

Instructions to Counsel

R v Worthy

You have been briefed to prosecute the defendant, Frank WORTHY, who has been charged with trafficking in a commercial quantity of a drug of dependence, namely Ketamine Hydrochloride, contrary to s 71AA of the *Drugs, Poisons and Controlled Substances Act* 1981. The charges have been set down for trial in the County Court on 1 March 2005. The defendant has indicated that he intends to plead not guilty to the charge, and he will not seek to have the charge heard in any other Court.

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 Victorian law of evidence.
- b. At the defendant's trial, all witnesses will give sworn testimony that accords with the witness statements and certificates 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 described in the brief will be adduced and will match their description in the brief.
- c. No issue will be made by the defence in relation to the delay between the alleged events and the prosecution.
- d. All search warrants were lawfully granted and executed; similarly, where authority was required for any listening devices, that authority was valid and its limits were not exceeded.
- e. Ketamine hydrochloride is a drug of dependence for the purposes of the *Drugs, Poisons and Controlled Substances Act* 1981, and 2 kilograms of pure ketamine hydrochloride is a commercial quantity of that drug.
- f. You will succeed in proof of your legal case if you can prove beyond reasonable doubt that the barrels contained ketamine hydrochloride, that Worthy knew that the barrels would be in the container, and that Worthy knew what the barrels contained. [Accordingly, you do not need to engage in any analysis of the provisions of the *Drugs, Poisons and Controlled Substances Act* 1981; nor do you need to explain how proof of the proposition that Worthy was knowingly involved in the placement of the barrels in the container would satisfy the elements of s 71AA.]
- g. You are instructed that the accused has previously been convicted of an offence under the Customs Act 1901 (Cth). The particulars of the offence were that the accused had inaccurately described the contents of a shipping container in relation to which he was the consignee. The contents were a chemical used in the manufacture of paint. The actual chemical was subject to an import duty; the declared chemical was not. The offence occurred in 1995. The accused pleaded guilty, and was fined. Evidence is available to prove both the conviction, and the facts on which it was based.

Please submit 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. Whatever works best for you.
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 in light of the rules of evidence described in the *Principles* textbook and in the Victorian statutory provisions that are part of the required reading. 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 and, accordingly, what impact that will have on your proof.
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. You should not include your preparatory notes (e.g. a chronology or a draft outline of your argument); rather, your advice should simply be an answer to the above questions. Finally, you should avoid repeating what you've said earlier; instead, simply make clear references to earlier discussion wherever necessary.

In following the above instructions, you are not obliged to express yourself in any particular way, such as the ways used in the textbook or the lecturer in the class. Rather, the format of your answer is up to you and you should choose a format that is suitable to the brief you are given, the arguments you choose to make and the way you can best express them.

There is no word limit, but you should regard 5000 words as the expected length of your complete advice (assuming that it is all in prose form.) Given the time constraints, you will obviously not be able to cover every aspect of the issues raised by the brief in your four answers. 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's 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 IN MATTER OF: Shipping Container MELW222333

PLACE: Melbourne

DATE: 11 /5/01

NAME: Daniel MAUGER
ADDRESS: Australian Customs Service
OCCUPATION: Customs Officer

STATES:

My full name is Daniel MAUGER and I am a Customs Officer for the Australian Customs Service.

On Friday, the 30th of March, 2001, I was performing duty at our Shipping Container Examination Facility in the Melbourne area. On that day I had been allocated the file in relation to shipping container number MELW222333. That shipping container was a grey Mitsui O.S.K. Lines container. The container was a 20 foot container with two doors at one end.

At about 10.40am on that day, I removed the seal that was holding the container doors shut. I observed that the seal was intact and did not appear to have been tampered with. The seal number was 711311. I then opened the container doors. The container doors were unable to be opened prior to the seal being removed. I then took two photographs of the interior of the container with the doors opened. The container was then left open to air. As it contained no fumigants, it was placed inside the secured facility overnight. The container held 25 kilogram packages of citric acid anhydrous. I understood that the only contents of the container were supposed to be about 800 of these packages.

The following day, Saturday, the 31st of March, 2001, I held a briefing with other Customs Officers in relation to the container. At about 12.05 pm, myself and other Customs Officers commenced the examination of the container. I was in charge of operating the x-ray machine.

At about 1.40 pm, I became aware that one of the officers had located drums in the container. I then checked to ensure that the manifest only listed packages of citric acid, before I entered the container. I then observed what appeared to be two cardboard drums packed behind and underneath the packages of citric acid in the very rear, right hand corner of the container.

Further unloading of the packages of citric acid then occurred. Eventually it became clear that there were in fact three drums stacked one on top of each other in the rear, right hand corner of the container. The drums were cardboard with wooden lids and bases. The seals on each of the three drums were intact. The contents of the drums as listed on each of their labels was "ketamine hydrochloride". The bottom drum was resting on top of a package of citric acid.

The three drums were put through the x-ray machine and were then carried over to the weighing machine. I remained at the container whilst the drums were weighed and further examined.

I was also present at the examination facility on Monday, the 2nd of April, 2001, when, at about 3.00 pm, members from the Drug Squad attended and examined the drums. I then had no further involvement with the handling or movement of the drums.

STATEMENT in the matter of: Shipping Container MELW222333.

Date: 10 May 2001

Name: Peter Cotton

Address: C/- Customs House, 414 Latrobe Street, Melbourne

Occupation: Customs Supervisor, Border Operations, Targeting & Analysis

STATES

My full name is Peter Cotton and I am employed by the Australian Customs Service (ACS) as a Customs Supervisor, Border Operations, Targeting & Analysis. In this role I was the officer of contact in regard to container MELW222333.

On 04 April at approx. 1005 I received a call from the Sea Cargo Automation helpdesk to contact Bob Knees of Arrow Importing.

On 04 April at approx. 1100 I phoned Bob Knees. Bob mentioned he'd made an attempt to take delivery of container MELW222333. I explained that the container was temporarily unavailable.

On 09 April at approx. 0950 Bob phoned regarding container availability. I said I hadn't heard and would call him back.

At approx. 1320, I phoned Bob. I apologised and informed him that the container had been misplaced. If he could fax me the Bill of Lading, I'll arrange for someone to locate the container. I asked Bob if the owner was on his back. He said no, they've been really good. I asked if they were anxious for their paint. He said no, it's an additive for coca-cola and they've already sold it. It's citric acid. Bob also said he understood that these things happen. He knows some clients would be jumping up and down. We're just the meat in the sandwich. I said I appreciate the attitude as I usually get abused every couple of days.

On 11 April at approx. 1055, Bob phoned. He informed me that the owner is jumping up and down and wants the container before Easter. I explained that it had been misplaced.

At approximately 1330 hours, a message was left for me to phone Frank WORTHY. I understood WORTHY to be the owner of the consignment. At 1415 hours, I attempted to ring that number and was informed by the person who answered that WORTHY was unavailable and that my call would be returned. I recall that it was a female who answered the phone.

At about 1445 hours, Frank WORTHY rang. He explained how they had been ringing around the wharf without avail and had been unable to locate the container. Within this, he made a comment about his customers getting out the bolt cutters to remove a few toes. He wanted the citric acid granules for sports drinks to give it a lemon flavour. I told Frank that I'd keep tabs on his container and inform Bob KNEES. He said if he couldn't get it by Thursday night, he wouldn't be able to unpack and deliver it until Tuesday. I assured him that at least storage charges should be okay. Frank also mentioned that his consignment was already paid for by his customers. I had no further conversations with WORTHY.

Jason MCLEAN**States:**

My full name is Jason MCLEAN and I am the owner of Jaguar Chemical Company in West Melbourne. Jaguar Chemical Company is involved in the business of chemicals in that we import and sell chemicals.

In about mid June, 2000, I was contacted by Frank WORTHY of Professional Paints, Refinery Road, North Altona in relation to purchasing citric acid. Jaguar Chemicals subsequently purchased about 20 tonnes of the citric acid from him. I've known Frank for about 10 years during which time Jaguar Chemicals has sold various raw materials to Professional Paints.

The citric acid I bought from Frank last year was for \$1.65 per kilogram which was a lot cheaper than the \$1.80, or \$1.84 I'd been able to get from other sources.

In about mid February, 2001, I was again contacted by Frank who said that he had some citric acid to sell. We had subsequent discussions about citric acid. I agreed to take the citric acid because it was going to make part payment of Professional Paints' debt to Jaguar Chemicals. They currently owe us about \$130,000. The only way to get a debt paid from them is to obtain further goods. We were going to get the citric acid for \$1.70 per kilogram this time which again was cheaper than I could get it from elsewhere. I would then sell the citric acid to a number of companies that use it in their production processes.

Jaguar Chemicals eventually took delivery of 20 tonnes being 800 x 25 kilogram packages of citric acid from Professional Paints in about the last week of April, 2001.

Normally we take delivery of full containers straight from the docks when we're purchasing container loads of goods. On both this occasion and also last time we purchased citric acid from him, Frank insisted that he unpack the goods himself and then deliver them to us, or to our customer. This involved double handling of the goods and seemed strange to me. These were the only two occasions that I've purchased full container loads from him. Last year we actually got the full container load eventually, after Frank unpacked it. At no time did Frank make any mention of ketamine to me.

STATEMENT

Monica TANNER
Detective Senior Constable
Drug Squad

STATES:

At about 8.00 am, on Wednesday, the 11th of April, 2001, with the assistance of Senior Constable SWEET, I removed three plastic bags containing white powder labelled Miscellaneous Property Book entry number 7-13/01 from a safe at the offices of the Drug Squad. Senior Constable SWEET then took possession of the bags.

At about 10.30 am, I attended at the Australian Customs Service shipping container examination facility with Sergeant KENNEDY and other members of the Technical Support Unit. Sergeant KENNEDY was in possession of three cardboard drums labelled "ketamine hydrochloride" which were placed in the rear, right hand corner of a shipping container number MELW222333. I then placed a substance known as invisible tracing powder on the three drums. I then assisted the Technical Support Unit in packing bags labelled "citric acid anhydrous" around the drums.

At about 7.00 pm, on Thursday, the 19th of April, 2001, in company with Detective Senior Constable JACOBS, I commenced static observations of shipping container number MELW222333. The shipping container was situated in the driveway of a business called Professional Paints at 600 Refinery Road, Altona North. The premises consisted of an office area at the front and to the left of a large factory/warehouse area off the service road. A driveway led from the service road to a roller door at the front, right hand side of the factory/warehouse area. The shipping container was placed so that the doors to the container faced towards the roller door. I walked around the front of the shipping container and observed that a seal, number 711311, secured the doors to the shipping container. No persons approached the shipping container during the period of our observations.

At about 6.40 am, on Friday, the 20th of April, 2001, we were relieved by members from the State Crime Surveillance Unit.

At about 7.00 pm, in company with Detective Senior Constable JACOBS, I again commenced static observations of the shipping container.

No persons approached the shipping container until we were relieved by Detective Detective Senior Constables RIJKARD and CLARKE at about 8.00 pm.

At about 6.30 am on Saturday the 21st of April 2001, in company with Detective Senior Constable JACOBS, I again commenced static observations of the shipping container. At 7.37 am, I observed a male person whom I now know to be the defendant, Frank WORTHY, arrive in a red Mustang and enter the office area at Professional Paints.

At about 7.50 am, the roller door to the factory/warehouse area was opened. At about 8.00 am two unknown males arrived in another vehicle. I now know the males to be John and Marcus LEESON, who are nephews of WORTHY. About two minutes later, I observed one of the two unknown males walking around the front of the shipping container. A door to the shipping container was then opened.

At 8.02 am, I observed WORTHY reverse a white tray truck out of the factory/warehouse area and park it alongside the shipping container. I then observed WORTHY and one of the unknown males walking around near the doors of the shipping container. Some minutes later, I observed the second unknown male removing a forklift load of white packages from the shipping container. At 8.12 am, we were relieved by members of the State Crime Surveillance Unit.

At 9.56 am, I was present with members from the Technical Support Unit recording on a device that was monitoring a listening device when I began hearing voices over the monitoring device. At about 10.25 am, I stopped the recording device and removed the tape which I retained in my possession. I subsequently had a transcript of the recording prepared.

At 10.28 am, I attended at 600 Refinery Road, Altona North, in company with Detective Sergeant BENEDICT, Detective Senior Constables JACOBS, CLARKE, RIJKARD, and other police members. Detective Sergeant BENEDICT was in possession of a search warrant issued under the Drugs, Poisons and Controlled Substances Act, in relation to that premises.

At 11.10 am, I was introduced to the defendant by Detective Senior Constable CLARKE. I then had a conversation with the defendant in the presence and hearing of Detective Senior Constable JACOBS. That conversation related to packages of citric acid that had been unloaded from the shipping container. During this conversation, WORTHY stated that a person by the name of Jao LING who had been in the Indonesian army and whose details were in the computer had sent the citric acid to Professional Paints in lieu of a \$200,000 debt.

During this time, WORTHY, Detective Senior Constable JACOBS and I walked from the office area into the factory/warehouse area where I was updated by other police members. I then indicated three cardboard drums marked "ketamine hydrochloride" that were situated on a pallet to the defendant and said,

"What about those. .Where did they come from?"

He said, "I don't know."

I said, "I put it to you they also came out of the container and that you said they were for someone else and to be put aside separately. What do you say to that?"

He said, "They shouldn't have been in the container. I only asked for them to be put aside, not that they were for someone else."

I said, "You're under arrest for trafficking in a drug of dependence. 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, "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 a legal practitioner. Do you understand these rights?"

He said, "Yes."

I said, "Do you wish to exercise any of these rights?"

He said, "I'd like to contact my wife at some stage and I'll probably want a solicitor at some stage."

I said, "You'll be given an opportunity to contact them at the earliest opportunity."

I then continued my earlier conversation with WORTHY, again in the presence and hearing of Detective Senior Constable JACOBS.

I said, "How did Jao LING come to owe you \$200,000?"

He said, "A handshake with a Chinese gentleman. It had previously worked. Have you ever heard of Slick 50 engine oil? It's for cars. A chemist that used to work here had previously worked at an oil company. We decided to make it here. Jao LING said he could sell it. We sold him the technology, some raw materials and the basic technology about five, five and a half years ago. We were going to get five cents royalty. Then there was the Chinese depression and the Indonesian army was thrown out. LING emigrated to Singapore. I believe he sells palm oil to Meadow Lea. He's given me a little bit of interest. He's sent me citric acid before which we sold."

I said, "When was that?"

He said, "About six months ago. He used to owe me quarter of a million."

I said, "How do you contact Jao LING?"

He said, "I've got a phone number in Indonesia for Jao LING. I had a mobile 'til last Sunday but he said he was getting a new number. He'll ring in the next day or two."

I said, "What's the mobile number you did have for him?"

He said, "It should be in my mobile."

We then followed WORTHY to a red Mustang sedan parked in the front car park of Professional Paints. He then removed a mobile phone from the front of the vehicle and proceeded to check it.

He said, "I must've taken it out."

WORTHY retained possession of the mobile phone at that time.

I said, "Did you normally ring him from your mobile?"

He said, "Yes."

I said, "What's your mobile number?"

He said, "0407 333 555."

I said, "When did you last ring him from your mobile?"

He said, "Thursday, no. Wednesday or Thursday a week ago."

I said, "Who was the citric acid on-sold to?"

He said, "Jaguar Chemicals. We were going to deliver it direct to their customer."

I said, "Who's that?"

He said, "I don't know. Speak to Jason MCLEAN from Jaguar. I haven't yet heard word back from Jaguar as to what they'll pay for it. Jaguar is low-balling me 'cos I owe them money anyway."

I said, "Where are Jaguar Chemicals?"

He said, "West Melbourne. It's all in the computer."

At about 12.35 pm, Detective Senior Constable JACOBS and I departed 600 Refinery Road, Altona North in company with WORTHY. Prior to departing WORTHY removed his briefcase from the office of Professional Paints and retained it in his possession.

At 12.46 pm, we arrived at Worthy's home at 22 Chapel Street in Keilor. A search warrant was executed at that address. Whilst a search of that address was being conducted, WORTHY stated that the ship had arrived on about the 22nd of March, but that Customs had a hold on it due to quarantine. WORTHY also provided details of his Customs Broker, Arrow Importing, and stated that he had not touched the drums himself.

Whilst at Worthy's home in Keilor, I conducted a search of WORTHY's briefcase. I seized some documents from the briefcase and also WORTHY's mobile phone which I retained in my possession. Also whilst at that address, WORTHY spoke to solicitor, Nick LEINSTER via the telephone.

At about 2.10 pm, Detective Senior Constable JACOBS and I left the premises with WORTHY. Upon arriving at the offices of the Drug Squad at about 2.40 pm, WORTHY was placed into an interview room.

I then selected three sealed cassette tapes which I opened in front of WORTHY. I then placed these tapes into a triple deck recording unit within the interview room. At 3.03pm, I commenced a tape recorded interview with WORTHY. Also present was Detective Senior Constable JACOBS.

At 3.05 pm, I suspended the interview in order to make further enquiries.

At 4.04 pm, I recommenced the tape recorded interview with WORTHY. Detective Senior Constable JACOBS was again present during the interview.

At 4.14 pm, I concluded the interview and stopped the tape recording machine. At 4.15 pm, with WORTHY's permission, I utilised a black light on WORTHY's right hand and observed a fluorescent glow on the tip of the middle finger of his right hand. This procedure was video-taped by Detective Senior Constable BENEDICT. I then rewound and checked the master tape and identified the voices of WORTHY, Detective Senior Constable JACOBS and myself. The third original tape was handed to WORTHY.

At 5.48 pm, again with WORTHY's permission, I attempted to obtain two samples of the fluorescent substance on WORTHY's finger. One of the swabs used was dry, whilst the tip of the second one had been immersed in water. Following the procedures, WORTHY stated that the chemicals he uses at Professional Paints are fluorescent and that may account for any fluorescent substance on his finger.

At about 6.10 pm, I secured the two swabs used on WORTHY in a safe at the Drug Squad. WORTHY was charged with trafficking in a drug of dependence and was remanded in custody. I also secured the tape that I had earlier removed from the recording device that had monitored the listening device utilised in the investigation.

At about 1.25 pm, on Tuesday, the 24th of April, I removed the two swabs obtained from WORTHY from the Drug Squad safe. I then checked the two swabs under a black light and observed that there appeared to be no fluorescent glow on the first swab and only a miniscule remnant of a fluorescent glow on the second swab. I again secured the swabs.

At 12.10 pm, on Thursday, the 26 th of April, in company with Detective Sergeant BENEDICT, I attended at Arrow Importing at 14 Woodruff Street, Port Melbourne. Detective Sergeant BENEDICT was in possession of a search warrant in relation to that address which he executed. At that address I seized a number of documents from Bob KNEES. I also obtained a statement from KNEES.

EXTRACT FROM TRANSCRIPT OF MATERIAL RECORDED VIA LISTENING
DEVICE

21/04/01

Unidentified Male 1: "Hang on, a minute what are those things?"

Unidentified Male 2: "No idea. Shall I go and ask Uncle Frank?"

Unidentified Male 1: "Nah. Let's just keep unpacking and ask him when he comes out".

....

Unidentified Male 2: "Uncle Frank what you do want us to do with these?"

Unidentified Male 3: "Just bring them out and put them over there. They're not for me. (undecipherable)".

Unidentified Male 2: "No worries".

STATEMENT

Name: KNEES, BOB

Company: ARROW IMPORTING

Occupation: SOLE TRADER CUSTOMS AGENT

STATES:

I am a customs agent, a sole-trader customs agent, for Arrow Importing.

On about 20th or 22nd of March, 2001, I was contacted by Frank WORTHY of Professional Paints of 600 Refinery Road, Altona North.

I knew WORTHY as I had acted for him in May, 2000, in relation to a previous importation of citric acid for his company.

My role as a customs agent is document collection for customs clearance of imported goods. On this occasion when WORTHY contacted me, I performed the same duties as I normally would as this was like any other matter in which I act as agent.

When a customer contacts me, they provide details of an upcoming shipment and shipping documents. I then have the shipment cleared with customs and the shipping company, as well as quarantine. I then pass on the delivery order to the cartage company. On this occasion the cartage company was Seafreight Transport.

On 26/4/01, police from the Drug Squad attended my business address and seized the negotiable set of shipping documents in relation to the above shipment for WORTHY.¹

I had no knowledge of the contents of this or the previous shipment for WORTHY other than the contents as listed on the commercial invoice and bill of lading, in these cases being only citric acid.

¹ You are instructed that the various documents referred to indicate that Professional Paints was the consignee of the container, and that the only declared contents were citric acid anhydrous.

STATEMENT

Name: COLLINS Paul

Address: Drug Squad
Level 12, 412 St Kilda Road Melbourne

Occupation: Det.Sen.Constable of Police

STATES:

My full name is Paul Henry COLLINS and I am a Detective Senior Constable of Police stationed at the Drug Squad. I am currently attached to the Clandestine Laboratory Unit.

In 1990 I was awarded a Bachelor of Science in analytical chemistry from Deakin University. During this course I studied organic chemistry, inorganic chemistry and chemical analysis methods.

I have been a member of the Victoria Police Force since 1992. I have performed general duties and investigative duties at Regional Response Units, Divisional CIU's and the Crime Department Drug Squad.

During the past two and a half years in which I have been stationed at the Drug squad I have been involved in numerous investigations of high level drug trafficking. I have investigated offences relating to the trafficking of various drugs including amphetamines, cocaine and ecstasy. A large number of these investigations have been in relation to the manufacturing of amphetamines in clandestine laboratories.

I have monitored informer's and covert operative's meetings and conversations with drug traffickers and users by means of listening devices and telephone intercepts on numerous occasions. These conversations relate to manufacturing methods, trafficking methods, prices to be paid for particular drugs, use of drugs and regular use of drug jargon.

I am frequently required to brief police members who investigate drug offences on current drug values, trafficking trends, common drug jargon and methods of manufacturing various drugs of dependence. I have arrested and interviewed numerous drug traffickers in relation to the trafficking and manufacture of various drugs. Further to this I have dealt with numerous informers and gathered intelligence from them relating to the manufacture and distribution of amphetamines, cocaine, ecstasy and other drugs.

It is necessary that I keep abreast of current drug trends relating to the manufacturing and distribution of drugs and the prices of those drugs.

I have previously travelled interstate and lectured at the Australian Bureau of Criminal Intelligence's National Chemical Diversion Conference on trends in Victoria relating to amphetamine manufacturing. I have also given presentations to the Australian Federal Police in relation to the manufacturing of various drugs in Victoria. In addition I have also lectured to public groups such as the CFA for example, in relation to clandestine laboratories and the dangers associated with them.

I have investigated, located and seized amphetamine laboratories and tablet pressing operations. I am conversant with illicit amphetamine manufacturing and preparation methods employed in Australia, the types of chemical and equipment required for illicit manufacturing of drugs, packaging of those chemicals and the availability of those chemicals and materials.

I regularly have contact with the staff of the Victorian Forensic Science Centre who both analyse drugs and process exhibits located at clandestine laboratories utilised to manufacture illicit drugs in order to be conversant with the methods of manufacturing illicit drugs and the purity of seized drugs.

Ketamine is a drug of dependence and is found in Schedule 11 of the Drugs Poisons and Controlled Substances Act, 1981.

It is a short acting general anaesthetic agent utilised in both medical and veterinary circles. It was utilised extensively during the Vietnam War due to its dissociative

effects, in that it induced a lack of responsive awareness not only to pain but the general environment.

Ketamine is a drug utilised in the rave party scene and particularly the homosexual community. It can be snorted, mixed in drinks or used intravenously. Ketamine when sold in gram amounts for individual can be sold for up to \$300 per gram.

Through my experience I have found that there are two forms of ecstasy tablets sold on the Australian market. Firstly there are the tablets which contain Methylene Dioxy Methylamphetamine which are typically imported. These are true ecstasy tablets. The second type of ecstasy tablet sold on the Australian market are a tablet containing a cocktail of drugs which are marketed as ecstasy. These tablets contain virtually anything available to the manufacturers and commonly contain a mixture of drugs such as amphetamines, cocaine, heroin, LSD, ephedrine and ketamine. The purpose of adding ketamine to these tablets is in order that the tablet will induce a hallucinogenic reaction similar to that of true ecstasy. More often than not these cocktail tablets purported to be ecstasy contain amongst their ingredients ketamine. These tablets typically contain between 80 and 100 mg of Ketamine.

Ketamine sold in kilogram lots on the black market can be sold for \$20,000 per kilogram. When sold in large quantities such as this it would typically be destined to the fake ecstasy manufacturing area.

I have been requested by Detective Senior Constable TANNER from the Drug Squad to provide a valuation statement regarding ketamine seized from Frank John WORTHY I have perused a certificate of analysis prepared by Forensic Officer Stephanie LOUDON relating to Ketamine seized in relation to this suspect and pertaining to VFSC Case No: 9876/001.

This statement indicates that a total of 44.5 kilograms of pure ketamine was seized.

This ketamine if sold in kilogram amounts at \$20,000 per kilogram on the black market would be capable of achieving a profit of \$890,000. If this quantity of

ketamine had been sold in street level gram deals a potential profit of \$13,350,000 could be achieved.

If this ketamine had been utilised in the manufacture of fake ecstasy tablets with dosages of 80 mg of ketamine a total of 556,250 tablets could be produced provided there were sufficient quantities of other drugs to combine with the ketamine. These tablets sold in large volumes in excess of 1000 can be sold at \$10 to \$13 per tablet. Individually sold these tablets can be sold for \$40 to \$50. As a result 556,250 fake ecstasy tablets containing 80 mg of ketamine could yield a potential profit of \$5,562,500 if sold in 1000 tablet lots at \$10 per tablet. Whilst if sold individually these tablets at \$40 per tablet could yield a potential profit of \$22,250,000.

Due to my experience, I feel qualified to give this information.

STATEMENT

Name: LEESON, JOHN CHRISTOPHER
Address: C/- 600 REFINERY ROAD, ALTONA
Occupation: TANNER

STATES:

My full name is John Christopher LEESON, I am 19 years of age. I am a Tanner by trade.

This morning I was at my uncle's business which is called Professional Paints and is located at 600 Refinery Road, Altona, when police arrived.

At the time police arrived I was putting a tarp over a truck which had pallets with bags of citric acid on it. This is the first time I have done any work for him at this location.

My uncle, Frank WORTHY, told me a couple of weeks ago that he had a container which he needed to have unloaded and he wanted me and my brother Marcus to give him a hand with it.² Marcus can drive a forklift. I was told that the container was stopped by customs on the docks so there was a delay in me giving Frank a hand with the job.

My uncle contacted me last night and told me that the container had arrived and he needed a hand this morning.

My brother and I arrived at Professional Paints at about 8.00 am. When we arrived we walked into the office and Frank asked us to go out and start unloading.

We went out and unloaded four pallets of citric acid and then I uncovered three drums stacked on top of each other.

After I found the drums, we finished unstacking the bags that were around it and just as we had finished that Frank came out. I asked him where he wanted the drums put and he told me that they

weren't his they were for someone else and could I just put them aside.

I then put the drums on a pallet I closed the container and started closing up. Frank didn't say what they were and he didn't name who they were for.

I assumed from Frank's reaction that he expected the three containers to be in the shipping container.

Frank is my mother's sister's husband. I don't know if I was going to get paid for helping him this morning, quite frankly it didn't bother me if I did get paid or not.

² You are instructed that the brother's statement is substantially consistent with the statement of this witness.

NAME: Simone Jane POLLITT
 OCCUPATION: Administrative Officer
 Telstra Corporation Limited
 ADDRESS: 242 Exhibition Street, Melbourne VIC 3000

STATES:

1. This statement made by me accurately sets out the evidence which I would be prepared, if necessary, to give in court as a witness.
2. This statement is true to the best of my knowledge and belief and I make it knowing that if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.
3. My full name is Simone Jane POLLITT and I am 30 years of age. I am employed as an Administrative Officer in the Law Enforcement Liaison Unit of Telstra Corporation Limited. I have been employed with Telstra Corporation Limited since 1989 and in my position I have authorised access to records pertaining to telephone connections and customer details.
4. Telstra Corporation Limited is the holder of a carrier licence granted under Section 56 of the Telecommunications Act 1997.
5. At the request of the Victoria Police Service, under the provisions of Section 282 of the Telecommunications Act 1997, Telstra Corporation Limited was asked to provide details of Call Charge Records for mobile service 0407 333 555 for the period 21 March 2001 to 21 April 2001 inclusive.
6. Telstra Corporation Limited records all calls made from a mobile service which have been itemised as part of the billing process and are produced in the form of Call Charge Records. These records contain the following information: -
 - A sequence itemised number allocated for each particular call made
 - the date of the call
 - the time of the call
 - the origin of the call, ie the area where the call was made from
 - the service number dialled
 - the billing rate applicable
 - the duration of the call
 - the amount charged for the call
7. From a perusal of records and documents maintained by Telstra Corporation Limited, I am able to state that mobile service 0407 333 555, has been leased by Professional Paints of 600 Refinery Road, Altona North from 18 March 1999 to date.
8. From a perusal of the call charge records for mobile service 0407 333 555, I am able to state that the no call was made from mobile service 0407 333 555 to a number in either Indonesia or Singapore during the period 21 March 2001 to 21 April 2001 inclusive.³

I PRODUCE A COPY OF THE CALL CHARGE RECORDS FOR MOBILE SERVICE 0407 333 555 FOR THE PERIOD 21 MARCH 2001 to 21 APRIL 2001 inclusive.

³ You are instructed that the content of the call charge records is accurately described by this witness; that is, that there is no record of any call being made to a number in either Indonesia or Singapore.

THERAPEUTIC GOODS ACT 1989, SECTION 56A
CERTIFICATE OF EVIDENCE OF CERTAIN MATTERS

I, Hugh MELDRUM, delegate of the Secretary to the Department of Health and Aged Care for the purposes of Section 56A of the Therapeutic Goods Act 1989 ("the Act"), HEREBY CERTIFY:

- in relation to the following particular person/s ("the person/s"):
 - Professional Paints Pty Ltd, and
 - Frank Worthy; and

- in respect of the following particular therapeutic goods or particular class of therapeutic goods ("the good/s"):
 - Ketamine hydrochloride.

THAT: at all times between 1 March 2001 and 30 April 2001:

56A(1)(a) there was no exemption in effect under Section 18 of the Act in relation to the goods; and

56A(1)(b) there was no approval or authority under Section 19 of the Act granted the person in relation to the goods; and

56A(1)(c) there was no approval under Section 19A of the Act granted to the person in relation to the goods; and

56A(1)(d) the goods were not included in the Register to the person as registered goods; and

56A(1)(e) the goods were not included in the Register to the person as listed goods; and

56A(1)(h) there was no declaration under Section 7 of the Act which applied to the goods; and

56A(1)(i) the person was not the holder of a licence in force under Part 4 of the Act; and

56A(1)(k) there was no exemption in effect under subsection 34(1) of the Act that applied to the goods; and

56A(1)(l) there was no exemption in effect under subsection 34(2) of the Act that applied to the person in relation to:

- i) the manufacture of the goods, or
- ii) a particular step in the manufacture of the goods.

DATED this 27th day of August 2001

VICTORIA POLICE

Name: KENNEDY, P.J. Sergeant

Address: Technical Support Unit

States:

I am a Sergeant of Police stationed at the Technical Support Unit. On Friday the 6^h of April, 2001 I took possession of three empty cardboard drums which were delivered to the TSU office by Detective Senior Constable RIJKARD and Detective Senior Constable CLARKE of the Drug Squad. These drums were to be utilised for the installation of electronic surveillance equipment. A listening device was subsequently placed in one of the drums, which were then placed in a secure storage area at the TSU office. The installation of the surveillance equipment was conducted under the provisions of a current Surveillance Devices Act warrant.

On the 11th of April, 2001 the three drums were resealed and conveyed by me to a location where they were placed in a shipping container which was then sealed. Detective Senior Constable TANNER was present during the placement of the drums.

VICTORIA POLICE

Name: Benedict, H.C., Detective Sergeant of Police

States:

My full name is Henry Charles BENEDICT and I am a Detective Sergeant of Police attached to the Drug Squad.

At approximately 3 p.m. on Monday the 2nd April, 2001, I attended with other Drug Squad Officers at a secure location operated by the Australian Customs Service. At this location I observed a shipping container which was empty. In near proximity to the shipping container I observed a large quantity of large brown coloured paper sacks and three brown coloured drums. I was informed that these items had been unloaded from the nearby container. I examined the drums and saw that they were sealed and had what appeared to be wooden lids with metal rim locks. I saw that each drum had a green and white label entitled Ketamine Hydrochloride affixed to it. I am aware that Ketamine Hydrochloride is a listed Drug of Dependence under Victorian Law. We were advised that the drums contained a total of 50 kilograms of powder purported to be Ketamine Hydrochloride.

An investigation was launched into the container and its origins and consignee. On Friday the 20th April, 2001, the container was under police observation as its unloading commenced. The container was by this time placed in the driveway of a business known as Professional Paints, located at 600 Refinery Road, Altona North. The proprietor of Professional Paints is a male named Frank WORTHY. Professional Paints was the consignee of the shipping container concerned. The container was partly unloaded and then secured again. Continuous observation of the container continued.

At about 10.28 am on Saturday the 21st of April 2001, I was in company with several other drug squad officers when we executed a search warrant issued under the Drugs, Poisons and Controlled Substances Act at 600 Refinery Road, Altona North. I entered the office area where I ascertained that a person I now know to be Frank WORTHY was the proprietor; I introduced myself to him and explained that we were executing a search warrant. A search of the premises then commenced. During a search of the factory three drums labeled Ketamine Hydrochloride were located on a pallet on the factory floor.

I was advised later by Detective Senior Constable TANNER that she required for me to video tape the procedure relating to the swabbing of WORTHY's hands. I entered the interview room and reintroduced myself to WORTHY. I then operated a video camera concentrated on WORTHY's hands as Detective Senior Constable TANNER swabbed them. The procedure was performed with the room lights off, and under Ultra Violet light, in order to capture any fluorescent powder that had been applied to the drums. I observed a green yellow glow on WORTHY's fingers through the video camera viewfinder.⁴ Detective Senior Constable TANNER attended to further processes involved with WORTHY.

⁴ You are instructed that the video footage is consistent with Benedict's description of what he observed through the viewfinder.

At about 12.14 pm on Thursday the 26th April, 2001, I executed an Evidence Search Warrant at premises known as Arrow Importing. The warrant was served on a male named Bob KNEES. KNEES supplied customs importation documents sought by investigators and he also supplied a statement to Detective Senior Constable TANNER.

At about 9.35 a.m. on Thursday the 7th June, 2001, I executed an Evidence Search Warrant at premises known as Jaguar Chemicals. The warrant was served on a male named Jason MCLEAN. MCLEAN supplied chemical transactions documents sought by investigators and he also supplied a statement to Detective Senior Constable TANNER.

VICTORIA POLICE

Name: BOYCE, Gary R. Det. Sgt.

Ethical Standards Department, Level 3, Flinders Tower, Victoria Police Centre, Melbourne. 3005.

States:

My full name is Gary Roderick BOYCE, I am a Detective Senior Sergeant of Police attached to the Victoria Police, Ethical Standards Department. I am currently attached to the Complaints Investigation Division.

On Wednesday 30 August 2000 I was performing duty as a Detective Sergeant, officer in charge of the Chemical Division Desk, Clandestine Laboratory Unit, Drug Squad. At approximately 10.20am I attended at 'PROFESSIONAL PAINTS' 600 Refinery Road, Altona. I attended at the address in reply to an early request that day to speak to the owner and a couple of sales representatives in relation to the Plastics and Chemical Industry Association's Code of Conduct.

At the address, I met a male person who introduced himself as Frank WORTHY c/that address. I formed the opinion WORTHY was the owner of the business, PROFESSIONAL PAINTS. There were three or four other male person present in the office and I was introduced to those persons by WORTHY. Now I do not remember their respective names.

There I spoke to WORTHY and the other males on the Code of Conduct and requested assistance from them in reporting to the Police breaches and/or attempted breaches of the Code. Specifically, persons attempting to source identified chemicals for legitimate or illegitimate purposes. Further, specifically, in relation to the manufacture of amphetamines and amphetamine type substances. I, on several occasions, referred to the appendices at the rear of the Code of Conduct booklet pointing out various chemical names. WORTHY and the other persons present also referred to the appendices and perused each to identify any known chemicals. WORTHY identified Toluene and Acetone as known to him. I left the premises at approximately 11.00am.

Name: RIJKARD, F. Det.Sen.Constable
Address: Drug Squad,
412 St Kilda Road, Melbourne 3004

States:

My full name is Fraser Edward RIJKARD. I am a Detective Senior Constable of Police, currently attached to the Clandestine Laboratory Unit of Victoria Police Drug Squad.

On the 6th of April, 2001, I was performing plain clothes duties in the Melbourne and surrounding areas in company with Detective Senior Constable CLARKE.

At approximately 3.40 p.m., on this day we attended at a premises operated by the Australian Customs Service in Newport. There I took possession of three light brown coloured drums. The drums were labelled Ketamine Hydrochloride, and the lids were sealed and intact. Two of the drums were marked 20 kilograms each and the remainder was marked 10 kilograms. This equaled a combined weight of 50 kilograms.

At approximately 4.25 p.m., on this day we then attended at the offices of the Victoria Technical Support Unit. At this time I spoke Sergeant Paul KENNEDY at this office. I was present when the drums were opened. After all drums had been opened we retained three inner plastic bags containing white powder which were taken from the drums.

At approximately 5.05 p.m., Detective Constable CLARKE and I returned to the office Drug Squad. At this time we entered the three plastic bags containing white powder into the Drug Squad Miscellaneous Property Book, entry number 7-13/01 refers.

At approximately 5.15 p.m., these three bags were then lodged into Unit 2 safe, drawers 1 and 2.

I have had no further contact with these items since this day.

**VICTORIA
POLICE**

Name: SWEET, Naomi

Occupation: Senior Constable

Address: Force Response Unit, Level 1, Building D, Victoria Police Centre, 637
Flinders Street, Melbourne

States:

My full name is Naomi Jane SWEET and I am a Senior Constable of Police attached to the Force Response Unit.

On 11 April 2001 was performing temporary duties at the Drug Squad. At approximately 8.00 a.m. Detective Senior Constable TANNER gave me three plastic bags containing a white powder substance (Property Book number 7-13/01) and requested me to convey them to the Victorian Forensic Science Centre.

I then conveyed these exhibits to the Victorian Forensic Science Centre. At approximately 10.36 a.m. I lodged these exhibits with Stephanie LOUDON, Forensic Officer. The exhibits were photographed in the Photographics Section. LOUDON then weighed the exhibits and conducted some initial tests in my presence. LOUDON handed me a receipt for the exhibits with a case number of 9876/001 and I then returned to the Drug Squad.

On Friday the 27th of April, 2001 I was again performing temporary duties at the Drug Squad. At approximately 1:15 pm I was handed two swabs and a sample of powder by Detective Senior Constable TANNER. These items were retained in my possession and conveyed them to the Victorian Forensic Science Centre where they were lodged for examination by the Chemical Trace Evidence Section at approximately 2:20 pm.

CERTIFICATE OF ANALYST
DRUGS, POISONS and CONTROLLED SUBSTANCES ACT 1981,
Section 120

Victoria Forensic Science Centre
Forensic Drive
MACLEOD Vic 3085

Name: WORTHY, Frank John VFSC Case No: 9876/001

I, Stephanie Marie LOUDON, being a Scientist at the Victoria Forensic Science Centre, hereby certify that:

- (1) I am employed by the Government of Victoria as an analyst
- (2) On the 11th day of April 2001, in the presence of Senior Constable SWEET, I examined the following items:

Item 1: a plastic bag secured by string enclosing a plastic bag which contained a substance in the form of white powder.

Item 2: a plastic bag secured by string enclosing a plastic bag which contained a substance in the form of white powder.

Item 3: a plastic bag secured by string enclosing a plastic bag which contained a substance in the form of white powder.

- (3) the substances (Items 1, 2 and 3) were each analysed and the following result obtained.

The substances (Items 1, 2 and 3) each contained 2-(2-chlorophenyl)-2-(methylamino)cyclohexanone (Ketamine) which is listed as a drug in column 1 of Part 1 of Schedule Eleven to the Drugs, Poisons and Controlled Substances Act 1981.

The total quantity of each of the substances (Items 1, 2 and 3), including the 2-(2-chlorophenyl)-2-(methylamino)cyclohexanone (Ketamine), and the approximate purity of the 2-(2-chlorophenyl)-2-

(methyl amino)cycl ohexanone (Ketami ne) in each, is listed in the table below:

Item	Quantity of (grams)	Approximate purity (%) of
1	10028	80
2	19985	90
3	20235	90

Total 50248

The total quantity of 2-(2-chl orophenyl)-2-(methyl ami no)cycl ohexanone (Ketami ne) in the substances (Items 1, 2 and 3) is therefore approximately 44.5 ki lograms.

The commercial quantity of a substance including, 2-(2-chl orophenyl)-2-(methyl ami no)cycl ohexanone (Ketami ne) as listed in column 2 of Part 1 of Schedule Eleven to the Drugs, Poi sons and Controlled Substances Act 1981, is 2.0 ki lograms.

STATEMENT

VFSC Case No. 9876/001

Name: Julie Maurice

STATES:

I am a Forensic Officer employed at the Victoria Forensic Science Centre, Forensic Drive, Macleod, Victoria. I hold the degree of Bachelor of Science (Honours) and Certificate in Surface Coatings Technology. I am employed in the Chemical Trace Evidence Team where my duties involve the examination of trace evidence.

On the 27th April, 2001, Senior Constable SWEET gave me the following items:

Item 7 Two swabs, both labelled "WORTHY, Frank John ...".
Item 8 A plastic bag containing white powder received as "invisible tracing powder".

The aim of my examination was to determine whether any invisible tracing powder was present on the swabs (Item 7).

By observing fluorescence at various ultraviolet wavelengths, no invisible tracing powder was detected on the swabs (Item 7). In my opinion, no invisible tracing-powder was evident on the swabs (Item 7).

MONASH UNIVERSITY

DEPARTMENT OF FORENSIC MEDICINE

OPINION RELATING TO THE EFFECTS OF KETAMINE

Instructions

This report provides an opinion on the pharmacological and toxicological effects of ketamine.

Pharmacology and Toxicology of Ketamine

1. Ketamine is a drug used legally to assist in the development of anaesthesia, but is also an abused drug related pharmacologically to the hallucinogen phencyclidine (PCP).
2. Ketamine produces an altered conscious state leading to hallucinations and symptoms of dissociation.
3. An altered conscious state is associated with irrational behaviour and delirium.
4. Other effects of ketamine include blurred vision, seizures and labile heart rate and blood pressure.
5. Ketamine has been used in date rape to render the victim incapable of defence and to cause amnesia.
6. Ketamine is therefore a dangerous drug if used recreationally or in an otherwise non-prescribed manner.
7. Long term use can lead to psychoses and violent and irrational behaviour. In this respect it is like PCP which is invariably associated with violence and dissociated behaviour.
8. Doses of ketamine range from 100 mg to over 1 gram (1000 mg).
9. Street names for ketamine include special K, KitKat, vitamin K, K and ket.
10. Ketamine has been known to occur as an adulterant or additive of other street drugs.

11. Registered medical names of ketamine include Ketalar. Veterinary use includes Ketaset, Ketapex and Ketamil.
12. Ketamine is absorbed by nasal mucosa as well as by traditional routes (eg oral) and has a quick onset of action.
13. The terminal elimination half-life is about 2-4 hours. This means the acute effects will last for some hours after use.

Signed: Olaf H. Drummer

Qualifications and Experience of Olaf H. Drummer

Olaf H. Drummer is employed at the Victorian Institute of Forensic Medicine as Head (Scientific Services). He holds the position of Associate Professor in the Department of Forensic Medicine, Monash University.

Olaf H. Drummer is a forensic pharmacologist and a toxicologist and has been involved in the analysis of drugs and poisons and in the interpretation of their biological effects for over 25 years. He has lectured widely on this subject and has given evidence in court on over 200 cases. He is gazetted as an approved expert under the Road Safety Act (1986).

He has published over 200 papers in scientific journals and other reports and is the main author of the book "The Forensic Pharmacology and Toxicology of Drugs of Abuse" (Arnold, June 2001). He has also written the chapter on forensic toxicology in "Expert Evidence" by Freckleton & Selby (LBC), and a few chapters on this science in the Encyclopedia of Forensic Science (Elsevier, 2000).

His formal qualifications include a Bachelor of Applied Science (Chemistry) from RMIT (1974) and Doctor of Philosophy in Medicine (Ph.D.) in Pharmacology from Melbourne University (1980). He is a member of a number of professional societies including the Australian Academy of Forensic Science (AAFS) and the Royal Australian Chemical Institute (RACI). He is an Executive Office and Treasurer of the International Association of Forensic Toxicologists (TIAFT).

RECORD OF INTERVIEW BETWEEN DETECTIVE SENIOR CONSTABLE TANNER AND FRANK JOHN WORTHY. CONDUCTED AT THE OFFICES OF THE DRUG SQUAD ON SATURDAY THE 21ST OF APRIL, 2001. OTHER PERSONS PRESENT, MY CORROBORATOR, DETECTIVE SENIOR CONSTABLE JACOBS.

Q 1 Mr Worthy, do you agree that the time is now approximately 2 minutes past 3.00 pm?

A Yes, I do.

Q 2 What is your full name and address?

A Frank John Worthy. The address is 22 Chapel Street, Keilor.

Q 3 I'm going to interview you in relation to the offence of trafficking in a drug of dependence. 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. Do you understand those rights?

A Yes, I do.

Q 5 If you are not an Australian 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 also understand that right?

- A Yes, I do.
- Q 6 Do you wish to exercise any of these rights before the interview proceeds?
- A No, I don't.
- Q 7 Would you agree that your wife is aware of your current location?
- A Yes I do.
- Q 8 And is it correct that you've had a opportunity to seek legal advice from a solicitor, Nick Leinster prior to this interview?
- A I had an opportunity to get initial legal advice, yes.
- Q 9 Okay. Are you an Australian citizen?
- A Yes.
- Q 10 Are you a permanent resident in Australia?
- A Yes.
- Q 11 Are you of Aboriginal or Torres Strait Islander descent?
- A No.
- Q 12 Okay. Just - we're going to suspend the interview for a period of time while we make some further enquiries. Would you agree that the time is now approximately 5 minutes past 3.00 pm?
- A I accept that.
- Q 13 Tape recorded interview suspended at this time.

INTERVIEW SUSPENDED

TAPE RECORDED INTERVIEW RECOMMENCED BETWEEN DETECTIVE SENIOR CONSTABLE MONICA TANNER AND FRANK JOHN WORTHY OF 22 CHAPEL STREET, KEILOR, CONDUCTED AT THE OFFICES OF THE DRUG SQUAD, ON SATURDAY 21ST OF APRIL, 2001. OTHER PERSONS PRESENT, MY CORROBORATOR, DETECTIVE SENIOR CONSTABLE JACOBS.

Mr Worthy, do you agree that the time is now approximately 3 minutes past 4.00 pm?

A Yes, I do.

Q 14 What is your full name and address?

A Frank John Worthy, I live at 22 Chapel Street, Keilor.

Q 15 I intend to interview you in relation to trafficking in a drug of dependence. 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 16 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 an Australian 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 17 Do you wish to exercise any of these rights before the interview-proceeds?

A No, I do not.

Q 18 Alright. I mentioned to you earlier - or put it to you earlier that your wife was aware of where you are at the moment. Is that correct.

A That's correct.

Q 19 And you'd had - you've had a chance to seek some legal advice. Is that correct.

A Yes, I have.

Q 20 Are you happy to proceed with the interview at this time?

A Yes, I am.

Q 21 During the break in the interview, were you questioned at all in relation to the offence?

A No, I was not.

Q 22 Can you tell me a bit about your activities of yesterday?

A I'm acting on the advice of my solicitor and taking his advice not to talk, or speak, or give any information. I'm not happy about it, but I'm doing it.

Q 23 Alright. Can you tell me a bit about your activities of today?

A Once again, I'm acting on the advice of my solicitor.

Q 24 Is it your intention to answer, "No comment," to any questions or allegations that I do put to you?

A Yes, it is.

Q 25 Okay. I'll, nevertheless, put a number of matters to you. You're - quite within your rights to make no comment in relation to those matters.

A Thank you.

Q 26 I put it to you that yesterday being the 20th of April, a shipping container, number MELW222333, arrived at 600 Refinery Road, Altona North. What do you say to that?

A I have no comment.

Q 27 Okay. I put it to you that that premises is, in fact, premises known as Professional Paints. What do you say to that?

A I have no comment.

Q 28 I put it to you that you're, in fact, a director of that business. Is that correct?

A I have no comment.

Q 29 I put it to you that you were, in fact, the recipient of that shipping container. What do you say to that?

A I have no comment.

Q 30 I put it to you that your company was, in fact, the - or yourself were, in fact, the consignees of that shipping container. What do you say to that?

A I have no comment.

Q 31 What were the contents of that shipping container?

A I have no comment.

Q 32 I put it to you that the shipping container was - or contained packages of citric acid anhydrous. What do you say to that?

A I have no comment.

Q 33 I further put it to you that there were 3 cardboard drums located in the shipping container. What do you say to that?

A I have no comment.

Q 34 I further put it to you that you were aware that those 3 drums would be present in the shipping container. What do you say to that?

A I have no comment.

Q 35 I further put it to you that the drums were marked as containing ketamine hydrochloride. What do you say to that?

A I have no comment.

Q 36 Well, I further put it to you that you, in fact, arranged the importation of that ketamine hydrochloride. What do you say to that?

A I have no comment.

Q 37 Are you aware of where the shipping container originated?

A I have no comment.

Q 38 Do you travel overseas often yourself?

A I have no comment.

Q 39 What was your intention to do with the citric acid?

A I have no comment.

Q 40 What was your intention to do with the ketamine hydrochloride?

A I have no comment.

Q 41 You are aware that ketamine hydrochloride is, in fact, a Schedule 11 drug of dependence listed in the Drugs, Poisons and Controlled Substances Act?

A I have no comment.

Q 42 I further put it to you that there was approximately 50 kilograms of ketamine

hydrochloride located in those 3 cardboard drums.
What do you say to that?

A I have no comment.

Q 43 Were you authorised by, or licensed under, the
Drugs, Poisons and Controlled Substances Act to
possess or traffick in ketamine hydrochloride?

A I have no comment.

Q 44 Are you a registered-, registered veterinary
surgeon, chemist or physician?

A I have no comment.

DETECTIVE SENIOR CONSTABLE JACOBS:

Q 45 I have a couple of questions to ask. Frank, I'm
not going to ask you specific questions, but is
it true that you are the owner of a paint shop in
Altona North?

A I have no comment.

Q 46 Right. Is it true it's in Refinery Road - - -?

A I have no comment.

Q 47 Altona North? Alright. Is it true that today at
about 10.30 am, you were there with other people?

A I have no comment.

Q 48 And at round about that time - I haven't got me
notes with me - but police attended your premises
there?

A I have no comment.

Q 49 We identified ourselves as police?

A I have no comment.

Q 50 And we gave you a copy of the search warrant.

A I have no comment.

Q 51 Right. You don't wish to agree or disagree
with me at this stage?

- A I have no comment.
- Q 52 Okay. Is it true that you were explained the details of the search warrant?
- A I have no comment.
- Q 53 And, as a result, we - the police began to search your - your place. Is that correct?
- A I have no comment.
- Q 54 Alright. You were then - you were obviously taken out the back and shown 3 drums on a pallet. Is that correct?
- A I have no comment.
- Q 55 And we put it to you that those 3 drums were the ketamine hydrochloride.
- A I have no comment.
- Q 56 Alright. After that, a further search of the place was conducted. Is that correct?
- A I have no comment.
- Q 57 And then you were taken to your home premises by myself and Detective Tanner here. Is that correct?
- A I have no comment.
- Q 58 At the actual premises we told you, it was all quite - quite - you were quite cooperative, and we showed you a copy of the search warrant there. Is that correct?
- A I have no comment.
- Q 59 And, in fact, you were given a copy of the search warrant. Is that correct?
- A I have no comment.
- Q 60 Okay. And a search of your home was conducted in your presence. Is that right?
- A I have no comment.

Q 61 During that search, your wife turned up - turned up home. Is that correct?

A I have no comment.

Q 62 And, again, she was present while the - while the premises were searched. Is that right?

A I have no comment.

Q 63 Okay. As a result of that search, 2 hard drive computers were seized and a - a laptop computer was seized. Is that correct?

A I have no comment.

Q 64 And you, in fact, as-, assisted us into removing the computers from - from the - actual computers - the computers were inside. Is that correct?

A I have no comment.

Q 65 Alright. No worries. And after that you've walked back here to the office and you were placed on tape. Is that correct?

A I have no comment.

Okay. Thanks.

DETECTIVE SENIOR SERGEANT TANNER:

Q 66 Would you like to make any comment at all in relation to the allegations or questions that have been put to you?

A I have no comment.

DETECTIVE SENIOR SERGEANT JACOBS

Q 67 Can you just give me a reason for having in your possession ketamine, please?

A I have no comment.

DETECTIVE SENIOR SERGEANT TANNER:

Q 68 Mr Worthy, you're going to be charged with trafficking and possessing a drug of dependence, namely ketamine. 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. Do you understand this?

A Yes, I do.

Q 69 Do you wish to say anything in answer to the charge?

A I have no comment.

Q 70 Do you wish to make a further statement in relation to the matter?

A I have no comment.

Q 71 Also ask you some questions in relation to the taking of your fingerprints. Earlier I said, you're going to be charged with the offence of, offences of trafficking and possessing a drug of dependence. Your fingerprints are required for the purposes of identification. Your fingerprints may be used in evidence at court. If you refuse to give your fingerprints voluntarily, a member of the police force may use reasonable force to obtain them. If you're not charged with a relevant offence within six months, or are so charged but the charge is not proceeded with, or you are not found guilty of the offence or any other relevant offence before the end of that period, then the fingerprints will be destroyed. Do you understand all this information?

A Yes, I do.

Q 72 Do you wish to comment on this information?

A I have no comment.

Q 73 Right. Do you consent to giving your fingerprints?

A Yes, I do.

Q 74 I'll just ask you one further question in relation to the taking of a forensic procedure. If you refuse to undergo the forensic procedure, police may apply to a magistrate for permission to have you undergo the forensic procedure. The forensic procedure in question I'm talking about is an examination of your hands under an ultraviolet light. Do you have any objection to undergoing that forensic procedure?

A I have no objection.

Q 75 Okay. Alright. I'll now conclude the interview. Do you agree the time is now approximately 13 minutes past 4.00 pm?

A Yes, I do.

Q 76 Tape recorded interview concluded at this time.

INTERVIEW CONCLUDED

STATEMENT

Name: Covert Operative, 631
Address: Covert Operations Unit, St Kilda Road Police Complex
Occupation: Senior Constable of Police

STATES:

On Saturday the 21st of April 2001, I was instructed by my superior officer to attend at the Melbourne Assessment Prison. I was informed that I would be placed in a cell with a man who was suspected of having imported a drug of dependence in a shipping container. I was not informed what the drug of dependence was, or any other details of the alleged offence, or of the alleged offender. On arrival at the Prison I was placed in a cell in the remand section of the prison. I was equipped with a covert recording device.⁵

At approximately 6.15 pm a man I now know to be Frank WORTHY was brought to the cell by custodial officers. I introduced myself. I told him that my name was Jim. I made general conversation with him.

He asked me what I was in for. I told him that I had been in a fight with my missus, and had been charged with assault.

I asked him what he was in for. He told me that Customs had found a shipment of ketamine hydrochloride in a shipping container that had been sent to him. He said that the ketamine hydrochloride wasn't his.

I asked him what ketamine hydrochloride was. He told me that it was a horse tranquilliser, that it was also known as "Special K", and that it was sometimes used as an ingredient in ecstasy tablets.

I asked him how much of this "Special K" the police had found. He told me that the police had found about 50 kilograms of it, and that this amount was worth about \$1 million wholesale.

We then continued with general conversation. During the course of that conversation he informed me that he was the owner of a paint supply business, and that the business was having financial difficulties.

I was subsequently removed from the cell. I have had no further conversations with WORTHY since that time.

⁵ You are instructed that the witness' account of the conversation is substantially accurate, and can be verified by the recording.