting on the grass. Baxter was sitting up with a straight back and we were trying to keep him calm. We put water on his face and he couldn't drink anything. Baxter's dad was holding him tight from behind because the ambulance people told us to hold something tight on his wound. I can't handle blood so I didn't really go near Baxter while his Dad was holding him.

The ambulance arrived in a few minutes and the Police weren't far behind. I told the

Police what had happened and I went with one of the Police officers back to Centre Rd to show them where the stabbing had happened. We found the area where it happened and I noticed some blood on the footpath. I waited for a while with the Police and then they took me to the Caulfield Police Station.

(Alexander Charles BOND)

## STATEMENT

Name: Julian CHOI  
Address: Caulfield Criminal Investigation Division  
289 Hawthorn Road, Caulfield  
Occupation: Senior Detective of Police

### STATES:

My full name is Julian CHOI. I am a Detective Senior Constable of Police attached to the Caulfield Criminal Investigation Unit. On Thursday the 16th of December 2004, I was performing plain clothed district car duties in company with Detective Senior Constable WEAVER.

At approximately 7.48 pm I was tasked to attend at 4 Malane Street Ormond in relation to a 17 year old male who had been stabbed. I was informed that the Ambulance Paramedics were in attendance. Whilst on route to the scene I was notified that the male victim, a person I now know to be David BAXTER-JONES, was being transported to the Alfred Hospital with a serious stab wound to the chest. I was then re-directed to the crime scene outside 491 Centre Road, Bentleigh.

At approximately 8.05 pm I attended outside 491 Centre Road Bentleigh. At that location I liaised with Senior Constable RODRIGUEZ and a witness to the stabbing, Alex BOND. A short time later the area was taped off and secured. I was then informed that the victim BAXTER-JONES had a possible life threatening stab wound.

I then took a series of photographs (**Refer to Photograph Log A**) and began processing the crime scene. A systematic search was conducted and I located and seized the following exhibits:

- At 8.10 pm, I located a spray can on the road outside number 493 Centre Road Bentleigh. I collected and logged this item as **Exhibit number 1.**
- At 8.15pm, I located a piece of tissue paper covered in blood on the grass nature strip outside number 491/493 Centre Road Bentleigh. I collected and logged this item as **Exhibit number 2.**

- At 8.20 pm, I located a quantity of blood on the footpath outside number 491 Centre Road Bentleigh. I then took a swab of this blood which I logged as **Exhibit number 3.**
- At 8.25 pm, I located a white cap with writing on it in the front garden bed just behind the front wooden fence of 491 Centre Road Bentleigh. I logged this item as **Exhibit number 4.**
- At 8.35 pm, I located a quantity of blood on plant material protruding through the front wooden fence at 491 Centre Road Bentleigh. I then took a swab of this blood which I logged as **Exhibit number 5.**
- At 8.40 pm, I located a quantity of blood on the front wooden fence at 491 Centre Road Bentleigh. I then took a swab of this blood which I logged as **Exhibit number 6.**

I maintained possession of all these exhibits.

I was notified that the victim David BAXTER-JONES was being operated on at the Alfred Hospital and was in a serious condition. A short time later I appointed Constable TURNBULL as crime scene guard and left the scene.

At approximately 9.15 pm I attended at 4 Malane Street Ormond. At that location I liaised with Senior Constable O'REILLY who was taking a handwritten statement from a second witness to the stabbing, Stella GEORGE. I then had a short conversation with GEORGE.

At that location I located the victim David BAXTER-JONES' vehicle, a white Holden sedan registration number SQQ123. Arrangements were made for this vehicle to be towed to the Caulfield Police Station for forensic examination.

At approximately 9.50 pm I returned to the Caulfield Criminal Investigation Unit. At that location I liaised further with the witness Alex BOND and Senior Constable CONROY who was taking a statement from BOND.

I then placed all the exhibits I had collected into the Property book number CI 82/04 refers.

I then began conducting inquiries in an effort to identify all suspects involved in this incident. Inquiries revealed that the principal offender in this incident was a person I now know to be Tony BATISTA. Inquiries also revealed the identity of the three co-offenders in this matter, Giovanni RAMBAUDI, Salvatore FARINA and Manuel GARCIA. Preparation of section 465 search warrants began in relation to all four suspects' residential addresses.

I contacted the Victorian Police Forensic Science Centre and arranged for the Crime Scene Investigators to attend the scene outside 491 Centre Road, Bentleigh.

At approximately 11.00 pm Senior Constable O'REILLY attended at the Caulfield Police Station after escorting a tow truck conveying vehicle SQQ123. This vehicle was secured in the sally port at the Caulfield Police Station pending forensic examination.

At approximately 11.28 pm I returned to the crime scene at 491 Centre Road, Bentleigh where I liaised with Senior Constable DANVERS of the Crime Scene Unit. Constable TURNBULL was guarding the crime scene.

- At 11.35 pm, I located a quantity of blood in the gutter outside 491 Centre Road Bentleigh. I then took a swab of the blood and logged it as **Exhibit number 7**.
- At 11.40 pm, I located a quantity of blood on the front wooden fence outside 491 Centre Road Bentleigh. I then took a swab of the blood and logged it as **Exhibit number 8**.
- At 11.45 pm, I located a quantity of blood on the top of the wooden fence outside 491 Centre Road Bentleigh. I then took a swab of the blood and logged it as **Exhibit number 9**.

I maintained possession of these exhibits.

I then left Senior Constable DANVERS at the crime scene to take a series of photographs.

**(Refer to Photograph Log B)**

At approximately 12.25 am on Friday the 17<sup>th</sup> of December 2004, I conducted a drive over of the residential premises at 5/22 Bleazby Street McKinnon; premises believed to



be occupied by the co-offender Giovanni RAMBAUDI. At that location I located a white Toyota sedan registration PPP456. Inquiries had revealed that this vehicle was used in the course of the stabbing in Centre Road, Bentleigh.

At approximately 12.45 am I returned to the office of the Caulfield Criminal Investigation Unit. At that location I placed exhibits 7, 8 and 9 into the property book entry number C182/04 refers.

I then liaised with Senior Constable DANVERS from the Crime Scene Unit who processed the victim David BAXTER-JONES' vehicle SQQ123 and took a series of photographs. **(Refer to Photograph Log C)**

At approximately 6.10 am, I conducted a briefing in relation to the execution of 465 Crimes Act search warrants that had been obtained for the premises situated at 5/22 Bleazby Street McKinnon, 9 A Barrett Street Cheltenham, 102 Clairmont Avenue Bentleigh, and 2/21 Craigavad Road, Carnegie. During this briefing I assigned duties to all members assisting.

At approximately 6.39 am, I attended at **5/22 Bleazby Street McKinnon**. At that location I knocked on the door and spoke with a female I now know to be Maria RAMBAUDI. I identified myself as a Police Officer and explained that I was here to arrest Giovanni RAMBAUDI and that we were in possession of a search warrant. I then attended inside the premises and was directed to a bedroom where I located the defendant asleep in bed. I then had the following conversation with the defendant in the presence of his mother Maria.

I said: "Giovanni, I am Detective CHOI from the Caulfield Criminal Investigation Unit. You are under arrest for the attempted murder of David BAXTER-JONES".

I said: "You are not obliged to say or do anything, but anything you say or do may be given in evidence. Do you understand that?"

He said: "Yes".

I said: "You may communicate with or attempt to communicate with a friend or

relative to inform that person of your whereabouts. You may communicate with or attempt to communicate with a legal practitioner. Do you understand these rights?"

He said: "Yes".

I said: "Do you wish to exercise these rights?"

He said: "No".

I said: "Giovanni, we have a search warrant to search the house and your car".

He said: "What? My car, show me the paper work".

I then handed the defendant Giovanni RAMBAUDI a copy of the search warrant for the house and a copy of the second search warrant for his vehicle.

I said: "Giovanni, what can you tell me about the stabbing in Centre Road?"

He said: "What stabbing, I wasn't there."

I said: "Giovanni, we will discuss the matter back at the Caulfield Police Station."

He said: "I'm not telling you guys anything, I'll get a lawyer".

I said: "Giovanni, we can arrange for you to speak to a solicitor when we get back to the Caulfield Police Station".

A systematic search of the defendant Giovanni RAMBAUDI's bedroom was then conducted. Items seized as per detailed exhibit log. I then left the defendant Giovanni RAMBAUDI in the custody of Detective Senior Constable WEAVER. I then tasked Constable STRINGER to escort the tow truck taking vehicle PPP456 to the Victorian Police Forensic Science Centre for forensic examination.

At approximately 7.10 am, I cleared the premises at 5/22 Bleazby Street McKinnon. The defendant Giovanni RAMBAUDI signed the search warrant and the premises were secured. The defendant Giovanni RAMBAUDI was conveyed to the Caulfield Criminal Investigation Unit by Detective Senior Constable WEAVER and Senior Detective SINGH.

At approximately 7.24 am, I attended at **9 A Barrett Street Cheltenham**. At that

location I knocked on the door and spoke with a male person I now know to be Luigi FONTANA. I identified myself as a Police Officer and explained that I was here to arrest Antonio BATISTA. I then attended inside the premises, where I was told that Tony BATISTA was not home and FONTANA stated he did not know where BATISTA could be. I was unable to locate the defendant Tony BATISTA. I then explained that we had a search warrant to search the premises and I handed a copy to FONTANA. I was then directed to a bedroom where a systematic search was conducted.

No items of an evidentiary nature were located. The bed did not have blankets or bed spreads and it did not appear that anyone had been staying in the room. I explained in detail that Tony BATISTA was involved in a stabbing and that he was to be arrested when located. At the completion of the search, FONTANA signed the result of search and I gave him my telephone number requesting he call if he comes into contact with Tony BATISTA or becomes aware of his location. I also requested that he have Rosa CORBINELLI call me in relation to the incident.

At approximately 7.38 am, I left 9 A Barrett Street Cheltenham.

At approximately 8.03 am I attended at **465 Neerim Road, Caulfield** in an attempt to locate the defendant Tony BATISTA at his work location. I spoke with his boss Fabio ZAPPA who stated that the defendant Tony BATISTA had telephoned earlier at approximately 7.00 am stating that he had problems at home and would not be attending work.

At approximately 8.30 am, I attended at **102 Clairmont Avenue Bentleigh**. At that location I knocked on the door and spoke with a female person I now know to be Isabella FARINA and her husband Lorenzo FARINA. I identified myself as a Police Officer and entered the premises. I explained that I was there to arrest Salvatore FARINA and that we had a search warrant to search the premises. I handed a copy of the search warrant to Isabella FARINA. I was directed to a bedroom at the rear of the premises where I located the defendant Salvatore FARINA asleep. I then had the following conversation with him in the presence of his parents.

I said: "Salvatore, I am Detective CHOI from the Caulfield Criminal

Investigation Unit. You are under arrest for the attempted murder of David BAXTER-JONES”.

I said: “You are not obliged to say or do anything, but anything you say or do may be given in evidence. Do you understand that?”

He said: “Yes”.

I said: “You may communicate with or attempt to communicate with a friend or relative to inform that person of your whereabouts. You may communicate with or attempt to communicate with a legal practitioner. Do you understand these rights?”

He said: “Yes”.

I said: “Do you wish to exercise these rights?”

He said: “No”.

I said: “Where are the clothes you were wearing last night?”

At approximately 8.35 am, the defendant Salvatore FARINA opened the cupboard door inside his bedroom and removed a plastic bag that was tied in a knot. The bag contained what appeared to be wet clothing. This bag was opened and the items recorded on the exhibit log by Senior Detective ODUWO as:

- 1 x blue coloured long sleeved shirt, 1 x red long sleeved tee-shirt. These items were recorded as **Exhibit No 1**.
- The defendant then produced a pair of blue denim jeans on a coat hanger with a belt. This item was also wet. I recorded this item as **Exhibit No 2**.

Senior Detective ODUWO then had the following conversation in my presence. I recorded this conversation:

ODUWO said: “When did you wash your clothes?”

He said: “I washed them last night”.

ODUWO said: “Was there blood on your clothes?”

He said: "Yes".

I said: "We will discuss this back at the Caulfield Police Station. We intend to search your room before taking you to the Police Station."

A systematic search of the bedroom was then completed. All items seized were handed to Senior Detective ODUWO and recorded on the detailed exhibit log. All items seized were photographed.

- At approximately 8.50 am, whilst searching the bedroom, I located a Nokia mobile telephone (IMEI number 355444667788990) containing a VODAFONE SIM card number 8961030000730332241. The actual Telephone Number of this phone is 0444 111 222. This item was recorded as **Exhibit No 3**.
- At approximately 8.54 am, whilst searching the bedroom, I located a blue sock containing a silver bladed carving knife. This item was recorded as **Exhibit No 4**.
- At approximately 9.10 am, I located 1 x pair of black buckle shoes on the front door step. This item was recorded as **Exhibit no 5**.

At the completion of the search the defendant Salvatore FARINA signed the search warrant. At approximately 9.15 am, Senior Detective ODUWO took custody of the defendant Salvatore FARINA and in company with Constable STRINGER transported him and the exhibits to the Caulfield Police Station.

I then liaised with Detective Senior Constable WEAVER via telephone. Reports were submitted with the Department of Immigration with Antonio BATISTA's details to stop any international travel.

At approximately 9.30 am, I attended at **2/21 Craigavad Road, Carnegie**. At that location I knocked on the door which was opened by the defendant Manuel GARCIA. I identified myself as a police officer and entered the flat. I explained that we had a search warrant to search the flat. I then had the following conversation with GARCIA:

I said: "Manuel, I am Detective CHOI from the Caulfield Criminal Investigation Unit. You are under arrest for the attempted murder of David BAXTER-JONES".

I said: "You are not obliged to say or do anything, but anything you say or do may be given in evidence. Do you understand that?"

He said: "Yes."

I said: "You may communicate with or attempt to communicate with a friend or relative to inform that person of your whereabouts. You may communicate with or attempt to communicate with a legal practitioner. Do you understand these rights?"

He said: "Yes".

I said: "Do you wish to exercise these rights?"

He said: "No".

I then handed the defendant Manuel GARCIA a copy of the search warrant.

I said: "Manuel, what can you tell me about the fight in Centre Road last night?"

He said: "I didn't do anything, it was Tony".

I said: "What happened?"

The defendant Manuel GARCIA then began to explain in detail what occurred. I noted the following summarised version:

He said: "Baxter was blaming Tony for stealing his radio from his car and they were fighting. They were going at it and I think Tony stabbed Baxter. There was lots of blood. After the fight we left and they dropped me off.

I said: "Who?"

He said: "Tony, Sal and Rambo".

I said: "What clothes were you wearing last night?"

He said: "These track pants, the shoes in my room and the shirt".

A systematic search of the premises was then conducted. All items seized were recorded on the detailed exhibit log. The defendant Manuel GARCIA signed the search warrant

after the completion of the search.

At approximately 9.58 am, the premises were secured and I conveyed the defendant Manuel GARCIA to the Caulfield Police Station where he was placed in an interview room at 10.05 am.

I returned to the Caulfield Criminal Investigation Unit at approximately 10.05. I then liaised with Detective Senior Constable WEAVER. Reports were submitted with the Department of Immigration with the defendant Tony BATISTA's details to stop any international travel.

At approximately 10.15 am, I made several attempts to contact the defendant Tony BATISTA via his mobile telephone number 0433777000 but his telephone was switched off.

I left a second message with the defendant's younger brother at 9 A Barrett Avenue Cheltenham on telephone 95852002 for Rosa CORBINELLI to call me in relation to the incident.

At the Caulfield Police Station on the 17<sup>th</sup> December 2004, I unsealed three (3) audio cassette tapes in the presence of the defendant **Manuel GARCIA** and inserted them into a tape recording unit. At 10.38 am on this day, I activated the tape recording unit and a tape recorded interview between myself and the defendant GARCIA commenced. Also present during this interview was my corroborator Senior Detective LEE. I suspended the taped interview at 11.20 am to collect new audio tapes. I recommenced the taped interview with the defendant at 11.22 am.

At 11.37 am, the tape recorded interview between the defendant GARCIA and myself concluded at which time I deactivated the tape recording unit. I then checked the master tape and copies of the recorded interview and identified the voices of the defendant GARCIA, Senior Detective LEE and myself. The defendant GARCIA was then handed a copy of the taped interview. The tape recording produced on this occasion is an accurate copy of the interview I conducted.

The defendant Manuel GARCIA was later released pending further inquiries being conducted. The defendant Manuel GARCIA made a signed statement in relation to the

incident after being released from custody.

At the Caulfield Police Station on the 17<sup>th</sup> December 2004, I unsealed three (3) audio cassette tapes in the presence of the defendant **Giovanni RAMBAUDI** and inserted them into a tape recording unit. At 12.23 pm on this day, I activated the tape recording unit and a tape recorded interview between myself and the defendant RAMBAUDI commenced. Also present during this interview was my corroborator Senior Detective SINGH. I suspended the taped interview at 1.04 pm.

The defendant Giovanni RAMBAUDI had stated that he was willing to travel with Police investigators and identify where the knife used in the stabbing was discarded and to identify the premises where the defendant Tony BATISTA was dropped off after the stabbing on the 16<sup>th</sup> of December 2004.

At approximately 1.38 pm, in company with Senior Detective SINGH and the defendant Giovanni RAMBAUDI, I left the Caulfield Police Station. At approximately 1.50 pm, I was directed by the defendant to a premises situated at 5/41 Twisden Road Bentleigh. The defendant stated that he dropped Tony BATISTA off there at approximately 11.30 pm on the 16<sup>th</sup> of December 2004.

At approximately 2.00 pm, I was directed to a street named Rica Street in Moorabbin. I noted that the street had both green and red wheelie bins on the nature strip. The defendant Giovanni RAMBAUDI then pointed out wheelie bins in the vicinity of number 12 and stated that it was the area in which he drove Tony BATISTA on the 16<sup>th</sup> December 2004 and where the knife used in the stabbing and bloodied clothing belonging to Tony BATISTA was disposed of. After examining the bins it was discovered that they had already been emptied and the knife was not located. The defendant Giovanni RAMBAUDI stated that the knife was a black handled steak knife that had been purchased in a set of three.

At approximately 2.15pm, I returned to the Office of the Caulfield Criminal Investigation Unit where the defendant Giovanni RAMBAUDI was placed in an interview room. Inquires were conducted with the local council in relation to the rubbish collection in Rica Street Moorabbin. These inquiries revealed that it was impossible to isolate the rubbish and a search through tonnes of rubbish would be the way of locating the knife



and bloodied clothing. Due to various resource issues the rubbish tip was not searched.

At approximately 2.33 pm the tape recorded interview with the defendant RAMBAUDI recommenced. At 2.59 pm the tape recorded interview between the defendant RAMBAUDI and myself concluded at which time I deactivated the tape recording unit. I then checked the master tape and copies of the recorded interview and identified the voices of the defendant RAMBAUDI, Senior Detective SINGH and myself. The defendant RAMBAUDI was then handed a copy of the taped interview. The tape recording produced on this occasion is an accurate copy of the interview I conducted.

The defendant Giovanni RAMBAUDI was later released pending further inquiries being conducted. The defendant Giovanni RAMBAUDI made a signed statement in relation to the incident after being released from custody.

The defendant **Salvatore FARINA** was interviewed at the Caulfield Police Station by Detective Senior Constable WEAVER and Senior Detective ODUWO and later released pending further inquiries being conducted.

At approximately 4.30 pm, I spoke via telephone to the defendant **Rosa CORBINELLI** on telephone number 95852002. During that conversation the defendant CORBINELLI stated that Tony BATISTA did not stay at Barrett Avenue over night. CORBINELLI stated that she had not spoken to Tony BATISTA since the day before and that she did not know where he was. I explained in detail that her son Tony BATISTA was involved in a serious stabbing incident the night before and that he would be arrested and interviewed when located. I then requested that the defendant CORBINELLI make attempts to notify BATISTA and have him attend of his own volition. CORBINELLI was informed that the victim David BAXTER-JONES was in hospital with a life threatening injury inflicted by her son Tony BATISTA. The defendant CORBINELLI stated that she would bring her son Tony BATISTA into the Caulfield Police Station for an interview on Sunday the 19<sup>th</sup> of December 2004.

The defendant Rosa CORBINELLI spoke English with an Italian sounding accent. I was able to understand everything she said. I was of the opinion that she could understand me by the way she responded to my questions and conversation in general.

Further inquiries were then conducted in relation to the whereabouts of the defendant **Antonio BATISTA**.

At approximately 8.00 pm, I received a telephone call from the Federal Police at Melbourne Airport who informed me that the defendant Antonio BATISTA was under surveillance at the Sydney International Airport and was booked on an international flight to Bangkok at 10.15 pm. I was informed that the defendant Antonio BATISTA had a second flight booked from Bangkok to Rome on the following day being the 18 of December 2004. I was informed he was travelling alone and that a warrant to arrest was required urgently to arrest the defendant Antonio BATISTA.

A short time later I spoke with Federal Police Officer Barry FOSTER at Sydney International Airport and confirmed it was the defendant Antonio BATISTA.

At approximately 10.30 pm, I again liaised with Federal Police Officer Barry FOSTER who informed me that the defendant Antonio BATISTA had been detained by Federal Police Officer Vernon TALBOT pending the arrest warrant and that he was in custody at the Mascot Police Station in Sydney. A short time later the charge and warrant was faxed to the Mascot Police Station where it was executed by Constable Penny TAYLOR of the New South Wales Police Force.

Inquires conducted on Sunday the 19<sup>th</sup> December 2004, revealed that the defendant Rosa CORBINELLI flew to Sydney on Sunday the 19<sup>th</sup> of December 2004, and attended at the Penrith Detention Centre where Antonio BATISTA was being held. The defendant Rosa CORBINELLI signed for and removed all Antonio BATISTA's personal belongings before investigators could examine them.

On Monday the 20 of December 2004, at approximately 9.20 am I attended at the Bidura Children's Court in the suburb of Glebe, Sydney. At that location I applied for and was granted an extradition order under the *Services and Execution of Process Act 1992* Section 83(8) to transfer the defendant Antonio BATISTA to the Melbourne Magistrates' Court on the 21<sup>st</sup> of December 2004.

At approximately 1.1.25 am I transported the defendant Antonio BATISTA from Bidura

Children's Court to the Mascot Police Station where he was lodged pending extradition to Melbourne.

At approximately 2.40 pm, I transported the defendant Antonio BATISTA from Mascot Police Station to the Sydney Airport where he was then escorted via a Qantas flight to Melbourne Airport. I then transported the defendant Antonio BATISTA to the Melbourne Custodial Centre where he was lodged at approximately 6.10 pm.

The defendant Rosa CORBINELLI did not attend the Bidura Childrens Court in relation to the extradition hearing.

On Tuesday the 21<sup>st</sup> of December 2004, I made inquiries with witness Cecilia RICCI of the European Travel Agency in Carlisle Street Balaclava in relation to the purchase of Antonio BATISTA's travel tickets overseas. I was informed that Rosa CORBINELLI had ordered the travel tickets for Antonio BATISTA shortly after 9.00 am on Friday the 17<sup>th</sup> December 2004. As a result of that conversation, I formed the opinion that the defendant Rosa CORBINELLI had acted as an accessory to the attempted murder of David BAXTER-JONES.

At approximately 10.40 am, I attended at the Melbourne Custodial Centre in company with Detective Senior Constable WEAVER. At that location I liaised with solicitor Duncan TOBIN.

At the Melbourne Custodial Centre on the 21<sup>st</sup> December 2004, I unsealed three (3) audio cassette tapes in the presence of the defendant Antonio BATISTA and inserted them into a tape recording unit. At 11.40 hrs on this day, I activated the tape recording unit and a tape recorded interview between myself and the defendant Antonio BATISTA commenced. Also present during this interview was my corroborator Detective Senior Constable WEAVER and solicitor Duncan TOBIN.

At 1210 hrs on the 21<sup>st</sup> December 2004, the tape recorded interview between the defendant Antonio BATISTA and myself concluded at which time I deactivated the tape

recording unit. I then checked the master tape and copies of the recorded interview and identified the voices of the defendant Antonio BATISTA, Detective Senior Constable WEAVER, Duncan TOBIN and myself. The solicitor Duncan TOBIN was then handed a copy of the taped interview. The tape recording produced on this occasion is an accurate copy of the interview I conducted. I also conducted a video recording of the interview. A copy of the video recording was later served on the solicitor Duncan TOBIN.

The defendant Antonio BATISTA was then charged and appeared before the Melbourne Magistrates' Court. The defendant Antonio BATISTA was remanded in custody to appear before the Melbourne Magistrates' Court on the 17<sup>th</sup> March 2005.

On Friday the 24<sup>th</sup> of December 2004, at approximately 8.24 am I attended at **5/41 Twisden Road Bentleigh**. At that location I knocked on the front door which was opened by a person I know to be Luigi FONTANA. I identified myself as a Police officer and entered the premises. I then observed the defendant **Rosa CORBINELLI** walking down the stairs towards me. I again introduced myself as a Police Officer and had the following conversation with Rosa CORBINELLI:

I said: "Rosa, I am Senior Detective CHOI of the Caulfield Criminal Investigation Unit. You are under arrest for being an accessory to the attempted murder of David BAXTER-JONES".

I said: "I must inform you that you are not obliged to say or do anything, but anything you say or do may be given in evidence. Do you understand that?"

She said: "No, I need an interpreter".

I said: "Rosa, when we get back to the Police Station I will arrange an interpreter who will attend and assist with the interview".

I then utilised Luigi FONTANA and explained that I had a search warrant to search the premises and I handed him a copy. FONTANA then explained in Italian to the defendant Rosa CORBINELLI what was occurring. Rosa then made a phone call to solicitor Duncan TOBIN in my presence. I then spoke with the solicitor, Duncan TOBIN, and informed him of the situation and he informed me that he would attend at the Caulfield

Police Station and speak to the defendant Rosa CORBINELLI before a formal interview commenced.

A systematic search of the premises was conducted. I located the following items that were handed to the exhibit log keeper, Senior Detective THATCHER, who recorded their details on an exhibit log and maintained possession of the exhibits:

- At 8.30 am, whilst searching bedroom number 3, I located a Nokia Mobile Telephone (IMEI number 345678090456818) containing an OPTUS SIM Card with the number rubbed off. The actual telephone number for this phone is 0433 777 000. This item was recorded as **Exhibit No 2**.
- At 8.35 am, whilst searching a filofax in the lounge room, I located an Italian Passport in the name of Antonio BATISTA No 52-1133445. This item was recorded as **Exhibit No 3**.
- At 8.36 am, whilst searching a filofax in the lounge room, I located an Italian Passport in the name of Antonio BATISTA No 44-6778901. This item was recorded as **Exhibit No 4**.
- At 8.37 am, whilst searching a filofax in the lounge room, I located a Victorian Learners Permit in the name of Antonio BATISTA. This item was recorded as **Exhibit No 5**.

All exhibits seized as per detailed exhibit log.

The defendant Rosa CORBINELLI signed the search warrant. I then left the premises at 5/41 Twisden Road Bentleigh at approximately 9.17 am. I then transported the defendant Rosa CORBINELLI to the Caulfield Police Station where she was placed in an interview room. An interpreter was then organised via the Victorian Interpreting and Translating Services.

At approximately 10.12 am the solicitor Duncan TOBIN attended and spoke with the defendant Rosa CORBINELLI in private. At approximately 10.40 am, the solicitor Duncan TOBIN left the Police station.

At approximately 11.10 am, the Italian Interpreter Mario GOZZOLI attended at the Caulfield Police Station to assist with the taped interview of the defendant Rosa CORBINELLI.

At the Caulfield Police Station on the 24<sup>th</sup> December 2004 I unsealed three (3) audio cassette tapes in the presence of the defendant Rosa CORBINELLI and inserted them into a tape recording unit. At 11.17 am on this day, I activated the tape recording unit and a tape recorded interview between myself and the defendant Rosa CORBINELLI commenced. Also present during this interview was my corroborator Senior Detective CLARKE and an interpreter Mario GOZZOLI.

At 11.57 am, I suspended the taped interview to collect new audio tapes. At 12.02 pm I recommenced the taped interview with the defendant Rosa CORBINELLI.

At 12.45 pm on the 24<sup>th</sup> December 2004, the tape recorded interview between the defendant Rosa CORBINELLI and myself concluded at which time I deactivated the tape recording unit. I then checked the master tape and copies of the recorded interview and identified the voices of the defendant Rosa CORBINELLI, Senior Detective CLARKE, the interpreter Mario GOZZOLI and myself. The defendant Rosa CORBINELLI was then handed a copy of the taped interview. The tape recording produced on this occasion is an accurate copy of the interview I conducted. I produce the Master Tape of that record of interview.

The defendant Rosa CORBINELLI was released pending further inquiries being conducted.

On the 4<sup>th</sup> of January 2005, the defendants RAMBAUDI, GARCIA, FARINA and CORBINELLI were charged by way of summons.

I now produce the master tapes for BATISTA, RAMBAUDI, GARCIA and CORBINELLI.

I hereby acknowledge that this statement is true and correct and I make it in the belief that a person making a false statement in the circumstances is liable to the penalties of perjury.

(Julian CHOI, Detective Senior Constable)

## STATEMENT

Name: Giovanni RAMBAUDI

Date: 17/12/2004 at 6.00 PM – Caulfield

### STATES:

My name is Giovanni RAMBAUDI. I was born on 10<sup>th</sup> of May, 1986. I am currently unemployed but I am enrolled in University next year.

On the 16<sup>th</sup> day of December 2004 at about 5.30pm to 6.00pm, I picked up three of my friends in my car. My friends are Sal, Tony and Manny. Sal's surname is FARINA, Tony's surname is BATISTA, and I don't know Manny's surname. I picked up Sal from Caulfield Station first, then Manny from his house in Craigavad Drive, Carnegie. I then picked up Tony at his house in Barrett Street, Cheltenham. My car is a white Toyota Camry CSI, sedan. The registration is Victorian PPP456. My parents bought this car when I got my licence.

I have known Tony and Sal since year 9 or 10 at school. I have known Manny for a couple of months through Tony.

I was wearing a blue zip up top and black shorts with reflectors on them. They are Morris Malone. I have given these to the police. Tony was wearing a black background with lots of colours in it. It had a pattern like when you throw paint on it. It was long sleeved. He was wearing beige pants and runners. I can't remember what colour or brand. Sal was wearing a purple shirt, long sleeved with black pants. Manny was wearing a red soccer top, black tracksuit pants and runners. I think they were white.

We all got into the car and were talking about cars. It was a pretty regular afternoon I must say. Before we even met up we had agreed we would talk about Baxter. This was part of the reason why we met up, but we would have anyway. By Baxter, I mean David BAXTER-JONES. When we got in the car we all said that we need to speak to him as he had told the police that we had stolen his stereo. Tony was talking the most. He was saying that basically he explained the situation again. He said that Baxter was a bit of reject for what he had done. I remember Manny and Sal said that Baxter had pretty much "fucked up" and he would get slapped around for it.

We drove to Bentleigh and bought one gram of marijuana. I forgot to say something earlier. We went to a little park in between Bambra Road and Thomas Street, Caulfield.

We just parked near the gate; there was no carpark. We started having a smoke of marijuana there but we decided it was too dodgy so we went to another park.

We then went to the park near East Boundary Road pools. We parked in the carpark there. There was a couple of other cars there but no one in them. Tony, Sal and Manny chopped up the marijuana and put it in the bong. We used most of the weed between the four of us. There was enough left for two bongs later on. I had one bong and the other boys shared the rest. We talked about Baxter, the same thing that was said earlier. Sal made a phone call to Baxter on his mobile phone. Sal handed the phone to Tony to talk to Baxter. The phone was on speaker so we could all hear it. Tony said "You're a piece of shit", "You're living dead", "You're dead man walking" "Why did you do this", "You're a loser you got no friends", "You're a cunt". Baxter was saying back to Tony that "You're a drug fucked cunt". Tony then said "Come down here and we will sort it out." I think in the end Baxter agreed to come. That's why I was confused when Tony told me to drive off. But I did anyway.

We smoke weed regularly so it didn't really affect us. If anything it calms us all down. It was no different yesterday. We were all calm. Tony just went off his head after speaking to Baxter on the phone.

I drove down East Boundary Road to Centre Road, Bentleigh and we saw Baxter. We saw Baxter in a VP white Commodore going in the opposite direction in Centre Road. I said to Tony "Do you want me to do a Uey". He said "Yes". So I did a u-turn and followed Baxter for about thirty seconds. He wasn't speeding. Baxter pulled over as soon as he saw us following. Baxter had Alex, I don't know his surname, and Stella in the car. I know Alex through Baxter. I don't know Stella. I had never met her until yesterday. I have known Baxter through friends. I met him about six months ago. It might even be a bit less. I never really hung out with him. If I saw Baxter, I would shake his hand and that sort of thing. Tony and Sal knew Baxter the best. We pulled over in Centre Road, up near Tucker Road, away from the shops.

Whilst we were following Baxter, before he pulled over, I can't remember what was being said in the car. Manny was sitting in the back of the car with Tony. Manny passed a knife to Tony. I don't know what was said. I never ever thought the knife would be used. The knife was about 10cm long; it was a steak knife. I thought he would just want to scare Baxter. I don't know what Tony did with the knife as I didn't see him carrying



it. I was trying to stop the car. The knife was in the back of my seat. It was a steak knife I had bought from Coles months earlier. There were three steak knives at the back of my seat. I bought the knives months before for protection when I was with someone else. But I have never used them and just hadn't taken them out of the car.

Tony got out of the car while the car was still rolling. I drove over his foot. I drove back a bit. Sal got out of the car when it stopped and followed Tony. Manny then got out of the car and then I did. Manny and I just stood there. I remember Manny yelling out at some point "Get off him he got stabbed he got stabbed," talking about Baxter. I saw Baxter get out of the car. Stella and Alex stayed in the car. Tony threw a can of Pepsi at Baxter. The Pepsi can was in my car. I think Tony was drinking it. He threw it about ten metres. It missed Baxter and landed on the road. Baxter started throwing punches with a clenched fist at Tony after Tony hit him. Alex got out of their car and just stood there watching. Baxter hit Tony a few times in the face and the back I think. Tony had a few scratches. Tony then throws punches back with a clenched fist. He hit Baxter in the chest and face area. Somehow they end up on the ground and then I saw the both of them go over the front fence of the house. They come back over the fence and Sal got out of the car and pulls Baxter off Tony. Tony was on the ground with Baxter on top of him. They were tackling each other. Sal pulled Baxter off Tony to stop the fight as it was getting serious.

Baxter tried to start punching Tony again, like a second round. Tony was fighting back. The fighting stops. I saw blood on Baxter. I thought it was on his back. I think Baxter was in shock at the time because he was moving around. Tony started screaming "Get out of here, Get out of here". Baxter got into his car and they sped off. Alex was driving. After about a minute or so we all got back into the car as well. I drove the car. Tony was in the front seat. Manny and Sal were in the back seat. I don't know who was sitting where in the back. When I got into the car Tony had blood all over his shirt. Sal had a bit of blood on his shirt. Tony took his shirt off. Tony had a knife in his hand. Initially I thought it was wrapped in a paper towel or something like that. Then I looked; it was wrapped in a tissue or a white cloth of some sort. It had blood over it. He just held the knife.

Tony said "drive to my house, he'll be going to hospital". Tony directed me to drive to Rica Street. I only know the name of the street because I went there earlier with the police. As we were driving Tony was saying "it went pretty deep in". We stopped at a

few bins in that street that were on the grass area in front of the houses. He was selective with the bins. He wanted one with rubbish in it. We stopped at one bin that had the lid open with a bag sticking out. The bin had a red lid. It was wheelie bin. Tony told me to stop and he got out. He lifted the bag out of the bin and put the knife in and his shirt. He then put the bag on top again. We all stayed in the car while he did that. Then I drove to his old house in Cheltenham. We stayed in the car while Tony went in and got a change of clothes. He came back wearing some sort of dark psychedelic shirt. He was wearing the same pants. They were beige. We were there for about 15 minutes.

We drove off and started towards Chadstone as Tony had said. We drove down to Cheltenham, to Warrigal Road to Oakleigh. We drove passed Chadstone shopping centre and got fuel. We stopped for fuel at the BP service station on Princes Highway, probably Huntingdale. It was about 7.30 - 8.00pm. I paid ten cash for it. The rest stayed in the car.

We went back to Chadstone, the shopping centre in the carpark for about an hour and half. We entered through the main entrance near the McDonalds. The street just before, where the Myers is. We drive through down the round about back to where Coles is. We went down the corner. There was a level above us which was the roof. We parked down from the roof. We were one level down from the roof. I don't why we parked there, but I know we didn't want to be seen. There we sat around smoking the rest of the weed. By this I mean marijuana. I didn't have any. They shared the rest of the mix. We were talking about what happened. I think we may have tried to contact Stella then. I think Manny or Tony had her number. I didn't speak to her. Manny spoke to her and said basically asked what happened to Baxter. She said basically she didn't know anything. Manny then hung up.

Tony started going off at all of us for some reason, saying why did you say this and that. I can't remember what but it was something to do with the call to Stella. We were all saying we hope he is not dead. We hoped that he was alright and that we could be in serious trouble for it. We hoped that people wouldn't start talking and tell the police. I said we should be okay. I basically thought I would be alright because I didn't touch him. Tony was saying that we weren't to talk to anyone about this and no one needs to know about it. Tony told us that if the police came to see us that none of us were there and we all agreed at that time to do that. I have told the police what happened because I don't want to spend my life in prison for something I didn't do. I didn't know Tony

would stab anyone. I thought they would just have a fight. That was what the plan was. We never talked about using a knife. Tony did say at the time of the call to Baxter at the park "That he was going to stab him". I thought he was just talking shit, I never thought Tony would do something like that. He always talks himself. During the conversation Manny said that he was going to burn his clothes because he had blood on them.

We then drove off towards Box Hill, we just got out of the area. We got to Burke Road somehow and went into the city to Swanston Street. Once I was there I knew where I was. I drove to the McDonalds in South Melbourne. Manny, Sal and me went inside. Tony stayed in the car. We bought dinner and went back to the car. I think it was about 9.30pm or 10.00pm as it was dark.

We then drove down Clarendon Street to Canterbury Road and then onto the Nepean Highway. Tony organised to meet up with his mum. Tony rang his mum while we were driving to the city. He told his mum he got into a fight. He asked his mum if the cops had been to his house. She said that a cop car was driving out of the driveway as she was driving in. She didn't speak to them. He said that they are probably after me. He explained that he got into a fight. He said he couldn't talk about it on the phone. He organised to meet her at their new house in Bentleigh.

We drove to the Bentleigh house. It took about half an hour. We pulled over around the corner from the house. We did this because we thought that the cops had already been there and didn't want them to see us. Then basically Tony said you're not going home until this goes through. He said I would have to stay there until things were sorted. I agreed. We ended up dropping him off and I drove up and down the street to see if any police were around.

I then dropped off Sal first as he lives the closest in Clairmont Avenue, then I dropped off Manny in Craigavad Drive, Carnegie.

I then went home and parked my car out the front of the house. I then rang a girl in Sydney, Susanne, and told her what happened. She actually rang me; we talk every night. She is not my girlfriend. Her number is in my phone under her name. I don't know her number. I am on a prepaid with Optus. I haven't paid my bill with Three so I haven't got my normal number. My normal number is 0422888222. I can't remember my prepaid number.

I have made this statement of my own freewill. I have not been pressured by the police.

I have not been offered anything to speak to the police and make a statement. I have done it because it is the right thing to do. I did not know that Baxter would be stabbed.

(Giovanni RAMBAUDI)

## STATEMENT

Name: Manuel GARCIA

Date: 17/12/2004 at 1:30 PM – Caulfield

### **STATES:**

My name is Manuel GARCIA, but I am known to everyone as Manny. I am 17 years old, and live in a flat with my brother. I have told the police my address, but I do not wish for my address to be disclosed to anyone else without my permission. I am making this statement on my own free will. I am not being forced into making it.

On Thursday the 16<sup>th</sup> of December, 2004, at about ten minutes to seven in the morning, I was lying in bed when my mobile telephone rang. My mobile number is 0407 998877. It is a prepaid mobile phone connected in my name with Optus. Before I answered it, I could see that it was my friend David BAXTER-JONES. I met David through school sports. I have known him for a few years, maybe four or five years. I call him Baxter.

I answered the phone and he was kinda pissed off. He thought that I stole his stereo system from his car. He was basically saying that Tony and Sal had dobbed me in for stealing his stereo and that they were going to the cops to make statements against me and this and that. I denied it because I didn't steal his stereo, and we were friends, why would I do that. He calmed down when we started talking about it. He was trying to convince me to tell him who it was, but I didn't know who stole his stereo. I spoke to him for about 25 minutes, mostly about the stereo. Eventually he believed me. He told me he thought I was a good kid, but that he thought it was my friends. On the night his stereo got stolen, me and my friends were seen in his street, and his mum got the number plate of my friend Giovanni RAMBAUDI's car.

When Baxter told me that Tony and Sal had told him that I stole his stereo, he was talking about Tony BATISTA and Sal FARINA. They are my friends, and used to be good friends with Baxter, but they are not anymore because Baxter lied to them once. I thought it was strange that Tony and Sal told Baxter that I had stolen his stereo, but in the end he convinced me that they had told him this.

About an hour after I got off the phone to Baxter, I sent Sal a text message, abusing him for telling Baxter something that wasn't true. Sal rang me back about half an hour later asking me what I was on about. I told him what Baxter had said and he basically told me

it was bullshit and that Baxter was always stuffing around. We got in a bit of an argument but we sorted it out. I don't know Sal's mobile number off the top of my head but it is recorded in my mobile under "Sal". During this phone call we arranged to meet up after he finished work.

At 5:30 in the afternoon, or about then, Sal telephoned me and told me he was out the front of my flat. I went downstairs and got into Giovanni RAMBAUDI's car. Rambo was driving and Sal was in the front passenger seat. Rambo's car is a white Toyota Camry sedan. He's had this car for ages. Sal called Tony and told him we were going to pick him up. Sal has a new phone with a \$79 talk cap where he can make \$500 worth of calls, so he made all the phone calls yesterday.

We picked up Tony from his house in Cheltenham around 6:15 or sometime like that. We didn't go inside. Sal rang him when we were out the front. When Tony got in the car I asked him whether he had told Baxter that I stole his stereo. He said that he hadn't and you know what Baxter is like, he always talks shit. He also said that Baxter had tried to call him in the morning, but didn't leave a message.

After we left Tony BATISTA's, we ended up back at the Centenary Park, near the pool in East Boundary Road in Benteigh. We were just sitting in the car talking. Tony decided to call Baxter back and he pretended that he didn't know anything about what I had told him. I think he used Sal's phone to call him. The conversation started off alright, but then all of a sudden they just started abusing one another. I could hear Baxter calling Tony a junkie and swearing off his head, but so was Tony. Baxter was yelling so loudly that I could hear bits and pieces of the conversation.

Tony and Baxter were both really angry and Tony threatened him. Tony told him that heads would be bashed and kicked in, and all sorts of abuse. Baxter was abusing back Tony, and all of a sudden, out of nowhere, Tony said, "Ok, come to the park and we'll sort it out, just you and me, one on one." Tony told Baxter that we were at Centenary Park.

As soon as Tony hung up the phone, Tony said, "Let's get out of here, I can't be fucked with this sort of shit today." We left straight away. It was pretty obvious that Tony didn't want a fight. He is not really a tough person that punches on and stuff like that.

Rambo drove off, with all of us in the car. I was still in the back behind Sal, and Tony was in the back behind Rambo. We turned right from East Boundary Road into Centre

Road, heading towards Nepean Highway. As we were coming towards Jasper Road, I saw Baxter's car, which is a white Holden VP sedan. I go "Oh, there's Baxter." Baxter turned left onto Centre Road from Jasper Road, and pretty much drove straight past us, because we were about to stop for the traffic lights.

Tony looked straight at Baxter when he drove past. I could see that Alex BOND was in the front of Baxter's car and Stella was in the back behind Alex. I know both of these people. I am also good friends with them as well.

As soon as they drove past us, Baxter pulled over on the side of the road, maybe 10-15 metres away from us. Rambo did a u-turn then and pulled up behind them. As soon as we pulled over, Baxter jumped straight out of his car and up to Rambo's car, and Tony also jumped straight out. Both of them were on the road side of the car.

Tony just screamed out, "What the fuck's your problem?", and threw a can at him. It was a can of engine oil or something like that which I saw in his hand when he got out of the car. It missed Baxter, but as soon as he had thrown it Baxter threw his arms up and threw a snap at Tony with his left hand. By 'snap' I mean a punch with a closed fist. Tony managed to duck away from this punch, and threw a snap right back at him which hit Baxter at the back of his left ear.

Baxter full-on spear tackled Tony around the waist and the force of the tackle landed them against a wooden fence. The fence broke and caused Tony to land across the fence. He was leaning over it with the fence palings poking into his stomach. Baxter held Tony at the back of his neck with his left hand while he was using his right hand to punch him at the side of his face and the back of his head. Baxter hit him a few times. They were pretty cheap shots because Tony was trying not to fall over the fence. I can say it was more than five times, but I don't know how many exactly.

Somehow Tony slid underneath him and pulled Baxter down with him. They were rolling around on the ground, from the footpath to the nature strip. I couldn't really see what was happening then but I saw that Tony's back was filled with blood. By that I mean I could see that he had blood on his t-shirt on his lower back about the size of an A4 book. I panicked and screamed out that there was blood. Straight away when I saw the blood, I thought that Tony had been stabbed. I thought maybe that he had been impaled by a wooden bit of the fence. I said to Sal, "Tony has been stabbed!"

Straight away Sal and I jumped out of the car, and so did Alex out of Baxter's car. Stella

and Rambo both stayed in the cars. Sal rushed over and pulled Baxter off Tony, because they were still wrestling on the ground. When Sal ripped him off, he pushed him aside. Tony stood up, and looked at Baxter. He said, "Get the fuck out of here before it's too late!" When he said this Baxter looked pretty upset, he looked like he was in shock and that he was about to cry. He had a real worried look on his face. I think everyone did actually.

Baxter and Alex straight away jumped in the car and drove off. They drove off down Centre Road towards East Boundary Road. We also jumped in the car, and drove off. Tony and I were still in the back and Sal was back in the front. Rambo never got out of the driver seat the whole time. We turned left into the next street along Centre Road and eventually ended up back at my place.

When we first drove off everyone was really silent. Everyone was in a bit of shock and then suddenly everyone started going off their heads a bit. I told Tony to take off his shirt to see if he was alright because I was worried about the blood on him. He took off his shirt and I looked on his back, but I couldn't see any cuts, just a couple of scratches. They were a little bit red but they weren't bleeding. The amount of blood on his shirt was pretty bad, and straight away I thought that Baxter must have got hurt.

The only place that Tony was bleeding was on the top of his left forearm. There was a big hole and it looked pretty disgusting. It must have happened when he fell through the fence. His arm was pretty bad and wouldn't stop bleeding. The blood was running down his arm but it wasn't squirting out. Tony said his arm was hurting and was all numb but that it wasn't broken.

We were all saying stuff like, "What the fuck happened man!" It was a pretty bad situation to be in. Tony was freaked out the most out of everyone. He just didn't know what to say, he was freaked out of his head. He was saying, "Oh man, I hope Baxter's alright. What have I done to him?" He just wanted to find out if he was alright basically.

I asked Rambo to drop me off at home. I didn't ask him, I made him. I was schitzin' out on him and saying "Fuckin' take me home, I'm out of here." Rambo's a bit slow. I didn't want to get involved, or have the police hasslin' me and stuff.

On the way back to my place I called Stella using Sal's mobile to see if Baxter was alright. Stella said she got dropped off so she didn't know. She didn't say where she got dropped off or anything else.



Rambo dropped me off at the milkbar in Carnegie, just near the train station. I had to get some ciggies and I ended up walking the rest of the way home. When they dropped me there Tony said, "Just don't mention a word to anyone about this". He wasn't threatening me; he was mainly more scared, if anything.

I was pretty shaken up about the whole thing, because they are both my mates. When I got home, after awhile I called Sal's house with my house phone. I can't call mobiles with my house phone. My house number is 95717890. Sal's Dad answered the phone, but his Dad doesn't like Sal giving out the house number, so I didn't speak, I just hung up.

I wanted to find out if everything was all good, so I got some change and walked down to the payphone just near my house. It is in Grange Road, just at the end of my street. I called Sal's mobile, but his phone was switched off. Then I tried Tony's mobile and that was turned off. When I called Rambo's phone, I got a message saying, "the person you are trying to call is currently busy." I didn't leave a message.

The next person I called from the payphone was Macca. Paul McNULTY lives with Baxter, in his garage. I wanted to see if Baxter was alright. He told me that Baxter arrived at his house all pale and in a pretty bad way. He told me he had to pick him up and carry him into the shower. He said he'd lost a bit of blood. When he said this the payphone cut out, and I had no change to ring him back. I actually thought that Macca was talking shit because I could hear someone laughing in the background, and I thought it was Alex. I wasn't too worried about it after that.

I went home, chilled out, and went to sleep. The next thing I know was when the police woke me up knocking on my door. They told me that Baxter had been stabbed. This was the first time I knew for sure that he had been stabbed. I don't know what he was stabbed with. I didn't see Tony with any knives or weapons. I thought basically it must have been the planks of wood on the fence.

I have been told that Baxter was stabbed in the chest. I can't say that I saw Baxter's chest near the fence at all, and I can't say that I saw Tony hit Baxter in the chest area. I just saw Tony hit Baxter once to the head area and then they were wrestling around on the ground.

(Manuel GARCIA)

# Telephone Calls Relating to the Attempted Murder of David BAXTER-JONES

## 16<sup>th</sup> December 2004

- 06:39:25 Victim David BAXTER-JONES' phone (0422665544) calls BATISTA's phone (0433777000). Call not answered.
- 06:41:08 GARCIA's phone (0407998877) calls the victim David BAXTER-JONES. Call lasts 4 minutes 52 seconds.
- 06:46:16 GARCIA's phone (0407998877) calls the victim David BAXTER-JONES. Call not answered.
- 08:19:12 Victim David BAXTER-JONES' phone (0422665544) calls BATISTA's phone (0433777000). Call not answered.
- 09:26:25 GARCIA's phone (0407998877) calls the victim David BAXTER-JONES. Call lasts 15 minutes and 7 seconds.
- 09:41:32 GARCIA's phone (0407998877) calls the victim David BAXTER-JONES. Call not answered.
- 15:55:13 FARINA's phone (0444111222) calls BATISTA's phone (00433777000). Call lasts 5 minutes and 11 seconds.
- 16:05:06 FARINA's phone (0444111222) calls GARCIA's phone (0407998877). Call lasts 5 minutes and 5 seconds.
- 16:11:33 FARINA's phone (0444111222) calls RAMBAUDI's phone (0404334455). Call lasts 2 minutes and 4 seconds.
- 16:14:40 FARINA's phone (0444111222) calls GARCIA's phone (0407998877). Call lasts 1 minutes and 18 seconds.
- 16:16:20 FARINA's phone (0444111222) calls BATISTA's phone (00433777000). Call lasts 1 minutes and 33 seconds.
- 16:18:09 FARINA's phone (0444111222) calls RAMBAUDI's phone, (0404334455). Call lasts 33 seconds.
- 17:24:00 FARINA's phone (0444111222) calls RAMBAUDI's phone (97835678). Call lasts 41 seconds.

17:38:01 FARINA's phone (0444111222) calls GARCIA's phone (0407998877). Call lasts 36 seconds.

18:12:59 FARINA's phone (0444111222) calls BATISTA's phone (00433777000). Call lasts 11 seconds.

19:26:52 FARINA's phone (0444111222) calls the victim David BAXTER-JONES' phone (0422665544). Call lasts 8 minutes and 12 seconds.

19:37:40 Victim David BAXTER-JONES' phone (0422665544) calls BATISTA's phone (0433777000). Call not answered.

20:56:20 FARINA's phone (0444111222) calls a witness Stella GEORGE (0433440066). Call lasts 1 minutes and 35 seconds,

21:19:44 FARINA's phone (0444111222) calls Maria RAMBAUDI's phone (0411059446). Call lasts 49 seconds.

22:01:22 BATISTA's phone (0433777000) calls Rosa CORBINELLI's phone (0414777888). Call not answered.

22:01:54 BATISTA's phone (0433777000) calls Rosa CORBINELLI's phone (0414777888). Call lasts 45 seconds.

22:29:24 FARINA's phone (0444111222) calls Rosa CORBINELLI's phone (0414777888). Call lasts 2 mins.

22:38:19 FARINA's phone (0444111222) calls a witness Stella George (0433440066). Call lasts 41 seconds.

22:45:31 Rosa CORBINELLI's phone (0414777888) calls BATISTA's phone (0433777000). Call not answered.

22:48:23 Rosa CORBINELLI's phone (0414777888) calls BATISTA's phone (0433777000). Call not answered.

22:55:55 FARINA's phone (0444111222) calls Max BAXTER-JONES on (0444100200). Call lasts for 12 seconds.

23:00:04 Rosa CORBINELLI's phone (0414777888) calls BATISTA's phone (0433777000). Call not answered.

23:02:29 Rosa CORBINELLI's phone (0414777888) calls RAMBAUDI's phone (0404334455). Call is not answered.

23:02:57 FARINA's phone (0444111222) calls BATISTA's phone (0433777000). Call not answered.

23:13:49 Rosa CORBINELLI's phone (0414777888) calls RAMBAUDI's phone (0404334455). Call lasted 40 seconds.

23:16:19 FARINA's phone (0444111222) calls BATISTA's phone (0433777000). Call not answered.

23:51:15 FARINA's phone (0444111222) calls BATISTA's phone (0433777000). Call not answered.

## **17<sup>th</sup> December 2004**

00:04:59 FARINA's phone (0444111222) calls BATISTA's phone (0433777000). Call not answered,

00:15:53 FARINA's phone (0444111222) calls BATISTA's phone (0433777000). Call not answered.

00:34:14 FARINA's phone (0444111222) calls BATISTA's phone (0433777000). Call not answered.

01:20:04 FARINA's phone (0444111222) calls the victim David BAXTER-JONES' phone (0422665544). Call not answered as victim in hospital.

01:20:53 FARINA's phone (0444111222) calls BATISTA's phone (0433777000). Call not answered.

01:35:38 FARINA's phone (0444111222) calls the victim David BAXTER-JONES' phone (0422665544). Call not answered as victim in hospital.

01:38:43 FARINA's phone (0444111222) calls BATISTA's phone (0433777000). Call not answered.

01:42:42 FARINA's phone (0444111222) calls Max BAXTER-JONES on (0444100200). Call lasts for 17 minutes and 24 seconds.

02:00:43 FARINA's phone (0444111222) calls BATISTA's phone (0433777000). Call not answered.

02:01:58 FARINA's phone (0444111222) calls Max BAXTER-JONES on (0444100200). Call lasts for 25 minutes and 39 seconds.

02:27:42 FARINA's phone (0444111222) calls BATISTA's phone (0433777000). Call not answered.

02:36:02 FARINA's phone (0444111222) calls BATISTA's phone (0433777000). Call not answered.

07:42:49 Rosa CORBINELLI's phone (0414777888) calls Soros Motors at 465 Neerim Rd Caulfield. Call lasts for 23 seconds.

07:48:50 Rosa CORBINELLI's phone (0414777888) calls GARCIA's phone (0407998877). Call not answered.

07:49:43 Rosa CORBINELLI's phone (0414777888) calls GARCIA's phone (0407998877). Call not answered.

07:50:27 Rosa CORBINELLI's phone (0414777888) calls RAMBAUDI's phone (0414777888). Call is not answered as RAMBAUDI in Police custody.

07:50:52 Rosa CORBINELLI's phone (0414777888) calls RAMBAUDI's phone (0414777888). Call is not answered as RAMBAUDI in Police custody.

07:57:01 Rosa CORBINELLI's phone (0414777888) calls the Caulfield Police Station to report a burglary. Call lasts 2 minutes and 54 seconds.

08:14:47 Rosa CORBINELLI's phone (0414777888) calls GARCIA's phone (0407998877). Call not answered.

08:15:19 Rosa CORBINELLI's phone (0414777888) calls GARCIA's phone (0407998877). Call not answered.

08:55:56 Rosa CORBINELLI's phone (0414777888) calls RAMBAUDI's phone (0414777888). Call is not answered as RAMBAUDI in Police custody.

08:56:15 Rosa CORBINELLI's phone (0414777888) calls RAMBAUDI's phone (0414777888). Call is not answered as RAMBAUDI in Police custody.

09:06:24 Rosa CORBINELLI's phone (0414777888) calls her premises at 9 A Barrett Street Cheltenham. (95852002). Call lasts for 28 seconds.

10:16:59 DSC CHOI calls BATISTA's phone (0433777000). Call not answered.

10:17:02 DSC CHOI calls BATISTA's phone (0433777000). Call not answered.

10:17:18 DSC CHOI calls 9 A Barrett Street Cheltenham (95852002). DSC CHOI speaks to Francesco (8yrs) and requests his mother Rosa CORBINELLI's return call.

11.13:53 Dino BASSO's telephone (95988959) calls European Travel Agency on (95344477) and speaks to witness Cecilia RICCI. Investigators alleging that Rosa CORBINELLI's made this call and booked international airline tickets for Tony BATISTA. Call lasts for 11 minutes and 58 seconds.

- 11.33:19 Dino BASSO's telephone (95988959) calls European Travel Agency on (95344477) and speaks to witness Cecilia RICCI. Investigators alleging that Rosa CORBINELLI's confirming flights. Call lasts for 2 minutes and 32 seconds.
- 11:49:39 DSC CHOI calls BATISTA's phone (0433777000). Call not answered.
- 11:50:33 DSC CHOI calls 9 A Barrett Street Cheltenham (95852002). Call not answered.
- 11.52:40 Dino BASSO's telephone (95988959) calls European Travel Agency on (95344477) and speaks to witness Cecilia RICCI. Investigators alleging that Rosa CORBINELLI is confirming flights. Call lasts for 2 minutes and 30 seconds.
- 12.17:48 Dino BASSO's telephone (95988959) calls European Travel Agency on (95344477) and speaks to witness Cecilia RICCI. Investigators alleging that Rosa CORBINELLI is confirming flights. Call lasts for 2 minutes and 29 seconds.
- 13.05:02 Dino BASSO's telephone (95988959) calls European Travel Agency on (95344477) and speaks to witness Cecilia RICCI. Investigators alleging that Rosa CORBINELLI is confirming flights. Call lasts for 14 seconds.
- 13.25:03 Dino BASSO's telephone (95988959) calls European Travel Agency on (95344477) and speaks to witness Cecilia RICCI. Investigators alleging that Rosa CORBINELLI is confirming flights. Call lasts for 3 minutes and 1 second.
- 16.10:36 Payphone in Grange Road, Carnegie (95713999) used to on 10 separate occasions until 20.18:31 to attempt to contact Tony BATISTA (0433777000). Investigators are alleging that Manuel GARCIA is attempting to contact Tony BATISTA.
- 16:24:38 DSC CHOI calls 9 A Barrett Street Cheltenham (95852002). DSC CHOI speaks to Rosa CORBINELLI. Call lasts for 3 mins and 46 seconds.

## **STATEMENT**

Name:           Graham DEXTER

Date:            25 February 2005

### **STATES:**

I am a Sergeant of Police attached to the Northern Fingerprint Branch which forms part of the Victorian Police Forensic Service Centre. I have 16 years experience in the identification of persons by means of ridge characteristics, commonly called fingerprints.

During my first 5 years at the Fingerprint Branch, I underwent extensive training in the Science of Fingerprints in accordance with a study curriculum devised by the Police Experts and Technicians Conference.

I have passed all written and oral examinations set by the Victorian Police Force on the subject of fingerprints. I have performed duty at the New South Wales Fingerprint Bureau, then known as the Central Bureau of Australia, where over a 2 week period I was tested as to my skills and abilities in the Science of Fingerprints.

As a result of these studies, I was issued with a certificate of expertise signed by the then Chief Commissioner of the Victorian Police and a further certificate of expertise signed by the then chairman of the Australian Board of Examiners.

I have extensive experience in the classification, search and identification of inked fingerprints and the preservation, development, enhancement, photography, lifting and identification of latent fingerprints in relation to crime scenes.

I am actively engaged in the training of junior members at the Fingerprint Branch and have given lectures to various groups of people on the subject of fingerprints. I have designed and manufactured tooling and implemented systems for the taking of fingerprints from deceased persons.

On the 21<sup>st</sup> and 22<sup>nd</sup> of December, 2004, as a result of information received, I attended at the isolation area of the Victorian Police Forensic Science Centre, Crime

Scene Unit garage where I made an examination for fingerprints on a white Toyota sedan, registration number, PPP456. That examination consisted of the vehicle and contents.

Fingerprints were developed on:

- Item la:** Passenger front seat belt buckle.
- Item lb:** Passenger side front window frame.
- Item lc:** Passenger front door above handle.
- Item le:** Driver's rear door above handle.
- Item lf:** Passenger side rear window, outside.

Labels were attached next to those developed fingerprints bearing the job number, NI288/045. I then photographed those fingerprints using a digital camera and lifted them using adhesive tape.

I then made an examination for fingerprints on a spray can, which was contained in a sealed exhibit bag, marked "493 Centre Road Bentleigh, Exhibit number 1". Two fingerprints were developed on the can. Labels were attached next to each of the developed fingerprints bearing the job number, NI288/046, and marked "a" and "b" respectively. I then photographed the fingerprints using a digital camera and lifted them using adhesive tape.

On the 5<sup>th</sup> of March, 2004 a set of fingerprints bearing the name, Salvatore FARINA (22/11/86) was received at the Fingerprint Branch.

On the 25<sup>th</sup> of February, 2005 I made a comparison of the ridge characteristics appearing in the lifts, job numbers NI288/045 and NI288/046, with the ridge characteristics appearing in the inked fingerprint impressions bearing the name, Salvatore FARINA. By means of comparing those ridge characteristics, I say that the donor of some of the fingerprints developed in relation to job numbers, NI288/045 and NI288/046, and the donor of the inked fingerprints compared is the same donor, as follows:



**Job Number NI288/045:**

Item 1a.	Passenger front seat belt buckle.	Right ring finger.
Item 1c.	Passenger front door above handle.	Left little finger.

**Job Number NI288/046:**

Item b.	Fingerprint on spray can	Left index finger.
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Other fingerprints developed in relation to this investigation have been identified as belonging to another person.

Graham DEXTER

Fingerprint Expert

# VICTORIAN INSTITUTE OF FORENSIC MEDICINE

22 December 2004

Detective Senior Constable P. Weaver  
Caulfield CIU

**Re: Antonio BATISTA (D.O.B: 15/09/1987)**

**I, Dr. Michael HITCHENS of 57-83 Kavanagh St., Southbank,**

**Hereby state that:**

I am a medical practitioner registered in the State of Victoria. I held the position of Forensic Physician in the Department of Forensic Medicine of the Victoria Police between 1991 and 1995, and have been a full-time Forensic Physician at the Clinical Division of the Victorian Institute of Forensic Medicine thereafter. I possess the qualifications of Bachelor of Medicine and Bachelor of Surgery conferred by the University of Melbourne in 1981, the Fellowship of the Royal Australian College of General Practitioners conferred in 1989, and the Diploma of Medical Jurisprudence (Clinical) of London obtained in 1994. I am an honorary senior lecturer in Forensic medicine at Monash University.

**BACKGROUND**

I examined Antonio BATISTA at the Melbourne Custody Centre on 21/12/2004 at 12.50pm. Mr Batista consented for me to examine him, photograph his injuries and issue this report.

**HISTORY**

Mr Batista told me that he was assaulted between 6.00-7.00pm on Thursday 16/12/2004. During the incident he was involved in a fight during which his left arm was stuck in an old wooden fence. He told me that he sustained wounds on his arms and abdomen as well as scratches on his spine, back of the head, and legs. He was also punched in the abdomen. Mr Batista told me that he did not seek medical attention immediately following the incident even though his left arm was bleeding. He managed to bandage it himself. Mr Batista told me that after the incident he went to NSW where he was arrested, but was not seen by a police doctor at that time.

I obtained details of Mr Batista's past medical history which was not relevant to this case.

**EXAMINATION**

This was conducted in the presence of two unidentified custodial officers. Mr Batista

was a normally developed young man who was fully conscious and cooperative during the examination. Examination encompassed the entire body with the exception of the ano-genital area and the feet. Mr Batista denied injuries in those areas. The following injuries were noted:

1. A 35mm oblique linear scratch on the front of the mid left upper arm.
2. A 50mm curved scratch on the outer aspect of the left upper forearm. *(Photograph No 12, 13)*
3. A 70mm x 50mm area of horizontal patterned red bruising on the front of the left upper forearm. *(Photograph No 14)*
4. Two x 40mm linear red marks on the front of the left forearm. One of these was situated roughly in the mid forearm and the other just above the wrist. *(Photograph No 16, 17)*
5. A 40mm linear scratch over the fleshy prominence on the left palm at the base of the thumb. *(Photograph No 8, 15, 16)*
6. An 18mm x 7mm area of scabbing on the back of the right wrist at the level of the little finger. *(Photograph No 7, 9, 10, 11)*
7. A 25mm horizontally directed scratch on the back of the distal right forearm just proximal to the above injury. *(Photograph No 9, 10, 11)*
8. A 15mm x 10mm scab lesion on the right lower abdomen just above the waist line. *(Photograph No 3, 4)*
9. A 5mm area of horizontal fading scabbing on the front of the left knee. *(Photograph No 5, 6)*

These injuries were photographed by me.

### **OPINION**

These injuries were all observed to be in a stage of healing consistent with being several days old and, as such, they could have been inflicted during the incident that was described to me which occurred on the 16/12/2004.

The various scratches as described were the result of linear moving contact with a sharp tipped object.

The scabbed areas described above had an appearance suggesting the removal of surface layers of skin. It was not possible to interpret from their appearance whether this had occurred by way of cutting with a sharp object such as a knife or whether they were abrasions as a result of friction on contact with a rough surface.

The area on the front of the abdomen is an unusual area for frictional contact from a rough surface.

The area of patterned horizontal bruising on the front of the left forearm was an injury

that could have been caused by blunt contact with a patterned surface and this may have occurred as a result of contact with a wooden fence as described to me by Mr Batista.

The majority of the injuries were otherwise non specific and gave no clue to their exact mode of infliction.

Dr Michael HITCHENS, M.B.B.S., F.R.A.C.G.P.,  
D.M.J. FORENSIC PHYSICIAN

**Dr Ivan DIMITROFF**

**C/-Alfred Hospital**

**STATES:**

I am a legally qualified medical practitioner and I hold the following qualifications: MBBS, Masters in General Surgery.

On 17/12/04 at approximately 1600 hours, I examined/treated David BAXTER-JONES (12/02/87) U.R. number 1079345, of 4 Malane Street, Ormond, Vic, 3204 in the Intensive Care Unit at the The Alfred, Prahran, 3181.

On examination, I found the patient sitting comfortably in bed with operation marks of left side thoracotomy and sutured stab injury on III - IV intercostal space on left side. Patient underwent emergency thoracotomy left following stabbing injury left chest on 16/12/04.

Management and injuries consisted of admission under trauma 16/12/04 at approximately 2030 hours. Resuscitation and urgent chest x-ray, which revealed massive haemothorax left pleural cavity. Left side intercostal chest tube was placed and focused ultrasound revealed possibility of blood in pericardial cavity. Sent for urgent surgery. Emergency Lt sided thoracotomy was performed by Dr Catherine Elisabeth TATE and Dr Sophia AMIS. Laceration of Lt side lung and left chamber of heart (Lt ventricle) was detected, which was repaired. Subsequently patient was discharged to home on uneventful recovery.

The findings were consistent with patient brought to Alfred Emergency with alleged stabbing to left side chest. Patient had mark of stab injury and he was found to have internal bleeding in his chest cavity, even inside the pericardial sac, due to laceration of lung and left ventricle of heart. Patient was saved due to timely examination and urgent life saving surgery. Patient is lucky to survive. Findings are consistent with sharp penetrating injury to very vital area of chest. Patient is likely to suffer from moderate chest pain and psychological stress.

THIS IS A TAPE RECORDED INTERVIEW BETWEEN SENIOR DETECTIVE ODUWO AND SALVATORE FARINA OF 102 CLAIRMONT AVENUE IN BENTLEIGH, CONDUCTED AT THE CAULFIELD POLICE STATION ON FRIDAY THE 17TH OF DECEMBER, 2004, PERSONS PRESENT, DETECTIVE SENIOR CONSTABLE WEAVER.

DETECTIVE SENIOR CONSTABLE WEAVER:

Q 1 Salvatore, do you agree the time is now 9.48 am by my watch?

A Yes, I do.

Q 2 What is your full name and address?

A My full name and address is Salvatore FARINA. I live at 102 Clairmont Avenue, Bentleigh, in Melbourne, Victoria.

Q 3 Salvatore, I intend to interview you in relation to an offence of intentionally causing serious injury - serious injury, serious assault. Before continuing, I must inform you that you are not obliged to say or do anything, but anything you say or do may be given in evidence. Do you understand that?

A Yes, I do.

Q 4 I must also inform you of the following rights. You may communicate with, or attempt to communicate with, a friend or relative to inform that person of your whereabouts. You may communicate with, or attempt to communicate with, a legal practitioner. If you are not a citizen, or permanent resident of Australia, you may communicate with, or attempt to communicate with, the consular office of the country of which you are a citizen. Do you understand these rights?

A Yes, I do.

Q 5 Do you wish to exercise any of these rights before the interview proceeds?

A Yes. I would like to speak to a friend.

Q 6 What is the name of this friend?

A Do I have to say?

Q 7 Alright. We're conducting ongoing inquiries regarding this incident. And at this stage, we're not prepared to let you make phone calls to friends because we believe that may involve a loss of certain evidence. Okay? Do you understand that? We are quite happy for - for you to contact a solicitor.

A Okay, so I'm not allowed to contact any friends?

Q 8 Not at this point. Okay. I have concerns about evidence being lost. So Salvatore I asked you if you wished to exercise any of these rights before the interview proceeds, and we've ascertained that you do. Now do you understand what I have said to you?

A Yeah.

Q 9 Okay. What is your age and your date of birth?

A I'm 18 years of age, and I was born on the 21st of November, 1986.

Q 10 Are you an Australian citizen?

A Yes. I am.

Q 11 Are you a permanent resident in Australia?

A Yes. I am.

Q 12 Are you of Aboriginal or Torres Strait islander descent?

A No. I'm not.

Q 13 Okay. Do you agree that this morning at around about - just bear with me - around about - 8.30 in the morning, myself and other detectives attended at your home address?

A Yes, I do.

Q 14 Okay. Can you tell me where you were when you were first spoken to by the police this morning?

A Inside my bedroom.

Q 15 Okay. Would you agree that Detective Senior Constable CHOI spoke to you, a tall detective, and told you that you were under arrest?

A Yes. He did.

Q 16 At that point, he gave you that same caution and rights that I read you out, that you are not obliged to say or do anything, and anything you say or do --?

A Yes, He did say that.

Q 17 Okay. Alright. Salvatore, what I'm going to do is I'm going to run through basically the reason why - why you are here, and why we wish to speak to you. And that is because of an incident that happened last night at approximately 20 to 8.00 yesterday evening, that being Thursday the 16th of December. So, if you could just start by detailing your whereabouts through the course of yesterday afternoon for me, that would be a good start.

A Yes, sir. I left work yesterday and I met up with all the other people. And we were driving, and David BAXTER-JONES was on the phone to us. And he provoked the situation. And he basically was arguing with Tony and - on the phone. And he was -



he was very angry. He was very curious to what happened to one of his possessions that apparently got stolen. And he was interrogating us, and he was twisting - his words around. He was - he was saying things that people then after said that they didn't say. And to cut a story - to cut a long story short, yesterday when we met up, we saw Baxter driving. And we turned around and that's when my friend and he started into a brawl, and had a fight. I did not see much of what was going on. It all happened so quick. I then saw Tony get thrown on to the fence, stomach faced down on - on the vertical. And Baxter came up behind him, assaulted him 5 times with his fists. And that's when I thought that that was just getting wrong. And I took it upon myself to break it up, just so nothing worse has happened. And that's when we both left. However, he fled the scene before us.

Q 18 Alright. You've given a pretty - a pretty good run down of what happened there. I'm going to break it down into sections. So, I'll ask you to bear with me, because there is quite a bit of detail I will go through. I'll start with firstly, you talk about being picked up from work?

A Mm'm.

Q 19 Whereabouts do you work?

A I - I help a friend in a phone shop in Auburn - a mobile phone shop. 'Cos he's a friend of mine. I haven't found stable work. I'm just helping him there.

Q 20 Okay.

A I left there.

Q 21 What - yeah, I was going to ask, what time were you picked up from there?

A I wasn't picked up from there. I - I left there myself on the train and - - - -

Q 22 What time?

A I don't know the times. Could have - was after 4.00, that's for sure. Yeah.

Q 23 And where did you go?

A Left - left there about 5.00, and then I went to the station. Auburn station. I changed at Richmond, and I went to Caulfield. And I met up with Rambo.

Q 24 When you say met up with Rambo, what's Rambo's full name?

A Giovanni RAMBAUDI.

Q 25 Okay. Was that a pre-arranged meeting?

A Yes, sir. I called him so - - -

Q 26 Yeah. Did you call him from a mobile phone?

A Yes. I did.

Q 27 And that's your mobile phone?

A Yes. It is.

Q 28 And whereabouts at Caulfield did you meet Giovanni Rambaudi?

A Just outside Caulfield station.

Q 29 And was he alone?

A Yes. He was.

Q 30 Was he in a car or on foot?

A No. He was in a car.

Q 31 Can you describe the car?

A           It's a white Toyota Camry.

Q       32       Do you know the registration, by any chance?

A           No. I wouldn't know the registration.

Q       33       Alright. Is it an older model car or a newer model car?

A           It's a '90 - it's a '93 or '94 I think.

Q       34       Is there anything distinctive about that vehicle?

A           Not - no, not that I can - - No. I wouldn't know.

Q       35       As an example, does it have P plates on it?

A           Yes. Yes. It would. He's a P plater. Yes.

Q       36       Okay. What happened when you met Rambo?

A           We met up, and we went to pick up Manny.

Q       37       And Manny's surname - - -?

A           I don't know his surname. I'm not - I'm not too sure of his surname.

Q       38       Yeah.

A           And we just met up. We wanted to just go to the beach, just relax, see a few girls. And then we just met up with Tony.

Q       39       Where did you pick Manny up from?

A           His house.

Q       40       And that is?

A           I don't know the address. I'm sorry.

Q       41       Okay. Do you know the suburb at all, Salvatore?

A           It is Carnegie.

Q       42       If I said to you Craigavad Road, does that ring a bell to you at all?

A           No. I'm sorry, sir.

Q 43 That's no problem. Do you know - can you identify any landmarks that may be near?

A It's near Carnegie station. It's around that area there -

Q 44 Okay. Alright. So, you've picked Manny up. And what were your movements from there?

A And then we went to pick up Tony.

Q 45 Yeah. Where - firstly, what's Tony's surname?

A Tony BATISTA.

Q 46 And where did you pick him up from?

A From his house.

Q 47 And do you know where his house is?

A Yeah. It's in Cheltenham. I'm not sure of the address.

Q 48 If I said Barrett Street, Cheltenham?

A It could ring a bell. Yeah. Yeah. Barrett, - I can't remember the street name. Sorry.

Q 49 Okay. No problem. So, the 4 of you were together. And what time would you say you picked Tony up? He was the last person, so what time would that have been?

A It could have been - it was after 5.00, for sure. It was around 6.00. Around 6.00.

Q 50 Okay. You said you received a phone call from David BAXTER-JONES. Is that right?

A We - we- we called Baxter.

Q 51 Okay. Who called him?

A Tony called him. Yeah.

Q 52 And what was that for?

A He just wanted to find out why Baxter was making accusations that we broke into his car.

Q 53 And how did you become aware of those accusations?

A Because Baxter called me on numerous occasions before that, and said that if there's anything that I should tell him, I should tell him right then. Otherwise the police would come to my house and grill me. And I told him - I told him the truth, that we didn't go near his car. We were around there, but we were just there, and we left. We didn't see anything. We didn't even see his car. So, he's got no evidence for that. And I told him that, you know, "Baxter, leave it. We - we didn't do anything. Why would we?" And he kept pursuing and - - -

Q 54 So, the - the conversation between David and Tony, was that in your presence?

A Yes.

Q 55 Like, I know it was over the phone. But you were able to hear at least Tony talking, I assume?

A Yeah. Yeah.

Q 56 Okay. And - - -?

A But I didn't know what - what the conversation was much about but - - -

Q 57 I understand. Was it - what was - what was the tone of the conversation?

A Fairly straight forward. It was in a formal tone, I guess.

Q 58 Was there any raised voices or any tension?

A I - I noticed Baxter was - was yelling on the other

line, 'cos I could hear the buzzing from the speaker. Like, I didn't hear what he was saying, but I could hear. And - and then, of course, and Tony reacted, and he was a bit - but there wasn't much yelling. It was just - it was straight talking.

Q 59 How many conversations did they have on the mobile phone at around that time?

A, Just the one.

Q 60 Alright. And did you, at any - were you, at any stage, away from Tony, where he could have had a further conversation - - -?

A No.

Q 61 That you would have missed?

A No.

Q 62 So, am- I correct in saying you were with Tony from the time you picked him up, till the time the incident occurred on the side of the road in Bentlyigh?

A Yes.

Q 63 Okay. There was no chance that you were away from him for any length of time where he could have had a conversation?

A Maybe if I went to go to the toilet. I think I did once. But I was with him most of the time.

Q 64 Okay. So, as far as you're aware, that was the only conversation?

A I actually know that that's the only conversation that they had.

Q 65 How do you know that?

A Because it's my mobile phone and I was lending it so  
- -

Q 66 Alright.

A So I know when calls were made on it.

Q 67 So, Tony was speaking on your mobile phone?

A Yeah.

Q 68 Alright, So, Tony doesn't have a phone of his own?

A I think he does. I forgot - I - I don't have the  
mobile here. Everybody has got a mobile nowadays.

Q 69 Yeah. So, you're - as far as you're aware, that  
phone call was made actually on your phone, where  
Tony - - -?

A Yes.

Q 70 Where Tony - - -?

A Yes. It was.

Q 71 Spoke with David. Is that right? Baxter?

A. (NO AUDIBLE REPLY)

Q 72 You're nodding yes?

A Yes.

Q 73 Okay. Alright. So, can you tell me if there were  
any plans made for the two of them to meet up  
anywhere?

A They - they had a feud, and they arranged to meet  
up. I honestly - I was led to believe that they  
were just gonna talk - gonna talk it over. And  
that's all I can say.

Q 74 Did you hear the conversation as to where they -  
where and when they arranged to meet up?

A I don't - no, I don't. I'm sorry.

Q 75 Alright. So, what happened then?

A And then we drove. We drove from where we were. We were just standing on East Boundary Road when we were talking with him.

Q 76 Yeah. Where - whereabouts on East Boundary Road was that?

A Around near the corner of McKinnon. You know, just, on the Road.

Q 77 Yeah.

A They had a conversation, and then we started driving towards Centre Road. We turned right on to Centre Road.

Q 78 Mm'm.

A From East Boundary. We went down. And near the corner of Centre Road and Jasper Road, that's where we saw Baxter. He was driving in the opposite - - -

Q 79 Baxter is David, isn't he?

A David BAXTER-JONES.

Q 80 Yeah. Okay. Was that pre-planned to meet there, or to see his car driving?

A Yes. It was.

Q 81 Yeah. Okay. Alright. Can you keep explaining to me what happened from there?

A And we turned around. We saw Baxter's car, well, 'cos it's identifiable by us, because we know him. We saw his car. He was driving on the opposite lane. We turned around. We saw Baxter stop, so we continued to turn around. Rambo stopped behind his car. Baxter's car was in the front on Centre Road, on that side. And they came out, and they started



shouting at each other. Baxter - - -

Q 82 When you say they came out - - -?

A Baxter and Tony.

Q 83 Yeah.

A When they came out, and they started feuding, yelling at each other, getting the situation more provoked. And a fight broke loose. I didn't see much of the fight. All I just saw was a couple of snaps to the head, Baxter got Tony in - in - in some way, and Tony got out of that. He got away to a safe zone. And Baxter then came up, somehow managed to push him, to ram him into the fence, on to the white fence. Tony was on top of the fence. And that's when Baxter - I saw Baxter come behind him, and with his left arm with his left fist, bash Tony numerous times in the back. And that's when I broke it up.

Q 84 Okay. I'll - I'll just take you back a couple of steps.

A Okay.

Q 85 Can you tell me, first of all, what time was it that you think you would have pulled over?

A I'm not too sure, sir. I - I couldn't be accurate about it.

Q 86 If I said the information I have indicates about 20 to 8.00?

A Could have been. Could have. Most likely around that time.

Q 87 Alright. Now, what was - was there any conversation between any of you whilst you were driving from where the phone call was made, to where this

incident ultimately happened?

A There was not really much conversation. We just - Tony was just telling Rambo where to go. Giovanni RAMBAUDI. And that was just about it. Manny was in the car. He - I noticed he was - I didn't notice him talk much. I was sitting in the car, and I was - I was just playing with my phone. And that was just about it, you know.

Q 88 Where were you sitting in the car?

A I was sitting in the front driver's seat. Front passenger seat.

Q 89 Can you tell me what you were wearing at that time?

A I was wearing denim jeans. Blue denim jeans. Black shoes, on velcro. I was wearing a red shirt, long sleeved t-shirt, and a long sleeved blue shirt - - -

Q 90 Okay. So, initially when the 2 cars have pulled up, who got out of the cars?

A Tony and Baxter.

Q 91 And your movements were what?

A My movements. I - when I've noticed that they both got out of the car, I then, got out of the car. And just maintained a standing position.

Q 92 Whereabouts?

A About 2 to 4 metres away from the couple.

Q 93 Okay. Can you tell me if there was any object thrown from the car at any stage?

A Yes. I noticed that there was an object thrown. It was a can of some sort, and, like, a repellent. I'm not sure what it was. It - I think it was something for a car, for maintenance for a car. I didn't

really see it after that.

Q 94 Yeah.

A But I - I saw it got thrown.

Q 95 Do you know - do you know who threw that?

A Tony threw that.

Q 96 Alright. Do you know where he got that from?

A I presume - I don't know where he got it from, but I would presume that he got it from Rambo's car.

Q 97 And where - at who, or at what did he throw it?

A He threw it near Baxter. He didn't actually get Baxter. But he threw it at him.

Q 98 And what do you' think his intention by doing that was?

A Maybe just to scare him. Make sure he doesn't do anything.

Q 99 Alright. When David - - -?

A I could - sorry, sir, I couldn't really tell what was going through Tony's mind at the moment.

Q 100 Okay. When Tony got out of the car, can you describe to me what he was wearing?

A He was wearing tracksuit pants. See, I don't remember whether he was wearing his shirt or not.

Q 101 Can you explain to me whether he had anything in his hands at all?

A I didn't see anything in his hands, sir.

Q 102 Can you explain to me whether he had any headwear on at all?

A He might have had a hat on.

Q 103 Can you recall what type of hat?

A Just a normal cap, I can't remember what colour. He's got a few hats, I don't remember.

Q 104 Are you - you're not certain with if he was wearing a hat at all. Is that - -?

A He - he - well, I'm not certain he was.

Q 105 And did he say anything just before he got out of the car?

A No. No.

Q 106 And what was his - his attitude like, as he was getting out of the car, or just before? How was he acting?

A As furious as Baxter was. That's how I would, describe it.

Q 107 What makes you say that?

A Well, because the guys were intentioned. They - they wanted to both beat each other up. They had - they had hatred between them. Their energy wasn't, wasn't quite positive then.

Q 108 And what - what sort of made you think that?

A Because they started yelling at each other for about 5 to 10 seconds. That's how I recall it, and really that's when it broke out.

Q 109 Do you recall what they were saying?

A No. I - I couldn't remember it. They - they were just - just the usual stuff, you know. What is your problem this and that. Blah, blah, blah, blah, blah. I couldn't - sorry, I couldn't remember exactly what was - - -

Q 110 Alright. So, you detailed that they got out of the

car, both of them. Can you tell me who - who started the - the physical altercation?

A Sorry, sir?

Q 111 Can you tell me who started the fight, the actual physical side of things?

A Tony got out of the car after Baxter. That's what I remember. Baxter started to walk towards Tony at a faster rate than Tony was even moving. Tony wasn't even moving that fast. He was sort of moving towards Baxter, but Tony - Baxter covered maybe about 3 or 4 metres space, walking time, at the time when they met, when the feud happened. And at that time, Tony threw - I noticed him throw that can. And that's when Baxter, I guess, started to invoke physical violence. He put his hands up, and he was about - he was actually gonna throw a punch. And that's when Tony defended himself. That's how I saw it. Not to blame anybody, not to be on any side. But that's - that's what happened. That's true.

Q 112 Mm'm. To put it - just to break it down and to simplify it - - - Who threw the first punch?

A I think it was about the same. They - they made contact with each other about at the same time. I mean, sir, you know how it is when - when people start brawls. Yeah. I've seen stuff and I'm sure you've seen stuff. Yeah. It all happened so quick, and everybody - - -

Q 113 See, the impression I get is basically that they've - they've both gone there on equal footing to have it out?

A That's - that's how I saw it at the time.

Q 114 Okay. No problem. So, how many punches were thrown?

A I couldn't remember. Anywhere between 1 to 10.

Q 115 By each of them or - - -?

A By each of them. Yeah. By each of them. I mean, it was a brawl. It - it could have been less. It could - Tony might have thrown 5 punches to Baxter's head. While Baxter might have only thrown 3. While in the meantime after that, Baxter did hit Tony a few times after that, while he was down, sir.

Q 116 So, to all intents and purposes, it was a brawl. They were both going equally, in your - in your eyes?

A Yeah. They - they - yeah, I mean, they're both two, big blokes of the same size and, yeah - - -. It was actually sad to see two friends do that, sir.

Q 117 Just - just on that, who is the taller of the two, if you can tell me? I know it might not be that easy to answer.

A I'm not too - I think they're about the same.

Q 118 Who is the more solid of the two?

A More built up?

Q 119 Yeah.

A Baxter. Yeah.

Q 120 David is. Alright. Now, who - sorry, can you just tell me again who went over the fence?

A No one actually went over the fence. Tony somehow got thrown onto the fence, stomach down to the floor. So, if - if there was a - a plank of wood sitting vertically, like a normal fence, he got thrown on to that, face first. On to the stomach.

Q 121 Can you tell me what David was doing at that stage?

A While Tony was on the fence?

Q 122 Yes.

A He - he was hitting him.

Q 123 How was he hitting him?

A With force on all occasions, on the lower spine.

Q 124 What motion was it? What was it? Was it a punch?  
Was it a slap or - -

A It was - it was a rapidly hitting punch.

Q 125 How many times?

A About 4 or 5, I think.

Q 126 And what did Tony do from there?

A I didn't - I didn't even see Tony do much. I saw Tony just lie there, in a way helpless. You see, he wasn't able to do anything.

Q 127 Was Tony faced away from David at that time?

A Yes, he was.

Q 128 Are you quite certain about that?

A I'm very certain that he was.

Q 129 And were you, at that stage, physically engaged in a fight with either of them?

A No. I wasn't.

Q 130 Alright. So, you were just an observer?

A I was an observer.

Q 131 Was anything being said between the two?

A Not after - not - not after they got out of the car and started hitting each other. Nothing was said.

Q 132 Okay. Alright. So, what was the next thing you saw?

A There wasn't much after that. After I saw Baxter hit Tony while he was on the fence, those - those 4 or 5 times, I stepped in and I detained Baxter by the neck, and I just put him on to the floor. And that's when another boy called Alex BOND has, well, shouted, "Break it up." And, I mean, Baxter's a fairly big guy, but I felt that there wasn't - there wasn't any need for them to - to carry on. So, I - I stepped in and - and I just - I broke it up. And Baxter was on the floor. I got him to the floor. I didn't say anything to Baxter because I'm sure he knew what I was thinking. Just to calm down and to think what you're doing, because the situation could get worse - you know, for any of them. You could get in trouble, you know. The police could be on the way. Who knows who could be looking. You know, it's not good to the people around them in that - in that residence. So, I stepped in and - and that's when it just broke up. And he - and we both left.

Q 133 Did you see - following the punches that you describe Baxter delivering to Tony whilst Tony was on the fence - - did you see Tony, at any time after that or during that, retaliate in anyway?

A No. I saw Tony flat, like, on the fence - - at all times.

Q 134 Did you lose sight of Tony at any stage?

A No, sir. I was watching what happened all the time.

Q 135 If Tony retaliated, would you have seen it?

A Yes. I would have, sir.

Q 136 Absolutely?

A Absolutely. I would have, I would have saw it. I saw everything that happened, basically. Some



things may be vague, but everything that I've told you, that's what has happened. They broke out. They had a bit of a feud. A few punches were thrown back and forth to each other's faces. Baxter grabbed him. He got him - he got him in a head lock. And that's when Baxter pushed Tony into the fence and hit him. And that's when it stopped. Yeah. All up, it might have only taken about 20 seconds - - - for them to do whatever they were doing.

Q 137 Can you just describe to us how you grabbed David?

A I grabbed him by the throat with my left arm, and that was it. I didn't really need any other force.

Q 138 And why did you do that?

A Well, because I didn't really like seeing 2 of my friends hitting each other like that. I felt uncomfortable at that moment. I didn't feel secure at that moment - - -

Q 139 What was your intention in doing that?

A To neutralise the situation sir.

Q 140 Okay. And how long did you have hold of David for?

A Maybe for about 2 seconds. 2 - 2 to 10. I may have over estimated a little bit. But it was enough time for Baxter to calm down, and for them to split.

Q 141 Once they split, was there any further altercation?

A No, sir. I don't think so,

Q 142 Did you notice any injuries on Baxter at all?

A No. I didn't. No. Not at the time.

Q 143 Okay. What about later?

A I didn't see any. No.

Q 144 So, you've no idea of any injuries he may have suffered?

A No.

Q 145 Yeah. Did you see any injuries on Tony?

A He had a bruise on his arm, and I'm pretty sure that was because when he was on the fence, he was trying to get up, but the force of Baxter's punches kept putting him down. And that's why he might have bruised his forearm.

Q 146 Okay. So, what happened then after you've broken it up? There's no more physical violence. What happened then?

A And then we all got into the car. It all got broken up. Rambo's car, and everybody in it, they left. And so did we. And that was the end of it.

Q 147 Was anything said, prior to you guys leaving?

A No, sir. There wasn't.

Q 148 Alright. So, you got back in the car. What happened then?

A Then that's just about it. We just - we went somewhere to just chill out.

Q 149 Where did you go?

A We went - we were just driving around a lot of the time, just around - around the area. And that's just about it.

Q 150 What was said in the car?

A Nothing much. We were just discussing of what happened, and we didn't really get much.

Q 151 Can you just detail the discussion, like, what was said, and who said what?

A I couldn't recall accurately, sir. We just asked Tony what happened. And Tony just said he - he got in a punch, and he got a punch, and Tony was on the fence, and how he got hit. And, yeah, and Tony was just - he was a bit distressed 'cos - 'cos of his arm. He was pretty silent most of the time. He was just - he was just sitting there, I guess. The situation just needed to be relaxed. It was a - it was a stupid situation and - - -

Q 152 Did you see any other injuries on - on Tony?

A No. No, sir, I didn't.

Q 153 Was he bleeding at all?

A No, he wasn't.

Q 154 You didn't see any blood?

A No. Not yesterday.

Q 155 Was there any - - -?

A I saw blood on me, on that night. But I had no idea of why.

Q 156 Was there any blood on Tony's clothing?

A I didn't - I didn't notice that. I'm sorry, I didn't notice.

Q 157 Alright. So, did Tony say anything further, or detail any further about what happened?

A No.

Q 158 Or, in fact, anyone else in the car?

A No. Rambo, the driver, he was just in there silent. You know, he was just concentrating on his driving. Me and Manny, we were just - just talking about things I don't even remember. It was all so vague, last night.

Q 159 Yeah. Okay. And what happened? What did you do from there?

A We went home.

Q 160 What time did you get home?

A I got home at about - it's about 11.30.

Q 161 Alright. So, what did you do between when this happened at about 20 to 8.00, till 11.30?

A We - we were just - just driving around, just clearing thoughts in our heads. You know, it's - it's - it's - it's fairly distressing, sir, seeing 2 friends fight like that. So, I could probably imagine how it was like with them in the situation. I'm sure that they'd both be distressed.

Q 162 So - so, there was no great deal further conversation, is that what you are telling me?

A Yes. We didn't - we didn't really discuss much about it. I didn't think it was a really big deal at the time. It was just two friends. They - they had a go at each other, and that was it.

Q 163 You made mention that there was blood on your clothes?

A Yes, There was.

Q 164 Can you tell me where that was?

A That was on the end of the sleeve. Now, I noticed -

Q 165 You're indicating your left sleeve?

A My left sleeve. It's, like, Tony hit Baxter once, I'm fairly sure, in the left ear, or it would have been the right to him. It would have been the right to him. I think that the blood that, at the time, was coming from his ear.

Q 166 So, whose ear is that, sorry?

A Baxter's. Well, that's when I pulled him off. 'Cos I grabbed him by the neck. There could have been some blood dripping down from his ear. And that's - that - that was the only blood that I - -

Q 167 Okay. How much blood was there?

A Not - - not much. It was just a spot. It was a stain in one specific spot.

Q 168 Salvatore, are you left handed or right handed?

A Left handed.

Q 169 Alright. So, what did you do when you got home?

A I just had something to eat. And then I - I called Paul, one of Baxter's friends. Because I had noticed - I had heard footsteps from my room, and somebody came to my house and physically broke something on my premises, on my father's premises. And that's when my father and I ran out, and we were very furious. And that's when I called Baxter, and I spoke to Baxter in a - in a very harsh way, I know, because I didn't know what was happening to him at the moment.

Q 170 What - what time was this?

A This would have been at - it would have been after 12.00, for sure.

Q 171 So, you spoke to David BAXTER-JONES?

A And I told him basically - I spoke out of line, I guess. But I didn't mean anything by it. It was just I was furious at the time because some - something got broken in my house. So, somebody came to my house and - and did something, you know. I'm sure you guys can understand how distressing that

would be, you know. And. then Baxter hung up on me within about 3 seconds.

Q 172 So, did you actually manage to speak to him?

A No, I didn't. But I spoke to Paul after that. I called Baxter's little brother's phone, and Paul picked it up. And that's where I started talking to Paul. And that's when I got told what happened, and I was just clueless. I didn't - I didn't know how it happened, who had what.

Q 173 So, you didn't actually speak to Baxter. Is that what you're saying?

A No. I didn't. I haven't spoken to Baxter since yesterday at 8.00 in the morning when he called me to find out - to further pursue the matter of who broke into his car.

Q 174 Alright. So, when you called him, who answered his phone, David's phone?

A Baxter. I presume it was Baxter.

Q 175 Okay, But you didn't hear him speak?

A I heard the words, "Hello". And I presumed that was Baxter.

Q 176 Yeah. Did you do anything else though over the course of the night at home or anywhere else?

A No. No. My parents can confirm my whereabouts, that I was just sleeping at home.

Q 177 Yeah. Alright. No worries. Alright. Salvatore obviously you've explained to us your - your version of events, and there's some considerable discrepancies between information I have of what occurred, and what you say you saw.

A Well, that's - that's how I saw it, sir, and that is how I explained it to you.

Q 178 Alright.

A I just hope I've been as helpful as I can towards you, towards the situation, sir.

Q 179 What I will do is I will just go through the information I have, and just outline some of the discrepancies. And just invite you to comment on them, and see if we can work out exactly how we have these discrepancies. And see what we can do.

A Okay.

Q 180 So, do you know who was in the car with - with Baxter? David BAXTER-JONES?

A There was a boy called Alex BOND. And a girl called Stella that lives around our area. And I think that was it.

Q 181 Yeah. The information I have from - from Alex BOND - is that Baxter received a phone call on his mobile from Tony. And Alex states that he could hear the person on the other end, because he was screaming in the phone, and he was in a pissed off tone. Now, Alex BOND says he recognised the voice as Tony's. Do you have any comment to make about that?

A As I said before, they - they just both got out of line in the conversation and they obviously had a bit of a feud, but that's expected sir.

Q 182 Was there any threats made from either of them?

A I can't recall any threats. But there was a bit of yelling about, "What are you gonna do? What - what do you have to prove, that we did whatever you say we did". It was kind of along those lines that I

can -

Q 183 Would you recall any threats if they, in fact, were made?

A I would. I - I - I would. I would have heard. But I didn't - I didn't really take what they were saying as really threats.

Q 184 Mm'm. The information I have is that Tony said, "You're a dead man walking."

A I don't recall that, sir.

Q 185 To which David retaliated by saying, "You're a druggie and a junkie and you have no life ahead of you."

A Which is also wrong. But I didn't - I don't know if Baxter said that or not.

Q 186 Alright. You can't really comment on that, I guess, because you were not part of that conversation. Is that fair to say?

A That is fair to say. That - that's actually correct to say that.

Q 187 Information I have then says that Tony said back to Baxter, "I am gonna stab you." Do you have any comment to make about that?

A No. I don't, sir. I can't recall that.

Q 188 Did Tony say that over the phone in your presence?

A I - no, he didn't, sir. Not - not that.

Q 189 Did he say anything similar?

A He said, "Let's meet up and talk." That - that - that's - that's what he said.

Q 190 Were they the exact words, or your interpretation?



A                   That - that was my interpretation. It was - it was along those lines. It wasn't, "I'm gonna come and I'm gonna get you." When - when Tony was speaking to him, he - he was clearly stating that, "You - you are accusing us of something that we didn't do. Now, that's wrong." That's - and that's how I interpreted it, and that's basically how it was.

Q           191        Alright. Alex BOND goes on to state that they were driving along Centre Road and - - and then basically like you've described, the 2 cars meet up. You've been placed by Alex to be in the front passenger seat, which you agree with. Is that correct?

A                   That is correct.

Q           192        And that Giovanni RAMBAUDI was - was driving, which I don't think is an issue. And Manny - Manuel GARCIA was sitting behind the driver, and Tony BATISTA was sitting also behind the driver. So, is that where everyone was placed?

A                   Yes. Yes.

Q           193        And it's true that in your car, you did a u-turn. Is that right?

A                   In our car. Yes. We did.

Q           194        Yeah. Okay. So, who - whose car was parked in front?

A                   As I said before, it was Baxter's. David - David BAXTER-JONES was in the front. And Rambo - Giovanni RAMBAUDI was behind him - - - faced forward.

Q           195        Yeah. Okay. And Alex describes that Tony got out of the car, and that Baxter went up to Tony. And apparently Baxter said, "What the fuck, cunt," and, "A couple of months ago, we were mates."

A I didn't - my hearing at this current time was not that good, sir. I don't - something along those lines was said. Yeah. Like swearing. You - you know what happens before a brawl. I mean, people - people say whatever they think that's good at the time to say.

Q 196 Yeah. Tony - sorry, Baxter said, "I wasn't accusing you. All I want you to do was find out." To which Tony started yelling and screaming and getting angry at Baxter. And then Tony punched Baxter in the head.

A They - they both simultaneously punched each other in the head.

Q 197 And then they started fighting and wrestling with each other?

A Yeah. Yeah. And that's when the fight broke out.

Q 198 Yeah. Alright. And Alex describes Baxter then pushed Tony over the fence, sort of into the front yard of a house, and was punching him from side on, and it looked like he was hitting him in the face, but it could have been in the shoulder. And that Tony was leaning over the fence, front on, and sort of bent over the fence palings.

A He was. But I did not see any hand actions by Tony.

Q 199 But you agree with me it's a fairly short fence. It's not a particularly high fence?

A Actually, yeah. It - it - it made matters worse for Tony because it was a short fence, and he didn't have that much leeway to get up. So, I - and I saw Tony there motionless, lying on the fence.

Q 200 Alright. Now, Alex states that Tony stood up and

was sort of punching Baxter up under the left armpit where the ribcage is. Do you have any comment to make about that?

A Um. He could have. I saw - I saw punches only, sir.

Q 201 Alright. Now, you said before that you didn't see Tony retaliate when he was on the fence.

A No. Well, when he was on the fence, I don't think he even had a chance to retaliate.

Q 202 So, what I'm saying is, Alex sees Tony basically bent over the fence, if you're with me? So, he's bent over the fence. And then he says Tony stood up and was sort of punching David - Baxter up under the left armpit, where the ribcage is.

A I don't - I don't recall that. All I recall, and as I saw it, was that Baxter threw Tony over the fence, on to the fence, face forward. Tony was on the fence. And then what happened was Baxter started hitting him. And that's when I broke it up.

Q 203 Alright. So, as I say, Alex describes that Tony stood up and started punching Baxter. Did you see that happen at all?

A I did not see that happen, sir.

Q 204 Were you in a position to see that happen, if it did occur?

A Yes. I was, sir,

Q 205 Alright. Are you saying it didn't happen?

A I am saying that it didn't happen. Yes.

Q 206 Alex says or describes that Tony had a closed fist, but wasn't punching him with his fists as you would when you punch someone, but was using the side of

his fists in a shanking motion. Do you know what a shanking motion is?

A Could you point that out for me, a shanking motion?

Q 207 Yeah. I'd describe a shanking motion. That's a front - I'm pointing to my - I've got a clenched fist. I know the tape doesn't pick this up. But I'm indicating a side of the fists. My thumb creates a little bit of an O. A shanking motion, as I interpret this statement, as being something like that. So, he's not, in fact, punching front on, but he's going a little bit around with that side of the fist, with that - - -?

A With the inside of his fist.

Q 208 Basically, yeah.

A On - on which side, did - did Alex recall that he was shanking him? Which side of it?

Q 209 Well, that's something that I'm not particularly clear on, reading the statement. But he says that he - he was punching Baxter up under the left armpit where the ribcage is. So, if Baxter was struck under the left armpit - -

A But how - how could - how could Baxter have been struck if I saw a bruise on Tony's arm, on his left, and he - and I saw him strangled on the fence, with his arm, with his left arm. So, how could that have happened?

Q 210 Well, that's what I am trying to ascertain, and I'm - what I'm trying to investigate, to see if there's something missing here. Well - - -?

A I - that's how I recall it, sir. I can't say more.

Q 211 No worries. Did - did you see - are you quite clear

on what Alex is trying to state? He says that he saw Tony hit Baxter with the side of - his fist, probably 2 or 3 times, and that Baxter kept fighting and was pumped on adrenalin.

A Well, they were both pumped on adrenalin.

Q 212 Okay. So, you don't recall that - that happening at all, what Alex just described?

A No, I don't, sir.

Q 213 Alright. I'll explain to you that it's that motion that I believe - certainly it appears from my investigations that that is where David or Baxter was stabbed.

A Sorry. What are you asking, sir?

Q 214 Yeah, I'm just explaining to you that it appears that it was that motion which was the stabbing motion. Alright. And what I'm asking you is if you have any comment to make about it, if you saw it?

A No. I don't, sir.

Q 215 Or were aware of it?

A No. I don't, sir.

Q 216 Alright. Is it correct that you were the closest person to both Tony and Baxter at that time?

A Yes. I was. Not - not - not - not the clo-, like, I saw Alex, I did notice Alex. He was near us. As I was on the left, he was on the right. He was - I was closer to Rambo's car. He was on the side of Baxter's car. And, yeah, me and Alex were about as close. So, I - I - I wouldn't - I wouldn't theoretically agree with what Alex was saying. Because if - if Baxter was standing in front of Alex, and hitting Tony with his left, while Tony -

what's that word - when Tony hit - he wasn't able to move his arm because he was on the fence and he was trapped. How could Alex have saw him get hit on the left, if Baxter was standing side on, faced towards the house, as well as Tony was lying towards the house. And he was hitting him with his left. How could Tony have been able to even reach him?

Q 217 Alright. Which side of - of Baxter were you standing on?

A On his left.

Q 218 This is when they were at the fence?

A Yeah.

Q 219 Okay. So, he's facing forward towards the house.

A That is right.

Q 220 So, you're standing on his left. So, you would have a fairly - I would expect you'd have a reasonable view of his left side of his body?

A Yeah.

Q 221 Is that correct?

A Yes.

Q 342 Is that how - are you quite clear on what I'm asking?

A Yes. We are.

Q 222 Alright. And the information is from Alex that he saw this motion up under the left armpit, up into the ribcage area?

A I did not - I can't comment on that, because I did not see that, sir.

Q 223 Alex describes that - has named you as having grabbed Baxter and pinned his arms behind his back,

and his hands were together?

A No. That is not what happened, sir. I grabbed - I detained David BAXTER-JONES by the neck, and I forced him - I - I pulled him off Tony, and I forced him on to the ground, in order for him to get calm, think what he's doing, and to neutralise the situation.

Q 224 He states, "Sal was behind Baxter and had his arm through the gap of Baxter's arm, and was holding on to him and pulling him back."

A Yeah. I did - did not really grab his arm, sir. I was underneath his arm, as I was grabbing him. I'm - I'm pulling him - I'm pulling him out, with my - my fist around someone's neck. And my arm - my right arm was underneath his arm to detain him, if he was. So, my arm was there. Yes. But it wasn't in action, forcing Baxter, as well as my left arm.

Q 225 Tony then noticed David was bleeding and said, "He's bleeding. He's bleeding." Was that said?

A I don't think so.

Q 226 You didn't hear that?

A I didn't hear that, sir.

Q 227 Okay. Alex says, "At this point, Tony had blood all over his hand and on the top of his - and on the front of his top."

A I did not see that, sir.

Q 228 Did you notice that at any stage?

A No I didn't.

Q 229 You didn't see that later on?

A No I didn't. No. I noticed it on my shirt sleeve,

and that was it.

Q 230 Yeah. You didn't notice any blood at all on Tony?

A No I didn't.

Q 231 "Tony then yelled, 'Get the fuck out of here. Get the fuck out of here', to all of his mates. They all jumped in the car and took off."

A And that wrapped it up for that situation.

Q 232 Mm'm. David jumped in the passenger seat, and so on, and so forth. So, there's some considerable discrepancies there, particularly surrounding the - or what I'm investigating, which is a stabbing. Now, you understand that - that Baxter, in fact, was treated by the ambulance, and was, in fact, stabbed?

A I am aware of that now.

Q 233 Okay. I have medical evidence to suggest that he was stabbed at least on one occasion with a knife, possibly up to a 10 centimetre blade.

A I can't comment on that, 'cos I did not see any blades at the time, sir.

Q 234 Okay. It appears that certain aspects of your story are consistent with - with other witness observations.

A That's good. I'm glad.

Q 235 However, certain key aspects, and particularly anything sort of involving a weapon or a stabbing, there is no consistency whatsoever. Can you account for that - those inconsistencies?

A The fact that I didn't see it. I didn't see it before. I didn't see it then. I didn't see it after.



Q 236 Alright. Is there anything you have neglected to tell us regarding this incident?

A No, sir. If you have any further questions, I'm very happy to answer them. But I have no further comment, apart from I wish both of them well, and that nothing worse happens in the future, and that it is just left. And that people grow up and get on with their lives.

Q 237 Did it surprise you when you were made aware of the, fact that David was stabbed?

A I was shocked at the time. You could probably imagine how you feel like hearing that your friend did get that.

Q 238 There are also a number of inconsistencies between your version of events and the version of events given to me by - by witnesses, regarding the phone conversation and the threats that Tony has made before the incident. That Tony is alleged to have made to the victim, David.

A I don't recall those threats clearly, sir. I - the thing I heard was they were speaking about the terms of the fact that Baxter accused us of doing something. And one of us just retaliated, because it was on the phone. And that's - I don't really remember it. I wasn't really listening. I didn't really care at the time. I had no idea that even this could even happen, like - - -

Q 239 It's alleged, Salvatore, that you were well aware of the threats and were, in fact, present when the threats were made?

A Yes. But I don't - I don't remember the threats.

Q 240 It's alleged that you had full knowledge of the

threats. It's alleged that in company with - with Tony, and the other 2 in the car, that you deliberately attended to meet up with Baxter, the victim, for the purpose of carrying out those threats?

A Okay. We'll just stop there for a second. I did not speak to Baxter. Truthfully, I wasn't even thinking about Baxter at that moment. I gave Tony the phone, 'cos he wanted to call him, and that was - and that was it, I was thinking about my own thing. And that's why maybe that doesn't correspond. Because I wasn't listening at that moment. I heard them. I - I heard them at the start. But then I concentrated on something else. I mean, people do that. They - they tend to wander off in their minds on to something else. And, yeah, and that's - that's what I did. I, blanked out like, I didn't - I was thinking about something that happened there on that day at work, how I got to do something about it. And that's when it stopped, and I found out that we were gonna meet up with him. I - I had no intentions of meeting up with Baxter, sir.

Q 241 It's alleged that you went there with Tony, with the intention of assaulting Baxter?

A I had no intentions of assaulting Baxter.

Q 242 It's alleged there that the intention was more than just assault, but to actually cause Baxter some serious injury through the use of a weapon?

A I can't comment on that, sir. As - as my story is the best I recall, I didn't see a weapon before then, during then, or after.

Q 243 You state - you've stated to us in this interview, Salvatore, that you, in fact, tried to break up the fight?

A Yes. I did. And I did break up the fight. And I'm glad I did.

Q 244 Alright. As I say, there's a number of discrepancies between what you state and the information I have. Were you, yourself, armed with any type of weapon at the time?

A No, I wasn't, sir.

Q 245 Other than Tony, you were the only person, from your own description of events, that was in a position, or had a physical altercation with David?

A Yes.

Q 246 Is that correct?

A Physically on the basis of neutralizing the situation. I agree.

Q 247 Okay. Did you, at any stage, stab David with any type of weapon?

A No. I didn't, sir,

Q 248 You stated that you didn't observe any injuries whatsoever to David, the victim. Is that correct?

A No, I didn't, sir.

Q 249 You would agree with me that someone being stabbed to the lung is a serious injury?

A It is a serious injury.

Q 250 And you didn't notice that injury at the time?

A No, I didn't sir.

Q 251 I've been to the scene and I've had a look at the

scene and there are considerable amounts of blood at the scene, both on the fence and on the footpath, and in the near proximity. Can you make any comment about that?

A It - it may be there, sir. But at the mo-, at the time that I was there, when broke up the fight, during the - time when they were fighting, before, during and after, I did not notice any blood.

Q 252 Was there any conversation in the car, or at any other time, after you left this incident, where you talked about injuries or you talked about a stabbing, or you talked about blood, or anything of that sort?

A It was about blood, about an hour or 2 after. That was the only conversation we - I noticed blood on my shirt, and that's when we didn't know what happened and wanted to find out but - - -

Q 253 Where is your clothing now that you were wearing last night?

A It was taken in by the police.

Q 254 Can you describe to me what you did with your clothing when you got home?

A Yes. I - I got a bit scared because Mum - well, my if mum seen blood on my shirt, the little bit, and so I didn't bother putting it into the wash basket. So, I went into my bathroom and I just washed it out.

Q 255 When did you do that?

A When I got home, probably around 12.00.

Q 256 And why did you do that?

A Just to get blood off my shirt.

Q 257 Why? Why - why at midnight?

A Just so it was clean. Because my mother - my mother usually goes around my room, with my clothes. And I just didn't want it here laying there for her to see. So, I just did it at - just as soon as possible.

Q 258 Alright. It's alleged that you washed the clothes to try and literally wash away the evidence of someone else's blood on your clothes, following the stabbing?

A Well, that was not any wrongful meaning. That was just to clearly simply cleaning it, just to wash my clothes that I - -

Q 259 And what did you do with the clothes after you washed them? Did you leave them in the washing machine?

A No. I just - I just left them in the bag.

Q 260 What do you mean?

A I just - I - I put them inside my wardrobe and that was it. That was - that was there.

Q 261 You put them in a plastic bag and put them inside your wardrobe?

A Yeah. Because they were dirty. And when they dried up, I would have put them into the washing basket.

Q 262 After you've washed them, why didn't you just leave them in the washing machine?

A Because they were wet.

Q 263 So, you put them into a plastic bag and hid them in your cupboard instead?

A It wasn't hiding in my cupboard. It was just lying

around on the floor. I - I had no intentions of hiding those clothes. I was still going to wear those clothes. That's why I washed them. If - if I felt scared in any way, wouldn't I have thrown those clothes out at any time? Wouldn't I have burnt them, or got rid of them or given them to somebody or thrown them out? But I kept them, because I had nothing to hide, I have nothing to hide.

Q 264 Do you normally - do you agree that when your jeans were taken in this morning, the belt was still on?

A Yes, it was.

Q 265 Do you normally wash your clothes with the belt on?

A No. Not normally.

Q 266 Why did you do it on this occasion?

A I was just scrubbing it a little bit with the - you know those things that you use to wash dishes.

Q 267 I put it to you those clothes are very wet and have been given a full wash?

A Those clothes.

Q 268 Yeah. All the clothes - - -?

A Yeah.

Q 269 That were seized this morning were all wet.

A Mm'm. The jeans were not wet.

Q 270 I'm saying they are. So, I'm putting to - putting to you that they are wet.

A The - the shirts were wet.

Q 280 Yeah. And the jeans - - -?

A The jeans - - -

Q 281 Were wet as well?

A In some parts where I washed them. Yes.

Q 282 They were wet all over.

A The jeans, all over?

Q 283 That's right -

A No. They weren't wet all over.

Q 284 Okay. Do you normally put your washing in a plastic bag after you've washed them?

A No, I never really do my washing. My mum usually does the washing.

Q 285 You did it on this occasion, and you've put it in the plastic bag. Is that right?

A Yes, I did.

Q 286 Is that normal behaviour for you?

A I never had to do that. I just did it to leave it in there, just so it's hidden from my mum. If it - if - if I had anything to hide, I wouldn't have given it to you guys, sir. What did - the information that I bring towards you is the truth, and how it happened around me. The way other people interpret it is - is whatever you guys see it. But I'm trying to make the best of the situation in order to help you guys sort it, or whatever you want. But I can't - I can't tell you anything that didn't happen.

Q 287 Detective ODUWO, do you have any questions you want to ask?

SENIOR DETECTIVE ODUWO:

Salvatore, I am just looking at your record. I see you have some charges pending for theft? What do they relate to?

A I was accused of stealing some things from a couple of cars, sir.

Q 288 What things?

A The stereo from one, and a mobile phone from the other. It was a mistake. I have already explained it to the police.

Q 289 And there are convictions for assault in company, and assault with a weapon from July this year. What is that for?

A I got into a fight with some guys at a train station. My friend was carrying a small pocket knife in his pocket, sir. He didn't actually use it, sir, he just had it with him. The other guys were the aggressors, sir, but it was us who got charged.

Q 290 Who was your friend?

A It was Tony BATISTA sir.

Q 291 So you guys have been in fights together before?

A No, sir, it was a completely different situation, sir. We were waiting for a train sir, minding our own business, sir, when these two guys came up to us and started making rude comments to us, and trying to pick a fight with us. We reacted that is all, sir. There was a bit of pushing and shoving, and one of the other guys ended up getting hurt.

Q 300 What train station was that?

A Patterson, sir.

Q 301 And when did that happen?

A In January this year, sir.

Q 302 Okay. Look I don't have the details of any of these



offences or charges to take this any further at this stage.

DETECTIVE SENIOR CONSTABLE WEAVER:

303 Okay. Do you understand, Salvatore, that at - at law - that there's a term that we use called acting in concert?

A What's - what's - - -

Q 304 You may not have - you may not have heard of that before, and I'll explain that. It's - it's 2 or more people acting together for a common cause. Okay. So, at - at law, we're looking at yourselves and investigating yourselves and Tony and the other two as well, for ah, in this particular case, intentionally causing serious injury to David. And the 4 of you acting together for a common cause. Okay. Do you - do you understand that? To achieve a common cause.

A Yeah. But it wasn't like that. It was only one person on one person.

Q 305 Yeah. And what we're putting forward - the allegation we're putting forward is that you were all present and a part of the threats that were made, the conversation that Tony had, and together, the 4 of you went there to carry out that cause. And that cause is to seriously injure, okay, or to kill David.

A Which is not true.

Q 306 Alright. So, that's the allegation. And to further that, alright, as Detective Oduwo has pointed out, we've - we're alleging, based on the evidence that's before us, that you have, in fact, washed the clothes to hide or remove evidence, perhaps after

becoming aware of the seriousness of what you, in fact, had done as a group. Now, what I'm saying is that the actions of Tony, okay, it's alleged that Tony had a knife and stabbed him. His actions apply to yourself and the others because you're in the knowledge of what he, and together all of you went there to achieve. Do you understand what I am saying?

A Yeah.

Q 307 Do you have any comment to make about what I am saying?

A I don't have any comment, but it was not like that. It was only Tony and Baxter in a feud. They - they came across each other, something - something sparked. That's - and that's where it happened. I did not wash my clothes because I thought that that could get me in trouble. Because at the point, I'm very secure in myself that - how can I get in trouble because I did not do anything? I believe that I did something right. I - I stopped the situation happening.

Q 308 At any stage, were you or yourself - sorry - were you or Tony in a position, or were required to defend yourself from an attack, from an assault from other persons?

A Maybe so Tony against Baxter. But not - not myself. I - I was safe all the time and - - -

Q 309 From what you have observed, did that requirement to defend himself, would that extend through to the use of a knife, and to stab someone?

A Anything could happen.

Q 310 Do you think that's fair to use a knife to defend

yourself, and to stab someone, from what you observed?

A Within that general situation, no, it's not.

Q 311 Why do you say that?

A Because a knife is a weapon.

Q 312 Okay. Can you tell me where the knife is now?

A No, I cannot. Because I don't know of the whereabouts of the knife. I did not see the knife before, during or after the incident.

Q 313 Did you, yourself, dispose of the knife?

A No. I did not.

Q 314 I've got no further respect - I have no further questions with respect to this matter, unless there is anything else you wish to say, Salvatore?

A No, sir.

Q 315 I think we've covered it reasonably well. I might ask Detective Oduwo to ask some questions in respect to a forensic procedure.

SENIOR DETECTIVE ODUWO:

Salvatore, I will ask you some questions about this forensic procedure. We will keep the tape running and - - -?

A Yes.

Q 316 As I - as I say this. There's quite a bit of information. If you don't understand any of it, certainly let me know.

A Yes. Alright.

Q 317 Salvatore, you are suspected of committing the offence of intentionally causing serious injury.

You are being requested to undergo a forensic procedure which would tend to confirm or disprove your involvement in the commission of the indictable offence, specified above. The nature of the procedure that we seek to conduct is a buccal swab. A buccal swab means it's a - it's a swab where - which you place on the inside of your - your mouth, on the outside of your teeth, and rub it against your cheek, and then turn it over and do the same thing on the other side. Do you understand that?

A Yes, I do.

Q 318 You may request that the procedure be conducted by, or in the presence of, a medical practitioner or a nurse of your choice. If the procedure is the taking of a dental impression, you may request that the procedure be conducted by, or in the presence of a dentist of your choice. The procedure could produce evidence to be used in court. Information obtained from analysis of forensic material obtained by the procedure will be placed on a DNA database, and may be used for the purpose of a criminal investigation, or any other purpose for which the DNA database may be used under part 3, division 1, subdivision 30A of the Crimes Act 1958, or under a corresponding law of a participating jurisdiction. Okay. You may refuse to undergo the procedure. If you do refuse to undergo the procedure, and the procedure is defined as a compulsory procedure, a member of the police force may make application to the Magistrates' Court for an order authorising - authorising the conduct of the procedure. Or a senior officer may authorise a non intimate compulsory procedure. If you are held in a prison,

police jail or youth training centre, or any institution within the meaning of section 56 of the Corrections Act of 1986, and within 24 hours of receiving the above information, you refuse or fail to consent to the - to the request to undergo a forensic procedure, then this will be considered that you have refused consent. Do you understand all this information?

A Yes, I do.

Q 319 Do you wish to comment on any of this information?

A No, I don't.

Q 320 Do you consent to the request to undergo a forensic procedure?

A Yes, I do.

Q 321 I'll just get you to sign a form here. This form here just says that, "I have understood the information given to me by police." You will be given - handed a copy of this - this form. Okay.

A Yeah.

Q 322 I'll just sign this. Salvatore, you have consented to undergo a forensic procedure, that procedure being a buccal swab. Before the procedure is conducted, I must inform you that you do not have to answer any questions asked by the medical practitioner, nurse, or other person, being myself, conducting the procedure, but anything you say or do may be given in evidence. Do you understand that?

A Yes, I do.

Q 323 Now, you get a copy of this also. I'll get you to sign that one, so I can give you the copy.

A Sure.

Q 324 I'm going to hand you the swab. If you just take that in your hand. Okay. Pull it out. That's rights. Now, I want you to put the sw-, yeah, the swab part of it, the foam tip, into your mouth, and vigorously rub the inside of your mouth, particularly the inside of both cheeks and around the gums, and ensure that both sides of the foam appear to be wet. Against your cheek. That's it. Yeah. Turn it over and do the other side, and that's the other side of your mouth. That's it. And that's fine. Do you agree that the swab and the - that small card has been placed in the yellow envelope and now into this sealed plastic bag?

Q 325 Okay. That's fine. That's done.

DETECTIVE SENIOR CONSTABLE WEAVER:

Excellent. Salvatore, this - you've been interviewed for the offence of intentionally cause serious injury. Okay. Now, you understand that, the investigation is continuing. You are not obliged to say or do anything unless you wish to do so, but whatever you say or do may be recorded and given in evidence against you. Do you understand this?

A Yes, I do.

Q 326 Do you wish to say anything in answer to the allegations?

A No, I don't.

Q 327 Okay. As I said, Salvatore, you have been interviewed for intentionally cause serious injury. Your fingerprints are required for the purposes of identification. Your fingerprints may be used in evidence in court. If you refuse to give your

fingerprints voluntarily, a member of the police force may use reasonable force to obtain them. Do you understand all this information?

A Yes, I do.

Q 328 Do you wish to comment on any of this information?

A No. I don't.

Q 329 Do you consent to giving your fingerprints?

A Well, certainly, sir.

Q 330 Salvatore, the current time by my watch is now - it's just ticking across. Do you agree with me it's 12.15 pm?

A Yeah. It's 12.15.

Alright. Okay. I'll conclude the interview at this time.

INTERVIEW CONCLUDED