

MEMORANDUM OF ADVICE

R v Heidi Jane Taylor

Introduction

The purpose of this memorandum is to provide advice on prospects of conviction in relation to one charge of Attempting to Import a Prohibited Import pursuant to s.233B(1)(b) of the *Customs Act 1901* (Cth) (the Act) against Heidi Jane Taylor (the accused).

Charges

The accused has been charged with the following offences:

1. s.233B(1)(b) Importing a Prohibited Import. This charge relates to a quantity of 3-4 methylenedioxymethamphetamine (MDMA) that was located inside a latex glove in the handbag of the accused.
2. s.233B(1)(c) Possess a Prohibited Import. This charge also relates to the MDMA located in the latex glove.
3. s.233B(1)(b) Attempting to Import a Prohibited Import. This charge relates to three parcels (items 01,02 and 03) each containing a quantity of MDMA, that were addressed to the accused but which were intercepted by Customs after they arrived in Australia by post on or about 7 Jun 01.

The accused has indicated at Committal an intention to plead guilty to charges 1 and 2 and an intention to plead not guilty to charge 3. This advice is limited to charge 3 but will deal with evidence relating to charges 1 and 2.

Elements of the offence

To make out the offence of Attempting to Import a Prohibited Import it is necessary for the prosecution to prove the following elements:

1. The conduct of the accused was more than merely preparatory to the commission of the offence (of Importing a Prohibited Import);
2. The conduct of the accused was immediately and proximately connected with the commission of the offence;
3. The accused intended that the offence be committed; and

4. The accused either intended or believed that any fact or circumstance, the existence of which is an element of the offence, would exist at the time the offence was committed. In this case the relevant elements would be:

- a. that the three parcels were imported into Australia; and
- b. that the three parcels contained a Prohibited Import.

Note that it is not necessary for the prosecution to prove that the accused knew that MDMA is a 'prohibited import' in accordance with the Act. It is sufficient if the prosecution is able to prove that the accused knew of the presence of a narcotic drug.

Summary of Prosecution Case

It will be alleged that the accused was a knowing participant in a scheme to import MDMA into Australia from the United Kingdom for the purpose of sale. The prosecution alleges that the accused was involved or had knowledge of the packaging of the three parcels containing MDMA and either assisted in or was aware of their being posted to Australia. The accused was then involved at the final stage of the importation process. After the parcels had been posted she flew to Melbourne from London and booked into the Bayview on the Park Hotel (the Hotel). The three parcels had been addressed to the accused at the Hotel and she checked in there to wait for them. The parcels did not arrive immediately as unbeknownst to the accused they had been intercepted by a random Customs inspection. Federal Police then carried out a controlled delivery operation of the parcels after removing the MDMA and substituting imitation pills.

After the accused accepted delivery of the packages she transferred some money by international transfer to an associate in the scheme, known as Timothy Dempster. The room of the accused at the Hotel was then searched by police. During that search the accused was found to be in possession of the MDMA set out in charges 1 and 2 and made admissions that she had brought the drugs into Australia from London hidden in her bra. During a conversation with police at the search, and later in a recorded interview, the accused claimed that she was the innocent agent of another female person, possibly called Katrina, who had asked the accused to receive some mail on her behalf. The accused was thereby implying that she was unaware that the packages contained MDMA.

The MDMA located in the possession of the accused was virtually identical in appearance and physical composition to the MDMA located in the three packages. All four quantities of MDMA consisted of white pills with an eagle on one side and a half score on the other. All four quantities of pills had an MDMA purity of between 21.7-21.9%.

The accused's involvement in the scheme is corroborated by evidence that she has no visible means of support for her jet setting lifestyle. The accused claims to be unemployed and on a pension. However, there is evidence to show that the accused visited Melbourne from London a short time earlier, departing Australia approximately

three weeks before the trip the subject of the current charges. During that previous trip the accused transferred approximately \$5000 by international transfer to Timothy Dempster, a person who the prosecution alleges is an associate of the accused in the scheme.

The prosecution case is therefore that the accused, far from being an innocent agent, is in fact a participant with full knowledge in a scheme to import and sell MDMA in Australia. The prosecution case theory turns upon the issue of whether the accused received the parcels, intending or believing that they had been imported and intending or believing that they contained ecstasy. If these issues are proved beyond reasonable doubt then each of the four elements of the offence will be proved beyond reasonable doubt.

The central issues then are as follows:

1. The accused intended or believed that the parcels contained ecstasy; and
2. The accused intended or believed that the parcels were imported.

Contents of parcels

The prosecution will allege that the accused was either involved in or had knowledge of the packaging of the three parcels. The centrepiece of the prosecution case is the thumbprint of the accused, which was identified on a piece of card inside item 03. The statement of the fingerprint expert, Federal Agent Park, is not clear on when the latent fingerprint of the accused was located on the card. Assuming that it was located on the card on 12 Jun 01, prior to the parcel being delivered to the accused on 13 Jun 01, then this proves that the accused had physical contact with the contents of item 03 prior to it arriving in Australia. This is inconsistent with the version of the accused that she had agreed to receive some mail on behalf of a female person who she did not know very well. A further statement should be sought from Federal Agent Park to clarify when he located the accused's thumbprint on the card.

However, the thumbprint only proves that the accused had contact with that card. The prosecution must rely on circumstantial evidence and a series of catenate inferences to establish the accused's knowledge of the contents of the parcels.

The three parcels were addressed in the name of the accused to the Hotel. The accused did not live permanently at the Hotel. Accordingly, the person who addressed the parcels must have had knowledge or belief that the accused would be staying at the Hotel at a time after the parcels were posted. The fact that the accused was travelling to Australia and would be staying at the Hotel would be known to the accused and a reasonably limited number of persons. The most likely explanation for how the parcels were addressed to the accused at the Hotel is that either the accused addressed them or told the person preparing the parcels where she intended to stay. The latter is more likely in that one of the parcels misspelt the surname of the accused.

It appears highly likely that all three parcels were prepared and sent by the same party or parties. The parcels were examined by AFP Scientific Officer C. Garland. The three parcels had very similar packaging and contents. The three parcels used identical white business envelopes and addresses were hand written with return addresses in London. All three envelopes were addressed to the accused at the Hotel. All contained identical black cardboard portfolios and near identical amounts of MDMA wrapped in bubble wrap. The MDMA in each case consisted of white tablets marked with an eagle. The analysis of the MDMA indicated that in each case the purity of MDMA in the tablets was 21.7 and 21.9 %. The prosecution would seek to draw the inference that the same party or parties prepared all three packages. Accordingly if the accused can be associated with item 03 by way of the thumbprint then the prosecution would seek to draw the inference that the accused knew of or was involved in the preparation of all three packages.

It is highly likely that all three packages were sent from the United Kingdom on 4 Jun 01. While the postmarks on the packages are not clear, Customs Officer Foster indicates that this batch of mail came from the United Kingdom. Two of the packages have a postmark date stamp of 4 JNE 2001 5-30PM. One of the packages contained newspaper cuttings that appeared to be of English origin. Allied with the fact that it is likely that they came from the same source, and the fact that the time of arrival is consistent with having been posted from the United Kingdom on 4 Jun 01 it is reasonable to conclude that the parcels left the United Kingdom on or about 4 Jun 01.

The significance of this date is that it is highly likely that the accused was in the United Kingdom on 4 Jun 01. There are travel records from the Department of Immigration and Multicultural Affairs (DIMA) to indicate that the accused departed Australia on 20 May 01 on flight BA 18. Confirmation is required that flight BA18 goes to London. There are travel records from DIMA and an airline ticket and boarding pass seized from the room of the accused at the Hotel to indicate that the accused travelled from London to Melbourne on 6 Jun 01, arriving in Australia on 8 Jun 01. The accused was in the United Kingdom at the times the parcels were dispatched and had an opportunity to participate in their construction or to at least know of their existence.

During the interview with police the accused indicated that the packages had been posted from Cambridge. According to the witness Scientific Officer Craig Garland item 03 had a partial postage stamp on it that said 'CA... MAIL CENTRE'. Further evidence is required to determine whether the marking CA... MAIL CENTRE is a postal mark designator for Cambridge or whether the full postal mark says 'Cambridge' and the postmark on the parcel was partial. Assuming that the mark CA... does not of itself mean Cambridge then there is no basis from an external observation of the packages to indicate that they were posted from Cambridge. The prosecution would seek to draw the inference that the accused knew or believed that the parcels had been posted from Cambridge. Given that there are no external factors to give the accused this knowledge or belief, it can also be inferred that the accused had some pre-existing knowledge of the parcels. This is inconsistent with the version supplied to police that she agreed to receive some parcels from a person she had met called Katrina.

The accused was found in possession of a quantity of MDMA of a very similar nature to the MDMA that was located in the parcels. It consisted of identical white tablets marked with an eagle and with a composition of 21.8% MDMA. The inference the prosecution seeks to draw is that the MDMA in the possession of the accused came from the same source as the MDMA in the parcels and that accordingly the accused knew or was associated with the party or parties that constructed the parcels. The prosecution would seek to lead the evidence in relation to the MDMA found in the possession of the accused on the basis of co-incidence; i.e. that it is too great a co-incidence for the accused to be in possession of a particular kind of MDMA and to have received three parcels containing exactly the same kind of MDMA.

The prosecution would also seek to draw an inference from the amount of MDMA that was in the possession of the accused. The estimated weight of 4.1 grams of pure MDMA from the analysts certificate is approximately eight times the amount deemed a commercial or trafficable quantity. The prosecution may need to call expert evidence to provide an opinion that this amount is unlikely to be for personal use. Again this evidence may be tendered on the basis of co-incidence, i.e. that it is too great a co-incidence for the accused to have a commercial quantity of a particular kind of MDMA and to have received three parcels all with commercial quantities of MDMA. It is also possible, but more unlikely, that the evidence could be tendered on the basis of tendency in that the accused has a tendency to traffic in MDMA.

If it is accepted that the accused had knowledge of the contents of the parcels or some involvement with their construction then it will be accepted that the accused knew that the parcels contained small white pills marked with an eagle, wrapped in bubble wrap. There is evidence that the accused had possession of a number of identical white pills, marked with an eagle, which she knew to be ecstasy. The inference sought to be drawn is that the accused knew that the white pills in the parcels were also ecstasy. This inference is of course dependent upon the conclusion that the accused knew what was in the packets. Proving that the accused had knowledge that the white pills marked with an eagle were ecstasy is an alternative basis upon which the prosecution should try to get the the accused's possession of a commercial quantity of MDMA into evidence.

One significant gap in the police evidence is the location and state of items 02 and 03 after they recovered them from the accused. It is very unclear from the police statements whether items 02 and 03 were recovered when the search of the accused's room occurred. It appears from the record of interview that the parcels were present in the interview room. However, they are not listed as being recovered by any of the police who searched the Hotel room of the accused. The location and state of the parcels could be a highly significant piece of evidence (for example if the accused had hidden the parcels or removed the drugs from them). While it is likely that police would have placed such evidence in their statements if it had been significant, police should be asked to provide additional statements setting out the location and state of items 02 and 03 when they were recovered.

Overlaid across this evidence are two general inferences that the prosecution will seek to apply to each of the elements of the offence. They are:

1. The behaviour of the accused is consistent with the importing of illicit drugs into Australia for sale; and
 2. The accused lied to police out of consciousness of guilt.
- These two issues are dealt with separately below.

Importation of parcels

The term importation extends upon both sides of the actual act of importing into the country (*R v Courtney-Smith (No 2) (1990) 48 A Crim R 49*). Accordingly in the instant case, the importation would be comprised of the act of putting the parcels in the post, the action of the innocent agent (the postal service) of moving the item to Australia, and the action of collecting the mailed item in Australia. An individual can be involved with 'importing' an item if they collect it in Australia knowing that it has been imported from overseas (*R v Leff (1996) 86 A Crim R 212*).

In this case, the accused would be liable for attempting to import the parcels if she was involved in their postage or if she was involved in their collection with knowledge that they had been so imported (*Kural v The Queen (1987) 162 CLR 502, R v Lee [1990] 1 WAR 411*).

The prosecution will allege that the accused travelled to Australia to collect the parcels and therefore either knew or was involved in their postage. Even if it cannot be shown that the accused was involved with their postage, it will be inferred that the accused believed or intended that they would be posted and collected the parcels believing that they had been imported.

If it is accepted that the accused had some knowledge of the parcels prior to their arrival in Australia, it will be noted that each parcel was addressed in the name of the accused to the Hotel. It is inferred that the accused knew that the parcels were so marked.

From the discussion above about the likely date and location of postage of the parcels the prosecution would draw the inference that the three parcels were posted from the United Kingdom to the accused at the Hotel on or about 4 Jun 01. There is sufficient evidence to show that the accused departed the United Kingdom on 6 Jun 01 and after arriving in Australia checked into the Hotel on 8 Jun 01.

There is evidence that the bookings for the hotel room in the name of the accused were first made by e-mail on 31 May 01. There is evidence to support the inference that the accused was the person who made this initial booking in that the credit card number supplied to the Hotel was that of the accused.

The prosecution seeks to draw an inference from the timings of the above events that they are related. This inference is supported by the fact that when the police delivered the items they were accepted by the accused without comment.

Given the accused's knowledge or involvement with the parcels prior to the accused coming to Australia and the accused's receipt of the parcels in Australia there is sufficient evidence to infer that the accused either knew or intended that the parcels would be imported to Australia. By receiving the parcels the accused carried out the last step in the plan of importing the parcels into Australia.

The behaviour of the accused is consistent with the importing of illicit drugs into Australia for sale

There is significant evidence to show that this offence is part of a pattern consistent with the accused importing illicit drugs to Australia for the purpose of sale.

The accused claims to be unemployed and on a pension. Whilst the amount of the pension is not made clear, it is assumed for the purposes of this advice that it is not a significant income (no doubt the accused's bank records would make this clear). Nonetheless there is evidence to suggest that the accused is expending significant sums of money without visible means of support.

There is evidence from passenger cards and movement records provided by DIMA that the accused travelled from overseas to Melbourne on 30 Mar 01 and returning overseas on 20 May 01. It is assumed that a check of the flight records would show that London was the accused's point of departure and return.

During that visit to Australia the accused transferred money to a Mr. Timothy Dempster on two occasions. According to Commonwealth Bank records provided by witness A. Scully the accused transferred \$1991.08 (670 pounds) by International Money Transfer on 10 Apr 01 to Timothy Dempster. There are also records to indicate that on 11 May 01 the accused attempted to transfer \$3041.29 (1090 pounds) to Nobo-Valley Properties, London but that on 11 May 01 this money was re-directed to Timothy Dempster. It is not clear how instructions for this re-direction were given and further inquiry should be made.

The accused then flew to Australia again on 6 Jun 01 arriving 8 Jun 01. On 13 Jun 01 after receiving the parcels the accused transferred the sum of \$663.83 (250 pounds) to Timothy Dempster according to records received from Ms. J. Koutsoukianis of Westpac Bank. In a period of just over 2 months the accused has incurred 2 international airfares and transferred \$5696.20 (2010 pounds) to Timothy Dempster. The prosecution would seek to draw the inference that the accused had an unexplained source of income.

The prosecution would also seek to draw the inference that Timothy Dempster is some sort of associate or accomplice in relation to the importation of illicit drugs into Australia. There is evidence that the Hotel received an e-mail from Timothy Dempster on 3 Jun 01. The e-mail made a reservation for 7 Jun 01, booking out on 8 Jun 01. The e-mail then goes on to speak in the first person "I have made a booking for 8th of June 2001 but due to my early arrival on the morn of 8th June, guest name Heidi Taylor". This e-mail

appears to have been sent by Heidi Taylor with the assistance of a Timothy Dempster. The Hotel received a further e-mail on 4 Jun 01 from Timothy Dempster “the reservation is actually for Heidi Taylor, who is arriving at 6.00 am on 8 June 2001”.

When combined with the evidence that the accused transferred large sums of money to Timothy Dempster and when combined with the evidence that the accused knowingly imported MDMA on the current visit to Australia it may be open to conclude that Timothy Dempster is an accomplice or associate of the accused. The prosecution would also seek to infer that it is likely that the accused imported and then sold illicit drugs on the occasion of her previous visit to Australia.

The inference that the accused is involved in a scheme to import illicit drugs for sale in Australia is further supported by the fact that the accused has admitted to importing and possessing a commercial quantity of MDMA.

The effect of this evidence in relation to the current charges is that if it is accepted that the behaviour of the accused is consistent with the importation of illicit drugs for sale then it is more likely that the accused knew about the parcels and knew that they contained ecstasy.

In terms of admissibility there is some doubt as to whether this evidence could be admitted. The principal objection would be relevance. The secondary objection would be that the prejudicial value of the evidence outweighs any probative value. In terms of timing, the prosecution should probably seek to lead this evidence towards the end of the case when hopefully the other facts have been firmly established.

The accused lied to police from consciousness of guilt

The prosecution may seek to bolster a number of its propositions by establishing that the accused lied to police and then seeking to draw the inference that she did so out of consciousness of guilt.

The lie sought to be established is in relation to the mysterious girl Katrina who the accused claims sent the packages. The prosecution would rely upon a combination of the inconsistency in the versions provided by the accused, the inherent unlikelihood of the claim and the evidence that the accused knew of or was involved in the packaging of the three parcels to prove that the accused lied to police about Katrina.

During the recorded conversation that occurred when the room of the accused was searched the accused implied that she had talked to a person called Katrina in London and that Katrina had said she would call the accused when she arrived in Australia. The accused was surprised that the parcels had arrived with her name on them and not Katrina’s name. The accused could only remember that Katrina’s surname had started with a ‘H’ and that she went to school at Wesley. The accused also said that Katrina had supplied her with the ecstasy that was located in her handbag.

During the recorded interview with police, the accused did not identify the person my name. Instead the accused said it was just ‘a girl who I met out’.

The versions of the accused in relation to the identity of the unknown persons are partially inconsistent even though they were provided just hours apart. In addition it is inherently unlikely that a person would agree to receive mail for another person, whom they hardly knew, and who had just supplied illegal drugs as any reasonable person would suspect that the mail may contain illegal drugs.

The evidence to show that the accused knew of or was involved in the packaging of the three parcels is discussed in detail above. Of particular relevance is the statement by the accused during the recorded interview that the parcels had been posted from Cambridge and that she had never been to Cambridge. The effect of this admission has been discussed above in relation to the accused’s pre-existing knowledge of the parcels. This admission is inherently inconsistent with the version of events supplied to police.

The accused also told police that Katrina gave the accused the quantity of MDMA that was found in her possession. It is highly unlikely that any persons would give away a commercial quantity of MDMA. The prosecution should seek some expert evidence as to the street value of such a quantity of MDMA.

When these issues are combined with all the other facts and circumstances of the case it is suggested that it would be safe to infer that the accused lied to police and created the person Katrina out of consciousness of her own guilt.

Likely Defence Case Theory and Prosecution Counter-Arguments

As the accused has made a claim to police that she was the innocent agent of the person ‘Katrina’ the defence is likely to have little choice but to continue and develop this theme. The defence may be able to capitalise on a number of incongruities and dissident notes in the prosecution case.

The principal piece of evidence that the Defence must either explain away is the presence of the fingerprint of the accused inside item 03. The Defence would be likely to point out that on all of the packaging the thumbprint of the accused appears only on a single card. If the accused had been involved with the preparation of the packages, it might be expected that the fingerprints of the accused would appear on various parts of the packaging. The Defence may also point out that the accused did meet and associate with the person Katrina shortly before the accused came to Australia. The Defence may attempt to raise a rival inference that when the person Katrina was collecting material to put in the parcels one of the items she used was a card that the accused had touched previously. Finally the defence would point out that Federal Agent Park’s statement provides evidence of other unidentified latent fingerprints on the packaging indicating the involvement of an unidentified party.

To minimise the impact of this submission the prosecution may seek to lead evidence from the fingerprint expert to the effect that not every touching of an object will leave a latent fingerprint. In relation to the fingerprints of others, the prosecution would submit that it is consistent with the prosecution case that the accused carried out her plan in co-operation with others. In relation to the possibility that the person Katrina used a card that had been touched by the accused the prosecution would have to concede that this is possible but would rely on all of the other circumstances showing the accused's pre-knowledge of the parcels to negative the rival inference.

In relation to the addressing of the parcels the Defence could rely on the fact that the surname of the accused was misspelt to raise an inference that it was unlikely that the accused was involved in the preparation of the parcels. The accused would be very unlikely to misspell her own name. However, it is not the prosecution case that the accused was involved in each element of the preparation of the parcels. Rather, the prosecution submits that the accused was involved in or had knowledge of the parcels and carried out the plan in co-operation with others.

In relation to the accused's unsolicited statement that the parcels had been posted from Cambridge, the Defence may seek to call evidence from the accused. The accused may play down this admission by saying that she saw the marking 'CA... MAIL CENTRE' on the parcel. Having spent a lot of time in the United Kingdom the accused mentally filled in the gaps and assumed that it meant Cambridge. The prosecution may counter this assertion by tendering the packaging for the jury to see. As discussed above further evidence should be sought in relation to the actual postmark that is used by Cambridge mail centre. As the accused would necessarily be called upon to give evidence the prosecution may be able to set some useful traps in cross-examination on this issue. A review of the record of interview reveals that the accused is unlikely to give coherent evidence.

The defence would be likely object to the evidence in relation to the accused's possession of MDMA tablets similar to those found in the parcels. If that objection was unsuccessful then the Defence would be likely to submit that it is unremarkable that the accused had in her possession MDMA tablets of a similar kind to those found in the packages. Given the explanation of the accused that she received the tablets from the person who sent her the packages the Defence would submit that the person was trying to import the drugs into Australia with the accused as a gullible but innocent agent.

The Defence may submit that it is inconsistent with the Prosecution case theory, that the accused was involved in a plan to import the MDMA in the parcels, for the accused to carry some MDMA with her on the flight. The carriage of the MDMA on the flight carried with it an inherent risk of being caught during a random search or by a drug dog. If the accused were involved with the parcels then it would have been much easier to put all the MDMA in the parcels rather than create an unnecessary risk.

This is a more difficult argument for the Prosecution to counter. The prosecution could rely upon all the other evidence that shows the accused had some pre-existing

involvement with the parcels and then make a submission that perhaps the accused was 'hedging her bets' that she would still have some ecstasy to sell in the event that the parcels did not arrive. The prosecution would rely upon the quantity of MDMA in the possession of the accused to show that the accused was not merely carrying some MDMA for personal use.

It is likely that the Defence would successfully object to the evidence in relation to the accused's previous trip to Australia and the amounts of money transferred to Timothy Dempster. However, if the Prosecution is able to put this material into evidence the Defence would be likely to provide an alternative explanation for the money transferred by the accused. This would be a relatively simple story for the accused to create. She could say that she had a rich boyfriend who had lent her some money and she was paying it back. She could say that she was given the money by her parents or she could use the ever popular gambling winnings excuse.

The prosecution would find such explanations relatively difficult to counter of themselves. A detailed examination of the accused's bank records may provide the prosecution with some assistance. The bank records could then be compared with the version of the accused for inconsistencies.

In relation to the prosecution submission that the accused lied from consciousness of guilt, the Defence would be likely to submit that the two versions submitted by the accused are not inconsistent in that the person Katrina was someone the accused met out and who had told the accused that she went to school at Wesley. Whilst a normal person might be suspicious about the parcels the accused has suffered a head injury that has left her impaired and particularly vulnerable. The Defence may go the extent of calling expert evidence about the degree of mental incapacity suffered by the accused. The arguments for countering the accused's pre-existing knowledge of the parcels are discussed above. In relation to the commercial quantity of MDMA, the defence may offer the explanation that it was offered as an inducement to make the accused more likely to agree to accept the parcels.

As discussed above the prosecution would counter these arguments with the evidence in relation to the accused's pre-existing knowledge of the parcels. The Prosecution would also utilise the generalisation that it is unlikely that an unknown person would simply give to the accused an amount of MDMA equal to eight times the statutory commercial quantity.

Strength and Weaknesses of the Opposing Cases

The Prosecution case relies upon a number of pieces of circumstantial evidence, each of which is of itself capable of innocent explanation. It is the kind of case that relies upon the preponderance of factors to overcome the legal burden. The thumbprint on the card in item 03 is the lynchpin of the prosecution case.

The prosecution case is vulnerable to attack on grounds of admissibility. There are two significant bodies of evidence that may be ruled inadmissible: the evidence that the accused had possession of a commercial quantity of MDMA and the evidence in relation to the accused's financial circumstances and previous trip to Australia. If the latter is ruled out the prosecution case is weakened. If the former or both are ruled out then the prosecution case is significantly weakened.

Accordingly it may be advisable for the prosecution to have a number of alternative charges in place such as:

1. s.233(1)(b) Attempting to obtain possession of a prohibited import; and/or
2. s.233(1)(ca) Attempting to obtain possession of prohibited import reasonably suspected of being imported.

The Defence case is able to offer a number of plausible explanations for the circumstantial evidence. The fact that the accused is under a mental disability will assist in explaining away generalisations relied upon by the prosecution (eg: most people would not accept mail for a person they do not know who has just supplied them with an illicit drug). It will lend credence to an otherwise unlikely account of innocent agency. If the Defence is able to have the evidence in relation to the possession of drugs and the past behaviour of the accused rejected then the Defence will have a reasonable chance of creating a doubt.

Prospects of conviction

In light of the above it is considered that there is both a prima facie case and a reasonable prospect of conviction. The prosecution case will be strong if all the evidence is admitted, but there would still be a reasonable prospect of conviction if the evidence of questionable admissibility discussed above is excluded.

Appendices

1. Event Chronology
2. Evidence Chart

Date	Time	Event	Source	Conflicts	Gaps
24-May-00		Accused completes outgoing passenger departing Sydney on Flight TG992	Certified copy of Outgoing Passenger Card (EB/08), Movement Records (EB/09) and statement of K. Bolte		Where was flight TG992 bound for ? Check airline records
30-Mar-01		Accused completes incoming passenger card arriving Sydney on flight AC3133	Certified copy of Incoming Passenger Card (EB/07), Movement Records (EB/09) and statement of K. Bolte		Where did flight AC3133 come from ? Check airline records
10-Apr-01		Accused completes International Money Transfer Application with Commonwealth Bank of Australia for \$1991.08 (670 pounds) to Timothy Dempster, Barclays Bank, London A/C 902817450	IMT Application dated 10 Apr 01 (EB/01) and statement of A. Sully		Compare signature on IMT Application with specimen of accused's signature
9-May-01		Accused completes International Money Transfer Application with Commonwealth Bank of Australia for \$3041.29 (1090 pounds) to Nobo Valley Properties, London A/C 89123456	IMT Application dated 9 May 01 (EB/02) and statement of A. Sully		Compare signature on IMT Application with specimen of accused's signature
11-May-01		The \$3041.29 above cannot go into the account due to invalid A/C number and the funds are re-directed to Timothy Dempster, Barclays Bank, London A/C 902817450	Commonwealth Bank Memo dated 11 May 01(EB/02) and statement of A. Scully		How, when and from whom did the CBA get instructions for the re-direction of funds ?
20-May-01		Accused completes outgoing passenger departing Melbourne on Flight BA18	Certified copy of Outgoing Passenger Card (EB/06), Movement Records (EB/09) and statement of K. Bolte		Where was flight BA18 bound for ? Check airline records.
31-May-01		Bayview on the Park Hotel receives e-mail confirming reservation for Heidi Taylor of 54 Cadbury Road, Notting Hill, London to check in on 8 Jun 01 and check out on 9 Jun 01. Paid for by MC on A/C 5353165273438088 (account of accused). E-mail requests that documents sent through post be held until arrival. Booking is made for room 18.	Copy of e-mail dated 31 May 01 and statement of M. Deering Credit Card Details (EB/03), List of transactions for A/C 5353165273438088 (EB/04) and statement of A. Scully		What was the senders ID on the e-mail ? Cross check with list of A/C transactions

3-Jun-01		Bayview on the Park Hotel receives e-mail confirming a reservation booked by Timothy Dempster of 12 Bud View Road, London to check in on 7 Jun 01 and check out on 8 Jun 01. Paid for by M/C 5345890155679876. Contains message "I have made a booking for 8th of June 2001, but due to my early arrival on the morn of 8th June, guest name Heidi Taylor	Copy of e-mail dated 3 Jun 01 and statement of M. Deering		Who operates that M/C account What was the senders address on the e-mail ?
4-Jun-01		Bayview on the Park Hotel receives e-mail from Timothy Dempster stating "the reservation is actually for Heidi Taylor, who is arriving at 6.00 am on 8 June 2001"	Copy of e-mail dated 4 Jun 01 and statement of M. Deering		Was the senders e-mail address the same as previous e-mails ?
7-Jun-01		Customs Officer Foster examines letter from Great Britain addressed to Heidi Taylor, Bayview on the Park Hotel from London School of Publishing. All addresses were written in pen. Package contained black cardboard folder, torn up newspaper, a magazine picture and taped under the picture 270 off-white tablets wrapped in bubble wrap. Identified as MDMA. (Item 01)	Statement of A. Foster and photo of Item 01 from EB/13		Handwriting comparison with accused's handwriting ?
7-Jun-01		Customs Officer Foster located 2 similar letters To Bayview on the Park, Heidi Tailor from the London Film Accademy (Item 02); To Bayview on the Park, Heidi Taylor from The Method School, London (Item 03)	Statement of A. Foster and photos of Item 02,03 from EB/13		Handwriting comparison with accused's handwriting ?
8-Jun-01		Accused completes incoming passenger card arriving Melbourne on flight BA7316	Certified copy of Incoming Passenger Card (EB/05), Movement Records (EB/09) and statement of K. Bolte		Where did flight BA7316 come from ?

12-Jun-01		<p>Items 01, 02 and 03 examined by C. Garland</p> <p>Item 01 - postage mark unreadable, airmail stickers, newspaper clippings looked like they were from England, 276 tablets with an eagle on one side in bubble wrap, 1 black cardboard portfolio marked EUROPA</p> <p>Item 02 - postage mark 4 JNE 5-30PM, airmail stickers, 276 tablets with an eagle in bubble wrap, same cardboard portfolio, page from a colour magazine</p> <p>Item 03 - postage mark "CA.....MAIL CENTRE 4 JNE 2001 5-30 PM", airmail sticker, same cardboard portfolio, 12 peices of colour printed cards, 1 plastic purple envelope, 277 with an eagle tablets in bubble wrap</p>	Statement of Craig Garland, Items 01, 02 and 03 from EB/13, photos from EB/13		
12-Jun-01		FA Park collects some of the packaging materials from C. Garland for items 01,02 and 03. Latent fingerprint located on plastic envelope from item 03.	Statement of FA Park		Later in statement it says that latent fingerprint was also located on a card marked 'Heaven' also from item 03. Was this latent fingerprint identified on 12 Jun 01 or at some later time ?
12-Jun-01		Transmitting equipment fitted into the black card board portfolios for items 02, 03	Statement of FA Ballack		
12-Jun-01		3 substitute packages re-constructed using same materials plus new non-illicit white tablets, bubble wrap and tape	Statement of Craig Garland		
13-Jun-01	1040	Monitoring of transmission devices commences	Statement of FA McTavish, statement of FA Burton,		
13-Jun-01	1100	FA Zanetti delivers substitute packages 02 and 03 to the accused personally at the Hotel posing as a postman. The accused signs for the packages	Statement of FA Zanetti		

13-Jun-01		\$750 is withdrawn from accused's A/C 5353165273438088 at 77 Fitzroy Street	List of transactions for A/C 5353165273438088 (EB/04) and statement of A. Scully		
13-Jun-01		The accused attends the Westpac Bank at 409 St. Kilda Road, Melbourne and telegraphically transfers \$663.83 (250 pounds) to Timothy Dempster A/C 902817450 Barclays Bank, London. Pays teller \$700 cash. Asks teller questions about rules relating to cash transactions. Includes message on TT - "Hi see you soon, Heidi". Asks teller questions about how much ID is needed to open an account.	Statement of J. Koutsoukianis		Copy of request for TT signed by accused required.
13-Jun-01	1745	Monitoring of transmission devices ceases	Statement of FA McTavish		

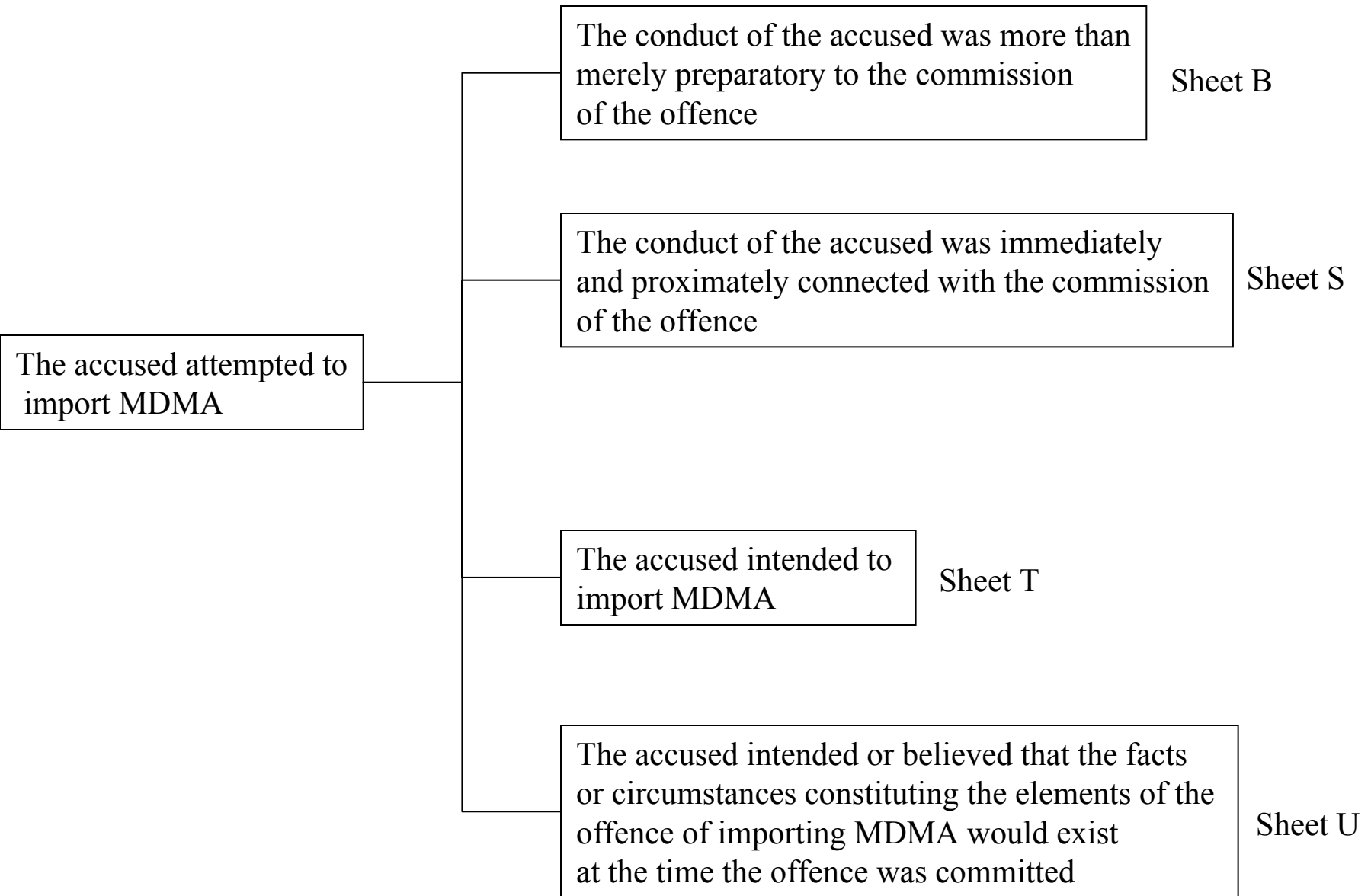
13-Jun-01	1755	Search is conducted of room 18 at Bayview on the Park under warrant. Accused is present. Accused is cautioned. The accused tells FA Bracks that she had some ecstasy tablets in her hand bag. The accused tells FA Bracks that she received the packages at the request of 'Katrina' a person she knew from Wesley school. She stated that she received the ecstasy tablets from Katrina. The accused agreed that she had brought the tablets into Australia from London concealed in her bra. Following items are located: E-mail addressed to bull88y@hotmail.com, other documents not specified in statements, 1 British Airways ticket and boarding pass from London to Bangkok 6 Jun 01, E-mail in the name of Timothy Dempster confirming flights from London to Melbourne via Bangkok on 6 Jun 01 and from Melbourne to London via Bangkok on 21 Jun 01, Red Exercise Book with handwritten notes, Australian passport in name of accused, White rubber glove containing white tablets located in handbag	Statement of FA McTavish Statement of FA Burton Statement of FA Neville Statement of FA Bracks Statement of FA De Stefano		What name where the airline tickets and reservations in ? Where were the parcels located ? What state where the parcels in ? Were the other documents relevant ?
13-Jun-01	2000	Search conducted at 26 Hawthorn Avenue, Hawthorn under warrant. Nothing of evidentiary value located	Statement of FA McTavish		

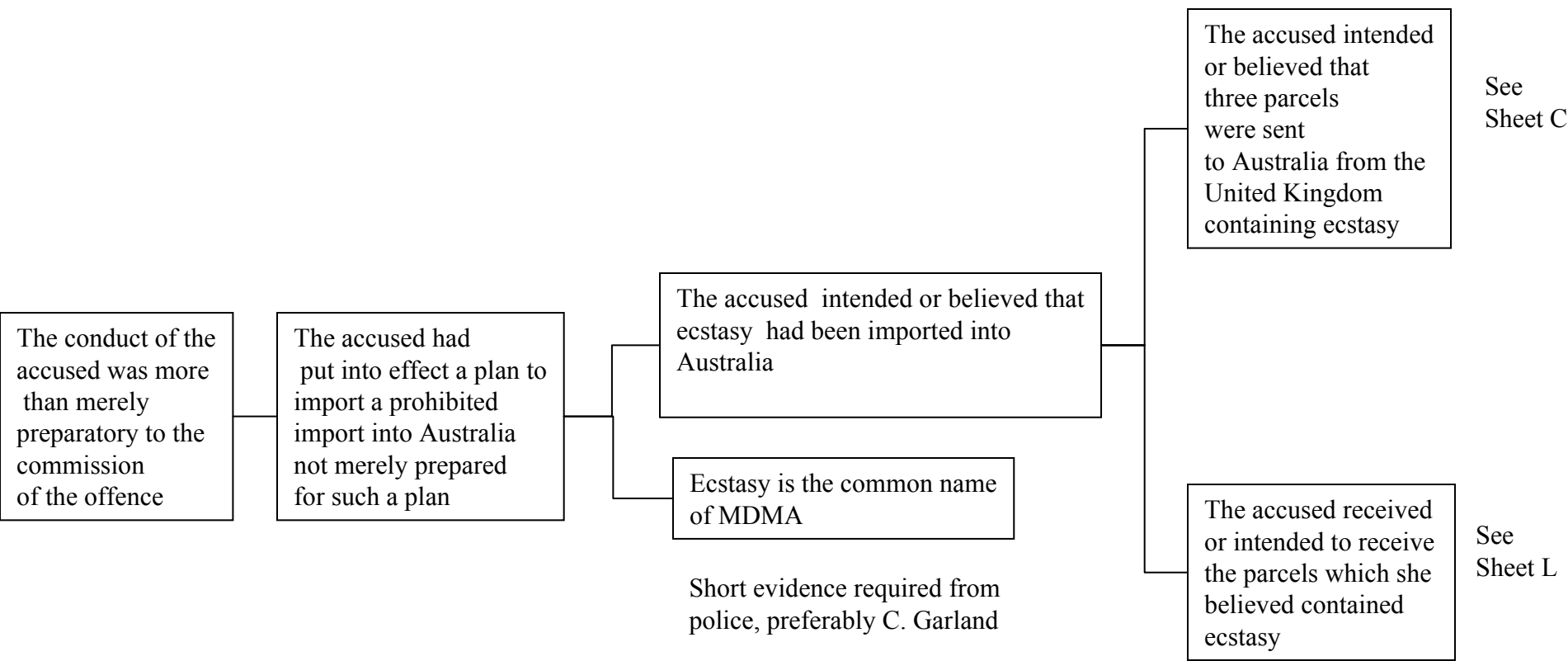
13-Jun-01	2011	Accused interviewed. Following matters are relevant: The accused was currently residing at 54 Cadbury Road, Notting Hill; The accused is unemployed and in receipt of a fortnightly TAC pension in relation to a motor vehicle accident; The accused had intended to return overseas on 21 Jun 01 on QANTAS; The accused intended to stay in Bangkok for a month on the way back; The accused agreed that she had signed for items 02 and 03 at the Hotel; The accused stated that she was expecting the packages because a person had asked her if she could have the mail sent to her and then forward the mail to that person when that persons arrived; The accused said that the person was a girl that she had met while she was out; The accused agreed that she had told police that ecstasy tablets were located in her handbag; The accused told the police that the parcels were not posted from London as they had a Cambridge stamp on them; The accused stated that she had never been to Cambridge	Statement of FA De Stefano Statement of FA Bracks Tape and transcript of Interview (EB/27 and 28)		
13-Jun-01	2100	Accused fingerprints taken	Statement of FA Burton Statement of FA Johnson		
13-Jun-01		Bayview on the Park provides FA Johnson with a print out of phone calls from room 18 for 12 June 2001	Printout of telephone calls and statement of M. Deering		
15-Jun-01		Substitute packages 01,02 and 03 returned to C. Garland by FA McTavish and FA Ballack	Statement of C. Garland		

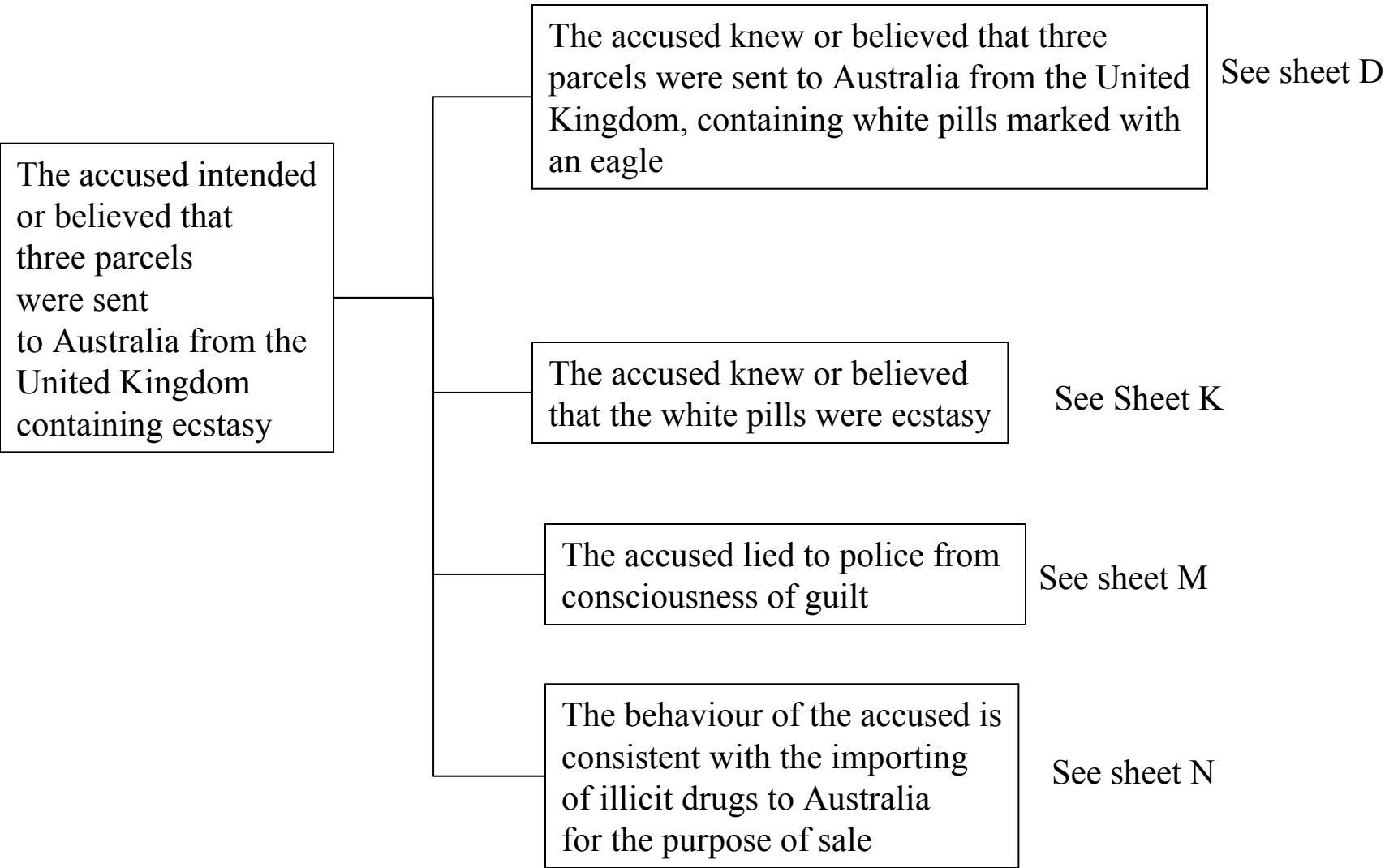
15-Jun-01		FA Park receives latex glove from C. Garland. Takes latent fingerprints off glove. Receives sample fingerprints of accused. Compares fingerprints of accused with other fingerprints from the packagint materials and glove. Matches the thumbprint of the accused with a latent print on a card "heaven' from item 03.	Statement of FA Park		Was FA Park unable to match the fingerprints on the glove and the plastic wallet with those of the accused ?
28 Jun 01 to 5 Jul 01		Tablets from glove confirmed as MDMA Tablets from items 01, 02 and 03 confirmed as MDMA. MDMA purity of all items very similar.	Certificate of Analysis by R. Larsen		

Evidence Chart

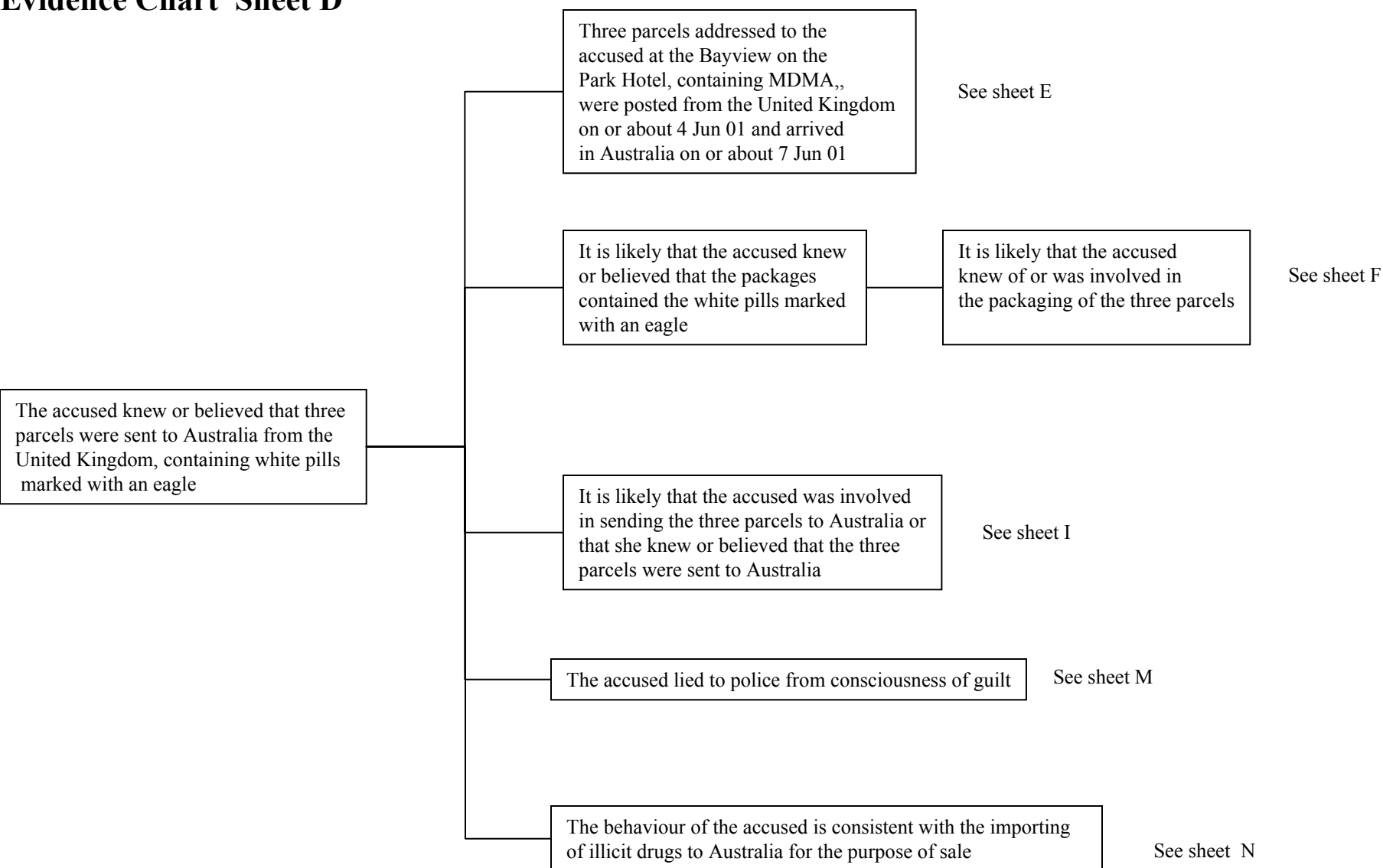
Sheet A



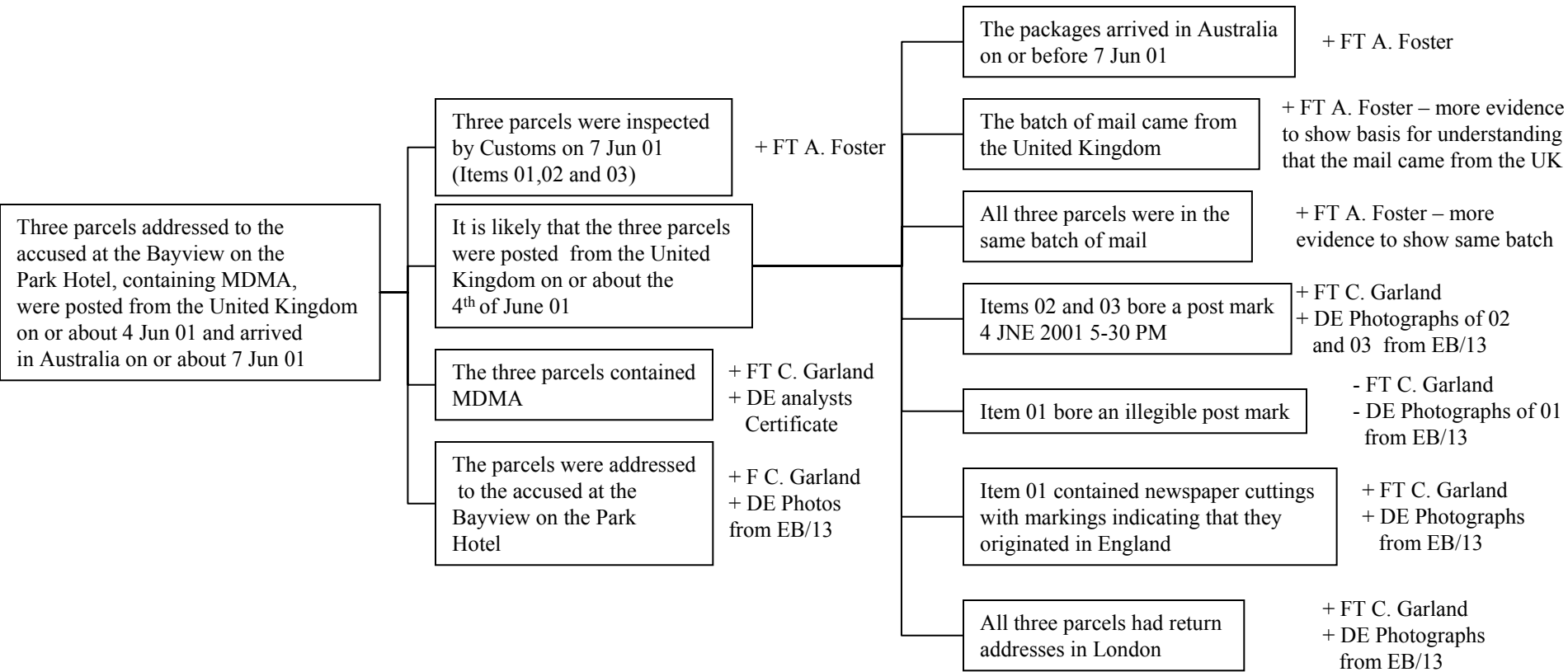




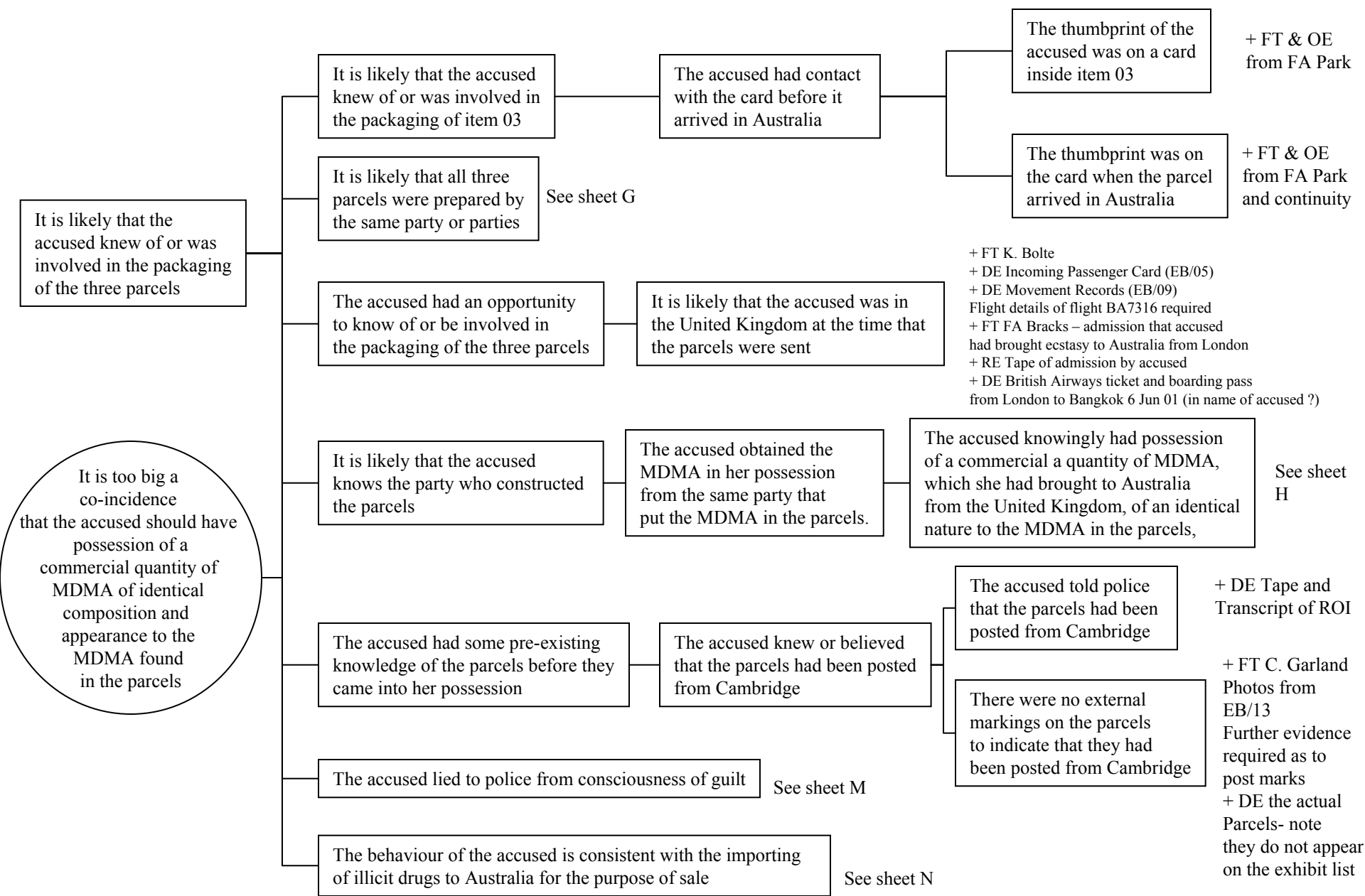
Evidence Chart Sheet D



Evidence Chart Sheet E



Evidence Chart Sheet F



Evidence Chart Sheet G

It is likely that all three parcels were prepared by the same party or parties

Parcels 01 and 03 were sent to Heidi Taylor at the Bayview on the Park Hotel

Parcel 02 was sent to Heidi Tailor at the Bayview on the Park Hotel

The type of outer envelope was the same for each parcel

The addresses on all three parcels were hand written

The three parcels each contained the same kind of black cardboard portfolio

There appears to be different hand writing on each package

It is very likely that the three parcels were posted from the United Kingdom on or about the 4th of June 01

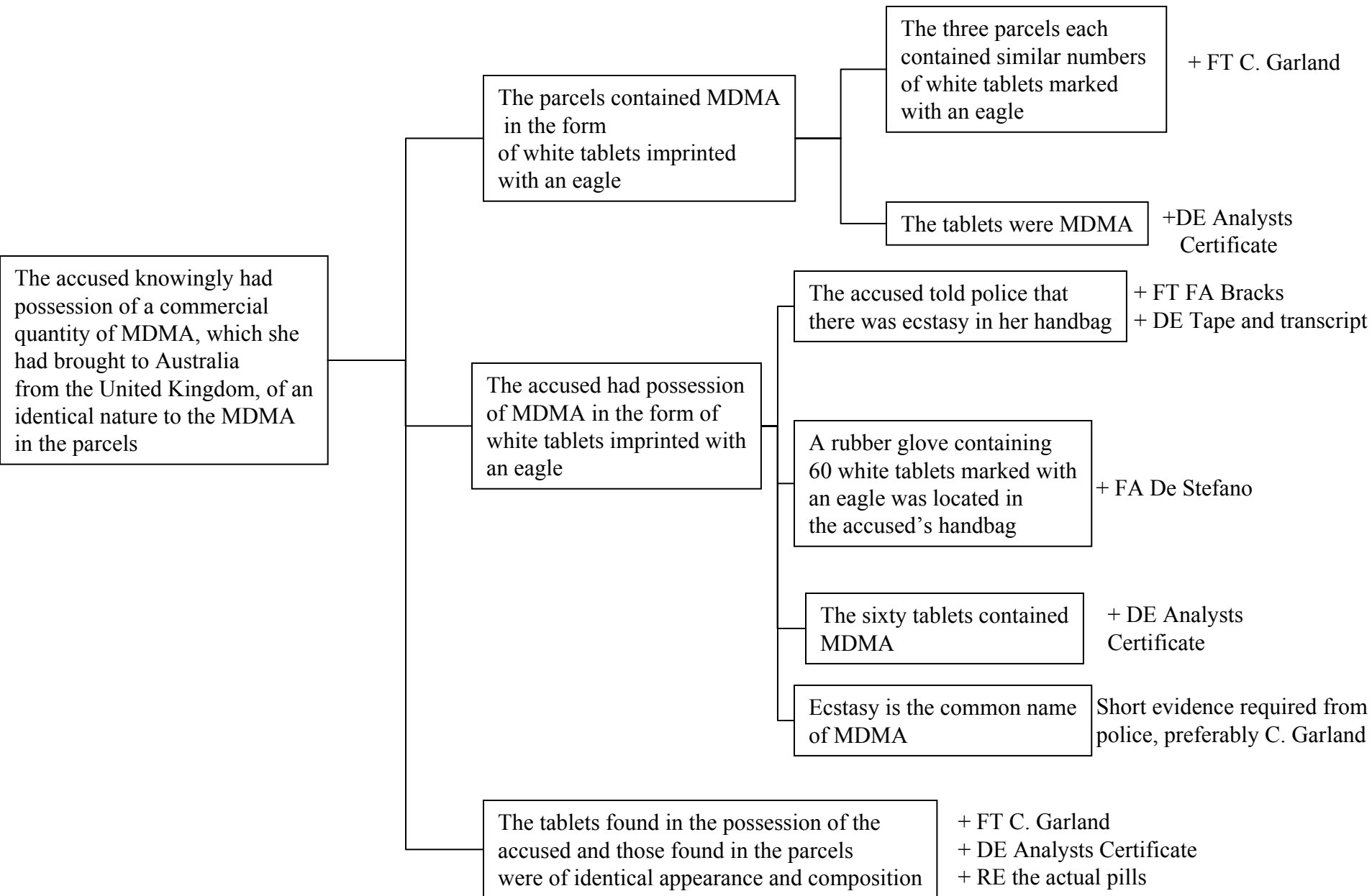
The three parcels each contained similar amounts of MDMA pills marked with an eagle, wrapped in bubble wrap

+ FT C. Garland
+ DE Photographs from EB/13
+ DE the actual Parcels - note they do not appear on the exhibit list

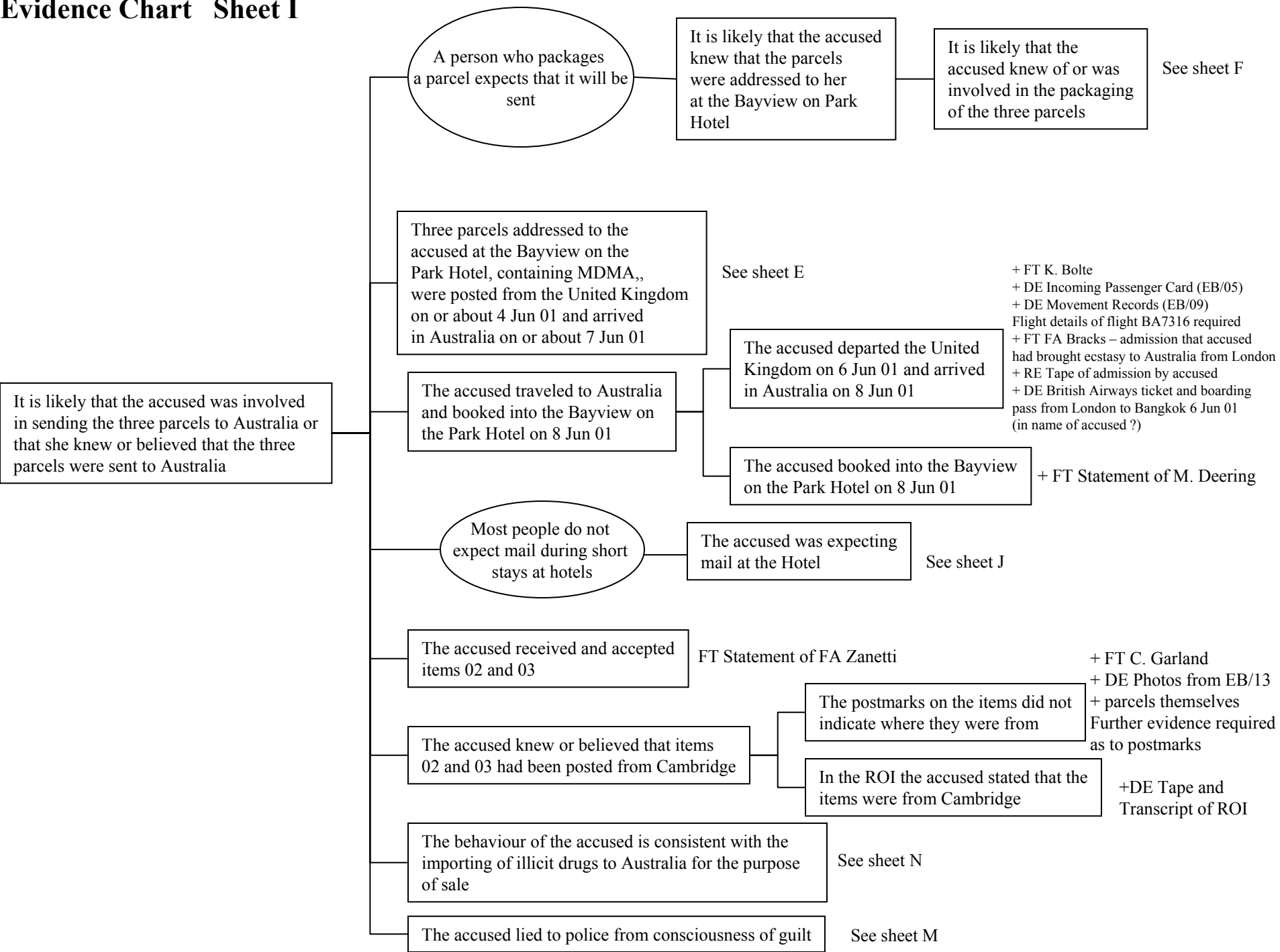
- FT C. Garland
- DE Photographs from EB/13
- DE the actual Parcels - note they do not appear on the exhibit list

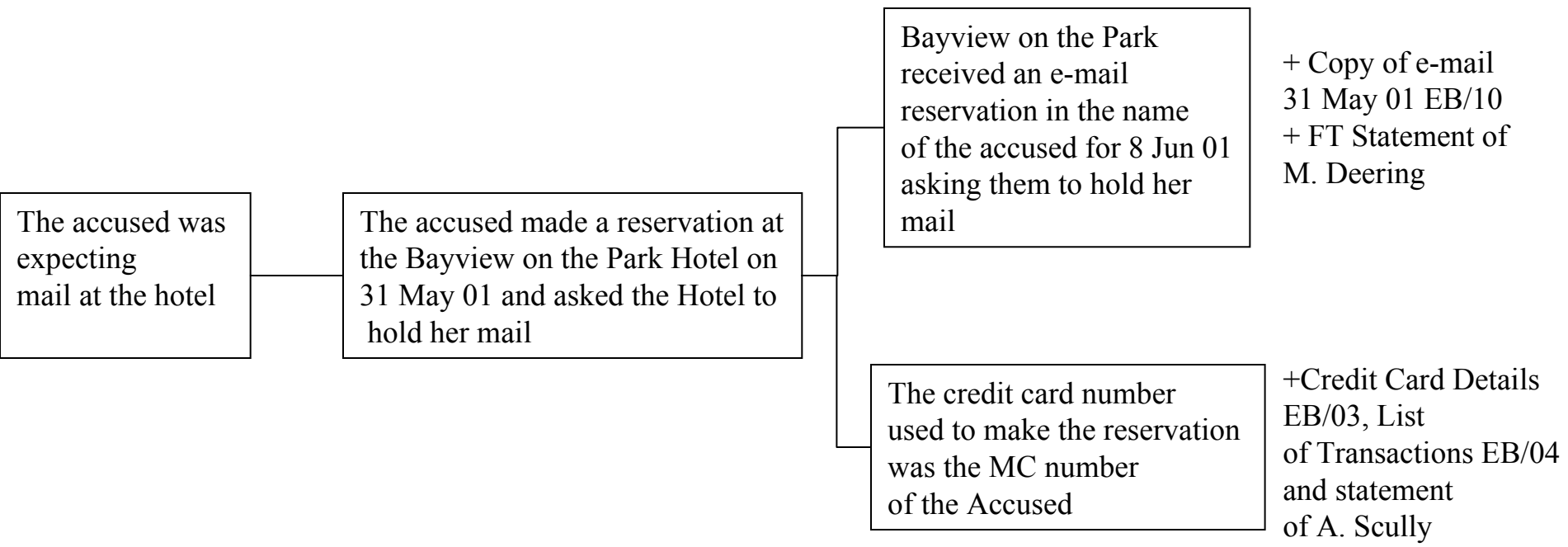
Please note where this inference is charted on sheet E

+ FT C. Garland
+ DE Photographs from EB/13
+ DE Analysts certificate

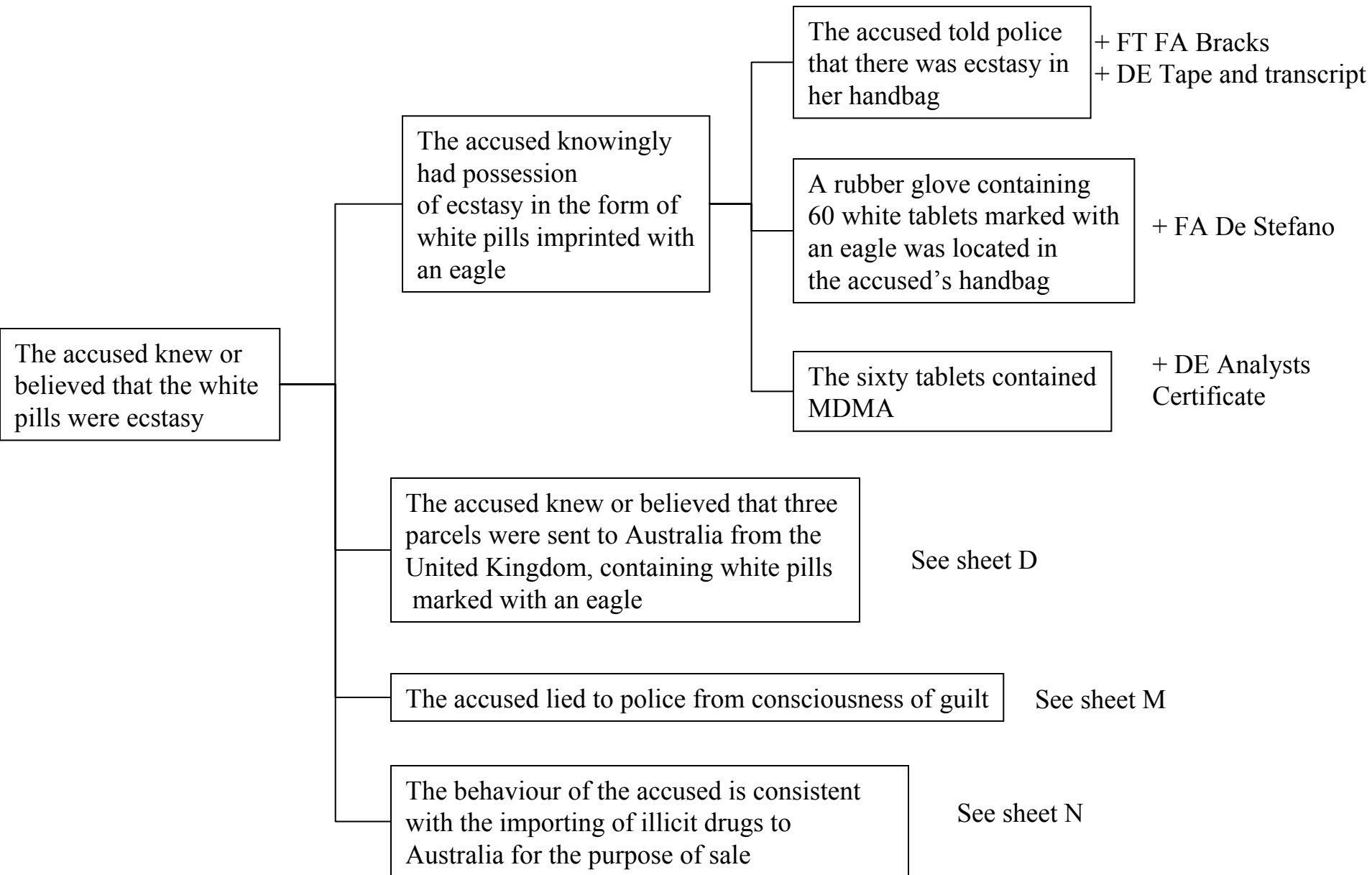


Evidence Chart Sheet I

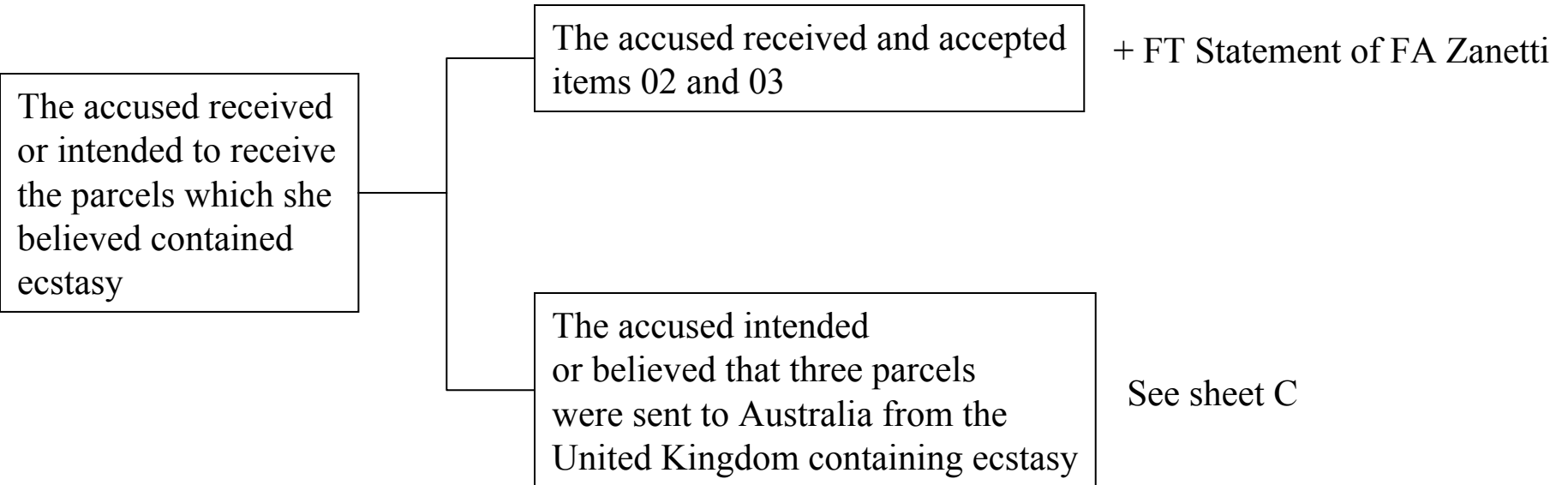


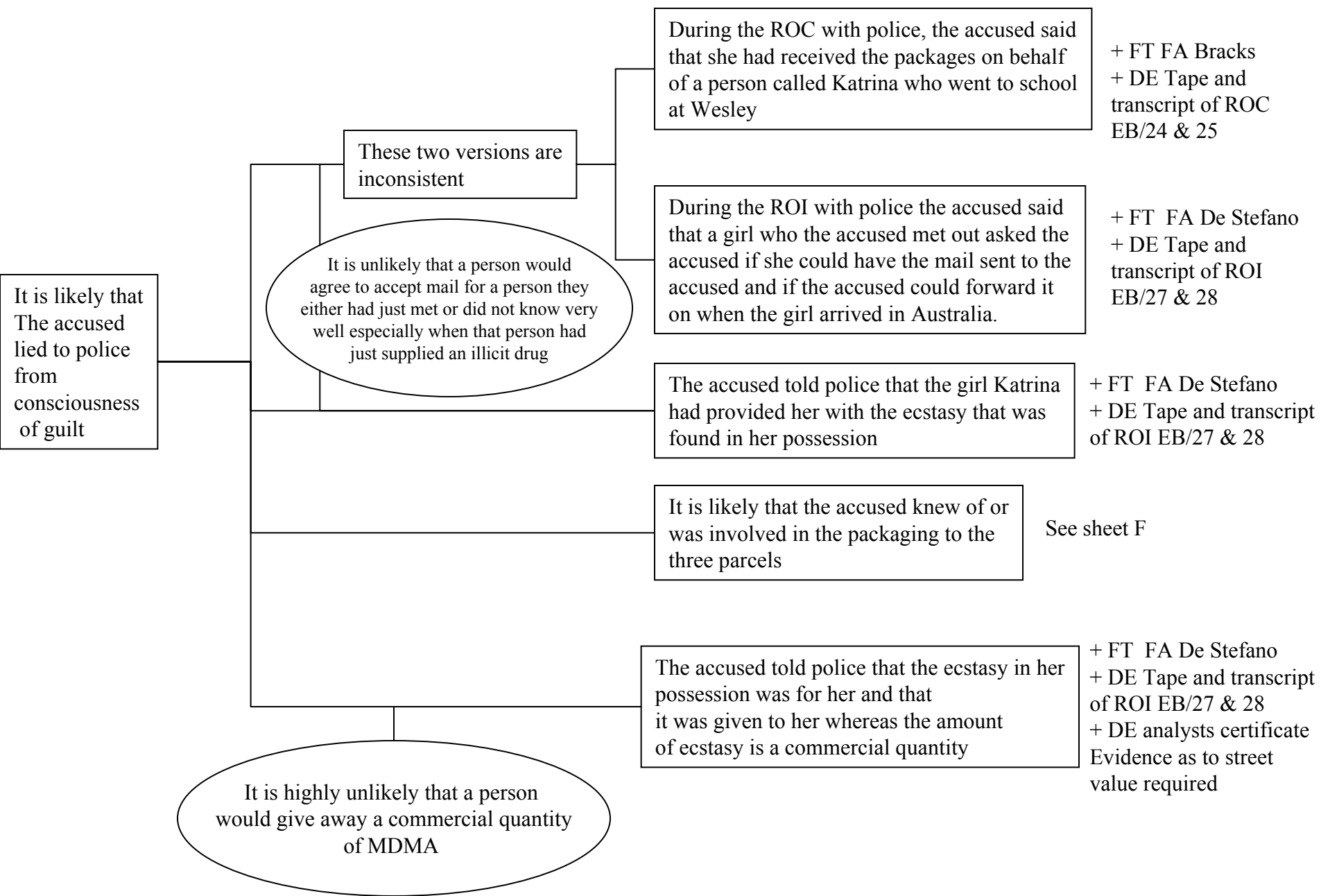


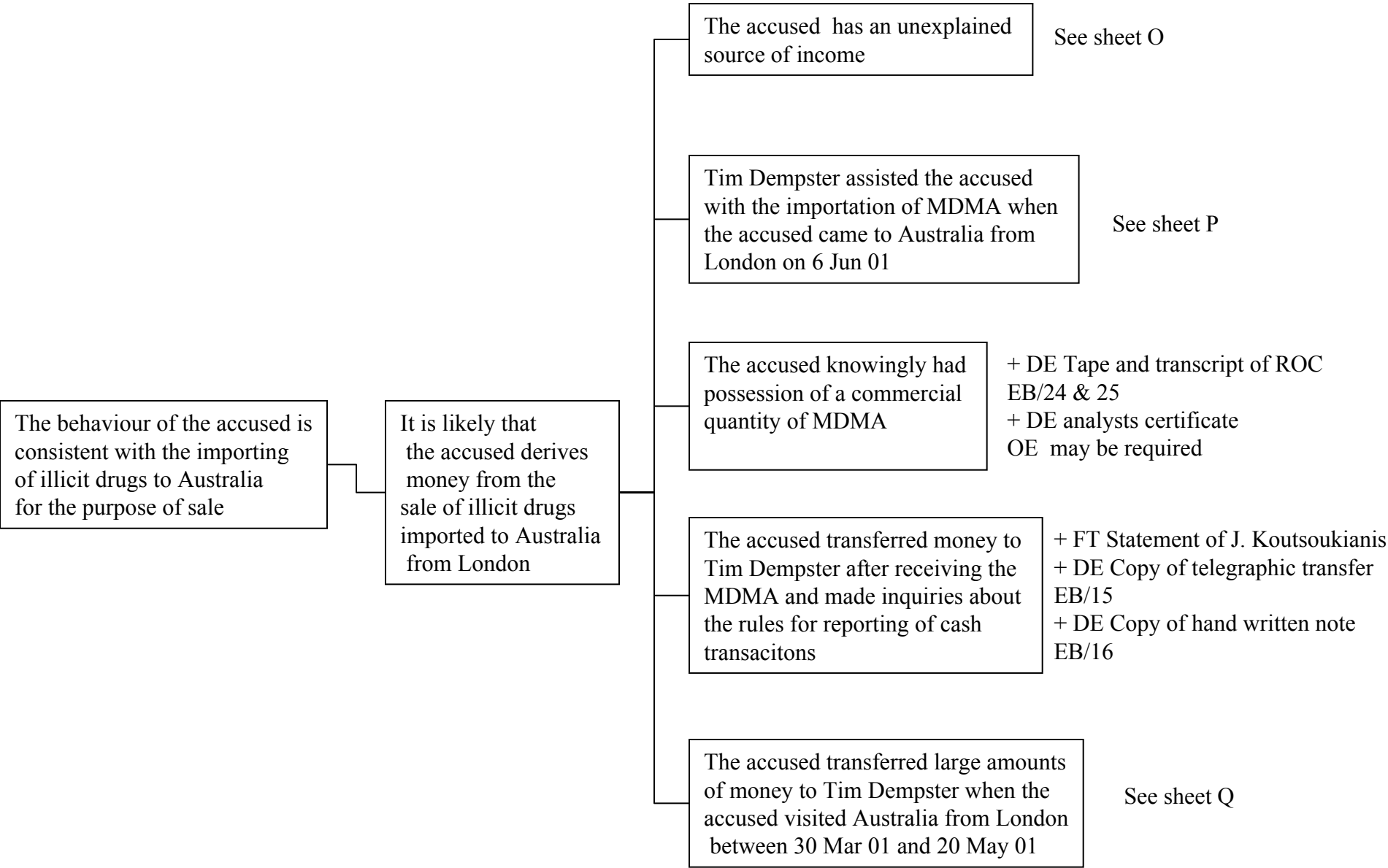
Evidence Chart Sheet K



Evidence Chart Sheet L

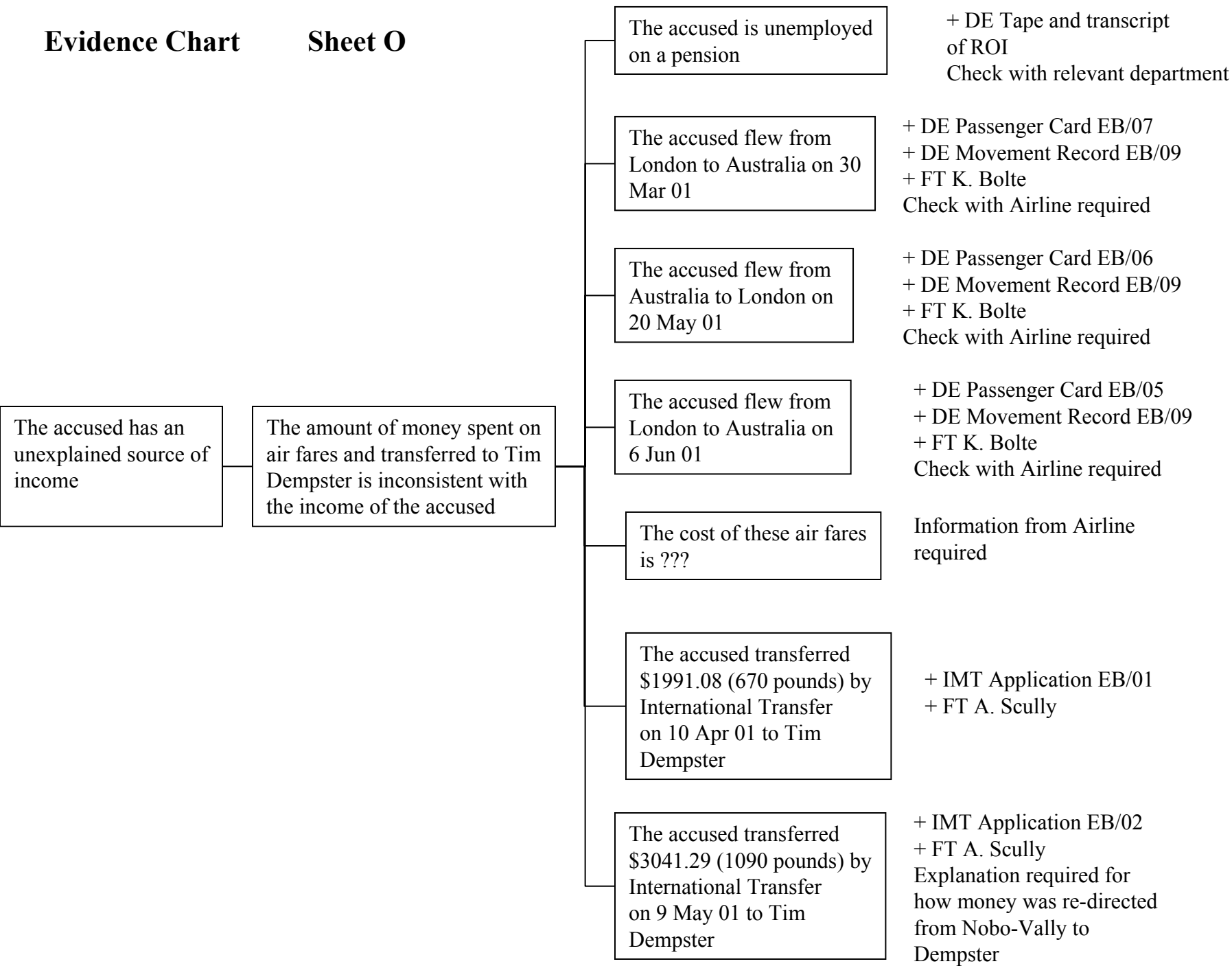






Evidence Chart

Sheet O



Evidence Chart

Sheet P

