

ROYAL COMMISSION INTO THE MANAGEMENT
OF POLICE INFORMANTS

Held in Melbourne, Victoria

On Friday, 4 October 2019

Led by Commissioner: The Honourable Margaret McMurdo AC

Also Present

Counsel Assisting:	Mr C. Winneke QC Mr A. Woods Ms M. Tittensor
Counsel for Victoria Police	Ms R. Enbom Ms K. Argiropoulos
Counsel for State of Victoria	Mr C. McDermott
Counsel for Nicola Gobbo	Mr P. Collinson QC Mr R. Nathwani
Counsel for DPP/SPP	Ms A. Martin
Counsel for CDPP	Ms C. Fitzgerald
Counsel for Police Handlers	Mr G. Chettle Ms L. Thies
Counsel for John Higgs	Ms C. Dwyer
Counsel for Pasquale Barbaro	Mr C. Wareham
Counsel for AFP	Ms I. Minnett

09:41:09 1 COMMISSIONER: Yes, I note that the appearances are largely
09:41:12 2 as they were yesterday, save that we have Ms Martin for the
09:41:18 3 DPP this morning.
09:41:24 4
09:41:26 5 MR McDERMOTT: And Mr McDermott for the State.
09:41:29 6
09:41:29 7 COMMISSIONER: Thanks Mr McDermott, for the State. This is
09:41:34 8 Ms Gobbo's application to show reasonable cause for not
09:41:40 9 appearing to give evidence. Mr Nathwani.
09:41:41 10
09:41:42 11 MR NATHWANI: Commissioner, I think it was on the 20th of
09:41:45 12 last month you asked for more material in relation to the
09:41:49 13 health, or otherwise, Ms Gobbo's ability, bearing in mind
09:41:54 14 her health, to give evidence. You posed two particular
09:41:57 15 questions. Both of those questions were sent to two
09:42:00 16 experts that we had indicated we would obtain addendum
09:42:04 17 reports from. They were served on the Commission
09:42:06 18 yesterday. They are psychologist 1 and pain specialist 1.
09:42:12 19 Both conclude that she is, in a shorthand rather than going
09:42:17 20 through the full detail of them, conclude that in effect
09:42:20 21 she is not in a fit state to give evidence by virtue of the
09:42:26 22 factors outlined therein and other matters you are aware of
09:42:30 23 that obviously I can't go into significant detail in an
09:42:34 24 opening hearing. But as I outlined previously, it's by
09:42:38 25 virtue of her physical, mental and circumstantial factors
09:42:45 26 that she's not in a state to give evidence as it stands.
09:42:49 27
09:42:49 28 COMMISSIONER: You want to tender some reports?
09:42:52 29
09:42:54 30 MR NATHWANI: If I may, if I can tender those two
09:42:57 31 documents, psychologist 1's addendum report dated 29
09:43:01 32 September. You I think have both the redacted form with
09:43:03 33 redactions and shaded and then I think a completely
09:43:09 34 redacted. Then secondly the pain - - -
09:43:09 35
09:43:10 36 #EXHIBIT RC555A - (Confidential) Psychologist 1 report
09:43:13 37 dated 29/9/19.
09:43:13 38
09:43:13 39 #EXHIBIT RC555B - (Redacted version.)
09:43:20 40
09:43:21 41 MR NATHWANI: If I could also do the same in relation to
09:43:23 42 pain specialist 1. Addendum, described as medico legal
09:43:29 43 letter 25 September 2019. The two questions you posed are
09:43:34 44 whether or not in effect she was fit to give evidence at
09:43:37 45 present, and if not at present when, and they've both given
09:43:42 46 opinions as to her not currently being fit to do so. And
09:43:45 47 the second whether or not by virtue of the transcript you

09:43:48 1 referred me to where Ms Gobbo is on an ICR, also in a
09:43:53 2 transcript, suggesting adjourning a particular case would
09:43:55 3 be by virtue of her illness. They have both concluded she
09:43:58 4 has not feigned illness or malingered as far as they were
09:44:03 5 concerned and both of those specialists in their field have
09:44:07 6 treated her for a significant period of time.
09:44:09 7
09:44:10 8 COMMISSIONER: Yes. Well there are two things I want to
09:44:11 9 raise with you. First of all, this Commission is going to
09:44:16 10 be hearing evidence for some months yet and despite what
09:44:24 11 the medical practitioners have said I'm not satisfied that
09:44:33 12 if given more time that her condition will not necessarily,
09:44:39 13 has the possibility of improving. So what I am considering
09:44:44 14 doing is to adjourn your application till later in the year
09:44:48 15 to again consider the position then with fresh medical
09:44:51 16 material, and in that time to give you the opportunity and
09:44:54 17 give Ms Gobbo the opportunity to prepare a statement
09:44:58 18 addressing the Terms of Reference 1 and 2 in which she is
09:45:05 19 the key protagonist. Is there anything you want to say
09:45:09 20 about what I propose?
09:45:10 21
09:45:11 22 MR NATHWANI: Obviously it's entirely a matter for you.
09:45:13 23 Ms Gobbo, as you are aware, has always been keen to assist
09:45:17 24 as best she can.
09:45:18 25
09:45:18 26 COMMISSIONER: I'm not aware of that, I've been told that.
09:45:21 27
09:45:21 28 MR NATHWANI: There was a conversation.
09:45:22 29
09:45:22 30 COMMISSIONER: There is a difference, Mr Nathwani.
09:45:24 31
09:45:24 32 MR NATHWANI: There were conversations where she has
09:45:26 33 indicated that and you have been present during those
09:45:29 34 conversations. I understand the difference.
09:45:34 35
09:45:34 36 COMMISSIONER: I'm aware she said that.
09:45:37 37
09:45:37 38 MR NATHWANI: I understand. We of course will try and, and
09:45:40 39 will, do as best we can, given her position, to provide a
09:45:44 40 statement. As you're aware we have to date attempted to do
09:45:48 41 so and there has been some progress in relation to one of
09:45:52 42 the statements you requested. Whatever date you give us we
09:45:56 43 will work towards. Can I just say, I note, because it
09:45:59 44 isn't in the chronology that was produced by the
09:46:01 45 Commission, but on 15 March there was a letter sent by the
09:46:04 46 Commissioner that accepted she had a reasonable excuse at
09:46:07 47 that time for her health and other matters which in fact

09:46:13 1 are ventilated again with updated reports. But I just say
09:46:17 2 that for the record. However, again, we will work towards
09:46:24 3 any future date that you give us and hope her condition
09:46:28 4 improves.
09:46:29 5
09:46:29 6 COMMISSIONER: You've said that for the record. I don't
09:46:31 7 have that material before me, so for the record at this
09:46:35 8 stage I'm not prepared to accept that.
09:46:38 9
09:46:39 10 MR NATHWANI: I can hand up a letter from your Commission.
09:46:41 11
09:46:41 12 COMMISSIONER: Yes, all right, then do. If you're able to
09:46:43 13 do that it can be tendered.
09:46:50 14
09:46:50 15 MR NATHWANI: Again, it will require redaction in due
09:46:53 16 course. But it's the first paragraph, the day prior to the
09:46:59 17 first conversation this Commission had in private with
09:47:01 18 Ms Gobbo.
09:47:12 19
09:47:12 20 COMMISSIONER: Yes, all right then.
09:47:16 21
09:47:18 22 #EXHIBIT RC557A - (Confidential) Letter.
09:47:23 23
09:47:24 24 #EXHIBIT RC557B - (Redacted version.)
09:47:33 25
09:47:34 26 And in terms of previous things tendered, we now have ready
09:47:40 27 to be produced the list of documents that was tendered as
09:47:53 28 528.
09:47:55 29
09:47:56 30 MR NATHWANI: I'm really grateful for the Commission team
09:47:59 31 sending through the redactions or proposed redactions
09:48:02 32 yesterday. There is no issues in relation to the
09:48:04 33 redactions that were approved or otherwise by you yesterday
09:48:08 34 in relation to the medical documents. I'm not sure where
09:48:12 35 some of the other redaction process was.
09:48:15 36
09:48:16 37 COMMISSIONER: We've given you the opportunity to respond.
09:48:18 38 You haven't responded, they will be being published today
09:48:21 39 as 528B and 529B, that is the chronology and the list of
09:48:26 40 documents.
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42 MR NATHWANI: I'm sorry - - -
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09:48:27 44 COMMISSIONER: That's the chronology and the list of
09:48:29 45 documents.
09:48:29 46
09:48:29 47 MR NATHWANI: I understand Commissioner. We have not

09:48:31 1 received a response so I'm not aware of a response in
09:48:34 2 relation to our proposed redactions to the chronology. I
09:48:39 3 have seen many redactions to many materials but not to the
09:48:42 4 chronology. I know because I provided the redactions or
09:48:45 5 proposed redactions.
09:48:47 6
09:48:47 7 COMMISSIONER: I understood that there had been a response
09:48:52 8 sent in relation to both those documents and that you had
09:48:56 9 not responded to the Commission's response, which was sent
09:49:02 10 some time ago. That may be wrong. So the list of
09:49:10 11 documents, you've seen that.
09:49:11 12
09:49:12 13 MR NATHWANI: Again those two documents I haven't seen.
09:49:15 14 The only matters I've been referred to in relation to
09:49:18 15 redactions or discussions was in relation to the
09:49:21 16 transcripts of the telephone calls.
09:49:26 17
09:49:26 18 COMMISSIONER: These were the tendered documents. The
09:49:29 19 other documents weren't tendered.
09:49:32 20
09:49:32 21 MR NATHWANI: I understand. In line with the direction
09:49:34 22 order I provided the redactions, I think I was a few hours
09:49:40 23 late but they were provided and I have never seen a
09:49:44 24 response. I think I'm hearing that hasn't - I've never
09:49:50 25 seen a response, I'm sorry.
09:50:00 26
09:50:00 27 COMMISSIONER: We might hear more about that later.
09:50:08 28 Anyway, the medical report from pain specialist 1 will be
09:50:12 29 published as 530B, the medical report from pain specialist
09:50:27 30 2 will be published as 532B. The medical report from
09:50:32 31 psychologist 1 will be published as 533B, the medical
09:50:37 32 report from psychologist 2 will be published as 534B, the
09:50:41 33 medical report from psychiatrist 1 will be published as
09:50:47 34 535B.
09:51:05 35
09:50:09 36 #EXHIBIT RC530B - Medical report from pain specialist 1.
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09:50:09 38 #EXHIBIT RC532B - Medical report from pain specialist 2.
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09:50:09 40 #EXHIBIT RC533B - Medical report from psychologist 1.
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09:50:09 42 #EXHIBIT RC534B - Medical report from psychologist 2.
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09:50:09 44 #EXHIBIT RC535B - Medical report from psychiatrist 1.
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09:51:05 46 MR NATHWANI: I know there is a witness waiting.
09:51:07 47

09:51:08 1 COMMISSIONER: I don't know whether counsel assisting are
09:51:10 2 able to give any response to where we are with the - - -
09:51:17 3
09:51:18 4 MR WINNEKE: I'm not Commissioner, I'm waiting for
09:51:20 5 instructions in that regard.
09:51:21 6
09:51:21 7 COMMISSIONER: Perhaps after I've given my reasons for what
09:51:25 8 I foreshadow doing to Mr Nathwani, you might be able to
09:51:29 9 assist. At this stage I don't need to hear from you,
09:51:32 10 Mr Winneke, in respect of the application, Mr Nathwani's
09:51:37 11 application.
09:51:37 12
09:51:38 13 MR WINNEKE: Thank you Commissioner.
09:51:39 14
09:51:39 15 COMMISSIONER: Yes, you can be seated, Mr Nathwani.
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09:51:41 17 MR NATHWANI: Thank you.
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09:51:43 19 COMMISSIONER: Ms Gobbo was served with a notice to attend
09:51:45 20 on 26 February 2019 and the Commission, through her
09:51:53 21 lawyers, pressed her to provide a statement to this
09:51:56 22 Commission relevant to the Terms of Reference in which she
09:52:04 23 is the central protagonist, namely, the number of and
09:52:13 24 extent to which cases may have been affected by her conduct
09:52:16 25 as a human source and the conduct of current and former of
09:52:19 26 members of Victoria Police in their disclosures about and
09:52:21 27 recruitment, handling and management of her as a human
09:52:24 28 source.
29
09:52:26 30 Ms Gobbo has been represented at community expense,
09:52:31 31 and continues to be represented, throughout the life of
09:52:33 32 this Commission at virtually all its hearings by solicitors
09:52:39 33 and by both senior and junior counsel. Despite the
09:52:44 34 Commission affording her every consideration, she has not
09:52:47 35 yet availed herself of the opportunity to provide the
09:52:54 36 Commission with a statement. The Commission therefore
09:52:56 37 required her to attend and give evidence. Because of the
09:53:01 38 well-known, and well-publicised and very real risk to her
09:53:06 39 safety, and for other practical reasons, the Commission
09:53:10 40 arranged through her lawyers for this to be done by either
09:53:15 41 video link or telephone link. Ultimately the Commission
09:53:19 42 concluded that telephone link was the only practical way
09:53:22 43 for her to give evidence.
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09:53:25 45 Her counsel submit that she is now too unwell to do
09:53:29 46 this, relying on a number of medical reports. A
09:53:33 47 psychiatric report dated 1 September 2019 states that, "She

09:53:38 1 finds herself deteriorating progressively in her
09:53:42 2 intellectual and psychological functioning", and that she
09:53:45 3 has not improved in the past six months and was not
09:53:48 4 responding to medication.
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09:53:50 6 A specialist medical report of 12 September 2019
09:53:54 7 considered the condition for which she was being treated
09:54:00 8 "was fairly well managed", with medication but her
09:54:06 9 condition escalated in March 2019. The specialist referred
09:54:09 10 her to a psychologist and psychiatrist. Her last
09:54:12 11 consultation with this specialist indicated that her
09:54:21 12 condition was stable and her mood improved.
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09:54:25 14 The author of a psychologist report of 14 September
09:54:32 15 2019 stated that they had treated Ms Gobbo since 11 March
09:54:38 16 2019 on a weekly basis for symptoms of acute stress,
09:54:42 17 depression and anxiety, affirmed by her psychiatrist. The
09:54:46 18 author noted Ms Gobbo was "able to manage concrete tasks,
09:54:51 19 her depression has affected her focus and will need a (sic)
09:54:58 20 substantially more resources to focus effectively", adding,
09:55:03 21 "Ms Gobbo's training as a lawyer is indicative of her
09:55:07 22 intellectual ability. There is little doubt that she is
09:55:10 23 able to communicate effectively and her memory is
09:55:13 24 remarkable. Under usual normal circumstances she is able
09:55:17 25 to provide evidence. However given her current
09:55:19 26 circumstances and her situation providing evidence from
09:55:24 27 this environment is not the most conducive". The author
09:55:29 28 further added, "Given her circumstances, it would be
09:55:31 29 beneficial for her to have a platform to have her voice
09:55:37 30 heard soonest (sic) possible".
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09:55:42 32 A psychologist reported on 16 September 2019 of
09:55:46 33 treating Ms Gobbo regularly since late 2019 in relation to
09:55:51 34 her 2004 stroke. She was considered to be suffering from
09:55:55 35 major depressive disorder and another disorder. The
09:55:59 36 psychologist considered that between December 2018 and May
09:56:04 37 2019 Ms Gobbo's mental state was precarious and she was
09:56:10 38 frightened.
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09:56:13 40 A psychiatric report from a second medical
09:56:16 41 practitioner, dated 18 September 2019, noted that Ms Gobbo
09:56:20 42 became a patient on 12 April 2019 as there was concern her
09:56:25 43 depression was deteriorating, despite medication and
09:56:28 44 intensive psychotherapy with her therapist. The
09:56:32 45 psychiatrist had not seen any visible improvement and
09:56:36 46 opined that she was, "In a vicious cycle of despair and
09:56:43 47 emotional paralysis" and that the stage reached was

09:56:47 1 "therapeutic nihilism", that is incurable.
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09:56:54 3 When this matter was first listed for hearing I
09:56:56 4 adjourned the application to allow Ms Gobbo to obtain
09:56:59 5 further medical reports considering the issues of when
09:57:03 6 Ms Gobbo was likely to be well enough to give evidence, and
09:57:06 7 whether the fact that she appeared to have previously
09:57:09 8 discussed feigning symptoms as a barrister to adjourn a
09:57:12 9 court case, affected their opinions.
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09:57:18 11 This morning Ms Gobbo has tendered two further medical
09:57:22 12 reports. The psychiatrist referred to as psychiatrist 1
09:57:30 13 considered in a report dated 25 September 2019 that
09:57:33 14 Ms Gobbo will not be, "Fit to undertake any form of
09:57:38 15 interrogation in the Commission setting. The likelihood is
09:57:44 16 that there would be a deterioration in her [condition] and
09:57:47 17 subsequent to that worsening of concentration and
09:57:52 18 attention, lowered frustration tolerance and this would
09:57:58 19 lead to significant decline in performance capability,
09:58:04 20 inhibiting her as a satisfactory witness. This
09:58:08 21 unfortunately for Ms Gobbo will be for the long-term". The
09:58:15 22 psychiatrist who has known and presumably treated Ms Gobbo
09:58:19 23 for 11 and a half years did not consider she was feigning
09:58:22 24 her symptoms.
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09:58:25 26 The specialist who authored one of the earlier
09:58:32 27 reports, in a further report dated 29 September 2019
09:58:36 28 described Ms Gobbo as reporting "low mood, helplessness and
09:58:43 29 hopelessness and poor concentration and memory problems",
09:58:49 30 adding, "Ms Gobbo is not capable of giving evidence before
09:58:52 31 the Commission in her current circumstances and her
09:58:56 32 incapacity to do so is indefinite". The author, who has
09:59:03 33 treated Ms Gobbo since 2010, did not consider she was
09:59:07 34 feigning symptoms and thought her symptoms were consistent
09:59:13 35 with major depressive disorder, another condition, and
09:59:18 36 post-traumatic stress disorder.
37
09:59:22 38 On the material presently before me I am inclined to
09:59:27 39 accept that Ms Gobbo is probably suffering from those
09:59:30 40 conditions, but I'm not presently persuaded she has
09:59:34 41 demonstrated a reasonable excuse for failing to attend
09:59:38 42 before this Royal Commission, which will be hearing
09:59:45 43 evidence for the greater part of this calendar year,
09:59:51 44 especially given the fact that the Commission is willing to
09:59:54 45 take her evidence by telephone and in short bursts of two
10:00:01 46 hours to accommodate her medical condition, and also has
10:00:05 47 the power to significantly limit the length and nature of

10:00:13 1 cross-examination.
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10:00:15 3 I will therefore adjourn this application to once more
10:00:20 4 allow Ms Gobbo the opportunity to prepare a sworn
10:00:26 5 statement. If she does so, that can be tendered before the
10:00:31 6 Commission and a Notice to Produce can be issued to offer
10:00:34 7 her the full protection of the *Inquiries Act*. If, like
10:00:43 8 every other witness who has given evidence before this
10:00:46 9 Royal Commission, her memory of events so long ago is
10:00:50 10 imperfect, she can explain this in the statement. The
10:00:59 11 statement is to be provided by Monday, 18 November, if it
10:01:05 12 is to be provided.
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10:01:07 14 I will adjourn this application to 9.30 am on Tuesday,
10:01:11 15 26 November. If Ms Gobbo still submits then that she is
10:01:17 16 not well enough to give evidence, even with the special
10:01:22 17 consideration this Royal Commission is prepared to concede
10:01:25 18 to her and to other witnesses, including police witnesses
10:01:31 19 who suffer similar issues, she is to file submissions and
10:01:39 20 any fresh material in support of her application by
10:01:42 21 Tuesday, 19 November.
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10:01:46 23 Anything further, Mr Nathwani?
10:01:47 24
10:01:48 25 MR NATHWANI: No, thank you.
10:01:48 26
10:01:48 27 COMMISSIONER: Mr Winneke?
10:01:50 28
10:01:50 29 MR WINNEKE: No, Commissioner. The Commission did receive
10:01:53 30 a response from Ms Gobbo's lawyers on 25 September.
10:01:57 31 Unfortunately it hasn't been dealt with, it will be dealt
10:02:03 32 with today. We'll be able to sort that out today.
10:02:05 33
10:02:05 34 COMMISSIONER: Yes, all right. Thank you. In the meantime
10:02:07 35 the medical reports can be made publicly available in their
10:02:11 36 redacted form.
10:02:12 37
10:02:12 38 MR WINNEKE: Yes.
10:02:12 39
10:02:13 40 COMMISSIONER: Including the latest medical reports which
10:02:17 41 are 556B and 557B.
10:02:21 42
10:02:21 43 MR WINNEKE: As I understand it they can be, Commissioner,
10:02:24 44 in the redacted form, yes.
10:02:26 45
10:02:26 46 COMMISSIONER: All right thank you. We were of course in
10:02:28 47 open hearing at this time. We're now going to go - - -

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MR WINNEKE: We need to go back to closed hearing for Mr Flynn's, the completion of his evidence.

COMMISSIONER: That's right, yes. So Mr Nathwani, you're examining in closed hearing?

MR NATHWANI: I am, yes.

COMMISSIONER: We'll go into closed hearing with the previous orders for this witness in place.

(IN CAMERA PROCEEDINGS FOLLOW)

14:11:23 1 UPON RESUMING AT 2.19 PM:
2
3 UPON RESUMING IN OPEN HEARING:
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14:19:27 5 MR WINNEKE: Commissioner, just before Mr Green's called, I
14:19:31 6 meant to tender some diaries of Inspector Flynn. If I can
14:19:38 7 do that now.
14:19:39 8
14:19:39 9 COMMISSIONER: Yes, all right then.
14:19:40 10
14:19:41 11 MR WINNEKE: The period from 20 February 2006 to 3 May 2006
14:19:48 12 and they're pp.204 to 303. The period of 4 May 2006 to 1
14:19:55 13 August 2006, pp.1 to 68 of that diary. 29 September 2006,
14:20:07 14 which is pp.129 to 30. 16 October 2006, pp.135 and 136.
14:20:22 15 13 March 2007, which is p.301. 9 to 10 April 2007, which
14:20:32 16 is pp.44 and 45. 11 to 14 May 2007, pp.81 to 83. 28 May
14:20:44 17 2007, pp.101 to 103. 12 June 2007, pp.122 to 123. 29 June
14:21:02 18 to 4 July 2007 pp.135 to 142. 6 July 2007 which is p.147.
14:21:18 19 22 August 2007 which is p.184. And finally, 21 November
14:21:25 20 2007, pp.264 to 267.
14:21:34 21
14:21:34 22 COMMISSIONER: Yes all right then.
14:21:35 23
14:21:36 24 MR WINNEKE: Thanks Commissioner.
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14:21:39 26 #EXHIBIT RC560A - (Confidential) Pages from Mr Flynn's.
14:21:40 27 diary.
14:21:45 28
14:21:46 29 #EXHIBIT RC560B - (Redacted version.)
14:21:48 30
14:21:48 31 COMMISSIONER: Also I think at some point the team has to
14:21:51 32 let me know the relevant pages of transcript that are being
14:21:56 33 tendered, because I think you referred to some without
14:22:00 34 tendering them.
14:22:00 35
14:22:01 36 MR WINNEKE: Yes, we'll do that too, Commissioner.
14:22:03 37
14:22:04 38 COMMISSIONER: At some point next week if you can do that.
14:22:07 39
14:22:08 40 MR WINNEKE: Will do.
14:22:08 41
14:22:09 42 COMMISSIONER: We are in open hearing now.
14:22:11 43
14:22:11 44 MR WOODS: We are. And, Commissioner, the next witness is
14:22:13 45 Officer Green, a pseudonym, a former member of the SDU.
14:22:17 46 There are three applications for leave that I'm aware of
14:22:22 47 and the three counsel are in the hearing room at the

14:22:26 1 moment. They are Ms Dwyer for Mr Higgs and Mr Wareham for
14:22:31 2 Mr Barbaro, both known to the Commission from previous
14:22:35 3 witnesses, I've talked to them about their potential
14:22:39 4 cross-examination. Most of it are issues that I'll
14:22:42 5 traverse in any event. There is a couple I might not, that
14:22:46 6 they might ask questions in relation to.
14:22:48 7
14:22:48 8 COMMISSIONER: We'll worry about that down the track.
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14:22:53 10 MR WOODS: Down the track, yes. The third is Ms Martin who
14:22:57 11 is for the Department of Home Affairs who an interest in a
14:23:02 12 particular period of time where Mr Green went to work for
14:23:06 13 the Drugs Task Force and we've had a conversation about the
14:23:11 14 nature of their interest and in my submission it's
14:23:13 15 appropriate that the Department be granted leave.
14:23:16 16
14:23:16 17 COMMISSIONER: I take it nobody has any submissions to the
14:23:18 18 contrary?
14:23:19 19
14:23:19 20 MR CHETTLE: No Commissioner.
14:23:20 21
14:23:21 22 COMMISSIONER: All right, I'll grant those applications for
14:23:25 23 leave to appear.
14:23:26 24
14:23:26 25 MR WOODS: Mr Green, you can hear me?
14:23:29 26
14:23:29 27 COMMISSIONER: It's Mr Chettle's witness strictly speaking,
14:23:34 28 isn't it?
14:23:34 29
14:23:34 30 MR CHETTLE: Yes Commissioner.
14:23:35 31
14:23:35 32 COMMISSIONER: Mr Green is on the line. Mr Green, I
14:23:38 33 understand you're going to take the oath?---That's correct.
14:23:41 34
14:23:42 35 Take the Bible - we know your real name, you're giving
14:23:47 36 evidence under a pseudonym?---Yes.
14:23:49 37
14:23:49 38 If you can take the Bible in your right hand and repeat the
14:23:53 39 oath as it's administered.
14:23:57 40
14:23:57 41 <OFFICER GREEN, sworn and examined:
14:24:12 42
14:24:12 43 MR CHETTLE: Mr Green, for the purpose of this Commission
14:24:14 44 are you known by the pseudonym of Officer Green?---Yes,
14:24:17 45 that's correct.
14:24:18 46
14:24:21 47 Is your address care of your solicitors, Tony Hargreaves

14:24:24 1 and Partners, 533 Little Lonsdale Street,
14:24:29 2 Melbourne?---That's correct.
14:24:29 3
14:24:29 4 For the purpose of this Commission have you prepared three
14:24:32 5 statements?---Yes.
14:24:35 6
14:24:35 7 The first COM.0057.0001.0001, dated 29 May 2019?---Yep,
14:24:47 8 that's correct.
14:24:48 9
14:24:48 10 I tender that statement, Commissioner.
14:24:51 11
14:24:52 12 #EXHIBIT RC561A - (Confidential) Statement of Officer Green
14:24:53 13 dated 29/5/19.
14:24:53 14
14:24:53 15 #EXHIBIT RC561B - (Redacted version.)
14:24:55 16
14:24:55 17 In that statement you refer to a number of lists which
14:25:00 18 effectively are tables of ICRs and things of that nature
14:25:03 19 that you've examined and that's COM.0057.0003.0001, is that
14:25:12 20 right?---That's correct, yep.
14:25:14 21
14:25:14 22 I'll tender that document, Commissioner.
14:25:17 23
14:25:18 24 COMMISSIONER: What was the date of that one?
14:25:21 25
14:25:21 26 MR CHETTLE: That one is undated. It's what I might call
14:25:24 27 the list document.
14:25:26 28
14:25:26 29 COMMISSIONER: Undated list document?
14:25:28 30
14:25:28 31 MR CHETTLE: Yes.
14:25:29 32
14:25:31 33 #EXHIBIT RC561C - (Confidential) Undated list document.
14:25:32 34
14:25:33 35 #EXHIBIT RC561D - (Redacted version.)
14:25:36 36
14:25:36 37 Finally, as a result of matters that arose in relation to
14:25:42 38 the tomato cans, if you know what I'm talking about, did
14:25:46 39 you prepare a statement in relation to your time with the
14:25:49 40 Drug Task Force?---Yes, I did.
14:25:50 41
14:25:51 42 COM.0057.0002.0001_0001?---Yes, that's correct.
14:26:01 43
14:26:02 44 I'll tender that.
14:26:03 45
14:26:03 46 COMMISSIONER: Is that undated too?
14:26:04 47

14:26:06 1 MR CHETTLE: That's undated. Has it got a date,
14:26:07 2 Mr Green?---No, I can't see one.
14:26:09 3
14:26:10 4 #EXHIBIT RC561E - (Confidential) Drug Task Force statement.
14:26:12 5
14:26:13 6 #EXHIBIT RC561F - (Redacted version.)
14:26:15 7
14:26:15 8 Indeed, was that last document prepared in part because of,
14:26:20 9 as well, fully answering the question in relation to
14:26:23 10 dissemination of information that you were asked by the
14:26:26 11 Commission in your first statement?---Yes, that's correct.
14:26:30 12
14:26:30 13 Are the contents of those statements true and
14:26:34 14 correct?---Yes, they are.
14:26:35 15
14:26:35 16 Finally, Commissioner, by consent I seek to tender the PDA,
14:26:41 17 the professional development assessment of this witness,
14:26:46 18 VPL.0100.0254.0380. It's this witness's, Mr Green's PDA.
14:26:56 19 Mr Winneke - - -
14:26:58 20
14:26:58 21 COMMISSIONER: Is this witness's - what?
14:27:00 22
14:27:01 23 MR CHETTLE: Professional development assessment.
14:27:02 24
14:27:03 25 COMMISSIONER: Assessment, yes. And this is this witness's
14:27:05 26 or - - -
14:27:06 27
14:27:07 28 MR CHETTLE: This is this witness's, but then I'll go back
14:27:10 29 and tender the others which Mr Winneke - - -
14:27:12 30
14:27:12 31 COMMISSIONER: Dated when?
14:27:13 32
14:27:14 33 MR CHETTLE: They are a continuing document, Commissioner.
14:27:16 34 They are a professional file that the police maintain in
14:27:19 35 relation to the individual member. It is effectively their
14:27:22 36 record.
14:27:22 37
14:27:23 38 COMMISSIONER: Right. It's a bit like drafts, there aren't
14:27:31 39 any drafts, the document keeps going.
14:27:34 40
14:27:35 41 MR CHETTLE: It does have a point.
14:27:37 42
14:27:38 43 #EXHIBIT RC562A - (Confidential) PDA of Officer Green.
14:27:42 44
14:27:47 45 #EXHIBIT RC 562B - (Redacted version.)
14:27:49 46
14:27:49 47 MR CHETTLE: I'll tender Mr White's PDA, Sandy White's PDA

14:27:59 1 which I referred to before lunch.
14:27:59 2
14:28:00 3 #EXHIBIT RC563A - (Confidential) Officer White's PDA.
14:28:01 4
14:28:02 5 #EXHIBIT RC563B - (Redacted version.)
14:28:04 6
14:28:04 7 MR CHETTLE: I'll tender Mr Fox's PDA.
14:28:07 8
14:28:08 9 #EXHIBIT RC564A - (Confidential) Officer Fox's PDA.
14:28:09 10
14:28:10 11 #EXHIBIT RC564 - (Redacted version.)
14:28:11 12
14:28:12 13 MR CHETTLE: Officer Smith's PDA.
14:28:14 14
14:28:15 15 #EXHIBIT RC565A - (Confidential) Officer Smith's PDA.
14:28:16 16
14:28:17 17 #EXHIBIT RC564B - (Redacted version.)
14:28:18 18
14:28:19 19 MR CHETTLE: And Officer Black's PDA.
14:28:22 20
14:28:23 21 #EXHIBIT RC566A - (Confidential) Officer Black's PDA.
14:28:24 22
14:28:24 23 #EXHIBIT RC566B - (Redacted version.)
14:28:27 24
14:28:28 25 MR CHETTLE: Thank you, Commissioner. Can the names that I
14:28:33 26 mentioned inadvertently be removed.
14:28:36 27
14:28:36 28 COMMISSIONER: Yes, I took it they would be automatically
14:28:38 29 removed, but if they're not automatically removed, please
14:28:42 30 do so, is that right? You can remove them? Thank you.
14:28:47 31
14:28:47 32 MR CHETTLE: Thank you.
14:28:48 33
14:28:48 34 MR WOODS: Officer Green, just bear with me for a moment.
14:28:52 35 While we're tendering, Commissioner, it might that I'll
14:28:55 36 tender the two sets of diaries in whole. The first is a
14:29:00 37 consolidated file, it's RCMPI.0086.0001.0001. That's
14:29:11 38 Officer Green's relevant diary entries as produced. And
14:29:17 39 that will be A and B.
14:29:20 40
14:29:21 41 COMMISSIONER: Just so I understand. They're the ones that
14:29:24 42 the Commission considers are relevant or are only some of
14:29:29 43 those are going to be relevant?
14:29:30 44
14:29:31 45 MR WOODS: There will be some entries I want to explore a
14:29:33 46 bit more that we can't see in the ones that have been
14:29:36 47 produced to us.

14:29:37 1
14:29:37 2 COMMISSIONER: I'm just wanting to limit the PII you see.
14:29:40 3
14:29:40 4 MR WOODS: Yes, I see.
14:29:41 5
14:29:41 6 COMMISSIONER: Is every page of that relevant or only some
14:29:44 7 of them?
14:29:45 8
14:29:45 9 MR WOODS: I'm tendering them as I have with other
14:29:48 10 witnesses, just so that the entire diary is before you and
14:29:51 11 then I will take the witness to particular entries.
14:29:51 12
14:29:51 13 COMMISSIONER: And then we'll specify particular entries.
14:29:55 14
14:29:55 15 MR WOODS: Once they're PIIed.
14:29:58 16
14:30:00 17 #EXHIBIT RC567A - (Confidential) Consolidated file of diary
14:30:05 18 entries for Officer Green.
14:30:05 19
14:30:07 20 #EXHIBIT RC567B - (Redacted version) Relevant parts of
14:30:14 21 diary entries for Officer Green.
14:30:14 22
14:30:14 23 There is another diary which is from a short period of time
14:30:17 24 that Officer Green spent at the Drug Task Force which is -
14:30:22 25 again the entire file is VPL.0100.0215.0001. That
14:30:32 26 commences on 12 June 2007. And similarly, Commissioner, I
14:30:39 27 seek to tender that in whole and I'll take the witness to
14:30:42 28 particular parts of it.
14:30:43 29
14:30:44 30 #EXHIBIT RC567C - (Confidential) Diary of Officer Green
14:30:46 31 whilst at the Drug Task Force.
14:30:46 32
14:30:48 33 #EXHIBIT RC567D - (Redacted version) Relevant sections.
14:30:58 34
14:30:59 35 MR WOODS: Thank you, Commissioner. Thanks for bearing
14:31:01 36 with us, Officer Green. You can hear me?---Yes, loud and
14:31:05 37 clear.
14:31:05 38
14:31:08 39 In relation to those diaries I take it you've had an
14:31:11 40 opportunity to have a look through your diaries in the
14:31:15 41 recent past, is that correct?---Yes, that's correct.
14:31:17 42
14:31:18 43 And is it correct that if your diaries record that you've
14:31:22 44 passed on information to a particular person, it's the case
14:31:27 45 that you would have passed that information on as recorded
14:31:30 46 in your diary?---Yes.
14:31:31 47

14:31:31 1 It's correct, just in relation to that last document I
14:31:34 2 tendered, that that's a discrete diary that was just kept
14:31:38 3 for that short period of time when you were at the Drug
14:31:41 4 Task Force, is that right?---That's correct, yes.
14:31:43 5
14:31:44 6 Thank you. After that period at the Drug Task Force you
14:31:47 7 went back to your normal Victoria Police or SDU diary that
14:31:51 8 you had been using previously?---Yes, that's correct.
14:31:54 9
14:31:57 10 You commenced in [REDACTED] as a [REDACTED], is that right?---Yes,
14:32:03 11 yes.
14:32:03 12
14:32:03 13 And you were [REDACTED] years old at the time?---That's
14:32:06 14 correct.
14:32:06 15
14:32:07 16 You retired in [REDACTED] 2014?---That's correct.
14:32:11 17
14:32:13 18 The particular area of interest for the Commission is your
14:32:16 19 period of time at the SDU and you started there in 2004
14:32:21 20 when the pilot program was beginning, is that
14:32:25 21 right?---That's right.
14:32:26 22
14:32:26 23 And you stayed there until 2013?---Yes.
14:32:32 24
14:32:34 25 And you talk in your statement about some pretty
14:32:39 26 significant, it seems to be quite significant experience
14:32:42 27 you had in the area of human source management prior to
14:32:45 28 your time at the SDU. Is that a fair description of your
14:32:49 29 experience prior to the SDU?---Yes, in very broad terms
14:32:54 30 that's it, yes.
14:32:55 31
14:32:56 32 In that first page, I'm talking about the second statement
14:32:58 33 here for those who have the statements, you talk about the
14:33:02 34 fact that you, "I learnt the subtle art of confidentiality
14:33:07 35 in those roles", is that the fact?---Yes.
14:33:11 36
14:33:11 37 Can you expand on that a bit just in relation to human
14:33:14 38 source management? What's the subtle art of
14:33:17 39 confidentiality mean?---What would happen, initially when I
14:33:21 40 was at Victoria Police [REDACTED] such is the nature of working
14:33:27 41 down on [REDACTED] and [REDACTED] that, the example that
14:33:31 42 springs to mind that got me thinking along these lines is
14:33:36 43 the fact that there was a business down there that got set
14:33:40 44 fire to and the owner of the business didn't even want to
14:33:43 45 tell the police that his business had been burnt down, and
14:33:46 46 if it wasn't for the fact that a more friendly business in
14:33:49 47 the area contacted us we wouldn't have even known that the

14:33:52 1 business had been burnt down.
14:33:55 2
14:33:56 3 So your - - - ?---Because the - sorry, pardon?
14:34:00 4
14:34:01 5 Your awareness of the art of confidentiality really came
14:34:05 6 out of experiences like this to be able to determine what
14:34:10 7 had happened when, for example, in that situation there
14:34:15 8 hadn't even been a complaint made?---Investigating crime,
14:34:19 9 yes, that's right.
14:34:19 10
14:34:19 11 You see it as important, I take it, that the use of
14:34:22 12 confidentiality is important when you're investigating
14:34:24 13 crime to know what to talk about and not to talk about to
14:34:28 14 people, is that a fair description?---Yes, that's a fair
14:34:32 15 description.
14:34:32 16
14:34:33 17 You talk about the early days of human source management
14:34:37 18 and your experience prior to the SDU and it's the case that
14:34:41 19 not much was needed by way of information to register a
14:34:45 20 human source in those early days, is that correct?---That's
14:34:49 21 correct. While we're managing the source there was not
14:34:52 22 many requirements either really.
14:34:54 23
14:34:55 24 Yes?---Yep.
14:34:56 25
14:34:58 26 The Commission is well aware of how things developed in
14:35:04 27 relation to the SDU. The high risk sources went off in
14:35:07 28 that direction. Was it the case that other sources that
14:35:10 29 were identified by rank and file members continued to be
14:35:13 30 managed in that way during the SDU period or was there some
14:35:16 31 level of sophistication brought to bear there as
14:35:19 32 well?---Yeah, at about the same time we started the
14:35:23 33 organisation changed a lot of the policy around managing
14:35:33 34 human sources, yes, compared to what it was before.
14:35:36 35
14:35:37 36 It became more onerous in that environment as well, not
14:35:39 37 just for the SDU?---Onerous is a very good word for it,
14:35:42 38 yes.
14:35:42 39
14:35:42 40 Thank you. One of the ways in which it became more onerous
14:35:48 41 but, or sophisticated as well, was that there was a
14:35:53 42 requirement within the SDU of an Acknowledgement of
14:35:57 43 Responsibilities to be completed by the source, is that
14:36:00 44 right?---To be read to the source or signed by the source,
14:36:04 45 yeah, yeah, that's right. Yep, that was one of the things.
14:36:08 46
14:36:09 47 Obviously there were, we'll talk about some of these in due

14:36:13 1 course?---Okay.

14:36:13 2

14:36:13 3 But the recording of ICRs and use of IRs and all that sort
14:36:16 4 of thing was another way that occurred, is that
14:36:19 5 right?---That's correct, yep, and a risk assessment.

14:36:22 6

14:36:22 7 In fact in your early days at the SDU, and you talk about
14:36:28 8 this early on in your statement, there was much more
14:36:32 9 significant management than you had previously been used
14:36:37 10 to, is that right?---Yes, that's correct.

14:36:39 11

14:36:39 12 Was that management only in relation to human sources and
14:36:46 13 the use of human sources, or are you indicating that in
14:36:49 14 fact you'd never had such significant management sitting
14:36:53 15 above you in the force previously or management - -
14:36:57 16 -?---Sorry, no, that would be specific to handling a
14:37:01 17 source.

14:37:01 18

14:37:01 19 Okay, I see?---Yep.

14:37:02 20

14:37:03 21 And you also talk about there being a much more significant
14:37:08 22 budget than you were used to that the SDU had access to, is
14:37:11 23 that right?---That's correct, yes.

14:37:12 24

14:37:13 25 How was it that you came to be selected for the SDU? What
14:37:17 26 I'm really wanting to get at is whether people who selected
14:37:22 27 you, were you known to them or did you apply and you
14:37:27 28 weren't known to them and you had the experience or how did
14:37:31 29 that play out?---I believe the reason I was selected was -
14:37:38 30 the duty I performed prior to the SDU was at the [REDACTED]
14:37:45 31 [REDACTED] and that revolved around sources and high risk
14:37:51 32 and I would say that's probably the first time that any
14:37:56 33 real serious thought went into the way sources were
14:37:59 34 managed, that I'd seen anyway, within the organisation and
14:38:05 35 it was at a time when I guess change, change needed to be
14:38:15 36 made because of the way things were going, with any
14:38:18 37 organisation, with the way sources were basically sending
14:38:22 38 police to gaol with all the activities they were up to.

14:38:26 39

14:38:26 40 Just pausing there. This is at a time - so you were at
14:38:29 41 that [REDACTED] from 2002 and just to set that in
14:38:33 42 time?---Yeah.

14:38:33 43

14:38:33 44 There was all the issues that had happened with the Drug
14:38:38 45 Squad in the late 90s and early 2000s?---Yep.

14:38:41 46

14:38:41 47 And then out of that came Ceja and Mr Purton's review,

14:38:45 1 you're aware of those two events?---Yes.

14:38:47 2

14:38:48 3 One of the things that Mr Purton was interested in in his
14:38:51 4 review was these difficulties that can arise when
14:38:54 5 investigators get too close to human sources, is that your
14:38:57 6 recollection?---Yes, that's right. That seemed to be the
14:39:00 7 crux of the whole problem, yep.

14:39:02 8

14:39:02 9 Did you apply or were you invited to join the SDU?---I was
14:39:07 10 invited to join the pilot project, yes.

14:39:12 11

14:39:12 12 The DSU pilot program it might have been called?---Yeah,
14:39:19 13 DSU. Dedicated Source Unit, that's right.

14:39:20 14

14:39:20 15 Do you have a list of pseudonyms in front of you
14:39:24 16 there?---Yes.

14:39:24 17

14:39:24 18 Was it Mr White or someone else on that list that invited
14:39:29 19 you to apply?---White.

14:39:32 20

14:39:32 21 Had you worked with him before?---I seem to recall he would
14:39:35 22 have - 100 years ago it seems like, he was at [REDACTED]
14:39:39 23 police station. When I was at [REDACTED] police station back
14:39:43 24 in, I'll just cast my eye here - - -

14:39:46 25

14:39:47 26 It might actually even be problematic if you do get a bit
14:39:52 27 too precise about it. You'd had dealings with him in the
14:39:55 28 past, is that right?---Yes, in the 80s, yeah, but that was
14:39:59 29 about the extent of it.

14:40:00 30

14:40:00 31 In the 80s the dealings you had with him were in relation
14:40:03 32 to the management of human sources or were they more
14:40:06 33 general?---No, driving around in the divvy van.

14:40:10 34

14:40:10 35 Did you strike up a friendship with him then, is that how
14:40:14 36 it happened?---Yes.

14:40:15 37

14:40:15 38 And he obviously thought you had the right skills for
14:40:19 39 someone who needed to be in the SDU?---Look, I don't know
14:40:22 40 if that influenced him or the fact of what happened with
14:40:34 41 [REDACTED] [REDACTED]

14:40:35 42

14:40:35 43 When you started in the pilot program it was the case that
14:40:40 44 you had never met Ms Gobbo at that stage, is that
14:40:43 45 right?---No.

14:40:44 46

14:40:44 47 Is she someone you had heard about in your travels in those

14:40:48 1 years?---That's correct.
14:40:48 2
14:40:49 3 During your time at [REDACTED] [REDACTED] or elsewhere?---Yep,
14:40:54 4 and during my time at the [REDACTED] Squad.
14:40:56 5
14:40:56 6 And just trying to put yourself back in that time, what was
14:40:59 7 your knowledge of her back then?---Just that she was really
14:41:02 8 good at getting bail for people.
14:41:05 9
14:41:05 10 All right?---And that all the crooks that were anyone
14:41:10 11 wanted her to represent them for that.
14:41:12 12
14:41:13 13 Had you been an informant in any of those matters?---No,
14:41:16 14 no, I didn't.
14:41:17 15
14:41:18 16 She was just notorious, at least to you, because she was
14:41:22 17 used for that particular role and was very good at the role
14:41:26 18 as far as you knew?---From an investigator's point of view,
14:41:31 19 yes, that's a fair assumption.
14:41:33 20
14:41:34 21 Your period of time as a handler of Ms Gobbo, I've done a
14:41:40 22 calculation, it's around, I think it's 31 ICRs that you
14:41:44 23 were responsible for through the period. I don't expect
14:41:47 24 you to know the precise number?---Yep.
14:41:49 25
14:41:49 26 Is that about right?---Yep, that's about right.
14:41:52 27
14:41:52 28 And your involvement is fairly intermittent, you move in
14:41:58 29 and out as her handler really from, not the very beginning
14:42:01 30 but about February of 2006 up until the end of 2008, is
14:42:07 31 that a fair description?---Yes. Yeah, a little over 12
14:42:14 32 months to start with and then I had about an 18 month gap
14:42:19 33 and then I had a little bit at the end.
14:42:21 34
14:42:21 35 You helped out a few times I think in between?---Yep,
14:42:25 36 actually there could be one or two along the way, for a ten
14:42:29 37 day period or something, a week or two, yep.
14:42:31 38
14:42:31 39 I think that's right?---That's right.
14:42:33 40
14:42:33 41 We might go to some of those in due course?---Yep.
14:42:36 42
14:42:37 43 The handlers reported to the controller was the way the
14:42:40 44 information, once it had come from the source, that's how
14:42:43 45 it went, is that right?---Yes, that's correct.
14:42:46 46
14:42:46 47 And the controller you say reported to Superintendent

14:42:48 1 Biggin?---Yes.
14:42:51 2
14:42:52 3 And do you know where the information went from there on up
14:42:56 4 the line?---With management?
14:43:00 5
14:43:00 6 Yes?---And what have you, no, not really, no.
14:43:03 7
14:43:03 8 You understood there to be a steering committee that - -
14:43:06 9 -?---Yes, that's right, yeah, there was. Of course at the
14:43:11 10 Human Source Management Unit there was a Local Source
14:43:14 11 Registrar and a Central Source Registrar that would monitor
14:43:18 12 the proceedings, yeah, yep.
14:43:19 13
14:43:19 14 And the methods of obtaining and recording information the
14:43:24 15 Commission is now very familiar with, with Ms Gobbo, which
14:43:27 16 is face-to-face, [REDACTED] meetings?---Yep.
14:43:31 17
14:43:31 18 And the handler reporting to controller and recording in
14:43:35 19 the ICRs?---Yes.
14:43:37 20
14:43:37 21 That was the same as with any other human source during
14:43:40 22 your period at the SDU, is that right?---That's right.
14:43:43 23
14:43:44 24 So there was no difference in the way that Ms Gobbo was
14:43:47 25 handled to the way other human sources might be
14:43:51 26 handled?---There was a difference only because of the
14:43:53 27 volume of notation and administration that surrounds that
14:44:01 28 after you've handwritten a diary then you have to type a
14:44:05 29 contact report. It was because of the volume of
14:44:09 30 information coming in that it was quite difficult to
14:44:13 31 manage.
14:44:14 32
14:44:14 33 You and I agreed on the use of the word onerous in a
14:44:17 34 different context a little while ago. Looking through the
14:44:20 35 ICRs of the periods of time that Ms Gobbo was handled, it
14:44:24 36 must have been a pretty onerous task when you were assigned
14:44:29 37 as the handler, is that right?---It was the bulk of your
14:44:36 38 work, daily work, yes.
14:44:37 39
14:44:37 40 In fact handlers were rotated for that particular reason
14:44:41 41 with Ms Gobbo?---Yes.
14:44:43 42
14:44:43 43 Because it was a much more involved process than it was
14:44:48 44 with other sources, is that right?---That's right. That's
14:44:51 45 when we pushed for things like electronic diaries to be
14:44:55 46 introduced, stuff like that, to try and streamline the
14:44:59 47 actual proceedings while trying to keep that level of

14:45:03 1 accountability going.

14:45:04 2

14:45:04 3 One of the things we've heard about is the difficulty of
14:45:07 4 not having sufficient administrative assistance when you
14:45:11 5 had a handwritten diary?---Yep.

14:45:13 6

14:45:13 7 And the delay in preparing an ICR, was that something you
14:45:17 8 experienced early on before you moved to digital
14:45:21 9 diaries?---Yes, that's correct. I think we even tried to
14:45:24 10 use voice, voice recognition typing at one stage but that
14:45:30 11 didn't really work. Yeah, we explored a number of avenues
14:45:34 12 there to try and streamline the process, yeah.

14:45:36 13

14:45:40 14 There's some other witnesses who have given evidence from,
14:45:42 15 I'll call it the other side of the corridor, some of those
14:45:46 16 receiving information and the investigative side of things,
14:45:53 17 we've obviously been interested in asking them about their
14:45:56 18 knowledge of Ms Gobbo as a human source during the period
14:46:00 19 and we've had various answers from various people.

14:46:04 20 Mr Purton's evidence was that it was common knowledge in
14:46:08 21 the Crime Department that Ms Gobbo was a human source from
14:46:12 22 early on in her time as a human source. Does that come as
14:46:15 23 a surprise to you?---I'd be disappointed to learn that.

14:46:20 24

14:46:20 25 Yes. But as you've just learnt it from me, is that a
14:46:26 26 surprise or is that something you came to know over
14:46:28 27 time?---I would be surprised if everyone in the Crime
14:46:31 28 Department knew that. I don't think that's accurate.

14:46:35 29

14:46:35 30 I think the phrase he might have used was common knowledge
14:46:38 31 or something to that effect. He might not have said every
14:46:42 32 person?---I would say it's not common knowledge that she
14:46:45 33 was a source.

14:46:46 34

14:46:47 35 So your experience was that you didn't think that it was
14:46:51 36 common knowledge in the Crime Department?---No.

14:46:54 37

14:46:55 38 But you'd accept though that Mr Purton was probably in a
14:46:59 39 better position to make that assessment than you, given his
14:47:02 40 position at the time?---I certainly - yep, he may well be.
14:47:05 41 I never went to those upper level management meetings, so I
14:47:09 42 don't, I don't know what was discussed at that stage.

14:47:12 43

14:47:12 44 I take it from your answers it would be an unusual thing
14:47:15 45 that the identity of a source would be broadly known
14:47:18 46 amongst an investigative part of the organisation, is that
14:47:23 47 right?---That's right, there's no way I would want that to

14:47:27 1 happen.
14:47:27 2
14:47:27 3 Mr Kelly, who also gave evidence, you know Mr Kelly from
14:47:31 4 Purana?---Yeah, yeah.
14:47:33 5
14:47:34 6 He gave evidence that when information was being provided
14:47:37 7 to him by members of the SDU over the phone, which seemed
14:47:43 8 to have been the usual course, that sometimes the members,
14:47:47 9 and he didn't mention who was who, but sometimes the SDU
14:47:52 10 member would say to him that the information had come from
14:47:55 11 Nicola Gobbo and use her name to the investigators. Is
14:47:59 12 that an unusual thing in your experience?---Well, all I can
14:48:04 13 say is I don't believe I've ever spoken her name in my
14:48:10 14 life, so I'd be surprised if anyone in the office would
14:48:15 15 have said, said it like that.
14:48:17 16
14:48:18 17 He also gave evidence about a different scenario where
14:48:21 18 sometimes he would receive phone calls from SDU members who
14:48:24 19 would say, "This information comes from our source 3838"
14:48:29 20 but he knew who 3838 was. So just breaking that down, is
14:48:36 21 it the case that you would use an informer's number when
14:48:41 22 talking to the investigators?---I wouldn't.
14:48:46 23
14:48:47 24 All right, so you'd just say "a source"?---Yes.
14:48:51 25
14:48:55 26 There's been a document tendered, I don't need to take you
14:48:59 27 to, a document tendered to the Commission that was kept by
14:49:02 28 the SDU during Ms Gobbo's period of registration?---Yeah.
14:49:08 29
14:49:08 30 Which is recording members of Victoria Police who knew or,
14:49:14 31 or who knew of her identity as a human source. Now you're
14:49:18 32 aware of that document being kept?---Yes, I am, yep.
14:49:22 33
14:49:23 34 I take it that a document like that is kept or is developed
14:49:26 35 as a matter of prudence, is that right, so you can keep
14:49:29 36 tabs on who might know?---Yes, that, we kept tabs on that
14:49:33 37 because (a) our sources were high risk, and I guess the
14:49:38 38 limitation to that document would be the fact that that's
14:49:41 39 just from the SDU's point of view who would know or from
14:49:44 40 our knowledge of who knew. How other people may have found
14:49:48 41 out we would have no idea of.
14:49:50 42
14:49:50 43 Yes, I see. Just briefly in relation to the use of the
14:49:55 44 number and your evidence about that a moment ago. It's the
14:49:58 45 case that when investigators apply for a warrant they
14:50:05 46 present an affidavit to the court in support of their
14:50:08 47 application for a warrant, you know that that's what

14:50:11 1 happens?---Yes.
14:50:11 2
14:50:12 3 And in those affidavits they use the source numbers rather
14:50:16 4 than the source's name, is that correct?---I, um, I'm not
14:50:28 5 sure about that.
14:50:29 6
14:50:29 7 So you haven't been involved in that part of the process
14:50:32 8 before?---I don't recall doing an affidavit with a source
14:50:38 9 number on it. I'm not saying I didn't, I haven't done it,
14:50:42 10 but I would be surprised.
14:50:43 11
14:50:44 12 That's not a practice that you either recall or are
14:50:47 13 familiar with, is that right?---No, I'm not familiar with
14:50:51 14 it.
14:50:51 15
14:50:53 16 If it is the fact that the source's registration number is
14:50:57 17 the thing that's usually used in support of an application
14:51:01 18 for a warrant, then it wouldn't potentially be surprising
14:51:05 19 in that situation that the investigator is given the number
14:51:08 20 of the source from whom the information comes, you'd agree
14:51:12 21 with that?---Yeah. I've got a recollection of trying to, I
14:51:19 22 don't know if we implemented it or we tried to implement a
14:51:26 23 procedure where it was signed off. I might be getting
14:51:29 24 confused here with the controlled ops, operations.
14:51:33 25
14:51:34 26 That's all right. Officer Green, the fact is we're
14:51:37 27 reviewing affidavits for - - - ?---Okay.
14:51:41 28
14:51:42 29 - - - where warrants are being sought in any event and
14:51:44 30 those documents might speak for themselves in that
14:51:48 31 regard?---Okay.
14:51:49 32
14:51:49 33 I might move on. The evidence that the Commission's heard
14:51:53 34 from those at Purana, in particular Mr O'Brien, Mr Ryan,
14:52:00 35 Mr Kelly, is that they would receive a phone call from the
14:52:07 36 SDU just - almost immediately after the information had
14:52:13 37 been obtained and they'd be briefed immediately with what
14:52:17 38 Ms Gobbo had disclosed to the handler. That's the usual
14:52:22 39 course, it would at first be a phone call?---I'd say if it
14:52:29 40 was time sensitive, the information, it would be, but if it
14:52:34 41 was just general information it would have just gone
14:52:37 42 through on an information report and filed or brought to
14:52:43 43 their attention.
14:52:44 44
14:52:44 45 It seems to be the case from reviewing the records that
14:52:46 46 there were times when information was verbally disseminated
14:52:51 47 to the investigators and that was the only method of

14:52:54 1 dissemination and there was no IR that was disseminated in
14:52:59 2 relation to that information, that would happen from time
14:53:03 3 to time?---That could happen from time to time, yes,
14:53:05 4 particularly towards the end, yeah.
14:53:07 5
14:53:07 6 It would be recorded in the ICRs what had been obtained
14:53:12 7 from Ms Gobbo and what had been disseminated, would that be
14:53:15 8 the case generally?---Yeah, or in the diary, yeah, yep,
14:53:19 9 that's correct.
14:53:19 10
14:53:22 11 And on a review of the ICRs, which it's taken some time but
14:53:28 12 I have done, it seems that verbal dissemination is the norm
14:53:34 13 in relation to information that came from Ms Gobbo. Is
14:53:37 14 that a surprise or would that be expected by you?---I would
14:53:43 15 have said at the beginning that would have been a surprise
14:53:45 16 but towards the end, no, I'm not surprised.
14:53:48 17
14:53:49 18 The policies and procedures that were applicable at the
14:53:52 19 time, and I won't test you on what they were, but one in
14:53:55 20 particular is CCI3 of 2005. They don't make mention or
14:54:01 21 neither that one nor its predecessors or the ones that came
14:54:06 22 after make mention of verbal dissemination of information
14:54:10 23 from sources, they talk about using information reports
14:54:12 24 instead. Were you aware of what the policies required in
14:54:15 25 relation to dissemination?---Not, not particularly, no.
14:54:21 26
14:54:21 27 But at no stage did you think there was any issue with
14:54:24 28 verbal dissemination and no IR to follow it up, is that
14:54:28 29 right?---That's, that's to the point, yes, that's right.
14:54:32 30
14:54:33 31 But you'd keep a record of it in the ICRs?---Yep, correct.
14:54:36 32
14:54:40 33 During your time at the [REDACTED] [REDACTED] we'll talk in a bit
14:54:44 34 more detail in a while, it was the case that Officer Fox
14:54:48 35 was verbally disseminating that information that he was
14:54:51 36 receiving from Gobbo to you, is that right?---Yes, that's
14:54:55 37 right, yep.
14:54:55 38
14:54:55 39 And it doesn't appear that there were IRs used in that
14:54:59 40 situation, that's - - - ?---No.
14:55:01 41
14:55:02 42 That's the case, isn't it?---That's the case, yep.
14:55:04 43
14:55:11 44 It almost goes without saying, but it's the case that
14:55:14 45 Ms Gobbo was close both professionally and personally to a
14:55:21 46 number of what Victoria Police considered to be quite
14:55:24 47 dangerous criminals at the time of her recruitment as a

14:55:28 1 human source, do you agree with that?---Um, yes, I agree
14:55:35 2 with that, but when she was recruited you mean as in before
14:55:39 3 we got her?
14:55:40 4
14:55:41 5 No, sorry, I'm talking about this, the main period, let's
14:55:45 6 call it, 2005 to 2009, when she was 3838 and then 2958.
14:55:58 7 You got to know her in February I think were your first
14:56:03 8 dealings with her, February 2006?---Yes.
14:56:05 9
14:56:05 10 And she was talking in her face-to-face meetings and in
14:56:09 11 telephone conversations you have with her about a number of
14:56:12 12 - - - ?---Yeah.
14:56:13 13
14:56:14 14 - - - people who were involved in the criminal
14:56:17 15 underworld?---Most certainly, yes. They all came to her.
14:56:20 16
14:56:20 17 They did. And she was on social friendly terms with a
14:56:25 18 number of those people, is that right?---Yes, yes, that's
14:56:28 19 right.
14:56:28 20
14:56:28 21 And she was also acting on behalf of a number of people who
14:56:33 22 would fit that description too?---Yes. Can I also say my
14:56:38 23 understanding was too that she was invited out socially for
14:56:45 24 other purposes, to disguise meetings between those people
14:56:51 25 to make it look like they're meeting with their barrister
14:56:56 26 or something.
14:56:56 27
14:56:56 28 We've heard some evidence to that effect?---Okay.
14:57:00 29
14:57:00 30 In relation to a few people. All right. So her closeness
14:57:04 31 to people in the criminal underworld, I mean I should say,
14:57:09 32 it's not unusual for a human source, I suppose most human
14:57:13 33 sources would be close to criminals, is that, that's the
14:57:18 34 usual situation?---Only the ones that are any good.
14:57:21 35
14:57:22 36 Okay?---Yeah.
14:57:22 37
14:57:23 38 But it was particularly so with Ms Gobbo, wasn't it,
14:57:27 39 because of her role as a criminal defence barrister and
14:57:31 40 representing a large number of these individuals, but also
14:57:34 41 her social contacts with them? She had a larger network of
14:57:40 42 people who were, who would fit that description of members
14:57:43 43 of the criminal underworld than most human sources would
14:57:47 44 have, is that right?---Yes, that's correct.
14:57:48 45
14:57:50 46 So that, I assume, meant that every informer, I suppose, is
14:57:54 47 at risk of being exposed but with Ms Gobbo that risk of

14:58:00 1 exposure was particularly acute, is that right?---That's
14:58:03 2 right, yes.
14:58:03 3
14:58:06 4 And Mr Ryan has given evidence to the Commission that in
14:58:09 5 his view she would be, in her work as a source, she'd be
14:58:13 6 risking death at every meeting. Is that an overstatement
14:58:17 7 in your view or is that about right?---Maybe not every
14:58:20 8 meeting, but certainly that was a consideration that was in
14:58:24 9 my mind daily, yes.
14:58:26 10
14:58:27 11 He also gave evidence that really from the time that she
14:58:31 12 was registered as a source in this period, so September
14:58:35 13 2005, that he thought it was inevitable that she would
14:58:43 14 eventually be killed. Was that something that crossed your
14:58:46 15 mind in your early meetings with her?---I wouldn't agree
14:58:50 16 with the word inevitable. That as a possibility of risk,
14:58:56 17 as a result of the risk, that was on my mind, but I
14:59:02 18 wouldn't say inevitable. I would like to think she was
14:59:06 19 able to meet with these people at a certain level and have
14:59:10 20 her own space within that community so there was a certain
14:59:16 21 buffer, if you like, for want of a better word, around her.
14:59:22 22 But certainly if it came out that she was then helping the
14:59:26 23 police with their ongoing criminal activity, then yes, I'd
14:59:29 24 say death isn't far away.
14:59:31 25
14:59:32 26 I see. So really acting as diligent members of a Source
14:59:39 27 Development Unit, or human source handlers, you've got to
14:59:42 28 be pretty careful in monitoring the risks that pertain to a
14:59:47 29 source in any situation, but particularly with Ms Gobbo, is
14:59:50 30 that right?---Yes, and if we, I thought we were able to do
14:59:55 31 that as it turned out, so, yep.
14:59:58 32
15:00:02 33 So what I'm wanting to ask about is the two risk
15:00:09 34 assessments that were drafted on behalf of Ms Gobbo and I
15:00:13 35 think it was Officer Peter Smith who put those together.
15:00:17 36 You're aware that there were two formal risk assessments
15:00:21 37 prepared?---Yes.
15:00:22 38
15:00:23 39 And that it was Peter Smith who undertook that
15:00:26 40 exercise?---Yeah, yep. At the beginning of it, yep.
15:00:30 41
15:00:30 42 And otherwise, and I should say, your colleagues have been
15:00:33 43 at pains to point out that even though there were only two
15:00:38 44 of them in the first six months and then none for the rest
15:00:42 45 of the three and a half years, those risks were recorded
15:00:44 46 and thought about and recorded in the ICRs. Is that your
15:00:48 47 recollection of how the risks pertaining to Ms Gobbo were

15:00:51 1 recorded?---Yeah, and they were discussed at regular
15:00:56 2 meetings, the source management meetings.
15:00:59 3
15:01:00 4 You know that - so it's the case though that a risk
15:01:07 5 assessment is a separate and discrete document that is a
15:01:12 6 ready reference for anyone who needs to come in as a
15:01:16 7 handler or replacement controller while the controller's
15:01:20 8 away or something like that. It's the best place to go if
15:01:23 9 it's kept up-to-date, to look and consider what the risks
15:01:28 10 to this particular source are, is that right, it's easier
15:01:32 11 than trawling through the ICRs?---Yeah, look, if you were
15:01:36 12 coming from outside, yes, I guess that's the best place.
15:01:39 13 But generally when we would swap handlers and that we would
15:01:43 14 just have verbal briefings about where's, what's happening
15:01:47 15 at what stage and what have you, so.
15:01:49 16
15:01:50 17 Can I suggest the issue with a verbal briefing though is
15:01:53 18 that were something terrible to happen in relation to the
15:01:57 19 source, you'd want to be able to show your superiors that
15:02:01 20 there was more than discussion from time to time, that
15:02:04 21 there was a formal document that was a live document and
15:02:07 22 was kept up-to-date where the risks pertaining to the
15:02:10 23 source were considered and recorded, do you agree?---Well
15:02:18 24 from my point of view I felt that I had an understanding of
15:02:22 25 them right from - I guess I had some sort of continuity
15:02:26 26 through the process, but I would have thought the source
15:02:29 27 management logs would have any updates to the original and
15:02:33 28 if anything significant had changed along the way then
15:02:39 29 maybe that might have been rethought and updated as
15:02:43 30 required, but the circumstances stayed the same, the risk
15:02:48 31 assessment would stay the same.
15:02:50 32
15:02:50 33 One of the reasons I'm asking is that after, so there were
15:02:55 34 two risk assessments, obviously one just after registration
15:02:59 35 in late 2005 and another in early 2006 and then there were
15:03:07 36 none, none of these formal documents prepared or that
15:03:10 37 formal document wasn't updated for the rest of that period
15:03:13 38 of registration?---Okay.
15:03:14 39
15:03:14 40 And the reason I'm asking is that it was in 2006 that the
15:03:18 41 death threats commenced, according to the ICRs, where text
15:03:24 42 messages were received identifying Ms Gobbo as a
15:03:28 43 dog?---Yep.
15:03:29 44
15:03:29 45 Something like that, for example, would be a trigger to
15:03:33 46 very carefully consider the risks pertaining to a human
15:03:38 47 source?---Yes, that could be included. By the same token

15:03:41 1 that was always a risk, I think, right from the beginning.
15:03:44 2
15:03:45 3 But when she actually starts text messages saying "you are
15:03:48 4 a dog", that text message is taken to mean, "You are
15:03:51 5 talking to the police and the sender of the message knows
15:03:57 6 it", that's the situation, isn't it?---I don't know if
15:03:59 7 being a dog means you're talking to the police.
15:04:02 8
15:04:03 9 What other meaning does dog have in your understanding,
15:04:07 10 other than a canine?---A four-legged animal. Well, it
15:04:11 11 could also mean that you're talking outside the circle of
15:04:14 12 endeavour, if you like, so one team may think she's getting
15:04:19 13 too friendly with the other team and not be happy with that
15:04:25 14 performance. The fact that she represented, I don't know,
15:04:29 15 don't quote me on this, say if she suddenly represented
15:04:33 16 Carl Williams as against Tony Mokbel, then the Mokbel crew
15:04:37 17 would be saying she's a dog because she's gone outside the
15:04:41 18 crew.
15:04:41 19
15:04:41 20 And if the text message had come from someone from Tony
15:04:47 21 Mokbel's crew and that was well-known, and the number was
15:04:51 22 there or the number could be traced then you might have
15:04:54 23 some certainty in relation to that?---Yep.
15:04:55 24
15:04:55 25 I think the real issue with these text messages and the
15:04:58 26 fire bombing of her car and those sorts of issues is that
15:05:01 27 it was never actually determined with any certainty where
15:05:04 28 these messages were coming from, there was suspicions, but
15:05:07 29 it was never, never determined with certainty, is that - do
15:05:12 30 you know where the messages were coming from?---I thought
15:05:14 31 it was a bloke called Tony Bayeh.
15:05:18 32
15:05:18 33 Did you know that?---No, I don't know. That was just what
15:05:23 34 I deduced from the intel around at the time and not
15:05:29 35 sufficient to charge anyone. From memory there was, I
15:05:32 36 can't remember the name of it, I'm sure there was like an
15:05:35 37 operation or a job set up to monitor all that.
15:05:40 38
15:05:40 39 Yes, there was?---I seem to remember phone boxes out near,
15:05:43 40 out in the northern suburbs were identified and - - -
15:05:47 41
15:05:47 42 That's right?---But I don't - - -
15:05:49 43
15:05:50 44 The point being though, Officer Green, is that it was never
15:05:54 45 determined who it was who was sending those messages and
15:05:57 46 what I'm suggesting to you?---Okay.
15:06:00 47

15:06:00 1 Is a source receiving a message calling them a dog would be
15:06:04 2 a pretty significant change to the risk profile of a
15:06:09 3 source, that's correct?---I don't agree with a significant
15:06:15 4 change, no, not at this level.
15:06:17 5
15:06:17 6 If they're receiving no messages calling them a dog and
15:06:21 7 then suddenly they receive a message calling them a dog, do
15:06:24 8 you say there's no particular change to their risk profile
15:06:28 9 as a human source?---They were already at the high risk
15:06:32 10 level.
15:06:32 11
15:06:32 12 Right?---I don't know that it could be any, elevated any
15:06:38 13 more.
15:06:38 14
15:06:38 15 What about the fire bombing of the car in April 2008, would
15:06:43 16 that elevate the risks to the source in your view?---Yes,
15:06:47 17 yeah. Look, I can't recall the circumstances around,
15:06:53 18 around that to be honest.
15:06:56 19
15:06:56 20 Well really ultimately what I want to suggest to you is
15:06:59 21 that it would have been preferable, had the risk
15:07:02 22 assessments been regularly prepared, rather than just two
15:07:08 23 at the very start of a three and a half year period, that's
15:07:11 24 correct, isn't it?---That could be a recommendation for the
15:07:16 25 future, absolutely. The reality was with risk assessments
15:07:20 26 none were done prior to the SDU.
15:07:23 27
15:07:23 28 Yes?---And my recollection is we, we did a bit of a course,
15:07:31 29 if you like, on how to do risk assessments because we
15:07:35 30 introduced them to the unit, and I seem to recall that we
15:07:39 31 even tried to get to do like a Cert 3 or a Cert 4 course
15:07:45 32 at, wherever, on risk assessment. I think, did I make a
15:07:51 33 mention of that in my statement? I think I might have.
15:07:54 34
15:07:54 35 You did talk about some of the educational
15:07:59 36 qualifications?---Yeah.
15:07:59 37
15:08:01 38 You'd sought?---So the whole, the reality with risk
15:08:07 39 assessments at that time, and even the way the Source Unit
15:08:10 40 was run, was everything was developmental. I would agree
15:08:15 41 in hindsight, looking back now, 12 years later, that's a
15:08:21 42 great idea and should be certainly, have some, I don't know
15:08:25 43 what the current policy is, it's certainly worth updating
15:08:30 44 them.
15:08:30 45
15:08:30 46 I want to talk to you now about what Ms Gobbo's motivations
15:08:35 47 might have been. I want to do that fairly briefly. You

15:08:39 1 say that her motivation as far as you were aware early on
15:08:43 2 was ridding herself of the Mokbels, is that your
15:08:46 3 memory?---Yes, that's how it began, yes.
15:08:48 4
15:08:48 5 And is that something she expressed to you or is that
15:08:52 6 something you read in some of those early ICRs before you
15:08:55 7 started?---No, she expressed that regularly, yep.
15:08:58 8
15:08:58 9 And she was concerned that there was a level of
15:09:01 10 manipulation of the legal system going on by members of
15:09:05 11 what we might call the Mokbel cartel, is that
15:09:09 12 right?---Yeah, I think she was feeling that she was being
15:09:12 13 used by them, yep.
15:09:13 14
15:09:13 15 She was being used by them. I think you say that they were
15:09:18 16 getting away with as much criminal activity as they did and
15:09:21 17 they were doing it manipulating the legal system and
15:09:24 18 outsmarting the police continually unabated?---Yep.
15:09:27 19
15:09:28 20 She was saying to you it's not right how these people are
15:09:31 21 using the legal system to their advantage, is that
15:09:35 22 right?---No, I think she, it's more her feeling remorse, I
15:09:46 23 guess, is one word, after her contribution to that, yes,
15:09:53 24 yep.
15:09:53 25
15:09:54 26 And it's the case, in fact it might have been even during
15:09:58 27 your first period of handling that Tony Mokbel fled the
15:10:03 28 jurisdiction?---Yep.
15:10:05 29
15:10:05 30 You remember that happening?---Yep, yep.
15:10:07 31
15:10:07 32 And so after that date and certainly until he was returned
15:10:14 33 to Australia, he doesn't seem to have been an operative
15:10:18 34 concern of Ms Gobbo's, is that correct?---Yeah, that's
15:10:22 35 correct. It sort of shifted from him to Horty.
15:10:26 36
15:10:26 37 It shifted from him to Horty. But as you read the ICRs,
15:10:29 38 and you might be able to assist with this, it seems that
15:10:33 39 even if that was, it seems to be the first meeting, an
15:10:38 40 operative motivation, later on Ms Gobbo seemed to talk
15:10:42 41 about really everyone she came into contact with, with her
15:10:48 42 handlers, is that overstating it to you?---No, by the end I
15:10:49 43 would agree with that, yep.
15:10:51 44
15:10:53 45 So in fact she was pretty keen to talk about any client or
15:10:58 46 anyone she came across socially, is that the way it
15:11:03 47 worked?---No, not anyone, no. She was fairly specific.

15:11:11 1
15:11:11 2 The reason I ask - - -?---To be honest I wouldn't be
15:11:15 3 particularly interested in hearing about just anyone anyway
15:11:19 4 as a handler. I would probably not be particularly
15:11:23 5 interested. My recollection at the beginning was the only
15:11:27 6 real tasking, if you like, that I had for her was to try
15:11:34 7 and form, hang on, excuse me - a person - - -
15:11:43 8
15:11:43 9 That's all right. We're going to talk about that. That
15:11:47 10 can be taken from the record. We're going to talk about
15:11:51 11 that in more detail.
15:11:53 12
15:11:54 13 COMMISSIONER: Just remember we're in open hearing at the
15:11:56 14 moment, Mr Green?---Okay, sorry.
15:11:59 15
15:11:59 16 MR WOODS: You're not the first, it's okay. I should say
15:12:03 17 by, throughout the period there were some significant
15:12:06 18 people that she focused on, it appears that some of them
15:12:11 19 we'll have to talk about in private session, but others
15:12:14 20 were Mr Karam, she gave a lot of information about
15:12:18 21 him?---Yep.
15:12:19 22
15:12:19 23 And information about his associates?---Yeah, yeah, yep,
15:12:24 24 yep.
15:12:24 25
15:12:25 26 Information about Mr Orman, for example?---Not much.
15:12:30 27
15:12:30 28 All right. But she did?---A little bit, yep.
15:12:33 29
15:12:36 30 And so what I'm suggesting to you is that whilst it might
15:12:39 31 have been the Mokbels to start with, by the end of it, and
15:12:42 32 indeed throughout the period, she was talking about a lot
15:12:45 33 of people that weren't associated with the Mokbels and
15:12:48 34 attempting to provide information in relation to those
15:12:51 35 other people as well, is that fair to say?---I would say
15:12:54 36 that the two people that were mentioned were the main
15:12:58 37 themes and the group of people, supporters, if you like,
15:13:03 38 around them, yes, that was the main thrust of everything.
15:13:07 39
15:13:07 40 She spoke about - - - ?---Some other randoms here and there
15:13:11 41 with other people along the way but they were all just
15:13:15 42 incidental, you know, if she went out for dinner and
15:13:17 43 someone else turned up and they were bragging about how
15:13:24 44 many drugs they were selling she may have made mention of
15:13:28 45 random stuff like that, but there was no one investigating
15:13:30 46 them and it wasn't really significant.
15:13:31 47

15:13:31 1 There's a passage in that same paragraph of your statement,
15:13:34 2 it's p.4 of your first6 statement, where you say, "The
15:13:36 3 source felt she could not approach" - I'll let you turn to
15:13:41 4 it first?---Yep, got it.
15:13:42 5
15:13:43 6 You talk about her wanting to ease her conscience and do
15:13:46 7 the right thing?---Yes.
8
15:13:48 9 Then you say, "The source felt she could not approach
15:13:52 10 anyone within the legal profession as it had no method of
15:13:54 11 helping lawyers in this position and with other lawyers
15:13:56 12 having issues she saw that the source detailed to me other
15:14:01 13 than the fear of debarring them"?---Yep, yep.
15:14:04 14
15:14:04 15 I don't understand that sentence?---Yep.
15:14:06 16
15:14:07 17 Can you explain it to me?---Yep, okay. My English isn't
15:14:15 18 that flash, I'll agree with that.
15:14:17 19
15:14:17 20 That's okay?---She felt she couldn't approach anyone else
15:14:20 21 within the legal profession.
15:14:22 22
15:14:23 23 Just pausing there, she couldn't approach them is the
15:14:26 24 dilemma she had about the Mokbels?---The dilemma she had,
15:14:31 25 that's exactly what I see it as, a dilemma. Because she's
15:14:34 26 explained to me that the legal profession had no method of
15:14:37 27 helping lawyers in this position.
15:14:39 28
15:14:40 29 Who had a dilemma such as that which was facing
15:14:44 30 Ms Gobbo?---That's right, correct. "And other lawyers
15:14:47 31 having issues." In other words, because she mentioned a
15:14:49 32 lot about lawyers using drugs and what have you along the
15:14:53 33 way, so there was no, like, I don't know, I don't know the
15:14:57 34 full details, like within the Police Force they have peer
15:15:01 35 support groups and stuff like that, so I don't know
15:15:03 36 personally what the legal profession has, but I got the
15:15:07 37 impression that what she was saying was there was no one
15:15:09 38 they could go to independently and seek help or get
15:15:14 39 guidance that wouldn't cause them to be debarred. So there
15:15:19 40 was significant ramification, yeah.
15:15:21 41
15:15:21 42 If she were to say to them, "I don't like the things my
15:15:26 43 clients are doing and I want to help the police", that the
15:15:29 44 outcome of all of that would be that she would lose her
15:15:32 45 ticket, was your understanding?---Yep, that's, yep, that's,
15:15:37 46 that was the problem. The clients were coming to her and
15:15:40 47 telling her unbelievable amounts of stuff that they were

15:15:45 1 doing and I think it all just got too much for her.
15:15:51 2
15:15:51 3 Okay. And you then talk about - just one last thing on
15:15:55 4 motivation is you say that she had a desire, her desire to
15:16:02 5 help increased due to her concerns as to the possible, her
15:16:06 6 possible involvement with the murder of the Hodsons?---Yep.
15:16:09 7
8 What do you understand her possible involvement with the
15:16:30 9 murder of the Hodsons was?---Well towards the end of my
15:16:30 10 handling her, which was when she left our care into - - -
11
15:16:30 12 Petra?---Petra, that's right, yep. That's when I became
15:16:32 13 aware of her potential involvement in that, yeah.
14
15:16:40 15 There's an individual that I won't name but we've talked
15:16:44 16 about briefly a moment ago. I want to take you just to a
15:16:48 17 couple of passages of your evidence before Mr Kellam in his
15:16:53 18 IBAC inquiry?---Yep.
19
15:16:56 20 You described - I don't need to take you to the passage, I
15:17:00 21 just want to read it to you?---Okay.
22
15:17:04 23 You describe her after your first meeting as being
15:17:09 24 "treacherous as I fully expected"?---Yep.
25
15:17:14 26 That's a view you obviously had after your first meeting;
15:17:18 27 is that correct?---My first meeting?
28
15:17:19 29 Your first meeting with Ms Gobbo?---Generally treachery is
15:17:26 30 high on the to-do list with all high risk sources across
15:17:32 31 the board, and the certainly the main difference between
15:17:35 32 her and most other sources was the volume and intensity of
15:17:39 33 it.
34
15:17:45 35 It just seems that there were these quite altruistic
15:17:52 36 reasons that you describe at first in your
15:17:55 37 statement?---Yeah.
38
15:17:56 39 But you describe her separately as being
15:18:00 40 treacherous?---Yes.
41
15:18:01 42 Was the treachery something that you saw from start to
15:18:04 43 finish of your time with Ms Gobbo?---Start to finish? To a
15:18:18 44 degree, yes, yep.
45
15:18:22 46 You say also that she told you, and you obviously don't
15:18:27 47 have transcripts in front of you in the - - - ?---I do

15:18:30 1 actually.
2
15:18:31 3 Well okay?---If you want to.
4
15:18:34 5 Okay. You say that she told you words to the effect - I
15:18:38 6 think what I'm trying to get at is you didn't have in front
15:18:41 7 of you the actual words that Ms Gobbo spoke to you when you
15:18:45 8 were giving evidence in front of Mr Kellam?---Yes.
9
15:18:49 10 So I assume it was a paraphrase when you said that she had
15:18:55 11 told you "there's not a system in the world I can't
15:18:57 12 manipulate"?---Yes, I have a very strong recollection of
15:19:00 13 that moment, yes.
14
15:19:01 15 How did that come up?---During one of the many lengthy
15:19:08 16 conversations I had. It was early days. I can't remember
15:19:16 17 specifically which one but there's too much.
18
15:19:19 19 Did that accord with your own observations about Ms Gobbo
15:19:22 20 when she told you that?---What that did to me was put me on
15:19:31 21 alert as to - look, I'm no expert in psychiatry or anything
15:19:41 22 but we were educated on what a behaviour observation
15:19:48 23 question was and when people say things like that, that
15:19:52 24 certainly gives you an indication as to the way they're
15:19:54 25 thinking, and for me that would factor in how I assessed
15:20:00 26 things she said and did and behaved .
27
15:20:04 28 In fact there times in your ICRs and in other ICRs where
15:20:07 29 the handlers talk about that she was fishing for
15:20:10 30 information from the handlers. Do you recall - I'm not
15:20:14 31 asking for specifics, but do you recall that occurring from
15:20:18 32 time to time?---No, I don't specifically. I think I would
15:20:26 33 be naïve to say that that never happened.
34
15:20:28 35 Yes?---With - from what I've learnt about handling high
15:20:34 36 risk sources that's always on the cards, but I dont recall
15:20:39 37 a, I can't recall a specific instance. Unless you can
15:20:42 38 take me to one but I don't recall.
39
15:20:44 40 That's all right, we might do that in due course?---Okay.
41
15:20:47 42 Your evidence in IBAC was you spoke about treachery, you
15:20:52 43 spoke about manipulation?---M'hmm.
44
15:20:55 45 The document that I've got anyway, which has a number
15:20:59 46 finishing 0135, it says you described her as follows, "I
15:21:05 47 guess that's just part of the person she is, like a Black

15:21:11 1 widow spider, you know. Kill the male and that's the
15:21:16 2 treachery. I don't know, I can't - see me as a human
15:21:18 3 being, I don't get that"?---Yep.
4
15:21:22 5 That's talking about a particular individual and the way
15:21:25 6 she implicated that individual who we'll talk about in
15:21:28 7 private session. I assume you know who I'm talking about
15:21:33 8 there?---Yeah, I'm guessing, yep.
9
15:21:35 10 That was your experience of the way that she was
15:21:40 11 treacherous in your experience in relation to that person;
15:21:44 12 is that correct?---Yep.
13
15:21:47 14 Okay?---I mean it's an awkward position she was in, in so
15:21:52 15 much as he was telling her about his [REDACTED] whatever.
15:21:56 16 Sorry, I shouldn't talk about that I suppose.
17
15:22:01 18 He had [REDACTED] for Ms Gobbo as well,
15:22:05 19 didn't he?---I understand he did, yes.
20
15:22:07 21 You understand - - - ?---Well only from her, but yeah.
22
15:22:12 23 COMMISSIONER: I think any discussion about this person is
15:22:14 24 going to have to be in private session.
15:22:16 25
15:22:17 26 MR WOODS: Sure. I'll move on. The Commission spent some
15:22:22 27 time with your colleagues going through a number of ICRs
15:22:28 28 and it's clear that - what I'm wanting to ask you about
15:22:34 29 here are some questions about legal professional privilege,
15:22:37 30 it won't be a quiz on what is and isn't privileged
15:22:41 31 hopefully, but it seems that on reading the ICRs that there
15:22:44 32 were times when the handlers said to Ms Gobbo specifically,
15:22:48 33 "We don't want anything privileged from you". Is that
15:22:51 34 something that you're aware of?---Yeah, absolutely.
35
15:22:55 36 Is that something that you said to her from time to
15:22:57 37 time?---Yes. Maybe not using those words but, like, if she
15:23:02 38 started talking about something that was before the court I
15:23:05 39 certainly said, "I don't want to know". Even still - yep.
40
15:23:10 41 It's also been discussed and agreed by some of your
15:23:16 42 colleagues that despite telling her those things she still
15:23:21 43 attempted to provide information that was apparently
15:23:23 44 privileged information. Was that your experience?---Yep,
15:23:26 45 that's definitely my experience, yep.
46
15:23:28 47 And so you tried to avoid the use of that information

15:23:32 1 because you didn't want it, is that the situation?---I
15:23:36 2 tried to not get it to start with, yeah.
3
15:23:40 4 In mid-2006 at a face-to-face meeting with Nicola Gobbo
15:23:48 5 that I should say you weren't at, she describes - she says
15:23:51 6 the ethics of what she was doing were fucked and that she'd
15:23:55 7 thrown legal professional privilege out the window. Have
15:23:58 8 you heard those two phrases either back in the day or
15:24:05 9 recently?---Recently I have, yep.
10
15:24:07 11 Did she say things like that to you from time to time about
15:24:11 12 her relationship with the SDU?---Maybe once or twice.
13
15:24:16 14 And did you take her seriously when she said that she felt
15:24:20 15 she was doing the wrong thing by dealing with the SDU on an
15:24:24 16 ethical or, you know, breaching legal professional
15:24:29 17 privilege front?---I don't know if it was just because she
15:24:33 18 was dealing with us. I got the feeling that was what her
15:24:38 19 whole practice had become.
20
15:24:39 21 But the specific term that she'd thrown privilege out the
15:24:43 22 window, the context in which she was saying that was in the
15:24:47 23 context of her dealings with the members of the SDU, do you
15:24:51 24 accept that?---Yep, I'd accept that.
25
15:24:57 26 On one of the transcripts we've looked at recently of one
15:25:00 27 of one of the face-to-face meetings, Mr White, the
15:25:03 28 controller, and Ms Gobbo have a debate about the parameters
15:25:07 29 of legal professional privilege, what might and might not
15:25:10 30 be a privileged communication. Now I'm not suggesting that
15:25:13 31 you've necessarily read that transcript but did you ever
15:25:16 32 have conversations with her to your memory about the way
15:25:20 33 privilege worked and what might be privileged and what
15:25:22 34 might not be?---I'm sure I would. Certainly in those
15:25:29 35 conversations somewhere I would have discussed it.
36
15:25:32 37 And given her role as an accomplished defence barrister I
15:25:37 38 can only assume you would have taken her understanding of
15:25:42 39 privilege to be the correct one over your own if that
15:25:45 40 discussion came up with you?---Yeah, yeah.
41
15:25:51 42 Officer Fox in some of his entries in the ICRs records the
15:25:58 43 words to the effect "not disseminated due to defence
15:26:03 44 strategy" when she was acting in a particular matter and
15:26:09 45 she started talking about that matter and the way the
15:26:12 46 defence might approach it. He would mark the particular
15:26:15 47 words, he identified it as a defence strategy and he said,

15:26:19 1 "I'm not passing it on for that reason", so have you seen
15:26:22 2 that phrase or a phrase to that effect in the ICRs?---I
15:26:26 3 don't think I ever wrote that, no.
4
15:26:29 5 Did you in your mind have a distinction between Ms Gobbo
15:26:33 6 talking about current clients generally and talking about
15:26:40 7 current clients and their defence strategy, that that might
15:26:44 8 be the trigger for LPP?---Yep, absolutely. I thought I had
15:26:47 9 a very clear position on it, yep.
10
15:26:51 11 So it would be defence strategy only or were there other
15:26:54 12 things that you might think might have been LPP as
15:27:01 13 well?---I thought anything - my guideline was anything
15:27:06 14 before the court was LPP.
15
15:27:12 16 That she was involved in?---Yes.
17
15:27:18 18 If Mr White's diary could be brought up on the screen.
15:27:22 19 This is VPL.2000.0001.0440. This is early on. Sorry, I'm
15:27:36 20 after his statement, sorry. Oh no, sorry, you're right.
15:27:42 21 It's 18 February 2006 I'm after. If you can scroll to
15:27:48 22 that. While you are. Mr White says in his statement to
15:27:52 23 the Commission, "I can see from an examination of my
15:27:55 24 official diary on 18 February 2006" - now just pausing
15:28:01 25 there, you started handling Ms Gobbo on 17 February 2006,
15:28:04 26 that was your first period of time handling Ms Gobbo. So
15:28:08 27 the next day he says he receives an update from you and you
15:28:14 28 were reporting on a telephone contact you'd had with
15:28:17 29 Ms Gobbo. He says, "I directed Green specifically in
15:28:20 30 regards to my attitude to LPP. My diary records the
15:28:25 31 following entry. Cautioned re Green speaking about" - - -
15:28:35 32
15:28:36 33 MR CHETTLE: I'm sorry, Commissioner, if this is on the
15:28:38 34 screen in open hearing it should be.
15:28:42 35
15:28:43 36 MR WOODS: It's only on the Bar table.
37
15:28:48 38 COMMISSIONER: Sorry, what's the problem?
15:28:48 39
15:28:48 40 MR CHETTLE: It had one of my client's real names up on the
15:28:52 41 screen and there's a camera behind it pointing to the
15:28:55 42 screen. That's all I was concerned about.
15:28:55 43
15:28:55 44 MR WOODS: It can be taken off everyone else's screens and
15:28:57 45 just left on the Commissioner's and the witness's and mine
15:29:04 46 then. We have to turn one around in the witness box as
15:29:11 47 well. No we don't, it's off. He cautioned you - I'm not

15:29:14 1 suggesting that you were necessarily passing on what might
15:29:15 2 have been potentially privileged at that stage, but the
15:29:18 3 note continues in his - sorry, his witness statement
15:29:22 4 continues, "Prefer no DSU involvement unless crime being
15:29:25 5 committed". Do you recall having conversations with
15:29:30 6 Mr White early on about the difficulties that might
15:29:33 7 arise?---Yes.
8
15:29:34 9 Using a barrister as a human source, yes?---The
15:29:40 10 difficulties of using a barrister as a human source? I
15:29:43 11 don't know that - - -
12
15:29:46 13 Well, let's be specific then?---Yeah, okay. I would have
15:29:49 14 hoped that we weren't going to be talking about her court
15:29:53 15 cases. This is my hope when I started handling her, is
15:29:57 16 that we wouldn't be talking about her court cases at all
15:30:01 17 and that when she goes out for dinner with these blokes and
15:30:04 18 they're all bragging about what they're up to that -
15:30:09 19 because we can do something, the investigators can do
15:30:10 20 something about the new information about crimes about to
15:30:13 21 be committed. There's not a lot you can do about anything
15:30:17 22 before the courts anyway, and I'm certainly not going to go
15:30:19 23 around sabotaging people's court cases and the client's
15:30:25 24 court cases even at that point. That's history and it's of
15:30:32 25 no value. That's how I viewed that.
26
15:30:35 27 I understand. You don't dispute though that Mr White's
15:30:37 28 statement is correct, that on 18 February 2006 you gave him
15:30:40 29 an update. You're reporting on a telephone contact with
15:30:44 30 Ms Gobbo. He said, "This is my attitude in relation to
15:30:49 31 LPP"?---Yep.
32
15:30:50 33 And that he said in his diary "cautioned Green re speaking
15:30:54 34 about Tony Mokbel trial, prefer no DSU"?---Is that four
15:31:00 35 statements or something? I think she told me she was going
15:31:02 36 to get four statements that weekend or something.
37
15:31:05 38 We might go through what it might have been. You know that
15:31:09 39 in your first period of dealing with Ms Gobbo that she was
15:31:12 40 representing Tony Mokbel in relation to some Commonwealth
15:31:16 41 importation matters?---Oh yes, that's right, yep, yep.
42
15:31:21 43 That was, I think, an importation that had happened in 2000
15:31:26 44 or so of a couple of kilograms of cocaine from
15:31:32 45 Mexico?---Something like that, yep, yep.
46
15:31:34 47 That was in fact the trial during which Mokbel absconded

15:31:38 1 and left the jurisdiction, I think it was to Bonnie Doon
15:31:42 2 and then off to Greece?---That's right, yep, yep. And I do
15:31:44 3 remember being - like I say, even right from the get-go I
15:31:48 4 had a pretty clear understanding that I didn't want to know
15:31:50 5 about that stuff.
6
15:31:51 7 Okay. If the ICRs - when I'm saying these things, just so
15:31:56 8 you understand, I'm asking an operator here to bring things
15:32:00 9 up on your screen and mine so we can look at the same
15:32:02 10 document?---Yes.
11
15:32:03 12 If the operator can bring up ICR 3838 at p.157?---Do you
15:32:12 13 know what date that is sorry?
14
15:32:13 15 Yes, I do. It's 17 February 2006. It's your first day of
15:32:19 16 handling Ms Gobbo.
17
15:32:20 18 COMMISSIONER: If you can give us the page, if you've got
15:32:22 19 the page.
15:32:23 20
15:32:24 21 MR WOODS: It's 157?---Yep.
22
15:32:26 23 COMMISSIONER: Thanks.
15:32:30 24
15:32:30 25 WITNESS: It's come up.
15:32:33 26
15:32:35 27 MR WOODS: If you can scroll down slowly. See, "Saturday
15:32:49 28 with Tony Mokbel, trial prep", do you see that?---Yep, yep,
15:32:51 29 that's right.
15:32:51 30
15:32:52 31 Then there's, "DSU issue to discuss Tony Mokbel trial
15:32:55 32 matters with source. Could be taken out of context, i.e.
15:32:58 33 pervert the course or similar" See that?---Yep, yep.
15:33:00 34 That's LPP, yep.
15:33:01 35
15:33:02 36 What I'm attempting to stitch together I think is what
15:33:05 37 Mr White says. On 18 February he has a conversation with
15:33:07 38 you. You're saying it seems to be that Gobbo was talking
15:33:12 39 about her trial preparation for Tony Mokbel's
15:33:16 40 matter?---Yes.
41
15:33:16 42 That seems to be the case so far, you agree?---Yeah.
43
15:33:19 44 As you've reported to your controller, the controller said,
15:33:22 45 "Hey, we've got to be pretty careful talking to her about
15:33:27 46 anything to do with Mokbel's trial"?---Yep, that's right.
47

15:33:31 1 He said, not only be careful, "Don't talk about the trial
15:33:37 2 with Ms Gobbo"; is that right?---Yep, yep.
3
15:33:41 4 Those words "DSU issue", am I right to read this record as
15:33:47 5 that's not something that's said by or to Ms Gobbo, this is
15:33:51 6 simply a recording for the DSU to say - - - ?---A note,
15:33:56 7 yeah.
8
15:33:56 9 "We've got to remember this"?---Yeah.
10
15:34:01 11 Even though Mr White, the conversation with Mr White
15:34:07 12 appears to happen the next day, that's obviously just you
15:34:10 13 telling him about it the next day, as you're required to
15:34:13 14 do; is that right?---Yep, that's right.
15
15:34:15 16 That's when the conversation happened with him and you've
15:34:18 17 recorded the 17th, maybe on the 18th; is that right?---Yes,
15:34:23 18 and then, bang, she goes and talks all about it the next
15:34:26 19 day after you told her not to.
20
15:34:28 21 Yes, yes, that's right, that's right. The concern that
15:34:33 22 you've recorded there is that it might be taken out of
15:34:36 23 context. In fact you knew that it was completely improper
15:34:43 24 to be talking to her about Tony Mokbel's trial when she was
15:34:47 25 representing Tony Mokbel in that trial and you're a member
15:34:51 26 of Victoria Police?---Yep, yep.
15:34:53 27
15:34:55 28 It's not just could be taken out of context, i.e. pervert
15:34:59 29 the course of justice, it might well have been a perversion
15:35:03 30 of the course of justice by having those sort of
15:35:06 31 discussions was your understanding?---Yeah, if she talks to
15:35:16 32 me about it and then I go and do something about it,
15:35:18 33 absolutely. That would be - - -
34
15:35:21 35 I'm just interested in just the talking about it at the
15:35:25 36 moment. You're a police officer?---Yeah.
37
15:35:29 38 She's defence counsel. You would assume that Tony Mokbel
15:35:33 39 didn't know that she was talking to you about the trial,
15:35:35 40 that's the case, isn't it?---Yep.
41
15:35:37 42 So I'm not necessarily interested in the passing on of
15:35:40 43 information. She's talking to Victoria Police and talking
15:35:42 44 to them about a trial that she's preparing. That is
15:35:46 45 problematic and that's why you note it there, isn't
15:35:50 46 it?---That's right.
47

15:35:51 1 It's a discussion that you identify there as being
15:35:53 2 problematic, not necessarily the passing on of
15:35:57 3 information?---Can I say the word discussion with her is
15:35:59 4 probably an exaggeration of what takes place.
5
15:36:04 6 Yes?---It'd be her telling me what she's doing and me just
15:36:08 7 writing down notes as they come belting down the phone at
15:36:11 8 me.
9
15:36:12 10 You're writing pretty flat out to keep up?---Exactly. And,
15:36:18 11 look, there is a story behind what I was doing on that day
15:36:21 12 at that time which I don't know if it's of any relevance to
15:36:26 13 the Commission, but nonetheless.
14
15:36:27 15 I don't know if it's relevant either. But if you feel it
15:36:31 16 is I'm sure Mr Chettle will ask you about it in due course.
15:36:34 17 I'm fascinated but I'm a bit nervous to ask?---I'm sure you
15:36:39 18 are, yep.
15:36:39 19
15:36:42 20 At p.175 of the same lot of ICRs, this is 3 March 2006 and
15:36:54 21 you're still the handler at this stage. Are these coming
15:36:58 22 up on the screen in front of you at the same time, are
15:37:02 23 they, Officer Green?---Yeah. Yeah, they are, yep, yep.
15:37:03 24
15:37:03 25 This is just a few days, a couple of weeks perhaps after
15:37:06 26 you've had that discussion with firstly Ms Gobbo and then
15:37:10 27 with Mr White?---Yep.
28
15:37:11 29 It's actually relevant to what you were saying a moment ago
15:37:14 30 about things being barked down the phone at you and you
15:37:19 31 recording them?---Yeah, yep.
15:37:20 32
15:37:20 33 So there's a discussion - we might need to scroll down,
15:37:29 34 yes, at 18:12. You've called her back because she's called
15:37:32 35 you and you've obviously missed the call or had something
15:37:35 36 else on?---Yes.
37
15:37:36 38 Called back, and your recording is, "Tony Mokbel trial
15:37:39 39 general discussion. He has a possible chance of acquittal
15:37:43 40 due to a clever no-case submission". That's what she was
15:37:47 41 describing to you on that day, on 3 March?---M'hmm, yes.
42
15:37:53 43 You recorded that in the ICRs?---Yep.
44
15:37:56 45 There's no indication there that you said, "No, Nicola,
15:38:02 46 stop, I don't want to hear anything about the Tony Mokbel
15:38:06 47 trial general discussion" that she was talking about; is

15:38:12 1 that right?---I didn't make that note, no, that's right,
15:38:14 2 but there's no note of what this clever no-case submission
15:38:16 3 is though. I wouldn't have taken it any further.
4
15:38:19 5 You just let her talk, is that the situation?---Yep. And I
15:38:22 6 note down the main topic of each burst.
7
15:38:30 8 When a couple of weeks before White had said to you, he
15:38:35 9 said he's cautioned you about speaking about the Tony
15:38:38 10 Mokbel trial, is the situation that she could talk about it
15:38:42 11 all she wanted but you weren't to talk to her about it
15:38:45 12 back, is that what happened?---See, if someone starts
15:38:52 13 talking about something and they'd only said one sentence
15:38:58 14 like that, it's come out before you've controlled the
15:39:04 15 conversation. See, the role of a source handler is to
15:39:07 16 basically listen and learn things and you make a note of
15:39:13 17 what you're listening to. Now with her there's obviously
15:39:18 18 restrictions to that and that is not to go into detail with
15:39:23 19 court matters. Now the fact that she's blurted that out,
15:39:27 20 I've made a note of it and - because that's what she said
15:39:32 21 when she rang at - when I called her back at 8.15, 8.12.
22
15:39:43 23 One of the things the Commissioner has to grapple, because
15:39:48 24 of the Terms of Reference is, what you've just described is
15:39:52 25 I might say perfectly understandable with your "regular"
15:39:54 26 human source, but the issue here of course is there was
15:39:57 27 some real sensitivity that was known to you and to your
15:40:01 28 boss about the nature of particular information that this
15:40:03 29 source, because she was a barrister, might be passing on to
15:40:06 30 you at Victoria Police, right. Do you understand what I'm
15:40:11 31 talking about there?---Yeah, yep.
32
15:40:13 33 I'm talking about the difference between a normal source
15:40:15 34 and a source who's a barrister who's representing someone
15:40:18 35 against Victoria Police?---Yep.
36
15:40:20 37 In a criminal trial?---Federal Police.
38
15:40:24 39 Federal Police, Commonwealth offence?---Yep, yep.
40
15:40:27 40
15:40:28 41 But there is a clear delineation that's given to you on the
15:40:36 42 19th that you're not to talk to her about the Tony Mokbel
15:40:39 43 trial, and what I'm suggesting to you here on 3 March,
15:40:42 44 she's talking to you about the Tony Mokbel trial, isn't
15:40:45 45 she?---Briefly, yep.
46
15:40:49 47 And you should have stopped her from talking about it?---I

15:40:56 1 probably did because I've got no idea what the clever no
15:41:00 2 case submission is.
3
15:41:00 4 Given what your boss had said to you a couple of weeks
15:41:03 5 before, you would have recorded it, wouldn't you, if you'd
15:41:07 6 stopped her talking about it because he'd said not to talk
15:41:08 7 about it?---Look, I would have recorded it. I told her to
15:41:10 8 stop you're saying, sorry?
9
15:41:12 10 Yes, that you would have said to her, "I am not talking to
15:41:16 11 you about Tony Mokbel's trial"?---Yeah, that's possibly
15:41:19 12 what I said. That's why I don't know anything more about
15:41:22 13 it, yeah. But I haven't recorded it in the contact report,
15:41:25 14 absolutely.
15
15:41:26 16 What I'm saying - - -?---Or my diary.
17
15:41:28 18 What I'm saying is because of the conversation you'd had
15:41:30 19 with your boss a couple of weeks ago, if you had have said
15:41:34 20 that to her you would have recorded it in the ICR, do you
15:41:41 21 accept that or not?---I don't know if I would have recorded
15:41:45 22 it, I'm - yeah. Not necessarily.
23
15:41:45 24 COMMISSIONER: I'm conscious of the time. There was just
15:41:47 25 one matter Mr Nathwani. Apparently one of the medical
15:41:50 26 reports which you relied on 1 September 2019 wasn't
15:41:55 27 formally tendered on the last occasion.
28
15:41:58 29 MR NATHWANI: I think it was and it's been checked and it
15:42:00 30 has been tendered. That was an error, but it's right. I
15:42:05 31 see nodding.
32
15:42:05 33 COMMISSIONER: That's all sorted?
34
15:42:08 35 MR NATHWANI: It is sorted, yes. 535A and B I think.
36
15:42:11 37 COMMISSIONER: Great. Mr Woods, just so people know where
15:42:16 38 we're heading, how long do you think you'll be - - -
15:42:20 39
15:42:20 40 MR WOODS: I thought half a day in total with Officer Green
41 which he'll be pleased to hear.
42
15:42:24 43 COMMISSIONER: Yes. So we should have Mr Biggin ready by
15:42:26 44 lunchtime on Tuesday.
45
46 MR WOODS: Yes, Mr Biggin is next.
47

15:42:27 1 COMMISSIONER: And then after Mr Biggin who is the next
15:42:29 2 witness?
15:42:32 3
15:42:32 4 MR WOODS: That's a good question. That was under
5 discussion.
6
15:42:35 7 COMMISSIONER: You'll let us know on Tuesday.
15:42:38 8
15:42:38 9 MR WOODS: It's probably Officer Black.
10
15:42:40 11 COMMISSIONER: Probably Officer Black, okay. Thank you.
15:42:40 12 All right, we'll adjourn until 9.30 on Tuesday morning.
15:42:45 13
15:42:45 14 <(THE WITNESS WITHDREW)
15:43:25 15
15:43:29 16 ADJOURNED UNTIL TUESDAY 8 OCTOBER 2019.
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