

ROYAL COMMISSION INTO THE MANAGEMENT  
OF POLICE INFORMANTS

Held in Melbourne, Victoria

On Wednesday, 3 July 2019

Led by Commissioner:           The Honourable Margaret McMurdo AC

Also Present

Counsel Assisting:               Mr A. Woods

Counsel for Victoria Police    Mr S. Holt QC

Counsel for State of Victoria Ms E. Hilliard

Counsel for Nicola Gobbo       Ms L. Scott

Counsel for DPP/SPP            Ms A. Martin

WITNESS

03:32:55 1 COMMISSIONER: I note we're in open hearing.  
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03:32:58 3 MR WOODS: I appear to assist, Commissioner.  
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03:33:00 5 COMMISSIONER: Thank you, Mr Woods.  
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03:33:02 7 MS SCOTT: Commissioner, my name is Lindsay Scott. I'm a  
03:33:04 8 solicitor at Minter Ellison, which act on behalf of  
03:33:08 9 Ms Gobbo in this Commission, and I'm appearing today in  
03:33:10 10 place of Mr Collinson and Mr Nathwani.  
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03:33:14 12 COMMISSIONER: Thank you, Ms Scott.  
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03:33:16 14 MR HOLT: Commissioner, I appear for Victoria Police.  
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03:33:18 16 COMMISSIONER: Thank you, Mr Holt.  
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03:33:22 18 MS HILLIARD: I appear for the State of Victoria.  
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20 MS MARTIN: I appear for the DPP and the OPP.  
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03:33:28 22 COMMISSIONER: I thought there was an appearance for Farouk  
03:33:31 23 Orman.  
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03:33:34 25 MS WALLACE: I wasn't intending to appear.  
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27 COMMISSIONER: You're not intending to appear? There's no  
03:33:37 28 need then if you're not intending to appear. I'll take  
03:33:37 29 your name off the list of appearances. Thank you. Yes,  
03:33:41 30 Mr Woods.  
03:33:42 31  
03:33:42 32 MR WOODS: Commissioner, the list that I was working from  
03:33:46 33 yesterday has been shared with Victoria Police.  
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03:33:50 35 COMMISSIONER: Excellent.  
03:33:50 36  
03:33:51 37 MR WOODS: I understand there are some answers to some of  
03:33:55 38 the questions that were asked as to timing of provision of  
03:33:58 39 particular things. What's been circulated this morning,  
03:34:02 40 that will deal with the first of those issues, is a request  
03:34:08 41 as to timing of disclosure to particular affected people.  
03:34:14 42 Mr Holt and I have had a quick discussion about that  
03:34:19 43 proposed timing and I'll let him - I think, Commissioner,  
03:34:23 44 you have the list of what's been requested by the  
03:34:26 45 Commission as to dates that that disclosure will occur and  
03:34:31 46 Mr Holt has some answers to those.  
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03:34:34 1 COMMISSIONER: Yes. Mr Holt, thanks.  
03:34:36 2  
03:34:36 3 MR HOLT: Yes, thank you, Commissioner. As I indicated  
03:34:38 4 yesterday, we had been working on the basis of a timeline  
03:34:44 5 given to us by Ms Giles of the Commission on 24 June 2019.  
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03:34:49 7 COMMISSIONER: And that was correct, we've since found out.  
03:34:51 8 There was obviously a miscommunication between different  
03:34:54 9 people in the Commission and it didn't come through to us  
03:34:56 10 here.  
03:34:57 11  
03:34:57 12 MR HOLT: I'm not intending to be critical, Commissioner,  
03:35:00 13 but simply to explain.  
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03:35:02 15 COMMISSIONER: But you were right.  
03:35:03 16  
03:35:04 17 MR HOLT: I don't need to be right, Commissioner, but thank  
03:35:06 18 you. The position is - I've been discussing it with our  
03:35:11 19 learned friend this morning - the additional names that are  
03:35:12 20 requested on the list that's been provided this morning to  
03:35:15 21 come to 8 July, which is Monday, we simply won't be able to  
03:35:18 22 comply with that proposal.  
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03:35:20 24 COMMISSIONER: So the original names, can you do 8 July in  
03:35:23 25 respect of those?  
03:35:25 26  
03:35:25 27 MR HOLT: Yes, Commissioner, there's no difficulty with  
03:35:26 28 that.  
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03:35:27 30 COMMISSIONER: Right.  
03:35:27 31  
03:35:28 32 MR HOLT: Our understanding of the original proposal is  
03:35:30 33 there is no difficulty with that. I'm cautiously  
03:35:38 34 optimistic. I don't wish to say there won't be a  
35 difficulty. The nature of this case is that there are.  
03:35:40 36 But as I'm instructed this morning, matters are on track.  
03:35:42 37 But what we would propose doing, if it please the  
03:35:45 38 Commission, would be to take the additional names which  
03:35:49 39 have been put on to the 8 July list, the ones that, at  
03:35:55 40 least in the version of the document I have, have an  
03:35:57 41 asterisk beside them and to prioritise those amongst the  
03:36:01 42 remaining ones and to provide that material progressively  
03:36:04 43 and we would intend to - we intend to meet with the  
03:36:09 44 disclosure team possibly today, but probably tomorrow  
03:36:12 45 morning, in order to plan a work schedule around that and  
03:36:17 46 keep the Commission advised as to progress. We certainly  
03:36:21 47 don't intend to wait until the 19th and then give all of

03:36:23 1 those documents over, and we will prioritise those  
03:36:25 2 additional names.

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03:36:26 4 The only additional matter in that respect is that our  
03:36:29 5 learned friend has given us another name this morning which  
03:36:31 6 didn't appear on any of those lists, at least on my  
03:36:34 7 preliminary review, and we'll work that in as well, because  
03:36:37 8 we understand that needs to be prioritised also.

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03:36:40 10 So there's no difficulty with the original timeline  
03:36:42 11 and we will prioritise those asterisked names to come as  
03:36:48 12 early in advance as possible, and if there are further  
03:36:51 13 prioritisations within that list of asterisked names, we  
03:36:57 14 would be very grateful to receive an indication of that.

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03:36:58 16 COMMISSIONER: All right. So as I understand it then, the  
03:37:01 17 asterisked names, that were 10 to 15, on the list you've  
03:37:04 18 been provided.

03:37:05 19  
03:37:05 20 MR HOLT: Yes.

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03:37:06 22 COMMISSIONER: Disclosure will be made as soon as possible  
03:37:10 23 after 8 July, and certainly by 19 July.

03:37:15 24  
03:37:16 25 MR HOLT: Unquestionably by then for those ones,  
03:37:20 26 Commissioner. We take it that those are the priorities for  
03:37:23 27 the Commission and we'll deal with it on that basis.

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03:37:27 29 COMMISSIONER: And at this stage you're anticipating you'll  
03:37:29 30 be able to meet the 19 July requirement for the remaining  
03:37:32 31 names?

03:37:33 32  
03:37:34 33 MR HOLT: I'm cautiously optimistic, on my instructions at  
03:37:39 34 present, Commissioner.

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03:37:40 36 COMMISSIONER: All right. Thanks very much, Mr Holt.  
03:37:41 37 That's satisfactory.

03:37:42 38  
03:37:43 39 MR WOODS: Thank you, Commissioner.

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03:37:44 41 The second issue is the review of the ICRs. As the  
03:37:49 42 Commissioner knows, these are the summary - sorry, of the  
03:37:52 43 transcripts. Sorry, which is also relevant to ICRs, I  
03:37:59 44 should say. There's been a layer of review that apparently  
03:38:07 45 has been done, and I'll let Mr Holt explain what the  
03:38:09 46 situation is with those.

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03:38:11 1 COMMISSIONER: Are you wanting to deal with item 2 and  
03:38:13 2 item 10 together, which is the - - -  
03:38:15 3  
03:38:15 4 MR WOODS: Yes, I think we should, just so that it's clear,  
03:38:18 5 because I think there might have been something I said  
03:38:20 6 yesterday that made it a bit unclear. The ICRs themselves  
03:38:24 7 are the summaries of both telephone and face-to-face  
03:38:28 8 contacts between SDU and Ms Gobbo. The face-to-face ones  
03:38:33 9 are also recorded and transcribed and what I was talking  
03:38:38 10 about yesterday when I was talking about ICRs in that  
03:38:41 11 regard is the actual transcripts of those entire  
03:38:44 12 conversations. There are ICRs that are summaries of those  
03:38:47 13 conversations, which is a much shorter document.  
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03:38:51 15 So, firstly, we're after the remaining number of  
03:38:54 16 transcripts to be provided, because there will obviously  
03:39:00 17 need to be - matters in those will need to be put to some  
03:39:03 18 of the handlers.  
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03:39:04 20 COMMISSIONER: Yes.  
03:39:05 21  
03:39:05 22 MR WOODS: And I think there is an update in that regard.  
03:39:08 23  
03:39:08 24 MR HOLT: Yes, thank you, Commissioner.  
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03:39:09 26 COMMISSIONER: Yes.  
03:39:10 27  
03:39:10 28 MR HOLT: I think, with respect, it is sensible to deal  
03:39:12 29 with those two categories of documents together. In terms  
03:39:15 30 of the ICRs, the body of ICRs as a whole has been put  
03:39:21 31 entirely through the preliminary level of PII review by  
03:39:25 32 Victoria Police. That's been able to be done, with very  
03:39:28 33 significant resources, much more quickly than we had  
03:39:30 34 earlier indicated was likely. What it hasn't yet done is  
03:39:35 35 to go through what's called internally the supervisor  
03:39:39 36 review level, which is more senior persons, who have got an  
03:39:42 37 overview of all issues and therefore able to pick up issues  
03:39:47 38 like inconsistencies, and so on, about matters.  
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03:39:50 40 Can I park that issue and then indicate this: in  
03:39:53 41 terms of the affected persons, the packages of disclosure  
03:39:57 42 that are going to the affected persons include ICRs which  
03:39:59 43 have been fully PII reviewed for each of those persons. So  
03:40:03 44 to that extent, for each of those affected persons, they  
03:40:08 45 will have, by the time the hearings commence and as long in  
03:40:13 46 advance as we can do it, on the basis of what we've  
03:40:15 47 indicated, redacted versions of - the IR redacted versions

03:40:16 1 of those ICRs. That larger body of material to go through  
03:40:20 2 supervisor review will probably take an additional three  
03:40:23 3 weeks or so, which is, plainly, insufficient for present  
03:40:26 4 purposes. So what we propose to do, Commissioner - I've  
03:40:31 5 discussed this briefly with our learned friend - is to  
03:40:33 6 provide the Commission with the reviewed - the documents in  
03:40:37 7 their PII reviewed state to date, with a view to  
03:40:41 8 discussions with our learned friends in order to be able to  
03:40:43 9 identify what might be the priority areas within those,  
03:40:46 10 while we continue on with the supervisor review process,  
03:40:49 11 recognising, as I say, that ICRs which have otherwise been  
03:40:52 12 redacted will have been provided to affected persons. I  
03:40:56 13 think that's as best as I can indicate in respect to the  
03:41:00 14 ICRs at present.

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03:41:01 16 COMMISSIONER: Thanks, Mr Holt. Are you content - did you  
03:41:02 17 want to say something more?

03:41:02 18  
03:41:05 19 MR HOLT: Yes. The second part of it, of course, is the  
03:41:06 20 transcripts. I think I said this yesterday, but for  
03:41:09 21 completeness, the transcripts are now, subject to one  
03:41:15 22 transcript which had an audio issue, a technical issue, are  
03:41:19 23 now all ready to be produced to the Commission in  
03:41:21 24 unredacted form. They will also be provided in that form  
03:41:24 25 to the handlers and also to - in fact, already have been,  
03:41:29 26 I'm instructed, to permit them to get on with matters,  
03:41:33 27 because they've simply been put on to the Loricated  
03:41:35 28 database, and on the same basis to Ms Gobbo's counsel, so  
03:41:39 29 that has occurred, and the production to the Commission  
03:41:41 30 will occur - it's a big uploading exercise - but it will  
03:41:44 31 occur very shortly. There are a very large number of  
03:41:46 32 passages, 13,541. The prospect of full PII review before  
03:41:52 33 the hearings commence is zero. Again, I think the best we  
03:41:56 34 can do in that sense is to recognise that the ICRs relevant  
03:41:59 35 to each of the individual persons are summaries of the  
03:42:01 36 things that are then transcribed and to work with our  
03:42:04 37 learned friends to identify which matters are to be dealt  
03:42:06 38 with.

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03:42:06 40 Ultimately there may be a question, and I don't - I  
03:42:12 41 shouldn't be taken to be asking the Commissioner a  
03:42:14 42 question - but a question as to how much of that body of  
03:42:17 43 material ultimately the Commission will be wanting to  
03:42:19 44 publish, because it may be that ultimately there needs to  
03:42:22 45 be a full publicly available redacted version in any event.  
03:42:25 46 That might be a longer-term task that we would, in any  
03:42:30 47 event, be wanting to undertake, but what we're anxious to

03:42:32 1 do at the moment is to make sure that we can work with the  
03:42:33 2 Commission to ensure that there's sufficient information  
03:42:36 3 for the material to allow the SDU hearings to proceed.  
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03:42:40 5 In that sense, might I respectfully enquire as to  
03:42:42 6 whether it's presently the Commission's intention to  
03:42:43 7 commence with handlers on the 22nd, or if the likelihood is  
03:42:49 8 that it will be shortly after that. That just might make a  
03:42:51 9 difference in terms of our planning, and perhaps if I could  
03:42:54 10 just ask, if it were possible, that be communicated to us.  
03:42:58 11

03:42:58 12 MR WOODS: I should say a decision hasn't been made in that  
03:43:00 13 regard. We'll communicate that as soon as we know.  
03:43:03 14

03:43:03 15 MR HOLT: I'm grateful. Thank you.  
03:43:05 16

03:43:05 17 MR WOODS: I should also say - sorry about one step forward  
03:43:08 18 and one step back - but in relation to the disclosure to  
03:43:11 19 relevant people, something that's been mentioned that I  
03:43:13 20 think should be mentioned before you, is that it's  
03:43:18 21 certainly counsel assisting's position that in relation to  
03:43:23 22 a particular affected person, it's often the case with some  
03:43:28 23 of the people in this list that there's another potentially  
03:43:31 24 affected person whose interactions precipitated the effect  
03:43:37 25 on the next person. So we're expecting that the disclosure  
03:43:40 26 to that second person includes the disclosure in relation  
03:43:44 27 to the first person. So if one person is dealing - has  
03:43:48 28 relevant dealings in relation to Nicola Gobbo and the SDU,  
03:43:51 29 the information that's provided then has a potential effect  
03:43:55 30 on a later case, that later case should have disclosure of  
03:43:58 31 the earlier items.  
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03:43:59 33 I think that goes without saying and I assume that's  
03:44:01 34 the process that's being undertaken for disclosure, because  
03:44:05 35 that's the way the case might have been affected. I don't  
03:44:08 36 want to give examples of it because some of the names are  
03:44:10 37 subject to suppression, but I just wanted to put that on  
03:44:14 38 the record, that that's the expectation, because we  
03:44:18 39 wouldn't want that second person to say, "We don't really  
03:44:22 40 have proper disclosure at this stage because we need to  
03:44:25 41 know more about this person who came first in time."  
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03:44:29 43 COMMISSIONER: It's all very cryptic, but, obviously,  
03:44:31 44 you'll have to keep communicating with Victoria Police  
03:44:34 45 about that.  
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03:44:34 47 MR WOODS: Yes, we will.

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COMMISSIONER: Because they might have a view - they're very likely to have a view on whether there should be disclosure to additional people.

MR WOODS: Yes.

MR HOLT: Can I say, Commissioner, this was an issue raised by our learned friend with us this morning and I'm grateful for it. There are obvious complexities and case-specific issues in relation to the question. The underlying point our learned friend makes is a sound one and, as I've indicated to our learned friend, we'll take the opportunity over the next 24 hours to meet with the disclosure team so that we can be on the same page to understand how matters are proceeding and ensure that we have got the same understanding, whatever that might be. I'll ensure that occurs, Commissioner.

COMMISSIONER: Thank you.

MR WOODS: The third point on the list, disclosure in relation to a particular individual, Mr Holt's indicated to me this morning that we'll have those materials quite soon - I think it might have been by Tuesday of next week.

COMMISSIONER: Yes.

MR WOODS: So that's useful to know.

COMMISSIONER: By Tuesday next week. Excellent.

MR WOODS: Then number 4, it's been indicated to me that a review has occurred. About half of those documents are relevant to the broader issue and about 15 or so are relevant to the issue of conversion from an informer to a witness. They are currently being reviewed. I didn't make a note of the date that we can expect to get them, but I understood it was quite soon.

MR HOLT: Commissioner, can I, without wanting to prolong matters, just place a couple of matters on the record in respect of this, in light of representations that have previously been made.

That 1,000 documents that was referred to in the course of a previous hearing were documents that had been



03:46:12 1 discovered - collated, in effect, as a result of electronic  
03:46:15 2 searches done on a particular database or particular  
03:46:17 3 databases, and they had been queued for further review and  
4 simply by virtue of workload, they were never reached in  
03:46:24 5 that sense until they were noted in the course of the  
03:46:26 6 earlier proceedings. Of those documents which have now  
03:46:28 7 been reviewed for relevance and responsiveness to Notices  
03:46:33 8 to Produce, I'm instructed that at present it would appear  
03:46:35 9 that something slightly over 600 are likely to be relevant,  
03:46:40 10 relevant and/or responsive to a Notice to Produce. Of  
03:46:46 11 those, again as presently advised, only about 15 are  
03:46:47 12 relevant to the question of conversion from witness to  
03:46:50 13 source. What hasn't yet occurred is a public interest  
03:46:53 14 immunity review of those documents because that relevance  
03:46:56 15 review has only just concluded. I have indicated to our  
03:47:01 16 learned friends that we hope relatively soon, by which I  
03:47:05 17 mean later today or tomorrow, to have a proposal to put to  
03:47:08 18 our learned friends which might expedite the production of  
03:47:12 19 those documents or at least a portion of them. And I will  
03:47:16 20 deal, if it pleases the Commissioner, with our learned  
03:47:19 21 friends in respect of that matter. Certainly we will be  
03:47:22 22 progressing the production of those documents as quickly as  
03:47:26 23 possible and I can confirm that significant resources have  
03:47:30 24 been diverted over the course of the last period of time to  
03:47:32 25 the reviewing of those documents for relevance and so on to  
03:47:35 26 ensure that we are properly responding to notices,  
03:47:37 27 Commissioner.

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03:47:37 29 COMMISSIONER: Thank you.

03:47:38 30  
03:47:39 31 MR WOODS: The next two can be dealt with together, they're  
03:47:43 32 both diary entries of Mr Kelly who was a witness last week  
03:47:46 33 I think, perhaps the week before. The Commission is  
03:47:49 34 seeking production, so that they can be published, of two  
03:47:55 35 separate exhibits which are entries from his diaries in  
03:47:59 36 shaded form so that the Commission can have a look at the  
03:48:03 37 proposed redactions and also a redacted form.

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03:48:06 39 COMMISSIONER: Yes.

03:48:07 40  
03:48:09 41 MR HOLT: If it pleases the Commissioner they would be  
03:48:11 42 provided we would propose by Friday. Ms Argiropoulos was  
03:48:14 43 counsel dealing with that matter and she's presently  
03:48:18 44 unavailable for reasons that don't concern the Commission,  
03:48:22 45 and we think we can get those done for Friday. In fact I'm  
46 certain we can get those done for Friday, Commissioner.  
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03:48:24 1 COMMISSIONER: Thanks very much. Yes.  
03:48:25 2  
03:48:25 3 MR WOODS: The police officer who was previously excused on  
03:48:29 4 medical grounds who the Commission asked for an update as  
03:48:34 5 to his condition, I'm told - oh yes, go ahead.  
03:48:38 6  
03:48:38 7 MR HOLT: I'm sorry, I'm grateful. Just because we're  
03:48:42 8 dealing with personal health matters. I'm instructed that  
03:48:46 9 in terms of getting the further assessment, that has been  
03:48:49 10 complicated by a recent and current ongoing hospitalisation  
03:48:53 11 for that witness. There are arrangements being made at  
03:48:55 12 present in the hope that that state of affairs will change  
03:49:01 13 very relatively soon for that assessment to be completed  
03:49:03 14 next week and we will provide the Commissioner with an  
03:49:05 15 update as soon as we have one, but in any event by the end  
03:49:11 16 of next week.  
17  
03:49:12 18 COMMISSIONER: All right then. Is there any prospect he's  
03:49:15 19 going to be well enough to give evidence at this stage?  
03:49:19 20  
03:49:20 21 MR HOLT: I don't know, Commissioner. The matter for which  
03:49:22 22 he's hospitalised is not the primary matter which we were  
03:49:24 23 discussing last time.  
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03:49:26 25 COMMISSIONER: Yes, thank you. Item 8.  
03:49:28 26  
03:49:28 27 MR HOLT: Yes, I'm sorry, I might - invited by our learned  
03:49:30 28 friend - deal with item 9, which is the SDU hard drives.  
03:49:35 29 Commissioner, there are the two hard drives - - -  
03:49:35 30  
03:49:36 31 MR WOODS: Item 8, the police emails first, sorry.  
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03:49:38 33 COMMISSIONER: Have we dealt with Item 8?  
03:49:40 34  
03:49:40 35 MR HOLT: No we haven't, I apologise.  
03:49:42 36  
03:49:43 37 MR WOODS: That was my fault, I invited him to deal with  
03:49:49 38 the next issue and I picked the wrong one.  
03:49:50 39  
40 MR HOLT: And I think I just jumped at the opportunity not  
41 to talk about emails, Commissioner. I now will.  
03:49:50 42 Commissioner, the position with respect to emails is  
03:49:52 43 divided between post-2007 emails and pre-2007 emails.  
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03:49:59 45 COMMISSIONER: I thought there weren't any pre-2007.  
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47 MR HOLT: No, Commissioner.

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03:50:01 COMMISSIONER: There are some?

03:50:04 MR HOLT: What occurred is that post-2007, post a  
03:50:07 particular IT system change, the emails are relatively  
03:50:10 accessible and comparatively easily searched and as a  
03:50:16 result, as has now been seen with Mr Bateson and continuing  
03:50:20 with other witnesses, they are doing reviews of their  
03:50:22 emails in the same way that we are with diaries. Those  
03:50:24 will be produced as matters proceed. We've managed to have  
03:50:26 those done in a way that now makes them even more  
03:50:29 searchable which I think will improve the process.  
03:50:29 Pre-2007 emails for Victoria Police have been found now  
03:50:34 existing on old school tapes, old school back-up tapes. At  
03:50:40 present and until very recently we thought permanently  
03:50:44 doing anything other than simply having available many,  
03:50:47 many millions of emails without any capacity to search them  
03:50:50 appeared to be impossible. I'm instructed that there does  
03:50:53 appear to be a solution to that which involves putting  
03:50:55 those documents onto a particular document management  
03:50:58 system. That is under way. It is not a technically easy  
03:51:01 process and has hit some snags but we are hopeful that at  
03:51:06 the conclusion of that we will be in a position to conduct,  
03:51:09 for example, hopefully searches by email custodian, that is  
03:51:14 particular users, because obviously a database which is  
03:51:17 simply every email of the entirety of the Victoria Police  
03:51:20 Force is not going to be helpful. I should say,  
03:51:25 Commissioner, this is not new information as far as those  
03:51:30 assisting you will be concerned because it's been raised in  
03:51:33 the regular weekly update meetings which have been  
31 occurring for some period of time but I thought it  
03:51:34 appropriate to bring that to the Commissioner's attention.  
03:51:35 Post-2007 those matters are being progressed as issues  
03:51:40 arise and witnesses arise. Pre-2007 we're still trying but  
03:51:45 trying hard.

03:51:46 COMMISSIONER: Thank you.

03:51:46 MR WOODS: It's simply the timing around that that's of  
03:51:47 concern given that we've now moved past, or we're moving  
03:51:49 into the registration period that was in the original Terms  
03:51:53 of Reference. We've dealt with a lot of issues that are  
03:51:58 relevant to a period of time when emails were used. The  
03:52:02 other thing is - so we need them quite urgently and I  
03:52:06 understand it's a complicated task but we don't want the  
03:52:11 Commission's work to move too far beyond where it is once  
03:52:14 they're provided. The other issue is one would assume that  
03:52:18

03:52:21 1 email communication through the period of SDU registration  
03:52:26 2 and leading up to that was a pretty frequent thing and so  
03:52:32 3 that will - there will no doubt be in all of those emails a  
03:52:38 4 lot of documents that are relevant to be disclosed to  
03:52:40 5 affected people. Obviously there's ongoing disclosure  
03:52:46 6 obligations at large for any appeals that are on foot, but  
03:52:52 7 for the Commission's particular purposes we think that that  
03:52:54 8 task should be done quite quickly because no doubt there  
03:52:58 9 will be some emails that will be relevant to the upcoming  
03:53:00 10 SDU hearings that we'll need to get access to. So all I'm  
03:53:03 11 really saying is that yes, I understand it's a difficult  
03:53:06 12 and complicated process but we really need it done as  
03:53:10 13 quickly as possible.

14  
03:53:11 15 COMMISSIONER: Right. I think you were originally asking  
03:53:15 16 for it by 18 July and all you can say, Mr Holt, is that  
03:53:20 17 you'll do it as soon as you can.

03:53:22 18  
03:53:22 19 MR HOLT: Yes, Commissioner. I think what will make a  
03:53:25 20 difference is once we're through what we hope is a solution  
03:53:29 21 to the current technical problem, we'll be notifying the  
03:53:32 22 Commission of that and then perhaps again working with our  
03:53:35 23 learned friends on some priority word searches and person  
03:53:38 24 searches. We'll be able to assess that ourselves and  
03:53:38 25 already are thinking about it. But that'll be the way to  
03:53:41 26 do it. We well understand what our learned friends have  
03:53:44 27 said about it. There's nothing wrong with what our friend  
03:53:46 28 has said.

29  
03:53:46 30 COMMISSIONER: Thank you. Item 9, Mr Holt.

03:53:48 31  
03:53:49 32 MR HOLT: The SDU hard drives. There are the two hard  
03:53:52 33 drives which had earlier been located. As the Commissioner  
03:53:58 34 I think has previously been told, those were encrypted hard  
03:54:03 35 drives which required significant effort to access. They  
03:54:06 36 have now been accessed. A process is under way now to  
03:54:10 37 compare those hard drives to the police system generally in  
03:54:14 38 order to see whether everything on those hard drives  
03:54:18 39 essentially is also replicated on the police system and  
03:54:21 40 therefore replicated on the Loricated database, because  
03:54:25 41 that's the underlying question that Mr Chettle for example  
03:54:29 42 raises regularly. Might I just see whether - I'd asked for  
03:54:33 43 an update on this this morning, I'm just not sure whether  
03:54:34 44 it's come from the technical folk, might I just see if I  
45 can - - -

46  
03:54:38 47 COMMISSIONER: Yes.

03:54:43 1  
03:54:44 2 MR HOLT: I'm told that we expect to have an answer on  
03:54:47 3 what's called I'm told a hashing process but that  
03:54:49 4 comparison by the end of this week and we'll keep the  
03:54:52 5 Commission updated as that, as to whether there's anything  
03:54:55 6 of any significance in that. But I now need to notify the  
03:54:58 7 Commission of another matter which I advised our learned  
03:55:02 8 friend of this morning. That is over the course of the  
03:55:04 9 weekend while archive boxes were being searched in respect  
03:55:07 10 of other matters, that is to exhaust some other inquiries,  
03:55:12 11 four additional hard drives have been located and those  
03:55:17 12 will now be put through precisely the same process but we  
03:55:22 13 expect to be able to do that much faster. I don't have a  
14 timeframe on that because it was only on the weekend, but  
15 we wish to advise the Commission of that as soon as  
03:55:24 16 possible seeing that they have been located.  
17  
03:55:26 18 COMMISSIONER: Thank you very much. Yes, item 10 we've  
03:55:29 19 done.  
03:55:30 20  
03:55:30 21 MR WOODS: We've dealt with.  
22  
03:55:31 23 COMMISSIONER: Yes, 11.  
03:55:32 24  
03:55:33 25 MR WOODS: 11 is the statements of the handlers reviewed  
03:55:35 26 for PII so they can be circulated.  
03:55:38 27  
03:55:38 28 MR HOLT: Commissioner, there had been discussions again  
03:55:42 29 between our solicitors and solicitors assisting about this  
03:55:45 30 process and what we've done is to PII review Mr Jones'  
03:55:49 31 statement, and the reason for doing that one first was on  
03:55:52 32 the basis that if it turned out we were making claims, of  
03:55:57 33 course subject to rulings by the Commissioner, that made  
03:56:00 34 the statements incomprehensible, then it might be we needed  
03:56:04 35 to take a different approach. We've done that review. It  
03:56:08 36 is in the process of being produced at present. So subject  
03:56:08 37 to the vagaries of those computer systems that will occur  
03:56:11 38 very soon. I'm pleased to say that over the course of a 40  
03:56:15 39 page statement something slightly less than two pages in  
03:56:18 40 total claims are even made in respect of PII. On that  
03:56:21 41 basis we will now progress as a matter of urgency those  
03:56:26 42 additional statements and have those provided within the  
03:56:28 43 time frame indicated in the letter which I think is  
03:56:31 44 proposed for the 9th.  
45  
03:56:32 46 COMMISSIONER: Thank you. Item 12.  
03:56:36 47

03:56:36 1 MR HOLT: I'm sorry, Commissioner, I should say just so  
03:56:38 2 that there is no doubt about that, when I talk about the  
03:56:41 3 statements, in fact I wonder if we might make that the 10th  
03:56:45 4 simply because I'm very conscious that we're coalescing a  
03:56:49 5 lot of tasks around the 8th and 9th and I don't want to  
03:56:54 6 place those who sit at the top of the authorising chain  
03:56:57 7 under pressure to be working all night. It also refers to  
03:57:01 8 attachments and we will do our very best on attachments but  
03:57:05 9 it may be given the length of some of them that the PII  
03:57:08 10 review on those may take a little longer and we'll keep the  
03:57:11 11 Commission advised of that. We're also aware there may be  
03:57:15 12 an intention to provide some additional statements for the  
03:57:19 13 handlers, that they may be coming. We simply note that  
03:57:21 14 obviously they will require the same PII process once that  
03:57:24 15 occurs. I just put that on record at this point.  
16  
03:57:27 17 COMMISSIONER: You're content with 10 July, I take it?  
03:57:30 18  
03:57:31 19 MR WOODS: Yes, 10 July is acceptable for that in my  
03:57:34 20 submission. Then we're seeking the source management logs  
03:57:38 21 and the risk assessments. I think there might have been a  
03:57:41 22 date indicated yesterday that they would be provided by.  
03:57:47 23  
03:57:49 24 MR HOLT: Can I just update? Commissioner, I indicated  
03:57:52 25 yesterday that the PII review had been done. What I should  
03:57:55 26 have said was that the initial PII review had been done on  
03:57:59 27 those documents. That doesn't mean they're far away but I  
03:58:02 28 think sensibly I had indicated Tuesday, I think sensibly  
03:58:07 29 perhaps Thursday of next week might be more realistic,  
03:58:10 30 which I think is the 11th, if we might have until then to  
03:58:13 31 provide those documents. If we can do them  
03:58:17 32 earlier obviously we will, I just simply don't want to -  
03:58:18 33 - -  
03:58:18 34  
03:58:19 35 MR WOODS: We can certainly live with that in circumstances  
03:58:21 36 where we've got copies of those documents in an unredacted  
03:58:25 37 form.  
03:58:26 38  
03:58:27 39 MR HOLT: Yes, and one has already been done as well,  
03:58:28 40 Commissioner, so I think it's in fact only two that are  
03:58:28 41 left.  
03:58:28 42  
03:58:29 43 MR WOODS: If the one that's been done can be - has that  
03:58:30 44 been provided?  
03:58:31 45  
03:58:32 46 MR HOLT: It's been produced. I think it's an exhibit.  
47

03:58:35 1 COMMISSIONER: All right, by 11 July for item 11. Then  
03:58:44 2 item 12.  
03:58:45 3  
03:58:46 4 MR WOODS: That was item 12.  
5  
03:58:47 6 COMMISSIONER: That was item 12, sorry. Yes, item 13.  
03:58:51 7  
03:58:52 8 MR WOODS: Item 13 is the LSB exhibits. So they were  
03:58:55 9 tendered - - -  
03:58:57 10  
03:58:57 11 MR HOLT: We've sent these this morning, Commissioner. Our  
03:59:00 12 friends won't have had a chance to look at them but they've  
03:59:03 13 been sent this morning.  
14  
03:59:04 15 COMMISSIONER: They've been sent, wonderful. Item 14.  
03:59:06 16  
03:59:06 17 MR HOLT: Commissioner, the position is as I indicated it  
03:59:08 18 yesterday. Our learned friend has been kind enough to  
03:59:11 19 provide us with the contact details for that person's legal  
03:59:14 20 representative this morning and subject to instructions  
03:59:16 21 which I will aim to take very quickly in the course of  
03:59:19 22 today, we will see if we can progress the matter in the way  
03:59:23 23 I think that the Commissioner was apprehending yesterday  
03:59:26 24 and we will provide an update early next week.  
25  
03:59:28 26 COMMISSIONER: Thank you.  
03:59:29 27  
03:59:30 28 MR WOODS: Is that that there'll be an update to the  
03:59:34 29 Commission about when that person will be disclosed to or  
03:59:38 30 that the person has been disclosed to?  
03:59:39 31  
03:59:40 32 MR HOLT: Commissioner, it will depend, obviously, on the  
03:59:41 33 instructions. As matters presently stand, it's as matters  
03:59:43 34 were yesterday, which is that an application is about to be  
03:59:47 35 made, and it will be done with notice to the Commission, in  
03:59:50 36 the Supreme Court to prevent not disclosure to that person  
03:59:53 37 but any further disclosure by that person to anybody else,  
03:59:54 38 but in the meantime, now that he is legally represented,  
03:59:57 39 there may, of course, be another solution, which means we  
04:00:04 40 could do that without delay, and I simply need to finalise  
41 that, which involves taking instructions and speaking with  
04:00:05 42 that person's representative, and we'll do that as quickly  
04:00:07 43 as we can and keep the Commission advised as to progress on  
04:00:11 44 that matter.  
45  
04:00:11 46 COMMISSIONER: That advice will be given by next week?  
04:00:15 47

04:00:16 1 MR HOLT: Of course, Commissioner.  
04:00:17 2  
04:00:17 3 MR WOODS: We'll pass that on to the solicitors for that  
04:00:20 4 individual, who I think have been writing to the  
04:00:22 5 Commission, so they are aware.  
6  
04:00:25 7 COMMISSIONER: Thank you.  
04:00:25 8  
04:00:27 9 MR WOODS: The last one on the list is the 29 May 2007  
04:00:31 10 notes, and I don't think we had a chance to discuss this  
04:00:35 11 one before you came on to the Bench, Commissioner.  
12  
04:00:38 13 MR HOLT: No. Commissioner, I think this was just a  
04:00:38 14 misunderstanding. When the matter was raised in evidence  
04:00:41 15 with Mr Dale by our learned friend Mr Winneke QC, the  
04:00:43 16 suggestion was that that document had not in fact been  
04:00:47 17 disclosed or produced to the Commission. In fact it had  
04:00:51 18 been, in the sense that it is on the Loricated database,  
04:00:54 19 albeit in a file that might not have been entirely obvious.  
04:00:57 20 We communicated with those assisting the Commission on  
04:01:01 21 24 June about that matter and included a redacted version  
04:01:04 22 available for production on 24 June - I'm sorry, I meant to  
04:01:08 23 raise this with our learned friend this morning - but we  
04:01:11 24 think that that's a matter that doesn't need to trouble the  
04:01:14 25 Commission further, because we've provided a version,  
04:01:17 26 subject, obviously, to the Commissioner's views about any  
04:01:21 27 claims made for PII in that document, which we're happy to  
04:01:25 28 deal with promptly with our learned friends.  
04:01:26 29  
04:01:27 30 MR WOODS: So it looks like we just need to have a look at  
04:01:29 31 the claims for PII and we'll converse about that one.  
32  
04:01:32 33 MR HOLT: Yes.  
34  
04:01:33 35 MR WOODS: Then, finally, the provision - the PII review of  
04:01:38 36 Ms Gobbo's draft statement taken by Mr Iddles, that was  
04:01:42 37 referred to in evidence earlier. I'm told that's been  
04:01:44 38 provided today.  
39  
04:01:45 40 COMMISSIONER: That's been sorted, I understand. I was  
04:01:47 41 told before I came in that's now been sorted.  
42  
04:01:50 43 MR HOLT: It would seem, yes - and I mean no criticism.  
04:01:51 44 These things happen overnight - it was sent yesterday,  
04:01:53 45 Commissioner.  
04:01:57 46  
04:01:57 47 COMMISSIONER: And we've got a redacted version for



04:02:01 1 publication on the website too?  
04:02:03 2  
04:02:03 3 MR HOLT: That's what we've provided.  
4  
04:02:04 5 COMMISSIONER: That's what you provided overnight. There's  
04:02:06 6 no problem with the unredacted being provided to Ms Gobbo's  
04:02:09 7 lawyers and Mr Iddles?  
04:02:12 8  
04:02:12 9 MR WOODS: I'm told it has been provided to Ms Gobbo's  
04:02:15 10 lawyers just this morning.  
11  
04:02:15 12 COMMISSIONER: It has been provided, and we can provide an  
04:02:17 13 unredacted version to Mr Iddles, whose document it was.  
04:02:21 14  
04:02:21 15 MR WOODS: That's right.  
16  
04:02:22 17 COMMISSIONER: All right. That's good. Then there was  
04:02:24 18 something further about - - -  
04:02:26 19  
04:02:26 20 MR HOLT: Commissioner, I apologise. In terms of provision  
04:02:30 21 of that document to Mr Iddles, because of Mr Iddles'  
04:02:33 22 current location, which is out of Melbourne by some  
04:02:36 23 distance, and his role, if it please the Commission, we  
04:02:40 24 would propose that we provide that document to Mr Iddles  
04:02:43 25 and then confirm with the Commission that we've provided it  
04:02:47 26 to Mr Iddles, through a secure facility, so that it's being  
04:02:51 27 provided to him in that way, and it will save the  
04:02:53 28 Commission - - -  
04:02:55 29  
04:02:56 30 MR WOODS: We'd certainly prefer to provide that to  
04:02:59 31 Mr Iddles ourselves. He's not represented by Corrs. We've  
04:03:03 32 been in contact with him. We've got secure methods of  
04:03:08 33 dealing with him, so we're happy to take care of that.  
04:03:09 34  
04:03:11 35 MR HOLT: We'll discuss with our learned friends about the  
04:03:13 36 method by which it might be provided.  
37  
04:03:15 38 COMMISSIONER: You'll provide it in a secure way, in a  
04:03:17 39 secure method.  
04:03:18 40  
04:03:19 41 MR WOODS: He'll get it quite shortly one way or another.  
42  
04:03:24 43 COMMISSIONER: But in a secure way.  
04:03:25 44  
04:03:25 45 MR WOODS: Yes.  
46  
04:03:25 47 COMMISSIONER: Then there was something to do with the

04:03:29 1 solicitor who was mentioned in hearings yesterday,  
04:03:32 2 provision to her of some material, I think.  
04:03:36 3  
04:03:36 4 MR WOODS: Yes. That solicitor's been in contact - if I  
04:03:44 5 could have a moment. I understand Victoria Police are  
04:04:04 6 content for that person to be provided with the transcript  
04:04:08 7 of the proceeding. In relation to whether or not the  
04:04:14 8 statement is provided, as I understand it, the redactions -  
04:04:19 9 sorry, an unredacted version of the statement is provided.  
04:04:23 10 I'm told, but I'll have to confirm, that the redactions  
04:04:28 11 don't, other than the redaction of that person's name on a  
04:04:33 12 couple of occasions, largely don't touch on her interests.  
04:04:35 13 So that being the case, if that's correct, then there'd be  
04:04:39 14 no reason to provide anything other than the unredacted  
04:04:43 15 version of the statement, which we can do. I just need to  
04:04:47 16 confirm that that's the case, and I'm told that it is, so  
04:04:52 17 I'd be surprised if it's otherwise.  
04:04:52 18  
19 MR HOLT: If it assists, she's only referenced in paragraph  
04:04:53 20 77 in a redacted sense, and plainly she should be told that  
04:04:54 21 that's her name, and other than that, the redactions, on  
04:04:57 22 our assessment, don't touch on her interests and, subject  
04:04:59 23 to the Commission being in agreement with that, we would  
04:05:02 24 respectfully submit that she be given the redacted version  
04:05:06 25 of the statement and as has been indicated - - -  
26  
04:05:07 27 COMMISSIONER: Of the whole statement, yes.  
04:05:09 28  
04:05:09 29 MR HOLT: Yes, but in its redacted form.  
30  
04:05:13 31 COMMISSIONER: But paragraph 77, I'm told that the sole  
04:05:16 32 redaction relates to her name.  
04:05:18 33  
04:05:19 34 MR HOLT: No, there are other redactions, but the name in  
04:05:21 35 there relates to her, and she should be told that.  
36  
04:05:25 37 COMMISSIONER: Insofar as it affects her, should she not  
04:05:30 38 see paragraph 77 unredacted?  
04:05:32 39  
04:05:32 40 MR HOLT: I think the other redactions, Commissioner, are  
04:05:35 41 redactions for names, which she may know, in terms of  
04:05:39 42 witnesses and so on, but in any event, ought not be  
04:05:42 43 disclosed in - ought not be made in an unredacted form  
04:05:51 44 beyond that which is strictly necessary, but the principle  
45 I think we agree with, which is she be told the things that  
04:05:54 46 actually affect her. Perhaps I can discuss paragraph 77  
04:05:56 47 with Mr Woods.

04:06:03 1  
04:06:03 2 MR WOODS: If the indication is that she's able to be  
04:06:06 3 provided the redacted version and the redactions to that  
04:06:10 4 person's name are explained to be redactions of her name  
04:06:13 5 and there aren't any other relevant issues to her  
04:06:17 6 interests - I think there are to that person's clients but  
04:06:19 7 not necessarily her interests - then I'd certainly be  
04:06:22 8 content with that.  
04:06:24 9  
04:06:24 10 MR HOLT: And I should say, Commissioner, in addition the  
04:06:24 11 indication in the communication this morning was that that  
04:06:27 12 would be done subject to an appropriate undertaking from  
04:06:31 13 her, and that's the basis upon which we've made the  
04:06:31 14 submissions we've made, which would be totally appropriate.  
04:06:31 15  
04:06:32 16 MR WOODS: And the undertaking has been given by the  
04:06:35 17 solicitor.  
18  
04:06:36 19 COMMISSIONER: By the solicitor, yes.  
04:06:37 20  
04:06:37 21 MR HOLT: I'm grateful for that indication.  
22  
04:06:38 23 COMMISSIONER: I guess if that's not satisfactory, we'll  
04:06:41 24 hear more in due course. Is there any other matters we  
04:06:44 25 need to deal with at this stage?  
04:06:46 26  
04:06:46 27 MR WOODS: No, there aren't, Commissioner.  
28  
04:06:48 29 COMMISSIONER: I think that just leaves a query from you,  
04:06:52 30 Mr Holt, earlier as to how we're going to proceed when we  
04:06:59 31 resume. Counsel assisting have asked for some further time  
04:07:08 32 because of the great deal of material that they're being  
04:07:15 33 provided with, so it's been determined that we'll resume on  
04:07:19 34 Tuesday, 30 July. I'm hoping that - not hoping. I am  
04:07:24 35 expecting that that will not affect the timely provision of  
04:07:29 36 all this material, because the reason we're not starting on  
04:07:33 37 22 July is because there is going to be - with all this  
04:07:38 38 material coming in, they're going to need time to come to  
04:07:43 39 terms with it and to adequately prepare.  
04:07:47 40  
04:07:48 41 MR HOLT: Commissioner, we won't be treating that date as  
04:07:50 42 having any effect on the - we'll proceed as if it was going  
04:07:55 43 to start on the 22nd, Commissioner.  
44  
04:07:58 45 COMMISSIONER: Thank you. So we'll be starting on Tuesday,  
04:08:00 46 30 July with - I think we'll be resuming with Mr Bateson,  
04:08:03 47 won't we?

04:08:05 1  
04:08:05 2 MR WOODS: I think it's most likely that it will be  
04:08:07 3 Mr Bateson.  
4  
04:08:09 5 COMMISSIONER: I would expect that that's right, seeing as  
04:08:11 6 his evidence is part-heard.  
04:08:14 7  
04:08:14 8 MR WOODS: Yes. But as for how it proceeds after that,  
04:08:16 9 whether it's SDU people or other people in Mr Bateson's  
04:08:19 10 category, we're unsure. It might well be straight into SDU  
04:08:23 11 people after that. But we'll certainly communicate  
04:08:26 12 with - - -  
13  
04:08:26 14 COMMISSIONER: So that decision hasn't been made yet, and  
04:08:28 15 it might well depend on a lot of this material that's being  
04:08:31 16 received, as to - but there are plenty of witnesses to go  
04:08:34 17 on with at that point.  
04:08:36 18  
04:08:36 19 MR WOODS: Yes. It will also depend, to some degree, on  
04:08:41 20 affected people and the extent to which they seek to  
04:08:44 21 participate once they've received that disclosure, because  
04:08:47 22 there will have to be some organisation for the Bar table  
04:08:50 23 and for the room. We don't want those people to have to be  
04:08:53 24 here every day, so there needs to be some consideration of  
04:08:54 25 that, and we can't really do that until those people get  
04:08:56 26 disclosure.  
27  
04:08:58 28 COMMISSIONER: Yes, there'll be quite a bit of organisation  
04:09:00 29 in running the next lot of hearings, for that reason.  
04:09:04 30  
04:09:04 31 MR WOODS: Yes.  
32  
04:09:04 33 COMMISSIONER: And it's anticipated we'll have a hearing  
04:09:07 34 block of some three to four weeks. There'll be some days  
04:09:11 35 during that time we won't be sitting, but basically a three  
04:09:16 36 to four week hearing time from 30 July.  
04:09:20 37  
04:09:20 38 MR HOLT: Thank you, Commissioner. We're very grateful for  
04:09:22 39 that indication.  
40  
04:09:23 41 COMMISSIONER: We'll adjourn now and we'll adjourn the  
04:09:25 42 hearings until 30 July, at 10 am.  
04:11:27 43  
04:11:28 44 ADJOURNED UNTIL TUESDAY 30 JULY 2019  
45  
46  
47