

GBC day 14

10am: Gerard Baden-Clay will face more cross examination from prosecutor Todd Fuller today.

There is a short delay for legal discussion, the trial will begin when the jury enters the court.

10.45am: The jury will today hear continued cross-examination of the accused by Crown prosecutor Todd Fuller QC.

It will be Gerard Baden-Clay's fourth day in the witness box.

Mr Fuller asked the accused whether he thought his wife may have had contact with his mistress Toni McHugh on April 19, 2012.

Baden-Clay said he did not think so.

He agreed his wife had his phone that night and Ms McHugh could have contacted him.

Baden-Clay agreed his mistress knew where he lived.

He said he did not remember Ms McHugh telling him that not going to the conference on April 20, 2012 was not an option.

Baden-Clay said he thought it was "probable" Ms McHugh would not call him after hours.

"By the end of the conversation she had calmed down a fair bit," he said of a heated discussion with Ms McHugh in the late afternoon of April 19, 2012.

He said he did not tell police about his dealings with Ms McHugh on that day.

The accused said he did not tell his family about the affair until he was told by a journalist it would be disclosed in a story.

Baden-Clay said he told the police.

"I didn't anticipate the police were going to inform the media, but they did," he said.

The accused said he spoke to police at the Brookfield Showgrounds on April 21, 2012.

He said he spoke to police on numerous occasions over those days and "answered every and any question they asked me".

Baden-Clay agreed he did not make a formal statement.

"That was the only thing that they asked me and I told them and had a lengthy conversation with (Sgt) Chris Canniffe ... I pleaded with him and said I've been given legal advice and said what would you do in my position and it was Mr Canniffe who calmed the situation," he said.

The accused said he wasn't sure what CIB stood for or what a crime scene was.

"I believe there were a couple of police I spoke to who were from the homicide," he said.

Baden-Clay said he first met Sen-Sgt Narelle Curtis during a siege situation involving a cult at a property at Anstead.

"I think Narelle may have been the officer in charge when that all occurred," he said.

He agreed that was a positive dealing.

Baden-Clay said he occasionally attended meetings with a Kenmore Police consulting committee.

He said police were "probably" in contact with him every day following his wife's disappearance.

The accused said Sgt Canniffe was at first, very responsive, but as the days passed took longer to reply to phone calls.

"I was very concerned about the whereabouts of my wife and often one communication and one text message a day was not enough for me, I desperately wanted to know what was going on," he said.

He said he first spoke to his lawyer around midday on April 20, 2012.

He said he met his lawyer at a Yatala service station complex midway between his office on the Gold Coast and Brookfield that night.

Baden-Clay agreed the first call he made to his wife was at 6.32am.

He said he thought he sent her a text message before that but it was not recorded on the summary provided to the court.

"I don't know why," he said.

Baden-Clay agreed he phoned his family at 6.44am.

"My initial call was just to say have you heard from her or anything and in that conversation ... they came over and helped," he said.

The accused agreed he did not call his wife's friends Kerry-Anne Walker or Wendy Mollah, in part because they lived too far away and he did not have Ms Mollah's number at that time.

He said he did not get through to his parent's house at Kenmore until 6.46am.

Baden-Clay said he took the Holden Captiva to look for his wife because his Prado had been in a car crash on Monday April 16, 2012.

He agreed his car, the Prado, was parked closer to the driveway.

He further agreed the Captiva had been parked nose-in to the car port.

Baden-Clay agreed he had driven the Prado all week despite the accidents, just not on April 20, 2012.

He said the car was not reversed into the car port when he got up that day.

The jury was shown a photo of Baden-Clay's damaged Prado, which was side-swiped on the Monday before his wife went missing, parked in front of his wife's car parked behind it in the car port.

"There was nothing to stop me taking the Prado," he said.

The accused said he first noticed the toys in the back of the Holden Captiva the morning his wife went missing.

He said it was not a "total surprise" to him they were in the car.

Baden-Clay said he did not put the toys in the back of the car.

Mr Fuller: "You didn't move them there to make it look ... normal, or a semblance of normal?"

Baden-Clay: "No, I did not put them there."

He said he called his wife's parents at 9.30am.

"I thought that she'd gone for a walk I called them later on when the police were there," he said.

Baden-Clay said he called them after he was "interrogated" by police for a couple of hours.

Mr Fuller: "But you called your friends first, didn't you?"

Baden-Clay agreed he called his closest friends before he called his wife's closest friends, Ms Walker and Ms Mollah.

He said police did not prevent him from making calls on April 20, 2012.

The accused agreed police let him call his children's school and take a call from the president of the P&C.

He agreed police were supportive of him with respect to his children and his dealings with the school.

Baden-Clay said he was not concerned by the line of questioning from police, not like his father or his sister.

He said he called his wife's parents as soon as he could.

“I couldn’t see, my informing them was not necessarily for them to drop everything and come up, obviously that’s a natural reaction and that’s what they did,” he said.

Baden-Clay said he did not call Ms McHugh, either.

He agreed his wife was at least an hour overdue by 8am.

The accused agreed it was “completely out of character” for his wife to be late to meet a colleague, such as Kate Rankin, or an appointment.

“I didn’t ring her parents until there was an opportunity to do so,” he said.

Mr Fuller asked the accused again why he rang his friends before he phoned his wife’s friends.

“I called the Christs because we had plans for a sleepover that evening ... I wanted them to be aware that Allison was missing and I wanted to ask if they had seen anything, I didn’t think that she would have walked to their house ... we didn’t have any close friends ... but I just didn’t think it was likely,” he said.

“I anticipated she was coming home any minute but I was concerned about what was going to happen in the afternoon.

“If Allison was in hospital and we found her that would obviously throw all the plans...”

He said he called the Cheesmans because their home was going on sale that day and he was going to put some finishing touches on the property that day.

Baden-Clay said he asked his father to go in his stead, but he was prevented from doing so by the police.

“I was concerned about my wife but I obviously had my family and my business that was operating as well,” he said.

He agreed an employee took over the Cheesmans open house the next day.

Baden-Clay said he did not know why he called his friend Peter Cranna that day, then added it was because he lived close by.

He agreed he and his wife had significant insurance policies.

Baden-Clay said they had discussed reducing them because the premiums were high.

He agreed he contacted an insurance agency on May 1, 2012 about making a claim, at his father’s behest.

The accused said he was at his office when a media report came through on April 30, 2012.

Baden-Clay said he went to Brisbane city and met his lawyer and barrister Peter Davis in his chambers.

He agreed police told him a body had been found.

“They confirmed it was Allison,” he said.

Mr Fuller: “Are you confident of that?”

Baden-Clay: “Yes, because we knew a body had been found and it was at that meeting they told us they were sure it was Allison. I remember being physically shocked by that.”

11.30am: Gerard Baden-Clay told Crown prosecutor Todd Fuller QC he went to see doctors on the advice of his lawyers.

He agreed police took photos of him on April 21, 2012.

He agreed people were concerned about the marks on his cheek.

“When you say concerned, yeah, they kept saying that they had a concern so that concerned me so I told them what it was,” he said.

He said the injuries on his torso were “self-inflicted” and “just didn’t seem relevant”.

Baden-Clay agreed he went to another doctor on the afternoon of April 21, 2012.

He said he gave one of the doctors his business card and offered to give her assistance moving to the area.

Mr Fuller asked the accused about the deed of variation he signed in order to obtain the rent roll in late 2011.

Baden-Clay agreed he would suffer a significant financial loss and return to owning just a quarter share in the rent roll business, if he defaulted on the variation.

Mr Fuller suggested the loss the accused would incur for defaulting on the rent roll variation was \$46,800.

He asked Baden-Clay what loss he would incur if his wife left him.

Baden-Clay said his wife was not paid a salary.

He agreed they had an investment property together, shares and an investment property.

Mr Fuller said couple had a net assets worth of \$74,663.

“You are asking an awful lot of hypothetical questions that I ... I honestly can’t answer that,” he said.

Baden-Clay agreed there would have been financial consequences for him if he separated from his wife.

“If Allison and I had determined we were doing to separate, divorce or something like that, how that played out, I honestly don’t know,” he said.

“I can’t now remember exactly why I told her that but it seemed to placate her at that time.”

Baden-Clay agreed he faced pressures on April 19, 2012 but they were “not significant”.

“You put to me yesterday that Allison required certain things of me, including that I not go out at night, that I hand my phone to her, that I put that find friends application on my phone and I should clarify ... I felt satisfied I had answered truthfully and factually answered all the questions you asked ... it was actually my suggestion to load that application on our phones,” he said.

The accused said both he and his wife knew how to turn it off.

“And on the one day I needed it, it failed me, that’s correct,” he said.

Mr Fuller said the app didn’t stop the accused from meeting Toni McHugh or contacting her regularly.

“That is correct. Predominantly instigated by Toni, but yes that’s correct,” he said.

Mr Fuller suggested Baden-Clay wanted to be with Ms McHugh.

“Allison and I had recommenced our physical relationship that year and as I mentioned yesterday Allison and I had gone for around 9 years ... yes, there were a number of women I went to for sex around that period ... but Allison and I were rebuilding,” he said.

Baden-Clay agreed he was betraying his wife’s trust and continuing to do so on April 19, 2012.

“I suggest to you Toni McHugh offered you a different life and you wanted to take that opportunity?,” Mr Fuller asked.

Baden-Clay: “No, that’s not correct.”

The accused said he was “very ashamed” by his infidelity and wanted to put it behind him to move forward with his wife.

“I did not feel that,” he said, of Ms McHugh and his wife meeting at the real estate conference on April 20, 2012.

Baden-Clay said he was “placating” Ms McHugh when he told her he loved her.

Mr Fuller asked the accused if he would be exposed if his wife met Ms McHugh at the conference.

He argued she would find out about his affairs, the emails and the fact they had met for sex again since her discovery of the affair in September, 2011.

Mr Fuller: "You killed your wife, Mr Baden-Clay?"

Baden-Clay: "No, I did not."

Mr Fuller: "You killed her either in or at your house at Brookfield that night or in the early hours of the morning?"

Baden-Clay: "No."

Mr Fuller: "You attacked her and the only way she could respond was to lash out and claw at your face and leave marks upon it?"

Baden-Clay: "That is not true."

Mr Fuller: "Probably as you smothered her and took her life from her?"

Baden-Clay: "That is not true."

Mr Fuller suggested his wife grabbed at his clothing, causing marks under his arm.

Mr Fuller: "You overpowered her pretty quickly, didn't you?"

Baden-Clay: "I never overpowered her at all ... I never did anything to physically harm my wife in any way, ever, so your supposition and to take it further to suggest I did other things is absurd and I object to it. So I can't answer your question."

He said he did not know if his wife's head came into contact with leaves in their backyard.

"I did not have anything to do with anything that you are suggesting," he said.

Mr Fuller asked if he put his wife into the back of their Holden Captiva.

"I had nothing to do with anything that you are asking me," Baden-Clay said.

Baden-Clay said he did not dump his wife's body off Kholo Creek Bridge.

"The suggestion that I would leave my children for any time in the middle of the night is absurd, let alone to do the dastardly things that you are suggesting," he said.

He said he did not put his phone on charge at 1.48am.

Baden-Clay said he did not shave over the scratch marks on his face.

"I did not," he said.

Baden-Clay agreed he let police to search his home.

"I had nothing to hide," he said.

"I was a concerned husband and I'm a very concerned father, I remain so. It is not a facade."

The accused agreed he took legal advice and did not give a formal statement to police.

“My lawyer insisted upon it and so I followed that advice,” he said.

He said he never told his wife on the night she disappeared that she would run into Ms McHugh the next day.

In re-examination by barrister Michael Byrne QC, Baden-Clay reiterated he was never violent towards his wife on April 19, 2012.

“I’ve never thrown a punch in my life in anger,” he said.

Baden-Clay said he and his wife had disagreed during their marriage but never by being disrespectful to one another.

He said he did not hear any noises that night.

Baden-Clay said he did not deceive his wife about anything other than his infidelity over the four years before her death.

He said he did not deceive his family and friends about anything else apart from his infidelity.

“Deceive is a strong word but I protected Allison in relation to the extent of her depression, which we didn’t really know much about in the early years and Allison was very, very conscious that she really didn’t want anybody to know that she suffered from any mental illness so, certainly I protected Allison and didn’t tell any friends and family about her mental illness,” he said.

Baden-Clay agreed he deceived Ms McHugh by telling her there was a possibility they had a future together.

He said he was relieved when his wife discovered his affair with Ms McHugh but he did not tell her about other women he met for sex.

“I had no intention of telling Allison about the other women.

“I didn’t want to jeopardise any chance we had of making a future together, further, it was purely about the physical aspect that I went to those other women ... over an extended period of time, admittedly,” he said.

The accused said there were occasions when he questioned whether it was beneficial for his wife to know intimate details of his affair with Ms McHugh.

He said counsellors told them it would be helpful for his wife to have her questions answered, but in his experience, it did not seem to be helpful to her.

Baden-Clay said counsellor Carmel Ritchie put structure into those conversations and he felt more confident about having those discussions with his wife.

He said Ms McHugh did not stay at his house, but rather visited.

“We’d had some physical intimacy at the house, I had told Allison about that, on one occasion she had a spare room at that point and there was a spare bed and we no longer had that ... and a spare mattress,” he said.

The accused said he was concerned Ms McHugh was not coping very well and he wanted her to have the strength to get on with her life and find someone else.

“In retrospect, looking at some of the things I said and did, it was pretty naïve and pretty stupid, but that was my intention,” he said.

Baden-Clay agreed he told Ms McHugh he did not want to be intimate with her until he was out of the marriage with his wife.

“I felt stronger and more confident I would be able to maintain the distance if we weren’t seeing each other,” he said.

He said he hoped they would one day be friends.

“I wanted to make sure we just had no physical relationship with each other at all,” he said.

Baden-Clay agreed it was not a concern for him the two women in his life – mistress and wife - would meet at a real estate conference on April 20, 2012.

He said it was not in his wife’s nature to be confrontational or to “cause a scene”.

Baden-Clay said he thought his wife would have anticipated Ms McHugh would have been there, anyway, adding that she had colleague Kate Rankin with her.

He agreed Ms McHugh had a volatile personality but in a public environment, was “always able to control herself”.

“I really had no concern at all,” he said.

The jury was shown a page from his wife’s journal.

In it was written: “I don’t want to be alone. I am afraid of being alone and lonely maybe because I think I can’t handle it. I am afraid of failing – failing in my marriage and what people would think.”

Baden-Clay said he did not know why his wife had written such a thing but believed it to be her handwriting.

The trial will resume at 11.50am.

12.05pm: The 73rd witness in the trial is Ashton Ward who is the manager of a company called “Khemistry”.

He was called to give evidence by barrister Michael Byrne QC, for Gerard Baden-Clay.

He said he did time-lapse recordings of the tidal movements at the Kholo Creek Bridge between June 12, 2014 and June 22, 2014.

Mr Ward said the film was still images that were converted into a time-lapse video.

He said the camera was set to take a photo image every 2 minutes during daylight hours.

He said that was switched to once every three minutes on June 18, 2014.

The time-lapse videos were played to the jury, one a closer view than the other.

In cross-examination by Crown prosecutor Todd Fuller QC, Mr Ward agreed the photos were initially taken every two minutes, so that one second equalled 50 minutes.

He said when it was changed to take one photo every three minutes, it became one second to every 75 minutes.

Mr Ward agreed he did not know what the area looked like in 2012.

12.45pm: The 74th witness in the trial is forensic toxicologist Dr Michael Robertson.

He said he had been a forensic toxicologist for 20 years and had studied widely in his field.

Dr Robertson said he did a toxicological examination of the results obtained from Allison Baden-Clay.

He said the review was of Ms Baden-Clay's post mortem results and the levels of a particular drug, called sertraline.

"Sertaline is the active drug within the commercial or trade name medication Zoloft," he said.

Dr Robertson said it was an anti-depressant and elevated levels of serotonin in the brain, or mood-elevating chemicals, to reduce depression

He said sertraline was a Selective Serotonin Re-uptake Inhibitor (SSRI), which increased levels of serotonin in the brain.

He said the drug would be broken down and metabolised into desmethyl sertraline.

Dr Robertson said the levels of sertraline in the blood of Ms Baden-CLay was .59mg/kg and levels of desmethyl sertraline were at 3.3mg/kg.

He said there was also some detected in the stomach and liver, at 5mg/kg and desmethly sertraline of 31mg/kg.

Dr Robertson said it was unusual for levels to be above 0.05mg/kg in a person.

He said average numbers he expected in a living person taking sertraline was 0.03mg/kg.

He said Ms Baden-Clay's levels were elevated.

Dr Robertson said drug concentrations in the body usually altered after death, a phenomenon known as “post-mortem redistribution”.

He said studies showed sertraline redistribution usually did not change too much after death but tended towards being slightly higher.

He said elevated levels could be caused by the ingestion of a different amount of drug to the recommended therapeutic amount.

“It might be there is an unusual amount of redistribution in this case, some level of contamination may have occurred during the post-mortem,” he said.

Dr Robertson said there were a number of side-effects for sertraline, including common adverse effects such as anxiety, agitation, confusion, thermo-regulation or an elevation of temperature, and even serotonin syndrome or toxicity.

“This is a well described adverse event that involves unusual behaviours,” he said.

He said serotonin effects varied from individual to individual.

Dr Robertson said serotonin syndrome occurred when levels were too high and started to affect other areas of the brain.

“When you get too much of this drug you can get situations again where more profound confusion might exist in a general way, increased agitation, unusual behaviours,” he said.

He said studies showed individuals who were taking “SSRIs” were more likely to experience suicidal ideation.

“The mechanism behind that is simply unclear ... it usually happens when someone first starts to take medication or alters medication, those sort of things,” he said.

In cross-examination by Crown prosecutor Todd Fuller QC, Dr Robertson agreed trace levels of serotonin in the stomach may have been transferred there after death

He agreed Ms Baden-Clay would not be described as a “naïve” patient as she had been on Zoloft since 2003.

Dr Robertson agreed she would have likely developed a tolerance to the drug.

He agreed redistribution of drugs in the body meant levels in the extremities, such as a leg, would not increase as much as drug concentrations in the centre of the body.

“The theory being if significant post-mortem redistribution takes place, the concentration in the central blood should have increased ... more than it would in the peripheral blood,” he said.

Dr Robertson agreed drug concentration levels depended on time, the position of the body and leeching of fat from the body.

He said the liver would break down sertraline.

He agreed the fact the blood sample was from the liver was a factor in interpreting the concentration levels.

Dr Robertson agreed sertraline was usually reported as a multi-drug cause of death, rather than a drug alone.

He agreed the levels of serotonin in the blood were not consistent with an overdose causing death.

“I would agree they are not necessarily consistent with those numbers,” he said.

Dr Robertson said he could not say the serotonin levels were inconsistent with causing death.

“I can’t necessarily agree with that completely as I can’t explain the elevated drug concentrations completely, they might have been elevated for some reason ... whether they indirectly had some involvement, I don’t know,” he said.

In re-examination by Mr Byrne, Dr Robertson said serotonin syndrome could occur in a regular user when the dose was increased.

1.15pm: The 75th witness in the trial is psychiatrist Dr Mark Schramm.

He said he worked chiefly in forensic psychiatry, including in the prison mental health service, but also worked privately.

Dr Schramm said he looked at Allison Baden-Clay’s autopsy report, doctor records, as well as psychology consultation notes and records.

He agreed Ms Baden-Clay was first diagnosed with relapsing major depression disorder, with features of anxiety, by Dr Tom George in 2003.

Dr Schramm said that meant it had a longitudinal course that waxed, waned and recurred upon one of her pregnancies.

“It wasn’t just a single episode it was more than one episode,” he said.

He said the symptoms of the disorder included a depressed mood, self-doubt, anxiety and panic attacks.

Dr Schramm said there was a link between major depression and suicide.

“Studies for the rate of suicide vary ... but probably one of the most well-respected studies performed by people who work in Australia or even Brisbane suggests that 3.4 per cent of people who experience depression will take their lives,” he said.

He said it was not universal for people who took their own lives to leave a note.

“More than half do not,” he said.

He said it was not uncommon for suicide to be a surprise to loved ones, friends and relatives.

“It is also the case that very often, and unfortunately suicide is a surprise, and even in retrospect it has been impossible to predict,” he said.

“I think it’s folly to assume that simply because you have a medical degree or you are a psychologist or a psychiatrist that you can confidently predict or rule out when someone might kill themselves,” he said.

“It’s human nature to assume that experts have the answers.”

He said it was not uncommon for experts to “miss” someone who was at risk.

In cross-examination by Crown prosecutor Danny Boyle, Dr Schramm agreed he had not interviewed anyone in relation to his assessment.

He agreed his opinions were based on medical notes and records.

Dr Schramm agreed his remarks were general and related to people who suffered depression.

He asked the psychiatrist about maternal attachment.

“If someone has a strong attachment to her children and she has a concern as to their wellbeing, an ongoing concern that would indicate a high level of attachment which would be a protective factor against suicide?” Mr Boyle said.

Dr Schramm said it would reduce the risk Ms Baden-Clay would harm herself.

“I accept that is something that goes against the argument that she was suicidal,” he said.

Mr Boyle asked if suicide was likely if there had been no triggering event.

“I’d suggest there could be some triggering events that we don’t know about, some triggering events that are internal, but I accept that knowing there is no triggering event ... it is less likely,” he said.

Dr Schramm agreed a person making short and long-term plans would make one “less concerned” they would harm themselves.

“A decision may have occurred after such plans, long term or medium term, were made,” he said.

Mr Boyle asked about the likely suicide risk of a person who had been proactive in the past about seeking assistance from counsellors and doctors.

“In general I would accept Allison seemed to be someone who put her hand up when she wasn’t coping and sought help,” he said.

Dr Schramm agreed symptoms of depression could become worse during pregnancy.

He agreed doctors could increase an anti-depressant dose in order to control mood swings around menstruation.

Dr Schramm said he did not know when Ms Baden-Clay was last actively depressed.

“The records show one of her most recent attendances on her GP at the Kenmore clinic, which was sometime in March, indicated she was complaining of mood swings,” he said.

He said he noticed a note in Ms Baden-Clay’s session with Carmel Ritchie in which she spoke of feeling “not good enough”.

In re-examination by barrister Michael Byrne, Dr Schramm said it was not his belief the increase of sertraline dosage would be likely to have caused suicidal ideation.

“You would normally expect that increased risk when someone first starts on that medication,” he said.

He added that depression was a factor for suicide.

Dr Schramm agreed he noted Ms Baden-Clay was experiencing possibly depressive cognitions at an appointment with counsellor Carmel Ritchie.

“When people are depressed they look at life through grey-coloured glasses ... they evaluate situations themselves in a more negative light through grey glasses. That often is associated with feelings of guilt and inadequacy and I appreciate it is simply cherry-picking one statement, but that struck me as something that may well have been said by someone who is depressed,” he said.

“It may also represent the words of someone who may have as part of their personality, had some self-doubt.

“I don’t think we should draw great certainty from one statement like that but that is certainly not inconsistent with someone who is depressed.”

Dr Schramm said Ms Baden-Clay’s visit to a doctor to treat mood swings around menstruation on March 19, 2012 were not “inconsistent” with depression.

“It’s not inconsistent with it, that’s all I can say. It’s consistent with the GP assessing that she was depressed,” he said.

Dr Schramm agreed the notes of Ms Baden-Clay’s doctor in 2011, which revealed Ms Baden-Clay was experiencing guilt, low mood and tears.

“They all signify a high chance that she was relapsing in her depressive illness,” he said.

The defence closed its case.

Justice John Byrne told the jury all the evidence to be put before them in the trial had been presented.

He said lawyers' addresses to the jury would begin on Monday, first with defence counsel Mr Byrne and followed by an address from prosecutor Mr Fuller.

Justice Byrne said he would then sum up the case to the jury and they would retire to consider a verdict.

The trial was adjourned until 10am Monday.