

ROYAL COMMISSION INTO THE MANAGEMENT
OF POLICE INFORMANTS

Held in Melbourne, Victoria

On Thursday, 16 May 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 Mr J. Hannebery QC
 Ms R. Enbom
 Ms K. Argiropoulos

Counsel for State of Victoria Ms E. Hilliard

Counsel for Nicola Gobbo Mr P. Collinson QC
 Mr R. Nathwani

Counsel for DPP/SPP Ms K. O'Gorman

Counsel for Handlers Mr G. Chettle

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These claims are not yet resolved.

11:35:47 1 COMMISSIONER: Yes Ms Tittensor.
11:35:49 2
11:35:49 3 MS TITTENSOR: Thank you, Commissioner. Now in relation to
11:35:52 4 the matter we've just been discussing, those people, the
11:35:58 5 four police and [REDACTED] were all charged you would accept
11:36:02 6 on [REDACTED] 2003?---Yes.
11:36:05 7
11:36:06 8 And that very shortly after their charging they were all
11:36:12 9 released on bail?---Yes.
11:36:13 10
11:36:14 11 If we can put that same document, the OPP document back up
11:36:17 12 on the screen please. If we look at the top of that
11:36:26 13 document where we see the matter ID, 0300546?---Yes.
11:36:31 14
11:36:32 15 See there are three entries there. Where the blank white
11:36:36 16 boxes appear that ought to have the name [REDACTED] in there
11:36:39 17 and I'm sure it will at some stage. It appears as though
11:36:44 18 from OPP records at least that Ms Gobbo first comes to
11:36:48 19 appear for [REDACTED] on [REDACTED] 2004?---Yes.
11:36:57 20
11:36:57 21 Do you see that?---Yes.
11:36:58 22
11:36:58 23 Following that she appears for him on his plea on [REDACTED]
11:37:07 24 2004 and that's a plea that occurs in the afternoon by the
11:37:13 25 looks of it?---Yes.
11:37:13 26
11:37:14 27 And then around about a week later she reappears for his
11:37:18 28 sentence, again in the afternoon?---Yes.
11:37:20 29
11:37:23 30 And it appears at least at the plea that Jeremy Rapke QC
11:37:29 31 and Damien Maguire appear for the Crown, do you recall
11:37:32 32 that?---Yes.
11:37:33 33
11:37:36 34 Now, do you recall at the time that [REDACTED] entered the
11:37:43 35 plea on [REDACTED] 2004 that - was it the case that he gave
11:37:50 36 an undertaking at that stage to give evidence against the
11:37:53 37 [REDACTED]?---He did, yes.
11:37:55 38
11:37:55 39 And he got in the box and swore to give that evidence?---I
11:38:01 40 believe that's the case, yes.
11:38:03 41
11:38:04 42 And received a sentencing discount no doubt because of
11:38:07 43 it?---He did, yes.
11:38:08 44
11:38:09 45 And then ultimately failed to live up to that undertaking
11:38:12 46 and was resentenced?---That's correct.
11:38:14 47

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11:38:15 1 Just as an aside, when we're looking at that document
11:38:20 2 that's on the screen, you'll see a number of entries where
11:38:23 3 the police informant on the right-hand side is Therese
11:38:28 4 Walsh?---Yes.

11:38:29 5
11:38:29 6 Around the same time that those hearings in which Ms Gobbo
11:38:34 7 was appearing for ██████████ that you were involved in, is
11:38:39 8 it the case that ██████████ had been charged with a
11:38:43 9 ██████████---That's right, yes.

11:38:44 10
11:38:45 11 And he was in custody in relation to that ██████████---He was.

11:38:49 12
11:38:50 13 And ultimately I think into the future convicted of
11:38:54 14 ██████████---That's correct, yep.

11:38:55 15
11:38:56 16 And we have some records that indicate relevant to this
11:38:59 17 period of time that Ms Gobbo had visited ██████████ in
11:39:04 18 custody on perhaps five occasions between ██████████ 2003
11:39:11 19 and ██████████ 2004, so it appears as though at least she's
11:39:17 20 coming into contact with him from ██████████ 2003?---Well
11:39:20 21 I have no personal knowledge of that but I don't dispute
11:39:23 22 that.

11:39:23 23
11:39:25 24 Now concentrating on the plea hearing that occurred on ██████████
11:39:30 25 ██████████ 2004 in relation to your matters, you've been shown
11:39:37 26 this morning an email, is that right?---Yes.

11:39:40 27
11:39:47 28 I'm not sure if we can put this on the screen or not.
11:39:57 29 There are in fact two documents. Perhaps if the witness
11:40:00 30 can be given the email and the attachment to the email, the
11:40:06 31 second - and if the Commissioner can also be provided with
11:40:12 32 a copy of those documents. I won't put these up on the
11:40:17 33 screen, Your Honour, there will be some serious PII issues
11:40:21 34 involved.

11:40:22 35
11:40:22 36 COMMISSIONER: Thank you.

11:40:23 37
11:40:32 38 MS TITTENSOR: Now that's an email, it seems, from you to
11:40:36 39 Ms Gobbo at around lunchtime on ██████████ 2004?---Yes.

11:40:46 40
11:40:46 41 Containing a document entitled "Tapai evidence for
11:40:51 42 plea"?---Yes.

11:40:51 43
11:40:54 44 And the document behind that is a document entitled, "Re
11:41:00 45 ██████████"?---Yes.

11:41:02 46
11:41:02 47 And indicates a variety of things that I presume you would

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11:41:09 1 say on the plea if you gave evidence in relation to [REDACTED]
11:41:15 2 [REDACTED]?---Yes.
11:41:15 3
11:41:17 4 Do you have a recollection of sending this email or giving
11:41:21 5 any of this evidence on the day?---No, I don't. I have a
11:41:26 6 recollection of giving the evidence but I don't recollect
11:41:29 7 sending the email.
11:41:30 8
11:41:30 9 You don't recollect some of the specifics contained in the
11:41:34 10 document?---No, they're accurate though.
11:41:36 11
11:41:36 12 To the extent you can remember things today, the contents
11:41:41 13 of that document appear accurate to you?---Yes.
11:41:44 14
11:41:47 15 I'll tender that document as a confidential exhibit, Your
11:41:53 16 Honour.
11:41:53 17
11:42:00 18 COMMISSIONER: Is it to be redacted to be in a form to be
11:42:03 19 tendered or is it just too difficult?
11:42:06 20
11:42:06 21 MR HANNEBERY: I think it's going to be very challenging
11:42:09 22 for there to be much left of it I'd say.
11:42:17 23
11:42:18 24 COMMISSIONER: Did you want to tender that PRISM database
11:42:22 25 concerning the appearances by Ms Gobbo?
11:42:24 26
11:42:25 27 MS TITTENSOR: Yes, I will come back to it but I'll tender
11:42:28 28 it now.
11:42:29 29
11:42:29 30 #EXHIBIT RC124 - OPP PRISM database concerning appearances
11:42:35 31 by Ms Gobbo.
11:42:38 32
11:42:39 33 #EXHIBIT RC125 - Email from police officer Tapai to Nicola
11:42:56 34 Gobbo.
11:42:56 35
11:42:56 36 COMMISSIONER: That's a confidential exhibit to be placed
11:42:59 37 in an envelope and not to be opened without order of the
11:43:02 38 Commission.
11:43:22 39
11:43:22 40 MS TITTENSOR: Mr Tapai, you might have noted in that
11:43:26 41 document there that there doesn't appear to be any
11:43:30 42 indication, at least in that document, as to his providing
11:43:35 43 an undertaking on that day, on [REDACTED]---No, no.
11:43:39 44
11:43:39 45 But that was certainly something that did happen on that
11:43:42 46 day, at his plea hearing?---Yes.
11:43:45 47

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11:43:52 1 Is that undertaking or that agreement for him to provide or
11:43:57 2 to give evidence against his co-accused, was that something
11:44:00 3 that eventuated after Ms Gobbo became involved with [REDACTED]
11:44:09 4 [REDACTED]?---Are you asking whether he did give evidence?
11:44:12 5
11:44:13 6 No, no. The fact that he gave an undertaking and agreed to
11:44:17 7 give evidence, are you able to say anything about the role
11:44:21 8 Ms Gobbo had in that process?---No.
11:44:25 9
11:44:25 10 You can't recall if it was a driving role or a back seat
11:44:32 11 role or if it was something that [REDACTED] was doing of his
11:44:37 12 own accord?---It's certainly not something that I discussed
11:44:44 13 with her or him, it was just, I suppose an agreement that
11:44:54 14 they had in relation to what, what assistance [REDACTED]
11:44:59 15 would provide in exchange for his pleading guilty and what
11:45:07 16 information he provided us in our investigation.
11:45:09 17
11:45:10 18 If you go back to that document that I have before
11:45:14 19 you?---Yep.
11:45:14 20
11:45:15 21 And it's about the seventh dot point down, it's apparent
11:45:20 22 that [REDACTED] had been arrested by ESD back in 2002, is
11:45:26 23 that right?---Yes.
11:45:27 24
11:45:28 25 And some time after his arrest or shortly after his arrest
11:45:33 26 that was in relation to a possession of a small amount of
11:45:36 27 cannabis, that arrest?---Sorry, I'm a bit confused as to
11:45:43 28 what arrest you're talking about.
11:45:44 29
11:45:45 30 I'll just take you through this document?---Yep.
11:45:47 31
11:45:47 32 The first dot point indicates that [REDACTED] was arrested
11:45:53 33 at his home in [REDACTED] of 2002?---Yes, sorry, yes.
11:45:57 34
11:45:57 35 By ESD?---Yes, sorry, I see where you're - yep.
11:46:01 36
11:46:01 37 The third dot point down indicates a small amount of
11:46:04 38 cannabis was located at his home?---Yes.
11:46:07 39
11:46:11 40 Sorry, executed a search warrant, not arrest, sorry?---Yes.
11:46:15 41
11:46:18 42 He was cooperative and made admissions in relation to that
11:46:21 43 cannabis?---Yes.
11:46:22 44
11:46:24 45 At that stage he was also interviewed in relation to the
11:46:28 46 circumstances of the charges relating to the [REDACTED]
11:46:35 47 [REDACTED] and he at the [REDACTED] back in

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11:46:39 1 1999?---That's correct, yes.
11:46:41 2
11:46:42 3 At that stage it's indicated a couple of dot points further
11:46:46 4 down that he wasn't willing to give any evidence against
11:46:48 5 the [REDACTED]?---That's right.
11:46:50 6
11:46:50 7 So that was in the early days at least he wasn't minded to
11:46:53 8 give any assistance?---That's correct, yes.
11:46:55 9
11:46:57 10 At some stage between the committal proceedings and his
11:47:01 11 plea there had obviously been a change of heart?---Yes.
11:47:07 12
11:47:07 13 You're not able to shed any light on how that came
11:47:12 14 about?---Well he was on bail at the time and one thing that
11:47:17 15 I don't have in the dot points here, which at the time
11:47:21 16 probably wasn't relevant or I didn't think it was relevant,
11:47:25 17 when we arrest, initially arrested him he did indicate that
11:47:32 18 he wasn't going to cooperate as far as give evidence
11:47:37 19 against the [REDACTED] but Solicitor 1 was his solicitor.
11:47:43 20
11:47:44 21 Perhaps - - -
11:47:45 22
11:47:45 23 COMMISSIONER: That's okay.
11:47:46 24
11:47:47 25 MS TITTENSOR: In this forum it might be okay.
11:47:49 26
11:47:49 27 COMMISSIONER: That's okay, it was only in the context of
11:47:51 28 the investigation against Solicitor 1 that the suppression
11:47:56 29 order applies.
11:47:58 30
11:47:58 31 MS TITTENSOR: Yes, thank you, Your Honour?---Solicitor 1
11:48:01 32 attended at our office that night and spoke with [REDACTED]
11:48:06 33 and then he had a conversation with me and indicated that
11:48:08 34 [REDACTED] was very frightened under the circumstances but
11:48:13 35 the context of that conversation was that perhaps [REDACTED]
11:48:19 36 may at some stage cooperate.
11:48:24 37
11:48:24 38 All right. We've had some evidence from Peter
11:48:35 39 De Santo?---Yes.
11:48:35 40
11:48:35 41 Who you will recall from your days at the ESD no
11:48:40 42 doubt?---Yes.
11:48:40 43
11:48:40 44 He had an entry in his diary which indicated that on [REDACTED]
11:48:45 45 [REDACTED] 2004, so this is, if we're looking at the dates on
11:48:53 46 the OPP document, the plea was in [REDACTED] of, late [REDACTED] of
11:48:58 47 2004, you'll see there, there's a case management

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11:49:04 1 conference on [REDACTED] and the plea on [REDACTED]?---Yes.
11:49:07 2
11:49:07 3 So on [REDACTED] a little bit before the first date, he'd
11:49:13 4 had a discussion with Ms Gobbo in relation to a number of
11:49:16 5 matters and one of the matters that she raised with him
11:49:19 6 related to [REDACTED] and yourself and essentially it
11:49:28 7 included her telling Mr De Santo that [REDACTED] had rolled,
11:49:33 8 so it seems as though that had happened at least by [REDACTED]
11:49:38 9 [REDACTED] or some time near then?---Yes.
11:49:42 10
11:49:44 11 She also complained at that stage that apparently you
11:49:47 12 weren't returning calls in a timely manner and she had
11:49:51 13 concerns in relation to [REDACTED] security. I take it
11:49:57 14 you likely won't have a memory of anything like that being
11:50:00 15 raised with you?---No.
11:50:01 16
11:50:07 17 You'll see on that OPP document, it's the second and
11:50:18 18 third-last hearings, where the matter number is [REDACTED],
11:50:27 19 there's a filing hearing and then there's a summary
11:50:31 20 contest. Do you see that?---Yes.
11:50:32 21
11:50:38 22 Do you recall what those matters were about?---No. I
11:50:46 23 remember the prosecutor Kerry, however just by going on
11:50:54 24 that date I have no idea what that might relate to.
11:50:57 25
11:50:58 26 Sorry?---I have no idea what that might relate to.
11:51:01 27
11:51:02 28 Do you, and I'm just hypothesising here, was [REDACTED] when
11:51:07 29 he failed to give evidence charged with any offence
11:51:10 30 relating to his [REDACTED]?---No.
11:51:14 31
11:51:14 32 So you can't recall what the issue was in relation to that
11:51:20 33 case?---No, no.
11:51:21 34
11:51:21 35 COMMISSIONER: Would your diaries help you?---It might. It
11:51:25 36 should.
11:51:25 37
11:51:25 38 Are the diaries here? Perhaps if he could have a look at
11:51:31 39 his diaries that would be the way to go.
11:51:42 40
11:51:42 41 MS TITTENSOR: So first of all if we can look at [REDACTED]
11:51:46 42 2004?---Yes. On [REDACTED] was the opening of the committal
11:52:06 43 hearing in relation to the [REDACTED] and I've got
11:52:16 44 a notation that [REDACTED] was to give evidence as a Crown
11:52:20 45 witness. I've got, "At court [REDACTED]
11:52:25 46 [REDACTED] I've got then
11:52:31 47 that I - - -

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11:52:33 1
11:52:34 2 COMMISSIONER: Could you try to refer to him as [REDACTED],
11:52:39 3 please?---Sorry, sorry. I've then got a notation that I
11:52:43 4 returned to my office to prepare charges of [REDACTED]
11:52:47 5 [REDACTED] re [REDACTED]. Return to Melbourne Magistrates'
11:52:54 6 Court, served charges via Nicola Gobbo, matter filed and
11:52:59 7 adjourned for mention to [REDACTED] 04. I've got there that I
11:53:06 8 remained at court re an application by the media for court
11:53:13 9 release of [REDACTED] statements. I've then got a
11:53:18 10 notation that I attended at the OPP office and I discussed
11:53:22 11 the matter with Kerry Maikousis. I returned to court at 2
11:53:31 12 o'clock, 2.05, and I have a notation that the application
11:53:37 13 was not granted and that's it.

11:53:41 14
11:53:43 15 MS TITTENSOR: So it appears as though those charges
11:53:48 16 related to [REDACTED] proceedings arising out of his failing
11:53:53 17 to swear up to his statement on the day of the committal of
11:53:57 18 [REDACTED]?---Yes, I don't know, I don't have a
11:54:00 19 recollection as to whether they were proceeded with. I'm
11:54:03 20 guessing they might have been.

11:54:04 21
11:54:04 22 If we look at the next date down, it indicates that the
11:54:09 23 matter is listed for a summary contest on [REDACTED]
11:54:14 24 2004?---Yep.

11:54:15 25
11:54:18 26 Sorry, you mentioned a [REDACTED] date, did you? That it was
11:54:25 27 adjourned to a [REDACTED] date?---Sorry, I need to - I've moved
11:54:32 28 page. For a mention to [REDACTED] yes, 04.

11:54:50 29
11:54:50 30 Can you just before we proceed to the [REDACTED] date, just
11:54:53 31 look at [REDACTED] to see if that reveals any
11:55:13 32 information?---No, there's nothing. There's nothing there.
11:55:16 33 I didn't attend court on that day.

11:55:18 34
11:55:18 35 If you can then go to [REDACTED] 2004, please?---I have no
11:55:54 36 notation of attending court. There's a notation the day
11:56:01 37 before, on [REDACTED] that I attended at the OPP office,
11:56:10 38 spoke to Kerry Maikousis, Rod Gray, Jeremy Rapke re
11:56:18 39 [REDACTED] matters and provided Kerry with material but I
11:56:21 40 don't have, I was doing other things on [REDACTED] I have
11:56:25 41 no entry in relation to anything occurring on that day in
11:56:30 42 relation to court.

11:56:31 43
11:56:31 44 So whilst that matter was listed as a summary contest you
11:56:34 45 can't say one way or the other whether it proceeded?---No.
11:56:40 46 Certainly I didn't attend.

11:56:42 47

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11:56:43 1 Do you have any recollection now as to what the result was
11:56:46 2 of the [REDACTED] proceedings that you'd initiated?---Look,
11:56:53 3 somewhere in the back of my mind - I have a feeling that he
11:57:04 4 may have received a term of imprisonment for that.

11:57:10 5
11:57:10 6 Do you recall whether it actually ran as a contest or
11:57:15 7 proceeded as a plea or some other result?---It certainly
11:57:18 8 wasn't - I don't think it was a contest. Because normally
11:57:21 9 - and that would be consistent with my not having an entry
11:57:24 10 in my diary because more often than not if it's not a
11:57:30 11 contest or there's no concerns or matters to be raised or
11:57:36 12 concerned about, matters can be heard without an informant
11:57:43 13 being there, or perhaps, look, the other alternative is it
11:57:48 14 was never proceeded with. I just don't know.

11:57:50 15
11:57:51 16 Whilst we're there, I'm not sure if you did this before,
11:57:55 17 but if you would look at your diary entry for [REDACTED]
11:57:59 18 2003 just to see if we can clarify Mario Katsoulas?---[REDACTED]
11:58:15 19 [REDACTED]?

11:58:16 20
11:58:16 21 Yes?---I was certainly in court on that day in relation to
11:58:22 22 this matter but I don't have a specific comment in my diary
11:58:30 23 in relation to Katsoulas but I attended and it is relevant
11:58:37 24 to the whole investigation Laity but we had an interstate
11:58:46 25 witness who was staying in a motel and I collected him and
11:58:49 26 took him to court and remained at court for the day with
11:58:55 27 him, the witness, but it wasn't Mario Katsoulas. So
11:59:00 28 whether there may have been something involving Katsoulas
11:59:06 29 on that day, that may be the case.

11:59:08 30
11:59:08 31 It seems as though from the evidence you've just given that
11:59:11 32 the committal proceedings for the four police members was
11:59:16 33 actually taking place on [REDACTED] 2004 when [REDACTED] failed
11:59:25 34 to swear up?---Yes.

11:59:32 35
11:59:33 36 COMMISSIONER: Could I just ask you about your diary entry
11:59:36 37 for [REDACTED] 2003?---Yes.

11:59:41 38
11:59:41 39 Does that indicate what court proceeding you were there
11:59:45 40 for?---It was in relation to the committal hearing in
11:59:48 41 relation to the police members.

11:59:49 42
11:59:49 43 The police members and [REDACTED]?---Yes.

11:59:51 44
11:59:51 45 It was the committal hearing that date, was it?---Yes,
11:59:54 46 that's the date it commenced, yes.

11:59:56 47

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11:59:56 1 MS TITTENSOR: It appears from some of the other evidence
11:59:58 2 you've given that the committal proceeding was also
12:00:02 3 occurring the following year on [REDACTED] 2004 when [REDACTED]
12:00:07 4 was supposed to be giving evidence, is that right?---I'm
12:00:15 5 wondering whether a year later wasn't a committal hearing,
12:00:18 6 it was the actual trial.
12:00:20 7
12:00:21 8 The evidence you've given is that you were in the
12:00:24 9 Magistrates' Court for a proceeding and you filed a
12:00:33 10 [REDACTED] charge?---Okay, yep.
12:00:35 11
12:00:35 12 COMMISSIONER: Just check your diary again, is that
12:00:38 13 correct?---Can you just - - -
12:00:39 14
12:00:40 15 [REDACTED] 2004 we're looking at?---I've got here that I
12:00:57 16 attended court in relation to the trial, not committal
12:01:01 17 hearing.
12:01:02 18
12:01:03 19 MS TITTENSOR: Okay?---So that appears - that commenced on
12:01:05 20 [REDACTED], so that's the actual trial of the [REDACTED]
12:01:10 21 [REDACTED].
12:01:11 22
12:01:11 23 Right. And as a result of that did the trial of what went
12:01:17 24 on at that stage, did the trial get adjourned?---No.
12:01:22 25
12:01:23 26 COMMISSIONER: Does your diary indicate whether at that
12:01:26 27 stage Nicola Gobbo was acting for [REDACTED]?---My diary
12:01:30 28 doesn't indicate that but I knew she was.
12:01:32 29
12:01:33 30 She was by that stage?---Yes. So the trial didn't involve
12:01:39 31 [REDACTED].
12:01:40 32
12:01:40 33 I see?---It was only the [REDACTED].
12:01:42 34
12:01:42 35 Only the [REDACTED]---So Ms Gobbo really had
12:01:46 36 nothing to do with the trial by that stage.
12:01:47 37
12:01:48 38 I see.
12:01:48 39
12:01:49 40 MS TITTENSOR: Did the trial proper itself take place in
12:01:52 41 2005 to your recollection?---My diary indicates that it
12:02:05 42 actually commenced on [REDACTED] because I'm in court every day
12:02:12 43 for that.
12:02:12 44
12:02:13 45 All right.
12:02:13 46
12:02:14 47 COMMISSIONER: Does it indicate the outcome of the

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12:02:16 1 trial?---It would be in my diary but [REDACTED] were
12:02:21 2 acquitted.
12:02:22 3
12:02:22 4 They were acquitted?---Yes.
12:02:23 5
12:02:24 6 Is that in your diary?---It would be.
12:02:26 7
12:02:26 8 There was only the one trial, there wasn't a retrial or
12:02:29 9 anything?---No, no.
12:02:30 10
12:02:30 11 Okay.
12:02:33 12
12:02:34 13 MS TITTENSOR: Perhaps we haven't been given any diary
12:02:38 14 entries in relation to this witness, Commissioner. One of
12:02:41 15 the things that I will ask this witness to do and his
12:02:46 16 representatives is to go through the diaries a bit more
12:02:49 17 carefully and report back, provide relevant entries to the
12:02:54 18 Commission within the next short while.
12:02:56 19
12:02:56 20 COMMISSIONER: About the dealings with Ms Gobbo?
12:02:58 21
12:02:58 22 MS TITTENSOR: Yes.
12:02:59 23
12:02:59 24 COMMISSIONER: Yes.
12:03:01 25
12:03:01 26 MS TITTENSOR: I think we're at a point, Commissioner,
12:03:05 27 where we can move back into public session.
12:03:09 28
12:03:10 29 MR NATHWANI: It might just help, because the only
12:03:13 30 cross-examination I can foresee for clarification is in
12:03:15 31 relation to this closed.
12:03:16 32
12:03:16 33 COMMISSIONER: We might allow cross-examination on this
12:03:18 34 issue then before we do that. Yes Mr Nathwani.
12:03:20 35 Cross-examination on the closed hearing matters.
12:03:23 36
12:03:23 37 <CROSS-EXAMINED BY MR NATHWANI:
12:03:23 38
12:03:23 39 I appear on behalf of Ms Gobbo. Just to help you, do you
12:03:26 40 have an entry - let's start with the chronology actually.
12:03:30 41 Firstly you say [REDACTED] a search warrant is executed at
12:03:34 42 [REDACTED]'s home address?---Yes.
12:03:36 43
12:03:36 44 And I think you were saying he was then interviewed by you
12:03:41 45 that night and Solicitor 1 comes down to represent
12:03:44 46 him?---Yes.
12:03:45 47

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12:03:45 1 And you have a memory where Solicitor 1 indicates that he
12:03:49 2 might, one he's scared, this is ██████████, and then
12:03:53 3 secondly he might want to talk to you?---Well I recall that
12:03:56 4 Solicitor 1 told me that he would talk to ██████████ and try
12:04:06 5 and get him on board and he was - I do specifically recall
12:04:11 6 that he was confident that ██████████ may start cooperating.
12:04:20 7
12:04:20 8 Understood. And then what followed, and this is where -
12:04:24 9 can you go to your diary and look if there's an entry on ██████████
12:04:28 10 ██████████?---What year?
12:04:29 11
12:04:29 12 A special mention?---What year please?
12:04:31 13
12:04:31 14 2003?---I'd need another diary, a different diary.
12:04:41 15
12:04:41 16 COMMISSIONER: Which diary is it we need?
12:04:43 17
12:04:44 18 MR NATHWANI: ██████████ 2003.
12:05:00 19
12:05:00 20 COMMISSIONER: Just while we're looking for that, is there
12:05:02 21 some reason why this witness, the Commission wasn't
12:05:06 22 provided with the diaries and the statement doesn't seem to
12:05:09 23 address the diary entries which seems to be the normal
12:05:12 24 modus operandi of statements for police witnesses?
12:05:16 25
12:05:16 26 MS TITTENSOR: There is some indication that Mr Tapai
12:05:19 27 hasn't in the time available been able to identify entries
12:05:23 28 but perhaps we can clarify that.
12:05:28 29
12:05:28 30 COMMISSIONER: Mr Hannebery, can you help?
12:05:30 31
12:05:31 32 MR HANNEBERY: That's correct, there were none identified
12:05:33 33 as relevant but that's changed.
12:05:34 34
12:05:35 35 COMMISSIONER: Nothing identified as relevant? This seems
12:05:36 36 to be full of relevant matters from cross-examination.
12:05:39 37
12:05:40 38 MR HANNEBERY: More relevant specifically in relation to
12:05:42 39 his dealings with Ms Gobbo.
12:05:44 40
12:05:44 41 COMMISSIONER: All right. So there are no entries about
12:05:48 42 Ms Gobbo? I thought he referred to one that hadn't been
12:05:51 43 mentioned before when he looked in his diaries.
12:05:54 44
12:05:54 45 MR HANNEBERY: I think he referred to one, I haven't seen
12:05:58 46 the diaries myself so I can't comment on that but they'll
12:06:02 47 be looked at, Commissioner.

.16/05/19

1908

TAPAI XXN - IN CAMERA

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12:06:04 1
12:06:04 2 COMMISSIONER: It's a little concerning because we are
12:06:06 3 relying on all this material to be provided from the
12:06:11 4 police. We're assuming the statements give us all the
12:06:15 5 references in diaries to Ms Gobbo.
12:06:16 6
12:06:17 7 MS TITTENSOR: I might just for clarification sake make
12:06:20 8 sure that we, the interpretation of what we are to receive
12:06:24 9 is we want entries that are relevant to Ms Gobbo, not
12:06:29 10 simply entries that refer to her name specifically, but if
12:06:33 11 entries are relevant and obviously there needs to be a
12:06:37 12 degree of judgment in that.
12:06:41 13
12:06:42 14 COMMISSIONER: Yes, well I suppose it's difficult if the
12:06:44 15 name isn't mentioned and there are probably paralegals and
12:06:50 16 young lawyers doing this sort of work so it's difficult,
12:06:53 17 but even so. Yes Mr Nathwani.
12:06:57 18
12:06:57 19 MR NATHWANI: Do you have an entry there for [REDACTED]
12:07:02 20 2003?---I do. And all I've got here is I attended at the
12:07:30 21 Melbourne Magistrates' Court re Laity special mention and
12:07:34 22 that the matter was adjourned to [REDACTED] 2003 and Laity is
12:07:40 23 the - - -
12:07:41 24
12:07:41 25 [REDACTED]?---Not so much [REDACTED], it's the actual
12:07:46 26 investigation of the police members together with [REDACTED]
12:07:50 27 [REDACTED].
12:07:50 28
12:07:50 29 That included [REDACTED]?---Yep.
12:07:52 30
12:07:52 31 Obviously there's some reliance on the PRISM database which
12:07:55 32 is on the screen but if I was to tell you that Ms Gobbo
12:07:59 33 attended on that occasion, would that be of any surprise to
12:08:03 34 you?---Look, I don't have a recollection but I don't make a
12:08:08 35 habit of writing down which lawyers may be present at court
12:08:14 36 on any particular day. It's irrelevant as far as my
12:08:22 37 situation's concerned.
12:08:24 38
12:08:25 39 And then just trying to follow through just to assist with
12:08:28 40 dates and what happened with [REDACTED], you can take it
12:08:32 41 from me, and I'm sure we can produce if necessary the
12:08:37 42 Supreme Court judgment that sets out some of the
12:08:40 43 chronology, but it appears on [REDACTED] of 2004 [REDACTED]
12:08:46 44 was sentenced for the drugs matter to a [REDACTED]
12:08:50 45 [REDACTED] Now does that ring any bells?---I
12:08:55 46 don't dispute that, that probably was, yeah, his sentencing
12:09:05 47 date.

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12:09:06 1
12:09:06 2 COMMISSIONER: So that would be the drugs matter in
12:09:07 3 relation to the [REDACTED], not the minor
12:09:10 4 possession?---No, it would be his - yeah, in relation to
12:09:13 5 the [REDACTED].
12:09:15 6
12:09:16 7 MR NATHWANI: And then on, it appears I think the Director
12:09:20 8 appealed that to the Court of Appeal and that sentence was
12:09:23 9 increased to a head sentence of [REDACTED] imprisonment,
12:09:27 10 does that refresh any memories. I don't have a date for
12:09:30 11 that?---It doesn't, no.
12:09:32 12
12:09:32 13 But dealing with what happened with the [REDACTED] matters,
12:09:35 14 do you have an entry - do you have your 2004 diary with
12:09:40 15 you?---Do you have any particular month?
12:09:45 16
12:09:45 17 October, 1 October.
12:10:00 18
12:10:01 19 MR HANNEBERY: We don't have that diary, Commissioner.
12:10:05 20
12:10:06 21 MR NATHWANI: Records indicate that Ms Gobbo appeared to
12:10:08 22 apply to adjourn the contempt proceedings on [REDACTED]
12:10:15 23 2004?---I was actually on a day off that day.
12:10:18 24
12:10:19 25 Have you got the 2004 diary?---Yes.
12:10:21 26
12:10:23 27 So you can't help with that. Do you have any memory of -
12:10:26 28 it looks from records as though the [REDACTED] proceedings
12:10:30 29 were adjourned at the times that the [REDACTED] proceedings
12:10:35 30 were mentioned is what it looks like?---I can't dispute
12:10:38 31 that but I don't have a recollection.
12:10:40 32
12:10:40 33 You don't have a memory?---No.
12:10:42 34
12:10:42 35 Just as far as the sequence is concerned, it was Solicitor
12:10:45 36 1 who first raised the prospect of [REDACTED] potentially
12:10:56 37 assisting?---That's correct, yes.
12:10:57 38
12:10:57 39 And then thereafter there are records that indicate
12:10:59 40 Ms Gobbo was representing him?---Yes.
12:11:01 41
12:11:02 42 Going back to the entry on [REDACTED], I know you have been
12:11:06 43 asked about it, [REDACTED] 2003, is it possible that both
12:11:10 44 [REDACTED] and Katsoulas's cases were heard separately on
12:11:16 45 the day?---Yes. Look, it's possible.
12:11:21 46
12:11:21 47 [REDACTED], sorry, I know we're in closed?---Sorry, what was

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12:11:26 1 the date?
 12:11:27 2
 12:11:27 3 You were asked by Ms Tittensor about [REDACTED] 2003?---Yes.
 12:11:33 4
 12:11:34 5 Is it possible [REDACTED], sorry - - -
 12:11:40 6
 12:11:40 7 COMMISSIONER: It was [REDACTED] 2003, wasn't it, that
 12:11:42 8 the committal hearing was supposed to have been held?
 12:11:45 9
 12:11:46 10 MR NATHWANI: Sorry, I've got the date wrong. Can you have
 12:11:51 11 a look at your diary for [REDACTED] 2003. 2003, sorry to move
 12:11:58 12 you around?---[REDACTED].
 12:12:11 13
 12:12:12 14 2003?---That was a Saturday.
 12:12:21 15
 12:12:21 16 COMMISSIONER: It was suggested that [REDACTED] 2004 he
 12:12:29 17 signed an undertaking to give evidence against his
 12:12:33 18 co-accused, pleaded guilty. [REDACTED] 04.
 12:13:04 19
 12:13:05 20 MR NATHWANI: At the committal hearing of [REDACTED] is it
 12:13:19 21 possible that [REDACTED] was also listed at that
 12:13:25 22 time?---Yes. Yes, it is possible, yes. I've just got a -
 12:13:32 23 - -
 12:13:32 24
 12:13:32 25 Does that help with the diary entry in any way? Because
 12:13:35 26 you've got the diary entry of speaking to Gobbo or your
 12:13:39 27 statement refers to that?---Sorry, you'll have to tell me
 12:13:41 28 the date again. I've just got, just as a matter of - Your
 12:13:50 29 Honour, you mentioned that date, [REDACTED] 2004. I've got
 12:13:57 30 an entry in my diary that I attended at the Melbourne
 12:14:01 31 County Court re a plea hearing for [REDACTED] and that the
 12:14:06 32 matter was adjourned to [REDACTED] 2004 for sentencing.
 12:14:17 33
 12:14:17 34 I was just trying to clarify, you were asked earlier by
 12:14:20 35 Ms Tittensor about an entry where, we see it on the screen,
 12:14:23 36 it's in relation to, I think it was the [REDACTED] date, [REDACTED]
 12:14:28 37 [REDACTED] 2003?---Yes.
 12:14:29 38
 12:14:29 39 Where it says [REDACTED], but you had an entry believing it
 12:14:34 40 was [REDACTED] and - - - ?---But I think that - - -
 12:14:43 41
 12:14:43 42 Were the proceedings linked or was there - - - ?---I think
 12:14:46 43 we, we established that I've erred in that and it would
 12:14:52 44 appear that [REDACTED] was being represented by that
 12:14:58 45 Mr Lincoln, I can't think of his surname, and that perhaps
 12:15:02 46 Ms Gobbo was there to appear on behalf of [REDACTED].
 12:15:10 47

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12:15:11 1 Okay, I understand. I'm not sure if I helped with the
12:15:15 2 clarification.
12:15:17 3
12:15:17 4 COMMISSIONER: Thank you. Anything, any other
12:15:19 5 cross-examination? Any re-examination?
12:15:23 6
12:15:24 7 MR HANNEBERY: No.
12:15:24 8
12:15:25 9 MS TITTENSOR: I just want to clarify one matter. A news
12:15:29 10 article, and I've only got it on my phone at this stage,
12:15:34 11 indicates that late May 2005 the [REDACTED] were
12:15:38 12 acquitted?---Yes.
12:15:39 13
12:15:39 14 So that's 2005, not 2004 for the trial. Is it possible
12:15:46 15 that you were looking at the 2005 section of your
12:15:55 16 diary?---May. Sorry, what was the date in May?
12:16:01 17
12:16:01 18 Well it will be [REDACTED] or [REDACTED] 2005?---Yes, I've got the
12:16:15 19 entry here. It is 2005. Do you want me to read out what
12:16:34 20 I've got?
12:16:35 21
12:16:36 22 Certainly?---Just to precis it down. I attended at court
12:16:42 23 in relation to the [REDACTED] I've got, "Jury returned to
12:16:49 24 court, verdict reached, all acquitted on all counts".
12:16:53 25
12:16:53 26 And that's - - - ?---That's [REDACTED].
12:16:56 27
12:16:57 28 What date?---2005.
12:16:59 29
12:17:00 30 Thanks for that?---Perhaps I looked at the wrong year
12:17:02 31 before.
12:17:03 32
12:17:04 33 Yes.
12:17:04 34
12:17:05 35 COMMISSIONER: All right, we can resume now in public
12:17:07 36 hearing.
12:17:07 37
12:17:08 38 MS TITTENSOR: Yes.
12:17:08 39
12:17:09 40 COMMISSIONER: Do we need a short adjournment to do that.
12:17:11 41 We'll take a short adjournment to enable that to happen.
12:17:35 42
12:17:36 43 (Short adjournment.)
44
45
46
47